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TITLE: An Evaluation of the Process Efficiency and Traffic Safety Impact of the California Implied Consent Program (Volume 4 of "An Evaluation of the California Drunk Driving Countermeasure System")

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PROJECT OBJECTIVE:

To identify problems in the implied consent (IC) system and to evaluate its impact on traffic safety.

SUMMARY:

This study was designed to describe the California IC system and to answer a number of questions related to the program's operational efficiency and effectiveness, the characteristics of its target population, and its impact on traffic safety. In 1982, the DMV received 31,978 chemical test refusal reports from law enforcement agencies. Ninety-eight percent (31,285) of these reports resulted in license suspensions, and 31% (9,672) of those suspended requested hearings. On the average, one out of every two hearings was rescheduled. Twenty-seven percent of those who requested hearings either failed to appear at or canceled their hearings. About 92% of all hearings resulted in suspensions being upheld.

In 1982, 61% of refusers were convicted of the related DUI charge, compared to a 66% conviction rate for all DUI arrestees. Although refusers were found to consist of 55% more repeat offenders than nonrefusing DUI offenders, the net total accident risk over a 3D-month period (combining the 18 months prior, and the 12 months subsequent, to the beginning of their sanctions) differed by less than 1%. In the subsequent 12 months, both refusers and nonrefusers were found to have higher risks of accident involvement than the general driving population.

The results from an analysis of the traffic safety impact of the IC suspension demonstrated that suspending refusers is an effective countermeasure for this subgroup of the DUI population. During the 6-month suspension period, refusers whose suspensions were reinstated after an administrative hearing had significantly fewer alcohol-related accidents (63.7%), nonalcohol-related accidents (76.5%), and total accidents (72.2%) than did refusers whose suspensions were set aside.

It was recommended that, given the high costs and lengthy time lag associated with the IC hearing process, the Department should explore alternatives to lower costs and shorten time lags without sacrificing the traffic safety benefits already achieved by the current system. It was suggested that one way to reduce the costs of the IC program would be to discourage hearing requests from those who were likely to cancel or fail to appear, perhaps by means of a filing fee.

The report notes that one promising approach for reducing both time lags and costs is early suspension accompanied by postsuspension administrative reviews. Law enforcement officers could seize the drivers license of a refuser and issue a form serving both as temporary license (good for, say, 7 days) and a suspension notice. Refusers would be suspended earlier, and there would be fewer hearing requests because the suspension would remain in effect pending the outcome of the hearing, which would discourage dilatory hearing requests. This approach had been successfully used in Minnesota for several years for both those who refused tests and those who failed them (by having blood alcohol concentrations of .10 or higher). Motivated to a large extent by the early suspension criterion for qualifying for the Federal Alcohol Incentive Grant Program, many states had adopted laws similar to Minnesota's.

IMPLEMENTATION STATUS OF FINDINGS AND RECOMMENDATIONS:

The administrative per se statute, enacted 7/1/90 (SB 23 Lockyer), contained some of the recommendations of this report. Legislation eliminating the distinction between informal and formal hearings was introduced in the 1990 legislative session (AB 3311, Woodruff) and was enacted into law. The recommendation that the DMV not routinely subpoena officers for IC hearings was implemented in March, 1990. Early results indicated that the set-aside rate had not increased as a result of this change, and that substantial cost savings to the DMV and law enforcement agencies should result.

SUPPLEMENTARY INFORMATION:

See Peck, Report # 112.