

Targeting Unlicensed and Disqualified Drivers: Furthering Vehicle Impoundment Legislation in Queensland

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Abstract

On 1 July 2007, Queensland expanded its vehicle impoundment laws to encompass unregistered and uninsured vehicles, unlicensed and disqualified driving, high level drink driving ($\geq 0.15\%$), failing to supply a specimen of breath or blood and illegally modified vehicles. This legislation has been piloted in three police regions and in its first twelve months, 1708 motor vehicles have been impounded for a 48 hour period. An overwhelming majority of these vehicles (89%) have been impounded as the result of repeat unlicensed and disqualified driving.

Preliminary analyses of repeat offenders from the first month of implementation (July 2007) revealed that 36 out of 40 individuals (90%) had recorded a previous traffic violation with almost three quarters (72.5%) of these individuals also having recorded licence disqualifications and suspensions. The current research furthers this analysis by examining a randomly selected larger group of repeat offenders who have been charged with repeat offences since the implementation of the new legislation. The aim of this research is to ascertain the extent of previous traffic violations of repeat offenders, with a particular focus on previous unlicensed and disqualified driving offenders. Based on the findings of this analysis, the paper will also discuss potential implications of vehicle sanctions on the behaviour of repeat unlicensed and disqualified drivers.

Key Words

Vehicle impoundment; traffic sanctions; recidivist offending; unlicensed driving; disqualified driving

Introduction

In February 2006, Queensland's (then) Premier, Peter Beattie, hosted the Queensland Government Premier's Road Safety Summit. This Summit brought together key stakeholders in both government and non-government sectors, to discuss possible measures to reduce the number of deaths on Queensland roads and associated road trauma. The catalyst for this Summit was the 2005 road toll, whereby 330 people died on Queensland roads, which was the highest number of deaths since 1997. This increased in 2006 to 335 and again in 2007 to 360. As a consequence of discussions undertaken at this Summit, a number of road safety initiatives were proposed for implementation, with the use of vehicle impoundment for an expanded array of traffic offences one of the key deliverables.

The *Police Powers and Responsibilities and Other Legislation Amendment Act 2006* amended chapter four of the *Police Powers and Responsibilities Act 2000*, introducing the use of vehicle impoundment as a sanction for non-hoon related offences¹. The previously detailed "hoon" offences were renamed "Type 1 Vehicle Related

¹ Since November 2002, vehicle impoundment in Queensland has existed for what are colloquially known as "hoon" offences which include burn outs, donuts, speed trials and excessive smoke and noise.

Offences” and an additional category of “Type 2 Vehicle Related Offences” was created. Under the legislation, type two vehicle-related offences comprise of five categories of offences:

- driving a vehicle that is both unregistered **and** uninsured;
- driving whilst unlicensed or disqualified;
- driving whilst under the influence of alcohol ($\geq 0.15\%$);
- failing to supply a specimen of breath/blood or driving whilst under 24 hour suspension; and
- driving a vehicle which is illegally modified

(s69A(2) *Police Powers and Responsibilities Act 2000*)

The first time that a person is charged with a type 2 vehicle related offence, this is called the “zero” offence and whilst they are charged (by way of notice to appear or arrest), no action is taken on the vehicle. This initiates a three year period, whereby repeat offences of the same category within this timeframe render the vehicle eligible for impoundment. A first repeat offence (second offence) of the same kind may incur a 48 hour impoundment, a second repeat offence (third offence) of the same kind may incur a 48 hour impoundment and application to the Magistrate’s Court to impound the vehicle for up to three months, and a third repeat offence (fourth offence) may incur a 48 impoundment in addition to an application for forfeiture. It is important to note that impoundment for type 2 vehicle related offences can only occur for multiple offences of the same offence category².

The new provisions relating to type 2 vehicle related offences have been progressively released across Queensland. Initially, the laws were piloted in the North Coast and Southern Police Regions from 1 July 2007. The pilot was further expanded to include the South Eastern Region from 1 December 2007. These provisions were enacted in the remainder of police regions on 1 July 2008 and are now in operation across Queensland.

Current Study

Vehicle impoundment as a sanction was expanded in Queensland as one in a suite of initiatives responding to an increasing number of fatalities and associated road trauma on Queensland roads. There is a substantial body of literature which has previously examined the relationship between alcohol and road crashes as well as the relationship between unlicensed/disqualified driving and road crashes. This generally asserts that drivers who drive under the influence of alcohol are more likely to be involved in higher severity road crashes, as are those who drive while unlicensed or disqualified (which can be the result of an alcohol related offence)³.

Given the research which stipulates the increased likelihood of unlicensed, disqualified and drink drivers in higher severity crashes, the introduction of vehicle

² For example, two offences of disqualified driving constitute a repeat offence; however one offence of driving an unregistered and uninsured vehicle and one offence of disqualified driving do not constitute a repeat offence. Rather, this constitutes a zero offence in both categories.

³ For information on alcohol, see the Travelsafe Committee Report no. 46 (2006), *Getting Tough on Drink Drivers* and for information concerning unlicensed drivers see Watson, B. (2003) *The Road Safety Implications of Unlicensed Driving: a Survey of Unlicensed Drivers*, CARRS-Q, Queensland University of Technology: Brisbane.

impoundment for these offences aims to incapacitate drivers through the removal of their vehicles for a period of time. However, what is of interest to the current research is not the effectiveness of vehicle impoundment as a sanction, but rather whether repeat offending under this new legislation is indicative of persistent traffic offending. This in itself has implications in terms of the potential effectiveness of the legislation.

After the first month of implementation (July 2007) in the North Coast and Southern Police Regions, there were a total of 40 individuals who had recorded repeat offences under the new type 2 vehicle impoundment legislation. Preliminary analyses of these repeat offenders indicated that 36 (90%) had recorded a previous traffic violation, and almost three quarters (72.5%) of these people had recorded a licence disqualification or licence suspension. This research provides the catalyst and foundations of the current study.

There are two research questions underpinning this study:

To what extent have repeat offenders under the new vehicle impoundment legislation been involved in traffic offending prior to their repeat offence?
To what extent have repeat offenders had action taken on their licence?

Based on the preliminary study undertaken, and the nature of the type 2 vehicle related offences (such as disqualified driving), it is hypothesised that repeat offenders will have previously recorded a number of traffic offences, licence disqualifications and suspensions. However, the purpose of the current study is to determine the strength and accuracy of this hypothesis, furthering the previous research with a larger sample size. The aim of the study therefore, is to examine any prior traffic offending of individuals who have recorded a repeat offence under the type 2 vehicle impoundment legislation. The results of this analysis have implications on the use of vehicle impoundment as a sanction and will be discussed towards the end of the current report.

Methodology

Sampling

As of 31 March, 2008, there were 1208 distinct repeat offenders recorded in a database compiled by the Vehicle Impoundment Project Team. These repeat offenders were sorted by alphabetical order in the spreadsheet and every fourth individual was selected for this study (to obtain 25% of the overall sample size). A random sampling method was chosen, to try and gain a representative snapshot of the entire repeat offender sample. From this list of 302 individuals, traffic histories were able to be obtained for 284 distinct persons.

Data Definitions

In terms of prior offending, it is important to note that this research limits this concept to traffic offending only. This encompasses a wide variety of traffic related matters which appears on a person's traffic history. This not only includes type 2 vehicle related offences, but also includes all speeding offences, licence offences, drink driving offences, public transport offences, regulatory offences (fail to give way, fail to stop at a red light etc), bicycle offences, registration offences and offences relating to the operation of a vehicle (dangerous driving, careless driving etc). It does not

include parking offences or pedestrian offences (such as jaywalking). Consequently, within this research, the term traffic offence encompasses an offence in any one of these categories, as it appeared on a traffic history.

Data used to determine previous disqualifications, suspensions and good driving behaviour options was taken from records on an individual's traffic history. For the purposes of this research, the length of the licence action was not relevant, nor was whether the person was concurrently disqualified and suspended from driving. For the purposes of this research, it was only the number of times a person was disqualified or suspended that is relevant for the analyses.

In terms of defining each of the three licence actions examined, a disqualification period is generally imposed by a court as a penalty for another offence. The term "suspension" within this research, encompasses demerit point suspensions, SPER suspensions, high end speeding suspensions and any immediate suspensions that were recorded on a person's traffic history. It does not include any 24 hour suspensions that may have resulted from a drink driving charge. Good driving behaviour options preclude persons from further offending behaviour for a prescribed period of time⁴.

Limitations

As with all official data, there are limitations which need to be acknowledged. Firstly, the nature of data recorded on a person's traffic history may not be a true representation of their actual traffic offending behaviour. A traffic history only presents a picture of offences which police have detected and commenced a proceeding for (through traffic infringement notice, notice to appear or arrest). This may under-represent the actual driving behaviour of individuals. Secondly, it may be possible that not all traffic offences have been recorded on a person's traffic history. At times there is a delay in offences being recorded against a person, which again may under-represent the actual offending history of individuals.

Results

As previously stated, 284 repeat offenders under the new type 2 vehicle impoundment legislation were randomly selected to determine the extent of prior traffic offences and prior licence disqualifications and suspensions. The following section presents the results that were obtained from this analysis.

Demographic Information

Of the 284 repeat offenders selected, 226 (79.6%) were male and 58 (20.4%) were female⁵. The following examines the age of the repeat offenders.

⁴ The *Transport Operations (Road Use Management – Driver Licensing) Regulation 1999* defines "a person to be of good driving behaviour for a year, if no more than one demerit point is allocated to the person's traffic history during the year". While this sentencing option is not taking action on a person's licence in the same manner as a disqualification or suspension period, it is still argued to be indicative of overall driving behaviour.

⁵ This is comparable to the entire sample of 1208 repeat offenders, with 80.8% male and 19.2% female.



Table 1

The above indicates that just over half of the sample (51.4%) was aged 25 years or less. The youngest repeat offender was 14 years with the oldest repeat offender being 71 years. The average age of repeat offenders was 27.45 years with the most common age being 24 years⁶.

Previous traffic history

Of the 284 individuals selected, 267 (94%) had recorded at least one traffic offence prior to their zero offence within the vehicle impoundment program.

The following examines the number of prior offences that these individuals had recorded prior to their zero offence⁷.

Total Number of Offences Prior to Zero Offence (per repeat offender)

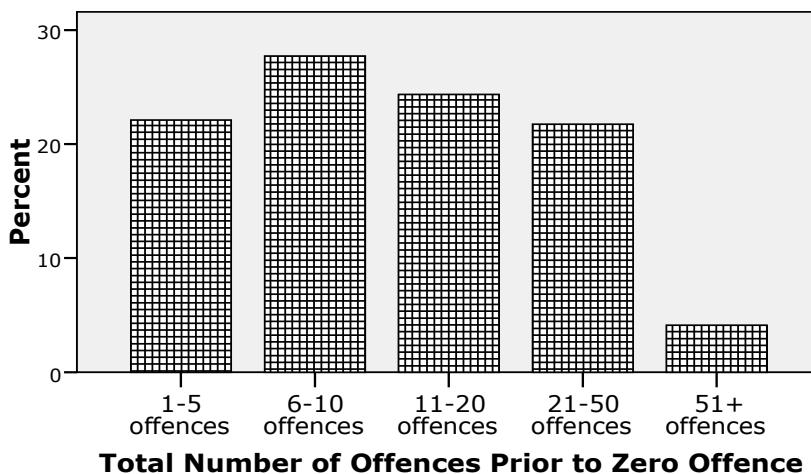


Table 2

⁶ This is also representative of the entire sample of 1208 repeat offenders, where the minimum age was 12 years, the maximum age was 72 years, the average was 27.62 years and the most common age was 20 years.

⁷ Again, this refers to the number of traffic offences that were recorded on the traffic history prior to the charging of the zero offence under the new legislation.

This graph indicates that almost half (49.8%) of those with prior offences had 10 offences or less, with the other half recording 11 or more offences. The lowest number of prior offences recorded was 1 offence and the highest number of offences recorded for any one individual was 91. The average number of offences recorded was 15.65 with the most common number of offences being 10.

The following examines the length of time between the first offence that the individual recorded and their zero offence.



Table 3

This graph demonstrates that the majority (53.6%) of individuals recorded their first offence within 5 years of their zero offence. The smallest amount of time was 0 (being the same year as the zero offence) and the longest amount of time was 31 years. The average number of years between the first offence recorded and the zero offence was 6.8 years, however the most frequent was 1 year. This demonstrates that the majority committed their offences within a relatively short period of time, however a small number of individuals have recorded traffic offences over a significant period of time.

Previous Type Two Vehicle Related Offences

Out of the 267 individuals who had recorded a prior offence, 210 (78.7%) had recorded at least one previous type two vehicle related offence.

The following examines the number of prior type two vehicle related offences of these individuals⁸.

⁸ This refers to offences committed prior to the zero offence, that are within scope of any of the current type 2 vehicle related offence categories.

Number of Previous Type Two Vehicle Related Offences (per repeat offender)

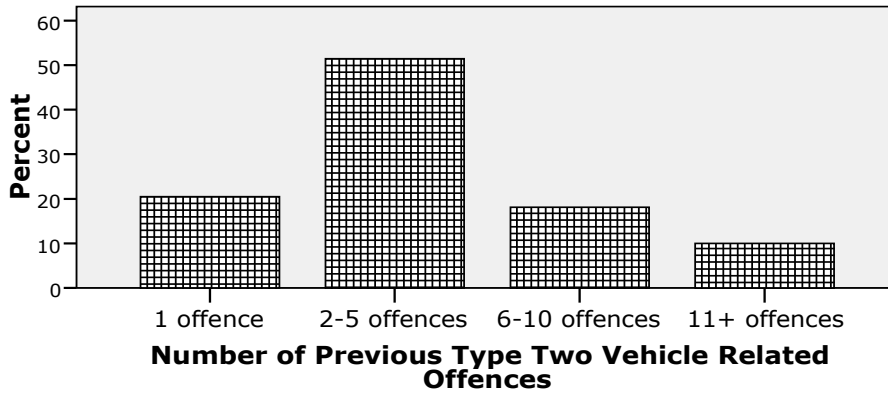


Table 4

This graph demonstrates that approximately one fifth (20.5%) had recorded only one previous type two vehicle related offence. Over half (51.4%) had recorded between 2 and 5 previous type two offences, with the remainder recording 6 or more offences. The highest number of type two vehicle related offences recorded was 31, with the average number of offences being 4.88 and the most common being just 1 offence.

The following graph further examines the number of type two vehicle related offences by the number of categories that each individual recorded.

Number of Categories Of Type Two Vehicle Related Offence (per repeat offender)

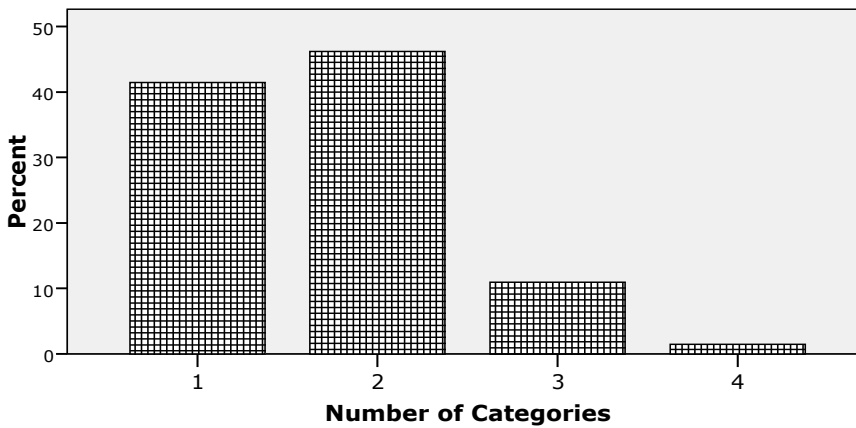


Table 5

This graph indicates that 41.4% of individuals had recorded previous type two vehicle related offences in only one category. A further 46.2% had recorded previous type two vehicle related offences in two categories. Only 3 individuals recorded type two vehicle related offences in four out of the possible five categories.

Of the 210 individuals who had recorded a previous offence in one of the type 2 vehicle related offence categories, 189 (90%) people were charged with the same type two vehicle related offence both prior to and after the commencement of the type two vehicle impoundment legislation.

Previous Disqualifications

Of the 267 individuals with a traffic history, 156 (58.4%) had recorded at least one previous licence disqualification prior to the charging of their zero offence.

The following further examines the number of previous disqualifications, by their actual number recorded.

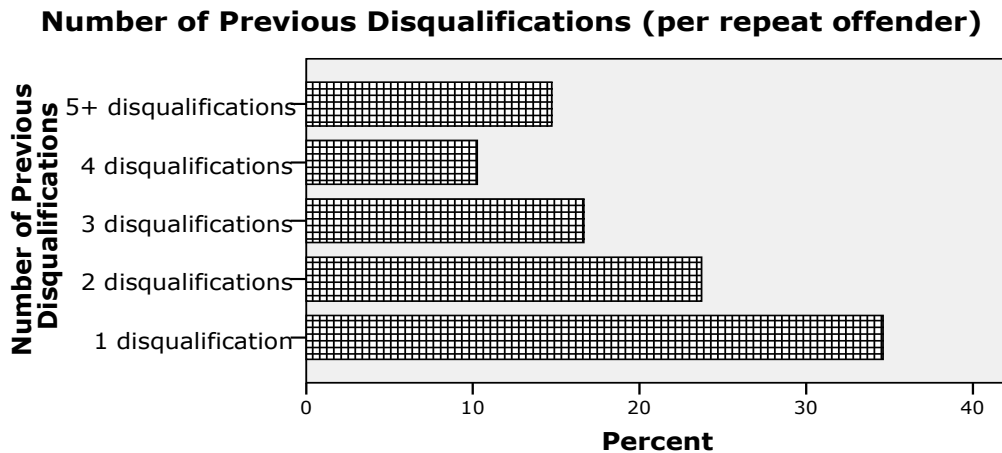


Table 6

This graph indicates that 34.6% of individuals only had one disqualification prior to their zero offence. A further 23.7% had two disqualifications. The highest number of disqualifications for any one person was 16.

Previous Suspensions

Of the 267 individuals with a traffic history, 204 (76.4%) had recorded at least one previous licence suspension prior to the charging of their zero offence.

The following graph further examines this by the number of suspensions recorded by these individuals.

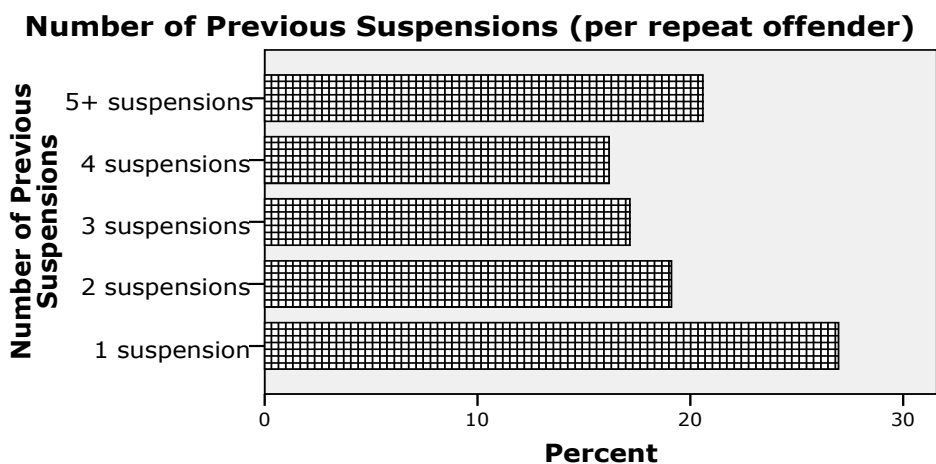


Table 7

This graph demonstrates that 27% of individuals had recorded only 1 previous suspension prior to their zero offence. A further 19.1% had recorded 2 previous suspensions and 17.2% had recorded 3 previous suspensions. The highest number of suspensions recorded by any one individual was 14.

Previous Good Driving Behaviour Options

Of the 267 individuals with a traffic history, 69 (25.8%) had recorded at least one previous good driving behaviour option prior to the charging of their zero offence.

The following further examines the number of good driving behaviour orders that repeat offenders had received.

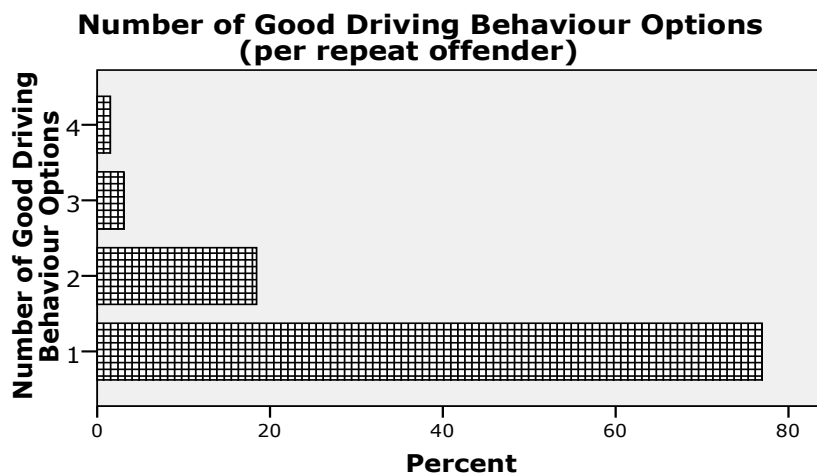


Table 8

This demonstrates that the overwhelming majority (76.9%) of repeat offenders, who had received a good driving behaviour option, received only one.

Combined Licence Action

Out of the 267 individuals who had recorded a prior traffic offence, 231 (86.5%) individuals had recorded a disqualification, a suspension or a good driving behaviour option.

The following examines this by the number of categories.

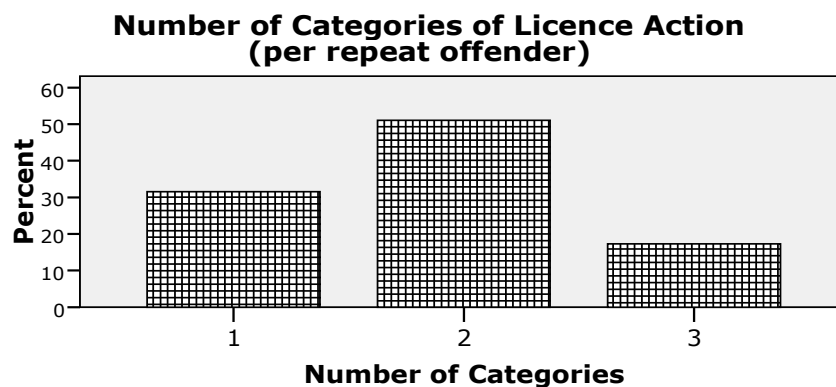


Table 9

This graph demonstrates that 31.6% of repeat offenders recorded licence action in only one of the three categories of disqualification, suspension or good driving behaviour options. A further 51.1% recorded action in two of these three categories, with 17.3% (40) individuals recording action in all three categories.

Discussion

The results presented in the previous section provide a number of points for further discussion under the initial subheadings.

Previous traffic history

Out of the 284 individuals selected in the current research sample, 267 (94%) had a previous traffic record. This indicates that for the majority of repeat offenders within the sample, being charged with their zero offence was not the first time that they had come into contact with police as the result of a traffic violation. Further analysis of the number of traffic offences revealed that approximately half of the sample had 10 prior offences or less, with the other half recording 11 offences or more. This also provides evidence of a small number of persistent traffic offenders, including one individual who recorded 91 prior offences. In addition, analysis revealed that approximately half of those with traffic histories recorded their first traffic violation within the preceding five years of their zero offence under the new legislation. In contrast, the other half of repeat offenders recorded their first traffic offence more than 6 years prior to their zero offence, with the longest traffic history encompassing 31 years of offending.

In combination, these results point to the fact that there are a significant proportion of repeat offenders under the new legislation who have accrued large numbers of traffic offences prior to their zero offence as well as those who have long traffic histories spanning more than a decade. More importantly, based on these results, the legislation does not appear to be incorporating a large number of first time offenders. Those who are committing repeat offences are individuals who have been previously detected of and charged with a previous traffic offence.

Previous Type Two Vehicle Related Offences

Again, out of the 267 individuals who had recorded a traffic offence prior to their zero offence, 210 (78.7%) of these people had been charged with a previous offence in one of the current type 2 vehicle related offence categories. In the majority of circumstances (79.5%) these individuals had recorded more than one previous type 2 vehicle related offence prior to being charged under the type 2 vehicle impoundment legislation.

In line with this argument, further analysis revealed that while 41.4% of these offenders recorded offences in only one category of type 2 vehicle related offence, 46.2% of people recorded at least one offence in two categories of type 2 vehicle related offences. In addition, 189 (90%) of individuals who had recorded an offence in one of the type 2 vehicle related offence categories, were charged with the same category of offence under the type 2 vehicle impoundment legislation.

Taken as a whole, these results position a substantial number of repeat offenders as demonstrating offending behaviour in these same categories of type 2 vehicle related offences prior to their interception under the new legislation, with the majority having

been charged with the same type 2 offence category before and after the introduction of the new impoundment legislation.

Previous Licence Action

Results of these analyses revealed that out of the 267 individuals with a prior traffic offence, 231 (86.5%) had also recorded at least one disqualification, suspension or good driving behaviour option. Separately, over half (58.4%) of these repeat offenders had recorded at least one disqualification, over three quarters (76.4%) had recorded a previous licence suspension and approximately one quarter (25.8%) had recorded previous good driving behaviour option. The high levels of licence disqualification and licence suspension should probably not be unexpected, given that the majority of repeat offences recorded under the type 2 vehicle impoundment legislation have been for unlicensed or disqualified driving. This continues to strengthen previous arguments that the introduction of this legislation appears to target persistent and recidivist traffic offenders, as opposed to those who have not been charged with offences prior to its implementation. Licence disqualifications, licence suspensions and good driving behaviour options only arise from prior traffic offences, therefore these individuals have clearly demonstrated previous offending behaviour.

Conclusion

The results presented in this report indicate that the large majority of repeat offenders recorded under the type 2 vehicle impoundment legislation have recorded traffic offences prior to their zero offence under the new legislation, and in addition, the majority of these individuals have also had some sort of action taken on their licence, through disqualification, suspension or good driving behaviour options. Cumulatively, these results are in agreement with the proposed research hypothesis that repeat offenders will have previously recorded a number of traffic offences, licence disqualifications and licence suspensions.

The strongest theme resulting from analysis in each of the areas examined points to the fact that type 2 repeat offenders are in the majority, not offenders who have never recorded previous traffic offences prior to their zero offence under the new legislation. Instead, many of them have prolific traffic histories, have committed a number of previous offences including previous type 2 vehicle related offences and have been disqualified, suspended or subject to a good driving behaviour option.

Vehicle impoundment as a sanction seeks to incapacitate offenders through the removal of their vehicle, to prevent re-offending for a certain period of time. It is clear from this sample, that those individuals with long traffic histories do not appear to have been deterred from committing further offences by traditional means of imposing fines, disqualifications, suspensions or good driving behaviour options. This is clearly evident in the histories of many of those examined in this research sample. It remains to be seen if the use of vehicle impoundment will provide a greater deterrent effect to this group of offenders and further research into this area is needed in the future. Despite this, it appears that the use of vehicle impoundment for the current type 2 vehicle related offences is encompassing predominantly serious traffic offenders, and those who arguably pose a greater risk to general road users through their persistent offending behaviour.