



Q1 The law isn't everything: The impact of legal and non-legal sanctions on 2 motorists' drink driving behaviors

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ABSTRACT

Introduction: The effectiveness of drink driving countermeasures (such as sanctions) to deter motorists from driving over the legal limit is extremely important when considering the impact the offending behavior has on the community. However, questions remain regarding the extent that both legal and non-legal factors influence drink driving behaviors. This is of particular concern given that both factors are widely used as either sanctioning outcomes or in media campaigns designed to deter drivers (e.g., highlighting the physical risk of crashing). **Method:** This paper reports on an examination of 1,253 Queensland motorists' perceptions of legal and non-legal drink driving sanctions and the corresponding deterrent impact of such perceptions on self-reported offending behavior. Participants volunteered to complete either an online or paper version of the questionnaire. **Results:** Encouragingly, quantitative analysis of the data revealed that participants' perceptions of both legal sanctions (e.g., certainty, severity and swiftness) as well as non-legal sanctions (e.g., fear of social, internal or physical harm) were relatively high, with perceptual certainty being the highest. Despite this, a key theme to emerge from the study was that approximately 25% of the sample admitted to drink driving at some point in time. Multivariate analyses revealed six significant predictors of drink driving, being: males, younger drivers, lower perceptions of the severity of sanctions, and less concern about the social, internal, and physical harms associated with the offense. However, a closer examination of the data revealed that the combined deterrence model was not very accurate at predicting drink driving behaviors (e.g., 21% of variance). **Practical applications:** A range of non-legal deterrent factors have the potential to reduce the prevalence of drink driving although further research is required to determine how much exposure is required to produce a strong effect.

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1. Introduction

Drink driving continues to be a serious road safety concern despite significant efforts to address the problem (Davey & Freeman, 2011; Owens & Boorman, 2011; Terer & Brown, 2014). While alcohol-related crash fatality rates have decreased by approximately 35% over the past 24 years (Faulks, Irwin, Watson, & Sheehan, 2010), drink driving contributes to approximately 30% of road crash fatalities and 9% of injuries in Australia (Terer & Brown, 2014). Not surprisingly, most fatal crashes associated with blood alcohol concentration (BAC) are above levels of .05% (Single & Rohl, 1997). In addition to the emotional cost of fatalities, each fatality in Australia costs \$2.6 million while \$266,000 is spent on hospitalizations (Bureau of Infrastructure, Transport and Regional Economics (BITRE), 2009). The gravity of the drink driving problem now is evidenced through the implementation of several countermeasures, including apprehension based techniques such as random breath

tests (RBTs); mass media campaigns (e.g., Join the Drive to Save Lives); traditional legal sanctions (e.g., fines and license disqualification); and education programs. Most of these countermeasures are underpinned by Classical Deterrence Theory, primarily involving the threat of legal sanctions, and thus, the application of license disqualification periods coupled with monetary fines remains a core approach to reduce drink driving in many motorized countries.

1.1. Classical deterrence theory

Classical Deterrence Theory was originally developed in the 18th century by two utilitarian philosophers, Jeremy Bentham and Cesare Beccaria (Babor et al., 2003). The theory proposes that offending behavior is inversely associated with increased perceptions of the certainty of getting caught (e.g., certainty of apprehension), the impact of the punishment (e.g., severity of punishment), and the timeliness in administering the associated punishment after being apprehended (e.g., swiftness of punishment; Akers & Sellers, 2009; Davey & Freeman, 2011; Freeman & Watson, 2009; Homel, 1988; Taxman & Piquero, 1998). This form of deterrence is known as *general deterrence*, which aims to influence the

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largest proportion of the motoring population and is thus largely dependent on how well legal sanctions and penalties are publicized and the efficiency and intensity of the law enforcement (Elvik & Christensen, 2007; Fildes & Lee, 1993; Taxman & Piquero, 1998; Vingilis & Salutin, 1980). In contrast, *specific deterrence* focuses on deterring apprehended drivers from further offending as a result of receiving a certain, severe, and swift punishment (Homel, 1988). Despite a large amount of research dedicated to examining the effectiveness of deterrent-based measures, the evidence regarding the impact of the approach is mixed (briefly reviewed below).

1.2. Certainty of apprehension

Researchers have proposed that the certainty of apprehension is the most salient deterrent force within Classical Deterrence Theory (Homel, 1988; Nagin & Pogarsky, 2001; Piquero & Paternoster, 1998), which is reflected in the tremendous effort directed towards promoting high levels of perceived apprehension certainty via random breath testing (RBT). In fact, an earlier review of the effectiveness of RBT in the state of Queensland (Australia) demonstrated that higher levels of RBT activity directly reduce both the frequency of drink driving apprehensions as well as alcohol-related crashes (Watson et al., 2005). Perceptual deterrence-based research (which focuses on how individuals perceive and react to the threat of sanctions) has demonstrated a similar effect, as Freeman and Watson (2009) found that the certainty of apprehension by police was a significant negative predictor of drink driving among a sample of 780 Queensland motorists, including recidivist and one first offenders. Freeman and Watson (2006) reported a similar finding among a group of recidivist offenders and (more broadly) research that has focused on street racing has found that certain and severe sanctions can deter risky driving behaviors (Meirambayeva et al., 2014). In contrast, an opposing body of research has failed to illuminate strong perceptual deterrent effects. For example, Baum (1999) found that the perceived certainty of detection was not a significant deterrent when the effects of RBTs were examined on a sample of 420 Queensland offenders. Livingstone (2011) also reported that a range of personal (e.g., favorable attitudes) and environmental factors (e.g., avoiding detection) were significant predictors of self-reported drink driving, rather than perceptions of apprehension certainty. A similar finding was made with the earlier seminal work of Homel (1988) who failed to find a clear significant relationship with drink driving behavior when examining the introductory impact of RBT in New South Wales (Australia).

1.3. Severity of punishment

Research regarding the deterrent effects of the severity of punishment also remains mixed. Currently within Australia, heavy penalties (e.g., license disqualification periods and monetary fines) are attached to drink driving offenses, including high range Blood Alcohol Content (BAC) offenses and some hard core repeat offenders. While the relationship between severe penalties and reduced likelihood of offending makes intuitive sense, perceptual studies into the deterrent effect of penalty severity have found little relationship between perceived severity and self-reported offending behaviors (Homel, 1988; Livingstone, 2011; Mann, Vingilis, Gavin, Adlaf, & Anglin, 1991; Piquero & Pogarsky, 2002; Weatherburn & Moffatt, 2011; Yu, 2000). For example, Homel (1988) found that a group of 185 New South Wales motorists did not reduce their drink driving behavior over a 3-month period despite the perceived increase of the drink driving penalty. Weatherburn and Moffatt (2011) also failed to find a significant effect between increasing fines and self-reported drink driving behavior. Researchers have proposed that such inconsistent findings may be due to the fact that sanctions must be perceived as costly to the offender for it to be effective, which is a *subjective* judgment and will vary from person to person (Grasmick & Bryjak, 1980). Additionally, a significant bivariate relationship may exist between perceived certainty and severity (Grasmick &

Bryjak, 1980; Weatherburn & Moffatt, 2011), as severe penalties will have little impact if the likelihood of apprehension is considered to only be a theoretical threat. In regards to the latter, researchers have noted that the likelihood of actually being apprehended for drink driving remains unlikely in a number of jurisdictions (Homel, Carseldine, & Kearns, 1988; Voas, 1982).

1.4. Swiftiness of punishment

The deterrent effects of the swiftiness of punishment are critical given that models of learning and experimental psychology demonstrate that the time between stimulus and response is vital for learning new behaviors (Nagin & Pogarsky, 2001). More specifically, punishment has been proposed to be most effective if immediately applied after offending. While some researchers have historically suggested that penalties are rarely swiftly administered, especially when it is dependent upon a court process (Babor et al., 2003; Davey & Freeman, 2011; Nagin & Pogarsky, 2001), immediate administrative license and vehicle impoundment legislation provides opportunities for the quick application of sanctions (Voas & DeYoung, 2002). In support of the hypothesis that swift application of sanctions is needed, Yu and Wilford (1995) found that if a penalty for driving offenses was not administered within 6 months after the offense, convicted offenders were likely to re-offend. In fact, an Australian study that reviewed 29,204 drink driving offenders found that the highest rate of re-offending was between the apprehension and sentencing date e.g., pre-license disqualification period (Watson et al., under review). A review of vehicle impoundment, immobilization and forfeiture for repeat drink driving offenders in the United States (in a number of states) revealed a number of positive effects, including significant reductions in recidivism rates (Voas & DeYoung, 2002). However, questions remain as to whether motorists actually consider the application of sanctions to be swift, particularly in jurisdictions that have not enacted immediate license suspension legislation.

Collectively, the impact of Classical Deterrence Theory constructs upon self-reported drink driving behavior remains somewhat mixed, and there have been limited recent studies that have collectively examined all three constructs. This is surprising given the reliance on the threat of legal sanctions to improve road safety. However, perceptual deterrence-based research has not only been restricted to legal sanctions, but also has examined the impact of non-legal forces.

1.5. Non-legal sanctions

Researchers have long considered the impact of non-legal sanctions on offending behaviors, as it is widely acknowledged that offending behaviors do not occur within a social vacuum (Berger & Snortum, 1986; Freeman, Tysoe, Armstrong, Truelove, & Szogi, 2015; Sherman, 1993; Vingilis, 1985). Rather, a range of competing theories involving legal and non-legal sanctions arose during the 1970s and 1980s when scientific efforts to understand such mechanisms were most intense (Andenaes, 1974; Cornish & Clarke, 1986; Gibbs, 1975; Homel, 1988; Mann & Vingilis, 1985; Ross, 1984; Williams & Hawkins, 1986; Zimring & Hawkins, 1973).

Within the Australian context, Homel (1988) offered one of the most prominent expansions of Classical Deterrence Theory whereby he proposed that the fear of social sanctions (e.g., peer disapproval/stigma), internal loss (e.g., feeling shame, guilt or embarrassment), and physical loss (e.g., bodily injury/fear of hurting someone) can deter offending behavior. More specifically, social loss operates on the basis that social attitudes and behaviors can influence a person's behavior through social reinforcement or punishment (Akers, 1990; Homel, 1988). Internal loss is thought to arise as a result of violating internal norms that can induce feelings of guilt which can promote compliance with the law (Homel, 1988; Nagin & Pogarsky, 2001). Physical loss involves fearing 200

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