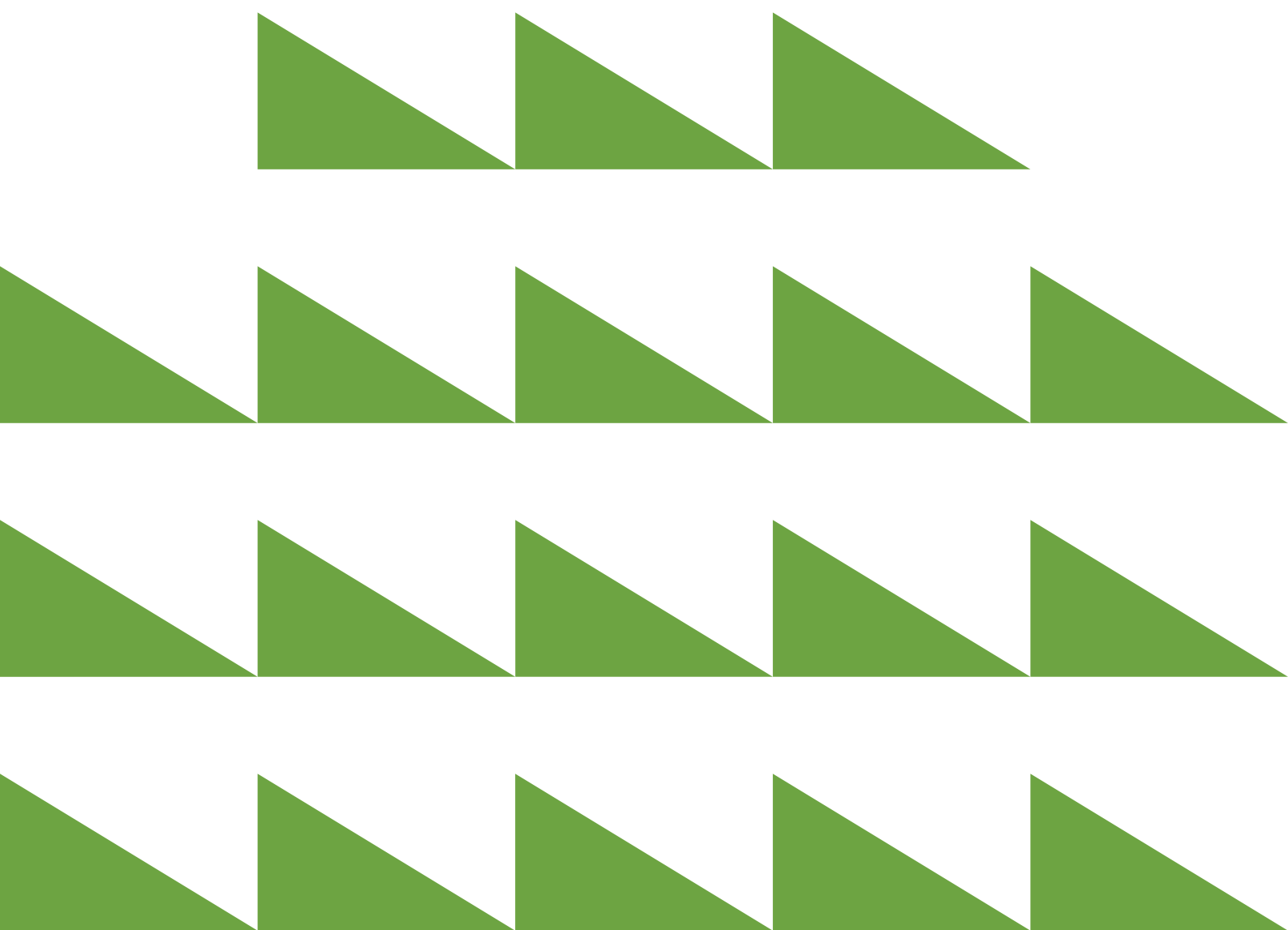


# Drink driving detections of Victoria Police officers

Analysis of trends from 2000-2015

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December 2016



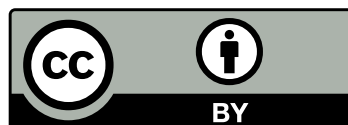
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December 2016

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## Definitions

	Explanation
BA	Blood alcohol
BAC	Blood alcohol concentration (BAC) is a measurement of the amount of alcohol in the body. BAC is measured in grams of alcohol per 100 millilitres of blood.
Legal limit	The legal blood alcohol concentration (BAC) limit is 0.05 across Australia. This means that a driver's body must contain less than 50 milligrams of alcohol per 100 millilitres of blood. For all purposes in this report, the legal limit was taken as exceeding 0.05 in a BA test.
Mean	A statistical term referring to the average
Median	A statistical term referring to the middle value of a data set
Officer	Any reference to an officer or officers in this report refers to sworn officers (see below definition) of Victoria Police, unless specified.
PBT	Preliminary breath test is the testing completed at an RBT site
PRSB	Victoria Police officers may apply to the Police Registration and Services Board (PRSB) for a review of a decision of the Chief Commissioner of Police (or delegate), including disciplinary decisions.
PSC	Professional Standards Command
ROCSID	Register of Complaints, Serious Incidents and Discipline
RBT	Random breath testing is the activity of Victoria Police selecting random vehicles to check a driver's BAC
Sample period	Data for this report has been collected and analysed for the period 1 July 2000 to 30 June 2015
Sworn officer	Sworn officers have certain police powers under the <i>Victoria Police Act 2013</i> and have the ability to enforce the law. In the context of this report a sworn officer excludes protective service officers and reservists.
TAC	The Transport Accident Commission is a government agency established to pay for treatment and benefits for people injured in transport accidents, promote road safety and improve Victoria's trauma system.
Unsworn officer	Victoria Police employees in non-policing and support roles
Victoria Police employee	In the context of this report a Victoria Police employee includes unsworn officers of Victoria Police, protective service officers and reservists.
VPM	Victoria Police Manual
Year	Relates to financial year, unless otherwise specified

NB: Custody officers are not included in the data set as data collection was completed prior to their appointment.

## Recommendations

IBAC recommends that Victoria Police:

1. Consider the issues highlighted in this report in relation to officers detected drink driving and determine appropriate action, with a focus on:
  - the increase in the proportion of officers detected drink driving as a result of a collision
  - the increase in the median BAC reading of officers detected drink driving
2. Consider developing a drink driving matrix to be used by hearing officers in determining disciplinary outcomes for drink driving cases to assist in educating officers, provide consistency in outcomes and improve public transparency.
3. For transparency, consider publicly reporting each year on the following:
  - the number of officers detected drink driving
  - the BAC reading of officers detected drink driving
  - final disciplinary determinations of officers detected drink driving including in relation to:
    - officers detected after a collision
    - officers with low BAC readings
    - officers with high BAC readings.

## 1. Overview

Driving while affected by alcohol is a significant cause of road trauma in the community. Significant resources have been devoted to reducing the incidence of drink driving, including ongoing enforcement efforts by Victoria Police. When Victoria Police officers are themselves detected driving in excess of the legal blood alcohol concentration (BAC) limit, it undermines the message that drink driving is wrong, as well as the community's confidence in the authority of Victoria Police to uphold the law.

To help ensure the public has confidence in how Victoria Police fulfils its duties including adhering to drink driving laws, the Independent Broad-based Anti-corruption Commission (IBAC) examined drink driving detections of Victoria Police officers and disciplinary outcomes over the period 1 July 2000 to 30 June 2015 (the sample period).

IBAC's analysis identified the typical sworn Victoria Police officer detected for drink driving is a male senior constable with an average of 15 years' service. Most officers are detected off duty while driving a private vehicle and via a random breath testing (RBT) site, with a reading between 0.050 and 0.099. An officer detected drink driving is likely to keep their job but receive some form of sanction such as a fine, good behaviour bond or counselling.

The analysis identified the number of officers detected drink driving over the 15 year period has steadily declined. However, other key findings are of concern including:

- the median BAC reading of officers detected drink driving has steadily increased
- the proportion of officers detected after a collision has increased
- the number of officers dismissed for drink driving has increased.

Based on its data analysis, IBAC has made a number of recommendations to Victoria Police to strengthen its efforts to discourage officers from drink driving and to respond appropriately when officers are detected driving over the legal BAC limit. IBAC acknowledges that Victoria Police has done some work in this area, however vigilance is required to ensure police officers consistently model the behaviour expected of all members of the community around alcohol consumption and driving.

## 1. Overview

### 1.1 Key findings

IBAC found that the number of Victoria Police officers detected drink driving between 2000 and 2015 has steadily declined.

Other key findings arising from IBAC's analysis of 228 drink driving detections for the sample period include:

- the average period of service for officers detected drink driving was 15 years
- the median BAC reading of officers detected drink driving has increased
- compared with the Victorian community, a higher percentage of officers were detected drink driving after a collision, with those numbers increasing over the sample period
- repeat offenders accounted for 13 per cent of the detections
- a total of nine officers were dismissed for drink driving over the 15 year period
- there was a modest increase (seven per cent) in the number of dismissals of officers detected drink driving since 2010, when Victoria Police made statements that officers detected drink driving were likely to be sacked.

### 1.2 Background

Driving under the influence of drugs and/or alcohol is one of the most significant causes of road trauma and death in the community. According to the Transport Accident Commission (TAC), alcohol accounts for between 25 and 30 per cent of driver fatalities and 11 per cent of serious injuries on Victorian roads. On average this equates to 40 drivers and riders killed each year with a BAC greater than 0.05.<sup>1</sup>

To address this, intensive community education campaigns and concentrated police efforts (including random breath testing) have been undertaken to discourage people from drink driving. Victoria Police plays a critical role in enforcing the law and helping to educate the community about the risks and impacts to drivers, other road users and the community that result from driving under the influence of alcohol. Victoria Police's current road safety strategy outlines its commitment to reducing preventable road trauma, including trauma associated with drink driving. One goal of the strategy is to instil in Victoria Police officers that they are role models for the community in relation to road safety.<sup>2</sup>

As police are delegated with the responsibility and powers to detect and regulate drink driving behaviour in the community, the public must have confidence in how police officers fulfil their duties, including adhering to drink driving laws.

<sup>1</sup> Transport Accident Commission, 'Drink Driving Statistics', 2014, <http://www.tac.vic.gov.au/road-safety/statistics/summaries/drink-driving-statistics>, accessed 21/03/2016.

<sup>2</sup> Victoria Police, *Road Safety Strategy 2013-2018*, p 9.



## 1.3 Methodology

This report examines drink driving detections of Victoria Police officers and disciplinary outcomes over the period 1 July 2000 to 30 June 2015. IBAC's analysis is based on data drawn from the Victoria Police Register of Complaints, Serious Incidents and Discipline (ROCSID), as well as a report completed by Victoria Police in 2011 regarding the patterns of drink driving by its officers.

A search of ROCSID was completed for a range of allegation descriptors relating to the offence of drink driving for each financial year after 2011 (to update the Victoria Police report).<sup>3</sup> The data included allegations where an employee had been detected drink driving by a random breath test (RBT), an intercept, or following a collision. ROCSID was interrogated for each matter to obtain information in relation to BAC levels, whether the officer was on or off duty, was using their personal or departmental vehicle, and the final determination following any disciplinary hearing.

All information was analysed for trends and patterns. In some cases, there was limited information available on file. Any such gaps have been recorded as unknown and noted in the results.

---

<sup>3</sup> Data collection was based on the following allegation descriptors: exceed 0.05 per cent, drive under the influence of alcohol, and refuse breath test. There will be a small number of alcohol-related driving incidents that have not been captured in this report due to the use of other descriptors.

## 2. Drink driving in the community

### 2.1 Impact of drink driving

Alcohol is one of the most significant causal factors associated with road trauma, with approximately one in four drivers and motorcyclists killed in Victoria in the last five years exceeding the prescribed BAC limit of 0.05.<sup>4</sup>

While alcohol is not the only drug of concern in relation to individuals driving under the influence, it is the most common. An Australian study of licenced drivers in relation to drugs, alcohol and driving found 12.6 per cent of drinkers admitting to driving with a BAC over 0.05 during the year, higher than any other drug.<sup>5</sup>

Research into drink driving in Australia has identified:

- Males are more likely than females to drink and drive (18.6 per cent of men who consume alcohol identify that they are likely to drive while under the influence compared to 10.8 per cent of women).<sup>6</sup>
- Daily users of alcohol are more likely to drive under the influence (29.6 per cent of daily users reported having driven under the influence in the previous 12 months).<sup>7</sup>
- Individuals who have previously been detected drink driving are more likely to be involved in subsequent serious accidents related to drink driving. Thirty per cent of drink drivers involved in fatal crashes have previously been detected drink driving.<sup>8</sup>
- In addition to the significant human cost of drink driving, the financial cost of alcohol-related road trauma in Victoria is estimated at between \$750 million and \$1 billion each year.<sup>9</sup>

### 2.2 Drink driving laws in Victoria

The legal BAC limit for drivers in Victoria, and all other states in Australia, is 0.05. A zero BAC is required for:

- drivers on probationary licence or learner permit
- bus and taxi drivers
- drivers of trucks more than 15 tonnes.

The law in Victoria imposes severe penalties on convicted drink drivers, including one or more of the following: the loss of demerit points, fines, licence or permit cancellation, and the installation of an interlock system for certain periods of time.<sup>10</sup> In August 2015, Victoria introduced stronger penalties for driving while affected by a combination of illicit drugs and alcohol over the legal limit.

The severity of the sanction depends on the circumstances of the detection, the BAC, the type of driver licence held and whether the individual has previously been charged with a drink driving offence. A penalty may be also influenced by factors such as a refusal to take a breath test or refusing to stop at an RBT or cooperate at an RBT. Victoria Police has the authority to immediately suspend a driver's licence or learner permit in certain situations (for example learner or probationary drivers with a BAC of 0.07 or more, or repeat offenders).<sup>11</sup>

The legal limit for the general driving population across Australia has stayed at 0.05 BAC for the past 30 years. There has been some support, including amongst senior police, to extend the zero BAC limit from drivers aged 18 to 26, or for the overall BAC limit to be reduced, but change is not anticipated in the short term.<sup>12</sup>

<sup>4</sup> Transport Accident Commission, 'Drink Driving Statistics', 2014, <http://www.tac.vic.gov.au/road-safety/statistics/summaries/drink-driving-statistics>, accessed 21/03/2016.

<sup>5</sup> Mallick, J, Johnston, J, Goren, N and Kennedy, V, *Drugs and Driving in Australia – a brief report*, 2007, Australian Drug Foundation.

<sup>6</sup> Ibid

<sup>7</sup> Ibid

<sup>8</sup> Transport Accident Commission, 'Drink Driving Statistics', 2014, <http://www.tac.vic.gov.au/road-safety/statistics/summaries/drink-driving-statistics>, accessed 21/03/2016.

<sup>9</sup> Victoria Police, *The Gazette*, number 22, Monday 22 October 2012.

<sup>10</sup> Victoria recently expanded its interlock program to apply to all convicted drink drivers whose licence or learners permit is cancelled.

<sup>11</sup> VicRoads, 'Drink Driving Penalties', <https://www.vicroads.vic.gov.au/safety-and-road-rules/road-rules/penalties/drink-driving-penalties>, accessed on 21/3/16.

<sup>12</sup> Interestingly, some European countries have adopted a zero tolerance approach to drink driving. Hungary, Czech Republic, Romania and Slovakia have adopted 0.00 BAC limits. Sweden, Poland, Slovenia and Estonia have introduced 0.02 BAC limits.

## 3. Victoria Police policies and procedures

### 3.1 Recruitment policy

To ensure Victoria Police applicants are of good character and reputation, its recruitment policy has specifications regarding the eligibility of individuals for appointment to Victoria Police. Applicants are assessed, among other considerations, according to criminal and driving histories.

Victoria Police applies a zero tolerance approach to applicants with a history of drink driving offences. Applicants are automatically excluded from recruitment if within the previous five years (taken from the date of the offence) the individual was detected with a BAC between 0.05 and 0.10, or within the previous ten years the individual was detected with a BAC of 0.10 or over.<sup>13</sup>

### 3.2 Legislation and policies governing police detected drink driving

There are numerous sections of the Victoria Police Manual (VPM) which outline the expected behaviour of police officers, on and off duty, in relation to alcohol consumption. The following policies and procedures outline officers' responsibility to be fit for duty, procedures for testing in the workplace, guidelines for the management of alcohol in the workplace, and obligations for reporting misconduct and corruption:

- VPM – Policy Rules: *Alcohol and other drugs: Workplace responsibilities*
- VPM – Procedures and Guidelines: *Workplace testing for alcohol and drugs of dependence*
- VPM – Procedures and Guidelines: *Alcohol and other drugs in the workplace*
- VPM – Policy Rules: *Professional and ethical standards*.

Overall, police officers presenting for duty, or officers directed to be available for work and who are recalled to duty, must:

- have a zero BAC when their duties will or may require the officer to carry operational safety equipment or drive a police vehicle
- not be affected by the consumption of alcohol or other drugs
- not consume alcohol while on duty, unless they have a specific exemption.

According to the VPM *Alcohol and other drugs in the workplace* procedures and under Part 5 of the *Victoria Police Act 2013* (Victoria Police Act), Victoria Police may test officers for the presence of alcohol or drugs of dependence. The Victoria Police Act sets out the categories under which testing can be completed:

- critical incidents
- targeted testing
- random testing
- designated work unit/function testing.

<sup>13</sup> Victoria Police, Recruitment Policy, 'Prior Histories'.

### 3. Victoria Police policies and procedures

In 2014/15, it was anticipated that random testing for drugs and alcohol would be carried out on five per cent of sworn officers.<sup>14</sup> In comparison, New South Wales tests 33 per cent of officers per annum, Western Australia tests 50 per cent of officers per annum and Queensland tests 10 per cent of officers per annum.<sup>15</sup>

In relation to the social use of alcohol when off duty, Victoria Police expects its officers to recognise the professional responsibility they have to uphold the law, act ethically and manage their own and the organisation's reputation.<sup>16</sup>

The *Alcohol and other drugs in the workplace* guideline is the only policy that refers explicitly to the traffic offence of drink driving when an officer is on or off duty. It states that where an officer drives a vehicle in Victoria or elsewhere with a BAC in excess of the legal limit or commits other serious traffic offences involving the consumption of alcohol, or a similar interstate or international offence:

- welfare assistance is to be offered in the first instance
- the officer's Approved Driving Authority will be withdrawn if the offence is committed while rostered for or recalled to duty. If the offence was committed while off duty, the Authority will only be withdrawn if their civilian driver's licence is suspended
- disciplinary charges under section 125 of the Victoria Police Act may be laid.

### 3.3 Reporting incidents and the disciplinary process

Under section 167(3) of the Victoria Police Act and as outlined in the *Professional and ethical standards* policy rules, officers have an obligation to report misconduct and corruption. Reports are to be made directly to Victoria Police Professional Standards Command (PSC), to a supervisor who must immediately notify PSC, or to IBAC. The *Alcohol and other drugs: workplace responsibilities* policy highlights that where an employee has reasonable belief that an officer is guilty of misconduct, it must be reported. Officers also have an obligation to self-report to their work unit manager if:

- they are charged with any offence
- they are arrested for any offence
- they receive an infringement notice
- their driving licence is suspended or withdrawn, cancelled, or they are disqualified from obtaining a licence
- they receive any other court process.

Notifications are to be made in writing, as soon as practical, regardless of whether the officer was on or off duty at the time. Once the work manager has been notified, it is their responsibility to report to PSC in relation to indictable matters, cases where the officer's behaviour is likely to bring the integrity and standards of Victoria Police into disrepute (including drink driving) and cases which may impact an officer's ability to perform their duties (such as loss of licence).

Under section 125 of the Victoria Police Act, sworn officers detected drink driving may face the disciplinary charge of 'conduct likely to bring Victoria Police into disrepute or diminish public confidence in it'. In addition, if an officer is charged with the offence of driving a motor vehicle with more than the prescribed BAC, and the offence is proven, a disciplinary charge of having 'been charged with an offence (whether under a Victorian law or under a law of another place)' may also be laid.

<sup>14</sup> In 2015/16, Victoria Police tested 907 people pursuant to Part 5 of the Victoria Police Act. Ten tests indicated the presence of alcohol or a drug of dependence. Victoria Police, *Annual Report 2015-16*, p. 93.

<sup>15</sup> Victoria Police, 'Drugs and Alcohol Testing Frequently Asked Questions'.

<sup>16</sup> Victoria Police Manual, 'Guidelines – Alcohol and other drugs in the workplace'.

### 3.4 Victoria Police's response to drink driving by police officers

Numerous statements have been made by senior officers highlighting the importance of police not driving with a BAC above the legal limit.<sup>17</sup> The effectiveness of police in protecting the community depends in part on the community's confidence in the integrity of police. Behaviour such as drink driving can diminish public confidence in police and respect for their role in the community.<sup>18</sup>

In September 2010, the media reported eight Victoria Police officers had been detected driving while over the legal BAC limit, during a two month period.<sup>19</sup> In response Victoria Police warned its officers this behaviour would not be tolerated and that if officers were detected drink driving, 'chances are they will be sacked'.<sup>20</sup> In response to further reporting that only four of 166 police officers detected drink driving over the previous ten years had been dismissed, the then Deputy Commissioner (Road Policing) Ken Lay stated Victoria Police's approach to officers detected drink driving was not as tough as it should have been.<sup>21</sup> This reflected Victoria Police's approach prior to March 2009, whereby police detected with BAC limits of 0.15 and under were not charged with a discipline breach.

In November 2012, Victoria Police streamlined its internal discipline process for dealing with drink driving offences. The new policy stated all officers detected above the legal BAC limit would automatically proceed to a level 2 disciplinary hearing although each matter would be considered on a case by case basis. A level 2 disciplinary hearing allows for the full range of sanctions, including demotion and dismissal, to be available to the hearing officer. To maintain consistency, all hearings at the time were conducted by

the Assistant Commissioner Road Policing. A dedicated hearing officer now presides over all disciplinary hearings. The changes to the disciplinary process were highlighted in the October 2012 edition of the *Victoria Police Gazette*. The then Assistant Commissioner PSC indicated that the changes would ensure that officers were accountable to the community.<sup>22</sup>

In early 2014, the media again questioned the appropriateness of disciplinary action taken against officers detected drink driving, specifically whether action taken was consistent with Victoria Police's strong position on the issue.<sup>23</sup> In February 2014, the then Chief Commissioner Ken Lay reiterated in the *Gazette* that a drink driving conviction would 'most likely result in termination of employment'.<sup>24</sup> He also reminded police that officers of Victoria Police are 'role models within the community' and that by continuing to put themselves and others at risk by driving over 0.05 they are acting in a way that is 'dangerous, irresponsible and damages [Victoria Police's] reputation'.<sup>25</sup>

In the interests of transparency, Victoria Police publishes media reports on its website about officers breaching drink driving laws. It has also established practise to advise the media whenever an officer has been charged with drink driving.<sup>26</sup>

In May 2016, PSC published data on the Victoria Police intranet on the number of employees detected drink driving since December 2015. This formed part of a regular one-page *Organisational Behaviour Trends* report published internally by PSC, which seeks to raise awareness across Victoria Police of risks within the workplace.

<sup>17</sup> See, for example, Victoria Police, *The Gazette*, number 04, Monday 24 February 2014.

<sup>18</sup> *Police Service Board v Russel John Morris and Robert Colin Martin*, 1985, 156 CLR 397.

<sup>19</sup> Grace, R, 'Eight Police Officers Busted for Drink-driving', *The Age*, 8 September 2010.

<sup>20</sup> *Ibid*

<sup>21</sup> Flower, W, 'Four cops sacked of drink driving in the past 10 years', *Herald Sun*, 16 September 2010.

<sup>22</sup> Victoria Police, *The Gazette*, number 22, Monday 22 October 2012.

<sup>23</sup> Mickelborough, P, 'Police caught drink-driving avoid axe', *Herald Sun*, 22 December 2013; Mickelborough, P, 'Victoria Police officers keeping jobs despite being caught drink-driving', *Sunday Herald Sun*, 26 July 2015.

<sup>24</sup> Victoria Police, *The Gazette*, number 04, Monday 24 February 2014.

<sup>25</sup> *Ibid*

<sup>26</sup> Victoria Police, 'PSC Media Protocols', 2014.

## 4. Trends – Victoria Police drink driving detections

### 4.1 Overview of officers detected drink driving

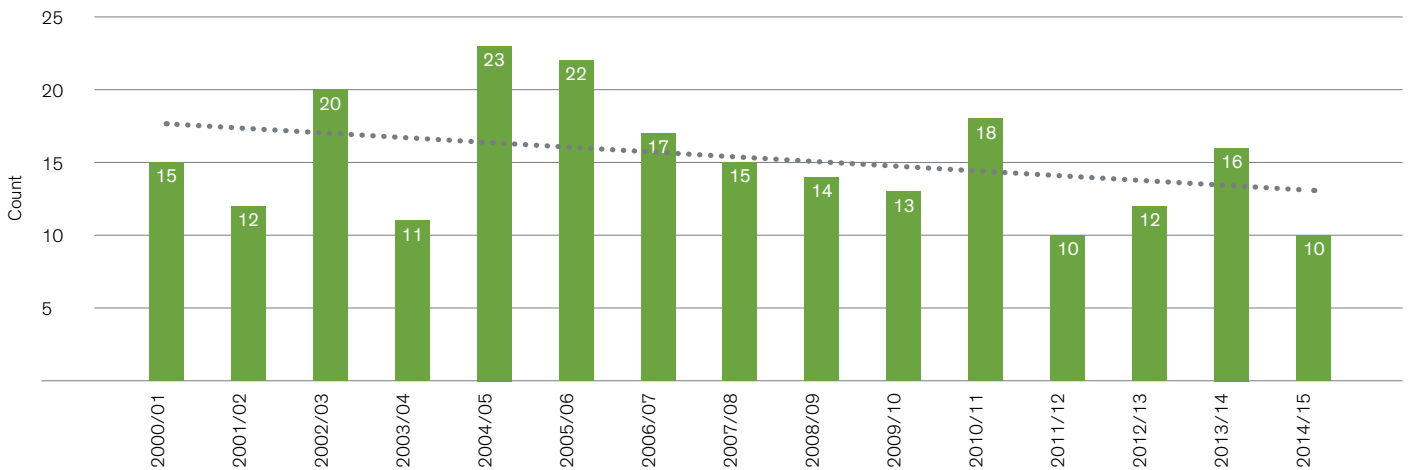
From 1 July 2000 to 30 June 2015, there were a total of 228 detections of Victoria Police officers drink driving.

These 228 detections related to 212 individual sworn officers. The number of detections per year over the sample period fluctuated, as seen in Figure 1. However, the trend line shows that drink driving detections have steadily declined over the past 15 years. The average number of incidents per annum is 15.2, with detections being below the average in six of the last eight years.

In 2014/15, 10 sworn officers were detected over the legal BAC limit, which represents 0.07 per cent of sworn employees. In comparison, 9955 Victorians were detected over the same period with a BAC of 0.05 or higher<sup>27</sup>, which equates to 0.23 per cent of the population aged more than 21 years.<sup>28</sup> Therefore, the proportion of Victoria Police officers detected drink driving is generally lower than the Victoria population.

Figure 2 shows the number of detections of Victoria Police officers indexed per 1000 officers, to provide a more accurate reflection of drink driving trends.<sup>29</sup> Consistent with Figure 1, the overall trend is a decline in detections.

**FIGURE 1: OFFICERS DETECTED DRINK DRIVING FROM 2000-2015**



<sup>27</sup> Data obtained through email from Professional Standards Command, Victoria Police, 11 April 2016.

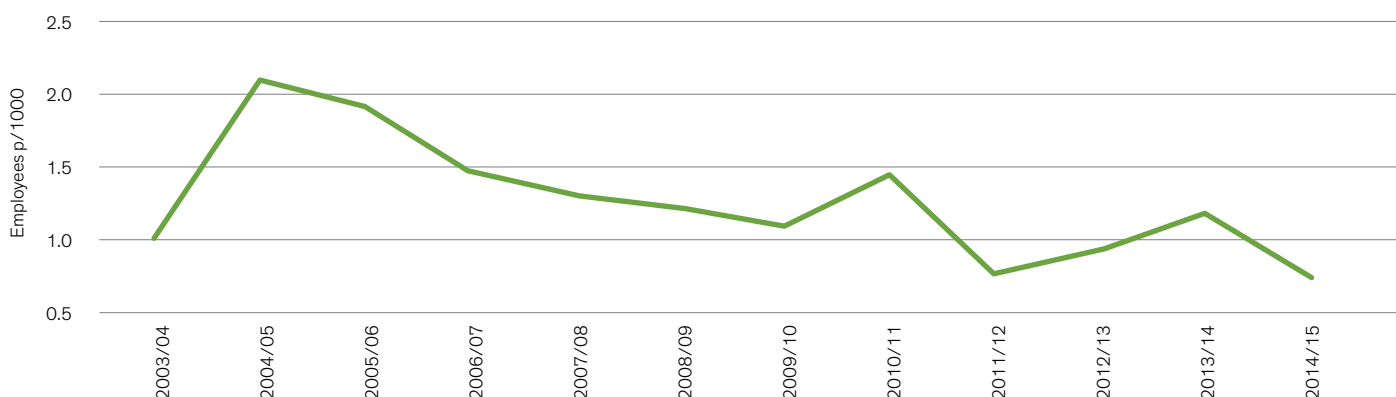
<sup>28</sup> Population numbers were calculated from the Australian Bureau of Statistics' estimated resident population by single year of age data sheet, with calculations including Victorians over the age of 21.

<sup>29</sup> Employee numbers were taken from the Victoria Police Annual Report headcounts. Numbers have only been gathered from the 2003/04 financial year onwards, because no earlier Victoria Police Annual Reports are available on their website.

Figure 2 highlights a spike in 2010/11, which corresponds to the media reporting of eight officers detected drink driving within four months.<sup>30</sup> This spike is followed by a decline, which may reflect a response to Victoria Police’s messaging around drink driving expectations and harsher disciplinary penalties.<sup>31</sup>

It is noted that there is a risk of under-reporting of officers detected drink driving. The NSW Police Integrity Commission’s Operations Pegasus and Luno highlighted that some officers may expect preferential treatment when stopped at an RBT site; when a drink driver was recognised as an officer after being arrested and transported to the local police station, another officer substituted his own sample in the breath test which prevented any further actions.<sup>32</sup>

**FIGURE 2: RATE OF OFFICERS DETECTED DRINK DRIVING FROM 2003-2015**



<sup>30</sup> Grace, R 'Eight police officers busted for drink-driving', *Herald Sun*, 2010, accessed 23 March 2015.

<sup>31</sup> Ibid

<sup>32</sup> NSW Police Integrity Commission, *Operation Pegasus and Operation Luno*, December 2008. This has also been an issue reported in the United States with officers using their 'professional courtesy' to not report when a fellow officer has been detected drink driving, see Wallack, T, *Heavy toll, light penalties for police who drive drunk*, December 2014, Boston Globe.

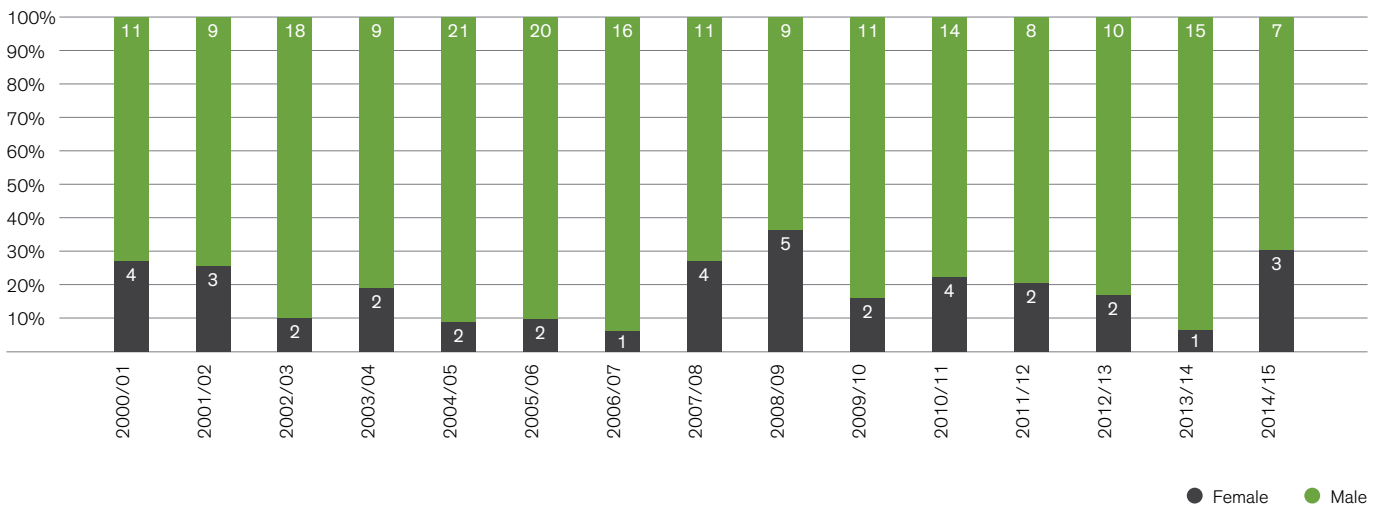
## 4. Trends – Victoria Police drink driving detections

### 4.1.1 Gender

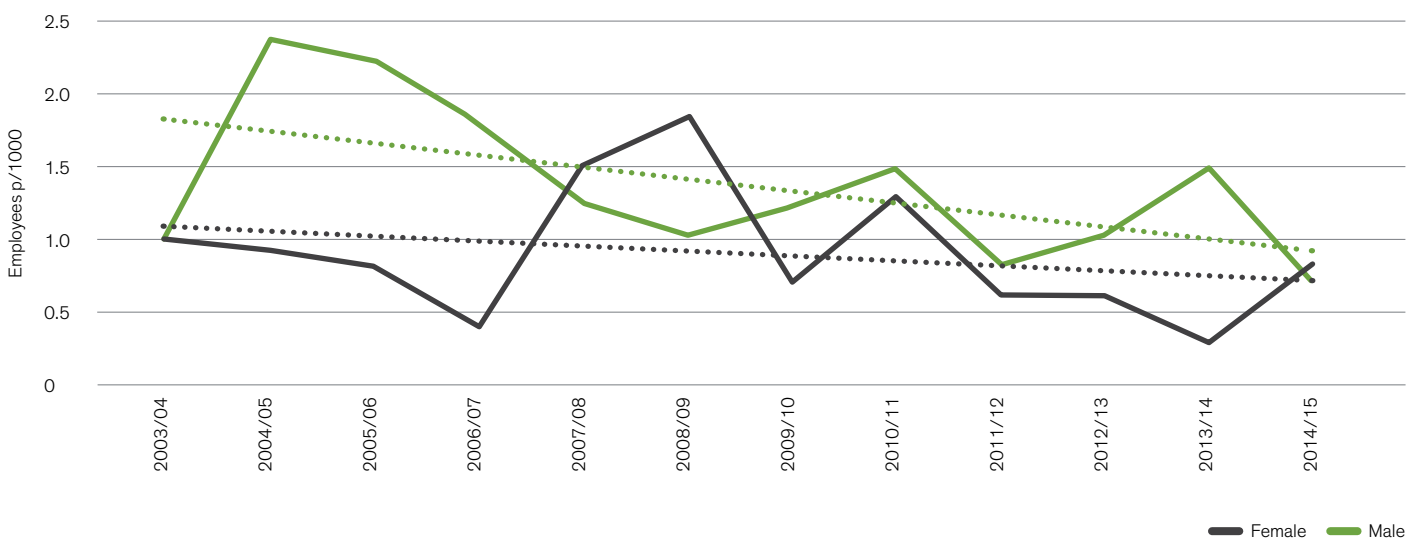
TAC data shows that drink driving offenders are predominately male, representing 84 per cent of those detected over the BAC limit. Consistent with this and reflecting the predominantly male profile of the sworn Victoria Police workforce, the majority of police detected drink driving are male, as shown in Figure 3. On average, 82 per cent of officers detected drink driving each year are male compared with 18 per cent of females.

Overall, the rate of detections across both genders is decreasing, shown via the linear trend lines, with the male trend decreasing at a faster rate than the female. Figure 4 shows that male detection rates were substantially higher than the rate of detections for female officers prior to 2006/07. After that year, the gap between detection rates for males and females narrowed, fluctuating between 0.3 and 1.9 detections per 1000 employees.

**FIGURE 3: OFFICERS DETECTED DRINK DRIVING FROM 2000-2015, ACCORDING TO GENDER**



**FIGURE 4: RATE OF OFFICERS DETECTED DRINK DRIVING FROM THE SAMPLE PERIOD, ACCORDING TO GENDER**





#### 4.1.2 Years in service and rank

Figure 5 outlines the mean years of service for officers detected drink driving. The mean varied from 12 to 19.1 years of service during the sample period. The median was also examined to consider any discrepancy between the averages. The overall median was 14.6 years' service.

The data shows that officers detected driving with a BAC over the legal limit are experienced Victoria Police officers having worked for the organisation for an average of around 15 years. At this stage in their careers, officers should have a good understanding of Victoria Police expectations and policies regarding conduct on and off duty, demonstrate better judgement and a higher regard for the risks associated with drink driving.

The breakdown of drink driving detections by rank generally reflects the composition of the Victoria Police sworn workforce.<sup>33</sup> As shown in Figure 6, senior constables recorded the highest proportion of detections, with 56.6 per cent of the total 228 detections. Every rank from probationary constable to superintendent was detected at least once exceeding the legal BAC limit during the sample period.

**FIGURE 5: MEAN YEARS IN SERVICE FOR SWORN OFFICERS DETECTED DRINK DRIVING FROM 2000-2015**

Financial year	Mean years
2000/01	13
2001/02	12.1
2002/03	15.5
2003/04	12.8
2004/05	13.8
2005/06	14.8
2006/07	12.8
2007/08	12
2008/09	12.1
2009/10	16.4
2010/11	19.1
2011/12	19
2012/13	16.4
2013/14	18.8
2014/15	16.2

<sup>33</sup> There was a substantial variation in 2009/10, where 23.1 per cent of officers detected were senior sergeants, who only represent on average 5.3 per cent of sworn officers.

#### 4. Trends – Victoria Police drink driving detections

**FIGURE 6: PERCENTAGE OF OFFICERS DETECTED DRINK DRIVING ACCORDING TO RANK**

Financial year	Probationary Constable*	Constable	Senior Constable	Sergeant	Senior Sergeant	Insp and Supt**
2003/04	0	18.2%	54.5%	18.2%	9.1%	0
2004/05	0	21.7%	56.5%	21.7%	0	0
2005/06	0	4.5%	68.2%	13.6%	4.5%	9.1%
2006/07	5.9%	17.6%	64.7%	11.8%	0	0
2007/08	0	13.3%	66.7%	13.3%	6.7%	0
2008/09	7.1%	28.6%	42.9%	14.3%	7.1%	0
2009/10	0	15.4%	53.8%	7.7%	23.1%	0
2010/11	0	11.1%	50%	22.2%	11.1%	5.6%
2011/12	0	20%	60%	20%	0	0
2012/13	0	16.7%	66.7%	16.7%	0	0
2013/14	0	18.8%	37.5%	31.3%	6.3%	6.3%
2014/15	0	30%	40%	20%	10%	0
<b>% of total detections</b>	<b>1.3%</b>	<b>17.1%</b>	<b>56.6%</b>	<b>17.1%</b>	<b>5.3%</b>	<b>2.6%</b>

\* Includes recruits and probationary constables

\*\* Includes Inspectors, Chief Inspectors, Superintendents and Chief Superintendents

#### 4.1.3 Police regions and departments

The analysis also examined where officers detected over the legal limit were stationed. As outlined in Figure 7, officers detected drink driving were reasonably spread across Victoria Police regions, commands and departments. A total of 160 officers detected drink driving were stationed across the four Victoria Police regions: North West Metro, Southern Metro, Eastern and Western. This amounts to 70 per cent of total detections. The remaining 30 per cent of detections are spread across Victoria Police departments including Crime Command.

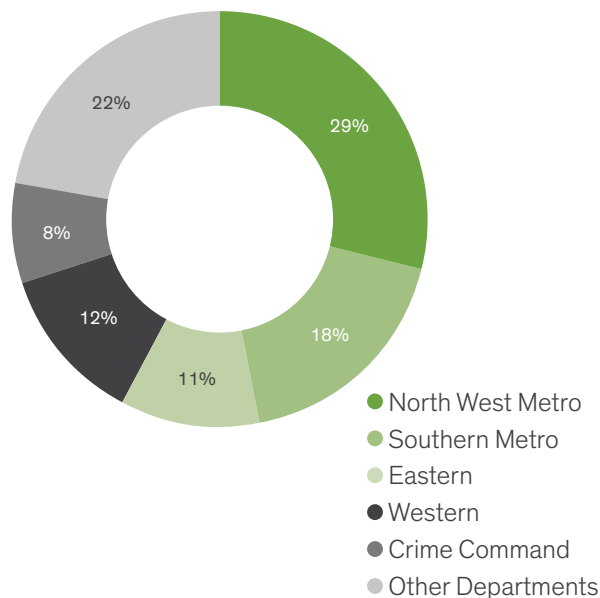
North West Metro region had the highest number of officers detected driving over the legal limit during the sample period, with 65 officers (29 per cent) detected. That region accounts for an average of 22 per cent of Victoria Police staff. However, detections in this region have substantially reduced from a high of 11 detections in 2005/06, to one detection per year in 2011/12 and 2014/15.

Southern Metro region has the second highest number of detections, with 42 officers (18 per cent) detected during the sample period. This 18 per cent of detections is an over-representation, with Southern Metro accounting for an average of 15 per cent of Victoria Police staff.<sup>35</sup>

Crime Command also appears to be overrepresented, accounting for eight per cent of detections and on average four per cent of Victoria Police staff. However, in the past seven years, detections of Crime Command officers have substantially reduced. Data between 2000/01 and 2006/07 indicates that Crime Command officers were overrepresented with 12 per cent of drink driving detections. This dropped from the 2007/08 to 2014/15 financial years as Crime Command accounted for two per cent of drink driving detections.

Figure 8 breaks down the regional detections according to the officers' stationed division. Detections within North West Metro predominately come out of the Melbourne and Diamond Creek divisions, accounting for 60 per cent of that region's detections. However, these two divisions also employ the highest number of police within the region. In Southern Metro, most detections concern officers within the Dandenong division. Similarly, that division employs the largest number of police within the region. The proportion of detections across the remaining divisions is relatively evenly spread, with between one and 10 officers detected drink driving in a division, per year.

**FIGURE 7: OFFICERS DETECTED DRINK DRIVING FROM 2000-2015, ACCORDING TO REGION/DEPARTMENT<sup>34</sup>**

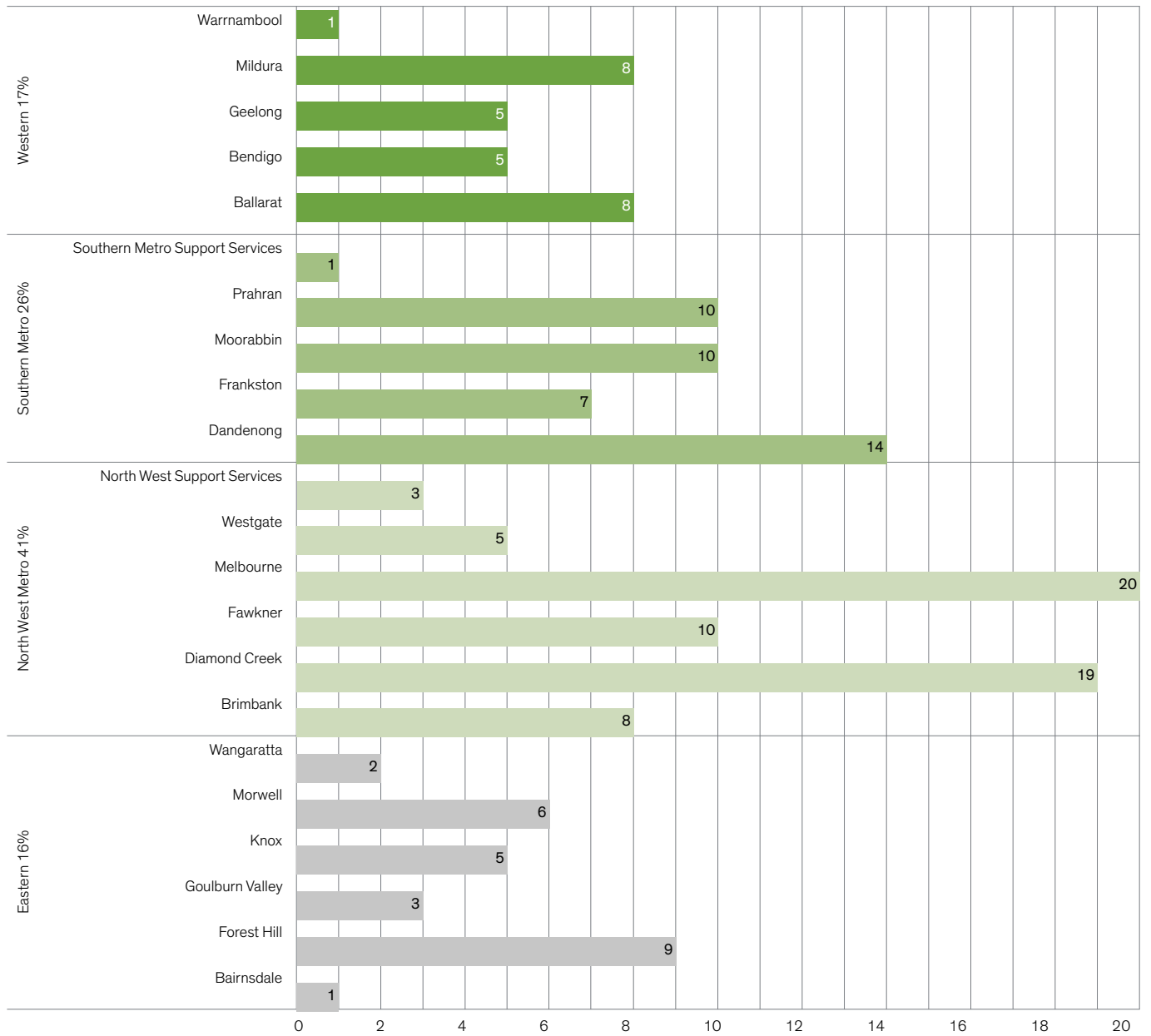


<sup>34</sup> Other Departments includes: Transit and Public Safety Command, People Development Command, Intelligence and Covert Support Command, Legal Services Department, Public Support Services Department, Operational Infrastructure Department, Community Engagement Advisors Office, Forensic Services, Specialist Operations, Corporate Strategy and Operational Improvement Department, PSC, Human Resources, IT, Information Systems and Security Command, Office of the Chief Commissioner, State Emergencies and Security Command, Road Policing Command.

<sup>35</sup> Staff counts refer to full time equivalent employees at December 2015 from Victoria Police's Employees by Location public document.

#### 4. Trends – Victoria Police drink driving detections

**FIGURE 8: OFFICERS FROM THE REGIONS DETECTED DRINK DRIVING FROM 2000-2015, ACCORDING TO THEIR DIVISION**



## **CASE STUDY 1**

### **First offence**

In March 2003, an off duty leading senior constable from the then Traffic Alcohol Section was involved in a collision in their private vehicle, resulting in hospitalisation. At the time, the officer had worked with Victoria Police for more than eight years. Once admitted to the hospital, a blood sample was taken which found the officer had a BAC reading of 0.078. The officer's licence was disqualified for six months, however the internal investigation did not result in any disciplinary action by Victoria Police.

### **Second offence**

In April 2014 the same officer, who was now working in the Road Policing Enforcement Division, was intercepted at an RBT site and requested to provide a BAC sample. At the time the officer was off duty and driving a private vehicle. The officer returned a reading of 0.077. An internal investigation resulted in the officer being charged with bringing the force into disrepute. At a disciplinary hearing, the officer pleaded guilty. The hearing officer's final determination was to demote the officer, reduce his remuneration and impose a 12 month ineligibility for transfer or promotion period. The officer chose to appeal the sanctions through the Police Registration and Service Board (PRSB) which upheld the determinations.

It is noted that the decision not to dismiss this officer, after the second offence, occurred following Victoria Police's public statement in 2010 that officers detected drink driving would likely be dismissed.

## **4.1.4 Repeat offenders**

Across the sample period, 14 officers were detected driving with a BAC over the legal limit on more than one occasion.<sup>36</sup> Of the total 228 drink driving detections, repeat offenders account for 30 detections (13 per cent). The proportion of Victoria Police officers who re-offend is below the Australian average (20 to 30 per cent of Australians detected drink driving re-offend). However, it is still a substantial proportion given Victoria Police's role in detecting and regulating drink driving.

<sup>36</sup> One officer was detected drink driving four times over a six month period in 2002.

## 4. Trends – Victoria Police drink driving detections

### 4.1.5 Sworn officers compared with other Victoria Police employees

The analysis in this report focuses on sworn Victoria Police officers, who comprise approximately 80 per cent of the Victoria Police workforce. However Figure 9 compares detections of sworn officers and unsworn Victoria Police employees.

Sworn officers accounted for 81 per cent (228) of drink driving detections in the sample period, with unsworn Victoria Police employees accounting for 19 per cent (52). The average number of detections per annum is 15.2 for sworn officers and 3.5 for Victoria Police employees. This is proportionate to the composition of the Victoria Police workforce.

**FIGURE 9: SWORN OFFICERS AND UNSWORN VICTORIA POLICE EMPLOYEES DETECTED DRINK DRIVING**

Financial year	Sworn officers detected	Unsworn Victoria Police employees detected
2000/01	15	3
2001/02	12	2
2002/03	20	8
2003/04	11	2
2004/05	23	4
2005/06	22	2
2006/07	17	2
2007/08	15	7
2008/09	14	4
2009/10	13	2
2010/11	18	4
2011/12	10	5
2012/13	12	2
2013/14	16	2
2014/15	10	3
<b>Total</b>	<b>228</b>	<b>52</b>
<b>Percentage</b>	<b>81%</b>	<b>19%</b>

## 4.2 Circumstances of detection

### 4.2.1 Duty status at the time of detection

Of the 228 detections of sworn officers during the sample period, 210 (92 per cent) involved officers using their own private vehicles.

The remaining 18 detections (eight per cent) involved officers driving Victoria Police vehicles. Figure 10 shows the number of officers detected drink driving and using Victoria Police vehicles is trending downwards, with only two officers detected drink driving in Victoria Police vehicles in the last five years.

**FIGURE 10: TYPE OF VEHICLE AND DUTY STATUS OF OFFICERS AT THE TIME OF DETECTION**

Financial year	Type of vehicle		Duty status		
	Departmental	Private	On	Off	Unknown
2000/01	3	12	0	15	0
2001/02	0	12	0	11	1
2002/03	1	19	0	20	0
2003/04	1	10	0	11	0
2004/05	4	19	0	23	0
2005/06	4	18	0	22	0
2006/07	2	15	1	16	0
2007/08	0	15	0	15	0
2008/09	0	14	0	14	0
2009/10	1	12	0	12	1
2010/11	0	18	0	18	0
2011/12	0	10	0	10	0
2012/13	1	11	1	11	0
2013/14	1	15	0	16	0
2014/15	0	10	0	10	0
<b>Total</b>	<b>18</b>	<b>210</b>	<b>2</b>	<b>224</b>	<b>2</b>
<b>Percentage</b>	<b>8%</b>	<b>92%</b>	<b>1%</b>	<b>98%</b>	<b>1%</b>

## 4. Trends – Victoria Police drink driving detections

The type of vehicle an officer was driving at the time of detection does not necessarily reflect the duty status of that officer, as Figure 10 shows. Over the sample period, 18 officers were detected driving departmental vehicles but only two of those officers were detected on duty.<sup>37</sup> During the sample period 98 per cent (224) of officers were off duty when detected driving over the legal BAC limit.

The detection of just two sworn officers driving over the legal BAC limit while on duty over a 15 year period (one in 2006/07 and the other in 2012/13) is a low number. However, given Victoria Police's role in regulating drink driving and officers' responsibility to the community, it is reasonable to expect that no officers will be detected drink driving while on duty. Of the two officers detected, one consumed alcohol with lunch and was subsequently involved in a two car collision; the other officer had finished a work-related 'debrief' at a hotel with some colleagues, after completing his duties.

### CASE STUDY 2

In October 2012, a senior constable with more than 12 years' service, completed their duties and was 'debriefing' with colleagues at a hotel. While still on duty and using a departmental car, the officer drove from the hotel and was stopped by police at an RBT site. The officer was found to have a BAC of 0.072. Victoria Police began an internal disciplinary process, which proceeded to a disciplinary hearing. The hearing officer issued an admonishment notice<sup>38</sup> and the officer maintained their employment. However, in June 2014 the officer was again detected driving above the legal limit after causing a collision in a private vehicle. The officer had a BAC of 0.178 and retired from Victoria Police, while under investigation.

<sup>37</sup> The status of two officers was unknown.

<sup>38</sup> Admonishment notices are a written notice and are intended to be used when there is a minor breach of discipline. They are not part of the statutory discipline regime and are designed as an alternative to the formal discipline process.

<sup>39</sup> Requested Victorian public drink driving data from Victoria Police.

### 4.2.2 Manner of detection

During the sample period, the most common method of detection of Victoria Police officers driving over the legal BAC limit was via an RBT site (58 per cent of detections). The next highest detection method was a collision (26 per cent), followed by random intercepts and non-random intercepts (each seven per cent). Figure 11 provides a breakdown of the manner of detection.

A comparison was conducted of the manner of detections of officers and the Victorian community in the last financial year, which highlighted differences. Firstly, nine per cent of detections of the general public were due to a collision, significantly lower than the 26 per cent of Victoria Police officers detected in this way. Secondly, the Victorian public was detected drink driving through intercepts (random and targeted) in 42 per cent of detections, substantially higher than the 16 per cent of Victoria Police officers detected due to an intercept.<sup>39</sup> There is no clear explanation for these differences, however it may indicate underreporting is an issue and risk within Victoria Police, as officers could be less likely to intercept departmental vehicles which in turn increases the risk of collisions.

FIGURE 11: MANNER OF DETECTION FOR OFFICERS FROM 2000-2015

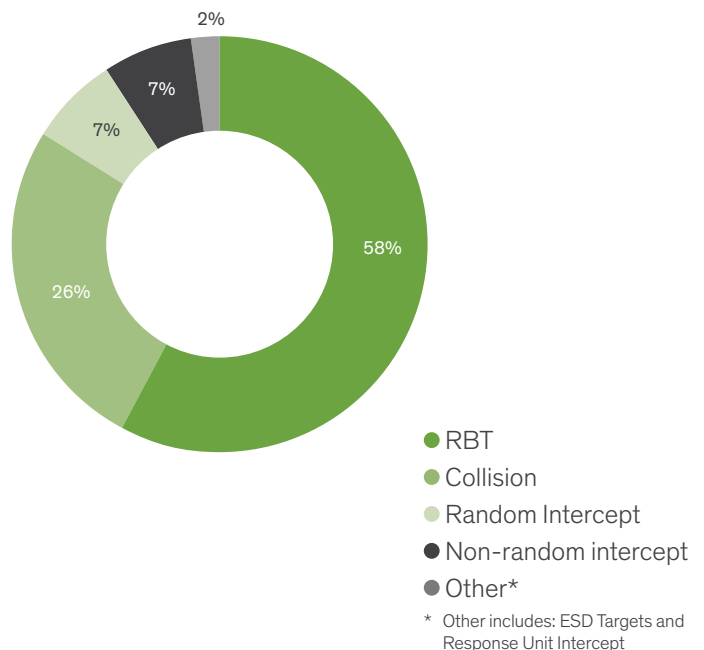
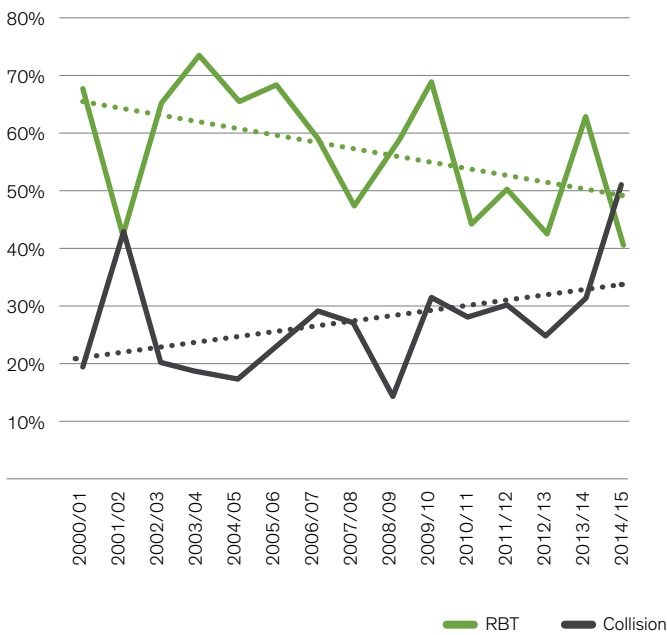




Figure 12 highlights the changing nature of police detections in relation to RBTs and collisions between 2000 and 2015. Overall, RBTs have been the most common manner of detection for officers drink driving, staying above 40 per cent of all detections during the sample period. However, the trend line shows a steady decline over the sample period, while the proportion of officers detected drink driving as a result of a collision has steadily increased. Since 2009/10, at least 25 per cent of officer detections have resulted from collisions. And in 2014/15 these detections exceeded the percentage of RBT detections (40 per cent for RBTs compared to 50 per cent for collisions). When compared to nine per cent of the general public who are detected after a collision, this is an area of concern.

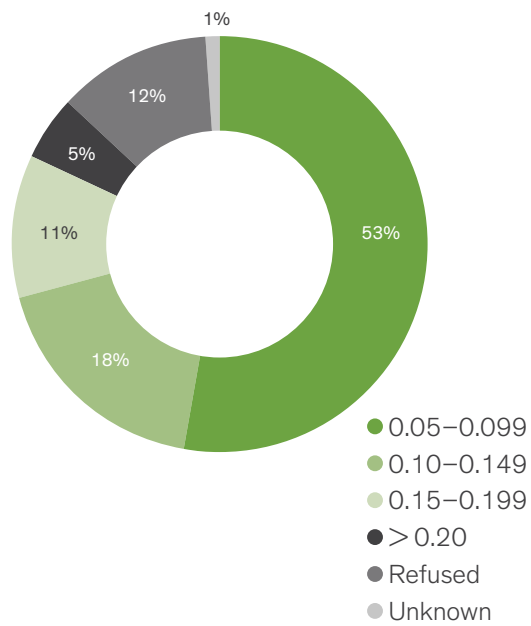
**FIGURE 12: COMPARISON OF RBT AND COLLISION DETECTIONS FOR OFFICERS**



### 4.2.3 BAC levels

As outlined in Figure 13, of the 228 detections of officers drink driving, the most frequent BAC reading group was 0.05-0.099 (53 per cent of detections). The second most frequent BAC group was 0.10-0.149 (18 per cent of detections), followed by officers who refused a BAC test (12 per cent of detections).

**FIGURE 13: BAC LIMIT OF OFFICERS DETECTED DRINK DRIVING FROM 2000-2015**



## 4. Trends – Victoria Police drink driving detections

The *Road Safety Act 1986* creates three separate offences for failing to take a requested breath test – refusing a preliminary breath test, failing to stop at a testing station and refusing a breathalyser (purposely providing an unsatisfactory sample is regarded as refusing a test).<sup>40</sup> A member of the public refusing a breath test is regarded by Victoria Police as a serious offence. A police officer refusing a breath test should be regarded as an even more serious matter, in light of officers' sworn obligation to uphold the law.

### CASE STUDY 3

In January 2003 a senior constable, with eight years' service, from the Southern Metro region finished night shift and met some fellow officers for a game of golf. While driving their private vehicle, the officer was directed by police into an RBT site. The senior constable held out their police badge to the officers at the site while driving off, calling out 'it's all right, I'm in the job', hence refusing a PBT. An officer at the RBT site recorded the registration of the car. When contact was made with the senior constable and the officers who had played golf, police were told that the senior constable had drunk two cans of full strength beer at the time of the incident. After an internal investigation, the matter was sent to a disciplinary hearing where the hearing officer decided a one year good behaviour bond was appropriate, and the officer maintained employment with Victoria Police. The officer holds the rank of sergeant at the time of publishing.

The highest BAC reading recorded for a Victoria Police officer during the sample period was 0.302 in 2000/01 (more information is provided in case study 4). A total of 12 officers were detected with a very high BAC reading of 0.20 and above, with the last of these detections occurring in 2012/13. All of these officers were off duty, with one driving a departmental vehicle. Unsurprisingly, most officers with high BAC readings were detected after an accident (67 per cent).

### CASE STUDY 4

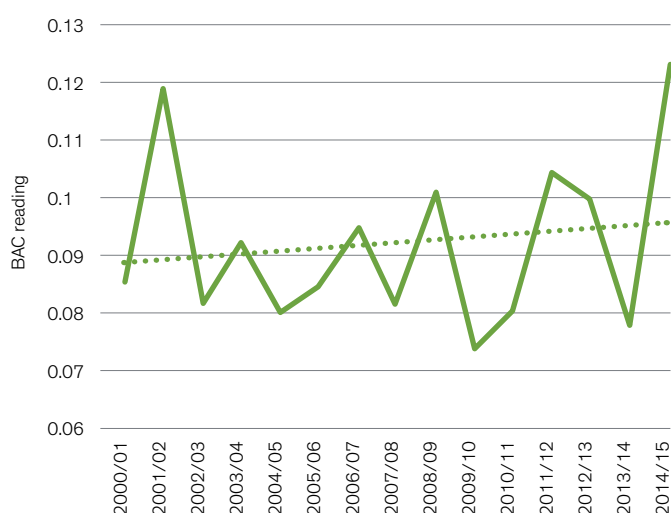
In 2001, a constable, from North West Metro region and with one year's experience in Victoria Police, was driving recklessly and caused an accident. At the time of the incident the officer was off duty and was driving their private vehicle. The officer was taken to hospital due to their injuries, where tests indicated a BAC level of 0.302, more than six times the legal limit. The incident was subject to an internal investigation, however the officer resigned before the investigation was completed.

<sup>40</sup> *What Happens If I Refuse to Take a Breath Test in Victoria?*, <http://victoria.criminallegal.com.au/traffic-law/refuse-breath-analysis-in-vic/#> accessed 12/5/2016.

The annual breakdown of the average BAC for officers detected drink driving is shown in Figure 14.<sup>41</sup> Overall, for the sample period, the median BAC is 0.087 however readings have fluctuated over the years. During the sample period, the trend line shows a slight increase in the median BAC readings, with the BAC readings peaking in 2001/02 (0.119) and 2014/15 (0.122). The median BAC for officers of the Victorian community detected drink driving in 2014/15 was 0.090.

The gradual increase in the median BAC readings and increase in officer detections after collisions may suggest that while the overall incidence of drink driving within Victoria Police is decreasing, specific risks around BAC readings and collisions are increasing.

**FIGURE 14: MEDIAN BAC READING FOR OFFICERS DRINK DRIVING, FROM 2000-2015**



<sup>41</sup> Note that this graph uses median figures rather than the mean to provide a more accurate reflection of the data and to account for outliers that would skew average BAC readings.

<sup>42</sup> Includes retiring under investigation.

<sup>43</sup> Includes: fines, admonishment notice, good behaviour bond, no disciplinary action, formal counselling, formal warning, transfer within region/department, reduced rank, reduced remuneration, ineligible for promotion, ineligible for transfer, workplace guidance, assist with training, return to work program, drink-driving course, reprimand and undetermined.

### 4.3 Disciplinary outcomes

The data examined by IBAC suggests that despite the strongly worded public statements, officers detected drink driving are still more likely to keep their jobs, with 58 per cent of officers detected drink driving in the past five years maintaining their employment.

Once an officer is detected drink driving and they are charged with a breach of discipline, their case is heard by a dedicated disciplinary hearing officer. During the sample period, only nine instances (four per cent) of drink driving detections resulted in dismissal. In 67 matters (29 per cent) officers resigned under investigation<sup>42</sup> prior to a final determination of a disciplinary hearing, while in 152 detections (67 per cent) officers maintained their employment with Victoria Police.<sup>43</sup>

Figure 15 highlights determinations before and after Victoria Police's 2010 statements that officers' employment would be at risk if detected driving with a BAC over the legal limit.

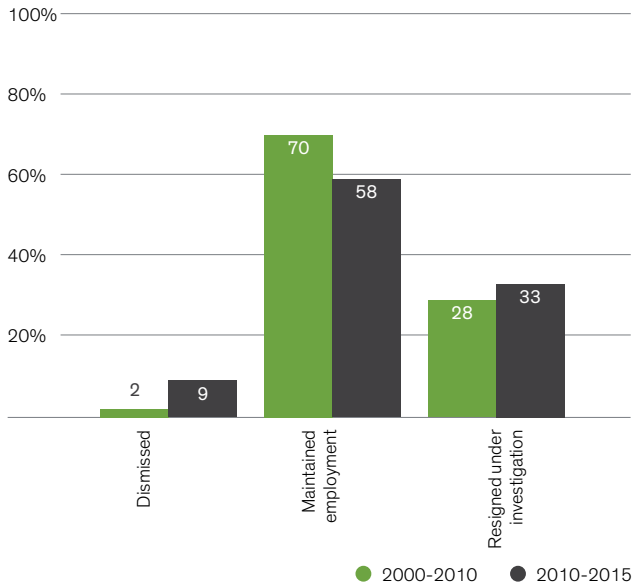
Between 2000 and 2010, there were 162 detections of officers drink driving. Figure 15 shows that during this period, 45 officers (28 per cent of detections) resigned under investigation however the remaining officers went before a disciplinary hearing. As a result of these hearings, only three matters (two per cent of detections) resulted in dismissal. In the remaining 114 matters (70 per cent of detections), officers maintained their employment.

After Victoria Police publicly warned officers about the serious consequences of drink driving in 2010, there were 66 drink driving detections. Figure 15 shows that officers resigned under investigation in 22 of these incidents (33 per cent), six matters (nine per cent) resulted in officers being dismissed, while in 38 matters (58 per cent) officers maintained their employment.

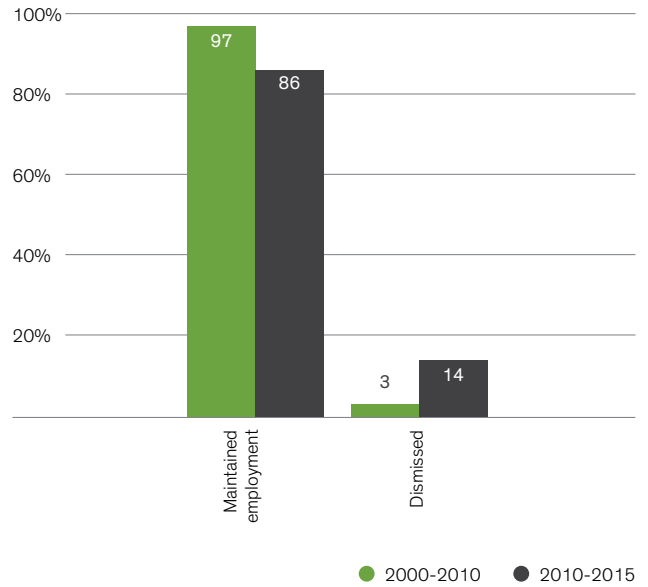
A modest increase in the number of officers dismissed for drink driving since 2010 is evident, with a seven per cent increase in dismissals for officers detected drink driving. The number of incidents where officers resign while under investigation or pending a disciplinary hearing has also increased - by five per cent in the past five years.

#### 4. Trends – Victoria Police drink driving detections

**FIGURE 15: DETERMINATIONS FOR OFFICERS DETECTED DRINK DRIVING**



**FIGURE 16: DISCIPLINARY DETERMINATIONS**



#### 4.3.1 Detections resulting in dismissal vis-a-vis maintaining employment

Of the 161 detections where officers were subject to some form of disciplinary action (ie excluding officers who resigned while under investigation or pending a disciplinary hearing), 94 per cent maintained their employment with Victoria Police while six per cent were dismissed.

Figure 16 shows disciplinary determinations before and after Victoria Police’s 2010 statements that officers’ employment would be at risk if detected driving over the legal BAC limit.

Between 2000 and 2010 there were 117 detections of officers driving with a BAC over the legal limit that resulted in a disciplinary determination. Figure 16 shows that during this ten year period, 114 of these determinations (97 per cent) resulted in officers retaining their jobs. There were three determinations (three per cent) to dismiss the officer. As shown in Figure 16, between 2010 and 2015, 38 detections (86 per cent) resulted in officers maintaining their employment with Victoria Police while six detections (14 per cent) resulted in dismissals.

This indicates only marginal changes in disciplinary determinations after former Chief Commissioner Ken Lay’s statement that officer drink driving would ‘not be tolerated’ and would ‘most likely result in termination of employment’.

In addition, the officers who retained their employment were generally only subject to low level disciplinary action. Since 2010, six officers have received admonishment notices and 16 were obliged to pay a fine/donation. Five officers’ disciplinary hearings resulted in a reduction in rank, whether as a condition of their good behaviour bond for a specified period, or as the final determination.

### 4.3.2 Learnings from other jurisdictions

To assist in handing down appropriate determinations for officers detected drink driving, Queensland Police adopted a drink driving matrix in July 2013 to use as a reference during the disciplinary process. The Queensland Police *Disciplinary proceedings (police officers) complaint management* policy sets out indicative sanctions for officers who are detected drink driving based on specific circumstances. The hearing officer considers whether the officer was on or off duty at the time, whether they were using a police or private vehicle, their BAC, whether this is their first offence, and the seriousness of any damage (if there was a collision). Additional considerations that the hearing officer has regard to include the officer's level and rank and any other relevant circumstances. As part of the determination, the hearing officer can also impose additional restrictions including removing or restricting access to courses, relieving duties, and supervisory and development opportunities. The sanctions in the matrix are indicative only, as the hearing officer is still obligated to base their decision on the facts of the case, using the matrix as a guide.

Queensland Police's use of a drink driving disciplinary matrix is considered an example of good practise in this area. Such a matrix allows officers to understand the consequences of their actions and highlights the force's approach to drink driving by its officers. It also assists in achieving greater consistency of outcomes, without removing the right of the hearing officer to take individual circumstances into consideration. A matrix could be a way to assure the public that officers detected drink driving will be subject to appropriate action, providing transparency of sanctions, and improving consistency in relation to disciplinary outcomes.

### 4.3.3 Disciplinary outcomes for officers detected after a collision

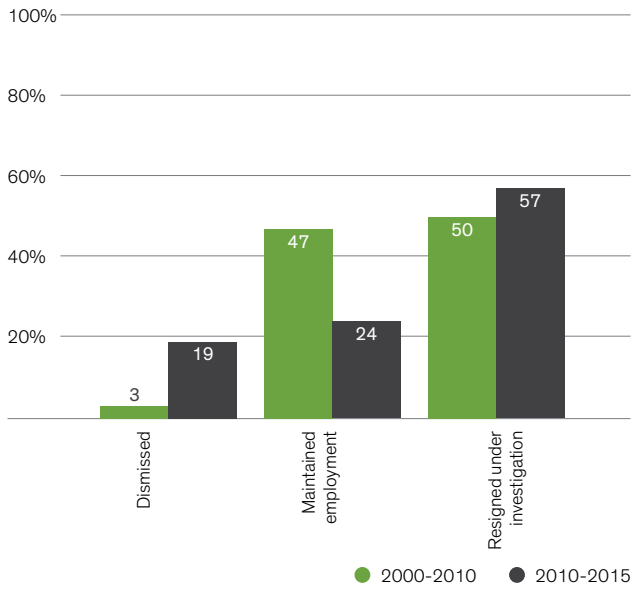
During the sample period, 26 per cent of Victoria Police officers detected drink driving were detected after a collision (59 collisions). In relation to the resulting disciplinary determinations, 53 per cent of officers (31) resigned under investigation so no final determination was recorded, 39 per cent of officers (23) maintained their employment and eight per cent (five) were dismissed.

When the data is analysed before and after Victoria Police's statement about the serious consequences of drink driving, a change in determinations is apparent. Prior to 2010, 47 per cent of officers involved in a collision and over the legal BAC limit retained their employment. Between 2010 and 2015, this dropped to 24 per cent.

Victoria Police therefore appears to have adopted a stronger position after 2010 in relation to officers detected drink driving and involved in a collision, with a 16 per cent increase in dismissals and a 23 per cent reduction in officers maintaining their employment.

#### 4. Trends – Victoria Police drink driving detections

**FIGURE 17: DETERMINATIONS FOR OFFICERS DETECTED DRINK DRIVING AFTER A COLLISION**



#### 4.3.4 Impact of BAC on disciplinary outcomes

An officer's BAC at the time of detection appears to be an influencing factor in disciplinary outcomes. In 84 per cent of cases involving low readings<sup>44</sup>, officers maintained their employment with Victoria Police. However, in cases involving high readings<sup>45</sup>, only 52 per cent of officers kept their jobs (noting that the majority of those who did not maintain their employment resigned under investigation).

Figures 18 and 19 highlight the differences in outcomes based on high or low BAC readings, while also distinguishing matters determined before and after Victoria Police's 2010 warning about the consequences of drink driving. Figure 18 shows that between 2000 and 2010, 88 per cent of drink driving detections with low BAC readings resulted in officers maintaining their employment, with only one per cent being dismissed. In the past five years this has changed to 75 per cent of officers maintaining their employment and six per cent being dismissed (Figure 18).

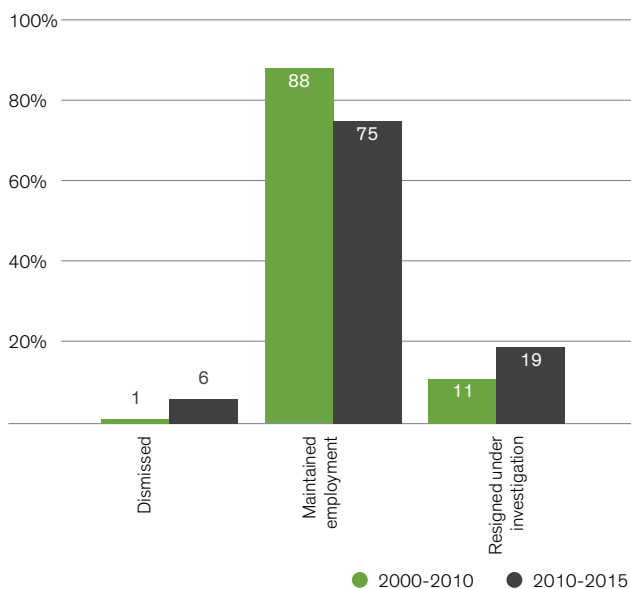
For officers detected with high BAC readings, Figure 19 shows there has been a decrease in the proportion of officers maintaining employment (from 59 per cent to 35 per cent) and an increase in the proportion of officers dismissed (from four per cent to 17 per cent) since 2010.

Generally, officers are more likely to resign under investigation if detected with a high BAC reading. There has also been an increase post-2010 in resignations regardless of whether the officer recorded a low or high reading at the time of detection. Although it can be surmised that being detected drink driving is a factor in an officer's decision to resign, it is not possible to determine the extent to which it is the key factor as there may be other factors that influence that decision.

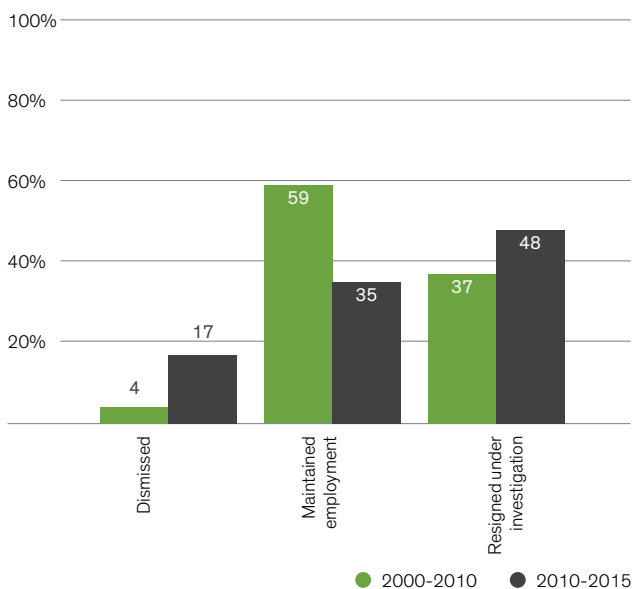
<sup>44</sup> BAC limit between 0.05 and 0.10.

<sup>45</sup> BAC limit over 0.10.

**FIGURE 18: DETERMINATIONS FOR OFFICERS WITH LOW READINGS**



**FIGURE 19: DETERMINATIONS FOR OFFICERS WITH HIGH READINGS**



### 4.3.5 Trends in dismissals

A total of nine officers have been dismissed from Victoria Police for driving over the legal BAC limit during the sample period.<sup>46</sup> The profile of dismissed officers is consistent with the general detected officer population, ie. officers were predominately off duty, detected using their private vehicles and at a senior constable rank. However, officers dismissed for drink driving were more likely to have been detected after a collision (56 per cent) or as a result of a non-random intercept (33 per cent). Of the three non-random intercepts, two were due to the officer exceeding the prescribed speed limit.

### CASE STUDY 5

In January 2006, an off duty detective senior constable from Southern Metro region was driving their private vehicle when they were intercepted for driving 81km per hour in a 60km per hour zone. The officer, with 26 years in Victoria Police, was breath-tested and returned a BAC reading of 0.114. The disciplinary hearing officer dismissed the officer for conduct unbecoming of Victoria Police, which the PRSB affirmed when the officer appealed the decision.

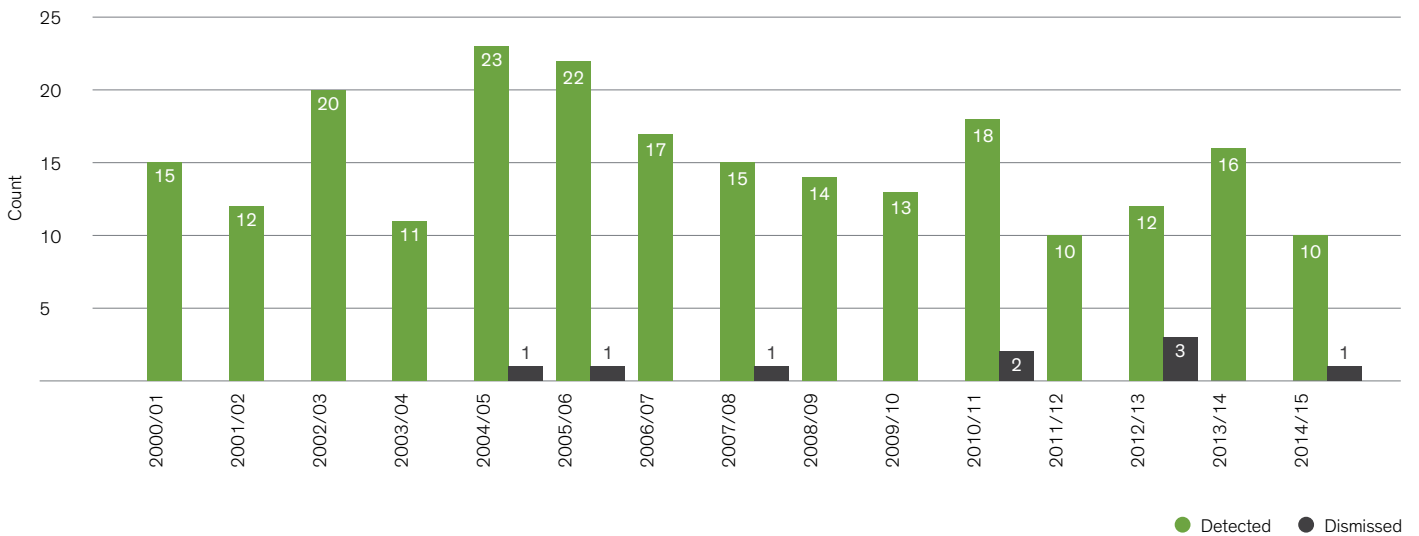
<sup>46</sup> This number is pre-reviews by the PRSB.

#### 4. Trends – Victoria Police drink driving detections

Over the sample period, the median BAC of detected officers who were subsequently dismissed was 0.125 compared with a median BAC for all detected officers of 0.087. As previously stated, this indicates that a higher BAC reading is more likely to result in a harsher disciplinary outcome.

While the number of officers detected drink driving is decreasing, Figure 20 highlights a modest upward trend in dismissals of officers detected during the sample period. Between 2000 and 2004, no officer was dismissed for drink driving despite 58 detections. Since 2004, an average of one dismissal per year has been recorded. This may reflect the use of a level two hearing officer (Assistant Commissioner Road Policing) for all drink driving matters to promote consistency in determinations.

**FIGURE 20: OFFICERS DETECTED COMPARED WITH OFFICERS DISMISSED FROM 2000-2015**





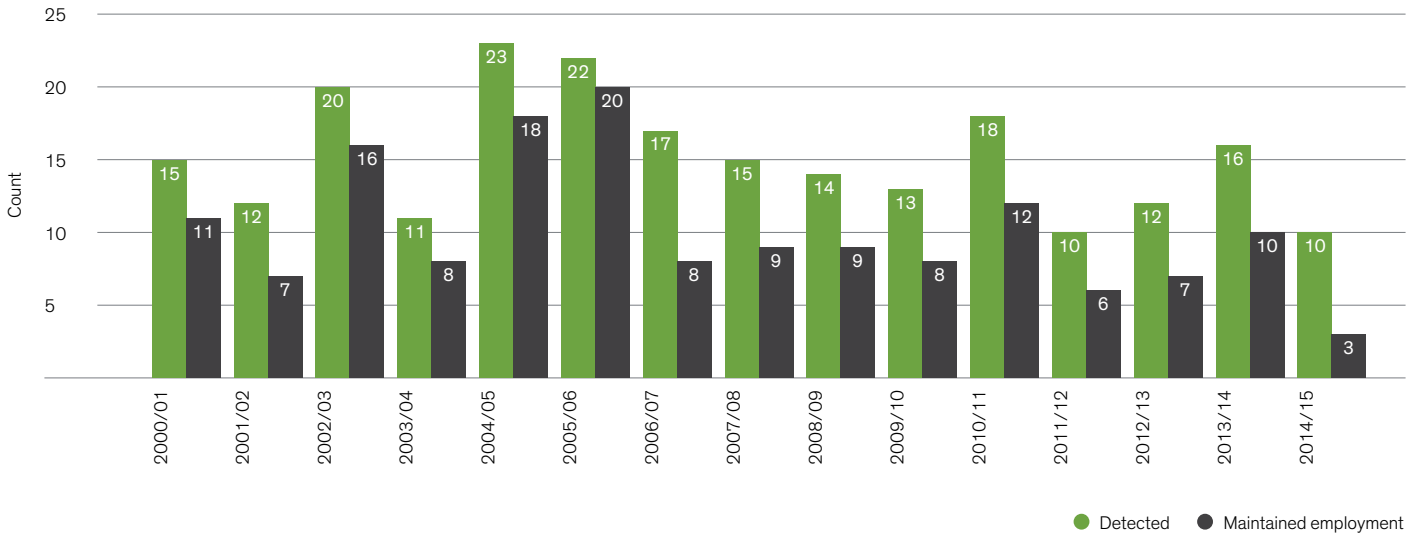
### 4.3.6 Trends in officers maintaining employment

Of the total 228 detections of officers drink driving, 152 (67 per cent) resulted in officers maintaining their employment with Victoria Police. However, as Figure 21 shows, the number of officers who maintain their employment after being detected drink driving has declined between 2000 and 2015. In 2005/06, officers maintained their employment in 91 per cent of detections. This dropped to 30 per cent in 2014/15.

Officers who maintained their employment after drink driving:

- recorded a median BAC of 0.077 compared with 0.125 for officers who were dismissed
- were generally not adversely treated if detected driving a departmental vehicle (15 of the 18 officers so detected maintained their employment).

**FIGURE 21: OFFICERS DETECTED AGAINST OFFICERS MAINTAINING EMPLOYMENT FROM 2000-2015**



## 4. Trends – Victoria Police drink driving detections

### 4.3.7 Disciplinary trends

Most officers who maintained their employment after being detected drink driving were subject to other disciplinary action. During the sample period, 58 detections (38 per cent of those who maintained their employment) resulted in officers receiving a good behaviour bond. Generally, a good behaviour bond lasts one year and includes conditions such as an ineligibility for promotion and participation in a driver education course. The next most common disciplinary action for officers who maintained their employment was formal counselling; this was the outcome of 37 detections (24 per cent of those who maintained their employment). Admonishment notices were issued to 12 per cent of officers, while no disciplinary action was taken against 12 per cent of officers who maintained their employment.

#### CASE STUDY 6

In June 2004, an off duty senior constable from North West Metro region was driving their private vehicle when they were intercepted driving 114km/hr in a temporary 40km/hr zone. The officer was uncooperative with the on duty officers, failing to provide a satisfactory breath sample when requested. A blood sample was taken to check the officer's BAC reading, which was found to be 0.168. The disciplinary hearing resulted in a \$300 fine and the officer was placed on a 12 month good behaviour bond. As a condition of the good behaviour bond, the officer had to assist with police-run driver education programs, attend alcohol rehabilitation and complete a Victoria Police alcohol assessment. This officer is currently a serving leading senior constable with Victoria Police.

Requiring officers who are misusing alcohol to undertake some form of counselling or educational programs is considered good contemporary practise. As outlined in Victoria Police's *Alcohol and other drugs manual*, ensuring such officers have access to welfare assistance at the earliest opportunity is important. In particular, officers in the early stages of their careers who are experiencing difficulties with alcohol may benefit from early intervention.

There has been a greater focus on the welfare of officers during the disciplinary process over the past five years. Prior to Victoria Police's 2010 public statements on the seriousness of officer drink driving, education and support programs were minimally used as disciplinary determinations: between 2000 and 2010, nine per cent of officers detected drink driving were required to attend educational or counselling programs as part of their disciplinary outcome. After 2010 this doubled to 18 per cent of officers. Welfare conditions have included assisting with public drug and alcohol programs, attending counselling, and completing drug and alcohol awareness courses. Queensland Police *Alcohol and Drug Policy and Procedures* could be considered an example of good practise in relation to welfare management as it states that the aim is to support the health, welfare and safety of all officers and to identify support mechanisms.

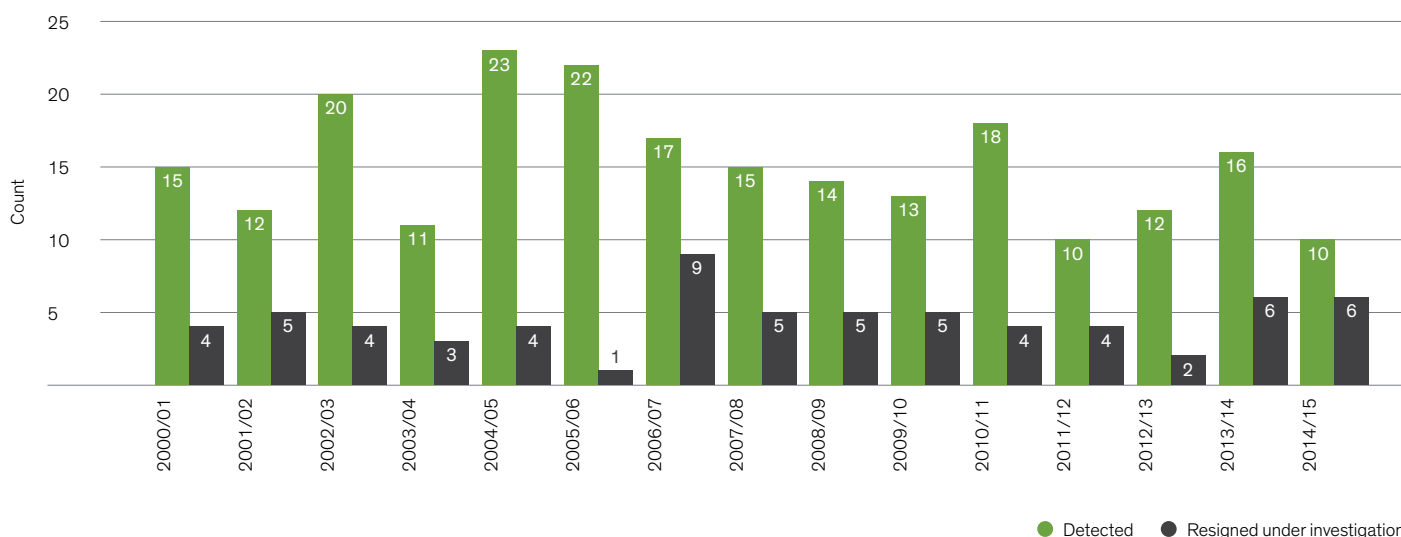
### 4.3.8 Trends of officers resigning under investigation

As the number of officers dismissed as a result of drink driving has slowly increased, so too has the number of officers who have resigned prior to their matter proceeding to a disciplinary hearing. Overall, 67 officers (29 per cent) have resigned under investigation during the sample period with Figure 22 showing a slight upwards trend over the sample period. Reflective of the general population of officers detected drink driving, the majority who resigned under investigation were male senior constables with an average of 15 years' experience.

Over half (64 per cent) of officers who refused to provide a BAC reading resigned under investigation whilst the median BAC for those that did cooperate was 0.124, which is close to the reading of those who were dismissed (0.125). Similar to the trends for dismissed officers, 30 per cent were detected via an RBT intercept and 46 per cent were detected after being involved in a collision. Ten of the officers who resigned under investigation had previously been detected driving over the legal BAC limit.

Of note, in the United Kingdom, the Home Office regulations were amended in January 2015 to prevent police officers resigning or retiring if they are subject to an allegation that could lead to dismissal. In a period of less than 12 months, the Home Office found that 144 officers resigned or retired while subject to a gross misconduct investigation.<sup>47</sup> Therefore in an attempt to hold officers accountable for their actions, officers are now prevented from resigning or retiring until any case has concluded or it has been found that the officer will not face a dismissal hearing.

**FIGURE 22: OFFICERS DETECTED DRINK DRIVING WHO RESIGNED UNDER INVESTIGATION FROM 2000-2015**



<sup>47</sup> United Kingdom Home Office, 'New regulations prevent police officers retiring or resigning to avoid dismissal', 12 January 2015, <https://www.gov.uk/government/news/new-regulations-prevent-police-officers-retiring-or-resigning-to-avoid-dismissal>, accessed on 21/3/16.

## 4. Trends – Victoria Police drink driving detections

### 4.3.9 Trends in appeals of disciplinary determinations

Victoria Police officers may apply to the Police Registration and Services Board (PRSB) to have the decision of a hearing officer reviewed. The PRSB can only set aside a decision of a hearing officer if it is satisfied that the decision was harsh, unjust or unreasonable.

Of the 161 detections that proceeded to a disciplinary hearing, 14 officers (nine per cent) appealed the decision of the hearing officer. Of these decisions reviewed by the PRSB, eight (57 per cent) were affirmed while six (43 per cent) were amended.

Nine (64 per cent) of the 14 appeals related to a determination of dismissal. Of these, seven were affirmed and two were amended. The amended matters resulted in one officer being reduced in rank and made ineligible for promotion for 12 months, while the other officer's determination was changed to a \$1000 fine and an ineligibility for promotion period. Four good behaviour bond decisions were reviewed: one determination was changed to a \$2500 fine and the conditions of three bonds were amended. A small number of decisions are reviewed by the PRSB, however most relate to dismissals.

#### CASE STUDY 7

In November 2014, a constable from North West Metro region was off duty and driving their private vehicle when they had a minor collision with a stone garden wall. No-one (including the driver) was injured in the accident. Local police attended the scene and breath-tested the driver, who was found to have a BAC of 0.082. The officer appropriately informed their station command of the incident and the suspension of their licence. The matter was internally investigated and disciplinary charges laid. At the disciplinary hearing, the hearing officer dismissed the officer. The decision was reviewed by the PRSB which changed the determination from a dismissal to a \$1000 fine and a 12 month ineligibility for promotion period.

## 5. Conclusion

Driving under the influence of alcohol and/or drugs is one of the leading causes of road trauma in Victoria. Delegated with the responsibility to detect drink driving, drink driving by police risks diminishing the confidence the community has in Victoria Police, including officers' authority to enforce the law.

IBAC identified that over the past 15 years, detections of officers drink driving have declined, however the average BAC reading of officers has increased. In comparison with the Victorian public, a higher percentage of officers are detected drink driving after a collision, with these numbers also increasing over the sample period.

### Recommendation 1

That Victoria Police consider the issues highlighted in this report in relation to officers detected drink driving and determine appropriate action, with a particular focus on:

- the increase in the proportion of officers detected drink driving as a result of a collision
- the increase in the median BAC reading of officers detected drink driving.

### Victoria Police's response:

Victoria Police acknowledged the observations in this report, and undertook to review and develop preventative programs to mitigate the identified issues, highlighting that some measures, such as the Victoria Police *Mental Health Review* (published in 2016), had already been initiated.

IBAC's analysis of data between 2000 and 2015 shows there has been a slight increase in dismissals of officers detected exceeding the prescribed BAC limit but that the majority of officers so detected retain their employment. IBAC recommends that Victoria Police consider developing a matrix for use by hearing officers that clearly specifies likely disciplinary outcomes, when an officer is detected drink driving, similar to that utilised by Queensland Police.

### Recommendation 2

That Victoria Police consider developing a drink driving matrix to be used by hearing officers in determining disciplinary outcomes for drink driving cases to assist in educating officers, provide consistency in outcomes and improve transparency.

### Victoria Police's response:

Victoria Police stated that a formal drink driving matrix could reduce its capacity to consider the often complex nature of policing and the cumulative effects of trauma. Victoria Police has advised it is confident that the full-time dedicated hearing officer (who deals with the majority of all disciplinary matters, including drink driving matters) provides the appropriate consistency of outcomes, while considering peripheral and contributing factors in relation to the offence.

## 5. Conclusion

IBAC also recommends, that in the interest of transparency, Victoria Police regularly publish aggregated information on officers who are detected drink driving.

### Recommendation 3

For transparency, Victoria Police to consider publicly reporting each year on the following:

- the number of officers detected drink driving
- the BAC reading of officers detected drink driving
- final disciplinary determinations of officers detected drink driving including in relation to:
  - officers detected after a collision
  - officers with low BAC readings
  - officers with high BAC readings.

### Victoria Police's response:

Victoria Police accepted the need to provide the public with an appropriate level of information associated with reporting the numbers of police officers detected drink driving. Victoria Police stated it will continue to refine the provision of data in consultation with IBAC



