

Was this Preventable?

Gerald Waters. Research Director. Researching Impaired Driving in New Zealand.

Abstract

Context

In New Zealand in 2010 a family friend was killed by a drink driver. The driver had 17 previous convictions for drink driving. The driver had only been out of jail for 10 days before he killed our friend. He had been imprisoned for drink driving. I decided to investigate the historical and current state of drink driving in New Zealand and what measures were used, to good effect, to reduce the harm from drink driving overseas.

Objectives

I wanted to critique the current approach used to manage drink drive offenders in New Zealand and also to compile information on internationally recognised best practice initiatives used to reduce the harm from drink driving.

Key Outcomes

In New Zealand repeat offending accounted for around a third of the detections and harm caused by drink driving. Only 5% of detected drink drivers are assessed for alcohol problems. International research revealed that the use of alcohol ignition interlocks, rehabilitative efforts and Drug Courts reduced instances of drink driving and the harm caused by such behavior. I compiled this research into a series of papers and provided it to the ministries of Transport, Justice and Health; I also gave evidence to a Select Committee on proposed amendments to the New Zealand Land Transport Act 1998. The information I provided has helped facilitate the introduction to New Zealand of alcohol ignition interlocks, Drug Courts and more funding for internationally recognised best practice drink driver rehabilitation programmes.

Discussion and Conclusions

The compilation of peer reviewed evidence on the extent of the problems and possible solutions to drink driving in New Zealand helped inform decision makers on where their efforts were best focused. The research work continues in the form of a Charitable Trust 'Researching Impaired Driving in New Zealand'. The Trust will next focus on drug impaired driving and youth drink drivers.

Introduction

In March of 2010 one night my girlfriend and I, after putting our baby to bed, and she pregnant with our daughter, tried hard all night to ignore the phone calls and text messages we usually had so we could enjoy some time together. We realised that something was wrong when she started getting many more attempts to reach her than usual. The next time the phone rang she answered it. I will never ever forget that moment as my partner screamed, collapsed to the floor and dropped the phone. I grabbed the phone and asked "What is it?" And a voice said "Rin is dead".

Katherine 'Rin' Kennedy was my partner's best friend and had visited us on many occasions since I had moved to New Zealand; she had been killed that morning by a drink driver.

Newspaper reports¹ informed us that this was not the first time that the driver had been caught drink driving and that he had 17 previous convictions for drink driving. At Court during sentencing the judge informed the court that the driver had only been out of jail for 10 days before he killed our friend: he had been imprisoned for drink driving.

Whilst I understood that while there are cars and people are allowed to drink and drive there would inevitably be deaths but to have so many previous convictions and still come to this awful conclusion begged the question ‘Was this preventable?’

Repeat Drink Driving in New Zealand

I started researching repeat drink driving in New Zealand. A Google word search of ‘repeat drink driving problems in New Zealand’ led me to a meeting with Mr. Roger Brooking, Director of the ‘Drink Driving Interventions Trust’, Wellington². Roger informed me of the low number of convicted drink drive offenders who are referred for alcohol assessment, around 5% (Brooking, 2010).

Information supplied to me by the Ministry of Transport (Ministry of Transport, 2010a) revealed that from 2005-2007 nearly a third (33%) of those drivers involved in alcohol related fatal crashes had a previous conviction for drink drive offending (see Table. 1).

Prior offending history period	Number of prior drink-driving offences within prior history period	Proportion of drivers involved in alcohol-related fatal crashes between 2005-2007
5 years	None	77%
	One	15%
	Two	5%
	Three or more	3%
10 years	None	70%
	One	17%
	Two	7%
	Three or more	6%
Lifetime	None	67%
	One	13%
	Two	7%
	Three or more	13%

Table 1: Proportion of drivers involved in alcohol-related fatal crashes from 2005-2007 by prior offending history

Every year there are approximately 30,000 convictions for drink driving offences and in 2010 it was reported that 23 percent of drink drivers were reoffenders (Ministry of Transport, 2010b).

¹ http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10661905 (Accessed April 15th 2013).

² The Drink Driving Interventions Trust was established in October 2010 to provide an interventions programme for repeat drink drivers on their third (or subsequent) conviction.

From 2006-2010 there were 576 deaths in crashes where alcohol was a contributing factor. 364 of those deaths (63%) were in crashes caused by a high-risk driver who had either a blood alcohol level at least 50% over the adult legal limit or a prior alcohol offence (Ministry of Transport, 2012).

Research and Action

I found out that the New Zealand Government were amending the Land Transport Act and the drink driving laws through their Safer Journeys³ initiative and I prepared a submission (Waters, 2010) for the Land Transport and Industrial relations Select Committee that included research on alcohol ignition interlocks, rehabilitation and other topics relevant to the proposed amendments. I also made an oral submission to the Select Committee. My evidence for this submission was gathered and reviewed from internationally recognised experts in the field of substance impaired driving and road safety and a list of these can be found in my submission (p.21).

In my submission I gave evidence of the effectiveness of alcohol ignition interlocks. My research supplied information showing that they are the best response to drink drivers. New Zealand started its first interlock program in 2012.

As well as my research into drink driving I had also started to write letters. They included asking the Minister of Transport “What are the benefits of allowing people to drink and drive?” and to the Minister of Justice “Whose job is it to investigate the circumstances that led to our friend’s death?” After many requests regarding the latter, I soon realised that nobody would be investigating and decided to take on the role myself. I decided that the only way I was going to get all the information that I needed was to ask the driver that had killed our friend himself for it. I worked with the Department of Corrections and the prison services in drafting a letter asking for access to all the driver’s previous offending history, all information relating to his encounters with the criminal justice system, all ACC⁴ files and records and all data relating to rehabilitative efforts. The driver waived his privacy rights and I soon received boxes and folders full of files. The driver whilst having numerous convictions for drink driving also had nearly 100 other Alcohol and Other Drug (AOD) related convictions. I decided to research what worked in other countries for those whose repeat offending was AOD related. One of these initiatives was Drug Courts.

I started researching AOD offending in New Zealand and how Drug Courts work. I was helped in my understanding by a District Court Judge whose name I had seen in the press and was linked to stories on AOD related offending.⁵ The judge told me that they too wanted Drug Courts for NZ. I was introduced to a United States Superior Court Judge and expert in the field of Drug Courts, Judge Peggy Hora. Judge Hora provided me with research and data on Drug Courts. I then started researching AOD related offending and repeat offending in New Zealand.

³ Safer Journeys is the New Zealand government's strategy to guide improvements in road safety over the period 2010 to 2020.

⁴ The Accident Compensation Corporation (ACC) is a New Zealand Crown entity responsible for administering the Accident Compensation Act 2001. The Act provides financial compensation and support to citizens, residents, and temporary visitors who have suffered personal injuries.

⁵ <http://tvnz.co.nz/national-news/govt-s-head-in-sand-over-drug-courts-3948847> (Accessed April 15th 2013).

I again met and worked with Roger Brooking who provided me with essential material on the state of AOD repeat offending and the criminal justice system in New Zealand. I returned to my global research and worked with experts who showed me that in other countries the use of therapeutic jurisprudence or TJ, which addresses the underlying causes of offending, had been proven to have a more positive impact on reducing reoffending.

I decided to make my findings available to the public and constructed a paper called 'The Case for Alcohol and Other Drug Treatment Courts in New Zealand' (Waters, 2011). I sent a copy of my paper to the Minister of Justice, at the time, the Right Hon Simon Power. I had already had some considerable correspondence with the Minister and his senior advisor. The Minister read the paper and then came to my house in June 2011 to meet and discuss this research and other related matters. We talked about the value of Drug Courts and their ability to reduce reoffending. He told me that the Law Commission had also suggested their use in a recent paper on the control and use of drugs (Law Commission, 2010). Before he left that day the Minister told me that he would be looking into the matter personally.

New Zealand started its first pilot Drug Courts in 2012 as part of the Drivers of Crime package (Ministry of Justice, 2011). The Government proposed to invest up to \$2 million a year for five years for the AOD treatment services associated with the pilot Drug Court for adults in greater Auckland. The recommended target group is offenders with AOD dependence who are facing up to 3 years in prison for offences where AOD has been a contributing factor (including repeat drink driving). My paper was also cited and used in lectures given by Judge Peggy Hora in Auckland and Wellington.

In 2011, I received an invitation to give a presentation on 'Drink Driving in New Zealand' at an alcohol ignition interlock symposium, held by the Traffic Injury Research Foundation in Palm Springs, California. At the symposium I found out that I had been nominated for and became the first recipient of the inaugural 'Barry Sweedler' Award.

At the symposium I met with experts in many fields of drink driving and road safety and the conversations I had convinced me that I should be more organised in my approach. I had been referred to as many things by the media since I started my research: an advocate, a lobbyist. On reflection all I had ever done was provide research and disseminated this information to encourage collaboration amongst those who may find this information of use as well as to educate and inform the wider public on the issues involved in the research. This method of working is consistent with those described for a Charitable Trust and a trust was formed in 2012. The Formation of the Charitable Trust 'Researching Impaired Driving in New Zealand' holds me to this impartial, evidence based framework and provides a formal support structure around the work that I did previously as an individual. The formation of the Trust also provides stability, depth and continuity for the research work.

While taking part in a Drug Court convention in Auckland in March 2012, I met with a representative of the Ministry of Health who informed me of \$1 million of funding for the rehabilitation of repeat impaired drivers that had been allocated yearly as part of the aforementioned Drivers of Crime package. I had been researching the rehabilitation of repeat offenders and made this research available to the Ministry of Health (Waters 2012b). In December of 2012 I was invited by the Ministry of Health to help, in my capacity as advisor, in the allocation of this funding to those organisations that had tendered for such services.

In June 2012 I met with the then Associate Minister of Transport, The Hon Simon Bridges (whose portfolio covered road safety) and discussed my work and matters relating to

substance impaired driving in New Zealand. At this meeting the Minister expressed his interest to host the official launch of our Charitable Trust at Parliament. This launch took place in December 2012. Also in 2012, I was also asked by the Ministry of Justice to provide information on the effectiveness of alcohol ignition interlocks (Waters, 2012a).

In 2011, I met with Superintendent John Kelly, who was then a Strategic Road Policing Manager. He invited me to come out on Compulsory Breath Testing operations with a Traffic Alcohol Group and their 'booze buses'⁶ in the Auckland area. I spent 10 months out on operations. I observed the Police at work and I interviewed those suspected of drink driving. I made public a report on these observations (Waters, 2012c). This research was supplied to the Office of the Auditor General, who were soon to conduct a performance audit of the New Zealand Police's efforts to enforce drink driving laws (Office of the Auditor General, 2013) and also provided this report to the Minister of Police, who had voiced her concerns of drink driving enforcement.⁷ John Kelly has now retired from the Police force and is currently the Chairman of 'Researching Impaired Driving in New Zealand'.

All the compiled research papers were sent to relevant organisations and recognised experts in the fields of substance impaired driving and road safety for review before their dissemination.

Discussion

The compilation of peer reviewed evidence on the extent of the problems and possible solutions to drink driving in New Zealand has helped inform decision makers on where their efforts were best focused. In the three years since the research commenced New Zealand has introduced:

- Pilot Alcohol and Other Drug Courts
- Alcohol Ignition Interlock Programme
- Funding for internationally recognised best practice drink driver rehabilitation programmes

Researching Impaired Driving in New Zealand (RIDNZ) has now been contracted by the Ministry of Health to develop the framework for the evaluation of the Repeat Impaired Driver programmes that have been funded by the Ministry of Health.

The Trust is researching and compiling data regarding the construction of effective and economically viable substance impaired driving initiatives for New Zealand to help in the reduction of harm from such behavior. The Trust supplies information to government and non-government organisations as well as the general public. The Trust is currently researching drug impaired driving and youth substance impaired driving both in New Zealand and worldwide. All of the research work that I have done as an individual and as Director of the Trust has been self funded. I have given numerous media interviews with the intention of keeping the issues surrounding substance impaired driving in New Zealand at the forefront of public opinion.

⁶ These vehicles are used for administering blood-alcohol tests (to suspected drink drivers); generally a mid-size bus converted or fitted out for this purpose.

⁷ The Minister of Police, the Hon Anne Tolley, expressed her concerns in a media release available at: <http://www.newstalkzb.co.nz/auckland/news/nbpol/1380806883-police-asked-to-review-drink-driving-test-efficiency> (Accessed April 15th 2013).

Since the research work has started there has been a noticeable decrease in the number of road deaths and alcohol related road deaths as reported by the Office of the Auditor General (2013. p.7):

‘After we began our audit, the 2011 road toll was released. It showed a significant decrease in the number of road deaths, from 375 in 2010 to 284 in 2011. The number of alcohol-related road deaths fell significantly, from 142 in 2010 to 85 in 2011. The 2012 road toll was 308, which is the second-lowest annual road toll since 1952.’

While the question: was the death of our friend preventable? still remains unanswered, it is hoped that the research work, and publicity that has ensued from this question, may help prevent further deaths, injuries and crashes from substance impaired driving in New Zealand.

References

Brooking, Roger (2011). *Flying Blind: How the Justice System Perpetuates Crime and the Corrections Department Fails to Correct*. Wellington: Alcohol and Drug Assessment and Counselling. ISBN 9780473180751. p.25.

Law Commission. (2010). *Controlling and Regulating Drugs*. Issues Paper 16. p. 344.

Ministry of Justice. (2011). *Drivers of Crime Investment Package*. Investment package for alcohol and other drug assessments and interventions – implementation plan. p.1.

Ministry of Transport. (2010a). *Regulatory Impact Statement. Safer Journeys – Reducing the impact of alcohol impaired drivers*. p.25.

Ministry of Transport. (2010b). *Appendix B: Regulatory Impact Statement: Safer Journeys – New Zealand’s Road Safety Strategy 2010 to 2020*. p. 19.

Ministry of Transport. (2012). *High-risk drivers in fatal and serious crashes: 2006–2010*. p. 12.

Office of the Auditor General. (2013). *New Zealand Police: Enforcing drink-driving laws*. Performance audit report. Office of the Auditor-General.

Waters, G. (2010). *Submission to the Transport and Industrial Relations Select Committee Land Transport (Road Safety and Other Matters) Amendment Bill*. Submitted by Gerald Waters on behalf of the friends and family of Katherine Kennedy.

Waters, G. (2011). *The Case for Alcohol and Other Drug Treatment Courts in New Zealand*. Unpublished: New Zealand.

Waters, G. (2012a) *Alcohol Ignition Interlocks: Effectiveness in Preventing Alcohol-Impaired Driving and Alcohol Related Crashes*. Unpublished: New Zealand.

Waters, G. (2012b). *Internationally Recognised Best Practices for Drink Driver Rehabilitation and Drink Driver Rehabilitation in New Zealand*. Unpublished: New Zealand.

Waters, G. (2012c). *On the Road. Compulsory Breath Testing in New Zealand and interviews with drink drivers*. Unpublished: New Zealand.