

ITSMR Research Note

KEY FINDINGS

RECIDIVISM RATES

- The recidivism rate was 20% in 2015 down from 21% in 2012, 22% in 2009 and down substantially from 29% in 1999.
- In 2015, the highest rate of recidivism occurred among drivers convicted Upstate (22%), followed by drivers convicted in Long Island (19%) and drivers convicted in New York City (14%).
- The recidivism rate for men declined from 23% in 2009 to 21% in 2015, while the 2015 recidivism rate for women matched the 2009 level of 17%.
- Recidivism rates in all age groups remained the same or experienced small decreases in 2015, compared to 2009 and 2012; the highest rate in 2015 was among drivers ages 30-39 (25%).

CHARACTERISTICS OF RECIDIVIST DRIVERS

- 20% of the recidivist drivers in 2015 were women, up from 16% in 2009.
- The mean age of recidivist drivers is on a slow upward trend, increasing from 36.4 years in 1999 to 37.6 years in 2015.
- 56%-57% of the recidivist drivers in 2009, 2012 and 2015 had BACs of 0.15% or higher, compared to 62% in 1999.

PENALTIES AND SANCTIONS

Based on data available from TSLED:

- 76% of the recidivist drivers convicted in 2015 were sentenced to an ignition interlock, up dramatically from 20% in 2009, prior to the implementation of Leandra's Law.
- 26% of the recidivist drivers convicted in 2015 were sentenced to jail, up substantially from 11% in 2009.

CONCLUSION

- The rate of recidivism is continuing on a slow, but steady downward trend.
- 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: A Status Report

ABSTRACT

In fall 2016, the Institute for Traffic Safety Management and Research (ITSMR) conducted a study on the issue of recidivism among New York State drivers convicted of alcohol-impaired driving offenses. The study involved analyses of driver license data to determine the recidivism rate for drivers convicted of alcohol-impaired driving in 2012 and 2015 and the rates by geographic region, driver age and driver gender. Analyses were also conducted to identify the characteristics of recidivist drivers with regard to BAC (Blood Alcohol Concentration), age and gender. In addition, analyses identified the conviction charges and the penalties and sanctions imposed on recidivist drivers. This research was undertaken to update a spring 2011 study which found that the rate of recidivism dropped from 29% in 1999 to 22% in 2009. The 2011 study further found that recidivism rates dropped in all three regions of the state (Upstate, New York City and Long Island), in all age groups of drivers and for both men and women. The objectives of this 2016 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. Key findings from the study are noted in the box on the left.

INTRODUCTION

With funding provided by the NYS Governor's Traffic Safety Committee, the Institute for Traffic Safety Management and Research conducted a study on the issue of recidivism in 2011. The study was designed to provide information to the state's Advisory Council on Impaired Driving to support the development of new or enhanced initiatives to reduce impaired driving. The 2011 study examined the issue of recidivism to determine whether any progress had occurred over the previous decade in reducing the recidivism rate. The study also sought to identify changes, if any, in the profile of recidivist drivers. Comparing two snapshots in time ten years apart, the 2011 study found that the rate of recidivism dropped from 29% in 1999 to 22% in 2009. The study further found that recidivism rates dropped in all three regions of the state (Upstate, New York City and Long Island), in all age groups of drivers and for both men and women.

This research note updates that 2011 study. Because the sanctions and penalties for impaired driving were enhanced with the enactment of Leandra's Law¹ in November 2009, there was an interest in examining whether the recidivism rate has continued to decline and whether the profile of a recidivist driver has changed.

RESEARCH METHODOLOGY

The primary objectives of the study were to determine whether the recidivism rate for drivers convicted of alcohol-impaired driving and/or the profile of a recidivist in 2015 are substantially different from 1999, 2009 and 2012. To accomplish these objectives, this study addressed the following key research questions:

- What is the 2015 rate of recidivism and how does it compare to the recidivism rate of 29% in 1999, 22% in 2009 and 21% in 2012?
- Compared to 1999, 2009 and 2012, have the recidivism rates changed in 2015 with regard to:
 - Region of the state (Upstate, New York City and Long Island)
 - Gender and age of the driver
- Have the demographic characteristics of recidivist drivers changed over time?
- Are there identifiable differences in the violation charge, conviction charge, or penalties and sanctions imposed on recidivist drivers convicted in 2015 compared to those convicted in 1999, 2009 and 2012?

Definition of a Recidivist

As in the 2011 study, 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.

Data and Data Sources

The primary data source for the study was the New York State driver license file maintained by the NYS Department of Motor Vehicles (DMV). The file contains the driving records of New York State licensed drivers, as well as out-of-state drivers and unlicensed drivers who have been convicted of a traffic violation or have had a reportable crash within New York State. Because New York participates in a number of interstate cooperative agreements, the driver license file also contains records of conviction for some offenses, including impaired driving, committed in other states. Data on impaired driving convictions are maintained on the license file for a minimum of ten years, enabling police agencies and the courts to determine the proper charge and adjudication of subsequent alcohol violations.

The study examined the driving histories of NYS licensed drivers convicted of alcohol impaired driving over a specified time period to determine the extent to which such drivers recidivate and to identify specific characteristics related to recidivist drivers. To obtain data on the BAC of a convicted driver and the penalties and sanctions imposed on convicted drivers, the drivers identified through the driver license file with an alcohol-related conviction were linked to the arrest and conviction records contained in the DMV's Traffic Safety Law Enforcement and Disposition (TSLED) ticket system. To supplement the BAC data in the TSLED system, BAC information was also obtained from the Division of State Police and the Division of Criminal Justice Services data files and added to records in the TSLED data sets, as appropriate. The linkage of driver records from the driver license file and the TSLED file enabled the researchers to obtain a more complete picture of the arrests that resulted in the conviction by providing information on driver's BAC at the time of arrest and the penalties and sanctions imposed upon conviction. Since these pieces of additional information are generally only available through TSLED, the drivers convicted of an alcohol violation in New York City and parts of Suffolk County were excluded from this component of the study. It should be noted that TSLED includes data on approximately three-quarters (75%) of the impaired driving arrests statewide each year.

¹ Implemented on November 18, 2009, Leandra's Law increases the criminal sanctions surrounding driving while intoxicated or under the influence of drugs with children under the age of 16 in the car (effective December 18, 2009) and expands the use of ignition interlock devices, making them applicable to any person who is convicted of a misdemeanor or felony DWI (effective August 15, 2010).

Data Analyses

Replicating the analyses conducted in the 2011 study, this study involved analyses of the alcohol convictions that occurred in 2012 and 2015 and identified those individuals who had been convicted of an alcohol-impaired driving offense within the prior ten years. If an individual had two or more such convictions in 2012 or 2015, the latest was used as the precipitating event and any earlier 2012 and 2015 convictions were considered as priors, making the individual a recidivist.

Two sets of analyses were conducted to answer the key research questions. The initial set of analyses was conducted to determine the recidivism rate for drivers convicted of alcohol-impaired driving in 2012 and 2015 and the rates by geographic region, driver age and driver gender. To examine trends over time, the 2012 and 2015 recidivism rates were compared to the 1999 and 2009 rates from the earlier study as were the rates by region of the state and driver age and gender. These analyses were conducted using data obtained from the DMV driver license file.

The second set of analyses was undertaken to identify differences in the profile of recidivist drivers convicted in 2012 and 2015, compared to 1999 and 2009 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 2012 and 2015, again compared to 1999 and 2009. This second set of analyses was conducted using data from both the driver license file and the TSLED ticket system.

RESULTS OF ANALYSES

Recidivism Rates: Comparison of 1999, 2009, 2012 and 2015

The results of the analyses indicate that following a sizeable decline in the recidivism rate between 1999 and 2009, the downward trend in the rate continued with small decreases in 2012 and 2015. As shown in Table 1, 29% of the drivers convicted in 1999 were recidivists. The rate dropped to 22% in 2009, followed by small decreases to 21% in 2012 and 20% in 2015. Table 1 also shows that the number of prior convictions associated with those recidivists also continued to decline. In 2015, 16% of the recidivist drivers had two or more impaired driving convictions in the prior ten years, down from 20% in 2009 and 26% in 1999.

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

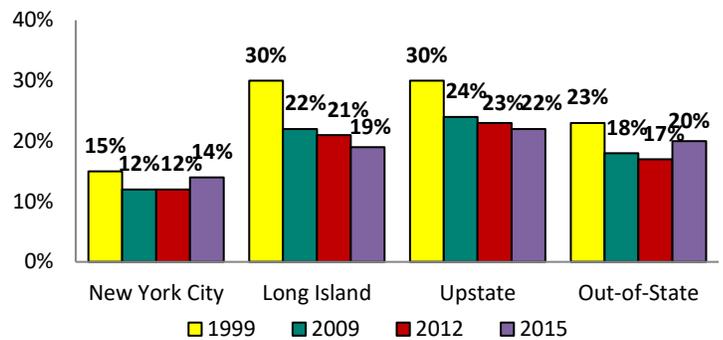
Recidivism Rates by Geographic Location

Analyses were also 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 four years. The recidivism rate in New York City experienced a small increase between 2012 and 2015, while the rates in the Long Island and Upstate regions continued on a small downward trend. Similar to the pattern in New York City, the recidivism rate among New York State drivers convicted in other states rose between 2012 and 2015.

In 2015, the highest rate of recidivism by geographic location occurred among drivers convicted in the Upstate region (22%), followed by drivers convicted in Long Island (19%) and drivers convicted in New York City (14%). The recidivism rate for New York State drivers convicted out-of-state was 20%.

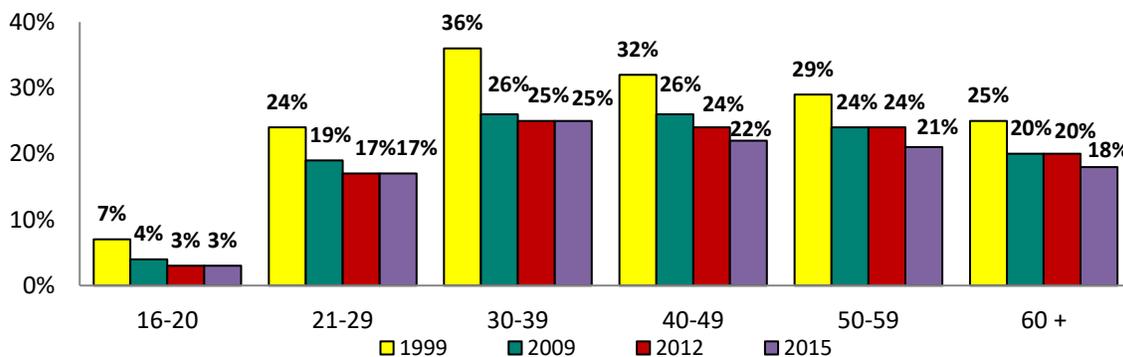
Figure 1
Recidivism Rates by Geographic Location



Recidivism Rates by Driver Age

Analyses were conducted by driver age and gender to determine whether there were demographic differences among the four groups of recidivist drivers (1999, 2009, 2012 and 2015). As shown in Figure 2, the rate of recidivism dropped substantially in all age groups between 1999 and 2009, remaining constant or followed by much smaller declines in 2012 and 2015. In 2015, the highest rate of recidivism (25%) occurred among drivers ages 30-39, followed by drivers ages 40-49 (22%) and drivers ages 50-59 (21%).

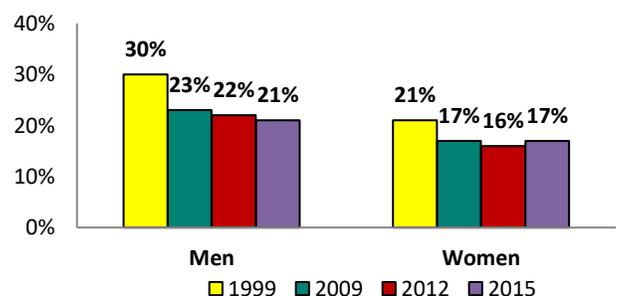
Figure 2
Recidivism Rates by Driver Age



Recidivism Rates by Driver Gender

As shown in Figure 3, the recidivism rate for men convicted of alcohol-impaired driving decreased significantly between 1999 and 2009 (30% vs. 23%), followed by smaller decreases in 2012 (22%) and 2015 (21%). The recidivism rate for women shows a somewhat different pattern. Following a decrease from 21% in 1999 to 17% in 2009, the rate remained relatively stable in 2012 (16%) and 2015 (17%).

Figure 3
Recidivism Rates by Driver Gender



Recidivist Drivers: Comparison of 1999, 2009, 2012 and 2015

The second set of analyses was conducted to determine whether there were identifiable differences among recidivist drinking drivers in each of the four years. 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 drivers convicted in 1999, 2009, 2012 and 2015 including driver age, gender, BAC and the specific conviction charge. Analyses were also undertaken to explore differences with regard to the penalties and sanctions imposed on recidivist drivers.

Driver Age

Using data obtained from the DMV driver license file, analyses with respect to driver age show that the proportion of recidivist drivers who were under age 30 increased from 27% in 1999 to 33% in 2009, followed by a drop to 30% in 2015. The same pattern is seen in drivers ages 40-49, with the recidivism rate increasing from 23% in 1999 to 25% in 2009, followed by a downward trend to 19% in 2015.

A different pattern is noted for drivers ages 30-39 and drivers ages 50 and over. The recidivism rate for drivers ages 30-39 decreased from 40% in 1999 to 28% in 2009, followed by a small but steady increase to 32% in 2015. The pattern for drivers in age group 50 and over shows a steady upward trend, increasing from 10% in 1999 to 18% in 2015.

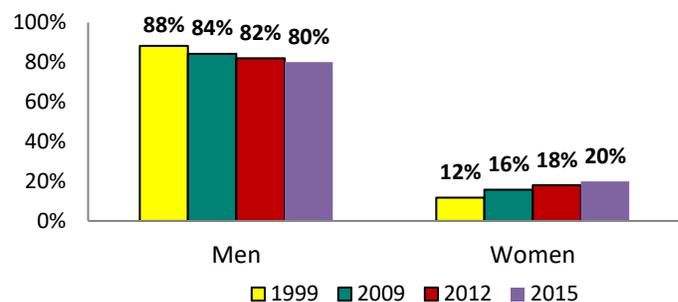
The mean age of recidivist drivers between 1999 and 2015 has been rising steadily (from 36 to 38 years).

AGE	1999 (N=13,749)	2009 (N=10,897)	2012 (N=8,465)	2015 (N=7,440)
16-20	1.6%	1.3%	0.7%	0.5%
21-29	25.5%	31.6%	31.0%	29.8%
30-39	39.5%	28.1%	29.1%	31.9%
40-49	22.9%	24.7%	21.6%	19.4%
50-59	8.0%	11.2%	13.5%	13.8%
60 +	2.4%	3.1%	4.1%	4.5%
Mean	36.4 yrs	36.9 yrs	37.4 yrs	37.6 yrs

Driver Gender

Data from the driver license file were also used to determine any changes among recidivist drinking drivers with regard to 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 on an upward trend. In 2015, 20% of the recidivists were women, up from 12% in 1999.

Figure 4
Recidivist Drivers by Gender



Driver BAC

Analyses were also conducted to examine the BACs of recidivist drivers convicted in each of the four years, 1999, 2009, 2012 and 2015. As noted above, BAC data are only available for drivers whose conviction records are in the TSLED ticket system. Of the 13,749 recidivist drivers in 1999, BAC data were available for 50% (6,834) through the TSLED system; in 2009, BAC data were available for 57% (6,211) of the 10,897 recidivist drivers; in 2012, BAC data were available for 58% (4,905) of the 8,465 recidivist drivers and in 2015, BAC data were available for 54% (3,985) of the 7,440 recidivist drivers.

As indicated in Table 3, the distribution of BACs among recidivists shifted slightly downward between 1999 and 2009, resulting in a drop in the mean BAC from 0.164% to 0.159%. Most notably, the proportion of recidivist drivers with BACs of 0.15% and above decreased from 62% in 1999 to 56% in 2009 and remained at 57% in 2012 and 2015. The mean BAC remained relatively stable in 2009, 2012 and 2015 (0.158%-0.159%).

TABLE 3				
BAC of Recidivist Drivers				
(TSLED DATA ONLY)				
BAC	1999 (N=6,834)	2009 (N=6,211)	2012 (N=4,905)	2015 (N=3,985)
.00 - .05%	0.1%	0.5%	1.2%	1.8%
.06 - .07%	1.1%	2.4%	2.4%	2.5%
.08 - .14%	37.0%	41.1%	39.2%	39.0%
.15 - .19%	37.1%	33.0%	33.5%	32.6%
.20% and above	24.6%	23.0%	23.7%	24.1%
Mean BAC	0.164%	0.159%	0.158%	0.158

Violation Charge

Analyses were undertaken to explore the differences between recidivists convicted in 1999, 2009, 2012 and 2015 with regard to the type of violation charged. Since data on the original violation charge are not available from the DMV driver license file, these analyses were conducted using data from the DMV TSLED system.

As shown in Table 4, the proportion of recidivists who were charged with multiple offenses versus a single offense of impaired driving doubled between 1999 and 2009 (33% vs. 67%), followed by a decrease to 61% in 2015. The increase in the proportion of drivers charged with multiple violations between 1999 and 2009 is likely the result of several factors. One factor is the implementation of TraCS across the state. TraCS provides police agencies the ability to capture and transmit crash and ticket data to the DMV electronically, making it easier and less time consuming for police officers to issue multiple tickets at a single stop. Another likely factor is the state's aggravated DWI law (ADWI) implemented on November 1, 2006. Cited as Section 1192.2a of the VTL, the ADWI law strengthened the penalties and sanctions for drivers with a BAC of 0.18 or higher.

Compared to 1999, sizable changes occurred in the distribution of VTL charges in 2009, followed by much smaller changes in 2012 and 2015. In 2015, the largest proportion of recidivist drivers was charged with the multiple offenses of VTL 1192.2 and VTL 1192.3 (37%), followed by drivers charged with the single offense of VTL 1192.3 (33%).

TABLE 4				
Violation Charges for Recidivist Drivers				
(TSLED DATA ONLY)				
VTL Violation Charge	1999 (N=10,713)	2009 (N=8,745)	2012 (N=6,882)	2015 (N=5,781)
Single Charge	66.7%	33.4%	33.2%	39.0%
1192.1 - DWAI	2.7%	1.5%	1.1%	1.2%
1192.2 - Per Se	34.0%	3.6%	3.1%	2.0%
1192.2a - ADWI	0.0%	0.5%	0.5%	1.6%
1192.3 - DWI	29.5%	26.8%	26.9%	32.7%
1192.4 - Drugs	0.5%	0.8%	1.1%	1.0%
1192.4a - Drugs & Alcohol	0.0%	0.2%	0.5%	0.5%
Multiple Charges	33.3%	66.6%	66.8%	61.0%
1192.2 & 1192.3	31.8%	43.6%	40.4%	37.1%
1192.2 & 1192.2a	0.0%	0.8%	1.1%	0.2%
1192.2a & 1192.3	0.0%	14.3%	16.7%	14.7%
1192.2, 1192.2a & 1192.3	0.0%	5.3%	5.8%	6.3%
Other	1.5%	2.6%	2.8%	2.6%

Conviction Charge

Further analyses of the TSLED data were conducted to determine whether there were differences in the adjudication of recidivist drivers in 1999, 2009, 2012 and 2015. Table 5 shows that only small variations occurred in the proportions of recidivist drivers who were convicted on the original VTL 1192 charge (47%-50%) or who were convicted of a different 1192 charge (47%-51%) in each of the four years.

Conviction Charge	1999 (N=10,713)	2009 (N=8,745)	2012 (N=7,060)	2015 (N=5,781)
Original 1192 Charge	48.6%	46.7%	46.6%	49.5%
Other 1192 Charge	49.6%	50.9%	48.6%	46.8%
Outside 1192	0.1%	0.0%	0.6%	0.7%
Unknown	1.7%	2.4%	4.1%	3.0%

Penalties and Sanctions

To explore differences in recidivist drivers convicted in 1999, 2009, 2012 and 2015, the final series of analyses conducted focused on the penalties and sanctions imposed. Since the driver license file does not capture data on all penalties and sanctions that are imposed on convicted drivers at sentencing, the data for these analyses were also obtained from TSLED.

As shown in Table 6, approximately four out of five recidivist drivers (79%-82%) had their license revoked in the years 2009, 2012 and 2015, up from 73% in 1999. Compared to 2009, recidivist drivers convicted in 2012 and 2015 were less likely to be required to attend the Drinking Driver Program and more likely to be required to attend a Victim Impact Panel. The proportion of recidivist drivers sentenced to probation also increased between 2009 and 2015 (35% vs. 44%). It should be noted that because fine amounts were not available for more than a third of the recidivist drivers sentenced in 2009 and 2012, definitive differences in the imposition of fines in each of the years could not be determined.

In recent years, the most notable changes in penalties and sanctions was the imposition of an ignition interlock and a sentence to jail. Table 6 shows that the proportion of recidivist drivers sentenced to ignition interlock increased dramatically between 2009 and 2015 (20% vs. 76%). This dramatic increase is directly related to the implementation of Leandra's Law in late 2009 which requires the installation of an ignition interlock device in any vehicle owned or operated by a driver who is convicted of a misdemeanor or felony DWI (effective August 15, 2010). A substantial increase also occurred in the proportion of recidivist drivers sentenced to jail. In 2015, one in four (26%) of the recidivist drivers was sentenced to jail, up from one in ten (11%) in 2009.

TABLE 6				
Penalties and Sanctions Imposed on Recidivist Drivers				
<i>(TSLED DATA ONLY)</i>				
Penalties & Sanctions	1999 (N=10,713)	2009 (N=8,745)	2012 (N=7,060)	2015 (N=5,904)
License Action				
Suspended	23.0%	15.0%	16.0%	16.2%
Revoked	72.8%	81.7%	78.9%	79.8%
Unknown	4.2%	3.3%	5.1%	3.9%
Fines				
Less than \$300	3.1%	2.8%	3.6%	3.8%
\$300 - \$499	9.9%	7.3%	8.2%	7.7%
\$500 - \$999	44.0%	32.0%	31.9%	33.8%
\$1,000 +	25.7%	22.1%	23.2%	26.4%
Unknown	17.2%	35.8%	33.1%	28.2%
Drinking Driver Program (DDP)	6.2%	16.3%	13.1%	13.5%
Victim Impact Panel (VIP)	0.1%	16.4%	20.6%	23.4%
Jail	9.8%	10.5%	13.7%	26.1%
Probation	34.0%	35.1%	41.8%	44.0%
Ignition Interlock	0.8%	19.7%	73.1%	76.2%

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. Because the sanctions and penalties for impaired driving were enhanced with the enactment of Leandra's Law in November 2009, the primary objectives of this 2016 study were to determine whether the recidivism rate for drivers convicted of alcohol-impaired driving and/or the profile of a recidivist in 2012 and 2015 were substantially different from 2009. The major findings from this 2016 study can be summarized as follows:

Recidivism Rates

- The recidivism rate continued on a small, but steady downward trend in 2015; decreasing from 22% in 2009 to 20% in 2015.
- The recidivism rates by geographic location, driver age and driver gender remained the same or decreased slightly in 2012, compared to 2009, followed by small changes in 2015.

Recidivist Drivers

- Women comprise an increasing proportion of the recidivist drivers; 20% of the recidivist drivers in 2015 were women, up from 12% in 1999.
- The mean age of recidivists continued on a small, steady upward trend, increasing from 36 years in 1999 to 38 years in 2015. The two age groups with the greatest increases in recidivism were drivers under age 30 (32% in 2012 vs. 27% in 1999) and drivers 50 years of age and older (18% in 2012 vs. 10% in 1999).
- The mean BAC of recidivists remained stable in 2009, 2012 and 2015 (0.158%-0.159%), down slightly from 0.164% in 1999.
- Following the implementation of Leandra's Law in 2009, the number of recidivist drivers sentenced to ignition interlock rose dramatically, increasing from 20% in 2009 to 73% in 2012 and then to 76% in 2015.

Since the recidivism rate has continued to decline in recent years, albeit slowly, 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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