

Administrative License Suspension

By Carol P. Cotton and Rimo Berg Carneiro

Hundreds of Georgians die every year because of drunk driving. During 2003 and 2004, more than 3,000 deaths occurred on Georgia's roads. To address this serious issue, Georgia's legislature has adopted several approaches to combat drunk driving, one of which is administrative license suspension (ALS) for drivers who have a specific amount of alcohol in their system when they are stopped by police.

What Is Administrative License Suspension?

The ALS procedure begins at roadside when an officer believes that a motorist is driving while under the influence of alcohol (DUI) and requests that the motorist take a blood alcohol concentration (BAC) test. If the results show a BAC level of .08 or higher or the driver refuses the test, the officer may complete paperwork to request that the Department of Public Safety administratively suspend the motorist's license. The officer immediately confiscates the motorist's license, thereby initiating the ALS process before any criminal prosecution for DUI. The motorist is issued a temporary driving permit and has 10 days after being notified by the Department of Public Safety of the suspension to request a hearing before an administrative law judge. He or she may choose to either be represented by an attorney or represent him- or herself at the civil proceeding. The state typically has no solicitor or district attorney present; the law enforcement officer who initiated the ALS process usually attends the hearing without counsel.

Results of studies of the effectiveness of this procedure in other states vary (McArthur and Kraus 1999; DeJong and Hingson 1998; McKnight and Voas 1991; Ross 1991; Williams, Weinberg, and Fields 1991). Some studies suggest that ALS is an effective tool in reducing drunk driving recidivism. In a few cases, the ALS procedure has created costly and complex administrative structures that have little impact on drunk driving crash rates and fatalities. Other studies indicate no measurable effect. Although ALS has been shown in some cases to contribute to public safety, the policy has also been criticized on constitutional grounds (for violating due process and the double jeopardy clause, for example), an issue that is beyond the scope of this study.

Outcomes of ALS Hearings in Georgia

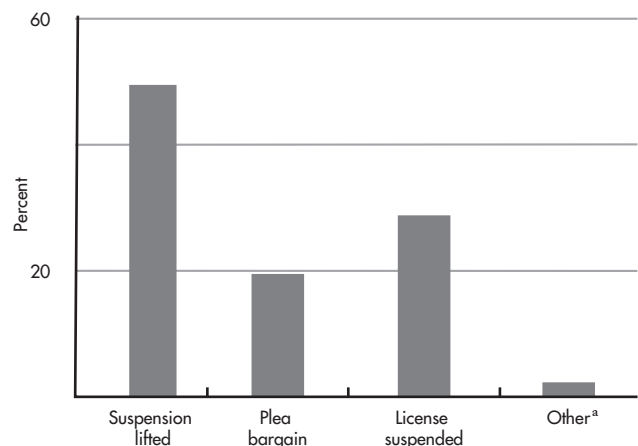
Data on the outcomes of ALS hearings in Georgia in 1999 highlight a number of considerations regarding ALS policy. Of all the hearings held in 1999, about half (49.5 percent) resulted in the license suspension being lifted; in only 28.8 percent did the suspension stand (see Chart 1).

Analysis of the results of a 2000 survey of police officers funded by the Governor's Office of Highway Safety found that although departments place a priority on attendance at ALS hearings, in approximately 40 percent of cases the officer did not attend the ALS hearing. If an officer does not attend, the case is automatically dismissed, and the motorist's license is reinstated.

Low attendance rates of officers are common for a number of reasons. Officers are paid only \$25 per day to attend hearings, and many do so during off-duty hours. Hearings typically are conducted during the day, which is inconvenient for officers who are on duty during the evening and night shifts, when most DUI arrests occur.

Furthermore, 71 percent of officers who attended the hearings assumed that defendants would be represented by counsel at such hearings. In fact, the data indicate that almost half of defendants are unrepresented in ALS hearings. This misperception may have a bearing on an officer's decision to attend a hearing since the officers themselves generally appear

Chart 1. ALS Hearing Outcomes, 2000



^aOutcomes that were miscoded, ambiguously coded, mooted, or otherwise inconclusive.

Note: The data were provided by Judge David Langston, Georgia Office of State Administrative Hearings, 230 Peachtree Street, NW, Suite 850, Atlanta, GA 30303.

without counsel. Moreover, many officers expressed concern that, when defense counsel was present, the ALS judges were unfair to the officers, who had no counsel.

The presence or absence of defense counsel is not an important factor affecting the outcome of the ALS hearing. Representation by counsel is only important when the police officer is present at the hearing. Nearly half of officers surveyed believed that they were not prepared for ALS hearings, and many preferred more training. Virtually all of the officers preferred to have a solicitor assist them during such proceedings.

The Future of ALS Hearings

This study found that for the state to better use ALS as a tool to deter drunk driving, the first important step is to encourage officers to attend ALS hearings. Many of the logistical problems that surround ALS hearings could be addressed. An increase in pay for officers' attendance would help, as would paying attention to scheduling the hearings so as to minimize officer time commitment. Second, to address officers' inaccurate perceptions of the hearings, an educational campaign, perhaps orchestrated by ALS judges, could target officers' beliefs that they are treated unfairly in such hearings and their expectation that counsel will be present to assist defendants while they have none themselves. Having solicitors represent the state at ALS hearings may increase officer confidence in the proceedings and thereby help increase attendance. These structural modifications might help make ALS more effective as public safety policy.

Sources

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