THE PROBLEM OF SUSPENDED AND REVOKED DRIVERS WHO AVOID DETECTION AT DUI/LICENSE CHECKPOINTS

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14. ABSTRACT

Introduction. Although driver license suspension and revocation have been shown to improve traffic safety, suspended or revoked (SR) drivers who continue to drive—which appears to be the majority— are about three times more likely to be involved in crashes and to cause a fatal crash. The purpose of this study was to estimate the extent to which these drivers avoid detection at driving under the influence of alcohol or drugs (DUI) and license checkpoints because they illegally possess a physical license. *Method*. Law enforcement used electronic identification card readers at DUI/License checkpoints in Sacramento, California to record data for 13,705 drivers for purposes of estimating the extent to which SR drivers avoid detection. Differences in detection as a function of the reason for suspension or revocation were also investigated. *Results*. Although only 3% of the drivers contacted at the checkpoints were SR, about 41% of SR drivers were able to pass through undetected because they presented valid-looking licenses that should not have been in their possession. Drivers SR for DUI-related reasons were more likely to be detected, whereas those SR for failure to provide proof of financial responsibility were less likely to be detected. *Discussion*. The fact that many SR drivers were able to pass through DUI/License checkpoints undetected indicates a loophole in the traffic safety countermeasure system that needs to be addressed, because it undermines the efficacy of suspension/revocation and checkpoint countermeasures. Recommendations for improving licensing agency suspension orders and checkpoint screening methods are provided.

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PREFACE

This report is issued as a publication of the Department of Motor Vehicles Research and Development Branch rather than an official report of the State of California. It was funded by the National Highway Traffic Safety Administration through a grant administered by the California Office of Traffic Safety (Grant AL 1302). The findings, opinions, and conclusions presented are those of the author and may not represent the views and policies of the California Office of Traffic Safety, the State of California, or the National Highway Traffic Safety Administration.

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EXECUTIVE SUMMARY

Introduction

Although driver license suspension and revocation have been shown to improve traffic safety, suspended or revoked (SR) drivers who continue to drive—which appears to be the majority—are about three times more likely to be involved in crashes and to cause a fatal crash.

The purpose of this study was to estimate the extent to which suspended and revoked drivers who continue to drive avoid detection at DUI (driving under the influence of alcohol or drugs) and license checkpoints because they illegally possess a physical license.

Method

Law enforcement used electronic identification card readers at DUI/License checkpoints in Sacramento, California to record data for 13,705 drivers for purposes of estimating the extent to which SR drivers who continue to drive avoid detection.

Differences in detection as a function of the reason for suspension/revocation were also investigated.

Results

Although only 3% of the drivers contacted at the checkpoints were SR, 41% of SR drivers were able to pass through undetected because they presented valid-looking licenses that should not have been in their possession.

Drivers SR for DUI-related reasons were more likely to be detected, whereas those SR for failure to provide proof of financial responsibility were less likely to be detected. Upon further investigation it was found that 89% of drivers contacted at the checkpoints who were suspended for financial responsibility would have been mailed suspension orders that did not have language demanding license surrender.

Discussion

The fact that many SR drivers were able to pass through DUI/License checkpoints undetected indicates a loophole in the traffic safety countermeasure system that needs to be addressed, because it undermines the efficacy of suspension/revocation and checkpoint countermeasures.

Recommendations

DMV and law enforcement should seek to maximize license surrender among drivers under suspension or revocation to reduce this mechanism of non-detection and increase these drivers' perceptions of the likelihood of being caught. Toward this goal the following recommendations are given:

1. DMV should review and consider revising the language on the orders of suspension sent to drivers suspended for failure to provide evidence of financial responsibility (authority sections 16004A, 16070, and 16072) to ensure that they consistently include a license surrender demand. It may also be worthwhile to systematically review all other orders of suspension used by the department to ensure that such language is included.

2. Law enforcement efforts should focus on improved methods to identify SR drivers who continue to drive. Technologies such as identification card readers that can quickly identify SR drivers in real time during routine traffic stops or at DUI/License checkpoints warrant further investigation.

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INTRODUCTION

Driver license suspension and revocation are countermeasures intended to reduce the driving risk posed by problem drivers. In California, licensees can have their driving privilege suspended or revoked (SR) for various reasons related directly (e.g., driving under the influence of alcohol or drugs [DUI]), or indirectly (e.g., failure to carry vehicle liability insurance) to traffic safety, and also for non-driving related behaviors (e.g., failure to pay court judgments). Compared to validly-licensed California drivers, those under suspension or revocation for any reason have elevated crash and traffic conviction rates and are about three times more likely to be involved in crashes (Gebers & DeYoung, 2002) and to cause a fatal crash (Brar, 2012).

Recent DMV estimates indicate that approximately 1.3 million licensees are SR at any given time, representing about 4% of licensed California drivers. Suspension and revocation have consistently been shown to be effective interventions for reducing traffic violations and crashes (Masten & Peck, 2004; Wagenaar & Maldonado-Molina, 2007) and DUI recidivism (Rogers, 1997; Tashima & Marelich, 1989). Driving while under suspension or revocation is a misdemeanor (*California Vehicle Code* [CVC] §14601), as is having physical possession of a SR license (CVC §14610). Any vehicle driven by a driver under suspension or revocation is subject to impoundment (CVC §14602.6), and, if the driver has prior convictions for driving while SR and owns the vehicle, forfeiture (CVC §14607.6). Vehicle impoundment has also been found to be a specific deterrence for subsequent traffic convictions and crashes (DeYoung, 1999; Voas & DeYoung, 2002). Despite these potential consequences, it is estimated that as many as 75% of SR drivers continue driving during their suspension or revocation period (Coppin & Van Oldenbeek, 1965; Hagen, McConnell, & Williams, 1980; Lenton, Fetherston, & Cercarelli, 2010; Ross & Gonzales, 1988), although they report driving less often and more carefully to avoid detection (Clark & Bobveski, 2008; Ross & Gonzales, 1988).

There is reason to believe that many SR drivers fail to surrender their physical licenses to the Department of Motor Vehicles (DMV) upon demand as required by law. Drivers are typically ordered to surrender their license when they receive a written order of suspension or revocation from the DMV. The orders are mailed to SR drivers and (in most cases) direct them to return any licenses in their possession via mail or by bringing them to a DMV office, or if they do not have possession of the licenses, to indicate the reason they no longer have them. For DUI offenders, licenses are typically confiscated by law enforcement during arrest if an administrative per se (APS) license suspension action is initiated, or license surrender may be

ordered as part of a post-conviction suspension or revocation action, which are again typically implemented by mailed orders. Judges will also occasionally confiscate driver licenses during court proceedings. However, in all cases where license suspension or revocation orders are served, there exist pathways by which drivers can circumvent the license surrender process. For example, drivers given an APS suspension—for whom law enforcement officers collect any license in their possession immediately—could apply for a duplicate license prior to DMV receipt and processing of the APS notice of suspension, which can take up to 10 days after the officer serves the driver. Drivers ordered to surrender their licenses by mail could simply ignore the orders or acknowledge and return the orders, but falsely claim that their physical licenses were lost. The extent to which SR drivers retain physical possession of their licenses is not known. However, doing so may protect them from detection by law enforcement. For example, if SR drivers are stopped by law enforcement for traffic violations and the officers do not electronically check the status of the licenses against the DMV database, the drivers would not be detected as being SR.

In addition to license checks during routine traffic stops, another enforcement measure that is used to deter suspended and revoked driving is DUI/License checkpoints. Although the primary purpose of these checkpoints is to provide a general deterrent against DUI (National Highway Traffic Safety Administration [NHTSA], 2008), another important function is to detect persons driving under suspension or revocation and remove them from the road. In the City of Sacramento, California, the interaction between law enforcement and drivers who enter DUI/License checkpoints is usually brief (under 30 seconds), and typically involves officers looking for signs of alcohol or drug impairment and visually checking whether the driver's license is expired or otherwise suspect (e.g., it does not appear to belong to the driver). There is no way to know that a driver is under suspension or revocation just by looking at the physical license, yet for most drivers who enter checkpoints there are no electronic checks of license validity against DMV records. Under the current license screening method used by the Sacramento Police Department and many other jurisdictions during DUI/License checkpoints, SR drivers who have not properly surrendered their licenses will be identified only if they are flagged for further DUI assessment, present an expired license, or do not present a license for inspection. Therefore, many SR drivers may pass through these checkpoints undetected, which would weaken both the specific and general impact of the checkpoints for deterring suspended and revoked driving, as well as the efficacy of suspension and revocation countermeasures for reducing the driving risk posed by problem drivers.

Given the prevalence and high-risk nature of suspended and revoked drivers, improved means of identifying and removing them from the road is a desirable traffic safety objective. The purpose of the present study was to estimate the percentage of SR drivers who avoid detection at DUI/License checkpoints in the City of Sacramento, and determine if license surrender failures differ as a function of the reason for the suspension or revocation.

METHOD

Checkpoint Data Collection Procedures

The Sacramento Police Department Metro-DUI Enforcement Team electronically captured the driver license (DL) numbers for all drivers contacted who presented a license card at 17 DUI/License checkpoints between December 2012 and August 2013, using Veriscan M-310 Handheld identification card readers. These card scanners read two-dimensional bar codes or magnetic stripes on licenses, and are capable of reading these data for licenses and identification cards issued in all U.S. states. The card readers were used to record data only; functionality that would normally alert the user that the license was expired was disabled. For licenses that could not be read by the card readers, or in cases when an officer did not have access to a scanner, the officers recorded the DL numbers on paper logs created for this purpose. About 2% of licenses could not be read by the scanners, typically because they did not have two-dimensional bar codes (i.e., older licenses) and/or the magnetic stripes were damaged. In cases where drivers did not have a license in their possession, officers searched for the drivers in the DMV database and obtained a DL number if one existed. Except for the added step of scanning or hand recording the DL number of each driver contacted, officers did not alter their checkpoint procedure or processes.

Data Processing and Analysis

Data were downloaded from the scanners after each checkpoint, and copies of citations and arrest logs were collected. License numbers and other identifying information from the card readers, paper logs, citations, and arrest logs were compiled into a database and compared to police volunteer staff's independent counts of vehicles that passed through each checkpoint. Typically the license counts were within 2% of the independent counts of vehicles, indicating that the officers indeed recorded the DL numbers for most drivers.

The license status of the drivers contacted at each checkpoint was subsequently checked against the licensing database of the California DMV and compared with arrest and citation data from the checkpoints. The percentages of SR drivers who passed through the checkpoints undetected were calculated and determinations were made as to whether those who avoided detection were more likely to have been SR for particular reasons (e.g., DUI, failure to appear for a court date, or a non-driving related reason). Because a driver's privilege can be simultaneously SR for

multiple reasons, the earliest suspension or revocation action still in effect that should have required surrender of the physical license was used to classify the reason for the suspension or revocation. Note that for drivers with out-of-state licenses, it was not possible to determine license status because their records are not present in the California DMV database.

The drivers' reasons for suspension or revocation were grouped into eight categories for presentation purposes: (a) APS-related reasons, which are typically due to arrest or detainment of a driver with a blood alcohol concentration in excess of the legal limit for their age and license class[1]; (b) DUI-related reasons, which are related to convictions for DUI; (c) physical and mental (P&M) conditions/lack of skill reasons, which are due to evidence of impairment that affects safe driving ability, or poor driving ability not otherwise linked to a P&M condition; (d) negligent operator (NegOp)/serious offender reasons, which are related to the accumulation of excessive demerit points for traffic violation convictions and/or at-fault crashes, or due to convictions for egregious driving behaviors (e.g., hit-and-run crashes or reckless driving); (e) failure to appear (FTA)/failure to pay (FTP) reasons, which are due to failures to appear for a court hearing or pay court levied fines; (f) financial responsibility-related reasons, which are associated with failure to provide proof of automobile insurance under required conditions such as a crash involvement reported to the DMV[2]; (g) non-driving related reasons, which are for issues such as failure to pay court-ordered judgments and graffiti; and, (h) out-of-state SR reasons, which are due to being SR in another state as indicated on the National Driver Register Problem Driver Pointer System.

[1]APS suspensions are taken independent of suspensions for subsequent DUI convictions, which may or may not follow an APS arrest.

[2]Drivers subject to APS or DUI suspensions are also required to provide proof of insurance; financial responsibility suspensions in these cases were included in the APS or DUI categories.

RESULTS

A total of 13,705 drivers were contacted at the 17 DUI/License checkpoints. Overall, 89.2% had a valid California license, 3.3% were SR, 2.4% were unlicensed or had an expired license, 2.8% were licensed out-of-state, and for 2.2% the licensing status could not be determined (Table 1 and Figure 1). Licensing status could not be determined when DL numbers were not read by the scanners due to damaged bar codes, and/or the officers made errors in entering DL numbers on the paper logs. Overall at least 5.7% of contacted drivers had a license problem that would have been of interest to law enforcement.

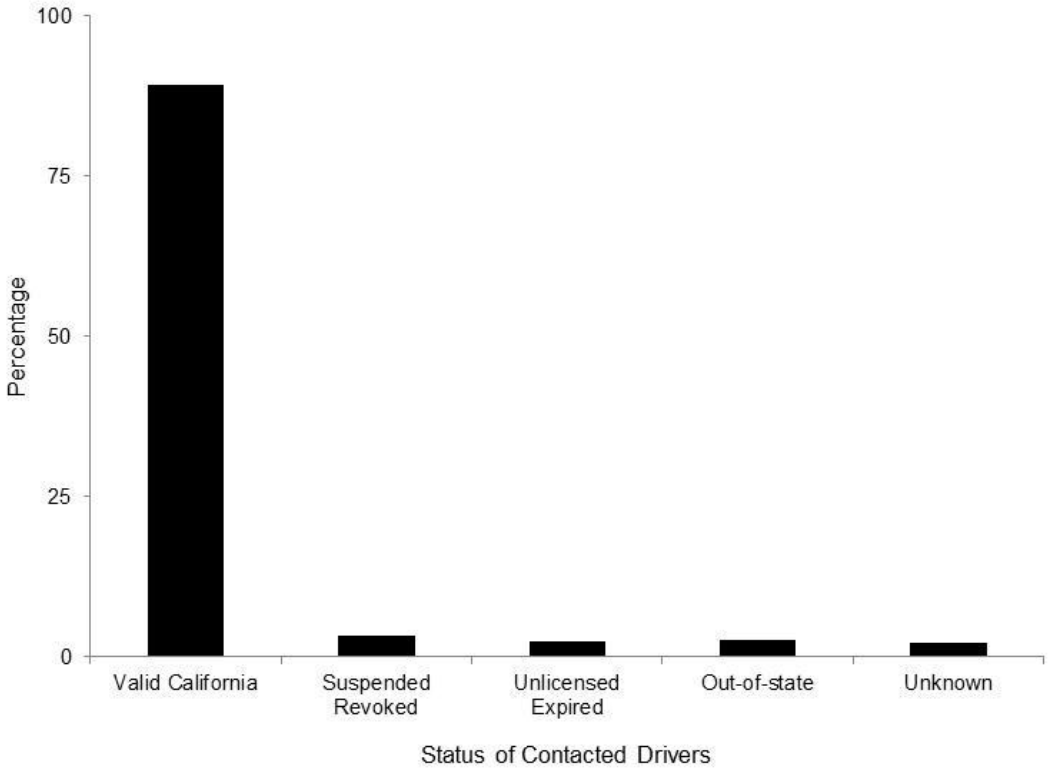

Figure 1. Combined license status distribution of drivers contacted at all checkpoints.

Table 1

License Status of Drivers Contacted at each Checkpoint in Sacramento, California

Checkpoint number	Valid		Suspended or revoked		Unlicensed or expired		Out-of-state		Unknown[a]		*N*
	n	%	*n*	%	*n*	%	*n*	%	*n*	%	
1	437	86.2	21	4.1	26	5.1	7	1.4	16	3.2	507
2	557	87.3	27	4.2	24	3.8	10	1.6	20	3.1	638
3	684	87.9	22	2.8	8	1.0	41	5.3	23	3.0	778
4	709	91.0	23	3.0	19	2.4	8	1.0	20	2.6	779
5	807	89.9	30	3.3	27	3.0	13	1.4	21	2.3	898
6	434	86.5	16	3.2	24	4.8	14	2.8	14	2.8	502
7	488	91.4	15	2.8	14	2.6	8	1.5	9	1.7	534
8	1,107	87.4	52	4.1	41	3.2	46	3.6	20	1.6	1,266
9	937	89.5	37	3.5	22	2.1	37	3.5	14	1.3	1,047
10	454	89.0	18	3.5	10	2.0	14	2.7	14	2.7	510
11	540	87.1	27	4.4	20	3.2	13	2.1	20	3.2	620
12	1,123	91.8	23	1.9	11	0.9	47	3.8	19	1.6	1,223
13	645	87.5	20	2.7	8	1.1	41	5.6	23	3.1	737
14	1,011	92.9	24	2.2	11	1.0	19	1.7	23	2.1	1,088
15	637	85.6	35	4.3	32	4.3	19	2.6	21	2.8	744
16	813	90.4	33	3.7	14	1.6	21	2.3	18	2.0	899
17	846	90.5	30	3.2	24	2.6	22	2.4	13	1.4	935
Total	12,229	89.2	453	3.3	335	2.4	380	2.8	308	2.2	13,705

Note. Included are 261 drivers (1.9%) who were contacted at two or more different checkpoints. Percentages do not all add to 100% due to rounding.

[a]Unknown license status was due to driver license numbers not scanning and/or being recorded incorrectly by law enforcement.

Among the 453 SR drivers contacted, the most common reason for suspension or revocation was FTA/FTP (60.3%, Table 2 and Figure 2). The next most common reasons were for a DUI conviction (12.4%), an APS arrest (8.4%), a non-driving related reason (7.1%), failure to provide proof of financial responsibility (5.7%), a NegOp or serious driving offense (3.3%), a P&M condition or lack of driving skill (2.2%), and, finally, an out-of-state suspension or revocation (0.7%). Therefore, the majority of SR drivers contacted at the checkpoints (92.9%) had their licenses SR for a reason that was directly or indirectly related to a traffic safety issue. The majority of the SR drivers resided in Sacramento County (87%), followed by Contra Costa (3%), Yolo (2%), Alameda (2%), and Placer (1%) Counties; the remainder were distributed among 15 other northern, central and southern California counties.

Table 2

Suspended and Revoked Drivers Detected by Law Enforcement during Checkpoints as a Function of the Suspension/Revocation Reason

Suspension/revocation reason	Detected		Undetected		Total	
	n	%	*n*	%	*N*	%
FTA/FTP	159	58.2	114	41.8	273	60.3
DUI-related	42	**75.0**	14	25.0	56	12.4
APS-related	30	**78.9**	8	21.1	38	8.4
Non-driving related	16	50.0	16	50.0	32	7.1
Financial responsibility	7	26.9	19	**73.1**	26	5.7
NegOp/serious offender	9	60.0	6	40.0	15	3.3
P&M/lack of skill	5	50.0	5	50.0	10	2.2
Out-of-state action	0	0.0	3	100.0	3	0.7
Total	268	59.2	185	40.8	453	100.0

Note. The rate of detection differed significantly according to suspension/revocation reason, $\chi^2(7, N = 453) = 29.06$, $p < .001$. Boldface percentages were the overrepresented suspension/revocation reasons in each column.

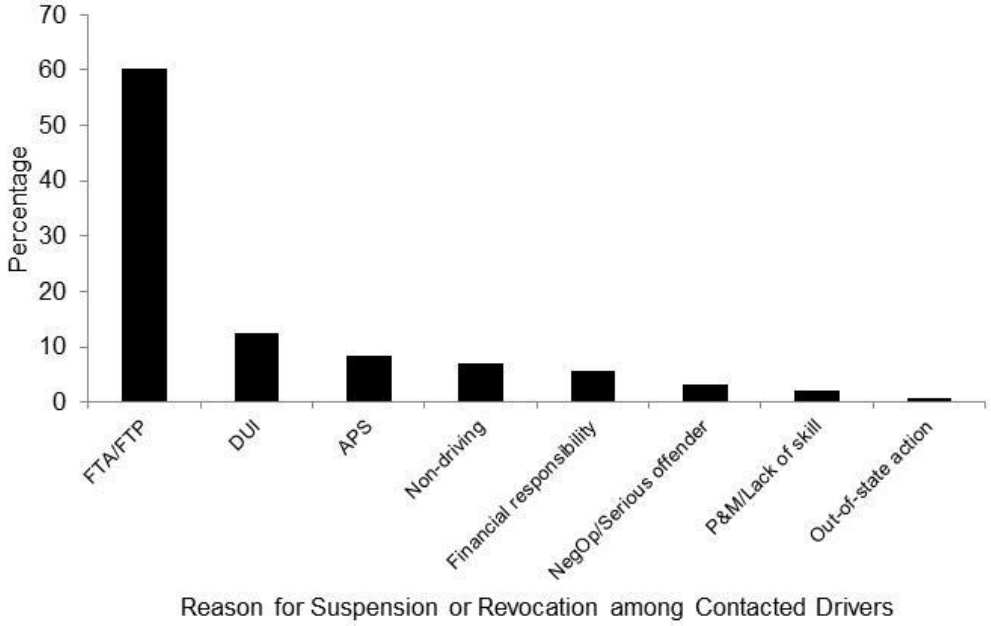

Figure 2. Distribution of reasons drivers contacted at checkpoints were suspended or revoked.

While a majority (59.2%) of the SR drivers contacted at the checkpoints were identified and cited by law enforcement, 40.8% were not detected or cited for driving with a SR license (Table 2). The percentages detected (Figure 3) differed as a function of the reasons for the SR, $\chi^2(7, N = 453) = 29.06$, $p < .001$. Specifically, the majority of drivers suspended for failure to provide evidence of financial responsibility were able to pass through the checkpoints undetected (73.1%), whereas fewer drivers SR because of an APS arrest (21.1%) or DUI conviction (25.0%) were undetected. Furthermore, all the drivers SR due to an out-of-state suspension or revocation were undetected at the checkpoints, although there were few such drivers ($n = 3$). Drivers SR for other reasons did not differ in their rates of detection.

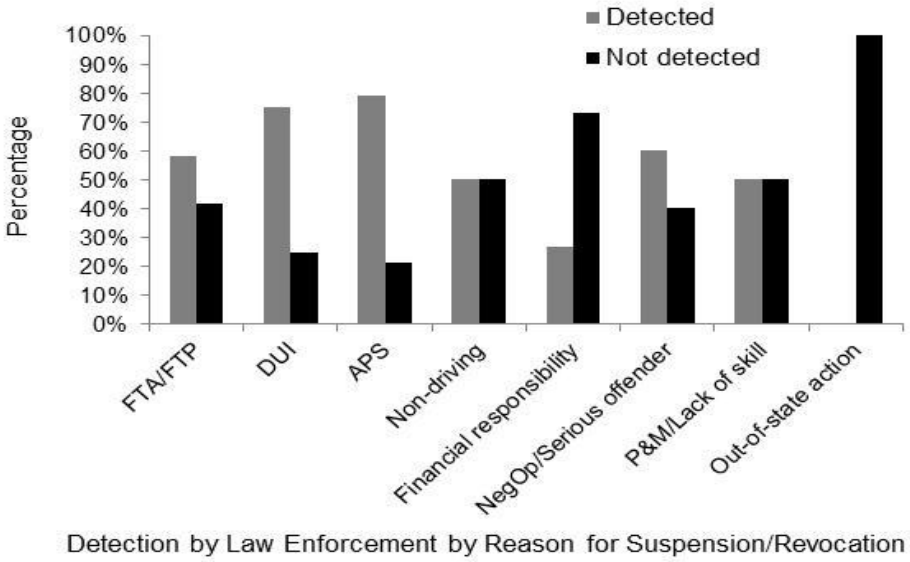

Figure 3. Differences in law enforcement detection of drivers suspended or revoked for various reasons.

DISCUSSION

General Discussion of Findings

The purpose of this study was to estimate the extent to which suspended and revoked drivers who continue to drive avoid detection at DUI/License checkpoints because they illegally possess a physical license. It also investigated differences in law enforcement detection of these drivers as a function of the reason for the suspension or revocation. Although the majority of SR drivers were successfully detected by law enforcement at the checkpoints, about 41% of them were able to pass through undetected because they presented valid-looking licenses that should not have been in their possession. While the overall number of drivers contacted at the checkpoints who were SR was small—representing only 3.3% of all drivers contacted—the high percentage who were not detected by law enforcement is surprising given that identifying such drivers is one of the purposes of these checkpoints.

Among the suspended and revoked drivers who were contacted at the checkpoints, the two most frequent reasons for the suspension or revocation were FTA/FTP (60%) and DUI/APS (21%). Finding these to be the two most common types of SR drivers contacted is consistent with the conclusions of Gebers and DeYoung (2002) who deemed these to be the most common types of suspension and revocation actions taken by the California DMV. Drivers SR for DUI or APS reasons were underrepresented among those who were able to pass through the checkpoints undetected. This would be expected because the APS procedure, which generally is part of most DUI arrests, includes the confiscation of the physical license by law enforcement. Although the number of drivers contacted who were suspended for failing to provide proof of financial responsibility was not high (about 6% of all SR drivers), the majority of these drivers passed through the checkpoints undetected by law enforcement. Upon further investigation into why a majority of such drivers would have valid-looking physical licenses that they could have presented to law enforcement to avoid detection, it was found that the orders of suspension mailed to these drivers do not always contain a demand for surrender of the physical license. In fact, the majority (89%) of the contacted drivers suspended for financial responsibility were mailed suspension orders that may not have had language demanding license surrender. It is therefore reasonable that they would be overrepresented among those who were not detected, given that they may never have been asked to surrender their licenses.

Conclusions and Recommendations

Although the absolute numbers of SR drivers in this sample are not large, the fact that so many of them were able to pass through DUI/License checkpoints undetected indicates a loophole in the traffic safety countermeasure system that needs to be addressed. License suspension and revocation are proven deterrents for crashes and traffic violations (Masten & Peck, 2004), as is vehicle impoundment, the penalty for driving while SR (DeYoung, 1999; Voas & DeYoung, 2002). DUI checkpoints are a general deterrence against drinking and driving (DeYoung, 2013) and are associated with reductions in alcohol-related crashes (NHTSA, 2008). Because license validity is verified at these checkpoints, they are also intended to be a general and specific deterrence against driving under suspension or revocation. However, the effectiveness of driving-related penalties is greatly dependent upon drivers' perceptions of the likelihood of being caught (NHTSA, 2008). Drivers under suspension or revocation for DUI already perceive their risk of detection for continued driving to be very low (Knoebel & Ross, 1997); the potential efficacy of license checkpoints for deterring continued SR driving and the associated traffic safety risks is further undermined to the extent that SR drivers are able to present invalid licenses to law enforcement and continue driving without detection or penalty. It therefore behooves licensing agencies and law enforcement to maximize license surrender among SR drivers to reduce this mechanism of non-detection and increase these drivers' perceptions of the likelihood of being caught.

Given the findings of this and other studies that have shown that drivers under suspension and revocation for various reasons continue to drive (Coppin &Van Oldenbeek, 1965; Hagen, McConnell, & Williams, 1980; McCartt, Geary, & Berning, 2003), future efforts should focus on improved methods to identify these drivers. New technologies such as electronic license plate readers (LPRs) have been suggested as one possible enforcement tool (DeYoung, 2013). However, LPRs are limited to alerting law enforcement to issues related to the registered owner of the vehicle, and the driver of a vehicle is not always the owner. Methods specific to the licensee, such as using card readers that can quickly identify SR drivers in real time during routine traffic stops or at DUI/License checkpoints, may be a more promising method to aid identification and enforcement, and therefore warrant further investigation.

The fact that the majority of drivers under suspension or revocation for financial responsibility avoided detection at the DUI/License checkpoints by presenting their illegally retained physical licenses indicates that DMV should review and consider revising the language on the orders of suspension sent to these offenders to consistently include a license surrender demand. Even

though the majority of drivers sent orders of suspension for financial responsibility will clear the suspension by eventually providing proof of insurance—making license surrender a moot point—a substantial number will actually remain suspended (about 16%), and may retain their licenses because they may not have been instructed to surrender them. Furthermore, it may be worthwhile to systematically review all other orders of suspension used by the department to ensure that such language is included.

Study Limitations

The drivers contacted at DUI/License checkpoints presented in this study are from a single geographic region of the state. Therefore, the results presented here do not necessarily generalize to other cities, counties, or regions of California, or to jurisdictions outside of the state. However, to the extent that DUI/License checkpoint procedures are similar across California—as might be expected if all California agencies follow the functional and legal guidelines for checkpoints recommended by NHTSA and the courts (Ingersoll v. Palmer, 1987; NHTSA, 2006)—there is no reason to suspect that suspended and revoked drivers possessing valid-appearing licenses would have any less difficulty passing undetected through checkpoints in other California jurisdictions. Also, given that DMV order-of-suspension procedures are uniform throughout California, it seems likely that the rates of illegal retention of physical licenses among suspended and revoked drivers are similar statewide. To determine whether large percentages of SR drivers are also undetected at checkpoints conducted in jurisdictions outside of California, the procedures presented in this study should be replicated in those localities.

Recent DMV estimates indicate that approximately 4% of licensees statewide and 5% of licensees in Sacramento County are SR at any given time. The percentage of SR drivers who were contacted at the checkpoints underestimates the state and county percentages for several reasons. First, some drivers who are SR actually cease driving altogether, and others choose to drive less often to avoid detection (Clark & Bobveski, 2008). Second, the license status of 2.2% (n = 308) of contacted drivers was unknown because some licenses failed to scan and were either recorded incorrectly or not recorded at all. It seems likely that some of these drivers would have been found to be SR if it had been possible to check their license status. Using license scanners that are capable of reading one-dimensional bar codes—which are more universal and less prone to corruption—would likely reduce the rate of unrecorded driver licenses in the future. Third, drivers are alerted by signage that they are approaching checkpoints and are allowed to avoid them by making a legal turn before entering the coned-off areas. It seems reasonable to surmise that SR drivers may be more inclined to avoid entering checkpoints, although the extent to which

this occurs is unknown. Furthermore, drivers may avoid checkpoints altogether through advance notice from websites, social media, or other communications. For example, the Sacramento Police Department gives 24-hour notice on their website and typically issues press releases about upcoming checkpoints. Given all these reasons the estimates of suspended and revoked drivers from the present study should be considered at best a lower-bound estimate of the prevalence of SR drivers who continue driving.

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