

A DESCRIPTIVE SUMMARY OF DRUNK DRIVING
AND UNLAWFUL CONSUMPTION ISSUES IN
FULTON COUNTY, ILLINOIS

by

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and funded by the Fulton County Chapter of
Mothers Against Drunk Driving (MADD)

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SUMMARY OF DATA

DUI AND UNLAWFUL CONSUMPTION TRENDS IN FULTON COUNTY: 1998 TO 2002

The data in this report was collected from three sources. The primary source of data was the DUI case files, which constituted the majority of data collected. Data was also collected from direct observation of court proceedings (Court Monitoring). Finally, data was gathered from a series of selective interviews.

The following are the more significant findings

- The average number of DUIs per year is 184
- The majority of defendants charged with DUI hire private attorneys (47.1%)
- The public defender is appointed in 30.3% of DUI cases
- The vast majority of DUI cases are plead out (84.5%)
- About 10% of cases were dismissed.
- The majority of offenders do not go to jail (71.9%)
- Treatment is a part of 81.1% of sentence orders
- Community Service (or other court order) is ordered in less than 7.5% of cases
- The age of the typical DUI offender is 32.5 years
- 19.2% of DUI arrests were women, slightly higher than the state average
- About 29% of offenders do not live in Fulton County
- The Fulton County Sheriff's Office made 39.1% of the DUI arrests
- 27.85% of drivers refused to submit to chemical testing
- The majority of offenders (51.6%) had a BAC of .161-.32
- 21.7% of arrests were involved in an accident (193)
- 91 cases had personal injuries
- About 80% of DUI convictions each year are a first offense
- The typical DUI case takes 140 days from arrest to sentence
- The likelihood of getting a dismissal increases with the presence of an attorney, and increases further if the attorney is private.
- The likelihood of an accident doubles as BAC increases from .001-.08 to .081-.16 and quintuples from .001 - .08 to .32 and higher.
- Treatments as part of the sentence drop by about 30% for third or subsequent DUI offenders.
- There does not seem to be a significant relationship between the number of DUI offenses (repeat offenders) and the amount of the fine
- 41.86% of DUI offenders convicted of a third or subsequent offense are not sentenced to jail
- Females account for about 30% of all unlawful consumption convictions, a 7.7% increase from 1999
- There are about 273 unlawful consumption convictions per year
- Each year about 80% of unlawful consumptions are first offenders

Fulton County DUI Trend Data - (1998-2002)

		YEAR				
Variable		1998	1999	2000	2001	2002
AGE	15-20	30 (18.3%)	21 (11.9%)	28 (14.2%)	27 (12.3%)	18 (11.7%)
	21-30	58 (35.4%)	57 (32.2%)	60 (30.5%)	67 (30.6%)	46 (29.9%)
	31-40	45 (27.4%)	53 (29.9%)	52 (26.4%)	45 (20.5%)	48 (31.2%)
	41-50	19 (11.6%)	32 (18.1%)	41 (20.8%)	62 (28.3%)	33 (21.4%)
	51-60	6 (3.7%)	13 (7.3%)	13 (6.6%)	12 (5.5%)	6 (3.9%)
	60 +	6 (3.7%)	1 (0.6%)	3 (1.5%)	6 (2.7%)	3 (1.9%)

SEX	MALE	140 (85.4%)	149 (84.2%)	154 (78.2%)	175 (79.9%)	118 (76.6%)
	FEMALE	24 (14.6%)	28 (15.8%)	43 (21.8%)	44 (20.1%)	36 (23.4%)

DISPOSITION						
	CONVICTION	144 (87.8%)	151 (85.8%)	168 (84.8%)	191 (86.8%)	128 (81.0%)
	DISMISSED (for any reason)	18 (11.0%)	22 (12.5%)	25 (12.6%)	22 (10.0%)	20 (12.7%)
	FELONY	2 (1.2%)	3 (1.7%)	5 (2.5%)	7 (3.2%)	10 (6.3%)

	AGGRAVATED DUI	6 (3.7%)	6 (3.4%)	7 (3.5%)	7 (3.2%)	21 (13.3%)

OFFENSE						
	FIRST	120 (80.5%)	116 (71.6%)	135 (74.6%)	175 (84.5%)	115 (80.4%)
	REPEAT	29 (19.5%)	46 (28.4%)	46 (25.4%)	32 (15.5%)	28 (19.6%)

ACCIDENT

	NO	121 (78.6%)	124 (75.6%)	154 (82.8%)	176 (81.9%)	121 (81.8%)
	Accident w/o inj.	14 (9.1%)	16 (9.8%)	13 (7.0%)	23 (10.7%)	13 (8.8%)
	Accident w/ injury	19 (12.3%)	24 (14.6%)	19 (10.2%)	16 (7.4%)	14 (9.5%)

BAC	.001-.08	9 (8.9%)	4 (4.3%)	4 (3.4%)	1 (0.7%)	2 (2.3%)
	.081-.16	44 (43.6%)	34 (36.6%)	58 (50.0%)	61 (45.5%)	36 (41.4%)
	.0161-.32	47 (46.5%)	54 (58.1%)	53 (45.7%)	72 (53.7%)	48 (55.2%)
	.321 +	1 (1.0%)	1 (1.1%)	1 (0.9%)	0 (0.0%)	1 (1.1%)

FINES	\$1-\$849	109 (76.2%)	46 (30.9%)	11 (6.6%)	7 (3.7%)	3 (2.3%)
	\$850-\$999	33 (23.1%)	94 (63.1%)	127 (76.0%)	121 (63.4%)	4 (3.1%)
	\$1000 +	1 (0.7%)	9 (6.0%)	29 (17.4%)	63 (33.0%)	122 (94.6%)

JAIL	NONE	121 (73.3%)	121 (68.8%)	143 (72.2%)	160 (72.7%)	115 (72.8%)
	1 WEEK	31 (18.8%)	38 (21.5%)	32 (16.2%)	19 (8.6%)	10 (6.3%)
	1 MONTH	5 (3.0%)	7 (4.0%)	14 (7.1%)	33 (15.0%)	25 (15.8%)
	MORE	8 (5.1%)	11 (6.2%)	9 (4.5%)	8 (3.6%)	8 (5.1%)

Fulton County Unlawful Consumption Trend Data - (1998-2002)

Variable	Year				
	1998	1999	2000	2001	2002
Unlawful Consumptions	242	266	345	286	228
% of Year of 1998-2002	17.7%	19.5%	25.2%	21.0%	16.7%

Total Misdemeanors	1026	901	1059	1005	1004
% that are unlaw.cons.	23.6%	29.5%	32.6%	28.5%	22.7%

% Male	N/A	169 (63.5%)	258 (74.8%)	197 (68.9%)	149 (65.4%)
% Female	N/A	60 (22.6%)	78 (22.3%)	105 (27.3%)	69 (30.3%)
Unknown	N/A	37 (13.9%)	10 (2.9%)	11 (3.8%)	10 (4.3%)

One Offense	143 (80.3%)	165 (80.1%)	223 (81.7%)	169 (79.0%)	151 (82.1%)
Two	19 (10.7%)	28 (13.6%)	36 (13.2%)	33 (15.4%)	24 (13.0%)
Three	11 (6.2%)	9 (4.4%)	10 (3.7%)	3 (1.4%)	8 (4.4%)
Four	2 (1.1%)	3 (1.5%)	1 (0.4%)	7 (3.3%)	1 (0.5%)
Five	2 (1.1%)	1 (0.5%)	3 (1.1%)	2 (0.9%)	0 (0.0%)
Seven	1 (0.6%)	Nil	Nil	Nil	Nil

CHAPTER ONE

INTRODUCTION:

Driving under the influence of alcohol or other drugs is a serious societal issue on every level; city, county, state, national, and international. The damage caused by drunk driving accidents in terms of property damage, personal injuries and fatalities makes this a crime that is difficult to ignore, no matter how much one tries. In the past two decades, tragedies and increased awareness have lead to a public outcry calling for increased legislation, punishments, and prosecutions in dealing with drunk driving.

The unlawful consumption of alcohol by a minor is also a serious problem facing today's youth. Studies have shown that alcohol consumption as a youth can quadruple ones chances of developing alcohol dependence (MADD).

In Fulton County, these issues are just as prevalent as anywhere else is. A rural county with a population of roughly 36,000, it is no stranger to the dangers posed by intoxicated drivers on its roads. There are about 200 arrests for drunk driving every year in Fulton County. That is about one arrest every other day (every 44 hours). Unlawful Consumption arrest rates average at about 275 per year and comprise about one-fourth (27.34%) of all misdemeanor cases brought to court.

Asides from the importance of drunk driving and unlawful consumption in terms of their potential for property damage and personal injuries/fatalities, these cases are also a burden on the criminal justice system at each aspect; police, courts, and corrections. Therefore it is crucial that we have an understanding of nature and extent of these crimes.

In order for law enforcement, the courts, mental health, social services, and the concerned citizen to combat drunk driving and unlawful consumption, research to determine facts concerning these issues is needed. For example, how many unlawful consumption offenders are repeating? What is the typical sentence imposed for a first-time DUI offender? How does the level of blood alcohol content (BAC) relate to the incident of a vehicle collision? Addressing questions like these will lead to a better understanding of drunk driving and unlawful consumption, which will hopefully lead to new and innovative ways to combat these problems.

CHAPTER TWO

REVIEW OF LITERATURE:

There is a plethora of literature and research on drunk driving and other alcohol related issues. However, the scope of this project limits the relevancy of some of this information. For the purposes and goals of this study, attention will be paid to existing literature in terms of relevant past and current legislation (primarily Illinois state), MADD publications/research, and some other scholarly research specifically focused on Fulton County.

Legislation

The first DUI law was passed in Illinois in 1958, setting a .15 BAC limit. Since then, there have been over fifty DUI related laws passed. Including the 1997 law that set the legal blood alcohol content at .08 (Secretary of State, 2003). As of July 29th, 2003, there were nine DUI related bills pending at some level of the state legislature, either already signed or waiting for the governor's signature (Heroux, 2003).

DUI legislation has increased in the past decade. In 1994, the DUI statute was a little over one and a half page. In 1998, the statute covered slightly over two pages. Five years later, in 2003, the statute easily covers three pages. In less than a decade, the statute more than doubled. This increase causes for a growing amount of complexity and specificity within the statutes, which can be daunting for prosecutors (Fulton Co. States Attorney Office).

Secretary of State

According to the Illinois Secretary of State data on DUI arrest rates in Fulton Co., there were 175 arrests in 1999, 195 in 2000, and 213 in 2001. The average DUI offender is male, 34 years old, arrested between 11 p.m. and 4 a.m. on a weekend, and has a BAC level of .16. (Secretary of State, 2003)

Currently, a first time offender convicted of driving under the influence could lose his/her license for one year, face imprisonment up to 12 months, perform 100 hours community service, and pay a fine up to \$2,500. In addition, there are many other consequences resulting from a DUI conviction. The conviction is a permanent part of an offender's driving record. The offender may be required to complete some form of alcohol or drug treatment, the offender's vehicle may be seized, or the offender may be required to install a Breath Alcohol Ignition Interlock Device (BAIID) in their vehicle. The offender will also probably have to purchase high-risk auto insurance for 36 months (Secretary of State, 2003.)

Repeat offenders face higher fines, more jail time, and possibly a permanent loss of driving privileges. The Secretary of State calculates an average cost of \$11,220 for a DUI conviction in Illinois. This includes insurance, legal fees, court costs, fines, income loss, rehabilitation, and other fees associated with a conviction (Secretary of State, 2003).

Further, the Secretary of State reports that in Illinois in 2001, 614 people were killed in alcohol-related crashes (44 percent of all crash fatalities). There were 49,676 DUI arrests, with 82 percent being first offenders. Males aged 21-24 had the highest arrest rate and sixteen percent of those arrested were women (Secretary of State, 2003).

Fulton County MADD Chapter

According to a survey of over 900 parents of school-aged children indicated the alcohol and drugs are a major issue. Over 90% reported the need for alcohol and drug education in schools. A survey of 100 high school students from all school districts (youth leaders in SWAT program) indicates alcohol and drugs as the number one issue. A Community Needs Assessment placed drugs and alcohol as the 4th leading health priority (Fulton Co. MADD, 2003).

The Illinois Department of Transportation reports that from 1994-2001, thirty-seven percent of all traffic fatalities in Fulton Co. are alcohol related (22 out of 59).

The Illinois State Police, District 14, report that from 1997-2002, Fulton County had the highest percentage of crash fatalities (37.7%) when compared to similar surrounding counties; Warren (21.5%), McDonough (17.7%), Hancock (13.8%), and Henderson (9.2%).

Other Scholarly Research

Worth noting is a thesis done in 1984 by Donald F. Edwards for Western Illinois University. In his thesis Edwards examined drivers in Knox and Fulton Counties and put together a profile of the typical driver arrested for DUI. He also studied the effectiveness of the Drinking Driver Education Program.

In his study, Edwards found the typical DUI offender to be a male between 21 and 30 years old, employed in a menial job and had at least some a high school education. Edwards also found the education program to be less than totally successful at eliminating recidivism, however it did have some success in reducing decreasing recidivism rates in the short term (Edwards, 1984).

This selection of reports, statistics, and studies was provided to give the reader an overview of the history and current situation of alcohol, DUI and unlawful consumption issues in Fulton County.

CHAPTER THREE:
RESEARCH METHODOLOGY

The purpose of this research project is to gain an understanding of the nature and extent of drunk driving and unlawful consumption issues in Fulton County, Illinois. This was accomplished through data collection from a primary source, observations from courtroom proceedings, and interviews with people employed at the various aspects of criminal justice in Fulton County.

The DUI Case File

In order to collect information on DUI cases, a systematic examination of each DUI case from 1998-2002 was conducted. The Fulton County Circuit Clerk's Office maintains these files and the author was granted full access to them. Fortunately DUI files are kept separately from the thousands of other misdemeanor and felony cases stored in the Clerk's Office.

For several weeks, each file was examined and certain variables were collected. For the purposes of this research, the author selected the following variables. For each case, the docket number, the presiding Judge, the prosecuting attorney, and the defense lawyer (if one was present). Also recorded were the disposition of the court (guilty, not guilty, amended charges, *nolle prosequere*, etc.) and what type of trial the defendant received (jury or bench).

In the event the defendant was found guilty and a sentence was handed down, this information was also gathered. This could include any fines, jail time, probation, conditional discharge, court supervision, treatment, community service, or other court order.

Demographic information was also collected. These variables included; age, sex, and township residency. Other variables that were collected were; the police department which issued the ticket, the blood alcohol content of the offender, if an accident occurred, what type of accident if any (property damage, personal injury, etc.), whether the offender was a first offender, the length of the summary suspension, the date the ticket was issued, the date the court handed down a sentence, and the time it took in between.

These variables collected over a period of five years, 1998-2002 should provide an accurate account of who is offending, the typical sentences being received, and identify correlations between any of these variables.

Regarding unlawful consumption, data collection was not so easy. Unlawful consumption case files are stored with all the other misdemeanor cases in the Circuit Clerk's office. The author was not able to go through each unlawful consumption case. Instead, the author did have access to the court records from which the number of unlawful consumptions per year, 1998-2002, could be counted and totaled. In these records the names of the defendant charged with unlawful consumption is available, from the names a determination of sex can usually be established. In the event a name is unisex then it was omitted from the calculations. The process was time consuming but was the best method for collecting this data on unlawful consumption cases.

Court Monitoring

MADD's court monitoring process involves someone physically sitting in court proceedings in DUI and unlawful consumption cases. The purpose of this is two-fold. One purpose is that it is a way to collect data about court dispositions. The second purpose is to send a

message to judges, prosecutors, and defense attorneys that MADD is watching them. The Court Monitoring process allows for legal loopholes and technicalities in the system to be identified and eliminated.

Obviously, the data available to collect during a court proceeding is much more limited than the data available from directly viewing the case file. However, court monitoring does allow for the disposition and sentence to be recorded. More importantly, court monitoring provides the author with a first hand view of how the legal system operated when handling these cases. These observations are dealt with in the next chapter.

Interview

To collect information about the legal and social issues surrounding drunk driving and unlawful consumption and potential solutions, the author interviewed an individual from each aspect of the criminal justice system that deals with these offenders. For the sake of anonymity the names of those interviewed will not be released. The questions for the interview were developed by the author and approved by MADD.

The questionnaire used in the interview was divided into two sections, the first section dealing with drunk driving and the other dealing with unlawful consumption. The majority of questions are open-ended, providing the interviewee with the time and freedom to fully explain their answers. Two questions were designed to collect ordinal data regarding the number of cases and their increase/decrease on 5-point scale of low to extreme.

The author personally interviewed a representative from each of the following organizations; States Attorney Office, a Judge, MADD, Fulton County Sheriff's Office, and mental health. The questions are designed to provide the perspective of each of these organizations regarding drunk driving and unlawful consumption. Emphasis was placed on the current number of cases and its increase/decrease, current sentencing options, and possible solutions.

The data is presented using raw numbers and frequency distributions. Both demographic and non-demographic variables will be cross-tabulated. From the cross-tabulations the author should be able to accurately gauge the nature and extent of drunk driving and unlawful consumption issues in Fulton County.

CHAPTER FOUR:
DATA PRESENTATION

The following data is presented in frequency tables and in some cases as raw numbers, means, and standard deviations. The total number of cases and the number of missing data is included at the bottom of each table. A brief narrative, describing the table, precedes each table. Totals may not equal 100% due to differences attributed to rounding.

FREQUENCY DISTRIBUTIONS OF DUI CASES - FULTON CO. 1998-2002

YEAR OF DUI CASE

There was a steady increase in the number of DUI cases each year from 1998 to 2001. There was a steep decline in the number of DUI cases in the 2002. The average number of DUI cases from 1998-2002 in Fulton County was 183.6 per year.

Table 1

Year of Case Disposition		
<u>Year</u>	<u>TOTAL</u>	<u>%</u>
1998	165	18.0
1999	177	19.3
2000	198	21.6
2001	220	24.0
2002	158	17.2
<u>TOTAL</u>	<u>918</u>	<u>100.0</u>

JUDGE AT THE DISPOSITION OF THE DUI CASE

Table 2 identifies the 11 different judges that heard DUI cases from 1998-2002. Listed are the number of total cases and the percentage of cases from 1998-2002. Judge Bordner presided over the highest number, 384 cases, or 42.1% of total cases.

Table 2

Judge Hearing DUI Case

Judge	TOTAL	%
SRB	384	42.1
DRH	66	7.2
CET	209	22.9
LWH	15	1.6
WDH	60	6.6
PAW	58	6.4
GK	5	0.5
CHW	99	10.9
RHG	10	1.1
SGE	2	0.2
JRC	4	0.4
<u>TOTAL</u>	<u>912</u>	<u>100.0</u>
Missing	6	

PROSECUTOR OF DUI CASE

Table 3 displays the six attorneys that prosecuted DUI cases from 1998-2002. Mr. Money had the highest with 431, or 47.8% of the cases. Of the attorneys currently still practicing as Fulton County prosecutors and excluding the States Attorney, the average number of DUI cases tried from 1998-2002 is 52.7 per year.

Table 3

Prosecutor of Case

Prosecutor	TOTAL	%
MMY	431	47.8
LFL	217	24.1
CNL	143	15.9
DNR	50	5.5
VPL	15	1.7
SHT	46	5.1
<u>TOTAL</u>	<u>902</u>	<u>100.0</u>
Missing	16	

DEFENSE ATTORNEY ASSIGNED OR RETAINED

In Table 4, in almost half (47.1%) of the cases from 1998-2002 the defendant hired private counsel. Slightly under one-third (30.3%) of the defendants were represented by the public defender. About one-fifth (22.6%) of defendants chose to represent themselves.*

Table 4

Defense Attorney Assigned of Retained

<u>Defense</u>	<u>Total</u>	<u>%</u>
Public Defender	276	30.3
No Attorney*	206	22.6
<u>Private Counsel</u>	<u>428</u>	<u>47.1</u>
<u>TOTAL</u>	<u>910</u>	<u>100.0</u>
Missing	8	

*It should be noted that included within the category of "No attorney" are both cases in which a sentence order specifically denotes a "pro se" as well as sentence orders that do not have a defense attorney listed. It is possible that the absence of a defense attorney's name from the sentence order is due to a clerical error, however the author believes this error to not be significant enough to corrupt the data.

TYPE OF DISPOSTION

The different types of dispositions were categorized as; plea, not guilty by jury, not guilty by judge, guilty by jury, guilty by judge, and dismissed. The majority of cases were disposed with a plea bargain (84.5%). This corresponds to a study by James B. Jacobs which found that about 90% of all arrested drunk drivers are convicted through guilty pleas (Walker, 2001).

The categories of not guilty by judge and not guilty by jury each accounted for 0.5% of cases (5 each). Defendants were found guilty by a jury in 3 cases (.30%) and guilty by a judge in 5 cases (.50%). One hundred and twenty four cases were dismissed between 1998-2002 (13.5%).

Cases dismissed for any reason (dropped, amended to felony, etc.) are included in the category and described in more detail in the following section.

Table 5

Type of Disposition

<u>Type</u>	<u>TOTAL</u>	<u>%</u>
PLEA	774	84.5
NTGLTY-JR	5	0.5
NTGLTY-JG	5	0.5
GUILTY-JR	3	0.3
GUILTY-JG	5	0.5
<u>DISMISSED</u>	<u>124</u>	<u>13.5</u>
<u>TOTAL</u>	<u>916</u>	<u>100.0</u>
Missing	2	

REASON FOR CASE DISMISSAL

Cases can be dismissed for a variety of reasons; lack of evidence, the charges could be amended or reduced, a dismissal also is recorded if the case is tried as a felony. Dismissals are categorized into the following for this study; Felony DUI, other felony, reduced to traffic charge, reduced to another misdemeanor, or case closed. Of the 125 cases dismissed, 27 were dismissed to be tried as felony DUI cases (21.6%). Other felonies accounted for 11.2% of dismissals (14 cases). The charges were reduced to another traffic offense in 24% of dismissals (30 cases) and reduced to some other misdemeanor in 20.8% of dismissals (26 cases). The charges were dropped in 28 cases, which accounted for 22.4% of the total cases dismissed.

Table 6

Reason for Case Dismissal

<u>Type</u>	<u>TOTAL</u>	<u>%</u>
FELONYDUI	27	21.6
OT.FELONY	14	11.2
TRAFFIC	30	24.0
MISD.OFNS	26	20.8
<u>CLOSED</u>	<u>28</u>	<u>22.4</u>
<u>TOTAL</u>	<u>125</u>	<u>100.0</u>
Missing	793 (not dismissed)	

SENTENCING

A fine was imposed as part of the sentence in 779 of the cases (84.86%). A defendant was not fined or the data was not available in 139 of the cases (15.14%). The average fine imposed was slightly over \$900.

Table 7

Fines

<u>Amount</u>	<u>Total</u>	<u>%</u>
\$1-849	176	22.59
\$850-999	379	48.65
\$1000 +	224	28.75
<u>Total</u>	<u>779</u>	<u>100.0</u>
Missing	139 (not fined or missing)	

Defendants can also be sentenced to jail time for a DUI conviction. There was not a jail sentence in 71.9% of cases (660). Of those 258 defendants that were sentenced to serve jail time, half were sentenced to serve a week or less. Most served about 2 -14 days. The range was from 1 day to 18 months. The frequency distribution follows.

Table 8
Jail Time

<u>Length</u>	<u>Freq.</u>	<u>%</u>
1 week or less	130	50.4
1 month or less	84	32.6
More than 1 month	44	17.1
<u>Total</u>	<u>258</u>	<u>100.0</u>
Missing	660 (no jail)	

Defendants can be sentenced to court supervision, conditional discharge, or probation. Typically, court supervision is for first time offenders, and conditional discharge and probation are reserved for repeat offenders and defendants with substantial criminal histories or alcohol problems (source: Interview, Fulton County States Attorney's Office). Of the 918 cases, 847 were sentenced with one of these three options, the totals follow.

About 70 defendants (8.26% of cases) were sentenced to probation for 2 years. Three hundred and thirteen defendants were sentenced to conditional discharge (37% of cases). Court supervision was the sentence in 464 cases (54.78%).

Of those defendants sentenced to conditional discharge, all but four received 2 years (98.72%). Two defendants got one year (.64%). There was one incident each of a 34 and 36 month sentence each(.32% each).

Concerning court supervision, the sentence length was 2 years in 454 of the 464 cases (97.85%). Eight defendants were sentenced to 1 year (1.72%). There was one sentence of 18 months and one of 21 months (.22% each).

TREATMENT

According to those interviewed, treatment is an important aspect of the DUI sentence. Participation in some type of drug or alcohol evaluation or treatment was a sentence requirement in 81.1% of cases (727). There was no treatment requirement in 18.9% of cases (169).

Table 9

Treatment program as part of sentence

<u>Treatment</u>	<u>TOTAL</u>	<u>%</u>
NO	169	18.9
YES	727	81.1
<u>TOTAL</u>	<u>896</u>	<u>100.0</u>

Missing 22

MADD VICTIM IMPACT PANELS

Another sentence option is requiring offenders to participate in a MADD Victim Impact panel, where they can be confronted in an educational way by those who have lost loved ones or been injured by drunk drivers. The panel is designed to help both victims and offenders deal with the loss, pain and damage drunk driving can cause. A large percentage (78.1%) of offenders are ordered to participate in these panels.

Table 10

Participation in MADD Victim Impact Panel as part of sentence

<u>Panel</u>	<u>TOTAL</u>	<u>%</u>
NO	196	21.9
YES	699	78.1
<u>TOTAL</u>	<u>895</u>	<u>100.0</u>

Missing 23

OTHER COURT ORDERS

There are some other orders that defendants can receive. These typically come as part of the condition of a plea bargain. Most of the court orders require the defendant to perform a certain number of hours of community service. Other court orders can be that the defendant must agree to random urinalysis or Breathalyzer tests; in which positive test results may negate the plea agreement. Defendants might also be ordered to refrain from driving at certain times or days, such as on weekends. Other court orders were only used in 67 cases (7.5%).

Table 11

Other court order

<u>Order</u>	<u>TOTAL</u>	<u>%</u>
NO	829	92.5
YES	67	7.5
<u>TOTAL</u>	<u>896</u>	<u>100.0</u>
Missing	22	

AGE OF OFFENDER

The range of defendants' ages at the time of the DUI arrest was from a low of 15 to a high 82. The average age was 32.53 years (the mean). The most commonly occurring age was 21 (the mode). The age in the 50th percentile, or the point where 50% of cases are above and 50% of cases are below, was 32.42 (the median). Table 12 provides a collapsed distribution of the ages of defendants.

Table 12

Age of offender

<u>Age</u>	<u>Freq.</u>	<u>%</u>	<u>Cum.%</u>
15-20	124	13.6	13.6
21-30	288	31.6	45.2
31-40	243	26.7	71.9
41-50	187	20.5	92.4
51-60	50	5.5	97.9
> 60	19	2.1	100.0

The average deviation is 9.71 years. The standard deviation is 11.67 years. This means that typically a defendant's age will be within 9.71 years of the mean (32.53), while 68% of offenders will fall between 21.86 and 45.20 years (11.67 years around the mean, 32.53).

SEX OF OFFENDER

Seven hundred and thirty six of the tickets issued for DUI were issued to men (80.8%). Only 19.2% (175) of those arrested were female. This data was only missing in seven cases.

Table 13

Sex of Offender

<u>Sex</u>	<u>TOTAL</u>	<u>%</u>
MALE	736	80.8
FEMALE	175	19.2
<u>TOTAL</u>	<u>911</u>	<u>100.0</u>
Missing	7	

RESIDENCY OF OFFENDER

Offenders came from over 100 cities, 31 counties, and several states. The majority resided somewhere in Fulton County (639) and 320 were from Canton. Table 14 displays the residential information in terms of county and state. For all cities, see Appendix E.

Table 14

Residence of offender

<u>Residence</u>	<u>Freq.</u>	<u>%</u>
Fulton County	639	70.67
Other IL. County	250	27.62
<u>Outside of IL.</u>	<u>16</u>	<u>1.77</u>
<u>Total</u>	<u>905</u>	
Missing	13	

DEPARTMENT THAT ISSUED TICKET/MADE ARREST

The Fulton County Sheriff's Office issued the most tickets between 1998-2002, with 355, accounting for 39.1% of all tickets issued. The City of Canton Police Department issued 249 tickets, or 27.5%. Illinois State Police issued 150 tickets in Fulton County, or 16.5% and The City of Lewistown Police Department issued 62 tickets, comprising 6.8% of the total number. In addition, many of the smaller communities had one or more DUI arrests from 1998-2002; they are listed on Table 15.

Table 15

Department that issued ticket/made arrest

<u>Department</u>	<u>TOTAL</u>	<u>%</u>
LEWISTOWN	62	6.8
F.C.S.O.	355	39.1
CANTON	249	27.5
FARMINGTON	35	3.9
I.S.P.	150	16.5
AVON	14	1.5
FAIRVIEW	11	1.2
CUBA	7	0.8
ASTORIA	17	1.9
LONDONMILS	1	0.1
NAT. RES.	4	0.4
VERMONT	1	0.1
<u>TOTAL</u>	<u>907</u>	<u>100.0</u>
Missing	11	

BLOOD ALCOHOL CONTENT

When stopped and suspected of driving under the influence, drivers may submit to a Breathalyzer or refuse. All licensed drivers have by law agreed that if they refuse a Breathalyzer test they will be subject to administrative penalties (increased license revocation time). Table 16 displays the frequencies and percentages of Breathalyzer test refusals.

Table 16

Refuse to submit to a Breathalyzer test?

<u>Breathalyzer?</u>	<u>Freq.</u>	<u>%</u>
Refused	205	27.85
Submitted	531	72.15
<u>Total</u>	<u>736</u>	<u>100.00</u>
Missing	182	

When a defendant consented to a Breathalyzer or some other means of determining blood alcohol content (BAC) this percentage was recorded. The categorical totals are presented as a frequency distribution in table 15. Just over half (51.6%) of consenting offenders blew a .161 to a .32 BAC.

Table 17

BAC of offender

<u>BAC</u>	<u>Freq.</u>	<u>%</u>
.001-.08	20	3.77
.081-.16	233	43.88
.161-.32	274	51.60
<u>> .321</u>	<u>4</u>	<u>0.75</u>
Total	531	100.00

MOTOR VEHICLE ACCIDENTS

In 193 cases, there was a vehicle collision of some kind. This accounted for 21.7% of all cases. In 29 cases, there was no information available to determine if an accident had occurred or not.

Table 18

Motor vehicle accidents

<u>Accident</u>	<u>TOTAL</u>	<u>%</u>
NO	696	78.3
YES	193	21.7
<u>TOTAL</u>	<u>889</u>	<u>100.0</u>
Missing*	29	

*It is the opinion of this author that these 29 cases probably did not involve vehicle collisions. A case involving a vehicle collision tends to generate more paper work than the typical DUI case. The absence of this extra paperwork probably means a vehicle collision did not occur, however it is not proof positive that an accident did not occur.

Motor vehicle accidents have been categorized into eight separate types. This information is presented in the following table. The percentages reflect the proportion of the accident type compared to the total number of accidents of known type (171). The true numbers may be slightly off because of the 22 cases in which the accident type is not known.

Just over half (54.97%) of accidents have property damage as at least one type (all categories with property damage listed). There was injury to the driver or to another person in 91 cases (53.22%). Most accidents were property damage only, 79, (46.19%). The total percentage on the table may be off due to rounding.

Table 19

Type of accident (21.7% of total cases)

<u>Type</u>	<u>TOTAL</u>	<u>%</u>
Driver Injury & Property Damage	4	2.07
Property Damage ONLY	79	40.93
Personal Injury ONLY**	40	20.76
Driver Injury ONLY	35	18.13
Driver Injury & Personal Injury	1	0.52
Driver & Personal Injury & Property Damage	1	0.52
Personal Injury & Property Damage	10	5.18
Fatality	1	0.52
<u>Type of Accident Not Available</u>	<u>22</u>	<u>11.40</u>
<u>TOTAL (including accidents of unknown type)</u>	<u>193</u>	<u>100.00</u>
Missing	29	

** There appears to be some discrepancy between the various police department's and the categorizations of vehicle collisions on their tickets. Some departments individually list "Driver Injury" and "Personal Injury." Others report "Driver Injury" as a "Personal Injury". Therefore, some of the 40 accidents categorized as "Personal Injury Only" may in fact be "Driver Injury Only." The author recorded the accident type directly as it was reported on the ticket. In the event that the Circuit Clerk also submitted paperwork on the accident, the accident type was recorded from this, as it separated "Driver Injury" from "Personal Injury."

FIRST OFFENSE OF DUI

The Secretary of State issues statutory summary suspensions to those individuals charged with driving under the influence. This is a purely administrative procedure separate from the state's criminal prosecution. Upon a person's first DUI charge, there is a three-month suspension. This suspension period is doubled to six months if the defendant refused to submit to a Breathalyzer or any other testing. The length of suspension increases as the number of offenses gets higher.

Table 20

Defendant's first DUI charge

<u>1st Offense</u>	<u>TOTAL</u>	<u>%</u>
NO	181	21.5
YES	661	78.5
<u>TOTAL</u>	<u>842</u>	<u>100.0</u>
Missing	76	

Table 21

Length of Statutory Summary Suspension in months

<u>Months</u>	<u>TOTAL</u>	<u>%</u>	<u>Cum. %</u>
0	2	0.2	0.2
3	461	54.7	54.9
6	203	24.1	79.0
12	92	10.9	89.9
24	14	1.7	91.6
36	71	8.4	100.0
<u>TOTAL</u>	<u>843</u>	<u>100.0</u>	
Missing	75		

MONTH OF ARREST

The month in which the arrest took place was recorded. Below lie the frequencies of each arrest per month. The highest number occurred in June, with 99 (10.%). The lowest number occurred in February, with 61 (6.7%).

Table 22

Month of Arrest

<u>Month</u>	<u>TOTAL</u>	<u>%</u>
January	63	6.9
February	61	6.7
March	83	9.1
April	82	8.9
May	87	9.5
June	99	10.8
July	81	8.8
August	83	9.1
September	68	7.4
October	73	8.0
November	63	6.9
December	74	8.1
<u>TOTAL</u>	<u>917</u>	<u>100.0</u>
Missing	1	

DAY OF ARREST

The day on which the defendant was arrested was recorded. However, the time of the arrest was not, due to time constraints. Therefore, the data may be skewed since the literature has shown that most defendants are pulled over by police in the early morning hours (midnight to 4 a.m.). Therefore, if a defendant was pulled over at 2 a.m. on a Saturday night, that arrest would be recorded as a Sunday. The reader should keep this in mind when interpreting the data presented on the following table.

Table 23

Day of Arrest

<u>Day</u>	<u>Freq.</u>	<u>%</u>
Monday	97	7.78
Tuesday	83	9.09
Wednesday	83	9.09
Thursday	96	10.51
Friday	152	16.65
Saturday	231	25.30
Sunday	197	21.58
<u>Total</u>	<u>913</u>	<u>100.00</u>
Missing	5	

DAYS FROM ARREST/TICKET TO SENTENCE

The average number of days it took for a case from the arrest for DUI to a conviction (plea bargains and trials) is 140.6 days, or about 4.62 months. The cases with few days are typically those that are dismissed for some reason. The lengthy cases tend to be those that are tried by a judge or jury.

DAYS FROM ISSUANCE OF TICKET UNTIL SENTENCED

Number of missing cases: 8

MEAN AND STANDARD DEVIATION OF LENGTH

	N	Mean	Std.Deviation
TOTAL	910	140.6	119.0

PENDING DUI CASES

DUI cases that still have fines being paid on them, or some other aspect of the case still active, are kept separate from the other DUI cases. Therefore, the percent of cases still pending (as of August 1, 2003) is able to be calculated. A little over half (53.80%) of the defendants that were convicted in 2002 were still paying their DUI costs. Of the 165 DUI convictions in 1998, 21 (12.73%) are still paying the various costs associated with a DUI conviction (i.e. fines, court costs, evaluation costs, attorney fees, .etc).

Table 24

Time to pay off DUI costs

<u>Year of DUI</u>	<u>Total</u>	<u>Pending</u>	<u>%</u>
1998	165	21	12.73
1999	177	25	14.12
2000	198	41	20.71
2001	220	70	31.82
2002	158	85	53.80

CROSS TABULATIONS

The whole population of DUI cases from 1998-2002 was examined for this study. Therefore, statistical significance tests, such as *Chi-square* are not relevant because they require a *sample* of a population. Therefore, an *Epsilon* test of significance is used. The *Epsilon* test looks directly at percentage differences between column and row variables. Differences of more than 10% are notable and differences of 20% or more are significant.

Cross-tabulations were run on many of the variables collected for this study. The most relevant ones for the goals of this study are presented below. The reader should be aware that it is important to look at both the frequencies and the percentages, only looking at one can be deceiving.

Defense and Disposition

Table 25 compares the type of dispositions across the kind of legal representation the defendant had. According to the data 96.1% of cases (198) that were tried *pro se* were plead out. Defendants represented by the Public Defender had 84.4% of cases (232) plead out. Private attorneys plead out 79.7% of cases (341). This decrease in plea rates corresponds inversely with an increase in dismissal rates. Defendants that represented themselves had 3.4% dismissed (7 cases). The public defender had 14.2% dismissed (39 cases). Private representation had 17.3% dismissed (74 cases).

TABLE 25

	PRO SE	PUBLIC	PRIVATE	MISS. DATA	TOTAL
PLEA	198 96.1%	232 84.4%	341 79.7%	3	771 84.8%
NTGLTY-JR	1 0.5%	0 0.0%	4 0.9%	0	5 0.6%
NTGLTY-JG	0 0.0%	2 0.7%	3 0.7%	0	5 0.6%
GUILTY-JR	0 0.0%	1 0.4%	2 0.5%	0	3 0.3%
GUILTY-JG	0 0.0%	1 0.4%	4 0.9%	0	5 0.6%
DISMISSED	7 3.4%	39 14.2%	74 17.3%	4	120 13.2%
MISS. DATA	0	1	0	1	2
TOTAL	206 100.0%	275 100.0%	428 100.0%	8 100.0%	909 100.0%

BAC and Accidents

Table 26 compares BAC with motor vehicle accidents. Drivers with a BAC of .001 to .08 had a 10% accident rate (2). Drivers with a BAC of .081 to .16 had a 21.6% accident rate (50). Drivers with a .161 to .32 BAC had a 25.3% accident rate (69). Drivers with a .32 BAC or higher had a collision rate of 50% (2).

TABLE 26

BAC Level

	.001-.08	.081-.16	.161-.32	.321 +	MISS. DATA	TOTAL
NO ACCIDENT	18 90.0%	182 78.4%	204 74.7%	2 50.0%	290	771 84.8%
YES ACCIDENT	2 10.0%	50 21.6%	69 25.3%	2 50.0%	70	123 23.3%
MISS. DATA	0	1	1	0	27	29
TOTAL	20 100.0%	232 100.0%	473 100.0%	4 100.0%	387 100.0%	529 100.0%

Treatment and DUI Repeat Offenders

Table 27 compares the presence of treatment as a condition of a sentence order across the defendant's number of DUIs. Treatment tends to decrease as the number of offenses increases. If it was a first offense, treatment was used in 87.4% of cases (484 cases). If the DUI was a second offense, treatment was required in 84.5% of cases (82 cases). If the DUI was the third offense or more, treatment was a part of the sentence in 50% of cases (3 cases).

TABLE 27

Number of Offense

	FIRST	SECOND	THIRD +	MISS. DATA	TOTAL
NO	70	15	20	64	105
TREATMENT	12.6%	15.5%	50.0%		15.2%
YES	484	82	20	141	586
TREATMENT	87.4%	84.5%	50.0%		84.8%
MISS. DATA	10	2	3	7	22
TOTAL	554	97	40	212	691
	100.0%	100.0%	100.0%	100.0%	100.0%

MADD VICTIM IMPACT PANELS AND DUI REPEAT OFFENDERS

On a related note, defendants convicted of DUI can also be required to participate in a MADD Victim Impact Panel as part of their sentence. The likelihood of being sentenced to participate in a panel appears to decrease as the number of offenses increases. 86.8% (480) of offenders received a MADD panel as part of their sentence when the DUI was a first offense. If it was a second offense, 77.2% (75) of offenders were sentenced to participate in a MADD panel. Upon a third offense, 42.15% (17) of defendants were sentenced to participate in MADD panel. This is a significant decrease.

TABLE 28

COLUMN VARIABLE: # OFFENSES
NUMBER OF DUI REPEAT OFFENSES

ROW VARIABLE: MADD PANEL
PARTICIPATION IN MADD PANEL AS PART OF SENTENCE

	Number of Offense				
	FIRST	SECOND	THIRD +	MISS. DATA	TOTAL
NO PANEL	73 13.2%	22 22.7%	23 57.5%	78	118 17.1%
YES PANEL	480 86.8%	75 77.3%	17 42.5%	127	572 82.9%
MISS. DATA	11	2	3	7	23
TOTAL	553 100.0%	97 100.0%	40 100.0%	212 100.0%	690 100.0%

FINES AND THE REPEAT OFFENDER

Overall, the majority of fines were between \$850 and \$999 (53.3%). There does not appear to be a significant relationship between the number of offenses and the amount of the fine. In fact, the data shows that as the number of offenses increases, the fine might actually decrease.

First offenders were fined between \$1-\$849 in 20.5% (106 cases) cases. A third (28 cases) of those convicted of their second offense received a fine between \$1-\$849. Of those convicted of their third offense or more, 42.3% (11 cases) were fined between \$1-\$849.

One hundred and twenty six of the first offenders (24.4%) received a fine of greater than \$1000. Of the second offenders, 23.8% (20) received a fine of greater than \$1000. Of those convicted of their third or subsequent offense, 7.7% (2) were fine more than \$1000.

TABLE 29

Number of Offense

	FIRST	SECOND	THIRD +	MISS. DATA	TOTAL
\$1-\$849	106 20.5%	28 33.3%	11 42.3%	31	145 23.1%
\$850-\$999	285 55.1%	36 42.9%	13 50.0%	45	334 53.3%
\$1000 +	126 24.4%	20 23.8%	2 7.7%	76	148 23.6%
MISS. DATA	47	15	17	60	139
TOTAL	517 100.0%	84 100.0%	26 100.0%	212 100.0%	627 100.0%

JAIL AND THE REPEAT OFFENDER

There appears to be a relationship between jail time and the number of repeat offenses of DUI, but it is not strong in all respects. When it comes to whether jail time is sentenced or not, the number of offenses appears to be significant. 82.8% (467) of first offender served no jail time, while only 25.25% (25) of second offenders had no jail time and 41.86% (18) of those convicted of their third or subsequent offense had no jail time. The length of sentence tends to increase slightly as the number of offenses increases.

TABLE 30

Number of Offense

	FIRST	SECOND	THIRD +	MISS. DATA	TOTAL
NO JAIL	467 82.8%	25 25.25%	18 41.86%	0	510 72.24%
1 WEEK	48 8.51%	45 45.45%	12 27.91%	25	105 14.87%
1 MONTH	36 6.38%	18 18.18%	6 13.95%	24	60 8.5%
MORE	13 2.30%	11 11.11%	7 16.28%	13	31 4.40%
MISS. DATA	47	15	17	60	139
TOTAL	517 100.0%	84 100.0%	26 100.0%	212 100.0%	627 100.0%

FREQUENCY DISTRIBUTIONS OF UNLAWFUL CONSUMPTION CASES

As mentioned earlier, there was not an opportunity to gather the same kind of data for unlawful consumption cases as there was for DUI cases. However, certain trend information was collected and other information was gathered from examining files after the cases were observed in court.

There was an average of 273.4 unlawful consumption cases per year from 1998-2002. Unlawful consumption cases represented about 20% of the total misdemeanor caseload each year from 1998-2002. Typically, the majority of defendants are males (68.15%). Each year about 20% of defendants charged with unlawful consumption are charged twice or more. The rates of unlawful consumptions have not significantly changed in the past 5 years.

Table 31

Unlawful Consumptions data by year (1998-2002)

Variable	Year				
	1998	1999	2000	2001	2002
Unlawful Consumptions	242	266	345	286	228
% of Year of 1998-2002	17.7%	19.5%	25.2%	21.0%	16.7%
-----	-----	-----	-----	-----	-----
Total Misdemeanors	1026	901	1059	1005	1004
% that are unlaw.cons.	23.6%	29.5%	32.6%	28.5%	22.7%
-----	-----	-----	-----	-----	-----
% Male	N/A	63.5%	74.8%	68.9%	65.4%
% Female	N/A	22.6%	22.3%	27.3%	30.3%
% Unknown	N/A	13.9%	2.9%	3.8%	4.3%
-----	-----	-----	-----	-----	-----
One Offense	80.3%	80.1%	81.7%	79.0%	82.1%
	(143)	(165)	(223)	(169)	(151)
Two	10.7%	13.6%	13.2%	15.4%	13.0%
	(19)	(28)	(36)	(33)	(24)
Three	6.2%	4.4%	3.7%	1.4%	4.4%

	(11)	(9)	(10)	(3)	(8)
Four	1.1%	1.5%	0.4%	3.3%	0.5%
	(2)	(3)	(1)	(7)	(1)
Five	1.1%	.5%	1.1%	0.9%	0.0%
	(2)	(1)	(3)	(2)	(0)
Seven	0.6%	Nil	Nil	Nil	Nil
	(1)				

Court Monitoring Observations and Data

Another aspect of this study was court monitoring. This process involved the author personally observing DUI and unlawful consumption court proceedings. The proceedings observed ranged from open and negotiated plea agreements, notices to appear, first appearance with an attorney, and traffic court. Unfortunately there was not an opportunity to observe a jury or bench trial of a case, nor was there an opportunity to observe a statutory summary suspension hearing.

Thirty-four DUI cases were observed during June 1 to August 31. This is approximately 19% of the average number of DUIs per year in Fulton County. The data collected is summarized below. This data should not be inferred to the population, it is only descriptive in nature.

- One case observed was dismissed (3%)
- Twenty cases were observed during the plea bargain hearing (59%)
- Thirteen cases were observed during some type of preliminary hearing (38%)
- Three cases involved accidents (8.8%); two of property damage and one with property damage and personal injury
- The fines ranged from \$234 to \$1550 with an average fine of \$1033.15
- Of the 20 offenders who plead guilty
 - 12 were sentenced to jail time (60%)
 - Jail sentences ranged from 14 to 90 days
 - The average sentence was 34.5 days
 - Six received court supervision (30%)
 - Five received conditional discharge (25%)
 - Five received probation (25%)
 - In four cases the sentence was unknown (20%)
- 14 of those that plead guilty were ordered to undergo some type of drug/alcohol treatment (70%)
- BAC results were available in 14 cases observed, Five refused (38%)
 - The average BAC was .16
 - The range was .09 to .215

- Only 2 (10%) defendants received community service orders, one for 30 hours and the other for 10 days.

Forty-four unlawful consumption cases were observed. This is about 16% of the annual number of cases. Typically, a defendant's first appearance in court is after receiving a Notice to Appear unless they were taken into custody at the time of the ticket for unlawful consumption.

The following list summarizes the findings from Court Monitoring for unlawful consumption cases. This data should not be inferred to the population, it is only descriptive in nature.

- 44 cases were observed
 - Seven were dismissed (16%)
 - Seven were set for a later date (16%)
 - 30 were plead out (68%)
- Of the cases where a sentence was imposed (30)
 - The most common fine, including court costs/attorney fees was \$115 (mode)
 - The range of fines was \$350 to \$0
 - 17 offenders were given 1 year of court supervision (56%)
 - Six offenders were given 1-2 years of conditional discharge (20%)
 - Three offenders were put on probation (10%)
 - Four cases the sentence type was not known (13%)
 - Nine offenders were sentenced to jail time (30%)
 - Jail time ranged from 8 hours to 180 days
 - The average was about 15 days (excludes the high and low extreme outliers of 180 days and 8 hours)
 - 21 offenders were ordered to perform 15 hours of community service (70%)
 - 21 offenders were ordered to participate in or undergo some type of alcohol/drug treatment (70%)
 - 15 cases were a first offense (50%)
- The typical sentence for a first offense of unlawful consumption is a \$115 fine, 15 hours of community service work, and one year of court supervision.

Most cases, as in the data analysis, were observed being plead out. As mentioned earlier, not one time during the observation period (June 1 to August 31 2003) was there a DUI trial; bench or jury. The prosecutor and defense attorney in the case typically arrange the terms of the plea agreement informally, outside of the courtroom. It is for this reason that the court monitor has little influence over the proceedings.

The judge has the power to review the terms of the plea and accept or reject them. No time was a judge observed to reject the terms of a plea. Rejection of a plea or one or any of its terms does occur, but it is rare.

Most defendants observed were represented by counsel (64.52%). This is somewhat lower than the number of defendants represented by counsel in the data analysis, which was 77.4%. This difference is probably because some of the observed court proceedings may have been before a defendant decided to retain an attorney or had one appointed.

Another discrepancy in this area is that of cases observed; nearly twice as many defendants were represented by the public defender than by private counsel. In the data analysis the opposite was true. This difference could be due to the fact that it is not uncommon for defendants to be appointed the public defender, and then later in the case hire private counsel. The attorney on record for the data analysis was the attorney associated with the case at the very end of its duration (the plea or sentence hearing). Therefore, it is likely that in some of the cases observed, the defendants represented by the public defender will later seek representation by private counsel.

From observations, it is clear that the prosecution gives a lot of weight to the results of any drug/alcohol evaluation. In more than one case, a prosecutor was observed to deny to proceed with a case until the

drug/alcohol evaluation was completed and reviewed by the state's attorney's office.

Also observed were charges dismissed as part of the plea agreement for a DUI conviction. Many were traffic offenses, such as improper lane usage and seatbelt violations. Some were more serious and dangerous, like not driving on right side of road and driving 21-25 miles per hour over the speed limit. The most common charges dropped were driving without insurance and driving without a license.

The defendants in DUI cases often conferred with their attorney throughout the court proceedings. Defendants charged with unlawful consumption met with their defense attorney (nearly always the public defender) just in the minutes or hours before they were scheduled to appear before the court.

There was not a sense of shame, embarrassment, or remorse observable from any subject that was charged with unlawful consumption. Typically, the defendants charged with unlawful consumption would socialize; talking and laughing, with each other while they await being called before the judge.

On more than one occasion, the presiding judge personally knew the defendant or family members of the defendant. The knowledge of family relationships is inevitable when judges serve long terms in small counties, such as Fulton.

Some judges took a more personal approach when handing down sentences. The judge would warn the defendant of the possible dangers if this type of behavior continues and inform the defendant of what future punishments for continued criminal activity may be.

The Interview

The majority of the questions asked do not allow for comparison. They serve the purpose of providing perceptions, ideas, and solutions to the DUI and unlawful consumption issues that are addressed in Chapter 5.

It was beyond the scope of this study to conduct an exhaustive survey that would yield results that could be analyzed and inferred. The following tables and information are only shown to provide the reader with a snapshot of the perceptions of the various organizations through the eyes of one individual intimately associated with their representative organization. The sample was chosen for convenience and therefore, cannot be inferred to the population.

Some questions were designed for comparitability of responses. The results, in the form of narratives and tables, are displayed below.

3. How serious is the problem of DUI in Fulton County?

Table 23 shows that every organization interviewed rated the DUI problem as 'high' except for the defense attorney, which rated the DUI problem as 'low.' The average is 3.5, or about half way between 'moderate' and 'high.'

Table 32

How serious is the problem of DUI in Fulton County?

1=low, 2 = fair, 3 = moderate, 4 = high, 5 = extreme

<u>Organization</u>	<u>Rating</u>
F.C.S.O.	HIGH
States Attorney	HIGH
M.A.D.D.	HIGH
Judge	HIGH
Mental Health	HIGH
<u>Defense</u>	<u>LOW</u>

4. Do you feel that, in the past 5-10 years, the DUIs in Fulton CO. are: increasing, decreasing, or staying the same.

Table 24 shows how the various organizations perceive the number of DUIs to be changing in the past 5-10 years. Half responded that the number was staying the same, two responded that the number was increasing, and one had no response.

Table 33

DUIs in Fulton CO. are: increasing, decreasing, or staying the same.

<u>Organization</u>	<u># of DUIs</u>
F.C.S.O.	SAME
States Attorney	SAME
M.A.D.D.	SAME
Judge	N/A
Mental Health	INCREASE
<u>Defense</u>	<u>INCREASE</u>

5. Do you feel that current sentencing options for DUI are adequate?

When asked if they felt that current sentencing options are adequate there was a mixture of responses. The majority (3) said 'yes.' This was the Fulton County Sheriff's Office, Fulton County States Attorney's Office, and Mental Health. M.A.D.D. responded with a 'no' and there was no response from the judge or defense attorney.

Table 34

Do you feel that current sentencing options for DUI are adequate?

<u>Organization</u>	<u>Adequate?</u>
F.C.S.O.	YES
States Attorney	YES
M.A.D.D.	NO
Judge	N/A
Mental Health	YES
<u>Defense</u>	<u>N/A</u>

6. Do you believe that fines/jail time or a more treatment oriented approach is more effective when dealing DUI?

There was an equal amount of variation between responses on Question 6. The Sheriff's Office and defense attorney both felt fines and jail time were the best way to deal with drunk drivers. The judge and mental health representative advocated the importance of treatment. The State's Attorney's Office and M.A.D.D. felt a combination of fines, jail time and treatment was the best method.

Table 35

Fines/jail time or treatment?	
<u>Organization</u>	<u>Sentence?</u>
F.C.S.O.	Fines/Jail
States Attorney	Both
M.A.D.D.	Both
Judge	Treatment
Mental Health	Treatment
<u>Defense</u>	<u>Fines/Jail</u>

12. How would you rate the number of unlawful consumption cases in Fulton County?

The majority of those interviewed felt that the number of unlawful consumption cases was 'high' (3). That was the opinion of the State's Attorney's Office, public health, and the defense attorney. M.A.D.D. and the Fulton County Sheriff's Office rated the number is 'extreme.' The judge rated the number as 'moderate.' The average of 4.17 indicates that across the board there is a high level of concern regarding the number unlawful consumption cases in Fulton County.

Table 36

Number of unlawful consumptions

1=low, 2 = fair, 3 = moderate, 4 = high, 5 = extreme

<u>Organization</u>	<u>Number</u>
F.C.S.O.	EXTREME
States Attorney	HIGH
M.A.D.D.	EXTREME
Judge	MODERATE
Mental Health	HIGH
<u>Defense</u>	<u>HIGH</u>

13. The number of unlawful consumptions is: increasing, decreasing, staying the same.

There was an equal split over whether the number of unlawful consumptions is increasing or staying the same. The Sheriff's Office, State's Attorney's Office, and mental health all scored the number as increasing. M.A.D.D., the Judge, and the defense attorney felt the number was staying the same.

Table 37

Are unlawful consumptions increasing, decreasing, staying the same?

<u>Organization</u>	<u>Number</u>
F.C.S.O.	SAME
States Attorney	SAME
M.A.D.D.	INCREASE
Judge	INCREASE
Mental Health	INCREASE
<u>Defense</u>	<u>SAME</u>

14. Do you feel that current sentencing options for unlawful consumption charges are adequate?

Most of those interviewed responded that current sentencing options were not adequate (5). Only the defense attorney responded that current sentencing options were adequate.

Table 38

Current sentencing options adequate?	
<u>Organization</u>	<u>Adequate?</u>
F.C.S.O.	NO
States Attorney	NO
M.A.D.D.	NO
Judge	NO
Mental Health	NO
<u>Defense</u>	<u>YES</u>

15. Is punishment (fines/jail) or treatment more effective/important when dealing with unlawful consumption cases?

The majority of those interviewed responded the both punishment and treatment are important in dealing with unlawful consumption. The State's Attorney, M.A.D.D., and the defense attorney all felt that punishment and treatment played important roles as part of a sentence. Mental Health and the Judge felt that treatment was more important/effective. The Fulton County Sheriff's Office felt punishment was more important/effective.

Table 39

Punishment or treatment for unlawful consumption offenders?

<u>Organization</u>	<u>Sentence</u>
F.C.S.O.	PUNISHMENT
States Attorney	BOTH
M.A.D.D.	BOTH
Judge	TREATMENT
Mental Health	TREATMENT
<u>Defense</u>	<u>BOTH</u>

CHAPTER FIVE:

Conclusion and Recommendations

This study collected a large amount of meaningful information about DUIs and unlawful consumption issues in Fulton County. The data was analyzed thoroughly and presented in the previous chapter. From the collection and analysis of this data several conclusions have been drawn. In addition, the trends from 1998-2002 of DUI and unlawful consumption facts are presented. In addition, a profile of the typical offender based on the data has been generated and is provided. Finally, some recommendations are offered.

Data Conclusions

The number of annual DUI cases grew slightly from 1998 to 2001. In 2002, there was a notable decline from 220 to 158 DUI cases.

In almost half of cases (47.1%) defendants retained private counsel for legal representation. The percentages of defendants that chose to represent themselves, be represented by the public defender, or hire private counsel stayed consistent from 1998-2002.

The majority of cases dismissed (24%) were amended to a traffic charge of some kind; speeding, driving while license revoked, driving without insurance, etc. About a fifth (22.4%) of DUI charges dismissed resulted case closure. See Reason for Case Dismissal table.

Clearly the majority of cases each year are plead out, 84.5% on average. This number has not notably changed in the past 5 years, tending to hover around the low to mid 80s. There has been a significant increase in the number of DUI cases tried as felonies (aggravated DUI). This probably accounts for the slight increase in dismissal rates from 1998 to 2002. The number of aggravated DUI charges filed tripled from seven in 1998 to 21 in 2002.

Fines were the most common part of a sentence for DUI. The fine category includes any court costs, attorney's fees, court mandated drug/alcohol evaluations, and assessments. Of all the cases from 1998 to 2002 about 85% were fined some amount. The average fine was about \$900. Each year the fine significantly increased in amount. In 1998, 76.2% of fines were less than \$849. In 2002 only 2.3% of fines were less than \$849 and 94.6% of fines were \$1000 or more. Clearly several factors are causing the fines to increase. This could be due to changing legislation, increased public demand for stiffer penalties, or perhaps some other factors.

Defendants were given jail time in about 28% of the cases. In some instances, the sentence was remitted and credit for time served may apply. The majority (50.4%) was sentenced to a week or less. Over the time period examined sentences tended to increase from 1 week or less (70.5% in 1998) to a sentence ranging from 1 week to 1 month (58.1% in 2002). Sentences longer than a month stayed consistent from 1998 to 2002, holding at about 17%. See Table 8, Jail Time.

Most offenders received court supervision (54.8%). For the most part these offenders are first time offenders. The second incarceration alternative is conditional discharge, this accounted for 37% of cases. Probation is the last option and is typically reserved for repeat offenders with alcohol and drug problems, this represented 8.3% of cases.

Treatment was mandated in 81.1% of cases. There was a notable drop in the treatment rate from 2001 to 2002. This may be attributable to the high number of missing cases for the year of 2001. Participation in a MADD Victim Impact Panel was ordered in 78.1% of cases. Again, there was a notable decline from 89.9% in 2001 to 74.1% in 2002, however again the high number of missing cases in 2001 is

probably skewing the data. The rate of other court orders; community service, installation of BAIID, etc. has not significantly or notably changed from 1998 to 2002.

The age of DUI offenders averaged around 32.53 years old. The range of ages has stayed fairly consistent from 1998 to 2002. There was a slight decrease in the category of 15-20, from 18.3% in 1998 to 11.7% in 2002. There was a notable increase in the 31-40 year old category from 20.5% in 2001 to 31.2% in 2002. About two-thirds of offenders will be between the ages of about 22 to 45 (standard deviation of 11.67 years). See Table 12, Age of offender.

The majority of offenders were male (80.8%). However, the percentage of females has notably increased from 1998 to 2002. In 1998, females comprised 14.6% of the DUI arrests. In 2002, this number has increased to 23.4%, or nearly one in every four DUI arrests. The factors leading to this increase are unknown.

Most offenders are residents of Fulton County (70.7%). The Fulton County Sheriff's Office accounts for 39.1% of DUI arrests in the county. Canton Police Department accounts for 27.5% of the DUI arrests. The rest are spread out over the other cities in the county and the Illinois State Police. Interestingly the number of DUI arrests made by the F.C.S.O. was decreasing from 1998 to 2001 when it increased significantly from 26.5% in 2001 to 42.9% in 2002. On the other hand, that Canton Police Department dropped from 44.7% in 2001 to 23.4% in 2002. Whether this is due to a decrease in the number of drunk drivers in Canton, or just a decrease in police activity is unclear. The Illinois State Police percentages has not notably changed, maintaining about 17% of the DUI arrests in Fulton County.

One of the most important areas of the DUI case is the blood alcohol level (BAC). About 28% of offenders refused to submit to a

Breathalyzer test, that is 205 cases. Offenders that submitted to a test blew between a .161 and .32 over half of the time (51.6%). The BAC of offenders has not significantly changed from 1998 to 2002. Typically, each year around half of offenders have consumed at least twice the legal limit.

Another critical area of the DUI is the motor vehicle accident. The likelihood of an accident has not notably changed from 1998 to 2002. There was an accident of some type in 21.7% of cases (193). When accidents occur they are most frequently property damage accidents (41%). There were personal injuries of some kind in 53% of cases (91). There was 1 fatality recorded.

Another sensitive issue is the repeat DUI offender. This research shows that 78.5% of drivers were arrested for DUI on their first offense. The number though has not significantly changed from 1998 to 2002. There was a notable drop from 1998 to 1999 and since then the number has gone up and down, staying around the 80% mark. Second offenses of DUI have also not significantly changed nor have those convicted of their third offense or more. Most drunk drivers are first offenders, however the number of repeat offenders has remained steady.

Several variables were determined to be of significant relationship. There appears to be a notable relationship between the type of defense (*pro se*, public, or private) and the dismissal of cases. There is a notable increase in the amount of cases dismissed with private counsel (17.4%) compared to the percentage of cases dismissed with public defender (14.2%) and the percentage of cases dismissed where the defendant represents himself (3.4%). Some of this difference may be attributed to the fact in the dismissed category are

cases that are tried as felonies, of which these cases defendants are more likely to retain counsel of some kind. See Table 25.

There is also a significant relationship between a driver's BAC level and the likelihood of a vehicle accident. As the BAC level goes from .001 - .08 to .08 - .16, the percentage of accidents doubled from 10% to 21.6%. In the next category, .16 - .32 the percentage of accidents is 25.3%. So, of drivers with a BAC of .16 - .32, about 1 in 4 will be involved in an accident of some type. Only four defendants had a BAC of .321 or higher, but half (2) were in an accident. This relationship is strongly supported in existing literature. The level of alcohol consumed has a direct effect on driver impairment and likelihood of a collision. See Table 26.

Another significant relationship is that as the number of DUI convictions increase, the importance of treatment as a sentence requirement appears to decrease. Of first time offenders, only 12.6% (70) were not ordered to undergo some type of treatment. However, 15.5% (15) of second offenders were not ordered any treatment and after the third or subsequent DUI, 50% (20) were not ordered any treatment. This relationship is mirrored with the relationship between court ordered participation in a MADD Victim Impact Panel and number of offenses. As with treatment, the likelihood of participation in such a panel decreases as the number of offenses increases. From table 28 one can see that while 13.2% (73) of first offenders did not participate in a panel, 57.5% (23) of third or subsequent offenders did not participate. It appears that the importance/effectiveness of treatment decreases as offender repeat.

There does not appear to be a strong relationship between the number of offenses and the amount of the fine. In all cases, for both first offenders and repeat offenders, the majority of fines were

between \$850 - \$999. In fact, upon a third of subsequent offense, the likelihood of a fine exceeding \$1000 actually decreases. See table 29.

There do appear to be some significant relationships between number of offenses and jail time. Overall, 72.24% (510) of offenders do not see the inside of a jail. However, for second offenders this percentage is 25.25% (25) and for third or subsequent offenders it is interestingly higher, at 41.86% (18). There does appear an important relationship between the length of the sentence and the number of offenses. For second offenders, the likelihood of serving a week to a month in jail is high, around 63%. The percentage of second offenders receiving a longer sentence than a month increases to an 11.11% (11) from a 2.3% (13) for first offenders. Compared to offenders convicted of their third or subsequent DUI, the likelihood of them actually going to jail is lower, but if they do go to jail, their sentence is more likely to be longer than a month is higher, however slightly. About 58% of third or subsequent offenders receive jail time, and about 16% are sentenced to more than a month in jail. The statutory limitation is 364 days. See table 31.

Unlawful consumptions saw an increase until 2000, when it peaked at 345, followed by a decline in 2001 and 2002, returning to near 1998 levels, with 228 arrests in 2002. The percentage of misdemeanors that are unlawful consumptions has also seen a similar increase from 1998 to 2000, followed by a similar decline to figures close to 1998 data. There has been an increase in the number of females arrested for unlawful consumption. In 1999, females represented 22.6% of those arrested. In 2002, females accounted for 30.3% of unlawful consumption arrests. The number of convictions per year per person has stayed consistent. Each year, about 80% have been first offenders, about 13%

second offenders, about 4% third offenders, and about 3% acquiring more than 3 arrests in one year. See table 32.

Therefore, while the number of unlawful consumption arrests has decreased, the percentage of repeat offenders has not notably changed. The percentages of females have increased.

The Typical Offender

Based on the data collected and statistics generated, a profile of the typical DUI and unlawful consumption offender has been developed. A profile of typical offenders can be helpful in designing certain preventative measures and other programs.

The typical driver under the influence is arrested on a Friday, Saturday, or Sunday. He is most likely a male, approximately 32-33 years old. Two-thirds of offenders will be within about 22 and 45 years of age. He most likely resides somewhere in Fulton County and is most likely arrested by the Fulton County Sheriff's Office. He will most likely submit to chemical testing, which will yield a BAC of around .16%. Most likely, there was not an accident involved, but if there was, odds are it is a property damage accident and it is likely that there were some injuries.

Typically, the driver has never been charged in DUI before. He will most likely have his driver's license suspended for 3 months. It will take about 4 and half months for the case to go from arrest to a sentence. The defendant will probably retain private counsel and will elect to agree to the terms of a negotiated plea agreement. Fines, court costs, and other fees will probably total around \$900. The offender will most likely not go to jail, but if he does it will probably not be for more than a week. He will probably received 24 months of court supervision. He will also be ordered to undergo some

type of alcohol/drug evaluation and participate in a MADD Victim Impact Panel.

Over half of those convicted will still be paying off their fines and court costs a year later. Approximately 1 in 7 will reoffend (14.28%).

This profile fits with the less descriptive profile available from the Illinois Secretary of State. This says that the average DUI offender is male, 34 years old, arrested on a weekend, and has a BAC level of .16. The profile developed from this study closely resembles the Secretary of State profile.

The typical person arrested for unlawful consumption will most likely be a male. It will most likely be his first arrest for unlawful consumption. He will probably be fine \$115 and be given 12 months of court supervision. He will probably be ordered to perform 15 hours of community service work and receive no jail time. If he is sentenced to jail time, it will most likely be for about 15 days. Most will be ordered to undergo some type of drug/alcohol evaluation or counseling. One in five will reoffend within the same year.

The outlook for Fulton County seems mostly positive, however there is room for improvement. It appears that there are a consistent number of chronic offenders, this must be addressed. In addition, there are a high number of accidents and injuries. The future will probably see DUI and unlawful consumption rates stay fairly the same, and females will probably continue to comprise more of a percentage of offenders. More cases will be tried as aggravated DUI, which will probably lead to tougher sentencing.

As of this report, there were 129 unlawful consumption arrests for 2003, accounting for 22.6% of all misdemeanors. There have also

already been 11 aggravated DUI cases, which means 2003 will probably meet or exceed the number of aggravated DUI cases in 2002.

Recommendations

First, further and continued study in this area is highly recommended. The recording of the DUI case information could be continued to create a database of every DUI case from 1998 to the present. A similar database for unlawful consumption cases could also be created. Such a project would require cooperation with the Circuit Clerk's Office to provide the data, besides from the time necessary for updating and maintenance. With a database system, one could easily track trend information across the years.

In addition, a closer examination of unlawful consumption cases would be highly valuable. Time and logistical constraints limited the extent of that kind of research for this study. Going through the whole population would be a large undertaking, but would provide some useful information. Perhaps a random sample of the cases could be generated, but this would still be a large number given the number of unlawful consumption cases.

It would also be advantageous to look at the companion charges that are dismissed according to the terms of the guilty plea for both DUI and unlawful consumptions, but mostly the former. This information would show the typical violations and circumstances that lead defendants to be pulled over or stopped. It would also show the kinds of charges that are being dropped in exchange for a guilty plea of DUI. Some interesting questions to examine would be what kinds of charges are being dropped, how often, and what kind of stiffer penalties could be imposed if they were not dismissed?

Another topic worth examining would be the cases of aggravated DUI. It would be interesting to see exactly what differences there are, in terms of offender demographics, criminal history, accidents, BAC levels, and punishments compared to typical DUI cases.

The Court Monitoring program could also be continued, however some aspects of it should be reexamined. Unfortunately, due to the nature of most DUI and unlawful consumption cases being settled with negotiated plea agreements, the court monitor is reduced to the role of data recorder, although that purpose is important. However, ideally the Court Monitor is supposed to play a "watch dog" kind of role. To some end this is achieved during plea agreements, because the judge could theoretically deny the plea, however this never happened during observation. Therefore, to achieve this end the Court Monitor must attend cases that are tried by a judge or jury, and other hearings where a decision must be reached. To this end, the assistance of the State's Attorney's Office would be very valuable. However, their willingness to engage in such a project is doubtful.

Also recommended is expanding the interview. A large-scale interview/survey should be conducted to assess citizen thoughts and beliefs about DUIs and unlawful consumption issues. As well as assessing those associated with the criminal justice field; judges, lawyers, etc. In addition, of the organizations represented in this study, it is recommended that a wide scale interview/survey of all the members of the organization be conducted. This would yield useful data that could be inferred to the whole population. In addition, it would be comparable to other cities, counties, states, populations, and organizations.

In conclusion, the issues of DUI and unlawful consumption in Fulton County are serious, however not epidemic in nature. It seems that for the most part the problem is being kept at bay, not getting worse, but not getting better either. There appears to be a decrease in total DUIs and unlawful consumptions, however there are a steady number of chronic offenders.

Research has shown that the best methods of deterring drunk driving is administrative license revocation and in changing attitudes and drinking behaviors (Walker, 2001). Fulton County is utilizing the first method, issuing administrative license revocations for DUI convictions. The second method is much more difficult, changing attitudes and behavior is not easy.

As one of the interviewees said, there will be no real success or progress unless there are some real societal changes. It starts with people beginning to recognize excess alcohol consumption as a serious social problem and a disease. Parents must start teaching their children the dangers of drinking at an early age. Until these things are accomplished, there will not be any real progress in reducing the extent of DUI or unlawful consumptions or the harm they cause.

This project was designed to determine the nature and extent of DUI and unlawful consumption issues in Fulton County. Hopefully this study will answer some questions and create some new ideas, which may lead to some positive developments in fighting these problems.

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