THE DRINKING DRIVER

SURVEY OF 100 CASES OF DRIVERS ALLEGED TO BE UNDER INFLUENCE OF ALCOHOL

BY

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This survey covers the period between the spring of 1958 and that of 1960, approximately two years. During that period I was for eighteen months one of six deputy police surgeons for the City of Manchester. There was one full-time police surgeon. Each deputy, in turn, undertook two weeks' duty as first on call to cover the entire city when the police surgeon was not available. For the period of six months after the retirement of the police surgeon, each deputy continued the rota duty of being first on call for two weeks. From this it will be seen that the survey covers a fair cross-section of the total suspects examined in this city during the period. Since April, 1960, a new system has been devised, in which five divisional police medical officers have been appointed, each of whom is responsible for one division.

Procedure

When the duty divisional inspector considers that a driver *may* be under the influence of alcohol or drugs, a telephone call is made immediately to the police surgeon on call, and if he is available a police car is sent at once to collect him. This saves valuable time, and it has been the rule rather than the exception for me to arrive at the police station within fifteen to thirty minutes from the time the driver was brought into the station. The driver is asked to accompany me into an office where the lighting is good and there is adequate room for examination. Where possible, the duty inspector accompanies us into the examination-room and sits quietly throughout the examination. This is regarded as necessary to safeguard the examiner from possible assault, particularly when the opinion is given at the end of examination that the driver is unfit, because of alcohol, to drive a motor vehicle. The quiet and subdued driver occasionally changes at that point with almost dramatic suddenness into a violent creature, and one is only too glad of the protection of the law.

Before attempting to carry out an examination the consent of the driver must be obtained, and it was the practice, during the cases covered by this survey, to ask him to complete a certificate of consent as proof of his willingness to be examined. He is also informed at this stage, and again on completion of the examination or observation, that he may ask for his own or any other doctor of his choice to attend in order to examine him. Should he refuse examination, he is observed for a period varying from 20 to 30 minutes, and an opinion is then given. During that period he is asked from time to time whether he would like to change his mind and agree to examination. In approximately 50% of the cases seen, the driver made a request for the attendance of another doctor, but only in six cases did the doctor agree to attend. In most cases the doctor made it clear that he was prepared to accept the opinion of the police surgeon, having regard to the time lag which would have to be present before he could examine, and the fact that he had not had sufficient experience of this type of case.

Where certification of incapacity is refused by the police surgeon the police may still proceed with the charge, taking into account the incidents which have led to the arrest and the testimony of eye-witnesses. This has never occurred in the cases described in this survey where I have refused certification. In all such cases the opinion expressed was accepted without question, the driver was handed the keys of his car, and no further action was taken.

The Examination—with Clinical Features

Once the driver had intimated his consent to examination, he was asked to read aloud the certificate of consent which he was told he would be asked to sign. As will be seen from the form and wording of this certificate (Fig. 1), the reading and completion by the driver acted as a valuable test of reading, writing, and memory. This was used in lieu of reading from a newspaper, and the certificate was produced as an exhibit in court where required. The examination then proceeded on the lines indicated in the B.M.A.'s publication, *Recognition of Intoxication*, under the chapter headed "A Suggested Scheme of Medical Examination."

DR SIMON FREEMAN, T.D.

Divisional Police Surgeon, Manchester

I hereby consent to be examined by Dr. Simon Freeman in connection with my fitness to be in charge of a mechanically propelled vehicle.

USUAL SIGNATURE

ADDRESS

DATE

Fig. 1.—The certificate, to be read aloud by the driver.

The time of commencement of the examination was carefully noted, and the pulse was taken both then and on completing the examination. A careful check was made for any possible injury. The question of the part played by fatigue and shock, as well as excitement, was given the fullest consideration. Every effort was made to ascertain the previous medical history and whether any drugs were being taken. Leading questions regarding fits, diabetes, and history of ear disease were asked on all occasions. In all tests of co-ordination, each was carefully demonstrated to the patient before asking him to make the attempt. This served the twofold purpose of making it clear that the tests were normally quite easy to carry out and of satisfying a court of law that this was the case. Consistent features noted were the rapid, full, and bounding pulse, subnormal temperature, slightly raised blood-pressure (both systolic and diastolic), suffused conjunctivae, dry and furred tongue, and widely dilated pupils with sluggish response to light. Although each and every one of the above could be explained by other conditions, their presence did help to complete a pattern which was present with remarkable consistency.

The presence of fine lateral nystagmus deserves special mention, since our findings bear out completely the importance of this feature as stressed in the publication *Recognition of Intoxication*. This is shown in the statistical findings in this survey. It is, of course, of manifest importance to exclude other causes of this sign. Having done so, the presence of fine lateral nystagmus in the cases seen was so consistent with the remainder of the examination that it would seem to be

a major factor in a final verification of the decision made. In this connexion, it was put to me by counsel early in the survey that this sign was often present in normal healthy individuals. It was impossible to dispute this suggestion from personal experience at that stage. The question was put to me again in the Crown Court during the hearing of one of the last cases described in this article. In the interim, I had examined approximately 700 recruits for the Territorial Army and had carefully checked each one for the presence of this sign, with a "nil" return. In my reply to counsel, I asked for, and obtained, permission to give the results of this check. The cross-examination then came to a sudden halt.

The greatest importance was attached in all cases to the possibility of neurological disease. Examination of the ears and hearing was given special attention and the results were noted. This aspect is a great favourite of defending counsel in attempting to discredit co-ordination tests.

The average time taken to carry out the examination was 20 minutes. On completion the driver was told of the opinion formed and his comments were requested. These were carefully noted, when printable.

It is interesting to note that all cases where consent to examination was refused were certified after observation for the usual period. Gait, behaviour, appearance, speech, and co-ordination were carefully watched and noted. In most cases permission to smoke was asked and given; cigarettes were dropped, and then there was difficulty in finding the cigarette tip with match or lighter, and even, in extreme cases, in getting the cigarette to the mouth. All such points added up, and it was apparent that refusals were largely made by those who had sufficient acumen remaining to realize that examination would result in certification. As will be shown, in all such cases the men were not only certified but were duly convicted.

Statistical Survey of Findings

Certification.—The trend followed a distinct and consistent pattern throughout. Approximately two out of every three were duly certified as being under the influence of alcohol to such an extent as to render them incapable of having control of a motor vehicle. The final figure (Fig. 2) was 69%.

Convictions and Acquittals.—As shown in Fig. 2, of the number certified (69), exactly two-thirds (46) pleaded guilty and were duly convicted in the magistrates' court. Of the remaining 23, 17 were convicted after trial—twelve in the magistrates' court, five in the Crown Court. The other six were acquitted—five in the magistrates' court and one in the Crown Court. Of the acquittals, two cases hinged on whether the accused was in fact in charge of a car at the relevant time; two were thrown out as a result of somewhat conflicting evidence of police and eye-witnesses; in the remaining two cases it was decided that there was some reasonable doubt in the minds of the court.

Certification Refused.—It is a point worthy of serious notice that of the total of 31 in this category 30 were adjudged borderline cases, and the drivers concerned had to be given the benefit of the doubt. In the remaining case the driver was quite sober on examination. He had apparently caused his car to swerve badly while lighting a cigar and had become very argumentative

and truculent when pulled up. The arresting constable, with commendable zeal, decided that a medical opinion was desirable.

Examination Refused.—Nine drivers refused to be examined. All were duly certified after observation. Seven pleaded guilty, and were convicted in the magistrates' court. The remaining two were convicted after trial. This tends to confirm the impression gained

FIG. 2.—Results of examination.

FIG. 3.—Showing fine lateral nystagmus present in 67 of 69 certified and in 2 of 31 un-certified cases.

that refusal is consistent with a feeling of guilt and a fear of the results of examination.

Fine Lateral Nystagmus.—This is worthy of special statistical note (Fig. 3). Of the 69 certified cases, 67 showed this sign. It was also present in two of the non-certified: these two also had major physical disabilities which finally swung the pendulum in favour of non-certification. They were both extremely fortunate.

Time of Examination.—This followed the anticipated pattern, consistent with opening and closing times of public-houses and the multitude of drinking-clubs which are a feature of large cities. This is shown in Fig. 4. The irregular jump between 6 p.m. and 9 p.m. is heavily shaded to show 9 of the 16 in that period which occurred in the few days preceding Christmas and, from the

FIG. 4.—Time of examination. The heavily shaded area shows the jump between 6 and 9 p.m.

history obtained, followed office drinking-parties (known in Lancashire as "footing parties"). At such parties inexperienced drinkers are plied with liquor by well-meaning but stupid colleagues and employers. It is a custom which cannot be condemned strongly enough. All nine drivers thus involved were in the early twenties

and presented a pathetic spectacle when they were sober enough to realize the consequence of their folly. None had ever before been in a police station.

Age Factor.—As demonstrated in Fig. 5, cases occur fairly consistently between the ages of 20 and 50. It is possible that after the age of 50 drivers have either

FIG. 5.—Age-grouping of cases.

reached the age of maturity or have not the desire to participate in drinking in public places. This might make an interesting study for the psychologist or even the psychiatrist. In the light of the condemnation

of the modern teenager, it is worthy of note that not one driver in the survey was under the age of 20. This would appear to be the solitary silver lining in a very grey sky.

Comparison of Total Convictions.—The accompanying Table demonstrates the comparison between results in this survey and those shown in a written reply by the

Comparison of Convictions in Cases Certified as Unfit to Drive a Motor Vehicle

Court	This Survey	*Statistical Report of Home Secretary for Year 1957
Magistrates' (i.e., without jury) . .	92% (58 out of 63)	91%
Sessions or Assizes (i.e., with jury)	83% (5 out of 6)	48%

* *Relation of Alcohol to Road Accidents* (B.M.A. publication, 1960).

Home Secretary (*Relation of Alcohol to Road Accidents*, B.M.A., 1960). It will be seen that convictions in magistrates' courts follow an almost identical trend. There is, however, a wide disparity in convictions in the higher courts. It is not possible to attach much significance to this feature, as the number of cases in this survey referred to the Crown Court was too small to be of statistical value.

Discussion

It will be seen that, before conviction, a motorist has to be considered under the influence of alcohol or drugs at four distinct and separate phases. At any single one of these he might be found not to be "unfit to drive."

Phase 1.—The constable on patrol notes in the first instance some behaviour consistent with the effects of alcohol.

Phase 2.—The duty inspector may consider that there are insufficient grounds to call in the police surgeon.

Phase 3.—The police surgeon may, or may not, certify the driver as unfit to have control of a motor vehicle.

Phase 4.—The court of law may, or may not, convict.

By the time the fourth phase has been concluded justice surely has been done. In all cases seen in this survey no conviction has been recorded about which there has been, in my mind, the shadow of a doubt. On the other hand, looking back at the cases in which it was felt that there was some reasonable doubt and thus were not certified, there remains a twinge of conscience, since in few of them would I have allowed the driver to have my family or myself as a passenger. Although justice not only must be done but must appear to have been done,

it would seem to me that, if the court leans over backwards to carry this out, the public at large may not be getting the protection it deserves. This is a matter for serious thought, and the results of this survey seems to confirm the following opinion extracted from *Relation of Alcohol to Road Accidents*: "The evidence given . . . shows that existing measures intended to prevent a person driving a motor vehicle while under the influence of alcohol are inadequate."

A feature of this survey was the tremendous variation in the amount of liquor admitted to have been consumed. The effects would appear to have been influenced greatly by drinking habits, by temperament, and by relationship to food consumed. Some were certified who had obviously taken small amounts of alcohol; the effects do not bear consistent ratios with the speed or amount of consumption. For that reason urinalysis was not carried out in the cases surveyed. The procedure has now been altered, however, at the wish of the Chief Constable. Urinalysis will be done in all cases, whether certified or not, where the consent of the driver has been obtained. Results of such analysis will be sent to the police surgeons concerned, and the relationship between the clinical opinion and decision and the results of such urinalysis is being watched by all parties with great interest. This will be shown, it is hoped, in a further survey now being undertaken.

Frequent reference has been made in this survey to two B.M.A. publications, namely, *Relations of Alcohol to Road Accidents* (1960) and *Recognition of Intoxication* (1958). It is my strong view that those two excellent publications should be read and retained not only by all members of the medical profession, but also by members of the legal profession and by those who are responsible for making and administering the laws of the land.

Finally, tribute must be paid to all ranks of the police force of this city for the patience and forbearance in the handling of all the cases covered in this survey. In spite of much virulent and blasphemous abuse, and in some cases of actual physical violence, members of the force have acted on all occasions with a restraint which must have required a great effort of will. In view of the many current criticisms of the police forces in this country, it is to me a great pleasure, as well as a duty, to place on record the high pattern of behaviour which has been manifest throughout.

It is a pleasure to acknowledge the help, offered and accepted with equal alacrity, of Dr. R. G. Ollerenshaw and Mr. James Kilshaw, of the Department of Medical Illustration, Manchester Royal Infirmary, who have succeeded so well in making presentable my statistical data.

"The London County Council and the Building Research Station of the Department of Scientific and Industrial Research are to carry out large-scale research into background noise in London. Measurements of the existing background noise levels, outdoors and indoors, will be made at about 500 sites distributed uniformly over an area covering some 36 square miles and at each site sample recordings of noise levels will be made over a 24-hour period. These recordings will be subsequently analysed. A separate social survey designed to establish accurate data about the acceptable levels of noise in various places within the county is also desirable, but the precise arrangements for carrying out such a survey have not yet been settled. The Metropolitan borough councils and other public authorities concerned are being asked to co-operate." (Agenda, L.C.C. Meeting, November 8.)