



Dispositions of DWI Arrestees: Anchorage, 1996

Prepared for
Anchorage Safe Communities

by

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This study was funded through a grant from the
Alaska Highway Safety Planning Agency
Alaska Department of Transportation, Juneau
Mary Moran, Director

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Disposition of DWI Arrestees: Anchorage, 1996

Introduction

Anchorage Safe Communities under a grant from The National Highway Traffic Safety Administration commissioned the Justice Center to conduct this study. The purpose of this study is to explore the dispositions of subjects arrested for driving while intoxicated (DWI). The goal is to increase our understanding of the DWI adjudicative process within the Anchorage criminal justice system. The project was designed to describe (1) the system's processing of DWI offenders and (2) isolate legal and extra legal variables that predict various offender dispositions.

This report begins with a literature review that examines other studies relating to legal and extralegal factors that affect court processing of offenders. The second section discusses the methods used for this study and analyzes the strengths and limitations of this approach. The third section of this report presents flow charts of DWI arrestee processing in Anchorage. The fourth section presents the multivariate analysis that isolates significant correlates of DWI arrest disposition. The report concludes with a summary and suggestions for further research.

Literature Review

The purpose of the literature review is: (1) to ascertain the legal and extralegal factors that have been shown to affect general court processing and sentencing outcomes; (2) to develop an understanding of previous research relating to court processing of DWI offenders and the resulting sentencing outcomes; and (3) to develop a model for the DWI processing of offenders arrested in Anchorage. The intent is to provide a broad overview of the factors or variables that may affect the specific processes we are analyzing and then narrow the focus of the general literature to our particular research.

Sources of Literature

The literature reviewed was of two types: literature that permits description of the local process and scholarly literature that addresses disposition of offenders. Description of the DWI process in Anchorage

was developed from the Anchorage Police Department's Regulation and Procedure Manual and the DWI and Traffic Offenses Manual from the Third Judicial District of the Alaska Court System.

The scholarly literature review was developed from a search of both NCJRS and NCCD criminal justice databases as well as searching the psychological, sociological, and dissertation abstracts from the University of Alaska Anchorage Library.¹ The literature on disparities and factors of sentencing is extensive. This review does not exhaust those literature but highlights variables that have been related to offender processing.

Legal and Extralegal Factors

Factors that may affect processing and sentencing of criminal defendants are separated into two categories: legal and extralegal. The legal criteria refer to the legally prescribed reasons for disparities in the treatment of defendants. The legal criteria normally include severity of the crime and prior criminal history. The extralegal criteria are those which are not particularly described in law as a reason for disparate processing or sentencing of defendants. Extralegal criteria include factors such as race, gender, socioeconomic status, age, and marital status.

Nearly all of the literature either concludes or suggests that the major influences on processing and sentencing of criminal defendants are those factors that are legally prescribed (Ulmer & Kramer 1996; Kramer & Steffensmeier 1993; Crew 1991). These factors include the type of crime, severity of the crime, and criminal history of the defendant. Evidence exists showing, however, that extralegal variables do have an impact on the processing and sentencing of criminal defendants.

The extralegal variables investigated to the greatest extent in the literature are race, economic status, and gender. Of these, race is perhaps the most contested issue. Kleck (1981), in his evaluation of the evidence of noncapital punishment cases, reviews forty studies conducted between 1935 and 1979. Kleck reports that eight of these studies supported a racial discrimination hypothesis, twenty conflicted with this hypothesis, and twelve had mixed results. Kleck concludes "the evidence is largely contrary to a hypothesis of general or widespread overt discrimination against black defendants" (1981, p 799).

Gender is another widely cited extralegal variable included in studies of criminal justice processes. Like race, gender is easily measured and commonly recorded in official records. Jacobs and Fuller's (1986) findings show gender is the strongest extralegal predictor of sentencing outcomes in drunken driving cases. Nienstedt, Zata and Epperlein (1988) found the rate of movement to prison sentences for women convicted of DWI were 78 percent less than for men. These authors suggest that prosecutors' reluctance to punish women harshly may be the reason for this result. In a more recent study, Ulmer

¹ The NCJRS search included material entered into the database between 1970 and November 1, 1997. The NCCD collection was the 1968 to 1996 database. The PsycLit abstracts accessed through the University of Alaska Anchorage Library included journal articles published between 1991 and December 1997. The sociological abstracts included articles published between 1973 and December 1997. The dissertation abstracts included those completed between 1861 and December 1997.

and Kramer (1996) found overall differences in the odds of convicted offenders to be incarcerated and the length of sentences based on gender differences. Ulmer and Kramer concur with Steffensmeier, et al.'s (1993) and Bickle and Peterson's (1991) arguments that gender differences such as family status and responsibility for dependent children lead actors in the criminal justice process to view women as less blameworthy.

Socioeconomic status is the last of the "big three" extralegal variables regarding processing and sentencing of criminal defendants. As with race, conflict theory suggests that lower class defendants will receive harsher treatment in the criminal justice system. D'Alessio and Stolzenberg (1993) reviewed thirty-eight sentencing studies and concluded this theory was "equivocal" (p. 61). As with race, the studies examining socioeconomic status have been less clear than those dealing with gender. One reason given for the disparate results is the difficulty in measuring socioeconomic status. Unlike race and gender, official records usually do not record the defendant's net worth. D'Alessio and Stolzenberg (1993) found the most common measure of socioeconomic status was employment. Other measures included education and income.

Recent studies have investigated many other extralegal variables that may have some affect on processing or sentencing of defendants. In addition to the extralegal variables listed above Jacobs and Fuller's (1986) study on organizational processing of DWI defendants examined the effect of full-time student status, employment status, marital status, age, and whether the defendant had a valid driver's license. Of these, student status and marital status were statistically significant at some point in the findings. The findings showed that younger people and married people were treated more leniently. Possession of a valid driver's license and employment status did not achieve statistical significance across the range of statistical tests completed in the study.

Neinstedt, Zata, and Epperlein (1988) included state of residency, veteran status, and type of attorney in their research of court processing and sentencing of drinking drivers. The results of the research showed that being a resident of the state in which the defendant was arrested increased the prison sentence they received. Veteran status slowed the rate at which a defendant moved toward prison. Defendants who had public attorneys moved more quickly through the process and were more likely to receive longer prison sentences.

In addition to the variables mentioned above, several studies show that defendants who exercise their right to trial receive longer sentences than those who do not (Ulmer & Kramer 1996; Kramer & Steffensmeier 1993). Ulmer and Kramer found conviction by a jury trial to be an important extralegal variable. They suggest this may be due to a combination of plea rewards, trial penalties and the additional information that arises from a trial. This additional information may include the fact that court actors see confessing defendants as remorseful and therefore as better candidates for rehabilitation. The details surrounding the crimes revealed during trial can also have emotional effects on judges.

The last extralegal variable that we will address in this literature review is pretrial release. Some studies suggest that defendants who can secure their release from jail before trial have a better chance of being acquitted and receive shorter sentences than those who cannot (Clark & Koch 1976; Kluij & Hawkinson 1975).

Table 1. Variables that Explain Differences in Offender Disposition

<u>Legal Variables</u>	<u>Extralegal Variables</u>
Prior DWI conviction	Age of offender
Involved in crash	Sex of offender
Ran a stop of red light	Race/ethnicity of offender
Open container	Mode of conviction
On probation for DWI	Appointed council
Cited for reckless driving or leaving scene	Pretrial release
High BAC (> .15)	

The literature review isolated six extralegal variables that were important considerations in understanding processing of defendants (age, sex, race/ethnicity, mode of conviction, appointment of counsel, and pretrial release). This study will include these variables as well as legal factors including prior DWI conviction record and six aggravating factors the Municipal Prosecutor assigns to DWI cases. Aggravation is assigned if: (1) the arrestee was involved in a crash; (2) ran a stop sign or red light; (3) had an open container of alcohol in his/her vehicle at the time of arrest; (4) was on probation for DWI or had a pending DWI; (5) was cited for reckless driving or leaving the scene of an accident; or (5) had a high BAC (over .15 percent). The legal and extralegal variables are highlighted in Table 1.

The literature that specifically deals with the processing of DWI offenders cites the advantage of using this offense in the study of disparate sentencing because of the heterogeneity of the population (Nienstedt, et al. 1988; Jacobs & Fuller 1986). Unlike street crime where the offenders tend to be very similar in terms of demographics, DWI offenders come from a wide range of backgrounds. A Judicial Council study (Alaska Judicial Council 1984) of DWI sentences based on 1981 data supports this conclusion, finding that when DWI offenders are compared to other misdemeanants, the DWI offenders are somewhat older, more likely to be employed, and more likely to be white. Our research will focus on (1) describing the disposition process; (2) describing the legal and demographic makeup of the population of adults arrested by APD in 1996 for driving an automobile or motorcycle while intoxicated; (3) analyzing the predictive strength of legal and extralegal variables associated with our sample population on the outcomes of the adjudication process; and (4) developing statistical models to predict downstream effects of changes in the system. These statistical models will aid our understanding of the systems capacities and resources.

Data and Method

This study used four main sources of data for analysis: (1) the Anchorage Police Department vehicle seizure records, (2) the Alaska Third Judicial District Court records, (3) the Anchorage Municipal Prosecutor’s Office case files, and (4) case file of the Anchorage District Attorney’s Office. Data collection began with review of Anchorage Police Department (APD) vehicle seizure records. The

APD records provided a listing of all adult arrests during 1996 and formed the sampling frame from which the study sample was drawn.² The APD records showed that 1,923 DWI arrests occurred during 1996. From these data, two warrant arrests and twenty-three juvenile cases were removed. A random sample of 400 records was drawn from the APD list and formed the focus of this study.³

Data drawn from the APD vehicle seizure forms includes: the APD case number, age of the arrestee at the time of the stop, arrest status, and location of the arrest. The arrest status variable refers to whether the arrestee was jailed or released by the arresting officer.

The Third Judicial District Court records were reviewed for sentence outcomes. The prosecutor's case files were the principal source of data that describe legal and extralegal characteristics of each case.

The inability of the study to rely on ASAP data as planned coupled with an early decision to limit data collection to court and prosecutor's records produced several problems. First, and least significant, is the study is limited to a sample. While it would have been nice to work with the population a sample of 400 cases is sufficient to describe the process in Anchorage and explore correlates. A second, and more vexing problem, was missing data. Our focus on prosecutor's case files means there is little information on cases that the prosecutor chose not to file. The prosecutor's decision not to file is itself an arrest disposition which this study does not capture. The result of our data collection strategy is that our results are best viewed as pertaining to dispositions of filings rather than dispositions of arrests. Generally, we were able to locate data to satisfactorily complete files on 361 of our cases, or 90.25 percent of our sample.

Missing information complicated data analysis resulting in varying numbers of cases. As noted above, a by-product of data collection decisions was a loss of information about cases that were not filed by prosecutors. Table 2 suggests that the principal reason for not filing was low BAC. Of the 34 felony and misdemeanor cases not filed half (17) were cases that the suspect's BAC was less than .10.

Table 2. DWI Cases Not Filed

	Misdemeanor	Felony
Sex		
Male	2	0
Female	6	3
Missing data	21	2
Race		
Asian	1	0
Black	0	0
Hispanic	1	0
Native American	1	1
White	5	2
Missing data	21	2
BAC		
< .10	17	0
> .10	7	2
Refusals	1	2
Missing data	4	2

² The study sample does not include juveniles, persons arrested for driving under the influence of non-alcohol intoxicants, or person arrested for operating watercraft, aircraft, all-terrain vehicles or snow-machines.

³ The initial study plan called for an analysis of all cases but that plan was predicted on being able to use processing data from ASAP. Review of the ASAP data made it apparent that they were not suitable for study purposes.

The analysis presents three types of information: a profile of offenders, flow charts of offender disposition, and models that help isolate correlates of disposition. The profile presents the characteristics of arrestees and notes the presence of missing information. The flow charts first depict the process and then note the proportion of offenders disposed at different stages in the process. Finally, multivariate models are developed to isolate significant correlates of the disposition decisions.

Profiles

The profiles present a description of a sample of persons arrested for DWI during 1996 by the Anchorage Police Department. The tables that follow provide information about the personal characteristics of arrestees, the circumstances leading to their arrest, and the disposition of their case.

Profile of Offenders

Table 3 highlights demographic characteristics of sample arrestees. The great majority of arrestees are male (77 percent), over 30 years of age (average age is 35 years), white (65 percent), and residents of Alaska (95 percent).⁴ This demographic profile is somewhat add odds with the typical arrestee profile which tends to younger and less dominated by whites. It is noteworthy that in a city with as great a number of visitors and transient residents as Anchorage, a very small proportion of arrestees are from out-of-state.

Table 3. Characteristics of DWI Arrestees in Anchorage, 1996

	Number	Percent ^a
Sex		
Male	257	77 %
Female	78	23
Missing data	65	
Age		
18-25 years	69	17 %
26-35 years	159	40
36-45 years	116	29
46-55 years	39	10
56-65 years	13	3
older than 65 years	4	1
Race/ethnicity		
Asian	12	4 %
Black	23	7
Hispanic	12	4
Native American	69	21
White	218	65
Missing data	66	
State of residence		
Alaska	338	95 %
Other (14 states)	16	5
Missing data	46	

a. Totals may not equal 100 due to rounding.

⁴ It was not possible to develop the occupation based SES measure planned as over half of the records did not indicate occupation at the time of arrest.

Profile of Stops

Table 4 highlights characteristics of DWI stops. The most frequently noted reason for stopping a person subsequently arrested for DWI was a serious traffic violation (29 percent). Crashes were the next most frequent reason (24 percent) for arresting someone for DWI. Together suspicious vehicle stops and erratic driving stops produce about one-third of DWI arrests. These data suggest that DWI arrests are most frequently made incidental to other traffic enforcement duties. Table 4 also presents information about status of license and BAC levels at the time of arrest. It is apparent that the great majority of persons arrested for DWI are in possession of a valid and unrestricted drivers license at the time they are arrested⁵ and that most had BAC levels above .10 (92 percent, average BAC=.17).

Table 4. Characteristics of DWI Stops, Anchorage, 1996

	Number	Percent ^a
Reason for stop		
Crash	79	24 %
Erratic driving	43	13
Minor traffic	41	12
Serious traffic	98	29
Suspicious vehicle	66	20
Slumper ^b	9	3
Missing data	64	
Status of license at arrest		
Valid	223	67 %
Conditional	3	1
Suspended	31	9
Revoked	55	17
No valid license	21	6
Missing data	67	
BAC		
Less than .05	8	2 %
.05-.099	16	5
.10-.149	103	31
.15-.199	98	30
.20-.249	75	23
.25-.299	20	6
.30 or higher	8	2
Refusals	42	
Missing data	24	

- a. Totals may not equal 100 due to rounding.
 b. A slumper is someone "slumped" over in a car.

Profile of Dispositions

Table 5 presents arrest disposition information. It is evident that the Anchorage Municipal Prosecutor who prosecutes misdemeanors prosecuted the substantial majority of DWI arrests (88 percent). The District Attorney prosecutes felony DWIs and some misdemeanors. Also it is apparent the substantial

⁵ This is expected as most are first offenders (Table 5, 53 percent).

majority of arrestees are released before trial (85 percent) and about half are represented by appointed counsel. Half of those arrested had no DWI prior arrests and less than 25 percent had more than one.

Disposition of an arrest begins with pleadings. The majority of those arrested pled not guilty at their initial hearing but appear to change at the point of final disposition where 89 percent pled guilty or no contest. Also it is noteworthy that just one arrestee was found not guilty at trial.

Table 5. Disposition of DWI Arrests, Anchorage, 1996

	Number	Percent ^a
Prosecutor		
Municipal	351	88 %
District attorney	47	12
Missing data	2	
Court-appointed counsel		
Yes	172	49 %
No	179	51
Missing data	49	
Pretrial release		
Yes	281	85 %
No	49	15
Missing data	70	
Prior DWI convictions		
None	194	53 %
1	87	24
2	48	13
3 or more	36	10
Missing data	35	
Initial plea		
Not guilty	174	57 %
No contest	111	37
Guilty	19	6
Missing data	96	
Disposition		
No contest	311	82 %
Pled guilty	25	7
Found guilty	6	2
No filing	25	7
Dismissed	11	3
Acquitted at trial	1	< 1
Missing data	21	

a. Totals may not equal 100 due to rounding.

Taken together these profiles describe the “typical” DWI arrestee as a white male in his mid-30s, who is a resident of Alaska, is in possession of a valid drivers license, who was discover incidental to a traffic accident or serious infraction, has no prior DWI record, and who pleads not guilty initially but changes his mind later.

Dispositions of DWI Suspects in Anchorage: The Process

The flow charts presented in this report outline the adjudication process of persons arrested for driving while intoxicated (DWI). The purpose of this narrative is to clarify the accompanying charts

showing the adjudication of DWI offenders. The charts cover only adults arrested for driving an automobile or motorcycle while under the influence of alcohol. The DWI laws are more encompassing than our diagram in three respects. First, DWI laws cover all motor vehicles including watercraft, aircraft, all-terrain vehicles, and snow machines. Second, DWI laws cover intoxication by substances other than alcohol. Third, DWI laws apply to minors as well as adults.

There are several reasons we limited our flow chart and research as described above. First, while the scope of the DWI laws are quite encompassing, APD makes few DWI arrests for operating watercraft, aircraft, all-terrain vehicles or snow machines. Second, we did not include a description of “other substance” processing because the policy has yet to be fully developed. This appears to have resulted from lack of clarity among the courts, prosecutors, and police about how to process such cases.⁶ Lastly, information about the adjudication of minors is confidential and enough information is not readily accessible for inclusion in our study. With these factors in mind, we simplified the flow chart and overall research by limiting it to adults arrested for driving an automobile or motorcycle while intoxicated by alcohol.⁷ This limitation will eliminate few cases from our population.

The analysis proceeded in several stages. First, the DWI arrest disposition process was diagrammed. This was done by reviewing the APD Regulation and Procedure Manual and the DWI and Traffic Offenses Manual from the Third Judicial District of the Alaska Court System to gain a basic outline of the process. Once the basics of the process were specified the diagram was circulated among several APD police officers, Anchorage municipal prosecutors, and district attorneys for comment and revision.

The Process

Figure 1 begins with the police officer’s decision to arrest and proceeds through the initial appearance.⁸ When a defendant is arrested, he/she is transported to a chemical testing facility. At the chemical testing facility, the defendant is asked to provide a breath sample for analysis. If the suspect refuses to provide a sample, they may be charged under AMC 9.28.022. In order for the defendant to be charged with a violation of AMC 9.28.022 Refusal to Provide Sample, a police officer must read the implied consent warning to the defendant. After hearing the implied consent warning, the defendant must then refuse to provide a sample. If this occurs, the defendant’s driver’s license is administratively revoked and he/she is brought to a hearing before a magistrate.⁹ If for any reason the defendant is physically unable to provide a breath sample, a blood sample will be offered as an alternative. If the defendant provides a blood sample, they will not be considered to have refused to provide a sample.

⁶ One of the main issues relates to the standard intoximeter test given by APD. This test detects only alcohol. Alternative testing is necessary to detect the presence of drugs other than alcohol.

⁷ Persons arrested for operating a watercraft under current DWI laws are not subject to the administrative revocation of their driver’s license.

⁸ It is important to note that this study tells us nothing about the officer’s decision to stop someone or to make an arrest. This study is focused on disposition of arrests and provides no information about the decision to arrest.

⁹ Under circumstances that involve accidents with injuries, the police can seize blood from a DWI suspect.

If the defendant agrees to take a breath test, an intoximeter is used to analyze the sample. An individual is presumed not intoxicated if test results find less than .05 percent BAC and he/she then leaves the system. In this situation, no DWI charges may be brought.¹⁰ A defendant with a test result of at least .05 percent BAC but less than .10 percent BAC may be charged with DWI if his/her driving conduct or behavior substantiates that he/she is intoxicated. In this case, the defendant's license is not administratively revoked. Finally, if the defendant's test results in a BAC of .10 or greater, a presumption of intoxication is made and the defendant's license is administratively revoked.

In any case, a person charged with DWI after providing a breath sample may request an independent blood sample be taken. If the defendant requests an independent blood draw, they are taken to an appropriate facility and a sample is taken. The defendant is then brought before a magistrate. If the defendant does not request the independent blood draw, they are taken straight to the magistrate.

At the magistrate hearing, the initial charges are set. The magistrate may either set bail or set a date for the defendant to make his/her first appearance and release the defendant on his/her own recognizance. If a bail is set, the police officer transports the defendant and books them into either the Cook Inlet Pre-Trial Facility (if a felony was committed) or the Sixth Avenue Jail. After the booking process, the defendant may post bail and secure his/her release. If a defendant is unable to make bail and is held in custody, they must make a first appearance within ten days of arrest. An out-of-custody defendant must have an opportunity to make a first appearance within twenty days of arrest.

Figure 2 illustrates the process experienced by arrestees in need of hospitalization. If a suspected drunk driver needs medical treatment, he/she is transported to a hospital and is not arrested at the scene. The officer may arrest the suspect after the treatment is completed if the medical treatment takes less than four hours. If the treatment takes longer than four hours, the officer has one of two options: (1) the officer may obtain consent from the suspect to have blood drawn for evidence; or (2) the officer may apply for a search warrant to access hospital records documenting the suspect's BAC. Medical personnel routinely record BAC information for medical purposes.

A representative from APD stated that the reason suspects requiring medical treatment are not immediately arrested is because the city is liable for medical bills incurred by subjects who are in police custody. Therefore, when a suspect is in need of medical treatment, he/she might not be formally charged until a later date by way of a complaint.

Figure 3 presents the disposition process beginning with the first appearance and proceeding through adjudication. At the first appearance misdemeanor cases are separated from the felonies. In misdemeanor cases the defendant enters a plea at the first appearance. If the defendant pleads guilty or no contest, the verdict is entered in the record and the defendant may either be sentenced at that time or return for sentencing later. If the misdemeanor defendant pleads not guilty, a trial must be scheduled within 120

¹⁰ For the reasons described earlier, this assumes the police will not test for intoxication on substances other than alcohol.

Figure 1. Adjudication of Adult DWI Offenders: From Stop Through First Appearance

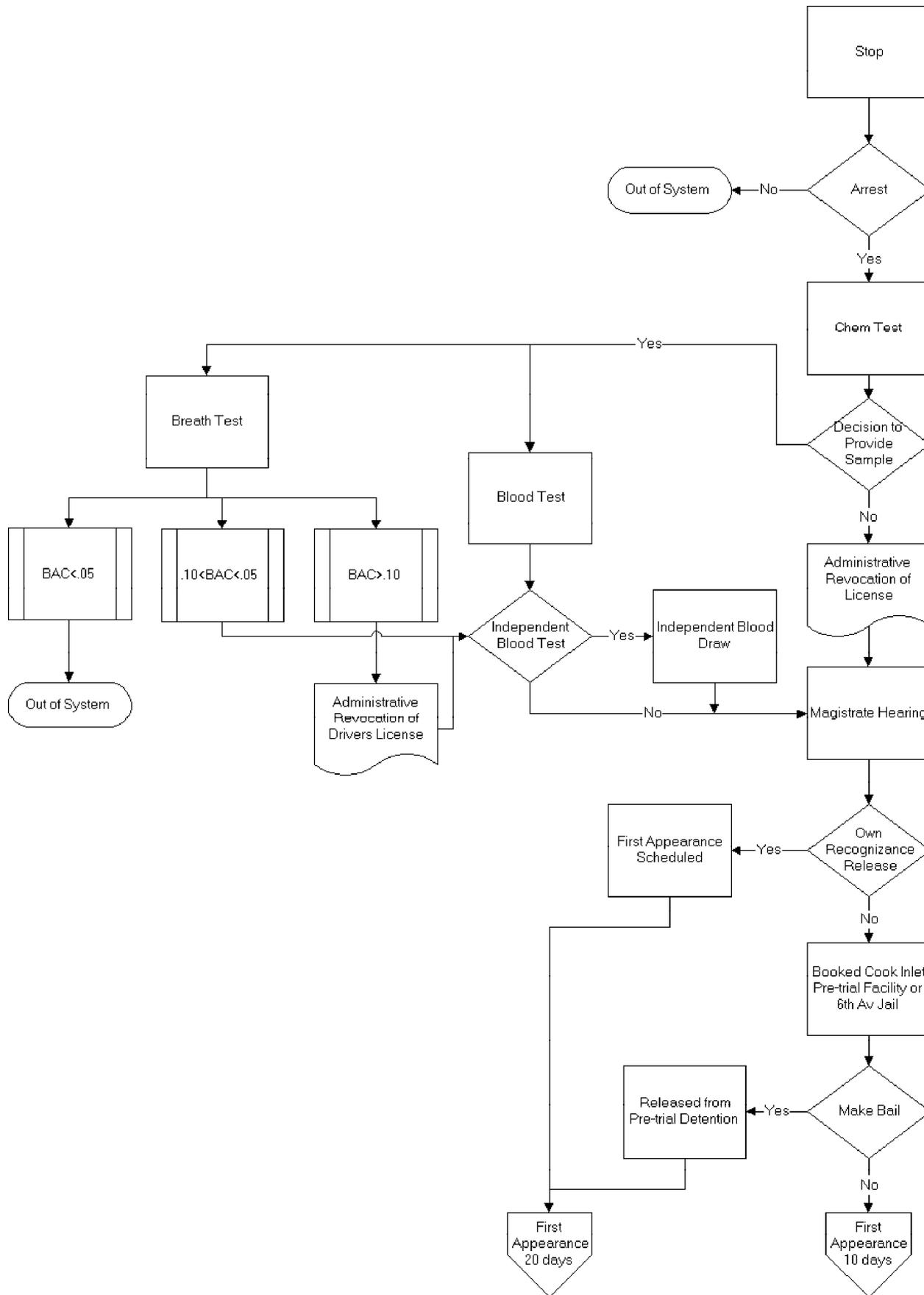


Figure 2. DWI Suspects Needing Medical Treatment

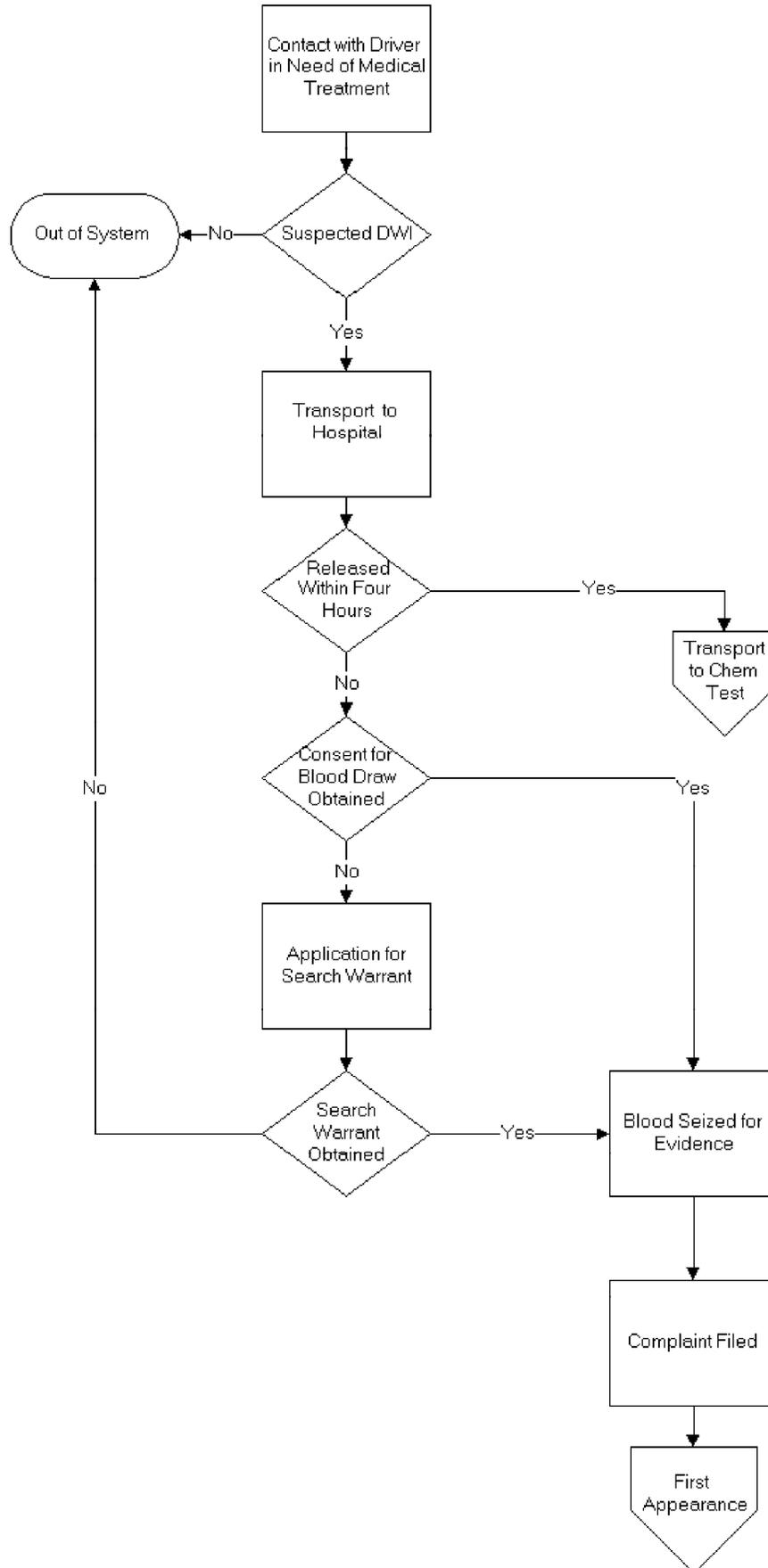
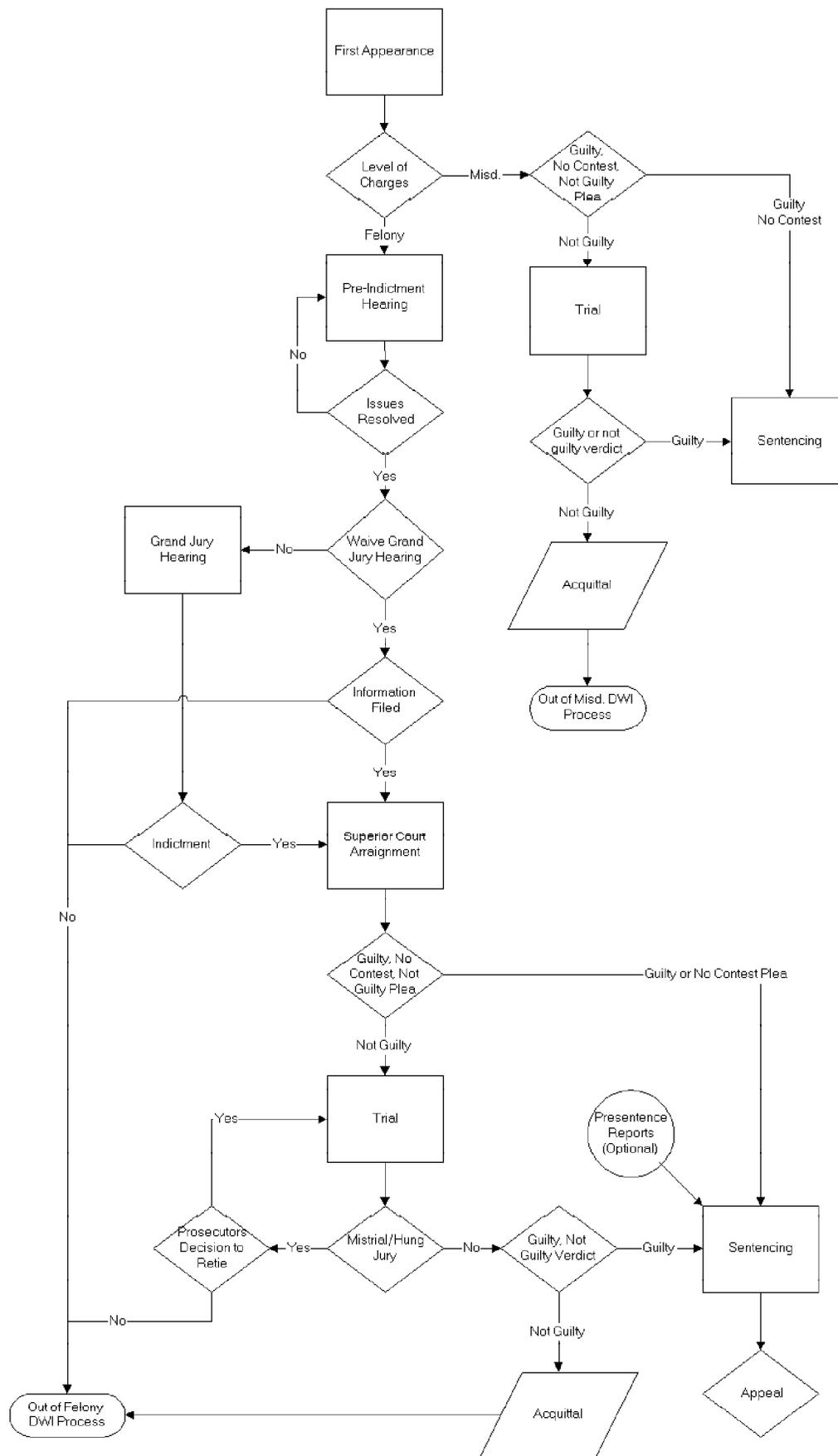


Figure 3. Adjudication of DWI Offenders: From First Appearance Through Sentencing



days. The defendant moves to the sentencing process if he/she is found guilty at trial. If the defendant is acquitted at trial, he/she leaves the system and cannot be charged for the same offense again.

In the case of felonies, no plea is entered at the first appearance. Following the first appearance, a pre-indictment hearing is held. At the pre-indictment hearing, issues regarding charges and evidence are resolved. As can be seen by the loop on the flow chart, the pre-indictment hearing may be repeated until all the issues are resolved. The process then moves to the grand jury hearing. The defendant may waive his/her right to a grand jury in which case the prosecutor may file an information with the court. The information serves the same function as a grand jury indictment. If the prosecutor does not file an information, charges are dropped and the defendant leaves the system. The prosecutor can reinstate these charges at a later date and the defendant would then reenter the system.

If the defendant does not waive his/her grand jury hearing and the defendant is not indicted, the charges are dropped and the defendant leaves the system. If further evidence comes to light, the defendant may be recharged and brought back into the system.

A Superior Court arraignment is held if an information is filed or the defendant is indicted. At this arraignment, the defendant enters his/her plea. If the defendant pleads guilty or no contest, he/she moves to sentencing. If the defendant pleads not guilty, a trial must be scheduled within 120 days. If the trial results in a mistrial or hung jury, the prosecutor decides whether to retry the case. In the case of an acquittal, the defendant leaves the system and cannot be tried for the same crime again.

For those defendants who make it through the process to the sentencing phase, presentence reports may or may not be completed. If both the prosecutor and defendant agree, the presentence reports may be waived.

The Flow Through the Process

The flow of the arrestees through the adjudication process is quite similar for all the demographic groups analyzed (see Figures 4 and 5). For the sample as a whole, 87 percent provided a sample for a breath test and 91 percent of those had a blood alcohol concentration of .10 percent or more. From the group that provided a breath sample, 25 percent opted for an independent blood test. The requirement that the municipality offer to pay for the independent test may have influenced this number. It appears that all persons arrested for DWI are brought to the chemical-testing laboratory. Tests are taken before a magistrate even if their test produced a result less than .05 percent. Although at that level of BAC they cannot be charged with a DWI of alcohol, he/she could theoretically be charged if under the influence of other mind altering substances. The magistrate ordered 43 percent (173) of the arrestees released on their own recognizance. Of the 57 percent (225) who were booked into jail, 69 percent (111) of those were able to meet their bail requirements and were released from pretrial detention. A total of fifty arrestees did not obtain their release prior to final adjudication. Many of these, however, pled guilty or no contest to the charge within twenty-four hours of their arrest. At the first appearance,

Figure 4. Flow of Adult DWI Offenders: From Stop Through First Appearance

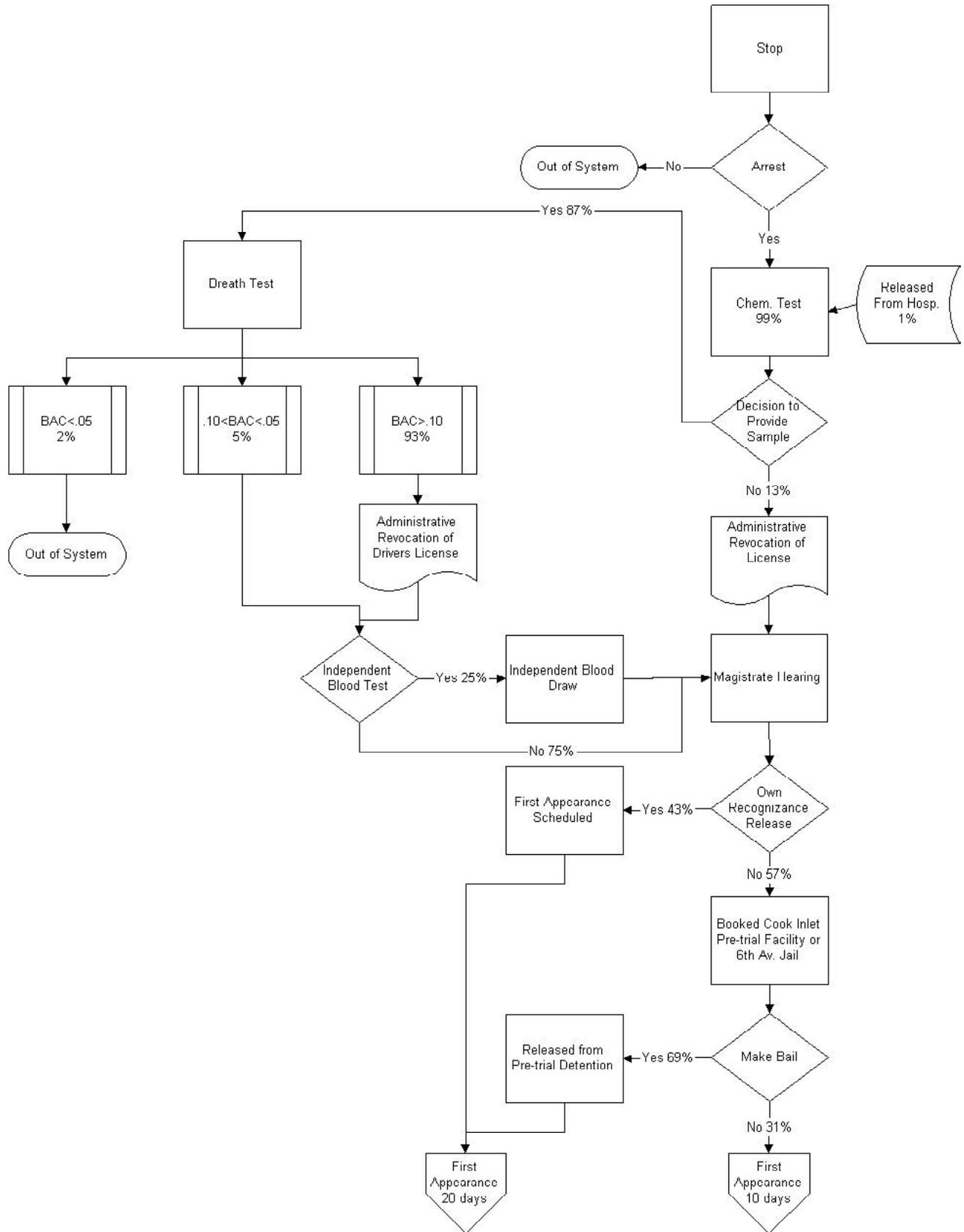
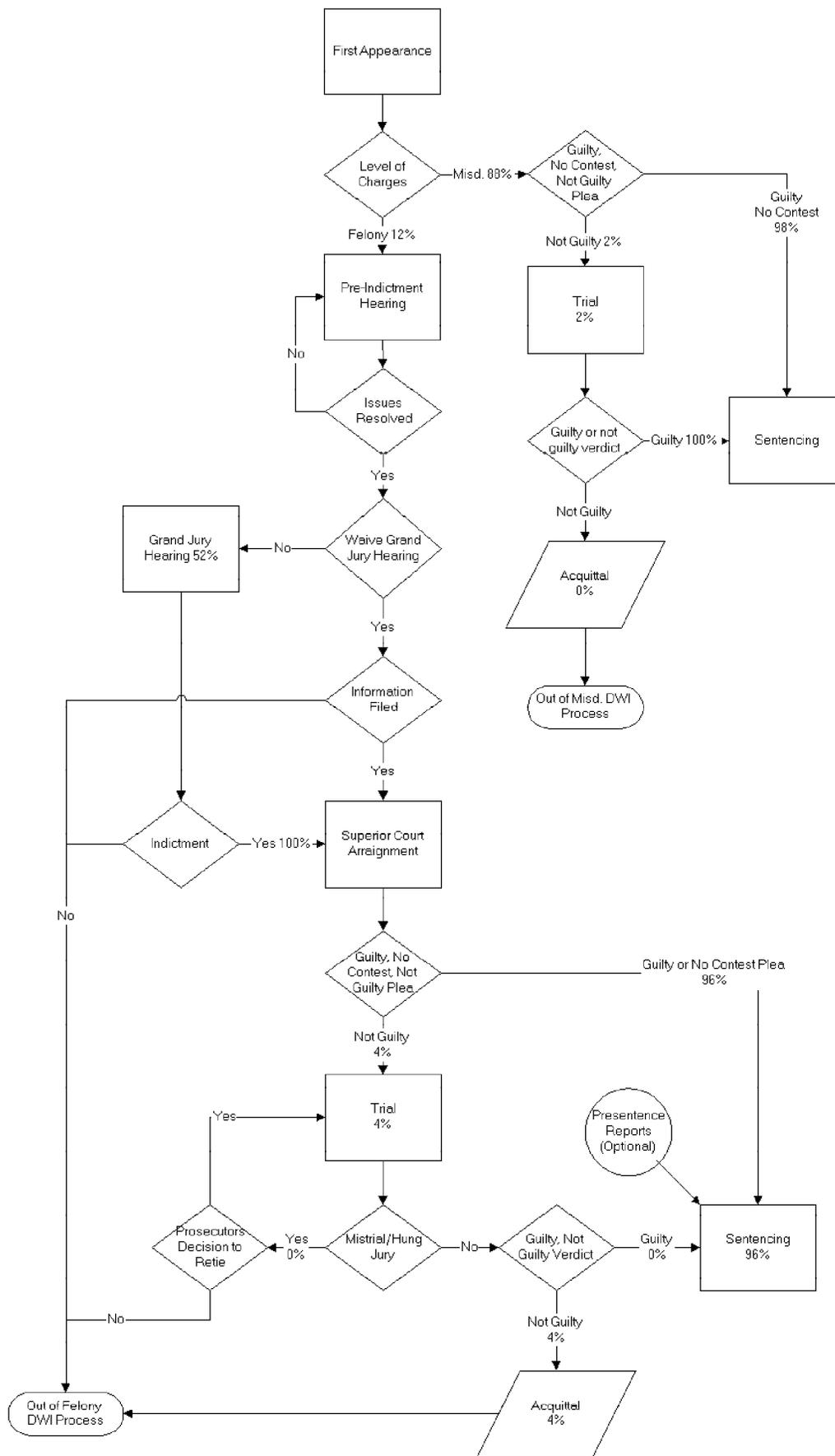


Figure 5. Flow of Adult DWI Offenders: From First Appearance Through Sentencing



88 percent (351) of the arrestees were arraigned on misdemeanor charges only and 12 percent (47) were directed toward the felony adjudication path. It is important to note that an arrestee who has any felony charges resulting from the same course of action that produced the DWI charge will proceed through the felony path even if the DWI charge is a misdemeanor.

For those arrestees following the misdemeanor path, 98 percent (311) pled guilty or no contest to the charges. Of the 2 percent (6) who went to trial, all six were found guilty. The number of arrestees following the felony path is relatively small. Any conclusions made from the flow along the felony path are tentative and should be further investigated with a larger sampling of specifically felony track cases. The data we have collected suggest that about half the arrestees request grand jury hearings and in this case all were indicted. Similar to the misdemeanor path, nearly all those charged pled guilty or no contest.

The flows broken down by race and gender are similar throughout (flow charts by sex and race are included in the appendices). As was discussed in the literature review, the biggest difference seems to be between genders. Women were 9 percent less likely to request an independent blood draw, and 14 percent more likely to make bail. However, once the women reached court there were no significant differences in the paths followed.

Correlates of Disposition

The final analytical task is to describe correlates of disposition. This analysis focuses on the proceeds of OLS regression analyses to predict elapse time from arrest to sentencing, the amount of any fine imposed, the number of days sentenced, and the number of days actually served. Correlates of disposition are those independent variables that are related to the focal disposition when the effects of other plausible independent variables are simultaneously considered.

The zero order question, guilty or not guilty, is not addressed in this study for two reasons. First, only one arrestee in the sample was acquitted at trial. Second, the nature of the data collection produced substantial missing information on those cases where there was no apparent prosecution. Therefore, the correlates focus is on the severity of sentence and the length of time to disposition rather than on the guilty-not guilty question.

As noted in Table 1, two types of independent variables are isolated: legal variables, those stipulated in law; and extralegal variables, those not included in the law. The legal variables thought to predict disposition include prior DWI convictions, and aggravating circumstances including crash, running stops, open container, on probation for DWI, high BAC, and reckless driving or leaving the scene. The extralegal variables include age, sex, race/ethnicity, mode of conviction (no contest, pled guilty, found

guilty), type of counsel (appointed, retained), and pretrial release. Table 6 presents the regression models to predict elapse time to disposition, amount of fine, sentence length, and time served.

Table 6. Correlates of DWI Arrest Dispositions, Anchorage, 1996

[OLS Regression Coefficients]

Variables in models	Elapse time (days)	Fine (dollars)	Time sentenced (days)	Time served (days)
Prior DWIs	18 *	811 *	90 *	39 *
Aggravating circumstances				
Crash	10	8	4	-10
Ran stop/red	-3	226	41	16
Open container	-7	180	-7	-1
Probation or pending DWI	2	215	94 *	33
Reckless/leaving scene	30	80	28	6
High BAC (>.15)	-6	165	11	-13
Age of offender	0.4	9	1	0.09
Sex of offender	16	-7	-10	-13
Race/ethnicity				
White	24	282	-60 *	-26
Native American	23	428 *	-29	-21
Other	-4	296	-36	40
Mode of conviction	10	-91	-0.4	-5
Appointed counsel	20 *	330 *	50 *	20
Pretrial release	87 *	74	-19	-23
Constant	-72 *	-197	64	48
R2	0.167 *	0.489 *	0.462 *	0.294 *

* Statistically different than zero at alpha < .05.

The average **elapsed time between arrest and sentencing** is approximately 80 days. That time appears to be extended if the arrestee has a prior DWI record, uses appointed counsel, and is released before trial. The average **fine** is slightly more than \$1,300. The amount of the fine increases if the arrestee has a prior DWI record, is Native American, and/or uses appointed counsel. However, when fine suspension is included in the equation, the relation between fine amount, being Native American, and/or use of appointed counsel ceases to be statistically significant (model including suspended fine not shown). Indeed, the only two variables to predict fine amount when suspension is included in the analysis are suspension of fine and prior DWI record.

The average **time sentenced** is approximately 145 days while the average **time served** is 35 days. Prior DWI record and use of appointed counsel are associated with increased sentence length while being white is related to fewer days sentenced.¹¹ The only statistically significant predictor of time served is prior DWI record.

¹¹ While white arrestees are sentenced to statistically significant fewer days, the difference is from zero. The reduction in sentence is not statistically different than that received by Native Americans or Others.

The primacy of prior record in predicting arrest disposition is apparent across all four dispositions examined. Not surprising, arrestees with prior DWI convictions receive longer, more expensive sentences and it takes longer to dispose of the case. Use of appointed counsel is also associated with more severe outcomes. It appears that arrestees represented by appointed counsel take longer to disposition, receive longer sentences (though they do not serve statistically longer sentences), and are sentenced to pay higher fines. That noted it is important to recall that arrestees using appointed counsel also are more likely to have their fines suspended so they may not actually pay larger fines.

Finally, it is noteworthy that the aggravating circumstances do not appear to effect disposition. The expectation was that the presence of an aggravating circumstance would lead to more severe fine, a longer sentence, and/or longer term served. However, just one of those expectations (the relation between probation or pending DWI and sentence length) was supported in 18 trials, which could reasonably be expected to occur by chance alone.

Summary

This project was to profile DWI arrestees, outline the process by which DWI arrests are disposed, and explore correlates of disposition. The research has shown that the “typical” DWI arrestee is a white male in his mid-thirties who is a resident of Alaska. This arrestee is encountered by police in situations arising from serious traffic incidents or because they appear suspicious; they have valid drivers licenses; no prior record of DWI; and nearly always have BACs above the legal limit. The majority of arrestees are prosecuted by the Anchorage Municipal Prosecutor, released from custody prior to disposition, initially plea not guilty but later change their mind, and about half are represented by appointed counsel.

The flow diagrams depict a complex and convoluted process that is engaged when a police officer makes the decision to take someone into custody for driving while intoxicated. It is evident, though beyond the scope of this project, that this is a time consuming and expensive process that in 1996 was engaged about 2,000 times. Further studies should explore means of streamlining the process or at a minimum documenting the cost of the process.

Because of the data collection strategy employed it was not possible to explore explanations of discriminators of guilt and acquittal, but the study does inform our understanding about those adjudicated. The multivariate analysis provides strong evidence that legal factors or, more precisely, prior DWI convictions was the best predictor of sentence severity. Extralegal factors do not present a consistent explanatory pattern. Only use of appointed counsel seems related to disposition but even here the relation between appointed counsel and fine amount is a product of covariation with fine suspension. Future research may explore the zero order question and enlighten about the non-influence of aggravating circumstances

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Appendix – Sex and Race-Specific Flow Charts

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Figure A1. Flow of Males, Adult DWI Offenders: From Stop Through First Appearance

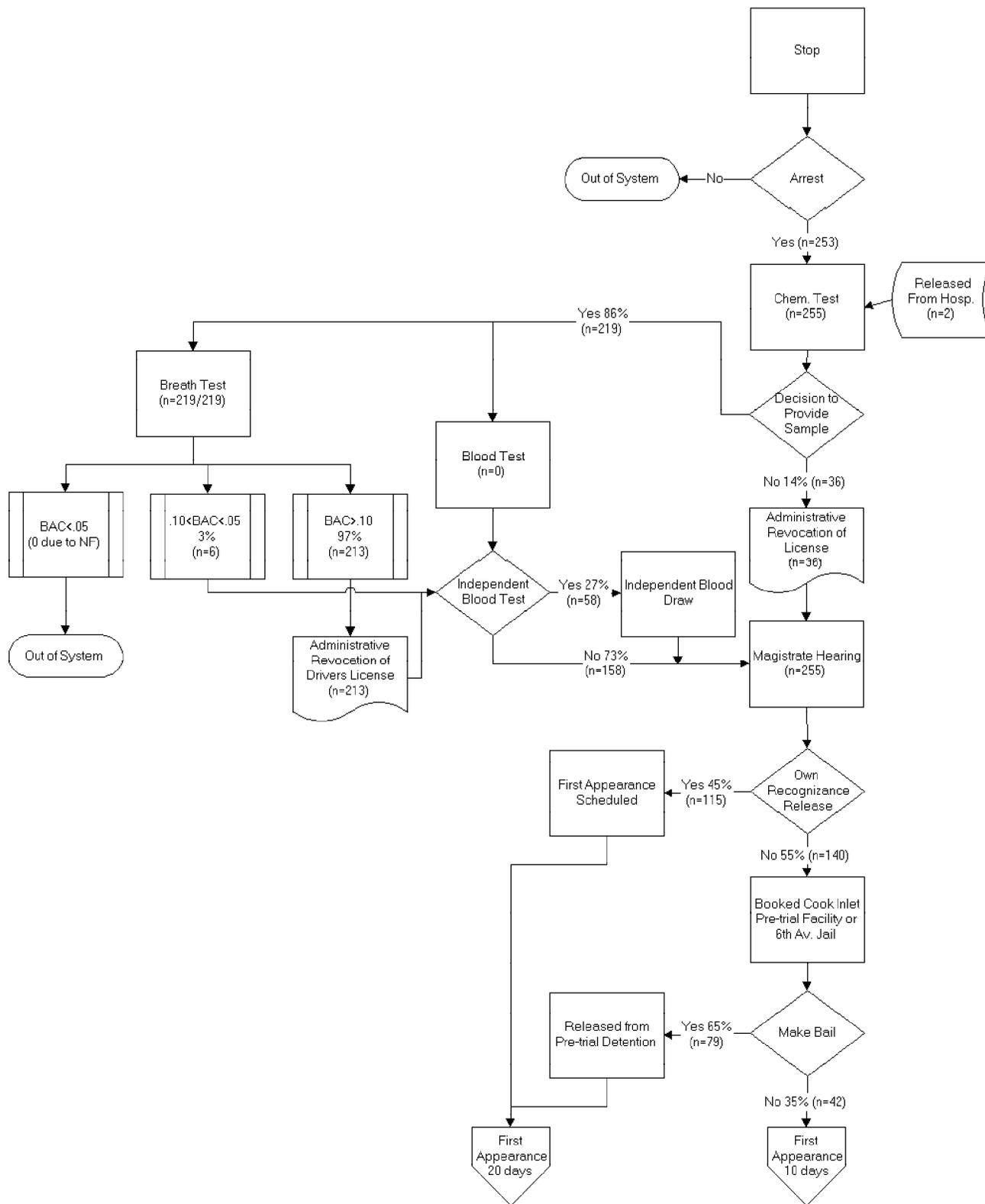


Figure A2. Flow of Females, Adult DWI Offenders: From Stop Through First Appearance

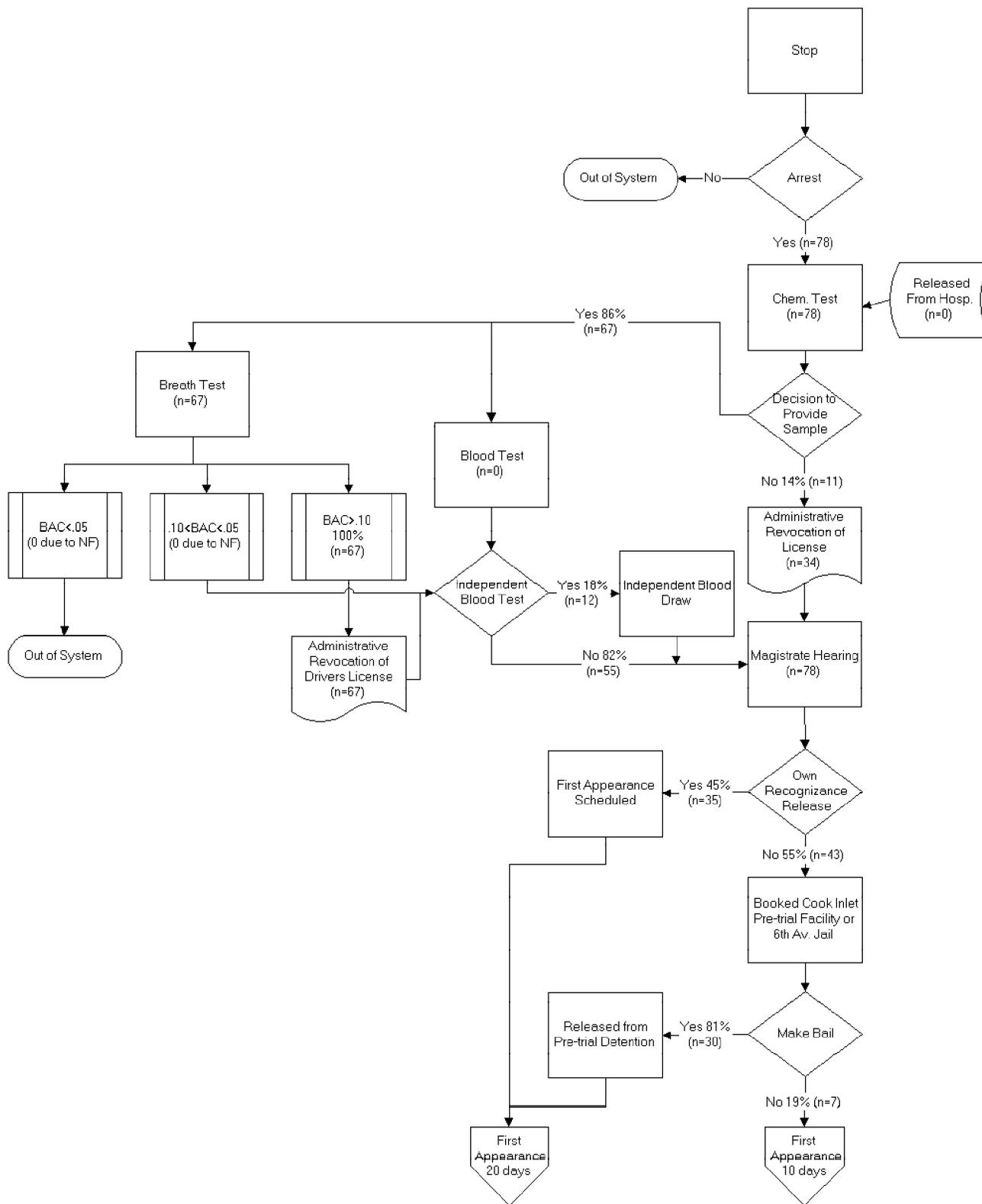


Figure A3. Flow of African Americans, Adult DWI Offenders: From Stop Through First Appearance

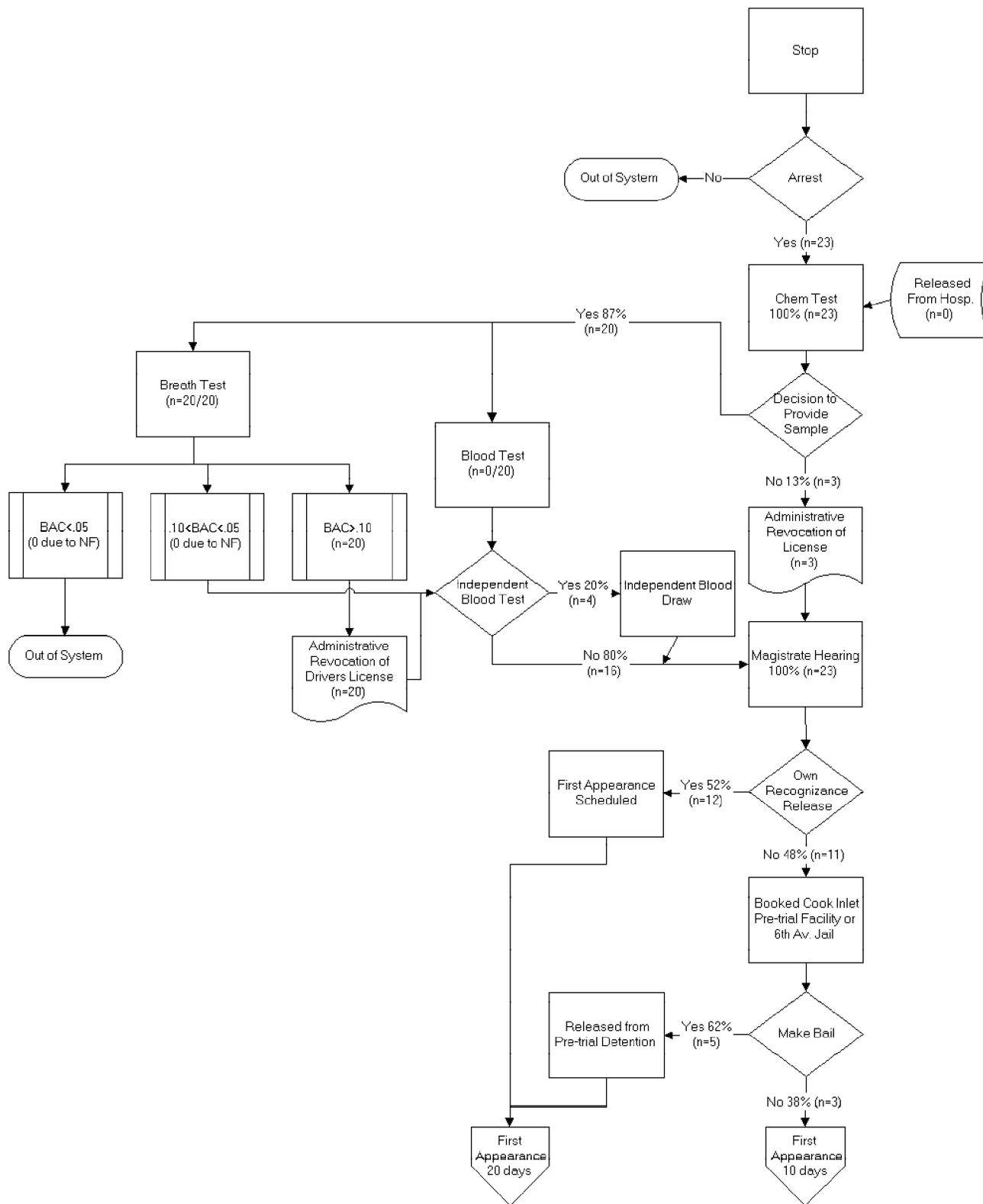


Figure A4. Flow of Native Americans, Adult DWI Offenders: From Stop Through First Appearance

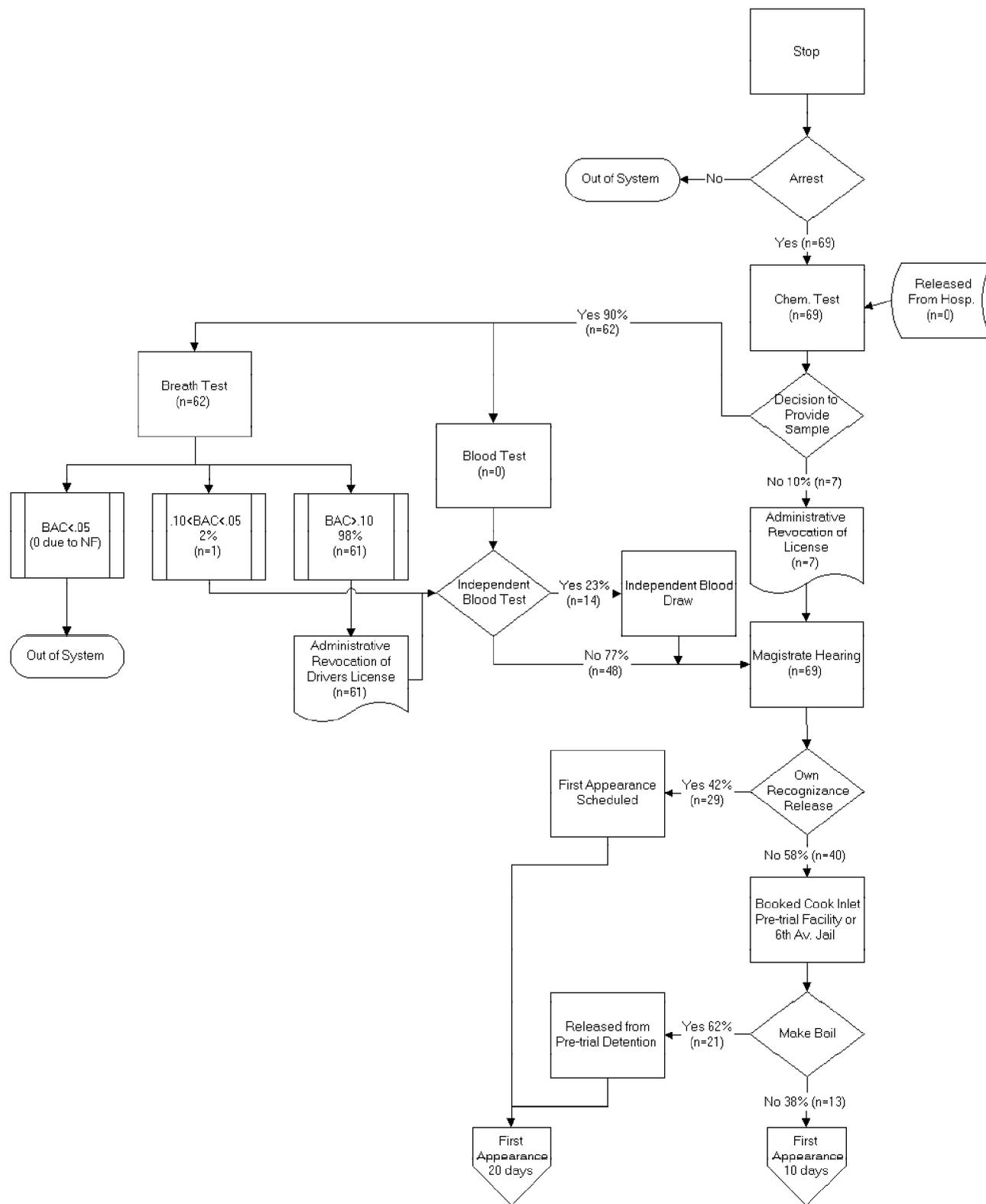


Figure A5. Flow of Whites, Adult DWI Offenders: From Stop Through First Appearance

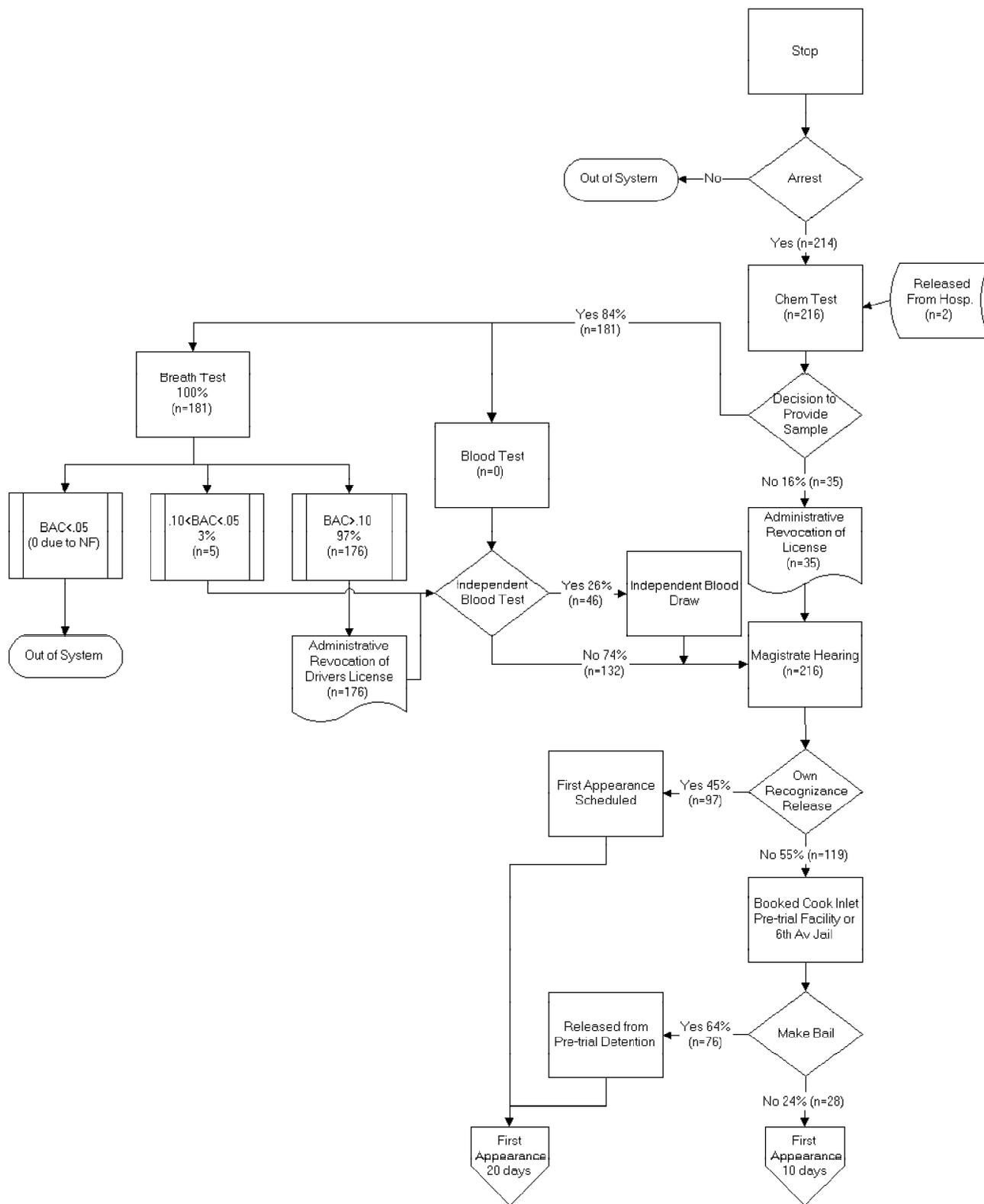


Figure F1. Flow of Males, Adult DWI Offenders: From First Appearance Through Sentencing

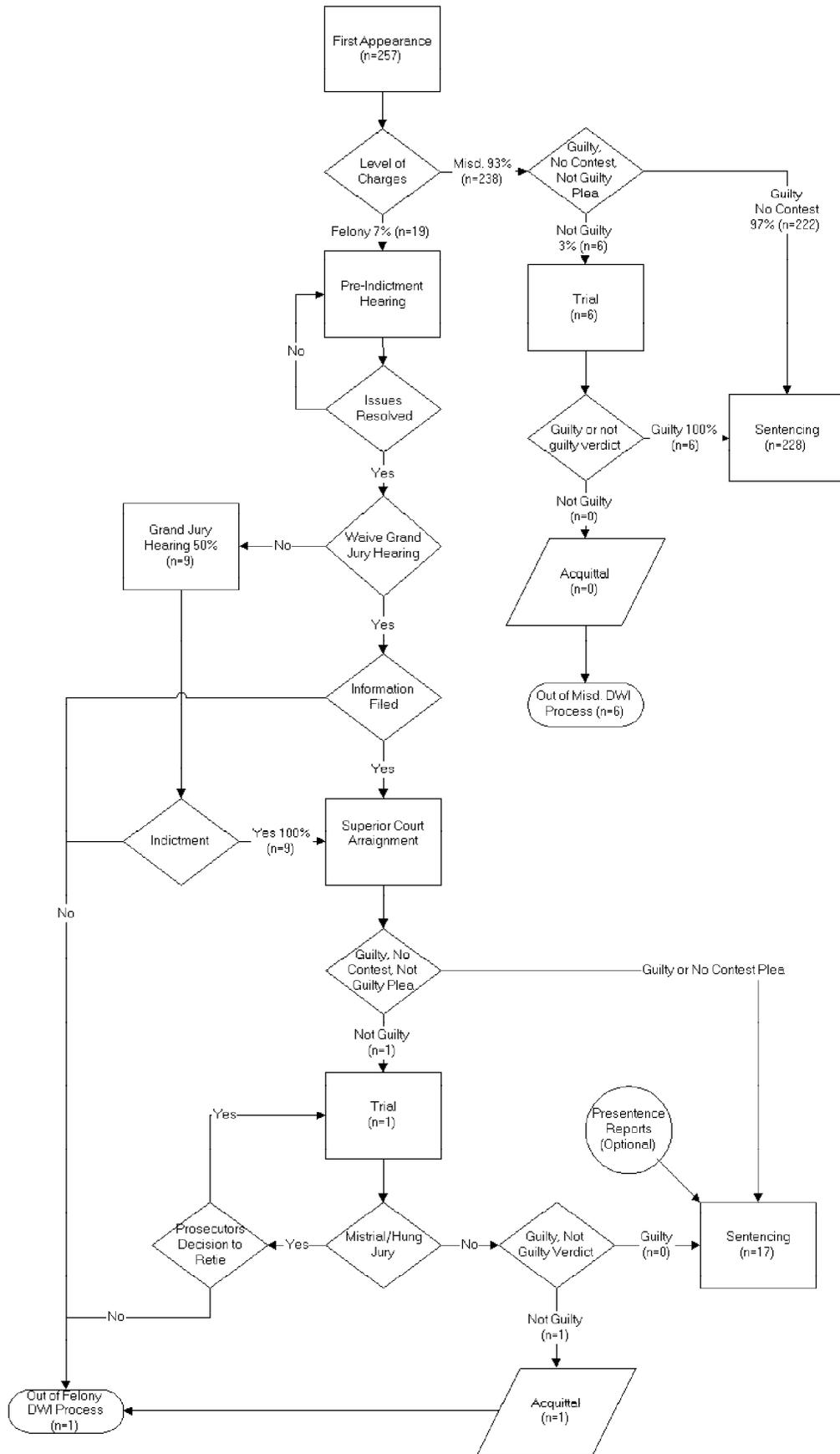


Figure F2. Flow of Females, Adult DWI Offenders: From First Appearance Through Sentencing

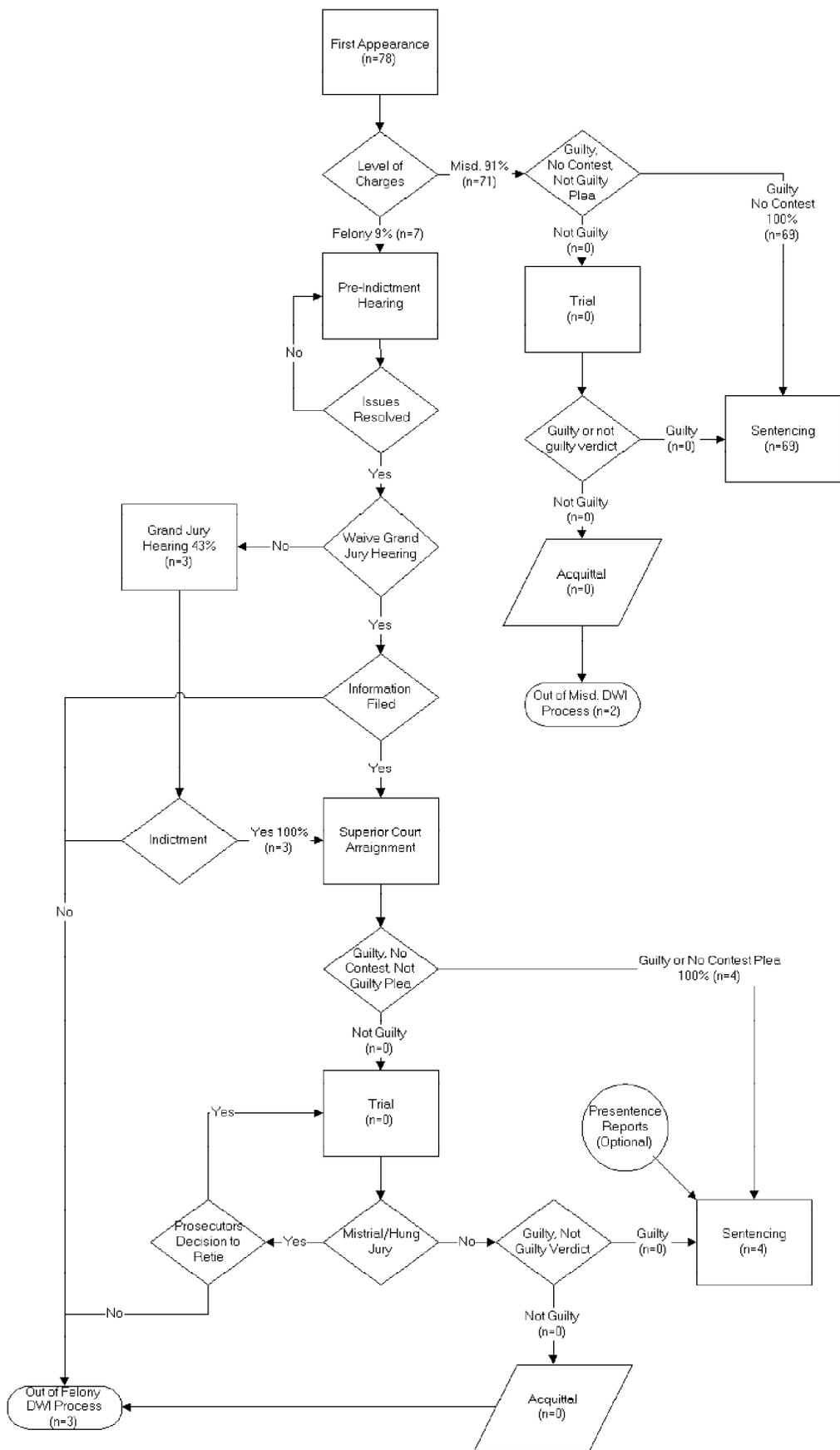


Figure F3. Flow of African Americans, Adult DWI Offenders: From First Appearance Through Sentencing

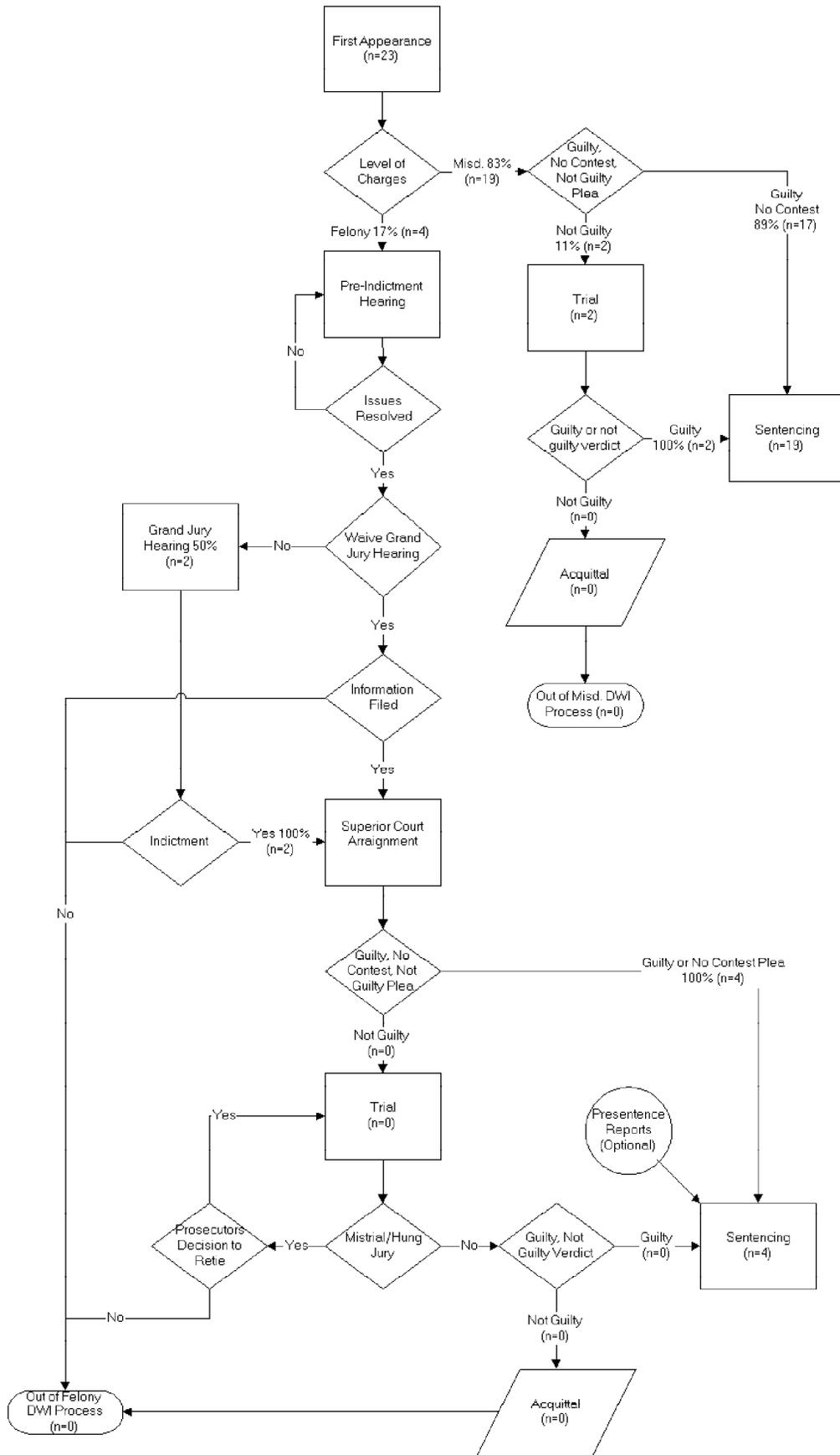


Figure F4. Flow of Native Americans, Adult DWI Offenders: From First Appearance Through Sentencing

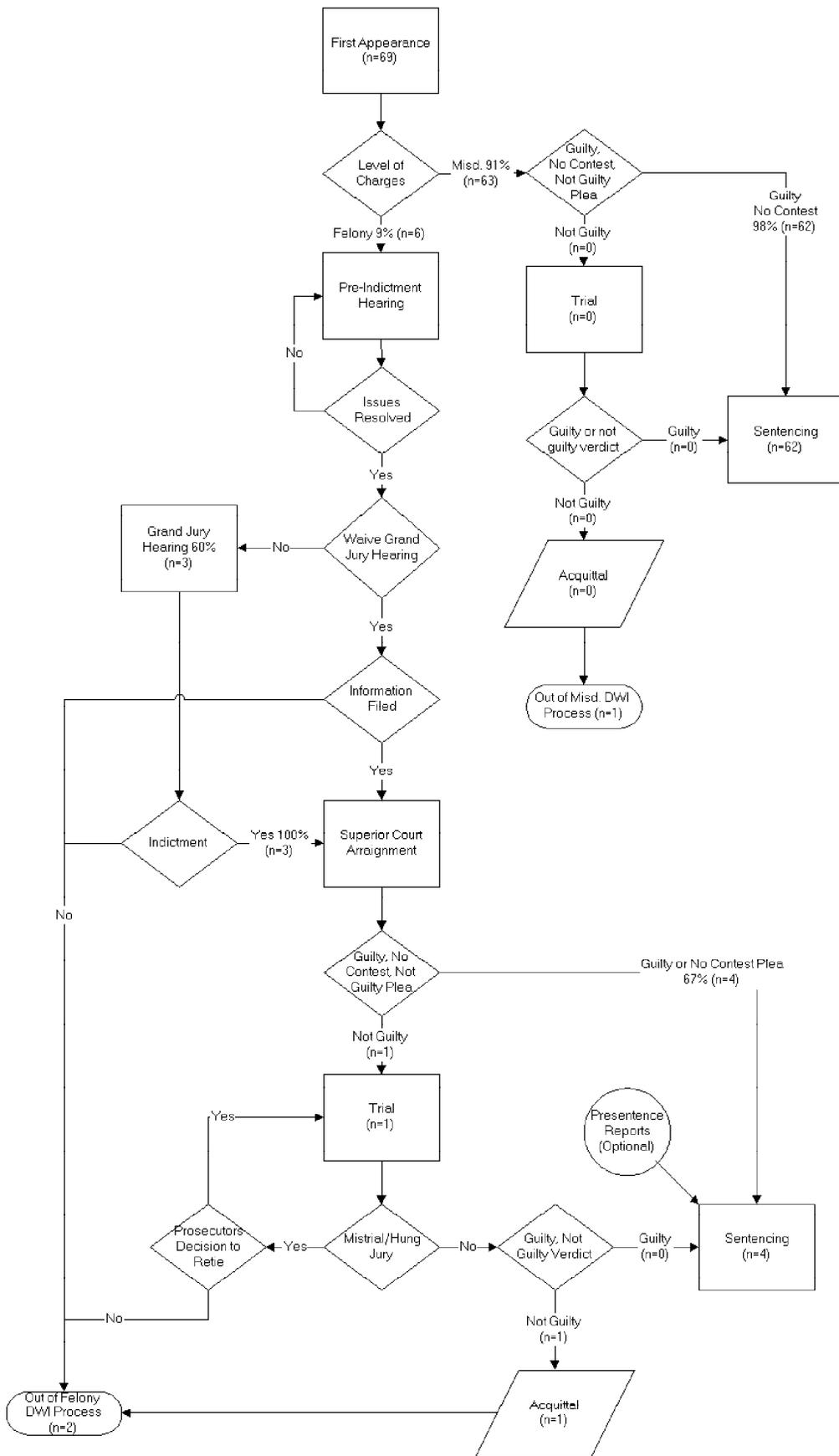


Figure F5. Flow of Whites, Adult DWI Offenders: From First Appearance Through Sentencing

