Observational Study of the Extent of Driving While Suspended for Alcohol-Impaired Driving

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Abstract
Systematic, unobtrusive observations of first-time alcohol-impaired driving offenders were conducted to determine the extent of driving while suspended. Of subjects observed traveling in some way while suspended, 88 percent of subjects in Milwaukee (WI) were observed driving, compared to 36 percent of subjects in Bergen County (NJ). Bergen County subjects were significantly more likely to drive after reinstatement than during their suspension period, indicating that the suspension had affected subjects’ travel patterns. New Jersey’s laws are much stronger, and focus groups suggested that New Jersey offenders had a higher perceived risk of apprehension and punishment for driving while suspended.

Introduction
Research spanning the last 20 years has consistently shown that removal of the driver’s license is an effective specific and general deterrent for alcohol-impaired driving (1, 2). Nevertheless, there is a body of statistical and anecdotal evidence that offenders continue driving after license withdrawal (3, 4). Most evidence of continued driving has relied on drivers’ self-report or on rates of re-arrest for drinking and driving, traffic violations, or crash involvement. This study was the first systematic effort to gather objective, independent, unobtrusive observational data on the driving patterns of persons who are suspended for alcohol-impaired driving (5).

Method
The study, conducted from fall 2000 to fall 2001, encompassed observations of offenders’ driving patterns and focus group research in the City of Milwaukee, Wisconsin, and Bergen County, New Jersey. Subjects were persons who had recently lost their driver’s license as a result of their first alcohol-impaired driving conviction.

Milwaukee and Bergen County operate under different alcohol-impaired driving laws. Wisconsin imposes both administrative and court suspensions for Operating While Impaired (OWI) offenses. Administrative penalties are imposed for failure of the alcohol test, that is, a blood alcohol concentration (BAC) at or above the illegal level of .10, or a test refusal. For first-time offenders
who have had no other license suspensions within the prior year, an occupational license can be obtained. There are no special sanctions for driving while suspended/revoked based on an OWI and no mandatory minimum penalties for driving while suspended/revoked.

New Jersey imposes no administrative license sanctions on persons who fail the alcohol test (BAC at or above the illegal level of .10) or refuse the test. There are court-ordered mandatory minimum license sanctions for persons convicted of Driving While Intoxicated (DWI) and/or the separate violation of refusing the alcohol test. Mandatory penalties for driving while suspended for DWI include an additional license suspension, fine and insurance surcharges, and jail. In addition, the vehicle registration is revoked for the same time period as the license suspension, although temporary registration and tags may be issued.

Subjects in the observational study were first-time offenders who were 21 years of age or older and resided in-state within a 50-mile radius of Milwaukee or Bergen County. Case records were obtained from courts in the two sites, and driver history records were obtained from the licensing agencies in both states. A driver history record for each subject was obtained soon after the court conviction and if the offender was eligible for license reinstatement, a second driver record was obtained after the suspension period ended.

Surveillance professionals from Pinkerton Investigative Services, Inc., observed subjects during their license suspension period and if they had their license reinstated, again after reinstatement. Observations included two 4-hour periods during the last month of the suspension period (one randomly selected weekday morning 6 – 10 a.m. and one Friday/Saturday evening 6 – 10 p.m.), and two 4-hour periods after license reinstatement (matched by day of week and time of day with the during-suspension observations). The comparison of travel during and after the suspension period permitted inferences to be drawn concerning whether an offender’s travel patterns changed as a result of the suspension.

Originally, Milwaukee offenders with occupational licenses were to be observed at times when driving was prohibited. Of the initial subject pool, 62 percent of offenders were eligible to obtain an occupational license, and 25 percent did so. A review of driver abstracts for these offenders revealed that the occupational licenses generally allowed driving during most daytime and evening hours. Thus, Milwaukee offenders with an occupational license were excluded because there were only a few hours of the day when driving was not allowed at all.

Focus groups were used to gather qualitative information on the knowledge, behaviors, and attitudes of persons who had recently been convicted of their first alcohol-impaired driving offense. Sixteen people participated in three focus groups held in Milwaukee, and 21 people participated in three focus groups in Bergen County. In both Wisconsin and New Jersey, first-time offenders are required to undergo an assessment for alcohol dependency and complete an alcohol/drug education program. Focus group participants were recruited by means of a flyer distributed by instructors in these programs. None of the subjects observed in either site was a participant in the focus groups.

**Results: Observational Study**
In all, 1,000 hours of observational data were gathered for 93 subjects (57 in Milwaukee and 36 in Bergen County). Subjects in the two sites differed. A larger proportion of subjects in Bergen County than in Milwaukee were 25 years old or younger (31 percent vs. 18 percent) and female (25 percent vs. 11 percent). Slightly over half the Milwaukee subjects resided in an area with a median annual household income below $35,000; by contrast, two-thirds of the Bergen County subjects resided in an area with a median annual income of $70,000 or greater.

A larger percentage of the Milwaukee subjects had problematic driving histories. The Milwaukee subjects were far more likely to have had at least one suspension for a violation other than OWI/DWI during the five years preceding the OWI/DWI arrest (67 percent vs. 17 percent) and to be serving at least one suspension for another offense at the time of the arrest (47 percent vs. 6 percent). Subjects in the two sites also differed in the circumstances of their current OWI/DWI arrest. For example, a larger proportion of the Milwaukee subjects were convicted of at least one other traffic offense committed at the time of the OWI/DWI arrest (39 percent vs. 17 percent).

Twenty-three (40 percent) of the 57 Milwaukee subjects were eligible for license reinstatement at the end of the OWI suspension, and 3 subjects (5 percent) were reinstated. All 36 Bergen County subjects were eligible to reinstate their license, and 28 subjects (78 percent) did so. All but 9 Milwaukee subjects (84 percent) received at least one additional license suspension after the OWI arrest and during the period covered by the driver abstracts. Twenty-four subjects (42 percent) received two or more suspensions. In Bergen County, 7 of the 36 subjects (19 percent) received at least one subsequent suspension.

Thirty of the Milwaukee subjects (53 percent) were observed driving during at least one of the two during-suspension observation periods, 4 subjects (7 percent) did not drive but used alternative transportation on at least one occasion, and 23 (40 percent) did not travel during either observation. Of the 36 Bergen County subjects, 8 (22 percent) were observed driving during at least one of the two during-suspension observation periods, 14 (39 percent) did not drive but used alternative transportation, and 14 (39 percent) were not observed traveling during either observation. The differences between the two sites were statistically significant (p < .001).

An alternative measure of the prevalence of driving while suspended is the proportion of subjects who drove, based only on the subjects who were observed traveling during either of the two four-hour observation periods during suspension. The results using this measure are even more striking (Table 1). Based on subjects observed traveling, 88 percent of the Milwaukee subjects, and 36 percent of the Bergen County subjects, drove. The between-site differences were statistically significant (p < .001).
Table 1: Method of travel for subjects observed traveling during suspension

<table>
<thead>
<tr>
<th>Method of Travel</th>
<th>Milwaukee</th>
<th>Bergen County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drove at Least Once</td>
<td>88.2%</td>
<td>36.4%</td>
</tr>
<tr>
<td></td>
<td>(30)</td>
<td>(8)</td>
</tr>
<tr>
<td>Didn’t Drive and Used Alternative Travel</td>
<td>11.8%</td>
<td>63.6%</td>
</tr>
<tr>
<td></td>
<td>(4)</td>
<td>(14)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td></td>
<td>(34)</td>
<td>(22)</td>
</tr>
</tbody>
</table>

$\chi^2 = 16.5, p < .001, df= 1$

Comparison of the during-suspension/after-suspension travel patterns of Milwaukee subjects yielded little useful information, as only 3 of the 57 subjects reinstated their driver’s license. For the 28 Bergen County subjects who reinstated their license, the travel patterns during suspension were significantly different than the travel patterns after reinstatement (Table 2). This suggests that the suspension had an impact on the subjects’ travel patterns. One-quarter of these subjects drove and 43 percent used alternative transportation during their suspension, versus 54 percent and 7 percent, respectively, after reinstatement. The change was significantly different ($p < .001$).

Table 2: Observed travel among Bergen County subjects during suspension and after license reinstatement

<table>
<thead>
<tr>
<th></th>
<th>Suspended</th>
<th>Reinstated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drove at Least Once</td>
<td>25.0%</td>
<td>53.6%</td>
</tr>
<tr>
<td></td>
<td>(7)</td>
<td>(15)</td>
</tr>
<tr>
<td>Didn’t Drive and Used Alternative Travel</td>
<td>42.9%</td>
<td>7.1%</td>
</tr>
<tr>
<td></td>
<td>(12)</td>
<td>(2)</td>
</tr>
<tr>
<td>Travel Not Observed</td>
<td>32.1%</td>
<td>39.3%</td>
</tr>
<tr>
<td></td>
<td>(9)</td>
<td>(11)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td></td>
<td>(28)</td>
<td>(28)</td>
</tr>
</tbody>
</table>

$\chi^2 = 10.3, p < .001, df = 2$

Results: Focus Groups
In both sites, the majority of focus group participants said the worst sanction was the emotional and psychological consequences of the experience. A number of participants in both sites also
mentioned the financial costs. Four of the 16 Milwaukee participants, and 7 of the 21 New Jersey participants, said that the license suspension was the worst part of their sentences.

There were notable differences among participants in each site in their reported attitudes, experiences, and behaviors. However, the more striking differences were those between sites. Differences in the severity of the states’ laws appeared to be an important factor. The penalties imposed on New Jersey participants were more severe, on average, than those imposed on Milwaukee participants. In particular, the financial penalties were considerably higher for New Jersey participants, primarily due to the state-imposed insurance surcharge. The license sanction was also more severe, on average, as the severity of Wisconsin’s license suspension was substantially weakened by the availability of the occupational license for many offenders.

In general, the suspension appeared to represent a far greater hardship for New Jersey participants. Many reported that they had made major changes in their work and personal lives to comply with the suspension. Due largely to the availability of the occupational license, few Milwaukee participants made significant changes in their lives to deal with the suspension. The perception of risk for detection and punishment for driving while suspended, or driving outside the conditions of the conditional license, was much higher among New Jersey participants. New Jersey participants also demonstrated a greater knowledge and a greater fear of the sanctions for driving while suspended. A discussion of the merits of each state’s licensing sanction indicated that the sanction in New Jersey, relative to the sanction in Milwaukee, had considerable deterrent power, but also was viewed by many as onerous and unfair.

A sizeable proportion of the participants in both sites indicated that they drove on at least some occasions while their license was suspended. Many of the Milwaukee participants with an occupational license indicated that they drove on at least some occasions outside the restrictions of the license.

Discussion
The results of the observational study were clear and compelling. Among subjects observed traveling during their license suspension term, almost all offenders in one site drove during at least one of the two observation periods. As subjects were observed only for two four-hour periods during suspension, it is likely that the extent of driving throughout the suspension period was very high. At the other site, about one-third drove at least once when traveling during their suspension period. Two-thirds of subjects at this site used alternative transportation. Many of these persons resumed driving once their license was reinstated.

These results establish that the prevalence of driving while suspended among first-time offenders is high; that the prevalence can vary substantially between jurisdictions; and that the license suspension can have an impact on the travel patterns of offenders during suspension, relative to the travel patterns resumed after license reinstatement. The results of the focus group research suggest that the dramatically different results at the two sites may be partly attributable to differences in the severity of sanctions for driving while suspended and differences in the perceived risk of apprehension and punishment for driving while suspended. Thus, although the findings may add to growing concerns that the widespread disregard for license sanctions among impaired drivers may erode the effectiveness of this countermeasure, they also suggest that
strong sanctions for driving while suspended, coupled with strong enforcement, may increase compliance with licensing sanctions.

Acknowledgement
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References


