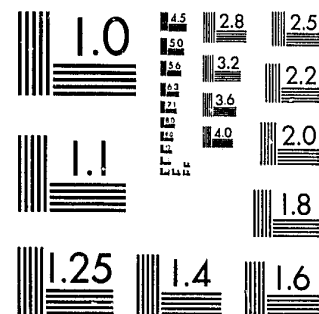


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PERSONS COMMITTED FOR
DRIVING WHILE INTOXICATED OR
CRIMINALLY NEGLIGENT HOMICIDE INVOLVING
DRIVING WHILE INTOXICATED

1978

In view of the on-going interest of public and legislative groups in the State's laws concerning Driving While Intoxicated, this brief survey examined the case histories of a cohort of individuals sentenced to a Department facility for Driving While Intoxicated or Criminally Negligent Homicide involving Driving While Intoxicated.

Attached are a set of highlights summarizing the findings of this survey.

June 1980

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NCJRS

JAN 1 1980

Highlights

ACQUISITION

1. Purpose of Report. The basic purpose of this report was to examine the case records of a group of individuals committed for Driving While Intoxicated or Criminally Negligent Homicide While Driving While Intoxicated.
2. Research Approach. As a sample for this survey, all new commitments in 1978 for Driving While Intoxicated (15 cases) and Criminally Negligent Homicide Involving Driving While Intoxicated (5 cases) were chosen.
3. County of Commitment. All 20 surveyed cases were committed from upstate counties. This finding is noteworthy since 77% of all 1978 new commitments were from New York City and the surrounding counties of Nassau, Rockland, Suffolk and Westchester.
4. Sex, Age, County of Commitment and Ethnic Distribution of Sample and Total 1978 New Commitment Population. In general terms, these 20 surveyed cases were white, male offenders from upstate New York over 30 years of age. As such, these offenders significantly differed from the total 1978 male new commitment population who were largely minority group members under 30 years of age from the New York City Area.
5. Similarity in Sentences. This report found that both the minimum and maximum sentences of the individuals committed for Driving While Intoxicated and Criminally Negligent Homicide Involving Driving While Intoxicated were similar.
6. Prior Adult Criminal Record. Of these 20 surveyed cases, 18 had been previously arrested on at least one occasion for Driving While Intoxicated. In addition to these DWI arrests, 18 of these 20 cases also had prior arrests for other offenses.
7. Institutional Program Participation. Upon reception, the most common program recommendations for these offenders at reception was involvement in an AA program or alcohol counseling by a Department staff member. In 12 of the 20 case folders, there was evidence that the individual was subsequently involved in an alcohol abuse program.
8. Releases As of May 1980. To date, 14 of the 20 cases had been released to parole supervision. These 14 released offenders had served 12 to 21 months prior to release. The remaining 6 cases not released to date had served 18 to 23 months as of May 1980.
9. Discussion. The findings of this survey are seen to raise questions regarding the lack of commitments from the metropolitan New York City Area and the similarity in the sentences of the surveyed DWI and Criminally Negligent Homicide cases.

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PERSONS COMMITTED FOR
DRIVING WHILE INTOXICATED OR
CRIMINALLY NEGLIGENT HOMICIDE INVOLVING
DRIVING WHILE INTOXICATED

In view of the on-going interest of public and legislative groups in the State's laws concerning Driving While Intoxicated, this brief survey examined the case histories of a cohort of individuals sentenced to a Department facility for Driving While Intoxicated or Criminally Negligent Homicide involving Driving While Intoxicated.

Purpose of Report. The basic purpose of this report was to examine the case records of a group of individuals committed for Driving While Intoxicated or Criminally Negligent Homicide While Driving While Intoxicated with respect to the following.

1. Personal Characteristics of involved individuals
2. Previous record of similar offenses (if any)
3. Institutional Record in Department Facilities

Sample Selections. As a sample for this survey, the following cases were chosen:

1. All New Commitments for Driving While Intoxicated in 1978 (15 cases)*
2. All New Commitments for Criminally Negligent Homicide in 1978 which involved Driving While Intoxicated (5 cases)

These 1978 cases were selected as the sample for this survey (as opposed to more recent commitments) to allow for an examination of the institutional records of such commitments for at least one year of incarceration.

It should be noted that these 20 cases comprised less than 1% of the total number of new commitments (7,126) received by the Department in 1978.

Data Compilation and Source. The Central Office case folders of these 20 cases were reviewed using a standardized data collection form.

Sex. All 20 of these cases involved male offenders.

County of Commitment. All 20 cases were committed from Upstate counties. None of these commitments were from the New York City Area.

*For purposes of brevity, this report utilizes the common abbreviation of "Driving While Intoxicated" or "DWI" instead of the full offense title of "Operating a Motor Vehicle While Under the Influence of Alcohol".

On the other hand, 77% of the total number of male new commitments in 1978 were from New York City and suburban New York counties of Nassau, Rockland, Suffolk and Westchester.

Age Upon Commitment. As indicated by the table below, 17 (85%) of these 20 were 30 years of age or older. In comparison, only 28% of the total male new commitments in 1978 were 30 years of age or older.

<u>Age on Commitment</u>	<u>DWI</u>	<u>Criminally Negligent Homicide</u>	<u>TOTAL</u>
16 - 18 years	-	-	-
19 - 20 years	-	-	-
21 - 24 years	1	2	3
25 - 29 years	-	-	-
30 - 34 years	4	1	5
35 - 39 years	4	2	6
40 - 44 years	5	-	5
45 - 49 years	-	-	-
50 - 64 years	1	-	1
Over 65 years	-	-	-
TOTAL:	15	5	20

Ethnic Distribution. Nineteen (19) of these 20 individuals were white.

In contrast, only 31% of all male new commitments in that year were white.

<u>Ethnic Group</u>	<u>DWI</u>	<u>Criminally Negligent Homicide</u>	<u>TOTAL</u>
Black	-	1	-
White	15	4	19
Puerto Rican	-	-	-
TOTAL:	15	5	20

Prior Adult Criminal Record. Of these 20 surveyed cases, 19 had been previously arrested on at least one occasion.

On the other hand, only 2 had been previously committed to an adult State or Federal correctional facility.

<u>Prior Adult Criminal Record</u>	<u>DWI</u>	<u>Criminally Negligent Homicide</u>	<u>TOTAL</u>
Prior Arrest	15	4	19
Prior Conviction	15	4	19
Prior Commitment to State or Federal Facility	1	1	2
TOTAL:	31	9	40

Previous Arrests for Driving While Intoxicated. Of the five negligent homicide cases, 3 had previous DWI arrests.

All 15 of the Driving While Intoxicated commitments had at least one previous arrest for this offense. Of these 15 cases with previous DWI arrests, the available records indicate that 7 had 1 or 2 prior DWI arrests while another 6 cases had 3 to 6 arrests. The remaining 2 cases had 10 more DWI arrests.

Prior Arrests for other Offenses. In addition to prior arrests for Driving While Intoxicated, 18 of these 20 offenders also had prior arrests for other offenses.

Frequently, these other offenses (including various traffic offenses, disorderly conduct, harassment and assault) appeared to be closely related to the individual's excessive use of alcohol.

In certain cases, the individual's involvement with the criminal justice system included rape, sodomy, robbery, and burglary. The two cases in this sample who were previously committed to an adult correctional facility were sentenced for arson and burglary, respectively.

Minimum Sentences. In the majority of these cases (16 out of total 20), these individuals had unspecified minimum sentences.

The longest specified minimum sentence was two years.

<u>Minimum Sentence (Months)</u>	<u>DWI</u>	<u>Criminally Negligent Homicide</u>	<u>TOTAL</u>
Unspecified	13	3	16
12 months	-	1	1
13 - 23 months	1	1	2
24 months	1	-	1
TOTAL:	15	5	20

Maximum Sentences. The maximum sentences of these 20 individuals were equally divided between 3 years (10 cases) and 4 years (10 cases).

<u>Maximum Sentences (Months)</u>	<u>DWI</u>	<u>Criminally Negligent Homicide</u>	<u>TOTAL</u>
36 months	8	2	10
48 months	<u>7</u>	<u>3</u>	<u>10</u>
TOTAL:	15	5	20

Similarity of Sentences Between DWI and Criminally Negligent Homicide Cases. It is noteworthy that the maximum and minimum sentences for these individuals committed for Driving While Intoxicated and Criminally Negligent Homicide are similar.

Classification Recommendation. Upon reception by the Department, the most common recommendation was involvement in an AA program in one of Department's facilities. The second most frequent recommendation was alcohol counseling by Department staff.

Institutional Program Participation. In 12 of these 20 cases, the Central Office case folders provided evidence of the individual's involvement in a facility alcohol abuse program. (In a number of cases, the available case records did not provide sufficient information on facility program involvement).

The case folders on these Upstate offenders frequently indicate transfers to programs at Mt. McGregor or Camp Adirondack Correctional Facilities, which are located in Northern New York.

Releases to Date. As of May 1980, 14 of these 20 individuals had been released to parole supervision. To date, 12 of the 15 DWI cases and 2 of the 5 criminally negligent homicide cases have been released.

To date, 1 of these 14 released offenders have been returned to Department custody for a rule violation by the Board of Parole and then released a second time to parole supervision.

Time Served. The following table indicates the time served by these 14 released offenders prior to the date of their initial release. These individuals served 12 to 21 months prior to release.

<u>Time Served</u>	<u>DWI</u>	<u>Criminally Negligent Homicide</u>	<u>Total</u>
12 - 13 mos.	4	1	5
14 - 15 mos.	2	-	2
16 - 17 mos.	1	-	1
18 - 19 mos.	2	1	3
20 - 21 mos.	<u>3</u>	<u>2</u>	<u>3</u>
TOTAL:	12	2	14

The six cases not released to date have served between 18 and 23 months as of May 1980.

Discussion and Conclusion. The findings of this sample survey seem to raise a number of questions concerning the commitments received by the Department of Correctional Services under the State's Driving While Intoxicated legislation.

Although a greater number of cases taken from a number of years would be necessary for more conclusive findings, the Department is aware of no reason why these 1978 commitments would not be representative of the type of commitments received under this legislation. As such, it appears appropriate to use the findings of this sample survey to raise certain basic questions based on the major findings of this survey.

1. County of Commitment.

Perhaps the most striking finding of this survey is that none of the sampled DWI (or Criminally Negligent Homicide cases involving Driving While Intoxicated) were from New York City or the surrounding counties of Nassau, Rockland, Suffolk or Westchester.

This finding is particularly noteworthy in view of the fact that 77% of the total 1978 new commitment population was from these counties.

This finding raises the question of whether or not (a) there are significant variations in enforcement of this legislation in various areas of the State and (b) what factors account for these variations (if any).

Besides the findings of this survey regarding commitments under this legislation, a preliminary review of arrest statistics further suggests the validity of this question. In 1978, New York City accounted for 66% of all arrests on a Statewide basis, but only 6% of the DWI arrests. Although it is beyond the scope of this report (and the mandate of this agency) to attempt a definitive analysis of regional differences in the incidence, arrest, conviction and commitment rates for Driving While Intoxicated (as well as alternate programs for DWI offenders), it is felt that the findings of this study indicate that such an analysis may be worthwhile.

2. Similarity in Sentences for Driving While Intoxicated and
Criminally Negligent Homicide Involving Driving While Intoxi-
cated.

The findings of this report also raise a question concerning the similarity in the sentences given to the surveyed offenders for Driving While Intoxicated and Criminally Negligent Homicide Involving Driving While Intoxicated.

As illustrated by the preceding tables, there is a notable similarity in both the minimum and maximum sentences given to the surveyed offenders committed for these crimes despite the fact that Criminally Negligent Homicide necessarily involves the death of at least one person.

For this reason, it is suggested that subsequent public or legislative reviews of the State's DWI legislation might wish to determine if the similarity in sentences for DWI and Criminally Negligent Homicide Involving DWI observed by this study reflects overall sentencing policies or if this sample was unrepresentative.

In closing, the findings of this survey indicate the needs of the surveyed offenders were generally recognized upon reception and that the majority of these offenders subsequently participated in alcohol abuse programs in Upstate facilities according to available case records.

END