

# ITSMR Research Note

## KEY FINDINGS

### RECIDIVISM RATES

- The recidivism rate was 20% in 2018, similar to the rate in 2015, but down substantially when compared to 1999 (29%).
- In 2018, the highest rate of recidivism occurred among drivers convicted Upstate (21%), followed by drivers convicted in Long Island (18%) and drivers convicted in New York City (14%).
- The recidivism rate for men was 20% in 2018, down slightly from 22% in 2012, while the rate among women remained constant (16%-17%).
- Recidivism rates in all age groups, except for drivers ages 16-20, experienced small decreases in 2018, compared to 2012; the highest rate in 2018 was among drivers ages 30-39 (24%).

### CHARACTERISTICS OF RECIDIVIST DRIVERS

- 21% of the recidivist drivers in 2018 were women, up from 18% in 2012.
- The mean age of recidivist drivers is on a slow upward trend, increasing from 37.4 years in 2012 to 38.2 years in 2018.
- 54% of the recidivist drivers in 2018 had BACs of 0.15% or higher, down from 57% in 2012.

### PENALTIES AND SANCTIONS

Based on data available from TSLED:

- 77% of the recidivist drivers convicted in 2018 were sentenced to an ignition interlock, up from 73% 2012.
- 25%-26% of the recidivist drivers convicted in 2015 and 2018 were sentenced to jail, up substantially from 14% in 2012.

### CONCLUSION

- The recidivism rate appears to have reached a plateau, remaining constant at approximately 20% in 2012, 2015 and 2018.
- The finding that one in five convicted drinking drivers is a recidivist should provide support for the state's Advisory Council on Impaired Driving in developing and implementing new programs and policies to reduce recidivist drinking and driving behavior among New York's motorists.

## Recidivism in New York State: 2018 Status Report

### INTRODUCTION

Over the past two decades, the Institute for Traffic Safety Management and Research (ITSMR) has periodically examined the rate of recidivism among New York State drivers convicted of alcohol-impaired driving offenses. The recidivism rate was examined for the years 1999, 2009, 2012 and 2015. The analyses of driver license data for these years found that the rate of recidivism dropped substantially between 1999 and 2009 (22% vs. 29%), followed by much smaller decreases in 2012 (21%) and 2015 (20%). The objectives of this study were to determine whether the recidivism rate has continued to decline and to identify whether any changes have occurred in the profile of a recidivist driver over time.

Funded by the NYS Governor's Traffic Safety Committee (GTSC), this study was designed to provide information to the state's traffic safety community and, in particular, the state's Advisory Council on Impaired Driving to support the development of new or enhanced initiatives to reduce impaired driving. This *Research Note* presents the following information for the study years of 2012, 2015 and 2018.

- ❖ Overview
- ❖ Recidivism rates by
  - ✓ Geographic location
  - ✓ Driver age & gender
- ❖ Recidivist drivers by
  - ✓ Age & gender
  - ✓ BAC
  - ✓ Violation & conviction charges
  - ✓ Penalties & sanctions

The primary data sources for the study were the New York State Department of Motor Vehicles (DMV) driver license file and Traffic Safety Law Enforcement and Disposition system (TSLED). BAC information was also obtained from the NYS Division of State Police and the Division of Criminal Justice Services data files and added to records in the TSLED data sets, as appropriate.

## OVERVIEW

This study used the definition of a recidivist alcohol-impaired driver stated in the NYS Vehicle and Traffic Law (VTL). For the purpose of imposing appropriate penalties and sanctions, the VTL defines a recidivist as an individual who has another alcohol conviction under VTL Section 1192 within a prior ten-year period.

The study involved three sets of analyses. The initial set of analyses provided an overview of the past two decades, focusing on the five study years of 1999, 2009, 2012, 2015 and 2018. The recidivism rate for each of these five years is shown below in Table 1. Following a sizeable decline in the recidivism rate between 1999 and 2009, the downward trend in the rate continued with small decreases in 2012, 2015 and 2018.

As shown in Table 1, 29% of the drivers convicted in 1999 were recidivists. The rate dropped to 22% in 2009, followed by a small decrease to 21% in 2012. The 20% recidivism rate in both 2015 and

2018 suggests that the rate may have reached a plateau.

Table 1 also shows that the number of prior convictions associated with recidivists continued its slow decline. In 2018, 15% of the recidivist drivers had two or more impaired driving convictions in the prior ten years, down from 16% in 2015 and 17% in 2012.

The second set of analyses focused on the three most recent study years, 2012, 2015 and 2018. For each of these three study years, analyses were conducted to determine the recidivism rates by geographic region, driver age and driver gender.

The third set of analyses examined differences in the profile of recidivist drivers convicted in 2018, compared to 2012 and 2015 with respect to BAC, age and gender. The analyses also sought to identify changes with respect to the conviction charges and the penalties and sanctions imposed on recidivist drivers in each of those three years.

TABLE 1 Recidivist Drivers and Recidivism Rates					
	1999 (N=47,977)	2009 (N=50,434)	2012 (N=40,936)	2015 (N=37,030)	2019 (N=35,289)
<b>Recidivist Drivers</b>	<b>13,749</b>	<b>10,897</b>	<b>8,465</b>	<b>7,440</b>	<b>6,900</b>
<i>% with one prior conviction</i>	74%	80%	83%	84%	85%
<i>% with two or more prior convictions</i>	26%	20%	17%	16%	15%
<b>Recidivism Rate</b>	<b>28.7%</b>	<b>21.6%</b>	<b>20.7%</b>	<b>20.1%</b>	<b>19.6%</b>

## RECIDIVISM RATES: 2012, 2015 AND 2018

### Geographic Location

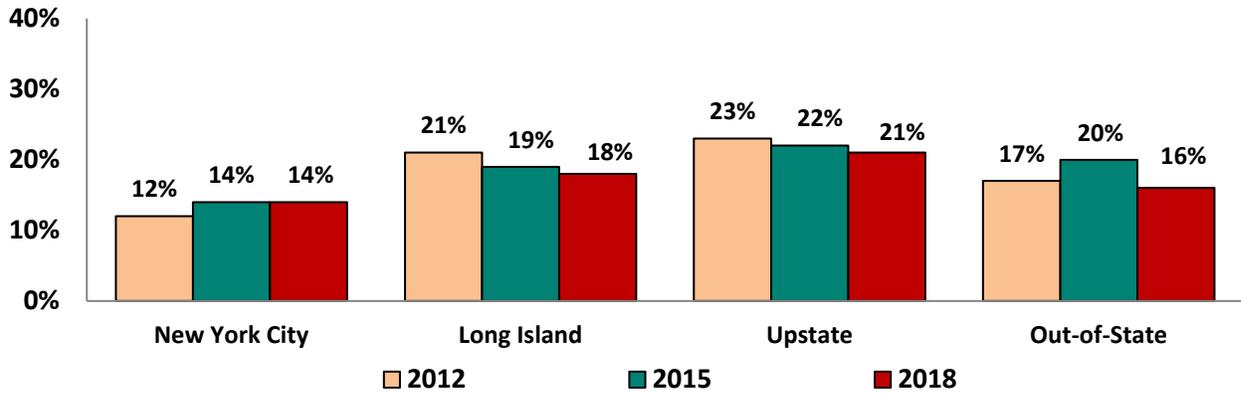
Analyses were conducted to determine whether recidivism rates declined among New York State drivers convicted in each of the state's three main geographic regions (New York City, Long Island and Upstate) and among New York State drivers convicted out-of-state. As shown in Figure 1, the recidivism rates in the Upstate and Long Island regions were considerably higher than the rate in

New York City in each of the three study years. The recidivism rate in New York City has remained relatively flat (12%-14%), while the rates in the Long Island and Upstate regions are on small but steady downward trends. The recidivism rate among New York State drivers convicted in other states has fluctuated from a high of 20% in 2015 to a low of 16% in 2018.

In 2018, the highest rate of recidivism by geographic location occurred among drivers convicted in the Upstate region (21%), followed by drivers convicted in Long Island (18%) and drivers

convicted in New York City (14%). The recidivism rate for New York State drivers convicted out-of-state was 16%.

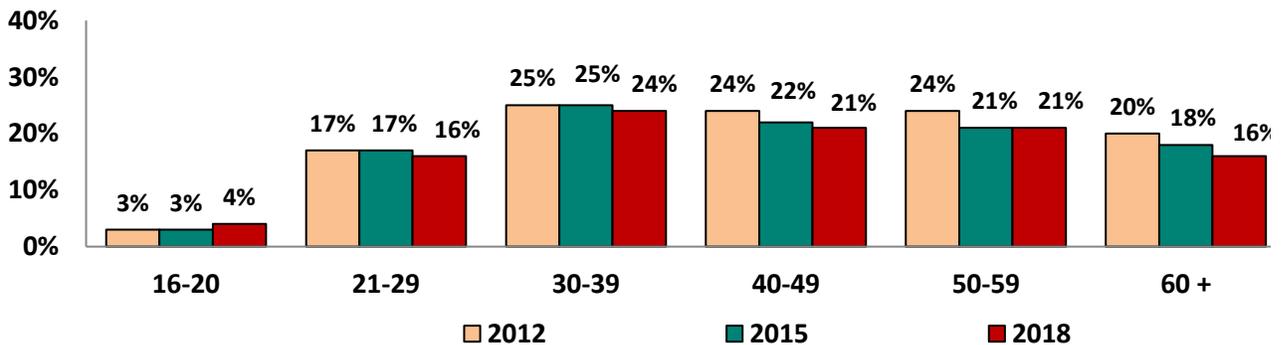
**Figure 1**  
**Recidivism Rates by Geographic Location**



**Recidivism Rates by Driver Age**

As shown in Figure 2, with the exception of drivers ages 16-20, the rate of recidivism in 2018 was lower than in 2012 for each age group. In 2018, the highest rate of recidivism (24%) occurred among drivers ages 30-39, followed by drivers ages 40-49 and drivers ages 50-59 (both 21%). Drivers ages 21-29 and 60 and above had similar recidivism rates in 2018 (16%). The youngest drivers had the lowest rate of recidivism (4%) due to the shorter look-back period for this age group.

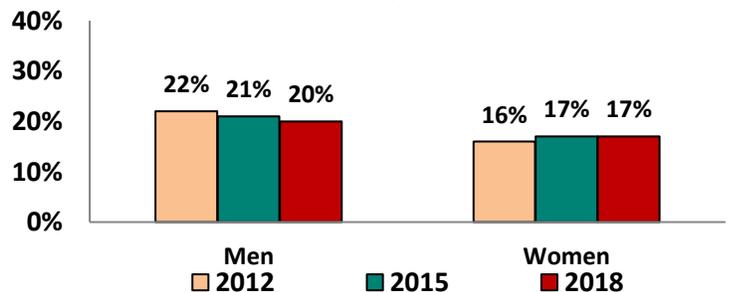
**Figure 2**  
**Recidivism Rates by Driver Age**



**Recidivism Rates by Driver Gender**

As shown in Figure 3, the recidivism rate for men was higher than for women each year. In 2018, the rate of recidivism for men was 20%, down from 22% in 2012. In comparison, the recidivism rate among women remained relatively unchanged at 16%-17% each year.

**Figure 3**  
**Recidivism Rates by Driver Gender**



## RECIDIVIST DRIVERS

Using data from the DMV driver license file and the TSLED ticket system, analyses were conducted to examine a number of variables associated with the recidivist drivers convicted in 2012, 2015 and 2018, including driver age, gender, BAC and the specific violation and conviction charges. Analyses were also undertaken to explore differences with regard to the penalties and sanctions imposed on recidivist drivers.

### Driver Age

Analyses with respect to driver age show that the proportion of recidivist drivers who were under age 30 has been on a downward trend, decreasing from 32% in 2012 to 27% in 2018. Drivers ages 40-49 have followed a similar pattern, dropping from 22% in 2012 to 19% in 2018.

A different pattern is noted for drivers ages 30-39, with the recidivism rate increasing from 29% in 2012 to 35% in 2018. Although much smaller, the recidivism rate among drivers ages 50 and above also increased, from under 18% in 2012 to over 19% in 2018.

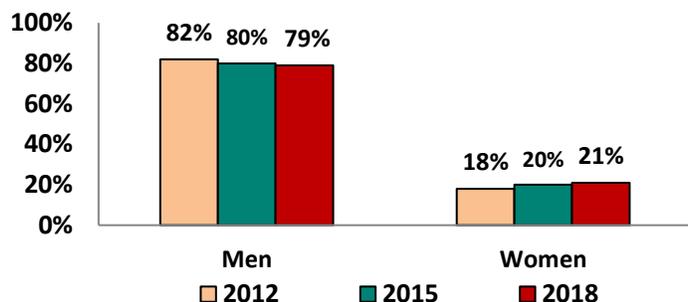
The mean age of recidivist drivers has been rising slowly but steadily, increasing from 37.4 years in 2012 to 38.2 years in 2018.

TABLE 2 Recidivist Drivers by Age			
AGE	2012 (N=8,465)	2015 (N=7,440)	2018 (N=6,900)
16-20	0.7%	0.5%	0.5%
21-29	31.0%	29.8%	26.4%
30-39	29.1%	31.9%	34.9%
40-49	21.6%	19.4%	19.0%
50-59	13.5%	13.8%	14.2%
60+	4.1%	4.5%	5.0%
Mean	37.4 yrs	37.6 yrs	38.2 yrs

### Driver Gender

As Figure 4 shows, while men continue to comprise the large majority of the recidivist drivers, the proportion of recidivists who are women is continuing on a small, but steady upward trend. In 2018, 21% of the recidivists were women, up from 18% in 2012.

Figure 4  
Recidivist Drivers by Gender



## Driver BAC

Blood Alcohol Concentration (BAC) data are only available for drivers whose conviction records are in TSLED. Of the 8,465 recidivist drivers in 2012, BAC data were available for 58% (4,905) through TSLED. In 2015 and 2018, BAC data were available for 54% and 53%, respectively, of the recidivist drivers. Table 3 shows small variations in the distribution of BAC levels among recidivists for the three study years. Overall, the higher BAC levels of 0.15%-0.19% and 0.20% and above decreased from 57% in 2012 to 54% in 2018. The mean BAC remained fairly constant in each year, at 0.158% in 2012 and 2015 and 0.156% in 2018.

<b>TABLE 3</b>			
<b>BAC of Recidivist Drivers</b>			
<b>(TSLED DATA ONLY)</b>			
<b>BAC</b>	<b>2012 (N=4,905)</b>	<b>2015 (N=3,985)</b>	<b>2018 (N=3,688)</b>
.00 - .05%	1.2%	1.8%	0.7%
.06 - .07%	2.4%	2.5%	2.4%
.08 - .14%	39.2%	39.0%	43.2%
.15 - .19%	33.5%	32.6%	32.0%
.20% & above	23.7%	24.1%	21.7%
<b>Mean BAC</b>	<b>0.158%</b>	<b>0.158%</b>	<b>0.156%</b>

## Violation Charge

To explore differences among recidivists convicted in each of the three study years, analyses were undertaken relative to the original violation charge. Since data on the original violation charge are not available from the DMV driver license file, these analyses were also conducted using data from TSLED. As a result, only those recidivist drivers arrested under the TSLED system were available for inclusion in this part of the study.

As indicated in Table 4, the proportion of recidivists who were charged with a single offense rose between 2012 and 2018 (33% vs. 42%), with the corresponding proportion of drivers charged with multiple offenses dropping from 67% in 2012 to 58% in 2018. In all three study years, the largest proportion of recidivist drivers was charged with the multiple offenses of VTL 1192.2 and VTL 1192.3 (36% in 2018), followed closely by drivers charged with the single offense of VTL 1192.3 (34%).

<b>TABLE 4</b>			
<b>Violation Charges for Recidivist Drivers</b>			
<b>(TSLED DATA ONLY)</b>			
<b>VTL Violation Charge</b>	<b>2012 (N=6,882)</b>	<b>2015 (N=5,781)</b>	<b>2018 (N=5,608)</b>
<b>Single Charge</b>	<b>33.2%</b>	<b>39.0%</b>	<b>41.8%</b>
1192.1 - DWAI	1.1%	1.2%	1.3%
1192.2 - Per Se	3.1%	2.0%	2.8%
1192.2a - ADWI	0.5%	1.6%	1.4%
1192.3 - DWI	26.9%	32.7%	34.4%
1192.4 - Drugs	1.1%	1.0%	1.1%
1192.4a - Drugs & Alcohol	0.5%	0.5%	0.7%
<b>Multiple Charges</b>	<b>66.8%</b>	<b>61.0%</b>	<b>58.2%</b>
1192.2 & 1192.3	40.4%	37.1%	35.8%
1192.2a & 1192.3	16.7%	14.7%	14.0%
1192.2, 1192.2a & 1192.3	5.8%	6.3%	5.5%
Other Combinations	3.9%	2.8%	2.8%

## Conviction Charge

Analyses of the TSLED data were also conducted to determine whether there were differences in the adjudication of recidivist drivers in the three study years. Table 5 shows that the proportion of recidivist drivers who were convicted on the original VTL 1192 charge rose from 47% in 2012 to 51% in 2018, while the proportion of recidivist drivers convicted of a different VTL 1192 charge dropped from 49% to 45%. Less than 1% of the recidivist drivers were convicted of a charge outside of VTL 1192 in each study year.

<b>TABLE 5</b>			
<b>Conviction Charges for Recidivist Drivers</b>			
<i>(TSLED DATA ONLY)</i>			
<b>Conviction Charge</b>	<b>2012 (N=7,060)</b>	<b>2015 (N=5,904)</b>	<b>2018 (N=5,730)</b>
Original 1192 Charge	46.6%	49.5%	51.0%
Different 1192 Charge	48.6%	46.8%	45.4%
Outside 1192	0.6%	0.7%	0.7%
Unknown	4.1%	3.0%	2.9%

## Penalties and Sanctions

Designed to explore differences among recidivist drivers, the final series of analyses focused on the penalties and sanctions imposed on them. The data for these analyses were also obtained from TSLED since the driver license file does not capture data on all penalties and sanctions that are imposed on convicted drivers at sentencing. The results of these analyses are summarized below in Table 6.

<b>TABLE 6</b>			
<b>Penalties and Sanctions Imposed on Recidivist Drivers</b>			
<i>(TSLED DATA ONLY)</i>			
<b>Penalties &amp; Sanctions</b>	<b>2012 (N=7,060)</b>	<b>2015 (N=5,904)</b>	<b>2019 (N=5,730)</b>
<b>License Action</b>			
Suspended	16.0%	16.2%	16.9%
Revoked	78.9%	79.8%	79.2%
Unknown	5.1%	3.9%	3.9%
<b>Fines</b>			
Less than \$300	3.6%	3.8%	3.3%
\$300 - \$499	8.2%	7.7%	7.9%
\$500 - \$999	31.9%	33.8%	36.4%
\$1,000 +	23.2%	26.4%	24.9%
Unknown	33.1%	28.2%	27.4%
<b>Ignition Interlock</b>	73.1%	76.2%	77.3%
<b>Probation</b>	41.8%	44.0%	44.4%
<b>Jail</b>	13.7%	26.1%	24.9%
<b>Victim Impact Panel (VIP)</b>	20.6%	23.4%	21.9%
<b>Impaired Driver Program (IDP)</b> Previously known as the Drinking Driver Program (DDP)	13.1%	13.4%	10.0%

As indicated above in Table 6, of the convicted recidivist drivers in the 2012, 2015 and 2018:

- 79% - 80% had their license revoked.
- 61% received a fine of \$500 or more in 2018, up from 55% in 2012.
- 73% - 77% were sentenced to an ignition interlock.
- 42% - 44% were sentenced to probation.
- 25% - 26% were sentenced to jail in 2018 and 2015, respectively, up from 14% in 2012.
- 21% - 23% were required to attend a Victim Impact Panel.
- 10% were required to participate in the Impaired Driver Program in 2018, down from 13% in 2012 and 2015.

## SUMMARY AND CONCLUSION

This study updates earlier research on recidivism conducted by the Institute for Traffic Safety Management and Research which found that the recidivism rate among drivers convicted of alcohol-impaired driving declined from 29% in 1999 to 22% in 2009. The primary objectives of this study were to determine whether the recidivism rate for drivers convicted of alcohol-impaired driving has continued to decline and/or whether the profile of a recidivist driver has changed over time. Focusing on snapshots of the data taken in 2012, 2015 and 2018, the study's major findings can be summarized as follows:

### Recidivism Rates

- The recidivism rate remained constant at approximately 20% in 2012, 2015 and 2018.
- The recidivism rates by geographic location, driver age and driver gender remained the same or decreased slightly in 2018, compared to 2012 and 2015.

### Recidivist Drivers

- Women comprise an increasing proportion of the recidivist drivers; 21% of the recidivist drivers in 2018 were women, up from 18% in 2012.
- The mean age of recidivists rose slightly from 37.4 years in 2012 to 38.2 years in 2018. The proportion of recidivist drivers who were under age 30 dropped from 32% in 2012 to 27% in 2018, while the proportion of drivers ages 30-39 rose from 29% in 2012 to 35% in 2018.
- The mean BAC of recidivists remained stable in 2012, 2015 and 2018 at 0.158% and 0.156%.
- The proportion of recidivist drivers sentenced to jail rose substantially, increasing from 14% in 2012 to 25% - 26% in 2015 and 2018.

While the recidivism rate appears to have leveled off in recent years, one in five convicted drinking drivers continue to be recidivists. The study findings should provide important information for use by the state's Advisory Council on Impaired Driving in developing and implementing new programs and policies to further reduce recidivist drinking and driving behavior among New York's motorists.

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