

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984

2931 HSA EXECUTIVE ORDER 53 - HB 6 2931

8 COPIES
2052

Steps involved in obtaining a fiscal note for committee meetings:

1. Call the Department involved and advise you need a fiscal note.
2. Department prepares a fiscal note which can only show a total dollar figure. The notes are not to reflect any breakdown at all.
3. When the department submits the fiscal note to OMB, they can bring with them backup material and cost breakdowns but they are not to be shown on the face of the note.
4. OMB reviews and initials note. Copy is sent to requesting committee or sponsor. At this point, the Department is free to release to us background information and breakdown in any form the requester may desire including phone, written material or someone to testify on the bill at a hearing.
5. After the requester receives a copy of the fiscal note, since it is not specific, you must call the department back to arrange with them how the breakdown can best be presented to the committee. This is very time-consuming as the departments are not prepared to implement these requests, particularly on short notice of a hearing.

Julie
Rep. Abood's Office 2/1

Executive
Order 58

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

ex order

REQUEST
Bill/Resolution No.: #58
Title: Transfer of Veteran's Services Program & Vet Burial Allowance
Sponsor: _____
Requestor: Governor Sheffield
Date of Request: _____

FISCAL DETAIL
Agency Affected: Commerce & Economic Development
Program Category Affected: Economic Development
BRU, Program or Subprogram(s) Affected: Accounting & Collections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Net zero fiscal impact (fiscal impact too small to be measured). This division currently spends four hours or less per month of Accounting Clerk III effort requesting vouchers for veterans' burial claims. This effort would be transferred to the new department if this bill becomes law.

ANALYSIS: Attach a separate page for analysis

Prepared By: Margaret I. Hamley, Director *MH* Phone: 465-2555
Division: Accounting and Collections Date: 1/6/84
Approved by Commissioner: Richard A. Lyon *RA* Date: 1/6/84
Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST #1 Executive Order FISCAL DETAIL
 Bill/Resolution No.: #58 Agency Affected: Commerce & Economic Development
 Title: Consolidation of Veteran Pmts. Program Category Affected:
in new Dept. of Military & Vet. Affairs Economic Development
 Sponsor: Governor Sheffield BRU, Program or Subprogram(s) Affected:
 Requestor: Governor Sheffield Veterans Services
 Date of Request: 1/5/84

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		[15.8]				
300 CONTRACTUAL		[203.6]				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		[222.7]				
800 MISCELLANEOUS						
TOTAL OPERATING		[442.1]				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		[442.1]				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The fiscal impact of this executive order will be transferred to the new Department of Military and Veterans' Affairs.

ANALYSIS: Attach a separate page for analysis

Prepared By: Paul B. Arnoldt, Director Phone: 465-2510
 Division: Division of Investments & Veterans' Affairs Date: 1/6/84

Approved by Commissioner: Richard A. Lyon Date: 1/6/84
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

2

Bill/Resolution No.: _____
Title: Executive Order & #58

FISCAL DETAIL

Agency Affected: Department of Military Affairs
Program Category Affected: _____

Sponsor: _____
Requestor: Office of the Governor
Date of Request: _____

Public Protection
BRU, Program or Subprogram(s) Affected:
Life & Property Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		86.5				
200 TRAVEL		6.0				
300 CONTRACTUAL		28.4				
400 SUPPLIES		4.0				
500 EQUIPMENT		20.4				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		145.3				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		145.3				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		2				
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

State Operating Budget

The attached fiscal note from Commerce & Economic Development in the amount of \$442.1 represents the costs of transferring to DMA.
ANALYSIS: Attach a separate page for analysis

Prepared By: Richard L. Rountree, Director Phone: 465-4600
Division: Admin. & Support Services Division Date: 1/5/84

Approved by Commissioner: M. G. Edward G. Pagano Date: 1/5/84
Agency: Department of Military Affairs

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

1.	POSITION TITLE Special Assistant to the Commissioner II				RANGE/STEP 23 A	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PX	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				ADDITION	1	JUSTIFICATION			
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		50.0							
6.	Benefits		4.1							
7.	Supplemental Benefits		3.1							
8.	Fixed Benefits		2.6							
9.	TOTAL PERSONAL SERVICES		01		59.8					
10.	Travel		02		6.0					
11.	Contractual		03		28.4					
12.	Commodities		04		4.0					
13.	Equipment		05		10.6					
14.	Other									
15.	TOTAL COST				108.8					
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004			108.8					
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER _____										

This position will be responsible for the administration of the State Division of Veterans Affairs within the Department of Military and Veterans' Affairs. The position will be tasked with the coordination of all Veterans' programs within the State of Alaska. It will also be tasked with the coordination between the State and Federal Veterans' Administration as well as Veterans' Organizations. The position will cooperate with the federal government in matters of mutual concern pertaining to the welfare of Alaskan veterans, including establishing, extending, or strengthening services for veterans, in Alaska.

13 REQUEST FOR
NEW POSITION

AGENCY Department of Military and Veterans' Affairs
PROGRAM Life and Property Protection
BRU Veterans' Affairs
COMPONENT Administration

FY 85

Page _____ of _____
Revised Date _____

1.	POSITION TITLE Secretary I				RANGE/STEP 10A	BARG. UNIT CGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP	
2.	TYPE OF POSITION CGU	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION ERA	ELECTION DISTRICT	LEC.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE				AMOUNT						
	1		2		3						
	PERSONAL SERVICES										
5.	Salary		21.0								
6.	Benefits		1.7								
7.	Supplemental Benefits		1.3								
8.	Fixed Benefits		2.7								
9.	TOTAL PERSONAL SERVICES		01		26.7						
10.	Travel		02		0						
11.	Contractual		03		0						
12.	Commodities		04		0						
13.	Equipment		05		9.8						
14.	Other										
15.	TOTAL COST				36.5						
RECEIPT CODE FUNDING SOURCE											
16.			Federal Receipts		1002						
17.			G.F. Match		1003						
18.			General Funds		1004						
19.			I-A Receipts		1005						
20.			Program Receipts		1028						
21.			Other								
FOR B&M USE ONLY											
4A KEY NUMBER _____											

This position will provide the clerical and technical support for the Division of Veterans' Affairs. As clerical support to the Administrator of the Division, the position will maintain all files, type, respond to routine correspondence, and act as receptionist for the Division.

13 REQUEST FOR
NEW POSITION

AGENCY Department of Military and Veterans' Affairs
PROGRAM Life and Property Protection
BRU Veterans' Affairs
COMPONENT Administration

Page _____ of _____
Revised Date _____

FY 85

ANALYSIS

This fiscal note is tempered with the assumption that funding to operate the Veterans' programs at their present level of service will be transferred to the Department of Military & Veterans' Affairs along with the responsibilities.

Therefore this fiscal note only addresses funding needed to provide an increased level of service.

GOVERNOR'S ACTION. (cont'd)

EO 57, (cont'd)

In his message transmitting EO 57 to the Legislature, Governor Sheffield stated:

Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.30.130(b), I am transmitting an executive order that transfers the Alaska State Office from the Governor's Office to the Department of Commerce and Economic Development and renames it the Alaska Foreign Office.

Under current statutes (AS 44.19.074 -- 44.19.082), the Alaska State Office is in the Office of the Governor. Because the functions of the Alaska State Office are in the area of economic development, resource, and trade information, and contact between government and private industry, the appropriate administrative location for the office is the Department of Commerce and Economic Development. With a very slight re-wording, this Order just relocates the current statutes to that department's chapter from the Governor's Office chapter. No substantive changes are being made. State employees in the Tokyo office remain in the exempt service by virtue of AS 39.25.110(17).

Renaming the office as the Alaska Foreign Office gives it an obvious, more appropriate name.

I believe that this transfer will improve the efficiency of state government.

Dept. of
Military &
Vets' Affairs

EXECUTIVE ORDER NO. 58, by the Governor. Would transfer two veterans' programs--the vets' services program and the vets' burial allowance program--from the Dept. of Commerce & Economic Development to the Dept. of Military Affairs. Renames the latter the "Department of Military and Veterans' Affairs." Effective March 9, 1984.

Introduced January 9 and referred to Judiciary and Finance in the Senate and Labor & Commerce, State Affairs and Finance in the House.

In his message transmitting EO 58 to the Legislature, Governor Sheffield stated:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting an executive order that transfers two veterans' programs from the Department of Commerce and Economic Development to the Department of Military Affairs and renames that Department as the Department of Military and Veterans' Affairs.

The veterans' services program (AS 26.10.010 -- 26.10.050) and the veterans' burial allowance program (AS 26.10.080) are both currently assigned to the division of Investments within the Department of Commerce and Economic Development. This executive order would transfer these two programs to the renamed Department of Military and Veterans' Affairs.

The transfer places these programs where they logically belong and the departmental name change corresponds more nearly with the name of Title 26 of the Alaska Statutes, "Military Affairs and Veterans." Most of that title already relates to the Department of Military Affairs. After transfer of these two programs, AS 26.15, concerning the veterans' loan program in the Department of Commerce and Economic Development, will be the only part of AS 26 that relates to another agency. The amendment of AS 26.15.030(c)(1) in sec. 13 recognizes that change by slightly modifying one of the duties of the Department of Commerce and Economic Development. The language being added to AS 44.35.020 in sec. 21 of the order, listing duties of the Department of Military and Veterans' Affairs, is a consolidation of current AS 26.15.030(c)(1) and (3) (the latter of which is being repealed in sec. 25 of the order).

GOVERNOR'S ACTION, (cont'd)

EO 58, (cont'd)

I believe that this [redacted] will improve the efficiency and effectiveness of [redacted] programs and will improve the quality of services [redacted] to veterans and their survivors. It is anticipated that a division of veteran's affairs will eventually be established to provide the services.

Sincerely,

/s/
Bill Sheffield
Governor

This report is a simple compilation of information and it is not, nor is it intended to present, a legal interpretation.

This report includes all bills and resolutions introduced and all action taken in the Alaska House and Senate from January 9 through January 17, 1984.

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HB

6

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 24, 1983

SUBJECT: Driving while intoxicated
(HB 6)

TO: Representative Mitchell E. Abood, Jr.

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

You have asked me to indicate the changes contained in the draft CSHB 6 as compared to HB 6. I have done this in the form of a sectional analysis of CSHB 6 and the section numbers contained in the headings refer to CSHB 6.

Section 1. This is the same as sec. 1 of HB 6.

Section 2. This is the same as sec. 2 of HB 6.

Section 3. The language "arising out of the operation of a type of motor vehicle for which a driver's license is required" is inserted into subsection (c). The change limits the application of provisions dealing with revocation of a driver's license to situations involving the use of a vehicle, such as an automobile, for which a driver's license is required. The crime of driving while intoxicated under AS 28.35.030 can be committed by a person driving any type of motor vehicle, defined under AS 28.35.260(7) to mean any self-propelled vehicle, or an aircraft or watercraft. Without the added language a person convicted of driving while intoxicated in a case involving an airplane or boat would, under the strict terms of the provision, lose his license to drive an automobile, a somewhat puzzling result. This, however, is the situation under existing AS 28.15.-181(c) which requires revocation of a driver's license, for an automobile, for the crime of driving while intoxicated despite the fact that the crime may have involved a vehicle of a type for which no driver's license is required, such as an airplane or boat.

Section 4. This is the same as sec. 4 of HB 6.

February 24, 1983

Section 5. This is the same as sec. 5 of HB 6.

Section 6. This prohibits driving while a driver's license is canceled, suspended, revoked or in violation of a limitation placed on the license whether the curtailment of the privilege to drive occurred in this state or another jurisdiction. The change was adopted by the House ~~Community and Regional~~ ^{STATE} Affairs Committee as Amendment No. 2. The minimum term of imprisonment for driving without a license has been increased from 14 to 90 days in subsection (a) pursuant to Amendment No. 5 adopted by the House ~~Community and Regional~~ ^{STATE} Affairs Committee. In subsection (b) the notice given by the department to a person whose license is curtailed of the consequences of driving without a license is altered to reflect the new 90-day imprisonment provision.

Section 7. This is the same as sec. 7 of HB 6.

Section 8. At the bottom of page 5 and the top of page 6, the language "if the offense arises out of driving a type of motor vehicle for which a driver's license is required" is inserted, since this provision has to do with revocation of a driver's license and impoundment and forfeiture of a motor vehicle. The reason for the change is the same as that indicated under sec. 3. In addition, this makes it clear that the impoundment and forfeiture provisions are to be applied to vehicles for which a driver's license is required such as automobiles, but not to other vehicles such as boats or planes.

Section 9. This contains the material from sec. 13 of HB 6. It was moved to a new section number at the request of the revisor of statutes, who has authority in any case to renumber sections. The language "to a person driving a motor vehicle of a type for which a driver's license is required" has been inserted in subsection (b) and (c)(1), so that the provisions dealing with administrative revocation of a driver's license apply only if a person is driving a vehicle such as an automobile. A chemical test under the implied consent statute can be given to a person driving any type of motor vehicle, including an aircraft or watercraft. Without this change, a driver's license, for an automobile, could be revoked on the basis of a test given in conjunction with the operation of a plane or boat. Under paragraphs (1), (2) and (4), the provision for suspension and for refusal to issue an original license have been included as possible department actions along with the provision for

revocation now contained in HB 6. In subsection (3) the word "suspension" is used in connection with curtailment of the privilege to drive for a limited period of time. The word "revocation" is used to refer only to permanent denial of the privilege to drive. Under existing statutes these terms are used interchangeably. The first sentence in (e) is inserted pursuant to Amendment No. 1 adopted by the House ~~Community and Regional Affairs Committee.~~^{STATE}

Section 10. This contains material found in sec. 9 of HB 6. As in the previous section, limiting language is inserted so that provisions dealing with curtailment of a driver's license apply only if a person is arrested while driving a vehicle such as an automobile, for which a driver's license is required. Under paragraphs (1), (2), and (4), the provision for suspension and for refusal to issue an original license have been included as possible department actions along with the provision for revocation now contained in HB 6.

Section 11. This contains material found in sec. 10 of HB 6. Limiting language is inserted so that provisions dealing with curtailment of a driver's license apply only if a person refusing to submit to a chemical test was arrested while driving a vehicle, such as an automobile, for which a driver's license is required.

Section 12. This contains material found in sec. 11 of HB 6. The word "suspension" is used in connection with curtailment of the privilege to drive for a limited period of time. The word "revocation" is used to refer only to permanent denial of the privilege to drive.

Section 13. This contains material found in sec. 12 of HB 6.

Section 14. This contains material found in sec. 14 of HB 6. "Suspension" is used in connection with curtailment of the privilege to drive for a limited period of time. "Revocation" refers to permanent denial of the privilege to drive.

Section 15. The language "of a type for which a driver's license is required" is inserted in (a) to limit this section to impoundment of vehicles, such as automobiles for which a driver's license is required. An offense under AS 28.35.030 may involve other types of motor vehicles, such

February 24, 1983

as airplanes. Without this change these might also be impounded.

Section 16. The language "arising out of driving a motor vehicle of a type for which a driver's license is required" is added to Sec. 28.35.037(a) to limit forfeiture to vehicles such as automobiles or motorcycles. An offense under AS 28.35.030 or AS 28.35.032 may involve other types of motor vehicles, such as airplanes or boats for which no driver's license is issued. Without this change these might also be forfeited. Paragraph (3) is added to Sec. 28.35.038(b) and in (c) "may" is changed to "shall" pursuant to Amendment No. 4 adopted by the House ~~Community and Regional~~ ^{STATE} Affairs Committee.

Section 17. This is the same as sec. 17 of HB 6.

TBC:ljb

" AN ACT RELATING TO DRIVING A MOTOR VEHICLE"BILL COMPARISONREP. ABOOD'S BILLCURRENT ALASKA LAWREVOCAION OF A DRIVER'S LICENSE*SEC. 2 AS 28.15.181 (a)*

Adds the refusal to submit to a chemical test for breath to the list of grounds for the immediate revocation of a driver's license.

REVOCAION OF A DRIVER'S LICENSE

No Provision for refusal of breath test.

LICENSE SUSPENSIONS, REVOCATIONS & LIMITATIONS*SEC. 3 AS 28.15.181 (c)*

Penalties apply to: DWI ~~and~~ /or refusal of breath test.

1st offense - License is revoked for 90 days.
No limited license privileges.

2nd offense - License is revoked for one year.
No limited license privileges.

more than
2 offenses - License revocation is permanent.

LICENSE SUSPENSIONS, REVOCATIONS & LIMITATIONS

1st offense - 1) License is revoked for 30 days
or

2) Limited license privileges for
60 days.

2nd offense - License is revoked for one year.
No limited license privileges.

3rd offense - License is revoked for 3 years.
No limited license privileges.

DRIVING WHILE LICENSE IS CANCELED, SUSPENDED
REVOKED OR IN VIOLATION OF LIMITATION*SEC. 6 AS 28.15.291*

Sentence - not less than 14 consecutive days.

Fine - not less than \$500 nor more than
\$1,000.

DRIVING WHILE LICENSE IS CANCELED, SUSPENDED,
REVOKED OR IN VIOLATION OF LIMITATION

Sentence - not less than 10 days.

Fine - no provision.

REP. ABOOD'S BILL

CURRENT ALASKA LAW

PENALTIES FOR DRIVING UNDER THE INFLUENCE OF
INTOXICATING LIQUOR OR DRUGS

PENALTIES FOR DRIVING UNDER THE INFLUENCE OF
INTOXICATING LIQUOR OR DRUGS

SEC. 8 AS 28.35.030 (C)

Sentences

Sentences

1st offense - not less than 72 consecutive hrs.
2nd offense - not less than 20 consecutive days.
more than
2 offenses - not less than 30 consecutive days.

1st offense - not less than 72 consecutive hrs.
2nd offense - not less than 10 consecutive days
if the offense is committed within
5 years of previous conviction.
or
not less than 20 consecutive days
if the offense is committed within
1 year of previous conviction.

FINES

FINES

SEC. 8 " "
1st offense - not less than \$250 nor more than
\$500.
2nd offense - not less than \$500 nor more than
\$1,000.
MORE THAN
2 offenses - not less than \$1,000 nor more than
\$2,500.

not more than \$1,000.

VEHICLE IMPOUNDMENT

VEHICLE IMPOUNDMENT

SEC. 15 AS 28.36
If a peace officer has probable cause to believe
a motor vehicle was used in DWI or refusal to
submit to a chemical test for breath, the vehicle
shall be impounded by the peace officer. The
owner or person in lawful possession of the motor
vehicle shall pay the necessary costs of impound-
ing & storing the vehicle.

No Provision

REP. ABOOD'S BILL

CURRENT ALASKA LAW

VEHICLE IMPOUNDMENT (continued)

1st offense - 15 days

2nd offense - 90 days

FORFEITURE

Upon a second conviction for DWI or refusal to submit to a chemical test for breath, the court may order the forfeiture of a motor vehicle.

FORFEITURE

No Provision

ADMINISTRATIVE REVOCATION OF A DRIVER'S LICENSE

SEC. 9 AS 28.35.032(a)

Applies to: 1) a chemical test for breath resulting in an alcohol concentration of .10 or more.

~~SEC.~~

or

SEC. 11 2) a refusal to submit to a chemical test for breath.

ADMINISTRATIVE REVOCATION OF A DRIVER'S LICENSE

No Provision

The peace officer shall seize a person's operator's license, and shall notify the person of the state's intention to revoke the license.

The notice shall advise the person of the right to obtain district court review of the revocation; the notice itself constitutes a temporary operator's license which expires 7 days after receipt by the person; and that the revocation of the person's license shall take effect upon expiration of the temporary license unless the person, within the 7-day period, initiates a district court proceeding to rescind the

REP. ABOOD'S BILL

CURRENT ALASKA LAW

revocation. Initiation of a district court proceeding after the 7-day period shall not stay the revocation.

The court proceeding shall be without jury and shall be limited to the issues of whether

- (1) the arresting officer had reasonable grounds to believe the person had been operating or driving a motor vehicle in the state while intoxicated;
- (2) the arrested person refused to submit to the breath test;
- (3) the accused defendant was informed fairly of the nature of the tests, the accuracy of the methods, machines, and instruments and equipment involved, the expertise of the person administering the tests, and the accused given such other reasonable information as may be requested by the accused.

PLACEMENT OF QUESTIONS RELATING TO DWI ON THE DRIVER'S LICENSE EXAMINATION

SEC. 1 AS 28.15.081(a)

The examination shall test the applicant's knowledge of the effects of alcohol and drugs on drivers and the dangers of driving under the influence of alcohol or drugs, and the applicant's knowledge of the laws relating to driving while intoxicated.

PLACEMENT OF QUESTIONS RELATING TO DWI ON THE DRIVER'S LICENSE EXAMINATION

No Provision

#4 COPY

A M E N D M E N T

TO: HB 6

By Abood

Page 15, delete lines 15 - 21 and insert:

"(3) the petitioner was not negligent in parting with the motor vehicle."

Page 15, line 22:

Delete "may" and insert "shall"

The effects of these amendments are to provide added protection to lending institutions involved in a forfeiture proceeding.

AMENDMENT #5

COPY

TO: HB 6

By Abood ✓

Page 3, line 24:

Delete "14" and insert "90"

The effect of this amendment is to increase the mandatory jail time for individuals who drive while a license is cancelled, suspended or revoked. The amendment changes that sentence from 14 consecutive days to 90 consecutive days.

This amendment addresses a major problem resulting from a DWI conviction, where an individual continues to drive an automobile even though his license has been revoked.

Tamara Brandt Cock

PROPOSED AMENDMENT NO. #1

COPY

Explanation: This change would correct a drafting mistake in HB 6. AS 28.35.033(j) added by Section 13 of the bill includes penalties for a person who has been previously convicted of one offense and for a person previously convicted of more than one offense, but omits the penalty for a person who has not been previously convicted. AS 28.35.034 provides for a three month period of revocation. However, that provision has been deleted in section 14 of this bill. Therefore, it is necessary to include the penalty for a first conviction in the subsection that sets out penalties for persons who have been previously convicted.

Page 11, line 25 after (j) insert a new first sentence to read:

"If the person has not been previously convicted in this or another jurisdiction of driving while intoxicated or of refusal to submit to a chemical test of breath under this or another law or ordinance with substantially similar elements, the period of suspension or revocation of license, nonresident privilege to drive, or denial of original license shall be 90 days."

Adopted 2-7-83

Tamara Brandt Cook

PROPOSED AMENDMENT

#2

COPY

Explanation: This change would make it clear that the penalties for driving without a license or in violation of a limitation placed on a license apply whether or not a person is driving under a driving privilege granted in this or another jurisdiction. While the existing provision applies when a person is licensed out of this state, it does not specifically apply to a person originally licensed in Alaska. This change would correct a defect in existing law that was not created by HB 6.

Page 3, lines 16 - 23; change the first sentence of AS 28.15.291 to read:

"A [NO] person may not drive a motor vehicle on a highway or vehicular way or area [IN THIS STATE] at a time when that person's [HIS] driver's license, or privilege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDICTION,] has been canceled, suspended or revoked in this or another jurisdiction, or when [HE IS] driving in violation of a limitation placed upon that person's [HIS] license or privilege to drive in this or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another jurisdiction."

Adopted 2-7-83

with following addition

COPY

A M E N D M E N T

#2

TO: HB 6

By Abood

Page 3, delete lines 17 - 22 and insert:

"drive a motor vehicle on a highway or vehicular way or area [IN THIS STATE] at a time when that person's [HIS] driver's license, or privilege to drive that type or class of motor vehicle [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDICTION,] has been canceled, suspended or revoked in this or another jurisdiction, or when [HE IS] driving in violation of a limitation placed upon that person's [HIS] license or privilege to drive in this or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another jurisdic-"

3

AMENDMENT

COPY

TO: HB 6

By Abood

Page 15, after line 26 insert:

"Sec. 28.35.039. PETITION FOR REINSTATEMENT OF DRIVER'S LICENSE.

(a) A person whose driver's license has been permanently revoked under AS 28.15.181, AS 28.35.032, or 28.35.033 may petition the court for reinstatement of the license if the revocation has been in effect for at least 10 years. A person may file a petition under this section only once every year.

(b) After receipt of a petition under this section, the court shall hold a hearing on the question. After the hearing the court may deny the petition or grant the petition and order the petitioner's driver's license to be reinstated. The court may place a limitation under AS 28.15.201 on a license reinstated under this section that will enable the petitioner to earn a livelihood without excessive risk or danger to the public."



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

10

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 16, 1982

MEMORANDUM

TO: Representative Mitch Abood
Attention: Carol Horos

FROM: Christine Johnson, Research Staff *Johnson*

RE: Research Request No. 82-63
Drunk Driving Statistics

Attached please find several charts which should at least partially address your questions regarding (1) the recidivism rate for drunk drivers; and (2) the number of other offenses which drunk drivers commit. Major findings from the data are summarized below:

- In the last five fiscal years, approximately 16,700 individuals were booked into Alaska correctional facilities on charges of drunk driving. Of these, 7,100 or 42% had been booked for drunk driving on at least one other occasion since 1972.
- Between FY 77 and FY 80, the percentage of drunk drivers who were repeat offenders increased steadily from 33% to 48%. The percentage of repeat offenders declined slightly in FY 81 to 44%; however, it is impossible to say whether this represents a one-time fluctuation or the beginnings of a downward trend.
- Over the five-year period, drunk drivers were charged with a total of 2,600 other offenses, including 1,500 other traffic violations. Forty-nine percent of these other offenses were attributed to drivers who had been picked up for drunk driving on at least one other occasion.

We can provide a more detailed breakdown of this data by geographic location, and by age, sex, or race of the offender, if you desire. Please call if you have any questions.

CJ/bf

TABLE I
 Number of Persons Booked in Alaska Correctional Facilities for OMVI Offenses
 Who Had Been Booked Previously on the Same Charge
 FY 77 - FY 81

Year	Total No. of Persons Booked for OMVI	No. of These Who Were OMVI Repeaters	No. of Other OMVI Offenses Since 1972												
			1	2	3	4	5	6	7	8	9	10	11	12	
FY 77	3,340	1,096 33%	789	190	74	24	12	3	2	2					
FY 78	3,297	1,385 42%	949	266	95	46	16	8	4	1					
FY 79	3,775	1,693 45%	1018	356	160	82	44	16	9	7	1				
FY 80	3,004	1,456 48%	803	324	161	77	37	27	13	7	5	2			
FY 81	3,350	1,484 44%	863	295	148	77	35	23	14	10	8	5	4	2	
5-Year Total	16,766	7,114 42%	4422	1431	638	306	144	77	42	27	14	7	4	2	

SOURCE: House Research Agency, March 1982, from Alaska Dept. of Health and Social Services, Division of Corrections, Corrections Master Plan.

TABLE II
 Number of Other Offenses For Which Drunk Drivers Were Charged
 FY 77 - FY 81

Other Offense	No. of Bookings for OMVI and Other Offense				
	FY 77	FY 78	FY 79	FY 80	FY 81
Murder & Negl. Mansl.					1
Non-Negl. Manslaughter				1	1
Robbery	1	1	1	2	1
Aggravated Assault	26	21	20	11	6
Burglary		2			2
Larceny/Theft	4	3	8	4	4
Joyriding	20	21	20	7	6
Assault, Other	3			1	5
Fraud	1			4	1
Embezzlement			1		
Stolen Property			2	1	
Vandalism	6	8	9	1	5
Weapons	12	13	22	7	10
Sex Offenses				1	
Sale/Distribution of Controlled Substances	6		2		2
Liquor Laws	22	7	7	5	6
Drunkenness	15	7	14	1	6
Disorderly Conduct	11	11	3	9	12
Disord. Conduct, Other	17	13	15	17	52
Suspicion	1	3		1	6

(CONTINUED)

TABLE II (CONTINUED)

Other Offense	No. of Bookings for OMVI and Other Offense				
	FY 77	FY 78	FY 79	FY 80	FY 81
Traffic-M.V.	233	250	334	332	375
Offense Against Court	11	25	37	92	108
Probation Violation	1	1	6	5	3
Parole Violation					2
Bench Warrant	19	15	5	36	42
Bail Violation	1				
Escape	1	2	4	2	
AWOL-Fugitive	1		1	1	3
Contributing to Delinquency			1	2	1
Possession/Use of Controlled Substance	33	26	17	11	11
Juvenile Status Offense	1	1			
Other or Unknown		10	6	2	
TOTAL	446	440	535	556	671

Source: House Research Agency, March 1982, from Alaska Department of Health and Social Services, Division of Corrections, Corrections Master Plan.

TABLE III
 Number of Other Offenses For Which Drunk Drivers Were Charged
 Cumulative Total for FY 77 - FY 81

Other Offense	No. of Bookings for OMVI and this Offense	No. of These Which Involved OMVI Repeater		No. of Other OMVI Bookings Since 1972				
				1	2	3	4	5+
Murder & Negl. Mansl.	1							
Non-Negl. Mansl.	2							
Robbery	6	1	17%	1				
Aggravated Assault	84	27	32%	17	9			1
Burglary	4	2	50%	2				
Larceny-Theft	23	9	39%	5	2	1	1	
Joyriding	74	30	41%	15	7	1	3	4
Assault, Other	9	2	22%	1	1			
Fraud	6	2	33%		2			
Embezzlement	1							
Stolen Property	3	1	33%	1				
Vandalism	29	12	41%	7	4	1		
Weapons	64	11	17%	10	1			
Sex Offenses	1							
Sale/Distribution of Controlled Substances	10	3	30%	1	1	1		

(CONTINUED)

TABLE III (CONTINUED)

Other Offenses	No. of Bookings for OMVI and this Offense	No. of These Involving OMVI Repeater		No. of Other OMVI Bookings Since 1972				
				1	2	3	4	5+
Liquor Laws	47	7	15%	4	3			
Drunkenness	43	14	33%	9	2	1	1	1
Disorderly Conduct	46	23	50%	13	3	6	1	
Disord. Conduct, Other	114	47	41%	22	11	9	4	1
Suspicion	11	6	55%	2	3		1	
Traffic-M.V.	1,524	825	54%	318	200	112	73	122
Offense Against Court	273	167	61%	70	48	24	10	15
Probation Violation	15	10	63%	3	1	2	2	2
Parole Violation	2	2	100%	1	1			
Bench Warrant	117	66	56%	27	18	6	6	9
Bail Violation	1	1	100%	1				
Escape	9	4	44%	1	2	1		
AWOL-Fugitive	6	1	17%	1				
Contributing to Delinq.	4	1	25%	1				
Possession/Use of Controlled Substance	98	29	30%	23	3	2		1
Juvenile Status Offense	2							
Other or Unknown	18	7	39%	6	1			
TOTAL	2,640	1,310	49%	562	323	167	102	156

Source: House Research Agency, March 1982, from Alaska Department of Health and Social Services, Division of Corrections, Corrections Master Plan.

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 6 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to driving a motor vehicle."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 28.15.081(a) is amended to read:

9 (a) The department shall examine every applicant for a driver's
10 license. The examination shall include (1) a test of the applicant's
11 eyesight, (2) a test of the applicant's [HIS] ability to read and
12 understand official traffic control devices, (3) the applicant's [HIS]
13 knowledge of safe driving practices, (4) the applicant's knowledge of
14 the effects of alcohol and drugs on drivers and the dangers of driving
15 under the influence of alcohol or drugs, (5) the applicant's knowledge
16 of the laws relating to driving while intoxicated, and the traffic
17 laws and regulations of this state. The examination [, AND] may
18 include a demonstration of ability to exercise ordinary and reasonable
19 control in the driving of a motor vehicle of the type and general
20 class of vehicles for which the applicant seeks a license. However,
21 an applicant who has not been previously issued a driver's license by
22 this or another jurisdiction must demonstrate [HIS] ability, and must
23 present medical information that [WHICH] the department reasonably
24 requires to determine [HIS] fitness to safely drive a motor vehicle of
25 the type and general class of vehicles for which the applicant [HE]
26 seeks a license.

27 * Sec. 2. AS 28.15.181(a) is amended by adding a new paragraph to read:

28 (8) refusal to submit to a chemical test of breath under
29 AS 28.35.032.

1 * Sec. 3. AS 28.15.181(c) is repealed and reenacted to read:

2 (c) A court convicting a person of an offense under (a)(5) or
3 (a)(8) of this section arising out of the operation of a type of motor
4 vehicle for which a driver's license is required shall revoke that
5 person's driver's license and may not grant limited license privileges
6 for the following periods:

7 (1) not less than 90 days if the person has not previously
8 been convicted of an offense

9 (A) under (a)(5) of this section;

10 (B) under (a)(8) of this section;

11 (C) in another jurisdiction with elements substan-
12 tially similar to an offense under (a)(5) of this section; or

13 (D) in another jurisdiction with elements substan-
14 tially similar to an offense under (a)(8) of this section;

15 (2) not less than one year if the person has been previous-
16 ly convicted of one offense

17 (A) under (a)(5) of this section;

18 (B) under (a)(8) of this section;

19 (C) in another jurisdiction with elements substan-
20 tially similar to an offense under (a)(5) of this section; or

21 (D) in another jurisdiction with elements substan-
22 tially similar to an offense under (a)(8) of this section;

23 (3) permanently if the person has been previously convicted
24 of more than one of the following offenses or has more than once been
25 previously convicted of one of the following offenses:

26 (A) an offense under (a)(5) of this section;

27 (B) an offense under (a)(8) of this section;

28 (C) an offense in another jurisdiction with elements
29 substantially similar to an offense under (a)(5) of this section;

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or

(D) an offense in another jurisdiction with elements substantially similar to an offense under (a)(8) of this section.

* Sec. 4. AS 28.15.201(b)(1) is amended to read:

(1) require the surrender of the driver's license [AND, IF THE PERSON IS CONVICTED OF AN OFFENSE UNDER AS 28.15.181(a)(5), REVOKE THAT PERSON'S LICENSE FOR A PERIOD OF NOT LESS THAN 60 DAYS]; and

* Sec. 5. AS 28.15.201(c) is amended to read:

(c) After the termination of a limitation as shown on the certificate issued under (b) of this section, a person on whom a limitation was imposed is no longer bound by the limitation and may apply for a duplicate license under AS 28.15.141 [OR, IF OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED FOR CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

* Sec. 6. AS 28.15.291 is amended to read:

Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not drive a motor vehicle on a highway or vehicular way or area [IN THIS STATE] at a time when that person's [HIS] driver's license, or privilege to drive that type of motor vehicle [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDICTION,] has been canceled, suspended or revoked in this or another jurisdiction, or when [HE IS] driving in violation of a limitation placed upon that person's [HIS] license or privilege to drive in this or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another jurisdiction. Upon conviction of a violation of this section, the court shall impose a minimum sentence of imprisonment of not less than 90 consecutive days and a fine of not less than \$500 nor more than \$1,000 [10 DAYS]. The execution of

1 sentence may not be suspended nor may probation or parole be granted
2 until the minimum imprisonment provided in this section has been
3 served; nor may imposition of sentence be suspended [, EXCEPT UPON THE
4 CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINI-
5 MUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the person's
6 [HIS] license or privilege to drive shall be revoked, and the person
7 [HE] may not be issued a new license nor may the [HIS] privilege to
8 drive be restored for an additional period of one year after the date
9 that the person [HE] would have been entitled to restoration of [HIS]
10 driving privileges.

11 (b) When a person's license is canceled, limited, suspended or
12 revoked, that person [HE] shall be informed by the department or the
13 court that [WHICH] takes the action at the time of the action that,
14 upon a conviction of driving on a highway or vehicular way or area in
15 this state at a time when that person's [HIS] driver's license or
16 privilege to drive in this state has been canceled, suspended or
17 revoked, or upon a conviction of driving in violation of a limitation
18 of the [HIS] license, that person [HE] will be subject to the manda-
19 tory 90-day [10-DAY] imprisonment under (a) of this section.

20 * Sec. 7. AS 28.35.030(a)(2) is amended to read:

21 (2) when, as determined by a chemical test given within
22 four hours after the alleged offense was committed, there is 0.10
23 percent or more by weight of alcohol in that person's [HIS] blood or
24 100 milligrams or more of alcohol per 100 milliliters of that person's
25 [HIS] blood, or when there is 0.10 grams or more of alcohol per 210
26 liters of that person's [HIS] breath; or

27 * Sec. 8. AS 28.35.030(c) is amended to read:

28 (c) Upon conviction under this section the court shall impose a
29 minimum sentence of imprisonment of not less than 72 consecutive hours

1 and a fine of not less than \$250 nor more than \$500 if the person has
2 not been previously convicted in this or another jurisdiction of
3 driving while intoxicated or of refusal to submit to a chemical test
4 of breath under AS 28.35.032 or another law or ordinance with substan-
5 tially similar elements. Upon [A SUBSEQUENT] conviction under this
6 section the court shall impose a minimum sentence of imprisonment of
7 not less than 20 consecutive days and a fine of not less than \$500 nor
8 more than \$1,000 if the person has been previously convicted once in
9 this or another jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of
10 driving while intoxicated [IN THIS OR ANY OTHER STATE] or [CONVICTION]
11 of refusal to submit to a chemical test of breath under AS 28.35.032
12 or another law or ordinance with substantially similar elements. Upon
13 conviction under this section [,] the court shall impose a minimum
14 sentence of imprisonment of not less than 30 [10] consecutive days and
15 a fine of not less than \$1,000 nor more than \$2,500 if the person has
16 been previously convicted in this or another jurisdiction of more than
17 one of the following offenses or has more than once been previously
18 convicted of one of the following offenses: (1) driving while intoxi-
19 cated; or (2) refusal to submit to a chemical test of breath under
20 AS 28.35.032 or another law or ordinance with substantially similar
21 elements [UNLESS THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE
22 PREVIOUS CONVICTION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM
23 SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The
24 execution of sentence may not be suspended nor may probation be
25 granted until the minimum imprisonment provided in this section has
26 been served. Imposition of sentence may not be suspended [, EXCEPT
27 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN
28 THE MINIMUM PERIOD PROVIDED IN THIS SECTION]. In addition, if the
29 offense arises out of driving a type of motor vehicle for which a

1 driver's license is required, the person's driver's [HIS OPERATOR'S]
2 license shall be revoked in accordance with AS 28.15.181 and the
3 vehicle used in commission of the offense shall be impounded and may
4 be forfeited in accordance with AS 28.35.036. In addition, a person
5 convicted under this section [STATUTE] shall undertake, for a term
6 specified by the court, that program of alcohol education or rehabili-
7 tation that [WHICH] the court, after consideration of any information
8 compiled under (d) of this section, finds appropriate.

9 * Sec. 9. AS 28.35.031 is amended by adding new subsections to read:

10 (b) If a chemical test administered under this section to a
11 person driving a motor vehicle of a type for which a driver's license
12 is required produces results described under AS 28.35.030(a)(2) and
13 the person has a driver's license, the law enforcement officer shall
14 seize the person's driver's license. The law enforcement officer
15 shall read a notice and deliver a copy to the person. The notice
16 shall advise that .

17 (1) the state intends to revoke or suspend the person's
18 driver's license, or no original license will be issued to the person;

19 (2) the person has the right to obtain court review of the
20 revocation, suspension, or determination not to issue an original
21 license;

22 (3) the notice itself is a temporary driver's license that
23 expires seven days after receipt of the notice by the person;

24 (4) revocation or suspension of the person's driver's
25 license or a determination not to issue an original license shall take
26 effect upon expiration of the temporary driver's license unless the
27 person within seven days initiates court proceedings to rescind the
28 action.

29 (c) Upon receipt of a sworn report of a law enforcement officer

1 that a chemical test administered under this section produced results
2 described under AS 28.35.030(a)(2), containing a statement of the
3 circumstances surrounding the arrest and the grounds upon which the
4 law enforcement officer's belief was based that the person was driving
5 while intoxicated a motor vehicle of a type for which a driver's
6 license is required, the Department of Public Safety shall notify the
7 person that the person's license or nonresident privilege to drive or
8 operate a motor vehicle in the state is revoked or suspended, or that
9 no original license or permit will be issued effective upon expiration
10 of the temporary driver's license issued under (b) of this section.
11 The department's action under this subsection shall be stayed if the
12 person before expiration of the temporary driver's license initiates a
13 proceeding in the court to rescind the department's action. The court
14 proceeding shall be without jury and shall be limited to the issues of
15 whether

16 (1) the person was validly arrested for driving while
17 intoxicated a motor vehicle of a type for which a driver's license is
18 required;

19 (2) the chemical test administered to the person produced
20 the result described under AS 28.35.030(a)(2).

21 (d) If the issues set out in (c) of this section are determined
22 in the affirmative, the court shall sustain the action of the depart-
23 ment. If one or more of the issues are determined in the negative,
24 the department's action shall be rescinded. If the action of the
25 department in suspending or revoking a nonresident's privilege to
26 drive a motor vehicle is sustained by the court, the department shall
27 give information in writing of the action taken to the motor vehicle
28 administrator of the state of the person's residence and to any state
29 in which that person has a license.

1 (e) If the person has not been previously convicted in this or
2 another jurisdiction of driving while intoxicated or of refusal to
3 submit to a chemical test of breath under this or another law or
4 ordinance with substantially similar elements, the period of suspen-
5 sion of license, nonresident privilege to drive, or denial of original
6 license shall be 90 days. If the person has been previously convicted
7 once in this or another jurisdiction of driving while intoxicated or
8 of refusal to submit to a chemical test of breath under AS 28.35.032
9 or another law or ordinance with substantially similar elements, the
10 period of suspension of license, nonresident privilege to drive, or
11 denial of original license shall be one year. Revocation of license,
12 nonresident privilege to drive, or denial of original license shall be
13 permanent if the person has been previously convicted in this or
14 another jurisdiction of more than one of the following offenses or has
15 more than once been previously convicted of one of the following
16 offenses:

17 (1) driving while intoxicated; or

18 (2) refusal to submit to a chemical test of breath under
19 AS 28.35.032 or another law or ordinance with substantially similar
20 elements.

21 * Sec. 10. AS 28.35.032(a) is amended to read:

22 (a) If a person under arrest refuses the request of a law en-
23 forcement officer to submit to a chemical test of breath as provided
24 in AS 28.35.031, after being advised by the officer that the refusal
25 will, if that person was arrested while operating or driving a motor
26 vehicle of a type for which a driver's license is required, result in
27 the suspension, denial or revocation of the license or nonresident
28 privilege to drive, that the refusal may be used against the person in
29 a civil or criminal action or proceeding arising out of an act alleged

1 to have been committed by the person while operating or driving a
2 motor vehicle or operating an aircraft or a watercraft while intoxica-
3 ted, and that the refusal is a misdemeanor, a chemical test shall not
4 be given, except as provided by AS 28.35.035. If the person was
5 arrested while driving a motor vehicle of a type for which a driver's
6 license is required, refuses to submit to the chemical test, and has a
7 driver's license, the law enforcement officer shall seize that per-
8 son's driver's license. The law enforcement officer shall read a
9 notice and deliver a copy to the person. The notice shall advise that

10 (1) the state intends to revoke or suspend the person's
11 driver's license, or no original license will be issued to the person;

12 (2) the person has the right to obtain court review of the
13 revocation, suspension, or determination not to issue an original
14 license;

15 (3) the notice itself is a temporary driver's license that
16 expires seven days after receipt of the notice by the person;

17 (4) revocation or suspension of the person's driver's
18 license or a determination not to issue an original license shall take
19 effect upon expiration of the temporary driver's license unless the
20 person within seven days initiates court proceedings to rescind the
21 action.

22 * Sec. 11. AS 28.35.032(b) is amended to read:

23 (b) Upon receipt of a sworn report of a law enforcement officer
24 that a person has refused to submit to a chemical test authorized
25 under AS 28.35.031, containing a statement of the circumstances sur-
26 rounding the arrest and the grounds upon which the law enforcement
27 officer's belief was based that the person was [OPERATING OR] driving
28 while intoxicated a motor vehicle of a type for which a driver's
29 license is required [IN VIOLATION OF AS 28.35.030], the Department of

1 Public Safety shall notify the person that the person's license or
2 nonresident privilege to drive or operate a motor vehicle in the state
3 is revoked or suspended, or that no original license or permit will be
4 issued effective upon expiration of the temporary driver's license
5 issued under (a) of this section. The department's action under this
6 subsection shall be stayed if the person before expiration of the
7 temporary driver's license initiates [FOR THREE MONTHS IN THE SAME
8 NOTICE THE DEPARTMENT SHALL INFORM THE PERSON THAT THE PERSON MAY
9 INITIATE] a proceeding in the district court to rescind the depart-
10 ment's action. The court proceeding shall be without jury and shall
11 be limited to the issues of whether

12 (1) the arresting officer had reasonable grounds to believe
13 the arrested person had been [OPERATING OR] driving [A MOTOR VEHICLE
14 IN THE STATE] while intoxicated a motor vehicle of a type for which a
15 driver's license is required;

16 (2) the arrested person refused to submit to the breath
17 test upon request of the officer after being advised that refusal
18 would result in the suspension, revocation, or denial of the person's
19 license or nonresident privilege to drive and that the refusal is a
20 misdemeanor; and

21 (3) the accused defendant was informed fairly of the nature
22 of the tests, the accuracy of the methods, instruments [MACHINES],
23 equipment involved, the expertise of the person administering the
24 tests, or operator of the instruments [MACHINES], and the accused
25 given such other reasonable information as may be requested by the
26 accused.

27 * Sec. 12. AS 28.35.032(d) is amended to read:

28 (d) If the person who refuses to submit to the chemical test
29 authorized by AS 28.35.031 has not been previously convicted in this

1 or another jurisdiction of driving while intoxicated or of refusal to
2 submit to a chemical test of breath under this or another law or
3 ordinance with substantially similar elements, the period of suspen-
4 sion of license, nonresident privilege to drive, or denial of original
5 license shall be 90 days. If the person who refuses to submit to the
6 chemical test [AUTHORIZED BY AS 28.35.031] has been previously con-
7 victed once in this or another jurisdiction [ANY OTHER STATE] of
8 [OPERATING OR] driving [A MOTOR VEHICLE] while intoxicated or of
9 refusal to submit to a chemical test of breath under this or another
10 law or ordinance with substantially similar elements [SECTION], the
11 period of suspension of [OR REVOCATION FOR HIS] license, nonresident
12 privilege to drive, or denial of original license shall be one year.
13 Revocation of license, nonresident privilege to drive, or denial of
14 original license shall be permanent if the person who refuses to
15 submit to the chemical test has been previously convicted in this or
16 another jurisdiction of more than one of the following offenses or has
17 been more than once previously convicted of one of the following
18 offenses:

19 (1) driving while intoxicated; or

20 (2) refusal to submit to a chemical test of breath under
21 this or another law or ordinance with substantially similar elements.

22 * Sec. 13. AS 28.35.032(g) is amended to read:

23 (g) Upon conviction of a person under this section, the court
24 shall impose a minimum sentence of imprisonment of not less than 72
25 consecutive hours and a fine of not less than \$250 nor more than \$500
26 if the person has not been previously convicted in this or another
27 jurisdiction of driving while intoxicated or of refusal to submit to a
28 chemical test of breath under this or another law or ordinance with
29 substantially similar elements. Upon [A SUBSEQUENT] conviction under

1 this section the court shall impose a minimum sentence of imprisonment
2 of not less than 20 consecutive days and a fine of not less than \$500
3 nor more than \$1,000 if the person has been previously convicted once
4 in this or another jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION
5 UNDER THIS SECTION OR] of driving while intoxicated or of refusal to
6 submit to a chemical test of breath under this or another law or
7 ordinance with substantially similar elements. Upon conviction under
8 this section the court shall impose a minimum sentence of imprisonment
9 of not less than 30 consecutive days and a fine of not less than
10 \$1,000 nor more than \$2,000 if the person has been previously con-
11 victed in this or another jurisdiction of more than one of the follow-
12 ing offenses or has more than once been previously convicted of one of
13 the following offenses: (1) driving while intoxicated; or (2) refusal
14 to submit to a chemical test of breath under this or another law or
15 ordinance with substantially similar elements [IN THIS OR ANY OTHER
16 STATE, THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF
17 NOT LESS THAN 10 CONSECUTIVE DAYS UNLESS THE SUBSEQUENT CONVICTION IS
18 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT
19 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20
20 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor
21 may probation be granted until the minimum imprisonment provided in
22 this section has been served. Imposition of sentence may not be
23 suspended [, EXCEPT UPON THE CONDITION THAT THE DEFENDANT BE IMPRI-
24 SONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED IN THIS SECTION].
25 In addition, a person convicted under this section shall undertake,
26 for a term specified by the court, that program of alcohol education
27 or rehabilitation that the court, after consideration of any informa-
28 tion compiled under (h) of this section, finds appropriate. The
29 sentence imposed by the court under this subsection shall run

1 consecutively with any other sentence of imprisonment imposed on the
2 committed person.

3 * Sec. 14. AS 28.35.034 is amended to read:

4 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-
5 CATION]. A person whose license or permit to operate or drive a motor
6 vehicle has been suspended or revoked under the provisions of AS
7 28.35.032 shall surrender the [HIS] license or permit to the depart-
8 ment on receipt of notice of the suspension or revocation. [SUCH A
9 PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR PERMIT FOR THREE
10 MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR PERMIT WAS RECEIVED
11 BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS THAT EXTENUATING
12 CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARDSHIP, IN WHICH CASE
13 THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR NULLIFIED. Unless
14 the license is permanently revoked and after [AFTER] the [THREE
15 MONTHS'] period of suspension has expired, the person may make appli-
16 cation for a new license as provided by law.

17 * Sec. 15. AS 28.35 is amended by adding new sections to read:

18 Sec. 28.35.036. IMPOUNDMENT OF MOTOR VEHICLE; EXCEPTIONS. (a)
19 If a peace officer has probable cause to believe a motor vehicle of a
20 type for which a driver's license is required was used in the commis-
21 sion of an offense under AS 28.35.030, that motor vehicle shall be
22 impounded by the peace officer. Unless the motor vehicle is released
23 under (c) or (d) of this section, the owner or person with the right
24 to possess the motor vehicle shall pay the necessary costs of impound-
25 ing and storing the vehicle before it may be released.

26 (b) Impoundment of a motor vehicle under this section is for

27 (1) 15 days if the driver has not previously been convicted
28 in this or another jurisdiction of

29 (A) driving while intoxicated; or

1 (B) refusal to submit to a chemical test of breath
2 under AS 28.35.032 or another law or ordinance with substantially
3 similar elements;

4 (2) 90 days if the driver has been previously convicted in
5 this or another jurisdiction of

6 (A) driving while intoxicated; or

7 (B) refusal to submit to a chemical test of breath
8 under AS 28.35.032 or another law or ordinance with substantially
9 similar elements.

10 (c) Upon impoundment of a motor vehicle under this section an
11 opportunity for a hearing under AS 28.05.131 shall be provided to the
12 driver of the motor vehicle at the time of the impoundment, to the
13 person with the right to possess the motor vehicle, and to any other
14 person who has an ownership interest in the motor vehicle. The motor
15 vehicle shall be released to the owner or person with the right to
16 possess the motor vehicle if it is determined after the hearing that
17 the impoundment was improper or that at the time of impoundment the
18 motor vehicle was being driven

19 (1) by a person other than the owner or person with the
20 right to possess the motor vehicle; and

21 (2) without the consent of the owner or person with the
22 right to possess the motor vehicle.

23 (d) A motor vehicle impounded under this section shall be re-
24 leased to the owner or person with the right to possess the motor
25 vehicle if

26 (1) the driver is not charged within 10 days of impoundment
27 with an offense under AS 28.35.030 or AS 28.35.032(f) related to the
28 impoundment;

29 (2) the charge of an offense under AS 28.35.030 or

1 AS 28.35.032(f) related to the impoundment is dropped or dismissed; or

2 (3) the driver is acquitted of all offenses under AS 28.-
3 35.030 or AS 28.35.032(f) related to the impoundment.

4 Sec. 28.35.037. FORFEITURE OF MOTOR VEHICLE. (a) Upon convic-
5 tion of an offense under AS 28.35.030 or AS 28.35.032(f) arising out
6 of driving a motor vehicle of a type for which a driver's license is
7 required the court may order the forfeiture of the motor vehicle
8 involved in the commission of the offense if the convicted person was
9 previously convicted in this or another jurisdiction of

10 (1) driving while intoxicated; or

11 (2) refusal to submit to a chemical test of breath under
12 AS 28.35.032 or another law or ordinance with substantially similar
13 elements.

14 (b) Upon forfeiture of a motor vehicle the court shall require
15 the surrender of the registration and certificate of title of that
16 motor vehicle.

17 (c) If not released under AS 28.35.038(c), a motor vehicle
18 forfeited under this section may be disposed of at the discretion of
19 the department.

20 Sec. 28.35.038. REMISSION OF FORFEITURES. (a) Upon ordering
21 forfeiture of a motor vehicle under AS 28.35.037, the court shall
22 within five days provide to every person who has an ownership or
23 security interest in the motor vehicle written notice of the forfei-
24 ture that includes

25 (1) a description of the motor vehicle;

26 (2) the time and place of the forfeiture;

27 (3) the legal authority under which the motor vehicle was
28 forfeited;

29 (4) notice of the right to file a petition for remission of

1 interest in the forfeited motor vehicle.

2 (b) Upon receipt of a petition for remission of interest in a
3 forfeited motor vehicle the court shall hold a hearing on the question
4 and shall order remission of the interest if the petitioner shows that

5 (1) the petitioner has an interest in the motor vehicle
6 acquired in good faith;

7 (2) a person other than the petitioner was convicted of the
8 offense that resulted in the forfeiture;

9 (3) the petitioner was not negligent in parting with the
10 motor vehicle.

11 (c) An order for remission under this section shall provide for

12 (1) reimbursement of the petitioner's interest in the motor
13 vehicle; or

14 (2) delivery to the petitioner of the motor vehicle toge-
15 ther with title to the motor vehicle.

16 * Sec. 16. AS 28.15.211(a)(4) is repealed.
17
18

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26
27
28
29



Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V.
State Capitol
Juneau, Alaska 99811

Official Business

AGENDA

DATE: 2/7/83

TIME: 1:00 p.m.

- I. Call meeting to Order
 - A. Note the committee members present.
 - B. Welcome those observing the meeting.
 - C. Remind those who have not signed in to do so. And remind those giving testimony to speak up and state their name before talking.

II. Announce legislation under consideration:

HB 151 - Act making a special appropriation to the Dept. of Natural Resources, Division of Parks, for acquisition and development of the House of Wickersham in Juneau

HB 6 - Relating to driving a motor vehicle.

→ One witness for HB 6, Emily McKenzie is set to testify by teleconference at 2 pm.

Other notes or reminders:

Remind committee members of work session tomorrow, Tuesday at 1:00 p.m.

(a written notice has already been sent though)



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

8

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 29, 1981

MEMORANDUM

TO: Representative Mitch Abood
Attention: Carol Horos

FROM: Christine Johnson, Research Staff *Johnson*

SUBJECT: Research Request No. 82-5
Drunk Driving Statistics

Carol Horos of your staff has asked for the following information regarding drunk driving:

- (1) statewide data on the number of arrests and convictions for drunk driving for a sufficient number of years to show the current trend;
- (2) statewide data on the number of arrests and convictions for other traffic violations where the driver was also intoxicated;
- (3) a comparison between the incidence of drunk driving in Alaska and the national rate.

As we have explained to Ms. Horos, the second category of data required a special computer run by the Alaska Court System, and we have not yet received the information. We will forward it to you as soon as it arrives.

Arrests

Table I on the following page shows the number of arrests for drunk driving during 1978, 1979, and 1980. This data indicates that arrests for drunk driving are declining. Data for 1980 shows a 21% decrease in the number of arrests for this offense over the arrests reported in 1978. This decline may be related to the stiffer penalties for drunk driving which went into effect in the fall of 1978.

TABLE I
Statewide Arrests for Drunk Driving
1978 - 1980

	<u>1978</u>	<u>1979</u>	<u>1980</u>
Number of Arrests	3,265	3,006	2,575
Rate of Arrest per 100,000 people	815.3	750.6	643.0

Source: House Research Agency, January 1982, from data provided by the Criminal Justice Planning Agency, Alaska Department of Law, Crime in Alaska - 1980.

Table II below compares Alaska's 1980 arrest rate for drunk driving with the national rate for that year. The data indicates that the state's arrest rate for drunk driving is only slightly higher than the national rate.

TABLE II
State and National Arrest Rates for Drunk Driving - 1980
(Rate per 100,000 people)

<u>Alaska</u> <u>Arrest</u> <u>Rate</u>	<u>National</u> <u>Arrest</u> <u>Rate</u>
643.0	626.3

Source: House Research Agency, January 1982, from data provided in Crime in Alaska - 1980, and Federal Bureau of Investigation, U.S. Department of Justice, Crime in the United State, September 1981.

Convictions

Table III on the following pages shows both the number of cases involving drunk driving which were filed with the Alaska Court System during the three year period and the number of convictions which resulted. This information provides the best indication of the conviction rate for drunk drivers, as the data regarding arrests comes from another source and is not comparable to the Court's statistics on convictions.

Between 1978 and 1980, approximately 75% of the individuals charged with drunk driving were convicted. The conviction rate declined slightly in 1980, but no downward trend can logically be inferred from this information.

TABLE III
Drunk Driving Cases Filed with the Alaska Court System
and Rate of Conviction
1978 - 1980

	<u>1978</u>	<u>1979</u>	<u>1980</u>
No. of Cases Filed	3,681	3,545	3,096
No. of Convictions	2,765	2,691	2,224
Conviction Rate	75%	76%	72%

Source: Alaska Court System.

* We were unable to locate any information on the national conviction rate for drunk drivers. We did learn from the State Highway Safety Planning Commission that nationwide 50% of all fatal accidents in 1979 involved a drunk driver. This figure was closer to 75% for Alaska.

We hope this information is of use to you. Again, we will deliver the other material you requested as soon as it arrives. If we can provide any further assistance, please don't hesitate to contact us.

CJ/cj

Briefly

Alaska

Man charged in fatality faces new DWI charge

By Empire Staff

John M. Brayton, 20, who is awaiting sentencing after pleading no contest last week to a charge of negligent homicide, was arrested and jailed by Alaska State Troopers Sunday night, charged with driving while intoxicated.

Troopers arrested Brayton after they were told of a reckless driver near Sharon Street. Upon arrival, Brayton's car was in a ditch, Troopers report.

Brayton pleaded no contest last Monday to a charge of negligent homicide in connection to a fatal car accident at 8 mile Egan Drive June 10. A passenger in Brayton's pickup truck, David Wallace, 25, was killed.

In that accident, Brayton was reportedly traveling between 65 and 80 mph when the truck went out of control and went over an embankment.

He was accused of driving while intoxicated when that accident occurred.

Brayton faces sentencing in the negligent homicide charge on March 17. He could receive a sentence of up to five years in prison in the case.

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected Legal Services
 BRU, Program, Or Subprogram(s) Affected Legal Services Operations
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		337.8	364.4	386.3		

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		337.8	364.4	386.3		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This bill makes several significant amendments to the state laws pertaining to driving while intoxicated, including raising the mandatory minimum sentences which must be imposed upon conviction for driving while intoxicated or refusal to take a breath test. There is the distinct possibility that the number of guilty pleas for Driving While Intoxicated or Refusal to Take a Breath Test will decrease due to the generally more severe penalties specified. With the corresponding increase in trials, a need for additional prosecuting attorney positions may arise. While this possibility is speculative, and consequently no additional prosecution positions have been requested at this time, any legislative action diminishing the resources available to the department in FY 84, coupled with the enactment of this and other crime bills requiring a greater prosecution effort, will severely hamper the department's overall ability to prosecute criminal offenses.

IV. DATE January 24, 1983 PREPARED BY Richard I. Peques, Dir. Adm. Svcs. Div.
 AGENCY Department of Law
 Original: Legislative Finance PHONE 465-3672
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

Office of Management and Budget
 Reviewed by: Mike Maher, Program Budget Analyst
 Division of Budget Review

driven by persons arrested for driving while intoxicated. If an impoundment or forfeiture is contested by the vehicle owner, or by someone who has financial interest in the vehicle, a court hearing must be held. It is anticipated that many of these hearings will involve representatives from banks or financing companies who retain a financial interest in the vehicle. The hearings would create a substantial additional workload for Department of Law civil attorneys, and will require an increase in the number of attorneys and support staff in the larger offices.

A fiscal impact statement from the Department of Health and Social Services, Division of Corrections should also be sought, as the additional days in jail which a person would be required to serve after conviction under the bill will probably increase the number of beds in correctional institutions which are permanently filled by D.W.I. convictees and thus unavailable for other offenders.

* Please refer to Rep. Abood's letter for further explanation.

Alaska State Legislature

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843
HOME (907) 274-3102

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4947



HOUSE MAJORITY WHIP

CHAIRMAN
STATE AFFAIRS

MEMBER
TRANSPORTATION
LEGISLATIVE COUNCIL

Representative Mitch Abood
HOUSE DISTRICT 11

MEMORANDUM

TO: Members of the House Committee on State Affairs

FROM: Representative Mitch Abood

DATE: February 1, 1983

SUBJECT: Fiscal Analysis of HB 6

In reviewing the analysis contained within in the fiscal note for HB 6, there are two points which require further clarification:

- 1) (Pg. 2, Paragraph 1) In the case of a contested impoundment, only an administrative hearing is granted -- not a court hearing, (Sec. 28.35.036 (c)). However, an appeal may be filed in district court after the hearing (AS 28.05.141 (d) existing law). A car would, in most cases, be released before an appeal could be heard.
- 2) (Pg. 2, Paragraph 2) My office requested a fiscal note from the Dept. of Health and Social Services, Division of Corrections on January 13, 1983. We specifically asked the department to provide the following information:
 - a) The fiscal impact on Corrections due to the increase sentences for the 2nd and subsequent convictions for DWI, refusal of the breath test, and the longer sentence for driving while a license is cancelled, suspended or revoked.
 - b) An estimate of revenue to the State generated by the increased mandatory fines for DWI, refusal of the breath test, and driving while a license is cancelled, suspended or revoked. Although we asked for this information over two weeks ago, to this date we have not received anything from either the Div. of Corrections or OMB.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 4, 1982

TO: Representative Mitch Abood
Attention: Carol Horos

FROM: Christine Johnson, Research Staff *Johnson*

SUBJECT: Research Request No. 82-5
Arrests and Convictions for Drunk Driving: Additional Information

This memorandum should fulfill your request for data regarding arrests and convictions for driving while intoxicated (DWI). We have been waiting for a computer run from the Court System in order to respond to your question regarding the number of other traffic violations committed by drunk drivers.

Unfortunately, we have found that the Court System's data will only partially answer your question. On the Court's computer system, cases involving multiple offenses are listed by the primary, or the most serious, offense; the number of other lesser offenses is noted, but these offenses are not specifically named. Consequently, while the data indicates the number of cases where an individual was charged with DWI and other lesser offenses, it does not show the number of people charged with drunk driving and other more serious violations.

The Court System's data for 1980 is summarized on the table on the following page. This information indicates that drunk drivers were responsible for a minimum of 236 other traffic offenses in 1980. Ninety percent of these drivers were ultimately convicted of drunk driving. Eighty-nine percent of those convicted served time in jail, 77% were fined, and 69% were both fined and jailed.

We hope this information is of use to you. We sincerely apologize for the delay in delivering it, but tabulating the data from the Court System took significantly longer than we anticipated. If we can provide any further information, please don't hesitate to contact us.

CJ

Attachment

1980 Court Cases Involving a DWI Offense and Other Lesser Offenses
By Disposition of Case

	NO. OF CASES WHICH INVOLVE A DWI OFFENSE AND ANOTHER OFFENSE	CONVICTIONS		PENALTIES											
		No.	%	Jail No.	% ¹	Fine No.	%	Both No.	%	License Revoked No.	%	Restitution Required No.	%	Probation No.	
ONE OTHER OFFENSE	164	146	89%	131	90%	111	76%	100	68%						
TWO OTHER OFFENSES	22	22	100%	20	91%	17	77%	16	73%						
THREE OR MORE OTHER OFFENSES	9 ²	8	89%	6	75%	7	86%	5	63%						
TOTAL	195	176	90%	157	89%	135	77%	121	69%	70	40%	23	13%	63	36%

¹Percentage of convictions.

²Eight cases involve three other offenses and one case involves four other offenses.

Source: House Research Agency from data provided by the Alaska Court System, February, 1982.

RANGE OF JAIL SENTENCES

	No.	%
1- 5 days	82	52%
6- 10 days	32	20
11- 25 days	24	15
26- 50 days	8	5
51-100 days	7	5
101-200 days	3	2
over 200 days	1	1
TOTAL	157	100%

RANGE OF FINES

	No.	%
less than \$100	2	2%
\$100-199	24	18
\$200-299	56	41
\$300-399	27	20
\$400-499	10	7
\$500-750	14	10
over \$750	2	2
TOTAL	135	100%

ANCHORAGE ALCOHOL SAFETY ACTION PROGRAM
CLIENT OUTCOME EVALUATION

June, 1980

Dennis Kelso, Ph.D.

PREPARED FOR:

Mr. Charles A. Smith, Director
Alaska Highway Safety Planning Agency
Department of Public Safety
Pouch N
Juneau, Alaska 99811

This document is available to the public through
The Alaska Highway Safety Planning Agency

PREPARED BY:

ALTAM ASSOCIATES
POST OFFICE BOX 42 DOWNTOWN STATION
ANCHORAGE, ALASKA 99510 (907) 274-9442

This research report was conducted under a contract from the
Alaska Highway Safety Planning Agency. The author is solely
responsible for the content and accuracy of the report.

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ANCHORAGE ALCOHOL SAFETY ACTION PROGRAM
CLIENT OUTCOME EVALUATION

INTRODUCTION

In the last several years, vigorous efforts have been made to develop more effective control of the problem of drunk drivers.

This is one of the major concerns of traffic safety specialists, as well as alcohol treatment specialists, lawmakers, and members of the criminal justice system. There is a well known relationship between alcohol consumption, impairment, and traffic accidents.

Highway safety efforts to establish more effective control systems for the drunk driver problem involve improvements in highway engineering and traffic control devices, vehicle safety improvements, and human behavior and human error.

One of the efforts to deal directly with the human behavior component of alcohol and highway safety has been the establishment and maintenance of greater coordination between the courts and community alcohol education and treatment agencies. Poor or ineffective coordination had been considered

to be at least partly responsible for the unsatisfactory outcomes of the operations of each of the systems separately.

This whole effort is now generally referred to under the name of Alcohol Safety Action Program (ASAP). This effort began nationally in 1970 when the U. S. Department of Transportation funded a national demonstration effort to discover the means and mechanisms to do this. The effort was administered through the National Highway Traffic Safety Administration (NHTSA) and involved Alcohol Safety Action Projects (ASAPs) in thirty-five states.

The purpose of the effort was to reduce the frequency of alcohol-related traffic accidents through the early identification of problem drinker drivers and the initiation of appropriate interventions to inhibit or eliminate alcohol-related driving behavior.

The ASAPs represent the program for obtaining and maintaining the increased coordination between the courts and the community alcohol treatment agencies.

The ASAP program also represents the action side of the combined health-legal concept for dealing more effectively with the drunk driver problem. This health-legal approach

conceives of a drinking driver control system that consists of agencies of the traffic law system and the community agencies that are informally grouped together to form the alcohol control system.

Under this systems approach to the drunk driver problem, the traffic law system takes on the public health functions of casefinding, diagnosis and referral, in addition to the traditional functions of law generation, enforcement, adjudication, and sentencing. The alcohol control system then takes on the function of treatment and rehabilitation of the identified cases.

The ASAP gives structure to the drinking driver control system by linking the two general systems together. Neither system had had purposes or means for systematic and managed interface. The ASAP provided this interface between the systems, based on client management practices that routinized the client flow between the systems.

The general mission of the demonstration effort was to design and explore various alcohol countermeasures involving legislation, enforcement, adjudication, sentencing, and alcohol treatment for problem drinkers. The operation of the national demonstration ASAP programs involved diversity in program structure and procedures, but the central concept was the same.

As a result of the national ASAP demonstration programs, and the associated analytic studies, a number of ASAP-type community programs have developed and been maintained in numerous court jurisdictions throughout the nation. In Alaska, the Highway Safety Planning Agency established the Anchorage Alcohol Safety Action Program (AASAP) to develop and demonstrate appropriate alcohol and traffic safety countermeasures for more effective control of the drunk driver problem in the Anchorage area; and, to serve as a model program for a statewide network.

Compared to the national effort, the Anchorage ASAP was more limited in the nature and the extent of the countermeasures employed. There was, for example, no attempt to directly increase the number of arrests for drunk driving, or to provide additional staff resources to prosecute or adjudicate more cases, or to conduct an area wide public information and education program, etc. The focus was on casefinding and client flow management -- background investigation, screening, education/treatment referral, case monitoring and, system coordination. (See next section for program description.)

PURPOSE

The general purpose of this investigation was to perform a limited evaluation of the Anchorage ASAP program efforts.

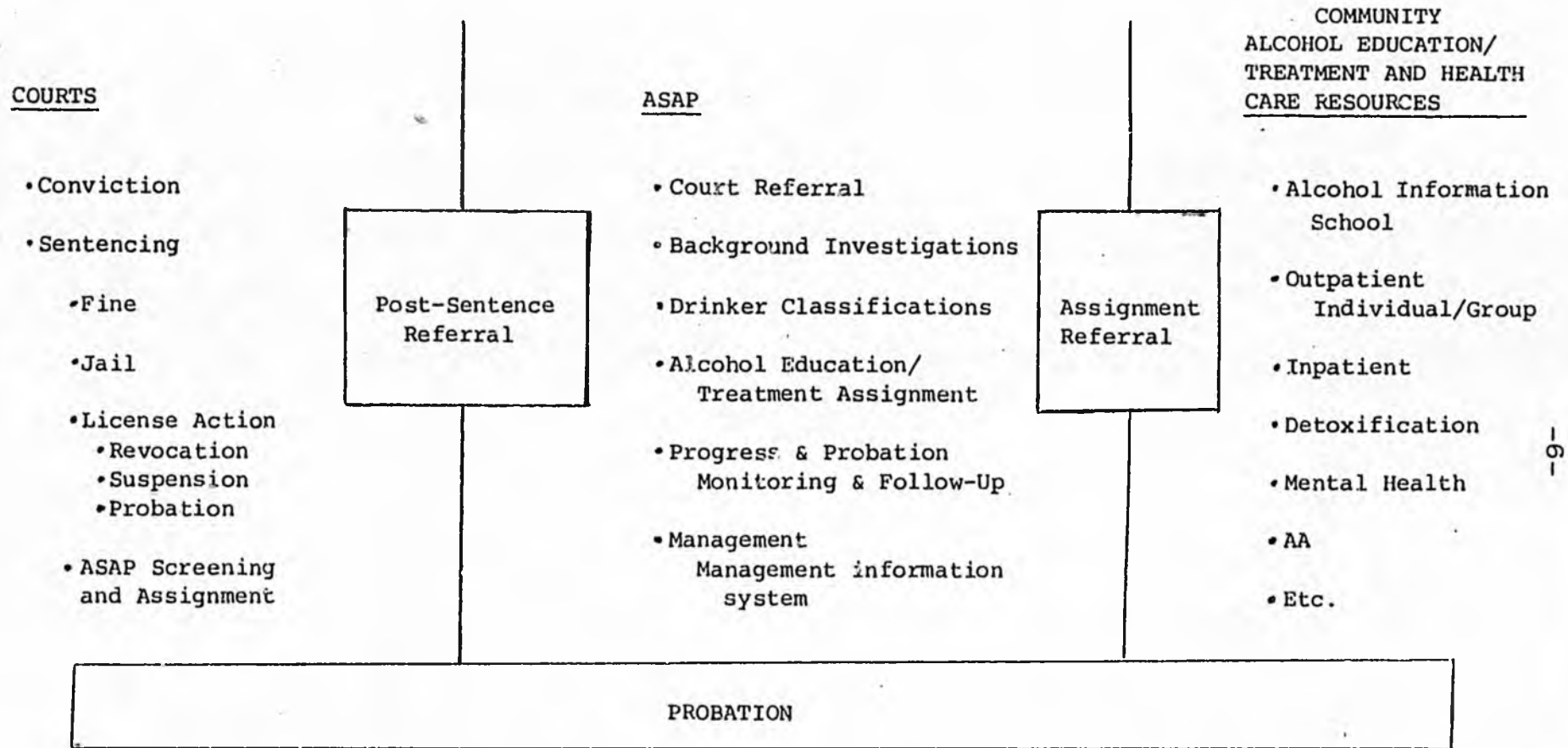
The evaluation concerns a single client outcome measure -- criminal rearrest. The objective was to compare the criminal rearrest rates of individuals who had been exposed to the AASAP screening and subsequent alcohol education/treatment with similar individuals who had not been exposed to this program (a control group). Any differences in the group rearrest rates may then be attributed to the influence of the AASAP screening and alcohol treatment effects.

THE ANCHORAGE ALCOHOL SAFETY ACTION PROJECT:
A BRIEF DESCRIPTION

The Anchorage Alcohol Safety Action Program (AASAP) represents a centralized and systematic procedure for the referral of OMVI/DWI cases* from the district court for screening, treatment assignment, monitoring and general and overall post disposition caseload management. Organizationally, the AASAP provides a central link between the court and the community alcohol treatment agencies, and provides a transition stage for the client between the criminal justice system and the health care system. Figure 1 outlines the relationship

* The Anchorage District Court is part of the Alaska State Court System, which is a single, unified court system for the entire state. Thus, it adjudicates cases initiated by the State Troopers and prosecuted by the State District Attorney, using State statutes, as well as cases initiated by the Anchorage Police Department, and prosecuted by the Municipal Prosecutor, using Municipal ordinances. OMVI is the state charge, and DWI is the Municipal charge for Operating a Vehicle While Intoxicated, or Driving While Intoxicated.

Figure 1
AASAP COURT REFERRAL SYSTEM



between systems. The purpose of the court referral to AASAP is to screen cases and supplement the traditional court sanctions with an alcohol education or treatment requirement, not to replace them. In this way, the AASAP is distinguished from criminal justice system diversion programs which substitute alternative treatments for traditional court sanctions (or sometimes stages of processing).

ASAP Components and Client Flow

The main components of the program consist of court referral, background investigation, drinker classification, treatment assignment, monitoring and follow-up, and case management. Most often, cases are referred to AASAP by District Court judges as a condition of a suspended portion of the sentence. Cases referred by the court are usually for OMVI/DWI offenses. However, in the last two years, the number of referrals for other misdemeanor cases has increased somewhat, such that ten percent of the AASAP referrals were for other offenses in 1978, and sixteen percent of the referrals involved other cases in 1979.

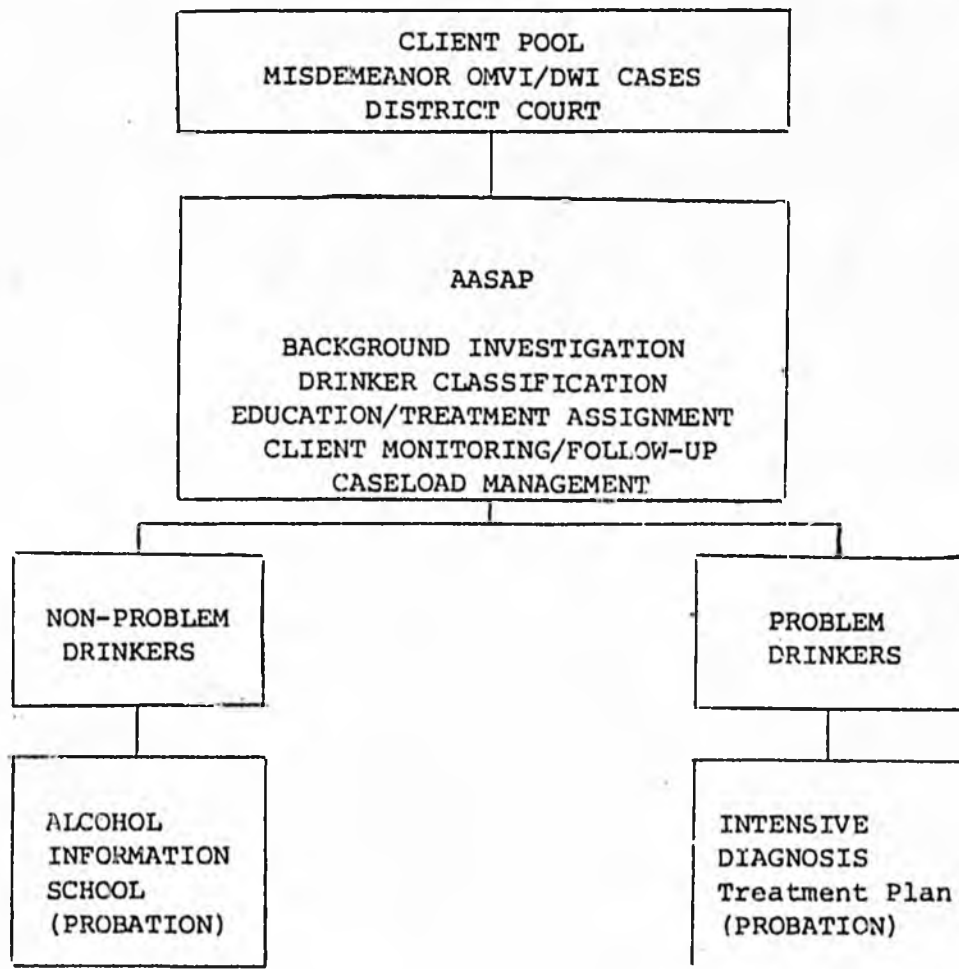
Information is collected by the AASAP, as part of the background investigation, to determine whether or not the individual has a drinking problem. If so, an appropriate assignment is made for alcohol treatment, as a condition of the suspended portion of the sentence.

The background investigation includes consideration of the individual's Blood Alcohol Content (BAC) at the time of arrest, criminal and traffic history, and responses to a questionnaire and structured interview regarding drinking history and drinking patterns (the Mortimer-Filkins Procedure). Evaluation of this information provides evidence for the classification of the individual as a Non-Problem Drinker (NPD), if there is no evidence of problematic drinking, or as a Problem Drinker (PD), if the evidence supports this. If information is inconclusive, the person is referred to a specialist for intensive diagnosis. This additional information is then used to complete the background investigation procedure and the drinker classification.

Following drinker classification, non-problem drinkers are assigned to an alcohol educational program. Problem drinkers are assigned to an alcohol treatment program for diagnosis, intake and design of a specific treatment plan. (See Figure 2)

A client tracking system is used to monitor all clients and determine compliance with the treatment program requirements. Follow-up action is taken in cases of non-compliance. Both non-problem drinkers and problem drinkers are monitored from the time of the initial court referral through the completion of education or treatment/rehabilitation programs and until the completion of the court probation period, which

Figure 2
AASAP CLIENT FLOW
AND FUNCTIONS



is typically one year for OMVI/DWI cases.

Thus, under the specific delegated authority of the court, the AASAP acts in a quasi probation capacity. The court's use of the referral to AASAP and requirement to cooperate with the AASAP as a part of the condition of probation and suspended portion of the sentence is intended to provide the encouragement for the client's participation in the education and/or treatment program.

OUTCOME EVALUATION DESIGN

The purpose of this investigation was to compare criminal rearrest rates of individuals who had been exposed to AASAP screening and alcohol education or treatment with similar individuals who did not have this exposure. Thus, any significant differences in the rearrest rates may be attributed to the AASAP screening and alcohol treatment effects.

In this investigation the pool of subjects consisted of individuals convicted of OMVI/DWI in the Anchorage District Court. The study period was designated as the calendar year of 1978 (January 1 through December 31). Persons convicted of OMVI/DWI who had arrest dates in the 1978 calendar year were included in the study. The follow-up period monitored for criminal rearrest was a one year (twelve month) period from the date of the original arrest.

Cases in the "treatment" group consisted of cases referred to the AASAP by the court. Cases not referred to the AASAP were considered to be the "control" group.

Ideally, in a fully controlled scientific experiment, individuals would be selected at random from the pool of subjects (those convicted of OMVI/DWI) and assigned or not assigned to the AASAP. In this manner, any personal traits or system characteristics that might influence the outcome would be evenly distributed throughout the comparison groups and could be precluded as possible explanations for the findings. This condition is seldom possible in real life situations. It was not the case in this investigation.

In this investigation, individuals in the control group were not exposed to AASAP or any alcohol treatment, but this was accomplished as a result of the action of the court, not random variation. Members of the control group were those persons simply not referred to AASAP, or directly to alcohol education or treatment by the court. However, the control group was balanced with the treatment group, after the fact, to obtain near equivalence of groups.

There was no general policy or procedure that guided the court decision to refer or not refer the cases to AASAP.

In fact, the general policy was to routinely refer OMVI/DWI cases to the AASAP. The Anchorage District Court is composed of seven permanent judges. However, judgments for the cases in the present study were signed by twenty-five different judges. The additional judges were all full-time district court judges, but from other jurisdictions in the state, who substituted for the permanent judges for a number of reasons (sickness, vacation, turnover, etc.) Thus, these judges may not have been familiar with the local practices to make use of the AASAP. It would seem likely that all cases handled by a particular substitute judge were either referred or not referred, thus there would be no selectivity on a case by case basis that would systematically alter the composition of the "treatment" and "control" group. Furthermore, the general pattern of referrals to AASAP by the seven permanent judges indicated that most of the judges routinely referred most cases to the AASAP, while two of the judges (during the time of this study) routinely would not refer most cases. Since daily arraignments were handled by the different judges on a rotational basis, it would seem that there was probably no special selection of individual cases on the part of the judges for referral to AASAP.

One of the functions of the AASAP is to classify persons into non-problem and problem drinker categories in order to make appropriate assignments to alcohol education or alcohol treatment modalities, as a condition of court probation. As mentioned earlier, this classification is based on BAC, prior criminal record and, responses to a questionnaire and a structured interview. The "treatment" group then actually consisted of two groups -- non-problem drinkers, and problem drinkers. AASAP classified non-problem drinkers were assigned to an Alcohol Information School; AASAP classified problem drinkers were assigned to alcohol treatment/rehabilitation. Both groups were also on a one year court probation, and had to satisfy traditional court sanctions as well (jail, fine, license action and probation).

For the purpose of comparison, the control group was also subdivided into non-problem and problem drinkers. This was accomplished after-the-fact on the basis of a prior record for CMVI/DWI (herein after called priors). Those persons with one or more priors within the last five years were classified as problem drinkers, the remainder (no priors) as non-problem drinkers.* This procedure is less

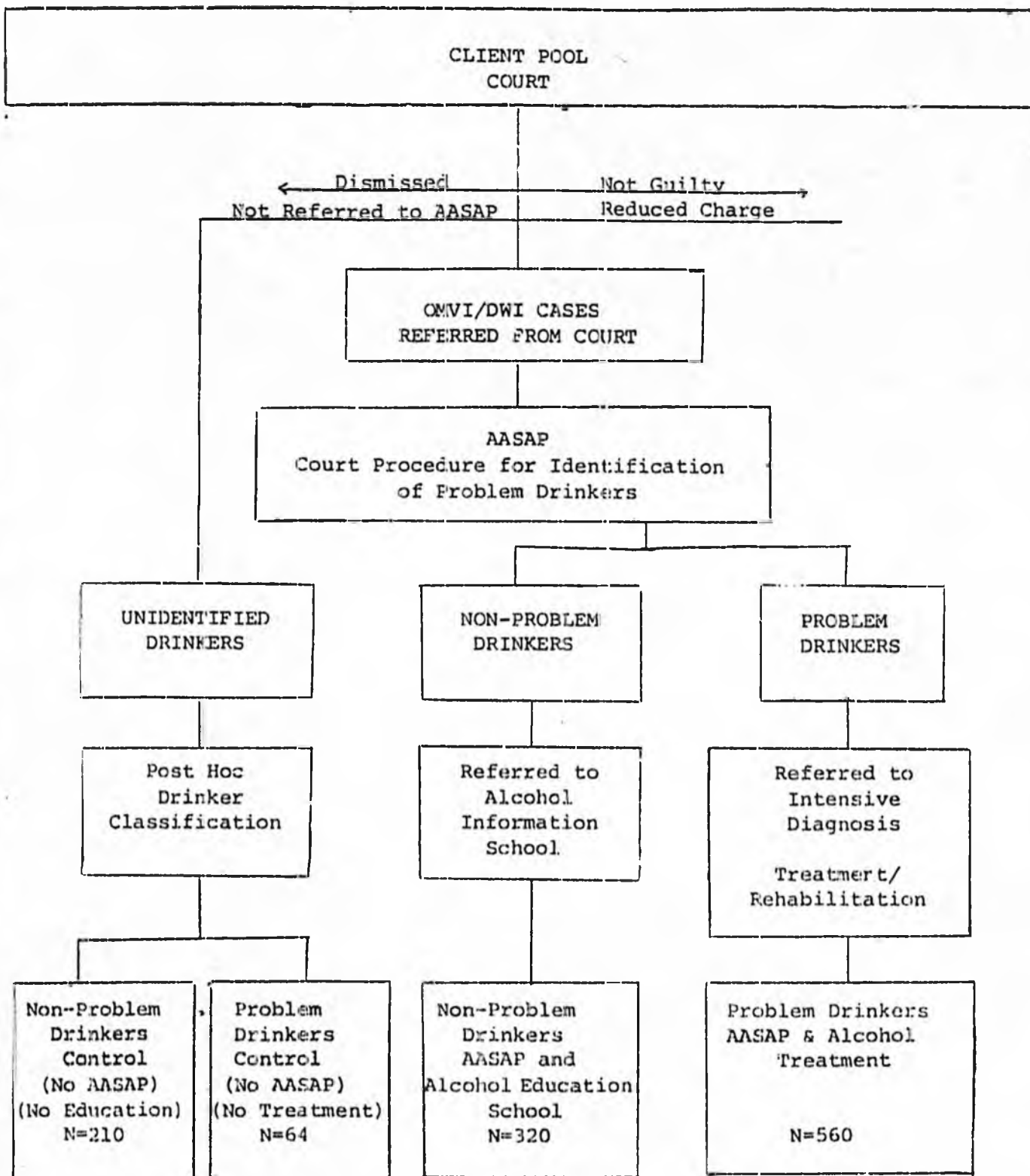
* This method, the use of prior OMVI/DWIs is the single best available indicator for drinker classification as problem drinker. See Mushill and Struckman - Johnson, 1977, for an evaluation of BAC, questionnaire and interview responses, as well as prior record for drinker classification.

sensitive than the AASAP process and would have to be judged as conservative. More persons probably end up classified as non-problem drinkers than would result if all the AASAP drinker classification criteria were used. Thus, there may be more problem drinkers in the non-problem control group than in the AASAP classified non-problem group. In spite of these procedures to equate treatment and control groups, the lack of random assignment must be kept in mind as a limiting factor.

For this investigation, there are four final groups for analysis of criminal rearrest rates. There is a non-problem drinker treatment group (screened by AASAP and assigned to alcohol education) and a non-problem drinker control group; and, there is also a problem drinker treatment group (screened by AASAP and assigned to alcohol treatment/rehabilitation) and a problem drinker control group. The evaluation design showing the structure of the comparison groups is provided in Figure 3.

The statistical technique used for the comparison of rearrest rates for the treatment and control groups was survival rate analysis (Cutler and Ederer, 1958). In this type of analysis, groups of individuals are observed for a predetermined time period. The follow-up period of observation is adjusted for variable entry points so the observation time period

Figure 3
EVALUATION DESIGN



is constant for all cases. In the present study, cumulative survival rates were computed for a twelve month observation period after the date of the initial arrest for OMVI/DWI. All cases had arrest dates in the 1978 calendar year.

Data was collected from AASAP files, the Alaska Court System, and the Alaska Judicial Information System (AJIS). Basically, all AASAP cases with a 1978 arrest date were identified for inclusion in the study in the treatment group. These cases were compared to the Court System's record of dispositions and those cases not accounted for by the AASAP records that had an arrest date of 1978 were included in the control group. Personal characteristics and case processing events were collected from court records and AASAP files. Criminal histories were then collected from the AJIS and reviewed for the one year period following the 1978 OMVI/DWI arrest date for all cases.

All inconsistencies in recorded information between the separate data sources were reconciled. If this was not possible, then the case was excluded from the study.

RESULTS

The total number of cases in the final subject pool numbered 1154 OMVI/DWI cases eligible for inclusion in the study.

As a result of the court referral process, 76.3% of these cases were referred to AASAP, in addition to receiving traditional court sanctions (jail, fine, license action and probation). The remaining 23.7% of the cases were not referred to AASAP, but did receive traditional court sanctions.

Of those cases referred to the AASAP, 320 were classified as non-problem drinkers (social drinkers). This represents 36.4% of the court referred cases. The remaining cases, 520, which represent 63.6% of the cases, were classified as problem drinkers, according to the established AASAP drinker classification criteria.

The drinker classification of the 274 court cases not referred to AASAP, performed on the basis of prior OMVI/DWI's only, resulted in 210 cases defined as non-problem drinkers, or 76.6%; and, 64 cases, or 23.4%, defined as problem drinkers. (See Figure 3)

About two-thirds of all the OMVI/DWI cases referred to the AASAP by the court were problem drinkers, whereas only about one-fourth of the cases not referred were in the problem drinker category. Whatever the intuitive guidelines used by the judges of the court to make referrals to AASAP, they result in referring more problem drinkers than social drinkers.

Survival Rate Analysis

The major evaluation question was whether or not there was any difference in the survival rate for criminal rearrest for those cases exposed to AASAP screening and education/treatment, compared to those not exposed.

Criminal rearrest was defined in two ways: 1) in terms of rearrest for a similar violation, which was defined as only another OMVI/DWI; and 2) in terms of rearrest for any subsequent criminal arrest, including OMVI/DWI. The follow-up period of observation for each category was one year from the 1978 arrest OMVI/DWI arrest that qualified the case for inclusion in the study. No serious traffic violations were included in either definition. Also, each case of rearrest involved a conviction, but it was the date of the arrest that was observed.

The most common method for examining recidivism for OMVI/DWI cases is to examine only rearrest for another OMVI/DWI within a specified period of time. This would seem to be related to traditional court sentencing practices. In the Anchorage District Court (as in most jurisdictions nationally), if probation is a part of the sentence, it usually carries with it a condition of "no similar violations" for the period of probation. Presumably, if the offender is rearrested and convicted for the same offense during the probation period, then this would constitute grounds

for prosecution as a technical violation of the terms of the court's probation, in addition to another OMVI/DWI charge. There would appear to be no common agreement upon what really constitutes a "similar" violation, however, when the subsequent offense is not the same as the former. Given this standard sentencing practice and the extant lack of common agreement about the definitional range of "similar" in the "no similar violation" condition of probation, it was considered that analysis of criminal rearrest in terms of the two categories adopted would be not only interesting, but perhaps instructive.

Cumulative survival rates were computed for each month of the twelve month period of observation for each of the comparison groups. The cumulative survival rate for each month (30 day period) or for the year would be the proportion of a group that had not been rearrested (survived without rearrest) for that period after the initial arrest. In order to present the various survival rates for each of the study groups in a manner less tedious than tabled values, survival rate profiles were charted -- a plot of survival rates for each 30-day period after the initial arrest.

Survival Without Rearrest For Another OMVI/DWI

The cumulative survival rates for non-problem and problem drinker groups and respective control groups based on

rearrest for another OMVI/DWI (a similar offense) are presented in Figure 4. It can be seen that the rate of survival and the final proportion of cases surviving the full twelve month period is quite similar for the non-problem drinker AASAP/Education group and the non-problem drinker control group. The difference in survival between the problem drinker AASAP/Treatment group and the problem drinker control group, however, showing the greater proportion of survivors is quite clear.

The actual percentage of cases surviving the full twelve month period after the initial arrest for all groups is shown in Table I. This figure was used to statistically compare the survival rate for all groups. A standard test for comparing the equality of two proportions (Dixon and Massey, 1969) at the .05 level was used for each of the comparisons. The results are also indicated in Table I.

Comparison of non-problem drinker groups indicated that more than 95% of all the cases survived without rearrest for another OMVI/DWI whether or not exposed to the AASAP screening and alcohol education. There is a difference of only .8% between the AASAP/Education group and the non-problem drinker control group, which is not statistically significant.

Figure 4
 CUMULATIVE SURVIVAL RATES BASED ON REARREST FOR OMVI/DWI
 FOR NON-PROBLEM AND PROBLEM DRINKER AND CONTROL GROUPS

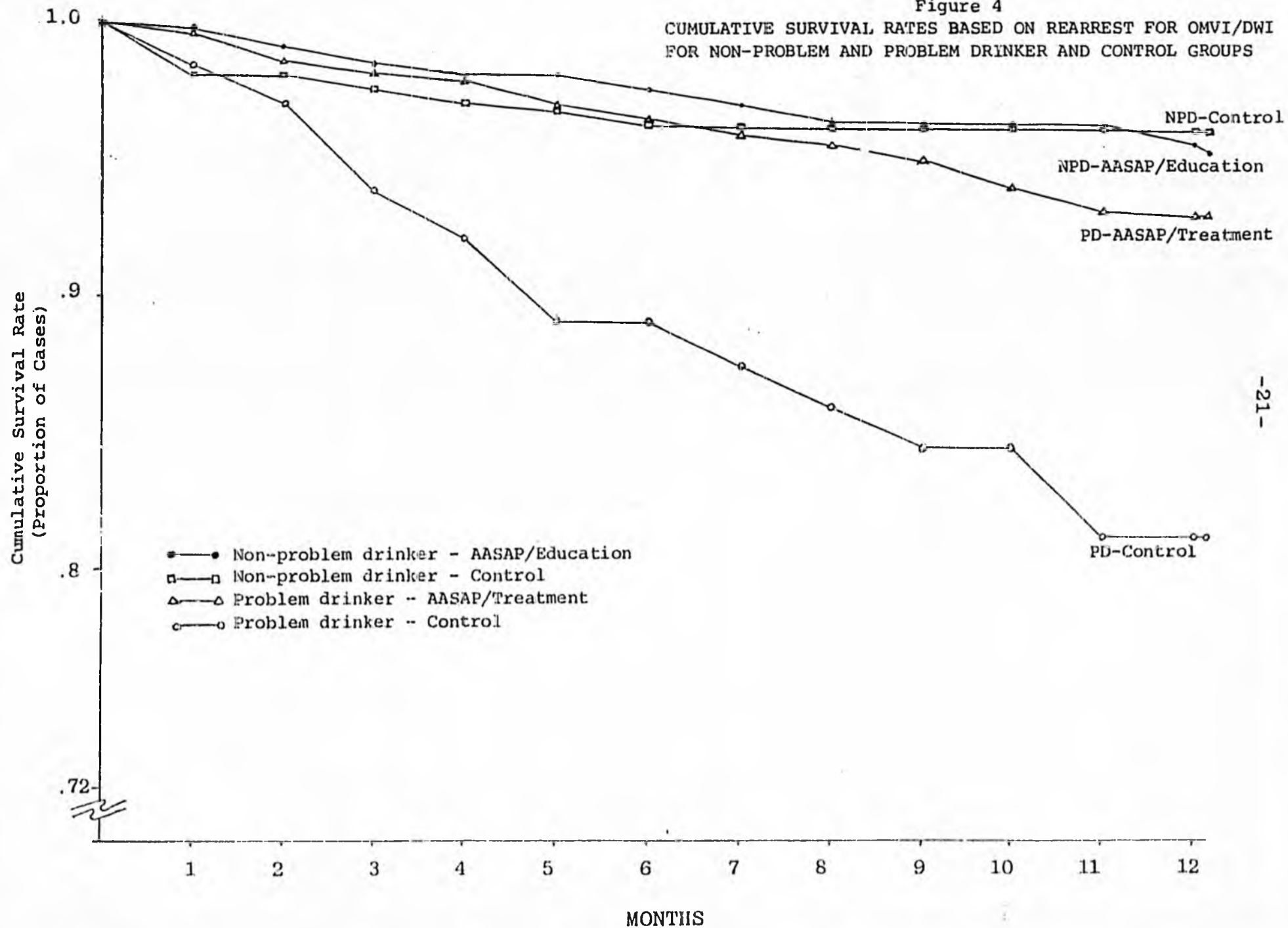


TABLE I

PERCENTAGE OF CASES SURVIVING TWELVE MONTHS WITHOUT REARREST
FOR OMVI/DWI OR ANY OTHER CRIMINAL ACT

Rearrests	Non-Problem Drinkers		Problem Drinkers	
	AASAP/ Education	Control	AASAP/ Treatment	Control
Another OMVI/DWI	95.3	96.1	92.9**	81.3
Any Criminal Offense*	93.1	89.5	85.6**	74.6

* Any criminal offense includes rearrest for OMVI/DWI

** Statistically significant at the .05 level

Comparison of problem drinker groups shows a clearly greater proportion of cases surviving for the AASAP screening and alcohol treatment group, which is statistically significant at the .05 level. For the AASAP/Treatment group, 92.9% of the cases survived compared to 81.3% for the problem drinker control group.

Given the initial evaluation question, there are no effects of the AASAP screening and alcohol education on survival without another OMVI/DWI arrest within one year for non-problem drinkers. However, for problem drinkers, there is a clear effect of AASAP screening and alcohol/treatment, a significantly greater proportion of cases survive.

Survival Without Rearrest For Any Criminal Offense

The cumulative survival rates for each of the comparison groups based on rearrest for any criminal offense, including OMVI/DWI, for one year after the initial arrest is shown in Figure 5. This figure shows a generally lower rate of survival for all groups compared to survival based only on rearrest for another similar OMVI/DWI. The cumulative survival rates for the expanded definition of rearrest within the same time period more clearly distinguish each of the groups. It can be seen in general that a somewhat greater proportion of the non-problem drinker group that

Figure 5
 CUMULATIVE SURVIVAL RATES BASED ON
 REARREST FOR ANY CRIMINAL OFFENSE
 FOR NON-PROBLEM AND PROBLEM DRINKERS
 AND CONTROL GROUPS

