

# **Developing a model for a randomised trial of alcohol ignition interlocks in Queensland**

## **FINAL REPORT**

*prepared by*

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<b>Report No.</b>	<b>Date</b>	<b>Pages</b>	<b>ISBN</b>	<b>ISSN</b>
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## **Title and Subtitle**

**DEVELOPING A MODEL FOR A RANDOMISED TRIAL OF ALCOHOL  
IGNITION INTERLOCKS IN QUEENSLAND**

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## **Abstract**

This study reports a trial of an extension of the “Under the Limit” Drink Driving Rehabilitation program (UTL) to include ignition interlocks which commenced in February 2001. The task of implementation has been extremely complex and required policy advice and decision support from senior staff on issues such as administrative requirements associated with licensing and offence data, policing, implications for the offender's vehicle insurance, civil liberties and equity issues, and advice on sentencing options and offender supervision. It is considered both impractical and unacceptable for offenders in each court to be randomly allocated to the trial and the solution was to randomly allocate courts to the intervention or control groups, rather than offenders. The current trial aims to establish if it is possible to achieve reduced recidivism, including post interlock reductions, by using associated systematic rehabilitation and probation with the use of the interlocks. This model builds on latest international research findings and the work on barriers to the use of interlocks identified in other states in Australia. The importance of trying to implement the interlock in such a way that a sustained reduction in recidivism can be achieved has been a major focus of the project. The model that has been accepted for the current trial has an initial period of full licence disqualification during which time the UTL rehabilitation program is completed, followed by interlock installation with no additional restrictions. There are a number of issues that need to be addressed if interlocks were to be implemented beyond the trial and to move beyond the current limited take up rates.

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## **Keywords**

Drink driving, alcohol ignition interlocks, recidivism

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## **ACKNOWLEDGMENTS**

As will become clear to the reader this report covers the development and introduction of a difficult and complicated intervention trial. It required support, advice and direct action from people working in a wide variety of government and private organisations and agencies. The major participants are listed formally in Appendix 1, and we gratefully acknowledge their contribution. We would particularly note the essential developmental support given by Ms Angela Musumeci, former Executive Director, Community Corrections, who assisted us with her enthusiasm and full support in initiating the project. Dr Jonathan Dwyer provided the essential comprehensive overview of relevant international legislation which clarified many aspects of implementation. We are most indebted to Dr Diane Guthrie who brought exceptional organisational management skills to the coordination and quality control of the implementation. Finally, we are indebted to the ATSB who provided patient support and thoughtful feedback on the drafting of this report.

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## EXECUTIVE SUMMARY

- This study reports a trial of an extension of the “Under the Limit” Drink Driving Rehabilitation program (UTL) to include ignition interlocks which commenced in February 2001.
- The task of implementation is extremely complex and required policy advice and decision support from senior staff in Queensland Police, Queensland Transport, Queensland Health, Community Corrections, Queensland University of Technology (CARRS-Q researchers), the Motor Accident Insurance Commission (MAIC), Dräger Australia, and Queensland Stipendiary Magistrates.
- Complex issues identified included:
  - *procedures in terms of detection.*
  - *implications for the offender's vehicle insurance,*
  - *civil liberties and equity issues,*
  - *Crown Law advice on breach/re-sentencing,*
  - *administrative requirements associated with Queensland Transport's licensing and offence database,*
  - *policing*
- The current trial aims to establish if it is possible to achieve reduced recidivism, including post interlock reductions, by using associated systematic rehabilitation and probation with the use of the interlocks. This model builds on latest international research findings and the work on barriers to the use of interlocks identified in other states in Australia.
- This Queensland trial uses the judicial model and offenders are assigned to an interlock trial directly through the courts by Magistrates as part of their sentence. This assignment is done through the Penalties and Sentences Act (1992). Offenders are placed on a probation order, and compliance with the trial becomes part of the conditions of probation. These conditions are then monitored by a Community Corrections Officer who provides ongoing supervision and support.
- The importance of trying to implement the interlock in such a way that a sustained reduction in recidivism can be achieved has been a major focus of the project. The proposed trial is based on a rehabilitation model to allow for the continuity of sentencing, rehabilitation program participation and controlled interlock driving.
- The model that has been accepted for the current trial has an initial period of full licence disqualification during which time the UTL rehabilitation program is completed, followed by interlock installation with no additional restrictions.
- As part of the trial, offenders will be interviewed at a number of stages during the time they are on the program, to examine:
  - *their experience using the interlock;*
  - *processes of change ,if any, that occur;*
  - *the attitudinal and behavioural changes resulting from the interventions;*
  - *mediating factors which affect successful outcomes;*
  - *the impact the interlocks have on the lifestyle of participants (and possibly family).*

- At the time the project was proposed by CARRSQ, the Dräger interlock was the only device meeting the Australian Standard (AS 3547). The company participated with the Queensland Motor Accident Insurance Commission (MAIC) in the successful research grant proposal funded through the ARC SPIRT program. Dräger agreed to supply the devices free of charge for use in the trial as an in-kind contribution to the research program.
- The costs of installation, data down-loads and calibrations are borne by the offender and are estimated at \$470. The cost of completing the UTL program (prior to having the interlock installed) is currently \$500 which is usually paid in lieu of a fine.
- It should be noted that as for all other trials the high proportion of drink driving offenders who are already unlicensed at the time of their drink driving offence are excluded from participation because of legislative limitations. In the current trial the interlock is available to all other drink driving offenders, regardless of level of offence, and the trial committee recognises that the most likely groups to elect to participate in the program will be offenders who:
  - *are employed (and thus have the financial resources to pay for both the UTLI and interlock options);*
  - *have sole use of a vehicle,*
  - *have at least one previous drink driving offence and therefore likely to receive a large fine and long disqualification period.*
- There are a number of issues that need to be addressed if interlocks were to be implemented beyond the trial and to move beyond the current limited take up rates. These include:
  - *changes in the legislation to accommodate the use of interlocks;*
  - *shorter mandatory periods of licence disqualification if interlocks are used;*
  - *the mandatory use of interlocks as part of the “restricted licence” option for drink driving offenders.*
  - *transferability between states of the interlock conditions on a licence;*
  - *insurance issues for both the supplier of the device and the user.*

# 1. INTRODUCTION

## 1.1 Background Research

Funding was received from ATSB in 1999 to undertake a feasibility study on the use of Alcohol Ignition Interlocks in Queensland. The model proposed and subsequently funded by the Australian Research Council, Dräger and the Queensland Motor Accidents Insurance Commission (MAIC) was to trial the use of interlocks as an adjunct to the "Under the Limit" rehabilitation program.

In 1993 the research team had been funded by the then Federal Office of Road Safety (FORS) to develop a model drink driving rehabilitation program, called "Under the Limit" (UTL). A collaborative research initiative to develop, implement and evaluate the program was undertaken which involved the Queensland University of Technology (CARRS-Q) team and senior research, policy and administrative staff from relevant government and community agencies. Compulsory attendance at "Under the Limit" is now offered by magistrates to drink drivers as an alternative to fines in all courts in Queensland. The rehabilitation course follows a "user pays" model and to date more than 3000 convicted drink driving offenders have participated in the 11 week program. In cooperation with Queensland Police and Queensland Transport departments offender outcomes in terms of traffic and other re-offences have been compared systematically with date matched offenders in control region courts. The program has been found to be effective in reducing the re-offence rates of recidivist offenders who have had other drink driving offences in the five years prior to the index offence. The evaluation data has also indicated that there is a smaller proportion of offenders who have exceptionally high recidivism rates even in the short outcome period for which the cohort has been studied. These people frequently have a serious criminal history and may have associated alcohol dependency (Sheehan & Schonfeld, 1998), and are most likely to breach the rehabilitation program court order.

### 1.1.1 Alcohol Ignition Interlocks

These devices (Breath Alcohol Ignition Interlock Devices) are fitted to a vehicle and will not allow the engine to be started until a breath test has been passed. There is a great deal of flexibility built into these devices, including the ability to set the BAC level at whatever level is suited to a particular driver. For example, someone who holds an open licence and uses the device could have the level set at the legal limit (Australia) of 0.05 gms/100ml, while an offender who is on a provisional licence would have the device set at zero BAC. Drivers must blow into the device to test their BAC and the vehicle will start only if their BAC is below the set limit. To counteract the possibility of having another person blow into the device, it is possible to set the device to request a further test at some predetermined time during the journey, so that the driver must provide another breath sample. Further options can be utilised to determine what the outcome of failing such a retest will be. For example, the hazard lights can be set to start flashing or the horn can be set to start operating.

### 1.1.2 Alcohol Ignition Interlocks and drink drivers

Since the late 1980's, a number of jurisdictions in the USA and Canada have implemented programs using Alcohol Ignition Interlocks for drink driving offenders. For a summary of the legislation in these countries refer to Appendix 2. Interlock programs have been proposed and supported as an adjunct method for controlling recidivism in Australia for an equally long period of time but as yet have not been systematically implemented in any state. By 1997, thirty-four



states in the USA had passed alcohol ignition interlock legislation (Frank, 1997), and estimates indicate that around 24,000 interlocks are in active use (Marques, Voas, Tippetts & Beirness, 1999). Evaluations are beginning to suggest that while interlocks are a useful addition to punitive and rehabilitative sanctions, the take-up rates for the devices are relatively low (Voas, Marques, Tippetts & Beirness, 1999).

Early evaluations in the USA suggested that interlocks could reduce recidivism over and above more traditional approaches, but the effect seemed to be restricted to the period while the interlock was fitted to an offender's vehicle (Beck, Rauch & Baker, 1997; Morse & Elliott, 1992; Jones 1992, cited in Frank, 1997). In Ohio, Morse & Elliott (1992) found that the use of interlocks was associated with a 65% reduction in the likelihood of drink driving reoffence over a 30 month period, compared to licence disqualification. It was also associated with a 91% decrease in the rate of "driving while suspended" offences. Popkin, Stewart, Beckmeyer & Martell (1993) found that the use of interlocks was effective in reducing recidivism among second-time offenders in North Carolina. However, the recidivism rate of this group and in other studies has returned to higher levels once the interlock was removed. Because of the nature of the device and offender sampling there have been ongoing problems implementing robust evaluation methodologies (Watson, 1998; Austroads, 1998).

### 1.1.3 The Australian context

In Australia, alcohol ignition interlocks were initially viewed with considerable enthusiasm by the relevant experts (Sheehan 1994) and national standards were established for both the device and the model for implementation (Christie, Carseldine and Brown, 1995). The Australian standard was revised in 1993 and at the commencement of this feasibility study only a device manufactured by Dräger, which was designed and made in Australia, had been tested and found to meet the standard. For a variety of reasons the standards have not simplified or facilitated the development of research into interlock programs in an Australian legal setting so that as yet there has been no court-based implementations. A proposed Victorian trial of interlocks for repeat, high range BAC offenders experienced a variety of difficulties (Staysafe, 1993) and was never implemented. More recently, a trial was conducted in South Australia (SA) using a very small sample of non-offending community volunteers (Coxon & Earl, 1998). A small trial has subsequently been conducted in New South Wales (NSW) using community volunteers who had a previous drink driving conviction (Spencer, 2000). Importantly, these trials have contributed to the introduction of relevant legislation in SA and NSW to support the more wide-scale use of interlocks.

There are a number of reasons that appear to have contributed to the delay in implementing research into interlocks in the Australian justice system. Among the most serious of these are the following implementation and methodological concerns:

- Evaluation issues including small sample sizes in early studies and perceived difficulties attracting larger numbers of participants; short follow-up periods in all studies to date; biases introduced by the self-selection or court-selection of program participants (Frank, 1997; Weinrath, 1997);
- Concerns about the legal outcomes of compliance failures and the possible vulnerability of the machines to tampering;
- Cost of machines to participants, which is high for the typical Australian recidivist offender. An examination of data from the USA and Canadian trials suggests that these programs have been differentially taken up by persons of higher economic status who are employed and eligible for "work licences". In Australia these licences are only available to first offenders

and typically these have not been the offenders who have been considered the appropriate target group.

- Reluctance to modify the current loss of licence provisions which have strong established validity as a means of reducing (though by no means stopping) recidivism (Siskind, 1996);
- The evidence from earlier international studies (Watson 1998) that the exclusive use of interlocks was only significantly effective in reducing recidivism whilst they were installed and that recidivism rates were no different to those of control groups in the period after they were taken off the offender's vehicle;
- Confounding in the methodology underlying some of the overseas studies which arises from the fact that the persons on the interlock may be experiencing shorter periods of licence disqualification than the control groups who are on the routine disqualification time. The impact of this on the post interlock traffic offence data needs to be taken into account and is difficult to assess with small numbers (Austroads 1998);
- The practical issues of determining relevant departmental or other agency responsibility for maintenance of the Interlocks and for monitoring the data log on use and possible abuse;
- A lack of community and importantly, magistrate awareness of interlocks and their potential for reducing serious recidivist drink driving offences;
- Problems of passenger safety in a potentially disabled vehicle; and
- Issues of perceived fairness for other family members who may be dependent on the vehicle.

#### 1.1.4 Incapacitation effects of interlocks and other vehicle-based sanctions

As noted by Watson (1998), the evidence indicates that it is possible for offenders to circumvent or tamper with alcohol ignition interlocks, thereby reducing their incapacitation effect. However, this practice does not appear widespread (South, 1990; Morse & Elliott, 1992), and the technology of current interlocks has increasingly become more robust to circumvention (Beirness, Simpson, Mayhew & Jonah, 1997). Moreover, there is evidence from those programs using interlocks with electronic data loggers, that they are able to control the use of vehicles by alcohol-impaired drivers (Morse & Elliott, 1992). The Australian standard (Standard Australia, 1993) provides specific electronically logged information on the use and misuse of the interlocks. This data can be closely monitored and downloaded at specified intervals and appropriate follow up undertaken with defaulters.

#### 1.1.5 Reform effects of interlocks

Early evaluations of interlock programs were promising, suggesting that the devices could reduce recidivism over and above more traditional approaches, at least while the interlock was fitted to an offender's vehicle (Baker & Beck, 1991; Morse & Elliott, 1992; Popkin et al, 1993). However, a range of problems limited the generalisations that could be made from these early studies, including small sample sizes, short follow-up periods and, most importantly, biases introduced by the self-selection or court-selection of program participants (Weinrath, 1997; Watson, 1998).

More recent studies have confirmed that interlock programs can reduce recidivism while the devices are fitted. The first of these was conducted by Weinrath (1997) and involved a retrospective comparison of the effect of alcohol ignition interlocks in Oregon. To overcome selection bias problems, he compared a random sample of interlock drivers with a matched

comparison group who received only licence disqualification. He found that the comparison group was twice as likely to reoffend as the interlock group.

The second study was conducted in Maryland and is the only study reported to date that used a fully randomised design (Beck, Rauch, Baker & Williams, 1999). Recidivist drink driving offenders were assigned randomly to either an interlock condition or a restricted licence (zero BAC) condition. Drivers in both groups were requested to participate in some form of alcohol treatment or drink driving program linked to probation. The results suggested that interlocks could significantly reduce reoffence whilst they were installed. Furthermore, the results did not appear to be a product of differences in relicensure or administrative monitoring. Nevertheless, some questions remained about the results. For example, over a fifth of the subjects in the interlock group were not required to have an interlock fitted because they did not own a vehicle. Instead, they were relicensed on the condition that they sign a waiver that they wouldn't own or operate a vehicle that didn't have an interlock fitted. As such, it is unclear whether the driving of these offenders was mediated at all by an interlock during the study period. In addition, a particularly high uptake rate was achieved in this study with just over half (57%) of the persons offered the device having it installed. However, the role of the treatment program/s in fostering this take-up rate is unclear. The authors concluded that:

*"There is no evidence from the present study to suggest that interlocks or interlock licence restriction programs could or should operate as a stand-alone treatment approach for drivers with multiple alcohol traffic violations"* (Beck et al, 1999, p. 1699).

More recently, a large-scale evaluation of the Alberta interlock program was conducted by Voas et al (1999). This study confirmed that recidivism among an interlock group was substantially reduced while the device was fitted, compared with offenders who were suspended. However, once the interlock was removed and licences reinstated, there was no difference between the two groups. Moreover, the relatively low take-up rate of the devices (only 8.9% of eligible offenders) limited the overall impact of the interlock program on recidivism.

The Alberta findings are consistent with those of earlier studies. For example, Popkin et al (1993) found that the positive effects of interlocks on second offenders did not persist once the devices were removed. Similar results were obtained with second offenders in West Virginia (Tippetts & Voas, 1997). Weinrath (1997) found that, 15 months after relicensing, the recidivism rate among offenders who received an interlock was significantly lower than that of a comparison group. However, the difference was relatively small (5%).

Together, these results suggest that the exclusive use of interlocks (similar to licence actions) is primarily an exposure-control measure that delays recidivism (Watson, 1998). As a consequence, Alberta has been trialing the use of a "harm-reducing, motivational intervention" to complement their interlock program (Marques et al, 1999, p.1862). This intervention involves motivational interviewing and pragmatic counselling delivered by case-managers, and is designed to move offenders along a change-readiness dimension and prepare them for when the interlock is removed. A preliminary evaluation suggests that offenders exposed to the intervention are less likely than a control group to record failed BAC attempts to start their car (Marques et al, 1999).

It should be noted that there are some important differences between the motivational intervention being used in Alberta and the Queensland "Under the Limit" (UTL) program. Firstly, while the Alberta intervention is individual-client focussed, UTL utilises group processing of cognitive behavioural change strategies and practices. Secondly, the implementation model for UTL requires offenders to be maintained on probation under the supervision of a Community Corrections Officer for a duration of six months. In this regard, Voas et al (1999, p.1850) note from the US experience that there *"is anecdotal evidence that higher participation rates can be obtained by making it (interlocks) a condition of probation"*.

An important and significant finding from many international studies is that interlock take-up rates are relatively low among drink driving offenders. As noted earlier, only 8.9% of eligible drivers elected to participate in the Alberta program, despite it representing a relatively comprehensive program (Voas et al, 1999). This problem has also become evident in the two small process trials conducted to date in Australia. This is a major issue that needs to be addressed in the future; otherwise it will continue to constrain the overall effectiveness of interlocks in reducing drink driving recidivism (Voas et al, 1999).

### 1.1.6 Retribution effects of interlocks and other vehicle-based sanctions

In Australia, concerns have occasionally been raised about the inconvenience of alcohol ignition interlocks for offenders and their families (Watson, 1998). Anecdotal evidence (South, 1990; Staysafe, 1993) suggests that while many offenders may originally resent the imposition of the devices, they come to accept them. It remains to be examined whether they can perform an educational and motivational function. *"It apparently provides that extra incentive needed to refrain from drinking"* (South 1990, p.11). This is an area that is being studied in the Queensland trial.

### 1.1.7 Recidivist drink drivers

Collaborative work by the QUT team with the Queensland Police Service and Queensland Transport over a number of years has enabled a comprehensive database on recidivist drink drivers in Queensland to be established. Data items include:

- a five year follow up of traffic offence data on all drink drivers convicted in 1988;
- traffic offence data for all drink driving offenders convicted in 1993; and
- a five year retrospective and follow up of traffic and police offence data for all drink driving offenders in the Central region of Queensland from 1993-96.

Our analyses of these Queensland data replicate international findings that recidivist drivers make up a sizeable proportion of convicted offenders (approx 30%) and that these people have a relatively high likelihood of post conviction drink driving and other types of offending making them a very high risk group of drivers. Intensive studies of our court samples in 1998 indicate that in comparison to the general population they are over represented in lower educational levels (65% grade 10 or less) and in lower income groups (44% < \$12,000 pa) and unemployed (43.6%). Their alcohol consumption levels are high and using the Alcohol Use Disorders Identification Test (AUDIT) a high proportion are shown to be alcohol dependent compared with the general population (Ferguson, Sheehan, Schonfeld, & Davey, 1998). A study of the Queensland 1988 cohort, which is supported by the more recent "Under the Limit" evaluation data indicated that for second offenders there were increasing levels of at least one re-offence over time (7.9% within one year; 13.5% within two years; 17.9% within three years; 20.4% within four years and 20.6% within five years) (Buchanan, 1995).

A meta analysis by Wells-Parker, Bangert-Downs, McMillen and Williams (1995) in the USA and our own findings evaluating the effectiveness of the "Under the Limit" program have indicated that the length of time to re-offence or survival rate can be improved by 7-10% over matched controls if offenders participate in rehabilitation programs (Sheehan, Siskind, Schonfeld, Ferguson & Davey, 1999). This effect appears to be enhanced by associated probation visits. This needs to be placed in the context of the overseas research that suggests that during the interlock period there is a reduction of between 1.6% recidivism (Beck et al 1999) and 4.5% (Tashima and Helander 1999). These findings have supported the previously noted research

question that it may be possible to achieve improved effects, including post interlock reduction in recidivism, by using associated systematic rehabilitation and probation (Voas et al, 1999; Marques et al, 1999).

The current trial aims to examine the contribution (if any) of the interlock to: (i) the effects of a rehabilitation program and (ii) sustained reduction in recidivism over time.

## **1.2 Focus of this report.**

This report presents the model for trialing Alcohol Ignition Interlocks in Queensland, and describes the practical issues involved in implementing such a program. Development of this model has involved building on the work already carried out in other states in Australia, and taking into consideration the legal, financial and administrative barriers that have plagued other attempts to trial the interlock. It notes and where possible responds to the issues raised by Job in defining a model "interlock trial" in the 1998 Austroads report (Austroads 1998).

## 2. METHODOLOGY

The feasibility study began with the extension of the role of the Research Committee for the “Under the Limit” Drink Driving Rehabilitation Project to include examination of the feasibility of introducing associated ignition interlocks. The committee included representatives from Queensland Police, Queensland Transport, Queensland Health, Community Corrections, and Queensland University of Technology (CARRS-Q researchers). The proposal to implement a trial of alcohol ignition interlocks was discussed and a decision made that there was a need to include other organizations and agencies. This led to the addition of the Motor Accident Insurance Commission (MAIC), Dräger and a representative of Queensland Stipendiary Magistrates.

Sub-committees were formed to deal with specific issues that emerged. These were implementation; legislation; ethics/equity; breach definition; data availability; research/evaluation methodology. Appendix 1 contains a list of all persons involved in the study.

In May 1999 an application was made by the QUT research team to the Australian Research Council SPIRT grant scheme for funding to support a trial of the effectiveness of the addition of interlocks to a rehabilitation program in reducing subsequent recidivism. The cooperating industry partners were the Motor Accident Insurance Commission and Dräger. The grant application was successful and funds to support implementation were received in February 2000. Dräger agreed to provide the interlocks for the trial as part of the program.

An intensive series of meetings and consultations with all relevant groups have been held over the 18 month period. The task of implementation has proved extremely complex and many issues have had to be addressed, causing some delays before the trial commenced in February 2001. The more complex issues included the possible implications for the offender's vehicle insurance, civil liberties and equity issues, obtaining Crown Law advice on breach/re-sentencing, administrative requirements associated with Queensland Transport's licensing and offence database, and development of policing procedures in terms of detection.

### **3. THE MODEL SELECTED FOR THE CURRENT TRIAL**

The model being presented in this report was finalised for the commencement of the trial in February 2001.

#### **3.1 Summary of the model**

As a result of the process of discussion and policy formation the decision was made to adopt a model in Queensland which is essentially a judicial approach but also retains certain aspects of the administrative model. This decision was made to capitalise on the advantages that accrue through combining both models.

##### **3.1.1 Judicial model.**

Under the judicial model in the Queensland trial, offenders are assigned to an interlock trial directly through the courts by Magistrates as part of their sentence. This assignment is done through the Penalties and Sentences Act (1992). Offenders are placed on a probation order, and compliance with the trial becomes part of the offender's conditions of probation. These conditions are then monitored by a Community Corrections Officer who provides ongoing supervision and support.

##### **3.1.2 Reasons for deciding on the judicial model**

The judicial model offers a more established framework through which to implement the current interlock trial because it builds on the existing framework already developed to implement the "Under the Limit" program in Queensland. This established framework provides for the processes of accrual (including pre-sentence assessment), supervision and protocols for dealing with non-compliance.

Referral rates from the "Under the Limit" program indicated that approximately 80% of offenders were assigned to the program by magistrates under the Penalties and Sentences Act rather than the Traffic Act<sup>1</sup>, suggesting that this type of program can be more readily implemented via a probation order.

The judicial model requires less legislative change in the short term, since the conditions of the probation order already allow for offenders to be placed on a program such as "Under the Limit". It is feasible and reasonable to consider the interlock period of sentencing as an integral component of a revised "Under the Limit 2" program.

Under the judicial model, the offenders have to meet the conditions of probation. If they do not meet those conditions, including the requirements for participation in the interlock trial, they will be considered to be in breach of the order. At this point they have to appear before a magistrate to have this new charge heard and be re-sentenced.

There is a concern that many recent legislative changes have placed significant demands on magistrates so they have less time to peruse sentencing alternatives such as the interlock option.

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<sup>1</sup> The Traffic Act (1949) has since been superseded by the Transport Operations (Road Use Management and Safety) Act (1995)

The interlock trial creates additional work for magistrates, but this can be systematised and structured by having the court used as the unit of randomisation.

Under the administrative model, the offender would be assigned to the interlock program at the time of application for re-licensing through Queensland Transport and the usual options in terms of fines and length of disqualification would still apply. There could be a major time lag associated with this model (disqualification can vary between one month and three years depending on the severity of the offence). In the context of an interlock trial this could diminish the association between the offence, the punishment of license loss, and the behaviour change contingencies implemented in "Under the Limit 2" which could minimise behavioural change objectives.

In addition under an administrative model, there would be no provision for random allocation as Queensland Transport advises it would be reluctant to countenance this process because of equity implications. The additional workload and increased use of resources that would result for Queensland Transport under an administrative model must also be taken into consideration.

### 3.1.3 Random allocation to the trial

There are difficulties in randomly allocating offenders to the trial, since in our experience a judicial model is subject to variation both across courts and magistrates. From the magistrates' point of view, it was considered both impractical and unacceptable for offenders in each court to be randomly allocated to the trial. The solution was to randomly allocate courts to the intervention or control groups, rather than offenders. In this way, offenders in an intervention court are offered the "Under the Limit 2" program. An offender who appears in one of the randomly assigned intervention courts is assessed to determine suitability and willingness to participate in the interlock trial. If appropriate, the offender is placed on a probation order in line with the judicial model. The conditions specified on that order include the requirement that during the initial period of full licence disqualification, the offender must complete the "Under the Limit" (UTL) program. Fig 1 gives the conditions of the probation order.

Offenders in the control courts are offered only the "Under the Limit" program in the normal manner. There are methodological concerns related to all these models which have been outlined in Austroads (1998).



**Failure to comply with any of the requirements of this schedule will constitute a contravention of the Probation Order**

The Magistrate will advise you of the length of licence disqualification at sentencing.

The requirements of this Probation Order are that you must:

- i) satisfactorily participate in and complete the *Under the Limit 1* Program by the expiry of the disqualification period as directed by an authorised corrective services officer;
- ii) pay \$500 to the Registrar/Clerk of the Court at the ..... Magistrates Court in such amounts so that \$250 is to be paid prior to commencing the *Under the Limit 1* Program and \$250 to be paid prior to the completion of the *Under the Limit 1* Program;
- iii) obtain a Probationary Licence and have an approved Alcohol Ignition Interlock Device fitted to a motor vehicle nominated by you within one month after the expiry date of the disqualification period;
- iv) drive only the nominated vehicle/s with an approved Alcohol Ignition Interlock Device fitted during the period up to and including ...../...../..... once a Probationary licence has been obtained and carry a copy of the Probation Order and Schedule with you at all times when driving;
- v) use the approved Alcohol Ignition Interlock Device fitted to the nominated vehicle/s in accordance with the manufacturer's instructions;
- vi) not interfere with the normal operation of the approved Alcohol Ignition Interlock Device or intentionally damage the approved Alcohol Ignition Interlock Device in any way;
- vii) not drive or attempt to drive a vehicle fitted with an approved Alcohol Ignition Interlock Device with a blood alcohol concentration exceeding 0.00%;
- viii) be responsible for all tests registered by the approved Alcohol Ignition Interlock Device data recorder and therefore make sure that not only you, but anyone else driving the vehicle is free from alcohol;
- ix) pay the associated fees for installation, maintenance, service and removal of the approved Alcohol Ignition Interlock Device as well as any costs associated with repair or callouts, other than those due to malfunction of the device, to the supplier of the device as directed by an authorised corrective services officer;
- x) seek approval from an authorised corrective services officer to have an approved Alcohol Ignition Interlock Device installed in a vehicle/s other than the vehicle nominated in accordance with iii) above;
- xi) report any malfunctions of the approved Alcohol Ignition Interlock Device to the supplier within 2 business days;
- xii) comply with the approved Alcohol Ignition Interlock Device's servicing schedule as directed by the court or an authorised corrective services officer;
- xiii) notify an authorised corrective services officer within 2 business days of any non-scheduled service requirement indicated by the approved Alcohol Ignition Interlock Device.

I ..... have read and understood the requirements of the *Under the Limit 2* Program outlined in this schedule. I understand that, should I agree to the Magistrate making a Probation Order with the special requirement that I undertake and pay costs of the *Under the Limit 2 Program*, this schedule will be attached to and form part of the Probation Order with the addition of the date in requirement iv) which will be nominated by the magistrate at sentencing.

Name:.....

Witness:.....

Signed:.....

Signed:.....

Date:.....

Date:.....

Figure 1. Schedule of conditions attached to the probation order

### 3.1.4 Definition of controls

Under the proposed model, the control group is made up of offenders who are sentenced to undertake UTL1 in the assigned control courts. In the early stages of the trial, the accrual rates of both intervention and control groups have been far below expectations based on numbers of drink driving offenders appearing before the courts. As a possible solution to the low numbers of participants in the control group, it was decided that the design model should be revisited to include a second control group accrued from the intervention courts - those offenders who are offered UTL2 but who decided to undertake only UTL1. The data needed from the control group for evaluating the effectiveness of the interlocks is now being gathered for both of these groups of controls. This means that drink driving re-offence rates will be compared for the intervention group, the main control group (UTL from a control court) and the secondary control group (UTL from an intervention court).

### 3.1.5 Selecting the sentencing model

The importance of trying to implement the interlock in such a way that a sustained reduction in recidivism can be achieved has been a major focus of the project. The ideal model would be one in which there is a phased return to unlimited driving. For example, rehabilitation program would be completed during the period of full licence disqualification, and the offender is re-licensed but restricted to using an interlock-fitted vehicle during set periods outside the recognised high risk times for drink driving. That is, no use of a vehicle in evenings and on weekends when most social drinking occurs. See Figure 2. At the completion of the restricted period, the offender would remain on the interlock condition, but with no additional restraints.

**Initial Model : standard 6 months full disqualification +  
6 months interlock with time and place restrictions +  
remainder with interlock without added restrictions**

**Day of Court  
Attendance**

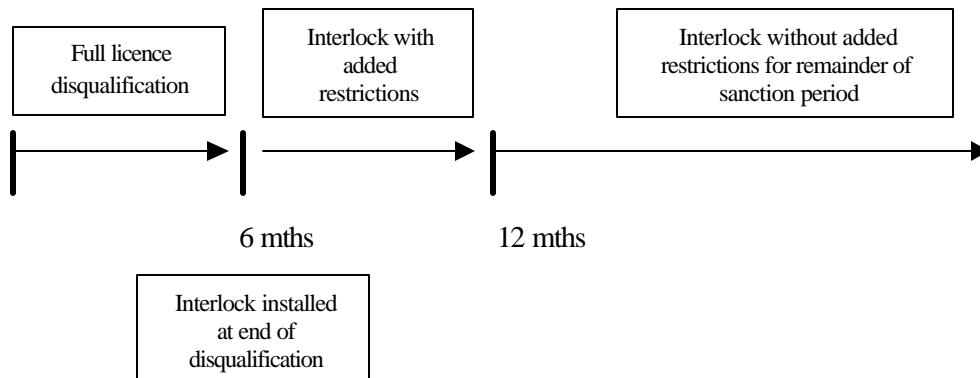


Figure 2. First model proposed

The constraints of the current licensing regulations have disallowed this preferred model. The model that has been accepted for the current trial is presented in Figure 3. The initial period of

full licence disqualification is followed by interlock installation with no additional restrictions. It is also proposed that the total sanction period be 1.5 times the normal disqualification period.

**Mandatory minimum full disqualification + remainder of sanction period with interlock**

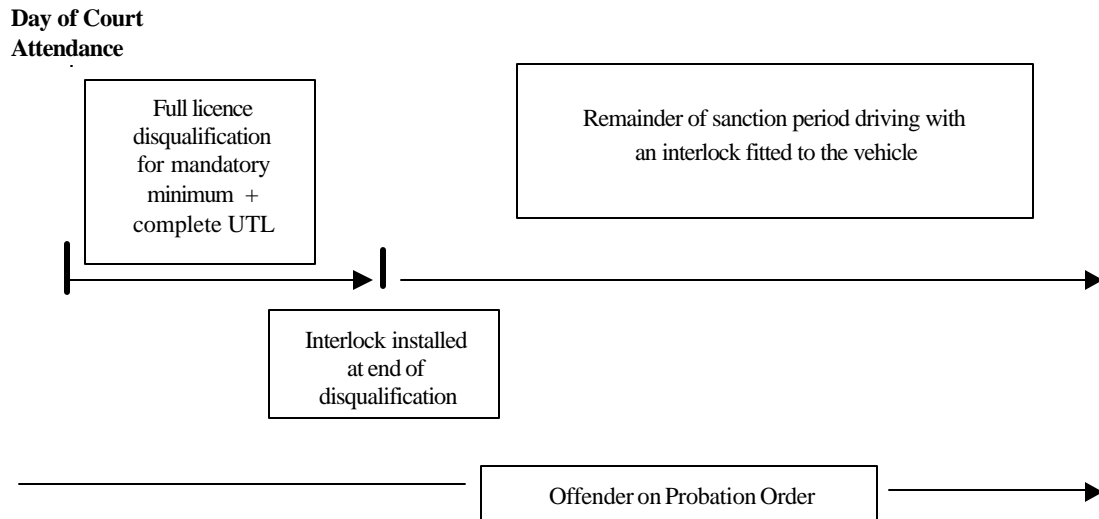


Figure 3. Final model proposed to and accepted by magistrates

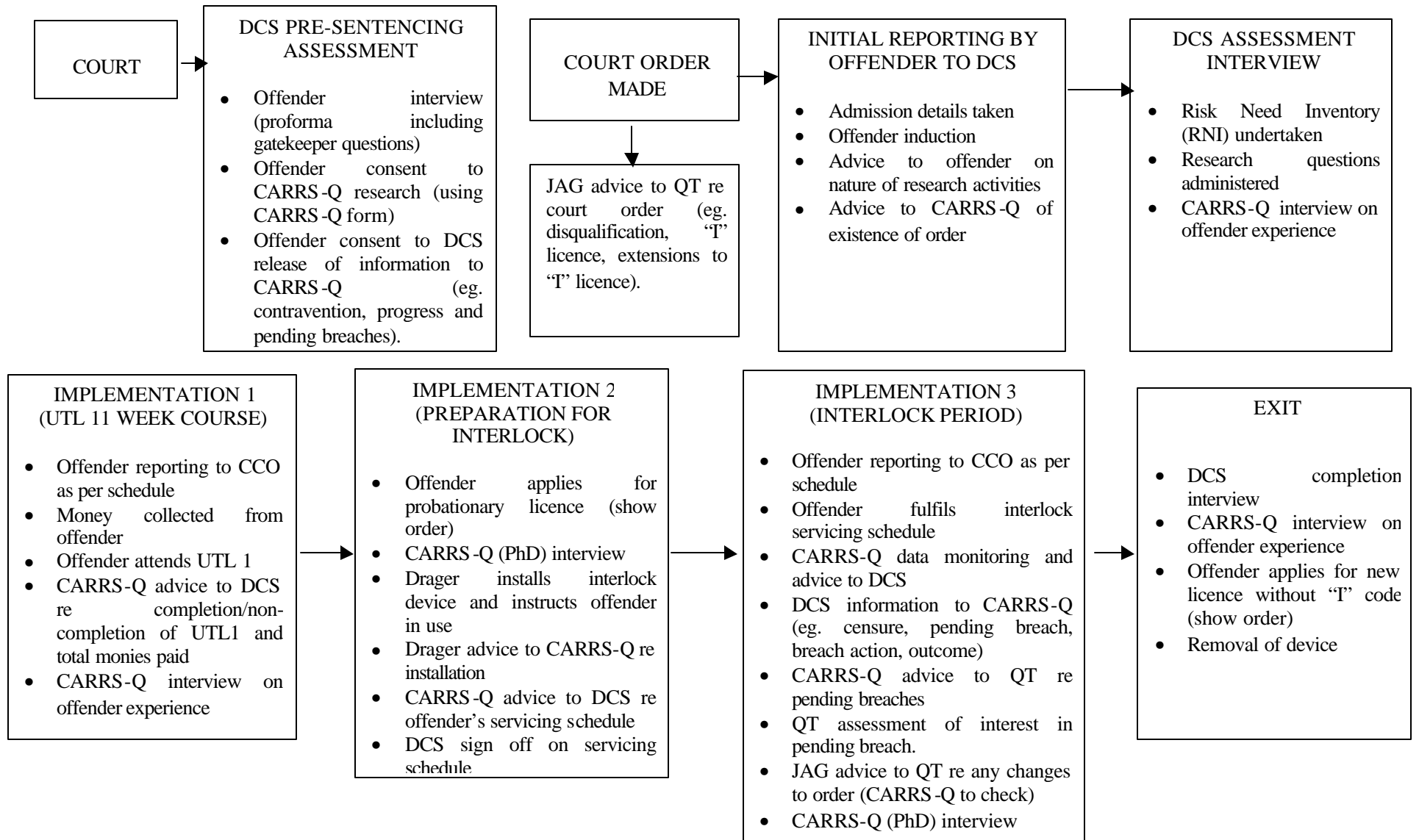
### 3.1.6 The rehabilitative process

The proposed trial is based on a rehabilitation model to allow for the continuity of sentencing, rehabilitation program participation and controlled driving with an interlock. Consequently as part of the trial, offenders will be interviewed at a number of stages during the time they are on the program, to examine whether processes of change occur from commencing the “Under the Limit” drink driving rehabilitation program to completing the time driving with an interlock fitted to their vehicle. This part of the research will be completed by a postgraduate scholar, and he will also examine the attitudinal and behavioural changes resulting from the interventions, as well as highlighting mediating factors which affect successful outcomes. In addition the impact the interlocks have on the lifestyle of participants will be monitored, including gathering information from participants as to their overall perceptions of the interlock program in comparison to existing standard legal sanctions.

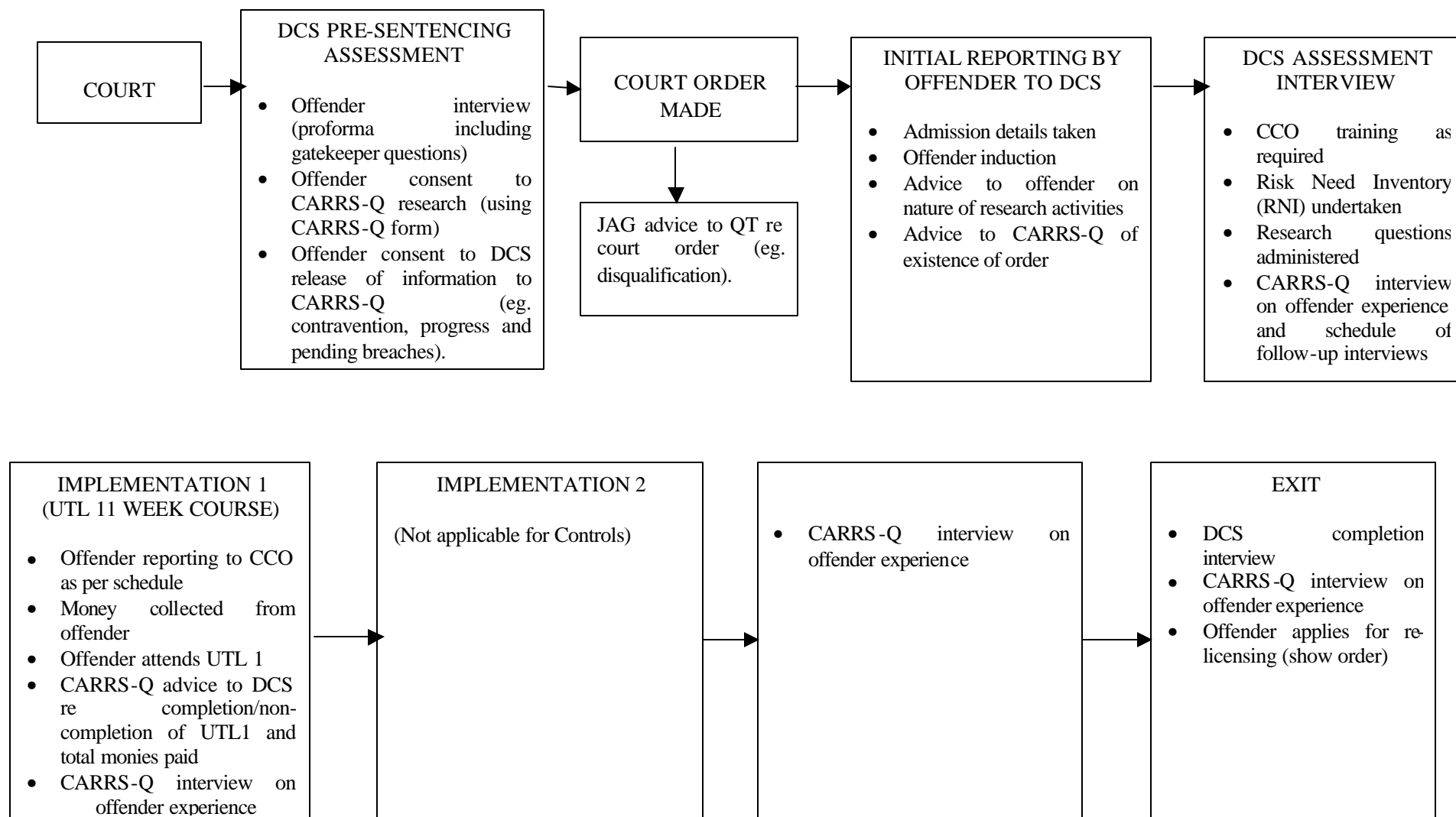
### 3.1.7 Referral processes - Community Corrections

The process of referral is quite complex, and the level of detail is reflected in the following flowcharts. Flowchart 1 shows the process of referral and assessment for offenders in the intervention group (UTL + interlock). This involves the Brisbane Central, Ipswich, Holland Park, Inala, Beenleigh and Cleveland courts. Flowchart 2 shows the process of referral and assessment for offenders in the control group (UTL1 only) and involves the Southport, Redcliffe, Sandgate, Wynnum and Petrie courts.

# FLOW CHART 1 - AGENCY AND OFFENDER PROCEDURES FOR THE INTERVENTION GROUP



## FLOW CHART 2 - AGENCY AND OFFENDER PROCEDURES FOR THE CONTROL GROUP



### 3.1.8 Administrative components of the model.

Following the period of licence disqualification, during which time the offender will be required to complete the UTL program, the offender will be eligible to obtain a licence through Queensland Transport. An identifying code on the interlock user's licence (an "I" code) will flag to police during roadside licence checks and random breath testing that there are special conditions attached to the licence which are recorded on the relevant Transport Registration And Integrated Licensing System (TRAILS) database in Queensland.

The conditions of the "I" licence will include that the offender can only drive a vehicle with an interlock installed and that the offender must also carry documentation of the conditions of the licence. Legislative changes to enable the introduction of this interlock licence provision are currently being finalised.

### 3.1.9 The most appropriate interlock device

From a legal perspective it would seem to be acceptable to use any interlock system which met the Australian Standard. At the time the project was proposed, the Dräger interlock was determined to be the only device meeting the Australian Standard (AS 3547) and this company was approached to seek their participation in the trial. As part of a grant proposal funded through the ARC SPIRT program, Dräger agreed to supply the devices free of charge for use in the trial as an in-kind contribution to the research program.

### 3.1.10 How does the interlock device work?

The driver must blow into the device and register a BAC reading before being able to start the vehicle. If the test is failed (BAC greater than the prescribed limit, which for this trial is zero<sup>2</sup>), the ignition will not work and the vehicle cannot be started. If the driver registers a zero BAC reading, then the vehicle can be started and the journey commenced. At random intervals during the journey, the device signals the driver (a beeping sound) that a further test is required (a rolling re-test). The driver must blow into the device again, and if the test is passed (zero BAC) then the journey is continued. If the driver fails a rolling re-test, or fails to give the required breath sample, this is considered to be a violation, and there is a range of consequences that can be programmed into the device after such a violation. In the current trial, as a warning to other drivers, the vehicle's hazard lights will be activated. For reasons of personal security, the vehicle will not be disabled. All attempts to start the vehicle are recorded by the device, as are the results of rolling re-tests. The data recorded by the device includes the time of each test and each request for a test, and the BAC reading for each test. Any attempt to tamper with the device (including disconnecting the device) is also recorded.

### 3.1.11 Definition of fails

If an offender attempts to start the vehicle while having a BAC above the prescribed limit (zero for this trial) then the vehicle will not start. This is classified as a minor fail. It will be recorded by the device but no further action results from a minor fail.

While driving, if an offender fails/refuses to blow into the device when requested for a rolling re-test, this will not be counted as an immediate fail. The device will be set so that the offender will be requested a second time to do that test, within the next 5 minutes. If the offender then does not

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<sup>2</sup> While the prescribed BAC level is nominally zero, the breath measuring device incorporates a tolerance such that the BAC level must be >.015 for the device to register a fail.

blow into the device on this second request, this will be deemed as a major fail. If the offender does blow into the device and is over the prescribed limit, that is also a major fail.

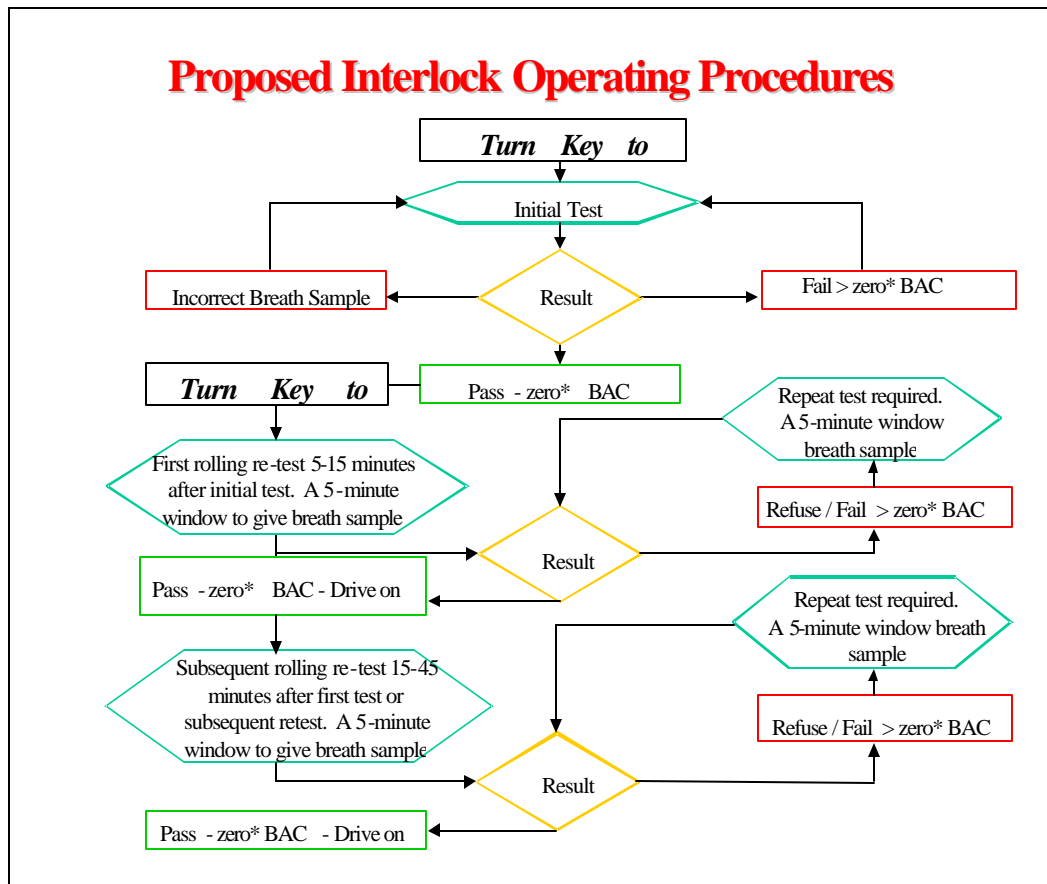
If an offender registers a failure, the device will give a message to indicate that reporting to the service agent is required within 5 days (forced service is activated). If the offender does not bring the car into the service agent for checking the data within the specified time, the offender will not be able to start the vehicle again ("locked out").

### 3.1.12 Setting the parameters

There is a wide range of settings for the interlock devices. These include:

- The prescribed BAC level
- The time delay after a failed attempt to start the vehicle before a second attempt can be made
- How many failed attempts constitute a major fail
- The timing of rolling retests
- The time required after a failed rolling retest before a second attempt can be made
- The outcome of a failed rolling retest
- The outcome of a major fail - time to report to service provider

Figure 4 shows the sequence of procedures for an offender using the interlock.



\* While the prescribed BAC level is nominally zero, the breath measuring device incorporates a tolerance such that the BAC level must be  $>0.015$  for the device to register a fail.

Figure 4. Flowchart showing sequence of breath tests and outcomes

### 3.1.13 Monitoring offender performance

Data will be down-loaded from the interlock devices at regular intervals. Records of any failures provided to the researchers through the data down-loaded from the device will be reported to the Community Corrections Officer in charge of the offender, and will be used for the purposes of monitoring the conditions of the probation order. Following considerable discussion with Community Corrections staff, it was decided that the default regime for down-loads would be:

- at the end of each of the first 3 months
- then at the end of each subsequent 3 month period

Overseas experience with interlock programs indicates that offenders take 1-2 months (B.Voas and P.Marques, personal communication, January 2001) to learn that a) the device does stop them from starting the vehicle when they blow over the prescribed limit b) they will have a BAC greater than zero even when they've had only a few drinks c) the device does record all their attempts to start the vehicle and their BAC reading at each of those attempts and d) they shouldn't let their friends "have a go" because the fails show up as part of their own record. If an offender is making a genuine effort to not drink and drive, this will be evidenced by a sharp decrease in the number of failed attempts to start the vehicle, particularly in the second month of operation when they will have come to terms with a) to d) above. If the offender's performance at the end of 3 months satisfies the supervising Community Corrections Officer that a genuine effort is being made to not try to drive after drinking, then the down-load times will be increased to 3 monthly intervals as per the default regime. If however the offender is still registering a number of failed attempts to start, the supervising Community Corrections Officer may extend the monthly down-loads beyond the first three months. Table 1 gives the interlock parameters and associated actions that have been set for the current trial.



Table 1. Interlock Parameters and Actions

<b>Initial test</b>	<b>Engine starts</b>	<b>Hazard lights flashing</b>	<b>Temporary lockout (1)</b>	<b>Temporary Lockout (2)</b>	<b>Forced service activated</b>
Start up violation circumvent/ Tamper <sup>1)</sup>	No	-			In 5 days
First failure <sup>2)</sup>	No	-	5 mins		
Second consecutive failure	No	-	-	20 mins	
Subsequent consecutive failures	No	-	-	20 mins	Only after 60 lockouts
First pass	Yes	-	-		
<b>Rolling retests</b> (Driver has 5 minutes to supply breath test after device requests) Re-test not presented <sup>3)</sup>		Yes	-		In 5 days
Fail		Yes	When engine next turned off, 5 mins		In 5 days
Fail second and subsequent re-tests		Yes		When engine next turned off, 20 mins	In 5 days
Pass		-	-		

- (i) If the driver attempts to disconnect the device, the attempt to tamper will be recorded and the vehicle will not start. Under some circumstances (if the driver is an auto-electrician), it may be possible to disconnect and re-wire without disabling the vehicle. However, the driver's actions will be obvious at the first service and will be reported to Community Corrections to be dealt with accordingly.
- (ii) Giving a correct breath sample (requiring the driver to use the correct suck-blow technique), particularly in the early stages of having the device fitted, requires practice, and the device will register each attempt. These incorrect breath samples are not registered as "fails". However if there are 15 such attempts then a temporary lockout is activated and a "minor fail" is recorded.
- (iii) When the device signals that the driver should give a breath sample for a rolling re-test, it allows up to 5 minutes for the driver to comply (allowing time to pull off the road in a safe place). If the driver fails to provide the breath sample in that time, it is registered as "re-test not presented", is considered to be equivalent to a failed (> zero) test, and the hazard lights are activated, and the forced service is activated.

### 3.1.14 Definition of a breach of the probation order.

The conditions of the Probation Order will be considered to have been breached on the basis of, among other things, having "failed" a rolling retest while driving the vehicle. Evidence of tampering with the device will also be considered a breach of the conditions.

### 3.1.15 Procedures that follow a breach of a probation order.

Community correctional officers have a statutory obligation to consider appropriate action when they become aware of an offender being in contravention of a probation order. Returning an offender to court on a contravention of the order is not the only option available to an officer. Other avenues to manage the non-compliance may be considered in the light of the offender's overall performance while subject to the order.

In some circumstances, the officer may consider that a written censure from the area manager will be an appropriate recommendation to make as a consequence of a contravention of an order. If the matter is considered to be more serious, it may be recommended that the offender be returned to court for a censure or fine from the magistrate. The magistrate may decide that it is appropriate to amend the order in some way. In cases where the contravention is considered to be too serious for these courses of action, the officer will recommend that the offender be returned to court and that the court be encouraged to revoke the probation order and re-sentence the offender for the original offence. In all circumstances except where the order is revoked, the offender would be allowed to continue to undertake the program.

Community Corrections will notify CARRS-Q of the result of any court hearing. Notification of the court hearing will be forwarded to Queensland Transport in the usual manner and the offender's record in the licensing database will be amended. Depending on the outcome of the court hearing, the offender may be taken off the trial and disqualified from driving, in which case the offender's licence will be suspended, and the "I" condition deleted. The magistrate may decide that the offender should continue on the trial, but be given further penalties such as another fine and/or an increased length of time with the interlock.

### 3.1.16 Data management/confidentiality

Confidentiality of data is a major issue for a research trial both in terms of ethical requirements and possible "conflict of interest". It is proposed that to ensure that the data is protected, technicians will download the data and forward it immediately to CARRS-Q, bypassing any direct contact with the supply management. In addition, there will be a legally binding agreement signed confirming the technicians will not have access to the raw data. CARRS-Q staff will do random audits of the download procedure to ensure that the correct procedures are being followed. CARRS-Q would then supply summaries of the data to Community Corrections for the purposes of offender monitoring, and to the supplier for their own use, as they will require feedback on the operation of the devices.

## 3.2 Costs

The cost of completing the UTL program is currently \$500 which is usually paid in lieu of a fine. It must be paid before completion of the program. In the current deliberations about the interlock the offender will need to have completed payment for the UTL prior to the interlock being fitted. Payments for installation and servicing costs for the interlock device will be made directly to Dräger by the offender.

### 3.2.1 Procedures which will incur costs

The cost of Interlocks for the trial does not include the cost of supplying the device as this is being supplied free of charge by Dräger. Table 2 gives a breakdown of the procedures that will be involved in installation and servicing the devices.

Table 2. Schedule of fees

SERVICE TYPE	FEE DUE*
INSTALLATION Installation / Calibration/ Set-up/ Operational Training / Administration	\$121.00
BOND ON REMOVAL	\$ 55.00
DATA DOWNLOAD Monthly for first 3 months / Performance Check 3 x \$36.30	\$ 108.90
DATA DOWNLOAD Three monthly Down-load of Data / Performance Check 3 x \$36.30	\$ 108.90
CALIBRATION and DATA DOWNLOAD (at 6 months and 12 months) 2 x \$36.30	\$ 72.60
TOTAL ESTIMATED COST	\$466.40
Call-outs as a result of non-compliance / ignoring service dates will attract additional costs.	

\*All fees quoted inclusive of GST

### 3.2.2 Cost of obtaining the required licensing for the trial

Some offenders may also incur licensing costs as part of the usual administrative processes through Queensland Transport. These costs are independent of the trial, but are as follows: People who have had their licence disqualified for a period of more than 5 years are required to take another test, and the cost of this is \$29.00. People who have had their licence disqualified for a period of under 5 years, are not required to take a test. The cost of obtaining a licence under these circumstances is \$11/year. Licences are available for periods between 1 year and five years.

## 3.3 Offender group(s) to be targeted

In determining which group of offenders would be targeted for the trial, a number of issues were considered. These included research, financial, social, political and legal implications. It was decided that the interlock would be made available to all drink driving offenders, regardless of level of offence. It should be noted though, that the research committee recognised that the most

likely group to elect to use an interlock will be offenders who are employed (and thus have the financial resources to pay for both the UTL1 and interlock options), offenders who have sole use of a vehicle, and offenders who have at least one previous drink driving offence and are therefore facing a heavy fine and lengthy disqualification period.

It should be noted however that one of the serious shortcomings of this trial and all such trials internationally is the failure to deal with the high proportion of offenders who are already unlicensed at the time of their drink driving offence, and who therefore are usually excluded from participation in alcohol ignition interlock programs.

### **3.4 Raising awareness of alcohol ignition interlocks**

Implementation of the trial has required the research team to promote an awareness in relevant groups associated with the justice system and in the general community, of alcohol ignition interlocks as a strategy to avoid drink driving. Groups such as Legal Aid and private solicitors, court staff, Community Corrections staff, Police prosecutors, volunteer court support workers, and facilitators who teach the “Under the Limit” rehabilitation program have all been given information kits and/or brochures, and many have attended presentations about the trial and the use of alcohol ignition interlocks.

Drink driving offenders have been targeted through the “Under the Limit” rehabilitation program, by having a new segment about alcohol ignition interlocks included in the final lesson. This incorporates a new video<sup>3</sup> that was produced by CARRS-Q to describe in simple terms, what an alcohol ignition interlock is and how it works. Detailed information about interlocks has also been added to the facilitator’s notes so that they are well equipped to answer most questions that offenders might ask during the lesson.

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<sup>3</sup> The video, called “Alcohol Ignition Interlocks: Driving sober” was filmed by the Educational Television Unit at QUT in March 2001, and runs for 6.36 minutes. It was produced in cooperation with the Queensland Police Service.

## **4. RESEARCH DATA COLLECTIONS**

### **4.1 Impact on reoffence rates**

Data is being collected on all participants in the trial who have an interlock fitted to the vehicle (UTL2), and on the control group of offenders who complete the normal Under the Limit program (UTL1). Traffic and criminal histories for the 5 years prior to the index offence will be provided through Queensland Transport and Community Corrections, and both the intervention and control groups will be followed up for a period after the interlock is fitted and subsequently removed according to the conditions of their sentence. A database has been set up to record this information progressively throughout the trial.

### **4.2 Impact on offenders**

This component of the research is being carried out by a PhD scholar. He is interviewing offenders at various stages of the process, to examine:

- the attitudinal and behavioural changes resulting from the interventions
- the mediating factors which affect successful outcomes
- the impact the interlocks have on the lifestyle of participants and their families
- overall perceptions of the interlock program in comparison to existing legal sanctions.

## 5. ISSUES TO BE CONSIDERED IN THE LONG TERM IF THE TRIAL PROVES SUCCESSFUL

### 5.1 Participation rates

Research literature has indicated that participation rates are a major problem with interlocks. A major incentive is the possibility of a reduced period of full licence disqualification. Under current legislation, the amount of reduction is limited by the mandatory minimum length of disqualification as it relates to the severity of the offence. See Table 3 for the legislative mandatory minimums.

Table 3. Mandatory disqualification periods in Queensland

	<b>First offence</b>	<b>Second offence*</b> within 5 yrs	<b>Third offence (plus)*</b> within 5 yrs
<p><b>Lesser offence</b></p> <p>Any person with BAC 0.05-0.15</p> <p>BAC greater than zero up to 0.05 for:</p> <ul style="list-style-type: none"> <li>• Person under 25 and unlicensed, or with a learner, probationary or provisional licence</li> <li>• Professional drivers eg truck, bus, taxi</li> <li>• Driver with a restricted licence</li> </ul>	<p><b>1-9 months</b> Full/appropriate licence holders</p> <p><b>3-9 months</b> If not licensed/wrong licence class for the vehicle, or holding a learner, probationary, provisional or restricted licence</p>	<p><b>3-18 months</b> If prior offence was a lesser offence</p> <p><b>9 months or specific order for longer period</b> If prior offence was a greater offence</p>	<p><b>6 months or order for longer period</b> If prior offences were both lesser</p> <p><b>1 year or order for longer period</b> If prior offences were a lesser and a greater offence</p> <p><b>9 months or order for longer period</b> If prior offences were both greater offences</p>
<p><b>Greater offence</b></p> <p>Driving under the influence of alcohol</p> <p>BAC greater than 0.15 (by definition this is "driving under the influence")</p>	<p><b>6 months or specific order for longer period</b></p>	<p><b>9 months or specific order for longer period</b> If prior offence was a lesser offence</p> <p><b>1 year or specific order for longer period</b> If prior offence was a greater offence</p>	<p>1 year or order for longer period If prior offences were both lesser</p> <p><b>1 year or order for longer period</b> If prior offences were a lesser and a greater offence</p> <p><b>2 years or order for longer period</b> If prior offences were both greater</p>

\* Certain offences other than the drink driving offences listed are counted as prior offences when penalties for drink driving offences are set.

The need to have more flexibility in the length of licence disqualification has major implications for legislative change, and this constitutes a major issue that will need to be resolved in the long term.

## **5.2 Legislative issues**

The CARRS-Q trial of the ignition interlock sentencing option relied on two pieces of existing legislation, that is, the *Transport Operations (Road Use Management) Act 1995* (Qld) (the *TORUM Act*) and the *Penalties and Sentences Act 1992* (Qld). It has become apparent throughout the implementation of the trial that in the long term, it would be necessary to develop legislation specific to the use of alcohol ignition interlocks as a sentencing option. Major issues that would need to be accommodated are protection of the participant against being charged with *being in charge of a vehicle* while carrying out a breath test when attempting to start the vehicle, allowable BAC levels for a driver with a probationary licence who is over 25 years of age, and length of period for interlock driving.

There are also some aspects of legislation already in place that need to be considered for amendments to better accommodate the use of alcohol ignition interlocks. The first one of these is the length of mandatory licence disqualification, which in its current format severely limits the earliest point in time following a conviction that a driver can be sentenced to drive with an interlock fitted to the vehicle. If interlock usage in the Queensland context results in significant decreases in recidivism such as occurred in overseas jurisdictions, the possibility of having drivers sentenced to drive with an interlock after only short periods of full disqualification needs to be considered. The second major consideration for amendment is in the area of restricted (“work”) licences. Under current legislation, these are available only for first time drink driving offenders with a BAC less than 0.15. Alcohol ignition interlocks could be a valuable tool to be incorporated into the use of restricted licences because the interlock a) can be programmed to allow the driver to use the vehicle only within restricted hours, and b) will not allow the driver to drive with a BAC greater than zero at any time. Interlocks could also provide a safe alternative for offenders with more serious drink driving offences, enabling them to continue to be employed.

## **5.3 Revocation of the interlock order**

In overseas programs, revocation of an order can occur for a number of reasons. In the Queensland trial, offenders who are deemed to be in breach of their probation order are taken back to court, where the magistrate can decide to take them off the trial, or to continue them on the trial, possibly with an increase in the length of overall disqualification and/or time driving with an interlock. At any stage during the time on the probation order, if there is “a change in the material circumstances” of the offender (eg if the offender no longer has use of a vehicle), the order can be withdrawn and the offender re-sentenced.

## **5.4 Vehicle modification or vehicle accessory**

Neither South Australia nor New South Wales considered the issue of whether the installation of an Interlock device in a vehicle equates to a vehicle modification. Queensland Transport has advised that it is not considered to be a vehicle modification (it is an accessory).

## **5.5 Administrative framework**

In any long term implementation of interlocks as a sentencing option, a number of administrative components have to be incorporated to account for the following:

- Special licence code
- Offender monitoring
- Data management
- Data requirements
- Enforcement
- “Exception” management

## **5.6 Validity of an interlock probation order across state boundaries**

Under the current trial, offenders will not be able to move interstate while having an alcohol ignition interlock fitted to their vehicle, as there would be no service facilities available to them outside the trial region. If an offender wishes to move interstate, the probation order would have to be revoked and the offender re-sentenced. Long term implementation of interlocks as a sentencing option would have to address this issue, and the outcome would depend on how many other states had interlocks available under similar circumstances.

## **5.7 Vehicle Ignition Interlock devices approved for regulatory use in Queensland**

Ignition Interlock devices acceptable for use in an offender probation order program in Queensland should be:

- Certified by the manufacturer as meeting the Australian Design Standard AS3547 – 1997;
- Devices for which the manufacturer meets product liability requirements as outlined below; and
- An approved device (Queensland Transport).

## **5.8 Insurance issues**

There are a range of insurance issues that will need to be considered in any implementation of an interlock program. Issues that are of concern to the supplier of the devices include product liability and theft. Offender issues are concerned with insurance for their vehicles, and the problems associated with the need for offenders to disclose the DUI history and licence suspensions, as well as their participation in an interlock program. Some specific questions that need to be addressed include:



- What is the driver's liability in the event of a claim that operation of the Interlock device contributed to causing an accident?
- Are insurance premiums affected where the driver is identified as a convicted drink driver on an Interlock program?

It is unclear as to how insurance companies would perceive the effect of an interlock with respect to risk, and how they would react to the use of interlocks in terms of both premiums and claims.

## 6. CONCLUSION

We have learned in the development of this report that there are very good reasons for the belated introduction of alcohol ignition interlocks in Australia:

- The behaviour change being targeted is complex and strongly established;
- The legal and civil rights implications both for the user and other drivers need very careful examination and consideration;
- The technology and processes for monitoring use are detailed and complicated;
- Their use requires many management and control requirements that are embedded in established and accepted legislation and
- Finally, they are very costly in the context of the likely socio-economic characteristics of offender users.

Ignition interlocks are something of an early test case among the ITS technologies that will be increasingly available. The understanding and resolution of the personal, social and management issues that beset their introduction will be able to inform other models and technologies as they emerge.

The Queensland trial commenced on 6th February 2001 and to date five offenders have been recruited to the UTL2 program. This slow take-up is of considerable concern but is not unexpected. The team now has to begin the next stage of the research to explore the knowledge and attitudinal barriers to their use by the concerned participants (offenders, magistrates and community correction officers). This information will lead to the development of further recommendations that can lead to acceptance and more generalised use.

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**APPENDIX 1: LIST OF ALL PERSONS INVOLVED IN THE STUDY**

### List of all persons involved in the study

<b>Name</b>	<b>Title</b>	<b>Organisation</b>
Archibald, Janette	Rehabilitation Project Officer	Motor Accident Insurance Commission
Burrill, John	Policy Officer	Queensland Transport
Davey, Jeremy	Associate Director	CARRS-Q
Dickson, Paul	Research Assistant	CARRS-Q
Dray, Robert	Research and Development Officer	Queensland Transport
Dwyer, Jonathan	Post Doctoral Fellow	CARRS-Q
Fairbairn, Mark	Senior Program Officer Alcohol and Drugs Policy and Program Support	Department of Corrective Services
Ferguson, Barry	Project Officer Land Transport and Safety Division	Queensland Transport
Ferguson, Megan	Senior Research Assistant	CARRS-Q
Freeman, James	PhD Student	CARRS-Q
Guthrie, Diane	Project Manager	CARRS-Q
Hancock, Mike	Principal Advisor Rehabilitation	Motor Accident Insurance Commission
Hannigan, Mike	Superintendent	Queensland Police Service
Hunt, Dan	Executive Director Land Transport and Safety Division	Queensland Transport
Hunter, Alison	Executive Director Community Corrections (2000)	Department of Corrective Services
Johnstone, Paul	Stipendiary Magistrate Maroochydore Magistrates Court	Department of Justice and Attorney General
King, Mark	Principal Adviser Road User Policy	Queensland Transport
Leisser, Romana	Research Assistant	CARRS-Q
Lumsden, Laurie	Director, Health Promotion Central Public Health Unit Network Brisbane Northside	Queensland Health
Mahon, Gary	Director (Road User Management and Safety) Land Transport and Safety Division	Queensland Transport
Micola, Ron	Registrar Brisbane Magistrates Court	Department of Justice and Attorney General
Musumeci, Angela	Executive Director Community Corrections(1999)	Department of Corrective Services

<b>Name</b>	<b>Title</b>	<b>Organisation</b>
O'Gorman, Terry	Queen's Counsel	Civil Liberties
O'Sullivan, Donna	Legislative Officer Land Transport and Safety Division	Queensland Transport
Paulsen, Allan	Senior Advisor Community Corrections	Department of Corrective Services
Plowman, Beth	Business Co-ordinator Road Safety Policy and Advanced Technology	Queensland Transport
Proctor, Craig	Stipendiary Magistrate Maroochydore Magistrates Court	Department of Justice and Attorney General
Redford, Kate	Administration Officer	CARRS-Q
Schonfeld, Cynthia	Centre Manager	CARRS-Q
Sheehan, Mary	Director	CARRS-Q
Siskind, Victor	Adjunct Professor	CARRS-Q
Spencer, Neale	Co-ordinator, Interlock Trial	RTA
Tattersall, Rod	Asia/Pacific Manager Drug and Alcohol Group	Dräger Australia Pty Ltd
Tottle, Kevin	Regional Sales Manager	Dräger Australia Pty Ltd
Tusler, Sherry	Senior Advisor Community Corrections	Department of Corrective Services
Vitali, Walter	Registrar Brisbane Magistrates Court	Department of Justice and Attorney General
Watson, Barry	Senior Lecturer	CARRS-Q
Whan, Helen	Manager Road User Behaviour Land Transport and Safety Division	Queensland Transport
Whittaker, Ross	Sergeant	Queensland Police Service
Wikman, John	Manager Traffic and Safety Department	RACQ
Wilkinson, Dean	Stipendiary Magistrate Maroochydore Magistrates Court	Department of Justice and Attorney General
Wilkinson, Tom	Senior Sergeant	Queensland Police Service
Wilks, Jeff	Post-Doctoral Research Fellow	CARRS-Q
Young, Suzanne	Legislation Co-ordinator Land Transport and Safety Division	Queensland Transport

## **APPENDIX 2: LEGISLATION EXCERPTS:**

- (iv) **New York State Vehicle & Traffic Code, article 31,**
- (v) **- section 1196 Alcohol and drug rehabilitation program**  
**- section 1198 Ignition interlock device program**



## New York State Vehicle & Traffic Code

### Article 31

#### S 1196. Alcohol and drug rehabilitation program.

- 1. Program establishment.** There is hereby established an alcohol and drug rehabilitation program within the department of motor vehicles. The commissioner shall establish, by regulation, the instructional and rehabilitative aspects of the program. Such program shall consist of at least fifteen hours and include, but need not be limited to, classroom instruction in areas deemed suitable by the commissioner. No person shall be required to attend or participate in such program or any aspect thereof for a period exceeding eight months except upon the recommendation of the department of mental hygiene or appropriate health officials administering the program on behalf of a municipality.
- 2. Curriculum.** The form, content and method of presentation of the various aspects of such program shall be established by the commissioner. In the development of the form, curriculum and content of such program, the commissioner may consult with the commissioner of mental health, the director of the division of alcoholism and alcohol abuse, the director of the division of substance abuse services and any other state department or agency and request and receive assistance from them. The commissioner is also authorized to develop more than one curriculum and course content for such program in order to meet the varying rehabilitative needs of the participants.
- 3. Where available.** A course in such program shall be available in at least every county in the state, except where the commissioner determines that there is not a sufficient number of alcohol or drug-related traffic offences in a county to mandate the establishment of said course, and that provisions be made for the residents of said county to attend a course in another county where a course exists.
- 4. Eligibility.** Participation in the program shall be limited to those persons convicted of alcohol or drug-related traffic offences or persons who have been adjudicated youthful offenders for alcohol or drug-related traffic offences, or persons found to have been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, who choose to participate and who satisfy the criteria and meet the requirements for participation as established by this section and the regulations promulgated thereunder; provided, however, in the exercise of discretion, the judge imposing sentence may prohibit the defendant from enrolling in such program. The commissioner or deputy may exercise discretion, to reject any person from participation referred to such program and nothing herein contained shall be construed as creating a right to be included in any course or program established under this section. In addition, no person shall be permitted to take part in such program if, during the five years immediately preceding commission of an alcohol or drug-related traffic offence or a finding of a violation of section eleven hundred ninety-two-a of this article, such person has participated in a program established pursuant to this article or been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article other than a violation committed prior to November first, nineteen hundred eighty-eight, for which such person did not participate in such program.

In the exercise of discretion, the commissioner or a deputy shall have the right to expel any participant from the program who fails to satisfy the requirements for participation in such program or who fails to satisfactorily participate in or attend any aspect of such program. Notwithstanding any contrary provisions of this chapter, satisfactory participation in and completion of a course in such program shall result in the termination of any sentence of imprisonment that may have been imposed by reason of a conviction therefor; provided, however, that nothing contained in this section shall delay the commencement of such sentence.

- 5. Effect of completion.** Except as provided in subparagraph nine of paragraph (b) of subdivision two of section eleven hundred ninety-three or in subparagraph three of paragraph (d) of subdivision two of section eleven hundred ninety-four of this article, upon successful completion of a course in such program as certified by its administrator, a participant may apply to the commissioner on a form

provided for that purpose, for the termination of the suspension or revocation order issued as a result of the participants conviction which caused the participation in such course. In the exercise of discretion, upon receipt of such application, and upon payment of any civil penalties for which the applicant may be liable, the commissioner is authorised to terminate such order or orders and return the participants license or reinstate the privilege of operating a motor vehicle in this state. However, the commissioner shall not issue any new license nor restore any license where said issuance of restoral is prohibited by subdivision two of section eleven hundred ninety-three of this article.

6. **Fees.** The commissioner shall establish a schedule of fees to be paid by or on behalf of each participant in the program, and may, from time to time, modify same. Such fees shall defray the ongoing expenses of the program. Provided, however, that pursuant to an agreement with the department a municipality, department thereof, or other agency may conduct a course in such program with all or part of the expense of such course and program being borne by such municipality, department or agency. In no event shall such fee be refundable, either for reasons of the participants withdrawal or expulsion from such program or otherwise.

7. **Conditional license.**

(a) Notwithstanding any inconsistent provision of this chapter, participants in the program, except those penalised under paragraph (d) of subdivision one of section eleven hundred ninety-three of this article for any violation of subdivision two, three, or four of section eleven hundred ninety-two of this article, may, in the commissioner's discretion, be issued a conditional driver's license, or if the holder of a license issued by another jurisdiction valid for operation in this state, a conditional privilege of operating a motor vehicle in this state. Such a conditional license or privilege shall be valid only for use, by the holder thereof,

- (1) en route to and from the holder's place of employment,
- (2) if the holder's employment requires the operation of a motor vehicle then during the hours thereof,
- (3) en route to and from a class or an activity which is an authorised part of the alcohol and drug rehabilitation program and at which his attendance is required,
- (4) en route to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training,
- (5) to or from court ordered probation activities,
- (6) to and from a motor vehicle office for the transaction of business relating to such license or program,
- (7) for a three hour consecutive daytime period, chosen by the administrators of the program, on a day during which the participant is not engaged in usual employment or vocation,
- (8) en route to and from a medical examination or treatment as part of a necessary medical treatment for such participant or member of the participants household, as evidenced by a written statement to that effect from a licensed medical practitioner, and
- (9) en route to and from a place, including a school, at which a child or children of the holder are cared for on a regular basis and which is necessary for the holder to maintain such holder's employment or enrolment at an accredited school, college or university or at a state approved institution of vocational or technical training. Such license or privilege shall remain in effect during the term of the suspension or revocation of the participants license or privilege unless earlier revoked by the commissioner.

(b) The conditional license or privilege described in paragraph (a) of this subdivision shall be in a form prescribed by the commissioner, and shall have indicated thereon the conditions imposed by such paragraph.

(c) Upon receipt of a conditional license issued pursuant to this section, any order issued by a judge, justice or magistrate pursuant to paragraph (c) of subdivision two of section eleven hundred ninety-three of this article shall be surrendered to the department.

(d) The commissioner shall require applicants for a conditional license to pay a fee of seventy-five dollars for processing costs. Such fees assessed under this subdivision shall be paid to the commissioner for deposit to the general fund and shall be in addition to any fees established by the commissioner pursuant to subdivision six of this section to defray the costs of the alcohol and drug rehabilitation program.

(e) The conditional license or privileges described in this subdivision may be revoked by the commissioner, for sufficient cause including, but not limited to, failure to register in the program, failure to attend or satisfactorily participate in the sessions, conviction of any traffic infraction other than one involving parking, stopping or standing or conviction of any alcohol or drug-related traffic offence, misdemeanour or felony. In addition, the commissioner shall have the right, after a hearing, to revoke the conditional license or privilege upon receiving notification or evidence that the offender is not attempting in good faith to accept rehabilitation. In the event of such revocation, the fee described in subdivision six of this section shall not be refunded.

(f) It shall be a traffic infraction for the holder of a conditional license or privilege to operate a motor vehicle upon a public highway for any use other than those authorised pursuant to paragraph (a) of this subdivision. When a person is convicted of this offence, the sentence of the court must be a fine of not less than two hundred dollars nor more than five hundred dollars or a term of imprisonment of not more than fifteen days or both such fine and imprisonment. Additionally, the conditional license or privileges described in this subdivision shall be revoked by the commissioner upon receiving notification from the court that the holder thereof has been convicted of this offence.

(g) Any conditional license or privilege issued to a person convicted of a violation of any subdivision of section eleven hundred ninety-two of this article shall not be valid for the operation of any commercial motor vehicle or taxicab as defined in this chapter.

(h) Notwithstanding any inconsistent provision of this chapter, the conditional license described in this subdivision may, pursuant to regulations established by the commissioner, be issued to a person whose license has been suspended pending prosecution pursuant to subparagraph seven of paragraph (e) of subdivision two of section eleven hundred ninety-three of this article.

### **S 1198. Ignition interlock device program.**

**1. Scope of program.** There is hereby created in this state an ignition interlock device program. The provisions of this section shall apply only to persons sentenced by a court located in the following counties: Albany, Erie, Nassau, Onondaga, Monroe, Westchester and Suffolk; except that subdivisions five, eight and ten of this section shall apply in all parts of the state if a vehicle has been equipped with an ignition interlock device as a condition of probation. This section shall not be construed to preclude other counties not specifically designated therein from implementing an ignition interlock device program or to prevent courts in other jurisdictions from requiring the installation of an ignition interlock device as a condition of probation.

### **2. Requirements.**

(a) In addition to any other penalties prescribed by law, the court may require that any person who has been convicted of a violation of subdivision two or three of section eleven hundred ninety-two of this chapter, or any crime defined by this chapter or the penal law of which an alcohol-related violation of any provision of section eleven hundred ninety-two of this chapter is an essential element, and who has been sentenced to a period of probation, install and maintain, as a condition of such probation, a functioning ignition interlock device in accordance with the provisions of this section; provided, however, the court may not authorise the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked except as provided herein.

(b) Nothing contained in this section shall prohibit a court, upon application by a probation department located in any county set forth in subdivision one of this section, from modifying the conditions of probation of any person convicted of any violation set forth in paragraph (a) of this

subdivision prior to the effective date of this section, to require the installation and maintenance of a functioning ignition interlock device, and such person shall thereafter be subject to the provisions of this section.

- (c) Nothing contained in this section shall authorise a court to sentence any person to a period of probation for the purpose of subjecting such person to the provisions of this section, unless such person would have otherwise been so sentenced to a period of probation.

### **3. Conditions.**

- (a) Notwithstanding any other provision of law, the commissioner may grant a post-revocation conditional license, as set forth in paragraph (b) of this subdivision, to a person who has been convicted of a violation of subdivision two or three of section eleven hundred ninety-two of this chapter and who has been sentenced to a period of probation, provided the person has satisfied the minimum period of license revocation established by law and the commissioner has been notified that such person may operate only a motor vehicle equipped with a functioning ignition interlock device. No such request shall be made nor shall such a license be granted, however, if such person has been found by a court to have committed a violation of section five hundred eleven of this chapter during the license revocation period or deemed by a court to have violated any condition of probation set forth by the court relating to the operation of a motor vehicle or the consumption of alcohol. In exercising discretion relating to the issuance of a post-revocation conditional license pursuant to this subdivision, the commissioner shall not deny such issuance based solely upon the number of convictions for violations of any subdivision of section eleven hundred ninety-two of this chapter committed by such person within the ten years prior to application for such license. Upon the termination of the period of probation set by the court, the person may apply to the commissioner for restoration of a license or privilege to operate a motor vehicle in accordance with this chapter.
- (b) Notwithstanding any inconsistent provision of this chapter, a post-revocation conditional license granted pursuant to paragraph (a) of this subdivision shall be valid only for use by the holder thereof, (1) en route to and from the holder's place of employment, (2) if the holder's employment requires the operation of a motor vehicle then during the hours thereof, (3) en route to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training, (4) to and from court ordered probation activities, (5) to and from a motor vehicle office for the transaction of business relating to such license, (6) for a three hour consecutive daytime period, chosen by the administrators of the program, on a day during which the participant is not engaged in usual employment or vocation, (7) en route to and from a medical examination or treatment as part of a necessary medical treatment for such participant or member of the participants household, as evidenced by a written statement to that effect from a licensed medical practitioner, (8) en route to and from a class or an activity which is an authorised part of the alcohol and drug rehabilitation program and at which participants attendance is required, and (9) en route to and from a place, including a school, at which a child or children of the participant are cared for on a regular basis and which is necessary for the participant to maintain such participants employment or enrolment at an accredited school, college or university or at a state approved institution of vocational or technical training.
- (c) The post-revocation conditional license described in this subdivision may be revoked by the commissioner for sufficient cause including but not limited to, failure to comply with the terms of the condition of probation set forth by the court, conviction of any traffic offence other than one involving parking, stopping or standing or conviction of any alcohol or drug related offence, misdemeanour or felony.
- (d) Nothing contained herein shall prohibit the court from requiring, as a condition of probation, the installation of a functioning ignition interlock device in any vehicle owned or operated on a regular basis by a person sentenced for a violation of section five hundred eleven or section eleven hundred ninety-two of this chapter, or any crime defined by this chapter or the penal law

of which a violation of any provision of section eleven hundred ninety-two of this chapter is an essential element, if the court in its discretion, determines that such a condition is necessary to ensure the public safety. Such a condition shall in no way limit the effect of any period of license suspension or revocation set forth by the commissioner or the court.

- (e) Nothing contained herein shall prevent the court from applying any other conditions of probation allowed by law, including treatment for alcohol or drug abuse, restitution and community service.
- (f) The commissioner shall note on the operator's record of any person restricted pursuant to this section that, in addition to any other restrictions, conditions or limitations, such person may operate only a motor vehicle equipped with an ignition interlock device.

**4. Proof of compliance and recording of condition.**

- (a) If the court imposed the use of an ignition interlock device as a condition of probation it shall require the person to provide proof of compliance with this section to the court and the probation officer as set forth in the order of probation. If the person fails to provide for such proof of installation, absent a finding by the court of good cause for that failure which is entered in the record, the court may revoke, modify, or terminate the person's sentence of probation as provided under law.
- (b) When a court imposes the condition specified in subdivision one of this section, the court shall notify the commissioner in such manner as the commissioner may prescribe, and the commissioner shall note such condition on the operating record of the person subject to such conditions.

**5. Cost, installation and maintenance.**

- (a) The cost of installing and maintaining the ignition interlock device shall be borne by the person subject to such condition. Such cost shall be considered a fine for the purposes of subdivision five of section 420.10 of the criminal procedure law. Such cost shall not replace, but shall instead be in addition to, any fines, surcharges, or other costs imposed pursuant to this chapter or other applicable laws.
- (b) The manufacturer of the device shall be responsible for the installation and maintenance of such device and for the reports required in this section.

**6. Certification .**

- (a) The commissioner of the department of health shall approve ignition interlock devices for installation pursuant to subdivision one of this section and shall publish a list of approved devices.
- (b) After consultation with manufacturers of ignition interlock devices and the national highway traffic safety administration, the commissioner of the department of health, in consultation with the commissioner and the director of the division of probation and correctional alternatives, shall promulgate regulations regarding standards for, and use of, ignition interlock devices. Such standards shall include provisions for setting a minimum and maximum calibration range and shall include, but not be limited to, requirements that the devices:
  - (1) have features that make circumventing difficult and that do not interfere with the normal or safe operation of the vehicle;
  - (2) work accurately and reliably in an unsupervised environment;
  - (3) resist tampering and give evidence if tampering is attempted;
  - (4) minimise inconvenience to a sober user;
  - (5) require a proper, deep, lung breath sample or other accurate measure of blood alcohol content equivalence;
  - (6) operate reliably over the range of automobile environments;

- (7) correlate well with permissible levels of alcohol consumption as may be established by the sentencing court or by any provision of law; and
  - (8) are manufactured by a party covered by product liability insurance.
- (c) The commissioner of the department of health may, in his discretion, adopt in whole or relevant part, the guidelines, rules, regulations, studies, or independent laboratory tests performed on and relied upon for the certification or approval of ignition interlock devices by other states, their agencies or commissions.

**7. Information and final report.**

- (a) The division of probation and correctional alternatives, in consultation with the department and the office of court administration, shall develop a standard reporting form that will be used by the courts, such division and the department for collecting data relating to the program.
- (b) The division of probation and correctional alternatives and the department shall compare the recidivism rate of those persons subject to the provisions of the program to demographically and statistically similar cases where the program was not applied.
- (c) The division of probation and correctional alternatives and the department shall jointly prepare an evaluative report as to the effectiveness, reliability and impact of ignition interlock devices as a sentencing and probation option. Such report shall be submitted to the governor, the temporary president of the senate and the speaker of the assembly no later than the first day of May, nineteen hundred ninety-eight. In addition, such report shall include, but not be limited to the following information:
  - (1) record of offenders, including the number of prior alcohol or drug-related convictions relating to the operation of a vehicle;
  - (2) record of any violations of probation;
  - (3) record of the number of persons convicted of a violation of subdivisions eight and ten of this section;
  - (4) the type and manufacturer of the ignition interlock device installed and the record of any malfunctions; and
  - (5) any other information determined necessary and relevant to the implementation of this section by the division of probation and correctional alternatives and the department. The division and the department may request technical assistance in the preparation of the report from the national highway traffic safety administration.

**8. Use of other vehicles.**

- (a) The requirement of subdivision one of this section that a person operate a vehicle only if it is equipped with an ignition interlock device shall apply to every motor vehicle operated by that person including, but not limited to, vehicles that are leased, rented or loaned.
- (b) No person shall knowingly rent, lease, or lend a motor vehicle to a person known to have had his driving privilege restricted pursuant to subdivision one of this section, unless the vehicle is equipped with an ignition interlock device. Any person whose driving privilege is restricted pursuant to subdivision one of this section shall notify any other person who rents, leases, or loans a motor vehicle to him of the driving restriction imposed under this section.
- (c) A violation of paragraph (a) or (b) of this subdivision shall be a misdemeanor.

**9. Employer vehicle.**

Notwithstanding the provisions of subdivision one of this section, if a person is required to operate a motor vehicle owned by said person's employer in the course and scope of his employment, the person may operate that vehicle without installation of an approved ignition interlock device if:

- the employer has been notified that the person's driving privilege has been restricted under the provisions of this article; and
- the person whose privilege has been so restricted has acknowledgment of the employer notification in his or her possession while operating the employers vehicle for normal business duties.

The person shall notify the court and the probation officer of his or her intention to so operate the employers vehicle. A motor vehicle owned by a business entity which business entity is all or partly owned or controlled by a person otherwise subject to the provisions of this article is not a motor vehicle owned by the employer for purposes of the exemption provided in this subdivision. The provisions of this subdivision shall apply only to the operation of such vehicle in the scope of such employment.

**10. Circumvention of interlock device.**

- (a) No person whose driving privilege is restricted pursuant to subdivision one of this section shall request, solicit or allow any other person to blow into an ignition interlock device, or to start a motor vehicle equipped with the device, for the purpose of providing the person so restricted with an operable motor vehicle.
- (b) No person shall blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to subdivision one of this section.
- (c) No person shall tamper with or circumvent an otherwise operable ignition interlock device.
- (d) In addition to any other provisions of law, any person convicted of a violation of paragraph (a), (b) or (c) of this subdivision shall be guilty of a misdemeanour.

**11. Warning label.**

The department of health shall design a warning label which the manufacturer shall affix to each ignition interlock device upon installation in the state. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the device is guilty of a misdemeanour and may be subject to civil liability.

