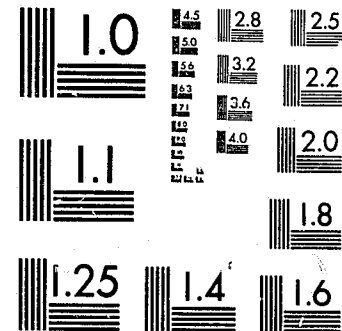


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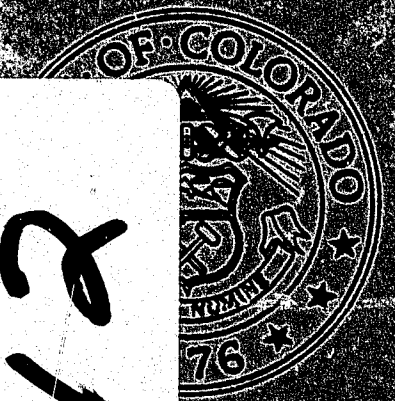
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National Institute of Justice
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Washington, D. C. 20531

1/25/84

Impact of Colorado's Revised DUI/DWAI Legislation On County Jails

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DEPARTMENT OF LOCAL AFFAIRS
DIVISION OF CRIMINAL JUSTICE

IMPACT OF COLORADO'S REVISED
DUI/DWAI LEGISLATION ON COUNTY JAILS

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ACQUISITIONS

Prepared by
The Colorado Division of Criminal Justice

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January 1983

This report was prepared under Department of Justice
Bureau of Justice Statistics grant number 82-BJ-CX-K026

U.S. Department of Justice
National Institute of Justice

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ACKNOWLEDGEMENTS

The Division of Criminal Justice would like to express special thanks to the sheriffs of Colorado and their staff and the Denver Anti-Crime Council who have provided information for this report. Without their assistance, this report could not have been prepared.

This report was prepared for the 54th General Assembly by the Division of Criminal Justice at the request of the Colorado Commission of State and Local Government Finance. The request was to research and report the impact on local jails of H.B. 1232, Colorado's revised Driving Under the Influence/Driving While Impaired (DUI/DWAI) legislation.

Colorado's drunk driving statutes were amended and strengthened through the enactment of H.B. 1232 in 1982. The following is a brief summary of the major changes:

- Prohibits plea bargaining of alcohol related offenses down to non-alcoholic offenses, unless the prosecutor indicates, by a good faith representation, that a prima-facie case could not be established.
- Allows judges to sentence DUI/DWAI offenders to two years' probation, in addition to all other penalties.
- Requires all DUI/DWAI offenders to perform a mandatory minimum amount of useful public service.
- Requires mandatory jail time which cannot be suspended for persons convicted of two or more subsequent offenses within five years.
- Requires persons convicted of subsequent DUI/DWAI offenses to abstain from alcohol for one year as a condition for suspending the remaining portion of the jail sentence.
- Requires that more extensive records be kept on convicted DUI/DWAI offenders, including fingerprints and photographs.
- Increases and redistributes fees and fines for DUI/DWAI offenders.

METHODOLOGY

In order to assess the impact on local jails of Colorado's new drunk driving legislation which became effective July 1, 1982, the Division of Criminal Justice compared data on the number of pretrial and sentenced offenders held in jail for the months of July 1 - December 31, 1982 to similar data from the same period in 1981. The same six month period for both 1981 and 1982 was used to avoid any seasonal variations which might occur throughout the year.

The Division of Criminal Justice staff conducted onsite visits to 54 of the state's 56 operational county jails. During these visits the staff collected the following pieces of information for the period of July 1, 1981 through December 31, 1981 on all bookings into the jail for DUI or DWAI offenses:

- Number of Pretrial DUI's booked into jail
 - Length of Stay
- Number of Pretrial DWAI's booked into jail
 - Length of Stay
- Number of Sentenced DUI's
 - Length of Stay
- Number of Sentenced DWAI's
 - Length of Stay

The sheriffs in these counties were then requested to collect and forward to the Division the same information for the period of July 1, 1982 through December 31, 1982. The Division used these data to compare the changes which had taken place in each reporting jail between the baseline period in 1981 and the first six months of implementation of the new legislation.

The Division received responses from 65 percent of the counties with operational jails in Colorado, which, based on 1980 Census data estimates for 1982, contain approximately 79 percent of the state's population. A list of participating counties is attached.

ARRESTS AND PRETRIAL DETENTION

Figures provided by the Division of Highway Safety show that there has been approximately a 13 percent increase in the number of arrests for DUI and DWAI offenses in the first six months of the new legislation compared to the same period in 1981. The data collected from the responding jails show a similar increase in the number of pretrial detainees booked into county jails for these offenses. As shown in Table 1, there was a nine percent increase in the number of DUI/DWAI bookings into county jails: 6,943 in July-December, 1982 compared to

6,385 for the same period in 1981. Pretrial detainees are those individuals who, having been arrested, are booked into jail, but have not yet been adjudicated. The amount of time the pretrial detainees spent in jail prior to being released on bond or adjudicated decreased from 1981 to 1982. As seen in Table 1, the average length of stay for a person booked into jail on a DUI or DWAI charge in 1981 was slightly under 17 hours, while in 1982 this time was approximately 15 1/4 hours. This represents a decrease of approximately 1 3/4 hours in the average time an individual spent in pretrial custody between the last six months of 1981 and the same period under the new legislation.

TABLE 1
PRETRIAL BOOKING FOR DUI AND DWAI*

| JAILS | BOOKINGS | | | AVERAGE LENGTH OF STAY | | |
|---|------------|------------|----------|------------------------|------------|----------|
| | Jul-Dec 81 | Jul-Dec 82 | % Change | Jul-Dec 81 | Jul-Dec 82 | % Change |
| Denver | 2472 | 2413 | - 2.4 | 18.67 hrs. | 11.75 hrs. | - 37.1 |
| Counties Over 100,000 Population (Excluding Denver)** | 2203 | 2337 | + 6.1 | 12.80 | 17.27 | + 34.9 |
| Balance of State | 1710 | 2193 | + 28.3 | 17.18 | 17.05 | 0.1 |
| TOTAL | 6385 | 6943 | + 8.7 | 16.92 | 15.28 | - 9.7 |

*Sample covers 79 percent of the state's population and 65 percent of the counties with operational jail facilities.

**Reporting counties include only six of the eight counties in the population group.

The data, as well as discussions with sheriffs and jail personnel, indicate that the jails which are at capacity or overcrowded are using existing pretrial release programs, P.R. bonds, and other release alternatives more frequently than in the past for DUI/DWAI offenders. If this is, in fact, the case, it would account for the reduction in length of pretrial time spent in jails in jurisdictions where such programs exist.

Table 2 reflects the total number of pretrial incarceration days in the reporting counties. This was computed by taking the average length of stay in each year and multiplying by the number of pretrial bookings. These calculations reflect that although the number of DUI/DWAI bookings have increased, this increase was offset by the reduction in the length of stay in the jail by these individuals. Thus, the number of incarceration days within the reporting jurisdictions actually decreased by 1.8 percent from 1981 to 1982.

TABLE 2
PRETRIAL INCARCERATION DAYS*

| | 7-1-81/12-31-82 | 7-1-82/12-31-82 | ± % |
|---------------------|-----------------|-----------------|-------|
| Incarceration Days: | 4501 | 4420 | - 1.8 |

* Sample covers 79 percent of the state's population and 65 percent of the counties with operational jail facilities.

THE LEGISLATION AS A DETERRENT

There was some hope that the new DUI/DWAI legislation and the resulting media coverage would serve as a deterrent, thus reducing the number of individuals who would risk driving after drinking. However, the data for the reporting counties indicate this has not been the case. Results from the Denver metro area reflect that DUI/DWAI jail bookings did fall off during the first month or two after the new legislation became effective;

however, bookings increased to 1981 or higher levels during the remaining months of 1982 in Denver and most of the counties. The data from the remaining counties indicate that for the most part these jurisdictions did not experience any significant decrease in bookings after the legislation went into effect. Nine percent more DUI/DWAI's were booked into these county jails during July 1982 than July 1981. These results indicate that, overall, the legislation did not act as a long term deterrent.

SENTENCING

Figures provided by the Division of Alcohol and Drug Abuse show that there were 19,028 filings for DUI/DWAI for July through December, 1982 compared to 16,983 for the same period in 1981, or a 12 percent increase. However, the rate of conviction for DUI/DWAI offenses has declined from 74.4 percent in 1981 to 67.5 percent in 1982 according to the Division of Highway Safety. Although there has been a decrease in the rate of conviction, there has been an increase in the number of people sentenced to county jails for these offenses during the last six months of 1982 compared to the same period in 1981. As reflected in Table 3, the number of individuals sentenced rose from 812 in 1981 to 1402 in 1982 under the new legislation. This represents a 73 percent increase between the two years.

TABLE 3
SENTENCES FOR DUI AND DWAI*

| Jails | SENTENCES | | | AVERAGE LENGTH OF STAY | | |
|---|------------|------------|----------|------------------------|------------|----------|
| | Jul-Dec 81 | Jul-Dec 82 | % Change | Jul-Dec 81 | Jul-Dec 82 | % Change |
| Denver | 228 | 339 | +48.7 | 32.96 days | 36.00 days | + 9.2 |
| Counties Over 100,000 Population (Excluding Denver)** | 283 | 570 | +101.4 | 26.79 days | 18.96 days | -29.2 |
| Balance of State | 301 | 493 | +63.8 | 7.63 days | 8.92 days | +16.9 |
| TOTAL | 812 | 1402 | +72.7 | 21.4 days | 19.5 days | - 8.9 |

* Sample covers 79 percent of the state's population and 65 percent of the counties with operational jails.

** Reporting counties include only six of the eight counties in the population group.

Table 3 also reflects the change in average sentence length for Denver, counties over 100,000 population excluding Denver, and the balance of the state. The counties with a population over 100,000 excluding Denver reported a decrease in the length of sentence under the new legislation; while Denver and the balance of the state jurisdictions showed an increase in length of DUI/DWAI sentences.

Table 4 reflects the number of sentenced prisoner days. As shown, the responding counties reported that the number of sentenced prisoner days rose by approximately 57 percent between the sample period 1981 to the same period in 1982.

TABLE 4
SENTENCED PRISONER DAYS*

| | 7-1-81/12-31-81 | 7-1-82/12-31-82 | ± % |
|-------------------------|-----------------|-----------------|-------|
| Sentenced Prisoner Days | 17,376 | 27,339 | +57.3 |

* Sample covers 79 percent of the state's population and 65 percent of the counties with operational jails.

FINANCIAL IMPACT OF LEGISLATION

In order to estimate the fiscal impact of the legislation to the jails, it is necessary to take the data from reporting counties and extrapolate to the balance of the state. As stated earlier in this report, the counties for which data were available contained 79 percent of the estimated 1982 state's population. For purposes of estimating the cost to the jails, it was assumed that the impact was the same in the jails which service the other 21 percent of the population.

Table 5 reflects the estimated total number of pretrial and sentenced individuals as well as the number of incarceration days for both categories during the sample period in 1981 and 1982. These projections show that the number of

jail events (bookings and sentencing) have risen on a statewide basis from 9,110 during the survey period in 1981 to 10,564 during the same period in 1982. Likewise, total incarceration days for both pretrial and sentenced offenders have increased from 27,693 days to 40,200 days during the same period.

TABLE 5
SAMPLE DATA PROJECTED TO TOTAL STATE

| | 7-1-81/12-31-81 | | 7-1-82/12-31-82 | |
|-------------------|-----------------|--------|-----------------|--------|
| | Number | Days | Number | Days |
| Pretrial Bookings | 8,082 | 5,698 | 8,789 | 5,594 |
| Sentences | 1,028 | 21,995 | 1,775 | 34,606 |
| TOTAL | 9,110 | 27,693 | 10,564 | 40,200 |

Using the information of total incarceration days reflected in Table 5, it is possible to derive an approximate comparison of costs to county jails between the two sample years.

Table 6 reflects these cost comparisons. The total incarceration days for each six month period were multiplied by the average statewide jail cost figure. The cost figure was developed through a survey of county jails in 1979 and has been adjusted for inflation at an annual rate of 10 percent. The average cost per day includes staff, food, hygiene articles, minimum medical expenses and other operating expenses, but does not include capital costs or depreciation allowances.

The estimated cost of holding people arrested for or convicted of DUI or DWAI offenses increased 45 percent from \$858,483 in 1981 to \$1,246,448 in 1982. This increase was primarily the result of the 73 percent increase in the number of sentences for DUI and DWAI offenses

TABLE 6

COMPARISON OF PROJECTED JAIL COSTS FOR SAMPLE PERIOD

| | 7-1-81/12-31-81 | 7-1-82/12-31-82 |
|------------------------------------|------------------|--------------------|
| Total Projected Incarceration Days | 27,693 | 40,200 |
| Average Cost Per Day | X \$31.00* | X \$31.00* |
| Cost for Sample Period | <u>\$858,483</u> | <u>\$1,246,200</u> |

* Costs for both 1981 and 1982 are computed using estimated 1981 costs per day to reflect an increase due to the change in legislation and not the increase in inflation.

In reviewing Tables 5 and 6, it should be kept in mind that although the figures represent data for the entire state, they cover only a six month period in each year. Therefore, any type of annual analysis will require the doubling of these figures.

SUMMARY

The following is a summary of the impact of the first six months of the new DUI legislation on the jails compared to the same period in 1981:

- Arrest for DUI/DWAI offenses increased approximately 13%.
- The number of pretrial bookings into county jails has increased approximately 9% with the largest increase occurring in the rural areas.
- Although there was an increase in the number of people booked, there was an approximate 10% decrease in the length of time held, reflecting significant decreases in Denver and a couple of metro counties.
- The conviction rate has decreased from 74.4% in 1981 to 67.5% in 1982.
- The number of people sentenced to the jails for DUI and DWAI offenses increased approximately 73%.

- The average length of sentence decreased approximately 9% with an increase in Denver and rural counties but a decrease in counties over 100,000 population.
- The estimated incarceration days resulting from the new legislation increased 45% at an annual increased cost to the counties in excess of \$775,000.

APPENDIX A

The following Colorado counties provided information on the DUI/DWAI offenders held in their jails:

| | | |
|-------------|------------|----------|
| Adams | El Paso | Moffat |
| Alamosa | Gilpin | Montrose |
| Archuleta | Grand | Morgan |
| Arapahoe | Huerfano | Otero |
| Baca | Jackson | Prowers |
| Bent | Jefferson | Pueblo |
| Cheyenne | Kit Carson | Routt |
| Clear Creek | La Plata | Saguache |
| Denver | Lake | Summit |
| Delta | Las Animas | Teller |
| Douglas | Lincoln | Weid |
| Eagle | Logan | Yuma |

END