

Victoria's Anti-Hoon Legislation and policing methods used to prevent hooning behaviour

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Abstract

The Victoria Police (VicPol) has developed a range of strategies and enforcement programs to target individuals and groups who persist in driving vehicles in a manner that creates unnecessary risk to other road users. This group, typically referred to as 'hoons', tend to perform organised illegal street racing activities in vehicles that are often defective and unroadworthy.

This paper will provide an overview of the provisions of Victoria's Anti-Hoon Legislation introduced on 1 July 2006 and subsequent extension of offences covered by impoundment legislation. A statistical summary demonstrates the extent and severity of the hooning problem in Victoria. The effectiveness of the VicPol response to enforcement and targeting of anti-social driving behaviour motivating behaviour change will also be outlined.

VicPol has introduced a State wide Hoon Hotline Crime Stoppers model to deal with anti-social drivers. This has provided an ability to record and monitor 'hooning' complaints made by members of the community on the Hoon Hotline Database. The effectiveness of the Hoon Hotline Database in monitoring anti-social driving behaviour, otherwise known as 'hooning' will be outlined. This will enable delegates to examine the suitability of Victoria's response to hoon-related driving behaviour for application in their own jurisdiction.

Keywords

Young drivers, behaviour change, hoon, vehicle impoundment

Introduction

Prior to the introduction of Hoon Legislation in Victoria, Victoria police mounted a number of successful operations to catch and prosecute drivers for hoon behaviour arguably these prosecutions lacked a deterrent effect compared to current Hoon Legislation. Operation Stoker, held over 18 days in June 2004, 474 charges laid against 37 offenders.

Of the 29 casualty crashes analysed for 2003 involving 18-25 year olds, 26 involved excessive speed, 12 alcohol/drugs related causes and 9 involved some form of specific "hoon" behaviour. The fatalities arising from these 29 casualty crashes accounted for 5% of all road fatalities, importantly these crashes accounted for approximately 60% of passengers aged 18 to 25 killed in 2003.

Since 1 July 2006, police have been able to seize cars and motor bikes used to commit certain offences when the Victorian Government introduced laws to thwart people who drive on our roads like hoons. For the first time ever, Victoria Police officers were empowered to seize cars which are driven at very high speed, or in a manner that causes burnouts and doughnuts. Authorities can also impound, immobilise or forfeit a vehicle if it is involved in a speed trial, exhibits excessive noise or smoke, or is driven by a disqualified, repeat offending driver.

This dangerous behaviour will no longer be tolerated on Victorian roads because it causes serious crashes and the deaths of innocent people. Between January 2003 and November 2004, 41 serious crashes involved hoon-type behaviour, as defined and reported by the Victoria Police Major Collision Investigation Group.

Method/Legislation

Any Victoria Police member who has received training in the vehicle impoundment provisions can impound or immobilise a vehicle for 48 hours at any time if they believe on reasonable grounds that the driver has committed a hoon-related offence. (Road Safety Act 1986)

If a court finds an individual is guilty of their second or third hoon-related offence within three years, Victoria Police may ask a magistrate to impound or immobilise the vehicle for three months, or order permanent forfeiture. The Court orders for three month impoundment or immobilisation or forfeiture are in addition to the 48 hour period of impoundment or immobilisation, imposed by Victoria Police.

If Victoria Police do not proceed with a charge in respect of the hoon-related offence, or the prosecution for the offence is unsuccessful, the costs of impoundment or immobilisation charge must be refunded and the vehicle immediately released.

Hoon drivers don't have to own the vehicle to be at risk. Vehicles can be impounded or immobilised regardless of whether the driver is the registered operator.

Specific Hoon Offences

Offences which may result in seizing of cars and motorbikes are:

- ***Improper Use of Motor Vehicle*** – defined as “intentional loss of traction to one or more wheels”
- ***Careless Driving*** – with Improper Use
- ***Manner Dangerous*** – with Improper Use
- ***Engage in/Conduct Speed Trials Fail to Have Proper Control*** – with Improper Use
- ***Undue Noise/Smoke*** – with Improper Use
- ***Drive Whilst Disqualified/Suspended***
- ***Exceed Speed Limit*** – by 45Km/h or more; or travel at 145Km/h or more in a 110 Km/h zone

The following offences will also be considered hoon-related offences if they are committed in circumstances involving the improper use of a motor vehicle:

- dangerous driving;
- careless driving;
- failure to have proper control of the vehicle; and
- causing the vehicle to make excessive noise or smoke.

Impoundment

The new laws allow vehicles to be seized for 48 hours. Further impoundment for up to 3 months may be ordered for a second conviction. A third (or more) conviction may result in forfeiture.

Any vehicle that has been used to commit a hoon-related offence may be impounded or immobilised by Victoria Police for 48 hours. Police may seize the vehicle 'on the spot' or up to two days after the offence, or serve notice on the driver within 10 days of the offence, demanding the vehicle be surrendered to a designated location. Police may also obtain a warrant from a court to search for and seize the vehicle from private property, if it is not surrendered voluntarily.

Process

Once a police officer has impounded or immobilised a vehicle, he or she must speedily inform a senior police officer, such as an inspector, about the circumstances of the alleged offence. This senior officer must then enquire into the alleged offence further, and release the car if there are not reasonable grounds for the impoundment or immobilisation.

Stolen or hired vehicles must be returned to their registered owners as soon as reasonably possible and without any costs due;

- A person may apply to the Magistrates' Court for the release of an impounded or immobilised car, or for the variation of an impoundment, immobilisation or forfeiture order, to avoid exceptional hardship;
- The Crown must refund any costs paid, or release any impounded or immobilised vehicle with no costs payable, if the driver is subsequently found not guilty of a relevant offence, or where charges are not proceeded with by police;
- Only a Court may order vehicle impoundment or immobilisation for up to three months or forfeiture of the vehicle and a process will be established whereby innocent parties with an interest in a forfeited vehicle may seek compensation from the State for its sale. The Road Safety (Vehicle Impoundment Amendment) Bill included a number of safeguards:
 - If a court finds an individual is guilty of their second or third hoon-related offence within three years, Victoria Police may ask a magistrate to impound or immobilise the vehicle for three months, or order permanent forfeiture.

However, Victoria Police must tell the driver and parties with an interest in the vehicle of such intention, at least 28 days beforehand. The Court must hear the views of anybody who is served this notice when determining whether to order impoundment, immobilisation or forfeiture.

Any person may ask a magistrate to release an impounded, immobilised or forfeited vehicle on the grounds that its impoundment, immobilisation or forfeiture causes exceptional hardship to themselves or any other person.

An individual who is found not guilty of an offence for which their vehicle was impounded, immobilised or forfeited must have their payment to recover the vehicle reimbursed. If the vehicle is still impounded or immobilised at the time they are found not guilty, the vehicle must be released quickly without any recovery cost to the driver or registered owner.

In most cases, an impounded or immobilised vehicle can only be released once all designated costs have been paid by the person with an entitlement to the vehicle. This fee may incorporate the cost of towing the vehicle to an impounded zone, and any other costs involved in the impoundment or immobilisation.

Victoria Police must inform the alleged offender about those costs, which are likely to differ between cases, depending upon where the vehicle was when police took control of it. This is because the designated costs incorporate the various rates charged by different towing companies. Some suburbs are further away from the impoundment location, resulting in higher towing costs.

The designated costs payable before a vehicle may be recovered are likely to be within the range of \$270 to \$600. A vehicle may be released before the end of the impoundment or immobilisation period if:

- A Victoria Police senior officer, such as an inspector, has reviewed the circumstances of the offence and determines there are not reasonable grounds for the impoundment or immobilisation.
- Victoria Police are satisfied the vehicle is either stolen or hired. For a vehicle to be considered hired, it must belong to a fleet which is owned by a person or company operating a short-term, vehicle hire business.
- A person has successfully applied to a magistrate for the vehicle's release on the grounds that its impoundment or immobilisation causes exceptional hardship to themselves or another person.
- The driver whose vehicle was impounded or immobilised has been found not guilty of the relevant hoon-related charge.

Results/Statistical Summary

A breakdown of the state wide achievements as at 24/7/2008 reveals a total of 5,225 Impoundments since introduction of vehicle impoundment legislation. These impoundments can be broadly categorised as;

Offence Categories

2,380 vehicles seized for improper use, 2,059 vehicles seized for excessive speed, 45 for conduct engage in race/speed trial, 273 disqualified driving and 131 Evade Police/Pursuit.

Offence Localities

Metropolitan Impoundments – 3,235

Regional Impoundments – 1,990

The re-offending rate for vehicle impoundments is approximately 3%. (Victoria Police Vehicle Impoundment Unit)

Case Study – Frankston Hoon Hotline

Since 2005 residents of the Frankston municipality have been able to phone 1800 NO HOON (1800 66 4666), 24 hours a day, seven days a week, to report anti-social driving behaviour. If immediate police attendance is required, residents are requested to dial 000.

Residents who contact the hot line will be asked for the date and time of the incident, location, frequency of the hoon behaviour, and details of the alleged driver and vehicle. If residents want confirmation of their report they can leave their details, otherwise they may remain anonymous.

The information provided is placed in a database to be reviewed. Information likely to identify vehicles is passed onto Victoria Police. Other information will be collated with other reports of hoon behaviour to identify "hot spots" Victoria Police can target in future operations.

The Frankston Hoon Hotline was initiated by Frankston Council in association with Frankston TMU in 2005. 4,100 calls reporting hoon driving were received until 31/8/2007. 3,300 of these reports were of value.

A breakdown of the reported behaviour revealed 1,320 Improper use of a motor vehicle, 1,15 Excessive Speed, 70 Dragging, 67 Unregistered, 40 Unlicensed and 25 Disqualified drivers.

A breakdown of the achievements of the Frankston Hoon Hotline outcomes reveal 120 Licences cancelled/suspended, 67 Registrations suspended, 150 EPA Notices issued, 60 Vehicle seized by Frankston TMU and 20 Warnings Issued. (Frankston Hoon Hotline 2007)

Crime Stoppers Model Hoon Hotline

The Crime Stoppers Hoon Hotline was formally launched on the 28th of April 2008 by the Police Minister Bob Cameron. The Hoon Hotline builds on the lessons learnt from locally based council operated hot lines providing a centralised point of call for all Victorians.

The numbers of calls to the hotline are quite high:

May Information Reports 534

June Information Reports 353

July Information Reports 407

Members of the public are encouraged to call the Crime Stoppers Hoon Hotline to report information they have witnessed or hoon driving they have knowledge of. The information collected through the Hoon Hotline enables Victoria Police to gather intelligence to target repeat hoon offenders or focus on particular areas.

The Crime Stoppers Hoon Hotline is a valuable tool in enabling police to gather intelligence and target repeat hoon drivers. The hotline allows police to undertake better long-term planning to prevent hoon driving in particular areas.

The public can also provide information to Crime Stoppers by making an online report to Crime Stoppers. The website address is www.vic.crimestoppers.com.au.

It is too early to rigorously determine the effectiveness of Hoon Hotline State wide Model. Members of the public have embraced the concept with over 1,300 information reports generated in the first three months of operation. There has also been an increase of over 300% of reports generated during July compared to the first month of operation.

Information reports generated are assessed as follows;

- No Value: Information report does not meet Vehicle Impoundment criteria and has no intelligence value.
- Value No Arrest: Investigation conducted but does not result in vehicle impoundment or any other enforcement activity.

- Value Arrest: Enforcement action taken resulting in an impoundment or other traffic enforcement.
- Value Intelligence: No vehicle impoundment from this report but retained for intelligence purposes relevant to future hoon activity. (Road Safety Strategic Services Division – Intelligence Unit)

Discussion/Lessons Learnt

Vehicle Impoundment

- Additional Impoundment Offences Added (Evade Police – Pursuit) and Railway Crossing
- Traffic Camera Office – extend seizure time frame.
- Legal Aspects – confiscation orders.
- Legal Aspects – Concurrency of offences.
- Legal Aspects – Serious offences straight to forfeiture provisions.
- Development of State wide hoon behaviour reporting capability.

Hoon Hotline

There has been a low ratio of investigative value from information reports due to a number of factors including;

- Vexatious litigants;
- Inappropriate use of the hotline number for emergency reporting;
- Witnesses unwilling to attend court as independent witnesses;
- Reports of behaviour not covered by Vehicle Impoundment legislation;
- Reliability - incorrect descriptions;
- Substantiation of alleged behaviour; etc.

Conclusion

The Vehicle Impoundment provisions have provided Victoria Police with an efficient tool to deal with the problem of hoon driving behaviour. In excess of 5,000 vehicles have been seized since the introduction of this legislation.

Vehicle impoundment provisions have been embraced by Government, Victoria Police members and the public. With re-offending rates at approximately 3% it can be argued that the Victorian model of enforcing hooning behaviour is an effective method of targeting this anti social behaviour thereby motivating behaviour change.

Recommendations

The effectiveness of the Vehicle Impoundment Program in Victoria is currently subject of an evaluation. The Victorian model for enforcing hooning behaviour is one that enables all members to take immediate action to separate offenders from their vehicles. Introduction of a State wide reporting capacity to the public increases the potential for offenders to be detected and processed.

I recommend the Victorian model for application in other jurisdictions as being one that provides a high level of general and specific deterrence to hoon offenders.

Acknowledgements

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