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**LAW ENFORCEMENT, SENTENCING AND PUBLIC HEALTH:
DRIVING WHILE SUSPENDED OR DISQUALIFIED**

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The size of the problem

- Between 2009 and 2011 16,220 drivers were convicted of the offence of driving whilst disqualified: s 30(1) *Road Safety Act 1986*
 - 38% were fined
 - 25% received a wholly suspended sentence
 - 17% were imprisoned
 - 14.6% were < 3 months
 - 19.6% 3<6 months
 - 13.1% 6<12 months
 - 7.5% received an ICO
 - 6% received a CBO

The size of the problem

- Between 2009 and 2011 29,909 drivers were convicted of the offence of driving whilst suspended: s 30(1) *Road Safety Act 1986*
 - 58% were fined
 - 20% received a wholly suspended sentence
 - 6% were imprisoned
 - 42% were < 3 months
 - 27% 3<6 months
 - 14% 6<12 months
 - 5% received an ICO
 - 4% received a CBO

A growing problem

- 3000 offences in 2000-2001
- 8000 offences in 2006-7
- Approximately 15,300 pa 2009 – 2011
- 18,000 infringement notices in 2011 for unlicensed driving

- Random roadside tests show that between 1 - 2.4% of drivers stopped were unlicensed



A study

SENTENCING ADVISORY COUNCIL, VICTORIA DRIVE WHILE DISQUALIFIED OR SUSPENDED: REPORT 2008

The legal issues

- Use of suspended sentences
 - 20% of all suspended sentences in Magistrates' Court
- Mandatory minimum term of 1 month for second and subsequent offences
- Growing incidence of suspensions following infringement notices
- Following SAC recommendations, the mandatory minimum term was abolished

Recommendations: more (and different) law enforcement

- Increased detection (through automated number plate recognition)
- Impoundment, immobilisation and forfeiture

The health and safety issues

- 1994 study found that disqualified or suspended drivers and riders were overrepresented in high severity crashes and in seriously injured groups of road users
- Queensland study 1994 – 1998: significantly higher proportion of crashes involving unlicensed drivers resulted in a fatality or hospitalisation (29.3%) compared to crashes involving licensed drivers
- Qld study 1995-2004: Unlicensed drivers involved in 3-4% of total crashes and 6-10% of fatal crashes.
- Victorian study (2012) 2003-2007 10.9% of fatal crashes and 7.4% of serious injury crashes involved one unlicensed driver (32 people killed and 485 seriously injured).
- Between 30-70% continue to drive while disqualified

The health and safety issues

- Between 2005-2007 in Victoria there were:
 - 31 offenders with 20+ priors for this offence
 - 193 with 11-19 priors
 - 70 with 10 priors
 - 925 with 5-9 priors

Health and safety issues

- Police believe that of the top 500 worst drivers in Victoria only 15% hold a current licence.
- Rest are
 - Unlicensed
 - Disqualified
 - Suspended
 - Surrendered licence
 - Never licensed
- police research showed that unauthorised drivers were over-represented in road trauma and created extra risks on the road

<http://www.theage.com.au/victoria/police-to-target-top-500-worst-drivers-20120901-256pf.html#ixzz29nOoDrd9>

The health and safety issues

- Significant number of people convicted of these offences have underlying problems with alcohol dependency or misuse
- Of 8,087 people who were sentenced for driving while disqualified or suspended in 2004–05 more than half (51.8%) had committed a previous drink or drug driving offence
- 7.4% had 4 or more priors for drink driving
- Speeding is second highest cause of license disqualification
- Many drink drivers continue to drive during disqualification period because of cost and complexity of re-licensing process
- Many continue to drive with an alcohol interlock
- Many are young males

Multiple offending

- Average number of other offences = 5
 - Use an unregistered vehicle (31.5%)
 - Drink driving (15.4%)
 - Theft (13.4%)
 - Speeding (12.9%)
 - Failing to appear on bail (12.4)
 - Careless driving (6.1%)
 - Possessing drug of dependence (5.6%)

Recommendations

- require offenders to confront and address an underlying problem with alcohol at an early stage
- increase the likelihood that offenders will return to the licensing scheme and as a consequence will be subject to an alcohol interlock condition
- The government should ensure that appropriate drink-driving programs are available to be used in conjunction with deferred sentencing, as well as with orders such as community-based orders.
- The Magistrates' Court should be able to grant the order prior to the end of the disqualification period if:
 - • the applicant satisfies the court that he or she has completed an approved course; and
 - • the court directs that VicRoads can only grant the offender a licence or permit subject to a condition that the offender must only drive a vehicle with an approved alcohol interlock device.

Specialist list for driving offences

- Magistrates' Court should consider establishing an opt-in list for cases involving defendants for whom the traditional interventions have failed and who are willing to plead guilty and undergo more focussed and intensive programs
- a list could provide a specialised process that may be particularly useful in cases involving
 - repeat drink driving offenders
 - who have not been responsive to previous court orders and
 - who pose a significant danger to the community if they continue to drive in breach of licence sanctions and court orders

Recent research/issues

- Indigenous people and driving offences
- Indigenous Australians are underrepresented in driver licence ownership, overrepresented in road crash data and overrepresented as incarcerated persons in prisons.
- Senate Committee on Aboriginal and Torres Strait Islander Affairs:
The high rate of driver licensing offences among Indigenous people dovetails into the high rate of incarceration for minor justice breaches such as fine default... This leads to the imposition of fines, which go unpaid, the inability subsequently to attain a driver licence, resulting in more driving unlicensed offences and fines, and the eventual likelihood of receiving a custodial sentence
- Cited: Skinner, M. and Rumble, N, *A new approach to addressing driver licensing issues within Indigenous communities across Australia*, 2011

References

Catchpole, J. (2012). Unauthorised drivers and riders in fatal and serious injury accidents in Victoria, Seminar presentation for the Australasian College of Road Safety, May 21, Melbourne: ARRB

Watson, B. et al, *A Roadside Survey of Unlicensed Driving in Queensland*, Centre for Accident Research and Road Safety – Queensland (2011)