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APPENDIX C8

STREAMLINED VEHICLE-BASED SANCTIONS: SPECIFIC AND GENERAL DETERRENCE EFFECTS

Kathryn Stewart

Pacific Institute for Research & Evaluation

Statutes mandating or allowing vehicle-based sanctions for impaired driving exist in many states. These sanctions are usually applied to offenders who repeat the driving while impaired (DWI) offense a certain prescribed number of times within a given time span or who drive while under a license suspension or revocation imposed for an impaired driving offense. Thus, they are of considerable interest as a strategy for dealing with the persistent drinking driver. Some states do include vehicle sanctions on the books for first offenders, but these are rarely, if ever, applied.

Vehicle sanctions are of two general types: One type attempts to remove the vehicle from use by the offender altogether by confiscating, impounding or immobilizing it. The second type of sanction tries to limit use of the vehicle to times, places or circumstances prescribed by law or the sentence of the court (e.g., only to and from work, only while sober). This second type of strategy often involves devices (such as an alcohol interlock or on-board data recorders) attached to the vehicle. These strategies will be discussed elsewhere in this document.

Vehicle-based sanctions are presumed to serve two general purposes: 1) They add to the incapacitating effects of license sanctions by removing at least one vehicle from potential use by the offender; and 2) they serve as general deterrents for others who might drink and drive or who might drive while suspended or revoked. Both the specific and general deterrence effects are most relevant to the population of drivers who are at risk of multiple instances of impaired driving.

As summarized in a review by Voas (1992), laws allowing vehicle-based sanctions are widespread, however, their use has been quite limited. A major reason for the limited use of the sanctions is the logistical and legal problems involved. For example, penalties that involve impoundment or confiscation of vehicles require facilities for storage, which can be quite costly. In cases where vehicles are confiscated and sold, frequently the vehicles are of such little value that the proceeds from the sale do not even compensate for the costs of towing and storage. Similarly, in cases where vehicles are impounded, often it is more economical for the offender simply to abandon them and buy another car rather than to pay the storage fees and fines.

Legal difficulties include the problem of applying penalties in the case of an "innocent owner" other than the offender who may not have knowingly allowed an unlicensed or intoxicated driver to use a vehicle.

Even when the laws are applied, they usually apply only to the vehicle driven in the course of the offense (although Minnesota, for example, applies a penalty to all vehicles owned by the offender). Use of a vehicle penalty does not guarantee that the offender will not have access to other vehicles.

The lack of ability to apply vehicle penalties widely reduces their specific deterrent impact, of course, in that few offenders are actually subjected to the penalties. If the penalties are applied rarely, their general deterrence impact is also likely to be weakened: It is difficult to maintain the credible threat of swift and certain punishment if few offenders receive the punishment.

Two recent projects of the National Public Services Research Institute explore the use of vehicle-based sanctions that attempt to reduce the logistical problems discussed above, thus, it is hoped, increasing the likelihood that the penalties will be applied and therefore increasing the specific and general deterrence effects.

The first project (Voas and Tippetts, 1994), recently completed, evaluated the effects of programs in Oregon and Washington in which special "zebra stickers" were applied to the license plates of offenders who had been convicted of driving on a driver's license that had been suspended or revoked as the result of an impaired driving offense. The penalty had the advantage of being relatively easy to carry out: The arresting officer would simply apply the sticker at the time of arrest. The sticker subsequently served as a signal to police that the vehicle was owned by someone who should not be driving. The sticker constituted probable cause for stopping the vehicle to determine whether the person driving had a valid license.

The sticker law in Oregon was imposed on 31,000 offenders during the one year study period and resulted in measurable specific and general deterrence effects. The sticker law in Washington applied to fewer offenders and was imposed only 7,000 times during the study period. It resulted in no specific or general deterrence effects.

In general, it appeared that this type of penalty was relatively easy to implement, and, if intensively applied, could reduce the extent to which impaired driving offenders drive while suspended or revoked. Thus, at least some portion of the problem of continued drinking and driving by offenders might be reduced.

The second study, now in progress, examines a penalty now being used in some parts of Ohio. Offenders who are convicted of a second impaired driving offense within 5 years or of driving on a suspended license have the vehicle that they

were driving immobilized for a set period (30 days to 6 months). The vehicle is immobilized using a "club" or "boot" device on the property of the offender. This penalty reduces some of the logistical problems associated with vehicle impoundment in that the need for towing and storage facilities is reduced. The immobilization devices themselves are relatively inexpensive. Implementation of the law has been accompanied by a public awareness campaign directed primarily at impaired driving offenders (who would be at risk of immobilization). When the study is completed, it will provide further information on the practicality of this type of vehicle sanction, the types of logistical problems encountered, and the degree to which the countermeasure has specific and general deterrence effects.

Based on the previous studies of vehicle-based sanctions discussed here, as well as other research on impaired driving countermeasures, it appears that:

- Vehicle-based penalties can be implemented that reduce the logistical problems usually associated with such penalties;
- Wide implementation of the penalties is likely to improve both specific and general deterrence;
- Public awareness campaigns are likely to increase general deterrence;
- Cooperation among law enforcement, the courts, and motor vehicle licensing agencies is necessary for effective implementation.

REFERENCES

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APPENDIX C9

CAN ADMINISTRATIVE PROGRAMS CONTROL THE PERSISTENT DRINKING DRIVER?

Robert B. Voas, Ph.D.

Pacific Institute for Research & Evaluation

INTRODUCTION

In the U.S. impaired driving is managed through a troika program. In the lead are the police on whom all elements of the control system depend. They feed the courts and the driver licensing departments which carry out the sanctioning and educational elements of the program. Given that the perceived risk of apprehension appears to be the most significant factor in producing deterrence (Ross, 1984), enforcement may be the most important element in the system. However, there is considerable feed back from the sanctioning process, which conditions the intensity and efficiency of the enforcement effort. This paper focuses on the processing-sanctioning-educational element of the control system, looking to the extent that executive agencies (ie motor vehicle departments) through administrative procedures can control the persistent drinking driver.

The problem encountered in processing impaired drivers through the lower courts in the U.S. are familiar to all those who have conducted research on the criminal justice system. There are significant delays between the offence and trial or disposition of DUI cases. Plea bargaining and pretrial diversion results in a conviction on a reduced charge which in turn avoids a drunk driving conviction on the driver record. "Mandatory" sentencing guide lines are often ignored and loss of license avoided or reduced in length or a hardship license provided (Ross, 1976). Required attendance at treatment programs is often avoided due to the limited staff available to the court to supervise those on probation. These problems have led to a national movement to persuade all 50 states to pass administrative license revocation laws which provide for immediate suspension of the license of drivers who refuse a BAC test or provide a result over the limit. This places the burden of action on an executive agency, the state motor vehicle department. Just how far can we take this model?

DMV Authority

Traditionally motor vehicle departments have had some limited powers to suspend the licenses of drivers with physical or mental disabilities. They have also suspended "problem" drivers based on high point counts or multiple serious offenses. The largest number of departmental suspensions however have been for financial responsibility. Many of these drivers are DUI offenders who can not afford the higher insurance rates which result from a DUI