Fixed penalty notices as a means of offender selection

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ACKNOWLEDGEMENTS

The authors would like to thank West Midlands Police for providing the data for this study and Dan Birks for his assistance in preparing it for analysis. They remain indebted to Ken Pease for his helpful comments throughout the project.
ABSTRACT

This research assesses the capacity of fixed penalty notice infractions to form the basis for targeted police attention to more serious or chronic offenders. Offences of this kind were associated with concurrent criminality, relative to a group selected from the electoral register. Over half of the notices issued were not associated with a named individual, presumably because many vehicles did not have a current registered keeper. The ‘hit rate’ for concurrent criminality was not significantly different than for the control group. When repeat fixed penalty offences were analysed, this produced a higher hit rate, although it remained lower than expected from other studies. A number of problems in carrying out analysis on this type of data are discussed and it is suggested that a study in which checks are made at the point of issuing an FPN might well yield far higher rates of active criminality, and might provide a more powerful trigger for offender self-selection. Further areas for research into self-selection triggers are also suggested.

INTRODUCTION

The central problem in policing is the optimal distribution of enforcement resources across possible targets. Targets may be people most liable to commit crime (offender targeting), or places, times and people most likely to host or experience crime (location and victim targeting). Trends over the last decade have increasingly located responsibility for location and victim targeting with local Crime and Disorder Partnerships, leaving offender targeting as substantially (but far from exclusively) a police responsibility. This paper describes an approach to offender targeting wherein targets select themselves for police attention by their actions. A core attraction of this approach is that it leaves law enforcement less vulnerable to charges of discrimination. Examples of the approach have been implemented (see Kelling and Coles, 1997; Maple, 1999), but it seems important to develop the literature by providing more examples of the kinds of behaviour which may be used as ‘triggers’ for police action, together with the criteria whereby their value may be assessed.

If all citizens, from the neonate to the terminally ill, were a priori equally likely to have committed offences meriting police attention, the targeting problem would be simple to resolve, albeit impossible
to fund. Resources would simply be evenly spread across the population. At the other end of the continuum, with criminality restricted to a small proportion of the population, policing would consist of surveillance of those known or presumed to be criminally active, subject to respect for their human rights. The targeting continuum can be thought of in terms of the assumption of the proportion of the population which is criminally active. Given that not everyone is criminally active, the most effective approach would in principle be to concentrate on those known or believed to be so and to leave everyone else to their own devices.

Even setting aside issues of prohibitive cost, this approach is impracticable. The turnover rate of the active offending population would be enough to cause substantial inefficiency and injustice. Many of those targeted would have desisted from criminality and many of those not targeted would be offenders who had not yet fallen foul of the criminal justice process. Even if targeting were to be restricted to those designated prolific offenders, problems would remain. Townsley and Pease (2002) have called into question police capacity to accurately identify such offenders. Discretionary identification of offenders as prolific is problematic in that it allows free rein to grudge and prejudice.

An alternative to targeting people directly is to target contexts in which the hit rate of offenders is likely to be particularly high, as (for example) is breathalysing those driving out of pub car parks at closing time. In the extreme case, the police create ostensible crime opportunities by ‘sting’ operations. These have been used sparingly, not least because of the possible charge of entrapment, whereby crime opportunities are made so appealing that even those who would not normally commit offences are seduced into doing so. The attractiveness of sting operations (and targeting those leaving pub car parks and the like) is that offenders select themselves for police attention. They volunteer.

In the sting operation, the police engineer additional crime opportunities, and are thus vulnerable to ethical attack. However, the world already affords many crime opportunities, and those who accept them thereby volunteer without the need for added inducements. The major part of the crime reduction enterprise should be, it can be argued, the restriction of the supply of criminal opportunities. However realism sets limits to how far this will take us, particularly in the short term. There will remain a rich supply of crime opportunities for the foreseeable future, and the creation of new small and
valuable products will introduce new ones. Another option, therefore, is to identify which crime opportunities mark out those accepting them as containing a non-trivial proportion of active criminals, hence meriting fuller investigation. This paper is an attempt to advance the notion of offender self-selection towards a blueprint for a general policing style. Specifically, it is an exploratory approach to a dynamic use of the fixed penalty system as triggers.

The central elements of self-selection are as follows:

- Police enforcement attention is distributed according to the acceptance of opportunities to commit minor crimes or infraction of regulations;
- The minor crime or infraction of regulations shall be known as the trigger;
- Triggers shall be chosen according to three criteria – their acceptability in themselves for police attention, their empirical association with further and future criminality, and their unobtrusiveness in use, since the majority of those targeted will not be active serious criminals.

The skill in taking forward a policy of offender self-selection lies in the identification and ethical and empirical justification of triggers. In work to date, it has been shown in New York that fare evasion and ‘Squeegee merchanting’ capture high rates of those who were involved in more serious crime or had outstanding warrants (Kelling and Coles, 1997). In a study of illegal parking in disabled bays (Chenery, Henshaw and Pease, 1999) it was found that one in five of those so parked merited immediate police attention, the parked vehicle being stolen, or an outstanding warrant existing in respect of the keeper, or similar circumstance.

The attractions of offender self-selection, as a policing style, are as follows:

- There is no question of entrapment or harassment, as is the case with stings or surveillance. Police are simply responding to crime or infraction opportunities which have been accepted;
- There is no police ‘down time’, as triggers will always present themselves to proactive patrols;
- The policing style may, and indeed must, be justifiable to those self-selecting, whether or not
involved in serious criminality.

The next necessary research to justify self-selection as a policing style involves the selection and evaluation of triggers. The best triggers will:

- Merit intervention in their own right;
- Have the highest information value for active criminality - indexed as true positives / (true positives + false positives);
- Be minimally intrusive for those targeted.

Vehicle use is a particularly rich area for potential triggers, such as:

- Illegal parking;
- Speeding;
- Vehicle condition illegal;
- Not stopping at pedestrian crossing;
- Parking on double yellow lines;
- Failure to wear seatbelts.

These and other such offences are subject to the issuing of fixed penalty notices. This paper concentrates on such triggers and their predictive value. The implications for policing of the identification of good triggers on the criteria set out above are clear.

**HYPOTHESES**

Those receiving fixed penalty notices are more likely than the general population of vehicle keepers, to be of immediate or subsequent interest to the police, by virtue of their additional criminality. Different categories of fixed penalty notices will vary in their predictive power and hence may be ranked in an attempt to identify the best triggers.
METHODOLOGY

Electronic records were obtained of all fixed penalty notices (hereinafter FPN) involving vehicle/traffic offences which had been issued in the West Midlands Police area during 2001. From these records were selected those that contained both a forename and surname, identifying either the driver or the keeper. This provided 41,873 records—approximately 55 per cent of the total number of records.

The FPNs were grouped according to the categories currently used by the police. The categories represented, examples of offences and the number of records in each, are shown in Appendix I. The data were then sorted to identify the four categories with the most records. These were; Speed Limit Offences, Obstruction Waiting and Parking Offences, Neglect of Traffic Directions and Neglect of Pedestrian Rights. From these we extracted a random sample of 100 records per category for further analysis.

The most likely driver at the time that the FPN was issued (inferable from the name recorded in the FPN dataset) was subjected to a name search in the crime and intelligence database used by West Midlands Police. These data are accessed via FLINTS—the Force Linked INTelligence System. As FLINTS is specific to recorded crimes occurring in the West Midlands Police area, we thus excluded those individuals with FPNs issued by West Midlands Police whose recorded home address was outside the force area. This was on the presumption that if such individuals were to commit crimes, these were more likely to be recorded by the force in whose area they resided (see, for example, Wiles and Costello, 2000) and would therefore not be present on the FLINTS database. This is an assumption, however, and a more complete study is desirable.

We recorded the number of ‘hits’ in the twelve months (from the issue date of the FPN) for each individual. ‘Hits’ were defined as:

- recorded crimes in which the most likely driver was a suspect;
- Recorded crimes in which the most likely driver was a defendant (arrested and charged with an offence);
In addition, instances were recorded in the same time period when further FPNs in the same or any other category were issued.

The time period (FPN plus twelve months) was chosen in order to identify continuing (ongoing and future) offending. The notion underpinning self-selection is that action against those triggering interest will elicit evidence of current active criminality. The criminal histories of those issued with FPNs would also have been interesting, but would not measure the value of FPNs as a specifically predictive tool. It will also have contained offenders who were on the point of desistance, against whom targeting would have been inappropriate.

In order to add value to our results, a baseline was estimated. A sample of 100 names was taken at random from the electoral registers for the West Midlands area. A FLINTS search was then carried out to determine the number of hits for this sample, hits being defined as above. This was then converted to a hit rate, which was weighted to take into consideration the appropriate, available population. As only those with access to a vehicle can receive an FPN of this type, we used information from the DVLA on the number of people with full and provisional driving licences to estimate what proportion of the sample this would be. That is to say, as around 88 per cent of the population aged 17 years and over have a driver’s licence, only an estimated 88 of the names taken from the electoral register would be eligible for FPNs.

RESULTS

The four most frequent FPN categories on which our analysis was carried out yielded Table 1, detailing the number issued in 2001 and the hit rates. That is to say, the proportion charged or suspected or having outstanding warrants.

Table 1 about here
Appendix 1 details the kinds of action that constitute each offence type.

It can be seen from Table 1 that the hit rate varies from 5% to 7%. The sample of 100 names taken from the electoral register contained 5 hits, a rate of 5%. When weighted as described above this produces a base-line of 6%.

At this point, we must reasonably conclude that a single FPN is not an adequate trigger for action for putative criminality. Even the most promising type of FPN (neglect of traffic directions) yields only a 7% hit rate.

To modify Oscar Wilde, to pick up one FPN might be considered a misfortune, to pick up two, smacks of indifference to the law. The percentage of those issued with FPNs in 2001 who were also issued with FPNs in the 12 months following the issue date, is shown in Table 2.

Table 2 about here

It is clear from these data (as it would be from common sense) that the issue of a first FPN is a predictor of the issue of a second. This seems especially true where the first offence was an ‘obstruction, waiting and parking’ offence.

Of the 400 records analysed, 69 (17%) had two or more FPNs (that is to say, they had hits in the FPN Same and/or FPN Different categories). The number of crime and warrant hits for these 69, therefore, represented a hit rate for those with multiple FPNs (all categories) issued in a 12 month period. This produced a higher rate of 9%. When only those issued with an additional FPN in a different category were included this produced a hit rate of 10% (n=40). Both of these results show that multiple FPNs are a better predictor of criminality than single FPNs, although the rate remains low.

**DISCUSSION**

This research aimed to determine whether FPNs were effective self-selection triggers. Previous
research (Kelling and Coles, 1997; Chenery et al, 1999) had indicated that a sample of those committing low-level offences, such as parking infringements, contained a greater proportion of active criminals than might be found in the general population. We have found, however, from the available data, that a single FPN does not appear to be a good predictor of future criminality. We have suggested that multiple FPNs may produce greater hit rates, but we have not rigorously tested the evidence for this.

We suggest here, two main reasons why FPNs do not predict criminality as well as might have been expected. Firstly, the hypothesis that using FPN data to identify those involved in traffic offences, may be flawed. Secondly, those committing traffic offences may be no more likely to commit more serious offences than the general population.

One of the criticisms of the FPN data is that over half of the notices issued were not associated with a named individual. It is not known why this is the case, but we suggest that a number of these vehicles did not have a current registered keeper and/or the fine was never paid. As these had to be excluded from the analysis, the sample was probably skewed towards those people who registered the vehicle and/or paid the fine. Practical policing experience suggests that those involved in more serious crimes may be less likely to do this and therefore be 'missed' in a study of this kind. Furthermore, there was no way to determine the identity of the person committing the trigger offence. The data indicated only the person who gave his or her name when the FPN was issued or paid, or the details of the registered keeper recorded on the Police National Computer. This means the analysis may not have been carried out on the correct person. Another reason why we were unable to identify higher levels of criminality amongst recipients of FPNs may be related to police activity. If someone is caught in the act of committing a traffic offence and they are also wanted, or believed to be involved in more serious offences, an FPN may not be considered an appropriate response: other police action will be taken and that person will not be included in any sample generated in the manner of this study.

The small amount of previous research carried out, looked at current criminality, in the form of outstanding warrants or 'meriting immediate police attention' (Chenery et al, 1999). Although our research included outstanding warrants, we were primarily looking for those people who were charged
with or suspected of an offence, or had a warrant issued, in the 12 months after the issue of an FPN. It is possible that a number of those identified in previous studies desisted from crime and would not have been ‘hits’ had they been analysed as in this study. Without detracting from the findings of previous studies, we may question how many of those who were ‘hits’ continued offending over the next 12 months. Anecdotally, we noticed that a proportion of the sample had ‘hits’ outside the defined period, both before the FPN was issued and, more significantly, more than 12 months after. We did not record this, however, as we concentrated on current and imminent criminality.

In addition to the above, there are also issues regarding traffic offences as triggers, per se. Such offences potentially exclude a number of likely offenders, as the minimum driving age is 17 years. For this reason, most minor traffic infractions (obviously excluding more serious offences where the driver is under-age or does not have a licence) will be committed by those aged 17 or over, whilst 12 per cent of males found guilty or cautioned for a criminal offence in 2001 were aged 17 or under (Home Office, 2002). In addition, traffic offences can only be committed by those with access (legitimate or otherwise) to a vehicle. Finally, it is possible that some traffic offences are so common that they have become almost normative in the general population, in which case the criminal predictive value of such breeches would be significantly reduced (speeding, for example).

Despite the results of this study, which are readily qualified by the problems encountered, the previous research (and common sense) indicate that low level offending will be indicative of more serious offending, therefore the second explanation, that all traffic offences are not suitable self-selection targets, is unlikely. We suggest that further research needs to be commissioned to confirm this. Traffic offences could be researched using different methodology, such as field studies where vehicle registration marks are recorded as offences are being committed (e.g. those seen driving in a bus lane, drivers not wearing seatbelts, and so forth) so that those who would not make it into the FPN data set are captured. This will still however, be reliant upon PNC checks revealing the registered keeper. An alternative study would involve carrying out checks at the point of issue of an FPN as this may well yield a greater hit rate and highlight the practicality of more detailed checks being made by police officers in such circumstances. FPN histories could also be analysed to see if they become a trigger after a certain amount have been issued (this was beyond the scope of this study). There is
also the potential to extend FPN research as notices are now being issued for certain ‘anti-social’
behaviour in a number of pilot areas. Extending this further, there are any number of other potential
triggers, such as littering, drunkenness, TV licence and council tax evasion, and so forth, which should
also be analysed for their ability to predict more serious crime. Finally, simple self-report
questionnaires could be utilised with tick boxes for different types of illegal behaviour increasing in
seriousness over a given period. This would have the advantage of measuring the predictive value of
a number of potential triggers in one sweep, and identifying ‘hits’ that do not appear on other formal
records, including those that have not come to police attention during the reference period.
APPENDIX

Categories of FPN, examples of offences and number of records with surname and forename in each.

<table>
<thead>
<tr>
<th>Category</th>
<th>Records</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Speed Limit Offences</strong></td>
<td>21779</td>
</tr>
<tr>
<td>e.g. excess speed (at 30mph/40mph/60mph, etc.)</td>
<td></td>
</tr>
<tr>
<td><strong>Obstruction, Waiting and Parking Offences</strong></td>
<td>14253</td>
</tr>
<tr>
<td>e.g. no waiting, unnecessary obstruction, charge not duly paid, stopping on a clearway, wilful obstruction, etc.</td>
<td></td>
</tr>
<tr>
<td><strong>Neglect of Traffic Directions</strong></td>
<td>1995</td>
</tr>
<tr>
<td>e.g. contravening red traffic light, no entry sign, driving wrong way down one way street, contravening bus lane, etc.</td>
<td></td>
</tr>
<tr>
<td><strong>Miscellaneous Motoring Offences</strong></td>
<td>1321</td>
</tr>
<tr>
<td>e.g. not equipped with rear guards, reversing alarms on unauthorised vehicle, drive on footway, etc.</td>
<td></td>
</tr>
<tr>
<td><strong>Neglect of Pedestrian Rights</strong></td>
<td>790</td>
</tr>
<tr>
<td>e.g. stopping in zebra controlled area, fail comply red light at pelican crossing, failing to accord precedence at zebra crossing, etc.</td>
<td></td>
</tr>
<tr>
<td><strong>Negligent Use of a Motor Vehicle</strong></td>
<td>514</td>
</tr>
<tr>
<td>e.g. engine running or brake not set/unattended, etc.</td>
<td></td>
</tr>
<tr>
<td><strong>Vehicle Dangerous or Defective</strong></td>
<td>365</td>
</tr>
<tr>
<td>e.g. no horn, no mirrors, defective brakes, no petrol cap, no speedometer, no seat belts, no windscreen wipers, etc.</td>
<td></td>
</tr>
<tr>
<td><strong>Motorway Offences other than Speeding</strong></td>
<td>288</td>
</tr>
<tr>
<td><strong>Lighting Offences</strong></td>
<td>225</td>
</tr>
<tr>
<td>e.g. rear number plate no illuminated, lamps not showing steady light, showing red light to front, hazard warning device not maintained, etc.</td>
<td></td>
</tr>
<tr>
<td><strong>Vehicle Registration and Excise Licence Offences</strong></td>
<td>141</td>
</tr>
<tr>
<td>e.g. registration number obscured, etc.</td>
<td></td>
</tr>
<tr>
<td><strong>Load Offences</strong></td>
<td>107</td>
</tr>
</tbody>
</table>
e.g. trailer – no weight plate, exceeding gross weight, contravening axle
weight restriction, height restriction, length restriction, etc.

<table>
<thead>
<tr>
<th>Offence Category</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provisional Licence Offences</td>
<td>74</td>
</tr>
<tr>
<td>Offences Peculiar to Motorcycles</td>
<td>11</td>
</tr>
<tr>
<td>Noise Offences</td>
<td>8</td>
</tr>
<tr>
<td>Vehicle Test Offences</td>
<td>1</td>
</tr>
<tr>
<td>Trailer Offences</td>
<td>1</td>
</tr>
</tbody>
</table>

**Miscellaneous Motoring Offences were excluded when determining the four most frequent FPNs as they covered too wide a range of behaviour.**
REFERENCES


Tables

Table 1. Fixed Penalty Notices: Proportion Meriting Action for Putative Criminality

<table>
<thead>
<tr>
<th>Category of FPN</th>
<th>Number Issued</th>
<th>Hit Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Speed limit offences</td>
<td>21779</td>
<td>5%</td>
</tr>
<tr>
<td>Obstruction, waiting and parking offences</td>
<td>14253</td>
<td>6%</td>
</tr>
<tr>
<td>Neglect of traffic directions</td>
<td>1995</td>
<td>7%</td>
</tr>
<tr>
<td>Neglect of pedestrian rights</td>
<td>790</td>
<td>5%</td>
</tr>
</tbody>
</table>

Table 2. Repeated FPN by category

<table>
<thead>
<tr>
<th>Category of FPN</th>
<th>FPN Same</th>
<th>FPN Different</th>
<th>FPN Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Speed limit offences</td>
<td>4%</td>
<td>3%</td>
<td>6%</td>
</tr>
<tr>
<td>Obstruction, waiting and parking offences</td>
<td>28%</td>
<td>11%</td>
<td>34%</td>
</tr>
<tr>
<td>Neglect of traffic directions</td>
<td>2%</td>
<td>15%</td>
<td>17%</td>
</tr>
<tr>
<td>Neglect of pedestrian rights</td>
<td>1%</td>
<td>11%</td>
<td>12%</td>
</tr>
</tbody>
</table>