

The long road to change – the effects of unlicensed driving on Aboriginal people

When we speak to people and communities across the State, we hear that our current system of driver licensing is simply not serving Aboriginal people well. We hear about the systemic barriers preventing Aboriginal people from obtaining and holding onto a driver licence and the consequences this has on them, their families and community. Research shows that unlicensed driving plays a significant role in Aboriginal people being killed or injured in car accidents and is one of the leading causes behind the rapid rise in rates of Aboriginal incarceration. With a yawning gap between the life outcomes of Aboriginal and non-Aboriginal people and the shocking over-representation of Aboriginal people in our justice system – we need to act now. If the government is serious about closing the gap between Aboriginal and non-Aboriginal people in NSW, a sustained and systematic response is required.

Unlicensed driving¹ is a major problem among Aboriginal people in NSW. It accounts for one in every 20 custodial sentences imposed upon Aboriginal people and ranks as the sixth most common reason for imprisonment² (see Table 1 below).

Table 1: Reasons for imprisonment, 2015, Aboriginal people.

Source: NSW Bureau of Crime Statistics and Research 2015		
Acts intended to cause injury	1035	25.6%
Theft and related offences	509	12.6%
Unlawful entry with intent/burglary, break and enter	456	11.3%
Public order offences	197	4.9%
Offences against justice procedures, government security and government operations	822	20.3%
Unlicensed driving	191	4.7%

We also know that Aboriginal people are disproportionately sentenced for these offenses. One in every ten driver licence-offences committed by an Aboriginal person results in a custodial sentence. In contrast, the rate at which a non-Aboriginal person is sent to prison for unlicensed driving is around one in 20, or half that of Aboriginal people.

Table 2: Aboriginal and non-Aboriginal defendants convicted in finalised court appearances (NSW). Jan 2011-Dec 2015 (includes juvenile orders)

Year	Aboriginal			Non-Aboriginal		
	# of licence offences	# in prison	%	# of licence offences	# in prison	%
2011	1,849	211	11.4%	15,451	698	4.5%
2012	2,011	211	10.4%	14,188	694	4.8%
2013	1,939	157	8.1%	13,981	565	4%
2014	2,186	174	7.9%	14,370	580	4%
2015	2,136	191	8.9%	14,822	746	5%
Ave	2024	189	9.3%	14,562	656	4.5%

Unlicensed driving has also been identified as a contributory factor in car crash fatalities, with one in

five Aboriginal fatalities from car crashes involving an unlicensed driver³.

Why drive without a licence?

One of the main and most obvious reasons for driving without a licence is *need*. Many Aboriginal people live in rural and remote areas where public transport is either limited or non-existent and driving is the only realistic option for people to get to where they need to go. Driving is also an important part of maintaining *culture*. Law business, funerals, and family visits all contribute to the need to travel. In following traditional Aboriginal law an individual may feel compelled to drive even if this is at odds with the Australian legal system. Many of the places to which Aboriginal people need to travel are only accessible by driving a car.⁴

‘When you’re a young person you want to do these things [get a licence to gain employment] to make life better for your family. It stops you, you can’t move forward, when you don’t have the support.’ - Wilcannia Men’s Group

Finally we know that there are cases when people are compelled to get behind the wheel, such as fleeing situations of domestic violence⁵.

What are the barriers to accessing a licence?

The statistics demonstrate that Aboriginal people are not well served by our current licensing system. In 2011, Aboriginal people in NSW represented 0.4% of all licence driver holders but made up 2% of the eligible driver population⁶. The NSW Auditor General’s office investigation into unlicensed driving by Aboriginal people found that less than 50% of Aboriginal people in remote communities reported having a valid driving licence with rates of driver licensing consistently lower for Aboriginal people than for the rest of the community⁷.

The low take up rate of driver licensing by Aboriginal people is largely a consequence of the licensing system itself – it is unresponsive to the particular needs of Aboriginal people. For example, it can be harder for Aboriginal people to access *supervised driving instruction* because of the lack of unrestricted driver licence holders in their community, or to access a registered car is part of this problem as well⁸.

Proof of identity is also well documented as a barrier to licensing for Aboriginal people. In every Australian state eligibility to apply for a driver licence requires proof of identification. However, Aboriginal people often face complex barriers to obtaining the requisite documents including: having documents with multiple names, costs associated with applying for identification

documents, literacy required to complete forms, and access to service providers⁹.

The *justice system* itself is a barrier to equitable participation in licensing. This is a complex and multifaceted issue but there are three main reasons that Aboriginal people experience increased contact with the justice system that precludes them from obtaining a licence:

1. Fine default licensing sanctions due to inability to pay fines and/or state debt
2. Lack of diversionary options or programs for offenders
3. Unauthorised driving charges, which includes those who drive despite never having a licence and those who drive with a suspended or disqualified licence.¹⁰

What are the consequences of unlicensed driving?

The consequences of driving without a licence can be serious and significant. Not being able to drive can mean not being able to access vital services, such as visiting a GP or going to hospital. Being caught driving without a licence can exacerbate financial hardship, and result in loss of employment.

I started to drive when I was 16 years old. I got caught and kept getting caught and now I have \$30,000 in fines. I can't go for my licence for 25 years. - Wilcannia Men's Group

But by far the biggest impact of unlicensed driving is the extent to which this behaviour is *criminalised* and its contribution to higher rates of contact with the criminal justice system and the over-representation of Aboriginal people in prison populations.

Arguably, the offence of driving without a licence is relatively minor. The appropriateness of criminal charges against people for unlicensed driving is questionable given the degree of criminality involved.

What can be done?

As a first step, NCOSS recommends the NSW government invest in the implementation of a program designed to address many of these issues. The Driving Change program was developed by the George

Institute of Global Health with the aim of helping young Aboriginal people get their driver licence. It is an 'end to end' program that provides participants with information and advice on how to navigate the licensing system, assistance with completing forms and obtaining essential documentation (e.g. birth certificate) and help with supervised driving.

The program is community based which ensures it is culturally appropriate and suited to each community into which it is delivered. Since it began in 2012, Driving Change has helped some 400 people obtain their licence.

Once fully operational the program could potentially form part of existing diversionary programs designed to address contact and progression through the criminal justice system. The NCOSS 2017-18 Pre-Budget Submission *Investing in Communities* identified West and Far West NSW as particular priorities, and estimated that approximately \$2 million would be needed to rollout the program in these regions. From a justice reinvestment perspective, this is a small amount of money to invest considering the social and economic costs associated with imprisonment. Investing in a program like this, grounded in community, is a small investment to deliver significant outcome for people and communities.

We have had a young single mum with two children gain their Provisional licence following lessons and support. She is now able to get transport to attend a TAFE course, and take children to an Indigenous long day care centre. She has children registered and attending sports activities on weekends, in which she needs to drive to different sporting fields. The sports activity has other Indigenous children involved and parents, which has further opened social and community opportunities. - Driving Change Provider

Want more info?

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¹ Unlicensed driving has various meanings. It is not simply "driving without ever having qualified for a licence" as the term might imply. It can mean driving with a licence that has expired, or driving with a disqualified or suspended licence. It can also mean driving a car for which the driver is not licensed to drive in the first place (e.g. a heavy vehicle).

² NSW Bureau of Crime Statistics and Research 2015 Crime Statistics

³ NSW Department of Transport NSW 2014 Aboriginal Road Safety Action Plan 2014-2017

⁴ Williamson, G Thompson, T & Tedmanson., D 2011 *Supporting Aboriginal People to Obtain and Retain Driver Licences: An Informed Review of the Literature and Relevant Initiatives*, University of South Australia

⁵ Ibid

⁶ Ibid

⁷ New South Wales Auditor-General's Report Performance Audit 2013, *Improving legal and safe driving among Aboriginal people*.

⁸ While there are programs available that enable participants to reduce the number of supervised driving hours (i.e. by 20 hours if they receive 10 hours of professional supervision), they are not widely and access to these is costly.

⁹ Albert, A 2015 *Indigenous Driving Issues in the Pilbara* in 'Proof of Birth' Future Leaders

¹⁰ Cullen, P, Clapham, KF, Hunter, K, Treacy R, & Ivers, RQ 2016, "Challenges to driver licensing participation for Aboriginal people in Australia: a systematic review of the literature", *International Journal for Equity in Health* No. 15, pp 1-10