

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

An Overview of the Results of the Advisory Committee
Recommendations, A National Survey and Other Activities Concerning
The Feasibility of a Statewide OUI First Offender Model Program
and a Detention/Rehabilitation Center for the
Chronic OUI Offender

Alcohol and Drug Abuse Planning Committee
State House Station #11
Augusta, Maine 04333
Tel: (207) 289-2595

January 1989

Prepared by the staff of The Alcohol and Drug
Abuse Planning Committee

Albert Anderson, Ph.D., Planning Director

Mike Martin, Coordinator, Planning and Policy Development

Ronald Speckmann, M.Div., Coordinator, Management Information,
Evaluation, and Research

Jamie Lowery, Coordinator, Client Information System

Laura Cotter, Administrative Support

Kathy Peaslee, Administrative Support

TABLE OF CONTENTS

	Page
Executive Summary	I
Introduction	1
Overview of Findings	2
The County Jails	2
The Offender	2
Maine Programs and Outcomes	3
Other States: Programs and Outcomes	3
Other States: Special Facilities	4
Application to Maine	5
Lack of Substance Abuse Programs in Jails	5
First Offenders	5
Second Offenders	6
Third Offenders	7
Summary	9
Appendix A	
A National Survey	A-1
Appendix B	
Advisory Committee	B-1
Appendix C	
Advisory Committee Review/Comment	C-1
Appendix D	
The Feasibility of a Specialized Facility	D-1

EXECUTIVE SUMMARY AND ADVISORY GROUP RECOMMENDATIONS

The major goals of the Alcohol and Drug Abuse Planning Committee were to develop recommendations concerning (1) a Maine 1st Offender OUI program and (2) the potential for establishing a specialized facility for the incarceration and treatment of the chronic OUI offenders. As the result of a national survey concerning what other states are doing in these areas, a review of Maine models/approaches and meetings with an advisory committee, the following were identified:

1. The primary issue behind many efforts, is the overcrowding of the county jails.
2. We must first address the OUI 1st Offender. They represent 75% of the OUI population and occupy 1/3 of the OUI jail beds. Maine data shows that their prognosis is good if they complete an alternative site and DEEP program involving screening, education and referral. The alternative site programs could be accomplished through a re-distribution of existing county jail funds and new funds for in-jail programs (see #4).
3. There is no evidence that a specialized facility for the 3rd OUI offender would adequately serve the offender or the state. This population, which represents approximately 43 daily beds in the county jail system, could be served in the county jails if we address the 1st offender.
4. Base funding, to provide in jail substance abuse counselors and support services (approximately \$25,000 per jail), would be sufficient to establish a 1st offender program and a screening/education/referral program for 2nd and 3rd offenders. The cost would total \$250,000/year and would provide on the average, one counselor for each of the eleven (11) county jails that lack formal substance abuse programs. The state has funded four (4) county jail projects (Kennebec, Androscoggin, Oxford and Franklin Counties).
5. We are unable to determine the size/needs of the 2nd and 3rd OUI offender populations. It would be inappropriate to make major investments in these populations until we establish 1st/2nd offender alternative site programs, screening/education/referral programs for all OUI populations, and integrate these with the DEEP program.
6. As an interim measure, we could evaluate the alternative site programs (Kennebec and York), the potential redistribution of resources for 2nd offenders, and in-jail screening/education/referral models (see Kennebec and Androscoggin) that could serve all OUI offenders. This would also provide the information necessary to assess the 2nd and 3rd offender population size/needs.
7. Although various models may be acceptable, all must meet standards established by the Office of Alcohol and Drug Abuse Prevention (DHS). Further, all programs must reflect a cooperative effort between the jails and substance abuse service providers with the latter responsible for providing the program.

On October 28, 1988 the Advisory Committee met and reviewed this report. The following presents an overview of their recommendations and ADPC "editorial" notes.

1. If the County Jail programs are to "get off the ground" funds are needed "up front". This would be approximately \$250,000.

NOTE: Although other potential sources were noted, the reality is that existing funds are committed. Thus, new funds are required.

2. It was recommended that in-jail substance abuse programs be mandated. The \$250,000 would be utilized to establish the basic program.

NOTE: This could be accomplished through legislation or requirements established by the Department of Corrections. The preference appeared to be legislation.

3. In jail programs must meet pre-established standards and be monitored/evaluated.

NOTE: These can be accomplished by OADAP as part of it's overall program/service licensing.

4. There were some suggestions that we duplicate one existing model.

NOTE: There are other models in Maine which are acceptable. Further, some jails may prefer work release to public service. These appear to be equally effective. However, there must be standards within which there is flexibility. For example, one of our successful OUI jail programs provides 16 hrs of public service and 8 hrs of education/assessment within the 48 hr jail sentence. Standardized content, time frames, etc. are important.

5. First offense OUI should involve a 72 hr sentence which is reduced to 48 hrs if the individual participates in the alternative program.

In addition to the above, the Committee recommended specific strategies:

1. First: Establish the in-jail basic program. Although this would focus upon the first offender (see below) it would provide basic education/screening programs for 2nd/3rd offenders. The cost would be approximately \$250,000. We have basic models that identify required activities/procedures.
2. Second: Expand the basic in-jail program to include a 48 hr optional program for OUI 1st offenders. This should not result in additional costs.

NOTE: The programs must be standardized. DEEP and the jail programs must coordinate their efforts in order to reduce time between conviction, jail, DEEP, and treatment (if necessary). Legislation may be required to address this issue (e.g., the individual is required to enter DEEP within x days following conviction.)

NOTE: If this is to be mandated, we must have data showing that DEEP is effective. Neil Miner will provide this data.

3. Third: Establish a 2nd and 3rd Offender program by utilizing the basic in-jail program and formalizing existing relationships. For example, for individuals already on probation or who will be on probation post jail, include participation in the OUI jail program, DEEP and treatment (if necessary) as part of probation.

NOTE: This will not increase the P.P. client load. Legislation may be required to address the time issue e.g., the person must attend DEEP and treatment with x days following release from jail.

NOTE: Al Anderson will survey the County Jails to determine the number of 2nd/3rd offenders, that are currently on, or will be on, probation post jail.

4. Overall: The focus is upon establishing a basic in-jail capacity to address screen/education needs of OUI offenders (1st, 2nd and 3rd) and a first OUI offender alternative site program. Second and third offender models can be developed utilizing existing resources and without increasing demands upon existing systems. This involves formalizing/systemizing existing relationships between the jails, P/P and DEEP.

A number of other points were made including charging the offender for jail time (e.g., \$20/day), designating the jails as minimum security, reducing time between conviction, jail, DEEP and treatment, etc.

The group did not identify any serious differences with this report. Rather, the focus was upon the need to assure quality and effective programs.

INTRODUCTION

Chapter 107, P&S laws requests that the Alcohol and Drug Abuse Planning Committee (ADPC) determine the practicality/feasibility of (1) expanding a model 1st OUI offender county jail project and (2) establishing a specialized detention/rehabilitation facility for the chronic OUI offenders who currently serve time in Maine county jails. In order to address this request, the ADPC carried out the following steps:

1. Reviewed the extent of the OUI and other alcohol problems in Maine county jails.¹
2. Reviewed existing Maine OUI offender programs to determine their capacity and flexibility to respond to the various OUI populations. This included the Kennebec Jail 1st offender program, the York County shelter alternative site program, the Androscoggin County Jail program, and the DEEP programs (including the weekend program for multiple offenders).
3. Contracted with the Human Services Development Institute, University of Southern Maine, to conduct a national survey to identify current fine, incarceration, treatment/education, etc. practices as they relate to 1st, 2nd and 3rd (chronic) OUI offenders (Appendix A).
4. Established an advisory committee (Appendix B) to provide expertise related to a Maine system, review/comment concerning the results of the national survey and recommendations concerning a Maine approach.
Note: This committee has met on two occasions and will meet at least once again to review/comment on this document. Their review/comments concerning initial proposals are contained in Appendix C.

Based upon these activities, the ADPC is able to identify the characteristics of a Maine system that could effectively address the 1st, 2nd and 3rd OUI offender. The following section provides an overview of the findings. Subsequent sections provide background material.

¹Maine County Jails: A survey of substance abuse treatment needs of inmates. The Alcohol and Drug Abuse Planning Committee, October 1986. OUI Population Data, Maine Department of Corrections, 1987.

OVERVIEW OF FINDINGS

1. The County Jails

- a. It has been estimated that over 80% of the over 30,000 individuals admitted to our county jails each year, have problems with drugs (including alcohol).
- b. Only four (4) of the fifteen (15) Maine county jails have formalized substance abuse programs (Kennebec, Androscoggin, Oxford, and Franklin Counties).
- c. The number of OUI offenders in our county jails in FY'87 was: 1st offenders 2,876, 2nd offenders 759, and 3rd offenders 146 for a total of 3,781. Note: 2,624 first offenders were convicted of OUI but did not serve time in jail.
- d. Without question, a major issue behind the interest in the OUI county jail population is the reduction of the in-jail population.
- e. Only two (2) county jails (Kennebec and York) have alternative sites for selected 1st offenders and one (York) for multiple offenders. Kennebec has a proposal for 2nd offenders.

2. The Offender

- a. First Offender: In 1987 the 2,876 first offenders served a minimum² of 48 hours and paid a minimum fine of \$300. They had an average length of stay of 5 days (due to aggravated condition) and represented an average daily population of 40.4. They represented 75% of the OUI jail population and approximately 32% of the average daily OUI beds in the county jails.
- b. Second Offender: The 759 second offenders served a minimum of 7 days and paid a minimum \$500 fine. However, the average length of stay was 22 days with an average daily population of 50.6. They represented 20% of the OUI jail population and approximately 35% of the daily OUI beds in the county jails.
- c. Third Offender: The 146 third offenders served a minimum of 30 days and paid a \$750 fine. However, the average length of stay was 98 days with an average daily population of 42.3. They represent approximately 4% of the OUI population and approximately 33% of the daily OUI beds in the county jails.
- d. Summary: In terms of actual jail space utilized, each of these groups represent approximately 1/3 of the OUI daily population. The 3rd offender is spending 3 times the minimum sentence due to factors in addition to the OUI.

²Due to "aggravated" conditions, the sentences exceed the minimum of 48 hours and a \$300 fine.

3. Maine Programs and Outcomes

- a. First Offender: Through screening, the Kennebec County Jail program accepts over 95% of the 1st OUI offenders for their alternative weekend program. Approximately 1/3 are referred for treatment. A 6-month follow-up shows an extraordinarily high success rate (not a second OUI). Over 85% of these individuals have also completed DEEP which must be considered in the "success" equation. Note: The jail and DEEP programs involve education, assessment, and referral. They do not involve treatment.

The York County Shelter program has an agreement to accept selected 1st offenders from the York County Jail. The program involves housing and "community" work in the York County Shelter program.

- b. Second/Third Offenders: Kennebec County is proposing an alternative setting of one (1) week for selected 2nd offenders. York County, through the York County shelter, provides an alternative site and community service program for multiple offenders. DEEP has its 2nd/3rd offender weekend program which is related to the return of the driving license and is required in addition to jail time.

Approximately 35% of the potential DEEP weekend clients enter treatment directly and circumvent the DEEP weekend. Approximately 85% of the DEEP weekend clients are referred to treatment. Note: The DEEP and proposed Kennebec alternative program involve screening, education and referral. York County involve housing and work, which compensates for the housing, for selected multiple offenders. These are not treatment programs.

- c. Probation: Data is not available to clearly identify the number of 1st, 2nd, and 3rd OUI offenders who are also on probation. However, members of the advisory committee and ADPC staff have found that a large percentage of the 2nd and 3rd offenders are also having other social/behavioral problems and may already be on probation. The Kennebec County data suggests that 35-40% of the 2nd/3rd offenders are on probation and almost 40% of the individuals who break probation do it while involved with alcohol (including OUI).
- d. Summary: Maine has a few model alternative site programs for 1st and 2nd offenders. However, mandated treatment is limited to the return of the license. In some county jail projects (e.g., Androscoggin), although alternative sites are not involved, some judges are mandating treatment and probation as part of the sentencing.

4. Other States - Programs and Outcomes: Based upon the results of 19 states which responded to the survey questionnaire, there are a number of consistent ideas.

a. Most Common Approaches:

- (1) First Offender: Community services, probation and treatment/education.

- (2) Second Offender: Community service, work release, probation, flexible jail time, and treatment/education.
- (3) Third Offender: Work release, probation, flexible jail time and treatment.
- (4) Overall: Incarceration followed by treatment. Payment by the individual for all phases including incarceration and treatment. Most activities aimed at reducing the use of jail space. Overall, they trend to include pre-sentence investigation and screening, treatment/education, and the collection of fees/fines.

b. Problem Areas:

- (1) Few of these programs have been evaluated. We were unable to obtain outcome information related to any of the programs..
- (2) Increased mandated treatment has resulted in treatment waiting lists.
- (3) Wisconsin repealed its mandated work release because of local liability, poor work by offenders, etc.

5. Other States - Special Facilities: Three states have special OUI facilities:

- a. Massachusetts: Serves primarily late-stage alcoholics (3rd offense) convicted of OUI felony, and without a violent history. Sentence of 2 months to 2 years. Treatment involves a 5-6 week treatment program (similar to our 28-day rehabilitation program) followed by community service work and A.A.
- b. Arizona: Serves primarily chronic offender (3rd offender), convicted of OUI felony, with an average length of stay of 1.2 years. Minimal program (4 1/2 hours/week for 8 weeks) with an emphasis upon a 40-hour public service work week. Income from public services paid to Corrections.
- c. Maryland: Serves individuals convicted of less than an OUI felony. Most continue with previous employment and return to facility at night. First offenders serve 7 days and repeat offenders serve 14-21 days. Program is 3 hours an evening and 1 hour each weekend day. Incarceration is followed by 1-year probation including mandated treatment. Twenty (20) percent are late-stage alcoholics. Inmates are charged \$33.85 a day. If sentenced to jail, inmates could spend last 21 days in the special facility.
- d. Summary: Only the Maryland approach appears to be compatible with our county jail system, including length of sentence. Treatment/education appear to be secondary to work. "Treatment" in the Arizona and Maryland programs appear to be educational programs and A.A.

APPLICATION TO MAINE

1. Lack of Substance Abuse Programs in Maine County Jails: We have not addressed the overall basic problem of alcohol and drug abuse of individuals sentenced to our county jails.
 - a. An ADPC study revealed that it would cost approximately \$250,000 to institute basic substance abuse screening and referral programs in the eleven (11) county jails that lack these programs. These funds also would provide, on the average, one (1) counselor per jail who could provide the screening/referral, some counseling and institute a 1st offender OUI program. Note: The State is currently funding the only formal substance abuse programs in the county jails (Kennebec, Androscoggin, Oxford and Franklin Counties).
 - b. If such a program was funded, it would provide an of average of one (1) counselor per jail.
 - c. The existing county jail substance abuse programs are contracting with substance abuse agencies which meet OADAP standards. This would be the preferred approach.
2. First offenders (N=2,876): We are not addressing the needs of the population that has the greatest chance for success.
 - a. First offenders represent 75% of the jailed OUI offenders and occupy 1/3 of the OUI beds.
 - b. Addressing the needs of this population could be a major prevention strategy in reducing 2nd and 3rd offender populations.
 - c. Kennebec County data suggests that over 95% of the 1st offenders who are involved in their alternative site program (and the existing DEEP program) do not commit a second OUI within a 6 month period.
 - d. First offenders currently pay for their DEEP program. The Kennebec County and York County programs are self-supporting through the redistribution of existing resources and free services resulting from community service (Kennebec) or working as part of the alternative site program (York).
 - e. The removal of the 1st offender population from the jails would result in a 1/3rd reduction in the OUI bed jail population.
 - f. There is a need for flexibility to respond to the uniqueness of the counties e.g., Kennebec and York Counties have different models. Jails could pool their resources and develop cooperative programs that serve more than one jail. This is being explored by Kennebec County. However, the State would establish standards.
 - g. If basic substance abuse screening/referral staff were in all county jails, programs (optional site, screening, education and referral) could be developed for each county. DEEP requirements (including mandated treatment when appropriate) for the return of driver licenses, may be sufficient incentive without requiring treatment and probation as a condition of sentencing for the 1st offender.

- h. The Kennebec County program includes a 72-hour sentence being reduced to 48 hours if the person enters the alternative site program. This may be a necessary incentive to enhance the use of alternative site programs.
3. Second Offenders (N=759): This population represents both extremes of the OUI population. DEEP data shows that over 85% of their multiple offenders are referred to treatment. The county jail data shows that they occupy approximately 1/3 of the OUI beds on a daily basis.
- a. It would be premature to make a relatively extensive financial commitment involving this population until a 1st offender program is established. Based upon current information, a 1st offender program may significantly reduce this population.
- b. Regardless of the program, there is a need to screen this population. As in other states, the advisory committee recommended that eligible inmates would be only those in jail primarily for OUI. This is an OUI program and it's potential effectiveness must be assessed in terms of current behavior and past history.
- c. The Androscoggin and Kennebec County type of programs (in-jail screening, education and referral) serve as potential models for in-jail resources which would be utilized at a later date to develop 2nd/3rd offenders alternative site programs. The costs would be included in the previously referred to \$250,000.
- d. Utilizing the in-jail proposal of \$250,000, alternative site programs for 2nd offenders could be developed through the redistribution of existing resources. The Kennebec County proposal for 2nd offenders involves a 7-day alternative site (Y-camp) community services program. The existing York County program involves alternative site with work in the York County shelter program. Both involve reduced costs due to "community services" and the redistribution of existing resources.
- e. The Advisory Committee recommended that 2nd offender programs include mandatory post incarceration treatment as a condition of probation. The appropriateness of in-jail treatment was questioned.
- f. Probation presents a problem. We do not have appropriate data to assess the extent of the need for probation. Our best guess is that approximately 50% of the 2nd (and 3rd) offenders are already on probation for reasons other than OUI.
- g. DEEP data suggests that over 90% of the 2nd offenders enter DEEP. However, the data also suggests that they wait until their license suspension is almost over before they enter the DEEP program. There is a need to reduce/eliminate this wait.
- h. Although DEEP refers 85% of this population to treatment as a condition of the return of the license, we don't know how many actually enter treatment. Further, this population is responsible for their costs related to DEEP and treatment.

- i. Summary: It is clear that we lack information concerning the size and needs of the 2nd offender. If in-jail substance abuse staff were available, this information and initial alternative site programs could be developed. We could maximize the use of DEEP programs (e.g., weekend) and incentives (mandatory treatment) related to return of license. When we have had the opportunity to address the 1st offender and identify the size and needs of the 2nd offender population, we could better determine the costs associated with mandatory treatment as a condition of probation.

It is also important to realize that a major goal is the reduction of in-jail populations. The Kennebec proposal and the York program accomplish this task for the 2nd offender. However, there are problems due to time delay between the conviction, jail time, and treatment. Community service may also present a number of problems e.g., supervision and the value of the work in terms of the cost and quality.

Any future expansion must consider cost related to probation, treatment, community service (e.g., if the community service is reimbursed, where do we obtain the funds) etc.

4. Third Offender: This involves approximately 146 individuals with an average daily jail population of 42.3. The group represents approximately 1/3 of the OUI jail beds.
 - a. At this time there is no evidence that a specialized OUI program (including a facility), would benefit this population or Maine. See Appendix D for responses to the Legislative Committees questions concerning a special facility.
 - b. The prognosis for this population is poor. The fact that their average length of stay (98 days) is three (3) times the minimum sentence, suggests that OUI is only one of many problems.
 - c. If this population was screened, and programs established only for those who could benefit from an OUI program, the population would be relatively small. At the current time, if all 3rd OUI offenders were appropriate for our OUI program, the daily jail population would be 42.3.
 - d. If the 1st offender population was removed from the jail through alternative site programs, the 3rd offender population would present less of a problem.
 - e. With the previously identified \$250,000 for in-jail screening, education and referral (see Androscoggin and Kennebec Jails), initial steps could be taken to address the needs of this population. If we included a minimal educational and A.A. program, this would be similar to the Arizona and Maryland programs except that it would be conducted in the jails.
 - f. Future: After addressing the needs of the 1st offender, 3rd offender programs could include post incarceration treatment as a condition of probation. However, rather than establishing and funding specialized facilities, funds could be made available to purchase services from existing community substance abuse treatment programs. For example, although the majority of these individuals

may require long-term inpatient services, many could potentially benefit from less costly 28-day rehabilitation or outpatient services.

It is clear that the states surveyed felt that long-term post-incarceration treatment was necessary. Further, in-jail education may be appropriate but members of the Advisory Committee questioned the appropriateness of in jail treatment. It was also felt that the majority of these individuals are already on probation due to problems other than OUI and probation services would not significantly expand.

Regardless of the many issues, it would be inappropriate to commit funds until the size and needs of this population are identified.

- g. Summary: At this time, the 1st offender program is the priority and specialized programs are not recommended for this population. If funds are available, in-jail screening/education/referral programs could be established and post jail treatment could be purchased from existing community agencies for this population. If the 1st offender population was removed from the jails, this would reduce the pressure due to over-population.

SUMMARY

The major goals of the Alcohol and Drug Abuse Planning Committee were to develop recommendations concerning (1) a Maine 1st Offender OUI program and (2) the potential for establishing a specialized facility for the incarceration and treatment of the chronic OUI offenders. As the result of a national survey concerning what other states are doing in these areas, a review of Maine models/approaches and meetings with an advisory committee, the following were identified:

1. The primary issue behind many efforts, is the overcrowding of the county jails.
2. We must first address the OUI 1st Offender. They represent 75% of the OUI population and occupy 1/3 of the OUI jail beds. Maine data shows that their prognosis is good if they complete an alternative site and DEEP program involving screening, education and referral. The alternative site programs could be accomplished through a re-distribution of existing county jail funds and new funds for in-jail programs (see #4).
3. There is no evidence that a specialized facility for the 3rd OUI offender would adequately serve the offender or the state. This population, which represents approximately 43 daily beds in the county jail system, could be served in the county jails if we address the 1st offender.
4. Base funding, to provide in jail substance abuse counselors and support services (approximately \$25,000 per jail), would be sufficient to establish a 1st offender program and a screening/education/referral program for 2nd and 3rd offenders. The cost would total \$250,000/year and would provide on the average, one counselor for each of the eleven (11) county jails that lack formal substance abuse programs. The state has funded four (4) county jail projects (Kennebec, Androscoggin, Oxford and Franklin Counties).
5. We are unable to determine the size/needs of the 2nd and 3rd OUI offender populations. It would be inappropriate to make major investments in these populations until we establish 1st/2nd offender alternative site programs, screening/education/referral programs for all OUI populations, and integrate these with the DEEP program.
6. As an interim measure, we could evaluate the alternative site programs (Kennebec and York), the potential redistribution of resources for 2nd offenders, and in-jail screening/education/referral models (see Kennebec and Androscoggin) that could serve all OUI offenders. This would also provide the information necessary to assess the 2nd and 3rd offender population size/needs.
7. Although various models may be acceptable, all must meet standards established by the Office of Alcohol and Drug Abuse Prevention (DHS). Further, all programs must reflect a cooperative effort between the jails and substance abuse service providers with the latter responsible for providing the program.

APPENDIX A

A National Survey of States to
Determine the Characteristics of
Their OUI Offender Programs

DRIVING UNDER THE INFLUENCE OF ALCOHOL

SURVEY OF STATES CONCERNING
JAIL SENTENCING ALTERNATIVES

STATE OF MAINE

ALCOHOL AND DRUG ABUSE
PLANNING COMMITTEE

JULY - SEPTEMBER, 1988

DRIVING UNDER THE INFLUENCE OF ALCOHOL

SURVEY OF STATES CONCERNING
JAIL SENTENCING ALTERNATIVES

Prepared for:

Alcohol & Drug Abuse
Planning Committee
Augusta, Maine

Prepared by:

Human Services Development Institute
Public Policy and Management Program
University of Southern Maine
Portland, Maine

Project Staff

Polina C. McDonnell, Project Director
Pamela Vittorioso, Research Assistant
Debora M. Berry, Research Aide

July - September, 1988

TABLE OF CONTENTS

PURPOSE	1
METHOD	1
RESPONSE	1
SURVEY RESULTS	2
OVERVIEW OF THIRD OFFENDER PENALTIES	20

APPENDICES

<u>Appendix A:</u> State-specific Survey Questionnaire	30
<u>Appendix B:</u> Survey Concerning Drinking and Driving	33
<u>Appendix C:</u> State-specific Questions Concerning DWI Sanctions	39
California	40
Florida	44
Georgia	46
Illinois	48
Indiana	50
Kentucky	52
Massachusetts	54
Michigan	57
Missouri	59
Montana	61
New Hampshire	63
New Jersey	65
New York	68
North Carolina	70
Pennsylvania	72
Utah	75
Vermont	77
Virginia	79
Wisconsin	81

SURVEY OF STATES CONCERNING JAIL SENTENCING ALTERNATIVES

PURPOSE

The purpose of this project was to assist the Alcohol and Drug Abuse Planning Committee in identifying the punishment and rehabilitation parameters in other States as it relates to chronic OUI offenders.

METHOD

The project work was undertaken during a three-month period, July through September 1988, and began with a review of a digest defining each State's OUI-related legislation (Digest of State Alcohol-Highway Safety Related Legislation, National Highway Traffic Safety Administration, DOT, January 1988). This review became the basis for developing, for each State, specific questions (Appendix A) based upon information gaps in the digest. A generic survey questionnaire (Appendix B) was also developed focusing on the question of sentencing alternatives used by States to address the problem of overcrowding in jails due to OUI conviction and incarceration mandates. Subsequent to reviewing these products with representatives of the Alcohol and Drug Abuse Planning Committee, the survey questionnaires were mailed out to each State's designated alcoholism authority on August 12, 1988, with a request that they be completed and returned by August 24, 1988.

RESPONSE

As of August 26, 1988, only a few State's had responded to the survey. Telephone calls to those State's that had not responded revealed two major problems which caused a delay in returning completed questionnaires. First,

the time of year the survey was conducted -- August was the month during which numerous individuals scheduled vacations and, therefore, the questionnaire did not reach the addressee until his/her return. Second, and perhaps more important was that in most instances, the contact person indicated that he/she needed to consult with other State agencies in order to get all the information requested.

As of September 23, 1988, nineteen States had returned their survey questionnaires. Although other States (Connecticut, Arizona, Maryland and South Dakota) indicated that they would return the questionnaires and forward other requested materials, such as evaluation reports, the data contained herein reflects the information provided by the States who responded by September 23, 1988.

SURVEY RESULTS

- Annual OUI Convictions. Eighteen of the 19 States that responded provided estimates, mostly for 1987. Multiple offenders comprised from 7% of the convicted drivers (Virginia) to 40% (Kentucky).

In terms of the three New England States that responded, Vermont reported that about 25% of the convicted drivers were multiple offenders and New Hampshire indicated that 23% were second and subsequent offenders. Although Massachusetts responded to the survey, the 40,000 drivers convicted annually were not designated by level of offense.

- Overcrowded Jail/Prisons Because of Sentencing Requirements. Twelve of the 16 States (75%) who have jail sentence requirements for second offenders indicated that they were experiencing overcrowding in jails/prisons; 13 out of 17 (77%) reported that this was a problem with third offenders as well.

- Strategies Implemented to Address the Problem of Overcrowded Jails/Prisons Due to the Number of Convicted Drunk Drivers. The most frequently cited strategy was alcohol-related treatment/rehabilitation, with 15 States responding to this question, 80% cited this strategy for second offenders and 87% cited it for third offenders. For second offenders, more than half cited flexibility in scheduling jail time, community service programs, probation, and work release programs; more than half the States also cited having implemented three of these four strategies for third offenders. However, only 33% cited community service programs as a strategy.

Two States reported having a single-State facility for third offenders (Massachusetts and Georgia) and one State (Indiana) reported that it was considering that strategy.

Vermont is currently piloting a "house arrest" strategy in one county and is considering combining house arrest with alcohol-related educational programming.

Open-ended comments concerning strategies tended to focus most frequently on various aspects of alcohol-related education and/or treatment, e.g., the need for earlier intervention with the drinking driver population, using treatment in lieu of jail, lack of education/treatment services in jails, the need for longer treatment program requirements, screening to detect first offenders needing alcohol-related treatment.

In general, a majority of States indicated that services and programs for this population are paid for by the OUI offender/client. Among the funding problems mentioned by respondent States were collecting fees from indigent offenders/clients and those who are unemployed/do not have insurance, and that the fees collected are insufficient. The consensus appears to be, however, that the offender population should pay their (fair) share of cost of services provided them -- from court costs to treatment services.

- Evaluation of Services/Programs for Drunk Drivers. Three States indicated that evaluations had been conducted (California, Indiana and Wisconsin) and three indicated that evaluation of drunk driver strategies/programs was in progress (Massachusetts, New Jersey and North Carolina).
- Problems Identified as a Result of Implementing New Strategies/Sentencing Alternatives. The State of New York reported that lack of screening and required treatment (for needy) within the first offender population has resulted in a recidivism rate approaching 30%. Florida and New Hampshire reported that the new sentencing requirements have increased the demand for services with the result being waiting lists for treatment (inpatient and weekend programs).

The State of Wisconsin reported that a mandatory community service program (enacted 18 months ago) was repealed after only two months because of such issues as local liability, lack of funding for program management, and the quality of community services provided by the OUI offenders.

- Perception of the Importance of OUI Offender Program Elements. Ten elements indicated in the literature as important to a comprehensive corrections program for drunk drivers were rated by 17 of the responding States. Alcohol-related education and treatment was rated as very important by 16 States, and collection of fines and fees and pre-sentencing investigation and screening was viewed as very important by 14 and 10 States, respectively.

These ratings and the open-ended responses suggest that a majority of the States viewed the following as being relatively important: (1) earlier intervention with OUI offenders as a desirable program/policy objective; (2) establishing and maintaining alcohol treatment/rehabilitation programs for multiple offenders which are more intensive and of longer duration than what has historically been the case; and (3) having a funding base that reduces/eliminates waiting lists for alcohol-related services. Generally, respondents also indicated that the offender/client pay for all service costs as well as victim compensation and other restitution/fee assessments.

QUESTION #1 and #2

How many drivers are convicted annually for drinking and driving in your State? Approximately how many drivers are convicted (annually) for drinking and driving are first, second and subsequent offenders?

STATE	FIRST	OFFENSE LEVEL		TOTAL
		SECOND	THIRD	

CALIFORNIA	177,414 (67%)	64,552 (24%)	23,169 (9%)	265,135 (100%)
FLORIDA	47,468 (80%)	7,959 (13%)	4,448 (7%)	59,875 (100%)
GEORGIA	35,754 (61%)	12,400 (21%)	10,373 (18%)	58,527 (100%)
ILLINOIS	40,700 (74%)		14,300 (26%)	55,000 (100%)
INDIANA	32,000 (85%)		6,000 (15%)	40,000 (100%)
KENTUCKY	19,100 (60%)	8,500 (27%)	4,000 (13%)	31,600 (100%)
MASSACHUSETTS	--	--	--	40,000 (100%)
MICHIGAN	--	--	--	--
MISSOURI	19,577 (87%)	2,475 (11%)	450 (2%)	22,502 (100%)
MONTANA	5,071 (74%)	1,304 (19%)	517 (7%)	6,900 (100%)
NEW HAMPSHIRE	7,953 (77%)	1,859 (18%)	517 (5%)	10,329 (100%)
NEW JERSEY	21,000 (75%)	5,220 (18%)	2,030 (7%)	29,000 (100%)
NEW YORK	43,920 (72%)	12,200 (20%)	4,880 (8%)	61,000 (100%)
NORTH CAROLINA	--	--	--	40,590 (100%)
PENNSYLVANIA	28,000 (80%)	5,250 (15%)	1,750 (5%)	35,000 (100%)
UTAH	8,903 (71%)		3,637 (29%)	12,540 (100%)
VERMONT	2,060 (75%)	522 (19%)	168 (6%)	2,750 (100%)
VIRGINIA	35,847 (93%)	2,313 (6%)	385 (1%)	38,545 (100%)
WISCONSIN	29,921 (85%)		5,280 (15%)	35,201 (100%)

QUESTION #3

Has your State experienced problems with overcrowded jails/prisons because of sentencing requirements for drivers convicted of drinking and driving?

STATE	FIRST	OFFENSE LEVEL	
		SECOND	THIRD
CALIFORNIA	Information	Unknown	
FLORIDA	Yes	Yes	Yes
GEORGIA ¹	No	No	Yes
ILLINOIS	No	No	No
INDIANA	-	Yes	Yes
KENTUCKY	No	No	No
MASSACHUSETTS ²	No	Yes	Yes
MICHIGAN	Yes	Yes	Yes
MISSOURI	No Response Given		
MONTANA ³	Yes	Yes	Yes
NEW HAMPSHIRE ⁴	No	Yes	Yes
NEW JERSEY	No	No	No
NEW YORK ⁵	No	Yes	Yes
NORTH CAROLINA	Yes	Yes	Yes
PENNSYLVANIA ⁶	No	Yes	Yes
UTAH ⁷	No	Yes	Yes
VERMONT ⁸	No	Yes	Yes
VIRGINIA	No	No	No
WISCONSIN ⁹	No	Yes	Yes

- (1) Georgia: Generally first and second offenders are imposed fines and community services rather than jail time, some may also be referred to treatment services. Third offenders receive jail time up to 1 year.
- (2) Massachusetts: First offender not generally required to serve jail time. Most referred to 16-week, 40-hour alcohol rehabilitation program.
- (3) Montana: Overcrowding in jails in larger cities.
- (4) New Hampshire: Jail sentence not required for first offenders.
- (5) New York: Jail sentence not required for first offenders.
- (6) Pennsylvania: Jail sentence not required for first offense -- first offenders qualify for Accelerated Rehabilitation Disposition.
- (7) Utah: First offenders usually get community service instead of jail.
- (8) Vermont: Jail sentence not required for first offenders.
- (9) Wisconsin: Jail sentence not imposed for first offense; however, some overcrowding experienced.

QUESTION #4

To address the problem of overcrowding in jails/prisons because of an increased number of convicted drunk drivers, which strategies have been implemented by your State? (15 States responded to the question)

STRATEGY	<u>NUMBER OF STATES BY OFFENSE</u>		
	<u>FIRST</u>	<u>SECOND</u>	<u>THIRD+</u>

a. Community Service Program(s)	10	9	5
b. Probation (Supervised/Unsupervised)	10	9	8
c. Work Release Programs	6	9	9
d. Flexibility in Scheduling Jail Time	5	10	8
e. Good Time Credits	4	4	7
f. Work Credits (Voluntary Public Work Programs)	0	1	0
g. Educational Programs	7	7	3
h. Minimum Security Facilities in Lieu of Jail	3	5	6
i. Alcohol-related Educational Programming in Jails/Prisons or Other Secure/Non-secure Facilities	3	4	4
j. Single State Minimum Security Facility for Drunk Drivers	0	1*	3**
k. Alcohol-related Treatment/Rehabilitation	7	12	13
l. Other	0	2***	2***

* Massachusetts: 4 inpatient facilities (14-day program) for second offender drunk drivers.

** (1) Massachusetts: Minimum 6-month incarceration includes intensive substance abuse program-facility is a converted hospital.

(2) Georgia: Single-State facility

(3) Indiana: Single-State facility "in the works".

*** (1) Vermont: House arrest for second and third offenders.

(2) Wisconsin: Renting space from other counties.

QUESTION #5

Please identify and describe the strengths/weaknesses of the strategies that you checked in Question #4, and note the recommendations you would offer other States implementing similar strategies.

CALIFORNIA: We believe that incarceration is an effective component of a comprehensive DWI countermeasure system. Offering reduced jail terms, less stringent probationary sentences and reduced driver's license actions in lieu of incarceration are effective ways to constructively coerce DWI offenders into alcohol treatment programs. However, all strategies that reduce or eliminate jail terms should consider the impact upon highway safety.

FLORIDA: The strengths and weaknesses are that while the above strategies lower jail population, there is not enough emphasis placed on prevention and early intervention of these offenders.

GEORGIA: The strengths are community service, work release, education, treatment, etc. All these interventions along with increased fines create enough of a hassle with offenders to deter some. These alternatives take some of the pressure off the jail overcrowding and provide earlier intervention with problem drinking and early stage alcoholism.

The weaknesses are created by an increased burden on probation; and the lack of availability of treatment services within the jails or minimum security facilities defeats the purpose of early intervention with problem drinkers.

ILLINOIS: No Information

INDIANA: Poor recordkeeping and/or management of alternative programs frequently results in sentences not being served in full. Some offenders will go through a program multiple times when they should not.

KENTUCKY: Not Applicable

MASSACHUSETTS: Judges must enforce the statutes and must be comfortable with the statutes. Offenders do understand that they have committed a serious crime and generally do expect loss of license and/or incarceration or rehabilitation. We have found that if a program is imposed on the judicial, rehabilitation, or law enforcement communities without the support and input from all three sources, the programs will die a slow withering death.

Loss of license, mandated treatment and careful record checks for DWI offenders produce results. Short alcohol treatment programs (less than 10 weeks) are not effective. Inpatient treatment for multiple offenders coupled with follow-up outpatient treatment is very effective intervention.

QUESTION #5 (Con't.)

MICHIGAN: No Comments

MISSOURI: No Comments

MONTANA: Judges in Montana do use some of the other alternatives such as public services but only as an alternative to the fine, not jail time.

NEW HAMPSHIRE: Strengths - We will be separating the level of offenses and providing different levels of education and treatment services for people in various stages of the disease. We are reducing recidivism, providing intervention and educating the citizens of New Hampshire.

Weakness - The primary weakness is the lack of an aftercare component of the First Offender Program.

NEW JERSEY: Not Applicable

NEW YORK: Studies indicate that approximately 75% of convicted DWI population have drinking problems. This finding would suggest that States place emphasis on screening and when indicated require treatment programs for first time offenders.

NORTH CAROLINA: This office has responsibility for assessment, treatment and education of DWI offenders and is not directly involved with the strategies regarding incarceration, etc. It is our experience that it is essential to identify adequate resources for treatment/rehabilitation of DWI offenders.

PENNSYLVANIA: There is no organized State effort at this point, however we are working toward alternatives. Those alternatives identified above are used on the county level but not widely employed. Concepts being explored are the use of alternative housing sites primarily for treatment purposes in lieu of prisons.

UTAH: System is already strained. The community service programs seem to be a favored option by judges. Utah is an .08 State so degree of intoxication -- (i.e., .08 - .10 - .16 - .23, etc.) usually impacts judge's decision. Good OUI education program is essential. This does seem to work.

VERMONT: House arrest is being piloted in one county presently. We are considering combining house arrest with alcohol-related education programming.

VIRGINIA: Alcohol-related educational programming in jails/prisons or other secure/non-secure facilities is an excellent idea. Single State minimum security facility for drunk drivers is also very interesting especially for multiple offenders.

QUESTION #5 (Con't.)

WISCONSIN: Work Release Programs. The Huber option allows counties to charge daily room rates to the offender. Especially important for the third and subsequent offender whose jail time is a minimum of 30 days to one year.

Flexibility in Scheduling Jail Time and Good Time Credits. Most second offenders (5 days minimum to 30 days maximum) are able to serve the 5 day jail sentence over the weekend, i.e., Friday, p.m. entry; Monday 7 a.m. release.

Minimum Security Facilities in Lieu of Jail. Wisconsin requires all DWI offenders to submit to an assessment and complete a driver safety plan (education or treatment according to need). This is shown as a strength -- especially for first time offenders -- since it is intended to alleviate recidivism which results in the additional adjudicatory costs of imprisonment.

QUESTION #6

How did your State fund new facilities needed because of convicted drunk drivers?

CALIFORNIA: Information not available

FLORIDA: There has been no funding specific to these offenders.

GEORGIA: Appropriation from a General Fund

ILLINOIS: No new funding

INDIANA: Not applicable

KENTUCKY: Not applicable

MASSACHUSETTS: Appropriation from a General Fund; contract with private non-profit firm; and clients pay \$500-600 for their treatment program.

MICHIGAN: General Obligation Bonds

MISSOURI: Missing information

MONTANA: General Obligation Bonds

NEW HAMPSHIRE: Appropriation from a General Fund, and User Fees.

NEW JERSEY: User Fees

NEW YORK: Missing information

NORTH CAROLINA: Not applicable, no new facilities constructed.

QUESTION #6 (Con't.)

How did your State fund new facilities needed because of convicted drunk drivers?

PENNSYLVANIA: Use of State funding not anticipated.

UTAH: No new facilities

VERMONT: Not applicable

VIRGINIA: Missing information

WISCONSIN: Wisconsin county jails are supported by county taxation. The Legislature this year approved assessing all offenders a \$5 jail surcharge which can be held locally. (The total jail population has expanded; not only due to OUI.)

QUESTION #7

How are you funding the new strategies and/or other services and programs for convicted drivers?

SERVICE	NUMBER OF STATES BY OFFENDER POPULATION			TOTAL NUMBER OF STATES
	FIRST	SECOND	THIRD	

a.	Facility Maintenance (Reimbursement to the locality for the cost of the jail stay.)		1	1	1	(Offender Pays)
b.	Community Service Fees (Reimbursement for managing programs.)	3	1	1	3	(3 = Offender Pays)
c.	Probation Services (Reimbursement to States and localities for probation services.)	2	3	3	3	(2 = Offender Pays) (General Purpose Revenue)
d.	Pre-sentence Investigations	1	2	2	2	(1 = Done by Probation Agents) (1 = Offender pays)
e.	Diagnostic Assessments	9	8	6	9	(7 = Offender/Client Pays) (1 = User Fees) (1 = Offender Fines)
f.	Drinking Driver Alcohol Related Education	10	11	6	11	(8 = Offender/Client Pays) (2 = User Fees) (1 = Offender Fines)
g.	Alcohol-related Treatment/ Rehabilitation	8	11	10	11	(8 = Offender/Client Pays) (1 = General Fund) (1 = User Fees) (1 = Offender Fines)
h.	Other					

QUESTION #8

What are the strengths and weaknesses of the funding system used by your State to support services/programs for convicted drunk drivers? What recommendations would you offer to other States?

CALIFORNIA: We strongly encourage other States to require OUI defendants to pay their fair share of the costs of the services the defendants receive. This funding mechanism places the burden of financial responsibility on the OUI defendant rather than the taxpayer. It is also our belief that OUI defendants will take greater responsibility and ownership for the services they receive when they are expected or required to pay for the cost of the services.

FLORIDA: Weakness - Funding is not sufficient to serve all convicted drunk drivers upon demand. Strength - As a requirement of any OUI conviction, OUI school identifies and refers those who need treatment into the appropriate treatment setting.

GEORGIA: The offender fees now being used in this State for services are minimal and do not cover the costs for services. An alcohol tax might more accurately offset the cost of those services.

ILLINOIS: No response

INDIANA: Only specific funding is a \$20 fee attached to the reinstatement of the operator's license. This was projected to generate about \$750,000 annually. However, the collection process has problems and funding is down from projection. We are currently receiving about \$300,000 to \$400,000 a year.

KENTUCKY: Not applicable

MASSACHUSETTS: Strengths - For first and second offenders a majority of court costs and treatment fees are paid directly by the client. Indigent clients have their fees paid by the General Fund. However, each client who can afford to pay, is assessed a \$200.00 court fine which helps to pay for indigent clients. If managed properly, the program can be self-supporting. In many cases clients can pay for treatment services/incarceration. Weakness - Some clients will choose jail time and license loss to avoid paying for treatment and to avoid confronting their alcohol problems.

MICHIGAN: Missing information

MISSOURI: Missing information

MONTANA: We do have a State supported inpatient facility. We have a hard time dealing with third offenders. They usually are unemployed and drive without a license and move around this big State alot. The State also subsidizes some out-patient facilities.

QUESTION #8 (Con't.)

What are the strengths and weaknesses of the funding system used by your State to support services/programs for convicted drunk drivers? What recommendations would you offer to other States?

NEW HAMPSHIRE: Initially, the strength is that the programs are supported by User Fees and are minimal cost to the State. The weaknesses appear when attempting to seek counseling for the client who is indigent and/or who does not have insurance. Without insurance and/or other funding the clients do not receive the necessary treatment. Also, if needs arise that require the program staff members to do other duties there is no mechanism to pay them an additional fee. Therefore additional services are extremely limited.

NEW JERSEY: No weaknesses; offenders pay for it all.

NEW YORK: Strengths are local (county) control. Weaknesses are that tradition and politics usually outweigh research, program evaluation and other less popular approaches such as treatment. Tough fines and strict penalties are usually favored by the public and consequently the politicians.

NORTH CAROLINA: Strength is that these services are, for the most part, user supported. Weakness is that collecting fees from offenders is often difficult, at best.

PENNSYLVANIA: Missing information

UTAH: This State makes the offender bear the cost of treatment.

VERMONT: Missing information

VIRGINIA: Strength - The taxpayers like the approach of defendants pays for the system. Weakness - Funds are based on arrest rate, and that can fluctuate.

WISCONSIN: Strength - The Legislature increased the court cost fee and now allows 50% to be kept at the local court. Half of the first offense forfeiture remains at the local level. Weakness - The DIS does not cover all of the State support costs. However, it was created to cover the treatment costs, so there continues to be a struggle to maintain adequate support for the counties' treatment services from the DIS program revenue (e.g., original legislative intent was 80% to the counties, now counties receive only 70% of the accumulated DIS).

QUESTION #9

Has your State conducted an impact and/or administrative evaluation of alternative strategies/program(s) that it implemented for convicted drunk drivers?

STATE	RESPONSE
CALIFORNIA	Yes
FLORIDA	No
GEORGIA	No
ILLINOIS	No
INDIANA	Yes
KENTUCKY	No
MASSACHUSETTS	In Progress
MICHIGAN	No Response
MISSOURI	No Response
MONTANA	No
NEW HAMPSHIRE	No
NEW JERSEY	In Progress
NEW YORK	No
NORTH CAROLINA	In Progress
PENNSYLVANIA	No
UTAH	No
VERMONT	No
VIRGINIA	No
WISCONSIN	Yes

QUESTION #10:

Have additional needs/problems been identified as a result of implementing the new strategies/sentencing alternatives for convicted drunk drivers such as: more (or less) clients than anticipated, cost of services/programs, etc.? If so, please describe the problems encountered and how they were resolved.

CALIFORNIA: Information not available.

FLORIDA: With the passing of the new OUI law, jail populations are increasing as well as clients desiring treatment or being court ordered into treatment, with very little funding for more treatment beds.

GEORGIA: Not at this time

ILLINOIS: No response

INDIANA: Not as of yet

KENTUCKY: No

MASSACHUSETTS: Providing effective treatment with minimal funds is always a problem.

The State uses the services of several non-profit treatment agencies who periodically contract to provide the service for first and second offenders. In this way, the costs of building or maintaining facilities is kept to a minimum.

Existing State buildings are used to provide the inpatient program for second and subsequent offenders.

MICHIGAN: No response.

MONTANA: Only 60% of offenders complete our education program (called ACT, Assessment Course, Treatment). About 1/3 of those are recommended for inpatient or out-patient treatment.

NEW HAMPSHIRE: We offer the first offenders a choice between weekday programs and weekend programs. The weekend programs have become increasingly more popular. As a result there are long waiting lists to enter the programs. The programs have responded to this demand by building additional dorms and increasing the number of classes offered.

NEW JERSEY: No response.

NEW YORK: Yes, because of lack of screening and required treatment for needy among first offender population the recidivism rate is approaching 30%.

QUESTION #10: (Con't.)

Have additional needs/problems been identified as a result of implementing the new strategies/sentencing alternatives for convicted drunk drivers such as: more (or less) clients than anticipated, cost of services/programs, etc.? If so, please describe the problems encountered and how they were resolved.

NORTH CAROLINA: In progress

PENNSYLVANIA: Not available

UTAH: No response

VERMONT: No response

VIRGINIA: No response

WISCONSIN: Mandatory community service was enacted 18 months ago and was repealed after only two months. Local liabilities, lack of funding for program management, and limitations on the desirability of the service from some of the OUI offenders were generally cited for repeal.

QUESTION #11:

Current literature suggests that a comprehensive corrections program for drunk drivers should have at least 10 elements. In your opinion, how important is each program element? (17 States responded to this question.)

PROGRAM ELEMENTS	NUMBER OF STATES BY LEVEL OF IMPORTANCE			
	Not at			Very
	<u>all</u> 0	1	2	<u>3</u>

a.	Detention Following Arrest	2	2	3	8
b.	Detoxification	-	7	4	5
c.	Pre-sentence Investigation and Screening	1	2	5	10
d.	Short-term Jail Sentence	1	1	9	5
e.	Long-term Work Release Sentence (10-to-90 days)	3	4	5	2
f.	Prison Sentence	4	5	2	5
g.	Alcohol-related Education and Treatment	-	1	-	16
h.	Community Service	1	7	1	7
i.	Probation Supervision	1	3	5	7
j.	Collection of Fines and Fees	-	-	2	14
k.	Other*	-	-	-	5

*Other Specifications included: (1) drivers license actions; (2) monitoring in treatment and after; (3) suspension, offender tracking system; (4) license suspension until successful completion of therapy; and (5) assessment and driver safety plans for all OUI offenders.

QUESTION #12:

Other Comments:

MASSACHUSETTS: Incremental sanctions are essential. First offender should experience license loss, mandated alcohol treatment, and a suspended short sentence. Second and subsequent offenders who have already completed an alcohol treatment program should complete an alcohol inpatient program and have an extended suspended sentence (3-6 months minimum). If jail time cannot be enforced or if treatment time cannot be enforced it would be better to delete these elements from legislation.

NEW YORK: Feel strongly that alcoholism education and treatment need to be separated.

OVERVIEW OF THIRD OFFENDER PENALTIES

In addition to forwarding the generic survey to each State, a set of questions was developed for each State based on the informational gaps identified in reviewing the Digest of State Alcohol-Highway Safety Related Legislation. The Digest, the generic survey and the State-specific questionnaires and responses (Appendix C) were then used to develop the third offender matrixes presented next. In collating the information based on these sources, some disparities were found. This may be due to changes in State programs/policies since the Digest was published in January, 1988. Time constraints prohibited additional followup with responding States to address information inconsistencies. Such followup is recommended before final decisions are made concerning which strategies would be most appropriate for Maine.

DRIVING UNDER THE INFLUENCE OF ALCOHOL
PENALTIES FOR THIRD OFFENDERS

(September 1988)

<u>PENALTIES</u>	<u>CALIFORNIA</u>	<u>FLORIDA</u>	<u>GEORGIA</u>	<u>ILLINOIS</u>
<u>JAIL AND FINE</u>	120 Days - 1 Year \$390 - \$1000	30 Days - 1 Year \$1000 - \$2500	120 Days - 1 Year Not More than \$1000	1 - 1 Years Not More than \$10,000
<u>COMMUNITY SERVICE</u>	Not an option for third offenders	Not an option for third offenders	Not an option	Not an alternative for third offenders
<u>RESTITUTION</u>	Not for Non-injury OUI's	None	None	Yes, for all offenders - paid directly to victims. Also a victim's compensa- tion fund.
<u>LICENSING ACTION</u>	3 Years (Max) (BAL 0.10%) Within 7 years	Not less than 10 years - all offenses Within 5 years	5 Years (Max) (BAL 0.10%) Within 5 years	6 Years (Max) (BAL 0.10%) Within 5 years (A person may obtain a hardship license - see alcohol treatment)
<u>VEHICLE IMPOUNDMENT</u>	1-90 Days; maybe impounded if second or subsequent OUI	No	No	No
<u>ALCOHOL EDUCATION-TREATMENT</u>	1 year alcohol rehab. program required to restore license. Conditions of probation usually require participation.	Substance abuse course must be completed before license can be restored (including treatment if referred).		Judicial option. Mandated by Secretary of State, offender must provide docu- mentation (proof) of treat- ment and 1 year sobriety.

DRIVING UNDER THE INFLUENCE OF ALCOHOL
PENALTIES FOR THIRD OFFENDERS

Page 2

PENALTIES	CALIFORNIA	FLORIDA	GEORGIA	ILLINOIS
<u>OTHER</u>	Ignition interlocking system may be condition of probation; \$50 for alcohol assessment funding; \$50 for alcohol/treatment program funding; up to \$500 for cost of emergency response from OUI related offense.	5% surcharge levied on all fines, \$25 added to each fine, deposited in emergency Medical Services Trust Fund		

DRIVING UNDER THE INFLUENCE OF ALCOHOL
PENALTIES FOR THIRD OFFENDERS

(September 1988)

<u>PENALTIES</u>	<u>INDIANA</u>	<u>KENTUCKY</u>	<u>MASSACHUSETTS</u>	<u>MICHIGAN</u>
<u>JAIL AND FINE</u>	5 Days - 2 Years Not More than \$10,000	30 Days - 1 Year \$500 - \$1000	90 Days - 2 Years (work release available) \$500 - \$1000	1-5 Years Not More than \$1000
<u>COMMUNITY SERVICE</u>	At Judge's discretion - 10 days mandatory, additional jail time may be suspended	At judge's discretion - in addition to jail and fine	Not available at this time	Community service in lieu of jail; 8 hrs. civil service equals 1 day in jail.
<u>RESTITUTION</u>	Yes, Victims' Compensation Fund	Yes, Victim's Compensation Board	None	Yes, victim's fund and direct compensation to victim via court order
<u>LICENSING ACTION</u>	2 Years (BAL 0.10%) Within 5 years (Intoxicated)	2 Years (Max) (BAL 0.10%) Within 5 years	2-5 Years (BAL 0.10%) Within 6 years	5 Years (BAL 0.10%) Within 5 years Under the Influence
<u>VEHICLE IMPOUNDMENT</u>	No	No	No	No
<u>ALCOHOL EDUCATION-TREATMENT</u>	Not necessarily required-at court's discretion. Law does not extend evaluation/treatment to subsequent offenders. (Required as condition of probation for first offender.	1 Year education/evaluation program may be inpatient/-residential. Must be completed before license reinstated. (Must be sentenced to alcohol/drug rehab. program.	Minimum 6-month incarceration includes intensive rehabilitation minimum security; many third offenders will not have access due to limited bed space-most serve time in general prison.	Presentence screening and assessment mandatory; education/treatment is at Judge's discretion.

DRIVING UNDER THE INFLUENCE OF ALCOHOL
PENALTIES FOR THIRD OFFENDERS

Page 2

PENALTIES	INDIANA	KENTUCKY	MASSACHUSETTS	MICHIGAN
<u>OTHER</u>	Vehicle registration plates may be suspended.			

DRIVING UNDER THE INFLUENCE OF ALCOHOL
PENALTIES FOR THIRD OFFENDERS

(September 1988)

<u>PENALTIES</u>	<u>MISSOURI</u>	<u>MONTANA</u>	<u>NEW HAMPSHIRE</u>	<u>NEW JERSEY</u>
<u>JAIL AND FINE</u>	Not more than 5 years Not more than \$5000	10 Days - 6 Months \$500 - \$1000	10 Consecutive days- 1 Year (see treatment) \$500 - \$1000	Not less than 180 days \$1000
<u>COMMUNITY SERVICE</u>	Not an option for third offenders	No	No	Yes, not more than 90 days of 180 may be served as an alternative to jail
<u>RESTITUTION</u>	Victims' Fund (\$36 to Court) and Court may order direct compensation to victim.	No	No	Yes, paid to victim by defendent
<u>LICENSING ACTION</u>	1 Year (Max) (BAL 0.10%) Within 5 years	3 Months - 1 Year (BAL 0.10 %) Within 5 years	3 Years (Minimum) (BAL 0.10%) Within 10 years	10 Years (BAL 0.10%) Within 10 years
<u>VEHICLE IMPOUNDMENT</u>	No	No	No	No

DRIVING UNDER THE INFLUENCE OF ALCOHOL
PENALTIES FOR THIRD OFFENDERS

Page 2

PENALTIES	MISSOURI	MONTANA	NEW HAMPSHIRE	NEW JERSEY
<u>ALCOHOL</u> <u>EDUCATION-</u> <u>TREATMENT</u>		Must complete 10-hour course and assessment and follow counselor's recommendations.	Required for reinstatement of license - no reduction in suspension. 10 consecutive days: 3 consecutive, 24 hour periods in county house of corrections, 7 consecutive 24 hour periods in state-operated multiple offender intervention detention center. Any person who completed such program and is subsequently convicted shall be imprisoned for 30 consecutive 24 hour periods and complete a 28-day treatment program at own expense.	Imprisonment term may be served in an inpatient rehabilitation facility.
<u>OTHER</u>				

DRIVING UNDER THE INFLUENCE OF ALCOHOL
PENALTIES FOR THIRD OFFENDERS

(September 1988)

<u>PENALTIES</u>	<u>NEW YORK</u>	<u>NORTH CAROLINA</u>	<u>PENNSYLVANIA</u>	<u>UTAH</u>
<u>JAIL AND FINE</u>	Not more than 4 years \$500 to \$5000	14 Days - 2 Years Not more than \$2000	90 Days - 2 Years \$300 - \$5000	60 Days - 6 Months or up to \$1000 fine <u>or</u> both.
<u>COMMUNITY SERVICE</u>	None	Not an option for third offenders	Not an option for third offenders	240-720 Hours in lieu of imprisonment (240 are mandatory).
<u>RESTITUTION</u>	Yes, victims' fund and direct compensation to the victim.	Direct compensation to victim.	Where warranted - victims' fund.	Victim's compensation fund or direct payment to victim.
<u>LICENSING ACTION</u>	At least 1 year (BAL 0.10%) Within 5 years intoxicated	3 Years <u>or</u> permanent if 2nd OUI was within 5 years of 3rd OUI (BAL 0.10%) Within 7 years.	1 Year (Max) (BAL 0.10%) Within 7 years	1 Year (Max) (BAL 0.08%) Within 5 years
<u>VEHICLE IMPOUNDMENT</u>	No	No	No	No

DRIVING UNDER THE INFLUENCE OF ALCOHOL
PENALTIES FOR THIRD OFFENDERS

Page 2

PENALTIES	NEW YORK	NORTH CAROLINA	PENNSYLVANIA	UTAH
<u>ALCOHOL</u> <u>EDUCATION-</u> <u>TREATMENT</u>	7-week course - and treatment as prescribed by certified agency.	Treatment may be by order of the court as a condition of probation; court may order group/individual imprisonment imposed may be a condition of probation to be served in an inpatient alcohol treatment facility.	Everyone must take and pass approved alcohol highway safety class. Court may order group/individual therapy up to 2 years; "Chronic" abuser may be ordered (committed) into treatment; but not in lieu of jail. Court supervision, 6-12 months.	Judge must order education/ treatment at licensed facility.
<u>OTHER</u>	Certificate of Registration may be suspended or revoked.			

DRIVING UNDER THE INFLUENCE OF ALCOHOL
PENALTIES FOR THIRD OFFENDERS

(September 1988)

<u>PENALTIES</u>	<u>VERMONT</u>	<u>VIRGINIA</u>	<u>WISCONSIN</u>
<u>JAIL AND FINE</u>	48 Consecutive Hours 1 Year - \$500 - \$1500	2 Months - 1 Year \$500 - \$1000	30 Days - 1 Year \$600 - \$2000
<u>COMMUNITY SERVICE</u>	10 Days Community Service alternative to 48 hours jails	None	None
<u>RESTITUTION</u>	None	None	Yes, direct compensation to victim, plus a victims' com- pensation fund (\$150)
<u>LICENSING ACTION</u>	2-3 Years (If revoked for 3 or more years, license may be rein- stated if abstained from alcohol for 2 years). (BAL 0.10%) Within 5 years	5-10 Years (BAL 0.10%) Within 5 Years	90 Days to 2-3 Years (BAL 0.10%) Within 5 Years
<u>VEHICLE IMPOUNDMENT</u>	No	No	No
<u>ALCOHOL EDUCATION-TREATMENT</u>	10-Hour course for multiple offenders and successful com- pletion of therapy program - minimum 6 months, 20 session (Residential treatment is an alternative to jail time.)	If person is dependent on alcohol at time of conviction, participated in rehabilitation and treatment and is no longer dependent, and otherwise not a threat to public safety, license may be reinstated in 5 years.	21-24 hours education, assessment results used to refer to treatment and comply with driver safety plan.
<u>OTHER</u>			

APPENDIX A

State-Specific Survey Questionnaire
[Example: Hawaii]

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Hawaii

FIRST OFFENDER:

1. Is the 48-hour jail sentence a mandatory minimum? Are all first offenders imposed a jail term? If not, what criteria are used in sentencing?
 1. No. Mandatory minimum option.
 2. No. Mandatory option.
 3. Hawaii Revised DUI Statute
Traffic Abstract Record (see attached brochure)
 2. What criteria/circumstances influence whether community service is in addition to or in lieu of jail? How is the required length of service determined?
 1. Hawaii State DUI Statute. (see brochure)
 2. Traffic Abstract Record.
 3. Court discretion.
 3. Are the 12 months and 90 days minimums (or maximums) for a refusal and conviction, respectively?
 1. Twelve month license revocation.
 2. Alcohol dependency assessment.
 4. Is completion of the 14-hour education/treatment program required before license restoration? What criteria are used to determine who needs alcohol/drug related counseling? How is successful completion defined? What are the major features of the education/treatment program?
 1. No.
 2. Hawaii State DUI Statute.
 3. Successful completion not defined.
 4. Major features of education program include investigative screening interviews, counseling, and DUI course referral or comparable program.
-

SECOND OFFENDER:

1. Same as Question #1 cited for first offenders.
See first offender question #1 answer and brochure.
 2. Same as Question #2 for first offenders.
See first offender question #2 answer and brochure.
 3. Have education/treatment requirements been implemented or plan to be in the near future? What are the requirements (if they currently exist)?
 1. Yes. Education requirements have been implemented.
 2. Alcohol dependency evaluation by Department of Health Certified Substance Abuse Counselor.
-

STATE: Hawaii

THIRD OFFENDER:

1. Is community services an option for third offenders; if so, please describe?
 1. No
 2. None

2. Is rehabilitation required for third and subsequent offenders; if so, please describe.

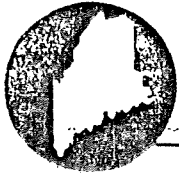
Yes. Second and subsequent offenders are required to submit to an alcohol abuse or dependency evaluation for possible treatment rehabilitation, generally, through a private program. Offenders referred to a program must absorb the program cost(s).

OTHER:

See attached Hawaii State DUI Statute brochure.

APPENDIX B

Survey Concerning Drinking and Driving
[Example: Hawaii]



UNIVERSITY OF SOUTHERN MAINE

Human Services Development
Institute

96 Falmouth Street
Portland, Maine 04103
207/780-4430

SURVEY CONCERNING DRINKING AND DRIVING (August 1988)

1. How many drivers are convicted annually for drinking and driving in your State? 4,022

2. Approximately how many drivers convicted (annually) for drinking and driving are:

3,457 First Offenders

480 Second Offenders

85 Third and Subsequent Offenders

3. Has your State experienced problems with overcrowded jails/prisons because of sentencing requirements for drivers convicted of drinking and driving?

First Offenders [] Yes [X] No

Second Offenders [] Yes [X] No

Third and Subsequent Offenders [] Yes [X] No

Please Explain:

According to the Hawaii State correctional information aid statistics, there have not been any known strategies implemented to reduce the jail population of convicted drunk drivers. Therefore, there has been no known over crowding jail problem attributed to convicted drunk drivers. As a result questions 4,5,6,7, and 10 are irrelevant.

4. To address the problem of overcrowding in jails/prisons because of an increased number of convicted drunk drivers, which strategies have been implemented by your State? (Irrelevant)

<u>Strategy</u>	<u>Offender Population</u>		
	<u>First</u>	<u>Second</u>	<u>Third+</u>
a. Community Service Program(s)	[]	[]	[]
b. Probation (Supervised - or Unsupervised)	[]	[]	[]
c. Work Release Programs	[]	[]	[]
d. Flexibility in Scheduling Jail Time	[]	[]	[]
e. Good Time Credits	[]	[]	[]
f. Work Credits (Voluntary Public Work Programs)	[]	[]	[]
g. Educational Programs	[]	[]	[]
h. Minimum Security Facilities in Lieu of Jail	[]	[]	[]
i. Alcohol-related Educational Programming in Jails/- Prisons or Other Secure/- Non-secure Facilities	[]	[]	[]
j. Single State Minimum Security Facility for Drunk Drivers	[]	[]	[]
k. Alcohol-related Treatment/- Rehabilitation	[]	[]	[]
l. Other (Please Specify)	[]	[]	[]

5. Please identify and describe the strengths/weaknesses of the strategies that you checked in Question #4, and note the recommendations you would offer other states implementing similar strategies.

(Irrelevant)

6. How did your State fund the new facilities needed because of convicted drunk drivers? (Irrelevant)

- a. ☐ General Obligation Bonds
- b. ☐ Public Building Authority
- c. ☐ Appropriation from a General Fund
- d. ☐ Lease with Option to Purchase
- e. ☐ Contract with Private Profit/Non-profit Firm
- f. ☐ Alcohol Taxes
- g. ☐ Other (Please Specify) _____

7. How are you funding the new strategies and/or other services and programs for convicted drunk drivers. (Irrelevant)

<u>Service</u>	<u>Offender Population</u>		
	<u>First</u>	<u>Second</u>	<u>Third+</u>
a. Facility Maintenance (Reimbursement to the locality for the cost of the jail stay.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Community Service Fees (Reimbursement for managing programs.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Probation Services (Reimbursement to States and localities for probation services.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Pre-sentence Investigations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Diagnostic Assessments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Drinking Driver Alcohol-related Education	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Alcohol-related Treatment Rehabilitation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Other (Please Specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. What are the strengths and weaknesses of the funding system used by your State to support services/programs for convicted drunk drivers? What recommendations would you offer to other States?

The Hawaii State Division of Driver Education is supported by the State of Hawaii and a driver education training fund which includes a five dollar assessment on every moving and certain other traffic offense violations with one dollar collected from each insured motor vehicle. The State and Special Fund enable the program to provide necessary services.

No recommendations are offered to other States in dealing with the strengths and weaknesses of their respective funding systems.

9. Has your State conducted an impact and/or administrative evaluation of the alternative sentencing strategies/program(s) that it implemented for convicted drunk drivers?

[] Yes - - - - - If YES, please forward a copy of the
evaluation report to the University of
[] In progress Southern Maine.)
[X] No

10. Have additional needs/problems been identified as a result of implementing the new strategies/sentencing alternatives for convicted drunk drivers such as: more (or less) clients than anticipated, cost of services/programs, etc.? If so, please describe the problems encountered and how they were resolved.

(Irrelevant)

11. Current literature suggests that a comprehensive corrections program for drunk drivers should have at least 10 elements. In your opinion, how important is each program element?

<u>Program Elements</u>	<u>Level of Importance</u>			
	<u>Not At All</u>			<u>Very</u>
a. Detention Following Arrest	0	1	(2)	3
b. Detoxification	0	1	(2)	3
c. Pre-sentence Investigation and Screening	0	1	(2)	3
d. Short-term Jail Sentence	0	(1)	2	3
e. Long-term (10-to-90-day) Work Release Sentence	(0)	1	2	3
f. Prison Sentence	(0)	1	2	3
g. Alcohol-related Education and Treatment	0	1	2	(3)
h. Community Service	0	1	(2)	3
i. Probation Supervision	0	1	2	(3)
j. Collection of Fines and Fees	0	(1)	2	3
k. Other (Please Specify)	0	1	2	3

12. Comments:

None

THANK YOU FOR FILLING OUT THIS QUESTIONNAIRE.

Please return this survey by August 24, 1988 to: Polina McDonnell,
University of Southern Maine, Human Services Development Institute, 96
Falmouth Street, Portland, Maine 04103. A postage-paid, self-addressed
envelope is enclosed for your convenience.

APPENDIX C

State-Specific Questions Concerning DWI Sanctions

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: California

FIRST OFFENDER:

1. When is restitution required?

Restitution may be ordered at the discretion of the court.

2. Is education/rehabilitation required only for those offenders with probationary status? Please explain.

Alcohol education is mandatory for all first offenders who receive probation when a county approved alcohol education program is available.

3. What criteria are used to determine level of participation? What is the nature of the alcohol-related education component and treatment?

Each county sets its own guidelines for program length, content, and costs. Most programs offer 10-14 hours of education. Some counties have a second level usually consisting of 20-29 hours designed for people who are arrested with a high blood alcohol content.

4. Is participation and completion of an education/rehabilitation program required for reinstatement of license?

No

5. Does successful completion reduce the license suspension period? How is successful completion of education/treatment defined?

First offenders from counties which have a county-approved alcohol education program face a six month driver's license suspension unless they are sentenced to participate in and complete the program. All but one of California's 58 counties has an approved program. The program is responsible for notifying the court of people who fail to participate and complete the program. Completion is defined as compliance with all of the program's rules and participation in all activities.

6. Under what circumstances is vehicle impoundment required?

Court may order a vehicle impounded for 1-30 days at the owner's expense when the owner is the convicted driver.

STATE: California

SECOND OFFENDER:

1. Under what circumstances is restitution required?

Restitution may be ordered at the discretion of the court.

2. Same as Questions #2 through #5 under first offense.

Alcohol treatment is not mandatory for second offenders. However, those who participate in a state-licensed, year-long program are eligible for a restricted driver's license in lieu of an 18-month driver's privilege suspension. The license is restricted for driving to and from work, the alcohol treatment program, and during the course of employment. These restrictions may be removed either by completing the program or by petitioning the court for their removal after 6 months of successful program participation. If, however, a person fails to continue participation in the program for the full year, then their driving privilege is suspended. The alcohol treatment program consists of a minimum of 12 hours of education, 52 hours of group counseling, and biweekly individual interviews. Completion is defined as compliance with all of the program's rules and participation in all activities.

3. Under what circumstances is vehicle impoundment required?

Vehicle impoundment for 1-90 days at the owner's expense is required when the convicted driver is the owner of the vehicle. Exceptions may be made in the interest of justice.

THIRD OFFENDER:

1. Under what circumstances is restitution required for third offenders?

Restitution may be ordered at the discretion of the court.

2. Does license withdrawal refer to suspension or revocation? What criteria are used in suspending licenses (length of suspension)?

Mandatory license revocation for 3 or 5 years is required depending upon whether either injury or death was involved. In order to have the driving privilege reinstated, third and subsequent offenders must complete either a one-year or a 30-month state-licensed drinking driver program.

STATE: California

THIRD OFFENDER (Con't.):

3. Is education/rehabilitation required only for those with probationary status? What are the major features of the education/treatment programs for third offenders?

Participation and completion of a state-licensed drinking driver program of at least one year is a mandatory condition of probation for third and subsequent offenders who have not previously completed such a program. If a jurisdiction offers a 30-month state-licensed drinking driver program, third and subsequent offenders who are sentenced to these programs may receive a reduced jail term. In these jurisdictions the 30-month program is a mandatory condition of probation for persons who are convicted of driving while intoxicated when bodily injury or death results. The major features of the one-year program are described in Question 2 of the second offender information. The 30-month program contains more intensive education, group meetings, and individual monitoring interviews than the one-year program. It also requires voluntary community service.

4. How are the offenders's rehabilitation needs assessed?

Courts may conduct a presentence investigation to determine the method of treatment that best suits the individual.

5. Are the rehabilitation requirements different for third offenders than for first and second offenders, e.g., length and/or intensity of rehabilitation? How is successful completion defined?

The 30-month program is specifically designed for third offenders. The program is longer and more intensive than the ones designed primarily for first and second offenders. In order to complete the program, a person must present satisfactory evidence to the court of their progress.

6. Under what circumstances is vehicle impoundment enforced?

Vehicle impoundment for 1-90 days at the owner's expense is required when the convicted driver is the owner of the vehicle. Exceptions may be made in the interest of justice.

STATE: California

FOURTH AND SUBSEQUENT OFFENDERS:

1. Under what circumstances is restitution required?

Restitution may be ordered at the discretion of the court.

2. Does license withdrawal refer to suspension or revocation? What criteria are used in suspending licenses (length of suspension)?

Mandatory 4 year driver's license revocation. Term increased to 5 years when convicted of driving while intoxicated that resulted in injury or death.

3. Same as Question #3 and #4 under third offender.

Response same as items 3 and 4 for third offender.

4. Under what circumstances is vehicle impoundment enforced?

Vehicle impoundment for 1-90 days at the owner's expense is required when the convicted driver is the owner of the vehicle. Exceptions may be made in the interest of justice.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Florida

FIRST OFFENDER:

1. Is there a mandatory minimum jail sentence? Do all first offenders get sentenced to jail? If not, what criteria are used to determine who is incarcerated and who is not?

IA - Yes

IB - No

IC - First offenders are rarely sentenced to jail.

2. How is the length of community service determined?

Mandatory minimum is 50 hours of community service for a first offense.

3. What are the circumstances under which hardship licenses are issued?

After completion of OUI school a judge may issue a business-only driving permit.

4. Is the one year license suspension for a refusal automatically imposed? Does it vary in length from one case to another? If it varies, what criteria are used?

Yes, the suspension length is one year for all cases.

5. What, if any, alcohol-related courses and rehabilitation programs and participation requirements have been implemented for OUI offenders?

A OUI program is required for all offenders, consisting of four (4) nights, three (3) hours each night. This school also screens and refers offenders into treatment.

SECOND OFFENDER:

1. How are jail terms determined?

Judicially, for the most part. Second Offenders are sentenced to jail.

STATE: Florida

SECOND OFFENDER (Con't.):

2. Is community service an option for second offender sentencing? Is yes, please explain.

Community service is an option for a second offense.

3. Are there any treatment requirements? If so, please explain.

Treatment may be required through OUI school.

THIRD OFFENDER:

1. Is community service a sentencing option for third offenders? Please explain.

No, usually the offender will be given a jail sentence.

2. Are there treatment programs and participation requirements for third offenders?

Yes, OUI school can refer them into treatment if they are not sentenced to a lengthy jail sentence.

FOURTH AND SUBSEQUENT OFFENDERS:

1. What is the mandatory minimum fine for fourth offenders?

1,000 fine for the fourth offenders.

2. Is community service a sentencing option; if yes, please explain.

Yes, although it is mandatory for first offenders, it is optional for the fourth offender.

3. What alcohol education-rehabilitaion programs currently exist for chronic offenders -- how are the programs different from those designed for first and/or second offenders?

There are no programs which exist just for OUI offenders, these offenders are placed in treatment programs as space provides.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Georgia

FIRST OFFENDER:

1. Is community service an option for first offenders?
Yes
 2. Is six months and one year a minimum (or a maximum) period of suspension of license for refusals and convictions?
Yes
 3. Is completion of an alcohol/drug treatment program required of first offenders? What are the participation criteria?
No
 4. What is the nature of the DWI alcohol/drug program? How is successful completion defined?

Attending 12 hours of Alcohol and Drug Education, sober and paying a \$50 fee.
-

SECOND OFFENDER:

1. Does the amount of community service required for defendants vary? If so, what criteria are used to determine the amount? Are other sanctions reduced, i.e., jail term, fine etc., through community service? If yes, to what degree?

The amount of community service is decided by the court and yes this would be in lieu of jail term but has no bearing on fine.
 2. Is six months and three years a minimum (or a maximum) for suspending a license for a refusal and a conviction?
Yes
 3. Are participation requirements and program(s) the same for second offenders as for first offenders? If not, how do they differ? What constitutes successful completion?
Yes
-

STATE: Georgia

THIRD OFFENDER:

1. Is the fine of \$1,000 the minimum or maximum?

Maximum

2. Is community service an option? If so, how does this option differ from second offenders?

It is not an option for third offenders.

3. Is the six-month suspension for a refusal the mandatory minimum or the maximum that can be imposed? Is the five year revocation for a conviction a mandatory minimum or a maximum term?

Six months suspension for a refusal is maximum. The five year revocation is considered to be maximum.

4. What, if any, policies and programs address the treatment (or alcohol education) needs of third offenders?

None at this time.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Illinois

FIRST OFFENDER:

1. What are the minimum and maximum jail sanctions and fines? What factors constitute restitution?

\$1000 fine, 1 year in jail (maximum)

2. Is community service an option? If not, why?

Discretionary - Judicial

3. Under what circumstances is a judicial driving permit granted or a hardship license issued?

First offense only.

4. Is alcohol-related education and/or rehabilitation an option/requirement for first offenders? Please explain.

Option - Discretionary - Judicial

SECOND OFFENDER:

1. What portion of the jail term is suspended for community service?

2. Under what circumstances are restricted/hardship licenses considered/issued?

Same as first offender.

3. Is alcohol-related education and/or rehabilitation a sentencing option for second offenders? Please explain.

Same as first offender.

STATE: Illinois

THIRD OFFENDER:

1. Is community service available as an option in lieu of jail or is it imposed in addition to jail? Under what circumstances is community service an option and used as part of sentencing?

2. Under what circumstances are hardship/restricted licenses issued?

Documentation - proof of treatment; 1 year sobriety

3. Are there alcohol/drug education and/or rehabilitation requirements for third offenders? Please explain.

Option - Judiciary

Mandatory - Secretary of State

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Indiana

FIRST OFFENDER:

1. Is community service an option? If so, under what circumstances?

Yes, for any first offender if a community service program is available to the court.

2. What criteria are used in classifying drivers as first offenders?

No known previous conviction at time of adjudication. Driver history is not routinely obtained in all cases/courts.

3. Why is the refusal-related suspension of 1 year not mandatory in all cases? When does the 1 year suspension apply?

Law states all refusals will receive 1 year administrative suspension. Later, judge can order the administrative license suspension suspended.

4. What criteria are used in determining which offenders will be (a) evaluated and (b) must seek and complete treatment?

No, set criteria, up to judge's discretion.

5. Under what circumstances are vehicle registrations suspended?

None, in early 1900's registration could be revoked for OUI.

SECOND OFFENDER:

1. Same questions as those noted under first offender.

Community service option for second offender, but depends on availability of programs. Classification of examination of drivers history. Evaluation procedure set by individual court. Second offender can be found guilty as a felon.

STATE: Indiana

THIRD OFFENDER:

1. Under what circumstances is community service used as an alternative to jail? What portion of the jail sentence is suspended?

Community service is at judge's discretion. Only 10 days are mandatory - any additional jail time can be suspended.

2. When is the 1 year suspension for a refusal not imposed?

It is administrative and should always be imposed. There are no set of circumstances in law to exempt anyone from suspension.

3. Are third and subsequent offenders required to participate in alcohol-related rehabilitation? Under what circumstances?

Not necessarily, at discretion of court.

4. Under what circumstances are vehicle registrations suspended? For how long?

Third offender can also be found to be a habitual substance offender which adds 8 years to any sentence.

FOURTH AND SUBSEQUENT OFFENDERS:

1. Same questions as those noted for first and third offenders.

Same as for third offenders. In practice, many persons have four convictions before the book is thrown at them and they are convicted as felons.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Kentucky

FIRST OFFENDER:

1. Under what circumstances is community service required? What criteria are used to determine whether it will be in lieu of a fine or imprisonment? To what extent is each reduced?

Judges option upon client request. Community service for not less than 2, no more than 30 days in lieu of fine and/or jail or both.

2. Under what circumstances is restitution required?

Judges discretion, not required.

3. Does the court discern, in terms of penalties, between first and subsequent refusals?

No

4. Under what circumstances is education/rehabilitation required? Is all or part of the revocation period suspended as a result of participation in (1) education and/or (2) rehabilitation?

Education/rehabilitation is not required but incentives are in place to reduce length of license suspension.

5. Is participation and completion of education/rehabilitation required for license reinstatement?

Yes

6. What is the nature of the education/rehabilitation programs (inpatient/outpatient, number of hours, etc.)?

Nine hours education and substance abuse assessment using MAST, Mortimer-Filkens and New Drivers Risk Inventory, from Behavior Data Systems, Phoenix, Arizona. Both State Comprehensive Care Centers and Department of Transportation programs as well as some private providers conduct programs.

STATE: Kentucky

SECOND OFFENDER: (Con't.)

1. Under what circumstances is community service required? What criteria are used in deciding if service is in lieu of jail term or fine?

Judges option to require in addition to fine and jail.

2. Under what circumstances is restitution required?

Judges discretion, not required.

3. Under what circumstances is education/rehabilitation required? What constitutes successful completion?

Multi-offender required to enter 1 year education/treatment program for license reinstatement.

4. Is participation and completion of education/rehabilitation required for license reinstatement?

No

5. Is the programming for second offenders (education/rehabilitation programs) the same as for first offenders? If no, please explain.

Only education is required for first offenders rehabilitation of continuing out patient services to 1 year are required for multi-offense.

THIRD OFFENDER:

No distinction between second and all subsequent convictions except law states treatment program may be an inpatient or residential type program. And if released early, remainder of year shall be on an outpatient basis.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Massachusetts

FIRST OFFENDER:

1. Is there a minimum jail term?

No, however, clients, if convicted, can be mandated to up to 2 years incarceration for a first offense.

2. Under what circumstances may 30 hours of community service be ordered by the court? What portion of the jail sentence is suspended for 30 hours of community service?

None

3. Does the court determine/order whether the defendant should participate in alcohol education, rehabilitation, or both? What criteria are used to determine the defendant's needs in terms of specific programs and what constitutes successful completion of those programs?

First offenders are generally ordered to complete a 40-hour 16 week alcohol treatment program. Second offenders must complete 14-day inpatient treatment program or a minimum of 14 days in jail. Subsequent offenders must serve at least 60 days in jail.

Criteria: (1) attempts at prior treatment, (2) prior arrests, (3) other arrests.

SECOND OFFENDER:

1. Is community service ordered in addition to or in lieu of a jail sentence?

Rarely used at the present time.

2. Is the jail sentence suspended in part, or total, as a result of community service?

No

STATE: Massachusetts

SECOND OFFENDER (Con't.):

3. Is the defendant required to participate in aftercare/outpatient counseling after the 14-day stay? How is the length of such involvement determined?

Yes. Generally, outpatient programs offering services to clients who have completed the 14-day program require a minimum of twenty weeks participation in individual or group counseling. Clients are also provided with a written treatment plan when they exit the 14-day hospital stay. The treatment plan generally recommends that the client attend a minimum of three self-help groups per week (AA, NA, ALANON, ACOA, etc.) in addition to their counseling requirement. Probation enforces that treatment plan. Violation can be returned to court for failure to complete probation requirements if treatment is not completed.

THIRD OFFENDER:

1. What circumstances/criteria result in 30 hours of community service being ordered? Are such services in addition to or in lieu of imprisonment?

Not available

2. What policies exist concerning third offenders? For example, is alcohol-related education/treatment participation mandatory for this group? Are there special programs which are different from the programming for the first and second offender population? Please explain.

Yes. One program is available. It is a minimum six-month incarceration which includes an intensive substance abuse program. The facility is a converted hospital and serves both the function of a treatment facility and a minimum security prison. Many third offenders will not have access to this facility because of limited bed space and, serve their time in the general prison population.

FOURTH AND SUBSEQUENT OFFENDER:

1. Under what circumstances is community service (30 hours) ordered by the court? Is it in lieu of or in addition to other sanctions?

Not applicable

STATE: Massachuetts

FOURTH AND SUBSEQUENT OFFENDER: (Con't.)

2. Are assessments conducted to determine need for alcohol-related services?

Yes

3. Are fourth and subsequent DWI offenders mandated to undergo alcohol-related rehabilitation. Please explain.

Fourth and subsequent offenders have access to the 6-month program mentioned above. Clients are often imprisoned in the general prison population first. If the client requests an evaluation he/she will be seen by an intake worker from the facility (Longwood Treatment Hospital) and will be evaluated as a candidate for the program. If approved, the person will be placed on a waiting list for the next available bed.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Michigan

FIRST OFFENDER:

1. Is community service in addition to or in lieu of a jail sentence? What portion of the jail sentence is suspended for community service and under what circumstances?

Community service is generally in lieu of a jail sentence, with 8 hours of civil service substituting for each day in jail. Civil service is given to those offenders considered non-violent.

2. Under what circumstances are hardship licenses issued?

See attached. (None for revoked)

3. Are all first offenders required to undergo an assessment of alcohol/drug problems? Is participation in education/rehabilitation mandatory for all first offenders?

Pre-sentence screening and assessment is mandatory for all convicted of a "drunk driving" violation. Participation in any education/rehabilitation program is at the discretion of the judge (most likely a recommendation from the screening and assessment).

4. What criteria are used to determine whether education or rehabilitation is required? What constitutes successful completion?

Unknown

SECOND OFFENDER:

1. The questions noted for first offenders (for community service, hardship licenses, and education/rehabilitation) apply to second offenders also.

Same as for first offenders.

STATE: Michigan

THIRD OFFENDER:

1. Is community service in addition to or in lieu of imprisonment? If in lieu of, what portion of the jail sentence is suspended?

Same as for second offenders.

2. Are assessment procedures for third offenders the same as for first and second offenders? Under what circumstances are offenders required to participate in education or rehabilitation, or both?

Yes, etc.

3. What constitutes successful completion?
-

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Missouri

FIRST OFFENDER:

1. Which aspects of alcohol-related education and/or rehabilitation are required for first offenders, i.e., assessment, education and/or treatment?

Judge may order education or rehabilitation for first offense under state law. Offenders with BAC .13% or higher are subject to license suspension and must complete an education or rehabilitation program before getting license back.

2. Is participation and successful completion of rehabilitation ever permitted in lieu of incarceration? If yes, under what circumstances?

Yes. Judge has numerous sentencing options.

SECOND OFFENDER:

1. What portion of the jail sentence is suspended in lieu of community services? What criteria are used?

Must serve a minimum of 48 consecutive hours of imprisonment or perform 40 hours community service for second offense under state law. Judge makes the determination.

2. Is community service an option (in lieu of jail) for all second offenders; if not, what are the criteria?

Yes

3. What alcohol-related education/rehabilitation programs exist for second offenders? Is participation/completion in lieu of serving time in jail or other sanctions? How is successful completion defined? Is license restoration contingent upon successful completion of rehabilitation?

Forty-eight hour weekend intervention programs can be substituted for 48 hours of incarceration. License is revoked for 5 years.

STATE: Missouri

THIRD OFFENDER:

1. What is the mandatory minimum jail sentence for third offenders?
2. Why is community service not an option for third offenders?
3. What are the education and treatment participation and completion requirements for third offenders?
4. Are the education and treatment programs for third offenders different from first and second offender programming? If yes, please explain.

No specific or special programs.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Montana

FIRST OFFENDER:

1. Are hardship/restricted licenses available? Under what circumstances are they granted?

Yes, by recommendation of the judge.

2. Under what circumstances is education/rehabilitation required? Is participation and completion of education/rehabilitation required for reinstatement of license?

It is mandatory in all cases but person will get license back after suspension period even if education not completed (weakness in the law).

3. What criteria are used to determine successful completion?

The person must complete the assessment and course and follow recommendation of counselor.

4. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

Assessment/education is 10 hours.

SECOND OFFENDER:

1. Are hardship/restricted licenses available? Under what circumstances are they granted?

Only after 90 days, completion of education and filing financial responsibility.

2. Under what circumstances is education/rehabilitation required? Is participation and completion of education/rehabilitation required for reinstatement of license?

Same as first offense, except license is revoked for a year.

3. What criteria are used to determine successful completion?

The person must complete the assessment and course and follow recommendation of counselor.

STATE: Montana

SECOND OFFENDER:

4. What is the nature of education/rehabilitation (inpatient/
outpatient, number of hours, etc.)?

Assessment/education is 10 hours.

THIRD OFFENDER:

1. Are hardship/restricted licenses available? Under what
circumstances are they granted?

Same as second offender.

2. Under what circumstances is education/rehabilitation required? Is
participation and completion of education/rehabilitation required
for reinstatement of license?

Same as second offender.

3. What criteria are used to determine successful completion?

Same as second offender.

4. What is the nature of education/rehabilitation (inpatient/
outpatient, number of hours, etc.)?

Same as second offender.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: New Hampshire

FIRST OFFENDER:

1. What is the mandatory minimum fine?

There is no minimum. An individual may be fined up to \$500.00. The average fine is \$200.00.

2. Are hardship/restricted licenses available? If yes, under what circumstances?

No

3. Under what circumstances is education/rehabilitation required? Is the license suspension reduced if requirements are met, and to what extent?

Attendance at an Impaired Driver Intervention Program is required as a condition of license restoration. A few judges will give a defendant the maximum license suspension and will reduce it upon IDIP completion.

4. What is the nature of the education/rehabilitation programs (inpatient/outpatient, number of hours, etc.)?

SECOND OFFENDER:

1. What criteria are used in establishing length of jail term?

It is mandated by state law.

2. What is the mandatory minimum fine?

\$500. - \$1,000.

3. Are hardhsip/restricted licenses available? Under what circumstances?

No

4. Under what circumstances is education/rehabilitation required?

It is mandated if the person wishes to restore their driving privileges.

STATE: New Hampshire

SECOND OFFENDER: (Con't.)

5. What is the nature of the education/rehabilitation programs (inpatient/outpatient, number of hours, etc.)?

Currently, the second offender is under the same education requirements as the first offender. The curriculum is still being defined for the new program.

6. What constitutes successful completion of education/rehabilitation? To what extent, if any, are license suspension periods reduced if education/rehabilitation requirements are met?

Entering, participating and completing the entire program constitutes completion. There is no reduction of license suspension periods.

THIRD OFFENDER:

1. How are jail terms (length) determined?

At the present time the third offenders are treated in the same fashion as the second. This will change in '89 as explained in an earlier question.

2. What is the mandatory minimum fine?

3. Are hardship/restricted licenses available? Under what circumstances are they granted?

4. Under what circumstances is education/rehabilitation required?

5. What is the nature of the education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

6. How is successful completion defined? Does completion result in reduced license suspensions; if yes, to what extent?
-

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: New Jersey

FIRST OFFENDER:

1. Is there a minimum jail term?
No
 2. Is community service an option for first offenders? If no, why not?
Yes
 3. Under what circumstances is restitution required?
Not applicable
 4. Are hardship/restricted licenses ever available? Under what circumstances are they granted?
No
 5. Is alcohol-related treatment an alternative to other mandated sentencing?
No
 6. Is participation and completion of education/rehabilitation required for reinstatement of license?
Yes
 7. What is the nature of an intoxicated driver resource center (inpatient/outpatient, number of hours, etc.)?
Twelve (12) to twenty-four (24) hours.
-

SECOND OFFENDER:

1. Under what circumstances is community service required? How is length determined? Are other sanctions suspended/reduced by performing community service? If so, to what extent?
Statute
 2. When is restitution required?
-

STATE: New Jersey

SECOND OFFENDER: (Con't.)

3. Are hardship/restricted licenses ever available? Under what circumstances?

No

4. Under what circumstances is education/rehabilitation required?

All

5. Is participation and completion of education/rehabilitation required for reinstatement of license?

Yes

6. What is the nature of the intoxicated driver resource center (inpatient/outpatient, number of hours, etc.)?

7. Is the jail term totally suspended or only in part?

Only in part

THIRD OFFENDER:

1. Under what circumstances is community service required? To what extent is the jail term reduced?

In lieu of jail time.

2. Under what circumstances is restitution required?

Not applicable

3. Are hardship/restricted licenses available? Under what circumstances?

No

4. Under what circumstances is education/rehabilitation required?

All

STATE: New Jersey

THIRD OFFENDER: (Con't.)

5. Is participation and completion of education/rehabilitation required for reinstatement of license?

Yes

6. What is the nature of an inpatient rehabilitation facility (number of hours, etc.)? How does it differ from the driver resource center?

Usually 30 days.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: New York

FIRST OFFENDER:

1. Under what circumstances is restitution required? What criteria are used?

No standards requiring restitution.

2. Is there a maximum license revocation period for DWI offenders?

Yes, life is two personal injury accidents.

3. Under what circumstances is education/rehabilitation required? How is need for participation in education and/or rehabilitation assessed?

Only for second offenders.

4. Is participation and completion of education/rehabilitation required for reinstatement of license? To what extent, if any, are suspensions reduced?

No reductions in suspensions. However, participation in state drinking driver program does make most eligible for conditional license.

5. What is the nature of the education/rehabilitation programs (inpatient/outpatient, number of hours, etc.)? What constitutes successful completion?

Education is 7 weeks; alcohol treatment - client specific.

SECOND OFFENDER:

1. Under what circumstances is restitution required? What criteria are used?

Not

2. Is there a maximum license revocation period for DWI offenders?

Yes

3. Under what circumstances is education/rehabilitation required?

To obtain revoked license.

STATE: New York

SECOND OFFENDER: (Con't.)

4. Is participation and completion of education/rehabilitation required for reinstatement of license? Yes Are license suspension periods reduced because of participation?

No

5. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

Education is 7 weeks. Treatment is client-specific.

6. How is successful completion of alcohol-related education/rehabilitation defined?

Completion of 7 week course. Treatment is based on treatment plan and discharge criteria established by certified agency.

THIRD OFFENDER:

1. Under what circumstances is restitution required?

Not required.

2. Is there a maximum period for license revocation for DWI offenders?

Yes, life injury (2 events).

3. Under what circumstances is education/rehabilitation required?

See above.

4. Is participation and completion of education/rehabilitation required for reinstatement of license?

See above.

5. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)? Are alcohol-related education/rehabilitation programs for chronic DWI offenders different from first and second offender programs? If so, what are the major differences?

See above.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: North Carolina

FIRST OFFENDER:

1. Is community service an option at this level; if no, why not?

Yes

2. Under what circumstances is restitution required?

See enclosure.

3. What time frames are used to determine whether an offense is the first or subsequent DWI?

7 years

4. What are the criteria that determine which level of prosecution is required for a defendant?

See enclosure.

5. Under what circumstances is education/rehabilitation required? Is participation and completion of education/rehabilitation required for reinstatement of license?

At discretion of judge based on results of substance abuse assessment (pre or post trial). If education/rehabilitation ordered, completion is required for reinstatement of license.

6. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)? What constitutes successful completion? What portion of the jail term, if any, is suspended in lieu of rehabilitation?

Primarily out-patient, group. Successful completion.

SECOND OFFENDER:

[SEE ENCLOSURES]

1. Is community service an available option?

2. Under what circumstances is restitution required?
-

STATE: North Carolina

SECOND OFFENDER: (Con't.)

3. Under what circumstances is education/rehabilitation required? Is participation and completion of education/rehabilitation required for license reinstatement?
4. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)? What portion of the jail sentence is suspended in lieu of rehabilitation?

THIRD OFFENDER:

[SEE ENCLOSURES]

1. Under what circumstances is community service required? How is the length of service required determined?
 2. Under what circumstances is restitution required?
 3. Under what circumstances is education/rehabilitation available?
 4. Is participation and completion of education/rehabilitation required for license reinstatement? What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)? What portion of the jail term is suspended in lieu of rehabilitation?
-

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Pennsylvania

FIRST OFFENDER:

1. Under what circumstances is community service required?

At the discretion of the court.

2. Under what circumstances is restitution required?

In all circumstances when the court identifies it is warranted.

3. Is there any discernment between first and subsequent refusals and is there any discernment between first and subsequent convicted offenders for licensing action?

First and subsequent refusal - 1 year

First and subsequent conviction - 1 year

First offender (ARD) - 1 month to 1 year discretion of court

4. Is participation and completion of education/rehabilitation required for reinstatement of license? What is ARD? Please describe.

They are required as mandatory minimum however, not linked to license must qualify ARD - no prior OUI within 7 years, no death/serious injury or major violation in addition to OUI.

5. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

Education required - twelve and one half hours; description of OUI laws treatment options enclosed.

SECOND OFFENDER:

1. Is community service an option for second offenders? If so, please describe parameters.

Used at discretion of court. Parameters are unknown, however it cannot be used in lieu of incarceration.

2. Under what circumstances is restitution required?

See above.

STATE: Pennsylvania

SECOND OFFENDER: (Con't.)

3. Is participation and completion of education/rehabilitation required for reinstatement of license? What criteria are used to determine successful completion?

See above. Completion of all requirements imposed at County level -- i.e., attendance and compliance with all treatment requirements, i.e., abstinence where warranted etc.

4. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

Same as above.

THIRD OFFENDER:

1. Is community service an available sentencing alternative for third offenders?

Judicial discretion used but not in lieu of incarceration.

2. Under what circumstances is restitution required?

Where warranted in all circumstances.

3. Is participation and completion of education/rehabilitation required for reinstatement of license? What criteria are used to determine successful completion?

Same as above.

4. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

Same as above.

FOURTH AND SUBSEQUENT OFFENDERS:

1. Is community service available for fourth offenders? If yes, please describe the parameters.

Same as above

2. Under what circumstances is restitution required?

Same as above.

STATE: Pennsylvania

FOURTH AND SUBSEQUENT OFFENDERS: (Con't.)

3. Is participation and completion of education/rehabilitation required for reinstatement of license? What criteria is used to determine successful completion?

Same as above. However, penalties are consistent with habitual offenders - five years license revocation.

4. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

Same as above.

5. Is treatment (alcohol-related) for the chronic offender different from that offered/required of first and second offenders? If yes, please describe.

Evaluation results indicate the level of treatment warranted - probability of inpatient rehabilitation is great at this level as well as third offenders.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Utah

FIRST OFFENDER:

1. What is the mandatory minimum fine?

See enclosed.

2. Under what circumstances is community service required? How is length of service decided? To what extent is the jail sentence reduced; what criteria are used in substituting community service for imprisonment?

Judicial discretion on length and substitution of jail sentence.

3. Is participation and completion of education/rehabilitation required for reinstatement or license?

Yes

4. What assessment criteria are used to determine whether a defendant should attend either an education or treatment program? Please describe the DWI educational component and the treatment program.

See attached OUI program outline - we have a state mandated curriculum. See attached Administrative Rule R807-004-5.

5. What criteria are used in determining successful completion of alcohol-related education/rehabilitation?

See attached Administrative Rule R807-004-5.

SECOND OFFENDER:

1. The questions noted under the first offense section apply to second offenders as well.

See above.

STATE: Utah

THIRD OFFENDER:

1. The same questions as those cited under the first offense section.
In addition: Are the alcohol-related education/rehabilitation completion requirements and/or programming different, for third offenders than for first and second offenders? If yes, Please explain.

Refer to the above.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Vermont

FIRST OFFENDER:

1. Is there a minimum jail term?

No

2. Is community service an available option for sentencing of first offenders? If yes, please identify and describe it in terms of criteria used; whether it is in addition to or in lieu of jail, etc.?

3. Are hardship licenses available; if yes, what criteria are used in granting them?

No

4. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

10 Hours Education/Intervention

Possible court ordered treatment monitored by probation officers.

5. What criteria are used to determine successful completion of education rehabilitation?

Attend all sessions sober and straight.

Participate in groups and complete all assignments.

Pass final examination.

Develop a realistic plan for avoiding future OUI.

SECOND OFFENDER:

1. Under what circumstances is community service required? How is service time established; is part of the jail term suspended if community service is performed?

10 Days community service is an alternative to 48 hours of jail time. (Residential treatment is also an alternative.)

2. Are hardship/restricted licenses available? What criteria are used in granting them?

No

STATE: Vermont

SECOND OFFENDER:

3. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

10-hour course for multiple offenders successful completion of a therapy program which must be a minimum of six months and 20 sessions.

4. What criteria are used to determine successful completion of education/rehabilitation?

Letter from counselor stating that the client is a significantly reduced risk for recidivism.

THIRD OFFENDER: SAME AS SECOND OFFENDERS

1. Under what circumstances is community service required? How is service time established; what part of the jail term is suspended due to community service?
 2. Are hardship licenses available? What are the criteria?
 3. How is it determined that defendants have abstained from alcohol prior to reinstatement of license?
-

FOURTH AND SUBSEQUENT OFFENDER: SAME AS SECOND OFFENDER

1. Are hardship licenses available? Under what circumstances are they granted?
 2. Is alcohol-related rehabilitation available/mandatory for fourth and subsequent offenders? Are any of the alcohol-related education and/or rehabilitation services provided during incarceration? If yes, please describe.
-

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Virginia

FIRST OFFENDER:

1. Is there a minimum jail term? What criteria are used to establish the length of the jail term?

Second offense - 48 hours in jail

2. When is education/rehabilitation required?

Defendant must volunteer - most first offenders do.

3. What criteria are used to determine successful completion of education/rehabilitation, thus license restoration?

First offenders retain license; success criteria is recidivism.

4. What is the nature of alcohol-related education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

Education = 20 hours

Prescribed Treatment = 20 + hours and individual needs assesstment

SECOND OFFENDER:

1. Is education/rehabilitation required of all second offenders? If not, what criteria are used to determine who should/should not participate?

Not required.

2. Is participation and completion of education/rehabilitation required for reinstatement of license? What criteria are used to determine successful completion?

No

3. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

As above.

STATE: Virginia

THIRD OFFENDER:

1. The same questions apply to third offenders as those noted for second offenders?

Third offenders do not enter Virginia Alcohol Substance Abuse Prevention (VASAP) as a general rule.

STATE-SPECIFIC QUESTIONS CONCERNING DWI SANCTIONS
(August 1988)

STATE: Wisconsin

FIRST OFFENDER:

1. When is restitution required?

If ordered by the judge. Restitution is an optional sentencing penalty.

2. Is education/rehabilitation required only for injury-related DWI convictions.

No, required of all OUI and OUI-related convictions.

3. What criteria are used to determine successful completion of education/rehabilitation?

Complete attendance and acceptable safe driving plan for education. Attainment of individualized treatment plan goals and objectives for treatment driver safety plans.

4. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

Education is Group Dynamics-Traffic Safety School, which has uniform curriculum, certified instructors, 21-24 hours (in 3 hour sessions) small group (15 or fewer) with a focus on responsible use and driving. Treatment driver safety plans are determined by the person's dependency pattern status based on a uniform assessment instrument administrative rule guidelines on appropriate findings and plans. All counties offer a continuum of services and special program revenue (DIS) is available for persons whose ability to pay is inadequate for the cost of their treatment services. Treatment plans may include outpatient (individual, group, family), inpatient (hospital or non-hospital based), residential, aftercare, detoxification, and/or day treatment services. Length of treatment also varies according to individual need.

Both education and treatment for IDP clients are governed by administrative codes and provider agencies are state certified.

SECOND OFFENDER: SEE ABOVE

1. When is restitution required?
-

STATE: Wisconsin

SECOND OFFENDER (Con't.):

[SEE FIRST OFFENDER SECTION]

2. Is education/rehabilitation required only for injury-related DWI convictions?
3. What criteria are used to determine successful completion of education/rehabilitation?
4. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

THIRD OFFENDER:

[SEE FIRST OFFENDER SECTION]

1. When is restitution required?
2. Is assessment education/rehabilitation required only for injury-related DWI convictions?
3. What criteria is used to determine successful completion of education/rehabilitation?
4. What is the nature of education/rehabilitation (inpatient/outpatient, number of hours, etc.)?

OTHER: Please see brochure for mini-description and penalties for Wisconsin's Intoxicated Driver Program (IDP), which requires assessment and satisfactory completion of a driver safety plan for all OUI offenses, Implied Consent refusals, and persons identified by the Department of Transportation due to convictions in other states or new OUI arrests with prior IDP involvement.

APPENDIX B
Advisory Committee

OUI CHRONIC OFFENDERS ADVISORY COMMITTEE

Carl Allen
PO Box 632
Ellsworth, Maine 04605

Bill Hayden
Substance Abuse Project
Androscoggin County Jail
2 Turner Street
Auburn, Maine 04210

Linwood K. Oakes, Sr.
DEEP/OADAP
State House Station #11
Augusta, Maine 04333

Chris Almy
District Attorney
Penobscot County
97 Hammond Street
Bangor, Maine 04401

David Kee, Chair
Substance Abuse Comm.
Maine Bar Association
PO Box 370
Bucksport, Maine 04416

Honorable Alan C. Pease
District VI Court
Rockland, Maine 04841

Commissioner John Atwood
Dept. of Public Safety
State House Station #42
Augusta, Maine 04333

Annika Lane
Office of Policy & Legal
Analysis
State House Station #13
Augusta, Maine 04333

Rep. Charles Priest
9 Bowker Street
Brunswick, Maine 04011

Harry Bailey
SR 1271
Belfast, Maine 04915

Rev. Douglas MacDonald
PO Box 50
Acton, Maine 04001

Marilyn Robb
MADD
PO Box 8821
Portland, Maine 04104

Rep. Harlan Baker
440 Cumberland Ave.
Portland, Maine 04101

Cathy Manchester
RR #1 - Box 198
Bridgton, Maine 04009

Sgt. Anne P. Schaad
Dept. of Public Safety
State House Station #42
Augusta, Maine 04333

Senator Beverly Bustin
10 Middle Street
Hallowell, Maine 04347

Paul McDonnell
Community Alcoholism Services
107 Elm Street
Portland, Maine 04101

George Storer
Driver Licensing & Control
State House Station #29
Augusta, Maine 04333

Wesley Davidson
Aroostook Mental Health Center
PO Box 1018
Caribou, Maine 04736

John McElwee
District Attorney
Aroostook County
240 Sweden Street
Caribou, Maine 04736

William Tanner
New Directions/KVRHA
122 State Street
Augusta, Maine 04330

David Finn, President
MAADAC
30 Mellen Street
Portland, Maine 04101

Neill Miner
OADAP
State House Station #11
Augusta, Maine 04333

Chief Ronald Whary
16 Benton Avenue
Winslow, Maine 04901

Donald Gean
York County Alcoholism Shelter
Rt. #202, PO Box 20
Alfred, Maine 04002

Ralph Nichols
Department of Corrections
State House Station #111
Augusta, Maine 04333

Sheriff Frank Hackett
115 State Street
Augusta, Maine 04333

Robert O'Connell
Motor Vehicle Division
State House Station #29
Augusta, Maine 04333

APPENDIX C

Advisory Committee Review
and Comments Concerning
Initial Proposals Concerning
the OUI Offender

ADVISORY COMMITTEE ON OUI MULTIPLE OFFENDER
Meeting October 4, 1988
Preliminary Notes

Members of the Advisory Committee on OUI Multiple Offenders met on October 4, 1988. The purpose of the meeting was to review/comment upon Maine's possible approaches to addressing both the enforcement and treatment of 1st, 2nd and 3rd OUI offenders. The committee members had previously received material concerning (1) Maine's current approach to OUI (e.g., sentencing and DEEP) and model options, (2) overviews of single state facilities for 3rd OUI offenders developed by other states and (3) an overview of what approximately 20 other states are doing to address OUI offenders in terms of enforcement and treatment.

The emphasis was upon having the participants relate not only their opinions but also the results of their efforts. Unless otherwise noted, the following reflects the themes and ideas of the majority of the group.

OVERVIEW

1. First Offender: This group must be addressed as a first step.
 - a. We need to evaluate the outcomes related to 1st offenders before we can determine the 2nd and 3rd offender populations.
 - b. Data suggests that an effective 1st offender program would significantly reduce the 2nd and 3rd offender populations.
 - c. Screen out inappropriate individuals.
 - d. If the in-jail assessment staff were funded by external sources (e.g., state), the alternative site 1st offender program could be funded through the redistribution of existing funds or through savings.
 - e. Program would include assessment, optional site, and treatment referral.
 - f. There is a need to establish and enforce standards to assure quality 1st OUI offender alternative site programs.
 - g. There should be a degree of flexibility to allow different approaches to reach the same goal.
2. Second and Third Offender
 - a. Alternative (e.g., state) funding of in-jail substance abuse staff. This person(s) would also be involved with the first offender.

- b. Focus was upon assessment, initial educational program, and post jail treatment referral.
 - c. Screen out inappropriate individuals.
 - d. Note: There did not seem to be support for sentence reduction related to treatment.
 - e. Post jail treatment should be a condition of probation.
3. OUI Facility: There was little or no support for a separate facility for the OUI 3rd offender.
- a. OUI 3rd offenders are a heterogeneous group. Some could profit from a less intrusive program (e.g., 28-day residential rehabilitation) while others (the majority?) have a long history of other crimes.
 - b. A single facility would remove the individual from their home area and thus the option of work release. Note: There are differences of opinion related to release for their own job vs. community service.
 - c. A rural facility may eliminate community service resources.
 - d. If 1st offenders are removed from jail, and additional funds (e.g., state) are available for in-house substance abuse staff, the jails could potentially provide for 2nd and 3rd offenders.
 - e. Models were identified that would provide optional sites for selected 2nd offenders.
4. Costs:
- a. Background material showed that a minimal (e.g., A.A.) in jail program for a single OUI facility could be \$33/day (see Massachusetts). This includes all costs.
 - b. An intensive treatment program in a secure setting (e.g., 28-day residential rehabilitation) could cost upwards of \$200/day. This does not include security costs.
 - c. First Offender: The in-jail substance abuse staff for the 1st, 2nd and 3rd offenders, would cost about \$250,000 statewide. (See ADPC Jail Study). The Kennebec County Jail optional site model is based upon the re-use of existing funds.
 - d. Second and third offenders, education and referral (see above \$250,000).
 - 1. In-jail costs: Assessment, initial treatment/counseling and referral.
 - 2. Probation: If treatment is a condition of probation, the probation costs must be developed.
 - 3. Post-incarceration treatment: If treatment is mandated, costs needs to be determined.

5. Evaluation:

- a. Follow-up of jail and optional site 1st offenders. Note: Although some of the data suggests an extraordinarily high success rate of optional site programs, most of these individuals have also been through DEEP. Is there a combined influence?
- b. Various models have been proposed to reach the same goals. The state should set standards for and evaluate the outcomes of appropriate models. Note: This allows for individual approaches.
- c. Should we initiate and evaluate a few models involving selected 2nd and 3rd offenders? This would include the effectiveness of screening as well as outcomes. The Y-camp model for 2nd offenders was identified.

OTHER

The following reflects comments by individual members.

1. Kennebec Jail Project (1st offenders): 97% of the first offenders meet the criteria for the alternative site program. 1/3 of these individuals are referred for treatment.
2. The in-jail services are (and should be) primarily educational, not treatment. There were strong, but mixed, feelings related to in-jail treatment.
3. The alternative site and the DEEP weekend programs are primarily assessment, educational and referral to treatment (if appropriate).
4. Although questions were raised about the non-jail 1st offender, the group focused upon the jail population.
5. Questions were raised concerning incentives and treatment. Although no one seemed to support sentence time reduction related to treatment, there was support for linking treatment to probation.
6. OUI populations. Whereas, the 2nd and 3rd are a very heterogeneous group, it was recommended that our population be individuals currently serving time in the county jail for OUI only. If they are there for theft and have an OUI charge, the person is not appropriate.
7. Screening of clients is important. This includes not only behavior related to the OUI but also past behavior. Note: Other states screen clients.
8. Immediacy of treatment and jail. Concern was expressed related to the time lapse between the offense and jail/treatment. Although it was suggested that treatment could follow the conviction (with the alternative jail site program occurring 2-3 months later), the appropriateness of this was questioned.
9. There was concern that some counties may not implement a program. It was suggested that the State may have to step in and run some programs.

10. It was suggested that most (if not all) counties would implement programs.
 - a. A savings could be shown.
 - b. The programs are new and the counties must be informed.
 - c. Work with county commissioners can show how a re-allocation of current resources can work.
 - d. Counties can work together, if one could not support a separate program.
11. We need accurate data/information related to populations, outcomes and costs.
12. Start up-funds (the \$250,000) are necessary. The existing programs have direct funding of jail programs by the state (Kennebec and Androscoggin) or indirect (York).
13. Note: We need to bring together the various components of the system. For example, the jail programs and DEEP provide CUI assessment and education. There are various CUI jail models (Kennebec, Androscoggin, or York). How many of the 2nd and 3rd offenders are already on probation, enter treatment, etc. If over 80% of the optional site individuals also attend DEEP, is this a cumulative effect? How can we use DEEP's weekend program as part of the 2nd and 3rd offender mandated treatment?

These notes will be distributed to the advisory committee members. In addition to immediate review/comment, a second meeting will be held in late October, 1988.

Attendance OUI Multiple Offender
October 4, 1988

Carl Allen
P.O. Box 632
Ellsworth, Maine 04605

Robert O'Connell
Motor Vehicle Division
State House Station #29
Augusta, Maine 04333

Paul McDonnell
Community Alcoholism Services
107 Elm Street
Portland, Maine 04101

Donald Gean
York County Alcoholism Shelter
Rt. #202, P.O. Box 20
Alfred, Maine 04002

Lirwood K. Oakes, Sr.
DEEP/OADAP
State House Station #11
Augusta, Maine 04333

Annika Lane
Office of Policy & Legal
Analysis
State House Station #13
Augusta, Maine 04333

Marilyn Robb
MADD
P.O. Box 8821
Portland, Maine 04104

Rep. Charles Priest
9 Bowker Street
Brunswick, Maine 04011

Sheriff Frank Hackett
115 State Street
Augusta, Maine 04330

Neill Miner
OADAP
State House Station #11
Augusta, Maine 04333

Chief Ronald Whary
16 Benton Avenue
Winslow, Maine 04901

William Tanner
New Directions/KVRHA
122 State Street
Augusta, Maine 04330

Bill Hayden
Substance Abuse Project
Androscoggin County Jail
2 Turner Street
Auburn, Maine 04210

Commissioner John Atwood
Dept. of Public Safety
State House Station #42
Augusta, Maine 04333

Chris Almy
District Attorney
Penobscot County
97 Hammond Street
Bangor, Maine 04401

APPENDIX D

The Feasibility of Establishing A Detention
and Rehabilitation Facility for
The Chronic OUI Offender

1. Is there a need for a specialized facility for chronic OUI offender?
Current information does not support the need for a specialized facility in Maine.
 - a. The county jails serve only approximately 146 3rd OUI offenders per year.
 - b. The average daily population is 42. That is, on a daily basis, they occupy a total of 42 beds in our 15 county jails.
 - c. If we established a preventative program (1st offender) and screened out inappropriate 3rd offenders, the 3rd offender population for a "specialized" facility would be significantly reduced.
 - d. If a 1st offender alternative site program was established, the overcrowding of county jails would be significantly reduced. This appears to be a (if not the) major reason for promotion of optional site programs.
 - e. If jail space is made available through the reduction of the 1st offender in-house population, and in-house educational, screening and referral programs are implemented, Maine could establish 3rd offender jail programs equal to those in Arizona and Maryland within the Maine county jail system. The major components are work release or community service, screening, a minimal educational program (e.g., 4 hrs. an evening) and referral for post incarceration treatment. Probation with mandated treatment is another issue. Existing information suggests that a large percentage of this population is on probation and has been referred to treatment (DEEP).
 - f. If jail space is available, many individuals would remain in closer proximity to their community and work (if work release was appropriate), the need for community service "jobs" would be spread around, continuity between in and post jail substance abuse services would be better, etc.
2. If a specialized facility was appropriate, what is the feasibility of utilizing an existing state facility?
 - a. If the OUI 3rd offender population was reduced by 1/2 through prevention/screening, a facility of approximately 25 beds would be required.
 - b. A staff person of the ADPC visited and evaluated Bishop Hall at Pineland. The following presents a summary of his report.
 - (1) The facility could house approximately 20 individuals, including both living and program space.
 - (2) Extensive renovations (including a roof and security fence), furniture, etc., are required.
 - (3) Female accommodations must be made. The current structure could be renovated.

- (4) The location is in appropriate for many reasons.
- (a) Pineland is the residence for over 200 retarded individuals. Bishop Hall is within 200 yards of one of the housing units which allows residents complete access to Pineland grounds. It would be inappropriate to place correctional clients in such close proximity to the intellectually handicapped. This involves safety, treatment and philosophical issues. The 3rd offender is not simply a person that has 3 OUI arrests.
 - (b) As with any single facility located a great distance from an urban area, most inmates would be removed from their immediate family, jobs, etc. Thus, a rural facility must be viewed as a relatively closed facility/program that usually employs it's own staff rather than drawing upon community resources.
 - (c) A single facility, in a rural location, would depend primarily upon "community service jobs". The value of community service jobs has been seriously questioned in terms of income, quality of work, etc. Further, would a place like Pineland reimburse the OUI Program? Arizona has multiple community service contracts which result in many state agencies reimbursing the Department of Corrections.
- c. Although other states (Maryland, Massachusetts and Arizona) have utilized specialized facilities, only the Maryland program involves a population similar to the population in our county jails. Further, the Maryland program emphasizes continuation of employment rather than community service jobs. Thus the location of the facility (State or other) is important. Two of the states (Maryland and Arizona) emphasize work (work release or community service). Education, A.A. etc., are secondary while incarcerated.
- d. Our county jails (if the 1st offender populations are removed) could provide a "local" facility which allows for work, night programs, and lock-up similar to the Maryland model.
3. If such a facility was established, what would be the costs and how would we generate funding? The costs are highly dependent upon the program. Funding is highly dependent upon the capacity of the individual to pay or the "community service" agencies to reimburse for work completed. However, most states that responded to the survey recommended that the individual pay directly (work release) or indirectly (community service) for all expenses from arrest through post-incarceration treatment. An ability to pay approach needs to be established as many late stage alcoholics are unable to earn an adequate wage.
- a. The Maryland program would be quite similar to a county jail program that allowed for work release (which Maine jails do) and a 4 hour evening educational program. The inmates are required to reimburse the jail for all costs. The charge of \$34 a day is high in order to cover non-paying inmates.

- b. The Arizona (minimal program) and Massachusetts programs (similar to 28-day rehabilitation) did not provide cost figures. Their estimates of client income etc., presented some problems as many clients did not earn the expected income.
- c. A Maine 28-day residential rehabilitation program located in a free-standing facility costs about \$200/day or \$5,600 for the 28 day program.
- d. Estimate yearly operational cost for a 25 bed specialized chronic OUI offender (not including security) would be:
 - (a) County jail type: \$310,250/yr: (25 bed x \$34 x 365 days)
 - (b) Twenty-eight day rehabilitation: \$1,725,000/yr: (25 bed x \$200 x 365 days)
 - (c) Options: If the \$1.7 million were set aside, services could be purchased post-incarceration from existing community programs. The previously identified \$250,000 could provide the in-jail program.
- 4. The feasibility of using the facility as part of overall sentencing mechanism available to the courts.
 - a. All states screen individuals before allowing them to enter the specialized program. Pre-sentence screening would be required if the individual was to be sentenced directly to the facility.
 - b. States utilize these as the facility for the total sentence and as an optional site at the end of the sentence. However, the latter groups involve felons and do not reflect the OUI population in Maine County Jails.
 - c. Although two states (Massachusetts and Arizona) allow felons to transfer to these facilities, they screen-out individuals with a history of violent crimes. Also, it is questionable if treatment post prison would be more effective if provided post-incarceration in a halfway-house and/or as a condition of probation.
 - d. Members of the advisory committee recommended that treatment be primarily post-jail (education in jail) and as a condition of probation.
 - e. Treatment, as a condition of jail time and probation, must be based upon an appropriate assessment. Thus, although the length and conditions of jail time and probation are set at the time of sentencing, the specific type of treatment may not be determined until the person has served jail time. Thus, in some cases, pre-sentencing investigations can establish probation time while in other cases probation must be of sufficient time to allow flexibility in treatment time.
 - f. A decision has to be made concerning the populations to be served. The questions suggest that we may be attempting to mix populations that have very diverse needs and program requirements. The Maryland program is very specific in terms of sentence (7-21 days)

and program. The Arizona and Massachusetts programs mix a wide range of OUI offenders. The result is that we don't address either the punishment or treatment needs.

5. Overall: It is recommended that the state consider options other than a specialized facility. If the 1st offender is removed from the county jails, space is less crucial. If treatment funds are set aside the services for 2nd and 3rd offenders can be purchased post-jail from existing community service providers. Throughout the process, if the client is to pay, he/she must have access to employment and insurance.

OUI.CR

November 8, 1988



John R. McKernan, Jr.
Governor

Rollin Ives
Commissioner

STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
AUGUSTA, MAINE

ADDRESS REPLY TO

Alcohol and Drug Abuse Planning Committee
State House Station #11
Augusta, Maine 04333
Tel: 289-2595

December 12, 1988

TO: Advisory Committee, Chronic OUI Offender

FROM: Al Anderson, ADPC

Subject: Follow-up on the number of 2nd/3rd OUI offenders who are in Maine
County Jails and on probation/parole

Per an earlier request of the Committee, I asked the Department of Corrections for information concerning 2nd/3rd OUI offenders that are in Maine County Jails and on probation/parole. Ralph Nichols, DDC, provided the attached information.

Please note that at my request, Ralph obtained a 100% determination for a particular day. Although the result may vary, the 49.8% result is consistent with estimates provided by others.

The result is key in terms of your recommendations. If the OUI 2nd/3rd offender program dealt with only individuals on probation/parole, we would address 50% of the problem. Thus, a significant percentage of the population could be addressed without adding to the current probation and parole case load.

If you have any questions, please contact me.

Jail Population Info for 11/23/88

Operating Under the Influence

<u>County</u>	<u>Time & Contact Person</u>	<u>Phone #</u>	<u>2nd Offenders</u>	<u>3rd Offenders</u>	<u># Probation & Parole</u>
Androscoggin	John Lebel - 11:00	784-7361	2	0	2
Aroostook	David Bell - 1:00	532-7317	6	4	1
Cumberland	Steve Johnson - 10:00	774-5939	22	22	14
Franklin	Lee Dalrymple - 10:00	778-2680	1	0	1
Hancock	Richard Bishop - 11:00 or Terry Robertson	667-7575	1	0	0
Kennebec	Kenneth Fore - 12:00	623-3591	11	8	8
Knox	Ray Voyer - 1:00	594-5656	2	1	3
Lincoln	Gerald Silva - 10:00	549-7072	2	2	4
Oxford	Ernest Martin - 10:00	743-8934	1	1	2
Penobscot	Tom McCrea - 4:00	947-4585	4	5	6
Piscataquis	Edward Marsh - 10:00	564-3304	2	1	2
Somerset	Charles Wietzke - 12:00	474-9591	3	0	2
Waldo	Joseph Smith - 10:00 or Dispatcher Butler	338-1080	1	0	1
Washington	Jim Foss - 4:00	255-3434	2	2	1
York	Bill Beckwith - 11:00	324-1111	0	0	0
			<hr/> 60	+ 106 + <hr/> 46	<hr/> 47
					<u>49.8%</u>



John R. McKernan, Jr.
Governor

Rollin Ives
Commissioner

STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
AUGUSTA, MAINE

ADDRESS REPLY TO

Alcohol and Drug Abuse Planning Committee
State House Station #11
Augusta, Maine 04333
Tel: 289-2595

December 13, 1988

TO: OUI Chronic Offender Advisory Committee

FROM: Al Anderson, ADPC

SUBJECT: Outcome evaluation of DEEP

Per your request, Neill Miner provided the enclosed material concerning outcomes related to DEEP. Note that this is based upon 1983 data. Neill has an up-date report in progress which should be available in the next two months.

The information identifies a number of key points related to the individuals involved in the study.

1. The "no participation" group (did not become involved in DEEP, evaluation or treatment) represented 48.8 % of the recidivists (Figure II-11). This group represented only approximately 37% of the population studied (Figure II-12).
2. DEEP clients represented 28.4% (Figure II-11) of the recidivists although it represented approximately 34% of the population studied (Figure II-12).
3. The recidivist rate of "no participation" was 27.2% and DEEP clients 17.4%.
4. Overall, the data for the population studied shows that "no participation" represents the largest percentage of recidivists and have a higher recidivism rate than DEEP clients.

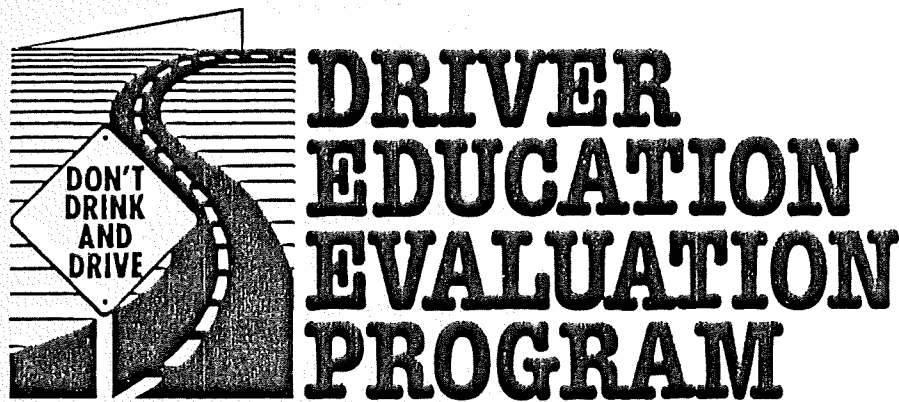
Although the data related to the other groups is interesting, the groups are relatively small and the results should be interpreted with caution. However, the data shows:

1. Although evaluation and treatment groups represent a low percentage of the recidivists (Table II-11), their recidivism rate (Table II-12) is higher than the DEEP group.
2. The "incomplete" group data is questionable.

If you have any questions, please contact me.

cc: A.L. Carlisle
OUI.DEEP

A STUDY OF OUI IN MAINE: PARTICIPATION IN DEEP, REARREST AND PERCEPTIONS OF OUI LAWS, ENFORCEMENT AND SERVICES



32 Winthrop Street, Augusta ME 04330

Prepared by:

University of Southern Maine
Center for Research and Advanced Study
Human Services Development Institute

Prepared for:

Maine Department of Human Services
Bureau of Rehabilitation
Division of Driver Education Evaluation Programs

JANUARY 1987



RECIDIVISM

The original intent was to examine DEEP participation in order to determine the extent to which intervention has a positive impact on rearrest rates. As data analyses progressed, however, an additional area emerged as potentially important for at least some preliminary assessment: the chronic offender group. (Chronic offenders are defined, for purposes of this study, as those drivers who had one or more OUI convictions before and after the 1983 OUI.) Thus, this section of the report examines rearrest rates, participation in DEEP, and driver characteristics of (1) the entire study sample and (2) the chronic offender group.

Recidivism Rates in Relationship to DEEP Completion

Based on the information contained in DMV Driving Record Reports, 21.1 percent of the entire study sample of 1000 drivers repeated OUI behavior and were caught after the 1983 OUI conviction. Of the 211 drivers who were rearrested for OUI, almost an equal number had completed all DHS-DEEP requirements as the number who did not. As shown in Figure II-11, the largest percentage (48.8%) of recidivists were individuals who did not participate in any level of intervention.

Figure II-11: RECIDIVISM RATES AS A PERCENT OF TOTAL REARRESTS
BY LEVEL OF PARTICIPATION IN DEEP

<u>Participation Level</u>	<u>Recidivists</u>	
	<u>Number</u>	<u>Percent</u>
No Participation	103	48.8
Incomplete	3	1.4
DEEP Course	60	28.4
Evaluation	22	10.4
Treatment	23	10.9
<u>Total</u>	(211)	(99.9)

Examining rearrest rates within the levels of completion, non-participants were found to have the highest recidivist rate (27.2%) when compared to both the rearrest rates within intervention levels as well as the overall rearrest rate for DEEP completors (Figure II-12).

Figure II-12: REARREST RATES WITHIN EACH PARTICIPANT GROUP

<u>Participation Level</u>	<u>Number of Individuals</u>	<u>Number of Recidivists</u>	<u>Recidivist Rate</u>
No Participation	378	103	27.2
Incomplete	87	3	3.4
DEEP Course	345	60	17.4
evaluation	99	22	22.2
Treatment	90	23	25.5
Total/Rate	(999)	(211)	(21.1)

Data in Figures II-11 and II-12 suggest that educational and therapeutic intervention has a positive impact on OUI recidivism when compared to drivers convicted of OUI who do not participate in any intervention modality. This is also shown in Figure II-13 where participation levels are grouped somewhat differently.

Figure II-13: NUMBER OF SUBSEQUENT ARRESTS FOR OUI BY LEVEL OF DEEP PARTICIPATION IN 1983

(Level of DEEP Participation)

<u>Number of Rearrests</u>	<u>No DEEP Participation</u>	<u>Unsatisfactory Completion of other Requirements</u>	<u>Satisfactory Completion of all Requirements</u>	<u>Totals</u>
None	284 (76.1)	21 (87.5)	424 (80.1)	729 (78.7)
One or more	89 (23.9)	3 (12.5)	105 (18.9)	197 (21.3)
Totals	373	24	529	926

This table suggests a minimal positive effect of participation in DEEP on subsequent OUI arrest rates. Nearly 24 percent of persons who did not participate in or complete DEEP experienced a rearrest

for driving under the influence. This compares to less than 20 percent of those who satisfactorily completed the DEEP course, additional alcohol evaluation and treatment for substance abuse if indicated. However, the small group of persons who initiated but did not complete alcohol evaluation or treatment, actually had the lowest rearrest rate of the three groups.

Characteristics of Recidivists

between-group comparisons of recidivist characteristics based on the level of intervention (Figure II-14) are summarized below.

Age. Within four of the five intervention levels, including non-participants and dropouts, the largest percentage of the recidivists were between 25 and 34 years of age. Recidivists in the "referred to treatment, but requirements not met" tended to be younger with the largest percentage being between 20-24 years of age.

Gender. About nine in ten recidivists were male in four of the five intervention categories. Again, the exception was in the "referred to treatment, but requirements not met" category where all recidivists were male.

1983 BAC. More than half of the recidivists (55.7%) who did not participate in DEEP at any level had a 1983 BAC equal to .15 but not greater than .24 percent; only 43.2% of the DEEP course completors had a 1983 BAC in this range.

OAS and HO Violations. One in three non-participants were arrested for OAS after the 1983 OUI conviction, and one in two recidivists in this group were declared habitual offenders. Recidivists who did not participate in DEEP at any level whatsoever tended to have a higher incidence of OAS and HO violations than OUI recidivists who participated in DEEP.

Summary

The rearrest rate after the 1983 OUI conviction and before October 15, 1985 was highest within the group that did not participate in any level of intervention offered by the Department of Human Services, Driver Education Evaluation Program. A substantially larger percentage of this group repeated OUI behavior and was rearrested during the timeframe under study than those who participated in DEEP and met all requirements, including educational and therapeutic intervention when indicated. In addition to the greater OUI recidivism rate, non-participants also tended to be apprehended and convicted more frequently for operating after suspension of license and were declared habitual offenders after the 1983 OUI more frequently than were individuals who participated in intervention.

Figure II- 14

Profile of Drivers Re-Arrested for OUI by Participation
Level and Selected Characteristics

Participation Level	<u>CLIENT CHARACTERISTICS</u>				
	Age	Gender	1983 BAC	Post 1983 OAS	Post 1983 HO Status
No Participation	25 - 34 (36.9%)	Male (97.1%)	.15 - .24% (55.7%)	1 to 3 Conv. (33.0%)	Declared HO (55.3%)
Met All DEEP Course Requirements Satisfactorily	25 - 34 (38.3%)	Male (90.0%)	.15 - .24% (43.2%)	1 to 3 Conv. (16.7%)	Declared HO (16.7%)
Referred for Additional Evaluation. Requirements Not Met		(No Re-Arrests)			
Referred for Additional Evaluation, Requirements Met	25 - 34 (36.4%)	Male (90.0%)	.15 - .24% (61.5%)	1 to 3 Conv. (0.0%)	Declared HO (18.2%)
Referred to Treatment, Requirements Not Met	20 - 24 (66.7%)	Male (100.0%)	.10 - .14% .15 - .19% (33.3% ea.)	1 to 3 Conv. (0.0%)	Declared HO (33.3%)
Referred to Treatment, Requirements Met	20 - 24 25 - 34 (34.8% ea.)	Male (87.0%)	.15 - .19% (44.4%)	1 to 3 Conv. (17.4%)	Declared HO (43.5%)