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## **MEDIA RELEASE**

### **Sentencing drink-drivers: The use of dismissals and conditional discharges**

People convicted of a prescribed concentration of alcohol (PCA) offence are much more likely to have their licence disqualified in some NSW Local Courts than in others, according to a new report released today by the NSW Bureau of Crime Statistics and Research.

Licence disqualification is technically mandatory for persons found guilty of a PCA offence. However PCA offenders can avoid licence disqualification if the presiding Magistrate dismisses the charge or releases the offender on a conditional discharge under section 10 of the NSW Crimes Act.

The Bureau found a big increase over the last ten years in the use of section 10 and a concomitant decline in the use of licence disqualification. Between 1993 and 2002 the overall percentage of PCA cases dealt with under section 10 rose by 22 percentage points for low range PCA offenders, 12 percentage points for mid-range PCA offenders and five percentage points for high-range PCA offenders.

Over the same period, the percentage of cases where an offender's licence was disqualified fell by 18 percentage points for low range PCA offences, 12 percentage points for mid-range PCA offences and five percentage points for high range PCA offences.

The increase in the use of section 10 has been much more pronounced in some courts than in others. The chances of a low range PCA offender being dealt with under section 10 in the Balmain Local Court, for example, are more than 7.5 times higher than the corresponding chances for a similar offender dealt with in the Windsor Local Court.

The disparity between courts in the use of section 10 is just as evident for mid-range and high range PCA offenders as it is for low range offenders. For a mid-range PCA offender, for example, the chances of a dismissal or conditional discharge in the Raymond Terrace Local Court are more than 11 times higher than in the Nowra Local Court.

One reason for the high rate at which PCA offenders are released on conditional discharge is that some courts are able (and prefer) to place offenders on Traffic Offender Programs (TOPs). TOPs are driver education programs that, in some instances, at least, have been found to be effective in reducing the risk of re-offending among drink-drivers.

The Bureau, however, found substantial disparities in the use of section 10 even where courts had no access to a TOP. These disparities remained after controlling for characteristics of offenders, such as their prior criminal record, blood alcohol level, age and gender.

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