

**DRUG DRIVING IN VICTORIA**

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**Information provided for the Federal parliamentary inquiry into the effects of illicit drugs on families**

In 2004, more than 60,000 Australians aged 14 years and over reported driving a motor vehicle while under the influence of drugs other than alcohol<sup>i</sup>. Twenty-one percent of young people admit to driving while under the influence of drugs.<sup>ii</sup> One in eight drivers under the age of 25 (13%) believe that using drugs before driving does not effect their driving and 16% believe that driving after using drugs is safer than drink driving.<sup>iii</sup>

A 10-year study of drug involvement in fatal collisions by the Victorian Institute of Forensic Medicine (VIFM) found using drugs increased the risk of a fatal collision compared to drug free drivers. Where the active component of cannabis, THC, is present, the risk is almost three times greater and in the case of amphetamine type stimulants (ATS) the risk is almost two and one half times greater. The study also indicated that discrete cohorts within the driving population have a higher incidence of collision involvement relative to drug use. Heavy vehicle drivers using ATS have almost nine times greater risk of being involved in a fatal collision compared to drug free drivers<sup>iv</sup>.

The increased risk of road trauma associated with driving under the influence of drugs other than alcohol may be one of the most acute risks posed by this use. Victoria has been trialling the random drug testing of drivers since December 2004. To assist the Committee's inquiry, the evolution of Victorian Drug Driving Legislation will be described along with the evidence supporting the Random Roadside Drug Testing trial. The Victorian drug testing procedure will be explained and the results presented.

**The Evolution of Drug Driving Legislation in Victoria**

Since the inception of the *Road Safety Act 1986* (Vic), it has been an offence under s 49(1)(a) to drive or be in charge of a motor vehicle while under the influence of any drug (or intoxicating liquor) to such an extent as to be incapable of having proper control of the motor vehicle. In the early 90s Victoria Police and VicRoads expressed concerns that the legislation was perceived to be ineffective in practice. Around the same time, the Victorian Institute of Forensic Pathology published a number of studies on the presence of drugs other than alcohol in drivers killed on Victorian roads. These reports showed that drugs were present in nearly one quarter of drivers killed and while the presence of alcohol in driver fatalities had fallen, the presence of drugs continued to rise.<sup>v vi</sup>

These concerns led to a direction from the then Minister for Roads and Ports, the Hon. W R Baxter, MLC, and the then Minister for Police and Emergency Services, the Hon. P J McNamara, MP, that a working group examine road safety issues associated with drugs and driving. The working group comprising representatives of VicRoads, the Department of Justice and Victoria Police presented a report to the Ministers on 12 November 1993. They recommended that:

.. the Ministers initiate a Parliamentary Road Safety Committee Inquiry into drug (other than alcohol) impaired driving in Victoria.<sup>vii</sup>

Their report suggested terms of reference for the inquiry. These were subsequently amended and referred to the Road Safety Committee of the Parliament of Victoria on 25 October 1994.

The Road Safety Committee held an *Inquiry into the Effects of Drugs (Other than Alcohol) on Road Safety in Victoria*, and tabled their Final Report on 5 December 1996. The Committee's recommendations included:

- That the offence of driving under the influence of a drug be replaced by the offence of

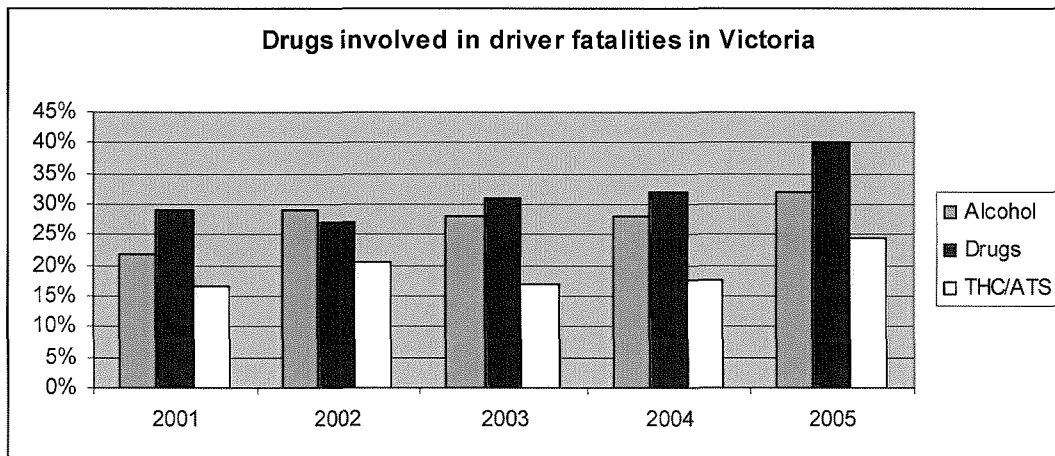
driving while impaired.

- That the *Road Traffic Act 1986* be amended to give Victoria Police specific power to require drivers suspected of being impaired to undergo a roadside test of impairment and if necessary a second more detailed test.
- That where a driver fails the second impairment test and Police conclude that the impairment may be drug-related and prosecution is contemplated a sample of blood and/or urine shall be provided and analysed for drugs
- That the taking of body fluids be authorised.<sup>viii</sup>

The inquiry's recommendations included implementation of a roadside program to assess drivers' impairment by drugs other than alcohol. The Government Response supported fully or in principle all of the Final Report's recommendations<sup>ix</sup>.

In 2000, Section 49(1)(ba) was added to the *Road Safety Act 1986* to create a separate offence when a person drives or is in charge of a motor vehicle 'while impaired by a drug'<sup>x</sup>.

Despite the introduction of the new impairment based legislation, the presence of drugs other than alcohol found in the drivers killed in Victoria, continued to increase. In contrast, drivers killed with Blood Alcohol Concentration (BAC) of 0.05% or more has remained relatively constant. In 2001, twenty-nine percent of all drivers killed in Victoria had drugs other than alcohol in their system. This had increased to 40% by 2005. The presence of cannabis (THC) and amphetamine type substances (ATS) has increased from 16.5% in 2001 to 24.4% in 2005.



While the impairment based program was effective in the detection of drivers with an observable level of impairment, it could not assess the ability of a drug affected driver with no outward signs of impairment to control a vehicle safely. Further, the impairment based drug driving enforcement program offered little deterrent to the drug using driver population. Australian research indicated that drug using drivers believe that they are less likely to be detected drug driving than drink driving<sup>xi</sup>.

Alcohol related road trauma has reduced as a result of random alcohol screening of drivers indicating that drug screening of drivers could reduce the involvement of drugs in road trauma. However, the physiological, pharmacological and toxicological aspects of drug use vary according to circumstance and the relationship between the level of a drug present and the effect of different drugs on driving can not be established as easily as alcohol. The evidence does show that the relationship between illicit drug use and increased collision risk is not dependent on the presence of a specific level of a drug. Therefore, a strong argument was made for structuring the current legislative framework which prohibits driving when an illicit drug such as methamphetamine (MA), methylenedioxymethamphetamine (MDMA) or cannabis (THC) is present at **any** level in the body.

The *Road Safety (Drug Driving) Act 2003* was introduced to amend the *Road Safety Act 1986* to provide for random drug testing for drivers and create new offences for failing a drug test. As of 1 December 2004, it became an offence to drive or be in charge of a motor vehicle while the prescribed concentration of drugs is present in the blood or oral fluid: s 49(1)(bb) of the *Road Safety Act 1986*. As described above, prescribed concentration of drugs means any concentration of the drug.<sup>xiii</sup>

Introducing the legislation, the Minister for Transport, Hon Peter Batchelor MLA, stated that:

*Drug-driving is now as much a factor in driver fatalities on Victoria's roads as drink-driving. Research by the Victorian Institute of Forensic Medicine shows that in 2002, drugs other than alcohol were detected in the blood of 27 per cent of fatally injured drivers, almost as many as the 29 per cent who had a blood alcohol concentration above the legal limit of .05 grams per 100 millilitres.*<sup>xiii</sup>

An independent evaluation of the first year of program operation led to legislative amendment to prohibit driving with MDMA present. This amendment came into force on 1 September 2006.

Victoria Police executed the first random testing operation at 11.00 am on Monday 13<sup>th</sup> December 2004 in Yarraville, Melbourne. Police conduct random drug screening operations on a general basis as an adjunct to alcohol screening operations. Police also target specific high risk driver cohorts such as the road transport industry or dance party environments.

### **Roadside Random Drug Testing in Victoria**

Random drug driving tests are conducted in a similar way to current random breath tests (RBT) and a 'drug bus' akin to a 'booze bus' is used. Police administer a RBT for alcohol in the first instance. Should the driver fail the RBT, police will commence processing and no further tests are administered. If the driver's blood alcohol content (BAC) is under the proscribed limit, police follow the procedure below.

#### **Victoria Random Roadside Drug Testing Procedure**

**Step 1:** Specially trained and authorised police officers conduct drug tests. Drivers are required to provide a saliva sample by placing an absorbent collector in their mouth or touching it on their tongue until a sample is collected. The sample is screened at the roadside, with the result determined within approximately five minutes. Drivers who return a negative drug test are not detained further.

**Step 2:** Drivers who return positive test results are required to accompany police to a drug bus and provide a second saliva sample. Total time of detention up to this point in the process is approximately fifteen minutes.

**Step 3:** Drivers who produce a positive result to the second sample are interviewed according to normal police procedure, and the sample sent to a laboratory for analysis. The driver is provided with a portion of the second sample, which they may choose to have independently analysed. The total time of detention to complete the process is approximately 30 minutes.

**Step 4:** Once the process is complete, the driver is allowed to leave, although they are not permitted to drive their vehicle. No infringement notice is issued or charges laid until the results of the laboratory analysis are known. Drivers are informed within a few weeks if the laboratory analysis confirms an illicit drug was present and they are to be fined or prosecuted for an offence.

First offenders who return positive laboratory results for cannabis or methamphetamines incur a \$322 infringement penalty and the loss of three demerit points. If the matter is contested in court, the maximum penalty for a first offence is \$1,289 and six months' licence cancellation. If a previous offence was committed more than 10 years prior to the commission of the

current offence, the current offence is to be treated as a first offence. A second conviction could result in fines of up to \$6,445 and a minimum 12 month licence cancellation. A third or subsequent conviction could result in fines of up to \$12,891 and a minimum 12 month licence cancellation. In order for drivers to be re-licensed, they must participate in an education course and, depending on the number of convictions within a 10 year period, undergo a comprehensive drug assessment for the purpose of obtaining a licence restoration report. Currently, only those drivers who apply for relicensing after a period of licence suspension are required to do this<sup>xiv</sup>.

### **Victorian Random Roadside Drug Testing Results**

From the commencement of enforcement on 13 December 2004 to 31 December 2006:

- a total of 25,273 drivers were screened for the presence of the three target drugs,
- comprising 18,121 car drivers and 7,152 heavy vehicle drivers.

Of all the drivers screened, the presence of the target drugs were confirmed by laboratory analysis in 503 drivers (detection rate - 1:50):

- MA only was found in 328 drivers,
- MDMA only was found in 7 drivers (since Sept 06),
- THC only was found in 37 drivers.
- A combination of MA and MDMA was found in 16 drivers,
- MA and THC in 16 drivers
- All three drugs were found present in 4 drivers.
- No drivers were found with a combination of MDMA and THC present.

Of the 18,121 car drivers screened, 395 drivers were confirmed to have one or more of the target drugs present (detection rate of 1:46).

Of the 7,152 heavy vehicle drivers screened, 108 drivers were confirmed to have one or more of the target drugs present (detection rate of 1:66).

The profile of the offenders was:

	Cars	Heavy Vehicles
Age - average:	26 years	38 Years (range 18 to 60)
Male:	76%	99%
First offender:	87%	85%

The profile suggests the offenders detected under the random drug screening of drivers program fit within two discrete cohorts, younger drivers who use drugs in connection with their social activities and heavy vehicle drivers who use drugs in connection with their occupation. These two cohorts are distinct from the highly at risk offender cohort detected in the impairment based program.

### **Conclusion**

While random alcohol screening as an enforcement and deterrence strategy has significantly reduced road trauma in Victoria, it took several decades to change attitudes and behaviour. The implementation of a random drug screening program has the potential to reduce the incidence of drug driving and road trauma in much the same way. The random drug screening program has now been in operation for thirty months and it will take some time to effect drug driver attitudes and behaviour. However, the operation of the program thus far clearly indicates the potential for reducing drug drive related road trauma in Victoria.

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- <sup>i</sup> Australian Institute of Health and Welfare
- <sup>ii</sup> Premier's Drug Prevention Council (2005) *Victorian Youth Alcohol and Drug Survey 2004*, Melbourne: Dept of Human Services
- <sup>iii</sup> AAMI (2005) *AAMI Young Drivers Road Safety Index*.  
[http://www.aami.com.au/about\\_aami\\_insurance/aami\\_news\\_centre/pdf/special\\_reports/specialreports\\_youngdriversindex\\_2005.pdf](http://www.aami.com.au/about_aami_insurance/aami_news_centre/pdf/special_reports/specialreports_youngdriversindex_2005.pdf)
- <sup>iv</sup> Drummer, O., Gerastamoulos, J., Batziris, H., Chu, M., Caplehorn, J., Robertson, M., et al. (2004) *The involvement of drugs in drivers of motor vehicles killed in Australian road traffic crashes*. *Accident Analysis and Prevention*, 36, 239-248.
- <sup>v</sup> Robertson, M D, Gerostamoulos, J and Drummer, O H, *Responsibility Analysis to Assess the Role of Drugs in Driving*, Workshop on Drugs and Driving, Victorian Institute of Forensic Pathology, 3 June 1993, Report, pp.40-52.
- <sup>vi</sup> Drummer, O H, Correspondence, 30 May 1996.
- <sup>vii</sup> Government of Victoria, Working Group on Drugs and Driving, Report, November 1993 (unpublished).
- <sup>viii</sup> Parliament of Victoria, Road Safety Committee (1996) *Inquiry into the Effects of Drugs (Other than Alcohol) on Road Safety in Victoria, Final Report, Volume One*, Melbourne: Parliament of Victoria.
- <sup>ix</sup> *Government Response To The Report Of The Road Safety Committee Of Parliament On The Effects Of Drugs (Other Than Alcohol) On Road Safety In Victoria*. Tabled 21<sup>st</sup> May 1997.  
[http://www.parliament.vic.gov.au/rsc/government\\_responses/Drugs.pdf](http://www.parliament.vic.gov.au/rsc/government_responses/Drugs.pdf).
- <sup>x</sup> Johns, R (2004) *Drink Driving and Drug Driving*, Briefing Paper No. 15/04, Sydney: NSW Parliamentary Library Research Service
- <sup>xi</sup> Davey, J., Davey, T. & Obst, P. (2002). *Alcohol consumption and drug use in a sample of Australian university students*. *Youth Studies Australia*, 21, 3, 25-32.
- <sup>xii</sup> *ibid*
- <sup>xiii</sup> Batchelor, P. (Victorian Transport Minister) *Landmark Drug Driving Laws Introduced In Victoria*, media release December 4, 2003. Melbourne: Department of Premier and Cabinet.  
[http://www.dpc.vic.gov.au/domino/Web\\_Notes/newmedia.nsf/0/883436a4bce3e2e3ca256df500756b9b?OpenDocument](http://www.dpc.vic.gov.au/domino/Web_Notes/newmedia.nsf/0/883436a4bce3e2e3ca256df500756b9b?OpenDocument)
- <sup>xiv</sup> [www.arrivealive.vic.gov.au](http://www.arrivealive.vic.gov.au)