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DOT HS-801 694

76-206369

**REVIEW AND ANALYSIS OF ASAP
ENFORCEMENT EFFORTS
VOLUME 4**

**Contract No. DOT-HS-4-00938
August 1975
Final Report**

PREPARED FOR:

U.S. DEPARTMENT OF TRANSPORTATION

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

WASHINGTON, D.C. 20590

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1. Report No. DOT HS-801 694	2. Government Accession No.	3. Recipient's Catalog No.	
4. Title and Subtitle Review and Analysis of ASAP Enforcement Efforts Volume 4		5. Report Date August 1975	6. Performing Organization Code
7. Author(s) Planning and Human Systems, Inc.		8. Performing Organization Report No.	
9. Performing Organization Name and Address Planning and Human Systems, Inc. 3301 New Mexico Avenue, N.W. (Suite 252) Washington, D.C. 20016		10. Work Unit No. (if any)	11. Contract or Grant No. DOT-HS-4-00938
12. Sponsoring Agency Name and Address U.S. Department of Transportation National Highway Traffic Safety Administration 400 Seventh Street S.W. Washington D.C 20590		13. Type of Report and Period Covered June 1974-July 1975 Final Report	
14. Sponsoring Agency Code			
15. Supplementary Notes			
<p>16. Abstract</p> <p>This Final Report recapitulates and summarizes the work of a contract on Review and Analysis of ASAP Enforcement Effort. The major sections of the report are contained in four volumes.</p> <p>Volume 1, <u>Methods for Recording the Behavior of Drinking Drivers</u>, describes the recording function of ASAP enforcement in terms of video tape recording, audio recording and the forms and documents which are used.</p> <p>Volume 2, <u>Sobriety Testing</u>, includes information on psychomotor tests, pre-arrest breath screening and evidentiary testing with emphasis on the last topic.</p> <p>Volume 3, <u>Deployment Strategies</u>, addresses the general question of how personnel and equipment were deployed for maximum enforcement effectiveness. This volume is primarily focused on administrative topics in contrast to the other three which are devoted to certain operational aspects of enforcement.</p> <p>Volume 4, <u>Overall Enforcement</u>, addresses the process of enforcement in sequential terms with chapters devoted to detection, apprehension, transport, incarceration, testimony and adjudication.</p> <p>This Final Report is based on information collected between September 1974 and March 1975 in 22 of the 35 ASAP enforcement countermeasures. The first chapter of each volume consists of a summary of the factual information encountered in the 22 sites. This is followed by conclusions and recommendations.</p>			
17. Key Words ASAP; police deployment; alcohol detection; alcohol recording; drinking driver.		18. Distribution Statement Document is available to the public through the National Technical Information Service, Springfield, Virginia 22161	
19. Security Classif. (of this report) UNCLASSIFIED	20. Security Classif. (of this page) UNCLASSIFIED	21. No. of Pages 339	22. Price

FOREWORD

The report contained herein, as well as the other 25 generated in this effort, is the end result of 14 months of technical research and empirical observation undertaken by the staff of Planning and Human Systems, Inc., in accordance with the requirements set forth under U.S. Department of Transportation Contract Number DOT-HS-4-00938. In the course of carrying out prescribed work requirements, researchers visited a total of 22 Alcohol Safety Action Project (ASAP) site locations and upward of 50 individual law enforcement agencies of varying sizes throughout the continental United States.

The following members of the P&HS professional staff were instrumental in accomplishing this task:

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ACKNOWLEDGEMENTS

The research staff of Planning and Human Systems, Inc., gratefully acknowledges the cooperation extended by the many agencies and individuals who contributed information solicited in the course of this survey. The process of naming each of the contributors, although perhaps desirable, is however a physical impossibility. It is necessary, therefore, to restrict specific recognition to those persons without whose authoritative approval, assistance, cooperation, and guidance this project would have been infinitely more difficult. In alphabetical order by site location they are:

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The able assistance and direction provided by the staff of the Police Traffic Services Branch, National Highway Traffic Safety Administration, U.S. Department of Transportation, is sincerely appreciated. We are particularly indebted to Mr. Richard R. Frederick, Police Traffic Services Branch, whose expertise and technical advice significantly contributed to the overall success of the project.

TABLE OF CONTENTS

	Page
PREFACE	
Purpose.	1
Scope.	1
Design and Purpose of Alcohol Safety Action Projects.	1
The Enforcement Countermeasure	5
Objectives of This Study	6
Methodology Overview	8
SUMMARY	
Introduction	11
The Process of Enforcement: Detection, Apprehension and Transport	12
The Process of Enforcement: Incarceration, Testimony and Adjudication	25
CONCLUSIONS AND RECOMMENDATIONS	
INDIVIDUAL ASAP SITES	
Arizona (Phoenix).	38
Arkansas (Pulaski County).	49
California (Los Angeles County).	67
Florida (Hillsborough County).	89
Georgia (Columbus)	103
Indiana (Indianapolis)	117
Louisiana (New Orleans).	129
Maine (Cumberland)	139
Maryland (Baltimore)	152
Massachusetts (Boston)	161
Minnesota (Hennepin County).	169
Missouri (Kansas City)	176
Nebraska (Lincoln)	183
New Hampshire.	192
Ohio (Cincinnati).	212

TABLE OF CONTENTS (cont'd.)

	Page
INDIVIDUAL ASAP SITES (cont'd.)	
Oklahoma (Oklahoma City)	236
South Carolina (Richland County)	243
South Dakota	258
Texas (San Antonio).	267
Utah (Salt Lake County).	279
Vermont.	295
Virginia (Fairfax County).	311

PREFACE

Purpose

The purpose of U.S. Department of Transportation Contract Number DOT-HS-4-00938 was "to obtain in-depth background information consistent with the objectives stated on ASAP enforcement activity to supplement summary reports and analytic studies currently required." In addition to other work requirements specified, the contractor was "to document the relative effectiveness and efficiency (actual or potential) of the overall enforcement effort of the ASAP sites" as applied by the enforcement countermeasures of 22 Alcohol Safety Action Projects (ASAP's). This report is intended to establish the extent of the state of the art as practiced by ASAP enforcement countermeasures at the time when the actual site visits were conducted.

Scope

Law enforcement agencies participating in the enforcement countermeasures of 22 ASAP's scattered throughout the continental United States were surveyed. In the process, individual members of the research staff were able to devote an average of 4½ days to each specific ASAP site, during which the necessary interviews and observations were carried out. Although the survey focused on the ASAP enforcement countermeasures, non-enforcement personnel of the ASAP staffs as well as of the criminal justice system in general, were also called upon to provide input whenever appropriate.

Design and Purpose of Alcohol Safety Action Projects

On the premise that drunk driving continues to be the greatest single menace to human life and safety on the nation's highways, the National Highway Traffic Safety Administration focused its attention on efforts to reduce this problem and conceive an Alcohol Countermeasures Program whereby 35 Alcohol Safety Action Projects (ASAP's) were to be established in as many states (Fig. I). These projects were based on "a new understanding of the nature of the drinking-driving problem in highway fatalities. The ASAP concept was designed as a systems approach to surround the problem drinker with a set of countermeasures designed to identify him on

ALCOHOL SAFETY ACTION PROJECTS (ASAPs)

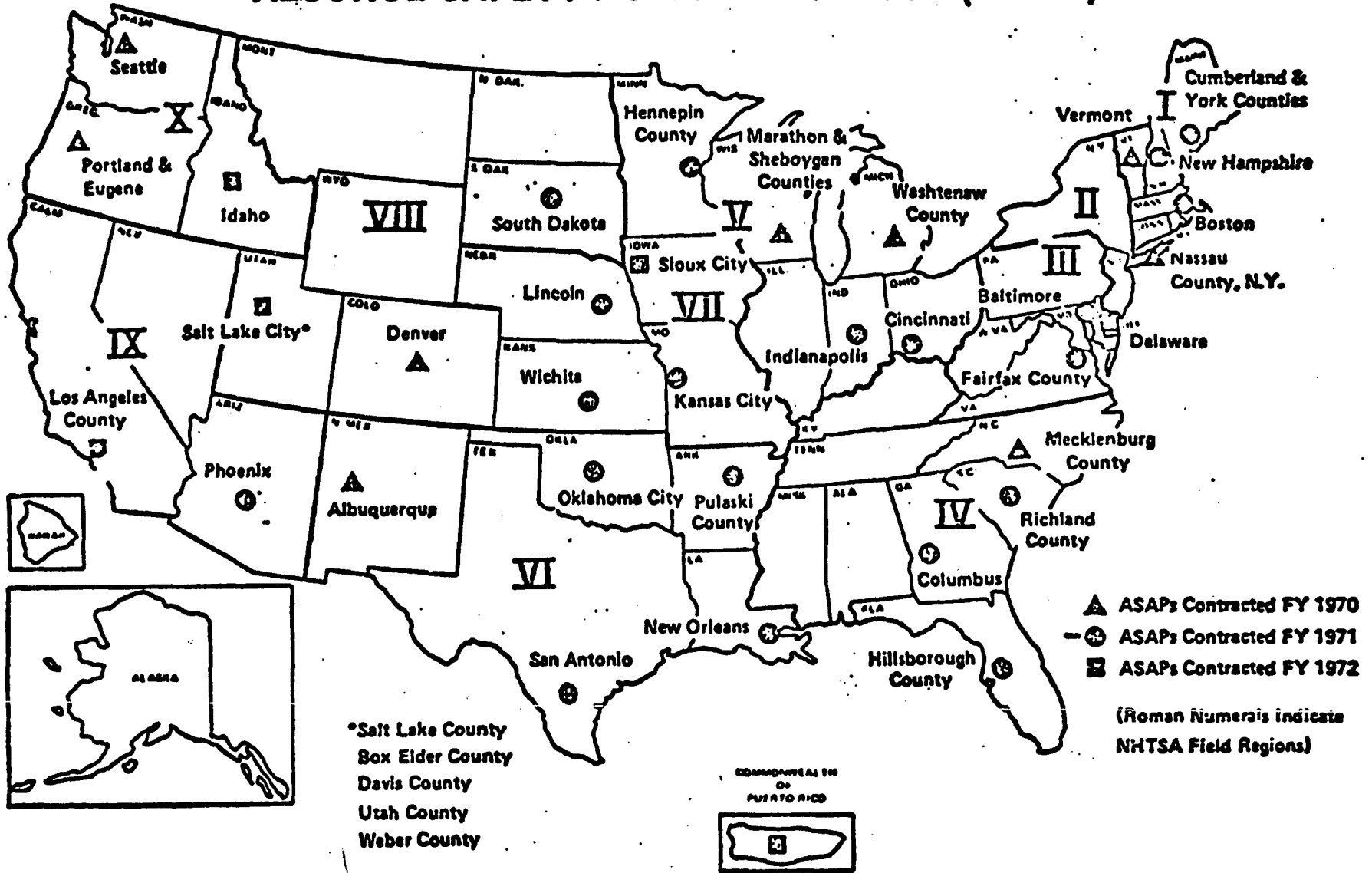


Figure I

the road, make decisions regarding rehabilitative procedures, and then take action to put these measures into effect. At the same time, the program was planned to deter the social drinker by well-publicized increases in enforcement efforts, and by providing the social drinker who controls his use of alcohol with the information he requires to better regulate his drinking and driving."*

Fundamentally, these ASAP's had three major objectives:

- To demonstrate the feasibility and practicability of a systems approach for dealing with the drinking-driving problem and, further, to demonstrate that this approach can save lives;
- To evaluate the individual countermeasures within the limits permitted by the simultaneous application of a number of different countermeasures at the same site; and especially,
- To catalyze each state into action to improve its highway safety program in the area of alcohol safety.

ASAP countermeasures encompassed the following interdependent areas: (1) Enforcement, (2) Judicial, (3) Rehabilitation, and (4) Public Information and Education. In addition to these countermeasures, of course, each ASAP was required to meet its obligations toward effective project management and meaningful project evaluation.

The 35 Alcohol Safety Action Projects were initiated in three groups. Each was implemented in five phases as shown in Figure II. Nine began operations in January 1971; twenty in January 1972; and a final group of six commenced operations between July 1 and October 1, 1972. These ASAP's differed widely in geographic and demographic characteristics; some were state-wide in their application, but most were restricted to a specific political subdivision of a state. Each ASAP contract provided for an operational period of three years or less. At the present time, at least half of the original 35 ASAP's have ceased to operate under federal funding, since their contracts with the NHTSA have expired.

*Alcohol Safety Action Projects: Evaluation of Operations - 1972, Vol. III: Project Descriptions (Washington, D.C.: U.S. Department of Transportation, National Highway Traffic Safety Administration).

ASAP SCHEDULE

INITIAL YEAR OF FUNDING	NUMBER OF PROJECTS	CALENDAR YEAR						
		1969	1970	1971	1972	1973	1974	1975
FY 70	9	MAR	NOV					
FY 71	20				Note 1		Note 2	
FY 72	6			FEB	AUG			

- SITE SELECTION AND APPLICATION
- PROPOSAL DEVELOPMENT PHASE
- PROJECT INITIATION PHASE
- OPERATIONAL PHASE
- FINAL REPORTING PHASE

Note 1. Operational period varies in ASAPs (9)
 Note 2. Reporting period varies in ASAPs (35)

Figure II

The Enforcement Countermeasure

Each Alcohol Safety Action Project was supported by one or more law enforcement agencies, which, in turn, had been allocated a prescribed amount of federal monies. This permitted the agencies to commit the appropriate personnel and equipment resources to the effort of identification and apprehension of the drinking driver. Each participating law enforcement agency, in proportion to the amount of federal funding provided, was able to field a given number of additional officers, vehicles, and appurtenant equipment for the duration of the contract. The agencies usually followed one of two general plans in structuring their approach to the operational implementation of this selective enforcement countermeasure:

- Formation of a separate, distinct unit (usually under the direction of the Traffic Bureau) whose members were primarily responsible for enforcement of drunk driving and related statutes, with secondary emphasis on general traffic enforcement; or

- Utilization of regular patrol officers who undertook drunk driving enforcement as an extra-duty function and therefore were generally compensated at overtime rates or received a predetermined hourly wage. These officers usually volunteered for this assignment on a day-by-day basis.

Theoretically, police administrators were to evaluate and plan the most effective and productive strategy to be employed by which the dilemma of the drinking driver might be held in check and perhaps even show signs of receding.

In accordance with one of the major objectives of the ASAP concept (to demonstrate that the approach can save lives), it was incumbent upon the participating law enforcement agencies to work toward an overall reduction within their jurisdictions of those motor vehicle accidents where the consumption of alcohol was causative or where it was involved in any manner. Additionally, a gradual reduction in the average blood-alcohol concentration of drinking drivers and a general decrease in the number of drinking drivers were basic goals of the enforcement countermeasures.

The obvious means to these ends are detection and arrest of those who violate the drunk driving laws, under the presupposition that, as the probability of arrest increases for these offenders, the occurrence of such violations (and possible attendant motor vehicle accidents) is apt to decrease. The officers of the ASAP enforcement countermeasure were expected to contribute significantly to an overall increase of drunk driving arrests, as a result of concentrating primarily on that specific offense while patrolling those areas which had shown a high incidence of intoxicated drivers.

Basically, in a comparison of individual ASAP sites, the enforcement process varied little. The activity flow depicted in Figure III, as applied to the offense of Driving While Intoxicated, is relatively consistent in its general applicability to ASAP enforcement countermeasures as a whole.

Objectives of This Study

This study concerns itself with processes, methods, and techniques employed by ASAP enforcement countermeasures of 22 ASAP's behavior to detect, apprehend, transport, incarcerate and testify against drinking drivers who may, by means of their arrest, be introduced into the criminal justice system. These measures include the following:

- Location of the problem of A/R crashes in the field officers patrol area
- Clues to look for to suspect a DWI offense
- Evidence to prove each element of the offense
- Use of television mounted in patrol vehicle
- Radio message content
- Search of prisoners and the use of handcuffs
- Disposition of offender vehicle and property
- Development and utilization of physical coordination tests, evidentiary tests and recording configurations
- Processing of offenders at incarceration facilities and subsequent release criteria
- Officer testimony and final adjudication process

THE POLICE ENFORCEMENT PROCESS FOR THE
OFFENSE OF DRIVING WHILE UNDER THE INFLUENCE

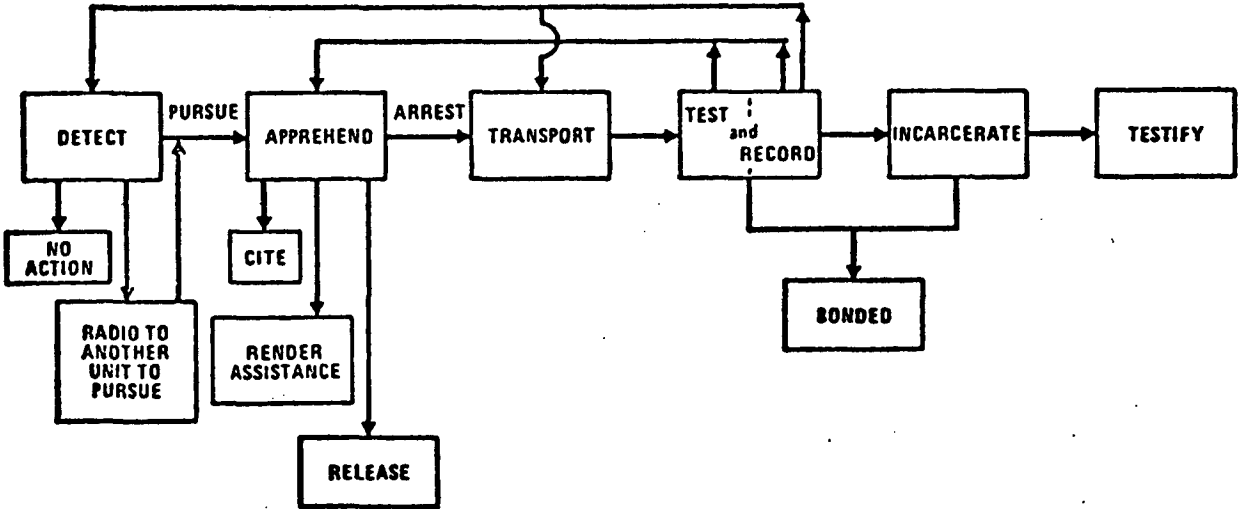


Figure III

In keeping with contract requirements, a variety of data were gathered relative to the overall enforcement methodology currently in effect at each individual ASAP enforcement countermeasure which had been selected for examination. The collection of pertinent documents in conjunction with empirical observation and comparison was expected to present a factual depiction of the present structure of that methodology.

Methodology Overview

In order to accomplish the objectives defined in the Request for Proposal disseminated by the National Highway Traffic Safety Administration, two researchers were assigned the task of conducting the required site visits and collecting as much data as could be obtained at each which specifically related to the existing enforcement countermeasures. Both researchers were former law enforcement officers, and each had prior active experience with alcohol enforcement countermeasures.

An important facet of this survey dealt with actual observation and evaluation of the manner in which law enforcement officers - engaged principally in the enforcement of applicable drunk driving laws - carried out their duties, from the point of initial detection of a drinking driver until his incarceration or ultimate release from custody. To do this, the researchers accompanied ASAP patrol officers during their normal tours of duty, and at the same time encouraged individual officers to express their own feelings concerning positive or negative aspects of the indigenous Alcohol Safety Action Project, law enforcement agency, and enforcement countermeasure. Suggestions and recommendations of all kinds pertaining to these areas of interest were also solicited.

A comprehensive Field Survey Instrument (questionnaire) was developed by the project staff as an aid in data collection. This FSI was intended to encompass, in detail, all phases of drunk driving enforcement, from detection through incarceration and beyond, including court disposition of offenders and the effect of the latter on enforcement activities. After the first ASAP sites had been surveyed, however, it became clearly evident that the FSI originally conceived was in need of a major overhaul. The final questionnaire was even more comprehensive and, in the opinions of its creators, a far more useful instrument for the purpose of the survey.

In addition to information elicited by means of the Field Survey Instrument, the researchers were to secure all available forms and documents, including policy statements when possible, from law enforcement agencies participating in the alcohol enforcement countermeasure.

The total data thus acquired (and the impressions gained from lacunae), in combination with inferences made by the researchers in accordance with their personal experiences, provided the grist for the reports which followed - including that presented in this format - in keeping with the work requirements of this contract.

No hard and fast rules were applied to the manner in which the information-gathering process was addressed, aside from the specific guidelines prescribed by the NHTSA. The two researchers, armed with the Field Survey Instrument, their previous experience, and clear objectives concerning the types of data which were to be collected, ventured into the diverse and often perplexing world of alcohol enforcement countermeasures with the hopes of attaining their goals in the most tenable fashion. Field conditions, however, presented unexpected ambiguities without regard for preconceived plans and logical expectations.

It was discovered, for example, that it is one thing to establish well-defined standards for data collection, but quite another to see them through. More often than not, these standards proved to be excessively ambitious when applied to real situations. Frequently, complete documentation was simply not forthcoming. To the uninitiated, this observation may come as a surprise and prompt a certain amount of skepticism, but from those readers who have had extensive dealings with law enforcement agencies (or any other entrenched bureaucracy) - in a similar setting - it will probably evoke a knowing and melancholy nod of empathy. For the present, it is sufficient to point out that - in many situations - a great deal less documented information than was originally hoped for could be collected. It is important to mention here that the researchers had neither the time necessary nor the authority required to insist upon complete fulfillment of documentary requisites; this was a matter which depended upon the preparedness and willingness to cooperate of each individual ASAP. At each site, Project management and officials of the enforcement countermeasure were imbued with a clear understanding of the

purpose and intent of this survey, and were expected to respond appropriately. Those sites which were consistently synergetic in responding to the documentary criteria established for the survey will become readily apparent to the reader; in contrast to those which may have been somewhat less than solicitous.

A serious handicap which faced the researchers was that of timing. Site visits to 20 of the 22 ASAP's were undertaken between September and December 1974. At each of these 20 sites, the contractual agreement for federal funding was set to expire by December 31, 1974. In the course of the on-site survey, therefore, it became quickly evident in some locations that no additional federal monies were expected to sustain operations of the ASAP beyond contract termination. In practically all of these situations, there appeared to be little, if any, planning for continuation of the special enforcement effort by the local jurisdiction, and members of the ASAP staff - along with personnel of the enforcement countermeasure - often conveyed an aura of resignation to the inevitable conclusion of the Project. Wherever such conditions prevailed, it became frequently apparent that enthusiasm and interest relative to the ASAP concept and purpose were on the wane, and thus there was a tendency to greet the survey rather morosely. (Some Project Directors expressed open resentment of the fact that their ASAP's had been included in this survey.)

The preceding is offered in the hope that it may be of assistance in providing an insight into some of the constraints imposed upon the researchers. By no means does it encompass all of the varied and extensive factors which had a bearing on the outcome of this survey. Those will be cited in appropriate detail in the pertinent sections of the reports generated by this effort.

SUMMARY

Introduction

This part of the report presents a relatively non-technical executive summary of information on the overall process of DWI enforcement gathered during a survey of 22 ASAP enforcement countermeasures. It describes, reviews and analyzes the nature and scope of the enforcement effort which was being carried out at the time of the data collection visits to each ASAP site. This is a factual summary, and conclusions and recommendations are presented separately as indicated in the Table of Contents.

The material of this summary is presented in terms of the major subdivisions of the process of enforcement (See Figure III entitled Police Enforcement Process For The Offense of Driving While Under The Influence).

The two remaining sections of the summary are devoted to the five major areas in the normal process of enforcement. Sobriety testing and recording are two special functions associated with DWI enforcement, and it should be pointed out that they have each been the subject of special summary reports and evaluations which make up part of the Final Report of this study. Therefore, the sequence of enforcement functions makes up this summary does not include information on testing and recording, and the reader with special interest in these topics is referred to the appropriate volume of the Final Report.

The sections of the Summary which follow the introduction are:

- Detection
- Apprehension
- Transporting Persons and Property (not included here:
Testing and Recording)
- Incarceration
- Testimony and Adjudication

These elements of the enforcement process have been combined into two groups: the three which come before testing and recording, and the two which follow (See Figure III).

It only remains to be added that the ASAP enforcement subsystem is only part of the overall system, and it is influenced both directly and indirectly by other parts of the system as this summary makes clear at several points.

The Process of Enforcement: Detection, Apprehension and Transport

The process of ASAP enforcement begins with the detection of the DWI offender. The major objectives of the enforcement countermeasure area under the ASAP system is to increase the detection and apprehension of alcohol-related traffic offenders. This section summarizes the site data on these topics which was collected during the survey.

Each ASAP provides for the establishment of special alcohol enforcement patrols at the times and places where most alcohol-related crashes occur. It should be pointed out that the administrative policies and procedures related to patrol deployment and strategies are crowded in a different part of this Final Report, as required by the Statement of Work of the contract.

● Detection

Detection is defined as that period of time and at that location from when and where the officer first goes on patrol or investigating a crash, observes the driver/vehicle until he has gathered sufficient information (evidence) to have reasonable grounds or probable cause to believe that an offense (Driving While Under the Influence, DWI) has been committed and makes a decision as to what course of action (not pursue or radio to another unit to apprehend or arrest at the scene of a crash) he will take.

This first phase of the process of enforcement involves the detection of drunk drivers who are in violation of state or local laws. As an ASAP Officers on patrol scans his environment, his effectiveness in detecting drunk drivers depends upon his understanding of the requirements of the pertinent statutes, his knowledge of the clues which may indicate an inebriated driver and his awareness of the most likely locations and times of alcohol-related accidents.

One confounding factor in ASAP evaluations is that the definition of an alcohol-related crash varies somewhat from site to site. For example, in San Antonio, Texas up until June of 1974, an alcohol-related accident required that a DWI charge be involved; since that date a new definition requires only that drinking by the vehicle operator be noted on the officer's report of the accident.

The range of conditions vary considerably to fulfill the requirements for classifying an accident as alcohol-related. In Lincoln, Nebraska, an A/R crash is recorded whenever the investigating officer indicates any alcohol involvement. In South Dakota, the officer also decides when to label a crash as alcohol-related. A DWI arrest must be associated with the crash in Phoenix, Arizona; New Orleans, Louisiana and Pulaski County, Arkansas. In Tampa, Florida and Kansas City, Missouri, an A/R crash may be recorded only if a measurable (e.g., .01% or greater) blood-alcohol concentration in the driver is detected by testing, and the investigating officer reports the accident as alcohol-related. In Fairfax County, Virginia and Los Angeles County, California as well as Salt Lake City, Utah, a notation of HBD (Had Been Drinking) on the report of the investigating officer is sufficient evidence to classify an accident as A/R. Finally, an A/R crash in Oklahoma City, Oklahoma is recorded only if alcohol is the causative factor.

Most sites indicated that A/R crash data reports were compiled monthly, and smaller numbers indicated quarterly and annual compilations. Some of the responses did not make clear whether Police Department or ASAP reports were being indicated, or both. At any rate, responses from the countermeasures suggested that ASAP officers rarely see analyses of A/R crashes. Five sites indicated that officers never see these reports, and two others said, "Not usually." Three sites reported that the officers "have access" to the information, and three others said that only the ASAP enforcement coordinator sees the analyses of A/R crashes. In Baltimore, Maryland and Indianapolis, Indiana, it was reported that ASAP officers do see the A/R crash analyses, and in Lincoln, Nebraska, such information is posted on bulletin boards and used in training classes.

In only four of the 22 sites did countermeasure supervisors express a belief that ASAP officers were aware of the overall A/R crash configuration within the jurisdiction. The police department of Oklahoma City and Lincoln, Nebraska reported general awareness of the data by ASAP officers, and Baltimore, Maryland and Phoenix, Arizona reported that officers are briefed periodically on this kind of information.

The evidence gathered by officers during the detection phase consists primarily of visual observations of erratic driving and the inference that the driver is under the influence of alcohol. As the definition at the

of this section indicates, the patrolling ASAP officer observes the situation until he has gathered sufficient information to have reasonable grounds or probable cause to believe that an offense has been committed. Probable cause for the stop must be established, and this requires the ASAP officer to know the pertinent laws as well as the clues of drunk driving. Both of these imply that good detection must be based on good training.

Most sites indicated that a stop may be made for any traffic infraction which is observed. Baltimore police reported that they watch for hazardous moving violations. In San Antonio, Texas, it was reported that probable cause may be based on erratic driving. The most common clues which may lead to a DWI stop vary somewhat from city to city and region to region, but the following ones were most often mentioned:

- Driving too fast
- Driving too slow
- Weaving in the roadway
- Overcompensating
- Crossing centerline
- Window open
- No lights
- Dome light on
- Hugging shoulder
- Defective equipment

While visual observation of such specific clues and erratic driving in general was, by far, the most widely used detection technique encountered, mechanical devices were sometimes mentioned as being useful. In Vermont and New Hampshire, audio-recording was reported to be a useful adjunct to the detection phase. The Kansas City ASAP enforcement countermeasure reported that video tape recording had sometimes been useful during detection. In Los Angeles County, California, video tape recording during the detection phase was tried and abandoned due to technical problems. (Further details are provided in the part of this Final Report devoted to the recording function.)

In Lincoln, Nebraska, radar was used twice a month, and helicopter assistance was provided on an occasional basis. Radar was also used in South Dakota, Vermont, and Kansas City. Preliminary screening devices such as Borg-Warner A.L.E.R.T. were reported in use during the detection phase in South Dakota, New Orleans, Louisiana and Hennepin County, Minnesota.

The most common general comment on detection was that ASAP officers were generally satisfied with the use of visual observation of the standard clues. The most notable variation from the general approach to detection was Los Angeles County, California, where officers prefer and use stationary surveillance of drinking establishments to detect drinking drivers.

- Apprehension

Apprehension is defined as that period of time and at that location when the officer has reasonable grounds to believe that the driver is in violation and decides to pursue until he stops the vehicle in a safe place, observes and talks to the driver, has made a decision to 1) arrest, 2) cite, or 3) release the driver, and if an arrest is made, is ready to transport the prisoner to the station.

Apprehension is the period after detection when the officer stops the suspect, acquires further close-up information and makes a decision on what should be done with the suspect. The decision may simply be that there are sufficient grounds for a sobriety test. Although the period of time may be brief, the situation for the officer is that he must make an important decision concerning the possible arrest in a relatively short time with whatever information he can acquire quickly. A DWI arrest leading to conviction must almost always involve a blood-alcohol concentration of .10% or higher; yet during apprehension the officer must make his own best estimate of the degree of intoxication without benefit of the evidentiary sobriety testing which may come later.

Pursuit: Most countermeasures said that enforcement policy on pursuit of a suspected DWI/DUI offender was left largely to the officer's judgement. In Indianapolis, Indiana, professional judgement about the risks of pursuit is expected, and several other sites indicated that good judgement is expected concerning when to discontinue pursuit.

Twelve sites reported either that no speed restrictions were in effect during pursuit of a suspected DWI offender, or that officers were expected to use good judgement which took citizens' safety and well-being into account. Five sites reported departmental regulations which allow pursuit speeds 10-20 m.p.h. above posted speed limits. South Dakota and Cincinnati, Ohio countermeasures reported that state laws and posted speed limits govern pursuit speeds.

Considerable variation was encountered concerning policies on hot pursuit. In Pulaski County, Arkansas, there was no hot pursuit of misdemeanor offenders. In Fairfax County, Virginia a General Order of the Fairfax County Police states that hot pursuit for misdemeanors is not permitted, but goes on to say that for serious misdemeanors, including drunk driving, active pursuit of the misdemeanor is permitted and suggested until the entered jurisdiction's police agency can respond to make a legal arrest based on testimony of the pursuing police officer. However, this is permitted only for an illegal act continuing to be committed in the entered jurisdiction, and no forced stopping of the suspect is permitted by the officer who has left his own jurisdiction. Active pursuit is defined here as any chase which will endanger lives or property.

Half of the sites indicated that hot pursuit is authorized for ASAP officers with the understanding that good judgement will be exercised. The Baltimore, Maryland countermeasure indicated that hot pursuit is not authorized, and ASAP officers in Indianapolis, Indiana are ordered to cease hot pursuit whenever the hazards involved in the chase are greater than the crime.

When the suspect fails or refuses to stop and speed is not a factor, most sites indicated that a back-up unit is called in for assistance in apprehension. Several sites specified that the assisting unit is directed to block or box in the suspect. In New Orleans, Louisiana, other units are used as necessary to block streets and apprehend the suspect.

The Stop: Almost every site indicated that the flashing and/or rotating beacon on the patrol vehicle is normally employed to stop the suspected offender; other equipment was mentioned by less than half of the sites surveyed. Ten reported that the siren is used, and four others said it is used if needed to bring the suspect to a halt. Nine sites indicated that headlights are used; eight said that the spotlight is used and seven reported that the public address system on the patrol vehicle is used in stopping a suspect.

After the vehicle has been stopped, the procedure for approaching it varies little except for differences between one-man and two-man patrol units. For one-man units, the officer parks his vehicle behind and slightly to the left of the suspect's vehicle, and approaches the drivers side from

the rear. The procedure for two-man units is usually for one officer to approach each side of the suspect's vehicle. In some sites, the officer asks for a back-up unit before leaving the patrol vehicle. The New Hampshire countermeasure reported that the officer approaches the suspect's vehicle with a flashlight. The operator's license is routinely requested.

Fourteen sites reported that the officer issues a radio message while stopping a vehicle. The location and the vehicle license number are included in all cases. In Kansas City, Missouri, a description of the vehicle and the number of occupants is included in the radio message, but few sites routinely include such information.

Two sites reported that a radio message is issued only if an arrest is made: Baltimore, Maryland and Cincinnati, Ohio.

Only seven sites reported that there is a check against data files to ascertain "wanted" information. Both the license number of the vehicle and the driver's name are normally included in this check. The names of passengers are not usually checked unless the officer is suspicious or an arrest is made.

The Arrest Decision: Eleven sites reported that the officer may arrest without a warrant if radio transmission confirms that "wanted" status of the suspect.

Only two of the sites surveyed indicated that the officers has less than full discretion in making the decision to arrest. In San Antonio, Texas and Oklahoma City, Oklahoma, it was pointed out that the officer is never allowed to negotiate or compromise in making the arrest decision. The officer's immediate supervisor has little or no influence on the officer's decision. Only in one site, Lincoln, Nebraska, was it reported that the opinion of the superior might be sought.

Perhaps the most important element in the officer's arrest decision is his estimate of the sobriety of the suspect. Practically all of the enforcement countermeasures reported that in making this important assessment, the officer made a point of observing the behavior, the speech, and the appearance of the suspect, especially his eyes. In Kansas City, Missouri, ASAP officers watch for eye dialation and in Lincoln, Nebraska,

bloodshot eyes are considered to be an indicator of intoxication. The officer also checks for the odor of an intoxicating beverage on the breath of the suspect during his examination of the license and registration.

In addition to the kinds of observation mentioned above, physical coordination tests are administered by the arresting officer in 13 sites to provide further information on the sobriety of the suspect. Finally, pre-arrest breath screening provides a crude indication of blood-alcohol concentration to the arresting officer in eleven of the 22 sites.

After the roadside observation of an interview with the suspect, the officer generally decides whether or not to place the suspect under arrest. In the sites which use physical coordination test and pre-arrest breath screening, the officer usually makes the decision after he has evaluated the information from such tests.

If the officer decides to arrest the suspect, 11, or half of the sites reported that he is unequivocal in informing the driver of the fact that he is under arrest for driving while under the influence of alcohol. In the other sites, the subject may simply be asked to accompany the officer to the testing facility or await transportation.

The Assisting Officer: In half of the sites surveyed, it is normal procedure to dispatch an assisting officer to the scene. In Kansas City, Missouri, where two-man patrols are used, it is done only on request. And in Vermont, where both one- and two-man patrols are used, an assisting officer is dispatched only for one-man patrols. In New Orleans, van operators and transporting officers (when available) both go to the scene.

In very few sites do back-up officers respond voluntarily. It is most common for them to respond by order of the dispatcher, and less common for them to respond at the request of the arresting officer.

The most common functions of the assisting officer in the sites surveyed is to provide security and serve as a witness. Agencies in seven sites report that the back-up officer transports the offender's vehicle. Rarely encountered in this survey were the functions of transporting passengers and/or conducting an inventory search of the offender's vehicle.

Half of the 22 sites reported that two officers are normally present at the scene of the arrest. In some sites this was the arresting officer plus an assisting officer; in others it was the partners of a two-man patrol. Boston reported that four officers are normally present: two arresting officers plus two back-up officers. Cincinnati reported three: the arresting officer, one back-up officer to transport the vehicle plus the driver of the back-up officer. As had already been noted, there may also be three officers at the scene in New Orleans. Sites where only one officer is normally at the scene are Indianapolis, Indiana; Columbus, Georgia and South Dakota.

Legal Aspects: Ten countermeasures reported that DWI offenders are normally charged under state law while three said that a local ordinance is normally the basis for the charge. In Oklahoma City, a first DWI offense charged under local ordinance while second and subsequent offenses are charged with violation of state law. In the Hennepin County, Minnesota and Pulaski County, Arkansas the state police use state law while the other enforcement agencies use local ordinances. The Salt Lake City Police Department normally makes charges under a local ordinance while the Salt Lake County Sheriff's Office usually charges under state law. In Fairfax County, Virginia, a local ordinance patterned on a state statute is used. In New Orleans offenders in alcohol-related crashes involving fatalities are charged under state law, all others are charged under local ordinance. And in Columbus, Georgia, DWI offenders who plead not guilty are charged under state statute while those who plead guilty are charged under local ordinance.

Thirteen of the sites reported that driving while intoxicated is normally treated as a misdemeanor; in five other sites the first offense (and sometimes the second) is treated as a misdemeanor. In San Antonio, Texas, the second and subsequent offenses are treated as felonies. The third offense is treated as a felony in Lincoln, Nebraska, Oklahoma City, Oklahoma, and Richland County, South Carolina. In Columbus, Georgia, a third conviction involves a mandatory jail sentence, and in New Orleans, Louisiana, a third offense can result in a sentence to hard labor. And in Cumberland-York County, Maine, the law stipulates increasing penalties for the second, third and fourth offense. Persons convicted of a fourth or subsequent

violation there have their driver's license suspended for at least five years and can petition for a new license only by presenting persuasive evidence that they have refrained from the use of intoxicating liquor for five years.

Almost all of the sites surveyed stated that the offender prior to being placed under arrest is advised neither of his Constitutional (Miranda) rights nor his rights and obligations under the pertinent Implied Consent law. However, the San Antonio Police Department, the Boston Police Department and two local jurisdictions in Hennepin County, Minnesota reported that the offender is advised of his Constitutional rights prior to being placed under arrest. And in Indianapolis, Indiana, the offender is advised of the provisions of the Implied Consent statute before being placed under arrest.

Twelve of the ASAP sites indicated that after arrest the offender is advised of his Constitutional rights. In Lincoln, Nebraska, only felony offenders are advised of their rights. And virtually all of the counter-measures indicated that the provisions of the Implied Consent statute are explained to the offender after he is arrested.

In half of these sites, the agency provides written material on Constitutional rights and the Implied Consent law to be read by the officer to the offender; the other sites rely on verbal recitation from memory to convey the information.

Almost all of the sites indicated that there is some legal basis for arresting a suspected DWI offender when an officer did not witness the crash. Nine sites indicated that the officer must identify a witness or witnesses before making an arrest. In San Antonio, Texas and Fairfax County, Virginia either a witness or a confession by the driver are required to arrest. The other sites indicated only that probable cause was necessary or that it was possible for an ASAP officer to make a DWI arrest at the scene of a crash.

There are few exceptions to the generalization that DWI offenders are not required to sign legal documents while being arrested by ASAP officers in these sites. In Columbus, Georgia, the offender must sign the arrest citation, and in Hennepin County, Minnesota, the offender must sign the Implied Consent notice. In Lincoln, Nebraska and Cumberland-York County,

Maine, the offender is only requested to sign such a notice. And in Indianapolis, Indiana and Salt Lake County, Utah, the offender must sign a waiver of Constitutional rights to indicate his willingness to waive these rights.

Seven sites indicated that officer's legal authority in searching the offender's vehicle was limited to areas in plain view. And three sites reported that his authority is circumscribed to what is within reach of the vehicle operator. If the vehicle is impounded, an inventory search is generally allowed. If probable cause can be established, then other areas such as the trunk may also be searched. If a legal search yields evidence of unrelated crimes, an ASAP officer may make additional charges.

About half of the sites indicated that there are circumstances under which the officer has the option of reducing the DWI charge to a lesser one. Generally, the circumstances are sobriety testing results which indicate a low blood-alcohol concentration. In Richland County, South Carolina and Columbus, Georgia, offenders with low BAC's are generally released. In Tampa, Florida, if the test result is .09% or below, the charge is generally reduced to careless driving. If the BAC is less than .10%, the charge is usually reduced in Vermont, New Hampshire, Phoenix, Arizona, and Lincoln, Nebraska. For the charge to be reduced, the BAC must be less than .07% in North Little Rock (Pulaski County, Arkansas); less than .06% in Salt Lake County, Utah; and .04% or less in Kansas City, Missouri. In New Orleans, the officer himself does not have authority to reduce charges, but he may, under certain circumstances, proceed by authority of the assistant city attorney.

- Transporting Persons and Property

Transporting of persons and property is that period of time and at that location from where the officer is ready to transport the driver to the station and the driver is in custody in the police station (interview room, booking room or testing and recording room).

Transport of persons involves the searching of the prisoner, handcuffing, the means of transportation and any radio message involved as well as any special procedures for females and juveniles. Transport of property involves any towing of vehicles by private or government towing services as well as search and storage of vehicles.

Transport of Persons: Standard operating procedure involves the search of prisoners before they are transported. Thirteen sites indicated that a pat down frisk of DWI suspects is generally carried out; six sites reported the use of an extensive search of outer apparel. Kansas City, Missouri and Tampa, Florida reported that an extensive and thorough search of DWI suspects is conducted before transporting them. In five of the sites surveyed, a strip search is undertaken if drugs or narcotics are suspected, and in two other sites, a strip search is conducted if a concealed weapon is suspected.

On reporting on the procedures employed in searching female offenders, seven sites reported that the handbag or purse is confiscated while five said that purses are searched and then returned to the suspect. New Hampshire reported visual inspection only of females; Vermont indicated that outer apparel and purse are usually searched. In Baltimore, Maryland, female offenders are not searched before transport. And in San Antonio, Texas, female juveniles are not interviewed or transported by one officer. Virtually all of the sites indicated that there are no special procedures for searching juvenile offenders; they are treated the same as adults. Thirteen of these sites classify persons under 18 as juveniles while seven sites limit the juvenile category to those under 17.

In eleven sites, it is not normal procedure to handcuff a prisoner prior to transport. In five sites the prisoner is normally handcuffed with his hands behind his back. In Indianapolis, handcuffs are used after the breath test enroute to the station. Several sites reported that practices vary and that the decision on whether or not to use handcuffs is left to the judgement of the individual officer. The policy of each site on the handcuffing of female and juvenile prisoners is usually the same as its general policy concerning the use of handcuffs on prisoners.

In 18 of the 22 sites it is the arresting officer who transports his prisoner to the testing facility. The Baltimore (Maryland) Police Department and the Columbia (South Carolina) Police Department use patrol wagons. In New Orleans, a patrol wagon or a "cage car" is used. In Phoenix, Arizona where ASAP officers use motorcycles, a transporting officer is responsible for the moving of prisoners. In Boston, a patrol wagon is sometimes used

to transport prisoners. The sites using patrol wagons indicated that the average delay of the patrol wagon in arriving at the scene is brief. Phoenix reported five to ten minutes delay, and Baltimore reported the longest delay: 15-20 minutes. New Orleans is the only site using patrol wagons where the arresting officer is not required to go to the testing facility.

Only half of these sites indicated that the ASAP patrol vehicles are equipped with protective shields or screens. In Salt Lake City, Utah; New Orleans, Louisiana and Oklahoma City, Oklahoma, regular patrol vehicles do have such equipment, but ASAP vehicles do not.

Where the prisoner is seated depends on whether the patrol is a one- or two-man unit as well as how the vehicle is equipped. Eleven of the 18 sites where the arresting officer transports the prisoner say that the prisoner is normally put in the rear seat. However, in Salt Lake City, Utah, and Kansas City, Missouri, the prisoner rides in the front seat. In Lincoln, Nebraska, the prisoner and one officer ride in the rear seat.

In sixteen of the 22 sites, a radio message is sent when commencing transport of a male or juvenile prisoner. In most of these sites the message is simply that he is enroute with a prisoner. In San Antonio, Texas, there is a time check on departure and arrival. In Lincoln, Nebraska and Columbus, Georgia, the fact that a juvenile is being transported is included in the message when appropriate; and in South Dakota and Richland County, South Carolina; the message includes a request to advise the juvenile officer.

All sites indicated that a radio message is sent when commencing transport of a female prisoner. Generally, the message includes the location, the mileage (to the nearest tenth of a mile) at origin and again at destination, plus the fact that a female prisoner is being transported. The dispatcher is usually required to note the time of these messages.

The average distance of transport for these sites is five miles, and the range is two to 20 miles with San Antonio, Texas reporting the highest figure and Oklahoma City reporting the lowest. Salt Lake City, Utah and Columbus, Georgia reported average distances of less than three miles, and Pulaski County, Arkansas reported an average distance of ten miles. Most sites indicated that the length of transport varies greatly.

Several sites reported special procedures in processing female and juvenile DWI offenders. In Los Angeles County, California, females are

searched only by matrons and there is a separate holding area in the booking section for them. In Lincoln, Nebraska, a female nurse at headquarters observes processing of females. Indianapolis, Indiana and Fairfax County, Virginia both reported that females are segregated from male offenders. Eight sites said that the parents of juveniles are called, and six indicated that juveniles are routinely released to their parents. In Columbus, Georgia, the Youth Services Division may enter the case. In Kansas City, Missouri, the Youth Unit is called, and in South Dakota, the Juvenile Officer may be called. In Baltimore, Maryland, juveniles are not chargeable with DWI.

Transport of Property: In 12 of these sites, the offender's vehicle is normally towed from the scene, but in Columbus, Georgia and Richland County, South Carolina, it is not impounded. In eight sites there are variations in policy among the participating law enforcement agencies. Only the Salt Lake City Police Department, the Boston Police Department and the Kansas City Police Department normally use government-operated towing services. The rest use privately-owned towing services.

The average response time for privately-owned towing services was 15 minutes for these sites. The longest response time reported was South Dakota with 30-45 minutes, and the shortest was Cincinnati with "a few minutes." Six sites reported average response times of less than 15 minutes. Among the sites using government towing services, the average response time in Salt Lake City was 15 minutes, and in Kansas City it was 30 minutes.

Nine sites reported that the offender's vehicle is normally stored by the towing service in its facilities. There are usually minimum security requirements which must be met. Five sites have the vehicle taken to the impound lot of the city or the police department.

In New Hampshire and Cincinnati, Ohio, the vehicle is left at the processing facility. In Lincoln, Nebraska, it is left at the police department parking lot and in South Dakota, it is often left at the sheriff's office lot. In Cumberland-York County, Maine and in Los Angeles County, California, the vehicle is usually locked and left at the scene.

The Process of Enforcement: Incarceration, Testimony and Adjudication

The final section of the executive summary deals with the disposition of the offender after he has undergone evidentiary testing, information about the court appearances of the ASAP officer, and related topics. It is divided into two subsections.

- Incarceration

Incarceration is defined as that period of time from when the testing and/or recording at the station has been completed until the driver has been released on bond or appears in a court of law for a preliminary hearing or trial. It may or may not include actual incarceration in jail.

In 12 sites, the offender is taken to jail after leaving the testing facility. After a period of several hours he may be released on bond. In four sites the offender is usually released on bond without having to spend time in jail. In five sites the offender is released on personal recognizance. In San Antonio, Texas, DWI offenders are immediately booked and taken before a magistrate.

In Los Angeles County, California, the out-of-state offender must usually post a cash bond of \$315.50. In Salt Lake City, Utah, he must sign an extradition waiver, and in Lincoln, Nebraska, he is arraigned the following morning. In South Dakota he may post bond and forfeit it. And in the other sites the out-of-state offender is treated in the same way as the local offender.

In ten sites DWI offenders are normally fingerprinted and/or photographed; in eight sites they are not. In South Dakota they are fingerprinted prior to incarceration, and in Phoenix, Arizona, and Wilson County, South Carolina, they are fingerprinted only if booked. In Kansas City, Missouri, only the thumb print is used.

In Salt Lake City, Utah, the procedure followed for juvenile DWI offenders is normal testing and citation; then release to parents. Six other sites follow similar procedures. In Covina, California, (Los Angeles County) the juvenile offender is released to his parents and referred to the Juvenile Division for further action. Richmond County, South Carolina, maintains a separate juvenile facility in the county jail.

In thirteen sites the offender is cleared against local, regional, and/or national computer networks containing criminal records information; however, in most of these cases the clearance is local only or local and regional. In Tampa, Florida, this procedure is used only if the officer requests it.

The usual amount of bond ranges from a low of \$25 in Cincinnati, Ohio to \$500 in Tampa, Florida and Vermont. Among the sites reporting this information the mid-point or medium amount of bond is \$250. This average amount is reported from Oklahoma City, Oklahoma and Columbus, Georgia. The person who fixes the amount of bond depends on the local judicial organization. Among the titles reported are bail commissioner, referee, local court, municipal judge, magistrate, superior court, and commission of judges.

The usual amount of bond for a second or subsequent offender is most commonly in the \$200 to \$1,000 range. A low figure for a second offender would be the \$200-\$250 reported from South Dakota. A high figure is illustrated by the \$800 to \$1,200 reported from San Antonio, Texas.

Under most circumstances a DWI offender is eligible for bail, but these are circumstances, such as murder and rape, which lead to incarceration. Other circumstances which might make a DWI offender not eligible for bail are a previous criminal record, a fatal accident, a narcotics charge, a warrant outstanding, or simply a decision by the judge that there will be no bail. Columbus, Georgia, reported that a considerable number of DWI offenders remain in jail until trial.

Eleven sites report that after posting bond the offender is released from custody immediately. And in Phoenix, Arizona, he is released after processing in the jail area. In four sites there is a delay of about four hours before the offender is released; these are Oklahoma City, Oklahoma, Columbus, Georgia, Richland County, South Carolina, and Los Angeles County, California.

In Lincoln, Nebraska, the offender is released to his attorney. In New Hampshire and Cincinnati, Ohio, he is released to a responsible person. The rest of the sites indicated that the offender is released on his own recognizance.

Six sites reported that there is a sober-up period of four hours during which the DWI offender remains confined. In South Dakota, the period is four to six hours. And in Lincoln, Nebraska, and Pulaski County, Arkansas, the sober-up period is six hours.

Prior to incarceration most sites reported that there is a complete non-strip search of the prisoner. Belt, jewelry, and potentially harmful articles are removed. These personal effects are normally inventoried, sealed, and held at the jail. Practically all sites reported that a receipt is issued for the articles and they are returned upon release.

A wide range of practices was encountered concerning just when an offender may contact an attorney. In Vermont, after the Implied Consent law is explained, the officer may contact an attorney for the offender if he is asked to do so. In New Hampshire and South Dakota a call to an attorney may be made before or after testing. After testing is completed an offender may contact an attorney in Lincoln, Nebraska, Tampa, Florida and Columbus, Georgia. In Salt Lake City, Utah, and New Orleans, Louisiana, the call may be made on arrival in the booking section of the jail. The call may be made after booking in Phoenix, Arizona, Oklahoma City, Oklahoma, Fairfax County, Virginia, Indianapolis, Indiana, and Los Angeles County, California. In San Antonio, Texas, the offender may contact an attorney only after incarceration. The most common approach to examining the DWI offender for signs of illness is by visual inspection by the arresting officer and jail personnel. When the offender is ill or if the offender suspects illness the offender may be taken to a medical facility. Only a few sites have paramedics or nurses who make an examination at the jail. The only site where the jail facility was reported to be maintained in a sanitary state which was dubious and less than desirable was Tampa, Florida.

● Testimony and Adjudication

That period of time and at the location from the beginning of court appearance and/or administrative hearing until final adjudication. It concludes pre-trial conferences with the prosecutor and administrative hearings conducted by the driver licensing authority.

Among the eleven sites which report that pre-trial conferences are conducted only six of them indicated that the arresting officer is usually present. Seven sites reported that pre-trial conferences are not normally conducted. Only three sites reported that the judge is usually present at pre-trial conferences. In these sites the arresting officer is not normally required to be present at arraignment.

Fourteen sites reported that it is the appropriate which schedules the officer's court appearances; however in three sites it is the prosecuting attorney which does the scheduling. And in two sites it is the individual officer or his superior who sets up the court dates. There is a great deal of variation among these countermeasures as to how often officers are summoned to court on off-duty days. In New Hampshire it is often, and in Richland County, South Carolina, it is never. For the deputies of Los Angeles County, California, all court appearance is during off-duty. They estimate that three hours per day, ten days per month, is average. The Salt Lake City Police Department estimates that two hours per day, twelve days per month, is average. Several sites indicated that one, two, or three of the court appearances are on off-duty days and is not uncommon.

The most common approach to compensating officers for overtime accrued during court appearances is through payment of 1½ times their hourly wages. Ten sites used this approach. Six sites report that straight only wages are paid. And three sites indicate that officers may accumulate compensatory time through court appearances. In Kansas City, Missouri, the officer is paid for three hours for each court appearance, and in Salt Lake City, Utah, he is paid two hours per appearance. Vermont has built-in overtime which is supposed to cover court appearances. Four sites indicated that officers are paid a witness fee when attending court off-duty. The amounts are \$5 in Tampa, Florida, \$6 in Oklahoma City, Oklahoma, \$8 in Columbus, Georgia, and \$15 in New Hampshire.

The principle element of the offense which is submitted to the court in the officer's testimony is the defendant's BAC. The officer is expected to present the particulars of the case in most sites. It is rare for further physical evidence to be presented. In New Hampshire the officer also acts as prosecutor. However the more common pattern is that of Phoenix, Arizona where the prosecutor asks the officer for particulars. In Tampa, Florida the defendant's BAC is entered into evidence without objections. If there are objections, the Breathalyzer operator is called to testify. In many of the larger sites the procedures tend to vary with the locality and the particular prosecutor.

Eleven sites reported that results of physical coordination tests are introduced into evidence. In none of these sites is pre-arrest breath test

results considered admissible as evidence. In every site it is the evidentiary test which is the principal item of evidence introduced. There is no discernible pattern in the sites concerning the way in which the officer presents his testimony. In Salt Lake City, Utah, it is the alcohol-influence report form which provides the basis for the officer's testimony. In Pulaski County, Arkansas, the officer has made notes on the back of the citation which he uses during his court appearance. In Columbus, Georgia, the officer uses his arrest report as the document on which he bases his testimony. In Lincoln, Nebraska, the officer is encouraged to speak from memory. And this is also true in Phoenix, Arizona.

Elected and appointed judges are found in these sites in approximately equal numbers. In both cases the term is likely to be four years. In New Hampshire the judges have a life term. And in New Orleans, Louisiana, judges are elected for a six-year term. The most common qualifications which a candidate must possess before he can be elected or appointed to the bench are a law degree, to be a member of the Bar and to be a local resident. In Tampa, Florida 3½ years of law practice are required and in Phoenix, Arizona five years of practice are minimum. In Lincoln, Nebraska there is a minimum age of 30.

Only three sites indicated that separate court rooms have been set aside for DWI prosecution. These are Phoenix, Arizona, Oklahoma City, Oklahoma, and Indianapolis, Indiana. Tampa, Florida reported that although separate courtrooms are set aside most cases are heard in the same courtroom. And in South Dakota, two courts rotate DWI cases. Indianapolis, Indiana was the only site reporting that particular judges have been designated to preside over DWI trials. In Oklahoma City, one judge was hired especially for DWI cases but judges rotate on these cases. Generally speaking judges must seek out any further training. Many judges are reported to be knowledgeable about Breathalyzer operations because of ASAP seminars and other training.

Ten sites indicated that DWI trials are formally conducted before a judge only. Eight sites indicated that the offender has a choice between judge or jury trial. Seven sites reported that conviction is considered more likely if a judge only conducts the trial. In Columbus, Georgia, it was pointed out that conditions can vary greatly for second offenders depending

on particular circumstances. In Richland County, South Carolina, a first offense is tried before a judge only but a not-guilty plea on a second offense is always tried before a jury.

Fourteen sites reported that "plea bargaining" is a routine procedure. In these sites it appears that it is only rarely or occasionally that the arresting officer is consulted before a decision is reached. Tampa, Florida reported that officers might be consulted in perhaps fifty percent of "plea bargaining" cases. In Lincoln, Nebraska the prosecutor reported that the arresting officer was consulted but the police did not concur. If plea bargaining results in a reduced charge it is most commonly reckless, careless, negligent driving. In New Hampshire the reduced charge is operating after drinking. And in San Antonio, Texas, the reduced charge is public intoxication. The penalties for these reduced charges range from \$15 to \$500 in fines. And possible imprisonment up to 6 months. Los Angeles County, California reports that penalties generally range from \$190 to \$300 in fines. This represents the mid-point in the range of penalties. An example of a low penalty is the \$50 to \$75 fine for reckless driving which is usually assessed in New Orleans, Louisiana. In Vermont the maximum penalty for careless and negligent operation is a \$300 fine and three months in jail. In Fairfax County, Virginia fines of up to \$500 were reported possible for the reduced charges. Eight sites reported that plea bargaining is also employed with second or subsequent DWI offenders. And seven sites indicated that the local system allows for a DWI charge on two or more occasions in a given time, without ever showing a record of a DWI conviction. This is because the reduced charge is all that shows on the record.

Only five sites reported that members of the prosecutor's staff have received specialized training in ASAP seminars or other similar in-service training.

Aside from the arresting officer, witnesses are reported to be rare in DWI cases in all of these sites. The only cases where witnesses are likely involve accidents. Only five sites reported that witnesses are compensated if they are summoned.

Thirteen sites reported that the judge's position is full-time. Two sites indicated that both full-time and part-time are involved in DWI cases. Only two sites reported that judges have taken judicial notice of the evidentiary testing devices and techniques.

Feedback from enforcement personnel concerning court attitudes toward adjudication of DWI cases indicate police dislike of their neglect during plea negotiations. Phoenix Police feel that plea bargaining undermines enforcement efforts. Lincoln, Nebraska ASAP officers do not like the many morning hours that they are required in court after working late at night. In Richland County, South Carolina plea bargaining is viewed with a jaundiced eye. And in San Antonio, Texas there is reported to be resignation to the imperfect system under which they operate.

Conclusions and Recommendations

The effort expended by participating law enforcement agencies comprising the Enforcement Countermeasure of the ASAP's is proportionate to:

1. the degree of interaction between ASAP management and the participating law enforcement agencies;
2. the amount of DWI training received by the officers of the participating law enforcement agencies; and
3. the patrol configuration utilized for DWI detection and apprehension.

Law enforcement officers of the participating agencies repeatedly stated that their local ASAP failed to provide them with adequate evaluative and analytical studies over the life of their project. Likewise, they stated that their local ASAP's failed to provide them with the guidance necessary for their agency to prepare evaluative and analytical studies relative to ASAP enforcement effectiveness. Isolated exceptions to this were encountered, but, as a whole, the condition thus described appears to have been prevalent.

As stated in the Patrol Deployment and Strategies Report, the principal purpose of evaluative and analytical studies (concerned with enforcement countermeasures) was to serve as a valuable tool for police commanders in achieving maximum enforcement effectiveness. The secondary purpose was to build a comprehensive data base for NHTSA. It is readily apparent that a process of inversion took place during the life of most ASAP's. Top priority was given to the introduction of pertinent reports into the federal mainstream, but considerably less emphasis was placed on their application within the enforcement countermeasure of the individual projects.

Project directors and project coordinators tended to conduct "armchair analysis" of ASAP enforcement effectiveness by viewing the input of arrested persons into the rehabilitation countermeasures and resultant problem drinking driver identification ratios. In those analyses, most officers were referred to as "case finders", a term that was totally rejected by most law enforcement officers interviewed.

Responsibility for the ASAP enforcement countermeasures was largely abdicated by ASAP project management to civilian clerks or patrolmen grade officers of the participating law enforcement agencies. This abdication of

responsibility generally resulted in mere hand tallies of ASAP enforcement activities rather than analysis of pertinent findings, application of measures of effectiveness, application of measures of efficiency, and problem identification.

Where ASAP interaction with the participating law enforcement agencies was minimal and consisted of merely picking up reports, law enforcement officers were generally apathetic towards the objectives of the ASAP program, spent considerable time in non-ASAP related duty, in short, socializing. Where the ASAP's became more involved in data analysis, debriefings and staff studies, officers participating in the ASAP enforcement countermeasure exhibited enthusiasm towards meeting the objectives of the ASAP program, prided themselves in both the quantity and quality of the cases their unit was making, were more productive (quantatively speaking) and tended to have less difficulty in obtaining convictions when their cases finally came to trial.

The degree of ASAP interaction with the law enforcement agencies comprising the enforcement countermeasure was also reflected in the curriculums utilized in the training of officers in DWI enforcement.

Recommendation: DWI apprehension and detection training should be intensified considerably (both recruit and in-service) and should encompass all phases of DWI detection, apprehension, and overall process, DWI statute, Implied Consent, authority of police, etc. for all sworn officers of any law enforcement agency.

Almost without exception, police officers nationwide are exposed to very little meaningful training relative to this aspect of law enforcement, and are usually only introduced to DWI enforcement during recruit training. As a result, officers are often perplexed, confused, and bewildered by existing DWI laws and the frequently innumerable steps which must be observed in processing a suspected DWI offender. In most states, the offense constitutes a relatively serious misdemeanor and, more often than not, the DWI statute and related appendages (i.e., Implied Consent, refusal to submit to sobriety test, etc.) are sufficiently complex and tedious to require the wisdom of a Solomon and the patience of a Saint in order to be

thoroughly digested. In examining many state codes, it is not unusual to find four pages in fine print devoted to Driving While Intoxicated and related processes, whereas, in contrast, the offense of premeditated homicide may only require as little as half a page.

It appears evident to the authors that much more emphasis needs to be placed on police training in the area of DWI enforcement. Personnel experience and observation have constantly shown that excluding those proportionately few officers who deal with DWI offenders on a regular, almost daily basis, many law enforcement officers at all levels display an appalling lack of knowledge and serious misconceptions concerning the DWI offense and its legal ramifications, as well as the degree of impairment attained by individuals after ingestion of various amount of alcohol. All too often, officers still based the decision to arrest for DWI on whether the suspect "looks O.K.". If he receives a passing score from the officer on this test, the suspect is likely to be permitted to continue on his course.

Along with the preceding observations, it seems that most enforcement agencies consider DWI apprehension a relatively low priority item on their agenda. This, in itself, is not a striking development, particularly at the present time when virtually every law enforcement agency in the nation is faced with a substantial increase in violence and property crimes. When considering, however, the alcohol involvement (at least to some degree) is evident in roughly 26,000 traffic deaths annually throughout the United States (with an attendant economic loss in the neighborhood of \$2 billion each year, without taking into account the price paid in human suffering) then perhaps it is necessary to reexamine the priorities assigned to DWI enforcement.

The use of pre-arrest breath screening devices, videotaping and audio-taping recording configurations apparently have had the advantage of providing scientific evidence of alcohol impairment. However, their use has also had a negative impact; often, the police officers expect them to relieve him of the necessity of conducting proper police work. Police officers generally favor such instant persuaders as videotaping pre-arrest screening results, and evidentiary testing results, so that all that is required of them is to write the charge. The net result is that in most

states an arrest for the offense of DWI is nothing more than a very complicated citation process. Officers must be forced, encouraged, and trained to do good police work and should be discouraged at all costs from "passing the buck of decision" onto the judiciary through the use of videotaping, pre-arrest breath screening, and audio recordings. This is not to say that the use of videotaping and other such recording configurations aren't valuable tools which should be utilized by police officers, but rather that these scientific instruments should be used to support a good police investigation and support officer testimony with regard to driver impairment.

The need for the development of a testing/evaluation instrument for use by police administrators to assist them in determining the DWI training needs of their agency is readily apparent. At the present time, most police administrators have very little knowledge as to the scope of the problem within their jurisdictional area with regard to DWI violations. As a result, these administrators are not in a position to make a determination as to whether or not the men of their agency are in fact identifying a proportionate number of DWI offenders. With limited financial resources, training requirements must be carefully analyzed and priorities established. With the appalling lack of empirical data available to the police administrator, it is no wonder that DWI training rates as such a low priority item within the majority of the law enforcement agencies visited during the course of the survey. Through the use of testing/evaluation instruments the authors feel that police administrators would be in a more advantageous position to identify potential DWI enforcement deficiencies among the men of their agency.

Recommendation: The U.S. Department of Transportation/National Highway Traffic Safety Administration should undertake/fund the development of a DWI testing/evaluation instrument to be used by police administrators to assist them in determining the training needs of their agency.

The lack of communication between the ASAP and the participating law enforcement agencies as well as training inadequacies at these sites also resulted in subjective speculation on the part of many officers participating in the program. Officers, prior to the implementation of the ASAP program, were frustrated with the "revolving door alcoholic". During the period of ASAP participation, officers were still frustrated and tended to view

the problem as a "revolving door rehabilitation alcoholic" due to the lack of feedback by their local ASAP. Officers repeatedly stated that they keep arresting the same people "over and over again". When queried further it was learned that only in isolated instances had an officer arrested the same individual on more than one occasion and (due to the lack of ASAP feedback) the officer tended to make a generalization which went relatively unchallenged.

Recommendation: Local ASAP's must be directed and encouraged to include the participating law enforcement agencies in the informational loop whereby police administrators can have the empirical data necessary for maximum enforcement effectiveness.

Recommendation: The enforcement coordinator of ASAP's whenever possible should be a civilian with prior enforcement experience (preferably in alcohol countermeasures and highway safety) and with excellent knowledge of the participating agencies, rather than a sworn law enforcement officer of one of the agencies.

It should be stated that if only one agency is involved in the ASAP enforcement countermeasures a ranking officer of that agency may hold the position of Enforcement Coordinator. He should, however, be of command rank sufficient to permit participation in policy formulation and provide necessary input in procedural aspects in the conduct of the program. Without exception, members of the ASAP staff tread on thin ice when providing suggestions within the realm of enforcement tactics. Law enforcement bodies are notoriously jealous of their professional prerogatives and tend to be both critical of and condescending towards hypotheses and/or other solutions offered by those who are uninitiated to the law enforcement profession. A civilian without an operational law enforcement background, therefore, must exercise a considerable amount of caution and diplomacy in presenting his findings, and is usually left only with the hope that these findings will have an impact on subsequent enforcement techniques. These problems are not unique to the law enforcement profession but are common problems faced by coordinating bodies in interaction with professional and paraprofessional organizations. The utilization of sworn enforcement officers as enforcement coordinators make a difficult job even more difficult in that these officers are generally

of patrolman grade and their first responsibility is to their agency and their second responsibility is to the ASAP. Furthermore, a patrolman grade officer is extremely reluctant to express his opinion to his superiors or "spearhead" a drive toward modifying procedures, implementing new programs, or criticizing operations within the enforcement sphere. A civilian on the other hand, with the proper enforcement background, can inject into intra-agency interaction an objective critique and assessment of a given problem.

Visual observation of suspect's driving behavior is by far the principal means whereby officers of the ASAP teams establish probable cause for stopping the vehicle, for ultimate determination of the operator sobriety. In observing the detection, apprehension, sobriety testing, transport, incarceration, testimony and adjudication configurations utilized at the various ASAP sites, the authors conclude that the configurations ("cross site") appear adequate to meet the needs of the participating law enforcement agencies. The most significant problem observed during the course of this survey was the motivational factor exhibited by the officers toward the ASAP itself--this is not to say motivational factors involved in the decision to arrest DWI offenders, but rather, motivational factors involved in the officer's determination and/or desire to meet the objectives of the enforcement countermeasure of the various ASAP's.

In summation, the "case finders" met their objective. The "police officers" never got a crack at the problem.

ARIZONA (PHOENIX)

Section 1 - Detection

The Phoenix ASAP enforcement team, as all of its counterparts which participated in this survey, uses relatively standard clues in the detection of suspected DWI offenders. These are often actual traffic violations which come to the officer's attention. The principal give-away is driver error, including speed (too slow or too fast) and weaving in the roadway. The suspected offender is usually charged with the violation which first drew the officer's attention (in addition to DWI, when applicable), although this is not a requirement set by the courts to uphold the DWI charge. Officers newly assigned to the ASAP team learn about detection techniques through on-the-job training while spending some time with seasoned ASAP officers.

Other than the clues mentioned above, no additional detection techniques are employed. Any applicable clues are recorded on the Alcohol Influence Report (Fig. 1-2), which is forwarded to the Traffic Bureau.

Conclusions: Visual observation of the suspect's driving behavior is the principal means whereby officers of the ASAP team establish probable cause for stopping the vehicle, for ultimate determination of the operator's sobriety.

Recommendations: None.

Section 2 - Apprehension

Intensive patrol of the sectors previously mentioned is the principal means employed by the ASAP enforcement team for apprehension of suspected DWI offenders. Surveillance of high-probability areas (e.g., sectors containing a sizeable number of bars, taverns, and other drinking establishments; or, high incidence of A/R crashes; or high incidence of DWI arrests; or, various combinations of the preceding) is rarely carried out. Roadblocks have never been used in ASAP enforcement, nor is surveillance of known DWI offenders conducted.

In the event that a high-speed chase of a suspected DWI offender becomes necessary, the officer activates his emergency equipment and

pursues the vehicle. At the same time, he radios for a car to assist him in stopping the vehicle and then attempts to remain with the auto being chased until it can be safely stopped. The police department has no written policy concerning this particular operation, but officers are told to activate the emergency equipment whenever it becomes necessary to exceed the speed limit by 15 mph or more. Otherwise, the officer is expected to stay with the vehicle being chased and, if at all possible, avoid a crash.

When stopping a suspected offender, ASAP officers generally employ the flashing beacon and the horn of the motorcycle to attract his attention. Once having succeeded in pulling the vehicle over, the officer issues a radio message informing the dispatcher of his location and the vehicle license number. If the officer so requests, that license number may be checked against available data for possible "wanted" information. The same applies to the operator of the vehicle and any passengers in the car. This is not automatic procedure, however; it is only done upon the individual officer's request. At his own discretion, the officer may request an additional unit as a back-up.

In his observation of the operator, the officer notes the person's appearance, whether there is an odor of an alcoholic beverage, the individual's behavior, his physical coordination, and speech. Based on these and the results of the physical coordination testing, the officer makes his decision to arrest the suspect. Usually, the offender is told that he is under arrest for the offense of Driving While Under The Influence (a misdemeanor). In effecting the arrest, if the officer must resort to force in doing so, he is authorized to use only that amount of force which is absolutely necessary to subdue the offender. (In Arizona, an assault upon a police officer constitutes a felony.)

The final decision to effect an arrest rests solely with the individual officer; his supervisor exerts no influence to speak of on that decision. After the offender has been placed under arrest, he is advised of his Constitutional rights (Miranda warning) and he is informed of the Implied Consent statute prior to undergoing the evidentiary test. The Miranda warning is read to the suspect (Fig. 1-8) and the provisions of the Implied Consent statute are usually recited from memory.

If the officer arrives at the scene of a crash, he is authorized to charge DWI when appropriate, although he did not witness the accident. DWI offenders are charged under the state statute. (The vast majority of all charges are also placed under authority of state law.) If the offender is released at the scene, he is required to sign the arrest citation (Fig. 1-1); otherwise, if he is physically arrested, his signature is not necessary. It was maintained that DWI charges are not normally reduced to lesser offenses by officers of the ASAP team.

Unless the offender's vehicle is impounded, officers may search only that area of the car which is in plain view. If it is impounded, a thorough inventory search may be undertaken. If this search yields evidence of other (unrelated) crimes, the suspected DWI offender may be charged with those additional offenses. If there is a passenger in the auto who appears sober and responsible, the offender may be released to that passenger, after he has submitted a sample of his breath. (The offender's consent is required, since the passenger then must also operate the vehicle.)

Normally, only one officer is involved in the entire arrest process.

Conclusions: The apprehension of suspected DWI offenders in Phoenix is conducted in a practical manner, with a minimum amount of processing time required on the part of the arresting officer.

Recommendations: None.

Section 3 - Transporting Persons and Property

The suspected DWI offender's outer apparel is extensively searched by the arresting officer before he is transported to the processing facility (if he is transported at all). A strip search would be undertaken only where narcotics or controlled drugs are suspected, in which case a search warrant must be obtained (to authorize examination of body cavities). Such a search must be conducted by a professional person in hygienic surroundings (i.e., physician, nurse, etc.).

Female offenders are usually not frisked, but the officer takes charge of any purse or similar article and places it on the front seat of the vehicle (transporting automobile). The female, meanwhile, is placed into the rear of the car. No special search procedures are employed for juvenile

offenders. (Statutorily, anyone under the age of 18 is classified a juvenile.) Unless disorderly, suspects being transported are not normally handcuffed. This is, however, a matter of the officer's discretion. Vehicles of the regular patrol contingent are equipped with protective screens separating the front from the rear seats, thereby adding to the transporting officer's safety. (The one marked patrol car assigned to the ASAP team is used principally for transport purposes, and each night one ASAP officer is assigned to "wagon" duty. If, for any reason, the "wagon" is not available, a regular beat car is called in for transport.) On an average, the distance of transport ranges from three to five miles. Average response time for a transporting vehicle is from five to ten minutes. The arresting officer must then also appear at the testing facility, since he must administer the evidentiary test.

Conclusions: The transporting of suspected DWI offenders to the central facility for evidentiary testing appears to be the exception, rather than the rule. In most cases, the offender submits a breath sample and is driven to his destination by either a passenger or by a member of the Crisis Intervention Team (a volunteer organization sponsored by the city), who is summoned by police request. ASAP officials mentioned that Crisis Intervention averages around 800 such calls per month. When transportation to the testing facility becomes necessary, it appears to be carried out with a minimum of effort and with little strain on manpower.

Recommendations: None

Section 4 - Incarceration

Suspected DWI offenders are normally released after they have submitted a breath sample or have otherwise been processed. Only out-of-state offenders and those who refuse to cooperate are required to post a bond to ensure their appearance in court. If they are booked, they are also fingerprinted and photographed. Juvenile offenders are generally released to parents or guardians. If detained, they are committed to the County Detention Home, but must have a hospital release form before this can be done. Therefore, the officer must take the youth to a hospital for examination prior to commitment.

If a bond is required, the amount set for the first offense (DWI) is \$165. This amount is set by the city court. An offender who is about to be jailed may contact his attorney as soon as he has completed the booking process. Those who are indigent may be awarded a Public Defender, but that decision is made by the city court.

DWI offenders who are to be incarcerated are taken to the Maricopa County jail, which is staffed with County Sheriff's deputies and correctional officers. One matron, who is also a registered nurse, is available during each shift. The matron is responsible for medical examinations in the case of offenders who complain of illnesses.

The DWI offender can expect to be placed into a cell shared with others who are accused of misdemeanors. Assurances were given that the jail facility is maintained in a sanitary and hygienic state.

Conclusions: Incarceration of suspected DWI offenders is an infrequent occurrence. Whenever possible, the offender is released on condition that he promises to appear in court on the prescribed date.

Recommendations: None.

Section 5 - Testimony and Adjudication

In DWI cases, the arresting officer is not required to be present at arraignment. If pre-trial conferences are conducted, the prosecutor, defense attorney, and the defendant are present. The officer's court appearance is scheduled by the court.

Phoenix ASAP enforcement officers seem to accrue a great deal of overtime resulting from court appearances. According to sources within the ASAP staff, each officer may expect to be summoned to court once or twice each month on his off-duty day, which is attributed to computer error. Officers of the ASAP team estimated, however, that they average from 125 to 150 hours per month in overtime resulting from court appearances. (The officers are compensated for overtime at a rate of 1½ times their hourly wage.) (See Appendix A; Exhibit 1b.)

When the arresting officer is required to testify during a DWI trial, the prosecutor commences questioning by asking the officer to recite the

particulars of the case. The officer then proceeds to explain the details of the arrest and testing process, including the accused's performance on physical coordination tests and the results of the evidentiary test (BAC). The arresting officer usually refreshes his memory with the aid of existing reports prior to testifying, and then testifies without the aid of any documents.

DWI cases are heard before the city court, which is not a court of record. Judges of the city court are appointed by the City Council for four-year terms. In order to be considered for a judgeship, candidates must be members of the Arizona Bar, residents of Maricopa County, and must have practiced law continuously for not less than five years.

If a DWI case comes to trial, it is mostly heard by a jury. The defendant may waive jury trial, but the state must also agree to the waiver before trial before a judge is granted. Plea bargaining is integrated into the ASAP system by means of the PACT (Prosecution Alternative To Court Trial) Diversion Program, which is the rehabilitative countermeasure of the Phoenix ASAP. (See Appendix A; Exhibit 1c.) In fact, at arraignment, the offender is encouraged not to plead guilty to the DWI charge, in order to be channeled into PACT. Successful completion of the PACT Diversion Program results in a reduction of the DWI charge to a lesser offense. At the time of entering PACT, the offender agrees not to appeal the conviction on the lesser offense.

Conclusions: An undercurrent of strong opposition on the part of law enforcement personnel against the practice of plea bargaining was detected. The police generally seem to feel that this practice undermines enforcement efforts. For example, officers mentioned that ASAP clients (DWI defendants) completing PACT successfully are then returned to court for trial of the DWI charge. In most cases (based on successful completion), they are then allowed to plead guilty to a lesser charge (which is often totally unrelated to the original offense, and which was not committed by the offender) as a form of reward for cooperation with PACT. If the convicted offender (convicted of the lesser offense) then decides to appeal his conviction to superior court, the conviction is reversed by the higher court (since the defendant was

convicted of an offense which he did not commit.) Although allegedly DWI offenders who elect to participate in PACT initially agree not to appeal the conviction on a lesser charge, there is no legal force to that agreement. As a result, the rehabilitative system in use, and its effect on the final disposition of DWI offenders, tends to have a somewhat demoralizing effect on officers of the ASAP enforcement countermeasure.

Recommendations: Means should be explored to reduce the excessive amount of overtime required on the part of ASAP officers for court appearances. Although the officers tend to benefit financially from this condition, they are afforded very little leisure time. As one officer put it: "I'm earning considerably more money, but I have no time in which to spend some of it." The important question which arises, however, is what effect this has on the officer's alertness when he is subjected to this condition for a protracted period of time.

In Phoenix, as well as in most other jurisdictions which participated in this survey, plea bargaining (or plea negotiation, as it is euphemistically termed in some locations) is a major point of contention with law enforcement personnel. Phoenix, however, is rather unique in that the reduced charge is often totally unrelated to the original DWI offense, and may not have been committed by the offender. This practice should be discontinued if at all possible.

1732320

TRAFFIC COMPLAINT
IN THE CITY COURT, CITY OF PHOENIX,
MARICOPA COUNTY, STATE OF ARIZONA

COMPLAINANT: STATE OF ARIZONA
DEFENDANT: PIERRE, LAST NAME

ADDRESS: PHOENIX, ARIZONA

DATE: FEB 27 1977

IN PHOENIX, ARIZONA

NOTICE TO APPEAR AT:
TRAFFIC COURT: 3435 WEST DURANGO STREET, PHOENIX, ARIZONA
JUVENILE REFEREE: 3435 WEST DURANGO STREET, PHOENIX, ARIZONA

ON OR BEFORE DATE AND TIME: READ BALY OF COMPLAINT TO DETERMINE IF YOU WANT A FINE PRIOR TO COURT DATE

INFLDENTANT'S SIGNATURE: X

TRAFFIC COMPLAINT
IN THE CITY COURT, CITY OF PHOENIX,
MARICOPA COUNTY, STATE OF ARIZONA

THE UNDERSIGNER SAYS THE DEFENDANT NAMED HEREIN:

IN PHOENIX, ARIZONA

IN VIOLATION OF SECTION 28-700(A)

CONTAINMENT DISP. CODE: 5

DATE: FEB 27 1977

INFLDENTANT'S SIGNATURE: X

CITY COURT, CITY OF PHOENIX,
MARICOPA COUNTY, STATE OF ARIZONA

I HEREBY WAIVE MY RIGHT TO TRIAL, ENTER A PLEA OF GUILTY TO THE OFFENSE DESCRIBED IN THE COMPLAINT, AND CONSENT TO JUDGMENT IMPOSING THE PRESCRIBED FINE.

City Court, City of Phoenix, Arizona

IMPORTANT - READ ALL INSTRUCTIONS CAREFULLY

After receiving this citation you must wait a minimum of 3 full days (not counting Saturday, Sunday, Holidays, or any received) before you may appear for the processing of your case.

WHEN APPEARANCE BEFORE A JUDGE IS NOT REQUIRED

You must present this copy to a Court Clerk in the Traffic Violations Bureau on or before the court date and the amount on this Complaint. You will not be informed when to pay. If you plead guilty there can be an immediate disposition of your case.

WHEN APPEARANCE BEFORE A JUDGE IS REQUIRED

Upon presentation of this citation to a clerk of the Traffic Violations Bureau, you will be directed to a Judge for one of the following:

1. Driving under the influence of intoxicating liquor or drugs.
2. Reckless driving or racing. (28-703 ADN or 28-705 ADN).
3. Driving on a suspended or revoked drivers license.
4. Leaving the scene of an accident.
5. If you wish to plead not guilty.

BAIL AND FINE INFORMATION

The amount of bail or fine can be determined only after personal presentation of this citation. It cannot be obtained by telephone or letter.

IF YOU FAIL TO APPEAR ON OR BEFORE THE DATE AND TIME DIRECTED, A WARRANT WILL BE ISSUED FOR YOUR ARREST.

- VIOLATION OF PROMISE TO APPEAR IS A CLASS A.M.I.S.**
- A. Any person willfully violating his written promise to appear, filed as provided in this article, is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.
 - B. A written promise to appear in Court may be complied with by an appearance by counsel.
- NO PAYMENT OF FINE ALLOWED -
- NO CONTINUANCE GRANTED BY PHONE -

Traffic Court and Violations Bureau Located At:
12 North 4th Ave., Phoenix, Arizona
Hours: Monday thru Friday, 8:00 A.M. to 4:00 P.M.
Closed Saturdays, Sundays and Holidays
Juvenile Referee Located at:
3435 West Durango St., Phoenix, Arizona
Phone 242-5900

OUT OF STATE AND OUT OF COUNTY RESIDENTS ONLY

If you do not have a current Arizona address extending through your court date, or if you live outside Maricopa County, you may appear at the Traffic Violations Bureau in person during court hours to receive a written promise to appear. If you fail to appear, you will be held in your home state. Driver license Department for failure to appear with the issuing state. Out of state residents who do not appear to appear in court may not be eligible for the formation concerning this violation. This must be done immediately.

READ ALL THE ABOVE INSTRUCTIONS IMMEDIATELY. Attach this copy with you to the Traffic Violations Bureau. The receipt at the bottom contains a true copy of the offense described in the Complaint and will be filed in the designated Court.

DEFENDANT

RECORD OF COURT PROCEEDINGS

DATE OF ACTION	PROCEEDINGS	INITIALS
	DEFENDANT ADVISED OF LEGAL RIGHTS ARRAIGNMENT PLEA GUILTY NOT GUILTY HOLD CONTENDERE THE ACCUSED DEFENDANT IS	
	EXEMPTED ALL OTHERS	
	TO FOR COURT TIME	
	TOTAL BAIL NO. OF CHARGES	
	NAME BOND INFORMATION NUMBER	
	DATE BOND FORFEITED BY DATE BOND EXONERATED BY	
	RELEASED RECEIPT NO.	
	DEFENDANT ATTORNEY TELEPHONE NUMBER	

Figure 1-1

**CITY OF PHOENIX, ARIZONA
POLICE DEPARTMENT**

**ALCOHOL INFLUENCE
REPORT**

CIRCLE WORD - If applicable use N.A. when question is not applicable

Name, Last		First	Middle	Arrest or Citation D.W.I. Only	
Address		City	State	S.S.#	
Driver's	Sex	D.O.B.	Occupation	D.R. Lic.#	State
Loc. of Arrest				Date-Time of Arrest	AM PM
Vehicle Description		Vehicle released to: Removed or left:			
Were you operating this vehicle?	YES NO	Where were you going?	From where did you start?		
What time did you leave?		What time is it now?	Actual time	Where are you now?	
What have you been drinking?		How much?	Where were you drinking?		
Time you started drinking		Time you stopped drinking	Have you been drinking since the accident?		YES NO What?
Are you hurt?	YES NO	Did you get a bump on the head?	YES NO	Are you sick?	YES NO
Nature of illness		Have you been to a Dr. or Dentist recently?	YES NO	When Date-Time	
Name of Dr. or Dentist.		Reason for visit		Have you taken any medicine in past 24 hours?	
Type of Medicine		Time of last dose or pill	Date	Time	Do you have diabetes? YES NO
Have you used a mouthwash or spray recently	YES NO	Do you have false teeth	YES NO	Do you wear glasses? YES NO	
Do you have any physical defects?	YES NO	If yes describe			
Are you under the influence of Alcoholic Liquor now?		What is the date today?	What day of the week is it?		
What location were you stopped by the officer?		What direction is north?	Describe Accuracy		
When did you last eat?	What did you eat?	How much sleep have you had in the last 24 hours?		How much sleep today?	
How long have you been awake?	From	To	Is the officer that arrested you here now (if asked at other than location of arrest)?		YES NO

EXAMINATION: (Draw circles around words describing observed condition - add other words of your own).

Breath	Odor of Intoxicating liquor - Apparently none Faint Moderate Strong
Color of Face	Apparently normal Flushed Pale Other-Describe:
Clothes	Clean Orderly Disarranged Torn Bloody Vomit Urine Other: - Describe:
Attitude	Polite Excited Antagonistic Cocky Stuporous Other-Describe: Cooperative Indifferent Hilarious Talkative Insulting Sleeping
Unusual Actions	Profanity Hiccough Belching Vomiting Fighting Other - Describe:
Eyes	Apparently normal Watery Bloodshot Other-Describe:

COORDINATION TESTS (Conduct in sequence if subject is willing) Circle appropriate words.

SPEECH	CHOICE OF WORDS	BALANCE ON ONE LEG		BALANCE	WALKING & TURNING	FINGER TO NOSE	PICKING UP COINS	PUPILS OF EYES
Mumbled Natural Slurred Stuttered Confused Incoherent	Good Poor Bad	RIGHT Unable Sway Refused Steady	LEFT Unable Sway Refused Steady	Natural Poor Swaying Sagging Knees Falling Uncertain Need Support	Natural Poor Swaying Staggering Falling Uncertain	Right Sure Hesitant Uncertain Left Sure Hesitant Uncertain	Natural Stumbled Unsteady Fell Swayed Unable	Contracted Normal Remained dilated with light Dilated Poor Reaction to light

Attach Photograph Here

Attach Breathalyzer Test Record Here

BREATHALYZER OPERATIONAL CHECK LIST

1. Check temperature (50° + 3°C). Breathalyzer No. _____
2. Insert ampul in left-hand holder.
3. Gauge, open and connect test ampul. (Ampul Control Number _____)
4. Turn to TAKE, flush out instrument with squeeze bulb, turn to ANALYZE and affix test record.
5. When red empty light appears, wait 1½ minutes, turn on LIGHT and BALANCE.
6. Ink pointer, align with start line and stamp test record.
7. Turn to TAKE, affix mouthpiece, take breath sample turn to ANALYZE. (Record time of test.)
8. When red empty light appears, wait 1½ minutes, turn on LIGHT, BALANCE and stamp test record.
9. Turn valve to OFF, remove and dispose of test ampul, record result.

Percent Blood Alcohol _____ % by wt.

INVESTIGATING OFFICER OPERATIONAL CHECK LIST

1. Read the standard "ADMONITION OF RIGHTS CARD" to the subject being charged, prior to questioning.
2. Call I Bureau for any prior bookings or similar charges on same subject within the past 24 hrs. Phone ext. 6116 and have the name entered on the I Bureau Log.
3. Obtain a driver's license check of subject, phone 261-7401 day, or after 5 p.m. phone 261-7406. Enter this information on this line above "Arrestment Date" including source of information of the driver's license bureau.
4. Implied Consent Law explained.

Subject observed minimum fifteen minutes immediately prior to chemical test by:

Observing Officer (Signature & Serial)

From To

DATE & TIME OF TEST	LOCATION OF TEST	TYPE OF TEST
		<input type="checkbox"/> BREATHALYZER <input type="checkbox"/> BLOOD <input type="checkbox"/> G.C.I. KIT # _____ <input type="checkbox"/> OTHER _____

Operator Comments

Operators Name & Serial Number

CONCLUSION OF OFFICER: That the subject examined IS NOT IS under the influence of INTOXICATING LIQUOR DRUGS

What brought subject to Officer's attention? Accident Speed Changing Lanes Traffic Control Viol. Citizen Other: _____

Unusual Statements:

Signs of Injury, Illness or physical defects: _____ Location where examination made: _____

Witness Name _____ Address _____ Phone _____ Obtain written statement testifying to the driving of the defendant.

Witness Name _____ Address _____ Phone # _____ Obtain written statement testifying to the driving of the defendant.

MVD Driver's Lic. Record _____ I-Bureau DWI Record Check (NCIC)

Arrestment Date _____ Court _____ Time: _____ a.m. _____ p.m. Officers Next Two Court Dates: _____ #1 Date _____ Time _____ a.m. _____ p.m. Court #2 Date _____ Time: _____ a.m. _____ p.m.

CODE NUMBER	WRITTEN DESCRIPTION	CITATION #	CODE NUMBER	WRITTEN DESCRIPTION	CITATION #
1.			3.		
2.			4.		

DETAILS

Right Index	_____

Driver Released To:	Name _____ Address _____ Phone _____
Arresting Officer Name & Serial # _____	

STATUS: (Circle all that apply to this subject) Driver Passenger Pedestrian Non-Accident Fatality Property Damage Personal Injury Arrested Released Hospitalized If sub. 47 and released, indicate the responsible party and address of same.

Figure 1-2 (cont'd.)

**YOU HAVE THE RIGHT TO REMAIN SILENT.
ANYTHING YOU SAY CAN BE USED AGAINST YOU IN A
COURT OF LAW.**

**YOU HAVE THE RIGHT TO THE PRESENCE OF AN
ATTORNEY TO ASSIST YOU PRIOR TO QUESTIONING,
AND TO BE WITH YOU DURING QUESTIONING, IF YOU
SO DESIRE.**

**IF YOU CANNOT AFFORD AN ATTORNEY YOU HAVE
THE RIGHT TO HAVE AN ATTORNEY APPOINTED
FOR YOU PRIOR TO QUESTIONING.**

DO YOU UNDERSTAND THESE RIGHTS?

WILL YOU VOLUNTARILY ANSWER MY QUESTIONS?

DATE OR OFF. INITIALS

**Usted tiene el derecho de guardar silencio.
Cualquier cosa que usted diga puede ser
usada en su contra en un juzgado de leyes.
Tiene el derecho de la presencia de un abogado
para que el le asista antes de que le hagamos
alguna pregunta, y tenerlo presente durante las
preguntas, si usted lo desea.
Si usted no puede proporcionar un abogado,
tiene Ud. el derecho que un abogado sea
proporcionado para Ud. antes de que le
hagamos preguntas.
¿Comprende usted estos derechos?
¿Dará respuestas voluntariamente a mis
preguntas?**

Figure 1-8

ARKANSAS (PULASKI COUNTY)

Section 1 - Detection

Analysis of alcohol-related crashes is not undertaken by any of the participating law enforcement agencies comprising the Pulaski County Alcohol Safety Action Project. Alcohol-related crash data is not utilized in determining ASAP patrol deployment.

As a general rule, the only "evidence" gathered by the officer during the detection phase is limited to officer observations.

In order to prove the offense of DWI, troopers of the Arkansas State Police must have probable cause to make the initial stop of the violator. Officials of the Arkansas State Police defined probable cause to stop a violator and subsequently check for alcohol involvement as any hazardous moving violation. Officers of the Jacksonville Police Department, Little Rock Police Department, and the North Little Rock Police Department must also be able to establish probable cause for stopping a violator and subsequently investigating for alcohol involvement. Probable cause for these agencies is defined as either a hazardous moving violation, any erratic driving, or equipment violation.

Other than officer observation, no other technique or mechanical device is utilized during the detection phase of DWI enforcement.

Officer observations are recorded on the Arkansas Arrest Disposition Report (Fig. 2-4). This form is completed by the arresting officer and includes defendant identification, and details of arrest. The Alcohol Influence Report Form (Fig. 2-2) is also completed to preserve officer observations. This report consists of ten sections which are completed by the arresting officer. The results of performance tests and roadside interview with the driver are included in this two-page form. These documents are retained by each of the respective law enforcement agencies and the Highway Safety and Promotion Center.

The information contained on these reports is introduced into evidence by the arresting officer. The report is reviewed by the arresting officer prior to court and the information contained thereon is presented verbally, from memory, by the arresting officer.

Conclusions: None of the sworn ASAP police personnel of the Pulaski ASAP had knowledge of the effect of their efforts on the alcohol-related crash situation. In addition, none of the officers or supervisors could (or would) speculate on how much of a problem alcohol has presented to the crash activity within their jurisdiction.

An alcohol-related crash was defined by the Pulaski ASAP as "any accident where a citation for driving under the influence of intoxicating liquor was issued". A citation or arrest for DWI must have been made to classify a crash as "alcohol-related".

Other than the special analytical reports and quarterly reports prepared by the Pulaski ASAP for submission to DOT/NHTSA, no corroborative analytical information or reports were presented to this investigator by either the Pulaski ASAP or any of its participating law enforcement agencies.

The Pulaski County ASAP project evaluator compiles a quarterly report entitled Officer Arrest Statistics which lists (by officer) a summary by age, race, sex, license, day, time, and BAC. This report is produced quarterly by the ASAP evaluator and is distributed to the ASAP enforcement coordinator for review. According to the Coordinator, this report is distributed to the ASAP unit's law enforcement supervisors for their review. In addition, the enforcement coordinator utilizes this report to assist him in writing the enforcement portion of the DOT required quarterly report.

In representing this report to ASAP enforcement personnel at the administrative, supervisory and operational levels this investigator was advised that none of the above described individuals were ever made aware of the information which the report contained. All agencies interviewed stated that the information contained within the Officer Arrest Statistics Report could have been a valuable tool in spotting "officer problems in the identification of drinking drivers and, in short, measuring their effectiveness".

Recommendations: A conference among the officials of the Pulaski County ASAP, the participating law enforcement agencies, and the appropriate judicial heads should be conducted. This conference should address the requirement imposed on officers wherein no traffic stop may take place for the purposes of determining driver sobriety unless such driver has committed either a hazardous moving violation, erratic driving or equipment violation. It is this investigator's opinion that State Statute 75-1027 established driving under the influence of intoxicating liquor as a separate and distinct offense and that the necessary proof show that the driver was under the influence of intoxicating liquor is obtained from 1) observations of the officer before and during the arrest, 2) the ability of the officer to prove that the arrestee was driving or in actual control of a vehicle, 3) field tests administered by the officer and 4) admissions of the arrestee. Justifications for the stop must certainly be based on the police power of the state to protect the general public.

Section 2 - Apprehension

No criteria was established within any of the participating law enforcement agencies of the Pulaski County ASAP as to the manner in which patrol areas were to be determined. In each case ASAP officers were to rely solely on their own personal knowledge of traffic activity within their respective departmental jurisdictions. Officers who gravitated towards sectors containing a sizable number of bars, taverns, and other drinking establishments did so as a matter of choice rather than direction.

Roadblocks were not used in ASAP enforcement by the Jacksonville, Little Rock, and North Little Rock Police Departments. The Arkansas State Police utilized roadblocks for a short period of time; however, these were discontinued due to unfavorable cost effectiveness. Officials of the Arkansas State Police stated that public opinion was favorable to the use of road blocks in DWI enforcement but this activity resulted in the arrest of only a very limited number of DWI's.

During this site visit each law enforcement agency participating in the Pulaski County ASAP was requested to provide copies of written departmental policy and standard operating procedure having a bearing upon the

DWI arrest process utilized by their agency. This investigator was advised that written policy does not exist and that procedures are maintained through the use of unwritten policy based upon state statute. This investigator did locate a small blue book at the North Little Rock Police Department which was described as their "field manual". This investigator requested the opportunity to review this manual and was advised by department officials, as well as the Chief of Police, that this manual contained policies and procedures which were outdated and that a review of the "manual" by this investigator would not be allowed.

The Arkansas State Police, the Jacksonville and the North Little Rock Police Departments advised that the "hot pursuit" and pursuit of the suspected DWI offender is authorized; however, officers are expected to use judgement and discretion in effecting a pursuit under these circumstances. The Little Rock Police Department advised that under no circumstances was "hot pursuit" or pursuit authorized when such pursuit involved misdemeanor offenders.

Suspected DWI offenders are stopped in a routine manner: the officer's vehicle is positioned behind the offender's auto and the rotating beacon is engaged. As the suspect brings his car to a stop to the right of the roadway, the officer follows suit with his vehicle and parks approximately one and one-half car lengths behind the suspect's auto with the rotating beacon continuously in operation. The officer gets out of his vehicle, flashlight in hand (normally operations are conducted during hours of darkness) and approaches the driver side of the suspect's vehicle. He requests to see the operator's license and then asks the operator to step out of his car. During this process, the officer makes a determination relative to the suspect's state of sobriety based upon the driver's appearance, odor of intoxicating beverage, general behavior, speech, and physical coordination tests. At that time, the officer arrives at the decision to place the offender under arrest (or not to arrest) for the offense of DWI.

The license number of the vehicle, the driver's name, and passengers are checked against data files to ascertain possible "wanted" information only upon special request of the officer. Also, in special instances

where the flashing beacon fails to gain the attention of the driver. the arresting officer may employ the use of the siren or P.A. system.

When the suspected offender is formally placed under arrest by the officer, he is then advised of the Arkansas Implied Consent statute. Constitutional or Miranda Rights are advised by officers of the Jacksonville Police Department immediately prior to placing the suspect under arrest. These admonishments are issued verbally by the officer from mental recollection. Officers of the Jacksonville, Little Rock, and North Little Rock Police Departments charge DWI suspects with the offense under local ordinance. Troopers of the Arkansas State Police Department charge DWI offenders under state statute. The arresting officer has full discretion in his decision to arrest for the offense of DWI. Officers have the authority to place a DWI charge at the scene of a motor vehicle crash even though the officer may not have witnessed the incident. An officer can charge all accidents which he did not witness where he can place the offender behind the wheel at the time of the incident. During the process of stopping a suspected DWI offender, it is normal procedure for officers of the Jacksonville, Little Rock, and North Little Rock Police Departments to issue a radio message. This radio message generally contains only the location of the stop and the vehicle license number. Troopers of the Arkansas State Police are not required to issue any radio transmission upon stopping a violator. It is not normal procedure for an assisting officer to be dispatched to the scene of arrest when the arrest is being made by a trooper of the Arkansas State Police, Little Rock or North Little Rock Police Departments. It is normal procedure, however, to dispatch an assisting officer to the arrest scene when the arrest is being effected by an officer of the Jacksonville Police Department. The assisting officer is dispatched either by order of the dispatcher or at the request of the arresting officer. It is not uncommon for this assisting officer to volunteer to respond to the arrest scene. When the assisting officer arrives at the scene of arrest, it is the assisting officer's normal duty to serve as witness to the suspect's alcohol involvement and provide security for the arresting officer.

If the driver is arrested for DWI, ASAP officers give the suspect the option of leaving his auto at the scene of arrest or having his auto impounded for safekeeping. In either case, the driver takes the key. Passengers accompanying the suspect are allowed to continue on with the automobile provided they are blood relations to the owner/driver of the vehicle. Licensed, sober, and responsible passengers who are not blood-relations to the driver are not allowed to take custody of the vehicle. Those passengers who appear to be intoxicated and who are disorderly in their conduct will be arrested for the appropriate offense.

Officers of the Jacksonville and Little Rock Police Departments do not have the option of reducing the charge of DWI to a lesser one once the arrest has been made. Troopers of the Arkansas State Police and officers of the North Little Rock Police Department may reduce the charge of DWI to a lesser one for any reason. Generally, the charge of DWI is not reduced unless the suspect registers a BAC of less than .07%.

Conclusions: The participating law enforcement agencies' failure to establish formal written policy especially in the areas of high speed chases, hot pursuits, the use of fire arms and radio procedures limits the effectiveness of the law enforcement officers participating in the ASAP enforcement countermeasure of the Pulaski County ASAP.

Officers of the participating law enforcement agencies are relatively unrestricted in movement during their patrol tour and are not limited to sectors or areas. ASAP officers generally seek out the areas offering the greatest potential for DWI identification and apprehension. As a rule, the officers patrol the general areas surrounding bars and package stores. During a "ride with" an ASAP officer, this investigator observed that most of the ASAP officers on patrol were in fact "staking out" package stores and bars and very little moving patrol was being conducted. The actual apprehension of DWI suspected offenders was occurring only three to four blocks from the bar or package store.

Recommendations: The implementation of a pre-arrest breath-screening program to screen suspected DWI suspects should be considered by the law enforcement agencies participating in the Pulaski County ASAP.

Implementation, even on an experimental basis, would enable arresting officers to reduce the amount of subjective decision making in determining driver alcohol impairment. Technical and operational data available on the various pre-arrest breath screening devices should be reviewed by law enforcement officials of the participating agencies to assist them in selecting a device most appropriate for their jurisdictional area.

Departmental policies regarding DWI enforcement, the use of force, radio procedures, etc., is urgently required. The absence of written policy places an unreasonable burden on the officer in the field, leaving important decisions of life or death, community relations, self-preservation, and departmental priorities to his discretion and judgement.

Section 3 - Transporting Persons and Property

In effecting an arrest for DWI, officers of the Pulaski County ASAP have complete authority to undertake a search of the offender's vehicle. The search is generally limited to that area of the automobile which was in the driver's control. The rule of thumb used by these officers in determining this area of control is "any area within six feet of the steering wheel". If probable cause is established, the officer may conduct a custodial search of the entire vehicle with the exception of the trunk. Under such circumstances, if the "fruit of another crime" is uncovered, the DWI suspect may be charged with the additional offense. Custodial searches, however, are rarely conducted in the apprehension of DWI offenders. All suspected DWI offenders may be searched prior to being transported. All male offenders are, as a rule, given a "pat down frisk" prior to being transported. Female prisoners are searched by matrons who may either be called to the scene of arrest or searched upon arrival at the incarcerating facility. An arresting officer may search a female prisoner only when the officer suspects he is in immediate danger. Juvenile offenders, those 16 years and under, are searched prior to being transported under the same criteria established for male and female adults.

During transport, suspected DWI offenders are placed in the rear seat of the patrol cruiser. Troopers of the Arkansas state Police, however, prefer to transport suspected DWI offenders in the right front seat. The difference between the transporting techniques of the Jacksonville, Little Rock, and North Little Rock Police Departments and those of the Arkansas State Police Departments is that patrol cruisers of the Jacksonville, Little Rock, and North Little Rock Police Departments are equipped with protective shields and those of the Arkansas State Police are not. Regular patrol officers of both agencies have protective shields installed in their regular police cruisers.

Arresting officers usually transport their own prisoners to the testing facility. The average distance of transport ranges between seven to ten miles.

Prior to transporting male adult offenders, officers of the Pulaski ASAP issue a radio message indicating time only. When transporting female offenders arresting officers issue a radio message indicating time and mileage to the tenth of a mile.

When a suspect is arrested for the offense of DWI by a law enforcement officer of the Pulaski County ASAP, his vehicle is normally towed from the scene of arrest by a privately owned towing service. The privately owned towing service is generally dispatched to the scene by the police dispatcher upon request of the arresting officer. The respective law enforcement agencies maintain a rotating record of service file which guarantees equitable utilization of eligible towing services.

A total of twenty minutes is generally required from the time the towing service is dispatched until it arrives at the scene of arrest. Should the towing service be shown to be deficient or inefficient, the participating law enforcement agency may withdraw the service's permit, prohibiting it from service to that agency. The suspected DWI offender's vehicle is normally stored at the privately owned service lot.

Whether or not a DWI suspect is handcuffed is a matter of the officer's discretion. Generally handcuffs are used only in unusual cases. Officers feel that with the protective shield the use of handcuffs is unnecessary.

Officers generally employ handcuffs only when the offender is violent and cannot be transported safely in any other fashion.

Conclusions: The transporting process employed by the participating law enforcement officers of the Pulaski ASAP appears to be generally suitable to the operations in that state. No significant feedback was obtained from officers.

Recommendations: The transporting persons and property procedures currently in use should be continued.

Section 4 - Incarceration

Upon arrival at the incarceration facility, a DWI offender is thoroughly searched and all personnel effects are removed from the suspect's person. The personnel effects removed from the suspect are secured in an area which can be locked utilizing either a padlock or a combination padlock configuration. The suspect is issued a receipt for all personal articles which he surrenders during this search. All articles are returned to the suspect upon his release.

All DWI offenders are eligible for bail upon conclusion of the booking procedures. Bail bondsmen are not permitted to solicit at the jail area; however, their phone numbers are available to suspects/prisoners upon request. Arkansas Act 246 (not provided) permits the release of an offender for a motor vehicle offense without payment of cash bond, upon surrender of his driver's license.

Whether cash bond or license bond is provided, all DWI offenders must remain confined for a minimum of six hours which is considered a "sober-up" period.

Troopers of the Arkansas State Police incarcerate offenders at either the Little Rock, North Little Rock, or Jacksonville Police Department facilities. In each instance, troopers of the Arkansas State Police comply with the jurisdictional policies regarding prisoner processing and procedures.

The Little Rock and North Little Rock Police Departments do not require complete fingerprinting of DWI offenders. They do, however,

require that the thumbprint be placed upon the arrest report. The incarceration facilities of the Jacksonville Police Department require the fingerprint only. This is required through Department policy (not provided) to meet the requirements of the Arkansas Criminal Justice System.

All offenders who are incarcerated are cleared against local and regional computer networks containing criminal records information.

The usual amount of bond established for the first offense (should the suspect not desire to surrender his driver's license in lieu of cash bond) ranges from \$200 at the Little Rock and North Little Rock incarceration facilities, to \$250 at the facility maintained by the Jacksonville Police Department. The Municipal Judge of the respective jurisdictions established the amount of bond for the offense of DWI.

The usual amount of bond for second or subsequent offenders is \$500 at the Jacksonville and North Little Rock Police Departments, and \$200 at the Little Rock incarceration facility.

Should the offender desire an attorney, he is allowed every opportunity to contact an attorney via telephone communication. If he does not know the phone number of an attorney, a telephone book listing local attorneys is provided. Court appointed attorneys are provided at time of trial for the offenders unable to afford private counsel.

A formal medical examination of a DWI offender is not conducted at the incarceration facility. Offenders complaining of pain or exhibiting obvious signs of illness are transported to a medical facility for treatment.

All DWI offenders are confined in dormitory-type cells which are maintained in a sanitary and hygienic state. Separate facilities are maintained for male and female prisoners.

Juvenile offenders are not incarcerated with adult prisoners. Officers of the Jacksonville Police Department notify the parents of the juvenile upon his arrival at the incarceration facility. Juveniles 14 years of age or less are referred to the juvenile court by report. Juveniles 15 and 16 years of age are released to parents and tried by

the municipal court. Officers of the Little Rock and North Little Rock Police Departments follow essentially the same procedure except that, in addition to notifying parents, they also notify the Juvenile authorities (Juvenile Counselors of the Juvenile Court) who conduct a record check of the juvenile and advise the arresting officer whether to release the juvenile to his parents or incarcerate the juvenile in Juvenile incarceration facilities.

Irrespective of the disposition of the offender at the incarceration facility, the offender's vehicle may be released although he is still incarcerated. This privilege is extended to blood relations only and to effect the release of the vehicle the blood relation must be able to produce the vehicle's registration.

Arresting officers of the Jacksonville Police Department must have completed the Arkansas Arrest/Disposition Report (Fig. 2-4) prior to effecting the incarceration of a DWI offender.

Conclusions: The incarceration procedures utilized by the law enforcement agencies participating in the Pulaski County ASAP appear adequate to meet the needs of this jurisdictional area.

Article 246 which permits the release of an offender for motor vehicle offense without payment of a cash bond upon the offender surrendering of his driver's license is a worthwhile procedure. This act not only guarantees that the suspect will appear in court (if he wishes his driving privilege to be continued) but also accents the seriousness of the offense to the judge at time of trial.

Recommendations: The incarceration process currently in use by the participating law enforcement agencies should be continued.

Section 5 - Testimony and Adjudication

Arresting officers are not required to be present at the arraignment of DWI offenders.

Pre-trial conferences are generally conducted; however, officers of the Jacksonville, Little Rock, and North Little Rock Police Departments are not required to be in attendance. Officers of the Arkansas State

Police are required to be present at the pre-trial conference which is generally conducted between the arresting officer and the prosecuting attorney.

Officer Court appearance is scheduled by the court. Officers of this jurisdictional area are generally summoned to court on two off-duty days per month. The average overtime per officer per month attributable to court appearances is estimated to be only two hours per week.

Officers of the Arkansas State Police are not compensated in any manner for overtime accrued through court appearance on off-duty days. Officers of the Jacksonville and Little Rock Police Departments receive one and one-half times their normal hourly wages for their court appearance. Officers receive no other witness fee when attending court on off-duty days.

Officers generally present their testimony from personal notes which were written on the reverse of the officer's copy of the citation.

The municipal courts of the appropriate jurisdiction hear the DWI cases made by law enforcement officers participating in the Pulaski County ASAP. These courts are presided over by judges who are elected for four-year terms.

Candidates for the office of Municipal Judge are required to have a law degree, be members of the Bar, and a resident of the County in which they seek election.

Offenders have a choice between a jury trial or a trial before a judge. Trials for the offense of DWI are normally conducted before a judge only. Separate courtrooms have not been set aside for DWI prosecutions.

Plea bargaining is a routine procedure and, according to officers interviewed, DWI charges are generally reduced to a charge of "reckless driving". The penalty for reckless driving in this instance may be either \$100 or the same as would have been imposed for a DWI conviction. Officers further stated that plea bargaining is not employed with second or subsequent DWI offenders.

Should witnesses, other than arresting officers or back-up assisting officers, be summoned to testify DWI cases, they will not be compensated in any manner for their court appearance.

Officers at this site stated that they felt the legal profession was collectively and generally in support of the objectives of the Pulaski County ASAP.

No significant feedback could be obtained from officials or officers of this ASAP location concerning court attitudes toward adjudication of DWI cases. Officers did state, however, that a conviction for the offense of DWI was generally difficult to obtain in instances where the suspect registered below .05% BAC as a result of evidentiary breath testing.

Conclusions: During the site visit, this investigator was provided with a training program which was developed by the Pulaski County ASAP for the purposes of training all law enforcement officers within the jurisdictional area in the relationship of alcohol to highway safety, the applicable laws and regulations pertaining to DWI, the role of the police, the role of the courts, and the objectives of the ASAP as developed by the Department of Transportation. This training program is included in its entirety in the Appendix Section of this Report. See Pulaski County Safety Action Project Training Program (Appendix A; Exhibit 2a).

According to officials of the Pulaski County ASAP, this training program is intended to serve as an outline for a detailed course of instruction or as "roll-call" material for ten- or fifteen-minute roll-call presentations.

In the opinion of this investigator, this document was conceived, developed and designed to assist officers in increasing their understanding of the Alcohol problem and their ability to identify, detect, apprehend and testify on alcohol related traffic offenses. However, this investigator believes this document has quite the opposite effect. The training program document is intended to inspire arresting officers. Unfortunately, it is interlaced with contradictions concerning the effect of alcohol on driver impairment and presents several significant

points relating to drunk driver enforcement which are counterproductive and could cause confusion and even possibly demoralization of arresting officers.

The training program implies that there exists a type of drinking driver who can be classified as a "drunk cautious driver"; that the Pulaski County Sheriff's Office did not want to participate in the ASAP program; that the alcohol influence report forms leave a great deal to be desired; that suspicious driving does not justify arrest; that roadside checks of vehicles are of little value to the individual officer; that traffic laws differ from other criminal laws and that most traffic offenses do not require an intentional act and are not socially condemned; that ASAP officers are "case-finders"; that doubt should be resolved in favor of the apparent violator; that the question of "whether to arrest or not to arrest is a judgement decision for the officer and cannot be spelled out in rules and regulations", and advising officers that "the effectiveness of cross-examination is greatly exaggerated".

The manner in which the above is presented within the text of the training program could lead to counterproductivity and, in general, under-enforcement of the DWI laws. Most certainly, officers who feel that the effectiveness of cross-examination is "greatly exaggerated" may tend not to prepare court testimony as completely as they would, had they a professional respect for the defense attorney's effective use of cross-examination.

Recommendations: Liaison between the courts and the participating law enforcement agencies of the Pulaski County ASAP should be ongoing and the number of off-duty appearances required by law enforcement officers should be held to a minimum.

The training program developed by the Pulaski County ASAP should immediately be revised utilizing the assistance of an individual who is qualified and experienced in preparing educational and motivational curriculums within traffic safety. Until such time as the appropriate revisions can be made, this document should not be used in the training of law enforcement officers engaged in traffic enforcement assignments.

CHECK:	CHECK:
<input type="checkbox"/> Driver	<input type="checkbox"/> Accident
<input type="checkbox"/> Pedestrian	<input type="checkbox"/> Violation
<input type="checkbox"/> Passenger	<input type="checkbox"/> Other
Date and Time of Accident or Violation:	
A.M. _____	
P.M. _____	

ASAP-16
ALCOHOL INFLUENCE
REPORT FORM

Police Dept. _____
Arrest No. _____
Accident No. _____
Arresting Officer _____
Date and Time in Custody:
A.M. _____
P.M. _____

Name _____ Address _____

Sex _____ Race _____ DOB _____ Ht. _____ Wt. _____ D.L. No. _____ State _____

Vehicle Make _____ Model _____ Year _____

CHEMICAL TEST DATA: Blood Breath Refused Unable BAC _____

1. POLICE ACTION PREDICATED UPON:

- Routine Road Check
- Intuition of Officer
- Physical Appearance of Driver
- Actions of Driver
- Physical Appearance of Occupants
- Actions of Occupants
- Physical Appearance of Vehicle
- Erratic Driving Behavior
- Traffic Law Violations
- Other (Specify) _____

4. ERRATIC DRIVING BEHAVIOR:

- Weaving
- Driving on Shoulder
- Abnormal Stops
- Abnormal Starts
- Driving in Spurts
- Driving With Jerky Motions
- Over-reacting to Existing Conditions
- Driving Slower Than the Traffic Flow
- Other (Specify) _____

PHYSICAL APPEARANCE and/or ACTIONS OF DRIVER:

- Flushed Face
- Sleepy Appearance
- Disorderly or Disarranged Clothing
- Abnormal Concentration
- Driving Without Lights
- Driving With Window Down In Cold Weather
- Failure to Use Signal Lights
- Failure to Dim Lights
- Driving While Holding Bottle or Cup

5. TRAFFIC LAW VIOLATIONS:

- Speeding
- Crossing Center Line
- Impeding Traffic
- Improper Passing
- Following Too Close
- Failure to Obey Traffic Control Devices
- Other Violations (Specify) _____

3. PHYSICAL APPEARANCE and/or ACTIONS OF PASSENGERS:

- Distracting Driver
- Unusual Hilarity
- Holding or Passing Bottles or Cups
- Littering Highways
- Sleeping or Reclining
- Unusual Passenger Arrangement
- Disorderly or Disarranged Clothing
- Other (Specify) _____

6. ROADSIDE OBSERVATIONS OF DRIVER:

ODOR OF ALCOHOL	
<input type="checkbox"/> Faint	<input type="checkbox"/> Moderate
<input type="checkbox"/> Strong	<input type="checkbox"/> Apparently None
CLOTHING	
<input type="checkbox"/> Clean	<input type="checkbox"/> Orderly
<input type="checkbox"/> Mussed	<input type="checkbox"/> Disarranged
<input type="checkbox"/> Burned	<input type="checkbox"/> Soiled
<input type="checkbox"/> Torn	

6. ROADSIDE OBSERVATIONS OF DRIVER (Cont'd.)

ATTITUDE	
<input type="checkbox"/> Polite	<input type="checkbox"/> Hilarious
<input type="checkbox"/> Cooperative	<input type="checkbox"/> Excited
<input type="checkbox"/> Talkative	<input type="checkbox"/> Insulting
<input type="checkbox"/> Carefree	<input type="checkbox"/> Combative
UNUSUAL ACTIONS	
<input type="checkbox"/> None	<input type="checkbox"/> Belching
<input type="checkbox"/> Laughing	<input type="checkbox"/> Vomiting
<input type="checkbox"/> Crying	<input type="checkbox"/> Profanity
<input type="checkbox"/> Hiccoughing	<input type="checkbox"/> Fighting
<input type="checkbox"/> Other (Specify)	_____

7. ROADSIDE CHECK OF VEHICLE

No Inspection Sticker
 Expired Inspection Sticker

MECHANICAL DEFECTS	
<input type="checkbox"/> Brakes	<input type="checkbox"/> Tires
<input type="checkbox"/> Horn	<input type="checkbox"/> Visibility
<input type="checkbox"/> Lights	<input type="checkbox"/> Wipers
<input type="checkbox"/> Steering	
UPHOLSTERY OR SEAT COVERS	
<input type="checkbox"/> Burned	<input type="checkbox"/> Streaked
<input type="checkbox"/> Spotted	<input type="checkbox"/> Torn
<input type="checkbox"/> Stained	
OTHER ITEMS	
<input type="checkbox"/> Litter in Seats and on Floorboards	<input type="checkbox"/> Visual Evidence of Vehicle Abuse
<input type="checkbox"/> Empty Drinking Containers	<input type="checkbox"/> Alcoholic Beverages
<input type="checkbox"/> Other (Specify)	<input type="checkbox"/> Offensive Odors

8. ROADSIDE INTERVIEW WITH DRIVER

SPEECH	
<input type="checkbox"/> Apparently Normal	
<input type="checkbox"/> Confused	<input type="checkbox"/> Slurred
<input type="checkbox"/> Mumbled	<input type="checkbox"/> Thick-Tongued

QUESTIONS

How long ago did you last drink alcoholic beverages?

Over what period have you been drinking?

What did you drink and how much?

	Ounces
<input type="checkbox"/> Beer	_____
<input type="checkbox"/> Wine	_____
<input type="checkbox"/> Whiskey	_____
<input type="checkbox"/> Gin	_____
<input type="checkbox"/> Vodka	_____
<input type="checkbox"/> Other	_____

How much did you eat during this time?

Full Meal Sandwich
 Very Little Nothing

Do you have any physical ailments, such as Diabetes?

(Specify): _____

Are you taking medication or drugs? _____

(Name and Sample): _____

Please tell me the date? _____

Day _____ Time _____

Street or Highway _____

Direction of Travel _____

ACTUAL: _____

Where did you start from? _____

And at what time? _____

Where are you going? _____

Variations (Specify): _____

9. PERFORMANCE TESTS

BALANCE	
<input type="checkbox"/> Falling	<input type="checkbox"/> Needed Support
<input type="checkbox"/> Wobbling	<input type="checkbox"/> Swaying
<input type="checkbox"/> Unsure	<input type="checkbox"/> Sure
WALKING	
<input type="checkbox"/> Falling	<input type="checkbox"/> Staggering
<input type="checkbox"/> Stumbling	<input type="checkbox"/> Swaying
<input type="checkbox"/> Unsure	<input type="checkbox"/> Sure
TURNING	
<input type="checkbox"/> Falling	<input type="checkbox"/> Staggering
<input type="checkbox"/> Hesitant	<input type="checkbox"/> Swaying
<input type="checkbox"/> Unsure	<input type="checkbox"/> Sure

FINGER TO NOSE	
RIGHT:	LEFT:
<input type="checkbox"/> Missed	<input type="checkbox"/> Missed
<input type="checkbox"/> Hesitant	<input type="checkbox"/> Hesitant
<input type="checkbox"/> Sure	<input type="checkbox"/> Sure
COINS	
<input type="checkbox"/> Unable	<input type="checkbox"/> Fumbling
<input type="checkbox"/> Slow	<input type="checkbox"/> Sure

10. OBSERVER'S OPINION

Physical Impairments

EFFECTS OF ALCOHOL	
<input type="checkbox"/> Extreme	<input type="checkbox"/> Obvious
<input type="checkbox"/> Slight	<input type="checkbox"/> None
ABILITY TO DRIVE	
<input type="checkbox"/> Unfit	<input type="checkbox"/> Questionable
<input type="checkbox"/> Fit	

ACTION TAKEN: _____

COMMENTS: _____

Figure 2-2 (cont'd.)

ARKANSAS ARREST/DISPOSITION REPORT

36090

DEFENDANT IDENTIFICATION		Arresting Agency Name		NICIC Code	
Name		Last		First Middle	
Aliases					
Street Address				Phone No.	
City & State				Zip	
Central System No.		F. B. I. No.		State I. D. No.	
Social Security No.		Driver License No./State		Local I. D. No.	
Sex	Race		Date of Birth		Place of Birth
<input type="checkbox"/> M	1	<input type="checkbox"/> White	3	<input type="checkbox"/> Oriental	5
<input type="checkbox"/> F	2	<input type="checkbox"/> Negro	4	<input type="checkbox"/> Amer. Indian	6
		<input type="checkbox"/> Unknown			
Hair		Eyes	Weight	Height	Scars and Marks
Complexion		Build		Employer/Occupation	
Name of Nearest Relative				Phone No.	
Street Address			City, State, Zip		

ARREST PLEASE PRESS HARD - You are making five copies

Place of Arrest			Arresting Officers				
Date of Arrest	Time of Arrest	Bail Amount Set	Offense No.	Arrestee received from another L. E. Agency			
		M.		1 <input type="checkbox"/> Yes	2 <input type="checkbox"/> No		
No.	Computer Use	Case/Docket No.	Statute No.	Counts	Charge Desc.	Law Enforcement Disposition	Date of Disposition (M/D/Y)
1.					36090		
2.							
3.							
4.							

Facts of Arrest (Explain in Detail)

More Charges?

Complainant and Witness Names		Address		36090	Phone	Right Thumb Print (Here & On Back)
Complainant		Home				
		Business				
Witness		Home				
		Business				
Witness		Home				
		Business		65		

Figure 2-4
LAW ENFORCEMENT

D

GENERAL INFORMATION

Releasing Officer	Date	Case No.	Time
Trial Date	Bond By	Amount of Bond	Booking No.

DISPOSITION

<input type="checkbox"/> Guilty	Date	Sentence
<input type="checkbox"/> Not Guilty		
Other:		

PRISONER INJURY RECORD

Hospital	Date and Time	Doctor	Returned
Description of Injury			
Injured Other Than Jail			

PRISONER CHARGE-OUT RECORD

Date Removed	Time Removed	Case No.	Jailer
Removing Officer's Signature			
Date Returned	Time Returned	Jailer's Signature	
Date Removed	Time Removed	Case No.	Jailer
Removing Officer's Signature			
Date Returned	Time Returned	Jailer's Signature	
Date Removed	Time Removed	Case No.	Jailer
Removing Officer's Signature			
Date Returned	Time Returned	Jailer's Signature	
Remarks			

NOTICE OF DETAINER

PROPERTY RECORD

For (Agency)		Property Description	Bin No.
Warrant No.	Case No.		
Authorized By			
Date	Time	Prisoner's Sig.	
Officer Taking Report		Arresting Off. Sig.	
Remarks		Jailer's Sig.	
		This is to certify that I have received the above described property. (Prisoner's Signature)	
		Releasing Jailer	

Figure 2-4 (cont'd.)

CALIFORNIA (LOS ANGELES)

Section 1 - Detection

Analysis of alcohol-related crashes is undertaken by the Los Angeles County Sheriff's Department, the Covina Police Department and the Los Angeles County Alcohol Safety Action Project. These reports are prepared by project management of the Los Angeles County ASAP, and Lt. Melton of the Covina Police Department. The findings of alcohol-related crash data are not utilized in determining ASAP patrol deployment for either of the participating law enforcement agencies cited. The ASAP submits the reports prepared at the request of DOT/NHTSA to the appropriate administrator of the respective law enforcement agency. Individual officers engaged in ASAP field operations receive information regarding analysis of alcohol-related crashes only upon special request of the officer.

Exhibit 3e in Appendix A depicts the extent of the alcohol-related accident analysis undertaken by the Covina Police Department. This exhibit consists of a series of charts showing the total traffic accidents within a 24-hour period for the years 1971 through 1974. In addition, these charts depict DWI arrest activity for this period, accident and arrest activity between 8:00 p.m. and 5:00 a.m., and the percent of injury of traffic collisions that were alcohol-related over this period. Study Routes (Appendix A; Exhibit 3m), a report prepared by Wilbur Smith and Associates for the Covina Police Department, was designed to assist the Covina Police Department with patrol strategy decisions. This investigator was advised that this report was never used to determine ASAP patrol strategy.

The definition of an alcohol-related crash at this site is any accident where alcohol was detected. The criteria for an alcohol-related crash is an notation of "had been drinking", by the investigating officer, on the accident report (i.e., marking b, c or d on the accident report under the category of "Sobriety - Drug - Physical").

Several reports have been prepared by the Los Angeles County Sheriff's Department with analytical data: Cost of Selective Traffic Enforcement Unit (Appendix A; Exhibit 3g), Priorities (Appendix A; Exhibit 3h), and Video Taping Techniques (Appendix A; Exhibit 3a). The Covina Police Department has prepared ASAP Evaluation (Appendix A; Exhibit 3f) and ASAP Evaluation Report - Outline (Appendix A; Exhibit 3j). The ASAP Evaluation Report in

its narrative form would not be released to this investigator by the Covina Police Department until the report was presented to City Council and to the City Manager for review.

All evidence gathered during the detection phase of DWI enforcement is generally limited to officer observation. The Los Angeles County Sheriff's Department initially videotaped erratic driving, however, this process was discontinued due to the hazard presented by the mounted camera and the resulting poor picture quality. Photo Exhibit 3k (in Appendix A) presents the dashboard mount configuration utilized by officers at this site. The Covina Police Department also, for short period, utilized videotaping of erratic driving behavior. Video tapes were retained by the respective units.

The clues used by arresting officers during the detection phase are limited to 1) erratic driving; 2) speed - too slow or too fast; or 3) hazardous moving violation. Any of the above cited clues are necessary to prove the offense of DWI to the extent that probable cause for the stop must be established.

Evidence gathered during the detection phase is recorded by officers of the Los Angeles County Sheriff's Department on the Complaint Report (Fig. 3-2) and as previously stated at one time on the videotaping equipment. Officers of the Covina Police Department record evidence gathered during the detection phase on the Arrest Report (Fig. 3-5) and the Field Sobriety Report (Fig. 3-7). All written reports prepared by the Los Angeles County Sheriff's Department are submitted to the division commander and retained in a central file. One copy is retained by the officer. Officers of the Covina Police Department submit their reports to Lt. Melton with a copy to the District Attorney's office. Copies of all reports are available to arresting officers upon request.

All reports are used by officers as "memory joggers" prior to court; in court, contents are presented verbally by the officer. Videotapes are generally presented prior to trial.

Conclusions: Officers of this ASAP site as a rule do not utilize accident analysis statistics in determining detection methodology; however, as a matter of preference, officers tend to gravitate toward the areas of the high accident incident occurrences. According to officials interviewed at this site, these areas are consistent with identified areas of high alcohol-related accident occurrences.

The detection techniques utilized by the officers of this site in identifying the DWI offenders are standard throughout the ASAP sites visited.

Recommendations: It is recommended that the Los Angeles County ASAP work more closely with the participating law enforcement agencies in sharing time, day, location and accident incident data; evaluating detection techniques and developing a documentable deployment strategy.

Section 2 - Apprehension

According to officials interviewed surveillance of high probability areas is not conducted by members of the participating law enforcement agencies. However, while riding with patrol officers, this investigator observed that surveillance of drinking establishments is used almost exclusively in DWI enforcement by members of Los Angeles County Sheriff's Department. Officers of the Covina Police Department were not actively engaged in surveillance of high probability areas; they effected the majority of their arrests as a result of accident investigations and DWI cases which were made by non-ASAP officers. It appears that officers of the Covina Police Department maintain mobile patrol and when a non-ASAP officer stops a violator that he suspects to be under the influence of alcohol, he calls, via police radio, the ASAP unit to respond and effect the arrest for the offense of DWI.

Roadblocks and surveillance of known defenders are not conducted or used in ASAP enforcement at this site.

The Covina Police Department provided no policy regarding pursuits and/or "hot pursuits". The department's stance on pursuit and "hot pursuit" was essentially that it was authorized based upon officer's best judgement. The Los Angeles County Sheriff's Department provided a document entitled, Policy Regarding Pursuits (Appendix A; Exhibit 3n) and Policy Governing "Code 3" Operating Conditions and Response to "999" and "997" Calls (Appendix A; Exhibit 3i). These documents essentially state that:

"Deputies shall be allowed to initiate pursuits based upon their individual judgement regarding the necessity of such action and shall be strictly accountable for the use of that option.

All pursuits shall be subject to the overall control of the watch commander, and this responsibility cannot be abdicated."

Suspected DWI offenders are stopped by arresting officers utilizing flashing rotating beacons, patrol vehicle horns and spotlights. Arresting officers may also use headlights and PA systems. Officers of the Los Angeles County Sheriff's Department do not issue a radio message upon stopping a suspect for the offense of DWI. When officers of the Covina Police Department stop a suspected violator, they issue a radio message which generally contains the location of the stop and the license number of the vehicle. A check against data files to ascertain possible "wanted" information on both the license number and the driver's name is conducted only upon special request of the officer. Officers may arrest without a warrant if a radio transmission confirms "wanted" status for misdemeanor offenses. Upon stopping a violator, arresting officers approach the vehicle from the left rear.

At the scene of the traffic stop, the officer makes a determination concerning the operator's state of sobriety by observing the suspect's appearance, detectable odor of intoxicating beverage, general behavior of the suspect, physical coordination tests, and noticeable speech impairments. Upon conclusion of the driver interview and physical coordination tests, the arresting officer generally makes the decision to place the suspect under arrest or to release the suspect.

Prior to being placed under arrest, the offender is not advised of either Miranda rights or the Implied Consent statute. Only after having been placed under arrest is the subject advised of Implied Consent.

When an arrest is effected by an officer of the Los Angeles County Sheriff's Department, it is not normal procedure to dispatch an assisting officer to the arrest scene. When the arrest is being effected by an officer of the Covina Police Department, it is standard procedure that the dispatcher dispatch an assisting officer to the arrest scene. The back-up assist officer generally serves as a witness to the state of sobriety of the suspect, provides security at the arrest scene and awaits the tow truck if necessary.

Officers have complete discretion in the decision to arrest or not to arrest for the offense of DWI. All DWI offenders are charged under state statute and the offense of DWI is classified as a misdemeanor.

The Covina Police Department did not provide written policies regarding the use of force in effecting an arrest. Lt. Melton advised that the departmental policies regarding the use of force and firearms permitted "that

force necessary to effect the arrest". The Los Angeles County Sheriff's Department provided policy documents entitled, Reporting Use of Force (Appendix A; Exhibit 3o); Use of Physical Force (Appendix A; Exhibit 3p); and The Use of Firearms (Appendix A; Exhibit 3q). In essence, those policies state that officers may use only that force necessary to effect an arrest.

Officers may make the charge of DWI on all accidents where the suspect can be identified as the driver of the vehicle. (See California Vehicle Code 40300.5 Legislative base - Sobriety Testing Report).

If the basis for the traffic stop was suspected alcohol involvement, searches are limited to alcoholic beverages and drugs. In the event that the search yields evidence of other unrelated crimes, the suspect may be charged with those additional offenses, provided that probable cause can be established such as "in open view," etc.

The number of officers normally present at the scene of arrest for both participating agencies is two - for Los Angeles County Sheriff's Department, the arresting officer and his partner and for the Covina Police Department, the arresting officer and his back-up assist officer.

Conclusions: The apprehension configuration utilized by law enforcement officers participating in the Los Angeles County ASAP is comprehensive and well-documented; the entire process from driver interview through physical coordination testing through admonishment of the Implied Consent statute is recorded on videotape.

Recommendations: It is recommended that the apprehension configuration currently in use by these agencies be continued.

Section 3 - Transporting Persons and Property

All suspected DWI offenders are subjected to a pat-down frisk prior to being transported. Female offenders are searched only in the event of apparent danger. It is normal procedure to handcuff all prisoners prior to placing them into the police vehicle. Subjects are generally handcuffed with their hands behind their back.

Juvenile offenders are treated the same as adults during the transporting phase. The statutory definition of a juvenile is any individual under 18 years of age.

Officers of the Los Angeles County Sheriff's Department generally place

a prisoner in the right rear seat of the police cruiser, as does the Covina Police Department. All ASAP and non-ASAP patrol vehicles of the Los Angeles County Sheriff's Department are equipped with protective screens. ASAP and non-ASAP patrol vehicles of the Covina Police Department are not so equipped.

The arresting officer usually transports his prisoner to the testing facility. The average distance of transport is five miles for the Los Angeles County Sheriff's Department and two miles for the Covina Police Department.

Upon commencing transport of any suspect, the transporting officer issues a radio message advising the dispatcher that he is transporting. In the case of a female offender, the officer advises the dispatcher that he is transporting a female and gives his destination and mileage to the tenth of a mile.

Upon arrival at the incarceration facility, females are held in a separate holding area in the booking section and they are searched only by matrons. As a rule, juveniles are not booked, but rather, placed on detention; they are released to their parents and referred by report to the juvenile investigator. The juvenile investigator reviews and conducts an interview to determine if the case should be referred to juvenile court. (See Figure 3-14 - Juvenile Investigation Report and Exhibit 3r; Appendix A entitled, Article 6, Temporary Custody and Detention).

The offender's vehicle is usually left at the scene of arrest. When a towing service is used, all towing services must meet the requirements established in California Vehicle Code 22850 (Storage of Vehicles).

An inventory search of the offender's vehicle may be conducted. Should that search reveal "fruits of other crimes" whereby probable cause was not established prior to discovery, these items cannot be introduced as evidence.

The arresting officer assumes responsibility for all articles inventoried until the tow truck operator signs for the vehicle and its contents. If the vehicle is left at the scene, per request of the owner, then the owner assumes responsibility for both vehicle and contents.

Conclusions: The transporting persons and property configurations utilized by the officers of the Los Angeles County ASAP appear adequate to meet the needs of this participating law enforcement agency.

Recommendations: It is therefore recommended that the current procedures be continued.

Section 4 - Incarceration

The usual disposition of an offender after he has undergone evidentiary testing by officers of the Los Angeles County Sheriff's Department is generally release on personal recognizance. Bond is required in the majority of cases, only if warrants are outstanding, the suspect has no I.D., or he is an out-of-county resident. In each case, watch commander approval is required. (See Exhibit 3s in Appendix A entitled, Prisoners and Figure 3-15 entitled, Misdemeanor Release Disposition).

Out-of-state offenders are generally required to post a \$315.50 cash bond.

DWI offenders who have been arrested by officers of the Los Angeles County Sheriff's Department are fingerprinted only. The Covina Police Department both fingerprints and photographs all DWI offenders. (See Figure 3-16 - Fingerprinting and Photograph Form utilized by the Covina Police Department).

California Vehicle Code 40502, paragraph (d) and 13105 establish the procedures to be followed for juvenile DWI offenders. Upon arrest, the juvenile is transported to station headquarters, where he is segregated from adult offenders. The juvenile detective is notified by phone (if unavailable, he is notified by a report). The juvenile is then released to his parents and case is referred by report, to the juvenile division. The juvenile division may refer the case to probation, whereupon probation may refer it to the juvenile court. The decision to refer is based upon the seriousness of the juvenile's previous record, including the number of previous cases not referred.

All offenders are cleared against local and regional computer networks containing criminal records information.

Prior to incarceration, all DWI offenders are subjected to a complete non-strip search. All personal property, belts, and suspenders are removed from the suspect and a receipt is issued for the articles. At the Covina Police Department, all articles are placed in a paper bag and locked in a cupboard in the fingerprinting room. At the Los Angeles County Sheriff's Department, all property is placed in a sealed plastic envelope and stored in a secure property area. All articles are returned upon the offender's release.

Officers of the Los Angeles County Sheriff's Department perform their own booking by completing the Booking Property Record and making an entry into a bound ledger.

When incarcerated at the Los Angeles County Sheriff's Department, all prisoners are visually inspected by both arresting officers and booking personnel for signs of illness or injury. Should the subject be unable to post bond, he is transferred to the main jail prior to his incarceration and given a complete physical examination by the doctor, who is a member of the jail staff. When incarcerated at the Covina Police Department, all suspects are given visual inspection for signs of illness or injury by both arresting officer and jail personnel.

All offenders are eligible to post bond to effect their release upon completion of a four to six hour "sober up" period during which the DWI offender must remain confined.

The responsibility for fixing the amount of bail lies with the Commission of Judges, Superior Court for the Los Angeles County Sheriff's Department and the Covina Municipal Court for the Covina Police Department.

The Los Angeles County Sheriff's Department incarceration facility is maintained in a sanitary and hygienic state. The incarceration facilities of the Covina Police Department are not and, according to the Covina Police Department personnel, the state of California has stated that "Covina jail is probably the worst in California and the state has threatened to close the facility".

Conclusions: The incarceration configuration utilized by officers of this site appears adequate to meet the needs of the jurisdiction.

Recommendations: It is recommended that a mutually agreeable procedure be established whereby officers of the Covina Police Department can incarcerate suspects charged with the offense of DWI at the Los Angeles County Sheriff's Department incarceration facility.

Section 5 - Testimony and Adjudication

Pre-trial conferences are generally conducted between the prosecutor, defense attorney, and the trial judge. The arresting officer is not required to be present at arraignment.

The court of jurisdiction generally schedules the officers' court appearances and , on a monthly basis, officers of the Los Angeles County Sheriff's Department spend approximately ten days at three hours per day in court on off-duty days. Officers of the Covina Police Department, according to sources interviewed, never appear in court on off-duty days. Officers of the Los Angeles County Sheriff's Department are compensated for overtime accrued as a result of court appearances at the rate of one and one-half times their hourly wage.

When an officer is required to submit testimony on a DWI offense, that testimony generally includes the particulars of the case, the defendant's BAC and other pertinent evidence. The videotaping is rarely introduced into evidence at this site. Officers primarily present their testimony from the Complaint Report (Fig. 3-2) (Los Angeles County Sheriff's Department); and the Covina Police Department Field Sobriety Report (Fig. 3-7).

Municipal Courts hear DWI cases effected by ASAP officers of this site. Judges are elected for a four-year term and must be members of the California Bar.

Separate courtrooms have not been set aside for DWI prosecutions. Offenders have a choice between a jury trial and a trial by judge. All DWI trials are normally conducted before a jury. A conviction for the offense of DWI is more likely if the offender is tried by a judge. According to officers of this site, plea bargaining is a routine procedure especially in the low BAC ranges. The arresting officer is not consulted before the decision is reached. As a result of plea bargaining, the offense of DWI is generally reduced to a charge of reckless driving and a fine assessed from \$190 to \$300. Plea bargaining is also employed for second or subsequent DWI offenses. According to officers interviewed, this is due to the practice of reducing the charge of DWI to that of reckless driving.

Civilian witnesses are seldom, if ever, summoned to testify in DWI cases. Witnesses are not compensated for their court appearance.

The legal profession is generally in support of the ASAP program, to include the ASAP's videotaping activities. As stated in Drunk Driving Enforcement Videotape Techniques (Appendix A; Exhibit 3a) "the response from the judiciary, from the prosecuting and defense attorneys and from the general public has been overwhelming in favor of the tapes. From the

prosecution standpoint it is extremely hard to refute what the tapes so vividly displays. It has also been a benefit in easing the congested court calendar, as most people do not wish to have the tapes presented in court and are prone to plead guilty at their arraignment". Defense attorneys seem to like the tapes for a similar reason.

Conclusions: The testimony and adjudication configuration employed at this site appears adequate to meet the needs of the jurisdiction.

Recommendations: It is recommended that the current favorable relationship existing between law enforcement officers, prosecutors, defense attorneys and the courts be maintained. Every attempt should be made by project management of the Los Angeles County ASAP to reduce the occurrence of plea bargaining where the BAC is .15% or less.

**COUNTY OF LOS ANGELES — SHERIFF'S DEPARTMENT
COMPLAINT REPORT**

DATE	ACTION ACTIVE <input type="checkbox"/> INACTIVE <input type="checkbox"/>	INDEX INFO YES <input type="checkbox"/> NO <input type="checkbox"/>	NO. OF ADULT ARRESTS	NO. OF SUBJECT DETENTIONS	URN (FILE NO.)
CLASSIFICATION DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL/OR DRUGS - 23102a CVC					
DATE, TIME, DAY OF OCCURRENCE			PRINT DEPUTY REQUESTED NO <input type="checkbox"/> YES <input type="checkbox"/>		LOC <input type="checkbox"/> STA <input type="checkbox"/> VEH <input type="checkbox"/>
LOCATION OF OCCURRENCE				TYPE OF LOCATION STREET	

CODE: V—victim, W—witness, I—informant *list one witness (if named) and the informant on this page*

CODE	NO. OF	LAST NAME	FIRST	MIDDLE	LAST	CHECK
		<i>ASAP!</i> VACATION DATE(S) _____				
RESIDENCE ADDRESS						
BUSINESS ADDRESS		WITNESSES <u>D.P.</u>				
CODE	NO. OF	LAST NAME	FIRST	MIDDLE	LAST	CHECK
		HOSP. _____ DR. /LAB. TECH. _____				
RESIDENCE ADDRESS						
BUSINESS ADDRESS		BLOOD _____ BREATH _____ URINE _____ REFUSAL _____				
CODE	NO. OF	LAST NAME	FIRST	MIDDLE	LAST	CHECK
		VIDEO TAPE USED: YES NO				
RESIDENCE ADDRESS						
BUSINESS ADDRESS		A.S.A.P.				

CODE: S—suspect, SJ—subject, P—patient, S/V—suspect/victim, SJ/V—subject/victim *circle code if supp. pages used for: V W S SJ P S/V S/V*

CODE	NO. OF	LAST NAME	FIRST	MIDDLE	LAST	CHECK
		RESIDENCE ADDRESS				
CITY						
BUSINESS ADDRESS		CITY				
SEX	RACE	HAIR	EYES	HEIGHT	WEIGHT	D.O.B.
OBSERVABLE PHYSICAL ODDITIES						WHERE DETAINED OR CITE NO.
CLOTHING WORN						BOOKING NO.
CHARGE						WEAPON USED
CODE	NO. OF	LAST NAME	FIRST	MIDDLE	LAST	CHECK
		RESIDENCE ADDRESS				
CITY						
BUSINESS ADDRESS		CITY				
SEX	RACE	HAIR	EYES	HEIGHT	WEIGHT	D.O.B.
OBSERVABLE PHYSICAL ODDITIES						WHERE DETAINED OR CITE NO.
CLOTHING WORN						BOOKING NO.
CHARGE						WEAPON USED

VEHICLE USED IN CRIME YES <input type="checkbox"/> NO <input type="checkbox"/>	YR.	MAKE	BODY TYPE	COLOR	BY DEPUTY	BADGE NO.
UNKNOWN <input type="checkbox"/> STORED <input type="checkbox"/> IMPOUNDED <input type="checkbox"/>					DEPUTY	BADGE NO.
LICENSE (STATE & NO.)	V.I.N./FRAME NO.		STATION			
REGISTERED OWNER			UNIT/CAR NO.		SHIFT	
IDENTIFYING CHARACTERISTICS			APPROVED		BADGE NO. TIME	
C.H.P. 180 YES <input type="checkbox"/> SUBMITTED NO <input type="checkbox"/>	GARAGE NAME & PHONE		ASSIGNMENT			
VICTIM DESIROUS OF PROSECUTION YES <input type="checkbox"/> NO <input type="checkbox"/>	VICTIM INSURED YES <input type="checkbox"/> NO <input type="checkbox"/>	E.A.P. NO.	SPECIAL REQUEST DISTRIBUTION			
SUSPECT/SUBJECT RELEASE APPROVED BY	TIME	ARREST REVIEW YES <input type="checkbox"/> SUBMITTED NO <input type="checkbox"/>	TT B/C BY	DATE	TIME	SECTY.

Figure 3-2 77

**CITY OF COVINA
POLICE DEPARTMENT
ARREST REPORT**

CASE FILE — RECORDS DIVISION

						Identification number
						Booking number
Name	Last	First	Middle	Case number	Reporting area	
Also known as				Date	Time	
Address			Phone	City	State	Zip code
Sex	Color	Age	Birthdate	Birthplace		Citizenship
Height	Weight	Build	Hair	Eyes	Complexion	Marital Status
Marks and scars				Fingerprints by	Photographs by	
Occupation		Employed	Employed by	Address	Zip code	Business Phone
		Yes	No			
In Emergency notify			Relationship	Address	Residence Phone	

PRISONER'S PROPERTY RECORD

Property box number	Cash	Automobile (Make, license number, year, color)			Location of automobile
Other property					Operator/license number
					Social security number
					Other identification

ARREST AND BOOKING DATA

Charge (if warrant, include court and warrant number)				Held for	By order of
Where arrested				Arrested or received by	Assisted by
Appearance date		Court	Bail set	Searched by	Booked by
			\$		
Complainant (if other than arresting policemen)			Address and phone	Zip code	

FOR USE BY ARRESTING OFFICER

Constitutional rights
 Arrestee's clothing
 Arrestee's statements
 Evid. booked
 Wits
 (include zip code)

Supervisor approving _____ Date _____ Arrested by _____

**CITY OF COVINA
POLICE DEPARTMENT
ARREST REPORT**

PRISONER'S RECEIPT

						Identification number
						Booking number
Name Last		First		Middle		Case number
						Reporting area
Also known as						Date
						Time
Address				Phone		City
						State
						Zip code
Sex	Color	Age	Birthdate	Birthplace		Citizenship
Height	Weight	Build	Hair	Eyes	Complexion	Marital Status
Marks and scars				Fingerprints by		Photographs by
Occupation		Employed		Employed by		Address
		Yes	No			Zip code
						Business Phone
In Emergency notify				Relationship		Address
						Residence Phone
PRISONER'S PROPERTY RECORD						
Property box number		Cash		Automobile (Make, license number, year, color)		Location of automobile
Other property						Operator/license number
						Social security number
						Other identification
ARREST AND BOOKING DATA						
Charge (if warrant, include court and warrant number)				Held for		By order of
Where arrested				Arrested or received by		Assisted by
Appearance date		Court		Bail set		Searched by
				\$		Booked by
Complainant (if other than arresting policeman)				Address and phone		Zip code

IMPORTANT

SEX CRIME REGISTRATION: Any person who, since July 1, 1944, has been convicted in the State of California of any sex crime must register with the Police Chief of the city in which he resides. (Penal Code 290)

JAIL RULES AND REGULATIONS: Any person confined to the city jail must adhere to the rules and regulations posted in each cell or cell block.

KEEP THIS COPY: This is your receipt for the property taken from you at the time of confinement and must be turned in to the jailer at the time of your release.

**PROPERTY RELEASE
RECEIVED OF THE COVINA POLICE DEPARTMENT ALL OF THE ABOVE ITEMIZED PROPERTY.**

Including \$ _____ cash.

Received by _____ Date _____ Time _____

Released by _____

**CITY OF COVINA
POLICE DEPARTMENT
ARREST REPORT**

CRIMINAL RECORD

						Identification number
						Booking number
Name	Last	First	Middle	Case number	Reporting area	
Also known as				Date	Time	
Address			Phone	City	State	Zip code
Sex	Color	Age	Birthdate	Birthplace	Citizenship	
Height	Weight	Build	Hair	Eyes	Complexion	Marital Status
Marks and scars				Fingerprints by	Photographs by	
Occupation		Employed	Employed by	Address	Zip code	Business Phone
		Yes	No			
In Emergency notify			Relationship	Address	Residence Phone	

PRISONER'S PROPERTY RECORD

Property box number	Cash	Automobile (Make, license number, year, color)			Location of automobile
Other property					Operator/license number
					Social security number
					Other identification

ARREST AND BOOKING DATA

Charge (if warrant, include court and warrant number)			Hold for	By order of	
Where arrested			Arrested or received by	Assisted by	
Appearance date	Court	Beil set	Searched by	Booked by	

IDENTIFICATION DATA AND DISPOSITION

Disposition	F B I number	No Record	F.P.Sent
	CII number		
	Fingerprint classification		

Plain impression left hand	Plain impression right hand
----------------------------	-----------------------------

Figure 3-5 (cont'd.)

CITY OF COVINA

POLICE DEPARTMENT ARREST REPORT

JAIL REGISTER

						Identification number
						Booking number
Name Last First Middle			Case number		Reporting area	
Also known as				Date	Time	
Address			Phone	City	State	Zip code
Sex	Color	Age	Birthdate	Birthplace		Citizenship
Height	Weight	Build	Hair	Eyes	Complexion	Marital Status
Marks and scars				Fingerprints by	Photographs by	
Occupation		Employed Yes No	Employed by	Address	Zip code	Business Phone
In Emergency notify			Relationship	Address	Residence Phone	

PRISONER'S PROPERTY RECORD

Property box number	Cash	Automobile (Make, license number, year, color)			Location of automobile
Other property					Operator/license number
					Social security number
					Other identification

ARREST AND BOOKING DATA

Charge (if warrant, include court and warrant number)			Hold for	By order of
Where arrested			Arrested or received by	Assisted by
Appearance date	Court	Bail set	Searched by	Booked by
Complainant (if other than arresting policeman)		Address and phone		Zip code

SENTENCE - RELEASE DATA

Investigating officer's signature		Date	Hold removed by (signature)	Date
Complaint number	Sentence		Date	Expires
Date released	Time	Reason	Amount paid	Receipt number
Release number	Court	Released to	Department	
Other information			Released by	

I authorize the Police Chief to receive and open all mail addressed to me while I am confined to the Covina Jail.

Prisoner's signature when booked

In
(Right Index)

Out
(Right Index)

Received of the Covina Police Department all property belonging to me including cash in the amount of \$ _____

Prisoner's signature when released

JAILER'S MEMORANDA REGARDING PRISONER'S JAIL HISTORY, TRIAL DATES, ETC.

Date	Time	Notations	Jailer

RECORD OF CASH OR PROPERTY RELEASED TO PRISONER

Date	Received from	Amount	Prisoner's signature

RECORD OF VISITORS AND TELEPHONE CALLS

Date	Time	Person's name	Address	V/T	Jailer

PRISONER'S AUTHORIZATION FOR RELEASE OF PROPERTY

Release to _____ the following described property:

Date _____ Prisoner's signature _____

Received from _____ Jailer, the above described property

Date _____ Recipient's signature _____

Time _____ Recipient's address 83 _____

Figure 3-5 (cont'd.)

**CITY OF COVINA
FIELD SOBRIETY REPORT**

ID Number _____

Name	Last	First	Middle	Case Number	Booking Number
Address _____				Date _____	Time _____

Sobriety Examination:

1. Are you sick or injured? _____
2. Do you have any physical defects? _____
3. Are you taking any medicine or drugs? _____
4. If answer to above is yes, what kind? _____
5. Where are you going? _____
6. Where have you been? _____
7. Where are you now?
Actual location: _____
8. What time is it now? _____ Actual time: _____
9. How much sleep did you have last night? _____
10. When did you eat last? _____ What did you eat? _____

Walk the Line Test:

Right foot Left foot

Notes: _____

Balance Test:

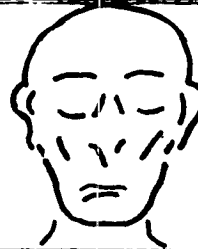
Standing on right leg _____
Standing on left leg _____
Standing on both legs _____

Notes: _____

Finger to Nose Test:

Right finger Left finger

Notes: _____



Chemical Test: Blood _____ Breath _____ Urine _____ Refused all tests _____ 13353VC Form _____
BAC Reading _____

Officer's opinion: Under the influence? Yes _____ No _____

Were tape marks and booked as evidence: Yes _____ No _____

Administering Officer _____

Witnessing Officer _____

Supervisor Approval _____

**CITY OF COVINA
POLICE DEPARTMENT**

JUVENILE INVESTIGATION REPORT

Date, Time this report

Juvenile Number
File Number

Juvenile's Name (Last, First, Middle) Address City State

Nickname or Alias	Birthdate	Birthplace	Sex	Race	Age	Height	Weight
Eyes	Hair	Complexion	Marks	Scars	Deformities		
Last School Attended	Grade	Now attending school Yes <input type="checkbox"/> No <input type="checkbox"/>	Religion	Years in City - County - State - USA			
Occupation of Parents Father Mother	Marital Status (Living together, Divorced, Separated)		Legal Custody (Full name)				

RELATIVES (Parents - and Guardians - if any) Address Phone City Relationship Age

Number Brothers _____ Number Sisters _____

Name and Relationship of Person Juvenile lives with Home Phone Number Business Phone Number

OFFENSE	Date - Time Occurred	Date - Time Arrested	Arresting Officers - Name - Rank - Badge Number - Station
Victim (List additional victims below)	Residence of victim		Victim's telephone Residence Business
Location Offense committed Reporting District	Location of arrest		Does Juvenile admit offense Yes <input type="checkbox"/> No <input type="checkbox"/> Partial <input type="checkbox"/>
Released to	Prior Arrest? Yes <input type="checkbox"/> No <input type="checkbox"/>	C. J. I. Record? Yes <input type="checkbox"/> No <input type="checkbox"/>	Location of present detention
Gang Affiliation - if any - Name	Leader <input type="checkbox"/> Active Member <input type="checkbox"/>	Associate Member <input type="checkbox"/>	Parent or Guardian Notified by Date
Companions Names	Disposition		Juvenile's Probation Officer

Figure 3-14
85

Date and time typed	Secretary	Investigating Officers - Rank - Badge Number	Supervisor approving - Rank - Badge Number
3.3 CPD 1970		Signature	Signature

MISDEMEANOR RELEASE DISPOSITION

Identification number _____
Case number _____
Booking number _____
Citation number _____

Name _____ Also known as _____
Last First Middle

Present address _____ Telephone number _____

Operators license number _____ Social Security number _____

Other identification (club, organization, credit card, etc.) _____

Date of arrest _____ Date of release _____

Length of residence at present address _____

Other addresses _____

Length at address within this state _____

Marital and family status: Single Married Separated Divorced

Widowed Number of children residing with you _____

Occupation _____ Employed: Yes No

Employed by _____
Name of employer Address of employer

Length of employment _____

Want check _____

Field release Station release Not released

Other information _____

Investigating officer _____ Supervisor approving _____

LEAVE BLANK		TYPE OR PRINT ALL INFORMATION IN BLACK LAST NAME <u>NAM</u> FIRST NAME MIDDLE NAME						FBI LEAVE BLANK			
STATE USAGE		ALIASES		CONTRIBUTOR OR <u>CA0191600</u>						DATE OF BIRTH <u>DOB</u> Month Day Year	
SIGNATURE OF PERSON FINGERPRINTED				PD COVINA CALIF							
THIS DATA MAY BE COMPUTERIZED IN LOCAL, STATE AND NATIONAL FILES		DATE ARRESTED OR RECEIVED <u>DOA</u>		SEX	RACE	HGT.	WGT.	EYES	HAIR	PLACE OF BIRTH <u>POB</u>	
DATE	SIGNATURE OF OFFICIAL TAKING FINGERPRINTS		YOUR NO. <u>OCA</u>		LEAVE BLANK						
CHARGE				FBI NO. <u>FBI</u>		CLASS _____					
				SID NO. <u>SID</u>		REF. _____					
RESPONSION				SOCIAL SECURITY NO. <u>SOC</u>		NCIC CLASS - FPC					
				CAUTION <input type="checkbox"/>							
L. R. THUMB		R. R. INDEX		L. R. MIDDLE		R. R. RING		L. R. LITTLE			
L. L. THUMB		R. L. INDEX		L. L. MIDDLE		R. L. RING		L. L. LITTLE			
LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY				L. THUMB		R. THUMB		RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY			

Figure 3-16

**FEDERAL BUREAU OF INVESTIGATION, UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D. C. 20537**

<p>PALM PRINTS TAKEN? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>PHOTO AVAILABLE? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>IF AVAILABLE, PASTE PHOTO OVER INSTRUCTIONS IN DOTTED AREA. →</p> <p><small>(DO NOT USE STAPLES)</small></p> <p><small>SINCE PHOTOGRAPHS MAY BECOME DETACHED INDICATE NAME, DATE TAKEN, FBI NUMBER, CONTRIBUTOR AND ARREST NUMBER ON REVERSE SIDE, WHETHER ATTACHED TO FINGERPRINT CARD OR SUBMITTED LATER.</small></p> <hr/> <p>IF ARREST FINGERPRINTS SENT FBI PREVIOUSLY AND FBI NO. UNKNOWN, FURNISH ARREST NO. _____ DATE _____</p> <hr/> <p>STATUTE CITATION (SEE INSTRUCTION NO. 11) <u>CIT</u></p> <p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <hr/> <p>ARREST DISPOSITION (SEE INSTRUCTION NO. 12) <u>ADN</u></p> <hr/> <p>EMPLOYER: IF U. S. GOVERNMENT, INDICATE SPECIFIC AGENCY. IF MILITARY, LIST BRANCH OF SERVICE AND SERIAL NO.</p> <hr/> <p>OCCUPATION</p> <hr/> <p>RESIDENCE OF PERSON FINGERPRINTED</p> <hr/> <p>SCARS, MARKS, TATTOOS, AND AMPUTATIONS <u>SMT</u></p> <hr/> <p>BASES FOR CAUTION <u>ICQ</u></p> <hr/> <p>DATE OF OFFENSE <u>DOG</u> SKIN TONE <u>SKN</u></p> <hr/> <p>MISC. NO. <u>MNU</u></p> <hr/> <p align="center">ADDITIONAL INFORMATION</p> <hr/> <p><small>FD-249 (REV. 3-13-72) (MGP) 1974 - 553 - 316</small></p>	<p align="center">INSTRUCTIONS</p> <p>1. UNLESS OTHERWISE PROVIDED BY REGULATION IN YOUR STATE, FINGERPRINTS ARE TO BE SUBMITTED DIRECTLY TO FBI IDENTIFICATION DIVISION. FORWARD IMMEDIATELY FOR MOST EFFECTIVE SERVICE.</p> <p>2. FINGERPRINTS SHOULD BE SUBMITTED BY ARRESTING AGENCY ONLY (MULTIPLE PRINTS ON SAME CHARGE SHOULD NOT BE SUBMITTED BY OTHER AGENCIES SUCH AS JAILS, RECEIVING AGENCIES, ETC.). REQUEST COPIES OF FBI IDENTIFICATION RECORD FOR ALL OTHER INTERESTED AGENCIES IN BLOCK BELOW. GIVE COMPLETE MAILING ADDRESS, INCLUDING ZIP CODE.</p> <p>3. TYPE OR PRINT ALL INFORMATION.</p> <p>4. NOTE AMPUTATIONS IN PROPER FINGER BLOCKS.</p> <p>5. LIST FINAL DISPOSITION IN BLOCK ON FRONT SIDE. IF NOT NOW AVAILABLE, SUBMIT LATER ON FBI FORM 2-64 FOR COMPLETION OF RECORD. IF FINAL DISPOSITION NOT AVAILABLE SHOW PRE-TRIAL OR ARRESTING AGENCY DISPOSITION, e. g. RELEASED, NO FORMAL CHARGE, BAIL, TURNED OVER TO, IN THE ARREST DISPOSITION BLOCK PROVIDED ON THIS SIDE.</p> <p>6. MAKE CERTAIN ALL IMPRESSIONS ARE LEGIBLE, FULLY ROLLED AND CLAMPABLE.</p> <p>7. CAUTION - CHECK BOX ON FRONT IF CAUTION STATEMENT INDICATED. BASES FOR CAUTION MUST GIVE REASON FOR CAUTION, e. g. ARMED AND DANGEROUS, RACIAL, ETC.</p> <p>8. MISCELLANEOUS NUMBER (MNU) - SHOULD INCLUDE SUCH NUMBERS AS MILITARY SERVICE, PASSPORT AND/OR VETERANS ADMINISTRATION IDENTIFY TYPE OF NUMBER.</p> <p>9. PROVIDE STATUTE CITATION, IDENTIFYING SPECIFIC STATUTE (example - PL. & PENAL LAW) AND CRIMINAL CODE CITATION INCLUDING ANY SUB-SECTIONAL.</p> <p>10. ALL INFORMATION REQUESTED IS ESSENTIAL.</p> <hr/> <p>SEND COPY TO:</p> <hr/> <p>REPLY DESIRED? YES NO</p> <p align="center"><input type="checkbox"/> <input type="checkbox"/></p> <p><small>REPLY WILL BE SENT IN ALL CASES IF SUBJECT FOUND TO BE WANTED</small></p> <p><small>IF COLLECT WIRE OR COLLECT TELEPHONE REPLY DESIRED, INDICATE HERE: (WIRE SENT ON ALL UNKNOWN DECEASED)</small></p> <p><small>WIRE REPLY TELEPHONE REPLY TELEPHONE NO. AND AREA CODE</small></p> <p align="center"><input type="checkbox"/> <input type="checkbox"/> _____</p> <hr/> <p>LEAVE BLANK</p> <hr/> <p>LEAVE BLANK</p>
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Figure 3-16 (cont'd)

FLORIDA (TAMPA)

Section 1 - Detection

Analysis of alcohol-related crashes is undertaken by the Greater Tampa ASAP project evaluator from information gathered at the County Pathologist's Office and BAC logs. The findings of alcohol-related crash data are utilized to determine ASAP patrol deployment. All accident information completed by the analytical section of the Tampa Police Department is coded as either alcohol-related or non-alcohol related. The analytical section of the Tampa Police Department in turn publishes a grid map which is distributed to the ASAP. The enforcement coordinator and the ASAP Unit Sergeant receive copies of this data.

Analysis of alcohol-related crash information filters down to individual officers engaged in ASAP field operations in the sense that the Unit Sergeant makes assignments according to the data contained in these reports. The Sergeant also looks at all crashes (by intersection and contributing factors) and deploys his men accordingly.

An alcohol-related crash is defined as any accident where a measurable BAC is present. The criteria for an alcohol-related crash is 1) any BAC present, 2) officer's indication of alcohol as a contributing factor (approximately 70 to 80% alcohol-related accidents involved BAC tests), and 3) charge a driver with an alcohol-related offense.

Alcohol-related crash reports are prepared monthly and may be received daily on request. It should be noted however that Appendix A; Exhibit 4g entitled Monthly Reporting Data is project evaluation's best guesstimate. This report is generally revised at 90 day "turn around" time intervals.

The Monthly Reporting Data report is transmitted by project evaluation to the enforcement coordinator and to each division within the Tampa Police Department which may have an interest in the alcohol-related accident/arrest activity within the jurisdiction. In addition, a copy is also transmitted to the National Safety Council, Greater Tampa Citizen's Safety Council.

Officers are advised that they should have probable cause for stopping a violator during the detection phase of drunk driving enforcement. Generally, this process involves the officer observing a traffic offense, following the offender to determine driving capabilities, and pulling the offender over.

Appendix A; Exhibit 4k entitled Countermeasure Description: Training for Selective Enforcement Personnel states:

"The arresting officer has the responsibility of obtaining all the evidence necessary to substantiate the enforcement action initiated. This evidence should begin with the first observation of the suspect's vehicle. It should include what first directed the officer's attention to that particular vehicle and what the driver did to arouse suspicion concerning his driving ability.

The detection of a driver who is possibly under the influence of alcohol is usually begun in one of four ways:

- 1) observation of the subject while he is driving the vehicle;
- 2) receipt of a report from someone else regarding the suspect's driving;
- 3) as a result of a call to an accident scene;
- 4) upon stopping the driver for a traffic violation or warning.

Any driver operating his car in a manner which would raise a question concerning his sobriety should be stopped and a check made for the cause of his erratic driving. Any deviation from normal driving should be suspect."

In order to obtain a conviction for the offense of DWI, it is necessary to prove that the suspect violated a traffic ordinance.

Evidence gathered during the detection phase of DWI enforcement is recorded on the Alcohol Influence Report (Fig. 4-1) and Report of Assignments (Fig. 4-3). Copies of these documents are retained by the Record Section of the Tampa Police Department and the University of South Florida Evaluation Sections assigned to Tampa ASAP.

Conclusions: Analytical data processing by the GTA Tampa appears to be adequate and information compiled in the process is sufficiently filtered down to the Special Enforcement Unit (SEU) of the Tampa Police Department. SEU also appears to have adequate knowledge of the alcohol-related crash configurations throughout the jurisdiction.

Recommendations: Under the present system it is necessary for the officer to prove that the suspect violated a traffic ordinance in order that a conviction for the offense of DWI may be obtained. In a course if a normal tour of patrol it is feasible that the officer may encounter a DWI suspect who has not as yet violated any traffic ordinance,

however, who displays by his driving behavior, that he may be impaired. (For example: a vehicle who is waiting at a red traffic signal; the signal changes from red to green and he remains stopped for an additional minute before moving out.) Under the present system the patrol officer could be placed into a potentially embarrassing situation by waiting until the suspect has violated traffic ordinance. When the violation finally occurs it could result in a traffic accident.

Section 2 - Apprehension

Surveillance of high probability areas is conducted during DWI enforcement patrol. Areas showing a greater propensity for DWI arrests and alcohol-related crashes were identified using analytical studies prepared by the Greater Tampa ASAP and a pin map posted by officers of the Tampa ASAP squad. The pin map is used for three-month periods and shows the locations where offender's were detected. Arrests by day of week and location were pinpointed. Neither roadblocks nor surveillance of known offenders is conducted as a formal countermeasure of this law enforcement agency.

Officers of the Select Enforcement Unit of the Tampa Police Department utilize VASCAR each Wednesday in apprehending suspected DWI offenders. No relationship between speed, use of VASCAR, and drinking has been established; however, due to ASAP officers' court schedules, patrol must be conducted during relatively daylight hours on Wednesday. Consequently, to ensure maximum public contact, VASCAR units are employed.

There is no formal policy regarding pursuit of suspected DWI offenders by officers of the Tampa Police Department. Standard operation procedures of the Tampa Police Department outline policies concerning the hot pursuit of suspects; however, the policy document was not provided to this investigator during the course of the site survey. This investigator was advised that when high speed is not a factor and the suspect fails or refuses to stop the vehicle, the officer calls for a back-up unit which assists him in slowing the suspect down.

The arresting officer utilizes flashing beacon and siren in effecting the stop of the violator. When the offender has come to a stop, the patrol vehicle is usually parked behind and to the left of the suspect's vehicle at

a distance of approximately six yards. The officer then issues a radio message in accordance with department policy giving the location of the stop and the vehicle license number of the suspect. The license number of the vehicle is not, as a matter of practice, checked against data files to ascertain possible "wanted" information; however, the officer may request such information at the time of this initial stop. An officer may arrest without a warrant if a radio transmission confirms "wanted" status for misdemeanor offenses.

The arresting officer approaches the suspect's auto from the left side walking up to the driver side and requests the subject's drivers license. The arresting officer refers to the operator by name and states the reason he is stopping the violator.

At the scene of the traffic stop, the officer makes a determination concerning the operator's state of sobriety by observing the subject's appearance, detectable odor of intoxicating beverage, general behavior, physical coordination tests, and noticeable impaired speech.

Suspects are generally administered the physical coordination tests on two occasions. Once before the arresting officer and again before the back-up assist officer. Upon conclusion of the physical coordination tests, the arresting officer makes the determination of whether to place the suspect under arrest or not to arrest.

It is normal procedure to dispatch an assisting officer to the scene of arrest. Other officers of the Greater Tampa ASAP unit are constantly monitoring their radios and will generally volunteer to backup a fellow officer.

Under the laws of the jurisdiction, the offense of DWI constitutes a misdemeanor. (Effective January 1, 1975, under a new statute, successive offenses are punished to a greater degree.

Tampa Police Department policy states that a reasonable amount of force may justifiably be used to effect a DWI arrest. Officer's judgement is still a large factor. When force is used, the offender is charged with resisting arrest, and the officer must show need for the force used. Deadly force is to be used only as a last resort.

The backup assist officer, generally serves as witness to the physical coordination tests, provides security at the arrest scene, awaits the tow truck if necessary, and conducts an inventory search of the vehicle.

Prior to arrest, DWI offenders are not advised either the Constitutional rights or the Implied Consent statute. After arrest, DWI offenders are advised both the Miranda warnings and the Implied Consent statute.

An arresting officer has complete and full discretion in his decision to arrest for the offense of DWI; his immediate superior exerts no influence on the arrest decision.

Officers have the option to reduce the charge of DWI to a lesser one at the officer's discretion. Should the BAC at evidentiary testing be "too low" (.09% and below) the subject is charged for "careless driving" (alcohol-involvement) or for the original offense for which the subject was stopped.

The arresting officer has complete authority in searching the offender's vehicle, including the trunk. Should the search yield evidence of other unrelated crimes, the suspect DWI offender may be charged with the additional offenses.

All DWI offenders are charged under local ordinance and state statute. Although offenders are technically charged under state statute, they are also cited under local ordinance for revenue purposes.

Conclusions: ASAP also concentrates enforcement on those localities and those major highways of the city which tend to yield the greatest potential for DWI arrest. The pinmaps maintained by the ASAP enforcement unit is of assistance in determining the locations and streets which fall in that category.

Wednesday has been set aside for the use of electronic speed detection devices by ASAP units and although this method is useful in general traffic enforcement it is questionable whether it has any real impact on DWI enforcement. Actual techniques employed in the apprehension of suspect DWI offenders are largely standard and are consistent with those employed by most OTHER ASAP enforcement countermeasures.

When an ASAP officer arrives at the determination concerning the operator's state of sobriety it is mostly subjective in nature. Although the DWI statute provides that a BAC between .05% and .099% be no presumption concerning the suspect's intoxication it has been found that SEU officers are reluctant to charge DWI. The prime reason for this appears to be that courts generally refuse to prosecute or/and convict for DWI offenses where the offender registered a BAC in that range. To circumvent this judicial attitude officers will charge those offenders with careless driving in addition to the original violation for which the subject was stopped.

Recommendations: The hours of patrol on Wednesdays were implemented primarily for SEU officers to attend court relative to their DWI cases. It is recommended that those hours be moved either to Tuesday or Monday of each week since it has been established that Mondays or Tuesdays are relatively less productive days in terms of DWI arrests. The use of pre-arrest breath screening devices in the apprehension process of suspected DWI offenders, in the author's opinion, would be of great assistance to the arresting officer in reducing the subjective nature of the arrest at the present time.

Section 3 - Transporting Persons and Property

All suspected DWI offenders are subjected to an extensive pat-down frisk prior to being transported. Should narcotics be suspected or should the arresting officer suspect concealed weapons, the subject could be subjected to a strip search. It is departmental policy of the Tampa Police Department that female offenders not be frisked by male police officers. Should the arresting officer suspect the female of concealing a weapon, she will be handcuffed and a thorough search will be conducted by a matron located at the booking facility. Generally, it is procedure of the officers of the Tampa Police Department to merely take custody of the purse when transporting female offenders.

The statutory definition of a juvenile within this jurisdictional area is below 18 years of age. In the transporting phase, juvenile offenders are treated the same as adult offenders.

It is not normal procedure to handcuff prisoners prior to placing them into the police vehicle. Officers are expected to use good judgement.

The prisoner is usually seated in the back seat of the police cruiser which is equipped with protective shield. Patrol vehicles of non-ASAP officers are not equipped with protective shields.

ASAP officers usually transport prisoners to the testing facility. The average distance of transport is approximately five miles. Regular patrols (non-ASAP units) exclusively use patrol wagons, which take an average of fifteen minutes to arrive at the scene. In the event that an ASAP officer must use a patrol wagon to transport his prisoner, it will still be necessary for him to appear at the testing facility.

When he is ready to transport the prisoner, an arresting officer advises police radio that he is commencing transport and states his destination. Should the offender be a female, the arresting officer also advises police radio of his mileage and the point of origin from which he is beginning his transport. Upon arrival at the described destination, the arresting officer again issues a radio message advising the dispatcher of his arrival at the destination and his mileage to the tenth of the mile.

An inventory search of the offender's vehicle may be conducted and the search is not restricted in any way. The responsibility for all articles inventoried remains with the Tampa Police Department.

The offenders' vehicles are normally towed from the scene by privately owned towing services which are dispatched by police radio on a rotation basis. During the course of this site visit this investigator was unable to determine the number of privately owned towing services under contract with the Tampa Police Department. The complaint officer in the radio room dispatches the wrecker, logs the call, and notes whether a proper response was made on the part of the towing service. The average response time of the towing service is 30 minutes. Should a privately owned towing service be shown to be deficient or inefficient, its permit to provide service to the city will be withdrawn. A continual record of tow service performance is maintained by the complaint officer in the radio communications room of the Tampa Police Department.

Offenders' vehicles, should they be impounded, are stored at the Police Impound located at Adamo and 22nd Street. The area is fenced and an attendant is on duty 24 hours.

Conclusions: Transporting prisoners to the testing facility appears to be adequate to meet the needs of the agency. The average distance of transport is approximately five miles and little time is consumed during the transport process.

Recommendations: None.

Section 4 - Incarceration

Upon conclusion of the evidentiary testing, the DWI offender is generally incarcerated and is eligible to secure his release on bond. DWI offenders are neither fingerprinted nor photographed.

Only when the officer's suspicion is aroused will the offender be cleared against local, regional or national computer networks containing criminal records information.

Prior to incarceration, all DWI offenders are subjected to an extensive body frisk. All personal effects, including belts and potentially hazardous articles are removed from the suspect, a receipt is issued and the items are stored in a restricted area designated as a property room.

The jail is staffed with correction officers and matrons who are employed by the Hillsborough County Sheriff's Office. Suspects complaining of pain or showing visible signs of illness or injury are not accepted at the incarceration facility; it is then necessary for the arresting officer to transport such subjects to Tampa General Hospital for a complete examination.

Should the DWI offender be accepted at the incarceration facility and have no visible sign of illness and/or injury, he will be detained in a dormitory-type cell which has been designated a holding area. Upon conclusion of the booking process, if the subject is unable to secure the services of a bail/bondsman or post a cash bond, he is transferred (upstairs) at the jail facility to a drunk tank and is held there until the next scheduled court day at which time he will be arraigned and bond arrangements will be made.

The usual amount of bond set for the first offense of DWI within this jurisdiction is \$500. This amount has been established by the local court. The usual amount of bond for second or subsequent offenses is also \$500.

Bail/bondsmen are not permitted to solicit in the jail area; however, their telephone numbers are given to the suspect upon request. There is no sober-up period in which the DWI offender must remain confined.

The offender's vehicle may be released only to the registered owner who must show proof of ownership, e.g. the title.

Conclusions: Arrested DWI offenders are generally held until they are able to secure their release on bond. The bond may be provided by bail bondsmen or in the form of a cash bond. Officers of the selective enforcement unit express dissatisfaction with the staff of the Hillsborough County jail. The jail is staffed with correctional officers and matrons who are employed by the Hillsborough County Sheriff's Office. Relations between the two law enforcement agencies are not as harmonious as perhaps desired.

Recommendations: It is recommended that in lieu of posting a cash bond, DWI suspects be released on personal recognizance provided that they can be released to a responsible person. The preceding, of course, would apply only to Florida residents. Any other state DWI offenders would be required to post bond as normal.

Section 5 - Testimony and Adjudication

Pre-trial conferences are not conducted at this site and arresting officers are not required to be present at the arraignment.

The court of jurisdiction schedules the officers' court appearances. Officers are seldom required to appear in court on off-duty days. According to officials interviewed at this site, appearances by arresting officers on off-duty days does not "occur often enough to present problems".

Officers appearing in court during off-duty time are paid their straight hourly wage for nine hours overtime regardless of whether they worked or not.

Officers are paid a witness fee in non-traffic cases, of \$5.00 when attending court off-duty. The procedure requires arresting officers to turn in their subpoenas to the court clerk. A check in the amount of \$5 is mailed to them at home.

Arresting officers generally testify as to the particulars of the case and any physical evidence which may be pertinent. The BAC results are generally "stipulated to" by the defense attorney; however if the defense attorney objects, the Breathalyzer operator is subpoenaed and the case continued for the purpose of subpoenaing the breath operator.

All DWI cases are heard by county court whose judges are elected for four-year terms. All candidates for the position of judge must be a member of the Bar and have 3½ years of law practice.

No separate courtrooms have been set aside for DWI prosecutions. Due to court scheduling, all cases are usually heard in a single courtroom. Most judges have been exposed to Breathalyzer operations through judicial seminars conducted by the Greater Tampa ASAP.

The offender has a choice between a jury trial and a trial before a judge. However, to have his case heard before a jury, it is necessary for an attorney to file a motion for jury trial. DWI trials are normally conducted before a judge only.

Plea bargaining is a routine procedure. Arresting officers are not always consulted before plea bargaining decisions are reached. The general nature of the reduced charge as a result of plea bargaining is "careless driving" and a penalty (which depends on the judge) may range from \$50 to \$100. The fine may be suspended, and the subject may only be required to pay court costs. It is the opinion of the officers interviewed that very little is being done to deter offenders as a result of plea bargaining procedures. Officers feel that political influence is a factor in plea bargaining decisions.

Law enforcement personnel interviewed during the course of this site visit repeatedly stated that court attitudes towards adjudication of DWI cases could be considerably improved. The major objection to the current procedures in adjudicating DWI cases was that the court was too lenient and plea bargaining was too frequently utilized.

Conclusions: Heavy use of plea-bargaining and the fact that the arresting officer is not always consulted before plea bargaining decisions are reached appears to be a thorn in the side of law enforcement officers conducting ASAP enforcement. Regardless of how much truth there may be in the matter, many officers believe that political influence is a factor in plea bargaining decisions. Officers appear to favor a considerably greater hardline attitude toward DWI offenders.

Recommendations: It is recommended that the arresting officer always be involved in the plea bargaining process if that is to take place. Should the arresting officer have objections to plea bargaining the case should be remanded to trial.

INVESTIGATOR DEPT. ONLY	DEFENDANT	(LAST- FIRST-MIDDLE)	COLOR/SEX	B.O.B.	DATE OF ACCIDENT
	ON	AT			

OBSERVATIONS:

Breath	none	faint	moderate	strong
Face	normal	flushed	pale	scratched drooling bruised other:
Eyes	normal	watering	bloodshot	
Pupils	normal	dilated	contracted	
Clothing	orderly	mussed	soiled	
Speech	normal	confused	stutters slur	mumbles whispers other:
Behavior	normal	talky cocky	excited insulting	profane sleepy stuporous
		hilarious vomits	confused frightened	hiccoughs quarrelsome fights

ROADSIDE TEST:

Balance	sure	swaying	falling
Heel to toe	sure	swaying	staggering falling
Turning	sure	staggering	falling other:
Finger to nose	righthand	lefthand	
Coin Test	coins used		

rior to asking any question, read the following warning:

You have a right to remain silent. Anything you say can and will be used in court as evidence against you. You have a right to consult with a lawyer before any questioning and you have a right to have a lawyer present with you during any questioning. If you cannot afford an attorney one will be appointed for you without cost to you.

Do you understand these rights? Yes ___ No ___

Do you want an attorney present now? Yes ___ No ___

Knowing this, will you answer these questions? Yes ___ No ___

I certify that I have read the above warnings word for word to the above named party prior to asking questions set out in this report, and he answered as shown below.

OFFICERS SIGNATURE

WHAT TIME IS IT?	ARE YOU HURT?	HAVE YOU BEEN DRINKING?	WHAT?	HOW MUCH?
WHEN DID YOU BEGIN?	WHEN DID YOU HAVE YOUR LAST DRINK?	WHERE?		ARE YOU ILL?
HOW MANY TIMES DID YOU USE A MOUTHWASH TODAY?	HOW LONG SINCE YOU HAVE SEEN A DOCTOR OR DENTIST?	WHOM?		
WHAT FOR?	ARE YOU TAKING MEDICINE?	WHAT KIND?		DO YOU USE INSULIN?
WHEN LAST DOSE?	WHEN DID YOU SLEEP LAST?	HOW LONG?		
ARE YOU HURT?	WHERE?	WERE YOU HIT ON THE HEAD?		

AFTER the arrest, read the following advisement: "Upon arrival at the Police Station, you will be asked to submit to a Chemical Test of your breath for the purpose of determining the alcoholic content of your blood. Florida Law provides that your failure to submit to such a Chemical Test will result in the suspension of your privilege to operate a motor vehicle for a period of three months. Will you submit to the test?"

Yes ___ No ___ Officer's Initials _____

Breathalyzer Operator _____ BAC _____ Time _____

Breathalyzer Monthly Maintenance by _____ Date _____

Figure 4-1 (cont'd.)

**TAMPA POLICE DEPARTMENT
REPORT ON ASSIGNMENT**

DATE _____

GRID NUMBER

(cc33-37)

SQUAD NO.

(cc63-64)

TACTICAL

(Division)

TIME EXPENDED ON CALL

(Hrs.) (cc68-69) (Min.)

ASSIGNMENT NO.

(cc56-62)

NATURE OF ASSIGNMENT HANDLED BY UNIT (cc69-70)

(Part I Offenses)		(Part II Offenses)		(Part II Offenses)		(Other Assignments)	
01	HOMICIDE	09	ARSON	19	GAMBLING	50	TRAFFIC VIOL.
02	FORCIBLE RAPE	10	FORGERY & COUNTERFEIT	20	OFFENSE AGNST. FAM. & CHILD.	51	P.D. TRFC ACC
03	ROBBERY	11	FRAUD	21	DRIVE UNDER INFLUENCE	52	P.I. TRFC ACC
04	AGGRAVATED ASSAULT	12	EMBEZZLEMENT	22	LIQUOR LAWS	53	FATAL TRFC ACC
05	BURGLARY	13	STOLEN PROP. (poss/buy/sell)	23	DRUNKENNESS (B.P.&DOS)	54	POL. ESCORT
06	LARCENY-THEFT	14	(VANDALISM) Dest pp/etc.	24	DISORDERLY COND. (DIST.)	55	AIDED CASE
07	AUTO THEFT	15	WEAPONS VIOLATIONS	25	VAGRANCY	56	FOUND PROP.
08	OTHER ASSAULTS	16	PROSTITUTION (Comm. Vice etc.)	26	OTHER PART II OFFENSES	57	LOST PROP.
		17	OTHER SEX OFFENSES (not Prost)	28	JUV. LOITERING & CURFEW	58	OTHER
		18	NARCOTIC DRUG LAWS	29	RUNAWAY JUVENILE		

ACTION TAKEN BY UNIT

1	BOTH PART I&II ARREST
2	PART I ARREST ONLY
3	PART II ARREST ONLY
4	NO PART I or II ARREST

(cc71)

1	PART I&II REPORT MADE
2	PART I REPORT MADE
3	PART II REPORT MADE
4	NO PART I or II REPORT

(cc72)

1	AIDED CASE REPORT
2	SUPPLEMENT MADE
3	F.I. REPORT MADE
4	OTHER REPORT MADE
5	CANCELLED

(cc73)

1	TRAFFIC CIT. & ACC. REPORT
2	TRAFFIC ACC. REPORT ONLY
3	TRAFFIC CITATION ONLY
4	OTHER ACTION TAKEN
5	FAKE CALL

(cc74)

MARKED

1	MARKED
2	UNMARKED
3	OTHER

(cc75)

ONE MAN

1	ONE MAN
2	TWO MAN
3	OTHER

(cc76)

WALKING BEAT

1	WALKING BEAT
2	RIDING BEAT
3	TRAFFIC POST

(cc77)

SOLO MOTOR

1	SOLO MOTOR
2	3-WHEEL MTR.
3	BOAT PATROL

(cc78)

PAT. WAGON

1	PAT. WAGON
2	MOBILE LAB.
3	OTHER POST

(cc79)

HOW ASSIGNED

1	ASSGND. BY RADIO
2	ON SCENE OBSERV.
3	ASSGND. BY SUPR.

(cc80)

SEU - 2

(Details below this line are for administrative use only)

REPORT NO. _____

_____ (Grid number) **(I)** EDITED BY _____ # _____
(supervisor's signature) (assignment number)

DEFENDANT HEADING N E S W ON _____

COMPLAINING WITNESS: _____ ADDRESS: _____

TIME REC'D. ASSGNMT: _____ TIME IN TRANSIT _____ (MIN.) TIME AT BAC _____ (MIN.)
 TIME ARRIVED AT SCENE: _____ TIME IN SERVICE: _____

DATE: _____ BY: _____ BDG. # _____ SQUAD # _____
(officers signature) (if two-man unit)

TYPE OF CALL _____ LOCATION _____
(Signal)

DETAILS: SPECIFIC REASON FOR CONTACT: _____

(ADDITIONAL DETAILS ON BACK)

<input type="checkbox"/> CALLED TO SCENE BY:	<input type="checkbox"/> ARREST CHARGE	<input type="checkbox"/> WARNING	BAC
<input type="checkbox"/> ASSIST TO:	UNIT ASGNMT. NO.		
<input type="checkbox"/> AS BACK UP			
<input type="checkbox"/> BAC TEST			
<input type="checkbox"/> INCIDENT:	<input type="checkbox"/> FATAL	<input type="checkbox"/> INJURY	
<input type="checkbox"/> OBSERVE	<input type="checkbox"/> PROP DAM	<input type="checkbox"/> PED.	

APPARENT ALCOHOL INVOLVEMENT: NONE OBVIOUSLY DRUNK
 HBD

IF DRINKING, DEFENDANT WAS COMING FROM: _____
 ENROUTE TO: _____ 102 _____

GTASAP REV 3-77
T.P.D. 549 S

GEORGIA (COLUMBUS)

Section 1 - Detection

Analyses of alcohol-related crashes are undertaken by the University of Georgia (Institute of Government), and the evaluation unit of the Alcohol Safety Action Project (ASAP). For evaluative purposes, a control area (Richmond County), which is similar to Muscogee County in many respects, was selected. At the enforcement level the quarterly/annual data reports are disseminated to the Alcohol Safety Enforcement Unit (ASEU) Director and squad Sergeants, but do not filter down to individual officers engaged in ASAP field operations. Although it was never specifically determined what influence these data exerted on decisions pertaining to patrol deployment, it nevertheless appeared that they were of little use in that sphere of enforcement as officer judgment and experience were likely to be the overriding factors. Moreover, ASEU officers seemed to have only superficial awareness of the overall alcohol-related crash configuration within the jurisdiction. Their impressions concerning crash incidence appeared dependent on the degree of personal experience.

Officers of the Columbus ASEU relied principally on clues (observation and possible traffic violations) to detect suspected DUI offenders. Probable cause was required to stop a suspected offender; road checks, mere suspicion, or devices such as radar were not employed. The clues most often looked for were the standard ones; weaving in the roadway, driving on the wrong side of the road, driving at night without lights, disregarding stop signs or traffic signals, etc. The officer would record any of the clues which had brought about the traffic stop on his copy of the Uniform Traffic Citation Summons, Accusation (Fig. 5-1), and this information would be introduced during testimony in court. Insofar as could be determined, no evaluation of detection methods was ever undertaken.

Conclusions: There was no evidence that data obtained from analyses of alcohol-related crashes had any bearing on the manner in which patrol deployment of ASEU officers was conducted. ASEU officers were assigned to cover one or more of the regular patrol sectors established by the police department, but were generally found in those areas of the city which consistently show the heaviest vehicular traffic. The judgment

and experience of individual officers were given first priority in the determination of specific areas to be patrolled.

Recommendations: Little criticism can be brought to bear upon the fact that patrol is concentrated on major arteries of the city, which often also have their fair share of drinking establishments. The idea is to detect DUI offenders before they are involved in a crash, and therefore officers select those areas of the city which are most likely to yield such prospects. This is not to say that enforcement should not place special emphasis on those locations where alcohol-related crashes occur excessively (if the data sources are unimpeachable), and to that end efforts should continue to identify those locations. The results of such analyses, however, often indicate that a majority of alcohol-related crashes occur precisely on those heavily-traveled arteries which receive so much of enforcement attention. In the opinion of the author, it would be of considerable interest to determine by means of a study to what degree the empiricism of the police differs from analytical data concerning alcohol-related crashes and, where differences are significant, what the underlying causes of those differences are.

Section 2 - Apprehension

Those areas of the jurisdiction which traditionally produced the greatest number of DUI arrests were most heavily patrolled. Generally, these areas contained an inordinate number of bars and taverns, heavily traveled roadways, and a substantial volume of motor vehicles. Public sentiment regarding the use of roadblocks to apprehend DUI offenders was found to be unfavorable and therefore roadblocks were not employed. Neither was surveillance of known DUI offenders (recidivists) used as a method of apprehension.

Enforcement was carried out by means of random patrol, during which officers checked out any violations which came to their attention. Apparently, written policy did not exist concerning "hot pursuit" of DUI or any other type of offender, but it was expressed that every effort would be made to stop the offender. If a situation arose where the offender endangered other lives as well as his own, the officer could use his own discretion in determining whether the chase should be continued. Under normal conditions (other than "hot pursuit"), the officer was required to comply with all posted and statutory speed limits.

In stopping a suspected offender the standard method was employed. The patrol vehicle would be positioned behind that of the suspected offender. The operator's attention was attracted by means of the flashing beacon and/or horn (or siren) and, upon stopping the suspect's vehicle, the cruiser remained behind and somewhat to the left. If the suspect refused to stop his vehicle, additional officers might be summoned to the scene to "box in" the suspect vehicle.

Officers were required (by departmental policy) to issue a radio message containing the vehicle's license number and the location of the stop. In addition, the officer would clear the driver and/or the person apprehended through the CAJIS (Columbus Administration of Justice Information System) network. The reply on this completely automated system is almost instantaneous; the officer would know within seconds whether the person and/or vehicle were wanted. A back-up officer was dispatched to the scene only upon request of the arresting officer.

The officer approached the suspect vehicle from the rear, stopping next to the driver. He observed the suspected offender's appearance, speech, behavior, etc. With the suspect's consent he administered the pre-screening test.

As a rule, if a positive reading was obtained on the Alco-Sensor - indicating a probable blood-alcohol concentration of .10% or greater - the offender would be arrested for DUI. The decision to arrest was largely a matter of the officer's discretion, and only in cases of extremely bad judgment would his supervisor attempt to affect the officer's choice of action. The officer also had the option of reducing the DUI charge to a lesser one. The offender was advised of the Implied Consent statute at the scene of the arrest, generally after having been informed of his arrest and having been placed in the rear of the patrol vehicle. Issuance of Miranda (Constitutional) rights was again largely a matter of the officer's discretion and depended on the situation at the scene of the arrest. If the officer questioned the suspect concerning what he had been drinking, how much, etc., then he was required to administer the Miranda rights to the suspect prior to doing so. If, however, the officer did not question the suspect, the Miranda rights would not necessarily be administered. Should the suspect resist arrest, officers were cautioned to use "good judgment" in the use of force. (No formal policy was presented.)

Police officers encountered problems when faced with the prospect of charging Driving Under The Influence at the scene of a motor vehicle crash. In practically all cases, they needed a witness who could place the offender behind the wheel. The offender's own admission might suffice if he pleaded guilty in recorder's court. Generally, however, it seems that offenders who had been drinking were not charged with DUI when involved in a motor vehicle crash, but were charged with the traffic violation which precipitated the accident.

A DUI offender's vehicle was not usually searched. When a search was conducted, it was limited - in all misdemeanor offenses, including DUI - to those areas of the vehicle openly visible. In cases where it was suspected that a felony had been committed, however, the officer could obtain a search warrant or decide to conduct an inventory search of the vehicle. If the fruits of another crime were discovered in the process of a lawful search, then the offender was charged with the additional crime.

Passengers in the vehicle could be transported by taxi (summoned by an officer) or even by the police. If the arrested operator consented, his vehicle could be driven away by any sober passenger who possessed a valid operator's license. Intoxicated passengers were subject to arrest for public drunkenness; and, if disorderly, they were apt to be arrested for disorderly conduct.

Conclusions: There was little novelty in the manner in which DUI offenders were apprehended in Columbus. An attractive feature was the capability provided the arresting officer to confirm "wanted" status almost instantaneously by means of the CAJIS (Columbus Administration of Justice Information System) network. The fact that many police officers felt inhibited in placing a DUI charge at the scene of a crash, even though warranted, indicates a problem with existing legislative provisions or the local courts, or both.

Recommendations: Greater efforts should be expended to reshape judicial attitudes and/or statutes to permit officers, upon probable cause, to charge DUI in accident cases, even if there were no witnesses to the crash.

Section 3 - Transporting Persons and Property

The physical search of a male offender at the scene of the arrest consisted of a pat-down frisk. The care and detail which this search was carried out depended upon the individual officer. Females were not frisked; but items such as purses or handbags were removed and placed in front with the officer, enabling him to examine the contents. The department recommended handcuffing of female offenders transported in police vehicles (unwritten policy), but again the arresting officer's judgment was the sole deciding criterion. The treatment of juvenile DUI offenders was no different from that of adults at the arrest scene. (Under Georgia law, anyone under the age of 17 is considered a juvenile.) However, prior to midnight, a juvenile officer was available at police headquarters for consultation with the arresting officer, if desired.

When commencing a prisoner transport, the officer issued a radio message informing the dispatcher that he was enroute to his destination with a prisoner. If the prisoner was a juvenile or female, this would be specified. In addition, in the case of female prisoners, the officer would transmit the mileage shown on the odometer at the time of departure and again upon his arrival at headquarters. No other information was communicated in the radio message.

Patrol wagons were not used; the offender was transported in the arresting officer's vehicle. The vehicles used by the ASAP officers were equipped with protective steel mesh screens which completely separated the front from the rear seat (in which the offender was usually placed). In addition, there were no handles on the rear doors, preventing the offender from opening either the doors or the windows. In most cases, DUI offenders were not handcuffed. It was totally at the officer's discretion; if, for any reason, he felt that handcuffs were necessary, they would be used. The prisoner was given a choice of being transported either to police headquarters for a breath test or to the Columbus Medical Center for a blood test. The average distance of transport was unknown, but was estimated to be two or three miles.

Under normal circumstances, a DUI offender's vehicle was not impounded. In most cases the vehicle was towed by a private towing service to its storage lot. (The Columbus Police Department had contracted with two private wrecker

services which had been approved by the City Commissioner or the City Council). The vehicle could be retrieved at the compound at any time, by either the offender or a responsible person designated to do so.

The towing service was summoned by the police dispatcher, who decided which one of the two services was to receive the call. (They generally alternated.) Average response time quoted for towing service was approximately 15 minutes. When a tow truck operator took charge of an offender's vehicle, he signed what is known as a "wrecker ticket." All valuables in the vehicle were taken by the arresting officer to headquarters, where they were tagged and stored. The offender signed a receipt for these articles, which were returned to him upon his release.

Conclusions: So-called "unwritten" policy was in effect for Columbus Police Officers in the search and transport of persons who were physically arrested. Thus, officers are basically depended upon to exercise their own discretion and judgment in determining what methods and procedures to use in each individual case.

Recommendations: It is incumbent upon the Columbus Police Department and its administrators to provide its members with appropriate guidelines (formal written policy) dealing with a wide variety of procedures, including search techniques to be employed in misdemeanor arrests and the manner in which arrested individuals are to be transported. The author recognizes that far from all processes which a police officer may undertake from day to day may be formally defined and procedurally delineated, but there are also those techniques and procedures which are almost universally applied in American law enforcement and for which, to some extent, ground rules have been established by the U.S. Constitution and the judiciary. Those, principally, must be formally addressed by police administrators in the shape of official policy, or else the agency leadership is remiss in its duties.

Section 4 - Incarceration

Georgia law provides that no presumption of intoxication may be formed at BAC levels between .051% and .099%. Thus, officers normally released any suspected offender who registered a BAC of less than .10% on the evidentiary test. The arresting officer was required to witness the evidentiary test

for subsequent court testimony. (At this point, two officers were involved: the arresting officer and the officer conducting the breath test.) Immediately following the evidentiary test, the arresting officer issued to the offender a summons (Fig. 5-1) containing complete information concerning the arrest (time, location, etc.) and the results of the evidentiary test (BAC). Copies of the summons or ticket were distributed as follows: the arresting officer retained one; two copies were sent to the police department's record room (one was eventually forwarded from there to the court); and the defendant received one copy. The officer's supervisor, a Sergeant, examined all tickets issued during the tour of duty.

After submitting to the evidentiary test, the offender was permitted to telephone legal counsel. If he was not already acquainted with an attorney, he was provided a telephone directory from which to make a selection. If he was too intoxicated to telephone, someone at the jail might contact the attorney for him. If he was indigent and qualified for legal aid, his case would be taken by the Public Defender.

The amount of bail required in a DUI offense was determined by the court. The normal amount was \$250 for a first offense and up to \$500 for a second or subsequent offense. Bonding companies charged a 10% fee as authorized by statute. (Bond in the amount of \$2,500 or more had to be approved by the Muscogee County Sheriff.) The telephone numbers and names of bail/bondsmen were conspicuously posted at the jail. Theoretically, all DUI offenders were eligible to post bond; however, it was pointed out that quite a number were jailed to await trial. (During incarceration, the offender's vehicle could be released only with his permission.)

Prior to an offender's incarceration the arresting officer completed, in addition to the summons, The Arrest Report (Fig. 5-2) containing the defendant's vital statistics and a brief description of the offense. DUI offenders were neither photographed nor fingerprinted. However, a thorough search was conducted (a strip search only if considered necessary), and all personal property was removed from the offender to be inventoried, receipted, and stored in a property envelope at the jail. Upon his release, the offender signed a log verifying the return of his property.

Although no precise statistics were obtained, observation showed that a DUI offender could be arrested, processed and incarcerated in somewhat less than an hour. Most offenders were incarcerated for a four-hour sober-up period; but, if conditions warranted, an offender could be released earlier upon the request of a police supervisor. Juveniles would be released to their parents.

Police officers staffing the jail were technically considered jail custodians and were not assigned to normal patrol duties. They were supervised by a Police Sergeant.

A medical examination of a DUI offender would be conducted only if unconsciousness had set in or he appeared to be ill in any other manner. The jailer would be advised of the prisoner's condition and he would be closely observed. There were no paramedics or medically trained personnel at the jail, so examinations were done at the Columbus Medical Center.

Conclusions: According to Georgia law, anyone suspected of driving under the influence who registers a BAC between .051% and .099% may not be presumed either to have been intoxicated or not to have been intoxicated. He may still be convicted of DUI in the face of other, incriminating evidence. In Columbus, however, that provision of the statute is virtually ignored, and almost anyone with a BAC of less than .10% is released. DUI offenders who are jailed seldom undergo a medical examination prior to incarceration. Such an examination would normally only be undertaken if the offender complained of illness or had lost consciousness. The jail facility is not staffed with medically-trained personnel.

Recommendations: Greater application of the provision of the DUI statute which prescribes no presumption of intoxication at BAC levels between .051% and .099%, but which nevertheless permits a conviction if other, additional evidence warrants it, appears to be in order. Jail Custodians trained as paramedics would eliminate the need to transport seemingly ill prisoners to the Columbus Medical Center for examination, as well as providing the ability to render first aid to jail inmates who have fallen ill.

Section 5 - Testimony and Adjudication

Recorder's court primarily served the purpose of securing the plea. If the offender pleaded guilty or no contest, then the case was adjudicated in recorder's court. If he pleaded not guilty, the case was bound over to state court and the charge was changed from a local ordinance to a state charge. In either case the arresting officer was required to be present.

In recorder's court, no pre-trial conferences were held. The arresting officer served as prosecutor there and submitted any evidence which he might have collected. He presented his testimony from the Arrest Report (Fig. 5-2) primarily. In addition, any witness to the offense could be subpoenaed by the court at the officer's request.

ASAP officers usually attended recorder's court at 3:30 p.m. on the day following an arrest (recorder's court was in session Monday through Saturday each week). For cases bound over to state court, the officers were assigned specific court dates by the court. Officers were not compensated for any appearances in recorder's court; however, if the officer were required to appear in state court, superior court or juvenile court, he was paid an \$8 witness fee, regardless of the actual amount of time spent in court. The officer was required to sign a statement to the effect that he had attended court on his off-duty hours, and this statement had to be verified by the Chief's Office before he was paid. Attorneys who were questioned disclosed that there were apparently no major problems within the areas of officer testimony or presentation of evidence by the officers. Results of the field test (Alco-Sensor pre-arrest screening at the scene of arrest) were not admissible in court.

In the event that the offender refused to submit to the evidentiary test, an Implied Consent hearing was conducted by the Department of Public Safety - specifically, by the Driver's Service Section of the Driver's License Bureau in Columbus. The arresting officer would be notified by letter of the date and time of the hearing and was required to attend. Again, he would receive the \$8 witness fee for his appearance.

A DUI offender pleading not guilty to the charge might face a delay of approximately six months until trial. Only one full-time judge in state court heard DUI cases and handed down sentences; and, as of October 1974, the DUI case backlog was in the vicinity of 800-900. When a case finally

came to trial, it could easily last a day. Although the State Solicitor maintained that pleas bargaining was not conducted, the question arises as to how many cases were disposed simply by forfeiture of bail. One estimation was that approximately 40% of all cases bound over to the state were so disposed. Additionally, convictions were not obtainable if the offender's BAC was below the presumptive level of intoxication (.10%), due to the courts' general refusal to prosecute.

There was no judicial notice of the processing of DUI offenders. Consequently, both the officer operating the Intoximeter and the arresting officer were required to testify at the trial concerning the various aspects of the process. Ordinarily other witnesses were only summoned if there was a motor vehicle crash associated with the arrest and they were compensated for their efforts. If such a crash resulted in a fatality, there was an "administrative understanding" with the coroner to take a blood sample - although it was not required by law.

It was pointed out that sentencing for first offenders was normally relatively consistent in state court, but varied for second offenders. Third or subsequent DUI offenders faced a mandatory jail sentence; however, this appeared to be circumvented at least on occasion by the court and less stringent sentences were imposed.

A problem existed with treatment referral of DUI offenders. If the offender pleaded guilty or no contest in recorder's court, he was generally channelled into a treatment modality. However, if he pleaded not guilty and was bound over to state court, he would simply await trial without undergoing treatment of any kind. Even if convicted in state court, the offender's chances of undergoing treatment were practically nil.

Conclusions: If he chose to plead not guilty, a DUI offender could feasibly be required to wait up to six months before his case would be heard before state court. Such an excessive delay has a detrimental effect on the administration of justice and conflicts with the defendant's right to a speedy trial. (As of October 1974, the DUI case backlog in state court was estimated to have been in the neighborhood of 800-900 cases.) To add to this depressing picture, DUI cases could be disposed by means of forfeiture of bail. (One estimation put the figure of DUI cases so disposed at approximately 40%.) If DUI case came to trial, it could easily last the entire day.

•

Recommendations: It is hardly surprising that the wheels of justice turn so painfully slow with regard to DUI offenders who are bound over to state court in Columbus; there is only one full-time judge available to hear those cases, and DUI is only one of many offenses which come to the court's attention daily. What is surprising is that the number of state court judges has not been increased in order to avoid such intolerable backlogs. It would appear to this author that immediate remedial action is required in this area to permit the dispensation of justice with some semblance of dignity. Another disturbing quality is the fact that most DUI offenders whose cases were brought before state court are not referred to the rehabilitative countermeasure of the Columbus ASAP, a practice which largely defeats the purpose of that countermeasure and provides no help to the DUI offender.

GEORGIA
UNIFORM TRAFFIC CITATION, SUMMONS, ACCUSATION
 SS NR-GA 10601
 NCIC NO. **41609**
CONSOLIDATED GOVERNMENT OF COLUMBUS
POLICE DEPARTMENT

SECTION I - VIOLATION

Upon _____ Date _____ at _____ Time _____
 Month _____ Day _____ Yr. 19 _____ A.M.
 P.M.
 Operator Chauffeur Veteran Learner
 License No. _____ Expires _____ State of Lic. _____
 NAME _____
 Last _____ First _____ Middle _____
 CURRENT ADDRESS _____
 Street _____ City _____ State _____ Zip Code _____
 Eyes _____ Height _____ Weight _____ Sex _____ Hair _____ D.O.B. _____
 Vehicle Year _____ Make _____ Style _____ Color _____
 Registration No. _____ Year _____ State _____ Registration Docal No. _____
 Business Address _____ Phone No. _____

SECTION II - VIOLATION

Upon the public highway and/or street did unlawfully operate park said vehicle in the city county within the State of Georgia and did there commit the following offense:

EXCESSIVE SPEED _____ MPH
 RADAR VASCAR 5-10 MPH OVER 15 MPH
 MPH ZONE, OVER SPEED LIMIT 11-15 MPH BASIC SPEED

IMPROPER TURN LEFT NON SIGNAL FROM WRONG LANE
 RIGHT INTO WRONG LANE PROHIBITED

DISREGARDED TRAFFIC SIGNAL RED SIGNAL CAUTION SIGNAL STOP SIGN

FAILED TO YIELD AT: STOP SIGN YIELD SIGN UNSIGNED INTERSECTION

IMPROPER PASSING Intersection On Right Oncoming Left of Center Wrong Lane
 IMPROPER LANE USAGE

FOLLOWING TOO CLOSELY OTHER _____ ACCIDENT

IN VIOLATION OF SECTION _____ OF STATE LAW LOCAL ORDINANCE

IMPROPER PARKING METER NO. _____ OVERTIME PROHIBITED AREA
 NIGHT DOUBLE PARKING

WEATHER	HIGHWAY	TRAFFIC	LIGHT
<input type="checkbox"/> CLEAR <input type="checkbox"/> CLOUDY <input type="checkbox"/> RAINING <input type="checkbox"/> SNOWING <input type="checkbox"/> FOG <input type="checkbox"/> SLEET	<input type="checkbox"/> DRY <input type="checkbox"/> WET <input type="checkbox"/> MUDDY <input type="checkbox"/> SNOWY <input type="checkbox"/> ICY <input type="checkbox"/> LOOSE MATERIAL	<input type="checkbox"/> CONCRETE <input type="checkbox"/> BLACKTOP <input type="checkbox"/> GRAVEL <input type="checkbox"/> UNIMPROVED <input type="checkbox"/> DIVIDED LANES	<input type="checkbox"/> LIGHT <input type="checkbox"/> MEDIUM <input type="checkbox"/> HEAVY <input type="checkbox"/> VEHICLE <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> CROSS TRAFFIC
			<input type="checkbox"/> DAYLIGHT <input type="checkbox"/> DARKNESS <input type="checkbox"/> DAWN, DUSK <input type="checkbox"/> OTHER

Other Offenses: _____

SECTION III - LOCATION

In the County of _____ (at distance) _____ miles
 (direction) _____ of City _____ on
 _____ Highway, Road, Street _____ at or near Mile Post _____
 Signature of Complainant or Officer _____
 Badge No. _____ Division _____

SECTION IV - SUMMONS

You are hereby ordered to appear in court to answer this charge on the _____ day of _____
 Year _____ at (Time) _____ (A.M.) _____ (P.M.) in the _____ Recorder's Court
 at _____ 937 1st AVENUE _____ Name of Court
 City _____ COLUMBUS _____ Street Number or Name
 Georgia. Signature acknowledges service of this summons and receipt of copy of same.
 Signature _____

SS NR-GA 10601
 NCIC NO.

COURT COPY

INDICATIONS OF INTOXICATION

COORDINATION--- NORMAL _____ STAGGERING _____ NEEDED ASSISTANCE TO WALK _____
ODOR OF ALCOHOL--- NONE _____ FAINT _____ STRONG _____
CLOTHING--- NEAT _____ DISARRANGED _____ SOILED _____
SPEECH--- NORMAL _____ SLURRED _____ ABUSIVE _____ PROFANE _____
ORIENTATION--- ALERT _____ SLEEPY _____ AWARE OF TIME AND SPACE---YES _____ NO _____
ANY EVIDENCE OF INJURIES--- YES _____ NO _____ (IF YES, EXPLAIN) _____

XX

IF SUBJECT CHARGED WITH DWI, COMPLETE THE FOLLOWING

ALCOLYSER FIELD TEST GIVEN---YES _____ NO _____ REFUSED _____
INTOXIMETER TEST GIVEN AT HQ---YES _____ NO _____ REFUSED _____ RESULTS _____
BLOOD TEST GIVEN SUBJECT---YES _____ NO _____ RESULTS _____

XX

DETAILS OF OFFENSE (WHAT ATTRACTED YOUR ATTENTION TO SUBJECT, DESCRIPTION OF SUBJECTS CLOTHING, MAKE, MODEL, YEAR, COLOR, TAG NUMBER OF SUBJECTS AUTO AND DIRECTION AND MANNER OF TRAVEL) _____

WAS SUBJECTS VEHICLE--- TOWED _____ DRIVEN BY OFFICER _____
LOCATION OF STORAGE _____
IF TOWED, NAME OF WRECKER COMPANY _____
LIST OF VALUABLES IN VEHICLE WHEN STORED _____

Figure 5-2 (cont'd.)

INDIANA (INDIANAPOLIS)

Section 1 - Detection

The procedures that arresting officers must follow in indicating alcohol involvement by BAC in accident arrests are outlined in the Breathalyzer Tests Incident Reporting (Appendix A; Exhibit 6g). The overall objective of this procedure is to enable the Indianapolis Police Department, Data Processing Branch, to evaluate the department's activity related to drinking drivers. Traffic Stats (Appendix A; Exhibit 6h) prepared by the Tactical Traffic Center, represents the only "analysis" presented to this investigator depicting alcohol-related crashes. From information supplied by the Data Processing Branch and the ASAP officer, Lt. Elmore prepares a "pin map" (see pictures Exhibit 6i and 6j) showing the grid location of all alcohol-related fatal crashes (yellow pin with red dot). This pin map, which is located in the squad office, also depicts DWI arrest activity. Officers are expected to review this map on a routine basis.

An alcohol-related crash is defined as any accident where alcohol was a contributing factor. The criterion for an alcohol-related crash is a measurable BAC level.

All ASAP reports, per NHTSA directives, are prepared on a quarterly and annual basis. The Indianapolis Police Department alcohol-related crash analysis is conducted monthly with a yearly summary. This analysis is conducted by the Tactical Traffic Center through the Data Processing Branch. These reports are submitted to all division heads, the traffic unit commander, Selected Alcohol Vehicle Enforcement commander, and the enforcement coordinator of the Indianapolis Alcohol Safety Action Project. In addition, these reports are available to any individual or group upon special request.

The evidence generally gathered by officers during the detection phase of drunk-driving enforcement is as follows: 1) weaving, 2) speed too fast or too slow, 3) violation of traffic ordinance, 4) erratic starts or stops, and 5) erratic driving in general. Proof that the DWI offense has been committed is established through BAC and the officer's observation of the driver's condition. However, in order to establish probable cause to stop the offender, one of the above (1 through 5) must have taken place.

Arresting officers preserve the evidence gathered during the detection phase by completing the uniform Traffic Ticket (Fig. 6-1) and the Incident Report (Fig. 6-4). These documents are retained by the Traffic Division, Records Division, and the Data Processing Bureau. The arresting officer reviews the incident report to refresh his memory and testifies from memory regarding particulars of the case.

Conclusions: According to Lt. Elmore, SAVE unit Commander, there has not been a countermeasure meeting between "the ASAP and the enforcement countermeasure in a year and one-half". In addition, neither the evaluation staff nor the information compiled by them have been accessible to this unit. Lt. Elmore feels that in terms of analysis, they (the Indianapolis Police Department) have been "all on their own".

Lt. Elmore also cited an incident wherein local bar owners were complaining that SAVE unit officers were "bird-dogging" their establishments to effect DWI arrests. Since that complaint has been waged, Lt. Elmore makes it routine procedure to use binoculars to check on the patrol techniques used by SAVE unit officers. Lt. Elmore further advised that through the use of these spot-checks on patrol techniques, he has yet to locate any of his officers engaged in "bird-dogging" licensed alcohol establishments.

Recommendations: The detection configuration utilized by officers of the Indianapolis SAVE unit appear to be adequate to meet the needs of that law enforcement agency. It is recommended that the detection techniques currently being used be continued and additional funds be sought to assist this law enforcement agency in increasing its accident analysis capabilities.

Section 2 - Apprehension

ASAP baseline data (1969-1971) showed that 8:00 p.m. to 4:00 a.m. was a period with a high accident rate. Friday and Saturday nights were especially active "Operating a Motor Vehicle Under the Influence of Liquor" (OMVUIL) nights. ASAP patrol was centered around these high drinking-driver periods. Officers generally gravitate toward the area of these sectors containing

a sizeable number of bars, taverns, and other drinking establishments, due to the increased probability of effecting an OMVUIL arrest. These areas are readily recognizable in Appendix A; Exhibit 6i and 6j (arrest pin maps maintained by SAVE unit personnel).

Roadblocks are not used in ASAP enforcement at this site.

The policies on pursuit and "hot pursuit" are similar to those at the other ASAP sites visited during this survey in that officers are expected to utilize professional judgement and cease pursuit when the hazard of pursuit becomes greater than the hazard of the violation. In stopping a violator, officers utilize flashing beacon, siren, spotlight, and head lights. Officers do not issue a radio message upon stopping the suspected OMVUIL offender.

At the scene of the traffic stop, the arresting officer makes a determination concerning the operator's state of sobriety observing the subject's appearance, detectable odor of intoxicating beverage, behavior, physical coordination tests, and noticeable speech impairments.

The license number of the vehicle and of the suspect driver and/or passengers is checked against data files to ascertain possible "wanted" information only if the suspicion of the arresting officer is aroused. The officer may arrest without a warrant if a radio transmission confirms "wanted" status for other misdemeanor offenses.

Generally, upon conclusion of the driver interview, the arresting officer makes the decision whether to place the suspect under arrest or to release him. However, the actual arrest does not take place until the conclusion of the breath test. General Order Implied Consent (Appendix A; Exhibit 6a) states that arresting officers are not to advise the suspect that he is under arrest until the conclusion of the evidentiary test. The delay in arrest is in order to effect evidentiary testing. This arrest process is discussed in detail within the Sobriety Testing configuration report for Indianapolis, Indiana.

It is not normal procedure to dispatch an assisting officer to an arrest scene. An assisting officer is dispatched to an arrest scene only at the special request of an arresting officer. The assisting officer serves as a witness to the offender's state of sobriety and provides security at the arrest scene.

Under the laws of the jurisdiction, the offense of OMVUIL is a misdemeanor. Should the arresting officer resort to physical force in order to subdue a suspected OMVUIL offender, he may use only that force necessary to effect the arrest.

The arresting officer has complete discretion in his decision to arrest for the offense to OMVUIL. The arresting officer's immediate supervisor has virtually no influence on the arrest decision.

Prior to being placed under arrest for an offense of OMVUIL, the offender is not advised of his Constitutional rights; however, he is advised of the provisions of the Implied Consent statute. Only after having been placed under arrest is the offender advised of his Constitutional (Miranda) rights. This is accomplished during the booking procedures.

Officers do not have the option to reduce the charge of DWI to a lesser one. Since the actual arrest does not take place until the conclusion of the evidentiary test, the need for arresting officers to reduce the charge of OMVUIL to a lesser offense, due to low BAC readings, is avoided.

Arresting officers are authorized to conduct a limited search of the vehicle in order to conduct an inventory of vehicle contents for impound purposes. Should this inventory search yield evidence of other related crimes, the suspected offender may be charged with these additional offenses.

Conclusions: The apprehension configuration being utilized by officers of the SAVE unit appear adequate to meet the needs of that law enforcement agency. It should be noted, however, that the arrest process whereby the suspect is transported to the evidentiary site, administered the evidentiary test, and then returned to the scene of arrest where the subject is advised of his arrest (or released) requires an excessive amount of time in transporting the offender. Further, serious questions arise as to the legality of transporting an offender who is "technically" not under arrest.

Recommendations: It is recommended that an in-depth analysis be conducted comparing the community relations benefits versus risk and liability in transporting offenders who are not "technically" under arrest. It is

further recommended that the mobile breath laboratories (MBL's) be utilized to the maximum extent possible and that these units respond to the scene of arrest, thus eliminating the precarious "custody without arrest" utilized in effecting an arrest for the offense of OMVUIL.

Section 3 - Transporting Persons and Property

All suspected OMVUIL offenders are subjected to a pat-down frisk prior to being transported to the evidentiary site and/or the lock-up facility. Female offenders are not searched; however, arresting officers generally take custody of purses and/or packages in the female's possession. Juvenile offenders are treated the same as adult offenders. Statutory definition of a juvenile is classified as any individual 17 years of age or under.

Prior to the evidentiary testing the prisoners are not handcuffed. However, after the evidentiary test and prior to the offender's being transported to the lock-up, it is normal procedure to handcuff the prisoner.

Prisoners are usually seated in the rear seat of the police vehicle. The ASAP patrol vehicles are equipped with protective shields as are those of the regular patrol officers. The arresting officer generally transports his prisoner to the testing facility and to the lock-up facility. The average distance of transport is 5 minutes.

Upon commencing transport, the arresting officer issues a radio message stating that he is enroute to his specified destination. In the case of transporting female offenders, the arresting officer also advises the dispatcher of his destination of transport and the mileage on his police cruiser to the tenth of a mile at the beginning and again at the conclusion of transport.

Once an offender has been arrested, an inventory search of the offender's vehicle may be conducted and is not restricted in any way. The Indianapolis Department assumes responsibility for all items entered into the property room. The contract wrecker is responsible for the automobile and automobile contents.

The offender's vehicle is normally towed from the scene by a privately-owned contracted towing service. Should a privately-owned towing service be shown deficient or inefficient, its permit to provide services to this city will be withdrawn.

The average response time for the towing service is 10 minutes. The offender's vehicle is stored at the lot of the towing service which must provide a paved, fenced, area and 24 hour security.

Conclusions: The transporting persons and property configuration utilized by the officers participating in the Indianapolis Alcohol Safety Action Project appears adequate to meet the needs of that agency.

Recommendations: It is recommended that current procedures be continued.

Section 4 - Incarceration

Once the offender has undergone evidentiary testing and the decision to arrest has been made, the subject is jailed for a prescribed period of time and then released on either bond or personal recognizance.

All OMVUIL offenders are fingerprinted and photographed. Juveniles are released to parents or guardians and the case is referred to the juvenile division by report. Cases may or may not be referred to juvenile court, depending upon the previous record of the juvenile and the seriousness of the offense. All offenders, adult and juvenile, are cleared against local, regional, and national computer networks containing criminal records information.

All OMVUIL offenders are given a visual inspection for signs of illness by both the arresting officer and jail personnel prior to their incarceration. Subjects complaining of pain or showing visible signs of illness are transported to a local medical facility where they are examined by a physician.

Arresting officers are responsible for completely searching all prisoners prior to releasing the offenders to the booking section. This search will include a strip search if considered necessary to check for weapons and/or possible narcotics. All personal effects are normally removed, a receipt is issued, and the items are stored in a locked, 24-hour supervised property room. All items confiscated are returned upon the offender's release.

The usual amount of bond set for the first offense of OMVUIL varies and may be as much as \$500. The bond commissioner, appointed by the municipal court, is responsible for fixing the amount of bail. Subjects who show a

poor previous record may not be eligible for bail. Bail/bondsmen are not permitted to solicit in the jail area; however, their telephone numbers are conspicuously posted in the jail area.

There is a 4-hour "sober-up" period during which the OMVUIL offender must remain confined. The suspect is eligible to post bond to effect his release immediately upon conclusion of the 4-hour period.

The offender's vehicle can only be released to the registered owner. The registered owner must produce the vehicle's registration to effect the release of his automobile.

The jail is staffed with police personnel, including matrons. The jail facility is maintained in a sanitary and hygenic state.

Conclusions: The incarceration configuration utilized by law enforcement officers of this site appears adequate to meet the needs of this jurisdiction.

Recommendations: It is recommended that the procedures currently in effect be continued.

Section 5 - Testimony and Adjudication

Pre-trial conferences are not conducted and the arresting officer is not required to be present at arraignment.

Court appearance dates in OMVUIL cases are set by the presiding judge of the municipal court. Indianapolis Police Department Special Order #71-24 Supplement #12, dated September 12, 1974 states:

"Officers (non-Breathalyzer operators) initiating OMVUIL cases will, throughout the life of the case, select and use a court date on which the SAVE unit chemical test officer is scheduled to be in court. The only exception to this order will be the date set by the court to accommodate "special judge" cases and jury trials.

Future court dates selected by the officer are to be listed on the reverse side of the white and yellow copies of the Uniform Traffic Tickets. At the time of the administering of the chemical test by a SAVE unit officer, the arresting officer is to select two future trial dates from a published SAVE unit court schedule. Such schedule listing the court dates of the Breathalyzer operators will be posted at the test sites or in the mobile Breathalyzer laboratories.

If the chemical test is administered by a Breathalyzer operator and not assigned to the SAVE unit, the officers involved will select, when possible, a "day in court" already planned for use by one or both officers.

Court schedules for the SAVE unit will be continually published 60 days in advance and will assign a sufficient number of court dates for each officer to maintain a balanced court room schedule."

Officers are summoned to court on off-duty days on an average of three days per month. The average amount of overtime per officer per month attributable to court appearance is 2-2½ hours. One hour is allowed for travel to and from court. Officers receive straight hourly wages for overtime accrued in this manner.

The arresting officer's testimony in court generally consists of the particulars of the case, the defendant's BAC, and any other physical evidence pertinent in the case.

The municipal court of Marion County, Indiana, hears OMVUIL cases. The judges are appointed for 4-year terms by the governor of Indiana. All judges must be licensed attorneys.

Separate court rooms have been set aside for OMVUIL prosecution and particular judges have been designated to preside over these trials. These judges have had the benefit of special training regarding the intoxicated driver provided by the Indianapolis ASAP.

An offender has a choice between a jury trial or trial before a judge. Most OMVUIL trials are conducted before a judge only. According to officials interviewed during this site visit, a conviction for the offense of OMVUIL is more likely if tried before a judge only.

Conclusions: Officers of this site feel that plea bargaining is "severely" a routine procedure. Arresting officers are not consulted before a plea bargaining decision is reached. The general nature of the reduced charge is reckless driving and the penalty varies greatly. According to officials interviewed, there is no pattern or "most common fine".

Due to the nature of plea bargaining, it is possible for a subject to be charged with an offense of OMVUIL two or more times in a given

time period yet never show a record of an OMVUIL conviction. As a result, plea bargaining is also employed with second or subsequent OMVUIL offenders.

Plea bargaining is especially predominant in cases where the BAC level is .15% or lower.

Recommendations: The Indianapolis Alcohol Safety Action Project should assume a leadership role in discouraging local judges from reducing OMVUIL charges to lesser offenses.

INDIANAPOLIS POLICE DEPARTMENT
INDIANA UNIFORM TRAFFIC TICKET, COMPLAINT & INFORMATION

CAUSE No. _____ DOCKET No. _____ PAGE No. _____
 STATE OF INDIANA }
 COUNTY OF MARION } SS: _____ SUMMONS
 CITY OF INDIANAPOLIS }
 IN THE MUNICIPAL COURT OF MARION COUNTY, ROOM **F 96812**

THE UNDERSIGNED, BEING DULY SWORN, DEPOSES AND SAYS:

ON _____ THE _____ DAY OF _____ 19____ AT _____

NAME _____
 STREET _____
 CITY _____
 RACE _____ SEX _____ AGE _____ D.O.B. _____ HT _____ WT _____
 OP. LIC. # _____ STATE _____ DID UNLAWFULLY OPERATE _____
 VEH. COLOR _____ YEAR _____ MAKE _____
 VEH. LIC. YEAR _____ LIC. STATE _____ VEH. LIC. # _____

UPON A PUBLIC STREET OR HIGHWAY, (LOCATION) _____

LOCATED IN THE CITY, COUNTY AND STATE AFORESAID AND DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE:

SPEEDING (over limit)	<input type="checkbox"/> 1-10 m.p.h.	<input type="checkbox"/> 11-15 m.p.h.	<input type="checkbox"/> over 15 m.p.h.
	<input type="checkbox"/> m.p.h. in _____ m.p.h. zone	<input type="checkbox"/> RADAR	<input type="checkbox"/> CLOCK
Improper LEFT TURN	<input type="checkbox"/> No signal	<input type="checkbox"/> Cut corner	<input type="checkbox"/> From wrong lane
Improper RIGHT TURN	<input type="checkbox"/> No signal	<input type="checkbox"/> Into wrong lane	<input type="checkbox"/> From wrong lane
Disobeyed TRAFFIC SIGNAL (When light turned red)	<input type="checkbox"/> Past middle intersection	<input type="checkbox"/> Effects of intersection	<input type="checkbox"/> Wrong lane
Disobeyed YIELD SIGN	<input type="checkbox"/> Wrong place of intersection	<input type="checkbox"/> Wrong speed	<input type="checkbox"/> Intersection
STOP	<input type="checkbox"/> Disobey	<input type="checkbox"/> Cut-in	<input type="checkbox"/> From side of pavement
Improper PASSING	<input type="checkbox"/> Lane	<input type="checkbox"/> On right	<input type="checkbox"/> On left
LANE USAGE	<input type="checkbox"/> Straddling	<input type="checkbox"/> Wrong lane	<input type="checkbox"/> Cut curve
<input type="checkbox"/> Following too closely	<input type="checkbox"/> Failure to yield		
Other Violation _____			

In Violation of Section _____ of _____
 State Statute Local Ordinance in such case as made and provided.

SLIPPERY PAVEMENT	1	Wet	CAUSED PERSON	TYPE ACCIDENT	1	1	1
	2	Snow			2	2	2
	3	Ice			3	3	3
	4	Other			4	4	4
DANGEROUS	1	Light	ACCIDENT	TYPE ACCIDENT	5	5	5
	2	Dark			6	6	6
	3	Windy			7	7	7
	4	Other			8	8	8
OTHER TRAFFIC VIOLATION	1	Cross	ACCIDENT	TYPE ACCIDENT	9	9	9
	2	On wrong side of pavement					
	3	Wrong lane					
	4	Other					

ROAD TYPE: 1 Business 2 District 3 School 4 Residential 5 Rural
 HIGHWAY TYPE: 1 2 lane 3 3 lane 4 4 lane 5 4 lane divided

THE UNDERSIGNED FURTHER STATES THAT HE HAS JUST AND REASONABLE GROUNDS TO BELIEVE, AND DOES BELIEVE, THAT THE PERSON NAMED ABOVE COMMITTED THE OFFENSE HEREIN SET FORTH CONTRARY TO LAW.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS _____ DAY OF _____, 19____

Signature of officer or other complainant _____
 Deputy Clerk _____ Identification No. _____ Division _____

COURT APPEARANCE: _____ DAY OF _____, 19____ AT _____ M.
 ADDRESS OF COURT: 50 NORTH ALABAMA STREET, INDIANAPOLIS, INDIANA
 I PROMISE TO APPEAR IN COURT AT THE TIME AND DATE DESIGNATED ABOVE

SIGNATURE _____

IMPORTANT - PLEASE READ
FINES AND COURT COSTS

In addition to whatever fine the Court might assess against you, the court costs, as established by law, for city and state traffic offenses, are \$33.00 and \$44.00, respectively. Fines and court costs must be paid in cash, no checks will be accepted. Neither the judge nor any of the court's personnel receive any part of the fine or costs imposed.

NON-MOVING VIOLATIONS - TRAFFIC VIOLATIONS BUREAU

If this summons was issued to you for a NON-MOVING traffic violation⁹, (without any accompanying citation for a moving traffic offense), and you intend to plead "GUILTY" to such non-moving offense, you may do so, without going to court, by appearing at the Traffic Violations Bureau, 50 N. Ala. St., (City-County Bldg.) Indpls., Ind. 46204, between the hours of 8:30 A.M. and 4:30 P.M., Mon. through Fri. Such appearance should be no sooner than 5 days after you received the citation, and no later than 5 days before you are scheduled to appear in court. Please be prepared to pay a charge of \$20.00, in cash, and bring this summons and any appropriate evidence of compliance, such as valid inspection or registration certificates, valid drivers license, or receipts for the repair of mechanical defects, etc., with you.

Should you fail to so appear at the Traffic Violations Bureau to dispose of your non-moving offense, you must go to court on the date and at the time set by the arresting police officer as it appears on the reverse side of this summons. Failure to dispose of your case at either the Traffic Violations Bureau or the Court, will result in a warrant being issued for your arrest.

⁹(Offenses such as, Expired Inspection or Registration Certificate, Improper Plate, Expired Drivers License and Defective Lights or Other Vehicle Equipment). You may telephone 633-2877 for information concerning other non-moving traffic offenses which may also be disposed of at the Traffic Violations Bureau in this same manner.

NON-RESIDENTS OF INDIANA

If you have received this summons for any traffic offense for which your signature on the reverse side constitutes your promise to appear in court, but you are not a resident of the State of Indiana, and you intend to plead "guilty" to such charge, you may arrange to dispose of it by writing to the office of the Court Administrator, 1-643 City County Bldg., Indpls., Ind. 46204, immediately. Include information concerning your name, address, summons no., offense, court no., and court date in your letter. You will then be notified of the amount of the penalty which is to be paid by mail. Such payment must be made by either money order or certified check and must be received prior to your original court appearance date.

In the event you fail to satisfactorily dispose of this case, the Motor Vehicle Bureau of the state in which you permanently reside will be notified.

Figure 6-1

INDIANAPOLIS POLICE DEPARTMENT

INCIDENT REPORT

ALL APPLICABLE ITEMS IN THIS SECTION MUST BE COMPLETED FOR ALL REPORTS																	
<input type="checkbox"/> NEW CASE <input type="checkbox"/> ADDITION	CASE NO. IF ADD.	TYPE OF INCIDENT (Refer to Incident List)				INS PURPOSES <input type="checkbox"/> YES	DATE AND TIME OF INVESTIGATION	DATE AND TIME OCCURRED	DAY OF WEEK								
LOCATION OF OCCURRENCE (Include Apt. No. Etc.)		TYPE OF PREMISES (Refer to Premises List)				ATTENTION PROPERTY ROOM <input type="checkbox"/> YES	IDENT. NOTIFIED <input type="checkbox"/> YES	NO. DEAD	NO. SENT TO HOSPITAL	NO. VEHICLES TOWED							
NOTIFIED BY: <input type="checkbox"/> 01-RADIO RUN <input type="checkbox"/> 02-OBSERVED <input type="checkbox"/> 03-STOPPED ON STREET <input type="checkbox"/> 04-TELE-GRAM		DATE AND TIME NOTIFIED				SECTOR	AGENCIES TO BE NOTIFIED		THIS INVESTIGATION IS COMPLETE <input type="checkbox"/> NOT COMPLETE <input type="checkbox"/>								
CHECK APPLICABLE ITEMS FOR CRIMINAL INCIDENTS ONLY																	
POINT OF ENTRY TO BUILDING: <input type="checkbox"/> 01-FRONT DOOR <input type="checkbox"/> 02-SIDE DOOR <input type="checkbox"/> 03-REAR DOOR <input type="checkbox"/> 04-THRU ROOF <input type="checkbox"/> 05-THRU WALL <input type="checkbox"/> 06-FRONT WINDOW <input type="checkbox"/> 07-SIDE WINDOW <input type="checkbox"/> 08-REAR WINDOW <input type="checkbox"/> 09-ANY OTHER																	
POINT OF ENTRY TO VEHICLE: <input type="checkbox"/> 01-DOOR DRIVER SIDE <input type="checkbox"/> 02-DOOR PASSENGER SIDE <input type="checkbox"/> 03-WINDOW DRIVER SIDE <input type="checkbox"/> 04-WINDOW PASSENGER SIDE <input type="checkbox"/> 05-THRU CONV. TOP <input type="checkbox"/> 06-TRUNK <input type="checkbox"/> 07-ANY OTHER																	
METHOD OF ENTRY TO BUILDING OR VEHICLE: <input type="checkbox"/> 01-FORCED ENTRY <input type="checkbox"/> 02-ATTEMPT FORCED ENTRY <input type="checkbox"/> 03-UNLAWFUL ENTRY NO FORCE <input type="checkbox"/> 04-LAWFUL ENTRY <input type="checkbox"/> 05-ANY OTHER						IF ALARM WAS ACTIVATED-GIVE NAME OF COMPANY AND TIME OF ARRIVAL											
METHOD OF ENTRY TO SAFE: <input type="checkbox"/> 01-DRILL <input type="checkbox"/> 02-PUNCH <input type="checkbox"/> 03-PEEL <input type="checkbox"/> 04-BLOW <input type="checkbox"/> 05-TORCH <input type="checkbox"/> 06-CARRIED OUT <input type="checkbox"/> 07-NO FORCE <input type="checkbox"/> 08-ANY OTHER																	
WEAPONS OR FORCE USED BY PERPETRATOR ON CRIMES AGAINST PERSON: <input type="checkbox"/> 01-HAND GUN <input type="checkbox"/> 02-FIREARM <input type="checkbox"/> 03-KNIFE <input type="checkbox"/> 04-ANY OTHER CUTTING INSTRUMENT <input type="checkbox"/> 05-ANY OTHER DANGEROUS WEAPON <input type="checkbox"/> 06-SEVERE BEATING <input type="checkbox"/> 07-MADE THREATS <input type="checkbox"/> 08-USED NO FORCE <input type="checkbox"/> 09-NO FORCE <input type="checkbox"/> 10-OTHER																	
AMOUNT OF STOLEN PROPERTY			MONEY	JEWELRY	FURS	CLOTHING	AUTO	MISC.	AMOUNT OF PROPERTY RECOVERED			MONEY	JEWELRY	FURS	CLOTHING	AUTO	MISC.
USE APPLICABLE ITEMS IN THIS SECTION FOR ALL PERSONS EXCEPT WANTED/MISSING PERSONS																	
PERSON 1	STATUS OF PERSON		NAME (LAST NAME FIRST IF INDIVIDUAL)				RACE	SEX	AGE	ADDRESS			HOME PHONE AND HOURS		BUS. PHONE AND HRS.		
	COURT	DATE	TIME	LOCATION OF ARREST (if different than above)				SENT TO: <input type="checkbox"/> CITY LOCKUP <input type="checkbox"/> JUV. BUR. <input type="checkbox"/> HOSP. <input type="checkbox"/> COURT (Reside) <input type="checkbox"/> EXPLAIN		CHARGES			RELATIVES NOTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO				
	INJURY CATEGORY		HOSPITAL SENT TO		CONVEYANCE USED		MED. TECH. (Last Name)		NATURE OF INJURY (ILLNESS)			RELATIVES NOTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO					
	DISPOSITION OF VEHICLE: <input type="checkbox"/> TOWED (Any Reason) <input type="checkbox"/> RELEASED ON SCENE		<input type="checkbox"/> STOLEN <input type="checkbox"/> RECOVERED		VEH. TYPE	YEAR	MAKE	MODEL	STYLE	COLOR	V.I.N.						
	LIC. YR.	LIC. ST.	LICENSE NUMBER		LOT TOWED TO-BY		DET. HOLD <input type="checkbox"/> YES	MESSAGE OR COMMENTS									
USE APPLICABLE ITEMS IN THIS SECTION FOR ALL PERSONS EXCEPT WANTED/MISSING PERSONS																	
PERSON 2	STATUS OF PERSON		NAME (LAST NAME FIRST IF INDIVIDUAL)				RACE	SEX	AGE	ADDRESS			HOME PHONE AND HOURS		BUS. PHONE AND HRS.		
	COURT	DATE	TIME	LOCATION OF ARREST (if different than above)				SENT TO: <input type="checkbox"/> CITY LOCKUP <input type="checkbox"/> JUV. BUR. <input type="checkbox"/> HOSP. <input type="checkbox"/> COURT (Reside) <input type="checkbox"/> EXPLAIN		CHARGES			RELATIVES NOTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO				
	INJURY CATEGORY		HOSPITAL SENT TO		CONVEYANCE USED		MED. TECH. (Last Name)		NATURE OF INJURY (ILLNESS)			RELATIVES NOTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO					
	DISPOSITION OF VEHICLE: <input type="checkbox"/> TOWED (Any Reason) <input type="checkbox"/> RELEASED ON SCENE		<input type="checkbox"/> STOLEN <input type="checkbox"/> RECOVERED		VEH. TYPE	YEAR	MAKE	MODEL	STYLE	COLOR	V.I.N.						
	LIC. YR.	LIC. ST.	LICENSE NUMBER		LOT TOWED TO-BY		DET. HOLD <input type="checkbox"/> YES	MESSAGE OR COMMENTS									
USE APPLICABLE ITEMS IN THIS SECTION FOR ALL PERSONS EXCEPT WANTED/MISSING PERSONS																	
PERSON 3	STATUS OF PERSON		NAME (LAST NAME FIRST IF INDIVIDUAL)				RACE	SEX	AGE	ADDRESS			HOME PHONE AND HOURS		BUS. PHONE AND HRS.		
	COURT	DATE	TIME	LOCATION OF ARREST (if different than above)				SENT TO: <input type="checkbox"/> CITY LOCKUP <input type="checkbox"/> JUV. BUR. <input type="checkbox"/> HOSP. <input type="checkbox"/> COURT (Reside) <input type="checkbox"/> EXPLAIN		CHARGES			RELATIVES NOTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO				
	INJURY CATEGORY		HOSPITAL SENT TO		CONVEYANCE USED		MED. TECH. (Last Name)		NATURE OF INJURY (ILLNESS)			RELATIVES NOTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO					
	DISPOSITION OF VEHICLE: <input type="checkbox"/> TOWED (Any Reason) <input type="checkbox"/> RELEASED ON SCENE		<input type="checkbox"/> STOLEN <input type="checkbox"/> RECOVERED		VEH. TYPE	YEAR	MAKE	MODEL	STYLE	COLOR	V.I.N.						
	LIC. YR.	LIC. ST.	LICENSE NUMBER		LOT TOWED TO-BY		DET. HOLD <input type="checkbox"/> YES	MESSAGE OR COMMENTS									
USE APPLICABLE ITEMS IN THIS SECTION FOR ALL PERSONS EXCEPT WANTED/MISSING PERSONS																	
PERSON 4	STATUS OF PERSON		NAME (LAST NAME FIRST IF INDIVIDUAL)				RACE	SEX	AGE	ADDRESS			HOME PHONE AND HOURS		BUS. PHONE AND HRS.		
	COURT	DATE	TIME	LOCATION OF ARREST (if different than above)				SENT TO: <input type="checkbox"/> CITY LOCKUP <input type="checkbox"/> JUV. BUR. <input type="checkbox"/> HOSP. <input type="checkbox"/> COURT (Reside) <input type="checkbox"/> EXPLAIN		CHARGES			RELATIVES NOTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO				
	INJURY CATEGORY		HOSPITAL SENT TO		CONVEYANCE USED		MED. TECH. (Last Name)		NATURE OF INJURY (ILLNESS)			RELATIVES NOTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO					
	DISPOSITION OF VEHICLE: <input type="checkbox"/> TOWED (Any Reason) <input type="checkbox"/> RELEASED ON SCENE		<input type="checkbox"/> STOLEN <input type="checkbox"/> RECOVERED		VEH. TYPE	YEAR	MAKE	MODEL	STYLE	COLOR	V.I.N.						
	LIC. YR.	LIC. ST.	LICENSE NUMBER		LOT TOWED TO-BY		DET. HOLD <input type="checkbox"/> YES	MESSAGE OR COMMENTS									

Figure 6-4

127

WANTED OR MISSING PERSONS—Use Description of Wanted Persons, Runaways, Missing Persons, Escapees, Warrants & Capias														
SUBJECT 1	STATUS (Refer to Wanted List)			NAME-Last Name First				ADDRESS			DRIVER LIC. NUMBER	D.O.B.	SOC. SEC. NUMBER	
	RACE	SEX	AGE	HEIGHT	WEIGHT	HAIR COLOR	EYES	COMPLEXION		BUILD	WEAPON ARMED WITH			
	CLOTHING DESCRIPTION AND OTHER DESCRIPTIVE REMARKS										CHARGE WANTED FOR		COURT OF ISSUE OR WARRANT	
	AUTO BELIEVED TO BE IN	YEAR	MAKE	MODEL	STYLE	COLOR	LIC. YR.	LIC. ST.	LIC. NUMBER	VEHICLE REMARKS:				
SUBJECT 2	STATUS (Refer to Wanted List)			NAME-Last Name First				ADDRESS			DRIVER LIC. NUMBER	D.O.B.	SOC. SEC. NUMBER	
	RACE	SEX	AGE	HEIGHT	WEIGHT	HAIR COLOR	EYES	COMPLEXION		BUILD	WEAPON ARMED WITH			
	CLOTHING DESCRIPTION AND OTHER DESCRIPTIVE REMARKS										CHARGE WANTED FOR		COURT OF ISSUE OR WARRANT	
	AUTO BELIEVED TO BE IN	YEAR	MAKE	MODEL	STYLE	COLOR	LIC. YR.	LIC. ST.	LIC. NUMBER	VEHICLE REMARKS:				

NARRATIVE—Include All Property and Its Description:

ASSIGNED OFFICERS		
UNIT	LAST NAME, FIRST INIT.	I.D. NO.

ASSISTING OFFICERS		
UNIT	LAST NAME, FIRST INIT.	I.D. NO.

DATE AND TIME TO RECORDS

Figure 6-4 (cont'd.)
128

LOUISIANA (NEW ORLEANS)

Section 1 - Detection

Analysis of alcohol-related crashes is not formally undertaken by the New Orleans Police Department. ASAP officers are generally aware of the overall alcohol-related crash configuration within their jurisdiction through roll-call discussions of accident activity versus arrest activity.

An alcohol-related crash is defined as any vehicle or pedestrian crash in which the subject is charged with a DWI drinking offense. The criteria for an alcohol-related crash is merely an arrest for the offense of DWI.

Alcohol-related crash reports are prepared by the New Orleans Alcohol Safety Action Project in accordance with DOT/HNTSA directives. These reports are prepared on a monthly, quarterly, and annual basis and submitted to DOT/NHTSA. Any organization or individual may receive copies of these reports upon special request to the New Orleans ASAP.

Staff meetings of command level traffic personnel are conducted on a routine basis wherein monthly activity (arrest, accident, and strategy) is discussed. Special Analytical Report No. 3, also prepared by the New Orleans ASAP, is discussed at this staff meeting.

In discussing the alcohol-related crash data developed by the New Orleans ASAP, this investigator was advised by the ASAP commander that "most (officers) feel that it is of some value to them, but others seemingly fail to recognize it as a significant aid to them."

Evidence gathered by officers during the detection stage of drunk-driving enforcement is generally limited to observations by the arresting officer of erratic driving as well as detecting an "open bottle" within the suspect's auto. The clues generally employed in the detection of DWI offenders are (1) weaving (2) red light violation (3) stop sign violation, and (4) general erratic driving.

In addition to officer observation, arresting officers may also use the Borg-Warner A.L.E.R.T. (pre-arrest screening device). When this device is employed, officers record the results of the pre-arrest breath screening on the DWI Field Screening Test Form (Fig. 7-3) and the Officer's Daily Activity

Sheet (Fig. 7-7). These documents are retained by the ASAP unit and are non-evidentiary documents, serving only as an aid to arresting officers.

Conclusions: The New Orleans Police Department, at the operational level, implemented strategies based on pre-conceived ideas and impressions, making a token effort to bring enforcement activity in step with the analytical findings prepared by the New Orleans ASAP. But beneath that, no significant change has been realized in the detection phase of the DWI enforcement.

Recommendations: A closer working relationship between the evaluation staff of the New Orleans ASAP and the New Orleans Police Department should be instituted wherein patrol strategies and deployment can be developed and documented in such a way as to encourage the New Orleans Police Department to develop alcohol-related accident analysis information for use throughout the New Orleans Police Department.

Section 2 - Apprehension

Surveillance of high probability areas such as (1) areas of heavy traffic, (2) areas containing large numbers of bars, and (3) areas containing the most dangerous intersections is conducted by officers assigned to ASAP patrol. It was determined by the results indicated on ASAP squad spot maps that these areas show a greater propensity for DWI arrests in alcohol-related crashes. The spot maps are maintained by this unit in the roll-call room of the New Orleans Police Department. Neither roadblocks nor the surveillance of known offenders is utilized as a countermeasure of the New Orleans Police Department.

Officers are expected to use "best judgment" concerning the pursuit of a suspected DWI offender. No written policy on pursuit or "hot pursuit" exists. A policy statement is being prepared in light of a recent multi-injury fatality chase that occurred shortly before this site visit in the French Quarter. Should a suspect fail to stop, and speed is not a factor, officers are instructed to enlist the assistance of additional units which are utilized to "block streets" and apprehend the suspect.

When an officer stops a suspected offender, he utilizes either the flashing beacon, siren, horn, headlights, or PA system or a combination of

these systems. The arresting officer then issues a radio message containing his location, the vehicle license number and a description of the vehicle. Checks against data files to ascertain possible "wanted" information on both the license tag and the driver's name are automatically conducted by the dispatcher. An officer may arrest without a warrant if a radio transmission confirms "wanted" status for misdemeanor offenses.

ASAP units operate two-man squad cars. One officer approaches the suspect's vehicle from each side of the vehicle. The officer makes a determination concerning the operator's state of sobriety by observing the suspect's appearance, detectable odor of intoxicating beverage, behavior, physical coordination tests, pre-arrest screening device, and noticeable speech impairments. Upon conclusion of the driver interview and the physical coordination tests, the officer generally makes the decision whether to place the suspect under arrest or not to arrest. Van operators and transporting officers (when available) are dispatched to the scene to administer the evidentiary test and provide transportation to the lock-up. These officers generally respond voluntarily or at the request of the arresting officer.

The offense of DWI constitutes a misdemeanor within this jurisdictional area.

A third offense conviction can result in hard labor at the State Penitentiary.

Physical force in order to subdue a suspected DWI offender is restricted to "only that force necessary to overcome the resistance". Deadly force may be used only to protect the lives of officers or other civilians.

Generally the assisting officer, or back-up officer, transports the offender's vehicle, serves as witness, transports the offender to the lock-up or, on occasion, transports passengers.

The arresting officer has complete discretion in his decision to arrest for the offense of DWI and his immediate supervisor exerts no influence on the arrest decision.

Prior to being placed under arrest, a suspect is not advised of either the Constitutional rights or Implied Consent statute. After having been placed under arrest, the suspect is advised both his Constitutional rights and the provisions of the Implied Consent statute.

Officers do not have the option to reduce the charge of DWI to a lesser one; this can be accomplished only by the authority of the Assistant City Attorney.

Officers have no broad authority in searching the offender's vehicle and can conduct a search only if probable cause has been previously established to warrant such search. Should the search yield evidence of other unrelated crimes, the suspect may be charged with these additional offenses.

Conclusions: The apprehension configuration utilized by officers of the New Orleans Police Department appears adequate to meet the needs of that law enforcement agency.

Recommendations: None.

Section 3 - Transporting Persons and Property

Prior to being transported, all suspected DWI offenders are subjected to a pat-down frisk. If there is evidence that the suspect has a concealed weapon, he is handcuffed and transported to the lock-up, where a strip search is conducted. Female offenders are searched only by female officers. Generally, arresting officers take custody of the female suspect's purse at the scene of arrest and check it for weapons. It is not normal procedure to handcuff a prisoner prior to placing him into the police vehicle unless the offender is disorderly or is a felony suspect.

The suspect is usually seated immediately behind the driver, when the arresting officer transports the suspect. One officer rides the rear seat with the suspect and completes paper work enroute to the evidentiary testing site or lock-up. ASAP patrol vehicles are not equipped with protective shields or screens; however, patrol cruisers of the regular (non-ASAP) patrol officers are so equipped. The arresting officer does not generally transport this prisoner to the testing facility. The transport of the prisoner is generally accomplished by utilizing a patrol wagon or "cage car" (a patrol car with a protective screen). There is usually a 10-minute wait

for the arrival of the patrol wagon or "cage car". The average distance of transport is three miles.

In transporting a DWI offender, a radio message is issued by the arresting officer, cage car, or patrol wagon giving destination and location from which the transport will take place, mileage, and sex of prisoner. The dispatcher then responds with the time and, when notified of the arrival of the unit, again gives a time signal. The procedure is the same for females, juveniles, and male adult prisoners.

An inventory search of an offender's vehicle may not be conducted. Should it be necessary to impound the offender's vehicle, the auto is normally stored at the police impound lot which is a secured area, manned 24 hours per day. Government operated towing services are utilized of which 20 are at the disposal of the ASAP patrol unit. Their average response time is 15 minutes.

Conclusions: The transporting persons and property configuration utilized by officers of the New Orleans Police Department appears adequate to meet the needs of that law enforcement agency.

Recommendations: It is recommended that these procedures be continued.

Section 4 - Incarceration

Once the offender has undergone the evidentiary testing he is, as a rule, incarcerated and is eligible to post bond. Subjects so incarcerated are not fingerprinted or photographed.

Juvenile offenders are generally released to parents and the case is referred, by report, to the Juvenile Division. The Juvenile Division may or may not refer the case to the Juvenile court, depending upon the seriousness of the offense and the prior record of the individual's violations.

Offenders are cleared against local, regional, and national computer networks containing criminal records information.

The usual amount of bond set for the first offense for DWI is \$150. The bond for second or subsequent offenses of DWI is the same. This amount has been set by the municipal judges.

Immediately upon completion of the booking process, suspects are eligible to post bond and may, if necessary, use the services of a bail/bondsman. Telephone numbers of bail/bondsmen are posted conspicuously in the booking area.

There is no sober-up period during which the DWI offender must remain confined.

Prior to incarceration, the prisoner is subject to an extensive search of all clothing. All personal effects and valuables are removed, inventoried, placed into sealed envelopes and held in a special property room located within the security area. The security area is supervised 24 hours a day. All personal effects removed from the suspect are returned upon his release.

The jail is staffed with police personnel, who hold all key positions within the incarceration facility. Corrections officers, both male and female, are also employed and utilized as jail personnel in the positions of guards and property room attendants. A physician makes a daily visit and is on-call 24 hours a day.

DWI offenders are examined visually for signs of illnesses by the correction staff when the prisoner is received. If the suspect appears to be hurt or ill (or if he complains of pain), he is refused by the incarceration facility and must therefore be taken, by the arresting officer, to a hospital for treatment.

DWI offenders are confined in a dormitory-type cell which is shared with others. The cell has been specifically designated for traffic offenders only. Male and female offenders are segregated. The jail facility is maintained in a sanitary and hygienic state.

Conclusions: The incarceration configuration utilized by officers of the New Orleans Police Department appears adequate to meet the needs of that agency. Most impressive within the incarceration configuration is the fact that the entire jail facility is controlled through the use of electronic data processing which directly links the booking facility to the local, regional and national information centers. In addition, the electronic data processing will also produce, automatically, all

necessary paper work and documents as the subject proceeds through the booking process.

Recommendations: None.

Section 5 - Testimony and Adjudication

Pre-trial conferences are generally conducted between the arresting officer, prosecutor, and defense attorney. The arresting officer is not required to be present at arraignments.

The schedule of the officer's court appearances is generally set by the court. Approximately 20 days per month are spent in court on off-duty days by members of the New Orleans ASAP patrol. The average amount of overtime per officer per month is approximately 4 hours and is directly attributable to court appearances. Officers are compensated at the rate of 1½ times their hourly wage for overtime accrued in this manner.

The arresting officer's testimony in DWI cases is generally limited to the particulars of the case and the defendant's BAC. In addition, the suspect's physical coordination tests and the results of the evidentiary tests are introduced into evidence by the arresting officer.

Municipal traffic courts hear DWI cases. Judges are elected for a term of six years and must be practicing attorneys. No separate courtrooms have been set aside for DWI prosecutions.

DWI trials are normally conducted before a judge only, as the offender does not have a choice between a jury trial or a trial before a judge.

Plea bargaining is a routine procedure and the arresting officer is, on occasion, consulted before a decision is reached. The general nature of the reduced charge in plea bargaining cases is "reckless driving" and the penalty assessed is a \$50 to \$75 fine. Plea bargaining is not employed with second or subsequent DWI offenders.

The ASAP has provided two prosecutors for the use in DWI prosecutions. These prosecutors have been extremely helpful to law enforcement in the prosecution of DWI cases.

Civilian witnesses are not generally summoned to testify in DWI cases.

Judges have a tendency to be lenient in cases where the BAC result is .15% or lower; in such cases, according to ASAP enforcement personnel, plea bargaining becomes frequent.

Conclusions: During the time of this site visit, there existed a very sensitive controversy between the ASAP law enforcement personnel and project management of the New Orleans ASAP regarding the amount of off-duty time arresting officers were spending in court and the manner in which they were being compensated for these off-duty appearances. As a result of this controversy, this investigator suspects that enforcement personnel tended to overstate court requirements and problems in effecting DWI convictions and project management of the New Orleans ASAP tended to understate the requirement. This investigator was also advised by ASAP project management that negotiations were in progress between the New Orleans ASAP and the New Orleans Police Department utilizing the assistance of regional DOT/NHTSA representatives and that the pursuit of this subject matter during the course of this site visit could cause irreparable damage to the ongoing negotiations. This investigator honored the request of the project director of the New Orleans ASAP.

Recommendations: As stated in the patrol strategies and deployment report for the New Orleans ASAP, the controversy regarding ASAP officer court appearances must be resolved at the highest level and as soon as possible. It is recommended that regional and national DOT/NHTSA representatives closely monitor these negotiations, as court appearances can directly affect the arrest productivity of the officers of this site and, if resolved unfavorably, could cause severe damage to ASAP enforcement objectives.

New Orleans Police Department
DWI FIELD SCREENING TEST REPORT FORM

DATE _____ TIME _____ LOCATION _____ MACHINE NO. _____
ALERT OPERATOR _____ ASSIGNMENT _____
ARRESTING OFFICER _____ VIOLATION(ORD. NO.) _____
VIOLATOR'S NAME _____ RACE _____ SEX _____ DOB _____
INSTRUMENT CHECK LIST (Last, First, Middle Init)

1. Subject:
_____ Time since last drink _____ (15 minutes)
_____ Foreign matter in mouth _____ (5 minutes)
_____ Time since last smoke _____ (5 minutes)
_____ Check if non-smoker _____
2. START Switch on:
_____ On lamp on
_____ WAIT lamp on
3. Ready:
_____ WAIT lamp off
_____ READY and ON lamps on
_____ BATTERY lamp off
4. Conduct test:
_____ "Take a deep breath and blow hard continuously until I tell
you to stop." (Until TEST and READY lamps go out)
5. Results:
_____ Wait 20 seconds for reading
_____ Record time of test: _____
_____ Circle result: Pass Warn Fail Released
6. Shut down:
_____ Turn off, discard mouthpiece

TEST REFUSAL Yes _____ No _____

ACCIDENT: Property Damage: Yes _____ No _____ Injury: Yes _____ No _____

Fatality: Yes _____ No _____

ITEM NUMBER _____ DWI ARREST: Yes _____ No _____

BAC (If known) _____ ASES Assisted with DWI: Yes _____ No _____

INSTRUMENT FAILURE (Describe) _____

MAINE (CUMBERLAND & YORK COUNTIES)

Section 1 - Detection

Analysis of A/R crashes is not a criterion in the Maine ASAP personnel assignment. Law enforcement personnel (Maine State Police) roam their respective communities or assigned patrol area at will, preferring to rely on their own knowledge of "where to look for Drunk Drivers."

The availability of accurate A/R accident information is questionable. The standard State of Maine Police Traffic Accident Report (Fig. 8-19) does provide for the officer to mark on the report:

- Been drinking alcohol
- Under the influence of alcohol
- Under the influence of drugs

A Monthly Fatal Accident Analysis (Appendix A; Exhibit 8c) and Fatal Accident Summary for 1973 (Appendix A; Exhibit 8d) are prepared by the Bureau of State Police; they are not specific in terms of identifying location. Of particular interest within each Exhibit is the large number of accidents which list as their causative factor "Inattention to Driving Conditions" (Careless Driving).

The standard clues in identifying or detecting the person operating under the influence are used, and are listed in Section II of the Operating while Impaired by Intoxicating Liquor Manual (Appendix A; Exhibit 8a). Evidence necessary to prove the offense is also listed in the above documented manual - Section III.

During the detection phase, no other mechanical or documentary means are employed.

Conclusions: Interviews with law enforcement officers revealed that contributing circumstances or "condition of driver" are seldom if ever checked on the standard State of Maine Traffic Accident Report unless the driver is arrested for operating under the influence (OUI). In addition, each officer within this jurisdiction is "supposed" to keep up with the accidents occurring within his area. This requires initiative on the part of the arresting officer and, according to law enforcement officers interviewed, is seldom done.

The enforcement coordinator (in addition to each law enforcement agency in the state) receives a report entitled the First Report of Fatal. This report is received by the enforcement coordinator generally within hours or days of the fatal crash. It is procedure within the ASAP for the enforcement coordinator to review the report, newsprint, if any, and file the report. The coordinator was asked if this information is forwarded to the ASAP officer in who's area the crash occurred for his review. The response was negative; the reason given that each agency gets a copy via teletype and the officers review it there. Law enforcement officers (both ASAP and non-ASAP) admitted they did not check the teletype on a regular basis and that they did not have ready access to other accident information.

Recommendations: It is recommended that a standard procedure be established whereby the contributing circumstances leading to the accident (drinking alcohol, under the influence of alcohol, under the influence of drugs,) would be marked on the State of Maine Traffic Accident Report, by the arresting officer, in all accidents regardless of whether the driver is charged with the drinking offense or not.

The management staff of the Cumberland and York County ASAP should forward a copy of the First Report of Fatal accidents to the ASAP officer in the area where the crash occurred for his review. This action would enable arresting officers, participating in the ASAP, to be aware of the alcohol related crash activity within their area of O.U.I. patrol.

In the opinion of this investigator the volume and frequency with which this causative factor is used suggests that officers are not practicing sound accident investigation techniques to identify the specific cause of the accident or the officers do not have a good working knowledge of the statutes and therefore cannot be specific. The result of this action is relatively meaningless accident and causative analysis; and the misplacement of enforcement priorities.

Section 2 - Apprehension

Roadblocks are authorized but not used, and the majority of OUI detections and apprehensions result from patrol observations.

Under normal conditions "hot pursuit" of an OUI offender is authorized at this site. As a general rule pursuit can continue until the hazard of pursuit becomes greater than the hazard of the violation, in which case the pursuit ceases. During the normal patrol, officers are required not to exceed three to five mph over the posted speed limit and not to exceed 20 mph over the posted speed in responding to emergency calls.

Once the violator has been stopped, the officer originates a radio message giving the following information:

- Location
- License tag number of violator.

Vehicle and driver wanted checks are conducted automatically by the dispatcher. (As a general rule, back-up assist officers are not dispatched to the scene of arrest.)

An interview with the driver is conducted and observations are made of the drivers condition. These observations are listed in detail in Section IV of Operating While Impaired by Intoxicating Liquor.

Roadside physical coordination tests are optional for each officer and no criteria exist for when they will be given and when they will not be given.

Upon conclusion of the driver interview and roadside tests (if given), if the arresting officer suspects alcohol involvement, he places the subject under arrest and advises the subject of his Constitutional rights by reading from the state-approved card (Fig. 8-18). Upon completion of the Miranda warning the arresting officer reads (in its entirety) the Maine State Police Refusal Form (Fig. 8-4), which advises the suspect of provisions of the Implied Consent statute.

The subject is given the choice of either of two tests to determine blood-alcohol concentration (BAC) - breath or blood - and advised of his right to consult a physician of his choice. Should the subject choose the breath test, the evidentiary test will be administered at that time utilizing the Sober-Meter. (See Figure 8-7.)

Upon collection of a satisfactory sample the evidentiary box is sealed and deposited at a chemist laboratory approved by the Department of Health

and Welfare, State of Maine, for analysis.

It is the chemists duty to report the BAC level to the officer via mail who in turn must advise the subject via registered mail.

The above is also true for blood tests. The procedure differs from breath testing only in that the subject must be transported to a registered medical technician or a physician to extract the blood sample, utilizing the state-approved Blood Alcohol Kit (Figures 8-8 and 8-9).

Non-ASAP Sony 3400 video tape equipment is available for use by the Maine State Police to record the apprehension phase of the arrest process and Super 8mm color movie film is available for use by the Westbrook Police Department for the same purpose. This equipment is not generally used and the resultant films have never been introduced as evidence in ASAP OUI cases.

Conclusions: None.

Recommendations: None.

Section 3 - Transporting Persons and Property

Officers transport prisoners utilizing their patrol vehicles. As a rule prisoners are not handcuffed during the transporting phase. Each vehicle is equipped with a protective shield to assure officer/driver safety.

When transporting female or juvenile prisoners to the booking facility, the officer normally will originate a radio message containing the location from which he is transporting and the mileage. Upon arrival at the booking facility he will again originate a radio message containing exact location and mileage.

Vehicles are generally locked and left at the scene of arrest, unless the driver specifically requests a tow service to remove his auto. Officers are to use their best judgement regarding vehicle impounds, bearing in mind the requirement to safeguard the property of the offender. (See Appendix A; Exhibit 8a: Section VII - Protections Considerations.)

Conclusions: None.

Recommendations: None.

Section 4 - Incarceration

All OUI offenders are fingerprinted and photographed upon arrival at the incarcerating facility. Prisoners receive a thorough "shakedown" search prior to incarceration which may also involve a "strip search" should narcotics be suspected.

No additional reports and/or legal papers are required to be completed by the arresting officer prior to the incarceration of the offender.

All personal property seized from the offender during the pre-incarceration search is stored and retained by the incarcerating facility in a locked property room. The offender receives a receipt listing all personal property seized.

Formal medical examinations of prisoners by paramedics or physicians is not conducted at the time of incarceration. Arresting officers as well as personnel of the incarcerating facility will make a visible check of suspects, looking for visible signs of injury or illness. Officers will also note complaints of pain. In the event of "complaint of pain" or visible signs of injury and/or illness the subject will be transported to a local hospital facility where a formal examination will be conducted prior to the offender's incarceration.

All subjects arrested for the offense of OUI are given the opportunity to call for legal council. A telephone is provided in the incarceration facility for this purpose.

A sobering up period is not required. All OUI offenders are eligible for bail immediately upon completion of the booking process. The amount of bail is established by the bail commissioner and generally for the first offense of OUI the required bail is \$150. Bail/bondsmen are not allowed to solicit in the jail area and their phone numbers are conspicuously posted there and available to prisoners in the incarceration facility.

Conclusions: Incarceration configuration currently in use by the participating law enforcement agencies of the Maine ASAP appear to be adequate to meet the needs of these agencies.

Recommendations: It is recommended that the use of this configuration continue.

Section 5 - Testimony and Adjudication

Pre-trial conferences are generally conducted within the jurisdictional area of the Maine Alcohol Safety Action Project. These conferences are generally attended by the defense attorney and the Maine ASAP prosecutor. Arresting officers do not have to be at pre-trial conferences, although their presence is desirable. As a general rule the arresting officer does not attend this pre-trial conference.

Arresting officers are required to be present at the trial of offenders for the offense of OUI. The arresting officer's attendance at the trial is mandated by court procedure. The arresting officer is generally notified by "court slip" and should the trial date occur on a scheduled day off the arresting officer will be compensated for his court appearance at the rate of one and one-half times his normal salary.

As a rule arresting officer presents all pertinent evidence against the offender charged with an OUI offense. This testimony generally consists of pertinent evidence and BAC results. It is not uncommon for a continuance of the case to be granted so that the chemist who actually conducted the analysis of the bodily substance for blood alcohol content could be summoned to testify. No other civilian witnesses are summoned to testify in OUI cases. Should it be necessary to subpoena a civilian witness for an OUI offense the arresting officer must initiate the request for summons. Civilian witnesses are compensated for their court appearance by a fee of \$10.

All driver's licenses hearings are conducted exclusively by the State of Maine. The criminal prosecution of OUI cases does not concern itself with matters involving drivers licensing.

The District Court of Maine presides over OUI cases effected by officers assigned to ASAP enforcement. Judges are appointed by the governor for seven year-terms which are renewable. All judges so appointed are members of the Bar Association of Maine, however, appointments for the position of judge are at the exclusive discretion of the governor.

No special court rooms have been set aside specifically to hear OUI cases.

Conclusions: In an interview conducted with officer A. Rielly of the Portland Police Department, court officer for the District Court of Maine, this investigator was advised that the quality of testimony on the part of the ASAP officer was "good...after they had a few [cases] under their belt. Give them a little more time and they become professional about it." When asked if judges took note of the Breathalyzer results this investigator was advised;

"it depends, even now (many times) when persons will come in and plead guilty to charge of OUI and the judge won't accept the plea until he finds out what the test results are..."

Officers at this site have difficulty in obtaining conviction on subjects who register a BAC result of below .10%. According to sources interviewed they experience:

"a lot of difficulty up to .14% and .15% they look at it with a jaundice eye. We've had them blow cases, the highest one I recall is a .37%. I don't know the disposition of this case but I know they lost a lot of them in superior court or jury trials."

Recommendations: Difficulties within the Judicial Countermeasure were repeatedly cited, specifically in the area of court referrals to the ASAP program. It is recommended therefore that the management staff of the Maine Alcohol Safety Action Project enlist the assistance of the Regional Department of Transportation Representative in establishing judicial seminars and generally review, in an organizational and development context, the judicial countermeasure in its entirety

MAINE STATE POLICE

REFUSAL FORM

Date _____ Time _____
(of offense)

PROCEDURE ON ARREST

MIRANDA WARNING at appropriate time.

You are under arrest for operating a motor vehicle while under the
 attempting to operate influence of intoxicating liquor.

THE FOLLOWING WARNING MUST BE GIVEN TO COMPLY WITH IMPLIED CONSENT LAW:

You are entitled to a blood or breath test for the purpose of determining the alcoholic content of your blood. You must select and designate either the blood or breath test.

I must advise you that your refusal to take one of these tests, blood or breath, requested by me, will result in your license and/or right to operate being suspended. Such suspension shall be for a period of 3 months in the case of a first refusal or 6 months in the case of a second or subsequent refusal under the current law or any prior implied consent provision under Maine law.

The expenses for any test taken at my request will be paid for by the State.

The results of any test taken will be made available to you or your attorney, if requested.

-----DO NOT DETACH-----

Having been advised of the consequences for refusal to take a blood or breath test at the request of the arresting officer, I do not wish to submit to either a blood or breath test.

Signature of Person Arrested and Refusing Tests

-----DO NOT DETACH (This complete form is to be submitted to the MVD)-----

The undersigned officer arrested _____ DOB _____

Print Full Name

of _____
Street Town State

for operating a motor vehicle while under the influence of intoxicating
 attempting to operate liquor.

After being advised of the tests available and the consequences of refusal to submit to such tests, I was advised by this person that he refused to submit to any such tests, and, therefore, none was given.

Signature of Arresting Officer

Subscribed and sworn before me.

Department

Notary Public/Justice of the Peace

DIRECTION CHECK LIST SM-7 SOBER-METER[®] - WITHOUT SCREENING TESTER

- Before testing avoid smoking and wait 15 minutes after an alcoholic drink.
- Remove caps from ends of collection tube (tube with the white chemical) and attach the square plastic volumetric bag.
- Attach collection tube to balloon's clear plastic sleeve.
- Direct subject to inflate balloon with full, continuous, uninterrupted breaths. Waste first part of breath from each new expiration into waste bag to allow the last part of a prolonged expiration to enter balloon. (Squeeze the air out of waste bag before each new breath.) Repeat this procedure as needed to fill balloon to about a 9 inch diameter.
- Immediately remove collection tube and volumetric bag from balloon when volumetric bag is full.
- Replace all caps securely, seal carton and fill out data required.

LUCKEY LABORATORIES, INC.
San Bernardino, California 92404
Patents Granted

Signature of Officer

Figure 8-7

INSTRUCTIONS FOR THE POLICE OFFICER

- 1 Fill in **POLICE OFFICER'S REPORT**.
 - 2 Put date and time on **CONSENT FORM** and have Subject sign it.
 - 3 Fill in **BLOOD COLLECTION REPORTS**.
 - 4 Qualified blood collector must cleanse the site of blood withdrawal with swab provided in this kit.
 - 5 Immediately after blood collection, assure proper mixing with anticoagulant powder by slowly and completely inverting the tubes at least five times. **DO NOT SHAKE VIGOROUSLY!**
 - 6 Fill in completely all four **SEALS**.
 - 7 Seal each **VACUTAINER** tube with completed **SEAL**. Press center of **SEAL** atop rubber stopper, then firmly press ends down sides of **VACUTAINER** tube.
 - 8 Place sealed tube(s) in the original box. Each end is to be sealed with a completed **SEAL**.
 - 9 Make first entry in **CHAIN OF POSSESSION** record on box, slide into cardboard mailer and send to lab.
- NOTE:** Local jurisdictions may require different procedure.

PC-930-4-69

SEAL SEAL

NAME OF SUBJECT _____

NO. COLLECTOR'S INITIALS _____

POLICE OFFICER'S INITIALS _____

DATE _____ TIME _____

SEAL SEAL

BLOOD COLLECTION REPORT

SUBJECT'S NAME AND ADDRESS _____

DATE AND TIME OF INCIDENT _____

PLACE OF BLOOD COLLECTION _____ DATE _____ TIME _____

I hereby certify that I drew blood samples from the above named person.

SIGNED _____ DATE _____

I hereby certify that I have witnessed the actual withdrawal of blood from the above subject by the person whose signature appears above.

SIGNED _____ DATE _____

DATE AND TIME OF DELIVERY TO LAB AND TO WHOM _____

HOW DELIVERED AND BY WHOM _____

DATE TEST MADE _____ RESULT _____ REMARKS _____

Figure 8-8

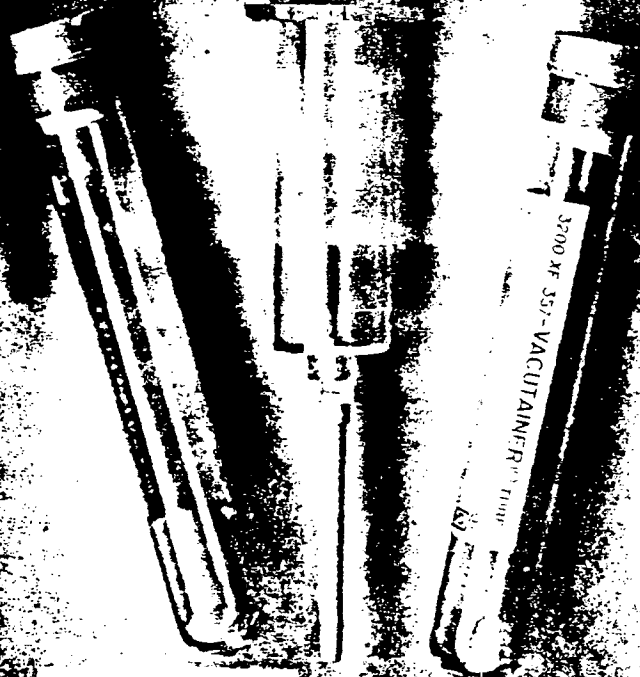


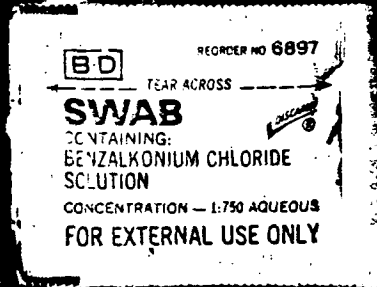
Figure 8-8 148

CONSENT FORM

I have granted permission for blood samples to be taken.

SIGNATURE OF SUBJECT _____

Figure 8-10



SEAL HERE

L-03151

POLICE OFFICER'S REPORT

NAME OF SUBJECT _____
OFFENSE _____
DATE OF INCIDENT _____ TIME _____ AM-PM
POLICE OFFICER _____
DATE BLOOD DRAWN _____ TIME _____ AM-PM
LOCATION OF DRAWING _____
BLOOD DRAWN BY _____

CHAIN OF POSSESSION

RECEIVED FROM _____
BY _____
DATE _____ TIME _____ AM-PM
↓
RECEIVED FROM _____
BY _____
DATE _____ TIME _____ AM-PM
↓
RECEIVED FROM _____
BY _____
DATE _____ TIME _____ AM-PM

**LABORATORY REPORT
ON THE BLOOD SPECIMEN**

Blood Alcohol content of Blood in terms of Percent (Grams of Ethyl Alcohol per 100 ml of Blood)

SEAL HERE

Figure 8-9

MIRANDA WARNING

"I am a Police Officer. I caution you that you have an absolute right to remain silent.

That anything you do say can be used in a court of law against you;

That you have the right of the advice of a lawyer before and the presence of a lawyer here with you during questioning, and

That if you cannot afford a lawyer, one will be furnished you free before any questioning if you desire."

(This warning must be given to all persons detained for questioning)

WAIVER

After the warning and in order to secure a waiver, the following questions should be asked and an affirmative reply secured to each question.

1. Do you understand each of these rights I have explained to you?
2. Having these rights in mind, do you wish to talk to us now without having a lawyer present?

Compliments of CRIMINAL DIVISION,
ATTORNEY GENERAL'S DEPT.

Figure 8-18

STATE OF MAINE
POLICE TRAFFIC ACCIDENT REPORT

DO NOT WRITE IN THIS SPACE ACCIDENT NUMBER	TIME AND LOCATION -		City or Town		County		<input type="checkbox"/> Business <input type="checkbox"/> Rural <input type="checkbox"/> Built-up	
	IN	No. of Highway	and	Or - Name of Street or Highway	Time of Accident	Day of Week	Month	Year
	ON	Between sign post numbers	and	Distance from accident	To sign post no.	Or - Distance in Miles and Tenths to Landmark		Circle One
AT			Miles	Tenths				SE EW

VEHICLE 1 -				INJURY DATA						
DRIVER OF CAR - Name		Street Address		City or Town		SEX	AGE	BELT	EJECT	INJUR
State	Date of Birth		FRONT CENTER - Name		City and State		1			
Condition of Driver was (1) <input type="checkbox"/> apparently normal (2) <input type="checkbox"/> been drinking alcohol (3) <input type="checkbox"/> under influence of alcohol (4) <input type="checkbox"/> under influence of drugs (5) <input type="checkbox"/> asleep (6) <input type="checkbox"/> fatigued			FRONT RIGHT				2			
License No.		Restrictions on License		REAR LEFT				3		
Make		Did complete Driver Education Course		REAR CENTER				4		
		No <input type="checkbox"/> Yes <input type="checkbox"/> Year		REAR RIGHT				5		
Vehicle - Registration		State								
Color	Year	Make	Type	Manufacturer's I. D. No.		Vehicle failure contributing to accident		MPUC Registration No.		
						No <input type="checkbox"/> Yes <input type="checkbox"/>				

VEHICLE 2 -				INJURY DATA						
DRIVER OF CAR - Name		Street Address		City or Town		SEX	AGE	BELT	EJECT	INJUR
State	Date of Birth		FRONT CENTER - Name		City and State		1			
Condition of Driver was (1) <input type="checkbox"/> apparently normal (2) <input type="checkbox"/> been drinking alcohol (3) <input type="checkbox"/> under influence of alcohol (4) <input type="checkbox"/> under influence of drugs (5) <input type="checkbox"/> asleep (6) <input type="checkbox"/> fatigued			FRONT RIGHT				2			
License No.		Restrictions on License		REAR LEFT				3		
Make		Did complete Driver Education Course		REAR CENTER				4		
		No <input type="checkbox"/> Yes <input type="checkbox"/> Year		REAR RIGHT				5		
Vehicle - Registration		State								
Color	Year	Make	Type	Manufacturer's I. D. No.		Vehicle failure contributing to accident		MPUC Registration No.		
						No <input type="checkbox"/> Yes <input type="checkbox"/>				

PEDESTRIAN IDENTIFICATION -				INJURY DATA				
<input type="checkbox"/> Ped <input type="checkbox"/> Bike <input type="checkbox"/> Sled	Name	Street Address		Date of Birth		SEX	AGE	INJUR
City or Town		State	Does ped have license		Please specify obvious physical defects of pedestrian			
		No <input type="checkbox"/> Yes <input type="checkbox"/>						
Condition of Pedestrian was (1) <input type="checkbox"/> apparently normal (2) <input type="checkbox"/> been drinking alcohol (3) <input type="checkbox"/> under influence of alcohol (4) <input type="checkbox"/> under influence of drugs (5) <input type="checkbox"/> fatigued			What Pedestrian Was Doing (1) <input type="checkbox"/> Walk with Trail (2) <input type="checkbox"/> Not on Roadway (3) <input type="checkbox"/> Walk Aq. of Trail (4) <input type="checkbox"/> Other		(5) <input type="checkbox"/> Cross or Enter at Intersection (6) <input type="checkbox"/> Same Not at Int			

INVESTIGATION DATA -				
TIME OF ACCIDENT		Month	Date	Report Approved by
Time Noted	Date Noted			Date
Investigating Officer - Signature		SP Code No	SP Station No	Troop or Department
Injured Taken to		Name		City and State
Vehicle 1 -		Vehicle 1 -		
Vehicle 2 -		Vehicle 2 -		

CODES -	
SEAT BELT USED	EJECT
1 Belt Installed - Was Used	1 No
2 Belt Installed - Not Used	2 Yes
3 Belt Not Installed	
INJURY (Use Only Most Serious)	
A - Dead before report made	
B - Bleeding wound, distorted member, or had to be carried from scene	
C - Other visible injury or obvious abnormal working lumping etc.	
D - No visible injury but momentary unconsciousness or complaint of pain	
E - No indication of pain or injury	

Figure 8-19

MARYLAND (BALTIMORE)

Section 1 - Detection

The Planning and Research Traffic Analysis Section of the Baltimore Police Department is charged with the responsibility of alcohol-related crash analysis. The Section prepares a monthly summary, by district, of all alcohol-related crashes giving location, date, day, time and severity.

This Section also prepares a monthly summary, entitled "Summons Issued for Ability Impaired." These reports are forwarded to the Sergeant of the Alcohol Traffic Safety Unit (ATSU) at 30-day intervals, to be used as a guide in the assignment of ATSU personnel.

Officers are briefed as to the high accident incident occurrences within their assigned areas, but they are not required to concentrate on those areas during their tour of duty. No analysis of the effect on alcohol-related accidents during the time assigned in the patrol area is conducted. The officers assigned to the ATSU unit prefer to rely on personal knowledge and experience in seeking out areas where the opportunity of effecting a DWI arresting is the greatest. This unit employs the conventional "clues" (e.g., weaving in roadway, crossing center line, etc.) in suspecting the DWI offense. However, the large volume of traffic citations issued by this unit suggests that a substantial portion of DWI and ability-impaired offenses are the result of traffic enforcement activity and not that of selected DWI enforcement.

To support the offense of DWI, it is necessary that probable cause be established. Probable cause effecting the detection phase generally involves a violation of a hazardous moving violation. This information is on the officer's report to be used for testimony in court.

No other mechanical or documentary means are employed to corroborate the detection function.

The Maryland State Police is experiencing considerable difficulty in obtaining accurate and timely information relating to the alcohol-related crash activity within its jurisdictional area.

Early in 1974, the Baltimore Alcohol Safety Action Project provided this unit with copies of all accident statistics occurring within their

jurisdictional area. The ASAP officers sorted these accidents by hand and posted all alcohol-related accidents on a departmental sectional map. The data gathered constituted this unit's only source of information with which it was able to determine deployment strategy.

Conclusions: The law enforcement officers assigned to the Baltimore ASAP enforcement countermeasure prefer to rely on personal knowledge and experience in seeking out areas where the opportunity of effecting a DWI arrest is the greatest.

This unit employs the conventional "clues" in suspecting the DWI offense; however, the large volume of traffic citations issued by the officers suggest that the substantial portion of DWI and ability-impaired offenses are the result of merely traffic law enforcement and not that of a selective DWI effort.

Recommendations: It is recommended that the officials of the Baltimore ASAP provide the participating law enforcement agencies with accurate and timely alcohol-related crash and arrest activity in such a manner as will be useful and beneficial to the participating law enforcement agencies in developing a patrol deployment and strategy plan.

Section 2 - Apprehension

Officers of the Baltimore City Police Department, under normal conditions, gain the driver's attention by utilizing flashing blue lights and electronic sirens.

When he becomes aware of the officer's request for him to stop, the offender normally stops to the right of the roadway. The officer positions his vehicle to the rear and slightly to the left of the suspect's vehicle. ("Hot pursuit" of a DWI offender is not authorized. Officers are requested to use good judgement and police radio in apprehending a DWI offender who attempts to elude.) No communication is transmitted unless the officer effects an arrest or issues a citation.

An interview of the suspect-driver is conducted; the officer makes the following observations:

- Appearance of driver

- Driver's manner of speech
- Odor of alcoholic beverage
- Driver's coordination ability

When the officer suspects alcohol involvement, the decision to arrest the subject is made to the extent the driver is impaired. The driver-offender is so advised. At this time, the arresting officer originates a radio communication containing the following elements:

- Location
- Description of vehicle
- Tag number
- Vehicle want
- Driver want
- Request for patrol wagon
- Request for video camera
- Request for tow truck for impound

(As a general rule, the officer does not have a back-up assist; however, occasionally another ATSU officer volunteers to assist. When this occurs, his function at the scene is primarily automobile impound.)

The driver-suspect is searched and detained in the patrol car until the arrival of the patrol wagon.

Officer of the Maryland State Police, under normal conditions, obtain the driver's attention by utilizing flashing blue lights and electronic siren.

The offender normally stops to the right of the roadway. The trooper positions his vehicle to the rear and slightly to the left of the suspect's vehicle. "Hot pursuit" of the DWI offender is not authorized. No communication is transmitted unless the trooper effects an arrest or issues a citation. An interview of the suspect-driver is conducted; the trooper makes the following observations:

- Appearance of driver
- Driver's manner of speech
- Odor of alcoholic beverage
- Driver's coordination ability

When the trooper suspects alcohol involvement, the decision to arrest is made to the extent the driver is impaired. The driver-offender is so advised. The arresting trooper then originates a radio communication containing the following elements:

- Location
- Description of vehicle
- Tag number

(As a rule, the officer does not have a back-up assist unless another ASAP unit volunteers.)

Driver and vehicle "warrants" are done automatically by the radio dispatcher.

Conclusions: The apprehension configuration utilized by the participating law enforcement agencies of the Baltimore ASAP appears satisfactory to meet the needs of these agencies.

Recommendations: The procedure currently being utilized should be continued.

Section 3 - Transport

Vehicles are always impounded by officers of the Baltimore City Police Department when the driver is taken into custody. Sober passengers in the auto are not given the opportunity to drive the vehicle home for the subject. The tow truck normally arrives on the scene within 10 minutes from dispatch. Baltimore utilizes citizen-owned and operated tow services licensed by the city. Each licensed tow service is assigned a zone to which he will respond.

The arresting officer (and/or back-up assist) completes the Baltimore Police Department's Form 72/5 Vehicle Report in the impounding of the suspect's vehicle. Upon arrival of the tow truck, the responsibility for the auto is passed to the tow truck driver by the latter signing the Form 72/5, Block Number 50.

While awaiting the arrival of the patrol wagon, the arresting officer completes his citation.

The patrol wagon arrives on the scene within 15 to 20 minutes. Upon arrival, the driver-suspect is removed from the patrol car, a second search

of the driver is conducted, and he is placed in the patrol wagon and transported to the central district, central testing unit (CTU).

When a subject arrives at the CTU, he is removed from the patrol wagon and escorted to the central testing unit. The subject is given a choice of taking either a blood test, a urine test or a breath test.

Subjects choosing either the urine test or breath test remain at the CTU until the completion of that test.

Subjects electing a blood test are placed in the patrol wagon and transported to the hospital where the blood test is administered.

After completion of the chemical test, the subject is placed back into the patrol wagon where he is transported to the district commissioner's office for formal charging.

After the hearing at the commissioner's office, the subject is again placed into the patrol wagon where he is taken back to the district in which he was arrested. There (as directed by the commissioner of the hearing), he will either be allowed to bond out, booked, or released on his own recognizance. In each case, the arresting officer must follow the patrol wagon to the central district, the hospital (if the driver elects the blood test), the district commissioner's office, and back to the district in which the driver was arrested.

The arresting officers of the ASAP unit have been advised by their superiors that they are not to transport offenders in their patrol cars.

In the case of a female driver-offender, the patrol wagon originates a radio communication giving the dispatcher the location from which he is transporting the suspect and the mileage. Upon arrival at the destination, the patrol wagon again originates a radio communication advising the dispatcher of the mileage.

Female offenders are not searched during the transporting phase of the arrest.

Officers of the Maryland State Police may or may not impound vehicles when the driver is taken into custody. The vehicle is impounded when it cannot be released to a responsible individual.

The procedure in securing a tow service is the same as that for the

Baltimore Police Department.

Storage of the auto is performed at the garage of the wrecker making the pick-up.

Responsibility for the auto is passed to the tow truck driver by the latter signing the Maryland State Police "Alcohol Influence Report".

Patrol wagons are not utilized by the Maryland State Police. The arresting officer searches the driver-suspect and places him in the patrol vehicle.

The driver-suspect is then transported to the valley barracks ASAP squad room for chemical testing, where he is given the choice of either a 1) blood test, 2) urine test, or 3) breath test.

If the driver-suspect chooses either the urine or breath test, another ASAP trooper is dispatched to the valley barracks to perform the test.

If the subject requests a blood test, the arresting officer calls the hospital and a registered nurse is sent to the valley barracks to withdraw the blood sample.

Upon conclusion of the chemical test, the driver-suspect is again transported by the arresting officer to the district commissioner's office for formal charging. Again, as is the case with the Baltimore Police Department, the commissioner generally releases the driver-offender on his own recognizance.

The arresting officer then transports the driver-offender back to the district in which he was arrested. At this point, the offender is either released or required to post the designated bond.

In the case of a female offender, the arresting officer must originate a radio communication giving his location and mileage.

Female offenders are not searched during the transporting phase of the arrest process.

Both in the case of the Baltimore Police Department and the Maryland State Police, juvenile offenders (anyone under the age of 18) are not chargeable under the offense of DWI. They are immediately released to their parents and their cases are referred to juvenile court by report.

Conclusions: The transporting persons and property configuration utilized by the participating law enforcement agencies of the Baltimore ASAP appears to meet the needs of the participating law enforcement agencies.

Recommendations: This procedure should be continued. It should be stressed at this point that the major problem affecting the overall enforcement configuration of the Baltimore ASAP is one of officer moral and inadequacy of field supervision. Officials of the Baltimore ASAP must encourage the law enforcement agencies participating in their program to closely monitor and supervise the activities of the law enforcement officers engaged in DWI enforcement to ensure that officers are expending the greatest enforcement effort possible during their tour of duty on DWI patrol.

Section 4 - Incarceration

As a rule, DWI offenders arrested by officers of the Baltimore City Police Department and the Maryland State Police are not incarcerated. Upon conclusion of the evidentiary testing, the arresting officer completes the conclusion of the evidentiary testing, the arresting officer completes the "District Court of Maryland Statement of Charges". The offender is then transported to the District Commissioner's Office where he is formally charged with the offense of DWI.

The commissioner is available 24 hours a day to conduct these hearings. The arresting officer presents to the commissioner the statement of charges at which time the commissioner interviews the arresting officer and the subject to determine the appropriateness of the charge and makes a determination as to whether the defendant will be: 1) released on his own recognizance, 2) required to post bond, or 3) incarcerated.

According to officers of the Baltimore ASAP "over 90% of the defendants are released on their own recognizance. The remaining 10% are required only to post a minimal bond.

Conclusions: During the course of this site visit, this investigator attempted to witness the hearing before the district commissioner. This hearing, I was advised, is confidential in nature as it dwells into the personal background of the defender and his ability to post a bond.

Due to this confidentiality, this investigator was not permitted to attend this hearing.

Recommendations: None.

Section 5 - Testimony and Adjudication

As a general rule, the officers of both participating law enforcement agencies gather no evidence other than their observations (which they record on the Alcohol Influence Report Form) and the results of the BAC test, if given.

Each officer maintains his own copy of all reports generated during the arrest and incarceration functions of the enforcement process.

No pre-trial conference is conducted between prosecution and the arresting officer unless the arresting officer initiates this activity. This is seldom the case.

Witnesses, other than the arresting officer, are seldom called in DWI cases. The sole witness against the defender is the arresting officer and the BAC results.

Delivery of testimony during the trial process is routine in nature and consists of the judge stating the charge against the individual, the officer presenting facts relevant to the case, cross-examination, followed by the presentation of the defense.

The judge has a choice of four verdicts: 1) not guilty; 2) probation without verdict (this will normally include ASAP); 3) probation with verdict; and 4) guilty.

Not guilty - indicates the subject in the opinion of the judge, either did not commit the offense, or there were sufficient grounds to believe that that state presented an inadequate case.

Probation without verdict - indicates the individual will be sent to the ASAP program. Upon satisfactorily completing the ASAP program, the court will "nol-pros" the case, no record will be kept of the violation, and in essence, this verdict is equivalent to a finding of not guilty.

Probation with verdict - indicates that the subject will be placed on probation and sent to the ASAP program. Upon satisfactorily completing

the ASAP program, the subject will be found guilty of the offense of DWI; however, no additional fines, as a rule, will be imposed on the offender.

Guilty - indicates the offender was found guilty as charged wherein the appropriate fine, suspension, and/or other action is taken against the offender. The verdict of guilty is seldom imposed, and the cases where it is imposed generally involve offenders who refuse to take the BAC test. The guilty verdict, however, is not for a violation of DWI; rather, for a violation of the lesser offense. Officers at this site have a difficult time convicting an individual for a violation of DWI if the subject refuses to take the BAC test.

Conclusions: No information relative to the extent of appeals was available at this site. Administrative hearings are conducted at this site for the purpose of review to determine disposition of the offender's permit to drive the motor vehicle. When an offender comes before the hearing authority, his license is normally suspended for a period of 15 days, retroactive to the time of his arrest. This action has no apparent value as the offender does not lose his license at all as a result of his DWI arrest. The releasing "on personal recognizance" of DWI offenders and the retroactive suspension of the driver's license (resulting in the offender never losing his license as a result of his DWI arrest) makes an arrest for DWI nothing more than a very complicated citation procedure.

Recommendations: Considering the demographic characteristics of the jurisdictional area of the Baltimore ASAP, it would appear that a more effective approach to the problem would be for the participating law enforcement agencies to either require offenders to post their driver's license, as does the state of Arkansas, in lieu of a cash bond or reduce the amount of cash bond to a level more consistent with the average household income for the area.

MASSACHUSETTS (BOSTON)

(NOTE): During this site visit, the city of Boston was experiencing severe disorder and civil unrest over school policies resulting in the reassignment of ASAP Enforcement personnel and supervisors to combative outposts throughout the city. On-site observations, "ride withs" and, in general, the entire interview had to be curtailed. Observation of the incarceration facilities had to be eliminated.

This investigator must treat as suspect many of the elements reported within this report on the overall enforcement configuration of the Boston ASAP. The greater majority of information contained herein was gathered under riot conditions at a local shopping center which was being used as a command post.

The Boston ASAP staff and the Boston Police Department gave this investigator assurance that requested information would be available for inclusion in final report. To date this information has not been received.

In order for meaningful conclusions and recommendations to be drawn regarding the overall enforcement configuration of the Boston ASAP it is recommended that this site be revisited upon the resolving of the school crisis at which time the normal police operations, specifically OUI patrol, can be observed and interviews can be conducted that will be both meaningful and comprehensive to this study.

Section 1 - Detection

Neither the Boston Police Department nor the Registry of Motor Vehicles utilizes analyses of alcohol-related crashes in determining patrol deployment, but rather leave it solely to the supervisors' option. In general officers are free to seek out those areas where they expect to effect the greatest number of arrests. The supervisors review the previous night's activity, noting the number of arrests as an indicator of aggressiveness. In the case of the RMV, low productivity could result in not granting requests for ASAP overtime assignments.

Evidence gathered during the detection phase is generally limited to personal observation of deviant driving. The following characteristics

of such are (in the order most frequently used):

- Weaving in roadway
- Overcompensating driver error
- Equipment violation
- Excessive delay at light or sign.

Other telltale driver behaviors are listed in Exhibit 10c, page 4. These "clues" are recorded on the Arrest Record (Fig. 10-7) by the arresting officer of BPD and the Alcoholic Influence Report Form (Fig. 10-2) which is completed by the RMV officer. No mechanical device is employed by officers of either agency as an aid in the detection phase.

Section 2 - Apprehensions

No special methods (i.e., roadblocks, video tape, surveillance of recidivists, etc.) are used in the apprehension phase.

Each agency advised that "hot pursuit" is authorized by unwritten policy within the department. The decision to abandon pursuit in a high speed chase is left solely to the officer's discretion. Generally, the decision to cease pursuit occurs when the hazards of the pursuit outweigh the hazards of the violation.

During or after the stop of a violator, an RMV officer will issue a radio message containing the location and description of the suspect's vehicle, number of occupants, and a request for a vehicle and driver "wanted" check. A BPD officer originates the same information, omitting the number of occupants. The determination of the driver's state of sobriety is made by observing his appearance and behavior. Physical coordination and/or breath pre-screening tests are not administered. (However, RMV written policy (see Appendix A; Exhibit 10c, page 7) states that physical coordination tests "shall not be given unless the arrested person has been advised of his right to refuse such test.")

Back-up units are dispatched to the scene via the police dispatcher as a matter of unwritten policy of the BPD. Should impounding of the offender's vehicle be necessary, the back-up unit will remain with the vehicle until arrival of the tow service, thus enabling the arresting

officers to accompany the offender through the arrest/test/incarceration process. RMV back-up units are generally volunteer units from the same area who "go by" as a matter of professional courtesy and as a safety factor. Physical restraint is restricted as the ultimate force to be utilized in any apprehension.

If the suspect offender is to be placed under arrest, he is advised of the fact and as to his Constitutional rights at the scene by the BPD. The Implied Consent statute is explained to him at headquarters prior to the breath test/refusal. RMV officers do not inform the suspect that he is under arrest until arrival at Boston PD headquarters after the Miranda warning, Implied Consent statute explanation, right to medical examination by a physician of his choice explanation, and the breath test/refusal. Both agencies charge the offender under state code.

If an officer responds to an alcohol-related crash scene, he may charge OUI if he can find a witness to testify that he:

- Observed the suspect operating the vehicle
- Is sure the subject did not drink after the crash
prior to the officer's arrival

Forms relative to the apprehension function completed by the arresting officer at the time of arrest are the Arrest Record (Fig. 10-7) by BPD and Violation Notice (Fig. 10-1) and occasionally Equipment Notice (Fig. 10-8) by RMV. Others were not provided (as per agreement) by the Boston ASAP.

Section 3 - Transporting Persons and Property

The offender is transported to the evidentiary breath testing facility by either the arresting officer or a patrol wagon. ASAP procedures differ from those followed by non-ASAP officers in effecting an OUI arrest. ASAP officers transport the subject directly to the booking facility for evidentiary breath testing. Non-ASAP officers must first transport the offender to Boston P.D. headquarters for breath testing, after which he must be taken back to the district where he was arrested for booking. The ASAP and non-ASAP RMV officers follow the same procedures as the

respective BPD officers without benefit of a patrol wagon. Both agencies require the arresting officer to accompany the offender to the testing/booking facility. Unwritten departmental policy dictates that the arresting officer witness each stage of the test process for court testimony. Additionally, he must be present to swear to the statement of facts and probable cause in securing the necessary warrants.

No forms are prepared relative to the transport function. If a patrol wagon is used there is approximately a ten-minute wait; if not, the officer uses his vehicle (no protective shield) to transport the suspect.

It is standard procedure to search and handcuff all suspects during the arrest process. Upon commencing the transport, the officer originates a radio message advising the dispatcher that he is transporting and his destination. If the offender is a female or a juvenile (by statute, any person under 18), he also advises the dispatcher of that fact and gives his mileage to the tenth of a mile. (See Appendix A: Exhibit 10c for comprehensive information concerning search, handcuffing, and transport procedures.)

The offender's vehicle is normally impounded and an inventory search is conducted. BPD utilizes the city owned/operated tow service and RMV uses a privately owned/operated service. Both are contacted by the police dispatcher, who decides which service to call based on the location of the arrest and the nearest available wrecker. Ordinarily it takes ten minutes to respond to a BPD arrest scene and twenty minutes to a RMV arrest scene. No forms are employed to transfer responsibility in releasing the offender's auto and other property. The tow service simply arrives and removes the vehicle; the offender is given notice as to which service effected removal. Any valuables taken for safekeeping are recorded on the Arrest Record.

Section 4 - Incarceration

Not available.

Section 5 - Officer Testimony and Adjudication

Not available.



COMMONWEALTH OF MASSACHUSETTS—REGISTRY OF MOTOR VEHICLES

VIOLATION NOTICE

49138 A

OPERATOR BIRTH

ADDRESS HEIGHT

LIC. NO. STATE CLASS EXP.

OWNER MAKE

ADDRESS TYPE

REG. NO. STATE ISS. VEH. COLOR

DATE OF OFFENSE PLACE TIME

VIOLATOR: OPERATOR OWNER VIOLATION(S):

.....

.....

SPEED POSTED MPH ESTIMATED CLOCKED RADAR

ROAD DIVIDED: YES NO NO. OF LANES

DISTRICT: TH. SETT. RURAL SURFACE: DRY WET ICE SNOW

TRAFFIC: HEAVY MEDIUM LIGHT DATE CITATION WRITTEN

WARNING ARREST COMPLAINT COURT LOCATION

(over) POLICE OFFICER

Figure 10-1

<input type="checkbox"/> Driver <input type="checkbox"/> Pedestrian <input type="checkbox"/> Passenger Date and time of Accident or Violation _____ on _____ pm	<input type="checkbox"/> Accident <input type="checkbox"/> Violation <input type="checkbox"/> Other	ALCOHOLIC INFLUENCE REPORT FORM Police Dept. Booked at _____	Police Dept. _____ Arrest No. _____ Accident No. _____ Arresting Officer _____ on _____ Date and time in custody _____ on _____ pm
--	---	--	--

Name _____ Address _____
 Age _____ Sex _____ Race _____ Approx. Wt _____ Operator Lic. No. _____ State _____

OBSERVATIONS:

CLOTHES	Describe: (Type & Color) Hat or Cap _____ Jacket or Coat _____ Shirt or Dress _____ Pants or Skirt _____ Conditions: <input type="checkbox"/> Disorderly <input type="checkbox"/> Disarranged <input type="checkbox"/> Soiled <input type="checkbox"/> Mussed <input type="checkbox"/> Orderly (Describe) _____
BREATH	Order of Alcoholic Beverage: <input type="checkbox"/> strong <input type="checkbox"/> moderate <input type="checkbox"/> faint <input type="checkbox"/> none
ATTITUDE	<input type="checkbox"/> Excited <input type="checkbox"/> Hilarious <input type="checkbox"/> Talkative <input type="checkbox"/> Carefree <input type="checkbox"/> Sleepy <input type="checkbox"/> Profanity <input type="checkbox"/> Combative <input type="checkbox"/> Indifferent <input type="checkbox"/> Insulting <input type="checkbox"/> Cocky <input type="checkbox"/> Cooperative <input type="checkbox"/> Polite
UNUSUAL ACTIONS	<input type="checkbox"/> Hiccoughing <input type="checkbox"/> Belching <input type="checkbox"/> Vomiting <input type="checkbox"/> Fighting <input type="checkbox"/> Crying <input type="checkbox"/> Laughing
SPEECH	<input type="checkbox"/> Not Understandable <input type="checkbox"/> Mumbled <input type="checkbox"/> Slurred <input type="checkbox"/> Mush Mouthed <input type="checkbox"/> Confused <input type="checkbox"/> Thick Tongued <input type="checkbox"/> Stuttered <input type="checkbox"/> Accent <input type="checkbox"/> Fair <input type="checkbox"/> Good
Indicate other unusual actions or statements, including when first observed: _____	
Signs or complaint of illness or injury: _____	

PERFORMANCE TESTS: (Note—See departmental instructions for conducting these tests)

Check Squares if Not Made	Check appropriate square before word describing condition observed
<input type="checkbox"/> BALANCE	<input type="checkbox"/> Falling <input type="checkbox"/> Needed Support <input type="checkbox"/> Wobbling <input type="checkbox"/> Swaying <input type="checkbox"/> Unsure <input type="checkbox"/> Sure
<input type="checkbox"/> WALKING	<input type="checkbox"/> Falling <input type="checkbox"/> Staggering <input type="checkbox"/> Stumbling <input type="checkbox"/> Swaying <input type="checkbox"/> Unsure <input type="checkbox"/> Sure
<input type="checkbox"/> TURNING	<input type="checkbox"/> Falling <input type="checkbox"/> Staggering <input type="checkbox"/> Hesitant <input type="checkbox"/> Swaying <input type="checkbox"/> Unsure <input type="checkbox"/> Sure
<input type="checkbox"/> FINGER-TO-NOSE	Right: <input type="checkbox"/> Completely Missed <input type="checkbox"/> Hesitant <input type="checkbox"/> Sure
	Left: <input type="checkbox"/> Completely Missed <input type="checkbox"/> Hesitant <input type="checkbox"/> Sure
<input type="checkbox"/> COINS	<input type="checkbox"/> Unable <input type="checkbox"/> Fumbling <input type="checkbox"/> Slow <input type="checkbox"/> Sure <input type="checkbox"/> (Other) _____
	(Balance during coin test) _____
Ability to understand instructions: <input type="checkbox"/> Poor <input type="checkbox"/> Fair <input type="checkbox"/> Good	
Tests performed: Date _____ Time _____	

OBSERVER'S OPINION:

Effects of alcohol: <input type="checkbox"/> extreme <input type="checkbox"/> obvious <input type="checkbox"/> slight <input type="checkbox"/> none	Ability to drive: <input type="checkbox"/> unfit <input type="checkbox"/> fit
Indicate briefly what first led you to suspect alcoholic influence: _____	
Observed by: _____ Assignment: _____	
Witnessed by: _____ Date _____ Time _____	

CHEMICAL TEST DATA:

Specimen: <input type="checkbox"/> Blood <input type="checkbox"/> Breath <input type="checkbox"/> Saliva <input type="checkbox"/> Urine <input type="checkbox"/> None <input type="checkbox"/> Refused <input type="checkbox"/> Unable	Analysis result: _____ If present, what instrument? _____
If refused, why? _____	

Figure 10-2

ARREST RECORD BOSTON POLICE DEPARTMENT

FIRST INITIAL

BOOKING NO.

COPY

3. TIME AND DATE OF ARREST 3:20 AM 4-4-74		4. WHERE ARRESTED LINCOLN ST & SURFACE ARLERS		5. DISTRICT I	6. RANGE 6/15	7. R. A. S.	8. (OR MAIDEN NAME, IF FEMALE)	9. CENTRAL COMPLAINT NO. 734-632
10. ARRESTING OFFICER PATROLS				11. DISTRICT I	12. BADGE NO. 2526	13. ADDRESS		14. CENTRAL REC. NO.
15. CHARGE WHEN BOOKED Operating M/V while under the influence of Alch.								17. PHOTOGRAPH NO.
16. ARREST PROCESS <input checked="" type="checkbox"/> NO WARRANT <input type="checkbox"/> SUMMONS WARRANT NO. _____ COURT BMC								18. PHOTOGRAPH NO.
21. VICTIM OR COMPLAINANT'S NAME				22. TELEPHONE NO.		23. AGE 21		24. DATE OF BIRTH MON. DAY YEAR
27. VICTIM OR COMPLAINANT'S ADDRESS				28. TIME AND DATE OF CRIME 3:15 AM 4-4-74		25. PLACE OF BIRTH HYANNIS MASS		26. OCCUPATION Unemployed
35. LOCATION OF CRIME LINCOLN ST & SURFACE ARLERS		36. TYPE OF PREMISES PUBLIC WAY		37. DISTRICT I		29. RACE 1. WHITE <input checked="" type="checkbox"/> 2. NEGRO <input type="checkbox"/> 3. INDIAN 4. CHINESE 5. JAPANESE		30. MARITAL STATUS <input checked="" type="checkbox"/> S <input type="checkbox"/> M <input type="checkbox"/> D <input type="checkbox"/> U
41. CONVICTION USED AND OFFICERS TRANSPORTING PRISONER				42. SCARS, MARKS, AND OTHER DESCRIPTIVE DATA		31. HEIGHT 6'2"		32. WEIGHT 210
43. DESCRIPTION OF VEHICLE INVOLVED 1970 MERC MASS 1965 Chev - MASS				44. DISPOSITION OF VEHICLE BOTH CARS CARED FOR BY OWNERS		33. BUILD Hvy		34. COLOR OF HAIR Brown
47. LINKUP <input type="checkbox"/> YES <input type="checkbox"/> NO		48. FINGERPRINTED <input type="checkbox"/> YES <input type="checkbox"/> NO		49. PHOTO <input type="checkbox"/> YES <input type="checkbox"/> NO		45. PLACED IN CELL BY: 4		46. PROPERTY MONEY \$0.00
50. TELETYPE <input type="checkbox"/> YES <input type="checkbox"/> NO		51. SPEAKMETER <input type="checkbox"/> YES <input type="checkbox"/> NO		52. IS PRISONER WANTED: <input type="checkbox"/> YES <input type="checkbox"/> NO		53. IF WANTED, BY WHOM?		44a. OTHER PROPERTY: Wallet - lighter - Watch Key
54. I WAS INFORMED OF RIGHTS BY: TIME AND DATE 3:30 AM 4-4-74				55. I HEREBY ACKNOWLEDGE RECEIPT OF THE PROPERTY LISTED UNDER ITEMS (46) AND (44a) SIGNATURE _____		56. I WAS INFORMED OF MY RIGHT TO USE PHONE, TO CALL MY LAWYER, OR HAVE ONE PROVIDED, TO REMAIN SILENT. SIGNATURE Refused to sign		57. PRISONER'S PROPERTY RECEIVED AT PLACE OF DETENTION BY: SIGNATURE _____
58. PRISONER DELIVERED TO:		59. I SELECTED BAIL COMMISSIONER		60. BAILED BY		61. AMOUNT		62. SET BY
62. JUVENILE INFORMATION: PERSON NOTIFIED AND RELATIONSHIP:				ADDRESS		PHONE		TIME AND DATE
NOTIFIED BY				BADGE NO.		NAME OF JUVENILE PROBATION OFFICER		JUVENILE PAROLED TO
63. ADDITIONAL DETAILS OF ARREST: VISIBLE INJURY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Prisoner advised of his right to call a doctor of his own choosing to be examined of his own expense & advised of his right to take a breathalyzer but upon his refusal was informed that his license would be suspended for 90 days by the Registrar by Citation # issued								
64. CHARGE(S) MAJOR CHARGE FIRST		65. CODE	66. P.-M	67. COURT	68. DISPOSITION	69. JUDGE	70. DATE IN COURT	71. SIGNATURE OF BOOKING OFFICER
Operating M/V under the inf of Alch		2101 M	BMC	4/17/74			4/4/74	Zeit 4-4-74
								RANK TIME & DATE: 2:33 PM

Figure 10-7

167

EQUIPMENT

BIRTH 2

Operator Lic.

Address Issued

Owner Reg.

Address Issued

Make Type Color

Date Time Place

Complaint

.....

.....

.....

Insp.

L-55. 30M-2-73 1026-075113

REG. _____ Date _____

Make _____ Type _____

Place _____

1. Headlamps _____ L _____ R _____

2. Rear Lamp _____ Plate Lamp _____

3. Brakes-Service _____ Parking _____

4. Steering gear _____

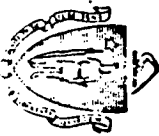
5. Windshield _____

6. Exhaust System _____

7. Tires _____

8. _____

Issued by _____ (Name)



REG. _____

Date _____

NOTICE

The equipment checked is defective or illegal.

1. Headlamps _____ L _____ R _____

2. Rear Lamp _____ Plate Lamp _____

3. Brakes-Service _____ Parking _____

4. Steering gear _____

5. Windshield _____

6. Exhaust System _____

7. Tires _____

8. _____

Issued by _____

(Initials) *Dennis J. Tracy*

Figure 10-8

MINNESOTA (HENNEPIN COUNTY)

Section 1 - Detection

No formal analysis of alcohol-related crashes with respect to deployment strategies is undertaken by participating law enforcement agencies of the Hennepin County Alcohol Safety Action Project. Local analysis is conducted by some law enforcement agencies on a random basis. As a rule, analyses of alcohol-related crashes do not filter down to individual officers engaged in ASAP field operations.

The Hennepin County ASAP prepares alcohol-related crash reports on a quarterly, semi-annually, and annual basis. These reports are required by DOT/NHTSA. Upon special request, any interested individual or group may be included in the distribution of these DOT/NHTSA special reports.

Evidence gathered during the detection phase of DWI enforcement is generally limited to officer observation of erratic driving, or the officer observing a violation of a traffic ordinance.

Generally, all participating law enforcement agencies (except the Hennepin County Sheriff's Office) must witness a moving violation in order to establish probable cause. Deputies of the Hennepin County Sheriff's Office, however, may stop a suspected DWI offender after witnessing only minor erratic behavior.

A study was conducted by the Hennepin County ASAP to evaluate the use of portable breath testing devices for screening suspected drunken drivers. Exhibit 11a presents this study in detail.

Conclusions: The detection configuration utilized by the participating law enforcement agencies of the Hennepin County ASAP appears adequate to meet the needs of these participating law enforcement agencies.

The entire evaluation process at this site consists of tabulation of data elements rather than evaluation of the enforcement countermeasures. When evaluation and statistical means were employed, by the ASAP office, and reported in quarterly, annual and special analytic studies, the results were not reported back to the agency which supplied the raw data. As a result, both participating law enforcement agencies are unaware as to (1) their efficiency in meeting ASAP objectives, (2) their effectiveness

in meeting ASAP objectives, and (3) their degree of success and/or failure in relation to similar programs existing throughout the country.

Recommendations: It is therefore recommended that the Hennepin County ASAP develop a procedure whereby evaluation and statistical analysis prepared and tabulated by the ASAP would be shared with the participating law enforcement agencies.

Section 2 - Apprehension

Surveillance of high probability areas is the most exclusive method employed in identifying and subsequently apprehending the drinking driver offender.

Individual officers have determined, through experience, that these areas show a greater propensity for DWI arrests.

Neither roadblocks nor surveillance of known offenders is conducted as formal countermeasures of the enforcement countermeasures of the Hennepin County ASAP.

No written policy statement on the subject of pursuit of DWI offenders was obtained at any of the participating law enforcement agencies. The general unwritten policy which exists within this jurisdictional area on pursuit is as follows:

Officers shall use good judgement to discontinue pursuit when the hazard of pursuit becomes greater than the hazard of the violation.

The arresting officer usually employs the flashing beacon and spotlight in order to gain the attention of a driver that he wishes to stop.

Most of the participating law enforcement agencies require arresting officers to issue a radio message upon stopping a violator. Table 3 depicts the contents of that radio message (Exhibit 11j).

Checks against data files for possible "wanted" information on vehicle driver and/or passengers are only conducted upon special request of the arresting officer in cases where the arresting officer might suspect that a "want" is in existence. Arresting officers may arrest without a warrant if a radio transmission confirms "wanted" status for misdemeanor offenses.

Officers are encouraged to approach the suspect's auto from the left rear and conduct a driver interview from slightly behind the left front door.

At the scene of the traffic stop, the arresting officer makes a determination concerning the operator's state of sobriety by observing driver appearance, detectable odor of intoxicating beverage, behavior, physical coordination tests, detectable speech impairments, and through the utilization of the Borg Warner A.L.E.R.T. pre-arrest screening device.

In most instances, the suspect is placed under arrest (and is so advised) upon conclusion of the driver interview. Generally the driver interview is limited to observations of the suspect; however, the interview can include a pre-arrest breath screening if a PBT is available. In this case, the decision to arrest would occur upon the suspect's "failing" the pre-arrest screening test. The decision to arrest is conveyed verbally by the arresting officer to the suspect.

Table 4 entitled Assisting Officer Procedures (Exhibit 11k) depicts the manner in which an assisting officer, if any, is dispatched to the arrest scene.

Exhibit 11l depicts the functions carried out by the assisting officer upon his arrival at the scene of arrest.

Exhibit 11m depicts the participating law enforcement agencies' policy regarding the advisement of Constitutional rights/Implied Consent policies.

State law enforcement agencies charge DWI offenders under state statute and municipal agencies charge under both local and state law.

Officers do not have the option of reducing the charge of DWI to a lesser one.

The arresting officer is encouraged to utilize "good" judgement in the use of physical force in order to subdue a suspected DWI offender. Force is generally not to exceed that amount necessary to restrain the suspect in effecting the arrest.

An officer may effect an arrest on the charge of DWI at the scene of any crash which he did not witness if he has reason to believe that the driver has driven, or operated or was in actual control of a vehicle in violation

of the DWI law (See Legislative Provisions in Sobriety Testing Report entitled Intoxication 169.121, page 15 Arrests 169.91, page 72. Arrest Without Warrants 169.93, page 73 and Chemical Tests for Intoxication 169.123, page 17.) The offender's vehicle may be transported from the scene by one of the suspect's passengers. However, vehicles may only be released to the blood-relative of the offender. The passenger/relative must be a licensed, sober driver.

Two sworn officers are generally present at the scene of an arrest:

- The arresting officer
- The back-up assist/mobile van operator/officer

Conclusions: The apprehension procedure currently used by the participating law enforcement agencies comprising the Hennepin County ASAP appears adequate to meet the needs of the participating law enforcement agencies and is consistent with the objectives stated for the Hennepin County ASAP.

Recommendations: None.

Section 3 - Transporting Persons and Property

All suspected DWI offenders are subjected to a "pat down frisk" prior to being transported. Should an arresting officer have probable cause to believe that the suspect is concealing weapons or contraband that cannot be detected as a result of a "pat down frisk," he may subject him to a "strip (body) search" prior to transporting.

Searches of female offenders are generally limited to the taking of purses and hand-carried articles into protective custody. Juvenile offenders are treated the same as adult offenders. It is not normal procedure to handcuff prisoners prior to placing them into the police vehicle.

Prisoners are usually seated in the rear seat of the police vehicle which is equipped with a protective shield/screen. Both ASAP and non-ASAP patrol vehicles are equipped with shields/screens.

The arresting officer generally transports his prisoner to the testing facility. The average distance of transport is approximately five miles.

Arresting officers issue a radio transmission only when commencing transport of female and juvenile offenders. This transmission generally consists of advising the dispatcher of the location of the transport and the mileage on the police cruiser to the one-tenth of a mile.

Officers may conduct an inventory search of the offender's vehicle; the search is not restricted in any way. Responsibility for articles inventoried lies with the respective law enforcement agency. An offender's vehicle is normally towed from the scene of arrest by a privately-owned towing service.

Conclusions: The transporting persons and properties configurations utilized by the law enforcement agencies participating in the Hennepin County ASAP appear adequate to meet the needs of their jurisdictional area.

Recommendations: It is recommended that these procedures continue.

Section 4 - Incarceration

Once a DWI offender has undergone evidentiary testing, he is generally jailed for a minimum of two hours, which is considered a "sober-up" period. Out-of-state offenders are also incarcerated; however, courts of jurisdiction will not generally release out-of-state offenders on their own personal recognizance.

DWI offenders are not normally fingerprinted and/or photographed.

Offenders are cleared against local, regional and national computer networks containing criminal records information.

Conclusions: The incarceration configuration utilized by the participating law enforcement agencies of the Hennepin County ASAP are adequate to meet the needs of those agencies.

Recommendations: No recommended changes on this procedure are advocated at this time.

Section 5 - Testimony and Adjudication

Pre-trial conferences are generally conducted between the arresting officer, prosecutor, defense attorney, and defendant (optional). The arresting officer is not required to be present at arraignment.

The officer's court appearance is scheduled by the city attorney and, according to officials interviewed during the course of this site visit, Driving While Intoxicated cases seldom go to court action; as a result, officers seldom have to appear. According to the Minneapolis Police Department, the frequency of officer appearance in court is "so seldom it is not kept track of". Should an officer have to attend court in his off-duty time, he will be given compensatory time in lieu of pay.

The elements of the offense which are submitted to the court in the officer's testimony (should his appearance be necessary) are 1) the particulars of the case, 2) the defendant's BAC, and 3) any pertinent physical evidence.

According to Analytic Study No. 3 (Appendix A; Exhibit 11n) prepared by Hennepin County ASAP:

Participation in ASAP as a project cutting across lines with the traffic safety system has enabled officers to see court disposition of their cases in a somewhat different light. ASAP, by having been involved in the courts work through the pre-sentence investigation program, is better able to communicate and interpret court actions to police, on such subjects as . . . rehabilitation and the place of plea negotiation in the DWI control system ("Look, just because the case got bargained, careless driving doesn't mean you loose one. The guy you busted got the same fine and got sent to Meadow Brook. He's been sober for six months. Otherwise he would have been driving around the same way he was before while he waited to come to trial and he could kill somebody. Remember, that's what happened to someone on Excelsior Boulevard")

The judicial system, in maintaining an appropriate separation from the police system, may risk losing coordination between these two elements of the overall social protection system. The independence of the judiciary is vital, but if police perceive judges as "them" against "us" then the community is losing effectiveness of its investment in police.

In Hennepin County judges have participated in police training programs (including ASAP enforcement seminars) and the bench has recently established a policy under which judges are available in their chambers to individual police officers who have either general questions about the court's handling of cases or questions about specific cases and specific rulings after the case is closed. Some judges have ridden with police officers on patrol in order to familiarize

themselves with that portion of the overall criminal justice process. In an interesting switch on the "police ride-along", one judge (at an ASAP enforcement seminar) offered a "bench-ride-along" in which he invited police officers to sit with him while he heard cases.

Overlaying the temporary and non-official ASAP system under traditional separate systems, which have an official responsibility for some part of the drunk/driver problem, he served to create channels of communication and concern between and among the different elements.

Conclusions: None.

Recommendations: None.

MISSOURI (KANSAS CITY)

Section 1 - Detection

Similar to most other enforcement countermeasures surveyed, the ASAP team of the Kansas City Police Department employs traditional detection techniques for the identification of potential DUI suspects. These include observation of driving mannerisms, specifically looking for such possible indicators of impairment as the commission of traffic law violations. These "clues" are recorded by the individual officer on the Alcoholic Influence Report Form (Fig. 12-1), which is commonly used to reflect all details concerning a DUI arrest and the suspect's behavior. For a time, the Kansas City ASAP unit tried to videotape suspected DUI offenders while they were still operating their vehicles, but that effort was largely unsuccessful. The quality of the tapes was too poor to be used as evidence. Radar was also employed occasionally, and again it was determined that electronic speed detection devices were of limited value in the identification of drinking drivers.

Conclusions: SASP officers patrol the major arteries of the city with a watchful eye for errant driving behavior on the part of any vehicle within their field of vision. When a suspicious vehicle is spotted, the officer proceeds to stop it in order to check out the operator. Although this is the traditional technique, it is nevertheless effective and gets results.

Recommendations: SASP officers appear to be sufficiently knowledgeable and experienced in detection techniques. Therefore, no recommendations are offered.

Section 2 - Apprehension

Other than proactive patrol, no additional means are employed by the ASAP unit to apprehend drinking drivers. Prior to stopping a suspected vehicle, the officer initiates a radio message which contains the following information: his location, the license plate number (and state) of the vehicle, and the number of occupants. After the car has been stopped, the officer may additionally inquire whether the auto and/or the driver are wanted for any reason. The operator is asked to step out of the car and

he is requested to produce his operator's license and vehicle registration. At that time, the officer observes his appearance and behavior and, above all, attempts to determine by the odor of the operator's breath whether he may have been drinking. If the officer concludes that the operator may be a DUI suspect, he may administer physical coordination tests at the scene. Once the decision has been made to effect an arrest, the suspected DUI offender is informed of that fact, and is advised of the provisions of the Implied Consent statute. The offender is also apprised of his Constitutional rights to the extent that he is informed of his right to remain silent and that he may contact an attorney for his defense. In addition to the charge of Driving Under The Influence, the officer usually also charges the offender with the traffic violation which he committed and which drew the officer's attention in the first place. Suspects are charged under local ordinance in all cases (Traffic Code of Kansas City).

Kansas City police officers are authorized to effect arrests in misdemeanors which were not committed in their presence (as long as there is a witness available to present testimony). Therefore, SASP officers (or any other, for that matter) may place a DUI charge at the scene of a motor vehicle accident where it appears to be warranted, even though the officer was not a witness to the crash.

The officer exercises total discretion in his decision to arrest (or not to arrest). His supervisor has virtually no influence on that decision, and seldom is even involved in the arrest process.

It was pointed out that the arresting officer may search any part of the offender's vehicle, if, in his opinion, it is necessary. In the process of the search, should the fruits of another crime be discovered, additional charges may only be placed if an inventory search is being carried out. (In that event, the evidence uncovered would be admissible in a court of law.)

Conclusions: None.

Recommendations: None.

Section 3 - Transporting Persons and Property

The arresting officer transports the suspected DUI offender to the evidentiary testing facility (the "ASAP Studio" which contains breath testing equipment). A patrol wagon would be used only if the suspect displays

violent behavior. Usually only two to three minutes elapse in transport time before arrival at the testing facility. The use of handcuffs is left to the individual officer's judgment; if, in his opinion, they are necessary, then he will manacle the person to be transported.

A thorough search of the outer clothing and a pat-down of the body is undertaken in the case of male prisoners who are about to be transported by the arresting officer. In the event that the suspect is female, only handbags and coat pockets are searched. If a weapon is suspected on her person, she is handcuffed and, upon arrival at the jail facility, is then thoroughly searched by a matron.

If there are passengers in the offender's vehicle, they may be permitted to drive the auto away, provided that the operator is sober and responsible. Should the passenger(s) be intoxicated as well, they, too, could be arrested. If the vehicle is driven from the scene by one of the passengers, the consent of the arrested operator is required.

Upon commencing the transport, the officer informs the central dispatcher that he is enroute to the facility with a prisoner. When females are involved, the officer adds the mileage (odometer reading) at the beginning of the trip and again gives his odometer reading when reaching his destination. Each time, the dispatcher replies with the correct time at the moment.

In the case of DUI offenses, a search of the suspect's vehicle would not normally be undertaken. The auto would simply be towed by the city-operated towing service to the central impounding lot.

Conclusions: The time required to transport DUI offenders to a processing facility (on an average) appears to be very insignificant. Otherwise, transporting methodology is relatively standard in comparison with other ASAP enforcement countermeasures.

Recommendations: None.

Section 4 - Incarceration

Anyone arrested for the offense of Driving Under The Influence is eligible to post a bond to secure his release. All DUI offenders may be incarcerated, but are permitted to post bond at any time after having been processed for evidentiary purposes. There is no prescribed period of time during which

the offender must be confined in jail before being released. The jail is staffed with "detention facility officers," and a police Sergeant is in charge of the entire operation.

DUI offenders may be released from the lock-up at any time after they have been able to post the required bond. The amount for bail/bond is restricted to a fixed range which is predetermined by the court. The minimum amount (\$100) is set by the Desk Sergeant. Bail/bondsmen are not permitted to solicit in the jail area.

Medical examination of a prisoner is conducted only if he appears to be ill, either to the arresting officer or to one of the detention facility personnel. If the offender is not ambulatory, the jail will not accept responsibility for him. In the case of such an illness, the patrol wagon would be used to transport the offender to Kansas City General Hospital.

The offender's vehicle may be released while he is still incarcerated, provided that the claimant shows proof of ownership or is the suspect's wife (or husband).

Conclusions: Provisions for the offender's release on bond at any time after processing allow for sensible disposition of accused DUI offenders, without subjecting them to arbitrary confinement before release.

Recommendations: None.

Section 5 - Testimony and Adjudication

Pre-trial conferences are not normally conducted in DUI cases. Officers must be in attendance, however, at the trial of DUI offenders whom they arrested. On occasion, although apparently not frequently, this could take place on the morning following the arrest. If the arresting officer attends court while technically off-duty, he is paid for three hours at his normal hourly rate, regardless of the length of time which he actually spends in court. If plea bargaining takes place, the officer is involved in the process, at least to the extent that he is made aware of the impending recommendations. All pertinent evidence to the case is brought to trial by the arresting officer, and is introduced while he is giving testimony. The prosecutor directs appropriate questions to the officer with regard to the defendant's BAC and any other physical evidence which may be of

importance to the case. In cases where the DUI offender was originally detected by an officer of the regular patrol, but the processing details were handled by SASP officers, the regular patrol officer is subsequently summoned to court by the ASAP officer, in order to testify against the accused.

Those who refuse to submit to a sobriety test, in violation of the Implied Consent provisions, undergo separate hearings before the Circuit Court. At these hearings, it is determined by the court whether the accused should be eligible for a hardship license (which would permit him to operate a motor vehicle during certain hours of the day).

Conclusions: None.

Recommendations: Recommended Improvements for the Extension of the Enforcement Section of the Kansas City, Missouri ASAP (Exhibit 12g) should be implemented as soon as possible.

ALCOHOLIC INFLUENCE REPORT FORM

CASE# _____

NAME: _____ ADDRESS: _____

DOB: _____ RACE: _____ SEX: _____ WEIGHT: _____ DR. LIC.: STATE: _____ TYPE: _____ LIC. NO.: _____

PLACE OF ARREST: _____ DATE: _____ TIME: _____ AM
PM

VIOLATION: _____ DATE: _____ TIME: _____ AM
PM

LOCATION OF ACCIDENT IF INVOLVED: _____

* * * * *

QUESTIONS

TICKET # _____

WERE YOU OPERATING THIS MOTOR VEHICLE: _____ WHERE WERE YOU GOING: _____

WHERE DID YOU START FROM: _____ WHEN DID YOU LEAVE: _____

SUBJECTS ESTIMATE OF TIME: _____ ACTUAL TIME: _____

HAVE YOU BEEN DRINKING: _____ WHAT: _____ QUANTITIES: _____

COMMENCED: _____ AM
PM STOPPED: _____ AM
PM WHERE: _____

ARE YOU ILL: _____ ARE YOU HURT: _____ DID YOU GET A BUMP ON THE HEAD: _____

HAVE YOU BEEN TO A DOCTOR OR DENTIST RECENTLY: _____ IF SO, WHEN: _____

NAME OF DOCTOR OR DENTIST: _____ TREATMENT: _____

ARE YOU TAKING MEDICINE: _____ IF SO, WHAT: _____ LAST DOSE: _____ AM
PM

DO YOU HAVE DIABETES: _____ ARE YOU TAKING INSULIN: _____ HAVE YOU USED A MOUTH WASH RECENTLY: _____

HOURS OF SLEEP LAST NIGHT: _____ HOW MUCH TODAY: _____

HAVE YOU BEEN DRINKING SINCE THE ACCIDENT: _____ WHAT: _____

QUANTITIES: _____ WHERE: _____

EXAMINATION (Draw circles around words describing officer's observations; Add any remarks or phrases of your own selection)

BREATH	Odor of alcoholic liquor -		Faint	Moderate	Strong				
EYES	Normal	Watery	Bloodshot	Glassy	Staring				
PUPILS	Normal	Dilated	Contracted	Poor reaction to light					
BALANCE	Sure	Fair	Swaying	Wobbling	Sagging Knees	Falling	(Other)		
WALKING	Sure	Fair	Swaying	Stumbling	Staggering	Falling	(Other)		
TURNING	Sure	Fair	Swaying	Uncertain	Staggering	Falling	(Other)		
PICKING UP COINS	Sure	Slow	Uncertain	Unable	(Other)				
SPEECH	Coherent	Slurred	Confused	Incoherent	Stuttering	Mumbling	(Other)		
CHOICE OF WORDS	Good	Fair	Poor	Sentence Continuity:		Good	Fair	Poor	
CLOTHING	Neat	Mussed	Worn	Soiled by:	Dirt	Urine	Vomit	Saliva	Alcoholic Liquor
ATTITUDE	Polite	Excited	Hilarious	Talkative	Care-Free	Sleepy	Cooperative		
	Indifferent	Antagonistic	Cocky	Combative	Insulting	(Other)			
UNUSUAL ACTIONS	Profanity	Hiccoughs	Belching	Vomiting	Fighting	(Other)			

UNUSUAL ACTIONS OR STATEMENTS: _____

SIGNS OF ILLNESS OR INJURY: _____

If Subject treated or examined by doctor list hospital, doctor's name, time. _____

CONCLUSION	Effects of Alcohol Ability To Drive	Slight Ability Impaired	Obvious	Extreme Greatly Impaired
-------------------	-------------------------------------	-------------------------	---------	--------------------------

EXAMINED BY: _____ # 181 # _____ DATE: _____ TIME: _____ AM
PM

COURT DATE: _____ **Figure 12-1** _____ TIME: _____ AM
PM

BREATHALYZER: Yes: _____ No: _____ Administered By: _____ Results: _____

Was Car Towed: Yes: _____ No: _____ Where: _____

Hold Order: Yes: _____ No: _____ Explain: _____

Remarks: _____

Reporting Officer _____ Serial # _____ Unit _____

OPERATIONAL CHECK LIST

NAME OF SUBJECT: _____ DATE: _____

TIME (OF TEST) _____ A.M. _____ P.M. _____ BLOOD ALCOHOL O. _____ AMPUL _____ % CONTROL NO. _____

OPERATOR _____ WITNESS _____

INSTRUMENT _____ NO. _____

- PREPARATION Throw switch to (On), wait until thermometer shows 45-50° C.
- Gauge test ampul, open, insert bubbler and connect to outlet.

- PURGE Turn to take, flush out, turn to analyze.
- When red empty signal appears, wait 1 1/2 minutes, turn on light, balance.

- ANALYSIS Set blood alcohol pointer on start line.
- Turn to take, take breath sample, turn to analyze, (record time).
- When red empty signal appears, wait 1 1/2 minutes, turn on light, balance.

RECORD ANSWER, DISPOSE OF TEST AMPUL, TURN CONTROL KNOB TO (OFF)

CERTIFICATION OF EXAMINATION BY PERMITTEE TYPE III

As set forth in rules for determination of blood alcohol by breath analysis, Section 4 Operating Rule, Paragraph C, Permittee, Type III, sub paragraph 3, established by the Missouri Division of Health, the permittee certifies the following:

- A. There was no deviation from procedures outlined by the manufacturer and those approved by the Division of Health.
- B. The manufacturers identity and lot number, if any, of reagent used is as follows:
_____ No. _____
- C. To the best of my knowledge this breath analyzer device, a breathalyzer, model No. 900, was functioning properly.

Permittee Type III _____ OFFICER _____ RANK _____ Date: _____

Permit No. _____ Permit Expiration Date: _____

Figure 12-1 (cont'd.)

NEBRASKA (LINCOLN)

Section 1 - Detection

Analyses of alcohol-related crashes are undertaken by the ASAP on-site evaluator and forwarded as analytical reports to the ASAP Enforcement Coordinator, Countermeasure Sergeant and Traffic Lieutenant of the police department monthly, quarterly and annually. (These reports were also disseminated to other key persons in the total ASAP effort - judicial, rehabilitation, and Public Information and Education.) Ostensibly the Countermeasure Sergeant selected appropriate analytical information from these reports for inclusion in the Thursday evening training sessions and posted pertinent data on the bulletin board in the roll-call room where they were examined for possible revision of deployment strategy. Otherwise the deployment was determined from readily visible arrest and crash information contained on the pin map. Enforcement personnel response to the utilization of these data was rather non-committal - the information was "good" but ideas concerning its applicability were notably lacking.

An alcohol-related crash was defined as one involving a motor vehicle and any one of the principals involved had any trace of blood-alcohol concentration by chemical analysis and/or the investigating officer indicated on his report that alcohol ingestion by any principal was suspected. By and large, the officers tended to agree that the areas consistently showing a high rate of DWI arrests were the ones which produce an inordinate number of alcohol-related traffic crashes. This concept, however, seemed to be largely based on personal experience.

Training in enforcement techniques is included in the 40-hour Gas Chromatograph Intoximeter Course required for operator certification. On-the-job training is conducted by having newly-assigned officers accompany experienced officers in tours of duty. It was emphasized that in the detection phase the officer must have probable cause to stop a suspected offender; i.e., observation of an infraction of existing statutes. Upon observance of this condition, any admissible evidence obtained subsequently may be introduced at trial to substantiate the charge. ASAP officers were taught to be alert to any commonly accepted indicators

of possible drunk driving, including weaving in the roadway and open car window in cold weather. Inoperative or malfunctioning auto equipment also provided a reason for stopping the vehicle. (For additional indicators, see Appendix A; Exhibit 13a: Policy Statement.)

Formerly radar was used once a week as an additional detection aid; now it is used perhaps twice a month. Helicopters occasionally spot a DWI offender. All evidence is recorded on the back of the citation and/or Supplementary MVIR, which are retained by the Records Bureau for use at time of trial (if there is one).

Conclusions: Analytical data, although faithfully developed by the evaluative staff of the Lincoln ASAP, appears to have been only of secondary importance to the formulation of detection techniques employed by the Countermeasure Squad. Personal experience and empirical knowledge on the part of law enforcement personnel took precedence. Under operational conditions, a suspected DWI offender must have committed an actual violation before the officer is justified in stopping him (as set forth by the courts).

Recommendations: The courts, in effect, have established enforcement policy in requiring that a suspected DWI offender must have committed a traffic infraction before he may be stopped by the officer. Therefore, should an officer decide to stop a DWI offender on mere suspicion (where no violation has been committed as yet), the arrest is practically invalidated, although the suspect's BAC may have been (hypothetically) .15%. The logic behind this judicial attitude escapes the author. The statute prohibiting driving while under the influence makes no reference that this offense has to be accompanied by another traffic infraction in order to be prosecuted. Driving while under the influence is, of itself, a violation, and is a serious misdemeanor at that. It is quite possible to encounter DWI suspects who have driven a given distance without having committed any other traffic law violation other than being behind the wheel in an impaired condition. Certain driving mannerisms displayed by such an individual, however, may lead a police officer to suspect that the operator has

been drinking, and that should be sufficient cause to stop the vehicle for further investigation. Anyone suspected of driving while under the influence, for any reason, would be brought to a stop by the police officer as soon as practicable, before he has the opportunity to inflict harm on himself and/or to others. In the face of the monumental cost in lives and property annually which this nation bears as a result of drunk driving offenses, a less tolerant attitude on the part of the judiciary toward DWI offenders is urgently needed.

Section 2 - Apprehension

Surveillance of high probability areas is undertaken. The police department maintains internal records on DWI enforcement, including names of taverns most frequented by DWI offenders (those who previously tested below .10% and those who refused the test). Statistical analyses and pin maps also help determine areas that show greater propensity for DWI arrests and crashes. Selective enforcement concentrates on those high activity areas identified in these ways. Roadblocks and surveillance of recidivists are not used. (For other means see Appendix A; Exhibit 13a: Police Statement.)

If a suspected offender tries to evade an officer, the officer can continue pursuit without speed restriction unless it unreasonably endangers life, limb, or property (written policy). If speed is not a factor, police vehicles take parallel streets, blocking the offender when he turns.

In effecting a stop, the patrol vehicle pulls up behind the suspect as he engages his flashing red lights. A spotlight, headlights, horn, or PA system may also be used to attract the offender's attention, but the siren is used only if absolutely necessary. The officer issues a radio message containing the location, vehicle license number and description as designated by policy. He may request a records check, but in DWI stops this is usually done after the reports are submitted. He may arrest without a warrant (if one is on file) for misdemeanor offenses if a radio transmission confirms "wanted" status. The dispatcher furnishes the time.

The officer approaches the stopped vehicle on the driver's side while the passenger officer moves to the right side. He observes the suspect's appearance/behavior. If he is obviously intoxicated, he may be arrested immediately. In other cases, the officer will first administer a pre-arrest breath screening test (Borg-Warner A.L.E.R.T.), and arrest or not depending on the test results. A physical coordination test is done at the station. (Also see Figure 13-3, Motor Vehicle Intoxication Report and Figure 13-4, Supplementary MVIR.) He places an offender under arrest in unequivocal terms - "You're under arrest for operating a motor vehicle while under the influence," which is a misdemeanor offense for the first two infractions, but becomes a felony on the third offense. Should an offender become unruly, an officer is to exert only that force required to effect arrest, unless he is in danger (i.e., offender has weapon) whereupon he may use chemical mace, baton or firearm (if risking grave personal injury).

Back-up officers are not normally dispatched to the arrest scene because two-man units are utilized; the passenger officer serves as witness to the proceedings and provides security. If a DWI is stopped by a regular unit, an ASAP unit would be called. If arrested, the offender is charged under local ordinance. The officer has total discretion in his decision to arrest for DWI, although he may seek his supervisor's opinion concerning the suspect's state of sobriety when bringing him before him (as required by departmental policy). He may later reduce the charge if the offender's BAC reading is less than .10% (see Figure 13-9: Survey Report for Tests Under .10%), but cannot if it registers .10% or higher.

Prior to arrest the suspect is not advised of his Constitutional rights or the Implied Consent statute; after arrest the Implied Consent statute is read to him as mandated by state law and local ordinance. He is asked to sign a statement that acknowledges the reading and to sign the arrest citation, but is not compelled to do so. Constitutional rights are not read except in felony cases.

The officer may search any area of the offender's vehicle which is within the operator's reach including, the glove compartment and beneath seats. If the search yields evidence of other crimes, the offender may be

charged with those additional offenses. The vehicle may then be turned over to a licensed, sober, responsible passenger with the offender's and officer's consent. If the passenger is not permitted to drive by statute, the officer will call him a cab, have someone called to get him, or transport him home. If he is intoxicated, the officer may arrest him for Public Intoxication (city ordinance); if disorderly, the officer will try to calm him down or arrest him for disturbing the peace.

Upon responding to an alcohol-related crash he did not observe, the officer can arrest for DWI if he can establish that the suspect was in fact the driver of the vehicle.

Conclusions: When a DWI suspect is apprehended by a member of the regular patrol contingent, an ASAP team is called to the scene to effect processing. In that event, three officers are involved in the proceedings, with the attendant cost in man-hours.

Recommendations: Regular patrol officers should be provided with a sufficient number of portable breath testing devices (and adequate training in the use of these devices), so that they may administer pre-arrest breath screening on the scene. Training in the operation of evidentiary breath testing devices should be considerably expanded among members of the regular patrol force.

Section 3 - Transporting Persons and Property

Before transporting a male offender, a pat-down frisk is undertaken; a body search is done if drugs are suspected to be present. Female suspects are not frisked, but coats and purses are examined. Juveniles (under 17 years of age) are treated as adults. The offender is not handcuffed unless he presents a problem. He is placed in the rear seat of the patrol vehicle with the passenger officer who is to the rear of the driver (there are no protective shields in the patrol cars). Upon commencing the transport of five to ten miles (rough estimate), the arresting officer issues that information by radio. If the offender is a female, he also furnishes the dispatcher with the point of origin, mileage, destination, and final mileage. He also informs the dispatcher if he is bringing in a juvenile.

Upon arrival at headquarters a female nurse observes the processing of female offenders; parents of juveniles are notified (Parent Contact Form). Juveniles may be released to parents after processing.

An inventory search of the offender's vehicle is not usually done - only when deemed necessary; then the trunk area is exempt from that search. The police department assumes responsibility for articles inventoried (property book entry).

Initially the suspect's vehicle is driven to a private parking area. After determination of BAC, it may be towed to the Lincoln Police Department's west lot (see Appendix A; Exhibit 131) or a private facility by either a government-operated or privately-owned towing service. Approximately five private towing services are under contract to be called on a monthly rotation basis (each is on call for one month at a time). Their response time is about ten to fifteen minutes. They can be removed from the eligibility list for deficient service after proper reports are filed, but it is a slow process. The government-operated service has two trucks at its disposal and has the same response time. If the vehicle is stored at the police lot, video monitoring provides security for its contents.

Conclusions: None

Recommendations: None

Section 4 - Incarceration

After evidentiary testing, the offender is jailed for a minimum of six hours. A previous ASAP supervisor devised a schedule which prescribes a period of incarceration relative to BAC level - based on approximately .015% dissipation per hour. The suspect is arraigned the following morning when court is in session and is released to an attorney after invoking an appearance bond determined by the presiding judge. (It was not ascertained how the courts handled out-of-state offenders.) A person may not be eligible for bail if his previous record (as determined by NCIC and LETS, the state criminal information network) is extremely bad.

Offenders are fingerprinted and photographed before release from jail, except for juveniles (who may be if they are habitual offenders). A body

frisk, extensive search of outer apparel and removal of potentially harmful articles and personal effects (belt, eyeglasses, cigarette lighters, etc.) are done. The articles are sealed in a property envelope labeled with the offender's name and are returned to him (without receipt) upon his release. The Jail Sergeant will make a phone call for him (he is not allowed to do it personally). If the suspect refuses the opportunity, he is given another after sobering up. A telephone directory is supplied; a public defender is available for the indigent.

To effect incarceration the arresting officer must complete the Arrest Record (Fig. 13-10) and one of the corrections personnel must prepare two copies of it along with administrative forms (fingerprinting and photographing), property inventory, and jail card. The jail is staffed with police personnel and a nurse (RN). If the suspect shows signs of illness, he is examined in the jail infirmary by the nurse who may administer prescribed medication or refer him to a hospital. (Offenders with a BAC of .35% or higher are watched more closely, but still incarcerated.) The prisoner is confined in an empty, square "drunk tank". The jail facility is maintained in a sanitary, hygienic state.

The offender's vehicle can be released only to its registered owner while the offender is incarcerated. That person must produce identification.

Conclusions: Jail facilities and incarceration procedures appear to have been well-planned and organized. At the jail, a nurse is on duty 24 hours each day (she also serves as matron).

Recommendations: None

Section 5 - Officer Testimony and Adjudication

The arresting officer is not required to be present at arraignment. Pre-trial conferences are held only in unusual cases; they would be attended by the prosecutor, defense attorney and judge. The police department assigns court days to each officer, who records a trial day on each citation used. At the arraignment the court schedules the trial accordingly. The court liaison officer (from the police department) ensures that officers are informed of scheduled appearances and continuances.

An officer spends at least one off-duty day a week in court, averaging as much as 60 hours a month of overtime due to those appearances. He is compensated at 1½ times his hourly wage and receives no witness fee.

Upon request of the prosecutor the officer's testimony consists of the particulars of the case, the defendant's BAC, and submission of documents. Pre-arrest breath screening test results are introduced as evidence only occasionally. Physical coordination test results are usually used in Implied Consent (refusal) cases only. The arresting officer is encouraged to testify from memory by the prosecutor. (For forms executed by officers for processing purposes, see Appendix A; Exhibit 13a: Policy Statement; Figures 13-10: Arrest Report; 13-2: Complaint Report.)

Initial DWI trials are held in municipal and county courts; appeals are tried in Lancaster County District Court. The judges are appointed by "Missouri Plan" (i.e., appointed for a four-year term by the State Governor, then up for re-election). To be appointed a judge must be at least 30 years of age, a U.S. citizen, and in municipal court, an attorney. In county court the chief judge must be an attorney. No particular judges have been designated to preside over DWI trials. They have had no special DWI training except at their own initiation. There seems to be a feeling by judges that intensified training in this area may bias their decisions in DWI cases.

DWI cases are all held before a full-time judge (as opposed to a jury). If he pleads guilty at arraignment and requests pre-sentence investigation (PSI) or it is ordered by the judge, the offender begins testing conducted by the Probation Alcohol Program of ASAP. If he pleads not guilty, he usually changes his plea at trial. If granted a PSI, the offender is tested and channelled into a treatment modality and will undergo a PSI hearing. Upon successful completion of probation, he is discharged and is not convicted of the offense. If PSI is not granted, the offender is fined and his license is revoked.

Plea-bargaining is employed primarily when a defendant hires an attorney. Contradictory opinions exist regarding its use. According to the Chief Prosecutor, the arresting officer is normally consulted before

a decision is reached; according to police, they are very seldom, if ever, consulted. As far as the police are concerned, too much plea bargaining is going on. If the charge is reduced, it is to reckless, careless, or negligent driving, all of which carry a \$100 fine. Occasionally a second offense will be reduced to a first conviction (if there is considerable time lag between the two). A second conviction carries a five-day jail term. The prosecutor examines the previous record.

There is a Chief Prosecutor and four assistants, some of whom have attended the ASAP class (40-hour Gas Chromatograph Intoximeter course for police) and possibly other seminars related to DWI prosecution. A backlog of cases exists; it is approximately three to four months from arraignment to trial.

Non-police witnesses are not often summoned to trial (only in some accident cases); they are compensated for their time by a \$20/day witness fee.

Convictions for DWI offenses are difficult to obtain if the BAC registered below .10% (per se level of intoxication). (In fact, unless the extenuating circumstances are really extreme, DWI is not charged in such cases.)

Conclusions: According to police sources, a prevailing attitude among judges is that intensive training (on their part) in the effects of alcohol on the human physiology, in addition to the principles and operations of evidentiary breath testing devices and portable breath testing devices, would have a tendency to bias their decisions in the adjudication of DWI cases.

Recommendations: Judges who hear DWI cases should be exposed to as much training in this area as possible, in order to render enlightened decisions. Plea bargaining should not be an entrenched method for dispensing justice; but rather, should be employed discriminatingly, when circumstances warrant the procedure. No more than three months should be allowed to elapse from arraignment to trial.

NEW HAMPSHIRE

Section 1 - Detection

The ASAP Monitor Team of the New Hampshire State Police relies solely on visual observation in the detection of suspected DWI offenders. Troopers have learned to be watchful for certain clues which may indicate that the operator of the vehicle is impaired. Training in this area is conducted during the Basic Training Program for Breath Examiner Specialist (see Appendix A; Exhibit 14a; Section D; pp. 1-4). All troopers selected for the ASAP Monitor Team have completed this training program.

Supervisory officers of the ASAP Monitor Team have access to files maintained on fatal accidents on both state and local levels, which pinpoint the exact locations of the occurrences. Precisely how often these data are consulted by enforcement personnel for the purpose of patrol strategies and deployment was not clearly determined. One of the supervisory officers indicated that he was able to consult the files generally on a bi-weekly basis. Comprehensive statistics concerning motor vehicle fatalities are also compiled by the ASAP, and are available at any time to the Enforcement Coordinator, a Sergeant of the State Police. Troopers of the ASAP Monitor Team, however, do not normally refer to analytical studies or special reports dealing with alcohol-related crashes in order to determine patrol strategies. (One of the ASAP Team supervisors mentioned that the troopers' experiences in identifying high-incidence areas are taken into consideration in patrol deployment.) Personnel deployment appears to be structured primarily along the lines of district court and population configurations, rather than adhering strictly to high-incidence areas of alcohol-related crashes. It must be recognized, however, that a preponderance of all motor vehicle crashes occurs in the most heavily populated regions of the state, which consequently receive most of the ASAP enforcement effort.

Each trooper of the Team has been issued a portable dictating unit which he carries in his patrol vehicle during duty hours. He may activate this device when stopping a DWI suspect, although observation disclosed general non-use of the audio recording mechanism during the detection

phase of DWI processing. (The device employed is the Sony BM-10 Portable Dictating Unit.)

Officers appear to be satisfied with the success of the methodology used in detecting DWI suspects, and no particularly adverse criticism of the overall technique was offered. Favorable evaluation of that methodology is based on the fact that there has been an increase in DWI apprehension state-wide; therefore, it is presumed to be productive.

Clues observed by the ASAP trooper are usually recorded on the Violation Slip (Fig. 14-1), which is executed in each instance of a DWI offense. In addition, the Alcoholic Influence Report Form (Fig. 14-2) may be used to document this information.

A decision apparently handed down by the New Hampshire Supreme Court prohibits the employment of road checks in detecting suspected DWI offenders. No other methods or devices, apart from those mentioned, are used to detect DWI suspects.

Conclusions: Troopers of the ASAP Monitor Team rely upon traditional clues for detection of suspected DWI offenders. These include the all-time favorites--weaving in the roadway, in addition to excessive speed, driving considerably below the posted speed limit, driving at night without lights, ad infinitum. These clues, to a large extent, are employed by all law enforcement officers on the lookout for suspected drinking drivers, and have proven to be reliable indicators of impairment. This method of detection appears to be adequate for the ASAP enforcement countermeasure in New Hampshire.

Recommendations: The detection methodology currently in use should be continued.

Section 2 - Apprehension

Suspected DWI offenders are stopped in the routine manner: The trooper's vehicle is positioned behind the offender's auto and the blue, rotating beacon is engaged. As the suspect brings his car to a stop to the right of the roadway, the trooper follows suit with his vehicle and parks approximately one to one-half car length behind the suspect's auto,

with the rotating beacon continuously in operation. The trooper gets out of his vehicle, flashlight in hand (normally operations are conducted during hours of darkness) and approaches the driver's side of the suspect's vehicle. He requests to see the operator's license and the vehicle registration, after which the trooper will ask the operator to step out of his car. During this process, the officer makes a determination relative to the suspect's state of sobriety and, based on that determination, arrives at the decision to place the offender under arrest (or not to arrest). The criteria employed by the trooper include "tell-tale" odor of the breath, fumbling mannerisms, unsteady gait, bloodshot eyes, disarranged clothing, etc.

When the suspected offender is formally placed under arrest by the trooper, he is then advised of the New Hampshire Implied Consent statute and of his Constitutional rights (Miranda warning). These are issued verbally by the trooper, from mental recollection. (The trooper may subject the suspected DWI offender to a series of psychomotor tests as the scene of the traffic stop, prior to placing him under arrest, at which point neither the Implied Consent statute nor the Miranda warning would be required. Only after the suspect has been formally placed under arrest must he be so admonished.)

During this process, the trooper may activate the portable dicatating unit in the front of the vehicle. Whether or not he employs the device is a matter of his personal judgement, but most ASAP troopers observed that the audio recording unit is particularly useful in situations when the suspect refuses to submit to a chemical sobriety test.

DWI suspects are charged with the offense under state statute. Troopers now have the authority to place a DWI charge at the scene of a motor vehicle crash, even though the officer may not have witnessed the incident. This legislative provision, however, was not incorporated into the State Code until 1973.

The Division of State Police authorizes troopers to engage in the chase or "hot pursuit" of a suspected DWI offender, but the conduct of the actual chase is again determined by the individual trooper's judgement.

He is not restricted by any speed limits under "hot pursuit" conditions, but must be cognizant of the safety and well-being of others in pursuing the suspect. The trooper continues the chase until the vehicle has been brought to a stop or has eluded the officer; or until a decision has been made by the trooper to abandon pursuit for the reason that it would not be in the public interest to continue (e.g., the danger of serious injury and/or loss of life is too great to warrant its continuation). Under normal driving conditions, troopers must comply with posted speed limits as well as with the nationally established 55 m.p.h. ceiling.

During the process of stopping a suspected DWI offender, the trooper normally issues no radio message to the dispatcher. When he effects an arrest, he then summons another trooper to the scene for the purpose of transporting the offender's vehicle. Only then does he use his radio, and then only for that reason. Often this is accomplished by means of car-to-car communications, bypassing the dispatcher.

If there are passengers in the suspect's vehicle, the car may be driven to a predetermined destination by one of the passengers provided that he is a sober, responsible person who also possesses a valid operator's license. Of course, the arrested suspect's consent must be obtained prior to this course of action. It makes no difference whether the passenger is related to the offender or not; the objective is to remove the vehicle from the scene in the most convenient manner to both the person arrested and to the law enforcement agency. In such a case, obviously, the need for an officer to transport the offender's vehicle is obviated.

Where a suspected DWI offender's blood-alcohol concentration is less than .10%, the New Hampshire District Courts refuse to prosecute, notwithstanding the fact that - by statute - between the levels of .051% and .099% BAC no presumption may be made either pro or con impairment. With this knowledge, and given such a result from the evidentiary test, the trooper will reduce the charge to Operating After Drinking (OAD). Technically, OAD is considered a warning, but it may be followed through with an administrative hearing before the Division of Motor Vehicles, which could result in the suspension of the accused's privilege to operate a vehicle for a fixed period of time. Authority for the issuance of

OAD warnings is provided by statute. (Troopers additionally point out that, in many cases, convictions are difficult to obtain at BAC levels between .10% and .15%.)

Troopers retain absolute discretion in determining whether or not to effect a DWI arrest. Supervisory officers will not enter into the picture at that point of the process, either to suggest possible courses of action or to furnish other guidance to the trooper in determining the disposition of the offender. It was emphasized that the supervisor is certainly in a position to do so in instances where unsound judgement is displayed by the trooper; but no such incident could be recounted by either of the two Corporals in charge of the Team.

To the present time, the New Hampshire legislature has not seen fit to incorporate a statute into the Motor Vehicle Laws which would permit law enforcement officers to employ pre-arrest breath screening devices in DWI enforcement. Consequently, these aids have not been and are not utilized by any law enforcement agency in the state.

Aside from the trooper's personal observation of the offense in progress, no other means (such as roadblocks, roadchecks, surveillance of known offenders, radar, etc.) are employed by the ASAP Monitor Team in the apprehension of suspected DWI offenders.

Conclusions: The officer's decision to arrest is purely subjective, based on his initial impressions at the scene of the traffic stop. The lack of reliable pre-arrest screening devices leaves no other alternative. As a result, it is entirely feasible that suspects are transported from the scene, processed, and then released because the BAC level was not sufficiently high for subsequent prosecution. (Or else the trooper decides in his own mind that he will not arrest anyone unless that person is obviously intoxicated; preferably with a BAC of .15% or greater. Thus, a certain number of "borderline" DWI offenders (i.e., with BAC's ranging from .10% to .15%) escape identification and are permitted to continue to drive.)

Use of the portable recording unit appears to be infrequent. There was no evidence that any formal policy concerning the implementation of the devices had ever been promulgated. As a result, the

portable dictating unit is activated entirely at the individual officer's discretion.

The legislative provision authorizing police officers to charge DWI at the scene of a motor vehicle crash to which they were not a witness was overdue. The question remains why it was so long in coming. A basic function of police, and principally of state police or highway patrol agencies, is the investigation of motor vehicle on state rights-of-way. Out of the thousands which occur in practically each state annually, very few are actually ever witnessed by the investigating officer. If current estimates - that approximately 50% of all motor vehicle fatalities involve the consumption of alcohol by one or more of the principals - are even remotely correct, then it is evident that the drinking driver is a menace which must be brought under control. To restrict the investigating officer from placing a charge of DWI at the accident scene when all facts point in that direction, is a travesty of justice.

The Division of State Police shuns its responsibilities to each of its sworn members in its failure to establish formal policy concerning high-speed chases or "hot pursuit". Next to confrontation by an armed suspect, this is probably one of the most hazardous situations in which an officer may find himself. It is acknowledged that, as in the case of the use of deadly force, some factors are of necessity judgmental, but it is equally true that a great deal can be delineated by departmental policy, and adequate guidelines relative to what offenses and conditions justify "hot pursuit", and what factors should be considered in abandoning the chase can be developed.

The author was amazed to find that an apparently significant number of law enforcement agencies (including the New Hampshire State Police) still do not require their officers to report to the central dispatcher when commencing to stop a vehicle. Such a report should include the location of the stop, the state and number of the license plate, and perhaps a brief description of the vehicle, as well as the number of occupants. Hardly a day passes when there is not a police officer assaulted and injured or perhaps even murdered somewhere in

the U.S., and not infrequently such incidents grow out of a "routine" traffic violation which came to the officer's attention. Notification of the dispatcher prior to stopping the auto may also allow sufficient time to check on the vehicle's "wanted" status, thereby alerting the officer (and perhaps other units in the area) in a case where the vehicle may have been sought for any reason, without the officer's previous knowledge. In the author's opinion, informing the central dispatcher (or the dispatcher at one of the district stations) of an impending traffic stop is a prudent and wise measure in its relation to the dispatcher, who then takes appropriate action. The fact that such a procedure has not been instituted by a law enforcement agency is inexcusable.

Recommendations: The possible implementation of pre-arrest breath screening as applied to DWI suspects would seem to merit attention in New Hampshire. Consistent use of the devices in drunk driving enforcement would quite probably reduce the amount of subjective decision-making on the part of the arresting officer. A great amount of data is now available concerning technical and operational aspects of various pre-arrest breath screening devices, which should facilitate arrival at an intelligent decision as to which device is most appropriate for the region. Implementation of this technique, of course, would also require statutory sanction.

If the portable dictating units are to be effective as a tool in DWI enforcement, it would appear that formal policy concerning their use should be developed by the command staff of the Division of State Police.

Formal policy dealing with high-speed chases also appears to be urgently required. It is grossly unfair to place the entire burden on the individual trooper's shoulder, leaving the matter to his discretion or judgement. In this manner, when an unfortunate turn of events places the officer in a position of embarrassment or liability, the department is in the advantageous position of being able to point an accusing finger at the individual trooper for his lack of judgement.

For reasons already discussed in the Conclusions section preceding this segment, but particularly for the sake of personal safety on the part of officers of the New Hampshire State Police, the author feels that it is highly advisable for the Division to implement official policy requiring officers to notify a dispatcher before stopping a vehicle for any reason. The benefits of such procedure would seem to outweigh, by far, any disadvantages or inconveniences suffered by it.

Section 3 - Transporting Persons and Property

In effecting a DWI arrest, a trooper has complete authority to undertake a search of the offender's vehicle, as long as the area searched is within his normal field of vision. If probable cause is established, the trooper may conduct a custodial search of the entire vehicle, including the interior of the trunk, in which event he is required to complete an inventory of all articles found in the auto. Under such circumstances, if the fruits of another crime are uncovered, the DWI suspect may be charged with the additional offense. Custodial searches, however, are rarely conducted in the apprehension of DWI offenders.

In searching the offender's person, troopers generally utilize the pat-down frisk. Technically, this procedure applied to all suspected DWI offenders, including females. With the latter, however, a frisk search is not normally conducted. The search of a female offender by a male officer, and its inherent danger of subsequent charges of impropriety on the part of the officer, presents a perplexing problem for male-dominated law enforcement agencies. In most situations, the officer will make a visual observation of the female offender for obvious indications of possible concealed weapons and will inspect handbags and similar articles for their contents. If he still harbors some suspicion concerning the intentions of his female prisoner, he may resort to physically restraining the suspect by handcuffing her. If he thinks that a frisk search is necessary, the trooper will request a colleague to respond to his location, thereby securing a witness to the proceeding.

A strip search may be conducted where a trooper has reason to believe that it is in order. In that event, the search would be undertaken at the nearest law enforcement facility. In the case of females, it would be conducted by a matron or female police officer (if the latter is available).

In the search process, no separate distinction is applied to juvenile offenders. Under the Motor Vehicle Laws of New Hampshire, anyone 16 years of age or older is treated as an adult offender. (In all other applications of the legal code, however, all persons 18 years of age or older are considered adults.)

Whether or not a DWI suspect is handcuffed is a matter of the trooper's discretion. It was explained that handcuffs are used only in unusual cases; officers feel that often they only serve to aggravate the suspect. Troopers would be likely to employ handcuffs only where the offender displays violent or otherwise obstreperous behavior and cannot be transported safely in any other fashion.

If the arrest is effected by a two-man unit, the offender is placed on the front passenger seat next to the trooper operating the police vehicle. The passenger officer is seated in the rear of the vehicle, directly behind the suspect. In single-unit patrol vehicles, the offender is seated in the rear. Patrol wagons are not used by the New Hampshire State Police for transporting offenders. The arresting officer's vehicle is used for that purpose. The vehicles, including those of the ASAP Monitor Team, are not equipped with protective screens or shields.

The arresting officer originates no radio message when commencing transport of a male offender, adult or juvenile. If a female suspect is about to be transported, a trooper operating a single-unit vehicle may request another officer to respond to his location for the purpose of accompanying him to the testing facility. Should he decide against this course of action, the trooper will issue a radio message containing his location and time of departure from the scene, his destination, and the time of arrival there. Generally, however, another trooper will respond to the scene of the arrest, particularly since his services will be

required (in most cases) to transport the offender's vehicle to the testing facility.

The suspect's vehicle, unless turned over to a passenger, is normally driven from the scene of the arrest by another trooper, who will deliver it at the facility where the DWI offender is about to be processed. The vehicle remains at that location until it is claimed by someone designated by the offender, or until the offender himself is released from custody. The DWI suspect may request a private towing service to remove the auto from the scene, in which case the trooper will notify the dispatcher of that request, who in turn will contact the towing service. Response time of a private towing service varies throughout the state, due to its predominantly rural nature. In less-settled portions of the state, as much as a full hour may be required for a tow truck to arrive at the scene. On an average, however, response time was estimated to be approximately 20 minutes from the time of original radio contact. Whenever possible, the towing service assumes full responsibility for the vehicle upon taking charge of it. It is exceptional, however, for a DWI suspect to request the services of a tow truck. He will normally elect to have another trooper drive his auto from the scene, thereby preventing additional expenses. As a rule, automobiles driven by suspected DWI offenders are not impounded if the suspect is charged with that offense only. If the vehicle is turned over to a passenger, no written forms are employed. A verbal agreement between the offender, the passenger, and the trooper takes place, and the passenger then assumes charge of the auto.

The arrested DWI offender is transported by the arresting officer to the nearest testing facility, which is usually a local law enforcement agency (either a police or sheriff's department). Since the ASAP Monitor Team operates within various districts throughout the state, the distances between the scene of the arrest and the testing facility may vary extensively. DWI offenders are usually booked in the same facility in which they are processed.

Conclusions: The transporting process employed by the New Hampshire State Police appears to be generally suitable to operations in that state. No significant feedback was obtained from officers.

Recommendations: The Division of State Police may consider promulgation of formal policy requiring troopers to initiate a radio message when commencing transport of any person, whether arrested or not.

In the interest of personal safety to officers, such action by the Division may be advisable.

Section 4 - Incarceration

The disposition of an offender charged with Driving While Intoxicated, pending court appearance, depends on the jurisdiction in which he is apprehended. In most cases, as long as he is a resident of New Hampshire, the suspected offender is released on his personal recognizance - unless it is discovered that he is a second or subsequent offender. However, if the suspect gives the officer reason to believe that he has no intention of appearing in court, he will be required to post bond. Residents of other states, as a general rule, must always post bond.* The amount established for bail is set by a Bail Commissioner, who obtains guidance in this matter from the local courts. Usually, the court will suggest the proper amount of bond necessary for any given offense, and the Bail Commissioner will act accordingly. Therefore, figures vary throughout the state by jurisdiction, in terms of bond requirements for the offense of Driving While Intoxicated. A bond of \$200 for the first offense was quoted as a tentative average in the state. Anyone arrested and charged with DWI is eligible to post bond.

A DWI offender may be released to a responsible person at any time after he has been fully processed; consequently, he may not be incarcerated at all. By administrative regulation, troopers obtain fingerprints of each DWI suspect arrested, but there is no statutory requirement for this procedure. (It is permitted, but not mandated, by statute.)

* Out-of-state residents comprise roughly 30% of the total DWI arrest figures.

The preceding applies to both adults and juveniles apprehended and charged with the offense.** Fingerprints are obtained after the evidentiary test has been conducted, and standard Fingerprint Forms are used.

If a prisoner is jailed, he is thoroughly searched and all articles of personal property are removed before he is allowed to enter the cell area. (A property receipt is issued to the person about to be jailed.) ASAP troopers always utilize local lock-up facilities, where requirements again differ from one jurisdiction to the next. Some insist on photographing the prisoner in addition to obtaining his fingerprints, and others require a local arrest sheet which is executed by the trooper and which remains at the jail. The prisoner's personal property is retained at the jail and is returned to him upon his release. Unless the DWI offender is released to a responsible person, however, he must remain in jail a minimum of four hours, which is considered a "sober-up" period.

Medical examinations of DWI offenders are not routinely conducted. This is another area which is contingent upon the individual officer's judgment. If his suspicions are aroused sufficiently, he may take it upon himself to transport the suspect to a medical facility for treatment.*** Unless the offender shows obvious signs of illness, however, such action is generally not taken by the arresting officer.

Bail/bondsmen are licensed by the state and are not permitted to solicit in the jail area. (However, posters and/or business cards advertising their trade and telephone numbers may be displayed.) Bondsmen may charge a 4½% fee, which is prescribed by statute.

DWI offenders may telephone legal counsel from the processing facility, prior to or after having reached a decision to undergo evidentiary

** Juvenile fingerprint forms are forwarded to and maintained at the juvenile records branch of the State Police.

*** A recent incident was cited as an example: A DWI offender appeared ill and was rushed to a hospital by the arresting officer. There, the suspect was found to be a diabetic who had lapsed into a coma. The officer learned from the medical staff that the man would have died, in all probability, had he not been referred to treatment.

testing. If he has no particular attorney in mind, the offender may consult the telephone directory in order to make a selection. He must personally contact the attorney, however; neither the arresting officer nor personnel at the jail will undertake the effort for him. The offender is given the opportunity to consult with his attorney at any time after his arrival at the processing facility.

Indigents must satisfy the court that they are unable to afford the services of counsel, whereupon the necessary forms are completed and free counsel is made available.

An offender's vehicle may be released at any time to a responsible person designated by the owner to retrieve the auto.

Conclusions: The procedure of releasing residents of the state on personal recognizance is a sensible one. Provisions for posting a bond are retained for out-of-state offenders and those who give indications that they have no intention of appearing in court.

The DWI offender's release from custody after evidentiary testing may present occasional problems if the accused decides to drive again shortly after his release. Such incidents are hopefully kept to a minimum by the fact that the accused is released to a responsible person.

Recommendations: It may be advantageous to subject DWI offenders with high blood-alcohol concentrations to medical examinations on a routine basis (for example, those registering a BAC of .35% or greater). The examination need not be overly detailed, but should be of the check-up variety, where vital signs are noted. The possibility of such offenders slipping perhaps into a comatose condition, after having been jailed or released, cannot be discounted.

Section 5 - Testimony and Adjudication

The arresting officer is not required to be present during arraignment of the DWI offender. Another officer may substitute for him during this process, which eases the burden for ASAP troopers who are normally off-duty during the hours when arraignment takes place. (Arraignment

consists only of the taking of pleas.) In the event that a not guilty plea is entered and the case is contested, a trial date is set and the arresting officer must appear in court on that date. It is important to remember that (in district court) the officer also acts as prosecutor for his case. For this reason, pre-trial conferences are not held.

ASAP troopers are regularly scheduled for court appearances, but there are nevertheless numerous occasions when they are summoned to court while off-duty. (Contested DWI cases are set for trial at some later time, which seldom coincides with the trooper's scheduled court dates.) An additional problem encountered here is that troopers may be called upon to traverse the entire state in order to testify at a DWI trial, a situation which is predicated by the state-wide deployment of the ASAP Monitor Team.

A witness fee of \$15 is paid to the officer if he is required to attend court while off-duty. This amount is paid regardless of whether he spends an hour or the entire day in the courtroom. If the fee is provided, the officer cannot elect to receive compensatory time in its stead. In the event that the officer has used up his prescribed amount of overtime for that year, and he is not paid the \$15 witness fee for some reason, he may submit a letter to his superior requesting compensatory time for the number of hours spent in court.* Approval of the request rests entirely with his supervisor.

In most cases, physical evidence to assist in prosecution is not confiscated by troopers at the scene. A prevalent feeling is that evidence other than the offender's blood-alcohol concentration is of little value in gaining a conviction. If a trooper does obtain physical evidence in a DWI case, he is responsible for bringing it to court and introducing it into evidence during his testimony. (As the reader will recall, the officer acts as prosecutor in district court.) As long as the rules of evidence are observed, the officer may introduce anything which is relevant, material, and competent.

* Troopers of the New Hampshire State Police are allotted 416 hours of overtime per year, which is paid at a straight hourly rate.

It is exceptional for witnesses (other than the arresting officer) to be present in a DWI trial. Usually witnesses are called only in cases where a crash occurred between two or more motor vehicles, in which event their presence might be required by either the prosecution or the defense. Other troopers, although present at the scene, are not normally summoned to court to testify as witnesses. Those required to appear at DWI trials, police officers and private citizens alike, are summoned by subpoena. Their testimony consists of observations made at the time of the incident.

Driver's license hearings are conducted by the Division of Motor Vehicles in the event that the offender violated the Implied Consent statute. If the offender is found to have knowingly rejected the statute's provisions (which is virtually always the finding), his privilege to operate a motor vehicle in New Hampshire is suspended for a period of ninety days.

When a trooper issues an Operating after Drinking (OAD) warning, he may request of the Division of Motor Vehicles that the recipient's driving privileges be suspended. This again requires that a hearing be held, and - if the situation warrants it - the person who has been issued the OAD warning faces suspension. Technically however, the suspension in such a case would be attributable to improper operation of a motor vehicle, since there is no statutory sanction specifically against operating a vehicle after drinking.

DWI cases which have been dismissed by the district court may be brought before the superior court by the arresting officer if he feels that circumstances warrant it. The officer may do so by filing an information with the superior court, upon which the case will be scheduled for trial there. In this manner, convictions may still be obtained in DWI cases which had been previously dismissed in district court.

Some interesting observations were made on the district court system in New Hampshire. The days and times during which the various district courts throughout the state are in session are irregular and fluctuate by district. In some areas, district courts may only be in session two days per week (possibly once during normal daytime hours and the next time during evening or nighttime hours). In other parts of the state

(usually more heavily-populated areas), district courts are found to be in session five days per week during regular working hours.**

For the most part, district court judges are practicing attorneys with a full-time law practice who discharge their judicial duties on a part-time basis. They are appointed to their judgeships for life, with a mandatory retirement age at 70 years.*** At present, there are believed to be only four districts in the entire state which have full-time district court judges. Court reconstruction is currently taking place to some degree, with the emphasis on converting the existing municipal courts into district courts. In this rather peculiar process of attrition, the municipal court is converted into a district court upon the retirement or death of the municipal court judge. Compounding the problem within the court system, however, is a move at the same time to abolish the present district courts in the state, and to replace them with a circuit court system.

Conclusions: The practice (in district court) of having the arresting officer fulfill the dual role of witness and prosecutor is questionable. Police officers generally have not had the benefit of legal training required for the function of prosecution, which gives defense attorneys an overwhelming advantage.

Recommendations: District courts should be staffed with an adequate number of attorneys who act as prosecutors.

Continuing liaison between the courts and the Division of State Police should be ongoing, in order to hold the number of off-duty court appearances by troopers to a minimum.

Troopers should expend more efforts in obtaining additional evidence for DWI trials (other than just BAC readings), to present a stronger case.

** The mandatory requirement age cited may not be entirely accurate. It was quoted as an unconfirmed estimation.

*** Additional information concerning the court system in New Hampshire may be found in Appendix E.

It would appear preferable to have full-time judges on the district court bench, who are not permitted to practice law in another capacity. With the present system, occasions may arise where a conflict of interest exists.

(Check)	(Check)
<input type="checkbox"/> Driver	<input type="checkbox"/> Accident
<input type="checkbox"/> Pedestrian	<input type="checkbox"/> Violation
<input type="checkbox"/> Passenger	<input type="checkbox"/> Other
Date and time of Accident or Violation _____ am _____ pm	

ALCOHOLIC INFLUENCE REPORT FORM

Police Dept. _____
Arrest No. _____
Accident No. _____
Arresting Officer _____
Date and time in custody _____ am _____ pm

Name _____ Address _____

Age _____ Sex _____ Race _____ Approx. Wt. _____ Operator Lic. No. _____ State _____

OBSERVATIONS:

CLOTHES	Describe: (Type & Color)	Hat or Cap _____
		Jacket or Coat _____
		Shirt or Dress _____
		Pants or Skirt _____
	Condition:	<input type="checkbox"/> Disorderly <input type="checkbox"/> Disarranged <input type="checkbox"/> Soiled <input type="checkbox"/> Mussed <input type="checkbox"/> Orderly
		(Describe) _____
BREATH	Odor of Alcoholic Beverage:	<input type="checkbox"/> strong <input type="checkbox"/> moderate <input type="checkbox"/> faint <input type="checkbox"/> none
ATTITUDE	<input type="checkbox"/> Excited <input type="checkbox"/> Hilarious <input type="checkbox"/> Talkative <input type="checkbox"/> Carefree <input type="checkbox"/> Sleepy <input type="checkbox"/> Profanity	
	<input type="checkbox"/> Combative <input type="checkbox"/> Indifferent <input type="checkbox"/> Insulting <input type="checkbox"/> Cocky <input type="checkbox"/> Cooperative <input type="checkbox"/> Polite	
UNUSUAL ACTIONS	<input type="checkbox"/> Hiccoughing <input type="checkbox"/> Belching <input type="checkbox"/> Vomiting <input type="checkbox"/> Fighting <input type="checkbox"/> Crying <input type="checkbox"/> Laughing	
SPEECH	<input type="checkbox"/> Not Understandable <input type="checkbox"/> Mumbled <input type="checkbox"/> Slurred <input type="checkbox"/> Mush Mouthed <input type="checkbox"/> Confused	
	<input type="checkbox"/> Thick Tongued <input type="checkbox"/> Stuttered <input type="checkbox"/> Accent <input type="checkbox"/> Fair <input type="checkbox"/> Good	
Indicate other unusual actions or statements, including when first observed: _____		
Signs or complaint of illness or injury: _____		

PERFORMANCE TESTS:

(Note—See departmental instructions for conducting these tests)

Check Squares if Not Made	Check appropriate square before word describing condition observed
<input type="checkbox"/> BALANCE	<input type="checkbox"/> Falling <input type="checkbox"/> Needed Support <input type="checkbox"/> Wobbling <input type="checkbox"/> Swaying <input type="checkbox"/> Unsure <input type="checkbox"/> Sure
<input type="checkbox"/> WALKING	<input type="checkbox"/> Falling <input type="checkbox"/> Staggering <input type="checkbox"/> Stumbling <input type="checkbox"/> Swaying <input type="checkbox"/> Unsure <input type="checkbox"/> Sure
<input type="checkbox"/> TURNING	<input type="checkbox"/> Falling <input type="checkbox"/> Staggering <input type="checkbox"/> Hesitant <input type="checkbox"/> Swaying <input type="checkbox"/> Unsure <input type="checkbox"/> Sure
<input type="checkbox"/> FINGER-TO-NOSE	Right: <input type="checkbox"/> Completely Missed <input type="checkbox"/> Hesitant <input type="checkbox"/> Sure
	Left: <input type="checkbox"/> Completely Missed <input type="checkbox"/> Hesitant <input type="checkbox"/> Sure
<input type="checkbox"/> COINS	<input type="checkbox"/> Unable <input type="checkbox"/> Fumbling <input type="checkbox"/> Slow <input type="checkbox"/> Sure <input type="checkbox"/> (Other) _____
	(Balance during coin test) _____
Ability to understand instructions: <input type="checkbox"/> Poor <input type="checkbox"/> Fair <input type="checkbox"/> Good Tests performed: Date _____ Time _____ am _____ pm	

OBSERVER'S OPINION:

Effects of alcohol: <input type="checkbox"/> extreme <input type="checkbox"/> obvious <input type="checkbox"/> slight <input type="checkbox"/> none	Ability to drive: <input type="checkbox"/> unfit <input type="checkbox"/> fit
Indicate briefly what first led you to suspect alcoholic influence: _____	
Observed by: _____ Assignment: _____	
Witnessed by: _____ Date _____ Time _____ am _____ pm	

CHEMICAL TEST DATA:

Specimen: <input type="checkbox"/> Blood <input type="checkbox"/> Breath <input type="checkbox"/> Saliva <input type="checkbox"/> Urine <input type="checkbox"/> None	Analysis result:
<input type="checkbox"/> Refused <input type="checkbox"/> Unable	If Breath, what instrument?
If refused, why? _____	

Figure 14-2

INTERVIEW:

Were you operating a vehicle? _____ Where were you going? _____

What street or highway were you on? _____ Direction of travel? _____

Where did you start from? _____ What time did you start? _____

What time is it now? _____ What city (county) are you in now? _____

What is the date? _____ What day of the week is it? _____

INTERVIEWER TO FILL IN ACTUAL: _____ am/pm _____ Day _____ Date _____ Interviewer's Name _____

When did you last eat? _____ What did you eat? _____

What were you doing during the last three hours? _____

Have you been drinking? _____ What? _____ How much? _____

Where? _____ Started? _____ am/pm Stopped? _____ am/pm

Are you under the influence of an alcoholic beverage now? _____

What is your occupation? _____ When did you last work? _____

Do you have any physical defects? _____ If so, what? _____

Are you ill? _____ If so, what's wrong? _____

Do you limp? _____ Have you been injured lately? _____ If so, what's wrong? _____

Did you get a bump on the head? _____ Were you involved in an accident today? _____

Have you had any alcoholic beverage since the accident? _____ If so, what? _____

Where? _____ How much? _____ When? _____

Have you seen a doctor or dentist lately? _____ If so, who? _____ When? _____

What for? _____ Are you taking tranquilizers, pills or medicines of any kind? _____

If so, what kind? (Get sample) _____ Last dose? _____ am/pm Do you have epilepsy? _____

Diabetes? _____ Do you take insulin? _____ If so, last dose? _____ am/pm

Have you had any injections of any other drugs recently? _____ If so, what for? _____

What kind of drug? _____ Last dose? _____ am/pm When did you last sleep? _____

How much sleep did you have? _____ Are you wearing false teeth? _____ Do you have a glass eye? _____

HANDWRITING SPECIMEN
Signature and/or anything he chooses.

REMARKS:

SUPPLEMENTARY DATA:

(Note—Get witnesses, including officers who observed, to prove driving)

WITNESSES			Was Suspect Driving or Operating	What Was His Condition	Where Observed
Name	Address	Tel. No.			
Passengers in Suspect's Vehicle	Name	Address		Condition	

Rep. 50M77001

National Safety Council, 425 North Michigan Ave., Chicago, Ill. 60611
Printed in U.S.A.



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Figure 14-2 (cont'd)

OHIO (CINCINNATI)

Section 1 - Detection

Analyses of alcohol-related crash data are not used as consistent tools in the enforcement process. Officers engaged in full-time ASAP enforcement are assigned to the identical beats covered by regular patrol officers and conduct random patrol within those areas. The Cincinnati Police Department also participated in the federally-funded Project FARE, which tends to contribute to the non-use of alcohol-related crash data in the sense that police efforts expended within the preview of FARE are considered sufficient as regards the application of analytical data to traffic enforcement.

Detection of the drinking driver consists solely of visual observation by the officer while engaged in patrol operations. Roadblocks have never been employed for purposes of DWI enforcement. Total reliance is placed on standard clues pertaining to the operation of the motor vehicle and the driver's behavior after having been stopped by the officer (i.e., weaving in the roadway or driving at night without lights). Pre-arrest screening of the suspected DWI offender is not utilized by Cincinnati police officers, since there is no state or local statutory provision for it. Videotaping or other photographic means of recording the motions of the offender's vehicle are also not employed. Information which the officer deems pertinent during the detection phase is entered on the Intoxication Report (Fig. 15-2) and may be introduced into evidence in Hamilton County Municipal Court.

Officers of the Cincinnati ASU receive specialized training in the detection of the DWI offender. This phase of training is incorporated in the 40-hour Senior Breath Test Operator course offered by the Ohio Department of Health in conjunction with the Cincinnati Police Department.

Conclusions: None

Recommendations: Greater use of analytical data pertaining to alcohol-related crashes, incidence of DWI offenses, etc., should be made for the determination of patrol sectors.

Section 2 - Apprehension

Although high accident and heavy traffic flow areas were those cited for surveillance, no documentation was presented to substantiate it. Rather, it was found that analyses of alcohol-related crashes were not utilized to any extent in determining ASAP patrol deployment. ASU officers were assigned to existing patrol beats within the city and DWI enforcement efforts were largely guided by officer's individual experience. According to the Traffic Section Commander no analytical reports on alcohol-related crashes are prepared for the police department. Computerized information relative to DWI enforcement evaluation was obtained solely from the Governmental Research Institute through the University of Cincinnati and this information was utilized only by the ASAP on-site evaluator.

When confronted with a possible DWI suspect, the ASU officer proceeds to stop the vehicle. Generally, the officer's vehicle is positioned directly behind and slightly to the left of that of the suspect. By a combination of flashing red beacon, and activating the electronic siren, the officer attracts the driver's attention and motions him to stop. The cruisers operated by ASU officers are not equipped with spotlights, which could be used as an additional tool in the stopping process. Having brought the offender's vehicle to a stop (whenever possible to the right of the roadway), the officer approaches the driver's side of the suspect vehicle from the rear. He requests the operator to produce his operator's license and the registration of the vehicle, and simultaneously observes the driver's behavior, mode of speech and actions. If there are passengers in the vehicle, the officer attempts to observe their actions and behavior as well. Under all circumstances, the officer attempts to position his face close to that of the suspected offender, in order to smell his breath. Unless a flagrant traffic violation on the part of the suspect had already been observed, the officer's decision to arrest is based primarily on his ability to detect the smell of alcohol on the driver's breath.

At the scene of the traffic stop, the DWI suspect is only informally questioned by the officer. Routine queries - pertaining to his destina-

tion, his reasons for driving erratically (if that was the case), and (invariably) whether he had been drinking - are put to the operator of the vehicle. From his response and accompanying actions, the officer attempts to arrive at a conclusion concerning the suspect's relative state of sobriety. (Formal interrogation does not take place until the DWI offender has been transported to the testing facility.)

When he leaves the vehicle, the officer takes his portable radio. (Officers do not appear to originate a radio message while in the process of stopping the suspected violator.)

At the time he has decided to take the suspected offender into custody, he informs the central dispatching facility of the stop and transmits the following:

- Location of the stop
- License plate number of the suspect vehicle
- Request for "wanted" information concerning driver and/or passengers and vehicle

(The central breath testing facility at 314 Broadway is equipped with a computer terminal, which prompts many officers to delay inquiry concerning "wanted" information on a DWI offender until he has been brought to that location.)

Generally, officers will not administer psychomotor tests at the arrest scene. (This testing is conducted at a later time within the central breath testing facility.) Neither is pre-arrest breath testing performed by the Cincinnati Police Department, since Ohio law provides no authority to conduct it.

If the officer decides to effect an arrest, and there are passengers in the vehicle, with the operator's consent the vehicle may be released to one of the passengers if the person to whom it is released has a valid operator's license and is not also intoxicated. Theoretically, the passenger taking charge of the vehicle is required to sign a police property receipt (Fig. 15-9), but it is questionable whether this procedure is usually followed. Observations generally indicated that a verbal agreement is reached between the officer, his prisoner, and the passenger, upon which the latter drives off with the automobile.

If none of the passengers are capable of operating the vehicle, the officer may either summon a taxicab to the scene, or have another officer drive the auto to the central breath testing facility, where arrangements may then be made for further transportation of the passengers via taxicab.

It is the policy of the Cincinnati Police Department that another officer (back-up) be summoned to the scene by the arresting officer, in order to drive the offender's vehicle to the city impounding lot. This procedure is followed in all cases where the auto cannot be released on the spot to a responsible person. The officers aiding in the arrest and vehicle transport are dispatched to the scene after the arresting officer informs the communications center of his need for their services.

An officer has complete authority to give chase and pursue a suspected DWI offender who attempts to elude arrest by increasing his speed or other evasive action. The officer persists in chasing the suspect until he is either brought to a stop or he is successful in eluding the police. There are no speed limitations imposed on the officer while engaged in "hot pursuit." Under normal circumstances, however, he is required to observe posted speed limits as well as the 55 mph limit imposed nationwide. (The latter is "unwritten" policy.) A mutual arrest agreement is apparently in effect between adjacent jurisdictions in Kentucky and the Cincinnati Police Department, but documentation was not provided. This includes "hot pursuit" across the Ohio State boundary - even in the case of misdemeanors, such as Driving While Intoxicated. Cincinnati's proximity to the state of Kentucky often provides the offender with the opportunity to attempt an escape into that state while being pursued by a Cincinnati police officer, but under such conditions the officer is still empowered to stop and arrest the misdemeanant and return him to Cincinnati.

Departmental policy of the Cincinnati Police Department dictates that the use of force in apprehending a misdemeanant or felony suspect be limited to only that required to subdue the offender.

Upon apprehension, the DWI offender is neither advised of his Constitutional rights nor is he informed of the Ohio Implied Consent law, even if he is asked to submit to a psychomotor test at the scene of the

arrest.

Officers have full authority to charge Driving While Intoxicated at the scene of a motor vehicle crash even though the officer arrived on the scene after the incident occurred and was not a witness. Thus far, no significant problems stemming from this procedure have surfaced in the courts.

When a suspected DWI offender is taken into custody by the officer, often he is not specifically told that he is under arrest. Rather, the officer explains to the suspect that he will be transported to the testing facility, implying that the offender's further disposition following testing is dependent upon the results of that process. Generally, the suspected offender will voice no objection to this proceeding. Although no observations were made of particularly obstreperous DWI suspects, it is presumed that in such instances the officer is forced to adopt a more aggressive stance in explaining the restrictions imposed on the offender.

Supervisory officers of the Cincinnati Alcohol Safety Unit do not as a rule attempt to influence an officer's decision to arrest (or not to arrest), unless it involves particularly bad judgement on the part of the officer. In that event, the supervisor will take the officer aside, point out his errors, and offer suggestions. This appears to be a rare occurrence; since ASU officers must be at least five-year veterans of the police department before being selected, incidents of flagrantly bad judgment are virtually non-existent.

Conclusions: The decision to arrest (or not to arrest) is based solely on judgmental factors.

Recommendations: Without exception, whenever an officer decides to transport a DWI suspect to the processing facility for testing, the officer should inform the individual that he is under arrest for DWI. At that point, the offender's freedom of movement is restricted and subject to directions from the police officer, which technically constitutes an arrest.

Section 3 - Transporting Persons and Property

The male DWI offender about to be transported to the testing facility is usually subjected to a pat-down frisk prior to being placed into the police vehicle. The officer has the authority, however, to search the suspect as thoroughly as may be deemed necessary, including a strip search if that appears to be in order. (The strip search would be conducted at a police facility or at the jail.)

The search of a female DWI offender is largely left to the individual officer's judgment. Any obvious articles which may be used as potential weapons are removed at the scene of the arrest; and, if the officer suspects dangerous or illegal objects concealed on the person, he may request a strip search to be performed by a female police officer or a matron. In that event, the female offender would (in all likelihood) be handcuffed and transported to the nearest facility for that purpose.

There are no special distinctions applied to the arrest and processing of juvenile DWI offenders. The only difference in the handling of juveniles as opposed to adult DWI offenders is that, in the case of the former, the parents are requested to appear at the testing facility. Fingerprinting and photographing are not applied to DWI offenders in Cincinnati and therefore no distinction need be made in the processing of juvenile and adult suspects.

From the scene of the arrest, the suspected DWI offender is transported by the arresting officer to the central breath-testing facility at 314 Broadway.

Upon commencing transport of his prisoner to the testing facility, the officer notifies the dispatcher of that fact, but is not required to furnish any additional information. The same applies if the person in custody is a female or a juvenile.

The marked sedans used by police in ASAP enforcement are equipped with protective screens separating the front from the rear seat area (other patrol vehicles of the police department, as a rule, are not so equipped) and the DWI offender is placed into the rear of the vehicle. It was observed that he is not usually handcuffed. The Cincinnati Police Department's policy manual is vague concerning handcuffing of prisoners about to be transported in patrol vehicles. The particular section dealing

with this aspect of enforcement was found to be written in such a manner as to leave the decision - from arrest through the testing procedure - to the individual officer's judgment; but the transport from the central testing facility to the booking location requires the handcuffing of all prisoners by departmental mandate.

It is within the officer's authority to search any portion of the offender's vehicle which is within his field of vision. (Normally, however, the vehicle of a DWI suspect is not searched.) If he considers it necessary the officer may search under the seats of the auto, as well as any other portion of the vehicle's interior. Should the car be impounded (in which case it must remain at the city's impounding lot), the trunk may also be searched. Any additional evidence uncovered as a result of this search, including that which is relevant to crimes other than the offense of Driving While Intoxicated, may be used against the offender; and, if appropriate, he may be faced with additional criminal charges stemming from such evidence discovered in the search process.

In most cases, if the offender's vehicle is not released to a responsible person designated by the operator to do so. A city-operated towing service is available to the police department, but its capabilities are extremely limited and response time may be as much as two hours. Therefore, officers avoid using the city's towing service whenever possible. The operator of the vehicle may request a private towing service to remove his auto from the scene, whereupon the arresting officer informs the dispatcher of that request. Response by private service agencies is generally only a matter of minutes. In this event, the owner and/or operator of the vehicle signs a Wrecker Release (Fig. 15-10) for the auto.

Unless secured as evidence, property contained in the vehicle remains there until claimed by the owner or his designated representative. An article of property which is considered evidence is marked as such, and a Property Tag (Fig. 15-11) is affixed. It is then stored in the police property room until trial date.

Conclusions: Officers refrain from using the city-operated towing service as much as possible, because of the inordinate length of

response time. Usually, additional officers are summoned to the scene of the arrest, to transport the offender's vehicle.

Recommendations: Male officers should be required to originate appropriate radio messages when transporting a female for any reason, to ward off the possibility of charges of impropriety.

Section 4 - Incarceration

When an offender is charged with the offense of Driving While Intoxicated in Cincinnati, he is normally released on personal recognizance after having been processed in the breath testing facility, as long as he can satisfy the officer that he lives or is employed in the Cincinnati area. At that stage he is not required to appear before a judicial officer. Out-of-state residents must post bond. The same applies where it is established that the offender is a DWI recidivist. Should he refuse to submit to a chemical test, he is then also required to post bond, in addition to being remanded to jail. If the offender is to be booked, he is then transported by another officer from the central testing facility by patrol wagon to the booking site (jail) which is located elsewhere in the city. (The arresting officer is not required to accompany his prisoner to the lock-up.) The approximate distance between the central testing facility and the jail is 2½ to 3 miles. Normally, upon being summoned to the central testing facility, the patrol wagon responds within 30 minutes. At this point, the transporting officer again searches the offender (pat-down frisk), and then handcuffs him (required by departmental regulation) prior to conducting him to the patrol wagon.

Suspected DWI offenders are not fingerprinted or photographed in Ohio. The traffic arrest warrant is referred to as the Ohio Uniform Traffic Ticket (OUTT - Fig. 15-1). This traffic ticket is notarized by the arresting officer's supervisor (the Alcohol Safety Unit Sergeant) or by the Clerk of the Court. Once notarized by the supervisor, the OUTT is sent to the Clerk of the Court within the Traffic Violations Section. The accused is furnished a copy. All personal effects - except clothing - are taken from the prisoner before he is led into the cell block. The property is removed by city correction officers (not police officers). It is stored and retained at the jail until the defendant's release. The

release may be effected by means of a cash or property bond, but the offender may be released only to a responsible person.

It is alleged that medical examination of a DWI offender is encouraged when the officer suspects illness. The purpose of the examination is to check the vital signs, noting any potential danger signals. The examination is conducted at the Cincinnati General Hospital.

Anyone who is not released on personal recognizance is eligible for bail. The amount is established by the judges of the municipal court. As a general rule it is \$24; but for the second offense it may be as high as \$1,000. The defendant is given the opportunity to post bail at any time prior to or during incarceration. Bail/bondsmen may not solicit in the jail area. Their telephone numbers, however, are available to the prisoner (posted in the jail area). The defendant is allowed one telephone call from the jail. There is no mandatory time period during which the prisoner must remain in jail before he may post bond. The offender's vehicle is not released while he is jailed, but following his release on bond the auto may be claimed by any responsible person designated by the offender.

Conclusions: An inherent danger in releasing DWI offenders immediately on personal recognizance or bail is that the same offender may be found within a short time behind the wheel of an automobile, still intoxicated. In the case of persons charged with DWI, a predetermined period of time during which they must remain confined (and which permits them to sober up) would seem to be of value.

Recommendations: None.

Section 5 - Officer Testimony and Adjudication

Officers must be present at the pre-trial conference, which is conducted in Hamilton County Municipal Court. The conference is attended by the prosecutor and the arresting officer and consists of a brief summary of each case about to be tried. It is held just prior to trial and is usually conducted either in the prosecutor's office or in the court room.

The arresting officer is required by the court to be present at the trial of the DWI offender. Although court days are scheduled regularly

for ASAP officers, it still becomes necessary to appear frequently on off-duty time; and as a result, a considerable amount of overtime or compensatory time is accrued by the officers. Four hours of overtime per officer per week are compensated by the ASAP at a time and a half rate (average: \$8.00 per hour). The remainder of the officer's off-duty court time is accrued as compensatory time.

ASU officers attending court complete a form known as a "court slip" (Court Appearance Record - Fig. 15-12). This form is turned over to the officer's supervisor, upon which the officer is credited with three hours of compensatory time for every two hours of off-duty court time not already compensated at the time and a half rate. Some ASU officers may therefore accrue a substantial amount of compensatory leave, and there have been instances when leave was taken for periods up to six weeks. During the initial phases of the program ASAP officers were required to attend court almost each weekday, in addition to working their normal night-time tours from 9:00 p.m. to 5:00 a.m. In the course of time, improvements were made in this area. Presently ASAP officers generally attend court twice per week, which may be in the morning and/or afternoon session. The arresting officer brings any relevant evidence to court, including his copy of the Intoxication Report, which he furnishes to the prosecutor. This evidence could include opened liquor bottles confiscated by the arresting officer. In that event the contents were previously analyzed and retained by the city chemist until the trial (sealed and marked as police department property and stored in a locked refrigerator).

Any evidence which is relevant, material and competent is admitted. It is generally presented during the officer's testimony or at the prosecutor's request. The defendant's blood-alcohol concentration at the time of the offense, as well as any physical evidence and results of psychomotor tests, are generally introduced during the officer's testimony. For the most part, when there are witnesses they are normally police officers, who are seldom summoned to court. (Exception: the ASU officer administering a chemical test to an offender apprehended by a regular patrol officer would, in all likelihood, be summoned to court. Due to the fact that - under the existing system - ASU officers administer the vast majority of chemical tests, a great deal of their time is spent in court.)

Non-police witnesses are paid a flat \$5.00 witness fee, regardless of the amount of time spent in court.

Officer testimony - ASU as well as regular patrol officers - is normally furnished from the Intoxication Report. There are a considerable number of no contest or guilty pleas in cases where the blood-alcohol concentration is .15% or higher. Also, there appears to be an inordinate number of failures to appear, which results in a significant number of bench warrants being issued by the court monthly.

A separate operator's license hearing is conducted only if there has been a refusal of the chemical tests (non-compliance with the Implied Consent statute). In addition to the defendant, the arresting officer and witnesses (if any) are summoned to be present at the hearing. In the course of the procedure, it must be shown that there was probable cause for the charge of refusal to submit to a chemical test, which includes the initial violation; that the two-hour limit for processing was observed; and that the defendant understood the ramifications of the Implied Consent statute. In most cases, these hearings are conducted at the Hamilton County Courthouse several months after the actual offense has taken place. The offender, as well as the arresting officer, is notified of the hearing by subpoena.

DWI cases may be dismissed in court for any number of reasons. A DWI offender may have registered a blood-alcohol concentration of only .09% or his blood-alcohol concentration may have been as high as .11%, but the judge was unwilling to prosecute or try the case. Should the police have a particular reason for bringing cases so dismissed to trial, they may refile to have an initially dismissed case tried. In that event all the documents which were required, from arrest to trial, have to be executed anew. The number of outstanding cases, stemming from the fact that DWI offenders are often cited and released after processing and may fail to appear in court on the date specified, is considerable and appears to be a problem of some magnitude.

Separate court rooms have apparently been set aside in the Hamilton County Municipal Court for DWI offenses. The DWI cases are heard in a court of record. Transcripts are available of the proceedings in any

particular case.

Convicted offenders are not sentenced at the time of conviction, but are referred to ASAP rehabilitation for pre-sentence evaluation. The results of that evaluation bear upon sentencing by the court.

Conclusions: ASU officers are often required to attend court during off-duty hours, which results in the accumulation of sizeable amounts of compensatory time.

Recommendations: According to police sources, judicial attitudes often preclude convictions of DWI offenders whose BAC's ranged between .10% and .15%, although by law the presumptive level of intoxication is .10% BAC or greater. Greater effort should be made to convince judges that the driving ability of a DWI offender with a BAC of .10% is seriously impaired. In addition, a review of current procedures employed by the courts in the disposition of DWI offenders may well be in order, so that the reasons for the excessively high number of defendants who fail to appear may be determined.

CINCINNATI POLICE
 HAMILTON COUNTY
 LICENSE NUMBER _____ MONTH _____ DAY _____ YEAR _____

WITNESSES

NAME _____
 STREET _____
 CITY-ST. _____
 IDENTIFICATION NUMBER MO. ISSUED YR. _____ EXPIRES STATE 1 2 3
 BIRTHDATE 19 _____

HAIR	SEX	HEIGHT	WEIGHT	HAIR	EYES	(DRIV. RESTR.) YES
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

OTHER _____
 THE UNDERSIGNED, BEING DULY SWORN, UPON HIS OATH DEPOSES AND SAYS THAT THE PERSON WHOSE NAME IS INSCRIBED ABOVE DID ON
 THE _____ DAY OF _____, 197____ AT _____ M. UNLAWFULLY
 PERATE A VEH. _____
 TYPE _____ COLOR _____ LIC. _____ STATE _____
 UPON PUBLIC HIGHWAY, NAMELY _____

NAME _____
 ADDRESS _____
 PHONE _____
 NAME _____
 ADDRESS _____
 PHONE _____
 NAME _____
 ADDRESS _____
 PHONE _____
 NAME _____
 ADDRESS _____
 PHONE _____

IN THE CITY OF CINCINNATI, IN HAMILTON COUNTY AND STATE OF OHIO, AND DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE:

SPEED _____
 IMPROPER TURN _____
 DISOBEY TRAFFIC SIGNAL OR DEVICE _____
 IMPROPER PASSING _____
 IMPROPER LANE USAGE _____
 FAILED TO YIELD RIGHT OF WAY _____
 OPERATED WITHOUT REGARD TO SAFETY _____
 FAILED TO FURNISH SATISFACTORY PROOF THAT HE HAS AN OPERATOR'S LICENSE _____

IN VIOLATION OF SECTION _____ OF THE REVISIONS CODE _____

WIND DIRECTION _____
 VISIBILITY _____
 TRAFFIC _____
 AREA _____
 ROAD SURFACE _____
 JOINT _____

CONTINUANCES

Continued to: (date) _____ Requested By _____

1. _____
 2. _____
 3. _____
 4. _____

JURY _____
 ROOM B CONTINUANCE _____
 ROOM B CONTINUANCE _____

DISPOSITION

PLEA: GUILTY _____ NOT GUILTY _____ NO CONTEST _____
 WORKHOUSE: DAYS _____ MONTHS _____ SUSP. _____
 FINE: \$ _____ & COSTS _____ REMIT _____
 DRIVING SUSP.: DAYS _____ MONTHS _____ YEARS _____
 PROBATION: MONTHS _____ YEARS _____

JUDGE _____ PROS. _____

569801

OFFICER (Print) _____ No. _____ Grp. _____ Unit _____
 SWORN TO AND ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 197____
 SIGNATURE OF OFFICER _____

NOTARY PUBLIC BY COMMISSION EXPIRES _____
 YOU ARE HEREBY TO APPEAR IN: HAMILTON COUNTY MUNICIPAL COURT
 202 S. CENTRAL PARKWAY, ROOM 1260 (9th) CINCINNATI, OHIO 45202

NOTE: IF PLATE OR DRIVER'S LICENSE USED TO IMPRINT NAME, ADDRESS OR CLASS TO VERIFY IS IN CURRENT ADDRESS, IF NOT CROSS OUT OLD ADDRESS AND WRITE CURRENT ADDRESS IN SPACE PROVIDED OR RIGHT MARGIN FOR NEW ADDRESS.

OHIO UNIFORM TRAFFIC TICKET REVISED 1-4-71 PRINTED APR. 1973
 B-3 2416 FORMS NEW 25 - P. O. BOX 300 CINCINNATI, OHIO 45202
 PRINT PLAINLY - USE HARD PENCIL OR BALL POINT PEN - PRESS HARD - FORM 858-SH

Figure 15-1

STATE OF OHIO HAMILTON COUNTY
 IN THE HAMILTON COUNTY MUNICIPAL COURT
 IN THE HAMILTON COUNTY JUVENILE TRAFFIC COURT

LICENSE NUMBER _____ WEIRDATE _____
 MONTH _____ DAY _____ YEAR _____

NAME _____
 STREET _____
 CITY, ST. _____
 IDENTIFICATION NUMBER MO. ISSUED YR. _____ EXPIRES _____ STATE 1 2 3

BIRTHDATE 19 _____

MARR	SEX	HEIGHT	WEIGHT	HAIR	EYES	(DRIV. RESTR.)	YES	INSTRUCTIONS	TYPE
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
SNGL	<input type="checkbox"/>	CORR. LENS	HAND CONT.	POW. STEER.	AUTO. DRIVE	DAYLITE ONLY	<input type="checkbox"/>		<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>

OTHER _____
 THE UNDERSIGNED, BEING DULY SWORN, UPON HIS OATH DEPOSES AND SAYS THAT THE PERSON WHOSE NAME IS INSCRIBED ABOVE DID ON

THE _____ DAY OF _____, 197____ AT _____ M. UNLAWFULLY

PASS. CYCLE
 COMM. YR. _____ MAKE _____
 BUS _____ YEAR _____

BODY TYPE _____ COLOR _____ LIC. _____ STATE _____

UPON PUBLIC HIGHWAY, NAMELY _____

AT _____

IN THE CITY OF CINCINNATI, IN HAMILTON COUNTY AND STATE OF OHIO, AND DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE:

NATURE OF VIOLATION	<input type="checkbox"/> SPEED	<input type="checkbox"/> Unreasonable for conditions (_____ MPH in _____ MPH zone)	<input type="checkbox"/> Unable to stop in assured clear distance ahead.	<input type="checkbox"/> Slow speed	<input type="checkbox"/> Radar
	<input type="checkbox"/> IMPROPER TURN	<input type="checkbox"/> Left	<input type="checkbox"/> Right	<input type="checkbox"/> No signal	<input type="checkbox"/> U-Turn
	<input type="checkbox"/> DISOBEYED TRAFFIC SIGNAL OR DEVICE	<input type="checkbox"/> Stop sign	<input type="checkbox"/> Red light	<input type="checkbox"/> Yield sign	<input type="checkbox"/> Prohibited
	<input type="checkbox"/> IMPROPER PASSING	<input type="checkbox"/> At intersection	<input type="checkbox"/> Hill	<input type="checkbox"/> No passing zone	<input type="checkbox"/> Cut in
	<input type="checkbox"/> IMPROPER LANE USAGE	<input type="checkbox"/> Change of course	<input type="checkbox"/> Cut out	<input type="checkbox"/> Lane straddling	<input type="checkbox"/> On right
	<input type="checkbox"/> FAILED TO YIELD RIGHT OF WAY	<input type="checkbox"/> FOLLOWING TOO CLOSELY	<input type="checkbox"/> OPERATED WITHOUT REGARD TO SAFETY (DESCRIBE BELOW)		
	<input type="checkbox"/> Failed to furnish satisfactory proof that he has an operator or chauffeurs license.				
	DESCRIPTION OF OFFENSE				

IN VIOLATION _____ CINCINNATI MUNICIPAL CODE
 OF SEC. No. _____ OHIO REVISED CODE

PAVEMENT Dry Wet Snow Ice

VISIBILITY Clear Night Dusk Fog
 Rain Snow

TRAFFIC Crossing Light None
 Oncoming Heavy Pedestrian
 Same direction Moderate

AREA Rural Business School
 Residential Industrial

ROAD SURFACE Asphalt Gravel Brick Divided
 Concrete Dirt Width _____ Ft. No. of lanes _____

ACCIDENT: Yes Property damage Vehicle
 Acc. No Injury Fixed object
 Rep. No. _____ Almost caused Fatal Pedestrian

OFFICER (Print) _____ No. _____ Grp. _____ Unit _____
 SWORN TO AND ACKNOWLEDGED BEFORE ME THIS _____
 DAY OF _____, 197____ SIGNATURE OF OFFICER _____

1569801

Figure 15-1 (cont'd)

LICENSE NUMBER

MONTH DAY YEAR

NAME
STREET
CITY ST. IDENTIFICATION NUMBER (MO. ISSUED) Y2. EXPIRES STATE 1 2 3

BIRTHDATE 19
MARR SEX HEIGHT WEIGHT HAIR EYES (DRIV. YES (RESTR.)
SINGL CORR. LENS HAND CONT. POW. SPEER. AUTO. DRIVE DAYLITE ONLY
INSTRUCTIONS
TYPE
 Oper.
 Chauff.
 Prob.
 Y.P.

OTHER
THE UNDERSIGNED, BEING DULY SWORN, UPON HIS OATH DEPOSES AND SAYS THAT THE PERSON WHOSE NAME IS INSCRIBED ABOVE DID ON

THE DAY OF, 197 AT M. UNLAWFULLY

PASS. CYCLE
 COMM. YK MAKE YEAR
 BUS

BODY TYPE COLOR LIC. STATE

UPON PUBLIC HIGHWAY, NAMELY

AT
IN THE CITY OF CINCINNATI, IN HAMILTON COUNTY AND STATE OF OHIO, AND DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE:

[Large empty area for describing the offense]

OFFICER (Print) No. Cpt. Unit
SWORN TO AND ACKNOWLEDGED BEFORE ME THIS
DAY OF, 197 SIGNATURE OF OFFICER

NOTARY PUBLIC MY COMMISSION EXPIRES

OFFICER'S COPY

NOTE IF PLASTIC DRIVER'S LICENSE USED TO IMPRINT NAME ADDRESS BE SURE TO VERIFY IF IS CURRENT ADDRESS IF NOT, CROSS OUT OLD ADDRESS AND

0569801

Figure 15-1 (cont'd)

Court Date: _____

ASAP NO.
Date:
Time:
Day of Week:

CINCINNATI
POLICE DIVISION
INTOXICATION
REPORT

District	Sector
Court Case No.	
Accident No.	
O.U.T.T. No.	

Name _____ Address _____
Sector No. _____ Phone No. _____ Sex _____ Race _____ Weight _____ D. O. B. _____
Soc. Sec. No. _____ Operator's Lic. No. _____ State _____ Type _____
Vehicle Info: Year _____ Make _____ Type _____ License No. _____ State _____ Year _____
Occupation _____ Employer/Address _____
Marital Status _____ Place of Arrest _____ Street Cont. _____ Weather _____

CHARGES: 1. _____
2. _____
3. _____

SUMMARY:

PERFORMANCE TESTS:

BALANCE:	<input type="checkbox"/> falling <input type="checkbox"/> needed support <input type="checkbox"/> wobbling <input type="checkbox"/> swaying <input type="checkbox"/> unsure <input type="checkbox"/> sure
WALKING:	<input type="checkbox"/> falling <input type="checkbox"/> staggering <input type="checkbox"/> stumbling <input type="checkbox"/> swaying <input type="checkbox"/> unsure <input type="checkbox"/> sure
TURNING:	<input type="checkbox"/> falling <input type="checkbox"/> staggering <input type="checkbox"/> hesitant <input type="checkbox"/> swaying <input type="checkbox"/> unsure <input type="checkbox"/> sure
FINGER-TO-NOSE:	Right: <input type="checkbox"/> completely missed <input type="checkbox"/> hesitant <input type="checkbox"/> sure Left: <input type="checkbox"/> completely missed <input type="checkbox"/> hesitant <input type="checkbox"/> sure
COINS:	<input type="checkbox"/> unable <input type="checkbox"/> fumbling <input type="checkbox"/> slow <input type="checkbox"/> sure <input type="checkbox"/> (other) _____ (Balance during coin test)
Ability to understand instructions:	<input type="checkbox"/> poor <input type="checkbox"/> fair <input type="checkbox"/> good Tests performed: Date _____ Time _____

RELATION:	Odor of Alcoholic Beverages: <input type="checkbox"/> strong <input type="checkbox"/> moderate <input type="checkbox"/> faint <input type="checkbox"/> none
ATTITUDE:	<input type="checkbox"/> excited <input type="checkbox"/> hilarious <input type="checkbox"/> talkative <input type="checkbox"/> carefree <input type="checkbox"/> sleepy <input type="checkbox"/> profanity <input type="checkbox"/> combative <input type="checkbox"/> indifferent <input type="checkbox"/> insulting <input type="checkbox"/> cocky <input type="checkbox"/> cooperative <input type="checkbox"/> polite
UNUSUAL ACTIONS:	<input type="checkbox"/> hiccoughing <input type="checkbox"/> belching <input type="checkbox"/> vomiting <input type="checkbox"/> fighting <input type="checkbox"/> crying <input type="checkbox"/> laughing
SPEECH:	<input type="checkbox"/> not understandable <input type="checkbox"/> mumbled <input type="checkbox"/> slurred <input type="checkbox"/> mush-mouthed <input type="checkbox"/> confused <input type="checkbox"/> thick-tongued <input type="checkbox"/> stuttered <input type="checkbox"/> accent <input type="checkbox"/> fair <input type="checkbox"/> good
FACE:	<input type="checkbox"/> apparently normal <input type="checkbox"/> red <input type="checkbox"/> extremely red <input type="checkbox"/> pale
EYES:	<input type="checkbox"/> apparently normal <input type="checkbox"/> watery <input type="checkbox"/> bloodshot <input type="checkbox"/> glassy <input type="checkbox"/> half closed
Indicate other unusual actions or statements, including when first observed: _____	

INTERVIEW

ASAP # _____

were you operating a vehicle? _____ Where were you going? _____
 What street or highway were you on? _____ Direction of Travel? _____
 Where did you start from? _____ What time did you start? _____
 What time is it now? _____ What city, county are you in now? _____
 What is the date? _____ What day of the week is it? _____
 When did you last eat? _____ What did you eat? _____
 What were you doing during the last 3 hours? _____
 Have you been drinking? _____ What? _____ How much? _____
 Where? _____ Started? _____ Stopped? _____
 Are you under the influence of an alcoholic beverage now? _____
 Do you have any physical defects? _____ If so, what? _____
 Are you ill? _____ If so, what's wrong? _____ Do you want to go to the hospital? _____
 Do you limp? _____ Have you been injured lately? _____ If so, what's wrong? _____
 Did you get a bump on the head? _____ Were you involved in an accident today? _____
 Have you had any alcoholic beverages since the accident? _____ If so, what? _____
 where? _____ How much? _____ When? _____
 Have you seen a doctor or dentist lately? _____ If so, who? _____ When? _____
 What for? _____ Are you taking tranquilizers, pills or medicines of any kind? _____
 If so, what kind? (get sample) _____ Last dose? _____ Do you have epilepsy? _____
 Diabetes? _____ Do you take insulin? _____ If so, last dose? _____
 Have you had any injections of any other drugs recently? _____ If so, what for? _____
 What kind of drug? _____ Last dose? _____ When did you last sleep? _____
 How much sleep did you have? _____ Are you wearing false teeth? _____
 Do you have a glass eye? _____

HANDWRITING SPECIMEN

Signature and/or anything he chooses.

BREATHALYZER TEST BY _____	Time _____	Date _____
VIDEO TAPE BY _____	Time from _____	to _____
WITNESSED BY _____		

OBSERVER'S OPINION:

Effects of alcohol: extreme obvious slight none Ability to drive: unfit fit

Indicate briefly what first led you to suspect alcoholic influence: _____

Observed by: _____ Assignment: _____

Witnessed by: _____ Date _____ Time _____

CHEMICAL TEST DATA:

Specimen: blood breath saliva urine Analysis result: _____
 none refused unable If Breath, what instrument? _____

If refused, why? _____

Constitutional Rights Adv. by _____ Date & Time _____ Initials _____
 Section 4511.191 Read by _____ Initials _____

Arresting Officers	Badge	Unit	Group	Arresting Officers	Badge	Unit	Group
1. _____			3. _____				
2. _____			4. _____				

WITNESSES: _____ ADDRESS _____ PHONE NO. _____

DEPARTMENT OF SAFETY	DIVISION OF POLICE	CITY OF CINCINNATI
RECEIPT FOR PROPERTY		
DIST. _____		DATE _____, 19____
PROP. NO. _____		
PERSON ARRESTED <input type="checkbox"/> OR WANTED <input type="checkbox"/> _____		
RECOVERED FROM PERSON <input type="checkbox"/> OR PLACE <input type="checkbox"/> _____		
COMPL. NAME & ADDRESS _____		OFFENSE NO. _____
FOUND <input type="checkbox"/>	CONFISCATED <input type="checkbox"/>	PERSONAL <input type="checkbox"/>
		HELD FOR COURT <input type="checkbox"/>
MONEY \$ _____	_____	
DRAWN \$ _____	_____	
BALANCE \$ _____	_____	
RETURNED BY CLERK _____		SEARCHING OFFICER _____
RELEASE APPROVED _____		OFFICER IN CHARGE _____
RECEIVED PROPERTY AS LISTED _____		19____
SIGNATURE _____		
CALL AT ROOM 505A, 222 E. CENTRAL PARKWAY FOR PROPERTY FORM 330 - 60M - 4-72 THIS RECEIPT MUST BE PRESENTED BY OWNER		

Figure 15-9

CINCINNATI POLICE
WRECKER RELEASE

Location _____

Date _____ Time _____

I am calling _____
wrecker to remove my car from the street. I am calling
this garage without any compulsion or direction by the
Cincinnati Division of Police.

Signature

Accident No. _____

FORM No. 490

Figure 15-10



FORM 64 TSM-10-68

DIVISION OF POLICE

CITY OF CINCINNATI

PROPERTY TAG

DISTRICT _____ DATE _____

CONFISCATED FOUND PERSONAL

DESCRIPTION _____

TAKEN FROM (PLACE OR PERSON) _____

CHARGE _____

CLAIMED BY _____

ARRESTING OFFICER _____

OFFICER IN CHARGE _____

Figure 15-11

CINCINNATI POLICE
COURT APPEARANCE RECORD

Date _____

Name _____ Rank _____

Badge No. _____ District _____ Group _____

Show Up _____

Court _____

Case No. _____

Relief _____

Vacation _____

Day Off _____

Verified by _____

Approved by _____

Date Time-Off Granted _____

FORM NO. 399-10M

Figure 15-12

OKLAHOMA (OKLAHOMA CITY)

Section 1 - Detection

The Oklahoma City Police Department conducts analyses of alcohol-related crashes (see Appendix A; Exhibit 16h), and maintains an accident causative-factor map in the roll-call room of police headquarters. Accident analyses undertaken by the Oklahoma State Crime Bureau is reviewed by the ASAP enforcement supervisor and thus influences ASAP patrol deployment. Accident data reaches individual officers through the supervisor on an as needed basis. While it is believed that the men must know how their work affects the total effort, it is the command structure which dictates the areas to be patrolled.

A crash is defined as alcohol-related if alcohol was the causative factor. A/R crash reports are prepared monthly by the ASAP evaluator. Informal exchanges between police personnel and the ASAP evaluator are conducted during roll-call sessions on a regular basis.

The principal detection technique is officer observation of deviant and erratic driving such as hazardous moving violations, weaving in the roadway, slow and deliberate movements or overcompensating. To prove the DUI offense, it is only necessary to prove impairment and a BAC greater than .10% in conjunction with a hazardous moving violation.

Conclusions: The standard detection techniques observed at most ASAP sites are utilized by officers of the Oklahoma City Police Department and appear adequate to meet the needs of this law enforcement agency.

Recommendations: None.

Section 2 - Apprehension

Although surveillance of high-probability areas is not an orchestrated effort, officers' patrol tactics generally cause officers to seek out such areas. Officers experience has shown that such areas have a high concentration of DUI offenders, and as a result less patrol time is used and the number of arrests is increased.

Neither roadblocks nor surveillance of known offenders are conducted at this site.

Departmental standards regarding the operation of police vehicles under emergency conditions are contained in a memorandum issued to all officers in September 1973 and was in effect at the time of this site visit. (See Appendix A; Exhibit 16i). It indicates that except during pursuit driving, speeds of police vehicles shall at no time exceed 10 mph above the posted speed limit, or exceed 10 mph through a red light or stop sign. During pursuit driving all emergency equipment is to be used. All pursuits are to be terminated when the risk of safety of innocent persons outweigh the desirability of apprehension. Under emergency conditions and at all other times, officers have an obligation to drive in a reasonable manner with due regard for the safety of other persons and vehicles using the roadway.

When stopping a suspect vehicle, the officer normally transmits via police radio a radio message which indicates the vehicle license number and the location. The officer may arrest without a warrant if a radio transmission confirms "wanted" status.

No formal tests are given at the scene of the traffic stop. Officers believe that the value of such tests is limited because drunks practice. The officers feel that the biggest "telltale" is the eyes. Immediately following driver observations and interview the officer makes a decision on whether or not to arrest the suspect. If the officer places the suspect under arrest, he clearly informs the suspect of the fact. An assisting officer is not dispatched to the arrest scene unless there is a special request of the arresting officer.

According to the Rules of Conduct of the Oklahoma City Police Department (see Appendix A; Exhibit 16j):

The use of physical force shall be restricted to circumstances specified by law when necessary to accomplish a police task.

Whenever a member is required to use considerable force against another person he will immediately report said fact to his commanding officer and cause a written report to be submitted through channels to the Chief of Police.

With respect to the officer's discretion in handling a DUI arrest, the Rules of Conduct under Compromising Cases state:

Except in the best interest of the department and the community, no member shall attempt to interrupt the legal process of any case except where a gross injustice might otherwise occur, or attempt to have any traffic citation or other case reduced, voided or stricken from the docket. All such cases must receive the prior approval of the Chief of Police.

Guidelines on the use of police firearms were covered in a directive to all officers from the Chief of Police dated July 24, 1972 (see Appendix A; Exhibit 16k). It states that the use of a firearm is not justified where only misdemeanor or traffic offenses have been committed.

After having been placed under arrest, the offender is advised of both Constitutional (Miranda) rights and the provisions of the Implied Consent statute. The appropriate material is read to the offender.

An officer may effect a DWI arrest at the scene of a crash he did not witness, only if he can identify a witness who can place the offender behind the wheel at the time of the accident.

For a second or subsequent DWI arrest, an officer may file state charges if the previous arrest is confirmed and one of the following circumstances is present: 1) Breathalyzer test result of .10% or above; 2) prisoner chooses to take blood test; or 3) prisoner refuses to take a chemical test. Details of the procedure are covered in a directive to all officers of the Oklahoma City Police Department dated April 1, 1973 on Filing State D.U.I. Charges. (See Appendix A; Exhibit 16c.)

If there are passengers in the offender's vehicle who are sober and responsible, the car can be released to one of them with permission of the owner/operator. If a passenger is intoxicated, he may be arrested for public drunkenness. And if a passenger is disorderly, he may be arrested for disorderly conduct. If a passenger is physically incapable of driving, a taxi is called for him.

Normally, there are two officers present at the scene of the arrest: the arresting officer and his partner.

Conclusions and Recommendations: The apprehension configuration utilized by officers of the Oklahoma City Police Department appears adequate to meet the needs of that agency. It is recommended that these procedures continue to be utilized at this site. All procedures are well documented in written departmental policy and memorandum.

Section 3 - Transporting Persons and Property

Before being transported an extensive search of the outer apparel of the DUI offender is performed. Purses and containers are taken from female offenders; if further search is needed a policewoman is dispatched to the scene. Procedures for handling juvenile offenders were described in a directive to all officers and all divisions of the Oklahoma City Police Department dated August 1, 1972 (see Appendix A; Exhibit 161). It applies to any person under the age of 18. It states that:

Municipal Traffic Court shall have jurisdiction of all juvenile traffic violators. Children of the age of 16 or above may be placed in jail on traffic violations if circumstances necessitate this; however, it is the responsibility of the arresting officer to notify parents of the arrest.

Normally prisoners are not handcuffed before being placed in the police vehicle. In a two-man unit, including all ASAP units, the prisoner is placed in the right rear with one officer seated in the left rear seat. (In a one-man unit, the prisoner is placed in the right front.)

The ASAP patrol vehicles are not equipped with protective shields or screens. (Regular patrol sedans do have such equipment.) The arresting officer transports his prisoner to the testing facility. An average distance for such a trip is about two miles.

When commencing transport of a male adult, the transporting officer issues a radio message saying he is enroute to a specified destination. If a juvenile is being transported, a request is added that the dispatcher notify the parents. If a female is being transported, the transporting officer also reports his mileage to 1/10 mile.

The offender's vehicle is normally towed from the scene by one of eight privately-owned towing services. Average response time is about 15 minutes. The offender's vehicle is normally stored at the towing service shop. The only security measure is locking the vehicle.

Conclusions: The transporting of persons and property configurations utilized by officers of the Oklahoma City Police Department is well documented and appears to meet the needs of that agency.

Recommendations: It is recommended that ASAP patrol units be equipped with protective shields as are those of the non-ASAP officers to provide maximum security for both the transporting officer as well as the subject being transported.

Section 4 - Incarceration

Both local and out-of-state offenders are usually jailed for four hours (considered a "sober-up period"), then released on bond. A statement on "Policy and Procedure on Fingerprinting People" of the Oklahoma City Police Department (see Appendix A; Exhibit 16m) says that adult DWI offenders in custody are to be fingerprinted, but that juveniles are to be fingerprinted only on orders of the Children's Court. The offender is normally cleared against local, regional and national computer networks containing criminal records information.

The usual amount of bond for a first offender is \$250; the municipal judge is responsible for fixing the amount. For a second offender, the usual amount of bond is \$500; for a third offense, \$1,000.

The only circumstances under which a DUI offender might not be eligible for bond would be involvement in a fatal accident, driving under the influence of narcotics, or transporting drugs. Bail/bondsmen are not permitted to solicit in the jail area; if necessary, their telephone numbers may be obtained from the telephone directory.

A "spread eagle" complete search is conducted prior to incarceration, and all personal effects are removed from the suspect. All personal articles are sealed and put in a property storage bin which is under the control of

the jail supervisor. The prisoner is provided a receipt for the articles, and they are returned upon his release. Exhibit 16n contains a form filled out by correction's personnel to provide information about the disposition of the case: arraignment, sentence, hearing, defense attorney, and city attorney. The offender is permitted to contact an attorney immediately after booking and prior to being placed in a cell. If he is too intoxicated to use the telephone, he is offered the opportunity upon conclusion of the sobering up period. If he is not acquainted with an attorney, he is offered a telephone directory. If he is indigent, he is referred to appropriate sources of legal assistance.

The offender's vehicle may be released while he is still incarcerated, if he provides authorization in writing. Either the offender must prove ownership, or the owner of the vehicle must claim it.

The jail is staffed with police personnel, including at least one matron on duty at all times. A priest or chaplain is available on call. The city doctor makes sick calls and conducts a daily inspection of the jail facility to see that it is maintained in a sanitary and hygenic state. DUI offenders are examined visually by jail personnel. If there is any complaint of illness or pain by the offender, he is examined by the city doctor.

Conclusions and Recommendations: The standard incarceration techniques observed at most ASAP sites are utilized by officers of the Oklahoma City Police Department and appear adequate to meet the needs of this law enforcement agency.

Section 5 - Testimony and Adjudication

Pre-trial conferences are not conducted at this site. The arresting officer is not required to be present at arraignment. Officers' court appearances are scheduled by the court. If officers are summoned to court on off-duty days, they are compensated at 1½ times their hourly wage rate.

The officer's testimony given from memory includes particulars of the case, the defendant's BAC and any physical evidence. The results of the evidentiary test are introduced into evidence. Prior to court, the arresting officer reviews the arrest report, field notes and the alcohol influence report. The breath operator takes the chemical test form into court.

Both municipal and state courts hear DUI cases. State judges are elected for two to four years. Municipal judges are appointed by the City Council and the length of their term depends on the pleasure of the Council. Judges' positions are full-time.

Separate court rooms have been set aside for DUI prosecution. One judge has been hired to hear DUI cases; however, judges do rotate to other court assignments.

The offender has a choice between a jury trial or trial before a judge. In municipal courts, about 65% of the DUI cases are tried before a judge only, and about 35% are tried before a jury.

There are two special ASAP prosecutors. Plea bargaining is a routine procedure, but the arresting officer is rarely consulted. The reduced charge is Reckless Driving with a fine of \$250. Plea bargaining is also employed with second and subsequent DUI offenders.

Conclusions: The supervisory personnel interviewed at this site repeatedly stated that DUI convictions "all boil down to officer testimony." Immediately prior to this site visit ASAP was involved in a local scandal wherein a Breathalyzer operator and the arresting officer conspired to manipulate the Breathalyzer reading of a suspect to reflect a reading below .10% BAC in return for favors. The effect of this incident had not reached a "head" as of this site visit, however, officials interviewed felt that severe damage to the acceptability of BAC results as evidence would result.

Recommendations: Officials of the Oklahoma City Police Department and ASAP project staff should move, swiftly and decisively, to counteract possible damage to the evidentiary testing process by organizing, and conducting judicial seminars on the accuracy of BAC results for evidentiary purposes. If necessary funds should be made available to secure the attendance of experts (such as Dr. Borkenstien) to participate in this essential judicial seminar.

SOUTH CAROLINA (RICHLAND COUNTY)

Section 1 - Detection

No mechanical means - only visual observation - are used by officers of the Columbia Police Department on ASAP patrol to detect possible DUI offenders. Officers of the Alcohol Traffic Division of the Richland County Sheriff's Office use the standard clues in detection of suspected DUI offenders (items such as weaving in the roadway, partially running off the roadway, driving without lights at night, etc.). Aside from such clues, no other detection devices are utilized.

Officers must have probable cause to stop the offender; therefore, a traffic violation (no matter how minor) must have been observed. Clues in driving behavior are the principal means by which officers establish probable cause for stopping suspected DUI offenders. Violations/clues recorded on the Officials Summons and Arrest Report (Fig. 17-1) under Offense Code, and on the Patrol Officer's Report of DUI Arrest (Fig. 7-2) under Reason for DUI Contact. Officers are content with the utilization of driving clues; they feel that these are sufficient in detection.

Supervisory officers of the enforcement countermeasure receive alcohol-related (A/R) crash data. However, these data rarely filter down to individual officers and are not significantly utilized. Officers of the Columbia Police Department showed no awareness of the overall A/R crash configuration within their jurisdiction. There is a degree of awareness on the part of most ASAP deputies of the Richland County Sheriff's Office of the overall A/R crash configuration. However, ultimately it is those areas with a preponderance of bars and taverns which receive most of the attention. A/R crash data presented by the ASAP evaluator have practically no visible impact on enforcement strategy.

Conclusions: Officers of the Alcohol Traffic Division of the Richland County Sheriff's Office use the standard clues in detection of suspected DUI offenders (i.e., weaving in the roadway, partially running off the roadway, driving at night without lights, etc.). Other than such clues, no detection techniques are utilized. Officers must have observed an actual traffic law violation before stopping the vehicle.

Recommendations: The statute prohibiting driving while under the infl-

uence makes no reference to the effect that this offense must be accompanied by another traffic infraction in order to be prosecuted. The offense is of itself a serious misdemeanor. It is quite possible to encounter DUI suspects who have driven a given distance without having committed any other traffic law violations other than being behind the wheel in an impaired condition. Certain driving mannerisms displayed by such an individual, however, may lead an experienced police officer to suspect that the operator has been drinking, which should be sufficient cause to stop the vehicle for further investigation. Anyone suspected of driving while under the influence, for whatever reason, should be brought to a stop by the police officer as soon as practicable, before he has the opportunity to inflict harm on himself and/or to others.

Section 2 - Apprehension

Richland County Sheriff's Office: On stopping a vehicle, the deputy will issue a radio message containing the vehicle's license plate number, the location where the stop is effected and, occasionally, a description of the vehicle. When a suspected DUI offender is arrested, his vehicle is towed from the scene by a private wrecker service which is dispatched at the request of the arresting deputy.

Columbia Police Department: After stopping a vehicle, the officer's radio message includes his location, the location of the stop, the license plate number, and possibly a description of the vehicle. The officer will make a determination concerning the suspect's state of sobriety by the suspect's appearance and/or behavior. Back-up officers are not normally used in the apprehension process. Constitutional rights are not normally administered to the suspected offender. He is advised of the Implied Consent law only after he has been transported to the breath testing facility, just prior to taking the breath test. The charge is not reduced by the officer during the arrest process; rather, if the BAC registers less than .10% the offender is released, unless charged with additional violations observed by the officer at the scene of the arrest.

Officers have total discretion in the arrest process. There is no statute within the Code of South Carolina prescribing pre-arrest screening, which

is therefore not employed by law enforcement agencies.

Neither roadblocks nor surveillance of known DUI offenders is conducted by this countermeasure as methods of apprehension.

Formal written policy concerning "hot pursuit" was not provided. The impression gained at the Richland County Sheriff's Office was that officers are encouraged to stay with the offender being chased, unless there is inordinate danger to life or limb. More likely than not, the supervisory officer will make a determination concerning continuance of the chase, since he is normally in radio contact with the pursuing officer. In the event that the offender being chased is suspected of having committed a felony, officers will make every reasonable attempt to bring him to a stop, and may cross a state line if necessary.

If speed is not a factor but the suspect fails or refuses to stop, another officer is summoned for assistance, so that the suspect's vehicle may be "boxed in" and brought to a halt.

A flashing beacon is normally used to stop the suspected offender. The horn or siren are used if necessary in the officer's judgment.

The only speed restrictions imposed upon the officer during pursuit of a suspected offender are a matter of his individual judgment. He may drive at any speed while in pursuit, as long as there is no excessive danger to life or limb.

At the scene of the traffic stop, the offender is unequivocally advised that he is under arrest. He is also informed that his vehicle will be towed from the scene.

For the first and second offenses, DUI constitutes a misdemeanor, but the third and subsequent convictions may be punishable as a felony.

For the Richland County Sheriff's Office, it is normal procedure to dispatch an assisting officer to the arrest scene to await the tow truck. The assisting officer responds by order of the dispatcher.

Authority to charge DUI at the scene of a crash is ambiguous. Normally the charge would not be invoked even though the operator gives signs of being intoxicated. Rather the suspect would be charged with Reckless Driving

and Public Drunkenness. The officer might be inclined to charge DUI only if sufficient witnesses are available to enable prosecution. Apparently, a ruling handed down by the State Attorney General authorizes an officer to charge DUI at the scene of a crash if he has sufficient evidence to place the offender behind the wheel of the automobile. It was pointed out that although the suspect may acknowledge having driven the vehicle at the scene, such a statement can be quickly refuted in court by the defense attorney.

In searching the offender's vehicle, the officer may only search those areas of the vehicle which are normally in plain view. Beer, wine or liquor containers found in the vehicle are seized as evidence and are trapped and stored for later use in prosecution. Liquor containers found in the vehicle may give cause for a separate charge. South Carolina law prohibits the transport of opened liquor containers in motor vehicles.

Three deputies are normally involved in a DUI arrest: 1) the arresting officer; 2) the officer standing by for the tow truck; and 3) an officer is required to stand by at headquarters to administer the evidentiary breath test.

Conclusions: Officers do not seem to have clear authority to charge DUI at the scene of a crash, where it is justified. Mostly, the offender is charged with Reckless Driving and Public Drunkenness.

Recommendations: Officers should be authorized by legislation to charge DUI at the scene of a motor vehicle crash, as long as sufficient evidence points in that direction.

Section 3 - Transporting Persons and Property

Officers conduct a careful search of the offender at the scene of the arrest prior to transporting. It is somewhat more than just a routine pat-down frisk. Everything on the offender's person is searched including shoes, shirts, coats, etc. Law enforcement personnel in the greater area have become increasingly careful in this respect since there have been several murders of law enforcement officers within the past two or three years. It is the policy of the sheriff's office to handcuff everyone who has been placed under arrest and is transported in a patrol car. If a female is carrying a purse, it is - in all circumstances - confiscated and searched.

She is not physically searched unless it is obvious to the officer that she is concealing a weapon, in which case he would in all probability call another officer to the scene to witness the search. She would be handcuffed when placed in the patrol vehicle. If the officer feels that a strip search may be necessary, he will transport her to the jail, where the search is then conducted by a matron.

In the event that a juvenile is apprehended for DUI, the officer would request a juvenile officer to meet them at headquarters, and the juvenile officer would then take over the case. In all events the parents of the juvenile would be called, and the matter would be referred to family court, which also includes juvenile court. Under South Carolina law, anyone under the age of 17 is a juvenile.

Patrol wagons are not used by the sheriff's office in transporting prisoners. The transport distance can vary considerably throughout the county, as the county is approximately 700 square miles in area. As a rule, this transporting distance is approximately five to six miles.

At the time of the site visit, the only processing facility available was the headquarters of the sheriff's office, located in Columbia; but district stations are being contemplated. Progress has been made on funds for construction of one district station, with the ultimate goal being the establishment of three district stations throughout the county.

On commencing the transport, the officer will in all instances issue a radio message informing headquarters that he is enroute with a prisoner. This information is, in turn, logged by the dispatcher. If the officer is transporting a female, he turns on the dome light in the vehicle, places her in the back seat, and delivers a radio message which includes his mileage at the point of departure, his location, and his time of departure. On arrival at the testing facility, he will give his mileage plus his arrival time, and he will be acknowledged by the dispatcher. As pointed out above, if he is transporting a juvenile, he will state on the radio that he has a juvenile in custody and will request that a juvenile officer meet him at headquarters.

The vehicle of the suspected DUI offender is not normally impounded. In most cases, it is turned over to a private wrecker service and may

be claimed either by someone designated by the offender (while he is incarcerated) or by the offender himself upon his release from jail. When a wrecker operator takes charge of a vehicle at the scene of arrest, he signs a two slip which is furnished by the officer (Fig. 17-12).

The Columbia Police Department indicated that a patrol wagon is used whenever a DUI suspect is to be transported to police headquarters for testing. The principal reason for this is that ASAP patrol vehicles are not equipped with protective screens.

Some problems have been encountered with the wrecker services available. It should be noted that the Richland County Sheriff's Office must call a private wrecker service to tow the vehicles of DUI offenders. One such service is located in the city of Columbia; the other is located elsewhere in the county. Response time varies. It was found that the wrecker service in Columbia, since its tow trucks contain a monitor system, may often interrupt a service call for the sheriff's office in order to respond first to a nearby wrecker call initiated by the Columbia Police Department. Private wrecker service is somewhat limited due to the fact that the company must have facilities or a compound where the vehicle can be stored, and of course the wrecker service must be bonded.

The arresting officer cannot search the trunk or the glove compartment and technically he cannot search under the seats, although it is done in many cases. If he has probable cause, he may conduct an inventory search of the vehicle, but to do so he must have a search warrant. If he discovers the fruits of another crime during the search, then of course the offender is charged with the additional crime(s). Additional physical evidence is sometimes served by the arresting officer during a search, although this appears to be the exception rather than the rule.

If there are passengers, the vehicle may be turned over to a passenger who is sober and who has a valid operator's license. If all the passengers are intoxicated or appear to have been drinking, they could be jailed for public drunkenness. In many cases, however, this is not done; instead, either a taxi cab is called or the passengers are told to start walking home. If, of course, a passenger becomes disorderly, he is arrested.

Conclusions: None.

Recommendations: None.

Section 4 - Incarceration

When a DUI Offender is incarcerated (there is normally a four-hour sober-up period of incarceration), he is searched completely at the jail; all articles are removed from his person; and he is fingerprinted and photographed when booked. There is a separate juvenile detention center within the jail complex; females are taken elsewhere (apparently there is a temporary lock-up facility for the female DUI offender at one of the women's prisons nearby). The only papers required from the arresting officer for a DUI booking are a copy of the ticket issued (Fig. 17-1) and a copy of the evidentiary test results (Fig. 17-5).

The offender is allowed one telephone call prior to being tested and another one at the jail. It is generally recommended that he phone his attorney prior to undergoing the evidentiary test. He may call relatives upon arrival at the jail. If the offender is too intoxicated, the officer may telephone for him. In all cases, however, the offender must name the person to be called. A telephone directory is made available to him. The attorney may witness the evidentiary test, but will not normally do so, for the reason that he could be called to testify concerning the offender's relative state of sobriety at the time of testing. If the offender is indigent, he is provided the services of a public defender who checks at the jail each morning to determine whether or not his services are required.

Everyone charged with Driving Under the Influence is eligible for bond. On the first offense, bond is fixed at \$100; on the second or subsequent offense the magistrate has authority to set bond according to his own discretion. All attorneys are bail/bondsmen, but it was unclear whether professional bondsmen also exist who are not attorneys.

It is the policy of the ASAP enforcement supervision that any offender registering a BAC of .35% or greater is taken before a physician for medical examination. If .35% or higher, the suspect is tested once more to determine whether his BAC is still on the rise. In the event that it is, he

definitely undergoes a medical examination. If it is not higher the second time, he is taken to jail. Offenders with an excessively high BAC who are incarcerated are also watched more closely by jail staff.

Conclusions: None.

Recommendations: None.

Section 5 - Testimony and Adjudication

A first DUI offense is tried before a magistrate, and the arresting officer must be present at the trial. In magistrate court, however, the officer is permitted to set his own court dates. He will try to arrange his court appearances according to his own convenience, generally setting the time between 3:30 and 4:30 p.m. This allows him to attend court, and then, immediately upon termination, to report to work. The officer may still be required to attend court while off-duty. In contrast, officers of the Columbia Police Department receive overtime pay at a rate of 1½ times their normal hourly wage. The officer must be present at any pre-trial hearings which are held. The blood-alcohol concentration of the offender is admitted into evidence by means of the arresting officer's testimony, and the officer conducting the breath test must appear as a witness.

If the offender refuses to undergo the evidentiary test, he may (under provisions of the Implied Consent statute) request a hearing before officials of the Highway Department. He is asked three questions at the hearing: (1) Was he arrested for driving under the influence? (2) Was he driving a vehicle? (3) Did he refuse to take the test? If these questions are all answered in the affirmative, the offender is determined to be delinquent; the hearing is concluded; and the offender's license is suspended for a period of 90 days.

Normally, however, an offender charged with the offense of Driving Under the Influence of alcohol retains his license. He is referred to ASAP school, a form of driver improvement school, by the ASAP. His court date is continued for 60 days, and at the end of that period a letter from the ASAP is forwarded to the appropriate law enforcement agency, stating whether or not the offender has successfully completed the ASAP school. Upon successful completion a recommendation is made to reduce

the charge to Reckless Driving. If not successfully completed, the recommendation is to prosecute the case under the charge of Driving Under the Influence. (See Figure 17-14.)

An assistant prosecutor of the Richland County Court indicated that physical evidence (i.e., alcoholic beverage containers) is particularly impressive upon juries. He would have liked officers to present more of such evidence in DUI trials rather than relying totally upon evidentiary test results. Also expressed by the assistant prosecutor was the fact that although some officers handle testimony concerning Breathalyzer operations very well, others have considerable difficulty in doing so. While refusing to specify which law enforcement agencies seemed to have most of the difficulties, he did offer his impression that the South Carolina Highway Patrol troopers were generally effective in their presentation of DUI cases.

The assistant prosecutor interviewed estimated that 85-95% of DWI defendants in county court enter a guilty plea which permits the case to be disposed of immediately. If the defendant enters a not guilty plea in county court, he is given a choice and will almost certainly opt for trial by jury. First offenders are not permitted this choice; the case is adjudicated in magistrate's court.

The courts have not taken judicial notice of the evidentiary testing devices and techniques used, and particularly in trials by jury, any number of witnesses may be called. These may include the officer who conducted the evidentiary test and/or the state chemist. Any aspect of procedure from detection through incarceration is subject to exhaustive examination by the defense.

A ten-year long-range plan has been developed for judicial reform in South Carolina. Among other items, a special committee is studying the feasibility of a centralized court system.

Enforcement personnel generally indicate that plea bargaining is viewed with a jaundiced eye.

Conclusions: Since there is no judicial notice of the evidentiary

breath testing procedure, both the arresting officer and the breath examiner must appear at the defendant's trial to testify. There appears to be a tendency on the part of arresting officers to rely principally on BAC results for evidence in DUI trials, whereas prosecutors desired any additional evidence as well. If a DUI offender enters a not guilty plea and the case goes to trial, it is usually heard by a jury. The ensuing court spectacle is apt to be a time-consuming affair and sufficiently complex in nature to confuse most members of the jury.

Recommendations: Legislative provisions should be revised to permit the arresting officer to administer the evidentiary breath test, if he is qualified to do so. Judicial notice of the evidentiary testing process would do much to reduce the time required for testimony and cross-examination.

CONFIDENTIAL
PATROL OFFICER'S REPORT
OF DUI ARREST
(Place in breathalyzer room)

Date: _____

Arresting Officer: _____ Agency: _____

Driver's Name: _____ Driver's Lic. No.: _____

Address: _____
(Street) (City) (County)

Estimated Income: _____ (Monthly) Occupation: _____ Single _____
Married _____
Divorced _____

Vehicle Tag Number: _____

Time of Pickup: _____ (AM) (PM) Time of Release: _____ (AM) (PM)

Elapsed Time: _____

Accident Involved: (Yes) _____ (No) _____ Accident No.: _____

Origin of Trip (Just prior to arrest): (Home) _____ (Club) _____ (Restaurant) _____

Address: _____
(Street) (City)

Destination of Trip: _____
(Street) (City)

Time of Last Drink (Prior to Arrest) _____ (AM) (PM)

Court Assignment: _____ Court Date: _____

Reason for DUI Contact: _____
(For Example: Speeding, Left of Center, Etc.)

Figure 17-2

**South Carolina Law Enforcement Division
Breathalyzer Test Report**

Name of Subject _____
Address _____
Driver's License Number _____ M F Age _____
Date and Time of Arrest _____
Date and Time of Offense, if Different _____
Date and Time of Test _____
Blood Alcohol Level _____ %
Arresting Officer(s) _____

Breathalyzer Operator _____ Date _____

I, _____, received
the results of the Breathalyzer Test given me.

Date _____

Witness _____ Operator _____
WHITE COPY Station - CANARY COPY Arresting Officer - BLUE COPY Defendant

Figure 17-5

S T O R A G E R E C E I P T

RICHLAND COUNTY SHERIFF'S DEPARTMENT, COLUMBIA, SOUTH CAROLINA. DATE: _____ 19____
RECEIVED FROM FRANK POWELL, SHERIFF OF RICHLAND COUNTY, SOUTH CAROLINA A _____
_____ SERIAL NUMBER _____ LICENSE NUMBER _____ STATE _____
YEAR _____ SEIZED IN THE CASE OF _____ VS _____
THE SAID VEHICLE TO BE HELD IN STORAGE, SUBJECT TO THE ORDER OF THE SHERIFF.

_____ GARAGE

Figure 17-12

ASAP - RCSD

NAME _____ COURT DATE _____
 ADDRESS _____ ATTORNEY _____
 TELEPHONE _____ DRIVER'S LICENSE NUMBER _____
 TICKET NUMBER _____

On _____, I was charged with Driving under the Influence by Deputy _____ of the Richland County Sheriff's Department. A decision has been reached by the deputy, the magistrate and myself on this date, _____, that I am to contact an ASAP courtworker at the Mid-Carolina Council on Alcoholism, Inc., at 2215 Devine Street, Columbia, South Carolina, Telephone 256-0511. I fully understand that I must complete this program within sixty days or a report from the courtworker must be submitted to the court requesting continuance. Failure to comply will result in prosecution.

 Signature of Defendant

 Signature of Magistrate

 Signature of Deputy Sheriff

THE ABOVE NAMED INDIVIDUAL:

_____ DID NOT CONTACT MID-CAROLINA COUNCIL ON ALCOHOLISM IN THE 60 DAYS.
 _____ COMPLETED ASAP PROGRAM SUCCESSFULLY ON _____.
 _____ DID NOT SUCCESSFULLY COMPLETE ASAP PROGRAM BECAUSE _____

 Signature of Courtworker-MICCA

Original of this form to the Defendant
 Copy 1 - MICCA
 Copy 2 - Sheriff's Dept.
 Copy 3 - Magistrate

OFFICIAL SUMMONS AND ARREST REPORT
STATE OF SOUTH CAROLINA

CITY OR COUNTY OF _____ VERSUS
FIRST NAME MIDDLE NAME LAST NAME

STREET AND NO. CITY STATE

OCCUPATION OF DRIVER STATE LICENSED DRIVER'S LICENSE NO.

VEHICLE LICENSE NO.	State	Mk. of Veh.	Year	Auto	Truck	Comb.
					Motorcycle	Other

YOU ARE SUMMONED TO APPEAR BEFORE TRIAL OFFICER

NAME OF TRIAL OFFICER STREET AND NO. CITY

DATE OF TRIAL TIME OF TRIAL STATUTE OR ORDINANCE NO.

19 A.M. P.M.

NATURE OF OFFENSE

OWNER OF VEHICLE DATE OF ARREST

ADDRESS OF OWNER DATE OF VIOLATION

19

BAIL DEPOSITED WEATHER ATTITUDE COUNTY

\$

NAME OF OFFICER RANK BADGE DEPARTMENT

Offense Detected By: Personal Mechanical

D	S	M	T	W	T	F	S
1	2	3	4	5	6	7	

OFFENSE CODE

- | | |
|---|-----------------------------|
| 11 Imp. Backing | 61 Reckless Driving |
| 21 Too Fast for Cond. or Speeding (Not more than 10 m.p.h.) | 62 Pass Stpd. School Bus |
| 22 Shifting Lanes Imp. | 63 Hit & Run. Prop. Dam. |
| 23 Parking Improperly | 79 Violation Insp. Law |
| 25 Failure to Dim Lights | 80 Fail to Stop-Police Veh. |
| 26 Lights Improper | 82 Other Moving Viol. |
| 28 Veh. Unsafe Cond. | 83 Exc. Wt. Ht. Lt. Wh. |
| 29 Driving in Wrong Lane | 84 Pedestrian Drunk |
| 4A No Sig., Imp. Sig. | 85 Concealed Weapon |
| 4B Following Too Closely | 86 Disorderly Conduct |
| 4C Defective Brakes | 87 Driver Lic. Viol. |
| 41 Speeding or Too Fast for Cond. (more than 10 m.p.h.) | 88 Trash, etc. on Hwy. |
| 42 Disregard Sign, Sig. | 89 Veh. Lic. Viol. |
| 43 Disobed. to Officer | 90 Veh. Lic. Improper |
| 44 No Right of Way | 91 Illegal Whiskey |
| 45 Wrong Side of Road | 92 Faulty Equipment |
| 46 Passing Unlawfully | 93 Walking Violation |
| 47 Turning Unlawfully | 94 Other Violations |
| 48 Driving in Safety Zone | 95 Fuel Tax Marker |
| | 96 Driv. Under Susp. |
| | 97 Min. Speed Law |
| | 98 Racing on Hwy. |
| | 99 Driv. under Inf. |

TIME OF VIOLATION

1 A.M. 2 P.M.

DISTANCE IN FEET FROM NEAREST INTERSECTION

Miles	N	E	S	W
	1	2	3	4

ON HWY. NO. CITY

OFFENSE CODE

Test Refused Blood Alcohol Level

PRESENT THIS SUMMONS TO TRIAL OFFICER SHOWN ABOVE
BE SURE YOU UNDERSTAND, FROM ARRESTING OFFICER, THE EXACT
TIME AND BEFORE WHOM YOU APPEAR

This violation will be placed against your record.

OPERATOR'S COPY

CE 5532

Date _____

As of this date, no demand for jury trial or request for continuance has been made to this court in this case.

Presiding Judge-Clerk _____

Figure 17-1

SOUTH DAKOTA

Section 1 - Detection

During the detection phase of DWI enforcement officers generally gather evidence utilizing the standard "clues" found among the sites visited including equipment outages, erratic driving, etc.

In each instance clues and other evidentiary requirements, collected during the detection phase, are recorded on LE1 (Form) by the South Dakota Highway Patrol (See Appendix A; Exhibit 4a). In addition to officer observation, officers of this site may also use mechanical devices during the detection phase. The devices utilized are the RADAR (MR/7digital) and the Borg-Warner Portable Breath Testing Device (A.L.E.R.T.). Both ASAP and non-ASAP officers of the South Dakota Highway Patrol utilize these devices. No evaluation procedures have been employed by the SD:ASAP in determining the effectiveness of their overall detection function. Evaluations are in the planning stage and it is hoped that they will be undertaken in the near future.

Conclusions: Officer of the ASAP duty appear to have relative success in identifying potential DWI suspects.

The recording process utilized during the detection phase appears to be excellent and the standard clues used to detect DWI offenders seem to be sufficiently adequate. Consideration must be given to the fact that ASAP enforcement in South Dakota is principally conducted in rural areas therefore officers on ASAP assignment generally conduct patrol on those highways which are more heavily frequented by vehicular traffic. Hence the predominant reliance on equipment outages and erratic driving as the principal clues in determining potential DWI suspects.

Recommendations: It is recommended that current detection techniques be evaluated to determine their relative efficiency and cost-effectiveness in addition to studying potential alternate methods of DWI detection which may be implemented.

Section 2 - Apprehension

Officers of the ASAP enforcement countermeasure including the South Dakota Highway Patrol, Rapid City, Pierre and Huron receive special training in the apprehension of the DWI offender. This training includes DWI

apprehension techniques, identification of DWI suspects, the investigation of DWI cases and presentation of the case in court. It also involves accident investigation.

Officers may conduct hot pursuit of DWI offenders. When conducting high-speed chases, of suspected DWI offenders, officers utilize their own judgement and may discontinue the chase if, in the officer's opinion, there is a significant danger to the public safety. No written policy appears to be in effect.

Under normal conditions the officer is required to comply with the posted speed limits and with the nationwide speed limit not to exceed 50 miles per hour.

South Dakota was one of the few sites where the use of roadblocks in DWI apprehension was employed. The rural conditions of the state permit this type of enforcement technique since traffic volume is sufficiently sparse.

Troopers of the South Dakota Highway Patrol generally do not issue a radio message upon stopping a suspected DWI violator. Officers maintain a log on which they write the license number of the vehicle stopped. ASAP officers of municipal police departments generally will issue a radio message containing the location of the stop and the vehicle's license number.

Officers make a determination concerning the driver's sobriety by his appearance and/or behavior and through the use of pre-arrest screening devices. In addition, most ASAP officers will use a type of "camouflaged" physical coordination testing. (Example in requesting the DWI offender to produce his operator's license and registration, then upon having been handed those documents dropping them to the ground and asking the offender to pick them up.) In the course of this process the officer notes physical dexterity.

With the exception of municipal PD's, back-up officers are generally not used in the apprehension process; and only called if a problem exists.

The rapport with citizen's band equipped truck drivers is excellent. Truckers often act as scouts for the South Dakota Highway Patrol. Upon observing a suspected or potential DWI offender the truck driver will radio pertinent information to the Highway Patrol.

Portable breath testing devices are used for the purpose of giving the stopping officer an indication concerning the offender's sobriety. The

results of the PBT are not entered into evidence.

Once the officer makes the decision to arrest the suspect he will inform the offender that he is under arrest for driving while under the influence and before questioning the suspect, will advise him of his Constitutional (Miranda) rights. Prior to doing so, the arresting officer will advise the offender of the state's Implied Consent provisions. Both the Constitutional rights and the Implied Consent provisions are read to the offender by the arresting officer. The documents from which these are read are supplied by the South Dakota ASAP to the officers.

The decision to arrest is made by the officer at that point in time when the officer establishes probable cause. South Dakota Highway Patrolmen charge DWI under the state code but municipal officers will often charge under local ordinance. In the event that an officer or highway patrolman is dispatched to the scene of a vehicle crash where there is more than one car involved the officer must have corroborating evidence to place drivers behind the wheel of the vehicles. In a single car crash there is no problem since identification of the driver can generally be established.

Should the suspected DWI offender's BAC level be less than .10% the arresting officer usually has the option to reduce the charge later in the process. In such an event another violation (companion cases) the offender would be charged. This in effect appears to be done in most instances.

Officers as a rule have full discretion in the arrest decision in the case of the South Dakota Highway Patrol. A supervisory officer rarely if ever interferes with the arrest decision.

Conclusions: Officers appear to rely on the results obtained by the pre-arrest screening devices in making a decision concerning a DWI arrest. In addition to the appearance and behavior of the suspect and the tell-tale odor of his breath. Officers assigned ASAP duty appear to be sufficiently experienced to recognize potential DWI suspects; even those with relatively low BAC.

Recommendations: It is recommended that formal physical coordination testing be employed by officers conducting DWI arrests. In implementing this procedure, it is also recommended that analytical studies be

conducted concerning various types of physical coordination testing in order to determine which may be most suited for application in South Dakota. The use of pre-arrest breath screening devices should be continued.

South Dakota Highway Patrolmen should be required by departmental policy to issue a radio message to a dispatcher whenever stopping a vehicle. Such procedure would enhance personal safety on the part of the highway patrolmen.

Offenders with BAC between .05% and .09% should be charged by the officer with Driving While Under the Influence and it should be a matter of determination on the part of the courts whether the charge should be reduced.

Supervisory officers should not interfere in the arrest decision and/or process unless it has been established that the arresting officer has exercised unusually bad judgement.

Section 3 - Transporting Persons and Property

Arresting officers generally transport offenders from the scene of arrest to the evidentiary breath testing facility. Patrol wagons are never used in the transporting of DWI offenders as arresting officers must accompany the offender to the testing booking facility.

The patrol vehicles utilized by law enforcement officers participating in the ASAP program are not equipped with protective shields or screens. Officers are to use individual judgement in determining the need to handcuff offenders for transporting.

All offenders are subjected to a "patdown-frisk" at the scene of arrest prior to being transported in the officer's cruiser. Female offenders are only subjected to a physical search if the arresting officer suspects a weapon or other pertinent concealed evidence. Juvenile offenders are treated the same as adult offenders relative to the searching of prisoners prior to transport.

In approximately 2/3 of all cases arresting officers issue a radio message upon transporting a suspect. The officer will advise that he is in transport and request to have a chemical operator standing by for the

evidentiary test. Where a female offender will be transported arresting officers will also include a speedometer reading at the time of transport and again upon arrival at the designated destination.

According to state statute a juvenile is defined as any individual under the age of 18 years. The distinctions between the processing of juvenile offenders as opposed to an adult offender is limited to 1) juveniles are generally released in the custody of their parents rather than being incarcerated and 2) the juvenile officer has the option of taking over the case from the arresting officer.

An inventory search of the offender's vehicle may be conducted by the arresting officer and a report is prepared. The inventory search of an offender's vehicle is normally conducted incidental to the vehicle impoundment. Should the vehicle be removed (impounded) from the scene the vehicle will generally be towed by a privately owned wrecker service. It is not common for law enforcement officers to transport the vehicle themselves due to the rural characteristic of this site and the apparent excessive distances a privately owned wrecker would have to respond. Upon impoundment the vehicle is normally stored at the location of the privately owned wrecker service. Frequently, depending on the location, the vehicle may be stored at the nearest substation of the sheriff's office.

Towing services are generally contacted via a police dispatcher who maintains a rotating list of eligible towing services. As a rule, it takes approximately 30 to 45 minutes for the towing service to arrive at the scene.

The responsibility for the vehicle and vehicle contents of impounded vehicles rests with the tow truck operator upon taking custody of the offender's vehicle.

Conclusions: Transporting persons and property configuration utilized by the participating law enforcement agencies for the South Dakota Alcohol Safety Action Project appear adequate to meet the needs of these agencies.

Officers of this site offered no constructive feedback or criticisms of the transporting persons and property configuration utilized by their agency.

Recommendations: It is recommended that the transporting persons and property configuration currently being utilized be continued.

Section 4 - Incarceration

Upon conclusion of evidentiary testing all DWI offenders are incarcerated and are subjected to an extensive thorough search prior to their incarceration. All DWI offenders are fingerprinted as required by state statute and all personal effects are removed from the suspect.

Search and fingerprinting of offenders is accomplished by the jailer of the incarcerating facility and a receipt is issued for all personal properties seized. This property is returned upon the subject's release.

A medical examination of the prisoner is conducted when an officer suspects illnesses. The extent of the examination is generally limited to 1) visible signs of injury and 2) complaints of pain on the part of the prisoner. Should the prisoner show visible signs of injury or complain of pains, he will be transported to a local medical facility where he will be given an extensive examination by a local physician.

Every individual incarcerated for the offense of Driving While Intoxicated is eligible to post a bail to secure his release. The amount of bail for the offense of DWI is established by the court and must meet the statewide standard. Bail opportunity is afforded the prisoner any time upon the completion of the evidentiary testing. Bail bondsmen are not allowed to solicit in the jail area. Phone numbers of local bondsmen are posted conspicuously in the jail area. There is no set time requirement in which the prisoner must remain in jail before he is allowed to post bond. The policy varies in accordance with the individual courts. It is not uncommon for an offender to remain in jail for a four to six hour period; which is considered a "sober-up" period.

The usual amount of bond set for the first offense of DWI is \$150. Bond for second offenses average between \$200 to \$250, and for third and subsequent offenses it is \$500. It is estimated that approximately 75% of those arrested for the offense of DWI secure their release by posting bond. Non-residents are also allowed to secure their release by bond. This investigator was advised that the majority of non-resident offenders forfeit bond by failing to appear for trial.

All offenders are provided the opportunity to secure legal counsel while still in the incarceration facility.

The jail is staffed with local police personnel who generally maintain the jail facility in a sanitary and hygenic state.

The prisoner's vehicle may be released while he is still incarcerated; only upon consent of the owner. The vehicle may be released to any responsible individual designated by the owner.

Conclusions: The incarceration configuration utilized by the participating law enforcement agencies of the South Dakota ASAP appear adequate to meet the needs of these agencies. During the course of this site visit there were no indications from those interviewed of significant problems encountered within this area during the course of ASAP participation.

Recommendations: It is recommended that the incarceration configuration currently in use be continued.

Section 5 - Testimony and Adjudication

Arresting officers are required to be present at the trial of an offender for the offense of DWI. Officer attendance is required by the local court who schedules the officer's court appearance. Officers must generally appear in court during their off-duty time. Officers are paid for their court appearance only if it is a normal duty day, otherwise he receives "loss day" [not defined].

On a state-wide basis officers are required to be present at the pre-trial conference approximately 30% of the time. His attendance is required by court and he will be compensated for his attendance on the basis of his normal hourly compensation. The pre-trial conference is generally attended by the prosecutor and the arresting officer, at which time the facts of the case are reviewed. In the majority of cases, the pre-trial conference is held immediately prior to the actual trial of the offender.

The arresting officer will generally testify to the particulars of the case and present any pertinent evidence which he has in his possession. As a general rule, the evidentiary BAC is presented by the officer who

conducted the evidentiary test.

Civilian witnesses such as others who saw the DWI; bartenders, etc. may be summoned to testify in DWI cases. Under these circumstances the witnesses will be subpoenaed by the state attorney and they will be compensated for their court appearance.

As of October 15, 1974, according to information provided by the South Dakota ASAP, a total of 2,605 subjects were arrested during January - October 1974 of which 1,496 were convicted for the offense of Driving While Intoxicated for a percent of dispositions with DWI conviction being 85.7%. Of the 2,605 DWI arrests only 53 charges were dismissed, 192 charges reduced, 5 acquitted, and 859 had yet to receive a disposition. In reviewing January - October 1973 DWI arrest conviction activity, it is noted that 86.1% of all DWI arrests were dispositions with convictions and in January - October 1972, 94% of all DWI arrests were dispositions with convictions.

Officers interviewed at this site offered no constructive criticism or significant feedback regarding problems encountered with the judicial countermeasures in obtaining convictions in DWI cases. The January - October yearly decrease in percent of dispositions with DWI conviction appears to be a function of an increasing backlog in DWI cases and not in attitude of the courts toward conviction for the offense of DWI. For example, (January - October) the backlog of cases in 1972 - 212, increased to 280 in 1973 and as of October 1974, it increased to 859.

Conclusions: The large geographical area covered by the South Dakota Alcohol Safety Action Project and the diversity between jurisdictional areas which comprises the project makes documentation of adjudication and testimony configurations for the participating agency extremely difficult. The investigators, realizing this limitation, remained exceedingly aware of constructive criticism and feedback from law enforcement officials interviewed concerning judicial law enforcement relationships.

During the course of this site visit, no problems within the judicial countermeasures were cited by any of the officials interviewed.

The enforcement effort exhibited and documented at this site is

primarily concerned with the areas of statistical analysis of alcohol-related crash activity in DWI arrest activity. The ASAP enforcement coordinator spends a considerable amount of time and effort in motivational-type activities directed towards the operational law enforcement officers engaged in DWI field patrol. If significant problems exist between the participating law enforcement agencies and the judicial countermeasures, they were not apparent during the course of this site visit.

Recommendations: None.

TEXAS (SAN ANTONIO)

Section 1 - Detection

The Traffic Division, Accident Prevention Bureau, of the San Antonio Police Department conducts weekly and quarterly analysis of alcohol-related crashes occurring within the jurisdictional area of the San Antonio Police Department. The data contained in these periodic analyses are published in a monthly and quarterly report entitled Alcohol Safety Action Project. This report is a record of the activities of the San Antonio Alcohol Safety Action Project and compares the quarterly and annual achievements with corresponding periods. It provides the basic data utilized in governing the overall operations of the San Antonio Police Department's Alcohol Safety Unit. The report also provides a gauge as to degree of effectiveness and draws focus on certain problem areas.

The Alcohol Safety Action Project is distributed as follows:

Office of the Chief
Patrol Division Commanders
Traffic Division Commanders
Commander, Records Bureau
Commander, Planning Bureau
Municipal Courts
Director of Public Safety
Director of Traffic and Transportation
Department of Public Safety
Texas Highway Department
Southwest Research (the ASAP evaluation unit)
Kelly Airforce Space
Houston Police Department
Dallas Police Department
Fortworth Police Department
El Paso Police Department
New Brunfels Police Department
Universal City Police Department
Terrel Hills Police Department
Castle Hills Police Department
Balcones Heights Police Department

and contains the following information:

- Drinking driver arrests, by sex, age, and test results
- Expenditures and team hours used by the special overtime force (ASAP)
- The alcohol-related accidents/drinking driver arrests by patrol districts and by patrol sections in comparison with previous years' experience
- Trend charts showing team-hours utilized, drinking driver arrests, and alcohol-related accidents by patrol section
- Trend charts showing team-hours utilized, drinking driver arrests, and alcohol-related accidents by day of week
- Trend charts showing drinking driver arrests by the ASAP unit traffic and patrol division on hour of day basis
- Trend charts showing drinking driver arrests by ASAP units traffic and patrol divisions on day of week basis
- Trend charts showing drinking driver arrests and alcohol-related accidents by hour of day
- Computer maps showing geographical density of drinking driver arrests
- Computer maps showing geographical density of alcohol-related accidents
- Alcohol-related accident summary

This report is reviewed by command officers of the San Antonio Police Department and the high-accident areas are determined. Time and manpower will be assigned by the ASAP unit according to the information contained within this report.

Prior to June of 1974, only an accident where DWI was charged constituted an alcohol-related crash. Since June of 1974, that definition was modified to reflect an alcohol-related crash as being any accident where "had-been-drinking" was marked on the accident report.

ASAP officers are aware of the alcohol-related crash configurations within this jurisdiction. This is accomplished generally through the self-interest of the officer in reviewing the ASAP Accidents Summary Report which is available in the patrol shift commander's office.

The evidence generally gathered by officers during the detection phase of the drunk driving enforcement is limited to erratic driving and observations of hazardous moving violations. To prove the offense of Driving While Intoxicated, it is necessary only to establish probable cause for stopping the suspect. It has been determined by the courts of jurisdiction that erratic driving is sufficient probable cause to stop a driver and check him for alcohol involvement.

Officer observations and/or evidence gathered during the detection phase is recorded on the DWI/DUID Traffic Case Report (Fig. 19-2). This two-page report is completed by the arresting officer. On the first page is space for observations about the clothes, breath, speech, etc. of the offender, and information relative to the chemical test. The second page is devoted to interview items. This document is retained by the San Antonio Police Department Record Section. Generally, arresting officers obtain a copy of this report prior to court and, in addition, a copy of the report is made and sent to the court district attorney for his review prior to prosecution of the case.

Conclusions: Officers of the San Antonio Police Department ASAP Unit rely upon the traditional clues for the detection of suspected DWI offenders. These clues include the old-time favorites of "weaving in the roadway" and identification of hazardous moving violations. This method of detection appears to be adequate for the ASAP enforcement countermeasure in San Antonio, Texas.

Recommendations: The detection methodology currently used by the ASAP enforcement unit of the San Antonio Police Department should be continued.

Section 2 - Apprehension

Surveillance of high probability areas such as those areas containing a sizable number of bars, taverns and other drinking establishments is not a formal countermeasure of the enforcement efforts of the San Antonio ASAP enforcement teams. Officers are not assigned to surveillance; however, these officers do gravitate toward this patrol technique as a normal function of seeking those areas where the probability of effecting DWI arrests is the greatest.

Neither roadblocks nor surveillance of known offenders is used in the ASAP enforcement effort of this site.

Officers of the San Antonio Police Department are required to obey the traffic laws of the State of Texas. Under no circumstances may an officer of the San Antonio Police Department drive at a speed in excess of 10 miles an hour above the legal speed limit with the exception of pursuit of persons known to have committed a felony or in the case of pursuit of speeders. Officers are required to recognize their responsibility under state law to operate police vehicles with due regard for the safety of others.

Suspected DWI offenders are stopped in a routine manner: the officer's vehicle is positioned behind the offender's auto and the flashing beacon is engaged. As the suspect brings his car to a stop to the right of the roadway, the trooper follows suit with his vehicle and parks approximately one to one-half car length behind the suspect's auto with the rotating beacon continuously in operation. The officer gets out of his vehicle, flashlight in hand (normally the operations are conducted during hours of darkness) and approaches the driver side of the suspect's vehicle. He requests to see the operator's license and then asks the operator to step out of his car. During this process, the officer determines the suspect's state of sobriety based upon observations of the suspect's appearance, detectable odor of intoxicating beverage, general behavior, and speech impairments. Based upon these observations, the arresting officer arrives at the decision to place the offender under arrest (or not to arrest). According to officer interviews, the decision to arrest is "immediately upon conclusion of officer observation which may be instantaneous".

The arresting officer advises the offender of his Constitutional (Miranda) rights immediately prior to placing him under arrest. After placing the offender under arrest, the arresting officer advises the suspect of the Implied Consent statute of the State of Texas.

All DWI/DUI offenders are charged under State Statute Article 6701 of the State of Texas.

It should be noted that upon stopping the suspect, the arresting officer causes a radio message to be issued at which time he advises the dispatcher

of his location and the vehicle license number. A "wanted check" of the license number the driver and passengers is conducted only upon special request of the arresting officer. The arresting officer is authorized to effect arrest without a warrant if a radio transmission confirms "wanted" status of either driver or passengers.

It is normal procedure for the police radio dispatcher to dispatch an assisting officer to the scene of arrest. The assisting officer provides security for the arresting officer, serves as witness to driver impairment and, if necessary, awaits the tow truck for impoundment of the suspect's auto.

Should the arresting officer resort to physical force in order to subdue the suspected DWI/DUI offender, he is expected to act promptly and with the courage and force necessary to restore order or prohibit unnecessary physical violence directed against him. Officers can use only that force necessary to effect the arrest.

There is a written departmental policy regarding the use of force and the use of deadly force by officers of the San Antonio Police Department. The rules and regulations of the San Antonio Police Department appear in Exhibit 19a entitled Rules and Regulations for the San Antonio Police Department, which is included in Appendix A for the reader's review.

An arresting officer may effect an arrest on the charge of DWI/DUI at the scene of any crash which he did not witness if the arresting officer can establish, through witnesses or driver's own violation that the driver was in fact behind the wheel and the operator of the motor vehicle at the time of the accident.

In a DWI arrest, the arresting officer is authorized to search only that portion of the vehicle within arm's reach of the driver. Should this search yield evidence of other unrelated crimes, the suspect may be charged with those additional offenses.

Passengers who are sober and responsible and/or physically incapable of providing transportation for themselves from the scene of arrest will be provided transportation by officers of the San Antonio Police Department.

Intoxicated or disorderly passengers are arrested for the appropriate charge. Only blood relatives of the passenger are allowed to leave the scene with the offender's vehicle, provided they are licensed to drive in the state of Texas and receive verbal authorization from the offender in the presence of the arresting officer.

Conclusions: The officer's decision to arrest is purely subjective, based upon his initial impressions at the scene of the traffic stop. The use of pre-arrest screening devices should be seriously considered by officials of the San Antonio Police Department.

Recommendations: The apprehension methodology currently in use by the officers of the San Antonio Police Department should be continued.

Section 3 - Transporting Persons and Property

Upon the arrest of any person who is to be transported to police headquarters, to the Police Department Office, or placed in jail, officers of the San Antonio Police Department are required to thoroughly search the prisoner, removing from him all weapons, narcotics, fire arms, stolen property or other evidence. Should the subject be transported by patrol wagon he will be searched in the same manner. This procedure applies to both adult and juvenile male offenders. Statutory definition of juvenile within the state of Texas is "under 17 years of age."

It is normal procedure for officers of the San Antonio Police Department to handcuff all prisoners with their hands behind their back prior to placing them into the police vehicle for transport. This same rules applies for both female and juvenile prisoners. The prisoner is usually seated in the right front of the police vehicle if the vehicle is not equipped with a protective screen between the front and rear seats. If the vehicle is equipped with a protective screen or shield, the suspect is placed in the right rear seat of the patrol cruiser. The patrol vehicles utilized by the San Antonio ASAP unit are equipped with protective shields dividing the front and rear seats. The vehicles of the regular patrol officers of the San Antonio Police Department are not equipped with protective shields.

The arresting officer usually transports his prisoner to the testing facility and the average distance of transport is approximately 20 miles. He issues a radio message indicating only a time check as he departs and again as he arrives. This procedure is employed for the transporting of female, juvenile, and male adult prisoners.

Officers are advised that should it become necessary to bring a juvenile to police headquarters for an investigation, a member of the County Juvenile Department will be notified as to the type of investigation underway. Officers are advised that this notification may be done by telephone. The notification of the County Juvenile Department technically places the juvenile under the control of the County Juvenile Office and therefore, if the County Juvenile Department requests that the juvenile be released or transferred, the officer of the San Antonio Police Department is commanded to comply immediately. Female juveniles are not to be interviewed by a male officer other than in the presence of her relative or some woman of responsible status. Whenever it is necessary to transport a female juvenile, two members of the San Antonio Police Department will be assigned to that transport.

Arresting officers may conduct an inventory search of the offender's vehicle and the search is not restricted in any way. While the offender's vehicle remains at the scene of the arrest, the arresting officer is responsible for all articles inventoried. The arresting officer remains responsible for these articles until the property custodian at the impound lot takes custody of the vehicle and its contents.

The offender's vehicle is normally towed from the scene by a privately-owned towing service under contract to the San Antonio Police Department. Should the privately-owned towing service be shown to be deficient or inefficient, its permit to provide services to the San Antonio Police Department will be revoked. The average response time for the towing service from the time dispatched until the time it arrives at the scene of apprehension is approximately 10-15 minutes.

Offenders' vehicles, when impounded, are stored at the San Antonio Police Department Impound Lot located at 306 South Lorado, San Antonio, Texas. This lot is enclosed with a 6 foot chain-link fence with a barbed wire top. The lot is also lighted and manned by a property custodian 24 hours per day.

Conclusions: The transporting process employed by the San Antonio Police Department appears to be generally suitable to the operations within the state of Texas. No significant feedback was obtained from officers.

Recommendations: The transporting of persons and property configuration utilized by the San Antonio Police Department appears adequate to meet the needs of that law enforcement agency and is not in conflict with any of the stated objectives of the San Antonio ASAP.

Section 4 - Incarceration

Upon arrival at the incarceration facility, the subject is normally fingerprinted and photographed. Adult offenders are "booked" and then immediately taken before a magistrate who sets bond. Normally, the bond established for a first DWI offense is \$400. Bonds for second and third DWI offenses can range anywhere from \$800 to \$1,200. As stated previously, juveniles are not incarcerated with adult prisoners. Upon arrival at the incarceration facility, arresting officers notify the County Juvenile Department who makes a determination based upon the juvenile's record whether or not the juvenile should be released in the custody of his parents or transferred to a juvenile holding facility.

DWI offenders who have been incarcerated by an officer of the San Antonio Police Department are cleared against local, regional, and national computer networks containing criminal records information.

All suspected DWI offenders who have been incarcerated for the offense of DWI are eligible for bail provided there is no outstanding warrant or a *felony companion* case involved in the incident. Offenders may post bond immediately upon the conclusion of the "booking" process. Should the offender desire a bondsman, a phone book will be provided the offender.

There is no sober-up period during which the DWI/OUI offender must remain confined.

In every instance where a suspect received at the jail division office, and the suspect complains of pain or has visible signs of injury, the superior officer on duty must make a report to the department and cause the prisoner to be sent to a local hospital for examination and treatment before being accepted by the facility. These rules and regulations governing the incarceration of prisoners are stated in written policy of the San Antonio Police Department. (This policy is included in the appendix as previously cited.)

Under no circumstances is the offender's vehicle released while the offender is still incarcerated. Motor vehicles are released only to the owner and a certificate of title is required to effect the release.

The incarceration facility is staffed by sworn police personnel who man the booking desk, clerical positions, and handle prisoner transfers. Corrections officers who are non-sworn law enforcement officers man all other positions within the incarcerating facility. These individuals are employed by Bexar County and are classified as "detection personnel". Matrons are available in the jail area. A physician, registered nurse, and priest or chaplain are on call 24 hours per day. DWI offenders are confined in a dormitory-type cell shared with others. The jail facility is maintained in a sanitary and hygenic state.

Conclusions: DWI offenders who are released from custody after evidentiary testing and upon conclusion of the "booking procedures" could present a hazardous situation not only for themselves but for the general public as well. If the suspect decides to drive again immediately upon release, it is highly possible that, should he have registered a BAC of .25% or higher, he would still be over the legal limit of .10%. This investigator was advised by officers of the San Antonio Police Department that every effort is made to release offenders (who registered extremely high BAC's), to a responsible person. Officers at this site could not recall a situation such as this which prevented any real problem within the incarceration configuration.

Recommendations: The incarceration configuration utilized by the officers of the San Antonio Police Department appears adequate to meet the needs of that law enforcement agency.

Section 5 - Testimony and Adjudication

Pre-trial conferences, when conducted, are generally attended by the prosecutor and the attorney. The arresting officer is not required to be present at arraignment.

The District Attorney's Office issues subpoenas through the Office of Chief of Police and the officer is required to appear in court to testify regarding a DWI offender.

Officers are never required to appear in court on off-duty days. According to Sergeant Taft of the Accident Prevention Bureau, overtime and compensatory time due to court appearances cannot be delineated. Should an officer ever have to appear on his off-duty time, he will be compensated with either compensatory time or he will be paid 1½ times his normal hourly wage. Officers are not paid any additional witness fees for attending court on off-duty time.

When an officer is called to testify in a DWI case, he generally presents the particulars of the case, the defendant's BAC, and any pertinent physical evidence surrounding the arrest. The officer presents his testimony stating the information contained on the DWI/DOID Traffic Case Report (See Figure 19-2).

The County Courts at Law hear DWI cases of the San Antonio Police Department. Judges assigned to these courts are elected for four-year terms. In order to be elected to the bench, an individual must be licensed to practice law within the state of Texas. No separate court rooms have been set aside for DWI prosecution. The DWI offender has a choice between a jury trial or a trial before a judge. DWI trials are normally conducted before a judge only. During 1973, only 30 out of approximately 6,000 pending DWI cases choose trial before a jury. A conviction for DWI is more likely if the case is tried by a judge.

Plea bargaining, according to officers at this site, is a routine procedure and the arresting officer is seldom consulted before the decision is reached. Generally, cases which have been subjected to plea bargaining are reduced to the offense of Public Intoxication and the subject is fined \$75 to \$125 and assessed court costs which may range from \$45 to \$50. Officers at this site stated that plea bargaining is also employed with second and subsequent DWI offenders.

Officers of the San Antonio ASAP have available eight prosecutors and two supervisory prosecutors in handling DWI cases. Members of the prosecutor staff have attended two judicial seminars and in-service training programs conducted by the superintendent of misdemeanor district attorney's office

as well as the state of Texas (BAR) training seminars. The law enforcement officials at this site stated they were satisfied with the prosecutions being provided by this office.

Witnesses summoned to testify in DWI cases are compensated for their court appearance.

According to officers interviewed during this site visit, the cooperation is "good" between all legal personnel and the San Antonio Police Department. All judges positions are full-time positions.

Judges claim that the human element involved in operating the evidentiary testing device leaves too great a margin for error and as a result, they do not uniformly take notice of the evidentiary testing devices and techniques. It is for this reason that officers stated that DWI convictions are generally difficult to obtain when a subject registers a BAC of .13% or less, due to the plus or minus .01% accuracy of the testing apparatus.

Conclusions: No feedback was available from enforcement personnel concerning court attitudes toward adjudication of DWI/DUI cases. The law enforcement personnel of this site express resignation to the system under which they operate.

Recommendations: Liaison between the courts and the San Antonio Police Department as well as the San Antonio ASAP should be improved. A seminar should be conducted involving officials of the San Antonio Police Department, the San Antonio ASAP and key judicial representatives, at which time evidentiary testing procedures should be reviewed in detail and the accuracy of the evidentiary breath testing devices could be explicitly demonstrated to the judicial representatives of the seminar. The specific problems within the sobriety testing configuration as it relates to judicial acceptability is discussed in more detail in the sobriety testing configuration report of this survey.

UTAH (SALT LAKE CITY)

Section 1 - Detection

The Salt Lake City Police Department and the Salt Lake County Sheriff's Office participate in the Salt Lake City Alcohol Safety Action Project. Data sources utilized by both participating law enforcement agencies in determining ASAP patrol areas include:

- Traffic volume and flow
- Personal knowledge of ASAP officers in ASAP teams
- ASAP evaluation roadside survey data
- High accident incidents information obtained through CIOTAD Data System (Centralized Input of Traffic Accident Data).

The information which is available through CIOTAD is based upon analysis of "had been drinking" indications of accident activity when marked in the contributing circumstance section of the accident report. As a rule, analysis of alcohol-related crashes do not filter down to individual officers engaged in ASAP field operations. These statistics are available, however, to any officer who wishes to review them.

An alcohol-related crash is defined as "any accident where a driver is charged with an alcohol violation". The criteria for an alcohol-related crash is a notation of "had been drinking" on the state accident form.

Officers of this site can cite the ASAP arrest figures but could not respond to inquiry as to the accident configuration within their jurisdictional area. Officers are generally not aware of the overall alcohol-related crash configuration within the jurisdiction.

The evidence gathered by officers during the detection phase of drunk-driving enforcement is erratic driving. Secondary to erratic driving is officer instinct as to the personal profile of a drinking-driver offender; i.e. "junkie car", "coming from a bar", etc.

In the state of Utah, a driver is presumed to be intoxicated if his blood alcohol level is .08% and above. Utah has a "per se" law establishing .10% as the legal limit. If a person is prosecuted under the presumptive law, the state must provide he is "under the influence" of intoxicating

beverage. If the individual is prosecuted under the "per se", the state need only to prove that his blood alcohol exceeded .10%. The offense is considered a misdemeanor and the maximum penalty is a fine of \$299 and/or six months in jail. Evidence gathered during the detection phase of drinking-driver enforcement is recorded on an Alcohol Influence Report Form (See Figure 20-7) which is completed by the arresting officer and retained by him to be used as a "mind-jogger" prior to the presentation of his court testimony.

Conclusions: The detection configuration utilized by officers of the Salt Lake City ASAP appears adequate to meet the needs of the participating law enforcement agencies.

Recommendations: None.

Section 2 - Apprehension

Surveillance of high probability areas such as areas containing a sizable number of bars, taverns, and other drinking establishments is utilized almost exclusively by the participating law enforcement agencies of the Salt Lake City ASAP. Officer experience indicated that these areas hold a greater propensity for DWI arrests as opposed to other areas of the jurisdiction.

The Salt Lake City Police Department utilized roadblocks in ASAP enforcement. According to officials interviewed, they "never heard anything back on it". Department personnel were quick to point out the public relations requirement involved in the utilization of roadblocks and stated that the use of roadblocks was discontinued due to poor results (manpower versus arrests).

No written policy statement was provided by the Salt Lake County Sheriff's Office regarding the enforcement policy concerning pursuit of the suspected DWI offender. Unwritten policy dictates that pursuit of a suspected DWI offender is a judgmental decision which must be made by the arresting officer. In any case, pursuit must cease at such time as the hazard of the chase becomes greater than the violation.

The Salt Lake City Police Department produced two written policy statements regarding pursuit of offenders. The first, entitled Policy on Pursuit

(See Appendix A, Exhibit 20a) stated that:

"Each and every officer has taken an oath of office to the best of his ability to perform the required tasks. In all areas of our function, including arrests, searches, and seizures, imprisonment, etc., we are individually liable for our actions. This unfortunately holds true in the case of injury, death, or property damage in the use of our cars.

Society, however, does expect us to do our jobs of apprehending dangerous individuals and to protect them. We do not have the authority to abuse or grievously harm individuals for minor infractions nor do we have a legal right to shoot into a crowd indiscriminately even to stop a dangerous felon's escape. Whenever we take such actions, we must carefully consider the ramifications and decide if the risk justifies the action both to the bystander and to the police officer. When we recognize even fleeing felons to be juveniles, we do not shoot to apprehend them; only when it is the last resort to protect ourselves or innocent bystanders."

General Order #7-73 entitled Vehicular Pursuit (See Appendix A; Exhibit 20b) which states:

"Pursuits should be initiated only when a law violator clearly exhibits the intention of avoiding arrest by using a vehicle to flee; or, when a suspected law violator refuses to stop and uses a vehicle to flee.

The first responsibility of the officer initiating the pursuit (primary unit) is the apprehension of the suspect without unnecessarily endangering themselves or the other people. Unless relieved by a supervisor, the senior officer of the primary unit shall be responsible for broadcasting the progress of the pursuit and controlling the pursuit tactics, including the decision as to whether to become involved in a pursuit; whether more than two units should join the pursuit; and deciding if the pursuit should be abandoned.

Immediately upon initiation of pursuit, the primary unit will notify the dispatcher that a pursuit has been initiated. In his initial broadcast, the officer should include the location and direction of flight, as complete a description of the car and occupants as possible, and exactly what the subjects are wanted for at the time, e.g., 'traffic only', 'felony warrant', etc.

There should be no attempt to stop pursuit suspects by 'boxing in' or 'heading off' or driving parallel to their vehicle with a police vehicle, without the careful consideration of the risks involved by the pursuing officers.

Any officer who deliberately causes an accident during a pursuit resultant from attempts to ram or otherwise use the police vehicle to effect a stop will be required to personally appear before the administrative staff to explain the circumstances surrounding his actions.

Officers in the primary pursuing unit are responsible for the arrest of the suspect when the suspect voluntarily concludes his escape effort or if he becomes involved in a traffic accident. Officers in a secondary unit shall be responsible for backing up the primary unit and broadcasting equipment information at the termination of the vehicular pursuit.

Officers involved in the pursuit must continually question whether the seriousness of the violation reasonably warrants continuation of the pursuit. Research shows that 85% of the pursuit related officers involved traffic accidents occur after the first three minutes of the pursuit. The study so indicates the possibility of apprehending the suspect diminishes considerably after the first three minutes.

A pursuit should be discontinued when there is a clear danger to the public or to the pursuing officers considering the seriousness of the crime, length of the pursuit, and the possibility of identifying the suspect at a later time. It should be noted that the vast majority of vehicular pursuits are initiated only to apprehend a misdemeanor traffic violator."

In stopping a suspected offender, officers of the participating law enforcement agencies generally engage a flashing beacon, siren, spotlight, and PA system. Upon stopping the violator, the arresting officer issues a radio message containing the location of the stop, the license number of the vehicle, and any other pertinent information. The license number of the vehicle is not checked against data files to ascertain possible "wanted" information on either the driver and/or passengers unless the arresting officer initiates a special request.

An arresting officer may effect an arrest without a warrant if a radio transmission confirms "wanted" status for a misdemeanor offense.

After the officer has stopped the vehicle, he approaches the suspect's vehicle from the left rear. The arresting officer makes a determination concerning the operator's state of sobriety by observing the subject's appearance, detectable odor of intoxicating beverage, general behavior, speech impairments, and subject's physical coordination abilities. The officer generally makes the determination to place the suspect under arrest when intoxication is obvious or upon conclusion of the field sobriety tests.

It is normal procedure to dispatch an assisting officer to the scene of arrest only at the request of the arresting officer.

Generally, the assisting officer, upon his arrival at the scene of arrest, serves as witness to the suspect's impairment, provides security, awaits the tow truck, if necessary, and conducts an inventory search of the vehicle prior to impound.

The arresting officer has complete discretion in his decision to arrest for the offense of DWI and his immediate supervisor exerts no influence on the arrest decision.

Under the laws of the jurisdiction, the offense of driving while intoxicated constitutes a misdemeanor and the arresting officer may use only that force that is reasonable and necessary to effect the arrest.

Prior to being placed under arrest, the subject is not advised either Miranda rights or Implied Consent admonishments. After having been placed under arrest, the subject is advised of Implied Consent and after evidentiary testing, prior to the alcohol influence report, the subject is also advised of his Miranda rights.

At the scene of any vehicular crash, an officer may effect an arrest on the charge of DWI if he can place the offender behind the wheel at the time of the accident.

DWI offenders arrested by the Salt Lake County Sheriff's Office are charged under state statute, whereas offenders arrested by the Salt Lake City Police Department are charged under a local ordinance.

If upon the conclusion of the evidentiary testing, the suspect's BAC reads below .06% and there is no evidence of drugs present, officers have the option to reduce the charge to a lesser one.

Arresting officers have the authority to search the offender's vehicle only to the extent of visual inspection to establish probable cause for search. Generally, exploratory searches are limited to the area of the driver. Should this search yield evidence of other unrelated crimes, the subject may be charged with these additional offenses.

General Order #14-68 of the Salt Lake City Police Department entitled Juvenile Traffic Offenders (See Appendix A; Exhibit 20c) states:

"If a juvenile need be arrested for a serious traffic offense, such as drunk driving, reckless driving, hit and run, or revoked driver's license, or failure to sign a citation, the juvenile should be taken to the police station where a traffic citation and field arrest sheet will be filled out. The citation will be given to the juvenile for his appearance in court with the instructions that he must appear in traffic court the following court day at 9:30 a.m.

The arrested juvenile will then be released to their parents or some other responsible party. If the arresting officer cannot contact the parents or a responsible party to affect this release, he will release the juvenile on his own recognizance and advise them that their parents will be notified of the arrest."

Prior to the juvenile's release, he is:

- Processed as usual with blood-alcohol, etc.
- Issued a citation for drunk driving
- Entered on a docket sheet for drunk driving
- Released to parents or responsible party

The offender's vehicle may be transported from the scene by one of his passengers provided the approval of the offender is obtained. Generally a verbal agreement is reached and the passenger who takes the car has his name entered on the alcohol influence report.

There are normally two officers present at the scene of a DWI arrest. These officers are generally the arresting officer and his back-up officer.

Conclusions: The apprehension configuration utilized by officers of the Salt Lake City ASAP appears adequate to meet the needs of these agencies and the objectives of the ASAP program.

Recommendations: It is recommended that the configuration utilized at this time be continued.

Section 3 - Transporting Persons and Property

Suspected DWI offenders are generally submitted to a pat-down frisk prior to being transported. Females are searched either by matrons or policewomen. In most cases, arresting officers merely take custody of the subject's purse and/or packages. Juvenile offenders are treated the same as adults (statutory definition of a juvenile is any individual under 18 years of age.)

It is normal procedure to handcuff prisoners prior to placing them into the police vehicle. Memorandum entitled Use of Handcuffs on Arresting Persons dated April 12, 1974 (See Appendix A; Exhibit 20d) stated:

"The use of handcuffs on arresting subjects is an important safety precaution, and it is the general policy of this (Salt Lake City Police) department that they be applied. The personal safety of the arresting officer, the arrested subject, and jailers may depend on following proper handcuffing procedures."

Subjects are handcuffed with their hands behind their back.

Prisoners are usually seated in the right front seat, as the ASAP patrol vehicles are not equipped with protective shields or screens. Vehicles of regular patrol officers are also not equipped with protective shields or screens.

The arresting officer usually transports his prisoner to the testing facility and the average distance of such a transport is 2½ miles. Should a patrol wagon be utilized for transporting purposes, the average delay in its arrival after it has been requested to respond is approximately 5 minutes. Should a patrol wagon be utilized, the arresting officer must appear at the testing facility.

Prior to transporting a suspect, arresting officer issues a radio message advising the dispatcher that he is enroute with a suspect. Should the suspect be a female, the arresting officer will also include mileage to the tenth of a mile. Should the suspect be a juvenile, the same procedures as those for adults will be followed.

An inventory search of the offender's vehicle may be conducted and is not restricted in any way. Responsibilities for articles inventoried lies

with the arresting officer until the vehicle is released to the towing service. Memorandum entitled Impound Procedures of the Salt Lake City Police Department dated March 28, 1972 (See Appendix A; Exhibit 20e) states:

"When impound is due to an error on the part of the police department: Vehicles of this nature may be released by a letter authorizing said release from the Chief of Police or his authorized representative. Such a letter should be taken with the release slip obtained from the Desk Sergeant to the impound lot to become part of the permanent file in that matter. If it is a vehicle that is at Utah Recovery and Impound, the Chief of Police or his authorized representative should address a letter to the Board of Commissioners asking that Utah Recovery be reimbursed for the amount of towing and storage fees so that the innocent owner may have his vehicle released without delay.

Personal property left in impounded vehicles: Personal property may be released by a letter from the Chief of Police or his authorized representative instructing the the Impound Lot operator to release the property described to the owner. This applies only to personal property and does not apply to parts of the vehicle which have become appurtenant thereto such as batteries, spare tires, jacks, spotlights, mirrors, etc."

Salt Lake County Sheriff's Office utilizes privately-owned towing services and the Salt Lake City Police Department uses government operated towing services. The average response time for towing services is approximately 10 minutes. Should a privately-owned towing service be shown deficient or inefficient, its services will simply no longer be requested. According to General Order #12-73 entitled Wrecker Police (See Appendix A; Exhibit 20f) states:

"If there is an unnecessary delay in the arrival of any wrecker, a To-From will be completed on the company contacted. If delays persist after this, the company's card will be removed from the file."

Conclusions: The transporting personal and property configuration utilized by officers of the Salt Lake City ASAP appear adequate to meet the needs of the law enforcement agencies.

Recommendations: It is recommended that the configuration currently in use be continued.

Section 4 - Incarceration

Once an offender has undergone evidentiary testing, he is generally incarcerated, then released on either bond or personal recognizance. Prior to eligibility for release, all suspects are interviewed in the jail area by "pre-trial services" conducted by the Salt Lake County Probation Department. The suspect is evaluated on a point system to determine community stability and personal stability. Out-of-state offenders are processed the same as local offenders; however, they must sign an extradition waiver.

All DWI offenders are normally fingerprinted and photographed; this is department policy (not provided) on the Salt Lake City Police Department. The Salt Lake County Sheriff's Office department policy (also not provided) states that all suspects shall be fingerprinted and/or photographed if the subject was not previously booked within the prior year.

General Order #3-68 entitled Juvenile Booking Procedures of the Salt Lake City Police Department (See Appendix A; Exhibit 20g) states:

"A juvenile brought to headquarters to be picked-up by parents: The juvenile will be taken to the arresting officer's division office and held there until the parents arrive. He will complete the yellow 'juvenile field docket form' which will be turned in to the Records Division for completion of the final docket.

Juvenile to be taken to detention: Field Arrest Form may be completed at the detention and turned in to Records, or the arrest sheet may be dictated in Records at the time the initial or supplementary report is made. If it is necessary to the juvenile to be held at headquarters prior to detention, he will be held in an area other than the Records Division.

Juvenile to be printed and mugged: The juvenile will be taken to the Crime Lab to be processed. A Field Arrest Form may be filled out while the juvenile is being processed by the technician and forwarded to the Records Bureau or it may be completed when a child is taken to detention and finished in Records upon the officer's return to file his report. If two officers are present, one may handle the booking and Records Bureau while the other completes the Crime Lab processing."

All DWI offenders are cleared against local computer networks containing criminal records information.

The responsibility for fixing the amount of bail lies with the senior municipal judge of the Salt Lake County Sheriff's Office and the chief booking officer of the Salt Lake City Police Department. The usual amount of bond set for first-offenders arrested by officers of the Salt Lake City Police Department is \$300 and \$175 for first offenders arrested by the Salt Lake County Sheriff's Office. The usual amount of bond for second or subsequent offenses is the same as the first in each agency.

Offenders can normally be released from custody immediately upon posting bond.

Bail/bondsmen are not permitted to solicit in the jail area; however, their telephone numbers are conspicuously posted in the booking area. There is generally no sober-up period during which the DWI offender must remain confined.

Prior to incarceration, all offenders are subject to an extensive search consisting of emptying their pockets, removal of the shoes, removal of belts or suspenders, and the removal of all personal property. These articles are normally stored for safe keeping in an envelope which is signed and sealed by booking personnel. A receipt is provided to the suspect. All items are returned upon his release.

Should an offender be too intoxicated to use the telephone, booking personnel will nevertheless allow the subject unlimited use of a phone. Should the subject not be acquainted with a local attorney, he will be provided with a telephone directory listing all the attorneys in the area. Should the subject be indigent, the subject is advised that an attorney will be appointed for him at arraignment.

The offender's vehicle may be released while he is still incarcerated to anyone upon 1) written permission from the owner, 2) proper identification and 3) payment of the \$18 towing fee.

The jail is staffed with corrections officers employed by the county and matrons are on-duty. Physicians are on-call 24 hours per day. However, ill prisoners are generally transported to Holy Cross Hospital. DWI offenders are given a visual check for signs of illness by the arresting officer at the scene of arrest and by jail personnel at the jail area.

All DWI suspects are detained in an open-door, screen "cage" in the booking area. Suspects for DWI seldom get to a cell.

The jail area is maintained in a sanitary and hygienic state.

Conclusions: The incarceration configuration utilized by law enforcement officers of this site appears adequate to meet the needs of this jurisdiction and are consistent with the objectives of the Salt Lake City ASAP.

Recommendations: None.

Section 5 - Testimony and Adjudication

Pre-arrest conferences are generally conducted between the prosecutor, the defense attorney, defendant and judge. The arresting officer is not required to be present at arraignment.

Within the city courts, the prosecutor's office schedules the officer's court appearance. In county courts, the clerk of the J.P. court schedules the officer's court appearance.

The officers of the Salt Lake City Police Department generally spend 12 days per month (2 hours per day) in court on off-duty days. Officers of the Salt Lake County Sheriff's Office generally spend 10 days per month (2 hours per day) in court on off-duty days. The average amount of overtime for an officer attributable to court appearance is for the Salt Lake City Police Department 24 hours per month and the Salt Lake City County Sheriff's Office 20 hours per month. All officers receive straight hourly wages for overtime accrued in off-duty court appearances. As a general rule, two hours are allowed for misdemeanor cases, 4 hours for felony cases, and 2 hours for driver's hearing cases. Officers are not paid any additional witness fee when attending court on off-duty days.

Generally, physical coordination tests, and evidentiary test results are introduced into evidence by the arresting officer at the trial of the DWI offender.

Subject's arrested by officers of the Salt Lake City Police Department are generally tried before municipal courts; offenders arrested by the Salt Lake County Sheriff's Department are tried before J.P. courts. Both city and county judges are elected for 4-year terms and must be members of the Utah Bar. Separate court rooms have not been set aside for DWI prosecutions.

Normally, trials for the offense of DWI are conducted before a judge only, although the subject does have a choice between a jury trial or trial before a judge. For the offense of DWI, conviction is more likely if the subject is tried before a judge.

Plea bargaining is not "as a rule" a routine procedure. When plea bargaining is invoked, the arresting officer is generally not consulted before a decision is reached.

In "plea bargained" situations, subjects plead guilty to DWI; however, although the record will reflect reckless driving, the judge imposes the standard DWI fine of \$299 and/or six months in jail.

The three members of the prosecutor staff provided by the Salt Lake City ASAP have received specialized training regarding intoxicated drivers through ASAP sponsored judicial seminars. Officers offer no feedback regarding problems encountered in obtaining support from the prosecutor staff.

Civilian witnesses summoned to testify in DWI cases are compensated at a rate of \$6 per day plus 6¢ per mile. Generally, civilian witnesses are not subpoenaed to testify in these cases.

Conclusions: During the course of this site visit, no significant problems were noted within the testimony and adjudication configuration.

Recommendations: It is recommended that the current favorable relationship between the enforcement and judicial countermeasures be ongoing.

4. Even if you decide to answer questions now without having counsel present, you may stop answering question at any time. Also, you may request counsel at any time during questioning.

Were the following waiver questions asked _____

1. Do you understand each of these rights I have explained to you?
Response _____

2. Having these rights in mind, do you wish to talk to us now?
Response _____

VI - CHEMICAL TEST:

Was subject requested to submit to a chemical test _____ When _____

Where _____ By _____

Mr. or Mrs. _____, do you understand that you are under arrest for driving under the influence of alcohol? Response _____

I am obligated by law to advise you of your rights under Utah's implied consent law. (Section 41-6-44.10 of the Utah Code Annotated (Supp. 1969)).

Under the law, any person operating a motor vehicle in this state shall be deemed to have given his consent to a chemical test of his blood or breath for the purpose of determining the alcoholic content of his blood (or of his blood or urine for determining the presence of drugs in his blood) provided that such a test is administered at the direction of a peace officer having reasonable grounds to believe such person to have been driving in an intoxicated condition (or in a condition under the influence of drugs).

In compliance with this law, I hereby request that you submit to a chemical test, either a breath test or a blood test (blood or urine if drugs are suspected), however, you have the right to refuse to take the test.

If you refuse the test, it will not be given and I will report by affidavit your refusal to the Department of Public Safety. They will notify you of a hearing before the Department, and at the hearing the hearing officer will be obligated to determine whether you were granted the right to submit to a chemical test and whether without reasonable cause you refused to submit to such a test. If the hearing officer determines that you refused to submit to a properly requested test, the Department will revoke your driver license for one year. If you fail to appear at the hearing, your driver license will be revoked automatically.

Should your license be revoked you will then have the right to file a petition within thirty days thereafter for a hearing on the matter in the District Court in the County in which you reside.

Upon your request, I will make available to you the results of the test if you take it.

Only a physician, registered nurse, practical nurse or duly authorized laboratory technician, acting at my request, will draw your blood for the purpose of determining the alcoholic content therein, but this limitation does not apply to the breath test (or urine test).

You will be permitted to have a physician of your own choice administer a chemical test in addition to the one I have requested you to submit to.

Mr. or Mrs. _____, what is your response to my request that you submit to a chemical test? Response _____

Did subject submit to a chemical test _____ Type of test _____

Test administered by _____ Where _____

When _____ Results _____ Was subject notified of results _____

VII - SEARCHES:

Was subject's vehicle searched _____ Where _____

When _____ Authority _____

Evidence found _____

Was subject's person searched _____ Where _____

When _____ Authority _____

Evidence found _____

Figure 20-7 (cont'd.)

VIII - SUBJECT'S DESCRIPTION:

General condition _____

Clothes: Shirt or Dress _____
Pants or skirt _____
Coat or jacket _____ Shoes _____
Hair: Color _____ Style _____ Condition _____
Face: Eyes _____
Pallor _____ Complexion _____
Physical description: Height _____ Weight _____ Build _____
Speech _____
Odor of alcoholic beverage (Yes or No) _____
Signs or complaints of injury or illness _____

Noticeable characteristics _____

IX - INTERVIEW:

Were you operating a vehicle _____
Where were you going _____
What street or highway were you on _____
Direction of travel _____
Where did you start from _____
When _____ What time is it now _____
What is today's date _____ Date of week _____
(Actual time _____ Date _____ Day _____) What city/ or county are
you in now _____
When did you last eat _____
What did you eat _____
What were you doing during the last three hours _____

Have you been drinking _____
What _____ How much _____
Where _____
When did you have your first drink _____ Last drink _____
Are you under the influence of an alcoholic beverage now _____

What is your occupation _____
When did you last work _____
Do you have any physical defects _____
Are you ill _____
Do you limp _____
Have you been injured lately _____
Have you had a bump on the head lately _____
Were you involved in an accident today _____
Have you had any alcoholic beverage since the accident _____
If so, what _____ When _____
How much _____
Have you seen a doctor or dentist lately _____
Who _____ When _____
What for _____
Are you taking tranquilizers, pills or medicines of any kind _____
What kind (Get sample) _____
When did you have the last dose _____

VERMONT

Section 1 - Detection

Analyses of alcohol-related crashes were utilized to the extent that the determination was made to concentrate CRASH (Countermeasures Related to Alcohol Safety on the Highways) in the county area. It appeared that analysis of alcohol-related crash data compiled by the CRASH on-site evaluator, in conjunction with the deadlines imposed by the contract, had no real effect on the specific patrol deployment in terms of the CRASH troopers. At the enforcement level only the enforcement coordinator had consistent exposure to the quarterly analytical reports; troopers seemed to have only vague conceptions regarding the overall crash configuration. The prevalent attitude was to let experience be the guide in overall DWI enforcement.

Enforcement personnel relied most extensively on visible clues in driving behavior and mannerisms. A list of 40 such clues is listed in the Officer's Manual on the Use, Abuse and Detection of Alcohol (see Appendix A; Exhibit 21f). Individual officers' priorities assigned to the clues as indicators of impairment differed somewhat. The portable audio recording unit may be activated by the trooper when he first observes a suspected DWI, in which case he narrates pertinent details concerning the vehicle under observation, including the manner in which it is operated. The tape cassette is later forwarded to the Enforcement Coordinator to be filed (occasionally critiqued), then prepared for the officer's use at the trial. He also records the information on standard forms to be retained by him or relayed to the State's Attorney. Both the tape and reports are admissible evidence. Officers unquestionably accept the universal utility of established clues formulated for detection of suspected DWI offenders.

Radar was ostensibly used to detect suspected offenders by stopping, questioning and perhaps citing those exceeding the speed limit or operating at a speed considerably lower than the posted limit. This was not a routine function of the CRASH force. Occasionally road checks were employed to spot offenders.

No evaluative studies or surveys specifically dealing with detection techniques were undertaken. For variables influencing the likelihood of DWI detection in the CRASH area of Vermont, see Appendix A; Exhibit 21g.

Conclusions: From all indications, little importance was placed on analyses of alcohol-related crash and offense data. The individual experience of troopers assigned to CRASH enforcement was the overriding criterion in the determination of locations which were believed to be particularly likely to produce a high number of DWI suspects. Visible clues (driving mannerisms, etc.) were almost solely relied upon for detection of suspected offenders. Although radar was used on occasion, ostensibly for DWI detection, it is doubtful that the technique had a significant impact on the detection rate as pertains to DWI offenders. When road checks were employed on occasion, DWI offenders who were stopped in the process were virtually guaranteed to be arrested.

Recommendations: More emphasis should have been placed on analytical data for patrol deployment and detection of DWI offenders, for a more systematic (and hopefully more productive) approach.

Section 2 - Apprehension

Enforcement personnel relied heavily on past experience in selecting high-probability locations for DWI apprehension. Due to the predominantly rural nature of the four-county CRASH area, coverage was relatively uniform, with emphasis directed at interstate highways and other major arteries, especially those leading to and from municipalities. Road checks were used as a means of detection and apprehension, with no unusually adverse public reaction discernible. Some judges, however, flatly refused to hear DWI cases in which apprehension was effected in this way. Surveillance of known offenders (recidivists) was not conducted, but radar was used on occasion.

Although written policy in the area of pursuit was not obtained, it was clear that every reasonable effort is made to apprehend the suspected DWI offender as the officer is not constrained by any speed limitation in situations warranting "hot pursuit". Caution is prescribed on the part of the officer giving chase. Troopers are advised to abandon the chase if, in their estimation, there is an overwhelming risk of injury to any party involved in the chase, as well as to innocent bystanders. In most situations, however, the offender would be pursued until brought to a stop. The Department encourages its troopers to effect apprehension whenever possible in situations involving high speed chases.

Normally the officer attracts the suspected offender's attention by

engaging the rotating beacon (siren and/or horn if deemed necessary) while directly behind the suspect vehicle. There is no departmental requirement to issue a radio message; this is entirely contingent upon the officer's judgement. There is a license check only if for some reason the officer's suspicion is aroused.

When the stop has been effected, the trooper approaches the suspect's vehicle and positions himself just to the rear of the driver's door. He determines the state of sobriety of the operator by his appearance/behavior and by the administration of a physical coordination test. Occasionally CRASH troopers employed a breath pre-screening test. During the apprehension process the dictating unit would be used to record the responses of the offender as well as the procedures utilized by the officer. These recordings were considered to be an invaluable asset to the trooper (to refresh his memory) and to the court (for evidentiary purposes). The officer may use only that amount of force required by circumstances of the situation to subdue the person arrested.

Immediately after the trooper has reached the conclusion that the suspect is legally impaired (he has full discretion in that decision), he is placed into the patrol vehicle. The offender would not necessarily be advised that he is under arrest, but is administered the Miranda warning and informed of the Vermont Implied Consent statute as mandated. If the arrest is effected by a one-man unit, another trooper would be dispatched to the scene in order to transport the offender's vehicle. In the case of a two-man unit, no additional assistance would be requested or furnished. The offender is charged under state statute and must sign the arrest citation, Implied Consent notice and the acknowledgement of receipt of constitutional rights before submitting to the evidentiary breath testing. Whenever a charge of DWI appears justified, it is placed; but troopers exercise sufficient discretion to reduce any charge at the scene of apprehension (e.g., if the offender registers a BAC less than .10%, he may be charged with Careless and Negligent Operation of a Motor Vehicle - see Legislative Base, Section 1181, Negligent Operation).

Although there appears to be no actual statutory authority for a charge of DWI at a crash scene which the officer did not witness, such charges are made occasionally; apparently such action has not been questioned by the courts. (For format of motor vehicle accident reports, see Figures 21-10

and 21-11.) Troopers are reluctant to charge DWI at the scene of a single-vehicle crash, unless witnesses are available who can attest to the offender state of sobriety and place him behind the wheel of the vehicle. When two or more vehicles are involved, there are generally witnesses at hand who can provide testimony for the prosecution, and increasing the likelihood of a DWI charge at the crash scene.

The officer may search only those areas of the automobile which are openly visible to him; i.e., interior floors, seats, dash, console, etc. He is not authorized to search the trunk area unless the vehicle is impounded and a search warrant is obtained. Any evidence relating to separate crimes uncovered during a lawful search may be used against the offender, and he would be charged with the appropriate offense.

If there are passengers in the vehicle, one of the passengers may be allowed to drive the offender's vehicle away, provided that he is licensed, sober, and has the offender's consent. If a passenger is intoxicated or is otherwise incapable of driving, another officer would drive the vehicle either to the offender's home or to the nearest law enforcement agency to be picked up later. Further transportation arrangements for passengers would then be made. An unruly passenger may be cited for disorderly conduct.

Conclusions: None.

Recommendations: In the author's opinion, troopers should be required (as a matter of departmental policy) to issue a radio message whenever stopping a vehicle for any reason, including those suspected of being operated by a DWI suspect. In the case of the latter, portable breath testing devices should be employed routinely. Consistent use of the audio recording devices should be continued.

Section 3 - Transporting Persons and Property

Before transporting the suspect offender he is subjected to a pat-down frisk. The search of a female offender is restricted to outer apparel (coats, jackets, etc.) and handbags. In the event that a trooper suspected a concealed weapon, he would request another trooper to witness a pat-down frisk. This is conducted only in extraordinary situations. No distinction is made with juvenile offenders. Under Vermont law, anyone 16 years or older

would be processed as any adult for the offense of DWI. It is normal procedure for CRASH troopers to handcuff the prisoner prior to transport; however, troopers use individual discretion in its implementation.

When commencing the transporting function, the officer is not required to originate a radio message in the case of a male offender. If the offender is female, he may request another officer to ride with him as a witness and use his recorder or originate a radio message indicating the time, mileage, destination, etc.

Since the breath sample is taken in the patrol vehicle, the offender is usually transported to his home after the sample is obtained. In the event the suspect is to be jailed, he is taken to the nearest law enforcement agency for booking. The distance from the arrest scene to the place of incarceration varies widely.

Normally, the offender's vehicle is not searched. If the arresting officer has probable cause, he could impound it, obtain a search warrant, conduct an inventory search, and become responsible for the contents therein. The usual disposition of the vehicle is:

- Trooper or responsible person drives it to the offender's home, or
- Trooper drives it to nearest law enforcement agency, or
- Towing service takes it from the scene.

The latter is done usually at the owner's request or if the vehicle is inoperable. The towing services utilized are privately owned and would be contacted by the dispatcher, who has a list of available, authorized services at his disposal. The owner/operator or dispatcher could decide which service would be called; it was not ascertained upon what basis the decision was made. Distances and response time of the service were highly variable. If the vehicle was impounded, it would be driven or towed to the nearest State Police District Station or Headquarters.

Conclusion: None.

Recommendations: Departmental policy should be formulated requiring troopers to inform the dispatcher whenever commencing transport of any arrested person and upon arrival at the destination.

Section 4 - Incarceration

After being processed, most DWI offenders would be driven home or released at a local police station; and only when it was deemed to be in the interest of effective enforcement would an offender be jailed to await trial. In all situations, when jailed, he would be eligible to post the bond established by the judge (usually \$500) unless that judge decided it was not in the best interests of the State to effect release.

Although fingerprinting is not required by State statute, local ordinances or regulations may stipulate that it be done prior to incarceration. If so, anyone 16 years of age would be required to submit to the process. (In the past years fingerprints were often obtained just prior to court appearances.) Photographs of DWI suspects are not obtained.

Bail/bondsmen are not allowed to solicit in the jail area, but advertisement bearing their telephone numbers are posted conspicuously. Offenders may telephone an attorney after the Implied Consent provisions have been explained to him and he has decided upon a course of action. A telephone directory is available for this purpose and an officer may assist him if he is too intoxicated to make the call himself. Vermont has a public defender system to be used if the offender is indigent, but the burden of proof of his need rests with him.

Prior to incarceration, a careful, methodical search of the prisoner's apparel is conducted by jail personnel. Any potentially harmful articles, as well as cash and other valuables, are removed and retained at the jail until the prisoner's release from custody. The prisoner is issued a receipt for the articles. If the arresting officer believes the suspect is suffering from an illness, he will transport him to the nearest medical facility for examination. The Arrest Warrant (Fig. 21-12) and the Vermont Traffic Citation (Fig. 21-1) are executed to effect incarceration. If the suspect's vehicle is located at the jail, it may be released to any responsible person designated by the defendant.

The personnel and facilities of the jail vary with the local jurisdictions. In most cases the jail is the responsibility of the local sheriff.

Conclusions: Most suspected DWI offenders, after having submitted a breath (or other appropriate) sample, are not jailed, but are transported to their residences or to the nearest law enforcement agency where they

would be released to a responsible person.

Recommendations: None.

Section 5 - Officer Testimony and Adjudication

The arresting officer is not required to be present at the formal arraignment; any state trooper within the district is able to refer the case. If there is a pre-trial conference (which is usually the case), the officer must be in attendance along with the prosecutor and the defense attorney. This conference is called by the prosecutor just prior to trial, usually in an adjoining room, and consists mainly of a summary of the facts involved in the case. The officer brings to court the physical evidence, which is presented by either the prosecutor or in the trooper's testimony. This usually consists of the tape recording and reports completed by the officer during the enforcement process. The results of the evidentiary test are submitted into evidence by the State Chemist.

Officers normally do not have scheduled court days and only infrequently have to appear on a scheduled day-off. There is no form of payment for a officer is he appears in the course of a regular work day, but time spent in court on an off-duty day is compensated at straight time by means of the built-in overtime which each state trooper is furnished. The pre-conferences required by the Board are compensated by overtime or compensatory time if granted approval by his superiors upon receipt of a written statement of reasons.

Full-time judges in one of three district courts in the CRASH area hear DWI cases. The accused has a choice of having the trial before a judge only or a jury. As a whole the defendants appear to favor jury trials. Plea-bargaining is frequently conducted at the pre-trial conference. Although present, the arresting officer has not input in the process, which appears to have a negative effect on DWI enforcement and to contribute to rising cynicism toward the judicial process on the part of the law enforcement officers. The result of this procedure is usually a reduced charge (Careless and Negligent Operation) with its attendant penalty. This may occur occasionally in second offenses also. It is possible for a person to have been charged with DWI two or more times in a given time period and yet never have a DWI conviction on his record.

If a DWI case goes to trial, it is generally a lengthy procedure. Observation of a DWI jury trial disclosed a procession of witnesses, including the arresting officer, another officer present at the scene, a state chemist and a former Chief Medical Examiner. The evidentiary testing process was examined at great length and explained in great detail. This particular trial began at 10:45 a.m., recessing at 3:45 p.m., then resumed the following day when a verdict was finally reached. In the case of a crash associated with the DWI arrest even more witnesses may be summoned by subpoena. Witnesses are not compensated for court appearances except in civil cases.

Some judges refuse to convict on evidence tested by the gas chromatograph because that device has not been officially approved by the Department of Health. (It is ironic that the Department of Health selected this device for use in evidentiary breath testing.) Some judges refuse to convict if the accused was apprehended by means of a road check. It was noted that in some cases the judge would reduce the charge to Careless and Negligent Operation at trial. Although .10% BAC is the per se level of intoxication in Vermont, some judges are reluctant to convict (but will reduce the charge) where a relatively low BAC (e.g. 0.12%) was obtained. Specific reasons for this were not identified. For information and statistics concerning court decisions, see Appendix A; Exhibits 21h, 21i, and 21j.

Conclusions: Plea bargaining is frequently encountered in DWI cases, and the fact that the arresting officer is not consulted in this process has a deleterious effect on its acceptance by law enforcement personnel. DWI trials are exceedingly lengthy and require a long list of witnesses. At times, judges establish arbitrary (and in the eyes of many enforcement officers - unjust) rules for conviction or acquittal of DWI offenders.

Recommendations: Officers should be permitted to become actively involved in the plea bargaining decision and should retain the option of refusing the recommendation for a reduced charge in return for a guilty plea. Avenues should be explored to permit the introduction of a much greater degree of judicial notice in DWI trials, to reduce the need for large numbers of witnesses as well as shortening the time of the actual trial. Judges should be exposed to more intensive training dealing specifically with the DWI offender and the effects of alcohol on the human physiology.

VERMONT TRAFFIC CITATION

STATE OF VERMONT COUNTY OF Chittenden No. **A 08085**

DOCKET No. _____ PROSECUTOR'S RECORD

IN THE DISTRICT COURT OF VERMONT, UNIT NO. _____
CIRCUIT, BY AUTHORITY OF THE STATE OF VERMONT, THE UNDERSIGNED SAYS:

ON 11/03 THE 13 OF 1994 19, AT _____ a.m. p.m.

NAME Last (please print) First Middle

STREET _____

CITY, STATE _____

SOCIAL SECURITY NUMBER _____

AGE _____ BIRTH DATE _____ P.O.B. _____

SEX _____ HEIGHT _____ WEIGHT _____ OTHER I.D. _____

DRIVER'S LIC. NO. _____ STATE _____

VEHICLE REGISTRATION NO. _____ STATE _____ YEAR _____

MAKE _____ STYLE _____ COLOR _____

UPON A HIGHWAY BEING _____ IN THE TOWN OF _____

AT (location) _____

DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE: _____

IN VIOLATION OF _____

CODE _____ AGAINST THE PEACE AND DIGNITY OF THE STATE.

CITY OF _____ MUNICIPAL ORDINANCE VIOLATION.

WEATHER	HIGHWAY	TRAFFIC	LIGHT
<input type="checkbox"/> Clear	<input type="checkbox"/> Dry	<input type="checkbox"/> Light	<input type="checkbox"/> Daylight
<input type="checkbox"/> Cloudy	<input type="checkbox"/> Wet	<input type="checkbox"/> Medium	<input type="checkbox"/> Darkness
<input type="checkbox"/> Raining	<input type="checkbox"/> Muddy	<input type="checkbox"/> Heavy	<input type="checkbox"/> Dawn/Dusk
<input type="checkbox"/> Snowing	<input type="checkbox"/> Snowy	<input type="checkbox"/> Vehicle	<input type="checkbox"/> Other
<input type="checkbox"/> Fog	<input type="checkbox"/> Icy	<input type="checkbox"/> Pedestrian	<input type="checkbox"/> Accident Resulting
<input type="checkbox"/> Sleet	<input type="checkbox"/> Loose Material	<input type="checkbox"/> Cross-traffic	
	<input type="checkbox"/> Concrete		
	<input type="checkbox"/> Blacktop		
	<input type="checkbox"/> Gravel		
	<input type="checkbox"/> Unimproved		
	<input type="checkbox"/> Divided Lanes		

THE UNDERSIGNED FURTHER STATES THAT HE HAS JUST AND REASONABLE GROUNDS TO BELIEVE THAT THE PERSON NAMED ABOVE COMMITTED THE OFFENSE HEREIN SET FORTH, CONTRARY TO LAW.

Unit _____ Rank _____ Signature of Law Enforcement Officer _____

Court Appearance _____ Day of _____ 19 _____ at _____ M.

Location of Court _____

Personal Appearance is, is not required. Fine (if applicable) _____

I have examined a copy of the schedule of fines and license suspension.

Signature _____ Defendant's Signature _____

I, THE PROSECUTING ATTORNEY, HEREBY ENTER AND PROSECUTE THE ABOVE COMPLAINT.

Signature of Prosecuting Attorney _____

I, THE PROSECUTING ATTORNEY, HEREBY CONSENT TO THE WAIVER OF APPEARANCE AND TRIAL AND THE PLEA OF GUILTY OR NOLO CONTENDERE BY THE PERSON ABOVE NAMED IN THE COMPLAINT.

Signature of Prosecuting Attorney _____ (Prosecutor's Copy)

NAME
LAST
FIRST
MIDDLE
A 08085

Figure 21-1



State of Vermont
POLICE REPORT OF MOTOR VEHICLE ACCIDENT

Police No. _____
M.V.D. No. _____

LOCATION	TIME OF ACC.	DAY OF WEEK	MONTH	DAY	YEAR	CITY - TOWN	COUNTY	MILE MARKER	
	NO. OF HIGHWAY OR NAME OF STREET	INTERSECTING STREET OR ROAD						RURAL	URBAN
AT	IF NOT AT INTERSECTION		N E		of		NEAREST STREET, HIGHWAY, BRIDGE, LANDMARK		DIRECTION OF TRAVEL
	FEET	MILES	S W						VEH. NO. 1
									VEH. NO. 2

VEHICLE	OPERATOR'S NAME: LAST FIRST MIDDLE ADDRESS CITY AND STATE						SEX	AGE	BELT	INJ.																																			
	LICENSE NO.	STATE	DATE OF BIRTH	FRONT CENTER - NAME		CITY	STATE																																						
	SOCIAL SECURITY NO.		RESTRICTION ON LICENSE		FRONT RIGHT																																								
	PLACE OF BIRTH:		DRIVER EXP.		REAR LEFT																																								
	VEH. YEAR	MAKE	MODEL	TYPE	REAR CENTER																																								
	REGISTRATION NO.		STATE		REAR RIGHT																																								
	VEHICLE IDENT. NO.		SPEEDOMETER READING		APP. COST REPAIR		APPARENT PARTS VEHICLE DAMAGED CIRCLE NO. IN BOX FOR EACH AREA DAMAGED																																						
	OWNER: LAST FIRST MIDDLE ADDRESS CITY AND STATE						<table border="1"> <tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>13 Hood</td></tr> <tr><td colspan="6"></td><td>14 Roof</td></tr> <tr><td colspan="6"></td><td>15 Trunk</td></tr> <tr><td colspan="6"></td><td>16 Undercarriage</td></tr> <tr><td>12</td><td>11</td><td>10</td><td>9</td><td>8</td><td>7</td><td>17 Total</td></tr> </table>				1	2	3	4	5	6	13 Hood							14 Roof							15 Trunk							16 Undercarriage	12	11	10	9	8	7	17 Total
	1	2	3	4	5	6	13 Hood																																						
							14 Roof																																						
						15 Trunk																																							
						16 Undercarriage																																							
12	11	10	9	8	7	17 Total																																							
OPERATOR DRIVER TRAINING		VEHICLE REMOVED BY:		TO: LOCATION																																									
COMPLETED HIGH SCHOOL COURSE	YES	NO	YEAR																																										

VEHICLE	OPERATOR'S NAME: LAST FIRST MIDDLE ADDRESS CITY AND STATE						SEX	AGE	BELT	INJ.																																			
	LICENSE NO.	STATE	DATE OF BIRTH	FRONT CENTER - NAME		CITY	STATE																																						
	SOCIAL SECURITY NO.		RESTRICTION ON LICENSE		FRONT RIGHT																																								
	PLACE OF BIRTH:		DRIVER EXP.		REAR LEFT																																								
	VEH. YEAR	MAKE	MODEL	TYPE	REAR CENTER																																								
	REGISTRATION NO.		STATE		REAR RIGHT																																								
	VEHICLE IDENT. NO.		SPEEDOMETER READING		APP. COST REPAIR		APPARENT PARTS VEHICLE DAMAGED CIRCLE NO. IN BOX FOR EACH AREA DAMAGED																																						
	OWNER: LAST FIRST MIDDLE ADDRESS CITY AND STATE						<table border="1"> <tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>13 Hood</td></tr> <tr><td colspan="6"></td><td>14 Roof</td></tr> <tr><td colspan="6"></td><td>15 Trunk</td></tr> <tr><td colspan="6"></td><td>16 Undercarriage</td></tr> <tr><td>12</td><td>11</td><td>10</td><td>9</td><td>8</td><td>7</td><td>17 Total</td></tr> </table>				1	2	3	4	5	6	13 Hood							14 Roof							15 Trunk							16 Undercarriage	12	11	10	9	8	7	17 Total
	1	2	3	4	5	6	13 Hood																																						
							14 Roof																																						
						15 Trunk																																							
						16 Undercarriage																																							
12	11	10	9	8	7	17 Total																																							
OPERATOR DRIVER TRAINING		VEHICLE REMOVED BY:		TO: LOCATION																																									
COMPLETED HIGH SCHOOL COURSE	YES	NO	YEAR																																										

PEDESTRIAN	NAME: LAST FIRST MIDDLE ADDRESS CITY-STATE						SEX	INJ.
	DATE OF BIRTH OF PED.	AGE	Condition of Pedestrian		What Was Pedestrian Doing			
	LIST APPARENT PHY. DEFECT OF PED.		1 App. Normal	2 Been Drinking	1 Walk with Traffic	2 Walk Agst. Traffic	5 Same - Not at Int.	9 Other
	CLOTHING OF PED.	DARK LIGHT	MODERATE UNKNOWN	3 Under Infl.	4 Unknown	3 Not in Roadway	4 Cross or Ent. Int.	6 Playing In Road
			7 Get On/Off Veh.	8 Push/Wk. on Veh.				

OFFICER	NOTIFIED OF ACCIDENT				ARRIVED AT SCENE				CODE OF INJURY Use Only Most Serious K - Fatal Injury A - Incapacitating Injury B - Nonincapacitating Injury C - Possible Injury O - No Injury
	TIME	MONTH	DATE	YEAR	TIME	MONTH	DATE	YEAR	
	SIGNATURE INVESTIGATING OFFICER				RANK	DATE REPORT MADE			
	SIGNATURE APPROVING OFFICER				DATE APPROVED	DEPARTMENT OR TROOP			
Name of Assisting Officer: _____									

D.M.V. - A-8-4-74

Figure 21-10

DESCRIBE ACCIDENT SCENE	Motor Vehicle Collided With:	Veh 1 Veh 2 Condition Operator 1 Drinking 2 Asleep 3 Under Infl. <input type="checkbox"/> Liquor <input type="checkbox"/> Drugs 4 App Phy Def 5 App Normal 6 Unknown Posted Speed Limit 1 Not Posted 2 Limit Posted M.P.H. of Max. Limit	Traffic Control 1 Stop-Go Sig. 2 Flash. Traf. Sig 3 Railroad Sign 4 Stop Sign 5 Yield Sign 6 Curve-Warning 7 No Traf. Cont.	Road Character 1 Level 2 On Grade 3 On Hillcrest 4 Straight 5 Curve 6 Sharp Curve 7 Merging Lane 8 Tunnel-Bridge 9 Intersection 10 Alley-Driveway 11 R.R. Crossing 12 Other	Weather 1 Clear 2 Rain 3 Snow 4 Fog 5 Other Light 1 Dawn 2 Daylight 3 Dark 4 Dusk	Road Type 1 Concrete 2 Black-Top 3 Gravel 4 Dirt 5 Other Road Cond. 1 Dry 2 Wet 3 Snowy 4 Icy 5 Other	Veh 1 Veh 2 Condition of Vehicle 1 Def. Brakes 2 Imp. Lights 3 Def. Steering 4 Def. Tire 5 No Defect 6 Un. Imp. Were Photos Taken <input type="checkbox"/> Yes <input type="checkbox"/> No TAKEN BY:
-------------------------	------------------------------	--	--	---	---	--	--

WITNESSES OTHER THAN OCCUPANTS

WITNESSES	NAME LAST FIRST MIDDLE CITY - STATE	Property Damage Other Than Vehicle Describe Damage APP. COST REPAIRS \$ OWNER'S NAME: ADDRESS:
	NAME CITY -	
	NAME CITY -	
	NAME CITY -	

DISPATCH PERSONS	Location	VEH 1	APPARENT NATURE AND EXTENT OF INJURIES	INJURED TAKEN TO	BY WHOM:
	OPERATOR				
	FRONT CENTER				
	FRONT RIGHT				
	REAR LEFT				
	REAR CENTER				
	REAR RIGHT				
PED:					
DISPATCH PERSONS	Location	VEH 2	APPARENT NATURE AND EXTENT OF INJURIES	INJURED TAKEN TO	BY WHOM:
	OPERATOR				
	FRONT CENTER				
	FRONT RIGHT				
	REAR LEFT				
	REAR CENTER				
	REAR RIGHT				
PED:					

Refer Vehicles by Number:

DESCRIBE ACCIDENT SCENE	DESCRIBE FACTORS YOU FEEL CONTRIBUTED TO CAUSING ACCIDENTS			ACTION TAKEN	CHECK ONE	VEHICLE NO.		
	A			COURT ACTION	YES	1.	2.	3.
	B				NO			
	C			LAW VIOLATIONS				
	UTT #							

Figure 21-10 (cont'd.)

State of Vermont

POLICE REPORT OF MOTOR VEHICLE ACCIDENT

Police No.
M.V.D. No.

Operator No. 1
Operator No. 2
Pedestrian:

ADDITIONAL PAGE FOR POLICE
 REPORT OF MOTOR VEHICLE
 ACCIDENT FOR SKETCH, DATA,
 OR ANY NECESSARY
 STATEMENT.
 IF CONFIDENTIAL SO MARK

Refer to Vehicle By Number:

D
E
S
C
R
I
B
E

T
H
E

C
C
I
D
E
N
T

I
N

D
E
T
A
I
L

Figure 21-10 (cont'd.)

A
C
C
I
D
E
N
T

S
C
E
N
E

D
I
A
G
R
A
M

INDICATE
NORTH
BY ARROW

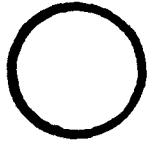


Figure 21-10 (cont'd.)



STATE OF VERMONT
DEPARTMENT OF MOTOR VEHICLES
REPORT OF MOTOR VEHICLE ACCIDENT

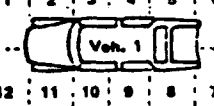
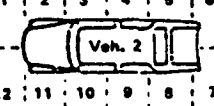
The operator of every motor vehicle involved in an accident which results in injury or death, or total property damage of \$100.00 or more, must make a report on this form, within 72 hours, to the Commissioner of Motor Vehicles, Montpelier, Vermont 05602. YOU MUST REPORT, EVEN IF CAR WAS PARKED.

The failure or refusal of any person to report is a misdemeanor, punishable by a fine up to \$100.00 and is grounds for suspension of license or right to operate.

Date of Accident	Day of Week	Time A.M. P.M.	Place of Accident (Name city or town)	MILE MARKER		
County	Road on which accident occurred (Give street or highway number)					
List distance from nearest town line, bridge, etc.						

YOUR VEHICLE - NO. 1

OTHER VEHICLE - NO. 2

OPERATOR'S NAME: Last First Middle				OPERATOR'S NAME: Last First Middle							
Operator's Street Address:				Operator's Street Address:							
City or Town			State	City or Town			State				
Date of Birth			Age	Sex	Date of Birth			Age	Sex		
License Number			State	Driving Exp.	License Number			State	Driving Exp.		
Social Security Number			Seat Belts In Use Yes No		Social Security Number			Seat Belts In Use Yes No			
Driver Training in Vermont High Schools? ___ Yes ___ No ___ Year				Driver Training in Vermont High Schools? ___ Yes ___ No ___ Year							
OWNER OF VEHICLE: Last First Middle				OWNER OF VEHICLE: Last First Middle							
Owner's Street Address:				Owner's Street Address:							
City or Town			State	City or Town			State				
Registration Number		State	Speed of Vehicle	Registration Number		State	Speed of Vehicle				
VEHICLE DATA: (Year)		Make	Model	Type	VEHICLE DATA: (Year)		Make	Model	Type		
APPARENT PARTS VEHICLE DAMAGED CIRCLE NO. IN BOX FOR EACH AREA DAMAGED				VEHICLE # 1		APPARENT PARTS VEHICLE DAMAGED CIRCLE NO. IN BOX FOR EACH AREA DAMAGED				VEHICLE # 2	
				13. Hood 14. Roof 15. Trunk 16. Undercarriage 17. Total						13. Hood 14. Roof 15. Trunk 16. Undercarriage 17. Total	
Estimated Cost Repairs \$				Speedometer Reading		Estimated Cost Repairs \$				Speedometer Reading	
Have you been involved in another accident? When?						IF YOUR VEHICLE DID NOT COLLIDE WITH ANOTHER VEHICLE LIST WHAT YOUR VEHICLE COLLIDED WITH:					
Where?											
Damage to other property:				Owner:		Estimated Cost Repairs					

INJURY DATA

Name of Injured			Address			Operator		In Car No.	
Age	Sex	Injured taken to:			Passenger				
Nature and extent of injuries									
Name of Injured			Address			Operator		In Car No.	
Age	Sex	Injured taken to:			Passenger				
Nature and extent of injuries									
Other									

Figure 21-11

DESCRIBE ACCIDENT SCENE

Motor Vehicle Collided With <input type="checkbox"/> 1 Pedestrian <input type="checkbox"/> 2 Other MV <input type="checkbox"/> 3 Parked MV <input type="checkbox"/> 4 Railroad Train <input type="checkbox"/> 5 Pedalcycle <input type="checkbox"/> 6 Animal <input type="checkbox"/> 7 Fixed Object <input type="checkbox"/> Tree <input type="checkbox"/> Tel Pole <input type="checkbox"/> Guardrail <input type="checkbox"/> 8 Other Object <input type="checkbox"/> 9 Overturned <input type="checkbox"/> 10 Other Non Coll <input type="checkbox"/> 11 Snowmobile	Manner of Collision <input type="checkbox"/> Head On <input type="checkbox"/> Rear End <input type="checkbox"/> Sideswiped <input type="checkbox"/> Backed Into <input type="checkbox"/> Other <input type="checkbox"/> Undetermined	Traffic Control <input type="checkbox"/> 1 Stop-Go Sig. <input type="checkbox"/> 2 Flash Traf. Sig. <input type="checkbox"/> 3 Railroad Sign <input type="checkbox"/> 4 Stop Sign <input type="checkbox"/> 5 Yield Sign <input type="checkbox"/> 6 Curve-Warning <input type="checkbox"/> 7 No Traf. Cont.	Road Character <input type="checkbox"/> 1 Level <input type="checkbox"/> 2 On Grade <input type="checkbox"/> 3 On Hillcrest <input type="checkbox"/> 4 Straight <input type="checkbox"/> 5 Curve <input type="checkbox"/> 6 Sharp Curve <input type="checkbox"/> 7 Merging Lane <input type="checkbox"/> 8 Tunnel-Bridge <input type="checkbox"/> 9 Intersection <input type="checkbox"/> 10 Alley-Driveway <input type="checkbox"/> 11 R.R. Crossing <input type="checkbox"/> 12 Other	Weather <input type="checkbox"/> 1 Clear <input type="checkbox"/> 2 Rain <input type="checkbox"/> 3 Snow <input type="checkbox"/> 4 Fog <input type="checkbox"/> 5 Other	Road Type <input type="checkbox"/> 1 Concrete <input type="checkbox"/> 2 Black-Top <input type="checkbox"/> 3 Gravel <input type="checkbox"/> 4 Dirt <input type="checkbox"/> 5 Other

PEDESTRIAN DATA

NAME: Last	First	Middle	Address	City	State
Date of Birth	Age	Sex	Color Clothing	What Was Pedestrian Doing? <input type="checkbox"/> Walk with traffic <input type="checkbox"/> Walk against traffic <input type="checkbox"/> Not in roadway <input type="checkbox"/> Cross or ent. Int. <input type="checkbox"/> Same - not at Int.	
Describe Pedestrian Injury:				<input type="checkbox"/> Playing in roadway <input type="checkbox"/> Get on/off vehicle <input type="checkbox"/> Push/working on vehicle <input type="checkbox"/> Other	

INVESTIGATING AGENCY

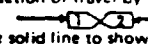
Was this accident investigated by an Officer?	Yes	No	If Yes: _____ Name of Investigating Officer	_____ Department
---	-----	----	--	------------------

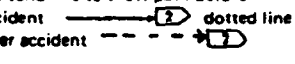
WITNESSES TO ACCIDENT


Name:	Name:
Name:	Name:
Name:	Name:


ACCIDENT SKETCH


INDICATE ON THIS DIAGRAM WHAT HAPPENED
 Use one of these outlines to sketch the scene of your accident, writing in street or highway names or numbers.


1. Number each vehicle and show direction of travel by arrow:


2. Use solid line to show path before accident, dotted line after accident:


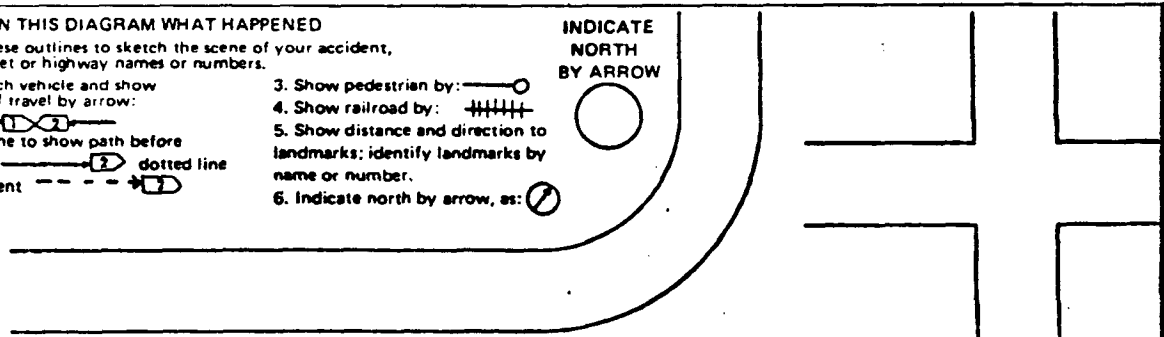
3. Show pedestrian by: 

4. Show railroad by: 

5. Show distance and direction to landmarks; identify landmarks by name or number.


6. Indicate north by arrow, as: 

INDICATE NORTH BY ARROW



DESCRIBE IN YOUR OWN WORDS WHAT HAPPENED!

PERSON OPERATING VEHICLE: _____ SIGN HERE: x _____
 Date of Report: _____

Figure 21-11 (cont'd.)

ARREST WARRANT

District Court
Form No. 70

STATE OF VERMONT

..... COUNTY S.S.

TO ANY LAW ENFORCEMENT OFFICER OF THE STATE OF VERMONT:

YOU ARE HEREBY COMMANDED to arrest, of
....., County of, and bring him
before the nearest available judicial officer with out unnecessary delay to answer to an (Indictment)
(Information) charging him with

The (Indictment) (Information) has been filed with the clerk of the District Court of Vermont,
Unit No., Circuit, at in the
(Town) (City) of, County of

Dated at, County of, on this
..... day of, 19.....

.....
Judicial Officer

10M Tri/Sets 10-73

Defendant's Copy

Figure 21-12

VIRGINIA (FAIRFAX)

Section 1 - Detection

The enforcement countermeasure of the Fairfax County Alcohol Safety Action Project is comprised of officers from the Fairfax County, Vienna, Fairfax City, Falls Church, and Herndon Police Departments. Officers of the participating law enforcement agencies prefer to rely on visual observations in the detection of suspected DWI offenders; they have learned to be watchful for certain clues which may indicate that the operator of the vehicle is impaired.

Command officers and supervisory officers of the participating law enforcement agencies have access to files maintained on fatal accidents on both state and local levels, which pinpoint exact location of accident occurrences. How precisely and with what frequency these data sources are consulted by participating enforcement personnel for the purposes of patrol strategies and deployment could not be documented during this site visit.

Supervisory officers repeatedly indicated to this investigator that such files and sources were generally consulted on an as-needed basis. Statistics on motor vehicle fatalities, arrest activity, and evaluative reports are compiled by the Fairfax County ASAP and are generally available to the enforcement coordinator and supervisors of the participating law enforcement agencies. Officers of the participating agencies do not, however, normally refer to these analytical studies or special reports dealing with alcohol related crashes in order to determine patrol strategies. Deployment on the basis of officer personnel preference appears to be the rule. Only two or three officers of the Fairfax County Police Department participate in the ASAP program at any given time. Route 50 is the natural county divider and officers are simply deployed either north or south of Route 50. The third officer tends to work line patrol between the two sectors. During their ASAP patrol, officers are relatively unrestricted in choosing the patrol areas. The supervisor of the Fairfax City Police Department ASAP program stated that his officers were aware of accident activity and each of the officers interprets this information as he sees fit. Other such positive responses from this source could not be documented during this site visit.

Officers interviewed at this site had no adverse criticism of the overall technique used in deployment for ASAP patrol. It should be pointed out that, at the time of this site visit, productivity in terms of DWI arrests was progressively declining, as was participation on the part of the law enforcement agencies in the ASAP program itself.

The Enforcement Coordinator of the Fairfax County Police Department stated that during his association with the ASAP, the evaluation section of the ASAP frequently did not review the alcohol-related crash data with the countermeasures.

As has been stated above, evidence gathered during the detection phase of drunk driving enforcement is generally limited to officer observation. Visual clues such as 1) erratic driving and weaving or 2) driving too slow or too fast are used. No other means such as mechanical devices are employed by officers during this phase of DWI enforcement at any of the participating law enforcement agencies.

Information, or evidence, gathered during the detection phase of the DWI enforcement is recorded as follows: Fairfax City Police Department records this information on the reverse of the citation. Officers of the Fairfax County Police Department complete the Virginia Uniform Traffic Summons (Fig. 22-1) and the Investigation Report (Fig. 22-2). The two-page Investigation Report form completed by the arresting officer is utilized for recording DWI arrest details, including officer observation of degree of impairment. This report may be supplemented by recording additional information or details on the one-page Supplementary Investigatory Report (Fig. 22-3). Officers of the Falls Church Police Department complete the DWI Form (Fig. 22-5). This one-page form is completed to record observations, performance tests, chemical test data, and BAC results of individuals arrested for DWI. This report is retained by the arresting officer.

The information contained on these reports as well as the officer notes written on the reverse of the citation are generally presented into evidence verbally and from memory by the arresting officer, who reviews these documents immediately prior to court.

Conclusions: Officers who participate in the Fairfax County ASAP rely upon traditional clues for the detection of suspected DWI offenders. This method of detection appears to be adequate for the ASAP enforcement countermeasure of Fairfax, Virginia.

Recommendations: The detection methodology currently in use should be continued.

Section 2 - Apprehension

Suspected DWI offenders are stopped in a routine manner: the officer's vehicle is positioned behind the offender's auto and the rotating beacon is engaged. As the suspect brings his car to a stop to the right of the roadway, the officer follows suit with his vehicle and parks approximately one and one-half car length behind the suspect's auto, with the rotating beacon continuously in operation. The officer gets out of his vehicle, flashlight in hand (normally, operations are conducted during the hours of darkness) and approaches the driver's side of the suspect vehicle. He requests to see the operator's license. The officer then asks the operator to step out of the car. During this process, the officer determines the suspect's state of sobriety based upon the suspect's appearance, detectable odor of intoxicating beverage, general behavior, physical coordination test results, speech impairment if any, and in the case of Fairfax City, Fairfax County and Vienna Police Departments, upon the results of a pre-arrest screen test.

Upon conclusion of the driver interview and appropriate tests at the scene, the arresting officer generally makes a determination whether to place the suspect under arrest or to release him. Prior to being placed under arrest, none of the participating law enforcement agencies advise the offender of his constitutional Miranda warnings. After arrest, however, the offender is advised of the implied consent statute. If arrested, the offender is charged with the offense of DWI under local ordinance.

Passengers in the offender's vehicle are released unless they become disorderly, in which case they are jailed. They may drive the offender's vehicle from the scene with the offender's verbal consent if they are licensed in the state of Virginia and can successfully pass either physical coordination tests or, if available, the pre-arrest screening device.

While stopping a suspected violator, the arresting officer issues a radio message to the dispatcher indicating his location, vehicle license number of the subject he is stopping and in the case of the Falls Church Police Department he also gives a description of the vehicle and the number of occupants. The license number of the vehicle is automatically checked against data files to ascertain possibly "wanted" information by the Fairfax County, Fairfax City, and Falls Church Police Departments. In addition, these agencies also conduct automatic "wanted" checks on the driver and passengers of the vehicle.

All participating law enforcement agencies of the Fairfax County ASAP, with the exception of the Fairfax County Police Department, have established as normal procedure the dispatching of an assisting officer to the scene of arrest. In the case of the Fairfax County Police Department, an assisting officer is sent to the scene of arrest only with the request of the arresting officer. The assisting officer provides security for the arresting officer and, if the subject is incarcerated, waits for the tow truck to remove the subject's vehicle.

Once the officer has made the decision and has advised the suspect that he is being placed under arrest for the charge of Driving While Intoxicated, the officer does not have the option to reduce the charge. Arresting officers may search the offender's vehicle only for evidence pertaining to the drunk driving arrest. The trunk of the vehicle cannot be searched. Should this search yield evidence of unrelated crimes or "fruits of other crimes", the suspected DWI offender may be charged with these additional offenses.

According to written policy established by the Fairfax City Police Department, in General Order 1970-5, officers of the Fairfax City Police Department are authorized active pursuit of a drunk driving misdemeanor until the "entered jurisdiction police agency can respond to make a legal arrest based on testimony of the pursuing police officer, but only for an illegal act continuing to be permitted in the inner jurisdiction. No forced stop of the suspect is permitted by the officer who has left his own jurisdiction." All officers of the participating law enforcement agencies are expected to use discretion and good judgement in the pursuit

of a suspected DWI offender. If high speed is not a factor and the suspect fails or refuses to stop his vehicle, officers are advised to utilize two or more police units to block the roadway by positioning themselves ahead of the suspect, thereby forcing the suspect to a gradual stop.

Should the arresting officer find it necessary to resort to physical force in order to subdue a suspected DWI offender, he is so authorized only to the extent of utilizing that force necessary to effect the arrest. General Order Number 601, dated 1 December 1974, Fairfax County Police Department, (Appendix A; Exhibit 22b) entitled Arrest Procedure Section 5 states "if an officer uses tear gas, strikes the subject with a nightstick or slapjack, or utilizes any other object as a weapon, a memorandum containing the complete description of the incident will be forwarded to the Chief of Police prior to the completion of the officer's tour of duty."

General Order Number 505 dated 12/1/74, Fairfax County Police Department, entitled Use of Fire Arms and Deadly Force (Appendix A; Exhibit 22c) states "the very nature of our sworn obligations implies that at some given time and under certain circumstances of necessity, we can be called upon to use deadly force in the performance of our official duties. The intent of this order, therefore, is to provide guidelines governing the use of deadly force by members of this department, and to prohibit the imprudent use of such deadly force so that the resultant loss of life or serious bodily harm can be held to a minimum, or hopefully eliminated."

"Deadly force shall not be employed except as a last resort in any situation in which such force is justified."

"Deadly force shall not be employed to apprehend a fleeing misdemeanor."

"In effecting a lawful arrest for a felony or a misdemeanor only that amount of force necessary to insure safe custody or overcome resistance to arrest will be justified. If, in the course of making a lawful arrest for any violation of law, the arresting officer is met with resistance to the extent that the officer reasonably fears that death or serious bodily harm will occur to himself or any other person, the use of deadly force to overcome such resistance is justified."

Conclusions: Through the utilization of pre-arrest screening devices such as the A.L.E.R.T. unit, Alco-Sensor and the Alcolizer, officers who participate in the ASAP make the determination to arrest on the basis of sound evidence of intoxication. As a result, few suspects are transported from the scene, processed, and released because the BAC level was not sufficiently high for subsequent prosecution. Surveillance of high probability areas, primarily those containing a sizable number of bars, taverns, and other drinking establishments, appears to this investigator to be a function of officer preference rather than requirement. Although this apprehension technique may in fact result in large numbers of DWI arrests, this investigator could locate no documentable evidence that the areas being patrolled by the officers were in fact those areas encountering the greatest number of alcohol-related crashes during that time period.

With the exception of the Fairfax County Police Department, it was suspect whether any ASAP patrols were engaged in field operations at the time of the site visit. Considering the limited manpower available to the Vienna, Falls Church, Fairfax City, and Herndon Police Departments, this investigator's "gut reaction" was that a substantial portion of ASAP officers time was spent on non-ASAP related duties.

The Enforcement Coordinator of the Fairfax County ASAP was a sworn law enforcement officer assigned to the Fairfax County Police Department. The nature of this individual's assignment and the fact that he is a sworn law enforcement officer severely limits his coordinating ability between the Fairfax County ASAP and the Fairfax City, Falls Church, Vienna and Herndon Police Departments. The Enforcement Coordinator admitted to this investigator that he has little, if any, control over the activities of these law enforcement agencies (specifically those individuals on ASAP assignment) and he was seldom solicited for guidance and/or opinion by officials of these agencies.

Recommendations: Fairfax County ASAP should employ on a full-time basis a civilian to function in a capacity of enforcement coordinator with primary responsibility of coordinating the enforcement activities of the participating law enforcement agencies. This individual should

preferably be a former police officer with traffic law enforcement experience, have at least a baccalaureate degree, and be capable of effectively dealing with municipal and county law enforcement officials. The employment and utilization of an individual with these qualifications would eliminate the coordinating problems experienced by the sworn law enforcement officer of the Fairfax County Police Department who is currently holding that position.

The utilization of pre-arrest breath screening devices during the apprehension phase of the DWI enforcement process should be continued. Additional funds should be sought to provide all law enforcement officers engaged in traffic law enforcement with a pre-arrest screening device to be used during their tour of duty.

Section 3 - Transporting Persons and Property

Officers of the Fairfax County Police Department are directed by written departmental policy (See Appendix A; Exhibit 22b: Arrest Procedures) that in effecting an arrest of a suspect, officers should perform a systematic search of the person at the earliest possible time, prior to transporting prisoners in police vehicles, unless conditions dictate otherwise. General Order 601 further states "persons placed under arrest should be taken to the nearest Magistrate without undue delay, however, certain precautionary measures must be taken before prisoners are transported.

- a) all persons will be searched for weapons, evidence or contraband prior to being transported in any police vehicle. In extenuating circumstances, prisoners may be taken from the immediate scene of arrest prior to being searched.
- b) if an officer other than the arresting officer transports the prisoner the transporting officer shall also search the prisoner for weapons.
- c) the use of handcuffs is a matter of officer discretion unless the situation clearly indicates that failure to use handcuffs or similar restraining devices will lead to the escape of the prisoner or jeopardize the safety of the officer, the prisoner, or any other person. The seriousness of the offense, the circumstances surrounding the arrest, and the ability

to conduct a thorough search prior to transport are among the factors to consider in determining whether to use handcuffs.

d) patrol wagons will not be utilized to transport juveniles."

General Order 1973-19 entitled Transporting Out-of-Town Prisoners was issued by the City of Fairfax Police Department on September 13, 1973 (See Exhibit 22d) and states "no prisoner will be transported either to or from the Fairfax City Police Department unless two bonified law enforcement officers are present. In cases where it is a female subject one of the two escorts will be the police woman now employed by the Police Department. Under no circumstances will one police officer be used.

In transporting a prisoner all proper restraints will be exercised both for the safety of the police officer and the prisoner."

Written procedures relative to the searching and transporting of prisoners were not available for the other participating law enforcement agencies; however, this investigator was advised that all DWI offenders are subject to an extensive search of outer apparel prior to being transported by the arresting officer.

All participating law enforcement agencies with the exception of the Vienna Police Department stated that it was normal procedure to handcuff prisoners prior to placing them into the police vehicle. Offenders are generally placed in the rear seat of the police vehicle. All ASAP patrol vehicles as well as those of the regular patrol forces are equipped with protective shields.

Transporting officers issue a radio message when commencing the transport of a female prisoner. The radio message normally consists of the mileage on the police cruiser to one-tenth of a mile, sex of the individual being transported, proposed destination, and advisement upon arrival at the destination. When male adult or male juvenile offenders are being transported, the transporting officer issues a radio message containing proposed destination and sex of the prisoner.

Female offenders are always separated from male offenders. Juveniles are not placed in lock-up facilities. Arresting officers generally notify the parents and the juvenile is released in their care. The arresting

officer is required to appear at an in-take hearing to determine if the offense committed by the juvenile justifies a juvenile hearing.

According to General Order 601 of the Fairfax County Police Department entitled Arrest Procedures:

- "1) the summons form will be the sole document used to record all juvenile arrests, even if the offense is one which is reportable to the CCRE.
- 2) the form is to be completed irrespective of whether the juvenile is placed in a detention facility, brought immediately before the juvenile court, or released to parental custody.
- 3) the summons form is not used to order the appearance of the juvenile before the court. Its purpose is to record the fact of arrest for internal departmental use. If the arresting officer intends to bring the juvenile before the court a petition must be filed with the Intake Department of Juvenile and Domestic Relations Court. When releasing a juvenile to parental custody it is not necessary that a parent sign the summons form.
- 4) the summons form is only used to record the names of the juveniles who are taken into custody for committing an offense or engaging in conduct which is detrimental to their welfare. It shall not be used to record the names of juveniles who are taken into custody for their own protection; such as, child abuse, neglect, or abandonment."

The offender's vehicle is normally towed from the scene by a privately owned towing service. Privately owned towing services are employed under a contract/rotation configuration. The average response time is approximately 30 minutes. Should a privately owned towing service be shown to be deficient or inefficient, it will be prohibited from providing service to the respective law enforcement agency. When an offender's vehicle is towed from the scene of arrest by a privately owned towing service, the vehicle is stored at the private wrecker lot. The towing service lot is required to be fenced for security purposes.

An inventory search of the offender's vehicle may be conducted by the arresting officer. The responsibility for articles inventoried lies with the respective department until such time as the auto is stored as the wrecker lot. The responsibility for the inventoried articles then becomes that of the towing service.

Conclusions: The transporting process employed by the participating law enforcement agencies of the Fairfax County ASAP appears to be generally suitable to operations in that state. No significant feedback was obtained from officers.

Recommendations: The transporting methodology currently used should be continued.

Section 4 - Incarceration

Prior to incarceration all articles, with the exception of cigarettes and matches, are removed from the prisoner and placed in a property envelope which is kept in a locked property room. Prisoners are issued a receipt for their articles and all articles listed on the receipt are returned upon the prisoner's release.

In order to effect incarceration of an offender charged with DWI, it is necessary for the arresting officer to transport the suspect to a committing magistrate who will determine whether or not probable cause exists to charge the offender with DWI. Should the committing magistrate find probable cause, he will cause to be issued a Warrant of Arrest (Fig. 22-13). Upon arrival at the incarceration location of the Fairfax City, Vienna and Falls Church Police Departments, the arresting officer makes a visual inspection of the suspect, noting any complaints or signs of illness. If the arresting officer notes signs of illness, the subject is transported to the local hospital for examination. Offenders incarcerated at the county jail are briefly examined by a paramedic who notes complaints of pain and examines the suspect for visible signs of illness or injury. The paramedic may refer the prisoner to the local hospital, if necessary, prior to the subject being admitted to the incarceration facility.

All offenders charged with the offense of DWI are immediately eligible for bail unless they are also charged with an additional offense (felony) such as murder or rape. Bondsmen are not permitted to solicit in the jail area; however, their phone numbers are posted at the Fairfax City and Fairfax County incarceration facility.

All DWI offenders incarcerated by any of the participating law enforcement agencies are required to remain at the locked-up facilities for a minimum of four hours. This four-hour period is considered to be a "sober-up" period.

All bonds/bails are established by the committing magistrate. The usual amount of such bond is \$500 for the first offense and \$1000 for second and subsequent offenses.

Juveniles are not placed in locked-up facilities except at the Falls Church incarcerating facility. When the juvenile arrives at the lock-up, his parents are notified and requested to take custody of him. The arresting officer then notifies the Juvenile Intake Counselor by copy of citation.

Offenders wishing to contact their attorney are allowed to do so upon completion of the booking procedures. Subjects too intoxicated to use the telephone are nonetheless allowed to do so without restraint. If a subject is unable to afford an attorney, one will be appointed for him without cost by the Court.

Although the offender may still be incarcerated, his vehicle may be released. Vienna, Fairfax City, and Falls Church Police Departments will release the vehicle to any individual with the verbal consent of the owner, whereas the Fairfax County Police Department will release the vehicle only to the owner or a member of his immediate family. In either case, the towing bill must be paid prior to taking custody of the vehicle.

The incarceration facility of the Fairfax County Police Department is staffed and operated by the Fairfax County Sheriff's Department. All other agencies utilize sworn law enforcement personnel of the respective agency.

The jail facilities of the participating law enforcement agencies are maintained in a sanitary and hygienic state and all DWI offenders are

confined in individual cells. The Fairfax County Police Department's incarceration facility houses DWI offenders in a common cell similar to the conventional "drunk tank".

All DWI offenders are incarcerated and most are generally released on bond upon the completion of the "booking" process and four-hour sober-up period.

DWI offenders are neither finger-printed nor photographed when incarcerated for the offense of driving while intoxicated.

Conclusions: The incarceration process employed by the participating law enforcement agencies of the Fairfax County ASAP appear to be generally suitable to the operations within the state of Virginia. No significant feed-back was obtained from officers.

Recommendations: The incarceration methodology currently used should be continued.

Section 5 - Testimony and Adjudication

Pre-trial conferences are generally conducted between the prosecutor, defense attorney and defendant. The arresting officer is required to be present at arraignment.

Officers of the Fairfax City and Fairfax County Police Departments are scheduled court appearance by their immediate supervisors. Officers of the Falls Church, Vienna and Herndon Police Departments are scheduled court appearances by the court. Officers are generally summoned one day per month on off-duty days for court appearances. The average time per month in which the officer has to appear in court during off-duty days is approximately four hours. Officers are compensated for overtime accrued during off-duty time. Officers of the Falls Church and Vienna Police Departments (Sergeants only) are compensated in accordance with their straight hourly wages. Officers of the Fairfax City, Fairfax County, and Vienna Police Departments receive one and one-half times their normal hourly wages for overtime court appearances. Officers at this site are not paid any additional witness fees when attending court off-duty.

The General District Court of Fairfax County hears DWI cases. Judges are appointed for a term of four years by the Chief District Judge.

Officers of the participating law enforcement agencies stated that they felt the courts had taken judicial notice of the evidentiary testing devices and techniques; however, they feel it is difficult to get a conviction of the suspects having a blood alcohol concentration of below .10%. The general consensus of opinion expressed by the law enforcement officers was that the courts "expedite cases by generally reducing charges on cases below .10% to clear the docket".

Officers of the Fairfax County Police Department stated that plea bargaining was not a routine procedure. However, officers of the Fairfax City, Falls Church, and Vienna Police Departments stated plea bargaining was a routine procedure resulting in reduction of the charge to "reckless driving" and a fine of between \$300 and \$500 with a license suspension for 90 days. If the subject is required to complete the ASAP program, the fine may be as low as \$200. Plea bargaining is also employed with second and subsequent DWI offenders in that by reducing the charge of the first offense the subject would never show a record of a DWI conviction.

Conclusions: Court procedures are well documented at this site and the average amount of overtime per officer per month attributable to court appearance is negligible at this site.

Quality of testimony as presented by officers participating in the Fairfax County ASAP appears to be sufficient to enable the courts to effectively judge the merit of the case presented.

Recommendations: Liaison between courts and the participating law enforcement agencies of the Fairfax County ASAP should continue in such a manner as to ensure the continued cooperation of this essential countermeasure.

MANDRETS & BALTIMORE BUSINESS FORMS, INC., RICHMOND, VA.

NAME			RACE	SEX	WEIGHT	HEIGHT		CODE			
LAST FIRST MIDDLE			EYES	HAIR	BORN	FT.	IN.	DAY	YEAR		
ADDRESS			VEH	YEAR	MAKE			TYPE			
CITY & STATE			VEHICLE LICENSE NUMBER			YEAR	STATE				
ZIP CODE			OCCUPATION								
OFFENSE CHARGED			OPERATORS' OR CHAUFFEURS' LICENSE NUMBER					STATE			
LOCATION OF OFFENSE						DATE		TIME	DAY OF WEEK	WEATHER	ACCIDENT YES _____ NO _____
STREET OR ROUTE NO.	DIRECTION	NO. LANES	LOCATION OF ARREST			DATE OF ARREST		RELEASED TO OR BONDED BY		DATE	
ARRESTING OFFICER		CODE OR BADGE	DATE OF TRIAL	PLEA	CONVICTED OF						
SENTENCE	FINE	COSTS	PERIOD LICENSE SUSP.	LICENSE CARD SURRENDERED YES _____ NO _____							
COUNTY, CITY, TOWN OF		NAME OF COURT			NO. 12953						

*VOID
Sgt Childers*

COUNTY OR CITY OF _____ DATE _____

M _____ YOU ARE HEREBY SUMMONED TO APPEAR IN THE

_____ COURT AT _____

ON _____ AT _____ AM/PM TO ANSWER FOR THE FOLLOWING VIOLATION OF LAW,

TO WIT: _____

I HEREBY PROMISE TO APPEAR AT THE TIME AND PLACE SPECIFIED ABOVE

DEFENDANT'S SIGNATURE _____ FAILURE TO COMPLY WITH THIS SUMMONS CONSTITUTES A SEPARATE OFFENSE

(SIGNING THIS SUMMONS IS NOT AN ADMISSION OF GUILT)

OFFICER _____ BADGE NO. _____

VIRGINIA UNIFORMTM TRAFFIC SUMMONS

NO. 12953

Figure 22-1

COUNTY OF FAIRFAX, VIRGINIA
POLICE DEPARTMENT

PAGE _____ OF _____

INVESTIGATION REPORT

UNIT ASGD _____ AREA _____ PATROL _____

(1) CASE NO. _____

DIVISION _____ DUTY STATION _____

DATE _____

COMPLAINANT _____ PHONE NO. _____

HOME ADDRESS _____

DATE RECEIVED _____ TIME RECEIVED HR. _____ MIN. _____ WEATHER _____ LIGHT _____

(20) DATE OF EVENT _____ (26) TIME OF EVENT HR. _____ MIN. _____ (30) DAY OF WEEK _____ FEL - MISD _____

PLACE OF EVENT _____ CLASS _____ (31) CODE _____

NATURE OF CASE _____ (35) FND _____

SUBJECT NO. 1 _____ (36) OFF1 _____

ADDRESS _____ (40) ACT1 _____

SUBJECT NO. 2 _____ (41) TYP1 _____

ADDRESS _____ (42) NRV1 _____

DETAILS OF INVESTIGATION _____ (44) JUV1 _____

_____ (45) OFF2 _____

_____ (49) ACT2 _____

_____ (50) TYP2 _____

_____ (51) NRV2 _____

_____ (53) JUV2 _____

_____ (54) LOCH _____

_____ (56) MTHD _____

_____ (58) INST _____

_____ (60) VIOB _____

_____ (62) MOTV _____

_____ (64) MO1 _____

_____ (67) MO2 _____

_____ (70) MO3 _____

_____ (73) NRPC _____ (75) STATUS _____ (76) BFI or MFI (Circle) _____ (79) SEQ _____

TIME NOTIFIED _____ TIME ARRIVED _____ TIME CLEARED _____ DATE _____

FOLLOW UP _____ INVESTIGATED BY _____ 325 _____ APPROVED _____

PROPERTY MISSING OR STOLEN	(16)	DESCRIPTION	(9)	(10)	(25)
	JT		PC	VS	VR
QUANTITY	ITEM		EST. VALUE		RECOVERED
			STOLEN		
TOTAL VALUE					

VEHICLE USED - STOLEN - INVOLVED ENTERED IN WALES YES NO STATE TT SENT LOCAL LOOKOUT BROADCAST

YEAR _____ MAKE _____ MODEL _____ TAG NO. _____ STATE _____

COLOR _____ SERIAL NO. _____ MARKS _____

DESCRIBE VICTIM - VEHICLE - BUILDING _____

NAME OF DECEASED _____ RACE _____ SEX _____ AGE _____

HEIGHT _____ WEIGHT _____ HAIR _____ EYES _____ BIRTHDATE _____

BIRTHPLACE _____ TIME OF DEATH _____ DATE OF DEATH _____

NATURE OF DEATH _____ MEDICAL EXAMINER _____

UNDERTAKER _____ ADDRESS _____

MISSING - WANTED - SUSPECT

NAME _____ RACE _____ SEX _____ AGE _____

ADDRESS _____ PHONE _____

HEIGHT _____ WEIGHT _____ HAIR _____ EYES _____ BIRTHDATE _____

BIRTHPLACE _____ OCCUPATION _____ COMPLEXION _____

DRESS _____

MARKS _____ WHY WANTED _____

WITNESSES - REMARKS _____

TIME ARRIVED _____ TIME CLEARED 326 _____ DATE _____

Figure 22-2 (cont'd.)

FALLS CHURCH POLICE DEPARTMENT D.W.I. FORM

Arrest Number _____

Complaint Number _____

Arresting Officer _____

Date and Time Arrested _____

NAME _____ ADDRESS _____

AGE _____ SEX _____ RACE _____ APPROX. WEIGHT _____ O.L.# _____

OBSERVATIONS: (Check one)

CLOTHES: (Describe type and color) _____

Condition of Clothing: () Disorderly () Disarranged () Soiled () Mussed () Orderly

BREATH: (Oder of Alcoholic Beverage) () Strong () Moderate () Faint () None

ATTITUDE: () Excited () Hilarious () Talkative () Carefree () Sleepy () Profane () Combative () Indifferent () Insulting () Cocky () Polite () Cooperative

UNUSUAL ACTIONS: () Hiccoughing () Belching () Vomiting () Fighting () Crying () Laughing

SPEECH: () Not understandable () Mumbled () Slurred () Confused () Accent () Thick tongued () Stuttered () Fair () Good

PERFORMANCE TESTS: Check one

BALANCE: () Falling () Needed support () Wabbling () Swaying () Unsure () Sure

WALKING: () Falling () Needed support () Wabbling () Swaying () Unsure () Sure

TURNING: () Falling () Staggering () Hesitant () Swaying () Unsure () Sure

FEELER TO NOSE: Right Hand: () Completely Missed () Hesitant () Sure Left Hand: () Completely Missed () Hesitant () Sure

COINS: () Unable () Fumbling () Slow () Sure

ABILITY TO UNDERSTAND INSTRUCTIONS: () Good () Fair () Poor

TEST PERFORMED TIME: _____

OBSERVER'S OPINION: (Effects of Alcohol) () Extreme () Obvious () Slight () None

CHEMICAL TEST DATA: (Type) () Blood () Breath

TIME FIRST OBSERVED: _____ DATE OF TEST _____ TIME OF TEST _____

RESULTS BAC _____ EQUIPMENT TYPE _____ EQUIPMENT NO. _____

NAME OF OPERATOR _____ LICENSE NO. _____

SIMULATOR NO. _____ RESULT OF SIMULATOR TEST _____

(Signed) _____

WARRANT OF ARREST

COMMONWEALTH OF VIRGINIA, COUNTY OF FAIRFAX:

To Any Law Enforcement Officer of the Commonwealth:

Whereas, _____ of _____
COMPLAINANT
has this day made proper complaint before me under oath, and

Whereas, on the grounds of said complaint I have found probable cause to believe that _____
DEFENDANT

a _____ born _____ who can be located at _____
RACE SEX BIRTHDATE ADDRESS

_____ did, in the County aforesaid, on or about the _____ day
of _____, 19 _____, unlawfully, in violation of County Ordinance/State Code, Section _____,
drive and operate over a public highway while under the influence of intoxicants, self-administered, an automobile, to-wit:

A _____

These, Therefore, are to command you in the name of the Commonwealth to forthwith apprehend
and bring before the Fairfax County General District Court at Fairfax _____, Virginia on
the _____ day of _____, 19 _____ at _____ o'clock _____ M. the
subject to answer the said complaint and to be further dealt with according to law and there have this
warrant with your return.

Given under my hand this _____ day of _____, 19 _____.

Special Magistrate

THE WITHIN NAMED defendant on this _____ day of _____, 19____ forfeited collateral in the amount of \$ _____, or was tried in his absence, or came before me, and, being represented by counsel, or not being represented by counsel and waiving his right to same, pleaded guilty not guilty, and upon hearing the evidence in this matter, I find him guilty not guilty and adjudge a fine of \$ _____ and costs and order the defendant confined in jail for a period of _____ days _____ months, suspending \$ _____ and _____ days _____ months on the following conditions: a) general good behavior for one year, b) that defendant violate no law of the Commonwealth for one year and, c) _____

And it is further ordered that:

- The case be dismissed;
- The case be terminated Nolle Prosequi;
- The case be certified to the Grand Jury;
- Defendant's operators license be revoked for _____ days _____ months, until fine is paid
- This disposition having been made upon recommendation of Commonwealth's Attorney _____;

And that:

- Execution of the sentence be suspended until _____, 19____, at _____ o'clock P.M.
- Operators license accepted in lieu of bond
- A pre-sentence investigation is ordered returnable _____, 19____, at _____ o'clock P.M.
- Defendant be placed on active probation for one year.

Judge

WARRANT OF ARREST
COUNTY OF FAIRFAX, VA.
Vs.

Executed this, the _____ day
of _____, 19____
by arresting the within named

COSTS

Fine	\$
Trial	\$
Jail	\$
Warrant	\$
Abstract	\$
D. M. V.	\$
Commonwealth Attorney	\$
Clerk (Circuit Court)	\$
Commitment (Jail)	\$
Witness Attendance	\$
Summoning Witnesses	\$
Total	\$

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

To-wit: We, _____

and _____ do hereby severally and respectfully acknowledge ourselves to be indebted to the Commonwealth of Virginia, in the sum of \$ _____ to be respectfully made and levied on our several goods and chattels, land and tenements, to the use of the Commonwealth, and we each waive all benefits under the homestead exemption laws of the State of Virginia as to this obligation, the conditions of this obligation being that _____ shall (1) personally appear before the Fairfax County General District Court on the _____ day of _____, 19____ at 9:30 o'clock A.M. and at any times thereafter when proceedings in this matter may be heard by any court or judge, (2) shall not depart hence without leave of said court, (3) shall refrain from violating any law of this Commonwealth during the pendency of this recognizance, which remains in full force and effect until terminated by operation of the law; and that (4) nonappearance before any court in this matter shall be deemed a waiver of defendant's right to have counsel appointed for him and (5) nonappearance before any Circuit Court may be deemed a waiver of the right to a trial by jury.

Given under our hand and seal this the _____ day of _____, 19____.

(SEAL.)

(SEAL.)

(SEAL.)

(SEAL.)

Acknowledged before me, in the said County, the day and year first above written.

331

Address of Surety

Special Magistrate for Fairfax County, Virginia

Figure 22-13 (cont'd.)