

Critical Overview of Alcohol Ignition Interlock Programs in Australia

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Background.

The combination of alcohol and driving is a major health and economic burden to the community. Drink driving remains a serious threat to public safety that results in injuries, fatalities and property damage. An array of rehabilitative and vehicle-based sanctions are currently being implemented around the world in an attempt to reduce the prevalence of convicted drink drivers continuing to re-offend after being sanctioned. One type of vehicle-based sanction that is becoming increasingly used in a number of jurisdictions to reduce recidivist drink driving is the breath alcohol ignition interlock device (interlock). Interlocks have been commercially available to road users for over ten years. In 2001, approximately 65,000 interlocks were in use in the United States with 38 North American States having enacted interlock legislation.

In Australia, interlocks were initially viewed with considerable enthusiasm by the relevant experts^[1] and national standards were established for both the device and the model for implementation^[2]. The Australian standard was revised in 1993 and there are now several manufacturers producing interlocks that meet that standard. For a variety of reasons the standards did not simplify or facilitate the development of research into interlock programs in an Australian legal setting so that it wasn't until the Queensland trial¹ commenced in 2001 that court-based implementation was introduced.

There are a number of reasons that appear to have contributed to the delay in implementing interlocks in the Australian justice system. Among the most serious of these are the following implementation and methodological concerns:

- Evaluation issues including small sample sizes in early studies and perceived difficulties attracting larger numbers of participants, short follow-up periods in all studies to date, biases introduced by the self-selection, or court-selection of program participants^[3]^[4];
- Concerns about the legal outcomes of compliance failures and the possible vulnerability of the machines to tampering;
- Cost of machines to participants, which is high for the typical Australian recidivist offender. An examination of data from the USA and Canadian trials suggests that these programs have been differentially taken up by persons of higher economic status who are employed and eligible for "work licences". In Australia these licences are only available to first offenders and typically this has not been the offenders who have been considered the appropriate target group.
- Reluctance to modify the current loss of licence provisions which have strong established validity as a means of reducing [though by no means stopping] recidivism^[5]
- The evidence from earlier international studies^[6] that interlocks were only significantly effective in reducing recidivism whilst they were installed and that recidivism rates were no different to those of control groups in the period after they were taken off the offenders' vehicle;
- Confounding in the methodology underlying some of the overseas evaluations which arises from the fact that the persons on the interlock may be experiencing shorter periods of licence disqualification than the control groups who are on the routine disqualification time. The impact of this on the post interlock traffic offence data needs to be taken into account and is difficult to assess with small numbers^[7];
- The practical issues of determining relevant departmental or other agency responsibility for maintenance of the interlocks and for monitoring the data log on use and possible abuse;
- A lack of community and importantly, magistrate awareness of interlocks and their potential for reducing serious recidivist drink driving offences;
- Problems of passenger safety in a potentially disabled vehicle; and
- Issues of perceived fairness for other family members who may be dependent on the vehicle.

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Progress in Australian states.

An early Victorian trial proposed for interlocks for repeat, high range BAC offenders experienced a variety of difficulties ^[8] and was never implemented. However, legislation was subsequently passed in Victoria in 2002. An earlier trial in South Australia ^[9] was based on a very small sample of non-offending community volunteers, and court mandated implementation commenced in July 2001. New South Wales (NSW) also conducted a small trial program with community volunteers who had a previous drink driving conviction ^[10] and subsequently introduced legislation in 2002. In 2003, Western Australian commissioned a report to Government to advise on legislation which was directed towards developing the most effective use of the devices and their proposed model is the most radical, in that an interlock licence would be available only one month after the drink driving conviction, and the full disqualification period would not be lengthened unless there was evidence of non-compliance while driving with the interlock. Queensland has recently (2001-2003) conducted a trial of interlocks with offenders allocated to the program through randomly selected trial or intervention courts, and compared with offenders in selected control courts. This trial was restricted to the South East corner of the state for logistical reasons, and was conducted by an inter-sectoral research committee led by our university research team and included representatives from the relevant state government departments. The Queensland government is now reviewing drink driving legislation including the possible introduction of interlock specific legislation.

There has been a workshop on interlocks run in association with the Road Safety Research Policing and Education Conference for each of the three years 2001-2003, and this has given an opportunity for stakeholders from all states to exchange information and progress the introduction of the devices in Australia. All Australian states endorsed the introduction of interlock programs in the National Road Safety Action Plan 2001/02.

Australian geography – the issue of distance.

The size and population distribution of Australia presents a further layer of difficulty for implementing any sequential rehabilitation programs for offenders. A quick comparison shows that for example, Great Britain can be squeezed into the state of Queensland six times, but the population is approximately 15 times that of Queensland. This has obvious implications for the logistics of providing programs of any sort, but particularly drink driving programs (where participants are disqualified from driving) that are accessible to everyone. It can also be argued that the effects of being disqualified from driving are far more severe for people living in remote areas where the offender and the offender's family are dependent on the availability of the car for both their livelihood and social existence. While a distance education option for rehabilitation /education programs can accommodate the accessibility issue for such programs, the introduction of interlocks and the accessibility to a service provider presents another problem if introducing mandatory legislation - a problem from the perspective of the offender who has to be able to reach the service provider throughout the period of interlock usage, and a problem from the provider's perspective of being able to service these offenders at no additional cost.

Models of implementation.

The models considered or introduced in the various states have a range of options. The major variations between the models are related to whether participation is voluntary or mandatory, whether the implementation is based on a judicial model or administrative model, whether use of an interlock is linked to licence disqualification or licence renewal, what modifications to the period of licence disqualification are incorporated, and the costs and how they have been accommodated.

Voluntary vs mandatory requirement. The two major issues here are: a) very low participation rates where the interlock is optional and b) equity, particularly in the context of geographical distance described earlier in this paper. Two states where legislation has been introduced (South Australia and Victoria) have interlock usage as a mandatory requirement for repeat offenders, although some vehicle types are excluded eg motorcycles. The legislation in NSW and that proposed for Western Australia have a voluntary model.

Judicial vs administrative model. Experiences in the Queensland trial indicate that monitoring and support of offenders in an interlock program is critical to successful outcomes. Supervision serves a number of purposes including: (a) ensuring participants adequately and regularly use the device, as additional services can be provided for individuals experiencing operational difficulties, (b) downloaded interlock data can be reviewed with feedback provided to participants regarding performance, and importantly, discrepancies between self reported and interlock data can be investigated to increase awareness ^[11] ^[12]. As a result of this process, referrals can be made for alcohol dependent individuals, and appropriate action undertaken

when numerous interlock breaches are observed e.g., warnings or sanctions ^[13]. Close monitoring of offenders in the Queensland trial highlighted the need for supervision to keep offenders “on track” and to ascertain when they were improving their performance or needed assistance to overcome difficulties. The offenders who ultimately participated in the trial were hard core repeat offenders who had shown no change in their drink driving behaviour under previous penalties, and were always going to be a difficult group to achieve the desired outcome. The legislation in other states generally targets similar offenders. Having the program operate under a judicial model lends itself to probationary or similar supervision orders through the courts, whereas an administrative model would probably not be able to accommodate this role. A feature of an administrative model is the removal of any discretionary power so that all offenders are treated uniformly within the legislation.

Period of licence disqualification. There are two core issues here. The first is related to the use of the interlock as a sentencing option for those people who are licensed at the time of conviction. There is agreement that the current situation of an extensive period of licence loss prior to access to the interlock works against its adoption. The preferred option proposed for the Queensland trial was to significantly reduce the period of disqualification so that offenders would be encouraged to take the interlock option and start driving with an interlock in a minimum time after completion of the rehabilitation program, but then be required to have the interlock installed for a period considerably longer than the normal period of licence disqualification. However the legislation could not be changed at the time of the trial, and the only concession for participants was being given the mandatory minimum period of disqualification, which in most cases was approximately 9 months. The proposed legislation for Western Australia specifies only one month’s disqualification prior to having an interlock licence, and with the overall period of disqualification being lengthened only if the offender does not comply with the interlock requirements. NSW and South Australia have some degree of reduced licence disqualification prior to an extended period of driving with an interlock, while in Victoria the period of time with an interlock is **in addition** to the previous disqualification period, which must be completed prior to the installation of the interlock.

The Victorian model in which it is mandatory for re-licensing remains to be tested, although feedback from some of the stakeholders in the review process ^[14] indicated a concern that this model could contribute to increased levels of unlicensed driving – possibly because the length of time the offender is outside the licensing system is so long, and the effort of having the assessments and completing the drink driving program may be considered by some to be too onerous and it is feared they may just not bother to become re-licensed.

The second core issue of its use in the context of sentencing a recidivist offender who is unlicensed at the time of the offence. This has not been treated specifically in any of the models proposed in Australia to date, with the exception of Western Australia. The Western Australian report on drink driving ^[15] recommended that the Western Australian program should provide opportunities for recidivist offenders to install an interlock in circumstances where they are unlicensed at the time of the offence. “We have developed guiding principles that underpin the program and through these will, wherever possible, seek to keep offenders operating within a system of legal control and limit the number that drive unlicensed. As you know, the literature suggests that a sizeable proportion of offenders continue to drive while under disqualification and that interlocks are more effective in reducing drink driving than licence actions alone. This would suggest that interlocks should be integrated with licence actions and that drink driving offenders should participate in interlocks schemes as soon as possible after a drink driving offence” ^[16].

Cost. There appears to be consensus across most states that provisions will need to be made to meet the costs of the device and its management if it is to be available as an option for the general population of offenders. There was a degree of agreement that public subsidies should be available and the Victorian, South Australian and NSW models which provide subsidies for low income earners appear to be generally accepted. The Western Australian model proposes similar subsidies. In the Queensland trial in the first year, of the 99 offenders who were sent for assessment by the magistrate and who were deemed to be not able to participate in the program, 70% gave the cost as their reason for not participating.

An interesting comment that received general approval from attendees at the Sydney workshop ^[17] was ‘the community has the gain from interlocks and should pay the cost’. This is a message that might need selling.

Recruitment. The very low accrual rates are clear evidence that interlocks currently only reach a very small minority of those who could and should use them. Our own figures from only six courts in the South East Queensland region suggest a modestly higher take up rate than those reported for the whole of South Australia which were 130 participants over the first two years or 1% of eligible persons. Victoria, where the program began in May 2002, seems to be having greater success, with 145 offenders already on an interlock program, and 100 of these having had the interlock installed. Ten of these have completed their time on the

program. NSW passed legislation in 2002, and has only 32 referrals to date, with two of these having the device installed.

Melanie Hands^[18], reporting on most recent literature from the USA, indicated that this level of take up was the common experience there and that the only courts reporting more than 50% take up were those that had interlocks as mandatory alternative to jail sentences.

Knowledge and acceptance by magistrates (perceptions of effectiveness, circumvention, costs). Our experience in the Queensland trial was that providing magistrates with detailed information about interlock features is critical to their acceptance of the devices as a sentencing option. Of particular importance was their perceptions about reliability and circumvention. They were also concerned about the cost to offenders, as they recognised that the target group of repeat offenders were likely to be in poor financial circumstances. Feedback from Victorian magistrates during the RACV review of their programs indicated very similar views.

Outcomes/evaluation.

There is no long term data on a large group of Australian offenders however there now is acceptance among the road safety professionals who are active in this area that the interlock device is an effective device in preventing drink driving of the vehicles that have it installed. The Queensland trial aimed to test whether the effectiveness of having an interlock installed was enhanced and extended beyond the installation period when it was strongly linked to a substantial drink driving rehabilitation/education program. Because of the small number of offenders recruited to the trial (n=46), the current follow-up data on re-offence rates will have limited generalisability. However the doctoral study that was completed as part of the trial provided good qualitative data on the experiences of offenders and gives insights into the processes required to achieve meaningful behaviour change, especially with regard to management of offenders alcohol problems and readiness to change.

Management of the offender's alcohol problem. The need to include an alcohol treatment or at least screening test in any implementation was acknowledged at the Sydney workshop^[19]. Different solutions are being pursued by the different states. Victoria is staying with its current education program in association with screening tests and referral. The impression given at the Sydney workshop was that this is not considered to be very effective either in outcome or process by most commentators including magistrates, and these views were confirmed by some stakeholders in the subsequent review of the drink driving program in Victoria^[20]. The NSW model requires offenders to provide evidence that they have attended their family doctor for a discussion and brief intervention for alcohol management. The model being followed for that brief intervention has been trialed in hospitals^[21] and with family doctors in the state and is therefore widely accessible. The same brief intervention is used in Queensland's "Under the Limit" drink driving rehabilitation program^[22] but is adapted less explicitly as a group intervention with associated diary completion. Data from the Queensland trial demonstrated that a considerable proportion of repeat offenders consumed harmful levels of alcohol. While both the UTL program and interlock operation had a positive influence on motivations to change drinking, a large percentage continued to consume substantial quantities of alcohol after successfully completing the interventions. Popular countermeasures such as sanctioning offenders and traditional education-based drink driving programs may not elicit the necessary motivation and provide the necessary treatment for some offenders to break the drinking cycle^[23]. Severe punishments will always remain crucial to maintaining public confidence in the criminal system^[24] but there is also a need to look beyond sanctions and punishment to alternative theories such as the public health model and consider the underlying causes of the offending behaviour. The results of the Queensland trial suggest that there is a need for those who present signs of alcohol dependency to receive appropriate treatment^[25]. This approach focuses on resolving the underlying addiction that directly influences the behaviour, rather than solely relying on traditional punitive approaches^[26]. Not all habitual offenders will prove to be alcohol dependent, but those who demonstrate or report a history of heavy alcohol consumption may require treatment, in addition to punishment, to enhance the possibility of long-term change^[27]^[28]. The increasingly popular practice of placing repeat offenders on a probation order facilitates the assessment of drinking problems and referral to appropriate interventions, thus providing the opportunity to combine punitive sanctions with a public health perspective.

The impact of the alcohol ignition interlock device on offenders, including health and family issues. During the Queensland trial, offenders were monitored closely by Community Corrections Officers, and also interviewed on a number of occasions by a PhD student whose thesis centred on the impact of interlock usage on their lives^[29]. Two major themes that emerged from the study were that participants were not expecting to reduce their alcohol consumption levels (despite consuming harmful levels), and the participants' propensity to report "false positives" and attribute violations to "machine error" rather than examine their own inappropriate drinking behaviours. Further exploration is required into appropriate

interventions and sanctions to manage high frequencies of interlock breaches. These will need to have the ability to promote behavioural change rather than more resistance.

Freeman^[30] also examined the participants' perceptions and experiences of installing and operating an interlock device. Two themes that emerged regarding the self-reported effectiveness of interlocks compared to traditional legal sanctions were: (a) the ability to avoid a purely punitive sanction and (b) interlocks were considered an educational tool that assisted the sample in avoiding drink driving. These themes may prove an aid in designing marketing campaigns and interlock programs to increase notoriously low participation rates. Examination of the quantitative self-reported data revealed these perceptions did not change markedly over the course of the data collection period. Participants also reported positive expectations of being able to successfully operate the interlock device, although considerable variation was evident in actual interlock usage^[31].

There are many other issues including the possible use of interlocks in association with restricted (work) licences that need to be considered before we find the answer to the optimal use of interlocks.

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