



# **How effective is non-custodial sentencing in achieving compliance with road traffic law?**

## Wide range of offences

- » Causing Danger to Other Road Users
- » Failing to Stop/Report an Accident
- » Failing to Conform to a Traffic Sign
- » Driving/Obtaining a Driving Licence Whilst Disqualified
- » Using a vehicle without insurance
- » Falsifying tachograph records

## 'Bad driving' (CPS)

- » Dangerous, careless, inconsiderate, wanton and furious driving (some also + cause death)

- » Aggravated vehicle taking

As well as

- » **Drink and drug driving offences**

**Road Traffic Offences:**  
difficult to generalise

- » Individual/special
- » General
- » Primary
- » Marginal
- » AND – important  
- **perceptual  
deterrence**

- » **Certainty**

- > Von Hirsch (1999)
- > Sherman (1983):  
Minneapolis
- > Hanmer (1999): West  
Yorkshire

- » **Severity**

- > Weatherburn and Moffat  
(2012)
- » Mode of punishment
- » Type of offender
  - > Corbett (2006)
- » Type of offence

**DETERRENCE**

# Penalty notices for disorder

- » <http://www.homeoffice.gov.uk/police/penalty-notice/>
- » **“What is a penalty notice for disorder?**
- » A penalty notice for disorder (PND) is a type of fixed penalty notice that can be issued for a specified range of minor disorder offences.
- » **Benefits**
- » The scheme was introduced as part of the government’s strategy **to provide police with a swift financial punishment** to deal with misbehaviour and **a practical deterrent to future re-offending**, ... Issuing a penalty notice takes an officer approximately 30 minutes compared with 2 ½ hours to prepare an evidential case file.” [emphasis added]

# Celerity

» **Do recent traffic offence based studies tell us anything different?**

» ‘The research has found that the influences on drivers' compliance with traffic law are many and complex. The deterrent effect of enforcement depends on the type of driving offence and the public's attitude towards the severity of that offence.’

**Scottish report:  
(1999) *The Deterrent Effect of Enforcement in Road Safety: Research Findings*,  
TSO.**

“More generally, the research has tended to reaffirm the findings of previous research.”



- » ‘There is a belief that **moderate speeding** is tolerated by enforcement agencies, and that speeding in general has an associated low risk, either of getting caught or being involved in an accident. This finding points to the need to increase both the perception of risk by the driver and awareness of the real risks associated with speeding.’

Scottish report: (1999) *The Deterrent Effect of Enforcement in Road Safety: Research Findings*, TSO.

- » In terms of the other, non-speeding, offences considered in the research **strong deterrent effects were identified with the penalties for drunk driving**. Regardless of whether respondents had been penalised for drunk driving in the past, none considered drunk driving something they would do. The motivation for avoiding drunk driving varied, with previous offenders wishing to avoid the physical and social isolation associated with losing their licence, while non-offenders are more strongly motivated by the messages of risk -both of prosecution and accidents - promoted by mass, media campaigns.

- » Used sample of nearly 900 - average age of 30 and cannabis was the most commonly consumed drug.
- » '... approximately 20% of participants reported drug driving at least once in the last six months. Overall, there was considerable variability in respondent's perceptions ... **although the largest proportion of the sample did not consider such sanctions to be certain, severe, or swift.**
- » In regards to predicting those who intended to drug drive again in the future, a combination of perceptual and behavioural based factors were associated with such intentions. However, a closer examination revealed that **behaviours, rather than perceptions, proved to have a greater level of influence on the current sample's future intentions to offend.'**

Freeman et al (2010) 'Perceptual deterrence versus current behaviours : a study into factors influencing drug driving in Queensland', *Road and Transport Research*, 19(3), pp. 3-13.



- » 'In relation to past offending behaviours, similar with previous road safety research that has focused on drink driving (e.g., Freeman et al., 2006), **past behaviour remains an efficient predictor of future behaviour**. To a further extent, it may yet be found that drug driving while avoiding detection (e.g., punishment avoidance) may have a powerful influence on further offending behaviour, and research has found such evidence with other road safety concerns such as drink driving (Freeman & Watson, 2006; Piquero & Paternoster; 1998). To some extent, habitual or regular behaviours may counteract (or negate) the deterrent impact of proposed countermeasures, as **committing an offence and avoiding apprehension is likely to be a strong reinforcer to engage in further offending behaviour among some groups.**' (p.15)

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- » Found - with sample of 12,000 cases - **no** significant effect of giving higher rather than lower fines.
- » **WHY?**
- » Perceived risk of apprehension too low? WHY?
  - > Dependent on no. of times driver has been stopped by police after drinking? If stopped after many times undetected no effect? OR
  - > If convicted and offended succumb to 'gambler's fallacy'?

**Weatherburn, D. and Moffatt, S. (2011) 'The Specific Deterrent Effect of Higher Fines on Drink-Driving Offenders' *Br J Criminol* Vol 5(5), 789-803.**

» **Methodological problems**

- > How to set up experiments
- > How to isolate causal effects

» **Significance of higher or lower rates of offending?**

» A snap shot in time

- » Weatherburn and Moffat (2011:790) draw attention to specific problems re drink-driving offences: 'As with so much of the general literature on specific deterrence ... studies of the specific deterrent effect of higher fines on drink-driving are often vulnerable to omitted variable bias'.

# **Interpreting the research findings** > 11

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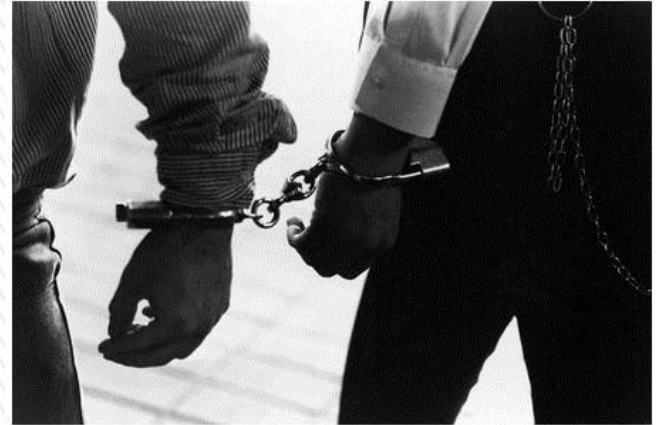
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Offences  
1. Speeding  
2. Failure to provide driver details  
3. Failing to stop at 12 points  
4. Drink driving  
5. Failure to provide specimen  
6. Driving whilst unfit  
7. Mobile phones  
8. Dangerous driving  
9. Death by dangerous driving  
10. Driving without due care  
11. Death by careless driving  
12. Driving with no insurance  
13. Traffic lights  
14. Road closure procedures  
15. Roadworks parking  
16. Regulatory costs  
17. Licensing rules

Creative Design by Peter Dudge

- » Are they 'real' crimes?
  - > Like not buying a TV licence?
  
- » Are fines 'real' punishment?
  - > Like a tax?



# Compliance and avoidance



## Research?

- » 'Individuals who received residential drug treatment have been shown to be **45 per cent less likely to reoffend after release** than comparable individuals receiving prison sentences (Matrix 2007).'  
(Howard League 2011)

## Malloch (2011) SCCJR

### Research Report No.05/2011

- » **Evidence is limited** in identifying the effectiveness of interventions for specific client groups in Scotland and internationally' (p.32)
- » 'Those who complete an order or intervention have lower reconviction rates than those who do not. ..
- » In Scotland, there is evidence to suggest that Drug Courts and DTTOs have **some level of effectiveness**' (p.36).

# Community sentences & Rehabilitation

## » **Summary of the Scheme**

- » ♦ If convicted of a drink drive offence you may be offered the opportunity to attend a rehabilitation course
- » ♦ It is for you to decide whether to accept this offer
- » ♦ You will be required to pay for the course
- » ♦ If you satisfactorily complete the course your period of disqualification will be reduced by up to a quarter
- » ♦ The court will decide whether to offer you a place on a rehabilitation course, and, if so, by how much the period of disqualification will be reduced.
- » Accessed at:  
[www.direct.gov.uk/prod\\_consum\\_dg/groups/.../dg\\_195278.pdf](http://www.direct.gov.uk/prod_consum_dg/groups/.../dg_195278.pdf)

- » Johnson, C. and Hardman, J. (2010) *Professional Skills for Delivering the Drink-Drive Rehabilitation (DDR) Scheme: Analysis of DDR Training Provider Organisations' Interview Findings*, Road Safety Web Publication No. 13. Department for Transport: London. [Interviews with providers – re KPIs]
- » Presentation by Sir Peter North in Dublin in April of this year: [http://www.rsa.ie/Documents/Seminars/Recidivist%20Behaviour/Presentations/Sir Peter North Presentation.pdf](http://www.rsa.ie/Documents/Seminars/Recidivist%20Behaviour/Presentations/Sir_Peter_North_Presentation.pdf)
- » C Inwood, G Buckle, M Keigan, R Borrill (2007) *Extended monitoring of drink-drive rehabilitation courses: Final Report*. TRL Report No 662 – concluded it was effective in reducing reconvictions

Further reading – DDR scheme

- » “First of all, researchers have learned – not only through desistance research but from programmes research too – that more attention needs to be paid to the offender’s motivation and to **the impact of his or her social context on the outcomes of the intervention** (Farrall, 2002).
- » Secondly, it is now well understood that there is more to effective programmes than designing them well; **they need to be run well**; that requires the right organisational arrangements, the right staff skills and the right qualities of relationships between offenders and probation staff – both within programmes and beyond them” (p.22).

**NcNeill and Weaver (2010) *Desistance Research and Offender Management, Report 03/2010*, Glasgow, Scottish Centre for Crime and Justice Research.**



- » Key issue for more effective deterrence is perceptual deterrence.
- » (Pre re-offending) behavioural factors important – need non-punishment approaches – for deterrence and rehabilitation.
- » Road traffic offences need to be viewed more clearly by the public as ‘proper’ crimes.
  - > Severity of potential harms
  - > Higher fines may or may not deter but they may give a message about ‘wrongfulness’.
  - > (See Office of Fair Trading (2009) *An assessment of discretionary penalties regimes, Final report, OFT1132* re Competition Law Offences.)

# Conclusions?



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