

U.S. Department of Justice
National Institute of Justice



CRIME FILE

Drinking and Crime

A study guide written by:
Professor James B. Jacobs, New York University

100737

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by
Public Domain/NIJ
US Department of Justice

to the National Criminal Justice Reference Service (NCJRS)

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

**Moderator: James Q. Wilson, Professor of Government,
Harvard University**

**Guests: Mark Moore, Harvard University
Robert Niven, National Institute for Alcohol
Abuse and Alcoholism
Barry Sweedler, National Transportation Safety
Board**

Your discussion will be assisted by overviews of the crime problems caused by excessive drinking and of the preventive and treatment policies now being attempted.

Alcohol Consumption

Alcohol abuse is one of the Nation's gravest health and social problems. It is also one of its most serious crime problems. According to Harvard psychiatrist Dr. George Vaillant, 10 to 15 percent of the male population at some point in their lives consume eight or more alcoholic drinks daily. A small percentage of this group continue at this level for a lifetime; about half revert to controlled drinking or achieve stable abstinence; a quarter deteriorate to chronic alcohol dependence, unable to quit drinking without suffering withdrawal symptoms and eventually needing detoxification. This last stage is reached by 3 to 5 percent of American adults, with men outnumbering women by three or four to one.

Alcoholics are not the whole problem. Even if all alcoholics were suddenly cured, there would still be a serious alcohol problem in the United States. Many "social drinkers" cause accidents, lose time from work, cause problems for their families and friends, and commit crimes while intoxicated. Binge drinkers may be abstinent or drink moderately for long periods and then drink excessively for short periods, during which they may be extremely dangerous to themselves and others.

The consumption of alcoholic beverages is a major part of our culture. Drinking is a social custom in contexts as diverse as christenings and wakes, business lunches and fraternity parties, ball games and New Year's parties, teenage dating and fine dining. The powerful alcoholic beverage industry aggressively markets its products. Television and movie heroes and heroines continually reinforce the impression that hard drinking is associated with glamour, romance, excitement, and success. (The next time you watch television, count the number of drinking episodes in an hour of programs and observe the kinds of images that are associated with drinking.)

While statistical data on changes in alcohol consumption over time are of questionable reliability, it appears that since World War II more Americans drink and more drink excessively. (However, approximately 30 percent of the population are abstainers.) Alarming, there are strong signs of a growing alcohol problem among our Nation's youth, even among adolescents. A 1981 survey revealed that 93 percent of high school seniors had at least tried alcoholic beverages, 71 percent reported use within the past month, and 41 percent reported binge drinking (five or more drinks on a single occasion) within the past 14 days. It has been estimated that between one-third and one-half of the young people in the United States become intoxicated once every 14 days.

Drinking and Crime

There is a close relationship between alcohol and crime, and there is good reason to believe that consumption of

This program brought to you by the National Institute of Justice, James K. Stewart, Director. The series produced by WETACOM through a grant to the Police Foundation.

alcohol causes crime. The most obvious crimes in which alcohol plays a role are drunk driving and public drunkenness, but alcohol is also a factor in large percentages of violent crime and intrafamily crime.

1. **Drunk driving.** On late weekend nights, perhaps 5 to 10 percent of drivers are under the influence of alcohol; many are also under the influence of other drugs. A driver with a blood alcohol level of .15 (approximately 8-10 drinks) is 18 times more likely to have a traffic accident than is a sober driver. It is estimated that drunk drivers are responsible for approximately half of the 45,000 traffic deaths each year. About 60 percent of those killed are the drunk drivers themselves. They also kill approximately 9,000 pedestrians, bicyclists, motorcyclists, vehicle drivers, and passengers each year. There are in addition hundreds of thousands of serious injuries annually. These statistics should place drunk driving at the top of the list of serious crimes.

In the last decade the Nation has seemingly awakened to the enormous destruction that drunk drivers wreak on us, due in large part to the extraordinary efforts of anti-drunk-driving pressure groups like Mothers Against Drunk Drivers (MADD) and Remove Intoxicated Drivers (RID). State legislatures have enacted hundreds of new laws making prosecution easier, limiting plea bargaining, increasing fines, expediting license revocations, and mandating short jail terms. In most States it is now a crime to drive with a blood alcohol concentration of .10 percent or greater. (In many European countries the limit is .05 percent.) The police have greatly increased their enforcement efforts; many departments have set up drunk driving roadblocks, "sobriety checkpoints," where every driver is stopped for a cursory inspection for signs of intoxication. Some new programs encourage citizens to phone in sightings of drunk drivers to special anti-drunk-driving task force operators.

The magnitude of drunk driving offending and enforcement is staggering. There are approximately 2 million drunk driving arrests annually, more arrests than for any other offense for which national data are compiled. Drunk driving is the most common crime prosecuted in many of our criminal courts, and drunk drivers are the largest category of probationers. Millions of drunk drivers have passed through special "DWI schools" in the last decade. Drunk drivers constitute an increasing percentage of the jail population, and some local communities have had to build, purchase, or lease special jails just for drunk drivers. Many States have anti-drunk-driving programs to coordinate all enforcement, treatment, and public education efforts. It is too soon to tell whether all of these initiatives can significantly reduce the amount of offending.

2. **Public drunkenness.** Public drunkenness is another drinking offense. In the late 1960's and early 1970's there was a major movement to decriminalize public drunkenness and to deal with public drunks as a public health problem. In many areas, this meant not dealing with them at all. The nationwide number of arrests for public drunkenness has dramatically decreased. Of course, the police still retain the option, in certain cases, of arresting public drunks for

disturbing the peace or for disorderly conduct. Since the mid-1970's the move to decriminalize public drunkenness has slowed down. Some criminologists have begun to rethink the wisdom of decriminalization, pointing to its negative effects on the quality of community life. The presence on the streets of boisterous, obstreperous, and sometimes belligerent drunks contributes to a sense of social disorder. The question is whether treating public drunkenness as a crime has any significant effect other than to clog our courts and crowd our jails. Decriminalization was probably motivated as much by the desire to save money and allocate police resources to higher priority activities as by any concern for the rights of drunks.

3. **Violent crimes.** Alcohol also plays a major role in violent crime. In Marvin Wolfgang's classic study of homicide in Philadelphia, he found that the killer, the victim, or both were drunk in more than half the cases. That finding seems also to apply to rapes. Needless to say, many aggravated assaults involve alcohol; indeed, a large number occur in taverns or among drinking companions. Alcohol also plays a prominent role in crimes within the family. A high percentage of wife beatings, child abuse, and child sexual abuse are committed by men who are drunk. Recent research sponsored by the National Institute of Justice found that a majority of new prison inmates had severe alcohol problems.

Alcohol as a Cause of Crime

That so large a percentage of perpetrators of serious crimes drink heavily beforehand does not prove that alcohol causes crime. People may first decide to commit their crimes and then get drunk to muster courage or allay fears. For some violent offenders heavy drinking and savage behavior are both symptoms of deep psychological problems. Still, the relationship between drinking and violence is not subtle or difficult to understand. It is common knowledge and scientifically demonstrable that alcohol releases inhibitions and distorts judgment. The "fighting drunk" is a regular member of tavern culture and can easily be recognized at fraternity parties. Even sedate cocktail parties produce a few belligerent if not violent drinkers.

Our criminal jurisprudence has difficulty dealing with intoxication. The fundamental problem is in deciding whether intoxication should aggravate, mitigate, or have no effect on guilt, blameworthiness, and punishment. It is a foundation of our criminal jurisprudence that for a person to be guilty of a crime he must have a *mens rea*, a guilty mind. This means that for most serious crimes the prosecutor must prove that the defendant acted intentionally, knowingly, or recklessly. How does the defendant's drunkenness bear upon his guilt? The answer supplied by the *Model Penal Code*, and the many State criminal codes patterned after it, is that voluntary intoxication is admissible to rebut criminal intent or knowledge but not recklessness. This means that extreme drunkenness can mitigate the degree of the offense, but it cannot eliminate all criminal responsibility. At the sentencing stage of a criminal case, a judge may well regard drunkenness at the time of the crime as a mitigating factor, despite the empirical reality that alcohol is associated with so much violent behavior.

What Can Be Done?

Despite massive efforts by the medical and mental health communities led by the National Institute on Alcohol Abuse and Alcoholism, there are no certain cures for alcoholism. The rate of cure from inpatient programs seems no better than from less expensive outpatient programs. A great percentage of alcoholics who are cured are aided by Alcoholics Anonymous. Some psychiatrists disdain the effort of curing alcoholism in favor of dealing with "underlying pathologies." Other doctors regard alcoholism as a disease—possibly one with an element of genetic predisposition—which causes myriad health, psychological, and interpersonal problems. There is less attention and there are few programs to deal with binge drinking and alcohol abuse and dependencies short of alcoholism. The need for alcohol abuse treatment and counseling is not being met, especially in jails and prisons.

Americans have been exhorted to drink moderately since the beginning of the Republic, and such exhortations are common today. The media are filled with warnings against excessive drinking, especially drinking and driving. Still human nature and a cultural and social system that promotes alcohol consumption make it unlikely that, in the short run, public education can reduce the amount of excessive and pathological drinking. If, as a society, we want the pleasures and benefits of abundant alcoholic beverages, it seems we must also absorb a very heavy cost.

What is the alternative? The Nation's experience with prohibition was not happy and left us with a strong belief that prohibition cannot work. The validity of this belief appears to be borne out by our lack of success in preventing people from purchasing illicit drugs such as marijuana and cocaine, which are far less established than alcohol. Perhaps there are public policies short of prohibition that could reduce alcohol abuse either through prevention or treatment. For example, spurred by the movement against drunk driving, Congress recently passed a law that encourages States to raise their minimum drinking age to 21 or face the loss of Federal highway funds. Many States have rapidly fallen into line. The evidence suggests that a higher minimum age will reduce teenage alcohol consumption and highway fatalities.

Some people believe that alcohol advertising should be removed from television. Others advocate increasing the tax on alcoholic beverages to decrease consumption. Still others would establish earlier closing hours for taverns, ban "happy hours," and impose civil liability on tavern owners when their drunk customers injure themselves or innocent third parties. Naturally, these proposals are strongly resisted by the alcoholic beverage industry, by tavern associations, and probably by a majority of the public, which consists of tens of millions of people who find alcohol consumption a major pleasure in life and who themselves drink responsibly.

References

- Beauchamp, D.E. 1980. *Beyond Alcoholism: Alcohol and Public Health Policy*. Philadelphia: Temple University Press.
- Bureau of Justice Statistics. 1983. *Prisoners and Alcohol*. Washington, D.C.: National Institute of Justice.
- Gusfield, Joseph. 1963. *Symbolic Crusade: Status Politics and the American Temperance Movement*. Urbana: University of Illinois Press.
- Moore, Mark, and Dean Gerstein. 1983. *Alcohol and Public Policy: Beyond the Shadow of Prohibition*. Washington, D.C.: National Academy Press.
- President's Commission on Law Enforcement and Administration of Justice. 1967. *Task Force Report: Drunkenness*. Washington, D.C.: U.S. Government Printing Office.
- President's Commission on Drunk Driving. 1983. Final Report. Washington, D.C.: U.S. Government Printing Office.
- Ross, H. Laurence. 1982. *Deterring the Drinking Driver: Legal Policy and Social Control*. Lexington, Massachusetts: Lexington Books.
- Vaillant, George. 1983. *The Natural History of Alcoholism*. Cambridge: Harvard University Press.

Discussion Questions

1. Should people who commit crimes while intoxicated be dealt with more or less harshly than people who commit crimes while sober?
2. Does a solution for drunk driving depend upon a solution for alcohol abuse?
3. What should be done with a social drinker—who is not an alcoholic and who is ordinarily careful not to drink and drive—who does drive after drinking and kills a pedestrian?
4. How should public drunkenness be handled?
5. Should laws be passed—such as increases in the drinking age, increases in taxes on alcohol, or bans on “happy hours”—with the aim of discouraging alcohol consumption?
6. Should drunk drivers be jailed? If so, for how long?

This study guide and the videotape, *Drinking and Crime*, is one of 22 in the CRIME FILE series. For information on how to obtain programs on other criminal justice issues in the series, contact CRIME FILE, National Institute of Justice, NCJRS, Box 6000, Rockville, MD 20850 or call 800-851-3420 (301-251-5500 from Metropolitan Washington, D.C., and Maryland).

END