

Early indicators of the impacts of the NSW Driver Licence Disqualification Reforms

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Aim: To examine the impact of the 2017 Driver Licence Disqualification Reforms on sentencing outcomes for unauthorised driving offences.

Method: Structural breaks were investigated in monthly time series data on penalties imposed for unauthorised driving offences finalised in NSW courts from January 2015 to June 2018 and monthly injury/fatality crash data between November 2012 and January 2018. For each given time series, the time of a structural break, if any, was determined by an iterative breakpoint detection method. Any structural break detected in the months after October 2017 would indicate an abrupt change in the series at the time the reforms commenced.

Results: A post-reform decrease was observed with a structural break detected when the reforms began for: (1) average duration of licence disqualifications for Driving While Disqualified (DWD) and Driving Without a Licence (DWL) offences, (2) average duration of prison sentences for DWD, and (3) the number of persons in custody where DWD or DWL is their most serious offence. No structural break was detected at the time the reforms commenced in the number of injury or fatal crashes involving unauthorised drivers.

Conclusion: The 2017 NSW Driver Licence Reforms resulted in a 56% reduction in average licence disqualifications and a 24% reduction in average prison sentences imposed for unauthorised driving offences. No immediate negative impact was observed on road safety in the three months following the reforms.

Keywords: driving offences, sentencing, penalties, licence disqualification

Introduction

In NSW, sanctions can be imposed on a driver's licence through various means. A Court that convicts a person of an offence against the road transport legislation may, at the time of conviction, order the disqualification of the person from holding a driver licence for a specified period and some offences attract automatic disqualification periods. Roads and Maritime Services can suspend or cancel a person's licence following failure to pay a fine or for driving offences (such as speeding or reaching/exceeding the demerit point limit). If a person drives whilst their licence is suspended or disqualified, or if they drive having never been issued a licence, they can be charged by police with an unauthorised driving offence. Each year more than 21,000 people appear before the NSW Local

Court charged with unauthorised driving offences.¹ In 2016, 15,729 persons were charged with driving while disqualified or suspended (DWD) and 6,449 persons were charged with driving without a licence (DWL). Unauthorised driving is the most common offence category in the Local Court, surpassing common assault (N=18,131), possess illicit drugs (N=18,215) and exceeding the prescribed concentration of alcohol or other substance limit (N=17,458) (NSW Bureau of Crime Statistics and Research, 2016).

Up until late 2017, the statutory penalties prescribed for unauthorised driving offences in NSW were considered to be amongst the harshest of any Australian jurisdiction and disproportionate to the penalties prescribed for other serious driving offences (NSW Parliamentary Law and Safety

Committee, 2013). Mandatory licence disqualifications, for example, which meant that a Court had no discretion to impose a shorter license disqualification period regardless of the circumstances, were applicable to unauthorised driving offences in NSW but not applicable in the same manner to drink driving offences, or negligent driving occasioning death/grievous bodily harm. Furthermore, the resultant disqualification periods had to be served consecutively for the former offences but could be served concurrently in the case of the latter. Unauthorised driving offences also attracted relatively harsh imprisonment terms. Prison penalties of up to 18 months could be imposed for first time offenders who drove after having their licence suspended for fine default and for the offence of never having been licensed if committed a second or subsequent time. The maximum prison penalty for these offences is higher than that prescribed for some repeat drink driving offences.

The disproportionality in statutory penalties for unauthorised driving offences relative to other serious driving offences was recognized in a 2013 review undertaken by the NSW Parliamentary Law and Safety Committee (2013). This committee also heard submissions detailing the impact that the harsh penalty regime had on sectors of the community who are economically and socially disadvantaged, such as Aboriginal communities, those living in regional, rural and remote areas and young people. In particular, concerns were raised about disqualification periods being imposed for violations of fine default suspensions, as any secondary offending could ultimately culminate in prison terms for vulnerable individuals. The significant impact of lengthy disqualification periods on employment and access to essential services especially in regional and remote communities where public transport is limited was also highlighted. In light of these submissions and evidence suggesting that longer disqualification periods appear to achieve little by way of deterrence (Moffatt & Poynton, 2007), the committee recommended a number of strategies to address the impact of lengthy disqualifications on the community that could also serve to reduce the substantial burden that unauthorised driving offences place on the criminal justice system.

In response, the NSW Government introduced the driver licence disqualification reforms, which commenced on 28 October 2017. The key objectives of these reforms were to;

1. Reduce Local Court volumes of drive while disqualified matters
2. Reduce repeat disqualified driving
3. Reduce imprisonment days for unauthorised driving offences
4. Contribute to reducing overrepresentation of Aboriginal people in the criminal justice system
5. Contribute to increasing road safety and returning people to lawful driving.

A major component of the reform package was modifying the statutory penalties for unauthorised driving offences. These amendments are summarised in Table 1. The reforms provided the courts with more discretion by replacing mandatory licence disqualifications with automatic and minimum licence disqualifications. The automatic period specified by the new legislation was at least half the length of the previous mandatory period with a minimum disqualification period also prescribed. Legislative changes were made to permit disqualification periods for unauthorised driving offences to be served concurrently. Statutory prison penalties applicable to first offenders convicted of driving whilst suspended after fine default were abolished and prison penalties for other unauthorised driving offences were also significantly reduced. Under the new laws other penalties such as fines, bonds and supervised orders, continue to apply to unauthorised driving offences and the licence disqualification period imposed is additional to any such penalty.

The driver licence reform package also introduced incentives for drivers to return to lawful driving through a new scheme allowing applications to be made to the Local Court to have disqualification periods lifted early. Under the new legislation applications can only be granted if a minimum offence-free period has been served and the Local Court considers that it is appropriate. Drivers who commit certain serious or repeat offences are excluded from applying. Vehicle sanctions for recidivist unauthorised drivers or those who commit a serious speeding offence whilst disqualified were introduced alongside the penalty changes.

Aim

The aim of the current brief is to examine the impact of the 2017 Driver Licence Reforms on penalties imposed for unauthorised driving offences. In particular we consider the impact of the reforms on custodial penalties and licence disqualifications since two primary aims of the reforms are to mitigate prison demand and reduce repeat disqualified driving. A secondary analysis of crash data is also undertaken. While we consider it too early to expect any measurable benefit of the reforms on road crashes it is prudent to routinely assess the impact of any significant changes in sentencing on public safety.

Method

Custodial penalties and licence disqualifications imposed for unauthorised driving offences were examined. Court finalisations between January 2015 and June 2018 where DWD or DWL was the principal offence were aggregated for this analysis to produce monthly time series data. Corrective Services NSW (CSNSW) data on monthly counts of persons in custody with DWD or DWL² as their most serious offences were also extracted for the same 42-month period. The number of collisions involving unauthorised driving and the degree of severity (i.e. fatal, injury and non-casualty) were also analysed. Monthly crashes occurring between November 2012 and January 2018 were sourced from Roads and Maritime Services.

Table 1. The 2017 changes to prison and licence disqualification penalties for unauthorised driving offences

Offence type	First offence	Second & subsequent offences
<i>Disqualification penalties for unauthorised driving offences pre and post reforms</i>		
Drive while licence disqualified, cancelled, suspended	Pre reform: Disq: mandatory 12 months Post reform: Automatic 6 months, no less than 3 months	Pre reform: Disq: mandatory 2 years Post reform: Automatic 12 months, no less than 6 months
Drive while licence cancelled, suspended – fine default	Pre reform: Disq: mandatory 3 months Post reform: Automatic 3 months, no less than 1 month	Pre reform: Disq: mandatory 2 years Post reform: Automatic 12 months, no less than 3 months
Never licensed	Pre and post reform: No mandatory disqualification period	Pre reform: Disq: mandatory 3 years Post reform: Automatic 12 months, no less than 3 months
<i>Maximum imprisonment terms for unauthorised driving offences pre and post reforms</i>		
Drive while licence disqualified, cancelled, suspended	Pre reform: Max 18 months Post reform: Max 6 months	Pre reform: Max 2 years Post reform: Max 12 months
Drive while licence cancelled, suspended – fine default	Pre reform: Max 18 months Post reform: Nil	Pre reform: Max 2 years Post reform: Max 6 months
Never licensed	Pre and post reform: No statutory prison term	Pre reform: Max 18 months Post reform: Max 6 months

For each given time series, we set out to determine whether there was a structural break in the series and when it occurred. For this, we used an iterative breakpoint detection method that integrates the detection into the decomposition of the time series into its trend and seasonal components, known as Breaks For Additive Seasonal and Trend (BFAST) (Verbesselt et al., 2010). BFAST operates iteratively and begins with an estimate of the trend and seasonal components of the time series. In each iteration, it proceeds with a test for the presence of any breakpoints in the trend component, with the positions of breakpoints, if any, estimated from the seasonally adjusted time series. A piecewise-linear trend is then fitted to each segment of the time series. Similar steps are repeated for the

seasonal component, and BFAST iterates until the positions of the breakpoints stabilise. With BFAST, any detected structural break would indicate if there was an abrupt change at the time the reforms commenced.

Results

In all the figures shown below the solid line represents the time series data, the dashed line is the piecewise-linear trend estimated using BFAST, and the vertical dashed line indicates the month the reforms commenced (i.e. 28 October 2017). Any piecewise-linear trend with more than one segment means that there is a structural break in the time series (at the 5% significance level), with the position of the break indicated by the discontinuity.

Figure 1. Average duration of licence disqualifications for (a) DWD and (b) DWL

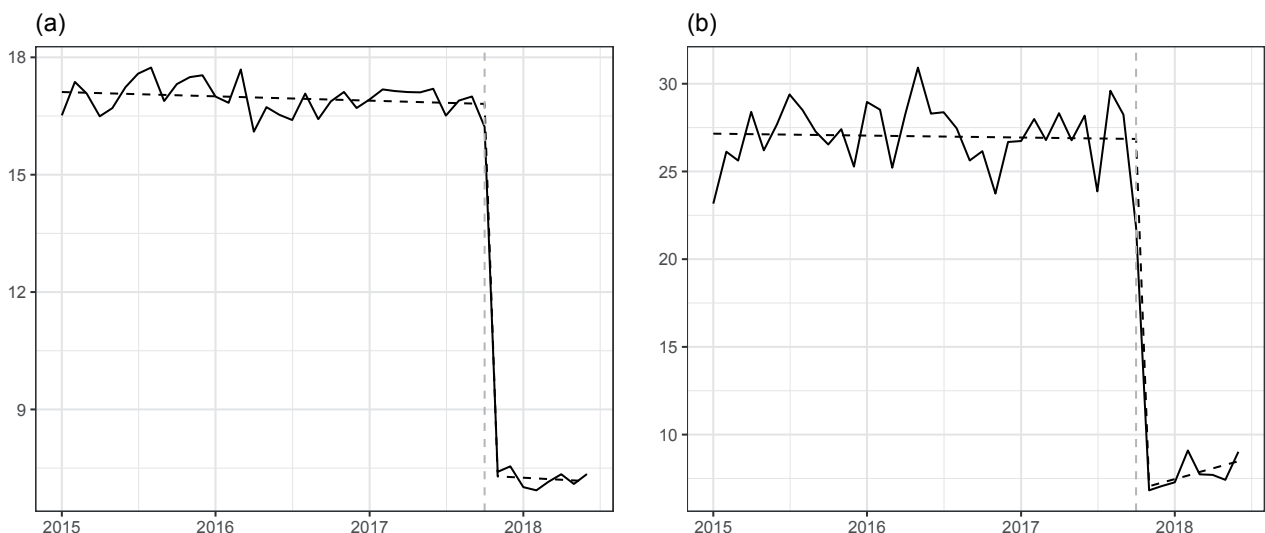
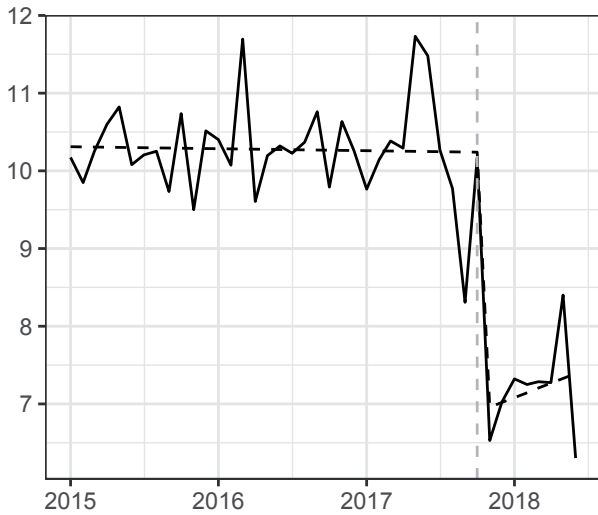


Figure 2. Average duration of total prison sentence for DWD



We first consider court imposed custodial penalties and licence disqualifications for proven DWD and DWL offences (Figures 1-4). The time series analysis showed that the average duration of licence disqualifications for DWD and DWL decreased after the reforms commenced, from just below 18 months on average in the pre-reform period to around eight months post-reform (Figure 1). A significant decrease was also observed after October 2017 in the average duration of total prison sentences for those convicted of a DWD offence, from around 10.5 months before the reforms to below eight months after the reforms (Figure 2). For those convicted of a DWL offence, there were not enough data points over the sample period to conduct a breakpoint detection analysis for custodial penalties. No structural change was detected, at the time the reforms commenced, in the percentage of proven court appearances with a court-imposed licence disqualification for DWD or DWL (Figure 3) or the percentage of proven DWD court appearances with a fulltime prison penalty (Figure 4).

Figure 3. Percentage of proven court appearances with a licence disqualification imposed for (a) DWD and (b) DWL

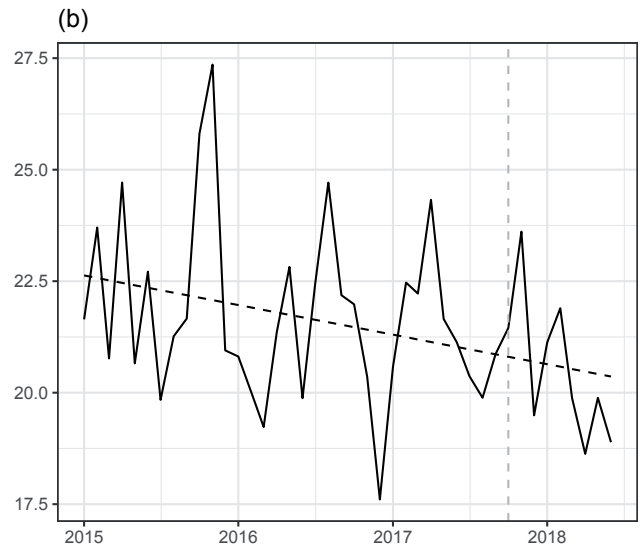
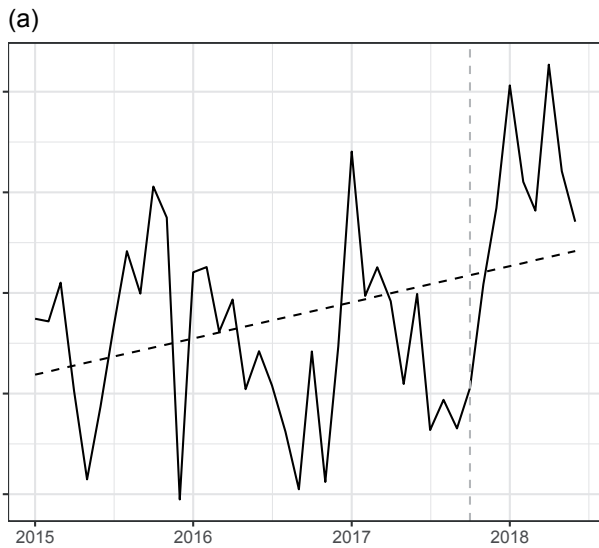


Figure 4. Percentage of proven court appearances with fulltime prison penalty for DWD

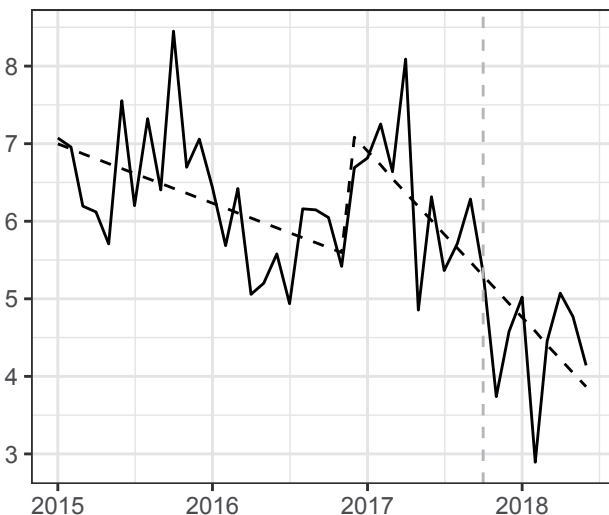


Figure 5. Number of persons in custody each month where DWD or DWL is the most serious offence

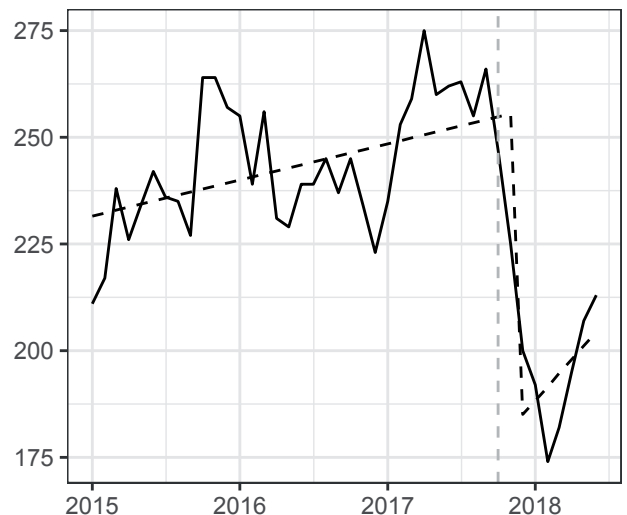
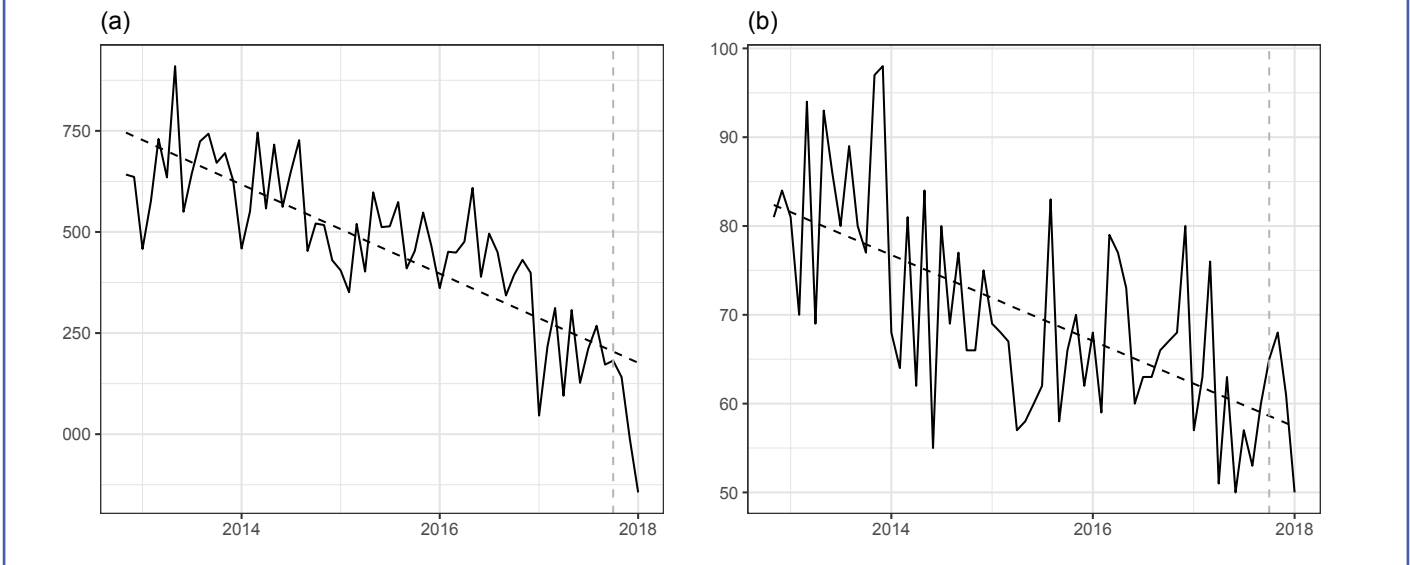


Figure 6. Number of injury and fatal crashes each month (a) excluding unauthorised drivers and (b) unauthorised drivers only, NSW, November 2012-January 2018



Turning next to the CSNSW custody data, we found a structural break, one month after the reforms commenced, in the number of persons in custody as a result of unauthorised driving offences. Monthly counts of persons in custody for DWD or DWL dropped from around 260 pre-reform to around 210 post-reform (Figure 5). The final two figures (Figures 6a and 6b) show the monthly count of total injury and fatal crashes in NSW involving (a) authorised drivers and (b) unauthorised drivers. An overall downward trend is observed in both these time series, which appears to continue in the period post October 2017. No structural breaks were detected in either crash series suggesting that there was no significant change in injury or fatal crashes after the reforms commenced.

Summary

This brief set out to examine the impact of the 2017 Driver Licence Reforms on sentencing for unauthorised driving offences. The time series analysis described above found evidence for significant reductions after the reforms commenced in average licence disqualifications and average prison penalties imposed by magistrates for DWD and DWL. Licence disqualification periods reduced on average by 56% and prison sentences decreased by 24%. No change was observed in the proportion of people receiving a licence disqualification from the court or the proportion receiving a custodial sentence. There was also preliminary evidence for an impact of the reforms on the NSW prison population with a 19% decrease during the post-reform period in the monthly number of persons in custody where unauthorised driving was their most serious offence.

Furthermore, an analysis of NSW crash data found no evidence of a negative impact of the sentencing changes on road safety. In fact, the opposite was true. The analysis suggested there was a downward trend in crashes involving unauthorised drivers which continued in the months following the reforms. The decline in crashes involving unauthorised drivers did not coincide with the reforms and a similar downward trend was also observed in the crashes involving authorised drivers. This suggests that factors other than reforms are contributing to this trend (e.g. improved infrastructure, increased enforcement). The post reform observation period used in this analysis was relatively short (i.e. three months). The analysis should therefore be replicated as more follow-up data becomes available.

Significantly shorter licence disqualification periods served concurrently, in combination with reissuing licences to drivers who have met an offence-free period, may ultimately have a positive impact on the high volume of unauthorised driving offences finalised by the NSW Local Court and potentially the likelihood of a person committing further unauthorised driving offences. However, we would not expect that these longer term outcomes (if achieved) would be evident until a sufficient number of offenders have served the reduced periods of disqualification. The Bureau of Crime Statistics and Research will consider whether these additional objectives of the reforms have been met in future studies.

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Notes

1. Here “Unauthorised driving offences” refer to the following: drive while licence disqualified, cancelled or suspended; drive while licence cancelled, suspended – due to fine default; and drive while never having been licensed. This includes both first and subsequent offences of these types.
2. This includes only offences of driving having never been licensed, second or subsequent offence. The offences of driving without a licence (per s.53(1) of the Road Transport Act 2013) and driving never having been licensed first offence (s.53(3)) are not punishable by imprisonment.

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