# Alaska Misdemeanor Sentences: 1981

# Special Report on Driving While Intoxicated Sentences

March, 1984

Alaska Judicial Council


# Alaska Judicial Council



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## ALASKA MISDEMEANOR SENTENCES: 1981

## SPECIAL REPORT ON

## DRIVING WHILE INTOXICATED SENTENCES

March, 1984

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## ACKNOWLEDGMENTS

Many people cooperated with the Judicial Council in preparation of this special report on 1981 DWI sentences and collection of the data reported. We would like to thank the court staff, police departments, and Department of Public Safety for their frequent and patient assistance in locating records. A number of judges, attorneys, and other criminal justice system personnel have also helped by providing thoughtful discussions and possible interpretations of the study's findings.

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## Executive Summary

The offense of driving while intoxicated (DWI)* has a greater impact on Alaska's criminal justice system than any other single misdemeanor offense. Persons convicted of DWI comprised the largest individual set of defendants in our sample of 1981 misdemeanor convictions. Although only 28.7% of all defendants studied, they accounted for two-thirds of the jury trials, 35.8% of the jail days sentenced, and 54.6% of the net fines imposed. The impact of repeat DWI offenders was even more disproportionate to their number since three-quarters of the DWI jail days and one-quarter of all misdemeanor jury trials were associated with DWI recidivists who constituted just 7.5% of the total misdemeanor sample.

New laws, effective on October 17, 1983, imposed stiffer penalties for DWI than those mandated in 1981. Thus, additional analysis of the 1981 DWI offenses was undertaken both to determine the impact of DWI cases in that year as well as to provide some basis for estimating the possible consequences of the 1983 provisions for the criminal justice system.

DWI defendants tended to be older, employed, and were more likely to be caucasian than other misdemeanants. Their cases were also processed differently, with more "own recognizance" releases, more attorney representation and greater likelihood of a jury trial than other misdemeanants.

DWI sentences were extremely consistent throughout the state. Most first-time DWI (74.3%) offenders were sentenced to the mandatory three-day minimum and required to

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* Throughout this report, the term DWI is used to refer to any state or municipal offense with substantially the same elements and penalties as AS 28.35.030.

pay relatively substantial fines (as compared to other misdemeanors). Repeat DWI offenders had a mean sentence length of 33.7 days, and their fines were higher than those imposed on first-time DWI offenders. In short, our data indicates that DWI sentencing practices in 1981 were consistent throughout the state and reflected the 1981 mandatory requirements, facts which should facilitate the system's ability to measure the impact on the system of the newer (1983) sentencing laws.

Based on the data available about 1981 DWI cases throughout the state, the most noticeable impacts of the 1983 amendments to the law may be:

a) A potential increase in the actual time to be served by first-time DWI offenders;

b) Increased fine revenues from repeat DWI offenders, but probably little increase associated with first-time DWI offenders;

c) A larger number of repeat DWI defendants because of the broadened definitions in the new law; and

d) More convictions on related charges such as refusal to submit to a chemical test and driving with an invalid license.

The net effect of these changes on the criminal justice system is difficult to estimate precisely because of increased law enforcement efforts in various communities and increased community awareness of the problems of drunk driving.

Additional specific findings from the data include:

1. All convicted DWI defendants went to jail. First-time DWI offenders (73.4% of all DWI defendants) were sentenced to an average of 4.2 days; repeat DWI offenders (26.6% of the DWI sample) were sentenced to a mean of 33.7 days. Nearly all first-time DWI offenders (95.8%) paid a fine, with a mean value of $268.60. Only 78.6% of repeat DWI offenders paid fines, but the mean value for such defendants was significantly higher ($461.40).

2. Of a total 13,060 misdemeanor jail days, first-time DWI offenders accounted for 1,193 days (9.1%); repeat DWI offenders accounted for 3,466 days or 26.5%.
3. Two-thirds of all misdemeanor trials were for DWI defendants. DWI defendants were more than twice as likely as other misdemeanor defendants to go to trial and 98% of such trials were to juries.
4. Significantly more defendants convicted on DWI charges had obtained private attorney representation than had misdemeanants convicted on other misdemeanor charges. Many fewer DWI defendants represented themselves in court without an attorney than did other types of misdemeanants.
5. Most DWI defendants were required to complete either alcohol treatment (51.5%) or education programs (19.6%) as an additional condition of their sentence.
6. There were few significant differences in the demographic characteristics of first-time and repeat DWI offenders. However, a significantly lower proportion of females were repeat DWI offenders (7.8%) than were first-time DWI offenders (16.2%).
7. Repeat DWI offenders were more likely than first-time DWI offenders to have refused to take a breathalyzer, to have been represented by an attorney and to have gone to trial. Although most (73.4%) repeat DWI offenders had been referred for alcohol treatment in the past, very few (11%) had completed such treatment. About 40% had not attended or not completed programs to which they were referred, and 21.5% were receiving treatment for alcohol problems at the time of their sentencing on the DWI charge.

8. Sentencing practices were uniform across all court locations, although fewer DWI repeat offenders appeared in Nome, and fines imposed in Bethel, Barrow and Nome were somewhat lower than fines imposed in other areas.
9. Only 29.5% of the DWI convictions studied arose from events in which property was damaged, and in only 6.9% of the DWI cases was a victim physically harmed.

Methodology and Definitions

Details about sampling and data coding are provided in the methodology section of the Judicial Council's 1981 Misdemeanor Study (pp. 30 - 34). As that report indicates, data collected on each defendant included the types (i.e, felony, misdemeanor, violation or juvenile offense) of prior criminal convictions for each defendant. However, the exact nature of each prior conviction was not recorded. Therefore, it cannot be known from prior record information alone whether a defendant was being convicted of his first DWI offense or a subsequent DWI offense.

The information about prior criminal history in combination with the jail sentence imposed for the 1981 DWI offense being studied however, provided a "DWI history" classification procedure. For the purposes of our DWI analysis, "first-time DWI offenders" included only those defendants who received less than ten days in jail or who had no significant prior record (this included the categories of "no prior record," "only juvenile offenses," and "only violations"). A "repeat DWI offender" was defined as a defendant who had received ten or more days as his sentence and who had a prior record of felonies or misdemeanors. (Coders had been instructed to code the most serious prior offenses; thus, a prior felony could have masked the presence of additional prior misdemeanors).

This classification procedure was tested by reviewing detailed prior record information (from Public Safety records available through AJIS) about 123 of 135 Anchorage defendants convicted of DWI and described in the 1981 study data. In addition, interviews with defendants conducted by the Anchorage Alcohol Safety Action Program (AASAP) were also scanned for mention of prior DWI convictions.

Of the 123 Anchorage defendants whose records were reviewed, 120 (97.6%) were correctly classified by the "DWI history" procedure. Two defendants had been incorrectly identified as first-time offenders (these defendants had prior DWI convictions occurring between 1976 and 1981 listed in AJIS records, but were sentenced to fewer than 10 days for the 1981 DWI conviction). One defendant was incorrectly classified as a repeat DWI offender because of the combination of sentence length and prior criminal history. (This defendant, however, had been convicted of approximately 30 other vehicular-related offenses prior to his 1981 DWI conviction). Because this review of detailed records confirmed that most defendants could be correctly classified as first-time or repeat DWI offenders using combined information about prior criminal record and DWI sentence length, the analysis described in this report is based on the "DWI history" classification procedure described above (see Table 1).

Due to the nature of mandatory minimum sentences, regression analysis was not used to model simultaneously the effects of many factors on penalty outcome. However, analysis of variance procedures were used to inspect the effect of one or two factors on penalty outcome. In addition, non-parametric rank order methods were used whenever feasible to validate statistical inferences. Statistics were calculated using a micro-computer version of SPSS.

Typical DWI Defendant and Case

Compared to defendants convicted of theft, violent crimes or disorderly-conduct-type offenses, DWI defendants tended to be (Table 2):

a) older (the mean age was about 32.7 years);
b) more likely to be employed (70.5% held a job);
c) male (86.2%); and
d) caucasian (67.3%).

TABLE 1
(1981 Misdemeanors)

Sample Composition of DWI Data

| Location | # Cases in Misdemeanor Study | DWI Cases # | DWI Cases (%) | First-Time DWI Offenders # | First-Time DWI Offenders (%) | Repeat DWI Offenders # | Repeat DWI Offenders (%) |
|---|---|---|---|---|---|---|---|
| AN | 511 | 135 | (26.4) | 99 | (73.3) | 36 | (26.7) |
| BA | 53 | *11 | (20.8) | 5 | (71.4) | 2 | (28.6) |
| BE | 117 | 34 | (29.1) | 25 | (73.5) | 9 | (26.5) |
| FA | 258 | 112 | (43.4) | 78 | (69.6) | 34 | (30.4) |
| JU | 114 | 23 | (20.2) | 16 | (69.6) | 7 | (30.4) |
| KO | 101 | 31 | (30.7) | 24 | (77.4) | 7 | (22.6) |
| NO | 120 | 27 | (22.5) | 24 | (88.9) | 3 | (11.1) |
| SI | 92 | *19 | (20.7) | 13 | (72.2) | 5 | (27.8) |
| TOTAL | 1366 | 392 | (28.7) | 284 | (72.5) | 103 | (27.5) |

AN = Anchorage BA = Barrow BE = Bethel FA = Fairbanks
JU = Juneau KO = Kodiak NO = Nome SI = Sitka

* 4 defendants from Barrow and 1 defendant from Sitka could not be classified as first-time or repeat DWI offender due to missing prior record information.

TABLE 2. COMPARISON OF DWI AND NON-DWI MISDEMEANANTS
DEFENDANT CHARACTERISTICS - ALL COMMUNITIES COMBINED
(1981 MISDEMEANORS)

| TYPE OF OFFENSE | | AGE CLASS (%) | | RACE (%) | | SEX (%) | | EMPLOYED (%) |
|---|---|---|---|---|---|---|---|---|
| DWI | | | | | | | | |
| | 18-21 YRS | 15.8 | BLACK | 3.1 | MALE | 86.2 | NO | 29.5 |
| | 22-25 YRS | 17.1 | NATIVE INDIAN | 28.3 | FEMALE | 13.8 | YES | 70.5 |
| | 26-30 YRS | 20.2 | CAUCASIAN | 67.3 | | | | |
| | 31-45 YRS | 32.7 | OTHER | 1.3 | | | | |
| | OVER 45 YRS | 14.3 | | | | | | |
| | NUMBER | 392 | | 392 | | 392 | | 380 |
| NON-DWI | | | | | | | | |
| | 18-21 YRS | 32.5 | BLACK | 5.4 | MALE | 87.8 | NO | 43.2 |
| | 22-25 YRS | 21.5 | NATIVE INDIAN | 40.0 | FEMALE | 12.2 | YES | 56.8 |
| | 26-30 YRS | 17.2 | CAUCASIAN | 52.6 | | | | |
| | 31-45 YRS | 20.3 | OTHER | 2.1 | | | | |
| | OVER 45 YRS | 8.5 | | | | | | |
| | NUMBER | 972 | | 971 | | 973 | | 870 |

TABLE 3. COMPARISON OF FIRST-TIME AND REPEAT DWI OFFENDERS
DEFENDANT CHARACTERISTICS - ALL COMMUNITIES COMBINED
(1981 MISDEMEANORS)

| DWI HISTORY | | AGE CLASS (%) | | RACE (%) | | SEX (%) | | EMPLOYED (%) |
|---|---|---|---|---|---|---|---|---|
| FIRST OFFENSE | | | | | | | | |
| | 18-21 YRS | 16.9 | BLACK | 2.8 | MALE | 83.8 | NO | 28.8 |
| | 22-25 YRS | 17.6 | NATIVE INDIAN | 28.9 | FEMALE | 16.2 | YES | 71.2 |
| | 26-30 YRS | 19.7 | CAUCASIAN | 66.5 | | | | |
| | 31-45 YRS | 32.0 | OTHER | 1.8 | | | | |
| | OVER 45 YRS | 13.7 | | | | | | |
| | NUMBER | 284 | | 284 | | 284 | | 274 |
| REPEAT OFFENDER | | | | | | | | |
| | 18-21 YRS | 11.7 | BLACK | 3.9 | MALE | 92.2 | NO | 32.7 |
| | 22-25 YRS | 16.5 | NATIVE INDIAN | 24.3 | FEMALE | 7.8 | YES | 67.3 |
| | 26-30 YRS | 22.3 | CAUCASIAN | 71.8 | | | | |
| | 31-45 YRS | 33.0 | OTHER | 0.0 | | | | |
| | OVER 45 YRS | 16.5 | | | | | | |
| | NUMBER | 103 | | 103 | | 103 | | 101 |

Further analysis indicated that first-time and repeat DWI offenders, when compared to each other, did not differ significantly in their characteristics (Table 3). However, the proportion of females in the first-offender DWI group (16.2%) was significantly higher than the proportion of females in the repeat DWI offender group (7.8%), indicating that females may have been much less likely than males to repeat a DWI offense.

Over half (60.2%) of the first-time DWI defendants had never been convicted of any criminal charge prior to their conviction on the 1981 DWI charge (Tables 4 and 5). This is a significantly higher proportion of first-time DWI offenders without prior criminal records than was found among defendants convicted of some other type of misdemeanor in 1981. Only 42.2% of defendants convicted of other types of misdemeanors were being convicted of a criminal charge for the first time in 1981.

Most (79.3%) of the first-time DWI offenders also had no evidence of prior alcohol problems*. Repeat DWI offenders however had often been referred to treatment, but had not attended (30.4%), or had attended but not completed treatment (10.1%). 21.5% of repeat DWI offenders were currently in treatment at the time of sentencing on their 1981 DWI conviction, while only 3.4% of the first-time DWI offenders were similarly situated.

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* It should be noted that of all persons evaluated by the ASAP program, however, about 70% are evaluated as being "problem drinkers." This 70% includes many of the first-time DWI offenders who were reported in court case files at the time of sentencing (but prior to the ASAP evaluation) to have "no alcohol problem." This disparity may suggest that better information should be available to judges at the time of sentencing.

TABLE 4. COMPARISON OF DWI AND NON-DWI MISDEMEANANTS
DEFENDANT PROBLEMS - ALL COMMUNITIES COMBINED
(1981 MISDEMEANORS)

| TYPE OF OFFENSE | | PRIOR ALCOHOL/DRUG TREATMENT (%) | | PRIOR RECORD (%) |
|---|---|---|---|---|
| DWI | | | | |
| | NO EVIDENCE OF PROBLEM | 63.6 | NONE | 44.2 |
| | REFERRED, DID NOT ATTEND | 12.0 | FELONIES | 4.4 |
| | ATTENDED, DID NOT COMPLETE | 2.6 | MISDEMEANORS | 43.9 |
| | TREATMENT COMPLETED | 2.9 | JUVENILE OFF. | 0.3 |
| | NEVER REFERRED | 11.1 | VIOLATIONS | 7.2 |
| | CURRENT TREATMENT | 7.6 | | |
| | NUMBER | 341 | | 387 |
| NON-DWI | | | | |
| | NO EVIDENCE OF PROBLEM | 68.1 | NONE | 42.2 |
| | REFERRED, DID NOT ATTEND | 12.7 | FELONIES | 5.5 |
| | ATTENDED, DID NOT COMPLETE | 2.3 | MISDEMEANORS | 45.8 |
| | TREATMENT COMPLETED | 2.4 | JUVENILE OFF. | 0.7 |
| | NEVER REFERRED | 9.5 | VIOLATIONS | 5.8 |
| | CURRENT TREATMENT | 5.0 | | |
| | NUMBER | 865 | | 954 |

TABLE 5. COMPARISON OF FIRST-TIME AND REPEAT DWI OFFENDERS
DEFENDANT PROBLEMS - ALL COMMUNITIES COMBINED
(1981 MISDEMEANORS)

| DWI HISTORY | | PRIOR ALCOHOL/DRUG TREATMENT (%) | | PRIOR RECORD (%) |
|---|---|---|---|---|
| FIRST OFFENSE | | | | |
| | NO EVIDENCE OF PROBLEM | 79.3 | NONE | 60.2 |
| | REFERRED, DID NOT ATTEND | 6.5 | FELONIES | 2.5 |
| | ATTENDED, DID NOT COMPLETE | 0.4 | MISDEMEANORS | 27.1 |
| | TREATMENT COMPLETED | 0.4 | JUVENILE OFF. | 0.4 |
| | NEVER REFERRED | 10.0 | VIOLATIONS | 9.9 |
| | CURRENT TREATMENT | 3.4 | | |
| | NUMBER | 261 | | 284 |
| REPEAT OFFENDER | | | | |
| | NO EVIDENCE OF PROBLEM | 11.4 | NONE | 0.0 |
| | REFERRED, DID NOT ATTEND | 30.4 | FELONIES | 9.7 |
| | ATTENDED, DID NOT COMPLETE | 10.1 | MISDEMEANORS | 90.3 |
| | TREATMENT COMPLETED | 11.4 | JUVENILE OFF. | 0.0 |
| | NEVER REFERRED | 15.2 | VIOLATIONS | 0.0 |
| | CURRENT TREATMENT | 21.5 | | |
| | NUMBER | 79 | | 103 |

The events leading to arrest and conviction on the DWI charge* included property damage in only 29.5% of the sample of convictions, and harm to a person in only 6.9% of the cases (see Tables 6 and 7). While these figures may seem low, it should be recalled that even if alcohol was involved in an accident, a defendant may not have been convicted of DWI**. Conversely, the data indicates that many DWI convictions may have resulted from events that did not involve actual harm to property or persons.

By definition, DWI is an alcohol- or drug-related offense. Most persons (95.4%) convicted of DWI had consumed alcohol prior to their arrest. However, 4.1% had used a combination of drugs and alcohol and 0.3% (n=1) had used some type of drug other than alcohol.

Over 20% of the DWI defendants had refused to take a breathalyzer test, but were convicted on other evidence. 18.6% of the first-time DWI offenders and 31.1% of the repeat DWI

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* 15.9% of the 397 defendants convicted of DWI also had contemporaneous charges against them. The most common additional charges included license violations, second DWI offenses and citations for leaving the scene of an accident. First-time DWI offenders were somewhat less likely to have had additional charges (only 11.3% did) than were repeat DWI offenders (30.1%). A total of 16 charges were dismissed from the cases of defendants ultimately convicted of DWI. The penalties analysed in this report are those imposed for the DWI conviction.

** 156 (48.9%) of the 319 defendants who were convicted of vehicular offenses other than DWI in the 1981 misdemeanor study were also reported to have been using alcohol or other drugs at the time of their offense. Of these 156 defendants, a substantial proportion (28.2%) were originally charged with DWI but were convicted of reckless or negligent driving. 37.8% had been charged with and convicted of reckless or negligent driving. 17.3% were charged with and convicted of driving with invalid licenses, and 12.2% were charged with and convicted of accident-related misdemeanors such as leaving the scene of a non-injury accident.

TABLE 6. COMPARISON OF DWI AND NON-DWI MISDEMEANANTS
OFFENSE CHARACTERISTICS - ALL COMMUNITIES COMBINED
(1981 MISDEMEANORS)

| TYPE OF OFFENSE | | PROPERTY DAMAGE (%) | | HARM TO VICTIM (%) | ALCOHOL-DRUG USE AT OFFENSE | | BREATHALYZER-BLOOD TEST RESULTS (%) | |
|---|---|---|---|---|---|---|---|---|
| DWI | | | | | | | | |
| | $1- $100 | 5.9 | NO HARM | 10.5 | NO EVIDENCE | 0.0 | NO TEST | 5.9 |
| | $1- $500 | 5.9 | PHYSICAL HARM | 6.9 | ALCOHOL | 95.4 | BA, OVER | 70.9 |
| | $5- $1,000 | 3.7 | NO VICTIM | 82.5 | DRUGS | 0.3 | BLOOD, OVER | 1.0 |
| | $1,0-$10,000 | 13.3 | | | ALCOHOL & DRUGS | 4.1 | BA, UNDER | 0.5 |
| | G $10,000 | 0.8 | | | ALCOHOL OR DRUGS | 0.3 | DEFENDANT REFUSED | 21.6 |
| | NONE | 70.5 | | | | | | |
| | NUMBER | 376 | | 389 | | 392 | | 388 |
| NON-DWI | | | | | | | | |
| | $1- $100 | 15.9 | NO HARM | 8.4 | NO EVIDENCE | 38.6 | | |
| | $101- $500 | 9.7 | PHYSICAL HARM | 18.1 | ALCOHOL | 56.2 | | |
| | $501- $1,000 | 3.5 | NO VICTIM | 73.6 | DRUGS | 0.8 | | |
| | $1,001-$10,000 | 5.7 | | | ALCOHOL & DRUGS | 2.7 | | |
| | GT $10,000 | 0.2 | | | ALCOHOL OR DRUGS | 1.7 | | |
| | NONE | 64.9 | | | | | | |
| | NUMBER | 944 | | 969 | | 885 | | |

TABLE 7. COMPARISON OF FIRST-TIME AND REPEAT DWI OFFENDERS
OFFENSE CHARACTERISTICS - ALL COMMUNITIES COMBINED
(1981 MISDEMEANORS)

| DWI HISTORY | | PROPERTY DAMAGE (%) | | HARM TO VICTIM (%) | ALCOHOL-DRUG USE AT OFFENSE (%) | | BREATHALYZER-BLOOD TEST RESULTS (%) | |
|---|---|---|---|---|---|---|---|---|
| FIRST OFFENSE | | | | | | | | |
| | $1- $100 | 7.6 | NO HARM | 10.6 | NO EVIDENCE | 0.0 | NO TEST | 5.4 |
| | $101- $500 | 3.6 | PHYSICAL HARM | 6.0 | ALCOHOL | 95.8 | BA, OVER | 75.4 |
| | $501- $1,000 | 3.3 | NO VICTIM | 83.3 | DRUGS | 0.4 | BLOOD, OVER | 0.4 |
| | $1,001-$10,000 | 13.8 | | | ALCOHOL & DRUGS | 3.9 | BA, UNDER | 0.4 |
| | GT $10,000 | 0.4 | | | ALCOHOL OR DRUGS | 0.0 | DEFENDANT REFUSED | 18.6 |
| | NONE | 71.3 | | | | | | |
| | NUMBER | 275 | | 282 | | 284 | | 280 |
| REPEAT OFFENDER | | | | | | | | |
| | $1- $100 | 1.0 | NO HARM | 10.8 | NO EVIDENCE | 0.0 | NO TEST | 5.8 |
| | $101- $500 | 11.2 | PHYSICAL HARM | 9.8 | ALCOHOL | 94.2 | BA, OVER | 60.2 |
| | $501- $1,000 | 5.1 | NO VICTIM | 79.4 | DRUGS | 0.0 | BLOOD, OVER | 1.9 |
| | $1,001-$10,000 | 11.2 | | | ALCOHOL & DRUGS | 4.9 | BA, UNDER | 1.0 |
| | GT $10,000 | 2.0 | | | ALCOHOL OR DRUGS | 1.0 | DEFENDANT REFUSED | 31.1 |
| | NONE | 69.4 | | | | | | |
| | NUMBER | 98 | | 102 | | 103 | | 103 |

offenders declined the test. Their refusals did not appear to significantly affect the penalties (active jail time or net fine) imposed after conviction.

The processing of a DWI case through the courts was also somewhat different than that of a typical misdemeanor case (see Tables 8 and 9). When the DWI defendant was arraigned on his charge or charges, he was only about half as likely as other types of defendants to plead guilty to the charge at arraignment (18.1% for DWI defendants; 32.0% for non-DWI misdemeanants). If he was a repeat DWI offender, the chances (7.8%) were even lower that he would plead guilty at arraignment. The typical first-time DWI offender (70.7%) had been released on his own recognizance rather than being required to post monetary bail. Half of the repeat DWI offenders also had been released on OR, reflecting a greater likelihood of their being employed or better established in the community than the non-DWI misdemeanant.

Defendants in DWI cases were more likely than other misdemeanants to obtain legal representation. While 35.9% of other misdemeanants appeared in court without an attorney, only 27.8% of first-time DWI offenders and 13.6% of repeat DWI offenders appeared without a lawyer. The type of attorney (Public Defender or court-appointed vs. private counsel) also differed. Only 17.6% of defendants charged with misdemeanors such as theft, disorderly conduct or assault paid for an attorney. The proportion of DWI defendants who paid for representation was twice as great (36.7%). Overall, the Public Defender agency or court-appointed attorneys represented 36.0% of the first-time DWI defendants, 46.6% of the repeat DWI offenders, and 46.6% of persons convicted of other types of misdemeanors.

Most DWI defendants (68.6%) were convicted after entering a plea of "guilty" or "nolo contendere" to their charge at some hearing other than arraignment. Only 10.0% of

TABLE 8. COMPARISON OF DWI AND NON-DWI MISDEMEANANTS
PROCESS CHARACTERISTICS - ALL COMMUNITIES COMBINED
(1981 MISDEMEANORS)

| TYPE OF OFFENSE | | ATTORNEY TYPE (%) | WHEN DISPOSITION OCCURRED (%) | | NEGOTIATED PLEA (%) | | CUSTODY STATUS AT SENTENCING (%) | |
|---|---|---|---|---|---|---|---|---|
| DWI | | | | | | | | |
| | NONE | 24.7 | ARRAIGNMENT | 18.1 | NO | 90.1 | OR- 3RD PARTY | 64.7 |
| | PUBLIC DEFENDER | 37.0 | OTHER HEARING | 68.6 | YES, STATE | 1.3 | MONETARY BAIL | 23.5 |
| | CT. APPT. P.A. | 1.5 | JURY TRIAL | 12.8 | YES, MUNICIPAL | 8.7 | JAIL | 11.8 |
| | PRIVATE ATTORNEY | 36.7 | BENCH TRIAL | 0.5 | | | | |
| | NUMBER | 392 | | 392 | | 392 | | 391 |
| NON-DWI | | | | | | | | |
| | NONE | 35.9 | ARRAIGNMENT | 32.0 | NO | 81.3 | OR- 3RD PARTY | 52.2 |
| | PUBLIC DEFENDER | 44.2 | OTHER HEARING | 62.6 | YES, STATE | 1.7 | MONETARY BAIL | 27.5 |
| | CT. APPT. P.A. | 2.4 | JURY TRIAL | 2.6 | YES, MUNICIPAL | 16.9 | JAIL | 20.3 |
| | PRIVATE ATTORNEY | 17.6 | BENCH TRIAL | 2.8 | | | | |
| | NUMBER | 973 | | 974 | | 974 | | 971 |

TABLE 9. COMPARISON OF FIRST-TIME AND REPEAT DWI OFFENDERS
PROCESS CHARACTERISTICS - ALL COMMUNITIES COMBINED
(1981 MISDEMEANORS)

| PRIOR DWI HISTORY | | ATTORNEY TYPE (%) | WHEN DISPOSITION OCCURRED (%) | | NEGOTIATED PLEA (%) | | CUSTODY STATUS AT SENTENCING (%) | |
|---|---|---|---|---|---|---|---|---|
| FIRST OFFENSE | | | | | | | | |
| | NONE | 27.8 | ARRAIGNMENT | 21.1 | NO | 90.1 | OR- 3RD PARTY | 70.7 |
| | PUBLIC DEFENDER | 34.9 | OTHER HEARING | 67.6 | YES, STATE | 0.7 | MONETARY BAIL | 19.8 |
| | CT. APPT. P.A. | 1.1 | JURY TRIAL | 10.9 | YES, MUNICIPAL | 9.2 | JAIL | 9.5 |
| | PRIVATE ATTORNEY | 36.3 | BENCH TRIAL | 0.4 | | | | |
| | NUMBER | 284 | | 284 | | 284 | | 283 |
| REPEAT OFFENDER | | | | | | | | |
| | NONE | 13.6 | ARRAIGNMENT | 7.8 | NO | 90.3 | OR- 3RD PARTY | 50.5 |
| | PUBLIC DEFENDER | 43.7 | OTHER HEARING | 72.8 | YES, STATE | 2.9 | MONETARY BAIL | 32.0 |
| | CT. APPT. P.A. | 2.9 | JURY TRIAL | 18.4 | YES, MUNICIPAL | 6.8 | JAIL | 17.5 |
| | PRIVATE ATTORNEY | 39.8 | BENCH TRIAL | 1.0 | | | | |
| | NUMBER | 103 | | 103 | | 103 | | 103 |

them were able to negotiate a plea (usually on municipal cases), compared to a negotiated plea rate of 18.6% for other types of misdemeanors. The negotiated pleas did not appear, however, to have had significant effects on sentence length or fine imposed.

Finally, convicted DWI defendants were more than twice as likely as other misdemeanants to have gone to trial. Two-thirds of all jury trials in the 1981 Misdemeanor Study sample were for DWI offenders. 11.3% (n=32) of first-time DWI offenders and 19.4% (n=20) of repeat DWI offenders requested trials, and all but two were jury trials.

DWI Penalties

The range of penalties and conditions on sentences which judges could impose on defendants convicted of DWI in 1981 was limited by three major provisions:

a) a mandatory minimum sentence for first-time offenders of 3 consecutive days;
b) a mandatory minimum sentence for repeat offenders of 10 consecutive days; and
c) a maximum possible jail term of 1 year, and a maximum possible fine of $1,000.

In addition, judges could require alcohol treatment and education programs, restitution, and completion of other conditions on the sentence. License revocation for 30 days was a mandatory minimum for first offenders, with mandatory minimums of 1 year for second offenders and 3 years for third offenders.

The typical DWI defendant was a first-time DWI offender (74.5%). Of the 284 first-time DWI offenders, only 10 (3.5%) were sentenced to ten days or more of jail time (Table 10). Three-quarters served the mandatory three-day sentence; with 63 others spending between 4 and 9 days in jail. This consistency in sentence lengths did not vary significantly among communities.

TABLE 10
(1981 Misdemeanors)

Distribution of Active Jail Sentences for First-Time DWI Offenders. Given are the total number (N) of defendants in each community and the number (#) and proportion (%) of defendants within each jail sentence range, as well as the mean, median and standard deviation (SD) of all sentences.

| | | (DAYS) | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 3 | | 4-9 | | 10 | | 11-20 | | 41-90 | | | | |
| Location | N | # | (%) | # | (%) | # | (%) | # | (%) | # | (%) | Mean | Median | SD |
| AN | 99 | 76 | (76.8) | 19 | (19.2) | 0 | | 3 | (3.0) | 1 | (1.0) | 4.2 | 3.2 | 4.5 |
| BA | 5 | 5 | (100.0) | 0 | | 0 | | 0 | | 0 | | 3.0 | 3.0 | 0.0 |
| BE | 25 | 20 | (80.0) | 4 | (16.0) | 1 | (4.0) | 0 | | 0 | | 3.6 | 3.1 | 1.6 |
| FA | 78 | 50 | (64.1) | 24 | (30.8) | 1 | (1.3) | 2 | (2.6) | 1 | (1.3) | 5.0 | 3.3 | 10.0 |
| JU | 16 | 10 | (62.5) | 6 | (37.5) | 0 | | 0 | | 0 | | 3.7 | 3.3 | 1.1 |
| KO | 24 | 19 | (79.2) | 4 | (16.7) | 0 | | 1 | (4.2) | 0 | | 4.0 | 3.1 | 2.6 |
| NO | 24 | 18 | (75.0) | 6 | (25.0) | 0 | | 0 | | 0 | | 3.6 | 3.2 | 1.1 |
| SI | 13 | 13 | (100.0) | 0 | | 0 | | 0 | | 0 | | 3.0 | 3.0 | 0.0 |
| TOTAL | 284 | 211 | (74.3) | 63 | (22.2) | 2 | (0.7) | 6 | (2.1) | 2 | (0.7) | 4.2 | 3.2 | 5.9 |

AN = Anchorage BA = Barrow BE = Bethel FA = Fairbanks

JU = Juneau KO = Kodiak NO = Nome SI = Sitka

Fines for first-time DWI offenders (Table 11) varied somewhat among communities, but judges' fining practices were still consistent given the lack of a requirement for mandatory fines, and the variations by community that were found for other types of misdemeanors (see Alaska Misdemeanor Sentences: 1981, Alaska Judicial Council). 95.8% of the first-time DWI offenders were fined some amount (Table 12), with a statewide mean amount of $268.60. Bethel was the only community in which the fine amount was significantly lower ($143.80) but 96.0% of Bethel defendants were fined. In Barrow (80.0%) and Nome (83.3%) where slightly fewer defendants had fines imposed, the average fines were $250.00 (Barrow) and $230.00 (Nome). In Kodiak ($377.10) and Sitka ($388.50), 100% of the first-time DWI defendants were fined, and the mean amounts were considerably higher than the statewide average.

Repeat DWI offenders' sentences covered a much broader range than those of first-time DWI offenders. Only 35.9% received the 10-day minimum; 30.0% were sentenced to 21 days or more (Table 13). The mean sentence length statewide was 33.7 days, 8 times greater than the 4.2-day mean for first-time DWI offenders. Again, there were no significant differences in sentencing patterns by community, indicating somewhat greater consistency in sentencing practices for DWI than for other types of misdemeanors.

Required fines for repeat DWI offenders were nearly double those of first-time DWI offenders, with a statewide mean of $461.40 (Tables 12 and 14). Bethel, Barrow and Nome tended to be at the low end of the range; mean fines in Fairbanks ($518.80) and Kodiak ($700.00) were well above the average. Although 78.6% of all repeat DWI offenders were fined, this was a significantly lower proportion than the 95.8% of first-time DWI offenders.

Additional conditions imposed on sentences remained as consistent statewide as jail terms and fines (Tables 15 and 16). Unlike defendants convicted of other misdemeanors, most

TABLE 11
(1981 Misdemeanors)

Distribution of Net Fines for First-Time DWI Offenders.
Given are the total number (N) of defendants in each community, the number (#) and proportion (%) of defendants within each net fine range, and the mean, median and standard deviation (SD) for all fines.

| | | $0 | | $1-100 | | $101-200 | | $201-300 | | $301-400 | | GT $400 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Location | N | # | (%) | # | (%) | # | (%) | # | (%) | # | (%) | # | (%) | Mean | Median | SD |
| AN | 99 | 4 | (4.0) | 5 | (5.1) | 30 | (30.3) | 52 | (52.5) | 3 | (3.0) | 5 | (5.1) | 242.7 | 244.2 | 117.5 |
| BA | 5 | 1 | (20.0) | 0 | | 0 | | 4 | (80.0) | 0 | | 0 | | 200.0 | 218.8 | 111.8 |
| BE | 25 | 1 | (4.0) | 8 | (32.0) | 16 | (64.0) | 0 | | 0 | | 0 | | 138.0 | 142.5 | 50.6 |
| FA | 78 | 2 | (2.6) | 3 | (3.9) | 24 | (30.8) | 38 | (48.7) | 5 | (6.4) | 6 | (7.7) | 272.4 | 248.8 | 153.2 |
| JU | 16 | 0 | | 0 | | 0 | | 11 | (68.8) | 5 | (31.3) | 0 | | 289.4 | 277.5 | 37.9 |
| KO | 24 | 0 | | 0 | | 0 | | 2 | (8.3) | 18 | (75.0) | 4 | (16.7) | 377.1 | 352.8 | 89.7 |
| NO | 24 | 4 | (16.7) | 3 | (12.5) | 6 | (25.0) | 8 | (33.3) | 2 | (8.3) | 1 | (4.2) | 191.7 | 204.2 | 122.0 |
| SI | 13 | 0 | | 0 | | 0 | | 1 | (7.7) | 12 | (92.3) | 0 | | 388.5 | 393.8 | 41.6 |
| TOTAL | 284 | 12 | (4.2) | 19 | (6.7) | 76 | (26.8) | 116 | (40.9) | 45 | (15.9) | 16 | (5.6) | 257.2 | 249.8 | 132.1 |

AN = Anchorage BA = Barrow BE = Bethel FA = Fairbanks
JU = Juneau KO = Kodiak NO = Nome SI = Sitka

TABLE 12
(1981 Misdemeanors)

Net Fines of First-Time and Repeat DWI Offenders Who Were Required to Pay at Least $1. Given are the total number (N) of defendants in each community, the proportion (%N) of defendants required to pay a fine, and the mean, median and standard deviation (SD) for fines of defendants who paid at least $1.

| | First Time Offenders | | | | | Repeat Offenders | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Location | N | %N | Mean | Median | SD | N | %N | Mean | Median | SD |
| AN | 99 | 96.0 | 252.9 | 245.5 | 108.5 | 36 | 66.7 | 412.5 | 391.7 | 242.8 |
| BA | 5 | 80.0 | 250.0 | 250.0 | 0.0 | 2 | 50.0 | 300.0 | 300.0 | -- |
| BE | 25 | 96.0 | 143.8 | 145.0 | 42.5 | 9 | 77.8 | 292.9 | 250.0 | 130.5 |
| FA | 78 | 97.4 | 279.6 | 251.2 | 148.6 | 34 | 94.1 | 518.8 | 496.1 | 201.5 |
| JU | 16 | 100.0 | 289.4 | 277.5 | 37.9 | 7 | 100.0 | 446.4 | 491.7 | 178.2 |
| KO | 24 | 100.0 | 377.1 | 352.8 | 89.7 | 7 | 71.4 | 700.0 | 666.7 | 273.9 |
| NO | 24 | 83.3 | 230.0 | 242.5 | 93.4 | 3 | 100.0 | 366.7 | 133.3 | 400.0 |
| SI | 13 | 100.0 | 388.5 | 393.8 | 41.6 | 5 | 40.0 | 400.0 | 400.0 | 141.4 |
| TOTAL | 284 | 95.8 | 268.6 | 250.2 | 123.2 | 103 | 78.6 | 461.4 | 491.5 | 224.8 |

AN = Anchorage BA = Barrow BE = Bethel FA = Fairbanks
JU = Juneau KO = Kodiak NO = Nome SI = Sitka

TABLE 13
(1981 Misdemeanors)

Distribution of Active Jail Sentences for Repeat DWI Offenders.
Given are the total number (N) of defendants in each community, the number (#) and proportion (%) of defendants within each jail sentence range, and the mean, median and standard deviation (SD) for all sentences.

| | | (DAYS) | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 10 | | 11-20 | | 21-30 | | 31-40 | | 41-90 | | GT 90 | | | | |
| Location | N | # | (%) | # | (%) | # | (%) | # | (%) | # | (%) | # | (%) | Mean | Median | SD |
| AN | 36 | 13 | (36.1) | 13 | (36.1) | 3 | (8.3) | 1 | (2.8) | 0 | | 6 | (16.7) | 43.1 | 13.5 | 73.3 |
| BA | 2 | 1 | (50.0) | 0 | | 0 | | 0 | | 0 | | 1 | (50.0) | 51.5 | 51.5 | 58.7 |
| BE | 9 | 3 | (33.3) | 4 | (44.4) | 0 | | 0 | | 2 | (22.2) | 0 | | 25.0 | 16.3 | 21.7 |
| FA | 34 | 11 | (32.4) | 9 | (26.5) | 5 | (14.7) | 3 | (8.8) | 3 | (8.8) | 3 | (8.8) | 33.4 | 15.5 | 38.3 |
| JU | 7 | 2 | (28.6) | 5 | (71.4) | 0 | | 0 | | 0 | | 0 | | 12.9 | 11.8 | 3.6 |
| KO | 7 | 3 | (42.9) | 3 | (42.9) | 0 | | 0 | | 1 | (14.3) | 0 | | 17.9 | 13.8 | 12.5 |
| NO | 3 | 2 | (66.7) | 0 | | 1 | (33.3) | 0 | | 0 | | 0 | | 15.0 | 13.8 | 8.7 |
| SI | 5 | 2 | (40.0) | 1 | (20.0) | 1 | (20.0) | 0 | | 0 | | 1 | (20.0) | 38.0 | 20.0 | 46.6 |
| TOTAL | 103 | 37 | (35.9) | 35 | (34.0) | 10 | (9.7) | 4 | (3.9) | 6 | (5.8) | 11 | (10.7) | 33.7 | 14.8 | 50.9 |

AN = Anchorage BA = Barrow BE = Bethel FA = Fairbanks
JU = Juneau KO = Kodiak NO = Nome SI = Sitka

TABLE 14
(1981 Misdemeanors)

Distribution of Net Fines for Repeat DWI Offenders.
Given are the total number (N) of defendants in each community,
the number (#) and proportion (%) within each net fine range,
and the mean, median and standard deviation (SD) for all fines.

| | | $0 | | $1-100 | | $101-200 | | $201-300 | | $301-400 | | GT $400 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Location | N | # | (%) | # | (%) | # | (%) | # | (%) | # | (%) | # | (%) | Mean | Median | SD |
| AN | 36 | 12 | (33.3) | 2 | (5.6) | 2 | (5.6) | 7 | (19.4) | 3 | (8.3) | 10 | (27.8) | 275.0 | 241.7 | 278.6 |
| BA | 2 | 1 | (50.0) | 0 | | 0 | | 1 | (50.0) | 0 | | 0 | | 150.0 | 150.0 | 212.1 |
| BE | 9 | 2 | (22.2) | 0 | | 2 | (22.2) | 3 | (33.3) | 0 | | 2 | (22.2) | 227.8 | 233.3 | 171.6 |
| FA | 34 | 2 | (5.9) | 1 | (2.9) | 0 | | 3 | (8.8) | 4 | (11.8) | 24 | (70.6) | 488.2 | 493.4 | 231.3 |
| JU | 7 | 0 | | 0 | | 0 | | 2 | (28.6) | 1 | (14.3) | 4 | (57.1) | 446.4 | 491.7 | 178.2 |
| KO | 7 | 2 | (28.6) | 0 | | 0 | | 0 | | 0 | | 5 | (71.4) | 500.0 | 500.0 | 408.2 |
| NO | 3 | 0 | | 1 | (33.3) | 0 | | 0 | | 0 | | 2 | (66.7) | 366.7 | 400.0 | 230.9 |
| SI | 5 | 3 | (60.0) | 0 | | 0 | | 1 | (20.0) | 0 | | 1 | (20.0) | 160.0 | 66.7 | 230.2 |
| TOTAL | 103 | 22 | (21.4) | 4 | (3.9) | 4 | (3.9) | 17 | (16.5) | 8 | (7.8) | 48 | (46.6) | 362.9 | 401.6 | 275.2 |

AN = Anchorage BA = Barrow BE = Bethel FA = Fairbanks

JU = Juneau KO = Kodiak NO = Nome SI = Sitka

TABLE 15. COMPARISON OF DWI AND NON-DWI MISDEMEANANTS
ADDITIONAL SENTENCING ACTIONS - ALL COMMUNITIES COMBINED
(1981 MISDEMEANORS)

| TYPE OF OFFENSE | | ADDITIONAL CONDITIONS (%) | | RESTITUTION REQUIRED (%) | | DRIVERS LICENSE ACTION (%) |
|---|---|---|---|---|---|---|
| DWI | | | | | | |
| | NONE | 9.4 | NONE | 90.1 | NONE | 3.1 |
| | DRUG/ALCOHOL TREATMENT | 51.5 | $1- $100 | 1.6 | REVOKED, WHOLLY | 49.0 |
| | PSYCHIATRIC TESTING | 0.5 | $101- $500 | 3.1 | LIMITED REVOCATION | 7.9 |
| | WORK | 0.0 | $501- $1,000 | 0.8 | SUSPENDED, WHOLLY | 19.9 |
| | EDUCATION | 19.6 | $1,001-$10,000 | 4.4 | LIMITED SUSPENSION | 20.2 |
| | COMMUNITY SERVICE | 0.0 | GT $10,000 | 0.0 | | |
| | OTHER | 13.0 | | | | |
| | COMBINATION | 5.9 | | | | |
| | NUMBER | 392 | | 385 | | 392 |
| NON-DWI | | | | | | |
| | NONE | 63.8 | NONE | 84.3 | | |
| | DRUG/ALCOHOL TREATMENT | 10.0 | $1- $100 | 6.0 | | |
| | PSYCHIATRIC TESTING | 0.9 | $101- $500 | 6.2 | | |
| | WORK | 3.0 | $501- $1,000 | 1.4 | | |
| | EDUCATION | 3.2 | $1,001-$10,000 | 2.1 | | |
| | COMMUNITY SERVICE | 0.4 | GT $10,000 | 0.0 | | |
| | OTHER | 16.0 | | | | |
| | COMBINATION | 2.7 | | | | |
| | NUMBER | 974 | | 966 | | |

TABLE 16. COMPARISON OF FIRST-TIME AND REPEAT DWI OFFENDERS
ADDITIONAL SENTENCING ACTIONS - ALL COMMUNITIES COMBINED
(1981 MISDEMEANORS)

| DWI HISTORY | | ADDITIONAL CONDITIONS (%) | | RESTITUTION REQUIRED (%) | | DRIVERS LICENSE ACTION (%) |
|---|---|---|---|---|---|---|
| FIRST OFFENSE | | | | | | |
| | NONE | 9.9 | NONE | 90.4 | NONE | 2.8 |
| | DRUG/ALCOHOL TREATMENT | 45.1 | $1- $100 | 1.4 | REVOKED, WHOLLY | 39.1 |
| | PSYCHIATRIC TESTING | 0.7 | $101- $500 | 2.9 | LIMITED REVOCATION | 10.9 |
| | EDUCATION | 25.4 | $501- $1,000 | 0.7 | SUSPENDED, WHOLLY | 20.4 |
| | OTHER | 12.3 | $1,001-$10,000 | 4.6 | LIMITED SUSPENSION | 26.8 |
| | COMBINATION | 6.7 | GT $10,000 | 0.0 | | |
| | NUMBER | 284 | | 280 | | 284 |
| REPEAT OFFENDER | | | | | | |
| | NONE | 4.9 | NONE | 90.0 | NONE | 2.9 |
| | DRUG/ALCOHOL TREATMENT | 70.9 | $1- $100 | 2.0 | REVOKED, WHOLLY | 78.6 |
| | PSYCHIATRIC TESTING | 0.0 | $101- $501 | 4.0 | LIMITED REVOCATION | 0.0 |
| | EDUCATION | 4.9 | $501- $1,000 | 1.0 | SUSPENDED, WHOLLY | 17.5 |
| | OTHER | 15.5 | $1,001-$10,000 | 3.0 | LIMITED SUSPENSION | 1.0 |
| | COMBINATION | 3.9 | GT $10,000 | 0.0 | | |
| | NUMBER | 103 | | 100 | | 103 |

(90.6%) of those found guilty of DWI were required to complete additional conditions to satisfy the terms of their sentences. Of first-time DWI offenders, 45.1% were referred to alcohol treatment programs, 25.4% to alcohol education programs, and 19.7% had other conditions or a combination of conditions imposed. Repeat DWI offenders were more often (70.9%) referred for treatment rather than education (4.9%).

Finally, a few DWI defendants (9.9%) were required to make restitution, and license suspensions or revocations were imposed in all cases.* The low rate of restitution requirements may reflect the fact that relatively low proportions of DWI convictions involved accidents, property damage (29.5%) or harm to a victim (6.9%). Only 17.4% of the DWI convictions arose from incidents involving persons other than the defendant.

Impact of DWI Convictions

Sentence lengths for DWI offenders were disproportionate when compared to the lengths of sentences imposed on defendants convicted of other types of misdemeanors Tables 17 and 18). Although persons convicted of DWI constituted only 28.7% of our sample, they were sentenced to 35.8% of the total jail days imposed on all misdemeanants in the 1981 misdemeanor study. A further comparison of first-time DWI offenders and repeat DWI offenders indicates that repeat DWI offenders accounted for the bulk of the jail-days imposed.

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* The category "none" for license actions on Tables 15 and 16 includes defendants whose licenses had been suspended or revoked for some other reason prior to their DWI conviction.

TABLE 17. COMPARISON OF PENALTIES ASSOCIATED WITH DWI AND NON-DWI MISDEMEANORS. *

| | ANCHORAGE | | | | | | BARROW | | | | | | BETHEL | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | TOTAL | | NON-DWI | | DWI | | TOTAL | | NON-DWI | | DWI | | TOTAL | | NON-DWI | | DWI | |
| | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % |
| ACTIVE JAIL | | | | | | | | | | | | | | | | | | |
| N | 511 | 37.4 | 376 | 73.6 | 135 | 26.4 | 53 | 3.9 | 42 | 79.2 | 11 | 20.8 | 117 | 8.6 | 83 | 70.9 | 34 | 29.1 |
| MEAN | 8.6 | | 6.4 | | 14.6 | | 4.5 | | 2.4 | | 12.5 | | 21.2 | | 26.1 | | 9.3 | |
| SUM | 4387 | 33.6 | 2416 | 55.1 | 1971 | 44.9 | 238 | 1.8 | 101 | 42.4 | 137 | 57.6 | 2481 | 19.0 | 2165 | 87.3 | 316 | 12.7 |
| NET FINE | | | | | | | | | | | | | | | | | | |
| N | 511 | 37.4 | 376 | 73.6 | 135 | 26.4 | 53 | 3.9 | 42 | 79.2 | 11 | 20.8 | 117 | 8.6 | 83 | 70.9 | 34 | 29.1 |
| MEAN | $162.6 | | $130.8 | | $251.3 | | $62.5 | | $30.1 | | $186.4 | | $62.2 | | $21.4 | | $161.8 | |
| SUM | $83105 | 40.7 | $49180 | 59.2 | $33925 | 40.8 | $3315 | 1.6 | $1265 | 38.2 | $2050 | 61.8 | $7280 | 3.6 | $1780 | 24.5 | $5500 | 75.5 |

| | FAIRBANKS | | | | | | JUNEAU | | | | | | KODIAK | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | TOTAL | | NON-DWI | | DWI | | TOTAL | | NON-DWI | | DWI | | TOTAL | | NON-DWI | | DWI | |
| | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % |
| ACTIVE JAIL | | | | | | | | | | | | | | | | | | |
| N | 258 | 18.9 | 146 | 56.6 | 112 | 43.4 | 114 | 8.4 | 91 | 79.8 | 23 | 20.2 | 101 | 7.4 | 70 | 69.3 | 31 | 30.7 |
| MEAN | 10.6 | | 8.3 | | 13.6 | | 6.9 | | 7.0 | | 6.5 | | 7.9 | | 8.2 | | 7.1 | |
| SUM | 2734 | 20.9 | 1209 | 44.2 | 1525 | 55.8 | 783 | 6.0 | 634 | 81.0 | 149 | 19.0 | 794 | 6.1 | 574 | 72.3 | 220 | 27.7 |
| NET FINE | | | | | | | | | | | | | | | | | | |
| N | 258 | 18.9 | 146 | 56.6 | 112 | 43.4 | 114 | 8.3 | 91 | 79.8 | 23 | 20.2 | 101 | 7.4 | 70 | 69.3 | 31 | 30.7 |
| MEAN | $215.5 | | $121.6 | | $337.9 | | $143.6 | | $94.7 | | $337.2 | | $152.5 | | $40.7 | | $404.8 | |
| SUM | $55600 | 27.2 | $17750 | 31.9 | $37850 | 68.1 | $16370 | 8.0 | $8615 | 52.6 | $7755 | 47.4 | $15400 | 7.5 | $2850 | 18.5 | $12550 | 81.5 |

| | NOME | | | | | | SITKA | | | | | | TOTAL | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | TOTAL | | NON-DWI | | DWI | | TOTAL | | NON-DWI | | DWI | | TOTAL | | NON-DWI | | DWI | |
| | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | | VALUE | % | VALUE | % |
| ACTIVE JAIL | | | | | | | | | | | | | | | | | | |
| N | 120 | 8.8 | 93 | 77.5 | 27 | 22.5 | 92 | 6.7 | 73 | 79.3 | 19 | 20.7 | 1366 | | 974 | 71.3 | 392 | 28.7 |
| MEAN | 10.4 | | 12.0 | | 4.9 | | 4.3 | | 2.3 | | 12.3 | | 9.6 | | 8.6 | | 11.9 | |
| SUM | 1244 | 9.5 | 1113 | 89.5 | 131 | 10.5 | 399 | 3.1 | 166 | 41.6 | 233 | 58.4 | 13060 | | 8378 | 64.2 | 4682 | 35.8 |
| NET FINE | | | | | | | | | | | | | | | | | | |
| N | 120 | 8.8 | 93 | 77.5 | 27 | 22.5 | 92 | 6.7 | 73 | 79.3 | 19 | 20.7 | 1366 | | 974 | 71.3 | 392 | 28.7 |
| MEAN | $59.6 | | $15.6 | | $211.1 | | $172.2 | | $133.5 | | $321.1 | | $149.4 | | $95.1 | | $284.3 | |
| SUM | $7150 | 3.5 | $1450 | 20.3 | $5700 | 79.7 | $15845 | 7.8 | $9745 | 61.5 | $6100 | 38.5 | $204065 | | $92635 | 45.4 | $111430 | 54.6 |

* GIVEN IN TABLES 17 AND 18 ARE STATISTICS OF ACTIVE JAIL SENTENCES AND NET FINES FOR EACH COMMUNITY IN MISDEMEANOR STUDY. COMPARISONS ARE MADE BETWEEN DWI AND NON-DWI MISDEMEANORS, AS WELL AS FIRST-TIME AND REPEAT OFFENSES FOR DWI. STATISTICS INCLUDE THE NUMBER (N) OF DEFENDANTS WITHIN THE CATEGORY, THE MEAN ACTIVE JAIL SENTENCE OR NET FINE, AND THE SUM OF THE PENALTIES (JAIL DAYS OR DOLLARS). UNDER THE SUBCATEGORY "TOTAL" FOR EACH COMMUNITY, "%" INDICATES THE PROPORTION OF DEFENDANTS, JAIL DAYS OR DOLLARS THAT OCCURED WITHIN THAT COMMUNITY FOR THE 1981 MISDEMEANOR STUDY. UNDER THE OTHER SUBCATEGORIES FOR EACH COMMUNITY, "%" INDICATES THE PROPORTION OF DEFENDANTS, JAIL DAYS OR DOLLARS THAT OCCURED WITHIN THAT SUBCATEGORY FOR THE COMMUNITY. (I.E., FOR ANCHORAGE, 37.4% (511/1366) OF THE DEFENDANTS IN THE 1981 MISDEMEANOR STUDY CAME FROM ANCHORAGE. THE TOTAL NUMBER OF JAIL DAYS ASSIGNED IN ANCHORAGE WAS 33.6% OF THE TOTAL IN THE STUDY (4387/13060). WITHIN ANCHORAGE, 73.6% (376/511) OF THE DEFENDANTS COMMITTED NON-DWI OFFENSES AND 26.4% (135/511) COMMITTED DWI. THE PROPORTION OF JAIL DAYS ASSIGNED TO NON-DWI DEFENDANTS WAS 55.1% (2416/4387), AND THE PROPORTION TO DWI DEFENDANTS WAS 44.9% (1971/4387).)

TABLE 18. COMPARISON OF PENALTIES ASSOCIATED WITH FIRST-TIME AND REPEAT DWI OFFENSES. *

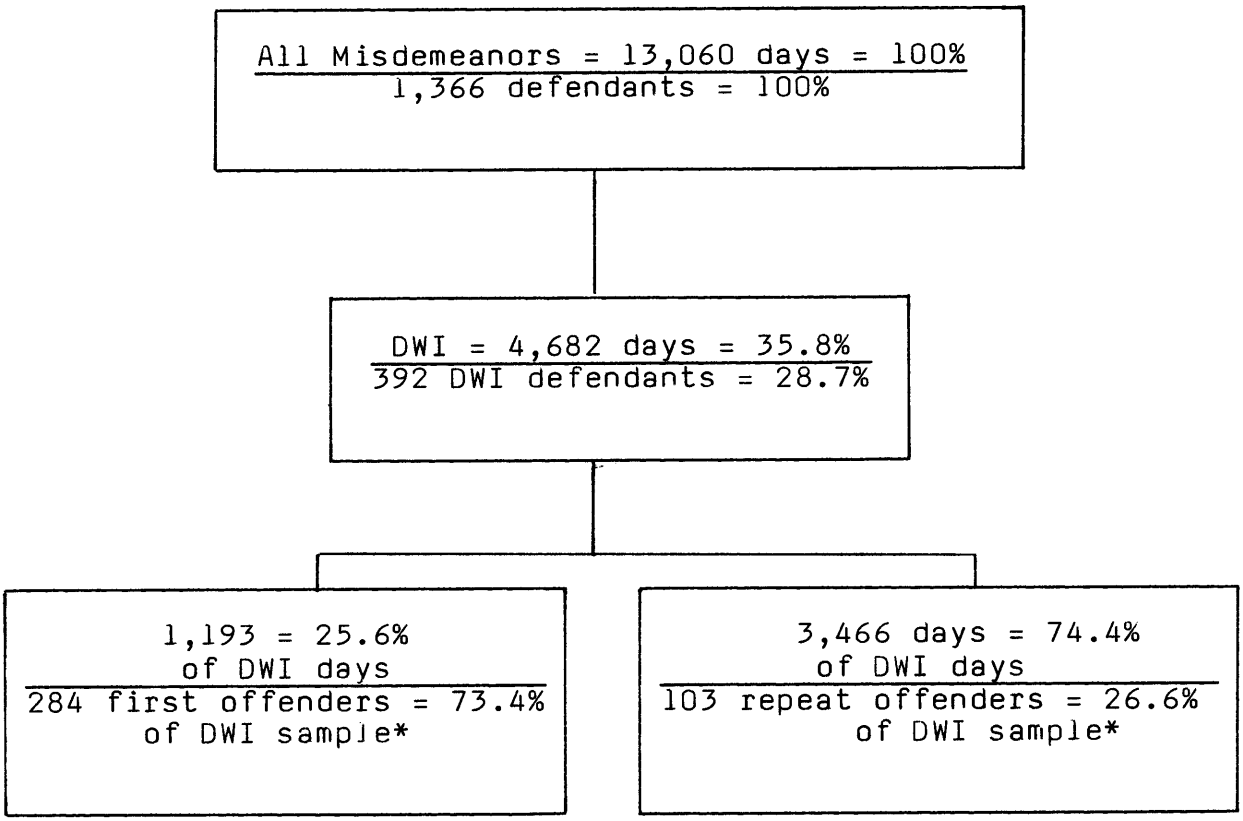
| | ANCHORAGE | | | | | | BARROW** | | | | | | BETHEL | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | TOTAL | | FIRST-TIME | | REPEAT | | TOTAL | | FIRST-TIME | | REPEAT | | TOTAL | | FIRST-TIME | | REPEAT | |
| | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % |
| ACTIVE JAIL | | | | | | | | | | | | | | | | | | |
| N | 135 | 34.9 | 99 | 73.3 | 36 | 26.7 | 7 | 1.8 | 5 | 71.3 | 2 | 28.6 | 34 | 8.8 | 25 | 73.5 | 9 | 26.5 |
| MEAN | 14.6 | | 4.2 | | 43.1 | | 12.5 | | 3.0 | | 51.5 | | 9.3 | | 3.6 | | 25.0 | |
| SUM | 1971 | 42.1 | 418 | 21.2 | 1553 | 78.8 | 118 | 2.5 | 15 | 10.9 | 103 | 75.2 | 316 | 6.7 | 91 | 28.8 | 225 | 71.2 |
| NET FINE | | | | | | | | | | | | | | | | | | |
| N | 135 | 34.9 | 99 | 73.3 | 36 | 26.7 | 7 | 1.8 | 5 | 71.3 | 2 | 28.6 | 34 | 8.8 | 25 | 73.5 | 9 | 26.5 |
| MEAN | $251.3 | | $242.7 | | $275.0 | | $186.4 | | $200.0 | | $150.0 | | $161.8 | | $138.0 | | $227.8 | |
| SUM | $33925 | 30.4 | $24025 | 70.8 | $9900 | 29.2 | $1300 | 1.2 | $1000 | 76.9 | $300 | 23.1 | $5500 | 4.9 | $3450 | 62.7 | $2050 | 37.3 |

| | FAIRBANKS | | | | | | JUNEAU | | | | | | KODIAK | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | TOTAL | | FIRST-TIME | | REPEAT | | TOTAL | | FIRST-TIME | | REPEAT | | TOTAL | | FIRST-TIME | | REPEAT | |
| | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % |
| ACTIVE JAIL | | | | | | | | | | | | | | | | | | |
| N | 112 | 28.9 | 78 | 69.6 | 34 | 30.4 | 23 | 5.9 | 16 | 69.6 | 7 | 30.4 | 31 | 8.0 | 24 | 77.4 | 7 | 22.6 |
| MEAN | 13.6 | | 5.0 | | 33.4 | | 6.5 | | 3.7 | | 12.9 | | 7.1 | | 4.0 | | 17.9 | |
| SUM | 1525 | 32.6 | 390 | 25.6 | 1135 | 74.4 | 149 | 3.2 | 59 | 39.6 | 90 | 60.4 | 220 | 4.7 | 95 | 43.2 | 125 | 56.8 |
| NET FINE | | | | | | | | | | | | | | | | | | |
| N | 112 | 28.9 | 78 | 69.6 | 34 | 30.4 | 23 | 5.9 | 16 | 69.6 | 7 | 30.4 | 31 | 8.0 | 24 | 77.4 | 7 | 22.6 |
| MEAN | $337.9 | | $272.4 | | $488.2 | | $337.2 | | $289.4 | | $446.4 | | $404.8 | | $377.1 | | $500.0 | |
| SUM | $37850 | 34.0 | $21250 | 56.1 | $16600 | 43.9 | $7755 | 7.0 | $4630 | 59.7 | $3125 | 40.3 | $12550 | 11.3 | $9050 | 72.1 | $3500 | 27.9 |

| | NOME | | | | | | SITKA** | | | | | | TOTAL | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | TOTAL | | FIRST-TIME | | REPEAT | | TOTAL | | FIRST-TIME | | REPEAT | | TOTAL | | FIRST-TIME | | REPEAT | |
| | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | % | VALUE | | VALUE | % | VALUE | % |
| ACTIVE JAIL | | | | | | | | | | | | | | | | | | |
| N | 27 | 7.0 | 24 | 88.9 | 3 | 11.1 | 19 | 4.6 | 13 | 72.2 | 5 | 27.8 | 387 | | 284 | 73.4 | 103 | 26.6 |
| MEAN | 4.9 | | 3.6 | | 15.0 | | 12.3 | | 3.0 | | 38.0 | | 11.9 | | 4.2 | | 33.7 | |
| SUM | 131 | 2.8 | 86 | 65.6 | 45 | 34.4 | 229 | 4.9 | 39 | 16.7 | 190 | 81.5 | 4659 | | 1193 | 25.6 | 3466 | 74.4 |
| NET FINE | | | | | | | | | | | | | | | | | | |
| N | 27 | 7.0 | 24 | 88.9 | 3 | 11.1 | 18 | 4.6 | 13 | 72.2 | 5 | 27.8 | 387 | | 284 | 73.4 | 103 | 26.6 |
| MEAN | $211.1 | | $191.7 | | $366.7 | | $321.1 | | $388.5 | | $160.0 | | $284.3 | | $257.2 | | $362.9 | |
| SUM | $5700 | 5.1 | $4600 | 80.7 | $1100 | 19.3 | $5850 | 5.3 | $5050 | 82.8 | $800 | 13.1 | $110430 | | $73055 | 66.2 | $37375 | 33.8 |

* SEE NOTE UNDER TABLE 17.

**4 BARROW AND 1 SITKA DEFENDANT COULD NOT BE CLASSIFIED AS FIRST-TIME OR REPEAT DWI OFFENDER DUE TO MISSING PRIOR RECORD INFORMATION. THESE DEFENDANTS ARE NOT INCLUDED IN THIS TABLE.




Our sample of misdemeanor cases included an estimated one-eighth to one-sixth of all misdemeanor cases in the calendar year of 1981. Thus, the actual number of jail days assigned for DWI cases in that year should be multiplied by a factor of 6 to 8, in order to give the actual range of impact. An estimated range of jail days assigned for all DWI cases would be about 28,000 to 37,500 days. Another way to view the impact of DWI sentences on correctional facilities is to say that every single day, for 365 days, judges throughout the state imposed new DWI sentences totalling 77 to 103 days. As a result, the correctional system had to find bed space for that many new days to be served, just for DWI defendants.

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* Four Barrow and one Sitka defendant could not be classified as first-time or repeat DWI offenders due to missing prior record information.

Repeat DWI offenders, viewed in this context, had the most disproportionate effect. Although only 7.5% (n=103) of the total misdemeanant population sampled (N=1,366), repeat DWI offenders accounted for 26.6% of the total days actually sentenced. By comparison, persons convicted of violent misdemeanors consituted 10.8% of the sample, but spent only 2,866 days in jail, or 22.1% of the total jail time imposed. Thus, any reduction of recidivism among DWI offenders should have noticeable benefits for the criminal justice system.

The effects of DWI convictions on the justice system are felt in other ways as well. While only 36.2% of persons convicted of other misdemeanors were required to comply with other conditions on their sentences, 90.6% of DWI defendants had other conditions. Just over half (51.5%) of those convicted of DWI were required to obtain alcohol treatment, but only 10.0% of other misdemeanants had this requirement. 19.6% of DWI defendants had to complete education programs, most of which were state- or federally-funded; compared to only 3.2% of other misdemeanants required to complete some type of educational program.

The contribution by DWI defendants to the costs of processing DWI cases and convicting defendants is difficult to estimate. These defendants were fined over half ($111,430 or 54.6%) of the total net fine amount ($204,065) imposed on the 1,366 misdemeanants in the sample. If $111,430 is multiplied by a factor of 6 to 8 to obtain an estimate for the entire 1981 caseload, the total DWI-related fine revenues would range from $668,600 to $891,400. However, we have no way of calculating what the actual costs to the criminal justice sytem of prosecuting, incarcerating and following up on DWI defendants might be.

Possible Impacts of New DWI Law

a) Change in definitions of first-time & subsequent DWI offenders

Under the new law's provision for considering convictions within the preceding 10 years (rather than preceding five years), a group of defendants that might have been sentenced as first-time DWI offenders will now become second-time or subsequent offenders. By expanding the definition of prior convictions to include refusal to submit to a chemical test, additional defendants will be treated as second-time or subsequent DWI offenders. (However refusal to submit to a chemical test prior to October 17, 1983 could not be considered as a prior conviction.) In addition, the new law specifically allows convictions in other jurisdictions to be considered in determining whether the defendant will be sentenced as a repeat DWI offender, if the elements of those prior convictions are substantially similar to provisions of the Alaska law.

All of these changes make it likely that the proportion of repeat DWI offenders will increase. Since our data indicates that repeat DWI offenders have a much more substantial impact on court and corrections resources than do first-time DWI offenders, most of the effects of the new law may be felt because of the broadened definitions of repeat offenders.

b) Mandatory 72-consecutive hours, first-time DWI offenders

Analysis of the actual impact of this requirement would require detailed data from Department of Corrections as to how many defendants with 3-day sentences actually spent 72 hours in jail. Unless the defendant's sentence specifically requires 72 hours, portions of a day's incarceration may be counted as a full day, with the result that many defendants sentenced to "3 days" actually spend only a little over two full days in jail. It is possible that this requirement could mean as much as 12 to 24 additional hours of incarceration for

TABLE 19
(1981 Misdemeanors)

Relationship Betwen DWI Laws in 1981 and 1983

1981 Law (AS 28.35.030)
(Study Period: June - December, 1981)

Misdemeanor
maximum jail = 1 year
maximum fine = $1,000

First-Time Offender
(defined as no prior conviction of DWI within five years of this conviction)

* mandatory minimum jail = 3 consecutive days
* fine = none mandatory
* license revocation = mandatory 30 days minimum
* alcohol education/rehabilitation

Second Offense
(defined as 2nd DWI conviction within 5 years)

* mandatory minimum jail = 10 consecutive days
* fine = none mandatory
* License revocation = mandatory 1 year minimum

Subsequent Offense
(defined as another DWI conviction within 5 years of the 2nd DWI conviction)

* license revocation = mandatory 3 year minimum

New Law (AS 28.35.030)
(effective October 17, 1983)

Class A misdemeanor
maximum jail = 1 year
maximum fine = $5,000

First-Time Offender
(defined as no prior conviction of either DWI or refusal to submit to chemical test (AS 28.35.032) within ten years of this conviction)

* mandatory minimum jail = 72 consecutive hours
* mandatory minimum fine = $250.00
* license revocation = mandatory 90 days minimum
* alcohol education/rehabilitation

Second Offense
(defined as prior conviction within 10 years of either: a) DWI or b) refusal to submit to chemical test)

* mandatory minimum jail = 20 consecutive days
* mandatory minimum fine = $500.00
* license revocation = mandatory 1 year minimum

Third Offense
(defined as prior conviction within 10 years of either: a) 2 DWIs, b) 2 refusals to submit to chemical test, or c) 1 conviction of each charge, unless both prior convictions arose out of a single transaction and single arrest)

* mandatory minimum jail = 30 consecutive days
* mandatory minimum fine = $1,000
* license revocation = mandatory 10 years minimum
* vehicle may be forfeited

each person committed to jail as a first-time DWI offender. The impact on the correctional system would be an estimated increase of 1100 to 3200 jail days to be served by first-time DWI defendants.

c) Mandatory fines, first-time DWI offenders

In 1981, the mean or "expected" net fine (i.e., amount actually required to be paid, excluding any amounts suspended) for first-time DWI offenders was $257.20. The median fine was $249.80. Most (95.8%) first-time DWI offenders paid a fine. Thus, the impact of the 1983 requirement of a mandatory minimum $250.00 fine may be slight. The median ($249.80) indicates the "half-way" point: half of all 1981 first-time DWI offenders paid less than this. However, if a minimum of $250.00 is required for all first-time DWI offenders, judges may tend to impose just this amount, with again, little impact on revenues from fines of first-time DWI offenders.

d) Mandatory fines, second- and third-time DWI offenders

Until 1983, there were no mandatory fines for these offenders. Fewer of them (78.6%) paid fines than did first-time DWI offenders. If repeat DWI offenders did pay a fine in 1981, the mean was $461.40. The overall mean fine (including those who did not pay a fine) for repeat DWI offenders was $362.90. Thus, mandatory fines of $500.00 for second-time DWI offenders and $1,000.00 for third-time DWI offenders should generate substantial additional revenues from this group. In addition, the broadened definition of repeat DWI offenders is likely to increase the relative size of this group of defendants, thus also increasing the potential amount of revenue from fines.

e) Mandatory jail sentences, repeat DWI offenders

The mandatory minimum sentence for a second-time DWI offender in 1981 was 10 consecutive days. The 1983 law makes three important changes:

a) The sentence for second-time DWI offenders is doubled, to 20 days;

b) A mandatory minimum of 30 days for third-time DWI offenders is imposed; and

c) The definition of repeat DWI offenders has been broadened to include prior convictions of refusal to submit to a chemical test, and to cover twice as much time (10 years preceding the present conviction rather than 5 years).

Because we cannot distinguish second-time DWI offenders from third-time or subsequent DWI offenders in our data set, and because of the broadened definition of repeat DWI offenders, we cannot accurately estimate the impact of the new sentencing requirements on jail-days to be served. However, we can observe that:

a) Half (50%) of the 1981 repeat DWI offenders were sentenced to less than 14.8 days; 70% were sentenced to 20 days or less.

b) The mean sentence for all repeat DWI offenders, however, was 33.7 days. If most future repeat DWI offenders are sentenced to only the 20- or 30-day minimum terms required by the 1983 law, and if the number of repeat DWI offenders does not increase substantially, there may be little impact on the correctional system from the new laws.

f) Mandatory license revocations

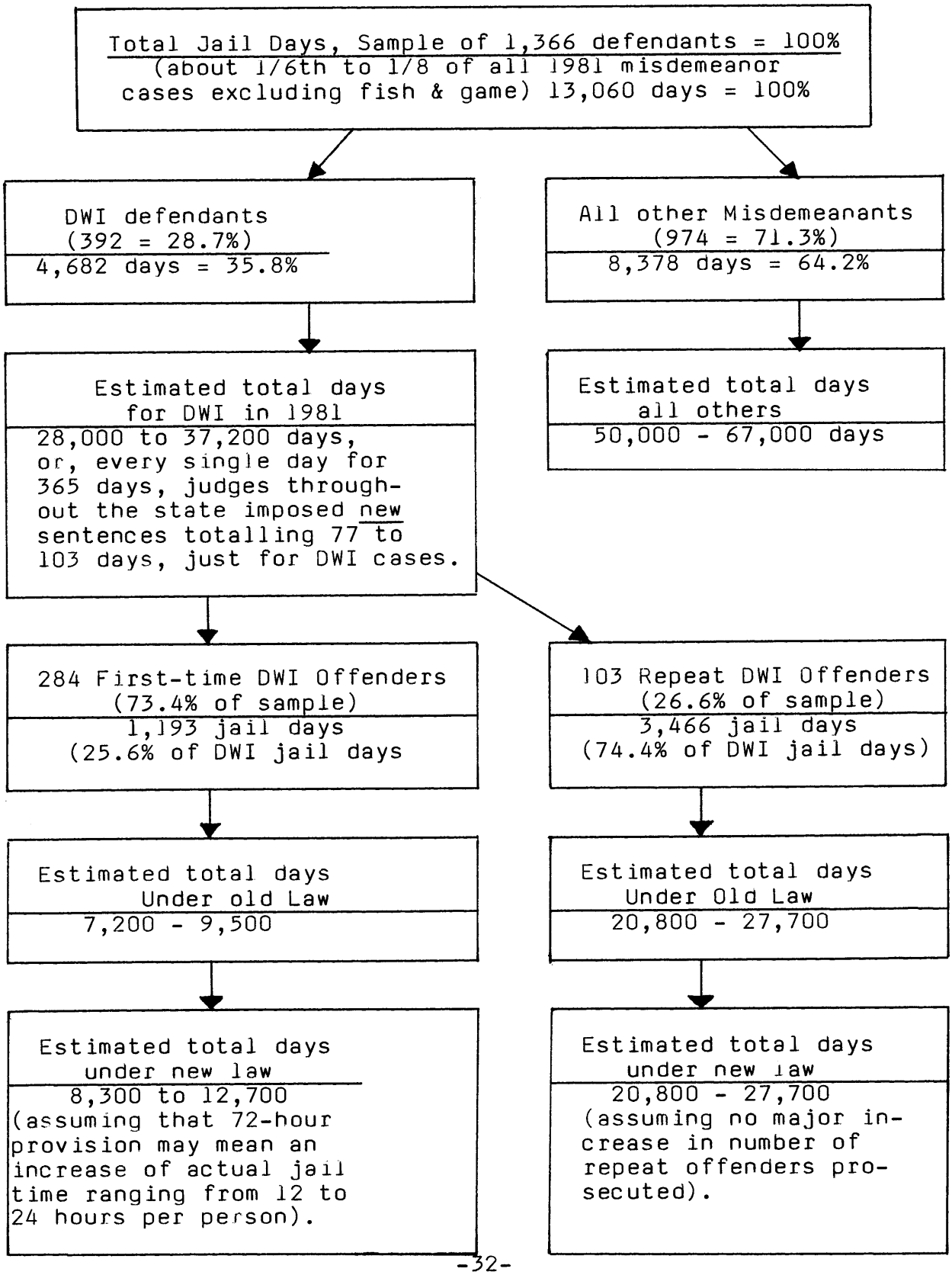
The increased mandatory periods for license revocations could also have an impact on the criminal justice system, since it can be hypothesized that a larger group of defendants will be subject to prosecution for driving with licenses suspended or revoked. Because convictions on these charges carry mandatory minimum jail terms (AS 28.15.181 and AS 28.15.291), any increase in the number of convictions would have a noticeable impact on jail facilities.

g) Breathalyzer refusals

84 defendants in the 1981 DWI sample (21.6%) refused to submit to a chemical test. Proportionately, many more of these were repeat DWI offenders (31.1% of repeat DWI offenders

Table 20
(1981 Misdemeanors)

Impact of DWI cases in 1981
and Estimated Impact of 1983
Changes in DWI laws on Jail Time



had refused, compared to 18.6% of first-time DWI offenders). To estimate the impact, that number would be multiplied by a factor of 6 to 8 to determine the estimated number of refusals for all of 1981, giving a range of 500 to 670 DWI defendants potentially subject to the new law.

At least 25 other defendants convicted of vehicular charges such as reckless driving or driving with a suspended license had also refused to submit to a breathalyzer test. In addition, since the study reviewed only cases in which sentences were imposed, there may have been other defendants whose cases were dismissed who had refused to submit to a breathalyzer. However, since the new law requires an arrest and a detailed warning of the consequences of refusal before a defendant can be prosecuted and convicted, the actual number of refusals may decline significantly.

Summary

While the new law may increase the number of jail days spent by first-time DWI offenders because of the change from "3-days" to "72-hours", the more important impacts may come from convictions of repeat DWI offenders. This offender group accounted for nearly three-fourths of the DWI jail days sentenced in the 1981 DWI sample, despite the fact that they constituted only one-fourth of the DWI defendants. Given that the 1981 mean sentence for repeat DWI offenders was 33.7 days, however, the actual impact will depend on two other factors:

a) If more defendants are prosecuted as repeat DWI offenders because of the broadened definitions, there will be a noticeable impact; and

b) If judges sentence some repeat DWI offenders to more than the 20- and 30-day minimums, there will also be a definite impact. However, if the minimums in the new law tend to become established as the mean, or typical, sentence, there may be little effect from the new law.