

Stop Territory Aboriginal Road Sadness – NT Police Indigenous Road Safety Project

by Superintendent Tony Fuller, Northern Territory Police, Fire and Emergency Services

Introduction

The Northern Territory Police, Fire and Emergency Services are committed to Stopping Territory Aboriginal Road Sadness. Every year we attend too many road crashes where Indigenous people are killed or seriously injured. An example of this carnage occurred on 31 December 2010 with the deaths of two boys aged 5 and 14 years, who were killed as passengers in a motor vehicle being driven on a remote road by a 13-year-old unlicensed driver. There were no adults in the car and the boys were not wearing seatbelts.

This tragic crash was unusual as the driver was not intoxicated; more than half of the Indigenous road deaths are alcohol-related and nearly all are preventable. In the past five years (2006-2010), 130 Indigenous people were killed on Territory roads out of a total 257 road deaths. On average over that period, 26 Indigenous people and 25 non-Indigenous people are killed each year. Putting it into perspective, just over 50% of people killed are Indigenous, yet they account for approximately 30% of the total population. Whilst those figures are tragic in themselves, for every Indigenous person killed, five more are seriously injured in vehicle crashes.

Every day Northern Territory Police apprehend traffic offenders, including drink drivers, in an effort to reduce the road toll, as shown in Figure 1. However, enforcement is only one tool. Education is another important tool to lower the number of road users killed, in particular Indigenous road users, so that they do not become the next Territory road statistic.



Figure 1. Police apprehending traffic offenders in the Northern Territory

Whilst not our core business, in late 2008 the Indigenous Policing Development Division (IPDD) of the Northern Territory Police was tasked by the then Commissioner of Police, Mr Paul White APM, with developing an education project to highlight and address this issue. Thus the STARS project commenced.

The Situation

The number of road fatalities in the Northern Territory for 2010 was 50 (21.3 per 100,000 population) as shown in Table 1. This was 19 more than that recorded over the same period the previous year. Twenty-four of the 50 people killed were Indigenous, which is slightly down on the average, but eight more than the previous year. This still demonstrates an over-representation of Indigenous people in the Northern Territory road statistics.

Table 1. Northern Territory road fatalities 2006-2010

	2006	2007	2008	2009	2010	Total	Average
Indigenous	24	31	35	16	24	130	26
Non-Indigenous	20	26	40	15	26	127	25
Total	44	57	75	31	50	257	51

Source: NT Road Safety

Table 2 provides a breakdown of the figures for 2010, which gives an indication where the target areas are for this project. Obviously from these statistics Indigenous drivers, passengers and particularly pedestrians are over-represented significantly compared to non-Indigenous road users. Not seen in last year's figures, but represented in previous figures, were the number of Indigenous passengers who were killed as opposed to drivers. In past years it was more likely that Indigenous passengers would be killed than drivers. Some of the reasons for this were crashes when there were multiple deaths, crashes when the driver was wearing their seatbelt and the passengers were not, and overloading of vehicles. The project aims to address some of these issues.

Project aim and theme

The aim of the Stop Territory Aboriginal Road Sadness (STARS) project (see logo in Figure 2) is to reduce the number of Indigenous road fatalities and serious injuries in the Northern Territory by raising public awareness in relation to road safety, specifically amongst the Indigenous community.

The theme of this project is using the symbol of stars. This symbology is threefold. Firstly, it is the acronym for 'Stop Territory Aboriginal Road Sadness'. Secondly, the stars represent the positive Indigenous role models who will be presenting their messages, coupled with the message of being bright at night in an effort to combat our pedestrian deaths. Lastly one star is faded, representing the Indigenous People who have died on our roads.



Figure 2. STARS project logo

The primary messages of the project are aimed at:

- drink and drug driving
- pedestrian deaths
- seatbelts.

Project activities to date

ACPO workshop

In August 2009 Aboriginal Community Police Officers (ACPOs) from across the Northern Territory (see photo on the cover of this issue of the journal) attended a workshop addressing issues relating to Indigenous road safety. As part of the workshop they discussed what they, as Indigenous people, thought were some of the issues and how NT Police may be able to address them. They received training from a number of guest lecturers, including road safety lectures from Road Safety – NT Government.

The ACPOs then developed their own training package and submitted what training aids they would need to present the training package to differing Indigenous audiences across the Northern Territory. Funding submissions were tendered and the Division has been gradually acquiring the training aids and distributing them to the regions.

Barunga Road Safety Song Competition

Senior Aboriginal Community Police Officer Bernie Devine teamed up with Indigenous Police Officer Allen Gebadi and

Bernie's brother Chris Devine and wrote and performed a road safety song for the Barunga Road Safety Song Competition held in 2009. This competition is an annual competition run by the Department of Lands and Planning and held at the remote Indigenous community of Barunga, where Indigenous bands are encouraged to write and perform their own road safety songs. Although they did not win the competition, their song has been since used by IPDD in other road safety messages.

In 2010 Senior ACPO Devine again entered a band in the Barunga Road Safety Competition and this time his band came in as runner-up, winning a trophy and \$1500.

Talking posters

Through their contacts with Indigenous community members and local knowledge, IPDD sought out the services of a number of AFL footballers to front a series of 'talking posters', as shown on page 2 of this issue of the journal. The players who kindly donated their time and services to pass on their road safety messages were as follows:

- Mr Alwyn Davey (Essendon Football Club), his brother Mr Aaron Davey (Melbourne Football Club) and Mr Russel Davey (Palmerston Magpies Football Club) speak about the loss of their father in a car crash.
- Mr Marlon Motlop and Mr Daniel Motlop (Port Adelaide Football Club) and Mr Steven Motlop (Geelong Football Club) speak about the loss of their grandfather, who was killed as a pedestrian.
- Mr Matthew Campbell (North Melbourne Football Club) speaks about the need to wear seatbelts.

These posters are equipped with audio players that allow messages to be played, giving a stronger message to the target audience. Coupled with this, the messages have been interpreted into 26 different Indigenous languages with the assistance of the Northern Territory Aboriginal Interpreter Service. These posters will be displayed in 52 Indigenous communities throughout the Northern Territory.

They are online at <http://www.nt.gov.au/pfes/index.cfm?fuseaction=page&pID=515>

Table 2. Northern Territory road fatalities 2010 by road user

	Total	Male	Female	Under 25	Over 25	Indig.	Non Indig.	Urban ^a	Rural
Driver	25	21	4	7	18	12	13	1	24
Passenger	13	7	6	7	6	6	7	1	12
Motorcyclist	5	5	0	2	3	0	5	3	2
M'cycle pillion	0	0	0	0	0	0	0	0	0
Bicyclist	0	0	0	0	0	0	0	0	0
Pedestrian	7	5	2	1	6	6	1	6	1
Total	50	38	12	17	33	24	26	11	39

^aUrban fatalities relate only to urban areas in Darwin, Palmerston and Alice Springs. All fatalities in other regional areas (Katherine, etc.) are recorded as rural.

Source: NT Government Internet, <http://www.nt.gov.au/transport/safety/road/stats/index.shtml>

NT Police, specifically IPDD, acknowledge the generous support of the Territory Insurance Office (TIO), which supported this part of the project by funding the purchase of posters. We also acknowledge the support of the players, their families and their football clubs for their assistance in getting these road safety messages to the Indigenous communities of the Northern Territory.

Education sessions

ACPOs, Indigenous police and members from IPDD have been travelling to various school and public events specifically targeting Indigenous audiences to pass on road safety messages utilising the training package developed in the ACPO workshop. Primarily these sessions are aimed at Indigenous events, such as community festivals or schools with Indigenous students.

Other project activities

IPDD are in constant consultation with Road Safety, Department of Lands and Planning, to devise additional joint projects to complement the work already achieved as part of STARS. Some of the projects that IPDD are progressing at the moment include:

Road safety merchandise

NT Road Safety, Department of Lands and Planning, with IPDD have purchased a variety of educational merchandise that will complement the messages already developed and that can be used in the promotion of Indigenous road safety and the STARS project. This merchandise has been purchased to target the Indigenous population. Specifically we have looked at items that are robust, likely to be retained, worn or used, and that could assist with visual identification of pedestrians at night. These items carry the various road safety messages and where possible appear on bright-coloured items.

We have also looked at items dependent on climate. Thongs and bright coloured singlets are used for the top end, whereas we have purchased bright-coloured beanies for the southern regions. We have looked at our audience and use the colouring-in cards for school children and the slapsticks that are very popular with teenagers. We recently received lanyards to give to people in their teens and older, to attach to their mobile phones or keys. We also purchased stickers with clear backing that can be affixed at the top of windscreens with the various road safety messages.

Rather than simply handing out the merchandise we deliberately engage the audience by asking them road safety specific questions and reward them with the gift on the appropriate answers. Several of the merchandise items are shown in Figure 3.



Figure 3. Merchandise products used to market various road safety slogans

Community Road Safety Days and “Muttacar Sorry Business”

In 2009 NT Road Safety, Department of Lands and Planning, sponsored the play “Muttacar Sorry Business”, which travelled to a number of Indigenous communities in the Northern Territory promoting road safety messages. NT Police were loosely associated with the play in providing police support where possible in communities where the play was performed.

In 2010 the road safety theme was expanded to Community Road Safety Days, with NT Police giving a stronger commitment by providing Indigenous members who travelled with the show over six weeks. The members performed in the show and presented their road safety messages to the community after each show. Additionally a representative from TIO toured with the group to provide information on motor vehicle compensation. Feedback from the communities was very positive.

Media coverage

Fortunately for NT Police, there has been some very good free media coverage of the project in print, radio and television. Initially members of Radio Larrakia, the local Darwin Indigenous Radio Service, attended the ACPO workshop and assisted the ACPOs in developing their own radio messages in English and several Indigenous languages. These messages were kindly produced by Radio Larrakia and have since been played regularly on Radio Larrakia and other Indigenous radio stations both locally and nationally. NT Police acknowledge the support of Radio Larrakia and the other Indigenous radios stations that have promoted these messages.

Additionally, on at least two occasions we have received national coverage through the television media. Firstly the SBS program “Living Black” came to the territory and filmed a story on Indigenous road safety, specifically on the project and current AFL player Aaron Davey. Secondly Senior ACPO Lorraine Jones, who has been conducting many of the training sessions, featured in an ABC program that covered the Community Road Safety Days.

Locally we have also been fortunate to have had local print coverage with articles about Indigenous road safety. Specifically we have had the Motlop cousins covered in a *NT News* story when they took time out from their football commitments to attend a road safety session at a local high school with a number of Indigenous boarders.

Project evaluation

At this stage a project evaluation has not been completed, as it is simply too early to do so. Additionally this is just one educational project that complements and works alongside others being conducted by NT Road Safety and other service providers targeting Indigenous road users. We are also mindful that the statistics in the Northern Territory, whilst very high per 100,000 population compared to other jurisdictions, are small in number and one crash with multiple deaths can significantly alter the ratio.

On a positive note and at the risk of ruining a good run, at the time of preparing this, the crash killing the two Indigenous boys is the last recorded fatal crash in the Northern Territory. The Northern Territory experienced their first fatality-free January in 2011. This is the first time since data were first collected in 1981 where the NT has not experienced a fatal crash during the month of January. In 2009 February was a fatality-free month, and an exceptional year where only 31 fatalities were recorded as opposed to the average 51.4. Here's hoping this year we will experience a lower level again.

Criminal liability of drivers who fall asleep causing motor vehicle crashes: TLRI report

by R Bradfield, Senior researcher, Tasmania Law Reform Institute, and E Newitt, Executive officer, Tasmania Law Reform Institute

Introduction

In October 2010 the Tasmania Law Reform Institute (TLRI) released its Final Report on drivers who fall asleep at the wheel and cause motor vehicle crashes. The Report looked at the criminal liability of drivers who fall asleep causing motor vehicle crashes that result in death or serious injury. It considered the current laws in Tasmania that relate to these types of crashes and reforms that have been introduced in other jurisdictions. It also considered police practices and procedures, in particular the collection of evidence and the interviewing of drivers and witnesses, in suspected fall-asleep driving cases in Tasmania. The TLRI made a total of 10 recommendations in its Report, of which at least one has been expressly adopted to date.

Background and current law

Courts in Australia have had cause to consider the criminal responsibility of drivers who fall asleep and cause motor vehicle crashes resulting in death or other serious injury on a number of occasions. Most notably, the High Court considered the issue in *Jiminez v The Queen* ((1992) 173 CLR 572). This case is the leading authority in Australia. In *Jiminez*, the court found that for a person to be found guilty of causing death or injury by driving, it is necessary for the prosecution to establish that the accused's act of driving was voluntary.

The court also found that in fall-asleep cases, the period of driving while asleep does not constitute that voluntary act. This means that the focus of the prosecution case must be on the driving that

immediately precedes the driver falling asleep. It is for this prior period of driving that the prosecution must establish criminal fault. A finding that the driver fell asleep may allow the inference of criminal fault to be drawn. That is, if the court finds that the driver fell asleep at the wheel of their motor vehicle, the court may infer that the driver would have known that they were affected by tiredness to the extent that in the circumstances their driving was objectively dangerous and therefore, by continuing to drive, they were criminally at fault.

However, the High Court also found that the liability in such cases is strict rather than absolute, meaning that the accused may rely on the defence of honest and reasonable mistake. This means that the accused can argue that they honestly and reasonably, but mistakenly, believed that it was safe for them to drive.

Between 2001 and June 2010 there were 14 cases in Tasmania where a driver was charged with dangerous driving causing death. The topic for the TLRI's project was suggested by the Attorney-General of Tasmania in 2003 following considerable public comment about two fatal motor vehicle crashes where the drivers had fallen asleep.

An Issues Paper, which considered the application of the principles articulated in *Jiminez* and proposed possible reform options, was released in 2007. The TLRI received 13 responses to this paper. Some responses were from government departments, including the Department of Police and Emergency Management, the Department of Infrastructure, Energy and Resources and the Office of Director of Public Prosecutions, while others were from scientific bodies and agencies associated with sleep research and