



## **IMPLEMENTING AN INTERLOCK PROGRAM**

*prepared by*

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## 1 Introduction

On February 12, 2001, the first Australian Alcohol Ignition Interlock Program to be administered through the judicial system was launched in Queensland. Previous government trials of the use of Interlocks have been undertaken in South Australia and New South Wales and focused, primarily, on administration and technical issues to determine the viability of interlocks as a sentencing option. To date, South Australia is the only state that has Interlock-specific legislation while Victoria is currently drafting such legislation. The preferred program model in both states involves the transport authority as the entity responsible for program delivery/regulation.

In Queensland, the Interlock Program forms part of a probation order offered to repeat (drink-driving) offenders. Framed within existing provisions in the *Penalties and Sentences Act 1992*, the Interlock probation order (referred to as *Under the Limit 2*) has two components. The order requires the offender to (a) undertake a drink driving education course (*Under the Limit*) during the period of licence suspension and, on re-licensing, (b) drive only an Interlock-fitted vehicle for a period of time specified by the Magistrate.

*The Queensland Interlock program is a secondary prevention measure combining both a Case Management and a driver control approach. The Case Management component (involving Under the Limit and Community Corrections supervision) seeks to address offending attitudes and behaviour while the Interlock component operates as a control on driving behaviour. In addition, the Interlock component provides the offender with an opportunity to apply insights and strategies gained from the Under the Limit course to the driving context.*

Initially, the Queensland Program is restricted to specific courts in the greater Brisbane area while it is subject to a three-year process and outcome evaluation study conducted by Queensland University of Technology's Centre for Accident Research and Road Safety (CARRS-Q). Thus, Magistrates in certain South-East Queensland courts now have, in addition to the usual penalties of fines, license suspension and imprisonment, an additional option when sentencing a drink-driving offender.

To come this far in the implementation of a judicial Interlock Program, CARRS-Q has worked closely for over two years with a multi-sectoral team to develop the necessary frameworks and protocols. The team has included Dräger Australia Pty Ltd and the Motor Accident Insurance Commission as industry partners, a number of government agencies and statutory bodies (including Corrections, Transport, Police, Justice and Attorney General) and a peak motoring consumer

body (RACQ).<sup>1</sup> The breadth of collaboration reflects the scope of issues that need to be addressed in developing and implementing an Interlock Program.

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<sup>1</sup> This research was funded by the Australian Research Commission, over the 3 years 2000-2002, through a SPIRT grant to a research team led by Professor Mary Sheehan.

## 2 Program parameters

In developing the model for the Queensland Program, CARRS-Q and its partners used as a reference point a distillation of the main findings from overseas programs, primarily in the United States of America (U.S.) and Canada. In addition, CARRS-Q initiated a feasibility study in 1999 to determine the most appropriate Interlock program model at the time for the Queensland context.<sup>2</sup> The combined research highlighted a number of critical findings and planning decisions that would need to be addressed in developing and implementing an Interlock Program.<sup>3</sup>

### 2.1 Judicial or Administrative model for an Interlock Program

An important issue concerns the benefits of pursuing either a judicial (administered through the courts) model or an administrative (administered by the transport authority) model. In the judicial model, Magistrates would offer offenders a sentencing option that includes participation in an Interlock program. In an administrative model, the offender could apply to the transport authority (e.g. Queensland Transport) to enter the Interlock program either at the time of application for re-licensing or, as in the South Australian program, half way through their licence disqualification period. Discussion of the advantages and disadvantages of both models generally centres on issues of monitoring offender compliance and options for responding to non-compliance.

Certainly, any model which can optimise both the capacity to monitor offenders' Interlock performance and the range of options for responding to non-compliance would be preferable.

#### ***The Queensland Program:***

In order to capitalize on the advantages of both approaches, the Queensland model combines both direct court involvement and the licensing control afforded by a transport authority. The model draws on existing provisions under the *Penalties and Sentences Act (1992)* whereby Magistrates can issue Interlock probation orders to offenders. As an aspect of the ongoing supervision and support provided to an offender on a probation order, a Community Corrections Officer (CCO) would regularly monitor the offender's Interlock driving performance. Should the CCO determine the offender has violated the

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<sup>2</sup> Funded by the Australian Transport Safety Bureau and under the research leadership of Professor Mary Sheehan.

<sup>3</sup> Sheehan, M., Schonfeld, C., Watson, B., King, M., & Siskind, V. (2001). *Developing a model for a randomized trial of alcohol ignition interlocks in Queensland*. Brisbane, Australia, CARRS-Q.

conditions of his/her probation order, the matter can be returned to court for the Magistrate to determine the appropriate penalty, which may include amendment of the original order or an alternative sentence.

To further enhance the capacity to monitor offenders' Interlock driving, Queensland Transport will issue offenders on the Interlock order with an "I" (Interlock) code licence at point of re-licensing. The "I" code requires that the licensee drive only a vehicle fitted with an Interlock, drive only with a zero BAC level and carry a copy of the probation order when driving. The code is designed to assist police when they are performing road licence checks and random breath tests to monitor "I" code drivers' compliance with the conditions of their licence. In addition, as pointed out by the ICADTS Working Group on Interlocks, "driving a non-interlock car when an offender is required to use an interlock should be considered a violation as significant as driving while suspended" (2001, p.9).<sup>4</sup>

## 2.2 Optimising behaviour change

Consistent findings from overseas programs are that:

- a) during the period of Interlock driving, there are significant reductions in re-offending rates among program participants (40-95% lower than that of comparison groups); but that
- b) once the interlock is removed from the offender's vehicle re-offending rates return to that of a matched sample of offenders not participating in an Interlock program (Beirness, 2001 and ICADTS, 2001)<sup>5</sup>.

The latter finding suggests that there are no residual effects from use of the Interlock device in isolation in terms of behaviour change. In effect, the Interlock device operates as a secondary prevention measure in that it controls the behaviour of the offender. As Beirness (2001) points out, "Interlocks were never intended as a treatment for alcohol abuse...[and] therefore it should not be expected that installation and use of an interlock device will, by itself, prompt a change in the extent of alcohol consumption" (p. 17).<sup>6</sup>

However, early findings from an Alberta study indicate that offenders in an Interlock Program who regularly meet with a case manager record fewer high BAC fails than other offenders in the same Program who do not receive the

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<sup>4</sup> The ICADTS working group on Alcohol Interlocks (2001). *Alcohol Ignition Interlock Devices. 1: Position paper*. International Council on Alcohol, Drugs and Traffic Safety.

<sup>5</sup> Douglas J. Beirness (2001). *Best Practices for Alcohol Interlock Programs*. Ottawa, ON.: Traffic Injury Research Foundation.

<sup>6</sup> *Ibid.*

intervention (Marques et al., 1999)<sup>7</sup>. While no post-interlock data is yet to hand from this study, it would indicate that further gains are possible in reducing re-offending through the additive effect of a rehabilitation intervention alongside Interlock driving. In other words, it may be that the Interlock, when combined with rehabilitation intervention, provides the offender with an opportunity to “practice” behaviour change. If such change were to be sustained beyond the removal of the device, it would indicate that Interlocks could play a role in primary prevention measures.

### ***The Queensland Program:***

A definitive feature of the Queensland Interlock Program is the ability to couple a rehabilitation strategy with the Interlock driving as it is offered as a probation order. Prior to commencing Interlock driving, the offender is required to successfully complete an 11-week (16 1/2 hours) drink driving education course during the period of licence disqualification. Then, on re-licensing, the Community Corrections Officer supervising the offender would assist the offender to review his/her drinking and driving behaviour while driving with an Interlock licence.

To optimise the transfer of the rehabilitative effects of the *Under the Limit* to the offender’s driving behaviour, it was initially considered that an “ideal” model for an Interlock program would involve a standard minimum period of disqualification (that is, approximately six months) in which the education program would be completed. Given more serious offenders would normally receive a greater disqualification period, it was considered that a period of approximately two years on an Interlock licence, under probation order supervision, would offset any concerns that the sentence was “too soft”. Such predeterminations, however, would have involved lengthy legislative change processes. Ultimately, it was accepted that, until such changes could be wrought, Magistrates would have to continue to set disqualification and probation order periods within the current legislation, but that CARRS-Q would request Magistrates to use their discretion to consider issuing the minimum mandatory disqualification period.

## **2.3 Target audience**

Evaluation studies of overseas Interlock programs suggest that the effects of participating in an Interlock program on re-offending rates is similar for repeat offenders and first time offenders (Beirness, 2001)<sup>8</sup>. Further, researchers

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<sup>7</sup> Marques, P.R., Voas, R.B., Tippetts, A.S. and Beirness, D.J. (Dec 1999). Behavioral monitoring of DUI offenders with the alcohol interlock recorder. *Addiction*, Vol. 94, No.12, pp.1861-1870.

<sup>8</sup> *Ibid.*

advocate exclusion from an Interlock program should only be reserved for cases where an offender's operation of a motor vehicle is not recommended under any circumstances (Beirness, 2001)<sup>9</sup>. Irrespective of such recommendations, Magistrates tend to show a bias towards offering the Interlock program to repeat offenders with high BAC readings (Longest, 1999).<sup>10</sup> Indeed, for the past two decades in Australia, policy makers have proposed the use of Interlock devices as the most promising counter-measure to repeat offending by "hard core" offenders.

It is the contribution of the "hard core" group to road trauma that has guided the Queensland team in its considerations of appropriate target audiences. Approximately 30% of road crash fatalities in Australia involve drivers with illegal blood alcohol levels and almost three-quarters of these have three times the legal limit (Single and Rohol, 1997).<sup>11</sup> More significantly, research demonstrates that between 20 to 30% of apprehended drink drivers have previous drink driving convictions<sup>12</sup> and that this sub-group of drivers is disproportionately represented in crash statistics<sup>13</sup>. Research conducted in Central Queensland indicated that of 1,700 convicted drink drivers studied, 27% were a repeat offender and unlicensed driver at the time of the last offence.<sup>14</sup>

An additional argument in favour of a focus on high-risk drink drivers is that their recidivism rates can be reduced by a rehabilitative intervention. In the mid-90s, CARRS-Q was involved in the development, implementation and evaluation of the *Under the Limit* drink driving education course to be undertaken as a condition of a probation order. While, overall, the re-offending rates of drink driving offenders who completed the course was 15% lower compared to a

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<sup>9</sup> *Ibid.*

<sup>10</sup> Longest, D.L. (1999). Judicial and Administrative Ignition Interlock Programs in the United States. Proceedings of The Australasian Conference on Drug Strategy, Adelaide, Australia.

<sup>11</sup> Single, E. and Rohl, T. (1997). *The national drug strategy: Mapping the future. An evaluation of the national drug strategy 1993-1997*. Canberra, Australia: AGPS.

<sup>12</sup> Ryan, G.A., Ferrante, A., Loh, N., & Cercarelli, L.R. (1996). *Repeat Drink-Driving Offenders in Western Australia, 1984-1994*. (FORS Monograph CR168): Canberra, Australia.

<sup>13</sup> Hedlund, J., & Fell, J. (1995). Repeat offenders and persistent drinking drivers in the U.S. *Proceedings of the 13<sup>th</sup> International Conference on Alcohol, drugs and Traffic Safety, Adelaide*, 596-604.

<sup>14</sup> Siskind, V., Sheehan, M., Schonfeld, C. & Ferguson, M. (unpublished report). *The impact of the "Under the Limit Drink" Driving Rehabilitation Program on Traffic Safety: An outcome evaluation of "Under the Limit"* (ATSB Monograph CR 186). Canberra, Australia: Australian Transport Safety Bureau.

matched sample, it was 55% lower for those repeat offenders who had shown a high BAC (>0.15g/100ml) at the index offence.<sup>15</sup>

### ***The Queensland Program:***

The Queensland Interlock program is specifically aimed at the recidivist drink driving offender. However, given (a) there is no existing legislative provision for restricting this sentencing option to a particular category of offender and (b) the potential civil liberties issue of differential access to this sentencing option, it was determined that the Interlock probation order in Queensland should be, in principle, available to all drink driving offenders who held a valid, open licence at the time of their court appearance for the index offence.

## **2.4 User pays principle**

A central feature of most overseas Interlock programs is the user pay principle, which avoids placing a burden on public funds and is thought to remind offenders of their deeds and motivate them to change (Beirness, 2001)<sup>16</sup>. In some programs, offenders are also required to meet additional costs associated with appropriate insurance cover. Typically, Interlock only costs for an offender in North America are around US\$100-\$150 for installation and US\$65-\$90 per month for each program month (ICADTS, 2001).<sup>17</sup>

Under the judicial model, it is possible for judges in overseas programs to provide an incentive to offenders to participate by reducing or waiving the usual fines to offset the combined costs associated with the Interlock order. Nonetheless, the potential for low-income offenders to be excluded from taking up the Interlock option remains a vexed issue.

A point of interest, however, is the Swedish finding that even when indigent offenders are offered the Interlock at no cost and with no suspension time few offenders express an interest in the program (ICADTS, 2001)<sup>18</sup>. Obviously, more research into the offender's perception of the Interlock is needed to disentangle the relative contributions of prohibitive costs and attitudinal stance to the decision to take up an Interlock option.

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<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

### ***The Queensland Program:***

Consistent with other programs, the Queensland Interlock program has adopted the user pay principle without provision for subsidised participation. However, the cost structure is somewhat different to the overseas examples due to the combination of a rehabilitation component with the Interlock component. The offender will pay AU\$500 for the Under the Limit course, AU\$121 for Interlock installation and approximately AU\$40 per month for Interlock servicing (including data downloading and, some months, calibration). To offset the possibility that the total cost will discriminate against low-income offenders taking up the Interlock probation order, payments are made in installments and at point of service.

These figures do not represent the potential “true” costs of an Interlock program in the Queensland context, as the costs do not include a monthly device rental fee. While the Queensland program is the subject of a three-year evaluation, the device supplier has waived this fee for the offender.

The likely cost to the offender of an insurance premium is unknown at this stage. While it is not mandatory for the offender to have insurance cover (that is, other than CTP), they will be advised that should they seek additional cover it is their responsibility to disclose the Interlock condition of their licence. Industry advice was sought on possible impacts of such disclosures on premiums and indicated that there is currently no standard view among providers who would judge each case on its commercial merits.

## **2.5 Enhancing participation rates**

Typically, offender participation rates in overseas Interlock programs are low with less than 10% of eligible offenders taking up the option, although participation rates are substantially improved (62%) when Interlocks are offered as an alternative to other punishments such as house arrest or jail (Beirness, 2001; ICADTS, 2001)<sup>19</sup>. Predominantly, the incentive provided to offenders to participate in an Interlock program is the reduction in the period of licence disqualification.

Of further interest is the reported reluctance of judges/Magistrates to offer the Interlock, a factor that can severely delimit participation rates. Beirness (2001)<sup>20</sup> notes one example (e.g. California in 1997) where Interlocks were mandatory for repeat DWI offenders and yet less than 1 in 4 of those eligible were actually assigned to the program. Reasons cited by program administrators to explain the apparent reluctance of judges to assign offenders to Interlock programs include a lack of knowledge about such programs, their personal beliefs about

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<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

the effectiveness of such programs and their judgments about the appropriateness of the program for the individual's circumstances.

### ***The Queensland Program:***

It was considered appropriate to ask Magistrates to use their discretion in reducing the licence disqualification period to the mandatory minimum period as an incentive to participation and to waive or reduce the usual fine given the cost of the Interlock option to the offender (approximately \$965.00). Obviously, Magistrates retain the discretionary power to offer the Interlock order in combination with whatever penalties/sanctions they consider fit the severity of the offence and the offender's previous history. It is anticipated that the Interlock probation order will be particularly attractive to those drink driving offenders who are facing mandatory imprisonment. In such cases, the Magistrate has the discretion to reduce the period of imprisonment given legislation provides for imprisonment as a last resort.

Of central concern in the Queensland program is that Magistrates do support the program. As noted previously, the Chief Magistrate's office has been closely involved in the development of the program and has assisted in promoting the program through written communications and organisation of and/or support for a series of group briefing sessions for Magistrates and court Registrars. In addition, a follow-up briefing was conducted with Magistrates and Registrars, approximately four months after the launch of the program to gather views on the "workability" of the program. Ensuring the broader "court community" has a shared understanding of the purpose and objectives of the program has been of paramount concern for CARRS-Q and the Department of Corrective Services. A number of briefings have been provided for involving all those who work within each of the court settings involved in the program (e.g. Police Prosecutions officers, Legal Aid practitioners, Community Corrections Officers, court advisory workers, voluntary court support groups and other individuals).

## **2.6 Device quality standard**

Taken together, the advice from the ICADTS Working Group (2001)<sup>21</sup> and the Best Practice model by Beirness (2001)<sup>22</sup> describe state-of-the-art interlock technology as having the following characteristics:

- Fuel-cell technology which is superior in accurately sensing ethyl alcohol and has greater stability in calibration;
- Capacity for rolling re-tests;

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<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

- In-built data recorder;
- Tamper detection circuitry; and
- Driver recognition systems.

In choosing an appropriate device brand and one that meets criteria for admissible evidence in the Australian context, the definitive requirement is that the device should meet Australian Standards. Beirness (2001) reports that the Australian Standards differ considerably from those in the U.S. in being more stringent among other things.

***The Queensland Program:***

At the time when the Queensland program was developed, only one device available in Australia met the stringent Australian Standards. The device, manufactured and distributed by Dräger Australia Pty Ltd, combines the fuel cell technology with data recorder, tamper detection circuitry and capacity for rolling re-tests. The Dräger device also has a demonstrable track record with over 4000 currently in use in the field in the U.S.

### **3 Operational details**

#### **3.1 Eligibility assessment**

As noted earlier, the Interlock program is open to all drink driving offenders although the costs of the program is likely to make the option more “attractive” to those facing the more severe fines and licence suspension periods and, in some cases, imprisonment. However, notwithstanding the importance of the offender’s motivation to participate in the Program, entry to the Program is not automatic.

Prior to being offered an Interlock probation order, an offender must undergo a pre-sentencing assessment administered by a Community Corrections Officer to determine eligibility for the interlock. While the assessment considers information relating to home environment/relationships, previous substance abuse history and traffic/criminal history, there are five “gatekeeper questions” that tap the offender’s capacity to fulfil the conditions of the probation order. An offender must answer “Yes” to all five questions to be considered for the Interlock Program. The fifth question relates to the offender’s agreement to comply with all the conditions of the order and is contingent on the offender receiving a thorough explanation of the clauses in the Attached Schedule of the probation order.

#### **3.2 Probation order conditions**

The drafting of the schedule of conditions attached to the probation order (see Attachment 1) was, primarily, the responsibility of the Department of Corrective Services. However, as noted earlier, the Chief Magistrate’s office was closely involved in the development process. A couple of issues that posed significant concern to the Chief Magistrate’s office related to:

- a) a proposed contractual arrangement between the offender and Dräger to define the conditions of the supply of the device; and
- b) the ability to attribute violations of Interlock conditions to the offender if the use of the interlock vehicle was not restricted to the offender only.

The concern was that a probation order that required an offender to enter into a contractual arrangement with a commercial entity would be perceived as pressure applied by the court. One solution that was proposed involved the offender seeking independent legal advice on the terms of the contract and the legal advisor, in turn, providing a written statement that, in his/her view, the offender understood the terms of the contract. Only then would the presiding Magistrate offer the Interlock probation order. Both CARRS-Q and Dräger strongly believed this option would present a significant obstacle to offenders’ consideration of the attractiveness of the Interlock option. During this study phase of the Interlock Program, it has been agreed that the requirement for a contractual arrangement is to be suspended pending the results of the process evaluation, which is under way.

The Magistrate's concern with respect to the recorded test results was that, unless the offender was the only person using the Interlock fitted vehicle, the court could not attribute any recorded violations to the offender. CARRS-Q believed that restriction of the use of the Interlock fitted vehicle would discriminate against those offenders wanting to enter the Program who, for a myriad of reasons, did not have sole use of a vehicle. In addition, such a restriction was not consistent with programs elsewhere in the world. The Interlock condition that was eventually acceptable to the Magistrate was that the offender would agree to take responsibility for all tests recorded and ensure that anyone driving the vehicle was alcohol-free.

### 3.3 Device parameters

A number of decisions were involved in determining the appropriate device operating system for the Queensland context. Of paramount importance in any decisions was the goal of public safety although it was also recognised that the operating system needed to be mindful of the safety of the individual Interlock driver (offender or family member of friend).

The main decisions included:

- The pre-set BAC level  
Typically, an offender who has completed their licence disqualification period and applies for re-licensing would be issued with the same licence held at the time of the offence. If an offender held an open licence the permissible BAC level when driving would be .05. However, as a component of a probation order, it is possible for the court to impose conditions, which it considers necessary to prevent the offender from repeating their crime. Thus, a zero BAC is a further attempt to break the nexus between drinking and driving.
- The time delay before an attempt to start a vehicle following a failed first attempt could be made.

A failed first attempt would involve the driver testing above a zero BAC. While the vehicle cannot be started in this case, it is usual to apply a negative behaviour reinforcer at that point by preventing the vehicle from starting for a certain period of time. A concern was to find a balance between public safety (controlling the drink driver), individual driver safety (not "stranding" the driver in an unsafe situation for long periods and placing him/her at risk) and applying negative behaviour reinforcement. It was decided that the first time delay should be five minutes and thereafter 20 minutes following each failure.

- Timing of the rolling re-test  
The decision was taken to adopt a parameter consistent with overseas programs, that is, the first test required at some random point within 5-15

minutes of starting the journey and again, at some random point, every 15-45 minute period thereafter.

- Re-start time and time to provide sample.

Overseas programs vary in the time allowed, after the ignition is switched off, to re-start the vehicle without presentation of another breath sample. As well, programs vary in the amount of time allowed to present a sample on a rolling re-test. Based on their experience, the supplier advised that the re-start time should be of such a length that it allowed for situations such as re-fuelling or visiting an ATM.

In terms of the re-test breath sample, the main concern was that the driver should have time to pull the vehicle over to a safe place (without switching off the ignition) to provide the sample. The time allowed would need to accommodate the driver being in a traffic jam or on a causeway (such as a bridge) which did not allow for pulling over.

The decision was to allow, in each case, a five minute window which is more generous than some overseas programs.

- The number of failed attempts constituting a major failure.

Overseas programs indicate that many offenders' tests results display a learning curve in the first month in that the number of failed attempts to start the vehicle (due to a non-zero BAC) shows a tapering off pattern. Each such attempt results in a temporary lockout. The device provides for a specification of how many such lockouts will be tolerated before the offender is considered to have committed a major failure and be in breach of probation conditions. However, the number of lockouts considered a major failure needs to accommodate the fact that the vehicle is likely to be driven by others as well and they will need to adjust to the zero BAC requirement. Thus the number of lockouts constituting a major failure needs to be a balance between accommodating "learning" and appropriately responding to non-compliance. It was considered that 60 attempts would be tolerated in the first month before a service recall was required followed by notification to the Community Corrections Officer. However, it was decided that in each offender's case, it might be possible to reduce the figure from 60 lockouts if the offender was demonstrating "learning". A pattern of non-compliance in the first month would, of course, be the subject of the offender's case management.

In terms of failed re-tests or attempts to tamper with/circumvent the device, all instances are considered to be a major failure resulting in a service recall and notification to the Community Corrections Officer. The matter would then be returned to court to allow the Magistrate to decide if the offender should continue on the order or be given alternative sentencing.

- The type of alarm following a failed rolling re-test.

Project team members, and in particular the Police representatives, considered the activation of a horn following a failed rolling re-test would place the driver at risk. For example, a horn could be distracting for the driver and other drivers around him or her, particularly in a high speed, heavy traffic situation. As well, it was thought that a horn would attract unnecessary attention to the driver that could possibly result in being he/she being victimised by other drivers who might be aware that the horn signified an Interlock condition. The decision was to opt for flashing lights as the alarm. While less distracting to the driver and others on the road, it is illegal in Queensland to drive with flashing lights and would signal to any Police in the vicinity that something was remiss.

- The service period (data downloading and, sometimes calibration) and service recall

It was considered that data downloading from the device recorders should occur each month for all offenders for the first three months. If the offender were considered to be complying with the conditions of the probation order after three months, the service period would then be extended to three-month intervals.

In the event of a major failure, the device will indicate that the offender is required for a service recall. Major failure may be due to reaching the maximum number of lockouts allowed, failure to provide a breath sample for a rolling re-test, failure of a rolling re-test or tampering with device. The offender is allowed five days to present for a service before the vehicle will completely lockout. Should the five days be exceeded and the vehicle lockout occurs, the offender will need to meet the costs of having the vehicle attended by a technician.

- The grace period for attending a service

In a number of overseas programs, the grace period after the service period has expired is four days to allow for long-weekends when service facilities may not be available or geographic distance from a service centre. In the Queensland case, a five day grace period was chosen to accommodate the four day long weekend which essentially means a driver could not access a service centre from, for example, a Thursday evening through to a Tuesday morning, that is, the fifth day.

As with all aspects of the program, this procedure will be subject to constant monitoring and its efficacy and appropriateness formally reviewed at the end of the three-year study.

## 3.4 Offender management issues

### 3.4.1 Inter-agency protocols

The collaboration of both Queensland Police and Queensland Transport is required to ensure the offender is issued with an “I” code at the point of re-licensing. At the point of sentencing, Police Prosecutors note on their usual court outcomes proforma (QP9) that the offender requires an Interlock licence. All QP9 information relating to drink driving convictions is communicated by the Police Offender Information Branch to Queensland Transport. Where the QP9 contains a notation relating to the Interlock, Queensland Transport will, in turn, include a text flag entry beside the offender’s name on the licence data base. This flag will act as a cue to Customer Service Centre staff that the person must be issued with an “I” code licence at point of application for re-licensing.

At successful completion of the Interlock probation order, it is the responsibility of the offender when re-applying for an open licence to present official documentation from his/her Community Corrections supervisory indicating successful completion of their probation order. Only on presentation of such information will the text flag be removed from the offender’s entry in the data-base.

### 3.4.2 Performance monitoring

Offender performance on the probation order is monitored via a combination of factors. For example, the offender is subject to the standard Community Corrections case management process and requirements. The case management process includes supervision of the two rehabilitation components of the Interlock probation order, that is, the successful completion of the *Under the Limit* education program and compliance with the Interlock driving conditions.

When the offender receives his/her probation order they are admitted and inducted into an individual case management plan. The conditions and requirements of the order are explained to the offender, as is his/her rights and the consequences of non-compliance with the conditions of the order. Non-compliance, or a breach, may result in an administrative warning or court action against the offender. A successfully prosecuted breach in Court may see the offender re-sentenced for his/her original offences.

Compliance with the Interlock driving conditions is primarily monitored by the data logger. During the first three months of an Interlock being fitted, the participant is required to attend the Dräger service centre once per month to have data downloaded. At downloading, the data is sent immediately to Community Corrections in a summary form with exception reporting included thus ensuring incidents of non-compliance are dealt with in a timely manner. Obviously, if the offender has registered a violation the service call will pre-empt the usual month but the same reporting protocols will be followed.

The “I” code licence also represents a performance management strategy, primarily monitored by Police, albeit “opportunistically” through the course of road-side licence checks and random breath tests. If a police officer deems the “I” code licensee is not complying with the licence conditions, he/she will respond by i) issuing a ticket and ii) contacting the Program Coordinator to advise of a breach of the probation order.

## 4 Challenges to date

### 4.1 The required period of disqualification

A current debate centers on the utility of the licence disqualification period as a component of an Interlock program (ICADTS, 2001)<sup>23</sup>. Suspension is intended to deter the defendant from any immediate driving and thus lessen the opportunity for drink-driving re-offending. Australian data would suggest that similar to the U.S., a large proportion of disqualified drivers will continue to drive and to drink drive. Many drink driving offenders report that they continually offend without apprehension (Ross, 1992; Voas, Tippetts & Lange, 1997) and that they drive unlicensed (Watson, 1998<sup>24</sup>). The ICADTS report (2001)<sup>25</sup> notes that the highest number of DWI offences occurs in the period immediately following a prior DWI and is an argument in favour of rapid installation of an Interlock.

As an incentive to offenders to accept an Interlock probation order, the ideal scenario would be that the licence disqualification period be reduced as much as appropriately possible. However, given mandatory minimum disqualification periods are required in the Queensland context and these minima vary according to severity of offence, the result is considerable variation in the disqualification periods for those offenders currently on the Interlock probation order. Of the 20 participants currently in the Queensland program, the average period of disqualification is 12 months with the shortest period 2 months and the longest period 24 months (i.e. the participant has received what is termed an absolute disqualification). For example, one participant received a three year probation order, was disqualified absolutely (two years) and has been ordered to have the Interlock device fitted for 11 months. It is not known what effect these long delays between conviction and the prospect of driving with an Interlock will have on the motivation of the offender to comply with the conditions of the order both during the disqualification period and when re-licensed.

Given the strength of many offenders' motivation to continue driving even when disqualified, a better argument from a public safety perspective is to (a) optimise the opportunity for controlling that driving within the legitimate system and (b) coupling that opportunity with as great an incentive as possible (see the ICADTS report for a discussion of this issue).<sup>26</sup> The option of waiving the licence disqualification period in exchange for driving an Interlock-fitted vehicle would

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<sup>23</sup> *Ibid.*

<sup>24</sup> Watson, B. The effectiveness of drink driving licence actions, remedial programs and vehicle-based sanctions. *Proceedings of the 19<sup>th</sup> ARRB Conference*, Sydney, Australia.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

appear to address both these conditions. As Beirness (2001) states, "Interlocks allow offenders to operate legitimately within the driver licensing system while at the same time providing the public with the assurance that offenders will only be able to drive when sober." (p.4)<sup>27</sup>.

## 4.2 Participation rates

After approximately eight months of operation, the accrual rate is just over two offenders per month into the Program. An obvious explanation is that there is a very low proportion of offenders before court who are appearing on drink driving offences that are "severe enough" to attract a fine comparable to the costs of the Interlock probation order. To explore this possibility, observations were undertaken in one courtroom over a three-week period at the largest metropolitan court. Of the 32 drink-driving convictions observed, only 3 offenders received fines equal to or greater than \$900.00. Of real interest is that the Interlock Program and the *Under the Limit* Education Program were not mentioned by the Magistrate in any of the 32 cases. More surprising, however, was the case of the offender who asked the Magistrate if there was a course he could undertake. The response was in the negative and, instead, he received a sentence including a \$900.00 fine and 11 months suspension.

The extent to which such programs are actively promoted and supported by Government may be critical. For example, the Quebec government, Canada, uses a mix of promotional and incentive measures to encourage take-up of the Interlock program. Measures include personal correspondence with offenders, media dissemination, accessibility of installation facilities across the Province and a default incentive to opt for the Interlock program by applying vehicle impoundment to those who drive while suspended (ICADTS, 2001). Notwithstanding the scale of communications with the Magistracy, court and legal community to date, still much more work is needed.

## 4.3 Participant reactions

At the time of writing this report, 15 of the 20 Interlock participants have been interviewed prior to commencing the *Under the Limit* course by a project team researcher. As well as collecting socio-demographic information, the interviews tap the offenders' attitudes and intentions towards drinking, drink driving and the Interlock sentencing option. The aim of this initial interview and others to be conducted both during and following the Interlock probation order is to assess participants' perceptions of the effectiveness or convenience of the device in comparison to traditional legal sanctions and the impact of Interlocks on their lifestyles. Such information will make a valuable contribution to the ability to

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<sup>27</sup> *Ibid.*

identify candidates who are most likely to complete or breach an Interlock order and provide information on the psychological and/or behavioural characteristics associated with re-offending.

What we do know to date of the offenders on the Interlock probation order is that they are predominantly male and single, range in age from 25 to 54 years, left school after completing grade 10 but represent equally blue- and white-collar occupations and vary considerably in their reported income. They seem to be aware of their drink driving patterns reporting, on average, to be around 17 years of age when they first drove with an illegal BAC level. Half of the sample also report repeating this behaviour more than 10 times in their lifetime while half also admit to regularly driving with an illegal BAC level in the six months prior to their apprehension. Finally, approximately half the sample reported that they were regular passengers in vehicles when they knew that the driver was over the legal BAC limit. The data would suggest that for many offenders their drinking and driving is a lifestyle issue and embedded in a culture that supports such behaviour.

In relation to participants' drinking habits, more than half the sample are classified as having harmful alcohol consumption levels (as measured by the AUDIT) whilst another two are currently attempting to abstain whilst attending alcohol treatment programs. Approximately half the sample claim they are actively trying to reduce their alcohol consumption levels which is encouraging considering that most convicted offenders are not willing to change their drinking behaviour (Wells-Parker et al, 1998; Wells-Parker et al., 2000). Ironically, the majority of offenders believe that they can safely operate a vehicle when they are above the legal BAC limit (e.g. more than 2 standard drinks per hour) and three participants believed that they would probably drink and drive again at some time in the future.

Only one participant reported that he intended to drive during the disqualification period. It is likely, however, that most offenders would not admit to an intention to drive unlicensed. On the other hand, it may be that receiving a reduced period of licence disqualification encourages an intention in the offender not to drive unlicensed.

The majority of participants volunteered to enrol in the interlock trial, with most reporting that they would benefit from the probation order by avoiding a larger penalty such as longer licence disqualification periods. Not surprisingly, participants believed that the penalty was fair.

Finally, the majority of participants believe, at this early stage in their order and pre-licensing, that interlocks will be an effective countermeasure to reduce drink driving. Given 14 of the 15 participants claim they are motivated to change their drink driving behaviours and admit to currently employing strategies to avoid further offences, these predispositions may be a critical mediating variable between later Interlock driving and compliance.

Taken together, these interviews indicate that we have a group of people who have high alcohol consumption habits that they claim they are attempting to

reduce. As well, many believe they have control over their decisions about drinking and driving and that experience with the interlock will assist them to avoid a drink driving habit. In the absence of data from other programs which combine the Interlock with a rehabilitation program and given the early stage of this program, it would be speculative to make any predictions about likely compliance of this sample. Of interest is that more than half the sample were motivated to go on the Interlock order to avoid a larger penalty as much as to address their drink driving habits. We do not know at this point whether the nature of the reasons (e.g. avoid harsher penalties, control one's behaviour) for accepting an Interlock order will affect compliance.

## 5 Prospects for “Best Practice”

The development of an international knowledge base on the performance of Interlocks as an effective drink driving countermeasure is now robust enough for some researchers to be proposing elements of a Best Practice model (Beirness, 2001)<sup>28</sup>. While a Best Practice profile did not exist at the time of development of the Queensland program, it is satisfying to see that many of the Best Practice elements are present in the program nonetheless. In particular, the Queensland program does have clear support and/or involvement from the Minister for Transport, the Chief Magistrate and a number of critical government departments (e.g. Corrective Services, Transport, Police and Justice). It is recognised that there is certainly room for continued efforts to build understanding and support among those who actually administer the program. It is also one of the few programs that integrates Interlock driving with other offender programs, in particular rehabilitation and case management support.

As recommended, there is an existing, clear legislative framework within which the Interlock program is being provided although the three-year study of the program will be focused on testing the “workability” of that legislative framework. As well, consideration is currently being given in Queensland to the option of mandatory Interlock installation with a “work licence”, a restricted licence for convicted drink drivers who fit certain offence history criteria. It may be that, similar to South Australia, Queensland will find the need to develop a separate piece of legislation that caters for a number of Interlock options. At that point, the benefits of voluntary versus mandatory options also need to be considered.

The device quality is beyond question as is the professional reputation and competence of the supplier involved. Consistent with the recommendation of the Best Practice profile that as many DWI offenders as possible be included in Interlock programs, the Queensland program is, in principle, available to all drink driving offenders. However, it is accepted that, as elsewhere, associated costs would make the option less attractive to those with less severe offences and on low-incomes.

While the Best Practice profile recommends the authority for the Interlock program reside with the transport authority, the project team believes the Queensland program provides the advantages afforded by both a judicial and administrative model. On an Interlock probation order, the offender can be monitored regularly and consistently and issues of non-compliance can be dealt with via a number of court ordered options. As well, the issue by Queensland

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<sup>28</sup> *Ibid.*

Transport of an “I” code driver licence for Interlock participants affords an additional monitoring capability on the road.

In terms of program duration being linked to performance on the Interlock, the Queensland program partially allows for such a scenario, albeit by default. If an offender was considered to have committed a major breach of the probation order, the matter is referred to the court for reconsideration of his/her sentence. The Magistrate has the discretion to extend the Interlock probation conditions, thus keeping the offender in the program. However, as there is no legislative provision determining the treatment of continued non-compliance it is unclear whether Magistrates would continue to extend the Interlock order until the offender demonstrated acceptable standards of driving behaviour. Once again, the management of this scenario can be studied over the next three years.

## 6 Conclusion

There are estimated to be approximately 15,000 Interlock devices currently in use throughout the U.S.A. and Canada (Beirness, 2001)<sup>29</sup> while Queensland currently has 20 offenders under Interlock probation orders. Clearly, at this very early phase in the Queensland Program no meaningful comparisons with overseas models can be made nor attempts to paint an Australian, or even a Queensland experience. Notwithstanding such limitations there are some significant lessons already gained from the Queensland example in terms of implementation issues that are worthy of highlighting and communicating to colleagues, in both the Interlock research and practice fields.

### ***Acknowledgements***

Comments on this paper from Cynthia Schonfeld and advice from Barry Watson are much appreciated.

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<sup>29</sup> *Ibid.*

## **ATTACHMENT 1**

### **Interlock Probation Order Attached Schedule**

**Under the Limit 2 Program Schedule**

**Failure to comply with any of the requirements of this schedule will constitute a contravention of the Probation Order**

The Magistrate will advise you of the length of licence disqualification at sentencing.

The requirements of this Probation Order are that you must:

- i) satisfactorily participate in and complete the *Under the Limit 1 Program* by the expiry of the disqualification period as directed by an authorised corrective services officer;
- ii) pay \$500 to the Registrar/Clerk of the Court at the ..... Magistrates Court in such amounts so that \$250 is to be paid prior to commencing the *Under the Limit 1 Program* and \$250 to be paid prior to the completion of the *Under the Limit 1 Program*;
- iii) obtain a Probationary Licence and have an approved Alcohol Ignition Interlock Device fitted to a motor vehicle nominated by you within one month after the expiry date of the disqualification period;
- iv) drive only the nominated vehicle/s with an approved Alcohol Ignition Interlock Device fitted during the period up to and including ..... once a Probationary licence has been obtained and carry a copy of the Probation Order and Schedule with you at all times when driving;
- v) use the approved Alcohol Ignition Interlock Device fitted to the nominated vehicle/s in accordance with the manufacturer's instructions;
- vi) not interfere with the normal operation of the approved Alcohol Ignition Interlock Device or intentionally damage the approved Alcohol Ignition Interlock Device in any way;
- vii) not drive or attempt to drive a vehicle fitted with an approved Alcohol Ignition Interlock Device with a blood alcohol concentration exceeding 0.00%;
- viii) be responsible for all tests registered by the approved Alcohol Ignition Interlock Device data recorder and therefore make sure that not only you, but anyone else driving the vehicle is free from alcohol;
- ix) pay the associated fees for installation, maintenance, service and removal of the approved Alcohol Ignition Interlock Device as well as any costs associated with repair or callouts, other than those due to malfunction of the device, to the supplier of the device as directed by an authorised corrective services officer;
- x) seek approval from an authorised corrective services officer to have an approved Alcohol Ignition Interlock Device installed in a vehicle/s other than the vehicle nominated in accordance with iii) above;
- xi) report any malfunctions of the approved Alcohol Ignition Interlock Device to the supplier within 2 business days;
- xii) comply with the approved Alcohol Ignition Interlock Device's servicing schedule as directed by the court or an authorised corrective services officer;
- xiii) notify an authorised corrective services officer within 2 business days of any non-scheduled service requirement indicated by the approved Alcohol Ignition Interlock Device.

I ..... have read and understood the requirements of the *Under the Limit 2 Program* outlined in this schedule. I understand that, should I agree to the Magistrate making a Probation Order with the special requirement that I undertake and pay costs of the *Under the Limit 2 Program*, this schedule will be attached to and form part of the Probation Order with the addition of the date in requirement iv) which will be nominated by the magistrate at sentencing.

Name:.....

Witness:.....

Signed:.....

Signed:.....

Date:.....

Date:.....