

NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

ISSUED: October 12, 1984

Forwarded to:

Governors of the 50 States
and Mayor of D.C.
(See attached list.)

SAFETY RECOMMENDATION(S)

H-84-77 through -86

Drunk driving, and particularly repeat offense drunk driving, is one of the most difficult aspects of this country's highway safety problem. In 1983, there were about 38,000 fatal motor vehicle accidents, which killed 42,600 persons. A National Highway Traffic Safety Administration (NHTSA) study indicates that the alcohol involvement in these fatal accidents was 53 percent. NHTSA has estimated that 30 percent of the 773,000 drunk driving convictions each year are of "repeat offenders." 1/

Highway safety professionals have been concerned for decades about the highway fatalities and injuries due to drunk driving. Recently, grassroots organizations such as Mothers Against Drunk Driving (MADD), Remove Intoxicated Drivers (RID), and Students Against Drunk Driving (SADD) have heightened public attention to the problem. Many Governors have appointed task forces on drunk driving, and in 1982, President Ronald Reagan appointed a Commission on Drunk Driving to examine the problem. The Commission held hearings on drunk driving issues, and in November 1983, issued its final report to the President. The Surface Transportation Assistance Act of 1982 provided for incentive grants to the States to encourage improvements in traffic safety programs directed at drunk driving.

In September 1983, the National Transportation Safety Board began a Safety Study to document and highlight the flaws in the enforcement, judicial, and treatment systems which contribute to the persistence of this problem. It is based on a literature search, research, and accident investigations conducted by the Safety Board's Atlanta, Chicago, Denver, Fort Worth, Los Angeles, and Kansas City field offices. The Safety Board investigated 51 accidents involving drunk drivers as a part of this study. Of these, 45 were fatal accidents, involving 73 fatalities. The 56 drunk drivers in these accidents had accumulated 164 arrests for offenses involving alcohol, including 131 for driving while intoxicated (DWI); they also had at least 124 convictions for alcohol-related offenses, including at least 93 for drunk driving. 2/

1/ "Repeat offender" refers to a person arrested more than once for drunk driving.

2/ For more information read, "Safety Study: Deficiencies in Enforcement, Judicial, and Treatment Programs Related to Repeat Offender Drunk Drivers" (NTSB/SS-84/04).

Safety investigators reviewed State alcohol education and treatment systems in 10 States. 3/ Local enforcement systems 4/ and local judicial systems 5/ were probed in selected counties and four cities within these States. In addition, the statewide enforcement system for two of these States 6/ and the State judicial system in one State 7/ were reviewed.

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

Identifying the Drunk Driver

Many highway safety experts agree that many drunk drivers persist in their behavior because they believe, correctly, that there is a low risk of arrest and penalty. Even though DWI arrests nationwide have increased steadily (from 561,000 in 1969 to more than 1,300,000 in 1981), 8/ the probability of arrest remains relatively low, with estimates ranging between 1 in 200 9/ drunk drivers to 1 in 2,000. 10/

A study recently conducted by the Southern California Research Institute on a new standardized field sobriety test battery reinforced earlier studies which showed the inadequacy of psychomotor (physical) tests in detecting drivers at legally intoxicating blood alcohol levels. 11/ Prior to training on the new test battery, the officers studied arrested only 69.2 percent of stopped drivers who had BAC levels greater than 0.10 percent. A new test, however, called "Horizontal Gaze Nystagmus," could significantly increase the probability of detecting lower BAC levels in the field. A Southern California Research Institute paper describes the test:

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

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

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

6/ Illinois and Kansas.

7/ Colorado.

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

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

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

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

[Its name] refers to a jerking of the eyes as they deviate to the side. The jerking has a slow and a fast phase, with the fast phase being in the direction of the gaze. The eyes of 50-60% of all individuals will show horizontal gaze nystagmus if they move to the lateral extremes of from 45 to 65 degrees, measured from the center of the nose. However, after a person has consumed alcohol, the onset of the gaze nystagmus occurs at a much smaller angle, depending upon the blood alcohol concentration (BAC). The relationship between the angle of onset of horizontal gaze nystagmus and the BAC is so precise that a properly trained police officer can estimate a driver's BAC at roadside within \pm 0.02 percent of chemical test readings. ^{12/}

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

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

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

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

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

^{12/} Van K. Tharp, "Gaze Nystagmus as a Roadside Sobriety Test," Abstracts and Reviews in Alcohol and Driving, Vol. II, No. 2, UCLA Alcohol Research Center, February 1981.

Holding the Drunk Driver

Many jurisdictions have a policy of either holding for 4 hours a person arrested for an alcohol-related offense or releasing him or her to a responsible adult; some large city jails have shorter holding periods. Most detoxification centers hold an individual until his or her BAC drops to near 0.00 percent, but even this may not be long enough. A report by Sweden's National Road and Traffic Research Institute states that a person's ability to carry out complex driving maneuvers is reduced for at least 3 hours after the blood alcohol concentration reaches zero. Those with hangovers show a "marked inability to subjectively determine if they are fit to drive at all." The report suggests that the dizzy, queasy feeling often accompanying a hangover may diminish driving ability by as much as 20 percent, even when the BAC is zero. 13/

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

Prosecuting the Drunk Driver

Plea bargaining not only reduces the sanctions on the drunk driver; it also distorts his or her offense record, particularly when an alcohol-related charge is reduced to a nonalcohol-related charge. When this happens, there is no record of the arrest involving alcohol, so that the next time the offender is arrested, his or her records lead the court to believe they are first-time offenders. The Presidential Commission on Drunk Driving reported:

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

Prosecutors have largely failed to recognize or appreciate the impact, good and bad, that their attitudes and policies can have on the problem of the drinking driver. It is time for the prosecutor to assume a leadership role in dealing with the problem. 14/

Educating Judges

Many judges lack the training necessary to permit them to adjudicate drunk driving cases in a way that helps to reduce the repeat offender problem and to do justice to the interests of both the offender and the public. The Presidential Commission on Drunk Driving commented in its final report:

13/ H. Laurell and J. Tornros, Hang-over Effects of Alcohol on Driver Performance, Linköping, Sweden (1982).

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

It should be kept in mind that the public, and not only the defendant, has certain rights. Thus, the judiciary plays a vital role in discouraging driving under the influence. There are about 21,000 judges hearing traffic cases in the nation's 17,000 courts.[DWI] cases constitute a substantial portion of their caseload. Nonetheless, most of these judges have had little formal training in either the adjudication of these cases or in alcohol use and traffic safety. All too often, the judiciary fails to view driving under the influence as a serious offense meriting certain, swift, and appropriate punishment. 15/

The Commission noted that "new judges . . . are generally assigned to the trial of DWI cases. They should receive entry level and annual in-service training in the trial of such cases, and in alcohol abuse and in its relation to highway safety." 16/

Most State judges are afforded judicial training at the State level, and training is available at a national level. However, a 1981 survey found that only 2 States require some form of mandatory training for new judges, 17 States hold annual mandatory judicial conferences, and 26 States have mandatory continuing judicial education programs. 17/

Virtually every State court system has a judicial education administrator who is a part of the administrative office of the court. These officials are responsible for carrying out the education of a State's judges. In addition, there are State judicial organizations and professional associations which sponsor annual judicial conferences, often a significant source of judicial education. Traffic safety issues are only one of many competing topics which must be covered in the training, and therefore, often do not receive in-depth attention. The Safety Board identified only one State, Florida, with a judicial education program directed specifically at traffic courts.

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

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

In order to reach a larger number of judges, the NHTSA is developing a self-taught home study course on DWI adjudication for both judges and prosecutors. It is hoped that this will enable judges who are now bound by time and resource constraints to receive training. In addition, it hopes to prepare a bench book which can serve as a reference tool

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

16/ Ibid.

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

for judges during the course of a DWI trial. These measures also will help to address the problems caused by the high rate of turnover among judges who hear traffic cases. Constraints imposed by the set schedule of outside training courses are avoided by the home study approach, and jurisdictions will be able to avoid expending major resources on a judge who might be on the bench for only a short time before moving on to other types of cases.

The NHTSA also has provided two forms of support to address the resource problems which States face in providing DWI-related training to judges. The first involves a technical assistance grant to the Academy which enables it to organize and administer training programs in the States and to tailor the traffic law adjudication curriculum to a particular State's laws and procedures. The second involves providing Federal highway safety funds to finance judicial education programs at the State level and to pay for training such as that offered by the National Judicial College.

It is the Safety Board's view that the States and judicial and professional organizations within the States should give greater attention to the provision of alcohol-related and DWI adjudication training for judges, including the handling of the more difficult repeat offender cases, since in many courts DWI cases make up a large and growing portion of the docket.

Sanctions

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

The use of diversion/supervision programs is not universally regarded as an effective means of reducing alcohol-related offenses. These programs are attractive to the judicial system because they are a means of handling the increasing numbers of alcohol-related traffic offenses outside the already overloaded court system. It is true also that diversion/supervision programs can be one means to promote participation by alcohol offenders in alcohol education or treatment programs, a desirable goal. On the other hand, they are often used to supplant certain punitive sanctions which are known to have at least a temporary effect in reducing subsequent crashes by alcohol offenders, such as license suspension/revocation. Furthermore, these programs can result in major distortions in individual and collective records on alcohol-related traffic violations and convictions, since all or part of the judicial process may be bypassed. The particular ways in which diversion/supervision programs are structured and administered are thus important in their overall effects on traffic safety. For example, these programs may produce net disbenefits to traffic safety if their structure permits expungement of offense records and preclude the implementation of other laws which depend on the existence of an actual conviction of DWI. Equally important, if they are structured so as to supplant the imposition of punitive sanctions with known loss reduction effectiveness, they are undesirable. As the Presidential Commission on Drunk Driving noted:

Rehabilitation and education programs . . . should be provided as a supplement to other sanctions, and not as a replacement for those sanctions. . . Education and treatment programs are not substitutes for appropriate penalties to be assessed upon those who violate the law.

Rather, they should be looked upon as adjuncts to legal and administrative sanctions, intended to address the knowledge, attitude, and behavioral problems that may underlie driving under the influence. 18/

Identifying the Repeat Offender

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

Every jurisdiction concerned with drunk driving provides more severe sanctions for second and repeat offenders. However, criminal justice personnel are not always aware of the offender's drinking and driving arrest history. Consequently, special attention needs to be given to the prior drunk driving records of the offenders. Responsive record-keeping procedures are essential for increasing criminal justice access to this type of information. 19/

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

In some of the court records reviewed by the Safety Board, it was difficult to determine what sentence the defendant actually served or if he or she had complied with the directions of the court at all. Sentence sheets often did not refer to files on earlier appearances in other courts. Even though the forwarding of notices of DWI convictions to State Department of Motor Vehicles (DMV) authorities is required by law, it is not uncommon to find that judges in many States fail to do so. In some cases, judges withhold notice as an incentive to DWI offenders to comply with the court's conditions of probation. Recently, after the death of a local judge in New York, authorities discovered hundreds of conviction records in his desk as they cleared his office. 20/ Whether out of sympathy for an offender or as an extra incentive to increase compliance, such practices clearly distort control of the drunk driver problem. Prosecutors in most jurisdictions rely on DMV driver information records to introduce the fact of prior convictions. If courts fail to notify the DMV of DWI convictions, subsequent arrests for DWI are likely to be prosecuted as first offenses.

The Presidential Commission on Drunk Driving recommended improved tracking and reporting systems and stated in its report that such improvements have been recommended since 1957 by the National Conference of Commissioners on Uniform State Laws and since 1963 by the International Association of Chiefs of Police. 21/

Some States are taking steps to try to reorganize their various records systems and make records work for more purposes than merely being individual data files. For example, in the 1970's, Pennsylvania found it was not systematically conducting

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

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

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

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

prescreening or alcohol evaluations of DWI offenders, and it was nearly impossible to establish an offender's prior driving history reliably. To remedy these and other records problems, Pennsylvania developed its Court Reporting Network (CRN), a sophisticated, computer-assisted management information system designed to encourage uniform sentencing and referral of DWI offenders. It has, in the view of State traffic safety officials, "revolutionized" Pennsylvania's alcohol/highway safety program. It has "significantly reduced confusion and fragmentation between the criminal justice system and the rehabilitation and treatment communities. It has also educated the judicial community as to the realities of the drinking driver problem." 22/

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

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

The PROMIS system, like the Pennsylvania CRN system, uses several kinds of information, including police information, disposition information, defendant information, alcohol/drug evaluator information, and probation officers' monitoring information. The PROMIS system makes it possible to find out how many convicted drunk drivers get sent to jail, their average fines, the numbers being assigned to community service as part of their court sentence, the number of cases dismissed or "pled down," and other data. The new system is capable of producing information concerning whether a traffic accident was involved and how many vehicle-related felony cases involved DWI.

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

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

In July 1984, the Surface Transportation Assistance Act of 1982 was amended 23/ to permit the granting of supplemental Federal funds to State highway safety programs to establish and maintain a comprehensive computerized traffic safety recordkeeping system that will correlate data on traffic accidents, drivers, motor vehicles, and roadways. The NHTSA is in the process of issuing guidelines to the States on how these supplemental funds can be used. In addition, the NHTSA has asked for funds to develop a model Case Management Information System which it could offer to State and local officials.

The Juvenile Drunk Driver

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

Many of the problems in the post-arrest system found in the Safety Board's study were exemplified in cases involving young drivers: alcohol-related charges reduced to nonalcohol-related charges; lack of evaluation for alcohol problems; lack of treatment; seriously flawed records.

In the Juvenile Traffic Court system in Los Angeles County, California, Safety Board investigators found a lack of routine screening to determine the treatment needs of juveniles arrested for alcohol offenses. Routinely, a juvenile convicted of DWI is sent to a 12-hour DWI driving school--without determining the extent of his or her alcohol problem. Even in those cases in which the court is aware of a juvenile's alcohol abuse problem, the juvenile is referred to one of many local private social service organizations that provide counseling services, but not professional treatment, to juveniles and the family unit.

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

Even the FBI's Uniform Crime Report does not provide information on the rate of alcohol involvement in juvenile crimes. At the local level, the lack of records on alcohol involvement means that a juvenile may be arrested and sentenced for DWI as a first offender, when in fact, he or she is not a first-time alcohol abuser. The chances are these young people will not get the treatment they need. Furthermore, this lack of records helps to continue society's ignorance of juvenile alcohol problems.

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

23/ P.L. 98-363, 23 USC 402.

In a 1978 study by the NHTSA on juvenile traffic offense adjudication, researchers were startled and disturbed by the "miniscule number" of juvenile DWI cases being processed in the six jurisdictions under review. 24/ In Los Angeles, for example, they found fewer than 2,000 juvenile drinking-driving cases reported in 12 months; in Buffalo, New York, "out of 1,700 cases, a relative handful (21) were juvenile drinking-driving cases;" in none of the six jurisdictions was there more than "a light smattering of cases." 25/ Given the significant degree of alcohol use among juveniles and the high correlation between teenage drinking and driving, such low numbers of juvenile DWI cases is unexpected.

The researchers were not able to discover an explanation for this phenomenon. However, they noted other NHTSA studies that found "a tendency among law enforcement officers to let 'young DWI suspects' go with a warning. The reasons cited for this attitude ranged from concern over 'starting the kid out on the wrong foot' to the officers' belief that the juvenile courts do not expeditiously and appropriately adjudicate the cases." 26/

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

The National Transportation Safety Board recommends that the Governors of the 50 States and the Mayor of the District of Columbia:

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

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

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

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

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

25/ Ibid., pp. III-9 and III-11.

26/ Ibid., p. III-9

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

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

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

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

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

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

The National Transportation Safety Board is an independent Federal agency with the statutory responsibility ". . .to promote transportation safety by conducting independent accident investigations and by formulating safety improvement recommendations" (P.L. 93-633). The Safety Board is vitally interested in any actions taken as a result of its safety recommendations and would appreciate a response from you regarding action taken or contemplated with respect to the recommendations in this letter.

BURNETT, Chairman, GOLDMAN, Vice Chairman, and BURSLEY, Member, concurred in these recommendations. GROSE, Member, did not participate

By: 
Jim Burnett
Chairman

Honorable George C. Wallace
Governor of Alabama
Montgomery, Alabama 36104

Honorable Bill Sheffield
Governor of Alaska
Juneau, Alaska 99801

Honorable Bruce E. Babbitt
Governor of Arizona
Phoenix, Arizona 85007

Honorable Bill Clinton, Jr.
Governor of Arkansas
Little Rock, Arkansas 72201

Honorable George Deukmejian
Governor of California
Sacramento, California 95814

Honorable Richard D. Lamm
Governor of Colorado
Denver, Colorado 80203

Honorable William O'Neill
Governor of Connecticut
Hartford, Connecticut 06115

Honorable Pierre S. duPont, IV
Governor of Delaware
Dover, Delaware 19001

Honorable D. Robert Graham
Governor of Florida
Tallahassee, Florida 32301

Honorable Joe Frank Harris
Governor of Georgia
Atlanta, Georgia 30334

Honorable George R. Ariyoshi
Governor of Hawaii
Honolulu, Hawaii 96813

Honorable John V. Evans
Governor of Idaho
Boise, Idaho 83720

Honorable James R. Thompson, Jr.
Governor of Illinois
Springfield, Illinois 62706

Honorable Bob Orr
Governor of Indiana
Indianapolis, Indiana 42604

Honorable Terry Branstad
Governor of Iowa
Des Moines, Iowa 50319

Honorable John Carlin
Governor of Kansas
Topeka, Kansas 66603

Honorable Martha Layne Collins
Governor of the Commonwealth
of Kentucky
Frankfort, Kentucky 40601

Honorable Edwin Edwards
Governor of Louisiana
Baton Rouge, Louisiana 70804

Honorable Joseph E. Brennan
Governor of Maine
Augusta, Maine 04333

Honorable Harry R. Hughes
Governor of Maryland
Annapolis, Maryland 21404

Honorable Michael S. Dukakis
Governor of the Commonwealth
of Massachusetts
Boston, Massachusetts 02133

Honorable James J. Blanchard
Governor of Michigan
Lansing, Michigan 48903

Honorable Rudy Perpich
Governor of Minnesota
St. Paul, Minnesota 55101

Honorable Bill Allain
Governor of Mississippi
Jackson, Mississippi 39201

Honorable Christopher S. Bond
Governor of Missouri
Jefferson City, Missouri 65101

Honorable Ted Schwinden
Governor of Montana
Helena, Montana 59601

Honorable Bob Kerry
Governor of Nebraska
Lincoln, Nebraska 68509

Honorable Richard H. Bryan
Governor of Nevada
Carson City, Nevada 89710

Honorable John H. Sununu
Governor of New Hampshire
Concord, New Hampshire 03301

Honorable Thomas H. Kean
Governor of New Jersey
Trenton, New Jersey 08625

Honorable Toney Anaya
Governor of New Mexico
Santa Fe, New Mexico 87501

Honorable Mario M. Cuomo
Governor of New York
Albany, New York 12224

Honorable James B. Hunt, Jr.
Governor of North Carolina
Raleigh, North Carolina 27611

Honorable Allen L. Olson
Governor of North Dakota
Bismarek, North Dakota 58505

Honorable Richard F. Celeste
Governor of Ohio
Columbus, Ohio 43215

Honorable George Nigh
Governor of Oklahoma
Oklahoma City, Oklahoma 73105

Honorable Victor G. Atiyeh
Governor of Oregon
Salem, Oregon 97310

Honorable Richard L. Thornburgh
Governor of the Commonwealth
of Pennsylvania
Harrisburg, Pennsylvania 17120

Honorable J. Joseph Garrahy
Governor of Rhode Island
Providence, Rhode Island 02903

Honorable Richard W. Riley
Governor of South Carolina
Columbia, South Carolina 29201

Honorable William J. Janklow
Governor of South Dakota
Pierre, South Dakota 57501

Honorable Lamar Alexander
Governor of Tennessee
Nashville, Tennessee 37219

Honorable Mark White
Governor of Texas
Austin, Texas 78711

Honorable Scott M. Matheson
Governor of Utah
Salt Lake City, Utah 84114

Honorable Richard A. Snelling
Governor of Vermont
Montpelier, Vermont 05602

Honorable Charles S. Robb
Governor of the Commonwealth
of Virginia
Richmond, Virginia 23219

Honorable John Spellman
Governor of Washington
Olympia, Washington 98504

Honorable John D. Rockefeller, IV
Governor of West Virginia
Charleston, West Virginia 25305

Honorable Anthony S. Earl
Governor of Wisconsin
Madison, Wisconsin 53702

Honorable Ed Herschler
Governor of Wyoming
Cheyenne, Wyoming 82002

Honorable Marion S. Barry, Jr.
Mayor of the District of Columbia
Washington, D.C. 20004