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Review of penalties under the WA Road Traffic Code 2000 and management of recidivist speeding offenders

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TITLE

Review of penalties under the *WA Road Traffic Code 2000* and management of recidivist speeding offenders

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ABSTRACT

This report reviews key road safety related offences imposed under the *WA Road Traffic Code 2000* to determine the appropriateness and consistency of penalties in Western Australia. The penalty structure (fees, demerit points, licence disqualifications) were reviewed for the following broad offence categories: speeding, non-restraint use, failure to give way, failure to obey traffic controls, overtaking, following too closely and in-vehicle distractions (e.g. mobile phones). In reviewing the penalties, consideration was given to parity between offences of similar seriousness and demonstrated road safety risk, and consistency of the penalties in Western Australia with those of similar offences in other Australian jurisdictions. An additional issue examined in the report was the best means by which to manage recidivist speeding offenders. On the basis of the review, recommendations concerning changes to penalties in Western Australia were made.

KEYWORDS

penalty, offence, demerit points, traffic regulations

Summary

This report reviews key road safety related offences imposed under the *WA Road Traffic Code 2000* to determine the appropriateness and consistency of penalties in Western Australia. The penalty structure (fees, demerit points, licence disqualifications) was reviewed for the following broad offence categories:

- Speeding.
- Failure to give way at intersections.
- Failure to give way to vulnerable road users.
- Other failure to give way.
- Disobeying access control signs.
- Failure to keep left and overtaking offences.
- Following too closely.
- Non-restraint use.
- In-vehicle distractions (mobile phones).

For each offence category, the severities of the penalties were reviewed in accordance with the following principles:

- The severity of the penalty should reflect the road safety risk associated with the offence (i.e. the relative risk of a crash occurring and relative risk of injury in a crash).
- There should be consistency in the severity of penalties for different offences under each broad offence type.
- There should be consistency in the severity of the penalties with those imposed for a range of other traffic offences under the ARR.
- Penalties imposed in Western Australia should be consistent with those imposed for similar offences in other Australian jurisdictions.

The review resulted in a number of specific recommendations for different offence categories and a number of specific offences. The following is a brief overview of some of the recommendations for the different categories.

SPEEDING

It is recommended that the current set of speeding penalty thresholds be retained but that there be increases in the penalties for low level speeding, the addition of a licence disqualification for speeding offences of greater than or equal to 29 km/h over the limit, and that all court fines should increase.

FAIL TO GIVE WAY

Failure to give way offences were split into three sub-categories (fail to give way at an intersection, fail to give way to vulnerable road users, other fail to give way) but for all, the recommendations are of a similar nature, with increases in fees and in maximum court fines. The recommended increases differ across the various sub-categories.

DISOBEYING ACCESS CONTROL SIGNS

It is recommended that fees for disobeying access control signs increase only marginally but that maximum court fines should also increase.

KEEPING LEFT AND OVERTAKING OFFENCES

Recommendations differ marginally for overtaking and keeping left offences. It is recommended that the fees for both types of offences should increase but that the increases should be greater for overtaking than for failure to keep left offences. Maximum court fines for both are recommended to increase to a similar level.

FOLLOWING TOO CLOSELY

Increased fees are recommended for following too closely, with a greater increase for offence 110 than for offence 109. Increases are also recommended for maximum court fines.

NON-RESTRAINT USE

Penalties for non-restraint use increased recently so the only recommendation from the present review is an increase in maximum court fines.

IN-VEHICLE DISTRACTION

It is recommended that fees should increase for mobile phone use and failing to comply with visual display units. Higher maximum court fines are also recommended.

SPEEDING RECIDIVISTS

Consideration was also given to the problem of recidivist speeding offenders. Although a system of fees and demerit points may be sufficient to promote compliance among most road users, a subset of the population may need additional countermeasures.

A review of the literature suggested that a combination of a mandatory driver intervention program, using best practice principles of behaviour change, combined with the use of Intelligent Speed Adaptation devices fitted to the offenders' vehicles, is a promising approach to controlling the behaviour of repeat high risk speeding offenders. Alternatively, a more punitive approach could involve vehicle impoundment for speeding recidivists.

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Definitions and abbreviations

In the following report, some abbreviations are used due to the size of some of the tables. An explanation of these abbreviations and some definitions of commonly used terms are provided below.

DEFINITIONS

Infringement fee	On-the-spot monetary penalty for the breach of an existing law
Fine	Court imposed monetary penalties for breaches of an existing law

ACRONYMS AND ABBREVIATIONS

ARR	Australian Roads Rules
Dis	Licence disqualification/suspension
DP	Demerit points
Imp	Imprisonment
PU	Penalty unit

NOTE

The penalties and offences tables were correct at the time of writing. Readers should note, however, that penalties for road traffic offences change from time to time.

1 Introduction

Western Australia's road safety strategy for 2008 to 2020, *Towards Zero*, is based on the need for governments and road users to both take responsibility for safety. Governments must provide a road system that minimises the likelihood of injury given a crash, while road users are expected to comply with road laws. This compliance with traffic laws requires effective enforcement. A key component of effective traffic law enforcement is the setting of appropriate penalties for offences. Penalties need to be reasonable, with consideration given to issues of social equity, yet sufficient to deter road users from committing or re-committing offences. Maintenance of this deterrent effect can only be achieved through the regular review of penalties. To this end, the Office of Road Safety commissioned the present review into the appropriateness of the penalties for road traffic offences stipulated in the *WA Road Traffic Code 2000*.

The offence categories that are included in this penalty review are the following:

- Speeding.
- Failure to give way at intersections.
- Failure to give way to vulnerable road users.
- Other failure to give way.
- Disobeying access control signs.
- Failure to keep left and overtaking offences.
- Following too closely.
- Non-restraint use.
- In-vehicle distractions (mobile phones).

Drink and drug driving penalties are covered by the *Road Traffic Act 1974* and were reviewed recently. Therefore, these penalties are not addressed in the present review.

One of the most significant contributors to road trauma on Australian roads is exceeding the speed limit and so such offences are a key enforcement area. In addition to the general review of speed offence penalties, a review of penalties and programs for recidivist speeding offenders is included in the current report.

2 Method

This report reviews key road safety offences imposed under the *WA Road Traffic Code 2000* and associated regulations including the Australian Road Rules (ARR) to determine the appropriateness and consistency of penalties in Western Australia. Note that the Australian Road Rules, introduced in 1999, provide national uniform road laws but that the penalties for these offences are generally set by each state and territory.

In reviewing the penalties for the selected road safety offences¹, the following principles were considered:

- The severity of the penalty should reflect the road safety risk associated with the offence (i.e. the relative risk of a crash occurring and relative risk of injury in a crash). The determination of road safety risk for different offences was based on scientific literature whenever possible.
- There should be consistency in the severity of penalties for different offences under each broad offence type. For example, most fail to give way offences should have penalties of similar severity. However, some offences within a category will have higher risk than others (e.g. higher level versus lower level speeding offences) and this needs to be taken into account when making comparisons.
- There should be consistency in the severity of the penalties with those imposed for a range of other traffic offences under the ARR. That is, penalties should be similar for different types of offences with a similar crash or injury risk.
- Penalties imposed in Western Australia should be consistent with those imposed for similar offences in other Australian jurisdictions. As the road safety risk for most offences is likely to be the same across Australia, an equitable set of penalties should be similar in different Australian jurisdictions. If Western Australian penalties for a particular offence type are substantially higher or lower than those in other jurisdictions then particular attention was given to assessing whether the relative severity of the penalties is appropriate.

With regard to the final principle, that of consistency across jurisdictions, there are a number of factors that need to be considered when making such comparisons. One is that discrepancies in penalties are likely to exist between jurisdictions for reasons such as different population densities (e.g. different demands on parking), specific Government priorities, the ability of police to detect offences, and parity with other offences within jurisdictions. Another important consideration is that income and cost of living are known to differ between jurisdictions and may influence the fees that are set for offences. Seasonally adjusted average weekly earnings, shown in Figure 2.1 illustrate the higher salaries paid in Western Australia compared to other Australian states and territories. This suggests that Western Australian fees should be marginally higher than those in other Australian jurisdictions.

¹ The penalties for key offences reviewed in this report have been selected by the Office of Road Safety. This report is not a comprehensive review of all penalties for road safety offences in Western Australia.



Figure 2.1
 Seasonally adjusted average weekly earnings (full time adult ordinary time earnings) by Australian jurisdiction, May 2011
 (Source: ABS)

3 Other background information

3.1 Types of penalties

In Western Australia, similar to other jurisdictions, infringement notices or ‘on-the-spot’ fines are issued to road users following an alleged offence against the Road Traffic Code or Australian Road Rules. The infringement notice requires either the payment of a fee or election to have the matter heard by a court. Maximum penalties delivered by courts are more severe than those administered under regulations and court appearances can be costly.

The penalties included in the regulations consist predominantly of demerit points and infringement fees. A small number of more serious traffic offences are not expiable by a fee and must be heard by a court. These more serious offences (e.g. drink and driving offences) also attract demerit points, and in some cases can result in licence disqualification, vehicle impoundment and prison sentences.

The optimal mix of fees/fines and demerit points needed to maximise deterrence across the community is not known. It could be argued that drivers who can afford to pay fees or fines will not be deterred by them but are more likely to be deterred by the possibility that the accumulation of demerit points will lead to loss of licence. Conversely, those who cannot afford to pay fees or fines are more likely to be deterred by the monetary penalty. A system based on the threat of loss of licence through demerit points could be perceived as more equitable but such a system would lead to a greater number of drivers losing their licences. This would likely lead to higher levels of unlicensed driving, which would be an undesirable outcome. A balance of penalty types, including both fees/fines and demerit points is likely to be the most effective.

3.2 Penalty units

In Western Australia, as in most other jurisdictions, fee amounts are expressed in terms of Penalty Units. The value of a Penalty Unit in Western Australia is stipulated in legislation and is periodically reviewed, in order to account for gradual changes in income and cost of living. When the value of a Penalty Unit changes, all fees automatically change to reflect this. It is currently valued at \$50. In some jurisdictions, Penalty Units are indexed annually to keep in line with inflation.

3.3 National Demerit Points Scheme

The allocation of demerit points for most offences is based on a national schedule, although there are a small number of demerit point penalties that are unique to the state. The National Demerit Points Scheme, published by the National Transport Commission, allocates demerit points for a range of traffic offences agreed to by all jurisdictions under the National Driver Licensing Scheme of 1997. Jurisdictions agreed on a core of 132 safety-related demerit point offences, arranged in 23 groups. It was also agreed that individual States and Territories could retain additional (non-core) offences that other jurisdictions may recognise if desired. Furthermore, the national scheme is a set of guidelines only, and jurisdictions are permitted to have different schedules of demerit points if desired. As Metropolis (2004) noted despite broad support from jurisdictions for the development and operation of an agreed core of offences, not all jurisdictions introduced all offences into their legislation and many have varied the number of demerit points assigned per offence. Metropolis argued that the development of the demerit points for core offences was largely based on the consensus views of officers from jurisdictions rather than scientific evidence.

4 Penalty review

4.1 Speeding offences

4.1.1 Speeding and crash risk

It is well known that high travelling speeds are associated with a greater risk of crash involvement and a higher likelihood of injury in the event of a crash. However, official crash statistics as recorded by the police tend to show only very few crashes as being related to speeding. Drivers cannot be expected to admit to police that they were speeding prior to a crash, so classification of a crash as being due to speeding is only likely when there are reliable witnesses or if it is readily apparent from the degree of vehicle damage or from calculations based on tyre marks. Despite the tendency for an underestimation of the role of speeding in crashes, WA Police determined that in 2007 speed was a factor in 30 per cent of fatalities and 43 per cent of motorcyclist fatalities (Thompson & Hill, 2010).

A more accurate picture of the role of travelling speed in road crashes can be gained from research specifically designed to examine speed and crash risk. The most significant studies of this type in Australia have been conducted by Kloeden and colleagues. Kloeden et al. (1997) conducted a case control study of travelling speed and casualty crash involvement in metropolitan Adelaide. The study found that, on roads with a 60 km/h speed limit, the risk of involvement in a casualty crash doubles with each 5 km/h increase in travelling speed above 60 km/h. At 20 km/h over the speed limit, the relative risk of a casualty crash is very high (around 17 times). The relative risk curve of the association between travelling speed and casualty crash involvement is shown in Figure 4.1.

The speed risk curve is noticeably similar to the relative risk curves that have been calculated previously linking alcohol and road crashes. Kloeden and McLean (1998) report that the increased crash risk with every 5 km/h increase in travelling speed in a 60 km/h zone is roughly equivalent to that of an increase of 0.05 g/100ml blood alcohol concentration (BAC). For example, when travelling at 70 km/h in a 60 km/h zone, a driver is approximately four times more likely to be involved in a casualty crash. This is similar to the increase in crash risk when driving with a BAC of 0.10 g/100ml. Figure 4.2 shows a comparison between the risk curves associated with speeding and drink driving.

A similar speed case control study was conducted by Kloeden and colleagues on rural roads in South Australia. This study found that travelling 10 km/h above the speed limit on rural roads (speed limits of 80 km/h or above) approximately doubles the risk of being involved in a casualty crash (Kloeden et al., 2001).

Of particular importance for the issue of enforcement and, therefore, for the present review, is a follow-up analysis of the urban speed case control data which found that nearly 60 per cent of the benefit of eliminating speeding could be achieved by eliminating speeding among those travelling up to 15 km/h over the limit. This is because more drivers travel in this speed range than at higher speeds (Kloeden et al., 2002). Speed survey data from 2007 in Western Australia, based only on vehicles travelling at a free speed (Radalj & Sultana, 2008), indicate that 76 per cent of speeding vehicles were travelling at less than 10 km/h over the limit. It is therefore important, in order to deter the majority of speeding drivers, that the penalties for such 'low level' speeding are still substantial.

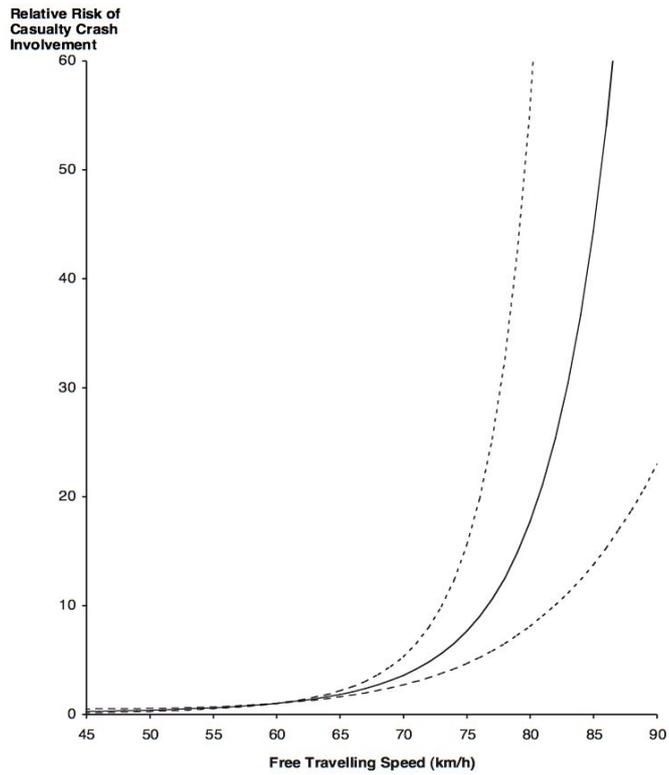


Figure 4.1

Free travelling speed and the risk of involvement in a casualty crash relative to travelling at 60km/h in a 60km/h speed limit zone using a fitted logistic regression model of absolute speed (Source: Kloeden et al., 2002)

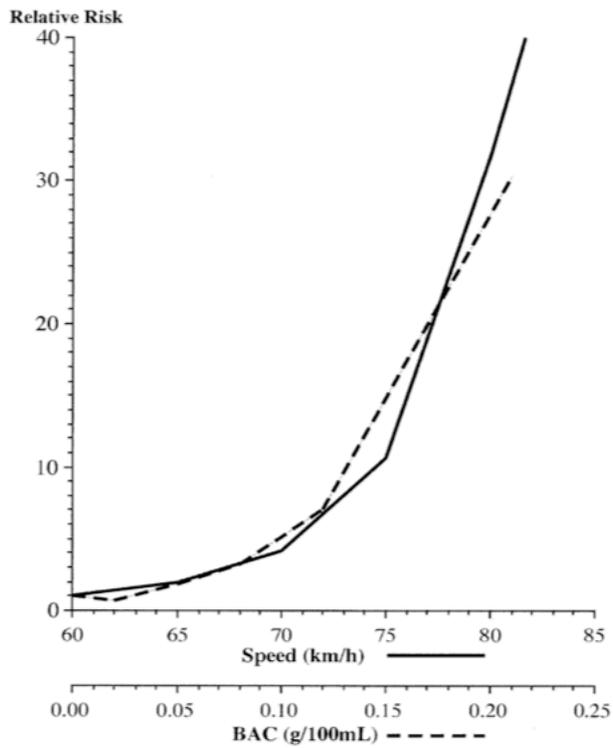


Figure 4.2

Comparing relative risks of involvement in a casualty crash for speed and alcohol (Source: Kloeden & McLean, 1998)

4.1.2 Speeding thresholds

It is an offence under Rule 20 of the Australian Road Rules to drive at a speed exceeding the posted speed limit (Regulation 17 in Western Australia). While this offence is consistent across jurisdictions, Table 4.1 shows the wide variation between jurisdictions in the penalties imposed for speeding offences as well as the diversity in the increments or thresholds at which these penalties increase. Note that Table 4.1 includes both offences listed in the *WA Road Traffic Code 2000* as well as the excessive speed offences listed in the *Road Traffic Act 1974* under the reckless driving provisions. A similar approach is used for all jurisdictions in the Table.

For speeding offences, the demerit point schedule listed in the National Driver Licensing Scheme (see Section 3.3) details four thresholds with 15 km/h increments as well as the demerit points applicable for each offence (1, 3, 4 and 6). As can be seen in Table 4.1, only the ACT and Northern Territory strictly follow the national schedule. Ignoring the excessive speeding and similar provisions in other jurisdictions, Western Australia utilises five instead of four thresholds, as does Queensland, with both states also adjusting the demerit points. New South Wales and South Australia both approximate the national schedule, except that New South Wales divides the first two thresholds into three, while South Australia omits the final threshold. Tasmania, with seven thresholds, and Victoria, with eight, both diverge markedly from the national schedule in terms of thresholds, although the demerit points they apply for offences approximate those in the national schedule.

There is no clear evidence that can be applied to the choice of speeding thresholds. The risk of crashing increases exponentially with increasing travel speed and so there will be marked increases in risk beyond any point on the risk curve chosen as a threshold. In order for a penalty system to be workable, however, a series of thresholds do need to be defined. Given the lack of evidence to provide a basis for the choice of specific thresholds, those used in the national scheme could not be justified on scientific grounds, and so adhering to them would only be of worth in terms of harmonisation. Western Australia's thresholds are set roughly at 10 km/h intervals and so penalties rise more frequently than the national schedule. The more frequently the penalties rise with increasing speed, the more the penalties reflect the exponential increase in crash risk.

4.1.3 Speeding penalties - Comparison with other jurisdictions

The wide variation in penalty structure, particularly in terms of speeding thresholds, makes it difficult to make direct comparisons between different jurisdictions. Nonetheless, some observations can still be made with respect to Western Australian penalties. For example, if a driver exceeds the speed limit by 9 km/h (the lowest speeding threshold in Western Australia and Australia as a whole), the lowest fee applying to that offence is in Western Australia (\$75). The fees in Victoria and the ACT are more than double this amount, while the fee in South Australia is more than triple the amount. If a driver exceeds the speed limit by 16 km/h (many thresholds start at 15 km/h), the lowest infringement fee is applied in Western Australia and Tasmania (\$150). At higher levels of speeding, Western Australian fees are among the highest. Overall, Western Australian speeding fees start low and finish high, while, by contrast, those of South Australia and Victoria start high but do not rise as steeply, finishing lower than those in Western Australia. Western Australian court fines, for the Road Traffic Code offences, are also among the lowest in the nation and it is the only jurisdiction in which it is possible to commit a speeding offence without attracting any demerit points (exceeding speed limit by less than or equal to 9 km/h).

4.1.4 Speeding penalties - Consistency with crash risk

It is highly desirable that speeding penalties reflect the seriousness of the speeding problem and are related to the risk of crashing. Penalties for speeding offences should also be correlated with other types of offences for which the risk relationship is known, such as those related to drink driving.

For speeding penalties to be associated with the relative crash risk of the offence, penalties for offences in higher speeding brackets would need to increase exponentially from the penalties applied at lower levels of speeding. Specifically, the penalty should double with each 5 km/h increment in speeding: the penalty for travelling 10 km/h over the limit should be double that for 5 km/h over, and the penalty for 20 km/h over should be eight times that for 5 km/h over. However, as it is being argued that the penalties for lower levels of speeding should be sizeable (4.1.1), it may not be feasible for speeding penalties at higher levels to be exponentially higher. Therefore, the only recommendation that can be made here is that the penalties at higher levels be among the most severe for all road traffic offences.

A comparison with drink driving penalties is instructive. An offence involving a travelling speed 30 km/h over the limit (e.g. 90 km/h in a 60 zone) is associated with a crash risk 60 times that of a compliant driver. Such speeding, in addition to being dangerous, is very likely to be deliberate. The penalty in Western Australia is a \$700 infringement fee and 5 demerit points. The penalty for the comparable drink driving offence (above 0.15 g/100ml first offence) is a minimum fine of \$900 and a maximum fine of \$2500, plus a 10 month licence disqualification. The penalty for exceeding the speed limit by over 30 km/h should reflect the risk involved by involving a suitably high fine and a licence suspension or disqualification.

Comparisons with other offences included in this review reveal that penalties for high level speeding (at least 19 km/h over the speed limit) are the most severe of all penalties. This is consistent with the well-established high injury and crash risk associated with speeding. The penalties for low level speeding are similar (9 to 19 km/h over the limit) or lower (9 km/h over or less) than other penalties. This means that an offence known to be associated with twice to three times the average crash risk has a relatively low level penalty.

4.1.5 Heavy vehicles

Western Australia, like New South Wales and Victoria, has a separate penalty schedule for speeding offences by heavy vehicles (Table 4.2). The infringement fees for heavy vehicle speeding offences are greater than those for other vehicles, particularly for low level speeding. This schedule recognises the greater risk of serious injuries in crashes involving heavy vehicles. For example, Western Australian data show that in 2007 5.6 per cent of fatalities involved articulated trucks, compared to 1.7 per cent of hospitalisations and 0.9 per cent of other injuries (Thompson & Hill, 2010). The increases in fees for heavy vehicles in Western Australia are broadly similar in magnitude to those in New South Wales but the increases in Victoria are greater. All three jurisdictions retain the demerit point schedule for offences by other vehicles. The maximum court fines in New South Wales and Victoria are two to three times those in Western Australia. Western Australia also does not impose licence disqualifications for Road Traffic Code offences, only for reckless driving type offences. Both Victoria and New South Wales issue licence disqualification penalties at lower levels of speeding, similar to the schedule applying in those states to light vehicles.

4.1.6 Excessive speeding

As mentioned in Section 4.1.2, in addition to the speeding offence penalties listed in the *Road Traffic Code 2000*, Western Australia, similar to other jurisdictions, also legislates for greater penalties to be

applied to speeding offences that fall under the provisions of 'Reckless driving' as described in Part V, Division 1, s60 of the *Road Traffic Act 1974*. Reckless driving refers to the operation of a motor vehicle such that it is inherently dangerous or that is dangerous to the public. Included within the definition is exceeding the speed limit by 45 km/h or more. The penalties for a first offence are a fine of 40 penalty units (\$2,000) or imprisonment for 9 months, plus disqualification from driving for at least 6 months. For a second offence, the fine increases to 60 penalty units (\$3,000) and the minimum disqualification period to 12 months, while any subsequent offences involve an 80 penalty unit fine (\$4,000), imprisonment for 12 months and permanent licence disqualification. Vehicles can also be impounded according to the *Road Traffic Act 1974* following the *Road Traffic Amendment (Hoons) Act 2009*.

A full review of this aspect of Western Australia's road safety legislation was not requested as part of the current project, as the excessive speeding provisions have been scrutinised recently during the development of the *Road Traffic Amendment (Hoons) Act 2009*. However, any suggested revisions for speeding penalties under the Road Traffic Code may have implications for the penalties applying for excessive speeding under the *Act*.

Furthermore, it may be worth discussing whether the speeding threshold for reckless driving is best set at the current 45 km/h over the speed limit, similar to most other Australian jurisdictions. In a recent analysis of fatal crashes using Coroner's reports and of injury crashes using cases investigated using in-depth crash investigation, Wundersitz and Baldock (2011) examined the extent to which crash occurrence is attributable to extreme behaviour by road users - a corollary of reckless driving. In defining the speeding threshold for extreme behaviour, the authors argued that the variety of speed limits on different road types meant that it was appropriate to define extreme speeding in terms of the percentage by which a speed limit is exceeded rather than a specific number of kilometres per hour. The authors decided that extreme speeding was travelling at 50 per cent or more above the speed limit (e.g. 90 km/h in a 60 zone, 150 km/h in a 100 zone) (Wunderstiz & Baldock, 2011). The choice of 45 km/h excess as a marker for reckless speeding in Western Australia means that the same penalty applies for exceeding a 50 km/h limit by 90 per cent as for exceeding a 100 km/h limit by 45 per cent.

If a percentage of excess speed were chosen as the marker for reckless speeding, it would make sense to have a similar set of thresholds for speeding offences in general within the Road Traffic Code (i.e. all speeding offences defined in terms of percentage above the speed limit). However, such a change is unlikely to be adopted as it would require a large-scale overhaul of the speeding offences in the Road Traffic Code and would contradict the National Demerit Points Scheme that uses thresholds based on exceeding the speed limit by a certain number of kilometres per hour.

4.1.7 Recommendations - speeding offences

The review of speeding offences in this section makes it clear that Western Australian speeding offence penalties are too low, particularly for the lower level speeding offences. The following recommendations are made:

- Penalties for lower level speeding offences should be increased.
- The penalty for the lowest level speeding (less than or equal to 9 km/h) should include the loss of one (1) demerit point.
- The current set of speeding thresholds can be retained.
- The higher level speeding penalties under the WA Road Traffic Code (greater than or equal to 29 km/h over the limit) should include a licence disqualification.
- For heavy vehicle offences, all fees should increase.

- For heavy vehicles, the penalty for the lowest level speeding (less than or equal to 9 km/h) should include the loss of one (1) demerit point.
- For heavy vehicles, licence disqualification should be introduced for high level speeding offences under the WA Road Traffic Code (greater than 29 km/h above the limit).
- All specified court fines for both light vehicles and heavy vehicles should be markedly increased.
- The current threshold for excessive speeding of 45 km/h above the limit can be retained.

The suggested changes above would lead to speeding penalties as described in Tables 4.3 and 4.4.

Table 4.1
Penalties for exceeding the speed limit in Australian jurisdictions

Regulation	WA ^a					ACT ^a					NSW ^a					NT				
	Speed offence	Fee (\$)	DP	Dis (months)	Fine (\$)	Speed offence	Fee (\$)	DP	Dis (months)	Fine (\$)	Speed offence	Fee (\$)	DP	Dis (months)	Fine (\$)	Speed offence	Fee (\$)	DP	Dis (months)	Fine (\$)
17*	≤9 km/h	75	-	-	1200	≤15 km/h	162	1	-	2200	≤10 km/h	93	1	-	2200	≤15 km/h	100	1	-	2740 (or 6 imp)
17*	9-19 km/h	150	2	-	1200						10-20km/h	216	3	-	2200					
17*	19-29 km/h	300	3	-	1200	15-30km/h	253	3	-	2200	20-30km/h	371	4	-	2200	15-30km/h	200	3	-	2740 (or 6 imp)
17*	29-40 km/h	700	5	-	1200	30-45km/h	664	4	-	2200	30-45km/h	710	5	3	2200	30-45km/h	300	4	-	2740 (or 6 imp)
17*	>40 km/h	1000	7	-	1200															
60(1b)	≥45km/h, 1st offence	-	7	6	2000 (or 9 imp)	>45 km/h	1811	6	-	2200	>45 km/h	1915	6	6	2200	>45 km/h, 1st offence	500	6	3	2740 (or 24 imp)
60(1b)	≥45km/h, 2nd offence	-	7	12	3000 (or 9 imp)										>45 km/h, Sub offence	500	6	6	2740 (or 24 imp)	
60(1b)	≥45km/h, Sub offence	-	7	perm	4000 (or 12 imp)															

Table 4.1
Penalties for exceeding the speed limit in Australian jurisdictions (cont.)

QLD					SA					TAS					VIC				
Speed offence	Fee (\$)	DP	Dis (months)	Fine (\$)	Speed offence	Fee (\$)	DP	Dis (months)	Fine (\$)	Speed offence	Fee (\$)	DP	Dis (months)	Fine (\$)	Speed offence	Fee (\$)	DP	Dis (months)	Fine (\$)
<13km/h	133	1	-	4000	<15km/h	252	1	-	2500	<10km/h	80	2	-	2600	<10km/h	153	1	-	1221
13-20km/h	200	3	-	4000						10-15km/h	110	2	-	2600	10-15km/h	244	3	-	1221
										15-23km/h	150	3	-	2600	15-25kmh	244	3	-	1221
20-30km/h	333	4	-	4000	15-30km/h	371	3	-	2500	23-30km/h	250	3	-	2600	25-30km/h	336	4	1	1221
30-40km/h	467	6	-	4000	≥30 km/h	532	4	-	2500	30-38km/h	450	5	-	2600	30-35km/h	397	4	1	1221
>40 km/h	933	8	6	4000						38-45km/h	650	6	3	2600	35-40km/h	458	6	6	1832
					≥45km/h, 1st offence	650	6	6	1100-1500	≥45km/h	900	6	4	2600	40-45km/h	519	6	6	1832
					≥45km/h, Sub offence	650	6	24	1200-1700						≥45km/h	611	8	12	2443

*Demerit points under National Scheme.

^a Double demerit points are incurred during holiday periods/long weekends

Note: All disqualifications are the minimum period. The majority of court fines specified are the maximum fine but there was no reference found in the WA or NT legislation stating that the fine for an excessive speed offence (45km/h or more) is the maximum in those jurisdictions. Also, penalties shown are the standard and may differ in some jurisdictions for specific vehicle classes such as heavy vehicles, for learner or provisional drivers, in certain circumstances in specific speed zones, in school zones, or in holiday periods/long weekends.

Table 4.2
Specific penalties for exceeding the speed limit in a heavy vehicle^a, in Australian jurisdictions

Regulation	WA ^b					NSW ^b					VIC				
	Speed offence	Fee (\$)	DP	Dis (months)	Fine (\$)	Speed offence	Fee (\$)	DP	Dis (months)	Fine (\$)	Speed offence	Fee (\$)	DP	Dis (months)	Fine (\$)
17*	≤9 km/h	150	-	-	1200	10 km/h	278	1	-	2200	<10km/h	214	1	-	2443
17*	9-19km/h	250	2	-	1200	10-20km/h	371	3	-	2200	10-15km/h	336	3	-	2443
17*	19-29km/h	400	3	-	1200	20-30km/h	463	4	-	2200	15-25km/h	489	3	-	2443
17*	29-40km/h	850	5	-	1200	30-45km/h	1112	5	3	2200	25-30km/h	672	4	1	2443
17*	>40 km/h	1000	7	-	1200						30-35km/h	855	4	1	2443
60(1b)	≥45km/h, 1st offence	-	7	6	2000 (or 9 imp)	>45 km/h	2904	6	6	3300	35-40km/h	1038	6	6	3664
60(1b)	≥45km/h, 2nd offence	-	7	12	3000 (or 9 imp)						40-45km/h	1221	6	6	3664
60(1b)	≥45km/h, Sub offence	-	7	perm	4000 (or 12 imp)						≥45km/h	1405	8	12	3664

*Demerit points under National Scheme

^a Definition of heavy vehicle differs in the relevant legislation for each of the listed jurisdictions. The GVM/GCM of a vehicle classed as a heavy vehicle in WA must be 22.5 tonnes or more, in NSW, this must be over 12 tonnes, and in VIC, over 4.5 tonnes.

^b Double demerit points are incurred during holiday periods/long weekends

Note: Penalties for speeding offences do not differ in the road rules for drivers of heavy vehicles in jurisdictions other than WA, NSW, and VIC, and therefore they are not listed in the current table. All disqualifications are the minimum period. Also, the majority of court fines specified are the maximum fine but there was no reference found in the WA legislation stating that the fine for an excessive speed offence (45km/h or more) is the maximum.

Table 4.3
A table of suggested penalties for exceeding the speed limit in Western Australia

Regulation	Offence	Fee (\$)	DP	Dis (months)	Fine (\$)
17	≤9 km/h	200	1	-	3200
17	9-19 km/h	350	2	-	3200
17	19-29 km/h	600	3	-	3200
17	29-40 km/h	800	5	3	3200
17	>40 km/h	1500 ^a	7	6	4800
60(1b)	≥45km/h, 1st offence	-	7	6	5000 (or 9 imp)
60(1b)	≥45km/h, 2nd offence	-	7	12	5000 (or 9 imp)
60(1b)	≥45km/h, Sub offence	-	7	perm	6000 (or 12 imp)

Table 4.4
A table of suggested penalties for exceeding the speed limit in a heavy vehicle (at least 22.5 tonnes) in Western Australia

Regulation	Offence	Fee (\$)	DP	Dis	Fine (\$)
17	≤9 km/h	300	1	-	3200
17	9-19 km/h	500	2	-	3200
17	19-29 km/h	900	3	-	3200
17	29-40 km/h	1200	5	3 mth	3200
17	>40 km/h	2500 ^a	7	6 mth	4800
60(1b)	≥45km/h, 1st offence	-	7	6	5000 (or 9 imp)
60(1b)	≥45km/h, 2nd offence	-	7	12	5000 (or 9 imp)
60(1b)	≥45km/h, Sub offence	-	7	perm	6000 (or 12 imp)

^aThis would require a change to Regulation 9 of the Road Traffic Code 2000 which limit maximum penalties to a maximum of 24 penalty units (\$1200)

4.2 Failure to give way

While the penalties applied to offences related to speeding can be determined to a large degree by research into crash risk, there is very little research that offers any guidance in determining appropriate penalties for offences relating to failure to give way. In the absence of any such information, the appropriateness of the penalties for these offences is assessed in relation to similar offences under the same subsection, penalties applied for the same offence in other jurisdictions, the theoretical likelihood of a crash occurring as a result of committing the offence and the likely injury severity of such a crash if it occurred.

Offences related to failure to give way are divided up in this section into the following sub-categories: failure to give way at intersections (4.2.1), failure to give way to vulnerable road users (4.2.2), and other fail to give way offences (4.2.3). The reason for doing this is to group offences not only broadly by type but also by the likely impact type and injury severity in the event of a crash.

4.2.1 Failure to give way at intersections

Offences related to failure to give way at intersections, but not specifically to vulnerable road users (see 4.2.2) include those under Regulations 39 to 42, 44, 45(1), 46, 47, 50(2,3), 52(1), 54, 55(2), 56(2,6), 57, 58, and 65. The chief consideration in offences of this type is that the most likely crash-related consequence is a side impact. Side impacts are dangerous because they can involve direct contact between a striking vehicle and the occupant of the struck vehicle. Although side impact and curtain airbags are becoming more common in the vehicle fleet, the vehicle structures protecting occupants in forward and rear impacts are still largely absent in side impacts. The most common crash types resulting from disobeying a red traffic light are right angle and right turn crashes (Milazzo *et al.*, 2001). In Western Australia from 2001 to 2010, 19.8 per cent of all crashes were right angle collisions, while 6.8 per cent were right turn through crashes (Main Roads WA Integrated Road Information System, sourced December 2011).

Due to the potentially serious injuries associated with these offences, the penalties should be relatively high. However, examination of Table 4.5 reveals small penalties of two to three penalty units (\$100 to \$150). In addition to being low given the severity of the broad offence type, fees in Western Australia are also well below those in the ACT, New South Wales, Queensland, South Australia and Victoria. Almost all of the offences are a part of the National Demerit Points Scheme and most jurisdictions follow this. There are a couple of offences not in this scheme concerned with failure to clear an intersection (41(3) and 44(4)) for which Western Australia does not apply a demerit point penalty, in contrast to the three point penalties in New South Wales, Australian Capital Territory, South Australia and Victoria. The maximum court fines in Western Australia are well below those in most other Australian jurisdictions (Table 4.6).

4.2.2 Failure to give way to vulnerable road users

These offences include those that specifically mention vulnerable road users, particularly pedestrians, and include a number of offences referring to shared zones and crossings. The offences considered in this section are those for Regulations 45(3), 50(4,5), 51(3), 52(2,3), 55(3), 55(5,6), 61, 62, and 64. The threat to pedestrians and other vulnerable road users from these offences means that, again, the potential for serious injury is high. The penalties applied to the offences should reflect this. It can be seen in Table 4.7 that the fees for these offences in Western Australia are again considerably less severe than those in other jurisdictions, excepting Tasmania and the Northern Territory. Most of the offences are a part of the National Demerit Point Scheme and most jurisdictions follow these. Western Australia applies an additional demerit point for failing to stop before a children's or pedestrian

crossing (61(2) or 62(3)) but, unlike most jurisdictions, does not apply any demerit points for failure to drive at a speed at which the vehicle could safely stop before reaching a crossing (61(1)). The maximum court fines in Western Australia are well below those in most other Australian jurisdictions (Table 4.8).

There are also a small number of offences for which Western Australia has penalties of a single penalty unit and which are not penalised at all in some jurisdictions. The offences are for Regulations 61(1 and 3) and 62 (1 and 4). Two of these refer to entering crossings when the carriageway beyond the crossing is blocked (61(3) and 62(4)), while the other two refer to approaching a crossing at an inappropriate speed (61(1) and 62(1)). The former is unlikely to be associated with a high crash risk, assuming that the crossing is not at an intersection, while an elevated crash risk seems more likely in the case of the inappropriate speed.

4.2.3 Other give way

Offences in this category include those give way offences that do not involve the risk of a side impact collision and do not involve the explicitly stated risk of a collision with a vulnerable road user. The offences in this category are those associated with Regulations 43, 45(2), 48, 51(2), 53, 55(4), 56(3,4,5), 59, 60, 66, 67, and 68 (1 and 3). These encompass a variety of driving manoeuvres, including various types of left turn, slip lanes, disobeying give way signs on a bridge or narrow carriageway, giving way to buses, giving way to emergency vehicles, use of turning lanes in painted islands, use of turning lanes in medians, and entering traffic from the road boundary or median parking area.

The disparate nature of the offences in this category make it difficult to make general comments. However, it is possible to note that most of these offences are less likely to lead to serious injury crashes than speeding, drink driving or the failure to give way offences described in the two previous sections. For example, the offences related to left turns are most likely to lead to side swipe or rear end type collisions, which are less likely to cause serious injuries than the front-to-side impacts characteristic of give way offences at intersections. For this reason, the penalties associated with this range of offences could be lower than those applied to offences discussed in the previous sections.

Most of the offences in this category are a part of the National Demerit Point Scheme and Western Australia follows the scheme, except for applying an additional demerit point for the failure to give way to emergency vehicles (offence 60). In terms of fees, Western Australian penalties are much lower than those in almost all jurisdictions. In a number of cases, the penalties in other jurisdictions are double those of Western Australia (Table 4.9). The maximum court fines in Western Australia are well below those in most other Australian jurisdictions (Table 4.10).

4.2.4 Recommendations - failure to give way offences

On the basis of the review above, a number of recommendations can be made regarding the penalties for failure to give way offences in Western Australia. The recommendations are listed separately for the three sets of offences discussed in the previous three sub-sections.

With regard to failure to give way at intersections, the following recommendations are made:

- Fees for the offences listed in section 4.2.1 (failure to give way at intersections) should be increased. The suggested level is eight penalty units (\$400).
- Offences 41(3) and 44(4) should attract three demerit points.
- Maximum court fines for the offences listed in section 4.2.1 should be increased. The suggested level is \$2800.

With regard to failure to give way to vulnerable road users, the following recommendations can be made:

- Fees for the offences listed in section 4.2.2 (failure to give way to vulnerable road users) should be increased. A suggested level is eight penalty units (\$400).
- Fees for offences 61(3) and 62(4) can remain at a lower level. A suggested level is four penalty units (\$200).
- The offence 61(1) should attract three demerit points.
- Maximum court fines for the offences listed in section 4.2.2 should be increased. A suggested level is \$2800.

With regard to other failure to give way offences, the following recommendations can be made:

- Fees for the offences listed in section 4.2.3 (other failure to give way offences) should be increased. A suggested fee is six penalty units (\$300).
- Maximum court fines for the offences listed in section 4.2.3 should be increased. A suggested level is \$2200.

Table 4.5
Penalties for failing to give way at intersections in Australian jurisdictions

Regulation	Failure to give way at intersection offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP
39	Offence against circular green signal or green arrow	150	-	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
40(1)*	Failure to stop for circular red signal	150	3	282	3	353	3	240	3	300	3	391	3	110	3	305	3
40(2)*	Failure to stop for red arrow	150	3	282	3	353	3	240	3	300	3	391	3	110	3	305	3
41(1)*	Failure to stop prior to stop line for a circular yellow signal or yellow arrow, when safe to do so	100	2	282	3	353	3	100 ^a	-	300	3	391	3	80	3	305 ^b	-
41(2)*	Failure to stop prior to intersection for a circular yellow signal or yellow arrow, when safe to do so	100	2	282	3	353	3	100 ^a	-	300	3	391	3	80	3	305 ^b	-
41(3)	Failure to leave intersection when safe to do so after a failure to stop for a circular yellow signal or arrow due to unsafe circumstances	100	-	282	3	353	3	-	-	300	-	391	3	80	-	244	3
42	Offence against a green arrow with a circular red or yellow signal	-	-	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
44(2)*	After stopping, entering or proceeding further into intersection when lights turn from green to yellow or red	150	3	282	3	353	3	80	-	300	3	391	3	110	3	305	3
44(4)	After stopping, failure to leave intersection as soon as safe to do so when lights turn from green to yellow or red	100	-	282	3	353	3	80	-	300	-	391	3	80	-	244	3
45(1)*	Failure to give way to vehicles when turning right at an intersection with traffic controls	150	3	282	3	265	3	80	-	300	3	361	3	110	3	214	-
46(1)*	Failure to give way or obey stop sign rules when at intersection with traffic control signals not operating or only partly operating, and there is a traffic light-stop sign	150	3	282	3	265	3	-	-	300	3	361	3	110	3	214	-
46(2)*	Failure to give way to specified road users when at intersection with traffic control signals not operating or only partly operating and there is no traffic light stop sign	150	3	282	3	265	3	-	-	300	3	361	3	110	3	214	-
47	Failure to give way to specified road users at flashing yellow traffic arrow at intersection	150	3	282	3	265	3	80	-	300	3	361	3	110	3	214	3
50(2)*	Failure to stop when approaching intersection with a 'stop' sign (without traffic control signals)	150	3	282	3	265	3	80	-	300	3	361	3	110	3	244	3

Regulation	Failure to give way at intersection offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP														
50(3)*	Failure to give way to other vehicles when at an intersection with a 'stop' sign (without traffic control signals)	150	3	282	3	265	3	80	-	300	3	361	3	110	3	244	3
52(1)*	Failure to give way to specified vehicles at an intersection with a give way sign or line	150	3	282	3	265	3	80	-	300	3	361	3	110	3	244	3
54*	Failure to give way at give way sign or give way line at other places	150	3	282	3	265	3	80	-	300	3	306	3	110	3	244	3
55(2)*	Failure to give way when travelling straight ahead at an intersection (except T-intersection or roundabout)	150		282	3	265	3	80	-	300	3	361	3	110	3	214	3
56(2)*	Failure to give way at T intersection when turning left or right from the terminating road	150	3	282	3	265	3	100	-	300	3	361	3	110	3	214	3
56(6)*	Failure to give way at a T-intersection when turning right from the continuing road	150	3	282	3	265	3	100	-	300	3	361	3	110	3	214	3
57*	Failure to give way when entering carriageway from land abutting carriageway or road	150	3	162	3	265	3	100	-	300	3	325	3	110	3	214	3
58*	Failure to give way when entering land abutting carriageway or road from carriageway	150	3	162	3	265	3	100	-	300	3	325	3	110	3	214	3
65*	Failure to give way when driving through break in medium strip	150	3	282	3	265	3	-	-	300	3	325	3	110	3	122	3

*Demerit points under National Scheme.

^a Fee can be \$80 or \$100 as penalty is listed twice in NT legislation.

^b Demerit points are not incurred if offence occurs at circular yellow signal, they are only incurred if offence occurs at yellow arrow.

Note: Penalties listed are those considered equivalent to the WA penalty. Unless specified otherwise, penalties shown are for the driver of the vehicle. In some jurisdictions these penalties may differ for specific vehicle types, road users or offence locations (e.g., school zones, toll booths, level crossings, or specified routes).

Table 4.6
Maximum court fines for failing to give way at intersections in Australian jurisdictions

Jurisdiction	Court fine
WA	\$1200
ACT	\$2200
NSW	\$2200
NT	\$2740*
QLD	\$2000
SA	\$2500
TAS	\$650 to \$1300
VIC	\$366 to \$1221

*Driver may receive penalty of up to 6 months imprisonment instead of court fine.

Table 4.7
Penalties for failing to give way to vulnerable road users in Australian jurisdictions

Regulation	Failure to give way to vulnerable road users offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP														
45(3)*	Failure to give way to pedestrians when turning left or right at an intersection with traffic controls	150	3	282	3	265	3	80	-	300	-	361	3	110	3	214	-
50(4)*	Failure to give way to pedestrians when at an intersection with a 'stop' sign and turning left, right or making a U-turn (without traffic control signals)	150	3	282	3	265	3	80	-	300	3	361	3	110	3	244	3
50(5)*	Failure to give way to pedestrian on slip lane when turning left using a slip lane with a 'stop' sign or line	150	3	NA	NA	NA	NA	80	-	300	3	361	3	110	3	244	3
51(3)*	Failure to give way to vehicle or pedestrian when at a stop line or sign at other places (not at intersection, children's crossing, level crossing, or place with twin alternating red lights)	150	3	282	3	265	3	80	-	300	3	306	3	110	3	244	3
52(2)*	Failure to give way to pedestrians when turning left, turning right, or making a U-turn at an intersection with a give way sign or line	150	3	282	3	265	3	80	-	300	3	361	3	110	3	244	3
52(3)*	Failure to give way to pedestrians on slip lane when	150	3	282	3	265	3	80	-	300	3	361	3	110	3	244	3

Regulation	Failure to give way to vulnerable road users offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP
	making a left turn on a slip lane at an intersection with a give way sign or line																
55(3)*	Failure to give way to vehicles or pedestrians when turning left at an intersection (except T-intersection or roundabout)	150	3	282	3	265	3	80	-	300	3	361	3	110	3	214	3
55(5)*	Failure to give way to pedestrians when turning left on a slip lane at an intersection (except T-intersection or roundabout)	150	3	282	3	265	3	80	-	300	3	361	3	110	3	214	3
55(6)*	Failure to give way to vehicles or pedestrians when turning right at an intersection (except T-intersection or roundabout)	150	3	282	3	265	3	80	-	300	3	361	3	110	3	214	3
61(1)*	Failure to drive at a speed in which the driver can safely stop, if necessary, before the approaching children's crossing	50	-	282	3	353	3	-	-	-	3	-	3	150	3	-	-
61(2)* or 62(3)	Failure to stop before reaching children's or pedestrian crossing when 'children crossing - stop' sign is displayed, or, allowing a portion of the vehicle to enter upon the crossing while the sign is displayed or a pedestrian is on the crossing	200	4	282	3	353	3	120 ^a	-	300	3	361	3	250	3	305	3
61(3)	Entering a children's crossing, or attempting to cross the crossing, when the carriageway beyond it is blocked	50	-	162	-	206	2	-	-	40	-	NA	NA	80	-	NA	NA
62(1)*	Failure to drive at a speed in which the driver can safely stop, if necessary, before the approaching pedestrian crossing	50	-	282	3	353	3	-	-	-	3	-	3	150	3	-	-
62(2)*	Failure to give way to a pedestrian on a pedestrian crossing	200	3	282	3	353	3	100	-	300	3	342	3	250	3	214	3
62(4)	Entering a pedestrian crossing, or attempting to cross the crossing, when the carriageway beyond it is blocked	50	-	162	-	206	2	-	-	40	-	-	3	80	-	NA	NA
64*	Failure to give way to a pedestrian in a shared zone	200	3	162	3	353	3	-	-	300	3	286	3	110	3	214	3

*Demerit points under National Scheme.

^a Fee can be \$80 or \$120 as penalty is listed twice in NT legislation.

Note: Penalties listed are those considered equivalent to the WA penalty. Unless specified otherwise, penalties shown are for the driver of the vehicle. In some jurisdictions these penalties may differ for specific vehicle types, road users or offence locations (e.g., school zones, toll booths, level crossings, or specified routes).

Table 4.8
Maximum court fines for failing to give way to vulnerable road users in Australian jurisdictions

Jurisdiction	Court fine
WA	\$1200
ACT	\$2200
NSW	\$2200
NT	\$2740*
QLD	\$2000
SA	\$2500
TAS	\$650 to \$1950
VIC	\$611 to \$1221

*Driver may receive penalty of up to 6 months imprisonment instead of court fine.

Table 4.9
Penalties for other failure to give way offences in Australian jurisdictions

Regulation	Other failure to give way offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP										
43*	Failure to obey 'left turn on red permitted after stopping' sign	150	3	282	3	353	3	240	3	300	3	391	3	110	3	305	3
45(2)*	Failure to give way to vehicles when turning left at an intersection with traffic controls	150	3	282	3	265	3	80	-	300	-	361	3	110	3	214	-
48	Failure to give way, obstruction of a pedestrian, or overtaking another vehicle, at a crossing (other than at intersection) with flashing yellow traffic-control signal	100	3	282	3	265	3	80	-	300	3	342	3	150 ^a	3	244	3
51(2)*	Failure to stop when approaching stop sign or line at other places (not at intersection, children's crossing, level crossing, or place with twin alternating red lights)	150	3	282	3	265	3	80	-	300	3	306	3	110	3	244	3
53*	Failure to give way at give way sign on bridge or length of narrow carriageway	150	3	282	3	265	3	80	-	300	3	361	3	110	3	244	3
55(4)*	Failure to give way to vehicles when turning left on a slip lane at an intersection (except T-intersection or roundabout)	150	3	282	3	265	3	80	-	300	3	361	3	110	3	214	3

Regulation	Other failure to give way offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP														
56(3)*	Failure to give way at a T-intersection when turning left from the terminating road using a slip lane	150	3	282	3	265	3	100	-	300	3	361	3	110	3	214	3
56(4)*	Failure to give way at a T-intersection when turning left from the continuing road	150	3	282	3	265	3	100	-	300	3	361	3	110	3	214	3
56(5)*	Failure to give way at a T-intersection when turning from the continuing road using a slip lane	150	3	282	3	265	3	100	-	300	3	361	3	110	3	214	3
59*	Failure to give way to public buses in built up areas	100	3	162	3	265	3	100	-	180	3	178	3	80	3	214	3
60*	Failure to give way and keep clear of police and emergency vehicles displaying a flashing blue or red light	150	4	191	3	353	3	100	-	233	3	361	3	150	3	214	3
66*	Failure to give way when entering a turning lane from a painted island	150	3	282	3	265	3	-	-	300	3	306	3	110	3	214	-
67*	Failure to give way to oncoming vehicles in a turning bay when entering the median turning bay	150	3	162	3	265	3	-	-	300	3	325	3	110	3	214	-
68(1)*	Failure to give way when entering a lane or line of traffic from boundary of carriageway	150	3	223	3	265	3	-	-	300	3	293	3	110	3	122	3
68(3)*	Failure to give way when entering a lane or line of traffic from a median strip parking area	150	3	223	3	265	3	-	-	300	3	293	3	110	3	214	-

*Demerit points under National Scheme.

^a Fee is \$150 for failure to give way to, or obstruction of, a pedestrian, but it is \$250 if the offence involves overtaking a vehicle at the crossing.

Note: Penalties shown are the standard and may differ in some jurisdictions if the offence is committed by a vehicle other than a motor vehicle, or if offence occurs at a toll booth or level crossing, in school zones, or on a long weekend.

Table 4.10
Maximum court fines for other failure to give way offences in Australian jurisdictions

Jurisdiction	Court fine
WA	\$1200
ACT	\$2200
NSW	\$2200
NT	\$2740*
QLD	\$2000
SA	\$2500
TAS	\$650 to \$1950
VIC	\$611 to \$1221

*Driver may receive penalty of up to 6 months imprisonment instead of court fine.

4.3 Other offence types

4.3.1 Disobeying access control signs

This category covers a range of offences that are broadly related to the control of access. The following offences are included: 41A, 69 to 73, 76 to 80, 82 to 90, 91A, and 131 (2 and 3). These offence types are generally concerned with control of the areas in which particular vehicles are allowed to travel (e.g. 'no trucks' signs; clearance signs), and control of turning manoeuvres (e.g. disobeying a 'no left turn' sign). Most of these offences are unlikely to lead to serious crashes. For example, a vehicle that misuses an arrester bed poses little threat to other road users, except in the unlikely event that another vehicle needs to use the arrester bed at that exact time. One possible exception is offence 72(2), which applies to drivers turning right or making a U turn at a 'no right turn' sign. Such an offence could place the vehicle at risk of a side impact collision similar to those referred to in Section 4.2.1, although not to the same degree. Section 4.2.1 specifies a failure to give way, which implies a greater risk of collision.

In terms of comparisons with other jurisdictions, Western Australia's penalties (mostly 2, sometimes 3 penalty units) are in a similar range to most others, with the exception of New South Wales and South Australia, where the penalties are consistently higher. New South Wales has particularly severe penalties for contravention of clearance signs and signs regulating truck access. With regard to demerit points, Western Australia and Queensland both apply three rather than two points to offences involving contravention of turn control signs (offences 69 to 72), which are part of the National Demerit Point Scheme. For the remaining offences, the use of demerit points is prominent in Western Australia, along with Queensland and South Australia, with more variation in other jurisdictions (Table 4.11). The maximum court fines for disobeying access control sign offences in Western Australia are well below those in most other Australian jurisdictions (Table 4.12)

4.3.2 Recommendations - disobeying access control sign offences

The preceding review of penalties associated with disobeying access control signs has led to the following recommendations:

- Fees for disobeying access control signs should increase marginally. The suggested general fee could be four penalty units (\$200).
- Maximum court fines for the offences listed in section 4.3.1 should be increased. The suggested level is \$2200.

Table 4.11
Penalties for disobeying access control signs in Australian jurisdictions

Regulation	Disobeying access control sign offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP
41A	Motor vehicles entering bicycle storage area	100	2	282	3	353	3	NA	NA	300	3	306	3	110	3	244	-
69(1)*	Failure to obey 'left turn only' sign	100	3	162	2	206	2	80	-	80	3	306	2	110	2	122	-
69(2)*	Failure to obey 'left lane must turn left' sign	100	3	162	2	206	2	80	-	80	3	306	2	110	2	122	-
70(1)*	Failure to obey 'right turn only' sign	100	3	162	2	206	2	80	-	80	3	306	2	110	2	122	-
70(2)*	Failure to obey 'right lane must turn right' sign	100	3	162	2	206	2	80	-	80	3	306	2	110	2	122	-
70(3)*	Making a U-turn at a 'right turn only' or 'right lane must turn right' sign	100	3	162	2	206	2	80	-	80	3	306	2	110	2	122	-
71*	Making a turn (left, right or U-turn) at a 'no turns' sign	100	3	162	2	206	2	80	-	80	3	306	2	110	2	122	-
72(1)*	Turning left at a 'no left turn' sign	100	3	162	2	206	2	80	-	80	3	306	2	110	2	122	-
72(2)*	Turning right or making a U-turn at a 'no right turn' sign (unless there is a 'U-turn permitted' sign)	100	3	162	2	206	2	80	-	80	3	306	2	110	2	122	-
73	Failure to drive in the direction(s) indicated by traffic lane arrows	100	2	162	-	206	2	80	-	80	3	306	3	110	2	153	2
76	Failure to obey 'emergency stopping lane only' sign	150	2	162	-	206	2	80	-	40	-	306	3	-	-	244	3
77	Stopping on an area of carriageway marked with keep clear markings	100	-	162	-	206	2	80	-	120	3	306	3	80	-	122	-
78	Driving on a road in a vehicle that is not permitted according to a 'road access' sign	100	-	162	-	206	2	80	-	120	3	306	3	110	-	122	-
79	Walking on a freeway, or driving or riding a vehicle restricted from use on freeways on a freeway	100	-	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
80	Driving in a direction contrary to that specified on 'one way' sign	100	3	162	-	206	2	100 ^a	-	140	3	361	3	110	2	122	3
82	Failure to obey 'no entry' sign	100	3	162	-	206	2	80	-	140	3	306	3	110	2	122	3
83(1)*	When approaching a hand-held stop sign, failure to stop before reaching the sign	100	3	282	3	265	3	-	-	300	3	306	3	150	3	244	3
83(2)*	After stopping for a hand-held stop sign, proceeding before the holder of the sign no longer displays the sign or indicates the	100	3	282	3	265	3	-	-	300	3	306	3	150	3	244	3

Regulation	Disobeying access control sign offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP	Fee (\$)	DP												
	driver may proceed																
84	Driving past a 'clearance' sign when the driver's vehicle, or any vehicle or load connected to it, exceeds the height specified on the sign	100	3	162	-	1824	6	-	-	400	4	306	3	400	2	-	-
85(1)	Driving past 'bridge load limit (gross mass)' or 'gross load limit' sign when gross mass is greater than that indicated by the sign	100	3	212	-	206	-	80	-	100	3	306	3	400	2	183 ^b	-
85(2)	Driving past 'bridge load limit (mass per axle group)' sign when the mass of an axle group is greater than the specified axle group mass	100	3	212	-	206	-	80	-	100	3	306	3	400	2	183 ^b	-
86(1)	Driving past a 'no trucks' sign in a truck which has a greater mass than that indicated on the sign	100	3	162	-	1824	6	80	-	100	3	306	3	-	-	122	-
86(2)	Driving past a 'no trucks' sign in a truck that is of a greater length than that indicated on the sign	100	3	162	-	1824	6	80	-	100	3	306	3	-	-	122	-
86(3)	Driving past a 'no trucks' sign, that does not indicate a specified mass or length, in a truck	100	3	162	-	1824	6	80	-	100	3	306	3	-	-	122	-
87	Failure to obey 'trucks must enter' sign	100	3	162	-	530	-	80	-	100	3	306	3	-	-	244	-
88(1)	Driving past a 'no buses' sign in a bus which has a greater mass than that indicated on the sign	100	3	162	-	147	-	80	-	100	3	306	3	150	-	122	-
88(2)	Driving past a 'no buses' sign in a bus that is of a greater length than that indicated on the sign	100	3	162	-	147	-	80	-	100	3	306	3	150	-	122	-
88(3)	Driving past a 'no buses' sign, that does not indicate a specified mass or length, in a bus	100	3	162	-	147	-	80	-	100	3	306	3	150	-	122	-
89	Failure to obey 'buses must enter' sign	100	3	162	-	530	-	-	-	100	3	306	3	150	-	244	-
90	Failure to obey 'trucks and buses must use low gear' sign	100	3	162	-	265	3	80	-	100	3	306	3	-	2	-	-
131(2)*	Driving in marked lane beyond a traffic control signal displaying or a traffic sign displaying a red diagonal cross	150	3	162	3	353	3	-	-	180	3	306	3	150	3	305	3
131(3)*	Failure to leave marked lane when safe	150	3	162	3	353	3	-	-	180	3	306	3	150	3	305	3

Regulation	Disobeying access control sign offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP														
	while traffic control signal is displaying a flashing illuminated red diagonal cross																

*Demerit points under National Scheme.

^a Fee can be \$80 or \$100 as penalty is listed twice in NT legislation.

^b These offences are not listed in the Victorian Road Rules, but offences and penalties listed are from the Road Safety (Vehicles) Regulations 2009. Also, infringement fee differs depending on extent of offence. Infringement fee is \$183 for offences up to 1 tonne over the mass limit and ranges up to \$611 for offences up to 4 tonnes over the mass limit.

Note: Penalties listed are those considered equivalent to the WA penalty. Unless specified otherwise, penalties shown are for the driver of the vehicle. In some jurisdictions these penalties may differ for specific vehicle types, road users or offence locations (e.g., school zones, toll booths, level crossings, or specified routes).

Table 4.12
Maximum court fines for disobeying access control signs in Australian jurisdictions

Jurisdiction	Court fine
WA	\$1200
ACT	\$2200
NSW	\$2200
NT	\$2740*
QLD	\$2000 to \$4000
SA	\$2500
TAS	\$650 to \$2600
VIC	\$366 to \$2443

*Driver may receive penalty of up to 6 months imprisonment instead of court fine.

4.3.3 Keeping left and overtaking offences

Dangerous overtaking and failing to keep left can potentially lead to head on crashes, a crash type that often results in severe injuries, due to the high relative speed of the two vehicles colliding. In 2007 in Western Australia, 4.4 per cent of metropolitan area head on crashes, 9.2 per cent of rural head on crashes, and 7.1 per cent of remote area head on crashes resulted in serious or fatal injury. Illustrating the high injury severity associated with head on collisions, 6.6 per cent of seriously or fatally injured drivers in 2007 were involved in head on collisions, despite this crash type only comprising 1.1 per cent of all known crashes (Thompson & Hill, 2010).

However, failing to keep left is usually not a deliberate act. Instead, it is more likely to be a secondary consequence of other behaviours, such as driver impairment, taking a corner at too high a speed, distraction, or perhaps avoidance of an object. Severe penalties are not likely to influence the unintentional behaviour of failing to keep left. Overtaking, by contrast, is a conscious act and can have serious consequences if the driver is unable to execute the manoeuvre safely. The penalties for breaching these regulations should reflect the relative contributions of driver intent.

Western Australia's current penalties for these offences are all two penalty units (\$100), except for the offence of overtaking on a school or pedestrian crossing, for which the penalty is four units (\$200). In terms of comparisons with other jurisdictions, Western Australia's penalties are relatively low, except, again, for the school or pedestrian crossing overtaking offence. New South Wales, South Australia and Victoria particularly tend to have higher penalties, with the fees usually two to three times the level in Western Australia. A number of offences have demerit points according to the National Demerit Point Scheme, which Western Australia follows except for the application of an additional demerit point for offences 63, 74 and 75 (Table 4.13). The maximum court fines in Western Australia for keeping left and overtaking offences are well below those in most other jurisdictions (Table 4.14).

4.3.4 Recommendations - keeping left and overtaking offences

In view of the preceding discussion of keeping left and overtaking offences, the following recommendations are made:

- All overtaking offences should be subjected to a fee of seven penalty units (\$350). These include offences 63, 74, 75, 121, 121(1), 122(3), 122(4), 123(1), 123(2), 124, 125(1), and 125(2).
- All keeping left type offences should be subjected to the smaller penalty of a four penalty unit fee (\$200). This includes offences 81(1 and 2).
- Maximum court fines for keeping left and overtaking offences should be increased. The suggested level is \$2800.

Table 4.13
Penalties for keeping left and overtaking offences in Australian jurisdictions

Regulation	Keeping left and overtaking offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP
63*	Overtaking or passing vehicle at children's crossing or pedestrian crossing	200	4	282	3	353	3	100 ^a	-	180	-	342	3	250	3	305	3
74*	Failure to obey 'no overtaking or passing' sign	100	3	162	2	206	2	80 ^b	-	140	3	306	2	110 ^c	2	122	3
75*	Failure to obey 'no overtaking on bridge' sign	100	3	162	2	206	2	80 ^b	-	140	3	306	2	150	2	122	3
81(1)	Failure to obey 'keep left' sign	100	3	162	-	206	2	80	-	140	3	306	3	110	2	122	-
81(2)	Failure to obey 'keep right' sign	100	3	162	-	206	2	80	-	140	3	306	3	110	2	122	-
121*	Overtaking when unsafe to do so	100	2	162	2	265	2	70	-	140	2	257	2	150	2	-	-
122(1)*	Overtaking a moving vehicle on the left when law requires driver to overtake on right	100	2	162	2	147	2	70	-	140	2	282	2	110	2	183	2
122(3)*	Overtaking a vehicle on the right when unsafe or when law requires driver to overtake on the left	100	2	162	2	265	2	70	-	140	2	293	2	110	2	244	2
122(4)	Overtaking to the left of a vehicle making a left turn or signaling a left turn when riding a bicycle	100	-	69	-	59	-	-	-	140	-	48	2	80	-	122	-
123(1)*	Passing or overtaking to the left of a vehicle displaying a 'do not overtake turning vehicle' sign when that vehicle is turning left, and it is not safe to do so	100	2	162	2	206	2	50 ^d	-	140	2	176	2	110	2	244	2
123(2)*	Passing or overtaking to the right of a vehicle displaying a 'do not overtake turning vehicle' sign when that vehicle is turning right or making a U-turn, and it is not safe to do so	100	2	162	2	206	2	50	-	140	2	176	2	110	2	244	2
124*	Failure to keep a safe distance when overtaking a vehicle	100	2	162	2	265	2	70	-	140	2	257	2	110	2	244	2
125(1)	Where overtaking on the left is not permitted, in the vehicle being overtaken, driver increasing speed of vehicle while being overtaken or failure of driver to move	100	2	162	-	265	3	-	-	60	2	255	2	110	-	244	2

Regulation	Keeping left and overtaking offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP														
125(2)	to the left Driving on a road in a manner as to prevent another vehicle from overtaking or passing	100	2	NA	NA												

*Demerit points under National Scheme.

^a Fee is \$100 if offence occurs at pedestrian crossing but \$120 if at a children's crossing.

^b Fee can be \$80 or \$70 as penalty is listed twice in NT legislation.

^c Fee is \$110 if driver drives past sign when there is an oncoming vehicle, but it is \$150 if driver attempts to overtake in presence of 'no overtaking or passing' sign.

^d Fee can be \$50 or \$70 as penalty is listed twice in NT legislation.

Note: Penalties listed are those considered equivalent to the WA penalty. Unless specified otherwise, penalties shown are for the driver of the vehicle. In some jurisdictions these penalties may differ for specific vehicle types, road users or offence locations (e.g., school zones, toll booths, level crossings, or specified routes).

Table 4.14
Maximum court fines for keeping left and overtaking offences in Australian jurisdictions

Jurisdiction	Court fine
WA	\$1200
ACT	\$2200
NSW	\$2200
NT	\$2740*
QLD	\$2000
SA	\$2500
TAS	\$650 to \$1950
VIC	\$366 to \$1221

*Driver may receive penalty of up to 6 months imprisonment instead of court fine.

4.3.5 Following too closely

Following too closely, often referred to as tailgating, involves leaving an insufficient distance behind a vehicle travelling in front, so that the following driver would be unable to avoid a collision if the lead vehicle needed to perform emergency braking. Clearly, the most likely negative outcome of following too closely is a rear end collision. While rear end collisions predominantly result in only minor injuries or damage (less than 5% of rear end casualty crashes result in a hospital admission or a fatality), they are the most common crash type reported to police (Anderson & Baldock 2008). From 2001 to 2010, rear end collisions comprised 37 per cent of all crashes in Western Australia (Main Roads WA Integrated Road Information System, sourced December 2011).

The other offence in this category also involves close following but poses a different risk to the first offence. Regulation 110 is concerned with heavy vehicles following too closely and thus making it difficult for other vehicles to pass. If two articulated trucks are too close together, another vehicle may only be able to overtake by overtaking both of them at once, which requires a long time and distance on the incorrect side of the road exposed to oncoming traffic and the risk of a head on collision. Therefore, the injury risk associated with this offence is greater than that associated with the other following too closely offence. Although the danger associated with this offence requires another road user to make a risky decision, it is still an offence that should be severely penalised for the risk it potentially poses to others.

The Western Australian penalties for both forms of following too closely are two penalty units (\$100) and one demerit point according to the national schedule. The fees in other jurisdictions, except for Tasmania, are two to three times higher, and New South Wales also has three demerit points instead of one (Table 4.15). The court fines for these offences are well below those applied in most other jurisdictions (Table 4.16).

4.3.6 Recommendations - following too closely offences

On the basis of the discussion above, the following recommendations can be made regarding following too closely offences:

- The fee for offence 109 should be increased. The suggested fee is five penalty units (\$250).
- The fee for offence 110 should be increased. The suggested fee is seven penalty units (\$350). An additional option is to deviate from the national scheme and apply a two demerit point penalty (an increase from the current level of one point).
- The court fines for these offences should be increased. The suggested level is \$2800.

Table 4.15
Penalties for following too closely offences in Australian jurisdictions

Regulation	Following too closely offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP														
109*	Failure to keep a safe distance behind vehicles	100	1	223	1	353	3	-	-	233	1	282	1	110	1	183	1
110*	Failure to keep required minimum distance between long vehicles	100	1	223	1	353	3	-	-	233	1	205	1	110	1	244	1

*Demerit points under National Scheme.

^a Fee can be \$80 or \$70 as penalty is listed twice in NT legislation.

^b Fee is \$110 if driver drives past sign when there is an oncoming vehicle, but it is \$150 if driver attempts to overtake in presence of 'no overtaking or passing' sign.

^c Fee can be \$80 or \$100 as penalty is listed twice in NT legislation.

Note: Penalties listed are those considered equivalent to the WA penalty. Unless specified otherwise, penalties shown are for the driver of the vehicle. In some jurisdictions these penalties may differ for specific vehicle types, road users or offence locations (e.g., school zones, toll booths, level crossings, or specified routes).

Table 4.16
Maximum court fines for following too closely offences in Australian jurisdictions

Jurisdiction	Court fine
WA	\$1200
ACT	\$2200
NSW	\$2200
NT	\$2740*
QLD	\$2000
SA	\$2500
TAS	\$1300
VIC	\$611 to \$1221

*Driver may receive penalty of up to 6 months imprisonment instead of court fine.

4.3.7 Non-restraint use

Vehicle occupant restraints, or seat belts, have been the most effective technology for reducing serious and fatal injuries in the event of a crash (ETSC, 1996; Sivak et al., 2007). Estimates of the effectiveness of seatbelts for reducing fatality risk range between 45 and 60 per cent, dependent on vehicle type (Kahane, 2000). In Australia, the percentage wearing rates of seatbelts are generally in the mid 90s (Australian Automobile Association, 2004, cited in Sivak et al., 2007) but, tellingly, wearing rates in fatally and seriously injured vehicle occupants are much lower. For example, in Western Australia in 2007, among occupants for whom restraint use was known, 30 per cent of fatally injured vehicle occupants and eight per cent of seriously injured occupants were not wearing a restraint (Thompson & Hill, 2010). There are two reasons for the lower wearing rates among fatally and seriously injured vehicle occupants. First, occupants without restraints are more likely to be sustain serious injuries in a collision. Secondly, those drivers who do not wear seatbelts are likely to be high risk drivers who are more likely to engage in dangerous behaviours such as drink driving and speeding (Austroads, 2001).

Experience in Australia and internationally indicates that restraint use is strongly influenced by legal requirements and enforcement practices. Therefore, the case for having penalties that reinforce the need to wear an appropriate restraint is compelling. Western Australian fees of ten penalty units are the highest in the nation, and the four demerit points applied for non-restraint use also exceeds the national schedule of three applied in all other jurisdictions. More severe penalties are also applied if additional vehicle occupants are unrestrained (Table 4.17). From March 2008, the driver in Western Australia was deemed responsible for the restraint use of all occupants of the vehicle, rather than the previous requirement to ensure restraint use by all occupants aged under 16. The maximum court fines in Western Australia for non-restraint use offences are well below those in most other Australian jurisdictions (Table 4.18).

4.3.8 Recommendations - non-restraint use

Although WA has the highest infringement fee of any of the states reducing the fee is not recommended. Non-restraint use is a high risk offence and the majority of vehicle occupants comply with the law. Changing the behaviour of the small number of offenders will be difficult and is likely not to be helped by any perception that the offence is being taken less seriously.

On the basis of the discussion above, it is recommended that the maximum court fine for non-restraint use offences in Western Australia should be increased. A suggested level is \$2800.

Table 4.17
Penalties for seatbelt offences in Australian jurisdictions

Regulation	Seatbelt offences	WA ^a		ACT ^a		NSW ^a		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP	Fee (\$)	DP
232*	Failure to wear seatbelt - driver	500 ^b	4	293	3	265	3	400	3	300	3	305	3	300	3	244	3
233(1)	Failure to wear seatbelt – passenger 16 years or older	500	-	293	-	265	-	400	-	300	3	305	3	300	-	244	-
233(3)	Failure of driver to ensure passenger 16 years or older is appropriately restrained	500 ^b	4	293	3	265 ^c	3 ^c	NA	NA	300	3	305 ^d	3	300	3	244	-
234*	Failure of driver to ensure passenger under the age of 16 is appropriately restrained	500 ^b	4	293	3	265	3	480	3	300	3	305 ^d	3	350	3	275	3

*Demerit points under National Scheme.

^a Double demerit points are incurred during holiday periods/long weekends.

^b When a driver is wearing a seatbelt, infringement fees increase with the number of unrestrained passengers up to 'four or more', with the fee ranging from \$500 to \$800. Where a driver is not wearing a seatbelt, the penalties for unrestrained passengers are greater (\$100 more per unrestrained passenger, with fees ranging from \$500 (no unrestrained passengers) to \$900 (four or more unrestrained passengers)).

^c Infringement fees increase with the number of unrestrained passengers up to 'four or more', with the fee ranging from \$265 to \$1118. Demerit points also increase to 6 when there is two or more unrestrained passengers.

^d Infringement fees and demerit points increase if there is more than one unrestrained passenger. The infringement fee increases to \$361 and the demerit points increase to 5

Table 4.18
Maximum court fines for seatbelt offences in Australian jurisdictions

Jurisdiction	Court fine
WA	\$1200
ACT	\$2200
NSW	\$2200
NT	\$2740*
QLD	\$2000
SA	\$2500
TAS	\$1300
VIC	\$1221

*Driver may receive penalty of up to 6 months imprisonment instead of court fine.

4.3.9 In-vehicle distraction

Crash data indicate that mobile phone use while driving increases the risk of a crash (McEvoy et al., 2005; Redelmeier & Tibshirani, 1997). The study by McEvoy et al. (2005), for example, examined the mobile phone records of crash-involved drivers and found that a driver is four times more likely to have a crash resulting in injury when using a mobile phone, irrespective of the handset used. A more recent study by McEvoy et al (2007) involved interviews with hospital treated drivers in Western Australia and found that 30 per cent of drivers were distracted prior to the crash, including two per cent who were using a mobile phone. A 100 car naturalistic driving study in the USA (Klauer et al. 2006) calculated that 3.6 per cent of crashes were likely to be due to dialling on a mobile phone and 3.6 per cent due to speaking on a mobile phone while driving.

Explanations for the increased crash risk are not couched solely in terms of impaired vehicle control due to manual handling of the phone or the driver's eyes being off the road. It has been widely recognised by safety researchers that mobile phone conversations also affect driving performance because they place considerable cognitive demands on the driver, drawing attentional resources away from the driving task. Experimental studies have found impaired driving performance related to a reduction in attentional processing, attention to visual inputs, and situation awareness (e.g. Charlton, 2009; Parkes et al., 2007). Mobile phone conversations are more cognitively demanding than those with a passenger in the vehicle (Hunton & Rose, 2005; Svensson & Patten, 2005).

A study in the UK attempted to compare the simulated driving performance decrements associated with mobile phone use with those associated with alcohol impairment (Burns et al., 2002). It was found that speed control and response time while using a mobile phone in hand-held and hands free modes was worse than when driving with a BAC of 0.08 g/100ml. Some caution is needed in interpretation of these results. Driving simulators can measure impairment of performance but are not useful for capturing the risk taking driving behaviour that is often associated with elevated BACs and that contributes substantially to the increased crash risk when drink driving.

Distracted drivers are most likely to be involved in single vehicle crashes, rear end collisions or side swipes associated with drifting out of a lane. The latter two crash types tend to have lower levels of crash injury severity, while single vehicle crashes are often very serious. If a distracted driver strikes a vulnerable road user then the injuries to the latter can also be serious.

Western Australian legislation regarding mobile phone use while driving changed in March 2011, bringing it in line with other Australian jurisdictions. The laws now state that drivers are only able to use a mobile phone to make or receive a call if the phone is secured in a mounting affixed to the vehicle, or if using a hands-free device. It is an offence to create, send or look at a text message, video message, email or similar communication while driving, regardless of whether the phone is secured in a mounting or can be operated without touching it. Many mobile phones now come with in-built GPS devices, and these can only be used by a driver if the phone is secured in a mounting and the driver does not touch the keypad or screen. Given the complicated set of rules governing mobile phones in vehicles, the *Road Traffic Code 2000* specifies the broad offence for Regulation 265 of 'failure to comply with mobile phone use laws'. Thus, all mobile phone use offence types by necessity attract the same penalty.

Despite the risk of crashing associated with mobile phone use, and despite widespread publicity of the issue and police enforcement, phone use while driving remains very common in Australia (e.g. Walsh et al., 2007). Given the fourfold increase in crash risk with mobile phone use, it should have penalties commensurate with those for exceeding the speed limit by up to 10 km/h. In terms of comparisons

with the rest of Australia, the Western Australian fee of five penalty units is similar to the fees in other jurisdictions. All jurisdictions apply three demerit points for the offence (Table 4.19).

In contrast to mobile phones, there is much less research concerned with the use of visual display units (VDUs, e.g. televisions, digital video disc players) in vehicles. Similar to mobile phones, VDUs pose a threat to safety through the effects of driver distraction. The audio component is likely to provide a degree of cognitive distraction, while, more significantly, the visual component will be distracting if drivers remove their eyes from the road to look at the VDU. Surveys suggest that this technology is relatively rare in vehicles at present (Young & Lenne, 2008) but it is expected to become more common with time, meaning that the penalty for this offence will be of greater importance in future. Western Australian legislation precludes the use of VDUs in a vehicle if the image on the screen is visible to the driver when viewed from the normal driving position or is likely to distract another driver.

Currently, the penalty for failing to comply with visual display unit laws in Western Australia (two penalty units) is similar to that in most other jurisdictions, except New South Wales and Victoria, where the penalties are over double that. However, in Western Australia three demerit points apply to the offence, something it shares only with New South Wales and Queensland (Table 4.19). The court fines for these offences are well below those in a number of other Australian jurisdictions (Table 4.20).

4.3.10 Recommendations - in-vehicle distractions

Based on the review of penalties for in-vehicle distractions, the following recommendations can be made:

- The fee for breaking mobile phone use laws should be increased. It is suggested that the new fee be seven penalty units (\$350).
- The fee for failing to comply with visual display unit laws should be increased. The suggested new level is five penalty units (\$250).
- The associated court fines for in-vehicle distraction offences should be increased. The suggested court fines are \$2800.

Table 4.19
Penalties for in-vehicle distraction offences in Australian jurisdictions

Regulation	In-vehicle distraction offences	WA		ACT		NSW		NT		QLD		SA		TAS		VIC	
		Fee (\$)	DP														
264	Failure to comply with visual display unit laws	100	3	132	-	265	3	-	-	133	3	87	-	110	-	244	-
265	Failure to comply with mobile phone use laws	250	3	280	3	265	3	60	3	300	3	282	3	300	3	244	3

Note: Penalties shown are the standard and may differ in some jurisdictions for mobile phone use offences by learner and P1 license holders.

Table 4.20
Maximum court fines for in-vehicle distraction offences in Australian jurisdictions

Jurisdiction	Court fine
WA	\$1200
ACT	\$2200
NSW	\$2200
NT	\$2740*
QLD	\$2000
SA	\$2500
TAS	\$650
VIC	\$1221

*Driver may receive penalty of up to 6 months imprisonment instead of court fine.

5 Recidivist speeding offenders

5.1 Introduction

The chief aim of traffic law enforcement and the threat of associated penalties is the achievement of general deterrence, whereby road users choose not to offend due to a high perceived risk of detection and punishment. For those who do offend and are detected, the penalties applied are expected to achieve specific deterrence, which refers to the deterrence of future offending through punishment. However, there are some road users who do not respond to either of these forms of deterrence. These recidivist offenders continue to break traffic laws despite previous sanctions.

Recidivists pose a particular challenge to transport authorities. Controlling their behaviour may need novel approaches from legislators and law enforcement agencies. One type of recidivist whose behaviour poses a significant road safety risk is the recidivist speeding offender. This section is concerned with determination of the best means of managing recidivist speeding offenders through penalties and other sanctions or sentencing options.

This review examines the recidivist speeding offender issue firstly by looking at why traditional enforcement and penalty regimes may not successfully deter all drivers (Section 5.3). Second, non-traditional penalties are discussed (Section 5.4). This is followed by a section in which different types of recidivist speeding offenders are identified (Section 5.5). Finally, there are two sections discussing different approaches that may be taken to modify recidivist speeders' behaviour. The first is concerned with driver intervention programs (Section 5.6) and the second with the use of in-vehicle technology (Section 5.7). The review finishes with a set of recommendations for recidivist speeding countermeasures.

5.2 Current penalties

At present the schedule of penalties for speeding involves a system of fees and demerit points that increase incrementally with the severity of the offence as determined by the amount over the speed limit at which the driver was detected. The current Western Australian penalties for speeding are displayed in Section 4 in Tables 4.1 and 4.2.

In Western Australia, a driver is disqualified from driving upon the accrual of 12 or more demerit points. At this point, drivers have the option of entering into a "double or nothing" good behaviour bond in which the driver's licence is not suspended on the condition that the driver does not commit an offence that breaches this bond for a period of 12 months. Should an offence be committed, a disqualification period double that of the original is applied (Clark, 2011). Demerit points accrued for the disqualification are removed upon successful completion of the good behaviour period (Clark, 2011).

5.3 The effectiveness of traditional penalties on recidivist offenders

Basili and Nicta (2005) examined the benefits of a demerit points system (DPS) and proposed the existence of three distinct sub-populations of drivers for whom the effectiveness of a DPS differs:

- Completely deterred drivers who seek to comply with road rules and avoid the accrual of demerit points.
- Partially deterred drivers who value keeping their licence yet occasionally commit traffic violations.

- Non-deterred drivers who frequently disobey road laws and are unconcerned either by the accrual of demerit points or by the loss of licence.

According to Basili and Nicta (2005), a DPS encourages compliance amongst the first two types of drivers. In a DPS in which demerit points are reinstated following periods of compliance (i.e. no further accrual of demerit points), the deterrent effect on partially deterred drivers can vary. When faced with the loss of licence, partially deterred drivers are encouraged to moderate their driving behaviour until such time that the reinstatement of demerit points removes this threat (Basili & Nicta, 2005). Should this be the case, while partially deterred drivers will engage in periods of law-abiding driving behaviour, there is the suggestion that this may be somewhat cyclical in nature. According to their analysis, a DPS is fair to the wider population of generally compliant drivers making allowance for occasional lapses, and imposes a harsh punishment on recidivist drivers.

Similar findings have been reported in other studies looking at penalties for various traffic offences. Freeman et al. (2006) found evidence for a sub-group of recidivists who are impervious to the threat of legal sanctions and may require alternative interventions. For such drivers, the experience of punishment fails to modify their behaviour. There are two explanations for this: the punishment itself is insufficient to deter future behaviour, or the characteristics of the individual may reduce the effectiveness of the deterrent.

There are two options for increasing the deterrent effect of legal sanctions. The first is increasing enforcement. If the risk of detection is perceived by the driver to be low (i.e., they believe they will not be caught if they speed), then the risk of being punished is also low. As such, the deterrent effect associated with the punishment is diminished.

The second option for increasing deterrence is to increase the punishment. A number of studies have been undertaken to determine the effects of more severe penalties on recidivist offenders. Watson et al. (2010) examined the deterrent effect of Queensland's increased penalties for speeding offences by examining the rates of reoffending by speeding motorists. They found some evidence of a specific deterrent effect with proportionately fewer recidivists observed in the post-increase period. However, this deterrent effect did not appear to affect the average number of re-offences, indicating that increasing the penalty had little effect on a sub-group of recidivist speeders.

A second Australian study of the deterrent effect of increased fines on recidivists found little evidence of increased deterrence of this group resulting from higher court-imposed fines (Moffatt & Poynton, 2007). Through their examination of reoffending data for individuals convicted of, and receiving a fine for, a driving offence (including drink driving, driving whilst disqualified, speeding, and "other" driving offences) between 1998 and 2000, they found that the most consistent predictors of returning to court for subsequent driving offences were the individual attributes of the offender, such as offence history (no prior history predicted desistance), age (young drivers were more likely to reappear in court), gender (males were more likely to reappear in court), and indigenous status (Indigenous drivers were more likely to reappear in court). These findings suggest that interventions are needed which are sensitive to these characteristics and the issues (behavioural, developmental - physical and psychological, and social) with which they are associated.

Whereas increased financial penalties appear to have a limited deterrent effect, there has been little research exploring the effect of increased demerit points. However, the WA Office of Road Safety (2009) evaluated the effects of double demerit points for traffic offences during long weekends and other specified holiday periods. This evaluation revealed that the number of daily reported crashes was reduced during double demerit periods. Furthermore, for 2008, the average number of total infringements per enforcement hour showed a 42 per cent decline over 2001 detection rates. While this evaluation showed some increase in the general deterrent effect associated with a heightened

rate of punishment and enforcement (i.e., increased perceived risk of detection), there was no evidence regarding the specific deterrent effect on those who receive a more severe sanction. Therefore, it is difficult to comment on the effectiveness of such practices on recidivist driving offenders.

5.4 Non-traditional forms of penalties

In addition to increasing the severity of traditional forms of penalties, another option to increase punishment severity is to use more intrusive forms of penalties. These would include licence disqualification and vehicle impoundment.

Masten and Peck (2004) performed a review of driver improvement programs utilising meta-analytic techniques to determine the effectiveness of various intervention types on improving driver behaviour. The interventions examined in their review included licence suspensions, group meetings, and educational materials, and were selected because the evaluations were conducted using samples of drivers selected for their poor driving record (as opposed to members of a generally high-risk group) and were randomly allocated to treatment or control conditions. It should be noted that while the outcome of interest for this study was the effect of these programs on crash involvement, the findings of this research have some applicability to speeding behaviour. Masten and Peck (2004) found that some interventions were more effective than others with changes in crash rates ranging from a 17 per cent decrease for licence suspension to a seven per cent increase for probationary programs. Based on their findings, Masten and Peck (2004) concluded that the most effective programs were those that were viewed as most intrusive to the driver.

An approach recently introduced in a number of Australian jurisdictions, including Western Australia, is vehicle impoundment. Vehicle sanction programs generally involve seizing the offending driver's vehicle and:

- Impounding it for a given period.
- Confiscating the vehicle permanently following a conviction and court order.
- Forfeiture where the vehicle is seized at the time of the offence and, upon conviction of the driver, becomes the property of the Crown (Langford & Pronk, 2005).

International vehicle sanction programs have traditionally focused on drink driving offenders and unlicensed/disqualified drivers. Within Australia most jurisdictions have also adopted vehicle seizure sanctions for antisocial or "hoon" driving. In Western Australia hoon behaviour encompasses the following (WA Police, 2011):

- Driving in a reckless manner.
- Doing a burnout.
- Driving a vehicle at a speed that is at least 45 km/h over the posted limit.

The penalties for such behaviour involve impounding the vehicle for 28 days for the first offence and three months for a second offence. For third and subsequent offences the court may order the permanent confiscation of the vehicle or order it be impounded for six months, both in addition to the normal penalties associated with the offence (e.g., fines and demerit points associated with speeding) (WA Police, 2011).

While no research has been undertaken assessing the impact of vehicle seizure laws on recidivist speeding, the weight of evidence appears to support the effectiveness of such sanctions for targeting problem-driver sub-groups (Clark, 2011; Langford & Pronk, 2005; Voas & De Young, 2002). Given the

severity of such sanctions, the use of vehicle seizure may form a useful addition to new penalty schemes targeting recidivist speeders.

The preceding discussion has focused on using various punishments to deter road users from committing traffic offences. It has been argued that there is a subset of repeat offenders who seem undeterred by either the threat of detection and punishment or the application of traditional penalties. Improving the behaviour of these recidivists may require novel approaches that are focused on behaviour change rather than simply on punishment. The methods that have been suggested are the use of educational intervention programs and in-vehicle technology. Before examining these approaches, the different types of recidivist speeding offenders will be profiled and the implications of these for the use of intervention programs and in-vehicle countermeasures will be described.

5.5 Types of recidivist speeders

In an effort to understand speeding behaviour, Fylan et al (2006) conducted a systematic review of reasons drivers give for speeding and on that basis identified four sub-types of speeding drivers. These groups can be distinguished by a number of characteristics, including their motivation for speeding, their attitudes towards speeding, and the frequency and extent to which they speed. The speeding driver sub-types are:

1. **Unintentional speeders.** The speeding of this group arises due to a lack of awareness of the correct speed limit, due to a temporary lapse in attention, or due to underestimations of their speed (e.g., when travelling from high speed to low speed roads). Unintentional speeders may also have limited knowledge of the road rules (Fylan et al, 2006). According to Basili and Nicta (2005), this group would be considered members of the completely deterred driver sub-population.
2. **Moderate occasional speeders** consider themselves to be skilled and safe drivers and will exceed the speed limit by a level that they consider relatively low in comparison to other drivers. This group do not generally consider themselves as speeders as they derive no pleasure from doing so. They are also generally compliant with other road rules (Fylan et al, 2006). Using the driver sub-types of Basili and Nicta (2005), moderate occasional speeders would be in the partially deterred group.
3. **Frequent high speeders** drive faster than average and may acknowledge the risks of doing so yet nonetheless consider themselves to be safe drivers. Drivers in this group may restrict their speeding to specific circumstances (such as when driving on a highway). This group of drivers generally have a greater intention to speed and speed more frequently than unintentional and moderate occasional speeders. Speeding has become a habit for this group. They also derive more pleasure from speeding and are more likely to view driving as an emotional outlet. Frequent high speeders are also more likely to take more risks when driving and, as such, will have a history of traffic violations and involvement in crashes (Fylan et al, 2006). Frequent high speeders may also fall within the partially deterred sub-population described by Basili and Nicta (2005).
4. **Socially deviant drivers** are aware that their speeding is dangerous and may derive pleasure from this. They are risk-takers and are more likely to engage in other dangerous driving behaviours and other antisocial behaviours that do not involve a motor vehicle (i.e. break other laws). The risk-taking nature of this group increases the likelihood that they have been disqualified from driving and of being involved in a serious crash (Fylan et al, 2006). These drivers are consistent with Basili and Nicta's (2005) non-deterred driver sub-population.

As each of these speeding offender subtypes possesses different characteristics and exhibit different speeding behaviours, effective countermeasures are likely to be different for each group and may need to involve different strategies.

Improving the behaviour of unintentional speeders may be as simple as improving their awareness of their risk of speeding and enhancing their ability to identify the speed limit (Fylan et al, 2006; Austroads, 2009). Technologies such as advisory Intelligent Speed Adaptation (ISA - see Section 5.7.1) may be beneficial for this group by providing real-time feedback on their speeding behaviour (Austroads, 2009).

According to Fylan et al (2006), the best way to influence the behaviour of moderate occasional speeders is to make them aware of the role of speed in crashes and make them aware that they overestimate both their own driving skills and the speed at which other drivers travel. Highlighting that they have control over their speeding behaviour is also recommended. This group may also benefit from the use of ISA or in-vehicle data recorders (IVDRs) to provide feedback about their driving behaviour.

The behaviour of frequent high speeders has become a habit and will therefore be difficult to change. Fylan et al (2006) recommend challenging this group's prior beliefs regarding speed and increasing their awareness of the link between speeding and crashes, and also the risks of detection and penalties for speeding (Austroads, 2009). Technologies such as ISA and IVDRs may assist in the education of these drivers.

Risk taking, sensation seeking, and law breaking pervade all aspects of the socially deviant driver's life (Fylan et al, 2006). Fylan et al (2006) suggested that the best way to modify the behaviour of this group is to raise drivers' awareness that their speeding behaviour is driven by their personality and is indicative of immaturity. However, given that such a group is also likely to be low on impulse control (Ellwanger, 2006), a higher level of intervention may be required to further address this. This group may also prove resistant to the deterrent effects of traditional enforcement and punishment practices, and so technologies such as ISA and IVDRs may provide important behavioural controls for socially deviant drivers.

Having identified the different types of recidivists and the different approaches that are most suitable for each, the following sections discuss the use of driver intervention programs (Section 5.6) and the in-vehicle technologies (Section 5.7) suggested as potentially useful for recidivist speeders.

5.6 Driver intervention programs

There is a growing move towards tackling problem drivers through the use of specialised intervention programs designed to bring about change in the individual's driving behaviour. A well-designed intervention program will provide authorities with the opportunity to engage directly with, and influence the behaviour of, problem drivers. Where fines and demerit points are designed to punish and deter, behavioural intervention programs provide the opportunity to address those characteristics that underpin driving behaviour.

In South Australia, the Driver Intervention Program (DIP) was implemented as a measure to reduce the overrepresentation of young drivers in crashes (Wundersitz & Hutchinson, 2006). It targets novice drivers under the age of 25 who have breached the conditions of their Learner's Permit or Provisional Licence. Once detected, young drivers have the option to attend the DIP, incurring a fee for attendance, or pay the infringement fee for the offence (which is larger than the DIP attendance fee). Around 70 per cent of DIP participants attend the program after having been detected speeding (Wundersitz & Hutchinson, 2006). The intervention itself involves an interactive 90 minute small group

workshop where participants learn about and discuss the risks and consequences of crashing. The program consists of five components addressing risk taking, social norms and behaviour, lifestyle issues, the consequences of crashing, and reinforcing driver vulnerability and the reality of crashing (see Table 5.1). Reviews of the DIP have concluded that the program likely produces a significant reduction in the crash rates of the drivers that attend (Kloeden & Hutchinson, 2006) but that the program itself could be improved in a number of areas. The improvements, as suggested by Wundersitz and Hutchinson (2006), include improving the delivery of the program to target behaviours most relevant to the group (i.e., the majority of participants attend due to a speeding offence), improving and updating the materials used in the delivery of the course, and strengthening the program by increasing its intrusiveness through the inclusion of multiple sessions of longer duration.

Table 5.1
Components of the Driver Intervention Program (Wundersitz & Hutchinson, 2006, p.4)

Program components	Issues discussed	Approx. timing
Risk taking behaviour	Young driver crash statistics Causes of young driver crashes	10 mins
Social norms and behaviour rationalisations	Specific driving behaviours (i.e., speeding, inexperience, fatigue) in relation to social context and peer pressure	20 mins
Lifestyle issues	Alcohol and drug driving 'Rocket' video Choices and potential strategies to avoid drink/drug driving	35 mins
Consequences of crashing	Monetary loss and personal consequences of crashing Own crash experiences	20 mins
Reinforcement of vulnerability	Self assessment of driving ability	5 mins

Another program targeting young drivers but with a greater focus on speed is the Young Driver Scheme (YDS) operating in the Thames Valley. This program involves an on-line e-learning course for drivers under the age of 25 who have committed a non-serious driving offence (af Wahlberg, 2011). The YDS consists of five learning modules (or sessions) undertaken over a period of at least 20 days: after completing one module the individual cannot access the next for four days, ensuring the longevity of the course. The modules address crash risks, attitudes and awareness, driving safety margins (e.g., safe following and stopping distances), safe overtaking, and hazard recognition, anticipation and avoidance. An evaluation of the YDS compared participants in this program to drivers completing a classroom based program and a group of drivers who had received a fine. The results indicated that, compared to the two control groups, YDS participants accrued a smaller number of penalty points and been in fewer self-reported crashes (af Wahlberg, 2011). This research provides some evidence that an on-line educational program offers an alternative option for intervening with young driving offenders.

The repeat speeders trial in Victoria is currently trialling two separate interventions to address speed-related crashes: the Intelligent Speed Assist (ISA) sub-trial, discussed below in Section 5.7.1, and the Behavioural Intervention sub-trial. The Behavioural Intervention sub-trial is a pilot program that has been specifically designed to address all of the factors that contribute to speeding behaviour (Duck & Cavallo, 2011). The program consists of two two-hour sessions separated by a one week period during which participants must also complete two homework assignments. Session one addresses the risks posed by speeding and encourages participants to think about where, when, and why they speed. Session two begins with a brief recapitulation of session one materials focusing on the development of behaviour change plans and plans for reducing slips and lapses (N. Duck, personal communication, November 21, 2011). Through developing these plans drivers identify the strategies that they will use to reduce their speeding behaviour. At the time of writing, this trial was still underway but interim data suggest that participants in the Behavioural Intervention program are more likely to

endorse negative attitudes towards speed and are also more likely to express a desire to change their behaviour than members of a control group (Duck & Cavallo, 2011).

Austrroads (2009) produced a report outlining the best practice for an intervention program targeting recidivist speeders. The authors of the report suggested that the eligibility for program attendance should be based on the individual's history of driving offences. They recommended a history of two offences, one of which is a high speed offence, within a three year period. This criterion should be sensitive enough to identify both frequent high speeders and socially deviant drivers, the groups that are perhaps most impervious to the deterrent effects of punishment and possessing the highest risk for recidivist speeding.

With regard to course content the authors of the Austrroads (2009) report suggested that a recidivist speeders course needs to address five key topic areas. The program should:

- Explore the perceived pressures to speed and develop the problem solving skills necessary to address these.
- Provide clear, concise, and credible evidence that the majority of drivers do not speed.
- Provide clear, concise, and credible evidence regarding the costs and consequences of speeding. It should focus on the sanctions that the driver can expect for further offences.
- Incorporate techniques for establishing participants' commitment to change behaviour, and identify the goals for achieving behaviour change and the criteria to identify successful behaviour change.

Fylan et al (2006) suggested that interventions for speeding drivers should also address the following:

- Attitudes towards speeding. The interventions should increase the participants' readiness to change their behaviour and increase their motivation to drive at safer speeds.
- The perceptions of responsibility for choice of speed.
- Challenge the perceived benefits of speeding.
- Perceived likelihood of detection.
- The perceived barriers to driving at an appropriate speed.
- The emotional and physiological responses drivers feel when they speed.
- Improve the participants' self-efficacy with regard to their ability to successfully change their behaviour and drive at safer speeds.
- Participants' intentions to drive at safer speeds.

Austrroads (2009) suggested that in-vehicle technologies may also provide a useful tool for intervention programs. The authors argued that combining ISA and IVDRs with educational components will provide feedback on the participants' driving, thereby providing them with credible evidence regarding their own driving behaviour and allow monitoring of their improvement. Both of these technologies are discussed in greater detail below in Section 5.7.

With regard to the structure of the intervention, Austrroads (2009) suggested that an optimal intervention should consist of six sessions of two to three hours in duration conducted at one week intervals. The program should also include a homework component. ISA and IVDRs could be one aspect of this homework. The program should be conducted using small groups and involve no more than 12 participants at a time (Austrroads, 2009).

The final aspect of an intervention program that requires consideration is the options for attendance. This is an important consideration as the individual's motivations for attending the course will have an

impact on the effectiveness of the intervention. If a program is voluntary, incentives to attend are needed, such as reduced fines or demerit points, or the suspension of demerit points and placement in a good behaviour bond (Austroads, 2009). The level and nature of incentive applied will affect attendance rates as well as commitment to the program.

Given that the aim of the intervention is to improve the driving behaviour of recidivist speeders, it could be argued that attendance at the course should be mandatory. Indeed, the driver intervention programs discussed above involve some component of coercion and have demonstrated some effectiveness. When attendance at an intervention program is the individual's decision, there is a risk that those drivers with the most to gain from such a program exclude themselves. Evaluations of the DIP in South Australia appear to support this, with DIP attendees being found to have fewer traffic offences (such as speeding or illegal manoeuvres) than drivers choosing to pay the infringement fee for their offence (Kloeden & Hutchinson, 2006).

While mandatory programs raise a number of concerns with regard to the individual's motivations for change, therapeutic engagement in the program, and the effect these have on the efficacy of the program (Simpson et al, 1997), there is some evidence that mandatory treatment programs are effective (Day & Casey, 2008). Day et al (2004) note that coercion into treatment may determine how the individual approaches that treatment but it is also likely that "pre-treatment therapeutic attitudes can change over the course of a programme, such that therapeutic gains (risk reduction) can occur" (Day et al, 2004, p. 266). Evidence also indicates that patterns of referral and retention are superior for compulsory programs (i.e. a larger proportion of the target group attends the program and a larger proportion of the attendees complete the program) (Wild et al, 2002), and that designing and implementing a program that is sensitive to the issues of legally mandated or coerced treatments should ameliorate the shortcomings inherent in compelling an individual into treatment (Day & Casey, 2008).

5.7 Technology

Another new approach to tackling the issue of recidivist speeding offenders is the use of in-vehicle technology. Technologies such as Intelligent Speed Assist/Adaptation and In-Vehicle Data Recorders can be used as part of the driver intervention programs discussed in the previous section.

5.7.1 Intelligent Speed Assist/Adaptation (ISA)

There are three categories of ISA devices (Doecke & Woolley, 2011):

- Advisory ISA indicates to the driver that they are travelling over the speed limit via audio and visual signals. The driver is not obliged to slow to the speed limit but some ISA devices encourage this through increasingly unpleasant audio signals the longer the speed limit is exceeded or the greater the amount it is exceeded by.
- Supportive ISA employs various methods, such as electronically manipulating the throttle, cutting the fuel supply, 'hardening' the accelerator pedal (the accelerator pedal either pushes back or becomes more resistant to pressure), or applying the brakes to prevent the vehicle breaching the speed limit. Supportive devices allow the driver to override these controls.
- Limiting ISA works in the same manner as the supportive device, with the exception that these controls cannot be overridden by the driver.

Although there are clear advantages of utilising ISA devices to improve drivers' compliance with speed limits, there are a number of issues for consideration with regard to using ISA for managing recidivist speeders. The first issue is the choice of device. Advisory devices may be of benefit to unintentional

speeders, occasional moderate speeders, and perhaps (albeit to a lesser extent) frequent high speeders. However, frequent high speeders appear to be aware of the speed limit and make a conscious decision to speed. The effectiveness of an advisory device for this group may be improved through complementary enforcement strategies (see below). The best option for managing socially deviant drivers is most likely a limiting device as this would prevent the driver from speeding under any circumstances. In this way a limiting device may serve a dual purpose in both punishing the recidivist speeder and reducing the risk they pose to other road users.

It is important that the ISA devices used to control the behaviour of recidivist speeders are accurate. Many ISA devices rely on GPS technology, the accuracy of which may be influenced by signal strength. Some ISA devices are able to supplement the GPS signal with dead reckoning to overcome these limitations (Doecke & Woolley, 2011). Transient speed limits, such as those used in conjunction with road works, also affect accuracy as such temporary limits may not be available on ISA devices relying on speed map information. Some devices may overcome this by accessing data from portable transmitters installed at such locations (Doecke & Woolley, 2011).

From an equity point of view, the use of limiting ISA for recidivist speeders will also have an impact on other drivers who regularly use the vehicle in which it is installed, which may be viewed as unfair. However, it is difficult to view this as overly problematic as such a device is only activated if you wish to exceed the speed limit, a behaviour that is against the law. Indeed, such a device could be viewed positively as it provides a significant reduction in the likelihood of attracting fines and demerit points. Furthermore, this argument has not prevented the use of mandatory interlocks for drink driving offenders.

In a cost-benefit analysis of ISA, Doecke & Woolley (2011) analysed crash data and applied risk curves for travel speed to speed distributions derived with and without ISA. This analysis indicated that injury crashes in Australia could be reduced by 7.7 per cent with advisory ISA, 15.1 per cent for supportive ISA, and 26.4 per cent for limiting ISA.

An Intelligent Speed Assist sub-trial is being run in Victoria, in which drivers are provided with an in-vehicle advisory ISA device that alerts the driver when they are driving above the speed limit (Duck & Cavallo, 2011). Drivers in this trial also have an in-vehicle data recorder (IVDR) fitted to their vehicle in order to measure the effectiveness of the ISA device, while a control group have only the IVDR installed (Duck & Cavallo, 2011). An analysis of interim data has revealed that drivers with ISA return to the speed limit in a shorter time, and also reach lower maximum speeds above the speed limit than do drivers in the control group (Duck & Cavallo, 2011).

The costs associated with ISA include the costs of mapping roads and developing and updating the speed limit database, and the purchase and installation of the device itself. Many states, including Western Australia, have completed such mapping so the main cost would be the maintenance and updating of the system. Estimates indicate that the costs of maintaining and updating the database can range from \$100,000 to \$400,000 per year (Doecke & Woolley, 2011).

The cost of the ISA device and its installation vary according to the manufacturer and the type of device itself, with supportive or limiting ISA devices entailing the expert installation of the device. Advisory ISA is available with some Navaid devices and can also be installed on GPS equipped mobile phones. The costs of these devices vary with Navaid devices ranging between \$160 and \$260, with the additional cost of software updates costing around \$10 per update or around \$30 for a yearly subscription (Doecke & Woolley, 2011). Doecke and Woolley (2011) also reported on the costs of a dedicated ISA device which is installed in a vehicle as a stand alone instrument that downloads the current speed limit zone as the vehicle is driven, ensuring the data is always up to date. This device is initiated automatically when the vehicle is turned on. The data from a dedicated ISA device can also

be stored remotely providing potential applications for enforcement. The retail cost of such devices range between \$800 and \$1200 for a single unit but large orders would significantly reduce these costs to between \$300 and \$500 (Doecke & Woolley, 2011).

According to Doecke and Woolley (2011), the costs of a supportive or limiting ISA device that taps into the throttle of a drive by wire vehicle retails for around \$1800 for a single unit but costs could be reduced for larger purchases.

5.7.2 In-vehicle Data Recorders (IVDRs)

In-vehicle data recorders are capable of collecting detailed data on engine speed, acceleration, brake application, direction of travel, vehicle location, trip distance, driving time, steering input, and vehicle manoeuvres. The information collected via such devices has two potential applications with regard to the management of recidivist speeders.

With regard to enforcement, IVDRs offer the possibility of monitoring a driver's behaviour to the extent that any violation identified within the data can be detected and acted upon. Furthermore, a driver who is aware that the device is installed in their vehicle and fully understands the implications of this (i.e. there is evidence regarding their behaviour) may modify their behaviour due to either the increased likelihood of detection or simply because their behaviour is being monitored (Ajzen, 1988).

The second application of such devices is to educate and provide drivers with feedback regarding their driving. As suggested by Austroads (2009), incorporating the use of IVDRs into an intervention program could provide a useful tool for both monitoring and improving driver behaviour. Toledo et al (2008) examined the use of IVDRs to monitor and provide 191 drivers with feedback on their behaviour. Following an initial eight week driving profile stage, drivers were offered feedback on their driving styles and given access to the data via an internet-based system. Data from the IVDRs were not used in any way to manage the behaviour of drivers. Following this feedback, a statistically significant ($p < .05$) 38 per cent reduction in crash involvement was observed, suggesting that the use of IVDR data can improve driver behaviour (Toledo et al, 2008). A European study matching 270 vehicles equipped with IVDRs with 570 control vehicles did not provide drivers with feedback regarding their driving (Wouters & Bos, 2000). This study reported an estimated 20 per cent reduction in crash involvement of the IVDR vehicles (Wouters & Bos, 2000), lending some credence to the use of IVDRs to monitor driver behaviour.

While not directly examining the effect of IVDRs, the Victoria repeat speeders trial did utilise data loggers to monitor the behaviour of drivers in the ISA and control groups (Duck & Cavallo, 2011). Although drivers in the former were found to return to the speed limit more quickly and to exceed it by smaller margins, there is some evidence to suggest that drivers in the control group (i.e., IVDR only) may have monitored their own behaviour more closely with the knowledge that someone else was also monitoring their behaviour.

Although the use of IVDRs for enforcement purposes is promising, there may be objections that the driver at the time of an offence is not identified by the device. Although this is true, similar owner responsibility legislation to that applied to speed cameras could be utilised for IVDRs. More complex options for addressing this issue, such as driver personal identification numbers or in-vehicle cameras, would be costly and raise privacy concerns.

As with ISA, the costs associated with IVDRs include the cost of the device and its installation, and the collection and storage of data. The following information was obtained via personal communication with Z. Russell-Marr, a technician from Smart Car Technologies. A GPS-based IVDR that is capable of recording speed and direction costs around \$300, with reductions for larger orders. The professional

installation of the device (under the dashboard to prevent tampering) for large orders is approximately \$100. The device records data every second and transmits the data every 30 seconds to a SIM card. The costs associated with data transmission are around \$10 to \$20 per month and varies with the amount of data sent (i.e., large amounts of data incur greater costs). It would be possible to have the device customised to provide data specific to the needs of the client, which may increase or decrease the costs depending on the amount of work required to modify the software. Storage of data on secure servers would add further costs, as would the production of the reports but it is difficult to comment on these without knowing the amount of data or reporting requirements. Raw data can be provided and can be accessed using any database, spread sheet, or text editor program. The device offered by Smart Car Technologies can also be paired with their Speed Alert ISA device. Additional costs would be incurred by the agency responsible for the monitoring of the data.

5.7.3 In-vehicle technologies and the law

Further to the implications for enforcement identified above, it would likely be necessary to modify existing legislation or introduce new legislation regarding the use of in-vehicle technologies for enforcement purposes. For a number of these, models may be found in legislation for alcohol interlocks, or in the heavy vehicle industry, where the use of speed limiters is well established. Some issues that may need to be considered by legislators include:

- The conditions under which various technologies are employed.
- Penalties associated with detection arising through data received from in-vehicle devices.
- The implementation of a new category of conditions under which a person may drive as indicated on the individual's driver's licence.
- Laws regarding operating a vehicle without an appropriate ISA or IVDR device. This is particularly of relevance where a driver seeks to evade detection by either not turning it on or driving a different vehicle.
- Laws regarding tampering with the device.

5.8 Conclusions/Recommendations

With regard to punishment and deterrence, the evidence suggests that a system of fines and demerit points is most effective for drivers who are generally compliant with these laws, yet have less effect on socially deviant drivers. There is also evidence that it is factors within the individual (e.g., personality) that most contribute to recidivism. Therefore, some other means is necessary to modify and control recidivists' speeding behaviour.

In order to transform this group into safer drivers some formal intervention is likely to be necessary. This intervention should follow the best practice principles of behaviour change and address the following areas:

- Exploration of the perceived pressures to speed and development of the problem solving skills necessary to address these.
- Provision of clear, concise, and credible evidence that the majority of drivers do not speed.
- Provision of clear, concise, and credible evidence regarding the costs and consequences of speeding. Austroads (2009) suggested that this area should focus on the sanctions that the driver can expect for further offences.

- Incorporation of techniques for establishing participants' commitment to change behaviour and identify the goals for achieving behaviour change, and the criteria to identify successful behaviour change.

Other options for managing recidivist speeders could involve utilisation of in-vehicle technologies to monitor or restrict the behaviours of convicted recidivists. It is feasible to employ advisory ISA with unintentional speeders. This technology is not costly and would benefit both the driver (in that they should significantly reduce the incidence of their speeding behaviour) and other road users. High-risk speeders, however, may require a more intrusive approach such as limiting ISA to remove any possibility of speeding, or the use of IVDRs to monitor their driving behaviour. ISA and IVDRs could also be used to supplement the educational intervention programs, providing feedback to the drivers regarding their speeding behaviour.

A more punitive approach could involve the expansion of Western Australia's vehicle impoundment penalties so that they include high level repeat speeding offenders.

Vehicle technologies seem to offer the best opportunity to influence recidivist speeders. A trial to establish the practicality and effectiveness of limiting ISA and IVDRs could be useful in determining what options are realistically available in this area.

6 Summary

This report reviews key road safety related offences imposed under the *WA Road Traffic Code 2000* to determine the appropriateness and consistency of penalties in Western Australia. The penalty structure (fees, demerit points, licence disqualifications) were reviewed for the following broad offence categories:

- Speeding.
- Failure to give way at intersections.
- Failure to give way to vulnerable road users.
- Other failure to give way.
- Disobeying access control signs.
- Failure to keep left and overtaking offences.
- Following too closely.
- Non-restraint use.
- In-vehicle distractions (mobile phones).

For each offence category, the severity of the penalties were reviewed in accordance with the following principles:

- The severity of the penalty should reflect the road safety risk associated with the offence (i.e. the relative risk of a crash occurring and relative risk of injury in a crash). This is because the offences that involve the greatest level of crash and injury risk are those for which deterrence is most desirable. The determination of road safety risk for different offences is based on scientific literature where possible.
- There should be consistency in the severity of penalties for different offences under each broad offence type. For example, most fail to give way offences should have penalties of similar severity. However, some offences within a category will have higher risk than others (e.g. higher level versus lower level speeding offences) and this needs to be taken into account when making comparisons.
- There should be consistency in the severity of the penalties with those imposed for a range of other traffic offences under the ARR. That is, penalties should be similar for different types of offences with a similar crash or injury risk.
- Penalties imposed in Western Australia should be consistent with those imposed for similar offences in other Australian jurisdictions. As the road safety risk for most offences is likely to be the same across Australia, an equitable set of penalties should be similar in different Australian jurisdictions. If Western Australian penalties for a particular offence type are substantially higher or lower than those in other jurisdictions then particular attention has to be devoted to assessing whether the relative severity of the penalties is appropriate.

On the basis of the review, the following recommendations were made:

SPEEDING

The review of speeding offences makes it clear that Western Australian speeding offence penalties in general are too low, particularly for the lower level speeding offences. The following recommendations can be made:

- Penalties for lower level speeding offences should be increased.

- The penalty for the lowest level speeding (less than or equal to 9 km/h) should include the loss of one (1) demerit point.
- The current set of speeding thresholds can be retained.
- The higher level speeding penalties under the WA Road Traffic Code (greater than or equal to 29 km/h over the limit) should include a licence disqualification.
- For heavy vehicle offences, all fees should increase.
- For heavy vehicles, the penalty for the lowest level speeding (less than or equal to 9 km/h) should include the loss of one (1) demerit point.
- For heavy vehicles, licence disqualification should be introduced for high level speeding offences under the WA Road Traffic Code (greater than 29 km/h above the limit).
- All specified court fines for both light vehicles and heavy vehicles should be markedly increased.
- The current threshold for excessive speeding of 45 km/h above the limit can be retained.

FAILURE TO GIVE WAY

The recommendations for failure to give way offences are listed separately for the three sets of sub-categories (failure to give way at intersections, failure to give way to vulnerable road users, other fail to give way offences).

With regard to failure to give way at intersections, the following recommendations can be made:

- Fees for the offences listed in section 4.2.1 (failure to give way at intersections) should be increased. A suggested level is eight penalty units (\$400).
- Offences 41(3) and 44(4) should attract three demerit points.
- Maximum court fines for the offences listed in section 4.2.1 should be increased. A suggested level is \$2800.

With regard to failure to give way to vulnerable road users, the following recommendations can be made:

- Fees for the offences listed in section 4.2.2 (failure to give way to vulnerable road users) should be increased. A suggested level is eight penalty units (\$400).
- Fees for offences 61(3) and 62(4) can remain at a lower level. A suggested level is four penalty units (\$200).
- The offence 61(1) should attract three demerit points.
- Maximum court fines for the offences listed in section 4.2.2 should be increased. A suggested level is \$2800.

With regard to other failure to give way offences, the following recommendations can be made:

- Fees for the offences listed in section 4.2.3 (other failure to give way offences) should be increased. A suggested fee is six penalty units (\$300).
- Maximum court fines for the offences listed in section 4.2.3 should be increased. A suggested level is \$2200.

DISOBEYING ACCESS CONTROL SIGNS

The review of penalties associated with disobeying access control signs led to the following recommendations:

- Fees for disobeying access control signs should increase marginally. A suggested general fee could be four penalty units (\$200).
- Maximum court fines for the offences listed in section 4.3.1 should be increased. A suggested level is \$2200.

KEEPING LEFT AND OVERTAKING OFFENCES

In view of the discussion of keeping left and overtaking offences, the following recommendations are made:

- All overtaking offences should be subjected to a fee of seven penalty units (\$350). These include offences 63, 74, 75, 121, 121(1), 122(3), 122(4), 123(1), 123(2), 124, 125(1), and 125(2).
- All keeping left type offences should be subjected to the smaller penalty of a four penalty unit fee (\$200). This includes offences 81(1 and 2).
- Maximum court fines for keeping left and overtaking offences should be increased. A suggested level is \$2800.

FOLLOWING TOO CLOSELY

The following recommendations can be made regarding following too closely offences:

- The fee for offence 109 should be increased. A suggested fee is five penalty units (\$250).
- The fee for offence 110 should be increased. A suggested fee is seven penalty units (\$350). An additional option is to deviate from the national scheme and apply a two demerit point penalty (an increase from the current level of one point).
- The court fines for these offences should be increased. A suggested level is \$2800.

NON-RESTRAINT USE

The following recommendation can be made regarding non-restraint use offences:

- The maximum court fine for non-restraint use offences in Western Australia should be increased. A suggested level is \$2800.

IN-VEHICLE DISTRACTIONS

Based on the review of penalties for in-vehicle distractions, the following recommendations can be made:

- The fee for breaking mobile phone use laws should be increased. It is suggested that the new fee be seven penalty units (\$350).
- The fee for failing to comply with visual display unit laws should be increased. The suggested new level is five penalty units (\$250).
- The associated court fines for in-vehicle distraction offences should be increased. The suggested court fines are \$2800.

SPEEDING RECIDIVISTS

Consideration was also given to the problem of recidivist speeding offenders. Although a system of fees and demerit points may be sufficient to promote compliance among most road users, a subset of the population may need additional countermeasures.

A review of the literature suggested that a combination of a mandatory driver intervention program, using best practice principles of behaviour change, combined with the use of Intelligent Speed Adaptation devices fitted to the offenders' vehicles, is a promising approach to controlling the behaviour of repeat high risk speeding offenders. Alternatively, a more punitive approach could involve vehicle impoundment for speeding recidivists.

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