

The agencies disagree that the legal limit should be lowered to 0.05 BAC for the general driving public. The agencies recommended that States adopt 0.08 BAC for many of the reasons set forth in NHTSA's Report to Congress on Alcohol Limits, Driving Under The Influence, in October 1992. As the agency explained in the report:

A BAC level below 0.08 would have safety benefits if it could be implemented effectively. However, a lower BAC might strain judicial and enforcement resources and possibly result in public backlash if these lower limits are viewed as unreasonable.

The Florida Department of Transportation stated that use of preliminary breath test (PBT) devices has created confusion and resulted in findings of not guilty in DUI cases in the State of Florida, and recommended deleting from the guideline any reference to PBTs and emphasizing instead use of the Standardized Field Sobriety Test (SFST), with updated guidelines and training programs.

The agencies support the use of SFST and will continue to recommend its use in Guideline 8. The agencies have not, however, deleted references to PBTs from the guideline. PBTs are used widely in many States. The agencies believe PBTs are extremely useful as law enforcement tools, when used properly. In fact, the Illinois State Police Department stated in its comments that "the availability of PBT devices is essential to enhanced DUI/DWI patrol, especially if .08 [BAC] is established as the per se [level for] alcohol impairment."

The Michigan Department of State Police recommended that the guideline be amended to include a reference to party host responsibilities. The agencies agree that social host responsibilities should be addressed in the guideline and have amended the Responsible Alcohol Service section of Guideline 8 in response to this comment.

The Washington State Department of Health suggested that the agencies make a number of specific changes to Guideline 8. The agencies have adopted one of these suggestions. The agencies have not amended section I.B on School Programs to promote the fact that underage drinking is illegal in every State. This section recommends the type of school programs that States should conduct, not the content of the programs. Moreover, the guideline recognizes elsewhere (in sections I.D and II.A) that it is illegal for persons under 21 years of age to drink.

Section II.A recommends that States should "provide effective penalties for [certain] offenses." Washington

recommended that the guideline clarify that penalties should apply whether the offenses are motor vehicle-related or not. The agencies have not amended the guideline to make this change. We believe it is unnecessary, particularly since the guideline lists, as an example, a mandatory driver's license suspension for any violation of law involving the use or possession of alcohol or other drugs by a person under the age of 21, an offense that is not necessarily motor vehicle-related.

Washington suggested that Guideline 8 be amended to recommend tiered sentencing of hard core, repeat and high BAC drivers. The agencies have not amended the guideline in response to this comment. The guideline already recommends "increasingly more severe penalties for repeat offenders." The agencies do not currently have a position on whether more severe penalties should be placed on high BAC drivers.

Finally, Washington recommended that public information and education (PI&E) programs for deterrence should include information about the risk of injury and/or death as well as legal, medical and other costs. The agencies have amended the guideline to recommend that this information be included in PI&E efforts. We have added this recommendation to the prevention rather than the deterrence PI&E section, however, where we believe it will have a greater impact.

The Hawaii Department of Transportation raised a number of issues, most of which question the recommended use of sanctions that shift responsibility away from individuals that drink and drive. Hawaii objected, for example, to the recommended use by employers of treatment programs, laws that impose liability on alcohol servers, and driver licensing sanctions against license holders convicted of offenses that do not involve the use of a motor vehicle.

The agencies wish to stress that most of the sanctions recommended in Guideline 8 emphasize personal responsibility on the part of individuals who drink and drive (such as administrative license suspension, imprisonment, or impoundment or confiscation of license plates or vehicles), as these sanctions are considered to be among the most effective. However, there has been considerable success using some of these other methods. Driver licensing sanctions against persons under the age of 21 who purchase or possess alcohol illegally, whether or not such persons are operating a motor vehicle at the time, have been particularly effective.

Accordingly, the agencies will continue to include these recommendations in the guideline.

Hawaii raised several other issues, with respect to which the agencies wish to provide clarification. Hawaii questioned the guideline's recommendation that States implement K-12 traffic safety education that includes an emphasis on impaired driving. Hawaii asks whether the agencies believe children in grades K-3 should be educated about this subject. The agencies believe students should be educated about impaired driving well before they are old enough to obtain a driver's license. We defer to educators to determine the appropriate age at which to begin such education.

Hawaii objected to the recommendation in Guideline 8 that States require the use of a victim impact statement prior to sentencing in certain DWI cases. Hawaii argued that "these statements may be subjecting victims to additional misery without providing any profit." The agencies wish to explain that this recommendation is intended to require that statements be used, if given by victims. It is not intended to require that victims give statements if they do not wish to do so.

Finally, Hawaii suggested that the guideline be changed to recommend that "happy hours" be controlled rather than eliminated. The agencies have amended the guideline, in response to this comment, to clarify that the guideline does not recommend that all "happy hours" be eliminated, only those "that include free or reduced-price alcoholic beverages."

#### Revisions to Guideline No. 10—Traffic Records

The agencies proposed that the Traffic Records guideline would be amended to recommend methods for establishing comprehensive traffic records systems that would enable states to use data to identify emerging traffic safety problems, develop appropriate countermeasures and evaluate program performance.

The agencies received ten comments regarding the proposed changes to Guideline 10.

The National Sheriffs' Association concurred with the agencies' proposal. The Illinois State Police applauded the proposed changes, particularly those relating to the development of a shared traffic data base and improved linkage of data. The California Highway Patrol (CHP) supported the creation of a linked traffic records system, but cautioned that a great deal of time, effort and funding will be required to accomplish