



THE UNIVERSITY OF  
WESTERN AUSTRALIA

## THE DISQUALIFIED DRIVER STUDY

**A Study of Factors Relevant to the Use of Licence  
Disqualification as an Effective Legal Sanction in Western  
Australia**



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## **FORWARD**

This study has been funded by the WA Road Safety Council (Road Trauma Trust Fund) and addresses one of the Council's high-risk priority areas - improving the effectiveness of traffic law enforcement. Although the problems associated with driver's licence disqualifications (ie suspensions and cancellations) and driving while disqualified are not new in Western Australia, the utilisation of licence suspension as a fines enforcement mechanism is relatively new and requires closer examination.

The results of this study will be relevant to policy makers and law enforcement agencies concerned with the effectiveness of licence disqualification, and its enforcement, in Western Australia.

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## **EXECUTIVE SUMMARY**

### *Aims*

The purpose of this study is to investigate key factors that determine the degree to which licence disqualification is an effective sanction against traffic offences and non-payment of fines. In particular, the study aims to:

- describe trends in the use of licence disqualification and the frequency of the offence of driving while disqualified;
- identify the main characteristics of disqualified drivers and the subset of those who drive while disqualified;
- understand the social and situational circumstances of disqualified drivers and those who drive while disqualified; and
- assess the knowledge of, and attitudes to, enforcement and justice procedures by disqualified drivers and those who drive while disqualified.

### *Method*

The study uses data obtained from a number of sources - traffic conviction data from the WA Police Service; licence suspensions from the Fines Enforcement System; court finalisations and imprisonment records (of disqualified drivers) from the Department of Justice - to analyse the nature and extent of licence disqualification in WA. This is supplemented with in-depth information from focus groups about the social and situational circumstances of disqualified drivers and those who drive while disqualified.

### *What is known from existing research?*

Licence disqualification is a common sanction for traffic offending. Studies have shown the sanction to be effective in reducing recidivism, especially the recidivism of drink drivers. For drink-drivers, disqualification from driving coupled with alcohol treatment programs has been more effective in reducing recidivism than licence disqualification alone.

While licence disqualification has some deterrent effect, its ability to restrain or incapacitate disqualified drivers has been questioned – various studies have estimated the proportion of disqualified drivers who drive illegally to range from 25 percent to 75 percent. Concern for the high rate of non-compliance and the risks posed by unlawful drivers have prompted many U.S. jurisdictions to design and implement countermeasures to reduce the level of disqualified driving. These measures include vehicle actions, sticker and plate laws, and various treatment and education programs. Some of these have successfully reduced the level of disqualified driving. For example, in California, vehicle impoundment (but not vehicle forfeiture) has been shown to significantly reduce crashes and convictions for disqualified driving and to be especially effective against repeat offenders. Vehicle plate confiscation laws have also shown reductions in the recidivism of repeat offenders, while avoiding issues surrounding the seizure of private property (vehicles). Sticker laws enabling the police to target specific vehicles for licence checks and which require action by the owners to prevent vehicle deregistration, have also successfully reduced the level of disqualified driving. In New Zealand, a cognitive behavioural treatment program for disqualified drivers who do *not* have an underlying alcohol problem also resulted in

significant reductions in reconviction rates for disqualified driving and other criminal offences.

Some studies have explored the psychological factors associated with driving while disqualified. The risk of detection and the level of disruption are two important determinants of the decision to drive. The risk of detection has an important deterrent effect. However, the benefits brought about through the 'certainty' of detection (reduced offending) need to be balanced against the cost of implementation (ie increased enforcement, additional criminal justice resources to process offenders).

Studies have also explored the road safety issues associated with disqualified driving. At first glance, the research findings from various studies appear to be at odds - early research evidence suggests that the risk of serious crashes was reduced during periods of disqualification; more recent research has established that the risk of serious crashes is higher for disqualified drivers. However, both sets of findings may be reconciled under a single hypothesis - that *at any time* disqualified drivers, as a group, have a significantly higher risk of serious road crash than the larger driving population but *during times of disqualification* their risks are reduced (through 'more careful' driving) though still above the risks of the larger driving population. Such a hypothesis could be tested by future research.

A search of the literature found no research that addressed the effectiveness of licence suspension as a fine-enforcement sanction. In most studies, the disqualified drivers under review were drink-drivers or serious/repeat traffic offenders or both. To the author's knowledge, no study has explored the recidivism of fine suspension drivers (especially those suspended for non-traffic related fines) or the road safety risks of this group.

### *Results & Discussion*

The study found that the rate of licence disqualification has increased significantly since 1995 (by 60%), owing to very substantial increases in the rate of fine suspensions and much smaller rises in the rate of (additional) disqualification arising from driving while disqualified. In contrast, the rate of licence disqualification for other traffic offences other than driving while disqualified (that is, demerit point accumulation or serious traffic offences such as drink driving and dangerous driving) *declined* over the same period.

Since 1995, the rate of fine suspension has doubled (increasing from 5,151 per 100,000 adults to 10,167 per 100,000 adults in 2001), due mostly to fine defaults associated with the increased utilisation of infringement notices for speeding (including Multinova) and railway offences (fare evasion). Fine suspensions now comprise 84% of all disqualifications.

More than half (55%) of all disqualifications have been the result of traffic offending - either *directly* (through serious traffic offences) or *indirectly* (through unpaid traffic fines). Conversely, 45% of licence disqualifications were for reasons *unrelated* to road traffic law enforcement.



The disqualification of female drivers has increased over time; however, the level of over-representation of males in licence disqualification still remains – by a factor of 2.9.

The level of Aboriginal participation in licence disqualification has also increased, as has the level of over-representation of Indigenous drivers: in 1995, the Indigenous rate of licence disqualification was 8.1 times the non-Indigenous rate, however by 2001, the Indigenous rate was 10.5 times the non-Indigenous rate.

Aboriginal involvement in fine suspensions was significant: in 1995, the Indigenous rate of fine suspension was nine times greater than the non-Indigenous rate and, by 2001, this had increased to eleven times greater. The majority of Indigenous fine suspensions were for unpaid court fines (justice and good order offences) and railway infringements (fare evasion). Between 1995 and 2001, the proportion of Indigenous fine suspensions for railway offences increased from 0.7% to 23.5%. In terms of traffic offending, Indigenous drivers were more likely to be disqualified for licence offences (specifically, driving without a valid licence) and drink-driving offences rather than from accruing too many demerit points.

The study found that many disqualified drivers were *repeat offenders* (those having five or more disqualifications): one quarter (26%) of all disqualified drivers accounted for 72% of all disqualifications. Repeat offenders were more likely to be Indigenous, have a criminal record and have a history of non-payment of fines. There was a significant overlap between licence disqualification for traffic offences and licence suspension for non-payment of fines: one quarter of all disqualified drivers had incurred both types of disqualifications over the study period. There was also evidence that increases in disqualifications (arising primarily from fine suspensions) have been due to the activities of, and actions against, repeat offenders rather than drivers who are new to licence disqualification.

According to drivers, the greatest impact of licence disqualification was on employment and on the family. The impact on employment was unevenly distributed: for those with family support or those close to public transport, the impact of disqualification was minimal; however, for those who worked as tradespersons or who needed their licence as part of their jobs (eg truck drivers, couriers) or to get to their place of work (eg shift workers), the impact of licence disqualification was substantial.

As to licence suspension for non-payment of fines, two factors - flexibility and convenience – emerged as the two most important factors influencing an individual's ability and willingness to pay outstanding fines. Generally, licence suspension for non-payment of fines was seen as an unfair act committed against those who could least afford the consequences of such action.

Many disqualified drivers admitted to driving while under suspension. Generally, drivers without a criminal record; those who were not repeat (traffic) offenders; female drivers and non-Indigenous drivers were less likely to drive while disqualified. These findings accord with much of the literature on the effectiveness of (specific) deterrence.

Two factors were significant in the decision to engage in unlicensed driving: the risk of detection and the level of impact/disruption. The higher the risk of detection, the less likely drivers were of engaging in unlicensed driving. Conversely, the greater the impact and disruption caused by the sanction on a driver's family and personal life, the more likely they were of engaging in unlicensed driving.

Drivers adopted various strategies to reduce their risk of detection. These included 'improved' driving techniques such as observing speed limits, observing correct procedures (in overtaking, at traffic lights, etc), not drinking and driving, driving more carefully and ensuring the proper registration and roadworthiness of vehicles. Research has shown that the road safety benefits arising from such strategies are only temporary (occurring *only while the licence disqualification is in place*). Other implications, such as the uncertainty of insurance coverage in the event of a road crash, counteract the short-lived benefits of driving while disqualified.

Participants in the study viewed the combination of a fine, demerit points *and* licence disqualification as a severe *but appropriate* punishment for serious traffic offences (such as repeat drink driving) but too severe for many other traffic offences (eg speeding). The severity of penalties imposed for driving while disqualified (that is, larger fines, longer periods of disqualification and imprisonment) was also recognised.

The study found that one in ten charges of driving without a valid licence (DWVL) results in a custodial sentence and a further 12% are given suspended terms of imprisonment. Offenders sent to prison for DWVL (as the most serious offence) constitute a significant proportion of the total number of offenders received annually into prison (8.2% in 2001).

Participants in the study considered alternative ways of dealing with disqualified driving: partial up-front suspensions and opportunities to earn one's licence back sooner were regarded as the *most effective* methods of reducing unlicensed driving. Participants who had received life disqualifications were supportive of *any* opportunity to reclaim their licence. Vehicle actions (forfeiture/impounding) and an expanded range of penalty options (not only for unlicensed driving offences but also for other road traffic offences) also received support. Increased penalties and compulsory attendance at seminars or workshops were considered to be the *least effective* methods of combating unlicensed driving.

### *Implications and Recommendations*

The growing number of disqualified drivers, combined with a high rate of non-compliance, is likely to lead to an increase in the number of persons driving while disqualified. These factors are likely to place added pressure on traffic law enforcement and the criminal justice system in Western Australia.

The recommendations of the study are:

**Recommendation 1:**

*The collection of routine statistics is essential in monitoring the impact of sanctions on various sections of the community.* It is recommended that the WA Police Service and the Department of Justice maintain regular statistics on the number of licence disqualifications arising from traffic offending and non-payment of fines.

**Recommendation 2:**

It is recommended that, as a matter of course, Indigenous status be recorded in *all* licencing, traffic conviction, fine enforcement and court records. The Indigenous status of offenders must be recorded so that inequities or systemic biases can be identified and removed.

**Recommendation 3:**

It is recommended that research be conducted to determine the 'true' level of disqualified driving in Western Australia. Improved techniques, such as those used in the Moncton study (Malenfant et al, 2002), should be incorporated into this research.

**Recommendation 4:**

It is recommended that individual issuing authorities make a greater effort to monitor the rate of compliance with payment of fines and pursue methods of increasing payment of fines. It is recommended that such agencies offer a greater range of payment options and introduce more flexible arrangement-to-pay options for some clients. The Fines Enforcement Register is *not* the state debt collection agency and should not be treated as such.

**Recommendation 5:**

Given the significant number of fine suspensions arising from railway fare evasion, it is recommended that the current policy of issuing on-the-spot fines for train fare evasion be immediately reviewed and that other (situational) crime prevention strategies (such as barrier systems) be investigated to reduce the size of the fare evasion problem. A more concentrated effort is needed on the part of railway authorities to increase compliance with paid train travel.

**Recommendation 6:**

Given the significant over-representation of Aboriginal people in fine default and fine suspensions, it is recommended that the appropriateness of fines as an effective sanction for Aboriginal offenders be immediately reviewed. There is an urgent need to develop culturally appropriate sanctions and financial penalties based on an individual's capacity to pay.

**Recommendation 7:**

The study made no comment on the impact of licence suspension on the lives of Aboriginal people, as no qualitative information was available. However, given the highly discriminatory consequences of fine suspension on Aboriginal people, there is a clear need to undertake further research in this area and explore some of the regional issues associated with Aboriginal fine non-payment and licence disqualification.

**Recommendation 8:**

It is recommended that, upon disqualification, drivers be supplied with an information pack containing information on the consequences of driving while disqualified. This should include information about the penalties associated with the offence, the insurance implications (to themselves, passengers and other road users) and the crash risks associated with such action.

**Recommendation 9:**

It is recommended that, upon fine suspension, drivers be informed of the various options to pay fines and the benefits associated with these options. Information about some of the negative implications associated with having unpaid fines should also be included.

**Recommendation 10:**

It is recommended that measures shown to have reduced the level of disqualified driving in other jurisdictions – specifically, vehicle impoundment, sticker laws and plate confiscation - be trialed in Western Australia.

**Recommendation 11:**

It is recommended that two additional strategies - ‘curfewed’ or partial up-front suspensions and increased opportunities to earn a licence back – be trialed as methods of encouraging compliance with licence disqualification orders.

**Recommendation 12:**

It is recommended that options be explored which encourage compliance with road traffic laws. Raising the perceived risk of detection of unlicensed driving is one way of increasing compliance. This could be achieved through more visible police presence on the road; the introduction of sticker laws; compulsory carriage of licences, accompanied by well-publicized licence checks; and/or more publicity about convictions for driving-while-disqualified offences.

**Recommendation 13:**

It is recommended that local research be conducted to explore the road safety risks of disqualified drivers. The outcomes of such research would have immediate practical and policy benefit. For example, findings which suggest that the crash/injury risk of disqualified drivers is higher than that of ‘normal’ drivers, *even during periods of disqualification*, would support a strategy of ‘tougher and more targeted’ policing of disqualification orders.

In addition, the research could explore the differential risks associated with different types of disqualified driving (that is, demerit disqualifications, drunk drivers and fine suspensions). Very little is known about the illegal driving patterns and the road safety risks of fine suspended drivers, in particular. Findings may suggest that fine suspended drivers do *not* pose a significantly higher crash/injury risk than other types of disqualified drivers. Such findings would support a strategy of differential treatment (punishment) of these offenders.

**Recommendation 14:**

It is recommended that penalty options available under the *Road Traffic Act 1974*, and applied under the *Sentencing Act 1996*, be reviewed, with the intention of broadening the range of non-custodial options. Options could be expanded to include community-based orders, work orders, vehicle impoundment (as per *Road Traffic Act s. 78A*), mandatory attendance at education/treatment programs and those options listed in Rec. 10 and Rec. 11, which have been shown to be effective in other jurisdictions.

**Recommendation 15:**

It is recommended that both the fine enforcement system and the prison system be monitored to ensure that the *combined* number of fine-defaulters *and* disqualified drivers entering prison is kept to a minimum. An increase in this statistic may be symptomatic of one or more of the following: net widening of/by the fine enforcement system, reduced compliance in fine-payment or reduced compliance in road traffic laws. In any event, such trends would require further investigation.

**Recommendation 16:**

The study found *no* evidence of research that addressed the effectiveness of licence suspension as a fine-enforcement sanction. The study also found a lack of research on the recidivism of fine suspension drivers (especially those suspended for non-traffic related fines) or the road safety risks of this group. Given that the Western Australian FPINE legislation has been in operation for more than eight years and that the number of jurisdictions using or seeking to use licence suspension as a fine enforcement action is increasing, research addressing these fundamental issues is now urgently required.



## **1. INTRODUCTION**

### **1.1 *Origins and aims of this research***

The purpose of this study is to investigate the key factors that may determine the degree to which the use of licence disqualification can be an effective sanction. In particular, the study aims to:

- describe trends in the use of licence disqualification and the frequency of the offence of driving while disqualified;
- identify the main characteristics of disqualified drivers and the subset of those who drive while disqualified;
- understand the social and situational circumstances of disqualified drivers and those who drive while disqualified; and
- assess the knowledge of, and attitudes to, enforcement and justice procedures by disqualified drivers and those who drive while disqualified.

### **1.2 *Terminology***

For the purposes of the present study, the term “disqualification” is used to describe the loss of a driver’s licence *either* through suspension *or* cancellation. Suspension refers to the *temporary* removal of a person’s right to hold or use a drivers licence. Cancellation refers to the *permanent* loss of driving privileges.

“Disqualified drivers”, as a collective, are the primary focus of this report although there are occasions when we distinguish between different types of unlicensed drivers, namely, i) persons who have been disqualified from driving, ii) those who have never held a licence, and iii) those whose driver’s licences have expired. On those occasions, the distinction between the driver groups is clearly articulated.

### **1.3 *Background to this study***

In Western Australia, the disqualification of a person from driving has long been used as a legal sanction for traffic offences. However, the introduction of the *Fines, Penalties and Infringement Notices Enforcement Act* (FPINE) in 1995 made possible the suspension of drivers’ licences for non-payment of *non-traffic* fines. Under the Act, a graduated penalty system applies until payment is made, that is, non-payment of fine results in suspension of driver’s (or vehicle) licences, followed by seizure of goods, then the imposition of a work and development order, then finally, imprisonment.

The initial intention of the *Act* was to improve the overall rate of fine collection and to reduce the number of fine defaulters entering the WA prison system. Enactment of the WA legislation was unique in Australia, as no other state had previously applied the sanction of driver’s licence suspension so broadly in the administration of justice.<sup>1</sup>

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<sup>1</sup> Since then, NSW introduced the *Fines Act 1996* but this operates differently. In the United Kingdom, the *Crime (Sentences) Act 1997* introduced similar measures to encourage fine defaulters to pay their fines for any offence. These measures included community service orders, curfew orders with electronic monitoring as well as driving disqualification.

The introduction of the legislation had an immediate and positive effect on both fine payment rates and the number of fine defaulters entering prisons. However, there is concern that this has been achieved at some cost, namely, a significant and sustained increase in the number of driver's licence suspensions.

Increased licence suspensions have, in turn, given rise to increases in the number of persons driving while under suspension. This, in turn, impacts on the justice system. The most readily available statistics show that the number of persons appearing before the courts for driving without a licence or while under suspension has increased consistently to 1999. The number of offenders entering the prison system for driving licence offences (as their most serious offence) has also increased from 158 receptions in 1995 to 724 in 1999.<sup>2</sup>

Having an increasing number of unlicensed drivers on the road also represents a potential road safety issue. Studies have found that disqualified and unlicensed drivers are more likely to be involved in and responsible for serious casualty crashes.<sup>3</sup> Moreover, the practice of unlicensed driving calls into question the effectiveness of disqualification, and its enforcement, as viable law enforcement strategies. There is also some concern that the number of unlicensed drivers offending on WA roads is increasing solely as a result of the FPINE legislation.

Despite the increase in licence suspensions brought about by FPINE, our knowledge of who has been affected by these suspensions (and the extent to which their driving behaviour is subsequently altered) is limited. Information about the characteristics of disqualified driver's in Western Australia is scant. Base-level information about the *prevalence* of driving under suspension in WA (that is, the proportion of drivers who 'choose' to drive without a valid licence) is limited and now outdated.<sup>4</sup> Without such information it is not possible to evaluate existing interventions or plan better ones.

There is also little qualitative data available on the social, situational and attitudinal factors associated with driving while disqualified. The mounting level of licence disqualifications gives rise to a number of questions. Is the decision to drive while disqualified one in which the disqualified driver balances the risk of detection against the possible benefits of continued driving, or are there other factors at play? If so, what might these other factors be? Are drivers aware of the enforcement measures and penalties associated with driving while disqualified? Are the penalties for driving while disqualified sufficient to outweigh the benefits?

Consideration of the impact of the FPINE also gives rise to a further question: Are the circumstances, attitudes and behaviours of drivers suspended through fine enforcement any different to those of drivers disqualified through traffic law enforcement?

It is hoped that this study will provide answers to some of these questions.

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<sup>2</sup> Most recent statistics were obtained from *Crime and Justice Statistics for Western Australia: 1999*, Crime Research Centre, University of Western Australia. Prison reception statistics were obtained from the same publication for the years 1995 through to 1999.

<sup>3</sup> See, for example, Federal Office of Road Safety *Monograph 20* (1997) and *Monograph 21* (1997), DeYoung, Peck & Helander (1997) and Harrison (1997).

<sup>4</sup> The most recent survey of driving by disqualified and suspended drivers in WA was in 1990. Smith & Maisey (1990) found that 35.8% of respondents admitted to driving while under disqualification.



## 1.4 WA Legislation

Various laws in Western Australia prescribe that a person be disqualified from holding or obtaining a driver's licence for certain traffic and non-traffic offences.

Less serious traffic offences usually attract penalties of monetary fines and/or demerit points. The accumulation of 12 or more demerit points results in the automatic suspension of the driver's licence for a period of not less than three months (*Road Traffic Act (1974) s. 103*).

Larger fines and longer periods of disqualification are also used as sanctions for more serious traffic offences. Sections of the *Road Traffic Act (1974)* prescribe such penalties for dangerous driving (*s. 59, 59A, 61*) and reckless driving (*s 61*).

Licence disqualification is also a penalty for drink-driving offences. Offences of driving under the influence of alcohol or drugs are described in *Road Traffic Act (1974) s. 63, 64, 64AA, 64A*. Penalties for these offences vary depending on the blood alcohol level of the driver, whether or not the driver has a probationary licence and whether or not the driver is a repeat drink-driver. Generally, the more serious the offence, the larger the fine and the longer the period of disqualification. Cancellation of licences and imprisonment are prescribed for repeated offences committed under these sections of law. The following table describes the minimum period of disqualification for the various drink-driving offences:

**Table 1 – Minimum period of disqualification for the various drink-driving offences under *Road Traffic Act (1974)***

Driver type	Blood alcohol level (BAC in %)	Period of disqualification		
		First offence	Second offence	Subsequent offence
<i>Probationary driver</i>				
	BAC $\geq$ 0.02	3 months	3 months	3 months
<i>All other drivers</i>				
	0.05 $\leq$ BAC $<$ 0.08	no disq.	3 months	3 months
	0.08 $\leq$ BAC $<$ 0.09	3 months	6 months	6 months
	0.09 $\leq$ BAC $<$ 0.10	3 months	6 months	7 months
	0.10 $\leq$ BAC $<$ 0.11	4 months	6 months	8 months
	0.11 $\leq$ BAC $<$ 0.12	4 months	7 months	9 months
	0.12 $\leq$ BAC $<$ 0.13	5 months	8 months	10 months
	0.13 $\leq$ BAC $<$ 0.14	5 months	10 months	12 months
	0.14 $\leq$ BAC $<$ 0.15	6 months	12 months	14 months
	BAC $\geq$ 0.15	6 months	2 years	Cancelled

*Section 48* of the *Road Traffic Act* gives the Director-General of Transport the (discretionary) power to disqualify an individual from driving. Under this section, a driver's licence may be cancelled or suspended or may be refused to be issued or renewed for other reasons, including not being of good character, addiction to alcohol or drugs, mental or physical disability and previous traffic convictions.

Driver's licence suspension is also an action prescribed by the *Fines, Penalties and Infringement Notices Enforcement Act (1995)* for non-payment of fines. *Sections 19* and *20* of that *Act* order that a person may be disqualified from holding or obtaining

either a driver's licence or a vehicle licence, until such time as the fine is paid or arrangements to pay are entered into.

Driver's licence disqualification is also a sentencing option available for other "motor vehicle offences" under *Section 105* of the *Sentencing Act 1995*. Under this *Act*, such motor vehicle offences include:

- stealing or attempting to steal a motor vehicle;
- receiving a stolen motor vehicle;
- offences where an element of the offence is the driving or use of a motor vehicle
- using a vehicle in the commission of an offence;
- using a vehicle after the commission of an offence to provide a means for the offender to leave the area; and
- using a vehicle after the commission of the offence to avoid apprehension.

*Section 49* of the *Road Traffic Act* provides penalties for driving without an appropriate and valid licence. Various subsections distinguish between driving without a licence (*ss. (1)*), driving with a suspended or cancelled licence (*ss. (2)(a)(i), (ii)* and *(iii)*), driving under fines suspension (*ss. (2)(iv)*) and driving with an expired licence (*ss. (2)(b)*). Penalties vary somewhat, but generally, first offences are liable to fines and imprisonment up to 12 months. Subsequent offences incur larger fines and periods of imprisonment up to 18 months. In all cases, further periods of licence suspension (up to three years) are cumulatively added to existing periods of suspension.

Interestingly, alternative sanctions for some of these offences are available under lesser-known sections of the *Road Traffic Act*. *Section 78A* prescribes vehicle impoundment as a sanction which may be applied to *repeat* offences under *s. 63, s. 64 and 49(1)(a)* of the *Act*.

Also, for persons incurring long periods of disqualification (exceeding three years), it is possible under *Section 78* of the *Road Traffic Act* to have all, or part, of the outstanding period of disqualification removed. An application to remove the disqualification can only be made three years after the disqualification period has commenced or when half of the period of disqualification has been served – whichever is the greater.

## **1.5 A review of the literature on licence disqualification**

### **1.5.1 Effectiveness of licence disqualification (per se)**

As with any penal sanction, the application and effectiveness of licence disqualification is of fundamental and continuing importance to law enforcers and policy makers. The effectiveness of disqualification from driving was assessed in a UK Home Office study in which ninety disqualified drivers were interviewed and information gathered on their behaviour, motivations and attitudes to disqualification (Mirrlees-Black, 1993). The study described the objectives of disqualification as being three-fold: retribution, deterrence and restraint. It argued that deterrence and restraint (incapacitation) were aimed at reducing re-offending (recidivism) and served to protect the public from the potential outcomes of risky driving behaviour.

Through in-depth and semi-structured interviews, Mirrlees-Black (1993) assessed whether disqualification met these three objectives. The study found that most offenders certainly viewed disqualification as a punishment, thus satisfying the requirements of retribution. Longer periods of disqualification tended to have the greatest impact; however, the degree of impact also related to the personal circumstances of the offender.

In respect of deterrence, the majority of offenders interviewed claimed that the experience of disqualification had deterred them from future offending. Those with short periods of disqualification were less likely to agree that they had been deterred. The study found that 'disqualification was most effective where it had caused severe disruption to offenders' lives: they then appreciated how much they needed to be able to drive, not only to maintain general mobility, but also for employment purposes and for the well-being of their families.'

As a method of restraint or incapacitation, the study found that although not all offenders complied with their disqualification orders, most had significantly decreased the frequency of their driving and had adopted strategies to avoid detection – these included 'better' driving techniques such as using indicators correctly, observing speed limits, observing correct procedures at traffic lights, not drinking and driving, driving more carefully and driving more slowly.

The effectiveness of disqualification in reducing recidivism, particularly the recidivism of drunk-drivers, has also been explored by numerous studies in North America and Europe (eg DeYoung 1997; Peck 1991; Sadler, Perrine & Peck 1991). Many of these studies compared the relative effectiveness of other sanctions and alcohol treatment programs in curbing drink-driving offences and crashes. Overwhelmingly, they have found disqualification to be the most effective overall traffic safety measure, due to its efficacy in reducing road crashes, but that treatment programs were more effective in reducing alcohol-related traffic convictions. DeYoung (1997) found that, for all levels of prior drink-driving convictions, *combining* alcohol treatment with either driver licence restriction or disqualification was associated with the lowest recidivism rates.

In Australia, Siskind (1996) found licence disqualification to be effective in changing the offending patterns and reducing the crash rates of drink-drivers. The study calculated the recidivism (as rate ratios of person-years) of over 25,000 Queensland drivers convicted of drink-driving offences in 1988. It found reductions in the crash rate (down by about one third) and offence rates (down 25% in the case of unassociated offences and down 35% for any driving offence) of these drivers during periods of disqualification. In other words, there was evidence that *while the disqualification was in operation*, there were substantial reductions in the negative impact of convicted drink-drivers on the road. There were some differences by age and geographical location but these were relatively minor. Interestingly, the study also found that drivers were more likely to be apprehended earlier in the disqualification period than later, however, it was unable to say whether this was because drivers progressively adapted to not driving or simply drove with greater care (becoming less detectable, in the process). Data limitations also prevented the study from evaluating the longer-term deterrent effect of licence disqualification.

## **1.5.2 The extent of driving while disqualified**

Measures of the incidence of driving while disqualified are often used as indicators of the effectiveness of disqualification orders. Studies in the UK, US and Canada have reported on the extent of driving by disqualified drivers (eg Williams, Hagan & McConnell 1984, Ross & Gonzales 1988; Nichols & Ross 1989). Estimates range from 30% to almost 75%, and are influenced significantly by the sample size, target population (whether the sample consists solely of drunk-drivers or includes other traffic offenders) and the methodology employed by the study.

In Australia, Robinson (1979) found that over a third of a sample of disqualified drivers admitted to driving while disqualified, with over 40% of these driving on a routine basis. Drivers who had been disqualified for drink driving were slightly less likely to admit to driving while disqualified. The highest rate of violations was amongst those disqualified for one or two months, while those disqualified for more than twelve months showed the lowest rate of driving. Other factors that contributed to an increased likelihood of driving were: two or more previous disqualifications; being single or separated; in blue-collar employment, unemployed or working as a professional driver.

In Western Australia, Smith & Maisey (1990) reported that 36% of a sample of disqualified drivers admitted to driving at least once while under disqualification, their reasons being for work or family/social purposes. Most (75%) took steps to avoid detection by the police, with “perfect driving, drove with extreme caution, no speeding, obeyed all the rules” being the most frequently reported avoidance strategies. The study found a high level of support for the sanction of licence disqualification for serious traffic offences (85% of all drivers either approved or strongly approved), including those admitting to driving while disqualified. However, approval was strongest from drivers who did *not* drive illegally. These drivers were also more likely to consider their own disqualification as a fair penalty.

Like Robinson (1979), Smith & Maisey (1990) found that disqualified drunk-drivers were less likely to drive illegally than disqualified demerit point drivers, while repeat offenders, plant and machine operators, drivers and labourers (that is, largely ‘blue collar’ occupations) and single persons were significantly more likely to drive illegally.

They also found that disqualified drivers in country areas were more likely to drive illegally and more likely to obtain an extra-ordinary licence than metropolitan drivers. Moreover, of drivers who had obtained an extra-ordinary licence, more than one quarter (29%) drove outside the conditions of their licence (mostly, driving for non-work purposes and outside work hours).

While providing an estimate of the proportion of disqualified drivers who drive illegally in Western Australia, Smith & Maisey (1990) suggested that the figures reported were likely to be an under-estimate of the true level of disqualified driving. They cited inconsistencies in responses to certain questions in the survey as evidence of this. This finding accords with evidence from a recent Canadian study that attempted to measure the incidence of disqualified driving in the Greater Moncton area (Malenfant, Van Houten & Jonah, 2002). Combining data from two experiments (one a roadside checkpoint system, the other a questionnaire), Malenfant et al (2002)

showed that while 32% of drivers disqualified for a first offence of driving while intoxicated (DWI) and 35% of disqualified drivers for a repeat DWI offence admitted to driving during the suspension period in the questionnaire, these data were significantly lower than the 57% of disqualified drivers actually caught driving through roadside checks. The authors argued that 'the general under-representation of delinquent driving behaviour uncovered in this survey cast[s] serious doubt on the credibility of questionnaire estimates of [driving while disqualified].' (p.446)

An interesting outcome of the Moncton study was the finding that respondent estimates of how often *other* disqualified drivers continued to drive was much closer to the estimate obtained in the roadside measure than their response to the direct question in the survey. In other words, asking disqualified drivers how often *other* disqualified persons drive appears to provide a better proxy measure of what they really do themselves. The authors suggest that researchers should consider using such proxy measures in future questionnaires.

As the evidence presented so far suggests, although a significant proportion of disqualified drivers continue to drive while disqualified, they drive less frequently and more carefully. These factors translate into statistically significant reductions in recidivism (albeit only during the disqualification period).

As DeYoung (1999) argues:

While licence actions are effective, it has been recognised for some time that they have significant limitations. Perhaps their major weakness is that they don't fully incapacitate the driver – as many as 75% continue to drive during their period of suspension [...] And, while research has shown that suspended drivers drive less often and more carefully during their period of licence disqualification, it has also been shown that they still pose an elevated traffic risk [...].

So, while licence suspension is one of the most effective countermeasures currently available to attenuate the traffic risk posed by problem drivers, it is clear that there is considerable room for improvement. (p.45)

### **1.5.3 Alternatives to licence disqualification**

In Australia, as in the United States, licence disqualification combined with fines has been the traditional method for dealing with traffic offenders. However, for the more serious offenders, particularly repeat drink-drivers and those driving while disqualified, other penalties such as imprisonment are sanctioned. In some American states, alternatives such as home detention (that is, electronically monitored house arrest) and vehicle actions (vehicle impoundment, immobilisation, forfeiture, confiscation of plates, interlock devices) have been (or, are being) trialled and implemented, and their effectiveness evaluated.

### **1.5.4 Reducing driving while disqualified: vehicle actions**

Vehicle impoundment/forfeiture laws were first introduced in Manitoba, Canada and Portland, Oregon and then subsequently adopted by other U.S. states including Ohio and California. In essence, the laws propose that, in the first instance, offenders caught driving-while-disqualified have their vehicles impounded for 30 days, then for

a longer period at the second offence, and then forfeit the vehicle at the next occurrence. Evaluations found vehicle impoundment and forfeiture to be effective in reducing driving-while-disqualified (and driving-under-the-influence) offences. In California, DeYoung (1999) found significant reductions in crash and conviction measures and found greater effects with repeat driving-while-disqualified offenders than with first offenders. Repeat offenders whose vehicles were impounded had 34% fewer convictions for unlicensed driving, 22% fewer traffic convictions and 38% fewer crashes than first offenders. However, in terms of the *general deterrent* effect of vehicle sanctions<sup>5</sup>, DeYoung (2000) found little evidence that the *threat* of impounding/forfeiting vehicles deterred the more general disqualified driver population from driving or becoming involved in crashes. Other studies have found vehicle action laws to have some limited effect in reducing the recidivism of disqualified drivers (DeYoung 1997; Voas, Tippetts & Taylor, 1997, 1998).

However, a recurring criticism of vehicle action laws has been that, like other sanctions, they appear to be effective only while the sanction is in place. In reviewing the findings of one study that *did* report a reduction in recidivism after the impoundment, researchers found the effect to have been caused by offenders who did not retrieve their vehicles and, therefore, may not have been driving after the impoundment period (Voas et al 1997 – as cited by Voas, 2001).

A related criticism has been that few jurisdictions appear to have enforced the forfeiture laws for repeat offenders (Peck & Voas, 2002). The reasons cited for not enforcing these laws included a perception that it was too time-consuming and/or not a priority among prosecutors. However, as Peck & Voas (2002) explain, for many authorities, vehicle impoundment was functionally equivalent to forfeiture because many drivers failed to retrieve their vehicles after impoundment. The study identified cities in California where as many as half the vehicles impounded for 30 days were never picked up!

In terms of the policy implications of these findings, DeYoung (2000) argued that ‘the strong evidence of substantial specific deterrent impact [...] provides a compelling argument in support of vehicle impoundment. The longer that these measures are used and the more consistently and widely they are applied, the more likely it is that they will eventually exert a significant general deterrent impact as well as a specific deterrent one. These laws deserve continued support, both financially and politically.’ (p.58)

### **1.5.5 Reducing driving while disqualified: ‘sticker laws’**

Voas, Tippetts & Lange (1997) evaluated the deterrent effect of ‘sticker laws’ in Oregon and Washington. The laws were aimed at discouraging unlicensed driving through the revocation of vehicle registration.<sup>6</sup> The laws operated as follows: at the time of apprehension, the police officer placed a visible, striped ‘zebra’ sticker over the annual renewal sticker on the vehicle. This provided the legal authority for any officer to stop the vehicle in future to determine whether the driver was properly

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<sup>5</sup> General deterrence refers to the prevention of offending by others, while specific deterrence refers to the prevention from further offending of those who have already committed some crime. See Section 1.5.11 for further.

<sup>6</sup> The laws did not apply to all suspended drivers. However, DUI drivers were included.

licensed. The action also triggered the cancellation of the vehicle's registration within 60 days unless the owner took action (a disqualified driver could not clear the vehicle registration until they were properly licensed). The laws were predicted to have two effects: a *general deterrent* effect (if disqualified drivers know that they risk vehicle deregistration, they may not be as likely to risk such a sanction by driving while disqualified) and a *specific deterrent* effect (where drivers who have been convicted of driving while disqualified and have had a sticker placed on their vehicle(s) may be deterred from further unlicensed driving, since a sticker would increase the likelihood of being detected). Using time-series analysis and the records of over 100,000 drivers convicted of drunk driving in both states, Voas et al (1997) found that the law had both a general and specific deterrence effect in Oregon but not in Washington. They attributed the difference to the differing implementation of the scheme and the less rigorous enforcement of the laws in Washington.<sup>7</sup>

### **1.5.6 Reducing driving while disqualified: plate confiscation**

In a recent review of the efficacy of vehicle actions for controlling high-risk drivers, Voas & DeYoung (2002) describe a study of vehicle plate confiscation, which demonstrated a reduction in recidivism among third DUI offenders. The authors believed this sanction showed promise because the vehicle plates belong to the state and, thus, issues surrounding the seizure of private property are minimised. However, they urged that further replication studies were needed.

### **1.5.7 Reducing driving while disqualified: education & treatment programs**

Many US states also include some form of educational 'driver improvement' program in dealing with repeat traffic offenders. Most programs fall into one of two categories: a) accident prevention programs aimed at promoting safer driving practices (through defensive driving instruction), and b) recidivism prevention programs aimed at addressing underlying problems such as alcohol abuse. McKnight & Tippetts (1997) conducted a large-scale, random-allocation study comparing the relative effectiveness of these two types of programs and found that programs designed primarily to reduce recidivism were more effective in reducing both crashes and traffic offences than programs solely directed toward accident prevention.

While a large number of the treatment programs are targeted specifically at overcoming alcohol problems (since many repeat traffic offenders are repeat drink-drivers), a few are not. In New Zealand, a cognitive behavioural treatment program was designed specifically for driving-while-disqualified offenders who do *not* appear to have an alcohol problem (Bakker, Ward, Cryer & Hudson, 1997). Underlying the program is an assumption that for many men, their driving offences represent a maladaptive response to stressful events such as interpersonal conflict. Therefore, the primary treatment approach revolves around teaching individuals more effective ways to solve their interpersonal problems and to regulate negative affective states. An evaluation of the program (Bakker, Hudson & Ward, 2000) found statistically significant reductions in reconviction rates for driving while disqualified and for other

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<sup>7</sup> The major difference between the laws in the two states was that in Oregon the zebra sticker was placed on the vehicle *being driven* by the suspended driver, while in Washington the sticker was placed on vehicles *owned* by the suspended driver.

criminal offences, but not for driving under the influence. The evaluation also found significant pre- to post- treatment changes on a number of relevant social competency variables.

### **1.5.8 The psychology of driving while disqualified**

Fundamental to the understanding and treatment of disqualified driving is the issue of why these individuals continue to drive, despite the potentially severe consequences of doing so (at worst, imprisonment for substantial periods). Two decades ago, Robinson & Kelso (1981) explored some of the determinants of the decision to drive while disqualified. They predicted that three factors – assessment of the risk of apprehension by police, the perceived disruption to lifestyle caused by the loss of licence and the legitimacy of the sanction - would combine to produce a fourth factor – anxiety – which in turn would influence the decision to drive. They found two factors, perceived risk and disruption, to be the most potent predictors of anxiety about apprehension, with sanction legitimacy, awareness of the penalty for disqualified driving and driving ability making only small contributions. The practical implications from these findings were that raising the perceived risk of detection could increase compliance. This could be achieved through more visible police presence on the road, well-publicized licence checks and/or more publicity about convictions for driving-while-disqualified offences.

Subsequent research has identified other psychological factors affecting the decision to drive, including the “need” or compulsion to drive (Mirrlees-Black, 1994; Donovan, Marlatt & Salzberg, 1983 – as cited by Bakker, Hudson & Ward, 2000, p532). Wilson, Ward & Bakker (1999) explored other behavioural and temporal factors associated with disqualified driving and incorporated some of these into more sophisticated models of the relapse process in disqualified drivers. Through these models, the researchers hoped that “more appropriate interventions that target these offenders’ core problem areas can now be devised” (p.125)

### **1.5.9 Road safety and disqualified drivers**

There have been numerous US and Canadian studies that have investigated the road safety risk of disqualified drivers. Findings from these studies have often conflicted. While early studies found reduced risks of fatal and injury crashes for disqualified drivers during the period of suspension (compared with a similar group of drivers who were not disqualified) (Sadler 1987; Stewart & Gruenwald 1989), some of the more recent studies have found that disqualified drivers are over-represented in fatal crashes (DeYoung et al, 1997; Griffin & DeLaZerda, 2000 – as cited in Voas, 2001; Malenfant et al, 2002).

In Australia, Harrison (1997) explored this issue through an investigation of the crash involvement of disqualified drivers and motorcyclists. Using Victorian crash records for 1994, the study found that disqualified drivers were overrepresented in high severity crashes and in seriously injured groups of road users. The research found that although disqualified drivers constituted only 1% of all crash-involved drivers, they constituted 2.4% of those involved in fatal crashes and 4.6% of those fatally injured. Similarly, they constituted 1.4% of those involved in serious-injury crashes and 1.8% of drivers who were hospitalised. The study also found that these drivers were over-



represented in crashes that occurred during recreational times, such as night-time and weekends, and in single-vehicle crashes and crashes involving a collision with a stationary object. The author suggested that the continued drink driving of a large proportion of disqualified drivers might, in part, explain these findings.

In earlier Australian research, Healy & Harrison (1986) noted that the majority of licence cancellations or suspensions in Victoria arose from drink driving offences. They also found that 1% of drivers involved in serious casualty crashes had been disqualified and that these drivers were almost three times more likely than licensed drivers to have an illegal blood alcohol concentration.

In a more recent study, Watson (2000) examined the crash involvement patterns of unlicensed drivers in Queensland during the period from 1994 to 1998. His analyses confirmed that unlicensed drivers were more than twice as likely as licensed drivers to be involved in a serious road crash. He also found that the crashes of unlicensed drivers were more likely to involve alcohol and drugs, speeding, motorcycle use and to occur at night and on weekends.

Although these findings (of higher crash risk) appear to be at odds with the findings from earlier studies and with the experiences of disqualified drivers themselves (that they drive more carefully during periods of suspension), it is still possible to offer an explanation that reconciles all these findings. One may postulate that, *at any time*, disqualified drivers, as a group, have a significantly higher risk of serious road crash than the rest of the driving population but that, *during times of suspension*, these risks are reduced through more 'careful driving'. However, these reduced risks still remain well above the risks faced by the larger driving population. This hypothesis could be tested by future research.

### **1.5.10 The general issue of compliance**

Much of the research described so far has centred on the issue of non-compliance, that is, issues related to driving by disqualified drivers. These have included research on factors determining the decision to drive, the evaluation of measures to reduce the incidence of driving while disqualified, the road safety risk of disqualified drivers, and so on. Few studies have focussed specifically on understanding the motivations towards compliance with disqualification orders.

Compliance theory, and its application in areas of criminal justice, has been of long-standing interest to many criminologists. Recently, Bottoms (2001) provided a useful framework for understanding compliance, identifying four kinds of compliant behaviour – instrumental, normative, constraint-based compliance and compliance based on habit or routine. Bottoms argued that some or all of these behaviours applied in relation to community penalties and that a better understanding of them could reshape thinking on the effectiveness of such penalties.

Instrumental compliance involves the use of incentives and disincentives ('carrots' and 'sticks') to motivate individuals to act in accordance with rules. As applied to this study, compliance with disqualification orders could be manipulated through incentives such as early termination of disqualification for good progress. Disincentives such as harsher penalties for driving while disqualified are already built into our laws. Normative compliance relates directly to the individual's perception of

the legitimacy of the penalties. If the sanction (in our case, the disqualification) is seen as fair and appropriate for society and for the individual concerned and there is belief that the original offence is socially unacceptable, then normative compliance will be high. Constraint-based compliance involves placing sufficient constraints on individuals to 'encourage' compliance at the outset. Vehicle actions and sticker laws would most likely fit into this category.

A joint study currently underway by Monash University and the Victorian Department of Justice is also exploring factors that contribute to compliance and non-compliance in relation to 'on-the-spot' fines, that is, monetary penalties imposed by way of infringement notices (Fox & Department of Justice, 2002). Although the outcomes of that study are not yet available, they are of direct interest here because of the linkage between non-payment of fines and licence suspension as prescribed by the WA FPINE legislation. The Victorian study follows the earlier pioneering work by Fox (1995) that examined the practical, policy and social implications of infringement penalty systems in Australia.

### **1.5.11 The issue of deterrence**

Finally, we attend to the issue of deterrence. Deterrence theory underpins much of our criminal and traffic laws and features prominently in research on the effectiveness of traffic sanctions. As one commentator explains, classical deterrence theory asserts that 'people are essentially hedonistic and that the probability of law breaking varies inversely with the certainty, severity and swiftness of punishment. Modern deterrence theory is an application of an economic, rational choice model, which assumes that individuals rationally choose actions that will maximize expected utility. Two types of deterrent effects have been identified: *general deterrence* which is the prevention of offending by others, and *specific deterrence*, the prevention from further offending of those who have already committed some crime.' (Lenton, 2001) Classical deterrence theory argues that an individual's perception of the likelihood of being detected and punished for a criminal act will tend to deter them from further offending.

The police use a mixture of deterrence and compliance models in their control of driving behaviour and road use. Policing strategies are often characterized by efforts to affect the certainty of punishment (through increased enforcement) and to affect the severity of sanctions (through pressure for larger or more punitive penalties). However, re-offence rates suggest that these strategies are not always effective. Recidivist drivers often have strong expectations that they will be caught yet they continue to drive: this suggests that ineffectiveness is not simply the result of perceived low likelihood of detection.

It has also been shown that engaging in illegal behaviour can actually lower the perceived risk of punishment (Saltzman et al 1982; Minor & Harry 1982; Paternoster 1983 – as cited in Lenton, 2001). In other words, researchers have found that those who engage in a high level of illegal behaviour actually learn that the likelihood of getting caught is low and subsequently continue their involvement in criminal activities. This has become known as the 'experiential' effect and is causally opposite to the classical deterrence prediction that those who think it likely that they will get caught are less likely to engage in illegal behaviour.

Lenton (2001) also identifies other problems with the deterrence model. These include that:

- most people are imperfect decision-makers who rarely weigh up the pros and cons of any behaviour, including offending;
- other non-legal factors such as social sanctions are often at play; and
- under certain conditions, punishment can lead to defiance (increased offending) and marginalisation.

## **1.6 Summary**

Licence disqualification is a common sanction for traffic offending. Numerous studies have shown the sanction to be effective in reducing recidivism, especially the recidivism of drink drivers. This result is largely attributed to a deterrent effect. Some of the reduced offending may also be a function of incapacitation. For drink-drivers, disqualification from driving coupled with alcohol treatment programs has been more effective in reducing recidivism than licence disqualification alone.

However, research evidence overwhelmingly shows licence disqualification to be quite *ineffective* in restraining or incapacitating disqualified drivers – various studies have estimated the proportion of disqualified drivers who drive illegally to range up to 75 percent. Concern for the high rate of non-compliance and the risks posed by unlawful drivers have prompted many U.S. jurisdictions to design and implement countermeasures to reduce the level of disqualified driving. These measures include vehicle actions, sticker and plate laws, and various treatment and education programs. Some of these actions and programs have successfully reduced the level of disqualified driving.

Some studies have explored the psychological factors associated with driving while disqualified. The risk of detection and the level of disruption are two important determinants of the decision to drive. Other factors, such as the ‘need’ to drive have also been recognized, especially in the context of disqualified driving by persons who do *not* have underlying alcohol problems. In New Zealand, these factors have been incorporated into cognitive behaviour treatment programs for disqualified drivers and evaluations of these programs have been encouraging.

Research has also established that the risk of detection plays an important part in deterring individuals from driving while disqualified. However, the resources required to bring about certainty of detection (increased enforcement, additional criminal justice resources to process these offenders) are considerably more expensive than the option of getting offenders to take responsibility for themselves. Deterrence theory itself, which underpins much of traffic law enforcement, has also been challenged by some researchers in its ability to explain and control offending behaviour.

Studies have also explored the road safety issues associated with disqualified driving. At first glance, the research findings from various studies appear to be at odds - early research evidence suggested that the risk of serious crashes was reduced during periods of disqualification; later research has established that the risk of serious crashes is higher for disqualified drivers. However, both sets of findings may be reconciled under a single hypothesis - that, *at any time*, disqualified drivers, as a

group, have a significantly higher risk of serious road crash than the larger driving population but that, *during times of suspension*, their risks are reduced through more 'careful driving'. However, the reduced risk remains well above the risks faced by the larger driving population. Such a hypothesis could be tested by future research.

Most of the research into disqualified drivers has explored issues of non-compliance. Much less research has specifically explored the compliant behaviour of drivers who do *not* drive while disqualified. Like deterrence theory, compliance theory is well established, yet few studies have applied the theory to this area.

A search of the literature found no research that addressed the effectiveness of licence suspension as a fine-enforcement sanction. In most studies, the disqualified drivers under review consisted either of drink-drivers or serious/repeat traffic offenders or both. Not one study has explored the recidivism of fine suspension drivers (especially those suspended for non-traffic related fines) or the road safety risks of this group.

## **2. METHODOLOGY**

### **2.1 Quantitative analysis**

#### **2.1.1 Data sources**

In order to establish the magnitude and nature of licence disqualification and disqualified driving, the study obtained and analysed data from administrative records about licence disqualifications as collected by the WA Police Service (WAPS) and the WA Department of Justice (DoJ). Specifically, the following datasets were obtained:

From WAPS,

- a dataset of all drivers licence disqualifications (suspensions and/or cancellations) occurring between 1 January 1995 and 30 June 2002 as a result of traffic law enforcement actions, and
- a second dataset of all persons and/or charges of driving while disqualified (suspended and/or cancelled) from 1 January 1995 to 30 June 2002.

Each record in the police datasets included demographic information about the driver (sex, age, Indigenous status, postcode) as well as information about the disqualification event (that is, start date and end date of the disqualification period, offence description/reason for disqualification, offence date, offence postcode). Note that no name-identifying information was supplied to researchers.

From the DoJ,

- an extract was obtained from the Fines Enforcement Register of all cases that resulted in the suspension of a driver's vehicle licence for the non-payment of a fine from 1 January 1995 to 30 June 2002.

Two additional datasets (available to the study and derived from data provided routinely by the DoJ to the Crime Research Centre) were also analysed:

- A dataset of charges finalised in the Courts of Petty Sessions for driving without an appropriate or valid licence, available from 1 January 1998 to 31 December 2001.
- A dataset of adult prison receptions where the most serious offence of the term of imprisonment was driving without an appropriate or valid licence, available from 1 January 1990 to 31 December 2001.

#### **2.1.2 Integration and analysis of data**

Having obtained the datasets listed above, the study was able to 'value-add' to these in several ways. Firstly, by obtaining and using offender INOIS numbers (unique identifiers), it was possible to identify the same offender *across* the WAPS and DoJ datasets and, in so doing, produce a single, integrated dataset of disqualified drivers, combining the details of all traffic convictions resulting in licence disqualifications and all fines suspensions since 1995. This dataset is described in Section 3.1.4.

Secondly, the study was able to derive the Indigenous status of many persons for whom ethnicity was not known or recorded.<sup>8</sup> Using linkage between police systems (in this case, between the Traffic Conviction database and the P18 Apprehension system), the Indigenous status of some disqualified drivers was extracted.<sup>9</sup> Deriving Indigenous status in this way provided the study with an additional dimension along which to analyse the data; however, the approach also introduced bias to the analyses. Since Indigenous status was obtained predominantly for persons who had been charged by police, the 'Unknown Indigenous status' category largely comprises those persons who have *never* been arrested and charged by police (that is, *non-offenders*). Moreover, since the prevalence of arrest for Aborigines in Western Australia is high (and significantly higher than that of non-Aborigines), we can further surmise that the 'Unknown Indigenous status' category comprises mostly *non-Indigenous non-offenders*.

At times, the interaction between Indigenous status and the existence of a criminal record had a significant impact on our analyses and qualified many of the results and interpretations drawn from the data. Where this has been the case, appropriate reference is made in the report.

The datasets were not without other shortcomings. For example, police data prior to 1 January 1995 could not be obtained, so the study was unable to examine any pre- and post- effects associated with the introduction of fines enforcement legislation. Police data were further limited in that charges of driving under fine suspension could not be reliably distinguished from charges of driving while disqualified (for non-fine reasons). Court outcome data were also limited in that offence descriptions did not adequately distinguish between the following categories of charges: driving while disqualified, driving without a licence and driving with an expired licence.

Throughout the study, data was manipulated with INGRES and analyzed with SPSS 11.0.

## **2.2 Qualitative analysis**

In order to find out more about the personal, social and attitudinal characteristics of disqualified drivers, the study conducted several in-depth focus interviews with small groups of disqualified drivers.<sup>10</sup>

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<sup>8</sup> Ethnicity details of Western Australian drivers are not routinely collected by the Department of Planning and Infrastructure (formerly the Department of Transport), nor were they routinely collected by the WA Police Service when it had responsibility for maintaining databases on licenced drivers in WA.

<sup>9</sup> Since 1984, the P18 Apprehension system (or, more formally, the Name Indexing System P18s – Criminal Record Reference System) has recorded the details of all persons apprehended and charged for criminal offences in WA. Apprehension may be via physical arrest or via summons. Indigenous status has been derived from the Western Australia Police Service Identity Code field for Ethnic Appearance. The field is completed for operational purposes and is based on the arresting officer's subjective assessment of the person's appearance. As such, it is possible that a person attributed to a particular group does not belong to that group.

<sup>10</sup> Focus groups provided the opportunity for an in-depth exploration of the personal and social settings of licence suspension and the differences that might exist *at a group level*. This qualitative information supplements the study's quantitative analysis. Focus groups do not require representative samples or large sample sizes.

## **2.2.1 Recruitment**

The recruitment strategy for focus group participation was determined in collaboration with the project Steering Committee. Initially, two possible recruitment methods were considered - a direct approach to disqualified drivers via the WA Police Service and advertising through print and other media. Ultimately, the latter strategy was adopted.<sup>11</sup>

With the assistance of the Public Affairs office of the University of WA, a media statement was released which generated public interest in the study and invited disqualified drivers to participate in the focus group interviews (see Appendix A). The media campaign was initially targeted at disqualified drivers in the Perth metropolitan area and those in the Kalgoorlie region. The Kalgoorlie region was selected to recruit participants from rural/regional WA. This region was seen as a 'preferred' area because of its population size and the demographic and occupational variety of its population.<sup>12</sup>

The media campaign was also supplemented with a distribution of posters and flyers which were placed in Department of Transport licensing centres throughout the Perth metropolitan area and Kalgoorlie-Boulder (see Appendix B). Preference was given to drivers whose disqualification was recent (that is, occurring after 1995).

The campaign was run in November 2002 and was immediately successful in Perth. Various TV, radio and print media outlets picked up the story and the study received more than 60 calls in less than two weeks. However, despite media attention, few participants came forward from the Kalgoorlie area. The media campaign was subsequently expanded to recruit participants from *any* rural/regional part of the state. However, few participants were forthcoming, and as a result, the interviewing at rural/regional level was abandoned.<sup>13</sup>

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<sup>11</sup> The latter strategy involved using the information systems of the WA Police Service to identify a representative sample of suspended drivers, then approaching this group via a letter to recruit subjects for the study. A similar methodology had been employed in a 1992 study of victims of crime in WA, which had a response rate of about 59% for victims and 44% for matched controls (Wilkie, Ferrante, & Susilo, 1992). In order to recruit a total of 60 subjects for the current study and assuming a low response rate of about 25% (estimating a response rate of about half of the earlier victim study), it was estimated that some 250 individuals would need to be identified. The police would identify these individuals, ensuring their confidentiality, and ask them to contact the researchers to participate in the study. However, the WA Police Service foresaw some practical and administrative difficulties with this approach and subsequently this recruitment method was abandoned.

<sup>12</sup> It was postulated that the experience of licence suspension might be different in rural areas, owing to different lifestyles, occupations, availability of public transport, etc. which, in turn, might affect the motivations to, and frequency of, driving while disqualified. Conversely, police in rural areas or small towns might be better able to recognize known disqualified drivers behind the wheel.

<sup>13</sup> There were only five responses from country areas – one each from Corrigin, Kalgoorlie, Dunsborough and Albany and one from an unspecified location. It was suggested that the research methodology (that is, group interviews rather than individual interviews) might have been responsible for the poor response rate, in that anonymity could not be guaranteed in places where the town population was small.

Interested persons who made contact with the study (by calling the FREECALL 1-800 number) were asked about where they lived and the recency and reason for their licence suspension/cancellation (that is, whether the suspension/cancellation was for drink driving, from demerit point accumulation, or as a result of fine suspension). No questions were asked about whether the person had driven while disqualified (this was thought to be too sensitive a question to use for screening purposes). On occasions where a person indicated that they had had multiple licence disqualifications, this was duly noted.

Potential participants were subsequently allocated to one of four focus groups, depending on their disqualification type (that is, demerit points, drink driving, fines suspension and persons having had multiple disqualifications). They were advised by phone of the time and place of their focus group meeting, and then sent a letter confirming these details. Participants were also asked to bring documentary evidence of their licence disqualification.

Groups were arranged so that participants were as homogenous as possible in terms of type of licence disqualification. No attempt was made to control the age and gender mix of the groups. Between 10 and 15 persons were allocated to each group.

### **2.2.2 Focus groups**

Using a discussion guide tailored to each focus group (see Appendix C), participants were encouraged to discuss details of their experiences. The major topics of discussion were: the impact of the disqualification, details of the original offence causing the loss of licence, ways of managing after the loss, extra-ordinary licences, driving (or not) while disqualified, penalties and repercussions for driving while disqualified and, finally, the legitimacy of sanctions for driving while disqualified. In addition, participants completed a Likert scale self-completion sheet, which asked their opinions about the effectiveness of alternative ways of dealing with unlicensed driving (see Appendix D).

Participants also completed a form in which demographic information was collected and they were asked to read and sign a consent form (Appendix E).

### **2.2.3 Qualitative data analysis**

Research staff attended the focus groups and later replayed the audiotapes from each group, compiling notes on each discussion topic. These were subsequently collated and analyzed.

## **2.3 Ethics & Other Approval**

Ethics approval for the focus groups was gained through the UWA Human Research Ethics Committee. All subjects were informed both verbally and in writing as to the aims of the study and the methods employed before agreeing to participate and were free to withdraw from the study if they so wished. Subjects were paid \$50 for their time. Suitably trained experts from NFO Donovan's Research moderated the focus group meetings and the chief investigator supervised all aspects of the project.



Approval to access WA Police Service and Department of Justice data was gained through applications to the appropriate information release officer(s) in both organisations. The study collected and used de-identified data only, as made available by both organisations. Computer access to the data and storage was restricted, in compliance with the UWA Human Research Ethics Committee Code of Practice for the Use of Name-Identified Data.

### 3. RESULTS

#### 3.1 Quantitative analysis

##### 3.1.1 Licence disqualifications for traffic offences

Over the study period, January 1 1995 to 30 June 2002, a total of 233,174 driver's licences were suspended or cancelled by the WA Police Service for traffic related offences. In over four-fifths (81.3%) of traffic-related disqualifications, drivers were male (see Table 2). One eighth (12.4%) of traffic-related disqualifications were of Indigenous drivers and two thirds (65.6%) were of non-Indigenous drivers. However, in almost one quarter (22.0%) of cases, the Indigenous status of the driver was not recorded or could not be obtained from other sources.<sup>14</sup>

**Table 2: Sex and Indigenous status of traffic-related disqualifications, 1995-2001.**

Sex	Indigenous		Non-Indigenous		Unknown		Total	
	n	%	n	%	n	%	n	%
Female	7,027	24.4	21,393	14.0	13,949	27.2	42,369	18.2
Male	21,422	74.4	131,106	85.6	37,133	72.4	189,661	81.3
Unknown	361	1.3	575	0.4	208	0.4	1,144	0.5
<b>Total</b>	<b>28,810</b>	<b>100.0</b>	<b>153,074</b>	<b>100.0</b>	<b>51,290</b>	<b>100.0</b>	<b>233,174</b>	<b>100.0</b>

The percentage of disqualifications involving female drivers has increased slightly from 16.1 percent in 1995 to 19.0 percent in 2000 and 18.1 percent in 2001. The percentage of disqualifications of Indigenous drivers has increased slightly over the study period, from 11.0% in 1995 to 12.5% in 2001. The percentage of disqualifications of drivers of unknown ethnicity also increased from 18.2% in 1995 to 23.8% in 2001; while the percentage of disqualifications of non-Indigenous drivers decreased from 70.8% in 1995 to 63.7% in 2001.

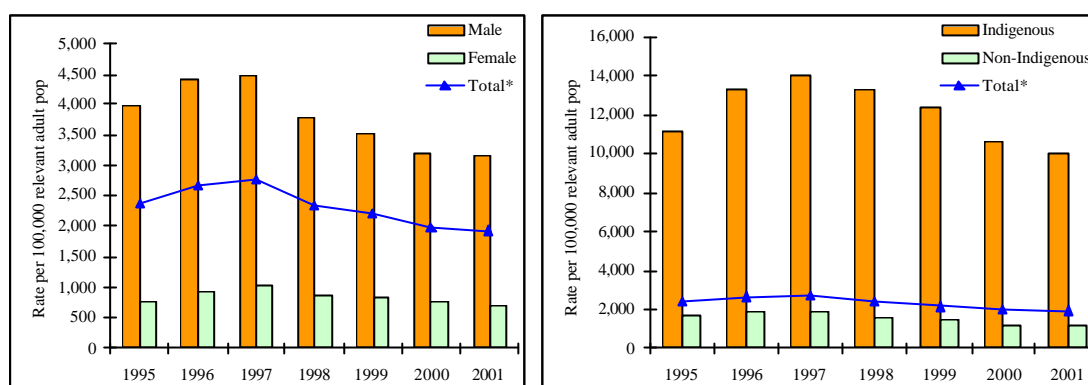
The proportion of traffic-related disqualifications involving Indigenous female drivers (24.4% of Indigenous disqualifications) was significantly higher than non-Indigenous female drivers (14.0% of non-Indigenous disqualifications).

On average, 31,233 licences were suspended or cancelled annually. The highest number of suspensions/cancellations was in 1997 (36,600) and the lowest was in 2001 (27,310).

Rates of licence disqualification, per 100,000 relevant adult population, are presented for the years from 1995 to 2001 in Figure A. The rate of *traffic-related* disqualifications peaked in 1997 at 2,764 per 100,000 adults and then declined to 1,924 per 100,000 adults by 2001.

<sup>14</sup> Indeed, 90% (45,930/51,290) of cases in this category were persons who did not have a criminal record. See Section 2.1.2 for more information about the derivation of the Indigenous status of disqualified drivers.

**Figure A: Annual rates of traffic-related disqualification, by sex and Indigenous status, 1995-2001.**



As Figure A shows, the rate of traffic-related disqualifications for males has been significantly greater than that for females. In 1995, the male rate was 5.2 times greater than the female rate; however, by 2001, it was 4.6 times greater.

Factoring in population differences (and excluding cases where the ethnicity of the driver was unknown), the rate of traffic-related disqualifications of Indigenous drivers has been significantly greater than that of non-Indigenous drivers. In 1995, the Indigenous rate was 6.5 times greater than the non-Indigenous rate; however, by 2001, it was 8.0 times greater.

Sixty-one per cent (60.6%) of disqualifications were of drivers aged 18 to 29 years. The age distribution was fairly similar for male and female disqualified drivers and for Indigenous and non-Indigenous disqualified drivers. Median age of traffic disqualified drivers was 26 years; 27 years for Indigenous drivers.

Seventy-one per cent (71.3%) of traffic-related disqualifications occurred in the Perth metropolitan area (see Table 3). However, the majority (64.7%) of disqualifications of Indigenous drivers occurred outside Perth: 58.2% of female and 67.9% of male disqualifications occurred outside Perth.

**Table 3: Regional distribution of traffic-related disqualifications, by Indigenous status of driver, 1995-2001.**

Region	Indigenous		Non-Indigenous		Unknown		Total	
	n	%	n	%	n	%	n	%
<b>Metro</b>	9,952	34.5	113,709	74.3	42,515	82.9	166,176	71.3
<b>Kimberley</b>	4,807	16.7	2,262	1.5	528	1.0	7,597	3.3
<b>Pilbara</b>	3,228	11.2	3,067	2.0	711	1.4	7,006	3.0
<b>Central</b>	3,133	10.9	4,713	3.1	933	1.8	8,779	3.8
<b>Midlands</b>	917	3.2	3,818	2.5	918	1.8	5,653	2.4
<b>South-Eastern</b>	3,860	13.4	5,675	3.7	1,088	2.1	10,623	4.6
<b>Great-Southern</b>	1,268	4.4	4,290	2.8	1,025	2.0	6,583	2.8
<b>South-West</b>	1,415	4.9	14,587	9.5	3,255	6.3	19,257	8.3
<b>Unknown</b>	230	0.8	953	0.6	317	0.6	1,500	0.6
<b>Total</b>	28,810	100.0	153,074	100.0	51,290	100.0	233,174	100.0

Within each region, rates of traffic-related disqualifications did not change significantly over the study period. However, in the South-Eastern region, the

proportion of Indigenous disqualifications increased considerably from 10.9% in 1995 to 17.1% in 2001.

More than one third (36.8%) of traffic-related disqualifications were for drink driving (see Table 4). A further one third (31.3%) of disqualifications were for assorted traffic offences, which caused the driver to reach the 12 demerit-points limit. In 22.6% of cases, disqualifications were for licence offences - mostly driving while disqualified (83.5%) or driving with an expired licence (15.4%).

**Table 4: Most serious offence of traffic-related disqualifications, by Indigenous status of driver, 1995-2001.**

Major offence	Indigenous		Non-Indigenous		Unknown		Total	
	n	%	n	%	n	%	n	%
<b>Drink-driving</b>	13,847	48.1	64,789	42.3	7,256	14.1	85,892	36.8
<b>Dangerous driving</b>	925	3.2	6,558	4.3	1,996	3.9	9,479	4.1
<b>Licence offences</b>	10,864	37.7	38,547	25.2	3,337	6.5	52,748	22.6
<b>Traffic offences</b>	687	2.4	37,821	24.7	34,444	67.2	72,952	31.3
<b>Misc other</b>	2,484	8.6	5,344	3.5	4,250	8.3	12,078	5.2
<b>Total</b>	28,807	100.0	153,059	100.0	51,283	100.0	233,149	100.0

Note: Excludes 25 cases of unknown offence type

As Table 4 shows, traffic-related disqualifications varied significantly with Indigenous status. Few Indigenous drivers were suspended for accumulating excessive demerit points from traffic offences (compare 2.4% with 24.7% for non-Indigenous drivers in the 'Traffic offences' category). Note, however, that the majority (67.2%) of drivers of unknown Indigenous status lost their licences through demerit point accumulation. As described earlier, drivers in this category comprise mostly those without a criminal record and are surmised to be mostly non-Indigenous.

The table also shows that Indigenous drivers were more likely to be disqualified for driving without a valid licence (compare 37.7% with 25.2% and 6.5% in the 'Licence offences' category) and to be disqualified for drink-driving offences (compare 48.1% with 42.3% for non-Indigenous drivers and 14.1% for drivers of unknown Indigenous status).

Since 1995, the proportions of drink driving and demerit point disqualifications decreased from 43.3% to 36.8% and from 33.4% to 30.3%, respectively. However, the proportion of disqualifications for licence offences increased from 13.6% to 23.2% (see Table 5). For female drivers, the increase in disqualifications for licence offences was substantial – in the case of Indigenous females, the proportion doubled from 25.8% to 48.1%, while for non-Indigenous females, the proportion almost trebled from 11.7% to 30.8%.

**Table 5: Comparison of proportions of disqualifications for major offence categories, by sex-race group, 1995 and 2001.**

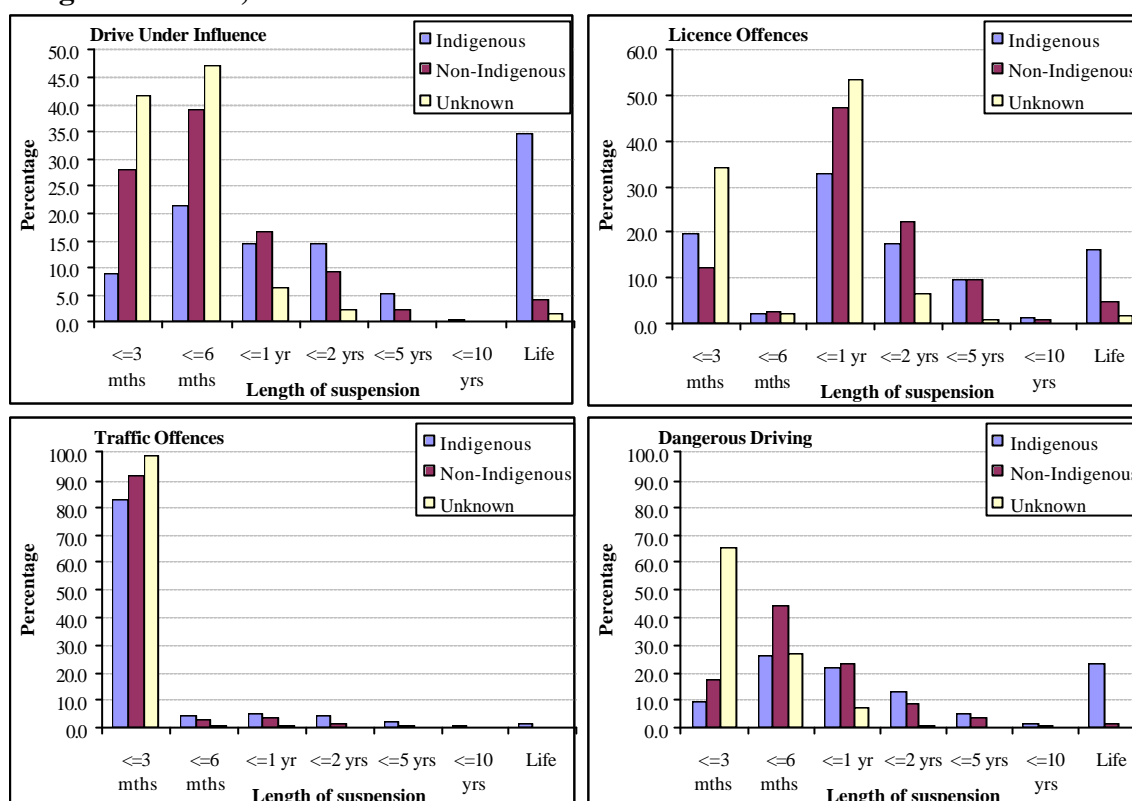
Sex-race group	Drink-driving		Licence offences		Traffic offences		Dangerous driving	
	1995	2001	1995	2001	1995	2001	1995	2001
	%	%	%	%	%	%	%	%
Indigenous females	56.5	43.5	25.8	48.1	3.3	2.7	2.6	1.4
Non-Indigenous females	63.4	43.6	11.7	30.8	20.5	20.0	0.8	1.6
Indigenous males	56.2	52.7	22.5	34.1	3.1	2.0	3.5	5.6
Non-Indigenous males	49.0	39.6	15.0	26.8	26.9	25.3	4.5	5.3
<b>Total</b>	<b>43.3</b>	<b>36.8</b>	<b>13.6</b>	<b>23.2</b>	<b>33.4</b>	<b>30.3</b>	<b>3.7</b>	<b>5.0</b>

Length of disqualifications varied with offence type (see Table 6). For drink-driving offences, the median period of licence disqualification was 6 months; for traffic (demerit point) disqualifications, the median period was 3 months; the median disqualification period for licence offences was 10 months and for dangerous driving, the median period of disqualification was 6 months. Table 6 and Figure B also show how the length of disqualification varied with Indigenous status. For drink-driving offences in particular, the median period of disqualification was substantially longer for Indigenous drivers (24 months for males; 9 months for females) than non-Indigenous drivers (6 months for males; 5 months for females). This may, in part, be due to Indigenous drivers generally having ‘more form’ (that is, more previous convictions) for drink-driving than their non-Indigenous counterparts; however, this could not be verified from the available data.

**Table 6: Median disqualification period (in months) for major traffic categories, by Indigenous status, 1995-2001**

Sex-race group	Drink-driving	Traffic offences	Licence offences	Dangerous driving
	mths	mths	mths	mths
Indigenous females	9	3	9	6
Non-Indigenous females	5	3	9	6
Indigenous males	24	3	13	12
Non-Indigenous males	6	3	11	6
<b>Total</b>	<b>6</b>	<b>3</b>	<b>10</b>	<b>6</b>

**Figure B: Length of disqualification for major traffic offence categories, by Indigenous status, 1995-2001**



About one third (30.4%) of disqualifications were of drivers who had no prior history of licence disqualification. Conversely, about 70% of disqualifications were of drivers who had lost their licence on previous occasions. This proportion remained fairly stable of the study period.

Similarly, almost three quarters (74.6%) of disqualifications were of drivers who had a criminal record (that is, had been apprehended and charged for criminal offences *at least once* before 31 December 2000). Between 1995 and 2001, this proportion decreased steadily from 81.6% to 57.5%.

### 3.1.2 Licence suspensions for non-payment of fines

Between January 1, 1995 and June 30, 2002, there were 822,333 driver's licence suspensions for the non-payment of fines (forthwith referred to as fine suspensions). About three quarters (73%) of fine suspensions involved male drivers, while 23.9% involved female drivers (see Table 7). Since 1995, the proportion of fine suspensions involving female drivers has increased from 20% to 26.7% in 2001.

More than half (55%) of fine suspensions were of non-Indigenous drivers and 14.6% were of Indigenous drivers (Table 7). However, in almost one third of cases (30.5%),

the Indigenous status of the driver was not available or could not be obtained from other sources.<sup>15</sup>

**Table 7: Sex and Indigenous status of fine suspensions, 1995-2001.**

Sex	Indigenous		Non-Indigenous		Unknown		Total	
	n	%	n	%	n	%	n	%
Female	35,133	29.4	78,999	17.5	82,070	32.8	196,202	23.9
Male	83,899	70.1	368,359	81.5	147,879	59.0	600,137	73.0
Unknown	663	0.6	4,820	1.1	20,511	8.2	25,994	3.2
<b>Total</b>	<b>119,695</b>	<b>100.0</b>	<b>452,178</b>	<b>100.0</b>	<b>250,460</b>	<b>100.0</b>	<b>822,333</b>	<b>100.0</b>

The proportion of fine suspensions of Indigenous female drivers (29.4% of Indigenous fine suspensions) was significantly higher than that of non-Indigenous females (17.5% of non-Indigenous suspensions).

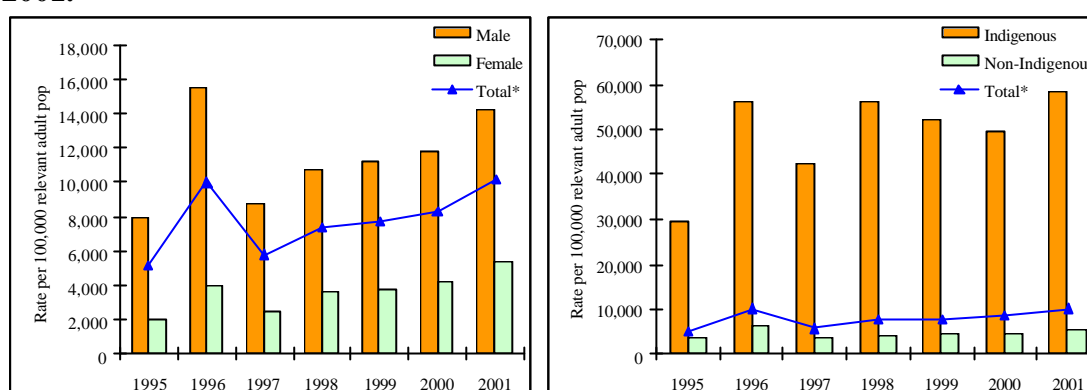
The percentage of fine suspensions involving Indigenous drivers has varied over the study period, from 13.5% in 1995 to a peak of 17.8% in 1998, then declining to 13.7% in 2001. The percentage of fine suspensions of drivers of unknown ethnicity has increased from 22.8% in 1995 to 35.8% in 2001, while the percentage of fine suspensions of non-Indigenous drivers has decreased from 63.7% in 1995 to 50.6% in 2001.

Over one half (53.3%) of fine suspensions were of drivers aged 18 to 29 years. Median age of fine disqualified drivers was 27 years (28 years for Indigenous drivers). Compared with traffic-related suspensions, fine suspensions involved slightly older drivers. However, since 1995, the proportion of fine suspensions involving drivers aged 18 and 19 years has increased (from 3.8% in 1995 to 8% in 2001).

The largest number of fine suspensions occurred in 2001 (145,279) and the second largest number occurred in 1996 (129,689 cases) – the year following the introduction of the *Fines, Penalties and Infringement Notices Enforcement Act, 1995* which invoked licence suspension for non-payment of fines. Rates of fine suspension, per 100,000 relevant adult population, are presented for the years from 1995 to 2001 in Figure C.

<sup>15</sup> See Section 2.1.2 for more information about the derivation of the Indigenous status of disqualified drivers.

**Figure C: Annual rates of fine suspension, by sex and Indigenous status, 1995-2001.**



As Figure C shows, the rate of fine suspension of males has been greater than that of females. In 1995, the male rate was 3.9 times greater than the female rate; however, by 2001, it was 2.6 times greater.

Factoring in population differences (and excluding cases where the ethnicity of the driver was unknown), the rate of fine suspensions of Indigenous drivers has been significantly greater than that of non-Indigenous drivers. In 1995, the Indigenous rate was 8.9 times greater than the non-Indigenous rate; however, by 2001, it was 11.1 times greater.

Two fifths (43.4%) of fine suspensions were for unpaid infringements or ‘on-the-spot’ fines, including traffic, parking and railway offences. A further 16.9% of fine suspensions were for unpaid Multinova and red-light camera infringements. The remaining two fifths (39.6%) of fine suspensions were for unpaid court fines (see Table 8).

**Table 8: Fine suspensions by source of (unpaid) fine and Indigenous status, 1995-2001.**

Source of (unpaid) fine	Indigenous		Non-Indigenous		Unknown		Total	
	n	%	n	%	n	%	n	%
<b>Court fines</b>	74,511	62.3	213,138	47.1	38,334	15.3	325,983	39.6
<b>Multinova/Camera</b>	4,565	3.8	69,422	15.4	64,946	25.9	138,933	16.9
<b>Other Infringements</b>	40,619	33.9	169,618	37.5	147,180	58.8	357,417	43.5
<b>Total</b>	119,695	100.0	452,178	100.0	250,460	100.0	822,333	100.0

As Table 8 shows, most Indigenous fine suspensions (62.3%) were for unpaid court fines. In contrast, most fine suspensions in the ‘Unknown’ Indigenous status category (58.8%) were for various infringement offences and more than one quarter (25.9%) were for unpaid Multinova/camera infringements. This pattern is to be expected, given that the latter category comprises mostly persons without a criminal record (and therefore are unlikely to appear in court or receive a court fine).

Since 1995, the proportion of fine suspensions arising from unpaid court fines has decreased from 54.1% to 25.2% by 2001. In contrast, the proportion of suspensions for unpaid Multinova/camera fines has increased from 10.7% to 19.1% and the



proportion of suspensions for other unpaid infringements has increased from 35.3% to 55.6% - the latter due mostly to increases in unpaid railway fines (see below).

More than one quarter (26.5%) of fine suspensions was for unpaid traffic fines (see Table 9). Other suspensions were for the following categories of unpaid fines: railway offences 11.3%, parking offences 8.1%, licence offences (including driving without a valid licence) 6.5%, drink-driving 4.7%, against justice offences 3.3% and good order offences 2.5%. Sundry other offences (specified and unspecified) comprised the remainder.

**Table 9: Original offence of fine suspensions, by Indigenous status, 1995-2001.**

Original offence	Indigenous		Non-Indigenous		Unknown		Total	
	n	%	n	%	n	%	n	%
Traffic offences	8,909	7.4	111,737	24.7	97,200	38.8	217,846	26.5
Railways	13,626	11.4	45,180	10.0	34,156	13.6	92,962	11.3
Parking	3,146	2.6	29,396	6.5	34,446	13.8	66,988	8.1
Licence offences	9,380	7.8	35,284	7.8	8,869	3.5	53,533	6.5
Drink-driving	8,308	6.9	26,057	5.8	4,013	1.6	38,378	4.7
Justice offences	9,861	8.2	13,838	3.1	3,375	1.3	27,074	3.3
Good order	11,047	9.2	6,112	1.4	3,191	1.3	20,350	2.5
Other (specified)	18,046	15.1	61,466	13.6	22,459	9.0	101,971	12.4
Other (unspecified)	37,372	31.2	123,108	27.2	42,751	17.1	203,231	24.7
<b>Total</b>	<b>119,695</b>	<b>100.0</b>	<b>452,178</b>	<b>100.0</b>	<b>250,460</b>	<b>100.0</b>	<b>822,333</b>	<b>100.0</b>

There were notable differences in the offence breakdowns of Indigenous and non-Indigenous fine suspensions.<sup>16</sup> Compared with non-Indigenous suspensions, fewer Indigenous suspensions were for unpaid traffic and parking fines (compare 7.4% with 24.7% and 2.6% with 6.5%, respectively). However, Indigenous suspensions were more likely to be related to justice and good order offences (compare 8.2% with 3.1% and 9.2% with 1.4%).

Fine suspensions in the 'Unknown' Indigenous status category exhibited slightly different patterns. (Again, this is not surprising, given that the category comprises mostly persons who have never been arrested by police - see footnote 14 for further). More than half (52.6%) of these were for unpaid traffic and parking fines. However, unpaid railway fines still accounted for more than one in every eight (13.6%) suspensions.

Since 1995, the proportion of fine suspensions for unpaid railway fines (comprising mostly fare evasion) has increased markedly - from 2.1% in 1995 to 19.9% in 2001 and 21.4% in the first half of 2002. In the case of Indigenous fine suspensions, the proportion related to unpaid railway fines has increased from 0.7% in 1995 to 23.5% in 2001, while for non-Indigenous suspensions, the proportion has increased from 1.7% in 1995 to 19.4% in 2001.

The median periods of fine suspensions are presented in Table 10. As the table shows, these varied greatly depending on offence type (that is, by the type of offence which incurred the fine originally), Indigenous status and fine source (that is, whether a court issued fine or infringement notice). Unpaid railway fines and fines for good

<sup>16</sup> There was little difference in the offence breakdowns of male and female fine suspensions, however.

order offences generally resulted in the longest median periods of suspension (490 and 379 days, respectively). The median suspension period for unpaid traffic and parking fines was around seven months (just over 210 days). For most offence types, Indigenous fine suspensions tended to be longer than non-Indigenous fine suspensions. Unpaid traffic and railway fines issued by the courts tended to attract longer periods of suspension than those arising from infringement notices; however the opposite effect was observed for other offence types.

**Table 10: Median length of fine suspensions (in days) broken down by original offence, Indigenous status and fine source, selected offence groups only, 1995-2001.**

Original offence	All (days)	Indigenous			Court issued (days)	Multinova/ Camera (days)	Other Infringements (days)
		Indigenous (days)	Non- Indigenous (days)	Unknown (days)			
Traffic offences	214	390	218	200	744	171	314
Railways	490	564.5	409	514	412	-	492
Parking	217	305.5	276	164	-	-	217
Licence offences	187	188	187	187	187	-	218
Drink-driving	206	288	203	187	199	-	318
Justice offences	187	188	187	187	187	-	498
Good order	379	425	232.5	542	189	-	564

The median dollar amounts of fines resulting in licence suspension are presented in Table 11. These also varied with offence type, Indigenous status and fine source. Overall, the median dollar amount of unpaid fines was \$100. By the time the fine was paid, the median amount owing increased to \$168. Unpaid parking fines recorded the lowest median dollar amount (\$35), while drink-driving offences incurred the largest fines (\$600).

**Table 11: Original fine amount (median, \$) broken down by original offence, Indigenous status and fine source, selected offence groups only, 1995-2001.**

Original offence	All \$	Indigenous			Court issued \$	Multinova/ Camera \$	Other Infringements \$
		Indigenous \$	Non- Indigenous \$	Unknown \$			
Traffic offences	100	100	100	100	75	100	100
Railways	50	50	50	50	70	-	50
Parking	35	100	30	27	-	-	30
Licence offences	200	250	200	100	400	-	100
Drink-driving	600	800	600	500	600	-	100
Justice offences	100	100	100	100	150	-	50
Good order	50	50	100	50	100	-	50

The size of the fine did not correlate strongly with the length of licence suspension ( $r=-0.02$ ). In other words, larger fines did not tend to be associated with longer periods of suspension. This was the case even when other factors, such as offence type, Indigenous status and fine source, were controlled.

Information about the distribution of fine suspensions across the state was not available.

### 3.1.3 Total licence disqualifications – combining traffic and fines

Total driver's licence disqualifications, aggregated from traffic-related offences *and* fine suspensions, are presented in Tables 12 and 13.<sup>17</sup> As the tables show, across all years, fine suspensions have accounted for the majority of licence disqualifications (77.9%). This proportion has increased from 68.4% in 1995 to 84.8% in the first half of 2002.

However, when fine suspensions are broken down by the source of the unpaid fine (traffic or other), traffic offences have accounted for about half (55.1%) of all licence disqualifications. Conversely, 44.9% of all licence disqualifications have been for non-traffic fines.

**Table 12: Disqualifications broken down by type and year of disqualification, 1995-2001 (rates are per 100,000 adult population).**

Year	Traffic disqualifications		Fine suspensions				Total disqualifications	
	n	rate	traffic n	other n	total n	rate	n	rate
1995	30,191	2,378.7	32,035	33,344	65,379	5,151.1	95,570	7,529.7
1996	34,686	2,677.2	52,247	77,442	129,689	10,009.9	164,375	12,687.2
1997	36,600	2,762.9	24,225	52,257	76,482	5,773.6	113,082	8,536.5
1998	31,686	2,343.6	31,005	69,324	100,329	7,420.7	132,015	9,764.3
1999	30,325	2,196.2	48,614	57,923	106,537	7,715.6	136,862	9,911.8
2000	27,834	1,984.3	59,570	57,924	117,494	8,376.2	145,328	10,360.5
2001	27,310	1,911.3	61,791	83,488	145,279	10,167.2	172,589	12,078.5
2002	14,542	-	39,239	41,905	81,144	-	95,686	-
<b>Total</b>	233,174	-	348,726	473,607	822,333	-	1,055,507	-

Note: Figures for 2002 are for the first six months (January-June) only.

**Table 13: Proportion of disqualifications that are fine suspensions and proportion of disqualifications that originate from traffic offences, by year, 1995-2002.**

Year	% of Total disqualifications that are Fine suspensions	% of Total disqualifications that originate from traffic offences
1995	68.4	65.1
1996	78.9	52.9
1997	67.6	53.8
1998	76.0	47.5
1999	77.8	57.7
2000	80.8	60.1
2001	84.2	51.6
2002	84.8	56.2
<b>Total</b>	77.9	55.1

Note: Figures for 2002 are for the first six months (January-June) only.

Rates of licence disqualification (combined traffic and fines) for males have exceeded female rates for all years in the study period. However, the level of over-

<sup>17</sup> Traffic offences were defined as those in the ANCO categories: 711, 724, 725, 732, 733, 739, 749, 751 and 752. ANCO refers to the Australian National Classification of Offences (ABS Catalogue No. 1234.0).

representation of males in licence disqualifications has declined from 4.2 to 2.9. In other words, in 1995, the disqualification of male drivers was 4.2 times the disqualification rate of female drivers but, by 2001, this factor had decreased to 2.9 – due mainly to increases in the fine suspension rate of females (see Section 3.1.2).

Indigenous rates of licence disqualification (combined traffic and fines) have also exceeded non-Indigenous rates for all years in the study period. In 1995, the Indigenous rate of licence disqualification was 8.1 times the non-Indigenous rate. However, by 2001, the Indigenous rate was 10.5 times the non-Indigenous rate.

### 3.1.4 Characteristics of disqualified drivers (combining traffic and fines)

In this section, we move away from describing the *incidence* of licence disqualification to detailing the *prevalence* of licence disqualification, that is, the *proportion of the population* who have had their driver's licence disqualified (rather than the number of disqualifications that have occurred over the study period). Focusing on offenders rather than on incidents allows us to explore other aspects of licence disqualification including re-offending 'rates' and the relationship between licence disqualification and other types of offending.

There were 243,011 individuals who were disqualified from driving over the study period. These drivers accounted for 1,055,507 licence disqualifications (as described in Section 3.1.3), thus averaging 4.3 disqualifications per driver.

As Table 14 shows, not all drivers were repeat offenders. Just under half (44.6%) of disqualified drivers had only one licence disqualification (which, in turn, accounted for 10.3% of all disqualifications). A further 15.6% had two disqualifications and an additional 8.1% had three disqualifications. Significantly, just over one quarter of all disqualified drivers (26.2%) had five or more disqualifications over the period – these individuals accounted for almost three quarters of all licence disqualifications.

**Table 14: Number of times drivers were disqualified over the study period**

No of times disqualified	No of drivers			Corresponding number of licence disqualifications		
	n	%	cum%	n	%	cum%
1	108,270	44.6	44.6	108,270	10.3	10.3
2	38,001	15.6	60.2	76,002	7.2	17.5
3	19,668	8.1	68.3	59,004	5.6	23.0
4	13,328	5.5	73.8	53,312	5.1	28.1
5 or more	63,744	26.2	100.0	758,919	71.9	100.0
<b>Total</b>	<b>243,011</b>	<b>100.0</b>		<b>1,055,507</b>	<b>100.0</b>	

The characteristics of disqualified drivers are summarized in Table 15. As the table shows, 72% of disqualified drivers were male, 25% were female, 6% were Aboriginal, 31% were non-Aboriginal and 63% were of unknown Indigenous status. More than half (56%) of disqualified drivers were aged between 18 and 29 years and just over one third (35.5%) had a criminal record. Many disqualified drivers had lost their licence a number of times over the study period *both* for traffic offences *and* for

non-payment of fines. Just over one quarter (27.6% or 67,019/243,011) of disqualified drivers were found to have incurred both types of disqualifications.

Also presented in Table 15 is the average number of disqualifications per driver for the different sub-groups of disqualified drivers. As the table shows, the average number of disqualifications varied most notably with Indigenous status, criminal record and disqualification type. Indigenous drivers had a substantially higher average number of disqualifications per driver than non-Indigenous drivers (compare 10.2 with 8.1) – indicating a higher re-offending rate over the study period. Both of these groups also had significantly higher averages than drivers of unknown Indigenous status (compare 10.2 and 8.1 with 2.0). The average number of disqualifications of drivers with a criminal record was also found to be four times greater than that of drivers without any criminal record. Drivers incurring fine suspensions were also found to have a higher average number of disqualifications than those disqualified for traffic offences (compare 4.9 with 1.6), thus indicating a higher level of re-offending (that is, a greater frequency of licence disqualification caused through repeated non-payment of fines) of this group.

**Table 15: Characteristics of the incidence (number of disqualifications) and prevalence (number of affected drivers) of licence disqualification, 1995-2002.**

Characteristic	Incidence (No of disqualifications)		Prevalence (No of disq. drivers)		Ave no of disqualifications per person
	n	%	n	%	
<b>Total</b>	1,055,507		243,011		4.3
<b>Sex</b>					
<b>Male</b>	789,798	74.8	175,310	72.1	4.5
<b>Female</b>	238,571	22.6	61,021	25.1	3.9
<b>Indigenous status</b>					
<b>Indigenous</b>	148,505	14.1	14,577	6.0	10.2
<b>Non-Indigenous</b>	605,252	57.3	74,994	30.9	8.1
<b>Unknown</b>	301,750	28.6	153,440	63.1	2.0
<b>Age</b>					
<b>18-29 years</b>	580,415	60.9	132,736	55.9	4.4
<b>30+ years</b>	364,153	38.2	96,658	40.7	3.8
<b>Criminal record</b>					
<b>Yes</b>	726,410	68.8	86,334	35.5	8.4
<b>No</b>	329,097	31.2	156,667	64.5	2.1
<b>Disqualification type</b>					
<b>Fines</b>	822,333	77.9	167,587		4.9
<b>Traffic</b>	233,174	22.1	142,443		1.6
			(67,019 common to both)		

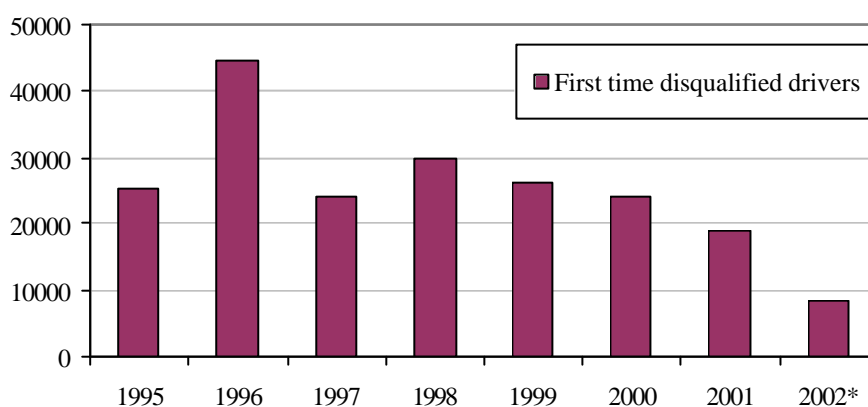
The association between criminal record and repeated licence disqualification was tested using a simple Pearson correlation. The result ( $r=0.401$ ) indicated a positive relationship but not a statistically significant one, in other words, a more extensive criminal record was not strongly associated with a greater number of licence disqualifications.

The association between repeated licence disqualification and (detected) occurrences of driving while disqualified was also tested. The result ( $r=0.574$ ) was statistically significant, indicating that the more disqualifications a driver has, the more likely they are of (being detected) driving while disqualified.

Clearly a range of factors, not simply those described above, are likely to influence repeated licence disqualification by drivers. However, exploration of these factors requires more sophisticated analyses than those attempted here and extends beyond the scope of the present study.

Figure D provides a breakdown of disqualified drivers by the year of their first disqualification. Excluded are those who were known to have had disqualifications prior to the commencement of the study period (n=40,486). As the figure shows, there was a substantial increase in the number of first-time disqualified drivers who lost their licences in 1996 (most likely as a result of the initial effects of fines enforcement legislation); however, since 1998, the number of ‘newcomers’ to the pool of disqualified drivers has slowly diminished. Given that the number of licence disqualifications since 1998 has actually increased (see Table 12), this suggests that a growing proportion of licence disqualifications are of drivers with a history of licence disqualification. In other words, there is evidence that increases in disqualifications (arising primarily from fine suspensions) have been due to the activities of, and actions against, drivers with a history of licence disqualification rather than drivers who are new to licence disqualification.

**Figure D: Number of disqualified drivers by year of first disqualification.**



Note: Excludes 40,486 drivers who had disqualifications prior to 1995. Also note that the number of first-time disqualified drivers for 2002 are for six months only (January to June).

### **3.1.5 Driving while disqualified**

The police detected 61,709 incidents of driving while under licence suspension/cancellation (DWUS) during the study period, at a rate of 58.5 DWUS incidents per 1,000 licence disqualifications. The rate peaked in 1997 at 97.1 incidents per 1,000 disqualifications. Since then, the rate of detected DWUS has declined from 97.1 to 39.4 per 1,000 in the first six months of 2002 (see Table 16).

**Table 16: Number and rate (per 1,000 licence disqualifications) of detected incidents of driving while disqualified, 1995-2002.**

Year	Driving while under fine suspension		Driving while under suspension (other)		Driving while under suspension (total)	
	n	rate	n	rate	n	rate
1995	-	-	-	-	4,720	49.4
1996	-	-	-	-	9,000	54.8
1997	3,444	45.0	7,533	205.8	10,977	97.1
1998	3,511	35.0	5,468	172.6	8,979	68.0
1999	3,594	33.7	5,210	171.8	8,804	64.3
2000	3,285	28.0	4,841	173.9	8,126	55.9
2001	2,542	17.5	4,790	175.4	7,332	42.5
2002	1,297	16.0	2,474	170.1	3,771	39.4
<b>Total</b>	<b>17,716</b>	<b>21.5</b>	<b>43,993</b>	<b>188.7</b>	<b>61,709</b>	<b>58.5</b>

Note: Police databases did not distinguish between driving while under fine suspension and driving while under non-fine disqualification until 1997.

As Table 16 shows, the detected rate of driving while under fine suspension (DWUFS) was significantly lower than the detected rate of driving under non-fine disqualification. The reason for this difference was not identified and further investigation is recommended; it has been suggested that poor identification and/or recording of DWUFS incidents by the police may be a factor.

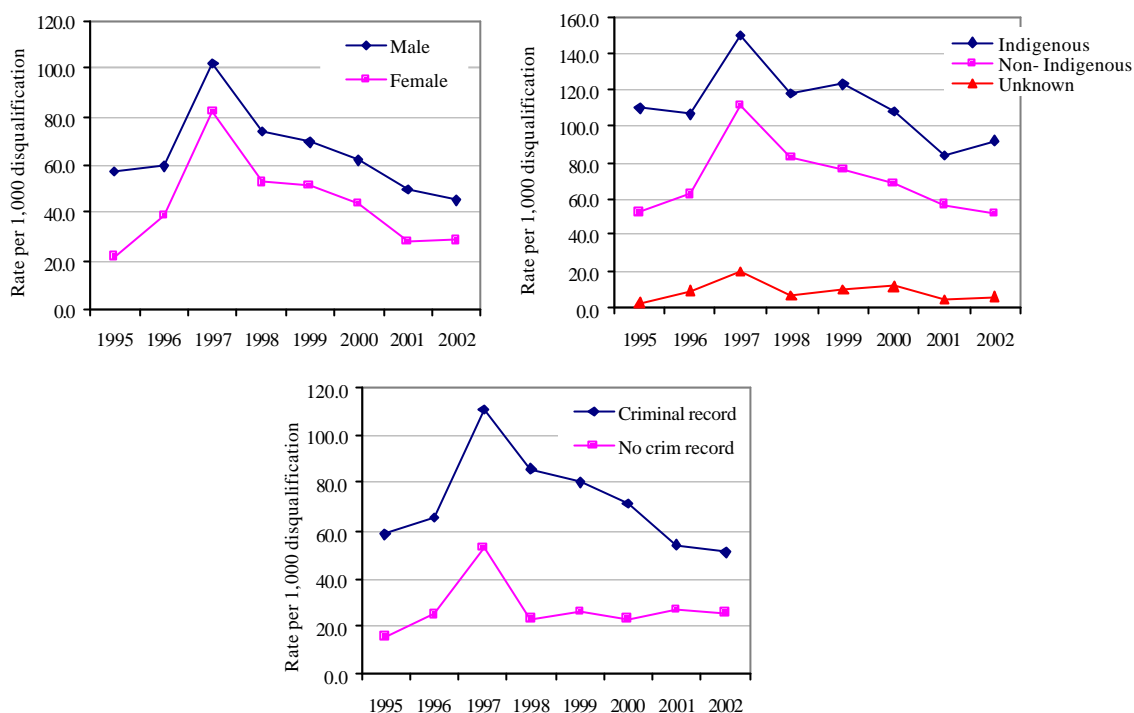
DWUS rates were found to vary by sex, Indigenous status and criminal record (Table 17). Male drivers were more likely to drive (or, at least, *be detected driving*) while disqualified than female drivers (compare a male rate of 64.5 per 1,000 disqualifications with 43.0 for females). Indigenous drivers were significantly more likely than non-Indigenous drivers to drive (or *be detected driving*) while disqualified (compare a rate of 111.5 with a rate of 70.5), and both Indigenous and non-Indigenous drivers were much more likely to drive while disqualified than drivers of unknown Indigenous status (recall that most drivers of unknown Indigenous status do not have a criminal record). When assessed separately, the DWUS rate of drivers with a criminal record was almost three times greater than the DWUS rate of non-criminal drivers (compare 72.9 with 26.7).

**Table 17: Rates (per 1,000 relevant licence disqualifications) of detected disqualified driving, by Indigenous status, sex and criminal record, 1995-2002.**

Characteristic	DWUS Rate per 1,000 relevant disqualifications
<b>Sex</b>	
Male	64.5
Female	43.0
<b>Indigenous status</b>	
Indigenous	111.5
Non-Indigenous	70.5
Unknown	8.1
<b>Criminal record</b>	
Yes	72.9
No	26.7

Trends in the rates of disqualified driving for each of these disqualified driver subgroups are shown in Figure E.

**Figure E: Trends in the rates of (detected) disqualified driving, by Indigenous status, sex and criminal record, 1995-2002.**



### 3.1.6 Court outcomes for driving without an appropriate or valid licence

In this section we describe court outcomes relating to finalised charges of driving without an appropriate or valid licence (DWVL), as adjudicated by the Western Australian Courts of Petty Sessions. The details of charges heard by the Courts of Petty Sessions are recorded by the Department of Justice in the CHIPS database and are available from 1998 onwards.

Regrettably, offence descriptions in the CHIPS system were found to inadequately distinguish between charges of driving while disqualified (*RTA 49(2)(a)*), charges of driving without a licence (*RTA 49(1)*) and charges of driving with an expired licence (*RTA 49(2)(b)*). For the most part, offences in CHIPS were described more broadly (that is, offences were recorded simply as breaches of *Road Traffic Act s.49*) without further reference to the sub-section and paragraph details of the *Act*.<sup>18</sup> Thus, in this section, we describe court outcomes for the broad category of driving without an appropriate or valid licence (DWVL) and note that this collectively includes charges of driving while disqualified *and* charges of driving without a licence (at all). Note

<sup>18</sup> Police traffic conviction statistics for the same period (1998 to 2001) indicate that there were 42,573 convictions for driving without an appropriate and valid licence (*RTA s.49* offences). Of these, 34,893 (82%) were for driving while under suspension/cancellation and 7,680 (18%) were for driving without a licence. One could, therefore, assume that approximately 82% of the court figures for DWVL relate to driving while under suspension/cancellation, with the remainder describing offences of driving without a licence. However, the Police statistics are not entirely comparable with court figures, since counting units differ. The counting unit for police data is the offence type (multiple charges of the same offence are counted only once), while the counting unit for the courts is each charge. Therefore, police statistics will tend to undercount the true number of charges (offences) dealt with by the courts.



also that we were unable to distinguish charges of driving while under fine suspension from charges of driving while under non-fine disqualification.

Table 18 shows that the number of charges finalized for unlicensed driving increased from 1998 to 2001. As a proportion of all charges dealt with by the Courts of Petty Sessions, DWVL have accounted for about one in every eight (12.4%) finalized charges between 1998 and 2001, although this proportion declined slightly over the period (from 13.8% to 11.9%). There was little change in the proportion of charges against male offenders (about 80%), but there was some change in the proportion of charges laid against Indigenous and non-Indigenous offenders. However, this was mostly due to variations in the proportion of offenders having 'Unknown' Indigenous status.

**Table 18: Finalised charges of driving without a valid licence, Courts of Petty Sessions, 1998-2001.**

Year	Total n	Sex		Indigenous Status			% of all charges finalised %
		Male %	Female %	Indigenous %	Non- Indigenous %	Unknown %	
1998	12,175	80.2	19.8	17.4	65.5	17.1	13.8
1999	11,786	80.1	19.9	22.2	65.3	12.6	12.3
2000	12,529	79.6	20.4	24.0	63.0	13.0	11.8
2001	12,823	80.8	19.2	22.5	67.3	10.2	11.9
Total	49,313	80.2	19.8	21.6	65.3	13.2	12.4

Over the study period, the median age of offenders charged with DWVL offences increased slightly from 26 years to 27 years. The median age of Indigenous offenders (28 years) was slightly older than the median age of non-Indigenous offenders (27 years) and offenders with 'Unknown' Indigenous status (26 years).

In terms of conviction, almost all DWVL charges (98.8%) resulted in a 'guilty' outcome from the court. Court outcomes did not vary with sex, Indigenous status or age.

The most serious penalties for driving without a valid licence are described in Table 19. Fines were the most common penalty (74.7%), followed by community-based orders (CBOs) (12.0%) and custodial sentences (10.6%). Most community-based orders were suspended sentences of imprisonment. As the table shows, the use of community-based orders for dealing with DVWL charges increased over the study period (increasing from 6.6% of penalties in 1998 to 14.4% of penalties in 2001), while the use of custody diminished slightly over the same period (from 10.4% to 8.8%).

**Table 19: Most serious penalty per charge of driving without a valid licence, 1998-2001.**

Penalty type	1998		1999		2000		2001		Total	
	n	%	n	%	n	%	n	%	n	%
<b>CBO</b>	794	6.6	1,583	13.6	1,662	13.4	1,821	14.4	5,860	12.0
<b>Custody</b>	1,248	10.4	1,370	11.8	1,453	11.7	1,109	8.8	5,180	10.6
<b>Dismissed</b>	292	2.4	227	2.0	220	1.8	260	2.1	999	2.1
<b>Fine</b>	9,694	80.6	8,445	72.6	8,991	72.6	9,226	72.9	36,356	74.7
<b>Unknown</b>	1	0.0	0	0.0	51	0.4	232	1.8	284	0.6
<b>Total</b>	12,029	100.0	11,625	100.0	12,377	100.0	12,648	100.0	48,679	100.0

Penalties varied somewhat with sex and Indigenous status. As Table 20 shows, males were more likely than females to receive a custodial sentence for DWVL offences (compare 12.1% with 4.9%), while females were more likely to receive fines (compare 80.6% with 73.1%). Similarly, Indigenous offenders were more likely to receive a custodial sentence [or a suspended custodial sentence (CBO)] than non-Indigenous offenders (compare 17.5% with 8.6%) and less likely to receive a fine (compare 61.1% with 78.0%).

**Table 20: Most serious penalties awarded to DWVL charges, by sex and Indigenous status of offender**

Penalty type	Sex		Indigenous Status		
	Male	Female	Indigenous	Non-Indigenous	Unknown
	%	%	%	%	%
<b>CBO</b>	12.2	11.6	17.8	11.2	6.7
<b>Custody</b>	12.1	4.9	17.5	8.6	9.4
<b>Dismissed</b>	2.0	2.2	1.7	2.0	3.0
<b>Fine</b>	73.1	80.6	61.1	78.0	80.5
<b>Unknown</b>	0.6	0.7	2.0	0.2	0.4
<b>Total</b>	100.0	100.0	100.0	100.0	100.0

### 3.1.7 Prison receptions for driving without an appropriate or valid licence

The number and rate of receptions into adult prisons for DWVL offences are presented in Table 21 and Figure F. Note that the DWVL data include only receptions where driving without a valid licence was *the most serious offence*, as these cases can be directly attributed to unlicensed driving actions rather than any associated (and possibly more serious) offences.

Table 21 provides a breakdown of DWVL receptions by sentence type for 1990 to 2001. Also included in the table is information on the *total* number of fine defaulters and the *total* number of prison receptions occurring over the same period. As the table shows, the impact of FPINE legislation on total prison receptions was immediate and significant. Prior to 1995, fine defaulters accounted for a substantial proportion of annual prison receptions (more than one-third). However, the introduction of FPINE legislation (in 1995) all but eliminated the intake of fine-defaulters into gaol in that year (numbers fell from 2,027 in 1994 to just 77 in 1995). Since then, the number

of fine defaulters entering prison has increased but these increases have been modest compared with pre-1995 levels.<sup>19</sup>

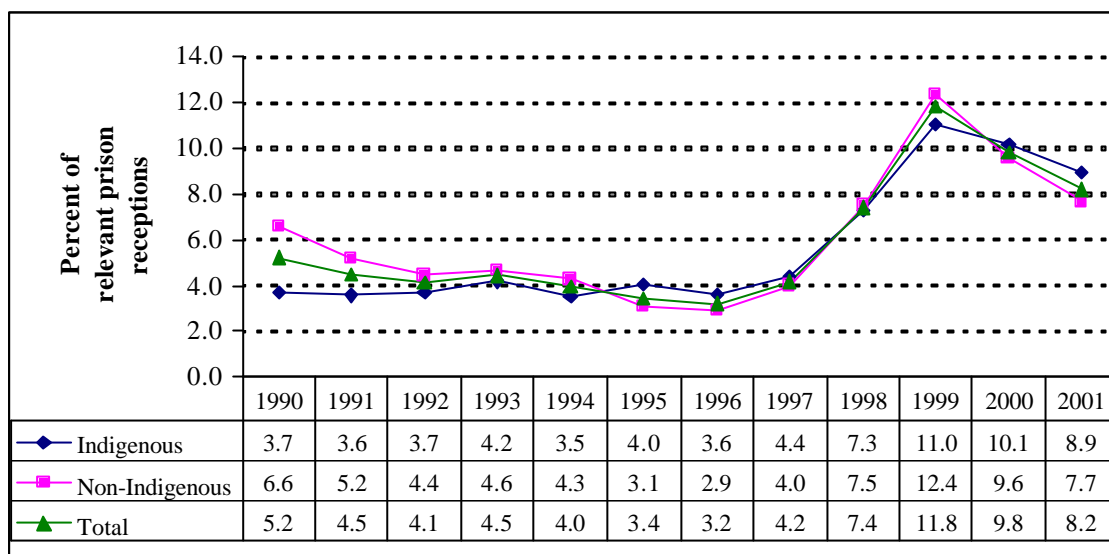
The effect of FPINE legislation on the number of prison receptions for DWVL is also evidenced in Table 21. The table shows that the number of receptions for DWVL offences declined over the period to 1996, in line with the general trend in fine-default receptions. However, in more recent years, the number of finite sentences for DWVL offences has increased significantly, accounting for an increasing proportion of total prison receptions (see Figure F). In 1999, there were 701 DWVL receptions, which accounted for 11.8% of all prison receptions. Similar patterns were observed for both Indigenous and non-Indigenous DWVL prison receptions.

**Table 21: Adult prison receptions for driving without a valid licence (as the most serious offence)**

Year	Receptions for DWVL offences				Receptions for Fine Default	Total Prison Receptions
	Sentence type					
	Fine Default	Finite	Parole	Total		
1990	172	161	18	351	3,013	6,759
1991	117	144	17	278	2,274	6,282
1992	86	115	31	232	1,883	5,632
1993	130	108	31	269	2,187	6,053
1994	114	95	31	240	2,029	6,058
1995	5	112	42	159	77	4,646
1996	4	111	34	149	177	4,651
1997	10	117	62	189	337	4,551
1998	41	256	93	390	510	5,273
1999	80	495	126	701	616	5,942
2000	70	451	108	629	518	6,416
2001	129	333	77	539	736	6,560

<sup>19</sup> Recall that the FPINE legislation did not remove prison as an option for failing to pay (some) fines. It simply introduced a range of intermediate options (including licence suspension) to encourage earlier payment.

**Figure F: Adult prison receptions for driving without a valid licence (as the most serious offence) as a percent of relevant prison receptions.**



The median length of imprisonment (as sentenced) for driving without a valid licence was 20 days for fine defaulters, six months for offenders given finite prison terms and 12 months for those given parole-type sentences.<sup>20</sup> No significant difference was observed in the length of imprisonment given to Indigenous and non-Indigenous offenders.

<sup>20</sup> Finite sentences are those where a maximum term has been specified but the sentencing court has not made or could not by law make an order for parole eligibility. *Section 89* of the *Sentencing Act 1995* stipulates that sentences less than 12 months cannot be made eligible for parole.

## 3.2 Focus groups

Using the recruitment strategy and methodology described in Section 2.2, four focus group meetings were undertaken as part of the study. Each group comprised disqualified drivers of the same 'type', that is, one group consisted of drink drivers, another group consisted of fine suspended drivers, another group consisted of demerit point drivers, and the final group comprised *repeat* (or multiple) disqualified drivers. The results of those discussions are summarized in this section.

### 3.2.1 Verification of licence disqualification

Of the sixty drivers who were initially recruited to attend the focus groups, twenty-seven actually attended the meetings. Of these, all but three brought documentary evidence of their licence disqualification, which was sighted by researchers before the commencement of discussions. Of the three who failed to bring proof of disqualification, there were sufficient indications during the course of the discussions to suggest that they had indeed been disqualified from driving.

### 3.2.2 Participant characteristics

As Table 22 shows, 24 of the 27 participants (89%) were male. One quarter (26%) of participants were aged below 24 years of age and a further one third (33%) were aged between 25 and 34 years of age. There were no participants of Aboriginal or Torres Strait Islander descent.

More than two-fifths of participants (44%) had completed secondary education, while a further 26% had completed or were completing some form of technical or trade certificate. 37% of participants lived with a partner (either with or without children), a further one third (33%) lived alone, 7% lived as single parents and 15% lived with parents.

**Table 22: Demographic characteristics of focus group participants**

<b>Sex</b>		<b>Education</b>	
Male	24 (89%)	Secondary	12 (44%)
Female	3 (11%)	Technical/Trade (partial)	2 (7%)
<b>Age</b>		Technical/Trade (complete)	5 (19%)
18-24	7 (26%)	Tertiary (partial)	4 (15%)
25-34	9 (33%)	Tertiary (complete)	4 (15%)
35-44	6 (22%)	<b>Occupation</b>	
45-54	5 (19%)	Professional	2 (7%)
<b>Household</b>		Tradesperson	9 (33%)
Single, no kids	9 (33%)	Customer service	3 (11%)
Single, with kids	2 (7%)	Operator/Stores	9 (33%)
Couple, no kids	5 (19%)	Other	4 (15%)
Couple, with kids	5 (19%)	<b>Total</b>	27 (100%)
Group of adults	2 (7%)		
With parents	4 (15%)		

### **3.2.3 Discussion topics**

The discussion in each focus group was directed by a pre-set Discussion Guide tailored to suit the main characteristics of each group (see Appendix C). The main topics of discussion were:

- Awareness of impending disqualification
- Awareness of actual disqualification
- Fines suspension (fines group only)
- Impact of disqualification
- Original offence causing loss of licence
- Ways of managing after loss of licence
- Extra-ordinary licences
- Driving while disqualified
- Penalties and repercussions for driving while disqualified
- Alternative measures for dealing with driving without a licence
- Other issues

Each of these is described in more detail below.

#### **Awareness of impending disqualification**

Of the participants who had lost their licences through accrual of demerit points, almost all were aware that they were approaching their point limit. However, some were surprised at how quickly they accrued their final points, citing the recent double demerit system over holiday periods and exceeding the speed limit by large amounts as particularly problematic. Many participants commented that the three-year period needed to expunge the points was too long.

Most of the participants who had lost their licences through non-payment of fines were also aware of the impending disqualification. Many brought evidence of official notification of the intended action (letters from the Department of Justice). Most of this group knew that continued inaction on their part (to pay the fine) would result in suspension.

Only one participant indicated genuine surprise at her licence suspension, claiming that she was unaware that other persons had used her vehicle (which she had earlier abandoned). Speeding fines were subsequently attributed to her, as owner of the vehicle, which in turn she was unable and unwilling to pay.

#### **Awareness of actual disqualification**

Most participants were aware of the disqualification once it had occurred. Some cited home visits or calling cards from recovery officers; others were notified by telephone or via mail. All reported that their licences were either taken from them or that they had handed them in at Licensing Centres.

#### **Fines suspension**

Participants in the fine suspension group were asked additional questions about their knowledge of the Fines Enforcement system; whether they considered the system fair and effective; what problems (if any) they had encountered or believed existed with the system; what they would change, etc.

Despite being aware of the consequences of not paying their fine(s), few participants admitted to taking action to avoid licence suspension. In most cases, the stated reason was the simple inability to pay the lump sum of the fine. Continued inaction usually resulted in additional fees and penalties, increasing the total amount payable, and further compounding the situation.

[F3] Circumstances sometimes dictate that you can't afford to pay a lump sum fine...and then things build up and up.<sup>21</sup>

[F5] Things can just build up.... \$800 fines grew to \$4,400.

[F5] Where am I going to get \$500 from? I could do community service but not now while I'm still studying.

[F1] I have no idea how to tackle \$3,000 worth of fines.

[M3] I go week to week with my pay and I don't always have \$150 there to pay off the fine. I know its coming up but then I forget about it. ...And before you know it, I've got \$2,000 worth of fines. .... It wasn't until the last time I got arrested [for driving without a licence] that I was told that I could go to the Fines Registry and pay the fines off [gradually]. ...I got done for 107 kmh in a 100 zone and 66 kmh in a 60 zone. They are pathetic little things. ...These things are ...revenue raisers!

Few participants claimed to have any prior knowledge of the operations of the Fines Enforcement system (e.g. seizure of property, payment arrangements), though most became aware through personal experience.

Only some of the participants were aware that more flexible arrangements could be made to pay outstanding fines, such as through installments. Even fewer participants realized that entering into an arrangement to pay would be beneficial to them, as this would lift the licence suspension while the arrangement was being honoured. Moreover, if the licence suspension was for another reason e.g. demerit points, then clearing the fine(s) would at least allow them to apply for an Extraordinary licence)

[F2] I don't know anything about all these [options to pay]. I'm hearing about them right now. ...And getting an extraordinary licence is just one big hassle for me. Paying the fine is already one big hassle.

[F5] You can pay it off gradually but this information isn't displayed openly enough.

[F5] I just made an arrangement to pay application to 'lift' \$4,400 fines. This will let me apply for an extra-ordinary licence so I can work. \$800 fines grew to \$4,400. All it took was a phone call!

The majority of participants in the fines group thought that the notion of suspending a driver's licence for offences unrelated to driving was particularly unfair. In fact, only one participant fell into this category.<sup>22</sup> All the others had committed traffic-related offences that had resulted in fines, which, in turn, they had been unable or unwilling to pay.

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<sup>21</sup> Participants in each group were identified by codes – those in the Demerit group were coded D1-D15; those in the Fines group were coded F1-F15; drink-drivers were coded DD1-DD15 and those who had had multiple suspensions were coded M1-M15. When transcribing audiotapes, it was not always possible to assign every comment to an individual participant. When the identity of the participant could not be determined, no identity code was used.

<sup>22</sup> In this case, outstanding fines were from travelling on trains without a valid ticket.

[F3] It's unfair to suspend a driver's licence for train fines. What about all the young people who use the public transport system [illegally]? Are they going to take their licences away before they even get them?

[D3] It's unfair to lose your licence for unpaid train fines and things that are unrelated to driving. Driving is a freedom that they want to take away.

There was general consensus that licence suspension was an unfair and inappropriate action against persons who were already in positions of being unable to pay fines. Most agreed that the loss of licence reduced their earning capacity, which then further reduced their capacity to clear fine(s).

Suspension is unfair ...punishing those who can least afford to pay.

[F5] They are just using it [licence suspension] as a debt collection method...but, also, when you're not driving you're also not contributing to the [working] community – not using/buying petrol, the roads, registration, insurance, not getting more fines (!). They would probably get more back from the person driving than the person who is not...Earning more will make it easier for me to pay my fines off quicker, which is what they want.

Moreover, those who continued to drive while under suspension admitted to placing themselves in more precarious positions:

[F2] They are forcing us to be criminals. I need to work to pay off the fine. All I want to do is work. It's the government's fault for putting me in this position [where I drive without a licence]. Some people can stay home and sell drugs and get less hassle from the police than me who wants to work and goes out and does.

You need to work to pay the fine, so you still drive without a licence.

A number of problems were identified with the current operation of the Fines Enforcement System. Front desk staff at the FER Perth city office were considered to be particularly unhelpful. For many, even getting to the city to pay the fine appeared problematic.

[M4] I've been on hundreds of payment plans but if you default, you can't re-instate them and you have to let them progress into community service and after that it's gaol....and you can't cut fines out in prison any more.

Getting you to come into the city to pay the fine is hard.

Getting into the city between 8:00 and 4:30 is hard. Most people work till 5:00. And then you have to find parking and that. If you could pay at a police station or at a post office, they would rake the money in.

However, some positive aspects of the system emerged. These included time to pay arrangements, friendly staff in the courts and in the Customer Service section of Department of Justice (via phone) and the ability to use Centrepay and direct debit facilities.

[F5] Direct debit is good but there's a \$1.80 fee each time it happens but if you have it done via Centrepay then there's no fee.

When asked if there were any aspects of the enforcement system that they would like to change, several participants suggested that incurring the suspension should be seen as a means of paying the fine. In other words, that the period of suspension should



reduce the fine amount in some way.<sup>23</sup> Others suggested more operational changes, mostly to do with making it easier and more convenient to pay (e.g. not having to come into the city, payment at Post Offices).

Many participants, but not all, were critical of the circumstances surrounding (and amount of) the original fine. Some considered the fine too large; others were critical of the issuing agency's inflexibility regarding payment arrangements. Many stated that they would have preferred to pay their fines gradually, *right from the start and which took into account their individual circumstances*, without the added time and expense of enforcement procedures.

[F4] It was unfair ...I was speeding in the middle of the night, not hurting anybody, and for that I was fined \$250. That's almost a week's wages for some people. There's something not quite right about it .....If I had kicked over an old lady in the street I would not have been fined as much as that.... It's primitive to think that paying a fine will make everything all right.

[F2] I was angry. The cop who pulled me over commented that 'you can't afford to pay your fines but you can afford to buy cigarettes.' That was inappropriate. Made me feel like shit. And he only pulled me over because he thought I was using a mobile phone. I was scratching my ear!

[F5] I was angry about it but looking back at it, it was the best thing, to teach me a lesson. I was speeding. I had a licence, ... I knew what the penalties were, you cough up. ...I deserved it, every bit of it.

Surprisingly, few participants supported the idea of 'unit' fines, that is, where the fine amounts are set as a proportion of income (ie means tested in some way) rather than as fixed amounts. Some stated that they would have preferred a different penalty altogether.

[F1] Would have been better for me [to get a different penalty] but you can't convert a traffic fine to community service.

### **Impact of disqualification**

Participants in all groups were asked about the impact that licence disqualification had on them emotionally, financially and socially, and what impact the disqualification had on their families.

Few admitted to being embarrassed by the loss or to feeling like a criminal. Most felt that the disqualification was a 'fair cop'. Some expressed disappointment and annoyance at the inconvenience of having to get around after the disqualification.

[M6] Not embarrassing ...everyone knows someone who has lost their licence (even your employer)!

[DD8] First you're picked up, then you go to court. This is really the last step so by this stage you're not too embarrassed.

[DD9] I didn't tell anyone. I was embarrassed, ashamed of. Kept it from my mum for a long time but she understood.

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<sup>23</sup> It was suggested in the discussion that the NSW fines enforcement legislation operates in this way, that is, licence suspension *in lieu* of payment. However, this was later found not to be the case.

Some of those who had lost their licence more than once reported being angrier and more cynical about traffic law enforcement practices.

[D3] Yes, more angry now ... I know that I am a safe driver. Multinovas are there as revenue-raisers, they are placed strategically to detect speeding rather than where speeding is a road safety risk. They are putting people's livelihoods at risk.

[M6] Since losing my licence, I'm much more aware of speed limits. But you also notice how inconsistent they are, the speed limit changes along the freeway and sometimes it's ridiculously slow. And then they go and put speed cameras there. That's just pure revenue raising.

By far, the biggest impact of licence disqualification, felt by all participants, was on employment. The loss of licence made it difficult to *get to work*, to *keep work* (especially those requiring a licence for the job) and to *find work*.

In terms of getting to work, it was not simply that switching to alternative modes of transport (e.g. using public transport or having to rely on the services of family and friends) was inconvenient, but that often such alternatives were not available. Industrial and commercial areas (where many participants worked) were reportedly poorly serviced by public transport (or, in some cases, not serviced at all). Shift workers faced even greater difficulties. A number of participants were trades people, required to move to and from various worksites with tools in tow. For these, the loss of licence was especially hard felt.

[M2] I lost my job. I work night shift and you can't drag your wife and kids out at night to take you to work. ...

[M5] Night shift is hard.

[M1] It's difficult. You adjust. I cycle and use public transport. With people who live on their own, I don't see how you can manage [without a licence] and with people who work in trades, especially those related to cars, you wouldn't exist. ...It virtually changes your life around. I'm studying and when I can't make the [bus/train] connections, I have to ask my parents to take me. They are old enough now to have their own licences taken off them. It terrifies me that they are on the road!

[F3] What public transport is operating at 5am in the morning to get from south of the river to Malaga?

[F5] Industrial areas are really bad, especially around Perth. Not one bus route goes through these areas. They can't design bus routes and stops that suit the workers, so that even when they try it, no-one uses it. It's never there for the workers to use. To walk from any train station to these areas is really difficult, especially at that 6 or 7 o'clock in the morning time.

[F2] I can't afford not to drive. I need to work. I've got a tonne of tools, I couldn't use the public transport system.

A number of participants stated that they had lost jobs as a direct result of the licence disqualification.

[F3] I've lost two truck driving jobs over this.

[M5] I lost an apprenticeship out of it. I needed my licence for the job, I didn't tell them but they found out and I got sacked.

[DD6] I lost a supervisory job because the magistrate wouldn't give me an extraordinary licence [after my suspension]. Then I was on the dole.

Once out of work, the disqualification also made it difficult to find new work.

[F3] Not having a licence makes it hard to find work. Centrelink says that you have to be prepared to travel 90 minutes to get to work, how are you going to do that? Without a licence you can't get to work, you can't go to interviews, you're very limited as to what you can do. You can even lose Centrelink payments this way. ....It takes your confidence away from you.

It's harder to get a job when you don't have a licence. [Potential employers will take] any opportunity to cross you off the list.

However, not all participants were seriously impacted by the disqualification and many commented that the impact could have been more significant had their circumstances (e.g. access to public transport, location of current job) been different.

[D6] Depends on your situation and where you live and how close you are to public transport and whether you work in a place that is easy to get to by other means.

Really it was ONLY the getting to/from work that made a difference.

Ironically, losing your licence makes it easier to socialize (drink) with your friends because you know you can't drive so someone else has to be the skipper!

[D3] Suspension is not fair. If you are close to public transport then being without a licence doesn't have the same impact as it does on someone who is far from buses and that. It doesn't affect people's livelihood in the same way.

Much discussion centred on the impact of the disqualification on families. Like many penalties, the impact of licence disqualification extended to the partners, children, parents and friends of affected drivers.

[DD6] They don't realize that it's a sentence that your whole family gets, not just you.

Asking parents/partners to drive you places was difficult, and was a burden (cost) to them.

[M3] My wife had to drive herself to hospital while in labour. She didn't let me drive.

Kids still need to get to school, or family to hospital, so I still drive.

Yeah, who can do anything without a driver's licence? I've got a three year old....

[F1] I drive without a licence. I've been picked up two times already for dwus and I find it really stressful to drive. But when you've got kids, you can't walk around in the heat or in the rain. ...I drive the car for my children. I can take them places and do things with them.... On the other hand, if I get caught, I risk going to gaol and having them taken from me.

When questioned about who they told about their disqualification, participants gave mixed responses. Some told family and friends, while others considered the matter private and told no one. Those with more to lose (that is, those admitting to driving while disqualified) were generally more careful about who they told.

[M6] My boss was pretty supportive. I told him and he tried to find a solution for me.

[DD8] You tell your missus...because if she finds out, she's gonna kill ya!

[F2] I got so enraged that a \$100 fine went to \$500 and a suspended licence, that I tell just about everyone!

[M2] I was careful not to tell too many people in case they doxed me in for driving without a licence.

You don't tell anyone who has anything to do with the police.

I didn't tell my boss the first time but I was only 19 then. If [you think] you're gonna lose you job, you won't tell them.

[M1] I don't tell anyone. As far as I'm concerned, it's my business.

When asked about the community attitude towards disqualified drivers, most participants felt that the community was generally accepting of them, citing the high prevalence of disqualified drivers as a factor ('...most people know someone who has lost their licence'). However, repeat offenders and driver's disqualified for drink driving offences were considered to be much more socially unacceptable.

There is a stigma with drink drivers.

[M4] After you've lost it a few times, they start to think that you're a bit of a dickhead. 'When are you gonna start growing up?' sort of thing.

### **Original offence causing loss of licence**

When quizzed about the offence which led to the loss of licence, most participants indicated that, *at the time*, they had only given limited thought to the likelihood of disqualification. Predictably, most of the participants in the drink-driving group said that the influence of alcohol precluded any such thoughts.

[DD5 – DD] When its 4am in the morning and you've been drinking and all you want to do is get home, you don't do too much thinking. Your judgement is completely affected.

[M5] When you're pissed, you don't think much anyway.

DD] Of course, if you had known you were going to get caught...with hindsight, ...you wouldn't have done it but most of the time, you don't get caught. Those ads they have that say 'Drink and drive and you WILL get caught' is bullshit.

[DD6] The last time I got done, I DID think about it but the cost of catching a taxi from the back of Armadale to Highgate was just too expensive so I decided to drive...and got caught.

[D3] Sometimes you try to be 'good' but common sense says that the road is straight, there are no other drivers, the car is good, you're not drunk and a 70 kmh limit is ridiculous. Why drive at such a slow speed? We all live busy lives. I don't have many accidents...what does this tell me? I'm a fast driver but not a dangerous driver.

Participants were asked if they thought licence disqualification was an effective way of dealing with people who accumulate too many demerit points. Responses were mixed. A small number of participants saw the current system as effective against persistent traffic offenders. Others thought that the system was reasonably effective but needed some improvements, arguing that it was too easy to lose a licence and that higher point thresholds (above the current 12 point limit) and education campaigns should be introduced. However, many others considered the system to be neither fair nor effective. In many cases, participants did not view their own driving behaviour as 'bad' or dangerous and subsequently were frustrated by and even resentful of the enforcement system.

[M6] The demerit system acts as an incentive. Its like...you've passed your test, now we're giving you a licence, but to keep your licence you have to drive properly. If you get too many

points, then stiff shit, you lose your licence. ....you just gotta follow rules...you gotta have rules.

[D3] No, it's not a deterrent but a source of great frustration. People will still drive the same way, especially if they didn't see that there was anything wrong or dangerous with what they were doing in the first place. Especially after just 3 months. ...It criminalizes people. Accidents are not caused by being 5 or 10 kmh over the limit but by going through red lights.

[D4] People who would not be classified as bad drivers can too easily lose their licence. The threshold is too low. Education is needed.

[D3] The letter of the law is enforced instead of the spirit of the law. ...It's hard to have respect for law and law enforcement officers, especially when police are also seen breaking the law (speeding).

When asked if they thought licence disqualification was an effective way of dealing with drink-drivers, the response from participants in all groups was overwhelming positive.

[DD5] Yeah, can't see any other way. But it's a double punishment...a fine **and** licence suspension.

Many in the drink-driving group qualified their responses, however. Most believed that long [life or 10 year] suspensions/cancellations were too long and too severe; others believed that the underlying alcohol problem of drink-drivers also needed to be addressed. The issue of interlock devices also arose and received positive support from the groups.

[DD6] The suspensions shouldn't be for so long. 10 years is a long time.

[DD5] Long suspensions are a cruel and unusual punishment, just for a minor infraction of the law. I know that it can have dire consequences but if we are talking about 'what ifs' and 'maybes' then [you can imagine all sorts of things]. It's a punishment for something you *might* have done rather than something you really *did* do. ...You *can* feel aggrieved ...When you drink and drive and there's not an accident, you're thinking 'there's no victim, I'm not hurting anyone'. You're not thinking about the *potential* of things going wrong.

[DD5] Repeat drink drivers are either alcoholics or have the propensity to be an alcoholic.

[DD8] Those interlock things are a good idea...but whose going to pay for this?

### **Ways of managing after loss of licence**

When asked about how they get around after their loss of licence, responses from the different groups varied. The majority of participants in the demerit group stated that they predominantly used public transport, where possible, or asked family members to drive them around. One or two participants indicated that they still drove without a licence. Most of these participants had had their licences suspended for short periods (3 months) and the arrangements they made tended to be of a temporary nature.

In the drink-drivers and multiple disqualifications groups, where many had had their licences suspended for long periods (10 years) or cancelled, fewer participants spoke of alternative modes of transport (such as public transport, family, walking or cycling) and discussion tended to centre around continued (unlicensed) driving. A particular difficulty was trying to get around with children, and in this context, public transport was often criticised as being unreliable, unavailable or too expensive.

[DD] I drive ...carefully! ...Walk. Public transport...but public transport is unreliable especially on Sundays though you might have a chance on Saturdays.

[DD6] I'm divorced and socially, with kids, this has wrecked the relationship. Kids get dropped off but then what do you do with them? Can't afford taxi's especially with kids ...taking them here, then taking them there. Fremantle, Hillarys. With the kids, getting from point A to point B will cost me \$20-\$30, then you got to amuse them, then you've got to get back home, then you've got Sunday to go. Can't afford it...tried it a few times..then it got to the stage where the kids didn't want to come around. I applied to the courts to get an extraordinary, they didn't give a shit, basically. And the relationship has been destroyed.

[DD4] I've got four kids and my ex-wife doesn't know I've lost my licence. She refuses to drop my kids off to me.'

[DD8] I've got the kids, not my wife, but I have to drop the kids off to her house and pick them up. It was a choice of taking two buses and a train to get them there and on Sundays the buses only come around every couple of hours, or driving. So I drove.'

[DD7] If I only had a few months or a year or three years suspension, I wouldn't drive but I've got no chance...I've got a life suspension....and the thing is that I think I'd be one of the safest drivers on the road because, you know, its important. ...I did all that stuff when I was a kid but now I've grown up and got work and I've got family support. I'd be stuffed without family support.

### **Extra-ordinary licences (XMDL)**

Participants in the demerit, drink-driver and multiple disqualifications groups were asked if they had thought about, or applied for, an extraordinary motor driver's licence (XMDL).<sup>24</sup> In the demerit group, some participants had sought advice about XMDLs but, owing to their short disqualifications (and a 6 week waiting period), they were advised that an application was not worthwhile. None had applied for or received an XMDL.

A number of participants in the other groups had applied for XMDLs, with limited success. XMDLs were not easy to get. The cost of an XMDL application varied significantly, from \$90 to \$1,500 - depending on whether a lawyer had been used. Participants viewed competent legal services as the *most* important factor in whether or not an application would be successful.

[DD9] [It] all depends on how good your lawyer is...you don't need a lawyer but it always help if you have one. Not one of those Legal Aid ones...they just say what you tell them to say. Just be careful what you wear, what you do with your hands...not talk too fast...

[M5] It costs a lot of money to pay for a lawyer. *And you need a lawyer.* You are far better off having a lawyer with these sorts of things, even if you've been there before.

Some of the participants were aggrieved that XMDL could not be issued for domestic reasons, believing these factors to be as important as work or medical reasons. Other complications such as having to wait six months to re-apply for an XMDL, if unsuccessful, and having to pay all outstanding (unrelated) fines before the application can be considered were issues with some participants.

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<sup>24</sup> Applications for XMDLs are not accepted from fine suspensions. In such cases, entering an arrangement to pay lifts the suspension.

Most participants believed XMDLs were a good idea. However, the application process was considered onerous and expensive, and conditions of use were hard to meet.

### **Driving while disqualified**

When asked why people *generally* drive while disqualified, the majority of participants quoted employment reasons and family commitments.

In response to the question “*Has anyone here ever driven while under suspension?*” more than half of the participants admitted to doing so. In the multiple disqualifications group, all except one participant admitted to driving while disqualified.<sup>25</sup> Of those who did drive illegally, most admitted to doing so on a routine basis.

When asked why they *personally* drove while disqualified, participants gave additional reasons, including convenience and underlying alcohol problems. For some, having a vehicle available in a nearby garage was simply too tempting.

[M5] It takes twice as long to do things using public transport than using your car.

[DD5] As a practicing alcoholic, I just didn't worry about the suspension.

[M4] Having a car in the driveway is the thing. Whenever I've lost my licence I've always had my car there and it's much easier to use that and run the risk of being caught than walking all the way to the train station.

[M4] [There are] times when you drive and when you don't. When you have time, it's not too hot or there are lots of girls going home from work, you take trains.

Interestingly, only one participant (in the drink-driving group) admitted to continued drinking and driving while currently disqualified. One other also admitted having done so in the past, once, but then ‘kicked [his] own arse and never did it again!’ Others considered the behaviour simply too risky and the consequences too severe.

[M5] Drinking and driving while under suspension is when it gets *really* serious. The penalties are *really* harsh.

Participants who admitted to driving while disqualified then described their (unlicensed) driving patterns and attitudes in more detail. Many had strategies for avoiding detection, including ‘rules’ about when they would (or wouldn't) drive. Most avoided driving at night (especially as the only occupant of a vehicle) and during holiday periods (when enforcement was perceived to be higher). Preferred times for driving were during the peak hours (when there were lots of other people about). Having children in the car, driving unassuming vehicles and using roads and suburbs where fewer police cars traveled were also thought to lessen the likelihood of detection.

In terms of the *manner* in which they drove, most unlicensed drivers said that they drove ‘more carefully’ - sticking to speed limits, observing traffic rules and generally

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<sup>25</sup> That particular driver admitted to selling his car straight away, so that he ‘wouldn't be tempted, as the odds were too bad.’

blending in with other road users. As one participant exclaimed, 'perhaps we should get everyone to lose their licence, 'cos you stick to the road rules much more!'

[DD] I drive more cautiously...not over the limit, stick to the speed limit, indicate, don't go through stop signs, don't overtake, just cruise, make sure the car is clean.

However, some were careful not to drive too cautiously as this might also attract unwanted attention. Most of the participants who drove without a licence admitted to feeling anxious initially but that these feelings lessened over time. Most indicated that anxiety levels were highest at the commencement of unlicensed driving activities and at the end of a suspension period.

[M3] You're shit scared initially, especially during the first few months. Then you kind of get used to it, then as you get closer to getting your licence back, you become aware of it, especially the last few weeks (of the suspension).

[M2] As I'm getting closer to getting my licence back after ten years without one, I drive less often...but I still drive... Driving is a stress-relief for me, it's in my blood... Having a car there is the thing.

One or two participants claimed that after a while they 'forgot' that they didn't have a licence, but others disputed this.

No, you *never* forget that you haven't got a licence and you always know the moment that you get pulled over that it's all over.

You're always thinking about it.

Asked if they were concerned about getting caught, some of the unlicensed drivers said that they often *did* think about the consequences, however, they believed the risks of getting caught were low.

The risks are still low though. [There are] more booze buses, and that, but also more people on the roads. Just depends where you go, who you are, what you're wearing, what you look like, what you're driving. If there's no reason to be pulled over, you won't be pulled over.

Yes, every time you drive, you weigh up whether or not you should drive and whether you'll get caught. ...And there is always the risk that some other idiot will get you into trouble.

Asked if they had a plan in case police *did* stop them, most unlicensed drivers indicated that they did not have any such strategy in place. However, one or two participants in the multiple disqualifications group admitted having (or having had) such plans. Strategies included using another person's licence and driving vehicles registered by others. For those riding motorbikes, simply out-running the police was another option, which several participants admitted to having tried (successfully!).

I've used someone else's licence but if you get caught... especially these days, they are right on to you... especially if you got a record. Its hard to fake it [with photographs]. Used to be easier but with computers in the car, they're pretty cluey.

I have a car registered in my name (you don't lose this when you lose your licence) but I don't drive cars that are registered in my name.

When I rode a bike I always thought about escape routes...thinking about out-running the cops if they tried to stop me.

In the old days, it was much easier to give a false name but with computers nowadays, they can find out all things from their cars, just like that!



### **Those who had *not* driven while disqualified**

Participants who had complied with their suspension orders and had *not* driven (or were no longer driving) while disqualified were also asked why this was the case. For the majority, the consequences of disqualified driving outweighed any benefits to be gained. The consequences tended to centre around job loss and the negative impact on their lives.

[D6] The job...it was the fear of losing my gaming licence.

[DD6] I stopped driving (under suspension) during my third suspension ...at the start of the 13<sup>th</sup> year. ...because of the job I had, the money I was making, the money I *could* have been making, the promotions I *could* have had. The threat of six months gaol did *not* deter me....I've been in [gaol] before. I kept trying for the extraordinary licence. I basically considered my job.

[DD5] At the time of getting the life suspension, my life had turned to mush. But since then, I've turned my life around. I went back to school, I started enjoying life and going back to gaol wasn't part of the plan. ...It wasn't until I started with the schooling that I didn't want to go to gaol, didn't want to pull out or miss out (on the education).

[F5] [I] just had enough. It was too hard to get back into the industry with my current injuries, let alone getting caught again by the police. Even the fines were enough. With the first two fines, I thought they'd be easy to pay and the couple of suspensions [were short] but when I saw that it would take over 2 years to get my licence back and pay the fines, it finally hit home. It took me the first three months to realize how hard it is to get around and to pay fines.

Most of the compliant participants were not surprised by the number of non-compliant drivers in their midst. None were 'tempted' to drive illegally, despite the admissions of others. Some had been specifically deterred by their own experiences.

[D6] No, ...not tempted because of the implications on my own job...but if the job wasn't jeopardized, then I would.

[M1] No, I think they [the others in the drink-driving group] are making a mistake. I just look at my track record. I didn't like getting caught and losing my licence and I don't want to do it again.

### **Penalties and repercussions for driving while disqualified**

Participants were equivocal about the seriousness of driving without a licence. Some thought that the offence posed little threat to others and therefore considered it less serious than other driving offences.

[DD5] Its not a big deal...there's no victim here especially if you're not drunk ...[Its] just me. I'm taking the risk. The punishment shouldn't be harsh for that.

[M2] I've gone to gaol twice for driving without a licence. I thought it was funny...that I got 9 months [for driving without a licence] and 3 months for dangerous driving. I would have thought it was the other way round.

[M5] I think its ridiculous that you can go to gaol for traffic offences, except maybe for drink driving where you might kill someone.

When asked about the *penalty* for driving without a licence, participants in the demerit and fine suspension groups had little knowledge of sanctions. Participants in the drink-driving group had considerable knowledge of the penalties for *repeat drink driving* offences but much less knowledge of the sanctions for driving without a

licence. Not surprisingly, participants in the multiple disqualifications group were extremely well-informed about the sanctions for all sorts of traffic offences, including drink-driving, driving without a licence and *repeated* unlicensed driving.

When you get your licence suspended, no-one tells you what the penalty is for continuing to drive...just what might happen if you *don't* hand in your licence.

[M5] I've been told, after my first [DWUS charge], that if I got caught again I'd go to gaol. That's the worst.

[M2] After my fourth [DWUS charge] I went to gaol. ...but after my seventh and eighth, I didn't. The last time, I got a suspended [gaol] sentence...You'll generally find that if you've paid up all your fines, you'll avoid going to gaol.

[M4] I'm currently on a suspended [gaol] sentence...I've been in gaol twice before for driving offences but also with other offences grouped with them. If I get caught again for anything, I know I'm going to gaol. .... And yeah, I'm still driving, I guess I'm just stupid in the head.

Few of the non-compliant participants said that they had thought about the penalty *before* driving while disqualified. Of those that said they had, a few claimed to have been deterred by the threat of punishment. However, for some, it was the *experience of getting caught* rather than the *threat of punishment* that was most salutary.

Gaol is a deterrent for *some* people.

[M3] Lockup really scared me!

[DD5] I wouldn't do it again ...what I did to lose my licence. I don't want to be locked up.

The suspension has no deterrent effect. It's the fear of getting caught while under suspension (and the consequences of all that) that stops you from going any further.

There were a number of participants in the drink-driving and multiple disqualifications group who had previously spent time in gaol. Of these, many claimed that the threat of imprisonment for disqualified driving had no deterrent effect on them.

[M4] For people who haven't been to gaol, the threat of gaol is a real deterrent, but for someone who has been to gaol before, it wouldn't be that much of a deterrent. Prison isn't a real threat.

[DD6] Yes, I was warned by the magistrate that I'd be going to gaol but I've already spent time in gaol so that didn't frighten me.

[DD5] The first few times it didn't bother me because I had been in gaol before. But after my life suspension, I didn't want to go back in again. How are they going to deal with traffic offenders if they are going to do away with 6 month gaol sentences? Make them longer?

For those that have been in (gaol) before, they are a waste of time.

Aside from being caught, participants were quizzed on what other implications might arise from driving without a licence. Several issues emerged:

### ***Insurance***

While many participants were aware that driving without a licence jeopardized insurance, few were aware of the details.<sup>26</sup> Many knew that their comprehensive vehicle insurance policies would be voided in such circumstances. However, there was some confusion about whether third parties would be insured in the event of a crash involving an unlicensed driver.

Most had not considered that compensation claims for injuries sustained in a road crash might also be jeopardized by not having a valid licence.

The additional cost of getting and/or keeping an insurance policy after being convicted for driving without a licence was also of concern.

[D] [I'm] scared by those who still drive – because they are not covered by insurance. Compensation claims [from injury] are also jeopardized.

[D4] [It's] scary to consider driving without a licence because of the insurance problems.

[DD7] Insurance implications is a big thing. I was in an accident [when driving without a licence]. I just took off. It wasn't even my fault but I knew that I'd be in trouble for not having a licence so I just kept going.

[M5] You can't get insurance when you drive without a licence.

[M2] Its costs a whole lot more to insure a vehicle once you have a bad driving record.

[D] What about the impact of having a *criminal record* on future insurance claims (last 5 years) and in future job prospects?

### ***Road safety issues***

Most participants believed that they posed lesser risk to other road users when driving without a licence. When presented with research evidence suggesting that the risk of serious road crash was higher for disqualified drivers than other drivers, most participants openly and vigorously disputed such claims.

[DD] Personally I don't believe that suspended drivers have more serious accidents. I'm not especially anxious when I drive. You have to convince yourself that you should be driving.

There was no dispute amongst participants about the risks of continued drinking and driving while disqualified. Participants unanimously agreed that this represented one of the most serious road safety issues.

[D] Drink-drivers who continue to drink and drive are a real risk, though!

### ***Personal consequences– acquiring a criminal record***

A number of participants saw the acquisition of a criminal record as a very serious and negative outcome of driving while disqualified. This, in turn, had a considerable social impact, such as jeopardizing future job prospects and visa applications.

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<sup>26</sup> In the Fines group, no-one admitted to having thought about the insurance implications of unlicensed driving at all!

[D6] The *criminal* penalties associated with driving while under suspension would jeopardize my job ... my gaming licence.

Of those that admitted to driving without a licence, few admitted to giving much thought to the consequences of such action *prior to the event*.

[M1] No, not really. Most of the time you just think that you have to get somewhere and that's it. But sometimes, you might get a feeling like intuition that it's not a good time or that you might get caught and so you don't drive that time.

Yet, when asked how they felt when caught driving while disqualified, most (but not all) regretted their actions.

[M5] You definitely regret it.

A big sinking feeling. You thinking you're close to getting your licence back and then bang!

The cops came to my work. I thought 'Bitch!' but they were ok about it. I went to court and lost it again... I guess I wasn't terribly impressed.

No, I HAD to try to get to work, otherwise I'd lose my job, house and marriage.

Participants were asked to consider how fair and reasonable the penalties were for driving while disqualified. Many considered that driving while disqualified was little more than a 'breach' offence (that is, a breach of the original suspension order) and thus believed that imprisonment, in particular, was too severe a penalty. Others considered the combination of fine *and* prison time as especially harsh. Others thought the fine amount was a significant penalty in its own right (although there was some suggestion that Aboriginality might be a factor which influenced the size of the fine).

[M2] If I were black, that wouldn't be a problem. I haven't seen a black fella get more than \$200 for driving without a licence!

Moreover, that disqualification orders (especially life disqualification) should still be in effect *after* serving a term in prison was considered a serious impediment to the successful re-integration of ex-prisoners into the broader community.

[DD5] Its hard when you've been to gaol, you get out, want to make a go of things and you still have this. There should be a scheme for getting your licence back. Going to gaol should be enough.

### **Alternative measures for dealing with driving without a licence**

Participants were issued with a self-completion sheet which presented a list of alternative measures to combat driving while disqualified (see Appendix D). On a scale of 0 to 5, participants were asked to grade how effective they considered each measure to be as a method of combating disqualified driving.<sup>27</sup> A group discussion of responses then ensued.

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<sup>27</sup> The response values represented a sliding scale of opinion, where a value of 0 indicated 'Not effective at all' and a value of 5 indicated 'Very effective'.

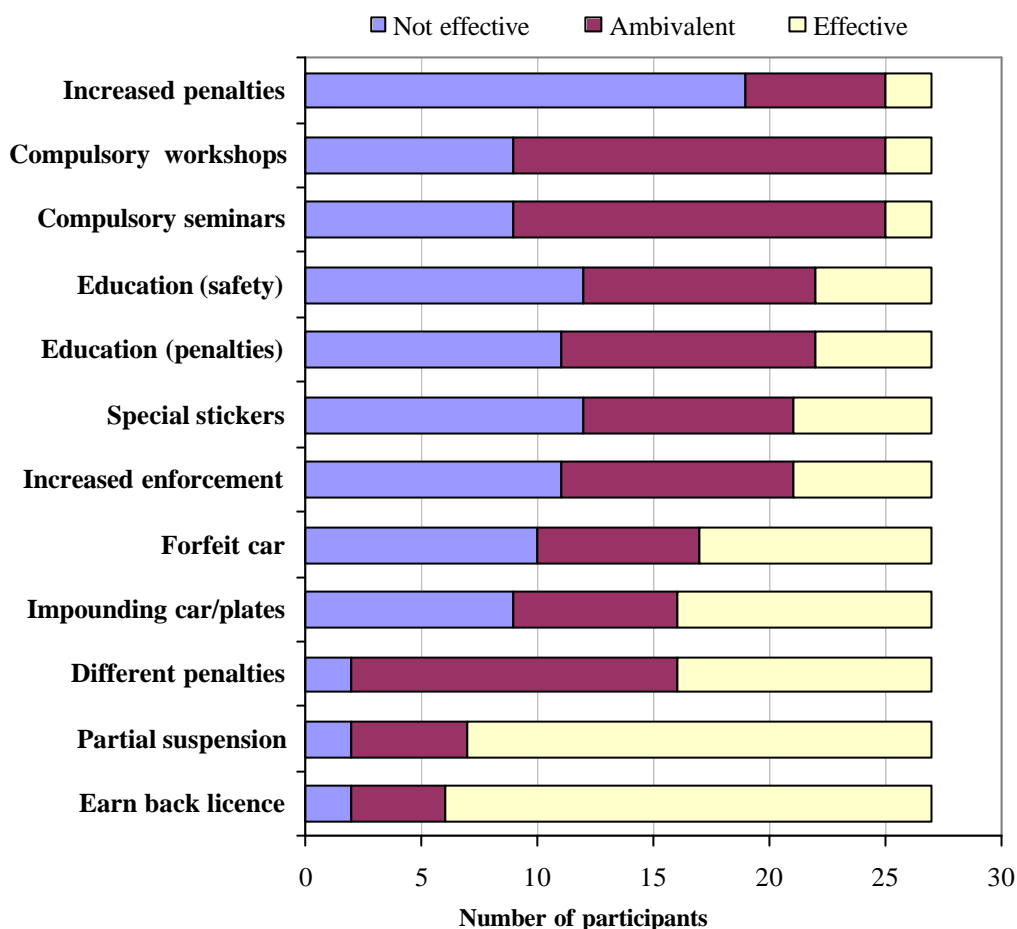
The list of options presented to participants were:

- A. Increased community education campaigns about penalties associated with driving while under suspension
- B. Increased community education campaigns about road safety risks associated with driving while under suspension
- C. Compulsory attendance at special seminars on risks of driving while under suspension
- D. Compulsory attendance at special 'relapse prevention' workshops
- E. Increased police law enforcement of licences (e.g. more stops, more licence checks)
- F. Increased penalties (larger fines, longer suspensions, longer jail terms)
- G. Different types of penalties (e.g. community service work, home detention)
  
- H. Impounding of vehicle/licence plates
- I. Forfeiture of vehicle (for repeat offenders)
- J. Special car stickers that identify the owner-driver as a driver under suspension
  
- K. Partial (up-front) licence suspensions (e.g. night-time/weekend curfews)
- L. Increased opportunities to earn licence back sooner (for long suspensions)

Options A through D were generally considered to be 'treatment' measures, while Options E through J were viewed as punitive measures. Options K and L were regarded as offering incentives (the 'carrot') rather than a punitive ('the stick') approach to ensuring compliance to licencing laws.

Results from the self-completion sheets are presented in Table 23 below. Responses on the six-point scale (of 0 to 5) were reduced to three categories – not effective (response values 0,1), ambivalent (2,3) and effective (4,5).

**Table 23: Summary of participant assessments of the effectiveness of alternative countermeasures for driving while disqualified.**



As Table 23 shows, increased penalties (Option F) was considered by many participants to be the *least effective* measure for combating unlicensed driving. In the ensuing discussion, the most common reason offered for this assessment was that drivers generally do not think about the consequences at the time of committing the offence.

Increased penalties don't work because most people don't think about these when doing the things they do anyway...

Increased penalties would just make people angrier, more unjust....attitudes get more entrenched.

Other *ineffective* measures included special car stickers (Option J), compulsory seminars and workshops (Options C and D) and education campaigns (Options A and B). The special car sticker option was unfamiliar to most participants and required additional explanation. Some participants subsequently saw the potential of this option to more effectively target enforcement of disqualification orders.

[D6] You can make people attend [seminars] but not make them actively participate in these.

[Learning about the] road safety risks, to me, for example, the insurance risks, are much more effective than campaigns aimed at penalties.

Not surprisingly, options offering some incentives - partial up-front suspensions (Option K) and opportunities to earn licence back sooner (Option L) - were regarded as the *most effective* methods of combating unlicensed driving. Partial suspensions, that is, where a licence may be restricted (rather than lost) in the first instance, was considered by many to be a practical and compassionate sanction which limited people's lives and livelihoods but did not entirely restrict them.

Partial (up-front) licence suspensions are a good idea.

Partial suspensions are good...then I wouldn't need to apply for an extraordinary [licence].

Participants who had received life disqualifications (mostly those in the drink-driving and multiple disqualification groups) were especially supportive of *any* opportunity to reclaim their licences (Option L), as most regarded bans of 10 years or more as quite severe.

[DD5] Option L is a good idea. For long suspensions, you need something that says, 'if I do the right thing, then I might have a chance'.

[DD6] Maybe offer something like parole/remissions as they do in gaol. For example, you get a life suspension but if you don't get into any more trouble, then you might get it back earlier.

[F3] Option L...you need to offer incentives *not* to drive under suspension!

Participants, particularly those in the multiple disqualification group, also considered vehicle impounding/forfeiture (Options H and I) as other effective measures, citing the unavailability of a vehicle as a guaranteed method of ensuring compliance. However, some participants felt that this may cause undue hardship on families and might result in many more people driving cheaper (and, consequently, less safe) cars.

[M3] If one of my mates got caught with my car and they took my car away, I'd be pretty shitty.

[M6] Vehicle impoundment would be a deterrent for me.

[M2] [Impoundment] takes the temptation away.

And impounding would definitely stop me driving my car! This would be effective but would definitely be harsher.

Taking the car away from you would stop a lot of people.

Impounding/forfeiture is pretty good. Again, making it harder to drive a car while under suspension. But it's not good for poor people who can't even afford a car, though.

Probably the only way to stop people from driving is if you *didn't* have your car while you were suspended. ...But what about the rest of the family?

I'd just buy a piece of shit.... Accessibility – if it's there, then you drive it.

Forfeiture would just make drink-drivers drive around in old bombs.

You'd need to have a BIG impound yard 'cos there are lots of suspended drivers out there!

A number of participants, particularly those in the fines group, also favoured the availability of different types of penalties (Option G), although as one participant noted 'Once you've lost your licence, you're on home detention anyway.' [DD6]

When participants were finally asked ‘*If you were in charge, how would you stop people from driving without a licence?*’, a number of alternatives were suggested. These included:

- more extensive driver education and driver training programs (particularly for young drivers);
- various measures to reduce traffic offending *in the first instance* (e.g. ‘rev limiters’ for speedsters, ignition interlock devices for drink-drivers). Reduced offending would lead to fewer disqualifications which in turn would reduce the unlicensed driving ‘problem’;
- offer alternatives to licence disqualification as a penalty *in the first instance* (e.g. community service orders);
- offer incentives to be ‘good’ drivers (e.g. drivers with good or excellent driving records could be rewarded with silver and gold licences, which in turn make them eligible for reduced government charges (registration, licencing) and insurance premiums);
- make disqualified drivers re-sit their driving test before reinstating their licences;
- offer a ‘double or nothing’ scheme for drivers who are near their demerit point limit. For example, if they are able to ‘stay clean’ for twelve months then all demerit points are removed; if not, demerit points are doubled – thus risking licence disqualification; and
- offer more flexible parole-type sentences for drivers caught driving while disqualified (first-timers only). For example, initially offenders are imprisoned for, say, two weeks then they are released and serve a non-custodial component. Any breaches of the non-custodial sentence results in immediate return to prison.

### **Other issues and observations**

A number of other issues were either raised by participants or emerged during the course of group discussions. These are summarised below:

#### *Speeding & other traffic laws*

The issue of speeding was a recurring topic in all discussion groups, but particularly in the demerit point group.

Many participants were cynical of the use of Multinova cameras as road safety devices. They were critical of the placement of these cameras in the metro area (‘nowhere near traffic black spots’, ‘why hide them under trees and behind bus stops?’) and regarded the use of these cameras as excessive in the Perth metropolitan area. Many regarded them simply as government revenue-raising machines.

Many participants commented on the variable (and sometimes arbitrary) speed limits set along certain lengths of Perth roads and freeways.

Not all speeding was considered the same: Speeding at times or in places where no other vehicles or persons were around was considered less serious than speeding in situations that placed the lives of other people at risk.

[M3] There are lots of reasons for speeding. Speeding in a school zone is really irresponsible, you’re a dickhead, but there are times when you’re endangering just yourself. ....Driving too slow is just as dangerous, to yourself and to others behind you.



[F4] The bike I had was built to go to 200kmh. With cars or motorbikes that can easily exceed the limits, how many of us can say that we have never, ever, ever, ever broken the speed limit? We all speed. My point is that I chose to do my speeding in a safe place [an empty freeway, late at night].

Being caught for marginal breaches of speeding limits (that is, less than 10 kmh over) were perceived to be less fair than being caught speeding excessively.

There are other ways of enforcing speed limits, such as putting restrictions ('rev limiters') on cars and limiting the size/type of vehicles that can be driven by probationary drivers.

The stop-start nature of traffic in the metropolitan area was a source of great frustration among some participants. Improving the road system to encourage better flow of traffic was considered more positive than the strict enforcement of road rules.

Many participants believed it unfair that heavy road users, especially those who 'worked' on the roads, such as couriers, taxi drivers and truck drivers, had the same demerit point limit as other road users.

#### *Policing of traffic laws*

Some participants saw that a balance needed to be struck between taking personal responsibility for one's actions and having respect for the law.

Young police officers were regarded as having more 'ego' and being less sympathetic to the individual circumstances of drivers than older police officers.

The police were generally seen to be spending too much time on traffic law enforcement.

Some participants questioned the discretionary ability of police. The police were seen to enforce the 'letter of the law' rather than the 'spirit of the law'.

There were too many laws and too much law enforcement especially traffic law enforcement.

Once caught by the police, most (but not all) participants reported being treated in a professional manner.

#### *Fines enforcement*

Participants in the fine suspensions group tended to be more disorganized and forgetful than other participants. This group often mentioned procrastination and the 'build up' of personal and financial problems. Many showed signs of being bad time and money managers.

"You get on the slippery slopes. Things get out of hand, you lose control."

Time/money management courses and debt counseling may be appropriate for fine defaulters.

Offering a credit card option to pay (to bad money managers) was *not* seen as a good idea.

There was broad consensus that making fines as easy as possible to pay was the most effective way to get people to pay.

Complaints were made that no opportunities existed for entering into time to pay arrangements *before* matters ended up in the Fines Enforcement System.

The Fines Enforcement System was viewed as a procedurally fair system.

#### *Loopholes – hire purchase*

Some participants highlighted a loophole in the hire purchase of vehicles: Although a person cannot re-register a vehicle without a valid licence, it appears that one can buy a car through a dealer on hire purchase, as there is no requirement to produce a driver's licence at the time of the purchase.

[M2] I bought a car under hire purchase while on suspension.

#### *Country areas*

Participants who had come from or who had lived in regional areas commented that drinking and driving was the major traffic problem in country areas, more so than speeding or driving while disqualified.

As to driving while disqualified, some participants indicated that this was more likely, owing to the lack of alternative modes of transport in regional/rural areas, but this needed to be balanced against an increased risk of detection, since they were more likely to know/see or be known/seen by the local police.

#### **4. SUMMARY OF FINDINGS AND DISCUSSION**

One of the strengths of this study has been its ability to complement quantitative findings based on large-scale, longitudinal data sets of disqualified drivers with contextual data sourced directly from affected drivers. The most significant findings to emerge from both aspects of the study are presented and discussed below.

Our analysis of the various longitudinal data sets found that the rate of licence disqualification has increased significantly since 1995, owing to very substantial increases in the rate of fine suspensions and much smaller rises in the rate of (further) disqualification arising from disqualified driving. In contrast, the rate of licence disqualification for other traffic offences (that is, demerit point accumulation or serious traffic offences such as drink driving and dangerous driving) *declined* over the same period. All told in 2001, there were 12,078 licence disqualifications per 100,000 adults in WA, compared with 7,530 disqualifications per 100,000 adults in 1995 - an increase of 60 per cent.

Fine suspensions comprised 68% of all licence disqualifications in 1995 but by 2001 this had increased to 84% of all disqualifications. Since 1995, the rate of fine suspension has almost doubled - increasing from 5,151 per 100,000 adults to 10,167 per 100,000 adults in 2001. This growth can be attributed directly to an increased utilisation of infringement notices for a range of offences but, most particularly, speeding (including Multinova) and railway offences. Unpaid infringements (or 'on-the-spot' fines) collectively accounted for 75% of all fine suspensions in 2001 (46% in 1995). Unpaid railway offences accounted for 20% of fine suspensions in 2001 (only 2% in 1995), while Multinova/camera infringements accounted for 19% (11% in 1995). When fine suspensions arising from unpaid traffic fines were combined with licence disqualifications arising *directly* from traffic-related offences, the study found that 55% of all licence disqualifications were for violations of road traffic laws. Or, conversely, the study found that 45% of licence disqualifications were for reasons *unrelated* to road traffic law enforcement.

The study also explored the demographic characteristics of disqualified drivers. In exploring gender differences, the study found that the disqualification of female drivers has increased over time. This pattern was observed predominantly in the data on fine suspensions (where the proportion of female fine suspensions increased from 20% to 27% between 1995 and 2001) but also noted in disqualifications for traffic offences (disqualification of female drivers increased from 16% in 1995 to 18% in 2001). However, while the level of over-representation of males in licence disqualification has declined over time (from a factor of 4.2 in 1995 to 2.9 in 2001), the gender difference still remains. The study also found that, for female drivers in particular, disqualifications arising *directly* from traffic offences have shifted away from drink-driving offences to licencing offences. In the case of Indigenous females, almost half (48.1%) of all traffic-related disqualifications were for unlicensed driving offences.

Where possible, the study also explored differences along ethnicity lines by deriving information about the Indigenous status of disqualified drivers from alternative sources. While this introduced some bias to the analysis (namely, confounding the effects of criminal record with Indigenous status), it provided a first glimpse of the impact of licence disqualification, and particularly fine suspension, on Aboriginal

people in Western Australia. Given the already high rates of Aboriginal involvement in the criminal justice system (Ferrante & Loh, 2003), it was not surprising to find evidence of Aboriginal over-representation in fine enforcement actions and in some types of traffic offending.

Aboriginal involvement in fine suspensions was significant: in 1995, the Indigenous rate of fine suspension was nine times greater than the non-Indigenous rate and, by 2001, this had increased to eleven times greater. The majority of Indigenous fine suspensions were for unpaid court fines (justice and good order offences) and railway infringements (fare evasion). Indeed, since 1995, the proportion of Indigenous fine suspensions for railway offences increased from 0.7% to 23.5%. In terms of traffic offending, the study found that Indigenous drivers were more likely to be disqualified for licence offences (specifically, driving without a valid licence) and drink-driving offences rather than from accruing too many demerit points.

Having been convicted by the courts (for driving without a valid licence), the study also found that Indigenous offenders were more likely to receive a custodial sentence. This tendency toward custodial sanctions for Indigenous offenders is not unique to the sentencing of traffic offenders but is a feature of the sentencing of all Indigenous offenders in WA criminal courts (Loh & Ferrante, 2003) and is explained by many factors including prior criminal record.

Of greatest significance, however, is that the level of Aboriginal participation in licence disqualification is increasing and that the level of over-representation of Indigenous drivers is increasing: in 1995, the Indigenous rate of licence disqualification was 8.1 times the non-Indigenous rate, however by 2001, the Indigenous rate was 10.5 times the non-Indigenous rate.

The study also found that many disqualified drivers were *repeat offenders* (that is, had been disqualified more than once for traffic offences *or* for non-payment of fines). Indeed, the study found a significant overlap between licence disqualification for traffic offences and licence suspension for non-payment of fines. One quarter of all disqualified drivers had incurred both types of disqualifications over the study period.

In total, 243,011 drivers accounted for over one million disqualifications over the study period – an average of 4.3 disqualifications per driver. The Pareto principle (or, more commonly, the 80-20 rule) appeared to be in operation: one quarter (26%) of all disqualified drivers (those having five or more disqualifications) accounted for 72% of all disqualifications. Repeat offenders were more likely to be Indigenous, have a criminal record and have a history of non-payment of fines. The study found a strong association between repeat licence disqualification and driving while disqualified – the greater the number of licence disqualifications, the greater the likelihood of (being detected) driving while disqualified.

Interestingly, and despite the increasing utilisation of fine suspensions, the study found that the number of ‘newcomers’ to the pool of disqualified drivers has slowly diminished, suggesting that a growing proportion of licence disqualifications are of repeat offenders. In other words, there is evidence that increases in disqualifications (arising primarily from fine suspensions) have been due to the activities of, and actions against, drivers with a history of licence disqualification rather than drivers who are new to licence disqualification.

Through focus groups, the study also explored the impact of licence disqualification on drivers and found that its effects were greatest on employment and on the family. Licence disqualification made it difficult to find work, to get to and from work and, in some cases, to keep a job. The impact of licence disqualification on employment was unevenly distributed. For those with family support or those close to and able to use public transport effectively to get to work and/or to find work, the impact of disqualification was minimal. However, for those who worked as tradespersons or who needed their licence as part of their jobs (eg truck drivers, couriers) or to get to their place of work (eg shift workers), the impact of licence disqualification was substantial. Moreover, the disruption caused to them and their families, coupled with a perception of unfairness because of the uneven impact of licence disqualification across the broader driving community, tended to make these people much more motivated (and thus more likely) to drive while disqualified.

In exploring the impact of *fine* suspension on individuals, a number of issues related to fine payment emerged. In particular, there was criticism of the general inflexibility of issuing authorities to offer time-to-pay and arrangement-to-pay options. According to participants, most agencies required full payment of fines, on or before the due date. Other options to pay did not become available until the matter was registered under the Fines Enforcement (FER) system (by which time, additional administrative costs would have accrued).

A number of participants commented positively on the efficiency of the FER. Recovery officers and customer service representatives (those contacted via phone, *not* counter staff) were regarded as professional and (even) helpful, and time-to-pay and other arrangement-to-pay schemes were applauded. In contrast to the more widely held belief that many individuals are unaware of licence suspensions arising from fines, not one participant was unaware of the impending/actual suspension arising from fines. Above all, participants indicated that flexibility and convenience were the two most important factors influencing their ability and likelihood of paying outstanding fines.

*So, how much disqualified driving is there?*

Based on official records of persons apprehended and charged with driving while disqualified, the study found that the rate of disqualified driving increased from 49 per 1,000 disqualifications in 1995 to 97 per 1,000 disqualifications in 1997 but then declined to 42 per 1,000 disqualifications by 2001. Rates were shown to vary with sex, Indigenous status and criminal record: Males were more likely than females to drive while disqualified (compare a rate of 64 per 1,000 with 43 per 1,000); Aboriginal drivers were more likely than non-Aboriginal drivers to drive without a licence (compare a rate of 111 per 1,000 with 70 per 1,000); and drivers with a criminal record were more likely than non-criminal drivers to drive illegally (compare a rate of 73 per 1,000 with 27 per 1,000). All of these figures are, of course, gross under-estimates of the true level of disqualified driving since not all such incidents are detected or recorded by the police. Moreover, since charges of disqualified driving are only ever the product of police detection, the more active or more efficient the detection/enforcement methods, then the higher the rate of recorded offending. The 'blip' occurring in 1997 and/or the differences observed between sub-groups may simply have been the result of increased or differential enforcement methods. Further investigation of these and other factors is recommended.

Not surprisingly, the accounts given by focus group participants as to the level of disqualified driving indicated that the true level of unlicensed driving was significantly higher than the level suggested by official figures. Three-quarters of all participants admitted to having driven *routinely* without a valid licence. Repeat offenders (that is, those who had had their licences suspended more than once) tended to engage in disqualified driving more than others. Many in the drink-driving group and significantly, even the fines group, also admitted to driving routinely while disqualified. However, all considered that *drinking* and driving while disqualified was dangerous and foolhardy and only one participant admitted to doing so.

While the focus groups were neither large nor representative of all disqualified drivers in Western Australia, these findings accord with the research evidence from other studies. Such studies have estimated the *admitted* rate of disqualified driving to range from one-quarter to three-quarters of all disqualified drivers, depending on methodology, sample sizes, etc. Interestingly, one study noted that even the *admitted* rate of disqualified driving was likely to under-estimate the *true* rate of disqualified driving and that the best way of gauging the true level of disqualified driving was to ask drivers how much they thought other disqualified drivers drove.

*Does this mean that licence disqualification is an ineffective penalty for traffic offences?*

Perhaps, but not necessarily. That many drivers continue to drive while disqualified indicates that the sanction offers low *specific* deterrence. In other words, the penalty does not seem to prevent drivers who have already been disqualified from continuing to use their vehicles. However, even this finding needs to be qualified, as the study found that there are still many drivers who *were* deterred by the sanction. Generally, drivers without a criminal record; those who were not repeat (traffic) offenders; female drivers and non-Indigenous drivers were less likely to drive while disqualified. These findings accord with much of the literature on the effectiveness of deterrence. In the words of one criminologist, 'deterrence works best for those persons who have strong ties of attachment to familial or social groups or institution, in a context where those groups or institutions clearly disapprove normatively of the behaviour at which the deterrent sanction is aimed.' (Bottoms, 2002:104)

As to the *general* deterrent effect of licence disqualification, the study's findings were more equivocal. The study found that, since 1995, the rate of disqualifications arising *directly* from demerit point accumulation remained stable, while the rate of licence disqualification arising from drink-driving actually declined slightly. These were despite increased enforcement/detection actions by the police (that is, increased use of Multinova cameras, laser guns, Booze-Buses, and the introduction of breath-testing devices into all police vehicles). Additionally, the study found that the number of 'newcomers' who are subject to licence disqualification each year was declining. Combined, these findings suggest a decline in the general propensity of the general population to commit such offences and may be indicative of more compliant behaviour in the general driving population.

The effectiveness of licence disqualification should not be assessed on the merits of its deterrent effect alone, however. In her UK study of the effectiveness of disqualification, Mirrlees-Black (1993) stated that the aims of the penalty were three-fold: deterrence, retribution and incapacitation. In terms of the retribution, the

participants in our study certainly viewed disqualification as a punishment. Indeed, they regarded the combination of a fine, demerit points *and* licence disqualification as a particularly severe sanction for traffic offences. Like their UK counterparts, longer periods of disqualification tended to have the greatest impact but this varied according to the personal circumstances of the offender. Many participants remarked on the severity and debilitating effect of long periods of disqualification.

Interestingly, licence suspension for non-payment of fines was not viewed as a punishment per se but rather an administrative procedure designed to motivate offenders to 'pay up'. Ironically, participants viewed the *threat* of suspension as more motivating than the *act* of licence suspension, as the latter had the potentially opposite effect of reducing one's ability to find/keep/get to work and thus reducing one's overall capacity to pay the fine. Indeed, licence suspension (for non-payment of fines) was generally seen as an unfair act committed against those who could least afford to pay their fines. In contrast, licence disqualification was seen as a perfectly legitimate sanction for drink-driving.

In terms of its ability to restrain or incapacitate an offender, licence disqualification appears to be much less effective, as evidenced by the majority of participants freely admitting to routinely driving without a valid licence. However, for the most part, both the decision to drive and the act of driving were made with thoughtful consideration. As in Robinson and Kelso's (1981) earlier exploration of the determinants of the decision to drive while disqualified, two factors emerged from the focus group discussions as being significant in the decision-making process: the risk of detection and the level of impact/disruption. The higher the risk of detection, the less likely drivers were of engaging in unlicensed driving. Conversely, the greater the impact and disruption caused by the sanction, the more likely drivers were of engaging in unlicensed driving.

To reduce their risk of detection, drivers in our study adopted various strategies including reducing the frequency of their driving (driving only when they had to), driving only at certain times of the day (best times were during peak hours) and days of the week (not Friday or Saturday nights) and avoiding certain roads (eg 'known' speed traps and other drink-driving and licence check 'haunts'). Other strategies related specifically to changed or improved driving techniques such as observing speed limits, observing correct procedures (in overtaking, at traffic lights, etc), not drinking and driving, driving more carefully and ensuring the proper registration and roadworthiness of vehicles.

Given their 'improved' driving behaviour, it may be argued that licence disqualification may be more effective as a road safety initiative than as a strictly punitive measure. Clearly, licence disqualification does not completely incapacitate 'bad' drivers. However, there are obvious road safety benefits from their reduced driving and/or improved driving techniques (albeit initiated to avoid detection rather than to 'correct' unsafe driving practices). Despite this, research has shown that these road safety benefits are only temporary. The improved driving techniques employed by disqualified drivers and the resultant reduction in serious road crashes tend to occur *only while the licence disqualification is in place*. Moreover, there are other road safety implications to disqualified driving, such as the uncertainty of insurance coverage in the event of a road crash, which would counteract the short-lived road safety benefits of driving without a licence.

*Is disqualified driving a serious offence and is it being dealt with severely?*

The seriousness of disqualified driving as a road traffic offence is clearly reflected in our road laws and in the more serious penalties (including imprisonment) imposed for such offences. The study found that offenders who are caught and charged with driving without a valid licence (DWVL) are dealt with severely by the courts - most are convicted by the Courts of Petty Sessions (98.8%) and given additional fines and longer periods of disqualification. One in ten (10.6%) is given a custodial sentence and a further 12% are given suspended terms of imprisonment. The severity of sentences for driving without a licence were noted in the focus groups, with some participants remarking on how much longer their (prison) sentence was for driving without a licence compared with other offences. Interestingly, the study found that the use of suspended sentences almost doubled over the study period (from 6.6% to 14.4%), whereas the use of custodial sentences remained fairly stable – declining only slightly to 8.8% in 2001. The study found that offenders sent to prison for DWVL (as the most serious offence) constitute a significant proportion of the total number of offenders received annually into prison (8.2% in 2001). 1999 was a peak year for DWVL offences – in that year there were 701 DWVL receptions, which accounted for 11.8% of all prison receptions.

Despite the heavy penalties, it was interesting to find that many participants in the focus groups did *not* perceive the offence per se as a serious offence (unless associated with drinking and driving). Rather, the more common perception was that disqualified driving was an administrative offence, a ‘simple’ breach offence that in itself was not seen to pose any obvious road safety risk (unlike drinking and driving) and, in this context, the associated penalties were seen as being particularly severe.

*Alternative ways of dealing with disqualified driving*

The study reviewed alternative options (as implemented in some U.S. jurisdictions) and presented these for discussion at the focus groups. Not surprisingly, options that offered some incentives (e.g. partial up-front suspensions and opportunities to earn licence back sooner) were regarded as the *most effective* methods of reducing unlicensed driving. Participants who had received life disqualifications were especially supportive of *any* opportunity to reclaim their licence. Vehicle actions (forfeiture/impounding) also received positive support, particularly from repeat offenders, and there was general support for a wider range of penalty options for unlicensed driving offences.<sup>28</sup> Increased penalties and compulsory attendance at seminars or workshops were considered to be the *least effective* methods of combating unlicensed driving.

*The enforcement quandary*

Although licence disqualification is a relatively easy and inexpensive sanction for authorities to administer, there is a danger that its (over) use, particularly as a means of encouraging payment of outstanding fines, may cause it to lose its effectiveness because the growing number of disqualified drivers may overwhelm the ability of the police to enforce the laws against unlicensed driving. As the literature on deterrence points out, if the risk of detection is too low, then the deterrent strength of the sanction

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<sup>28</sup> Many participants favoured a greater range of sentencing options for the offences that gave rise to the disqualification in the first place.



will also be diminished. As Harrison (1997:110) explains, ‘the deterrent strength of licence suspension and cancellation relies on the certainty of the threatened punishment for likely offenders. If drivers and motorcyclists continue to drive and ride after licence suspension or cancellation, and particularly if they continue to engage in unlicensed and unsafe road use behaviour, then the deterrence aspect of this penalty may be harmed.’

On the other hand, simply increasing the current enforcement actions in order to increase compliance with licence disqualification will come at an increased cost, not only to the police who must resource these actions but also to the down-stream agencies (courts, prisons, etc) who are left to deal with charged and convicted offenders. As the study has shown, current enforcement levels already have a significant effect on court activity and prison reception levels: DWVL charges account for about one in ten of all charges dealt with in the lower courts and a similar proportion of annual receptions into prison. Increased enforcement would see these proportions rise.

There are other factors that need to be taken into account when considering increased enforcement levels. As the statistical evidence shows, the number of licence disqualifications arising from traffic offences (particularly, speeding) is already high - having increased considerably since 1995, through direct enforcement actions (Multinova cameras, etc) but also indirectly through non-payment of traffic fines. While enforcement may lead to improvements in road safety, they do so at some cost to the community. Such costs are not only financial ones (eg the cost of fines) but also ones that affect the goodwill and co-operation needed of the driving community.

Optimal strategies are those that can increase the risk of detection without significantly adding to the cost of enforcement. An example could be the compulsory carriage of a driver’s licence, coupled with the use of random, well-publicized licence checks.

Frustration with, and resentment of, the police over traffic related matters were sentiments echoed in all of the focus groups conducted as part of this study. Participants in the focus groups often referred to the police’s preoccupation with traffic law enforcement and their inability to distinguish between the ‘letter of the law’ and the ‘spirit of the law’. Many participants were still unconvinced by anti-speeding campaigns that have promoted messages such as “anywhere/anytime”, “no such thing as safe speeding”, “every 5kms makes a difference”, “choose your speed, choose your consequence”. Many participants were critical (and cynical) of the use of Multinova cameras or ‘speed traps’ in locations or at times when speeding was clearly perceived to pose a minimal road safety risk. Enforcement levels and methods that are perceived to be unfair are a cause for concern. As Fox (1995) explains,

If intervention thresholds are out of kilter with communal expectations of what should be tolerated, not only will protests be heard, but high levels of non-compliance with the law can be expected. (p. 224)

The integrity of any road safety program will be undermined if the public’s sense of fairness is affronted by some of the enforcement methods used. This in turn tends to erode the co-operative relationship between enforcers and the enforced on which modern policing still relies for its efficiency, as well as its goodwill. (p.285)

Increasing the effectiveness of sanctions through increased enforcement levels is clearly not a simple task. What is required is an optimal setting – a level of enforcement that achieves the greatest level of road safety and compliance with the law, at the lowest cost. What is also required is innovative thinking about how road safety and compliance levels can be achieved without enforcement. In other words, through the use of ‘carrots’ as well as the ‘sticks’ associated with enforcement and punitive sanctions.

## **5. RECOMMENDATIONS**

The recommendations that follow have been informed by the literature review, the analysis of existing data on licence disqualification in WA and the qualitative data collected from focus group discussions.

It is clear that the growing number of disqualified drivers, combined with a high rate of non-compliance, is likely to lead to an increase in secondary offending, that is, a rise in the number of persons driving while disqualified. These factors are likely to place added pressure on traffic law enforcement and the criminal justice system in Western Australia.

*The collection of routine statistics is essential in monitoring the impact of sanctions on various sections of the community.* This study provides some baseline statistics, however, future policy and practice need accurate, up-to-date information to inform decisions.

### **Recommendation 1:**

It is recommended that the WA Police Service and Department of Justice maintain regular statistics on the number of licence disqualifications arising from traffic offending and non-payment of fines.

### **Recommendation 2:**

It is recommended that, as a matter of course, Indigenous status be recorded in *all* licencing, traffic conviction, fine enforcement and court records. The Indigenous status of offenders must be recorded so that inequities or systemic biases can be identified and removed.

Routine statistics describing the 'true' level of disqualified driving should also be collected. Prior research (Smith & Maisey, 1990) explored some local issues, however, this research is now out of date.

### **Recommendation 3:**

It is recommended that research be conducted to determine the 'true' level of disqualified driving in Western Australia. Improved techniques, such as those used in the Moncton study (Malenfant et al, 2002), should be incorporated into this research.

The study found that the growth of fine suspensions was considerable, especially those arising from traffic infringements and railway offences.

### **Recommendation 4:**

It is recommended that individual issuing authorities make a greater effort to monitor the rate of compliance with payment of fines and pursue methods of increasing payment of fines. It is recommended that such agencies offer a greater range of payment options and introduce more flexible arrangement-to-pay options for some clients. The Fines Enforcement Register is not the state debt collection agency and should not be treated as such.

The study found that a significant number of fine suspensions arose from railway fare evasion.

**Recommendation 5:**

It is recommended that the current policy of issuing on-the-spot fines for train fare evasion be immediately reviewed and that other (situational) crime prevention strategies (such as barrier systems) be investigated to reduce the size of the fare evasion problem. A more concentrated effort is needed on the part of railway authorities to increase compliance with paid train travel.

The study found that the over-representation of Aboriginal people in non-payment of fines, and subsequent licence suspension, was considerable and increasing.

**Recommendation 6:**

It is recommended that the appropriateness of fines as an effective sanction for Aboriginal offenders be immediately reviewed. There is an urgent need to develop culturally appropriate sanctions and financial penalties based on an individual's capacity to pay.

**Recommendation 7:**

The study made no comment on the impact of licence suspension on the lives of Aboriginal people, as no qualitative information was available. However, given the highly discriminatory consequences of fine suspension on Aboriginal people, there is a clear need to undertake further research in this area and explore some of the regional issues associated with Aboriginal fine non-payment and licence disqualification.

The study found that few drivers were aware of, or had fully considered, the risks associated with driving while disqualified. Indeed, many regarded the offence as an administrative 'breach' that did not necessarily pose an additional road safety risk.

**Recommendation 8:**

It is recommended that, upon disqualification, drivers be supplied with an information pack containing information on the consequences of driving while disqualified. This should include information about the penalties associated with the offence, the insurance implications (to themselves, passengers and other road users) and the crash risks associated with such action.

The study also found that many of those under fine suspension were unaware of the various payment options available to them and that entering into arrangements to pay would 'lift' their licence suspension. Many participants were unaware of the wider implications of having unpaid fines, such as not being able to apply for an extraordinary driver's licence and the increased likelihood of prison sentences for other offences.

**Recommendation 9:**

It is recommended that, upon fine suspension, drivers be informed of the various options to pay fines and the benefits associated with these options. Information about some of the negative implications associated with having unpaid fines should also be included.

Increasing enforcement may reduce the level of unlicensed driving but may come at additional cost (resource costs; additional fines which must be paid; down-stream effects on courts and prison receptions; alienation of some sections of the

community). A number of alternatives to combat unlicensed driving have been tried in other jurisdictions with some success. Many of these ideas received positive support from the participants of focus groups.

**Recommendation 10:**

It is recommended that vehicle impoundment, sticker laws and plate confiscation, which are options shown to have reduced the level of disqualified driving in other jurisdictions, be trialed in Western Australia.

Other less punitive options (that is, ‘carrot’ rather than ‘stick’ options) also gained the support of focus group participants. These included ‘curfewed’ or partial up-front suspensions (where a driver may be banned from driving on weekends or at night rather than suspended from driving outright) and increased opportunities to earn a licence back (for those with long disqualifications). These options were also perceived to have a less detrimental effect on current and future employment.

**Recommendation 11:**

It is recommended that two additional strategies - ‘curfewed’ or partial up-front suspensions and increased opportunities to earn a licence back – be trialed as methods of encouraging compliance with licence disqualification orders.

The level of unlicensed driving will also be reduced by efforts aimed at increasing compliance with the law, especially road traffic laws. Reducing the level of *primary traffic offending* (and, in particular, speeding) will not only reduce the number of licence disqualifications arising directly from traffic offences but will also reduce the number of unpaid traffic fines that subsequently lead to licence disqualification.

**Recommendation 12:**

It is recommended that options be explored which encourage compliance with road traffic laws. Raising the perceived risk of detection of unlicensed driving is one way of increasing compliance. This could be achieved through more visible police presence on the road; the introduction of sticker laws; compulsory carriage of licences, accompanied by well-publicized licence checks; and/or more publicity about convictions for driving-while-disqualified offences.

International literature on the road safety risks of disqualified driving appears contradictory – some studies suggest elevated risks of a road crash and serious injury during periods of disqualification, while others suggest the opposite. Participants in this study were skeptical of research evidence suggesting elevated risks of serious road crash injury, and many cited their own changed driving behaviour (that is, more cautious and careful driving) as evidence of the opposite effect. However, both effects may be reconciled under a single hypothesis: that crash and injury risks for disqualified drivers *are* lower during period of disqualification **but** that the risks for this group *are significantly higher* than those of other drivers during *all* periods of driving, most particularly during periods of licensed driving.

**Recommendation 13:**

It is recommended that local research be conducted to explore the road safety risks of disqualified drivers and to test the above hypothesis. The outcomes of such research would have immediate practical and policy benefit. For example, findings which suggest that the crash/injury risk of disqualified drivers is higher than that of 'normal' drivers, *even during periods of disqualification*, would support a strategy of 'tougher and more targeted' policing of disqualification orders.

In addition, the research could explore the differential risks associated with different types of disqualified driving (that is, demerit disqualifications, drunk drivers and fine suspensions). Very little is known about the illegal driving patterns and the road safety risks of fine suspended drivers, in particular. Findings may suggest that fine suspended drivers do *not* pose a significantly higher crash/injury risk than other types of disqualified drivers. Such findings would support a strategy of differential treatment (punishment) of these offenders.

Participants in this study found the penalties for unlicensed driving to be serious and severe. The full range of penalties available under the *Road Traffic Act* (that is, sizeable fines, long(er) disqualification and imprisonment) is being applied by the courts. There were indications, however, that sentencing options were limited, as evidenced by the increasing number of suspended sentences of imprisonment. Participants also indicated a desire for a greater range of penalty options, not only for unlicensed driving offences but also for other road traffic offences otherwise incurring licence disqualification.

**Recommendation 14:**

It is recommended that penalty options available under the *Road Traffic Act 1974*, and applied under the *Sentencing Act 1996*, be reviewed, with the intention of broadening the range of non-custodial options. Options could be expanded to include community-based orders, work orders, vehicle impoundment (as per *Road Traffic Act s. 78A*), mandatory attendance at education/treatment programs and those options listed in Rec. 10 and Rec. 11, which have been shown to be effective in other jurisdictions.

The study found that a subset of disqualified drivers comprises chronic, repeat offenders with a long history of traffic and criminal offending. Their characteristics and social circumstances are such that they are unlikely to be influenced by (any further) legal sanctions or enforcement approaches designed to modify their behaviour. It is highly probable that many of these offenders were the fine-defaulters of yesteryear, previously ending up in gaol for unpaid fines. Today, through fine enforcement legislation, many have been 'transformed' from fine-defaulters to road traffic offenders, that is, those drivers caught for driving while under (fine) suspension.

**Recommendation 15:**

It is recommended that both the fine enforcement system and the prison system be monitored to ensure that the *combined* number of fine-defaulters *and* disqualified drivers entering prison is kept to a minimum. An increase in this statistic may be symptomatic of one or more of the following: net widening of/by the fine enforcement system, reduced compliance in fine-payment or reduced compliance in road traffic laws. In any event, such trends would require further investigation.

**Recommendation 16:**

The study found *no* evidence of research that addressed the effectiveness of licence suspension as a fine-enforcement sanction. The study also found a lack of research on the recidivism of fine suspension drivers (especially those suspended for non-traffic related fines) or the road safety risks of this group. Given that the Western Australian FPINE legislation has been in operation for more than eight years and that the number of jurisdictions using or seeking to use licence suspension as a fine enforcement action is increasing, research addressing these fundamental issues is now urgently required.

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## **APPENDIX A – RECRUITMENT MEDIA RELEASE**



# **THE UNIVERSITY OF WESTERN AUSTRALIA**

**MEDIA STATEMENT**

**Thursday, November 7, 2002**

### **RESEARCHERS WANT SUSPENDED DRIVERS FOR UWA STUDY**

What situations prompt drivers whose licences have been suspended to get behind the wheel and risk further charges? That is what researchers from The University of Western Australia's Crime Research Centre want to find out.

They are calling on suspended drivers in metropolitan and regional areas to help them – under conditions of the strictest confidence – to gauge the impact and effectiveness of suspension by participating in the UWA study.

“We want to find out more about the circumstances and attitudes of suspended drivers and understand the impact that licence disqualification has on people's lives. Ultimately, this will help government decide how to use licence suspension more effectively and to improve the enforcement of road traffic laws and fine payment,” Research Fellow Ms Anna Ferrante of the Crime Research Centre said.

Those who volunteer for the study will be asked to attend one of several focus group meetings covering issues such as why licences were suspended, what effect this has had on people's lives, whether and why participants have flouted the ban, plus attitudes to a range of related issues.

In 1995 the introduction of the Fines, Penalties and Infringement Notices Enforcement Act made possible the suspension of drivers' licences for non-payment of non-traffic fines. While this resulted in an immediate drop in fine defaulters entering prisons, it also significantly increased the number of licence suspensions – and those driving while under suspension.

Studies reveal that an increasing number of disqualified and unlicensed drivers represents a significant road safety issue. The fact that these drivers are more likely to be involved in serious casualty crashes has called into question the effectiveness of suspension as a viable law enforcement strategy and has prompted the need for the current study funded by the Road Safety Council of WA.

Participation in the study is voluntary and strictly anonymous, with information provided being kept and used under the strictest confidence. If you are interested in participating, please call FREECALL number 1-800-688-122. The study team is particularly interested in hearing from people in the Perth metropolitan area and those living in and around Kalgoorlie.

**MEDIA REFERENCE:** Anna Ferrante 61 8 9380 3837  
Colin Campbell-Fraser 61 8 9380 2889  
0419 947 718

## **APPENDIX B – RECRUITMENT FLYER**

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THE UNIVERSITY OF  
WESTERN AUSTRALIA

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### **SUSPENDED DRIVER STUDY**

**Had your licence suspended or cancelled in the last five  
years?**

Want to have a say?

Willing to share your experiences with others in a small  
**confidential** group setting?

To be part of the study, **call FREECALL number 1-800-688-122.**

Participants will receive \$50 for their time.

Please let others know about the study.

Study approved by the UWA Human Research Ethics Committee. Strict confidentiality applies.  
Information will be used for research purposes only.

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## **APPENDIX C – FOCUS GROUP DISCUSSION GUIDE(S)**

### **LICENCE SUSPENSION STUDY**

#### **Discussion guide – fines suspensions**

##### **Losing your licence**

- How did you find out your licence had been suspended? Did the Police call around to take your licence? Or did you get a letter?
- Were you surprised to find you had lost your licence? Why? Why not?
- (Fines group only) Were you aware that by not paying a fine, this would result in licence suspension? If so, who told you/how did you know? If not, do you know about the Fine Enforcement system now?

##### **Fines suspension (asked of fine suspension participants only)**

- Did the suspension or the threat of suspension make you pay your fine (or part of it)? Why? Why not?
- Is it fair and reasonable to suspended people's licences for not paying their fines? Why? Why not?
- Is the current Fine Enforcement system, which uses licence suspension, seizure of goods, Work and Development orders and, finally, gaol, an effective way of getting people to pay their fines? Why? Why not?
- What are some of the problems with the current system?
- What are some of the good things about the current system? (time to pay arrangements; staggered penalty system; friendly staff?)
- Are there any aspects of the current system that you think should be changed? [Suggest suspension in lieu of fine (like NSW) ?]
- Do you think the police and justice system do a 'good' job at enforcing payment of outstanding fines?
- Are there better ways of getting people to pay fines? What might these be?
- If you were in charge of making people pay fines, what would you do?
- Thinking about the offence that got you the fine in the first place, was getting a fine (and the amount of the fine) a fair penalty for what you did?
- Would an alternative type of penalty such as community service been more effective or as effective as the fine? [Suggest idea of Unit Fines]

### **Impact of suspension**

- How did you feel about losing your licence when it first happened? Is it a big thing to lose your licence? Is it embarrassing or were you ashamed?

For those who have lost their licence more than once, do these feelings change over time?

- What was the biggest impact on your life when you lost your licence?
- What other impacts were there?

#### **EXPLORE:**

- Financial / economic
- Employment
- Social and personal aspects
- What was the impact on your family when you lost your licence? Did you have to rely on them more?
- Did you tell only those you had to tell, or did you tell others about losing your licence? What was the reaction of those you told?
- What do you think is the general community attitude towards those who lose their licence?

### **Ways of managing after loss of licence**

- How do you get around when you've lost your licence?
- What sorts of arrangements do you have to put in place to get you from place to place? How do you get to work, for example?
- Are there any particularly effective strategies that people have used?

### **Extra-ordinary licences**

- Did you apply for and/or get an Extraordinary Licence after your licence was suspended? Why? Why not?
- How easy was it to get an Extra-ordinary licence? How easy is it to comply with the conditions of an Extra-ordinary licence?
- What are the problems, if any, with getting an Extraordinary licence
- Are extra-ordinary licences are a good idea? Why? Why not?

### **Driving while under suspension**

- Has anyone here ever driven while under suspension?
- Why did you drive whilst under suspension?

- How many times have you driven? Or how often did / do you drive? Routinely or occasionally?
- How long did it take (after the suspension) before you first started driving?
- How did / do you feel while driving? Why?
- Do you drive any differently when you are driving without a licence? IF YES: What sorts of things do you do? (*'Some people have said they drive more carefully, for example.'* What does this mean?)
- Are you concerned about getting caught? How likely do you think it is that you *will* get caught?
- When driving, do you take any steps to avoid being caught by police? IF YES: What sorts of steps do you take? Do you have a 'plan' in case you are stopped by police? If yes, what is it?
- For those that drive a lot, do you always do these things or do you find that you fall back into your usual driving pattern?

### **Those who have NOT driven while under suspension**

- Going back to those who have not driven (if any), why did you NOT (or why don't you) drive while you were under suspension?
- Have you ever thought about driving without a licence? OR: Did you ever think about driving?
- IF NO OR WOULDN'T CONSIDER: Why wouldn't you ever drive without a licence?
- Do you think that you ever would drive without a licence? Under what circumstances would you consider driving without a licence?
- Are you surprised by the number of people who have admitted driving without a licence? Does hearing about this tempt you to try driving without a licence? Why? Why not?

### **Penalties and repercussions for driving while under suspension**

- Is driving without a licence a big deal anyway? Why/Why not?
- What is the penalty is for getting caught driving without a licence? Does everyone know this?
- Do you think suspended drivers in general ever think about the likely penalty before driving under suspension? Did those of you who did drive under suspension consider the penalty if you were caught? IF NOT: Why not? IF YES: Why did the penalty not deter you?

- Aside from being caught, what could be some implications of driving without a licence?

**EXPLORE:**

- No insurance if involved in an accident
- Higher risk of serious crash (Is there?)
- Problem of continued drink driving – risk posed to other road users
- Which ones are the most serious? Why?
- Did those of you who did drive (or have driven) under suspension consider any of the possible repercussions of being caught?
  - IF YES: Why did the possible repercussions not deter you?
  - IF NOT: Why not?
- Has anyone been stopped by police while driving under suspension?
- How did you feel when that happened? What was the impact on you/your family?

**Sanction legitimacy (for driving while under suspension)**

- Are the current penalties for driving while under suspension fair and reasonable?
- Here are some alternative ways of dealing with driving under suspension that have been tried in other places or have been suggested by others:

**INSERT SELF-COMPLETION SHEET HERE. HAND IT OUT TO PARTICIPANTS. GO THROUGH WHAT EACH ALTERNATIVE MEANS (WITHOUT ANY DISCUSSION). ASK THEM TO FILL IN SHEET. THEN HAVE A BRIEF DISCUSSION USING THE QUESTIONS BELOW.**

- Which of these would be most ineffective for drivers in WA? Why?
- Which would be most effective for drivers in WA? Why?
- Which, if any of these alternatives would make **you** comply with traffic laws? Why?
- If you were in charge, how would you stop people from driving without a licence?

**Closing**

- Do you have any other comments about licence suspension that we have not already discussed?



## APPENDIX D – FOCUS GROUP SELF COMPLETION SHEET

Group: \_\_\_\_\_ **MEASURES TO COMBAT DRIVING WHILE UNDER SUSPENSION:**

These are some measures that others have suggested. On a scale of 0 to 5 where 0 is not effective at all and 5 is very effective, how effective do you think each of the following would be as a method to combat driving while under suspension?

**Not effective at all** ←————→ **Very effective**

- A) Increased community education campaigns about penalties associated with driving while under suspension.....' 0 ..... ' 1 ..... ' 2..... ' 3..... ' 4..... ' 5
- B) Increased community education campaigns about road safety risks associated with driving while under suspension ..... ' 0 ..... ' 1 ..... ' 2..... ' 3..... ' 4..... ' 5
- C) Compulsory attendance at special seminars on risks of driving while under suspension ..... ' 0 ..... ' 1 ..... ' 2..... ' 3..... ' 4..... ' 5
- D) Compulsory attendance at special 'relapse prevention' workshops ..... ' 0 ..... ' 1 ..... ' 2..... ' 3..... ' 4..... ' 5
- E) Increased police law enforcement of licences (eg more stops, more licence checks) ..... ' 0 ..... ' 1 ..... ' 2..... ' 3..... ' 4..... ' 5
- F) Increased penalties (larger fines, longer suspensions, longer jail terms) ..... ' 0 ..... ' 1 ..... ' 2..... ' 3..... ' 4..... ' 5
- G) Different types of penalties (eg community service work, home detention) ..... ' 0 ..... ' 1 ..... ' 2..... ' 3..... ' 4..... ' 5
- H) Impounding of vehicle/licence plates ..... ' 0 ..... ' 1 ..... ' 2..... ' 3..... ' 4..... ' 5
- I) Forfeiture of vehicle (for repeat offenders) ..... ' 0 ..... ' 1 ..... ' 2..... ' 3..... ' 4..... ' 5
- J) Special car stickers that identify the owner-driver as a driver under suspension..... ' 0 ..... ' 1 ..... ' 2..... ' 3..... ' 4..... ' 5
- K) Partial (up-front) licence suspensions (eg night-time/weekend curfews) ..... ' 0 ..... ' 1 ..... ' 2..... ' 3..... ' 4..... ' 5
- L) Increased opportunities to earn licence back sooner (for long suspensions) ..... ' 0 ..... ' 1 ..... ' 2..... ' 3..... ' 4..... ' 5

## APPENDIX E – FOCUS GROUP DEMOGRAPHIC SHEET AND CONSENT FORM

Group: \_\_\_\_\_

### Demographic Sheet

- Q1 Which of these age groups do you fit into?
- |                   |     |
|-------------------|-----|
| 16-24 years ..... | ' 1 |
| 25-34 years ..... | ' 2 |
| 35-44 years ..... | ' 3 |
| 45-54 years ..... | ' 4 |
| 55-64 .....       | ' 5 |
| 65+ years .....   | ' 6 |
- Q2 Please indicate which of these best describes your household.
- |  |     |
|--|-----|
| Single person, living alone.....                     | ' 1 |
| Single person, living with one or more children..... | ' 2 |
| Couple living without children.....                  | ' 3 |
| Couple living with one or more children .....        | ' 4 |
| Group of unrelated adults .....                      | ' 5 |
| Other (Please write in) _____                        | ' 7 |
- Q3 So that we can be sure we have included a range of different people in the groups can you please indicate the last level you completed in your formal education?
- |  |     |
|--|-----|
| No formal education  | ' 1 |
| Primary only   | ' 2 |
| Up to secondary School   | ' 3 |
| Some Technical / Commercial / Trade Certificate / Apprenticeship, etc      | ' 4 |
| Completed Technical / Commercial / Trade Certificate / Apprenticeship, etc | ' 5 |
| Some University or Other Tertiary Degree or Diploma                        | ' 6 |
| Completed University or Other Tertiary Degree or Diploma                   | ' 7 |
| Other  | ' 8 |
- Q4 Do you identify yourself as belonging to any particular ethnic or cultural group?
- |           |     |                            |
|-----------|-----|----------------------------|
| Yes ..... | ' 1 | <b>IF YES:</b> What group? |
| No.....   | ' 2 |                            |
- Q5 Please write in your usual occupation
- 
- Q6 Finally, please record your sex.
- |              |     |
|--------------|-----|
| Male .....   | ' 1 |
| Female ..... | ' 2 |

**LICENCE SUSPENSION STUDY**

**INFORMATION SHEET**

**Participant's copy**

The aim of the study is find out more about drivers with suspended licences such as how they manage whilst under suspension and the effectiveness of licence suspension as a sanction.

The study is being conducted by the Crime Research Centre at the University of Western Australia, and is funded by the Road Safety Council of WA. The chief investigator is Anna Ferrante.

At tonight's meeting you will be asked to participate in a group discussion about licence suspension. A number of discussion topics will be raised. You don't have to address any of the questions asked during the discussion if you do not wish to.

The group discussion will be recorded on an audiotape so that we don't miss out on what everyone at the discussion had to tell us about licence suspension. The tapes will only be used for the purposes of writing a report. No one other than the chief investigator will hear them.

The information you give us will be kept securely. All tapes and data will be locked to unauthorised access. No information will be able to be traced back to any one individual.

If you have any questions about the above please ask now. The hostess will then ask you to confirm that you understand the above and agree to participate in the study, and will record this below.

Do you have any questions? Please ask now.

---

**CONSENT FORM**

I (the participant) have read the information above and any questions I have asked have been answered to my satisfaction. I agree to participate in this activity, realising that I may withdraw at any time without reason and without prejudice.

I understand that all information provided is treated as strictly confidential and will not be released by the investigator unless required to by law.

I agree that research data gathered for the study may be published provided my name or other identifying information is not used.

---

*Research participant*

---

*Date*

(Please note that as this document is not a contract between parties, it is not necessary that the researcher sign it. Nor is it necessary to have a witness.)

The Human Research Ethics Committee at the University of Western Australia requires that all participants are informed that, if they have any complaint regarding the manner, in which a research project is conducted, it may be given to the researcher or, alternatively to the Secretary, Human Research Ethics Committee, Registrar's Office, University of Western Australia, 35 Stirling Highway, Crawley, WA 6009 (telephone number 9380-3703). All study participants will be provided with a copy of the Information Sheet and Consent Form for their personal records.