



DRIVEN TO FAIL:
*The High Cost of Washington's Most
Ineffective Crime - DWLS III*



Introduction

Having a criminal record makes it more difficult to get and keep a job, and people who have criminal records face discrimination in housing and education that can burden them for the rest of their lives. Roughly a third of all American adults have criminal records, due in large part to policies that have turned many non-violent, low-level offenses into crimes. This trend, known as overcriminalization, has heavily impacted young people, and those with low incomes. It has also contributed to the massive racial disparities seen in the criminal justice system, in which people of color are much more likely than white people to be arrested, prosecuted, and incarcerated.

Thankfully, more and more policymakers are beginning to understand that we can't arrest, prosecute, and punish our way out of every social problem. They now recognize that treating people as criminals often makes social problems worse. Across the U.S., state and local governments are beginning to consider alternatives to arrest and incarceration for activities where no one has been harmed.

This report looks at an activity that is a criminal offense in Washington, but that shouldn't be: driving while license suspended – third degree (DWLS III) for failure to pay or failure to appear for moving violations. Typically, a DWLS III charge comes about this way: A driver receives a ticket for a moving violation (such as speeding or rolling through a stop sign) and for various reasons does not follow through by paying the ticket or showing up in court to contest it. Hundreds of thousands of people in Washington have had their license suspended for not responding to a ticket for a moving violation. Those who continue to drive once their license is suspended may be arrested and charged with the crime of DWLS III.

We can hold people accountable for not complying with a ticket for a moving violation without turning them into “criminals,” which costs taxpayers millions of dollars and does not increase public safety. It's important to remember that people charged with DWLS III have not committed serious crimes that impact public safety, such as driving under the influence. Scarce criminal justice resources should be spent on these more important public safety issues, not on people who have made a mistake or may be too poor to comply with tickets for moving violations. This report reviews the history of DWLS III enforcement, examines how it burdens individuals and communities, and calls for policies that address the harm of driving with a suspended license without criminalizing the people who have done it.

Executive Summary

- **DWLS III is excessive punishment.** Punishment has to fit the crime. A person should not be arrested, prosecuted, and possibly jailed for driving without a license because they failed to pay or appear in court for a ticket for a moving violation. Police, prosecutors, and courts should not be wasting scarce public resources enforcing DWLS III. These resources should be focused on public safety issues, such as impaired driving.
- **The impact of DWLS III is widespread.** Hundreds of thousands of people in Washington have had their license suspended for failing to comply with tickets for moving violations. Since the current version of the law went into effect in 1993 nearly one and a half million criminal charges for DWLS III have been filed, more than any other type of crime. These charges have resulted in nearly nine hundred thousand convictions.
- **The enforcement of DWLS III consumes massive amounts of taxpayer dollars that could be used to reduce real crime.** A conservative estimate for the costs of enforcing DWLS III in Washington for the years 1994-2015 is \$1,316,203,624. This likely underestimates the true costs of pursuing DWLS III cases, since the analysis doesn't include any estimates for the cost of an arrest or probation costs, and does not attempt to calculate indirect costs to the individuals and families involved.
- **DWLS III is unnecessary.** Several states do not criminalize DWLS III. Many local jurisdictions in Washington rarely enforce the law. It was not a criminal offense in Washington state prior to 1993, when the legislature chose to make driving with a suspended license for not responding to tickets for moving violations a crime.
- **DWLS III is unfairly applied and disproportionately impacts people of color.** Enforcement of this "crime" varies greatly from city to city and county to county. Unequal and unfair enforcement especially impacts poor people and young people. People of color are more likely to be charged with DWLS III than white people, which furthers the racial disparities in the criminal justice system seen in Washington and the nation.

- **Enforcement of DWLS III does not improve public safety.** Charging people with DWLS III rarely prevents people from continuing to drive, which is a daily necessity for many people, especially in rural areas. Not complying with a ticket for a moving violation is not the same as impaired driving or being a habitual offender, and DWLS III enforcement does not make the public safer. After all, drivers who pay the ticket are allowed to stay on the road. Moreover, no evidence shows that jurisdictions that enforce DWLS III infrequently are less safe. A city or county can use other means to deal with this issue without risks to public safety. Several states don't criminalize DWLS III and have similar roadway safety records as Washington.
- **Tinkering with DWLS III won't fix its fundamental flaws.** While the courts and the legislature have made some improvements to DWLS III, resulting in fewer statewide charges overall, it is still used against people far too commonly.
- **DWLS III should not be treated as a crime.** Washington lawmakers should repeal the law making DWLS III a criminal offense for people who have suspended licenses for failure to pay or failure to appear for moving violations. Short of that, law enforcement, prosecutors and courts should exercise their inherent discretion and treat DWLS III as a civil offense and offer relicensing programs. Civil remedies and relicensing can be more effective and use fewer criminal justice resources.

Unless otherwise referenced, the data concerning DWLS III charges, convictions, and jail days in this report was provided by the Washington Administrative Office of the Courts via a data sharing agreement with the ACLU of Washington. The Administrative Office of the Courts, the Washington Courts, and the Washington State County Clerks do not warrant that the data or information is accurate or complete and the user should verify the information by personally consulting the "official" record reposing at the court of record. All analysis was conducted by the ACLU of Washington.

DWLS III: Washington's Most Commonly Charged Crime

A) DRIVERS WHO DON'T COMPLY WITH TICKETS FOR MOVING VIOLATIONS AND CONTINUE TO DRIVE CAN BE CHARGED WITH DWLS III

Driving with a suspended driver's license in Washington is often a crime, and sometimes it should be. Many license suspensions are clearly tied to public safety concerns, such as for driving under the influence or for being a habitual offender. Driving when your license is suspended for these reasons is a gross misdemeanor, and the crimes are known as DWLS I and DWLS II.¹

DWLS III is different. It is the least serious crime for driving with a suspended license, a misdemeanor, and it can be charged in a variety of contexts.² The most common occurs when a driver receives a ticket for a moving violation, but does not follow through by paying the ticket or showing up in court to contest it.³ Hundreds of thousands of people in Washington have had their license suspended for simply failing to comply with tickets for moving violations.⁴ This report is focused specifically on enforcement of DWLS III cases where the underlying suspension is for failure to pay or failure to appear in response to a ticket for a moving violation.⁵

Here is a common situation: Hannah is cited for a moving violation, such as speeding or failing to stop at a stop sign – the type of infraction that nearly 1 in 4 American drivers will be cited for at least once in a five-year period.⁶ Hannah knows she cannot pay the fines associated with the violation at the moment. She places the ticket in a stack of bills and eventually loses track of it. Since Hannah has now not complied with the ticket, the local municipal or district court directs the Department of Licensing to suspend her license. Hannah gets a notice in the mail that her license is going to be suspended, but she does not have the time or means to contest it. Ultimately, she continues to drive because she lives miles from work and needs to pick up her kids after school. Every time she drives, she is committing the crime of DWLS III and can be assessed even more fines, and often jail time.⁷

This law is used in a staggering number of cases. A DWLS III charge has been brought almost a million and half times since 1993, when the current version of the law went on the books, almost certainly making it the state's most frequently-charged crime.⁸ These charges have resulted in nearly nine hundred thousand convictions. DWLS III accounts for a very large percentage of the caseload for many of Washington's district and municipal courts, often over a third of all filings.

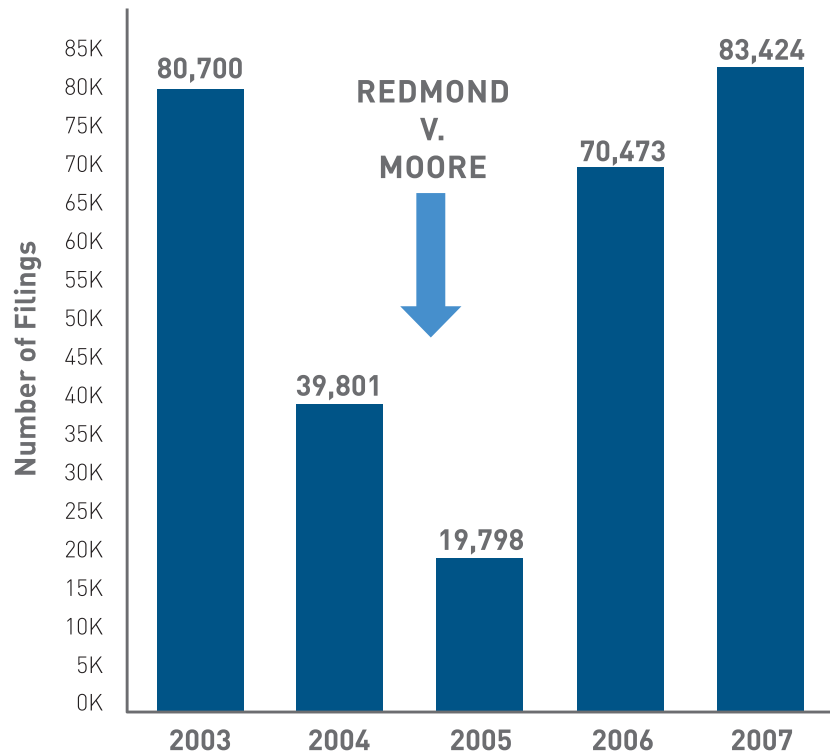
B) HOW DWLS III BECAME A CRIME IN WASHINGTON

DWLS III does not have to be a criminal offense. Several states do not criminalize it⁹ and many local jurisdictions in Washington rarely enforce this law.¹⁰ The reason it is criminalized is because the Washington legislature chose to make it a crime in 1993. Here's how that happened.

In 1993, amendments to RCW 46.20.289 (Suspension for Failure to Respond, Appear, Etc.) added failure to pay and failure to appear as grounds for license suspension.¹¹ These changes were then incorporated into RCW 46.20.342, the statute which makes driving with a suspended license a crime. In passing the bill, the legislature noted that the reason for enacting this legislation was to ensure compliance with the Nonresident Violator Compact (NRVC) adopted by Washington in 1983 and codified at RCW 46.21.010. The legislature concluded that, “[the NRVC] is dependent...on the home state of a cited motorist having a law which requires driver's license suspension for failing to comply with a traffic citation.”¹² Compacts such as the NRVC are common between states and allow for the coordination of administrative resources. The idea of Washington sharing an ability to enforce tickets across state lines makes sense, but criminalization of DWLS III is by no means a requirement of the NRVC. Rather, the compact states that when a jurisdiction receives a report of failure to comply from an issuing jurisdiction, it must notify the motorist and follow up in accordance with its own procedures. The Administrative Procedures Manual for the compact even explicitly states that it is not intended to be “a punitive device.”¹³

There have been other changes to the DWLS III statute since its passage. In 2005, the Washington Supreme Court ruled in the case of *City of Redmond v. Moore* that RCW 46.20.289 (the license suspension law which leads to DWLS III charges) was unconstitutional for lack of due process. As a result, the number of suspended licenses in Washington decreased dramatically, triggering a similarly large drop in the number of DWLS III charges. This drop can be seen in Figure 1 below in the years 2003-2007. Nevertheless, by 2006 changes were made to the law to fix the issue in the Redmond case and enforcement of DWLS III returned to previous levels, over seventy thousand filings in 2006.¹⁴

Figure 1: Statewide DWLS III Filings 2003-2007



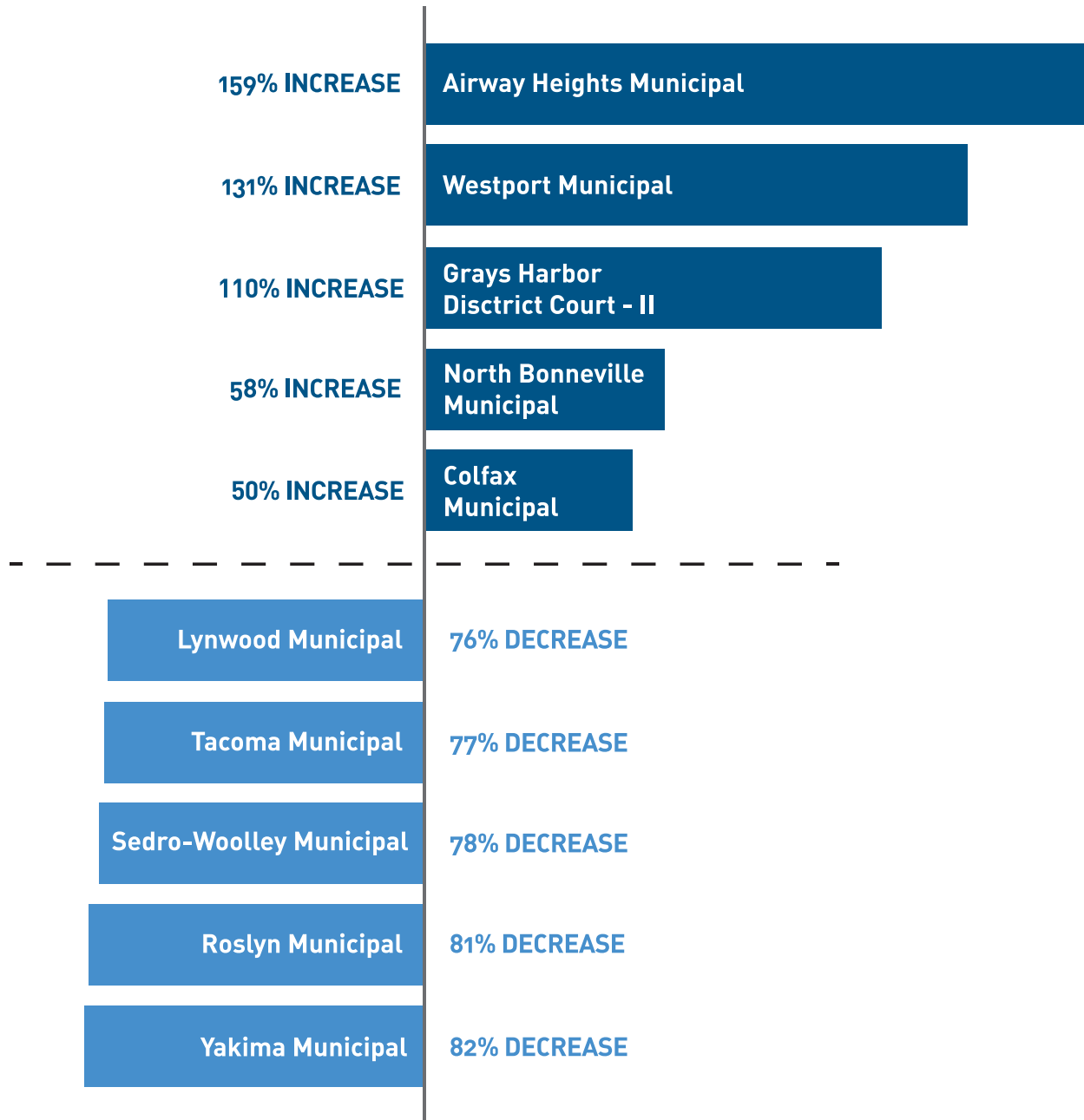
Source – ACLU of Washington analysis of Administrative Office of the Courts Data.

The DWLS III law also changed for the better in 2012, when legislation passed which limited the applicability of the crime. Specifically, SB 6284 amended RCW 46.20.289 by removing failure to pay “non-moving violations” from the list of underlying offenses for a license suspension.¹⁵ A rulemaking process was carried out by the Department of Licensing and a new definition for “moving violation” was adopted in 2013.¹⁶

Unfortunately, the list of violations still is quite large and includes driving while driving privilege suspended or revoked, which can result in repeated tickets and DWLS III charges for the same person. Effectively, the law changes mean that things like failure to pay parking tickets, or expired registration tabs, could not be grounds for a license suspension. This was an improvement, but it does not go far enough.

The impacts of this policy change are just starting to come to light. Statewide, DWLS III charges have gone down since 2013, and the rule change from SB 6284 is likely responsible for some of this drop. However, in some jurisdictions there has been no drop and the number of DWLS III filings has actually increased. Conversely, some jurisdictions have seen substantial drops in DWLS III filings, possibly due to law enforcement and prosecutorial discretion decisions independent of the rule change. These divergent outcomes between courts can be seen in Figure 2, which shows the DWLS III caseloads for courts that have seen large increases and decreases since the 2013 rule change.

Figure 2: Courts with Large Increases & Decreases in DWLS III Filings After 2013 Moving Violation Rule Change



Source – ACLU of Washington analysis of Administrative Office of the Courts Data. Superior Courts were not included in this analysis.

While it appears that SB 6284 was a step in the right direction for making DWLS III cases less burdensome in some courts, it has made zero difference in many cities and counties, causing unequal enforcement across the state. Despite the law changes, DWLS III filings consume large amounts of criminal justice resources in many jurisdictions.

DWLS III Burdens Communities

A) ENFORCING DWLS III COSTS TAXPAYERS MILLIONS OF DOLLARS

Between 1994 and 1995, the crime of DWLS III has been charged 1,441,097 times, resulting in 860,445 convictions, and 3,768,120 jail days sentenced - see below. This far outpaces charges for any other type of crime, including DUI and simple assault.¹⁷

Figure 3: DWLS III Filings, Convictions, and Jail Days Sentenced Statewide 1994-2015



Source – ACLU of Washington analysis of Administrative Office of the Courts Data.

DWLS III's outsized share of criminal filings diverts the resources of police, courts, prosecutors, and public defenders away from other, more serious crimes. Although it is difficult to calculate precise costs of enforcement, conservative estimates indicate that enforcing DWLS III costs taxpayers tens of millions of dollars each year. In 2012, various state agencies produced estimates for how the costs of DWLS III break down in the criminal justice system.¹⁸ At that time, the agencies estimated a single DWLS III case cost \$328 for prosecution¹⁹, \$328 for defense²⁰, \$176 in court costs²¹, and \$264 in jail costs²² (for cases resulting in a conviction). These costs were offset by an average of \$91 in government revenue per conviction.²³ In other words, after adjusting for inflation, the mere *filing* of a DWLS III case costs between \$568 and \$925, depending on the year and if it results in a *conviction* between \$112 and \$182.²⁴ These costs add up. A conservative estimate for the costs of enforcing DWLS III in Washington for the years 1994-2015 is **\$1,316,203,624** (in 2016 dollars), as illustrated in the following table:

Estimate of Statewide Cost of Enforcing DWLS III 1994-2015

Year	Number of DWLS III Case Filings	Cost Per Filing (prosecution + defense + court costs, adjusted via CPI - 2010 base year)	Number of DWLS III Convictions	Cost Per Conviction (jail costs - fines revenue, adjusted via CPI - 2010 base year)	Estimated Adjusted Total Costs Per Year [[filings x filings cost] + [convictions x conviction costs]]	Estimated Total Costs in 2016 Dollars (estimated adjusted costs x 1.262 - via CPI)
1994	54562	\$568.44	37977	\$112.11	\$35,272,772.98	\$39,724,196.9310
1995	74516	\$584.33	52860	\$115.24	\$49,633,441.64	\$55,897,181.9705
1996	81803	\$601.47	59530	\$118.62	\$56,263,604.91	\$63,364,071.8456
1997	86254	\$615.52	62527	\$121.39	\$60,681,183.64	\$68,339,149.0163
1998	90875	\$625.14	66228	\$123.29	\$64,974,234.28	\$73,173,982.6413
1999	84340	\$638.77	58884	\$125.97	\$61,291,382.85	\$69,026,355.3635
2000	77069	\$660.34	50209	\$130.23	\$57,430,374.42	\$64,678,087.6707
2001	71980	\$678.99	45247	\$133.91	\$54,932,318.84	\$61,864,777.4817
2002	76800	\$689.77	45444	\$136.03	\$59,156,517.33	\$66,622,069.8134
2003	80700	\$705.41	39836	\$139.12	\$62,468,485.31	\$70,352,008.1610
2004	39801	\$724.31	10846	\$142.85	\$30,377,471.20	\$34,211,108.0629
2005	19798	\$748.89	11475	\$147.69	\$16,521,340.86	\$18,606,334.0797
2006	70473	\$773.06	39696	\$152.46	\$60,531,716.30	\$68,170,818.8916
2007	83424	\$795.13	46253	\$156.81	\$73,586,249.26	\$82,872,833.9139
2008	76061	\$825.65	43803	\$162.83	\$69,932,605.32	\$78,758,100.1068
2009	73089	\$822.73	40587	\$162.25	\$66,717,760.24	\$75,137,541.5839
2010	65763	\$836.19	34963	\$164.91	\$60,756,111.30	\$68,423,532.5461
2011	59508	\$862.61	31052	\$170.12	\$56,615,012.48	\$63,759,827.0583
2012	51150	\$880.42	27366	\$173.63	\$49,785,371.57	\$56,068,285.4623
2013	46815	\$893.30	23865	\$176.17	\$46,024,299.76	\$51,832,566.3893
2014	38562	\$910.36	17735	\$179.54	\$38,289,402.23	\$43,121,524.7889
2015	37754	\$924.58	14062	\$182.34	\$37,470,494.19	\$42,199,270.5608
TOTAL	1,441,097	n/a	860,445	n/a	\$1,168,712,151	\$1,316,203,624

See Endnotes 18-24 for Source Information.

It's also important to remember that these cost estimates likely underestimate the true costs of enforcing DWLS III cases, since the analysis doesn't include any estimates for the cost of an arrest or probation, and does not attempt to calculate indirect costs to the individuals and families involved. As a recent White House report notes, having a criminal record can be a barrier to employment, individual health, debt, transportation, housing, and food security.²⁵ At the community level, these collateral consequences can "exacerbate inequality and can deteriorate trust in government."²⁶ Other studies have found similar direct and indirect costs of enforcing DWLS III in Washington.²⁷

The city of Longview provides a concrete example of how DWLS III can strain the law enforcement resources of a municipality. According to a 2015 *The Daily News* article, Longview's 400 DWLS cases every year require all the resources of one of the city's five public defenders, resulting in an annual cost to Longview taxpayers of \$135,000.²⁸ Similarly, in testimony before the Washington State Legislature, both the Washington State Defender Association and the State Office of Public Defense have pointed out that decriminalization of DWLS III will immediately

improve the ability of defenders statewide to meet their constitutional duties to carefully represent their clients by reducing their caseloads.²⁹

It is indisputable that enforcement of DWLS III has consumed a massive amount of criminal justice resources over the last 20-plus years. It’s also important to remember that in many cases people still go to jail for DWLS III. Between 1994 and 2015 courts sentenced people to jail for 3,768,120 days for DWLS III offenses. In 2015, courts still imposed 51,953 jail days.

STORIES – PEOPLE STILL GO TO JAIL FOR DWLS III³⁰

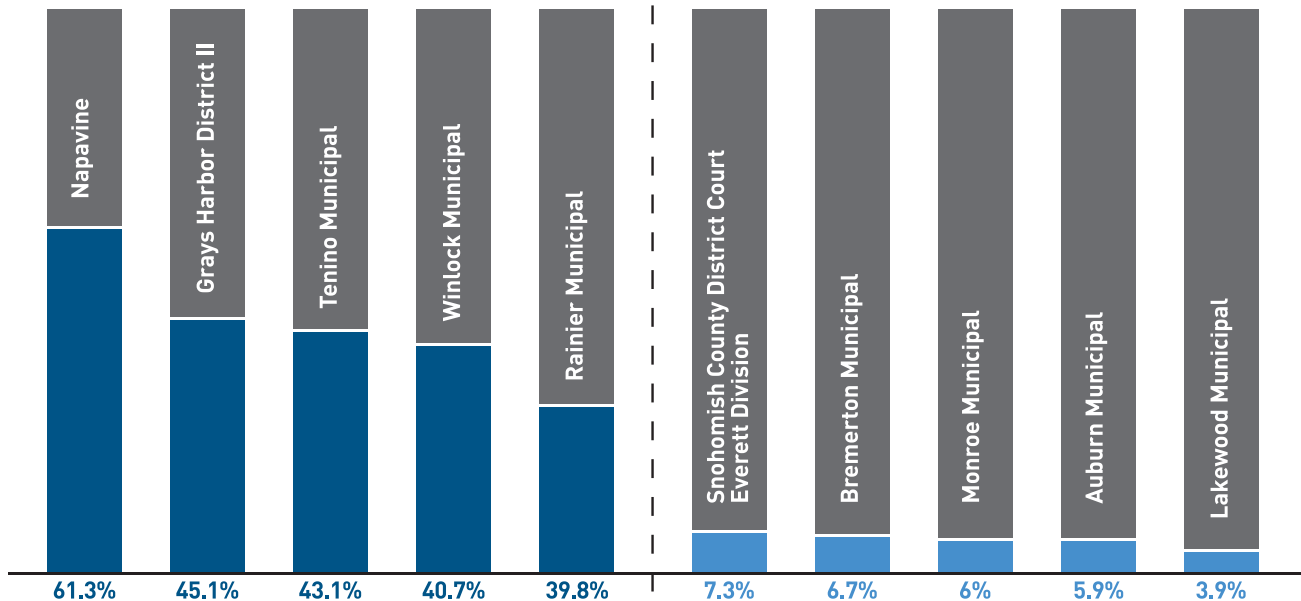
“I went to jail for [driving while license suspended] before, and actually lost a job for that. True story. I mean, it was only 10 days, but I lost my job because of that.”

-E.L., Jr., 29-year-old father living in Spokane

B) DWLS III IS APPLIED UNEVENLY

The likelihood that someone found driving with a suspended license will be charged, and the options available to them if they are charged, vary greatly from place to place. DWLS III is heavily enforced in some jurisdictions and effectively decriminalized in others. To illustrate this variability, Figure 4 below shows the share of a court’s criminal caseload that is taken up by DWLS III cases between the years 2010-2015, for the five courts with the highest percentage of DWLS III cases and the five courts with the lowest percentage of DWLS III cases (only courts with at least 200+ total filings during this time period were included for this analysis, and all superior courts were excluded):

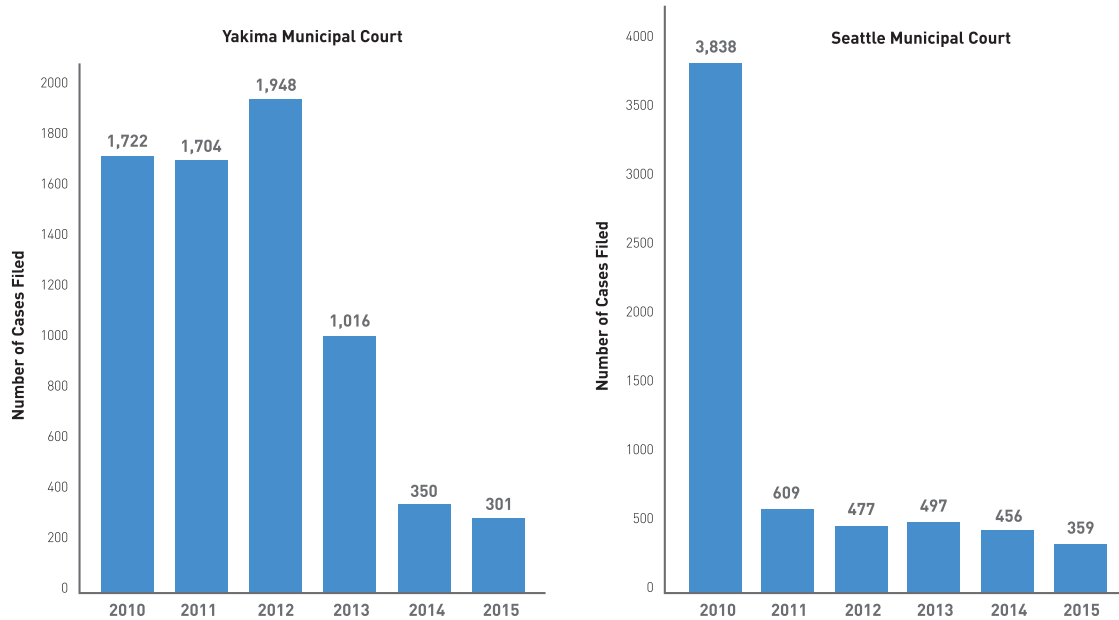
Figure 4: Percentage of a Court’s Criminal Caseload that are DWLS III Cases – Comparing Courts with Large & Small DWLS III Caseload Percentages — 2010-2015



Source – ACLU of Washington analysis of Administrative Office of the Courts Data. Only courts with at least 200 case filings between 2010-2015 were included in this analysis. Superior Courts were not included in this analysis.

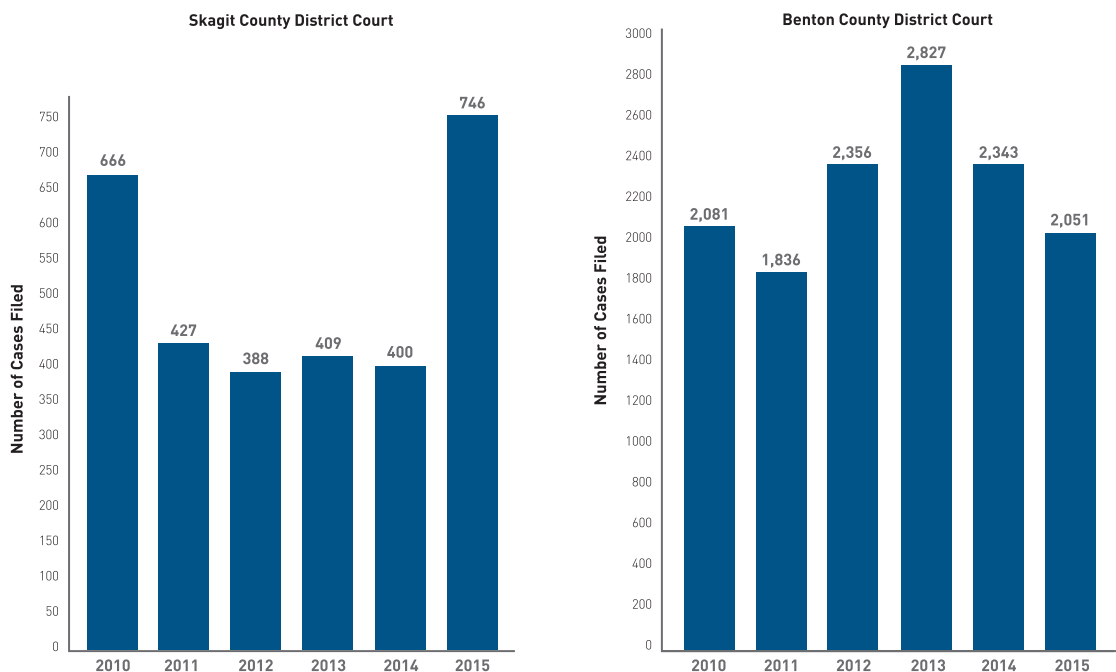
In many courts, approximately one-third of all criminal charges over the last few years have been for DWLS III. It's not just the raw number of DWLS III cases that matters, however, it's also how those cases are enforced. In Figures 5 and 6, are snapshots of four jurisdictions' DWLS III caseloads through case filings sentenced from 2010-2015. This data shows the variability in how law enforcement, prosecutors and courts enforce DWLS III.

Figure 5: Courts with Decreasing DWLS III Enforcement



Source – ACLU of Washington analysis of Administrative Office of the Courts Data.

Figure 6: Courts with Increasing or Continuing DWLS III Enforcement



Source – ACLU of Washington analysis of Administrative Office of the Courts Data.

The fact that some jurisdictions treat DWLS III as a largely non-criminal matter is evidence that a city or county can operate this way without risks to public safety. It also reflects the fact that some jurisdictions have made relicensing a priority, which can help cut down on the amount of DWLS III criminal filings. A 2008 survey from the Washington State Office of Public Defense revealed that while many Washington jurisdictions follow a “traditional” approach to DWLS III, where programs for license reinstatement are not part of the picture, others have used relicensing programs and other alternatives.³¹ For example, in some courts it has been common practice for the prosecutor’s office to reduce the charge to a civil infraction in DWLS III failure to pay cases, which means no criminal record.³² In 2008, in roughly 15 percent of municipal courts, programs allowed drivers to be relicensed after a judgment has been filed.³³ In a handful of district courts, a pre-filing relicensing court calendar was used so that individuals could renew their licenses before a criminal charge is ever filed.³⁴ These relicensing efforts should become standard practice statewide, in addition to decriminalizing DWLS III for failure to pay or appear for moving violations. A task force formed in 2016 is examining how to streamline relicensing processes across the state.³⁵

C) DWLS III CASES HEAVILY IMPACT THE YOUNG AND POOR

Criminalizing DWLS III has caused serious problems for hundreds of thousands of people. It has decreased economic opportunities for people who are unemployed and imposed larger financial burdens on poor people.³⁶ A car and the ability to drive it legally is often critical to getting and keeping a job. The Census’ 2010 American Community Survey found that 72.3 percent of Washingtonians use a vehicle and drive alone to get to work, whereas only 9.1 percent use public transportation or walk.³⁷ A national survey of 10 cities found that 80 percent of the employed population has a valid license, whereas only 52 percent of the unemployed population does.³⁸ In Seattle, 91 percent of the employed population has a valid driver’s license, whereas 67 percent of the unemployed population is licensed.³⁹ This indicates that jurisdictions should focus on getting people licensed, not exacerbating these problems with heavy-handed DWLS III enforcement.

STORIES – A DRIVER’S LICENSE IS CRITICAL FOR GETTING A JOB⁴⁰

“[My suspended license] had affected some employment opportunities because most of my positions are project management and/or executive assistance, where of course you have to . . . run errands. It’s pretty embarrassing to say, ‘No, I don’t have my license because I made one mistake, and here it is, four years later, and I’m still dealing with the same mistake.’”

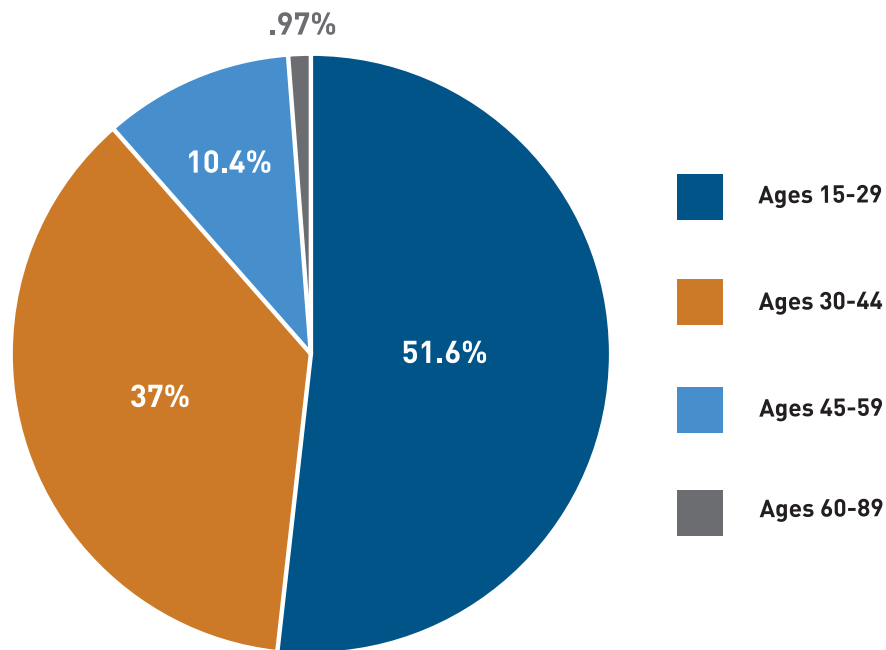
-P.K., 39-year old student at Seattle Goodwill

The criminalization of driving with a suspended license is also tied to the broader problem of poverty. A 1999 study of 187 individuals with a suspended license in Seattle found that the average person had \$2,095 in unpaid fines and a monthly income of \$810.⁴¹ During the Seattle-area

impound for DWLS program in the late 1990s, researchers observed that 70 percent of drivers cited were not even driving their own cars, which indicates that many drivers may have lower incomes.⁴² A study by the Seattle Municipal Court also found uneven geographical distribution across the greater Puget Sound region, noting that, “the highest frequencies of DWLS charges occurred in southeast Seattle, including the communities of Mount Baker, Rainier Beach, Georgetown, First Hill, Beacon Hill, Seward Park, and the Central District,” communities with larger than average low-income populations.⁴³ DWLS III’s close association with poverty means that it is largely punishing poor people for being poor, and not because they are necessarily dangerous drivers or scofflaws, since there are many drivers who can simply afford to pay the ticket.

DWLS III charges have huge impacts on young drivers. As illustrated in Figure 7, people aged 16-29 account for over 50 percent of all DWLS III filings between 1994 and 2015. Since 1994, over one hundred and sixty thousand DWLS III charges have been brought against persons under age 21. The consequences of having a criminal record can be severe for young people, negatively impacting the ability to get student loans, employment, and housing.⁴⁴ It does society no good to place these unnecessary burdens on young people, when civil remedies can be used instead of criminal ones.

Figure 7: Percentage of DWLS III Filings 1994-2015 by Age



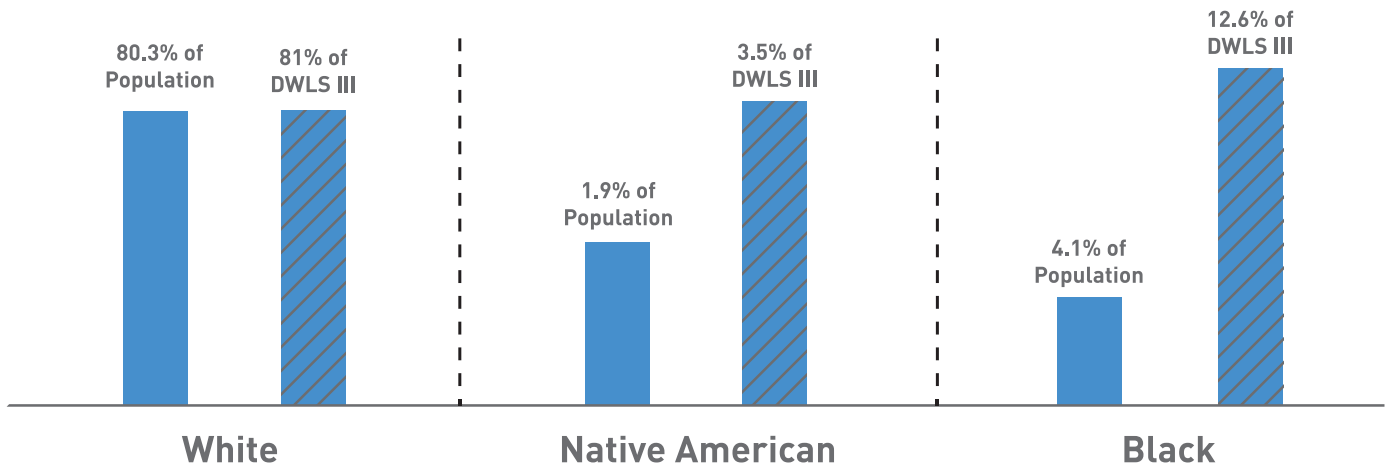
Source – ACLU of Washington analysis of Administrative Office of the Courts Data.

D) DWLS III CASES DISPROPORTIONATELY IMPACT PEOPLE OF COLOR

As succinctly stated by Washington’s Task Force on Race and the Criminal Justice System, “the fact of racial and ethnic disproportionality in our criminal justice system is indisputable.”⁴⁵ DWLS III enforcement fits this pattern. As illustrated in Figure 8, African American people are roughly three times as likely to be charged with DWLS III as white people are. Native Americans are roughly two times as likely to be

charged with DWLS III as white people. Unfortunately, data was not available for this report to show how DWLS III impacts Latino people, but there is evidence that enforcement of other low-level criminal offenses in Washington disproportionately impacts this population as well.⁴⁶

Figure 8: Percentage of DWLS III Filings by Race - 2015



Source – ACLU of Washington analysis of Administrative Office of the Courts Data.

Further evidence of the racial bias in DWLS III cases is evident in analysis of previous enforcement data. Between 2000 and 2005, analysts for the city of Seattle observed that the default rate for traffic infractions among African Americans was 62 percent compared to 32 percent for white drivers; accordingly, African Americans were more likely to have their license suspended for failure to pay.⁴⁷ Between 2000 and 2009, African American drivers accounted for between 37 and 46 percent of DWLS III cases in Seattle Municipal Court, although they comprised less than 8 percent of the city’s population.⁴⁸

These racial disparities are not surprising. Similar results have been found across the country. As Professor Alexandra Natapoff of Loyola Law School has noted, “the burden of a misdemeanor conviction is also greater for low-income individuals and people of color. Misdemeanors typically come with the threat of heavy fines and fees and the threat of incarceration if you can’t pay — and many individuals charged with misdemeanors end up in a cycle of debt.”⁴⁹ If Washington state is serious about addressing systemic racial disparities in the criminal justice system, decriminalizing DWLS III for failure to pay or failure to appear will help.

E) DWLS III DOESN’T KEEP PEOPLE WITH SUSPENDED LICENSES OFF THE ROAD

Charging individuals with DWLS III does not keep them off the roads. The National Cooperative Highway Research Program estimates that 75 percent of individuals who have their license suspended for any reason will continue to drive.⁵⁰

STORIES – WHY DO PEOPLE CONTINUE TO DRIVE WITH SUSPENDED LICENSES?⁵¹

“I live in Washington, and I work in Idaho. So I really have no choice but to drive on a suspended license. . . There’s no bus or train that goes to Idaho. I got in contact with one co-worker that lives over here [in Washington], so I [could] quit driving. But sometimes we don’t work at the same job site. . . I try not to drive, but it’s not always possible. It’s construction work, so the job site change[s]. . . Without a driver’s license, it’s hard to get a job. . . I had applied to several different companies, and they wouldn’t even give me a chance because I didn’t have a driver’s license.”

-Construction Worker, interviewed in Spokane

“I knew I had a suspended license, and I wasn’t driving. I was carpooling, I was walking, I was taking the bus, [and] I was figuring whatever I could. I had people picking up my son and dropping off my son. And it was difficult.” “But there was a day that he couldn’t get a ride, and we live several miles from the nearest bus stop. So I said, ‘Okay, take the bus as far as you can take it, and call me when you get there.’ He did that, and I said, ‘Okay, I’m going to come get you.’ It was a mistake. It was the worst mistake I made. I didn’t know what else to do . . . There’s no public transportation where I live. . . I have friends, but I don’t have family, here. . . I had no other way to come get my son.” During the drive to pick up her son, A.M. was pulled over and given a traffic ticket.

-A.M., 43-year old single mother interviewed in Seattle

The difficulty of keeping suspended drivers off the roads was shown in the effects of the Seattle Impound Program. Begun in 1999 and suspended a few years later, the program impounded the vehicles of drivers cited for DWLS. It is difficult to imagine a heavier deterrent to the behavior of driving with a suspended license than the seizure of a person’s vehicle. Nevertheless, a study by the RAND Corporation conducted in 2003 concluded, “the Impound Law appears to have had no overall effect on recidivism for DWLS offenses.”⁵² Legal scholars have also noted the Seattle Impound Law’s apparent racial and class biases.⁵³ The ineffectiveness of vehicle seizure ought to serve as an indication that keeping drivers with suspended licenses off the road is often difficult and that criminalizing the behavior is rarely effective.

Similarly, individuals charged with DWLS III often have a hard time paying their fines, likely due to their limited financial means. When compared to individuals charged with negligent driving, DWLS III drivers were less likely to pay up. Based on data analyzed by the Washington Center for Court Research from cases in 2006 and 2007, only 43 percent of individuals charged with DWLS III made any payments on their fines, while 80 percent of individuals charged with negligent driving were able to pay.⁵⁴ Individuals charged with DWLS III were also less likely to pay the full amount of the penalty than the individuals charged with negligent driving.⁵⁵ Finally, among those charged with DWLS for failure to pay in 2008, only 36 percent were

able to successfully reinstate their license.⁵⁶ Since many individuals have their license suspended because they are too poor to pay traffic fines, these outcomes are hardly surprising.

Taken together, all of this evidence indicates that DWLS III is not an effective policy, and policymakers must identify alternative methods for holding accountable people who willfully refuse to pay tickets.

STORIES – WHY PEOPLE WITH SUSPENDED LICENSES DON'T PAY⁵⁷

“I tried to make arrangements with the collection agency, but because of how many tickets I had at that time, I was [only] able to afford \$50 [per month]. And [the collection agency employee] said that was absolutely pointless because that was my interest alone, and [that] I wasn't going to go anywhere doing that.”

-J.D.A., 29-year old mother interviewed in Spokane

“Adding an additional \$500 ticket on top of someone who is already in financial hardship, you're not going to get your money any faster. All it is [doing] is creating a bunch of individuals [who are] driving around without their licenses, and just taking the risks that they need to, to do what they have to do, to take care of their family. . . I feel like they're digging me further into a financial hole . . . [They're] trying to pull money from where there is no money.”

-P.K., a 39-year old student at Seattle Goodwill

F) CRIMINALIZING DWLS III HAS LIMITED IMPACTS ON ROAD SAFETY

A common justification for DWLS III, even if the suspension is due to a lack of means to pay for a speeding ticket, is that drivers charged with it are more dangerous. However, evidence on the relationship between having a suspended license for failure to pay or failure to appear and driving safety is limited and doesn't necessarily take into account important variables. The Washington State Department of Licensing has pointed to two studies as proof that these are more dangerous drivers; a commissioned study done by the RAND Corporation to investigate the effects of a car impoundment program instituted by the city of Seattle⁵⁸ and a study by California's Department of Motor Vehicles (DMV) that categorized drivers as validly licensed, suspended or revoked, and unlicensed that were involved in fatal accidents.⁵⁹ Both studies have limitations, however, including samples that don't accurately reflect the at large Washington state driving population. But perhaps more importantly, neither analyze whether the criminalization of driving with a suspended license is an effective policy at keeping dangerous drivers off the road.

According to Washington State's 2013 Strategic Highway Safety Plan, “14.4 percent of all drivers involved in fatal collisions were unlicensed, contributing to 18 percent of total fatalities.”⁶⁰ Of the unlicensed drivers, 78 percent were driving with suspended licenses.⁶¹ This does show that unlicensed drivers account for a slightly larger percentage of fatalities than licensed drivers, but the data also reveal that other factors beyond license suspension were at play. Most notably, “among all fatalities 2009-

2011 involving an unlicensed driver, *75 percent of these also included impairment as a contributing factor*” (emphasis added).⁶² Arguably, the impaired driving is the more dangerous behavior and the one which law enforcement should be focusing on, rather than hauling people back into court for the crime of not paying their speeding tickets. This finding mirrors national data, which indicates that the “three biggest causes of fatalities on the road include: 1. Alcohol (30.8 percent), 2. Speeding (30 percent), and 3. Distracted Driving (26 percent).”⁶³

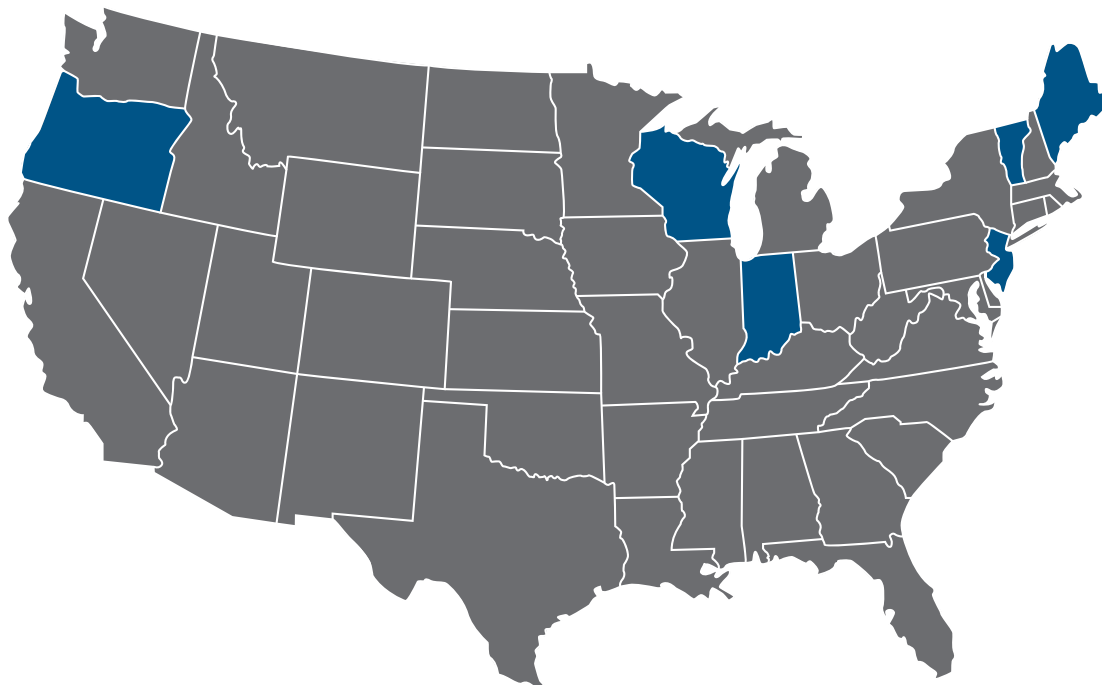
The studies cited by DOL also fail to take into account that many people commit moving violations, but pay off their tickets and don’t lose their driving privileges. Are they more dangerous drivers, and if so, why do we let them keep driving? If the rationale is that people who commit moving violations are more dangerous drivers, laws should be applicable to all of these people, not just those who are poor and can’t afford to pay the ticket. The studies cited by DOL also don’t account for the fact that some jurisdictions in Washington effectively decriminalize DWLS III while others don’t. There has been no evidence showing that jurisdictions that take a more lenient approach to DWLS III have worse traffic safety records. Having safe roadways is an important priority for the state, but there is scant evidence that criminalizing DWLS III makes much of a difference. Instead, the state could use civil remedies, such as conditional status and/or license suspensions for drivers who are ticketed for multiple moving violations in a short amount of time.⁶⁴

The state would be better off taking the crime of DWLS III off the books and reinvesting the criminal justice savings into more useful purposes, such as increased DUI enforcement, driver education programs, seatbelt use campaigns, and relicensing programs. These investments can make roads safer.

Alternatives

A) IN MANY STATES DWLS III IS NOT A CRIME

All 50 states have laws that mandate the suspension of a driver's license for a variety of reasons; Washington, like many other states, makes driving with a suspended license a misdemeanor in many cases, even for first offenses.⁶⁵ But not all states criminalize DWLS III like Washington. Here are examples:



- **INDIANA** – Class A infraction for first offense;⁶⁶
- **MAINE** – Traffic infraction for first offense;⁶⁷
- **NEW JERSEY** - \$500 fine, license suspension period increased by up to six months for first offense;⁶⁸
- **OREGON** - Class A traffic infraction;⁶⁹
- **VERMONT** – Civil traffic infraction;⁷⁰
- **WISCONSIN** – Fine between \$50 and \$200.⁷¹

Although it's difficult to compare overall driving safety outcomes between states, national rankings show that the decriminalized states listed above are comparable or have better records than Washington when it comes to uninsured driver rates⁷² and traffic fatality rates.⁷³

B) IT'S TIME TO STOP TREATING DWLS III AS A CRIMINAL OFFENSE

There are compelling reasons not to treat DWLS III as a criminal offense. Indeed, several jurisdictions have independently started to treat it in a largely non-criminal fashion. Several states also choose not to make it a crime. Since it's likely that the costs of enforcing this crime exceed any potential benefits, Washington should repeal the law that makes DWLS III a crime. Short of that, prosecutors and courts should exercise their inherent discretion and treat DWLS III as a civil offense. Civil remedies can be more effective and require fewer criminal justice resources. Here are a few specific options for reform:

- Legislators can decriminalize DWLS III by amending RCW 46.20.342(1)(c)(iv), which reads: “the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289.” Striking this language will decriminalize driving with a suspended license if that suspension is based on failure to pay/failure to appear grounds, which accounts for the vast majority of DWLS III charges. Licenses will still be suspended pursuant to 46.20.289 and drivers who are pulled over may still be charged with the infraction “no valid operator’s license,” per RCW 46.20.015, a traffic infraction for which a \$250 fine may be assessed. RCW 46.20.015 thus becomes the enforcement mechanism used on the roads to deter suspended drivers. Alternatively, lawmakers could also decriminalize DWLS III by repealing RCW 46.20.289, which would result in licenses no longer being suspended for failure to pay or comply with a ticket for a moving violation, making RCW 46.20.342 (1)(c)(iv) inoperative.
- Prosecuting authorities and law enforcement can independently stop charging DWLS III, effectively decriminalizing it. Prosecutors and law enforcement have broad discretion for deciding when to file criminal charges, including consideration of whether the case is in the public interest.⁷⁴ Some jurisdictions in Washington are already exercising this discretion. For example, the number of DWLS III charges in the cities of Seattle and Yakima have plummeted in recent years.
- Courts and prosecutors should institute relicensing programs. A charge for DWLS III starts with someone’s driver’s license being suspended for failing to pay or comply with a ticket for a moving violation. In this situation, drivers should be given options to get the license reinstated as quickly as possible, even if the person does not have the means to pay for the underlying ticket. Many courts have created effective programs for getting drivers relicensed.⁷⁵

Statewide implementation of any of these options would be an improvement over current practices. However, what’s ultimately needed is to stop treating DWLS III for failure to pay or failure to appear for moving violations as a criminal offense. Punishment has to fit the crime, especially when enforcement practices disproportionately impact people of color, the young, and the poor. Police, prosecutors, and courts should not be wasting scarce public resources enforcing DWLS III. These resources should be focused on public safety issues, such as impaired driving. The time has come for this crime to go.

Endnotes

¹RCW 46.20.342 (1)(a) and (b).

²RCW 46.20.342 (1)(c) - “A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or (viii) the person has been certified by the department of social and health services as a person who is not in compliance with a child support order as provided in RCW 74.20A.320, or any combination of (c)(i) through (viii) of this subsection, is guilty of driving while license suspended or revoked in the third degree, a misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license.”

³RCW 46.20.289 and RCW 46.20.342(1)(c)(iv). It is not possible to single out DWLS III crimes for failure to pay or failure to appear from other DWLS III applicable crimes in RCW 46.20.342(1)(c), such as not being in compliance with child support, when examining data from the Administrative Office of the Courts, due to a lack of specificity in coding these crimes by courts. As a result all types of DWLS III crimes are included in the analysis. However, it has been repeatedly cited that most DWLS III applicable suspensions are the result of nonpayment of fines and failing to appear in court. See John B. Mitchell & Kelly Kunsch, “Of Driver's Licenses and Debtor's Prisons,” 2005, 4 Seattle J. For Soc. Just. 439, 443 – “most of these suspensions are for nonpayment of fines;” and Washington State Office of Public Defense, 2008 Driving While License Suspended 3rd Degree, Survey of Courts of Limited Jurisdiction, p. 2, retrieved November 22, 2016 at http://www.opd.wa.gov/documents/0056-2008_DWLS3Survey.pdf, “most for failing to pay or appear on a traffic infraction.”

⁴Austin Jenkins, NPR – “Nearly 300,000 Wash. Drivers Suspended For Failure To Pay Tickets,” 2011, retrieved November 22, 2016 at <http://www.npr.org/templates/story/story.php?storyId=138627811>.

⁵RCW 46.20.342(1)(c)(iv). As of July 2013 only traffic infractions that are “moving violations” qualify for license suspension that can lead to DWLS III charges.

⁶Nick DiUllio, “insuranceQuotes.com survey: One-fourth of adult drivers have gotten traffic tickets in past five years,” retrieved November 22, 2016 at <http://www.insurancequotes.com/auto/traffic-tickets-insurance-premiums>.

⁷RCW 46.20.342(1)(c)(iv).

⁸It is difficult to compare the number of court filings for different types of crimes due to variability in how courts classify the type of crime in the Administrative Office of the Court's databases. However, when comparing DWLS III charges to arrest data, it's apparent that there were more DWLS III filings in 2015 (37,754) than arrests for the most commonly cited crimes in 2015 - DUI (23,485), Larceny (22,912), Simple Assault (21,015). Arrest data retrieved from Washington Association of Sheriffs and Police Chiefs – “2015 Crime in Washington Annual Report,” page 54, retrieved November 22, 2016 at <http://www.waspc.org/assets/CJIS/crime%20in%20washington%202015.small.pdf>.

⁹National Conference of State Legislatures – Driving While Revoked, Suspended or Otherwise Unlicensed: Penalties by State, retrieved November 22, 2016 at <http://www.ncsl.org/research/transportation/driving-while-revoked-suspended-or-otherwise-unli.aspx>.

¹⁰Washington State Office of Public Defense, “2008 Driving While License Suspended 3rd Degree, Survey of Courts of Limited Jurisdiction,” retrieved November 22, 2016 at http://www.opd.wa.gov/documents/0056-2008_DWLS3Survey.pdf.

¹¹1993 Wash. Laws c 501 sec. 1, retrieved November 22, 2016 at <http://lawfilesex.leg.wa.gov/biennium/1993-94/Pdf/Bills/Session%20Laws/House/1741-S.SL.pdf?cite=1993%20c%20501%20%2%A7%201>.

¹²Final Bill Report, Washington State Legislature HB 1741, 1993 Leg. 53rd Sess. (1993) at 1. See also “Driver License Agreement,” another state compact intended to be a successor to the NRVC, contains similar provisions mandating suspensions for failures to pay. The National Traffic Safety Administration will provide funding incentives for states that adopt the new compact. See American Association of Motor Vehicle Administrators, “Driver License Compacts,” retrieved November 22, 2016 at <http://www.aamva.org/Drivers-License-Compacts/>.

¹³U.S. Department of Transportation, “The Nonresident Violator Compact (Guidelines for Motor Vehicle Administrators) – Administrative Procedures Manual 1994,” page 5, retrieved November 22, 2016 at http://www.aamva.org/uploadedFiles/MainSite/Content/DriverLicensingIdentification/DL_ID_Compacts/NRVC%20Procedures%20Manual.pdf.

¹⁴2005 Wash. Laws c 288, retrieved November 22, 2016 at <http://lawfilesex.leg.wa.gov/biennium/2005-06/Pdf/Bills/Session%20Laws/House/1854-S.SL.pdf>.

¹⁵2012 Wash. Laws c 82, retrieved November 22, 2016 at <http://lawfilesex.leg.wa.gov/biennium/2011-12/Pdf/Bills/Session%20Laws/Senate/6284-S2.SL.pdf>.

¹⁶WAC 308-104-160, retrieved November 22, 2016 at <http://app.leg.wa.gov/wac/default.aspx?cite=308-104-160>.

¹⁷See note 8.

¹⁸Fiscal Note for SB 6284, 2012, retrieved November 22, 2016 at <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=6284&year=2011>, Click on “Get Fiscal Note” link.

¹⁹Id. See – “Local Government Fiscal Note” in SB 6284, 2012 Fiscal Note, which states that “the average cost

for prosecuting a misdemeanor is approximately \$328 per case (LGFN 2010 prosecutor survey).”

²⁰Id. See - “Local Government Fiscal Note” in SB 6284, 2012 Fiscal Note, which states that “approximately 90 percent of cases qualify for public defender representation with 11 percent expected to go to trial.” Public defense costs can vary widely by jurisdiction, but the fiscal note estimates that cases that go to trial have a public defense cost of \$2,089 and cases that do not go to trial have a public defense cost of \$151. It is therefore assumed that the average is \$328 in public defense costs per filing: 0.9 of filings require public defense x (\$151 x 0.89 w/o trial + \$2,089 x 0.11 w/ trial) = \$327.76 public defense costs per filing.

²¹Id. See - “Judicial Impact Fiscal Note” in SB 6284, 2012 Fiscal Note, which estimates that a 50% reduction in DWLS-3 cases would result in an annual savings of \$8,367,151. The Judicial Impact Fiscal Note states that there were approximately 94,989 DWLS-3 filings in 2010. Dividing the 50% cost estimate by half the total number of filings in 2010 (to determine the average cost per case “avoided”) results in an average court cost of \$176 per filing: \$8,367,151 / (0.5 * 94,989) = \$176 court costs per filing.

²²Id. See - “Local Government Fiscal Note” in SB 6284, 2012 Fiscal Note, which uses a daily jail bed rate of \$80 (from “the LGFN 2011 jail cost survey, weighted by population”) to determine that the cost of a 3.3-day jail sentence would be \$264. It is therefore assumed that jail costs are \$264 per conviction.

²³Id. See - “Judicial Impact Fiscal Note” in SB 6284, 2012 Fiscal Note, which states that the cost of operating the courts is partially offset by revenue received when people pay fines as a part of their sentence. A past study estimates that the average penalty per DWLS-3 conviction is \$293, of which \$91 is the average payment. It is therefore assumed that the government receives revenue of \$91 per conviction.

²⁴Adjustment to 2010 and 2016 dollars is based on the Consumer Price Index as reported by Robert Sahr, Inflation Conversion Factors, Coll. of Liberal Arts – Sch. of Pub. Policy, Or. State Univ. (Sept. 10 2016) <http://liberalarts.oregonstate.edu/sites/liberalarts.oregonstate.edu/files/polisci/faculty-research/sahr/inflation-conversion/pdf/cv2010.pdf> (“Consumer Price Index (CPI) Conversion Factors 1774 to estimated 2024 to convert to dollars of 2010. Estimates for 2014-2024 are re-based on the average of OMB and CBO estimates as early 2014. Conversion factors for years before 1913 are re-based from data from the Historical Statistics of the United States Millennial Edition (Cambridge University Press, 2006). Calculation starting 1913 uses the CPI-U as the base, from the US Bureau of Labor Statistics. Monthly and annual CPI data are available at the BLS web site: <http://stats.bls.gov/cpi/home.htm#data> (CPI-U = all urban consumers)”).

Criminal Justice Cost Categories – 2010 Dollar Conversion Via CPI

Cost Category	Base Year Used in Fiscal Note for SB 6284 (2012)	SB 6284 Fiscal Note Costs - see notes 18-22 above	2010 Cost Conversion via CPI	2016 Conversion via CPI (2010 cost * 1.1262)
Prosecutor Costs	LGFN 2010 prosecutor costs survey	\$328	\$328	369.39
Public Defense Costs	LGFN 2008 public defense costs survey	\$328	\$332.19	374.11
Court Costs	2010 is year cited for analysis by AOC in fiscal note	\$176	\$176	198.21
Jail Costs (only applicable for cases that end in a conviction)	LGFN 2011 jail cost survey (weighted by population)	\$264	\$255.91	288.21
Fines Revenue (only applicable for cases that end in a conviction)	2010 is year cited for analysis by AOC in fiscal note	\$91	\$91	102.48

Adjustment of Criminal Justice Cost Categories for 1994-2015 via CPI – 2010 Base Year:

Year	CPI	Prosecutor Costs	Public Defense Costs	Court Costs	Filing Costs (Pros + Def + Court Costs)	Jail Costs	Fines Revenue	Conviction Costs (Jail Costs - Fines)
1994	0.6798	\$222.97	\$225.82	\$119.64	\$568.44	\$173.97	(\$61.86)	\$112.11
1995	0.6988	\$229.21	\$232.13	\$122.99	\$584.33	\$178.83	(\$63.59)	\$115.24
1996	0.7193	\$235.93	\$238.94	\$126.60	\$601.47	\$184.08	(\$65.46)	\$118.62
1997	0.7361	\$241.44	\$244.53	\$129.55	\$615.52	\$188.38	(\$66.99)	\$121.39
1998	0.7476	\$245.21	\$248.35	\$131.58	\$625.14	\$191.32	(\$68.03)	\$123.29
1999	0.7639	\$250.56	\$253.76	\$134.45	\$638.77	\$195.49	(\$69.51)	\$125.97
2000	0.7897	\$259.02	\$262.33	\$138.99	\$660.34	\$202.09	(\$71.86)	\$130.23
2001	0.812	\$266.34	\$269.74	\$142.91	\$678.99	\$207.80	(\$73.89)	\$133.91
2002	0.8249	\$270.57	\$274.02	\$145.18	\$689.77	\$211.10	(\$75.07)	\$136.03
2003	0.8436	\$276.70	\$280.24	\$148.47	\$705.41	\$215.89	(\$76.77)	\$139.12
2004	0.8662	\$284.11	\$287.74	\$152.45	\$724.31	\$221.67	(\$78.82)	\$142.85
2005	0.8956	\$293.76	\$297.51	\$157.63	\$748.89	\$229.19	(\$81.50)	\$147.69
2006	0.9245	\$303.24	\$307.11	\$162.71	\$773.06	\$236.59	(\$84.13)	\$152.46
2007	0.9509	\$311.90	\$315.88	\$167.36	\$795.13	\$243.34	(\$86.53)	\$156.81
2008	0.9874	\$323.87	\$328.00	\$173.78	\$825.65	\$252.69	(\$89.85)	\$162.83
2009	0.9839	\$322.72	\$326.84	\$173.17	\$822.73	\$251.79	(\$89.53)	\$162.25
2010	1	\$328.00	\$332.19	\$176.00	\$836.19	\$255.91	(\$91.00)	\$164.91
2011	1.0316	\$338.36	\$342.69	\$181.56	\$862.61	\$264.00	(\$93.88)	\$170.12
2012	1.0529	\$345.35	\$349.76	\$185.31	\$880.42	\$269.45	(\$95.81)	\$173.63
2013	1.0683	\$350.40	\$354.88	\$188.02	\$893.30	\$273.39	(\$97.22)	\$176.17
2014	1.0887	\$357.09	\$361.66	\$191.61	\$910.36	\$278.61	(\$99.07)	\$179.54
2015	1.1057	\$362.67	\$367.30	\$194.60	\$924.58	\$282.96	(\$100.62)	\$182.34

- ²⁵Office of the President – “Economic Perspectives on Incarceration and the Criminal Justice System,” p. 45, retrieved November 22, 2016 at https://www.whitehouse.gov/sites/default/files/page/files/20160423_cea_incarceration_criminal_justice.pdf.
- ²⁶Id.
- ²⁷Task Force on Race and the Criminal Justice System, “Preliminary Report on Race and Washington’s Criminal Justice System,” 2011, page A-15, retrieved November 22, 2016 at <http://law.seattleu.edu/Documents/korematsu/race%20and%20criminal%20justice/preliminary%20report%20-%20final%20release%20march%201%202011%20for%20printer%20.pdf>. “It is estimated that Washington’s statewide average cost of arrest is \$334, cost of conviction is \$757, and cost per jail day \$60.71. Even though most first-time DWLS 3 convictions do not result in jail time, many people do go to jail on the second or third offense or for failing to complete probationary requirements. Not counting the cost of any jail time, 100,000 arrests and convictions cost more than \$100 million per year. Even if the DWLS 3 cases proceed on the basis of tickets with no arrests, the cost still exceeds \$75 million. This cost does not take into account the impact on the individual defendant or his or her family.”
- ²⁸Brooks Johnson, The Daily News, “One way to keep public defender costs down: decriminalize unlicensed driving,” July 29, 2015, retrieved November 22, 2016 at http://tdn.com/news/local/one-way-to-keep-public-defender-costs-down-decriminalize-unlicensed/article_1ab83470-fc75-5f80-b0f5-bafc5e5579fe.html.
- ²⁹See testimony before Washington State Legislature - House Public Safety Committee, 2013 Leg., 63rd Sess. February 13, 2013, retrieved November 22, 2016 at <http://www.tvw.org/watch/?customID=2013021120>; see also Washington State Legislature - Senate Bill Report SHB 1601, As Reported by Committee On: Law and Justice, April 2, 2013, retrieved November 22, 2016 at <http://lawfilesex.tleg.wa.gov/biennium/2013-14/Pdf/Bill%20Reports/Senate/1601-S%20SBR%20LAW%2013.pdf>.
- ³⁰Center for Justice, “An Intimate Look into Washington’s Policy of Suspending Driver’s Licenses for Non-Payment of Traffic Fines, Voices of Suspended Drivers,” January 2013, retrieved November 22, 2016 at <https://www.smith-barbieri.com/wp-content/uploads/2013/01/CFJ-Voices-of-Suspended-Drivers.pdf>. The report included interviews and focus groups with people that had suspended driver’s licenses. Some of the stories in the Center for Justice report are reprinted here with permission.
- ³¹See note 10 – OPD Report.
- ³²Id. p. 3.
- ³³Id. p. 4-5.
- ³⁴Id. p. 6.
- ³⁵2016 Wash. Laws c 230, retrieved November 22, 2016 at <http://lawfilesex.tleg.wa.gov/biennium/2015-16/Pdf/Bills/Session%20Laws/Senate/6360-S.SL.pdf>; see also Association of Washington Cities, “Relicensing bill passes Legislature, calls on task force to study issue during interim,” retrieved November 22, 2016 at <http://www.awcnet.org/DataResources/Resourcesbytopic/TabId/941/ArtMID/2423/ArticleID/1354/Relicensing-bill-passes-Legislature-calls-on-task-force-to-study-issue-during-interim.aspx>.
- ³⁶See note 27 – Race Taskforce.
- ³⁷United States Census Bureau, 2010 American Community Survey, retrieved November 22, 2016 at <https://www.census.gov/programs-surveys/acs/>.
- ³⁸Sandra Gustitus, Melody Simmons, and Margy Walker, “Access to Driving and License Suspension Policies for the Twenty-First Century Economy,” The Mobility Agenda, May 2008, p. 5., retrieved November 22, 2016 at <http://www.kidscount.org/news/fes/sep2008/driverslicense.pdf>.
- ³⁹Margy Waller, Jennifer Doleac, and Ilsa Flanagan, “Driver’s License Suspension Policies,” Brookings Institution, June 2005, p. 116, retrieved November 22, 2016 at <http://www.aecf.org/m/resourcedoc/AECF-driverslicensesuspensionpolicies-2005.pdf>.
- ⁴⁰See note 30 – CFJ Report.
- ⁴¹See note 27 – Race Taskforce.
- ⁴²See note 39 – Waller Report p. 120.
- ⁴³The Municipal Court of Seattle, “Relicensing Program Report,” 2011, p. 18, retrieved November 22, 2016 at <http://www.cityofseattle.net/courts/PDF/RelicensingEval.pdf>.
- ⁴⁴See note 25 – Office of the President.
- ⁴⁵See note 27 – Race Taskforce, p. 1.
- ⁴⁶Harry Levine, et al., “240,000 Marijuana Arrests – Costs, Consequences, and Racial Disparities of Possession Arrests in Washington, 1986-2010,” Marijuana Arrest Research Project, October 2012, retrieved November 22, 2016 at <http://marijuana-arrests.com/docs/240,000-Marijuana-Arrests-In-Washington.pdf>.
- ⁴⁷City of Seattle, Office of Policy and Management, “Memorandum, re - DWLS and Traffic Infraction Revenues,” June 28, 2005, p. 2. Hard copy on file with ACLU of Washington.
- ⁴⁸City of Seattle, Office of Policy and Management, “SMC Traffic Cases” PPT Presentation, November 2009, slide 9. Hard Copy on File with ACLU of Washington.
- ⁴⁹German Lopez, Vox, “The tyranny of a traffic ticket – How small crimes turn fatal for poor, minority Americans,” August 10, 2016, retrieved November 22, 2016 at <http://www.vox.com/2016/8/5/12364580/police-overcriminalization-net-widening>.
- ⁵⁰American Association of Motor Vehicle Administrators – Suspended/Revoked Working Group, “2013 – Best Practices Guide to Reducing Suspended Drivers,” p. 4, retrieved November 22, 2016 at <https://www.justice4all.org/wp-content/uploads/2015/02/SuspendedRevokedBestPracticeGuide.pdf>.
- ⁵¹See note 30 – CFJ Report.
- ⁵²Laura J. Hickman, et al., “Evaluation of the Impact of Seattle’s DWLS Impound Law,” RAND Corp., December 2003, p. xxii, retrieved November 22, 2016 at http://www.rand.org/content/dam/rand/pubs/working_papers/2003/RAN_D_WR117.pdf.
- ⁵³John B. Mitchell & Kelly Kunsch, “Of Driver’s Licenses and Debtor’s Prisons,” 2005, 4 Seattle J. For Soc. Just. 439, 463.
- ⁵⁴Washington State Center for Court Research – “Collection of Penalty and Fees: Comparing DWLS 3 and Negligent Driving Cases” prepared for a presentation to a committee of the Washington’s District and Municipal Court Judges’ Association, 2009. Hard copy on file with ACLU of Washington.
- ⁵⁵Id.

⁵⁶Id.

⁵⁷See note 30 – CFJ Report.

⁵⁸Laura J. Hickman, et al., “Evaluation of the Impact of Seattle’s DWLS Impound Law,” RAND Corp., September 2003, retrieved November 22, 2016 at <http://www.dol.wa.gov/about/docs/DWLSreport.pdf>.

⁵⁹Sukhvir S. Brar, California Department of Motor Vehicles, “Estimation of Fatal Crash Rates for Suspended/Revoked and Unlicensed Drivers in California,” 2012, retrieved November 22, 2016 at <http://www.dol.wa.gov/about/docs/UnlicensedDriverStudy.pdf>.

⁶⁰“Washington State Strategic Highway Safety Plan 2013,” p. 100, retrieved November 22, 2016 at <http://www.targetzero.com/PDF2/targetzero2.pdf>.

⁶¹Id.

⁶²Id. p. 101.

⁶³National Safety Council, “Safety on the Road,” retrieved November 22, 2016 at <http://www.nsc.org/learn/pages/nsc-on-the-road.aspx>.

⁶⁴Washington State Department of Licensing, “Too many traffic tickets (moving violations),” retrieved November 22, 2016 at <http://www.dol.wa.gov/driverslicense/suspendtickets.html>.

⁶⁵See note 9 – NCSL.

⁶⁶Ind. Code sec. 9-24-19-1, retrieved November 22, 2016 at https://iga.in.gov/static-documents/b/2/d/7/b2d7e9d9/TITLE9_AR24_ch19.pdf.

⁶⁷ME. Rev. Stat. tit. 29-A § 2412-A8, retrieved November 22, 2016 at <http://legislature.maine.gov/statutes/29-A/title29-Asec2412-A.html>.

⁶⁸N.J. Stat. Ann. sec. 39:3-40(a), retrieved November 22, 2016 at <https://www.judiciary.state.nj.us/notices/njsa39.pdf>.

⁶⁹OR. Rev. Stat. sec. 811.175, retrieved November 22, 2016 at <http://www.oregonlaws.org/ors/811.175>.

⁷⁰VT. Stat. Ann. sec. 23-676(a), retrieved November 22, 2016 at <http://legislature.vermont.gov/statutes/section/23/009/00676>; VT. Stat. Ann. sec. 23-674(2), retrieved November 22, 2016 at <http://legislature.vermont.gov/statutes/section/23/009/00674>.

⁷¹Wis. Stat. sec. 343.44(2)(ag)(1), retrieved November 22, 2016 at <https://docs.legis.wisconsin.gov/statutes/statutes/343/IV/44>.

⁷²Richie Bernardo, Wallet Hub, “2015’s Most and Least Risky State for Driver’s Wallets,” January 14, 2015, retrieved November 22, 2016 at <https://wallethub.com/edu/most-and-least-risky-states-for-drivers-wallets/9446/>. “Safety Rank” based on liability insurance requirements, or types of insurance required, and estimated percent of uninsured drivers: Indiana – Tie 36, Maine – 1, New Jersey – 18, Oregon – Tie 7, Vermont – Tie 50, Wisconsin – Tie 27, Washington Tie 42.

⁷³Michael Sivak, “Road Safety in the Individual US States: Current Status and Recent Changes,” July 2014, retrieved November 22, 2016 at <https://deepblue.lib.umich.edu/bitstream/handle/2027.42/108252/103020.pdf?sequence=1>. Rankings – “Fatality rates per distance driven in the individual states, 2012. (Calculated from information in NHTSA [2014] and FHWA [2014].)”: Indiana – 15, Maine – 26, New Jersey – 6, Oregon – 19, Vermont – 21, Wisconsin – 20, Washington 5.

⁷⁴United States v. Lovasco, 431 U.S. 783 (1977).

⁷⁵See note – 10 – OPD.



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