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NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

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Forwarded to:

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National Highway Traffic Safety Administration
400 7th Street, S. W.
Washington, D. C. 20590

SAFETY RECOMMENDATION(S)

H-84-87 and -88

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 may be as high as 65 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 50 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 Drunk Drivers" (NTSB/SS-84/04).

NTSB 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 Repeat Offender

For a repeat offender to be properly processed through the judicial system, he or she 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. 8/

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.

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. Judges, in some cases, 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. 9/ Whether out of sympathy for an offender or as an

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

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

extra incentive to increase compliance, such practices clearly distort the drunk driver control system. Prosecutors in most jurisdictions rely on DMV driver information records to introduce the fact of prior convictions. If courts fail to notify the DMV of DWI convictions, subsequent arrests for DWI are likely to be prosecuted as first offenses. In some of the court records reviewed by the Safety Board, it was difficult to determine what sentence the defendant actually served or if he or she complied with the directions of the court at all. Sentence sheets often did not refer to files on earlier appearances in other courts.

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. 10/

Some States are taking steps to try to reorganize their various records systems to remedy some of the flaws illustrated above and to make records work for more purposes than merely being individual data files. For example, in the 1970's, Pennsylvania found it was not systematically conducting pre-screening or alcohol evaluations of DWI offenders, and it was nearly impossible to establish an offender's prior driving history reliably. To remedy these and other records problems, Pennsylvania developed its Court Reporting Network (CRN), a sophisticated computer-assisted management information system designed to encourage uniform sentencing and referral of DWI offenders. It has, in the view of State traffic safety officials, "revolutionized" Pennsylvania's alcohol/highway safety program. It has "significantly reduced confusion and fragmentation between the criminal justice system and the rehabilitation and treatment communities. It has also educated the judicial community as to the realities of the drinking driver problem." 11/

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 that 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. It is designed to track arrests, defendants, charges, cases, court events, and parties through the judicial process. It

10/ Presidential Commission on Drunk Driving, Final Report, 1983.

11/ 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.

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.

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 client monitoring information. The PROMIS system now makes it possible for Colorado officials to find out how many convicted drunk drivers get sent to jail, their average fines, the numbers being assigned to community service as part of their court penalty, 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 DMV's are also the contact between States on driver's records, they should be fully integrated into these types of information systems, so that their driver records will be complete and up-to-date.

In July 1984, the Surface Transportation Assistance Act of 1982 was amended ^{12/} to permit the granting of supplemental Federal funds to State highway safety programs to establish and maintain a comprehensive computerized traffic safety recordkeeping system that will correlate data on traffic accidents, drivers, motor vehicles, and roadways. The NHTSA is in the process of issuing guidelines to the States on how these supplemental funds can be used. In addition, the NHTSA has asked for funds to develop a model Case Management Information System which it could offer to State and local officials. The NHTSA should build on the work already done by others and incorporate the strong points of the CRN and PROMIS systems in its model.

The Juvenile Drunk Driver

Many of the gaps in our society's enforcement, judicial, and alcohol treatment systems 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 charge reduced to nonalcohol-related charge; lack of evaluation for alcohol problems; lack of treatment; seriously flawed records.

In a study of juvenile traffic offense adjudication, the NHTSA found that in most cases, the juvenile sanctioning practices are similar to those for adults. However, the study concluded that "licensing action appears to be taken only in extreme situations and with great reluctance." ^{13/} There is, however, a recent trend to take the opposite approach. Five States -- Maine, Maryland, North Carolina, Oregon, and Washington -- have passed so-called youthful offender laws, which operate on the theory that young people can be deterred from certain alcohol (and drug) violations by fear they will lose the privilege of driving--a privilege of considerable value to many young people (especially

^{12/} P. L. 98-363, 23 U.S.C. 402.

^{13/} 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.

young men) as a sign of adulthood. ^{14/} Recent studies indicate that teenagers may be more strongly influenced by fear of their peers' disapproval or disdain than by fear of the formal sanctions threatened by society. ^{15/} Thus, the fear of being caught driving drunk and thereby losing the opportunity to have a driver's license (and being subjected to peer disdain) may be a fairly effective deterrent to youthful drunk driving.

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

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

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

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

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

The National Transportation Safety Board recommends that the National Highway Traffic Safety Administration:

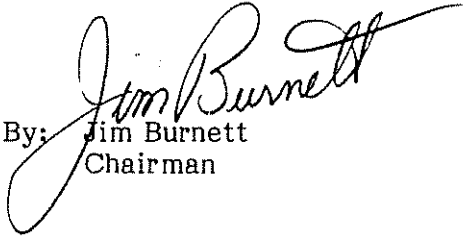
Evaluate the effectiveness of license actions against juveniles who violate alcohol laws, such as the laws recently enacted in Oregon, Washington, North Carolina, Maryland, and Maine. (Class II, Priority Action) (H-84-87)

^{14/} This use of the term "youthful offender" is the common meaning of the term among highway safety professionals. It is not to be confused with the same term as used in the larger justice system, where it describes persons not treated as juveniles nor fully as adults -- typically, those 18 to early 20's in age.

^{15/} C. R. Little, Sanctions and Social Deviance: The Question of Deterrence (New York: Praeger Publishers, 1980). Cited in Patricia Waller and Marcus Waller, The Young Drinking Driver: Cause or Effect?, prepared for the Research Workshop on Alcohol and the Drinking Driver, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Bethesda, MD (1984).

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

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

By:  Jim Burnett
Chairman