

**Submission
No 11**

DRIVER LICENCE DISQUALIFICATION REFORM

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Submission to
The Inquiry into Driver Disqualification Reform

Legislative Assembly
Committee on Law and Safety

July 2013

by Graeme Smith

The Inquiry's terms of reference refer to problems associated with driver licence disqualification which can be found in various reports.

The first of these that I refer to is:

Austrroads Research Report, *Developing Measures to Reduce Unlicensed Driving*, June 2013.

This report acknowledges that driving without an appropriate license can take many forms and identifies fourteen categories and sub categories thereof. It goes on to say that *"the two groups of greatest concern, particularly in terms of crash involvement, are those who drive while disqualified or with a suspended or cancelled licence, and those who have never been licensed"*.

The report also claims that.. *"those who are disqualified or have a suspended or cancelled licence would have a greater risk of crashing due to the same risky behaviours (e.g. drink driving) that resulted in the disqualification or suspension or cancellation.."*

That may be true for those licences which were suspended or cancelled as a result of "risky behaviour" such as drink driving or dangerous driving. Unfortunately, the report does not identify just how many licences are suspended for what cannot, under any criteria, be deemed "risky behaviour".

And, without even attempting to acknowledge that there may indeed be a very significant proportion of suspended licences that have resulted from non risky behaviour or behaviour that is entirely unrelated to driving a car, it blithely goes on to recommend that...

"Despite the high proportion of disqualified motorists or those with suspended or cancelled licences continuing to drive, the use of licensing sanctions within the penalty regimes in Australia is still recommended. Even if unlicensed driving occurs, the exposure of these dangerous motorists is reduced, leading to crash and offence rates lower than those of similar motorists who have not been disqualified or whose licences have not been suspended or cancelled."

"Dangerous motorists" indeed!

The following data demonstrates just how biased this recommendation is against NSW motorists:

In the year to March 2013, a total of 287,000 NSW driver licences were cancelled or suspended. That is, what ever the “problem” alluded to in this Inquiry’s terms of reference, it is being fed at the rate of almost 24,000 suspensions and disqualifications *per month*.

Of these, 12,000 per month are due to fine defaults and 4,000 per month are suspensions due to an accumulation of demerit points. In these two categories alone that translates to five hundred people per day, each and every day of the year, having their capacity to drive a car withdrawn.

I submit that we cannot call fine defaulters “dangerous motorists” yet they make up 50% of all suspended licences.

I also submit that it is wrong and unjust to assume that an accumulation of demerit points is, in itself, an automatic indication of a “dangerous motorist”, exposure to whom should be reduced by withdrawal of licence, as the Austroads report would have it.

Far too many demerit points are applied to licences for infringements of the letter of the law that cannot by any reasonable measure, be deemed “dangerous”. As an extreme example of this I cite the situation of the 24 hour bus lane on the Sydney Harbour Bridge. Firstly, that an ordinary car cannot use this lane at 3am when it is completely empty, is just plain anti motorist belligerence. Secondly, that the offence carried, until recently, a three point demerit penalty (the same as a speeding offence) was also unjust and without good cause. Thirdly, further evidence of the anti motorist bias in the system became obvious when the penalty for using the bus lane was reduced to one point, but an appeal to have two points removed from a licence that had already attracted three points for the offence before the date it was reduced, produced a blank refusal from the RTA.

Past penalties are past penalties, but demerit points systems contain a unique potential to be unduly punitive because points from a past offence remain against a licence and can still contribute to a future suspension *long after* the law was changed to reduce the points for that offence. Furthermore, any democratic society would surely allow something like that to be appealed in a court, but not in NSW! There is no excuse for this.

I would also refer the Inquiry to the accompanying article about a 16 year police force veteran who is organising the **No Speed Camera Party** in South Australia.

I would respectfully suggest to the Inquiry that the comments of this experienced law enforcement officer be taken serious note of:

"I want the speed camera regime to be there for the purpose that it was meant for and that is for: road safety ... in the black spots,"

"I think everybody out there in the public realises that this is just a revenue-raising scam.

And this comment:

"People have lost their licences, businesses or their jobs, their homes, their families and their mental health all because of the fact that we've got politicians that are basically coming up with policies ... (to) collect money for this financially inept and quite frankly morally corrupt government."

"Everybody and anybody can accidentally go over the speed limit by a few kilometres but the outrageous fines and the number of points that they lose is just way beyond the pale,".

Those are the words of someone with long experience in the policing of driver licenses in Australia - an insider. They confirm that we have an intolerable situation, created by a monstrous, bureaucratic system. There is no concern at any level for the destructive effect that the arbitrary withdrawal of the capacity to drive a car has on an individual's ability to function and earn a living.

Ordinary people, who cannot under any circumstances be deemed "dangerous motorists", get very angry when their licences are unjustly suspended and it is no wonder that some resort to driving while suspended.

The cost on the NSW Government (and ultimately the constituents it is supposed to be caring for) is also horrific. Huge resources in government departments, policing and the courts are consumed daily by the draconian measure of licence suspension for offences that have nothing to do with road safety.

I would also refer the Inquiry to another related report:

The NSW Law Reform Commission Report 132 on Penalty Notices, 12 Feb 2013.

The very first item in the terms of reference is:

"Whether current penalty amounts are commensurate with the objective seriousness of the offences to which they relate."

Further on, the report acknowledges:

..they (driver licence sanctions) can cause severe problems, especially for people who live in areas not well served by public transport and who require a driver licence to work or to access essential services. Some people may continue to drive after their licence has been suspended and acquire subsequent convictions for driving without a licence and driving while disqualified. Ultimately, they may be imprisoned for these flow-on offences. This has been called the 'slippery slope'.

That “slippery slope” is a serious issue and I submit to the Inquiry that the consequences of licence suspension for fine default are absolutely not commensurate with the seriousness of the offence and can have an appalling fallout.

I also submit that the current demerit point system is grossly unfair and catches far too many safe and responsible drivers in its net. Minor infringements, even an accumulation of them over two or three years, while rightly attracting fines, should not suddenly lead to the quantum and devastating leap in severity that three or six months without the capacity to drive inflicts on people trying to keep jobs and run businesses.

I submit that the removal of licence sanctions for fine defaulters and a more discerning demerit points system aimed at genuinely dangerous drivers will significantly reduce the size of the problem this Inquiry is investigating by removing hundreds of suspensions *per day* from the system.

Finally, the ability to appeal a licence suspension in court is a basic right in a democracy. At the moment, the punitive and unjust removal of appeal rights is more akin to Germany in the 1930s than the standards of fairness and justice that Australians should expect from their governments in the 21st century.

Attention to these issues will improve the negative perception that ordinary motorists have of the fine defaulters and demerit points systems, and it will reduce the problem of the “slippery slope” referred to in the **Law Reform Commission Report** and which has caught so many undeserving motorists, leaving them with no alternative but to drive while suspended.

Licence suspension is a gross and blunt instrument which should be used with more discernment and concern for the appalling impact it has on ordinary people.

Graeme Smith
22nd July 2013

Attachment:

New No Speed Cameras Party plans to run at South Australian state election,
www.dailytelegraph.com.au, 3July13.

news

thetelegraph.com.au

National News

New No Speed Cameras Party plans to run at South Australian state election

- by: Staff Writers
- From: The Advertiser
- July 03, 2013 12:19PM

Be The First To Respond



SAPOL fixed speed and red light camera on the corner of King William Street and Sir Edwin Smith Avenue.

Source: News Limited

A NEW No Speed Cameras political party is promising to run at the coming state election and end "rip-offs", "fee-gouging" and revenue-raising by monitoring only known road black spots.

No Speed Cameras Party leader Owen Godfrey today told ABC Radio he had 16 years' experience in the police force and has been running his own small business for the past 12 years.

He said he was an Acting Sergeant when he left the police force.

Mr Godfrey today said the party currently had about 60 of the 250 members needed to be formally registered. It has also **launched a website** (<http://nospeedcamerasparty.com/whatwillwedo.html>) asking for \$10 donations.

The website lists bank account details for deposits, but advertiser.com.au could find no way of contacting the party.

TELL US: Would you vote for a No Speed Cameras party? Leave your comment below.

"I want the speed camera regime to be there for the purpose that it was meant for and that is for road safety ... in the black spots," Mr Godfrey told ABC Radio.

"I think everybody out there in the public realises that this is just a revenue-raising scam.

"People have lost their licences, businesses or their jobs, their homes, their families and their mental health all because of the fact that we've got politicians that are basically coming up with policies ... (to) collect money for this financially inept and quite frankly morally corrupt government."

Mr Godfrey said the SA police department was "easily the best in Australia".

"Everybody and anybody can accidentally go over the speed limit by a few kilometres but the outrageous fines and the number of points that they lose is just way beyond the pale," he said.

Meanwhile, more than 3000 people have taken advantage of a new **SA Police website** (<http://www.adelaidenow.com.au/news/photos/more-than-3000-people-view-photos-of-speed-and-red-light-camera-offences-online/story-fni6uo1m-1226673496049>) , that lets drivers view photos from speed or red light camera fines, since the site went live last week.
