



ALS

Aboriginal Legal Service (NSW/ACT) Limited

Drive while disqualified

Sentencing in the Dubbo region of NSW 2006-2012

A study undertaken by ALS
'Western Zone'
9 October 2012

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Drive while disqualified:

Sentencing in the Dubbo region of NSW 2006-2012

Key Figures

Total sample size: 264

Imprisonment count for Drive Whilst Disqualified at ALS Dubbo: 122

Rate of Imprisonment: 122/264 = 46%

Rate of Imprisonment (Including Suspended Jail Terms): 66%

NB: 2 cases of the prison cases recorded in this study were Control Order sentences in the Children's Court.

NSW Courts covered by the office of ALS Dubbo during the Survey Period:

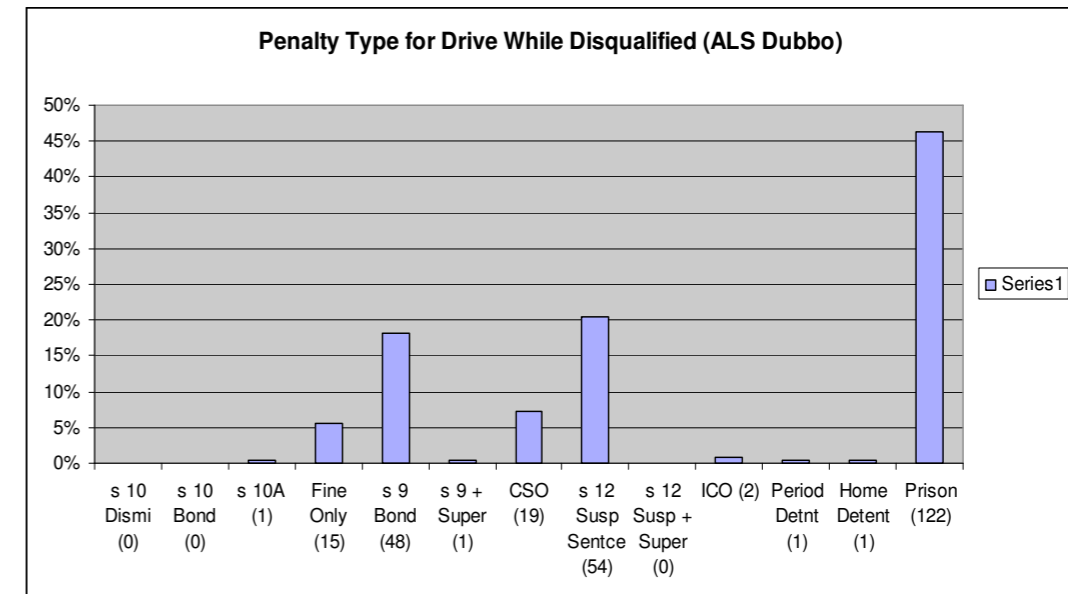
Dubbo	Peak Hill	Forbes
Dunedoo	Nyngan	Parkes
Wellington	Narromine	Mudgee
Warren	Coonabarabran	Gilgandra



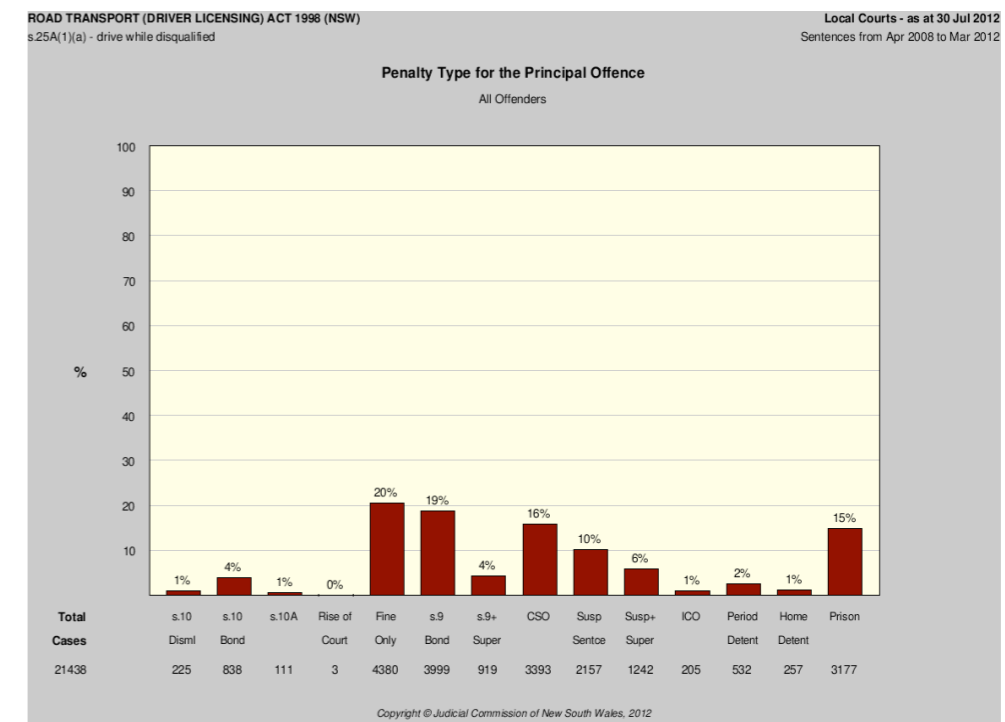
ALS operates through three Zones. This study was undertaken in the Western Zone of NSW.

Penalty type for Drive While Disqualified

Penalty Type for Drive While Disqualified (ALS)



Penalty Type for Drive While Disqualified (JIRS)

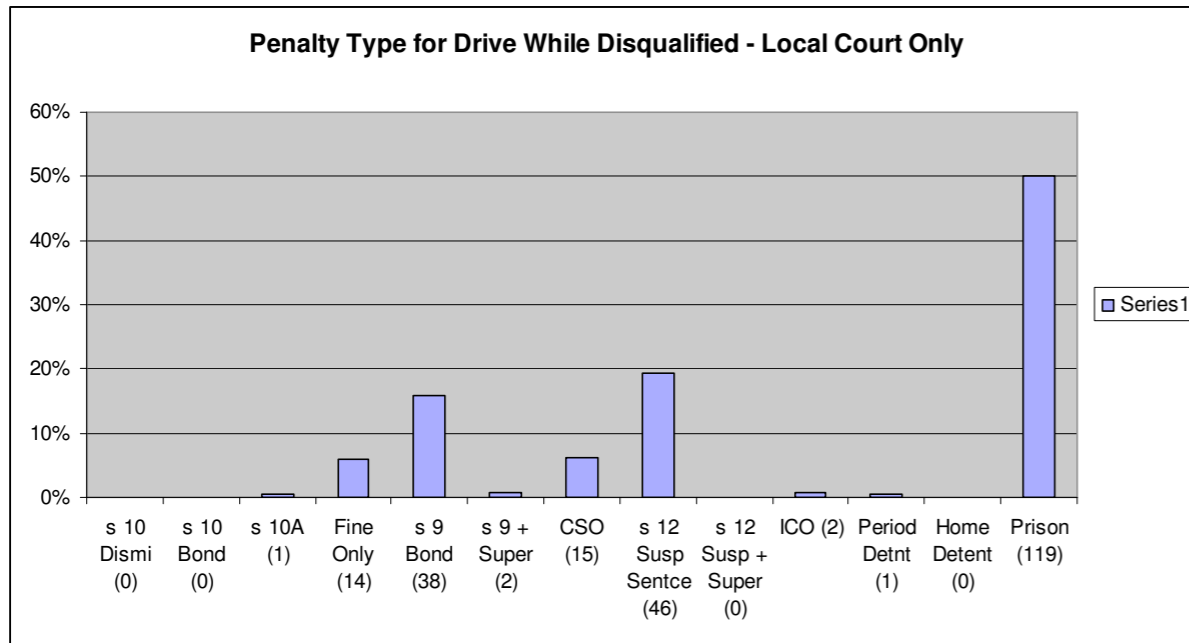


Results for Local Court Only

(District Court Appeal Results excluded)

Local Court sentences alone (excluding all District Court findings, including successful severity appeal results), the percentage of imprisonment was 50%.

Sample size: 238



Terms of Prison Sentence

Of the 122 prison sentences for Drive While Disqualified cases at ALS: 34% were 12 months (compared with 26% for JIRS), and 17% were 18 months (compared with 8% for JIRS).

Significantly, sentences of 12 months and over were imposed on 58% of ALS cases and 46% of JIRS cases.

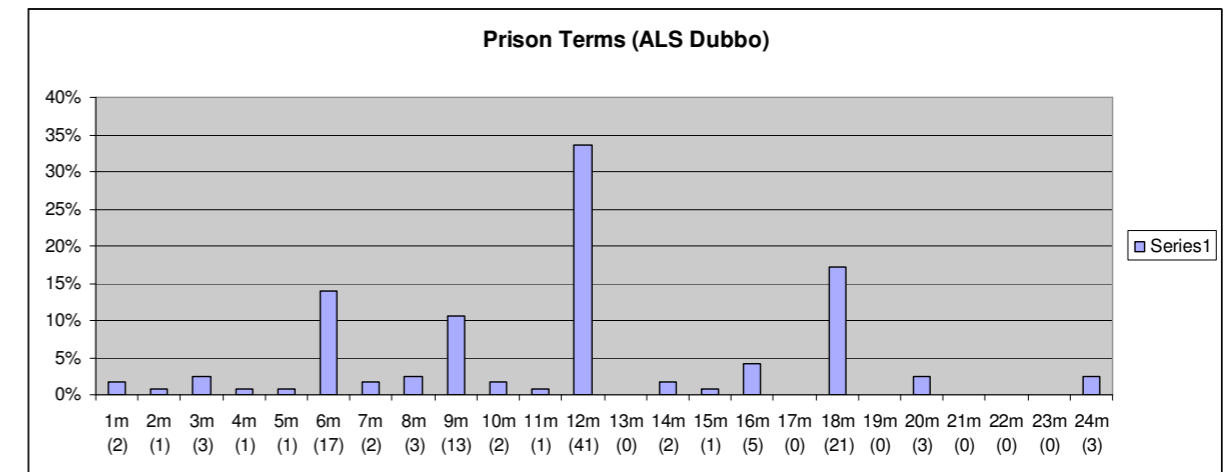
The average of terms of prison sentences were:

ALS: 11.8 months

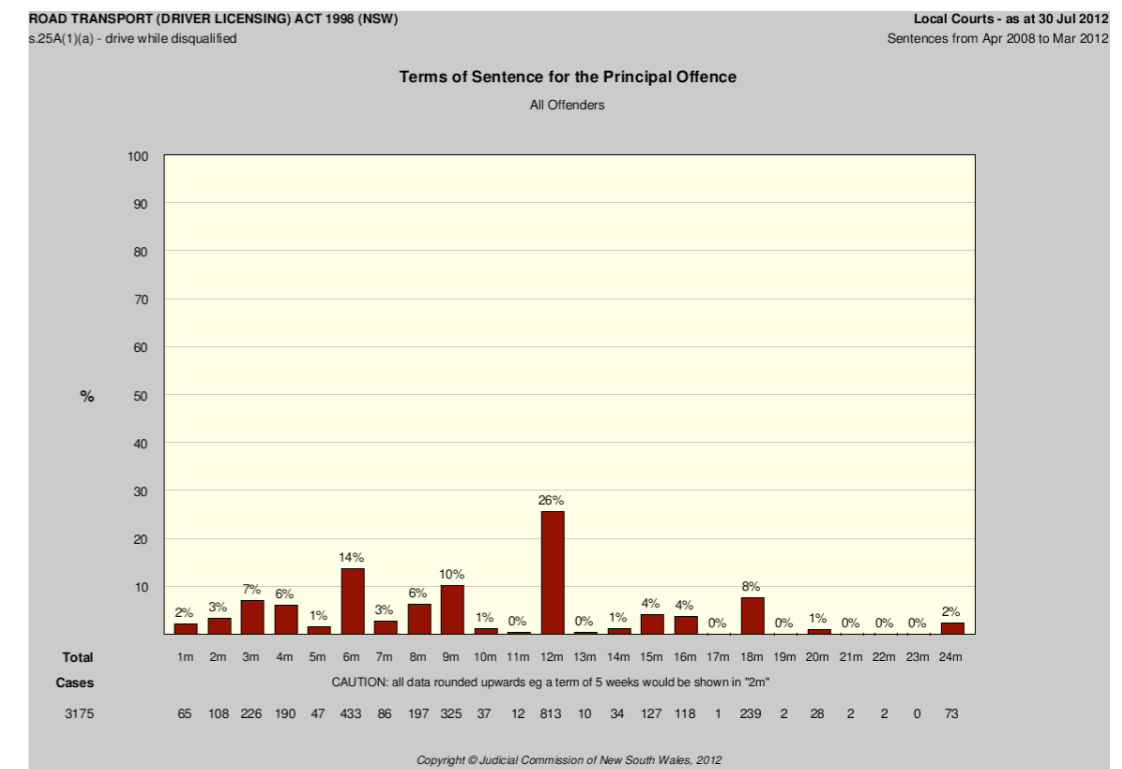
JIRS: 9.8 months

JIRS Midpoint: 9 months

Terms of Prison Sentence for Drive While Disqualified (ALS)



Terms of Prison Sentence for Drive While Disqualified (JIRS)

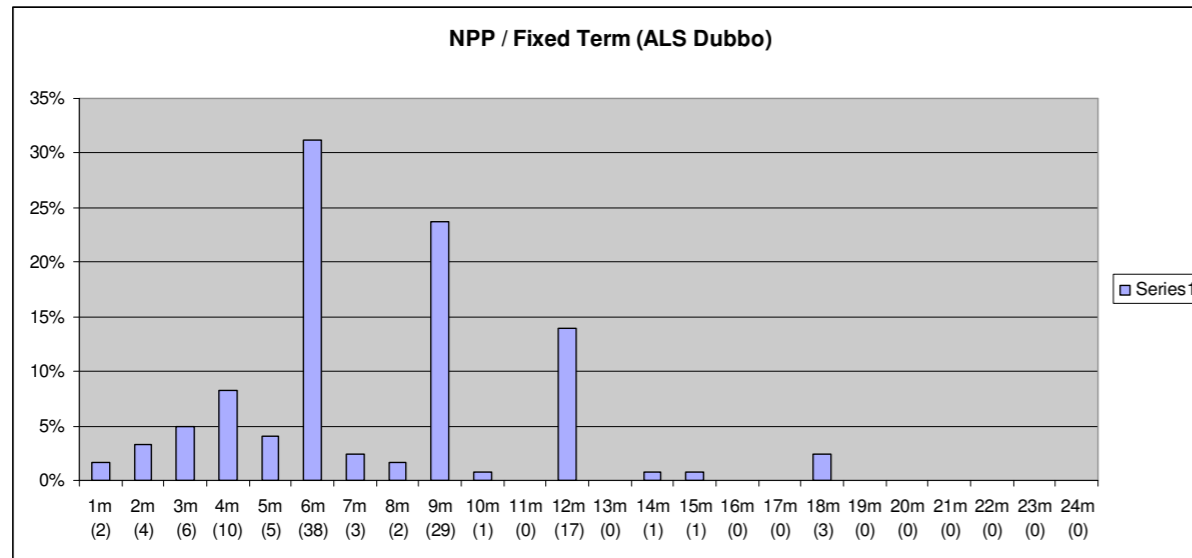


Terms of NPP / Fixed Term Sentence

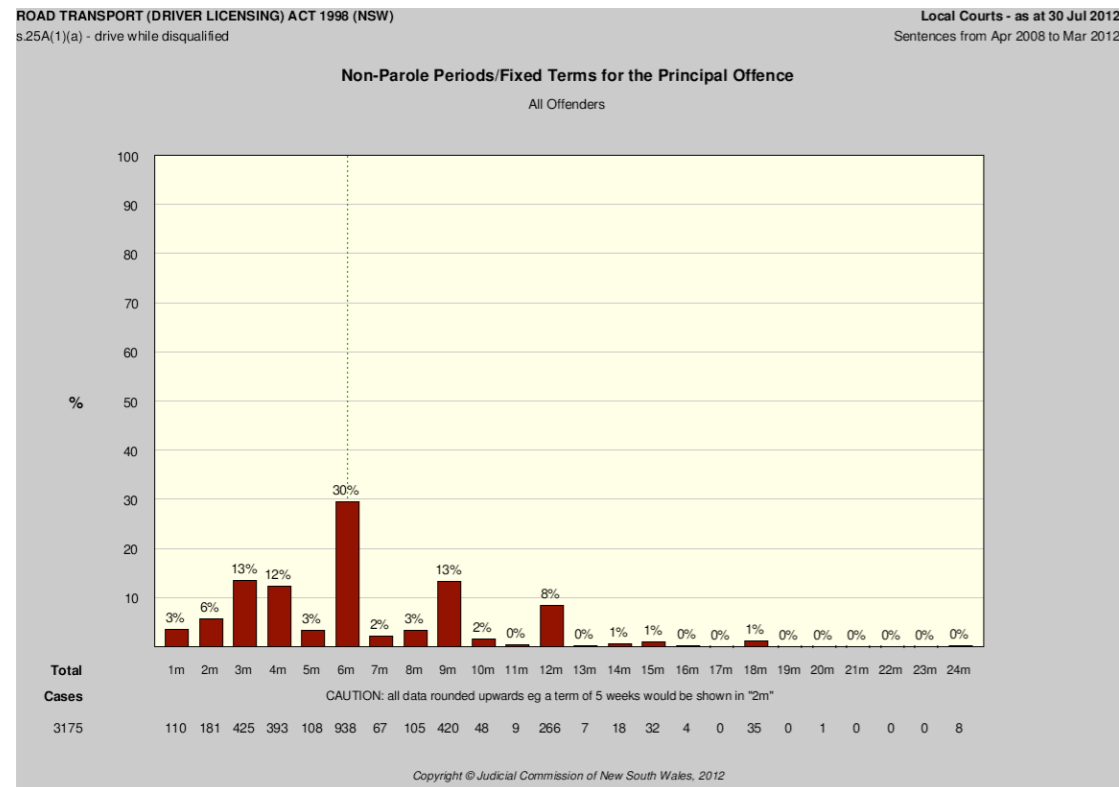
Average for ALS: 7.5 months
 Average for JIRS: 6.3 months
 Midpoint for JIRS: 6 months

Noted significance in the difference between ALS and JIRS:
 24% of ALS got 9 month NPP whereas for JIRS it was 13%; and
 14% of ALS got 12 month NPP whereas for JIRS it was 8%

Terms of NPP Sentence for Drive While Disqualified (ALS)



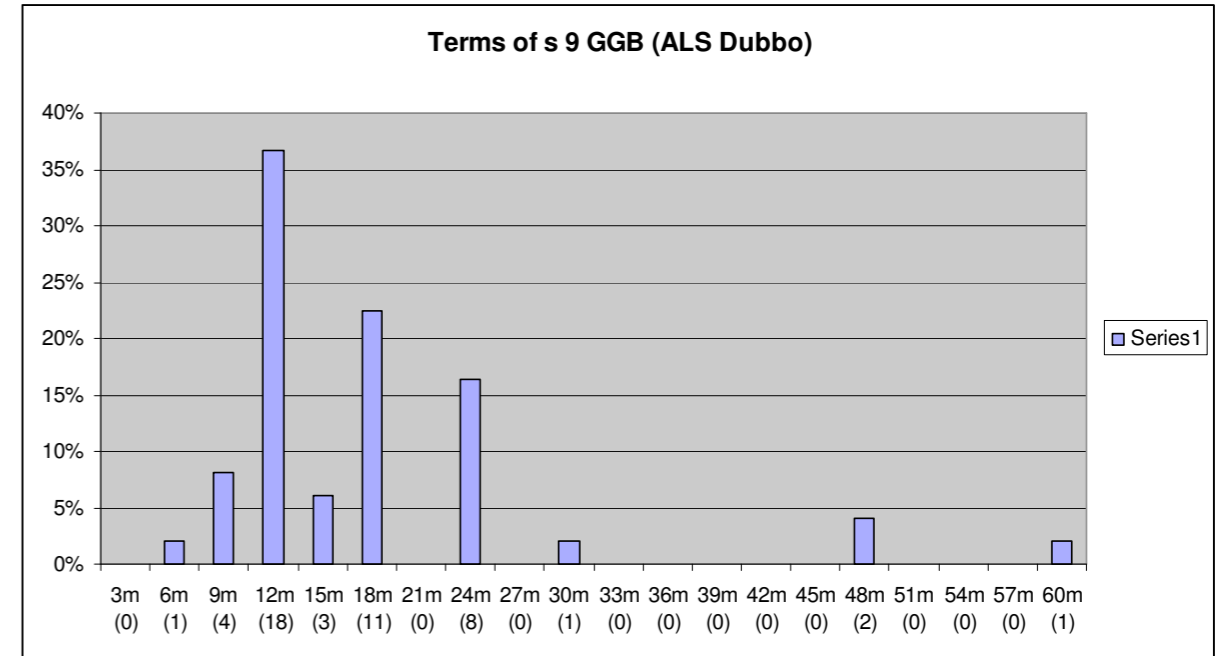
Terms of NPP Sentence for Drive While Disqualified (JIRS)



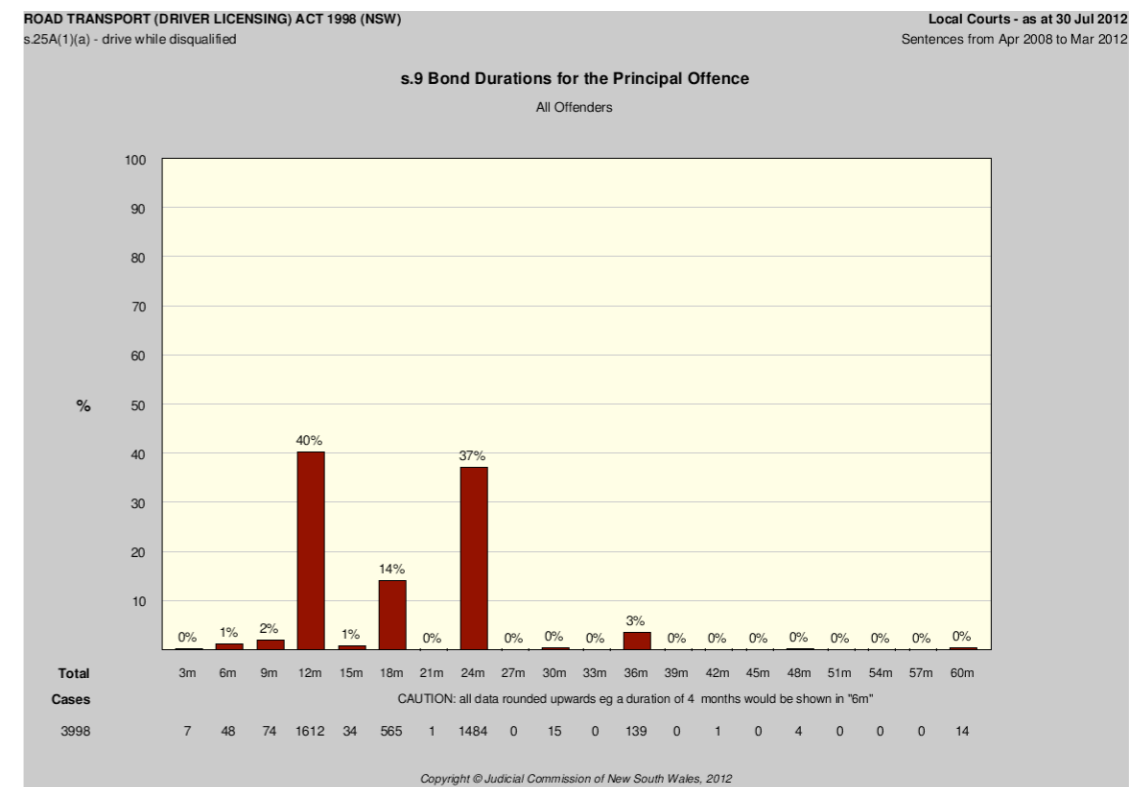
Terms of s 9 Bond Sentence

Total s 9 GBB: 49 entries

Terms of sentence for s 9 bond (ALS)



Terms of sentence for s 9 bond (JIRS)



B: 2 cases of all prison stats include 2 COs of the children's court

Comparing ALS Drive While Disqualified Imprisonment Rate (46%) with the imprisonment rate for other Crimes

(as recorded on the JIRS statistical database)

Maximum Penalty for Drive Disqualified – 2 years imprisonment

The following crimes had significantly lower imprisonment rates than the rate evidenced for drive disqualified in the Dubbo region:

- Use offensive weapon with intent to commit offence or resist arrest, maximum penalty 12 years (43%)
- Recklessly Cause grievous Bodily Harm in Company, maximum penalty 14 years (40%)
- Recklessly Cause grievous Bodily Harm, maximum penalty 10 years (34%)
- Reckless Wounding, maximum penalty 7 years (36%)
- Predatory Driving, maximum penalty 5 years (33%)
- Dangerous Driving Causing Grievous Bodily Harm (Involving Liquor or Drugs) maximum penalty 7 years, (10%)
- Dangerous Driving Causing Grievous Bodily Harm (Involving Speeding) maximum penalty 7 years (25%)
- Dangerous Driving Causing Grievous Bodily Harm (Involving Driving Manner Dangerous) maximum penalty 7 years (15%)
- Failing to Stop and Assist after a Vehicle Impact Causing Grievous Bodily Harm maximum penalty 7 years (20%)
- Assault Occasioning Actual Bodily Harm maximum penalty 5 years (16%)
- Aggravated Indecent Assault maximum penalty 7 years (37%)
- Possess Child Pornography maximum penalty 10 years (34%)

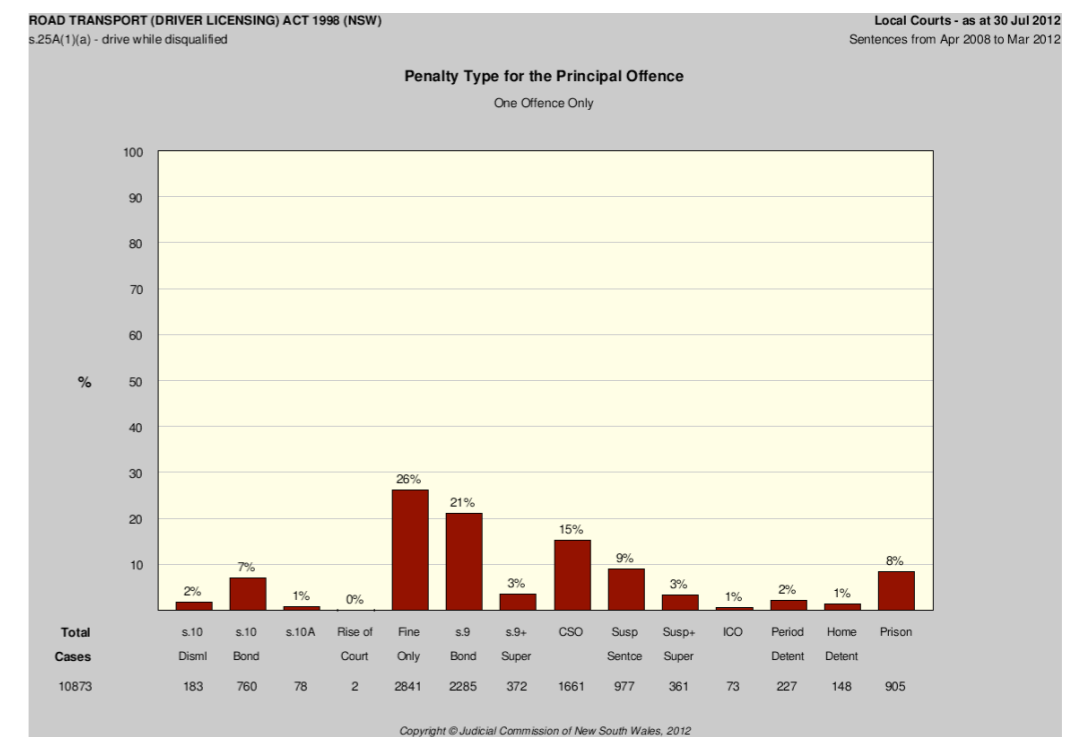
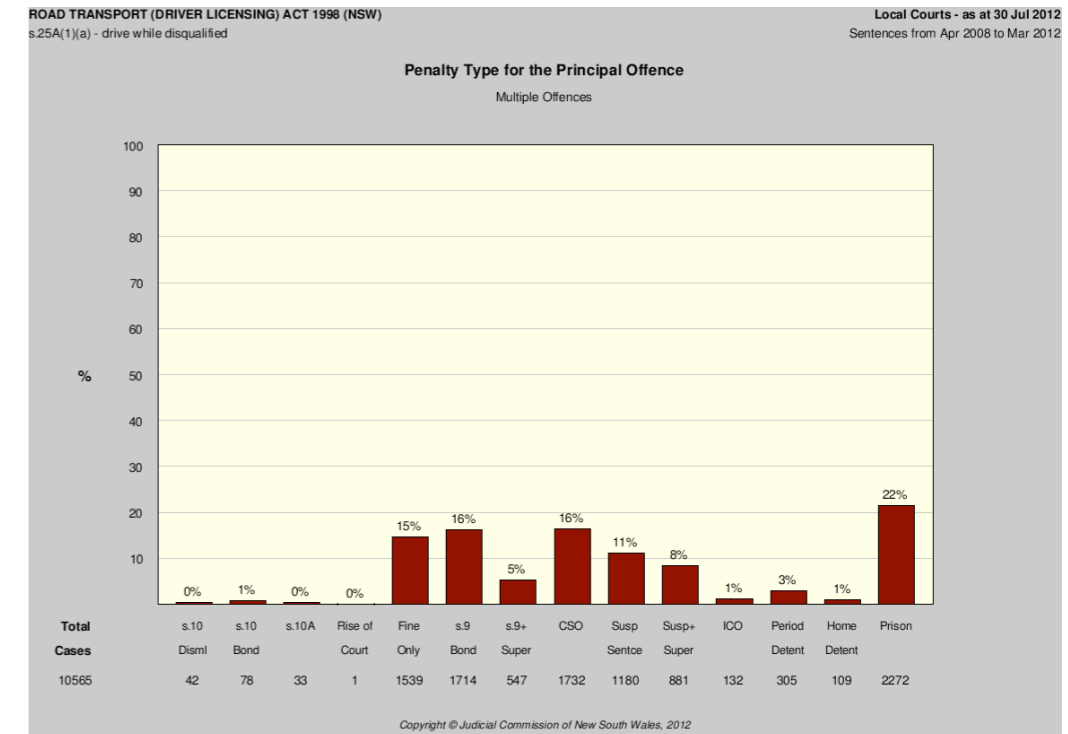
The following crimes had imprisonment rates of 50-55%.

- Recklessly wound in company maximum penalty 10 years (53%)
- Aggravated dangerous driving causing grievous bodily harm. – police pursuit maximum penalty 11 years (50%)
- Assault person w/i to commit serious indictable offence maximum penalty 5 years (43%)
- Disseminate/produce/possess child abuse material maximum penalty 10 years (50%)
- Break, enter and steal, maximum penalty 7 years (52%)
- Break, enter with intent to steal maximum penalty 10 years (54%)
- Break, enter with intent to destroy/damage property, maximum penalty 10 years (55%)
- Drive conveyance taken w/o consent of owner, maximum penalty 5 years (51%)

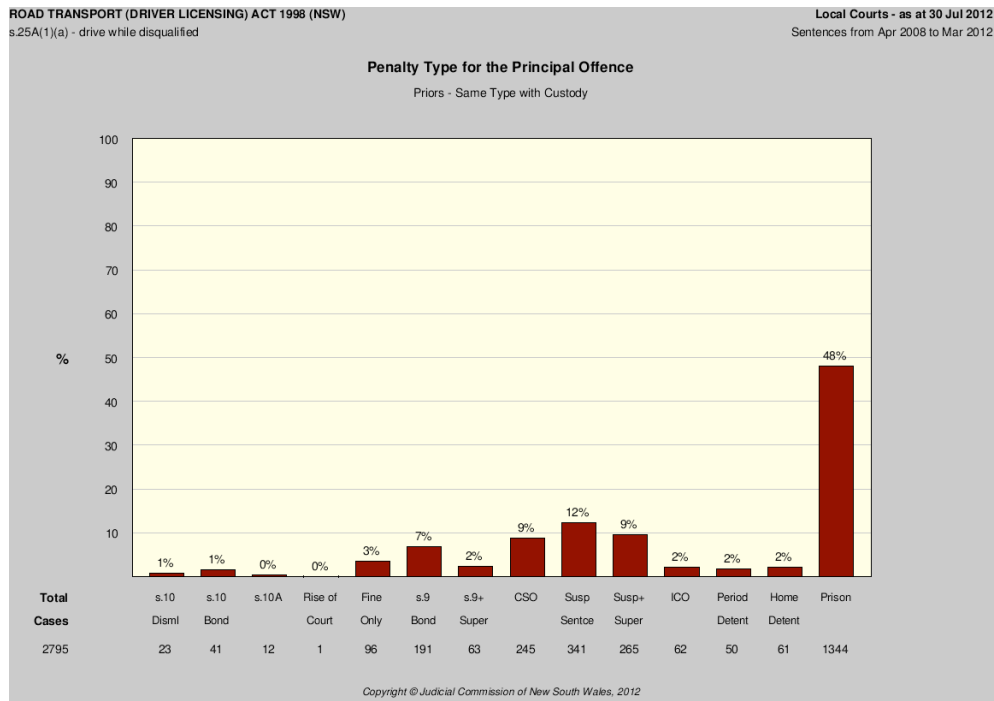
Concluding Remarks and Notes

Some weaknesses of this study are:

- Multiple offences were not calculated separately to one offence only cases.
- The statistics of multiple offences in JIRS was 22% prison. This is still significantly lower than the overall ALS statistics of 46%.
- One offence only in JIRS was 8%.



Prior records were also not considered in this study. The JIRS statistics for prior records of same type with custody was: 48%.



However note: the only statistic available for prior custodial record was “prior record – same type with custody”.

There are no statistics available for “prior record – different type with custody” which may be the case with many ALS Dubbo clients.

The statistics for “prior record – different type (with/without custody) was only 8%, which means that prior records of a different type does not, in most cases, lead to custodial sentences.

