Community-Based Impaired Driving Initiatives

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INTRODUCTION

Alcohol and drugs are major risk factors in traffic fatalities and injuries. Despite numerous amendments to federal, provincial and territorial legislation,[1] countless awareness campaigns and similar initiatives, impairment-related traffic crashes remain Canada's leading criminal cause of death.[2] Although impaired driving deaths in Canada fell significantly from the early 1980s until the late 1990s, relatively little progress has been made since.[3] In 2009, impairment-related crashes were conservatively estimated to have killed 1,074 Canadians[4] and injured more than 63,000 others.[5]

Canada's impaired driving record is poor by international standards. Despite having a relatively low rate of per capital alcohol consumption, Canada has one of the highest rates of alcohol-related crash deaths.[6] For example, while Germans consumed 20% more alcohol per capita than Canadians in 2008, less than 12% of its traffic fatalities were alcohol-related. The figure in Canada is 39%.[7] Of greater concern, from MADD Canada's perspective, is that Canada's per capita rate of alcohol-related crash deaths was more than five times that of Germany.[8] Put simply, most comparable countries are doing a much better job than Canada in separating drinking and driving.

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[1] Unless otherwise indicated, subsequent references to the provinces should be interpreted as including the territories.

[2] In contrast to the 1,074 impairment-related crash fatalities in 2009, there were 610 homicides in Canada, which includes the separate offences of murder, manslaughter and infanticide. S Beattie & A Cotter, "Homicide in Canada, 2009" (Fall 2010) 30:3 Juristat (Statistics Canada Cat No. 85-002-X).

[3] S Pitel & R Solomon, *Lives Saved* (Oakville: MADD Canada, 2012); D Mayhew, D Beirness & H Simpson, "Trends in Drinking-Driving Fatalities in Canada – Progress Stalls" in P Williams & A Clayton, eds, *Proceedings of the 17th International Conference on Alcohol, Drugs and Traffic Safety*, CD-ROM (Glasgow: International Council on Alcohol, Drugs and Traffic Safety, 2004).

[4] Given certain inherent limitations in the coroners' data upon which this estimate is based, it likely significantly understates the total number of impairment-related deaths in Canada. For example, if an impaired driver crashes into a vehicle, killing its sober driver and two occupants, it is only the dead driver's BAC that would be reported in the coroner's fatality data. Unless the police recorded the crash as being due to the surviving driver's impairment, all three deaths would be recorded as being non-alcohol-related. Similar problems arise when intoxicated drivers survive crashes in which they kill sober passengers, pedestrians or bicyclists. See H Simpson, *Drinking-Driving Statistics in Canada: Does Anyone Really Know How Big the Problem Is?* (Ottawa: Traffic Injury Research Foundation, 1997) at 53-56.

[5] S Pitel & R Solomon, *Estimating the Number and Cost of Impairment-Related Traffic Crashes in Canada: 1999 to 2009* (Oakville: MADD Canada, 2012) at 7-8.

[6] E Chamberlain & R Solomon, *The 2012 Federal Legislative Review* (Oakville: MADD Canada, 2012) at 5-7.

[7] *Ibid* at 6-7.

[8] *Ibid* at 6.

Although more can be done in terms of federal and provincial law, community-based programs have an important role to play in reducing impaired driving in Canada. These programs may encompass a broad range of initiatives, including: education and information campaigns; media advocacy; community and coalition development; alternate transportation policies; and enhanced law enforcement programs. The purpose of this document is to examine four enforcement programs that MADD Canada has promoted, namely: sobriety checkpoints relying on selective breath testing (SBT); sobriety checkpoints relying on random breath testing (RBT); "Campaign 911"; and "Last Drink" programs.

The most common community-based enforcement initiatives involve enhanced enforcement, coupled with intensive media coverage. SBT and RBT programs increase both the perceived and actual rates of apprehension. Mass media highlighting these policing measures ensures that the public at large is aware of the increased risks of being apprehended, charged and convicted of a federal impaired driving offence. High-visibility "Call 911" campaigns focus public attention on the impaired driving issue, directly involve the public in reducing impaired driving and provide the police with valuable leads in apprehending impaired driving suspects. "Last Drink" programs allow the police and liquor licensing authorities to identify drinking establishments which are over-serving patrons and thereby endangering the public. Police and licensing authorities can use this information to encourage licensees to adopt more responsible serving practices. Where appropriate, the police may charge the establishment under the provincial liquor legislation and the licensing authority may suspend, revoke or fail to renew its liquor licence.

SOBRIETY CHECKPOINTS

A very small percentage of the drivers stopped at sobriety checkpoints are subject to provincial roadside administrative licence suspensions (ALS) and/or federal criminal charges.[9] While removing these drivers from the road is important, the primary purpose of sobriety checkpoints is to deter drinking and driving by increasing motorists' perceived risks of apprehension. Thus, a major theme of the very successful Australian RBT programs is that any driver can be stopped anywhere, at anytime, and tested. There are no safe times or routes, and no effective tricks to avoid being tested. That is why

[9] For example, only about 1 in every 1,000 drivers stopped in 2009 during the Ontario Provincial Police RIDE programs was given a roadside ALS and only about 1 in every 2,000 drivers was criminally charged. Ontario Provincial Police, *2009 Annual Report*, online: Ontario Provincial Police <http: //www.opp.ca> at p. 70 (accessed September 15, 2012).

their checkpoints are well publicized, and are often set up at rush hour on busy roads where they are clearly visible to passing road users and other members of the public.[10]

Canadian police currently have common law,[11] and in most provinces, express statutory authority[12] to stop vehicles at random to inspect the licence, ownership and insurance documents of drivers, and to question them about their vehicles, driving and sobriety. These powers allow the police to establish sobriety checkpoints and stop every passing vehicle to investigate, among other things, whether the driver has been drinking or using drugs. As noted, there are two major types of sobriety checkpoints – those based on SBT and those based on RBT.

Section 254(2)(b) of the *Criminal Code*[13] currently limits the police to establishing SBT checkpoints. In order to demand a breath sample for analysis on an "approved screening device" (ASD) at roadside, the police must have a reasonable suspicion that the driver has alcohol in his or her body. Although these grounds for demanding an ASD test do not appear to be particularly onerous, police often have difficulty making the necessary assessment during the brief interaction that they have with drivers at sobriety checkpoints.[14] In jurisdictions with RBT, the police are authorized to demand a roadside ASD test at random from every driver who they stop.

(a) SBT Checkpoints

At SBT checkpoints, uniformed police officers pull over every passing vehicle, unless there is a backlog. An officer approaches the driver and identifies him or herself, describes the purpose of the stop, and asks the driver a series of questions designed to determine whether the driver has consumed alcohol. Australia's most prolific RBT

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[10] See generally R Tay, "General and Specific Deterrent Effects of Traffic Enforcement: Do We Have to Catch Offenders to Reduce Crashes?" (2005) 39:2 Journal of Transport Economics and Policy 209; B Watson & J Freeman, "Perceptions and Experiences of Random Breath Testing in Queensland and the Self-Reported Deterrent Impact on Drunk Driving" (2007) 8:1 Traffic Injury Prevention 11; and S Hart, B Watson & R Tay, "Barriers and Facilitators to the Effective Operation of RBT in Queensland" in *Proceedings of the 2003 Road Safety Research, Policing and Education Conference: From Research to Action* (Sydney: New South Wales Roads and Traffic Authority, 2003) at 137, online: Road Safety Research, Policing and Education Conference Proceedings <http://www.rsconference.com/pdf/RS030075.pdf>.

[11] See *R v Dedman*, [1985] 2 SCR 2 at 32-36; and *R v Orbanski; R v Elias*, [2005] 2 SCR 3 at para 41.

[12] See for example, Ontario *Highway Traffic Act*, RSO 1990, c H.8, ss 216(1), 33(1) and (3), and 48(1); and British Columbia *Motor Vehicle Act*, RSBC 1996, c 318, ss 71 and 73(1)-(2).

[13] RSC 1985, c C-46.

[14] For a review of the percentage of drinking drivers that the police fail to detect at sobriety checkpoints, see R Solomon et al, "The Case for Comprehensive Random Breath Testing Programs In Canada: Reviewing The Evidence and Challenges" (2011) 49:1 Alta. L Rev 37 at 45-47 [Random Breath Testing].

researcher described the process as requiring the police "to perform an elaborate charade involving licenses and equipment, all the time 'sniffing the air' for signs of alcohol."[15] Unless a driver exhibits visible signs of consumption or admits to drinking, he or she is typically waved through without delay. Drivers who admit to drinking or show signs of alcohol consumption may be required to take an ASD test or participate in "physical coordination tests"[16] (*i.e.* Standard Field Sobriety Testing (SFST)).

SBT checkpoints can have a significant deterrent impact, particularly if they are intensive, ongoing and accompanied by a mass media campaign.[17] Nevertheless, research indicates that SBT checkpoints at which the police use only their own unaided senses, as in Canada, fail to detect the great majority of drivers with blood-alcohol concentrations (BACs) of less than .10% and about 50% of drivers with BACs of .10% or more.[18] The deterrent impact of these SBT checkpoints has been questioned. For example, one noted researcher stated:

> [M]any drivers … play 'breathalyzer roulette,' perceiving the odds of apprehension are slight and that they can conceal their drinking successfully. Consequently, any method of enforcement that relies on subjective judgments of impairment … is unlikely to work over the long term simply because the perceived probability of apprehension cannot be maintained at a high level."[19]

The use of passive alcohol sensors (PAS) and similar technology to assist officers at SBT checkpoints significantly increases the percentage of drinking drivers who are apprehended. PASs are small, hand-held devices that are used to detect alcohol in the ambient air around a driver's mouth. The devices are often built into the end of the flashlight, ticket book or clipboard used by the police. SBT checkpoints at which officers

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[15] R Homel, "Random Breath Testing and Random Stopping Programs in Australia" in R Wilson & R Mann, eds, *Drinking and Driving: Advances in Research and Prevention* (New York: Guilford Press, 1990) 159 at 186 [Homel].

[16] A regulation passed pursuant to section 254(2)(a) of the *Criminal Code* defined "physical coordination tests" in terms of the three-part SFST. *Evaluation of Impaired Operation (Drugs and Alcohol) Regulation*, SOR/2008-196, s 2.

[17] R Shults et al, "Reviews of Evidence Regarding Interventions to Reduce Alcohol-Impaired Driving" (2001) 21(4S) American Journal of Preventive Medicine 66 at 75-78 [Shults]; R Elder et al, "Effectiveness of Sobriety Checkpoints for Reducing Alcohol-Involved Crashes" (2002) 3:4 Traffic Injury Prevention 266; and A Erke, C Goldenbeld & T Vaa, "The Effects of Drink-Driving Checkpoints on Crashes – A Meta-Analysis" (2009) 41 Accident Analysis & Prevention 914 [Erke].

[18] Random Breath Testing, *supra* note 14.

[19] R Homel, "Random Breath Testing the Australian Way: A Model for the United States?" (1990) 14:1 Alcohol Health and Research World 70 at 72.

use PASs have proven to be considerably more effective than SBT checkpoints at which officers rely solely on their own unaided senses.[20]

Intensive, well-publicized SBT checkpoints which include the use of PASs can have a significant deterrent impact. MADD Canada will continue to advocate for these programs until Parliament enacts legislation authorizing the police to establish RBT checkpoints.

(b) RBT Checkpoints

RBT legislation authorizes the police to demand an ASD test from any driver, even in the absence of erratic driving, a traffic violation or individualized suspicion that he or she has consumed alcohol or is impaired. Typically, RBT is conducted at stationary (fixed) sobriety checkpoints using ASDs. RBT eliminates the need for any questioning, careful observations, document inspection, or detailed note-taking. Rather, a breath sample is demanded from every driver who is stopped, without any preliminary questioning or document inspection. The test itself takes 30 seconds, the driver remains seated in the car and the average duration of the entire stop is 2 minutes.[21] As such, RBT permits the police to efficiently screen large numbers of drivers and ensures that they will detect virtually all of the impaired drivers that they stop.

Individual studies, research reviews and meta-analyses have consistently found that well-publicized, intensive RBT programs achieve sharp and sustained reductions in impaired driving, and related crashes, injuries and deaths.[22] For example, the most comprehensive Australian study reported that RBT reduced total annual fatal crashes by 35% in Queensland and 28% in Western Australia, and total annual single-vehicle nighttime collisions by 26% in New South Wales and 24% in Tasmania.[23] Similarly, the

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[20] I Jones & A Lund, "Detection of Alcohol-Impaired Drivers Using a Passive Alcohol Sensor" (1986) 14:2 Journal of Police Science and Administration 153; Shults, *supra* note 17 at 76; and J Fell, C Compton & R Voas, "A Note on the Use of Passive Alcohol Sensors during Routine Traffic Stops" (2008) 9:6 Traffic Injury Prevention 534.

[21] Random Breath Testing, *supra* note 14 at 59-60.

[22] See generally Shults, *supra* note 17 at 75-78; R Room, T Babor & J Rehm, "Alcohol and Public Health" (2005) 365 Lancet 519 at 526; D Brand et al, "Comparative Analysis of Alcohol Control Policies in 30 Countries" (2007) 4:4 PLoS Medicine 0752 at 0753; and P Anderson, D Chisholm & D Fuhr, "Effectiveness and Cost-Effectiveness of Policies and Programmes to Reduce the Harm Caused by Alcohol" (2009) 373 Lancet 2234 at 2238.

[23] J Henstridge, R Homel & P Mackay, *The Long-Term Effects of Random Breath Testing in Four Australian States: A Time Series Analysis* (Canberra: Federal Office of Road Safety, 1997) at 104 [Henstridge]. In conducting the study, the authors controlled for various confounding factors, including other impaired driving countermeasures, such as lowering the legal BAC limit to .05%.

introduction of RBT was found to have reduced total crashes in New Zealand by 14% [24] and total traffic fatalities in Ireland by 19%.[25]

The evidence strongly indicates that RBT is more effective than SBT in reducing impaired driving deaths and injuries. The introduction of RBT in jurisdictions with existing SBT programs has consistently produced favourable results. Queensland's RBT program resulted in a 35% reduction in fatal crashes, whereas the previous SBT program, which operated similarly to Canada's current SBT programs, had resulted in only a 15% reduction. Thus, RBT was more than twice as effective as SBT in reducing fatal crashes.[26] In Western Australia, during a three-month period shortly after RBT replaced SBT, nighttime traffic deaths and injuries decreased 23% compared to the same period during the previous year.[27]

The introduction of RBT is also associated with positive changes in drivers' reported attitudes and behaviours. In the five years after RBT was introduced in New South Wales, drivers became more likely to monitor the number of drinks that they consumed, rather than relying on the less reliable method of self-assessing their symptoms of impairment. Drivers were also more likely to arrange not to drive if they planned to drink, were more likely to support RBT and were more likely to view impaired drivers as irresponsible and criminal.[28] International experience indicates that RBT enjoys broad public support and that support appears to increase after the legislation is enacted.[29]

The enactment of RBT legislation would eliminate a major ground for contesting the admissibility of evidentiary breath test results in Canada. Currently, if a court finds that there were insufficient grounds to demand an ASD test, the results of the subsequent evidentiary tests will be excluded from evidence and the driver will most likely be acquitted. Consequently, it is common practice for defence counsel to aggressively

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[24] Erke, *supra* note 17 at 919.

[25] Road Safety Authority, *Road Safety Strategy 2007-2012* (Ballina, Ireland: Road Safety Authority, 2007) at 7. Moreover, the deterrent impact of Ireland's RBT program apparently increased in the ensuing four years. A 2010 report indicated that total traffic fatalities in Ireland had fallen 42% since the 2006 introduction of RBT. T O'Brien, "Irish road deaths 'Fall By 42%' " *Irish Times* (19 May 2010).

[26] Henstridge, *supra* note 23 at 102.

[27] R. Homel, *supra* note 15 at 187.

[28] D Zaal, *Traffic law enforcement: A review of the literature* (Wellington, Australia: Monash University Accident Research Centre, 1994) at 40-41.

[29] Random Breath Testing, *supra* note 14 at 57-58.

challenge the officer's basis for the ASD test.[30] With RBT legislation, the police would no longer be required to prove in court that their subjective assessment of the driver at roadside provided sufficient grounds to demand an ASD test. Eliminating this basis for contesting impaired driving charges would expedite the processing of cases, encourage more suspects to plead guilty, and reduce police, Crown and court time if a charge proceeded to trial.

RBT is generally acknowledged to be the most cost-effective impaired driving countermeasure. For example, a 2003 European Union study concluded that increasing RBT testing levels to 1 test per 16 inhabitants would result in a cost-benefit ratio of between 1:36 and 1:55, depending on the model used.[31] A 2004 World Health Organization study reported that each dollar spent on RBT results in a cost saving of $19.[32] Similarly, a 2004 New Zealand study reported a cost-benefit ratio of 1:14 for RBT alone, 1:19 for RBT coupled with a media campaign, and 1:26 for RBT in conjunction with both a media campaign and "booze buses" (large, specially equipped vehicles used for on-site evidentiary testing, which are typically brightly coloured or otherwise distinctive to attract the attention of all nearby road users).[33]

Although it is difficult to predict the cost savings that would result if RBT were introduced in Canada, a recent study conservatively estimated that RBT would generate total social cost savings of over $4.3 billion.[34] A large portion of these costs reflect the human consequences of crashes, including health-related expenditures and lost productivity. The same study estimated that, while RBT would undoubtedly entail increased police enforcement costs, these would be largely offset by a reduction in the police resources devoted to attending and following-up on impairment-related crashes.[35]

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[30] Challenges to the police officer's grounds for demanding the ASD test appear to figure prominently in acquittals. R Robertson, W Vanlaar & H Simpson, *National Survey of Crown Prosecutors and Defence Counsel on Impaired Driving* (Ottawa: Traffic Injury Research Foundation, 2009) at 68-70, online: Traffic Injury Research Foundation <http://www.tirf.ca/publications/PDF_publications/ Lawyers _Survey_Report_Final_2009.pdf>.

[31] M Mackay et al, *Cost Effective EU Transport Safety Measures* (Brussels: European Transport Safety Council, 2003) at 27.

[32] M Peden et al, eds, *World report on road traffic injury prevention* (Geneva: World Health Organization, 2004) at 130.

[33] T Miller, M Blewden & J-f Zhang, "Cost savings from a sustained compulsory breath testing and media campaign in New Zealand" (2004) 36 Accident Analysis and Prevention 783 at 783.

[34] R. Solomon et al, "Predicting the Impact of Random Breath Testing on the Social Costs of Crashes, Police Resources and Driver Inconvenience in Canada" (2011) 57 Criminal Law Quarterly 438 at 449-51.

[35] *Ibid* at 451-59.

MADD Canada has engaged in a range of activities in support of RBT legislation, including; presenting briefs to federal Parliamentary committees; meetings with senior Parliamentarians; undertaking and publishing a series of research studies in scientific and legal journals; and preparing related materials for public distribution. The enactment of RBT legislation remains MADD Canada's number one federal priority.

CALL-911 PROGRAMS

In 2007, MADD Canada launched *Campaign 911*, a Canada-wide awareness initiative which is designed to encourage the public to report suspected impaired drivers to the police by calling 911. On a broader level, it heightens public awareness of the impaired driving problem and reinforces the message that responsible road users need not be passive victims, but rather can play an important and direct role in taking dangerous drivers off the roads.[36]

More specifically, *Campaign 911* attempts to change public attitudes by indicating that an impaired driver on the road constitutes an emergency situation that warrants an immediate call to the police and that 911 is the appropriate number to call. The initiative requires the cooperation of local MADD Canada chapters and regional police, government and community leaders. The program focuses on erecting large, clearly visible road signs, which are coupled with billboards, media coverage, public service announcements, and other initiatives to inform the public. In addition to calling 911, the key messages relate to the signs of impaired driving, safety tips in making calls (*i.e*. having a passenger call or pulling off the road and stopping before calling), and the types of information that should be provided.[37]

Since the launch of *Campaign* 911, hundreds of communities across Canada other than in Québec have implemented formal Call-911 programs. In their first year, these programs increased the number of 911 calls to report suspected impaired drivers by between 45% and 80%.[38] For example in York Region, Calgary and Ottawa, 911 calls increased 69%, 80% and 43%, respectively.[39] Moreover, total arrests resulting from 911

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[36] MADD Canada, *Campaign 911 Backgrounder*, online: <http://www.madd.ca/media/docs/Campagin_911_Backgrounder_January_2012.ppd>.

[37] *Ibid.*

[38] A Murie, *A Guide to Setting-Up an Effective 911 Program to Report Impaired Drivers* (Oakville: MADD Canada, 2012) at 17.

[39] *Ibid* at 10, 11 and 14.

impaired driving calls increased an average of 30% from the previous year.[40] For example, criminal charges increased by 30% in Nanaimo,[41] 87% in York Region[42] and 28% in Calgary.[43]

The percentage of 911 calls that resulted in the police intercepting the vehicle ranged from 20% to 50%.[44] Even if the police fail to intercept an identified vehicle, they may send its registered owner a letter indicating that it was observed at a specific date and time being driven in a reportedly erratic or unlawful manner. In 35% to 45% of the cases in which the vehicle is intercepted, the police charge the driver with a federal impaired driving offence.[45] In addition to those charged criminally, some of the remaining drivers were subject to a provincial roadside ALS and other administrative sanctions. While sobriety checkpoint programs stop far more drivers, 911 campaigns result in a far higher rate of criminal charges and administrative licence suspensions.

In addition, Call 911 campaigns heighten awareness of the impaired driving problem and engage the public in reducing it. Consequently, MADD Canada views 911 programs to be an important adjunct to intensive RBT checkpoint programs.

"LAST DRINK" PROGRAMS

Last Drink programs involve the police asking impaired driving and other intoxicated suspects where they have been drinking. Research indicates that a disproportionately large percentage of the impaired drivers on Canadian roads are coming from licensed establishments, as opposed to their own home or some other private venue. Bars, taverns, nightclubs, and pubs are similarly over-represented relative to restaurants and other categories of licensed premises. Research also indicates that enhanced enforcement of the liquor legislation in licensed establishments can reduce the incidence of impaired driving, violence and other alcohol-related offences and harms.[46] Not surprisingly, the

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[40] W Kristensen, "Campagin 911 – The Power of the People" (Ottawa: Government of Canada, 2011), online:<http://www.victimsweek.gc.ca/2009/res/r64.html>.

[41] *Ibid.*

[42] Murie, *supra* note 38 at 10.

[43] *Ibid* at 11.

[44] *Ibid* at 17.

[45] *Ibid.*

[46] A McKnight & F Streff, "The Effect of Enforcement Upon Service of Alcohol to Intoxicated Patrons of Bars and Restaurants" (1994) 26(1) Accident Analysis and Prevention 79 at 86; D Cohen et al, "The Population Consumption Model, Alcohol Control Practices, and Alcohol-Related Traffic

liquor licensing authorities have adopted targeted enforcement strategies, focusing on high-risk licensees.

Last Drink programs provide a systematic means of ensuring that police information about alcohol-related incidents can be used to help identify problem licensees. If an impaired driver or other intoxicated suspect can name the licensed establishment in which he or she was drinking, the police pass this information on to the provincial liquor authority for investigation and possible action. In addition, the police may visit a repeatedly identified establishment to advise the owner of their concerns. The provincial liquor acts give both the police and licensing agencies broad authority to respond to licensees that act irresponsibly. For example, both the police and liquor inspectors are typically given the right to enter any licensed venue or event without a warrant.[47] The acts also make any infraction of the statute, regulations or licence conditions a provincial offence, most of which carry very substantial maximum penalties.[48] Regardless of whether a charge is laid, the licensing authorities have the administrative power to suspend, revoke or fail to renew a licence, if the licensee is reasonably believed to have infringed the law or acted irresponsibly.[49]

It is clear that a relatively small number of licensees account for a very large percentage of the alcohol-related problems. For example, when the Peel Regional Police introduced their "Last Drink" program, 19 impaired driving suspects reported that they had been drinking at a particular establishment. Through warning letters and site inspections this number was reduced by 50% the following year.[50] In the Durham Region, which has an initiative similar to the Last Drink program, the police reported that 70% of the impaired driving suspects reported coming from licensed establishments and that four bars accounted for more than 30% of the charges.[51]

Fatalities" (2001) 34 Preventive Medicine 187 at 193-95; and T Babor et al, *Alcohol No Ordinary Commodity*, 2nd ed (Oxford: Oxford University Press, 2010) at 154-160.

[47] See for example, the Ontario *Liquor Licence Act*, RSO 1990, c L.19, ss 44(1)(a), and 47(1) and (1.1) [Ont. *LLA*]; and the Manitoba *Liquor Control Act*, RSM 1988, c L160, s 138(1) and (2).

[48] See for example, the Alberta *Gaming and Liquor Act*, RSA 2000, c G-1, s 116 [Alta. *GLA*] which provides, unless otherwise stated, a maximum penalty for individuals of a $10,000 fine and six months imprisonment. The maximum fine for a corporation is $50,000. *Ibid*, s 117. In Ontario, the maximum penalty, unless otherwise stated, for an individual is a $100,000 fine and 12 months imprisonment. The maximum penalty for a corporation is a $250,000 fine. Ont. *LLA*, *ibid*, s 61(1) and (3).

[49] See for example, the Alta. *GLA*, *ibid*, s 91; and Ont. *LLA*, s 15(1)-(5).

[50] Peel Regional Police, "The Last Drink Program – Targeting Licensed Premises to Reduce Impaired Driving" (Ontario: Peel Regional Police, 1991) at 4-5.

[51] "Last Drink targets over-serving", *FlamboroughReview.com* (14 October, 2010), online: <http: //www.flamboroughreview.com/news/last-drink-targets-over-serving/>.

A New South Wales' program mandates the police to determine: whether any arrested suspects has been drinking; if so, their level of intoxication; and where they had their last drink.[52] These reports are provided to the named licensee. The police visit the site to audit the licensee's program to prevent over-service and make a follow-up visit to recommend improvements. A 2002-2003 study found that 10% of the licensed venues accounted for 50% of the intoxicated offenders, and that the program reduced alcohol-related crime rates by 22%.[53]

Based on a successful pilot project, the Ontario Alcohol and Gaming Commission announced the implementation of a province-wide Last Drink program, commencing in the fall of 2012.[54] MADD Canada supports the introduction of this type of Last Drink program. More specifically, MADD Canada recommends that the police should be required to record the name of the establishment in which any intoxicated suspect has been drinking. This information should be passed on to the licensing authority in a timely fashion and, where appropriate the police should visit the venue to ensure that the licensee is complying with the law. This information permits the licensing authority to focus on high-risk licensees and take appropriate administrative action. Last Drink programs also contribute to creating an even playing field for responsible members of the hospitality industry by helping to ensure that they do not have to compete with un-scrupulous operators.

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[52] R Voas & J Fell, "Preventing Alcohol-Related Problems Through Health Policy Research" (2011) 34(2) The Journal of the National Institute on Alcohol Abuse and Alcoholism 225, online: <http://pubs.niaaa.nih.gov/publications/arh40/18-28.htm.

[53] J Wiggers et al, "Strategies and outcomes in translating alcohol harm reduction research into practice: the Alcohol Linking Program" (2004) 23(3) Drug and Alcohol Review 355.

[54] Alcohol and Gaming Commission of Ontario, " 'Last Drink' Program: AGCO partner with police to reduce impaired driving and enhance public safety", *Licence Line* 12:2 (August 2012) 4.