

New Strategies Addressing the Impact of Driver's License Suspensions

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This paper is dedicated to the memory of

Kenneth J. Klimusko

You set my feet upon the path. May I prove a worthy traveler.

I wish to thank the judges and administration of the Seattle Municipal Court for the opportunity to participate in the ICM program.

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OVERVIEW OF THE WASHINGTON COURT SYSTEM

The Washington State court system is comprised of a Supreme Court, three Appellate Courts, and one Superior Court in each county. Limited jurisdiction District and Municipal Courts are located in counties, cities and larger towns. Supreme and Appellate Court judges are elected for six-year terms according to a staggered election schedule, and Superior, District, and Municipal Court judges are elected for four-year terms. All judicial positions are non-partisan.

The 39 counties of Washington have 49 District Courts operating in 61 locations. They have jurisdiction over misdemeanors and gross misdemeanors, with the latter category including criminal traffic cases. Preliminary hearings for felony cases are also within the jurisdiction of District Courts. Those convicted of criminal misdemeanor offenses may be fined up to \$5,000, sentenced to a year in jail, or both. These same

courts handle civil cases involving personal injuries, property damage, and contract disputes for amounts of \$50,000 or less.

Municipal courts are established by ordinance in cities and larger incorporated towns. Population centers that are too small or poor to establish a Municipal Court may instead enter a contractual relationship with a District Court. In Washington there are 127 Municipal Courts with 101 judges. They share jurisdiction with Superior Courts over misdemeanor violations, but have exclusive jurisdiction over infractions committed within the boundaries of the city or town in which they operate. For criminal offenses, Municipal Court judges are empowered to impose fines of up to \$5,000, jail sentences of up to one year, or a combination of the two.

The Supreme Court administers the state judicial system through the Office of the Administrator of the Courts (OAC), which performs the critical function of maintaining the statewide electronic judicial information system (JIS) that provides automated case management data for appellate, superior, and limited jurisdiction courts. In addition to automating daily court operations, JIS supports a statewide network that includes courts and criminal justice agencies. The benefits of JIS include the sharing (thus reduction) of automation costs and access to accurate statewide information on criminal records, domestic violence cases, and protection orders (OAC, Judicial Information System). JIS is funded by fines, fees, surcharges, and penalties collected by local jurisdictions and forwarded to the OAC.

More than 150 limited jurisdiction courts use the JIS through the District and Municipal Court Information System (DISCIS), which provides data on case initiation, financial management, warrant processing, and statistical reporting. Due to the volume of filings in the Municipal Court of Seattle, a separate information system named the Municipal Court Information System (MCIS) has been developed. Like the DISCIS, it provides case information to the JIS for statewide distribution, but is considered an independent system under Seattle Municipal Court administration.

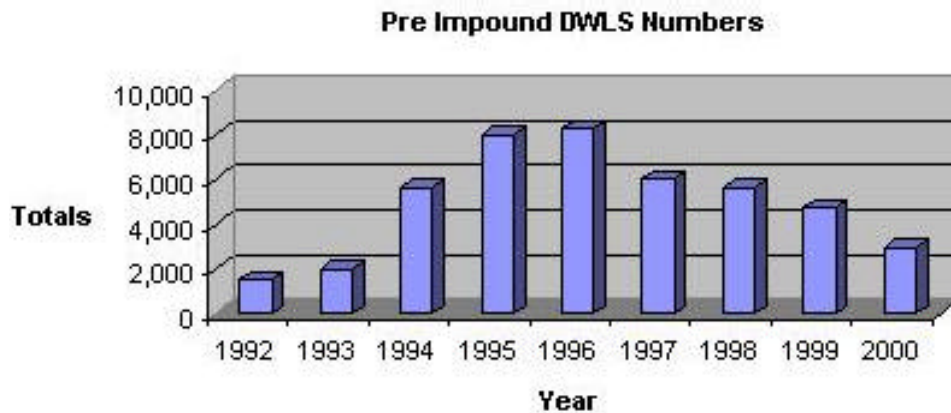
More than two million cases are filed each year in Washington's District and Municipal Courts, representing seven out of every eight cases filed in the state (parking violations excluded). Traffic or other infractions constitute slightly more than one-third of all filings in limited jurisdiction courts statewide.. The majority of cases (61.6%) filed in limited jurisdiction venues involve criminal traffic violations (OAC, Courts). A total of 1,994,210 charges were disposed by limited jurisdiction courts in 1999 (more than one charge is possible per case). These numbers are overwhelming the limited jurisdiction courts and no more is that apparent than in the state's largest court – Seattle Municipal Court (SMC). The increase in case filings has an equal impact on the work of the prosecutors and defenders, as well as on the municipal budget for costs associated with incarceration. Before creating new judgeships, hiring more lawyers or building more jail space, the court, prosecutors, defense bar and politicians sought solutions to reduce the drain on resources. This paper analysis one piece of that solution – the role of

community-based agencies in providing preventive services to keep clients from being charged with the crime of third-degree DWLS.

From 1994 to 1999, the Municipal and District Courts of King County (which includes the City of Seattle) experienced a significant increase in the number of case filings. Prosecutor and defender workloads increased dramatically during this period, and jail costs rose at an alarming rate. The degree of overcrowding at the King County Correctional Facility nearly forced officials to stop booking individuals charged with non-violent misdemeanors. At the same time, the county witnessed a corresponding jump in the number of defendants failing to appear for hearings, which in turn increased both the number of arrest warrants and incarceration costs.

In recognition of the critical problems facing Washington's local justice system, public officials, police departments, and administrators from throughout the county created a Regional Law, Safety, and Justice Commission to recommend strategies and solutions. One subcommittee, the Misdemeanor Study Group, looked at the specific problems associated with misdemeanor filings; based on its analysis of all cases filed for 1995, it reported that the most frequently filed charge in King County courts was third-degree Driving While License Suspended (DWLS). This is an administrative term for the suspension of an operator's license by the Washington Department of Licensing (DOL) for failing to respond to traffic charges, appear in court, pay fines, have valid insurance following an accident, or re-instate their licenses after a first- or second-degree

suspension. In Seattle, DWLS cases made up more than one-third of all 1995 filings, with a failure to appear (FTA) rate of approximately 50%. A bench warrant for the arrest of a defendant was issued in nearly every case where the offender failed to appear for a hearing. This increase in the number of warrants led to a dramatic increase in jail time



The most common misdemeanor charge, DWLS (of any degree), accounted for 20,565 of the 49,570 charges disposed of in 1995 (Murray, Polissar, and Bell 15). The majority of warrants issued for the same period were for failure to appear on DWLS charges, usually one warrant per case (21). A defendant's failure to appear is directly connected to the amount of jail time served. In Seattle, 46% of all DWLS convictions resulted in incarceration (28). It was soon obvious that a reduction in the FTA rate for DWLS cases alone would have a positive impact on the costs associated with prosecution and jail time. The Misdemeanant Study Group claimed that the savings from a 30% reduction in jail use would equal construction costs for a single new jail unit.

The purpose of the Misdemeanant Study was to allow members of the Regional Law Safety and Justice Committee and the Misdemeanant Study Group to identify issues contributing to rising jail populations as well as caseloads in limited jurisdiction courts. A priority was to develop strategies to reduce the state's incarceration rate. The low risk

factor of DWLS offenders in terms of public safety, along with their high FTA rate and increase in defendant jail time, made DWLS a prominent target for reform. While no serious thought was given to reducing the status of DWLS from a misdemeanor to an infraction, the idea of arresting the vehicle and not the person gained considerable attention and approval. Following the leads of California, Oregon, and Ohio, Washington legislators put together a proposal to give local jurisdictions the option of impounding vehicles driven by suspended drivers. The underlying philosophy was that vehicle impoundment would achieve several goals: a) offenders would be certain of facing swift consequences if caught in the act of driving with suspended licenses; b) public safety would be enhanced by the removal of the suspended driver from roads and highways; c) costly incarceration would be avoided; and d) offenders would be compelled to clear any outstanding citations appearing on their Abstracts of Driving (ADR) supplied by the DOL.

The stated priority for District and Municipal Courts operating in King County was reducing the misdemeanor FTA rate while simultaneously finding alternative ways of processing DWLS cases. Nine demonstration programs involving eight courts and the Seattle City Attorney's Office were established in 1998 and 1999. Their main strategy was to give court date reminders to defendants in the form of telephone calls or post cards. In one jurisdiction, police gave defendants a pamphlet explaining the court process and describing the consequences of failing to appear for a hearing. Variable success rates were noted for all of these demonstration programs.

Seattle began impounding vehicles driven by suspended drivers on January 1, 1999. Just before the policy went into effect, the Seattle Municipal Court (SMC) conducted a well-organized publicity campaign to encourage citizens to voluntarily pay their fines and comply with their sentences. The impound program had an immediate and dramatic effect on reducing jail costs, court backlogs, and prosecutor caseloads. However, the program also provoked a noisy debate in the community concerning its merits, with some opponents contending that the impound program unfairly targeted the poor. The expression of public concern over this issue was strong enough that several judges convened a “Re-Licensing Summit” to address community issues and to take another look at the bureaucratic and legal barriers to re-licensing.

During this summit, court personnel learned about an informal program, developed in a Seattle community, that helped offenders regain their licenses. The focus of the program was on people leaving public assistance in pursuit of employment or educational opportunities. Program counselors had identified transportation and the status of individual driver’s licenses as two potential barriers to employment or advancement to higher paying jobs. Social workers and counselors had started to write letters and to make telephone calls to any jurisdiction in which their clients had violations or outstanding summonses. In many instances, individual counselors were successful in setting up payment plans for their clients, assisting with collection disputes, or persuading court offices to contact the DOL in order to remove suspensions. These third-party interventions met the immediate goals of a) getting offenders re-licensed, and b) avoiding wasteful court and jail expenses. The popularity of the program outpaced the ability of

the agency involved to provide the service. Therefore the SMC, manipulating the city's grant process, signed a contract with social service providers to help offenders regain their licenses and to conduct monthly community outreach meetings. The grant was large enough to enable the primary social service agency to hire additional staff to meet program needs. However, the program is still so new that the question remains whether such third party programs are truly effective in assisting offenders in their efforts to become re-licensed.

A total of forty-four states have instituted some form of administrative license suspension or revocation to combat recidivism rates for Driving While Intoxicated (DWI) and Driving Under the Influence (DUI). Many of these states also suspend or revoke driving privileges for failure to pay or appear in court in response to traffic infractions. The American Association of Motor Vehicle Administrators' Driver Improvement Work Group has developed a set of standards meant to facilitate the electronic sharing of driver information across jurisdictions, based on the desire to consolidate individual interstate driving records into a single national database. Thus, data on violations committed in one jurisdiction would be available to any other jurisdiction in which a driver's license application was being processed; the issuing agency could then gain access to information on suspended drivers who have not complied with or responded to traffic citations anywhere in the country. Washington is one of many states that have started to use license suspension programs as a means of encouraging compliance with court orders.

In most states, information on individuals who fail to pay fines or appear in court to address traffic infractions is shared among law enforcement agencies, courts, and licensing authorities; the licensing department then notifies the offender that his or her license is suspended pending resolution of the matter. The forty-four member states of the Interstate Compact have set up a system for exchanging non-resident offender data that can be used to suspend drivers who fail to pay for or respond to out-of-state infractions.

Administrative suspension is a fairly effective tool for dealing with problem drivers. The Washington DOL sends out approximately 33,000 suspension notices every month, and estimates that 50% of the offenders respond by contacting the court of record where the violation occurred. However, the other 50% continue to operate motor vehicles (DeYoung 1)—meaning that a significant number of high-risk drivers remain on Washington streets and highways, and that courts are still failing to collect a significant percentage of fines. Suspended drivers constitute a serious problem with major implications for counties and cities, as well as for the non-suspended driving public.

Convictions Predict Crashes

Thirty year's worth of traffic safety research has shown a correlation between license status and collisions, since drivers with suspended or revoked (S/R) licenses are at greater risk for involvement in fatal traffic accidents. In addition, S/R drivers are more likely to drive without insurance because their driving records and license statuses make

the cost of insurance prohibitive. According to one estimate offered by local insurance underwriters, 20% of all drivers in Washington operate motor vehicles without liability insurance. Traffic officials estimate that somewhere between 30 and 70% of ALL S/R drivers continue to drive (Streff and Eby 28). However, the most striking statistic comes from California, where 1 out of every 5 drivers is listed as having S/R status at any single moment—a total of 4,000,000 drivers with suspended licenses. They were responsible for 12% of all accidents in that state in 1993 (NHTSA, California Impounds 2000)

Research projects conducted for the California Department of Motor Vehicles by David DeYoung, Raymond Peck, and Clifford Helander on fatal accidents involving S/R drivers provide convincing evidence of the extent of the problem. In a 1996 report entitled “Estimating the Exposure and Fatal Crash Rates of Suspended/Revoked and Unlicensed Drivers in California,” they compared the rates of traffic fatalities between S/R and licensed drivers and found a respective ratio of 3.7 to 1 in terms of involvement in traffic accidents resulting in death; for unlicensed drivers the ratio was 4.9 to 1 (DeYoung, Peck, and Helander 1). They also reported that accidents in Santa Barbara declined by 32% after the passage and aggressive enforcement of vehicle-impound legislation (3). A corresponding decline was also noted in the number of drivers charged with operating a motor vehicle while their licenses were suspended.

In a recent study of national traffic fatalities between 1993 and 1997, Griffin and DeLaZerda reported that of the 278,078 drivers involved in fatal crashes in the United States during those four years, 3.7% were unlicensed, 7.4% had an “invalid” (e.g.,

suspended or revoked) license, and 2.7% had an unknown license status (7). They found wide variation between states, with Maine reporting a low of 6.4% of fatal accidents involving invalid or suspended licenses, and New Mexico reporting the nation's highest rate at 23.9% (national average of 13.8%) (11). Washington State is ranked forty-third, with a rate of 16% of all fatal accidents involving a driver with a suspended/revoked license. Their conclusion was that 20%, or one in every five, of all traffic fatalities during those years involved at least one improperly licensed driver (5). These drivers tend to be young, male, more likely to have consumed alcohol before driving, more likely to have been driving at night, been recently convicted of a DWI, and to have three or more prior suspensions or revocations (25).

Though specific findings vary widely, traffic research has reached a general consensus on one central point: as a group, traffic offenders pose a much greater risk to their own and others' safety compared to drivers with clean records. Perhaps the most glaring example of this finding comes from the Seattle City Attorney's Office, which recently reviewed 427 traffic collisions in which at least one driver had an S/R status. It found that S/R drivers were at fault 75% of the time, and that 88% of those drivers were third-degree DWLS defendants (Mark Sidran, Seattle City Attorney, 2000).

Legislative History

In 1993, the Washington State Legislature made modifications to laws associated with the crime of Driving While License Suspended (DWLS). Prior to these revisions, failure to pay (FTP) a traffic citation resulted in a simple referral to a collection agency. The new law created three degrees of offense:

1. DWLS first-degree calls for the suspension or revocation of a driver's license upon three convictions for serious criminal traffic offenses or for habitual traffic offenses.

2. DWLS second-degree calls for the suspension of a license following a conviction for DUI.

3. DWLS third-degree calls for the suspension of a license for the failure to pay a fine, respond to a court summons, or comply with a ruling stemming from a traffic infraction.

The most important aspect of these revisions is that a driver can no longer be arrested on charges of FTP, failure to respond (FTR) to a summons, or FTA at a hearing for a traffic infraction. Instead, the authority to incarcerate a violator is now based on the newly described crime of driving with a suspended license. In the majority of cases, the chargeable crime is third-degree DWLS, based on an unpaid fine for a traffic infraction. The establishment of these misdemeanor provisions were viewed as a viable means of enforcing court orders and of reducing the high FTA/FTP rates associated with traffic infractions.

The new laws backfired. FTA/FTP rates increased because offenders failed to appear for hearings on the DWLS charge in addition to failing to appear for hearings on the underlying charge and failing to pay the original fine (Murray, Polissar, and Bell 12). Local courts were soon issuing bench warrants in record numbers, and law enforcement officers were executing a larger than average number of warrants during routine traffic

violations (Sidran 10 October 2000). As a result, jail costs increased dramatically throughout the state, with unusual circumstances: some rural sheriffs reported making the decision to let violators go rather than cite them for DWLS third-degree, since local criminal justice system costs were getting out of control (Yates 5 November 2000). Today, 20 to 30% of all misdemeanors in Seattle are DWLS third degree, with half of the violators being charged based on their previous failures to appear in court. In addition, 20% of all jail bookings by the Seattle Police Department involving multiple charges include DWLS third degree (Sidran 2 December 2000).

Local Impact

Based on the 1993 changes made by the state legislature, local jurisdictions were suddenly faced with dramatic increases in costs related to jail use (the King County Correctional Facility charges the City of Seattle \$121.58 per booking and \$63.54 per day in maintenance fees) (Murray, Polissar and Bell 1). Since the already overcrowded county jail system was feeling increased pressure to house short-term inmates, King County convened a Regional Law, Safety, and Justice Committee to identify reasons for the sudden jump in the jail population and to come up with possible solutions. A sense of urgency was felt by this committee because the county was facing the mandatory release of prisoners in response to federal mandates on jail overcrowding and the possible loss of funds for building a third corrections facility. Politically and financially, neither alternative was considered viable. Furthermore, smaller cities and towns that contracted for jail services found that the rising cost of booking and housing inmates was taking money away from community services budgets.

The task force made an attempt to identify possible steps for reducing the number of days an offender spent in jail without compromising public safety. The committee recognized that the issues before it were complex, “stemming from the volume of misdemeanor cases, the multitude of jurisdictions, and the convoluted paths that complex cases can follow” (Murray, Pollisar and Bell 5) The committee therefore commissioned a study to “identify the major themes that shape the misdemeanor justice system” in King County (1).

The study that was commissioned by King County was the Misdemeanant Study mentioned in an earlier section. Its first task was to review all of the misdemeanor charges made in 1995 in the nine District Courts of King County and Seattle Municipal Court—totaling more than 100,000, with nearly half of them (49,500) filed in the SMC (5). These cases involved 68,000 defendants serving more than 300,000 days in jail (1). One of the study’s findings was that courts were not necessarily basing their sentences on the seriousness of individual crimes, but on the number of FTAs (28). Defendants with multiple FTA/FTP charges were likely to spend twice as much time in jail compared to defendants charged with similar crimes but without FTA/FTP histories (28). This practice was especially important in light of the 47% of all misdemeanor defendants in King County limited jurisdiction courts who had failed to appear at one or more pretrial hearing in 1995 (28).

DWLS cases proved to have the highest FTA rates, with defendants routinely missing more than one hearing; this resulted in the issuing of more than one bench warrant per case (19). The OAC reported that out of 260,000 misdemeanor warrants issued in Washington in 1999, 88,000 (33%) were for DWLS cases (OAC Courts of Limited Jurisdiction Highlights). These figures did not include cases filed in Seattle Municipal Court, in which 7,500 out of the 50,000 misdemeanor charges filed were for DWLS, with an additional 2,500 for FTA.

The Misdemeanant Study and OAC report on the Caseloads of Limited Jurisdiction Courts both concluded that a 30% reduction in FTA/FTP rates was necessary to reduce jail overpopulation, prevent the mandatory release of offenders, and delay the construction of a third jail facility in King County (35; OAC Courts of Limited Jurisdiction Highlights). They also described how increased costs and workloads were not restricted to jail operations: after a FTA warrant is issued, police departments are compelled to arrest defendants, sometimes for the second or third time, after which courts must hold twice as many hearings as usual. This increases the costs involved in prosecuting a case and in providing public defender resources; witnesses and victims are also inconvenienced by FTA delays. Finally, the Misdemeanant study showed that a 30% reduction in the county's FTA rate would result in a savings of approximately \$1,000,000 per year, and that a 40% reduction would result in savings equal to the cost of a new jail unit (Murray, Polissar and Bell 35). The study's authors thus recommended FTA reduction strategies that included reminder calls and letters to defendants plus free bus tickets to be used to travel to court sessions.

FTA Reduction Efforts

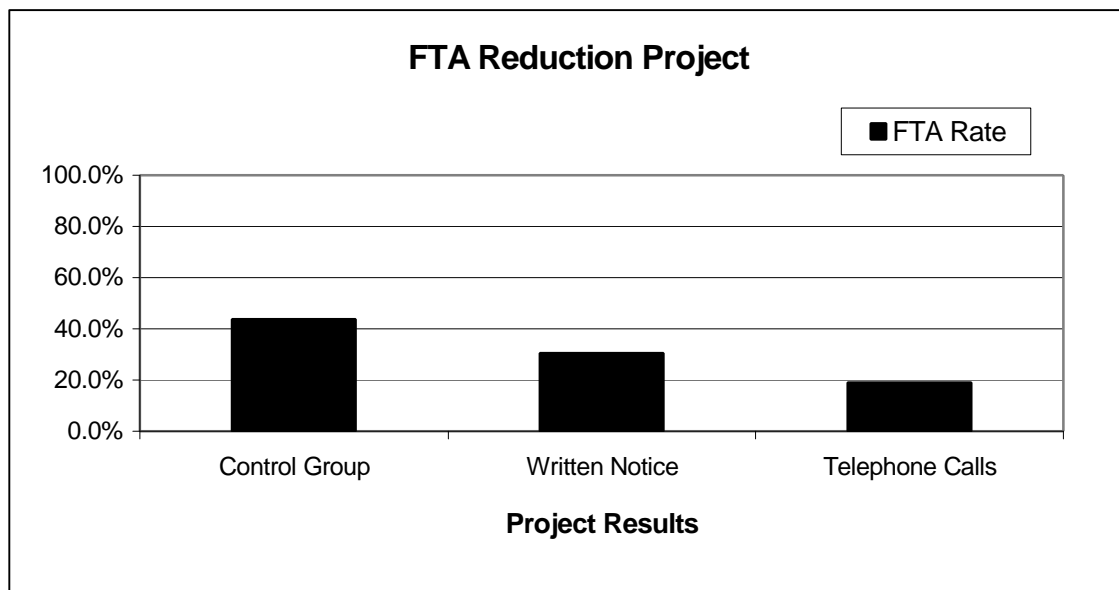
Armed with data from the Misdemeanant Study, the King County District Court, Seattle City Attorney's Office, and the King County Department of Adult Detention created eight county and city FTA reduction pilot projects at seven locations; the projects also entailed the collection and evaluation of data. Three approaches were tested: a) reminder strategies (e.g., phone calls or post cards) that notified defendants of upcoming hearings, b) transportation provisions to help defendants get to their hearings, and c) information and detention screeners to help law enforcement officers make more effective arrest and detention decisions.

While each project yielded valuable information, they were affected by study design problems and data recovery inconsistencies. The biggest problem was the lack of control groups—true for all study sites with the exception of the Seattle Municipal Court/City Attorney's Office study. All other project designs incorporated the use of comparison groups from previous time periods. While the Seattle Municipal Court/City Attorney's project was the only one to link specific reminder strategies to defendant demographics, overall the reminder strategy resulted in lower FTA rates in all cases

Seattle Municipal Court

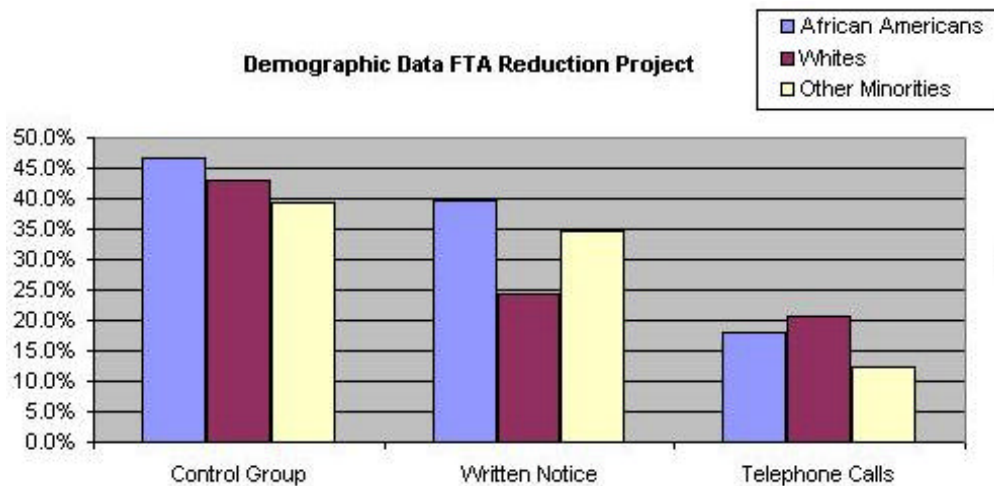
The Seattle City Attorney's Office focused on defendants charged with assault, theft, and third-degree DWLS. Individual defendants were randomly assigned to one of three groups. Those in Group 1 were sent a reminder letter shortly before their first court

appearance, those in Group 2 were telephoned 48 hours prior to their first court appearance, and defendants in Group 3 (control group) were not contacted at all. Data on the appearance rates for each group showed that FTA rates were significantly reduced for Groups 1 and 2, and that just over two out of every five control group defendants (44%) did not appear for their first hearings. The FTA rates for Group 1 and 2 defendants were 31% and 19%, respectively (Murray 3).



As previously mentioned, the Seattle City Attorney's Office also gathered demographic information for its pilot project. The Misdemeanant Study had reported a significantly higher FTA rate for African-American defendants compared to other ethnic groups (Murray 5). Given that defendants with FTA histories were twice as likely to be jailed and to spend more time in custody than those without, the higher African-American FTA rate was offered as a partial explanation for their disproportionate representation in the King County Correctional Facility population. Results from the SMC project show that the success rates of different reminder strategies varied according to racial and ethnic group. Both telephone calls and letters were successful in reducing the number of FTA

cases across all groups, but mailings were slightly less successful in reducing the FTA rates for African-Americans (39.8% reduction compared to 46.7% in Group 3) and other minorities (34.8% reduction compared to 39.4% in Group 3) than for Caucasians (24.3% to 42.9% in Group 3) (Murray 5). Telephone calls reduced FTA rates in all groups—from 46.7% to 18% for African-Americans, from 42.9% to 20.7% for Caucasians, and from 39.4% to 12.4% for other minorities (Murray5). In other words, telephone reminders were more effective than mailed reminders for all racial and ethnic minorities.



Unfortunately, the uniform citation form used throughout Washington State does not adequately capture updated defendant address information or multiple telephone numbers. There are different interpretations of what information officers are required to obtain from defendants—confusion caused by ambiguous language in the Revised Code of Washington (RCW) on when, how, and who can change an address for a license holder. Some individual officers and departments believe that they are obligated to use the address that appears on the defendant's driver's license, while others verbally verify that the defendant's current residence matches the one shown on their licenses or try to

obtain supplemental addresses and telephone numbers. Washington clearly lacks the statewide policies, procedures, and technology required to quickly transmit updated defendant address information to the DOL, based on the old and accepted practice of relying on the licensee to provide change of address information. Thus, some Municipal Courts provide defendants with DOL change of address cards, mailing them directly to the defendant's known residence.

Vehicle-Based Sanctions

The following thirteen states have laws permitting the impoundment of vehicles for certain offenses, including driving with a suspended license: California, Delaware, Florida, Illinois, Iowa, Michigan, Missouri, Montana, Nebraska, New York, Ohio, Oregon and Wisconsin (NHTSA, Fact Sheet 2). In fifteen states, vehicle registration is revoked upon DWI convictions or in DWLS cases where the original licensing action is related to a DWI offense; these include Arizona, Indiana, Kansas, Maine, Minnesota, Nevada, New Hampshire, New York, North Dakota, Ohio, Oregon, Rhode Island, South Dakota, Virginia, and Wyoming (2). Twenty-five states permit the confiscation or selling of motor vehicles registered to multiple DWI or DWLS offenders when the original action is related to a DWI offense: Alaska, Arizona, Arkansas, California, Georgia, Illinois, Louisiana, Maine, Minnesota, Missouri, Montana, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Washington, and Wisconsin (2)

According to the experiences of state and local officials, judiciary members, and law enforcement personnel, these laws are rarely applied—even though impoundment and forfeiture legislation is increasingly common. Reasons for the lack of enforcement include: a) the laws are generally reserved for the relatively small number of multiple DWI offenders rather than first-time offenders, b) difficulties arise when the offenders use cars that they do not legally own, c) it is expensive to store vehicles that are not reclaimed by their owners, and d) judges are reluctant to punish innocent family members who also need access to the cars in question (2). The National Highway Traffic Safety Administration (NHTSA) has recommended that state legislatures and local governments revise existing laws or write new ones that increase the effectiveness of vehicle impoundment procedures. Its recommendations include:

1. Enact legislation that provides for the administrative impoundment of vehicle plates and the civil forfeiture of vehicles.

2. Enact legislation that allows for immediate seizure at any time a vehicle is stopped and the driver either arrested or charged with a crime. It is more difficult to find offenders after the fact, and such delays give offenders the opportunity to transfer vehicle titles.

3. Consider legislation that makes it unlawful for the owner of a vehicle to knowingly allow an unlicensed, suspended, or revoked driver to use that vehicle. This would require that non-offender owners sign affidavits stating they will not allow offenders to drive those vehicles while the license suspension is in effect (5).

To date, most of the available research and legislation on vehicle-based sanctions has focused on DWI/DUI offenders. However, California has been a pioneer in vehicle-based sanctions involving offenders who drive with suspended licenses after failing to pay for traffic infractions.

Washington State Impound Programs

Arresting the Car, Not the Person

More people spend time in jail for driving with a suspended license than for any other misdemeanor, yet there is little evidence that arrests and incarceration are effective in changing defendant behavior or in improving compliance. More often than not, law enforcement officers have cited offenders for driving with suspended licenses only to watch them drive away a few minutes later. Collection rates on delinquent traffic fines have remained low despite repeated promises to step up criminal prosecutions, and costs for trials and incarceration have never stopped increasing.

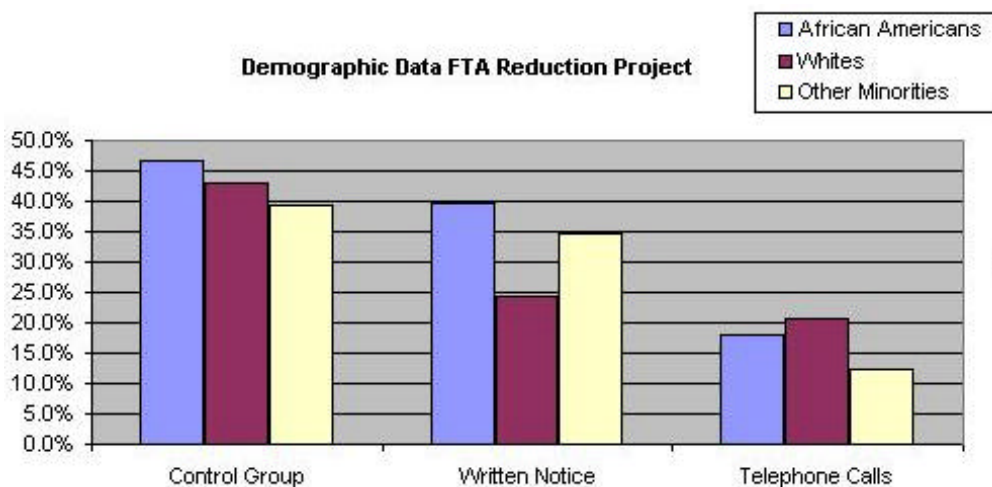
In the 1990s, law enforcement officials, court personnel, and politicians felt that it was time to try another approach. In order to seek relief from the high costs of adjudicating third-degree DWLS cases, lobbyists representing Washington counties and cities convinced the 1998 State Legislature to pass a law allowing for the impoundment of vehicles in lieu of arrest for third-degree DWLS offenders. Most importantly, the new statute gave individual police officers permission to impound vehicles on the spot, rather than wait for court orders. The legislation was passed according to the goals of

increasing traffic safety, reducing criminal justice costs, and increasing opportunities for offenders to meet their obligations and responsibilities.

That same year the Seattle City Council passed a local impound ordinance that took effect on January 1, 1999. Prior to the start of the impound program, the SMC and its collection agency gave offenders an opportunity to participate in a payment plan. Offenders who owed money to the SMC and no other jurisdiction had their licenses reinstated if they participated in the program. If defendants later received new citations and failed to appear at hearings or pay their fines, their licenses were re-suspended. Agreeing to participate in a payment plan meant that defendants would no longer be charged with the crime of third-degree DWLS. The SMC collected \$325,000 during the program's first month, enough to continue the program for qualified defendants. It is considered a model for jurisdictions wanting to establish structured payment plans in partnership with their collection contractors.

The impound and amnesty programs both received widespread publicity through television news spots, bus advertising, editorials, and articles in city-wide and community newspapers. The Traffic Unit of the Seattle Police Department was the first to implement Operation Impound. This was followed by a trial period of 30 days before all police units were authorized to call for tow trucks to take away the cars of drivers charged with third-degree DWLS. Over 5,000 vehicles were impounded in the program's first year; approximately 25% were never reclaimed.

The ordinance gives Seattle police officers the option of impounding a vehicle upon charging its driver with the crimes of first-, second-, or third-degree DWLS. The current department policy is to impound all vehicles of drivers charged with first- or second-degree DWLS because they tend to be multiple offenders or to have DUI, DWI, or reckless driving convictions. The policy toward first-time third-degree DWLS offenders is a bit more flexible. However, these offenders remain in danger of having their vehicles impounded and held until all obligations on their Abstract of Driving Records (ADRs) are satisfied (ADRs contain violations from all Washington jurisdictions and states having reciprocity agreements). Vehicles can be held for 0 to 15 days for the first offense, 15 to 30 days for the second, and up to 45 days for the third.



If the driver of an impounded vehicle is also its registered owner, the cost of recovering the vehicle includes a \$49 administrative fee, the cost of the tow, and \$12 per day for storage. To recover the vehicle, the driver must either pay all outstanding fines displayed on his or her ADR, or establish a payment plan with the court of record. If the driver is not the vehicle's registered owner, the vehicle cannot be recovered without the written permission of the owner. The towing and administrative fees still apply, but the

City usually absorbs some fees if a hardship claim is made and the immediate release of the vehicle is sought. However, anyone lending a car to a suspended driver must sign an affidavit attesting that they will never again lend that vehicle to the same suspended driver. If the vehicle is impounded again, the registered owner is liable for all costs.

Compared with other King County programs, Seattle's Operation Impound has shown dramatic results. A comparison of the first ten months of 1998 versus the same period in 2000, Seattle DWLS bookings decreased five times faster than non-DWLS bookings, down 34% and 7%, respectively (Seattle City Attorney's Office, 5 December 2000). The difference was even more startling when compared to the 3% decrease in DWLS bookings for the rest of King County (*ibid.*). The City Attorney's Office has adopted a generally liberal attitude towards DWLS defendants by using impounds in lieu of prosecution for many third-degree DWLS cases. In 2000, 2,552 were dismissed (53% of total filings) compared to 1,035 (19% of total filings) in 1999. Whereas the original criteria for dismissing a third-degree DWLS charge included no prior DWLS convictions and no collisions, in April, 2000 the policy was expanded to include prior convictions on the same charge. Under this revised criteria, nearly 70% of all third-degree DWLS cases are now dismissed, leaving only individual infractions to be adjudicated.

The impoundment alternative to incarceration has dramatically reduced recidivism rates. Before the program started, 22% of the offenders committed 42% of the offenses. After Operation Impound began, both figures were cut by more than half, with the overall recidivism rate falling from 12% to 5%. There is one component of the

program that has created confusion. While defendants must clear all obligations found on their ADRs before re-claiming their vehicles, they do not have to pay fines or appear at hearings related to the infraction they received at the time they were towed or charged with third-degree DWLS. Therefore, once the criminal case is dismissed, a large percentage of defendants fail to pay fines on their infractions or once again fail to appear at hearings. According to anecdotal evidence from court personnel, many defendants confuse the dismissal of their criminal DWLS case with the dismissal of their entire case, including the new infraction. These confused defendants are ultimately re-suspended. The SMC is working on strategies to mitigate this problem, including the creation of a special DWLS calendar which brings DWLS-only offenders together in court at the same time. At these special hearings, defendants are given information on programs and services designed to assist drivers with re-licensing problems. Representatives from various community agencies are also available on these dates to help defendants contact courts in other jurisdictions, to assist with collection agency disputes, and to help defendants make contact with such resources as employment counseling, budget and life skill classes, and insurance services.

Finally, court revenues have clearly benefited from the impound program. After its implementation, infraction revenue increased 4%, despite a corresponding reduction in the number of tickets written. Jail costs also fell by \$176,510 because of the corresponding reduction in the number of incarcerated defendants

The Court of Public Opinion

Within six months of implementing Operation Impound, several community organizations, defense attorneys, and elected officials began to question what appeared to be a disproportionate impact of the program and third-degree DWLS charges in general on minority and economically disadvantaged individuals. Several articles and editorials were written from the point of view that the crime of third-degree DWLS is inherently biased against those who most depend on their cars to get to work, and that suspended drivers with family obligations were the least able to afford high fines for such infractions as driving without insurance (which carries a \$475 default penalty). Several feature articles were published showing elderly people, parents with children, or drivers on the way to medical appointments being stranded far from home after their cars were impounded. Other articles focused on individuals who lent their cars to friends they did not know were suspended drivers. Project supporters countered that public transportation was widely available and that “innocent” owners should be more responsible about who they lend their cars to.

The negative publicity led to two hearings. The first was before the King County Council Law and Justice Committee, which is chaired by a Seattle Council Member representing one of the city’s poorest neighborhoods. At the conclusion of these hearings, the committee declined to recommend impound legislation to the full Council. The other hearings were held before the Seattle City Council, during which many demands were made to either repeal or radically alter the ordinance. The most important change considered was revoking the authority of law enforcement officers to impound the

vehicles of drivers whose licenses were suspended for unpaid traffic tickets. Under that provision, nearly 85% of all 1999 impounds would never have occurred. Another measure called for the funding of programs to help people pay off their tickets and therefore have their driving privileges reinstated. As a result of these hearings, in April, 2000 the City Council passed some reforms designed to limit the negative impact of impounds, including taxi scrip for rides home after vehicle impoundment, the funding of an additional city ombudsman position to assist offenders in collection account disputes, and money for expanding re-licensing programs run by community agencies.

Currently, Seattle and other large King County cities (e.g., Bellevue and Redmond) have impound programs, but unincorporated portions of the county do not. Therefore, sharp contrasts exist between how the County Prosecutor and the Seattle City Attorney's Office handle third-degree DWLS cases. Whereas the latter dismisses the criminal charge once the driver's vehicle is impounded, the former uses a deferred prosecution plan that gives offenders 11 months to do whatever is necessary to regain their licenses. If they fail during that time, the prosecutor renews criminal proceedings. The county program is still too new to have produced any numbers on rates of compliance, recidivism, or numbers of participants. The collection of such data is also hindered by the lack of a unified King County court system. Each of its nine District Courts operate independently, therefore an offender receiving tickets in multiple jurisdictions must appear before each individual court. Only recently have they established a system in which one court is able to accept payment for fines incurred in other districts.

The Seattle vehicle impound ordinance also requires police officers to collect and report demographic information, including the race, age, and gender of those cited for DWLS with impoundment. According to the data collected in 1999, more than 40% of the approximately 5,000 cars impounded for DWLS violations were driven or owned by African-Americans, who overall comprise 11% of the Seattle population but who received more than 18% of all 1999 traffic citations. African-American drivers were charged with 47% of all third-degree DWLS charges filed in Seattle in the same year. However, following implementation of the impound program, the rate of third-degree DWLS cases involving African-American drivers in Seattle fell to 35%, and their proportion in relation to the total number of cases also fell, from 47% to 39%. By comparison, the rate of third-degree DWLS cases involving Caucasian drivers fell 9%, and their proportion of the total increased from 43% to 50%.

Critics of the ordinance maintain that the amendments did not address what they believe to be the fundamental economic injustice of the DWLS law. In their view, most of the victims of this law are the working poor, who rely on their cars for employment and access to childcare, and for whom a car may be their most valuable asset. Washington is known as an expensive state in which to operate a motor vehicle, and for having a harsh fine and default structure for traffic violations. Until 2000, the state used an excise tax scale to calculate the cost of license tabs, and rarely did the calculated amount match the vehicle's true market value. As a result, the cost of licensing was very expensive compared to other states. The lack of a state income tax places greater reliance

on sales, property, and excise taxes. Washington also has strict fines for drivers who fail to meet mandatory insurance requirements: failure to have a valid insurance certificate while driving carries a penalty of \$250, which is reduced to \$50 upon providing proof of insurance. Defaulting on the ticket, however, results in a fine of \$475. A random review of 60 third-degree DWLS cases revealed an average of 4.6 financial responsibility (lack of insurance) citations per defendant. On this charge, it is very easy for defendants to accumulate several thousand dollars' worth of fines in a short period of time.

Since the inception of the impound program, the SMC, in conjunction with other jurisdictions, the DOL, and law enforcement agencies, organized a series of statewide "Re-Licensing Summits." For the first time, all of the major stakeholders in the licensing issue were able to communicate their concerns, including the flow of license status and violation information between the courts and DOL. These meetings focused on changes that local courts were beginning to look at as alternatives to more traditional procedures. Customer service barriers that were identified included:

1. Lack of statewide cashiering: Washington lacks a mechanism for offenders to pay fines in one jurisdiction if the violation occurs in another. Offenders who owe money in multiple jurisdictions must contact each court individually.

2. Lack of uniform payment plans: Qualifications for payment plans vary from jurisdiction to jurisdiction. For those offenders who have significant personal and financial issues, this can be an overwhelming and discouraging obstacle to compliance.

3. Lack of universal warrant clearance: As with the lack of a standardized payment method, the state requires defendants to clear warrants in the jurisdictions where they were issued. In this instance, summit participants were specifically addressing warrants issued in conjunction with DWLS charges.

4. Lack of statewide collections: Each county, city, and town in Washington contracts individually with third party collection agencies who specialize in managing delinquent accounts. For offenders, this can mean higher costs when dealing with numerous collection companies, thus discouraging compliance.

The public's general distrust of courts and the legal system is also a significant barrier to compliance. To combat this feeling, court personnel need to remain sensitive to the people who make up the majority of third-degree DWLS defendants. Suspended drivers generally fit in one of the following three categories:

1. The can nots: individuals who are disorganized in many aspects of their lives, and who consider a ticket or court date as one more overwhelming event.

2. The did nots: people who simply forgot about the court appearance or fine and who had their licenses suspended because of honest or careless oversight.

3. The will nots: scofflaws who intentionally avoid paying fines or appearing in court and who are generally identifiable by the large number of warrants issued in their name (Murray, Polissar and Bell 74).

While no statistics are available regarding the composition of suspended drivers, a large amount of continually evolving anecdotal evidence states that most fall into the first category. “Can not” are people who are easily overwhelmed by what others consider basic tasks. For them, the idea that avoiding payments and court appearances results in harsher penalties is difficult to comprehend or accept. They view courts and bureaucracies in general as formidable obstacles that cannot be dealt with easily or effectively. As a result, many members of this group are unable to find or hold jobs, or to perform such simple tasks as obtaining auto insurance.

Finally, according to the Clark County Driver’s License Restoration Program, the most common myths about suspended licenses are: a) those who don’t have licenses don’t have driving records, even if they get tickets; b) those who don’t have licenses can’t be listed as suspended drivers; c) those who wait long enough to pay their tickets will eventually be rewarded by the tickets disappearing; and c) if a judge doesn’t take away one’s license in court, it isn’t suspended (**Clark County**).

Four Re-licensing Programs

By 1997, many Washington communities were looking for ways to reduce incarceration costs, and many different approaches to the problem of re-licensing drivers

charged with third-degree DWLS were debated. Only the programs in Seattle and Spokane included the vehicle impound option. Three programs were based on deferred prosecution, while the Seattle City Attorney's Office preferred dismissing the criminal charge.

King County District Courts' Deferred Prosecution Program

As mentioned in an earlier section, the King County government did not enact vehicle impound legislation, mostly because of the controversy surrounding the Seattle program. Instead, the District Courts and King County Prosecutor's Office developed a deferred prosecution approach to re-licensing. Among its benefits for defendants is the ability of the courts to re-call any accounts in collection, which significantly reduces the amount owed by defendants. In order to participate in this program, a defendant must have an active charge of third-degree DWLS. If a defendant agrees to enter into a payment plan with the court, the Prosecutor usually requests that the court continue the defendant's case for another twelve months. Once the defendant complies with the imposed conditions, the prosecutor requests that the court dismiss the pending DWLS charge. Neither the District Court nor Prosecutor's Office were able to provide information concerning changes in compliance rates associated with the program because it was less than one year old at the time the request was made.

City and County of Spokane, Washington

Prior to adopting the state's first impound program, Spokane (the state's second largest city) created a program to divert low risk misdemeanor offenders from jail to

community-based programs. The idea of diverting these low-risk offenders directly into a “restorative justice” program was the idea of a group of concerned citizens, elected officials, and police officers who shared a concern over rising jail costs. At the recommendation of the local police department, the program was originally aimed at diverting defendants from prison into community programs, but by the time the program had become operational, the focus had shifted to diversion through the Prosecutor’s office, which allows for the resumption of a criminal case should a defendant fail to complete the terms and conditions of the diversion agreement. At the end of the diversion period, a defendant who has successfully complied with those terms and conditions has the criminal charge taken off his or her record. Third-degree DWLS offenders are ideal candidates for this kind of program. The criteria for acceptance into this program are stringent: defendants who have any pending charge other than a third-degree DWLS cannot be admitted into the program. Participants must meet with community volunteers who provide assistance in setting up a customized plan for the defendant to follow. Plans sometimes include signing up for classes in minor car repair, budget and money management, and effective communication. Participants are closely monitored for 120 days, during which they are strictly forbidden to acquire any further traffic citations. This is considered a one-time-only opportunity; anyone who drops out or is otherwise released from the program may not participate again.

The program received extensive evaluation from a team headed by Gregory Russell, Associate Professor and Director of the Criminal Justice Program at Washington State University. Dr. Russell and his team used surveys to monitor offender attitudes

towards the criminal justice system as they progressed. Surveys were taken before participants entered and left the program. Their responses showed that their attitudes were consistently more positive on every measure except for the help they believed the legal system could provide for them. Some of the positive changes in attitude that were reported included feeling part of the community, being accepted by the community, believing that the justice system was fair, believing that their cases were handled fairly, and believing that they were treated with respect (Lemley, Erp, and Russell 4).

This Community and Restorative Justice Committee (CRJC) program had 1,100 applicants, of which 589 were accepted. A total of 294 offenders completed the program, of which only 34 (11.56%) eventually lost their licenses for the following reasons: 10 failed to pay fines on new infractions, 8 had uninsured accidents, 3 failed to pay child support, and 13 stopped paying their original fines. Those who failed to complete the program tended to be younger and unemployed, but with nearly the same amount of education (11.8 years to 11.9 years) as those who succeeded (Lemley, Erp, and Russell 5).

The OAC organized a comparative study of programs implemented in the cities of Kennewick and Richland, Washington, which have a combined population similar to that of Spokane. During the study period, Kennewick law enforcement officials arrested 529 people on charges of third-degree DWLS and impounded their vehicles. Of these, 127 defendants (24%) were subsequently charged again with third-degree DWLS or some other infraction. In Richland, with no impound option, 266 people were charged with third-degree DWLS but retained their vehicles; 69 (25.93%) were eventually charged

with third-degree DWLS or some other infraction. The researchers concluded that the differences were statistically insignificant (OAC, Licensed Suspended).

Data developed by the CRJC early in the program showed that approximately 29.4% of third-degree DWLS offenders cited on any given day were receiving their second third-degree DWLS citation, and that an additional 7.2% were receiving their third charge—occasionally on the same day. Other findings from the committee included a reduction of time spent by court personnel dealing with individuals who were accepted into the diversion program, in some cases a reduction of 85%. Finally, the Committee noted that the program saved the City of Spokane a minimum of \$10,000 in its first year of operation. One drawback to the impound program and research project was the lack of data concerning its effect on reducing recidivism.

Clark County Drivers License Restoration Program

Clark County, located in the southwestern corner of the state, is part of the metropolitan area comprised of Portland, Oregon and Vancouver, Washington. As in Seattle and King County, Clark County routinely books more defendants on the charge of third-degree DWLS than any other misdemeanor. A snapshot of the Clark County Jail on September 22, 1999 reveals a population of 589 inmates, 151 (25.6%) of whom had at least one DWLS charge plus other charges, and 22 (.037%) of whom were incarcerated for DWLS with no other charges (Clark County).

Clark County's approach to reducing its third-degree DWLS population is managed by its Department of Corrections (DOC). The DOC License Restoration Program works closely with the county's collection agency to screen applicants for timed payment agreements. The program is limited to persons who:

1. are suspended for simple Failure to Appear (FTA) for tickets within the jurisdictions of Clark County District Court or the Camas, Washougal, and Battle Ground Municipal Courts. FTA charges in other cities makes defendants ineligible for the DOC program; those charges must be cleared prior to obtaining a license through the License Restoration Program.

2. are enrolled in a payment program to pay current tickets not yet in collections.

3. have fines in collections in excess of \$500.

4. have a steady, dependable household income and be able to afford both the agreed upon payments and the auto liability insurance penalty.

Participants who meet the program criteria must attend a Driving While Suspended class, during which the details of the program are explained. Defendants must pay a \$40 class fee. The program also has a community service component that allows participants, with a judge's permission, to reduce their fines by \$45 for each day they work. An offender's license is not released until all fines and fees are paid to the county

or participating municipalities. As in Spokane, Clark County views its License Restoration Program as a one-time-only opportunity for offenders. Any new charges of DUI, Reckless Driving, or Negligent Driving during the enrollment period automatically terminates the defendant's participation (Clark County).

Data for comparison with other programs was not available at the time this paper was written.

Seattle Municipal Court (SMC)

Nearly one-third of all cases heard in Seattle Municipal Court (SMC) involve DWLS charges. Nearly half of the defendants ordered to appear for hearings fail to do so; most of these FTAs result in bench warrants being issued and additional incarceration costs. The cost of jailing these offenders is \$1.2 million dollars per year.

One of Seattle's most active social service agencies, the Central Area Motivation Program (CAMP), has a long history of providing informal licensing services and counseling to its clients. Most participants have been part of CAMP's WorkFirst program, designed to move clients from public assistance into jobs. Program counselors regularly encounter clients with suspended/revoked licenses, or no license to begin with, who continue to drive on a regular basis. Many jobs, especially positions that pay more than minimum wage, require employees who have valid driver's licenses. CAMP clients consistently identify transportation and childcare issues as their greatest barriers to getting or maintaining employment. Many low-income workers must work evening or

late-night shifts, when public transportation is either infrequent or non-existent. Parents also need to take their young children to day care before work and pick them up afterwards. Even though their driver's licenses may be suspended, many of them view their cars as vital to meeting their job and family responsibilities. Faced with the option of driving a sick child to a doctor's appointment or taking public transportation, many people will choose to drive and consider the fine associated with a third-degree DWLS as just another bill.

CAMP recognized that re-licensing is a major issue for many individuals trying to make the transition from public assistance to work. It formalized its role as a provider of assistance for suspended drivers in late 2000, when the SMC used money saved through its own DWLS/impound program to establish service contracts with CAMP and two other community agencies. Their services include establishing contact with all jurisdictions in which an offender has matters pending prior to providing advocacy services, and working with the SMC and collection agencies to resolve disputes.

Interest in re-licensing issues has increased since Operation Impound began. CAMP now holds monthly community outreach meetings on licensing issues that regularly attract 95 to 200 attendees; a large number of these attendees are also WorkFirst participants. CAMP refers some of its clients to other community services agencies offering similar assistance with re-licensing cases.

All of these agencies screen their clients to ascertain if they can meet financial obligations and therefore be successful participants in a payment program. This is seen as advantageous to the general public because offenders take responsibility for their actions without inflicting the costs of impoundment or filing criminal charges. If a client's obligations are limited to the Seattle jurisdiction, the Court almost always releases its hold on a license as long as the defendant's payments remain current. If the offender qualifies, part of the amount owed can be converted to community service at \$6.50 per hour. Because CAMP's formal participation in re-licensing is so new, the question remains as to how effective its program is in reducing recidivism.

Wider Implications – Welfare to Work

A valid driver's license is frequently one of the most important assets that an unemployed individual has. Research from the University of Wisconsin at Milwaukee indicates that the two greatest barriers to employment or better employment are transportation and childcare. They are, of course, often linked: transportation plays an essential role in delivering children to affordable childcare centers and then taking the parents to the workplace. This is especially critical for single parents (mostly female), who are the special focus of many programs designed to help people make a transition from welfare to work.

In their report entitled "Removing Transportation Barriers to Employment: Assessing Driver's License and Vehicle Ownership Patterns of Low-Income Populations," John Pawasarat and Frank Stetzer used the driving records of Milwaukee

County residents to compare suspensions and revocations by type, number, census and welfare information, and car ownership. Their results showed that 58% of all license suspensions in the county were the result of failure to pay a traffic fine. The highest suspension rates were for residents of low-income neighborhoods that qualified for Community Development Block Grant Funds. In light of this finding, it is important to note that police resources are often concentrated in low-income areas, and therefore these areas have higher rates of traffic stops. These are the same areas that tend to have higher concentrations of minority residents.

The study also looked at single parents, who (under Wisconsin's new welfare reform laws) are expected to work in order to continue receiving AFDC benefits. Of this sector of the population, 25% had valid driver's licenses, 4% had a license that had recently been suspended, 18% had no license and a suspension, 10% had expired licenses, and 43% showed no match with the Wisconsin DOL. A more detailed analysis revealed that 22% of AFDC recipients had current or previous suspensions on their records, compared to 25% who had licenses and clean records. It was found that single parents with a valid driver's license were much more likely to leave AFDC (63% versus 45% without a license for the years 1995 through 1997) (Pawasarat and Stetzer , 4).

As in many parts of the country, many of Milwaukee's jobs have left or are leaving the downtown core area and moving to the suburbs and other outlying areas, some of which have limited public transportation service. Combined, job location, bus schedules, and child care requirements make having a car and a valid driver's license

critical to job retention. Suspended license holders who need their jobs to pay off their fines may find it difficult to retain those jobs, especially if they require a valid driver's license.

Seattle's response to the work/valid driver's license issue involves some of the millions of dollars it receives in federal funds to provide transportation for welfare-to-work program participants. The money is used to help establish vanpools (which require a valid license) and special bus route extensions for workers who simultaneously work and receive public assistance but who do not have driver's licenses. Washington State provides some funds for vehicle repairs and for six month's worth of liability insurance, but recipients cannot use those funds to pay off court-ordered obligations. Recognizing that licensing is one of several legal issues affecting the ability of welfare recipients to find and retain employment, Washington has started to collect data on this and related issues.

In the fall of 2000, for example, state researchers analyzed a sample of nineteen people serving time in the Yakima County Jail for third-degree DWLS. These prisoners had an average of \$8,000 in fines, with a range of \$4,000 to \$24,000 (Fisher, Local Page). The Seattle Post-Intelligencer reported that on an average day, 10,705 people were in city or county jails throughout Washington State, that 45% of those inmates were serving time for misdemeanors, and that 33% of them were awaiting trial (ibid.). Much of the 20% growth in the state's jail population since 1995 is the result of tougher mandated sentences for traffic offenses, including DWLS (McLane 5). For example,

between June 1 and June 31, 2000, 34% of the criminal docket in the District and Municipal Courts of Spokane County and City were for DWLS charges. Of the 21, 297 filings, 7,242 were for third-degree DWLS.

A Brief Comparative Study

Unlike re-licensing programs in other Washington jurisdictions, the SMC relies on social service agencies to assist offenders who wish to become re-licensed. The primary goal is to remove the license suspension for as long as the offender remains in compliance with a payment program established with the court. This program is also unique in that it is not initiated by a criminal charge; all other re-licensing programs are deferred prosecutions, whereby defendants have specified time limits (from 120 days to one year) to complete all requirements in order to have the charge dismissed. As with programs described in previous sections, Seattle's offers offenders a single opportunity to participate; unlike other programs, they do not face the same third-degree criminal prosecutions that they would in a deferred prosecution program.

To determine whether the intervention of a private social service organization (in this case, CAMP) has a positive impact on compliance and recidivism, a control group of third-degree DWLS defendants was compared to a treatment group of offenders that had not been charged with a crime related to driving without a valid license. The selection of individual control group members involved the writing of an *ad hoc* query to the Municipal Court Information System (MCIS) requesting a list of all defendants charged

with third-degree DWLS between May, 1999 and July, 2000. The query did not distinguish between defendants with impounded vehicles and those charged with third-degree DWLS but whose cars had not been impounded. The query yielded a population of 4,483 defendants. A separate treatment group list generated for the same period from a database that was independent of MCIS yielded 303 names.

In order to generate viable samples from the two populations, two lists of 30 names each were selected for inclusion in the two groups. This sample size represents 10% of the treatment group and .67% of the total number of defendants in the control group. Time limitations did not allow for inclusion of a full 10% (483 individuals) of the control group. Subjects were selected using a computer programmed to choose random cases from a list of the first three numbers of all assigned cases. Defendants in both groups were assigned identification numbers. The original lists containing the subjects' personal identifiers were destroyed at the conclusion of the project for reasons of privacy and confidentiality. Tabulated information included gender, ethnicity, age, current license status, whether the subject had been charged with third-degree DWLS before or after January 1, 1999 (the first day of Operation Impound), whether the subject received other traffic citations after being charged with third-degree DWLS or after entering a re-licensing payment plan, and whether the defendant/offender complied with court orders.

For this comparison, success was defined as having retained a valid license and remaining in compliance with orders from the court, not having any new traffic violations, or if cited for a new violation, having responded to the charge or paid the fine.

Results

The mean age of control group members was 45.43 years, with a standard deviation of 5.02 and a range of 38 to 61 years. Proportional representations of the two major racial backgrounds in this group were 77% African-American (n=23) and 23% Caucasian (n=7). Gender composition was 10% female and 90% male.

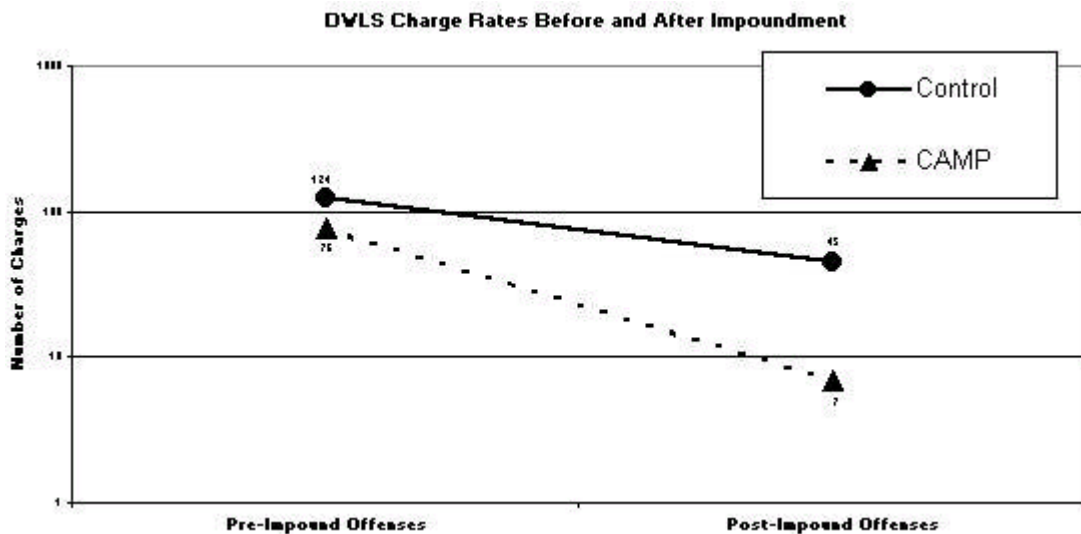
The mean age of treatment group members was 33.8 years, with a standard deviation of 9.42 and a range of 19 to 50 years. Proportional representations of the three racial backgrounds in this group were 77% African-American (n=23), 20% Caucasian (n=6), and 3% Native American (n=1). Gender composition was 37% female and 63% male.

The control group contained seven defendants charged with third-degree DWLS whose vehicles had been impounded. Six defendants (85%) had suspended licenses as of October, 2000; their licenses remained suspended because they had all failed to respond to notices or to pay their underlying infraction fines. The remaining defendants had paid the fine for the underlying infraction, but had yet to respond to violations in other jurisdictions. None of the defendants had received an additional citation by the time this study was conducted.

The treatment group contained seven defendants whose vehicles had been impounded prior to entering the re-licensing program. Of these offenders, six (85%) had

suspended licenses as of October 2000, and five of those six (83%) had failed to appear at hearings or pay fines.

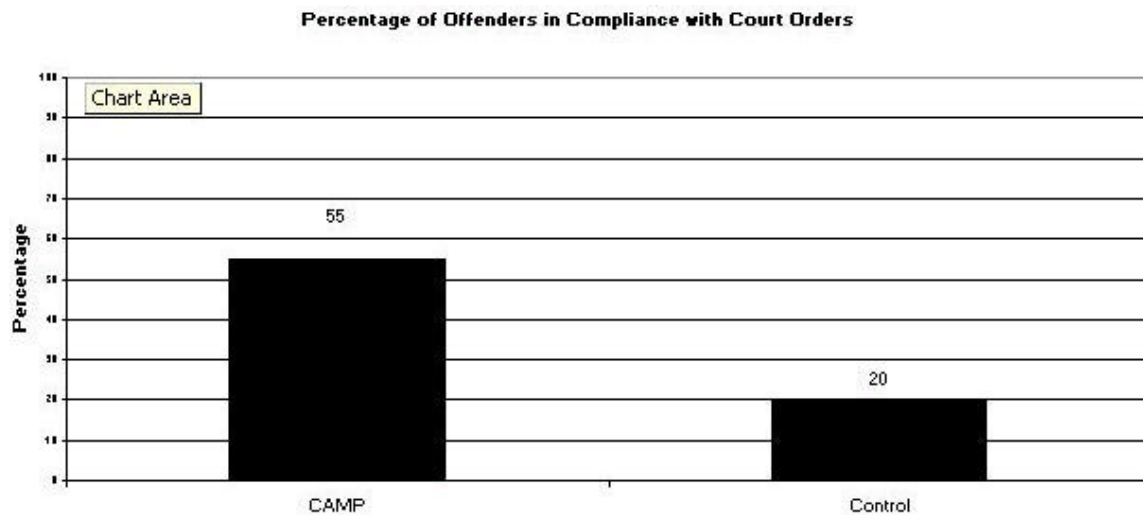
Figure 1 shows the number of offenses for individuals in both control and treatment (CAMP) groups prior to and following the implementation of Operation



Impound. As the data show, the number of charges decreased significantly for both groups after January 1, 1999. The control group received a total of 171 third-degree DWLS citations, with 124 issued prior to the start of vehicle impound program—a decrease of 74%, or a three-fold reduction. The treatment group received a total of 83 third-degree DWLS citations, with 76 issued before January 1, 1999—a decrease of 91%, or an eleven-fold reduction.

Figure 2 shows the rates of compliance with court orders for members of both control and treatment groups. A total of \$53,742 in fines and penalties was owed by control group defendants (\$1,791 per defendant). Six were in compliance with court orders (i.e., all fines were paid or they were participating in a payment plan) as of

October, 2000. A total of \$205 had been collected through payment plans by that same month, representing a collection rate of .4%.



In the treatment group, 16 individuals (55%) were in compliance with court orders as of October, 2000. This group owed a total of \$48,406 in fines and penalties (\$1,613 per offender), of which \$7,473 had been collected. This translates into a collection rate of 15%, which is 39 times greater than that for the control group.

Conclusions and Recommendations

Assuming that third party or community-based intervention is effective in helping offenders become re-licensed and avoid future third-degree DWLS charges, the benefits clearly exceed the costs. As this report indicates, defendants charged with third-degree DWLS very likely remain in suspended status for an extended period of time, since most defendants either can not or will not pay the original infraction fine or new fines for third-degree DWLS. This remains a problem whether or not the suspended driver's vehicle is impounded during a traffic stop and whether or not the criminal charge is dismissed as a result of the impoundment. On the other hand, it is also clear that vehicle impoundment

has had an effect on reducing the number of cases filed with the court—thus reducing its workload as well as the costs associated with incarceration. Until more data is collected over a longer period of time, the question of whether impound programs strongly affect perceptions of the justice system in a positive way will remain unanswered.

Offenders who are motivated to seek assistance through community agencies are more likely to remain re-licensed by participating in a payment plan. This may be due in part to the self-perceived need of a valid driver's license in order to find or keep employment and therefore meet the requirements of public assistance. However, it must be noted that offenders in voluntary payment plans are often late with their payments, and frequently leave and re-enter the program according to their ability to make regular payments.

Based on the data presented in this report, there are several recommendations that can be made regarding the process used by the courts, prosecutors, and law enforcement officers to deal with suspended drivers. They include:

1. Universal or one-stop cashiering would allow citizens to pay any obligation to any Washington jurisdiction from a location within their own jurisdiction. Some states require that all traffic fine payments be made to the Department of Licensing/Motor Vehicles. Those agencies track compliance rates and remit money to municipalities. Other states, like Missouri, have a program that allows jurisdictions to opt into a centralized state sponsored payment program. The city government of San Antonio,

Texas has recently installed Community Kiosks in local shopping centers from which citizens can pay tickets , make park reservations, and apply for certain kinds of municipal permits. This concept could be expanded to a network of statewide payment stations. Certainly the Web and its e-commerce and e-government applications should be explored for the creation of statewide web site for credit card payments.

2. Alternative sanctions should be considered to reduce the economic impact of traffic violations on low-income individuals. These sanctions could consist of fines levied on a sliding scale based on individual income and a more universal application of community service in lieu of fines. Similar to the universal cashiering system mentioned above, Washington State could help set up a system of inter-jurisdictional agreements that would allow defendants to perform community service in their home jurisdictions even when violations have occurred elsewhere. Consider substituting mandatory attendance at “life style” classes such as budgeting and minor car repair in lieu of fines.

3. The Department of Licensing could use the vehicle registration and license renewal processes to validate driver’s licenses and liability insurance. For example Michigan residents cannot renew their vehicle registrations until all of their tickets are paid. The State of Michigan has also recently started to deny car dealers the ability to register vehicles to owners with suspended licenses. In Washington, car registration renewals are only blocked in cases of unpaid parking tickets; neither driver’s license status or proof of insurance are checked during this transaction. This would require the sharing of public files with private individuals who operate vehicle license businesses, a

potential barrier to this reform. Since it is a state agency, DOL agents do check an individual's ADR when he or she applies for a driver's license renewal.

4. Funding for information technology upgrades should be increased for the DOL so that it can provide more timely and accurate ADR information to District and Municipal Courts, who need such information when dealing with suspended license cases. This includes the ability to update licensee addresses on-line. (The Seattle Municipal Court is taking part in a pilot project to download case dispositions to the DOL.) During my research, I came across offenders who had recovered their impounded vehicles but who still owed the SMC hundreds or thousands of dollars in fines—the result of a rule that states that unpaid fines older than 5 years erased from the individual's ADR. The Seattle Municipal Court policy is to carry accounts for 10 years. It is unclear if all jurisdictions follow the same policies for aging accounts and this needs to be clarified and if necessary, standardized.

In conclusion, it appears that intervention by private social service agencies is worthwhile. Third-degree DWLS is not a violent crime with easily identified victims, despite the known increase in accidents among suspended drivers. Yet the involvement of law enforcement officers, judges and court personnel, and collection agencies—on top of the considerable fines levied for many traffic infractions in this state—are overwhelming to most low-income defendants. Social service-based intervention helps these defendants, while at the same time reducing court and jail costs. Perhaps the larger public policy question is the role of the automobile in American life. Legislative bodies

have made and continue to make laws from the perspective that driving is privilege and not a right. There is no doubt that driving and owning a vehicle have specific legal and financial responsibilities attached thereto. However, the reality is that we are society that relies heavily on our mobility, especially for employment and to access services for our selves and our families. Urban areas, with high-density population centers, are generally served by rapid transit, but others, like Los Angeles or Dallas , are only just beginning to invest in public transit infrastructure. Even cities with good rapid transit systems cannot provide the level of service that many citizens must have to meet their employment and family needs. Residents in our rural areas are truly dependent on their vehicles and often have few options available for paying fines. Standardizing and expanding compliance options available throughout Washington would benefit many of our citizens.

Works Cited

American Association of Motor Vehicle Administrators. Driver Improvement Program.

Arlington, VA: American Association of Motor Vehicle Administrators, 1997.

Brunner, Jim. "Car-tow Law Headed for Overhaul?" Seattle Times 8 June 2000, C1. 15

August 2000 <<http://archives.seattletimes.nwsourc.co>>.

Brunner, Jim. "Cries of 'Shame' as Auto-impound Law is Retained." Seattle Times 27

June 2000, C1. 15 Aug. 2000 <<http://archives.seattletimes.nwsourc.co>>.

Clark County Driver's License Restoration Program. DWS Class: Department of

Licensing Presentation. Vancouver, WA: Clark County District Court, 2000.

DeYoung, David J., Raymond C. Peck, and Clifford J. Helander. "Estimating the

Exposure and Fatal Crash Rates for Suspended/Revoked and Unlicensed Drivers in California." Accident Analysis and Prevention 29.1 (1997): 17-23.

DeYoung, David J. "An Evaluation of the Specific Deterrent Effects of Vehicle Impoundment on Suspended, Revoked, and Unlicensed Drivers in California." Accident Analysis and Prevention 31.1 (1999): 45-53.

Fisher, David. "County Lockups Are Bursting at the Seams." Seattle Post-Intelligencer 28 Sept. 2000, B1.

Griffin III, Lindsay I., and Sandra DeLaZerda. Unlicensed to Kill. College Station, TX: Texas Transportation Institute, Safety and Structural Systems Division, Texas A&M University, 2000.

Guy, Richard P. A Report to the Washington State Legislature. Olympia, WA: Office of the Administrator of the Courts, 2000. 2 June 2000 <<http://www.courts.wa.gov/crtinfo/report2000.htm>>.

King County District Court. Relicensing Project. Unpublished press release. 15 Sept. 2000 <<http://www.metrokc.gov/kcdc/dwls3pr.htm>>.

Lemley, Ellen C., Michael Erp, and Gregory D. Russell. Washington State Law and Justice Advisory Committee Community Justice Partnership: Fourth Quarter Final Evaluation, Second Year Funding. Spokane, WA: Washington State University, 2000.

Michigan is Giving the Boot to Unsafe Drivers Who Are Repeat Offenders. 28 Aug. 2000 <<http://www.sos.state.mi.us/drlic/repeatoffender/index.html>>.

Murray, Christopher, Nayak Polissar and Bell, Merlyn. The Misdemeanant Study – Misdemeanors and Misdemeanor Defendants in King County Washington. Seattle: Regional Law and Justice Committee, 1998.

National Highway Traffic Safety Administration. State Legislative Fact Sheet: Vehicle and License Plate Sanctions. Washington, DC: US Department of Transportation, 2000. 28 July 2000 <http://www.nhtsa.dot.gov/people/outreach/stateleg/veh_lic_sanctions.htm>.

National Highway Traffic Safety Administration. Guidelines for a Suspended or Revoked Operator Enforcement Program. Washington, DC: US Department of Transportation, 2000. 28 July 2000 <<http://www.nhtsa.dot.gov/people/injury/enforce/Guidelines/intro.htm>>.

National Highway Traffic Safety Administration. California Impounds the Vehicles of Motorists Caught Driving Without a Valid License. Washington, DC: US Department of Transportation, 1998. 1 Aug. 2000 <<http://www.nhtsa.dot.gov/people/outreach/traftech/pub/tt180.html>>.

Office of the Administrator of the Courts, Washington. Driving While Licensed Suspended. Olympia, WA, 1999.

Office of the Administrator of the Courts, Washington. Judicial Information System. Olympia, WA, 2000. 1 Sept. 2000 <<http://www.courts.wa.gov/committee/jis/jis.cfm>>.

Office of the Administrator of the Courts, Washington. Courts of Limited Jurisdiction Highlights. Olympia, WA, 2000. 17 Aug. 2000 <<http://www.courts.wa.gov/caseload/limited/high99.cfm>>.

Office of the Administrator of the Courts, Washington. Project 2001: Minutes of the Warrant Resolution Workgroup. Olympia, WA, 2000. 17 August 2000. <<http://www.courts.wa.gov/projects/proj2001/wrwg/min081000.cf>>.

Pawasarat, John, and Frank Stetzer. Removing Transportation Barriers to Employment: Assessing Driver's License and Vehicle Ownership Patterns of Low-Income Populations. Milwaukee, WI: University of Wisconsin-Milwaukee Employment and Training Institute, 1998. 28 July 2000 <<http://www.uwm.edu/Dept/ETI/dot.htm>>.

Sidran, Mark (Seattle City Attorney). Personal interview. 10 October 2000.

Sidran, Mark. Testimony to the Washington Sentencing Guidelines Committee. Seattle, 5 December 2000.

Voas, Robert B., A. Scott Tippetts, and James E. Lange. "Evaluation of a Method for Reducing Unlicensed Driving: The Washington and Oregon License Plate Sticker Laws." Accident Analysis and Prevention 29.5 (1997): 627-634.

Voas, Robert B., A. Scott Tippetts, and Eileen Taylor. "Temporary Vehicle Immobilization: Evaluation of a Program in Ohio." Accident Analysis and Prevention 29.5 (1997): 635-642.

Voas, Robert B., A. Scott Tippetts, and Eileen Taylor. "Temporary Vehicle Impoundment in Ohio: A Replication and Confirmation." Accident Analysis and Prevention 30.5 (1998): 651-655.

Washington State Patrol. Demographic Data Collection, October 1999 to February 2000. Olympia, WA: Washington State Patrol, 2000.

Yates, Mary (Yakima Mayor). Telephone interview. 5 November 2000.

