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THE EFFECTS OF ALCOHOL

Author: Michael Cahill

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Effects of Alcohol

The effects of alcohol are well known.

Many studies have been conducted to research the effect of alcohol on psychomotor function and behaviour. Alcohol is known to have an effect on most aspects of human performance and even the most minor blood alcohol levels, although this may vary greatly between individuals especially at levels below 0.10%.

Motor coordination tasks such as walking a straight line or standing still and maintaining balance may not be greatly affected at levels below 0.05%. The gross in-coordination associated with the popular impression of drunkenness may not appear until levels of 0.2% or more in seasoned drinkers.

Alcohol is well known to have an effect on emotional states and impulsivity. It is a depressive drug which is disinhibiting and distorts higher mental functions including judgement, memory, decision making and problem solving skills. The extent to which it does these in any given individual is unpredictable and variable, and depends on factors (among other things) including personality, medical and social psychiatric conditions, environment, tolerance to alcohol, drinking history, past experiences, fatigue and perceived social norms.[1]

Alcohol affects the central nervous system, that is, brain function.

It distorts the higher mental functions including:

- Judgement
- Decision making
- Problem solving skills
- Concentration
- Divided attention (difficulty in concentration on more than one task at a time)
- Perception
- Memory- blocked (complete) or part
- Loss of consciousness
- Functional tunnel vision (normal vision but looking at things down a tunnel- seeing what's directly ahead but not perceiving what's happening to the side)

[1] Dr Morris Odell, Forensic Physician, VIFM

Alcohol distorts the lower mental functions, that is, gross motor movements, including:

- Walking a straight line
- Standing still
- Maintaining balance
- Talking

The higher mental functions are affected by alcohol before the lower mental functions.
In other words, if a person's motor coordination is impaired the higher mental functions are impaired also.

Relevance of Intoxication

Intoxication is not a defence or an excuse to an offence.

The prosecution must prove the accused:

- committed the charged act voluntarily
- had the necessary intention
    - To do the physical act charged (basic intent)
    - To cause the result required by the offence (specific intent)

Voluntariness

It is a rare case where a person is so intoxicated he has acted involuntarily.

Intention

Intoxication is more likely to be relevant to the issue of intention.
In most cases intention is inferred from a person's actions.
In the case of an offence of violence, the jury can often infer from the serious nature of the injuries inflicted the accused had the intention to:

- Kill or cause really serious injury
- Cause serious injury
- Cause injury

Because of the effects of alcohol such an inference might not be so easily drawn where a person is intoxicated.

However, the effects of alcohol on individuals vary greatly.

A highly intoxicated person can act voluntarily and with the necessary intent.

Intoxication can cause:

- A change of personality
- A change in disposition
- Weakening of self control
- Reduced awareness of what the person is doing
- Reduced understanding of the consequences of his actions

But a person so affected can still act voluntarily and with the necessary intention.

The Intoxication Direction

Where there is evidence of intoxication which raises the issue whether the accused had formed the necessary intent to commit the offence charged an intoxication direction should asked for.

The direction given is as follows:

- Intoxication is no defence or excuse to an offence
- Intoxication may be taken into account in considering the accused's intention
- Intoxication may make it less likely the accused acted with a particular intent (for example a person does not realise the consequence of his actions because of his intoxication)
- But intoxication may provide an explanation or motive for the accused's conduct (for example where intoxication reduces inhibitions or increases aggression)
- Though a person does something which he would not have done when sober does not mean it was done unintentionally
- It is not for the accused to prove he was so intoxicated he acted without the necessary intention
- The prosecution must prove he acted intentionally despite his level of intoxication

Memory

A person can perceive and experience things that at the relevant time but not remember them later because of the effects of alcohol.

Accordingly, loss of memory does not mean a person acted involuntarily or without the requisite intention.

If there is evidence of memory loss the Direction will include:

- Evidence the accused has no memory of the event can be taken into account when determining the extent of his intoxication but the issue is not whether he remembers the relevant event but whether he acted with the necessary intention

Dangers for the defence

Because evidence of intoxication may be used by the prosecution to prove the accused committed the offence the intoxication direction carries dangers for the defence.

On the one hand the jury is directed that it might be less likely an intoxicated person acted with a particular intent, on the other, it might make it more likely by providing an explanation or motive for his behaviour.

Cases

- *R v O'Connor* (1979) 146 CLR 64
- *R v Faure* [1999] 2 VR 537
- *R v McCullagh* [2002] VSCA 163
- *R v Kumar* [2006] VSCA 182

Michael Cahill
Aickin Chambers
Melbourne
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