

*Observational
Study of the
Extent of
Driving While
Suspended for
Alcohol-Impaired
Driving*



U.S. Department of Transportation
National Highway Traffic Safety
Administration

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| 16. Abstract A study was undertaken to determine the proportion of first-time alcohol-impaired driving offenders who drive while suspended and the circumstances and motivations for driving. Systematic, unobtrusive observations were conducted by surveillance professionals from Pinkerton Investigative Services, Inc., of first-time offenders in Milwaukee (WI) and Bergen County (NJ). Observations included two 4-hour periods during suspension (one weekday morning, one Friday/Saturday evening) and two 4-hour periods after license reinstatement (matched by day of week and time of day). In all, 1,000 hours of observational data were gathered for 93 subjects (57 in Milwaukee and 36 in Bergen County). Milwaukee subjects had more problematic driving histories and were significantly more likely to drive while suspended. Of subjects observed traveling in some way while suspended, 88% of Milwaukee subjects drove, compared to 36% of Bergen County subjects. Only 5% of Milwaukee subjects had their license reinstated, compared to 78% of Bergen County subjects. Bergen County subjects were significantly more likely to drive after reinstatement than during their suspension, suggesting that the suspension had an impact on the subjects' driving patterns. Focus groups, conducted at both sites, indicated that the license suspension represented a much greater hardship for New Jersey offenders than for Milwaukee offenders. New Jersey laws are much stronger, and Bergen County offenders had a much higher perceived risk of apprehension and punishment for driving while suspended. | | | | | |
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Background

Research spanning the last 20 years has consistently shown that removal of the driver's license is an effective specific and general deterrent for alcohol-impaired driving; the effects are both short-term and long-term. Nevertheless, there is a body of statistical and anecdotal evidence that offenders continue driving after their license has been withdrawn, although perhaps less frequently and more carefully. Most evidence of continued driving has relied on drivers' self-report or on rates of re-arrest for drinking and driving, traffic violations, or crash involvement. This study represents the first systematic effort to gather objective, independent, and unobtrusive observational data on the driving patterns of drivers who are suspended for alcohol-impaired driving.

Objectives and General Approach

The study addressed the following objectives:

- determine the extent and circumstances of driving while suspended, relative to the extent and circumstances of driving when not suspended
- determine the transportation patterns and motivations for driving among offenders before, during, and after suspension

The study encompassed observations of offenders' driving patterns and focus group research at two sites, the City of Milwaukee (WI) and Bergen County (NJ). Subjects were persons who had recently lost their driver's license as a result of their first alcohol-impaired driving conviction.

Study Sites

In selecting sites, preference was given to states with sanctions that ensured that most first-time offenders experienced a "hard" license suspension (no occupational, conditional, or hardship license available) of sufficient length so that observations could be conducted. Other criteria included the availability of timely case-level data on alcohol-impaired driving offenses and reliance by most residents on their vehicle as the primary mode of transportation.

The selected sites, Milwaukee and Bergen County, operate under different alcohol-impaired driving laws. Wisconsin imposes both an administrative and a court suspension for the first Operating While Impaired (OWI) offense. Mandatory minimum penalties include a suspension of six months for failure of the alcohol test [that is, a blood alcohol concentration (BAC) at or above the illegal level] and a one-year revocation for a test refusal. For first-time offenders who have had no other license suspensions

within the prior year, an occupational license can be obtained immediately by persons who fail the alcohol test and after a one-month suspension for persons who refuse the test. There are no special sanctions for driving while suspended/revoked based on an OWI, and there are no mandatory minimum penalties for driving while suspended/revoked.

In New Jersey, there is no administrative license sanction for persons who refuse or fail the alcohol test. Persons convicted of a first-time Driving While Intoxicated (DWI) offense receive a court-ordered mandatory minimum “hard” license suspension of six months, effective at the time of conviction. No occupational or conditional license is available. An alcohol test refusal is charged as a separate violation; for a first-time refusal, the court imposes a mandatory six-month license revocation. If a person is convicted of the separate violations of refusing the test and DWI, the license sanctions are served consecutively rather than concurrently. New Jersey imposes stiff fines for a first offense, including an annual \$1,000 insurance surcharge for three years. Mandatory penalties for driving while suspended for DWI include a one to two-year license suspension, a fine of \$400 or more, a jail term of 10 to 90 days, and an insurance surcharge of \$250 /year for three years. In addition, the vehicle registration is revoked for the same time period as the license suspension, although temporary registration and tags may be issued.

Observational Study

Bonded surveillance professionals from Pinkerton Investigative Services, Inc., observed subjects during their license suspension period and if they had their license reinstated, again after reinstatement. The comparison of travel during and after the suspension period permitted inferences to be drawn concerning whether an offender’s travel patterns changed as a result of the suspension.

Originally, Milwaukee offenders with occupational licenses were to be observed at times when driving was prohibited. Of the initial subject pool, 62% of offenders were eligible to obtain an occupational license, and 25% did so. A review of driver abstracts for these offenders revealed that the occupational licenses generally allowed driving during most daytime and evening hours. Thus, persons in Milwaukee with an occupational license were excluded because there were only a few hours of the day when driving was not allowed at all.

The subjects were observed as follows:

Drivers Whose License Was Later Reinstated: Observed one randomly selected weekday morning for four hours (Monday – Thursday 6 – 10 a.m.) and one randomly selected weekend evening for four hours (Friday or Saturday 6 – 10 p.m.) during the last month of the suspension period; later, from one to two months after reinstatement, observed the same weekday morning and weekend evening.

Drivers Not Reinstated: Observed only during the suspension period, that is, observed one weekday morning and one weekend evening during the last month of the suspension.

Subjects

Case records were obtained from the Milwaukee Municipal Court and from five municipal courts in Bergen County. Subjects were persons who had recently been convicted of a “standard” first-time alcohol-impaired driving offense, were 21 years of age or older, and resided in-state within a 50-mile radius of Milwaukee or Bergen County. It was necessary to exclude a few subjects who could not be located, were incarcerated, etc.

The final subject pool included 57 offenders in Milwaukee and 36 offenders in Bergen County. There were substantial differences between the subjects at the two sites. A larger proportion of subjects in Bergen County than in Milwaukee were 25 years old or younger (31% vs. 18%) and female (25% vs. 11%). A much larger percentage of the Milwaukee subjects had problematic driving histories. The Milwaukee subjects were much more likely to have had at least one suspension (for a violation other than DWI/OWI) during the five years preceding the DWI/OWI arrest (67% vs. 17%) and to be serving at least one suspension at the time of the DWI/OWI arrest (47% vs. 6%).

Subjects in the two sites also differed in the circumstances of their current DWI/OWI arrest. For example, half the arrests in Milwaukee were associated with a reportable crash, compared with none of the arrests in Bergen County. A larger proportion of the Milwaukee subjects were convicted of at least one other traffic offense committed at the time of the DWI/OWI arrest (39% vs. 17%).

Twenty-three (40%) of the 57 Milwaukee subjects were eligible for license reinstatement at the end of the OWI suspension, and 3 subjects (5%) were reinstated. All 36 Bergen County subjects were eligible for reinstatement, and 28 subjects (78%) were reinstated. All but 9 Milwaukee subjects (84%) received at least one additional license suspension after the OWI arrest, and 24 subjects (42%) received two or more suspensions. In Bergen County, 7 of the 36 subjects (19%) received at least one subsequent suspension.

Results

Of the 57 Milwaukee subjects, 30 (53%) drove while suspended during at least one of the two observation periods, 4 (7%) did not drive but used alternative transportation on at least one occasion, and 23 (40%) did not travel during either observation. Of the 36 Bergen County subjects, 8 (22%) drove while suspended at least once during the two observation periods, 14 (39%) did not drive but used alternative transportation, and 14 (39%) did not travel during either observation. The differences between the two sites were statistically significant ($p < .001$). It should be reiterated that Milwaukee offenders who obtained an occupational license (25% of the potential subject pool) were excluded from the observational study.

An alternative measure of the prevalence of driving while suspended is the proportion of subjects who drove, based only on the subjects who were observed traveling during either of the two four-hour observation periods during suspension. The results based on this measure, summarized in the table below, are even more striking. The between-site differences were statistically significant ($p < .001$).

| Method of Travel for Subjects Observed Traveling During Suspension | | |
|---|------------------------------|----------------------|
| | Milwaukee | Bergen County |
| Drove at Least Once | 88.2% (30) | 36.4% (8) |
| Didn't Drive and Used Alternative Travel | 11.8% (4) | 63.6% (14) |
| TOTAL | 100.0% (34) | 100.0% (22) |
| | $X = 16.5, p < .001, df = 1$ | |

Comparison of the during-suspension/after-suspension travel patterns of Milwaukee subjects yielded little useful information, as the license was reinstated for only 3 of the 57 subjects. For the 28 Bergen County subjects who were reinstated, the driving patterns during-suspension were significantly different than the driving patterns after reinstatement. This indicates that the suspension had an impact on the subjects' driving patterns. As shown in the table below, one-quarter of these subjects drove and 43% used alternative transportation during their suspension, versus 54% and 7%, respectively, after reinstatement. The change was significantly different ($p < .001$).

| Observed Travel During Suspension and After License Reinstatement Bergen County | | |
|--|------------------------------|-------------------|
| | Suspended | Reinstated |
| Drove at Least Once | 25.0% (7) | 53.6% (15) |
| Didn't Drive and Used Alternative Travel | 42.9% (12) | 7.1% (2) |
| Travel Not Observed | 32.1% (9) | 39.3% (11) |
| TOTAL | 100.0% (28) | 100.0% (28) |
| | $X = 10.3, p < .001, df = 2$ | |

Focus Groups

Focus groups were used to gather qualitative information on the knowledge, behaviors, and attitudes of persons who had recently experienced a license suspension as a result of their first alcohol-impaired driving offense.

In both Wisconsin and New Jersey, first-time offenders must undergo an assessment for alcohol dependency and complete an alcohol/drug education program. Focus group participants were recruited by means of a flyer that was distributed by instructors in these programs. During the summer of 2001, 16 people participated in three focus groups held in Milwaukee, and 21 people participated in three focus groups held in Bergen County. Most participants in both sites were currently under suspension, and the others had had their license reinstated. Of the 13 Milwaukee participants who were under suspension, 11 had an occupational license.

In both sites, the majority of participants said the worst sanction was the emotional and psychological consequences of the experience. A number of participants in both sites also mentioned the financial costs. Four of the 16 Milwaukee participants, and 7 of the 21 New Jersey participants, said that the license suspension was the worst part of their sentences.

Although there were notable differences in reported attitudes, experiences, and behaviors among participants in each site, the more striking differences were those between sites. Differences in the severity of the states' laws appeared to be an important factor. The penalties imposed on New Jersey participants were more severe, on average, than those imposed on Milwaukee participants. In particular, the financial penalties were considerably higher for New Jersey participants, primarily as a

result of the state-imposed insurance surcharge. The license sanction was also more severe, on average, as the severity of Wisconsin's license suspension was substantially weakened by the availability of the occupational license for many offenders.

In general, the suspension appeared to represent a far greater hardship for New Jersey participants. Many reported that they had made major changes in their work and personal lives to comply with the suspension. Due largely to the availability of the occupational license, few Milwaukee participants made significant changes in their lives to deal with the suspension. The perception of risk for detection and punishment for driving while suspended was much higher among New Jersey participants. New Jersey participants also demonstrated a greater knowledge and a greater fear of the sanctions for driving while suspended. A discussion of the merits of each state's licensing sanction indicated that the sanction in New Jersey, relative to the sanction in Milwaukee, had considerable deterrent power, but also was viewed by many as onerous and unfair.

A sizeable proportion of the participants in both sites indicated that they drove on at least some occasions while their license was suspended. Many of the Milwaukee participants with an occupational license indicated that they drove on at least some occasions outside the restrictions of the license.

Conclusion

The results of the observational study were clear and compelling. Based on observations of eligible first-time offenders in two sites, with observations conducted on a typical weekday morning and on a Friday or Saturday evening, 30 out of 34 offenders (88%) in one site drove at least once when traveling during their suspension period. As subjects were observed only for two four-hour periods during their suspension period, it is likely that the extent of driving throughout the suspension period was very high. At the other site, about one-third drove at least once when traveling. Two-thirds of subjects at this site used alternative transportation rather than driving while suspended. Many of these persons resumed driving once their license was reinstated.

These results establish that the prevalence of driving while suspended among first-time offenders is high; that the prevalence can vary substantially between jurisdictions; and that the license suspension can have an impact on the driving patterns of offenders during suspension, relative to the driving patterns resumed after license reinstatement. The results of the focus group research suggest that the dramatically different results at the two sites may be partly attributable to differences in the severity of sanctions for driving while suspended and differences in the perceived risk of apprehension and punishment for driving while suspended. Thus, although the findings may add to growing concerns that the widespread disregard for license sanctions among drunk drivers may erode the effectiveness of this countermeasure, they also suggest that strong sanctions for driving while suspended, coupled with strong enforcement, may increase compliance with licensing sanctions.

PREPARED FOR THE DEPARTMENT OF TRANSPORTATION, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, UNDER CONTRACT NO. DTNH22-98-D-45079. THE OPINIONS, FINDINGS, AND CONCLUSIONS EXPRESSED IN THIS PUBLICATION ARE THOSE OF THE AUTHORS AND NOT NECESSARILY THOSE OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.

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I. INTRODUCTION

Research spanning the last 20 years has consistently shown that the suspension or revocation¹ of the driver's license is an effective specific and general deterrent for drinking and driving; the effects are both short-term and long-term (Jones and Lacey, 2000; Wagenaar *et al.*, 2000; Peck, 1991; Klein, 1989; Preusser *et al.*, 1988; Peck *et al.*, 1985). Although vehicle-based sanctions (for example, ignition interlock devices) hold great promise as deterrent measures, states rely heavily on the removal of the driver's license as a primary penalty for alcohol-impaired drivers. Arguably, it has been the most cost-effective sanction available, particularly when applied to first-time offenders.

In the U.S., license suspension or revocation traditionally follows conviction for alcohol-impaired driving. Implied consent laws provide that driving privileges also may be suspended or revoked for refusal to submit to a test of blood alcohol concentration (BAC). Administrative license revocation or suspension (ALR/ALS) laws allow police and driver licensing authorities to suspend or revoke a driver's license before conviction, based on the failure or refusal of a BAC test. Such laws have been found to have both general and specific deterrent effects (Wagenaar *et al.*, 2000). As of January 2001, 40 states and the District of Columbia had some form of administrative license suspension/revocation laws applying to the first offense (BAC \geq .08 or .10). An additional two states had an alternative method for removing the license prior to criminal adjudication by the courts. In most jurisdictions, offenders are permitted to obtain an occupational or hardship license during part or all of the administrative/pre-adjudication and the court-imposed suspension periods (NHTSA, 2001).

Despite the demonstrated deterrent effects of license removal, there is evidence that some convicted alcohol-impaired driving offenders continue driving after their license has been withdrawn (Griffin and DeLaZerda, 2000; Wiliszowski *et al.*, 1996; Peck, 1991; Ross and Gonzales, 1988; Jones, 1987). For example, analyses of data on fatal crashes for the years 1993-1997 indicate that 6 percent of all fatal crashes in the U.S. involved at least one driver whose license was currently suspended or revoked for any reason; 27 percent of these drivers had had at least one conviction for alcohol-impaired driving during the three years prior to the crash (Griffin and DeLaZerda, 2000). Using induced exposure methods and data for California drivers, DeYoung *et al.* (1997) estimated that drivers with a suspended or revoked license (for alcohol-impaired driving or any other reason) comprised 8.8 percent of the driving population and were over-involved in fatal crashes by a factor of 3.7:1. Limited evidence, based on

¹ Suspension of the driver's license involves the state's temporary removal of the license. With revocation, driving privileges are annulled or cancelled, and the driver must re-apply to get a license.

self-reported data from drivers convicted of alcohol-impaired driving, indicates that offenders who continue to drive after their license has been suspended may drive less often and more carefully (Williams *et al.*, 1984; Ross, 1991).

To date, evidence of continued driving by alcohol-impaired driving offenders has relied on drivers' self-report information or on rates of re-arrest for drinking and driving, traffic violations, or crash involvement. Studies using the former approach may be limited by small or non-representative samples and by biases associated with the self-report of illegal behaviors. The latter approaches are useful in documenting the extent to which suspended or revoked drivers continue to represent a highway safety risk, but are based only on those drivers whose behaviors result in crashes or traffic violations detected by enforcement agencies. What has been lacking is research to establish the prevalence of driving while suspended or revoked among a representative group of convicted alcohol-impaired offenders engaged in everyday travel. Prior to the current study, such research has been precluded by the considerable logistical challenges involved.

This study seeks to fill this void. It represents the first systematic effort to gather objective, independent, and unobtrusive observational data on the driving patterns of drivers who are suspended for alcohol-impaired driving.

Objectives

The study addressed the following objectives:

- determine the extent and circumstances of driving while suspended, relative to the extent and circumstances of driving when not suspended
- determine the transportation patterns and motivations for driving among offenders before, during, and after suspension

General Approach

Using two sites located in different states, the study represented a substantial and comprehensive effort to document and explain the driving patterns of a representative sample of first-time alcohol-impaired driving offenders. The research effort encompassed an observational study of alcohol-impaired driving offenders and focus group research. Subjects were persons who had recently lost their license as a result of a first-time alcohol-impaired driving conviction.

In a unique approach to gather unobtrusive and unbiased observational data, the observational study was conducted in association with Pinkerton Investigation Services, Inc. Trained and bonded surveillance professionals observed drivers during their license suspension

and if their license was reinstated, again after the suspension ended. For both the during-suspension and post-suspension periods, drivers were observed for four hours on a weekday morning and for four hours on a Friday or Saturday evening. The comparison of travel during and after the suspension period permitted inferences to be drawn concerning whether an offender's travel patterns changed as a result of the suspension.

To supplement the observational data, focus groups of alcohol-impaired driving offenders at each site provided information on the transportation patterns of offenders before, during, and after suspension and their motivations for violating or complying with the license suspension.

II. STUDY SITES

The selection of two study sites was based on methodological and logistical considerations. States were sought with licensing sanctions, in law and in practice, that ensured that most first-time alcohol-impaired driving offenders experienced a license suspension of sufficient length that observations could be conducted. If a state allowed offenders to receive an “occupational” or “conditional” license during the suspension period (that is, a “soft” suspension versus a “hard” suspension”), it was essential that detailed information on the terms of the occupational license be available. Preference was given to states in which most, if not all, first-time offenders received a hard suspension.

Other criteria for the selection of sites included the following:

- support for the study by the state highway safety office
- availability of timely, detailed, case-level data on alcohol-impaired driving arrests and dispositions, and on administrative and judicial license sanctions
- reliance by most residents on their vehicle (rather than walking, using mass transit, or riding a bicycle or motorcycle) as the primary mode of transportation

Sites were sought that were generally representative of the alcohol-impaired driving arrest and adjudication systems found in various parts of the country and that were neither unusually poor nor unusually affluent. An important logistical consideration was that the sites needed to be located in close proximity to Pinkerton offices, which are located in a number of major metropolitan areas throughout the country.

The two sites selected were the City of Milwaukee in Wisconsin and Bergen County, New Jersey. The socio-demographic profiles of the two sites differ considerably. Located on Lake Michigan, the City of Milwaukee is an industrial city. Based on U.S. Census data for 1997, the city has over 613,000 residents, and the median annual household income is about \$33,000. The city is ethnically diverse, including 56 percent non-Hispanic white residents, 35 percent African-American or black residents, 8 percent Latino or Hispanic residents, 2 percent Asian residents, and 1 percent Native American residents.

Bergen County is a densely populated county in northern New Jersey. Based on 2000 U.S. Census data, the county’s population is about 884,000. The median annual household income is about \$60,000. The primary minority groups are Asian residents (11 percent), African-American or black residents (5 percent), and Hispanic or Latino residents (10 percent).

Alcohol-Impaired Driving Laws

Table 2.1 summarizes each state's alcohol-impaired laws in effect at the time the study began in fall 2000. The table summarizes laws pertaining to a first-time "standard" alcohol-impaired driving offense, that is, an offense that involves a person 21 years or older and that does not carry enhanced penalties due to circumstances such as the presence of an underage passenger or an injury-producing crash. The table also summarizes the statutory penalties for driving with a suspended or revoked license due to an alcohol-impaired driving offense.

There are some important similarities in the alcohol-impaired driving laws of Wisconsin and New Jersey. The illegal *per se* BAC limit in both states is .10. In both states an offense is considered the first offense if no other alcohol-impaired driving conviction occurred within the past 10 years. Also in both states, all first-time offenders must attend an alcohol/drug education class and undergo an assessment for potential problems with alcohol dependency. However, the states' alcohol-impaired driving laws differ in many other important respects, including the administrative and court-imposed license sanctions for alcohol-impaired driving and the penalties for driving while suspended or revoked based on an alcohol-impaired driving offense. Some of these differences are highlighted below.

Wisconsin

In Wisconsin, first-time Operating While Intoxicated (OWI) offenses are treated as civil rather than criminal offenses and may be adjudicated by municipal courts. Wisconsin statutes prohibit prosecutors from reducing OWI offenses to lesser offenses, and deferred prosecution also is generally prohibited.

Wisconsin imposes both an administrative and a court-imposed license suspension for the first OWI offense. The administrative penalties include a mandatory six-month suspension for persons who fail the BAC test² and a mandatory one-year revocation if the BAC test is refused. The administrative penalties are imposed 30 days after the date of the offense. If the driver fails the test, the law enforcement officer takes immediate possession of the driver's license and gives notice to the driver that the license will be administratively suspended and that the driver has the right to obtain an administrative and judicial review. This notice serves as a 30-day temporary license. The officer then forwards the license to the Division of Motor Vehicles, which suspends the license if the driver does not appeal. The process is similar in the case of a test refusal, except that the officer gives the driver a notice to revoke by court order, and then forwards the license to the court, with copies to the prosecutor and the Division of Motor Vehicles. Upon conviction for OWI, offenders receive a court-imposed license revocation of six to nine months. The administrative and court-imposed license penalties must run concurrently.

²In Wisconsin, it is a criminal offense to operate a motor vehicle at or above an alcohol concentration of .10 percent in the blood or breath.

Table 2.1
Laws in Wisconsin and New Jersey During Study Period:
First-time Standard Alcohol-impaired Driving Offense and
First-time Driving While Suspended for Alcohol-impaired Driving Offense
Persons 21 Years and Older

| <i>Alcohol-Impaired Driving</i> | <i>Wisconsin</i> | <i>New Jersey</i> |
|--|--|---|
| Offense | Operating While Impaired (OWI); civil offense | Driving While Intoxicated (DWI), quasi-criminal offense; test refusal charged as separate offense |
| Per Se Level | ≥.10 | ≥ .10 |
| Definition of First Offense | No prior OWI within past 10 years | No prior DWI within past 10 years |
| Administrative License Sanction | BAC ≥ .10: mandatory 6-month suspension, effective 30 days after arrest; became 6-month revocation effective 5/1/01 Test Refusal: mandatory 1-year revocation, effective 30 days after arrest | None |
| Court-Imposed License Sanction | 6 – 9 month suspension (mandatory 6 months); must be served concurrently with administrative suspension | 6 month – 1 year suspension (mandatory 6 months), effective at time of conviction; additional mandatory 6-month revocation for test refusal, served consecutively with DWI suspension |
| Occupational License | Available to all 1st-time offenders: driving permitted up to 60 hours/week and 12 hours/day for specified times of the day, routes, and purposes Available immediately if BAC ≥ .10 and after 30 days suspension if refuse test Not eligible if license suspended or revoked for another offense within 1 year | None |
| Fines and fees | \$150 - 300; mandatory \$150 (plus \$345 surcharge) | \$250 - 400 (mandatory \$250); additional \$250 - 500 for test refusal Fees: \$100 for Drunk Driving Enforcement Fund; \$100 for Alcohol Education and Rehabilitation Fund; \$1,000/year insurance surcharge for 3 years; \$75 Safe Neighborhood Services Fund; \$50 Violent Crimes Compensation Board |

| Table 2.1: Laws in Wisconsin and New Jersey (continued) | | |
|--|--|--|
| <i>Alcohol-Impaired Driving</i> | <i>Wisconsin</i> | <i>New Jersey</i> |
| Jail | None | Up to 30 days |
| Assessment/Treatment | Mandatory submission to an alcohol assessment and compliance with driver safety plan | For test refusal or DWI conviction, mandatory attendance at alcohol and highway safety education program at Intoxicated Driver Resource Center: 12 – 48 hours (must include 2 consecutive days of at least 6 hours each) and fee of \$75/day |
| Ignition Interlock | No sanction provided | May be required for 6 months – 1 year after suspension completed; vehicle registration revocation may be substituted |
| <i>Driving While Suspended or Revoked</i> | | |
| Offense | Operating While Suspended/Revoked; no special penalties if suspension based on OWI offense | Driving While Suspended/Revoked for DWI |
| Jail | None for Operating While Suspended; ≤ 1 year for Operating While Revoked | 10 – 90 days |
| Fine | Fine not mandatory: Driving While Suspended \$50-250; Driving While Revoked up to \$2,500 | Minimum fine \$500; \$250/year insurance surcharge for 3 years |
| License Suspension | ≤ 6 months at court's discretion | Additional 1 – 2 year suspension; mandatory 1 year |
| Vehicle Sanction | Offender's vehicle may be impounded, with length of impoundment determined by court | Revocation of registration of all vehicles for same period as license suspension; may issue temporary registration/tags so that others can use vehicle for employment, educational, health, medical purposes |

Note: The information summarized in this table is based on NHTSA's *Digest of State Alcohol-Highway Safety Related Legislation, 19th Edition, current as of January 1, 2000*, the *1999 Wisconsin Alcohol Traffic Safety Facts Book*, and copies of the statutes obtained from each state's website, as follows: New Jersey, <http://www.njleg.nj.us/html/statutes.htm>; Wisconsin, <http://www.legis.state.wi.us/rsb/stats.html>.

In Wisconsin, first-time OWI offenders are eligible for an occupational license if their license has not been suspended or revoked for another offense within the past year. The occupational license is available immediately after the administrative or court suspension takes effect (whichever comes first) to persons who fail the BAC test, and after 30 days hard suspension for persons who refuse the test. To obtain an occupational license, an offender must pay a \$40 fee and show proof of financial responsibility, which can include proof of insurance, a bond, or a cash deposit.

After the end of the suspension or revocation period, a \$50 fee is required for license reinstatement. Persons who refuse the BAC test must show proof of financial responsibility to reinstate the license; this is not required of other offenders. Liability insurance is not mandatory for Wisconsin drivers.

Wisconsin does not impose special sanctions for driving while suspended or revoked based on an OWI. The first offense of driving while suspended or driving while revoked is a civil offense, and there are no mandatory minimum penalties. Persons found to be in violation of restrictions on an occupational license, such as time or place of travel, may be cited for operating while suspended or revoked.

New Jersey

New Jersey statutes describe Driving While Intoxicated (DWI) as a “quasi-criminal” offense. DWI offenses are adjudicated through the state’s municipal court system. Plea bargaining of DWI cases is not permitted by mandate of the Supreme Court of the state; therefore, no reduction in charge is permitted.

There is no administrative license sanction for persons who refuse or fail the BAC test.³ Persons convicted of a first-time DWI offense receive a court-ordered mandatory minimum hard license suspension of six months, effective at the time of conviction; upon conviction, the license is taken by the court and forwarded to the Department of Motor Vehicles. No occupational or conditional license is available. A test refusal is charged as a separate violation; for a first-time alcohol test refusal, the court imposes a mandatory six-month license revocation. If a person is convicted of the separate violations of refusing the test and DWI, the license sanctions are served consecutively rather than concurrently.

³In New Jersey, it is a criminal offense to operate a motor vehicle at or above .10 percent by weight of alcohol in the blood.

Following the completion of the requirements of sentencing, the Department of Motor Vehicle Services sends a Notice of Restoration of the license to the offender. A fee of \$150 is required for reinstatement. An owner of a vehicle registered in New Jersey must purchase insurance, including liability insurance, personal injury protection, and uninsured motorist coverage. Driving an uninsured vehicle is against the law.

New Jersey imposes mandatory minimum penalties for driving while suspended based on a DWI conviction. The penalties include an additional license suspension of one to two years, a fine of \$500 or more, a jail term of 10 to 90 days, and an insurance surcharge of \$250/year for three years. In addition, the registration of the offender's vehicle is revoked for the same time period as the license suspension, although temporary registration and tags may be issued so that other persons can use the vehicle for employment, educational, health, or medical purposes.

III. OBSERVATIONAL STUDY

The observational study involved unobtrusive and systematic observations of the travel patterns of persons whose driver's license had been suspended as the result of a first-time alcohol-impaired driving conviction. The travel patterns from observations conducted during the suspension period were to be compared with the travel patterns during similar observations conducted after the license was reinstated. Thus, according to this "within subject" approach, offenders were observed both during the period when their license was suspended and again after the suspension ended, when subjects had had an opportunity to have their driver's license reinstated and to re-establish typical transportation patterns. The comparison of travel patterns during the suspension period with the travel patterns after reinstatement would permit inferences to be drawn concerning whether offenders' travel patterns changed as a result of the suspension.

Two four-hour observations were conducted during the last month of the suspension period (one observation Monday-Thursday 6 - 10 a.m. and the other observation Friday or Saturday evening 6 - 10 p.m.). These observation periods were selected to include a time period when the subject would likely be traveling to work and a time period when the subject would likely be traveling for personal, recreational, or social reasons. Similarly, two observations were to be conducted at least one month after drivers had had their license reinstated. These post-suspension observations were to be conducted for each subject at the same times of day and days of the week as the during-suspension observations.

However, a review of driver records in the two study sites indicated that many potential subjects did not have their driver's license reinstated after the termination of the DWI/OWI suspension. This was especially common among Wisconsin subjects. In some cases, the offender chose not to reinstate the license, although eligible to do so; in other cases, the offender had concurrent or subsequent suspensions (for non-alcohol offenses) that continued past the termination date for the alcohol-impaired driving suspension. Thus, for many subjects, post-suspension observations were impossible or unfeasible within the time constraints of the project.

As noted in Chapter 2, Wisconsin makes available an occupational license to first-time OWI offenders who have no other license suspensions within the prior year. The occupational license allows driving according to specified times, routes, and purposes. The original research plan provided that offenders with occupational licenses would be observed at times when driving was prohibited, as the driver abstracts for Wisconsin drivers include a detailed description of the terms of the occupational license. However, a review of the driver abstracts of potential subjects revealed that the occupational licenses generally allowed driving during most daytime and evening hours. Thus, conducting observations of these drivers would have been impractical and would have yielded little useful information. Therefore, these subjects were excluded from the observational study.

Protocol

The protocol excluded persons in Milwaukee with an occupational license. The remaining subjects were observed according to the following plan:

1. Drivers Whose License Was Later Reinstated

These subjects were observed one weekday morning (Monday-Thursday 6 – 10 a.m.) and one weekend evening (Friday or Saturday 6 – 10 p.m.) during the term of the DWI/OWI suspension. Later, after their license was reinstated, the subjects were observed the same weekday morning and weekend evening.

2. Drivers Whose License Was Not Reinstated

These were subjects who were ineligible for license reinstatement, or who were eligible but chose not to have their license reinstated. Thus, they were observed only during the term of the DWI/OWI suspension, that is, observed one weekday morning and one weekend evening during the term of the suspension.

Once it was determined that a subject met the selection criteria, Pinkerton obtained the subject's driver abstract. Both Pinkerton and project staff reviewed the abstract to verify that the suspension was in effect and that there were no extenuating circumstances. Then, Pinkerton took the necessary steps, following established procedures, to verify that the subject resided at the address on record. In keeping with its standard operating procedures, Pinkerton notified local enforcement agencies when an observation was to be conducted. To limit any investigator bias, Pinkerton investigators were provided minimal information about the purpose of the study.

The purpose of the observations was to observe any travel made by the subjects to or from their residence. All observations were conducted in an unobtrusive manner. No person-to-person contact was made with subjects at any point during the observation period. While observing the residence, the investigator remained in a vehicle parked on the public street on which the residence was located. If the subject left the residence, the investigator attempted to follow the subject, continuing to conduct the observation in an unobtrusive manner. Investigators adhered to Pinkerton policy that no laws, including traffic laws, should be violated in attempting to follow a subject.

The observations conducted during the suspension period were done approximately one month prior to the end of the suspension period. The observations were randomly scheduled for a day of the week (Monday through Thursday for weekdays and Friday or Saturday for

weekends). To the extent possible, the morning and evening observations for a subject were conducted within a two-week period. Observations were not conducted on holidays or during snowstorms or other inclement weather conditions.

For those subjects who were eligible for license reinstatement, a second abstract was obtained by Pinkerton one to two months after the DWI/OWI suspension ended to determine whether and when reinstatement had occurred, or whether subsequent violations precluded reinstatement. Post-suspension observations, conducted only for persons who had their license reinstated, occurred from one to two months after reinstatement was permissible.

At the end of each week, Pinkerton forwarded to project staff the logs detailing the subjects' travel observed during each surveillance period. Each log described the steps undertaken to verify the subject's residence; when and where the subject was observed; any trips made as driver, passenger, or pedestrian; and the destination and other details of each trip. The completed file for each subject included the record of conviction from the court; the driver abstract obtained during the suspension period; the driver abstract obtained after the suspension had ended, if the offender was eligible for reinstatement; and a one-page log of each observation. Information from these documents was coded for entry into a database.

Each subject was assigned a case number, and all case records were anonymous and organized around the case number. All documents containing the subject's name, or any information that could be used to identify the subject, were destroyed. Observation reports and driver abstracts were tracked by case number, rather than name or address. No documents with the subject's name or other identifying information were viewed at any time by representatives of the National Highway Traffic Safety Administration (NHTSA) or local law enforcement agencies.

Selection of Subjects

Selection Criteria

Subjects in both sites met the following criteria:

- convicted of a "standard" first-time alcohol-impaired driving offense
- 21 years of age or older
- in-state residence within a 50-mile radius of Milwaukee or Bergen County

In addition, the dates of the license suspension periods for the subjects needed to be such that the subjects could be observed near the end of the suspension period and if their license was reinstated, again shortly after the end of the suspension. In Wisconsin, this consideration had the

effect of excluding most persons who refused the BAC test, as Wisconsin imposes a one-year license revocation for a test refusal. Persons with current convictions deriving from very old violation dates (for example, 1983) also were excluded.

In addition, a few subjects were excluded because observations could not be conducted. This included, for example, persons who became incarcerated or who moved out-of-state. Subjects residing in large apartment complexes were excluded because the investigator would have been unable to determine whether a person exiting or entering a building with several apartments was the subject. Finally, as noted above, it was necessary to exclude Milwaukee offenders who obtained an occupational license.

Identification of Eligible Subjects

Milwaukee – The Milwaukee Municipal Court provided a set of records for all persons who were convicted of a first-time standard OWI offense from July to November 2000, were 21 years or older, and resided within a 50-mile radius of Milwaukee. A total of 130 offenders qualified. Each court record contained a variety of information about the driver and the offense, including the driver's license identification number, the dates of the violation and disposition by the court, the penalties imposed by the court, the plea, and whether there had been a warrant for failure to appear.

Using the driver identification number, driver abstracts for the 130 potential subjects were obtained from the Wisconsin Division of Motor Vehicles. The driver abstract provided a comprehensive and detailed driver history, including information about the current OWI offense; non-OWI traffic convictions, license actions, and reportable crashes during the past five years; and any previous OWI convictions.

Of the 130 offenders, 80 persons (62 percent) were eligible to obtain an occupational license (that is, they had no suspensions or revocations in effect during the year preceding their arrest for OWI). Thirty-three of the 130 offenders (25 percent) obtained an occupational license and, thus, were excluded from the observational study. Compared to the total pool of 130 offenders, the persons with occupational licenses were older; 21 percent of the persons with occupational licenses were 55 years or older, compared to 8 percent of the total subject pool. The persons with occupational licenses also were less likely to have had a warrant for failure to appear in court (6 percent versus 25 percent). The offenders who obtained an occupational license had less problematic driving records at the time of the OWI arrest. For example, these offenders were less likely to have had at least one license suspension prior to the current arrest (33 percent versus 52 percent) or to have accumulated more than five license penalty points during the prior five years (36 percent versus 49 percent).

Thirty-nine other potential subjects were excluded for the following reasons: suspension ending before or after the study period (21), incarceration (4), violation occurring several years ago (4), inability to locate (2), lived in an apartment complex (1), moved out of state (1), other (6). One additional subject was excluded after the during-suspension observations had been conducted when it was discovered that he obtained an occupational license one month before his suspension ended and before the observations were conducted. After these exclusions, there remained 57 offenders who were subjects in the observational study.

Bergen County – Copies of citations issued to persons convicted of a first-time DWI offense were obtained from the court administrators of four municipalities in Bergen County. These included the townships of Mahwah (23,000 population) and Saddle Brook (13,683 population) and the boroughs of Ramsey (14,480 population) and Franklin Lakes (10,575 population). Copies of conviction records were obtained from the borough of Waldwick (10,097 population). Despite the fact that Bergen County is heavily populated, it was challenging to find courts that had sufficient numbers of offenders who fit the subject profile. For example, after reviewing Mahwah court records, a significant proportion of cases were excluded because the offenders lived out-of-state (usually in New York State), were not convicted, had prior DWI convictions, or were younger than 21 years old.

Using the driver's license identification number from the citation, the driver abstract for potential subjects was obtained from New Jersey's Motor Vehicle Services. The abstracts for New Jersey offenders provided comprehensive and detailed information on the driving history and the current offense; non-DWI traffic convictions, license actions, and reportable crashes within the past five years; and prior DWI convictions occurring at any point in the past.

Of the 49 persons who met the screening criteria, 13 were excluded, as follows: lived in an apartment complex (5), inability to locate (3), suspension terminated after study period (3), appealed the conviction (1), the violation occurred several years earlier (1). The remaining 36 offenders were subjects in the observational study.

Case Records

Each subject was assigned a unique case number, and a detailed computer record was created. The record contained information on the characteristics of the offender (for example, date of birth); driver history prior to the DWI/OWI violation (for example, number of moving violations); current DWI/OWI violation and the associated license suspension; and violations, license actions, or crashes occurring after the DWI/OWI arrest. The record for each subject also contained the median annual household income associated with the zip code of the subject's residence based on the 2000 U.S. Census data.

The record included information about each observation, including the date and times and whether the subject was observed traveling. If the subject was observed traveling, the following information was coded:

- method of travel (driving, walking, riding as a passenger)
- destination of travel, if known
- if driving, whether there were passengers and, if so, whether adult, child, or both

All case records were anonymous and organized around a case number assigned to each subject. Observation reports and driver abstracts were tracked by case number, rather than name or address. Any documents containing the subject's name or any other identifying information were destroyed. No documents with the subject's name or other identifying information were viewed at any time by representatives of NHTSA or local law enforcement agencies.

Description of Subjects

Table 3.1 summarizes the demographic characteristics of the subjects in each site. A larger proportion of subjects in Bergen County than in Milwaukee were 25 years old or younger (31 percent versus 18 percent) and female (25 percent versus 11 percent). Based on the median household income associated with each offender's residential zip code, the Bergen County subjects were far more likely to reside in relatively affluent areas. Slightly over half the Milwaukee subjects resided in an area with a median annual household income below \$35,000; by contrast, two-thirds of the Bergen County subjects resided in an area with a median annual household income of \$70,000 or greater.

Information on race or ethnicity was unavailable for Bergen County offenders. The Milwaukee subjects represented a diverse group; more than half were African-American or black, Hispanic or Latino, or Native American.

| Table 3.1: Observational Study Subjects: Demographic Characteristics | | |
|---|-----------------------------|-------------------------------------|
| | Percent of Subjects | |
| | Milwaukee (n=57) | Bergen County (n=36) |
| Age (years) | | |
| 21-25 | 17.5 | 30.6 |
| 26-34 | 35.1 | 22.2 |
| 35-54 | 43.9 | 36.1 |
| ≥ 55 | 3.5 | 11.1 |
| Gender | | |
| Female | 10.5 | 25.0 |
| Male | 89.5 | 75.0 |
| Median Annual Household Income for Residential Zip Code | | |
| ≤ \$25,000 | 26.3 | --- |
| \$25,000-\$34,999 | 28.1 | --- |
| \$35,000-\$44,999 | 26.3 | 5.6 |
| \$45,000-\$54,999 | 15.8 | 13.9 |
| \$55,000-\$69,999 | 3.5 | 13.9 |
| \$70,000-\$99,999 | --- | 30.6 |
| ≥ \$100,000 | --- | 36.1 |
| Race or Ethnicity | | |
| Non-Hispanic White | 47.4 | --- |
| African-American or Black | 40.4 | --- |
| Hispanic or Latino | 10.5 | --- |
| Native American | 1.8 | --- |

Subjects' Prior Driving Record

Table 3.2 summarizes the subjects' driving records prior to the current DWI/OWI arrest, based on the initial driver abstract obtained shortly after their DWI/OWI conviction. Traffic laws and regulations vary from state to state and, therefore, driver history abstracts from different states are not directly comparable. However, it is clear that a much larger percentage of the Milwaukee subjects had problematic driving histories.

| Table 3.2: Observational Study Subjects: Driving Record Prior to DWI/OWI Arrest | | |
|--|-----------------------------|-------------------------------------|
| | Percent of Subjects | |
| | Milwaukee (n=57) | Bergen County (n=36) |
| License Penalty Points (Prior 5 Years) | | |
| None | 29.8 | 50.0 |
| 1-5 | 12.3 | 25.0 |
| 6-10 | 17.5 | 16.7 |
| 11-20 | 19.3 | 8.4 |
| ≥ 21 | 21.1 | 0.0 |
| Non-DWI/OWI Violations (Prior 5 Years) | | |
| None | 28.1 | 44.4 |
| 1-3 | 35.1 | 47.2 |
| 4-6 | 14.0 | 8.3 |
| ≥ 7 | 22.9 | 0.0 |
| Prior License Suspensions | | |
| None | 33.3 | 83.3 |
| 1 | 14.0 | 5.6 |
| 2 | 7.0 | 8.3 |
| ≥ 3 | 45.7 | 2.8 |
| Suspensions in Effect on Date of DWI/OWI Arrest | | |
| None | 52.6 | 94.4 |
| 1 | 19.3 | 2.8 |
| 2 | 12.3 | 0.0 |
| ≥ 3 | 15.8 | 2.8 |
| DWI/OWI Convictions > 10 Years Prior | | |
| Yes | 8.8 | 0.0 |
| No | 91.2 | 100.0 |

Milwaukee subjects were much more likely than Bergen County subjects to have numerous penalty points and violations during the past five years. The subjects at the two sites also had very different profiles with regard to prior license suspensions. Six Bergen County

subjects (17 percent) had had at least one license suspension during the prior five years. In contrast, 38 subjects (67 percent) in Milwaukee had had at least one suspension in the past five years, and 26 subjects (46 percent) had had three or more suspensions.

The majority of the prior suspensions for Milwaukee subjects resulted from the failure to pay a fine or fee. Thirty-four subjects (60 percent) had received at least one prior suspension on this basis, and some subjects had multiple such suspensions. Eighteen subjects (32 percent) had received at least one suspension based on a poor driver record, for example, excessive penalty points or being judged a habitual traffic offender. Ten persons (18 percent) had received at least one suspension related to driving without a valid license, including operating while suspended or revoked, or without a valid registration.

In Bergen County, where 6 subjects had had at least one prior suspension (representing a total of 14 suspensions), 3 subjects (8 percent) had had at least one suspension for failure to pay a fine or fee, and 5 subjects (14 percent) had received at least one suspension for a poor driving record. One subject (3 percent) had received a suspension for driving without a valid license.

More than half the Milwaukee subjects were serving at least one license suspension when they were arrested for OWI. More than one-quarter were serving two or more suspensions. All of the subjects with current suspensions were to remain suspended for at least one year from the date of the current OWI arrest. For 2 Bergen County subjects (6 percent), the driver's license was already suspended when they were arrested for DWI. The termination date for these suspensions could not be determined from the driver abstracts.

Although persons were excluded from the observational study if they had had another DWI/OWI conviction within the past 10 years, 5 of the 57 Milwaukee subjects (9 percent) had had an OWI conviction more than 10 years ago. None of the Bergen County subjects had a prior DWI conviction on their driving record.

Description of Current DWI/OWI Offense

For all 57 Milwaukee subjects, the OWI arrest occurred in the year 2000. With one exception, all the Bergen County subjects were arrested in 2000; the other subject was arrested for DWI in 1997 and convicted in 2000. Table 3.3 provides additional information about the current DWI/OWI offense for subjects in both sites. Once again, differences between the two sites are apparent.

By definition, all subjects had been convicted of the DWI/OWI charge. However, more than one-quarter of the Milwaukee subjects initially had had a warrant for failure to appear at the arraignment, the judgment hearing, or a hearing to establish indigent status, or a warrant for failure to pay the judgment. (Despite any delay in the court's adjudication of these cases, the administrative license suspension took effect 30 days after the date of the offense.) Among the

Bergen County subjects for whom the citation was available, none had a warrant. None of the driver abstracts for the Bergen County subjects indicated that the alcohol-related arrest was associated with a reportable crash, versus half the Milwaukee subjects. It should be noted that states' practices related to the reporting of crashes may vary.

| Table 3.3: Observational Study Subjects: Current DWI/OWI Offense | | |
|---|-----------------------------|-------------------------------------|
| | Percent of Subjects | |
| | Milwaukee (n=57) | Bergen County (n=36) |
| Warrant for Failure to Appear | | |
| Yes | 26.3 | 0.0 |
| No | 73.7 | 80.6 |
| Not Available | 0.0 | 19.4 |
| Associated Crash | | |
| None | 49.1 | 100.0 |
| Property Damage | 17.5 | 0.0 |
| Non-fatal Injury | 33.3 | 0.0 |
| Plea Entered | | |
| Guilty/No Contest | 100.0 | 77.8 |
| Not Guilty | 0.0 | 5.6 |
| Not Available | 0.0 | 16.7 |
| Convictions for Other Offenses at Time of DWI/OWI | | |
| None | 61.4 | 83.3 |
| 1 | 21.1 | 13.9 |
| ≥ 2 | 17.6 | 2.8 |
| Days of Court Suspension | | |
| 180 | 28.1 | 97.2 |
| 210 | 15.8 | 2.8 |
| 240 | 19.3 | 0.0 |
| 270 | 36.8 | 0.0 |
| Type of Administrative Suspension | | |
| Test Failure (180 days) | 78.9 | ---- |
| Test Refusal (≥ 1 year) | 8.8 | ---- |
| Not Available on Driver Record | 12.3 | ---- |

Seventeen percent of the Bergen County subjects were convicted of at least one other traffic offense committed at the time of the DWI/OWI arrest, versus 39 percent of Milwaukee subjects. In Milwaukee, 10 subjects (18 percent) were cited for at least one moving violation. Fourteen subjects (25 percent) were cited for driving while suspended, revoked, or without a license. However, only 3 of these citations resulted in a further suspension for driving while suspended or revoked. In Bergen County, 3 persons (8 percent) were cited for a moving violation, 2 persons (6 percent) were cited for driving while suspended, 2 persons (6 percent) were cited for having no liability insurance, and 1 person (3 percent) was cited for an illegal license plate. According to the driver abstracts, neither of the Bergen County subjects cited for driving while suspended received a further suspension for this offense.

Compared to the Bergen County subjects, a larger percentage of the Milwaukee subjects received a court suspension longer than the minimum six-month period (3 percent vs. 72 percent). Based on the driver abstract information pertaining to the administrative suspension, 5 Milwaukee subjects (9 percent) refused to submit to the alcohol test. In Bergen County, there was no indication on the driver abstracts, citations, or conviction records that any of the subjects had refused the test.

License Reinstatement and Subsequent Driving Record

Table 3.4 summarizes the information placed on subjects' driving records after the DWI/OWI arrest. This information is based on the most recent abstract obtained for each subject. For subjects who were eligible for license reinstatement at the end of their DWI/OWI suspension, a driver abstract was obtained one to two months after the DWI/OWI suspension ended. For subjects who were not eligible for reinstatement, only a single driver abstract was obtained one to five months after their conviction.

Twenty-three Milwaukee subjects (40 percent) were eligible for license reinstatement, and 3 subjects (5 percent) had their license reinstated. As noted previously, 2 Bergen County subjects had license suspensions for other traffic convictions when they were arrested for DWI. However, the termination dates for these suspensions were not indicated on the driver abstracts and, thus, it could not be determined whether these offenders would have been eligible for reinstatement at the end of the DWI suspension. Therefore, a second abstract was obtained for all 36 Bergen County subjects to determine whether and when reinstatement had occurred. Twenty-eight Bergen County subjects (78 percent) had their license reinstated.

| Table 3.4: Observational Study Subjects: License Reinstatement and Post-DWI/OWI Violations and Suspensions | | |
|---|-----------------------------|-------------------------------------|
| | Percent of Subjects | |
| | Milwaukee (n=57) | Bergen County (n=36) |
| Reinstatement after DWI/OWI Suspension | | |
| Ineligible | 59.6 | 0.0 |
| Reinstated | 5.3 | 77.8 |
| Eligible but Did Not Reinstated | 35.1 | 22.2 |
| Suspensions after DWI/OWI Arrest | | |
| None | 15.8 | 80.6 |
| 1 | 42.1 | 5.6 |
| 2 | 31.6 | 8.3 |
| ≥ 3 | 10.6 | 5.6 |
| Violations after DWI/OWI Arrest | | |
| Yes | 7.0 | 8.3 |
| No | 93.0 | 91.7 |

Based on the most recent driver abstract obtained for each subject, most Milwaukee subjects received additional license suspensions after the alcohol-impaired driving arrest, but most Bergen County subjects did not. As previously noted, for the 34 Milwaukee subjects ineligible for reinstatement, the information in Table 3.4 reflects only the initial driver abstract obtained one to five months after their conviction. Thus, this information almost certainly understates the extent to which Milwaukee subjects continued to accrue suspensions. All but 9 of the 57 Milwaukee subjects (84 percent) received at least one subsequent suspension, and 24 subjects (42 percent) received two or more suspensions. Almost all these suspensions were related to the OWI conviction and were due either to failure to comply with the alcohol assessment interview or to pay the fine. Of the subsequent suspensions, 5 were based on driving while suspended/revoked or a revoked registration.

In Bergen County, 7 of the 36 subjects (19 percent) received at least one additional license suspension following the DWI incident. These suspensions were usually related to failure to pay fines or fees, including the insurance surcharge. For 2 subjects, the suspension was based on a conviction for driving while suspended. In general, the Bergen County subjects had less problematic driver records than the Milwaukee subjects, but there were notable exceptions.

For example, one Bergen County subject had 16 suspensions imposed after the DWI arrest and another subject had 10 subsequent suspensions. All but one of the Bergen County subjects who did not have their license reinstated also did not pay the alcohol program fee.

Results of Observations

The following tables provide detailed data to support several general findings from the observational study. Many offenders drove on at least one occasion while suspended. The prevalence of driving while suspended was much higher in Milwaukee than in Bergen County. For the Bergen County subjects who had their license reinstated at the end of the suspension period, subjects were far less likely to have driven while suspended than after reinstatement, suggesting that the suspension had an impact on their driving patterns.

Travel During Suspension Period

Of the 57 Milwaukee subjects, 30 subjects (53 percent) drove during at least one of the two four-hour during-suspension observations, 4 subjects (7 percent) did not drive but used alternative transportation on at least one occasion, and 23 subjects (40 percent) did not travel during either observation (Table 3.5). Of the 36 Bergen County subjects, 8 subjects (22 percent) drove at least once, 14 subjects (39 percent) did not drive but used alternative transportation, and 14 subjects (39 percent) did not travel during either observation. The differences between the observation results at the two sites were significantly different ($p < .001$).

| Table 3.5: Observed Travel During License Suspension Period Milwaukee and Bergen County | | |
|--|--------------------------------------|--------------------------|
| | Milwaukee | Bergen County |
| Drove at Least Once | 52.6% (30) | 22.2% (8) |
| Did Not Drive and Used Alternative Travel | 7.0% (4) | 38.9% (14) |
| Travel not Observed | 40.4% (23) | 38.9% (14) |
| TOTAL | 100.0% (57) | 100.0% (36) |
| | <i>X = 16.6, p < .001, df = 2</i> | |

A more direct and precise measure of the prevalence of driving is the proportion of subjects who drove, based only on those subjects who were observed traveling during either of the two four-hour during-suspension observation periods. These results, summarized in Table 3.6, are even more striking. Of the 34 Milwaukee subjects who traveled during at least one observation, 30 subjects (88 percent) drove at least once. By contrast, of the 22 Bergen County subjects who traveled, 8 subjects (36 percent) were observed driving on at least one occasion. The difference between sites was statistically significant ($p < .001$).

| Table 3.6: Method of Travel for Subjects Observed Traveling During License Suspension Period Milwaukee and Bergen County | | |
|---|--------------------------------------|----------------------|
| | Milwaukee | Bergen County |
| Drove at Least Once | 88.2% (30) | 36.4% (8) |
| Did Not Drive and Used Alternative Travel | 11.8% (4) | 63.6% (14) |
| TOTAL | 100.0% (34) | 100.0% (22) |
| | <i>X = 16.5, p < .001, df = 1</i> | |

Travel During vs. After Suspension

An objective of the study was to determine whether the suspension had an impact on the extent of driving, relative to the extent of driving when not suspended. A change in driving patterns during the suspension period, compared with driving patterns when not suspended, would suggest that the suspension had affected offenders' behaviors. Thus, for those subjects whose license was reinstated, a second set of observations was conducted from one to two months after the suspension ended, when subjects would have had an opportunity to have their license reinstated and resume their typical driving patterns. To provide a sound basis for comparison with the during-suspension observations, the second set of observations was conducted on the same days of the week and times of the day as the during-suspension observations.

Forty percent of the Milwaukee subjects were eligible for the reinstatement of their license. Three of these subjects had their license reinstated, and post-reinstatement observations were conducted for these subjects. Two of these subjects drove during one of the observations during their suspension and also during one of the observations conducted after reinstatement. The third subject did not travel during either during-suspension observation but drove during one post-reinstatement observation.

As shown in Table 3.7, 28 of the 36 Bergen County subjects had their license reinstated. For these subjects, the driving patterns during their suspension were significantly different than the driving patterns after reinstatement ($p < .001$). These findings indicate that the suspension had an impact on these subjects' driving patterns. One-quarter of these subjects drove and 43 percent used alternative transportation during the suspension, versus 54 percent and 7 percent, respectively, after reinstatement.

| Table 3.7: Observed Travel During Suspension and After Reinstatement for Bergen County Subjects Whose License Was Reinstated | | |
|---|------------------------------|----------------------------|
| | During Suspension | After Reinstatement |
| Drove at Least Once | 25.0% (7) | 53.6% (15) |
| Did Not Drive and Used Alternative Travel | 42.9% (12) | 7.1% (2) |
| Travel Not Observed | 32.1% (9) | 39.3% (11) |
| TOTAL | 100.0% (28) | 100.0% (28) |
| | $X = 10.3, p < .001, df = 2$ | |

Focusing solely on the 19 subjects who were observed traveling during either of the two during-suspension observations, 7 subjects (37 percent) drove and 12 subjects (63 percent) used an alternative method of travel. Of the 17 subjects who were observed traveling during either of the two observations conducted after reinstatement, 15 subjects (88 percent) drove and 2 subjects (12 percent) used another method of transportation. The proportion of subjects who were observed driving after reinstatement, compared to the proportion who were observed driving while suspended, was significantly different ($X = 10.0, p = .002, df = 1$).

Factors Affecting Driving While Suspended

As noted above, there were noticeable differences between the characteristics of the subjects at the two sites, as well as differences among subjects within each site. A few variables were examined for their within-site effects on whether an offender drove while suspended.

In general, the small number of cases in each site limited the ability to identify statistically significant relationships. Thus, the patterns described below must be regarded only as suggestive of a relationship. Based on the median annual household income associated with the offender's zip code, income level did not appear to be a factor in whether Bergen County offenders drove during their suspension. Among all Milwaukee subjects, the prevalence of driving during the suspension period was higher among subjects living in areas with median annual incomes less than \$25,000 (73 percent vs. 45 percent). With regard to gender effects on driving while suspended, 3 of the 6 female Milwaukee subjects drove during at least one of the during-suspension observations; the other 3 were not observed traveling. Nine of the 36 Bergen County offenders were female; the female subjects were less likely than male subjects to be observed traveling (44 percent vs. 70 percent), and also less likely to drive when traveling (25 percent versus 37 percent). In Bergen County, 21-25 year-old offenders were less likely than other offenders to drive when traveling (14 percent vs. 44 percent). However, this was not the case among Milwaukee offenders.

Although only 6 Bergen County subjects had had a prior license suspension, these offenders were less likely than other subjects to drive while suspended (20 percent vs. 39 percent, based on subjects who were observed traveling). In Milwaukee, however, 67 percent of subjects had had a prior license suspension, and these subjects were more likely than other subjects to drive while suspended (82 percent vs. 62 percent, based on subjects who were observed traveling). Almost half the Milwaukee subjects were already serving a license suspension when arrested for DWI, and these subjects were much more likely than other subjects to drive while suspended (81 percent vs. 68 percent, based on subjects who were observed traveling).

Circumstances of Observed Travel

Milwaukee – Table 3.8 provides a more detailed account of the observed travel of the 57 Milwaukee subjects. The table summarizes travel during the weekday morning observation and the Friday/Saturday evening observation conducted during the suspension period. For the 3 subjects whose license was reinstated, the table also summarizes their travel during the observations conducted after reinstatement. After reinstatement, all 3 persons drove during the Friday/Saturday observation, and none were observed traveling during the weekday morning observation.

| Table 3.8: Observed Travel During Daytime and Nighttime Observations Milwaukee | | | | |
|---|--------------------------|------------------------|----------------------------|------------------------|
| | During Suspension | | After Reinstatement | |
| | Weekday Morning | Fri/Sat Evening | Weekday Morning | Fri/Sat Evening |
| Drove | | | | |
| Returned Home | 0 | 9 | 0 | 0 |
| Work | 5 | 0 | 0 | 0 |
| School | 3 | 0 | 0 | 0 |
| Other Residence | 1 | 3 | 0 | 1 |
| Store/bank/gas station | 4 | 2 | 0 | 1 |
| Don't Know | 3 | 4 | 0 | 1 |
| Subtotal Drove | 16 (28.1%) | 18 (31.6%) | 0 (0.0%) | 3 (100.0%) |
| Traveled but Did Not Drive | | | | |
| Returned Home | 0 | 1 | 0 | 0 |
| Work | 3 | 0 | 0 | 0 |
| School | 1 | 0 | 0 | 0 |
| Other Residence | 0 | 1 | 0 | 0 |
| Store/bank/gas station | 0 | 1 | 0 | 0 |
| Don't Know | 1 | 0 | 0 | 0 |
| Subtotal Traveled/Didn't Drive | 5 (8.8%) | 3 (5.3%) | 0 (0.0%) | 0 (0.0%) |
| Travel Not Observed | 36 (63.1%) | 36 (63.1%) | 3 (100.0%) | 0 (0.0%) |
| TOTAL | 57 (100.0%) | 57 (100.0%) | 3 (100.0%) | 3 (100.0%) |

For the during-suspension observations, the results for the weekday morning and the evening observations did not differ dramatically. During the weekday morning observations, 16 persons drove and 5 persons used other transportation; during the evening observations, 18 persons drove and 3 persons used alternative transportation (Table 3.8). The 8 trips made with alternative transportation included subjects walking (2) or riding as passengers (6).

Information was gathered on the presence of passengers when subjects drove. For the 34 during-suspension driving trips, 24 drivers had no passengers, 4 transported adult passengers, 2 transported child passengers, and 4 transported both adult and child passengers.

Overall, when both during-suspension observation periods are considered, the travel patterns for the 57 Milwaukee subjects were as follows:

- 23 subjects were not observed traveling during either observation period.
- 23 subjects drove during one observation period and were not observed during the other period.
- 4 subjects drove during both observation periods.
- 3 subjects drove during one observation period and used alternative transportation during the other.
- 3 subjects used alternative transportation during one observation period and did not travel during the other.
- 1 subject used alternative transportation during both observation periods.

As noted previously, of the three Milwaukee subjects whose license was reinstated, two subjects drove during one of the during-suspension observation periods and during one of the post-reinstatement observation periods. The third subject did not travel during either during-suspension observation but drove during one post-reinstatement observation.

Bergen County – The detailed results for observed travel in Bergen County are provided in Table 3.9. The results show different patterns of travel between weekday mornings and evenings for the during-suspension observations. Of the 12 persons observed traveling during the weekday morning observation, 2 drove and 10 used alternative transportation. In contrast, of the 14 persons observed traveling during the evening observation, 7 drove and 7 used alternative transportation. Thus, the driving observed for the during-suspension observations was more likely to occur during the evening observations. For the post-suspension observations, of the 12 persons traveling during the weekday morning observation, 9 drove and 3 used alternative transportation. Of the 11 persons traveling during the evening observation, 10 drove.

| Table 3.9: Observed Travel During Daytime and Nighttime Observations Bergen County | | | | |
|---|--------------------------|------------------------|----------------------------|------------------------|
| | During Suspension | | After Reinstatement | |
| | Weekday Morning | Fri/Sat Evening | Weekday Morning | Fri/Sat Evening |
| Drove | | | | |
| Returned Home | 0 | 5 | 1 | 6 |
| Work | 1 | 0 | 3 | 0 |
| School | 0 | 0 | 1 | 0 |
| Other Residence | 0 | 0 | 0 | 1 |
| Store/Bank/Gas Station | 1 | 0 | 1 | 1 |
| Don't Know | 0 | 2 | 3 | 2 |
| Sub-total Drove | 2 (5.6%) | 7 (19.4%) | 9 (32.1%) | 10 (35.7%) |
| Traveled but Did Not Drive | | | | |
| Returned Home | 1 | 6 | 0 | 1 |
| Work | 6 | 0 | 0 | 0 |
| Don't Know | 3 | 1 | 3 | 0 |
| Sub-total Traveled/Didn't Drive | 10 (27.8%) | 7 (19.4%) | 3 (10.7%) | 1 (3.6%) |
| Travel Not Observed | 24 (66.6%) | 22 (61.1%) | 16 (57.1%) | 17 (60.7%) |
| TOTAL | 36 (100.0%) | 36 (100.0%) | 28 (100.0%) | 28 (100.0%) |

The 17 during-suspension trips that involved alternative transportation included subjects riding as passengers (11), walking (3), and walking and riding a bus or train (3). With regard to passengers transported, only 1 of the 9 during-suspension driving trips involved the transportation of a passenger.

When both during-suspension observation periods are considered, the travel patterns for the 36 subjects observed were as follows:

- 14 subjects were not observed traveling.
- 13 subjects used alternative transportation during one observation and were not observed during the other.
- 5 subjects drove during one observation and were not observed during the other.
- 2 subjects used alternative transportation during one observation and drove during the other.
- 1 subject used alternative transportation during both observations.
- 1 subject drove during both observation periods.

Subjects' travel patterns were compared for the during-suspension and post-suspension observations for the 28 Bergen County subjects whose license was reinstated. Nine subjects did not drive during either of the during-suspension observation periods but drove during at least one post-reinstatement observation period. Three drove during one of the during-suspension periods and during both periods after reinstatement. Only one subject was observed driving during one of the during-suspension periods but not after reinstatement. Of the 8 subjects who did not have their license reinstated, 5 did not travel during either of the during-suspension observations, and 1 walked, 1 rode as a passenger, and 1 drove during one of the observations.

Case Examples

The remainder of this chapter provides seven case examples, which summarize the driving history and observation reports for selected subjects. The observation reports have been condensed, and any information that might be used to identify the subject or other persons has been destroyed.

In reading these examples, it is important to remember that subjects were observed only twice during their suspension period and only twice after reinstatement, if applicable. Each set of observations included a four-hour period on a weekday morning, when subjects were likely to be traveling to work, and a four-hour period on a Friday or Saturday evening, when subjects were likely to be pursuing personal, recreational, or social activities. Thus, it is reasonable to assume that observed driving by a subject represents the subject's typical driving pattern. To provide a comparison to the during-suspension travel patterns, a second set of two four-hour observations after reinstatement occurred on the same days of the week and times of the day as the during-suspension set of observations. This permitted the comparison of during-suspension and post-suspension driving patterns.

The five Milwaukee examples are typical of most subjects at that site. Most of these subjects have poor driving histories, characterized by numerous violations and prior suspensions. All show an apparent disregard for their suspension. Thus, these subjects run a red light; go to the liquor store; go about their daily business (washing their car, renting a video); drive their children to school; and drive to work. Only one of these subjects reinstated their license. As was typical of the Bergen County subjects, the two Bergen County cases had "clean" driving records. Further, their observation reports illustrate the most common pattern of subjects at that site: using alternative transportation during the suspended period and resuming driving after reinstatement.

Case 1: Milwaukee Subject 11

The subject is a 39 year-old male arrested July 27, 2000. His driving record was "clean." He refused the BAC test and also was charged with operating without a license and violating the child safety restraint law. An 8-month court suspension was imposed upon conviction on July 31, 2000, and a 1-year administrative suspension took effect August 26, 2000. As a result of noncompliance with the alcohol assessment interview and failure to pay the OWI fine, his license was subsequently suspended until December 25, 2002.

Observation during-Suspension 6 – 10 a.m., Thursday, March 8, 2001

When the observation begins, a Toyota Camry and a Pontiac Bonneville are parked behind the duplex. At 7:40 a.m. a female exits the adjacent residential unit with a young child and drives away in the Toyota Camry. At 8:02 a.m. a female teenager exits the side door of the subject's residence and walks down the side alleyway. At 8:31 a.m. the subject, accompanied by an adult female and child, exits the residence. The three get into the Pontiac Bonneville, with the subject in the driver's seat, the female in the front passenger seat, and the child in the back seat. Soon after, they drive from the residence through the city to a business. The subject exits the driver's seat of the car and enters the business, and the female drives away. The subject remains in the business until the observation is terminated at 10 a.m.

Observation during Suspension 6 – 10 p.m., Friday, March 9, 2001

The surveillance begins with the Toyota Camry parked behind the house. At 6:45 p.m. the subject arrives at the residence, driving the Pontiac Bonneville with no passengers. At 7:08 p.m. the subject departs the residence, driving the Bonneville with no passengers. At 7:16 p.m. the subject stops at a video store. Then the subject drives to a chicken take-out restaurant, leaving the store at 7:48 p.m. with several bags and boxes. He then drives back to the residence, where he enters and remains until 10 p.m., when the surveillance is concluded.

Case 2: Milwaukee Subject 12

The subject is a 27-year-old male. He was arrested June 10, 2000, for OWI when he was involved in a non-fatal personal injury crash. At that time he was serving a license suspension, scheduled to end June 11, 2000. His driving record indicated four other suspensions prior to the OWI and numerous violations, including driving without a license, failure to pay fines, driving with an unregistered vehicle, and moving violations. A nine-month suspension was imposed by the court upon conviction for OWI on July 6, 2000. Subsequent to his conviction for OWI, his registration was revoked and he received a further license suspension for failure to comply with the alcohol assessment interview. He did not have his license reinstated, perhaps as a result of the subsequent suspensions.

Observation during Suspension 6 – 10 a.m., Wednesday, March 14, 2001

Five vehicles are parked outside the residence. At 8:50 a.m. a female exits with an infant in a baby carrier. A young male then exits the house and transfers items from a Chevy Camaro to a pickup truck in the driveway, and the female places the infant in the carrier in the back seat of the Camaro. At 9:00 a.m. the subject exits the home and begins to drive the Camaro with the female in the front passenger seat and the baby in the back seat. At 9:15 a.m. the Camaro arrives at a day-care facility. The subject, female, and infant enter the facility and remain there until the surveillance terminates at 10 a.m.

Observation during Suspension 6 – 10 p.m., Friday, March 16, 2001

A pickup truck is parked in front of the residence. At 6:30 p.m. the subject arrives at the residence, driving the Chevy Camaro, with the adult female sitting in the front passenger seat and holding the infant. A juvenile child exits the back seat. The subject is observed carrying grocery bags and soda. All enter the front door of house and remain there until the surveillance ends at 10 p.m.

Case 3: Milwaukee Subject 37

The subject is a 41 year-old male arrested September 8, 2000. Upon conviction for OWI on October 4, 2000, he was given a 7-month license suspension. He also was convicted of operating while revoked, based on a subsequent 5-year revocation through July 3, 2002, for having been judged a "habitual traffic offender." Prior to the OWI, he had received 6 suspensions for failure to pay fines, multiple violations, and driving without a valid license. Subsequent to his OWI conviction, he received an additional drug-related suspension.

Observation during Suspension 6 – 10 a.m., Wednesday, May 2, 2001

Several vehicles are parked behind the residence. At 7:20 a.m. a female exits the residence with a female child, who is picked up by the school bus at 7:28 a.m. At 9:18 a.m. the subject drives away in a Chrysler New Yorker sedan. The investigator follows the subject to a self-serve car wash. The subject then drives to a liquor store, arriving at 9:45 a.m. After leaving the liquor store, the subject is followed until the end of surveillance period at 10 a.m.

Observation during Suspension 6 – 10 p.m., Friday, May 4, 2001

At 6:20 p.m. a female departs in the New Yorker. At 7:15 p.m. the subject drives away in an older model Mercedes and is followed to another residence. He is greeted by two persons and remains in the house until the surveillance ends at 10 p.m.

Case 4: Milwaukee Subject 50

The subject is a 30 year-old female arrested October 14, 2000, and convicted October 30, 2000, of OWI and disobeying a traffic sign or signal. She received a 7-month suspension as a result of the OWI conviction. She had four prior license suspensions; the last two suspensions had terminated shortly before her arrest. Subsequent to the OWI conviction, she received additional suspensions as a result of failure to pay the fine and not complying with the alcohol assessment interview.

Observation during Suspension 6 – 10 a.m., Wednesday, May 30, 2001

At 6:00 a.m. the investigator observes a 1987 Cadillac Seville in the driveway. At 7:22 a.m. the subject exits, dressed in business attire and carrying a small satchel, and begins to drive the Cadillac. The subject drives at an exceedingly high rate of speed and runs a red light, driving over the curb to maneuver around traffic. She continues to drive at a high rate of speed until surveillance is interrupted. The investigator returns to the residence at 7:45 a.m. and discontinues surveillance at 10:00 a.m. No additional activity is observed.

Observation during Suspension 6 – 10 p.m., Friday, May 25, 2001

The investigator arrives at 5:15 p.m. The Cadillac Seville is parked in the driveway. At 7:25 p.m. the subject exits the residence and begins to drive the Cadillac Seville. The investigator follows the subject but is unable to determine the destination. Surveillance resumes at the residence, but the subject does not return.

Case 5: Milwaukee Subject 54

The subject is a 25 year-old male arrested September 30, 2000; the OWI incident involved a personal injury crash. Upon conviction on October 24, 2000, he received an 8-month suspension. Prior to the OWI arrest, he had 3 prior license suspensions for failure to pay fines and as a result of numerous traffic convictions. His driver abstract also noted that the subject was not allowed to operate a commercial vehicle. The subject's license was reinstated effective June 25, 2001.

During Suspension Observation 6 – 10 a.m., Tuesday, June 12, 2001

Numerous vehicles are parked in the surrounding area. No activity is observed until 9:20 a.m., when the subject exits the residence and begins to drive a Toyota Camry. Alone in the car, the subject drives to the Milwaukee County Court House. He drives into the parking garage and does not return before the surveillance ends at 10 a.m.

During Suspension Observation 6 – 10 p.m., Saturday, June 23, 2001

A female is observed driving the Toyota Camry, but the subject is not observed.

Observation after Reinstatement 6 – 10 a.m., Tuesday, September 25, 2001

The subject is not observed. A female is observed driving the Toyota Camry away, returning home, and then driving away again.

Observation after Reinstatement 6 – 10 p.m., Saturday, September 1, 2001

At 8:30 p.m. the subject exits the residence and drives away in an older model Chevrolet Chevette. At 8:40 p.m. contact is lost due to heavy traffic. The investigator re-establishes surveillance at the residence until 10 p.m. No further activity is observed.

Case 6: Bergen County Subject 39

The subject is a 23 year-old male arrested October 29, 2000, with a BAC of .16. His driving record showed no violations or crashes during the past five years and no prior DWI. Upon conviction on December 18, 2000, a 6-month license suspension was imposed. The license restoration fee and the Intoxicated Driver Resource Center (IDRC) fee were paid January 2, 2001, and his license was reinstated June 16, 2001.

Observation during Suspension 6 – 10 a.m., Monday, April 16, 2001

No vehicles are seen at the residence. At 6:20 a.m. a 45-50 year-old man is seen retrieving the newspaper from the front lawn. At 7:20 a.m. the same male is seen driving away in a pickup truck. At 8:08 a.m. the subject and a female in her late 40s depart the residence in a late-model Nissan Maxima. The female is driving and the subject is the front-seat passenger. After losing sight of the vehicle after 3 miles, the investigator returns to the residence. At 8:43 a.m. the female returns home alone in the Nissan Maxima. No other activity is observed.

Observation during Suspension 6 – 10 p.m., Friday, May 11, 2001

At 5:55 p.m. the Nissan is parked in the driveway. At 7:08 p.m. the aforementioned female in business attire is dropped off at the residence. No other activity is observed.

Observation after Reinstatement 6 – 10 a.m., Monday, July 23, 2001

At 6:00 a.m. the Nissan and a Pontiac Grand Am are parked in the driveway. At 7:20 a.m. the aforementioned female exits the house, parks the Nissan on the street, and goes back into the house. At 7:30 a.m. the subject exits the house, drives the Pontiac about 2 blocks, and enters a grocery store. The subject then proceeds to drive to work. The investigator returns to the residence. No further activity is observed.

Observation after Reinstatement 6 – 10 p.m., Friday, August 3, 2001

When the observation begins at 6 p.m., the Nissan is parked in the driveway. At 7:15 p.m. a female exits the house and drives away in the Nissan. At 7:40 p.m. the female returns in the car. No further activity is observed.

Case 7: Bergen County Subject 11

The subject is a 39 year-old male arrested April 29, 2000. The subject's driving record indicated no violations or crashes in the past five years and no prior DWI. A 6-month license suspension was imposed August 8, 2000, upon conviction. The license restoration fee and the IDRC fee were paid September 5, 2000, and the license was reinstated February 4, 2001.

Observation during Suspension 6 – 10 a.m., Tuesday, January 23, 2001

When the observation begins at 6:00 a.m., a BMW, an SUV, and a Grand Jeep Cherokee are parked in the driveway. A female arrives at 9:00 a.m. No other activity is observed.

Observation during Suspension 6 – 10 p.m., Saturday, January 27, 2001

No activity is observed until 6:45 p.m. when the investigator observes the subject arriving as a passenger in a late-model Toyota and entering the home. There are two other male occupants in the car. No more activity is observed.

Observation after Reinstatement 6 – 10 a.m., Tuesday, April 24, 2001

The BMW, SUV, and Grand Jeep Cherokee are parked in the driveway. At 5:45 a.m. a newspaper is delivered to the residence. At 8:50 a.m. the aforementioned female arrives in a Mercury Sable. No more activity is observed.

Observation after Reinstatement 6 – 10 p.m. Saturday, May 5, 2001

The Grand Jeep Cherokee is observed in the driveway. At 8:58 p.m. the subject exits the residence to smoke a cigarette and then reenters a few minutes later. At 9:35 p.m. the subject exits the residence, smokes another cigarette, and then drives away in the SUV. The investigator loses sight of the subject at 9:58 p.m.

IV. FOCUS GROUP RESEARCH

The observational study provided independent and objective evidence about whether persons continued to drive after losing their license as a result of drinking and driving. However, the observational study could not provide information on the motivations for driving or not driving while suspended. Nor could it explain the dramatic differences between the observed driving patterns of offenders at the two sites.

To complement the observational study and to help explain its results, focus group research gathered qualitative information on the knowledge, behaviors, and attitudes of persons who had recently experienced a license suspension as a result of their first alcohol-impaired driving offense. Six focus group discussions – three in Milwaukee and three in Bergen County – were conducted in the summer of 2001.

The topics included the following:

- transportation patterns before, during, and after the DWI/OWI suspension
- attitudes toward the license suspension, relative to other penalties
- motivations for driving or not driving while suspended and related issues, such as knowledge of the penalties for driving while suspended, perceived likelihood of detection, and availability of alternative transportation
- for offenders who reported driving while suspended, whether they modified their driving in an effort to avoid detection
- whether the suspension imposed any hardship on the offenders or their families
- whether participants had their license reinstated after their suspension, and motivations for reinstating or not reinstating the license

Participant Criteria and Recruitment

Subjects were sought who had recently experienced a license suspension as a result of their first DWI/OWI conviction and who had no other DWI/OWI convictions in the prior ten years. Although persons who received an occupational license were excluded from the observational study in Milwaukee, they were not excluded from the focus group discussions. None of the subjects observed in either site was a participant in the focus groups.

As noted previously, in both Wisconsin and New Jersey, first-time offenders must undergo an assessment for alcohol dependency and complete an alcohol/drug education program. At each site, focus group participants were recruited by means of a one-page flyer that was distributed by instructors in these programs. The flyer explained that the focus groups were being conducted as part of a NHTSA-sponsored evaluation of penalties for DWI/OWI, offered prospective participants the opportunity to express their opinions about sanctions for alcohol-impaired driving, explained that participation was voluntary and that information disclosed would be kept strictly confidential, and promised a financial incentive for participating. The participant incentive was \$100 in Milwaukee and \$200 in New Jersey. Lower incentives were offered initially in both sites but were increased to stimulate sufficient interest.

As described in the flyer, anyone interested in participating was asked to call an "800" number to enroll. During the telephone call, the focus group facilitator screened persons to ensure that they met the eligibility criteria. A follow-up letter of confirmation was sent to each participant, and participants also received a reminder by telephone immediately before the groups were held.

In Milwaukee, the flyer was distributed with the cooperation of the Milwaukee Area Technical College, which contracts with the state to provide the intoxicated driver education program in the Milwaukee area. Participants were recruited through "Group Dynamics" courses, which are attended by first-time offenders who have been determined to be "irresponsible drinkers" as a result of their alcohol/drug assessment. A total of sixteen persons participated in three focus groups held in Milwaukee in June 2001 at the Milwaukee Area Technical College.

In New Jersey, distribution of the flyers was facilitated by Intoxicated Driver Resource Centers (IDRCs) in Bergen County and in adjacent Passaic County. The flyers were distributed to participants in alcohol and highway safety education programs, which first-time offenders are required to complete. Twenty-one persons participated in three focus groups held in August 2001 at a hotel located in Bergen County, close to the Passaic County line.

Participant Characteristics and Licensing Status

At the beginning of each focus group session, participants provided information related to their socio-demographic characteristics, occupation, amount of driving prior to and during their suspension, licensing status at the time of the DWI/OWI arrest, and whether and when they had had their license reinstated, if eligible.

Of the 16 Milwaukee participants, nine were male and seven were female. One participant was under 25 years of age, seven were 25-34 years old, five were 35-44 years old, and three were 45 years or older. Four participants were African-American and the others were

non-Hispanic white. About half (9) the participants were single, never married. Five were married, one was divorced, and one was widowed. Half the participants lived with a spouse or “significant other.” Four lived alone, three lived with their parents, and one lived with friends.

Fourteen of the 21 New Jersey subjects were male. Five participants were under 25; three of these persons were 17 or 18 years old. Four participants were 25 to 34 years old, eight were 35 to 44 years old, and four were 45 years or older. Two participants were African-American, one was Asian, and one was Hispanic; the other participants were non-Hispanic white. About half (10) were single, never married. Seven were married and four were divorced. Eight participants were living with a spouse or significant other, six lived with their parents, two lived with friends, and four lived alone.

In both Milwaukee and New Jersey, participants’ occupations ranged from unemployed to managerial or professional occupations. However, participants in both sites were predominantly employed in blue-collar trades.

With regard to licensing status, 13 of the 16 participants in Milwaukee were currently under suspension at the time the focus groups were conducted, including one participant who was eligible to have the license reinstated but had not yet done so. Eleven of the 13 currently suspended participants had an occupational license. Three participants had served their suspension and had had their license reinstated prior to the date of the focus group discussion. Coincidentally, all three had been suspended for several years and did not have an occupational license during the time they had been suspended. One of the three was driving under a prior non-alcohol-related suspension at the time of her OWI arrest in 1998.

Of the 21 New Jersey participants, 15 persons were still under suspension, including one who was eligible for reinstatement prior to the focus group discussion but had not yet obtained the reinstatement. Six persons had served their suspension and had already had their license reinstated.

Circumstances of DWI/OWI Arrest

Each discussion began with participants introducing themselves to the group and describing the situations that led to their arrests. All participants acknowledged that they had been drinking when stopped by the police. Many admitted that they knew they were intoxicated, or at least were concerned that they might be. In deciding whether or not to drive, participants weighed various factors (for example, the distance home, the need to get to work the following morning) and considered other alternatives (for example, riding with someone who had had more to drink than they had, spending the night with a friend).

Most of their stories described common traffic infractions such as speeding, lane violations, or expired registration stickers that gave a police officer probable cause to make a stop. None of the stops resulted from a sobriety checkpoint. Eight of the 37 participants – four in Milwaukee and four in New Jersey – explained that their arrest was the result of a crash. None of the crashes resulted in serious personal injury. A New Jersey participant was arrested for alleged involvement in a hit-and-run crash in a parking lot at a bar; but she asserted that she was not driving. Another New Jersey participant reported that she was charged with reckless driving and assault with a motor vehicle as a result of a crash, but these charges were later dismissed when she pled guilty to DWI.

As described by participants, the circumstances leading to some of the arrests could have resulted in enhanced penalties. However, some offenders eluded the enhanced penalties. These cases involved, for example, refusal to submit to an alcohol test, driving with a suspended license, and transporting a teenaged passenger.

Penalties Imposed

The reported fines and fees varied considerably from case to case in Milwaukee. In the absence of aggravating circumstances, the fine typically was between \$600 and \$700. In cases involving a crash or the transportation of a passenger less than 16 years of age, the fine was approximately double this amount. All Milwaukee participants paid \$180 for an alcohol assessment and \$110 for the Group Dynamics alcohol safety class. As recruiting was done exclusively in Group Dynamics classes, and only "irresponsible drinkers" guilty of a first offense are assigned to these classes (rather than other offenders who are determined to have a more serious alcohol problem), none of the focus group participants was required to pay for further treatment.

Stories of Arrests in Bergen County

Taking advantage of a rare situation when his wife and children were out of town, a 60 year-old New Jersey dentist decided to spend the evening chatting with an old buddy. He said he drank four "Black Russians" over the course of about two hours. Driving home very carefully, and avoiding the main roads, he pulled into his driveway shortly before midnight. As he was about to step out of his car, a police car pulled behind him. The officer, whom he had known for many years, explained that he had not come to a complete stop at a stop sign on his block.

"Although I don't normally drink to get drunk, the night of my arrest was an exception." These are the words of a 42 year-old divorced mother and marketing executive. She and her boyfriend were at a bar and in the process of breaking up. She had been there only a half hour and was drinking her third "Cosmopolitan" when she got angry and drove away. She was stopped because another motorist used a cell phone to report her aggressive driving. A police car was waiting at the top of a narrow, curvy mountain road to pull her over, and another was two cars behind her. She refused the breath test and was convicted for the refusal and for the DWI. She believed the refusal was a smart decision because her very high BAC would have resulted in assignment to a more extensive treatment program.

Most Milwaukee participants received a six-month license suspension, although a few suspensions were longer, extending up to a maximum of nine months. Those who received longer suspensions could not explain why. The two participants whose fines were doubled received only six-month suspensions, although they had expected that their suspensions also would be doubled.

Milwaukee participants reported that the impact of higher insurance rates is generally felt right away. Most participants' policies were cancelled by their existing insurance carriers after the OWI conviction, and they could obtain insurance coverage only at a cost almost twice the amount they had been paying. Even with increased premiums, however, insurance was relatively inexpensive in Wisconsin, when compared to New Jersey. Most Milwaukee participants mentioned increases in premiums of less than \$1,000 a year.

New Jersey participants reported that a conviction for Driving While Intoxicated (DWI) resulted in substantial financial penalties, penalties that were generally much higher than those in Milwaukee. DWI court fines appeared to fall within the same range as those in Milwaukee, although some New Jersey participants paid up to \$1,500 in fines, including fines for associated offenses such as refusal to submit to an alcohol test. In addition to the court fines and other fees, New Jersey imposes an insurance surcharge of \$1,000 a year for each of the three years following the first DWI offense. The surcharge is paid to the state but does not affect the offender's own insurance premiums, which also increase substantially following a DWI conviction. Most focus group participants did not know how much their car insurance premiums would increase because they will not need to show proof of insurance until they renew their vehicle registration. One participant was told he would have to pay \$6,700 per year to replace coverage that used to cost \$2,400; even minimum coverage for him will cost \$2,600.

Stories of Arrests in Milwaukee

A Milwaukee woman in her mid-30s, who described her occupation as "housekeeper," was arrested for OWI after she drove into a brick building. At the time of her arrest, she was already suspended for a non-traffic-related drug offense that occurred five years earlier. For the current OWI offense, she had been at a party, and everyone else had drunk so much that they passed out. She decided to drive someone else's car, and she believed that her lack of recent driving experience and her inexperience with a "stick shift" contributed to her inability to control the vehicle. She was ejected through the windshield of the car but suffered only cuts and bruises. Due to her medical condition and drug history, she was arrested, taken to the hospital, and then kept in jail overnight on suicide watch. Her BAC was .25.

The plan for a 26 year-old assistant store manager's evening was to attend the Milwaukee Bucks game with a few friends. As it turned out, the group was a few tickets short, and he spent the evening in a sports bar watching the game on TV. It was not the first time he had been stopped for drinking and driving, but it was his first arrest. He had "walked the walk" several times in college, but believed he was not arrested because he was known to police officers as a college athlete. His efforts to stay off well-traveled routes and to avoid driving by the police station close to his home did not help this time. He was only five blocks from home when he was pulled over. His BAC was .13.

The New Jersey participants also explained that they must pay \$150 for the Intoxicated Driver Resource Center (IDRC) course and a \$150 license restoration fee. Additional treatment was ordered by the IDRC for many participants. One participant was required to attend a 16-week program that will cost \$640. Others were required to attend Alcoholics Anonymous meetings for protracted periods of time, under the threat of additional license suspension.

Almost all New Jersey participants were given a six-month license suspension for the first-time DWI offense, including those offenders who had refused to submit to the alcohol test. The refusal to submit to the alcohol test can result in an additional six-month license revocation. However, it was reported that the conventional wisdom among offenders is that this additional penalty can be avoided by hiring a lawyer to persuade the court to dismiss the separate charge for the test refusal.

Relative Impact of Sanctions

Most participants in both sites had difficulty segregating and ranking the impact of the various sanctions. In both sites, the majority of participants said the worst sanction was the emotional and psychological consequences of the experience. Many participants spoke eloquently about the shame and humiliation of having been arrested, and many described their efforts to hide the arrest from their employers and acquaintances. A number of participants in both sites also mentioned the financial costs. The insurance surcharge was the cost most reviled by New Jersey participants. The participants reported that it is widely perceived as a "sin tax," which is imposed primarily to raise revenue for the state. The perception was that little money is used to make insurance available through the assigned risk pool.

Four of the 16 Milwaukee participants said that the license suspension was the worst part of their sentences. Even though the six-month hard suspension (with no occupational license) caused significant lifestyle adjustments for many New Jersey participants, only seven of the 21 New Jersey participants said that the suspension was the worst sanction.

Many Milwaukee residents found fault with the alcohol assessment process. These participants complained that the assessment, which cost \$180, was superficial and brief. Many New Jersey participants complained about the IDRC's power to require completion of expensive

One Set of Penalties in Bergen County

Originally threatened with thousands of dollars in fines, 45 days in jail, and a one-year license revocation, a 38 year-old project director for a cosmetics company retained a lawyer at a cost of \$1,900, money she considered well spent. She had crashed into the rear of a car that stopped short in front of her as she drove home from dinner with her boss. With a BAC of .12, she was charged with reckless driving and assault with a motor vehicle, in addition to DWI. After viewing the videotape of her field sobriety test, the lawyer advised her to plead guilty to the DWI and successfully fought off the other charges. In the end, her penalties for DWI included about \$400 in fines, \$150 for the IDRC program, \$1,000/year insurance surcharge for three years, and a six-month license suspension. Additional costs will be incurred to obtain insurance and reinstatement of her license.

and “onerous” alcohol rehabilitation programs, with no opportunity for appeal of the counselor's decision. They also resented the IDRC's ability to impose additional license suspensions to enforce treatment requirements.

One New Jersey man felt that the worst sanction was the loss of his car. His DWI arrest occurred in New York City, and his car was seized “as if I had been a big-time drug dealer.” He still owed car payments for two years, but had no car to drive.

Prior License Suspensions

Five of the 16 Milwaukee participants had prior license suspensions, compared to six of the 21 New Jersey participants. Although offenders with prior convictions for DWI/OWI in the past ten years were excluded from the focus groups, some of the prior suspensions were for earlier alcohol and drug violations.

In Milwaukee, the prior license suspensions were based on an underage drinking violation unrelated to driving (1), accumulated traffic violations (2), and disturbing the peace (1). Another participant was under suspension for a non-traffic-related drug conviction at the time of her OWI arrest.

Four New Jersey participants had been suspended for previous DWI convictions. This included one participant who had had three DWI convictions, with the latest over ten years ago. He recently attended IDRC as the final step in the process of restoring his license. Now 39 years old, he remarked that he had driven legally for only three years since he was 16. Another man, convicted of DWI as a juvenile, was suspended an additional two years when he had a crash while driving under the original suspension. His license had been reinstated before his current DWI. Two participants had received suspensions for other traffic violations; their license also had been reinstated before the current DWI arrest.

Prior License Suspensions Among Milwaukee Participants

The 37 year-old woman who crashed into a building had been suspended for five years for a prior drug offense and was still under suspension when she was arrested for the current OWI.

An unemployed 20 year-old woman said she had been suspended for underage drinking when she was 15 years old. She had to wait for her suspension to end before she could get a permit to take driver education classes.

A 29 year-old financial analyst had previously been suspended for accumulated traffic violations. He said he did not drive during that suspension.

A graphic designer, age 26, had had a license suspension in his college days for disturbing the peace. He did not reinstate his license for four or five years because he did not have the money and did not own a car, although he did some driving during the suspension. He remarked, “The only problem with not having a license was that it interfered with my drinking.”

A 50 year-old construction worker said he had been suspended for accumulated traffic violations while in college in Illinois. He ignored the suspension and never bothered to reinstate his Illinois license. Years later, he obtained a Wisconsin license.

Transportation Before and During Suspension

Prior to the license suspension for the current DWI/OWI, Milwaukee participants drove an average of 214 miles a week, and New Jersey participants drove an average of 181 miles. Milwaukee residents tended to have longer commutes to work and to drive more miles on the job, and New Jersey participants drove a few more recreational miles. Almost all participants in both sites drove themselves to work before their suspensions. Nine of the 16 Milwaukee subjects said that they were required to drive on the job, but only six of 21 New Jersey participants were required to do so.

As noted earlier in this report, for a \$40 fee and with proof of financial responsibility, Wisconsin first-time offenders can obtain an occupational license that allows driving within certain designated times and for specified purposes, up to 60 hours a week. Although the occupational license is supposed to indicate the counties in which driving is allowed, it was reported that the Division of Motor Vehicles allows the offender to designate the whole state.

Due in large part to the availability of the occupational license, few members of the Milwaukee groups needed to make significant changes in their modes of transportation to deal with the suspension. Most commented that the driving hours designated in their occupational license accommodated all of their necessary driving and most discretionary driving. However, some admitted that they had driven outside the terms of their occupational license. A few complained that they were not able to anticipate all their driving needs at the time they applied for the occupational license. Although the license can be changed, this costs an additional \$40.

Of the five participants who did not obtain an occupational license, four gave cost as the reason. They explained that it was not only the cost of the license itself, but also the cost of the insurance. Two women relied upon live-in boyfriends for transportation. The third lived with her parents in a small town and could walk nearly everywhere she needed to go, or ask her parents to drive her when she could not walk. The fourth lived and worked in downtown Milwaukee, and public transportation met most of her transportation needs. Two of the four women who did not get an occupational license admitted to doing a limited amount of driving while suspended; one said that she drove exactly four times during her suspension, and the other said that she drove occasionally when she could not get somewhere by bus or taxi. The man who did not get an occupational license basically ignored his suspension; he reported that he had no fear of detection. None of the Milwaukee participants (including those who did not get an occupational permit) complained that the license suspension caused insurmountable difficulties in getting to work or keeping his or her job, although several took great pains to conceal their conviction from employers, for fear of being fired.

Nearly every person in the New Jersey groups made major changes in his or her life to accommodate being without a license. At the time of the focus groups, the licenses of 15 of the 21 participants were still suspended. With regard to transportation to and from work, only three

persons (all with a reinstated license) had resumed driving to work. Most (12) usually rode with others. Six were using public transportation, and two were walking or riding a bike at least some of the time. Three of the reinstated drivers were minors who had served a 30-day suspension.

The suspension affected the occupations of several New Jersey participants. For example, one man had been a lumberyard delivery driver. As he could no longer drive, his employer had assigned other work to him. Another man had been a long distance truck driver. Having lost his Commercial Driver's License, and being uninsurable, he was painting houses, working with a crew that transported him to and from job sites. Two other men were unemployed because they could no longer get to work. A young man who worked full-time and was finishing college had put college on hold during his suspension. He could take public transportation to work, but not to college. The three-time offender who had been suspended for ten years worked with a floor-installation crew who picked him up. He hoped to buy a truck and go into business for himself after reinstatement.

Some New Jersey offenders had been very resourceful in dealing with their suspensions. A female marketing executive who made sales calls around the state had hired chauffeurs to drive her car, through an ad in a local newspaper headlined "Driving Miss Daisy." She also used car services for errands and related how mortified she was when a car service sent a stretch limousine to pick her up at the supermarket. A nurse, who worked at a hospital some distance from her home, had reorganized her working hours so that she worked long shifts on three consecutive days, staying at the hospital between shifts. A Java programmer who maintained a web site for a major international company had patched together a network of rides, busses, and car services that got him practically everywhere he needed to go. He said it took an enormous amount of planning, and his cell phone was vital to bail him out when he got stuck. A man in the process of getting a divorce had had to move back in with his wife to get closer to work for the duration of his suspension, and he was eager to move out again.

One New Jersey woman, who worked in New York, discovered that public transportation to the city worked well. She liked it so much that she may continue to use it after her license is reinstated. She said that one benefit is that she can have a few drinks after work without worrying about driving home.

Driving While Suspended

The perceived probability of being arrested for driving under suspension was lower among Milwaukee participants than among New Jersey participants. Most Milwaukee participants believed that the police do not stop vehicles unless the driver gives them a reason. One said that the biggest risk is getting into a crash that is not your fault. One participant described being nervous even when driving with his occupational license. After being hit from behind by another driver, he told the driver, "This is your lucky day, buddy. Let's just forget about it."

Although many were nervous when they drove illegally, they reasoned that if they were careful, they probably would not get caught. Few were aware of the penalties for driving while suspended for OWI. Nearly all Milwaukee participants had, at least occasionally, assumed the risks of detection for driving while suspended or beyond the terms of their occupational license. None had been caught.

In contrast, most New Jersey participants perceived that it is very risky to drive while under suspension for DWI. There was general agreement that they would be more likely than not to be arrested if they continued their normal driving through their suspension. One participant, who had been convicted of driving while suspended for DWI, said that she would not even risk turning the motor over in the driveway to keep the battery from going flat. Several expressed the belief that the police target persons who are convicted of DWI. One said, "You have to understand that many of us live in small towns where we are known to local police." Another commented that most police have computers that enable them to check driving records of cars they are following. Members of one focus group were shocked when a teenaged participant admitted that she had occasionally driven while suspended.

Most New Jersey participants also were well aware of the consequences of getting caught – an additional two years of suspension and the possibility of jail time. Even the few who thought there was only a slight probability of getting caught were deterred from driving by the severity of the consequences.

The reality in New Jersey may match the perception. Three participants had been arrested for driving while suspended for DWI. One was arrested while suspended for her current DWI when she drove her landlord's car a couple of blocks. She thought she would be safe in someone else's car, but a neighborhood patrol officer recognized her and knew she had been suspended. As a result of this incident, her suspension was extended until 2003. Two other participants were convicted for driving while suspended for previous DWI convictions occurring more than 10 years prior to the current offense.

An Unrepentant Milwaukee Driver

A 31 year-old Milwaukee man was arrested while changing a flat tire. He claimed he passed a field sobriety test, but he blew a .18 on the breath test. He got into a scuffle with the police officer, whom he alleged shoved him while he tried to answer a call on his cell phone, and started legal action against the police for assaulting him. A self-employed construction contractor, he boasted that he had not bothered to get an occupational permit and continued to drive just as before. He said, "I have no fear of being arrested for driving while suspended because there is practically no chance that I would be stopped in one of my work trucks."

Although most members of the New Jersey groups perceived the risks and consequences to be great, many were not deterred entirely from driving. With coaxing by the moderator, it was determined that four of seven participants in one group, and five of seven in another group, had driven at some point while under their current suspension. (No count was taken in the third group.) Two participants even admitted to having driven after drinking during their current suspension. The three drivers under 21 years of age were among those who had driven during their suspension.

In summary, New Jersey participants were generally more fearful about driving while under suspension than participants in Milwaukee. The proportion of participants who drove illegally in the two groups, however, was not dramatically different. It was difficult to discern whether participants in the two sites differed in terms of the frequency with which they drove while suspended. Three of the five Milwaukee participants who did not get an occupational license admitted to occasional driving; of 14 New Jersey participants who were asked directly if they drove while suspended, nine admitted that they had done so on at least one occasion. With the exception of one Milwaukee driver, who basically ignored his suspension, the reported frequency of illegal driving (that is, either outside the restrictions of the occupational license or with a suspended license) was limited in both sites.

Bergen County Subject Arrested for Driving While Suspended for DWI

A 53 year-old woman, admittedly an alcoholic, was arrested for DWI while parking her car across the street from her apartment. She believed the officer followed her home from the neighborhood liquor store. She said she was definitely "pie-eyed" at the time. She was taken to the emergency room at a nearby hospital and discharged about five hours later. A few weeks into her suspension, she made the mistake of accepting a neighbor's offer to borrow his car to go grocery shopping. She was caught almost immediately and her license was suspended for an additional two years. Since then, she had been afraid even to start her car to keep her battery charged. A registered nurse at a distant hospital, she changed her work schedule to work long shifts on three consecutive days, staying at the hospital between shifts. As she lived alone, she was totally reliant on neighbors for transportation.

License Reinstatement

In Milwaukee, only four participants were eligible for license reinstatement prior to the focus groups and all but one had had their license reinstated. In New Jersey, seven participants were eligible for reinstatement at the time of the discussion, and six had had their license reinstated. In both sites, most participants who were not yet eligible for reinstatement knew exactly when their license could be reinstated and intended to regain their license as soon as they could.

Two Milwaukee participants had chosen not to have their license reinstated for extended periods of time. Both were women who had little need to drive and were deterred from taking the steps necessary to get their license reinstated for economic reasons. In discussing prior

suspensions, two Milwaukee men revealed that they had gone many years without a license while they were college students with little need to drive. Inability to afford the costs associated with reinstatement deterred a young New Jersey man. He had deferred taking the IDRC class several months beyond his suspension because he could not afford it. He had had his license reinstated but still was not driving because he could not afford insurance.

Participants generally expected to do about the same amount of driving when their license is reinstated as they did before they were suspended. There was no difference between sites in this regard. Also in both sites, people generally expected to drive more carefully after reinstatement. There was a universal fear of being arrested again for DWI/OWI because the penalties for a second offense are perceived as severe. Although most participants vowed that they will never drink and drive again (or at least keep their drinking within legal limits when driving), few had stopped or intended to stop drinking.

Evaluation of License Suspension Sanctions

The final topic was participants' views of license suspension as a sanction, including their views of its fairness and its efficacy in deterring future occurrences of alcohol-impaired driving. Milwaukee offenders almost universally believed that the state's license sanctions are fair. The only criticism in this regard was that judges have discretion to suspend a license for six to nine months, and several subjects were given suspensions longer than six months with no rationale provided. A substantial number of New Jersey offenders believed that state's license sanctions are unjust.

Many New Jersey offenders criticized their state's law because the suspension has a greater impact on some offenders than on others. They believed that persons who cannot get to work without driving, need to drive as part of their work, live alone, or have no access to rides or public transportation are disproportionately punished. A few adults also complained that suspensions for underage drivers were shorter than those for adults.

Milwaukee participants generally did not believe that the suspensions given to first offenders are an effective deterrent to future drinking and driving. Most believed that the ease of obtaining an occupational license makes the sanction rather meaningless, as driving may be hardly affected at all for persons who obtain an occupational license. The fear of a hard suspension, jail time, and greater financial penalties for a second offense, however, was universally viewed as a strong deterrent to repeating their behavior.

All New Jersey participants believed that their license suspension deterred them from driving during the suspension, punished them, and was an effective deterrent to future drinking and driving. However, some participants believed that other sanctions would have been sufficient to get their attention and deter them from drinking and driving.

Several members of the New Jersey groups suggested that New Jersey's law would be fairer if offenders were permitted to drive in limited circumstances if they could show that the suspension would result in undue hardship, such as the loss of their job. One participant suggested that the law would be fairer if past driving and criminal records were taken into consideration in determining the length of suspension. He believed that upstanding citizens who made one mistake should not be punished as severely as those with a history of lawless behavior.

Summary

Although there were notable differences in reported attitudes, experiences, and behaviors among participants in focus groups in each site, the more striking differences were those between sites. The penalties for alcohol-impaired driving imposed on New Jersey participants appeared to be more severe, on average, than those imposed on Milwaukee participants. The financial costs were considerably higher for New Jersey participants, primarily as a result of the state-imposed insurance surcharge. The license sanction was also more severe, on average, because the severity of Wisconsin's license suspension was substantially weakened by the availability of the occupational license for many offenders.

Participants in the two sites also reported markedly different attitudes and behaviors with regard to their suspension. In general, the suspension appeared to represent a greater hardship for New Jersey participants. Many reported that they had made major changes in their work and personal lives to comply with the suspension. The perception of risk for detection and punishment for driving while suspended was also much higher among New Jersey participants, and they demonstrated a greater knowledge and a greater fear of the sanctions for driving while suspended. Although socioeconomic and other differences may partially explain the differences between participants at the two sites, the focus group discussions also suggest that the differences in the states' laws are an important factor.

A sizeable proportion of the participants in both sites indicated that they drove on at least some occasions while their license was suspended, and many of the Milwaukee participants with an occupational license also indicated that they drove on at least some occasions outside the restrictions of the license.

In a discussion of the merits of licensing sanctions, the New Jersey participants indicated that New Jersey's sanctions have considerable deterrent power but also are onerous and unfair. In contrast, the Wisconsin licensing sanctions were not seen as unfair or unduly burdensome, but also were not viewed as an effective deterrent to future drinking and driving.

V. CONCLUSIONS

Although there is a body of statistical and anecdotal evidence that alcohol-impaired driving offenders continue to drive after their license has been withdrawn, heretofore this evidence has relied on drivers' self-report or on rates of re-arrest for drinking and driving, traffic violations, or crash involvement. This study represents the first systematic effort to gather objective, independent, and unobtrusive observational data on the travel patterns of persons who are suspended for their first alcohol-impaired driving conviction.

In collecting these data, procedures were established for the identification of eligible subjects, the verification of subjects' residences and identities, and the conduct of observations that ensured that the data would be collected in a consistent, rigorous, and unbiased manner. Unobtrusive observations were conducted by surveillance professionals in accordance with a protocol that included times when drivers would be likely to travel to or from work and for social, personal, or recreational reasons. For observations conducted after the reinstatement of the driver's license, the observation periods were matched by time of day and day of week with the during-suspension observation periods. The comparison of travel during and after the suspension period permitted inferences to be drawn concerning whether an offender's travel patterns changed as a result of the suspension.

The results of the observational study were clear and compelling. Based on observations of eligible first-time offenders in two sites, with observations conducted on a randomly selected, typical weekday morning and a randomly selected, typical Friday or Saturday evening, three key overall findings emerged. First, the prevalence of driving while suspended among first-time offenders was high. Second, the prevalence of driving while suspended varied substantially between the two sites; the level of compliance with the license suspension was dramatically higher among Bergen County subjects than among Milwaukee subjects. Third, based on Bergen County drivers who reinstated their license, the suspension appeared to have had an impact on driving patterns during the suspension, relative to the driving patterns resumed after reinstatement.

Of the 34 Milwaukee subjects who were observed traveling during at least one of the two four-hour observation periods during their suspension, 30 persons (88 percent) were observed driving at least once. As subjects were observed only for two four-hour periods during their suspension period, it is likely that the extent of driving throughout the entire suspension period was high. Milwaukee subjects who violated their suspension drove for personal reasons, or to get to or from work, and they were about equally likely to drive on a weekday morning or a Friday or Saturday evening. In contrast, of the 22 Bergen County subjects who were observed

traveling during their suspension, one-third were observed driving. Two-thirds did not drive. Rather, they traveled by walking, riding as a passenger, or walking and then riding by bus or train. The Bergen County subjects who drove while suspended were more likely to drive on a Friday or Saturday evening than on a weekday morning.

Furthermore, the Bergen County subjects who reinstated their license were far more likely to drive after reinstatement (during the same days of week and times of day) than during the suspension period. Thus, in the site where driving before and after suspension could be compared for most offenders, the license suspension appeared to have had an impact on offenders' driving patterns.

There are likely several explanations for the differences between sites. One factor may have been the different socio-economic profiles of the two sites; Bergen County subjects were much more likely to live in affluent areas. Although the effects of income on the incidence of driving while suspended could not be determined due to the small number of cases and the lack of case-level income data, it is plausible that more affluent persons may be better able to maintain their current work and social lives without driving illegally. Another factor may have been that Milwaukee is a large city and Bergen County, although densely populated, includes many small municipalities and boroughs. Participants in the focus groups believed that local police officers knew them and knew that they had been convicted of DWI. Clearly, there is much more anonymity in a large city such as Milwaukee. In addition, enforcement priorities may also differ between a smaller, more residential community and a large industrial city.

Another factor may have been the different driving histories of the subjects at the two sites. Milwaukee subjects were far more likely to have complex and problematic driving histories, including multiple prior license suspensions, often based on the failure to pay fines and fees. Although a statistical relationship could not be verified, driving while suspended in Milwaukee was more likely among subjects who had had a prior suspension or who were currently suspended when arrested for OWI. Based on a review of the driver abstracts for the Milwaukee subjects, a typical cycle emerged: receiving moving or non-moving violations, followed by failure to pay the fine or fee, followed by the suspension of the license, followed by additional violations, failure to pay the fine, additional license suspensions, conviction for driving while suspended, further suspensions, and so forth. The fact that almost half the Milwaukee subjects were already suspended when they were arrested for OWI is ample evidence that the suspension of the license was not a fully effective deterrent for these offenders.

Milwaukee offenders with an occupational license (25 percent of the Milwaukee potential subject pool) were necessarily excluded from the observational study. Thus, the observational study sample did not represent all offenders. Yet, one-third of the persons with occupational licenses had had at least one prior license suspension. Furthermore, the Milwaukee focus group participants with occupational licenses indicated that they sometimes drove outside the terms of the occupational license.

Future studies may wish to focus on the role of economic factors in accumulating poor driving histories and multiple suspensions. As noted above, many of the Milwaukee subjects had had multiple license suspensions, and the majority of these suspensions were based on failure to pay a fine or fee. The focus groups also suggested that the cost of obtaining insurance was a factor for some Milwaukee offenders in whether an occupational license was obtained and was a factor for persons in both sites for whether and when the license would be reinstated. Some participants also expressed difficulty in affording the alcohol education/assessment classes. For Milwaukee subjects with multiple suspensions extending far into the future, the restoration of driving privileges may have seemed to be a remote and elusive possibility. Clearly, for a sizeable proportion of the Milwaukee subjects, the present risks and consequences of driving while suspended were not sufficient to curb their driving without a license and without insurance.

The focus group discussions suggest other important reasons for the different results for Milwaukee and Bergen County. It should be noted that the composition of the focus groups differed from the composition of the observational study samples, especially in Milwaukee. In Milwaukee, persons with an occupational license were excluded from the observational study but participated in the focus groups. In addition, the fact that participants were volunteers may have introduced a selection bias. Because the participants were recruited from alcohol/drug education classes, persons who failed to attend the classes would have been excluded. This may have been particularly relevant in Milwaukee, where the driver abstracts for some subjects in the observational study indicated that they had failed to attend the required assessment interview. Finally, the focus groups in Milwaukee were limited to offenders determined to be “irresponsible drinkers” as a result of an alcohol assessment; other offenders determined to have a more serious alcohol problem were excluded.

Nevertheless, the focus groups suggest that differences in the laws in New Jersey and Wisconsin were an important factor in offenders’ perceptions and behaviors. As would be anticipated, the lack of an occupational license in New Jersey meant that the license suspension had a greater impact on New Jersey offenders’ work and personal lives, and, thus, may have been a stronger deterrent to future drinking and driving. Although Milwaukee participants with an occupational license acknowledged that they drove outside the terms of the license, they also indicated that most of their driving could be accomplished within the terms of the occupational license. The fact that New Jersey’s penalties for driving while suspended are mandatory and far more severe also seemed to affect the perceptions and behaviors of the focus group participants at that site, who expressed a high perceived risk of apprehension and punishment for driving while suspended. This contrasts with the perceptions of most Milwaukee participants that there is a very low likelihood of apprehension and punishment for driving while suspended.

Thus, although the study confirms that the prevalence of driving while suspended is high, it also suggests that strong state laws, coupled with a high level of perceived enforcement, may increase compliance with licensing sanctions among first-time alcohol-impaired driving offenders.

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