

RANDOM ROADSIDE DRUG TESTING IN THE ACT SUBMISSION FROM TUGGERANONG COMMUNITY COUNCIL APRIL 2010

Introduction

Tuggeranong Community Council Inc. (TCC) is an incorporated, voluntary, not for profit, non political, community based association operating within the Tuggeranong District of the Australian Capital Territory. TCC is formally recognised as the peak community representative body in Tuggeranong representing the interests of the local residents and the communities within Tuggeranong Valley. TCC receives partial funding from the ACT Government as the peak community representative body in the Tuggeranong District.

The TCC supports the introduction of Random Roadside Drug Testing (RRDT)ⁱ in the ACT for the following reasons;

1. the existence of an undeniable drug problem in the ACT,ⁱⁱ
2. RRDT is an additional road safety measure in line with policing strategies (RAID Removing All Impaired Drivers)ⁱⁱⁱ
3. RRDT will bring the ACT into line with all other jurisdictions,^{iv}
4. RRDT will provide a safer environment for all road users,^v
5. The rights of the majority of law abiding Canberrans' to drive on a safe motorway outweighs the rights of those who endanger the lives of others by driving while under the influence of drugs.^{vi}

The TCC recognises that drink driving remains a major factor in road accidents in Australia^{vii}. Drug driving is also a cause for concern, particularly in the ACT.

According to the United Nations Office on Drugs and Crime Australia rates first place in the world for abuse of MDMA (Ecstasy) out of 99 countries, 2nd place for abuse of Amphetamines and 10th place for abuse of Cannabis. Meanwhile, according to the Australian Institute of Health and Welfare, the ACT ranks number one in Australia for abuse of Ecstasy, 3rd for abuse of Amphetamines and 4th place for abuse of Cannabis. Not only is the TCC concerned about drug abuse in the ACT, it is also concerned that people are driving on our roads while under the influence of these illegal drugs.

Research conducted by the University of Canberra and the ACT Government Analytical Laboratories involving the analysis of blood samples from ACT drivers involved in accidents found that:

- More crash drivers tested positive for Cannabinoids (10.3%) than for alcohol (9.0%),
- 2% of crash drivers tested positive for amphetamine type substances such as methamphetamine and MDMA,
- 20.8% of the drivers involved in accidents tested positive to a combination of drugs/and/or alcohol,

- Only 5.8% of crash drivers tested positive for alcohol alone, suggesting polydrug use is common in drivers.

The costs of Random Roadside Drug Testing in the ACT

The ACT Government's discussion paper on Drug Driving in the Territory suggests that Random Roadside Drug (RRDT) testing would cost between \$30 and \$40 per test. The TCC believes this is a small price to pay compared to the impact road trauma and road deaths have on the ACT economy in cost and lost productivity. A study in 2006 by the Queensland University's Centre of National Research on Disability and Rehabilitation Medicine found that road trauma in Australia cost \$17b annually. See <http://www.uq.edu.au/news/index.html?article=9863>

There appears to be a universal acceptance that the threat of detection within the capacity to test will exist as a deterrence to drug use and driving for some people within the drug/driving citizens of the ACT.^{viii} Combined with an educational program and consistent legal reaction to drug/driving offenders the cost and the consistency of RRDT can be reviewed. Fining those who are guilty of offences directly re-distributed to the RRDT program is another way of ensuring the sustained ability to RRDT.

Method of RRDT in the ACT

When considering the best and most efficient form of RRDT in the ACT the TCC believes the ACT Government should consider best practice procedures that currently operate in other jurisdictions. The most common form of RRDT is currently oral swab testing. While it is accepted this is not the most accurate and detailed it is possible to incorporate into the legislation the ability for officers to proceed to blood testing on those who return positive test and/or are suspected or identified as driving unsafely or have previous convictions for such offences.

Drug Driving Education

The TCC believes that the introduction of RRDT in the ACT should be accompanied by an Anti Drug Driving Education Campaign that educates all and specifically targets learner drivers and young adults who are prone to use or come into contact with illicit drugs.^{ix} More detailed information on the dangers of drug driving should be incorporated into material (Road Ready Packs) provided to learner drivers on application of a learners permit, during driver training and testing.

Sentencing and Diversion

The TCC believes that punishment for driving while under the influence of illicit drugs needs to reflect the community's abhorrence of such irresponsible and reckless behavior that endangers public safety. Punishment must be harsher for repeat offenders. The TCC also believes that punishment must include education on the dangers of driving while under the influence of drugs. The legislation needs to not only deliver a clear guidance to police but to those who dispense punishments. Political support should be given to ensure that greater and stronger emphasis is

given to the delivery of sentencing and punishments to those who offend by driving under the influence of drugs.

Rights of all Road Users

The arguments surrounding human rights and privacy centre around the considerations of a "reasonable person". The TCC believes that, in this matter of public policy, the right to "reasonableness" resides with the non-drug-using driver, not the person committing the crime and endangering the lives of others.

The TCC considers the argument that random roadside drug testing is an infringement of an individual's human rights as being completely specious. If this argument were to be accepted then all random breath testing (for alcohol) must be illegal and immediately stopped. Patently the Australian courts do not consider this to be the case. The TCC considers the technologies available to allow random roadside drug testing to be sufficiently advanced that they present only a minor inconvenience to individuals stopped for that purpose - and a "reasonable person" would consider this to be the case given the serious risk to life and limb involved. Indeed, the TCC would be in favour of combined random roadside drug and breath testing if it can be employed to increase public safety on our roads.

If appropriate and expedient, the TCC would be in favour of modifying s.22 and 23 of the *Road Transport (Alcohol and Drugs) Act 1977* to include failure to submit to a [mouth swab test for drugs] as an offence and to be included as an exception to the privilege against self-incrimination.

It would also be in favour of giving the police powers to extend their ability to test for drugs to requiring a blood test under certain conditions – if for example the test is positive or there is reason to believe that the person was driving unsafely under the influence of illicit drugs. The issue of Human Rights is compliant if there is reasonable cause to believe that a crime has been committed and the “crime” has been supported and defined in the legislation.

Conclusion

The TCC believes that as Chief Minister and Minister for Roads, Mr. Jon Stanhope MLA should take the lead in ensuring that a proper and effective RRDT testing regime is introduced immediately in the ACT to provide a safer environment for all road users.

The TCC requests that further effort is made to deliver an accurate and evidence based legislation in this matter^x. The TCC suggest the creation of a forum, chaired by a joint committee of the presidents of the ACT community councils and involving workshops delivered by other police jurisdictions, ACT Court Users, drug and alcohol experts and members of the ACT public. We suggest the evidence gathered at this forum can inform the drafting of the legislation and be used as the basis for an evidentially driven educational campaign for the ACT and the effects of drug driving.

Attachments

1. TCC RRDT Survey Results
2. TCC RRDT Survey Results and Community Comments

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ⁱ The TCC has conducted an online survey regarding RRDT issues raised within the discussion paper. 55% answered they were very concerned about drugs and driving in the ACT, 18% said they were concerned and 28% stated they were not concerned at all. Given 73% of respondents have commented a level of concern regarding this issue – the TCC supports the use of RRDT as a deterrent to using drugs and driving.

ⁱⁱ Catalyst (24/04/03) Australian Institute of Criminology
<http://www.aic.gov.au/media/1999/november/991125.aspx>

ⁱⁱⁱ This is in line with the National Road Safety Strategy 2001-2010 *“Safer road users and Safer behaviour – extend the implementation of random drug testing”*

^{iv} All other jurisdictions within Australia and many overseas jurisdictions now have random roadside drug testing as a deterrent to drug use and driving.

^v See above the National Road Safety Strategy 2001 – 2010 identifies drug use and driving as a significant aspect of unsafe road use.

^{vi} The discussion concerning Human Rights within 3.3 of Drug Driving in the Territory – an overview of issues and options is discussed in the body of this submission but briefly the issue of Human Rights compliance can be adhered to in a number of ways.

^{vii} Drug and alcohol research papers. (Contemporary Issues in Crime and Justice (Number 135) Crime and Justice Bulletin – NSW Bureau of Crime statistics and research); Drug Driving and road Crashes – an overview (ACT Department of Territory and Municipal Services) ;

^{viii} Hersch R et al *Field Test of On-site Drug Detection Devices*, Springfield, Virginia: United States Department of Transportation, National Highway Traffic Safety Administration, October 2000. And National Road Safety Strategy 2001-2010

^{ix} 57 % of the respondents to the TCC online survey involving RRDT answered they did not believe motorists are fully aware of the dangers of driving while under the influence of illicit drugs.

^x National Road Safety Strategy 2001-2010 – *“All jurisdictions agree that an evidence based approach supports a focus on [these] priority areas”*