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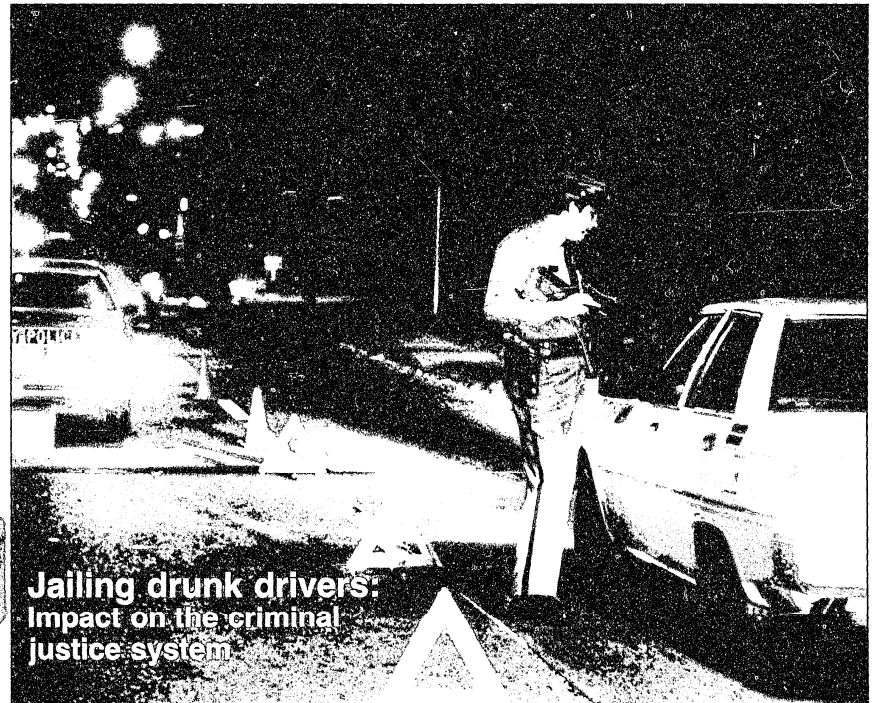
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# *NIJ* Reports

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**Jailing drunk drivers:  
Impact on the criminal  
justice system**

National Institute of Justice/NCJRS

SNI 192, July 1985

## Director's notes

The American public is demanding tougher action against drunk drivers who victimize thousands of innocent people on our roads each year. Dissatisfied with justice policies in dealing with this longstanding national problem, a popular movement is bringing significant pressures for changes in laws, penalties, and enforcement tactics.

The emotions surrounding drunk driving are deeply felt and easily understood: 74 Americans are killed and 1,800 more are seriously injured each day, all victims of drunk driving. Each person represents an incalculable loss, with families destroyed and many victims maimed for life. Beyond the personal costs, the annual tally for property damage alone is estimated to run into billions.

To minimize this terrible cost, many Americans are calling for mandatory jailing of drunk drivers. The dilemma facing policymakers is how to implement mandatory confinement of drunk drivers on a broader scale, with limited resources and little if any prior experience in handling a new class of convicted persons. Indeed, some have feared there is no effective way to implement such a policy in a manageable way at an acceptable cost.

Research by the National Institute of Justice provides information that can help decisionmakers grapple with these concerns. As part of its emphasis on policy relevance, the National Institute of Justice studied the question of mandatory incarceration of drunk drivers through one of a growing number of inhouse research initiatives.

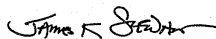
Institute researchers analyzed the experiences of criminal justice agencies dealing with mandatory confinement of drunk driving in local jurisdictions in four States. The research looked at the impact of the mandatory laws on existing operations and procedures, the demands it can place on local resources, and the coordination required to solve implementation problems.

The findings of the research are summarized in this issue of *NIJ Reports*. The article offers new insights and practical options for policymakers, legislators, and criminal justice professionals in jurisdictions considering or adopting mandatory confinement of drunk drivers.

The study suggests ways to minimize the potentially adverse impact of mandatory policies on the criminal justice system. Minneapolis, for example, avoided difficulties by adopting a number of measures to prevent weekend jail crowding and mounting case backlogs.

This is the kind of information from research that can help policymakers confronted with pressures for change. Public sentiment for action against drunk drivers remains extraordinarily high, as evidenced by such organizations as Mothers Against Drunk Driving (MADD) and Students Against Drunk Driving (SADD). The Federal Government, too, has entered the arena. By October 1986, States whose minimum drinking age is under 21 will lose Federal highway construction funds.

Clearly, it is the right time to offer practical information that can help States and localities deal with this persistent problem. I am pleased that the National Institute of Justice research staff, working on an inhouse, short-term research project, has contributed useful ideas and recommendations to strengthen our policies against drunk driving.



James K. Stewart  
Director  
National Institute of Justice

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Stepped-up law enforcement activities, such as this night-time checkpoint, are having an effect on the number of drivers arrested, and jailed, for drunk driving in many States. Photo courtesy Montgomery County Journal, Rockville, Maryland.

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The National Institute of Justice/NCJRS—the National Criminal Justice Reference Service—is the centralized national clearinghouse serving the criminal justice community since 1972. NCJRS also operates the Juvenile Justice Clearinghouse for the National Institute for Juvenile Justice and Delinquency Prevention, the Dispute Resolution Information Center for the Federal Justice Research Program, and the Justice Statistics Clearinghouse for the Bureau of Justice Statistics.

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## Jailing drunk drivers: Impact on the criminal justice system

Drunk driving is one of the most serious public health and safety problems facing the American people and their policymakers. In a 2-year period, 50,000 Americans die as a result of drunk driving—almost as many American lives as were lost in the entire 10 years of the Vietnam War. Conservative estimates place the annual economic loss from drunk driving accidents at \$21 billion to \$24 billion for property damage alone.

In the past, State laws dealing with drunk driving ran the gamut of sanctions from release with warning, through moderate to heavy fines, to suspension and revocation of licenses, and—rarely—to incarceration. Enforcement, too, varies considerably from one jurisdiction to the next.

In the last few years, a growing awareness of the magnitude of the problem, coupled with the actions of citizen groups, has led many States to reform both their laws and their enforcement. Since 1981, more than 30 States have enacted legislation directed at drunk driving control, most often by prescribing more severe sanctions such as mandatory confinement.

To gauge the impact of tougher sanctions on the criminal justice system, National Institute of Justice researchers examined the effects of mandatory confinement for drunk driving in jurisdictions in Washington, Tennessee, Ohio, and Minnesota. The findings revealed:

- When mandatory confinement is introduced and well publicized, drunk driver arrests usually increase.

This research project was carried out by the National Institute of Justice staff, including Fred Heinzlmann, Ph.D., W. Robert Burkhardt, Bernard A. Gropper, Ph.D., Cheryl V. Martorana, Lois Felson Meek, Maureen O'Connor, and Walter Phillip Travers.

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- The introduction of mandatory confinement imposes new and heavy demands on courts, incarceration facilities, and probation services.

- The adoption of mandatory confinement is frequently accompanied by increased public concern about drunk driving and is associated with a decline in traffic fatalities.

- Mandatory confinement can be imposed either through legislation or through judicial policy.

- The implementation of mandatory confinement often requires additional resources for the criminal justice system.

- Appropriate systemwide planning can minimize dysfunction and substantially reduce the impact of mandatory confinement on criminal justice operations.

This article summarizes the report on the research. It describes the key findings and recommendations for legislators, county administrators, and judges considering mandatory confinement of drunk drivers and for criminal justice personnel responsible for implementing such requirements. Selected operational issues are also highlighted.

### The research task

A major purpose of the study was to examine the effects of mandatory confinement on the criminal justice system. Thus, sites were selected that have recently made a substantial effort to implement and enforce these sanctions. National Institute of Justice researchers collected information documenting the experiences of four jurisdictions where mandatory confinement for drunk driving exists: Seattle/King County, Washington; Memphis/Shelby County,

Tennessee; Cincinnati/Hamilton County, Ohio; and Minneapolis/Hennepin County, Minnesota.

Data also were obtained from selected counties in California, where the State law includes confinement as an option for sanctioning drunk drivers. It should be noted that some changes may have occurred in the study sites since this study was completed.

In all the sites, the principal data sources included (1) criminal justice and motor-vehicle agency records; (2) interviews with local police, court, and incarceration officials; and (3) the findings of any research projects previously conducted in the jurisdictions. In Seattle and Memphis, however, more extensive case records were also compiled and analyzed by the project staff.

### The research findings

**Arrests increase.** Drunk driver arrests tend to increase after the introduction of mandatory confinement, especially when drunk driving and the new sanction are well publicized through the various media outlets. The project team noted such increases in three of the four case-study jurisdictions that have implemented mandatory confinement. The exception was Memphis, where there was relatively little publicity about the use of mandatory confinement for drunk driving and the arrest rate did not change.

Police department policies and available resources appear to have a significant influence on the enforcement response to drunk driving. In Ohio, a 2-year statewide campaign provided funds for increased drunk driving patrols. The campaign was accompanied by marked increases in arrests throughout the State. Other research indicates that rigorous enforcement supported by widespread publicity might be expected to deter drunk driving. These deterrent effects, however, appear to diminish over time.

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**Court workloads increase.** With the introduction of mandatory confinement for drunk driving, court workloads increased in most of the study jurisdictions. In Seattle, additional judges were required because of the time devoted to drunk driving cases. In Cincinnati, an additional daily traffic court had to be scheduled since the law there required a special "license hearing" following police confiscation of the drunk driver's license at the arrest scene.

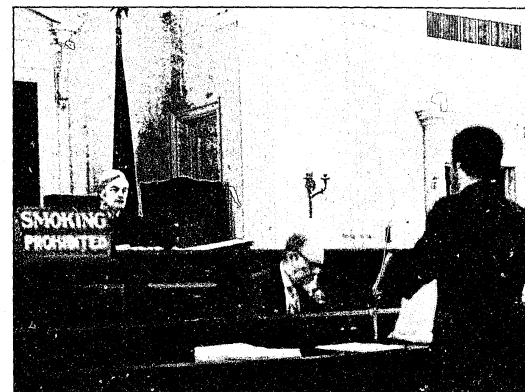
**More defendants contest.** With the introduction of mandatory confinement for drunk driving, more defendants are likely to challenge, postpone, or avoid compliance with court procedures and decisions. Several of the study jurisdictions experienced increases in "not guilty" pleas and requests for jury trials. In Seattle, for example, the number of jury trials doubled in the first 2 years following the introduction of mandatory confinement.

**Conviction rates vary.** The effects of mandatory confinement sanctions on conviction rates for arrested drunk drivers varied in the different sites.

Rates remained stable in Memphis. In Seattle they declined, due to the greater use of deferred prosecutions and to the fact that more defendants failed to appear for trial. In Cincinnati/Hamilton County, where local police and courts followed a policy of strict enforcement, conviction rates increased after the city repealed its local ordinance and adopted the Ohio law, with its stricter conviction and sanctioning provisions.

**Incarceration rates increase.** The study found a dramatic increase in incarceration rates for convicted drunk drivers in each of the four jurisdictions where mandatory confinement has been implemented. This finding is clear and consistent. It includes drunk drivers convicted of their first offense.

In Seattle only 9 percent of convicted drunk drivers were sentenced to jail before mandatory confinement was introduced; afterwards the incarceration rate was 97 percent. In Memphis the incarceration rate was 29 percent before mandatory sanctions and virtually 100 percent afterwards. In Cincinnati and Minneapolis similar increases occurred. Only California, where judges have the discretionary power to impose probation



Under mandatory confinement, court workloads generally increase as more defendants contest and request jury trials. Confinement takes several forms, including weekend confinement and placement in special programs for alcohol treatment and education.

instead of confinement for drunk driving offenses, failed to show a consistent increase in incarceration rates.

**Strains on corrections.** The National Institute findings clearly show that mandatory confinement has its greatest criminal justice impact upon incarceration facilities.

In Memphis, the use of mandatory confinement has severely strained Penal Farm operations, especially on weekends when most drunk drivers serve their sentences. Cincinnati also uses weekend confinement for convicted drunk drivers, which caused an enormous backlog. Offenders were forced to wait as long as 6 or 7 months before serving their sentences. In Seattle, less than 18 months after the new sanctions were implemented, the county was obliged to handle all first-offender drunk drivers.

Minneapolis, by contrast, is one site that has been more effective in implementing mandatory confinement. By requiring immediate incarceration of

offenders (within 48 hours of conviction), peaks in correctional system caseloads have not been created. Weekend overcrowding has been avoided.

Mandatory confinement laws can also impose strains on probation services. Since Tennessee law stipulates that all convicted drunk drivers must be placed on probation, Memphis probation officers have experienced a dramatic increase in caseload. The same is true in Seattle, where drunk drivers now represent about 70 percent of the probation department caseload.

**Special programs and facilities required.** Because of their previous "noncriminal" history, drunk drivers are frequently confined in a building or area apart from other offenders. In Cincinnati a hospital facility is used, while in Seattle a new facility was built. In Memphis and Minneapolis drunk drivers are confined in a separate area of the local incarceration facility.

Drunk drivers are often also placed in special "confinement" programs for alcohol treatment, traffic safety education, or community service. Drunk

## Jailing drunk drivers: Impact on the criminal justice system

drivers are sometimes allowed to serve their sentences on weekends, a policy that directly contributed to the weekend overcrowding at the Memphis Penal Farm and to the backlogs in Cincinnati's hospital-based treatment program.

**Legislation not essential.** In Minneapolis/Hennepin County, a mandatory confinement policy for first-offender drunk drivers was adopted by judicial consensus, without legislation. The county's 17 sitting judges held closed-session discussions to develop and evaluate mandatory sanction options before approving an initial 6-month test period.

**Adverse impacts can be minimized.** The Minneapolis experience demonstrates that mandatory confinement can be implemented without serious organizational or resource problems for the police, courts, or incarceration facilities. The bench successfully anticipated problems and adopted a range of measures to avoid them. These included the requirement that sentences be initiated within 48 hours of conviction to avoid weekend jail overcrowding; spreading court cases evenly throughout the week to avoid overload peaks; and

requiring convicted drunk drivers to pay the cost of their treatment and confinement to minimize the expenditure of criminal justice resources.

**Fatalities may decline.** In general, the jurisdictions studied experienced a decrease in overall traffic fatalities following the adoption of mandatory confinement sanctions. However, a direct cause-and-effect relationship cannot be assumed.

In most jurisdictions, enactment of new sanctions was accompanied by increased publicity focusing on drunk driving and driving safety in general. It is difficult to determine the extent to which the decline in traffic fatalities resulted either from improved driving practices arising from heightened public awareness about the problem or from the imposition of mandatory confinement sanctions and enforcement.

Furthermore, traffic fatalities began a general decline in 1981, both nationally and in the case-study jurisdictions, although the decline in fatalities was considerably sharper in the study sites than in the Nation as a whole.

### Recommendations for policy-makers

**Integrated planning essential.** Before initiating mandatory confinement sanctions for drunk driving, careful consideration must be given to their possible impact on criminal justice operations and resources.

A systemwide approach to drunk driving control is strongly recommended. The planning process should include legislators as well as representatives of all the agencies concerned with drunk driving control—police, prosecutors, defense attorneys, judges, correctional officials, and State motor-vehicle officials. Each agency's areas of responsibility should be clearly defined, as should the forms of coordination and accommodation that will be necessary.

Effective planning may include a memorandum of agreement identifying potential problem areas along with the responses and roles appropriate to respective agencies. Such an approach can anticipate and resolve problems of coordination and responsibilities. It is particularly important that draft legislation be informed and shaped by systemwide planning.

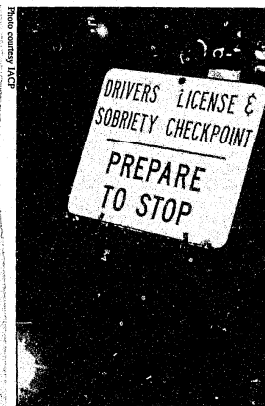
**Additional resources required.** Additional money, personnel, or facilities are generally required to carry out a mandatory confinement strategy effectively. Legislators should recognize the impact that mandatory confinement is likely to have on judges, prosecutors, and particularly on the correctional system.

A possible solution to the extra burden placed on local budgetary resources is to have convicted offenders help pay for their confinement or treatment in alcohol abuse programs. This approach has been used in several jurisdictions, including Seattle, Memphis, and Minneapolis. It merits serious consideration as a policy option.

Police across the country have introduced new equipment to enforce tougher drunk driving laws. The Virginia Alcohol Safety Action Program provides this van which contains evidentiary breath and blood testing equipment.



Photo courtesy VACP



Signs, flares, and reflective barriers warn motorists when a checkpoint is in operation. Traffic is reduced to one lane to enable three to five officers to interview drivers in safety. Another police car stationed near the warning sign pursues vehicles turning away from the checkpoint.

**Sanctions should be consistently applied.** To achieve a significant deterrent effect, a mandatory confinement policy must be strictly adhered to and applied in a consistent manner by all officials involved in its implementation. Consistency tends to increase public acceptance and ensure the equitable administration of sanctions.

Developing explicit judicial policies to guide the application of mandatory confinement sanctions and ensuring that those policies are communicated to and accepted by all responsible agencies can promote adherence and consistency.

**Weekend confinement may create problems.** Allowing drunk drivers to serve their confinement terms on weekends may lead to additional costs, overcrowded facilities, overextended jail personnel, and backlogs causing lengthy delays between conviction and the time offenders actually start to serve their sentences. Review of the

daily population of incarceration facilities can aid in determining the confinement policy most likely to avoid these difficulties.

Where sanctions take the form of mandatory participation in alcohol-treatment or traffic-safety programs, one way to avoid correctional system overload would be to explore the use of schools or other public facilities that are vacant on weekends.

**Evaluation needed.** Jurisdictions should continually monitor and evaluate mandatory confinement sanctions to assess how they are being implemented and the results they are producing. Crucial to this process is obtaining feedback from the individuals who are directly involved in implementing the sanctions. Such information will help identify problems and suggest solutions.

**Publicity is crucial.** Publicizing new sanctions through television, radio, and the print media is vitally important. It clearly has a positive effect. Educating the public may enhance the deterrent effects of these sanctions both directly (by raising public awareness of the serious penalties imposed) and indirectly (by focusing attention on the hazards of drunk driving and encouraging public support and cooperation in its control).

The experience in several jurisdictions, particularly in Seattle, Minneapolis, and Cincinnati, demonstrates the positive impact of publicity on law enforcement activities dealing with drunk drivers.

**Special attention for repeat offenders and scofflaws.** Most jurisdictions require stricter sanctions for the repeat offender, yet criminal justice records do not always provide information on an individual's history of drunk driving arrests and dispositions. Records and information-retrieval systems should be standardized and made readily accessible to both criminal justice and motor-vehicle agency personnel.

An additional problem in some jurisdictions is the lack of a systematic means of dealing with the significant number of drunk driving defendants who fail to appear for trial or sentencing or to com-

ply with the fines or treatment required as part of their sentence.

The success of mandatory sanctions depends on all convicted offenders being required to comply with all the conditions imposed at sentencing. Equity demands that defendants who do not comply be identified and sanctioned effectively. For example, a mechanism to identify scofflaws could be incorporated into the routine screening of license renewal and registration applications at the motor-vehicle department.

**Statistics should be improved.** Procedures for identifying and reporting alcohol-related highway accidents and fatalities are still inadequate in most States. Thus it is difficult to measure the long-term effects of mandatory confinement (or any other) sanctions on the deterrence of drunk driving. Policymakers need accurate statistics on the incidence of alcohol involvement in auto accidents to determine the relative effectiveness of alternative sanctioning strategies for producing long-term reductions in drunk driving accidents, injuries, and fatalities.

The full report of this study will be published this summer and will be available from the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850, entitled *Jailing Drunk Drivers: Impact on the Criminal Justice System*. To order, specify title and the identifying number NCJ 97733. Information about the study can be obtained by contacting the Project Director, Dr. Fred Heinzelmann, at the National Institute of Justice, (202) 724-2949.



Heightened public awareness of the drunk driving problem has been important in strengthening both legislation and enforcement. The National Association of Broadcasters used this logo to publicize National Drunk and Drugged Driving Awareness Week last year.