AN INVESTIGATION OF JUDICIAL BEHAVIORS REGARDING THE DRIVING AND DRINKING PROBLEM

by

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ABSTRACT

The problem of driving and drinking has been examined in terms of prevention, enforcement, punishment, and education. From the sale of alcoholic beverages, it remains apparent that people will continue to drink and problems associated with that behavior will persist.

The purpose of this study was to investigate how the judges in Montgomery County, Virginia, treated defendants brought to court for driving while under the influence of alcohol or driving on a license suspended due to alcohol abuse from July, 1982 through September, 1983.

An analysis of the role played by the Montgomery County, Virginia, judges in the driving and drinking problem has shown that there were signficant differences in the number of continuations allowed, the type of verdict granted, and the form of punishment given. Defendants arrested for driving while under the influence of alcohol were much more likely to receive a guilty verdict (81%) than were people arrested for driving on a license suspended due to alcohol abuse (34%).

These same judges were consistent in their treatment of male and female defendants in all areas except punishment where it was found that no females went to jail. Personal interviews with the judges substantiated the statistical results, but of even more significance was the accent placed on educating both the public, beginning in elementary school, and the drunk driver. Many recommendations for further research and further action were presented.

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CHAPTER 1

INTRODUCTION

"One of every two Americans will be involved in an alcohol-related automobile crash in his or her lifetime" (National Highway Traffic Safety Council Administration, 1982). Thus driving while drinking cannot be ignored because there is an economic cost of almost five billion dollars annually in terms of loss of life, personal injury, and property damage. Nearly 71 Americans are killed in alcohol related accidents every day. What is being done about driving and drinking, the nation's number one highway safety problem? What educational efforts are being made to deter a person from repeating his driving and drinking behavior?

The freedom to consume alcohol and the privilege to drive can belong to anyone, but combining the two behaviors can frequently lead to breaking the law. Most individuals over the age of sixteen are skilled at driving an automobile, but they may not be responsible enough to know not to drive and consume alcohol simultaneously.

The safe driver could become a community threat if he decided to attempt to drive a car after drinking alcohol. Because alcohol is a depressant, it can slow coordination, hamper reaction time, impair visual perception, decrease judgment, and obviously hamper one's ability to drive an automobile safely. Therefore a person's chances of becoming

involved in an accident after consuming alcohol are significantly increased.

The precarious situation of driving and drinking is compounded by the fact that most people are hesitant to interfere with another person's decision to drive after drinking, just as they are reluctant to interfere with one's drinking behavior. Many people who drink also experience a false feeling of immunity from the possibility of becoming involved in an automobile accident.

One way to examine the driving and drinking problem is to study how judges deal with people arrested for driving while under the influence of alcohol. Convicted people can be fined, jailed, lose their privilege to drive, or be ordered to attend some type of rehabilitation program. The research for this dissertation centered around the consistency of judges in dealing with people arrested for driving while under the influence of alcohol or driving with a license suspended due to alcohol abuse.

THE IMPACT OF JUDGES

How judges interpret the law in determining whether a person is guilty may be a contributing factor in the driving and drinking problem and the resulting punishment administered. Even if a person is arrested, he may not be convicted of driving while under the influence of alcohol. Ruschmann (1978) found that only 187 (32%) out of 579 drivers arrested for driving while under the influence of

alcohol were actually charged with misdemeanors. Of these, even fewer resulted in convictions for offenses for which the person was originally charged. Many times, a person arrested for driving on a suspended license would be found guilty of a lesser charge such as driving with no operator's license. The subsequent punishment would be only a $25 fine versus a fine up to $1000 for a driving under the influence of alcohol conviction.

Ross and Blumenthal (1975) found that judges felt strong pressure to use only fines as punishment for driving under the influence of alcohol offenders. Gusfield (1981) noted that the negotiation between the attorneys, defendants, police personnel, and the judges actually determined what decisions were made. The plea bargaining process often included consideration of degrees of intoxication, expense of the trail, family status, offender's character, and the past legal record of the defendant.

Further research showed that judges are sensitive to external sanctions resulting from a driving while under the influence of alcohol conviction. Additional financial concerns include Alcohol Safety Action Program fees, increased insurance rates, defense attorney costs, and loss of income or a job because of losing one's privilege to drive.

If a defendant needed a license to drive to work, he

could almost be assured that he would not lose the privilege to drive. Furthermore, a drinking driver threatened with license suspension becomes much more cooperative regarding punitive actions.

THE LAW

If convicted of refusing to take a blood or breath test in Virginia, one's driver's license can be suspended for six months. Any conviction for a first time driving while under the influence offender is a class A misdemeanor which carries a maximum penalty of twelve months in jail or a $1000 fine.

It has been found that Virginia judges punish with a fine of $250, six months license suspension, and 30 days in jail. However, each judge has the option to suspend some part or all of the above sentence if the guilty person successfully completes the Virginia Alcohol Safety Action Program. Regardless, the conviction still becomes part of the offender's driving record since such a law was passed in July, 1982.

STATEMENT OF THE PROBLEM

A group of concerned citizens in Montgomery County, Virginia, agreed to form a task force in January, 1984, to study the problem of driving and drinking. Policemen, retired citizens, and members of Mothers Against Drunk

Driving (MADD) were some of the members who comprised this committee and approached the division of Health, Physical Education, and Recreation in the College of Education at Virginia Polytechnic Institute and State University for help in conducting statistical analyses on data made available to the general public at the Montgomery County Court House.

The task force, appointed by the Montgomery County administrator, sought answers to the following questions:

1. Are judges in Montgomery County, Virgina, consistent in determining whether a person is guilty of driving while under the influence of alcohol or driving with a license suspended due to alcohol abuse?
2. Does the sex of the person who is arrested determine, in part, the conviction or the punishment?
3. Is a person less likely to be found guilty if he receives several court continuations?

A preliminary review of the court dockets in Montgomery County, Virgina, showed that not all those who were arrested were found guilty nor were all those who were determined guilty given the same sentence. Legislators have passed laws governing conviction and have issued a broad range of sentences from which judges may choose, but perhaps there still needs to be more consistency in the decisions made.

PURPOSE OF THE STUDY

The purpose of this study was to investigate how the

judges in Montgomery County, Virginia, responded to defendants brought to court for driving while under the influence of alcohol (DUI) or driving on a license suspended due to alcohol abuse (DS) from July, 1982 through September, 1933. Specifically, the following areas were investigated: the number of continuations allowed, the number of guilty verdicts returned, and the type of punishment administered.

RESEARCH HYPOTHESES

In order to test the areas cited above, the following null hypotheses were formulated:

1. There is no significant difference between the judges and the type of case they heard.
2. There is no significant difference between the judges and the number of continuations they granted.
3. There is no significant difference between the number of continuations granted and the verdict given.
4. There is no significant difference between the number of continuations granted and the type of punishment administered.
5. There is no significant difference between the type of arrest (Driving while under the influnce of alcohol=DUI or Driving with a license suspended due to alcohol abuse=DS) and the type of verdict (Guilty or Not guilty).

6. There is no signficant difference between the type of arrest and the form of punishment administered.
7. There is no significant difference between the sex of the defendant and the judges hearing the individual case.
8. There is no signficant difference between the sex of the defendant and the type of arrest heard.
9. There is no significant difference between the sex of the defendant and the number of continuations granted.
10. There is no signficant difference between the sex of the defendant and the type of verdict granted.
11. There is no signficant difference between the sex of the defendant and the type of punishment given.

All hypotheses were tested at the .05 level of significance.

NATURALISTIC INQUIRY

Once differences and similarities between judges trying these cases were determined through statistical analysis, the judges were interviewed using naturalistic inquiry to discern whether their feelings regarding the law coincided with their court decisions.

> The naturalistic investigator is concerned with description and understanding; thus, he begins as an anthropologist might begin learning about a strange culture, by immersing himself in the investigation with as open a mind as possible, and permitting impressions to emerge (Guba, 1978, p. 13).

SIGNIFICANCE OF THE STUDY

People who drive and drink usually have no intention of hurting someone else, much less themselves. However, the fact remains that thousands are killed annually in alcohol related driving accidents. Thus it appears that more attention needs to be given to the driving and drinking problem. Since the death rate is increasing rather than decreasing, it may benefit the nation if efforts were made to make the public aware of the role played by judges in the driving and drinking controversy.

In Montgomery County, Virginia, a project was undertaken to study the driving and drinking problem from the standpoint of administration, adjudication, and enforcement. Committee members solicited the help of this researcher in gathering and analyzing available statistical data on the seven judges who hear driving while under the influence of alcohol cases in Montgomery County, Virginia.

Most of the time judges appear to follow the traditional common law in their effort to assure justice in our judicial system. Regardless, it would be informative to determine if judges communicate with one another regarding the basis upon which a court continuation should be allowed and whether Virginia laws are specific enough to enable them to make an appropriate decision on a particular case.

Personal interviews with the seven Montgomery County judges could help to determine how common and statutory laws

impact on how the judges make their decisions. The statutory laws have given the judges an opportunity to make decisions which were not always uniform in nature. This research may determine that lack of uniformity in decisions was the result of some fault in the judges' own education.

The act of driving and the act of drinking by themselves are not against the law. However, it is illegal to intentionally drink to the extent that it is unsafe to also drive. To add weight to this common law, legislators have passed statutory laws which govern the exact amount of alcohol allowed in the blood. The most recent statute put into effect in July, 1984, says that a blood alcohol concentration of 0.15% is considered legal evidence for conviction of driving while under the influence of alcohol.

The need to educate lawyers, judges, the person who contemplates whether to drive and drink, and the people who want to be protected from such a driver abounds. The question of interest for this dissertation centered around the consistency of the judges in Montgomery County, Virginia, and their treatment of persons arrested for driving while under the influence of alcohol or driving with a license suspended due to alcohol abuse. Through both quantitative and qualitative analyses, new insight might arise on the problem of driving and drinking.

DEFINITION OF TERMS

Throughout this study, reference was made to terms

which may be unfamiliar to the reader. For convenience in identification, the following definitions were adapted with minor modification from Police Terminology, Municipal Police Training Council, Office for Local Government, State of New York, 1971:

ABSOLUTE ALCOHOL refers to the amount of ethyl alcohol present in all alcoholic beverages. Ethyl alcohol is the intoxicating ingredient in distilled spirits, wine, and beer. Although quantitites vary within each type of alcoholic beverage, the following percentages are used to compute absolute alcohol: Distilled spirits (41.4%); wine (12.9%); and beer (4.5%).

BLOOD ALCOHOL CONCENTRATION (BAC) is based on the weight (in grams) of the amount of alcohol in a given volume (per 100 milliliters) of blood. As of July, 1984, a BAC of 0.15% is considered sole legal evidence for conviction of driving while under the influence of alcohol.

CONTINUATION is a decision made by the presiding judge to extend or prolong the court hearing until a future date. Continuations are often granted to defendants so they can obtain legal representation or if the lawyer or a witness is unable to be present at the appointed court date.

DOCKET BOOKS refer to large paper documents available for public use at the court house. They contain the arrested person's full name, sex, the presiding judge, the basis for the arrest, the disposition of the case, and any resulting punishment. Cases are entered in the docket books according

to the day they are heard in court.

DRIVING ON A SUSPENDED LICENSE (DS) refers to a person who has been arrested for driving with a license that has been revoked due to alcohol abuse.

DRIVING UNDER THE INFLUENCE (DUI) is a term used to imply that a person has had a sufficient quantity of intoxicating liquors so that his mental and physical capacities are impaired for the performance of a particular task. By law, anyone who attempts to operate a motor vehicle with a blood alcohol concentration of 0.10% or greater is considered driving while under the influence of alcohol.

DRUNK is the state of impairment to the mental or physical senses resulting from the use of intoxicants which interfere with performance of some function. In usual police parlance, a person is drunk if he cannot walk or talk properly, or he has a BAC of 0.15%.

DRUNKEN DRIVER is a person driving under the influence of intoxicating liquor within the meaning of the statutes, when he has drunk a sufficient quantity of alcoholic beverages to cause him to lose the normal control of his mental or bodily faculties or both to such a degree that either or both of these faculties are appreciably impaired.

MISDEMEANOR is any crime punishable by up to twelve months in jail, a fine of $1000, or both. In Virginia, driving while under the influence of alcohol is considered a misdemeanor and not a felony.

MURDER is the unlawful killing of a human being by

another with malice aforethought, either express or implied. The Fourth United States Circuit Court of Appeals in Richmond, Virginia, ruled that, in some cases, death from a car accident is murder. "To support a conviction for murder, the government need only have proved that the defendant intended to operate his car in the manner in which he did without regard for the life and safety of others" (Roanoke Times and World News) ,Roanoke, Virginia, July 18, 1934, p. 8).

RECIDIVIST is a repeat offender.

RECKLESS DRIVING is the operation of a motor vehicle manifesting reckless disregard of the possible consequences and indifference to others' rights.

LIMITATIONS OF THE STUDY

This study was limited to the data available to the general public at the Montgomery County Court House, Montgomery County, Virginia. Thus any investigations which could be conducted were limited to the arrested person's full name, sex, the presiding judge, the basis for the arrest, the disposition of the case, and any resulting punishment.

Results of the study were limited to Montgomery County, Virginia. While this population may be similar to other counties, cities, or even states, there were likely unknown differences which may restrict generalizing these findings to other populations.

ASSUMPTIONS

This study was based on the following assumptions:

1. The court docket books at the Montgomery County Court House, Montgomery County, Virginia, provided a reliable source of data for information used in this study.
2. The arrested person's full name, sex, the presiding judge, basis for the arrest, number of continuations allowed, disposition of the case, and any resulting punishments were recorded accurately.

SUMMARY

It was apparent from the literature that the problem of driving and drinking had increased over the years. From the sale of alcoholic beverages, it was evident that people will probably continue to drink. Concern occurs when drinking behavior becomes coupled with driving because people do not always drink at home.

This chapter presented an overview of the need for more closely examining the driving and drinking problem, especially the consistency of the Montgomery County judges in their treatment of people arrested for driving while under the influence of alcohol or driving with a license suspended due to alcohol abuse.

The possibility of being stopped, convicted, and punished for breaking the law and driving while under the influence of alcohol may not affect each person equally, depending upon which judge hears the case. However, it

behooves all people to investigate whether justice prevails regardless of which judge actually heard the case in court.

This dissertation explored how the seven judges in Montgomery County, Virginia, dealt with those people arrested for driving while under the influence of alcohol or driving with a license suspended due to alcohol abuse from July, 1982, through September, 1983.

Chapter II contains a review of current literature regarding the driving and drinking problem. Such literature will give a rationale for the variables and the methods used in this study.

CHAPTER II

REVIEW OF THE LITERATURE

Every day more publicity has been given to the problems associated with excessive alcohol use. People see the quest for tranquility in a fast changing, nontranquil world as the foundation for alcohol problems. Decreasing personal security because of altered roles, increasing mobility, shifting sexual morals and concerns with occupational meaninglessness have forced many people into a state where they turn to alcohol as the answer to their many concerns. Mosher and Wallack (1979) state strongly that alcohol should not be advertised as satisfying all desires and needs of the consumer because it would be unrealistic for any one drug to be that powerful.

A HISTORICAL PERSPECTIVE

Before one can fully understand the driver who drinks, it would be helpful to examine the role of alcohol in American society. The art of drinking alcohol may not necessarily be a problem, but it does become important when alcohol is combined with driving an automobile which requires a person's full concentration.

"Americans in 1870 drank six gallons of beer and cider, five gallons of distilled liquor, and a gallon of wine a year" (American Family Practice. 1934, p. 28). However, there were no cars to drive. In 1880, consumption of alcohol

dropped to 1.72 gallons per person, but in 1930, Americans were drinking 2.71 gallons of alcohol per person with 26,000 citizens being killed yearly in drunk driving accidents (United States Department of Human and Health Services, 1981).

The twentieth century saw the use of alcohol increasing. Men were viewed as "equal before the bottle, and no man was allowed to refuse to drink" because refusal was "viewed as proof that the abstainer thought himself to be better than other people" (Rorabaugh, 1980, p. 151).

Individualism in the use of alcohol was another major theme of the twentieth century. A person's drinking habits were considered a private affair, so any restrictions seemed contrary to individualistic spirit. People felt they had a right to drink, and no one should interfer with this right. Consequently, many people tolerated the abuse associated with alcohol.

The temperance movement was an effort to deal with the undesirable, disruptive consequences of abusive drinking, but an individual's freedom to choose his own behavior won out against any alcohol restrictions.

In 1893 the automobile was introduced in the United States. By 1903 the act of driving and drinking was already causing automobile accidents. Statistics gathered in 1904 showed that many of the drivers of "automobile wagons had been drinking before their accidents" (Cameron, 1979).

Virginia addressed the problem of driving and drinking

as early as 1916 when a statute was passed stating that "it shall be unlawful for any chauffeur, motorman, engineer, or other persons to drive or run any automobile, car, truck, engine, or train while under the influence of intoxicants" (Virginia Code, 4722, 1919).

Research completed in 1924 found that one-fourth to one-third of all car accidents resulted from drivers using alcohol (United States General Accounting Office Report, 1979). Holcromb in 1938 found that 25% of the drivers involved in accidents were drunk.

In 1968 the Department of Transportation released two specific findings: Alcohol was involved in 50% of all traffic fatalities. Alcoholics and problem drinkers, who constitute but a small minority of the general population, account for a very large part of the overall highway safety problems.

The federal government responded to these facts by creating the Alcohol Safety Action Programs (ASAP) in an attempt to decrease the driving and drinking occurring on the nation's highways. In turn, various states reacted to federal findings by passing minimum blood alcohol concentration levels and implied consent to a chemical test if asked to do so after being stopped for suspicion of driving while under the influence of alcohol. Refusing to submit to one of these tests could result in the loss of the privilege to drive for six months. A blood alcohol concentration of 0.10% or higher constitutes impairment in

48 states. The maximum level allowed is as little as 0.08% in Idaho and Utah.

THE ROLE OF ALCOHOL

Alcohol has a definite physiological affect on driving ability. Drinking while driving can lead to automobile accidents because alcohol has been classified as a depressant that can drastically decrease a person's performance ability. Alcohol consumption can result in "lack of comprehension, misjudgment, improper driving, and speeding" (May & Baker, 1975, p. 144). Laurell (1977) also agreed with Attwood, Williams, and Madill (1980) who said that alcohol impaired driver performance by decreasing perceptual functions such as reaction time and coordination.

The Fourth Special Report to the United States Congress on Alcohol and Health (United States Department of Human and Health Services, 1981) concluded that automobile accidents were the major causes of violent deaths. Blood alcohol concentrations showed that 35% to 64% of drivers involved in fatal accidents had been drinking prior to the accident. Even more significant was the fact that 40% to 55% of all fatally injured drivers whose blood was actually tested had blood alcohol concentrations over 0.10% which exceeds the limits allowed under most states.

The highway crash involving alcohol "typically involved a single driver in a single vehicle striking a fixed object

on or off the roadway. It occurred late at night or early in the morning on week-end nights...at a fairly low speed" (May & Baker, 1975, p. 144). Forty-five per cent to 60 per cent of all fatal alcohol related accidents involved a young driver under twenty years of age.

The research of Finch and Smith (1970, p. 83) related that the typical driver involved in an automobile crash was older and was "usually not an ordinary individual who was unlucky in getting into trouble but rather was a socially deviant person, often a chronic alcoholic".

Even knowing the above information, Gaynes (1982, p. 29) said the drunk driver was more often viewed "not as a criminal but as someone who was just careless, possibly sick, perhaps even funny".

In addition to being associated with driving accidents, alcohol can also impair mental, perceptual, psychomotor, and sensory functions. The 1977 Task Force on Responsible Decisions about Alcohol proved that these impairments were visible even at very low concentrations of .03% to .04% of blood alcohol concentration. Likewise, as the concentration of alcohol in the blood increased, the resulting impairment became more severe. At a blood alcohol concentration of 0.10% most all drivers were significantly affected by a decreased psycho-motor ability to drive a car safely.

LEGAL ENFORCEMENT

The literature has addressed the fact that more laws

need to be made and better enforced in an attempt to decrease the driving and drinking problem. Throughout various states in the country, statutes have been passed making driving while under the influence of alcohol a criminal offense. In most states, conviction for drunk driving is a misdemeanor. However in a few states, the offense is considered a felony, especially if there was bodily injury involved in a driving and drinking accident.

In other jurisdictions the first violation of a driving while under the influence of alcohol statute has been a misdemeanor, but a second offense has been considered a felony. However, a defendant cannot be convicted for a felony in one state based upon a prior conviction of driving while under the influence of alcohol in another state.

Zimring and Hawkins (1973) found that many people chose not to participate in illegal behvaior such as driving and drinking because they were morally committed to not breaking the law. Meir and Johnson (1977) questioned whether a threat of possible punitive action would really prevent a potential violator from breaking the law. In spite of controversy regarding driving and drinking, Meir and Johnson did feel that when laws were enforced, public behavior often changed in an attempt not to be punished.

Geerkin and Gove (1975) found that a risk of punishment for conviction of DUI did not affect each person equally. Moreover, it was the perceived risk and not the actual risk which drove a person to act in a particular way. Knowing

that only one out of every 2,000 drunk drivers was actually arrested in 1981 (National Highway Traffic Safety Administration) may not be enough of a threat to change behavior. Regardless, potential offenders should know there will be a high probability of getting caught, being convicted, and receiving punishment if a criminal act is committed.

Vingilis, Salutin and Chan (1979) pointed to the need for significant penalties for a convicted drunk driver. Moreover, the offender must be made to feel that he has a good chance of being apprehended if he does violate the laws. Presently, the chances for being stopped for driving and drinking remain extremely low. Jones and Joscelyn (1978) estimated that a United States citizen could commit from 200 to 2,000 driving while under the influence of alcohol violations before finally getting caught.

Meir and Johnson (1977) found that offenders would be deterred from future illegal behavior if their punishment was certain and quick. Therefore, trial dates should be set as soon as possible after the victim is arrested, and no court delays should be permitted.

Countries other than the United States have shown that increasing police enforcement can lead to earlier convictions and punishments. Better enforcement subsequently can reduce incidents of driving while drinking because people are more aware of the fact that they may get caught.

Great Britain's Road Safety Act of 1967 proved effective in decreasing both injuries and fatalities related to driving and drinking. Ross (1975) related the reduction in driving and drinking accidents to success in convincing the British driver that there was an increased risk of police apprehension and also conviction.

THE ROLE OF JUDGES

Judges potentially can be an effective force for reducing the driving and drinking problem through the punishments they administer to those convicted. However, the National Highway Traffic Safety Administration (1982) found that even when the initial legislation controlling DUI was tightened, reluctance on the part of the jury and the judge to impose severe penalties often negated the legal action.

The United States Department of Transportation (1978) found that only one-half of the people who were actually prosecuted for driving while under the influence of alcohol were found guilty. A fine was the usual punishment, whereas jail sentences were even more infrequent and only averaged one to one and one-half weeks.

In some cases, judges have felt that it was proper to consider the extent of the damage or resulting injury in determining a suitable punishment for a particular offense. In the State against Mr. Hatcher, 303. Mo 13, 259, SW 497, the jury was told that a death resulted from the act of driving while under the influence of alcohol, so they might

consider this fact in determining proper punishment.

In the State against Mr. Gritten, 320, Mo 283, 6Sw2D, 866, 497, the driving while under the influence of alcohol defendant was punished with three years in prison because of his "reckless handling of a high-powered automobile, at a high rate of speed, on a public highway, as a result which the defendant collided with two other automobiles, seriously injuring seven occupants of one of the automobiles, after which he cursed and assaulted the arresting officer" (Current Law Index 1933, p. 497).

PUNISHMENTS

License Revocation

Suspension of an operator's license was one of the most widely used forms of punishment for driving while drinking. Schultz (1930) related that the public considered license revocation as a harsh penalty because it often interfered with a person's ability to seek or retain employment.

Middendorff (1982) showed that suspension of the license for six to twelve months seemed to be the most effective deterrent for social drinkers. Hagen (1978) agreed, saying that losing the privilege to drive was most suitable for drivers who were over 30 years of age because they were most likely to realize the implication of no transportation. Schlotheim (1973) felt a separate decision ought to be made in each individual case, especially if there existed the possibility of a license being suspended.

Losing one's privilege to drive has been a strong punishment in American society because so much of one's life revolves around transportation.

Muller (1979) recommended that the driver's license be suspended longer each time there was a driving and drinking offense. If there was a third conviction, the person's privilege to drive should be permanently revoked. Contrary to other studies which showed that license suspension was an effective restraint, Menken (1979) found that license suspension had little deterrent effect on future driving and drinking behavior.

The Department of Motor Vehicles in California found that offenders continued to drive even after having their licenses suspended (United States Department of Transportation, 1978). Kunkle-Miller and Blane (1977) said that many drivers with revoked licenses did continue to drive, but they drove less often and were more careful resulting in fewer accidents.

License suspension in addition to exposure to jail sentences or fines appeared to be more effective for people with many driving and drinking convictions than simply the use of a fine or jail sentences alone. Hagen, Williams, and McConnell (1980) found that first time offenders who did not have their license suspended were more likely to encounter a subsequent driving and drinking offense.

Imprisonment

The mandatory jail sentences required by law after a

second conviction for driving while under the influence of alcohol have not been uniformly enforced. When laws requiring stricter punishment for offenders become more severe, some judges may withhold conviction, or resort to plea bargaining the drunk driving arrest down to a lesser charge such as reckless driving.

Evidence has shown that many defendants request court continuations that clog the court calendar and force even more plea bargaining to clear the calendars. On the other hand, many judges have felt that mandatory sentences exacerbate the problem of overcrowded jails, plus the taxpaying public has to pay to keep the convicted drunk driver in jail.

Alcohol Safety Action Program

To improve highway safety by reducing the deaths and injuries related to alcohol and driving, the National Highway Traffic Safety Administration of the United States Department of Transportation in 1972 began the Alcohol Safety Action Program (ASAP) with funds authorized by the Highway Safety Act of 1966. This approach to the driving and drinking problem combined education, enforcement, adjudication, and rehabilitative methods deemed effective by the individual communities. To support this endeavor, the Federal Government stated that financial assistance and advice would be provided through the National Highway Safety Bureau.

Today, every state in the union has some type of

alcohol safety action program for dealing with people who drive and drink to excess. In 1975 the Virginia General Assembly created the Virginia Alcohol Safety Action Program (VASAP). The purpose of VASAP was to offer health education and treatment to the convicted drunk driver instead of a punitive sentence such as a jail term. Today, Virginia has a state alcohol safety program office and 25 local programs throughout the state.

The previous Virginia statute did not require entering a guilty conviction on the court records prior to referring a person to VASAP. Therefore, a repeat offender could appear as a first time offender rather than as a recidivist because no record had been kept.

Since the passage of legislation in July, 1982, a conviction must be properly recorded before a judge can place an offender in a VASAP program. In this way, the courts can hopefully recognize recidivism and treat offenders accordingly. A third drunk driving conviction would make a defendant ineligible to attend another ASAP program. Many authorities in favor of educating the drunk driver feel that refusing to make the ASAP program available to a third time recidivist would be defeating the program's purpose of re-educating the drunk driver.

Somes judges also elect to grant a restricted license to a person attending an ASAP program. Such a privilege entitles the offender to travel to and from home to any ASAP meetings, to and from home to his place of employment, plus

to any travel during hours of employment when an automobile is mandatory.

The Honorable Joseph E. Hess, Twenty-fifth Judicial District in Buena Vista, Virginia, found that VASAP was an educational success in making his driving under the influence of alcohol offenders aware of the dangers that the use of alcohol could cause. Judge Hess felt that with a punitive sentence, such as license suspension, the offender learned nothing while his driving privileges were suspended for six months (Highway Safety Division of Virginia, 1977).

Other authorities argued that the VASAP statute gave the General District and Circuit Court judges too much power to plea bargain with the drunk driving defendant because the judge could make virtually all decisions relating to a person's VASAP participation. Such verdicts included determining the eligibility of a defendant for the program, the VASAP fee, which aspect of the rehabilitative program the defendant could attend, and the conditions and terms of the defendant's probation. The defendant's willingness to agree to the terms of the probation was also considered along with whether the defendant was a recidivist who had already completed another VASAP program in connection with an earlier driving while under the influence of alcohol offense.

Another question has centered around whether the convicted drunk driver could afford the VASAP fee which usually averaged $250. Most judges have expressed the

opinion that if a person could afford to drive and drink, then he could also afford to pay VASAP for attempting to rehabilitate him.

Virginia Alcohol Safety Action Program administrators, as part of their job, have even encouraged local communities to increase the number of driving while under the influence of alcohol arrests, so more drunk drivers could appear in court, giving them the opportunity to be rehabilitated through VASAP. In response to this request, the Highway Safety Division conducted training courses throughout the state for police officers with emphasis on the detection and apprehension of drunk drivers.

Other Punishments

Robertson, Rich, and Ross (1973) examined driving and drinking arrests, traffic fatalities, and convictions in Chicago. Even though the defendants were punished with a seven day jail sentence and one year's operator's license suspension, the threat of a stiffer punishment for recidivists did not deter future driving and drinking behavior.

Lovegrove (1979) went one step further in an attempt to eliminate the driving and drinking problem. He recommended that the license plates of driving and drinking offenders be removed and special plates signifying an offender be issued. He concluded that his idea was a noble one but it would be difficult to police whether offenders were actually using their specially marked license plates.

Ross (1975) addressed problems of identification, judgment, and sympathy regarding the legal approach to driving and drinking. He felt that police often were unable to identify who was intoxicated because there was imprecision regarding the meaning of driving while under the influence of alcohol. Furthermore, Ross (1982) felt some policemen may have biases against the law or sympathy in favor of the defendant.

Zimring and Hawkins (1973) raised the question of whether a more severe penalty would better deter maladaptive behavior such as driving and drinking. Lay (1978) and Meir and Johnson (1977) felt that stricter laws alone may not be enough to solve the driving and drinking problem unless judges were more willing to actually convict and then appropriately sentence offenders.

PEOPLE AGAINST DRIVING AND DRINKING

Many organizations have gained national prominence in their efforts to combat the driving and drinking problem. Mothers Against Drunk Driving (MADD), Students Against Drunk Driving (SADD), Remove Intoxicated Drivers (RID), and the American Association of University Women (AAUW) have all launched campaigns throughout the United States in an effort to educate the public regarding the driving and drinking problem.

Virginians Opposing Drunk Driving (VODD) is an organization open to anyone in the state willing to

volunteer to attend court sessions and observe how judges make decisions regarding the driver arrested for driving while under the influence of alcohol.

Governor Robb of Virginia has also appointed a Task Force to Combat Drunk Driving, comprised of legislators, law enforcement officers, medical personnel, and citizens representing groups that have lobbied for new and stiffer driving while under the influence of alcohol laws (United States Department of Transportation, 1982).

President Reagan has even passed recent proposals relating to driving and drinking. If a state does not elect to raise its legal drinking age to twenty-one, Reagan wants federal funds to the state highway construction programs reduced by five to ten per cent. Although this percentage may appear low at first glance, millions of dollars of needed highway funds are involved. As an example, if Virginia did not pass Reagan's proposal, the state would stand to lose five million dollars. Even though many state legislators may resent the dictates of the federal government, they feel they must raise the drinking age to twenty-one to avoid the loss of this important source of federal revenue.

SUMMARY

The history behind the driving and drinking controversy has been discussed, along with the role of alcohol, legal enforcement, the impact of judges, the possible punishments

which can be given if a person was found guilty of driving and drinking alcohol, and the people working against driving and drinking.

Many citizens hope that increasing the maximum allowable punishment to which a drinking driver may be subjected will deter driving and drinking, and thus decrease traffic fatalities. Since alcohol impaired drivers are the number one cause of traffic fatalities, deterring these people from driving and drinking may subsequently decrease the number of fatalities.

Not only do states differ in how they approach the driving and drinking problem, but so do individual judges. Ultimately, the final court decision rests with the presiding judges that day in court.

Research needs to be conducted to determine whether judges are properly educated regarding the law. Problems related to judge inconsistencies, such as personal biases and educational shortcomings need to be investigated as well as deficiencies within the judicial system which hinder the prosecution of the drunk drivers.

CHAPTER III

RESEARCH DESIGN

Introduction

This chapter describes the research design and methodology that was employed in the study of the disposition of cases involving individuals arrested for driving and drinking or driving with a license suspended due to alcohol abuse in Montgomery County, Virginia, from July, 1982 through September, 1983. The investigation employed an ex post facto field design to study the consistency of the Montgomery County, Virginia, judges in dealing with people arrested for DUI or DS.

> Ex post facto research is systematic inquiry in which the scientist does not have direct control of independent variables because their manifestations have already occurred or because they are inherently not manipulatable. Inferences about relations among variables are made, without direct intervention, from concomitant variation of independent and dependent variables (Kerlinger, 1973, p. 379)

SETTING AND SAMPLE

The seven judges serving Montgomery County Court House in Montgomery County, Virginia, from July, 1982 through September, 1983 were subjects for this study. All persons brought to court from July, 1982 through September, 1983 for driving and drinking or driving with a license suspended due to alcohol abuse constituted the data base for studying the judges.

Montgomery County is located in southwest Virginia and is part of the fifth planning district. It is predominantly a rural community of 63,516 people with a median family income of $16,668. Christiansburg, where the Montgomery County Court House is located, has a population of 10,345 people. The major places of employment for Montgomery County are the Radford Arsenal and Virginia Polytechnic Institute and State University, Virginia's largest university, located in Blacksburg which is also the largest town in Montgomery County.

DATA COLLECTING PROCEDURES

The docket books, located in the clerk's office on the second floor of the Montgomery County Court House, were the source of all the quantitative data studied. These large files were available for public use and included the arrested person's full name, sex, the presiding judge, the basis for the arrest, the disposition of the case, and any resulting punishment. The court clerk was responsible for seeing that all pertinent information was properly recorded in the docket books after the judge heard the case.

The Montgomery County Court House clerks were co-operative in providing a consulting room to record the data. The researcher spent 200 hours collecting the data, transcribing it into notebooks, and then coding the information onto IBM system 360 assembler coding forms.

METHODOLOGY

Confidentiality of all names and information used in this study was maintained through the use of a coding system described below. The data collected were analyzed at the Virginia Western Community College Computing Center, Roanoke, Virginia.

Data were given the following codes to facilitate statistical analysis:

A. Sex: 0 = male

1 = female

B. Judges were originally coded numerically from one through seven. However, an analysis of the case load by judges demonstrated that three of the judges had seen 94% of all the defendants. Therefore, the judges seeing the most cases were identified as Judge 1, Judge 2, and Judge 3. The remaining four judges who saw only 6% of the total number of cases were combined into a separate category labeled Judge 4.

C. Basis for arrest:

1 = Driving while under the influence of alcohol (DUI)

2 = Driving with a license suspended due to alcohol abuse (DS)

D. Number of Continuations

0 = No continuations granted because disposition was determined at the first court appearance

1 = Defendant received one court continuation.

2 = Defendant received two court continuations.

3 = Defendant received three or more court continuations.

E. Outcome of the case:

1 = Guilty

2 = Not Guilty

F. Punishments:

1 = Required attendance at the Virginia Alcohol Safety Action Program (VASAP)

2 = A monetary fine plus a license suspension

3 = A monetary fine and a jail sentence

4 = Any combination of the above sentences in which some portion was suspended upon successful completion of VASAP.

5 = Any sentences which did not fit the above categories, such as just a fine, just a license suspension, or just a jail term.

STATISTICAL ANALYSIS AND RESEARCH HYPOTHESES

Computer software programs for the Statistical Package for Social Science (SPSSX, 1983) were utilized to determine whether the seven judges in Montgomery County, Virginia, were consistent in allowing continuations, proving guilt, and administerting punishments to males and females arrested for DUI or DS and brought to court from July, 1982 through

September, 1983.

Because the available statistics were nominal data, the chi square test of independence was used to find the significance of differences between proportions of subjects by comparing observed with expected frequencies (Hinkle, Wiersma, & Jurs, 1979).

The following null hypotheses were tested at the .05 level of significance:

1. There is no significant difference between the judges and the type of case they heard.
2. There is no significant difference between the judges and the number of continuations they granted.
3. There is no significant difference between the number of continuations granted and the verdict given.
4. There is no significant difference between the number of continuations granted and the type of punishment administered.
5. There is no significant difference between the type of arrest (Driving while under the influence of alcohol=DUI or Driving with a license suspended due to alcohol abuse=DS) and the type of verdict (Guilty or Not Guilty)
6. There is no significant difference between the type of arrest and the form of punishment administered.
7. There is no significant difference between the sex of the defendant and the judges hearing the individual case.

8. There is no significant difference between the sex of the defendant and the type of arrest heard.
9. There is no significant difference between the sex of the defendant and the number of continuations granted.
10. There is no significant difference between the sex of the defendant and the type of verdict granted.
11. There is no signficant difference between the sex of the defendant and the type of punishment given.

QUALITATIVE RESEARCH

Personal interviews were also conducted with the seven Montgomery County judges to determine if judges' responses agreed with results obtained through statistical analysis. No difficulty was experienced in establishing appointments with the seven judges serving Montgomery County, Virginia. Interviews were scheduled within a one week period after contact was made and lasted no longer than one hour and fifteen minutes.

The researcher introduced herself as a nurse educator who was interested in the educational needs of the citizens of Montgomery County regarding the driving and drinking controversy. One judge commented that he was glad to hear that he was being interviewed by a nurse adding, "If you had been a member of MADD, SADD, or VODD, I may just have refused to see you because those pressure groups are the basis for a lot of the problems we have right now. They

pressure our legislators into passing laws which may not be in the best interest of our citizens."

After the judges were interviewed, their cumulative responses to the research hypotheses were paraphrased. The summation of responses of all judges interviewed will appear after each research hypothesis is discussed in Chapter IV.

SUMMARY

The research design was described in this chapter, including the setting and sample, data collection procedures, methodology, statistical analysis, research hypotheses, and qualitative research. Chapter four describes the analysis of the data and discusses findings of the investigation.

CHAPTER IV

FINDINGS OF THE STUDY AND DISCUSSION

Introduction

The central concern of this dissertation was whether the seven judges serving Montgomery County, Virginia, were consistent in their application of the Virginia statutes on driving while under the influence of alcohol or driving with a license suspended due to alcohol abuse.

Judge consistency was examined in terms of the number of continuations allowed, the number of guilty convictions returned, and the types of punishments given to people arrested for driving while under the influence of alcohol or driving with a license suspended due to alcohol abuse and brought to court from July, 1982 through September, 1983.

The research design required an assessment of both quantitative and qualitative data, such as information gained from interviewing the seven judges. Quantitative statistics could indicate whether certain judges differed from others in allowing continuations, maintaining innocence, and administering punishments.

Personal interviews with the seven judges who presided at the defendants' hearings could provide information about how these adjudicators interpreted the law. The quantitative statistics would then show whether these judges were consistent in applying the law in court.

An informal, face-to-face discussion of specific questions could help to understand better the role of the judges in deciding the fate of a person arrested for driving while under the influence of alcohol or driving with a license suspended due to alcohol abuse. If the judges were asked only to respond in writing to some type of questionnaire, evidence might be impaired, especially if pertinent questions were not asked. Interactive insight would be gained when both quantitative and qualitative approaches to the driving and drinking problem were integrated.

DATA ANALYSIS

This section examines relationships found among the seven judges and arrests, continuations, dispositions, and punishments given to subjects arrested for driving while under the influence of alcohol or driving with a license suspended due to alcohol abuse in Montgomery County, Virginia, from July, 1982 through September, 1983.

An analysis of the case load by judges demonstrated that three judges had seen 94% (441 out of 471 cases) of all the defendants. Therefore, the judges seeing the most cases were identified as Judge 1, Judge 2, and Judge 3. The remaining four judges who saw only 6% of the total number of cases were combined into another category labeled Judge 4.

Hypothesis One:

There is no significant difference between the judges and the type of case they heard.

Table 1 shows the relationships between the type of arrest (1=Driving while under the influence of alcohol and 2=Driving on a license suspended due to alcohol abuse) and the judges hearing the case. This hypothesis proposed to verify that the different judges were all hearing both DUI and DS cases. These arrests were considered together because one of the possible punishments for being convicted for DUI was to receive a suspended license.

There appeared to be no significant relationship between the judges and the type of case they heard (chi-square = 3.65 with three degrees of freedom, $p > .05$). Fifty-eight per cent of cases heard were for driving and drinking and 42% were for driving on a license suspended due to alcohol abuse.

The statistics showed that no particular judge was hearing primarily driving while under the influence of alcohol cases or driving on suspended license cases. Judge 1 saw more DS cases (59%), whereas Judges 2 and 3 saw more DUI cases (57% and 60%). The fourth category of judges saw 6% of the total number of cases, and they were almost equally divided between DUI (52%) and DS (48%).

If one judge was hearing all the DUI cases and another

TABLE 1

AN ANALYSIS OF JUDGES AND TYPE OF ARREST HEARD

TYPE OF ARREST	JUDGES 1	2	3	4	TOTAL/ PER CENT
DRIVING UNDER THE INFLUENCE	9	48	202	14	273
	3%	18%	74%	5%	58%
	41%	57%	60%	52%	
DRIVING WITH A SUSPENDED LICENSE	13	37	135	13	198
	7%	19%	68%	6%	42%
	59%	43%	40%	48%	
TOTAL/ PER CENT	22	85	337	27	471
	5%	18%	71%	6%	100%

CHI-SQUARE 3.55
DEGREE OF FREEDOM 3
P > .05

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judge was hearing all of the DS cases, it would be more difficult to compare how the judges treated the different types of arrest.

The following interview question was asked of the judges to determine their responses to the quantitative results obtained: "As a judge, do you feel the DUI cases should go to some judges and the DS cases to other judges, so you could become more of an expert on a particular type of arrest? In other words, do you favor one judge hearing all of the DUI cases and another judge hearing all of the DS cases?"

The judges thought that they should and could be experts in both DUI and DS cases. There was also no problem with defense lawyers trying to get a particular judge to hear their case because there was no way of knowing ahead of time which judge would be in court that day. However, if the defense lawyer thought that the judge was unusually harsh or was not treating his client fairly, then that lawyer could possibly shop for another judge by asking for a continuation for his client.

Hypothesis Two:

There is no significant difference between the judges and the number of continuations they granted.

Table 2 shows the relationship between the judges and the number of continuations allowed. One would reject the null hypothesis of no significant difference (Chi-square = 17.03 with nine degrees of freedom, $p < .05$). Forty-three

TABLE 2

AN ANALYSIS OF CONTINUATIONS ALLOWED BY JUDGES

NUMBER OF CONTINUATIONS	JUDGES 1	2	3	4	TOTAL/ PER CENT
0	9	30	156	9	204
	4%	15%	77%	4%	43%
	41%	35%	46%	33%	
1	8	41	109	7	165
	5%	25%	66%	4%	35%
	36%	48%	32%	26%	
2	4	11	42	8	65
	6%	17%	65%	12%	14%
	18%	13%	13%	30%	
3	1	3	30	3	37
	3%	8%	81%	8%	8%
	5%	4%	9%	11%	
TOTAL/ PER CENT	22	85	337	27	471
	5%	18%	71%	6%	100%

CHI-SQUARE 17.03
DEGREE OF FREEDOM 9
P < .05

Cell Code:
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Row %
Column %

per cent of the 471 cases were decided at the first court hearing and thus received no continuations. Further study of Table 2 indicated that 35% of the defendants received one continuation, 14% received two continuations, and 8% were allowed three or more continuations.

Some judges did allow continuations more frequently than others. As an example, one continuation was allowed by Judge 1 36% of the time, by Judge 2 48% of the time, by Judge 3 32% of the time, and by Judge 4 26% of the time.

Whereas the category labeled Judge 4 allowed the smallest percentage of one continuation (26%), this same group gave the largest percentage of two continuations related to the number of cases heard (Judge 1 = 18%, Judges 2 and 3 = 13%, and Judge 4 =30%).

Judge 1 made his decisions on the first court appearance in 41% of the cases. He allowed one continuation 36% of the time, two continuations 18% of the time, and three or more continuations 5% of the time.

On the other hand, Judge 2 was more likely to grant one continuation (48%) over none (35%). In 17% of the cases, he allowed two or more continuations.

Judge 3 who saw 71% of all the cases also determined disposition on the first court appearance in 46% of his cases. He allowed one continuation 32% of the time, two continuations for 13% of cases, and three or more continuations in 9% of the hearings.

The fourth category of judges saw 6% of the 471 cases. These judges determined disposition at the first court hearing in one-third (33%) of their cases. There was a slight increase in granting two continuations in 30% of the cases, whereas 11% of the defendants received three or more continuations.

In summary, there were differences between the judges and the number of continuations they allowed. Judge 1 granted progressively fewer continuations (0=41%, 1=35%, 2=18%, 3=5%). Judge 2 saw 18% of the total number of defendants (85 out of 471), but in 48% of these cases, he gave one continuation.

Eighty-one per cent of the defendants given three continuations were seen by Judge 3 but he also heard more cases (337 out of 471). The fourth category of judges either determined verdicts on the first court appearance (33%) or were more likely to give two continuations (30%).

The following background information was given to the judges when they were personally interviewed: "Significant relationships were found between the judges and the number of continuations they allowed. This meant that the seven judges did not give the same number of continuations. How do you feel about this finding?"

As a whole, the judges acknowledged that there appeared to be a lot of continuations granted by the different

judges, but they felt that most of them were justified. More continuations were allowed when the defendant had a lawyer who possibly could not make it to court on the date set, so the lawyer asked for a continuation for his defendant.

There were also defendants who tried to take advantage of the system by requesting numerous continuations. These people gave the impression of trying to defer the inevitable guilty verdict. The judges admitted that some defendants even shopped around by asking for different court dates in hopes of getting their hearing set for a judge whom they felt may be more lenient toward their case.

The judges maintained that basically they were quick in determining dispositions without granting undue continuations. The number of continuations granted decreased progressively from zero to three or more. Although different judges may be giving more court delays than other judges, as a group they maintained that they were not giving that many continuations.

The seven judges admitted that better records should be kept on the number of continuations granted to each defendant. It was simply a matter of the court clerk not having the time to make comments when each continuation was given. The judges then questioned how taxpayers would react if researchers requested more court clerks to keep better records on the number of continuations granted.

Hypothesis Three:

There is no significant difference between the number of continuations granted and the type of verdict given.

Members of Virginians Opposing Drunk Driving (VODD) and Mothers Against Drunk Driving (MADD) concluded from their court watches that a defendant was less likely to be proven guilty if his case was continued for several court hearings.

Table 3 shows the number of continuations (0 to 3) in relation to the type of disposition given (guilty or not guilty). The null hypothesis was rejected (chi-square = 11.13 with three degrees of freedom, $p < .05$).

The statistics indicate that a defendant was most likely to be found guilty if one continuation was granted (71%). With two continuations, the defendant was found guilty 60% of the time. The difference between a guilty verdict, given no continuation (55%), and a guilty verdict after three or more continuations (54%) was one percentage point.

Of those people arrested for driving while under the influence of alcohol or driving with a license suspended due to alcohol abuse, 61% were found guilty. The judges also appeared swift in determining dispositions without granting continuations. Thirty-nine per cent of the defendants found guilty received no continuation, 41% were granted one

TABLE 3

AN ANALYSIS OF CONTINUATIONS ALLOWED AND VERDICT GIVEN

NUMBER OF CONTINUATIONS	DISPOSITION GUILTY 1	NOT GUILTY 2	TOTAL/ PERCENT
0	113	91	204
	55%	45%	43%
	39%	50%	
1	118	47	165
	71%	29%	35%
	41%	26%	
2	39	26	65
	60%	40%	14%
	13%	14%	
3	20	17	37
	54%	46%	8%
	7%	10%	
TOTAL/ PERCENT	290 61%	181 39%	471 100%

CHI-SQUARE 11.13
DEGREE OF FREEDOM 3
P < .05

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Column %

continuation, 13% received two continuations, and 7% were given three or more continuations.

Less than half (39%) of those people arrested were found not guilty. Of those found innocent, 50% received no continuation, 26% received one continuation, 14% received two continuations, and 10% received three or more continuations.

The statistics revealed that receiving continuations did not lead to freedom. This finding lends credence to the feeling that people asking for continuations may simply be attempting to put off the inevitable guilty verdict. It also contradicts the belief that continuations lead to innocent verdicts.

During personal interviews, it was apparent that the judges were pleased to hear that numerous continuations often result in guilty verdicts. They stated that these findings spoke well for the judges' decision making abilities. It was also recommended that pressure groups be made aware that a defendent was much more likely to be found guilty if he had many continuations.

Hypothesis Four:

There is no significant difference between the number of continuations granted and the type of punishment administered.

Table Four shows the number of continuations and the types of sentences given for a guilty indictment. The null

TABLE 4

AN ANALYSIS OF CONTINUATIONS ALLOWED AND PUNISHMENT GIVEN

NUMBER OF CONTINUATIONS	PUNISHMENTS 1	2	3	4	5	TOTAL/ PER CENT
0	35	23	7	13	32	110
	32%	21%	6%	12%	29%	39%
	52%	57%	43%	14%	46%	
1	25	8	3	50	30	116
	21%	7%	3%	43%	26%	41%
	37%	20%	19%	55%	43%	
2	5	6	3	19	5	38
	13%	16%	8%	50%	13%	13%
	8%	15%	19%	21%	7%	
3	2	3	3	9	3	20
	10%	15%	15%	45%	15%	7%
	3%	8%	19%	10%	4%	
TOTAL/ PER CENT	67	40	16	91	70	284
	24%	14%	6%	32%	24%	100%

CHI-SQUARE 47.22
DEGREE OF FREEDOM 15
P < .05

Cell Code:
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Row %
Column %

hypothesis was rejected (chi-square = 47.22 with 15 degrees of freedom, $p < .05$), meaning that continuations and sentences were not independent.

The previous Table 3 showed that 61% of all the defendants were found guilty. Table 4 illustrated that 24% of convicted defendants were sent directly to VASAP, 14% received monetary fines and had their licenses suspended, 6% were fined and sent to jail, 32% received a combination sentence which could be suspended upon successful completion of VASAP, and 24% received some type of punishment other than the ones listed, such as a fine, a license suspension, or a jail term. The percentage of other punishments (24%) was the same as the percentage sent directly to VASAP (24%).

Defendants found guilty at the first court appearance were more likely to be sent directly to VASAP (32%) or given some other type of punishment besides the ones listed (29%). The picture changed with one, two, or three continuations where 43%, 50%, and 45% respectively received a combination sentence in which some portion was suspended upon successful completion of VASAP.

With three continuations, 45% received a combination punishment. From there, 15% were given a monetary fine and license suspension, a monetary fine and jail sentence, or some other punishment besides those listed. The fewest number were sent directly to VASAP (10%).

Table 4 did show that there were differences between

the number of continuations allowed and the type of punishment administered. If disposition was determined on the first court appearance, a defendant was most likely sent directly to VASAP (32%) or received some other type of sentence besides those listed (29%).

The judges' personal responses to these findings depended on a combination of how they viewed the granting of continuations and also on how they determined what type of punishment to administer. All seven judges agreed that after three or more continuations, the convicted person should probably be sent to jail because the defendant may simply be trying to delay a guilty verdict. Of all available punishments, the preference was VASAP because that program was the only sentence which provides some type of education for the convicted drunk driver.

Hypothesis Five:

There is no significant difference between the type of arrest (Driving while under the influence of alcohol or Driving with a license suspended due to alcohol abuse) and the type of verdict (Guilty or Not guilty).

Table 5 shows relationships between arrests (1=DUI and 2=DS) and dispositions (1=Guilty and 2=Not guilty). The null hypothesis was rejected (chi-square = 105.05 with 1 degree of freedom, $p < .05$). Statistical analysis indicated that a person was more likely to receive a guilty conviction if he

TABLE 5

AN ANALYSIS OF TYPE OF ARREST AND VERDICT GIVEN

TYPE OF ARREST	DISPOSITION GUILTY 1	NOT GUILTY 2	TOTAL/ PER CENT
DRIVING UNDER THE INFLUENCE	222	51	273
	81%	19%	58%
	77%	28%	
DRIVING WITH A SUSPENDED LICENSE	68	130	193
	34%	66%	42%
	23%	72%	
TOTAL/ PER CENT	290	181	471
	61%	39%	100%

CHI-SQUARE 105.05
DEGREE OF FREEDOM 1
P < .05

Cell Code:
n
Row %
Column %

was arrested for DUI (81%) versus being arrested for driving on a license suspended due to alcohol abuse (34%).

There were also more lenient options available if a person was convicted of driving while under the infuence of alcohol. The previous Table 4 showed that only 6% of people convicted actually spent time in jail. Instead, they were more likely to be sent to VASAP, fined, or received some other type of sentence.

Table 5 showed that 61% of all defendants were found guilty and 39% were innocent. Defendants arrested for DUI were more likely to be found guilty (66%) than those arrested for DS (23%).

The judges thought that the significant differences between the form of arrest and the type of verdict were a good example of how the legislators try to tell judges what to do.

The law allows a judge to suspend part of the sentence if a person is convicted of DUI. In other words, there are more lenient options available in sentencing a drunk driver. On the other hand, the law says that a person convicted of driving on a suspended license should automatically go to jail for 48 hours. Knowing that, a judge may be more reticent to convict a person of driving on a suspended license. There will always be the question of whether the defendant actually knew his license had been suspended. Based on this knowledge, the judges said they were not

surprised that there were more DUI than DS convictions. Judges maintained that their role was to enforce the law and at the same time, dispose of the case in such a manner that a person would be discouraged from driving and drinking or driving on a suspended license.

Hypothesis Six:

There is no significant difference between the type of arrest and the form of punishment.

Table 6 illustrates relationships between the type of arrest (DUI or DS) and the form of punishment recommended. The null hypothesis was rejected (Chi-square = 103.82 with 5 degrees of freedom, $p < .05$)

Many more defendants convicted of DUI were given a punishment which involved education. Thirty-one per cent were sent directly to VASAP and 41% received a combination sentence in which some portion was suspended upon successful completion of VASAP. This finding supported data gathered during interviews with the seven judges who said their main concern was to re-educate the drinking driver to change his driving and drinking behavior. VASAP was the only form of punishment involving education.

More drivers convicted of DS (18%) than DUI (2%) were given a fine and sent to jail. This finding was expected because the law states that a conviction of driving on a suspended license should result in an automatic 48 hour jail sentence.

TABLE 6

AN ANALYSIS OF TYPE OF ARREST AND PUNISHMENT GIVEN

TYPE OF ARREST	PUNISHMENTS 1	2	3	4	5	TOTAL/ PER CENT
DRIVING UNDER THE INFLUENCE	67	23	4	90	34	218
	31%	10%	2%	41%	16%	77%
	100%	57%	25%	99%	49%	
DRIVING WITH A SUSPENDED LICENSE	0	17	12	1	36	66
	0%	26%	18%	2%	54%	23%
	0%	43%	75%	1%	51%	
TOTAL/ PER CENT	67	40	16	91	70	284
	24%	14%	5%	32%	25%	100%

CHI-SQUARE 103.82
DEGREE OF FREEDOM 5
P < .05

Cell Code:
n
Row %
Column%

Table 6 also showed that 26% of people convicted of driving on a suspended license received a punishment that involved further license suspension.

When interviewed, the judges said they were not surprised about the research findings. Several judges saw the punishment of license suspension as an attention getter. They saw a need to get a defendant's attention before they could teach him anything. Taking away a person's privilege to drive enabled a judge to get that defendant's attention and help him to realize the seriousness of his problem.

Several of the seven judges favored allowing the convicted person to keep his license. They did not even restrict the license unless it was apparent that the defendant would drive and drink even while attending VASAP meetings. The one judge who supported a probation punishment said he allowed the defendant to keep his license for the six months while he was under court supervision, mainly because so many people's jobs depend on a driver's license. As a whole, the judges thought a person with an alcohol problem may well continue to drive and drink unless he could be educated to change his behavior.

If a driver's license was taken away and that person was subsequently convicted of driving on a suspended license, the judges agreed that they would put this defendant in jail for a full tens day punishment because

what that person was saying was "I'm going to do what I...well please". Such an attitude indicated to the judges a lack of a desire to be educated so the defendant should be punished with a jail sentence.

The judges also thought that jail could be a form of education simply because a person's freedom was restricted. The judges reminded the interviewer that many times parents would use behavior modification to punish their own children in an attempt to educate them not to engage in the inappropriate behavior again.

Likewise, many defendants are embarrassed by simply getting arrested for driving and drinking. In this case the judges felt the person's learning experience may be totally in the arrest. Unless that defendant has an alcohol problem, the judges surmised he probably would never be arrested again.

The judges summarized by saying they based their punishments on how the defendant could best be educated. Everyone should be treated alike in determining guilt, but that fact did not mean that the same sentence should be given every time to a convicted drunk driver.

Hypothesis Seven:

There is no significant difference between the sex of the defendant and the judges hearing the individual case.

Table 7 shows the relationship between the defendant's

TABLE 7

AN ANALYSIS OF JUDGES HEARING MALE AND FEMALE DEFENDANTS

SEX	JUDGES 1	2	3	4	TOTAL/ PER CENT
MALE	19	75	305	25	424
	4%	18%	72%	6%	90%
	86%	88%	90%	93%	
FEMALE	3	10	32	2	47
	7%	21%	68%	4%	10%
	14%	12%	10%	7%	
TOTAL/ PER CENT	22	85	337	27	471
	5%	18%	71%	6%	100%

CHI-SQUARE 0.91
DEGREE OF FREEDOM 3
$P > .05$

Cell Code:
n
Row %
Column %

sex and the judges hearing the cases. The null hypothesis was not rejected (Chi-square = .91 with three degrees of freedom, $p > .05$).

Judge 1 saw 7% of all the females, Judge 2 saw 21%, Judge 3 saw 68%, and Judge 4 saw 4% of all the females.

The percentage of males seen by the judges followed a similar pattern. Judge 1 saw 4% of the males, Judge 2 heard 18%, Judge 3 saw 72%, and the fourth category of judges heard 6%. Again, there was no statistical difference between the sex of the defendant and the judge hearing the individual case. All seven judges saw both males and females.

Of the total number of defendants seen, Judge 4 saw the largest percentage of males (93%) followed by Judge 3 (90%), Judge 2 (88%), and Judge 1 (86%).

When personally interviewed, the judges said that the sex of the defendant was not of major concern to them. They were all emphatic in saying that judges could not afford to be prejudiced about a defendant's sex. Although fewer females were arrested, those who were seen appeared to be treated in the same manner as males. The judges maintained that it would not be the defendant's sex, but the person's behavior that determined whether he was innocent or guilty.

Hypothesis Eight:

There is no signficant difference between the sex of the defendant and the type of arrest heard.

Table 8 illustrated the relationships between the defendant's sex and the type of arrest, either DUI or DS. One would fail to reject the null hypothesis (Chi-square = 1.35 with one degree of freedom, $p > .05$).

Ninety per cent of those arrested were males and 10% were females. Of the 273 people arrested for DUI, 92% were males and 8% were female.

A slighty higher proportion of females (12%) was arrested for DUI than for a license suspended due to alcohol abuse. Thus, although there was a smaller over-all proportion of DS arrests (42%), there were more females arrested for DS (51%) than for DUI (49%).

Perhaps of most significance was the fact that 90% of those arrested were males. The previous literature review stated that the typical person arrested for driving while under the influence of alcohol was a single young male.

Personal interviews with the judges revealed that both males and females were equally as likely to be arrested for DUI or DS. They thought that more women are now driving and drinking, and just as many more are being arrested for driving on a suspended license.

TABLE 8

AN ANALYSIS OF SEX OF DEFENDANTS AND TYPE OF ARREST

SEX	ARREST: DRIVING UNDER THE INFLUENCE 1	ARREST: DRIVING WITH A SUSPENDED LICENSE 2	TOTAL/ PER CENT
MALE	250 59% 92%	174 41% 88%	424 90%
FEMALE	23 49% 8%	24 51% 12%	47 10%
TOTAL/ PER CENT	273 58%	198 42%	471 100%

CHI-SQUARE 1.35
DEGREE OF FREEDOM 1
P > .05

Cell Code:
n
Row %
Column %

Hypothesis Nine:

There is so significant difference between the sex of the defendant and the number of continuations granted.

Table 9 showed the relationships between the sex of the defendant and the number of continuations allowed. The null hypothesis was not rejected (Chi-square = 4.22 with 5 degrees of freedom, $p > .05$).

With both sexes the number of continuations allowed decreased progressively. Forty-three per cent of the males received no continuation versus 46% of the females. Thus initially, a slightly larger proportion of females' dispositions were determined at the first court appearance.

Forty-three per cent of the female defendants were granted one continuation versus 34% of the males. Nine per cent of females received two continuations in comparision to 14% of the males. Nine per cent of the males received three or more continuations versus 2% of the females.

When the judges were questioned again regarding a defendant's sex, they simply summarized by saying that they thought that all of the questions pertaining to a defendant's sex were interrelated. It was obvious to them that the researcher had ample evidence to show that a defendant's sex was not associated with how many continuations he or she was granted. They maintained that judges determined the need for a continuation based on the reasons given and not on the defendant's sex.

TABLE 9

AN ANALYSIS OF SEX OF DEFENDANTS AND CONTINUATIONS ALLOWED

SEX	CONTINUATIONS 0	1	2	3	TOTAL/ PER CENT
MALE	182	145	61	36	424
	43%	34%	14%	9%	90%
	89%	88%	94%	97%	
FEMALE	22	20	4	37	47
	46%	43%	9%	2%	10%
	11%	12%	6%	3%	
TOTAL/ PER CENT	204	165	65	37	471
	43%	12%	14%	8%	100%

CHI-SQUARE 4.22
DEGREE OF FREEDOM 5
P > .05

Cell Code:
n
Row %
Column %

Hypothesis Ten:

There is no significant difference between the sex of the defendant and the verdict given.

Table 10 illustrates the relationships between the sex of the defendant and the resulting verdict. The null hypothesis of no significant difference between the sex and the case disposition was not rejected (Chi-square= 1.18 with 1 degree of freedom, $p > .05$).

Statistical results show that 90% of those arrested were males. Of these, 62% were found guilty and 38% were found not guilty. The female relationship between guilt and innocence was more closely divided. Of the total of 47 females arrested, 53% were found guilty and 47% determined not guilty.

There appeared to be no distinction between whether a person was male or female and whether he or she would be found guilty of driving while under the influence of alcohol or driving with a license suspended due to alcohol abuse. This finding may come as a surprise to those people who felt that judges were more lenient toward the female sex.

Personal interviews with the judges revealed that they were emphatic about the fact that the sex of a defendant should not play a part in determining whether or not a person was guilty. Each judge made a statement referring to the fact that guilt has always been determined on the facts presented in the case and not based on the person's sex.

TABLE 10

AN ANALYSIS OF SEX OF DEFENDANTS AND VERDICT GIVEN

SEX	DISPOSITION GUILTY 1	NOT GUILTY 2	TOTAL/ PER CENT
MALE	265 62% 91%	159 38% 88%	424 90%
FEMALE	25 53% 9%	22 47% 12%	47 10%
TOTAL/ PER CENT	290 61%	181 39%	471 100%

CHI-SQUARE 1.18
DEGREE OF FREEDOM 1
P > .05

Cell Code:
n
Row %
Column %

Hypothesis Eleven:

There is no significant difference between the sex of the defendant and the type of punishment given.

Table 11 shows the relationships between the defendant's sex and and the sentences given for DUI and DS convictions. The null hypothesis was rejected (Chi-square=108.82 with 4 degrees of freedom, $p < .05$).

The most obvious immediate discovery was that no female was sent to jail as part of her punishment. The largest percentage of convicted females was referred directly to VASAP (36%) versus 22% of the males.

Punishments other than those listed comprised 32% of the sentences for females. Sentences dropped upon successful completion of VASAP involved 20% of females. A fine and license suspension were given to 12% of the females.

The pattern for convicted males shows a different picture. Thirty-three per cent had part of their sentence suspended upon successful completion of VASAP. Another 22% were sent directly to VASAP. A fine and license suspension involved 14% of the males convicted, whereas 6% of the guilty males went to jail and received a monetary fine.

In summary, there was a significant difference between the defendant's sex and the type of punishment given. The most obvious observation was that no females were sent to jail in comparision to 6% of the males who were incarcerated.

TABLE 11

AN ANALYSIS OF SEX OF DEFENDANTS AND PUNISHMENT GIVEN

SEX	PUNISHMENTS 1	2	3	4	5	TOTAL/ PER CENT
MALE	58	37	16	86	62	259
	22%	14%	6%	33%	24%	91%
	87%	92%	100%	94%	89%	
FEMALE	9	3	0	5	8	25
	36%	12%	0%	20%	32%	9%
	13%	8%	0%	6%	11%	
TOTAL/ PER CENT	67 24%	40 14%	16 6%	91 32%	70 24%	284 100%

CHI-SQUARE 103.82
DEGREE OF FREEDOM 4%
P < .05

Cell Code:
n
Row %
Column %

Interviews with judges showed that they did not like to put drunk drivers in jail because they saw no educational value to be gained from such an experience. There was also the question of child care if the defendant was the head of the household. Judges agreed with the statistical findings that a VASAP referral should be the most popular form of punishment for both sexes because it was the only form of education presently available to convicted drunk drivers.

Judges did express a desire that the legislators have more faith in their decision making abilities. They were opposed to the legislature trying to tell them that they should send someone with a .15% blood alcohol concentration to jail. Instead, the judges stated that they thought they were better qualified to make that determination on their own. Judges also felt that legislators know how the judges stand, but the MADD, SADD, and VODD groups have forced the legislators into passing per se laws like mandatory conviction for a .15% BAC. To appease these so called pressure groups, the legislators have also made a 48 hour jail sentence mandatory for a second DUI conviction.

All judges agreed that a .15% BAC plus a failure on the policeman's psychomotor test should be enough reason to send a defendent to jail. This case would appear to be cut and dry, but judges resent being told what to do in all circumstances. Each case must be considered individually because there are often extenuating circumstances. If

someone gets off, then the judges stated there was a reason for it.

The judges went on to say that there were several factors that play a part in their decision making. First, there must be enough convincing evidence to determine guilt. Even though they may personally feel that a defendant was guilty, they would not convict unless there was enough convincing evidence, beyond a reasonable doubt, to determine guilt. If such evidence was not present, then that man or woman would be innocent until proven guilty.

However, once guilt was determined, the judges felt that the major influence in helping them make their decisions was whether or not that person would benefit from some type of education program, such as VASAP. Many times they based their decisions on the defendant's behavior and attitude while in court. The judges were much more concerned with changing behavior through education than in punishing for past acts.

The consensus was that a judge would be more likely to send a defendant convicted of DUI to VASAP where he could hopefully get some education. Many more people convicted of DS would be given a fine and sent to jail because the law mandates this punishment. Thus, it appears that the judges were following the law regarding the types of sentences to give for DUI and DS convictions.

DISCUSSION

The Montgomery County judges basically appeared consistent regarding the cases they heard. Therefore, it would be useless for a defendant to try to shop around for a particular judge to hear his case because he was likely to receive similar treatment from each of the seven judges.

There were significant differences in consistency between the judges and the number of continuations they allowed. This finding also became evident during personal interviews with the judges. Some of the judges seemed much more willing to grant a continuation to a defendant regardless of the reason given. Other judges said they only allowed continuations if the defendant realized he wanted legal representation.

The above finding did not appear as important as learning that, contrary to popular opinion, continuations do not lead to freedom for a defendant. Realizing this finding helped the researcher justify the crowded court calender. The day the researcher observed in court, half of the cases were allowed continuations but the reasons for granting them were not made public. Most of time the prosecuting attorney and the defense lawyer spoke in such a low voice that it was difficult for the researcher to hear even though she was located in a front row seat.

A defendant was most likely to be found guilty if one continuation was granted (71%). From court observations, the

researcher thought this happening was because the judge made a specific point of telling each defendant that he was entitled to legal representation and thus could be granted a continuation to obtain a lawyer if he so desired. If the researcher personally heard this recommendation from a judge, she would certainly make an effort to obtain a lawyer because it usually appeared self-evident that guilt would be determined unless a defense lawyer could present mitigating circumstances, such as lack of probable cause for the arrest by the policeman.

There was also a significant relationship between continuations and punishments. The researcher's court observation experience supported this finding. When disposition was determined on the first court appearance, a defendant was most likely sent directly to VASAP or received some other type of sentence besides the four listed such as a fine or a license suspension.

When guilt was determined on the first court appearance, it often meant that the verdict was inevitable, so the defendant would not try to seek a continuation. If the defendant pleaded guilty (which was observed in the court room), then the judge might say that this defendant was willing to admit his mistake and then may be more amenable to education. In this case, the judge might send him to VASAP or give him some other type of sentence such as a fine or a license suspension.

However, as the number of continuations increased, judges said they were more inclined to impress upon the defendant the seriousness of the punishment so they often gave a stiffer combination sentence (category 4) in which some portion could be suspended upon successful completion of VASAP.

The judge who saw 71% of all the cases said that the VASAP punishment most closely resembled a probation sentence which he thought was especially applicable for the convicted drunk driver. Then if the defendant violated probation, he was held responsible for the entire sentence which could include up to a $1000 fine, 30 days in jail, and six months license suspension.

The researcher was not surprised to find more guilty verdicts for DUI versus DS arrests. The day she observed in court, there were no DS arrests heard. When Sargent Milton Grahamn of the Montgomery County police force was questioned (September 16, 1984), he said it was much easier for a defendant to maintain his innocence in a DS arrest because he could always claim that he had not received proper notification of his license being suspended. Unless the policeman can present proof that the defendant was properly notified by the Division of Motor Vehicles, the case may be dropped due to lack of convincing evidence.

Even though conviction and punishment should be two separate considerations, knowing a DS conviction involves an

automatic 48 hours in jail may still play a part in the judges' decision making role. The judges thought that the passage of such a mandatory sentence by the legislature may, in fact, hinder rather than help the fair dispensing of justice.

Many more defendants convicted of DUI were sent directly to VASAP (31%) or had part of their sentence suspended if they successfully completed VASAP (41%). Judges verbally supported a preference for sending a person to VASAP because this sentence was the only form of punishment involving education.

The sex of the defendant appeared to have no significance in relation to the judge hearing the case, the type of the arrest, the number of continuations allowed, or the disposition of the case. However, there were differences in the types of punishment given females because no female was sent to jail whereas 6% of the convicted males were sentenced to prison. More females (36%) than males (22%) were sent directly to VASAP, but the judges reiterated their desire for a VASAP referral because it was the only form of education presently available for DUI defendants.

The researcher thought that the qualitative interviews with the judges did support the statistical results obtained. The seven Montgomery County judges were most willing to discuss their views and their knowledge regarding the driving and drinking problem.

When asked what they saw as the solution to the driving and drinking controversy, the judges all pointed to education as the absolute, ultimate need of everyone beginning as early as elementary school. The judges were of the opinion that forbidding drinking would work unless society went back to prohibition. Instead, it would be much better to educate the person to walk if he was going to drink rather than drink and drive, because those two behaviors just do not mix. If this form of education did not work, then people ought to be taught to be their brother's keeper because peer pressure can be a powerful positive influence in the driving and drinking problem.

SUMMARY

Eleven hypotheses were studied in this chapter. Those relating to judges and continuations, continuations and dispositions, continuations and type of punishment, arrests and dispositions, arrests and punishments, and defendants' sex and sentences were all proven statistically significant ($p < .05$).

No significance was found between judges and types of cases heard, defendants' sex and judges, defendants' sex and types of arrest, defendants' sex and continuations, and defendants' sex and case disposition ($p > .05$).

Personal interviews with the seven Montgomery County judges amplified the statistical results. These judges did

appear both fair and consistent regarding the cases they heard, especially in their treatment of females. The only exception was in the category of punishments, where no female went to jail. Instead, they were most likely sent to VASAP (36%) or received some other type of punishment, such as a fine or a license suspension (32%).

Chapter Five contains a summary of results, conclusions drawn from the findings, and recommendations for further research and action.

CHAPTER V

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

This chapter provides a summary of the study, conclusions, and recommendations for further study.

SUMMARY

The purpose of this study was to investigate how the seven judges in Montgomery County, Virginia, responded to defendants brought to court for DUI or DS from July, 1982 through September, 1983. Data reviewed included the number of continuations allowed, the number of guilty verdicts returned, and the types of punishment administered to both males and females. Knowledge of this information provided the basis for personally interviewing the judges to determine if their individual opinions supported the statistical results obtained.

The seven judges serving the Montgomery County Court House in Montgomery County, Virginia, between July, 1982 and September, 1983 were the subjects for this study. All persons brought to court from July, 1982 through September, 1983, for driving and drinking or driving with a license suspended due to alcohol abuse constituted the data base for studying the judges.

A review of the literature disclosed that the automobile was introduced into the United States in 1893, and by 1903, driving and drinking were already causing

automobile accidents. Virginia first addressed this problem in 1916 with the passage of Virginia Code 4722 making it unlawful for any person to drive a vehicle while under the influence of intoxicants.

The written laws declaring driving and drinking illegal have been plainly stated, but many people still elect to continue to drive and drink. How judges interpret the law in determining guilt may be a contributing factor to the driving and drinking problem.

Data were collected on how the seven Montgomery County judges handled 471 cases involving DUI and DS from July, 1982 through September, 1983. Judge consistency was examined in terms of the number of continuations allowed, the number of guilty convictions returned, and the type of punishment administered. Once quantitative results were obtained, the seven judges were personally interviewed to determine how they interpreted and applied the law.

An analysis of the data showed that the seven judges serving Montgomery County, Virginia, heard 273 DUI cases and 198 DS cases from July, 1982 through September, 1983. Significant relationships were found between the judges and the number of continuations allowed, between the number of continuations and the type of verdict granted, between the number of continuations and the type of punishment administered, between the form of arrest and the type of verdict, between the form of arrest and the type of

punishment administered, and between the sex of the defendants and the type of punishment given.

No significant relationships were found between the judges and the type of arrest heard, between the sex of the defendant and the judges hearing the case, between the sex of the defendant and the type of arrest, between the sex of the defendant and the number of continuations allowed, and between the sex of the defendant and the disposition of the case.

Personal interviews with the seven Montgomery County judges amplified the statistical findings and clarified their personal feelings regarding why different judges might grant more continuations, utilize VASAP more frequently as a punishment, and find more defendants guilty of DUI than DS.

The judges maintained that the drunk driver does not necessarily belong in jail. The key to the driving and drinking controversy lies in better educating the public about the dangers inherent in mixing drugs, such as alcohol, with a psychomotor task (driving) involving much coordination and concentration.

CONCLUSIONS

Based upon the findings in this study, the following conclusions have been drawn:

1. The number of continuations allowed by the seven Montgomery County judges hearing DUI and DS cases

between July, 1982 and September, 1983 did vary. Judge 1 granted progressively fewer continuations. Judge 2 was most likely to give one continuation. Judge 4 either determined verdicts on the first court appearance or was more likely to give two continuations. In summary, the judges were not consistent in their granting of continuations to DUI or DS defendants.

2. There were signficant differences between the number of continuations allowed and the type of verdict granted. The statistics revealed that receiving continuations did not lead to freedom. This finding appeared opposite to opinions voiced by VODD members who felt that getting continuations meant that a defendant was more likely to remain innocent.

3. Judges assigned different types of punishment depending upon how many continuations were granted. Direct referral to VASAP was most frequent when guilt was determined on the first court appearance (32%). The judges verbally agreed with this finding. If guilt was obvious, such as a defendant with a proven .15% BAC, the judges felt the defendant would profit most from the education available through VASAP.

4. If a defendant was arrested for DUI, he was much more likely (81%) to receive a guilty verdict than if he was arrested for DS (34%). This finding coincided with significant relationships found between forms of arrest

and type of punishment administered to defendants. Many more people convicted of DUI were sent to VASAP (31% and 41%) in an effort to educate the drunk driver. The judges expressed the view that people arrested for DS had already had a previous offense because their license had been suspended. Thus, the person with a DS conviction appeared less amenable to education in an effort to change behavior.

5. The Montgomery County judges did prove consistent in their treatment of both male and female defendants in terms of arrests, continuations allowed, and disposition of the cases. However, there were signficiant differences between the sex of the defendants and the type of punishment given. Six per cent of males were fined and sent to jail whereas no females received this sentence. Judges quoted their past experience in saying they found no educational value to be gained from putting a female in jail. They also were concerned about child care, especially if the defendant was the single head of the household.

6. The Montgomery County judges did appear consistently educated about the DUI and DS laws. Two conferences a year provide an update of knowledge and interpretation of the law plus an opportunity to share ideas and feelings with other judges.

The judges expressed both positive and negative

feelings about the Virginia DUI laws, especially the per se laws such as mandatory conviction for a .15% BAC.

7. The Montgomery County judges maintained that a person is innocent until proven otherwise. There must always be enough convincing evidence before guilt can be determined.

The judges agreed that the major influence in helping them make their decisions regarding punishment was whether the defendant would benefit from some type of educational program, such as VASAP. Concern was with changing behavior through education rather than in punishing for past acts. The judge who saw 71% of all the cases recommended establishment of a probation punishment where the defendant could be counseled for several months or even years.

8. The Montgomery County judges all agreed that education is the answer to the driving and drinking problem. Starting in elementary school, children need to be educated about the dangers of alcohol, what it has caused, and what it can cause if it is abused.

RECOMMENDATIONS

The results of this study support several recommendations:

1. A replication of the present study be conducted in other Virginia counties to compare consistency of Virginia

judges hearing DUI and DS cases.

2. More definitive studies of the relationship between judge consistency and re-education of the drunk driver be conducted using broader samples.
3. Follow-up studies of defendants be conducted to investigate recidivism, especially among those attending VASAP programs.
4. An objective questionnaire be developed to interview the judges and their feelings about the driving and drinking problem.
5. Longitudinal studies be conducted to determine the educational significance of the driving and drinking problem throughout the United States.
6. Further investigation of VASAP programs be addressed to determine if this rehabilitative approach is the best educational solution to the driving and drinking problem.
7. A thorough review of Virginia's laws on drunk driving needs to be conducted to determine loopholes.
8. A drunk driver's complete driving record should be available at the court hearing so the judge would have timely information on a driver's past record.
9. Police need to be better trained regarding alcohol detection and showing probable cause for arresting drunk drivers.
10. Judges should be professionally educated to understand

the driving and drinking problem so they can better comprehend their role in protecting the public. In essence, the public needs to know that courts will not tolerate the drunk driver.

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