

For Discussion
26 June 2009

Legislative Council Panel on Transport

Review of the Results from Random Breath Testing

Purpose

This paper briefs Members on the results of the Random Breath Test procedures conducted by the Police to combat drink driving and the way forward.

Background

2. The Road Traffic Legislation (Amendment) Ordinance 2008 empowers the Police to conduct a screening breath test on drivers without the need for reasonable suspicion that they had consumed alcohol. In order to minimize inconvenience to the public, it was decided that a pre-screening test using a pre-screening device would be added into the procedure. The test has been called the Random Breath Test ('RBT'). The Police commenced conducting RBT when the legislation came into effect on 9 February 2009.

3. In order to give the public confidence that the Police would exercise the power to conduct RBT in a responsible manner, the following six measures were agreed¹:

- (a) Conduct of RBT would initially be restricted to traffic police officers already trained in handling drink-driving cases. Traffic officers would have the requisite knowledge and experience to conduct such checks whilst ensuring both their own and the public's safety;
- (b) RBT would not normally be targeted against vehicles in motion. For the safety of the officers concerned, and to ensure that the check could be carried out with the minimum of inconvenience to the driver and other motorists, RBT would normally be conducted during roadblock operations or as part of other traffic enforcement checks;

¹ LC Paper No. CB(1) 1174/07-08(02)

- (c) A quick and simple hand-held pre-screening device would be used to speed up the RBT checking process and to avoid undue delay / inconvenience to motorists. If the pre-screening device indicated that a driver had consumed alcohol, the existing drink-driving devices would continue to form the basis for any prosecution;
- (d) RBTs conducted would be monitored for a trial period after introduction, to determine their success and gauge whether undue inconvenience has been caused to road users;
- (e) Limitations on RBT checks by time or location would not be applied as this would defeat the 'random' nature of the checks; and
- (f) No rank restrictions would be placed on the use of RBT power.

4. The Administration also assured the public that the Police would closely monitor the implementation of RBT, and the results would be taken into account when considering future enforcement action and the Police would inform the Panel on Transport of developments.

Results of the RBT Operations

5. Between 9 February and 9 June 2009, the Police conducted 657 RBT operations involving 13,632 drivers. 13,519 of them passed the RBT and were allowed to drive on. Of the remaining 113 drivers, 81 failed the RBT², 9 refused to conduct the RBT and 23 appeared to have consumed alcohol. They were all required to conduct the Screening Breath Test (SBT)³. 111 drivers completed the SBT and 2 refused.

² The pre-screening device is set to indicate a 'FAIL' at 20 micrograms (mcg) of alcohol or more in 100 millilitres (ml) of breath.

³ A driver is required to conduct a Screening Breath Test (SBT) if

- (a) the Police have reason to suspect that the driver has alcohol in his body or he has committed a traffic offence while the vehicle was in motion; or
- (b) he was involved in an accident; or
- (c) he fails to pass a RBT.

Refusal to provide a breath specimen without reasonable excuse is an offence.

6. A breakdown of the 111 drivers shows that 46 passed the SBT and were allowed to drive on, 65 failed the SBT and they were arrested and required to conduct the Evidential Breath Test ('EBT'); 46 drivers failed the EBT. The 46 drivers who failed the EBT and the two drivers who refused to conduct the SBT have been / will be charged.

7. Records are kept of the vehicle types involved in RBT operations. Since most traffic accidents involving drink driving occur during the hours of darkness, most RBT operations were conducted in the late evening and early hours of the morning; the proportion of vehicle types involved in RBT operations reflect this. The details are at Annex A.

Impact on Drink Driving Cases and Traffic Accidents Involving Drink Driving

8. There has been a significant drop in the number of drink driving cases⁴ and traffic accidents involving drink driving since RBT began. Between February and May 2009 drink driving cases decreased by 37% and accidents involving drink driving decreased by 65% compared with the same period in 2008. The details are at Annex B.

Analysis from RBT Results

9. The following information is of note : -

- (a) All 48 drivers charged or to be charged are males;
- (b) 37 of whom were private car drivers;
- (c) 8 of whom were goods vehicle drivers; (3 were arrested in the New Territories North Region, 2 of whom were cross boundary drivers); and
- (d) Most RBT related drink-driving arrests occurred between midnight and 0500 hours.

⁴ It is an offence for a person to drive or attempting to drive a motor vehicle on a road with the proportion of alcohol in his breath exceeding the prescribed limit, 22 mcg of alcohol in 100 ml of breath. Drivers are arrested when their breath sample exceeds the prescribed limit and a drink driving case is created.

Court Cases

10. Between 9 February and 9 June 2009, 26 court cases have been concluded and all drivers pleaded guilty. Disqualification periods of the convicted drivers range between 3 and 24 months; fines range between \$3,000 and \$8,000. The details are at **Annex C**.

Conclusion and Way Forward

11. The RBT legislation and procedures have created a deterrent effect. RBT has caused little inconvenience to law-abiding members of the public⁵.

12. In view of the clear deterrent effect achieved by the RBT, the Police will continue with the RBT operations.

Transport and Housing Bureau
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⁵ Nine drivers refused to conduct the RBT, subsequently seven completed the SBT; two were arrested for refusing to conduct the SBT.

Types of Vehicles involved in RBT Operations

Vehicle types involved in RBT operations	No. of drivers checked in RBT operations	Percentage of total
Private Car	6,707	49.2%
Taxi	2,875	21.1%
Light Goods Vehicle	2,213	16.2%
Medium Goods Vehicle	578	4.2%
Heavy Goods Vehicle	32	0.2%
Public Light Bus	449	3.3%
Franchised Bus	55	0.4%
Non-franchised Bus	250	1.8%
Motorcycle	448	3.3%
Tram	8	0.1%
Government Vehicle	17	0.1%
Total	13,632	100%

Annex B

Number of Drink Driving Cases
(February to May 2008 and 2009)

Drink Driving Cases (SBT > 22 mcg or refused to give sample for SBT)			
	2008	2009	Difference
February	131	70	-46.6%
March	112	73	-34.8%
April	104	68	-34.6%
May	126	89	-29.4%
Total	473	300	-36.6%

Number of Traffic Accidents Involving Drink Driving
(February to May 2008 and 2009)

Traffic Accidents Involving Drink Driving			
	2008	2009	Difference
February	52	21	-59.6%
March	55	18	-67.3%
April	60	18	-70.0%
May	62	23	-62.9%
Total	229	80	-65.1%

Sentences of Drink Driving Cases arising from RBT Operations

As at 9 June 2009, 26 court cases have been concluded. All drivers pleaded guilty and the penalties are summarised below:-

Type of Penalty	Level of Penalties	No. of Case
Driving Disqualification	3 months	7
	4 months	1
	6 months	6
	8 months	2
	9 months	4
	12 months	4
	14 months	1
	24 months	1
Fine	\$3,000	3
	\$3,500	2
	\$4,000	5
	\$4,500	2
	\$5,000	11
	\$8,000	2
Imprisonment	2 months suspended for 18 months	1
	14 days	1
	14 days suspended for 36 months	1
Community Service Order	180 hours	1