

**A QUALITATIVE STUDY OF  
DETERRENCE AND DEVIANCE IN A  
GROUP OF RECIDIVIST DRINK DRIVERS**

**A THESIS SUBMITTED FOR THE MASTERS OF CORPORATE  
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## ABSTRACT

The deterrence approach to drink driving, as exemplified by per se legislation, proactive detection and enforcement through random breath testing, and high penalties has proven to be effective for the general population in Australia (Homel 1988, Henstridge et al 1997, Job et al 1997), but less effective for the habitual drink driver (Loxley et al 1992, Wilson 1996, Federal Office of Road Safety [FORS] 1997). Efforts to reduce the incidence of drink driving have been successful, as indicated by a reduction in the number of deaths of drivers and motorcyclists with a blood alcohol concentration (BAC) of 0.05 gm/100ml or greater, falling from 44 per cent of all drivers killed in 1981 to 26 per cent in 1998 (ATSB 2001). Despite this, drink driving remains one of the major causes of road fatalities in Australia (Australian Transport Safety Bureau [ATSB] 2001) and one of the leading causes of death and injury in Australia (FORS 1998, Bordeaux 1998), and causes a huge burden on the health system (Steenkamp et al 2000, Australian Institute of Health and Welfare [AIHW] 2000). It results in approximately 650 deaths per annum (FORS 1997) and excluding costs to the health system, is estimated to cost approximately \$767 million per annum (Collins and Lapsley 1996).

Hard core recidivists are responsible for a significant number of these deaths and injuries each year in Australia (FORS 1997) and in other countries (Desapriya and Iwase 1997, Fell 1992, National Highway Traffic Safety Administration [NHTSA] 2000, 2002, Bailey and Bailey 2000). There appears to be an irreducible minimum of hard core recidivist drink drivers who have clearly not responded to current deterrents. Set against the social acceptability of alcohol is the social dependence on cars and this fact may encourage drink driving.

The deterrence approach to drink driving is based on deterrence theory which states that people are rational and able to choose right from wrong (Bentham in Burns and Hart 1970, Brett and Waller 1971, Fattah 1976, Zimring and Hawkins 1973). Moreover their behaviour can be influenced by the threat of punishment, by seeing other people being punished, and by the actual experience of punishment (Zimring and Hawkins 1973). Deterrence is said to have many forms, but can also be seen as the application of only one form of deterrence to a range of people who may differ in their responses for a variety of reasons (Walker 1980, Homel 1988, Stafford and Warr 1993). A deterrent effect is dependent on the certainty, celerity and severity of punishment (Bentham in Burns and Hart 1970, Fattah 1976, Zimring and Hawkins 1973, Bell and Bell 1987).

The use of deterrence theory has been applied to drink driving by several commentators, theorists and researchers, notably Andenaes (1966), Zimring and Hawkins (1973), Tomasic (1977), Homel (1988), Ross (1984, 1988) and Job et al (1998). Previous research has used the absence of re-conviction and reduced crash rates as indicators for the success of deterrence (Homel 1988, Henstridge et al 1997). Other research has used survey designs to interview representative samples of drivers in the general population (Homel 1988, Brown et al 1996, Job et al 1998) or convicted drink drivers (Ferguson et al 1999).

This research evolved from evidence that hard-core drink drivers do not appear to respond consistently to deterrents and that not enough is known about why this is the case. Gaps in knowledge about the behaviour and attitudes of recidivist drink drivers hinder a comprehensive and effective response to addressing this social problem. Hard-core recidivist drink drivers have been alternately described as alcoholics (or alcohol dependents) who drive (Andenaes 1988, Wilson 1992, NHTSA 2000) or deviants (Henderson 1975, 1996, Homel 1988, Wilson

1996, Baum et al 1997). Others have described their behaviour as deviant (Vingilis 1987, Snortum 1988, Geller and Lehman 1988, Anleu 1995) or that their behaviour is *perceived* as deviant (Robinson 1979, Gusfield 1981). However, few have sought to establish deviancy using sociological definitions.

Road safety policy and prevention strategies have relied on the deterministic view of the individual deviant drink driver, such as the 'killer drunk' (Gusfield 1981) or the Victorian 'Drink Drive Bloody Idiot' campaign (Cameron et al 1997), rather than targeting the situational factors which encourage and support the activity. These individualistic approaches see the drink driver as alcoholics or alcohol dependents who drive, or people with psychological problems whose dangerous driving habits are associated with other problem behaviour (Wilson 1996, McDonald and Mann 1996). This makes them poor targets for the deterrence approach (Zimring and Hawkins 1973). One of the foundations of deterrence theory is that people are rational and able to make reasoned decisions. That is not the case when a person has consumed alcohol, and it becomes increasingly problematic as the level of alcohol increases (Geller and Lehman 1988, McKnight and Voas 1991). Alcohol not only causes over-confidence, but this masks the lack of coordination, loss of balance and reduced perceptual abilities of the person affected (Kohnen 1993, Roads and Traffic Authority [RTA] 1995, National Health and Medical Research Council [NHMRC] 2001, Centre for Education and Information on Drugs and Alcohol [CEIDA] 2002).

Sanctions for drink driving are a symbolic way of telling the offender and the public that drink driving is not acceptable behaviour. The punishment itself is designed to change the way an offender responds to future threats of punishment thereby making them less likely to re-offend (Zimring and Hawkins 1973). The perceptions of the effect of sanctions by those who have not experienced the sanctions, and the evaluations or value placed on the actual sanctions by those who have been, will affect the actual deterrence effect of the sanctions.

Both formal and informal sanctions are experienced by those convicted of drink driving. Again, the affect of these is dependent on the evaluation placed on them by the offenders. It is also dependent on the motivation and actions taken by the offender to either comply with, or avoid the punishment. Increasing the severity of sanctions does not appear to have any additional deterrent effect unless accompanied by a high probability of detection (Carroll and Solomon 2000).

Psychological variables in offenders may create a perception of immunity or invulnerability such that offenders are able to inflate their own abilities compared to the average driver or deny the consequences of their unsafe actions (Claster 1975, Walker 1980, Vingilis 1987, Dalziel and Job 1997). The offenders may agree that drink driving is dangerous for the average motorist *but not for them*, because they are better than average driver and are able to 'hold their drink better than other people'. A deterrent effect is also unlikely for those who have frequently been able to avoid detection and therefore punishment (Ross 1991, Watson 2002). Frequent punishment avoidance may be much more pertinent to potential offenders than the infrequent experience of punishment (Stafford and Warr 1993). The fact that an injury related crash is relatively small (Ross et al 1996) may also contribute to overconfidence in offenders, who may feel that they can continue to offend with impunity.

This research examines the recidivist drink driver. That is, an habitual or repeat offender. This research applies a broader definition of recidivism than one that only relies on convictions. A broader perspective recognises that despite proactive random breath testing, drink drivers do

not necessarily get caught (McLean 1996, Australian Advisory Council on Road Trauma [AACRT] 1996). Unless an offender is involved in a serious crash, detection and arrest are not certain. The recidivists who are caught are likely to have a high BAC indicating a problem with alcohol abuse (AACRT 1996). Recidivist drink drivers are typically male, young, single, separated or divorced, unemployed or in a blue collar profession, with a history of other traffic or criminal offences and have personality problems such as anti-social attitudes and poor impulse control (Christie et al 1987, Homel 1988, Ryan et al 1996, Wilson 1996, Beck et al 1997, Maloney and Palaia 1997, Bailey and Bailey 2000).

As noted, research has shown that the deterrence approach for drink driving has not been a universal success. Moreover, fine tuning of this approach by imposing harsher penalties does not necessarily work and may, in fact, lead to avoidance of deterrence and punishment rather than avoidance of the behaviour (Stafford and Warr 1993). An alternate approach may be to view the drink driving of this group from the perspective of the drink driver. Is this behaviour normative and if so, can theories of deviance assist in providing some insight into understanding their drink driving? Drink driving has been conceptualised as deviant by the police and road safety authorities, yet if drink driving is normative behaviour for recidivists it will be difficult to deter.

Deviance in the context of this research is defined as behaviour which violates the predominant norms of society, as defined by the dominant interest groups, and which leads to the actor or offender being designated or labelled as deviant. Under the normative perspective of deviance, it is generally accepted that any act can be defined as deviant (Durkheim 1950, Simmons 1969, Anleu 1995). What is considered deviant may be illegal or socially controlled behaviour (Goode 1978, Downes and Rock 1988) or both (Anleu 1995) and may differ across time and place (Anleu 1995) and circumstances (Goode 1978). The definition of deviance has changed over the years from behaviour which is against the norms of a society (normative definition) to a 'reactive' definition — something is deviant only if it is reacted to in a negative way (Gibbs 1981, Lemert 1972). Under the labelling perspective, deviance is a property 'conferred upon' certain behaviour (Erikson 1966 p 398) and the result of negotiation (Hepburn 1975). The third major perspective of deviance is political economy, which states that norms and laws reflect and perpetuate the beliefs and interests of the dominant interest groups in society (Sellin 1970, Anleu 1995). Referred to as the creation of 'a new drinking-driving norm' (Snortum 1988), 'the war on the roads' by FORS (1998), but as 'coercive reform' by Gusfield (1981), drink drivers are now included in public stereotypes of deviance. This conceptualisation was necessary to engender the community support required for new legislation and enforcement practices. The application of this approach has resulted in a shift in community attitudes against drink driving (Homel 1988, 1997, Job et al 1998, Mitchell-Taverner et al 1995, 1996, 2000).

It has been argued that in some cases, deviant behaviour is not seen as deviant by those who engage in it because of deviance disavowal or neutralisation (Sykes and Matza 1957 in Anleu 1996, Matza 1969, Downes and Rock 1988). Drink driving behaviour continues to be seen as non-criminal or even normative by many (Donelson 1988, Wilson 1996). Group support, normative beliefs of the group which encourage, condone and reward the behaviour, plus the absence of alternate normative views (Vingilis 1987) are all factors in non-deterrence. Equally, conscience, defined as internalised norms, and the value placed on the opinions of others may reduce the deterrent effect (Grasmick and Bursik 1990, Baum 1999). Some studies indicate that recidivist drink drivers are aware that they are over the limit before they drive (Lewis et al 1995, Wiliszowski et al 1996 cited in Jones and Lacey 2000). Moreover, many know that they are

impaired as a result of their alcohol consumption and therefore attempt to drive more carefully (Lewis et al 1995).

Intuitively, the examination of the failure of deterrence for recidivist drink driving by the use of deviance theories appears logical. At its simplest, deviance is defined as behaviour that is different from the norm. The dominant interest groups of society, or those who have the power to do so define this norm, and then enforce these views. Thus drink driving has been conceptualised as deviant in order to assist in the implementation of proactive deterrence strategies and harsher penalties (Gusfield 1981, Stacey 1983). Increasing evidence of the link between blood alcohol concentration and crash risk has assisted this. In addition, powerful community sentiment condemning drink driving has been generated by graphic media portrayals of the effects of drink driving crashes (Cameron et al 1993, Healy 1996, Wise 1996). This approach also needed someone to blame for these crashes, and the depiction of a defective, irresponsible and deviant individual has been the result. In general, this approach has worked with drink driving being considered deviant by the general public as well as the road safety community (Job et al 1997, Staysafe 2000).

However, it is not that simple. If a person considers that their own behaviour (in this case, drink driving) is perfectly normal, for them the rest of society is deviant.

Norms and situational factors are central to the deterrence of drink driving, and may either neutralise or support a deterrent effect (Sellin 1970, Wilson 1996). Drink driving often occurs within a normative group which does not provide any negative views on driving after drinking. Norms-based countermeasures are unlikely to be effective in this context. Those with assaultive, impulsive personalities and sensation seekers are more likely to be involved in drink driving crashes, and are likely to be deviant off the road as well as on the road (Wilson 1992). They are likely to have negative attitudes towards the police and do not consider traffic violations to be deviant.

Labelling a person as a drink driver may not have the intended effect. It may result in a denial of the label or cause further offending. If a person is not caught or suffered any consequences it is possible that this will neutralise any possible deterrent effect (Schur 1971, Henshel and Silverman 1975).

The attitudes, perceptions and evaluations of potential drink drivers about arrest probability and other consequences will determine whether a deterrence approach is effective. Behavioural theories which examine how deviant behaviour is learnt and internalised and then acted on, recognise the situational context of deviance. Deviance neutralisation is the justification of offending behaviour by the offenders, by denying responsibility or consequences, and shifting the blame to those condemning them and their behaviour. It is likely that the avoidance of punishment will affirm and support this neutralisation.

For many, drink driving is normative, deliberate and consistent with their attitudes. The literature suggests that many of those who are consistently arrested for drink driving believe they are able to drink and drive safely and will not be detected. Those who are able to ignore the affects of punishment will be less likely to be deterred from future drink driving.

This study sought to understand the apparent failure of deterrence from the perspective of the repeat offender. Specifically, the research examined whether there was an association between non-deterrence and deviance in recidivist drink drivers. The underlying research question was:

*Is there an association between non-deterrence and deviance in recidivist drink drivers?*

In order to explore this issue, the self-reported attitudes, perceptions and behaviour of a group of ACT recidivist drink drivers about drink driving, drink driving procedures, laws and sanctions were documented and analysed for evidence of non-deterrence and deviance. Deviance was measured by six indicators which were derived from an examination of the literature on punishment, deterrence and deviance. These were the influence of peer group and family members towards drink driving behaviour, deviance acceptance, situational deviance, deviance neutralisation techniques used by offenders, deviance in other areas, and the effects of deviant labelling. The research also sought to establish under what circumstances a group of repeat offenders will continue to drive or drink and drive after losing their licence; to establish if there are circumstances under which they are deterred or partially deterred and why; and to document self-reported strategies used by a group of repeat offenders to avoid detection.

A qualitative methodology was chosen to achieve these research objectives, and involved two stages. Stage One consisted of the theoretical examination of the issues, and Stage Two was an examination of the issues from the perspective of the offenders. The research design was hierarchical and moved from the general to the specific. Initial data was obtained through the use of observation techniques of the police random breath testing and a drink drive education and rehabilitation course for offenders, became more detailed through the use of focus group interviews (n = 5), and became specific in the detailed individual in-depth interviews (n = 14). In this way, the data was triangulated. New concepts in the data were introduced in each methodology, and either confirmed, clarified or contrasted by subsequent data collection techniques. Subjects were initially recruited through the education and rehabilitation course and snowballing techniques were used to complete the sample.

The research in Stage 1 demonstrated a clear association between the conceptualisation and implementation of the deterrence-based approach to drink driving and the political economy perspective of deviance. The view that drink driving constituted a risk to society was not the dominant view 30 or more years ago. It was therefore necessary to firstly define, and then to treat the behaviour and the offender as deviant. This conceptualisation facilitated the introduction of the deterrence-based approach to preventing drink driving behaviour. Thus the law was used to shape community attitudes and then to reinforce these attitudes. Obtaining compliance was not simply a matter of tightening the laws and the methods of detection. It was also necessary to increase both the penalties and the perception of the risk of detection. In addition, community action and graphic media portrayals of drink driving crashes were successful in leading to a culture which was less accepting of drink driving behaviour.

The results from Stage 2 showed clear evidence of deviance across all indicators, with the strongest association found for the normative perspective of deviance through the influence of peers and family towards drink driving, and deviance neutralisation. Drink driving for the recidivists in this study appeared to be normative, deliberate and consistent with their attitudes. Evidence of the influence of peers was considerably stronger than for family members. Drinking appeared to be the main social activity of the recidivists, and their peer groups supported drink driving behaviour.

In particular, recidivists demonstrated numerous deviance neutralisation techniques which appeared to neutralise the deterrent effect of both random breath testing and the legal and non-legal sanctions imposed. There was strong evidence that recidivists do not respond to deterrents because they believe that drink driving laws do not or should not apply to them, because they are safer drivers than average, and they can 'hold their liquor'. It is the conceptualisation of the *potential to cause harm* as being deviant that is at issue for the recidivist. They agree that a crash where someone is hurt as a result of drink driving is deviant. They do not agree that driving under the influence of alcohol is wrong per se, when no crash occurs and no one is hurt. Offenders denied that there were consequences for their drink driving, even where they were involved in a non-injury crash. Offenders shifted the blame for their actions, and were able to give what they believed were justifiable excuses for their drink driving.

All offenders had more experience of punishment avoidance than punishment, which further reinforced their belief in their driving abilities and that their strategies to avoid detection were successful. They have developed a list of strategies to avoid detection and use these regularly. Some of the strategies were based on a good knowledge of police practices, and others appeared to be based on folk law. Some of the latter contradicted each other. However, what did seem significant was the offenders' belief in these strategies and that these appeared to work most of the time. Thus deterrents such as random breath testing, while annoying, are largely irrelevant. This method of enforcement simply does not apply to them because they believe they can avoid its influence and consequences. Recidivists have the experience and knowledge of police practices to know that the actual arrest probability is quite low.

However, the evidence linking labelling theories of deviance and non-deterrence was limited. There was evidence that recidivists adopted the label of 'drink driver', but this appeared to be under protest because, as noted in the normative perspective, the behaviour was not wrong. There was only limited evidence that being labelled as a drink driver was associated with further deviance.

Thus the conclusion of this research is that deviance theories are able to contribute to our understanding of the limited success of the deterrence approach for recidivist drink drivers. The conceptualisation of drink driving as deviant, and then the application of the deterrence approach to control this behaviour, was unlikely to be a success for those for whom it was most relevant. For the premise on which it is based (drink driving is deviant), does not apply. *Not* drink driving is deviant for this group — drink driving is the default behaviour.

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The results reported in this thesis are not presented as the definitive answer to recidivist drink driving, but as another piece of the puzzle:

For we know in part, and we prophesy in part ... (I Corinthians 13:9)

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