

11-25-1985

Interim Hearing on What's Working in DUI?

Senate Select Committee on Drug and Alcohol Abuse

Follow this and additional works at: http://digitalcommons.law.ggu.edu/caldocs_senate



Part of the [Criminal Law Commons](#), and the [Legislation Commons](#)

Recommended Citation

Senate Select Committee on Drug and Alcohol Abuse, "Interim Hearing on What's Working in DUI?" (1985). *California Senate*. Paper 32.

http://digitalcommons.law.ggu.edu/caldocs_senate/32

This Hearing is brought to you for free and open access by the California Documents at GGU Law Digital Commons. It has been accepted for inclusion in California Senate by an authorized administrator of GGU Law Digital Commons. For more information, please contact jfischer@ggu.edu.

California Legislature
**SENATE SELECT COMMITTEE ON
DRUG AND ALCOHOL ABUSE**
Senator John Seymour, Chairman

Interim hearing on
WHAT'S WORKING IN DUI?

Orange City Council Chambers
300 E. Chapman
Orange, California

November 25, 1985
9:30 a.m. - 4:00 p.m.

KFC
22
L500
D78
1985
no. 3

KFC
22
L500
D78
1985
no 3

LAW LIBRARY
GOLDEN GATE UNIVERSITY

California Legislature

**SENATE SELECT COMMITTEE ON DRUG
AND ALCOHOL ABUSE**

Senator John Seymour, Chairman

Interim hearing on

WHAT'S WORKING IN DUI?

Orange City Council Chambers
300 E. Chapman
Orange, California
November 25, 1985
9:30 a.m. - 4:00 p.m.

Senate Select Committee on Drug and Alcohol Abuse

November 25, 1985

"What's Working in DUI?"

86-7-536

CHAIRMAN JOHN SEYMOUR: Ladies and gentlemen, we'll begin our public hearing. This is an interim hearing held by the Senate Select Committee on Drug and Alcohol Abuse, and I welcome each and every one of you. I appreciate the fact that you're taking time from your busy schedules to attend, what I consider to be, a most important interim hearing, discussing, in essence, what is working relative to programs, stronger laws, treatment programs, education in this whole area of drunken driving, so we might get a handle on it.

The reason we were just a bit late in getting started, we were waiting on one of our colleagues, Senator Ed Royce. I'm sure he'll be along momentarily. I'd like to recognize Senator Gary Hart, who is with us today as a member of the committee. Senator Hart, based in the Santa Barbara area, previously had served in the Assembly and then was elected to the State Senate in 1982. Senator Hart is chairman of the most important Senate Education Committee with a background in teaching and strongly and vigorously committed to improving the quality of education in our state. I know that he shares a very genuine concern for particularly our young people of the state, and so, Senator Hart, we're happy to have you here in Orange County today.

The last decades of the 20th Century were recorded as the point at which society in the United States after 30 years of nomadic inattention finally moved forcefully to eliminate the scourge of drunken driving.

Impetus for the action came mostly from citizens, spurred to action by highway fatalities related to drunk driving in which sons, daughters or other relatives were the victims. This action has resulted in stiffer penalties, increased enforcement efforts, the development of comprehensive educational and prevention programs, and the creation of new and innovative treatment alternatives.

There's been an increased public awareness of the dangers of drinking and driving as a result of work by federal, state and local governments, grassroots citizen organizations and widespread media attention. This groundswell of public consciousness is a promising trend that we all hope will continue. It is encouraging to see the nation working with a common resolve to eliminate a leading health and safety risk.

Some of the recent statistics would indicate positive results of actions being taken throughout our country. Nationwide, the number of fatally injured drivers, who were intoxicated at the time of the crash, dropped 24% over the past 4 years. However, the picture here in California is not nearly as bright; rather, it's going the other way. Californians still consume about 25% more alcohol than the national average. And fatal drunk driving accidents in our state did not drop, but they jumped 13.1% in 1984 compared to 1983.

It is clear that we here in California have a long way to go to stop the havoc and carnage on our highways caused by drunken drivers. Driving under the influence is still the greatest killer of our young people, and we must continue our efforts to reverse this deadly trend.

Thus you can see why this committee is very pleased to have all of you here today. You are the experts who work daily with this problem. Whether you are involved with the law enforcement aspect, the treatment of drunken drivers or educational programs, which seek to deter this activity, you all have a special perspective on the issue to share with us in the Legislature.

We all realize that the ultimate goal of a successful program to reduce alcohol-related highway crashes is to make drunk driving and intoxication itself socially unacceptable. How far have we come in these recent years to accomplish this goal? That is our major question here today. We need to sit back and assess the effectiveness of our recent actions. There are still many unanswered questions and unproven theories as to what actually works. It is time to decide what our future course of action will be in attacking this problem.

You can be of great help in this regard, so let us not delay any longer and begin with our first witness, Mr. David Larson, the Executive Director of the Orange County Chapter of the National Council on Alcoholism. Mr. Larson?

MR. DAVID LARSON: I would like to take this opportunity to thank you, Senator Seymour, and your committee for allowing me to testify today. Just a few words of my background and that of the organization that I represent today.

I am a retired lieutenant from the California Highway Patrol, having spent 27 years in that organization. I am the Executive Director of the National Council on Alcoholism, Orange County and have held that position for the past 6 years. I became involved in alcoholism in Orange County in 1972 through the formation of the new Alcoholism Advisory Board at that time. I served on that Board for 7 years and was chairman for 2 years. I am on the faculty of the University of Utah Summer School on alcoholism studies and a member of the Alcohol Studies Advisory Board of Saddleback College, Cypress College and the University of California, Irvine.

The National Council on Alcoholism, Orange County is the 6th largest Council of some 200 in the United States. We have been pioneers in the three following areas: The drinking driver programs, employee assistance programs and adolescent alcoholism. Our drinking driver programs began in the late 1960s before there was any formalized knowledge on the subject.

We currently service North and South Orange County Municipal Courts in regard to the first offender program (AB 541). And we also were one of the first organizations to develop (inaudible) offender program back in the early 1970s.

We have been pioneers in the field of industrial employee assistance programs and

currently run the largest employee assistance program in Orange County, known as the Orange County Employee Assistance Network (OCEAN).

Five years ago we began to develop a student assistance program for local high schools. I'm proud to report today that now there are over 2,000 teachers training in this concept and over 80 high schools in some stage of implementation.

I would like to make suggestions to this committee in those three areas.

In the drinking driver area, the National Council on Alcoholism would strongly recommend statewide standards for the first offender programs. I would like to commend Dr. Sue Zepeda and her staff, along with Judge Gray's foresight, in developing the new multi-level first offender program that will become effective January 1, 1986 here in Orange County. It is my fervent hope that this will become the model for statewide mandates.

Further, we would strongly recommend that any new legislation would require a mandatory alcoholism assessment for all first offenders. I would call your attention to the assessment criteria that has been in effect in Albuquerque, New Mexico for the past two years. To put it simply, the Albuquerque experience shows us that 42% of all first offenders are classified as at least "situational heavy drinkers" and that 58% of the first offenders are in some stage of the disease of alcoholism.

The second area of concern is adolescent alcoholism. It seems that everyone wants to build a new mousetrap to deal with this expanding problem, but it is our strong opinion that before we can talk about primary prevention, several things must be in place first.

The National Council on Alcoholism introduced the student assistance concept 5 years ago, and simply stated, a student assistance program is early identification, intervention and referral by faculty. To accomplish this, every school must have trained faculty members. The cost of training the faculty members is a constant problem in many of the school districts. Communities must find a way to finance this training.

The second component is a strong parent group in all schools. Since the Chemical People Program initiated by First Lady Nancy Reagan two years ago, we can report great success. We now have approximately 40 of these parent groups in Orange County. Our emphasis at the National Council in 1986 will be in doubling this number.

If these two components are in place, then the natural development of prevention programs in the schools can be accomplished through the various programs that are available to schools such as Orange County's Peer Assistance League (PAL); Social Thinking and Reasoning (STAR); and Project Self-Esteem. And the National Council will be introducing our BABES program for kindergarten and preschool children in 1986.

Society has been giving our young people double messages, and it is time that we begin to stop these double messages. For instance, television now carries a strong "Don't Drink and Drive" message. However, the Legislature and local government continue

to allow alcoholic beverages to be sold in gas stations. The message that is being given to the youth of America is "Don't Drink and Drive", but it's okay to buy your booze in a gas station.

The National Council on Alcoholism strongly recommends that the California Legislature take a strong and immediate stand against the sale of alcoholic beverages in gas stations.

The last issue that I would like to address is that of employee assistance programs and industry. Industrial counseling programs have proven to be tremendously successful in the early intervention and successful treatment of persons that are chemically dependent. Industry in general, particularly some small employers, have not yet taken advantage of these types of programs to help their employees and at the same time save money in the costs associated with chemical dependency and other personal problems.

Considering that employee assistance is indeed a preventive tool, we would recommend that the California Legislature consider a tax incentive program to reward employers that embrace the employee assistance concepts.

Thank you for allowing me to testify this morning. If you have any questions, I would be delighted to answer them.

CHAIRMAN SEYMOUR: Thank you very much, Mr. Larson. We sincerely appreciate your taking the time to be with us today and commend you for a career commitment to this deadly disease.

I would offer a couple of questions. In meeting a couple of weeks ago with a number of judges, we were talking about sentencing and some assessment prior to sentencing. They said two things. Well, first of all, they weren't necessarily opposed to the concept, but they said, "John, I can read these people like a book. I really don't need an assessment program; I think I understand them very well." And then, too, "If you have a mandated assessment program, then really you create an environment with the defense attorneys that is very difficult for we, the judges, to do what we think should be done." Would you respond to that?

MR. LARSON: Well, first of all, I think that by virtue of the fact that the judges have been the only ones that have had the ability to make an assessment have done a very fine job in the past. Some judges have become very, very knowledgeable in the field of alcoholism and are able to do it.

As I understand the judges' role, the defendant is really not in front of them for longer than about 2 minutes of the time that this assessment can go on. They do have several tools that they can use -- probationary reports and so forth. But I don't believe that we can any longer allow it to be, if you will, on a hit-and-miss situation. Some judges may not have the same commitment or understanding of the disease. I think our society as a whole has not yet accepted it as a disease but as being something as a willpower problem.

So I believe that places---and there're many places now that are beginning to do it -- Wisconsin, Albuquerque and other states. And I do not understand quite how the Orange County system is going to work after January 1, but I understand there is an assessment process being developed at the present time. And I commend them for taking this stand and moving that responsibility out of the court system and into the hands of somebody that's going to have some training to assess these individuals.

I feel like I've been standing up alone in the judicial system for now some 13 years saying that the largest percentage of the people that come before you for first offense drunk driving are in some stages of the disease of alcohol. I believe that's now being accepted and that the judges are accepting that fact and that they need to be assessed.

I don't know if I answered your question.

CHAIRMAN SEYMOUR: Yes, you did. Another question I had, could you share with the committee the extent of abuse by adolescents here in Orange County?

MR. LARSON: Well, I would call this committee's attention to the survey that was promulgated by the board of supervisors last year -- I hope that you have a copy of that -- and I think that I'll just quote the one most startling fact -- there's a lot of facts in there. 13.5% of all 11th grade students in Orange County use chemicals daily, and I think that we don't have to go any further with the survey, that that points up that it is a profound problem. I know that we're dealing with it on a daily basis in our organization and that we have to break down the denial of the school system, the school boards and the parents that, indeed, that isn't---that 13.5% of the children but that's our children that we're talking about. And that level of denial has to be broken down through effective educational programs for the parents. That's why that parent identified that the parent groups in the high schools are ever so important.

CHAIRMAN SEYMOUR: Okay. Any questions, Senator Hart? Thank you very much. We appreciate your time, Mr. Larson, and continued success.

Our next group of witnesses include Judge Bernard Kaufman, Joyce Cook, Dragutin Ilich, all representing the Los Angeles County Municipal Court.

MS. JOYCE COOK: Good morning. Thank you for inviting me and Mr. Ilich to speak to this distinguished committee. Judge C. Bernard Kaufman of the Burbank Judicial District will also be joining us at the podium today.

I am (inaudible) attorney with the Los Angeles County Municipal Court's Planning and Research Unit and I've worked in the DUI field for the last 7 years. Mr. Ilich has been a staff attorney in our office for 4 years. During that time period, his projects have included a study on the impact of revisions of the DUI laws on the county municipal courts and the development of _____ (inaudible) _____ for DUI cases. These (inaudible) are (inaudible) in nearly all municipal courts in Los Angeles County and in many places throughout the State of California.

Judge Kaufman has long been active in the DUI field as the chairman of the Municipal

Court Judges Committee on Drinking Drivers. He is a recognized leader in the DUI field and has served on numerous committees organized to address the problem of drunk driving.

The Planning and Research Unit is responsible for conducting (inaudible) research and special projects for Los Angeles County Municipal Courts. These projects range from the development of criminal justice data processing systems and the analysis of your legislation.

Mr. Ilich will begin our presentation with the discussion of his study of the impacted revision of DUI laws.

MR. DRAGUTIN ILICH: Good morning. As you know, in 1981 the California Legislature enacted new laws for driving under the influence in response to increased public concern regarding the drinking driver problem. Penalties for all DUI offenders were increased; alcohol probation became mandatory for most first offenders; restrictions on plea bargaining were imposed; in addition, a new offense was established to provide that persons driving with .10% or more of alcohol in their blood are guilty of a misdemeanor.

Since more DUI cases are filed in the municipal court than any other single offense, the potential significance of these changes on the 24 municipal court judicial districts in L.A. County was immediately (inaudible).

In March of 1982, the Planning and Research Unit Management Committee directed the Unit to study the impact of these laws on municipal courts. Soon, the Unit will be submitting its latest and most comprehensive study on the subject. It offers an analysis of the impact of the DUI laws on the municipal courts during the first 3 years following enactment -- 1982 through 1984.

One cautionary note should be made before I discuss the results of this study. The study did not seem to determine whether the DUI laws were successful in reducing traffic fatalities or injuries caused by drinking drivers. The sole purpose of this study was to evaluate the effect of the legislation on the court system.

I believe that the study demonstrates that the new DUI laws have had a tremendous and wide ranging impact on the L.A. County Municipal Courts in the 3 years following enactment. All stages in the judicial proceedings were significantly affected, although the extent of the impact varied among the 24 districts. On a countywide level, it is clear that the average DUI cases required more court time and judicial resources than (inaudible).

In general, the early stages of processing of DUI cases were affected almost immediately by the laws, while the later stages experiences the full impact of approximately a year or more after enactment. But by the end of 1984, all stages, including the post-sentencing phase, in the disposition of DUI cases had experienced a substantial impact.

Now I would like to review some of the more interesting specific findings of the study. The area which experienced the initial impact in this area, following January 1, 1982, was with regard to arrests. There was an immediate impact and assessment. There

was a sharp decline in the number of DUI arrests in the first quarter of 1982. This decline was most noticeable in January, but by the end of the first quarter, there were 12% fewer arrests in L.A. County. And it is widely agreed at this point that this decline was attributed to the substantial publicity which accompanies the enactment of the laws.

But following the first quarter in 1982, the arrest rate actually accelerated at levels which exceeded 1981. So that by the end of the year we actually had a slight increase in DUI arrests in L.A. County. And there was a small increase in 1983 followed by a moderate 5% decline in 1984.

One of the points that the study discovered, I believe, is that the fact which has affected the DUI arrests most significantly is the level of law enforcement resources directed to the problem. In many cases, significant increases or decreases in particular districts in DUI arrests coincided with the beginning or completion of specially funded DUI enforcement programs.

Just to give you somewhat of an example, the decline in arrests in 1984 was largely caused by -- they find in the City of Los Angeles it was approximately 18% -- but that decline, our study shows, was partly caused by the Olympic games when law enforcement had direct significant resources to the Olympic security juxtaposed to drunk driving. This is one example but there are many others where the arrest rate significantly went up or down based on the existence or determination of a DUI enforcement program.

Overall in terms of caseload, the municipal courts during the period that the study covers, there was approximately 5% more DUI filings in the 3 year period -- 1982 through 1984 -- compared to the preceding 3 year period -- 1979 through 1981.

The next stage that was affected, and that's an area where we found that the laws had an impact, is the first stage in the judicial proceeding which is the arraignment stage. Traditionally, this is the point of which defendants enter their plea, and in many cases, especially prior to revision, we got a substantial number of our guilty pleas at this point. That was one of the chief methods by which, of course, to dispose of DUI cases.

In 1982, however, there was a sharp decline -- over 10% -- in the number of guilty pleas entered in the municipal courts. Apparently this was caused by a "wait and see" attitude on the part of defendants and their attorneys to see how the laws would be applied in other cases. In 1983 the situation basically stabilized. And by 1984 we had an improvement here -- an increase of around 5% -- in the number of guilty pleas, which suggests, I think, that there's been a slight return to the pre-enactment situation with regard to the arraignment approach. So that even though this was perhaps the first area which was substantially affected, it also is the first area in the judicial proceedings which has---the impact is now lessened.

One of the consequences of the increased number of people who potentially will be

going to trial was that the courts more frequently used pretrial settlement conferences to try to dispose of these cases without trial. To give you some idea, in the 3 year period in question, there were 71,916 more pretrial settlement conferences than compared to the previous 3 year period. This was an increase of approximately 58%.

Turning to the trial stage, it is clear that one of the most significant effects of the law was the dramatic increase in the number of DUI trials. The most substantial increase occurred in 1983 when there was nearly 30% more trials than in 1981. The impact was especially great with regard to jury trials. We had a 50% increase in the number of jury trials in 1983 as compared to 1981. The significance of this increase is evident when you consider that it takes frequently a court day or more simply to get the jury and panel for the case. So the amount of extra time that's required by this kind of an increase in jury trials is staggering.

But despite the increased demand, the court system has been generally successful in handling these increased number of trials. Speedy trial dismissals never really became a problem in L.A. County as some people had suggested might be the case when the laws were enacted.

One reason for our success may be due to a 20% decrease in civil trials during this 3 year period. Because criminal cases have precedence over civil cases under Penal Code 1050, it is possible that our success in the DUI area has perhaps caused in part by the lack of success in disposing of civil cases. This will become even more important in the future because the municipal court civil jurisdiction increases on January 1st from 15,000 to 25,000. So that may have an indirect effect in the future on our ability to dispose of DUI cases, simply because it will require reallocation of resources.

In terms of the conviction rate, there was a slight decline of 1.6% in the trial conviction rate during this 3 year period. The fact that there was a decline might be disturbing to some, but I would suggest it's actually a very positive result considering the fact that since January 1, 1982, the types of cases that are going to trial were previously reduced to a lesser offense.

To be more specific, our study showed that a high percentage of the trials going into the court system involved blood alcohol count of less than .15%. Those cases were traditionally reduced to record-striking, in which case the person does not even have an alcohol-related offense on his or her record. So that the fact that we have a slight decline of 1.6% of the trial conviction rate, it's actually good news considering the kinds of cases that are going to trial these days.

One of the reasons why we maybe have successful prosecutors, or are as successful in prosecuting these more lower (inaudible) cases is due to the .10 per se law. The District Attorney's Office in L.A. County conducted a 5 month survey in 1985 of its trials, and they determined that over 8% of their trial convictions were rendered solely under the new law -- Legal Code Section 23152(b). Presumably, those cases would have

resulted in acquittals in the past before we had this new offense. So that may be one factor which is assisting us in this regard.

Finally, the area which has experienced perhaps the greatest change relates to the courts' increasing workload in DUI cases after imposition of sentence. For example, the number of probation revocation hearings in 1984 was nearly double that in 1981. To give you some perspective on the numbers there, in the 3 year period in question -- '82, 3, 4 -- there were 43,477 more probation revocation hearings. That's an increase of 64%. Our study has determined that there were several reasons for these increases, or suggested reasons, and I'll go over these with you briefly what those reasons are.

One factor is the high fines. The fine of approximately \$680 is something that even with community service and increased use of installment payments, people are having a hard time keeping up with the payments. And where a person repeatedly is unable to or refuses to make those payments, a probation revocation hearing might ensue. These people's ability to pay these fines are also affected by the cost of programs which can be up to \$1,000 for an SB 38 or a multiple offender program.

Another cause for the increased number of probation revocation hearings is the first offender program includes some very particular kinds of timetables within which persons will enroll or show successful completion. In many instances, the defendants who are going through the court system don't really understand or are unable to comply with those rigid requirements. I think that that points out one of the general problems in the area in terms of the court system is that the laws themselves are so complex that most of these people who are a common everyday defendant, whatever that might be, are having a difficult time understanding what they're supposed to do. It's not always a matter of they don't want to comply with the law, but there is actually some confusion. It's difficult, despite the fact that the courts are trying to improve this area, it's very difficult to actually communicate all of the requirements under these different aspects of the law.

One experimental solution to these problems arising in the post-sentencing demands is a DUI case tracking system which is part of a larger program known as the DUI Demonstration Project in Los Angeles County. Joyce will now discuss this new program in greater detail.

MS. COOK: The DUI Demonstration Project is funded by a grant from the National Highway Traffic Safety Administration and the California Office of Traffic Safety. This project came about as a result of the long-term efforts of the Committee on Drinking Drivers of the Los Angeles County Municipal Court Association. This committee, under the chairmanship of Judge C. Bernard Kaufman, and with the assistance of the Planning and Research Unit, has for more than 7 years been working to improve the handling of DUI cases in our country.

The DUI Demonstration Project was designed to address a number of problems of our

(inaudible) increasing complexity of the DUI laws. At the time of the passage of the 1982 revision, DUI sentencing was in the midst of a transition. With additional sanctions of jail (inaudible) fines, the use of medication in rehabilitation had become excessive and was in the process of refinement. In Los Angeles County, partly as a result of the National Highway Traffic Safety Administration's Alcohol Safety Action Project, the package system of alcoholism programs and referrals (inaudible) had developed. The multiple offender programs had been formalized by the passage of SB 38 and implemented in the county in September of 1978. First offender programs were of short duration and regulated by the state.

With the 1982 revision, responsibility for development and regulation of first offender programs was shifted to the counties. This (inaudible) change provided for us (inaudible) in the law and (inaudible) on the post-sentencing handling of these cases.

Prior to the 1982 revision of the law, the number of defendants referred to programs under contract with the county was approximately 7,000 annually. Under the 1982 amendments, the number of defendants referred to programs under contract with the county quickly askewed to approximately 49,000. This year it's anticipated that in excess of 55,000 defendants will attend such programs.

Since the county (inaudible) were designed to accommodate approximately 7,000 defendants attending 40 programs, the system was ill-prepared for rapid change of 49,000 defendants enrolled in 140 programs.

The (inaudible) system of referral (inaudible) was no longer adequate to meet the demands of the changed sentencing patterns. As a result, a number of problems became apparant. Although the courts and the Department of Health Services both maintained individual records of the defendants sentenced to DUI programs, neither system provided a complete post-sentence tracking as was necessitated by rapid expansion of the number of defendants. In addition, systemwide statistical accountability for the number of defendants enrolled in programs and in monitoring these (inaudible) (inaudible) was not adequate to meet the county's needs.

The programs---the problems that arose raised concerns regarding defendants who were "lost in the system" and in monitoring the effectiveness of the programs in general. In addition, as the DUI sentencing laws became more complicated, defendants currently are having more difficulty complying with the conditions of probation and probation (inaudible) more common.

As the link between the (inaudible) and legal aspects of DUI became recognized, judges sought reformation on a pre-sentenced basis in determining the appropriate sentence. This system was not (inaudible).

In response to these various problems, municipal courts and the county government, by acting both independently and jointly, began to (inaudible)

solution. During this period, municipal courts sought and received two federal grants from the National Highway Traffic Safety Administration. The first provided for a traditional educational program that brought together the leading experts in the country in June 1984 to discuss DUI with the judges in our county. The second project, funded (inaudible) of \$479,000 in January 1985, is the DUI Demonstration Project. This program seeks to design a system of pre-sentence investigation, referral and case tracking which can eventually be expanded for our entire county.

The program was designed to respond to the classic problems experienced after the 1982 revision. (Inaudible) staff consulted with judges, court administrators, parole agents, county officials and others interested in the DUI problem. In addition, extensive contact was made with the National Highway Traffic Safety Administration, programs in other states and experts in the DUI field. Two judges -- Judge (inaudible) and Judge C. Bernard Kaufman -- were particularly instrumental for the project design.

Beginning in April 1985, the project became operational at the Long Beach Municipal Court. A second site at the East Los Angeles Municipal Court is slated to begin operation within the next few months. The project is being implemented with the cooperation of the County Department of Health Services. In general, this system calls for a referral agent to act as a clearinghouse (inaudible) and problem-solver between the courts, the programs and the defendants.

The referral agent would provide pre-sentence investigation services to assist the courts and case tracking capability to assist the Department of Health Services in (inaudible) tracking. Such a system will allow for a standardized method of program referral throughout the county. Defendants will be referred to the public health investigators after sentencing to be explained alcoholism program requirements and the more complicated procedures such as the second offender requirements for obtaining a restricted license. The defendants can ask questions in a calm setting and can telephone the public health investigation office if further questions arise.

A manual (inaudible) tracking system is currently in operation in a Long Beach court but is going to be replaced with a small computerized system in the spring of 1986. The (inaudible) subtract from the time sentencing to the completion or (inaudible) of the program. Since this project has only been operating for approximately 6 months, and we will not implement a computerized (inaudible) tracking (inaudible) until next year, it's difficult to fully evaluate the success. Changes are being made on a continuing basis, and the county's Interdepartmental Task Force on DUI is monitoring the project in its efforts to implement a countywide system.

Since the project began operation in April, more than 1,600 defendants have been interviewed by Demonstration Project's public health investigators. More than 900 telephone inquiries from program providers and defendants have been received. Preliminary interviews have indicated that the efforts of the public health investigators to

resolve noncompliance problems have reduced the number of bench warrants issued for non-compliance and the number of defendants appearing in court as a result of probation violations.

Thus far it appears that the volume of defendants sentenced to alcoholism programs has been substantially improved. The costs of this system are being evaluated on an on-going basis to determine if the program can be made prospective.

During the last legislative session, two bills were proposed which were based on the projects developed in Los Angeles County. SB 1303, sponsored by Senators Hart and Seymour, provided funds to the California Judicial College to extend the California judges the educational benefits derived from the Los Angeles County experience. This bill was passed by both Houses of the Legislature but vetoed by the Governor.

SB 1253, sponsored by Senators Watson and Seymour, would have provided funds for Los Angeles and Orange Counties to develop projects designed to reduce or eliminate some of the problems generated by the 1982 revisions. In Los Angeles County, a portion of the funds would then be used to support a proposed planned tracking system operated by the Department of Health Services.

In our county the municipal courts and the county government have been working together closely and have committed substantial resources to reduce the problems associated with the implementation of the 1982 revision, and ultimately to reduce the problem of drinking and driving.

Judge Kaufman?

CHAIRMAN SEYMOUR: Thank you very much, Miss Cook. Mr. Kaufman, welcome. Good to see you again.

JUDGE KAUFMAN: Good to see you again, Senator. (inaudible) see you again. I would like to indicate that this next few weeks are big weeks, a number of big weeks, for drunk driving in that not only is this committee looking into drunk driving but the Assembly Committee on Public Safety is looking into it next week at USC as well as the Senate Judiciary on December 16.

The topic that you have selected for your hearing this morning (inaudible) (inaudible) and you're going directly to what we consider to be the heart of the problem: What's working?

I want to give a little analogy of it. Coming into Orange County from Irvine, there aren't too many alternatives to come here on the freeway. And, fortunately, I selected the right alternative -- I went through Pasadena. If I had gone through East Los Angeles, I would never have gotten here this morning.

But I want to tell you that that's exactly the best analogy that I can give as to what the judges need and what their systems need in the state. (Inaudible) in preparing for this Senate hearing of L.A. County judges who were interested in this field, one of the main things that grew out of that meeting was the fact that the judges find

themselves with little alternatives under the present scheme of sentencing drunk drivers.

If you will look at it, and I have written you a letter today, Senator Seymour, which brings out these points, the system in California for handling drunk drivers -- first and second offenders and even third and multiple -- is very well designated. You go to jail for so many days unless you do this, and you go to jail if you're a second offender regardless of whether you do this and your license is going to be restricted. Basically what you have is a system that's all set out for us, the judges, as to what we are going to be doing.

I'm not saying that it's necessarily bad, but basically what you have taken away from the judiciary is some role in how to deal with drunk drivers in their own individual courts and in their own individual communities.

Judges really are---they're just _____ (inaudible) _____ handling drunk driving. The Highway Patrol can go out there and arrest all the drunk drivers in the world, and yet this isn't going to do you any good unless you get the judiciary working in this area. And it's not that they don't want to work. We've got two very excellent judges here in Orange County who are trying their best to do something in this particular county, but they have to have something to work with. And what I'm saying is we're missing the problem. We can't tell who's the drunk driver or who's the substance abuser or the problem drinker by just being out here and watching the cars go by and picking one out of every 10. That's impossible.

However, once you bring them into the court, we have a very good opportunity of determining who is the problem drinker. We don't have to have any magical wand to determine who is. We can basically tell you, when your first witness this morning told you (inaudible), that 50% of everybody that's coming before any judge in the state is a problem drinker. And we don't have to become doctors and determine medically that they are alcoholics. That is really not _____ (inaudible) _____. We can tell you the very simplified points such in their blood alcohol rating, a few other matters as to the background and their history with respect to arrest for high alcohol abuse or substance abuse. We can tell you right away who you're problem drinkers are. And that's why I feel the judiciary has a role to play and not so much in fines and penalties. That scheme is set up.

I really feel that we have a role to play to protect the public. I'm the public, you're the public, and everybody else out there is the public. If we don't do our job as judges, we are really not protecting the public, because that same first offender is going to go right out there, they'll be going through the first offender program because they _____ (inaudible) _____ in that particular program or smoking, whatever he was taking, or his powder, or whatever else.

I really feel that the Office of Traffic Safety has said to us, in effect, we want _____ (inaudible) _____ the real line of defense for the public, try to do your job

the best you can. They gave us some funding, and I must say that I really appreciate what you've done, Senator Seymour and Senator Hart, in terms of your work in trying to get bills through to help educate judges and to provide assistance. And I'm sorry that the Governor vetoed that bill, but as the one suggestion that I can make, if it's a question of money, if that's where it's really at, if you're going to say, well, we'd like to do these things but there is no money around, I would simply say let the drunk driver bear the burden.

I know that the judges feel that the fines are way up at the top already now, and we'll say that throughout California we feel that the judges _____ (inaudible) _____ (inaudible) drunk driving. But if that's going to be the key in allowing us to do what we can do, I would suggest to you that we simply make the fine 100% accountable. In other words, we've got a \$400 minimum fine today, increase it, give us the additional funding and let us go out and do the job that we can do in the judiciary.

Number one, train the judges. I can't tell you how much---how little we know, how little we know, in terms of what substance abuse is all about. We are not trained about this in law school. I did not have the vaguest idea when I came on the bench what the alcohol does to the human body, or your reactions to various drugs; and I would say 99% of the judges are in the same boat. There are very few _____ (inaudible) _____ in the judiciary. Unfortunately, we lost _____ (inaudible) _____ as an active judge now because of retirement.

But we found in the first grant that we received that the judges really responded to this area of education. We don't have to educate them to become experts. We just basically have to give them the basic information as to what alcohol and drugs are about and its effect and what they can do. The National Judicial College in their program _____ (inaudible) _____ we had a grant for 3 years running through Los Angeles County.

The other area where this funding would go, as far as I'm concerned, is the other area it would go _____ (inaudible) _____, Senator Seymour, and that was with respect to getting an assessment program going, a tracking system and screening. Now, that failed in Senate Finance, and I can see why, because it involves several millions of dollars and there's only so much money to go around, and that bill didn't get out of Senate Finance. It did get out of Senate Judiciary. I would say that that bill basically should be brought up again and the monies come from the county assessment if that's the only other source for the funding. There's no question but that system works.

Now the Long Beach project has only been in existence for 6 months. It's already demonstrated the fact that we are not going to have anywhere near the number of bench warrants issued for people failing to do what they're supposed to do. These people in the Long Beach project adequately show that if you sit down with the defendant, whether it's before he's sentenced or after he's sentenced, and take the time to tell him what he

has to do, where he has to go, what his obligations are under the entire order, you're going to have a much higher percentage of (inaudible) completing their programs and fulfilling their terms of condition. This is a big factor for the judiciary.

Mr. Ilich pointed out the number of (inaudible) revocation hearings that we have, and that is true. But if you're going to make an order for somebody to do something, explain it to them. I can't give a person 2½, 3 or 4 minutes. In the high volume (inaudible) Long Beach, they can't give you 3 minutes of time to explain each individual thing. There has to be someone there who'll assist them, and that's what this PHI, this public health investigator is doing in Los Angeles County. He's the one who will basically protect the (inaudible) in that he's going to see that that person who is either a problem drinker or a social drinker and he's going to know where he's going to go, and will also tell the judge and assess that person's problem if he has a problem. If he is a problem drinker, give the judge the recommendation. And that's exactly what's happening in Long Beach, exactly what happens in my court, exactly what happens in Orange County when Judge Gray (inaudible) a system of handling things. We have a care unit down here we have demonstrated time and time again. You want to go to work, you want to (inaudible) tell the judge. He'd be happy to (inaudible). Give the judge an assessment of the problem, educate the judge (inaudible) so he knows what to do, and you will have a responsible judiciary system.

That is basically what I wanted to suggest. One last alternative that I suggested in my letter to you, Senator Seymour, is the fact that when you come down to the multiple offender in the State of California today, you're saying send them to jail -- that's the best place to protect the public interest -- send them off to jail for a long period of time. Well, I won't tell you not to send them all to jail, but I am going to tell you that the best way to protect the public is to get that person into some kind of treatment at the earliest possible time.

Now, under (inaudible) that came down a number of months ago, a judge cannot give any credit for time served if that time is going to be before sentencing. In other words, if he's going to be in just a kind of rehabilitation program, it has to come at a point---well, he just couldn't give credit for (inaudible) before sentence. I would say that if a person goes into a rehabilitation program on a full-time basis and within a very short period of time after the arrest, that he be allowed to obtain some credits for his time that he's served off of his sentence. I believe that it's extremely important to get the real problems that you're into some kind of treatment at the earliest possible time on a full-time treatment basis. That's the best protection for the problem.

I can't tell the public that I can protect them if someone is going to be in jail and then get out, because I've done nothing for them. But I can give you a little better assurance of protecting the public if I know that that person is at least dealing with

his problem, both before he went to jail and afterwards. And that would be one other recommendation I would make.

Thank you for your continued interest in this area.

CHAIRMAN SEYMOUR: Judge Kaufman? Question? Senator Hart?

SENATOR GARY HART: Just three questions, Senator. First---of course, this has been (inaudible) to the Governor and signed---did not sign our bills related to judicial (inaudible), but I wanted to ask you, your testimony indicated that what's needed is not a lot of extensive training. It's sort of sensitizing and providing information. Why can't that information be provided under the existing schools that judges go to?

JUDGE KAUFMAN: It's not set up that way. It's an academic school. It's a field, it's a school for academics. When the judge comes on the bench, you know, he may never have even been to trial. The school has worked out a beautiful system. We have a very (inaudible) education in the State of California with some judges, but it's academic in terms of...

CHAIRMAN SEYMOUR: Why can't we modify it to do this?

JUDGE KAUFMAN: I can only tell you this. It would not give us any more than one, say, 4 hour session. In other words, (inaudible) for example, when a new judge goes to the college, he gets about 6 hours on the average, you know. The most that he possibly could do would be to work in maybe 4 hours. The National Judicial College, when we went there, they gave us a full week. We spent a full week learning about our trade, about what we do on an everyday basis. So the college is basically not set up and geared towards that.

They could handle it. They could (inaudible) it into their system. But it would not be on the kind of basis that I feel has to be. You can't cover alcoholism in one 4 hour period. You have to get the judges talking about this, you have to get them to first understand what it's all about. You have to sensitize judges. You get a lot of judges (inaudible) -- throw them all to jail and that's the best way to handle it. Now, that may very well be, but you've got to discuss it with judges, you've got to give them their alternative; and this is going to be more than a 6 hour session. The National Judicial College gives it a whole week. And that's what we're giving our judges under our grant. A full week of training, of discussing what alcoholism is all about, and I believe that's what you really have to do. You have to give them a full week. So that's (inaudible) answer that I would give you, Senator Hart.

SENATOR HART: The second question I had was as the author of the per se law, and maybe this question should be for your associate who just testified, but his testimony was that this had a (inaudible) on ensuring people who had a blood alcohol content of over .10 are prosecuted as DUI and not to be bargained (inaudible) which I'm pleased to hear that that's happening because that was our intent in authoring that law.

One of the things that I was concerned about as the author of this law is it might cut down on court time, that you would not have to have the expert testimony of people -- you know, can't someone hold their alcohol to .10 or not. Has that also been in effect (inaudible) law _____ (inaudible) _____ to streamline these cases?

JUDGE KAUFMAN: No, no. In every case that I have---the .10 is your insurance basically _____ (inaudible) _____ because there are lots of defenses out there, there are lots of good attorneys (inaudible) drunk driving case, and the District Attorney in Los Angeles County has demonstrated that they need that .10. But it hasn't shortened the type of trial by any measure---to any extent. We need that .10.

And in that area, I might make one further suggestion in terms of what you might consider. The .10 is not (inaudible). I can't drive with .10 and I doubt whether anybody in this room here can drive with .10. _____ (inaudible) _____. I think you have to start considering .08 in terms of not convictions to drunk driving but in terms of action by the DMV. I think anytime a person can get to .08, I think the DMV has to get involved in some way or another with respect to that persons' license and let them know that that is not what's acceptable in our society. I'm not saying take their license for 6 months. The courts are jampacked with cases involving suspensions of licenses. But I do feel that it's important that people understand the significance and if a person does (inaudible) a .08, they may not have (inaudible) action in the court system, they won't prosecute them, but I think that the DMV should take some steps with respect to it. I'm not saying what the penalty should be or what their actions should be. I think that's _____ (inaudible) _____ that's one suggestion _____ (inaudible) _____ (inaudible) _____ at this particular _____ (inaudible) _____ .08 in terms of renewal of your licenses.

SENATOR HART: The last question, Mr. Chairman. The most---if I recall, (inaudible) (inaudible) here, but when we passed these laws in '81 or '82, we were---well, one of us wanted to have a mandatory period of jail as sort of an attention-getter, if you will. But the answer was the jails are overcrowded, we can't do that, so we said either time in jail or suspended license except for work-related purposes. Is that where we are now, and if we are, what is the effect of that? Are people---I think it would be very hard to maybe enforce the license provision. As a result of these laws, are more people spending time in jail? Are these sanctions waking people up and can they...

JUDGE KAUFMAN: It's not acting as a deterrent. If you were looking for a deterrent, we haven't got it yet. The present law as it's presently being enforced is not acting as a deterrent _____ (inaudible) _____ directly affecting Los Angeles County. Your drunk driving cases are now _____ (inaudible) _____. So it has to have that deterrent, but it's obvious that only a certain percent of the people are going to jail on the first offense. So...

CHAIRMAN SEYMOUR: What percentage is that?

JUDGE KAUFMAN: I would say probably about 25%.

SENATOR HART: If you were convicted of drunk driving, the chances of going to--- actually spending time behind bars is about 25%.

JUDGE KAUFMAN: The reason for that is often not so much---anything other than that, if they've got other warrants outstanding. I mean, they just decide that why should I spend the money for a program. I mean, a lot of people out there can do jail very easily. It's not difficult. And you know a lot of reasons why people go to jail. And a lot of times it's because he had other warrants, (inaudible) they're taking care of their matter in that particular way. But I would venture a guess -- I (inaudible) to you about 25% of the people in Los Angeles County are taking the jail time. But as a deterrent of that, it's not having any effect in terms of the new law. Or maybe if you have a higher increase. Maybe you had a deterrent, I don't know. Maybe you had more drunk driving out there. But right now it does not seem to be working on the basis of deterrent.

CHAIRMAN SEYMOUR: Thank you. Judge Kaufman, I have a question, please. Following up on the last question that Senator Hart asked, which has to do with the effectiveness of jail time, and if I understood you correctly, you said right now first offenders, although a judge has the option, I guess, of mandating or deciding for 48 hours of jail -- in fact, I think now as of January 1, 1986 as a result of a bill we passed, continuous 48 hours -- and now only 25% go to jail.

JUDGE KAUFMAN: Right. Because we have other alternatives, a simple way of getting out of going to jail. We simply take the license restriction, 90 day, and do the program.

CHAIRMAN SEYMOUR: It is not the offender's choice, it's the judges.

JUDGE KAUFMAN: (inaudible)
(inaudible). That's the bottom line. The courts are taking that position. Most of the courts throughout the state are taking that position.

CHAIRMAN SEYMOUR: And they're taking that position based upon overcrowded situations?

JUDGE KAUFMAN: No, that's the way our judicial system has developed. I mean, we have people represented by the public defender and (inaudible) counsel. They know the story. They are there. So they know that that's going to be their bottom line. Their bottom line is judges just (inaudible) the program.

CHAIRMAN SEYMOUR: I see. The judge says, gee, a program is better than 48 hours, go to it.

JUDGE KAUFMAN: Well, you have (inaudible) the legislative scheme as it's now working basically taking the judge out of his alternative in the situation as to where it's going to go. You have a lot of situations where people really should go to jail. Maybe they have a 2313 -- a reckless driving offense. Maybe they have another alcohol-related arrest, maybe a drunk driving 7 years ago. Maybe that judge

really wants to see that person go to jail. That's the way it's working, and I believe I know what's going on in L.A. County and the state the way it's working.

The bottom line is everybody who can go to a program goes to a program. And basically there are a lot of these who let people go to jail. And as I said, that was the main reason other problems have come up, and they don't even have to drive. Why should they want to go to a program? They don't own a car, they can't insure it. So that's why they select the--- (inaudible). I'm really---I'm not trying to put the onus on the judge, but basically speaking, the defendants are basically selecting which way they want to go. And if you didn't have that---(inaudible) to work the other way, I think you'd find it almost at a point of standstill right now. You know, maybe other judges...

CHAIRMAN SEYMOUR: "At a point of standstill," could you expand?

JUDGE KAUFMAN: Well, if you didn't (inaudible), we can't function without these (inaudible). If we don't get (inaudible) or pre-trial, we can't function. There's no way I could handle an additional 5% jury trial. In Long Beach, (inaudible) these pleas in the Long Beach courtroom, there's (inaudible) people going through that system every year. Judges are just---you couldn't appoint that many judges to handle these drunk driving trials that take 3½ days per case per trial.

CHAIRMAN SEYMOUR: And so the bottom line, I guess, Judge Kaufman, you're saying that the reason there's only 25% of first offenders going to jail is because the defense attorneys and the clients are, in essence, the bottom line, making that decision as to the alternative.

JUDGE KAUFMAN: I think you can go to any defense counsel out there in (inaudible) (inaudible) and he'll tell you, well, this is what I have (inaudible) if you go to a program you won't be going to jail. I know very few (inaudible). I think the toughest courts probably in the county or the state was (inaudible), and I do not believe that they're all going to jail for first offenses, (inaudible). I think they try to (inaudible). I don't believe it's happening.

And you've got another situation developing. You have a lot of prosecutors not even prosecuting .15. I'll tell you that (inaudible) judges that we have (inaudible) the L.A. city attorneys and the L.A. District Attorney 10 days ago, L.A. County was prosecuting 24 adults. And I can tell you at least on one hand, probably there are a number of other counties that will not prosecute .10, outright. They won't prosecute, and they won't prosecute up to almost .15. They're giving them their so-called (inaudible) and they're on their way.

Now, that's not the way (inaudible) system should work, but in all honesty, that is what is happening out there. And I'm not (inaudible) those particular counties, because those counties are facing some other problems, but drunk driving

(inaudible) they're not (inaudible).

CHAIRMAN SEYMOUR: One last question, Judge Kaufman. Would you care to comment (inaudible) proposed law that would say if you refuse a blood alcohol test, that act in itself is (inaudible) crime? Reaching that, what I understand to be, again, I guess strategy on the part of defense attorneys -- doggone it, don't agree to take that blood alcohol test because if it comes out .10, you're in deep trouble, and therefore tell the officer, the arresting officer, you won't do that.

JUDGE KAUFMAN: I would say I would be in favor of it. I don't think it's going to make any dramatic difference. But it would (inaudible) strategy (inaudible). We know lots of sophisticated people out there. We handle a lot of second and third time offenders. They know that it's best---to their best interests to take that test, so they refuse that test (inaudible) one count driving under the influence. And there's lots (inaudible) drunk driving cases, particularly for the sophisticated attorney and sophisticated defendant out there. And if (inaudible) a defense, it would just be one additional tool that the district attorney and prosecutor would have in terms of trying to (inaudible) at this working level.

CHAIRMAN SEYMOUR: Thank you. Senator Hart?

SENATOR HART: Could I just follow up there? Judge, what's the county that doesn't prosecute cases at .15?

JUDGE KAUFMAN: It's no secret. It's Alameda County. They've got a study that was done by the Office of Traffic Safety (inaudible) throughout the State of California. So basically that prosecutor (inaudible) Madera, they were not prosecuting. They were reducing their (inaudible). But I---you know, I'm not going to point a finger at anybody on that (inaudible) they've got special problems. But that's just indicative of what you face.

SENATOR HART: Is it possible to get---does every county sort of have a policy that's a publicly stated policy, or is there a publicly stated policy in reality?

JUDGE KAUFMAN: (inaudible) more than 500 (inaudible) (inaudible) prosecuting where they won't prosecute.

SENATOR HART: Thank you.

CHAIRMAN SEYMOUR: Thank you, Judge Kaufman. Our next witness is Judge Robert Thomas from the Central Orange County Municipal Court. Judge Thomas? Thank you for being with us today, Judge.

JUDGE ROBERT THOMAS: Thank you for inviting me. Good morning. I feel sort of unusual getting up here. It's sort of a court fate that I'm here.

The program that you've asked me to inform you of is really not my program. It's a program really the brain child of Judge Gray of the Orange County Central Municipal Court. Judge Gray was not going to be here, but it turns out that he is, in fact, here...

CHAIRMAN SEYMOUR: Wonderful. We would like to hear from him.

JUDGE THOMAS: ...and I'm sure you'll like to hear from him. I think that before we can really get into what the pre-sentence program is in Orange County, you have to take a look at the problem that the courts are confronted with. And the problem that we had was that we were merely warehouse people. Whether it was the second or third or fourth time offender, they were being placed into custody and they were taken off the streets for that period of time, and it made it safe for the citizens of our county and the citizens for the entire state.

But the true problem was not with the second and the third and the fourth time offender, because I think that we all have lulled into this sense, that we have a first offender. We do not have a first offender. When a first offender walks into my court, or into Judge Gray's court, we recognize that based on studies that have been conducted, that he has driven at least 100 times while under the influence before he's been apprehended. So when he comes in and he tells you that he was at his sister's wedding and he had a few too many glasses of champagne and that was the sole reason for this, it's not true.

I think that a little bit of history concerning myself will help eliminate the problem that Judge Kaufman was talking about by way of education.

Judges come from all different walks of life. They have different backgrounds. I started in prosecution with the L.A. City Attorney's Office working at Wall Street, and I'm sure they know what the stats are there. It's a very, very high volume court. You're pushing a lot of cases through that court. It's very easy for the system to say, fine, instead of having two days in the Orange County Jail or two days in the L.A. County Jail, instead of the licensing restrictions, what we're going to do is we're going to allow you to have the license restriction and send you to a program and that (inaudible) case will go out the door.

The problem is is that you need to take a little more time when you have that first offender, and the reason that I think that you need to do that is to recognize the difference between what we refer to in Orange County as being high risk as opposed to low risk. We need to have a program whereby you can screen that driver to make a differentiation between that person who should attend what is commonly referred to now as the AB 541 Program, as opposed to a person who needs a lot more by way of help from the courts and the program. And it was based upon that concept that Judge Gray formulated the program that is currently being used.

The courtroom that I'm in now, after having been serving in that courtroom as a Deputy D.A. for 9½ years, it is what we call the... Well, what do we call it, Judge? (Response inaudible.) Well, I realize the name that's printed on the forms that are sent out to the lawyers, but I'm just thinking of the colloquial between the judges. It's not a favored calendar. It's sort of like getting the short straw after you've pulled it

out of your friend's hand. And I took over for Judge Gray. After (inaudible) he said, "I'd like to know how you feel about the program?" I said, "I like the program." I think it's the only way to deal with the problem that we have and I'm going to continue the program based on that presiding judge put me into the selected arraignment program.

And for those of you that may not know what the arraignment program is, it's the first contact that the defendant has with the judge after being arrested. And I think that's an important time.

So the concept was that we want to be able to distinguish between low risk and high risk drinking drivers. And the way that we do that is a three-part step. We use the Mortimer Filkens test and it has been developed over a number of years. And the test is accurate to a degree. I think that any test in this area you're going to find problems with it, but it is a tool and it's a tool that we can use effectively.

The other test that we use is a personal interview test with the individual during a face-to-face confrontation with the interviewer. That is, of course, subjective rather than the objective nature of the Mortimer Filkens test.

Then the other thing that's very, very important is the blood alcohol level. I think that blood alcohol level tells you a lot about an individual. While I was in the District Attorney's Office in Orange County, I participated in a program where selected deputies were taken over to a location. We were tested to see that we hadn't had anything to drink prior to arrival, and once we arrived and we had our double zero on the machine, we decided we were going to ingest alcohol and see how high we could get. I can inform you that the highest level that I could achieve was .11. And at that point, it was very difficult to negotiate the movement from my chair up and over to the next desk so that I could take (inaudible) machine. So when you're at .11, you are, in fact, a menace if you can get behind the wheel and drive. As a result of that, you have to recognize that blood alcohol levels play an integral part in this determining factor as to whether or not you're high versus low risk driver.

And one thing in answer to the question asked of Judge Kaufman concerning the refusal, in Orange County we treat a refusal as an automatic. That means that you are going to be high risk, because you cannot say that a person who refuses to take a test should be treated the same as a low risk driver. He has deprived us of that important tool, and at that point, as far as my court is concerned, he is going to go through the screening process and the majority of the time -- in fact, I'll go even further than that -- I would say at least 80% of the time when people who refuse, we find those people to be high risk.

Now, what happens? They come into my court, I advise them of their rights, then they are taken over and they are screened and the screening process is conducted by members of the Orange County Probation Department now. When Judge Gray first started out the program, we had volunteers to perform that service. We ran out of money to finance the

program and we had to use an arbitrary level of blood alcohol to put these people into the Orange County Health Care Program.

A few words concerning the nature of the program itself, the program recognizes that people have a difficulty in being able to recognize their own problem when it is related to alcohol. So the concept is one of awareness, and I think that that is what you had in mind at the time that you passed the laws in 1982 that were going to require that people get that awakening by being placed into custody.

The problem with awareness is one that we're trying to achieve through this program by doing the following. We are trying to get not only the defendant involved, we're trying to get his partner, his wife, his employer, a doctor who does a medical examination of the defendant and sees whether or not that defendant can be placed on Antabuse. Antabuse is an important element in the program that's being conducted in Orange County.

After these reports have been turned in, the defendant has a 30-day time period after his plea of guilty and after being assigned to the program to report back to my court. When he reports back to my court, I make sure that he has completed all of the requirements -- that he has been interviewed by the doctor and that it's authorized for him to take Antabuse -- in other words, there's not a medical reason for him not doing so -- that, in fact, his wife and a chosen partner and a letter from the employer concerning his activities have been completed. At that point, he is placed into the program and it takes 9 months for him to complete the remainder of the program. And during that 9 months he's required to follow the scheme of the program by having these reports returned to the program people. He is also required to attend A.A. And also he is monitored on Antabuse.

As a result of that, I have not yet had anyone who has completed the program, because, as you can see, it takes 10 months to have the program done, and I have not been on the calendar for 10 months -- I've been here since June of this year. But Judge Gray has had people who have completed that program.

I've had people come up to me at the 30-day time period proud of the fact that they now recognize their problem. One fellow said, "I have finally made that dental appointment that I have been putting off." That is an awareness in the individual that shows that he is aware of the problem that he has now, that, in other words, he can't control his alcohol consumption.

As a result, I think it's important to recognize that once you get their attention, that in fact you're going to be able to help them if the program is structured and has enough material behind it so that we will be able to monitor all of your progress.

I note that in the letter that you sent to me you asked me about current penalties, but I think Mr. Ilich and Miss Cook from the Los Angeles Municipal Court Operations and Research Division have taken care of that.

I think that the real question here is for us to recognize that we need to, in fact,

get their attention. I think the way to get their attention is to place them into a program that's going to give them self-awareness.

One last comment in closing and that was a question that Senator Hart had concerning .10 presumption. And I think that the .10 presumption has had a great effect, at least in Orange County. I can't speak for the other counties. But ongoing relationships with both defense lawyers, public defenders and with the district attorney have shown that the .10 presumption has done something that is helping the court and helping the system. That is, it is forcing pleas. Because the defense bar is fast becoming aware of the fact that they can no longer confront the .10 presumption and be successful within the limitations that they have for representing their clients. It costs a lot of money to confront the .10 presumption. You have to do it by hiring an expert from the outside, a defense expert, to confront the .10, and they're not meeting with any success. They are failing that. I think convictions rates are up in Orange County greatly and due to the .10 presumption and it has helped.

Things that I would like to see, in closing, the last area you asked me to address, is that the problem that we had in Orange County with the program as envisioned by Judge Gray was that we were required to not only have them go into our Orange County Health Care Program but they were also required to attend the AB 541 Program. And the cost of those two programs are really detrimental to getting success in either of the programs. That problem has been rectified and we will now be able to substitute our program for that, and I refer to it affectionately when I say "our" program because I realize that it's your program as well and that you have an awareness of the problem.

I'd like to thank you for the time you've provided for me here. I have submitted a list of questions. I did not submit a written testimony because I did it extemporaneously and I really wasn't sure what I was going to address today.

CHAIRMAN SEYMOUR: Well, you did it very well, Judge Thomas. We appreciate your being with us. Question, Senator Hart? I think I'll reserve my questions, Judge Thomas, for Judge Gray, who we'd like to hear from.

Thank you for being with us, Judge Gray.

JUDGE JAMES GRAY: Thank you, sir.

CHAIRMAN SEYMOUR: Excuse me, before you begin, we have a telephone call for Phil McGraw. Mr. McGraw? Thank you.

JUDGE GRAY: Well, I'm a little bit worse off than Judge Thomas was because not only did I not prepare my written testimony, I really didn't prepare it orally either. I have taken some notes during the prior bits of testimony and I want to say, first of all, it struck me what my mother used to say when I was growing up, and that was that if you educate a man, you educate a person. If you educate a woman, then you educate a family. And she believed that greatly and so did I. I think if you educate a judge, you educate a great big large family with regard to this particular area.

And I went into it, first of all, because I had that calendar that Judge Thomas referred to that he was selected to traffic, and I saw these people coming through my court with these high blood alcohol readings, and it really concerned me. And we were very good at getting pleas -- guilty -- from these people. We got at least 90% pleas through the system. But I didn't think we were doing much more than taking their money and passing them through the system and sending them on their way. And once I began to understand what the blood alcohol really meant, I knew that those people have serious problems and I tried to figure out what I, as a judge, could do about it.

And the first thing that I did was attend one of Judge Kaufman's seminars. It was put together by him, and through that, among other things, I think that he began to educate the judicial family by providing that information to me. And I underscore what he said. The degree to which we could get this information to more judges will really begin to make the strides that we all wish to educate ourselves and to alleviate this substantial problem in our community.

And also I find agreement with him that even if we went to (inaudible), the judicial college, which is a fabulous organization, they would not be able to devote the time necessary even if they could spring to give us three or four hours. It just wouldn't provide the understanding that would be necessary. So I think that the amount of time that he was addressing was appropriate.

What we have been able to do, I feel, is to threaten the use of jail to these people which gets their attention and provides the motivation that is truly necessary in order for them to come to grips with the problem that they truly have -- that is, that they're addicted to this drug, this alcohol. And by the use of this threat, which is, believe me, not just a threat, but if they don't comply, they find themselves in jail and they'll get the word that way. But we get them to take themselves into a position where they're no longer using alcohol.

And then it has been the most gratifying thing that I have ever faced, and I can see in these people who come back, both after the 30 days and after the 9 months, they look different, and they are different people. They are no longer using alcohol, because, by the way, as I'm sure you're aware, if they drink alcohol while they're using this Antabuse, they'll truly wish they hadn't. It will tear them inside out. They will not do it. So you can be assured that if they are on monitored Antabuse, they are not drinking alcohol. They come back to you after 30 days or after 9 months, they look different. You remember them. You've talked to them before. They have a gleam in their eye they didn't have before. They are much better looking.

I even had one person, it's funny, after 30 days, he came through in his original plea, a fellow of about 25 years of age, and he had a marijuana leaf tattooed on his forearm and I just happened to notice it and didn't say much about it. He came back 30 days later and I looked down and I saw -- my eyes aren't that good -- but the tattoo was

different. And I asked him about it and said, "Well, it looks to me like your forearm is a little bit different than it was before." He said, "Yes, Your Honor, I just couldn't afford to go to a doctor to have this tattoo removed of the marijuana leaf, so I went to a new tattoo artist and he turned it into the shape of a peacock.

Well, it is symptomatic to me of a change in lifestyle. You know, I put a person in jail for 6 months, which is the maximum sentence under the law for a first DUI offense, that person, I swear to you, will be affected by it. But as soon as he gets out of jail, he's going to have a drink. If he is an alcoholic or a high risk problem drinker, he is going to have a drink. Then it's night is following day -- if he has one drink he's going to have 7, and you know, he's going to drive a car and he is going to be back in the same situation that we're trying to avoid. We're trying to keep people from being killed on our highways. We're trying as a---can't say it's a byproduct because it's a very important aspect of it. You're trying to increase his family life, to put it back to where it was before when he was so combative, trying to keep his employer paying him so that he's a good productive member of society. And the only way I feel that this can be done is to get these people off alcohol.

We have tried to do that I think with some success. I have letters back from defendants, from their children saying that oh my mother -- I have one with me -- her mother was about 60 years old and she had been drinking alcohol---alcoholic for a long time, and her daughter just said, "She's my old mother again. She's changed her job. She's now independent again, and her life is just better."

So we're not trying to put them in jail. We don't need to put them in jail. We need to threaten them -- "If you don't do this, you are going to jail." And they must know that we mean it if we do.

I put them in jail as a first offense hands down for 10 days. If they don't take this program, I suspend their license for 6 months. And I took my guidance from the Legislature. If you look at the nonprobationary sentence, I felt probation should only be given to a person who was going to show that he was not going to be a risk to do this again. If that was the case, then he deserved probation, but if I saw a person who was likely for an unacceptably high risk of being a recidivist, I wasn't going to put him on probation. And then you, as a Legislature, told me a minimum sentence was 96 hours in jail and the suspension of his license for 6 months. I took that a little step further. Instead of 96 hours, it became 10 days, which I think is plenty of time constructively to put the person in jail as a first offense, unless there's additional pieces of information.

But that is a threat. That is something that they do not want to do and it will get their attention. And there is nobody on this Earth, in my view, that can motivate a person to a greater degree than a judge when he is looking at them and telling them I'm going to put you in jail for 10 days. At least they will give it a try. At least they

will go to this agency, take their Antabuse and stop drinking alcohol for a while; and then, hopefully, they'll get the real realization that they had this problem within me and come to grips with it. We have found it to be successful to some encouraging degree.

And I think the thing that we need to do -- and then I'll be quiet and if you have any questions, I'd be happy to try to address them -- what we must have as a judge is information prior to sentencing. Without that, once we sentence we can't do anything further. We have shot our wad and have to live with it. But before sentencing, if I can determine which person is or is not what I call a high risk problem drinker, then I can deal with it. The only way I can do this -- I don't know who it was that told you that he can just sit down and look at them and tell -- I can do that occasionally but only with the really severe cases -- I defy anyone to be able in the short amount of time that we have just to look down and see who an alcoholic is and is not. It just isn't there. So if we have that information beforehand, we can deal with it.

Right now -- in fact today -- there's the presumption in Orange County in the Central District of the screening process that we have before the sentence is given to get that information. It's being done by the probation officers. I commend to you that if you really feel that further legislation is necessary, which I would advocate, would be to have the availability for all judges in this state to have a screening process performed by the probation departments, and in fact a mini pre-sentenced report, for all people charged with the DUI. Give that to the judges, let them do with it as it would, but at least you give that information to them, and that is feasible.

It is more important for, in my view, the probation officers to be able to do this for two reasons. Number one is that they are already in the system, they already know what they're doing, they already have the funding and the fringe benefits, etc., so if that is available to us, and you have good dedicated people who would be able to get right into it and do it.

The second reason is that they have access to police reports. Before, when we had the Care Institute doing this, and they provided this for us at no cost as a public service, we couldn't give them our reports because they were not part of the judicial process. But the police report is a very important part of that and they can tell those people who are arrested, who were driving and arrested in a dangerous manner, and we couldn't give that to them before. Probation officers can do that.

So that is what I would recommend to you, and I hope that we are able to get more of this information.

CHAIRMAN SEYMOUR: Very good, Judge Gray, and thank you for being with us today. Senator Hart, any questions?

SENATOR HART: Well, one question I have, and maybe this should be directed to the previous judge, but I don't understand this high risk/low risk thing very well, If you can statistically state that someone who comes before you has been driving under the

influence by the legal standard 100 times prior to actually being apprehended, and if you and I can ingest .11 blood alcohol content and we can hardly walk to---you know, get into our cars, doesn't that make everyone---those two factors, doesn't it make everyone high risk? And I thought one of the judges was saying it's about 50% are high risk. I wish I understood a little better what we mean by---what you mean by high risk and low risk.

JUDGE GRAY: Okay. So do I is my immediate response. The term "high risk" problem drinker -- as far as I know I coined it for my own usage -- I did not want to use the term "alcoholic" because that has emotional impacts that I just didn't need to get into. So what we label people as is either a high risk problem drinker or not a high risk problem drinker at this time. I don't want to put myself in a position of labeling somebody not to be an alcoholic or not to be a high risk. Maybe tomorrow we will be; today we didn't find them to be.

The other thing that I would address, in Judge Kaufman's seminar, we had a medical doctor, Dr. Horton, from Texas, who was told---or introduced to us as being one of the five preeminent medical doctors in the nation who had focused upon the disease of alcoholism, and he told me, and as soon as I heard this my ears truly picked up, and afterwards I wrote him a letter asking him to put it in writing for me, which he did, but it was his opinion, medically, that anybody that had a blood alcohol of a .15 or above who could even go through the motions of taking an FST, or Field Sobriety Test -- you touch your nose, etc. -- was an alcoholic. That was the most straightfoward, easily usable type of opinion I have heard in the area and still is. He thinks that anybody that is a .15 or above is an alcoholic for our purposes. And I agree with him. And I would have absolutely no reservations at all, based upon my layman approach to this, of taking everyone at least who is a .17 and considering them to be in dire need of this program. But we have to educate our fellow judges. We do have to get guilty pleas. There are a number of things that we also have to address as far as practical problems are concerned. And I think that these are realizations that we have.

If you, as a Senator, could pass a law saying that everybody that is a .15 or even a .18, which I think is totally defensive, everyone who is a .18 would be required either to get in---in order for them to have a probationary sentence would have to go through a program such as this, be on Antabuse for 9 months under the care of a doctor, you would do an enormous good service for our state; because these people without, I feel, any vulnerability to a defense whatsoever, anybody that is a .18 and is conscious is an alcoholic and must be dealt with accordingly. Putting him in a jail for a year, as I stated before, is not going to do it.

CHAIRMAN SEYMOUR: Just one moment, Judge Gray, don't leave. I'd like to recognize Senator Ed Royce, who has joined us here on the dias. Senator Royce, being one of my colleagues from Orange County in this area and being a member of the Senate Select Committee on Alcohol and Drug Abuse. Ed, we're glad to have you.

Judge, I too would like to follow up on the low risk/high risk, and let me focus on some statistics that I think Dave Larson, our first witness, provided. I think what he said was 58% are first time offenders DUI and are what I would interpret to be high risk according to you. That means 42% are low risk. We've had an emphasis so far this morning on high risk and that's appropriate. We really should because they're the greatest menace to society. On the other hand, we have yet to receive any testimony -- perhaps we will later -- relative to the low risk. And what is the appropriate penalty for low risk, thereby ensuring that we don't have taking place what we have in California today across the nation? As I said in my introductory remarks, in the last two years we've had a 24% decrease in fatalities with drunken drivers. Here in California in the last year we've had a 13.1% increase. Now, it seems to me that hard as you try, and hard as we might try as legislators, we're far from winning this game. And therefore, two questions, I guess. 1) Speak to the low risk and what is appropriate punishment for low risk; and then 2) With all these super ideas and law that you've been passing, in your opinion, how come we're losing this game?

JUDGE GRAY: Number one, I think that our recidivist level, and this is just me -- I have not seen any statistics on it -- I gage our recidivism level at about 10 to 15 percent in my courtroom. That means to me that we are, in fact, doing something right. That leads me to believe that as far as the individual is concerned, what we have been doing for the most part has been appropriate. And we have been bringing these people into the court system; we have been embarrassing the living hell out of them, which is appropriate; they've had to spend their money to get an attorney; they've had to pay a good fine; they've had to go to the AB 541 Program; and many of them have gotten the message and have not come back, as far as I know, to be a second offender.

So as far as the sentence for that individual person, personally I would not do anything particularly to change it. I would keep it the way it is.

But also what we need is a deterrent. We need to -- strike that for a moment. You're going to hear testimony, and I'm telling a tale out of school that he told me just last week -- from Chip Allen -- he tells me that he, himself, was a 39 himself and had driven by his own numbers or own recollection 1,000 times before he was ever picked up on a DUI and he's only had one in his life. 39 -- 1,000 times he had driven.

And that brings me to address the issue that, yes, we are 13% higher and that's fatalities. The problem is enormous. That is what I'm trying to say. There are lots and lots and lots of people out there who are driving on our highways in an inebriated condition and only now, because we're promptly getting better at it -- more attention by the police officers -- we're arresting more people and we're addressing the problem. But I don't think we are aware of the enormity of the issue. So in that way I think statistics are not telling us quite the full story. The deaths on the highways, I don't know that we have more cars (inaudible).

So I don't have a magic wand with regard to that. I don't know what to do more about a deterrence than what we're doing already. We need to get the information out.

I also agree with Dave Larson that it would be a mixed signal to our society to allow people to drive, to buy alcohol at a gas station. There's a total backwards approach in what we're trying to do in separating the two. So I underscore that totally. I believe that that is a good idea as well.

Otherwise, the idea of putting everybody in jail so that there is a general deterrent out there, I find to be unsatisfactory from a personal standpoint as to each individual defendant and also from a logistic standpoint because it would bring us to our knees. As a court system, we would need to double our number of judges, etc., and we're not---be likely to do that. You might talk about that a little with Mr. Gann as well as that issue is approaching us.

CHAIRMAN SEYMOUR: Thank you, Judge Gray.

JUDGE GRAY: Thank you. Appreciate your taking the time to come down.

CHAIRMAN SEYMOUR: Thank you. Our next witness is Captain Bob Williams, representing the City of San Diego Police Department. Captain Williams?

CAPTAIN BOB WILLIAMS: Thank you and good morning, ladies and gentlemen. I appreciate the opportunity to address this issue. When I looked at the topic of "What's Working in DUI?" it's---perhaps it would be easier to say, "What is Not Working?"

When we hear the statistics, and I hate to quote statistics because the figures, in many cases, people don't really recognize what they mean, but we determined that just in our city, half of all the fatal accidents that occur involve the use of alcohol. I project that in San Diego this year we will kill approximately 126 people on surface streets. This does not count the freeways. They're under the jurisdiction of the California Highway Patrol and we do not maintain our statistics on that. So in the County of San Diego, we're looking at a lot of people being killed, and half of those are being killed by some association with alcohol.

I've been involved in law enforcement in one form for almost 30 years, and most of those years have been working in the traffic field. Recently, well, 2½ years ago, I assumed command of our traffic division and actively again got involved in the drunk driving field. And I'd like to state that I do not believe that enforcement is going to solve the problem. That is a reactive measure and there's no way that we are going to be able to apprehend every person that gets behind the wheel of an automobile and drive while they're under the influence.

To give you a little bit of background on our efforts, the first formal drunk driving squad that we ever put out was in 1964. It was organized, it was directed and it was somewhat successful. Over the years, that effort varied until -- it was September of 1983 -- when again the emphasis was placed on drunk driving apprehension. We put out a drunk driving squad and gave it very specific direction. A couple of things happened.

The drunk driving arrests increased and the accident rate dropped.

In the summer of 1984, we further aggressively approached this problem and we used some, I think, innovative techniques. We used a field chemical testing vehicle, which we called, or the press coined the phrase, "The Deuce Goose," and I'll give you a little background on why they called it that later on. We had an abbreviated arrest report and we had a modified prisoner transportation procedure. The reason was to cut down the amount of time that the officers spent processing a drunk driving arrest.

That's a very timely and time-consuming process. On the average, it takes an officer no less than 2 hours from the time he makes the stop until that person---there's a disposition on the person that he arrests. That's 2 hours that he's out of service and he's not able to respond to any other type of a call. He's not able to address any other drunk drivers.

Our objective with this program was to reduce the drunk driving accident rate, to identify chronic drunk driving areas where the incident of drunk drivers was higher than the rest of the areas of the city. Through vigorous enforcement and deterrent programs, we wanted to maintain an eye visibility.

The way we did this was we first identified primary target areas. We identified the time of day when the problem was most acute, we employed a saturation patrol technique, and I think one of the real important components was we enlisted strong media coverage. We wanted everyone to know what was going to happen.

Another important component was the allocation of specially trained and highly motivated personnel. I'm here to tell you that after 30 years, most cops don't like to arrest drunk drivers. It's---like they say, it's a rotten job but somebody has to do it. And we had designated officers that we would say, "You're on the new squad and your responsibility for the next 3 months is going to be to go out and arrest drunk drivers." Not every police officer likes to do that. So the key is to pick those personnel that are highly motivated and well trained.

We traded, or maintained, I should say, a high degree of liaison with our prosecuting agency -- in this case it's the San Diego City Attorney's office -- and the courts. We felt it was very important that they know what we were doing. We also maintained a very close working relationship with the news media. We wanted the people to know what was going to happen. We publicized what we were going to do and we publicized when we were going to do it and where.

We utilized some innovative techniques and special equipment, and I'd like to expand on that. We wanted to cut down the amount of time that the officers were tied up with processing drunk drivers. Within our resources, we obtained a vehicle, a large ton-and-a-half van, and inside that vehicle we mounted two Breathalyzers and we had tables and chairs. We moved that van with the drunk driving squad so that the officer when he made his arrest he had a very short distance to drive to process that prisoner. In many

cases, we found that it cut the processing time from 2 hours down to as low as 20 to 25 minutes. We used other resources to transport the person, if they were going to be arrested, to the booking facility.

The reason that the news media called our vehicle "The Deuce Goose" is that it was a 1954 Rio truck. And I don't know if too many people have ever seen one of those. It was painted white -- one of a kind -- and the coin "The Deuce Goose" became a divine word in San Diego during that time.

It worked very well. The results of our DUI effort were achieved. Arrests dramatically increased, the accident rate declined in the targeted areas, and there was a tangible deterrent effect created. Apart from the statistics, several more subtle behavioral changes occurred. Driving behavior improved, fewer observable moving violations occurred, and most significantly, intoxicated individuals were more frequently passengers than drivers.

We think that this format proved successful for our operation. We had some problems and we had some resistance from the public, or I should say certain segments of the public. We have certain areas in San Diego, and I'm sure that anywhere in this state it's the same problem, there is a high concentration of entertainment places, bars, sporting events, whatever. We know that those are the places where the drunk drivers are going to originate from. We also had some areas that because of the geographic location, it attracted a lot of drinking and as a result a lot of drunk drivers. And that's talking about our beach areas, especially during the summertime.

We employed various techniques of setting "The Deuce Goose" in plain sight on a service station lot or a parking lot, somewhere where it could be seen, so the public could see it. We chose, in many cases, those areas that were close to a lot of these drinking establishments. As a result, some of the management of these establishments became very upset and we were accused of hurting their business. We had one establishment that we directly could relate two fatal accidents to patrons of that establishment who had consumed too much alcohol, got out of the bar, went out to their car, drove less than a mile and killed somebody. I tell you, I really didn't feel too bad when they accused me of unfair tactics. Because if that's unfair, then I'll be unfair everyday if I can stop that type of behavior.

This was a measure that we used, and unfortunately, through a lack of equipment and a lack of personnel, we have had to modify that. I hope that in the future I'll be able to reinstitute it. I would like to place in the field two of these vehicles. San Diego City covers 400 square miles. The squad of men that I put out were 11 officers and 1 sergeant. Believe me, we couldn't impact. We could impact those areas that we patrolled, but the rest of the city had to go without, because our patrol division, it's hard for us to keep up the call for our services. So the effort has to be much larger than what we really put out if we're going to impact it.

My staff has estimated that at certain times 3 out of every 10 cars on the road is driven by a person under the influence of alcohol, and we think that's conservative. Three out of every 10 cars. We feel that the blood alcohol level of the drivers, and our median for years in San Diego has been between .13 and .14, that means that there are a lot of drivers out there, and I was interested to hear the comments earlier about blood levels of .07. I would be happy if we could get some type of legislation that would pinpoint it at .08. Those of you that have ever taken a breath test and been a .08 know that you're not capable of driving a vehicle if you're faced with a sudden emergency or have to take some type of evasive action. As I said it before, 50%, over 50% of all of our fatal accidents, and I think this holds true throughout the entire country, involve the use of alcohol.

In San Diego in 1978 we had a PSA airliner crash into a residential area. It killed 146 people. Every year in our city we kill over 100 people, and yet a lot of people are apathetic about that. They read about it in the paper, maybe. The news media, they pick and choose their topics. I can't control that.

We had a very good working relationship with our news media. We took them on ride-alongs with our "Deuce" squad. We showed them every working detail on it. It was on the early news, the mid-evening news, and the late news, and it became a topic of discussion in San Diego.

I would like to see a situation where a person has the apprehension that if they're going to drink and get behind the wheel of an automobile, they're going to be stopped and going to be arrested. I also would like to have that person have the apprehension that if they are arrested, they're going to receive severe legal sanctions. The prior speakers have addressed those. I was very pleased to hear the remarks of the judges.

By and large, in San Diego, the cooperation that we receive from our courts has been outstanding. In some cases, there has been a lack of consistency in the application of the laws already on the books. It's easy to say to combat a problem that we need another law. My personal feeling is we have some pretty good laws on the books right now, if they are applied in the way they're supposed to be.

In looking at what we need -- the enforcement, the technicians in the field -- to combat this problem, most police officers, and I've talked to a lot of people throughout the state, they really don't receive the type of training that is conducive to a strong emphasis towards the drunk driver. The equipment -- we have a lot of state of the art equipment that is not available. Breathalyzers. We're even testing a handheld flashlight that sniffs alcohol and gives you a preliminary reading. As I recall, the BA (blood alcohol) median in the state is probably closer to one-eighth. That means a lot of drivers are going undetected because the officers are not adequately trained.

In my department, intensive training is given to the traffic officers, and yet, I have a very small number of officers in the field compared to the total force. That's

our problem. But it's some budget problems, too. I'd like to see some additional funds diverted towards the training of officers. But as I said earlier, enforcement's not the tool.

We have been working with some of the community groups, some of the student organizations against drunk drivers, mothers against drunk drivers, fathers against drunk drivers. There's a whole bunch of community groups that are interested in this. We support that. We give them whatever information, whatever resource we can, and I think that there's some effort can be given there, too.

I'd like to wrap this up by stating again that the only way that we, law enforcement, judicial system, all the different communities, are going to attack this problem is to create the expectation that if a person drives while drunk, they're going to be penalized. I'm not going to be presumptuous and try to tell you what that should be. I used to think that if you put them in jail that would take care of it. Over the years I've found out that doesn't solve the problem. That creates other problems.

I think Senator Seymour's opening comments, he hit on a very important point when he said that we have to make it "socially unacceptable." The bottom line is that if a person's going to drink, they had better be a passenger in the car rather than the driver.

Thank you for the opportunity.

CHAIRMAN SEYMOUR: Thank you very much, Captain Williams. Any questions? Senator Hart?

SENATOR HART: In San Diego County, what happens if someone gets to maybe .12, let's say, what's the likelihood that they're going to get down to reckless driving, or is that case going to proceed as a DUI?

CAPTAIN WILLIAMS: A .12? The prosecuting agency, the City Attorney's Office, through a lot of cooperation in meetings and things like that, they will take a very aggressive stance in prosecuting a .10. In some cases, depending on the objected symptoms, they will prosecute a .08. But the .10 is something we're going---they're going to go for.

SENATOR HART: So you don't have cases where you feel like you've apprehended someone, they've gone through and somehow gets plea bargaining. I mean, if you've got a good case at that blood alcohol level, it's going to go forward?

CAPTAIN WILLIAMS: I would say probably 3 years ago that would happen. I see less of that today. There is some plea bargaining and the officers get frustrated and we meet with the City Attorney's Office and sometimes there's good reasons for it.

SENATOR HART: The other question that I had was there're some, for want of a better term, innovative or creative approaches to enforcement. Now there are roadblocks; I read reports of people on their little telephones calling some number and report someone who's weaving to the police agencies. Could you comment on those? Do you think--- you're saying you don't have the manpower to deal with it. Are things like random

roadblocks or citizens getting involved through telephone calls, is that helpful or is that exaggerated in terms of how it might help you from an enforcement standpoint?

CAPTAIN WILLIAMS: I'd like to address the roadblocks first. I monitored the Highway Patrol's roadblock -- in fact, it's almost a year ago that they did that in North Sacramento-- and I think that has a deterrent effect up to a point. It's a tremendous drain on manpower. It is a deterrent. It creates an expectation of the drivers that they may be stopped. I think that that can be utilized effectively in certain areas. I do not feel that that is really the best tactic, an innovative tactic to address drunk driving.

The person that calls in, certainly we encourage that. Realistically, by the time they call, the call's processed, it's put out over communications, the time lag is so great that the chances of apprehending are very, very small. We still encourage them to do it, because the times that they get a license number and later on that vehicle is seen in some other area, we have good probable cause to make a stop and determine if the driver is under the influence. But we encourage this and involvement.

CHAIRMAN SEYMOUR: Thank you very much, Captain Williams. We appreciate you're coming from San Diego this morning to be with us.

CAPTAIN WILLIAMS: Thank you. It's a little drier up here than it was down there.

CHAIRMAN SEYMOUR: Next we have Robert Allaire, Stanislaus County of the "Drunk Drivers Go To Jail" Program. Mr. Allaire?

MR. ROBERT ALLAIRE: Good morning, Senators. I should give a little background of myself. I've been involved with the Stanislaus County Department of Mental Health for the past 15 years and have been responsible for the residential and out-patient alcoholism treatment programs for the last 12 years. For 5 years I was responsible for the drug abuse programs and for the last 5 years have been responsible for the education prevention services.

What I've passed out to you are some of the materials that I'll cover through my presentation to give you an idea what we've developed over the last 3½ years in Stanislaus County.

Exactly 4 years ago, a little (inaudible), in anticipation of the law changing in January of '82, the Stanislaus County Municipal Court had filed a uniform sentencing policy, and which they sent out to all defense attorneys, and included in that was that they were going to interpret the new legislation with a minimum of 48 hours in jail for all first offenders and a minimum of 10 days in jail for all second offenders plus an initial fine of \$670 and a referral to the appropriate drinking and driving program.

I happened to be at the Board of Supervisors' meeting when this was being discussed, and they were going over the impact this would have on the District Attorney's Office, the Municipal Court and the jail facilities.

The Board of Supervisors, of course, were very interested and very supportive of the Municipal Court judges. They were concerned over an increase we had from about 1978 through 1981, a tremendous increase in arrests, in accidents, and injuries and fatalities due to DUI in Stanislaus County. They were very concerned about the potential overcrowding at the jail and they were concerned with the staff impact that the Municipal Court would have in the District Attorney's Office.

So at that time they had instructed our department and the County Administrative Office to develop a response, and we came back exactly a month later with a presentation to them, which was around planning and coordinating and developing some type of community information and education program.

The ultimate goals of the Board of Supervisors were that we decrease the arrests, the accidents, the injuries and fatalities.

In our presentation in December of '81, we did explain to the Board that our population was very mobile and ever increasing and we thought it may be unrealistic to see some tremendous short-term expectations over a couple of years. We also transferred funds at that time, some of the Vehicle Code fine funds, to put out to bid with an advertising agency to come up with some ideas of how we might meet their goal.

And so what we did is we accepted---went into contractual agreement with Ken Fong Advertising of Stockton to assist us in developing an implementation plan. The agency had really developed for us two needs. They said we needed to inform the public and to inform them of the consequences of their behavior; and to educate the public to the broader drinking and driving problem.

The actual campaign, which was entitled, "Drunk Drivers Go To Jail," which really took when the Municipal Court sentencing policy began the 4th of July weekend in 1982, and we started by having brochures, the hats, the T-shirts, a lot of advertising and public service announcements.

The advertising agency did outline for us several other things that we needed to do over an extended period of time. One is the development of various radio and print advertising. We needed to begin working with the local schools in implementing or assisting in implementing any alcohol, drug and traffic safety materials into the classroom; the development of a strong communication network between the various law enforcement agencies; the sponsorship of some countywide activities, such as a poster contest; the development of collateral materials which consisted mainly of litterbags, the pens, bumperstickers; and to foster a broad-based volunteer participation so that we would be more dependent on people donating their time, businesses fostering activities or sponsoring the projects.

As we went into 1983, we felt we got off to a good start and noticed that we had really done nothing that was that youth-oriented, and so we were looking for something that---some type of program that would already be in existence that would have some

emphasis on youth, and we were looking at something that would offer some positive alternatives, some activities for students to get involved with. And it was at this time that we started---were involved with Students Against Driving Drunk (SADD). Robert Anastas, the founder and executive director of SADD, was brought to Stanislaus County. This was done by the California Mobilization for Action Project (CMAP) which is actually funded by Wine Institute, and in-kind contribution from the Alcoholism Council of California.

We organized three events at that time. This was in the fall of '83. The first was the student program. Rather than have a large presentation, we decided to work with each school to get representatives from each school involved and administrators in a day-long program. We then had the program just for school administrators, which was a half-day program. And we had a community dinner in which we had 44 different business industries, politicians, involved in sponsoring the dinner in which they'd each buy tables for 10, and they in turn invited various school administrators and students and parents to be their guests at the evening program.

At the end of that we assigned a part-time staff to begin working with the schools in developing the---what we had started through the student program. And we've been assisting in developing newsletters, conducting monthly meetings, holding school assemblies, and we now have 13 very viable and strong SADD chapters in the county.

The students in turn got very active last year in the Sober Graduation Project which is from the CHP and we found all the campuses did develop some sort of a project for that. We're now developing a special New Year's Eve project.

Last year during the high school graduation period, a two-week period in June, there were no arrests of high school students for driving under the influence. There were no accidents, injuries, deaths or fatalities of high school students in Stanislaus County.

What we noticed in '84, during the summer of '84, is that although we had started with the law enforcement agencies -- it was one of the early things we did is met with the major law enforcement agencies in the county -- that we were at a time to expand that, because we needed other types of community involvement. So we discussed that matter with the Board of Supervisors and from that we had developed what we call the Select Committee on Drinking and Driving, which we were---the purpose of the group was really two-fold -- to have a broader cross-section of community leaders who would be more knowledgeable both in the problem of drinking and driving, and the second would really be to start the collaboration of efforts and sharing ideas that we had anticipated earlier.

So we expanded our committee to include all of our elected officials who represent the county. Some of them are private businesses -- Pacific Bell, E & J Gallo Winery, Southland Corporation, a person who owns several liquor stores, and International Brotherhood of Electrical Workers, the radio station and television station. They were

very instrumental in helping the students and the parents developing alternatives during Sober Graduation in 1984.

The committee has not been responsible in itself for all the activities I'd like to outline, but they certainly have participated over the last several years.

In your packet there is some material from the Modesto Bee. The newspaper has sponsored a poster contest the last four years. They do all the printing and provide over---nearly \$2,500 in cash prizes to both students and to schools that participate. What you have attached there is a brochure we send out to all teachers, 4th through 12th grade, in the county; the type of ads they put in the newspaper, and the winners, the top three grand prizers; and the winners who have their posters printed in the paper. We then make awards for that at the major shopping center in Modesto. We display the posters through the Arts Commission in the month of December, and then for the rest of the year they sort of go on tour to the various city halls and public libraries and departments of motor vehicles.

We've had---one of the radio stations has produced and duplicated most of the public service announcements during the holidays. We've used the last two years various elected public officials. We've written the announcements for them. They've taped them and we've sent those to all of the stations in Stanislaus County.

We've used the students to tape messages during graduation period this fall during (inaudible) drug abuse education. This is something we've done as a public service for the state. Elected officials -- Assemblyman Condit, State Senator McCorquodale, Congressman Coelho -- have all been involved in sponsoring various teen activities and got involved in one way or another in the student assemblies.

We've had Pacific Bell print bumperstickers for us, often printed posters for us. We have done trainings with their employees with the issue of drinking and driving.

The beer distributors and the soft drink distributors have worked together so that in the various teen activities we have, the soft drinks are available for those events.

The Southland Corporation, we've worked with them and with the Quick Stops in having them implement various projects for their employees around recognizing people who are of age and what to do and those sort of things. They've also made a lot of our materials available through them.

The Gallo Winery has been involved in not only a local activity but one of the sponsors of the first annual state conference for youth on drinking and driving last year.

We've had one of our local banks, the Modesto Banking Company, had many of their staff volunteer in our effort.

The newspapers have all been very cooperative in covering events. And our concern from the beginning was that this could be the type of issue that would die out, but in December of '81 through January of '82, it was highly visible in the media and everyone

could anticipate the drop that we saw. (inaudible) the news and so we needed the cooperation with the media to maintain this news.

During the graduation period last year one of the other radio stations, a rock station, housed a Safe Rides Project for youth and covered not only the graduation period but "Graffiti Night" which is a popular event in Modesto. We had cooperation there from Pacific Bell that did all the telephone work for us, and from Wendy's and 7-Up.

The students have worked with the funeral home. The funeral home (inaudible) message printed by them that they delivered to all the restaurants during proms. The various formal wear have been involved in stuffing pockets and the floral shops have sent out messages with corsages in the spring.

We've had the law enforcement agencies have volunteered a lot of time.

One of the rotary clubs has purchased some of the drinking and driving films for us.

The local trucking association has participated with the project REACT which is the CB calling in.

To date, just to get back to some of the material, we have distributed nearly 40,000 of the litterbags; about 15,000 of the brochures "There's No Such Thing As A Ticket For Drunk Driving"; about 10,000 of the Blood Alcohol Content Alert; about 5,000 holiday recipe books which are entitled, "It's Up To You" with a variety of alternatives for non-alcoholic beverages, plus tips for party givers. We have T-shirts, the hats, the folders. We have volunteers distribute the materials through the county fairs, at the various community days, or public safety days in any of the cities throughout the county.

As a result of this, I'd like to share some of the data that we have, really comparing 1984 data to 1981. During this time period, we've had an increase of nearly 5% in the number of registered vehicles in the county. We've had a little over 7% increase in the population. During this time we've had a decrease of 9% in all accidents in the county. The number of accidents with DUI has decreased 13%. The number of DUI arrests has decreased 33%. The DUI-caused injuries has decreased 52%, and the number of fatalities has decreased 44%. This has had an impact on various parts---in various programs in the county. We've had about a 34% decrease in DUI cases to the Municipal Court. We've initially had an increase in trials. So if you compare '84 to '81, you've only had about a 9% decrease in jury trials. A significant difference occurred in '84 -- the difference between '84 and '83 were we've had a 33% decrease in jury trials in '84 from '83.

The Municipal Court has maintained its uniform sentencing policy but the information I get from the District Attorney and from the courts is they anticipate that around 98% of the first offenders do spend a minimum of 48 hours in jail. They also are very pleased with the high conviction rate with the jury trials.

Now, the one area that has been impacted the most then is our jails. The main facility, our Men's Honor Farm and Women's Facility, where we have seen an increase of about 25% over the 3 years, in fact, to their---the jail, in fact, reaching capacity during this year. The county did decide during '84 to do some expansion of the Men's Honor Farm by about 72 beds, which is taking up some of the load. One of our plans for '86 is to be looking more at what we might do while people are incarcerated.

What we have looked at and what I'm trying to lead the community through is that we have to go through stages in changing people's behavior and that is not an easy task. And probably the warnings that are always given are around doing something on a short-term basis. But we have to move people through stages in order for them to change, but we need to have people understand, and some people have underscored that there is the possibility that this might happen to them.

I think one thing we've paid attention to is the---where our emphasis really has been on the responsible drinker, as you had asked earlier, that it is that 42% of the population and there is that population that can change and stop their behavior, and that's where our programs have their emphasis.

As far as---you know, I think it was difficult for me to look at what might be done legislatively. It seems as if we've done a lot to date on the very sentencing policies. I think what we lack, though, is in a uniform consistent statewide message to people. We've not---we've done it all in pieces, here and there. As I go throughout the state, I see in each community having something different. I don't think---I'm struck by the fact that in a few short months everybody knows what the large blocked "L" is in all the stores, but we've still not come up with any consistent message like that for driving under the influence.

I think that the role that the Legislature could play is supporting a consisting effort like that and then afterwards doing some watchdogging of that effort. I think there are many communities that have ideas of what to do. They need to plug them into some broader consistent effort that we could do statewide.

CHAIRMAN SEYMOUR: Very good. Let me say, Mr. Allaire, that at least my experience in this field leads me to believe that the quickest results and the most cost effective results in decreasing the number of drunken drivers on the road is activities of the type that you have implemented in Stanislaus County, and so hats off to you. You've done a tremendous job.

And I guess it's my opinion that that occurs because you get a committed community, and when you have a committed community, anything is possible. So I commend you.

Any questions? Senator Hart?

SENATOR HART: One question. I wanted to make sure I understood what you said about student arrests for drunk driving. Did I hear you say that there haven't been any student...

MR. ALLAIRE: No. During that time period -- during the high school graduation period from really the Memorial weekend through the 15th of June, which has been "Graffiti Night", which has always been a high time for arrests of students, plus we have always had---any of the injury and fatal accidents of students have occurred during that time period. So we've put a lot of emphasis to it and they didn't have any arrests.

SENATOR HART: Did not have any...

MR. ALLAIRE: Arrests. Of high school students.

SENATOR HART: Of high school students from Memorial Day through June 15th?

MR. ALLAIRE: Yes.

CHAIRMAN SEYMOUR: Any questions? Thank you, Mr. Allaire. At this moment in time, we're going to break for a brief luncheon because we intend to begin again with testimony after 1 p.m. We slipped a bit, partially because we were slow getting off the ground this morning, and we want to pick that time up so we will reconvene promptly at 1 p.m.

- LUNCH BREAK -

CHAIRMAN SEYMOUR: We are about to reconvene. Since our delay this morning, we are running behind, as I indicated before we broke for lunch. We've got a couple of individuals that have planes to catch, and therefore I hope you will understand if we must take one or two out of order. At this particular time, we'd like to have Dr. Roger Hagen, who is the Registrar and Chief Investigator for the California Department of Motor Vehicles. He'll be our next witness.

And if I could ask the witnesses, we're going to try from here to keep our questions to a minimum because I don't want to slight any of the witnesses. At the same time, I'd ask the witnesses to recognize we've got a time problem and make their presentations as quickly as possible. Dr. Hagen?

DR. ROGER HAGEN: Thank you, Senator Seymour. I appreciate your taking me out of order.

Being passed out now are some written testimony. What I'd like to do is to go ahead and give an overview of the presentation and go right to proposed legislative concepts.

Now, basically we've been approaching this as sanctions for drunk driving vary throughout the world. We've got the variations from monetary fines, jail sentences, licensing type things and all the way through our education and rehabilitation.

The role of education as a DUI sanction over the years has typically been applied to the first offender population. It should be pointed out that one of the principal roles behind education is as a pre-DUI sanction type activity. Much of the activity is now being expended to incorporate general alcohol education within K-12 curriculum development.

More importantly, we have no information to date on how this type of alcohol type

education or general education could be incorporated into public driving schools, for instance, or the driver licensing examination process or into driver education itself. To date, there is no published evaluation data suggesting that this is having any positive impact whatsoever on the DUI problem at the first offender level.

The bottom line of what we're trying to work towards there is to develop a general deterrence concept or model to where we actually create a real fear of detection should you operate a vehicle while under the influence of alcohol.

More importantly, the role of rehabilitation as a DUI sanction has typically been applied to first offenders with high alcohol blood contents, the high risk driver that Senator Hart was querying about this morning, or to our multiple DUI offender population as structured here in California.

When first postured, though, back in the early 1970s as one of the counter measures, if you will, within the Alcohol Safety Action Project (ASAP), it was intended to be a supplement to, not a replacement of, license sanctions. Unfortunately, when we got to the implementation stage, we found license sanctions being essentially done away with as long as somebody participated in a rehabilitation type project. I saw this in the State of California. I saw it more importantly when I started one of these up in the State of South Dakota. Believe it or not, we even had Judge Emerson out there to do our judicial training as he brought up this morning.

In general, all the literature, whether it be California based or otherwise, has shown consistently when we execute proper evaluation designs, education and rehabilitation as an alternative to license sanction it's not effective from a traffic safety point of view. However, what we've got to start working towards is a way to make a combination of the two to where we get a more meaningful impact on traffic safety.

We also know that the licensing actions are even potent simply because we're reducing driving exposure; or more importantly, and this is my personal feeling -- the product of a lot of evaluations I've done -- it is because of more cautious driving. We know for a fact that at least 65% of the people operate a vehicle while under license suspension or revocations, even if it be the simplest 12-month license suspension.

We argued in a report not too long ago because of this and maybe license restrictions would be an appropriate alternative. I'll touch on that in a few minutes.

I'm not here to recommend that education and rehabilitation be discarded as an unsuitable DUI sanction alternative. The data and our experience readily supports that education and rehabilitation used in conjunction with, and not as a replacement for, licensing sanctions does work.

We feel we need legislative actions in the following types of areas, or goals to satisfy these areas.

- 1) Maintain the sanction at the level that we have today in concurrence with the danger that it reflects, or represents to the public.

- 2) We have to improve the likelihood that the DUI type action will be identified once it takes place on our roadways.
- 3) Decrease the likelihood of DUI continuing to endanger others once they've been identified and put into the counter-measure system.
- 4) Increase the swiftness and the certainty of license suspensions, revocations, because, quite frankly, I don't think there are any silver bullets left in this area. This is one thing that we do know works.

Rather for the sake of sounding like motherhood and apple pie, I've got some concrete recommendations here.

- 1) Retain the current criminal and licensing penalties at the level they exist today to put the public on notice that we essentially mean business.
- 2) Maintain at the level that exists today, or more importantly, increase, if we can come up with the funds to do it, the roadside sobriety checks.

Now, we used to do these in South Dakota quite effectively. They are a drain on manpower. There's no question about it. But the general deterrent effect from these sobriety checkpoints, as the gentleman from San Diego mentioned this morning, has been documented.

- 3) Insist that drivers sent to alcohol treatment programs earn the right to drive by showing successful completion of the treatment program. Currently, as you well know, second offenders who agree to participate in an approved alcohol treatment program receive a one-year restriction in lieu of the one-year suspension. Our preliminary evaluation does indicate that these restrictions, because they are generally unenforceable in nature, are having little effect in reducing the subsequent violations and accidents of these particular drivers. We should provide greater protection to the public by suspending the driving privilege of those on the second offense. The suspension would last at least a year and ensure that the maximum amount of protection provided to the public could be afforded to them.

As an alternative to this, because I'm quite aware of the difficulty of that one-year suspension and also getting them to be involved in treatment, is possibly during that first 6 of the 12 months of the treatment program, have the suspension in place until we know for sure the person is going to be committed to that treatment program.

Should they satisfactorily---or react to the objectives of that program and demonstrate successful completion of that first 6 months, then we relax the suspension, possibly to a restriction or with full commitment, possibly no restriction whatsoever.

- 4) Another area that we have to look at, and I know, Senator, you were looking at it last year, is "Administrative Per Se." We've got to figure out ways, because

of the increased penalties and the continuance that are happening in our court system today, to decrease the court congestion and hopefully separate the license suspension or revocation from the judicial process.

The "Administrative Per Se" concept exists basically in 19 states today, and where they are applying it it varies in different areas and it varies according to them, if you will, the liberal and conservative attitudes of the judicial system that exists in those different states.

But what we're talking about here is a way to apply that license suspension or revocation for people under---or that have violated the implied consent law, or that the evidence elevated BAC in a very, very timely fashion, and we would suggest having that done in the administrative arena as well as the judicial arena.

In concept, we totally support it. The problem, of course, that we've run into is how do we fund it.

The number of things that we have looked at is some states have just simply a documentary review to make sure that the offense and the arrest and everything else was adequate in suspension. Based on our experience here in California, I doubt a court is going to allow us to get away with just a simple documentary review, no matter how we word it in the statute itself.

I think that we're going to have to face the reality that a full-blown hearing will probably be mandated either from the system, just to make sure that the individual does have due process and he does have his day in court.

Basically, almost all of the types of things that we've got going on in the DMV today in terms of suspension or revocations or (inaudible) seizure and sale on vehicles, we have got to give the individual his due process and his rights, which means, unfortunately, the conduct of an expensive formal hearing.

Two other concepts to my knowledge that have yet to be addressed by the Legislature is, number one, requiring proof of insurance while an individual participate in, and subsequent to participation in, a rehabilitation program. As you know, when your license is suspended in California now, you have to maintain proof of responsibility or proof of insurance for a period of three years after your license is actually reinstated. Maintenance of that proof is a condition of the reinstatement of the license.

Under the rehab concept that we have here in California right now there is no ties, as far as proof of insurance goes, after they complete that rehabilitation program. Also, there isn't really a formal reinstatement on the license restriction. So, again, we don't have any proof of insurance requirement put on these people.

There is some suggestion in earlier research done by the department that it's this proof requirement that adds to the effect of the actual license suspension, because why else would a license suspension of 12 months have an impact for a total of 4 years on a

person's driving behavior? We have to believe that it has to be the proof requirement that comes after the 12-month suspension.

The second, and though it deals with just a small amount of the alcohol, the drunk driving population, is to require rehabilitation or education in addition to the license sanctions we typically associate with implied consent today. What we are able to do here is if we have the 6 month or the 12 month suspension that's associated with violation of implied consent law, coupled with the rehabilitation requirement, you're now coupling the time of entering in or requiring entry into that rehab program very closely at the time of the crisis point in that individual's life -- the time of the arrest.

I think with that, Senator, I'll open it up to any questions you have. I just gave you a basic overview of the written testimony.

CHAIRMAN SEYMOUR: We appreciate that, Dr. Hagen. Any questions of Dr. Hagen? Thank you.

DR. HAGEN: Thank you, Senator.

CHAIRMAN SEYMOUR: Appreciate your testimony. Next we would like to ask another fellow who's got a plane to catch -- Dr. John West, representing the Orange County Trauma Society. Dr. West? And then we'll be back on our regular calendar.

DR. JOHN WEST: Thank you. I don't have a plane to catch but I do have a patient that's going to be in the operating room at 3:00 and he'd miss me if I wasn't there.

My area of interest in the issue of drunk---drinking and driving, or driving under the influence, is that of a surgeon. I happen to be a trauma surgeon involved in developing the Orange County (inaudible) Trauma System and have been involved in developing the Orange County Trauma Society which is an organization of individuals that are interested in accident or in trauma prevention.

The area that is of most interest to us, of course, is the issue of automobile related trauma because the majority of serious trauma in this country is related to the automobile, and that puts us directly next to the alcohol problem because 70% of the fatalities are alcohol related.

We've met over 4 years now looking at this particular problem and have felt that if we were going to do something with the prevention area, we wanted to deal with the young people because we felt that that was probably the group that there was room to be effective as a prevention organization and that was the place to start.

Four years ago we went to the Orange Unified School District. In fact, our first meeting was in the next building, part of this complex here. We met with 24 students from the Orange Unified School District. And basically our thesis was that many of us that are trauma surgeons -- are involved in the medical area, and we have a very fine trauma system here in Orange County -- feel, medically, we're doing about all that can be done in terms of saving lives. And despite the medical improvements that have been made, youngsters are still coming into our trauma centers in the middle of the night with

serious injuries, irreparable injuries, and they end up being simply donors for kidneys and their life is over.

There simply is nothing medically that we can do. There's absolutely nothing that---it's on the cards to take care of the majority of the traffic fatalities. It's a prevention problem, not a medical problem. And we looked at the various projects that were available that would have a hard-hitting impact on preventing kids from going out and drinking and driving and we felt that we (inaudible) anything was available that really made a difference.

So our thesis when we went to the students is that 1) we feel there's a major problem; but 2) we don't know what to do about it and we're concerned and we're asking you, what do you think might be done? And the students were not prepared for this. They didn't know what they were coming to the meeting for, and I don't know, maybe we should have prepared them and give them some idea, but it was a difficult subject for them to grapple with. But over a period of a couple of hours, they came up with, I think, some very insightful comments in terms of what is the problem with this drinking and driving issue and what might we do about it.

And the very first issue they brought up was we don't believe you. We don't believe there's a drinking and driving problem. The students were not selected as the leaders from the classrooms or the drug problem kids. It was pretty much a random distribution. But basically the kids said, hey, we've been in high school for a couple of years now and we've had a lot of experience and we don't see our buddies getting knocked off. They go to parties and they drink and drive all the time. Basically I think they were---their experience reinforced their belief that there was not a drinking and driving problem. Although in all honesty, as the group progressed, there were specific examples the kids could bring up -- oh yes, about 3 or 4 months ago so-and-so was killed, and yes, 6 months ago we remember reading in the paper that (inaudible) Canyon Road there was an accident and 2 or 3 others were killed.

So although they were able to, in fact, identify a few isolated instances of teenagers dying because of drinking and driving, they didn't feel it was a real problem to them. There was virtually no threat. In fact, the experience reinforced their belief that there wasn't a problem, because every weekend they go out and drink and drive and not see anybody killed.

But they were sympathetic. They liked the idea of somebody talking about the issue, and they said, you know, if you could convince us there's a problem, maybe, you know, we could go someplace with it, but we feel really uncomfortable going anywhere right now.

So to deal with that problem, we took them to one of the trauma centers, and this was totally unplanned. It was probably the worst plan. We did it on a Saturday afternoon when the sun was shining, but surprisingly enough, about 25 kids showed up and we took them to the trauma center, and it turned out there's a 12-bed ICU and there was

about 6 of the beds were occupied by teenagers, or at least young people. Everyone of them had been drinking and driving and everyone of them had no chance for survival. They were essentially brain-dead.

Now, what these kids saw with their own eyes were students, or young people, who had challenged death and lost. And not only did they see the students, but they saw their parents and their friends, and this made a tremendous impact. You could see the difference on the kids after they had made the tour. They had no question about the fact that there was a problem and they were willing to do something about it.

So we entered sort of our next phase of negotiation, and they said, well, okay, we'll accept the fact that there's a problem. But what you have to realize is that all the kids drink and the numbers in Orange County are 97%. I don't know what the state numbers are, but virtually all the high school students drink, and virtually all of them are involved in drinking and driving. And what they said was, as a group, they collectively came to the opinion that they would support a project that had to do with drinking and driving but they would not get involved in any project that said don't drink, because they felt they would be intellectually dishonest since they were all going---not only did drink but planned to continue to drink.

And we felt that that was a reasonable point to agree upon, although we lost about half our board members who are more alcohol-oriented and felt that it's either drink or don't drink -- it's all one or all the other -- and we felt that at least with the group that we dealt with is that this compromise position -- if you drink, don't drive; if you drive, don't drink -- was a reasonable starting point. And I think we would have lost all of our students had we not taken that particular approach.

Thirdly, they told us that they didn't want to be in any project where these parents were talking to the students. They felt that if a project was going to be effective and change behavior, it would require the students talking to the students.

So the first part of our project is a peer education approach where the high school kids go into the junior highs, and we have identified at least for now, during our pilot phase, 15 year olds is our targeted group because they're already going to parties, they're already experimenting with drinking and they're going to be driving within the next year.

And the way we put the project together... Well, the third thing I should say before I get into putting the project together -- the final thing they told us, they told that in their experience, part of the problem with drinking and driving was the parents. The parents were facilitators. Part of the attitude among the parents, at least in their experience, was, well, if you're not on hard drugs, a little drinking's not going to hurt anybody. Not only that, but the parents would frequently put on parties for the kids and supply the alcohol and pretty well accept the fact that kids were driving to and from the party after drinking. The parents would go away on extended vacations and leave the

liquor cabinet open and leave the house open for the kids to party in. So we haven't dealt with that specific aspect yet in the project.

At any rate, taking that information that we gathered from the students themselves, we decided to attempt this peer education project. I'm going to condense it down to a brief presentation so you can get a flavor of what we're trying to do. We do have the students here so I'll introduce them shortly.

The concept of the project is to produce the same emotional impact that that tour of the trauma center had on our students. In other words, we didn't lecture to the group that we dealt with. We presented them with the facts and they made up their own minds, because they saw the reality of the situation and they made a decision that drinking and driving was an issue that was important to them.

We can't take all the kids in Orange County or the United States through trauma centers. It simply is impractical and they're not always going to have the same powerful experience. In all honesty, it's unusual to have 4 or 5 kids on a respirator, although it does happen, unfortunately.

So we felt that we would put together a hard-hitting video tape that would have the message, and you will see that video tape this morning, but it deals, again, very concrete terms what the real problem of drinking and driving is in terms of the human terms.

And then following that, the kids break into small groups and they use the inquiry teaching method where they discuss the issue of drinking and driving and get the students to make a commitment on three support issues: 1) how to prevent drinking and driving themselves; 2) what to do in case you're exposed to a drinking driver -- how do you get out of it; and 3) how will you deal with the issue of intervention. If one of your friends at a party had too much to drink, how might you go to him, tell him you love him and tell him you don't want him to go out and kill himself, and ask for his keys and see to it that either you or somebody else drives him home safely.

The project has been put into a packet format so that it can go to any school in the United States. They are provided with a detailed instruction manual to organize the project, how to develop the safe drive home, hot lines, how to develop the peer education part of the project, and we have developed a toll free number with the groups, with the high schools, so that they can work with our full-time advisors at the Trauma Society to get the program off the ground. Our goal is to---we piloted the program here in Orange County this last year. We're trying to get all of Orange County in this next year, Southern California the following year, and then we'll be open for going beyond that from there on out.

I've asked two of the students to present the program to you much like they would present it to a class. The only thing that we would ask is that you put yourself in the shoes of junior high school students. There's a tendency for adults to want to critique the program. We would ask that you hold the critique until after the presentation. But

simply put yourself in the shoes of the junior high student that might want to ask legitimate questions that a junior high student might ask.

There's a little problem of how we would present this, because we've got two groups facing each other. I imagine if Ted and Megan, they could come up here, they're from El Modena High School, they've been doing this program for almost, oh, for about six months now, and they will present it to you much like they would present it to the students. (Setting up bulletin board.)

MR. TED PALLAD: Sorry about the delay. We're just trying to get ourselves situated. My name is Ted Pallad. I'm a junior at El Modena High School

MISS MEGAN RICHMOND: And I'm Megan Richmond and I'm also a junior at El Modena High School.

CHAIRMAN SEYMOUR: Excuse me just one second. Sergeant, are we going to be able to pick any of that up? You're getting them? Okay, fine. Could you please speak up so we can make sure that we get you on the recorder here? Thank you very much.

MR. PALLAD: We're here today to present a program -- where we work out the program.

MS. RICHMOND: We became involved in this last year at El Modena. There was a group call High Profile that went out and told the kids about alcohol and Ted and I became involved with that and _____ (inaudible) _____ about staying alive. And with this program we go and tell the ninth grade students.

MR. PALLAD: So we're going to say the program and we'll just have to pretend that we're in a ninth grade classroom and you'll be the students and we'll be teenagers who are going to show you this program. So with that, we're going to start.

Okay, that number "1" stands for one teenager -- one teenager killed every hour throughout the United States by someone under the influence of alcohol. More young people between the ages of 15 and 21 die from vehicle accidents caused by drinking and driving, rather than more drugs and disease combined.

MISS RICHMOND: And we know that as teenagers like us that you have a great deal of information about drinking and driving. And what we're here today is to help develop some options from which you can choose to eventually prevent the drinking and driving.

MR. PALLAD: Okay, so with that in mind, raise your hand if you've heard us say that we're here to eliminate all drinking. Okay, good. Who can tell us why we're here today? Anybody? (Laughter.) What we're here to do today is to work with you and guide you on exploring various options from which you can chose to prevent drinking and driving accidents.

So with that in mind, what we'd like to do is ask you a few questions.

MISS RICHMOND: Okay. We would ask your teacher to leave at this time, and I'll go ahead and ask you the questions. How many of you want your driver's license when you turn 16? How many of you have heard that high school kids like to party? How many of you associate partying with drinking? And finally, how many of you ninth graders have

already been to parties where there is drinking? Thank you.

MR. PALLAD: Okay, now what we'd like to do is show you a video tape developed by student committees that work with the Orange County Trauma Society, an organization dedicated to the prevention of accidental injury and death. Now for the video tape, if we were actually in a ninth grade classroom, we would break up into smaller groups to continue the discussion. However, for this ninth grade group, we'll stay as one. (Laughter.)

This video tape focuses on the consequences of drinking and driving. Before we show it to you, we want you to remember that number "1", that one teenager is killed every hour. All those teenagers could be alive today if one person made the effort to care. So let's look at four teenagers, their families and their friends. Two of the teenagers you're going to see chose to drink, and they lost. The other two are innocent victims of drinking drivers.

- TRANSCRIPT OF VIDEO -

"...years are a time to grow, a time to explore, but it cannot be a time to take chances. Sometimes it starts out to be a little harmless fun and can end in disaster.

Unfortunately, teenagers are a part of the drinking and driving population. Some people don't realize what a hazard they are to themselves and others. It isn't drunk. It's you and I (inaudible) who have one or more drinks get behind the wheel and cause unexpected damage. The greatest tragedy -- the loss of human life.

Inaudible damage to cars is the physical evidence of financial loss. What about victims who are still alive following the impact of bodies crashing against metal? These people may have been drinking drivers who gambled and lost, or innocent victims of drivers who had one too many.

Within minutes, victims are assisted by trained paramedics who stabilize body functions for transporting to a specialized emergency care unit called a trauma center. At trauma centers, skilled teams of doctors and nurses rapidly perform lifesaving procedures.

The accident victim has been transported to the operating room where another team of doctors and nurses have been preparing for emergency surgery. Trauma surgeons work rapidly to control internal hemorrhage.

Trauma centers do save lives, and yet, despite their lifesaving contribution motor vehicle accidents remain the number one killer of young people. The single most important contributing factor in the majority of these accidents is alcohol. Each day 25 teenagers are killed by a drunk driver. Each year 8,000 young people die needlessly because someone had one drink too many. 140,000 Americans were arrested last year for drinking and driving.

The numbers have become so staggering that they have almost lost the power to shock. But the statistics don't tell the whole story. They're simply numbers. Perhaps the most powerful number is the number "1". One teenage life cut short before it had a

chance to bloom.

Lyn Gebhardt, high school senior from Peru, Indiana, starred in the town's amateur circus. One night, after a show, Lyn and his performing partner, Julie Miller, killed themselves by drinking and driving with a drinking driver.

Regina Blempaign, a cheerleader from Bellflower, California, was an innocent victim of two teenage boys who were drag racing through a red light. She died 20 hours after the accident.

Chris Akin was in the same car with Regina. Chris survived. However, she is virtually lifeless because of permanent irreversible brain damage and requires complete physical care.

The following scenes tell the stories of Lyn, Julie, Regina and Chris.

For 24 years, Peru, Indiana's amateur circus has been a one-of-a-kind show. Grade and high school kids performing acts rivaling almost any professional circus. Their parents and town fathers acting as clowns and support groups. It's like one big family. Each one pulling for the other. And last night everybody was pulling for the new 5 man high wire pyramid team. Julie Miller in the lead and Lyn Gebhardt in back. Lyn Gebhardt's mother and dad as breathless as anyone else in the crowd. It was dangerous but they did it.

But after last night's show, 5 of the circus performers decided to go swimming at this nearby reservoir. There was drinking involved, and on the way home there was a bad accident.

The car carrying the 5 was destroyed, buckled when it skidded into a tree, and killed were wire walkers 18-year-old Lyn Gebhardt and his partner 18-year-old Julie Miller. The 3 others were injured.

This morning, stunned by the tragedy, circus board members gathered in the circus arena:

"Family members are, as I understand, are in a state of shock. I've seen a lot of (inaudible) emotion such the wee hours this morning."

"The kids, I feel like they were my own. You know, the families (inaudible) children. Well, I lost two."

And as the high wire rigging was pulled in the ceiling and out of their sights, circus board members decided with 7 more sold-out performances the show should go on.

"We're going to tell the kids to tell each other that if they have to do it through tears, we want to see a style of smiles."

Just last week, Dick Gebhardt told us his worries about his children's safety in the circus, whether it was Christy's bouncing atop a 30 foot pole, Linda's trying a double somersault from a flying trapeze, or Lyn, one of the two who died, balancing on a hire wire.

"I think you're (inaudible) not worried. I worry about all of

them just not mine."

But today nobody had expected a car accident to bring death to this small unique circus family. That's what stunned this entire circus troupe. Many of them still deep in grief late today, but wanting to go on.

"This is the hardest thing I've ever had to do. We can't let this stop us. We're all going to be strong tonight. _____ (inaudible) _____ let's do it."

And it won't be the same as last night, but the show will go on.

Bob McNamara, CBS News, Peru, Indiana.

The teenage years are a time to explore and find your limits to enjoy life, but Regina Blemplaign never got the chance. She was 16 when she died.

"The beautiful person that was Regina Blemplaign would have wanted us to take up her challenges, to continue to lead where she had led, to strengthen _____ (inaudible) _____ (inaudible) _____, to humor, to reach out to people and her dreams."

A cheerleader of Bellflower High School, admired and loved by those who knew her, but now she is dead, killed by a driver who was only 19.

The 19 year old had a blood alcohol level of between 1.11 and 1.13 at the time of the accident. In California .10 is considered legally under the influence.

Last Christmas had been a special time, the last they spent together. For the Nicholas' family, this year it will be difficult.

"My daughter Marie is 14. We left it up to her to make the decision what she would be comfortable doing because it's been a tremendous loss for her. We have to face reality. Regina's gone."

Chris Akin, another cheerleader from Bellflower, survived the accident that took Regina's life. Chris has no mental or physical functioning except for breathing, involuntary muscle twitching and eyes that are fixed open but cannot see. She is fed through a tube and is cared for in a hospital. Chris's mother has faithfully visited her everyday since the accident that occurred in April 1981.

On June 1, 1984 Chris Akin died -- 10 months after showing these scenes.

This program is dedicated to the memories of Lyn, Julie, Regina and Chris."

- END OF VIDEO -

MR. PALLAD: There are many strong feelings created by watching this videotape. Take a few seconds and think back to what you just viewed and identify any thoughts, feelings or concerns you might have as a result of seeing this videotape.

Okay, now that you've had a few seconds, what are your initial thoughts and feelings about what you have seen, about the outcome and effects of drinking and driving? In other words, how do you feel right now?

_____: It's a waste and it's unnecessary.

MR. PALLAD: Thank you. What other feelings? Yes.

_____: Wanting to prevent this.

MR. PALLAD: Thank you. What if you were one of the drag racers who went through the red light and hit the car with Chris and Regina. How would you feel? What effect would that have on yourself as well as your family and friends?

MISS RICHMOND: How would you feel if you were one of the drivers, the driver and you killed this girl, another one in the hospital?

_____ : Remorse.

MISS RICHMOND: Thank you.

_____ : Guilt.

MR. PALLAD: Great. Anyway, we work with the ninth graders and develop as many feelings and opinions they come up with because of the consequences of drinking and driving.

So let me ask---looking at a brief glimpse of feelings and opinions you've come up with, who can summarize in one or two statements what you feel the tragic consequences are for drinking and driving? What are some feelings? When someone says what are the consequences, what's the first thing that comes to your mind?

_____ : Extreme loss.

MR. PALLAD: Thanks. As we've already discussed, the effects of drinking and driving are too tragic, extreme loss. What we can do is make a change in that statistic of one teenager killed an hour. And we're not saying never to drink, because that's your decision. Instead, the issue we're dealing with today is how to reduce or prevent that statistic of one teenager killed an hour.

MISS RICHMOND: What we're going to do today is develop some options for your ... (interference) ... on how to stay alive. Avoid drinking and driving, avoid riding with a drinking driver, and avoid letting friends drive drunk.

Okay, now let's start with the first prevention method. Avoid drinking and driving. Let's say there's going to be a party this Saturday night and you're going to be driving your friends to this party. What can you do to avoid drinking and driving? What are several things that you can do? You don't want to kill your friends and you know that you don't want to drink and drive, but yet you want to go to the party. What could you do as a ninth grader?

_____ : Or as an adult.

_____ : Don't drink.

MISS RICHMOND: Thank you. Good. Anyone else? How about if you're at the party, and putting yourself in a ninth grader, and you're feeling peer pressure. Your friends are, oh, come on, come on, have a few. You still don't want to drink and drive. What would your response be? What would you say to your friends?

_____ : I'm the _____ (inaudible) driver.

MISS RICHMOND: Thank you.

MR. PALLAD: After we work with the ninth graders, I get a list of their feelings

and choices to avoid drinking and driving and we go ahead ... (interference) ... the other two provisions that was avoid riding with the drinking driver and avoid letting friends drive drunk. And many of the options we get from the ninth graders are the same as adults -- find a sober driver, call home, take keys from friends so they don't drive.

Anyway, after the way we work with the (inaudible) prevention methods with the ninth graders, each person would receive their wallet card, which we'll quickly pass out. On the back side of the wallet card where you see the three prevention methods listed, here we review again. We ask the ninth graders to look up on their feelings and opinions they've chosen to avoid drinking and driving. And then write down two options they would apply there to use that method. And then they'd go to avoid riding with a drinking driver to see what options they could come up with and choose two for that category on how to avoid riding with a drinking driver. And then they would do the same for the third.

MISS RICHMOND: Okay, on the front of the card they write two phone numbers which they can call (inaudible) if they ever get in one of these predicaments.

MR. PALLAD: As high school students, we are starting this community (inaudible) effort that has grown out of our concern for the unnecessary loss of young people due to drinking and driving accidents.

We'd be glad to have you help us in this effort to reduce and eventually eliminate that statistic of one teenager killed an hour. We feel teenagers are the nation's greatest resource, and together we could strive to be part of this future.

Today, thanks to all of you, we have developed options each of you can choose from to prevent drinking and driving accidents, and also your choices for staying alive.

(Applause.)

DR. WEST: That's the project in a nutshell. It does go on a little bit more but I think you get a pretty good flavor for the dialogue in what we're trying to accomplish. It has been packaged in such a manner that with the two-hour orientation and the four-hour training to the inquiry teaching method that students can come to... We're having a meeting, for instance, tonight, in the northern part of the county with 100 people involved -- about 6 schools involved -- that will then pick up this program and go to other areas.

We have quality assurance---method so that our coordinator goes to the school's efforts and in effect sees to it that it's primarily done the way it's anticipated. We've found that there's a tendency for people to want to pick up the project, show the video and not get into this teaching, simply the teaching method, and the program really is, as I see it, is an opportunity to open up a dialogue and open up some networking among schools so they can deal with these problems in a realistic way. I don't know if one presentation is going to change that much behavior, but I think if we can develop a

dialogue with the schools, we can get into the schools, get the kids thinking about the issue, get them out participating in the program, I think we're going to see some changes.

The thing that excites me more than anything else is that each school now becomes a research lab as they take on this project and they learn to do it properly. As time goes on, they're going to want to modify it. They're going to go into the junior high schools, they're going to go into the junior colleges or into the grammar schools and they're going to go to parent/teacher associations, and they're going to develop their own way of dealing with these issues.

We've developed a two-way dialogue with all the new high schools coming on board so that we will be able to gather information on the project as they modify it and try to get those modifications into some kind of a framework so other people can take advantage of what the new school has learned.

So by putting this thing together in this manner, rather than us doing the research and the project development, which is the most difficult part, every school will be part of that process; as they become part of it, then they'll become more involved and be more important to them.

So I think we've developed the groundwork for a program that can make a difference, and I think we have the organizational structure to make it work. So we're really very excited about the future and think that at least from the reaction we've seen from the students and the enthusiasm, we must be on the right track.

CHAIRMAN SEYMOUR: Questions of Dr. West? Well, Doctor, on behalf of the committee and the people of Orange County, thank you for your efforts and your commitment. Ted and Megan, that was just a fantastic presentation. I wish you, on behalf of the committee, every success as you promulgate that program throughout the schools here in Orange County. Thank you.

DR. WEST: Thank you. (Applause.)

CHAIRMAN SEYMOUR: Our next witness will be Mr. J.J. "Chip" Allen, Director of Public Relations, Pacific Health Systems, Inc. Chip, thank you for being so patient.

MR. J.J. "CHIP" ALLEN: Thank you, Senator Seymour. Because of the time schedule, in the book that I'm having passed around to you, it's quite in detail, as to the letter that I wrote to you and what started me around getting here today.

There's a cover letter for you in there. What I would like to do, if I may, is please acknowledge the people that were very beneficial in helping me to put this together and also to get me onto a good road of recovery over the past couple of years. The Honorable Calvin Schmidt of the Harbor Court (inaudible) of judges, Honorable Greg Smith, (inaudible) or James Gray, Municipal Court, Santa Ana, and I must say this with great thanks to Judge Leon Emerson, who has retired, because I believe he had a lot to do with and he was just a touch ahead of his time in what you're doing today.

The opinion stated here may, in many cases, be shared by others. (inaudible)

are both from a professional and a personal point of view -- from a professional point of view when I was an out-patient counselor and in-patient supervisor, and was recently promoted to director of public relations for Pacific Health Systems in Long Beach. From a personal point of view, Judge Jim Gray gave away a little bit of information. I am a recovering alcoholic and what I'm about to talk to, I did have quite a few problems with the legal community because of my alcoholism.

In the overview portion, as I say, in order to get you back on track as far as time is concerned, the greatest problem for everyone in the legal system, including lawyers and judges practicing in the municipal courts, are identification of the alcoholic or chemical dependent person, drawing an intelligent order that will likely bring about rehabilitation and overseeing the rehabilitation program until the defendant has reached a stage of practical wellness.

Each session of the Legislature in the last several years has increasingly tightened up on the DUI laws, primarily increasing the sentencing and penalties, incidentally providing for the education and treatment programs for alternative sentencing.

Sincere efforts have been made to meet the alcoholism/chemical dependency problem among the arrests in the criminal justice system with treatment programs that back up the court and probation departments under the theory that a recovering alcoholic/addict is not likely to drink or use and repeat the prior offenses.

The federal government has put a great deal of money into research, particularly as it relates to the driving under the influence because of the very high incidence of death on the highways caused by drivers under the influence (more than 50%) and the very high number of single car accidents of drivers being under the influence which correlates to greater than 80%.

Injury accidents are approximately 15 times more than those in which a person was killed. And I'd like to continue down here by citing statistics that are recent out of 1984 from the Department of Transportation. Some 250,000 people have died of alcohol and drug related accidents in the last 10 years. That's about 25,000 lives lost each year. One American life is lost every 20 minutes in alcohol or drug related accidents. Over 50% of all multiple car and 65% of single car accidents are alcohol/drug related.

I think what is staggering here to me, being a recovering alcoholic, and as Judge Gray mentioned, with a .39 and functioning at that point that I can remember exactly what had happened, where it happened, under what circumstances it happened. The average driver under the influence apprehended on the road has a blood alcohol level of .20 -- double that of presumed intoxication in most states. There are many professionals, and I happen to be one of them, that believe blood alcohol level of .18 is the beginning of alcoholism.

We're talking about a disease and the disease is being handled in many circles, and a particular industry, I think, is one of them, that has really gotten a hold on it in

many areas with the employee assistance programs.

I have had the opportunity to become a very good friend of a recovering person, John Newton, Manager of Alcoholism Program of Union Oil Company. And the reason that I believe that we're dealing with an alcoholic in the area of .18 and above, many of them are very functional at that level. They go to work, come home, take care of the children, do everything that is necessary to be a good parent and/or significant other.

If you'd like, Senator, please look at page 3 of the book here. The following are some of the statistics that John Newton, the Manager of Alcoholism Program for Union Oil Company, has come up with and provided me.

Number of active employees on their program is 1,475. Number of days they have saved with their program is 19,351, with a dollar savings to the company of \$14,173,985, the company has saved for their employees under this program.

I thought what was very outstanding was the number of employees hospitalized -- 659. Number of court cases that literally got to the court system was 113. If you (inaudible) the difference in the number of court cases of 113 to the total number on the program, there was 1,362 that were driving under the influence and in need of hospitalization, which means that it is a disease and it does continue to function and it requires a lot of help on a lot of people's parts.

Evaluating the case, and the way I feel about it, is one of the first persons on a DUI, if a person is apprehended, and I remember back -- the first person I was involved was a bail bond (inaudible) to get me out of trouble I got me into. The second person was an attorney, and there's where I feel that the beginning of evaluating can start long before it gets to the court system. I believe it's about 30 days from the time that a person is apprehended to the time they get to court, whereby the attorney can be a great asset to the court system (inaudible) they're only dealing with in that report, the police report states what the blood alcohol is. He can start that process right then to find out what it is about.

The attorney must (inaudible) go over the potential consequences wrought about by the arrest of the drunk driver, or driving under the influence, a careful evaluation of the past alcohol/drug related problems and indicate this right off. In going over with the client the possible consequences of the fine or jail, probation, or if he's involved, the attorney will have to elevate the client's anxiety to a peak level when he could, in fact, just at that point say are you a good drinker, and the person say, well, yes I am. At that time he can say, now look, maybe you have problems here that can be handled first is the problem and that is a disease and I want to say you're---it's a people problem. This is the best kind to be discussed with the client, the so-called people problem which has brought about the arrest. That is to say the drinking using and the behavior. This is a time to start explaining the possibilities of rehabilitation. The attorney can become a catalyst (inaudible) rehabilitation program for his client, or he can ignore

the client's real basic problem and deal only with the legal issue.

At that point I feel that the attorney, if he receives the education that Judge Kaufman was talking about, beginning right here at the level with an awareness, the work-shops can and could very easily be available through the legal system from the judges to the attorneys to the probation departments, the parole departments, down to including at the level of the law enforcement agencies. The symptoms and the phases, they're all in here, and the system that needs to be done is approach the legal system from the stand-point is we would like to teach you. We would like to let you know what the alcohol and alcoholism is all about.

Very often, the families are very much involved in part of the denial of the alcohol system in the person's area, sometimes an enabler. And that, if I may go to the enabling part of an attorney, and I'll be very personal here, my own personal attorney took me through a bankruptcy, took me through a divorce, took me through driving under the influence and never once even suggested I may have a problem with alcohol. At that point, Senator, I feel that treatment facilities, such as the one that I represent, there are other treatment facilities very well and capable of helping the legal system in determining if the person, in fact, is or could be an alcoholic or chemical dependent person.

There are other things in the book that I present here that I would like to submit to you, including down to an area that came out about 4 years ago, and there was an article that was written and published in the San Diego Union by the Salk Institute and the V.A. hospital there and the University of California San Diego showing the possibility, and the results are outstanding, where it shows the possibility of 80% hereditariness causing from parents or grandparents of a child, and that is where I think the schools also should take a good hard look at what the family background is, what is happening within the family.

With that, Senator, there are so many things that are not answered until they realize that it is a disease we're dealing with. And I said it all shortly.

CHAIRMAN SEYMOUR: I appreciate that, Chip, particularly. I personally appreciate your willing to testify today and be so open and candid relative to the alcohol problem that you personally experienced and now an obvious commitment not only to yourself but society at large with your involvement in this program. Are there any questions of Mr. Allen?

I've just perused what you've handed us, Chip, and let me say we'll go over it with a fine-tooth comb and try to implement where we can.

MR. ALLEN: Thank you.

CHAIRMAN SEYMOUR: Thank you for your involvement.

MR. ALLEN: Thank you, Senator.

CHAIRMAN SEYMOUR: Our next witness will be Dr. Bert Simpson, the Director of Peer

Assistance League, Orange County Department of Education. Dr. Simpson?

DR. BERT SIMPSON: Thank you, Senator Seymour. Members of the committee, ladies and gentlemen: (inaudible) that presentation (inaudible) to speed up the process a little bit.

Let me say, first of all, that my perspective on drinking and driving comes from my role as the coordinator of substance abuse prevention education for the Orange County Department, and the Director of Peer Assistance League (PAL) program.

I'm not, this afternoon, speaking on behalf of the Department. I'm speaking only on my own behalf, because I did not take the time necessary to get departmental approval for my presentation.

I believe that prevention efforts, that is those that are still---that are dealing with those that are high---that are low risk individuals prior to their involvement in any substance abuse, must take place at all levels of potential drinking and driving (primary prevention, early intervention, treatment and aftercare). And, therefore, I'd like to address the needs and make some recommendations for each of these levels. In conclusion, I will briefly outline the Peer Assistance League (or PAL) program and its impact on drinking and driving.

Primary prevention is complicated by a need to address both the individuals who do not drink and the ones who do without having the ability (at least in the public schools) to identify or separate these two different types. Unfortunately, from my perspective, the message given to both types is often informational, concerning the nature and effects of substances, combined with a warning or a statement on the consequences of abuse. I believe that those individuals who already drink tend not to listen, since most of them have not experienced any negative consequences (or at least none that they can remember), and I think Dr. West pointed that out in his presentation earlier. Many of them believe they already know all about the substances they are using, and therefore need not listen. Those who have not used often wonder what they have been missing, or why they haven't done what everybody else seems to be doing. Several well-known research studies in this area have repeatedly supported this same conclusion.

Therefore, I strongly believe that drug and alcohol information by itself is counterproductive by increasing curiosity about and interest in experimentation and use. Since there is a major difference between generally accepted prevention practice and the outdated requirements of the Education Code, I would recommend that efforts be made to change the Education Code requirements regarding drug and alcohol education so it conforms to the Health Education Framework on the concepts to be taught in the public schools.

For example, I brought with me the Health---Instruction Framework which was published by the Department of Education in Sacramento in 1978. One copy of this was sent to every principal. (inaudible) they'll be going to schools where teachers have never

even seen this document, yet this is the Health Framework from which they should be teaching from.

In the back end, it quotes the Education Code, which says it, "Requires instruction on drug education and effects of the use of tobacco alcohol, narcotics, dangerous drugs and other dangerous substances." Note that this is an informational base statement. Whereas the contents of this document point out, particularly in the area of concern of use and misuse and substances, that the concepts to be covered including the use of substances and the precautions that goes along with the information side. But it also deals with decision-making, alternatives and personal sense of responsibility. It's an affected domain. The Education Code does not cover that aspect of the program, and yet I think it's important.

Early intervention programs are sadly lacking throughout the state. One important reason for the lack of early intervention is the low level of understanding and concern among school, parent, law enforcement and business groups. People who work with the young need to know how to identify drug and alcohol abuse when they see it. Moreover, they need to have the mechanisms to tell each other when they observe evidence of a potential problem. Often, each individual working with young people will only see part of the problem and therefore not consider what they see as significant enough to report or act upon.

For example, if I may digress a little, in the school system at the high school level, a school teacher (inaudible) this with a separate class of students, 5 or 6 periods of the day. They may see in first period a child that is exhibiting behavior that to them may appear to be a lack of sleep for whatever reason, and they say that that's just what it is -- a lack of sleep -- not a drug or an alcohol-related problem. That same student may appear in classes throughout the day, each teaching noticing the same problem, but not recognizing that it's going on all day long, until the teachers have a mechanism to share that information with each other. On the Intervention Trend Program, teachers can do just that.

I would recommend that funding be provided for teams of teachers and others, including judges and law enforcement, as was mentioned earlier today, to receive intervention training. Orange County is fortunate to have available three such training models -- Community Intervention, Impact, and Breakthrough. However, I do not believe that enough people have gone through the training to have the results that are needed.

Treatment for drug, alcohol, or drinking and driving is expensive. Moreover, some of those least able to afford it are in a group at the great risk which is the young. The need for more adolescent treatment centers and for lower cost programs is evidenced by both the growth of hospital-based and other programs, and the growing waiting list for nonprofit treatment services.

My recommendation is that (1) a statewide governmental evaluation of the services,

costs, and effectiveness of adolescent (and adult) drug and alcohol treatment programs be conducted with the results published in all leading newspapers. And (2) that increased support be provided for nonprofit programs that are deemed effective through independent evaluations.

Aftercare is another important, but generally missing link in a comprehensive program for young people. I view aftercare as needed in two dimensions. There is a need for after-treatment support groups to prevent re-entry into abuse, and there is a need for before-abuse support groups for those at greatest risk; for example, children of alcoholics. Both types of groups are needed on high school campuses. And I would recommend that information on the need for such groups, and the methods for establishing these programs, be developed and provided to all high schools.

I wish that I had time to talk about some of the outstanding programs that are going on in Orange County that are dealing with the drug and alcohol problem at the primary prevention level. One of them you heard about this afternoon.

Save a Life Program has been supported by our office and is being cheered with all of our (inaudible) throughout Orange County, and I strongly support its use throughout the state.

In conclusion, I want to briefly describe the Peer Assistance League, or PAL, program and to recommend the ways that this committee could help in the replication of PAL throughout the state.

The Peer Assistance League program is funded jointly through the Department of Education and the Department of Alcoholic Programs under, well it was Senate Bill 1409 originally and also through Senator Garamendi's legislation, Senate Bill 110, which allows for the continued funding of that program.

It has 5 basic components. At the elementary level, there is Project Self-Esteem, and I brought (inaudible) in today so that you (inaudible). This is a puppet that's used in grades 2 through 6 to teach kids on how to say no to drugs and alcohol. And it deals with the program and it's broadly conceived to deal with the underground closets of drug and alcohol abuse, which, for the elementary school child, is primarily their self-esteem. And the program is currently offered in 220 elementary schools in Orange County, taught by teams of parents, 4 parents to a team, visiting the classroom once every two weeks from November to May. It costs the schools \$75 to implement the program, plus the cost (inaudible).

At the junior high school level, we have a program called STAR, which Dave Larson mentioned earlier this morning. The STAR program -- STAR stands for Social Thinking And Reasoning -- deals with the underlying causes of substance abuse for the junior high school student, which includes low self-esteem and peer pressure. And it gives them the (inaudible) to deal with peer pressure by teaching them assertive communication skills and stress management skills. And that program is currently offered at 45 junior

highs in Orange County. We are now adding _____ (inaudible) _____, because I strongly believe, and I think that several of the speakers brought out this morning, that the best way for young people to learn about what to do is to hear it from other students. Peers to peers. This is a dynamic powerful force that's underused. We're just now grasping onto the importance of using young people to help each other.

At the junior high school level, our Friendship Club will be our outreach component from the STAR program. We're going to be using _____ (inaudible) _____ program implemented at 11 junior highs. We'll have 18 _____ (inaudible) _____. Junior high school students, _____ (inaudible) _____ trained to know what resources are available to deal with a variety of problems that their friends might have and _____ (inaudible) _____ and charged and helped by the administration interfaced with the new students that come on campus. It will have some way of identifying the student _____ (inaudible) _____ when they come on campus, planning out what needs they have and getting some help through the peer intervention process.

At the high school level, we have our Peer Counseling, Training and Outreach Program on 23 -- sorry, let me correct that, it goes up almost everyday -- 25 high school campuses -- 24 in Orange County and Roosevelt High School in Los Angeles County is now a part of our PAL network. We have one at Almadena High thanks to Megan and her partner that were here today.

We took the Save A Life Program -- it's been developed with their involvement in Almadena -- got informed of the PAL program and took it back to Almadena and we had 25 or so signed up _____ (inaudible) _____. So we have that program running right along parallel with Save a Life.

We have a fourth component to our PAL program and that's the prevention network. These are agencies, organizations, parent groups that meet monthly to share resources and understanding concerning prevention. We meet at the Orange County Department of Education. We currently have 84 organizations that attend those meetings, or send representatives. We have 22 dues-paying members -- \$50 dues a year. That dues is used for a parent workshop that we do once a year and a poster contest which we do at all the schools. _____ (inaudible) _____ to Stanislaus County it's done. I could probably name many organizations that are involved in Orange County's program but on a much larger scale than up in Stanislaus.

We have a fifth component to our PAL program which is our advisory board. This is industry groups. The Irvine Company, Hunt-Wesson Foods, Capistrano-By-The-Sea Hospital, City National Bank, just to name a few, are involved in that. That gives us an interface at the prevention level in business, in law enforcement, in parent organizations, in treatment and intervention groups, with school children, school administrators and the parents. I think we've covered all of the facets that are interfaced with children _____ (inaudible) _____.

To help replicate PAL throughout the State of California, I would ask this committee

to consider writing a letter to the Legislative Analyst's Office of your support for PAL replication since the Legislative Analyst is charged under Senate Bill 110 to provide to the Legislature a report of the effectiveness of the school community primary prevention program; and, too, to provide encouragement for school personnel in your own area throughout the state, to visit our program and to be trained by us. And I also would encourage you to come and see for yourself what these young people in Orange County are doing for one another in the area of prevention and early intervention.

Thank you very much.

CHAIRMAN SEYMOUR: Thank you very much, Dr. Simpson, and certainly PAL, it's reputation proceeds the good job that it's doing in the county. We appreciate your time. Any questions? Thank you, sir.

Our next witness will be Kathryn Stewart, the First DUI Offender Evaluation Project, representing the Pacific Institute for Research and Evaluation. Ms. Stewart? Welcome.

MS. KATHRYN STEWART: Good afternoon. Just by way of a little background, Pacific Institute is a private nonprofit research organization that carries out a variety of projects related to drug/alcohol abuse prevention and to criminal justice.

We are in contact with the Office of Traffic Safety and are almost halfway through a study of California's first offender DUI system. And we believe this study will provide us with the most comprehensive evaluation of rehabilitative countermeasures that is yet available.

Evaluating the first offender program in California presents a lot of challenges. The Vehicle Code places responsibility for administering, setting standards, certifying and monitoring first offender programs at the county level. This decentralization has led to a large diversity in all aspects of program administration and in the programs themselves.

Programs range in length from 8 hours to 50 hours. Fees range from \$17 to \$434. Programs offer various combinations of services based on various models, including primarily some combination of education and individual and group counseling. They're provided by about 200 different for-profit, nonprofit and public agencies -- everything from driving schools to alcoholism treatment rehabilitation facilities to colleges. Thirty-three counties in the state have only one provided, while Los Angeles has 101. The size of the programs in the counties also vary widely. Nine offenders completed the first offender program in Colusa County last year. About 40,000 completed the first offender program in Los Angeles County. I think Los Angeles is destined to be the (inaudible). And, of course, we have to add to this programmatic diversity the enormous variations in geography, economy, culture and resources throughout the state.

As I said, doing an evaluation in the midst of this complexity is difficult, but we

have designed a study which will provide a large body of information about key aspects of the system. In choosing what components to include, the (inaudible) of usefulness of the information selected was our primary focus. And we believe that as a result, the study has the potential to guide DUI legislation for years to come.

There are two main components of interest to the Legislature included in the study. First is a natural variation study that will describe the first offender system now existing in California; and the second is a model program development and evaluation component that will measure the effectiveness of a range of different program models for first offenders.

Just to briefly describe the kinds of things we're doing in the Natural Variation Study, we will be getting an overall description of the first offender system as it currently exists. We have surveyed all the County Alcohol Program Administrators to obtain information about program and provider characteristics in each county, including program length, fees, content, and so forth.

We also do a cross-section of 17 counties -- the urban/rural areas or south/central or parts of the state and so forth. And we interested key system actors in these counties, including law enforcement officials, district attorneys, judges, Alcohol Program Administrators and program providers and staff.

And to gather information about how the DUI system modes in the county, just as one point of interest, the kind of information that you were inquiring about earlier about the de facto level of blood alcohol which leads to prosecution, those sorts of---the number of offenders who end up actually going to jail, those are some of the questions that we ask them.

In addition, we have surveyed about 5,000 offenders in these 17 counties concerning their demographic characteristics, drinking patterns, symptoms of alcohol addiction, the legal sanctions that they experienced and what occurred in the arrest incident.

And we'll be following their driver records for the duration of the study in order to measure rates of recidivism among various groups of offenders.

In five counties, we will be taking a sample of judicial records of first offenders to determine rates of attrition at various processing points in the legal system, and the length of time required to process this through. We also will be looking at patterns of sanction which exists in various courts.

This component of the Natural Variation Study will provide us with our first clear profile of first offenders in the state. We will be able to draw conclusions about the characteristics of people who recidivate. We will be able to look at, if you will, the ecology and epidemiology of drinking and driving. We will be able to describe the variations in organizational structure in counties and to suggest ways of alleviating problems of attrition and delay in the legal system. Some of those things were discussed by Joyce Cook and Dragutin Ilich and I think we will be able to shed light on

some of those processes in other areas of the state, just like Los Angeles with the goal that I think we all have of moving toward the ideal of swift and sure consequences for drunk driving.

The other component included in this study is Model Program Development and Evaluation. This will give us definitive indications of the effectiveness of a range of rehabilitative interventions. There's been dozens of program models implemented across the country by hundreds or even thousands of providers. Some of these have been evaluated, but most of these evaluations have been seriously flawed.

One of the most serious weaknesses that has been true in virtually every evaluation that we've reviewed is the lack of attention to program content and the quality of program implementation. It's as if people said, okay, we're going to send these people to a program and they'll do something and they'll come out and they'll, hopefully, be less likely to drink and drive again. But no one whose heavy involvement with alcoholism treatment or any other kind of treatment would seriously believe that it doesn't matter what (inaudible) to people in the rehabilitative programs.

Therefore, we have tried to take a much more careful look at (inaudible) programs. We did an extensive literature review. We convened a panel of experts in the field to distill one practical program which is based on the current thinking in this field. In this way, we hope to give rehabilitative countermeasures the maximum chance of showing some positive effects. Two versions of this model have been implemented in Santa Barbara and Merced Counties. The models will run for 6 months and over 1,000 offenders will participate by the time it finishes.

The evaluation includes careful monitoring of the quality of the program implementation and also includes baseline and outcome comparisons of offenders who are randomly assigned to the experimental models, to the traditional program that's been historically used in those two counties, and to a community service group in which the offenders will do public works projects for a number of hours equivalent to the program.

This evaluation will give us very detailed and rich information about the effects of these various interventions on drinking patterns, on undetected drinking and driving, on employment situations, family situations, the offenders' help-seeking in the future, and, of course, on their future alcohol-related arrests and accidents. At the conclusion of this study, we will have extensive information on the impact of rehabilitative countermeasures, both on traffic safety and on the lives of the DUI offenders.

Well, what are the legislative implications of all this? At this point, I think that they're very simple. Looking to providing a huge volume of information to the Legislature on the DUI system in California, substantial investment in time, money and effort has been made to allow us to draw a detailed picture of the system and to draw definitive conclusions about how the system may be improved. And we're just asking the Legislature to make a small additional investment.

First, we feel that the study would be greatly enhanced if the follow-up period for recidivism were extended. We're not asking to wait to draw conclusions until that time, but we're going to have a sample of about 6,000 offenders and with relatively small additional investment resources, we could follow those over a longer period of time. Recidivism takes a long time to happen because the continuity of arrests are low, and it would just be much more beneficial to be able to look at these over a longer period of time. In that way we can make the maximum use of this very valuable data pool.

The second implication that I think is of paramount importance is the results of this project can be immensely useful in guiding legislation, but only if the Legislature is willing to wait until the project is completed and take the time to consider the results carefully.

We will be providing an interim report as we go along, but the bulk of the information will not be available until the end of next year.

A lot of suggestions have been made for legislation today by (inaudible) testimony, and these suggestions have been made from personal experience and impressions of what needs to be effective in their particular community and their efforts, the courts, or whatever, and these kind of suggestions are extremely valuable. But I think the Legislature has the opportunity to take a look at some very systematic information that can be very useful in guiding our (inaudible).

We'll be able to give some indication of the types of programs and the combination of sanctions that show the greatest effectiveness for offenders in different population groups with different alcohol use patterns. We will be able to suggest methods of program administration, including monitoring, report and liaison process, that have the best chance of bringing about smooth and efficient operation of the system at the state, the county and local levels. And we think that these studies all have the potential to allow a legislator to make an informed decision about DUI laws and to reduce the tragic personal and societal costs of drunk driving. And we think that the results will be worth waiting for.

Thank you.

CHAIRMAN SEYMOUR: Thank you very much, Ms. Stewart. Any questions? Thank you very much. Appreciate your being here today.

Our next witness is Dennis Giroux, Vice Chairman of Southern California Alcohol & Traffic Education Association.

MR. DENNIS GIROUX: Good afternoon. I see you've moved the agenda up, and I fully appreciate it, and I'll try to be as brief and concise as possible. I've been very impressed with the testimony thus far.

Anyway, I'm here to represent today Southern California Alcohol and Traffic Education Association which is commonly known as SCATE. We have members---it's a 10 year old organization---association. We have members primarily in Los Angeles, Orange, Riverside,

and San Bernardino Counties.

SCATE's a non-political association of educators, safety experts and others. And the goals of this association is to foster high standards and ethical practices in the delivery of services as well as provide a forum for diverse ideas in alcohol traffic education. SCATE has developed standards for DUI programs in the very early phase -- in the '70s -- established a code of ethics, shares information with it's membership and general public, conducts workshops and seminars and holds judicial conferences on an annual basis.

I have been working in this field for 13 years and have dealt with over 20,000 DUI cases. I also own and operate a first and second offender program in West Los Angeles.

The issue before the group today is "What's Working in DUI?" There's been some evidence that the death rate is down, as testimony is revealed in your opening statement, Senator. This trend can be attributed to new tough laws enacted across the United States, better education and awareness in our school systems, public service efforts, treatment programs, enhanced police efforts, citizens groups (such as MADD, SADD, etc.) and a general decline of use of alcohol and other drugs in the health oriented aging society. But the problem still remains.

Most authorities admit that tough laws, which threaten DUI's with heavy fines, license restrictions, jail, etc., have had little or no impact. Other studies indicate that educational programs have been less than effective in reducing DUI behavior.

So, "What's Working in DUI?" to be redundant, but what is working? My recommendation is to use a four prong attack. I believe that it's still possible to be very effective in successfully dealing with this problem.

Presently, all the necessary elements are at hand. We have a network of 236 education programs in this state, a variety of referral formats, county and state agencies, courts, police agencies, the Department of Motor Vehicles and other interested entities. The reality is that we have all the tools at our disposal to be most effective. What needs to take place is absolute cooperation and organization between all these elements. There has to be a reliable close-loop referral system, one capable of follow-up and evaluation, a consistent program for the first offender throughout this state.

The program should be at least 3 to 6 months in duration, and a standard sentence throughout the state to maintain a consistency.

The court system must cooperate and back up program and referral agency recommendations. The various government agencies must set high standards, not minimum standards, and offer incentives to providers to upgrade and improve their programs.

As I've said, I've been in the business a long time. I'm very disappointed at the minimum standard set and not higher standards set.

In Los Angeles County, there has not been one effort, in spite of the close to a

million dollars a year that are sent to that county by program providers, to offer any form of education for the people delivering the services to the population of Los Angeles, keeping in mind that it is taxpayers' money that is being contributed to the Office of Alcohols.

Additionally, there is from Los Angeles County about a half a million dollars a year -- excuse me, about a quarter of a million dollars a year sent to the state, and the state has come with no programs, no education, no certification whatsoever.

Every effort should be made to increase the possibility of being caught for DUI. Roadblocks must be used, special task forces, patrol in high incident areas. The chronic DUI's must be aware of the risk of continued DUI behavior.

Programs must be used to educate the youth in California. And I was very impressed by the presentation thus far that's going on in Orange County and other counties in this area. This program should start at the very earliest ages. I suggest starting with grade one. We want to stymy the next generation of DUI.

A public relations campaign that demonstrates that DUI behavior is socially unacceptable. Your words again. I wrote this last night. Maybe we were thinking along the same lines. But until that's done, we're going to be continuing to have DUI behavior.

I'd like to make a comment. If you look around this room a little bit, you might see some very interested and concerned people here. If you look behind the seats in the audience, you'll see little metal brackets. Now, what are those little metal brackets for? They're for cigarette holders, or ashtrays. Do you notice there is no smoking in this room? Those signs up there say "No Smoking." As you come into this room -- "No Smoking." Now, _____ (inaudible) _____ what's happening in our society about tobacco?

There's been a dramatic change. Last time there was an ad for cigarettes was in 1971 on television. Cigarette industries (inaudible) -- so's the beer industry, by the way, and so's the Seagram's company -- they're diversifying.

I'm very concerned that something has to happen in our society or we're going to continue to see videos, like we viewed earlier today, in the next generation. My children will be exposed to that. I don't want that to happen. We have a golden opportunity here. This is "The Golden State" as well.

Anyway, I feel that California could be a national leader in this area if we just used the mechanism that we have at our disposal, and just tune it up.

Thank you for allowing me to express my thoughts today. I also have included some recommendations for legislation. If I may just run quickly through these. The list is dispersed among the committee.

I recommend:

- 1) Dram shop laws, making the distributor, or the seller of alcohol and other drugs liable for events that happen after.

- 2) Warning labels on all -- I know this is not new, but these are my recommendations -- warning labels on all alcoholic beverages sold in California. I'm going to skip number three and save that for last.
- 3) 1st grade level and up alcohol/drug education.
- 4) Licensing of those who teach DUI programs.
- 5) DUI offenders being financially responsible for the damage they wreak on our society.
- 6) Lower the blood level to .05 or .08.
- 7) Third or subsequent offender must be in a long-range program.
- 8) Multi-level programs, depending on the evaluation. We've heard a lot about that in this testimony today.
- 9) Signs posted at point-of-sale outlets, at liquor outlets, on the risk to health and legal results of continued DUI behavior.
- 10) Post "NO DUI" signs on the on-ramps of all freeways. Off-ramps too would help.
- 11) No sale of alcoholic beverages in gas stations.
- 12) Special program for DUI on drugs only.
- 13) Legislation to educate the educators in an ongoing instruction for the people who serve this population. And lastly,
- 14) Along the lines of what's posted in this very room, and it was kind of joked about when I spoke to Miss Taylor on the phone arranging this meeting today, was how about a law that prohibits drinking and driving? I know that may sound outrageous and it's probably political suicide for anybody to endorse it, but it's got to somewhere. As long as we have a society that says on one hand it's okay to drink and on the other hand not to drink too much, and then you're asking somebody to make a rational decision about their state of mind after they've been drinking and the state of their intoxication, and the judge made, one of the testimonies today, about how impaired he was at .10 and .11, it's about time for somebody to have enough courage to make some recommendations as to a no drinking and driving law. Very simple.

Also included, and I will not go into it, but for your own edification, is a critique taken from 96 graduates from our program regarding their attitude and a grade point scoring system that they used on a program they graduated last summer.

Thank you very much.

CHAIRMAN SEYMOUR: Thank you, Dennis. Any questions? Thank you. Our next witness is Dr. Linda Pringle and Dr. Susan Zepeda from the Orange County Alcohol Program.

DR. SUSAN ZEPEDA: Thank you, Senator Seymour and Senator Royce. I'm Dr. Zepeda. Dr. Pringle will be down and (inaudible) will focus on the fine-tuning of the drinking

driver program that we've been able to do here in Orange County, some of which has already been alluded to.

Just as an aside to my (inaudible) dramatic changes in the programming that we've made has been in the first offender program. We think that's been possible because of the local discretion that's possible in the first offender program to tailor the program to the needs of a particular county.

We would like to see a similar kind of local discretion in the SB 38, or multiple offender program. We are locked into a very (inaudible) program at that level.

As I listened to all the speakers today, I tried to scratch notes on the side of my own talk so that I don't repeat things that have already been said, so forgive me if I stumble through my notes. I do want to address the issues that are remaining.

Most of what you've heard today addresses the people who drink and drive, or the people who are likely to drink and drive. And there's well over 100,000 of them who are lucky enough to be arrested or stopped by the CHP or their local police department and wind up in courts like those of Judge Kaufman or Judge Gray.

You've also heard about the unlucky ones who are stopped by a tree or stopped by a building instead of stopped by the CHP.

I'd like to broaden our focus so that we look not just at the people who are drinking and driving, or we hope not driving after they've drunk, to the full context of life in California that seems to predispose people to drinking and driving. Now, Dennis has alluded to some of that and I'd like to reiterate a bit of it.

There are some laws that are already in the session that will be turned into---have been turned into two-year bills and you'll see them in the next session. One of them (inaudible) is Senator Russell's "Happy Hour" bill, which I know you were also instrumental in, which would deny the restaurants, the "hospitality industry" as we call it, the opportunity to offer promotions surrounding the serving of large quantities of alcohol. There are all kinds of other promotions that they can offer during those hours after you leave work and before you head home that don't involve pushing excessive quantities of alcohol.

There's some exciting things that are being done by bars and restaurants here in Orange County, and I'm sure around the state, regarding promotions (inaudible) designated to drivers free non-alcoholic beverages to a fellow who will wear a button saying, "I'm the designated driver." This is the (inaudible)
(inaudible) driver's license to back that up.

You've heard some discussion about the (inaudible) sale of gasoline and alcohol and what a mixed message that says to our kids and adults. I think we would like to broaden that issue and when Frank (inaudible) urged me not to single out mini-marts that occur at gasoline stations, and I think they're right. I think any convenience outlet, whether

it's co-located with a gas station or not that happens to serve (inaudible) singles -- that's what we like to call them -- singles (inaudible) checkout counter (inaudible), there's only one thing that you would expect people to do with that. The fact that they're going to take it home and put it in the refrigerator probably going to buy a six pack and they probably don't mind terribly if it's warm.

There are some interesting things that are starting to happen all around the nation as the stadiums get concerned about primarily, in their case, the violence associated with people who drink too much while participating in the "Great American" spectator sports of football or baseball. They're starting to limit the serving of alcoholic beverages, stopping a fair amount of time before the game ends, or (inaudible) the alcoholic content of beverages that are served in the stadium. That's an area that we could look at because almost everybody that gets to that stadium drives home, especially in this part of the world.

The dram shop laws have been mentioned. Assemblywoman Waters has a model dram shop law that's coming through for consideration -- AB 205 -- that defines the liability of service and offers some protection at the same time that it makes it clear that servers do have some liability in this process.

You've already heard about the "Stay Alive" project and you've heard about some innovative projects targeted to kids who will ultimately become drivers.

There's one other esoteric kind of legislation that my colleagues up in Los Angeles are trying to find an author for. It looks terribly bureaucratic but what we'll be asking is for the Board of Equalization to report alcoholic beverage sales, sales tax, by census track. This is not presently available, and what it does to planners, like us here in Orange County and all around the state, it let's us pinpoint the highest risk areas of the state where the most alcohol is being sold. We can see if that happens to correlate with having the most accidents pedestrian and driver. See if it correlates with any other kind of accident statistics like you've been hearing all day.

And we can focus in on communities. Get the communities that we're starting to have all over the state concerned. There are communities around the state that are starting to condition through conditional use permit process the building of just one more (inaudible) outlet in their neighborhood. If they had those data from the Board of Equalization that could back up their claim that they already have too many outlets. By that data, it would be real helpful.

Well, as I (inaudible) through my notes, I think that that covers most of the high points. There are kinds of legislation basically (inaudible) to shape the environment to which people drink and hopefully don't drive after having been drunk.

There's a couple of other things I'd like to touch on, and Dr. Pringle will go into it in more detail, having to do with the people who still don't quite fit in our drinking and driving program. One of the things we've learned through the screening program is

that perhaps more importantly than the drinking driving history of people who wind up in our courts is the tendency towards violence, that tendency to use your vehicle as a weapon. If we can better identify the violent drinking driver, that can be a special population that needs special, different kinds of responses.

We are aware that many of the people who come up in our program have alcohol problems, and we're very astute at knowing who are those. We don't quite know yet what to do with the violent drinking driver.

Another area that we're (inaudible) in is the combination of the needs of the new ethnic population, or the growing ethnic population throughout our state, and I look particularly at the Southeast Asian population. For them the freeway system is a brand new maze that they're learning, and the drinking culture of the (inaudible) southwest is something they're learning at the same time.

Rather than just (inaudible) to have Vietnamese instructors in our program, which we're already doing, I'd like to reach back out into the community and see what we can do to focus on the awareness in this population and in the Hispanic population, so that we don't see these groups over represented in our daily lives.

Thank you very much.

CHAIRMAN SEYMOUR: Thank you very much, Dr. Zepeda. Senator Royce?

SENATOR ED ROYCE: Susan, you mentioned that there was the multiple offender program under SB 38. There are some things in that program you'd like to see changed -- I guess the year-long treatment program. Why don't you tell us right now for Orange County's benefit what changes you would suggest in that just so we can have some idea when you say it should be liberalized for changes at the county level.

DR. ZEPEDA: Okay. I (inaudible) not a specific change that I'd like to see mandated statewide, but rather by introducing some flexibility so that the differences between Yolo County and Orange County and Placer County is going to be reflected in some local planning for how these programs are tailored.

Right now, with the first offender program, we've really been able to turn it on its side so that the judges (inaudible) a residential program now and not just the (inaudible) educational program that we started out with, which we thought was the right answer for first offenders.

When you go into most (inaudible) locked into a sequence of good (inaudible) sessions, educational sessions, Alcoholics Anonymous (inaudible), there may be some people who (inaudible) care as well, and that's not an option under SB 38.

So we have to look as hard at that question as we should have if we were going to give you an answer today of what the state needs. But I'm not sure the whole state needs the same things.

SENATOR ROYCE: Thank you.

DR. ZEPEDA: Thank you. And now Dr. Pringle.

CHAIRMAN SEYMOUR: Very good. Dr. Pringle?

DR. LINDA PRINGLE: Good afternoon. You've heard plenty of testimony from Judge Gray and from Judge Thomas about the pilot project that was done in central and (inaudible) Orange County. And they spoke quite a bit about the pre-sentence evaluation. I'm going to address a little bit more.

As of January of next year, what we are going to have available is different options for the first offender in this county.

As a result of both the pilot projects and a survey that was conducted by my office of all the municipal court judges in Orange County, this level system was developed. What we found from the judges is they felt that there were not enough options available for the first time offender. Now, we only did ask them about the first time offender and we did not ask them about the multiple offender at this particular time.

What has been developed is what we called a multiple-level system. For those that are determined to be not at risk at this particular time, we will have what we call a Level I system. This system will consist of two types of programs. Mostly they will be educational programs. They will each have a component of alcohol education, one be 8 hours of education and then having 6 hours of what we call "skill training." Skill training is actually discussion and role finding -- teaching the adult what you might do with the other programs, how to refuse to drink and drive. If you choose to consume alcohol, then you need to make a choice and you need to know that you're going to be in a situation, or (inaudible) how do you get out of this situation when you've got (inaudible) where there may be pressure to drink and then drive a vehicle.

So actual role finding will be done in this 6 hour period, and then a discussion of how I feel about that and is that going to change my behavior.

The second type of program will consist of 9 hours of education, 2 hours of which will be the skills training, and then 3 hours of a field driving demonstration where people do (inaudible) behind the wheel type of demonstration and also what's the result of someone who has become intoxicated to the .10 level and the differences between their driving skills before they were intoxicated and after they were intoxicated.

So those are two types of Level I systems.

For those that are believed to be at high risk of repeat drunk driving, we now have a 9 month treatment program, and this can take two forms. It will either be---it will be sentenced into (inaudible) of the current SB 38 program. In other words, they will receive the same program they had, the 12 month multiple offender, only they will receive 9 months of that programming.

We have also added on to this requirement for a physical examination. So all of our Level II first offenders will receive physical examinations as well as the multiple

offender. We've added that also as a requirement for our multiple offender program.

We have not made a decision at this time, but we are looking at the possibility also of making our (inaudible) a Level II. Currently they are the component that is working with Judge Gray in his project and has been performing this on a pilot basis. So it's a possibility that they will continue providing this service.

As Sue alluded to, we've opened up even an additional option. For those people that fail to maintain sobriety or fail to participate in an acceptable fashion in either of the Level I or at the Level II program, we will now have available the 120 days in a residential facility. Now, these facilities do have the capability -- all of them have the capability of dealing with of course men and women and the Spanish speaking population.

So this is something that we feel really gives us a wider range to deal with all the types of people that we---excuse me, most of the types of people that we see coming through the drinking driver program.

(Inaudible) from the first offender program and moving over into the multiple offender program, we have also started a new project, or a pilot project having to do with a review board process for the multiple offender. We were having some problems in the county with people being terminated from the multiple offender program for a variety of reasons. As you know, Title 9 of the California Administrative Code says that persons must be returned to court for failing to maintain program sobriety or for two unexcused absences.

So we were beginning to see where people that were indeed terminated from this program returned to court and then returned back to the program. And, unfortunately, in many cases this was happening 5, 6 and 7 times. And as you can imagine, the results of this on the program was that the clientele began to take an attitude of well, you don't really have to do this program anyway -- I don't have to maintain sobriety and I don't really have to do in any form that they tell me I have to -- I can do it anyway that I want to because all that's going to happen is I'm going to get terminated and then go back to court and I'm going to be put back into the program -- I'm never really going to end up anywhere but back in the program.

So to address this problem, an agreement was made between West Municipal Court and School Ten, which is our multiple offender program in that district, that a review board committee would be established. And this was agreed to by the Department of Alcohol and Drugs on May 1 of this year. What the review board consists of is 5 panel members who have been approved by the Alcohol Program Administrators as being knowledgeable in the field of alcoholism. The panel is made up of two and two people from the program on the panel, because you have two outside people from the community and then either someone from my office or from the Alcohol Advisory Board to sit on the panel. Three members must be present in order to hold a review hearing.

The clients that would normally be returned to court then comes in front of this review board instead of going through the normal court process, and they are given notification ahead of time that they are to appear in front of the review board, why they are appearing and what the review board is for. At that time, the review board listens to the problems they are having with participating in the program. And I'd say, as a member of the review board, it takes us anywhere from 30 minutes to 45 minutes to listen to all the different ramifications of what's going on with each individual person, or why they are not participating properly in the program.

After this testimony is given, then we make a decision at that time whether or not they are to remain in the program or whether they will indeed be returned to court. If they remain in the program, we make certain stipulations. It may be that they are to go on Antabuse, or it may be that they're having problems with denial and we want them to do some kind of a book report on a pamphlet that is given to them about the denial process.

It could be a variety of different things. It could be they're having marriage problems and it's interfering with their representation in the program. So we would suggest that they receive, or seek out marriage counseling.

None of the recommendations that we make are placed upon the person without their consent. They must---they're informed of the results of the hearing and they agree to these stipulations. And nothing is put upon them that will cause them to have to pay an additional fee to the program or anywhere else.

So with this then, the person is retained in the program. Hopefully, after having gone through this and having addressed some of their problems, the person will continue the length of the program and successfully leave the program. If they do not, if they continue to have problems, then what happens is they come back before the review board; again, at that time, we hear what problems they've been having and make another decision on whether or not they are to remain in the program or to go back to the board.

Through this process, we have found probably three types of people that come before the review board. The first person is---that person, I should say, that does not appear before the review board. Usually these people are given notification and they just don't show up, and this is an indication of how they are not participating in the program. They usually are new in the program and have not really become grounded or established, and they're referred immediately to court, and the programs are really anxious to have these people come back and start all over again after a good chewing out, hopefully, by the judge and make them feel that this is really an important thing in their life and it is something to be taken seriously. So these people then come back into the program and hopefully start again and make a complete run of it.

The second type of person is a person that has been in a program but they've been very sporadic and they've just not made any commitment to participating in any acceptable

manner. It is our belief that usually these people are continuing to drink but they will not admit it to the board or to---even to themselves that they're having a problem. And if we feel that this is going to be a continued action, then these people would be returned to court in the hopes that they would not come back to the program. What happens when these people come back to the program is that they are very disruptive, again, like I said, and give off the air of you don't have to do it right anyway because nothing's going to happen.

The third person is the most difficult person, and this is the person who the board, we feel, is really not capable of doing the program. It's not that they don't want to, it's just that for whatever reason, physical, mental or emotional, they are not up to what it takes to do the program successfully.

Unfortunately, these people are also returned to court, and at this time Sue, (inaudible) we need more options, and this is really one of the areas where we do need more options is for those people who are not capable of handling the program. They may have mental health problems that are not addressed adequately. And, obviously, putting them in jail is not going to do anything for them either. And at this time, that's all we have for them.

We also would like the option for those people, the second group of people that I talked about that are probably not maintaining sobriety, and we have the program on a random fashion, that they've pretty much shown that on an out-patient basis they're not going to be able to complete the program. Put these people in a residential situation and there's a very good likelihood that they may be able to finally obtain that amount of sobriety that it takes to then continue on and make a decision to have sober life.

And so those are the types of options that we would like to have available for the multiple offender, just like we have instituted in this county for the first offender.

I had some questions here, and Sue alluded to also another type of person that we see in our program that probably needs additional or some other kind of treatment, and that is the person that is the violent person. I've addressed the person that has mental problems but also the person that is violent. We need to identify these people and here we get back to the pre-screening assessment. This is a very useful tool for not only identifying people that are high risk drunk drivers, but for also identifying people that maybe do have other types of problems that need to be addressed that we're limited right now and can't deal with those particular kinds of persons.

Also, I would like to see some limitations put into law on how many times a person can be reinstated in a program. It seems---it's very disruptive when a person can come back to a program 5, 6 and 7 times without anything ever happening to them. And if a limitation of one or two times per person that has not been before review board and possibly no times---no reinstatement at all for the person who has been through a review board process would be very helpful in lifting the morale of the people who are trying to

work with the program.

Questions?

CHAIRMAN SEYMOUR: Does that complete your testimony, Dr. Pringle?

DR. PRINGLE: Yes.

CHAIRMAN SEYMOUR: Well, thank you very much. Any questions?

SENATOR ROYCE: Doctor, what is the risk that they're running now in refusing to participate? What's the ultimate risk here to the individual?

DR. PRINGLE: Well, I can say right now what has been happening is that they've just been, you know, recycling, so the risk is really just taken out of it. They just go on and on and on and nothing really happens to them. Ultimately, of course, it's mandated by law and jail time would be---vary depending on how many offenses.

SENATOR ROYCE: Let's take an example. Let's---these specific cases that you can think of that was 5, 6, 7 times, did they finally end up in jail time, or did they end up in people just shrugging and say, "Oh well?"

DR. PRINGLE: They end up in the constant mill, somewhere in the mill of repeating and sometimes falling out of the system because they've been shuffled back and forth so many times that they just eventually disappear.

SENATOR ROYCE: Where would you attach the responsibility now? With the court system in terms of not removing that problem?

DR. PRINGLE: Right. If we could have a limited number of returns before something must happen to them, then that would tend to eliminate the shuffling back and forth. Like I said, if a review board, such as the one we've developed, has made a determination, let's face it, the judges do not have enough time to spend 30 minutes to 45 minutes with each individual person, hearing what their particular problems are with the program. So at the review board that's already seen this person, usually two or three times, and made a decision that they are just not going to participate in the program, either they need to go to a residential program or they need to have the...

SENATOR ROYCE: The other question which I'd ask you, just because I think it would help us understand the severity of the problem, what percentage of people, would you say, don't show? What percentage are the violent type in the program that cause you difficulties? And then maybe what percentage are the ones who emotionally or mentally are not capable as currently referred to.

DR. PRINGLE: We don't really know because we don't have the pre-sentence evaluation to do that. From sitting on the board myself, I would say that probably maybe one percent of the people that come through are not capable of handling the program at that particular time who actually come before the board that I have seen, and I'm not there all of the time.

SENATOR ROYCE: Okay. And the disruptive ones that are violent, what percentage would you say?

DR. PRINGLE: I really don't have any good statistics.

SENATOR ROYCE: And those who simply don't show?

DR. PRINGLE: For those that simply don't show up for the review board I would estimate that would probably be maybe 10 percent.

SENATOR ROYCE: Okay. Thank you.

CHAIRMAN SEYMOUR: Before you leave, Dr. Pringle, one question. Do you have any statistics relative to the recidivism rate? I mean, of people that have completed the program successfully? You're making such a tremendous commitment, and I really applaud you for your effort, but you make such a tremendous, tremendous commitment I'm just wondering, having gone through that process, what type of batting average do we have?

DR. PRINGLE: For the review board you're talking about?

CHAIRMAN SEYMOUR: People who've come before the review board and the review board, as I understand it, it's primary motivation is to help people through the program if they believe they can get there. All right, now having completed the program.

DR. PRINGLE: Oh, having completed the program.

CHAIRMAN SEYMOUR: You've helped them through the program, now what's the chances they're going to be back before Judge Gray?

DR. PRINGLE: We don't have any statistics on that available right at this particular time. We just started this as of May of '85 so we still have people participating in the program, and we will be looking at...

CHAIRMAN SEYMOUR: Are you going to be tracking it, though?

DR. PRINGLE: We're going to be looking at these people.

CHAIRMAN SEYMOUR: Good. Very good. Any other questions of Dr. Pringle? Thank you, Dr. Pringle.

Our next witness will be Dr. Jolly West from the UCLA Alcohol Research Center. Dr. West? Thank you for taking the time to come to Orange County and visit with us today.

DR. LOUIS JOLYON WEST: You're welcome. I trust a helper is passing among you. In the (inaudible) book is a chapter by (inaudible), who was the first federal highway commissioner and (inaudible) Massachusettes three times. He was Secretary of Transportation. His chapter on Alcohol and Public Safety I think might be useful to your panel.

CHAIRMAN SEYMOUR: Thank you very much.

DR. WEST: Also circulated is the latest issue of Alcohol, Drugs and Driving which we publish at UCLA. Actually, it's been published for several years under a slightly different name. So while this is Volume I, numbers 1 and 2, of Alcohol, Drugs and Driving, the previous publication which was Abstracts and Reviews in Alcohol and Driving was already going on for the past 5 years.

There's a copy of my testimony circulated and there's a couple of pages that are a recapitulation of all the horrors of alcoholism and the statistics, relating to the

drinking and driving problem which I assume you've already heard. I'll not restate that, save only to remark perhaps that it's impossible to extricate the drinking and driving problem from the larger alcohol related problems in our society.

Lawmakers face a difficulty in being assigned committees and special task forces or commissions to vest themselves to a specific issue which, for one reason or another, commands the public attention at the moment. But there's always a problem that they will then confront which is how to extract that from the larger matrix of the labor problems and they're also entered dependent. You're not asked to consider something, let's say, like licensing developments, or the tax structure or the facts affecting pricing or the advertising codes, and yet these all bear upon drinking and driving problems, much as the DUI rehabilitation issue, which is probably the matter that appears most obvious at first, is what are we doing about first offenders and how can we keep them from going forth to sin no more.

Nevertheless, I think there are four major aspects of intervention to prevent drunk driving that have to be looked at no matter how you come at it.

1. How to identify the drunk driver.
2. How to prevent people from driving while intoxicated.
3. How to rehabilitate such people after they've been identified as DUI offenders.
4. How to change public attitudes, practices and sanctions which are relatively tolerant of drunk driving.

Now, the experience of our group at UCLA has shown that each of these aspects presents a special set of problems for individuals and for society and for society's representatives in government.

In identifying the drunk driver we must first establish criteria, methods and limits, including the rights of the individual. Several questions must be answered. How far is society willing to go to identify drunk drivers? By society I guess I mean California. It differs in different states, it differs in different countries. It's instructive to see what happens when they change in different countries.

One of the earlier speakers that I heard said maybe it's time to try somewhere that if you drink you mustn't drive -- drink anything you mustn't drive. This has been tried, and, in fact, it's now being tried again in several states in a country which has an alcohol consumption higher than ours, if you can imagine such countries. There are several and this one happens to be Australia, and they've really gotten enthusiastic about this and now there are several of the Australian states which have essentially a zero acceptable level with great fanfare and considerable reduction, for the moment, in the drinking driving problem.

As you'll discover, if you read the Scandinavian that these effects tend to pass and social remedies as they do and medical ones. William Mosler once advised the imposition to use the new remedies quickly before they lose their effectiveness.

We still have to ask ourselves how far we're willing to go to identify these people. Is the noninvasive breathalyzer sufficiently reliable? Should we draw blood (inaudible) (inaudible) ? Must we wait until an accident is threatened or has occurred before scanning the streets for drinking drivers? Which means asking whether we should set up periodic highway surveillance, drunk driver roadblocks, to test drivers randomly for driving while intoxicated? Should a blood alcohol level of .10 remain the minimum criterion and what are the implications for changing it?

The National Highway Traffic Safety Administration in 1982 estimated that 12 percent of fatally injured drivers had a blood alcohol under that---under .10. In Sweden, the home of the Scandinavian (inaudible) where even one drink was legally too many, and any blood alcohol level was too much. It didn't make any difference with the new laws how much you had to drink, and they have roadblocks too. And the drinking driving incidents went way down and then it came back up. It's still not anywhere near as high as ours, however. It relatively affected them and has been scrupulously enforced. A member of the royal family spent his two weeks in jail after being caught.

Now about preventive measures. They may include mechanical devices in automobiles -- you probably heard about those -- social interventions and publicizing the punishment and rehabilitation of DUI offenders as a deterrent. Mechanical devices such as pre-driving tests in which blood or breath alcohol content or psychomotor test must be passed before a car can be started up really have not been successfully developed. In the pilot studies, error rates are high and performance tests can be circumvented, and there is considerable lack of public support for such devices. I think the public has not yet really accepted something as demonstrably valuable as seat belts. It's probably not likely to accept an automobile if you have to breath into something before the car will start.

Social interventions involve the actions of others to prevent the drunk driver from operating his vehicle. Several approaches can be employed:

1. Educating the public to obtain support for the goal to reduce drinking driving behavior. There's a little bit of that going on now but obviously it could be much more.
2. Informing, motivating and training professionals to deal more effectively with the drinking driving problem.
3. Motivating social drinkers to modify their own drinking driving habits or practices, the business of having a non-drinker in every group and alternatives to driving home from parties and all the rest of that.
4. And the business of assigning responsibility to others, like the bartender, the host at the party, the car rental agent and so forth, the subsequent behavior of drinking and driving. The legal aspects of this question have yet to be fully tested, and there is reason to assume that there's considerable resistance by

the general public to the assumption of such responsibility by the party hosts.

Publicizing the identity of all DUI offenders by publishing them may have some deterrent effect. This has never really been tried in this country, and there are many problems that such a practice would have to overcome.

Measures taken to rehabilitate DUI offenders are, by definition, taken too late after a first and often damaging offense has occurred. Furthermore, only a small proportion of offenders is apprehended. Estimates of traffic survival by drinkers are as high as 2,000 to one. That is, for every offender arrested, 2,000 go undetected.

We have yet to learn what constitutes effective punishment in terms of rehabilitation. Now, what impact the punishment, as such, will be on future behavior of a DUI offender? Some people are deterred permanently by punishments, others temporarily, and still others react just the opposite of what society intended punishment to effect. In other words, they'll go out and they'll drink more.

If drinking driving behavior is reduced by punishment, how long does the effect last? And how much of the present DUI rehab programs are seen as punishment or perceived as punishment by the participants and by the administrators of those programs? We do not yet know what rehabilitative programs are best to employ. A lot of ideas about which ones are the best, but the kinds of follow-up studies that you've been asking about really have never properly been carried out. I don't mean to be discouraging to this panel, but again and again and state after state, groups of legislators have come to the same point that you're coming to. I've recommended a certain amount of research or certain kinds of studies, and things are frequently started or money is being put into projects and they're never big enough, permanent enough or long enough, and oftentimes not professional enough. Part of that has to do with the fact that most states are nearly not set up to do research, and yet there are always state agencies that determine who should carry out the research for the state on some basis -- contracts to the lowest bidder or the ones that seem to come the closest to what the state has in mind. And frequently the enabling legislation is limited in time and scope. Just about the time that the research venture is beginning to get someplace, the contract runs out.

It's been very wasteful if you look at all the money that's been spent on alcohol research with relationship to drinking driving in this country -- all the---probably hundreds and hundreds of initiatives that have just not been set up right in the first place. So we still don't know which ones are the best. We don't know which are the most generally effective, the most cost effective. We don't know whether some procedures work better for some people than others, and if so, how (inaudible). Which people should get which type of rehabilitation.

And in seeking answers to these questions, systematic research will be required, and naturally, I have a bias about that because I represent people who are mainly in-

volved in educational research activities. We treat alcoholics too, of course. It goes without saying.

Public information and education campaigns have thus far not proved to be very effective. However, there remains room for considerable research on this. Such approaches to prevention may still hold considerable promise if better methods are developed.

And there are some hopeful signs. For example, tobacco people -- (inaudible) (inaudible) pulled their ads off television when the counter-smoking ads began to get very effective, showing skeletal hands with cigarettes in them, and some were really redesigned TV spots. From the time that the sales began to drop off, they agreed to stop advertising on television but with the general assumption that the counter-advertising would stop and which it pretty much did. Sales leveled out but they're still falling overall. They were rising among the people who watched television the most -- teenagers and young adults and especially females. That's tobacco sales. Drinking practices are also increasing in that same age group as I know you've heard.

It is clear that our major current measures against drunk driving involve complex interaction between law enforcement agencies, the courts, the Legislature, the public and the health professionals. It's also clear that these measures have been insufficient. Police efforts that increase the likelihood of arrests have been shown to be only transiently effective in reducing the DUI rate, although they are effective. They're transient. We don't know yet how much of the transience is due to a combination by the public to the increased---or the vigor of the police department and how much of it is transient because the police departments can't sustain those efforts very long because of other demands upon them.

Increases in the severity of punishment have proved relatively ineffective due to extensive plea bargaining and the reluctance of the courts to impose harsh penalties. Raising the drinking age appears to help, but the rationale for designating a specifically approved drinking age is unclear and fraught with political difficulties, which I'm sure I don't have to tell you. Raising the cost of alcoholic beverages will reduce total consumption, but the effect on the DUI problem is unclear. And there are countries where the (inaudible) is very high and they have an enormous income from it. But in relationship to that and the DUI problem, it's very difficult to mark.

An important finding by Moskowitz at the UCLA Alcohol Research Center indicated that the DUI offender is very likely to be either an alcoholic or an alcohol abuser headed towards chronic alcoholism. Another recent investigation at UCLA has shown that 60 percent of first-time DUI offenders can be objectively defined as alcoholics, but only a very low less than 10 percent of those people would identify themselves as having a significant drinking problem. And that's after they're DUI. Even more repeat offenders (87 percent) are properly defined as functioning alcoholics; but here again, when they're repeated offenders, the proportion of self-identified alcoholics is very low.

CHAIRMAN SEYMOUR: What percentage?

DR. WEST: I would emphasize this because research efforts that rely heavily upon any kind of self-reporting are naturally troublesome. If you're really after hard data, that's very difficult to get hard data about alcoholism. Even when you do an interview, even when people come to the clinic for help, and you're the physician taking a history and they're confiding in you and it's confidential and all the rest, a good rule of thumb is that when it comes to alcohol, if a person has a drinking problem, and you ask him how much he drinks, whatever he tells you, in your mind you can double it. And if it's a female talking to a male physician, it's more likely you can triple it. Simple because people are reluctant to face it themselves, much less tell somebody else how much they actually drink.

So from a health perspective anyway, identifying DUI offenders may serve as a good way of screening or case finding for alcoholism and getting people into treatment or pseudo-treatment programs who---people who have not recognized the nature of the severity of their illness. However, how much difference it makes in the likelihood that they're go out sooner or later and be DUI's again, we don't know.

So we still need to know which kind of rehab programs are effective and what types of people and for how long, and (inaudible) most studies are still required for this. It seems clear that the effort to prevent drunk driving behavior must be an integral part of a major public effort, probably a national effort, to prevent alcohol abuse and other drug abuses as well. The proportion of DUI offenders who have been using both alcohol and other drugs has been rising steadily for some years. And, of course, the interaction effect between alcohol and, let's say, antihistamines in impairing certain kinds of functions is increasing as more and more people are using proprietary medicines. Anti-histamines used to require prescription; now they're widely available over the counter and use much more whether they're medically indicated or not and this just adds to the problem.

My testimony goes on to tell a little about the UCLA Alcohol Research Center, which I won't read to you, except to say that the state established it and provided funds for it, and, in fact, many projects also were designated for the area for 5 years. And then, of course, when the 5 years was up, that's it. The legislator who cared about it and whose bill was responsible for its---for the appearance of the research meanwhile lost his election, and in the absence of somebody who cared that much, there was no impetus of the Legislature to keep the Center going.

So far we still do a fair amount of basic biomedical research. Many of the practical questions that people were asking, including the DUI questions, was a part of the Alcohol Research Center's responsibilities -- lapsed for lack of support.

I suppose the most important DUI related work that the Alcohol Research Center did was carried out by Moskowitz. He studied DUI countermeasures worldwide and then came up.

And he's perhaps, in my view, he is certainly one of the two or three leading investigators in this particular field of drinking and driving. I felt that his recommendations about what should be done next were extremely viable, and I even urged the then Office of Alcohol and Drug Programs that if they did nothing else to act upon his recommendations and carry out some studies that he had proposed as the next stop, but they didn't.

The grant from Anheuser-Busch Foundation, which supports this publication here, if it weren't for the private grant, we wouldn't even have this. It does provide an international survey of publication of reports about research on drinking and driving, and that's been going since 1980.

In addition, we make films, our Behavioral Science Media Lab, which specializes in educational films on various mental health related problems, produced four short instructional films on the hazards of drinking and driving, and these were made for the UCLA Extension's DUI Demonstration Program which went on for several years and established by the California Office of Traffic Safety. It's an excellent model program. The films, I thought, were good. They're available still and used occasionally by the programs and rented around the country but not any systematic way.

Well, in closing, let me just say that this question is part of the very large question of prevention of all kinds of alcohol-related problems. Our prevention strategy should include information about the dangers of alcohol abuse; it should focus on high-risk populations, such as adolescents, and persons with family histories of alcoholism. The decriminalization of drunkenness and provision of mental health care facilities instead of jails for the intoxicated have already been instituted in some European countries. Such approaches may be more expensive initially but are likely to save money, lives and misery in the long run. But what effects they may have on the DUI problem, nobody yet knows.

It should be realized -- I'm sure you do -- that there are strong resistances to all such undertakings. For example, all efforts to require warning labels on alcohol beverage containers, that one of the previous speakers mentioned, comparable even to those on cigarette packages, have failed. I was on the advisory committee to the secretary of HEW on alcoholism 20 years ago, shortly after the Surgeon General had required the warning labels on cigarettes, and urged at that time that a warning label be put on alcoholic beverages just for pregnant women, and the advisory committee wouldn't even -- not even the majority of the advisory committee -- support that on the ground that everybody knows that alcohol intoxicates. Pregnant women know it as well as anybody else. And we already had plenty of evidence for the fetal-alcohol syndrome at that time. But resistance to labeling is enormous and very hard to rationalize in view of the effects of the tobacco labeling unless you look at the fact that there are, of course, extremely powerful lobbyists in this field.

Well, I have my own ideas about what should be on the label, including for pregnant

women, or even to tell people that the contents -- this bottle contains ethanol which can cause intoxication and the more you drink, the more intoxicated you will get. Some people don't believe that beer is intoxicating, for example. Or whatever we put on that label, when the day finally comes that we get to put it on, it should probably say, if it says nothing else, if you drink, don't drive. Then we'll see how much difference that makes.

Well, I'd be happy to answer any questions you might have.

CHAIRMAN SEYMOUR: Very good. Questions? I have one question, Dr. West. I'm not sure whether you would have the answer, but using---the use of tobacco -- cigarette smoking specifically -- as an example of society's -- at least this is my perception -- society's growing unwillingness to endure; and going back to the legislative successes -- if that's an appropriate word -- in our federal legislature relative to packaging and relative to advertising on television, etc., having been all through that in cigarette smoking, are you familiar with some bonafide research that says that's helped, and if so, how much, or has it done nothing, because I see a growing similarity among societies -- a larger percent -- societies' willingness to endure the social drunk. It seems to me as a society, we're beginning to say what used to be funny isn't so funny anymore. Now, that doesn't mean they're ready, therefore, to accept some of what you might think would work or even I might think would work, but it's, to me, it is a repetition of what has taken place with tobacco. And, therefore, the question is how---in the use of tobacco or restraint thereof, how much can we attribute, or can we attribute any to packaging, labeling, advertising on television, etc.?

DR. WEST: It's difficult to (inaudible) out what the different variables are. There's no doubt that the Surgeon General's report and all of the subsequent (inaudible) that followed with the labeling and the constraints on broadcast media for advertising on the rest has taken its toll of sales. They're not only down, but they are down considerably from where they would have been if the trajectory of sales that had obtained 20 years ago continued up to the present time. And when you trample abroad where these campaigns have not been carried out, nowadays you realize rather dramatically what the differences are. You go to Japan or Italy, or somewhere, where everyone seems as though everyone's smoking all of a sudden. Nowadays, the only place you're liable to find a real smoke-filled room is at an A.A. meeting, where, interestingly enough, there's still a tremendous amount of smoking and the coffee drinking of course.

CHAIRMAN SEYMOUR: Is there a medical reason for that?

DR. WEST: I believe there's a reason for it. I'm not sure it's medical. Part of it is that in some ways the nicotine addiction is a tougher addiction than the alcohol addiction. And the social consequences of smoking, compared with the social consequences of drunkenness, in terms of destruction of family life, job loss, self-esteem and so on, are much less even though the health hazards are there. The health hazards are there with alcoholism too. And it's interesting to me that people see the social hazards of

alcoholism much more than they do the health hazards, even though alcohol probably is every bit as a great a danger to life and health as cigarette smoking is and maybe worse. And that includes heart disease, cancer and a lot of other things too that people don't tend to think about when they think of alcohol. They think of drunk driving and they think of problem is beating up your wife, but they don't think about your pancreas or your heart and so on.

But I do believe that if we were to galvanize the same kind of public and national campaign against drinking that we have against smoking, that it would likely produce a similar effect. This is in part because of the effects of advertising and education and the fact that people read and they're not stupid. It's also because we're in the midst of a great sort of national love affair with fitness. And this has shown itself in other ways, not just in the reduction of cigarette smoking. There's been a reduction, for example, in certain kinds of unhealthy dietary habits, as a result of which the incidence of heart attacks have been coming down for several years, much to the gratification of the American Heart Association which put a tremendous amount into this -- campaign to get people to not eat so much red meat and avoid cholesterol and exercise regularly and rest.

So I don't doubt for a minute that our really first-rate public information and public influencing campaign would diminish alcohol abuse, including DUI.

CHAIRMAN SEYMOUR: Very good. Any questions? Thank you very much for being with us, Dr. West. I look forward to reading your book and particularly that study -- this one here. It looks most interesting. Thank you.

Next witness is Mr. Peter Anderson, representing the Disability Substance Abuse Task Force. Mr. Anderson?

MR. PETER ANDERSON: Thank you. Thank you, Senator Seymour, Senator Royce. It's a pleasure to be here again to share and testify. I want to commend Senator Seymour for his personal response for my plea to be heard about the _____ (inaudible) _____ disabilities (inaudible) problems.

I have two parts to my testimony. One is a repeat of last year because I did not include any statistics in this year's testimony. This year's testimony is supposed to be designed more particular to the drinking driver issues. One part of the testimony last year has our letterhead on it, and this year's is titled with today's date.

I am the Volunteer Executive Director of the Disability Substance Abuse Task Force, a volunteer organization that is designed to help people who have disabilities -- physical, mental, sensory or developmental -- find drug and alcohol services which are needed.

I worked for 8 years for Long Beach Veteran's Administration's _____ (inaudible) _____ (inaudible) _____ drug and alcohol treatment program. I myself am a recovering alcoholic and I'm learning disabled. So I have a number of personal reasons why I'm interested in the issues of drug abuse, alcohol and disability.

When I was in treatment at the Veteran's Administration, I was almost institutionalized, and _____ (inaudible) _____ personally. When I worked for the Veteran's Administration another 11 years, 8 of those years with people who are paralyzed with drug and alcohol problems, I saw institutionalization professionally---para professionally and then professionally.

Back in the late 1970s I began to try and break that process of institutionalization which was costing our taxpayers, our government, enormous amounts of money, and also taking away the human element that people need---people do not need to live in institutions. They need to live in a community the same as other individuals do. And when I started to try and find services for people with disabilities who had drug and alcohol problems and began to refer our paralyzed folks to the community, I found out that there were none.

I'm also on the State Drug Abuse Advisory Board. I'm a speaker's appointee and I have been for over three years. I was just reappointed. I'm the Legislative Chair, and for the past three plus years, we meet quarterly around the state, and every place that we have met in the state, the disabled community has come out and testified about those services for people with physical, mental, developmental or sensory disabilities.

Seventy-five percent of the veterans that I work with at the V.A. in Long Beach were pre-addicted or their injuries were a result of their addiction. And then all of a sudden we had somebody who was permanently physically disabled who we had to find those services for. In Maryland, the Maryland Spinal Cord Injury Foundation claims that approximately 60 percent of the people who were picked up in the Baltimore-Washington-Maryland, loop traumatic spinal cord injuries are a result of having drugs or alcohol---legal or illegal forms of drug or alcohol in their system.

I consider this committee to be the number one, most important committee not only in the state but in the country. Alcoholism, drug abuse, legal or illegal, is our most crucial problem facing the country today. All of the problems that we're facing -- our national deficit and our employment sector, the products that we produce, our educational system -- every sector of our system that we look into, we can look at alcoholism and drug abuse as being, if not, the number one contributing factor to the problems that we're having in this area -- close to number one. I claim it's number one. I may be wrong.

I am so confident about this statement that I would like to paraphrase the United Nations' Secretary General Javier de Cuellar, who compares the present state of affairs with drug and alcohol problems worldwide to plagues of earlier ages. He has, in fact, proposed an international conference to deal with all aspects of the problems sometime in 1987. In a speech to the United Nations Economic and Social Council, he said, "Illicit drugs," and I maintain also licit drugs, "whenever they are produced or used, contaminate and corrupt, weakening the very fabric of our society." And he also speaks to---he says that the time has come for the United Nations to undertake a bold and new offensive

against the problems that we're having with drug abuse.

Last year, in last year's letter, Senator Seymour and the committee also made a similar statement, and I'd like to quote myself the letter to the committee. I think it's very important. I, at that particular point in time, (inaudible) and still maintain that:

"I am very happy that you have taken a leadership role to help begin and turn around the tide of substance abuse in the State of California. I personally feel that you should be commended for taking on this huge and difficult task. In order to do a quality job there will be many gigantic obstacles along the way. I especially commend you for showing the courage, as you stated in your letter, to seek positive, aggressive action" -- very similar to the words of the Secretary General of the United Nations -- "to remedy our sad situation we now confront."

As we all know, alcoholism and drug abuse affect every corner of our society. People, governments, institutions, businesses, educational systems, religious organizations and all other driving forces in our world society do things while using drugs or alcohol that they would never think of doing if they were not functioning in a state of semi-consciousness.

Okay, last but not least, when we look at drinking driving, we get a more accurate vision of the devastating cost due to the misuse of drugs or alcohol. This is why I feel that this committee is so important. You are, in fact, taking on the states, if not the nation's, or the world's number one problem, and I truly commend you.

I have some statistics in this year's report relative to fatalities on drinking and driving. And I think it's very interesting to note that the 21-year-age bracket falls the highest -- 4.98 per million miles driven.

Okay, also in the past October 3-6, 1985, the American Assembly for Western Region of Public Policies Affecting Alcoholism and Alcohol Related Problems had a Strategy Conference with 71 leaders from around the western United States -- business, academia, law, clergy, alcoholic beverage industries, foundations and voluntary agencies, etc. This prestigious group focused on four major areas of policy intervention. One was prevention policy; 2) treatment policy; 3) legal, political and economic policy; and 4) societal policy.

Under the legal, political and economic policy section, this group designated drinking and driving as a major issue. I have included here in my testimony the recommendations made by this group:

It is essential the the public perceive drinking and driving as having definite risks. Therefore, the penalties for drinking and driving must be clear, uniform, and have swift application. Specific recommendations are:

- lower nationwide the BAC rates to .05 and establish categories for high risk groups, such as minors, requiring .00 blood alcohol;
- provide for the administrative revocation of licenses of all per se cases, with

the license of being surrendered at the arrest scene;

- establish highway checkpoints nationwide that are constitutionally acceptable;
- promote incentives for sober driving by encouraging insurance carriers to give reduced rates for non-drinkers.

Research. There is general recognition that research in legal, political and economic areas has been very limited. Strong recommendations are made to promote increased funding for research, and more than 25 proposals for specific research undertakings have been suggested. Five of these proposals are included as examples of priority areas of concern.

1. Studies of epidemiology of injuries and trauma;
2. Studies of place of last drink before traffic crashes for DUI arrests;
3. Research on devices to prevent an automobile to be started by an alcohol-impaired driver;
4. Research at local level on how communities become concerned about and take action on alcohol issues; and
5. Experimentation with different strategies for preventing drinking driving (bumper stickers and impounding) as far as the things that deter.

Then I was asked to testify on how drinking driver services, how they relate to the handicapped. First of all, I would like to speak to---there are a lot of indicators that I've talked about in the past relative to people with disabilities having a higher prevalence of alcohol or drug use to people who are not disabled, the enabling that goes on, a whole different type of enabling, that would go on with people who do have disabilities; people's fear of working with people with disabilities, physicians trying to communicate with (inaudible) and not having a lot of time, and as a result will prescribe medications that that individual may not need.

We also have a lot of destructive stereotypic notions about people with disabilities. This not only comes from (inaudible) like ourselves, but it also comes from other people with disabilities. I have a friend of mine who is blind and I remember he's very active in the community, he's politically active, he's an Affirmative Action officer also, and he was telling me about a blind friend of his who gets loaded all the time. He was telling me about the kind of problem that he has, and I asked him, "Have you ever talked to him about it? He's a friend of yours." He says, "Well, no." He says, "What else does he have to do -- he's blind." And this coming from another individual who's also blind himself.

In your letter you talked about increasing penalties. This is good. However, for people that have disabilities, we do not find them being subject to the same consequences of people who do not have disabilities are. For instance, somebody who is paralyzed is pulled over by a Highway Patrol officer. That officer is reluctant. One, they do not have the experience of working with people with disabilities. They don't know how to

arrest the person with a disability, most jails are not wheelchair accessible, treatment programs are not accessible, they do not know what to do with that individual except to tell them to sleep it off and let them go on their own way. When these individuals, if and when they get into the court system, they're confronted with the same kind of either real concrete barriers to the same kind of consequences that other people experience and/or attitudinal stereotypic types of consequences of the system -- just rather not dealing with the person with the disability because they don't have the resources within the system, or they personally have not had the experience of working with people with disabilities. So there's a lot of natural fear.

One of the main things that our task force does, by the way, is that we help people understand that it's okay to have that natural fear, that all of us are human beings and we have all had fears of working with people that we're not familiar with, myself included. And once we get people to see that it's okay to have those innate fears, then we can begin to work and we can build on a process that will help people understand the nature of the problem -- begin to work with it, begin to educate and train.

There's a lot of peer pressure within the law enforcement system that would also at times cause embarrassment possibly to the arresting officer. He would not want to be ridiculed by his or her peers saying, well, gee, how can you pick on that defenseless person with a disability?

When I say that we do not have the same consequences for people with disabilities as we do for people without disabilities, the injustice that we are creating is that number one, we're actually sentencing them, these people, to death, because we're not providing the same kind of intervention that we're providing other people, and this is in the area of drinking and driving. And the bottom line here is access both physical and attitudinal. Again, we have found that attitudinal access is our primary interest to get people services. We have seen programs that are fully physically accessible but they're not attitudinally accessible; and as a result, then the individuals that administer those programs will not bring people with disabilities into that.

Okay, maybe the most powerful observation and message that we can pass on to this committee is that: The system that has been designed to provide services for people with disabilities is unable to deal with alcohol and drug problems, and the system that has been designed to deal with alcohol and drug problems cannot deal with physical, mental, development or sensory disabilities. So our people fall between the cracks. There's nobody there in the sophisticated system of services that we have that can pick up the slack and provide that network or that integrated type of service.

Also, on everything that I speak to, we're trying to encourage making use of existing services. We're not trying to create any new services but making use of the existing services that are available now.

Okay. After last year's testimony, I received a letter from this committee

acknowledging the "intent to investigate the problems we discussed relative to accessibility for the disabled on existing alcohol and drug programs." This committee was also concerned as to why people can't get into existing drug and alcohol programs. In the letter the committee showed a concern as to whether any state or federal laws were being violated. The answer is yes. The 504 regulations, 501-2-3, which deal with employment and education, 504 which deals with treatment, the federal regulations that actually govern all of the money that comes to the State of California are being violated when people are discriminated against because of their disability. Also, AB 803, which is 1977, a bill authored by Speaker Willie Brown before he was Speaker, prohibits discrimination on the basis of age, sex, race, religion or disability. We're violating both of those -- one set of regulations and the other is a state law.

Okay. The answer is yes. Okay.

This committee also asks the question as to "is it necessary for us, the Legislature, and the Administration, to consider establishing separate programs for the disabled through the Department of Rehabilitation or the Department of Alcohol and Drug Programs?" We say no. What we need to do is network these organizations together. We need to get them to begin to talk with each other about getting services to people with disabilities.

I'm happy to say that in the past few months we have been meeting with the State Department of Alcohol and Drug Programs. I sent a letter approximately 6 months ago to a number of powerful folks throughout the country -- Senator Seymour was one -- and this committee was another -- and the state has come to us -- we have the second meeting set up at the beginning of December. However, my fear is I'm, you know, approaching this with a very open mind. We're meeting with Larry Gentile, who -- from Behavioral Health Services -- who is my---we're (inaudible) now and our, you know---my (inaudible) is that these will be productive meetings and the state will, in fact, begin to do something that should have been a long time ago. However, my fear of working with the state for the past seven years in this area of trying to get something really done, as opposed to commitments to have things done, is that they---we may be spending and losing a lot more time. So I'm trying to develop as much momentum as possible.

I'm presently---I have the support of the Speaker's office and Senator David Roberti's office, who have both guaranteed that they will support us 100%. Whatever recommendations we made to those offices, however, we feel we should begin to set policy or begin to set up a system for people with disabilities. I've also been working very closely with Senator Milton Marks' consultant on disability and there's a possibility that we would initiate a Hoover study through Senator Marks' office and also possibly turn to Attorney General John Van de Kamp's office.

Some of the recommendations that we have been making to the State Department of Alcohol and Drug Programs are:

1. Develop a statewide network between drug, alcohol and disability service

providers. Our model of networking is not a euphemism but is actually a network that works.

And on the last page of this year's testimony there's an article about the work that we've been doing nationally. It will talk about our networks, and it is proven that we have put together effective networks. We've done this actually with no funding, no money, just with a lot personal dedication and commitment.

2. Develop two multi-modality programs designed to work specifically with drug or alcohol addicted people with disabilities. One of these programs should be in Northern California and the other should be in Southern California. Ideally, these programs will be staffed primarily with recovering disabled substance abusers. These programs would focus on prevention, intervention, treatment and education. They would be designed as training grounds for service providers throughout the state or the country for that matter, helping them understand the dynamics of working with disabled substance abusers.
3. Paying for the training of drug and alcohol service providers at independent living centers or other facilities throughout the state that primarily work with people with disabilities. And, of course, do it the same then in the area of disability -- train these folks on drug and alcohol issues.
4. Getting the State Department of Alcohol and Drug Programs and State Department of Rehabilitation to sit down with the State Fire Marshall and agree on a non-discriminatory but yet safe definition to be used in providing residential services for people with disabilities.
5. Training on how to know and use the laws protecting the rights of people with disabilities and/or drug or alcohol problems.
6. Developing a regional advisory committee designated to deal with the special needs of people with disabilities who also have alcohol and/or drug problems.

Over the past three years... Okay, I've talked about that.

We do need your help. I feel that we're at a point in time when---where we can call to order all of our forces who are very sympathetic to the needs of disabled substance abusers, and we're hoping that we can get the support from this committee. My feeling is that I'm fairly sure in whether we can. Senator Seymour has shown a very personal interest in all these areas -- disability and drug abuse and alcoholism -- and I do appreciate very much responding to my personal plea.

I also have some recommendations in the area of purely drinking driving. I can run those off real quick, okay?

1. I think that we need to re-identify the name of the program we are testifying to today. I think that by calling these programs drinking driver programs, we are missing a very significant point. We need to educate the public that we are talking about driving under the influence of some kind of mind altering

substance. Today, driving down the freeway we no longer see the driver who is downing a can of beer, although it still goes on. However, there is hardly a day that goes by I don't see someone driving down the freeway smoking dope. We also need to concern ourselves with the person who is using other "legal" drugs like valium and mixing with alcohol.

So what I think this effort is all about goes far beyond alcohol only and it is our responsibility to educate the community as to exactly what the intentions of this program really are.

2. I hope that this committee involves itself in legislation to do away with all sales of alcoholic beverages in locations where fuel is sold. I realize by doing this in some ways restricts the notion of a free enterprise system. However, I think the real bottom line is what is the best for the common good of all society on a whole. Do we continue to allow a few free enterprisers to continue to sell the ingredients responsible for the death of so many people, and at the same time expect the rest of our society to pay for the grief that is caused? I say no, we should not.

We do not allow the sale of alcohol in our schools, in our churches or in our libraries. We do not even allow the sale of alcohol at our State Capitol. So you see, we do restrict when necessary certain elements of the free enterprise system. We do not allow alcohol merchants to sell their product on street corners or out of the trunks of their cars. We prohibit the sale of alcohol by physicians and nurses from their offices.

So what needs to be done can be done when we really want to do it and if we can get enough support from our constituents to help solidify the process.

3. Another recommendation is that we put warning labels on all forms of alcoholic beverages.
4. I submit that we should no longer encourage, support or endorse legislation such as AB 503 that allows larger amounts of alcohol to be placed in gourmet candy. But rather, we need to support such issues, proclomations and laws that encourage more positive behavior such as "National Drunk and Drugged Driving Awareness Week," December 15 through the 22nd, 1985. It would be wonderful if we could designate December 24 through January 1 as the "State of California Stay Happy, Healthy and Alive Through a Drug and Alcohol Free Holiday Season Week."

In the same vein, I encourage all of us to support "Teenwork '86", the Second Annual California Drinking and Driving Prevention Conference, March 24 through the 27th, 1987 at the Anaheim Marriott Hotel. One suggestion, however, is to reflect in the title the real issue -- that being "driving under the influence."

5. I am an avid support of increasing tax on beer, wine and whiskey. This

money should be used to support drug and alcohol programs statewide, a pre-paid insurance if you will. Those who buy the most will pay the most. I think the State of California presently looks foolish on two accounts: A) We are one of the lowest alcohol taxed states in the country with one of the highest per capita use rate; B) We have not had a significant alcohol tax increase in over 40 years. The rest of the country is watching and wondering who controls California.

6. Last by not least, I maintain we need to re-educate our society to realize life can be great without the use of mind altering substances. We need to begin to confront the TV and media industries relative to their misrepresentation of the life style effects of the use of chemically induced mind altering substances.

Again, I thank you very much for having me here today.

CHAIRMAN SEYMOUR: Thank you, Mr. Anderson, and I appreciate the fact that you tried to move through that testimony just as rapidly as you could. I couldn't talk that fast. But we thank you for being here.

Our final witness that is scheduled to testify, and when this witness is completed, if there's any member of the public who would like to add a comment or two, why, I think we'll have time for that. In any event, our last scheduled witness is Robert Reynolds, representing the San Diego County Alcohol Program Administrator. Thank you for coming from San Diego.

MR. ROBERT REYNOLDS. Thank you. I thought with the length of my paper perhaps I could follow Jolly West because it is shorter than Pete's. (Laughter.)

My name is Bob Reynolds and I'm the San Diego County Alcohol Program Administrator. My remarks today address two areas: The San Diego County drinking driver program responses under new law and DUI prevention measures.

Turning first to county program responses, since 1978 the number of convicted drinking drivers entering the county system of alcohol services has increased dramatically under the provisions of SB 38 for multiple offenders and under the provisions of AB 541 for first-time offenders. In Fiscal Year 1984-85, there were over 16,000 admissions to drinking driver programs in San Diego County.

In an effort to arrive at a better understanding of both the alcohol problems of these individuals and the circumstances of the drinking driving behavior, the Alcohol Program has embarked on a number of studies of individuals entering drinking driver program services, and I won't report on all those studies.

The first study was conducted shortly after the changes in the DUI laws in 1982 and was intended to be principally a description of the First Conviction Program population. The study was conducted to determine the appropriate FCP program structure. Our results frankly differ from some of the results that you've heard previously today. I think I understand the reason for some of those difference, but we may want to chat

about that after.

One of the major questions plaguing the design of services for first offenders was, and continues to be, what is the magnitude of alcoholism for serious problem drinking in the DUI population? The San Diego study found that only approximately 20 percent of the FCP population could be characterized as "serious problem drinkers."

CHAIRMAN SEYMOUR: Excuse me, Mr. Reynolds. Since that is an inconsistency from what we heard earlier today, would you mind substantiating that point or explaining why you think different, and as you go through other points that may differ from testimony we've had earlier today, would you do likewise?

MR. REYNOLDS: Well, that was first of all a very surprising finding for us. I've come to the belief that the drinking driver population that is coming into our programs differs rather substantially between counties in California for a variety of reasons -- functions of the environmental community and the enforcement and adjudication practices in those counties. Let me give you an example.

In San Diego County, we have a very well developed freeway system, and visibility of the drinking driver is relatively high. You also heard the San Diego Police Department talk about their "Deuce" squads. So the relative percentage of drinking drivers who are arrested, convicted and sent to our programs may be higher in San Diego County than in other counties. For instance, in California the Highway Patrol accounts for about 60 percent of all DUI arrests. In San Diego County it's less than half, because we have a very active enforcement program.

I suspect that the drinking drivers who are arrested and convicted in San Diego differ than the drinking drivers arrested and convicted in San Francisco where there are not very many freeways. There's a relatively lower risk of apprehension. So I think that while the---we don't really know who the drinking driver is because we don't have a way of randomly selecting them off the highways. So that the studies that come before you and the data gets very confused, and I was surprised to hear Jolly's data. It really is a function of who gets arrested, who gets prosecuted, who gets convicted and who gets sent to programs where there are studies. There are very few court based studies. And so there's a lot of variables.

For instance, Evelyn (inaudible) just completed a study of all drinking driver populations or she did an abstract of all the studies. The estimate of problem drinkers ranged from 4 percent to 87 percent. At the 87 percent, the people in that study were only individuals who had been convicted twice or were arrested at the time of an accident. So you have lots of screening mechanisms between the 4 percent and the 87 percent.

So it is very difficult to come to grips with---in any single county who are the drinking drivers in first offender programs. San Diego, for that reason, recommends that you continue to have flexibility at the county level, to design programs to meet the populations coming into our service structure. But it is a complex---the data does vary.

CHAIRMAN SEYMOUR: Mr. Reynolds, do you have an assessment program in place in San Diego County similar to that which was described in earlier testimony? And if you don't, and don't you (inaudible), how far do you think such a program would go towards identifying it?

MR. REYNOLDS: Let me come to that because it is... Let me skip over here. Well, let me say what we did find about the DUI participant. We found that the first conviction program participants were much more like the general population than they are like problem drinkers in alcoholic consumption levels, especially when we control for age and sex. In San Diego County, the majority of FCP participants are males under the age of 30 who are moderate or heavier, but not alcoholic, drinkers experiencing one of their first serious consequences of drinking -- the DUI event. As a group they report drinking consistent with survey findings of rates of alcohol consumption and alcohol problems for all males in their 20's and 30's. In general population studies, the highest rates of alcohol consumption in our entire society are consistently reported among persons in this age group. However, this group often matures out of these alcohol problems, most often without formal intervention.

The best randomly selected and assigned study was the National Highway Traffic Safety study that (inaudible) in Sacramento County, which consistently reported that a short-term education program for this population was as effective in terms of recidivism on ultimate outcome as any long-range program.

This finding was, frankly, surprising, as much of the rhetoric on the drinking driver program focused on alcoholism as the principal contributing factor. This certainly does not appear to be the case, at least in San Diego County. In 1982 we were unable to compare our findings with other counties as no similar studies had yet been conducted. Just recently comparable studies have been completed in Alameda and in Contra Costa Counties. Their rates are slightly higher than ours but not anywhere near the rates that we heard earlier today.

In an effort to find a tool for identifying the serious problem drinkers in this forced entry program, we found that of the objective evidence readily available, namely arrest blood alcohol level and prior DUI or reckless conviction, only prior convictions were found to be significant in predicting serious problem drinking classification. This is also the findings of the National Highway Safety Traffic ASAP studies.

CHAIRMAN SEYMOUR: On that point then, Mr. Reynolds, you would disagree with the thought that was expressed earlier today that a .18 means, without question, you've got a problem. You disagree with that.

MR. REYNOLDS: I would agree that people who normally and consistently drink to .18 level have a serious drinking problem and probably alcoholic. Our data on the drinking driver population is that that drinking level is the exception and not the normal drinking level of these individuals.

So there's a difference between individuals who regularly and routinely drink to that and can operate at that function. But the fact of the matter is most of the people being arrested are not operating normally at that level and that drinking to that level is the exception. It's the Friday night...

CHAIRMAN SEYMOUR: I guess the point is if you can -- I thought the point was -- if you can drink to a .18 and even get behind the wheel, much less drive, you've got a constitution that can absorb alcohol that leads to an alcoholic.

MR. REYNOLDS: That is not that unusual among 20 to 30 year old white males in our society, particularly in California. And even among that drinking population I question how well they're driving because, one, they're being picked up.

We looked at all of the studies using DAL, and yet you can discriminate at any level, but when you look at serious problem drinkers, it correctly misdefines or misdiagnoses as often as a correct diagnosis. And in a criminal justice system, I think you have certain (inaudible) standards you have to apply before you can use differential punishment or treatment based on some objective data. None of the studies that I am familiar with and the research literature support using a DAL as a discriminator. It's very popular -- lots of states are doing it. None of the hard research substantiates the use of DAL in a forced entry program.

I recognize that it's very popular. Everybody who---we would love to find a discriminator. We would love to be able to discriminate out of our first conviction drinking driver population who are those individuals who have very serious personal drinking problems. We know they're at least 20 percent. It may be higher. This was a study we did in 1982.

One of the things that's very different in California is that the structure of our law now makes it fairly evident that a first offender is truly a first offender. The Levine bill, the Gary Hart bill, and the then Moorhead bill did a number of things in 1982 that made it very difficult for individuals to plea bargain down to a "reckless."

So our previous first offender population were individuals who had plea bargained to reckless 3 or 4 times but it was their first conviction of a DUI.

When you look at studies of other states, the data is not comparable because we really have a true first offender in our programs now. And in other states they still are counting the first offender as individuals who have been arrested 3 and 4 times -- maybe let go the first time and a pre-conviction, finally convicted to a lesser charge, making it the second time. So we're getting 3 and 4 time losers in other states.

The comparable -- and Jolly made that point about society intersectional, or cross societal studies -- it's very, very difficult to make comparisons from California to Philadelphia data or to any of the data in other states.

We would like to find a mechanism, and the paper and pencil test, the Mortimer Filkins test, or the Michigan Alcohol Screening test have not been validated on the

criminal justice population. They have only been validated in a self-disclosure, non-punishment environment. The Mortimer Filkins test, actually in the ASAP studies, even with that caveat, turned out to be a somewhat more reliable discriminator than blood alcohol level. Blood alcohol level was the third in ranking.

Certainly prior convictions for DUI is by far and away the most valid and reliable indicator of a serious drinking problem.

So given the findings of these studies, I make the following recommendations regarding the California DUI laws.

1. The current structure of the DUI laws, whereby first offenders granted probation are referred to an alcohol education treatment program and multiple offenders to a year-long treatment program, should be maintained as currently in statute. I think the current structure of the law works quite well.
2. No statewide curriculum standards for the first offender program should be mandated at this time. The current state of knowledge regarding differences in first offender populations from county to county does not warrant the removal of local control over the design of first offender programs.
3. Finally, tracking DUI prior convictions for purposes of penalty enhancement and expanded treatment should be increased from the current 5 years to 10 years. The most reliable objective indicator for identifying serious problem drinkers in the DUI population is prior conviction, regardless of the time frame in which that conviction occurred. Expansion of the tracking period would result in more appropriate punishment and program referral as a condition of probation. The current law only refers to the prior 5 years, and we would recommend that that be expanded to at least 10. It may then require changes in the record-keeping of DMV.

Let me turn now to prevention measures. In the area of DUI prevention, I have two recommendations for DUI prevention measures that are based on the research relationship of alcohol availability to the level of community alcohol problems, most notably drinking and driving.

Recent research on the relationship between the price of alcohol and levels of alcohol consumption have demonstrated that alcohol is a price elastic commodity; that is, increases in the relative price of alcohol are related to reductions in per capita consumption. More importantly, such price increases are not limited to reductions in consumptions by moderate drinkers but also reduce the prevalence of chronic heavy drinking. And, in fact, it reduces chronic heavy drinking even more substantially than moderate drinking. Of particular interest to these hearings is the finding by Bill Cook that alcohol price increases tend to reduce the auto fatality rate.

The research on the effects of prices on consumption also demonstrate, and new

research from the National Bureau of Economic Research, that heavy and frequent drinkers among 16 to 21 year olds also respond to price increases by reducing their levels of consumption. It is reported that price increases are a more potent prevention act than raising the drinking age.

The price of alcoholic beverages in the United States has declined sharply over the last two decades relative to the overall rate of price inflation. This is due in part to the level of alcohol taxes, which have not increased relative to inflation. With the new evidence on the relationship of alcohol price to alcohol problems, increases in alcohol taxes are an effective public health investment for the reduction of motor vehicle accidents and deaths. San Diego County recommends that:

1. Alcohol taxes in the State of California be equalized for all alcohol beverages based on ethanol content, with the adjustments occurring gradually over time; and that
2. Alcohol taxes be indexed to the rate of inflation for the California Consumer Price Index.

Our board adopted that policy, I believe, in 1982.

A further prevention measure I recommend is related to the increase in alcohol availability occurring through the proliferation of gasoline mini-marts. While the relationship of alcohol sales at gasoline station conversions or other convenience stores to the incidence of drinking driving has not been specifically studied, studies on the relationship of increased alcohol availability and alcohol problems certainly demonstrate the need for caution.

California law recognizes that alcohol sales differ from other commercial activity and should be subject to special control and regulation. From a public health view, research demonstrates that expansion of alcohol availability will normally increase community alcohol problems.

Convenience store sales focus on sales responding to immediate need -- as when one needs a quart of milk or a loaf of bread for dinner. For this reason, it's very reasonable to assume that the quick and easy purchase of alcohol in gasoline mini-marts is associated with the consumption of alcohol immediately preceding and following the point of sale, often within cars. A San Diego County study on this issue will be completed in January of 1986.

I cannot speak for the Board of Supervisors of the County of San Diego regarding the matter of alcohol sales at convenience stores. Our Board has not yet had the opportunity to consider this issue. With that qualification, I can tell you that it is my intention to recommend to our Board that it support legislation to prohibit further expansion of alcohol sales in gasoline mini-marts.

At the very least, in view of existing research and the magnitude of the California DUI problem, a moratorium on development of new convenience outlets concurrently selling

gasoline and alcohol should be established pending completion of studies demonstrating that such operations do not threaten the public safety.

I hope that my comments and recommendations on drinking and driving are useful to you in formulating public responses, and I thank you for your attention.

CHAIRMAN SEYMOUR: Thank you very much, Mr. Reynolds, and appreciate, again, your coming from San Diego.

That completes the scheduled witnesses. If there is a member of the public who would like to offer something, now would be the time. Yes sir? Please state your name and address affiliation for the record.

JUDGE LEON EMERSON: Judge Leon Emerson, retired.

CHAIRMAN SEYMOUR: Oh, yes, Judge. Pleased to have you. Thank you so much for coming.

JUDGE EMERSON: I couldn't disagree with Bob Reynolds more if I shouted it from the rooftops.

CHAIRMAN SEYMOUR: I thought perhaps you were moving around in your seat for some reason.

JUDGE EMERSON: I was (inaudible) because Bob and I have never disagreed on much of anything. I'm particularly incensed by the statement that there's no correlation between alcoholism and blood alcohol content at the time of arrest.

I was on the bench 24 years, and I have sat and watched the blood alcohol content pass by me. I've attempted to ascertain whether or not a person was a social drinker or a problem drinker or an alcoholic or a seriously sick acute alcoholic, and I've made it a business to try to ascertain that for every person that came before me for the last 22 years. I have only run across about a dozen people in 24 years -- or actually the 22 years that I've really been in study -- with a blood alcohol content of 2 or greater that was not alcohol. They were all alcoholic. Those that I was not sure were alcoholic -- I'm talking about that dozen -- are really the exceptions to the rule.

One of them was the situation where there was a New Year's Eve party and everybody decided to see how drunk they could get. Others were bachelor parties, you know, see how drunk we can get the groom, that type of thing -- a concerted effort to get drunk. But by and large, those people that could reach a 2.0 or greater were all alcoholic. I've only had 4 people in my career with a blood alcohol content of .38 or greater. Chip was not one of my clients, but he's a very unusual person that can reach .39.

CHAIRMAN SEYMOUR: Excuse me, Judge. Isn't it somewhere around .39 or .40 that you're legally dead?

JUDGE EMERSON: Well, comatose. Dead is supposed to be .50. We actually had one person that was dead on arrival that tested .55 at the local community hospital. But she was dead when she arrived. A judge up on West Covina had .44. I had a .44 once that was really what we felt was a medical aberration. We didn't know whether it was the

test or the person, but the blood alcohol content -- she was tested three times -- she had a .44. None of us to this day believed it because she was alcoholic, but that was the most unusual case.

There is a definite correlation between alcohol and the high blood alcohol content.

When a judge has 30 seconds to make a diagnosis and to pronounce judgment on a person, on a drunk driver, particularly on the arraignment calendar, it is not unusual for us to process a case every 30 seconds. We might process 25 to 35 cases before 10 o'clock, starting at nine. And we will process some of those cases in 30 to 45 seconds. Two minutes is a long time before a judge on an arraignment calendar. You've got to look at the blood alcohol content, the numbers of past arrests, how sick that person was or how drunk that person was at the point of arrest, and give it the ol' Wyatt Earp treatment. You just draw and shoot.

I would love to have a situation where I would have an evaluation before that person came before me. I would love to have an evaluation between the point of arrest and the point of arraignment, that that person must go to an evaluation center and get a genuine evaluation as to what that person needs in the way of a program. So that when it comes before me, that that person could really have a differential judgment of the judge coming before him, making a definite---setting up a definite program, giving a sentence that is fair, not just a routine wrote formula sentence. I want a sentence that's specifically suitable for that particular person, depending on that particular person's needs. And that's what I want when I'm sitting on the bench, or was sitting on the bench.

I might suggest there's a couple of other things that this committee might take a hard look at. Title 9 prevents the treatment of families along with the treatment of the drunk driver in the multiple offender program. That is dead wrong. I've tried to get that regulation changed ever since it was enunciated. I've been unable to do so. I think it's going to be corrected by statute. The families definitely should be in there, in the treatment program. I think it enhances the value of the treatment of the drunk, or of the alcoholic by at least about 50 percent. I think that should be done. Definitely that could be done.

I've tried to get the Department of Alcoholism to go through a series of hearings necessary to change regulation, as they have to any regulation, but they just refused to do it. Many of the programs do not want to treat the families because it costs more money to treat the families.

I think that's going to have to be ensured by a statute.

Anyway, the hour is late. I could talk all afternoon here, but I know you don't want to hear me. But thanks a lot for allowing me this instance to get up and refute Bob.

CHAIRMAN SEYMOUR: Judge, thank you for your commitment over those 22 years, trying to improve the way of life in our society here in California. We appreciate your efforts

and hope you enjoy your retirement, although I suspect you're really not going to do what that word "retirement" means to most of us. You're just going to start another career somewhere.

Is there any other member of the public? Yes, ma'am? Yes, sir? Would you please come forward? And could I ask you to limit your comments to five minutes? Can you do that? Very good. Could you give us your name and address?

MS. ARLENE CAPLAN: My name is Arlene Caplan. I am a private citizen at this point but at one time I worked with Orange County's DUI Screening Project.

CHAIRMAN SEYMOUR: Very good.

MS. CAPLAN: So I want to make a couple of statements. I was not prepared to testify. I'm very nervous about testifying.

CHAIRMAN SEYMOUR: Well, you just take a couple of deep breaths there.

MS. CAPLAN: Thank you. Mr. Reynolds made a couple of points about his research in San Diego. I will tell you from my own research for Care Institute in reviewing a lot of the studies that had been done, I also looked at the (inaudible), and I want to share with you what he found.

Of 4,352 first DUI offenders, 17 percent were identified to appear problem drinkers. 64 percent were excessive drinkers, and only 19 percent were identified as social drinkers. So the point is that out of that first offender population, only 20 percent, 1 in 5, were really social drinkers. The others were either on their way to becoming alcoholics or were already there.

I don't think that really---most of these studies, it's a matter of what criteria is used, but I think what it may show is that either 20 percent or 49 percent, you've got a sizeable population that are alcoholic, and I think the first offender program, which has been presented primarily on an educational basis, needs to be reevaluated and more flexibility provided for treatment.

Thank you.

CHAIRMAN SEYMOUR: Thank you very much. Yes, Don?

MR. DON BOWMAN: I'll try to make it in three minutes, Senator, if I can.

CHAIRMAN SEYMOUR: Would you give us your name and address just for the record?

MR. BOWMAN: I'm Don Bowman, Southern California Director for the California Council on Alcohol Problems.

We've been estimating that half of the tragic occurrences on the highways is caused by alcohol-related deaths and so forth and injuries. But many of the people I've been talking with and also some reading I've been doing suggest maybe 80 to 85 percent of the accidents are alcohol-related instead of 50 percent. But even if it's only 50 percent, the carnage is still the same as a 747 with 500 passengers or more crashing every 7 days, killing everyone.

And if that message---the American public is not angry enough yet about this whole thing. A Michigan study showed that if you drink one beer, you'd have four times the probability of having an accident. So this whole matter of---and it's inappropriate to drink anything and to go onto the highways, get behind a wheel of a car.

I think---we've passed the seat belt law which is taking effect the first of January, which means that you're going to wear a seat belt or else you're going to be fined. I think the time has come, as an earlier testifyer had said, that the law is no drinking, period, and driving. I believe that some of you have enough courage to try that.

CHAIRMAN SEYMOUR: Well, I have enough courage to try it because I tried one bill that they thought I was insane about and that was that the fine for the first offense would be 10 percent of your annual gross income. But if you trace that bill, it never even came to a vote in the first committee because it was laughed out. And so although I certainly am sympathetic to that -- in fact, I asked our consultant, Miss Taylor here, to make note on the .00 BAC for minors. That might be interesting. We might have a shot at that, but to think that we've got a shot at something like that for adults, I say that's a kamikaze run today.

MR. BOWMAN: Yes. But someone has to start the process, though. I think that AB 1433, Duffy's bill, on no gasoline and alcohol at the same location, I've heard a lot of testimony about that. That ought to pass. And your own bill, your's and Senator Russell's on the "Happy Hour". But we've come a long way from "have one for the road," and I'm glad for that. We've come a long way in this room. I have not been sitting in a smoked-filled room all day. So I have hope in what you're trying to do in your committee can be done.

What I want to know -- I walked down the street at Glendale the other night and two couples came out of the bar. They were stumbling around, couldn't find where their cars were. Now, what can we do? I mean, is there---do you put an officer out at every bar? That would be harrassment they would say. But something has to be done. No one even dared to mention in any testimony of these, what, 7 hours of testimony, the word "abstain." Excepting the person on Antabuse, you'd better abstain because you've been in trouble and you can't ever go back to the sauce again. Well, can't we get into a program for our kids in grade school and junior high and really try to challenge abstinence? You know, it's also a naughty word.

Our organization would like to see drunk-free and an alcohol-free (inaudible). I always tell people if you don't snort the first cocaine or swill the first liquor, or smoke the first marijuana, you're going to be free of those addictions all your life.

So thank you, Senator.

CHAIRMAN SEYMOUR: Well, Don, thank you for your testimony. We appreciate your commitment as well.

We do have one more witness here. Two minutes and we're getting out of here.

We've got a lot of ground to cover yet today.

DR. FRED MEDCALF: I have a couple of statistics I'd like to share with the committee. I'm Dr. Fred Medcalf. I'm the Director of the Alcohol Intensive Supervision Program at Suicide Prevention Center in Los Angeles.

First of all, a couple of statistics that were presented by Joyce Cook, I'm not entirely sure that I agree with them. She said that there has been a decline in the number of arrests for DUI, but the California Highway Patrol fact sheets do not support that. In L.A. County in 1982, there were about 86,000 people arrested for DUI. In 1983 that figure went up to over 98,000, and then in 1984 that went over 104,000.

In the State of California they rose accordingly to the point at which in 1984 the number of arrests in California were 13 percent higher than that in 1983. That I think has been presented before.

To Mr. Reynolds' comment about the blood alcohol concentration, uniformly, we find out that for all the first offenders in the State of California, the average blood alcohol concentration of these offenders is .19. Now, all that the---well, all of the experienced drinkers as a matter of fact, have almost---it's almost impossible for them to get at that particular level and not have any kind of---well, still remain even minimally functional.

One of the things that I am concerned about is the fact that each year in the State of California for the past three years, about 75.5 percent of all the people that are arrested for driving under the influence are first offenders. Now, this, despite the last three years, the community awareness programs, and we wonder what in fact is whether or not they have done any good, because these arrests have not decreased for first offense.

The second offender population is about 25 percent of all arrests in California. For each of those years -- or shall we say the multiple offender population of which only about 20 percent of the 25,000 people and somewhere around 90,000 people arrested every year as multiple offenders are second offenders, and the other 80 percent are third offense or greater.

What I'm concerned about here is whether or not, in fact, the SB 38 programs are working because we have a greater number of multiple offenders coming out. Of the 25 percent that are multiple offenders, they are---a good 80 percent of them are third offenders and greater. The questions are the recidivism rates in those SB 38's are ranged anywhere between 17 and 60 percent. We do have one program in L.A. County that can't get below 60 percent.

So there has to be some other type of alternative available for dealing with the people who are multiple...

CHAIRMAN SEYMOUR: Do you have any specific recommendations?

DR. MEDCALF: Specific recommendations are increased judicial discretionary power

will allow the judges greater latitude...

CHAIRMAN SEYMOUR: We've heard that.

DR. MEDCALF: ...in providing for programs.

CHAIRMAN SEYMOUR: Yes, sir. Any others?

DR. MEDCALF: And I think your SB 1258, I'm sorry it was killed in committee.

CHAIRMAN SEYMOUR: Well, we'll go back with that one. We'll be back for that. I think the only reason the Governor vetoed that, quite honestly, is bucks. (Inaudible) set your priorities -- we'll go back to it.

DR. MEDCALF: I have in the past 2 weeks, we have---Suicide Convention Center has made an effort through the offices of Assemblyman Mike Roos to introduce some legislative action to provide increased judicial discretionary power to combine some of the details that SB...

CHAIRMAN SEYMOUR: Good. We'd like to see that. We look forward to working with Assemblyman Roos on that.

DR. MEDCALF: Thank you.

CHAIRMAN SEYMOUR: Okay. It's been a full hearing and a full day. I want to thank those of you, particularly you Judge Gray. You just stayed here all day. I expected you to give testimony and leave. Thank you for your participation.

We're adjourned.

--oOo--

