

**PENALIZATION OF TRAFFIC
OFFENDERS
IN THE MAGISTERIAL DISTRICT
OF LOWER UMFOLOZI**

by

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DECLARATION

I hereby declare that the dissertation "Penalization of Traffic Offenders in the Magisterial District of Lower Umfolozi" represents my own work both in conception and execution. All the sources that I have used or quoted have been acknowledged by means of complete references.

A handwritten signature in black ink, appearing to read 'V I Khoza', with a stylized, cursive script.

V I KHOZA

DEDICATION

To my late mother, Philisiwe, for her profound faith in education despite great odds.

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SUMMARY

This research is based on the penalization of traffic offenders in the magisterial district of Lower Umfolozi. For purposes of collecting data, a structured, pre-coded (content analysis) information schedule has been implemented to capture data on traffic offences and traffic offenders. Unstructured interviews were also implemented to supplement official data collected at the magistrate's court at Empangeni. The chief magistrate, presiding judicial officers, public prosecutors, clerk of the court and traffic officers were interviewed.

The voluminous number of traffic violations in South Africa necessitated the enactment of road traffic legislation. Traffic legislation applicable to drivers of motor vehicles include the Road Traffic Ordinance No. 21 of 1966 (which was in force up to 31 May 1990) as well as the Road Traffic Act No. 29 of 1989. The comprehensive function of traffic legislation is to bring about a state of equilibrium in traffic safety and to discourage (deter) by means of penalization further commission of traffic offences.

The classification of traffic offences is the actual focal point of the consideration of penalization of traffic offenders. For purposes of this research, traffic offences have been arbitrarily dichotomized into three discrete categories:

- * driving offences;
- * vehicle-related offences; and
- * document offences.

Traffic offenders are consequently classified according to the commission of the three categories of traffic offences. The causation of traffic offences can be explained in relation to individual-human and social environmental factors.

Correlation analyses of 4771 traffic offenders have been effected in relation to the three identified categories of traffic offences including traffic dynamics. Correlation analyses are based on demographic variables such as race, sex, age and occupation. Data are portrayed in tabular form.

Traffic control in the magisterial district of Lower Umfolozi is effected by three traffic organizations:

- * Natal Provincial Administration (based at Empangeni);
- * Empangeni municipal traffic department; and
- * Richards Bay municipal traffic department.

The primary aim of traffic law enforcement is to maintain traffic order by reducing traffic offences. Traffic officers perform the following important functions: administrative, executive and supervisory acts of authority.

Penalization of traffic offenders follows the violation of traffic laws. The Road Traffic Act (Act 29 of 1989) prescribes penalization of traffic offenders, while the Criminal Procedure Act (Act 51 of 1977) prescribes the range of sentences that must be imposed on (traffic) offenders. Disparities with regard to penalizing traffic offenders were discovered by means of this investigation which brought to light many issues reflected as key findings. It has been established that Whites featured predominantly in driving offence commission, while Blacks featured predominantly in the commission of vehicle-related offences. Asians and Coloureds

committed traffic offences to a lesser extent. Most traffic offenders paid an admission of guilt fine. This accounts for the fact that the majority of traffic offenders did not appear in court. Recommendations have been made which are not prescriptive. The ultimate aim of penalization of traffic offenders in the magisterial district of Lower Umfolozi should be aimed at the prevention of traffic offences.

OPSOMMING

Hierdie ondersoek is gebaseer op die penalisering van verkeersoortreders in die Laer Umfolozi landdrosdistrik. 'n Gestruktureerde, vooraf gekodifiseerde inligtingskedule is as dataversamelingstegniek ten opsigte van verkeersoortredings en -oortreders gebruik.

Ongestruktureerde onderhoude is ook gevoer met die hooflanddros, voorsittende regsbeamptes, staatsaanklaers, klerk van die hof en verkeersinspekteurs om die gegewens, afkomstig uit amptelike hofrekords, aan te vul.

Die groot aantal verkeersoortredings in Suid-Afrika noodsaak die verordening van verkeerswetgewing in Suid-Afrika. Verkeerswetgewing wat van toepassing is op bestuurders van motorvoertuie sluit die Padverkeersordonnansie (Ordonnansie 21 van 1966) wat van krag was tot 31 Mei 1990 en die huidige Padverkeerswet (Wet 29 van 1989) in. Die omvattende funksie van verkeerswetgewing is hoofsaaklik daarop gemik om 'n balans te handhaaf tussen verkeersveiligheid en die afskrikking van verkeersoortreders deur middel van verkeerspenalisering.

Die klassifikasie van verkeersoortredings vorm die fokuspunt by die oorweging van die penalisering van verkeersoortreders. Vir hierdie doel is verkeersoortredings arbitrêr in drie diskrete kategorieë verdeel -

- * bestuursoortredings,
- * motorvoertuig-verwante oortredings en
- * dokumentêre oortredings.

Verkeersoortreders is gevolglik ooreenkomstig die oortreding van hierdie drie kategorieë verkeersoortredings geklassifiseer. Die veroorsaking van verkeersoortredings kan in terme van individueel-menslike en maatskaplike omgewingsfaktore verklaar word.

Korrelasie-ontledings is ten opsigte van die drie geïdentifiseerde kategorieë verkeersoortredings, insluitende verkeersdinamika, uitgevoer. Hierdie korrelasie-ontledings is gebaseer op demografiese veranderlikes soos: ras, geslag, ouderdom en beroepstatus. Die gegewens word tabellaries verbeeld.

Verkeersbeheer in die Laer Umfolozi landdrosdistrik geskied deur middel van drie verkeersinstellings, naamlik -

- * die Natalse Provinsiale Administrasie (wat op Empangeni gesetel is),
- * die munisipale verkeersdepartement van Empangeni en
- * die Richardsbaaise munisipale verkeersafdeling.

Die handhawing van die verkeersorde by wyse van die uitskakeling van verkeersoortredings, blyk die primêre doelwit van verkeerswetstoepassing te wees.

Verkeersbeamptes verrig die volgende belangrike funksies: administratief, uitvoerend en toesighouding (verkeerswaarneming).

Die penalisering van verkeersoortreders volg op die oortreding van die Padverkeerswet (Wet 29 van 1989) wat die penalisering van verkeersoortreders voorskriftelik reël, terwyl die omvang van vonnisse wat opgelê moet word deur die Strafproseswet (Wet 51 van 1977) voorgeskryf word. Dispariteite betreffende die penalisering van verkeersoortreders is deur middel van hierdie

ondersoek blootgele en vraagstukke wat hieruit voortvloei, is vervat in sleutelaanbevelings. Daar is vasgestel dat Blankes oorgewend verantwoordelik is vir die pleging van bestuursoortredings, terwyl Swart motorbestuurders oorwegend voertuig-verwante oortredings gepleeg het. Asiërs en Kleurlinge was in 'n mindere mate by aldrie kategorieë verkeersoortredings betrokke. Die oorgrote meerderheid verkeersoortreders het skulderkenningsboetes betaal wat ook verklaar waarom hierdie meerderheid nie in die hof verskyn het nie.

Die aanbevelings wat in hierdie ondersoek vervat is, is geensins voorskriftelik van aard nie. Die uiteindelijke doelwit van die penalisering van verkeersoortreders in die Laer Umfolozi landdrosdistrik moet afgestem wees op die voorkoming van verkeersoortredings.

CHAPTER 1

GENERAL ORIENTATION

1.1 INTRODUCTION

This investigation is based on empirical research on the penalization of traffic offenders in the magisterial district of Lower Umfolozi. The whole world, including the magisterial district of Lower Umfolozi, is perturbed over the increasing commission of traffic offences. Traffic violations therefore imply that traffic offenders should be penalized (punished). Members of the society and especially criminal justice practitioners (including traffic officers) use the prevailing road traffic legislation to penalize traffic offenders. To investigate the exact number of persons (traffic offenders) charged with traffic offences, how many are found guilty and penalized and to correlate relevant demographic variables such as: age, sex, race and occupation of traffic offenders, require exact research methods and techniques.

The success of an investigation into the penalization of traffic offenders is contingent upon the control rate, the severity of traffic offences and the effectiveness of traffic law enforcement in the magisterial district of Lower Umfolozi. The development (due to town planning and industrial growth) of the wheel and the corresponding development of transportation vehicles over the ages contributed to the growth of traffic offences and thereby complicating the penalization of traffic offenders. Traffic offences remain an indisputable fact of life for many community members.

Traffic offences have continued to escalate. Traffic crime is a societal problem, but it is evident that penalization of traffic offenders is a traffic criminal justice issue. Traffic crime prevention should thus be given top priority. Prevention of traffic crime without proper examination and evaluation of the penalization of traffic offenders is futile. Criminological (and also penological) research on the penalization of traffic offenders is essential in order to establish its nature, extent and consistency before preventative measures could ever be implemented. It is an acknowledged fact that the public, but more particularly the motor vehicle driver, is responsible for most traffic law violations and these violations are due to numerous and diverse causes (Ryan, 1973:3). It is therefore evident that there is a category of traffic crime victims who have suffered as a result of traffic crime victimization (traffic offence commission).

1.2 RESEARCH: RATIONALE

Rationale provides the reason for the research. The research rationale resides in the application of the knowledge acquired with regard to the question of penalization of traffic offenders. This application will or can take place on certain levels namely to make an attempt at predicting the trend and movement of traffic crime and penalization of traffic offenders and all acquired knowledge and insight regarding the penalization of traffic offenders be used to improve the effective measures of preventing traffic crimes. This implies that the results of this research will be made available to the relevant authorities dealing with traffic law enforcement and penalization of traffic offenders.

1.3 AIMS OF THE RESEARCH

It appears from the literature that no research of this kind had been undertaken recently in South Africa, even also not so for the magisterial district of Lower Umfolozi. The aims of this research are the following:

- (a) to establish whether any discrepancies or not, exist with regard to the penalization of traffic offenders;
- (b) to make a contribution towards the study of traffic science by means of a literature study;
- (c) to ascertain the exact number of traffic offenders charged with traffic offences over a given time;
- (d) to ascertain how many traffic offenders were found guilty and penalized; and
- (e) to effect correlations and comparisons with regard to traffic offences and specific demographic variables such as: race, sex, age and occupation of traffic offenders.

1.4 RESEARCH METHODOLOGY

Research methodology merely refers to an operational framework within which the facts are placed so that their meaning may be seen more clearly (Leedy, 1985:91; Binder & Geis, 1983:11). A review of any of the standard literature and research will reveal a broad spectrum of methodological terminology. Three major research methods are open to criminologists when conducting criminological investigations and the study of the crime phenomenon in general and traffic crime in particular, namely:

- (a) The method of case analysis when the researcher regards crime as a phenomenon which arise from the human being in its uniqueness (Van der Westhuizen, 1977:2-3). This also applies to traffic crime studies.
- (b) The method of mass observation, when the researcher regards crime as a social phenomenon (Van der Westhuizen, 1977:2-3). This is also applicable to traffic crime studies.
- (c) The analytical method: in order to eliminate one-sided descriptions and interpretations, it would be desirable to synthesize the above two research methods (Van der Westhuizen, 1977:3). The method to be used in this research is the analytical descriptive technique and the analysis of traffic offences and the nature of penalization of traffic offenders. The rationale for using this method resides in the fact that the penalization of traffic offenders (not undermining the causal aspects of traffic crimes - for a discussion of these aspects see chapter 3, paragraph 3.4) is a combination of individual-human and social factors. The analytical research method meets all the requirements and, with a view to establishing and securing the identity of criminology, should be applied consistently in all criminological research. The following are the functions and objectives of the analytical method:
- * Description (by means of which the goal of knowledge is attained), where statistics are not only used to describe the extent of traffic crime but also its increase and decrease (frequency).

- * Explanation (by means of which the goal of insight is achieved), where statistics and certain statistical techniques enable the researcher to make correlations (associations) and comparisons between traffic offenders and traffic offences, penalization and other demographic variables such as: age, sex, race and occupation of traffic offenders.
- * Prediction and control which allow for the purposes of predicting and (symbolic) controlling the fluctuation, incidence and movement of traffic offences in particular.

In the analytical method the methods of case analysis and mass observation are merely regarded as techniques:

- (a) Descriptive techniques (verbal-scientific, typological and statistical) are used to acquire knowledge into traffic offences and penalization of traffic offenders (Van der Westhuizen, 1977:10-11).
- (b) Explanatory techniques (tabular analysis and correlation analysis) are used to acquire insight into social phenomena such as traffic offences and penalization of traffic offenders (Van der Westhuizen, 1977:10). Raw scores (indicated as N) and percentages (%) will be used to present data in tabular form. In addition, correlation analyses will also be undertaken in order to allow for two or more variables to be plotted against each other.

- (c) Prediction techniques (categorization and extrapolation) and control techniques (preventive, legal and integrative) are used in applicative investigations for predicting and controlling (traffic) crime (Van der Westhuizen, 1977:10).

There are specific techniques of the analytical method which are also used such as: sampling techniques, data collecting techniques and goal achievement techniques (Van der Westhuizen, 1977; Van der Walt et al. 1977:176-177). Techniques of the analytical method have also been used in this research. The most important data collecting techniques are the interview, questionnaire, information (content analysis) schedule and documentary study (Van der Walt et al. 1977:197). A content analysis schedule is a technique that can be used by the researcher. Fitzgerald & Cox (1987:110-111) maintain that a content analysis systematizes the use of documents by providing a predetermined coding scheme and categories for tabulating the contents of an information schedule. The number of entries tabulated in each variable indicates the direction or weight of the document (content) analysis evidence. The personal conversation by which research information is obtained is known as the interview. There are specific types of interviewing, namely the directed or focus interview, the formal structured interview and the non-directed or unstructured interview (Van der Walt et al. 1977:198). The researcher used the non-directed or unstructured interview to obtain more clarity about aspects which were not so clear to the researcher. These aspects which were unclear cropped up from the court records. The unstructured interview was also used to obtain more information about penalization of traffic offenders. The court officials interviewed, included the chief magistrate, additional magistrates (judicial officers),

traffic officers of Empangeni and Richards Bay municipalities, the station commander of the Natal Provincial Administration (based at Empangeni), public prosecutors, clerk of the court and court interpreters.

Another type of data collecting technique is a questionnaire. Questionnaires are forms for securing answers to questions and such forms are completed by the respondent (Van der Walt et al. 1977:204; Goode & Hatt, 1952:133). For purposes of this research, a questionnaire was not used but instead an information (content analysis) schedule (Annexure B). Van der Walt et al. (1977:203-204) aver that the terms "questionnaire" and "schedule" cause considerable confusion as a result of the different ways of handling them and the form they assume. An information schedule refers to a document with the list of variables set by the researcher and the answers to these variables are provided by the researcher (Van der Walt et al. 1977:204). The researcher compiled an information schedule (see Annexure B) with a list of variables and answers to these variables were provided by the researcher. A researcher can obtain a great deal of information by analyzing written documents, mass media reports or data kept by formal institutions for administrative or governmental purposes (Van der Walt et al. 1977:212; Fitzgerald & Cox, 1987:107). The researcher analyzed the court records pertaining to the penalization of traffic offenders.

For purposes of collecting data, a structured pre-coded information schedule (see Annexure B) has been devised by the researcher to capture relevant information from written notices to appear in court, Criminal Record Books (J546), spot fine citations, etc. with regard to the penalization of traffic offenders in the magisterial district of Lower

Umfolozi. Permission to scrutinize court documents has been granted by the Chief Magistrate. In order to eliminate possible confusion and also to allow for the convenient acquisition of data, the information schedule has been compiled on the basis of information reflected in written notices (to appear in court) issued in terms of the Criminal Procedure Act (South Africa, 1977:Section 56). For this purpose it has been divided into four discrete divisions:

- * Section A, which reflects administrative information, viz. name of police station and name of court of trial.
- * Section B contains the demographic characteristics of the traffic offender, viz. race, sex, age, occupation, etc.
- * Section C is devoted to the dynamics of the traffic offence and include place where a traffic offence was committed (ecological distribution), date (month of the year) when committed as well as the day of the week and time of the day. The types of traffic offences are also accounted for in accordance with the arbitrary classification proposed by the researcher. There are three categories of traffic offences: driving offences, vehicle-related offences and document offences.
- * Section D specifically deals broadly with the penalization of traffic offenders. Traffic offenders were subjected to various forms of penalization: an admission of guilt fine, fine, deferred fine, spot fine, imprisonment, periodical imprisonment, suspended sentence, whipping, treatment in a rehabilitation centre, cancellation and endorsement of driver's licence, etc. This section also contains information regarding the

amount paid in respect of an admission of guilt, fine, deferred fine and spot fine. This section also includes information pertaining to terms of imprisonment.

There are various types of documentary sources and these may be either primary or secondary (Van der Walt et al. 1977:212). Data from primary documentary sources are obtained directly by the techniques of first-hand observation such as interviews and an information schedule as applied by the researcher. This implies that the researcher himself collected the data. The data in secondary documentary sources is second-hand in nature and therefore indirect. The most important documentary sources are reports, articles in periodicals, books, diaries, biographies, unpublished sources (such as theses, dissertations) and reports on research projects (Van der Walt et al. 1977:212-214). The researcher analyzed the official reports and criminal record books at the magistrate's office (based at Empangeni) and the books, articles in periodicals and unpublished sources. The use of documentary studies is also known as document analysis (Fitzgerald & Cox, 1987:108).

Sampling is another technique of the analytical method. A sample can be defined as the numerical reduction of the population, a partial collection of the population or a valid representation of the population (Van der Westhuizen, 1977:40; Van der Walt et al. 1977:191; Leedy, 1985:147). A sample consists of selected elements from a population that will be observed in order to learn something about the population. In order to learn something about the population of the magisterial district of Lower Umfolozi, the researcher selected elements such as traffic offences, penalization of traffic offenders, the elements of time and area (temporal and spatial distribution). The rationale for a sample is that it

would be difficult for the researcher to include every member of the community. Fitzgerald & Cox (1987:72) maintain that there are two types of sampling techniques, namely probability and non-probability sampling. Probability sampling permits the researcher to state that any given element in the population will be included in the sample whereas non-probability sampling does not permit the researcher to estimate the likelihood that an element in the population will be selected (Fitzgerald & Cox, 1987:72).

Probability sampling techniques used in the analytical research method are:

- (a) Simple random sampling which gives each individual traffic offender an equal chance of being the subject of research on his/her penalization (Van der Walt et al. 1977:192; Leedy, 1985:155-156).
- (b) Stratified random sampling is applied where the population evinces significant strata as in the case of socio-economic classes (Van der Walt et al. 1977:192; Fitzgerald & Cox, 1987:75; Leedy, 1985:156-157).
Stratification will not be necessary, however, if it appears that the classes are fairly homogeneous in respect of the variables being measured. Homogeneous populations require small sample groups than do heterogeneous populations. It is for this reason that the researcher encountered a large sample because the classes of traffic offenders were heterogeneous in respect of the variables being measured.
- (c) Cluster sampling - the smallest unit into which a population can be divided is known as an element. When elements are grouped together they form a collection.

When the sample unit is a collection we speak of cluster sampling (Fitzgerald & Cox, 1987:78-79; Leedy, 1985:158-159). Cluster sampling involves dividing a population into a number of groups, called clusters, on the basis of some criteria e.g. geographical area, phenomena such as traffic crime and penalization.

It should be noted that, in this research, the researcher arbitrarily selected 4771 traffic offenders penalized in the magisterial district of Lower Umfolozi during the period 01 January 1990 to 30 June 1990. The sample used in this investigation is therefore based on all the traffic cases for the said period, obtained and scrutinized from official court documents.

1.5 DELIMITATION OF RESEARCH

Criminological and penological research cannot proceed without a proper delineation (delimitation). The following are the most important types of delimitation:

- quantitative;
- qualitative;
- geographical (spatial);
- chronological (temporal); and
- conceptual (Van der Westhuizen, 1977:38; Leedy, 1985:62-63).

1.5.1 Quantitative delimitation

Quantitative delimitation in this research project, means that the research will be limited to a particular universe or representative sample (for a discussion of sampling, see paragraph 1.4).

Quantitatively, three categories of traffic offences (see Annexure B) and traffic offenders will be investigated and correlated with other demographic variables.

1.5.2 Qualitative delimitation

It refers to the nominal reduction of research. This implies that research is delineated in accordance with certain characteristics or qualities which are present in each individual traffic offender.. Characteristics such as age, sex, race, etc. are usually the major refining criteria but any other human characteristic or social distinction could also be used, for example, socio-economic status, intelligent quotient, income, occupation, etc. In as far as this research is concerned the researcher highlighted the following qualities of traffic offenders: age, sex, race and occupation. The court records only reflect these demographic variables. The description of traffic offences is based on the arbitrary classification proposed by the researcher. There are three discrete categories of traffic offences:

- * driving offences;
- * vehicle-related offences; and

- * document offences. An exposition of the classification of traffic offences is outlined in chapter 3, paragraph 3.2.

1.5.3 Geographical (spatial) delimitation

Research is confined to a particular area, zone or region. Research on the penalization of traffic offenders is restricted to the magisterial district of Lower Umfolozi situated on the Natal North Coast (see Annexure A).

The magistrate's court of Lower Umfolozi district is located in Empangeni and there is also KwaMbonambi periodic court. A map (Annexure A) is attached with the purpose of portraying the magisterial district of Lower Umfolozi and the places where traffic offences were committed. It should be noted that it has been arbitrarily decided to only identify Empangeni and Richards Bay towns rather than to enumerate the various streets and places in these towns. The most important places of traffic offence commission were the following:

- Empangeni;
- Richards Bay;
- N2 (stretches from Durban to Mkuze);
- R619 (from Enseleni to Richards Bay);
- R34 (from Melmoth to Richards Bay);
- KwaMbonambi;

- Ngwelezane Road (from Ngwelezane to Empangeni); and
- B10/Umhlatuzi Valley Sugar Company road (from Esikhawini and joins R34).

1.5.4 Chronological (temporal) delimitation

It refers to the selection of a particular period. This research is based on the penalization of traffic offenders in the magisterial district of Lower Umfolozi between 01 January 1990 and 30 June 1990.

1.5.5 Conceptual delimitation

This type of limitation implies that a researcher requires clear and scientifically precise definitions of the concepts with which he proposes to work. Concepts are defined in paragraph 1.6. An operational definition of concepts will be attempted: that is, the definition will interpret the concept as it is employed in relation to this research. It is thus essential to know how the researcher define certain concepts. This shall not mean that there will be a subscription to such definitions, but so long as it is known precisely what the researcher means when employing a particular concept, it should be possible to understand the research and appraise it objectively (Goode & Hatt, 1952).

1.6 DEFINITION OF CONCEPTS

It is essential that concepts be clearly defined in order to eliminate distortions. Distortions may be eliminated if specific requirements are met. According to Stoker (1961:70-71) definitions must:

- (a) be true;
- (b) be unambiguous;
- (c) contain no superfluities and should not beg the question;
- (d) contain no contradictions;
- (e) be positive;
- (f) be adequate; and
- (g) be clearly formulated.

To appreciate and understand the problems of research on penalization of traffic offenders it is necessary to share a common understanding of the basic concepts. The information provided herein is a composite of those concepts found in general criminological usage. The following definitions are by no means complete or intended to meet the needs of every situation which will confront the researcher. It is rather a springboard into one of the most fascinating areas of traffic law enforcement and penalization of traffic offenders.

1.6.1 Penalization

Penalization (which here implies punishment) is the sanction of criminal law. Penalization refers to the imposition of punishment by the state. There is no traffic offence without the stipulation of penalization. This is reflected in the doctrine of nullum crimen sine lege (Van der Walt et al. 1977:26-27; Rabie & Strauss, 1985:6-7). Penalization therefore follows the breaking of a legal norm (Wright, 1973:22). Penalization is obviously an element of a traffic

offence. It is an intentional infliction of suffering upon a traffic offender and implies the expression of the community's condemnation and disapproval of the traffic offender and his conduct. This denotes that penalization is explained in terms of retribution.

Rabie & Strauss (1985:7) define penalization as follows:

"Punishment is the balancing of a punishable infringement of the law with the infliction of an evil which is commensurate with the gravity of the injustice and the mens rea of the offender, which expresses a public disapproval of the offender's act and thereby leads to verification of the law."

Retribution simply implies penalization (Ross, 1975:36; Barnett & Hagel, 1977:211-212; Halleck, 1967:3; Rabie & Strauss, 1985:6-8). The researcher proposes to give the following operational definition: by penalization is meant punishment imposed or inflicted by the court on the traffic offender for committing a traffic offence. For purposes of this research, penalization will include all forms of punishment imposed on traffic offenders.

1.6.2 Traffic offence

Odendaal (1968:28) gives the following definition: "'n Verkeersoortreding is 'n handling of versuim van 'n persoon waardeur of iemand anders se lewe in gevaar gestel kan word ten gevolge van die onveilige bestuur van 'n voertuig of waardeur onoordeelkundige, onbedagsame of ongemagtigde optrede sy eie lewe op 'n openbare pad in gevaar kan stel of optrede wat andersins antisosiaal van aard of in stryd is met openbare padverkeer-voorsorgmaatreëls; die optrede kan opsetlik of onopsetlik geskied maar, wat ook al die geval, die gevolge kan ewe ernstig wees." It is therefore evident that a traffic offence/traffic crime/traffic violation means the violation or transgression of road traffic legislation (Louw

et al. 1978:86; Welman, 1971:31). The Road Traffic Act No 29 of 1989 (as amended) makes no distinction between traffic offence, traffic crime and traffic violation. For purposes of this research, these three concepts will be viewed as synonymous and will be used interchangeably.

1.6.3 Traffic offender

Du Plessis (1981:5) gives the following definition: "'n Verkeeroortreder is enige persoon wat deur die hof skuldig bevind is aan 'n verkeersoortreding, met 'n begrip van iemand wat, indien hy in die hof sou verskyn het, skuldig bevind sou word aan 'n sodanige oortreding. Die rede vir verdere kwalifikasie is dat oortreders soms verkies om afkoopboetes te betaal eerder as om in die hof te verskyn. In ander gevalle gebeur dit dat die oortreders nie by die gegewe adres opgespoor kan word nie ten einde 'n dagvaarding te bedien." It is clear from this definition that the concept traffic offender refers to the individual who has committed a traffic offence, charged, convicted (found guilty) and penalized whether he/she has physically appeared in a court of law or not. Non-appearance occur in payment of an admission of guilt fine.

1.6.4 Traffic

To eliminate any distortion with regard to this concept, the researcher will rather implement an operational definition of general movement of pedestrians (people), motor vehicles and ridden animals in streets or on public roads. One pedestrian may constitute a traffic (Clark, 1982:17; Smit & Potgieter, 1982:1).

1.6.5 Driver

Clark (1982:17) maintains that a driver is a person who drives or is in actual physical control of a vehicle. According to the Road Traffic Ordinance (Natal, 1966:Section 1) and the Road Traffic Act (South Africa, 1989:Section 1) driver means: "Any person who drives or attempts to drive any vehicle or who rides or attempts to ride any pedal cycle or who guides any draught, pack or saddle animal or herd or flock of animal ...". For purposes of this research, an operational definition of a driver of motor vehicle shall be deemed to mean the traffic offender.

1.6.6 Motor vehicle

Motor vehicle means any self-propelled vehicle and also refers to a device designed or adapted principally to travel on wheels (South Africa, 1989:Section 1). It is clear from this definition that a motor vehicle is a device by which any person or property may be propelled, moved or drawn upon a public road (Cooper, 1990).

1.6.7 Public road

A public road can be defined as a road, street or any other place (thoroughfare) commonly used by the public (Natal, 1966:Section 1). The concept road refers to a track or way prepared for passengers (pedestrians), motor vehicles, etc. An operational definition of a street is a road in a town (city) or village usually with houses or buildings at the sides.

1.6.8 Freeway

Freeway refers to a public road or section of a public road which has been designated as a freeway by an appropriate road traffic sign (South Africa, 1989:Section 1; Natal, 1966:Section 1).

1.6.9 Traffic officer

Traffic officer means a person appointed in terms of section 3(a) to be in charge of traffic law enforcement (South Africa, 1989:Section 1). Police officers are also responsible for traffic law enforcement. Police officer means: "A member of any police force established under any law, or any body of persons carrying out under any law, the functions of a police force and includes a traffic officer appointed in terms of Section 3" (Natal, 1966:Section 1).

1.6.10 Traffic law enforcement

Little (1970:28) opines: "The term "enforcement" usually refers to the intensity of police surveillance of traffic and techniques used, rather than to the detailed character of the regulations or to the strictness with which they are interpreted." This implies that traffic law enforcement means the action by which order is maintained in the traffic situation to ensure the safety of all road users. Consequently traffic order requires efficient, regulative and predictable action in a given traffic situation (Hand et al. 1980:155).

1.7 REVIEW (SURVEY) OF LITERATURE

Whatever the reason, a review of the available literature suggests that there is yet much to be done if penalization of traffic offenders is to be brought into proper penological and criminological perspective. The researcher has therefore made a study of the following relevant literature (as contained in the bibliography):

1.7.1 South African literature

(a) Cloete & Conradie (1984)

This book is aimed primarily at students in Traffic Criminology. The contents accordingly conform to the requirements for prescribed books at university level. Some chapters consequently concentrate on particular aspects of traffic science and are based on scientifically acquired information. The question of traffic law enforcement, adjudication of traffic offences and traffic control on South African roads are also considered. This book is also aimed at the traffic law enforcement practitioners.

(b) Cooper (1990)

Cooper has attracted the most attention in criminological and penological circles. This work deals with Road Traffic Legislation in South Africa. It includes the road traffic regulations and the Road Traffic Act No 29 of 1989 which replaced the Road Traffic Ordinance No 21 of 1966 is also dealt with in this book. It also goes

rather further in that it takes a provocatively legal line of argument by outlining the various road traffic regulations.

(c) Odendaal (1968)

This thesis demonstrates an exhaustive analysis of the effectiveness of punishment of traffic offenders in South African courts. The function of traffic legislation is also considered.

(d) Du Plessis (1981)

Du Plessis investigated the number of persons charged with reckless driving, how many were found guilty and punished. This researcher, further, demonstrates his dissertation in an analysis of reckless driving in Potchefstroom during 1977 and 1978. He also made comparisons according to demographic variables such as: age, sex, race, etc.

(e) Redgment (1990)

This author further takes a provocative legal line of argument. The book deals extensively with the Criminal Procedure Act No 51 of 1977 and also renders decided cases. Sections relevant to the researcher are Section 56 (written notice to appear in court); Section 57 (an admission of guilt fine); Section 341 (spot fines); and Sections 274 - 299 (sentences imposed on offenders).

(f) Road Traffic Ordinance No. 21 of 1966

This Ordinance was in force up to 31 May 1990. It is worth noting that persons who committed traffic offences prior to 01 June 1990 (i.e. 01 January 1990 to 31 May 1990) but tried by a court after 01 June 1990 were penalized in terms of the Road Traffic Act No. 29 of 1989. The Ordinance dealt with the following:

- * appointment of registering authorities and traffic officers;
- * registration and licensing of motor vehicles;
- * licensing of motor vehicle drivers;
- * public motor vehicles;
- * road traffic signs, general speed limit and parking meters;
- * general penalties and legal procedures;
- * additional powers and duties of officers;
- * apportionment of fees and fines;
- * regulations and by-laws; and
- * penalization of traffic offenders.

The Road Traffic Regulations (made in terms of the Road Traffic Ordinance) highlighted the following:

- registration and licensing of motor vehicles;
- brakes, lamps and other lighting equipment on motor vehicles;
- general equipment on motor vehicles;
- dimensions, projections and loads on motor vehicles;
- general requirements for public motor vehicles;
- road traffic signs; and
- penalization of traffic offenders.

(g) Road Traffic Act No. 29 of 1989

The application of the Act will be discussed in chapter 2, paragraph 2.4.3. The regulation of traffic on public roads, fitness requirements and related matters are issues dealt with by the Act under the following aspects:

- * administrative matters pertaining to registering authorities and traffic officers;
- * registration and licensing of motor vehicles;
- * fitness of drivers and motor vehicles;
- * operator fitness;
- * road traffic signs, general speed limit and parking meters;

- * rules of the road;
- * accidents and accidents reports;
- * specific traffic offences such as: reckless and/or negligent driving, inconsiderate driving, driving under the influence of alcohol, etc.;
- * presumptions and legal procedure;
- * regulations and by-laws; and
- * penalization of traffic offenders.

The Road Traffic Regulations (made in terms of the Road Traffic Act) pertain to the following:

- fitness of drivers and motor vehicles;
- road traffic signs, speed limit and parking meters;
- rules of the road; and
- penalization of traffic offenders.

1.7.2 Overseas literature

(a) Clark (1982)

Clark investigated traffic collisions and traffic management related matters. The book contains illuminating information on aspects of traffic law

enforcement such as: traffic engineering, traffic education, traffic supervision and traffic law enforcement techniques.

(b) Hand, Sherman & Cavanagh (1980)

These authors searched for material on traffic control. Each year traffic law enforcement organizations are faced with an ever-increasing traffic offence commission. Traffic officers deal with preservation of human life by enforcing traffic laws. This book is therefore an ideal source of reference for traffic control and engineering, traffic supervision, traffic law enforcement tactics and the role of the traffic officer in court.

(c) Hood (1972)

Traffic offences are the most dangerous and expensive in modern society. In terms of numbers they are the most frequent. It is therefore possible that more people are penalized for traffic law violations. The predicament is at its most acute in the courts, since it is there that decisions have to be made about penalization. This book is therefore another viable source on penalizing (sentencing) traffic offenders. Judicial officers are faced with a problem in deciding how to perceive traffic offenders. Of crucial importance are the differences of attitude amongst judicial officers to the relationship between traffic offences and other types of crime. These differences of attitude are a major factor in producing disparities (discrepancies) in penalizing traffic offenders. It is for this reason that Hood analyses disparities in penalization.

(d) Willett (1964)

The author focused attention on the study of serious traffic offences and traffic offenders. This empirical research is preceded by a careful analysis of law, of the role played by the police and of the statistical tables presented in the book.

1.8 PROBLEMS (OBSTACLES) ENCOUNTERED DURING THE RESEARCH

The researcher encountered numerous problems and these are briefly discussed below:

- (a) Some particulars of traffic offenders as per written notices to appear in court were incomplete. In some written notices the place, date and time of traffic offence and sex, age, race, nationality and occupation of traffic offenders were not indicated and these were viewed as "unknown" by the researcher. This also applied to spot fine citations.
- (b) In some notices the sections of the Road Traffic Ordinance No 21 of 1966 and the Road Traffic Act No. 29 of 1989 as well as regulations made thereunder were not corresponding with the description of traffic offences.
- (c) The scarcity of literature (locally and/or overseas) on penalization of traffic offenders hampered this research. Criminological and penological investigations on aspects related to this kind of research are equally rare.
- (d) The researcher could not have access to written notices in respect of traffic offenders who appeared for trial. The researcher was informed by court officials that the

notices had already been destroyed. The researcher, therefore, had to rely on the magistrate's Criminal Record Book (J546). In this official document provision is made for full name, age, sex, race and nationality of traffic offenders. However, only the name (sometimes initials) and surname were reflected. Other qualities (demographic variables) such as: age, sex, race, etc. were also not indicated. This problem related to the gross incompleteness of the Criminal Record Book. As a result, these demographic variables are reflected as "unknown" in this research.

- (e) The dates when traffic offences were committed are "unknown" in relation to traffic offenders who appeared in court because all written notices had already been destroyed. Written notices that were not available were for traffic offences committed between 01 January 1990 and 31 December 1990. This includes the period covered by the researcher, 01 January 1990 to 30 June 1990. For purposes of this research, the researcher therefore arbitrarily used the dates of trial (as reflected in the Criminal Record Book - J546) of traffic offenders to ascertain the number of traffic offenders who appeared in court and were penalized between 01 January 1990 and 30 June 1990. This was the most serious problem (obstacle) encountered because the Criminal Record Book makes no provision for the dates when traffic offences were committed.

1.9 CHAPTER DIVISION

In chapter 1 a general orientation to the study is outlined with reference to aspects such as research rationale, research methodology, aims, problems encountered, etc. Chapter 2 is

an exposition of road traffic legislation in South Africa. Chapter 3 relates to the classification of traffic offences and traffic offenders. Factors that contribute towards traffic offences are also discussed in this chapter.

Chapter 4 analyses traffic offenders and traffic offences. Analyses are based on demographic variables (such as age, sex, race, etc.) and traffic dynamics (such as how the traffic offences came to be known, dates and times of traffic offences).

Chapter 5 deals with the various aspects of traffic law enforcement. The main focus of chapter 6 is a detailed analysis of penalization of traffic offenders. Chapter 7 outlines the findings and recommendations pertaining to the penalization of traffic offenders as is evident (emanates) from this research.

1.10 SUMMARY

This research is the first of its kind undertaken in the magisterial district of Lower Umfolozi. The rationale for research resides in the application of knowledge acquired with regard to the penalization of traffic offenders. Research is undertaken with specific aims. This research, therefore, aims at bridging the gap in the substantial knowledge about penalization of traffic offenders. Research methodology implies an operational framework within which facts are placed so that their meaning may be seen more clearly.

Research methodology is a set of methods and procedures designed to achieve clarity about aspects pertaining to penalization of traffic offenders. Criminological research cannot proceed without proper delimitation. The following are important types of delimitation (as applicable in this research):

- quantitative,
- qualitative,
- geographical (spatial or ecological),
- chronological (temporal), and
- conceptual.

It is essential to define concepts in order to appreciate and understand issues pertaining to penalization of traffic offenders. In order to eliminate distortions that may exist, it became necessary for the researcher to define certain concepts operationally. It should be noted that literature review suggests that there is yet much to be done if penalization of traffic offenders is to be brought into proper penological and criminological perspective. Research is fraught with problems. The researcher encountered numerous problems (obstacles) which hampered this research. The division of chapters in respect of this research is also outlined in this chapter.

CHAPTER 2

ROAD TRAFFIC LEGISLATION IN SOUTH AFRICA

2.1 INTRODUCTION

The considerable increase in motor vehicles on the road, the high rate of road accidents, the voluminous number of traffic violations and the fact that road safety cannot be guaranteed by improvements to road and environmental conditions, has necessitated the enactment and review of traffic legislation. Traffic legislation does not simply depend upon its enforceability in achieving voluntary obedience amongst road users, but also on inherent consistency and predictability. This is also another rationale for enacting road traffic legislation. It is possible that traffic legislation may be directed at the traffic laws and not taking into account the consequences thereof. The point of focus, therefore, becomes the enforceable nature of legislation rather than its consequence. The architects of traffic legislation often adopt their own individual attitude and approach to traffic problems as a point of departure without giving due consideration to the attitude and the opinion of the community. This may lead to inflexible traffic legislation whereas the community in which it is implemented is subject to rapid change.

The possibility exists that there could be a negative influence upon the effectiveness of legislation and this could be a result of placing too much emphasis on enforcing traffic legislation. This might foster the development of a careless

attitude towards traffic legislation and might therefore complicate the task of traffic law enforcement authorities. Traffic legislation should reflect the interest of the community rather than simply representing a set of enforceable rules. In this sense, therefore, traffic legislation should aim at maintaining an equilibrium in order to best serve the interests of the community. More attention is being paid to the human factor in traffic conditions because it is felt that the driver of a motor vehicle "... must be governed by rules of driving conduct or the result was [is] highway chaos" (Barkhuizen, 1967:298).

2.2 OBJECTIVES AND FUNCTION OF TRAFFIC LEGISLATION

It is clear that traffic legislation has been enacted with specific objectives (Barkhuizen, 1967:300; Kriel, 1974:2). Every individual has the right to use public roads and the use thereof should be as humanly as possible. All persons are expected to be considerate to other road users. The traffic officer's conduct in his role as maintainer of traffic order is governed mainly by two sets of traffic legislation, namely those relating specifically to traffic as such and those concerned with the functions of the traffic officer.

2.2.1 Objectives of traffic legislation

Traffic laws are aimed at ensuring orderly flow of traffic and road safety by achieving a balance between traffic flow, road safety and economy (Trip, 1938:76). In other words, traffic laws regulate road behaviour in the interests of order. Traffic legislation has a number of broad and diverse objectives:

- (a) it prescribes certain standards of behaviour for individual road users and judges certain types of traffic conduct. Such behaviour should not amount to negligence or recklessness;
- (b) standards of safe behaviour should be brought into line with the wishes and demands of road users;
- (c) the various traffic prescriptions (Road Traffic Act and Regulations) should be consistent with each other;
- (d) traffic legislation is directed at the determination of guilt and responsibility in road accidents;
- (e) traffic legislation contains objectives relating to environmental elements influencing traffic. For instance, buildings and other features should not obstruct visibility or the flow of traffic; and
- (f) the legal measures aimed at promotion of road safety should always go hand in hand with the improvement of road and environmental conditions (Barkhuizen, 1967:300).

A great deal of traffic legislation consists of a series of road safety prescriptions in written form. The practical objective is to lay down rules of traffic conduct so that every road user will know exactly what is expected of him (Barkhuizen, 1967:300). It is appropriate to refer to regulations dealing with the functions of traffic officers. There are specific rules which set the limits within which the traffic officer may act in the execution of his duties. They provide guidelines which subdivide his functions into three

areas, namely administrative, executive and supervisory acts of authority (Smit, 1989:3-4). The functions of the traffic officer will be discussed in chapter 5, paragraph 5.5.

2.2.2 The function of traffic legislation

The comprehensive function of traffic legislation is to ensure order on the roads, and to control and prevent traffic offences (Oosthuizen, 1975:12-13; Milton & Fuller, 1971:653). Sound principles regarding the use of roads should be adhered to. To regulate the easy flow of traffic, all drivers of motor vehicles should observe all traffic signs, rules and regulations. The application of traffic legislation is aimed at the reduction of risky conduct on the part of the road user with the purpose of controlling his/her behaviour which can make a considerable contribution towards fulfilling the objectives and functions of traffic legislation. The objectives of traffic legislation are more easily achieved when they are supported by positive public opinion, attitudes and voluntary compliance.

Apparently, the main function of traffic legislation in relation to road safety and penalization of traffic offenders is to reinforce the duty to take care by providing additional safeguards in situations of potential danger. Justice Broome (Odendaal, 1968:35) remarks: "These safeguards, involving as they do the creation of quite arbitrary criminal offences, are rough and ready, but they are the best that can be devised. They have the obvious disadvantage of making punishable conduct which is not inherently wrong and which often does not involve any failure to take due care, but that is the price we must pay for safer roads."

The effective functioning of traffic legislation may be influenced by a number of factors (Kriel, 1974:5-7).

Factors that are characteristic of the application of traffic legislation also create various problems, for instance, the so-called victimless traffic crimes. A fair percentage of traffic offences may be classified as such because there is no specific complaint and immediate victim. Traffic legislation evolved with increased use and complexity of human nature. For traffic legislation to become operative it must be consistent with the principles of criminal law. Traffic crime can therefore be seen as the commission or omission of an act for which there is a prescribed penalization. This implies that traffic legislation consists of various elements (corpus delicti) that must be present in each traffic offence before it is complete (Hand et al. 1980:154). When all the elements are present, the traffic offence is complete, regardless of the state of mind of the traffic offender.

2.3 PROBLEMS AFFECTING TRAFFIC LEGISLATION

In addition to the road user, the application of traffic legislation and the legal aspects thereof, several problems affecting traffic legislation may be identified (Kriel, 1974:6). Traffic legislation clearly define the rules, guidelines, duties and limitations applying to drivers, pedestrians, vehicles, roads and road traffic signs. It is therefore apparent that they promote preventive rather than repressive traffic control. The Road Traffic Act and Regulations require all road users voluntarily to submit to reasonable restrictions, the objective being to lower the rate of road accidents. These prescriptions impose a further duty on the police and traffic officer and demands of them specific

high-quality law enforcement through discretion, the determination of tolerance thresholds and selective traffic law enforcement.

2.3.1 Criticisms against traffic legislation

Numerous criticisms have been levelled against traffic legislation:

- (a) there are too many provisions of too diverse nature;
- (b) correct road behaviour need not necessarily promote the flow of traffic (Barkhuizen, 1967:296). This implies that legally permissible road behaviour may still not be safe road behaviour; and
- (c) the total traffic system needs to be improved because it is outdated and contains numerous loopholes and penalization of traffic offenders is too light (Erlank & Roux, 1967:104).

2.3.2 Acceptability and practicability of traffic legislation

The acceptability and practicability of traffic legislation is contingent upon the following basic requirements:

- * it must actually relate to traffic crime and punishable traffic crimes;
- * it must enjoy the support of public acceptance and attitudes. The public is often misinformed since it may think that the existence of traffic legislation and its enforcement constitutes the source of revenue and that

traffic legislation serves merely as "... a measuring stick for the determination of civil liability of those involved in automobile accidents." (Barkhuizen, 1967:299); and

* it must be enforced (Cloete & Conradie 1984:75-76).

2.3.3 Differential nature of traffic legislation

It could be stated with certainty that there are specific traffic law enforcement problems. There are also fundamental differences pertaining to the essential nature of traffic legislation. The following points of differences can thus be highlighted:

- (a) It is a dubious fact to regard traffic offences as crimes and that traffic offenders should be treated as offenders in the true sense of the word. Some feel that traffic offences should be classified under the "grey area" i.e. between the socially accepted behaviour and clearly unlawful actions. This will imply that traffic offences are not so dangerous so as to justify police action. Gardiner (1969:3) states: "From the point of view of the public police decisions on these questions are important factors in delineating the boundaries between the social values of liberty and order to security. From the point of view of the police, the need to make decisions within this limited area challenges the strength of the policeman's commitment to the public expectation that all laws will be literally enforced, and also trains the public's support for the police in more serious matters."

- (b) Traffic offences are unique phenomena that should not be equated with the laws of the country and should therefore be judged by special courts of law and be treated by means of special methods (Erlank & Roux, 1967:127).
- (c) Traffic offences hold no social stigmatization for most people. The National Advisory Commission (1973:227) remarks: "It is therefore a basic tenet and an underlying assumption of traffic law enforcement that people regularly and without any natural consciousness of wrongdoing violate laws designed to ensure safe use of the highways."

2.3.4 Public opinion and attitudes towards traffic legislation

Public opinion and attitude is predominantly inclined to identify a police or traffic officer's action with clear breaches of the law or breaches of natural law such as murder and rape (Gardiner, 1969:3; National Advisory Commission, 1973:227). Erlank & Roux (1967:126) are of the opinion that traffic accidents and traffic crime commission are not traffic crimes because they are not committed intentionally. It is for this reason that there is a notion that traffic offences should not be regarded as ordinary crimes; traffic legislation should not be applied in the same strict or relentless way and traffic offenders should be tried by special traffic courts and should also be treated by means of unique techniques. These demands do not merely end with decriminalization but extend the demand for depolicing. Depolicing implies that minor traffic offences should be overlooked if they do not threaten or endanger other road users. According to Myren (Radelet, 1973:47) traffic legislation is purely a set of

norms for convenience and is not as such part of the legal code. The enforcement of traffic legislation is therefore not a police function.

Some authorities think that traffic offences are ordinary crimes and traffic offenders should be penalized (Willetts, 1964:3-8). It is thus possible that the breakdown in law and order may start at the level of traffic corruption. Weston (1978:4) expresses a neutral opinion: "The provisions of a vehicle code are sanctioned law, even though most of the regulated actions are noncriminal." Seen juridically, traffic laws are superfluous if they are not maintained on the same level as the ordinary laws of the land. This legal opinion is mainly based on the assumption that there is no particular need for traffic legislation since Roman Dutch Law and Common Law, both of which exist independently of legislation, control the use of roads just as they control all other human activities. Common law prescribes that human beings should take reasonable precaution so that others are not injured. The use and extension of road transport created a need for specific road traffic legislation. The architects of traffic legislation rightly believed that carelessness on roads is an offence against the state and is therefore a punishable traffic offence. Traffic regulations, therefore, belong to the legal code and should as such be enforced as a code of traffic conduct. Traffic legislation is therefore acceptable to most people. It follows then that traffic law enforcement is a police function. Van Heerden (1976:4-6) opines that the police have the delegated authority to enforce such law. Traffic policing will always be beset with numerous problems. Aspects such as road education and traffic engineering can go a long way towards promoting road safety.

2.3.5 Inaccurate and unreliable data

Traffic legislation is also fraught with the problem of inaccurate and unreliable data. The objectives of traffic legislation can be executed much more effectively if it is based on accurate, meaningful and reliable data. In this regard there are various shortcomings in traffic legislation. There is a shortage of technical research findings to provide the legislator with the necessary facts regarding road conduct. The legislative bodies have meagre resources and manpower to analyze and evaluate traffic legislation (Kriel, 1974:6). This, therefore, results in vagueness and ambiguities in traffic legislation which creates problems in the adjudication of traffic offences and problems for the road user.

2.3.6 Risk-Analysis

One of the functions of traffic legislation is without doubt to prohibit risky behaviour by the road user and in this way to eliminate it. Entering the traffic situation is a calculated risk. Sabey & Taylor (Schwing & Albers, 1980:44) describe it as follows: "In broad terms travel by road is understood by most of us to involve some risk, though the level of this risk is only dimly perceived and rarely called into prominence because it has been with people almost all of their lives. Daily journeys from the home are commonplace ... Road accidents are associated with a well-founded activity which almost everyone needs and wants to be involved in; the road accident situation is therefore very different from many threats to personal safety which are far less well appreciated and sometimes not even recognized until

irreparable damage has occurred to the persons affected." There are specific forms of road behaviour which are dangerous and may be without any prohibition.

Traffic legislation that does not take the risk factors into account can have far-reaching consequences for road safety. The researcher refers to the driving offences which represent one of the largest single area of application of traffic legislation in the magisterial district of Lower Umfolozi. It would therefore be to the detriment of drivers if a speed limit that had been imposed in a specific area did not take previously identified risk factors into account. The rationale for risk analysis resides in the fact that road safety programmes have not been successful. It should, however, be noted that drivers are not always fully informed as to the purpose and essence of traffic legislation and consequently approach it indifferently. The reason for this seems to be that traffic offences are not viewed with the same degree of gravity as other crimes. Moreover, there is absence of the social stigma when a traffic offender is penalized, regardless of how serious it is.

2.3.7 Complex and diverse nature of traffic legislation

Another problem surrounding traffic legislation is that its nature is too comprehensive, diverse and complex. It influences the attitude and standpoint of the road user to a large extent because the expression "ignorance of the law is no excuse to escape punishment" and that everyone should know the law clearly becomes an impossibility. The news media may bring aspects of new traffic legislation to the attention of the public. The average road user can scarcely be expected to keep pace with all amendments pertaining to traffic

legislation on a regular basis. This impossibility often results in the road user being penalized for violating traffic laws of which he/she was not even aware of (Middleton, 1974).

2.4 APPLICATION OF TRAFFIC LEGISLATION

Legislation or statutory law may be found in a variety of forms, depending on the body which created it. The most well-known of this body is Parliament. Its legislation is known as "acts" and in this research, reference will be made extensively to the Road Traffic Act, Act 29 of 1989. It is also appropriate to refer to the notion that serious traffic crimes entail those traffic offences that are "dangerous", while "less serious" traffic crimes refer to those traffic offences which are less directly threatening to the individual, his family and society. Sometimes this distinction between serious and less serious traffic crimes is explained as the difference between offences that are wrong in themselves (mala in se) and those which are wrong because they are prohibited by the legislature (mala prohibita) (Rabie & Strauss, 1985:4; Waldron, 1980:20-21; Burchell et al. 1983:91-92; Nettler, 1984:17).

There are also other bodies which have legislative powers:

- * Provincial Councils and their legislation is generally known as "ordinances." In this research, the application of the Road Traffic Ordinance No. 21 of 1966 will be discussed. It should be noted that the road traffic ordinances of Natal, Orange Free State, Transvaal and Cape of Good Hope bear the same number and year;
- * Town and City Councils and their legislation is known as "by-laws"; and

- * subordinate legislative power in accordance with a law of Parliament is sometimes given to persons holding certain positions (for example regulations which are decreed by a specific Minister). Road Traffic Regulations are decreed by the Minister of Transport Affairs (South Africa, 1989: Section 132).

The following commentary is aimed at highlighting other legislation which effect the control of traffic offences and penalization of traffic offenders. Persons who have transgressed traffic legislation are normally issued with written notices to appear in court and failure to appear in court is punishable (Redgment, 1990:35-36; South Africa, 1977:Section 55). It is permissible to pay an admission of guilt fine with regard to certain less serious offences (South Africa, 1977:Section 57). The admission of guilt procedure can only be resorted to in two situations:

- (a) where a summons to secure attendance in a magistrate's court has been issued (South Africa, 1977:Section 54); or
- (b) a written notice to appear in court has been issued to the traffic offender (South Africa, 1977:Section 56). Spot fines are paid to municipal traffic departments due to the compounding of certain traffic offences (Redgment, 1990:202-203).

2.4.1 Road Traffic Ordinance No. 21 of 1966

This research covers the period between 01 January 1990 and 30 June 1990. The Road Traffic Ordinance was applied to penalize traffic offenders up to 31 May 1990. The Road Traffic Act No. 29 of 1989 came into operation on 01 June 1990. The researcher is therefore justified to discuss the

application of the Road Traffic Ordinance and the Road Traffic Act with regard to the penalization of traffic offenders in the magisterial district of Lower Umfolozi.

The objective of the Road Traffic Ordinance was to repeal, consolidate and amend all laws relating to motor vehicles and the regulation of public on public roads. It made provision for the following aspects:

2.4.1.1 Administrative arrangements

The administrative arrangements included:

- * appointment of registering authorities;
- * appointment of traffic officers, inspectors of licences, examiners of vehicles and examiners for drivers' licences;
- * registration of motor vehicles; and
- * renewal of licences (Natal, 1966:Sections 1-5).

Other aspects pertaining to registration of motor vehicles were the following: assigning of a registration mark; owner of motor vehicle was liable to register it on a specified date; a period of grace was allowed for making an application for registration; application for registration was to follow a certain procedure; registering authorities were allowed to issue registration certificates; owner of motor vehicle was compelled to affix or display registration marks and there was a specified period during which the motor vehicle licence was valid (Natal, 1966:Sections 8,9,10,11,12, 14 & 15).

A registering authority was allowed to issue a motor vehicle licence and clearance certificate and a roadworthy certificate was required in respect of certain motor vehicles (Natal, 1966:Sections 18-19). A motor vehicle which was stolen or became permanently unfit for use was required to be reported within twenty - one days and the owner of a vehicle was required to notify the registering authority of the change of permanent and postal addresses (Natal, 1966:Sections 23 & 26). Additional requirements were stipulated in relation to the display of registration marks, clearance certificates and motor dealers' clearance certificates (Natal, 1966:Section 48). Registering authorities were allowed to cancel the registration of motor vehicles not licensed by certain dates and late payment of registration and licence fees was penalized (Natal, 1966:Sections 51-52).

2.4.1.2 Licensing of drivers of motor vehicles

Drivers of motor vehicles were required to be licensed (Natal, 1966:Section 56). Drivers' licences were classified and it was required that drivers' licences be included in the drivers' identity documents. This came into force since 01 February 1972 (Natal, 1966:Sections 58-59). The possibility existed that a person was disqualified from holding a learner's or driver's licence (Natal, 1966:Section 61). A permit was required to drive a farm tractor (Natal, 1966:Section 66). The Administrator was allowed to suspend or cancel the driver's licence and endorsements on drivers' licences lapsed after three years (Natal, 1966:Sections 70 & 72). The instructors of learner drivers were required to obtain a permit from the Administrator (Natal, 1966:Section 73). The person who permitted or allowed unlicensed person to drive a motor vehicle was penalized (Natal, 1966:Section 76).

2.4.1.3 Vehicle fitness and related permits

The following aspects were required in respect of public motor vehicles:

- * certificate of fitness;
- * public driving permit;
- * examination of a motor vehicle;
- * certificate of fitness disc;
- * penalization of the person who held more than one certificate of fitness in respect of the same motor vehicle;
- * a certificate of fitness disc was required to be affixed;
- * suspension or cancellation of certificate of fitness or certificate of fitness disc by the Administrator;
- * suspension or cancellation of public driving permit by the Administrator; and
- * it was punishable to permit or allow a person not being the holder of public driving permit to drive (Natal, 1966:Sections 77-84,87, 92 & 96).

2.4.1.4 Prescription and displaying of road traffic signs

The Administrator was authorized to prescribe and display road traffic signs and persons who failed to obey road traffic signs were penalized (Natal, 1966:Sections 99-101). Speed limits were specified as follows:

- * a general speed limit of 60 kmh was applicable in an urban area (other than a freeway);
- * a general speed limit of 100 kmh was applicable on public roads other than a freeway outside an urban area; and
- * a general speed limit of 120 kmh was applicable on a freeway (Natal, 1966:Sections 102(1)(a)-102(1)(c)).

It is worth noting that certain drivers were allowed to speed (Natal, 1966:Section 103A). Reference was made to the drivers of emergency vehicles such as ambulances, fire-fighting vehicles and civil defence vehicles. It was required that motor vehicles should be driven on the left side of the roadway and drivers were expected to observe the manner in which they drove on divided public roads and how they passed other vehicles (Natal, 1966:Sections 107-109).

2.4.1.5 Driver behaviour on public roads

The following were important rules of the road:

- driving signals;
- right of way at certain road junctions;
- procedure when turning;

- towing of vehicles;
- stopping and parking of vehicles;
- compulsory stops;
- general duties of driver and passenger;
- vehicle causing excessive noise;
- use of hooter (warning device);
- pedestrian's right of way in pedestrian crossing;
- duties of pedestrians;
- hindering or obstructing traffic on public roads;
- vehicle left or abandoned on public road;
- special provisions relating to freeways; and
- the penalization upon violation of these rules (Natal, 1966:Sections 111-134).

Certain procedures were followed in respect of the reporting of accidents (Natal, 1966:Sections 135-137). Any person who drove a vehicle in wilful or wanton disregard for the safety of persons or other property was deemed to have driven that vehicle recklessly and a person who drove without reasonable consideration for any other person using the road, was penalized for inconsiderate driving (Natal, 1966:Sections 138 & 139).

A person was penalized for drunken driving if he drove a vehicle while under the influence of intoxicating liquor or a drug having a narcotic effect or with excessive amount of alcohol in his/her blood (Natal, 1966:Sections 140(1)(a) & (b)). It must be noted that the alcohol concentration in blood should not exceed 0,08 grams per one hundred millilitres of blood. The supply of false information and unauthorized acts in relation to vehicle registration numbers, registration marks and certain documents were punishable (Natal, 1966:Sections 141-143). It was also punishable to impersonate a traffic officer or inspector of licences or to induce such officer to bribery and corruption (Natal, 1966:Section 144).

The courts were authorized to order that a driver's licence or a public driving permit be produced before it and it was empowered to issue an order for the endorsement, suspension or cancellation of a licence or public driving permit or disqualifying a person from obtaining a learner's or driver's licence (Natal, 1966:Sections 145 & 146). A specific procedure was followed in respect of the endorsement, suspension or cancellation of driver's licence (Natal, 1966:Section 148). Penalization was imposed on the basis of presumptions with regard to:

- public roads;
- freeways;
- weight ascertained by means of a weigh-bridge or mass-measuring instrument;
- gross weight of motor vehicles;

- that an owner of motor vehicle drove or parked it;
- traffic officers; and
- a copy of entry in a register or record of a registering authority was accepted as true record (Natal, 1966:Sections 149-157).

2.4.1.6 Penalization

Traffic offenders were penalized in the following manner:

- (a) for the death of a person, a fine was not to exceed R3000 or imprisonment not exceeding three years or both;
- (b) for reckless driving a fine was not to exceed R2000 or imprisonment not exceeding two years or both;
- (c) for drunken driving or tampering with a motor vehicle (while under the influence of intoxicating liquor or a drug having a narcotic effect) a fine was not to exceed R1000 or imprisonment not exceeding one year or both; and
- (d) any other traffic violation was liable to a fine not exceeding R500 or imprisonment not exceeding six months or both (Natal, 1966:Section 180A).

2.4.2 Road Traffic Regulations

The researcher deems it fit to briefly highlight the various regulations (in terms of the Road Traffic Ordinance No. 21 of 1966) that were applicable in the penalization of traffic offenders in the magisterial district of Lower Umfolozi - the

magistrate's courts being Empangeni magistrate's court and Kwambonambi periodic court. The stipulations formed the basis of penalization in terms of Road Traffic Ordinance No. 21 of 1966. The researcher is also of the opinion that such an exposition is of crucial importance to orientate the reader with regard to modern trends in penalizing traffic offenders and to eliminate any possible distortion that might prevail with regard to the historical background of penalization of traffic offenders.

Drivers of motor vehicles were required (in terms of the Road Traffic Regulations) to conform to the following requirements:

- (a) motor vehicles were required to be registered and licensed (Natal, 1966:Regulations 2-9);
- (b) brakes, lamps and other lighting equipment were required to be fitted to motor vehicles (Natal, 1966:Regulations 16-72);
- (c) motor vehicles were required to be equipped with steering, hooter, fuel tank cap, safety belts, etc. (Natal, 1966:Regulations 73-87); and
- (d) motor vehicles were also required to conform to certain specifications pertaining to dimensions, projections, and loads and public motor vehicles were required to conform to certain specifications (Natal, 1966:Regulations 88-109).

2.4.2.1 Penalization

Traffic offenders were penalized as follows:

(a) for contravening traffic regulations pertaining to:

- * load on tyres;
- * gross vehicle mass and axle massload;
- * axle massload of vehicle with pneumatic tyres;
- * distribution of axle massload and wheel massload on vehicle fitted with pneumatic tyres; and
- * axle massload of vehicle fitted with tyres other than pneumatic tyres (Natal, 1966:Regulations 100-104), a fine was not to exceed R2000 or imprisonment not exceeding two years or both (Natal, 1966:Regulation 182(a));

(b) for not wearing safety belts (Natal, 1966:Regulation 86), a fine was not to exceed R30 or imprisonment not exceeding ten days or both (Natal, 1966:Regulation 182(b)); and

(c) for contravening any other regulation, a fine was not to exceed R500 or imprisonment not exceeding six months or both (Natal, 1966:Regulation 182(c)).

2.4.3 Road Traffic Act No. 29 of 1989

It is commonly accepted that the striving towards uniform traffic legislation in South Africa was fully realized in 1989 with the enactment of the Road Traffic Act No. 29 of 1989 which commenced on 01 June 1990 and can thus be seen as the most recent road traffic legislation. The aim of the Act is to consolidate and amend all the laws relating to the

registration and licensing of motor vehicles and the drivers thereof, to regulate traffic on public roads and to make provisions for certain requirements of fitness (Cooper, 1990:595). Further, the purpose of this newly promulgated traffic legislation is to establish the facts of the traffic offence and to execute the authority of the Act with regard to the violation of traffic legislation. The hearing of any violation in terms of this Act in a court of law will therefore be aimed at establishing guilt or innocence as well as at passing judgement as to the validity of the application of the Act. The enforcement of traffic legislation is the most important measure in preventing traffic crimes. However, how good our present or future traffic legislation may be, it will not prevent traffic offences if it remains pigeonholed and unenforced.

The following account will point out the bearing of the Act on the understanding of the commission of traffic offences and the penalization of traffic offenders in the magisterial district of Lower Umfolozi and aspects which are deemed relevant here. These include:

- appointment of registering authorities;
- appointment of traffic officers;
- application for registration as inspector of licences, examiner of vehicles, examiner for drivers' licences;
- registration and grading of officers;
- suspension and withdrawal of registration officers;

- establishment of Training Committee for traffic personnel;
- powers and duties of inspectors, examiners and traffic officers;
- failure to comply with instruction or direction of inspector, examiner, traffic officer or peace officer; and
- impersonating authorized officer or inducing any such officer to bribery and corruption (South Africa, 1989:Sections 2-13). These aspects pertaining to registering authorities and officers constitute the basis of penalization of traffic offenders in that traffic officers are traffic law enforcers and responsible for issuing written notices to traffic law violators. The Minister of Transport affairs is authorized to prescribe the registration and licensing system of motor vehicles in each Province (South Africa, 1989:Section 14).

2.4.3.1 Fitness of drivers

This refers to licensing, professional driving permit and powers of the court.

2.4.3.1.1 Licensing

It is a requirement that a driver of motor vehicle should be licensed in terms of the Road Traffic Act (South Africa 1989:Section 15). The drivers of motor vehicles are compelled to carry their drivers' licences in their vehicles (South Africa, 1991:Section 6). The inspector of licences is therefore empowered to demand the immediate production of the

driver's licence. The immediate production of a driver's licence commenced on 01 January 1993 (South Africa, 1991: Sections 3b & 6).

A driver's licence testing centre is authorized to issue a provincial licence (also known as a learner's licence) or a licence to drive (also known as a driver's licence) (South Africa, 1989:Section 16). There are specific prescriptions pertaining to the classification and extent of learner's or driver's licence and these prescriptions relate, inter alia, to the category of a learner's or driver's licence, class of motor vehicle to which each category of such licence relates and the form and content of such licence (South Africa, 1989:Section 17). The contravention of traffic legislation is penalized as stipulated in paragraph 2.4.3.9.

The researcher deems it fit to highlight the following aspects which also constitute the basis of penalizing traffic offenders in the magisterial district of Lower Umfolozi:

(a) Disqualification from obtaining licence

Conditions relating to disqualification from obtaining or holding learner's or driver's licence are, inter alia, the following:

- age factor (under the age of seventeen years in the case of a learner's licence or under the age of eighteen years in the case of any other licence);
- suffering from epilepsy;
- where a driver's licence has been cancelled; and

- addiction to drugs and alcohol (South Africa, 1989:Section 18). A person, when applying for a learner's or driver's licence, is required to disclose the disqualification (South Africa, 1989: Section 19).

(b) Drivers' licence testing centres

The registering authorities are required to apply to the Administrator for the registration of driver's licence testing centres. Such centres must be graded and inspectors must also be appointed (South Africa, 1989:Sections 20-22). The graded driver's licence testing centres are authorized to grant application for and issuing of learner's or driver's licence (South Africa, 1989:Sections 23 & 24).

(c) Examination of applicants for drivers' licences.

The Administrator is authorized to direct the examination of an applicant for driver's licence and the holder of such licence is required to give notice in respect of change of residential address (South Africa, 1989:Sections 25-27). There are conditions under which a licence not issued in terms of the Road Traffic Act shall be deemed to be a driver's licence. A State Department is authorized to issue learner's or driver's licence only to persons in its employment (South Africa, 1989:Sections 28 & 29).

(d) Cancellation or suspension of licence

The Administrator is authorized to cancel or suspend a learner's or driver's licence if such a person has been disqualified or would constitute a source of danger to other road users if allowed to drive (South Africa, 1989:Section 30).

Endorsement on licence lapses after a period of three years from the date upon which it was made and the holder of such licence is allowed to apply to the Administrator if he is of the opinion that there are circumstances justifying the cancellation of such endorsement (South Africa, 1989:Section 31 & 32).

(e) Prescriptions pertaining to instructors and learner drivers

The instructors of learner drivers must also be graded and registered and such registration may be suspended and cancelled (South Africa, 1989:Sections 33-36). Learner's or driver's licences issued contrary to the provisions of the Road Traffic Act shall not be accepted as valid documents (South Africa, 1989:Section 38). The use of learner's or driver's licence by another person is an offence and the unlicensed person should not be employed as a driver (South Africa, 1989:Sections 39 & 40). An exposition of penalization of traffic offenders is outlined in paragraph 2.4.3.9.

2.4.3.1.2 Professional driving permit

A commentary is that the Road Traffic Ordinance (Natal, 1966:Section 78(1) refers to the public driving permit, but for purposes and subject to provisions of the Road Traffic Act, it shall be known as a professional driving permit. It is rightly so-called because the holders of such a permit earn their livelihood as drivers. The following is of utmost importance for this research:

- * the professional driver shall be required to hold a professional driving permit and such permit shall be kept in the vehicle and the inspector of licences may demand the immediate production of such permit (South Africa, 1991:Sections 3(b) & 10). It should be noted that the requirements of keeping the permit in the vehicle and the immediate production thereof came into operation on 01 January 1993;
- * the professional driving permit is classified;
- * an application for such a permit should be made;
- * the Administrator shall register a professional driver;
- * a professional driving permit shall be issued;
- * the Administrator may suspend or cancel the permit; and
- * a permit not issued in terms of the Act shall not be accepted as a valid document (South Africa, 1989:Sections 41-46, & 49).

2.4.3.1.3 Powers of the court

The court may order the production of a licence and a permit (South Africa, 1989:Section 54). A court convicting a person of a traffic offence may issue an order for endorsement, suspension or cancellation of licence or permit or disqualify a person from procuring a licence or permit (South Africa, 1989:Section 55).

2.4.3.2 Fitness of vehicles

The realization of the fitness of motor vehicles is contingent upon the following:

- registration of a testing station;
- suspension or cancellation of registration of testing station;
- appointment of inspectors of testing stations;
- roadworthy certificate required in respect of motor vehicles;
- application for a roadworthy certificate;
- examination of motor vehicle and issue of a roadworthy certificate and roadworthy certificate disc;
- unroadworthy vehicles not to be licensed;
- roadworthy certificate disc to be affixed to a motor vehicle;

- roadworthy certificate should describe the vehicle in question;
- roadworthy certificate and roadworthy certificate disc issued contrary to the provisions of the Act shall not be accepted as valid documents; and
- the Administrator is authorized to suspend or cancel a roadworthy certificate and roadworthy certificate disc (South Africa, 1989:Sections 57-72). Penalization of traffic offenders is accounted for in paragraph 2.4.3.9.

2.4.3.3 Operator fitness

This implies

- * registration of an operator (owner of a motor vehicle);
- * issuing of operator card;
- * operator card to be displayed on motor vehicle;
- * duties of operator; and
- * the Administrator has powers in respect of motor vehicles, drivers and operator activities (South Africa, 1989:Sections 74-76, 78 & 79).

2.4.3.4 Road traffic signs

There are provisions relating to road traffic signs, general speed limit and parking meters and the Minister is authorized to prescribe and display road traffic signs (South Africa, 1989:Sections 82-83). The Administrator is in turn

authorized by the Minister to prescribe and display road traffic signs. It is an offence to damage road traffic signs and failure to obey road traffic signs is penalized (South Africa, 1989:Sections 82-84). Certain drivers may disregard the directions of road traffic signs and this may happen during the course of execution of their duties. Such drivers are, inter alia, traffic officers or any person engaged in civil defence, drivers of a fire-fighting vehicle or ambulance. Motor vehicle drivers are required not to exceed the general speed limit in respect of public road, public road outside an urban area and on a freeway (South Africa, 1989:Section 85). The local authority is authorized to instal parking meters and drivers should observe the time allowed and failure to observe will result in penalization (South Africa, 1989:Section 88).

2.4.3.5 Rules of the road

It is imperative for drivers to adhere to the following rules in terms of the Road Traffic Act:

- (a) vehicles should be driven on the left side of roadway;
- (b) vehicles should be passed with great care;
- (c) driving signals should be given in time in anticipation of the reaction of other road users;
- (d) carefulness is required in respect of right of way at road junctions;
- (e) specific procedure should be followed when turning;
- (f) parking of vehicles;

- (g) compulsory stops should be obeyed;
- (h) a hooter should be used when necessary and vehicles with excessive noise should not be driven on public roads;
- (i) no person is allowed to hinder or obstruct traffic on public road;
- (j) no vehicle should be left abandoned on public road; and
- (k) rules relating to freeways, towing of vehicles, stopping of vehicles and pedestrians right of way in pedestrian crossing and their duties (South Africa, 1989:Sections 89, 91-98, 100, 103, 104, 109, 110, 113, 114 & 117). It should be noted that failure to observe the rules of the road will result in penalizing traffic offenders as outlined in paragraph 2.4.3.9.

2.4.3.6 Accident and accident reports

It is the duty of the driver to take certain steps in this regard:

- (a) the vehicle should be stopped immediately;
- (b) the nature and extent of injury should be ascertained;
- (c) assistance should be rendered to the injured person;
- (d) the nature and extent of damage sustained should be ascertained;

- (e) the following particulars should be furnished: name and address of driver, name and address of vehicle owner and the registration mark;
- (f) the accident report should be completed within twenty-four hours at a police station and the driver should produce his/her driver's licence and identity document; and
- (g) no intoxicating liquor should be imbibed or a drug with a narcotic effect should be taken by the driver unless he has complied with provisions in (f) above (South Africa, 1989:Section 118(1)).

2.4.3.7 Reckless or negligent or inconsiderate driving and driving while intoxicated

Drivers are not required to be reckless or negligent, inconsiderate and should not drive a motor vehicle while under the influence of intoxicating liquor or drug having a narcotic effect or with excessive amount of alcohol in blood (South Africa, 1989:Sections 120-122).

The blood alcohol concentration (BAC) should not exceed 0,08 grams per one hundred millilitres. Persons are penalized for unauthorized acts in relation to vehicles; furnishing false information; and unlawful acts in relation to registration number, registration mark or certain documents (South Africa, 1989:Sections 123-125).

Traffic offenders are penalized as accounted for in paragraph 2.4.3.9.

2.4.3.8 Presumptions

For purposes of penalization, there are certain presumptions which are accepted by the court as correct:

- (a) public road, freeway and public road in an urban area;
- (b) weight ascertained by means of a weigh-bridge;
- (c) weight of gross vehicle;
- (d) proof of gross weight of vehicle;
- (e) owner drove or parked a vehicle; and
- (f) traffic officers (South Africa, 1989: Sections 126-131).

The Minister is authorized to make regulations and the local authority is also authorized to make by-laws (South Africa, 1989: Sections 132 & 133).

2.4.3.9 Penalization

Penalization of traffic offenders follows the violation of road traffic legislation:

- (a) a person convicted for passing a vehicle without due care and is intoxicated shall be liable to a fine not exceeding R8000 or to imprisonment not exceeding two years or to both (South Africa, 1989:Section 149(2)).

(b) A person who:

- * fails to comply with instructions or directions of a traffic officer or examiner of vehicles or inspector of licences;
- * unlawfully issues or authorizes the issue of a learner's licence;
- * unlawfully issues or authorizes the issue or endorses a driver's licence;
- * unlawfully issues or authorizes the issue of a roadworthy certificate or roadworthy certificate disc;
- * removes a vehicle (in an urban area) where a person has been killed and such removal must be authorized by a traffic officer; and
- * unlawfully tampers with a vehicle or part thereof shall be liable to a fine not exceeding R4000 or to imprisonment not exceeding one year or to both (South Africa, 1989:Section 149(3)).

(c) A person who killed another due to failure to stop the vehicle or failure to ascertain the nature and extent of injury or failure to render assistance shall be liable to a fine not exceeding R12000 or to imprisonment not exceeding three years or to both (South Africa, 1989:Section 149(4)(a); South Africa, 1991:Section 28(b)).

- (d) A person who damages any property or animal of another person due to failure to observe his duties as a driver in event of accident shall be liable to a fine not exceeding R4000 or to imprisonment not exceeding one year or to both (South Africa, 1989:Section 149(4)).
- (e) A person involved in an accident and has failed to comply with procedure in event of accident shall be liable to a fine not exceeding R2000 or to imprisonment not exceeding six months or to both (South Africa, 1989:Section 149(4)(c)).
- (f) A person found guilty of reckless driving shall be liable to a fine not exceeding R8000 or to imprisonment not exceeding two years or to both (South Africa, 1989:Section 149(5)(a)).
- (g) A person convicted of negligent driving shall be liable to a fine not exceeding R4000 or to imprisonment not exceeding one year or to both (South Africa, 1989:Section 149(5)(b)).
- (h) Penalization for any other traffic offence shall be a fine not exceeding R2000 or to imprisonment not exceeding six months or to both (South Africa, 1989:Section 149(6)).
- (i) The magistrate's courts are competent to penalize traffic offenders with any penalty provided for in the Road Traffic Act (South Africa, 1989:Section 149(7)).

2.4.4 Road Traffic Regulations

It is necessary for the researcher to briefly highlight the regulations (in terms of the Road Traffic Act No. 29 of 1989) that are applied in penalizing traffic offenders in the magisterial district of Lower Umfolozi.

Cooper (1990:13) maintains that regulations pertain to registration and licensing of motor vehicles. The registration and licensing of motor vehicles is effected in South Africa within each province: Natal, Transvaal, Orange Free State and Cape of Good Hope. The following traffic regulations are consolidated and are applicable to all provinces:

2.4.4.1 Fitness of drivers

Drivers should be the holders of learner's or driver's licences and professional driving permits (Cooper, 1990:339-371).

2.4.4.2 Fitness of vehicles

The testing stations shall determine fitness of vehicles by issuing certificates of roadworthy, roadworthy disc; certificate of fitness, certificate of fitness disc; and the Administrator is empowered to suspend or cancel a certificate of fitness and certificate of fitness disc (Cooper, 1990:375:393). Motor vehicles should be equipped in respect of, inter alia, the following: brakes; lamps; retro-reflectors on certain vehicles; direction indicators; steering mechanism; hooter; windscreen and windscreen wipers; entrance and exit

doors; tyres; exhaust silencers and pipes; safety belts; emergency warning signs (triangles); speedometers; etc (Cooper, 1990:397-467).

Vehicles should conform to certain dimensions which will, inter alia, include: overall length; overhang of vehicle; and projections of load (Cooper, 1990:467-473). Drivers of motor vehicles should observe the load on vehicles in respect of, inter alia, the following: weight of person and luggage; number of persons in relation to seating capacity; load on tyres; gross weight of vehicle; axle massload of vehicle with pneumatic tyres; etc (Cooper, 1990:475-481).

2.4.4.3 Road traffic signs, speed limit and parking meters

Cooper (1990:515-575) opines that drivers should observe road traffic signs in relation to: purpose; classification, types (regulatory, warning informative, road markings), dimensions and colours; manner in which they are displayed; illumination or reflectorization and language used. The general speed limit should not be exceeded (Cooper, 1990:575). The speed limits are the same as those discussed in paragraph 2.4.1.4. A speed limit of 80 kmh shall apply to certain vehicles e.g. trucks, truck-tractors, articulated vehicles, etc (Cooper, 1990:577).

2.4.4.4 Rules of the road

Cooper (1990:579-583) opines that drivers should take heed of the diverse driving signals for the control of traffic.

2.4.4.5 Penalization χ

Traffic offenders are penalized as follows:

- (a) A fine not exceeding R8000 or imprisonment not exceeding two years or both shall apply to persons found guilty of contravening regulations pertaining to dimensions of vehicles and loads on vehicles (Cooper, 1990:591).
- (b) A fine not exceeding R2000 or imprisonment not exceeding six months shall apply to persons convicted of contravening any other road traffic regulation (Cooper, 1990:591).

2.5 SUMMARY

Road traffic legislation is universally viewed as an important cornerstone of controlling the incidence, movement, fluctuation of traffic crimes and the penalization of traffic offenders. Traffic legislation relate to traffic order, smooth and safe traffic flow. The objective and comprehensive function of traffic legislation is to bring about a state of equilibrium in traffic safety and to discourage by means of penalization further commission of traffic offences. Traffic legislation has unique problems. The justification for the existence of traffic legislation is questioned on the grounds that it does not seem to be accepted by the public or to be actually enforced. The rationale for this is the old issue of whether traffic offences are really crimes and whether the traffic offenders should be penalized or not.

The application of traffic legislation in this research is contingent upon the implementation of the Road Traffic Ordinance No. 21 of 1966 and Regulations made in terms of the Ordinance and the Road Traffic Act No. 29 of 1989 and Regulations made in terms of the Act. Each province applies its regulations in respect of registration and licensing of

motor vehicles. The regulations are the same in relation to fitness of drivers; fitness of vehicles; road traffic signs; general speed limit; parking meters and the penalization of traffic offenders.

CHAPTER 3

CLASSIFICATION OF TRAFFIC OFFENCES AND TRAFFIC OFFENDERS

3.1 INTRODUCTION

The study of traffic crime is one of the most important pursuits of research into the penalization of traffic offenders in the magisterial district of Lower Umfolozi. Traffic offences are inherently dramatic events. They cause great harm and elicit a strong social response. The classification of traffic offences is the actual focal point of the consideration of penalization of traffic offenders. Road users and the traffic officers contact, and perhaps conflict, with each other because they are both involved in a general traffic system containing a multitude of elements all interacting with each other in highly complex ways.

Traffic offences are classified as such in terms of specific juridical requirements. Any traffic offence, no matter how trivial, which is adjudicated in a criminal court is classified as a criminal offence (Saunders & Wiechers, 1984:3). The significance of the classification of traffic offences and traffic offenders can be found in Chapter 6 in the sphere of the penalization of traffic offenders. Logically, the penalty imposed on the driver who is penalized for committing a driving offence (for example, driving under the influence of intoxicating liquor) should differ considerably to that of a driver who is penalized for committing a document offence (for example, driving a vehicle without a valid driver's licence).

3.2 CLASSIFICATION OF TRAFFIC OFFENCES ✓

The classification of traffic offences simply refers to the various patterns of traffic offending. The researcher has arbitrarily dichotomized or classified traffic offences committed in the magisterial district of Lower Umfolozi into three discrete categories:

- * driving offences (speeding, drunken driving, etc.);
- * vehicle-related offences (defective tyres, brakes, lights, etc.); and
- * document offences (no valid driver's licence, expired clearance certificate, etc). See attached content analysis (information) schedule for this arbitrary classification (Annexure B).

The classification of traffic offences is related to the way in which they are defined. Van der Walt (1982:35) defines crimes within the criminological framework as the violation of fundamental social relationships. He distinguishes eight fundamental relationships: family, economic, religious, sexual, political, public authority, community and interpersonal relationships. This classification may also be applied to the classification of traffic offences on a limited scale in order to classify traffic offences and to draw a distinction between them and traffic accidents.

Another type of classifying traffic offences is to divide them into two main groups (Cloete & Conradie, 1984:3):

- (a) There are less serious traffic offences that are often classified as transgressions of traffic legislation for statistical purposes and which, in most instances, may be settled by payment of an admission of guilt fine and spot fine. Legal proceedings follow in the event of failure to pay admission of guilt or spot fine. Such traffic offences include driving offences (parking offences, less serious speeding offences, etc), vehicle-related offences (defective tyres, brakes, etc) and document offences (passenger overload, expired clearance certificate, etc).
- (b) There are also more serious traffic offences (also known as "direct charges") where court appearance is generally compulsory. This often includes, inter alia, driving offences such as culpable homicide following a motor car accident, driving under the influence of alcohol, failing to stop after an accident as well as reckless and/or negligent driving.

Before considering the arbitrary classification of traffic offences by the researcher, it is appropriate to briefly highlight other types of traffic offences.

(a) Unconscious and conscious traffic offences —

Dix & Layzell (1983:49-55) refer to certain aspects of traffic offences committed unconsciously and consciously. It is essential to draw a distinction between conscious and unconscious traffic offending. This distinction which is frequently recognized by traffic officers, has important implications for traffic law enforcement. A traffic offence can be committed unconsciously if the traffic offender does not know or is not familiar with the traffic legislation or is not aware that the condition of his vehicle or documents or

his behaviour on the road is contravening traffic legislation. It is therefore possible to refer to traffic offending through ignorance of traffic law-breaking (Dix & Layzell, 1983:50-51). The unconscious traffic crime commission cannot necessarily be considered less serious than conscious commission of traffic offences.

The identification of conscious and unconscious commission of a traffic offence is not intended to imply that there is any legal distinction between these classifications. Nevertheless, unconscious commission of traffic crimes have certain implications for traffic law enforcement. The importance of the distinction lies in its implications for the effectiveness of traffic law enforcement and relations between traffic officers and traffic offenders. In many situations it is not easy for traffic officers to say whether a traffic offence was committed consciously or unconsciously. This implies that traffic officers will judge the traffic offence itself or the attitude of the traffic offender. Conscious traffic offending refers to instances where vehicle drivers deliberately and purposefully contravene traffic legislation. Many driving and vehicle-related offences, require certain physical circumstances for them to be committed. For instance, the speed at which a driver travels along a public road will depend, inter alia, upon both the physical characteristics of the road and upon the driver's perception of the risk inherent in these characteristics. ✓

(b) Consensus traffic offences

Consensus traffic offence commission applies to situations, usually confined to a certain public road or area, where a particular traffic offence has become so rife that the traffic officers no longer enforce it or are unable to enforce traffic

legislation (Dix & Layzell, 1983:58-60). The possibility exists that there might be consensus between vehicle drivers and traffic law enforcement authorities. Speeding on particular roads is a typical example of consensus traffic crime commission.

It is, therefore, apparent that consensus traffic crime commission evolves either as a response to traffic regulations which both drivers and traffic officers believe are unreasonable or when the traffic officers consider that there are goals other than traffic law enforcement which have higher priority or other traffic offences which have a higher priority. Consensus traffic crime commission not only implies that there is a large number of traffic offenders committing the same traffic offence, but also that traffic officers do not enforce the existing traffic legislation (Dix & Layzell, 1983:58). With other situations the possibility exists that the decision not to intervene is actually taken by senior traffic officers. Consensus traffic crime commission may signal that certain traffic regulations are unrealistic (Dix & Layzell, 1983:59). One problem that can result from consensus traffic crime commission, however, is that traffic regulations as a whole may be brought into disrepute.

(c) Schedule traffic offences

The commission of schedule traffic offences occur when commercial and professional drivers are compelled to commit traffic offences in order to meet tight delivery schedules (Dix & Layzell, 1983:61-62).

Traffic officers are tempted to blame tight delivery schedules for many traffic offences particularly driving offences such as speeding and negligent and/or reckless driving. Dix &

Layzell (1983:61-62) opine: "If it is the case that some employers are tempted for commercial reasons to impose driving schedules upon their employees which invite law-breaking, then ways should be sought to make such practices uneconomic. This raises a question of principle: whether or not employers can be held responsible for the driving behaviour of their employees during working hours. It seems certain, however, that less restrictive schedules would result if, for example, both driver and employer were penalized for a motoring offence committed by an employee."

There are literally numerous classifications of traffic offences for which traffic offenders may be penalized. For purposes of this research it will suffice to deal with the arbitrary classification proposed by the researcher. Table 3.1 shows the frequency distribution of traffic offences in the magisterial district of Lower Umfolozi.

TABLE 3.1 FREQUENCY DISTRIBUTION OF TRAFFIC OFFENCES IN
THE MAGISTERIAL DISTRICT OF LOWER UMFOLOZI FOR
THE PERIOD 01 JANUARY - 30 JUNE 1990

| CLASSIFICATION OF TRAFFIC OFFENCES | FREQUENCY | |
|------------------------------------|-----------|--------|
| | (N) | (%) |
| DRIVING OFFENCES | 2641 | 41,42 |
| VEHICLE-RELATED OFFENCES | 2400 | 37,62 |
| DOCUMENT OFFENCES | 1338 | 20,96 |
| TOTAL | * 6379 | 100,00 |

*Table 3.1 shows that the total number of traffic offences has exceeded 4771 traffic offenders penalized in the magisterial district of Lower Umfolozi during the period 01 January 1990 to 30 June 1990. The researcher ascribes the increase to the fact that there were instances where a traffic offender committed more than one traffic offence and was penalized accordingly.

Table 3.1 reveals that driving offences accounted for 2641 (41,42%) of the total traffic offences and were the most traffic offences committed by drivers of motor vehicles. Vehicle-related offences were committed in 2400 (37,62%) of the total traffic offences. Document offences were the least traffic offences committed and they constituted 1338 (20,96%) of the total traffic offences recorded for the period under investigation.

3.2.1 Driving offences ✓

The researcher identified fifty-nine driving offences (see attached information Schedule-Annexure B). It is not the intention of the researcher to give a detailed account of all the driving offences. It is therefore for this reason that the researcher will briefly highlight driving offences which have been arbitrarily selected as serious in terms of the Road Traffic Act (Act 29 of 1989), namely: speeding offences (South Africa, 1989:Section 85); reckless and/or negligent driving (South Africa, 1989:Section 120); and driving under the influence of intoxicating liquor (South Africa, 1989:Section 122).

Table 3.2 renders a breakdown of the frequency distribution of driving offences. For purposes of the table, the researcher has collapsed other driving offences by having

categories/types such as disregarding road traffic signs, disregarding road markings, disregarding rules of the road, etc.

TABLE 3.2 BREAKDOWN AND FREQUENCY DISTRIBUTION OF DRIVING OFFENCES IN THE MAGISTERIAL DISTRICT OF LOWER UMFOLOZI FOR THE PERIOD 01 JANUARY- 30 JUNE 1990

| TYPE OF DRIVING OFFENCE | FREQUENCY | |
|--|-----------|--------|
| | (N) | (%) |
| SPEEDING | 1424 | 53,92 |
| RECKLESS AND/OR NEGLIGENT DRIVING | 13 | 0,49 |
| DRIVING UNDER THE INFLUENCE OF LIQUOR | 70 | 2,65 |
| FAILURE TO WEAR SAFETY BELTS | 266 | 10,07 |
| FAILURE TO GIVE TRAFFIC SIGNALS | 152 | 5,75 |
| FAILURE TO REPORT AN ACCIDENT WHERE A PERSON HAS BEEN KILLED | 1 | 0,04 |
| VEHICLE DRIVEN WITHOUT OWNER'S CONSENT | 10 | 0,38 |
| DISREGARD ROAD TRAFFIC SIGNS | 362 | 13,71 |
| DISREGARD ROAD MARKINGS | 85 | 3,22 |
| DISREGARD RULES OF THE ROAD | 105 | 3,98 |
| PARKING OFFENCES | 122 | 4,62 |
| OTHER | 31 | 1,17 |
| TOTAL | 2641 | 100,00 |

3.2.1.1 Speeding ✓

There is a general speed limit in respect of a public road other than a freeway, public road outside an urban area and a freeway (South Africa, 1989:Section 85(1)). Cooper (1990:575) points out that speed limits are 60 kmh in respect of a public road within an urban area, 100 kmh in respect of a public road (other than a freeway) outside an urban area and 120 kmh in respect of a freeway. The idea of fixing general speed limits is in line with speed zoning (Hand et al. 1980:16). Speed zoning is a traffic engineering tool used to derive the best traffic service for a given set of conditions. General speed limits are applied to areas of high traffic crime commission frequency attributable to excessive speeding. Speed zoning is used to establish general speed limits which adhere to the principle of the basic speed law. Hand et al. (1980:16-17) state that: "No person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for weather, visibility, the traffic on, and the surface and width of, the highway, and in no event at a speed which endangers the safety of persons or property."

Table 3.2 reveals that of all driving offences, speeding was the most prevalent offence and it constituted 1424 (53,92%) offences. Speeding was also coupled with other driving offences such as disregarding a red robot, failure to wear a safety belt, disregarding a stop sign, etc. Skogan (Jacob, 1974:140) opines: "Speeding has become a menace far greater than that of carrying a concealed weapon ... The death and injury toll from this violation is far less than that caused by speeding. An auto driven by a careless or reckless speeder is as dangerous to the community as a revolver in the hands of a burglar. It spells injury and death."

3.2.1.2 Reckless and/or negligent driving

It is often difficult to distinguish between reckless and/or negligent driving. It is also difficult to distinguish between negligent and inconsiderate driving. Drivers of motor vehicles are expected to be considerate to other road users (South Africa, 1989:Section 121). Reckless and/or negligent driving is more than mere negligence. It is an offence to fail to perform because of carelessness, oversight or failure to act in a manner common to a reasonable or prudent driver of a motor vehicle (Halnan & Spencer, 1982:248; Weston, 1978:57).

The accused is guilty of reckless driving if he is driving the vehicle in such a manner as to create an obvious and serious risk of causing physical injury to some other person who might happen to be using the public road or of doing substantial damage to property and in doing so he or she did so without having given any thought to the possibility of there being any such risk. A reckless and/or negligent driver is a person who drives without any regard whatsoever of the safety of other people or property (South Africa, 1989:Section 120(2)). Such a driver is absolutely regardless as to whether he or she does damage or not (Du Plessis, 1981:6). Table 3.2 shows that reckless and/or negligent driving constituted 13 (0,49%) of the total driving offences.

3.2.1.3 Driving under the influence of intoxicating liquor

Walls & Brownlie (1970:113) define drunken driving as follows: "Any person who, when driving or attempting to drive or when in charge of a motor vehicle on a road or other public place is under the influence of drink or a drug to such an extent as

to be incapable of having proper control of the vehicle ... shall be guilty of an offence." Drunken driving is an offence with one foot in the traffic law and one foot in the criminal law. The legal history of driving under the influence of alcohol is marked by: "...A protracted struggle to define scientifically a standard for intoxication and to provide some objective evidentiary basis upon which to determine guilt or innocence." (King & Tipperman, 1975:541). Traffic offenders are/were penalized for drunken driving if the alcohol concentration in blood exceed/exceeded 0,08g per 100 millilitres (South Africa, 1989:Section 122; Natal, 1966: Section 140(1)).

It is essential for the prosecution to prove that the accused drove a vehicle with excess blood alcohol concentration. Alcohol passes readily through all membranes in the body and is absorbed directly into the blood stream. For chemical testing purposes, the amount of alcohol in the blood is called blood alcohol concentration (BAC). Blood alcohol concentration is expressed in weight of alcohol per volume of blood, that is, the weight of alcohol in grams per one hundred millilitres of blood (Schultz & Hunt, 1990:70). For the certificate of analysis to be admissible as evidence, the prosecution must show that the sample of blood for the laboratory was lawfully obtained. It is not necessary that the driver of a motor vehicle be drunk or intoxicated, as the law may merely provide that such driver shall be driving under the influence of intoxicating liquor. If intoxicating liquor has so far affected his/her nervous system, brain or muscles as to impair to an appreciable degree his/her ability to operate the vehicle in a manner like that of an ordinary prudent and cautious driver in full possession of his/her mental faculties, using reasonable care, then such driver is under the influence of intoxicating liquor.

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The so-called "under the influence of alcohol" law expression may create evidentiary problems because the evidence of how the accused driver walked, talked, smelled, and looked may not always indicate that his condition was due to alcohol, or that such condition indicates impaired driving ability. Drivers operating their vehicles in any manner which would raise a doubt as to their sobriety or other abnormal condition should be stopped and the cause for the erratic driving ascertained. Deviations from normal driving may be due to alcohol consumption (Whitlock, 1971:67). It is therefore essential that traffic officers in the magisterial district of Lower Umfolozi should be alert with regard to the appropriate examples of erratic driving.

A basic relationship exists between any alcohol concentration in the blood and the amount in the brain. This implies that the degree of driver impairment due to alcohol effect is proportionate to the amount of alcohol in the brain. The amount of alcohol in the blood depends also on the weight of the drinker (driver of motor vehicle charged with drunken driving), the kind of alcohol imbibed, the time interval since the alcohol was drunk, and whether it was taken with or without food. Age, sex or previous driving experience may not be a factor in an individual's response to alcohol. Weston (1978:88) opines: "On the average, researchers agree that alcohol - even in small amounts - affects driving skills, and that driver performance deteriorates as more alcohol is consumed. Deterioration is progressively and linearly related to the BAC."

The present approach in the South African Law of Evidence seems to be that the reliability and scientific acceptability of the breathalyzer are insufficient for purposes of proving beyond reasonable doubt that a vehicle driver's blood alcohol

concentration exceeded 0,08 grams per 100 millilitres of blood. The breathalyzer is really only an "investigative tool" and serves a very limited purpose in the sense that the results of such a test may furnish information upon which a traffic law enforcement officer may form a reasonable suspicion of intoxication for purposes of an arrest. There are practical difficulties in forcing an unwilling driver to provide a specimen of breath (Du Toit et al. 1991:3-14).

Table 3.2 reveals that 70 (2,65%) traffic offenders were penalized for driving under the influence of alcohol.

TABLE 3.3 FREQUENCY DISTRIBUTION OF DRUNK TRAFFIC OFFENDERS
ACCORDING TO SEX IN THE MAGISTERIAL DISTRICT OF LOWER
UMFOLOZI FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| SEX OF OFFENDER | FREQUENCY | |
|-----------------|-----------|--------|
| | (N) | (%) |
| MALE | 68 | 97,14 |
| FEMALE | 1 | 1,43 |
| UNKNOWN | 1 | 1,43 |
| TOTAL | 70 | 100,00 |

Table 3.3 reveals that driving under the influence of alcohol was an overwhelmingly male activity, namely 68 (97,14%) of the traffic offenders were males, whilst 1 (1,43%) traffic

offender was a female and 1 (1,43%) observation represented the unknown sex category due to incomplete information in the charge sheet.

TABLE 3.4 FREQUENCY DISTRIBUTION OF DRUNK TRAFFIC OFFENDERS ACCORDING TO RACE IN THE MAGISTERIAL DISTRICT OF LOWER UMFOLOZI FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| RACE OF OFFENDER | FREQUENCY | |
|------------------|-----------|--------|
| | (N) | (%) |
| BLACK | 29 | 41,43 |
| WHITE | 28 | 40,00 |
| ASIAN | 10 | 14,29 |
| COLOURED | 2 | 2,85 |
| UNKNOWN | 1 | 1,43 |
| TOTAL | 70 | 100,00 |

Table 3.4 reveals that Blacks were in the majority, constituting 29 (41,43%); Whites 28 (40%); Asians 10 (14,29%); Coloureds 2 (2,85%) while 1 (1,43%) represented the instance where race was unknown due to incomplete information in court records.

Drivers of motor vehicles had specific BAC levels whilst there were drivers whose BAC levels could not be ascertained due to incomplete information.

TABLE 3.5 FREQUENCY DISTRIBUTION OF BAC LEVELS OF TRAFFIC OFFENDERS IN THE MAGISTERIAL DISTRICT OF LOWER UMFOLOZI FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| BAC LEVELS IN GRAMS PER 100 ML | FREQUENCY | |
|--------------------------------|-----------|--------|
| | (N) | (%) |
| UNKNOWN | 16 | 22,85 |
| 0,08 - 0,15 | 10 | 14,29 |
| 0,16 - 0,20 | 20 | 28,57 |
| 0,21 - 0,25 | 14 | 20,00 |
| 0,26 - 0,30 | 8 | 11,43 |
| 0,31 - 0,35 | - | - |
| 0,36 - 0,40 | 2 | 2,86 |
| TOTAL | 70 | 100,00 |

It is apparent (table 3.5) that the majority of drunken drivers with BAC levels ranging from 0,16 to 0,20g constitutes 20 (28,57%) of the total drunk traffic offenders. Eight (11,43%) traffic offenders had the BAC levels ranging from

0,26 to 0,30 grams. Traffic offenders penalized for BAC levels ranging from 0,08 - 0,15g constituted 10 (14,29%). Fourteen (20%) traffic offenders had their BAC levels ranging between 0,21 and 0,25g. There were only two (2,86%) traffic offenders penalized for immoderate consumption of alcohol ranging from 0,36 to 0,40 grams. In sixteen (22,85%) cases the BAC levels are unknown due to incomplete information in the charge sheets.

Clark (1982:85) observed the following anticipated behaviour in respect of 2000 drinking drivers:

- "1. At 0.08 to around 0.15 blood alcohol concentration, the person has a diminished sense for, or an appreciation of fear. It appears that the frontal lobes of the brain have become somewhat anesthetized and inhibitions definitely lowered. The frontal lobes of the brain control our social restraints. At this level the driver is evidencing a rather apparent lack of mental control over fear. Without doubt, this level is the most dangerous of all. This is the high speed and reckless driver.
2. At approximately 0.18 blood alcohol concentration, the driver is developing problems with co-ordination of walking and is beginning to show the symptoms of a common drunk. Slurred speech and stumbling over curbs are common observations at 0.18 to approximately 0.25. At this level, the driver's vision is narrowed, blurred, and momentary. He or she will have difficulty in visually concentrating on a given object.
3. At approximately 0.30, the subject is beginning to have a hard time hearing as well as seeing.

4. At 0.40, the average person is comatose or more simply stated, out cold ..."

Table 3.2 reveals that disregarding road traffic signs occurred in 362 (13,71%) of the total driving offences. The road traffic signs disregarded are, inter alia, red robots; stop signs; no entry signs; no stop signs; etc. Traffic offenders were also penalized for not wearing safety belts and this occurred in 266 (10,07%) of the observations. Penalization for failure to give traffic signals is accounted for in 152 (5,75%) of the total driving offences. Parking offences were committed in 122 (4,62%) instances. Rules of the road were not obeyed in 105 (3,98%) of the driving offences. Road markings were disregarded in 85 (3,22%) of the total driving offences. The failure to report an accident offence where a person has been killed was committed by one (0,04%) traffic offender. Other driving offences committed included, inter alia, insecure load on vehicle; failure to display emergency warning signs; making noise with exhaust brake; etc. and are accounted for in 31 (1,17%) cases.

3.2.2 Vehicle-related offences

The typology "vehicle-related offences" in the magisterial district of Lower Umfolozi refers, in most instances, to vehicle defects. The detection of vehicle defects is possible. It is, however, essential that experts, competent to examine vehicle defects should be attached to traffic law enforcement units. Vehicle failure or vehicle-related offences are generally grouped in relation to the major safety equipment groups (Limpert, 1984:59). The researcher has identified 27 vehicle-related offences (see attached

information Schedule - Annexure B). It is not the intention of the researcher to give a detailed exposition of the vehicle-related offences.

TABLE 3.6 BREAKDOWN AND FREQUENCY DISTRIBUTION OF
VEHICLE-RELATED OFFENCES IN THE MAGISTERIAL
DISTRICT OF LOWER UMFOLOZI FOR THE PERIOD 01
JANUARY - 30 JUNE 1990

| TYPE OF VEHICLE-RELATED OFFENCE | FREQUENCY | |
|---|-----------|--------|
| | (N) | (%) |
| DEFECTIVE BRAKES | 532 | 22,17 |
| DEFECTIVE TYRES | 355 | 14,79 |
| DEFECTIVE STOPLIGHTS AND HEADLIGHTS | 415 | 17,29 |
| DEFECTIVE STEERING | 204 | 8,50 |
| DEFECTIVE DIRECTION INDICATORS | 169 | 7,04 |
| VEHICLE NOT EQUIPPED WITH SAFETY BELTS, FIRE EXTINGUISHER; DEFECTIVE FIRE EXTINGUISHER | 41 | 1,71 |
| NO WARNING TRIANGLES; NO CHEVRON AT REAR OF VEHICLE; PUBLIC VEHICLE UNTIDY | 78 | 3,25 |
| FUEL (OIL/DIESEL) LEAKAGE | 281 | 11,71 |
| REGISTRATION MARKS NOT DISPLAYED; ILLEGIBLE COLOUR OF NUMBER PLATES; REGISTRATION MARKS OBSCURED BY TOWBAR | 138 | 5,75 |
| OTHER | 187 | 7,79 |
| TOTAL | 2400 | 100,00 |

Table 3.6 reveals that the majority of traffic offenders were penalized for operating vehicles with defective brakes and this constituted 532 (22,17%) of the total vehicle-related offences. Defective stop lights and headlights occurred in 415 (17,29%) instances. Drivers were also penalized for operating vehicles with defective tyres and this is represented by 355 (14,79%) of the vehicle-related offences. It is revealed (table 3.6) that in certain vehicles there was fuel leakage and penalization for this traffic offence occurred in 281 (11,71%) of the traffic cases. It is evident that 204 (8,50%) traffic offenders were penalized for operating vehicles with defective steering mechanisms. The steering system of a motor vehicle produces forces between tyres and road that guide the vehicle in the desired path and contribute to the directional ability of the vehicle at high speeds. It should therefore be noted that a good steering mechanism provides the driver with a feeling of the road without transmitting impact forces generated by road roughness. If the steering cannot perform these important functions, it becomes defective and therefore subject to penalization.

Vehicle-related offences also included defective direction indicators and this occurred in 169 (7,04%) instances. Certain vehicles were not equipped with safety belts, fire extinguishers and had defective fire extinguishers - penalization occurred in 41 (1,71%) of the total vehicle-related offences. In certain instances public motor vehicles were not kept clean, warning triangles not kept in vehicles and some vehicles had no chevrons at the rear and this is accounted for in 78 (3,25%) of the vehicle-related offences. Traffic offenders were also penalized for: not displaying registration marks (number plates); to have number plates obscured by towbar; to have illegible colour of number

plates and penalization occurred in 138 (5,75%) of the total vehicle-related offences. Table 3.6 also reveals that "other" vehicle-related offences constituted 187 (7,79%) of the total offences in this category. By the category "other" vehicle-related offences the researcher refers to, inter alia, no fuel cap; defective starter, hooter, exhaust, electrical wiring, speedometer, windscreen, siren fitted illegally, etc. which represent less serious violations of the Road Traffic Act and Regulations.

3.2.3 Document offences ✓

Document offences are so-called because the driver of a motor vehicle must produce relevant documentation which entitles him/her to operate the vehicle. For example, a driver's licence or a clearance certificate or a certificate of fitness are documents which lawfully entitle the driver to operate the vehicle. The researcher identified 16 document offences (Annexure B). However, it is not the intention of the researcher to give an exhaustive account of all document offences.

TABLE 3.7 BREAKDOWN AND FREQUENCY DISTRIBUTION OF
DOCUMENT OFFENCES IN THE MAGISTERIAL DISTRICT
 OF LOWER UMFOLOZI FOR THE PERIOD 01 JANUARY -
 30 JUNE 1990

| TYPE OF DOCUMENT OFFENCE | FREQUENCY | |
|--|-----------|--------|
| | (N) | (%) |
| NO DRIVER'S LICENCE, UNLICENSED PERSON PERMITTED TO DRIVE | 261 | 19,50 |
| FRAUD DRIVER'S LICENCE | 9 | 0,67 |
| DRIVES WHILST UNDER SUSPENSION | 10 | 0,75 |
| UNLICENSED MOTOR VEHICLE, CLEARANCE CERTIFICATE NOT DISPLAYED | 544 | 40,66 |
| NO *PDP, PDP NOT IN VEHICLE | 131 | 9,79 |
| NO *COF, COF NOT IN VEHICLE | 128 | 9,57 |
| PASSENGER OVERLOAD | 66 | 4,93 |
| GOODS VEHICLE OVERLOAD | 120 | 8,96 |
| OTHER | 69 | 5,17 |
| TOTAL | 1338 | 100,00 |

*PDP: PROFESSIONAL DRIVING PERMIT

*COF: CERTIFICATE OF FITNESS

The motor vehicles which were unlicensed (clearance certificate expired) and where clearance certificates were not displayed occurred in 544 (40,66%) of the total document offences. The driving of motor vehicles whilst under suspension is accounted for in 10 (0,75%) of the document offences. The professional drivers (especially the drivers of taxis) were penalized for passenger overload and this occurred in 66 (4,93%) of the cases. Penalization for goods vehicle overload occurred in 120 (8,96%) of the total document offences. The instances where there were no professional driving permit or professional driving permit not kept in vehicle is accounted for in 131 (9,79%) of the traffic cases. The category "other" document offences occurred in 69 (5,17%) of the cases and these, inter alia, included: no exemption permit for abnormal vehicles; failure to register a vehicle within 21 days; failure to renew licence; etc.

The researcher has arbitrarily selected to briefly highlight falsified (fraudulent) driver's licence as a serious document offence. Traffic officers have idea of how widespread the practice of operating a vehicle without a valid driver's licence may be in the magisterial district of Lower Umfolozi. Possessors of forged or fraudulent driver's licences are a menace to every legitimate user of the public road. They can commit traffic offences with impunity because of their fraudulent licences. Hundreds of valuable time may be lost in searching for the holder of a fraudulent licence. Persons likely to have such licences are chronic traffic offenders operating vehicles while their driver's licences are suspended, underage youths who cannot obtain legitimate drivers' licences, persons who cannot afford high insurance premiums, persons with a language difficulty and discharged

prisoners (even parolees) who cannot obtain driver's licences. Table 3.7 reveals that 9 (0,67%) of the total document offences were falsified (fraudulent) drivers' licences.

The categories (table 3.7) no driver's licence, permitting unlicensed person to drive a vehicle and no certificate of fitness, certificate of fitness not kept in vehicle occurred respectively in 261 (19,50%) and 128 (9,57%) of the traffic cases. The researcher deems it fit to briefly highlight the position of Natal Provincial Administration, based at Empangeni, with regard to:

- * driver's licences;
- * learners' licenses;
- * certificates of fitness; and
- * certificates of roadworthiness.

TABLE 3.8 FREQUENCY DISTRIBUTION OF APPLICANTS FOR DRIVERS' LICENCES AT THE NATAL PROVINCIAL ADMINISTRATION IN THE MAGISTERIAL DISTRICT OF LOWER UMFOLOZI FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| APPLICANTS FOR DRIVERS' LICENCES | FREQUENCY | |
|----------------------------------|-----------|--------|
| | (N) | (%) |
| PASSED | 426 | 16,02 |
| FAILED | 2234 | 83,98 |
| TOTAL | 2660 | 100,00 |

Table 3.8 reveals that 2660 learner drivers were tested for drivers' licences. Drivers' licences were issued to 426 (16,02%) applicants, while 2234 (83,98%) applicants failed the drivers' tests.

The researcher is therefore of the opinion that it is problematic for the community of the magisterial district of Lower Umfolozi to obtain drivers' licences. However, the researcher does not imply that the examiners for drivers' licences should "dish out" licences for popularity. The researcher intended to briefly highlight the applicants for drivers' licences according to demographic variables such as race, sex, etc., but the researcher had no access to such information.

TABLE 3.9 FREQUENCY DISTRIBUTION OF APPLICANTS FOR LEARNERS' LICENCES AT THE NATAL PROVINCIAL ADMINISTRATION IN THE MAGISTERIAL DISTRICT OF LOWER UMFOLOZI FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| - APPLICANTS FOR LEARNERS' LICENCES | FREQUENCY | |
|-------------------------------------|-----------|--------|
| | (N) | (%) |
| PASSED | 1656 | 32,73 |
| FAILED | 3404 | 67,27 |
| TOTAL | 5060 | 100,00 |

Table 3.9 reveals that there were 5060 applicants for learners' licences. Learners' licences were issued to 1656 (32,73%) applicants, while 3404 (67,27%) applicants could not be issued with learners' licences.

TABLE 3.10 FREQUENCY DISTRIBUTION OF APPLICATIONS FOR
CERTIFICATES OF FITNESS AT THE NATAL PROVINCIAL
ADMINISTRATION IN THE MAGISTERIAL DISTRICT OF
LOWER UMFOLOZI FOR THE PERIOD 01 JANUARY - 30
JUNE 1990

| VEHICLES TESTED | FREQUENCY | |
|-----------------|-----------|--------|
| | (N) | (%) |
| PASSED | 832 | 95,19 |
| FAILED | 42 | 4,81 |
| TOTAL | 874 | 100,00 |

It is apparent that 832 (95,19%) applicants were issued with certificates of fitness, while 42 (4,81%) applicants were not issued with certificates of fitness.

TABLE 3.11 FREQUENCY DISTRIBUTION OF APPLICATIONS FOR
CERTIFICATES OF ROADWORTHINESS AT THE NATAL
 PROVINCIAL ADMINISTRATION IN THE MAGISTERIAL
 DISTRICT OF LOWER UMFOLOZI FOR THE PERIOD 01
 JANUARY - 30 JUNE 1990

| VEHICLES TESTED | FREQUENCY | |
|-----------------|-----------|--------|
| | (N) | (%) |
| PASSED | 1352 | 96,64 |
| FAILED | 47 | 3,36 |
| TOTAL | 1399 | 100,00 |

Table 3.11 reveals that 1352 (96,64%) applicants had their vehicles issued with certificates of roadworthiness, while 47 (3,36%) applicants were not issued with certificates of roadworthiness.

3.3 CLASSIFICATION OF TRAFFIC OFFENDERS

The classification of traffic offenders is appropriately based on the commission of driving, vehicle-related and document offences. Logically, this classification, inter alia, include the following:

3.3.1 Professional traffic offenders

People who make their living out of driving should possess professional driving permits (South Africa, 1989:Section 41). Such persons are bus, taxi or truck drivers. There are semi-professional drivers such as travellers who depend particularly on their vehicles for their work. Traffic offenders also belong to non-professional drivers: these are regular drivers such as commuters and occasional drivers.

3.3.2 Classification according to behaviour and personal qualities

Traffic offenders may be classified according to age, sex and race. Bolhuis (Van der Westhuizen, 1982:127) maintains that another classification may be based on general attitude and behaviour of traffic offenders. This attitude and behaviour include aspects such as aggressiveness, passiveness and defensiveness.

3.3.3 The unintentional, deliberate (intentional) and the sensory or physically defective traffic offenders

The unintentional (inadvertent) traffic offenders consist of drivers of motor vehicles who accidentally commit traffic offences due to inadequate driving skill, lack of traffic knowledge and plain inattention while operating vehicles. Bolhuis (Van der Westhuizen, 1982:128) opines: "Although many in this group normally voluntarily comply with traffic rules and regulations even in the absence of traffic law enforcement - there are quite a number of drivers who need the presence of a traffic officer to make them toe the line." This category includes interpersonal traffic offenders such as reckless

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and/or negligent offenders, inconsiderate traffic offenders, traffic offenders who overtake and who fail to yield to pedestrian right of way within the pedestrian crossing.

.. Deliberate (intentional) traffic offenders are drivers who wilfully disobey traffic laws and often take deliberate chances. Bolhuis (Van der Westhuizen, 1982:128) opines: "Drivers in this group need to be controlled by strict and continuous traffic law enforcement, and often, in spite of this, deliberately disobey traffic rules and regulations to see if they can get away with it." Deliberate traffic offenders include drivers who:

- * exceed the speed limit;
- * drive without valid drivers' licences;
- * disregard traffic signs;
- * fail to give traffic signals; and
- * drive under the influence of alcohol with a BAC in excess of 0,08g per 100 millilitres of blood. Penalization of traffic offenders is contingent upon the nature of the traffic offence committed.

Traffic offenders with sensory or physical defects form another group who unintentionally may commit traffic offences as a result of defect, for example, eye sight. Table 3.1 reveals that, in the magisterial district of Lower Umfolozi, most traffic offenders were penalized for committing driving offences and this occurred in 2641 (41,42%) traffic cases.

It is therefore clear that inadvertent, deliberate, occasional and chronic traffic offenders are a serious threat to traffic safety.

3.3.4 The defensive, occasional and chronic traffic offenders

Drivers may be placed into one of three main classes:

- * the defensive driver who seldom commits a traffic offence;
- * the occasional traffic offender; and
- * the chronic traffic offender.

The defensive driver obviously possesses sufficient driving skill. By driving skill is meant a driver's capacity to manipulate his vehicle under conditions imposed by modern traffic (Cohen & Preston, 1968:32-35). Skill in driving exhibits a wide range that which at best can only be described as a clumsy and awkward performance and the superb proficiency of the vehicle driver. Judgement implies how the driver thinks he should or could do before actually undertaking a particular movement. Skill and judgement work in harmony.

The occasional traffic offender, in some thoughtless moment, may take a chance at beating the traffic light (red robot). This therefore implies that the occasional traffic offender is the one who speeds along with no greater need than the fact that time was running out on dentist appointment or interview for a new job or perhaps the individual may be late for work

or school. He or she does not normally drive this way, but circumstances have caused the driver to modify his driving behaviour to meet the problem of tardiness.

The chronic traffic offender is a socially maladjusted individual who regards road traffic legislation as being unworthy of his attention. He or she feels that traffic legislation was made only for the other person and not to provide guidelines for an orderly society. This driver, although he might have received numerous written notices (summonses), continues to violate traffic law, thus becoming a mobile threat to the safety of other road users. The chronic traffic offender is the recidivist in relation to traffic crimes.

3.4 FACTORS THAT CONTRIBUTE TOWARDS TRAFFIC OFFENCES

When one meditates upon the factors that contribute towards traffic offences, it becomes evident that this is a diverse and complex problem. Although there is a definite link between traffic offences and traffic accidents, the researcher does not intend discussing the causal aspects pertaining to traffic accidents. Traffic offences are a contributory factor to the majority of traffic accidents. There are numerous reasons for committing traffic offences. The traffic offender may have different forms of rationalization in order to justify traffic criminal behaviour. By rationalizing the commission of a traffic offence, the traffic offender can satisfy his need without bearing the blame. Rationalization is one of the most general and socially acceptable defence mechanisms to lessen anxiety. It is important that the traffic offender usually formulates the explanations of his/her behaviour after committing a traffic offence and that the intensity with which this is done is an

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inverse proportion to its authenticity. It is usually the traffic offender's faults or defects which they defend and explain so minutely. An example is the learner driver (or the individual who wishes to obtain a learner's licence) who wastes all his/her time on entertainment, fails in his/her examination and then blames the instructor for his/her poor teaching methods. Sometimes rationalization is called "the window dressing of motives and actions." Eventually this may contribute towards committing document offences.

However, when one undertakes an in-depth study at the factors that contribute towards traffic offences it would appear that the crux of the problem is the individual-human factors and the prevailing environmental factors. Traffic crime is a social phenomenon that occurs within the social situation between the individual-human factors and society (Cloete & Conradie, 1984:28). It should be noted that it is difficult to establish what role is played by heredity and aptitude in causing traffic crime. If it were not for these factors, traffic crime would probably not occur. There must be "something" in the road user's mind which incites him to violate traffic laws. This "something" is a predisposition to commit traffic crime. The commission of traffic crime is not contingent upon a predisposition alone. For example, an aggressive predisposition indicates the possibility of committing certain traffic offences. The method of processing (mode of thinking) plays an important role in the commission of traffic offences. It is appropriate to refer to resigned method of processing (Cloete & Conradie, 1984:28-29). Resigned processing is not unusual, though it must be pointed out that the acceptance of traffic law enforcement authority can probably be thrown overboard when

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the opportunity presents itself to do so unobstructively or without being apprehended, for example, when a traffic offender exceeds the speed limit.

The environment creates the conducive atmosphere to commit traffic offences. The individual-human factors possess special qualities that contribute towards traffic offences. The processing orientation will differ from driver to driver. Cloete & Conradie (1984:29) opine: "The significance of the individual-human factors is that not all persons who are subjected to unfavourable environmental circumstances resort to criminal behaviour, whilst favourable environmental circumstances as such do not guarantee that all persons who are exposed to them will be exempt from crime". Hereditary factors are basic to the question whether a road user will commit a traffic crime or not whilst environmental factors determine the type of traffic offence that will be committed.

The interaction between individual-human and environmental factors contribute towards creating a unique personality of the traffic offender. Within the personality, what is inherent (heredity) and what is acquired merge into a unit called the individuality (uniqueness) of personality (Cronjé, 1982:20-21). A characteristic of this personality is the ability to resist. This resistance determines the way in which the road user reacts towards the traffic situation. The resistance also fluctuates between two extremes. In terms of social (outer) and individual-human (inner) factors every road user responds in a way which is peculiar to himself or herself. This implies that the road user moves between maximum and minimum resistance. If, in terms of the environmental or individual-human factors, the road user may move to a point below the minimum resistance, he or she will then commit a traffic offence.

This chapter presented the classification of traffic offences and traffic offenders. Traffic offences fall into three discrete categories:

- * driving offences;
- * vehicle-related offences; and
- * document offences.

There are also other patterns of traffic offending: conscious, unconscious, consensus and schedule traffic offences. Traffic offenders are classified into various categories. The classes of traffic offenders discussed in this chapter include professional traffic offenders; classification according to behaviour and personal qualities; the unintentional, deliberate and traffic offenders with physical defects. The inadvertent and deliberate traffic offenders are a serious threat to the traffic safety. The factors that play a role in causing traffic crimes are diverse and complex. The most important factors that contribute towards traffic offences are individual-human (inner) and the prevailing social or environmental (outer) factors.

CHAPTER 4

TRAFFIC OFFENDERS AND TRAFFIC OFFENCES

4.1 INTRODUCTION

The objective of this chapter is to examine the relationship and correlations between traffic offenders, traffic offences and other related demographic variables. It is the far more modest approach to present some frequency distributions to show how traffic criminality is spread over the different demographic variables such as age, sex, race, occupation and ecological distribution. In the analysis and determination of relationships between different demographic variables, the researcher will also discuss certain characteristics of traffic dynamics.

Traffic dynamics involve traffic offenders' actual experiences while operating motor vehicles. Traffic dynamics that will be discussed include the incidence, how the traffic offences came to be known, types of vehicles involved, the dates and times of traffic offences.

4.2 HOW THE TRAFFIC OFFENCES CAME TO BE KNOWN

Traffic offences are known through the activities of traffic officers. Iannone (1975:1) describes the role of the traffic officer in traffic law enforcement: "In the law enforcement agency, he is of special importance because of the great need for teamwork. Upon him rests most of the responsibility for providing the cohesive force which welds the working force

into a well-functioning, smoothly operating unit." The biggest single factor in the uncovering of traffic offences is the visible traffic officer and police unit on patrol.

Figure 4.1 shows that there are five stages/steps in the apprehension of traffic offenders in the magisterial district of Lower Umfolozi.

Figure 4.1 STAGES IN THE APPREHENSION OF TRAFFIC OFFENDERS

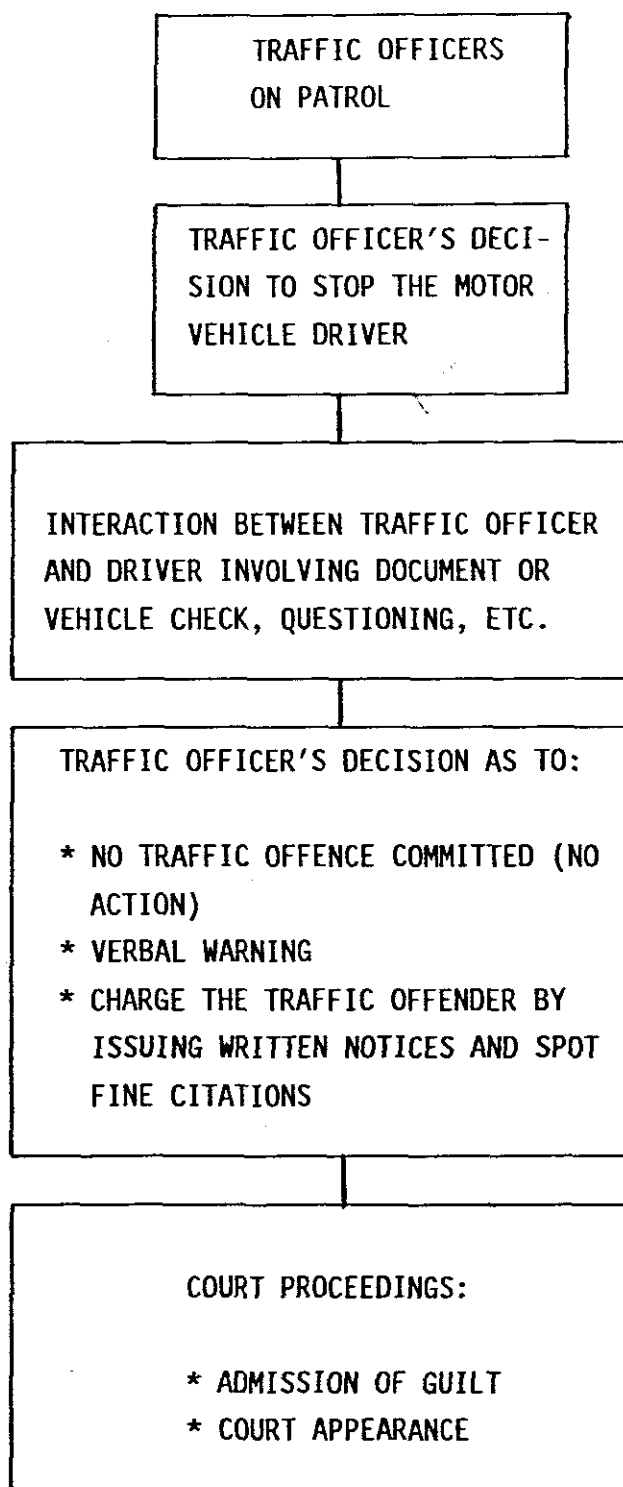
STAGE 1: OBSERVATION/
SURVEILLANCE

STAGE 2: INTERCEPTION

STAGE 3: ASSESSMENT

STAGE 4: ACTION

STAGE 5: PENALIZATION



Traffic offences are known on the basis of either an accident or charged (apprehension) by traffic officers. In this research the majority of traffic offenders were stopped and charged by traffic officers. The notion of how the traffic offences came to be known refers to the possible stages in the process of apprehending a traffic offender (Weston, 1978:135-138). Traffic officers on duty enforce traffic laws with the view to observe the behaviour of road users and condition of motor vehicles. This observation leads to surveillance. Surveillance is contingent upon traffic flow. If there is suspicion of violating the road traffic legislation, the traffic officer then decides to stop the motor vehicle driver. This implies interception by the traffic officer.

Observation, surveillance and interception is followed by assessment of the traffic situation by the traffic officer. Assessment takes place at the roadside encounter. Roadside encounter include, inter alia, the following procedures:

- (a) traffic officers' approach;
- (b) drivers' reaction; and
- (c) development of discussion between traffic officers and motor vehicle drivers. The development of discussion include aspects such as inspection of documentation, questioning and broadening of questions, examination of motor vehicles with the view to ascertain defects in vehicles, etc.

The traffic officer will then decide to take action. This might imply no further action which ultimately means that no traffic offence or a less serious offence has been committed and the driver may be verbally warned. In this case the

motor vehicle driver will leave the traffic crime scene. If a traffic officer is satisfied that a traffic offence has been committed, he issues the traffic offender with a written notice (Annexure C) which contains, inter alia, the following particulars: name, address, age, sex, race, occupation, type of vehicle involved and its registration number, type of offence committed, section of Road Traffic Act violated, the amount of fine imposed, etc. Parking offences and others do not involve direct contact with traffic officers. Spot fine citations (Annexure D) are usually issued in respect of traffic offences which do not involve direct contact with traffic officers (such as camera supervision). The most serious traffic offences such as drunken driving and reckless and/or negligent driving involve extra stages. These extra stages include arrest and detention, court proceedings which include appearance before a judicial officer and ultimately acquittal if not guilty or penalization if found guilty.

4.3 INCIDENCE

The total number of traffic offenders analysed for the period under investigation amounted to 4771, distributed among three police stations in the magisterial district of Lower Umfolozi. For policing purposes, the magisterial district of Lower Umfolozi is divided into three police stations, each centred upon three towns, namely Empangeni, Richards Bay and KwaMbonambi (table 4.1). For traffic law enforcement purposes, the magisterial district of Lower Umfolozi is divided into three traffic law enforcement organizations: Empangeni municipality traffic department, Richards Bay town council's traffic department and the Natal Provincial Administration (based at Empangeni) traffic department. The activities of these traffic law enforcement organizations will be discussed in chapter 5. The 4771 traffic cases were

distributed among the three police stations via the three traffic control organizations. It is the intention of the researcher to stress that this was the total number of traffic cases that were physically observed for the period 01 January 1990 to 30 June 1990. The chronological basis for inclusion of these traffic cases was the date of the commission of traffic offences. In certain instances the police stations were unknown (table 4.1). These were traffic cases where the researcher obtained data from the criminal record book. The researcher, therefore, arbitrarily decided to use the date of trial of traffic offenders to represent the date of commission of traffic offences.

TABLE 4.1 FREQUENCY DISTRIBUTION OF TRAFFIC OFFENDERS ACCORDING TO
POLICE STATIONS FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| POLICE STATION | FREQUENCY | |
|----------------|-----------|--------|
| | (N) | (%) |
| EMPANGENI | 1659 | 34,77 |
| RICHARDS BAY | 2367 | 49,61 |
| KWAMBONAMBI | 98 | 2,06 |
| UNKNOWN | 647 | 13,56 |
| TOTAL | 4771 | 100,00 |

FIGURE 4.2
DISTRIBUTION OF TRAFFIC
OFFENDERS ACCORDING TO POLICE STATIONS

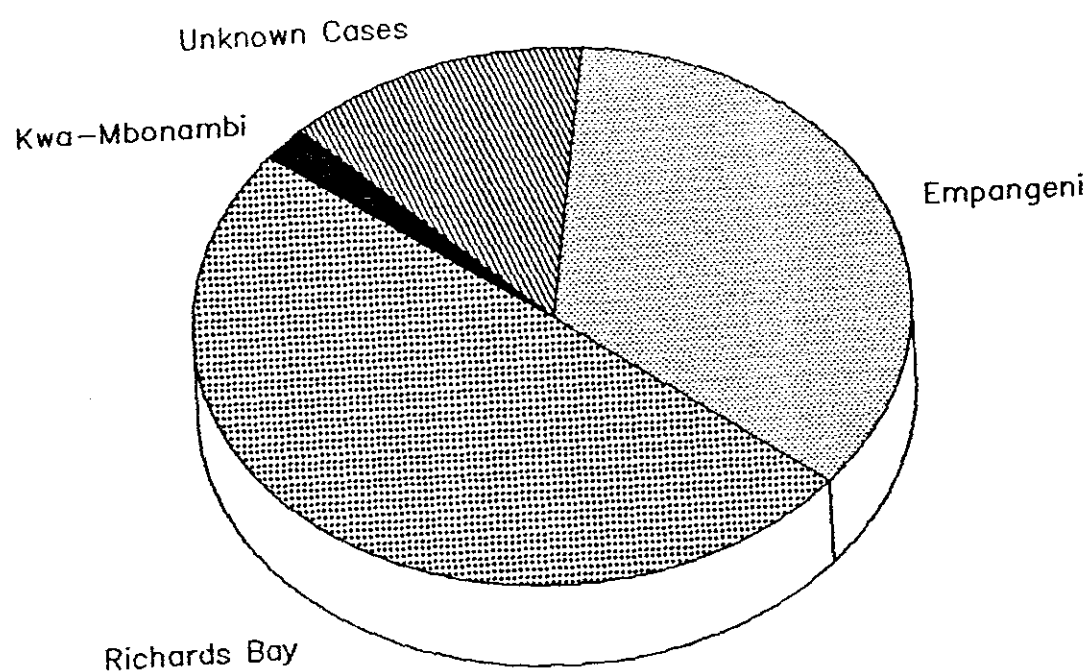


Table 4.1 reveals that Richards Bay police station (via the Richards Bay town council's traffic department) apprehended more traffic offenders and these traffic cases constituted 2367 (49,61%) of the total observations. The Empangeni police station dealt with 1659 (34,77%) traffic offenders, while 98 (2,06%) traffic offenders were apprehended by KwaMbonambi police station. The instances where police stations were unknown are accounted for in 647 (13,56%) of the total observed cases. Figure 4.2 represents a graphical distribution of traffic offenders according to three police stations.

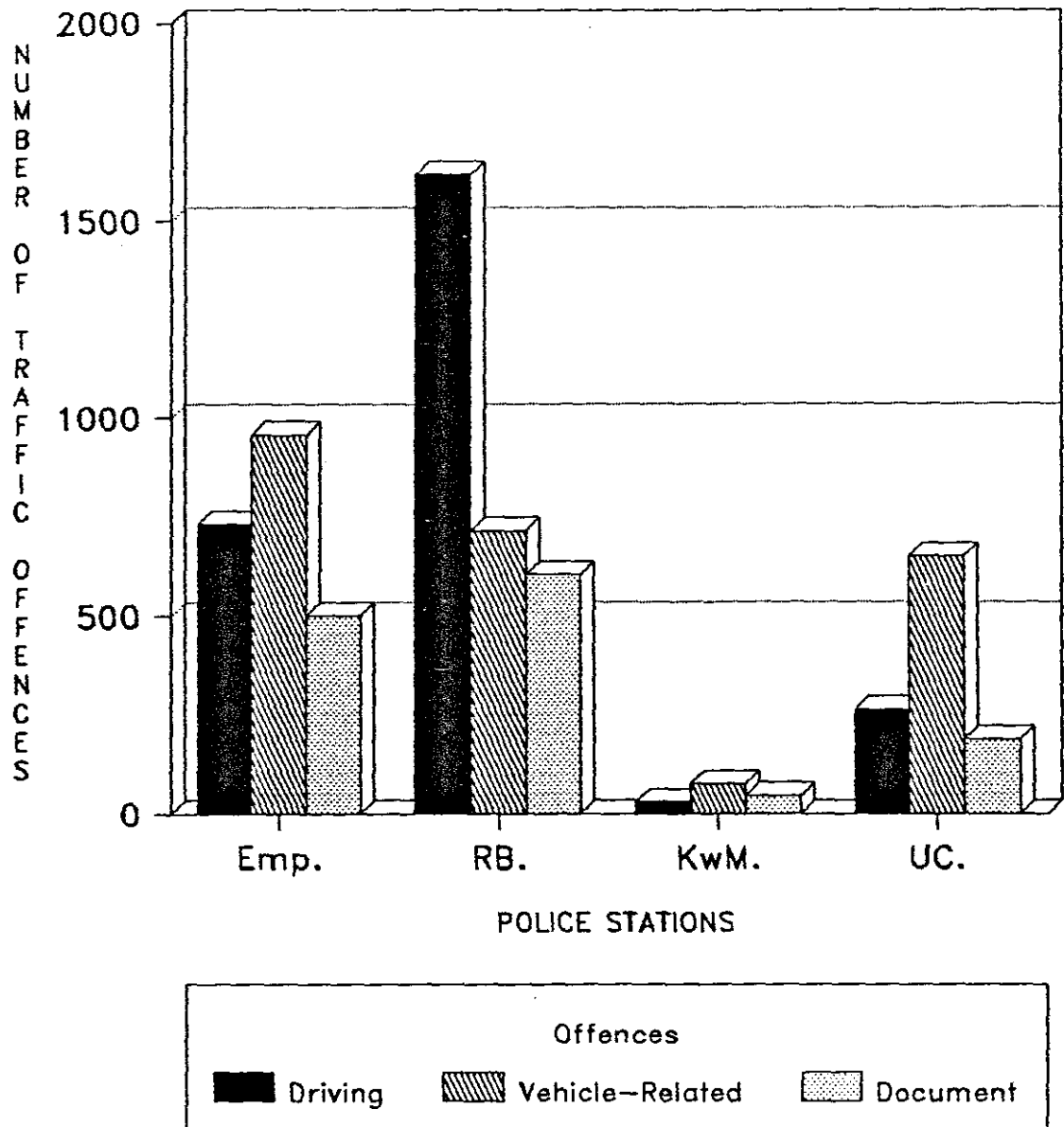
Table 4.2 renders a breakdown of the distribution of three categories of traffic offences (See chapter 3) according to the police stations. Figure 4.3 renders a proportional vertical bar graph distribution of the data contained in table 4.2.

TABLE 4.2

BREAKDOWN AND FREQUENCY DISTRIBUTION OF TRAFFIC OFFENCES ACCORDING TO POLICE STATIONS FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| | TYPE OF OFFENCE | | | | | | | |
|----------------|-----------------|--------|-------------------------|--------|------------------|--------|-------|--------|
| POLICE STATION | DRIVING OFFENCE | | VEHICLE-RELATED OFFENCE | | DOCUMENT OFFENCE | | TOTAL | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| EMPANGENI | 732 | 27,72 | 957 | 39,88 | 500 | 37,37 | 2189 | 34,32 |
| RICHARDS BAY | 1615 | 61,15 | 716 | 29,83 | 604 | 45,14 | 2935 | 46,00 |
| KWAMBONAMBI | 30 | 1,14 | 77 | 3,21 | 46 | 3,44 | 153 | 2,40 |
| UNKNOWN | 264 | 9,99 | 650 | 27,08 | 188 | 14,05 | 1102 | 17,28 |
| TOTAL | 2641 | 100,00 | 2400 | 100,00 | 1338 | 100,00 | *6379 | 100,00 |

FIGURE 4.3
TRAFFIC OFFENCES
ACCORDING TO POLICE STATIONS



Emp. = Empangeni RB. = Richards Bay
KwM. = KwaMbonambi UC. = Unknown Cases

*The researcher analysed 4771 traffic offenders. Table 4.2 shows that a total of 6379 traffic offences were committed by traffic offenders. The researcher ascribes the higher number of traffic offences to the fact that there were traffic offenders who committed more than one traffic offence.

Table 4.2 reveals that Richards Bay police station dealt with 1615 (61,15%) driving offences, while 732 (27,72%) constituted driving offences which were handled by Empangeni police station. KwaMbonambi dealt with the least driving offences and these offences are accounted for in 30 cases (1,14%) of the total driving offences. The unknown category of driving offences is represented by 264 (9,99%) of the cases.

The Empangeni police station dealt with the greatest number of the vehicle-related offences and these offences constituted 957 (39,88%) of the cases. A total of 716 (29,83%) vehicle-related offences were handled by Richards Bay police station, while KwaMbonambi police station dealt with 77 (3,21%) vehicle-related offences. Unknown cases accounted for 650 (27,08%) vehicle-related offences.

A total of 604 (45,14%) document offences were dealt with by Richards Bay police station, while 500 (37,37%) constituted document offences handled by Empangeni police station. KwaMbonambi police station dealt with the least document offences and these are accounted for in 46 (3,44%) of all cases. In instances where the police stations were unknown, the number of document offences committed was 188 (14,05%) of the cases.

Table 4.2 reveals that the greatest number of traffic offences were dealt with by Richards Bay police station and these offences are accounted for in 2935 (46,00%) of the total

traffic offences, while 2189 (34,32%) offences were handled by Empangeni police station. It is also evident that KwaMbonambi police station dealt with the least number of traffic offences and these offences constituted 153 (2,40%) of the cases. Unknown cases accounted for 1102 (17,28%) traffic offences.

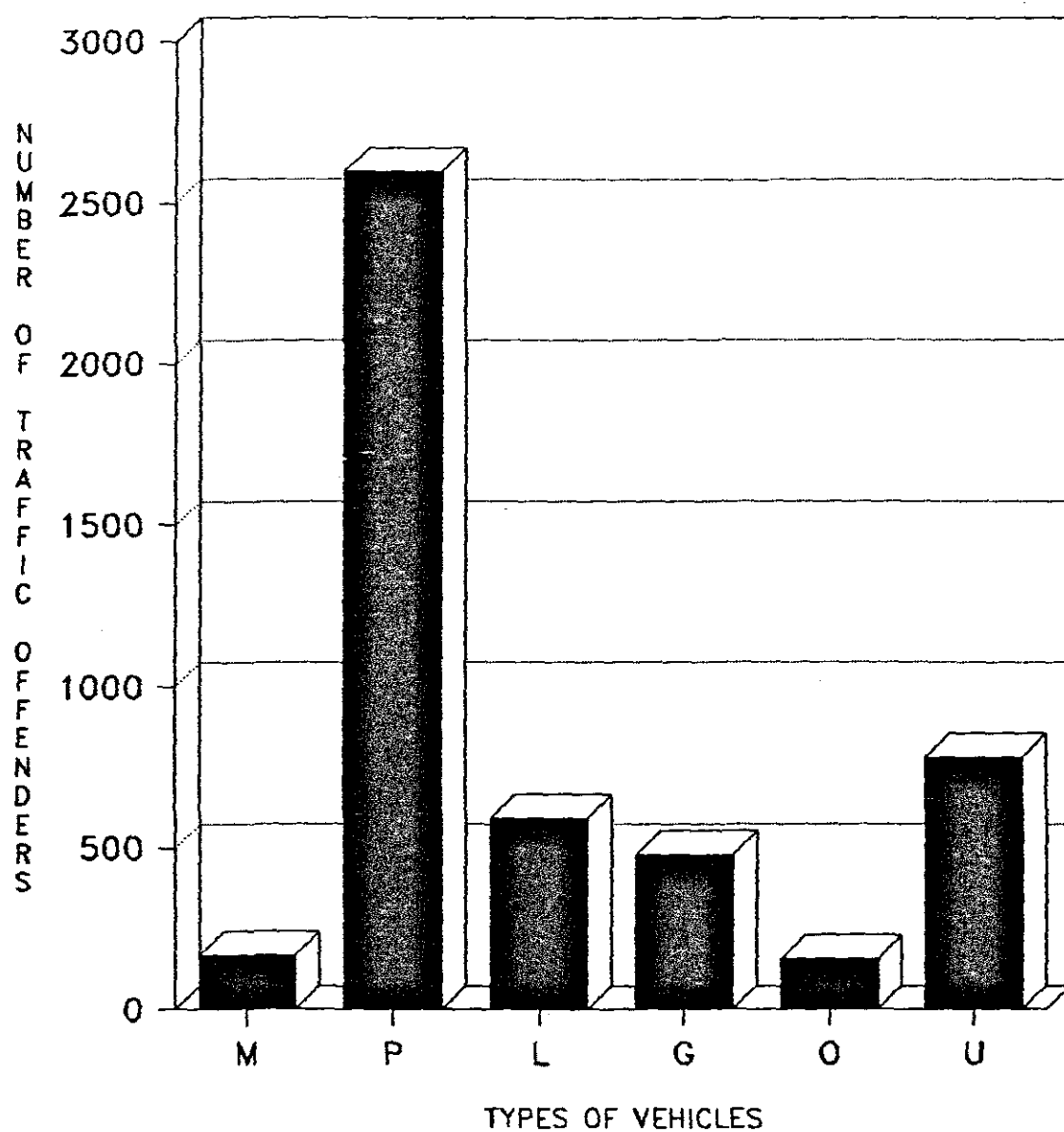
4.4 TYPES OF VEHICLES INVOLVED

Table 4.3 presents the distribution of the different types of vehicles driven by 4771 traffic offenders. Figure 4.4 portrays a vertical bar graph distribution of the data contained in table 4.3.

TABLE 4.3 FREQUENCY DISTRIBUTION OF TYPES OF VEHICLES
INVOLVED IN TRAFFIC CRIME COMMISSION DURING THE
PERIOD 01 JANUARY - 30 JUNE 1990

| TYPES OF VEHICLES INVOLVED | FREQUENCY | |
|--|-----------|--------|
| | (N) | (%) |
| MOTORCYCLES | 168 | 3,52 |
| PRIVATE VEHICLES | 2597 | 54,43 |
| PUBLIC MOTOR VEHICLES (TAXIS, BUSES) | 590 | 12,37 |
| GOODS (DELIVERY) VEHICLES | 479 | 10,04 |
| OTHER VEHICLES (TRACTORS, CARAVANS, CRANES, TRAILERS, PAYLOADERS, ETC) | 157 | 3,29 |
| UNKNOWN | 780 | 16,35 |
| TOTAL | 4771 | 100,00 |

FIGURE 4.4
TYPES OF VEHICLES INVOLVED
IN TRAFFIC OFFENCES



M = Motorcycles P = Private Vehicle
L = Public Vehicles G = Goods Vehicles
O = Other Vehicles U = Unknown Cases

It appears (table 4.3) that the drivers of private motor vehicles were the main traffic offenders and are accounted for in 2597 (54,43%) of the total traffic cases. Motor vehicle drivers were penalized for violating traffic legislation and the types of vehicles involved included 590 (12,37%) public motor vehicles; 479 (10,04%) goods vehicles; 168 (3,52%) motorcycles; and 157 (3,29%) other vehicles which included, inter alia, tractors, caravans, payloaders, etc. There were, however, 780 (16,35%) drivers of motor vehicles penalized for operating unknown types of vehicles, due to incomplete information in records.

Drivers of public motor vehicles and goods vehicles provided a steady proportion of traffic offenders (table 4.3). This trend could be ascribed to the notion that the livelihood of these professional drivers is contingent upon their drivers' licences and this might encourage them to refrain from committing traffic offences.

4.5 DATES AND TIMES OF TRAFFIC OFFENCES

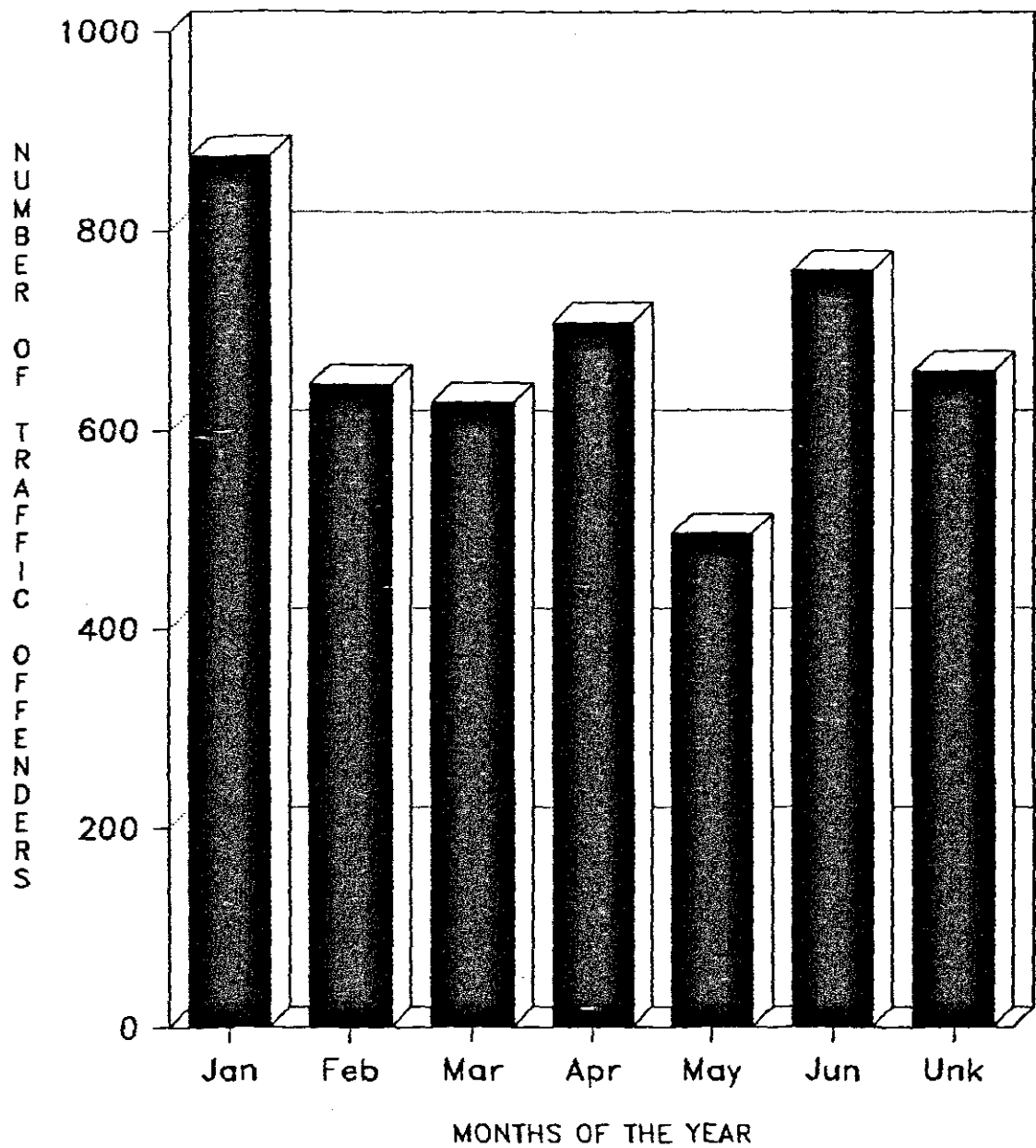
4.5.1 Month of traffic offence commission

Table 4.4 shows the months during which 4771 traffic offenders committed traffic offences over the six-month period under investigation. Figure 4.5 portrays the temporal distribution of the six-month period in which traffic offenders violated traffic rules and regulations.

TABLE 4.4 FREQUENCY DISTRIBUTION OF TRAFFIC OFFENDERS
 ACCORDING TO THE MONTH OF TRAFFIC OFFENCE
 COMMISSION FOR THE PERIOD 01 JANUARY - 30 JUNE
 1990

| MONTHS OF TRAFFIC OFFENCE COMMISSION | FREQUENCY | |
|--------------------------------------|-----------|--------|
| | (N) | (%) |
| JANUARY | 875 | 18,34 |
| FEBRUARY | 646 | 13,54 |
| MARCH | 628 | 13,16 |
| APRIL | 708 | 14,84 |
| MAY | 495 | 10,38 |
| JUNE | 760 | 15,93 |
| UNKNOWN | 659 | 13,81 |
| TOTAL | 4771 | 100,00 |

FIGURE 4.5
TRAFFIC OFFENDERS
OVER A SIX-MONTH PERIOD



Unk = Unknown Cases

Table 4.4 reveals that January was the most active month during which the majority of traffic offenders were apprehended by traffic officers. A total of 875 (18,34%) motor vehicle drivers were penalized during this month.

The question of January being the most active month could be ascribed to the notion that there were more motor vehicle drivers due to New Year's day, the re-opening of schools and the resumption of work by the public. These factors probably contributed substantially to the high density of traffic. In June, penalization was meted out in respect of 760 (15,93%) traffic offenders, while 708 (14,84%) motor vehicle drivers violated traffic laws in April. February produced 646 (13,54%) traffic cases; 628 (13,16%) motor vehicle drivers committed traffic offences in March, while 495 (10,38%) traffic offenders were penalized in May. Drivers of motor vehicles penalized for committing traffic offences during unknown months are accounted for in 659 (13,81%) of the total traffic cases.

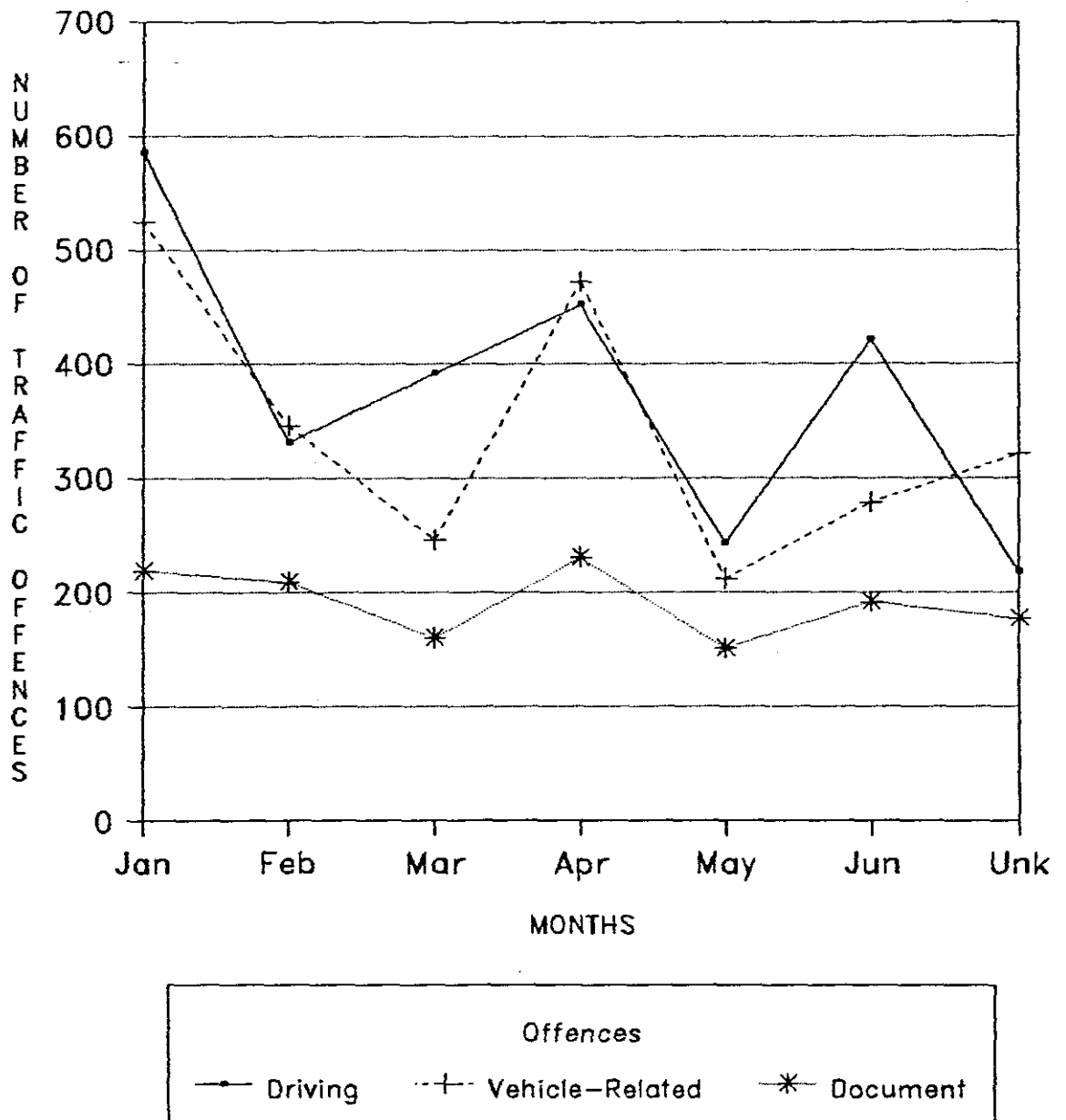
Table 4.5 renders a breakdown of the distribution of traffic offences according to month of commission. Figure 4.6 represents a polygon indicating the temporal distribution of the month in which three different types of traffic offences were committed from January - June 1990.

TABLE 4.5

BREAKDOWN AND FREQUENCY DISTRIBUTION OF TRAFFIC OFFENCES ACCORDING TO MONTH OF COMMISSION FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| MONTH OF TRAFFIC OFFENCE COMMISSION | TYPE OF OFFENCE | | | | | | | |
|---|-----------------|--------|----------------------------|--------|---------------------|--------|-------|--------|
| | DRIVING OFFENCE | | VEHICLE-RELATED OFFENCE | | DOCUMENT OFFENCE | | TOTAL | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| JANUARY | 585 | 22,15 | 524 | 21,83 | 219 | 16,36 | 1328 | 20,82 |
| FEBRUARY | 331 | 12,53 | 346 | 14,42 | 209 | 15,62 | 886 | 13,89 |
| MARCH | 392 | 14,84 | 246 | 10,25 | 160 | 11,96 | 798 | 12,51 |
| APRIL | 451 | 17,09 | 472 | 19,66 | 230 | 17,19 | 1153 | 18,07 |
| MAY | 243 | 9,20 | 212 | 8,83 | 151 | 11,29 | 606 | 9,51 |
| JUNE | 421 | 15,94 | 279 | 11,63 | 192 | 14,35 | 892 | 13,98 |
| UNKNOWN | 218 | 8,25 | 321 | 13,38 | 177 | 13,23 | 716 | 11,22 |
| TOTAL | 2641 | 100,00 | 2400 | 100,00 | 1338 | 100,00 | 6379 | 100,00 |

FIGURE 4.6
DISTRIBUTION OF TRAFFIC OFFENCES
COMMITTED OVER A SIX-MONTH PERIOD



Unk = Unknown

Driving offences were mostly committed in January and these offences constituted 585 (22,15%) of the total driving offences. In April 451 (17,09%) driving offences were committed, while 421 (15,94%) represent offences committed in June. Driving offences committed in March constituted 392 (14,84%) of the cases. A total of 331 (12,53%) driving offences were committed in February, while 243 (9,20%) driving offences occurred during May. The unknown months of traffic offence commission is accounted for in 218 (8,25%) of the total cases of driving offences.

Table 4.5 further reveals that January produced 524 (21,83%) vehicle-related offences. A total of 472 (19,66%) vehicle defects were identified during April, while 346 (14,42%) vehicle-related offences were committed during February. June produced 279 (11,63%) vehicle-related offences. Penalization for operating defective vehicles during March occurred in 246 (10,25%) of the cases, while 212 (8,83%) represented vehicle-related offences committed in May. A total of 321 (13,38%) vehicle-related offences were committed during unknown months.

Document offences were mostly committed in April and these offences are accounted for in 230 (17,19%) of the total document offences, while January produced 219 (16,36%) document offences. There were 209 (15,62%) document offences committed during February. A total of 192 (14,35%) were committed in June, while 160 (11,96%) represent document offences committed during March. May produced 151 (11,29%) document offences. Document offences committed during unknown months are accounted for in 177 (13,23%) of the cases.

An overall picture (table 4.5) is that a total of 1328 (20,82%) traffic offences were committed during January. April produced 1153 (18,07%) traffic offences. In June altogether 892 (13,98%) traffic offences were committed, while 886 (13,89%) represent offences committed during February. A total of 798 (12,51%) traffic offences occurred in March. Penalization in May was meted out in respect of 606 (9,51%) traffic offences. It is apparent (table 4.5) that 716 (11,22%) traffic offences were committed during unknown months (due to incomplete information from court records).

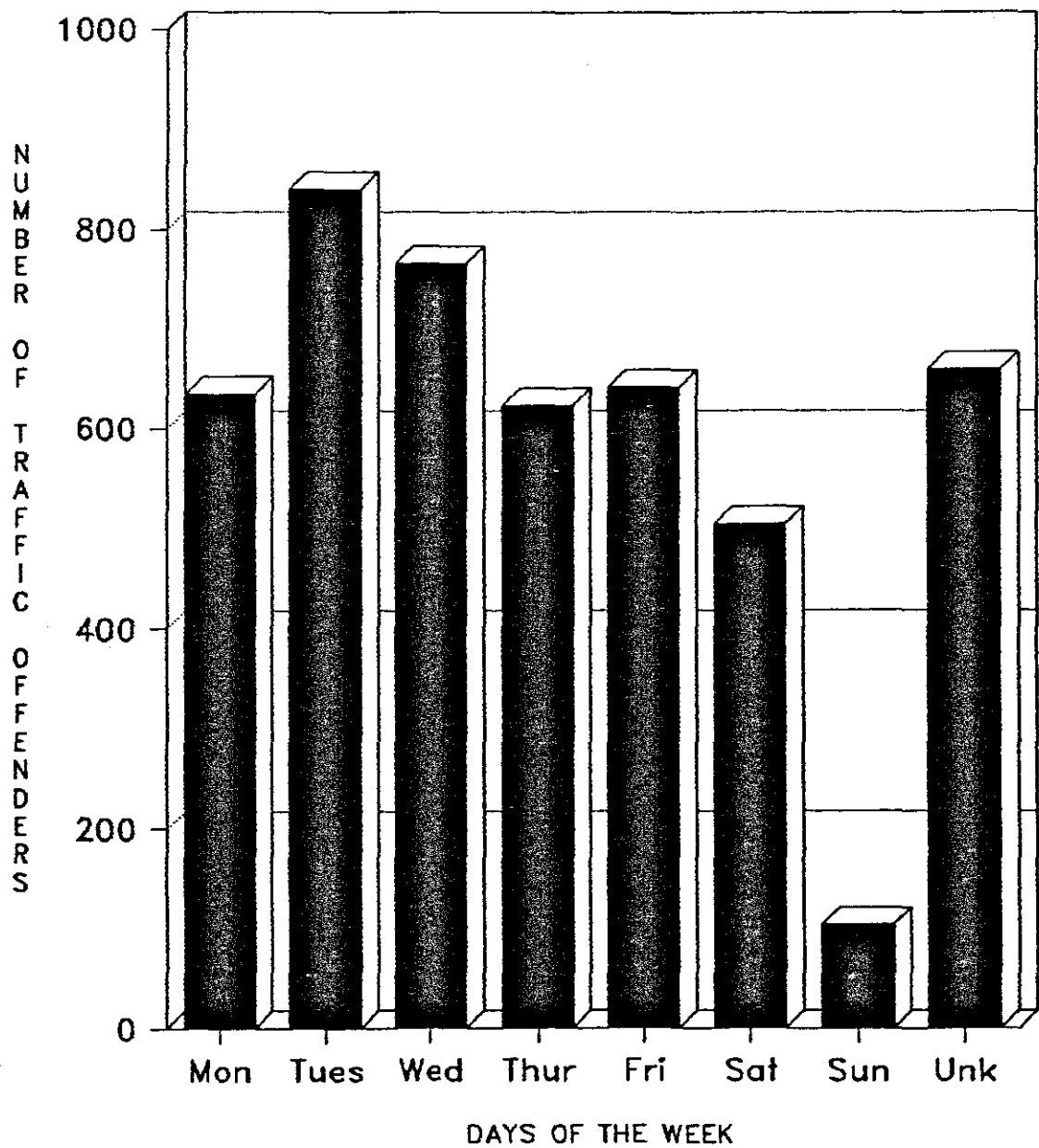
4.5.2 Day of traffic offence commission

Table 4.6 presents the distribution of traffic offenders in terms of the day of traffic offence commission. Figure 4.7 offers a histogram depiction of 4771 traffic offenders penalized according to the days of the week from January - June 1990.

TABLE 4.6 FREQUENCY DISTRIBUTION OF TRAFFIC OFFENDERS
 ACCORDING TO DAY OF TRAFFIC OFFENCE COMMISSION
 FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| DAY OF TRAFFIC OFFENCE COMMISSION | FREQUENCY | |
|--------------------------------------|-----------|--------|
| | (N) | (%) |
| MONDAY | 635 | 13,31 |
| TUESDAY | 841 | 17,63 |
| WEDNESDAY | 766 | 16,05 |
| THURSDAY | 623 | 13,06 |
| FRIDAY | 641 | 13,44 |
| SATURDAY | 503 | 10,54 |
| SUNDAY | 103 | 2,16 |
| UNKNOWN | 659 | 13,81 |
| TOTAL | 4771 | 100,00 |

FIGURE 4.7
TRAFFIC OFFENDERS ACCORDING
TO DAYS OF THE WEEK



Unk = Unknown Cases

Table 4.6 reveals that Tuesdays produced 841 (17,63%) traffic offenders, while 766 (16,05%) represent motor vehicle drivers apprehended for violating traffic legislation on Wednesdays. A total of 641 (13,44%) traffic offenders were penalized for committing traffic offences on Fridays. Traffic offences committed on Mondays are accounted for in 635 (13,31%) of the traffic cases. It should be noted that Good Friday and Easter Monday (during April) were public holidays which also contributed substantially to the incidence of traffic offences.

Thursdays produced 623 (13,06%) traffic cases. A total of 503 (10,54%) traffic offenders were penalized for committing traffic offences on Saturdays, while 103 (2,16%) were motor vehicle drivers apprehended for violating traffic laws on Sundays. Six hundred and fifty-nine (13,81%) traffic offenders also committed traffic offences during days UNKNOWN to the researcher as a result of incomplete information obtained from court statistics.

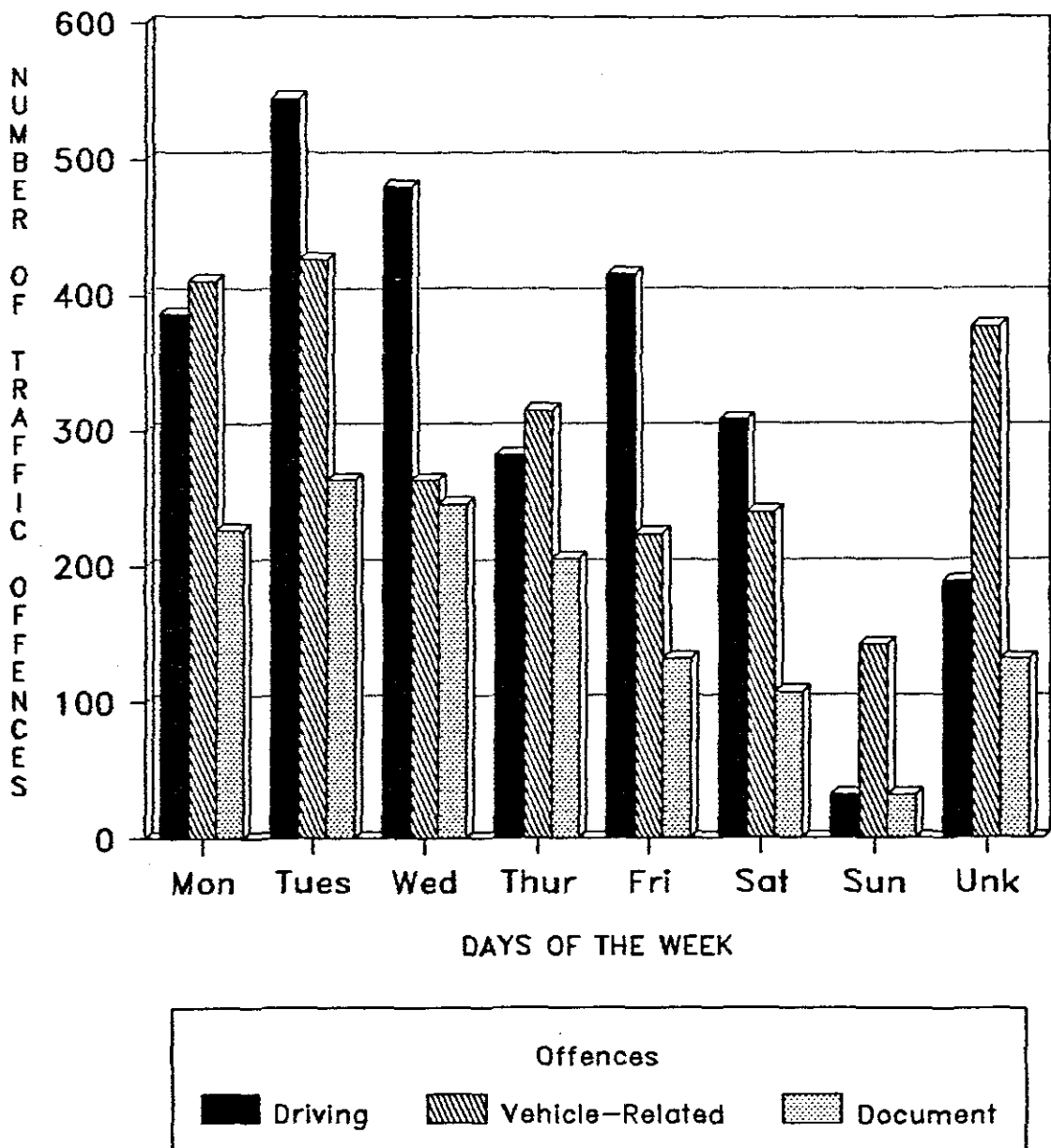
Table 4.7 renders a breakdown of distribution of traffic offences according day of traffic offence commission. Likewise, a graphical distribution of traffic offences according to the days on which offences were committed, is depicted in figure 4.8 by means of proportional vertical bar graph.

TABLE 4.7

BREAKDOWN AND FREQUENCY DISTRIBUTION OF TRAFFIC OFFENCES ACCORDING TO DAY OF TRAFFIC OFFENCE COMMISSION FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| DAY OF TRAFFIC OFFENCE COMMISSION | TYPE OF OFFENCE | | | | | | | |
|--------------------------------------|-----------------|--------|----------------------------|--------|---------------------|--------|-------|--------|
| | DRIVING OFFENCE | | VEHICLE-RELATED OFFENCE | | DOCUMENT OFFENCE | | TOTAL | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| MONDAY | 387 | 14,65 | 411 | 17,12 | 227 | 16,96 | 1025 | 16,07 |
| TUESDAY | 545 | 20,64 | 427 | 17,79 | 257 | 19,21 | 1229 | 19,27 |
| WEDNESDAY | 480 | 18,17 | 264 | 11,00 | 246 | 18,39 | 990 | 15,52 |
| THURSDAY | 282 | 10,68 | 315 | 13,13 | 206 | 15,40 | 803 | 12,59 |
| FRIDAY | 416 | 15,75 | 224 | 9,33 | 132 | 9,87 | 772 | 12,10 |
| SATURDAY | 308 | 11,66 | 240 | 10,00 | 107 | 7,99 | 655 | 10,27 |
| SUNDAY | 34 | 1,29 | 142 | 5,92 | 32 | 2,39 | 208 | 3,26 |
| UNKNOWN | 189 | 7,16 | 377 | 15,71 | 131 | 9,79 | 697 | 10,92 |
| TOTAL | 2641 | 100,00 | 2400 | 100,00 | 1338 | 100,00 | 6379 | 100,00 |

FIGURE 4.8
TRAFFIC OFFENCES
ACCORDING TO DAYS OF THE WEEK



Unk = Unknown

Table 4.7 reveals that Tuesdays were the peak days for all traffic offences: driving offences were committed in 545 (20,64%) of the cases, vehicle-related offences constituted 427 (17,79%) of the offences, while 257 (19,21%) represent the document offences that were committed. Driving offences committed on Wednesdays are accounted for in 480 (18,17%) of the cases. Fridays produced 416 (15,75%) driving offences. The commission of driving offences occurred on Mondays in 387 (14,65%) of the cases. A total of 308 (11,66%) were driving offences committed on Saturdays. Penalization was meted out in respect of 282 (10,68%) driving offences committed on Thursdays. Thirty-four (1,29%) driving offences occurred on Sundays, while 189 (7,16%) represent driving offences committed during unknown days.

Mondays were second in respect of vehicle-related offences committed and these offences constituted altogether 411 (17,12%) of the cases, while Wednesdays produced 264 (11,00%) vehicle-related offences. Drivers of motor vehicles were penalized in respect of 315 (13,13%) the vehicle-related offences which were committed on Thursdays. The commission of vehicle-related offences also occurred on Saturdays and this is accounted for in 240 (10,00%) of the cases. Sundays produced the least vehicle-related offences and these offences constituted 142 (5,92%) of the traffic cases. A total of 377 (15,71%) vehicle-related offences were committed during unknown days.

Document offences committed on Wednesdays constituted 246 (18,39%), while 227 (16,96%) document offences occurred on Mondays. It is also evident (table 4.7) that document offences committed on Thursdays are accounted for in 206 (15,40%) of the cases. The commission of document offences on Fridays, Saturdays and Sundays are respectively accounted

for in 132 (9,87%), 107 (7,99%) and 32 (2,39%) of the offences. Document offences which were committed during unknown days constituted 131 (9,79%) of the cases.

Table 4.7 reveals that Tuesdays were the peak days for all traffic offences and these offences are accounted for in 1229 (19,27%) of the total traffic offences. Mondays produced 1025 (16,07%) traffic offences. Penalization was meted out in respect of traffic offences committed on Wednesdays, Thursdays, Fridays, Saturdays and Sundays and this is accounted for respectively in 990 (15,52%), 803 (12,59%), 772 (12,10%), 655 (10,27%) and 203 (3,26%) of all traffic offences. Traffic offence commission during unknown days is accounted for in 697 (10,92%) of the total traffic offences.

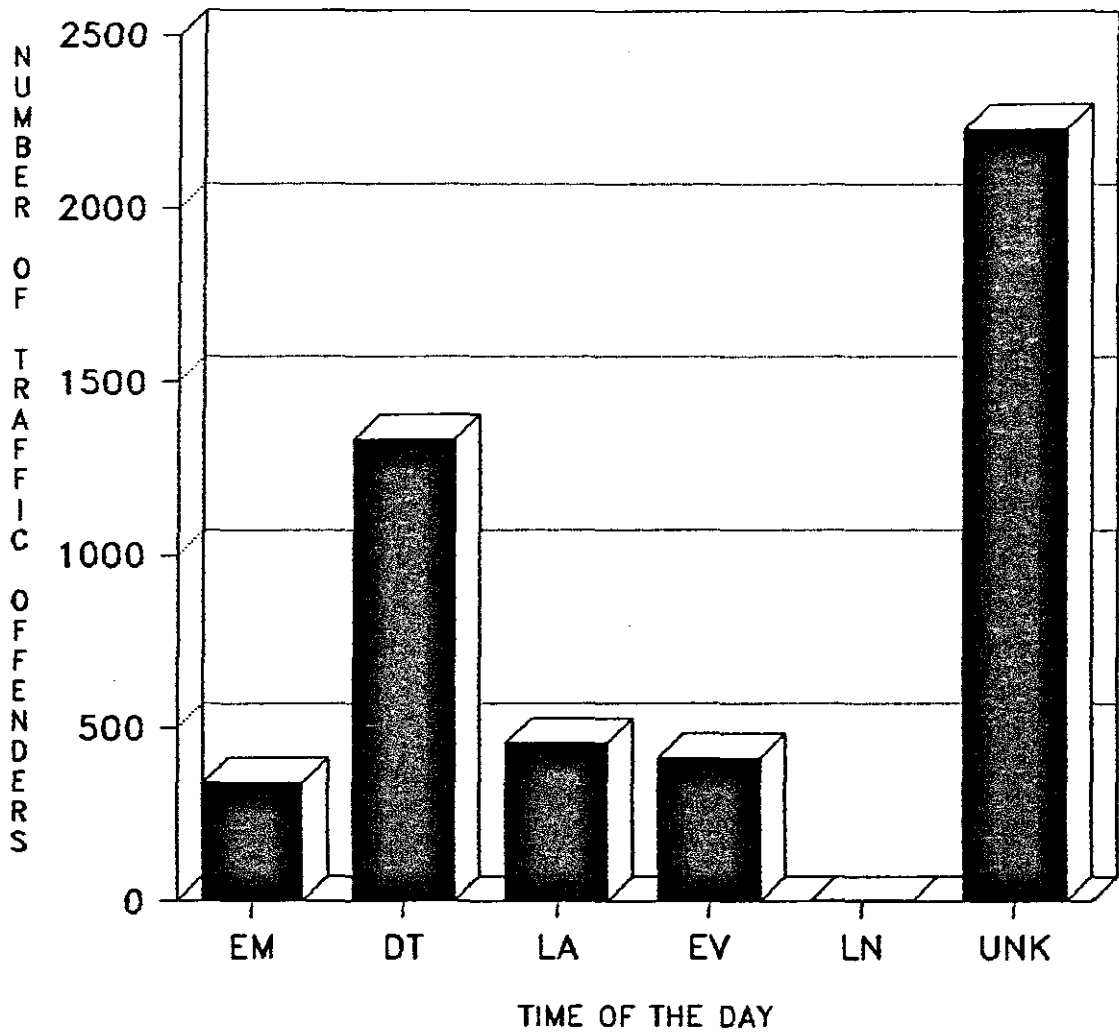
4.5.3 Time of traffic offence commission

It is likely that there will be favourite times for each type of traffic offence. Temperature might induce a direct psychological or physiological response in motor vehicle drivers, especially in the form of road traffic aggression. There is the notion that temperature affects traffic aggression indirectly, through an effect on some aspect of social behaviour which in turn affects the level of traffic crime (Field, 1992:340).

TABLE 4.8 FREQUENCY DISTRIBUTION OF TRAFFIC OFFENDERS
 ACCORDING TO TIME OF TRAFFIC OFFENCE COMMISSION
 FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| TIME OF TRAFFIC OFFENCE | FREQUENCY | |
|-----------------------------------|-----------|--------|
| | (N) | (%) |
| EARLY MORNING (00H00 - 07H59) | 342 | 7,17 |
| DAYTIME (08H00 - 15H59) | 1333 | 27,94 |
| LATE AFTERNOON (16H00 - 17H59) | 454 | 9,52 |
| EARLY EVENING (18H00 - 21H59) | 411 | 8,61 |
| LATE NIGHT (22H00 - 24H00) | 1 | 0,02 |
| UNKNOWN | 2230 | 46,74 |
| TOTAL | 4771 | 100,00 |

FIGURE 4.9
TRAFFIC OFFENDERS
ACCORDING TO TIMES OF THE DAY



Series 1

EM=Early Morning
LA=Late Afternoon
LN=Late Night
DT=Day Time
EV=Early Evening
Unk=Unknown

Table 4.8 reveals that daytime was the most active time for the commission of traffic offences. Daytime produced 1333 (27,94%) traffic offenders. A total 454 (9,52%) traffic offenders were apprehended during the late afternoon. Traffic offences were committed during the early evening by 411 (8,61%) motor vehicle drivers, while 342 (7,17%) traffic offenders were penalized for violating traffic legislation during the early morning. There was only one (0,02%) motor vehicle driver who committed a traffic crime during the late night. Traffic offenders were also penalized for committing offences during unknown times. The unknown times produced 2230 (46,74%) traffic offenders.

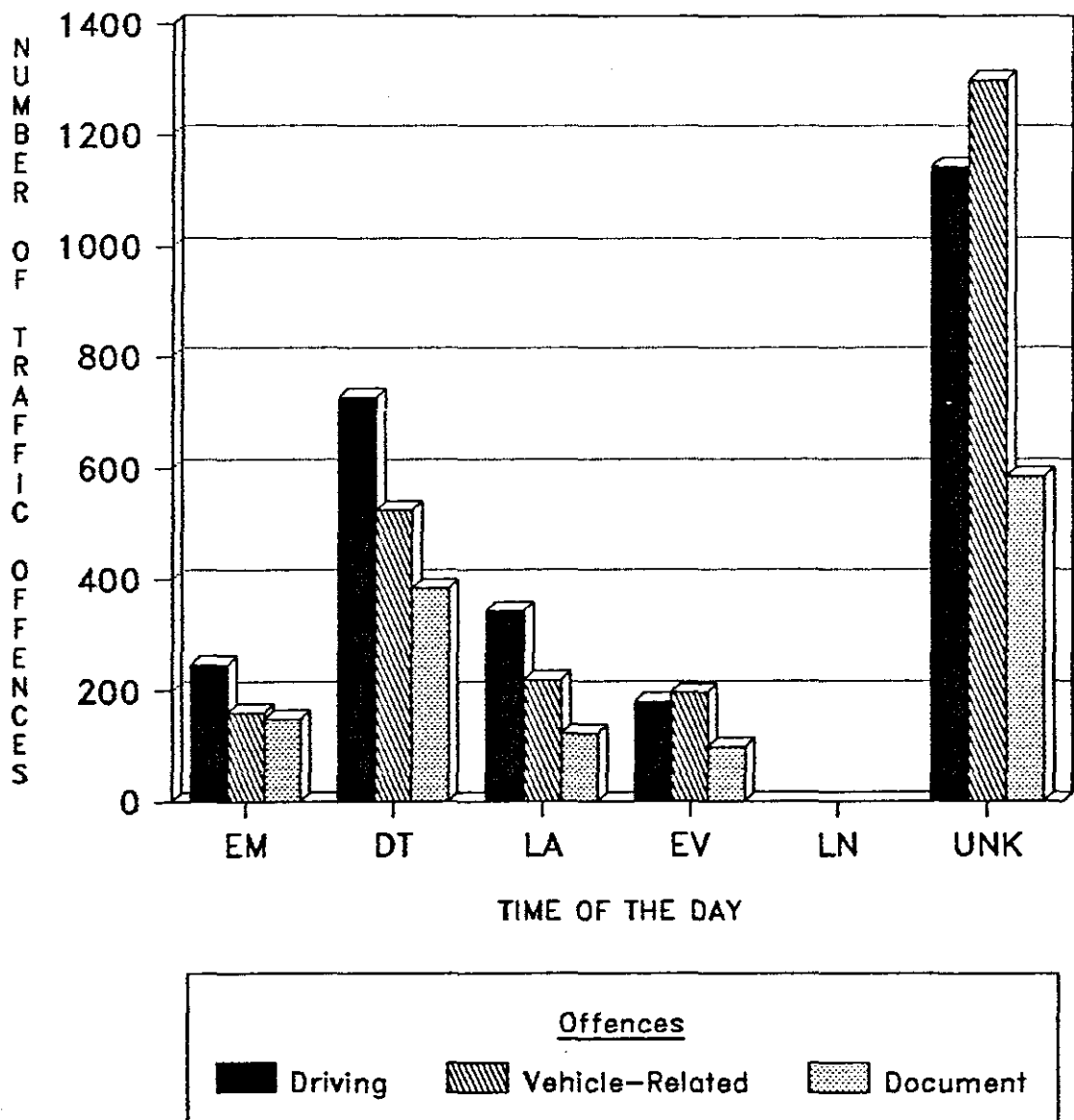
Table 4.9 renders a breakdown of traffic offences according to time of commission. Figure 4.10 reflects a graphical distribution of the data contained in table 4.9.

TABLE 4.9

BREAKDOWN AND FREQUENCY DISTRIBUTION OF TRAFFIC OFFENCES ACCORDING TO TIME OF COMMISSION FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| TIME OF TRAFFIC OFFENCE COMMISSION | TYPE OF OFFENCE | | | | | | | |
|---------------------------------------|-----------------|--------|----------------------------|--------|---------------------|--------|-------|--------|
| | DRIVING OFFENCE | | VEHICLE-RELATED OFFENCE | | DOCUMENT OFFENCE | | TOTAL | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| EARLY MORNING (00H00 - 07H59) | 247 | 9,35 | 161 | 6,70 | 148 | 11,06 | 556 | 8,71 |
| DAYTIME (08H00 - 15H59) | 728 | 27,57 | 525 | 21,87 | 384 | 28,71 | 1637 | 25,66 |
| LATE AFTERNOON (16H00 - 17H59) | 343 | 12,99 | 218 | 9,09 | 122 | 9,12 | 683 | 10,71 |
| EARLY EVENING (18H00 - 21H59) | 179 | 6,77 | 195 | 8,13 | 98 | 7,32 | 472 | 7,40 |
| LATE NIGHT (22H00 - 24H00) | - | - | - | - | 1 | 0,07 | 1 | 0,02 |
| UNKNOWN | 1144 | 43,32 | 1301 | 54,21 | 585 | 43,72 | 3030 | 47,50 |
| TOTAL | 2641 | 100,00 | 2400 | 100,00 | 1338 | 100,00 | 6379 | 100,00 |

FIGURE 4.10
TRAFFIC OFFENCES
ACCORDING TO TIMES OF THE DAY



EM=Early Morning
LA=Late Afternoon
LN=Late Night

DT=Day Time
EV=Early Evening
Unk=Unknown

Table 4.9 reveals that the peak time for the driving offences in which the time of commission was recorded was during the daytime and this time produced 728 (27,57%) driving offences. A total of 343 (12,99%) driving offences were committed during late afternoon. The early morning rush hours between 00h00 and 07h59 produced 247 (9,35%) driving offences, while 179 (6,77%) represent driving offences which occurred during the early evening. The number of driving offences then tapered off until late night and the quietest time of all was during late night (22h00 - 24h00). Driving offences committed during unknown time constituted 1144 (43,32%) of the cases.

It is apparent from table 4.9 that a total of 525 (21,87%) vehicle-related offences were committed during daytime. The commission of vehicle-related offences during late afternoon is accounted for in 218 (9,09%) of the cases, while the early evening produced a significant lesser amount of vehicle-related offences namely 195 (8,13%). There were only 161 (6,70%) instances of operating defective vehicles during early morning. The late night (22h00 - 24h00) was also the quietest time with regard to vehicle-related offences. However, a total of 1301 (54,21%) represent vehicle-related offences committed during times unknown to the researcher due to incomplete information.

In table 4.9 it will be seen that 384 (28,71%) document offences were committed during daytime and 148 (11,06%) during the early morning rush hours. Late afternoon produced only 122 (9,12%) document offences. There were 98 (7,32%) document offences committed during the early evening. Late night produced only one (0,07%) document offence. Document offences committed during unknown times are accounted for in 585 (43,72%) of all the observed cases.

Table 4.9 also reveals that the peak time for the commission of all traffic offences was during daytime which produced 1637 (25,66%) of the total offences. A total of 683 (10,71%) traffic offences were committed during late afternoon, while 556 (8,71%) traffic offences occurred during early morning. The commission of traffic offences during early evening is accounted for in 472 (7,40%) of the cases. A total of 3030 (47,50%) traffic offences were committed during times unknown to the researcher due to incomplete information.

4.6 AGE DISTRIBUTION

It is usual for traffic officers in the magisterial district of Lower Umfolozi to record the age of traffic offenders. Age is of interest for the following two reasons:

- (a) it is necessary to know which age groups are the most traffic lawless; and
- (b) it renders some indication of the relationship between age, experience, competence and the tendency or inclination to commit traffic offences.

Table 4.10 presents the age distribution of 4771 traffic offenders.

TABLE 4.10 AGE DISTRIBUTION OF TRAFFIC OFFENDERS FOR THE
PERIOD 01 JANUARY - 30 JUNE 1990

| AGE OF OFFENDERS | FREQUENCY | |
|------------------|-----------|--------|
| | (N) | (%) |
| 18 - 20 YEARS | 168 | 3,52 |
| 21 - 30 YEARS | 1010 | 21,17 |
| 31 - 40 YEARS | 1412 | 29,60 |
| 41 - 50 YEARS | 754 | 15,80 |
| 51 - 60 YEARS | 284 | 5,95 |
| 61 - 70 YEARS | 73 | 1,53 |
| 71 - 80 YEARS | 9 | 0,19 |
| UNKNOWN | 1061 | 22,24 |
| TOTAL | 4771 | 100,00 |

FIGURE 4.11

AGE DISTRIBUTION OF
TRAFFIC OFFENDERS

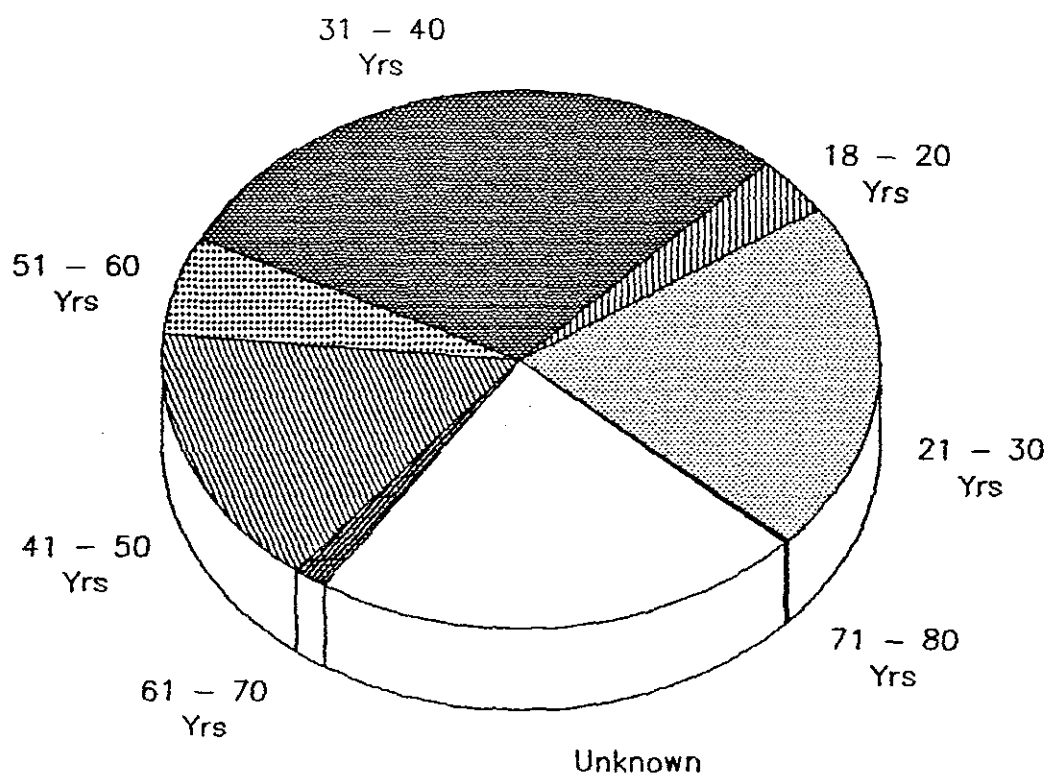


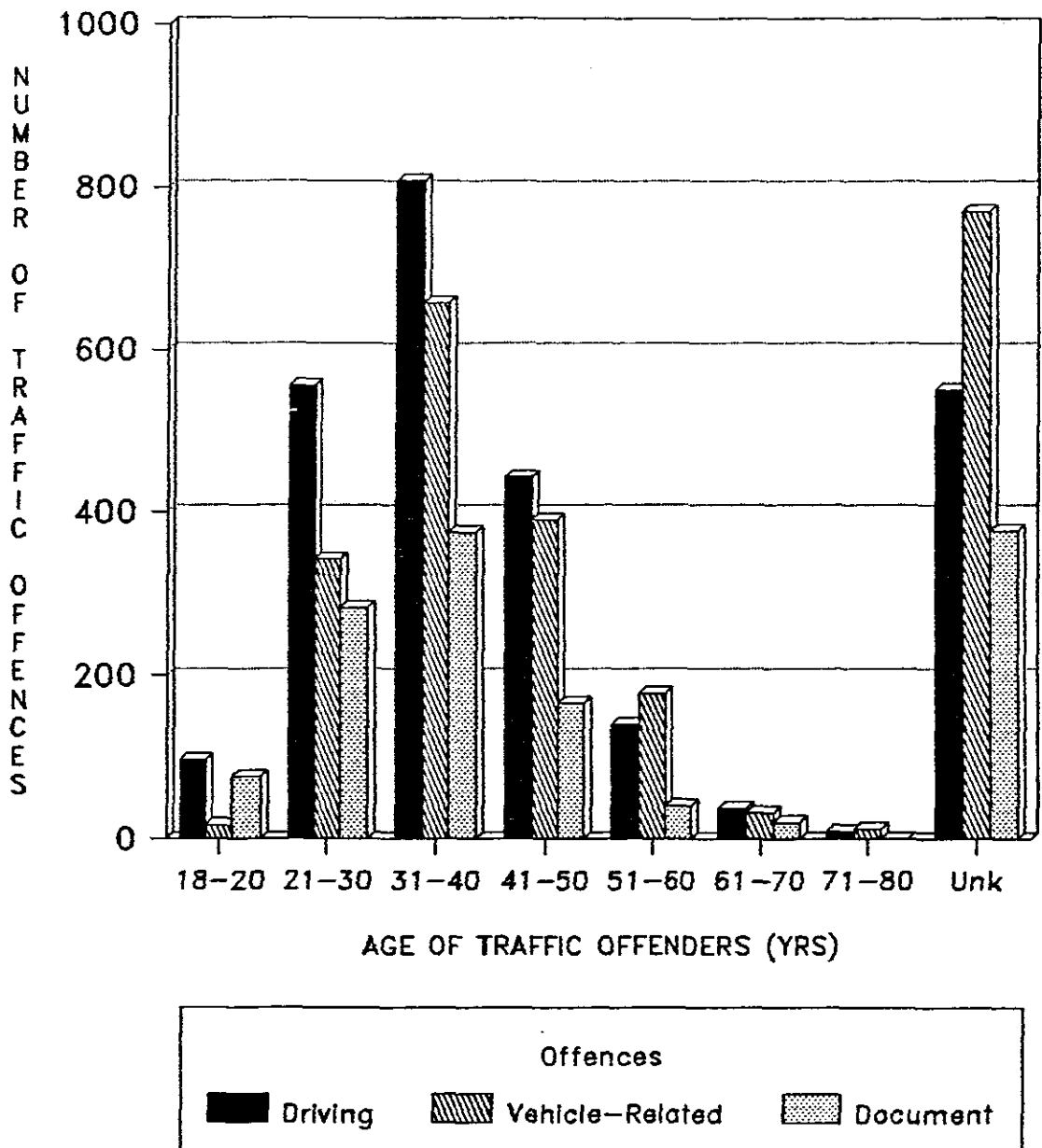
Table 4.10 reveals that most traffic offenders were in the age group 31 - 40 years and are accounted for in 1412 (29,60%) of the traffic cases. A total of 1010 (21,17%) traffic offenders were aged between 21 and 30 years. The age group 41 - 50 years produced 754 (15,80%) traffic offenders, while the ages of 284 (5,95%) traffic offenders ranged between 51 and 60 years. The youngest traffic offenders were in the age group 18 - 20 years and constituted 168 (3,52%) of the total traffic offenders. The age group 61 - 70 years produced 73 (1,53%) traffic offenders, while 9 (0,19%) motor vehicle drivers who violated traffic legislation were aged between 71 and 80 years. Furthermore, as table 4.10 shows, the commission of traffic offences declines with age. The unknown age group of traffic offenders is accounted for in 1061 (22,24%) of the total traffic offenders. Figure 4.11 represents a pie chart distribution of the data contained in table 4.10 which conveniently portrays the age group distribution of 4771 traffic offenders.

Table 4.11 renders a breakdown of distribution of traffic offences according to age. Figure 4.12 portrays a proportional bar graph distribution of the data contained in table 4.11, while figure 4.13 portrays the same data by means of a polygon.

TABLE 4.11 BREAKDOWN AND FREQUENCY DISTRIBUTION OF TRAFFIC OFFENCES ACCORDING TO AGE FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

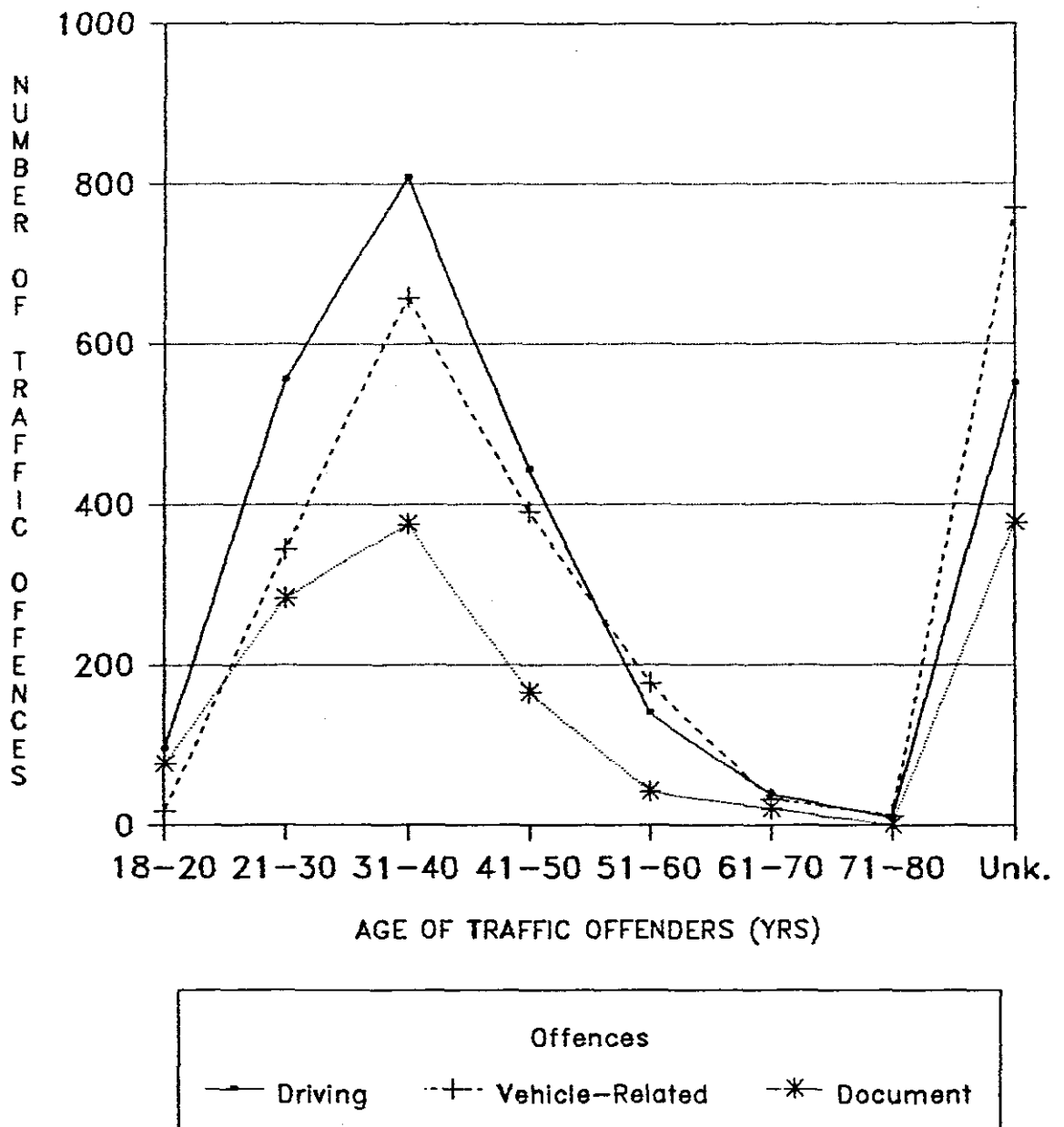
| AGE OF OFFENDERS | TYPE OF OFFENCE | | | | | | TOTAL | |
|------------------|-----------------|--------|-------------------------|--------|------------------|--------|-------|--------|
| | DRIVING OFFENCE | | VEHICLE-RELATED OFFENCE | | DOCUMENT OFFENCE | | | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| 18 - 20 YEARS | 96 | 3,64 | 17 | 0,71 | 76 | 5,68 | 189 | 2,96 |
| 21 - 30 YEARS | 556 | 21,05 | 343 | 14,29 | 283 | 21,15 | 1182 | 18,53 |
| 31 - 40 YEARS | 808 | 30,60 | 658 | 27,42 | 375 | 28,03 | 1841 | 28,86 |
| 41 - 50 YEARS | 443 | 16,77 | 390 | 16,25 | 166 | 12,41 | 999 | 15,66 |
| 51 - 60 YEARS | 140 | 5,30 | 178 | 7,42 | 41 | 3,06 | 359 | 5,63 |
| 61 - 70 YEARS | 38 | 1,44 | 32 | 1,33 | 20 | 1,49 | 90 | 1,41 |
| 71 - 80 YEARS | 9 | 0,34 | 12 | 0,50 | - | - | 21 | 0,33 |
| UNKNOWN | 551 | 20,86 | 770 | 32,08 | 377 | 28,18 | 1698 | 26,62 |
| TOTAL | 2641 | 100,00 | 2400 | 100,00 | 1338 | 100,00 | 6379 | 100,00 |

FIGURE 4.12
TRAFFIC OFFENCES ACCORDING TO AGE
GROUPS OF TRAFFIC OFFENDERS



Unk = Unknown

FIGURE 4.13
TRAFFIC OFFENCES ACCORDING TO
AGE GROUPS OF TRAFFIC OFFENDERS



Unk. = Unknown

According to Conklin (1986:117) and Cavan (1958:47) each age produces a characteristic type of traffic offence. A total of 808 (30,60%) driving offences were committed by traffic offenders in the age group 31 - 40 years. The age category 21 - 30 years produced 556 (21,05%) driving offences, while 443 (16,77%) represent driving offences committed by traffic offenders aged between 41 and 50 years. There were 140 (5,30%) driving offences committed by drivers of motor vehicles in the age category 51 - 60 years. The youngest traffic offenders were in the age group 18 - 20 years and these offenders committed 96 (3,64%) driving offences. Thirty-eight (1,44%) driving offences were committed by traffic offenders between the ages 61 and 70 years. Traffic offenders aged between 71 and 80 years committed nine (0,34%) driving offences. The unknown age category of traffic offenders produced 551 (20,86%) of the total driving offences.

Drivers of motor vehicles were penalized for operating defective vehicles and penalization was meted out in 658 (27,42%) of the traffic offenders aged between 31 and 40 years. Traffic offenders in the age group 41 - 50 years committed 390 (16,25%) vehicle-related offences, while the age category 21 - 30 years produced 343 (14,29%) offences. Traffic criminal responsibility of motor vehicle drivers aged between 51 and 60 years is accounted for in 178 (7,42%) of the cases. Thirty-two (1,33%) vehicle-related offences were committed by traffic offenders in the age group 61 - 70 years. The youngest traffic offenders aged between 18 and 20 years committed 17 (0,71%) vehicle-related offences. Traffic offenders in the age group 71 - 80 years were responsible for 12 (0,50%) vehicle-related offences. A total of 770 (32,08%) vehicle-related offences were committed by traffic offenders whose ages were unknown.

Document offences committed by traffic offenders in the age group 31 - 40 years are accounted for in 375 (28,03%) of the offences, while 283 (21,15%) were document offences committed by drivers of motor vehicles aged between 21 and 30 years. The age category 41 - 50 years produced 166 (12,41%) document offences. The youngest traffic offenders aged between 18 and 20 years and committed 76 (5,68%) of the total document offences. Forty-one (3,06%) document offences were committed by traffic offenders in the age group 51 - 60 years. The age group 61 - 70 years produced 20 (1,49%) document offences. Table 4.11 also shows that the ages were unknown in respect of traffic offenders who committed 377 (28,18%) document offences.

An overall picture (table 4.11) is that traffic offenders between the ages 31 and 40 years committed more traffic offences and these offences are accounted for in 1841 (28,86%) of the total traffic offences. The age group 21 - 30 years produced 1182 (18,53%) traffic offences, while 999 (15,66%) represent offences committed by traffic offenders aged between 41 and 50 years. Traffic criminal responsibility of the age category 51 - 60 years is accounted for in 359 (5,63%) traffic offences. The youngest traffic offenders aged between 18 and 20 years committed 189 (2,96%) traffic offences. The least traffic offences were committed by traffic offenders in the age group 71 - 80 years and these offences constituted 21 (0,33%) cases. A total of 1698 (26,62%) traffic offences were committed by the unknown age group of traffic offenders.

4.7 SEX DISTRIBUTION

Sex is the main factor which determines the physical characteristics which distinguish traffic offenders as male and female. In this respect, therefore, a man is better

equipped than a woman. He possesses the necessary strength, the necessary muscular build and strong natural impulses. Of all demographic variables, sex is the best predictor of crime (Conklin, 1986:111; Hagan, 1989:70). The researcher is of the opinion that the notion of sex being the best predictor of crime also applies to the study of penalization of traffic offenders in the magisterial district of Lower Umfolozi.

Table 4.12 presents the sex distribution of 4771 traffic offenders. Figure 4.14 renders a pie chart distribution of the data contained in this table.

TABLE 4.12 SEX DISTRIBUTION OF TRAFFIC OFFENDERS FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| SEX OF OFFENDERS | FREQUENCY | |
|------------------|-----------|--------|
| | (N) | (%) |
| MALE | 3701 | 77,57 |
| FEMALE | 545 | 11,42 |
| UNKNOWN | 525 | 11,01 |
| TOTAL | 4771 | 100,00 |

FIGURE 4.14
SEX DISTRIBUTION OF TRAFFIC OFFENDERS

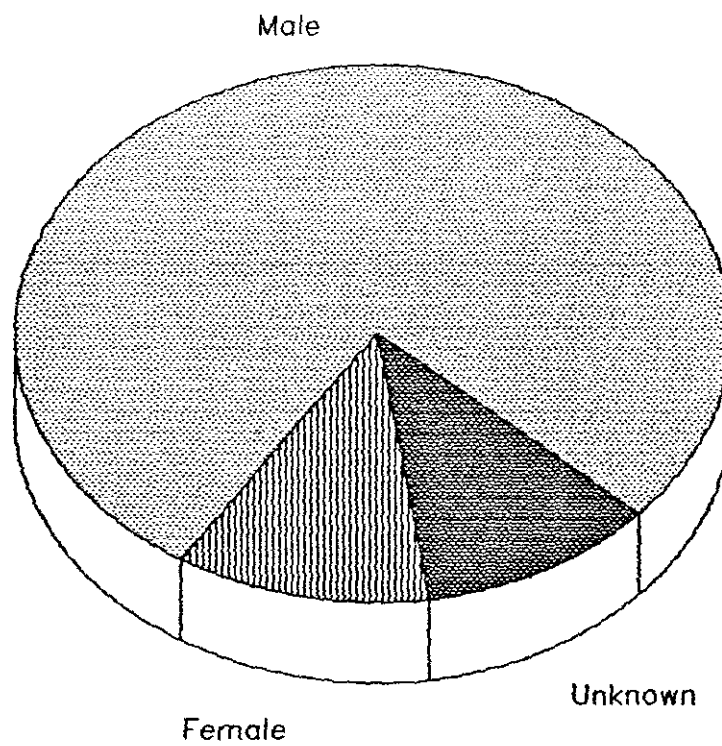


Table 4.12 reveals that the majority of traffic offenders were males and are accounted for in 3701 (77,57%) of the total traffic offenders, while 545 (11,42%) female traffic offenders were penalized for traffic law violations. The unknown sex category of traffic offenders constituted 525 (11,01%) traffic cases.

The relative contributions of male and female traffic offenders to the three discrete categories of traffic offences are shown in table 4.13, and the proportions do not depart much from the expectations of the criminologist who has become used to finding males greatly predominant among traffic offenders.

Table 4.13 renders a breakdown of the distribution of traffic offences according to sex. A graphical distribution of the same data is depicted in figure 4.15.

TABLE 4.13 BREAKDOWN AND FREQUENCY DISTRIBUTION OF TRAFFIC OFFENCES ACCORDING TO SEX FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| SEX OF OFFENDER | TYPE OF OFFENCE | | | | | | | |
|-----------------|-----------------|--------|-------------------------|--------|------------------|--------|-------|--------|
| | DRIVING OFFENCE | | VEHICLE-RELATED OFFENCE | | DOCUMENT OFFENCE | | TOTAL | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| MALE | 1814 | 68,69 | 2068 | 86,17 | 1068 | 79,82 | 4950 | 77,60 |
| FEMALE | 485 | 18,36 | 169 | 7,04 | 43 | 3,21 | 697 | 10,93 |
| UNKNOWN | 342 | 12,95 | 163 | 6,79 | 227 | 16,97 | 732 | 11,47 |
| TOTAL | 2641 | 100,00 | 2400 | 100,00 | 1338 | 100,00 | 6379 | 100,00 |

FIGURE 4.15

TRAFFIC OFFENCES
ACCORDING TO SEX

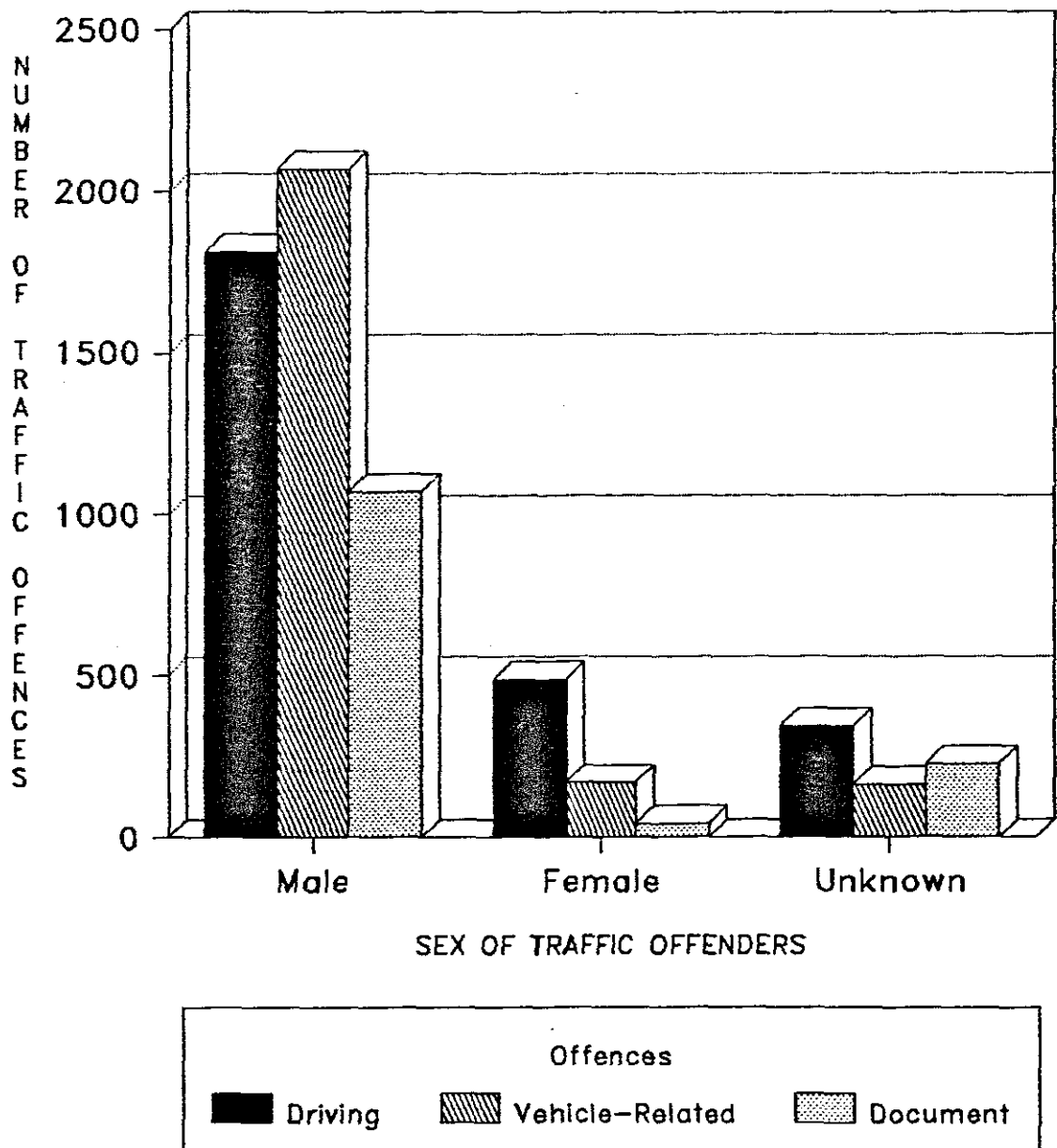


Table 4.13 reveals that male traffic offenders committed 1814 (68,69%) driving offences, while female traffic criminality in respect of driving offences is accounted for in 485 (18,36%) of the total cases. A total of 342 (12,95%) driving offences were committed by the unknown sex category of traffic offenders. There were 2068 (86,17%) vehicle-related offences committed by male drivers of motor-vehicles. Female traffic offenders were penalized for the commission of 169 (7,04%) vehicle-related offences, while traffic offenders of unknown sex committed 163 (6,79%) offences. Most document offences (table 4.13) were committed by males and these offences are accounted for in 1068 (79,82%) traffic cases, while 43 (3,21%) document offences were committed by female traffic offenders. There were 227 (16,97%) document offences committed by traffic offenders of unknown sex. An overall picture (table 4.13) is that a total 4950 (77,60%) traffic offences were committed by male traffic offenders. Female traffic criminality is accounted for in 697 (10,93%) of the total traffic offences. A total of 732 (11,47%) traffic offences were committed by traffic offenders of unknown sex.

It is therefore evident that men commit much more traffic offences than women. This universality of disproportionate male traffic criminality can best be explained by the differential treatment of males and females (Mannheim, 1965:699-708). Traditionally, males are socialized to be active, dominant, and aggressive. It is also probable that the law may require that the male should take responsibility for what occurs. This socialization process, in combination with a social structure that assigns statuses to people on the basis of sex, often leads to differences in personality and traffic criminal behaviour that are linked to the large difference in traffic crime rates between male and female traffic offenders. Willett (Van der Westhuizen, 1982:147)

opines: "When the sex ratio is considered the ground becomes firmer, and it is no surprise to find that the female is less active as a detected law-breaker than the male. The literature mentions females but rarely, and even if we can assume that male drivers exceed females by between five and eight to one, it is indisputable that the motoring offender is nearly always a male. So the case goes against the male according to all the available statistics. The ratio of male to female among motoring offenders is, however, a provocative question, and one that is important in any study of personality factors."

4.8 RACE AND NATIONALITY OF TRAFFIC OFFENDERS

4.8.1 Racial distribution

It should be noted that the concept race may be problematic in the study and understanding of the relation of race to traffic crime. Hurwitz (1952:279) opines: "The very vagueness of the concept of race is an obstacle in the way of exact investigations. The demarcation of races with common hereditary features from nationalities or peoples with cultural, not biologically determined characteristics, gives rise to a variety of doubts. As particularly regards the European culture area, the statistical data underlying a comparative investigation are associated with national and geographical divisions containing a multiplicity of anthropological types of mixtures of races." This implies that race is a relatively arbitrary, socially defined status.

Table 4.14 presents the distribution of 4771 traffic offenders according to race. The same data is presented by means of a pie chart distribution - figure 4.16.

TABLE 4.14 RACIAL DISTRIBUTION OF TRAFFIC OFFENDERS FOR
THE PERIOD 01 JANUARY - 30 JUNE 1990

| RACE OF OFFENDERS | FREQUENCY | |
|-------------------|-----------|--------|
| | (N) | (%) |
| BLACK | 2291 | 48,02 |
| WHITE | 1422 | 29,80 |
| COLOURED | 72 | 1,51 |
| ASIAN | 288 | 6,04 |
| UNKNOWN | 698 | 14,63 |
| TOTAL | 4771 | 100,00 |

FIGURE 4.16
TRAFFIC OFFENDERS ACCORDING
TO RACE

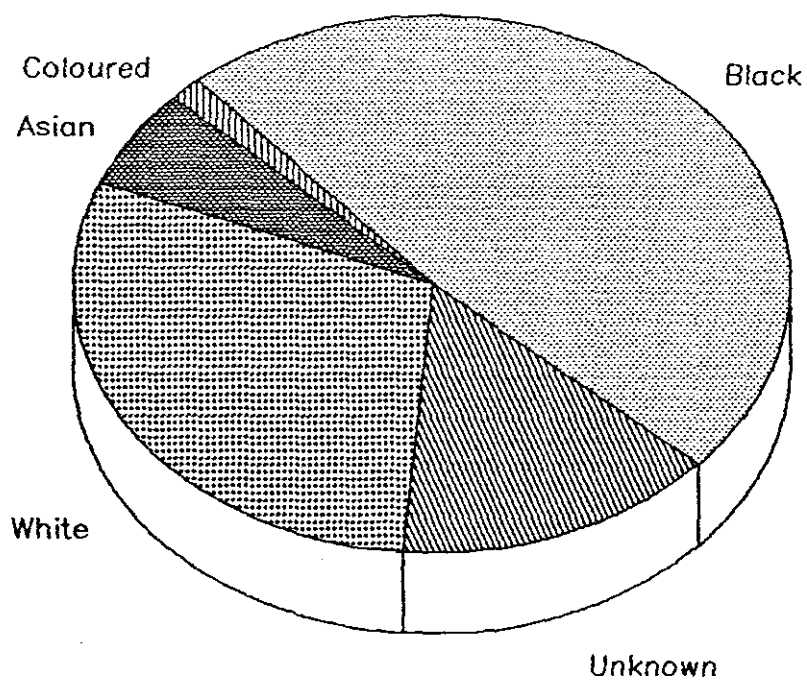


Table 4.14 reveals that Blacks were in the majority and are accounted for in 2291 (48,02%) of the total traffic offenders. White drivers of motor vehicles were penalized for traffic violations and these offenders constituted 1422 (29,80%) of the traffic cases. A total of 288 (6,04%) Asian traffic offenders committed traffic offences. The Coloureds were the least race penalized for traffic crime commission and are accounted for in 72 (1,51%) cases. In 698 (14,63%) of the observed traffic cases no form of race could be established.

Table 4.15 renders a breakdown of traffic offences according to race, while figures 4.17 and 4.18 represent a graphical distribution of the data contained in this table.

TABLE 4.15 BREAKDOWN AND FREQUENCY DISTRIBUTION OF TRAFFIC OFFENCES ACCORDING TO RACE FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| RACE OF OFFENDERS | TYPE OF OFFENCE | | | | | | | |
|-------------------|-----------------|--------|-------------------------|--------|------------------|--------|-------|--------|
| | DRIVING OFFENCE | | VEHICLE-RELATED OFFENCE | | DOCUMENT OFFENCE | | TOTAL | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| BLACK | 827 | 31,31 | 1883 | 78,46 | 770 | 57,55 | 3480 | 54,55 |
| WHITE | 1235 | 46,76 | 242 | 10,08 | 237 | 17,71 | 1714 | 26,87 |
| COLOURED | 37 | 1,40 | 42 | 1,75 | 16 | 1,20 | 95 | 1,49 |
| ASIAN | 183 | 6,93 | 102 | 4,25 | 79 | 5,90 | 364 | 5,71 |
| UNKNOWN | 359 | 13,60 | 131 | 5,46 | 236 | 17,64 | 726 | 11,38 |
| TOTAL | 2641 | 100,00 | 2400 | 100,00 | 1338 | 100,00 | 6379 | 100,00 |

FIGURE 4.17
TRAFFIC OFFENCES
ACCORDING TO RACE

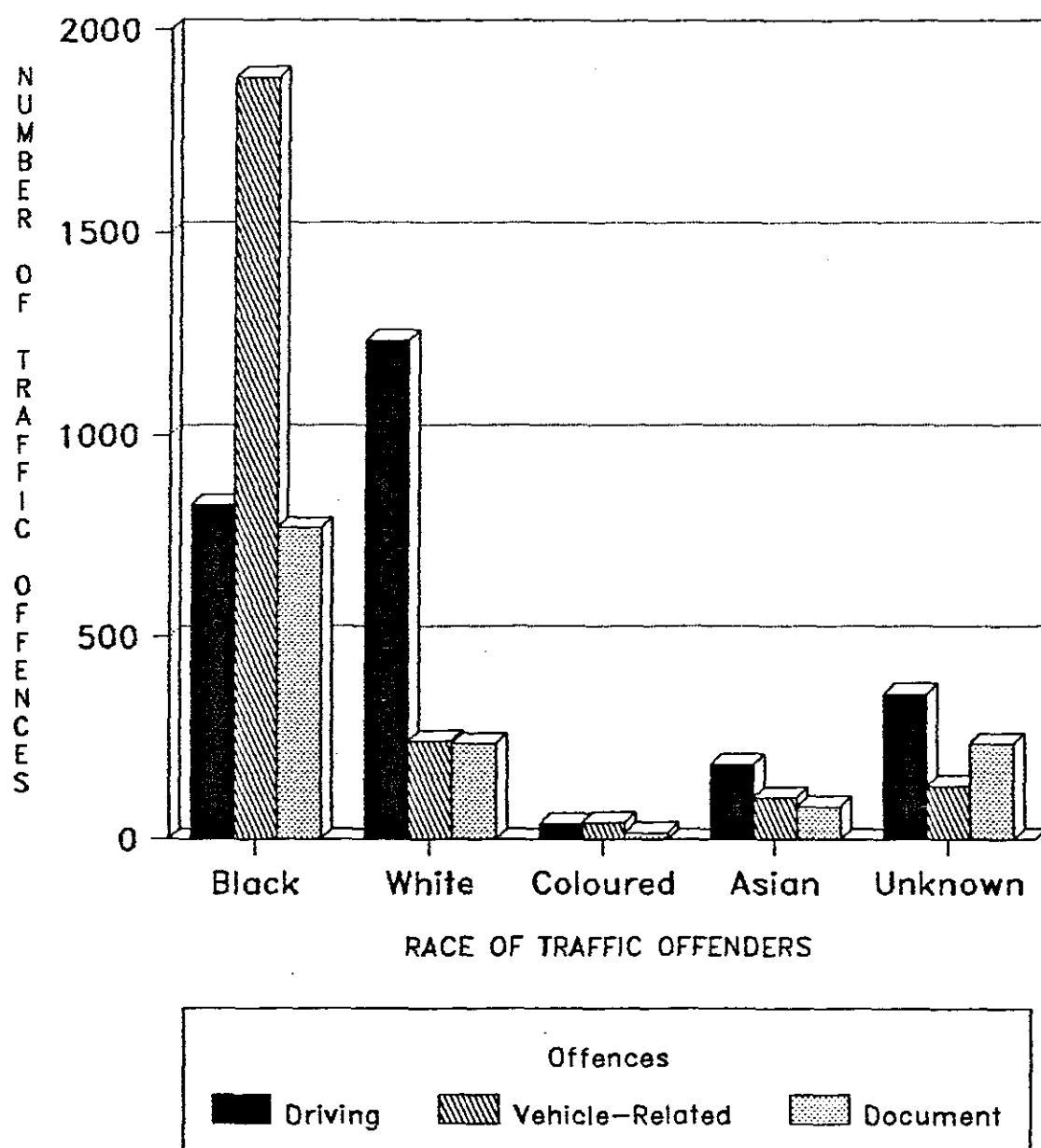
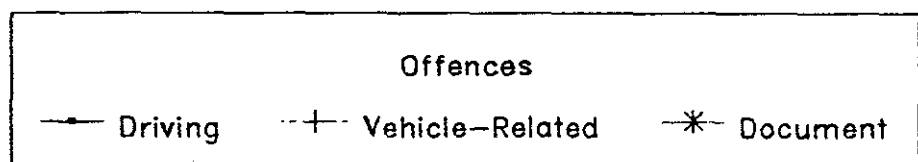
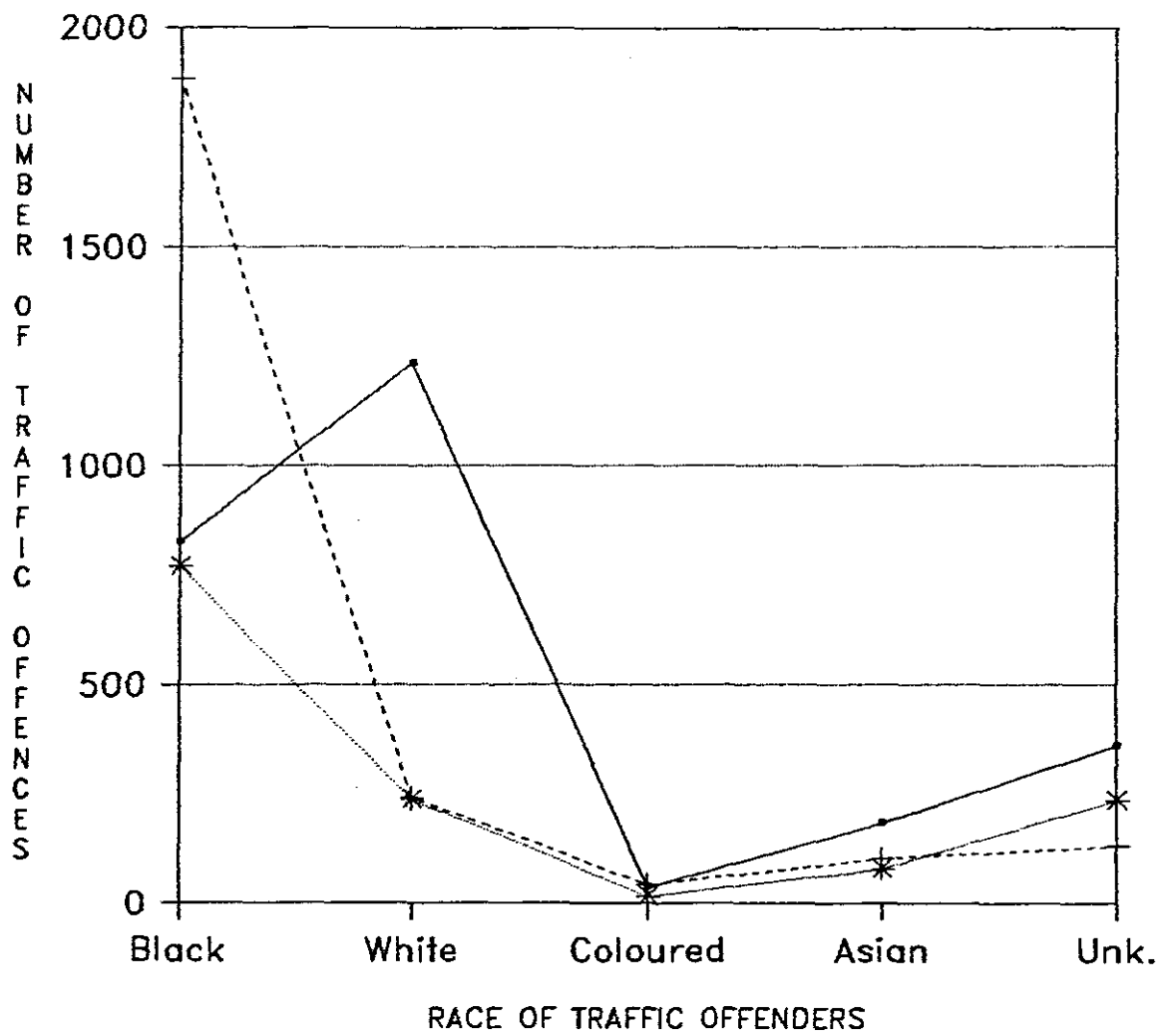


FIGURE 4.18
TRAFFIC OFFENCES
ACCORDING TO RACE



Unk.=Unknown

Table 4.15 reveals that Whites featured predominantly in the commission of driving offences. A total of 1235 (46,76%) driving offences were committed by Whites. Blacks were responsible for 827 (31,31%) driving offences, while 183 (6,93%) represent driving offences committed by Asians. Coloureds were the least in the commission of driving offences. In 2641 observed driving offences, 37 (1,40%) offences were committed by Coloureds. The commission of driving offences by traffic offenders of unknown race is accounted for in 359 (13,60%) of the total driving offences.

It is apparent (table 4.15) that Blacks featured predominantly in the commission of vehicle-related offences. A total of 1883 (78,46%) vehicle-related offences were committed by Blacks. The operation of defective vehicles by Whites is accounted for in 242 (10,08%) of the total vehicle-related offences. The Asians were penalized for operating defective vehicles in 102 (4,25%) of the observed cases. Coloureds were the least in the commission of vehicle-related offences and are accounted for in 42 (1,75%) of the observed cases. A total of 131 (5,46%) vehicle-related offences were committed by traffic offenders of unknown race.

Table 4.15 reveals that Blacks featured predominantly in the commission of document offences. The commission of document offences by Blacks is accounted for in 770 (57,55%) document cases, while Whites were responsible for 237 (17,71%) document offences. Seventy-nine (5,90%) document offences were committed by Asians. Coloureds featured the least in respect of document offences and are accounted for in 16 (1,20%) of the total document offences. The unknown race category of traffic offenders committed 236 (17,64%) document offences.

An overall picture (table 4.15) is that Blacks committed more traffic crimes than Whites, Asians and Coloureds. Blacks were responsible for a total of 3480 (54,55%) traffic crimes, while Whites committed 1714 (26,87%) traffic crimes. The commission of traffic offences by Asians is accounted for in 364 (5,71%) cases, while the Coloureds featured the least in traffic criminality and are accounted for in 95 (1,49%) of the observed traffic offences. There were traffic offences committed by traffic offenders of unknown race and these offenders committed 726 (11,38%) traffic offences.

Differences in traffic crime rates among racial groups are a function of group differences in income, occupation, education, family background, and other social characteristics, as well as a function of differences in opportunities to commit traffic offences. This would suggest that if Blacks, Whites, Asians and Coloureds of similar social backgrounds are compared, differences in traffic crime rates between the racial groups will be reduced or eliminated.

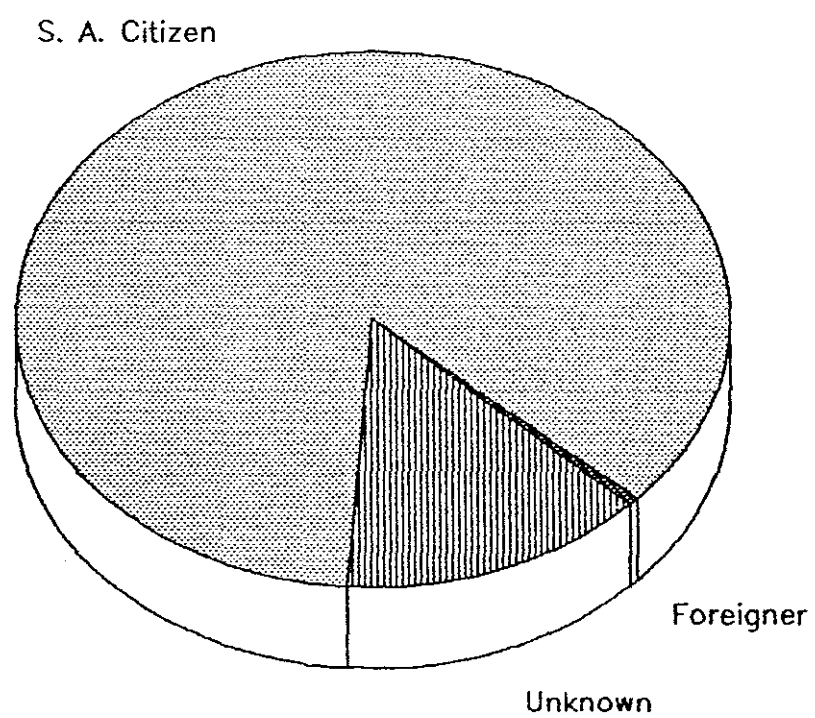
4.8.2 Nationality distribution

Table 4.16 presents the distribution of 4771 traffic offenders according to nationality. Likewise, figure 4.19 reflects a graphical distribution by means of a pie chart.

TABLE 4.16 NATIONALITY DISTRIBUTION OF TRAFFIC OFFENDERS
FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| NATIONALITY OF OFFENDERS | FREQUENCY | |
|--------------------------|-----------|--------|
| | (N) | (%) |
| SOUTH AFRICAN CITIZEN | 4081 | 85,54 |
| FOREIGNER | 22 | 0,46 |
| UNKNOWN | 668 | 14,00 |
| TOTAL | 4771 | 100,00 |

FIGURE 4.19
TRAFFIC OFFENDERS ACCORDING
TO NATIONALITY



This table reveals that a total of 4081 (85,54%) traffic offenders were South African citizens, while 22 (0,46%) were foreigners. In 668 (14,00%) of the observed traffic cases no form of nationality could be established.

4.9 OCCUPATIONAL DISTRIBUTION

It is of crucial importance that an individual should derive satisfaction from his/her occupation. Dissatisfactions and occupational maladjustments derived from failure to consider the workers' social interests may lead to the commission of (traffic) offences (Mannheim, 1965:588-589). Table 4.17 and figure 4.20 present the occupational distribution of traffic offenders whose occupations were recorded according to a five - category scale. The researcher identified thirteen occupations of traffic offenders (Annexure B). For purposes of this table, the researcher collapsed and combined occupations into a five - category scale:

- (a) professional, executive and managerial occupations which included professional workers, executive and managerial, public relations and administrative;
- (b) skilled occupations which included technical-related workers and agricultural workers;
- (c) unskilled occupations which included general labourers and students/scholars;
- (d) professional drivers employed in transport services and whose livelihood is contingent upon operating motor vehicles; and

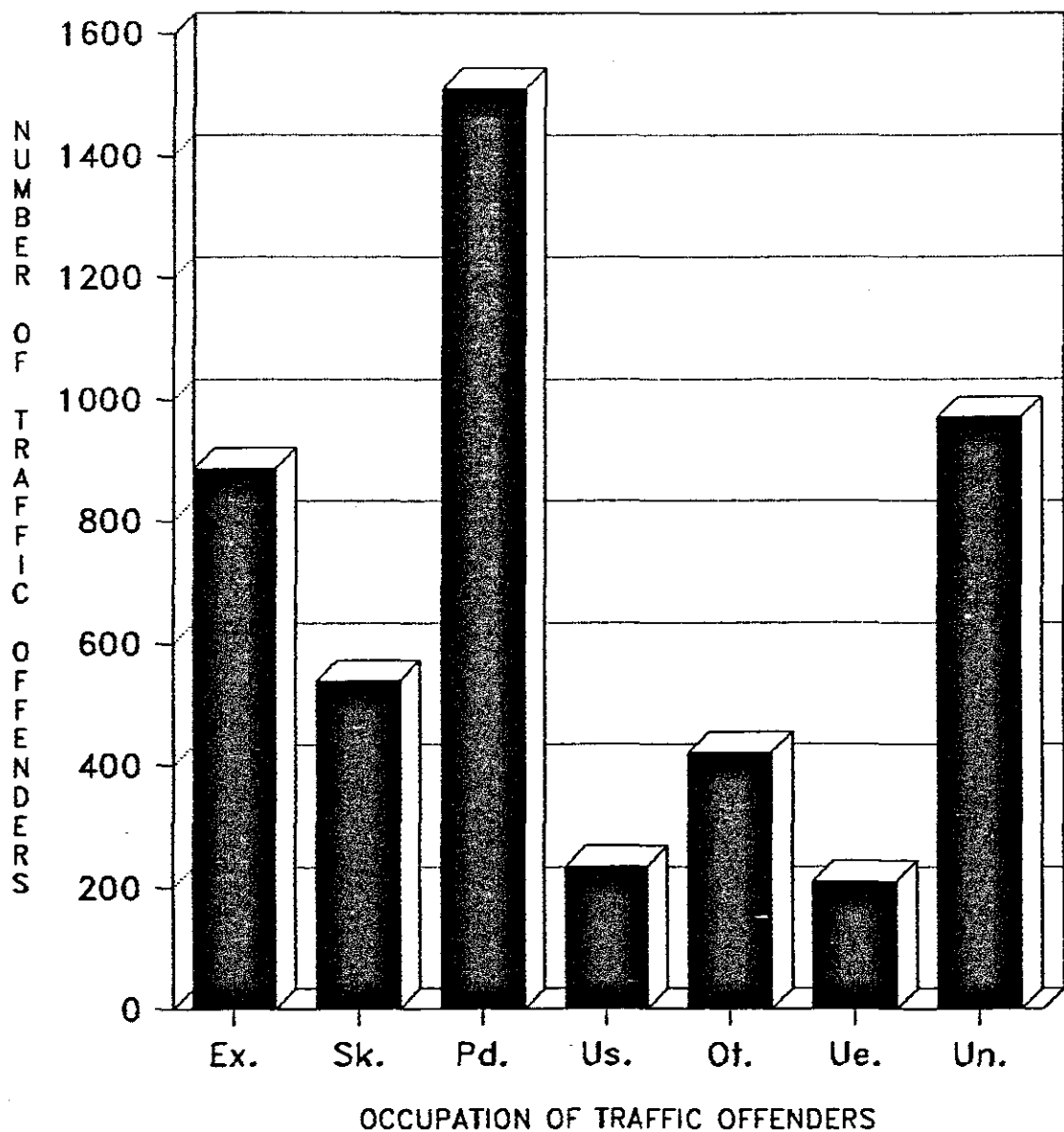
- (e) other occupations which included traffic offenders who were: self employed, semi-skilled; employed in armed and security forces.

Traffic offenders were allotted by the researcher to this five-category scale arbitrarily. Unfortunately, information concerning occupations of certain traffic offenders was incomplete, hence the unknown category in tables 4.17 and 4.18.

TABLE 4.17 OCCUPATIONAL DISTRIBUTION OF TRAFFIC OFFENDERS FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| OCCUPATION OF OFFENDERS | FREQUENCY | |
|--|-----------|--------|
| | (N) | (%) |
| PROFESSIONAL, EXECUTIVE AND MANAGERIAL | 886 | 18,57 |
| SKILLED | 539 | 11,30 |
| PROFESSIONAL DRIVERS | 1511 | 31,67 |
| UNSKILLED | 234 | 4,90 |
| OTHER | 420 | 8,80 |
| UNEMPLOYED | 210 | 4,41 |
| UNKNOWN | 971 | 20,35 |
| TOTAL | 4771 | 100,00 |

FIGURE 4.20
TRAFFIC OFFENDERS ACCORDING
TO OCCUPATION



Ex.=Executive Sk.=Skilled
Pd.=Professional Drivers Us.=Unskilled
Ot.=Other Ue.=Unemployed Un.=Unknown

Table 4.17 reveals that professional drivers constituted 1511 (31,67%) of the total traffic offenders, while 886 (18,57%) traffic offenders were in professional, executive and managerial occupations. Traffic offenders with skilled occupations constituted 539 (11,30%) of the total traffic cases. Penalization was meted out for the commission of traffic offences by 234 (4,90%) occupationally unskilled traffic offenders. There were 420 (8,80%) traffic offenders in the "other" occupation category scale. A total of 210 (4,41%) traffic offenders were unemployed, while the unknown occupation category of traffic offenders is accounted for in 971 (20,35%) of the observed 4771 traffic cases.

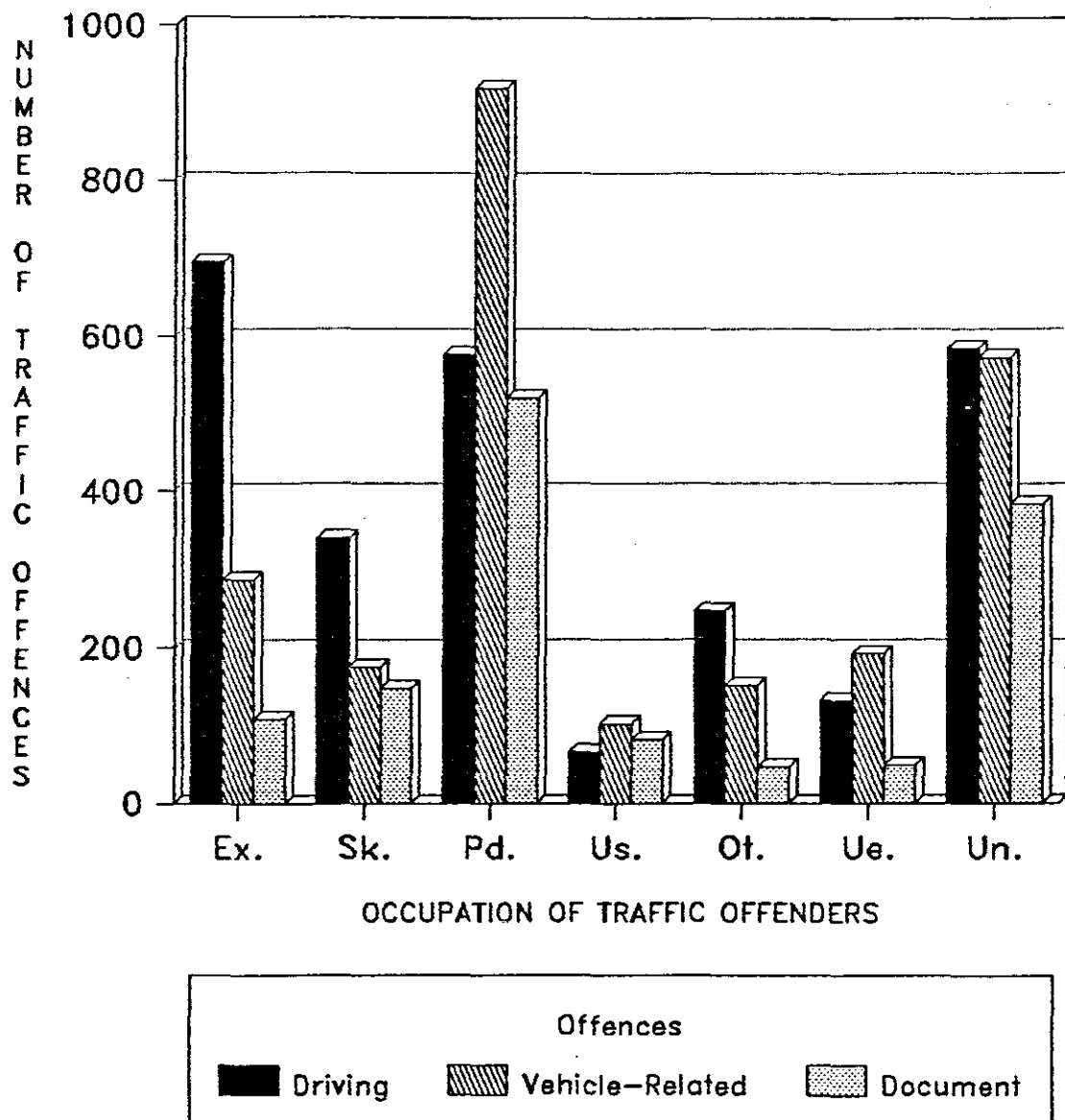
Table 4.18 renders a breakdown of traffic offences according to occupation. Figure 4.21 depicts the same data.

TABLE 4.18

BREAKDOWN AND FREQUENCY DISTRIBUTION OF TRAFFIC OFFENCES ACCORDING TO OCCUPATION FOR THE PERIOD
01 JANUARY - 30 JUNE 1990

| OCCUPATION OF OFFENDER | TYPE OF OFFENCE | | | | | | TOTAL | |
|--|-----------------|--------|----------------------------|--------|---------------------|--------|-------|--------|
| | DRIVING OFFENCE | | VEHICLE-RELATED OFFENCE | | DOCUMENT OFFENCE | | | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| PROFESSIONAL, EXECUTIVE AND MANAGERIAL | 695 | 26,32 | 287 | 11,96 | 108 | 8,07 | 1090 | 17,09 |
| SKILLED | 340 | 12,87 | 175 | 7,29 | 148 | 11,06 | 663 | 10,39 |
| PROFESSIONAL DRIVERS | 577 | 21,85 | 920 | 38,33 | 520 | 38,86 | 2017 | 31,62 |
| UNSKILLED | 66 | 2,50 | 102 | 4,25 | 82 | 6,14 | 250 | 3,92 |
| OTHER | 247 | 9,35 | 151 | 6,29 | 47 | 3,51 | 445 | 6,98 |
| UNEMPLOYED | 131 | 4,96 | 192 | 8,00 | 49 | 3,66 | 372 | 5,83 |
| UNKNOWN | 585 | 22,15 | 573 | 23,88 | 384 | 28,70 | 1542 | 24,17 |
| TOTAL | 2641 | 100,00 | 2400 | 100,00 | 1338 | 100,00 | 6379 | 100,00 |

FIGURE 4.21
TRAFFIC OFFENCES ACCORDING
TO OCCUPATION



Ex.=Executive Sk.=Skilled
Pd.=Professional Drivers Us.=Unskilled
Ot.=Other Ue.=Unemployed Un.=Unknown

Table 4.18 reveals that the professional, executive and managerial occupation category of traffic offenders featured predominantly in driving offences and committed 695 (26,32%) of the total driving offences. Professional drivers were responsible for 577 (21,85%) driving offences, while occupationally skilled traffic offenders committed 340 (12,87%) driving offences. Traffic crime commission by the "other" occupation category of traffic offenders is accounted for in 247 (9,35%) driving offences. A total of 66 (2,50%) driving offences were committed by traffic offenders who were occupationally unskilled. Traffic offenders in the unemployed category committed 131 (4,96%) driving offences, while a total of 585 (22,15%) driving offences were committed by traffic offenders in the unknown occupation category.

Table 4.18 shows that professional drivers featured predominantly in vehicle-related offences and are accounted for in 920 (38,33%) of the cases. A total of 287 (11,96%) vehicle-related offences were committed by traffic offenders in the professional, executive and managerial occupation category, while the skilled traffic offender occupation category was responsible for 175 (7,29%) vehicle-related offences. Traffic offenders in the "other" occupation category committed 151 (6,29%) vehicle-related offences. The unskilled-traffic offender occupation category was responsible for 102 (4,25%) vehicle-related offences. Traffic crime commission by unemployed traffic offenders is accounted for in 192 (8,00%) vehicle-related offences, while 573 (23,88%) vehicle defects were identified in respect of traffic offenders whose occupations were unknown.

Professional drivers featured predominantly in document offences (table 4.18) and these drivers of motor vehicles were penalized for the commission of 520 (38,86%) document

offences. Traffic offence responsibility of traffic offenders in the skilled-traffic offender occupation category is accounted for in 148 (11,06%) cases. Drivers of motor vehicles in the professional, executive and managerial occupation category were penalized for committing 108 (8,07%) document offences, while traffic offenders who were occupationally unskilled produced 82 (6,14%) document offences. The "other" traffic offender occupation category was responsible for 47 (3,51%) document offences. Forty-nine (3,66%) document offences were committed by the unemployed traffic offenders. Traffic offenders whose occupations were unknown committed 384 (28,70%) document offences.

It is evident from table 4.18 that professional drivers were responsible for most of the traffic offences and their traffic offence liability is accounted for in 2017 (31,62%) traffic offences. Second was the professional, executive and managerial traffic offender occupation category which was responsible for 1090 (17,09%) of the total traffic offences. Traffic offence commission by traffic offenders with skilled occupations is accounted for in 663 (10,39%) traffic offences. A total of 445 (6,98%) traffic offences were the responsibility of traffic offenders in the "other" category of occupations, while 250 (3,92%) traffic offences were committed by traffic offenders in the unskilled occupation category. The unemployed traffic offenders were responsible for 372 (5,83%) traffic offences. Traffic offenders whose occupations were unknown committed 1542 (24,17%) traffic offences.

Cloete (Cloete & Stevens, 1990:82) maintains that unemployment is a causal factor of crime (not excluding traffic crime). The causal significance of unemployment lies mainly in the

fact that under normal circumstances, unemployment exercises a disruptive influence on the individual traffic offender's personality. Family relationships are adversely affected and the traffic offender's sense of value is eroded. Frustration and stress, as concomitants of unemployment, may undermine a motor vehicle driver's moral power to withstand the temptation to commit traffic offences. Unemployment may cause certain traffic offenders to increase their likelihood of committing particular traffic offences at certain times.

It should be noted that certain occupations may be dangerous to some drivers of motor vehicles because of the special opportunities and temptations which they may offer for committing traffic offences. The traffic offender's occupation or previous occupation plays an important role in determining his outlook and way of behaviour and this may influence and shape his traffic offence. The traffic offender's occupation may also provide him with the modus operandi and opportunities required for his traffic offence. The traffic officer, for instance, after being dismissed for misconduct, may still pose as such and use his perfect manners to help him in his commission of an offence.

4.10 ECOLOGICAL DISTRIBUTION

The study of traffic crime by geographical areas is of crucial importance in the understanding of penalization of traffic offenders. Ecological distribution implies the observation that traffic offences are apparently not distributed equally in the magisterial district of Lower Umfolozi. The obvious implication attached to this notion is that, in some areas traffic crime is endemic, while in others it is rarely encountered. An attempt to analyze the geographical distribution of traffic offences implies concern with ecology

of drivers of motor vehicles and their connection with traffic offences. The conceptual framework of ecology of traffic crime assumes that a traffic offender is an organic creature and therefore behaves according to the general laws of the organic world. Human ecology deals with the relations of people to their spatial environment and to their various reactions to the various environmental stresses and strains which include the commission of traffic offences. The ecological approach also uses the map-making method (Gibbons, 1981:155; Annexure A).

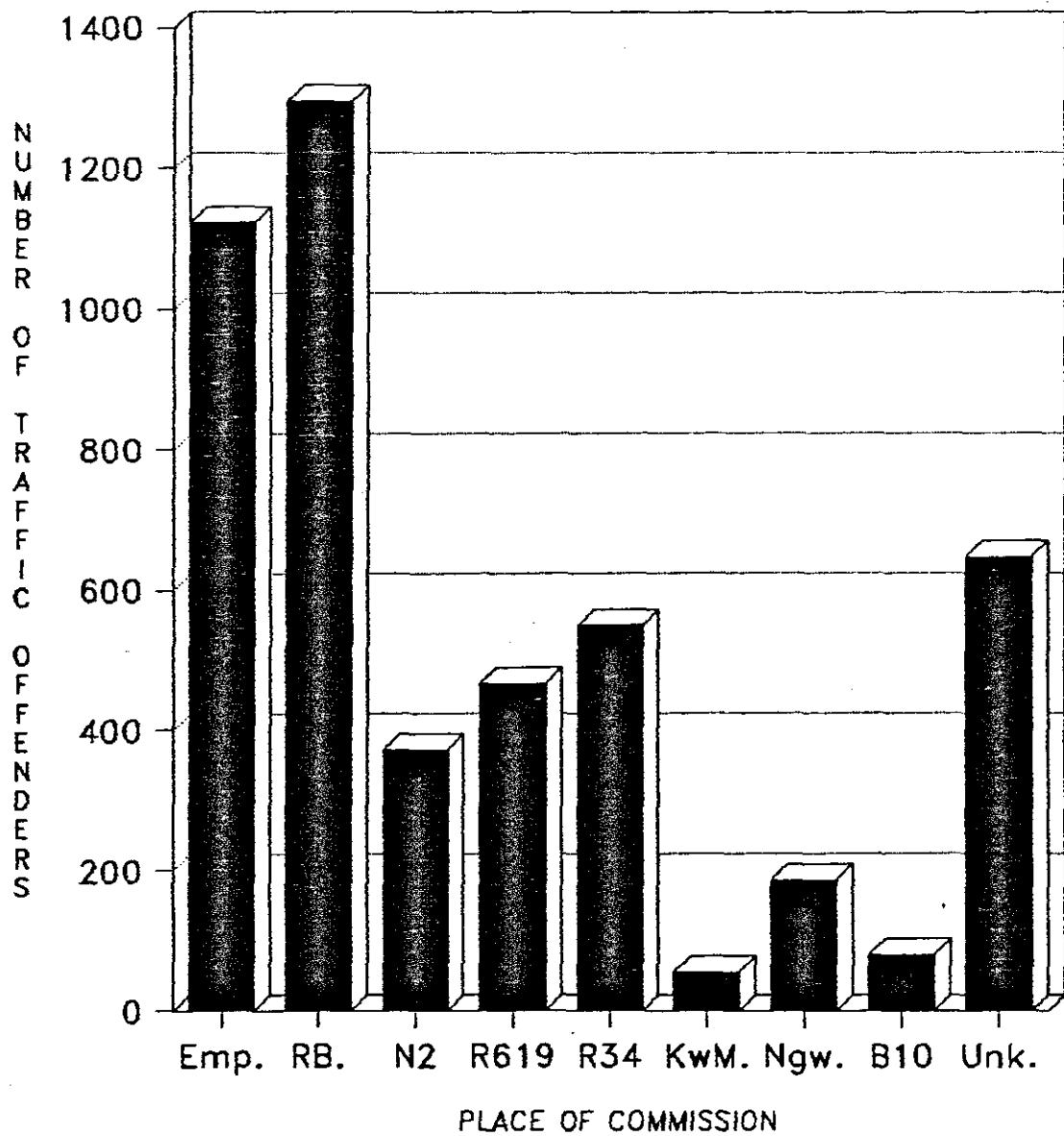
Table 4.19 presents the ecological distribution of 4771 traffic offenders. Figure 4.22 reflects the graphical distribution of the data contained in this table.

TABLE 4.19 ECOLOGICAL DISTRIBUTION OF TRAFFIC OFFENDERS
FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

| PLACE OF TRAFFIC OFFENCE | FREQUENCY | |
|--|-----------|--------|
| | (N) | (%) |
| EMPANGENI | 1123 | 23,54 |
| RICHARDS BAY | 1296 | 27,16 |
| N2 (DURBAN MAIN ROAD) | 371 | 7,78 |
| R619 | 466 | 9,77 |
| R34 | 549 | 11,51 |
| KWAMBONAMBI | 54 | 1,13 |
| NGWELEZANE ROAD | 186 | 3,89 |
| B10/UMHLATHUZI VALLEY SUGAR COMPANY | 79 | 1,66 |
| UNKNOWN | 647 | 13,56 |
| TOTAL | 4771 | 100,00 |

FIGURE 4.22

TRAFFIC OFFENDERS ACCORDING
TO PLACE OF OFFENCE COMMISSION



Emp.=Empangeni RB.=R/Bay Unk=Unknown
KwM.=KwaMbonambi Ngw.=Ngwelezana
B10=UVS(Umhlathuzi Valley Sugar Company)

Table 4.19 reveals that 1296 (27,16%) drivers of motor vehicles committed traffic offences in Richards Bay urban area. A total of 1123 (23,54%) traffic offenders were penalized for traffic offence commission in Empangeni urban area, while 549 (11,51%) motor vehicle drivers violated traffic legislation in the public road R34 (Annexure A).

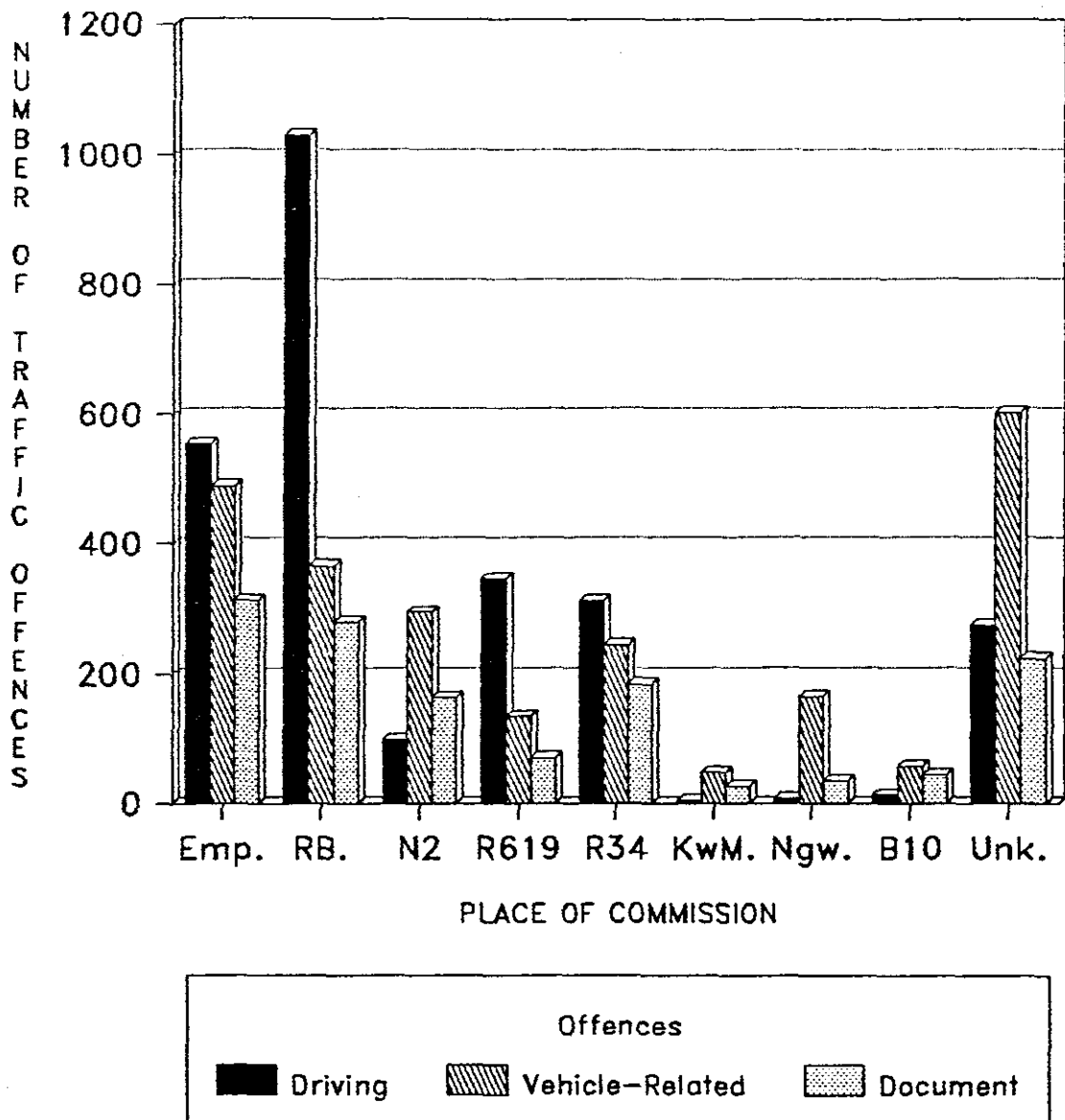
Traffic offenders were responsible for traffic offences committed in the public road R619 (Annexure A) and these traffic offenders constituted 466 (9,77%) of the total offenders. A total of 371 (7,78%) traffic offenders were penalized for traffic offence commission in the national road N2, while 186 (3,89%) motor vehicle drivers were apprehended in Ngwelezane road. The B10/Umhlathuzi Valley Sugar company public road produced 79 (1,66%) traffic offenders. Traffic offences in KwaMbonambi urban area were committed by 54 (1,13%) traffic offenders. A total of 647 (13,56%) traffic offenders committed offences in unknown places.

Table 4.20 renders a breakdown of the ecological distribution of traffic offences. Likewise, figures 4.23 and 4.24 depict data contained in this table.

TABLE 4.20 BREAKDOWN AND FREQUENCY DISTRIBUTION OF TRAFFIC OFFENCES ACCORDING TO PLACE FOR THE PERIOD 01 JANUARY - 30 JUNE 1990

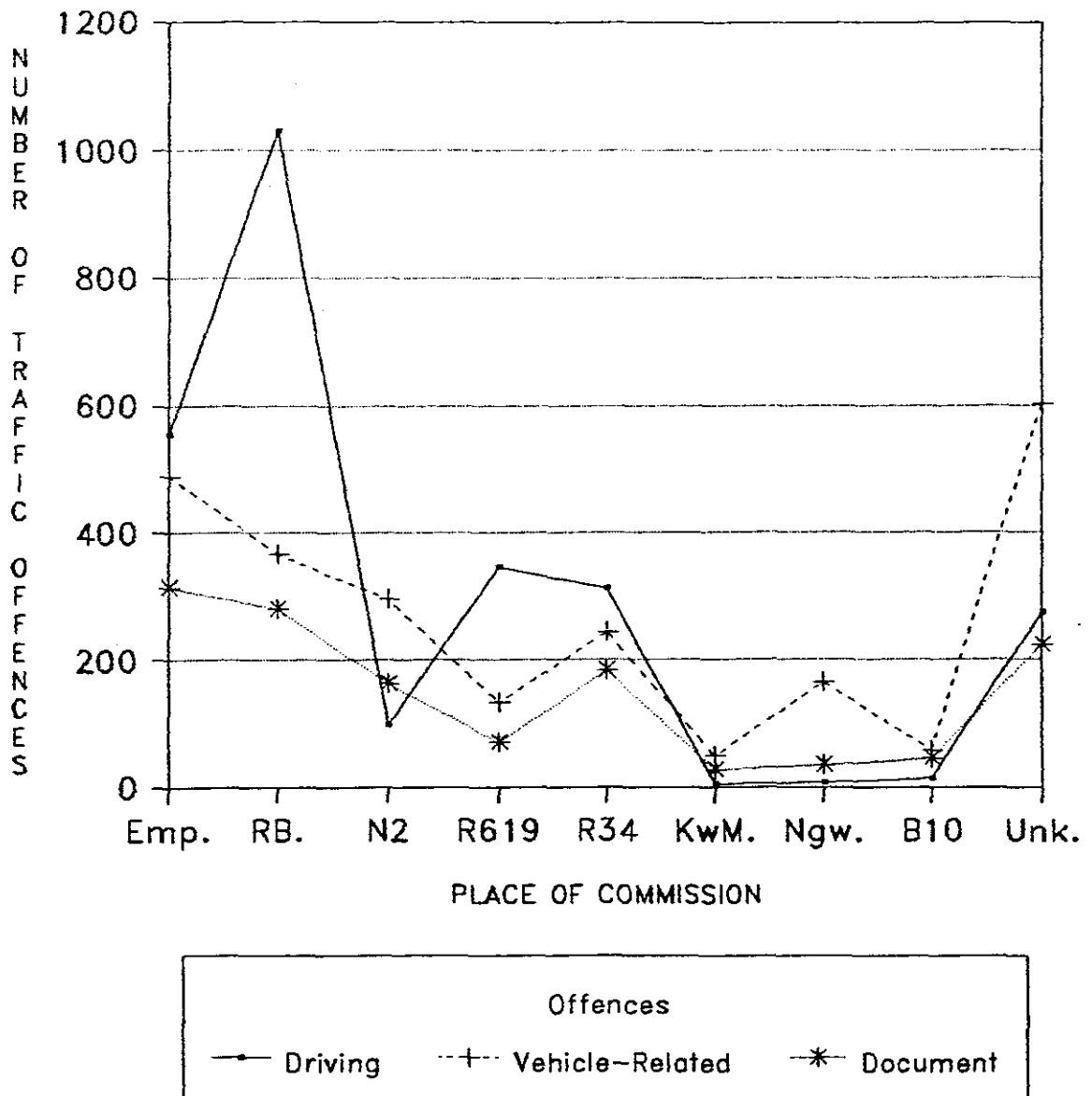
| PLACE OF TRAFFIC OFFENCE | TYPE OF OFFENCE | | | | | | | |
|--|-----------------|--------|----------------------------|--------|---------------------|--------|-------|--------|
| | DRIVING OFFENCE | | VEHICLE-RELATED OFFENCE | | DOCUMENT OFFENCE | | TOTAL | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| EMPANGENI | 555 | 21,01 | 489 | 20,38 | 313 | 23,39 | 1357 | 21,27 |
| RICHARDS BAY | 1030 | 39,00 | 366 | 15,25 | 280 | 20,93 | 1676 | 26,27 |
| N2 | 98 | 3,71 | 295 | 12,29 | 163 | 12,18 | 556 | 8,72 |
| R619 | 346 | 13,10 | 134 | 5,58 | 70 | 5,23 | 550 | 8,62 |
| R34 | 312 | 11,81 | 244 | 10,17 | 184 | 13,75 | 740 | 11,60 |
| KWAMBONAMBI | 5 | 0,20 | 48 | 2,00 | 27 | 2,02 | 80 | 1,25 |
| NGWELEZANE ROAD | 7 | 0,27 | 164 | 6,83 | 34 | 2,54 | 205 | 3,22 |
| B10/UMHLATHUZI VAL- LEY SUGAR COMPANY | 14 | 0,53 | 58 | 2,42 | 44 | 3,29 | 116 | 1,82 |
| UNKNOWN | 274 | 10,37 | 602 | 25,08 | 223 | 16,67 | 1099 | 17,23 |
| TOTAL | 2641 | 100,00 | 2400 | 100,00 | 1338 | 100,00 | 6379 | 100,00 |

FIGURE 4.23
TRAFFIC OFFENCES ACCORDING
TO PLACE



Emp.=Empangeni RB.=R/Bay Unk=Unknown
KwM.=KwaMbonambi Ngw.=Ngwelezana
B10=UVS(Umhlathuzi Valley Sugar Company)

FIGURE 4.24
TRAFFIC OFFENCES ACCORDING
TO PLACE



Emp.=Empangeni RB.=R/Bay Unk=Unknown
KwM.=KwaMbonambi Ngw.=Ngwelezana
B10=UVS(Umhlathuzi Valley Sugar Company)

Table 4.20 reveals that 1030 (39,00%) driving offences were committed in Richards Bay, while Empangeni produced 555 (21,01%) driving offences. A total of 346 (13,10%) driving offences were committed in the public road R619. Driving offence commission in the public road R34 is accounted for in 312 (11,81%) of the cases. The national road N2 produced 98 (3,71%) driving offences, while 14 (0,53%) were driving offences committed in B10/Umhlathuzi Valley Sugar Company public road. Penalization was meted out for the commission of driving offences in KwaMbonambi and these offences are accounted for in five (0,20%) of the cases. There were seven (0,27%) driving offences committed in Ngwelezane Road. Traffic offence commission in unknown places is accounted for in 274 (10,37%) driving offences.

It is evident from table 4.20. that the greatest number of vehicle-related offences were committed in Empangeni and these offences are accounted for in 489 (20,38%) of the cases, while 366 (15,25%) vehicle-related offences were committed in Richards Bay. The operation of defective vehicles in the national road N2 was penalized in 295 (12,29%) vehicle-related offences. The occurrence of vehicle-related offences was observed in 244 (10,17%) of the cases, while Ngwelezane road produced 164 (6,83%) offences. There were 134 (5,58%) instances of operating defective vehicles in the public road R619. Vehicle-related offences committed in B10/Umhlathuzi Valley Sugar Company public road and KwaMbonambi are accounted for respectively in 58 (2,42%) and 48 (2,00%) offences. The unknown places produced 602 (25,08%) vehicle-related offences.

It can be seen (table 4.20) that where document offences occurred, 313 (23,39%) were committed in Empangeni. Richards Bay and the public road R34 produced respectively 280 (20,93%) and 184 (13,75%) document offences. The occurrence of

document offences in the national road N2 is accounted for in 163 (12,18%) offences, while 70 (5,23%) document offences were committed in the public road R619. Forty-four (3,29%) document offences occurred in B10/Umhlathuzi Valley Sugar Company public road. The commission of document offences in Ngwelezane Road occurred in 34 (2,54%) of the observed cases. Twenty-seven (2,02%) document offences were committed in KwaMbonambi, while the unknown places produced 223 (16,67%) document offences.

Table 4.20 reveals that the greatest number of traffic offences were committed in Richards Bay and the offences constituted 1676 (26,27%) of the total observed cases. A total of 1357 (21,27%) traffic offences were committed in Empangeni, while the occurrence of traffic offences in the public road R34 is accounted for in 740 (11,60%) cases. The national road N2 produced 556 (8,72%) traffic offences. There were 550 (8,62%) traffic offences committed in the public road R619. Traffic offence commission in Ngwelezane Road is accounted for in 205 (3,22%) offences and there were 116 (1,82%) traffic offences committed in the B10/Umhlathuzi Valley Sugar Company public road. The least commission of traffic offences took place in KwaMbonambi and these offences are accounted for in 80 (1,25%) cases. Traffic crime commission in unknown places was observed in 1099 (17,23%) of the total traffic offences.

There is a relationship between traffic crime and the density of population. This can be noticed in traffic offences committed in Richards Bay and Empangeni which are mostly urban and built-up, with a high density of traffic of all kinds (table 4.20). It is, therefore, appropriate to assume that greater density with its consequent intensity of friction, would mean greater commission of traffic offences. The

almost universal availability of motor vehicles have provided the opportunities for easier mobility and thereby contributing to the commission of traffic offences. People have got used to frequent changes of their places of residence and work and to travelling wider distances for work and pleasure. Ecological distribution of traffic offences often results in differential traffic law enforcement (Gibbons, 1981:155).

4.11 SUMMARY

In this chapter the researcher has examined relationships/correlations between traffic offenders and traffic offences in the magisterial district of Lower Umfolozi. Traffic offences became known through direct contact with traffic officers, except some parking offences where spot fine citations (Annexure D) were displayed by traffic officers in motor vehicles of traffic offenders. Five steps are usually followed by traffic officers in the apprehension of traffic offenders. The incidence of traffic offences implied an analysis of 4771 traffic offenders as distributed among Richards Bay, Empangeni and KwaMbonambi police stations. Traffic crime rates also varied with the time of the day, day of the week and month of the year. The researcher has also analysed variations in traffic offences in relation to the following demographic variables:

- * age;
- * sex;
- * race; and
- * occupation.

Traffic offence commission in some areas is high, while in others it rarely occurs. This implies that traffic offences are not equally distributed in the magisterial district of Lower Umfolozi.

CHAPTER 5

TRAFFIC LAW ENFORCEMENT

5.1 INTRODUCTION

Traffic law enforcement is often visualized as a fairly restricted activity, but when looked at it within the framework of road safety, it becomes an encompassing field with many implications. Traffic law enforcement has been necessary ever since man shouldered a burden and collided on a narrow tail with another man. With the taming of wild animals and their subsequent use as beasts of burden, traffic offences have increased. The development of the wheel added to the problem and traffic law enforcement, therefore, became mandatory.

Traffic law enforcement is the specialist function of the individual traffic officer which puts him and his traffic organisation in the spotlight. It is thus essential for the traffic officer to handle traffic legislation with care. Traffic legislation is enforced within the framework of maintaining law and order. Traffic law enforcement is the total of those actions taken by traffic officers in dealing with traffic offenders. This entails a sound knowledge of road traffic legislation, traffic control, investigation of traffic accidents and related matters, court procedures and collection of evidence with the aim of having the traffic offender prosecuted.

5.2 OBJECTIVES OF TRAFFIC LAW ENFORCEMENT

Traffic law enforcement assists in expediting the smooth flow of traffic and it is the way in which the traffic officers make the most direct contact with the greatest number of the public (Waldron, 1980:120). The purpose of traffic law enforcement is directed mainly at people in the traffic situation and the objective being to encourage a positive attitude in the road user. The following are the most important objectives:

- * to stimulate faster and safer traffic flow through careful driving habits and observance of road traffic legislation;
- * to render services to anyone needing help;
- * to meet legal and social requirements where traffic law enforcement is required, for instance, in traffic accidents and investigation of traffic offences;
- * to enforce road traffic legislation uniformly; and
- * to increase the exercise of traffic authority with discretion where traffic regulations are incomplete.

Traffic law enforcement also entails the learning experience for the traffic officer (Hand et al. 1976:105-106). The following are the effects of the learning experience resulting from traffic officer - public interaction:

- (a) a positive reaction which implies that the driver understands the reason why he has been confronted, knows the implications and consequences of the section of the road traffic legislation he has violated and undertakes not to commit the same traffic offence in future;
- (b) a negative learning experience which implies that the road user takes little notice of the implications and consequences of the traffic offence and never learns by them; and
- (c) a neutral or temporary reaction which implies that the driver is intellectually aware of violating traffic law but he feels that the traffic officer has other more important functions than stopping him (Hand et al. 1976:105-106). Roberts (1971:603) maintains that highly qualified and diplomatic traffic officers are required in respect of traffic law enforcement with learning as its objective because traffic law enforcement with learning can be rejected by the road user if he regards the learning technique as humiliating.

5.3 NATURE OF TRAFFIC LAW ENFORCEMENT ✓

The motor vehicle has added greatly to the convenience of modern living, but it has at the same time become the most serious of all threats to social order and safety. There are two basic components of traffic law enforcement: structural and functional (Cloete & Conradie, 1984:85; Van Heerden, 1976:223; Waldron, 1980:120-121; Wilson & McLaren, 1977:439-440). The science of traffic control studies the constructs (structural contexts) and enforcement actions (functional components). Structural traffic control deals with legislation and the physical aspects (road engineering

✓

and environment). The functional component consists of person and traffic- oriented action, and actual traffic law enforcement belongs to this category of traffic control.

5.3.1 Structural traffic control

Structural traffic control relates mainly to the activities of the traffic engineer. The purpose of traffic engineering is to design roadway facilities, safe, convenient and economic transport of people and goods (Leonard, 1971:27; Wilson & McLaren, 1977:439). The traffic engineer requires information concerning the flow of traffic and problem areas (dangerous intersections, road surface conditions, etc). Road signs and road markings are introduced only after the problem has been carefully studied by the traffic engineer. The main objective of traffic engineering is to achieve efficient, free and rapid flow of traffic and to prevent traffic offences and traffic accidents (Weston, 1978:205).

The task of the traffic engineer is divided into five main areas:

- (a) study of the nature of traffic:
this implies the science of measuring traffic in terms of the fundamental laws of traffic flow;
- (b) traffic operations:
this refers to the application of the knowledge to operating traffic systems;
- (c) transport planning;
- (d) geometric design; and

✓

(e) administration (Clark, 1982:214-215). There are seven areas of specialization in traffic engineering:

- * vehicle and human factors;
- * traffic volumes, speed and delays;
- * traffic flow and the carrying capacity of streets and intersections;
- * travelling patterns, trip-generating factors, origins and destinations;
- * parking and terminal factors;
- * mass transport systems; and
- * collisions (Clark, 1982:215). The above constitute the responsibilities of the traffic engineer. The activities of the traffic engineer are three-fold:
 - the data collection and observation stage;
 - the analysis stage; and
 - the design stage (Davies, 1960:18-19).

5.3.2 Functional components of traffic control

The functional components of traffic control consist mainly of proactive and reactive traffic law enforcement.


5.3.2.1 Proactive traffic law enforcement

The proactive approach is inherent in measures adopted by a society for the purpose of reinforcing its control over the behaviour of individual members (Van Heerden, 1976:152; Cloete & Conradie, 1984:94). In this sense, proactive traffic law enforcement include:

- (a) fostering respect for the control structure, thereby promoting voluntary compliance with traffic law;
- (b) short-term preventive techniques such as traffic patrols by which opportunities for traffic conflict could be eliminated or reduced;
- (c) long-term preventive techniques such as traffic law enforcement education;
- (d) the creation of safe traffic environment by improving traffic flow;
- (e) rendering auxiliary services which contribute to strengthen mutual respect and confidence in the traffic authority structure; and
- (f) any of the section designed to prevent the repetition of traffic conflict (Van Heerden, 1982:16-17).


The following are the aims of the various techniques used in proactive traffic law enforcement:

- * prevention of traffic accidents;
- * supervision and surveillance of road users;

- 
- * preventive enforcement which involves the enforcement of rules of the road, speed tests, etc;
 - * vehicle inspection in relation to roadworthiness, inspection of roads and road signs - all this being geared to the reduction of accident risks;
 - * improvement of the traffic flow by regulating traffic;
 - * traffic education which implies dialogue with road users in order to teach them how to behave properly on the road; and
 - * rendering auxiliary services such as first aid to the injured at the traffic accident scene (Van Heerden et al. 1983:46-47).

5.3.2.2 Reactive traffic law enforcement

Reactive enforcement refers to action after traffic conflict (Van Heerden, 1976:152). Reactive enforcement includes all efforts by traffic officers after traffic control measures such as traffic control, traffic education, driver-training, traffic engineering and related activities have failed to maintain traffic order. Traffic conflict is dealt with either by eliminating or reducing the causes of traffic conflict. Reactive measures may be directed towards the traffic conflict itself, for example, investigation of traffic accidents or towards the causes of obstructions to traffic flow, for example, the writing out of parking tickets or towing away of vehicles causing obstructions. Further, reactive measures may consist of prosecuting traffic offenders, for example, apprehension of drivers:

- 
- * who commit driving offences;
 - * who commit document offences; and
 - * who drive defective vehicles (Van Heerden et al. 1983:47).

5.3.2.3 Remote functional enforcement

It should be noted that traffic law enforcement is not always confined to proactive and reactive measures. Traffic conditions are dynamic and yet traffic must be controlled. It is therefore not certain which form of traffic law enforcement will take place at any given time. It is for this reason that it may be not easy to classify every action performed by traffic officers as proactive or reactive measures. In such circumstances it is appropriate to refer to undefined traffic law enforcement. Traffic officers sometimes perform actions not directly connected with the maintenance of traffic order, even though it may be part of their duties, for example, serving of summonses or providing an escort for dignitaries. Van Heerden et al. (1983:47-48) refer to such activities as remote functions.

5.4 TRAFFIC LAW ENFORCEMENT ORGANIZATIONS

Traffic control is differentiated in South Africa and in particular it is the duty of provincial administrations and local authorities. In the magisterial district of Lower Umfolozi traffic control is mainly effected by three organizations:

- * Natal Provincial Administration, based at Empangeni;

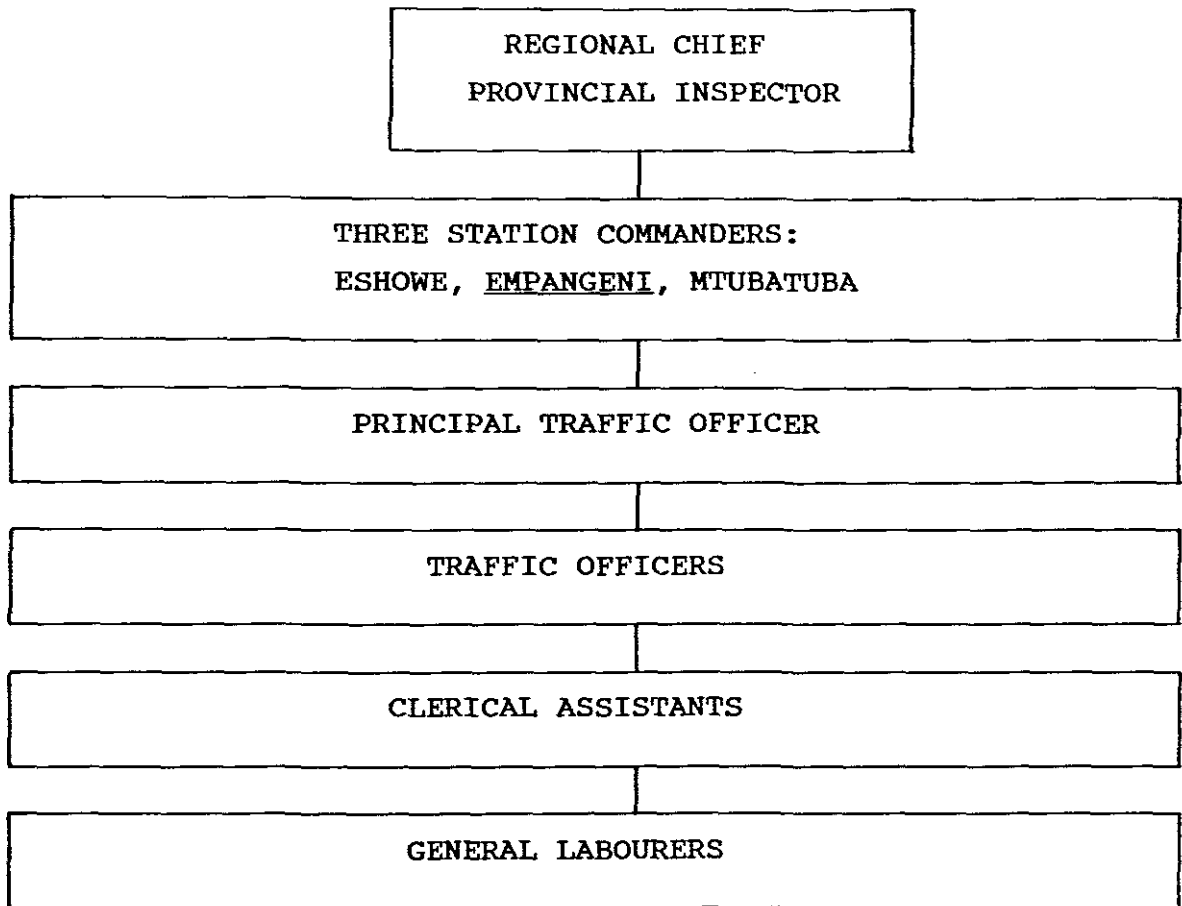
- * Empangeni municipality traffic department; and
- * Richards Bay municipality traffic department.

It is necessary for the researcher to outline the three traffic control organizations in order to fully understand and locate the various issues surrounding traffic law enforcement in the magisterial district of Lower Umfolozi.

5.4.1 Natal Provincial Administration

Traffic legislation makes provision for various traffic organizations in respect of each province. Each traffic organization exercises authority within its jurisdiction over traffic and related matters. The organizational structure of the Natal Provincial Administration, Empangeni, is depicted in figure 5.1.

FIGURE 5.1 ORGANIZATIONAL STRUCTURE OF NATAL PROVINCIAL
ADMINISTRATION, EMPANGENI TRAFFIC DIVISION.



The regional chief inspectorate performs the following important functions:

- (a) traffic law enforcement by prosecuting traffic offenders;
and
- (b) implementing specific road traffic legislation which
include control over traffic and related matters.

Traffic legislation makes provision for the appointment of provincial traffic officers, inspectors of licences, examiners of vehicles and traffic officers for testing of applicants for drivers' licences. Further, traffic legislation authorizes traffic officers to act against any traffic offender within the jurisdiction of the area in which they operate. In this regard they are equipped with all the powers that are granted to a peace officer or a police officer in terms of the Criminal Procedure Act (South Africa, 1977: Sections 37(1), 40&41).

The permanent appointment of a traffic officer is subject to the successful completion of training within twelve months of his original appointment (South Africa, 1989: Sec. 3(2)). A specific syllabus is followed during training. It is ideal that the scope and content of the syllabus should be changed only after due consultation with the various training centres (Potgieter, 1983:3). The administrative services are also provided by the regional chief provincial inspector with the assistance of the station commander. These administrative functions include, inter alia,:

- * registration of motor vehicles; and
- * licensing of motor vehicles.

5.4.2 Traffic organizations of Empangeni and Richards Bay local authorities

The size, status and vehicle population of the towns are the main factors affecting traffic organisation. Organizationally, traffic organizations fall under the chief traffic officer who, depending on town councils' organization,

reports to the town clerk. The following is the rank hierarchy of Empangeni and Richards Bay local authorities (Figures 5.2 and 5.3):

FIGURE 5.2 ORGANIZATIONAL STRUCTURE OF EMPANGENI MUNICIPALITY TRAFFIC DEPARTMENT

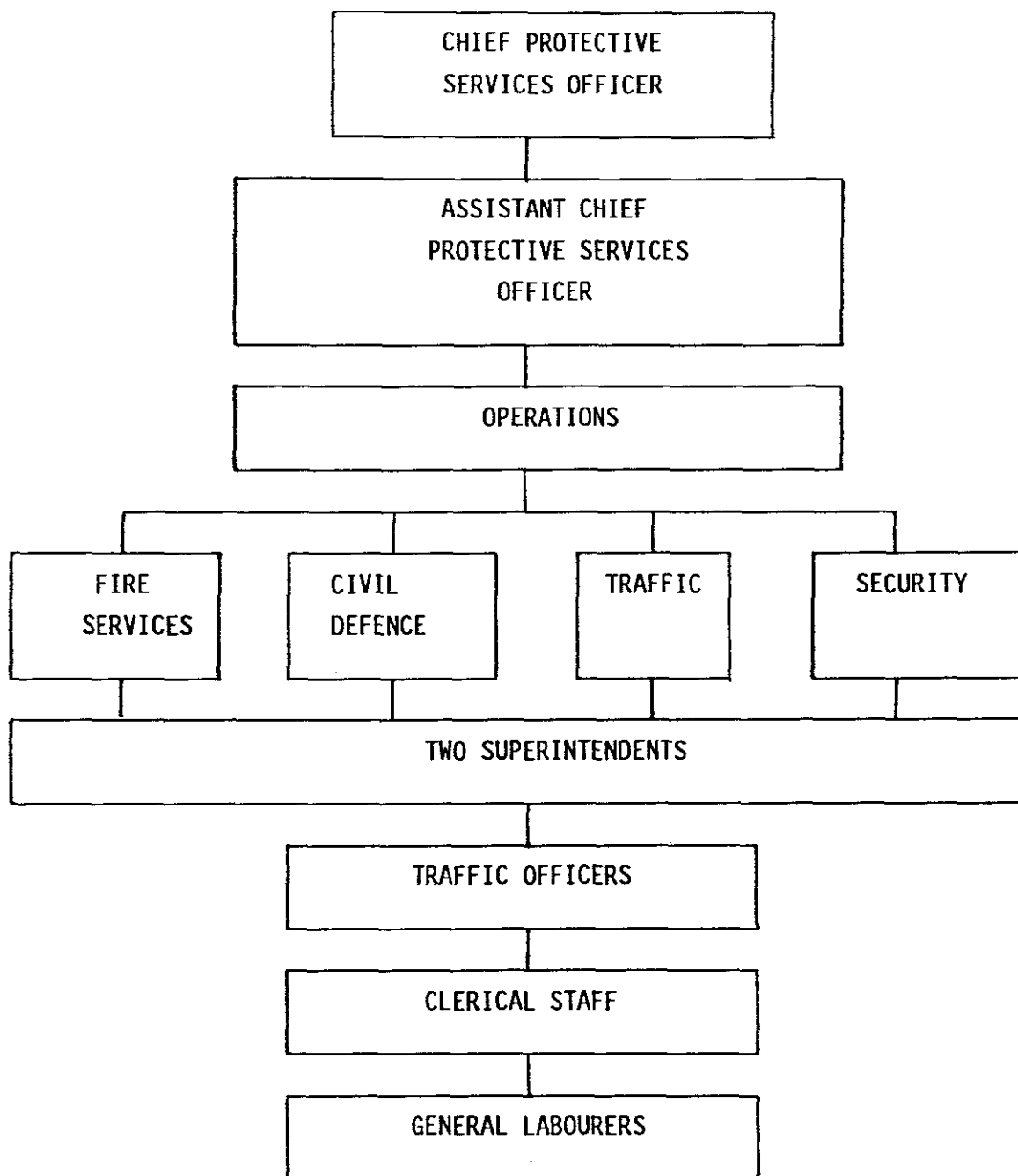
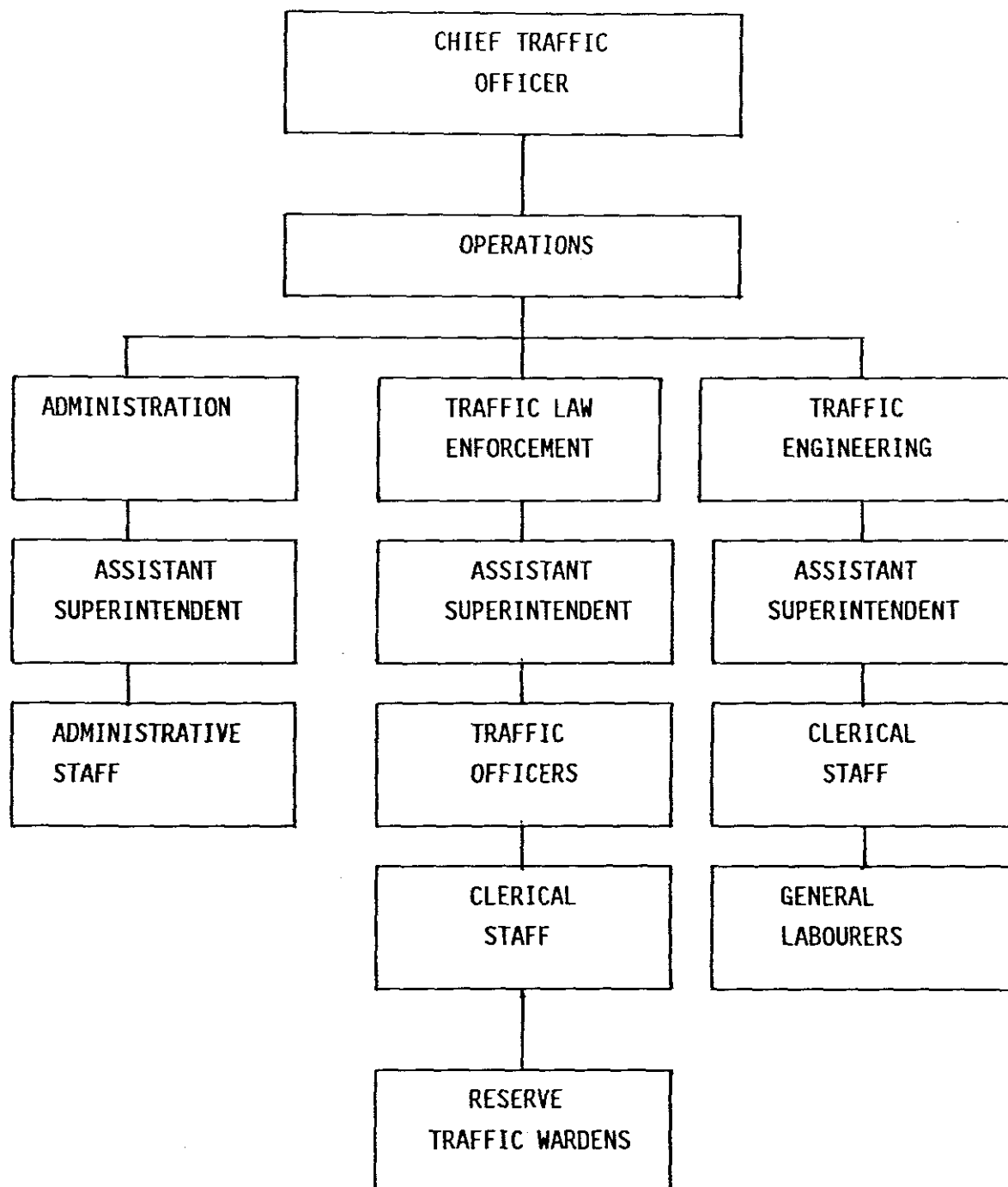


FIGURE 5.3 ORGANIZATIONAL STRUCTURE OF RICHARDS BAY MUNICIPALITY TRAFFIC DEPARTMENT



The objectives of municipal traffic organizations are aimed at safeguarding the road users within the magisterial district of Lower Umfolozi. The authority that is required in order to fulfil this function is granted in terms of the road traffic legislation. There are primary and secondary (supplementary) functions of municipal traffic organizations. The primary function is the application of road traffic legislation which pertains to the provision of traffic services. The supplementary functions include, inter alia, following up prosecutions by means of the various steps that should be followed; provision of technical services, in-service training, etc.

The legal position of the municipal traffic officer is similar to that of the provincial traffic officer. This similarity pertains to his official capacity with regard to the following:

- * the issuing of written notices in terms of the Criminal Procedure Act (South Africa, 1977: Sections 56&341);
- * arresting someone without a warrant (South Africa, 1977: Section 40(1);
- * the powers that are granted to a peace officer (South Africa, 1977:Section 41(1);
- * execution of warrants of arrest (South Africa, 1977:Section 44); and
- * the powers that are granted to a police officer (South Africa, 1977: Sections 37(1) (c) & 2(1)(a)).

Figure 5.2 also reveals that traffic officers in Empangeni perform other functions not linked with traffic law enforcement. A traffic officer performs functions related to fire services, civil defence or security.

Similarly the assistant superintendent (administration) (figure 5.3) performs, inter alia, the following functions:

- (a) liaison with the media in connection with matters relating to traffic law enforcement, amended and new traffic legislation. He also deals with traffic education. Traffic education is a sustained, long-term process for changing attitudes, dispositions and habits in accordance with the accepted rules of road behaviour. It is hoped that through traffic education good driving habits will prevail; and
- (b) the training of traffic officers. The assistant superintendent (traffic law enforcement), has appointed reserve traffic wardens in terms of the Road Traffic Act (South Africa, 1989: Section 3(1)(d)). These traffic wardens perform the following functions:
 - * control over the flow of traffic especially at school points;
 - * conduct research surveys pertaining to road safety in Richards Bay and submit the report to the traffic engineer; and
 - * arrange and monitor functions pertaining to traffic safety at local schools.

The assistant superintendent (traffic engineering) plays an important role with regard to designing public roads so as to lessen the frequency of traffic crimes, traffic accidents and the amount of congestion thereby facilitating safe and rapid movement of traffic.

5.5 TRAFFIC LAW ENFORCEMENT ACTIVITIES

Traffic law enforcement comprises several activities aimed at realizing the primary goal of traffic safety. These activities relate to specific prescriptions with regard to the functions of the traffic officer which fall into three areas: administrative; executive; and supervisory (Cloete & Conradie, 1984:87-88).

5.5.1 Administrative functions

The administrative functions include demanding full particulars in connection with public motor vehicles, evidence which will lead to the penalization of traffic offenders, certificate of fitness, public and private vehicle permits, keeping records and registers, weighing and testing of vehicles (South Africa, 1989: Sections 2-13).

5.5.2 Executive functions

The executive functions of the traffic officer include removing vehicles obstructing the traffic or posing a danger; removing vehicles involved in accidents; serving summonses; demanding the production of drivers' licences, clearance certificates and certificates of fitness; investigation and confiscation; demanding names and addresses; asking for relevant information; entering premises; halting traffic;

inspecting vehicles; prohibiting persons from driving any further; regulating and controlling traffic; inspecting vehicle loads; closing entries to and exits from roads and lifting such restrictions (Smit, 1989:4).

The traffic officer may in certain circumstances assume some duties and powers of a peace officer, for instance, where persons are found driving vehicles on a public road while under the influence of alcohol or drugs; he may demand names and addresses in the event of failure to stop after a collision or where there is interference with or obstruction of his duties and refusal to obey commands or instructions (Cloete & Conradie, 1984:87-88).

5.5.3 Supervisory functions

Functions relating to traffic supervision include promoting the smooth flow of traffic and road safety (Clark, 1982:249; Cloete & Conradie, 1984:88). Two important functions may be distinguished here:

- (a) repressive supervision which implies ensuring that traffic laws are obeyed by prosecuting traffic offenders and preventive supervision which aims at encouraging good road user behaviour; and
- (b) observation of traffic laws with a view to reporting and rectifying factors detrimental to the flow of traffic and road safety (Barkhuizen, 1967:297; Van Heerden, 1976:16-17).

5.5.4 Surveillance activities

Traffic law enforcement sometimes involves the direct surveillance of traffic flow and those participating in it (Wilson & McLaren, 1977:346-347). O'Hara (1976:199) defines direct surveillance as "... the covert observation of places, persons and vehicles for the purpose of obtaining information concerning the identities or activities of subjects." This implies that direct surveillance enables the traffic officer:

- (a) to substantiate or disprove illegal traffic activities;
- (b) to verify data on traffic patterns;
- (c) to procure or confirm descriptions and registration numbers of motor vehicles used for criminal activities; and
- (d) to apprehend traffic offenders red-handed. Gilbert (1980:350) maintains that there are two types of surveillance:

* sporadic surveillance,

where observation takes place at random. This implies that no attempt is made to observe vehicle drivers and places on a fixed or continuous basis; and

* continuous surveillance,

where vehicle drivers and places are observed on a fixed and continuous basis.

Gilbert (1980:350-352) points out the necessity and significance of research that must be undertaken by all members of the surveillance team. The following are important aspects:

- (a) There should be a decision as to the type of vehicles, equipment and apparatus to be used.
- (b) The utilization of code numbers, hand signals, modes of summoning aid and the way the surveillant is dressed should be decided in advance.
- (c) It is essential that each surveillant should be briefed on what is expected of him and he should be fully informed about the traffic conditions to be kept under surveillance.
- (d) Intensive prior research should be undertaken on the traffic pattern and those participating in it.
- (e) Surveillants must be carefully selected. Traffic officers must understand the traffic surroundings and think quickly. The ability to observe and remember accurately and patience for long periods are also essential.
- (f) It is essential that all surveillance activities and procedures must be planned and co-ordinated according to the target envisaged.

The objectives determine the surveillance techniques to be used and the following techniques are frequently used:

* Stationary surveillance

It is the most common in the study of traffic patterns and for speeding. Traffic officers use a fixed surveillance post such as a parked car. This stationary position enables the traffic officer to take photographs which will be used as supporting evidence. It also permits the use of other specialized apparatus (Gilbert, 1980:352; O'Hara, 1976:200).

* Mettler (1977:170) maintains that mobile surveillance or "tailing" is the technique used to observe moving vehicles and individuals. It may be done on foot, in a vehicle or aircraft (Gilbert, 1980:351). In vehicle tailing one or more vehicles or motorcycles may be used to tail a suspect vehicle. The kind of tailing using motorcycles is frequently used by the Empangeni municipality traffic officers. Foot surveillance places heavy demands on manpower.

5.5.5 Regulative activities

These activities are the furtherance of traffic flow and parking control. It is for this reason that traffic officers in Empangeni and Richards Bay issue spot fine citations in terms of the Criminal Procedure Act (South Africa, 1977: Section 341). These notices are issued in respect of parking offences. Traffic offenders are permitted to pay spot fines. The control of parking is problematic for traffic officers since it demands the use of discretion, degrees of tolerance and selective law enforcement. At the same time the vehicle drivers have the following parking rights: ✓

- (a) the right to maximum utilization with regard to the time factor;

- (b) the right to convenience which implies easy parking, easy exit from parking space and unimpeded entry into the traffic flow; and
- (c) the right to a parking space that gratifies the requirements of immediate availability and accessibility.

Parking control imposes certain restrictions on drivers with regard to time, place, method and purpose of parking. The space is reduced if parking is not controlled. Certain drivers may monopolize parking spaces for the whole day, an action which deprives others of their parking rights.

It should be noted that sometimes parking is a controversial issue. Controversies surround different ideas about when, how and how long parking should be permitted. For instance, the dealers require facilities directly in front of their businesses with special zones for loading and unloading of goods whereas the buying public wants facilities near businesses. There are those members of the public who think that they should not be hampered by parking regulations whereas other members of the public regard parking facilities in front of their homes or businesses as being there for their own use. It is therefore possible that a driver may claim that he had not parked illegally.

The aim of parking regulations is to ensure the best use of available parking facilities within the limits of existing road traffic legislation. It is thus essential for traffic officers that they must enforce parking regulations and restrictions.

Basically, selective traffic law enforcement is a quality measure based upon the principle of deploying a sufficient number of traffic officers in an area where a particular traffic offence has resulted in a large number of traffic accidents so as to prevent this particular type of traffic offence (Waldron, 1980:120; Wilson & McLaren, 1977:452-453; Schultz & Hunt, 1990:183). For instance, in the magisterial district of Lower Umfolozi where drivers have committed numerous traffic offences and thus causing numerous traffic accidents, traffic officers will be alert for these traffic offences and will issue written notices in terms of the Criminal Procedure Act (South Africa, 1977: Section 56). Within a short period of time the average driver will become aware of what is being done and as a result, will be careful not to commit the traffic offence. The enforcement efforts are applied at specific times and places. One of the most common methods of selective traffic law enforcement is the use of devices to compute vehicle speeds to deter those drivers who are speeding excessively. It is quite obvious to drivers to be alert that traffic law is being strictly enforced when they pass the conspicuous parked traffic officer's vehicle, with its speed measuring device in view.

Selective traffic law enforcement further maximizes the proper allocation and distribution of traffic officers. Good selective traffic law enforcement can provide the traffic organizations in Lower Umfolozi magisterial district with considerable information, which, when properly analysed, yields significant results concerning the causes and nature of traffic offences and traffic accidents, trends, etc. From these data, the traffic officers can and must take remedial steps to further eliminate or reduce traffic offences and

traffic accidents. This remedial process functions in two ways: traffic education and traffic engineering. It should be noted that traffic organizations do not possess all the resources for combating all traffic offences committed at all times and in all places. This implies that traffic officers cannot be available everywhere at the same time. This therefore justifies selective traffic law enforcement (Hale, 1977:162-163).

The most effective way in which traffic law enforcement could be achieved is by the implementation of selective traffic patrolling (Weston, 1978:118). Potgieter (1983:9) defines selective traffic patrolling as a supplementary, specialized accident - prevention technique in which traffic officers are temporarily concentrated to direct all efforts at the reduction or elimination of traffic offences and traffic accidents in selected areas of high incidence. Although it is not the aim of this research to show the positive correlation between the number of arrests and decrease in the number of traffic offences and accidents, it is obvious that intensified selective traffic patrolling is likely to reduce traffic offences and accident rates. Booth (1980:200) states: "The very presence of an enforcement unit will deter law violators without any further action by the unit." The success of selective traffic patrolling is contingent upon the role played by discretion and tolerance.

5.6.1 Discretion

It is difficult to carry out proper traffic control without discretion. Discretion refers to consideration, good judgement, the freedom to make decisions and the ability to form a judgement (More, 1975:81). Discretion must not be confused with discrimination or differentiated traffic

patrolling and should never be influenced by class or racial differences which would violate the principle of equality before the law. The entire system of traffic justice will be placed in an unfavourable light if the use of discretion is improper. According to Van Heerden (1976:53-56) discretion covers a wide spectrum.

5.6.1.1 Discretion and the law

Actions specifically prohibited cannot be dealt with in a discretionary way. Discretion must be applied in the spirit of the law. The non-action or action must be in line with the final aim of the traffic law.

5.6.1.2 The victim's discretion

Discretionary action begins with the victim. In certain instances the traffic officers may rely upon descriptions by the public to help them determine whether a traffic offence has been committed or not. The decision to report a traffic offence can be influenced by various factors:

- * disinterestedness;
- * private settlement;
- * lack of involvement;
- * time-consuming legal actions;
- * traffic officers' incapacity to prevent traffic offences and traffic accidents;
- * negative attitude of traffic officers;

- * triviality of traffic matters; and
- * ulterior motives such as to derive private advantage from reporting the traffic offence.

5.6.1.3 Institutional discretion

Institutional discretion refers to administrative policy concerning priorities and timing of action. The administrative policy may be described as one of either total or passive law enforcement. It should be noted that total traffic law enforcement is impossible. The following are the factors influencing institutional discretion:

- (a) scope of traffic problems;
- (b) availability of traffic personnel and resources;
- (c) the seriousness of the traffic threat;
- (d) the public and authorities might insist on efficient action; and
- (e) regular revision of administrative policy to adapt to dynamic circumstances.

5.6.1.4 Line discretion

In most hierarchical structures discretion decreases from the highest levels to the very lowest. Discretionary traffic law enforcement is in contrast with this arrangement for it is the line functionary who most often has to decide whether to exercise discretion or not. His judgment will be strongly affected by the following factors:

- * ambiguous court procedures, light penalization of traffic offenders, court decisions;
- * inadequate knowledge concerning the elements of traffic offences;
- * public indifference; and
- * the dangers of the situation in which he finds himself.

5.6.2 Tolerance

5.6.2.1 Offence tolerance

It is a specific problem confronting traffic officers. There are conflicting viewpoints: there are traffic officers who believe that road traffic legislation should be enforced out to the letter of the law and that no latitude should be allowed to traffic offences whereas other traffic officers believe that traffic legislation should allow more latitude and that a traffic offender should not be prosecuted unless he has committed a traffic offence which is a threat and danger to other road users (Brandstatter & Hyman, 1971:454). The public may interpret the following actions as forms of tolerance if the offence is not regarded as serious enough to justify penalization:

- (a) maladministration in dealing with traffic cases;
- (b) inefficient processing of summonses; and
- (c) different interpretations of road traffic legislation which result in failure to prosecute traffic offenders.

Such action may stimulate further commission of traffic offences and prosecutions for similar offences may even evoke accusations and prejudices.

5.6.2.2 Enforcement tolerance

It refers to the public's acceptance of traffic law enforcement activities at any given period and is influenced by the following factors:

- * the temperament of the public, community and the media;
- * the reputation of the traffic law enforcement organizations;
- * the measure of respect, support and understanding inspired by traffic officers; and
- * by unpopular traffic officer's action.

The notion of selective traffic law enforcement should cause the vehicle driver to believe in the omnipresence of traffic officers and that if he commits a traffic offence he will be caught and ultimately penalized.

5.7 PROBLEMS SURROUNDING TRAFFIC LAW ENFORCEMENT ✓

The vehicle driver is the basic problem surrounding traffic law enforcement. The greatest problem in the magisterial district of Lower Umfolozi is the shortage of traffic officers. As a result of this problem, traffic officers are unable to patrol their areas adequately. Traffic officers have to apply traffic laws which sometimes are vague and confusing. Traffic laws may be complicated and indistinct.

The interpretation of traffic legislation may differ between the road users, traffic officers and the legislator. This differential interpretation is influenced by the following factors:

- * administrative policy;
- * tolerance and discretion;
- * personnel differences;
- * political pressure; and
- * the interpretation of the magistrate's court which differs sometimes from that of traffic officers.

Social norms and values have also contributed to the negative attitude towards traffic law enforcement. The public believes in freedom of individuals whereas traffic laws restrict this freedom by penalizing members of the public who violate traffic laws (Cloete & Conradie, 1984:97). Drivers see these restrictions as efforts to hamper their freedom of movement. The use of unmarked vehicles by traffic officers is not accepted by the public.

Traffic officers in the magisterial district of Lower Umfolozi expressed concern with regard to the following problems:

- (a) vehicle drivers furnish false names and addresses;
- (b) unlicensed drivers use false drivers' licences,
- (c) aggressiveness of male drivers;

- (d) negative perception of traffic officers by the public;
- (e) traffic officers feel that they are not accepted as human beings;
- (f) the public sometimes does not understand the rationale for traffic law enforcement;
- (g) the hostile attitude of Black passengers in a taxi (they dislike being delayed by a traffic officer);
- (h) in most instances motorcyclists do not stop on the instructions of a traffic officer and traffic officers are unlikely to pursue them;
- (i) magistrates are sometimes not in favour of issuing warrants of arrest where drivers are fined with small amounts, for example, R50 or R100;
- (j) the magistrates do not regard traffic offences as serious except reckless or negligent driving and driving while under the influence of alcohol or a drug having a narcotic effect;
- (k) the traffic officer testifying in court appears as an accused who is being tried for "committing a traffic offence"; and
- (l) stock grazing (probably due to drought) along public roads is problematic to the traffic in that it contributes to traffic accidents and collisions.

Traffic law enforcement is the specialist function of the individual traffic officer which puts him and his traffic organization in the spotlight. The primary aim of traffic law enforcement is to maintain traffic order by eliminating or reducing traffic conflict. The nature of traffic law enforcement comprises two basic components: the structural and the functional. It is important that the public must be made aware of the functional components of traffic control, especially regarding proactive and reactive traffic law enforcement. Traffic control in the magisterial district of Lower Umfolozi is effected by three traffic organizations: Natal Provincial Administration (based at Empangeni), Empangeni municipality traffic department and Richards Bay municipality traffic department.

Traffic officers carry out various functions such as administrative, executive, supervision, surveillance and regulation. Selective traffic law enforcement is predicated upon the notion that vehicle drivers and the public must know and understand traffic laws and that traffic officers are everywhere. Selective traffic law enforcement is simply the assignment of traffic officers on specific problem areas. The public should be apprised in nearly every instance of the reasons for selecting a given traffic problem for intensified traffic law enforcement.

The success of selective traffic patrolling depends also on the part played by discretion and tolerance. The traffic officers should recognize that there are complex and diverse problems surrounding traffic law enforcement.

CHAPTER 6

PENALIZATION OF TRAFFIC OFFENDERS

6.1 INTRODUCTION

The rationale of traffic law revolves around three concepts: traffic offence, guilt and penalization. Upon conviction of the traffic offender, the court must first determine the kind of sentence to be imposed. Sentence therefore implies penalization of the traffic offender. Deciding upon an appropriate sentence is one of the most difficult tasks facing the judicial officer. The way in which the judicial officer exercises his powers is a measure of the spiritual civilization of a community. It is measured not by its harshness or lenience, but by traffic justice and efficacy. The judicial officer must not be emotionally or negatively disposed towards the traffic offender. Penalization must be suited both to the traffic crime and traffic offender; it must be fair to both the traffic offender and to society and should be permeated by a measure of clemency.

The concepts traffic offence, guilt and penalization symbolize the three basic problems of substance in traffic law:

- (a) what conduct should be designated as criminal?;
- (b) what determinations must be made before a motor vehicle driver can be found to have committed a traffic offence?;
- and

- (c) what should be done with motor vehicle drivers who are found to have committed traffic offences? The answers that a legal system gives to the first of these questions comprise "traffic conduct norms" of traffic legislation: for instance, do not obstruct traffic or drive while under the influence of liquor. The answers that the legal system gives to the third question comprise the sanctions of its traffic law: if a driver is found to have committed a traffic offence, he or she will be penalized in various ways, for example, they may be whipped, imprisoned, fined, etc. The second question is dependent and instrumental: in order to get from (a) to (c) in a traffic case, a legal system must provide some criteria for satisfying (b). The objective of this chapter is to examine the penalization of traffic offenders in the magisterial district of Lower Umfolozi.

6.2 THE MEANING OF "PENALIZATION"

Traffic crime is the primary norm and penalization is the sanction. Traffic crime without penalization is illegal (Packer, 1968:19). Traffic crime is simply conduct that is forbidden by traffic law and to which certain consequences, called penalization, will apply on the occurrence of stated conditions and following a stated process. The definition given in chapter 1, paragraph 1.6.1, presents the standard case of penalization as exhibiting six characteristics:

- (a) Penalization must involve pain or other consequences unpleasant (Flew, 1954:292-295). It may be physically unpleasant as when traffic offenders are whipped and may be psychologically unpleasant as when traffic offenders are sentenced to other forms of penalization such as a fine, imprisonment, etc.

- (b) Penalization must be inflicted in respect of a traffic offence (Klepper & Nagin, 1989:721-723). There can be no question of penalization in the absence of a traffic offence committed by the traffic offender. Rabie & Strauss (1985:8-9) maintain that when we speak of penalization we mean the causing of suffering by someone to someone else because the latter has been guilty of a (traffic) crime.
- (c) Penalization must be applied to the traffic offender. To describe the traffic offender as the person who committed the traffic offence is not wholly correct. Criminologically and penologically speaking, the person concerned (the traffic offender) must be one who can be held responsible for the commission of a (traffic) crime (Ross, 1975:13-17; Margolis, 1977:609; Packer, 1968:20). It is, however, not the aim of the researcher to give a full account of criminal responsibility. Traffic offenders should be penalized because they are accountable (have insight into their traffic actions); answerable (have committed traffic offences); and are culpable (they fail to offer acceptable explanations which would free them from answerability (Ross, 1975:15-17)).
- (d) Penalization must occur through human action. Flew (1954:293) opines: "Evils occurring to people as the result of misbehaviour, but not by human agency, may be called penalties but not punishment: thus unwanted children and venereal diseases may be the penalties of, but not the punishment for sexual promiscuity."

For criminological and penological purposes, it is therefore necessary to limit the concept of penalization to instances in which penalization is aimed at traffic offences committed through human actions of traffic offenders.

- (e) Any penalization inflicted on traffic offenders must be in terms of some specific authority vested in the body whose traffic laws have been violated. This implies that penalization must be imposed by the competent court of law with relevant jurisdiction. Jurisdiction in this context refers to the authority of the court to give a valid verdict and to impose a valid sentence (Hiemstra, 1977:61). The magistrate's court is competent to impose any penalty provided for in the Road Traffic Act (South Africa, 1989:Section 149(7)).
- (f) Penalization must also be imposed with specific objectives such as to restore the imbalance caused by the commission of (traffic) offences or to deter potential (traffic) offenders or possibly to correct the undesirable behaviour of (traffic) offenders (Rabie & Strauss, 1985:19-30; Packer, 1968:23-30; Waldron, 1980:261; Reid, 1981:39-50; Duffee, 1989:15-17; Henham, 1990:113-115).

6.3 PENALIZATION:RATIONALE

The rationale provides the reasons or objectives for penalizing traffic offenders. Rationale also states the case for the question in the course of road traffic justice. The court is therefore faced with the issue of why it penalizes traffic offenders. There are four penal objectives:

- * to effect retribution;
- * to bring about the correction of the traffic offender;
- * to restrain him physically so as to make it impossible for him to commit further traffic offences; and
- * to deter others from similarly violating traffic laws (Reid, 1976: 492-493; Reid, 1981:36-49; Duffee, 1989:9-15; Rabie & Strauss, 1985:272-275; Packer, 1968:37-61; Middendorf, 1968:49).

6.3.1 Retribution

According to Davis (1983:727) a retributive justification for penalization has three elements:

- * penalization is acceptable only against persons who have committed crimes;
- * the degree of penalization must be commensurate with the severity of the traffic crime; and
- * the degree of penalization specified must be independent of the actual or predicted consequences of the punitive act.

It is important to distinguish the concepts of retribution and revenge on the following two grounds:

- (a) the suffering that forms part of penalization is, in the case of retribution, imposed by a third party, the court, and not by the injured party himself as in the case of revenge; and

(b) a second distinction rests on the spirit in which penalization is imposed. Although retribution is exacted by a human agency, it must be seen as impersonal in that the person who exacts it (judicial officer), must derive no personal pleasure or satisfaction in the penalization of traffic offenders. The society demands that traffic offenders should be penalized because they have violated traffic laws. It should be noted that revenge as a penal objective is unjustifiable when it influences the spirit in which penalization is imposed: when hatred of the traffic offender or pleasure in penalizing him/her are present. The crux of the matter is that the spirit in which the traffic offender accepts his sentence may be determined by the spirit in which it is imposed. In the end it does not really matter much which of these versions of retribution is accepted for, as Packer (1968:38) observes: "The result is the same. The criminal is to be punished simply because he has committed a crime."

6.3.2 Incapacitation

Incapacitation implies the restraint of the traffic offender in order to make it impossible for him to commit further traffic offences. This action is vital to the protection of society (Reid, 1976:493; Rabie & Strauss, 1985:24-25; Duffee, 1989:12; Bing, 1990:166-167). The imposition of a prison sentence renders the traffic offender incapable of committing traffic offences during the period of his imprisonment. Burchell et al. (1983:73) state: "Suspension or confiscation of his driver's licence prevents him from lawfully driving a motor vehicle..." However, incapacitation does not seem to have any relation with the fines most frequently imposed. However, it is worth noting that incapacitation is based upon

the assumption and the prediction that a traffic offender is a dangerous person who will probably repeat his traffic criminal behaviour unless he is in some way restrained. Packer (1968:50-51) opines: "Baldly put, the incapacitative theory is at its strongest for those who, in retributive terms, are the least deserving of punishment."

6.3.3 Deterrence

That motor vehicle drivers can be deterred from traffic crime by the existence and operation of penalization, has long been seen as a justification and penal objective. Penalization has a general deterrent action. Its mere existence deters the potential traffic offender. Deterrence involves complex notions. It is sometimes described as having two aspects:

- * after-the-fact inhibition of the person being penalized, i.e. specific deterrence; and
- * inhibition in advance by threat or example i.e. general deterrence (Duffee, 1989:11; Reid, 1976:492; Rabie & Strauss, 1985:32; Burchell et al. 1983:74-77; Bing, 1990:166).

From this angle, penalization is a cautionary measure aimed at the prevention of further traffic crime. By means of penalization the traffic offender is taught a lesson so that he will be deterred from traffic criminal behaviour. A suspended sentence, for instance, is also a form of specific deterrence. The case for the deterrent value of penalization rests on the following suppositions:

- (a) that motor vehicle drivers think before they act;

- (b) that the disadvantages of penalization always outweigh the advantages of traffic offence commission;
- (c) that penalization inspires fear; and
- (d) that penalization inevitably follows the violation of road traffic legislation: but this is not always the case due to the notion that traffic crimes are not always detected, not all traffic offenders are apprehended and not all are penalized. If it is assumed that traffic offenders generally bank on the likelihood of getting off scot-free, it is also assumed that the deterrent value of penalization is directly proportional to its inevitability (Grupp, 1971:171-173). The deterrent effect of disqualification or suspension or cancellation or endorsement of a driver's licence is obvious. The driver's licence is often a matter of economic and/or social life or death to its holder. Disqualification should therefore not be applied lightly. However, it would seem to be the appropriate measure for dealing with the traffic offender whose behaviour constitutes a serious threat to road safety.

6.3.4 Correction *

The most immediately appealing justification for penalization is the claim that it may be used to prevent traffic crime by so changing the personality of the traffic offender that he will conform to the dictates of the Road Traffic Act and Regulations; in other words, by correcting him (Little, 1970:256). It follows from this traffic offender-oriented aspect of the corrective ideal that the intensity and duration of penalization are measured by what is thought to be required in order to change the traffic offender's personality and

attitude (Duffee, 1989:14). This implies that the action taken in response to traffic offence commission is aimed at correcting the habits and improving the capability of the traffic offender. As a result of penalization, the traffic offender should be dissuaded from repeating the traffic offence. From the wide range of penalties and corrective measures which are available, it is believed that a judicial officer can construct a total penalty which has not only the effect of justly penalizing the individual traffic offender but of encouraging the future observance of road traffic legislation.

It is therefore clear that the essential prerequisite for correction is that the traffic offender must find himself, discover a new orientation and insight. Seen against this background, correction is then possible when the traffic offender accepts the principle of comparison with regard to his/her penalization, namely that penalization is deserved suffering imposed for the commission of traffic offences. It is for this reason that retribution is a prerequisite for correction. In other words, the traffic offender cannot be subjected to correctional services without first undergoing some form of retribution (penalization). The corrective ideal is motivated by humanitarianism (Grupp, 1971:256). Efforts at correction should be aimed primarily at the traffic offender's social and psychological re-adjustment. The main objective is to change the traffic offender's attitudes and to help him cope with circumstances, gain insight into his own motivations, re-orient his feelings and achieve a measure of self-control.

Traffic offence commission sets the traffic justice system in motion. Penalization of traffic offenders is contingent upon the efficiency and effectiveness of traffic law enforcement officers. It is therefore of crucial importance for the researcher to highlight the role of the traffic officer in court because traffic law enforcement forms the very first "component" of the traffic criminal justice process. Traffic officers learn early that issuing a written notice to appear in court is the simplest part of their work. The more difficult and challenging task is testifying in court (Schultz & Hunt, 1990:171; Hand et al. 1980:65; Dienststein, 1974:143; Limpert, 1984:561; Stuckey, 1979:341). A hearing or courtroom trial is a very important test of traffic officer's real competence. The usefulness of a traffic officer is impaired when he is a poor witness. A witness can lend credit or discredit to his testimony by his behaviour in court, regardless of the substance of his testimony. A traffic case may require weeks or even months of painstaking effort and preparation on the part of traffic officers. It should be noted that the traffic case can be lost in court due to improper presentation, attitude or appearance of a traffic officer who does not prepare himself properly to act as a creditable witness. The courtroom should command the respect of the traffic officer. His conduct in the courtroom and in the areas of close proximity to the courtroom should reflect this attitude. A traffic officer should not attract undue attention by his behaviour or otherwise act unprofessionally in the courtroom. Courtroom proceedings are serious and should be treated as such. Traffic officers are facilitators of traffic justice.

6.4.1 The traffic officer as a witness

A witness is a person who swears an oath or affirmation to tell the truth, takes a witness stand and provides testimony (Waldron, 1980:271; Stuckey, 1979:39). A traffic officer becomes a witness because of having knowledge about the facts of a traffic offence. This knowledge have been acquired seeing the motor-vehicle driver committing the traffic offence. In the case of traffic offences, traffic officers provide testimony on behalf of the state and they may be cross-examined. The oath serves to make perjury (lying by witnesses) punishable (Waldron, 1980:271). A traffic officer does not always have a choice whether to appear as a witness. Any traffic officer with valuable information that may assist the court in arriving at the correct decision may be compelled to be a witness (Stuckey, 1979:67). Official notification to appear in court as a witness is by subpoena.

The effective testifying in court of a traffic officer is significant for three reasons:

- (a) The traffic officer's function of proper role-fulfilment is of crucial importance for a sound traffic criminal justice system. If the traffic officer performs inadequately, traffic justice may not ensue and thus subverting the judicial process.
- (b) If the motor vehicle driver is convicted and penalized, it could be a learning experience for him that may prevent future commission of traffic offences. The traffic offender who is found not guilty because the traffic officer testified poorly may feel vindicated and may repeat the traffic law violation and lose respect for the judicial process.

(c) If the traffic officer testifies well in court, he will feel good about himself and will be willing to go through the experience again. The traffic officer who feels foolish as a result of his court appearance will be disinclined to enforce traffic law as diligently in order to avoid another unpleasant court experience. Traffic officers should understand that they are facilitators of traffic justice with regard to the penalization of traffic offenders.

6.4.1.1 The traffic officer as a lay or ordinary witness

Stuckey (1979:70) points out that there are two categories of witnesses:

- * the lay or ordinary witness; and
- * the expert witness.

Witnesses are generally limited by a rule of evidence to testify to what they have observed. The lay witness (lay means anybody being not an expert) is a person who has some personal knowledge about the facts of the case and who has been called upon to relate this information in court (Stuckey, 1979:70; Waldron, 1980:260). A lay witness can express opinions if they are supported by factual material that is recognized as being in the realm of common experience. Traffic officers will usually fall within the category of the lay witness. The lay witness is permitted to testify in court about facts only and may not state personal opinions except in few instances. The restrictions on opinions or conclusions may be most frustrating to the witness. Stuckey (1979:70) opines: "People get into the habit of speaking in this vein, and when not permitted to do so on the stand, a

witness becomes virtually tongue-tied. As a result, the manner or method in which a witness relates information becomes very important to the trial proceeding."

It should be noted that there is opinion testimony of lay witnesses. An opinion refers to an inference or conclusion drawn from a fact known or something observed (Stuckey, 1979:73). As it relates to the testimony of a traffic officer, it would be an inference drawn from something the traffic officer observed during the commission of a traffic offence. A traffic officer who has observed a moving vehicle is permitted to state an opinion as to the speed of the vehicle. It is not necessary that the traffic officer should have driven the vehicle (or if any witness other than a traffic officer should be able to drive) in order to state an opinion as to the speed. It is proper for a traffic officer to state that a vehicle was going very fast or that it was going faster than other vehicles. However, it is doubtful if a witness with no experience in the operation of a motor vehicle could give an opinion as to the approximate kilometres per hour. A lay witness may not give an opinion about speed merely from observing skid marks, as this falls within the purview of the expert witness (Stuckey, 1979:74-75; Clark, 1982:130-131; Hand et al. 1980:231).

6.4.1.2 Expert testimony

Affidavits or certificates are frequently used as vehicles for adducing expert testimony. The opinion of an expert, in the same way as that of a layman, is admissible if it is relevant in the legal sense. Relevance in this regard means that the witness is by reason of his special knowledge or skill better qualified to draw an inference than the judicial officer (Du Toit et al. 1991:24-27). Relevance should not be subjected

to the tyranny of categories or exceptions; it is a flexible and robust concept that is based on logic, common sense and experience.

Du Toit et al. (1991:24-27) maintain that there are no fixed classes of expert witnesses. It is therefore imprecise to think of some witnesses as "experts" and others as "non-experts." Actually, every witness who is asked to express an opinion is an expert. The mere fact that he has been invited to speak on the matter assumes some degree of experiential skill (Du Toit et al. 1991:24-27). It is necessary, for practical purposes, to distinguish between two kinds of experiential capacity:

- (a) that derived from general experience, which is common to all people; and
- (b) that derived from special experience, which is the product of some training, familiarity or preparation (Du Toit et al. 1991:24-28). The significance of this distinction is that special experiential capacity must be satisfactorily established before the testimony of the expert witness may be received. It is the duty of the judicial officer to decide whether the witness is sufficiently qualified to assist the court. The failure of an expert witness to furnish reasons for his opinion may affect only the weight and not the admissibility of his evidence. It should be noted that failure to give reasons may leave evidence without any weight and as such may be irrelevant and therefore inadmissible (Du Toit et al. 1991:24-28).

With the great advancement of traffic science, a judicial officer may be called upon to make judgements about matters of which they have no personal knowledge about the facts, but the conclusion which has to be drawn from those facts may require someone skilled in the field. An expert, therefore, is a person allowed to testify in court and whose opinions are considered evidence (Limpert, 1984:561; Stuckey, 1979:77; Waldron, 1980:260; Dienstein, 1974:140-141). The expert must be skilled in his profession, have experience related to the subject area under consideration and must be educated sufficiently to be able to correlate facts. A significant measure of expertise is that the expert exhibits knowledge that is beyond and above that of the average person (Stuckey, 1979:77; Limpert, 1984:561). According to Stuckey (1979:77) the expert witness does not have to be a person of great educational background or training. Contrary to this view, Limpert (1984:561) opines: "This measure may be established by education such as a bachelor's, master's or doctoral degree in mechanical engineering, experience in industry or research, relevant publications by the expert, and particular tests and analyses conducted in connection with the accident under consideration."

There are different kinds of expert witnesses (Stuckey, 1979:81-87). However, the following are the specialization areas in which experts appear in criminal/traffic cases:

- * document examiner;
- * skid-mark and speed experts;
- * bookmaking and narcotics;
- * laboratory experts;

- * footprint (shoe-print) experts;
- * experts in criminal justice, psychology and psychiatry;
- * polygraph examiners;
- * experts on obscenity;
- * photographers;
- * voice-print experts;
- * autopsy surgeon; and
- * fingerprint experts.

6.4.2 Principles of effective testimony

The traffic officer plays a paramount role in the successful prosecution and penalization of traffic offenders. Being nervous about testifying at a trial of a traffic offender is natural. Witnesses fear being embarrassed especially during cross-examination; being contradicted by another witness; and being unable to remember an important aspect. The traffic officer as a human being is not immune to these pitfalls and a newly-appointed traffic officer is apprehensive about a first court appearance. Even the most experienced traffic officer may feel some tension. Most of these fears can be eliminated or greatly reduced by observing basic principles related to testifying effectively in court (Stuckey, 1979:345-355; Hand et al. 1980:66-79).

6.4.2.1 Truth

The traffic officer should speak the absolute truth. Lying will occur when a traffic officer testifies to what he knows is not true. The traffic officer who lies in court is violating (traffic) justice and perhaps he is worse than the traffic offender he is apprehending. It is probable that the traffic officer who lies in court may be trapped by his own lie. The purpose of testifying is to assist the court at arriving at the true facts so that a just decision can be reached which will result in the penalization of the traffic offender (Hand et al. 1980:67-68).

6.4.2.2 Reality

The notion that a traffic officer should be reality-centred implies that reality and the traffic officer's viewpoint of the traffic offence should be identical (Hand et al. 1980:66-67). In every traffic offender's trial there are three factors:

- (a) the traffic officer's viewpoint;
- (b) the traffic offender's viewpoint; and
- (c) reality which is comprised of the facts of the traffic offence that are untouched by the traffic officer's or traffic offender's perceptions, judgements or interpretations. During the trial reality may "move around": it may reside in either the traffic officer or traffic offender or may be excluded from both. The efficient traffic officer is therefore reality-centred. Honest mistakes are made by everyone and are caused by being distracted, misunderstanding and normal errors in

judgement. Traffic officers who are reality-centred present facts in a clear and unbiased manner. They do not perceive themselves as "winning" or "losing" in court (Hand et al. 1980:67). They understand that it is only traffic justice that will win or lose.

6.4.2.3 Preparation

The traffic officer must refresh his memory about all the facts relevant to the traffic offence and he should not memorize his notes but should use them as a memory refresher (Dienstein, 1974:146; Stuckey, 1979:342-343). Preparation also includes anticipation of the questions to be asked and in this instance the traffic officer may assume the role of an attorney defending the traffic offender. According to Hand et al. (1980:69-71) there are three phases of preparation for a court appearance:

- (a) the first phase occurs before the traffic stop is made;
- (b) the second phase occurs during the traffic stop; and
- (c) the third phase occurs between the issuing of a written notice (Annexure C) and court appearance of a traffic offender.

6.4.2.4 Answering questions

The traffic officer should answer questions put to him succinctly, directly and adequately (Hand et al. 1980:71; Stuckey, 1979:350-352; Dienstein, 1974:146-147). If he does the contrary, he will be causing confusion, frustration and

will be raising the suspicion that he is not on a solid foundation. There are three mistakes that can be made by traffic officers with regard to answering questions in court:

- * the first mistake is over-answering the question which implies giving more information than is required;
- * the second mistake is under-answering the question; and
- * the third mistake is not answering the question asked.

6.4.2.5 Dispassionate

The traffic officer must communicate with ideas and not with feelings. This implies that the traffic officer should remain dispassionate (Hand et al. 1980:73). Being dispassionate is necessary for good testimony in court. The biggest enemy of dispassion in court is anger. Anger is often the response of an insecure traffic officer who feels threatened and anger clouds judgement. It is therefore essential that a traffic officer should not become angry as this will tarnish his image.

6.4.2.6 Admission of ignorance and mistakes

It should be noted that no one is perfect in a court trial. Failure to admit ignorance and mistakes is dishonesty and will impede traffic justice (Hand et al. 1980:74-75). The traffic officer who admits ignorance on a particular issue or to have erred will show himself to be a trustworthy and secure person whose testimony can be relied upon.

6.4.2.7 Non-verbal communication

The traffic officer should be aware of the message he sends to others without uttering words (Hand et al. 1980:75-77). Thus a traffic officer should be aware of the ways he can unintentionally communicate messages to the court. The following are the most important aspects in this regard:

- (a) appearance: the traffic officer should be well-dressed and if he testifies in uniform, the uniform should be pressed and clean and his shoes shined;
- (b) Vocabulary: certain words the traffic officer uses can convey a non-verbal message and the words he uses should not distract from his testimony;
- (c) tone of voice: traffic officers should not be overbearing by speaking loud in court and they should not appear insecure when they speak too quietly or unclearly; and
- (d) posture: traffic officers' posture should inspire confidence and they should stand or sit in a way that connote that they are relaxed and yet alert.

6.4.2.8 Preparation of traffic case by public prosecutor

It is of crucial significance that the traffic officer should assist the public prosecutor to prepare a traffic case because the traffic officer has witnessed the traffic offence and has interrogated the traffic offender (Hand et al. 1980:77-78). It can be ideal for the traffic officer if he can assist the public prosecutor by writing a memo concerning the salient

facts of the traffic offence and his impression of the traffic case and then send it to the public prosecutor before he meets him to prepare the traffic case.

6.5 PENALIZATION OF TRAFFIC OFFENDERS ✓

Magistrates obviously face a problem in deciding how to perceive the traffic offender. Redgment (1990:156) opines: "The passing of a proper and just sentence is one of the most difficult tasks of a trial court. The duty lies within the discretion of the presiding officer. It is a discretion to be exercised not arbitrarily or whimsically, but with due regard to precedent." It is worth mentioning that magistrates are also motorists. Since the penalization of traffic offenders is pre-eminently a matter for the discretion of the magistrate's (trial) court, the researcher deems it fit to give a brief account of discretion in penalizing traffic offenders. Discretion in the penalization of traffic offenders can be seen in tables 6.10 - 6.27 which illustrate disparities in penalization.

6.5.1 Discretion in penalization (sentencing)

The concept of discretion is at home in only one sort of context: when someone is in general charged with making decisions subject to standards set by a particular authority. Basically there are five factors affecting the way judicial officers make decisions:

- (a) there are social, personal and judicial characteristics;
- (b) attitudes towards the disposal of a traffic case;



- (c) perceptions of the nature of the traffic offence and the characteristics of traffic offenders;
- (d) the type of information considered relevant and the way in which it is interpreted; and
- (e) the controls and constraints exercised either formally by traffic law through local sentencing norms, group pressures or traditions in court practice (Hood, 1972:22-27).

It is submitted that the nature and scope of judicial discretion can best be understood through an understanding of the "surrounding belt of restriction." The Criminal Procedure Act No. 51 of 1977 (as amended) prescribes the range of sentences that must be imposed on offenders in general and the Road Traffic Act No. 29 of 1989 (as amended) prescribes penalization of traffic offenders. The road traffic legislation excludes the magistrates' court discretion entirely by making mandatory penalization for specified traffic offences. Traffic legislation on the whole provides the outer limits of discretion in penalizing traffic offenders and this is the skeletal framework of the "surrounding belt of restriction" (Lund, 1979:204). For instance, in the case of whipping male traffic offenders, the number of strokes to be awarded is in the discretion of the magistrate's court, and the discretion must be exercised in accordance with the rules which have been judicially laid down.


It should be noted that rules for purposes of sentencing discretion are mandatory and principles for purposes of sentencing discretion are not mandatory (Lund, 1979:207). For instance, a principle such as "first offenders should not be sent to prison" does not mean that no first offender should

ever be sent to prison (Du Toit et al. 1991:28-16). Principles give direction to the exercise by the magistrate's court of its discretion when penalizing traffic offenders. The way to make necessary discretion tolerable is to develop by experience principles of exercise of discretion and to recognize that because there is no rule in the strict sense it does not follow that the court has unlimited power of doing what it chooses on any grounds or on no grounds. It is proper for the court to reach a reasoned decision in the light of the prevailing principles (Lund, 1979:209). The Criminal Procedure Act (South Africa, 1977:Section 57(5) refers to the "magistrate of the district or area concerned", whereas section 57(7) of the Criminal Procedure Act (South Africa, 1977) refers to the "judicial officer presiding at the court in question." By this distinction the legislature intended to cater for districts which have only one magistrate as well as districts where there are more than one magistrate. The magisterial district of Lower Umfolozi has a chief magistrate and additional magistrates. The same distinction is maintained by the researcher in the discussion of penalization of traffic offenders.

6.5.2 Nature of penalization ✓

The researcher identified the following types of penalization:

- * admission of guilt;
- * fine;
- * fine or imprisonment;
- * imprisonment;

- 
- * suspended sentence;
 - * deferred fine;
 - * spot fine;
 - * fine or imprisonment plus imprisonment suspended;
 - * fine or imprisonment of which half is suspended;
 - * whipping;
 - * periodical imprisonment;
 - * fine and imprisonment suspended;
 - * treatment in a rehabilitation centre;
 - * cancellation of a driver's licence;
 - * endorsement of a driver's licence;
 - * fine for failure to appear in court; and
 - * cautioned and discharged (actually, this is not penalization but merely a warning).

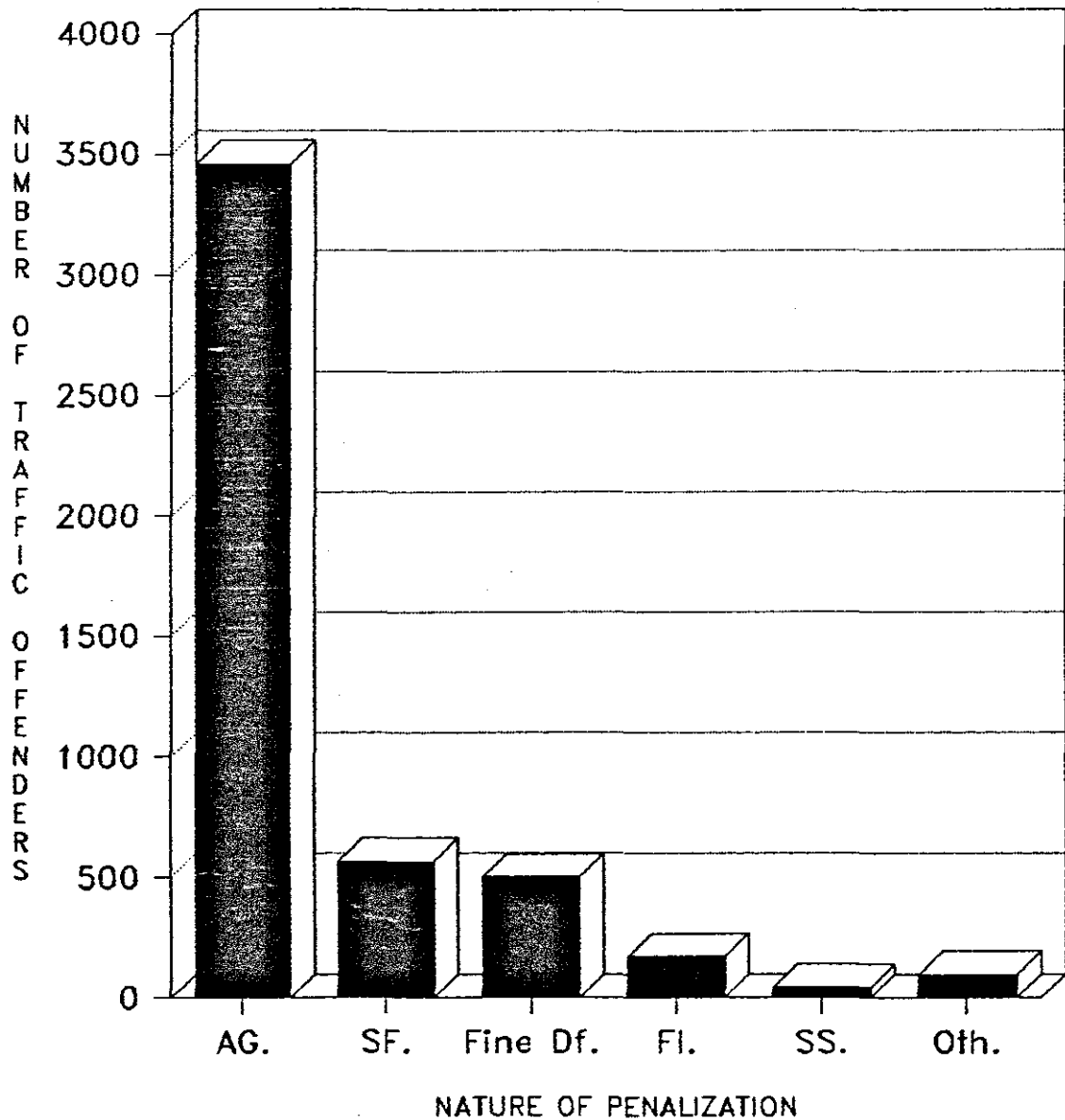
It is not the intention of the researcher to give a detailed account of all the above-mentioned types of penalization. The researcher has therefore arbitrarily selected to discuss certain types of penalization.

Table 6.1 presents the frequency distribution of the nature of penalization of traffic offenders. Likewise, figure 6.1 portrays the same data in a graphical form.

TABLE 6.1 FREQUENCY DISTRIBUTION OF THE NATURE OF
PENALIZATION OF 4771 TRAFFIC OFFENDERS FOR THE
PERIOD 01 JANUARY - 30 JUNE 1990

| NATURE OF PENALIZATION | FREQUENCY | |
|------------------------|-----------|--------|
| | (N) | (%) |
| ADMISSION OF GUILT | 3457 | 71,65 |
| SPOT FINE | 563 | 11,67 |
| FINE, DEFERRED FINE | 498 | 10,32 |
| FINE OR IMPRISONMENT | 170 | 3,52 |
| SUSPENDED SENTENCE | 42 | 0,87 |
| OTHER* | 95 | 1,97 |
| TOTAL | 4825** | 100,00 |

FIGURE 6.1
NATURE OF PENALIZATION
OF TRAFFIC OFFENDERS



AG=Admission of Guilt Df=Deferred Fine
FI=Fine or Imprisonment SF=Spot Fine
SS=Suspended Sentence Oth.=Other

*OTHER: For purposes of this table, the researcher collapsed different types of penalization in the "other" category and this category refers to the following forms of penalization:

| | | |
|--|---|-------|
| (a) imprisonment | = | 4 |
| (b) corporal punishment/whipping | = | 3 |
| (c) treatment in a rehabilitation centre | = | 3 |
| (d) periodical imprisonment | = | 1 |
| (e) cancellation of driver's licence | = | 1 |
| (f) endorsement of drivers' licences | = | 9 |
| (g) failure to appear in court | = | 29 |
| (h) cautioned and discharged | = | 45 |
| | | <hr/> |
| TOTAL N for "other" | = | 95 |
| | | <hr/> |

** Total N (4825) does not tally with total N=4771 (actual total number of traffic offenders penalized) due to the fact that in certain instances traffic offenders committed more than one traffic offence and were thus penalized accordingly.

6.5.2.1 Admission of guilt

Welman (1971:46) defines admission of guilt as follows:

"Die begrip „skulderkenning" beteken presies wat die naam te kenne gee, naamlik dat die beskuldigde, indien, sy skuld vir die oortreding erken, die aangegewe bedrag kan betaal om hom sodoende te onthef van die verpligting om in die hof te verskyn. Die bedrag van die skulderkenning wat aanvaar mag word, stem gewoonlik ooreen met die bedrag wat oorsponklik op die afkoopboetekaartjie aangegee is, d.w.s. die bedrag wat die hof waarskynlik vir die oortreding sou ople." It is evident from table 6.1 that the majority of traffic offenders paid an admission of guilt fine and these are accounted for in 3457 (71,65%) of the traffic cases.

Written notices (Annexure C) to appear in court are issued in terms of section 56 of the Criminal Procedure Act (South Africa, 1977). The admission of guilt and payment of fine without court appearance is done in terms of section 57 of the Criminal Procedure Act (South Africa, 1977). A written notice is handed by the traffic officer to the accused. The accused may, without appearing in court, admit his/her guilt in respect of the traffic offence(s) in question by paying the fine stipulated either to the clerk of the magistrate's court (Empangeni) or Empangeni or Richards Bay police stations. The written notice stipulates the date upon which an admission of guilt fine is payable. The written notice is surrendered upon payment. The public prosecutor has the power to reduce the fine. The clerk of the court is responsible for filing all written notices he/she has received from traffic officers according to the dates of trial of traffic offenders.

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Warrants of arrest are issued by the magistrate(s) for traffic offenders who fail to appear in court for trial. It should be noted that traffic offenders are not afforded opportunity to pay admission of guilt fine in respect of serious traffic offences such as driving while intoxicated. It is also worth mentioning that the chief magistrate is authorized to fix maximum fines in respect of certain traffic offences committed in his area of jurisdiction (South Africa, 1977:Sections 57(5a) & 341(5)). The immediate practical effect of paying an admission of guilt fine is that the traffic offender is excused from court appearance (Du Toit et al. 1991:8-1).

There are various limitations of an admission of guilt fine (Du Toit et al. 1991:8-4). The following are some of the limitations:

- (a) An admission of guilt payment of fine without court appearance may only take place where a summons is issued in terms of section 54 of the Criminal Procedure Act (South Africa, 1977) or where a written notice has been handed to the traffic offender. It should be noted that in both instances the maximum fine is limited to R300-00.
- (b) The application of section 57 of the Criminal Procedure Act (South Africa, 1977) does not imply that the state doubts the traffic criminal's responsibility. The payment of an admission of guilt fine is "very often and for various reasons an option exercised by accused persons in order to be rid of the worry, inconvenience and expense attached to fighting a petty criminal charge and not because they consider that they are in fact guilty" (Du Toit et al. 1991:8-4).
- (c) An admission of guilt fine may not be paid where the only competent sentence is imprisonment.

- (d) A judicial officer is not empowered to cancel, suspend or endorse drivers' licences in traffic cases coming before him on an admission of guilt. The rationale for this is that his jurisdiction in traffic cases is limited to monetary penalization.
- (e) An admission of guilt fine should not be paid in respect of serious traffic offences (the so-called "direct charges") such as driving under the influence of alcohol.
- (f) An admission of guilt fine cannot be paid in respect of offences listed in Schedule 3 of the Criminal Procedure Act. Section 341 makes provision for the compounding of these offences (Du Toit et al. 1991). Compounding consists in unlawfully and intentionally agreeing for reward not to report or prosecute a crime other than one which is penalized by fine only. Compounding of offences make it possible to pay spot fines. Schedule 3 therefore allows for compounding of the following traffic offences:
- * speeding;
 - * driving a defective motor vehicle (for various types of vehicle-related offences, see chapter 3, paragraph 3.2.2.);
 - * leaving or stopping a motor vehicle where forbidden;
 - * driving a motor vehicle at a place where and time when it may not be driven;
 - * owning or driving an unlicensed motor vehicle; and

- a ✓
- * driving a motor vehicle with no valid driver's licence.

Such spot fines, if paid by traffic offenders, accrue to Empangeni and Richards Bay local authorities (municipalities).

6.5.2.2 Fine ✓

The fine, deferred fine and spot fine are by far the most used form of penalization in respect of traffic offenders (South Africa, 1977:Sections 287 & 341). Relatively simple to administer fines produce cash profits for the traffic law enforcement organizations and the state. Table 6.1 reveals that in 498 (10,32%) cases, traffic offenders were allowed to pay fines and deferred fines, while 563 (11,67%) traffic offenders paid spot fines. As a deterrent its potential is undeniable. However, the present standard of living has made traffic offenders more reluctant than before to pay fines for traffic offences and thus deprives themselves of opportunities to buy assets such as houses, cars, television sets, etc. The fine is more or less under criticism for reason of the criteria set for fixing the amount of the fine and because of the means employed to ensure its enforcement.

It is claimed that the imposition of fines is in principle unrelated to the traffic offender's ability to pay and that while not serving as an efficient deterrent as regards wealthy traffic offenders, this involves an injustice to traffic offenders of meagre financial means (Gordon & Glaser, 1991:653). Moreover, the fact that a traffic offender is unable to pay a fine may lead to his imprisonment (Rabie & Strauss, 1985:158-159). It is therefore submitted that consideration ought to be given not only to the traffic offence but also to the traffic offender's financial

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circumstances. It is for this reason that in appropriate cases, traffic offenders have been accorded deferred fines (for the meaning of deferred fine, see paragraph 6.5.2.5).

6.5.2.3 Imprisonment

A sentence of imprisonment is given at the discretion of the court. For a discussion of discretion in penalizing offenders, see paragraph 6.5.1. It can be seen from table 6.1 that a total of 170 (3,52%) traffic offenders were penalized by either paying fines or serving terms of imprisonment. The following commentary highlights the important issues pertaining to imprisonment:

- (a) In principle, as far as possible, a first offender is not sentenced to imprisonment, though this is not a hard and fast rule (see paragraph 6.5.1).
- (b) The minimum period for imprisonment is four days except where the sentence is that the offender be detained until the court adjourns or rises (Redgment, 1990:161; Rabie & Strauss, 1985:139-140; Du Toit et al. 1991:28-20B). It may therefore not be imposed with another term of imprisonment, since detention until the rising of the court, is also imprisonment and the traffic offender is entitled to his immediate release at the rising of the court.
- (c) There is no maximum term of imprisonment.
- (d) Imprisonment normally ends on the day of expiration of the term imposed by the court.

However, correctional services legislation provides for the period to be shortened (remission of sentence) (Du Toit et al. 1991:28-17).

- (e) Imprisonment must be unaffected by misdirection.
- (f) Imprisonment should not be a form of penalization resorted to only when it is necessary to protect society against traffic offenders.
- (g) Youth is usually a factor against imprisonment (Du Toit et al. 1991:28-16 to 28-17).
- (h) Illness on the part of the traffic offender can also influence the decision against imprisonment.
- (i) The fact that the traffic offender is a breadwinner and has a responsibility to support his family, may also be a factor against imprisonment.
- (j) The nature of traffic offence is also relevant: it may be of such seriousness that the only adequate penalization is imprisonment.

6.5.2.4 Periodical imprisonment

In periodical imprisonment the term of imprisonment may vary from 100 hours to 2000 hours (South Africa, 1977:Section 285(1). This form of imprisonment is intended to make it possible for the prison sentence to be served in "instalments." Colloquially this is often referred to as "week-end" penalization. The researcher interviewed the judicial officers (Empangeni magistrate's court). The intention was to establish whether or not they often impose

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- * establishment of sufficient and appropriate facilities in our correctional institutions;
- * decentralization of facilities so that traffic offenders should serve periodical imprisonment in easily accessible correctional institutions;
- * proper examination and selection of traffic offenders to undergo periodical imprisonment, preferably traffic offenders who function reasonably normally in the community, with a permanent job and a family to support; and
- * proper correctional supervision of the traffic offender will contribute to a more efficient functioning system of periodical imprisonment (Du Toit et al. 1991:28-21 to 28-22; Redgment, 1990:162).

(a) periodical imprisonment is suitable for the offender who is not required to work during week-ends;

- 7 ✓
- (b) the offender's drinking habits constitute another consideration. If the traffic offender indulges in excessive drinking during week-ends, periodical imprisonment may be an appropriate sentence;
 - (c) periodical imprisonment may not be combined with other forms of penalization such as fines or whipping; and
 - (d) periodical imprisonment may not be imposed for a crime for which a minimum penalization has been prescribed.

Periodical imprisonment is highly positive in that the traffic offender is penalized without any disruption of his family life and since he is kept in the community there is no economic and labour loss. The Viljoen Commission (1976:131) gave the following opinion: "The shock of having to serve a sentence of periodical imprisonment often has a very beneficial effect on the offender. It satisfies the requirement of retribution, serves as an effective deterrent in that it usually has a very sanguine deterrent effect on the offender himself and serves as a telling deterrent to others. It also serves to protect the community because while in custody during the period the offender would be inclined to commit offences he is prevented from indulging in his inclinations."

6.5.2.5 Suspended sentence

A sentence may be suspended in terms of the Criminal Procedure Act (South Africa, 1977:Section 297). The difference between a suspended and a deferred sentence (such as deferred fines)

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is that in a suspended sentence the traffic offender is sentenced to compliance with specific conditions and in case of non-compliance he is liable to an alternative penalization of either a fine or imprisonment or both (in the alternative) which is imposed on him at the same time as the conditions; whereas in a deferred sentence the traffic offender is sentenced merely to compliance with certain conditions and in the case of non-compliance he is called upon to re-appear before the court for sentencing in the alternative. Table 6.1 reveals that 42 (0,87%) cases had their sentences suspended.

A sentence may be partially or wholly suspended (see Annexure B). The researcher observed that certain traffic offenders had their sentences wholly or partially suspended for a period not exceeding five years. Conditions connected with a suspended sentence include the following:

- (a) compensation;
- (b) rendering service to the injured person;
- (c) the rendering without remuneration of social services;
- (d) submission to training or treatment;
- (e) submission to control by a probation officer;
- (f) attendance at or living in a centre;

(g) good conduct; and

(h) any other matter (South Africa, 1977:Section 297(a)(i); Du Toit et al. 1991:28-45; Redgment, 1990:169-170; Rabie & Strauss, 1985:368-376). Conditions connected with a suspended sentence must:

- * be specific;
- * be reasonable;
- * be understood by the traffic offender; and
- * relate to the traffic offence.

It is evident from table 6.1 that the "other" forms of penalization category are accounted for in 95 (1,97%) cases.

6.5.3 Distribution of penalization

Of all the various sections of this research, the study of penalization of traffic offenders was the most important and interesting. The researcher deems it fit to present an analysis of the distribution of penalization according to traffic offences, sex, race, age, etc.

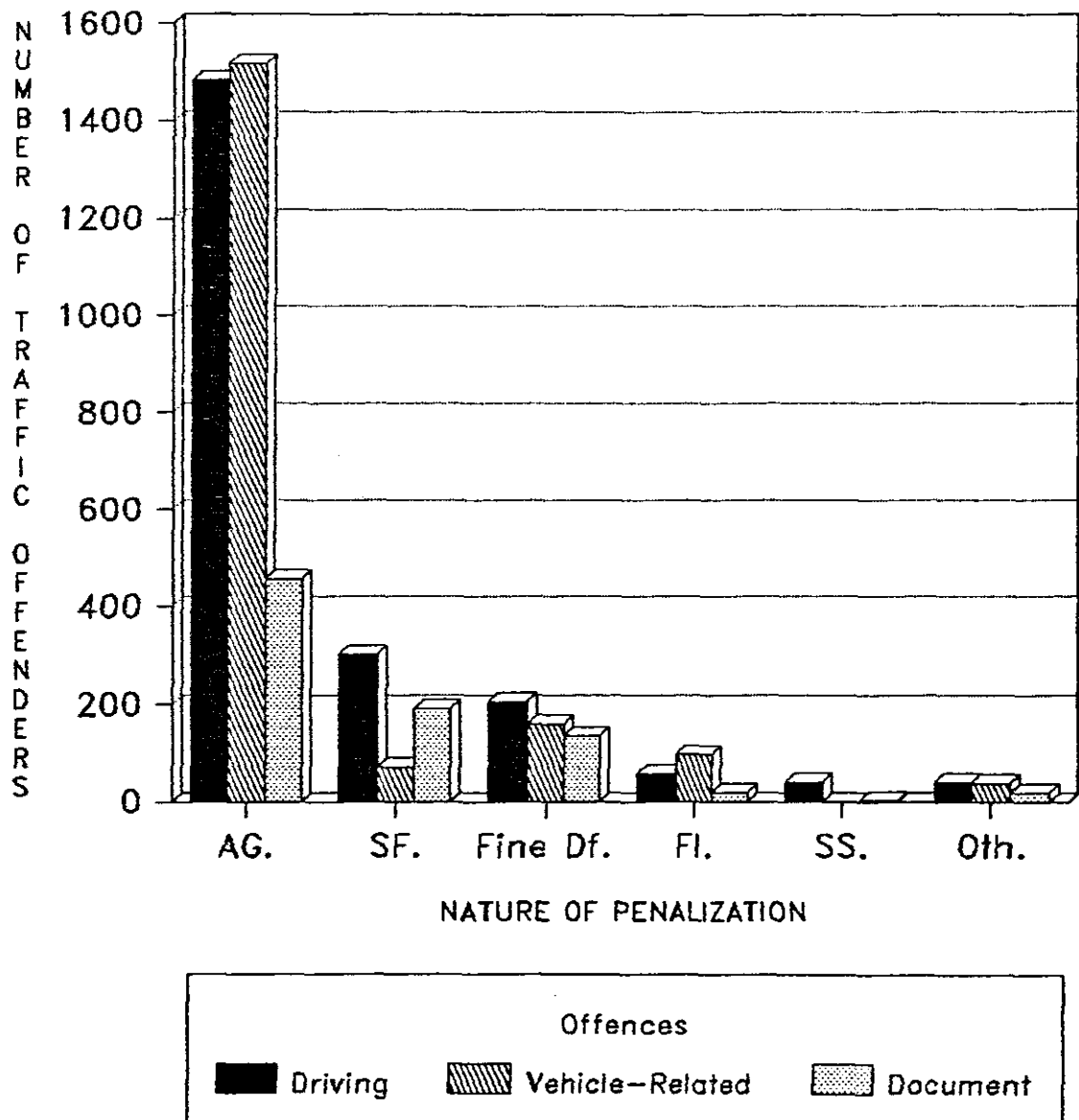
6.5.3.1 Distribution according to traffic offences

Table 6.2 presents the distribution of penalization according to the three types of traffic offences. Figure 6.2 renders a graphical distribution of the data contained in table 6.2.

TABLE 6.2 FREQUENCY DISTRIBUTION OF PENALIZATION
 ACCORDING TO TRAFFIC OFFENCES COMMITTED DURING
 THE PERIOD 01 JANUARY - 30 JUNE 1990

| | TYPE OF OFFENCE | | | | | | | |
|---------------------------|-----------------|--------|----------------------------|--------|---------------------|--------|-------|--------|
| NATURE OF PENALIZATION | DRIVING OFFENCE | | VEHICLE-RELATED OFFENCE | | DOCUMENT OFFENCE | | TOTAL | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| ADMISSION OF GUILT | 1483 | 69,82 | 1518 | 80,66 | 456 | 55,68 | 3457 | 71,65 |
| SPOT FINE | 301 | 14,17 | 71 | 3,77 | 191 | 23,32 | 563 | 11,67 |
| FINE, DEFERRED FINE | 205 | 9,65 | 159 | 8,45 | 134 | 16,36 | 498 | 10,32 |
| FINE OR IMPRISONMENT | 56 | 2,64 | 96 | 5,10 | 18 | 2,20 | 170 | 3,52 |
| SUSPENDED SENTENCE | 40 | 1,88 | - | - | 2 | 0,24 | 42 | 0,87 |
| OTHER | 39 | 1,84 | 38 | 2,02 | 18 | 2,20 | 95 | 1,97 |
| TOTAL | 2124 | 100,00 | 1882 | 100,00 | 819 | 100,00 | 4825 | 100,00 |

FIGURE 6.2
PENALIZATION ACCORDING TO
TRAFFIC OFFENCES



AG=Admission of Guilt Df=Deferred Fine
FI=Fine or Imprisonment SF=Spot Fine
SS=Suspended Sentence Oth.=Other

Table 6.2 shows that variant penalization in respect of driving offences was observed in 2124 cases, while penalization for committing vehicle-related offences occurred in 1882 instances. Document offence commission produced 819 instances of penalization (table 6.2).

Table 6.2 also reveals that an admission of guilt fine was paid in 1483 (69,82%) cases for committing driving offences, while 301 (14,17%) traffic offenders paid spot fines. Traffic offenders were allowed to pay fines and deferred fines in 205 (9,65%) cases. A total of 56 (2,64%) cases were penalized in the form of paying fines or serving terms of imprisonment. Forty (1,88%) traffic offenders had their sentences suspended, while 39 (1,84%) cases constituted the "other" forms of penalization.

A total of 1518 (80,66%) cases paid an admission of guilt fine for vehicle-related offence commission. Penalization in the form of fine or deferred fine is accounted for in 159 (8,45%) cases. Seventy-one (3,77%) traffic offenders paid spot fines, while 96 (5,10%) cases were sentenced to pay fines or to serve terms of imprisonment. Penalization in the "other" forms (table 6.2) is accounted for in 38(2,02%) of the total observed vehicle-related offences.

Further, table 6.2 reveals that the majority of traffic offenders who committed document offences paid an admission of guilt fine and these constituted 456 (55,68%) cases. A total of 191 (23,32%) traffic offenders paid spot fines, while 134 (16,36%) cases account for penalization in the form of paying fines and deferred fines. Eighteen (2,20%) cases were sentenced to pay fines or to serve terms of imprisonment. Two (0,24%) traffic offenders had their sentences suspended.

Other forms of penalization are accounted for in 18 (2,20%) of the total document offences. An overall picture of penalization is similar to table 6.1.

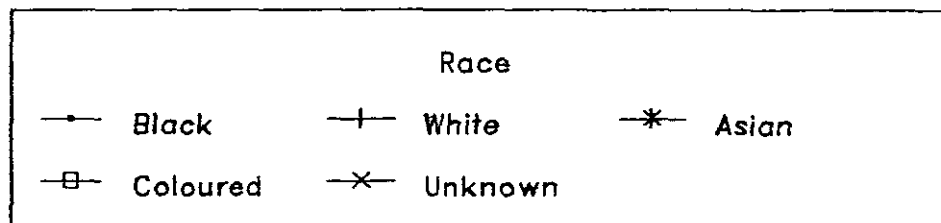
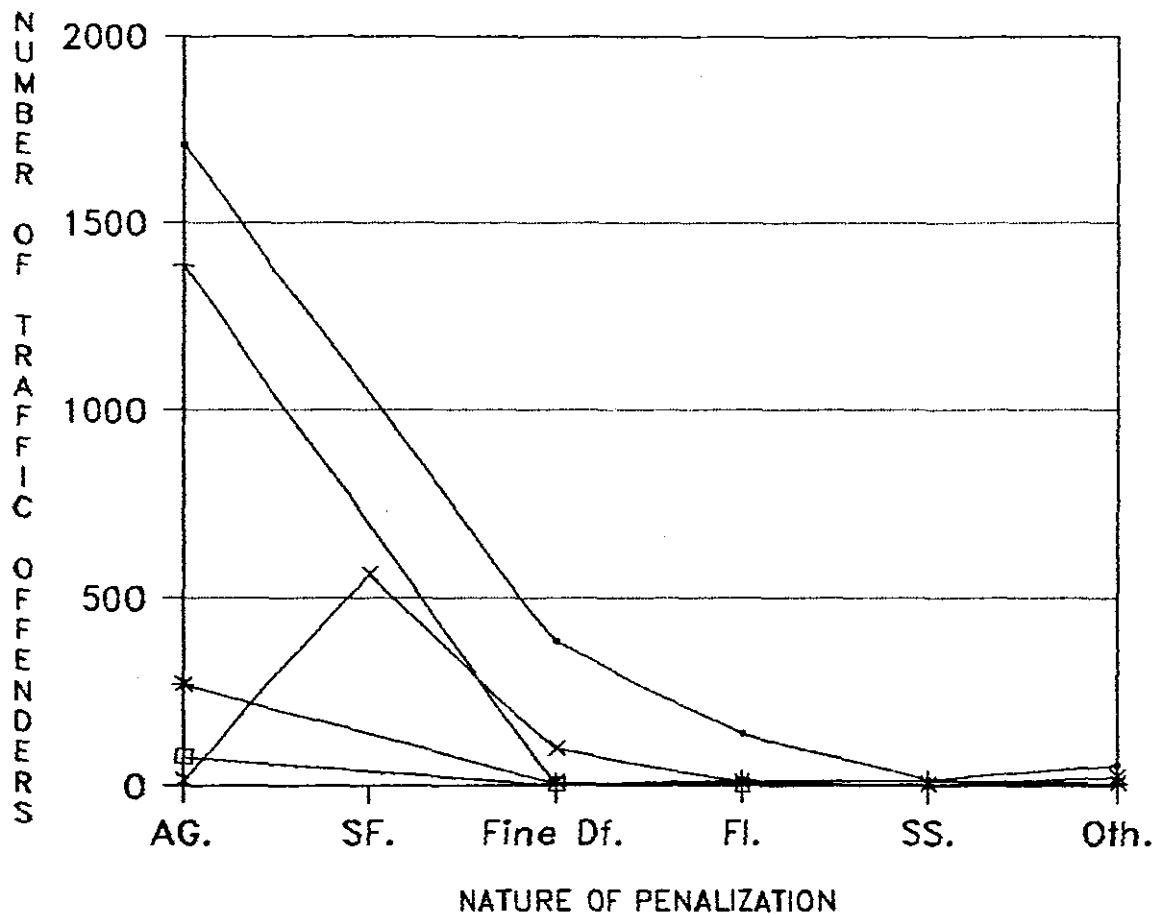
6.5.3.2 Racial distribution

Table 6.3 reflects the distribution of penalization of traffic offenders according to race. The same data is portrayed in figure 6.3.

TABLE 6.3 : FREQUENCY DISTRIBUTION OF PENALIZATION ACCORDING TO RACE FOR THE PERIOD 01 JANUARY TO 30 JUNE 1990

| NATURE OF PENALIZATION | RACE OF OFFENDER | | | | | | | | | | TOTAL | |
|---------------------------|------------------|--------|-------|--------|-------|--------|----------|--------|---------|--------|-------|--------|
| | BLACK | | WHITE | | ASIAN | | COLOURED | | UNKNOWN | | | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| ADMISSION OF GUILT | 1709 | 74,24 | 1389 | 97,00 | 269 | 90,27 | 76 | 93,83 | 14 | 1,97 | 3457 | 71,65 |
| SPOT FINE | - | - | - | - | - | - | - | - | 563 | 79,07 | 563 | 11,67 |
| FINE, DEFERRED FINE | 383 | 16,64 | 6 | 0,42 | 9 | 3,02 | 3 | 3,70 | 97 | 13,62 | 498 | 10,32 |
| FINE OR IMPRISONMENT | 137 | 5,95 | 14 | 0,98 | 7 | 2,35 | 2 | 2,47 | 10 | 1,41 | 170 | 3,52 |
| SUSPENDED SENTENCE | 18 | 0,78 | 16 | 1,11 | 5 | 1,68 | - | - | 3 | 0,42 | 42 | 0,87 |
| OTHER | 55 | 2,39 | 7 | 0,49 | 8 | 2,68 | - | - | 25 | 3,51 | 95 | 1,97 |
| TOTAL | 2302 | 100,00 | 1432 | 100,00 | 298 | 100,00 | 81 | 100,00 | 712 | 100,00 | 4825 | 100,00 |

FIGURE 6.3
PENALIZATION ACCORDING TO
RACE OF OFFENDERS



AG=Admission of Guilt Df=Deferred Fine
Fl=Fine or Imprisonment SF=Spot Fine
SS=Suspended Sentence Oth.=Other

Table 6.3 reveals that 2302 Black traffic offenders, 1432 White, 298 Asian and 81 Coloured offenders were subjected to various forms of penalization during the period under investigation. Closer scrutiny of the data contained in this table shows that the majority of Blacks paid an admission of guilt fine and they are accounted for in 1709 (74,24%) cases, while 383 (16,64%) cases paid fines and deferred fines. Penalization in the payment of fines or serving of terms of imprisonment was observed in 137 (5,95%) cases. Eighteen (0,78%) traffic offenders had their sentences suspended. The "other" category of penalization occurred in 55 (2,39%) cases. White traffic offenders paid an admission of guilt fine in 1389 (97%) observed cases. Six (0,42%) traffic offenders paid fines and deferred fines, while 14 (0,98%) constituted traffic offenders who were sentenced to pay fines or to serve terms of imprisonment. Suspended sentences were observed in 16 (1,11%) cases. Penalization in the "other" category occurred in 7 (0,49%) cases. Payment of an admission of guilt fine by Asians was observed in 269 (90,27%) cases, while payment of fines and deferred fines is accounted for in 9 (3,02%) cases. Penalization in the form of fine or imprisonment was observed in seven (2,35%) of the total cases. Five (1,68%) traffic offenders had their sentences suspended. There were only 7 (0,49%) cases in the "other" forms of penalization category. Coloured traffic offenders paid an admission of guilt fine in 76 (93,83%) observed cases. Payment of fines and deferred fines occurred in 3 (3,70%) cases, while 2 (2,47%) traffic offenders were sentenced to pay fines or to serve terms of imprisonment. An overall picture of penalization is the same as the one portrayed in table 6.1.

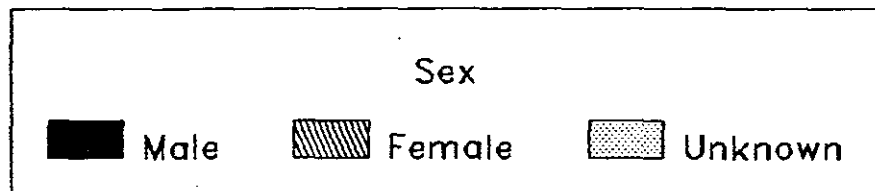
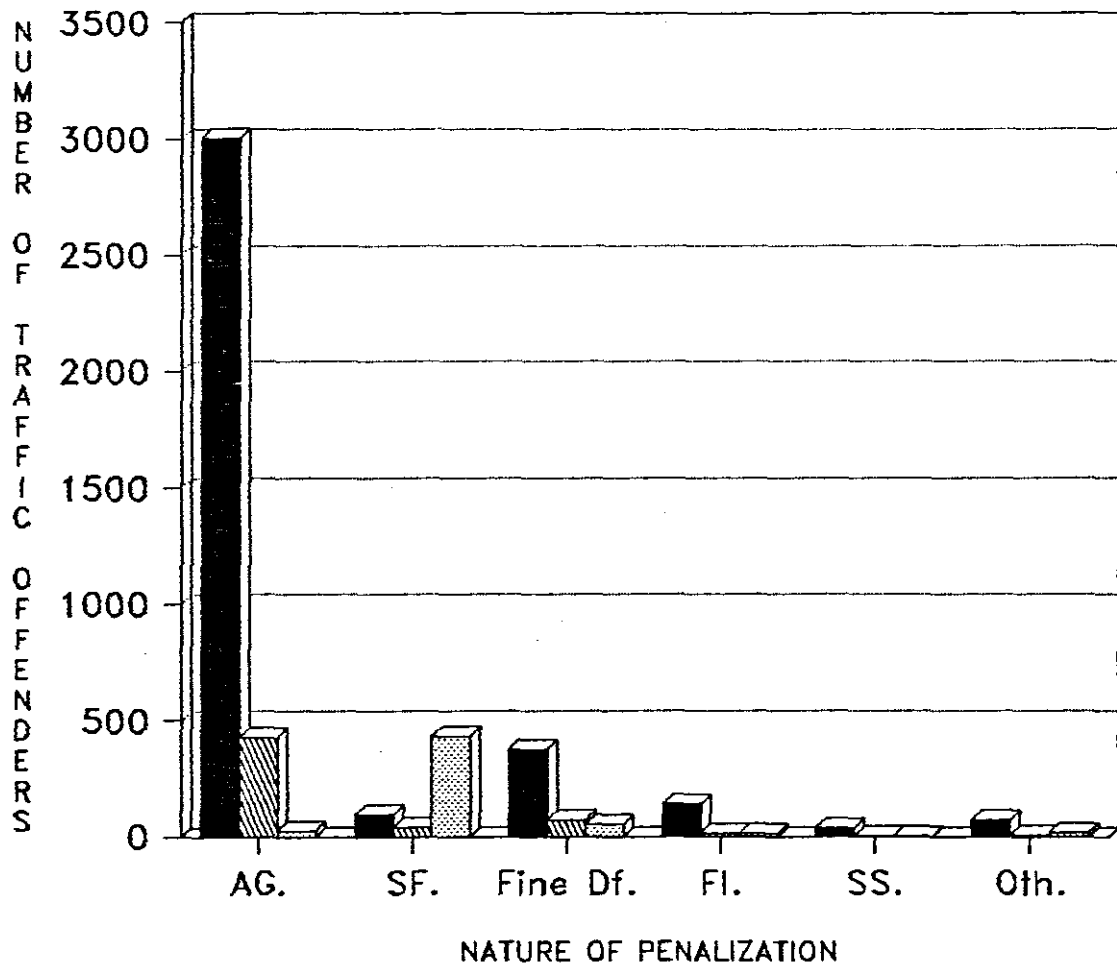
6.5.3.3 Distribution according to sex

Table 6.4 and Figure 6.4 present the distribution of penalization according to sex.

TABLE 6.4 : FREQUENCY DISTRIBUTION OF PENALIZATION ACCORDING TO SEX FOR THE PERIOD 01 JANUARY TO 30 JUNE 1990

| NATURE OF PENALIZATION | SEX OF OFFENDER | | | | | | TOTAL | |
|---------------------------|-----------------|--------|--------|--------|---------|--------|-------|--------|
| | MALE | | FEMALE | | UNKNOWN | | | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| ADMISSION OF GUILT | 3004 | 80,80 | 429 | 76,33 | 24 | 4,40 | 3457 | 71,65 |
| SPOT FINE | 92 | 2,47 | 41 | 7,30 | 430 | 78,90 | 563 | 11,67 |
| FINE, DEFERRED FINE | 374 | 10,06 | 71 | 12,63 | 53 | 9,72 | 498 | 10,32 |
| FINE OR IMPRISONMENT | 140 | 3,77 | 15 | 2,67 | 15 | 2,75 | 170 | 3,52 |
| SUSPENDED SENTENCE | 37 | 1,00 | 1 | 0,18 | 4 | 0,73 | 42 | 0,87 |
| OTHER | 71 | 1,90 | 5 | 0,89 | 19 | 3,50 | 95 | 1,97 |
| TOTAL | 3718 | 100,00 | 562 | 100,00 | 545 | 100,00 | 4825 | 100,00 |

FIGURE 6.4
PENALIZATION ACCORDING TO
SEX OF OFFENDERS



AG=Admission of Guilt Df=Deferred Fine
 FI=Fine or Imprisonment SF=Spot Fine
 SS=Suspended Sentence Oth.=Other

It can be seen that 3718 male traffic offenders were subjected to various forms of penalization. A total of 562 female traffic offenders were variantly penalized. Payment of an admission of guilt fine by male traffic offenders was observed in 3004 (80,80%) cases, while spot fines were paid by 92 (2,47%) offenders. A total of 374 (10,06%) traffic offenders paid fines and deferred fines. Penalization in the form of fine or imprisonment occurred in 140 (3,77%) cases. Thirty-seven (1,00%) traffic offenders had their sentences suspended, while 71 (1,90%) represented cases in the "other" forms of penalization category. Female traffic offenders were responsible for payment of an admission of guilt fine in 429 (76,33%) cases. Forty-One (7,30%) traffic offenders paid spot fines, while payment of fines and deferred fines was observed in 71 (12,63%) cases. Fine or imprisonment occurred in 15 (2,67%) cases. One (0,18%) female traffic offender had her sentence suspended. The "other" forms of penalization were also meted out to female traffic offenders and these are accounted for in 5 (0,89%) cases. It can be seen that an overall picture of penalization is similar to that contained in table 6.1.

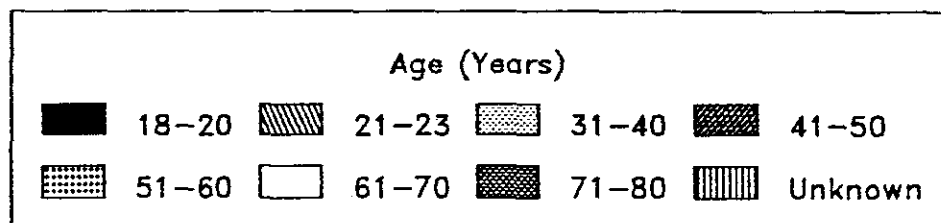
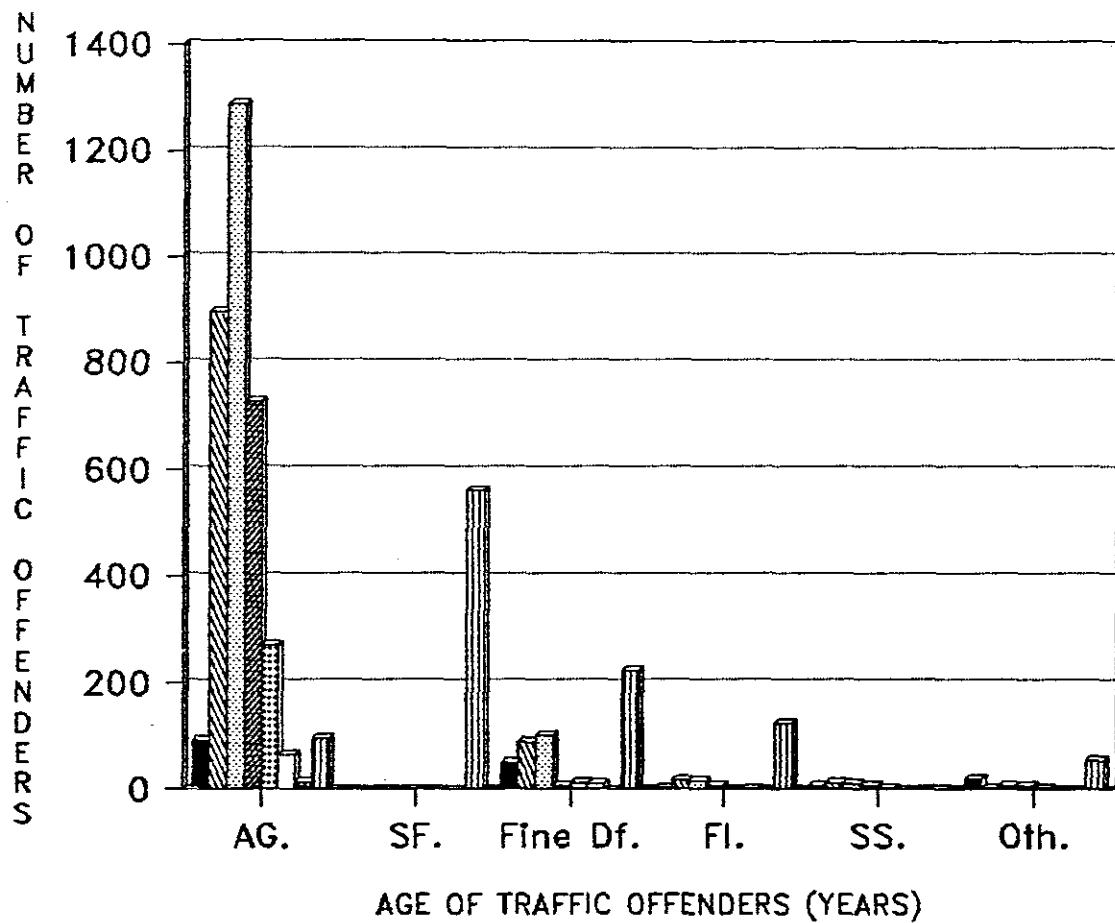
6.5.3.4 Distribution according to age

Table 6.5 reflects the distribution of penalization of traffic offenders according to age and figure 6.5 portrays the same data in graphical form.

TABLE 6.5 : FREQUENCY DISTRIBUTION OF PENALIZATION ACCORDING TO AGE FOR THE PERIOD 01 JANUARY TO 30 JUNE 1990

| NATURE OF PENALIZATION | AGE OF OFFENDER | | | | | | | | | | | | | | | | TOTAL | |
|---------------------------|------------------|--------|------------------|--------|------------------|--------|------------------|--------|------------------|--------|------------------|--------|------------------|--------|---------|--------|-------|--------|
| | 18 - 20 YEARS | | 21 - 30 YEARS | | 31 - 40 YEARS | | 41 - 50 YEARS | | 51 - 60 YEARS | | 61 - 70 YEARS | | 71 - 80 YEARS | | UNKNOWN | | | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| ADMISSION OF GUILT | 94 | 54,34 | 898 | 87,95 | 1288 | 90,39 | 729 | 96,06 | 271 | 93,77 | 66 | 84,62 | 14 | 100,00 | 97 | 9,10 | 3457 | 71,65 |
| SPOT FINE | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 563 | 52,81 | 563 | 11,67 |
| FINE, DEFERRED FINE | 50 | 28,90 | 91 | 8,91 | 102 | 7,16 | 8 | 1,05 | 12 | 4,15 | 11 | 14,10 | - | - | 224 | 21,01 | 498 | 10,32 |
| FINE OR IMPRISONMENT | 3 | 1,73 | 18 | 1,76 | 16 | 1,12 | 7 | 0,92 | - | - | 1 | 1,28 | - | - | 125 | 11,73 | 170 | 3,52 |
| SUSPENDED SENTENCE | 7 | 4,05 | 12 | 1,18 | 11 | 0,77 | 8 | 1,05 | 3 | 1,04 | - | - | - | - | 1 | 0,10 | 42 | 0,87 |
| OTHER | 19 | 10,98 | 2 | 0,20 | 8 | 0,56 | 7 | 0,92 | 3 | 1,04 | - | - | - | - | 56 | 5,25 | 95 | 1,97 |
| TOTAL | 173 | 100,00 | 1021 | 100,00 | 1425 | 100,00 | 759 | 100,00 | 289 | 100,00 | 78 | 100,00 | 14 | 100,00 | 1066 | 100,00 | 4825 | 100,00 |

FIGURE 6.5
PENALIZATION ACCORDING TO
AGE OF OFFENDERS



AG=Admission of Guilt Df=Deferred Fine
 Fl=Fine or Imprisonment SF=Spot Fine
 SS=Suspended Sentence Oth.=Other

✓

Table 6.5 reveals that traffic offenders in the age group 18-20 years were subjected to different forms of penalization and this is accounted for in 173 cases, while penalization of offenders in the age group 21-30 years was observed in 1021 instances. The age category 31-40 years produced 1425 various forms of penalization. A total of 759 different types of penalization was observed in respect of the age group 41 - 50 years. Variant penalization in respect of traffic offenders aged between 51 and 60 years is accounted for in 289 cases. Seventy-eight traffic offenders of the age group 61 - 70 years were subjected to various forms of penalization. Only one form of penalization (an admission of guilt fine) was applicable in respect of traffic offenders aged between and 71 and 80 years.

Traffic offenders aged between 18 and 20 years paid an admission of guilt fine and this was observed in 94 (54,34%) cases. Payment of fines and deferred fines occurred in 50 (28,90%) cases, while three (1,73%) young offenders were sentenced to pay fines or to serve terms of imprisonment. Suspended sentences are accounted for in seven (4,05%) cases. The "other" penalization forms were observed in 19 (10,98%) cases. Payment of an admission of guilt fine by traffic offenders of the age group 21 - 30 years occurred in 898 (87,95%) cases, while 91 (8,91%) traffic offenders paid fines and deferred fines. Eighteen (1,76%) traffic offenders were required to pay fines or to serve prison sentences. Suspended sentences were observed in 12 (1,18%) traffic cases. The "other" types of penalization were applied to two (0,20%) traffic offenders. Traffic offenders with ages ranging between 31 and 40 years were in the majority with regard to the payment of an admission of guilt fine and this was observed in 1288 (90,39%) cases. Payment of fines and

deferred fines occurred in 102 (7,16%) cases. Sixteen (1,12%) traffic offenders were sentenced to pay fines or to serve prison sentences; while suspended sentences were observed in 11 (0,77%) cases. The "other" forms of penalization were observed in 8 (0,56%) cases.

The age group 41-50 years paid an admission of guilt fine in 729 (96,06%) cases. Payment of fines and deferred fines occurred in 8 (1,05%) cases, while 8 (1,05%) traffic offenders had their sentences suspended. Seven (0,92%) traffic offenders were sentenced to pay fines or to serve terms of imprisonment. Penalization in the "other" category (table 6.5) produced 7 (0,92%) cases. A total of 271 (93,77%) cases were observed in respect of payment of an admission of guilt fine by traffic offenders aged between 51 and 60 years. Payment of fines and deferred fines occurred in 12 (4,15%) cases. Three (1,04%) traffic offenders had their sentences suspended, while the "other" forms of penalization are accounted for in 3 (1,04%) cases. The age group 61 - 70 years produced 66 (84,62%) cases in respect of payment of an admission of guilt fine, while 11 (14,10%) represented the cases where traffic offenders paid fines and deferred fines. Only one (1,28%) traffic offender was sentenced to pay fine or to serve a prison sentence. A total of fourteen (100%) cases was observed in respect of payment of an admission of guilt fine by traffic offenders aged between 71 and 80 years.

6.5.3.5 Occupational distribution

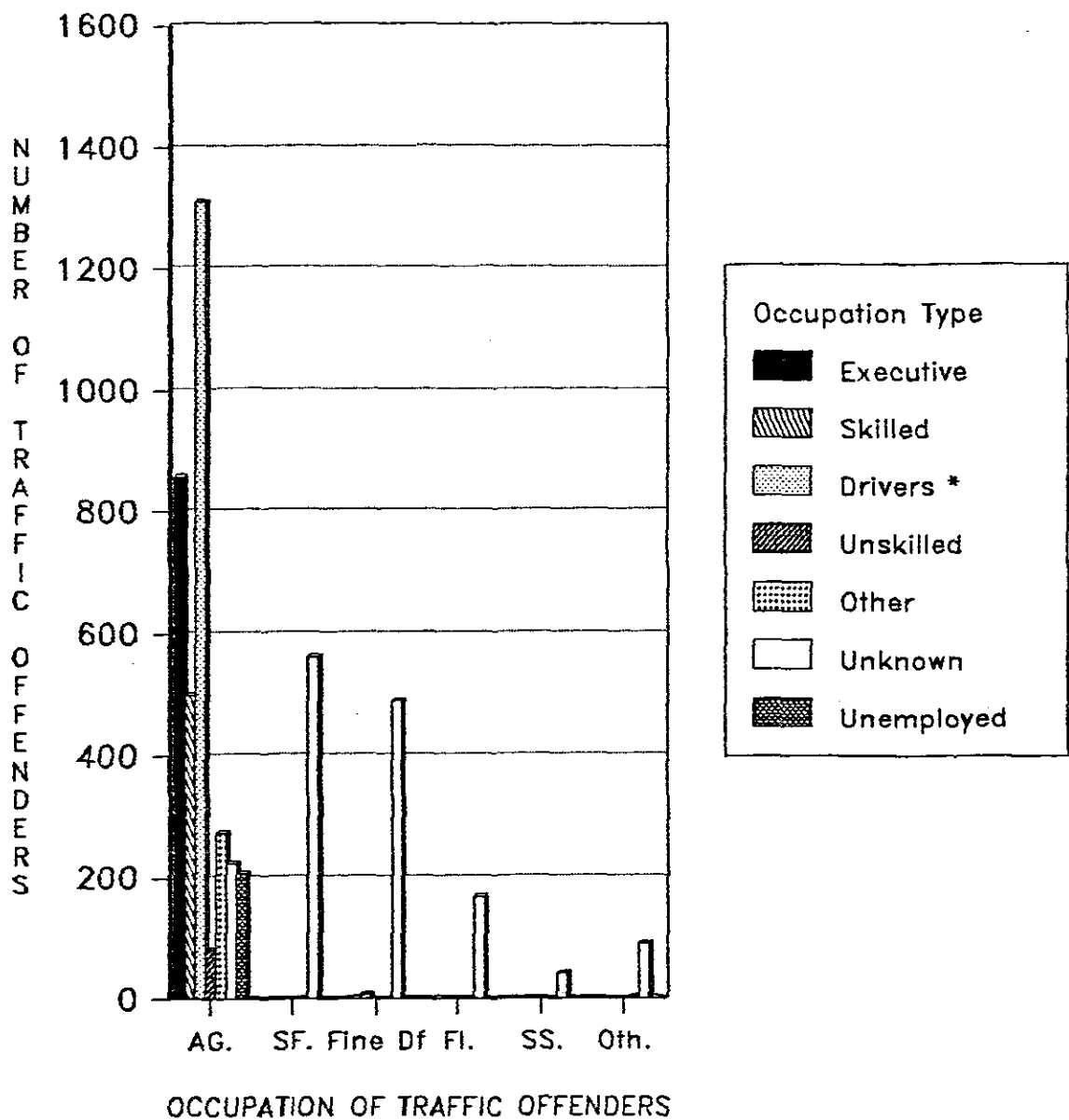
Table 6.6 presents the distribution of penalization of traffic offenders according to occupation. Similarly, figure 6.6 conveniently portrays the same data.

TABLE 6.6 : FREQUENCY DISTRIBUTION OF PENALIZATION ACCORDING TO OCCUPATION FOR THE PERIOD 01 JANUARY TO 30 JUNE 1990

| NATURE OF PENALIZATION | OCCUPATION OF OFFENDER | | | | | | | | | | | | | | TOTAL | |
|---------------------------|--|--------|---------|--------|-------------------------|--------|-----------|--------|-------|--------|------------|--------|---------|--------|-------|--------|
| | PROFESSIONAL, EXECUTIVE & MANAGERIAL | | SKILLED | | PROFESSIONAL DRIVERS | | UNSKILLED | | OTHER | | UNEMPLOYED | | UNKNOWN | | | |
| | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) | (N) | (%) |
| ADMISSION OF GUILT | 858 | 100,00 | 500 | 99,60 | 1311 | 99,47 | 82 | 100,00 | 274 | 98,92 | 208 | 99,52 | 224 | 14,19 | 3457 | 71,65 |
| SPOT FINE | - | - | - | - | - | - | - | - | - | - | - | - | 563 | 35,66 | 563 | 11,67 |
| FINE, DEFERRED FINE | - | - | 1 | 0,20 | 7 | 0,53 | - | - | - | - | - | - | 490 | 31,03 | 498 | 10,32 |
| FINE OR IMPRISONMENT | - | - | 1 | 0,20 | - | - | - | - | - | - | - | - | 169 | 10,70 | 170 | 3,52 |
| SUSPENDED SENTENCE | - | - | - | - | - | - | - | - | - | - | - | - | 42 | 2,66 | 42 | 0,87 |
| OTHER | - | - | - | - | - | - | - | - | 3 | 1,02 | 1 | 0,48 | 91 | 5,76 | 95 | 1,97 |
| TOTAL | 858 | 100,00 | 502 | 100,00 | 1318 | 100,00 | 82 | 100,00 | 277 | 100,00 | 209 | 100,00 | 1579 | 100,00 | 4825 | 100,00 |

FIGURE 6.6

PENALIZATION ACCORDING TO OCCUPATION OF OFFENDERS



AG=Admission of Guilt Df=Deferred Fine
 Fl=Fine or Imprisonment SF=Spot Fine
 SS=Suspended Sentence Oth.=Other

* Drivers = Professional Drivers

Table 6.6 reveals that a total of 858 traffic offenders in the professional, executive and managerial occupation category paid an admission of guilt fine, while 502 skilled traffic offenders occupation category were subjected to various forms of penalization. Professional drivers were variantly penalized and this is accounted for in 1318 cases. Eighty-two traffic offenders in the unskilled category paid an admission of guilt fine. A total of 277 traffic offenders in the "other" occupation category were subjected to diverse forms of penalization. A total of 209 instances of variant penalization was observed in respect of traffic offenders who were unemployed.

Traffic offenders in the professional, executive and managerial occupation category paid an admission of guilt fine in 858 (100%) cases, while those with skilled occupations paid an admission of guilt fine in 500 (99,60%) observed cases. Only one (0,20%) traffic offender was sentenced to fine or imprisonment. Payment of fine and deferred fine was observed in respect of one (0,20%) traffic offender. A total of 1311 (99,47%) professional drivers paid an admission of guilt fine, while payment of fines and deferred fines is accounted for in seven (0,53%) cases. Traffic offenders with unskilled occupations were responsible for the payment of an admission of guilt fine in 82 (100%) observed cases. Traffic offenders in the "other" occupation category paid an admission of guilt fine in 274 (98,92%) cases. For the various types of "other" occupations see chapter 4, paragraph 4.9. The "other" forms of penalization in respect of traffic offenders with unskilled occupations were meted out in three (1,08%) cases. The unemployed traffic offenders paid an admission of guilt fine in 208 (99,52%) cases, while the "other" form(s) of penalization was (were) observed in respect of one (0,48%)

traffic offender. An overall picture of penalization reflected in table 6.6 is similar to the one contained in table 6.1.

6.5.3.6 Distribution according to amount paid

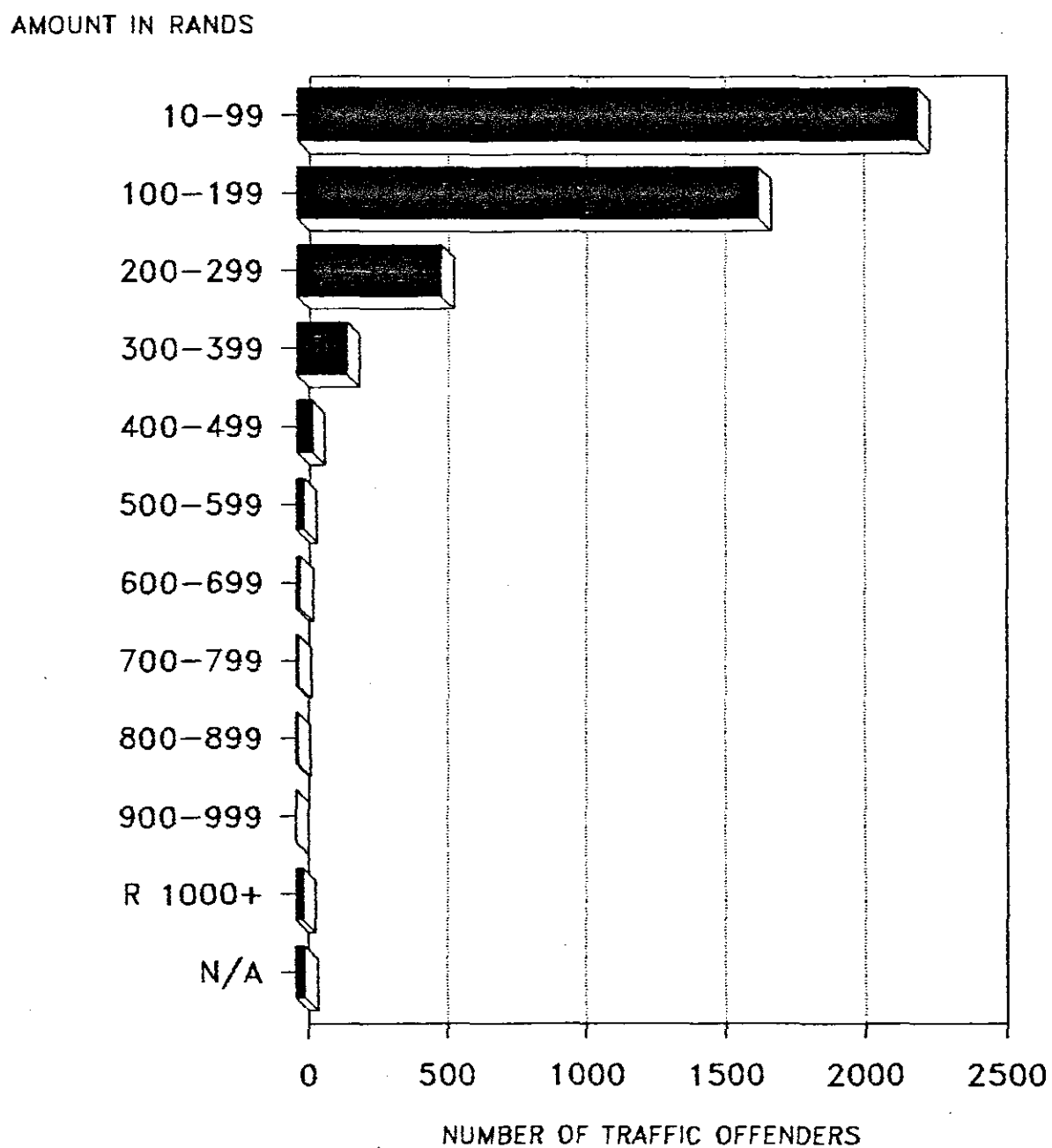
Table 6.7 renders the distribution of penalization according to amounts paid in respect of fines, admission of guilt fines, deferred fines and spot fines.

Figures 6.7 and 6.8 depict data contained in this table in graphical manner.

TABLE 6.7 FREQUENCY DISTRIBUTION OF PENALIZATION
 ACCORDING TO AMOUNT PAID FOR THE PERIOD 01
 JANUARY - 30 JUNE 1990

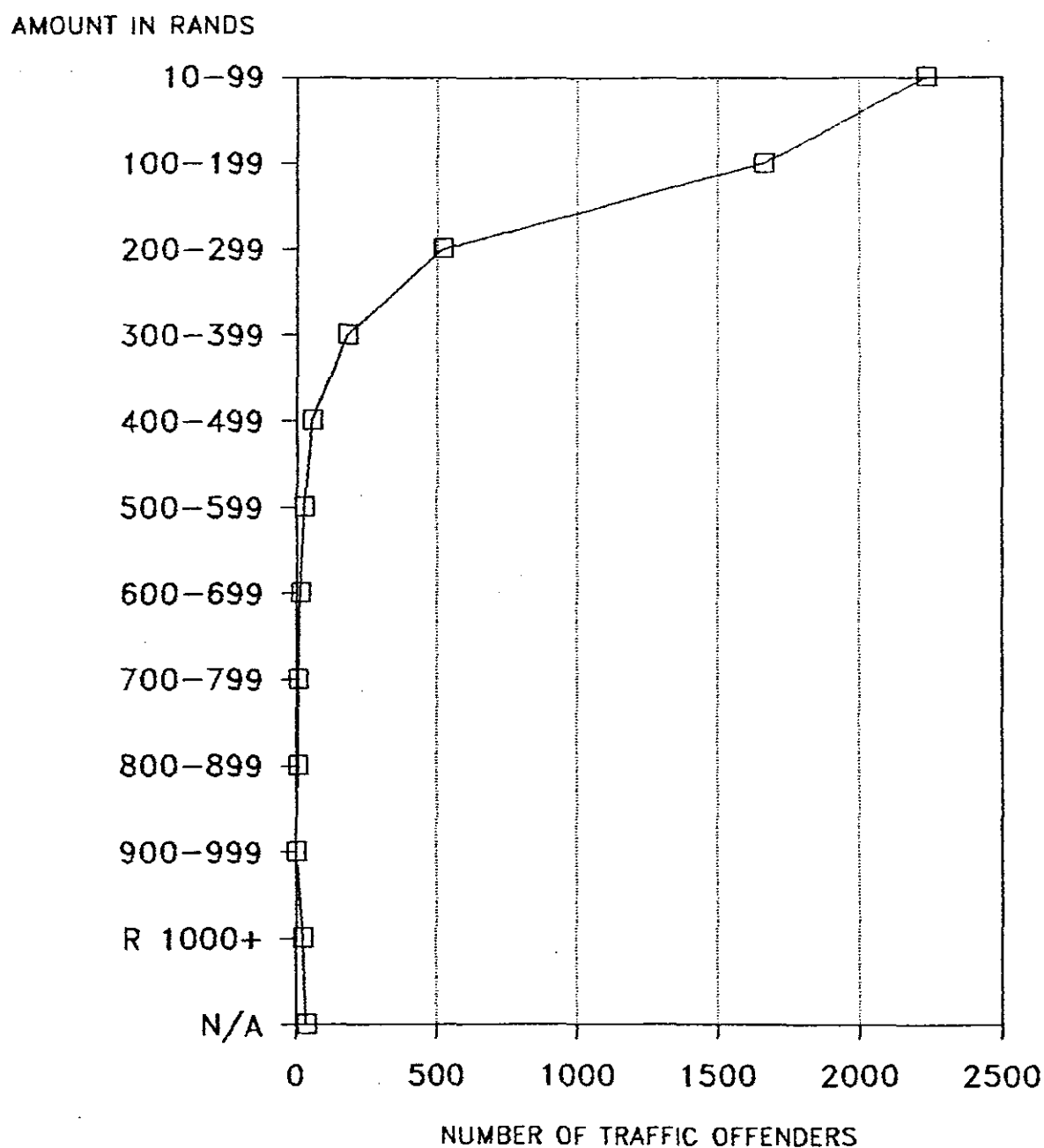
| AMOUNT PAID | FREQUENCY | |
|-----------------|-----------|--------|
| | (N) | (%) |
| R10 - R99 | 2235 | 46,85 |
| R100 - R199 | 1665 | 34,90 |
| R200 - R299 | 519 | 10,88 |
| R300 - R399 | 179 | 3,75 |
| R400 - R499 | 56 | 1,17 |
| R500 - R599 | 28 | 0,59 |
| R600 - R699 | 14 | 0,29 |
| R700 - R799 | 7 | 0,15 |
| R800 - R899 | 6 | 0,13 |
| R900 - R999 | 1 | 0,02 |
| MORE THAN R1000 | 26 | 0,54 |
| NOT APPLICABLE | 35 | 0,73 |
| TOTAL | 4771 | 100,00 |

FIGURE 6.7
PENALIZATION ACCORDING TO
AMOUNT PAID



N/A=Not Applicable

FIGURE 6.8
PENALIZATION ACCORDING TO
AMOUNT PAID



N/A=Not Applicable

Table 6.7 reveals that the majority of traffic offenders paid amounts ranging between R10 and R99 and this was observed in 2235 (46,85%) cases. A total of 1665 (34,90%) traffic offenders paid amounts between R100 and R199, while the category R200 - R299 produced 519 (10,88%) cases. It can be seen from table 6.7 that 179 (3,79%) traffic offenders paid amounts between R300 and R399-00. The category R400 - R499 produced 56 (1,17%) traffic offenders, while payment of amounts ranging from R500 to R599 is accounted for in 28 (0,59%) cases. Fourteen (0,29%) traffic offenders paid amounts between R600 and R699-00. Amounts paid in respect of the category R700 - R799 were observed in seven (0,15%) cases, while six (0,13%) traffic offenders paid amounts ranging from R800 to R899-00. Only one (0,02%) traffic offender was observed in the category between R900 and R999-00. Twenty-six (0,54%) traffic offenders paid more than R1000, while in 35 (0,73%) payment of any monies was not applicable.

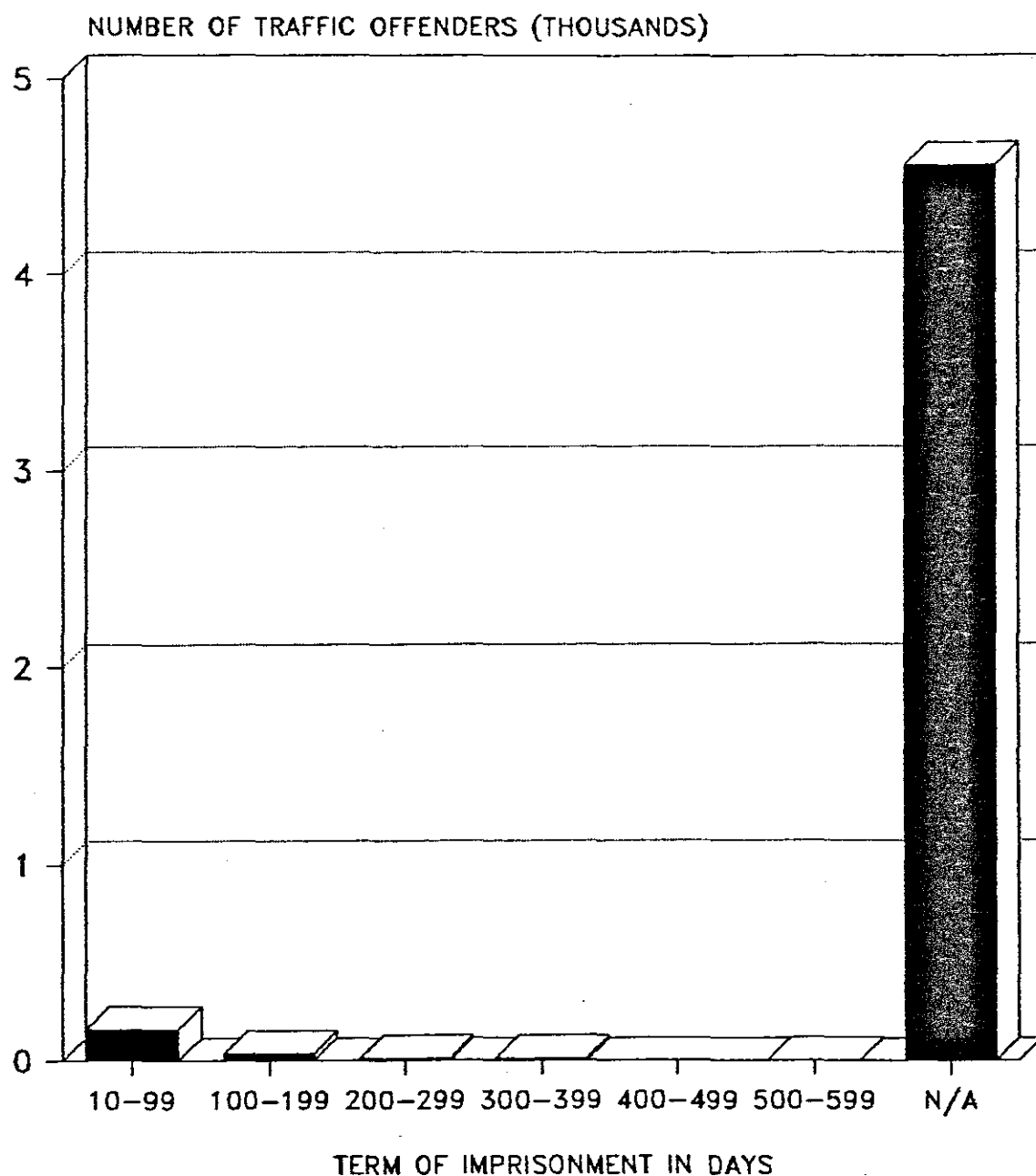
6.5.3.7 Distribution according to terms of imprisonment

Table 6.8 presents the distribution of the terms of imprisonment. Likewise, figure 6.9 portrays data contained in this table.

TABLE 6.8 FREQUENCY DISTRIBUTION OF PENALIZATION ACCORDING TO
TERMS OF IMPRISONMENT FOR THE PERIOD 01 JANUARY
- 30 JUNE 1990

| TERM OF IMPRISONMENT | FREQUENCY | |
|----------------------|-----------|--------|
| | (N) | (%) |
| 10 - 99 DAYS | 157 | 3,30 |
| 100 - 199 DAYS | 35 | 0,73 |
| 200 - 299 DAYS | 10 | 0,21 |
| 300 - 399 DAYS | 10 | 0,21 |
| 400 - 499 DAYS | - | - |
| 500 - 599 DAYS | 2 | 0,04 |
| NOT APPLICABLE | 4557 | 95,51 |
| TOTAL | 4771 | 100,00 |

FIGURE 6.9
PENALIZATION ACCORDING TO
TERM OF IMPRISONMENT



N/A=Not Applicable

Term of imprisonment ranging from 10 to 99 days produced 157 (3,30%) traffic offenders. Thirty-five (0,73%) traffic offenders were sentenced to terms of imprisonment between 100 and 199 days. Table 6.8 also reveals that ten (0,21%) traffic offenders were sentenced to terms of imprisonment ranging from 200 to 299 days and 10 (0,21%) offenders were sentenced to terms of imprisonment between 300 and 399 days. Only two (0,04%) traffic offenders had terms of imprisonment ranging from 500 to 599 days. In 4557 (95,51%) traffic cases terms of imprisonment were not applicable.

6.5.3.8 Court appearances

Failure to pay an admission of guilt fine implies court appearance.

Table 6.9 presents the distribution of 4771 traffic offenders according to appearances before the court. The same data is depicted in figures 6.10. and 6.11.

TABLE 6.9 FREQUENCY DISTRIBUTION OF TRAFFIC OFFENDERS
 ACCORDING TO COURT APPEARANCES FOR THE PERIOD
 01 JANUARY - 30 JUNE 1990

| COURT OF APPEARANCE | FREQUENCY | |
|------------------------------|-----------|--------|
| | (N) | (%) |
| EMPANGENI MAGISTRATE'S COURT | 730 | 15,30 |
| KWAMBONAMBI PERIODIC COURT | 12 | 0,25 |
| NON-APPEARANCES | 4029 | 84,45 |
| TOTAL | 4771 | 100,00 |

FIGURE 6.10
TRAFFIC OFFENDERS ACCORDING TO
COURT APPEARANCES

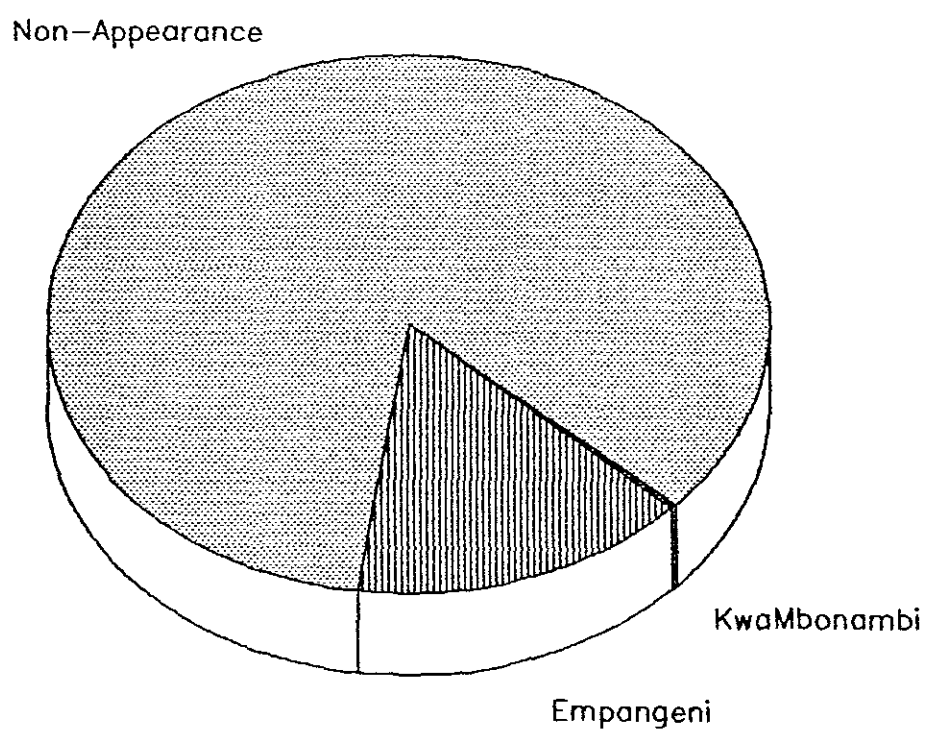
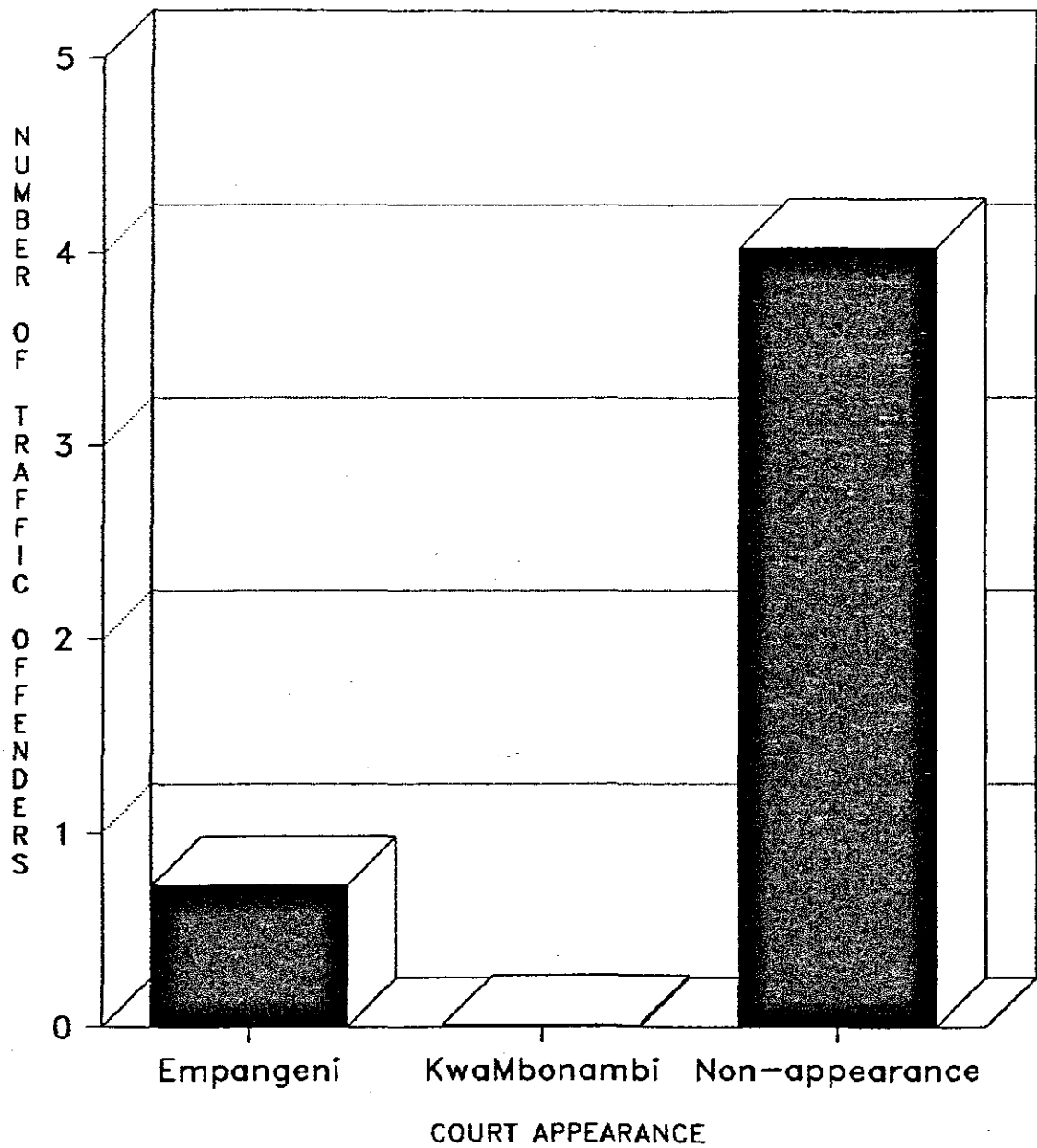


FIGURE 6.11
TRAFFIC OFFENDERS ACCORDING
TO COURT APPEARANCES



Y axis in thousands of traffic offenders

It is evident from table 6.9 that the majority of traffic offenders did not appear in court and these non-appearances are accounted for in 4029 (84,45%) of the total observed cases. A total of 730 (15,30%) traffic offenders appeared for trial in Empangeni magistrate's court, while 12 (0,25%) traffic offenders appeared in KwaMbonambi periodic court.

6.5.4 Disparity in penalizing traffic offenders

Disparity in penalization is difficult to define and more difficult to measure. Sentencing disparity simply means inequality or discrepancy or differential or variations in penalization (Reid, 1976:418; Waldron, 1980:262; Hood, 1972:125). Burchell et al. (1983:81) state: "But there is at least one respect in which inequality of sentences is considered justifiable: the Appellate Division has held that in assessing what punishment is needed to deter others from committing an offence it is proper for a court to have regard to the prevalence of that offence in that district. It follows that even if X and Z, two robbers, have equal moral guilt, it may be justifiable to give X a more severe sentence than Z if robbery is rife in the district in which X commits his crime..."

Certain aspects and issues may explain why traffic offenders are not uniformly penalized and are also dealt with rather differently from other types of offenders. The main difficulty in presenting the sentencing disparity is to decide what constitutes substantial variation (Karmen, 1990:198). The problem partly involves value judgements. For instance, people may quite justifiably disagree on whether the difference between a R100 and a R300 fine is substantial. It is also a problem inherent in the methods which have been used. It is appropriate to consider whether judicial

officers are consistently relatively severe in their sentencing (Hood, 1972:136-137). The following may be asked: Do judicial officers who impose higher than average fines for drunken driving also consider higher than average fines for other traffic offences? It is for this reason that one may hypothesize that judicial officers are generally relatively severe or relatively lenient in the sentences they impose. Hood (1972:140-141) opines: "Obviously a magistrate's background has an influence on the sentence he passes, but from this analysis it is impossible to ascribe any particular weight to the importance of any single attribute or groups of related attributes over all kinds of case." The relationship between the perception of the seriousness of traffic offences and severity of the penalization imposed is a very complex one to understand. What makes it difficult is that a sentence, for example a fine, may be very heavy which illustrates a serious traffic offence whilst it is not actually so. Another factor that could play a vital role - leading to sentence disparities - is the question of previous convictions (SAP69's) in cases of serious traffic offences. But this consideration does not hold for minor traffic offences. It is for this reason that prompted Hood (1972:141) to state: "There is, then, general support for an explanation of sentencing which sees differences in the way magistrates perceive and categorize offences as an important factor in producing disparate penalties." The variation in the perception of the seriousness of traffic offences is of importance, but it is inappropriate to generalize about its influence as it is the most important variable affecting the decision on which punishment to impose.

Discrepancies in penalizing traffic offenders occur because sentencing is highly subjective and judicial officers are human, and therefore prone to err according to their biases

(Waldron, 1980:262). There is a tendency to conclude that disparity in penalization is due to the more observable demographic variables such as race, sex, age, etc. It should be noted that this is not to deny that such disparity exists but simply to note the difficulty of getting empirical evidence of the reasons. Reid (1976:418) opines: "It is, however, extremely important to realize that some degree of disparity must exist if there is to be a system of individualized treatment." The following factors should be considered in an analysis of differential penalization:

- (a) quality of traffic law enforcement: it varies because of resources, salaries, morale of the local authority's traffic department;
- (b) population density;
- (c) ratio of traffic officers to the population; and
- (d) type of training received by traffic officers.

This is not to suggest that differential penalization in the traffic justice system does not reflect bias and prejudices because of age, sex, race or socio-economic status.

A number of personal characteristics of judicial officers may also feature in variant penalization. The age of both the judicial officer and the traffic offender may have some effect (Toch, 1961:127). Youthful traffic offenders are more likely to be treated with more leniency than the older traffic offenders. A career on the bench has its specific bearing on sentencing disparity (Hood, 1972:138). A newly appointed magistrate may be inclined to view his rights and duties differently from a more experienced magistrate. In contrast

to a more experienced magistrate, the younger magistrate may be very eager to make his "mark" (Toch, 1961:127). A judicial officer's socio-economic background may also be of importance. It is possible that a judicial officer whose father was a successful attorney or member with a high status value may retain the conservative attitude of his father's profession. The contrary may, however, also be the case. Toch (1961:129) opines: "One judge who is the son of a conservative father may be relatively radical, whereas a judge who is the son of radical may be relatively conservative on the bench, although both men are reacting to their fathers' backgrounds. This kind of inconsistency between social class background and judicial attainment may have resulted in some unusual decisions and opinions." The kind of legal practice in which the magistrate engaged before his appointment undoubtedly has some relationship to the penalization of traffic offenders. As a result, some judicial officers may become extremely harsh whereas others may be relatively lenient (Toch, 1961:129-130).

The researcher is of the opinion that disparities in penalizing traffic offenders in the magisterial district of Lower Umfolozi are due to lack of discussion about the principles which should be used in deciding what weight should be given to various aggravating circumstances in respect of the ordinary traffic offences. The danger is that attempts to achieve uniformity in penalization through legislation, scales or more informal methods (such as the steady influence of the clerk of the court, public prosecutors and court interpreters) may well inhibit change. One of the prices of uniformity is stagnation, and it is certainly not clear that the courts are so correct in their solution to penalization that they can afford a standard approach rather than pursuing a more dynamic sentencing policy. This implies that it would

be less uniform but perhaps more in line with a more modern philosophy based on individualized penalization of traffic offenders.

The penalization procedure as it is presently being applied, allows the judicial officer, within the boundaries of certain minimum - maximum sentences to decide on punishment which he regards appropriate; although there is a fair degree of congruency in sentencing in South Africa, it is also true that should the traffic offender by any chance have been tried by another court, penalization could have differed from the actual sentence. Sentencing, therefore, remains a random procedure due to absence of guiding scientific pre-sentence investigations. The factual situation is that scrupulous attention, based on complicated rules of evidence, is focused on the question whether the traffic offender is guilty or innocent. Once he has been found guilty, the sentence follows shortly. It is therefore apparent that two traffic offenders who have committed the same traffic offence will be penalized differently. This will be evident from the illustrative tables 6.10 - 6.15 (driving offences), tables 6.16 - 6.21 (vehicle-related offences) and tables 6.22 - 6.27 (document offences). The researcher has arbitrarily selected specific offences in each category of traffic offence. It is not the intention of the researcher to give detailed tables, but only to highlight illustrative tables to show disparities in penalizing traffic offenders. These tables have been compiled for academic purposes and with the view to orientate the reader and to eliminate any possible distortions that might exist with regard to the question of disparities in penalizing traffic offenders. The researcher does not imply that traffic offenders who have committed the same traffic

offence should be penalized in exactly the same way. It should be noted that penalization is contingent on the philosophy of individualization.

TABLE 6.10 DISPARITY IN PENALIZING SPEEDING TRAFFIC OFFENDERS

| RACE | SEX | AGE | OCCUPATION | SPEED LIMIT | SPEED TRAVELLED | PENALIZATION |
|----------|--------|--------|------------------------|----------------|--------------------|--------------|
| BLACK | MALE | 51 YRS | PROFESSIONAL DRIVER | 60 KMH | 73 KMH | R40 |
| BLACK | MALE | 35 YRS | PROFESSIONAL DRIVER | 80 KMH | 91,8 KMH | R30 |
| WHITE | MALE | 48 YRS | MANAGERIAL | 80 KMH | 91,8 KMH | R50 |
| WHITE | MALE | 21 YRS | MANAGERIAL | 60 KMH | 71,4 KMH | R75 |
| WHITE | FEMALE | - | UNEMPLOYED | 60 KMH | 71,4 KMH | R50 |
| WHITE | FEMALE | - | SELF-EMPLOYED | 60 KMH | 84 KMH | R100 |
| WHITE | FEMALE | - | MANAGERIAL | 60 KMH | 84 KMH | R50 |
| COLOURED | MALE | 32 YRS | SKILLED | 60 KMH | 84 KMH | R120 |

TABLE 6.11 DISPARITY IN PENALIZING DRUNK TRAFFIC OFFENDERS

| RACE | SEX | AGE | BAC* LEVELS IN GRAMS PER 100 ML | PENALIZATION |
|----------|--------|--------|---------------------------------|------------------------------------|
| BLACK | MALE | 49 YRS | 0,20 | R400 OR 80 DAYS IMPRISONMENT |
| BLACK | MALE | 61 YRS | 0,22 | R500 OR 3 MONTHES IMPRISONMENT |
| BLACK | MALE | - | 0,08 | R400 OR 80 DAYS IMPRISONMENT |
| BLACK | FEMALE | 42 YRS | - | R700 OR 6 MONTHES IMPRISONMENT |
| ASIAN | MALE | 35 YRS | 0,13 | R500 OR 80 DAYS IMPRISONMENT |
| ASIAN | MALE | 19 YRS | 0,22 | R400 OR 4 MONTHES IMPRISONMENT |
| COLOURED | MALE | 30 YRS | 0,29 | R600 OR 100 DAYS IMPRISONMENT |
| WHITE | MALE | 48 YRS | 0,13 | R1000 OR 8 MONTHES IMPRISONMENT |
| WHITE | MALE | 43 YRS | 0,23 | R700 OR 3 MONTHES IMPRISONMENT |

* BAC = Blood Alcohol Concentration

TABLE 6.12 DISPARITY IN PENALIZING TRAFFIC OFFENDERS WHO
DISREGARDED A BARRIER LINE

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|-------|--------|--------|------------------------|--------------|
| WHITE | FEMALE | 27 YRS | MANAGERIAL | R100 |
| WHITE | FEMALE | 39 YRS | UNEMPLOYED | R200 |
| WHITE | MALE | 37 YRS | SKILLED | R100 |
| WHITE | MALE | 34 YRS | SKILLED | R200 |
| BLACK | MALE | 50 YRS | PROFESSIONAL DRIVER | R100 |
| BLACK | MALE | 31 YRS | PROFESSIONAL DRIVER | R200 |
| ASIAN | MALE | 34 YRS | MANAGERIAL | R200 |
| ASIAN | MALE | 29 YRS | MANAGERIAL | R100 |

TABLE 6.13 DISPARITY IN PENALIZING TRAFFIC OFFENDERS WHO
DISREGARDED A STOP SIGN

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|-------|------|--------|---------------------|--------------|
| ASIAN | MALE | 32 YRS | - | R200 |
| ASIAN | MALE | - | PROFESSIONAL DRIVER | R50 |
| ASIAN | MALE | 25 YRS | PROFESSIONAL DRIVER | R100 |
| WHITE | MALE | 42 YRS | SKILLED | R100 |
| WHITE | MALE | 30 YRS | MANAGERIAL | R50 |
| WHITE | MALE | 38 YRS | MANAGERIAL | R200 |
| BLACK | MALE | 38 YRS | UNSKILLED | R50 |
| BLACK | MALE | - | - | R200 |

TABLE 6.14 DISPARITY IN PENALIZING TRAFFIC OFFENDERS WHO
DROVE VEHICLES RECKLESSLY AND/OR NEGLIGENTLY

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|-------|------|--------|------------|--------------|
| BLACK | MALE | 44 YRS | - | R100 |
| WHITE | MALE | 53 YRS | MANAGERIAL | R200 |

TABLE 6.15 DISPARITY IN PENALIZING TRAFFIC OFFENDERS WHO
DROVE VEHICLES WITHOUT OWNERS' CONSENT

| RACE | SEX | AGE | PENALIZATION |
|-------|------|--------|----------------------------------|
| BLACK | MALE | 27 YRS | R200 OR 6 MONTHS IMPRISONMENT |
| BLACK | MALE | 18 YRS | R500 |
| BLACK | MALE | 19 YRS | 7 STROKES |
| BLACK | MALE | 15 YRS | 4 STROKES |
| BLACK | MALE | 15 YRS | 5 STROKES |
| ASIAN | MALE | 18 YRS | R100 OR 50 DAYS IMPRISONMENT |

TABLE 6.16 DISPARITY IN PENALIZING TRAFFIC OFFENDERS WHO
DROVE VEHICLE WITH DEFECTIVE BRAKES

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|----------|------|--------|------------------------|--------------|
| ASIAN | MALE | 40 YRS | MANAGERIAL | R50 |
| ASIAN | MALE | 58 YRS | MANAGERIAL | R30 |
| COLOURED | MALE | 31 YRS | SKILLED | R50 |
| COLOURED | MALE | 41 YRS | SKILLED | R100 |
| BLACK | MALE | 18 YRS | UNSKILLED | R100 |
| BLACK | MALE | 68 YRS | UNEMPLOYED | R30 |
| BLACK | MALE | 30 YRS | PROFESSIONAL DRIVER | R200 |
| BLACK | MALE | 32 YRS | PROFESSIONAL DRIVER | R150 |

TABLE 6.17 DISPARITY IN PENALIZING TRAFFIC OFFENDERS WHO
DROVE VEHICLES WITH DEFECTIVE TYRES

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|-------|------|--------|------------------------|--------------|
| BLACK | MALE | 64 YRS | MANAGERIAL | R50 |
| BLACK | MALE | 56 YRS | - | R40 |
| BLACK | MALE | 34 YRS | MANAGERIAL | R20 |
| BLACK | MALE | 44 YRS | PROFESSIONAL DRIVER | R100 |

TABLE 6.18 DISPARITY IN PENALIZING TRAFFIC OFFENDERS WHO
DROVE VEHICLES WITH DEFECTIVE STEERING

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|-------|------|--------|------------------------|--------------|
| BLACK | MALE | 56 YRS | - | R30 |
| BLACK | MALE | - | PROFESSIONAL DRIVER | R50 |
| BLACK | MALE | 60 YRS | - | R200 |
| BLACK | MALE | 33 YRS | SKILLED | R100 |

TABLE 6.19 DISPARITY IN PENALIZING TRAFFIC OFFENDERS WHO
DROVE VEHICLES WITH DEFECTIVE STOP LIGHTS

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|-------|------|--------|------------------------|--------------|
| BLACK | MALE | 35 YRS | MANAGERIAL | R30 |
| BLACK | MALE | 30 YRS | PROFESSIONAL DRIVER | R50 |

TABLE 6.20 DISPARITY IN PENALIZING TRAFFIC OFFENDERS WHO
DROVE VEHICLES WITH DEFECTIVE DIRECTION
INDICATORS

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|-------|------|--------|------------------------|--------------|
| BLACK | MALE | 32 YRS | PROFESSIONAL DRIVER | R100 |
| BLACK | MALE | 48 YRS | PROFESSIONAL DRIVER | R20 |
| BLACK | MALE | 76 YRS | UNEMPLOYED | R30 |

TABLE 6.21 DISPARITY IN PENALIZING TRAFFIC OFFENDERS FOR
FUEL LEAKAGE FROM VEHICLES

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|-------|------|--------|------------------------|--------------|
| BLACK | MALE | 31 YRS | PROFESSIONAL DRIVER | R150 |
| BLACK | MALE | 38 YRS | PROFESSIONAL DRIVER | R100 |
| BLACK | MALE | 32 YRS | PROFESSIONAL DRIVER | R200 |
| BLACK | MALE | 51 YRS | - | R30 |

TABLE 6.22

DISPARITY IN PENALIZING UNLICENSED MOTOR VEHICLE DRIVERS

| RACE | SEX | AGE | OCCUPATION | LICENCE CODE | PENALIZATION |
|-------|--------|--------|---------------------|--------------|--------------|
| ASIAN | MALE | 28 YRS | MANAGERIAL | 01 | R70 |
| WHITE | MALE | 19 YRS | SKILLED | 01 | R150 |
| ASIAN | MALE | 16 YRS | UNSKILLED | 01 | R75 |
| WHITE | MALE | 32 YRS | SKILLED | 01 | R100 |
| WHITE | MALE | 18 YRS | SKILLED | 02 | R100 |
| WHITE | MALE | 19 YRS | SKILLED | 02 | R150 |
| WHITE | MALE | 43 YRS | MANAGERIAL | 02 | R200 |
| BLACK | MALE | 28 YRS | PROFESSIONAL DRIVER | 02 | R50 |
| BLACK | MALE | 32 YRS | PROFESSIONAL DRIVER | 07 | R250 |
| BLACK | MALE | 32 YRS | PROFESSIONAL DRIVER | 07 | R200 |
| BLACK | MALE | 26 YRS | PROFESSIONAL DRIVER | 08 | R250 |
| BLACK | MALE | 57 YRS | PROFESSIONAL DRIVER | 08 | R200 |
| BLACK | MALE | 29 YRS | SKILLED | 08 | R150 |
| BLACK | MALE | 30 YRS | UNSKILLED | 08 | R200 |
| WHITE | MALE | 21 YRS | - | 08 | R200 |
| WHITE | FEMALE | 35 YRS | MANAGERIAL | 08 | R100 |
| ASIAN | MALE | 19 YRS | PROFESSIONAL DRIVER | 10 | R200 |
| WHITE | MALE | 26 YRS | PROFESSIONAL DRIVER | 10 | R250 |

TABLE 6.23 DISPARITY IN PENALIZING MOTOR VEHICLE DRIVERS
WITH FRAUD DRIVERS' LICENCES

| RACE | SEX | AGE | PENALIZATION |
|-------|------|--------|---------------------------------|
| BLACK | MALE | - | R300 OR 60 DAYS IMPRISONMENT |
| BLACK | MALE | 31 YRS | R500 OR 90 DAYS IMPRISONMENT |
| BLACK | MALE | 24 YRS | R400 OR 80 DAYS IMPRISONMENT |

TABLE 6.24 DISPARITY IN PENALIZING TRAFFIC OFFENDERS WITH
NO PROFESSIONAL DRIVING PERMIT

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|-------|------|--------|------------------------|--------------|
| BLACK | MALE | 57 YRS | PROFESSIONAL DRIVER | R200 |
| BLACK | MALE | 28 YRS | PROFESSIONAL DRIVER | R100 |

TABLE 6.25 DISPARITY IN PENALIZING TRAFFIC OFFENDERS WHO
DROVE UNLICENSED MOTOR VEHICLES

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|----------|--------|--------|------------|--------------------------------|
| WHITE | FEMALE | 37 YRS | UNEMPLOYED | R100 |
| COLOURED | MALE | 37 YRS | UNEMPLOYED | R50 |
| ASIAN | MALE | 31 YRS | UNEMPLOYED | CAUTIONED AND DISCHARGED |

TABLE 6.26 DISPARITY IN PENALIZING TRAFFIC OFFENDERS WHO
OPERATED TAXIS WITH ONE PASSENGER OVERLOAD

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|-------|------|--------|------------------------|--------------|
| BLACK | MALE | 38 YRS | PROFESSIONAL DRIVER | R50 |
| BLACK | MALE | 41 YRS | PROFESSIONAL DRIVER | R30 |

TABLE 6.27

DISPARITY IN PENALIZING TRAFFIC OFFENDERS
WHO OPERATED TAXIS WITH NO CERTIFICATES OF
FITNESS

| RACE | SEX | AGE | OCCUPATION | PENALIZATION |
|-------|------|--------|------------------------|--------------|
| BLACK | MALE | 39 YRS | PROFESSIONAL DRIVER | R100 |
| BLACK | MALE | 35 YRS | PROFESSIONAL DRIVER | R50 |
| BLACK | MALE | 26 YRS | PROFESSIONAL DRIVER | R200 |

It is not the intention of the researcher to outline a detailed comparison of tables 6.10 to 6.27. Obviously, some types of traffic offences are regarded as more serious than others. For instance, driving while intoxicated is the driving offence for which imprisonment with the option of a fine is commonly imposed. This trend can be seen from table 6.11. It should also be noted that traffic offenders may be motivated by unknown circumstantial factors. For instance, disregarding of stop signs (table 6.13) may be due to diverse factors such as "very busy crossings", fatigue, etc. The unknown circumstantial factors may be the cause of reckless and/or negligent driving (table 6.14). See chapter 3, paragraph 3.4 for a discussion of the factors that contribute

towards traffic offences. It should also be noted that tables 6.10 to 6.27 do not reflect the cases where fines were reduced by public prosecutors.

6.6 SUMMARY

Penalization of traffic offenders follows the violation of traffic laws. Penalization refers to the infliction of penalties upon traffic offenders. There are traffic offenders who admit their guilt by paying admission of guilt fines, thus avoiding court appearances. Penalization exhibit discrete characteristics and penalization of traffic offenders is contingent upon the realization with regard to the following objectives:

- * retribution;
- * incapacitation;
- * deterrence; and
- * correction.

The more difficult and challenging task of traffic officers is testifying in court. The ability to testify effectively and efficiently in court in an honest, clear and professional manner is extremely important. Eight important principles add credibility and articulateness to effective courtroom testimony. It is crucial for traffic officers to either testify as lay or ordinary witnesses and as expert witnesses. Testifying in court is a skill that must be developed and continuously improved in order to make the most effective, professional delivery of evidence in court.

The judicial officers are faced with a problem in deciding how to penalize traffic offenders. Discretion in sentencing is understood in terms of the "surrounding belt of restriction." The Road Traffic Act (see chapter 2, paragraph 2.4.3) prescribes penalization of traffic offenders. The Criminal Procedure Act prescribes the range of sentences which may be imposed on offenders in general. Traffic offenders are penalized in various ways. The following are the most important forms of penalization:

- * an admission of guilt fine;
- * fine, deferred fine and spot fine;
- * imprisonment;
- * whipping;
- * periodical imprisonment; etc.

The concept "disparity" simply means the inequalities or variations in penalizing traffic offenders. This variant penalization can be ascribed to a variety of reasons or factors which are diverse and complex in nature.

CHAPTER 7

FINDINGS AND RECOMMENDATIONS

7.1 INTRODUCTION

Research on penalization of traffic offenders in the magisterial district of Lower Umfolozi brings to light many issues. Traffic offences and traffic offenders are classified as such in terms of specific juridical requirements. Any traffic offence, no matter how trivial, which is adjudicated in a criminal court, is classified as a crime. A study of penalization of traffic offenders has been made by concentrating on the important aspects that have been identified. The handling and control of road use and traffic safety are contingent upon road traffic legislation and its enforcement. Road traffic legislation is crucial but it should take heed of community norms and should enjoy a high degree of support among the community members. Traffic law regulates the motor vehicle driver's social behaviour. The Road Traffic Act and Regulations contain broad legal prescriptions which are focused on actual road use. The motor vehicle driver (traffic offender) receives special attention. This particular attention relates to penalization which follows a violation of traffic law. The manner in which traffic law is enforced and the manner in which the traffic offender is penalized are of cardinal importance. Negative perceptions in this regard are often primary causes of resentment and insufficient co-operation by drivers of motor vehicles. Penalization is therefore focused on developing the traffic offender's ability to realize his/her fault. Traffic law enforcement and penalization are

important crime-preventive measures which directly underlie traffic safety, education and training. The most important findings as well as recommendations are accordingly discussed in this chapter.

7.2 KEY FINDINGS

7.2.1 Traffic offences

There are three discrete categories of traffic offences:

- * driving offences;
- * vehicle-related offences; and
- * document offences (see chapter 3, paragraph 3.2).

7.2.1.1 Driving offences

These were the dominant offences observed through this study. A total of 2641 (41,42%) driving offences were committed during the period 01 January - 30 June 1990 (see table 3.1). Document offences were the least committed. Speeding was the most prevalent driving offence and is accounted for in 1424 (53,92%) cases (see table 3.2). Road traffic signs were disregarded in 362 (13,71%) observed cases. Safety belts were not worn in 266 (10,07%) traffic cases, while failure to obey traffic signals was observed in 152 (5,75%) cases (see table 3.2). Rules applicable to the use of the roads were disregarded in 105 (3,98%) traffic cases. A breathalyzer was insufficient to prove beyond reasonable doubt that a motor vehicle driver's blood alcohol concentration exceeded 0,08 grams. There are practical difficulties in forcing an unwilling driver to provide a specimen. Seventy (2,65%)

traffic offenders were penalized for driving under the influence of alcohol. Drunken driving was an overwhelmingly male traffic offender activity (see table 3.3). Blacks featured predominantly in driving while intoxicated (see table 3.4). The majority of traffic offenders penalized for drunken driving had their blood alcohol concentration levels ranging from 0,16 to 0,20 grams per 100 millilitres of blood (see table 3.5).

7.2.1.2 Vehicle-related offences

The majority of traffic offenders were penalized for operating motor vehicles with defective brakes and this was observed in 532 (22,17%) cases (see table 3.6). Penalization for defective stop/head lights and defective tyres was meted out in respect of 415 (17,29%) and 355 (14,79%) cases respectively. Fuel leakage was observed in 281 (11,71%) traffic cases.

7.2.1.3 Document offences

Most traffic offenders were penalized for operating unlicensed (expired clearance certificates) motor vehicles and this is accounted for in 544 (40,66%) traffic cases (see table 3.7). Unlicensed motor vehicle drivers were penalized in 261 (19,50%) cases. It emanates from this research that there are problematics regarding the issuing of drivers' licences. A total of 426 (16,02%) learner drivers were issued with drivers' licences, while 2234 (83,98%) applicants for drivers' licences failed the drivers' tests. This might be a contributory factor towards operating motor vehicles without valid drivers' licences. It has been established that learners' licences were not "easily" issued. A total of 1656 (32,73%) applicants were issued with learners' licences, while

3404 (67,27%) applicants failed the learners' licence tests (see table 3.9). It should be noted that the position was rather better with regard to issuing learners' licences than issuing drivers' licences. The applicants who wished to have their public motor vehicles tested for fitness did not encounter any difficulties. Certificates of fitness were issued to 832 (95,19%) applicants (see table 3.10). A total of 1352 (96,64%) applicants were issued with certificates of roadworthiness in respect of their motor vehicles (see table 3.11). It is therefore apparent that it was not so difficult for the applicants to be issued with fitness and roadworthy certificates.

Traffic offences can be committed consciously or unconsciously. Unconscious traffic offences are committed because the motor vehicle driver apparently does not know the traffic law or is unaware that he is violating traffic law. In many cases it will be difficult or impossible for the traffic officer to identify this difference. This poses a problem in and of itself: penalizing a motor vehicle driver for a traffic offence that he did not know he was committing may do little to help realize the objectives of traffic policing and prevention in particular. It may tarnish the image of traffic officers since prosecution is never popular.

7.2.2 Traffic offenders and traffic offences

7.2.2.1 Incidence

Richards Bay police station (via Richards Bay traffic department) apprehended more traffic offenders than Empangeni police station. A total of 2367 (49,61%) traffic offenders were apprehended by Richards Bay traffic officers (see table 4.1 and figure 4.2). Richards Bay traffic officers

apprehended more traffic offenders for committing driving offences (1615 (61,15%) cases) and document offences (604 (45,14%) cases), while Empangeni traffic officers apprehended more motor vehicle drivers for committing vehicle-related offences and these are accounted for in 957 (39,88%) observed cases (see table 4.2 and figure 4.3). It can therefore be seen that the greatest number of traffic offences were dealt with by Richards Bay police station (via the Richards Bay traffic department). KwaMbonambi police station (via the Natal Provincial Administration traffic department, based at Empangeni) dealt with the least number of cases.

7.2.2.2 Types of vehicles involved

Drivers of private motor vehicles were the main traffic offenders and are accounted for in 2597 (54,43%) of the total observed traffic cases (see table 4.3 and figure 4.4). A total of 590 (12,37%) public motor vehicles were involved in traffic offence commission.

7.2.2.3 Dynamics of traffic offences

January was the most active month during which the majority of traffic offenders were apprehended. A total of 875 (18,34%) traffic offenders were penalized during this month (see table 4.4 and figure 4.5). It was expected that April could produce more traffic offenders due to three public holidays (two long weekends), but instead, this month produced 708 (14,84%) cases (see table 4.4 and figure 4.5). It has therefore been established that there was a noticeable fluctuation in traffic offence commission according to the month of the period under investigation. There were more traffic offences committed during January and these are accounted for in 585 (22,15%) driving offences, 524 (21,83%)

vehicle-related offences and 219 (16,36%) document offences (see table 4.5 and figure 4.6). April accounted for more document offences, while a total of 451 (17,09%) driving offences, 472 (19,66%) vehicle-related offences and 230 (17,19%) document offences were committed during this month.

Tuesdays produced more traffic offences and these are accounted for in 454 (20,64%) driving offences, 427 (17,79%) vehicle-related offences and 257 (19,21%) document offences (see table 4.7 and figure 4.8). It seems therefore that there are favourite times for certain traffic offences. The majority of traffic offenders were penalized for committing traffic offences during daytime. A total of 1333 (27,94%) traffic offenders were penalized during daytime (see table 4.8 and figure 4.9). Only one traffic offender was apprehended during late night. It can therefore be noticed that traffic law enforcement was slack during certain times such as: late night, early morning, early evening and late afternoon. The peak time for all traffic offences in which the times of commission were recorded was during daytime (08H00-15H59). A total of 728 (27,57%) driving offences, 525 (21,87%) vehicle-related offences and 384 (28,71%) document offences were committed during daytime (see table 4.9 and figure 4.10).

7.2.2.4 Demographic variables of traffic offenders

Most traffic offenders were in the age group 31-40 years and are accounted for in 1412 (29,60%) observed cases (see table 4.10 and figure 4.11). An increase can be noticed between the age groups 18-20 years, which produced 168 (3,52%) cases and 21-30 years, which produced 1010 (21,17%) traffic offenders. Traffic crime commission declines with age. This notion is substantiated by the various age groups. The age group 41-50 years produced 754 (15,80%) cases; the age

group 51-60 years produced 284 (5,95%) cases; the age group 61-70 years produced 73 (1,53%) cases; and the age group 71-80 years is accounted for only 9 (0,19%) observed cases (see table 4.10 and figure 4.11). Traffic offenders aged between 31 and 40 years committed more traffic offences than the other age groups of traffic offenders and these are accounted for 808 (30,60%) driving offences, 658 (27,42%) vehicle-related offences and 375 (28,03%) document offences (see table 4.12, figures 4.12 and 4.13).

The proportions (pertaining to sex) do not depart much from the expectations of (traffic) criminal justice practitioners who have become used to finding males greatly predominant among (traffic) offenders. The majority of traffic offenders were males and are accounted for in 3701 (77,57%) observed cases (see table 4.12 and figure 4.14). Male traffic offenders were responsible for the greatest number of traffic offences: 1814 (68,69%) driving offences, 2068 (86,17%) vehicle-related offences and 1068 (79,82%) document offences (see table 4.13 and figure 4.15). Certain findings pertaining to race and occupation of traffic offenders are noteworthy. An overall total of 3480 (54,55%) traffic offences were committed by Blacks (see table 4.15 and figures 4.17 and 4.18). Whites featured predominantly in the commission of driving offences and these are accounted for in 1235 (46,76%) cases, while Blacks featured predominantly in vehicle-related and document offence commission. A total of 1883 (78,46%) vehicle-related offences were committed by Blacks, while 770 (57,55%) document offences were also committed by traffic offenders in this racial group. There were more Black traffic offenders as compared to other races. Blacks constituted 2291 (48,02%) cases, while 1422 (29,80%) traffic offenders were Whites (see table 4.14 and figure 4.16).

Professional drivers committed more traffic offences than traffic offenders in the other occupation categories and were penalized for committing 577 (21,85%) driving offences, 920 (38,33%) vehicle-related offences and 520 (38,86%) document offences (see table 4.18 and figure 4.21). This trend can be ascribed to the notion that professional drivers are contingent upon operating motor vehicles for their livelihood. Traffic offenders in the professional, executive and managerial-occupation category featured predominantly in driving offence commission. A total of 695 (26,32%) driving offences were committed by traffic offenders in this occupation category. Professional drivers featured predominantly in respect of vehicle-related and document offence commission. A total of 920 (38,33%) vehicle-related offences were committed by professional drivers, while document offence commission is accounted for in 520 (38,86%) cases (see table 4.18 and figure 4.21).

Traffic offences are not equally distributed. This implies the differential nature of ecological distribution. In some areas, traffic crime is endemic, while in others it is rarely committed. Rampant traffic offence commission can, in certain instances, be ascribed to inadequate traffic policing and the negative attitude of motor vehicle drivers towards such policing. Traffic offences committed in Richards Bay are accounted for in 1030 (39,00%) driving offences, 366 (15,25%) vehicle-related offences and 280 (20,93%) document offences (see table 4.20 and figures 4.23 and 4.24). Richards Bay produced 1296 (27,16%) traffic offenders (see table 4.19 and figure 4.22). A total of 1357 (21,27%) traffic offences were committed in Empangeni. Driving offence commission was prevalent in Richards Bay, while vehicle-related offence commission (489 (20,38%) cases) and document offence commission (313 (23,39%) cases) were rife in

Empangeni (see table 4.20 and figures 4.23 and 4.24). The degree of intensity of traffic law enforcement is not the same - due to ecological distribution of traffic offenders and traffic offences.

7.2.3 Traffic law enforcement

There are obstacles and resistance to traffic law enforcement and traffic safety. In a pluralistic and democratic society, resistance to innovations that affect personal habits, convenience and mobility, or which pose an economic threat are to be expected. This problem is not unique to the realm of preventing traffic crimes since it is encountered in virtually every contemporary constructive research on penalization of traffic offenders. Such negativistic responses are both paradoxical and frustrating. It has been established that there are three traffic law enforcement organizations in the magisterial district of Lower Umfolozi:

- * Natal Provincial Administration, based at Empangeni;
- * Empangeni municipality traffic department; and
- * Richards Bay municipality traffic department.

Empangeni traffic officers fall under the superintendent in charge of the traffic department and security (see figure 5.2). It is evident that there is no proper differentiation of this traffic department and traffic officers also perform other remote duties relating to fire services, security and civil defence. There are no reserve traffic wardens employed by Empangeni municipality.

Traffic law enforcement in Richards Bay appears to be well-organized (see figure 5.3).

Hierarchically, the chief traffic officer is the head of the traffic department and is assisted by three assistant superintendents: administration, traffic law enforcement and traffic engineering. Traffic officers perform their duties under the supervision of the assistant superintendent in charge of traffic law enforcement. Newly-appointed traffic officers receive induction under the supervision of the assistant superintendent, administration. Reserve traffic wardens are employed by Richards Bay traffic department (see figure 5.3). The various functions performed by reserve traffic wardens are discussed in chapter 5, paragraph 5.4.2.

It has also been established that traffic officers perform their duties under onerous conditions. The greatest problem, when dealing with the question of how to run an enforcement agency effectively and efficiently, is no doubt the problem of the shortage of traffic officers. As a result, traffic officers are unable to patrol their areas adequately. To perform the duties of a traffic officer is not always pleasant because motor vehicle drivers may react selfishly and inconsiderately and because a traffic offence may be regarded as immoral or in any other sense reprehensible. The motor vehicle driver-traffic officer relationship is therefore a particularly conflict-prone one.

7.2.4 Penalization of traffic offenders

7.2.4.1 Aims of the research

Discrepancies (disparities) exist with regard to the penalization of traffic offenders (see tables 6.10 - 6.27). The objective of effecting correlations with regard to

specific demographic variables has also been realized (see chapter 4). It has been ascertained that 4771 traffic offenders were found guilty and penalized between 01 January and 30 June 1990. No scientific research into the penalization of traffic offenders in the magisterial district of Lower Umfolozi has been undertaken in the past and for this reason the researcher has bridged the gap in respect of substantive knowledge about this phenomenon.

7.2.4.2 Problems encountered

Some particulars of traffic offenders were not fully recorded in the written notices to appear in court - hence the "unknown" cases (see Annexure B). In certain instances, sections of the Road Traffic Ordinance No. 21 of 1966 (as well as regulations made thereunder) and the Road Traffic Act No. 29 of 1989 (as well as regulations made thereunder) were not corresponding with the descriptions of traffic offences. It has also been found that literature on penalization of traffic offenders is rare. Particulars of traffic offenders such as race, age, sex, etc. were not reflected in the Criminal Record Book (J546), despite the fact that provision is made in this official register to have these particulars recorded. No provision is made to record the date when the traffic offence was committed.

7.2.4.3 The traffic officer in court

It has been established that traffic officers are persons who set the traffic criminal justice system in motion (see figure 4.1). They appear in court as state witnesses. Traffic officers in the magisterial district of Lower Umfolozi expressed displeasure at the manner in which they are treated in court and stated that, whilst aiding the prosecution, they

viewed themselves as being "tried for traffic offences they never committed" (see chapter 5, paragraph 5.7 (k)). Traffic officers are sometimes not adequately conversant with the general principles of effective testimony.

7.2.4.4 Road traffic legislation

- (a) Traffic offence adjudication under the road traffic legislation is reasonably adequate in the determination of guilt or innocence. However, traffic case processing is beset by numerous problems and this adversely affect improvements in traffic management and safety.
- (b) Adjudication of traffic offences has made little demonstrable contribution toward newly formed societal goals of the promotion of traffic safety and the improvement of driver behaviour on public roads. It has had little measurable effect in deterring initial or subsequent traffic violation by motor vehicle drivers. It is therefore apparent that criminal court traffic case processing is inadequate and ineffective.
- (c) Traffic offence adjudication is a key component of traffic legislation. It is thus obvious that the promotion of traffic safety is contingent upon effectiveness of adjudication within the traffic criminal justice system.
- (d) Traffic offences do not have the same degree of seriousness or potential seriousness; thus, traffic offences should not command the same degree of traffic criminal processing, sanction time and resources. It

can therefore be noticed that traffic case adjudication inadequately differentiates between the problem driver and the average traffic offender.

7.2.4.5 Discretion in penalization

Penalization of traffic offenders is pre-eminently a matter for the discretion of the trial court. The chief advantage of discretion can be summed up in one word: flexibility. Discretion enables traffic law to take into account the features of the individual traffic offender. Traffic legislation without discretion cannot fully take into account the need for tailoring results to unique facts and circumstances in particular traffic cases. It has been established that the justification for discretion is often the need for individualized traffic criminal justice. Individualization of penalization cannot be achieved without the exercise of discretion.

7.2.4.6 Penalization of traffic offenders

The following forms of penalization were applied:

- * admission of guilt fine;
- * fine, spot fine, deferred fine;
- * fine or imprisonment;
- * suspended sentence;
- * periodical imprisonment;
- * treatment in a rehabilitation centre;

* whipping;

* cancellation and endorsement of drivers' licences and fine for failure to appear in court (see table 6.1, figure 6.1 and Annexure B).

The majority of traffic offenders paid an admission of guilt fine and these are accounted for in 3457 (71,65%) of the total traffic cases (see table 6.1 and figure 6.1). Payment of an admission of guilt fine can therefore be ascribed to a variety of considerations, depending on the prevailing circumstances of the individual traffic offender. Most traffic offenders preferred to pay an admission of guilt fine to avoid further intricacies of litigation. It has also been established that traffic offenders paid fines in its variance such as deferred fines and spot fines. Payment of fines saved traffic offenders from serving terms of imprisonment. It was also found that payment of an admission of guilt fine was not allowed in respect of serious traffic offences (the so-called "direct charges") such as reckless and/or negligent driving, driving under the influence of alcohol, etc. Periodical imprisonment was rarely imposed. Only one traffic offender was sentenced to this form of penalization. Traffic offenders had their sentences wholly or partially suspended (see Annexure B). It has been established that 45 traffic offenders were not penalized, but cautioned and discharged. Traffic officers interviewed expressed concern that traffic law enforcement is brought into disrepute since traffic offenders know that they might be cautioned and discharged and thus escape penalization. Treatment in a rehabilitation centre was rarely imposed and only three traffic offenders were subjected to such treatment. Drivers' licences were rarely cancelled. Only one driver's licence was cancelled. Drivers' licences were not frequently endorsed and only nine

drivers' licences were endorsed. Failure to appear in court was penalized in respect of 29 traffic offenders (see table 6.1 and figure 6.1 - "other forms of penalization"). Deferred fines were not so frequently imposed. It is appropriate to briefly highlight important findings relating to the distribution of penalization according to:

- * traffic offences;
- * race;
- * sex;
- * age;
- * occupation;
- * amount paid in respect of an admission of guilt fine, fine, deferred fine and spot fine;
- * term of imprisonment;
- * court appearances; and
- * disparities in penalizing traffic offenders.

Most traffic offenders paid an admission of guilt fine in respect of three discrete categories of traffic offences and these are accounted for in 1483 (69,82%) driving offences, 1518 (80,66%) vehicle-related offences and 456 (55,68%) document offences (see table 6.2 and figure 6.2). No traffic offenders had their sentences suspended for committing vehicle-related offences. It has been established that a total of 1709 (74,24%) Black traffic offenders paid an

admission of guilt fine, while 1389 (97,00%) White traffic offenders paid an admission of guilt fine (see table 6.3 and figure 6.3). Traffic offence commission was overwhelmingly a male activity. A total of 3004 (80,80%) male traffic offenders paid an admission of guilt fine, while payment of an admission of guilt fine by female offenders is accounted for in 429 (76,33%) traffic cases (see table 6.4 and figure 6.4). There were more traffic offenders in the age groups 31-40 years and a total of 1288 (90,39%) traffic offenders in this age group paid an admission of guilt fine. Other forms of penalization were not applicable to traffic offenders aged between 71 and 80 years, and these offenders all (N=14) paid an admission of guilt fine (see table 6.5 and figure 6.5).

It is apparent from this research that all traffic offenders in the professional, executive and managerial occupation category paid an admission of guilt fine and this was observed in 858 (100%) cases (see table 6.6 and figure 6.6). Similarly, the same trend can be noticed in respect of traffic offenders in the unskilled occupation category and this was observed in 82 (100%) cases. Professional drivers paid an admission of guilt fine in 1311 (99,47%) cases (see table 6.6 and figure 6.6). The majority of traffic offenders paid amounts ranging between R10.00 and R99.00 and this is accounted for in 2235 (46,85%) traffic cases. This implies that, according to traffic officers and presiding judicial officers, some traffic law violations did not justify the imposition of heavy fines, although 26 (0,54%) traffic offenders paid amounts exceeding R1000.00 (see table 6.7 and figures 6.7 and 6.8). Most traffic offenders paid an admission of guilt fine, while others paid fines, deferred fines and spot fines. Imprisonment was coupled with the option of paying a fine. A total of 157 (3,30%) traffic offenders were sentenced to terms of imprisonment ranging from

10 to 99 days, while only two (0,04%) offenders were sentenced to this form of penalization ranging from 500 to 599 days (see table 6.8 and figure 6.9). There are two trial courts in the magisterial district of Lower Umfolozi:

- * the magistrate's court at Empangeni;

and

- * KwaMbonambi periodic court.

It has been established that the majority of traffic offenders did not appear in either of the two courts and these are accounted for in 4029 (84,45%) traffic cases (see table 6.9 and figures 6.10 and 6.11). Non-appearances can be ascribed to payment of an admission of guilt fine and spot fine. A total of 730 (15,30%) traffic offenders appeared for trial in the Empangeni magistrate's court, while appearances in KwaMbonambi periodic court are accounted for in 12 (0,25%) cases.

It has been also established that disparities do exist with regard to penalizing traffic offenders. Sentencing disparities can be ascribed to a variety of reasons (see chapter 6, paragraph 6.5.4). Penalization remains a random procedure due to the absence of guiding scientific pre-sentence investigations. Certain trends in the sphere of disparities in penalizing traffic offenders can be seen from tables 6.10 to 6.27. It is evident from these tables that no two traffic offenders who have committed the same traffic offence were penalized in exactly the same way. The principle of individualized penalization in the sphere of traffic criminal justice played a cardinal role. At the same time, the members of the public (including traffic officers)

should not feel that variations in penalization were so glaring due to the exercise of discretion by presiding judicial officers (see tables 6.10 - 6.27).

7.3 RECOMMENDATIONS

The following recommendations are based on statistical data emanating from this investigation and are by no means prescriptive:

7.3.1 Driving offences

7.3.1.1 Driver training and education

Driver training, education and observance of traffic signs should be concerned with the moulding of the driver into someone who knows and respects the rights of other road users by fulfilling his own duties. The Driver Training Academy could be an ideal establishment to prioritize driver training and such an Academy could, for instance, be used to improve driver performance. Further, drivers should be trained to strive towards better vehicle control and obedience and this will contribute towards the prevention of traffic offences.

7.3.1.2 Motor vehicle manufacturer-liability

Drivers who become involved in unexplained or freak traffic offences should be protected against accusations of improper driving when the (defect) liability basically resides with certain motor vehicle manufacturers. These defects are known as "designed-in-dangers." Their defection and documentation under these circumstances can be achieved through "on-the-spot" analysis by traffic officers trained in investigation of motor vehicles.

7.3.2 Vehicle-related offences

7.3.2.1 Periodic inspection of motor vehicles

The effectiveness of a system of periodic inspection of motor vehicles instead of prosecution should be assessed. This system will be realized if drivers acquaint themselves with regard to various aspects of vehicle maintenance such as checks on brakes, steering, tyres, lights, etc. This also implies that drivers should be encouraged to study the maintenance manuals of their vehicles and the time so spent could result in less mechanical difficulty and better vehicle performance.

7.3.3 Document offences

7.3.3.1 Issuing of drivers' licences

The possibility of instituting a Drivers' Licences Issuing Committee should be assessed for Natal Provincial Administration, based at Empangeni. This implies that the issuing of drivers' licences should not solely be vested with one examiner for learner drivers. The Natal Provincial Administration head office, based at Pietermaritzburg, should assess the practicability and functioning of such a committee. Given the fact that traffic policing forms part of syllabus of the University of Zululand's Department of Criminal Justice, the possibility could, for instance, be considered with the view to have this department represented in the Drivers' Licences Issuing Committee.

7.3.4 Traffic policing and traffic engineering

Traffic law enforcement should not be slack during certain times of the day. In other words, there should be a continuous well-balanced traffic law enforcement strategy. Reserve traffic wardens as well as retired traffic officials should be employed and used in various traffic matters such as parking problems and regulation of traffic flow during peak hours. Foot patrols should be resorted to whenever circumstances justify it.

Traffic engineers should play a significant role in studying the characteristic commission of traffic offences with the objective of proper planning and designing of roads. Proper analyses of traffic problematics by traffic engineers will ultimately contribute towards traffic safety and prevention of traffic offences.

7.3.5 Penalization of traffic offenders

7.3.5.1 The points demerit system

The implementation of a points demerit system should be assessed. This could, for instance, necessitate the introduction of a Centralized National Resource Centre such as a computerized drivers' licences register where all traffic offences and drivers could be computerized. This system will grade traffic offences and traffic offenders according to the gravity of traffic offences by a number or range of penalty points. Once a maximum of 12 points for instance have been accumulated within a specific period (for instance 2 years), the standardized form of penalization should be reconsidered. The penalty points should be allocated according to the average level of fines imposed by courts. Traffic offences

and traffic offenders should rate a fixed number of penalty points to ensure consistency. In certain instances, a discretionary range of penalty points should apply to certain traffic offences where the seriousness may vary considerably from one case to another.

7.3.5.2 Corrective supervision

Given the difficulty of dealing fairly with unconscious traffic offences (see chapter 3, paragraph 3.2), efforts should be made to acquaint road users with traffic laws. The University of Zululand's Department of Criminal Justice could, for instance, assess the practicability of implementing community service orders and in the form of studying certain sections (that have been violated) of the Road Traffic Act with the view of having drivers submitted to a formal test. This will ultimately be a form of corrective supervision and in such instances the University of Zululand's Department of Criminal Justice could be actively involved in the consideration and initiation of community service orders and will also be involved in the preparation of social inquiry reports in respect of traffic offenders.

7.3.5.3 Surcharge

Employers should be discouraged from being tempted for commercial reasons to impose tight delivery schedules which are conducive to traffic law violations by professional drivers. Thought should be given to deriving a surcharge payable by employers in respect of fines for traffic offences committed by professional drivers during the course of their duties.

7.3.5.4 Establishment of a traffic court

It is recommended that such a court can be ideal and effective in urban areas (such as Empangeni and Richards Bay) only where there are voluminous traffic law violations, where the ordinary criminal courts are overburdened, and computer facilities are at hand. The magisterial district of Lower Umfolozi is fraught with voluminous traffic offences. Hence, the establishment of a traffic court should be assessed.

7.3.5.5 Establishment of a traffic penalization board

A traffic penalization board should be established for the magisterial district of Lower Umfolozi to examine and review sanctioning practices, investigate research related to traffic matters and articulate guidance by way of formulating traffic criminal justice policy objectives and making suggestions in respect of implementing these objectives.

7.3.5.6 Probation

In appropriate cases, traffic offenders should be subjected to probation. Probation is a suitable form of penalization dealing with those traffic offenders who are in need of and amenable to correctional supervision. This would imply the appointment of a probation officer to attend to such cases. Reckless and negligent drivers and those with drinking problems especially need the kind of help that a probation officer can provide. The implication of this recommendation is that the probation officer now becomes a "broker", matching the traffic offender's needs with existing correctional treatment resources in the community. Probation should therefore be utilized as a constructive measure of (traffic) penalization.

7.3.6 Record-writing

Traffic officers should be continuously reminded to fully record particulars of traffic offenders and traffic offences as this will benefit future research. The officials of the magisterial district of Lower Umfolozi (especially those attached to the magistrate's court at Empangeni) should also be urged to fully record particulars of traffic offenders as reflected in the Criminal Record Book (J546).

7.3.7 Future research

Traffic law enforcement organizations should undertake research projects themselves or support research projects by making records available to social researchers. Part of the effort to establish and promote a more positive awareness and perception of traffic policing, engineering, safety and prevention of traffic offences, depends on scientific research that should be undertaken. The image of the traffic officer should be actively enhanced. His sense of responsibility, loyalty, educational level, in-service training and ability to cope professionally with his tasks should receive top priority. Research in this area should be prioritized. Research on penalization of traffic offenders should be extended to other areas so as to ascertain a cross-cultural picture. Future research in this area will greatly improve the availability of literature in traffic science.

7.4 SUMMARY

Research on penalization of traffic offenders brought to light many issues. These issues relate to the most important findings with regard to driving offences, vehicle-related offences, document offences; conscious, unconscious and

schedule traffic offences. It should be noted that certain findings portray the incidence of traffic offences; types of motor vehicles involved in traffic offence commission; the dynamics of traffic offences and (correlations) analyses of demographic variables (such as race, sex, age, etc.) of traffic offenders. There are three traffic control organizations in the magisterial district of Lower Umfolozi and the intensity of traffic law enforcement differs. Key findings pertaining to penalization of traffic offenders are accordingly discussed in this chapter and these relate to inter alia, problems encountered (factors which hampered this research), three discrete categories of traffic offences, penalization of traffic offenders, etc. Recommendations have been made by the researcher and are based on key findings. These recommendations are aimed at the prevention of traffic offences and setting forth suggestions for improving the traffic penalization process. The ultimate objective of penalization of traffic offenders in the magisterial district of Lower Umfolozi should be to control and restrict the incidence, fluctuation and movement of traffic offences.

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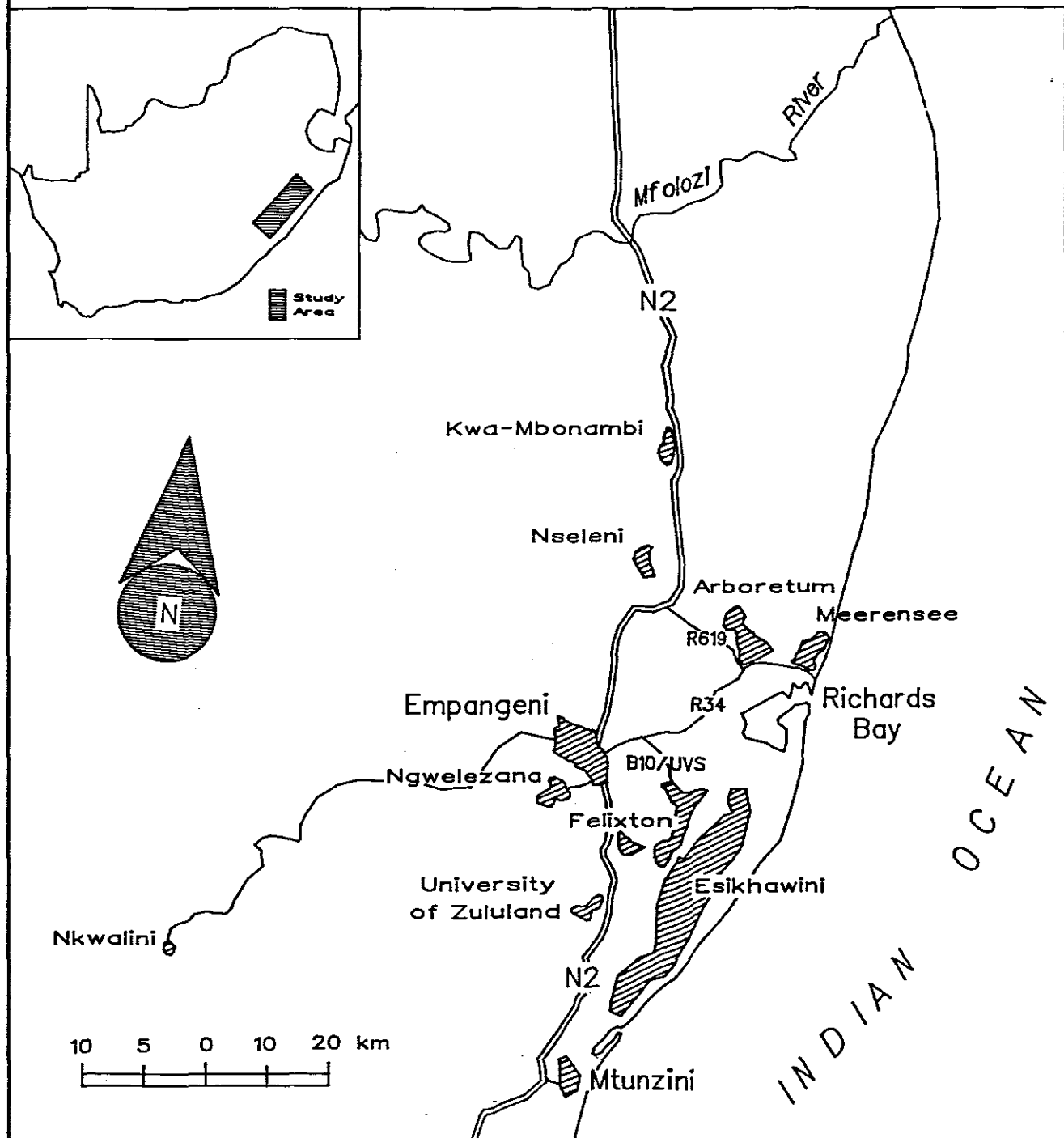
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ANNEXURE A

THE MAGISTERIAL DISTRICT OF LOWER UMFOLOZI



Source: 1:500 000 Topographic Map .1986 Dept. of Survey & Land Information, Mowbray.

ANNEXURE B

INFORMATION (CONTENT ANALYSIS) SCHEDULE

"PENALIZATION OF TRAFFIC OFFENDERS IN THE MAGISTERIAL
DISTRICT OF LOWER UMFOLOZI."

SCHEDULE NO:

SECTION A: ADMINISTRATIVE PARTICULARS

V.01 POLICE STATION

| | | |
|--------------|--|----|
| EMPANGENI | | 01 |
| RICHARDS BAY | | 02 |
| KWAMBONAMBI | | 03 |
| UNKNOWN | | 04 |

V.02 COURT

| | | |
|----------------------------|--|----|
| EMPANGENI | | 01 |
| KWAMBONAMBI PERIODIC COURT | | 02 |
| NON-APPEARANCES | | 03 |

SECTION B: THE TRAFFIC OFFENDER

V.03 RACE

| | | |
|----------|--|----|
| BLACK | | 01 |
| WHITE | | 02 |
| COLOURED | | 03 |
| ASIAN | | 04 |
| UNKNOWN | | 05 |

V.04 SEX

| | | | |
|---------|---|--|----|
| MALE | X | | 01 |
| FEMALE | 2 | | 02 |
| UNKNOWN | 5 | | 03 |

V.05 AGE

| | | |
|---------------|--|----|
| 18 - 20 YEARS | | 01 |
| 21 - 30 YEARS | | 02 |
| 31 - 40 YEARS | | 03 |
| 41 - 50 YEARS | | 04 |
| 51 - 60 YEARS | | 05 |
| 61 - 70 YEARS | | 06 |
| 71 - 80 YEARS | | 07 |
| UNKNOWN | | 08 |

V.06 NATIONALITY

| | | |
|--------------|--|----|
| S.A. CITIZEN | | 01 |
| FOREIGNER | | 02 |
| UNKNOWN | | 03 |

V.07 OCCUPATION

| | | |
|-------------------------------|--|----|
| GENERAL LABOURER | | 01 |
| SELF-EMPLOYED | | 02 |
| SEMI-SKILLED LABOURER | | 03 |
| PROFESSIONAL WORKERS | | 04 |
| TECHNICAL AND RELATED WORKERS | | 05 |
| STUDENT OR SCHOLAR | | 06 |
| EXECUTIVE AND MANAGERIAL | | 07 |
| TRANSPORT SERVICES | | 08 |
| PUBLIC RELATIONS | | 09 |
| ADMINISTRATIVE | | 10 |
| AGRICULTURAL | | 11 |
| ARMED FORCES | | 12 |
| SECURITY SERVICES | | 13 |
| UNEMPLOYED | | 14 |
| UNKNOWN | | 15 |

SECTION C : THE TRAFFIC OFFENCE

V.08 ECOLOGICAL DISTRIBUTION

| | | |
|--------------|--|----|
| EMPANGENI | | 01 |
| RICHARDS BAY | | 02 |
| N2 | | 03 |
| R619 | | 04 |
| R34 | | 05 |
| KWAMBONAMBI | | 06 |
| NGWELEZANA | | 07 |
| B10/UVS* | | 08 |
| UNKNOWN | | 09 |

* UMHLATHUZI VALLEY SUGAR COMPANY

V.09 DATE OF OFFENCE: MONTH OF THE YEAR

| | | |
|----------|--|----|
| JANUARY | | 01 |
| FEBRUARY | | 02 |
| MARCH | | 03 |
| APRIL | | 04 |
| MAY | | 05 |
| JUNE | | 06 |
| UNKNOWN | | 07 |

V.10 DAY OF THE WEEK

| | | |
|-----------|--|----|
| MONDAY | | 01 |
| TUESDAY | | 02 |
| WEDNESDAY | | 03 |
| THURSDAY | | 04 |
| FRIDAY | | 05 |
| SATURDAY | | 06 |
| SUNDAY | | 07 |
| UNKNOWN | | 08 |

V.11 TIME OF OFFENCE

| | | |
|--------------------------------|--|----|
| EARLY MORNING (00H00-07H59) | | 01 |
| DAYTIME (08H00 - 15H59) | | 02 |
| LATE AFTERNOON (16H00 - 17H59) | | 03 |
| EARLY EVENING (18H00 - 21H59) | | 04 |
| LATE NIGHT (22H00 - 24H00) | | 05 |
| UNKNOWN | | 06 |

TYPE OF TRAFFIC OFFENCE

V.12 DRIVING OFFENCES

| | | |
|--|--|----|
| SPEEDING | | 01 |
| DISREGARD A RED ROBOT | | 02 |
| FAIL TO WEAR A SAFETY BELT (DRIVER) | | 03 |
| DISREGARD A "STOP" SIGN | | 04 |
| NO RED FLAG ON LOAD PROJECTION | | 05 |
| FAIL TO INDICATE INTENTION TO TURN LEFT OR RIGHT | | 06 |
| INSECURE LOAD | | 07 |

| | | |
|--|--|----|
| FAIL TO CANCEL INDICATOR AFTER USE | | 08 |
| TURN LEFT WITHOUT DUE CARE OR FAILING TO KEEP LEFT | | 09 |
| ALLOWS A PERSON TO STAND ON STEP WHILST VEHICLE IS IN MOTION | | 10 |
| PASSENGER FAILS TO WEAR A SAFETY BELT | | 11 |
| OVERTAKE ON A BARRIER LINE | | 12 |
| OVERTAKE ON A LEFT LANE | | 13 |
| DISREGARD A "NO ENTRY" SIGN | | 14 |
| EMERGENCY WARNING SIGNS NOT DISPLAYED AS PRESCRIBED | | 15 |
| DRIVES ON RIGHT ROADWAY OF DUAL CARRIAGE WAY | | 16 |
| PARKED IN A TAXI ZONE | | 17 |
| FAILS TO WEAR A PROTECTIVE HELMET | | 18 |
| CARRYING PASSENGERS IN GOODS VEHICLE WHILE LEGS ARE HANGING OUTSIDE | | 19 |
| FAILS TO STEER VEHICLE TO IMMEDIATE LEFT OF CENTRE OF ROADWAY WHEN TURNING RIGHT | | 20 |
| WILFULLY MAKES NOISE WITH EXHAUST BRAKE | | 21 |
| VEHICLE NOT PARKED TO A STANDSTIL | | 22 |

| | | |
|---|--|----|
| OBSTRUCTS FREE FLOW OF TRAFFIC (STOPS IN THE MIDDLE OF THE ROAD) | | 23 |
| LOAD OBSCURING DRIVER'S VIEW | | 24 |
| INCONSIDERATE DRIVING | | 25 |
| FAILS TO YIELD TO A PEDESTRIAN WITHIN A PEDESTRIAN CROSSING | | 26 |
| CROSSING A BARRIER LINE | | 27 |
| PARKS AT DANGEROUS ENTRANCE | | 28 |
| DISREGARD "NO STOP" SIGN | | 29 |
| DRIVES ACROSS A DIVIDED SPACE (RIGHT SIDE) OF DUAL CARRIAGEWAY | | 30 |
| DISREGARD "NO U-TURN" SIGN | | 31 |
| RECKLESS OR NEGLIGENT DRIVING | | 32 |
| DRIVES IN WRONG TRAFFIC LANE | | 33 |
| FOLLOWING TOO CLOSELY | | 34 |
| DISREGARD "YELLOW LINE" | | 35 |
| OVERTAKE ON A TRAFFIC ISLAND | | 36 |
| DISREGARD A ONE WAY STREET | | 37 |

| | | |
|---|--|----|
| STOPPING AT INTERSECTION CAUSING AN OBSTRUCTION | | 38 |
| PARKED WITHIN 1,5M OF FIRE HYDRANT | | 39 |
| EXCEEDS 1 HOUR PARKING | | 40 |
| STOPS IN ROADWAY WITHIN 1M OF EDGE | | 41 |
| ENTERING ROADWAY WHEN UNSAFE TO DO SO | | 42 |
| OVERTAKES IN THE FACE OF ONCOMING VEHICLE | | 43 |
| FAILS TO STOP ON TRAFFIC OFFICER'S INSTRUCTION IN UNIFORM | | 44 |
| HINDERS (OBSTRUCTS) THE TRAFFIC OFFICER IN THE EXECUTION OF HIS DUTIES BY FLASHING LIGHTS TO WARN APPROACHING TRAFFIC OF THE PRESENCE OF A SPEED TRAP | | 45 |
| DISREGARD CONDITIONS IMPOSED BY A TRAFFIC OFFICER | | 46 |
| DISREGARD "NO PUBLIC MOTOR VEHICLES" SIGN | | 47 |
| PARKED WITHIN 5M OF INTERSECTION | | 48 |
| FAIL TO KEEP LEFT WHEN TURNING RIGHT (CUTTING A CORNER) | | 49 |
| ALLOWS ENGINE TO RUN WHILE RE-FILLING FUEL | | 50 |

| | | |
|--|--|----|
| DISREGARD "ROAD MARKINGS" | | 51 |
| DISREGARD "RIGHT TURN" | | 52 |
| FURNISHES MISLEADING/SUPPLYING FALSE INFORMATION | | 53 |
| DISREGARD "ROAD CLOSED" SIGN | | 54 |
| DISREGARD A "CHANNELIZING LINE" | | 55 |
| DISREGARD "NO PARKING" SIGN | | 56 |
| FAILS TO REPORT AN ACCIDENT WHERE A PERSON HAS BEEN KILLED | | 57 |
| VEHICLE DRIVEN WITHOUT OWNER'S CONSENT | | 58 |
| DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR | | 59 |
| NOT APPLICABLE | | 60 |

V.13 VEHICLE-RELATED OFFENCES

| | | |
|-----------------------------|--|----|
| DEFECTIVE BRAKES | | 01 |
| DEFECTIVE TYRES | | 02 |
| DEFECTIVE STOP/BRAKE LIGHTS | | 03 |
| NO FUEL/INEFFICIENT CAP | | 04 |

| | | |
|--|--|----|
| DEFECTIVE/NO DIRECTION INDICATORS | | 05 |
| DEFECTIVE STARTER | | 06 |
| NO WARNING TRIANGLES | | 07 |
| DEFECTIVE (NO) DRIVING BEAMS (HEAD-LIGHTS) | | 08 |
| REGISTRATION MARKS (PLATES) NOT DISPLAYED OR AFFIXED | | 09 |
| DEFECTIVE FIRE EXTINGUISHER | | 10 |
| PUBLIC VEHICLE NOT EQUIPPED WITH FIRE EXTINGUISHER | | 11 |
| DEFECTIVE HOOTER OR WARNING DEVICE | | 12 |
| DEFECTIVE EXHAUST | | 13 |
| DEFECTIVE STEERING MECHANISM | | 14 |
| DEFECTIVE ELECTRICAL WIRING | | 15 |
| VEHICLE NOT EQUIPPED WITH SAFETY BELTS | | 16 |
| ILLEGIBLE (COLOUR NOT MAINTAINED) NUMBER PLATES | | 17 |
| DEFECTIVE SPEEDOMETER | | 18 |
| DEFECTIVE ENTRANCE/EXIT DOORS | | 19 |

| | | |
|--|--|----|
| DEFECTIVE VIEW MIRRORS | | 20 |
| SIREN FITTED ILLEGALLY | | 21 |
| EXCESSIVE SMOKE EMITTED WHILE TRAVELLING | | 22 |
| NO CHEVRON (DEFECTIVE) AT BACK OF VEHICLE | | 23 |
| PUBLIC VEHICLE (BUS) UNTIDY | | 24 |
| REGISTRATION MARK (NUMBER PLATES) OBSCURED BY TOWBAR | | 25 |
| DEFECTIVE WINDSCREEN | | 26 |
| FUEL LEAKAGE | | 27 |
| NOT APPLICABLE | | 28 |

V.14 DOCUMENT OFFENCES

| | | |
|--|--|----|
| NO DRIVER'S LICENCE | | 01 |
| FALSIFIED (FRAUD) DRIVER'S LICENCE | | 02 |
| UNLICENSED MOTOR VEHICLE (EXPIRED CLEARANCE CERTIFICATE) | | 03 |
| CLEARANCE CERTIFICATE NOT DISPLAYED | | 04 |
| NO EXEMPTION PERMIT FOR ABNORMAL VEHICLES | | 05 |

| | | |
|---|--|----|
| PASSENGER OVERLOAD | | 06 |
| NO C.O.F.* | | 07 |
| C.O.F. NOT IN VEHICLE | | 08 |
| NO P.D.P.* | | 09 |
| P.D.P. NOT IN VEHICLE | | 10 |
| GOODS VEHICLE OVERLOAD | | 11 |
| UNLICENSED PERSON PERMITTED (ALLOWED) TO DRIVE | | 12 |
| NO MASS INFORMATION PLATE ON LEFT SIDE OF GOODS VEHICLE | | 13 |
| FAIL TO REGISTER VEHICLE WITHIN 21 DAYS | | 14 |
| DRIVES VEHICLE WHILST UNDER SUSPENSION | | 15 |
| FAIL TO RENEW LICENCE (CLEARANCE CERTIFICATE) | | 16 |
| NOT APPLICABLE | | 17 |

*C.O.F.: CERTIFICATE OF FITNESS

*P.D.P.: PROFESSIONAL (PUBLIC) DRIVING
PERMIT

V.15 TYPES OF VEHICLES INVOLVED

| | | |
|---|--|----|
| MOTORCYCLES | | 01 |
| PRIVATE VEHICLES | | 02 |
| PUBLIC MOTOR VEHICLES (TAXIS, BUSES) | | 03 |
| GOODS VEHICLES | | 04 |
| OTHER (TRACTORS, CARAVANS, TRAILERS, PAYLOADERS, CRANES) | | 05 |
| UNKNOWN | | 06 |

SECTION D: PENALIZATION

V.16

| | | |
|--------------------|--|----|
| ADMISSION OF GUILT | | 01 |
| NOT APPLICABLE | | 02 |

V.17

| | | |
|----------------|--|----|
| FINE | | 01 |
| NOT APPLICABLE | | 02 |

V.18

| | | |
|----------------|--|----|
| IMPRISONMENT | | 01 |
| NOT APPLICABLE | | 02 |

V.19

| | | |
|----------------------|--|----|
| FINE OR IMPRISONMENT | | 01 |
| NOT APPLICABLE | | 02 |

V.20

| | | |
|--------------------------|--|----|
| CAUTIONED AND DISCHARGED | | 01 |
| NOT APPLICABLE | | 02 |

V.21

| | | |
|--------------------|--|----|
| SUSPENDED SENTENCE | | 01 |
| NOT APPLICABLE | | 02 |

V.22

| | | |
|----------------|--|----|
| DEFERRED FINE | | 01 |
| NOT APPLICABLE | | 02 |

V.23

| | | |
|----------------|--|----|
| SPOT FINE | | 01 |
| NOT APPLICABLE | | 02 |

V.24

| | | |
|---|--|----|
| FINE OR IMPRISONMENT PLUS IMPRISONMENT SUSPENDED | | 01 |
| NOT APPLICABLE | | 02 |

V.25

| | | |
|--|--|----|
| FINE OR IMPRISONMENT OF WHICH HALF IS SUSPENDED | | 01 |
| NOT APPLICABLE | | 02 |

V.26

| | | |
|--------------------------------|--|----|
| WHIPPING (CORPORAL PUNISHMENT) | | 01 |
| NOT APPLICABLE | | 02 |

V.27

| | | |
|-------------------------|--|----|
| PERIODICAL IMPRISONMENT | | 01 |
| NOT APPLICABLE | | 02 |

V.28

| | | |
|---------------------------------|--|----|
| FINE AND IMPRISONMENT SUSPENDED | | 01 |
| NOT APPLICABLE | | 02 |

V.29

| | | |
|---|--|----|
| TREATMENT IN A REHABILITATION CENTRE (SANCA* AT EMPANGENI) | | 01 |
| NOT APPLICABLE | | 02 |

* SOUTH AFRICAN NATIONAL COUNCIL ON ALCOHOLISM

V.30

| | | |
|----------------------------------|--|----|
| CANCELLATION OF DRIVER'S LICENCE | | 01 |
| NOT APPLICABLE | | 02 |

V.31

| | | |
|---------------------------------|--|----|
| ENDORSEMENT OF DRIVER'S LICENCE | | 01 |
| NOT APPLICABLE | | 02 |

V.32

| | | |
|---|--|----|
| FAILING TO ATTEND COURT (CONTEMPT OF COURT) | | 01 |
| NOT APPLICABLE | | 02 |

V.33 AMOUNT PAID IN RESPECT OF AN ADMISSION OF GUILT FINE,
SPOT FINE

| | | |
|-------------|--|----|
| R10 - R99 | | 01 |
| R100 - R199 | | 02 |
| R200 - R299 | | 03 |
| R300 - R399 | | 04 |
| R400 - R499 | | 05 |
| R500 - R599 | | 06 |
| R600 - R699 | | 07 |
| R700 - R799 | | 08 |
| R800 - R899 | | 09 |

| | | |
|-----------------|--|----|
| R900 - R999 | | 10 |
| MORE THAN R1000 | | 11 |
| NOT APPLICABLE | | 12 |

V.34 TERM OF IMPRISONMENT

| | | |
|----------------|--|----|
| 10 - 99 DAYS | | 01 |
| 100 - 199 DAYS | | 02 |
| 200 - 299 DAYS | | 03 |
| 300 - 399 DAYS | | 04 |
| 400 - 499 DAYS | | 05 |
| 500 - 599 DAYS | | 06 |
| NOT APPLICABLE | | 07 |

| | | | |
|---|--|--|--|
| A TO | | 50-28441-390 | |
| Voornam / Forename | | Land / Country | |
| Woonadres / Residential Address | | Nasionaliteit / Nationality | |
| Voortstad / Suburb | | Postkode / Postcode | |
| Naam en Adres van Werkgever of Operateur / Name and Address of Employer or Operator | | Stad/Dorp / City/Town | |
| Voortstad / Suburb | | Postkode / Postcode | |
| Stad/Dorp / City/Town | | E.V.S.-no. (Vr. amplesse getuie) / A.G. No. (For official use) | |
| Ruk / Race 1 Black 2 White 3 Coloured 4 Asian 5 Other Ouderdom / Age 1 18-24 2 25-34 3 35-44 4 45-54 5 55-64 6 65-74 7 75-84 8 85-94 9 95-104 | | Geslag / Sex 1 Man 2 Female Beroep / Occupation 1 18-24 2 25-34 3 35-44 4 45-54 5 55-64 6 65-74 7 75-84 8 85-94 9 95-104 | |
| U word hiermee kragtens die bepalings van artikel 56 van die Strafproseduurewet, 1977 (Wet 51 van 1977), aangesê om voor die hof op die verhoordatum, wat in beide gevalle hieronder genoem word, om 09h00 te verskyn en teenwoordig te bly om te antwoord op 'n aanklag(te) van oortreding van at 09h00 and to remain in attendance there to answer a charge(s) of contravention | | | |
| Aanklag 1/Charge 1 | | Aanklag 2/Charge 2 | |
| Aanklag 3/Charge 3 - alternative aanklag/alternative charge | | Aanklag 4/Charge 4 - alternative aanklag/alternative charge | |
| of enige ander aanklag(te) wat die Aanklaer teen u mag inbring op grond daarvan dat u op omtrent die or such other charge(s) as the Prosecutor may bring in against you on the grounds that upon or about the | | DAG/DAY MAAND/MONTH 19 JYR | |
| die ondergenoemde distrik, wederregtelik district mentioned hereinbelow, you did wrongfully | | motorvoertuig motor vehicle | |
| Aanklag 1/Charge 1 | | Reg. No. | |
| Aanklag 2/Charge 2 | | 'n plek / openbare pad in a place/public road in the | |
| 1 Aanklag 3/Charge 3 - 2 alternative aanklag/alternative charge | | 1 Aanklag 3/Charge 3 - 2 alternative aanklag/alternative charge | |
| C Datum waarop en plek waar u persoonlik in die hof moet verskyn / Date and place you are personally to appear in court | | | |
| Verhoordatum Date of Trial | | Plek van Verhoor/Place of Trial; Landdroshof/Magistrate's Court EMPANGENI | |
| Hof- Court No. I | | Hof- Court No. I | |
| D Datum waarop en plek waar skulderkenningsboete(s) betaal kan word ten einde verskyning in die hof te vermy. / Date and place where admission of guilt fine(s) may be paid to avoid appearance in court. | | | |
| Skulderkenningsboete(s) ten bedrae van Admission of guilt fine(s) of | | kan betaal word, in welke geval betaling moet geskied voor of op may be paid, in which case payment must be made on or before | |
| DAG/DAY MAAND/MONTH 19 JYR | | slegs by only at | |
| (a) Enige polisiekantoor in die ondergenoemde distrik Any police station in the district mentioned hereinbelow (Kyk deel E / See section E) | | (b) Die Klerk van die voornoemde Hof The Clerk of the aforesaid Court | |
| Polisiekantoor Police Station RICHARDSBAY | | Distrik District LAER UMFOLOZI | |
| No. van Vredesbeampte No. of Peace Officer | | No. van Vredesbeampte No. of Peace Officer | |
| DAG/DAY MAAND/MONTH 19 JYR | | Plek/Place RICHARDSBAY/RICHARDS BAY | |
| GROEP/Group | | GROEP/Group | |
| Die oorspronklike hiervan is vandag aan die genoemde beskuldigde self oorgehandig en die betekenis daarvan aan hom/haar verduidelik. The original hereof was today handed to the abovementioned accused personally and the import thereof explained to him/her | | | |
| Amptelike kodes Official codes | | Hof Court 1, 3, 8, 8, 0, 3 | |
| O/Lokaal O/Locality | | Oortreding(s) Offence(s) 1 | |
| No. van Kennisgewing / No. of Notice | | 2 | |
| 50-28441-390-057322 | | 3 | |
| Rybewys D.Lic. | | Toonkode Presentation Code | |
| G BELANGRIKE INLIGTING VIR DIE BESKULDIGDE / IMPORTANT INFORMATION TO THE ACCUSED | | | |
| 1. Waarskuwing: Indien u versuim om aan hierdie kennisgewing te voldoen of om by die betrokke verrigtinge aanwesig te bly kan u in hegtenis geneem en 'n boete van hoogstens R300 of gevangenisstraf van hoogstens 3 maande opgelê word. | | 1. Warning: If you fail to comply with this notice or fail to remain in attendance at the proceedings you may be arrested and sentenced to a fine not exceeding R300 or imprisonment for a period not exceeding 3 months. | |
| 2. Voorwaardes vir betaling van skulderkenningsboete. Indien u verkies om 'n skulderkenningsboete te betaal: | | 2. Conditions for payment of admission of guilt fine. Should you prefer to pay the admission of guilt fine: | |
| 2.1 Moet hierdie dokument die betaling van die skulderkenningsboete vergesel. | | 2.1 This document is to accompany such payment. | |
| 2.2 Sal slegs kontant, 'n posorder, 'n poswissel of 'n bank-gewaarborgde tjek aanvaar word. | | 2.2 Only cash, a money order, a postal order or a bank guaranteed cheque will be accepted. | |
| 2.3 Moet posorders, poswissels of tjeks aan die betrokke owerheid uitgemaak word (kyk deel D hierbo). | | 2.3 Postal orders, money orders or cheques must be made payable to the relevant authority (see part D above). | |
| 2.4 Sal u nie in die hof hoef te verskyn nie. | | 2.4 You need not appear in court. | |
| 3. Betaling per pos kan slegs voor die genoemde betaaldatum geskied. | | 3. Payment can be made by post only before the said date of payment. | |
| 4. Indien u van voorneme is om die saak te verdedig, word u versoek om die Aanklaer skriftelik voor of op die bogenoemde betaaldatum van u voorneme in kennis te stel. Versuim om dit te doen, mag die afhandeling van die saak vertraag en selfs lei tot die uitstel van die verhoor. | | 4. If it is your intention to defend the case against you, you are requested to inform the Prosecutor of your intentions in writing on or before the abovementioned date of payment of the fine. Failure to do so may delay the case or may even result in a postponement of the case. | |
| H UITGEREIK DEUR: VERKEERSAFDELING, PRIVAATSAX X1004, RICHARDSBAY 3900 | | ISSUED BY: TRAFFIC DEPARTMENT, PRIVATE BAG X1004, RICHARDS BAY 3900 | |

ANNEXURE D

KENNISGEWING INGEVOLGE ART. 341 VAN WET 51 VAN 1977 • NOTIFICATION IN TERMS OF SEC. 341 OF ACT 51 OF 1977

| | | | | | |
|---|--|--------------------------------------|---|---|--|
| VERKEERSAFDELING VAN RICHARDSBAAI | | Verwysingsnommer Reference number | | TRAFFIC DEPARTMENT OF RICHARDS BAY | |
| 10 / 10426 / 390 / 021252 | | | | | |
| Aan / To: Van / Surname | | | | | |
| Voornam / Forenames | | | | | |
| ID. No. | | Land/Country | | Rybewys/Licence* | |
| | | | | Type of Type D | |
| Woonadres/Residential address | | | | Telefoonno./Telephone no. | |
| | | | | Voortstad Suburb | |
| Besigheidsadres/Business address | | | | Postkode/Postcode | |
| | | | | Stad/Dorp City/Town | |
| | | | | Telefoonno./Telephone no. | |
| | | | | Voortstad Suburb | |
| | | | | Postkode/Postcode | |
| | | | | Stad/Dorp City/Town | |
| Ras / Race | | Geslag / Sex | | Ouderdom Age | |
| 1 White 2 Black 3 Coloured 4 Asian 5 Other 6 Unknown | | 1 Male 2 Female | | Jr Yr | |
| | | | | Beroep / Occupation | |
| | | | | Status | |
| | | | | 1 18+ 2 <18 | |
| B U het 'n oortreding begaan deur: You have committed an offence by: | | | | | |
| | | | | | |
| Kode/Code | | Artikel/Section | | Rigting/Direction | |
| | | | | Registrasieno./Registration no. | |
| | | | | | |
| Plek van oortreding/Place of offence | | | | | |
| | | | | | |
| | | | | Getuie/Witness | |
| | | | | Ja/Yes Nee/No | |
| | | | | Y N | |
| Oortredum/Off. date | | Tyd/Time | | km/h | |
| d d m m j j y | | h | | Meter no. | |
| | | | | Type lisensie/Licence type | |
| | | | | | |
| C Fabrikant/Make | | Voertuigtype/Vehicle type | | M.V.A.-No. | |
| | | | | | |
| Registrasieno./Registration no. | | KBnommer/CC. number | | Mnd/Mth Jr/Yr | |
| | | | | | |
| Spesifiseer/Specify | | Reg. Dat. | | | |
| | | d d m m j j y | | | |
| | | | | | |
| D In Afkoopboete van A spot fine of R -0,0 | | | | | |
| wel waarskynlik deur die Hof opgelê sal word, kan betaal word toewelkch would probably be imposed by the Court, may be paid at:- | | | | | |
| VERKEERSAFDELING - MUNISIPALE KANTORE R/V. ANGLERS ROOD EN KREWELKRING MEERENSEE - RICHARDSBAAI | | | TRAFFIC DEPARTMENT - MUNICIPAL OFFICES CNR. ANGLERS ROOD AND KREWELKRING MEERENSEE - RICHARDS BAY | | |
| Insp. no. | | | | | |
| | | | | | |
| Finansier, ouer of voogd Name of fin. parent or guardian | | | | | |
| | | | | | |
| Vredesbeampte/Peace Officer | | | | | |
| | | | | | |
| U moet binne 30 dae vanaf uitreiking op hierdie kennisgewing reageer. You must respond to this notice within 30 days of issue. | | | | | |
| Form 01 | | | | | |

**LEES DIE BELANGRIKE INLIGTING OP DIE RUGKANT HIERVAN
READ THE IMPORTANT INFORMATION ON REVERSE SIDE**