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SD: ASAP ANALYTIC STUDY NO. 4 - 1976  
AN ANALYSIS OF ASAP IMPACT ON THE JUDICIAL SYSTEM

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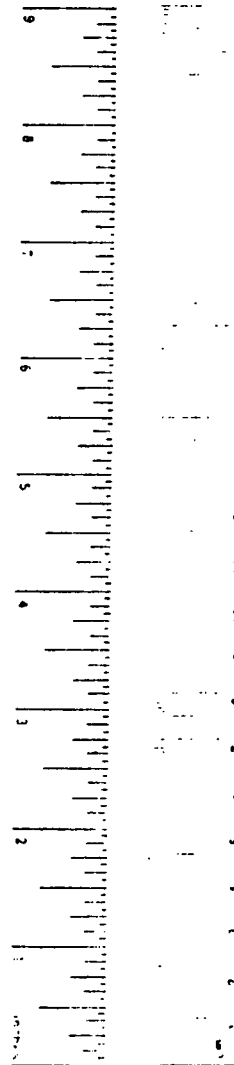
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16. Abstract This study examines the South Dakota court system with respect to the adjudication of persons arrested for driving while intoxicated and the impact of the South Dakota ASAP on the judicial processing of these offenses. The South Dakota ASAP operations covered the four year period beginning in January, 1972 and ending in December, 1975.  The 16,000 DWI arrests during the operational period represent an arrest rate more than three times that of pre-project years. These arrests resulted in nearly 14,000 court adjudications with known final dispositions. The conviction rate for this period was 84.3%, a decline of 7.7% from a baseline period (1968-1971) conviction rate of 92.0%. Concurrently a backlog of cases was created such that the median elapsed time between arrest and adjudication increased from only five days in the baseline period to seventeen days during the operational period.  The distribution of blood alcohol concentrations shifted significantly toward lower BACs. This is attributed partly to a lowering of the presumptive limit from .15 to .10 just prior to the project and partly to greater enforcement sensitivity toward drivers with lower BACs. The proportion of arrests with BAC evidence sufficient for conviction was no less during the operational period than during the baseline period, however.			
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# METRIC CONVERSION FACTORS

## Approximate Conversions to Metric Measures

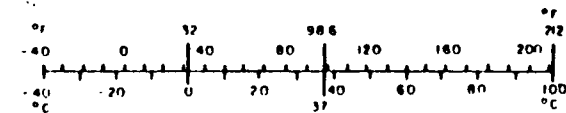
Symbol	When You Know	Multiply by	To Find	Symbol
<b>LENGTH</b>				
in	inches	2.5	centimeters	cm
ft	feet	30	centimeters	cm
yd	yards	0.9	meters	m
mi	miles	1.6	kilometers	km
<b>AREA</b>				
m <sup>2</sup>	square inches	6.5	square centimeters	cm <sup>2</sup>
ft <sup>2</sup>	square feet	0.09	square meters	m <sup>2</sup>
yd <sup>2</sup>	square yards	0.8	square meters	m <sup>2</sup>
mi <sup>2</sup>	square miles	2.6	square kilometers	km <sup>2</sup>
	acres	0.4	hectares	ha
<b>MASS (weight)</b>				
oz	ounces	28	grams	g
lb	pounds	0.45	kilograms	kg
	short tons (2000 lb)	0.9	tonnes	t
<b>VOLUME</b>				
tsp	teaspoons	5	milliliters	ml
tblsp	tablespoons	15	milliliters	ml
fl oz	fluid ounces	30	milliliters	ml
c	cups	0.24	liters	l
pt	pints	0.47	liters	l
qt	quarts	0.95	liters	l
gal	gallons	3.8	liters	l
ft <sup>3</sup>	cubic feet	0.03	cubic meters	m <sup>3</sup>
yd <sup>3</sup>	cubic yards	0.76	cubic meters	m <sup>3</sup>
<b>TEMPERATURE (exact)</b>				
F	Fahrenheit temperature	5/9 (after subtracting 32)	Celsius temperature	C

1 liter = 1.0567 quarts; 1 quart = 0.94635 liters; 1 gallon = 3.7854 liters; 1 ounce = 29.5735 milliliters; 1 cup = 236.588 milliliters; 1 pint = 473.176 milliliters; 1 quart = 946.353 milliliters; 1 gallon = 3785.41 milliliters.



## Approximate Conversions from Metric Measures

Symbol	When You Know	Multiply by	To Find	Symbol
<b>LENGTH</b>				
mm	millimeters	0.04	inches	in
cm	centimeters	0.4	inches	in
m	meters	3.3	feet	ft
m	meters	1.1	yards	yd
km	kilometers	0.6	miles	mi
<b>AREA</b>				
cm <sup>2</sup>	square centimeters	0.16	square inches	in <sup>2</sup>
m <sup>2</sup>	square meters	1.2	square yards	yd <sup>2</sup>
km <sup>2</sup>	square kilometers	0.4	square miles	mi <sup>2</sup>
ha	hectares (10,000 m <sup>2</sup> )	2.5	acres	ac
<b>MASS (weight)</b>				
g	grams	0.035	ounces	oz
kg	kilograms	2.2	pounds	lb
t	tonnes (1000 kg)	1.1	short tons	st
<b>VOLUME</b>				
ml	milliliters	0.03	fluid ounces	fl oz
l	liters	2.1	pints	pt
l	liters	1.06	quarts	qt
l	liters	0.76	gallons	gal
m <sup>3</sup>	cubic meters	35	cubic feet	ft <sup>3</sup>
m <sup>3</sup>	cubic meters	1.3	cubic yards	yd <sup>3</sup>
<b>TEMPERATURE (exact)</b>				
C	Celsius temperature	9/5 (then add 32)	Fahrenheit temperature	F



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## INTRODUCTION

The South Dakota Alcohol Safety Action Project became operational in January, 1972, and remained active through 1975. The objective of this highway safety program was to produce a measurable reduction in the subset of motor vehicle crashes for which alcohol, and the drinking driver, may be identified as a contributing factor. The thrust of SD:ASAP countermeasure activity, therefore, was directed towards enforcement of the state and municipal statutes that prohibit the operation of a motor vehicle while intoxicated.

An intensified alcohol enforcement effort rapidly increased the volume of DWI arrests, which naturally led to an abnormally high caseload to be processed by the judiciary. Thus, two basic problems confronted the courts. The first was to provide effective prosecution for a large volume of DWI arrests and the second was to provide sanctions and alcohol treatment alternatives relevant to the nature of the offender's drinking problem.

This study is an assessment of the judiciary's internal adjustment and the modifications and enhancements to the court procedures that were introduced and necessitated by ASAP operations.



## SOUTH DAKOTA JUDICIAL SYSTEM

During the operational period of SD:ASAP, the adjudication of alcohol related traffic offenses has been the responsibility of a number of distinctly different court systems within the state. Three municipal courts, with jurisdictions in the cities of Aberdeen, Rapid City, and Sioux Falls were responsible for adjudication of A/R offenses within these municipalities. Nineteen (19) District/County courts had jurisdiction over A/R traffic offenses in other municipalities as well as over offenses occurring in rural areas of the state, and five tribal courts exercised jurisdiction over traffic offenses committed within the boundaries of Indian reservations. The ten State Circuit courts exercised jurisdiction over violations of State A/R traffic statutes and also heard appeals from lower courts. In addition, a number of the smaller municipalities in the state were served by police magistrate or justice of peace courts who heard misdemeanor cases, including A/R traffic offenses.

Pursuant to amendments to the State Constitution adopted in the 1972 general election, the entire judicial system described above was replaced by a unified Circuit Court system which became effective January 7, 1975. The new court system partitioned the state into nine judicial circuits (See Figure 1) served by a total of 35 circuit court judges, all of whom were elected for eight year terms in the general election on November 5, 1974. Under the new judicial system, a presiding circuit court judge has been appointed by the State Supreme Court in each judicial circuit. To accommodate large caseloads in some areas of the state, the presiding circuit court judges have appointed law trained magistrates with jurisdiction over arraignment of misdemeanor charges, including A/R traffic offenses.

### APPLICABLE LAWS

During the operational period of SD:ASAP, both state statutes and municipal ordinances have been applied to the control of the A/R traffic offender. Under both state law and municipal ordinance, however, a single A/R traffic offense has been stipulated. Current state statute defines the offense as follows:

"Section 32-23-1. Driving or control of vehicle prohibited with alcohol in blood or while under influence of alcohol or drug. -- A person shall not drive or be in actual physical control of any vehicle while:

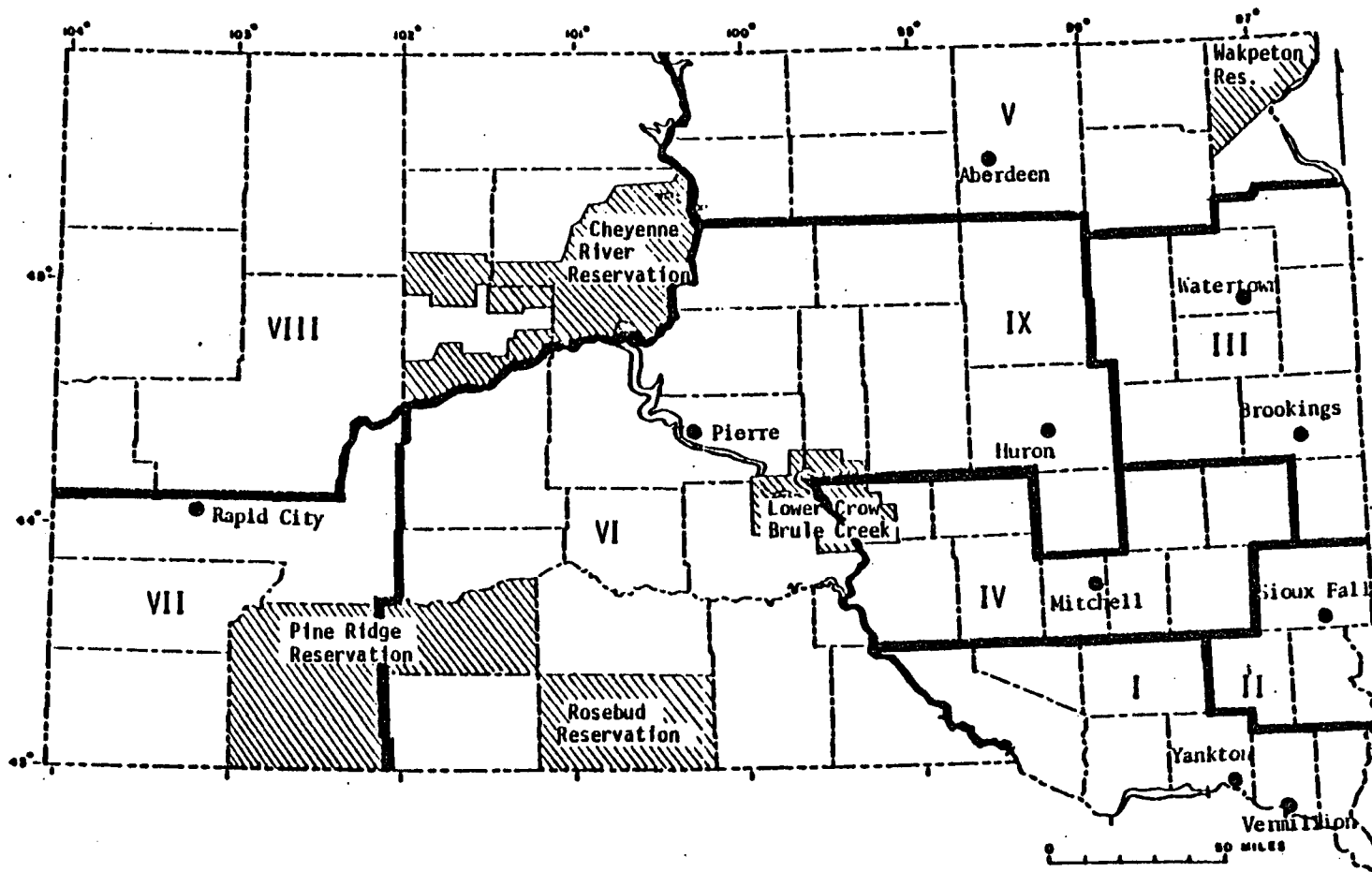


FIGURE 1. JUDICIAL CIRCUIT UNDER THE UNIFIED STATE COURT SYSTEM WHICH BECAME OPERATIONAL ON JANUARY 7, 1975

- (1) There is 0.10 percent or more by weight of alcohol in his blood;
- (2) Under the influence of an alcoholic beverage;
- (3) Under the influence of any controlled drug or substance to a degree which renders him incapable of safely driving; or
- (4) Under the combined influence of an alcoholic beverage and any controlled drug or substance to a degree which renders him incapable of safely driving."

The following definition of "under the influence of an alcoholic beverage" is also provided:

"Section 32-23-7. Presumptions arising from chemical analysis of body fluids. -- In any criminal prosecution for a violation of S 32-23-1 relating to driving a vehicle while under the influence of intoxicating liquor, or a violation of S 22-16-21, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance shall give rise to the following presumptions:

- (1) If there was at that time five hundredths percent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor;
- (2) If there was at that time in excess of five hundredths percent but less than ten hundredths percent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant;
- (3) If there was at that time ten hundredths percent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor."

The presumptive level of "intoxication," as reflected in S 32-23-7 was reduced to .10 percent of alcohol by weight, from .15 percent, on July 1, 1971, prior to the beginning of the SD:ASAP operational period. The "per se" provision of S 32-23-1 ("There is .10 percent or more by weight of alcohol in his blood") was implemented on July 1, 1973.

Current state statute also includes an implied consent provision:

"S 32-23-10. Operation of vehicle as consent to chemical test -- Arrest required -- Advise as to right to refuse test. -- Any person who operates any vehicle in this state shall be deemed to have given his consent to a chemical analysis of his blood, urine, breath, or other bodily substance for the purpose of determining the amount of alcohol in his blood, as provided in S 32-23-7, provided that such test is administered at the direction of a law enforcement officer having lawfully arrested such person for a violation of S 32-23-1.

Such person shall be requested by said officer to submit to such analysis and shall be advised by said officer of his right to refuse to submit to such analysis and the provisions of SS 32-23-11 and 32-23-12 in the event of such refusal with respect to the revocation of such person's driving license."

The current implied consent statute (32-23-10) was implemented on March 31, 1973, after the original implied consent law had been declared unconstitutional. As a result of this appeals court decision no implied consent law was in force during the first quarter of 1973. The earlier law had not required an arrest under 32-23-1, but rather had stipulated that a test could be requested under the force of the implied consent provision "provided that such test is administered under the direction of a police officer having reasonable grounds to believe such person to have been driving under the influence of alcoholic liquor and that such person has been charged with a traffic violation." In addition, the earlier implied consent law had not provided adequate mechanisms for administrative hearing to establish compliance by the police officer, and court review of revocation through trial de novo in circuit court. These safeguards are provided under Sections 32-23-11 and 32-23-12 of the revised statutes.

Penalties for violation of S 32-23-1 are provided under state statute as follows:

"S 32-23-2. Punishment for first offense -- Revocation of restriction of driving privilege. -- If conviction for a violation of S 32-23-1 is for a first offense, such person shall be imprisoned in the county jail for not less than ten days nor more than ninety days, or shall be fined not less than fifty dollars nor

more than three hundred dollars, or both, and the defendant be prohibited from operating a motor vehicle upon the public highways of this state for thirty days. The court may also order the revocation of the defendants driving privilege for a further period not to exceed one year or restrict the privilege in such manner as it sees fit for a period not to exceed one year."

"S 32-23-3. Punishment for second offense -- Revocation or restriction of driving privilege. -- If conviction for a violation of S 32-23-1 is for a second offense, such person shall be imprisoned in the county jail for not less than thirty days nor more than six months, or shall be fined not less than one hundred dollars nor more than five hundred dollars, or both, and the court shall in pronouncing sentence make its order that the defendant be prohibited from operating a motor vehicle upon the public highways of this state for sixty days. The court may also order the revocation of the defendant's driving privilege for a further period not to exceed one year or restrict the privilege in such manner as it sees fit for a period not to exceed one year."

"S 32-23-4. Punishment for third or subsequent offense. -- Period during which driving prohibited. -- If conviction for a violation of S 32-23-1 is for a third offense, or subsequent offense thereafter, such person shall be imprisoned in the penitentiary for not more than three years, or in the county jail for not less than ninety days nor more than one year or shall be fined not less than two hundred dollars nor more than five hundred dollars, or both, and the defendant prohibited from driving any motor vehicle for such period of time as may be determined by the court, but in no event less than one year from the date of his final discharge."

"S 32-23-4.1. Period during which previous conviction considered. -- No previous conviction for, or plea of guilty to, an offense under SS 32-23-2 and 32-23-4, inclusive, occurring more than four years prior to the date of the violation being charged shall be used to determine that the violation being charged is a second, third, or subsequent offense."

During the operational period of SD:ASAP, arrests for DWI under S 32-23-1 could be made by any duly authorized police officer in the state, including officers of municipal police departments. In fact, however, arrests made by most municipal police departments (particularly in the larger

cities and towns) resulted in a charge of DWI under municipal ordinances. In virtually every instance, municipal ordinances relating to DWI were patterned after the state law, at least with respect to the definition of the offense (S 32-23-1 and S 32-23-7). Penalties provided for violations of these municipal ordinances were not, in general, as severe as those provided in Sections 32-23-2 to 32-23-4 of state law. In addition, convictions under municipal ordinances were not used in the application of Sections 32-23-2 to 32-23-4 for a subsequent conviction under the state law (32-23-1). In other words, if an individual was convicted of DWI under a municipal ordinance and then within four years was convicted of a state DWI offense, the penalties imposed for the state offense would be governed by S 32-23-2, "punishment for first offense ...." Municipal ordinances did not provide for implied consent, but Section 32-23-9 of the state statutes permitted application of the state implied consent law for this purpose:

"S 32-23-9 (Repealed, effective January 1, 1975). Chemical analysis presumptions as applicable in prosecution under municipal ordinance. -- The provisions of SS 32-23-7 and 32-23-8 shall be applicable in any action for the violation of a municipal ordinance relating to driving a vehicle while under the influence of intoxicating liquor."

The most compelling reason for the application of both state law and municipal ordinances in the prosecution of DWI offenses during the operational period of the project was related to economic considerations. Prosecution under the state statute (S 32-23-1) provided that all fine monies resulting from the conviction and imposition of penalties be paid into the state general fund. Conviction under municipal ordinance, however, provided for payment of these revenues to the municipality under whose ordinance the charges were brought. This system of dual DWI laws was operative during the entire 1972-1974 operational period of SD:ASAP to which the present study is directed. The 1974 State Legislature, in implementing the unified Circuit Court system, provided for the removal of all municipal ordinances governing DWI, however. This change became effective upon implementation of the new court system on January 7, 1975. Since that date all DWI arrests are under the state statute and no municipal ordinances relating to DWI are valid. Additional state statutes applicable to A/R traffic enforcement functions permit the use of pre-arrest breath tests, and provide for DWI arrest of drivers involved in motor vehicle crashes.

"S 32-23-1.1. Arrest without warrant on probable cause after accident. -- A law enforcement officer may, without a warrant, arrest a person for a violation of

the provisions of S 32-23-1 when he has probable cause to believe that the person to be arrested has been involved in a traffic accident and has violated the provisions of S 32-23-1 and that such violation occurred prior to or immediately following such traffic accident."

"S 32-23-1.2. Submission to breath test required by officer. -- Chemical test after positive breath test. -- Every person operating a motor vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a law enforcement officer, submit to a breath test to be administered by such officer. If such test indicates that such operator has consumed alcohol, the law enforcement officer may require such operator to submit to a chemical test in the manner set forth in this chapter."

Both of these statutes were enacted in connection with the revision of the implied consent statutes during the 1973 South Dakota legislative session. S 32-23-1.1 has the effect of permitting the application of the DWI law in instances where the arresting officer does not physically observe a traffic violation (i.e., traffic accident investigation). S 32-23-1.2 permits the use of pre-arrest breath test devices, extends the provision of the implied consent law, and also permits arrests for DWI in instances in which traffic violations are not directly observed by the arresting officer.

Although not applicable during the 1972-1974 operational period of SD:ASAP, two bills passed by the 1975 legislature and signed into law by the governor provide additional mechanisms for judicial control of drinking drivers. The first bill (originating as Senate Bill 75) provides that the court may issue an order which will permit a person convicted of DWI (first offense only) to drive from his place of residence to the place of employment under restrictions the court may designate in this order. It is anticipated that this statute might also be interpreted to provide an individual referred for treatment restricted driving privileges in order to attend court referred treatment sessions. A second bill (originating as House Bill 607) provides the South Dakota Department of Public Safety with the authority to issue demand orders to secure possession of driver licenses which have been suspended or revoked. This law will provide a more effective mechanism for the implementation of license restrictions under the implied consent and DWI statutes.

## DWI PROSECUTION

The prosecution of A/R traffic offenses (DWI) in South Dakota during the operational period of SD:ASAP has been the responsibility of State's Attorneys and City Attorneys. The office of State's Attorney is an elective position in each county. In the two largest counties appointed Deputy State's Attorneys assisted in the prosecution of DWI and other offenses. In Pennington County (Rapid City) seven full time Deputy State's Attorneys served this function, while in Minnehaha County (Sioux Falls) nine part time Deputy State's Attorneys were responsible for prosecution of these offenses. In addition to Pennington and Minnehaha Counties, the office of State's Attorney represented a full time position in:

Brown County (Aberdeen)  
Beadle County (Huron)  
Codington County (Watertown)  
Yankton County (Yankton)  
Davison County (Mitchell)  
Lawrence County (Deadwood, Lead, Sturgis)  
Hughes County (Pierre).

In most other counties the State's Attorney served as a part time prosecutor.

State's Attorneys (or their Deputies) were empowered to prosecute either state or municipal DWI charges. Normally, however, they prosecuted under violations of state statute.

In addition to this prosecution mechanism, City Attorneys were employed in the following municipalities:

Aberdeen	Rapid City
Brookings	Sioux Falls
Huron	Watertown
Mitchell	Yankton.

In these jurisdictions the City Attorneys were responsible for the prosecution of municipal DWI charges in either municipal or district/county courts.

## JUDICIAL PROCEDURE IN DWI CASES

Figure 2 summarizes the procedures involved in the processing of A/R traffic arrests during the operational period of SD:ASAP. In general these procedures were common to all of the courts in the state and would apply to prosecution on either state or municipal charges.



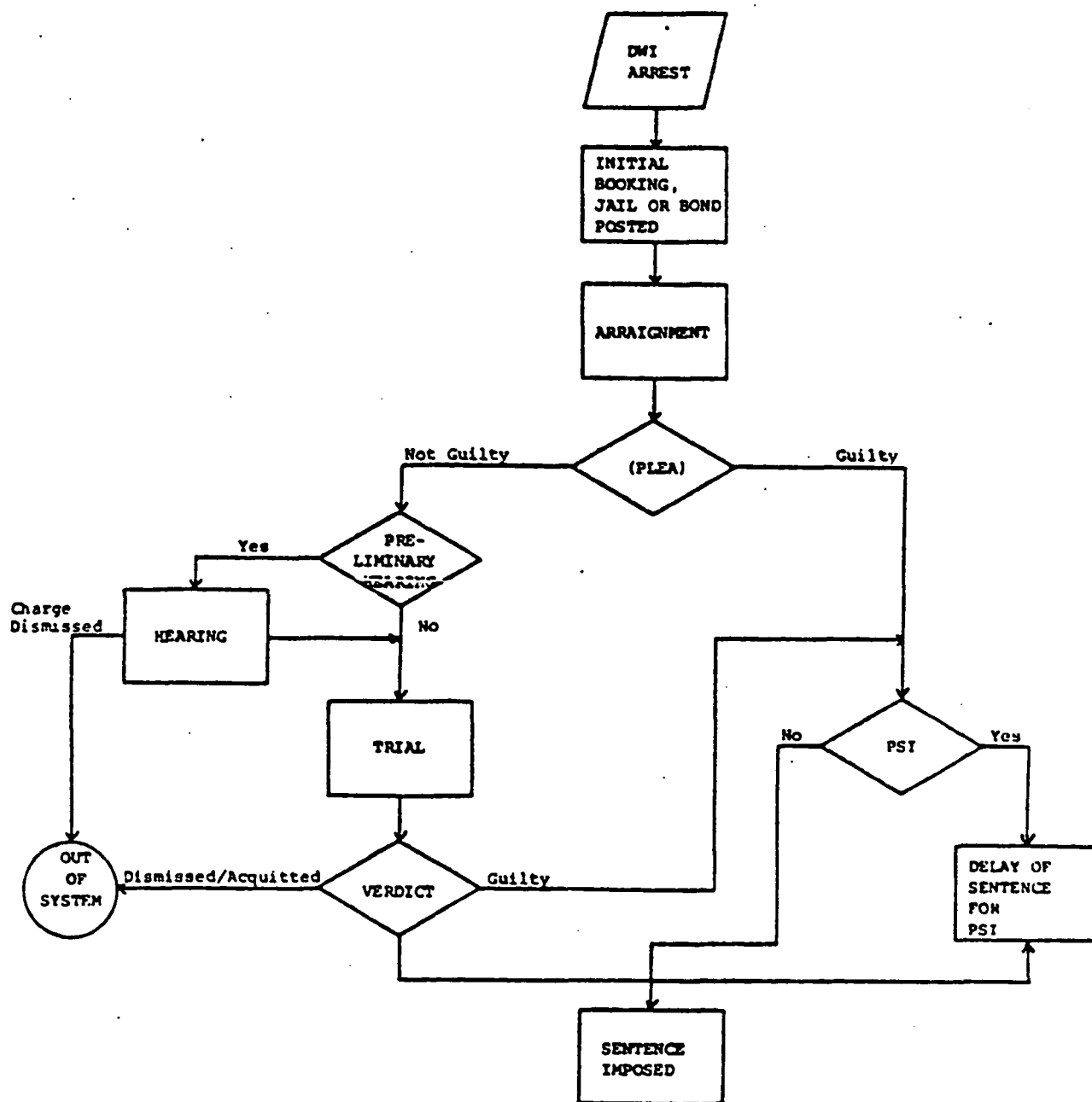


FIGURE 2. JUDICIAL PROCESSING OF DWI ARRESTS. THE GENERAL PROCEDURE DESCRIBED IS APPLICABLE TO ALL COURTS.

Upon arrest the defendant is booked, and ordinarily incarcerated in the county jail. At this point the defendant will be retained in custody, or he may post bond and be released into the custody of a responsible party. Arraignment on the DWI charge will ordinarily take place the following morning, or (in the case of an arrest on a weekend) the next working day. The court will accept a plea at arraignment and if a guilty plea is entered a date will be set for sentencing. In the majority of cases, sentencing is delayed for a two week period to permit the conduct of a presentence investigation. If the defendant enters a plea of not guilty at the time of arraignment, one of two procedures will ordinarily be followed. First, the defendant may request a preliminary hearing. If this is the case, the date for the hearing will be set and at this hearing the charge may be dismissed, a guilty plea accepted, or the case passed for trial. The second procedure occurs in the absence of a request for preliminary hearing and involves the establishment of a trial date. In municipal courts (Aberdeen, Rapid City and Sioux Falls) trials were ordinarily before the court; while in district/county courts jury trials were ordinarily scheduled unless the defendant explicitly waived this prerogative. In the event of a finding of guilty at trial, a delay of two weeks is again introduced to permit the conduct of a presentence investigation.

Appeals from municipal and district/county courts (either trial de novo or retrial) were heard by the state circuit court. The rate of appeals has been extremely low during the operational period of SD:ASAP, never exceeding ten per year.

Under state statute the defendant is allowed up to two reasonable continuances. When granted, continuances will either set the trial for a specified future date (most typical in municipal and district/county courts), or at the next call of the court calendar (circuit courts). In the circuit courts this provision made possible the delay of trial for nearly 18 months through the legal use of continuances. Approximately 25 percent of all DWI cases subject to trial involve at least one continuance.

#### SD:ASAP INTERACTION WITH THE JUDICIAL SYSTEM

During the 1972-1974 operational period of the project, SD:ASAP did not provide direct financial support to the court system in the form of prosecution assistance or provision of additional court personnel.\* Instead SD:ASAP

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\*In 1975 one assistant state's attorney was hired for prosecution assistance in circuits with abnormally high caseloads.

efforts were directed toward the development of mechanisms to assist the courts through provision of presentence investigation (PSI) and referral capabilities. Prior to the initiation of SD:ASAP, PSIs were virtually never conducted for misdemeanor cases, including DWI. To accomplish this purpose, the Decision/Treatment Processes (D/TP) subsystem of SD:ASAP was organized and staffed to provide these services to the courts. The D/TP subsystem consisted, structurally, of a central office located in Pierre, and 13 field offices throughout the state. Figure 3 shows the geographical location of these structural units of the D/TP subsystem as well as the staffing pattern of the subsystem. The central office was staffed by a D/TP coordinator, his assistant, and clerical support personnel. With the exception of the Rapid City and Sioux Falls field offices, each was staffed by one SD:ASAP courtworker; in Rapid City and Sioux Falls, two courtworkers were assigned to each field office.

The central office staff was responsible for:

1. Supervision of the activities of the courtworkers.
2. Collection of background records check information for the PSI.
3. Scoring of diagnostic tests and consolidation of PSI information.
4. Rendering final drinker type diagnoses and making final referral recommendations to the courts.
5. Preparing formal pre-sentence investigation reports for the courts.
6. Maintaining liaison with other SD:ASAP subsystems (law enforcement, PI&E and evaluation) and with cooperating referral agencies.

Each of the fifteen courtworkers was responsible for:

1. The conduct of the field investigations contributing to the PSI.
2. Maintaining liaison with the court(s) to which he was assigned.
3. Formulation of initial drinker diagnoses and referral recommendations.
4. Conduct of Problem Drinker Driver Classes (PDDC).

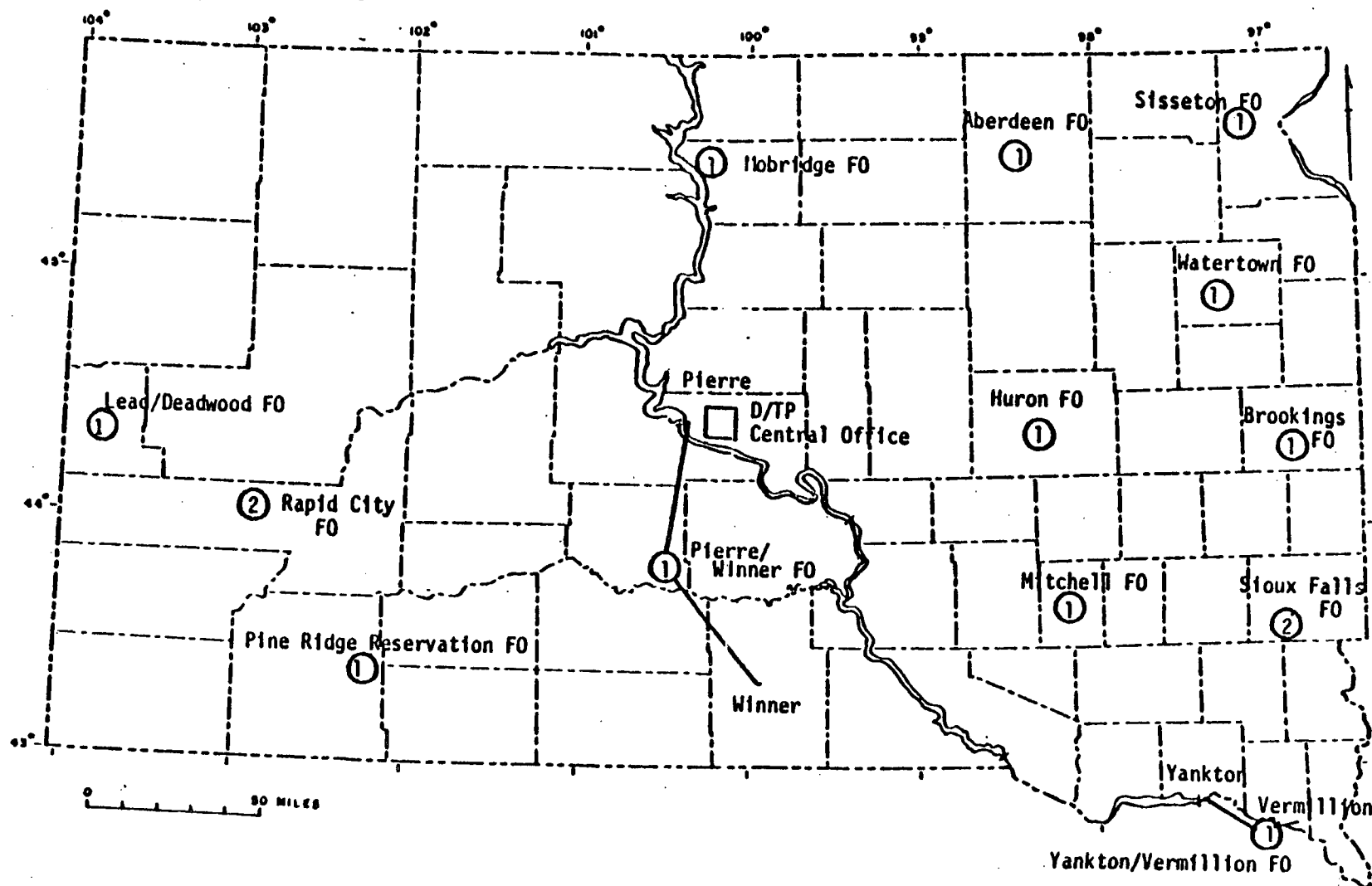


FIGURE 3. SD:ASAP D/TP SUB-SYSTEMS - CENTRAL D/TP OFFICE AND D/TP FIELD OFFICES (FO)

5. Arranging for the implementation of specific rehabilitation referrals ordered by the courts.

The involvement of the SD:ASAP D/TP subsystem with the court systems is initiated subsequent to a defendant's conviction on either a state or municipal DWI charge. Figure 4 shows the flow of activity involving the courts and the D/TP subsystem.\* The PSI, which culminates in both a diagnosis of the severity of the defendant's drinking problem (if one exists) and in a recommendation for rehabilitation referral to the court, is a two-part process involving both the courtworker and the D/TP central staff. This activity is initiated by the courtworker who monitors the court calendar of each of the courts to which he is assigned. When an individual pleads guilty at arraignment, or is found guilty of DWI, and referred for pre-sentence investigation, the courtworker ordinarily makes his first contact with the defendant before he leaves the courtroom. At this time arrangements are made for completion of a detailed interview and the administration of diagnostic tests. The courtworker then contacts the D/TP central office in Pierre where a case file is initiated and a search of DMV records is requested. The courtworker's field investigation consists of a series of interviews with the defendant, his family, friends and employer. The courtworker also obtains a copy of the local "rap" sheet from the police department, and may check with local social and health agencies relative to the defendant's prior contacts with these agencies.

When the interview process is complete, the courtworker reviews and summarizes the information obtained in the field investigation, and forwards this information, with his initial drinker classification and treatment recommendation to the D/TP central office. The D/TP coordinator then reviews the complete case file (including the information supplied by the courtworker as well as the DMV records check information and the scores of the diagnostic tests) and determines a final drinker type classification and treatment recommendation. The drinker classification and referral recommendation are incorporated into a formal summary of the PSI which is transmitted to the responsible courtworker who presents the PSI report to the court prior to the scheduled sentence date. The interval between conviction and sentencing (during which the PSI is conducted) is ordinarily of one to two weeks in duration.

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\*The randomly selected no-treatment control group option and the six month follow-up interview were added in 1974.

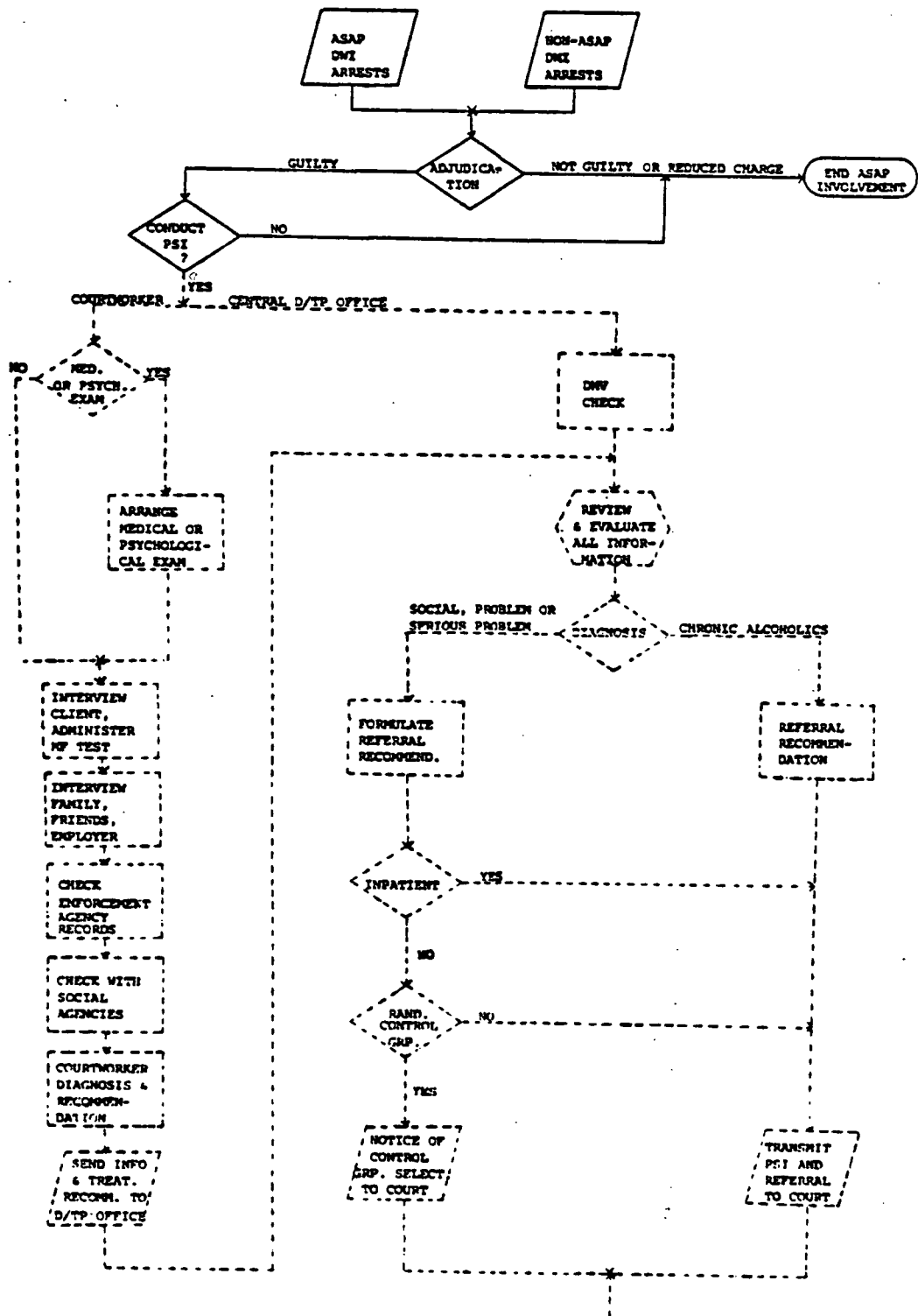


FIGURE 4. SD:ASAP ACTIVITY AFTER A DWI ARREST

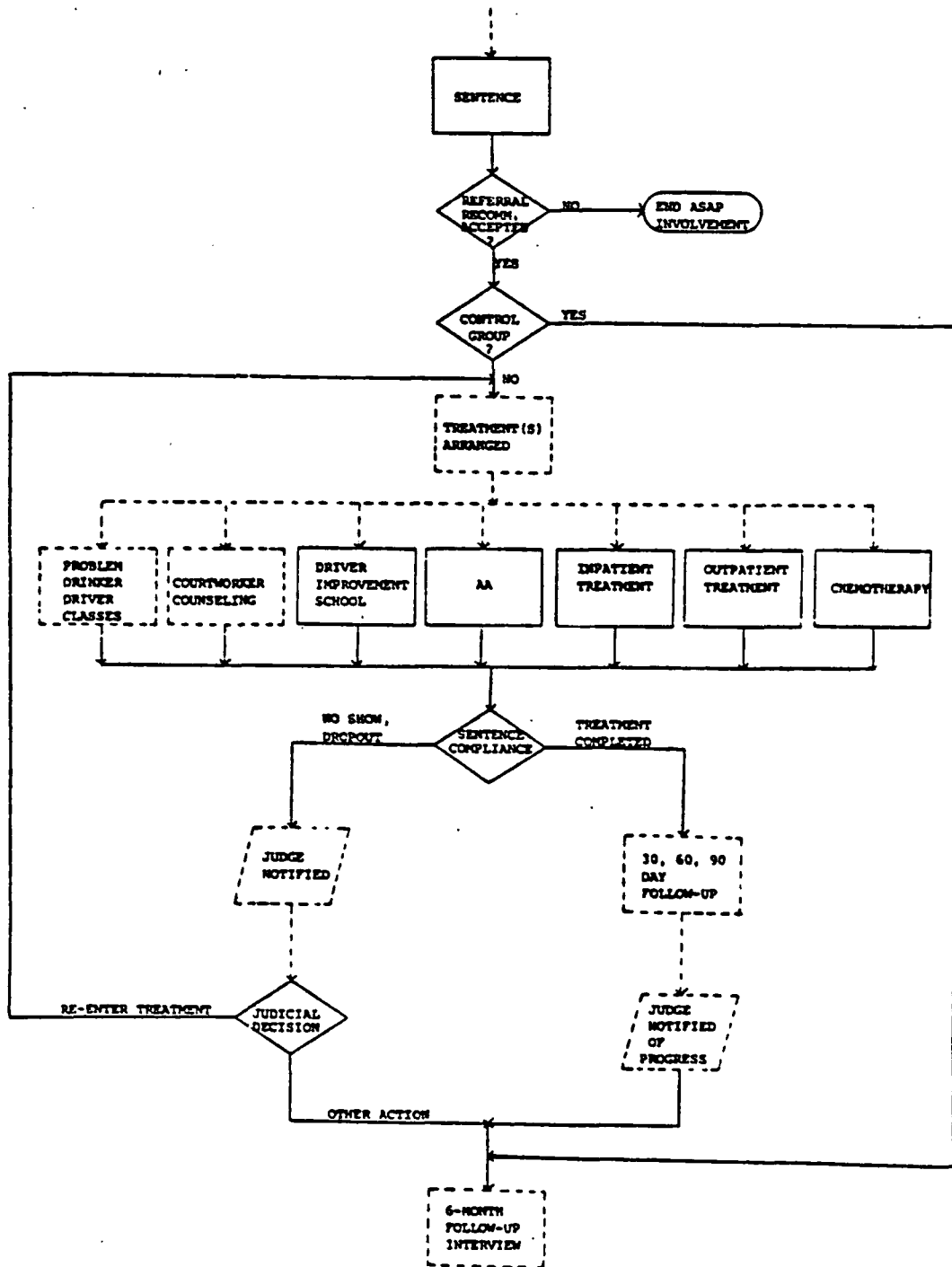


Figure 4. SD:ASAP ACTIVITY AFTER A DWI ARREST (Continued)

After receiving the formal PSI report, the court may accept all, part, or none of the treatment recommendation. If the court does not accept any of the treatment recommendations, SD:ASAP's involvement with the defendant is ended. If the judge does accept one or more of the treatment recommendations, the courtworker will make the necessary arrangements to initiate the treatment referral. Subsequent to sentencing, the courtworker is responsible for following the client through his treatment program, and for a period of time after completion of treatment. Follow-up reports are submitted to the court and to the D/TP central office. If the client fails to comply with the terms of his sentence at any time during the follow-up period, this noncompliance is brought to the attention of the court. It is important to note that the SD:ASAP courtworkers are not probation officers, instead the entire D/TP subsystem serves as a cooperating agency whose services are made available to the courts..



## JUDICIARY PERFORMANCE DURING THE ASAP OPERATIONAL PERIOD

The following sections provide an accounting of performance indicators that are relevant to the judiciary's ability to support the goals of the ASAP traffic safety system. For the most part the analyses are descriptive comparisons of the judicial process before and during ASAP operations.

### TRAFFIC SAFETY SYSTEM FLOW DURING THE OPERATIONAL PERIOD

Figure 5 outlines the approximate flow of DWI arrests through the traffic safety system during the years 1972 through 1975. Of the 16,115 DWI arrests during the four years, 13,707 or 85 percent have known court dispositions. The conviction rate for these cases was 84.3 percent which resulted in 11,554 potential ASAP referrals. Prior to 1972, no convenient court referral mechanism existed, so almost all DWI convictions received punitive sanctions of a fine and possible loss of license and jail sentence as prescribed by the statutes outlined in the previous section. The ASAP court-worker system offered the courts an expedient means of assembling relevant current status and background information that would reflect on the extent of the offender's drinking problem. The courtworkers and rehabilitation coordinator reviewed the information and offered a recommendation as to an appropriate treatment. The courts took advantage of this service for 76.8 percent of the DWI convictions, and of these, 7,043 or 80 percent were referred to some type of alcohol treatment/education program, usually in addition to the normal sanction.

### JUDICIAL DISPOSITION OF DWI ARRESTS

Figure 6 shows the frequency of DWI arrests by month from 1969 through 1975. The results of the SD:ASAP enforcement intensification efforts are immediately obvious as the arrest rate quickly advanced in 1972, finally achieving a rate more than triple that of the baseline period. Naturally, this increase in traffic offenses had to be absorbed by the courts and it is of interest to see if the judiciary could adjust and still maintain an efficient adjudication process.

The statewide distribution of court dispositions by year for the baseline and operational periods is shown in Table 1. The total of 14,000 DWI adjudications for the four operational years compares to less than 4,000 in the four baseline years.

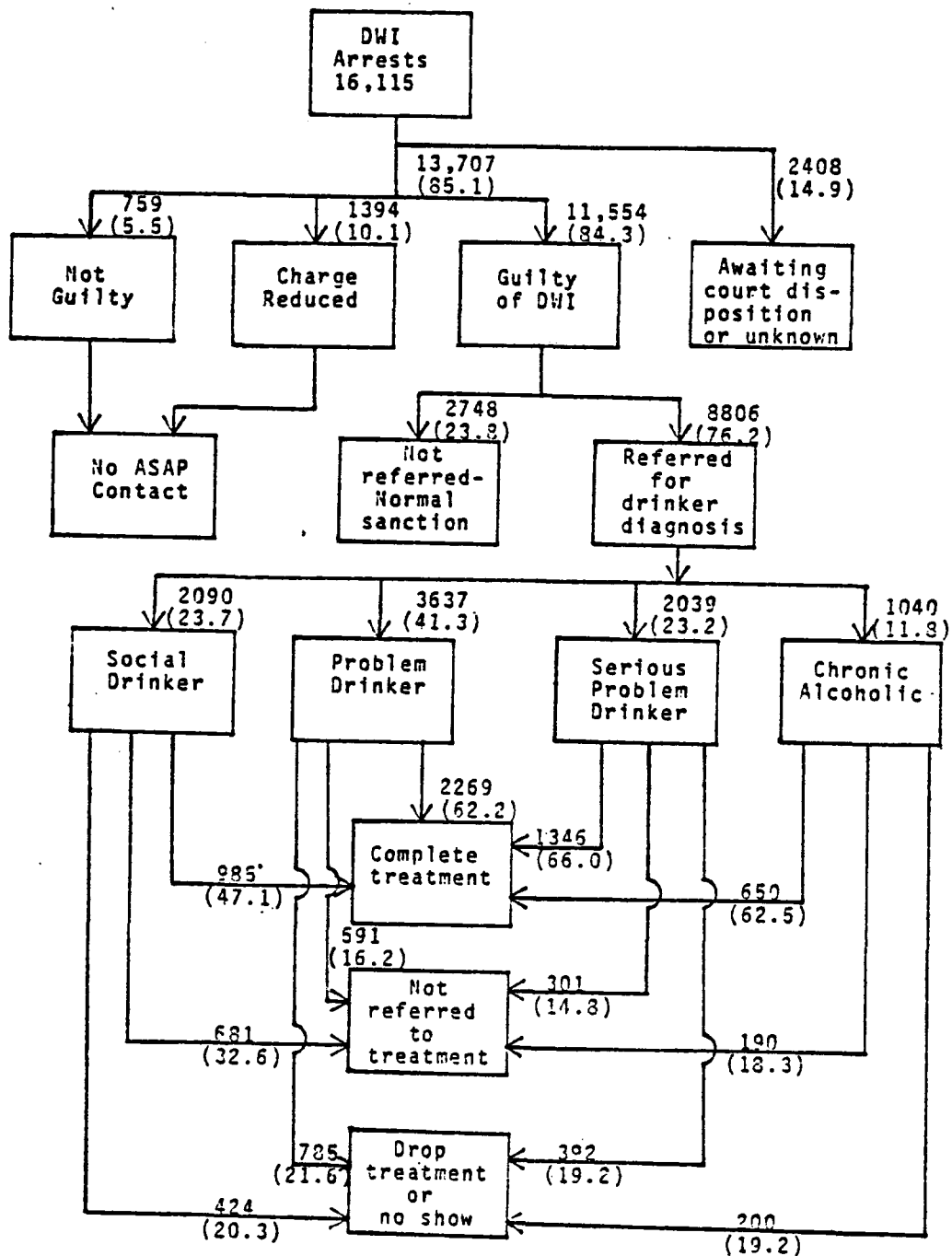


FIGURE 5. CASE FLOW THROUGH THE TRAFFIC SAFETY SYSTEM DURING THE SD:ASAP OPERATIONAL PERIOD, 1972-1975



FIGURE 6. TOTAL DWI ARRESTS BY MONTH

TABLE 1. DISTRIBUTION OF JUDICIAL DISPOSITIONS FOR THE BASELINE (1968-1971)  
AND OPERATIONAL (1972-1974) PERIODS (COLUMN PERCENTAGES IN PARENTHESES)

	BASELINE PERIOD					OPERATIONAL PERIOD				
	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>Total</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>Total</u>
Guilty as Charged	525 (90.8)	700 (90.8)	999 (94.6)	1304 (91.1)	3528 (92.0)	2691 (90.2)	2455 (83.5)	3499 (81.8)	2919 (82.8)	11564 (84.3)
Charge Reduced	3 (0.5)	4 (0.5)	4 (0.4)	72 (5.0)	83 (2.2)	156 (5.2)	286 (9.7)	519 (12.1)	435 (12.3)	1396 (10.2)
Not Guilty	21 (3.6)	17 (2.2)	28 (2.6)	13 (.9)	79 (2.0)	24 (0.8)	15 (0.5)	17 (0.4)	9 (0.2)	65 (0.5)
Case Dismissed	29 (5.0)	50 (6.5)	25 (2.4)	42 (2.9)	146 (3.8)	111 (3.7)	183 (6.2)	240 (5.6)	163 (4.6)	697 (5.1)
Total Dispositions	578	771	1056	1431	3836	2982	2939	4275	3526	13722

However, the 84.3 percent conviction rate represents a slight decline (-7.7 percent) from the baseline conviction rate of 92 percent. The most notable difference in the baseline and operational period disposition distributions is an increase of 8 percent in reduced charges. The not guilty and charge dismissed categories remained the same at just 6 percent of the total dispositions.

The increase in DWI arrest volume cannot be considered the only influence that could effect the court disposition of these charges during the operational period, however. The first precaution that should be observed is that no centralized, consistent law enforcement or court reporting system existed prior to ASAP, and the baseline data were collected from paper files maintained by each law enforcement agency and court throughout the state. The ASAP evaluation component established a standardized reporting system for the operational period, and although it relied heavily on the cooperation of the various law enforcement agencies, it did secure fairly complete and detailed information relative to the DWI arrest and disposition of the charge in court. Secondly, two important law changes were introduced within the periods in question. As stated in the previous section, a major modification to drunk driving statutes was the lowering of the presumptive limit from .15 to .10 in July of 1971. Thus, only six months of the baseline period is comparable on this basis. In July of 1973, a "per se" provision was enacted that eliminated the need to produce evidence other than a BAC of .10 or greater to establish guilt for driving while intoxicated. Therefore, one would expect to find fewer non-convictions in cases with sufficient BAC evidence for the last two and one-half years of the project.

### The Influence of BAC on Court Dispositions

A comparison of the baseline and operational periods with respect to the distribution of BAC by court disposition is shown in Table 2. The BAC data are considerably more complete during the operational period with 73.2 percent BACs obtained, compared to 47.5 percent during the baseline period. Most of the missing BAC data are from cases in which a blood sample was obtained and analyzed later. The relative unavailability of breath testing equipment prior to ASAP is the primary reason for the greater percentage of missing BACs in the baseline period.

Inspection of the total columns (across disposition groups) for each period shows that the baseline distribution is skewed more heavily toward the higher BACs, especially in the categories above .20, whereas, the operational period

TABLE 2. DISTRIBUTION OF BAC BY DISPOSITION FOR THE BASELINE AND OPERATIONAL PERIODS (COLUMN PERCENTAGES IN PARENTHESES)

BAC	BASELINE PERIOD					OPERATIONAL PERIOD				
	<u>Guilty</u>	<u>Reduced Charge</u>	<u>Not Guilty</u>	<u>Dismissed</u>	<u>Total</u>	<u>Guilty</u>	<u>Reduced Charge</u>	<u>Not Guilty</u>	<u>Dismissed</u>	<u>Total</u>
01 - 04	1 (0.1)	1 (2.9)	0 (0.0)	2 (3.8)	4 (0.2)	7 (0.1)	16 (1.8)	0 (0.0)	16 (3.3)	39 (0.4)
05 - 09	3 (0.2)	1 (2.9)	0 (0.0)	4 (7.7)	8 (0.4)	43 (0.5)	79 (8.9)	5 (14.7)	80 (16.6)	207 (2.1)
10 - 14	58 (3.5)	13 (38.2)	6 (18.2)	22 (42.3)	99 (5.5)	1269 (14.7)	334 (37.9)	8 (23.5)	113 (23.4)	1724 (17.2)
15 - 19	425 (25.5)	8 (23.5)	11 (33.3)	11 (21.1)	455 (25.5)	2944 (34.1)	275 (31.2)	14 (41.2)	119 (24.7)	3352 (33.4)
20 - 24	649 (39.0)	7 (20.6)	8 (24.2)	4 (7.7)	668 (37.4)	2591 (30.0)	127 (14.4)	3 (8.8)	99 (20.5)	2820 (28.1)
25 +	529 (31.8)	4 (11.7)	8 (24.2)	5 (17.3)	550 (30.8)	1783 (20.6)	51 (5.8)	4 (11.8)	55 (11.4)	1893 (18.9)
Total	1665	34	33	52	1784	8637	882	34	482	10035
BAC Not Available	1788	49	46	90	1973	2918	514	31	214	3677

has a much larger percentage of cases in the .10 to .14 and .15 to .19 categories. The differences partly reflect the effects of the lower presumptive limit that was introduced just prior to ASAP and partly the effects of more intensive law enforcement which was more sensitive to drivers at lower BACs.

That lower BACs contributed to the lower conviction rate during the ASAP operational period is questionable, however. If a guilty disposition were based on blood alcohol evidence alone, over 97 percent of these court cases had BACs greater than or equal to .10 and therefore eligible for conviction during the 1972 - 1975 period. The conviction rate for these cases was 87.7 percent. Using the same cutoff of .10 for the baseline period, one finds over 99 percent eligible for conviction, of which 93.7 percent actually are convicted. If the presumptive limit is moved up to the .15 level during this period, 94 percent are eligible of which 95.8 percent are convicted. It would appear that based on these BAC data, the quality of evidence was no less sufficient for a guilty disposition during the operational period than the baseline period.

SD:ASAP promoted legislation that would make it illegal to operate a motor vehicle with a BAC of .10 or greater, without the need to produce evidence other than the chemical test to prove intoxication. The "per se" provision, adopted in July, 1973, was considered a major accomplishment which offered a strict and unambiguous statute with which to charge a DWI arrest. The expected outcome of the "per se" provision was a substantial decrease in the number of non-convictions in DWI cases for which there was sufficient chemical test evidence to establish guilt. Table 3 shows that in 1974 and 1975 (after the "per se" provision had been in effect for six months) the conviction rate for cases with BACs greater than or equal to .10 is only 85.6 percent compared to 92.3 percent in 1972. Clearly, the decrease in non-conviction following the enactment of the "per se" provision was not realized. The decision as to which section of the drunk driving law is to be used to prosecute a DWI offender is the responsibility of the state's or city attorney. It would appear, therefore, that the "per se" provision is not readily accepted and seldomly used by the prosecution.

#### Judicial Processing Time and the Disposition of DWI Arrests

A major concern of SD:ASAP centered on the ability of the state court system to respond to a larger caseload with rapid and efficient adjudication. Figure 7 shows the cumulative distribution of lag times (in days) from the time of arrest

TABLE 3. DISTRIBUTION OF BAC FOR CONVICTIONS AND NON-CONVICTIONS BEFORE AND AFTER THE "PER SE" PROVISION

<u>BAC</u>	<u>1972</u>		<u>1974-1975</u>	
	<u>Convictions</u>	<u>Non-Convictions</u>	<u>Convictions</u>	<u>Non-Convictions</u>
01 - 04	2 (0.1)	4 (2.0)	1 (0.0)	15 (1.6)
05 - 09	11 (0.5)	28 (14.1)	24 (0.5)	95 (10.3)
10 - 14	265 (13.2)	48 (24.2)	734 (15.0)	338 (36.5)
15 - 19	610 (30.3)	52 (26.3)	1732 (35.4)	279 (30.2)
20 - 24	643 (32.0)	39 (19.7)	1438 (29.4)	135 (14.5)
25 +	480 <u>(23.9)</u>	27 <u>(13.6)</u>	957 <u>(19.6)</u>	63 <u>(6.8)</u>
Total	2011	198	4886	925



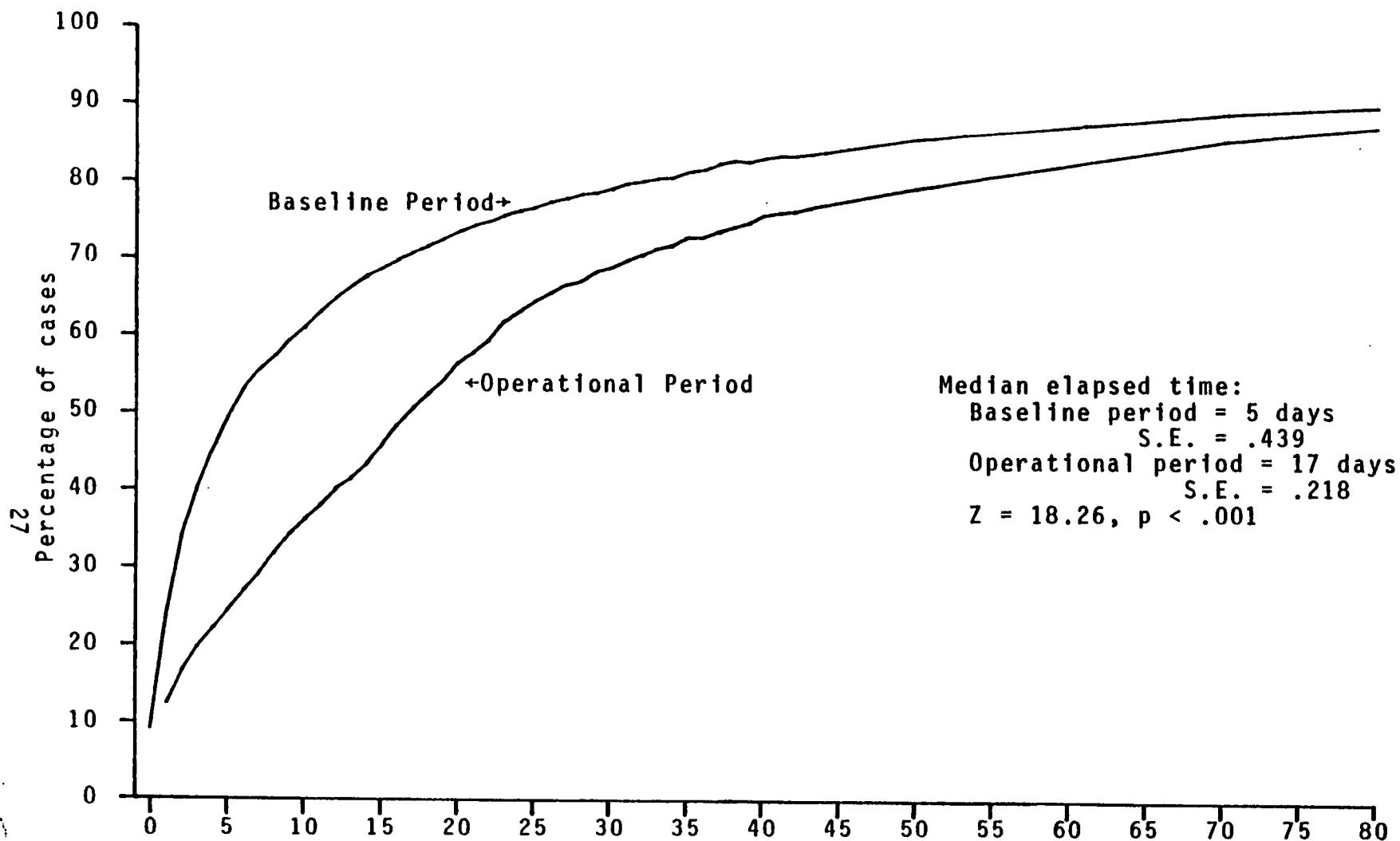


FIGURE 7. CUMULATIVE DISTRIBUTION OF ELAPSED TIME (IN DAYS) BETWEEN ARREST AND FINAL DISPOSITION FOR THE BASELINE AND OPERATIONAL PERIODS

until final disposition for the baseline and operational periods. A substantial increase in lag time during the operational period can be observed. The median elapsed time for the baseline period was only five days compared to slightly over seventeen days for the operational period. It is also evident that the frequency distribution for the baseline period is much smoother and has a probability density function that approximates a negative exponential, such that as the elapsed time gets successively further from the arrest date, the number of cases remaining to be processed gets proportionately smaller. On the other hand, the operational period distribution is much more uniformly distributed over the first twenty days. Within one month after the arrest, approximately 80 percent of the cases had final dispositions during the baseline period compared to 70 percent during the operational period. The distributions of the two periods then gradually converge, and by an elapsed time of 100 days, only 10 percent of the cases remain to be processed.

Table 4 shows the median processing time of convictions and non-convictions for the operational and baseline periods and it is apparent that the convicted cases are processed considerably faster. Although the differences are not large during the baseline period, the median number of days between arrest and a non-conviction during the operational period was 38.5 days compared to 15.5 days for a conviction.

Over 70 percent of the non-convictions during the operational period were reduced charges which had a median elapsed time of 37 days. The dismissals and not guilty dispositions had median lag times of 40 and 47 days respectively.

Thus, a major impact of the large increase in DWI arrests during the project period is manifested in a backlog of cases such that the judiciary's ability to provide timely adjudications suffered measurably. The extent to which the increase in processing time contributed to an apparent decline in the conviction rate is uncertain, however. It is interesting to note in Table 1 that there is a large increase in reduced charges during the project period. If the increase in this category is eliminated from the total dispositions during the operational years, the conviction rates for the two periods are essentially equal. This raises a question of possible reporting differences in the two periods. It may be that, prior to the ASAP data system, a large number of reduced charges were recorded as a conviction under the new charge rather than as a disposition to the original DWI charge. On the other hand, a large part of the increase in reduced charges may, in fact, be real. That is, the prosecution, when faced with a large number of

TABLE 4. MEDIAN COURT PROCESSING TIMES BY TYPE OF DISPOSITION  
FOR THE BASELINE AND OPERATIONAL PERIODS

	CONVICTIONS	NON-CONVICTIONS
Baseline Period	Median = 5 days S.E. = .45	Median = 9.5 days S.E. = 2.36
Operational Period	Median = 15.5 days S.E. = .23	Median = 38.5 days S.E. = .53

pending cases, may be more willing to accept a guilty plea to a reduced charge rather than spend the time to contest a DWI in court.

### Court Jurisdiction and the Disposition of DWIs

Until January, 1975, five different court types processed cases charged with violations of municipal and state drunk driving laws. Table 5 shows the distribution of cases and their dispositions by type of court for the first three years of project operation. The majority of cases (83%) are processed by two courts, the municipal and district/county courts; whereas, only 17 percent of the cases are processed in circuit, justice of peace and tribal jurisdictions. The municipal courts had the lowest conviction rate (82%) and by far the highest rate of reduced charges (15%).

Tables 6 and 7 compare the baseline and operational period disposition distributions for the district/county and municipal courts. It can be seen in Table 6 that, although the number of cases increased five fold from an average of 250 per year to 1,278 per year in the district courts, the conviction rate remained at a high 93 percent. The municipal courts, on the other hand, experienced an annual average increase only 2.8 times the baseline rate, yet the conviction rate suffered measurably, dropping to 82 percent from a baseline rate of 93 percent.

As stated previously, the municipal courts had their own DWI laws patterned after the state statute and there were no changes or influences (other than ASAP) to this dual structure until the redistricting in 1975. Thus, a possible explanation for the decline in conviction rate and increase in reduced charges was an inability of the municipal courts to cope with the increase in arrest volume. Table 8 compares the median processing time between the district and municipal courts over the baseline and operational periods. The elapsed times were identical for both courts during the baseline period, and although these lags increased substantially during the ASAP period, the small difference between courts does not suggest that a burdensome caseload could have contributed much to the difference in conviction rates.

A further breakdown of the municipal court structure during the first three ASAP years is shown in Table 9. Of the three municipal courts, Sioux Falls with 42 percent of the municipal court cases and 16 percent of the statewide DWIs was the primary contributor to the poor performance with a

TABLE 5. DISPOSITIONS BY COURT TYPE FOR 1972-1974

<u>Courts</u>	<u>Total</u>	<u>Dispositions</u>		
		<u>Guilty</u>	<u>Not Guilty/ Dismissed</u>	<u>Guilty- Reduced</u>
Municipal	3588 (40.0)*	2941 (82.0)**	112 (3.1)	535 (14.9)
District/County	3833 (42.7)	3553 (92.7)	95 (2.5)	185 (4.8)
Circuit	325 (3.6)	292 (89.8)	16 (4.9)	17 (5.2)
Justice of Peace	685 (7.6)	642 (93.7)	3 (0.4)	40 (5.8)
Tribal	545 (6.1)	486 (89.2)	55 (10.1)	4 (0.7)
Sub-Total	8976			
Missing	<u>288</u>			
TOTAL	9264			

$\chi^2 = 411.733$ ,  $df = 8$ ,  $p < .001$

\* Percent of non-missing DWI cases.

\*\* Percent of specific court total.

TABLE 6. DISPOSITION DISTRIBUTIONS OF THE DISTRICT/COUNTY COURTS FOR THE BASELINE AND OPERATIONAL PERIODS

	<u>Baseline Period</u> <u>(1968 - 1971)</u>	<u>Operational Period</u> <u>(1972 - 1974)</u>
Total	1001 (28.2)*	3833 (42.7)
Guilty	931 (93.0)**	3553 (92.7)
Guilty-Reduced	30 (3.0)	185 (4.8)
Not Guilty/Dismissed	40 (4.0)	95 (2.5)

$\chi^2 = 12.526$ ,  $df = 2$ ,  $p < .005$

\* Percent of total adjudications.

\*\* Percent of specific court adjudications.

TABLE 7. DISPOSITION DISTRIBUTIONS OF THE MUNICIPAL COURTS  
FOR THE BASELINE AND OPERATIONAL PERIODS

	<u>Baseline Period</u> (1968 - 1971)	<u>Operational Period</u> (1972 - 1974)
Total	1707 (48.1)*	3588 (40.0)
Guilty	1585 (92.9)**	2941 (82.0)
Guilty-Reduced	30 (1.8)	535 (14.9)
Not Guilty/Dismissed	92 (5.4)	112 (3.1)

$\chi^2 = 219.025$ ,  $df = 2$ ,  $p < .001$

\* Percent of total adjudications.

\*\* Percent of specific court adjudications.

TABLE 8. MEDIAN ELAPSED TIME IN DAYS BETWEEN ARREST AND  
ADJUDICATION FOR MUNICIPAL AND DISTRICT/COUNTY COURTS

	<u>Baseline Period</u>	<u>Operational Period</u>
District/County	4.5	16.0
Municipal	4.5	18.5

TABLE 9. DISPOSITION DISTRIBUTIONS OF THE MUNICIPAL COURTS  
FOR THE OPERATIONAL PERIOD (1972 - 1974)

<u>Dispositions</u>	<u>Municipal Courts</u>			<u>Sub-Total</u>
	<u>Aberdeen</u>	<u>Rapid City</u>	<u>Sioux Falls</u>	
Guilty	557 (94.4)	1196 (85.1)	1066 (72.9)	2819 (81.5)
Guilty-Reduced	21 (3.6)	149 (10.6)	358 (24.5)	528 (15.3)
Not Guilty/Dismissed	12 (2.0)	61 (4.3)	39 (2.7)	112 (3.2)
Sub-Total	590 (17.1)	1406 (40.6)	1463 (42.3)	3459 (100)
			Missing	<u>129</u>
			TOTAL	3588

$$\chi^2 = 191.264, df = 4, p < .001$$





conviction rate of only 73 percent and a reduced charge rate of 24.5 percent. The explanation centers quite simply on the judge and prosecutors in that particular jurisdiction and the apparent lack of emphasis for DWI charges.

Table 10 summarizes the judiciary's performance during 1975 following the unified redistricting in January. The overall performance did not improve with a conviction rate of 81.6 percent. The district with the largest number of cases, District 7, contains what used to be the municipal court of Rapid City and recorded the second lowest conviction rate of 71.2 percent. Sioux Falls now falls in District 2 and some improvement is reflected in a 78.2 percent conviction rate. With the exception of District 6, the lower volume districts range in conviction rates from 85 percent to 95 percent.

#### PROSECUTION ASSISTANCE

The SD:ASAP project proposal for the two year extension period provided for the hiring of two Assistant Attorney Generals to assist in the prosecution of alcohol related traffic offenses. A total of \$12,668 was allocated in 1975; however, the unavailability of qualified attorneys severely limited the extent of this activity.

One attorney became available to the project in March, 1975; however, he resigned the position in July, 1975. During these five months, the special prosecutor served the requests of district states attorneys to assist in the prosecution of backlogged cases and assisted in the preparation of a Prosecutor's Manual developed by the Attorney General's Office. Although the prosecutor's assistance was too brief to have any measurable impact on aggregate judicial performance, it is the opinion of project management that this type of countermeasure activity could be beneficial in establishing and maintaining effective prosecution in the South Dakota district court system.

#### JUDICIAL SANCTIONS AND REFERRALS

The South Dakota state DWI law allows for punitive sanctions, based on the number of previous offenses, of up to three years in jail, a fine of up to \$500 and loss of driving privileges, the duration of which is determined by the court. The presentence investigation and referral mechanisms introduced by ASAP offered the courts a means of referring DWI offenders to alcohol treatment/education resources in addition to or as an alternative to punitive sanctions.

TABLE 10. DISPOSITION OF CASES PROCESSED IN 1975 BY COURT DISTRICT

		<u>District Number</u>								
<u>Disposition</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>Total</u>
Guilty	213 (89.1)	384 (78.2)	262 (94.2)	234 (94.7)	458 (93.5)	250 (67.6)	544 (71.2)	190 (84.4)	82 (88.2)	2617 (81.6)
36 Not Guilty	3 (1.2)	2 (0.4)	0 (0.0)	1 (0.4)	2 (0.4)	0 (0.0)	0 (0.0)	1 (0.4)	0 (0.0)	9 (0.3)
Dismissed	7 (2.9)	29 (5.9)	10 (3.6)	8 (3.2)	19 (3.9)	24 (6.5)	52 (6.8)	21 (9.3)	3 (3.2)	173 (5.4)
Reduced Charge	16 (6.7)	76 (15.5)	6 (2.2)	14 (5.7)	11 (2.2)	96 (25.9)	168 (22.0)	13 (5.7)	8 (8.6)	408 (12.7)
TOTAL	239	491	278	247	490	370	764	225	93	3207

Table 11 shows the category of jail sentence and fine actually imposed on convicted DWIs, both for those referred to ASAP, and for those not referred. The distribution of punitive sanctions is approximately the same for both groups; that is, referral to ASAP is usually in addition to the normal sanction. Whatever fine is imposed is seldomly suspended; however, the most common jail sentence (55 percent of the total cases) is thirty days and is almost always suspended. The jail sentence suspension is used as an incentive to comply with ASAP or as an incentive not to commit another drunk driving offense.

The convicted DWIs that are referred to ASAP undergo an extensive background investigation prior to sentencing in order to determine the nature of the drinking problem. The courtworker and rehabilitation coordinator arrive at a drinker classification and referral recommendation which is presented to the judge on the day of sentencing. The judge may accept or reject all or part of the presentence recommendation. The overall court acceptance of ASAP referral recommendations is approximately 70 percent; however, the court has a tendency to sanction less intensive treatment than ASAP recommends. A detailed discussion of the results of the diagnostic, referral and rehabilitation processes can be found in Analytic Study No. 5/6.

#### PROFILES OF COURT ADJUDICATIONS

Tables 12 through 15 break down the demographic and driver history variables by court disposition.

The age groups of court cases are shown in Table 12 and are fairly evenly matched with respect to court disposition. The median age for all disposition groups is 32 years.

The disposition groups by sex are shown in Table 13. Males account for 92 percent of the total dispositions; however, the judicial disposition of DWI charges is distributed equally between males and females.

Race is shown in Table 14 and some difference is noticeable. Indians account for 17 percent of the total cases processed and have a slightly higher conviction rate of 90.5 percent compared to only 84.7 percent for whites. Whites are more likely to have the DWI charge reduced, 11.3 percent reductions compared to 3.6 percent for Indians.

Table 15 shows the distribution of the number of prior DWI arrests by court disposition. Eighty-eight percent of the court cases were first-time offenders, of which 85.4 percent resulted in conviction. There is no indication that the previous DWI record has any influence on the disposition of the current charge.

TABLE 11. CATEGORY OF JAIL AND FINE IMPOSED BY  
THE COURT FOR ASAP REFERRALS AND NON-REFERRALS  
(1972 - 1974)

	<u>JAIL</u>	
	<u>Referred</u>	<u>Not Referred</u>
0 days	4588 (93.5)	776 (92.6)
1 - 10 days	83 (1.7)	11 (1.3)
11 - 20 days	21 (0.4)	2 (0.2)
21 - 30 days	157 (3.2)	29 (3.5)
31 - 40 days	6 (0.1)	0 (0.0)
41 - 50 days	3 (0.1)	2 (0.2)
51 - 60 days	27 (0.6)	7 (0.8)
More Than 60 Days	<u>20</u> (0.5)	<u>11</u> (1.3)
TOTAL	4905	838

	<u>FINE</u>	
	<u>Referred</u>	<u>Not Referred</u>
\$0	1163 (23.6)	216 (25.7)
\$1 - \$75	342 (6.9)	41 (4.9)
\$76 - \$125	1186 (24.1)	181 (21.5)
\$126 - \$175	1559 (31.7)	313 (37.3)
\$176 - \$225	260 (5.3)	51 (6.1)
\$226 - \$275	369 (7.5)	31 (3.6)
\$276 - \$325	24 (0.5)	2 (0.2)
More Than \$325	<u>18</u> (0.4)	<u>6</u> (0.7)
TOTAL	4921	840

TABLE 12. COURT DISPOSITION BY AGE (1972 - 1975)

	<u>Under 21</u>	<u>21 - 30</u>	<u>31 - 40</u>	<u>41 - 50</u>	<u>51 - 60</u>	<u>61 or Older</u>	<u>Total</u>
Guilty	1496 (84.5)	3761 (86.2)	2184 (84.4)	1935 (85.5)	1294 (88.3)	583 (87.8)	11253 (85.8)
Not Guilty/Dismissed	79 (4.5)	185 (4.2)	110 (4.2)	91 (4.0)	46 (3.1)	25 (3.8)	536 (4.1)
Reduced Charge	196 (11.1)	416 (9.5)	293 (11.3)	236 (10.4)	126 (8.6)	56 (8.4)	1323 (10.1)
TOTAL	1771	4362	2587	2262	1466	664	13112

TABLE 13. COURT DISPOSITION BY SEX (1972 - 1975)

	<u>Sex</u>		<u>Total</u>
	<u>Male</u>	<u>Female</u>	
Guilty	10538 (85.7)	911 (84.9)	11449 (85.7)
Not Guilty/Dismissed	527 (4.3)	50 (4.7)	577 (4.3)
Reduced Charge	1226 (10.0)	112 (10.4)	1338 (10.0)
TOTAL	12291	1073	13364

TABLE 14. COURT DISPOSITION BY RACE (1972 - 1975)

	<u>Race</u>			<u>Total</u>
	<u>White</u>	<u>American Indian</u>	<u>Other</u>	
Guilty	9224 (84.7)	2057 (90.5)	78 (84.8)	11359 (85.7)
Not Guilty/Dismissed	433 (4.0)	133 (5.8)	6 (6.5)	572 (4.3)
Reduced Charge	1236 (11.3)	82 (3.6)	8 (8.7)	1326 (10.0)
TOTAL	10893	2272	92	13257

TABLE 15. COURT DISPOSITION BY NUMBER OF PRIOR DWI ARRESTS

	<u>Number of Prior Arrests</u>			<u>Total</u>
	<u>0</u>	<u>1</u>	<u>2 or More</u>	
Guilty	9077 (85.4)	729 (84.1)	453 (83.7)	10259 (85.3)
Not Guilty/Dismissed	466 (4.4)	33 (3.8)	22 (4.1)	521 (4.3)
Reduced Charge	1081 (10.2)	105 (12.1)	66 (12.2)	1252 (10.4)
Total	10624	867	541	12032

## DISCUSSION

The present study examined the South Dakota court system as an essential link in the chain of traffic safety system activity and its ability to meet the demands of SD:ASAP's efforts to intervene with the drunk driver. SD:ASAP's enhancements to the traffic safety system were concentrated in traffic enforcement on the one side of the judiciary and drinker diagnosis and driver/alcohol treatment programs on the other side. As such, the ASAP did not provide prosecution or court scheduling assistance that might alleviate any potential burden of a large increase in caseload.

The rate of DWI arrest tripled during the ASAP period, totaling over 16,000 arrests for the four years. Of these arrests almost 14,000 had known final court dispositions of which 84.3 percent were convicted. The ASAP courtworker staff provided presentence investigations and drinker diagnoses for 76 percent of the convictions, 60 percent of which ultimately completed the court referred alcohol treatment program.

Judicial performance comparisons between the project period (1972 - 1975) and the baseline period (1968 - 1971) showed that the conviction rate dropped 7.7 percent during the operational period. Additionally, the backlog of DWI court cases increased such that the median elapsed time between arrest and final disposition increased from only five days during the baseline period to over seventeen days during the operational period.

A comparison of blood alcohol distributions showed that the operational period distribution had shifted significantly toward lower BACs. This is attributed both to a lowering of the presumptive limit from .15 to .10 just prior to ASAP and greater enforcement sensitivity to drivers in the lower BAC range. A cross tabulation of BAC by court disposition, however, showed that the BAC evidence was no less sufficient for a guilty disposition during the operational period and that lower BACs could not explain the drop in conviction rate.

A comparison of the district/county courts and municipal courts showed that the district/county courts had the larger percentage increase in caseload; however, the conviction rate remained at the baseline level. The municipal courts on the other hand, were responsible for the entire decline in convictions, and mostly attributable to the single court in Sioux Falls. In 1975 the South Dakota court system was



unified into a single district court system. The districts that absorbed the municipal courts and judges of Sioux Falls and Rapid City had the largest volume of DWI cases and again the lowest conviction rates.

Thus, the shortcomings and problems observed in the South Dakota court system were for the most part agency specific and ASAP's ability to effect improvements in the conviction rate would depend entirely on the cooperation of a few key individuals, namely the judge and prosecutors. It is possible that ASAP could have alleviated some of the build-up in pending cases by providing prosecution assistance. This was tried in 1975 when the project attempted to hire two assistant prosecutors; however, it was impossible to retain qualified attorneys long enough to be of any significant help.