

For Discussion
28 January 2011

Legislative Council Panel on Transport

Enhanced Implementation of Random Breath Testing

Purpose

This paper briefs Members on the results of the Random Breath Test (RBT) operations conducted by the Police to combat drink driving and proposes to enhance implementation of RBT.

Background

2. Drivers who consume alcohol have a much higher risk of involvement in accidents than those who do not consume alcohol. In 1995, a new offence under section 39A of the Road Traffic Ordinance (RTO), Cap 374, was created under which it became an offence for a driver to exceed a prescribed limit of alcohol in his blood, breath or urine. The law provided the Police with the power to conduct breath tests on drivers who were suspected of having consumed alcohol, had committed a traffic offence or had been involved in an accident. The RTO was amended in 1999 and the prescribed limit was lowered significantly¹.

3. RTO was further amended in 2008 to empower 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 is commonly called RBT. The Police commenced conducting RBT when the legislation came into effect on 9 February 2009. In order to strengthen the public confidence on the Police exercising the power to conduct RBT in a responsible manner, measures including initially to restrict conduct of RBT to traffic police officers already trained in handling drink-driving cases, RBT would not normally be targeted

¹ The prescribed limit was lowered from 35 micrograms of alcohol per 100 milliliters of breath to 22 micrograms of alcohol per 100 milliliters of breath with corresponding changes in respect of blood and urine.

against vehicles in motion but during roadblock operations, a quick and simple hand-held pre-screening device would be used to speed up the RBT checking process and to avoid undue delay or inconvenience to motorists were agreed.

4. In June 2009, the Administration reported to the Panel that between 9 February and 9 June 2009, the Police conducted 657 RBT operations involving 13,632 drivers. There was a significant drop in the number of drink driving cases 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 results indicated that the RBT legislation and procedures had created a deterrent effect, and in view of the clear deterrent effect, the Police will continue with RBT operations. 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.

Latest Situation

5. Since the introduction of RBT on 9 February 2009 and up to 31 October 2010, the Police had breath-tested 113,151 drivers in 7,373 RBT operations, 715 drivers were arrested either for exceeding the prescribed alcohol limit or refusing to be tested. Excluding the arrests made during RBT operations, the number of drink driving arrests decreased by 13%² and accidents involving drink driving decreased substantially by 62%³ in 2009 and by 68% in 2010 compared with the situation before the introduction of RBT.

6. The Police have also analyzed the statistics on drivers who have been drinking. Prior to the implementation of RBT, there were no definitive figures on the scale and extent of drink driving situation in Hong Kong. Drink drivers came to light only when they were intercepted by the Police either when involved in a traffic accident,

² The total numbers drink driving related arrests in the periods Feb to Oct 2009 and Feb to Oct 2010 were 691 and 858 respectively, of which 190 and 420 were made during RBT operations.

³ There were 510 cases of traffic accidents involving drink driving between Feb and Oct 2008, the corresponding figure in 2009 and 2010 was 194 and 164 respectively.

having committed a traffic offence or were suspected of having alcohol in their body whilst driving. After the implementation of RBT, data were available from the tests in which drivers were stopped by the Police and had provided a RBT. The results from these tests indicated, for the first time, the prevalence of the situation of 'driving after drinking' in Hong Kong. The results are tabulated in **Annex A**. The figures indicate that during the period from February 2009 to October 2010, 2.7% of drivers who have undergone RBT were driving with 'some' alcohol in their bodies, and 0.6% exceeded the prescribed limit. Long-term changes in these two figures would reflect changes in the drinking culture amongst the driving population.

7. The chart in **Annex B** shows the trends on alcohol levels in drivers since the introduction of RBT. The numbers of RBTs conducted are also shown in the chart to illustrate how drivers might have responded to police enforcement. The percentage of drivers who were found to have been drinking ranged between 2.3% and 2.6% in the first four months. However, this figure gradually displayed an upward trend and peaked at 4.1% in November 2009. The percentage of drivers who were found to have exceeded the prescribed limit ranged between 0.7% and 0.4% in the first four months. The figure gradually rose and peaked at 1.1% in November 2009. Starting from November 2009, more RBT operations were conducted and there followed significant decreases in both percentages of drivers with alcohol level exceeding the prescribed limit and of drivers with some alcohol. An obvious downward trend in both sets of figures was seen after May 2010 when Police further extended RBT to all traffic enforcement roadblocks rather than merely dedicated RBT roadblocks. A rise in the percentage of drivers who have been detected as having been drinking may be partly explained by more effective choices by the Police on timings and locations for RBT operations as well as the 'wearing off' of the deterrent effect that came with the initial roll-out of RBT. But the trends show that the level of police enforcement does have a positive impact on the percentage of drivers who 'drink and drive' and involvement in traffic accidents. With continuous effort, we expect to see a gradual improvement in the attitude of people against drink driving. Overall, it is believed that the significant drop in the number of drivers with 'some' alcohol in their bodies between November 2009 and February 2010 from 4.1% to 2.4%

was also due to the fact that some drivers responded by not drink and drive to the enhanced RBT operations during the same period.

Conclusion and Way Forward

8. RBT operations continue to have a clear deterrent effect against drink driving behaviours as shown in the reductions in the number of arrest cases and traffic accidents involving drink driving after their implementation. However, the prevalence of ‘driving after drinking’ in Hong Kong and the overall number of cases involving drink driving indicate that some of the driving community still drink and drive, and that some drivers would respond by not drink and drive to enhanced implementation of RBT.

9. The current mode of performing RBT in traffic enforcement roadblocks has been effective in producing a deterrent to both the drivers and other road users. However this relies on the use of roadblocks, the setting up of which is constrained by external conditions such as weather and topography of the roads. Roadblocks would not normally be set up on expressways. This is generally known to the driving public; as such habitual drink drivers are able to plan their routes such that they are unlikely to encounter police RBT operations. Since drink drivers who travel on expressways stand a lesser chance of meeting a traffic roadblock than those travelling on other roads, solely relying on the use of roadblocks as a tactic to perform RBT should be reviewed.

10. In order to sustain the deterrent effect of enforcement against drink driving and in the light of the situations described in paragraphs 8 and 9, it is proposed that the Police continue with the conduct of RBT roadblock operations as one of their traffic enforcement priorities. In addition, it is proposed that (a) RBT may also be conducted on drivers who are stopped for having committed traffic offences other than at police roadblocks; i.e. enforcement during routine patrols; and (b) RBT may be conducted on drivers of vehicles in motion including those travelling on expressways⁴. Police officers may stop these vehicles for the conduct of the test. Such enhancement in the implementation of

⁴ At the moment, police officers may conduct screening breath tests on drivers stopped for having committed traffic offences other than at police roadblocks and on drivers of vehicles in motion.

RBT is expected to further strengthen its deterrent effect against drink driving behaviors.

Advice Sought

11. Members are invited to note the contents of this paper.

**Hong Kong Police Force
January 2011**

**The Prevalence of the Situation of
'Driving after Drinking' in Hong Kong**

	(Feb-Dec) 2009	(Jan-Oct) 2010	Feb 2009 to Oct 2010
Percentage of drivers with no alcohol in their bodies	97.3%	97.4%	97.4%
Percentage of drivers with alcohol level exceeded the prescribed limit	0.7%	0.5%	0.6%
Percentage of drivers with some alcohol in their bodies	2.7%	2.6%	2.7%
Total number of tests conducted	36,312	76,839	113,151
No. of operations	2,249	5,124	7,373
No. of traffic accidents involving drink driving	251	179	430

**Percentage of drivers detected with different level
of alcohol in Random Breath Test**

