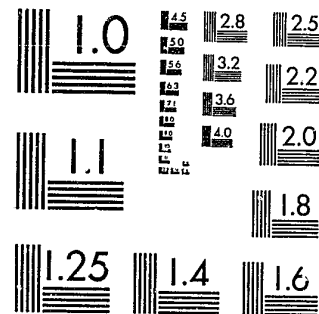


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10/4/83

OVERSIGHT INTO THE ADMINISTRATION OF STATE  
AND LOCAL COURT ADJUDICATION OF DRIVING  
WHILE INTOXICATED

HEARING  
BEFORE THE  
SUBCOMMITTEE ON COURTS  
OF THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE  
NINETY-SEVENTH CONGRESS  
FIRST SESSION  
ON  
COURT ADJUDICATION OF DRIVING WHILE INTOXICATED

NOVEMBER 6, 1981

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## OVERSIGHT INTO THE ADMINISTRATION OF STATE AND LOCAL COURT ADJUDICATION OF DRIVING WHILE INTOXICATED

FRIDAY, NOVEMBER 6, 1981

U.S. SENATE,  
SUBCOMMITTEE ON COURTS,  
COMMITTEE ON THE JUDICIARY,  
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:45 a.m., in room 2228, Dirksen Senate Office Building, Senator Robert Dole (chairman of the subcommittee) presiding.

Present: Senator Heflin.

Also present: Senators Boschwitz and Pell and Representative Barnes.

Staff present: Richard W. Velde, chief counsel; Kevin Manson, counsel; Douglas Comer, counsel; and Linda White, chief clerk.

### OPENING STATEMENT OF CHAIRMAN ROBERT DOLE

Senator DOLE. Let me say at the outset that we are pleased that so many outstanding witnesses have been able to appear this morning.

I would also indicate that, as often happens in the Senate, the best laid plans sometimes go awry. I have to run down to the White House after a while to have the President tell us about the budget. Hopefully Senator Heflin will be here at that time. If not, we will just have to recess the hearings during the time I am gone.

We are looking for other Senators to chair this session; it is a very important session. There are a number of hearings going on. Hopefully we will not delay the witnesses. I would like to be present for most of the testimony myself, so we will do the best we can to accommodate the witnesses, particularly those who have come long distances, and we are going to start promptly.

I have an opening statement which I will summarize. While we are waiting for Senator Pell and Congressman Barnes, Senator Boschwitz will make a brief statement and then Senator Pell, Congressman Barnes, and Diane Steed, the Deputy Administrator of the National Highway Traffic Safety Administration, U.S. Department of Transportation.

The Subcommittee on Courts of the Judiciary Committee convenes today for the purpose of receiving testimony on the problem of drunk driving. In one sense, our hearing is the result of the certainty that 1 year from today's date there will be 26,000 Americans dead as a result of the deadly combination of an automobile and

alcohol. The very fact that we have somehow learned to live with this carnage is testimony to our failure to recognize the profound damage that the problem drinker has done to our Nation's social fabric.

Our hearings today have a broad focus. We seek to develop an overview of the scope of the problem from a quantitative and qualitative perspective.

We will hear testimony from a representative of the National Highway Traffic Safety Administration, who will detail the results of nearly a decade of study of the problem and experimentation with various alternative law enforcement and treatment programs.

We will hear testimony from representatives of citizen action groups who will give the benefit of their experience in seeking to focus attention at the State and national level on the drinking driver and who will discuss legislative initiatives which have resulted from those efforts.

Some of our witnesses are the victims, the faces behind the numbers reported in the yearly fatality statistics. Representatives of the medical and statistics fields who have performed the grim task of visiting accident sites and treating victims and whose work has resulted in compilation of the hard data which document the problem, will summarize their findings; and law enforcement officials who have the responsibility for holding the drunk driver in check will detail their successes, failures, and, obviously, frustrations in protecting the public from this menace.

We are also fortunate today to have testifying Senator Claiborne Pell of Rhode Island and Congressman Michael Barnes of Maryland, both of whom have been actively involved in focusing attention on the problem through continuing legislative efforts.

Senator Pell has introduced a bill in this session of Congress which would mandate the creation by each State of an alcohol safety action program and establish mandatory minimum penalties designed to remove the drunk driver from the Nation's roads. Senator Pell has a tragic, personal interest in this legislation. Several years ago he lost two valued members of his staff to drunk drivers.

Congressman Barnes has introduced a companion bill in the House and has been active in efforts to persuade the President to create a special commission to recommend a national strategy to attack the problem.

I would just say that, notwithstanding the interest certainly of the public and Members of the Congress, there are certain questions of federalism involved in any effective legislation in this field.

Our goal, frankly, is to find ways in which the Federal Government can assume a partnership role with the States in training, education, and enforcement. Our specific interest is the response of law enforcement and the courts of this Nation to the challenge.

In that sense, these hearings are exploratory. I would not want to leave any impression that somehow, following this hearing, there will be some grand design that will solve this problem, but they are exploratory, and we believe that they can be helpful. We want to learn as much as we can from a number of experts in the field.

We believe we understand the scope of the problem, but very honestly I must say that the Federal Government has done very

little to respond. I know we get into the problem of States rights and what the Federal Government might do.

In any event, having served as a county prosecutor many years ago and having experienced firsthand some of the problems in dealing with those who drive under the influence of alcohol and, in these days, drugs, I hope that we will not only have the hearing and focus some public attention through the media but that we will follow up and be challenged by the witnesses to do that, not only with their testimony but with their subsequent contacts with those of us who have that responsibility.

I would ask that my entire statement be made a part of the record, together with that of Senator Heflin. Without objection, it is so ordered.

[The prepared statements of Senators Dole and Heflin follow:]

#### PREPARED STATEMENT OF SENATOR ROBERT DOLE

The Subcommittee on Courts of the Judiciary Committee convenes today for the purpose of receiving testimony on the problem of drunk driving. In one sense, our hearing is the result of the certainty that, 1 year from today's date, there will be 26,000 Americans dead as a result of the deadly combination of an automobile and alcohol. The very fact that we have somehow learned to live with this carnage is testimony to our failure to recognize the profound damage that the problem drinker has done to our Nation's social fabric.

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We are also fortunate today to have the comments of Senator Claiborne Pell of Rhode Island, and Congressman Michael Barnes from Maryland, both of whom have been actively involved in focusing attention on the problem through continuing legislative efforts. Senator Pell has introduced a bill in this session of Congress which would mandate the creation by each State of an alcohol safety action program, and establish mandatory minimum penalties designed to remove the drunk driver from the Nation's roads. Senator Pell has a tragic, personal interest in this legislation: Several years ago, he lost two valued members of his staff to drunk drivers. Congressman Barnes has introduced a companion bill in the House, and has been active in efforts to persuade the President to create a special commission to recommend a national strategy to attack the problem.

Of course there are delicate questions of federalism involved in any effective legislation in this field. Our ultimate aim is to find ways in which the Federal Government can assume a partnership role with the States in training, education, and enforcement; and our specific interest is the response of law enforcement and courts of this Nation to the challenge. In that sense, these hearings are exploratory—to learn as much as we can about what has been, and what can be, done to cope with the drunk drivers.

Those who have spent their lives studying this tragedy tell us that the task of finding a solution must be seized with an expansive grasp. Stricter law enforcement efforts must go hand in hand with education of the public on the threat that the problem drinker poses to all of us. I look forward to these hearings with the hope that perhaps, at last, we can begin to arouse the American public from an apathy which encourages, rather than discourages, the drunk driver.



## PREPARED STATEMENT OF SENATOR HOWELL HEFLIN

Mr. Chairman, America's number one highway safety problem is drunk driving. According to the National Highway Traffic Safety Administration, one out of every 100 infants born this year can expect to die in an alcohol related traffic accident.

Of all fatal highway accidents which number consistently between 50,000 and 55,000 each year, slightly more than half are the result of the actions of drunk drivers.

I would like to commend Chairman Dole and his most capable staff for their work in the objective and complete review of this matter.

Six out of every ten drivers who are killed in single vehicle accidents are drunk at the time. In the 16 to 24 age group alone, alcohol is responsible for 8,000 highway deaths each year, and causes an additional 40,000 young people to be injured, many of them crippled or impaired for life.

I believe the federal government can encourage state and local governments to expand enforcement against drunk drivers, and at the same time, establish a strong national deterrent which will put every drinking driver on notice that he or she can expect strict and meaningful punishment when an arrest occurs.

There are many problems with our existing state laws, such as a lack of uniformity, and a high probability that convicted drunk drivers will receive suspended or deferred sentences from the Court.

It is imperative that drunk drivers receive education at the state and local level in order to prevent a reoccurrence of this problem. When I was Chief Justice of the Supreme Court of Alabama, I encouraged the establishment of more D.U.I. schools, that is, driving under the influence schools. In 1972, there were only three such schools in Alabama. Now there are 58, one within 35 miles of every Alabamian's home. This has been an effective tool in preventing the reoccurrence of drunk driving.

In short, improved efforts are needed to combat these problems. Arrested drunk drivers must be brought to conviction and be punished. Only then will this needless tragedy and bloodshed, the root of half of our automobile casualties, be stopped.

Thank you Mr. Chairman.

Senator DOLE. I would be very pleased at this time to call on my colleague, the distinguished Senator from Minnesota, Senator Boschwitz, who has had a long personal interest in this problem, for his comments.

## STATEMENT OF HON. RUDY BOSCHWITZ, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator BOSCHWITZ. Thank you, Mr. Chairman.

In the event you cannot find another Senator, perhaps, while I am not a member of this committee, I can come back. As you know, my office is right around the corner.

Senator DOLE. I understand Senator Hefflin will be here at 10 o'clock.

Senator BOSCHWITZ. All right. I may come back anyway, but I see that a great deal of the testimony has been written, and so I will review it. I have reviewed a good deal of the material already.

I do not claim, Mr. Chairman, to be an expert on this matter of drunk driving, and I am not going to relate all of the figures, some of which I am very familiar with. The figures I am not familiar with are what it does to the people who survive those kinds of accidents and what the cost of their care does to medical care in general. I am sure that it is very high.

I come because of the personal experiences I had with drunk drivers in my company when I was in private business. I also come with the conviction that the Federal Government can get involved, just as it can get involved in saying that 55 miles per hour is a requirement in the event you want Federal funding for highways.

I think we perhaps should impose our will in this matter as well. And imposing our will, in my judgment, should be done very stringently. I am impatient with prosecutors and judges who make lower types of offenses out of drunk driving.

I would hope as well that whatever we pass here and whatever we pass through the Senate will be very restrictive with respect to judges and prosecutors who bargain away the nature of the offense. That, in my opinion, is very, very important.

My experience—and I suppose that many witnesses come and relate their experiences here—consists of three or four incidents specifically. In one, the victim luckily survived. The wife of the fellow who is now running my company almost lost her life a year and a half ago, and luckily no other member of the family was hurt.

As is so often the case, in each case associated with my company, the drunk driver was essentially uninsured. That aspect of it also is difficult.

Other than Betty Thompson, whom I just spoke about, there was Miss Schell, my son's young violin teacher, a very beautiful young woman of 26 or 28 who just did wonderful things with young people in a violin program in the Wayzata, Minn., school system. One day she was just lost because a drunk driver happened to hit her.

One of my very long-term employees was John Loker, one of the best salesmen that my company had among the 400 or 500 people. One evening he and his wife, who had eight children, were returning from a dinner out together. This was an unusual event for them, inasmuch as they had eight children. They were hit from behind by a driver who was so drunk that, in the State of Illinois, apparently you cannot get consent from such a person to have a test of the alcoholic content of his blood, so the man got away scot-free. But John and Ruth Loker did not.

There was no sadder thing in my life than to see these eight children, one of them in the arms of her older sister—because the youngest child was 6 months old and the oldest was 17—following the biers of their mother and father down a church aisle in St. Paul, Minn.

There is also the Schroeder family, in my company, who had a total of nine children. For some reason, these tragedies, at least in my company, seem to associate themselves with very large families. There the father was killed, and I believe one of the children was killed as well, in a drunk driving accident.

Mr. Chairman, as we have discussed, and as I have also discussed with Senator Pell and his staff, I have a very abiding interest in curbing the drunk driver; perhaps an interest that is too stringent even. I think somebody driving under the influence of alcohol should be severely punished or his license removed for an extended period of time.

It just mystifies me why other countries can deal so well with these problems—the Norwegians, Swedes, Danes, Japanese, and so on—while we seem to be helpless with respect to it.

I hope, Mr. Chairman, that you will look upon me as a supporter. I will follow the legislation closely. I will try to get input into it to make sure that it is as punishing as possible to the people who

drive under the influence of alcohol, not only in the event they create a tragedy but in the event they are caught driving under the influence and before they create a tragedy. I am very interested, in addition, in the treatment aspects of those people after they are arrested.

I thank you very much, Mr. Chairman, for being able to testify and to express my interest and to do so on so little notice.

Senator DOLE. I thank the distinguished Senator from Minnesota.

We will keep you advised, and we appreciate your willingness to assist us this morning if necessary. We will keep that in mind.

Congressman Barnes has a scheduling problem also, I understand, but he will be here any minute.

In the meantime, if it is satisfactory with the administration witness, I would like to call the first panel, so you can listen to that panel, and then have you follow them, along with Senator Pell and Congressman Barnes.

At this time I will call the panel, consisting of citizen action and public interest groups: Ms. Cindi Lamb, Mothers Against Drunk Drivers; Mr. William Plymat, executive director, American Council on Alcohol Problems; and Ms. Shirley Johnson, Citizens for Better Drivers, Mothers Against Drunk Drivers, Washington, D.C.

Would that panel come forward now?

I see that Cindi is not here. She may be late. We will start, and she will be here shortly.

**STATEMENT OF SHIRLEY JOHNSON, CITIZENS FOR BETTER DRIVERS, MOTHERS AGAINST DRUNK DRIVERS, WASHINGTON, D.C.**

Ms. JOHNSON. Mr. Chairman and members of the subcommittee, I am a victim of drunk driving, not physically but emotionally.

Two-and-a-half years ago, my 25-year-old son was driving to work. He was a civilian paramedic with Aberdeen Proving Ground. He was going to the 11 o'clock shift, and he was met head-on by a drunken driver. The road was divided by a concrete barrier. She had been coming from a bar.

It is hard for me to accept the fact that the system does not work. This woman had a very bad previous record. She had had her Maryland license revoked; she had applied for a North Carolina license; she had no insurance; she had 6 accidents in 5 years. In fact, she totaled another woman's parked car 1 month before. The police did not give her a breath test because she said she had a sore throat and was sucking on lozenges.

When she killed my son, she had a BAC of .26. It was taken at a hospital and therefore not admissible as evidence because it was done for medical reasons.

Following this, there were two postponements. When she finally came to trial 6 months later, she was found guilty of impairment by alcohol, reckless driving, and homicide by a vehicle. She was fined \$500, her license was revoked, and she was sentenced to 1 year in jail. This was suspended for 2 nights a week to go to AA. That was a little hard to take. Nine months later she was picked up again for driving on a revoked license.

I will say that originally she was put on probation and warned that the first time she violated probation sanctions would be imposed. I assumed sanctions would be imposed. She appealed the case to the circuit court. The circuit court judge and the district court judge discussed this, and they sentenced her again to 1 year in jail, and this time they suspended it for 3 years of supervised probation.

The case was sent back to district court last April. I talked to the district attorney yesterday, and he said, "You might as well figure that the whole violation in her record was just thrown out." Her license was again revoked.

I thought this was probably an unusual case, and I found out it is not. For the most part, I think that the public is learning to mistrust the courts, not only in DWI but in a lot of criminal activity. I think they are disgusted with plea bargaining, probation, parole too soon, and protection of the defendant against fairness toward the victim.

I was surprised to learn that so many of these people who cause these fatalities have very bad records. To me, it is a warning system, and it is not being used. For instance, the driver register could help prevent this.

I have talked to police, and they say they arrest them, they go into court, and they come out the other side of the door. Many times they pick up the same person. I have been monitoring courts and have found that about 75 percent get probation and 20 percent get suspended, so there is no deterrent and very little risk.

I would like to just read one thing that sums up my feeling, and this was in *State v. Steele* in the New Mexico Court of Appeals:

There are few more compelling demands for protection of the public over the individual than in the area which insists upon removing the drunk driver from the public highway. The legislature must let the courts know how they feel about this.

Thank you.

Senator DOLE. Please stay up here, and I will ask Senator Pell to come up. He is now here.

We have a panel of citizen action and public interest groups. If it is all right with the panel, I know that Senator Pell has about nine other things to do, so I will ask him to proceed now. As soon as Congressman Michael Barnes arrives, we will be happy to hear him.

**STATEMENT OF HON. CLAIBORNE PELL, A U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator PELL. Mr. Chairman, I would like to commend you and the Subcommittee on Courts for calling a hearing this morning to examine a national crime problem that has been overlooked by the Congress for much too long a time.

I have long been amazed that a society which expresses shock and outrage over 20,000 homicides annually continues to accept, year after year, an even greater number of deaths at the hands of drunk drivers. This complacency is hard to understand when one realizes that a car with an intoxicated driver is precisely as dangerous as a loaded gun in the hands of someone who is blinded by rage. The combination of an instrument with the power to kill and

a person who is past the powers of reason is precisely the same in both cases. In crimes of passion as well as with drunk driving, there is no premeditated criminal intent, but in both cases the end result is a crime; it's just that when drunk driving is the cause of death, as it is 73 times each day, 26,000 times each year, we are too rarely willing to treat it as one.

Why does the United States, a society with a sensibility to everything from dangerous toys to the evils of tobacco, continue to accept the highest number of alcohol-related traffic fatalities per capita, of any nation in the world?

Drunken driving flourishes in the United States today primarily because we tolerate it. In Norway or Sweden, if a blood test indicates a sufficient presence of alcohol, the driver knows he's going to jail. The jail term for a first offense is not long, but it is virtually automatic. People who can afford lawyers are as liable for imprisonment as those who cannot. As a result, people in these countries pay attention to the law.

In the last 2 years, the West German Government and the police have cracked down on drunken driving. At roadblocks, at key intersections, and autobahn exits, the police halt drivers at random to check for alcohol consumption.

Depending on the results of the blood test, a driver's license may be suspended for anywhere from 3 months to 3 years. Many West German judges fine a heavy drinker 1 month's wages in addition to taking away the license. And if the drunken driver was involved in an accident, the probability is high that he or she will be sent to prison.

Other countries have tried different approaches which are in some ways equally harsh. In Australia, for example, the names of drunk drivers are published prominently in local papers. In Turkey, the common practice is to take drunk drivers 20 miles from town and force them to walk back under police escort.

In most of the United States today, it's a different story entirely. Drunk driving is socially acceptable and even condoned as part of the American "macho" image.

But even though it takes a certain degree of effort to be charged with "driving under the influence," it's clear that most judges and lawmakers believe that because a typical drunken driver doesn't fit the image of a "criminal," it's not appropriate to invoke serious penalties. Hence, even drunks who have killed on our highways frequently get nominal or suspended sentences.

I know this dreadful problem all too well; in the space of just 18 months a few years back, two of my valued aides were killed due to the actions of drunken drivers.

On November 16, 1974, Elizabeth Powell of my staff was slaughtered by a man named Dona'd Larsen, whose car went out of control, crossed a median strip and struck the automobile in which she was riding. The man had been drinking. After several delays in his case, he pleaded guilty to the charge of manslaughter by automobile and received a 1-year suspended sentence.

On September 27, 1975, Stephen Wexler, the chief counsel to the Senate Education Subcommittee and my close friend and associate for 10 years, was struck down by a drunk driver named Joseph Rawlings, who was drag racing with another car at the time of the

accident. Steve left a young widow and an infant son. The driver of the car that hit Steve was charged with drunk driving, and both he and the driver of the other vehicle involved in drag racing were charged with manslaughter by automobile. Again, after innumerable delays, both drivers were convicted of manslaughter and received suspended sentences.

Both accidents were well publicized and—just as when any accident occurs involving drinking and the loss of young lives—there was a sense of outrage and—on the part of some—a call for swifter, stiffer penalties.

Can anything be done to improve this dreadful situation? Are we powerless to confront a problem which in the space of a decade has wiped out the lives of one-quarter million of our citizens?

I have concluded that our legal system is not as incapable of deterring this life-threatening behavior as most of us have assumed. As the Scandinavian and West German experience shows, the certainty of facing an embarrassing penalty gives a special pause to people who are not accustomed to severe treatment by the law.

I have introduced legislation, Senate bill 671, which would attack the drunk driving menace in three ways:

First, all convicted drunken drivers would be subject to the same minimum penalties, namely at least 10 days of community service for a first offense, and at least 10 days in jail for those convicted two or more times within a 5-year period.

These penalties are intended to be light enough to be readily invoked yet real enough to make a genuine impression. The community service alternative is intended to consist of weekends, or evenings, assisting in hospitals where accident victims are brought, or similar activities intended to deprive drunk drivers of their personal liberty for the equivalent of 10 days.

Second, recognizing that we are a car-bound society in which most people are genuinely dependent on the automobile for their livelihood, my bill proposes that first offenders have their licenses "restricted" to essential or work-related travel. Such restrictions could be made enforceable by the issuance of readily identifiable special marker plates. The public embarrassment of having to drive with such plates would be a powerful incentive not to run the risk of being caught.

Third, my bill would require sentencing judges to determine if the offender is a problem drinker in need of a referral to an alcohol treatment or rehabilitation center, or followup by alcohol abuse counselors. No legislative effort dealing with this problem can be effective unless it includes a strong emphasis on identifying and treating the problem drinkers.

My bill is currently pending before the Commerce Committee where it has been cosponsored by Senators Glenn, Goldwater, Huddleston, and Inouye. An identical bill has been introduced in the House by Congressman Barnes, and has 67 cosponsors.

The cornerstone of my legislation is one idea—that the key to rebuilding the deterrent potential of the law in this area is to create certainty that even a first offense will bring down real and unpleasant sanctions. I believe a single piece of Federal legislation is the most constructive means of establishing this expectation of punishment on a national basis. The punishment does not have to

be too severe for a first offender—indeed if it is too severe, judges and prosecutors won't invoke it—but the sanction must sting and embarrass. Causing a drunk driver to miss his standing golf or poker game because he's at the local hospital accident room or house of correction is just the kind of moderate sentence judges need to avoid the persistent entreaties of defense lawyers.

Of course, my bill encourages the States to set only minimum standards; there is nothing to prevent a State from imposing a more stringent mandatory sentence, or outright license revocation.

Obviously, there is no readymade, single, easy solution to the drinking driver problem. Legislation is not the total answer to the problem, and never will be. Drunk driving will continue until public acceptance of it is withdrawn, a process that may take decades if not generations. The passage of Federal legislation, however, would be a powerful incentive for everyone from insurance companies to educational institutions to mount public education campaigns. Drunk driving is a problem that is truly national in scope, and its estimated \$5 billion annual cost to our society relates to much more than just the criminal justice system of the individual States.

Already, there are encouraging signs of a national consensus on this issue. Maine has recently enacted a very tough drunk driver law, with a 48-hour mandatory jail term, a \$350 fine, and 90-day license suspension. That State is averaging more than 800 arrests a month for drunk driving, and now has the toughest laws on the books.

On the other side of the country, California has just enacted several laws dealing with drunk drivers. One would require a mandatory 48 hours in jail or a 90-day license suspension and fine for first offenders. Another bill is designed to restrict plea bargaining in these cases by treating reckless driving involving alcohol as the equivalent of a drunk driving offense in terms of the penalties applied. Finally, the new California laws will add \$1 to the State vehicle registration fees so 670 new highway patrol officers can be hired to enforce the stronger laws.

The Maine and California laws, together with similar legislation in States like new Hampshire and Maryland, and a flurry of grass-roots lobbying groups, suggest that our citizens are finally demanding more effective drunk driver laws. Our task, as legislators must be to mobilize this public support for stronger laws, and translate it into realistic, workable legislation which will help reduce one of our country's most widespread and destructive crimes.

I thank you very much indeed, Mr. Chairman, for letting me make this statement. If there are any questions, I will be glad to reply.

Senator DOLE. I want to thank you, Senator Pell, for your leadership in this area and also Congressman Barnes who has now joined you. We will hear from him next.

I do not know how you view the problem, but it seems to me a national disgrace in the sense that nothing has been done. I understand the federalism involved, and I think the administration may find some areas of your legislation that raise some problems, but I cannot think of a better way that the President could serve this country than to come to grips with this problem.

I know that Congressman Barnes, Congressman Hansen, and others on the House side, as well as many on the Senate side have sent a personal letter to the President suggesting that he address this problem at a very early time. Certainly we will support that effort.

As you indicated in the early part of your statement, we focus on homicides. I remember during the Vietnam war there was almost a weekly body count, but nobody seemed to add up the thousands and thousands of innocent victims in accidents involving drunk driving.

I would hope—and I know that your interest will persist—that we in this committee at least could focus on the problem, and if not your legislation, something that would address the problem. I think that is your primary concern.

Senator PELL. It does not matter whose name is on it; the important thing is to try to reduce those 20,000 deaths on the highway down to a smaller number.

Senator DOLE. Senator Heflin, do you have questions of Senator Pell?

#### STATEMENT OF SENATOR HOWELL HEFLIN

Senator HEFLIN. I have had conversations with Senator Pell over a period of many months on this. I have been interested in this.

When I was chief justice of the supreme court, we went through a reorganization of courts and attempted to get into this matter of dealing with driving while intoxicated. I think we had a pilot program under which it ended up that judges had, among their other authorities, the right to sentence a person to go to a school, and they were required to go to a school, largely under the National Highway Traffic Safety Administration.

They went through a 10-hour required course that they would have to meet. During this, they would come to grips with certain things like: "First, why was I drunk while I was driving?" They would have to write it out.

As a result of our program and a similar program that existed in Florida on what we would call DWI referral schools, the recidivism rate dropped from around 30 percent to about 6 percent. It had a tremendous impact.

This was a State approach. There has been a lot of talk about it. That is just one area that I am interested in. There is no question that accidents and the driving-while-intoxicated-related deaths is a serious problem.

There is the problem of federalism involved in this. This is a serious problem, but I congratulate you on your interest in this matter. The fact is that we ought to look at it very carefully. I think we have to look at it within the parameters of federalism. We have to deal with it in a lot of different ways. It is a serious problem, and in my mind we need to have a nationwide program. The details of how that will work, of course, are something we will have to give careful study to in the future.

I congratulate you, Mr. Chairman, for your interest and your statement on this.



Senator DOLE. As I understand it, in Rhode Island they used to have a special tag for anyone convicted of drunk driving. I think it was a red tag. At least you could spot them if you could see them coming. I am not certain whether that had any impact in that State.

Senator PELL. We have a bad record in connection with intoxication, I guess, because we are the only State that did not ratify the Volstead amendment, and we have the second highest rate of alcoholism in our State.

Senator HEFLIN. Mr. Chairman, might I ask if the tags were on the front or the back?

Senator DOLE. I imagine that in the early days they had them on both ends. That is just an aside.

As I see it people grope with ways to deal with the problem. As Judge Heflin indicated, we may have some problems with the so-called federalism issue. However, it seems to me that there are enough fertile minds around this country that we ought to be able to come to grips with this problem.

Do you want to stay, or do you need to go on to another meeting?

Senator PELL. I will just drop back, but I will listen for a little while. I know Congressman Barnes is here. I am delighted. He has really carried the load on the House side on this. Between us, we hope, before too many tens of thousands have been slaughtered, that some form of this legislation may be on the books.

I thank you for your hospitality.

Senator DOLE. I might explain to Senator Heflin that I am going to have to leave in just a minute or two to run down and see about taxes and the budget, but I will be back. I have a lot of balls in the air right now.

We have a panel here, and I did indicate to them that as soon as you and Congressman Barnes arrived we would interrupt their testimony. So we will now hear from Congressman Barnes.

I would like to insert in the record, without objection, a copy of a statement from Congressman James Hansen, who has been working with Congressman Barnes.

[The prepared statement of Congressman Hansen follows:]

PREPARED STATEMENT OF CONGRESSMAN JAMES V. HANSEN

I am pleased to provide testimony for this subcommittee on the serious problem of drinking driving. I consider the drinking driver problem as one of our nation's greatest tragedies.

My first contact with the drinking driver came when I worked for a large insurance company. I handled most of the claims of auto fatalities and I was appalled to find that almost 70 percent of our fatal auto accident claims involved drinking drivers.

In recent years, I have owned my own insurance agency where I have continued to see the same deplorably high percentage of deaths caused by drinking drivers. Also, as the past Chairman of a Joint Insurance Study Committee in the Utah State Legislature, I received evidence and figures showing the staggering number of innocent people who are maimed or killed by drinking drives. Perhaps one of the saddest things I witnessed as I served on the Study Committee was the large number of children who had needlessly lost one or both of their parents to careless, drinking drivers.

During the past six months, I have suffered two serious automobile accidents at the hands of drinking drivers. In both accidents my cars were totaled and in both cases the people who ran into me had been drinking.

In the first accident, which happen in Oakton, Virginia, a car ran a stop sign and hit my car broadside. The impact pushed my car into another lane of traffic where it was struck by a second automobile and forced off the road where it came to rest after colliding with a telephone pole. I sustained cuts, bruises and sprains, was treated at a local hospital and released later in the evening.

In the second accident, my wife, myself and our five children were traveling north in the far right lane of Interstate 15 in Utah, just outside of Salt Lake City. A driver on our left hit the left shoulder of the freeway, over corrected to the right, and smashed into the left side of my car. Both cars rolled and were demolished. Fortunately, I only had a few bruises. However, my wife sustained a compression fracture of the back, my daughter suffered a cervical fracture in her neck, and my son fractured his elbow. My wife was flat on her back for weeks and still has problems getting around.

I truly believe that the problem of the drinking driver is one of America's greatest tragedies. It is time that my colleagues and I in Congress take action to help stem the useless carnage on our nation's highways. This year, alone, 26,000 Americans will be needlessly killed by drink'ng drivers. The human suffering inflicted on the American public by the drinking drivers can no longer be tolerated by a sane society. Thank you.

Senator DOLE. We are very pleased to have you here this morning. We have certainly expressed our interest in your leadership, and I commended you for that.

If Senator Heflin will trade places, I will be back as quickly as possible.

Senator HEFLIN. I will have some problems. If I have to leave, could our friend and very distinguished staff director and former director of LEAA preside?

Senator DOLE. No; I think we will just recess the hearing. I will be back soon, unless they raise taxes too high. I may not want to come back at all. [Laughter.]

I should be back within 30 or 45 minutes. I know you have another conflict. We are trying to find other Senators, but I think we will just recess the hearing for a few minutes.

STATEMENT OF HON. MICHAEL D. BARNES, A U.S.  
REPRESENTATIVE FROM THE STATE OF MARYLAND

Mr. BARNES. Mr. Chairman, before you go, I just want to commend your leadership on this critical issue and your taking the trouble to schedule this very important hearing. I know it is appreciated by many, many people.

I also want to say how pleased I am to appear this morning with Senator Pell, who has demonstrated outstanding leadership over a long period of time, the result, unfortunately, as the Senator indicated, of two very tragic incidents involving close friends of his.

I particularly appreciate the opportunity to offer my viewpoints as one who has now dedicated the past year and a half to bringing to the forefront the drunk driving problem with the hope that it will receive the kind of attention that it deserves and to help to make the resolution of this tragedy a nationally recognized priority.

Today I want to describe two major initiatives that are already underway in Congress which directly confront the drinking driver menace. One is the one that was outlined by Senator Pell. The other was alluded to briefly by Senator Dole.

I believe it is important to understand the broad scope of this tragedy as it exists today on our Nation's highways. From this scenario I believe that it will be clear that drinking drivers constitute



the most critical threat to the health and safety of citizens on our roads. It is a threat which deserves immediate and responsible action at all levels of government—at the local level, the State level, and the Federal level.

Just last year, about 52,000 Americans were killed on the Nation's highways. Another 2 million were seriously injured. We find that cars are getting smaller and lighter; that trucks are getting bigger and heavier; that severe budget cuts threaten the safe upkeep of our highways; and, typically and tragically, motor vehicle collisions pose the greatest threat to the lives of Americans under the age of 35.

Yet just last week the administration rescinded all standards requiring U.S. automakers to provide automatic safety restraints for passengers, which we had expected to save at least 9,000 lives each year. These short-term cost savings to automakers, in my judgment, do not justify the long-term human suffering experienced by Americans which could be averted with a national policy on mandatory passive restraints.

Senator, what is most alarming to me is the fact that over one-half of these auto fatalities are directly related to alcohol use and abuse. Last year alone, 26,000 Americans lost their lives and another 750,000 persons were seriously injured, many of them crippled and maimed for life in drunk driving collisions.

Paradoxically, according to the National Highway Traffic Safety Administration, on an average day only 1 of every 2,000 drinking drivers is apprehended, and the chance of conviction is slim. As Senator Pell indicated, even when convicted, the penalties are very limited.

I am sure that you will learn today from the variety of persons offering testimony, especially from victims of drunk drivers, that this threat to life and limb is all too real, and it will not go away unless we take some vital steps to provide a coordinated effort among the Federal, State, and local governmental bodies.

I first became active in bringing this issue to the attention of the American public and our colleagues in the Congress in 1980 when I learned just how serious a threat drunk driving poses to people in every community nationwide.

Later today we will hear from a young woman who, along with her baby daughter, has experienced firsthand the harsh realities and human suffering inflicted on innocent victims of drunk drivers.

I, along with thousands of citizens in my State of Maryland and across the country, were deeply moved and motivated by the tragedy that struck Cindi Lamb and her daughter Laura. Laura Lamb is now paralyzed for life from the shoulders down due to the actions of a repeat offender drunk driver. Laura Lamb is living proof that this problem is real and that none of us is immune to this daily threat.

Just this week the 16-year-old daughter of close friends of my family was killed by a drunk driver not very many miles from here in Burtonsville, Md.

Looking at the problem nationally, the statistics alone convince me that drunk driving is a neglected national crisis which experts unfortunately tell us is getting worse, much worse.

Over the past decade, one-quarter of a million Americans have been killed in alcohol-related crashes. In the past 2 years, more people were killed in drunk driving collisions than all of our young citizens who lost their lives in the decade-long Vietnam war. Last year, drunk driving created economic costs soaring above an estimated conservative cost of \$5 billion.

Late in the 96th Congress, I introduced legislation which was identical to the bill that Senator Pell has described and which he sponsored in the Senate, to offer a needed first step in what has been an emerging battle against drunk driving and to encourage the States to take firm and effective action to protect our citizens.

My legislation, H.R. 2488, was reintroduced early in the 97th Congress along with Senator Pell's bill in the Senate, and it has received increasing support among our colleagues and the American public. Currently, over 70 Members of Congress have joined in a strong bipartisan effort which specifically attempts to assist the States to better coordinate comprehensive programs in each State, in close cooperation with local communities, to deter drunk driving and to punish and rehabilitate those who are convicted of this act.

The bill includes mandatory minimum standards to assure three key elements of any successful program aimed at discouraging drunk driving—that is, some tough laws, stringent enforcement of those laws, and ongoing effective public information efforts.

An advantage of the legislation, if adopted by the States, is that these programs could pay for themselves. The bulk of the money needed to pay for the programs would come from the mandatory fines imposed at the time of conviction and from fees collected when entering correctional programs.

The bill, which received the full support of the previous administration, has been endorsed by a wide variety of organizations, including Mothers Against Drunk Drivers, an organization called Remove Intoxicated Drivers; the American Academy of Pediatrics; the American Council on Alcohol Problems; Independent Living for the Handicapped; the Rehabilitation Institute of Chicago, the Nation's largest medical center treating spinal cord injured persons, many of whom, obviously, are the victims of drunk drivers.

The Reagan administration, although it has not endorsed the bill, agrees with our longstanding contention that drunk driving is not only our most critical highway safety problem but is also one of the Nation's most serious health and safety concerns.

The administration questions the bill's threat of loss of Federal highway safety funds as a means of enticing effective State and local action as an infringement upon the States rights.

It is true that if the bill is passed by Congress the States would be called on to adhere to its provisions or risk losing their annual share of Federal highway safety money. The final discretion, however, is up to the Secretary of Transportation.

While the administration suggests that the legislation is an unwelcome threat to the States and the livelihood of their individual highway safety programs, I have to point out that the administration, in fiscal year 1982, has sliced those same funds nearly in half, from about \$200 million last year to an expected \$100 million this year. These are the funds that the States have depended upon to carry out the objectives of their highway safety programs, the very

kinds of programs, Senator, that you were alluding to just a few moments ago.

I believe these specific Federal budget cuts pose a very serious threat by the Federal Government to the States' ability to provide their citizens with sufficient protection, particularly in law enforcement and public information efforts that are so vital to any significant and long-term crackdown on drinking drivers.

The administration has praised the intent of the bill, and it supports specific components of the legislation. The administration also has offered to work with me, with Senator Pell, and with the various committees on the Hill to resolve any existing problems that they have with the bill. I welcome and look forward to working closely with the administration and with members of this committee as well as my colleagues in the House on this matter.

Realistically, the bill does not provide a panacea to a problem which our society has allowed to continue and to worsen to the point where we are faced with a crisis of what is clearly epidemic proportions.

However, the bill does offer a needed initial step toward what must be a comprehensive effort among the Federal, State, and local levels. The bill does offer a workable skeletal system from which the States and local communities can gear their problems to effectively deter and treat drinking drivers.

In the end, it is up to the States and localities, with continuing assistance, I hope, from the Federal Government, to assure that the system works. This is why I have publicly endorsed statewide and community-wide efforts to form solution-oriented volunteer task forces to uncover existing deficiencies in the system and to directly address them with realistic, workable solutions.

Over the past year, such statewide efforts were launched by the Governors of Maryland, California, and New York, and they have successfully led to important and needed changes in each State, both legislatively and administratively.

Recently, local task forces have begun to emerge, bringing together diverse groups of individuals representing the numerous fields which touch upon the drinking driver problem, such as law enforcers, legislators, judges, prosecutors, clergymen, alcohol rehabilitators, officials of insurance companies, victims of drunk drivers, and other concerned citizens.

In my own community, Montgomery County, Md., a special task force was recently appointed by our county executive, Charles Gilchrist. My office is represented on this panel, which currently is walking through the system in our county, learning from testimony and a thorough investigation just what has worked as well as what has failed and how to correct those flaws.

I might note in that context that our police department in Montgomery County, just within the last few days, has instituted a new experiment, and that is setting up a roadblock at a time when a large number of drunk drivers might be anticipated to be on the roads, and stopping everybody, checking to see whether or not they appear to be intoxicated. They tried this for the first time just a few days ago. They stopped over 500 drivers and made 10 arrests based upon that.

I salute what is being done by the police in our community. It is similar to what I saw when I was a graduate student living in Switzerland, where routinely the police would just stop drivers, and anyone who was drunk would be arrested. It is understood in Switzerland that if you are arrested for drunk driving you go to jail. It should be understood in the United States, as Senator Pell has said, that if you are arrested for drunk driving you will lose your freedom.

Mr. Chairman, this leads me to the second and most recent initiative that I have undertaken which, as Senator Dole indicated, calls on President Reagan to take a firm public leadership role against this nationwide disgrace by appointing a blue ribbon national commission, not to study the problem, because this problem has been studied, restudied, and studied again, but to finally bring together the finest minds, the most qualified persons, and the wealth of resources and technologies available to develop a realistic master plan to curtail the tragic suffering that is caused by the drinking driver epidemic.

One month ago I launched this new effort along with my two colleagues in the House, Jim Hansen of Utah and Glenn Anderson of California, to coalesce congressional support for our proposal.

Jim Hansen's active leadership on this initiative has been spurred by his own firsthand experience, similar to that that Senator Pell's staff has had. In the past 6 months alone, Congressman Hansen has been struck twice by drinking drivers, the last collision seriously injuring his wife and his daughter.

Glenn Anderson chairs the House Surface Transportation Subcommittee, which has direct jurisdiction over the drunk driving issue. Obviously, we are very pleased to have his involvement in this effort.

Since launching it, we have been circulating a letter to President Reagan among our colleagues in the House and the Senate. At the moment we have collected signatures from over 200 Republicans and Democrats in what is one of the broadest displays of bipartisan support that I have seen during my 3 years in Congress. We have joined together to ask the President to use the powers of his office to finally bring under control the senseless and preventable carnage due to drunk driving nationally.

Our effort has also received wide and active support from numerous groups throughout the Nation, including the American Council on Alcohol Problems, the Alliance of American Insurers, the Government Employees Insurance Co., the Maryland chapter of the American Association of University Women, the California District Attorneys Association, and organizations such as RID and MADD that I referred to earlier. I commend these organizations for their great help.

I would like to note that last year, when I formally announced introduction of my legislation and Senator Pell's legislation, MADD launched its own petition drive at that time urging the formation of a presidential commission. I was proud to have been the first signer of their effort which has now collected over 100,000 signatures from citizens all over the country.

Finally, I would like to stress two additional aspects related to reducing the incidence of drunk driving and the subsequent death and injury that it causes.

One, the Congress with the support of the administration should pass legislation sponsored by Jim Oberstar of Minnesota and Senator Pell that would establish a fully funded, fully functioning national driver register. As an original cosponsor of this bill, I am aware of the necessity to establish and maintain a comprehensive national network to help States track repeat offenders before issuing driving permits to applicants.

Second, we need to focus attention on developing and expanding the use of shock trauma centers to quickly and effectively treat the type of shock that is most often due to motor vehicle collisions. Often people die on our highways because of lack of immediate treatment of the symptoms of shock.

In Maryland, specifically at the University of Maryland in Baltimore, we have established one of the first such shock trauma centers in the country, and I believe it has become a model for physicians and other medical facilities all over the Nation. The main function of these centers is to treat the hundreds of thousands of persons who are severely injured in automobile crashes each year.

In closing, Senator Heflin, I would point out that one of every two of us in this room this morning—one of every two of us in this room—can expect to be involved in an alcohol-related auto crash in our lifetime. As a recent U.S. News & World Report article points out, our Nation is allowing itself to be led up a steady and steep incline in deaths and injuries primarily due to drunk drivers.

As I have stated repeatedly, this problem is nothing less than a holocaust on our highways, and it will not disappear on its own. It is clear that our Nation is going to have to do everything possible that is reasonable and responsible to finally stem the tide against what I believe is clearly a preventable problem.

I am convinced that, with the cooperation of the administration, the Congress, the Nation's lawmakers, law enforcers, judges, prosecutors, educators, parents, and the public generally, we can make significant and lasting changes to save lives and to reduce crippling injuries.

This subcommittee, as I said at the outset, is to be commended for its leadership in scheduling these hearings to bring this crisis to national attention. I am very pleased to have had the opportunity to make this statement, Senator.

Senator HEFLIN [acting chairman]. Congressman Barnes, I congratulate you on a very thorough and comprehensive statement of testimony directed to this very crucial issue.

I have read in the past, and am more familiar now, with statistics of the number of deaths on the highways each year more than 50 percent of those are alcohol related. Would that be a correct statement?

Mr. BARNES. That would be absolutely correct, Senator. Every study that I have seen and the statement of every expert that I have ever seen indicates that that is correct. In fact, when I talk to the State police in Maryland, they argue that it is very substantially higher than that.

Senator HEFLIN. Are there age brackets in which we find that there are more offenses that result from driving while intoxicated, or is it a universal problem? We know today, for example, that in crime, in the age group 16-21, a substantially higher percentage of the people who are convicted of criminal offenses fall into that group. Is this a problem that not only exists among certain age groups but is prevalent in all age groups?

Mr. BARNES. Senator, it is something that is prevalent in all age groups, although the data would indicate that the young driver who becomes intoxicated is a major factor in the problem.

I hate to keep referring to what we are doing in our State, but our legislature is now considering raising the age again. They had lowered it a few years ago, but they are now considering again raising the age for purchase of alcohol because of the incidence of drunk driving among young people.

Not only are young people potentially the drunk drivers, but perhaps an even more striking statistic is that young people between the ages of 18 and 25 are more likely to be killed by a drunk driver than to die in any other way. They are more likely to be killed by a drunk driver than they are to die of cancer, heart disease, or any disease one could name. This is the biggest threat to the life of young people in America.

Senator HEFLIN. Thank you, sir. We appreciate your testimony.

Mr. BARNES. Thank you, Senator.

Senator HEFLIN. At this time we will call Ms. Cindi Lamb of Mothers Against Drunk Drivers [MADD] from Fair Oaks, Calif.

Ms. Lamb?

[No response.]

Senator HEFLIN. Mr. Plymat, executive director of the American Council on Alcohol Problems of Des Moines, Iowa, we welcome you here.

We request you to summarize your statement. Your prepared, written statement will be made a part of the record. We all have time problems this morning. If you would, we would appreciate it if you would summarize your statement.

**STATEMENT OF WILLIAM N. PLYMAT, EXECUTIVE DIRECTOR,  
AMERICAN COUNCIL ON ALCOHOL PROBLEMS, DES MOINES,  
IOWA**

Mr. PLYMAT. Senator, I shall certainly do so.

I should perhaps tell you that I am a lawyer, a retired State senator in the legislature of Iowa, and chairman of the Iowa Commission on Substance Abuse, having just completed 4 years on the commission and having just been reappointed to another 4 years by Governor Ray.

I am executive director of a private organization, the American Council on Alcohol Problems, which has an affiliate in your State, sir. I am board chairman emeritus of the Preferred Risk Mutual Insurance Co. I have been involved in this area of concern since I was a very young man and am still active.

The announced purpose of this hearing is to examine actions of State and local courts as they respond to the severe drinking driv-

ing problem. But if we are to make real progress, we must examine the whole spectrum of the drinking driving problem.

We need to find out what is going on across our country, what is being done that works, and what has been done that fails. The general public needs to be made aware of the problem in a way in which they have not been made aware, due to the failure of the media to do the job.

The judicial system is highly overburdened. It cannot possibly handle the load. The police are often reluctant to arrest because our laws are antique. The drinking-driving law is as antique as a model A Ford, and we have got to change the basic law of this country on the offense of driving an automobile under the influence of alcohol.

I feel qualified to respond to this because, as I have indicated, I have practiced law in Des Moines. I worked to improve the laws in my State. I managed to get a 2-day jail sentence put in operation in my State. I tried to get a per se law. I organized an auto insurance company, and I do not want to belabor that point except to say that it started out in a humble way. It is one of the largest companies in the country today. It insures people who, for religious and other reasons, do not use alcohol.

We need to classify drinking drivers in two categories: One, they are alcoholics. Two, they are social drinkers and just do not care. They are driving without any regard to what the effects are.

So we need to grab the persons who are charged with the offense and put them into an intensive investigation with testing and experts examining them to find out if they are alcoholics. If they are indeed, they should be immediately put into therapy under penalty of immediate prosecution. But to lock them up in jail or stall their charges in a court of law does not get at their problem.

We are doing that innovatively in Des Moines, Iowa, today. The results of this are not yet known, because it is too soon, but we are deferring prosecutions even in the case of persons who are obviously alcoholics, while we are going after the volitional violators.

The volitional violators are a large group. It is arguable whether they are 80 percent, 50 percent, or what percent they are of the total, but the thing we have got to do if we are going to make any progress in this country is to change the drinking-driving law of the United States in all States except 15.

We have got to set a speed limit on drinking and driving. We have got to say that when the blood alcohol reading is over .10 it is an offense in itself. Then we have got to slap these people in jail, in my opinion, for 2 days to give them shock treatment, except where they are ill and have to be sent to a court.

There was a very notable experiment in Chicago in 1970 during the Christmas season, where they announced that everybody convicted would get 7 days. That was a great success in reducing the problem in that area.

I see that my time is about to expire. Let me just say to you that we need a mass educational program, the kind of thing like this [indicating leaflet], "Half drunk drivers are dangerous too." This was authored by my son and is being widely distributed. We have a little leaflet [indicating leaflet], "Alcohol Facts: 5 ways drinking can hurt you."

In your State, Senator, the State liquor store system is going to receive 150,000 copies of this to go in the sacks of every bottle of liquor sold in your State. That is going to increase public knowledge and information.

The most important thing that needs to be done, in my opinion, is to have a national task force or commission appointed by President Reagan. I have had a big part in that development here in recent days and have been very supportive of what is going on here.

I want to say that even in Anchorage, Alaska, they have had a referendum on closing the bars at an earlier hour, and we ought to be monitoring people coming out of bars with these kind of breath-testing devices, so that they can be challenged to check their breath. We ought to be going in the direction of closing the bars at an earlier hour, because drinking all night in bars is insanity.

Thank you very much for the courtesy. My testimony is on the yellow paper for the press that are here. I am sorry that I cannot possibly cover all the points. Thank you, Senator.

Senator HEFLIN. We appreciate your excellent testimony, Mr. Plymat.

You obviously have spent a great deal of time and a great deal of your life dealing with this problem and have many, many approaches toward it. It is a problem, I suppose, that it would be nice to say we could find a simple solution to, but it is a complicated matter, a matter that needs innovation and needs the thinking that you have given it. We appreciate your information.

Mr. PLYMAT. Thank you.

Senator HEFLIN. I am going to have to close the hearing for a short recess. I believe that Senator Dole or Senator Mathias will be back.

Unfortunately, we all belong to an institution that has been probably correctly described as a 100-ring circus, there is something going on in every one of those rings at the same time, and most of us are required to be in at least three or four rings at the same time. It is a real problem, but I am sure that the recess will not be anything other than what you probably need to stretch and that Senator Dole or Senator Mathias will be back very shortly.

We will stand in recess for a brief period of time.

[A brief recess was taken.]

Senator DOLE. Again, I apologize for my absence, but we were discussing budget matters with the President. Since I am chairman of the Finance Committee and will have the bulk of the responsibility, it was necessary that I be there.

As I understand, both Senator Pell and Congressman Barnes have completed their testimony. We have heard from two members of the citizens' panel. Cindi Lamb is now here.

We certainly will welcome your testimony, and I will have questions of the panel. Then we will follow with Diane Steed.

You may proceed.



STATEMENT OF CINDI LAMB, MOTHERS AGAINST DRUNK  
DRIVERS, FAIR OAKS, CALIF.

Ms. LAMB. I am here today, not only as a representative of MADD [Mothers Against Drunk Drivers] but as a personal victim of a drunk driver.

My 2-year-old daughter Laura has been and will remain paralyzed from the shoulders down since the age of 5 months due to a four-time repeat offender drunk driver.

I am sure you are all aware of the staggering statistics of death and injury caused by drunk drivers and of the constant threat they pose to all of us every minute we are on or near our Nation's roads, otherwise we would not be here, so I will not go over those statistics again.

Since I have become extensively involved in this issue on a local, State, and Federal level, I would like to address all of you on certain issues where I feel Federal legislation can definitely help to protect all of our lives.

I would like to see a .10 blood alcohol level limit for driving while intoxicated and a .08 to .10 for driving while impaired in all States.

I feel that any open containers of alcohol of any kind should not be permitted in a vehicle, and should open liquor in a vehicle be found that in itself should be an offense punishable by fine or temporary loss of license.

Generally speaking, without a doubt I would like to see specific, across-the-board guidelines set up for much stiffer sanctions against repeat offender drunk drivers, including loss of license, higher fines, and jail time.

Victims of drunk drivers should be considered and included as a victim of crime and should be financially compensated whenever possible from State-operated victims of crime compensation boards.

I could go on for days with a list of things I would like to see changed as far as Federal legislation is concerned, but I would like to close with two thoughts:

First, there is existing legislation, both in the House, by Representative Mike Barnes, and the Senate, by Senator Pell. I would really like to see both the House and the Senate working together on this issue. I would like to see them meeting together, coming up with the most viable solutions for all of us.

And I would like to tell you that it will be 2 years on Tuesday since my daughter and I were hit by this drunk driver. I still have really bad nightmares, and I still cry a lot, an awful lot. Laura still does not move or feel anything, and she is not going to. She could die very quickly because of all of her complications, real quick.

I am still scared, and I hurt inside really bad, and I want you to know this, not because I want pity or, "Oh, let's feel bad for Cindi," but because it is fact and it is happening to so many other people.

Today I am still lucky enough to have Laura. She is still alive. There are going to be 70 families today that are just going to die inside because somebody they love is going to be killed today by a drunk driver.

I am begging you, and I am pleading with you to move as swiftly as possible on this issue. I strongly feel that some good, tough Fed-

eral legislation with some teeth in it is vital in helping to remove drunk drivers from our highways and hopefully saving some lives.

I would just like to reiterate a statement that I have said for a long time now. Drunk driving is not an accident; it is a crime, and it should be treated as one.

Thank you very much.

Senator DOLE. Thank you very much.

Did Senator Heflin pose questions to the panel earlier?

Ms. JOHNSON. No.

Senator DOLE. First of all, I think what we would like to learn from the panel, in addition to the tragic firsthand experiences you have had, is how you feel you can motivate law enforcement, prosecutors, and the courts to more effectively attack the drunk driver problem. What are you doing as an organization or organizations. Cindi, we will start with you.

Ms. LAMB. In Maryland we have worked very closely with the Maryland State Police. In some of our ways of getting the issue out and getting things done, we do not attack people and go to the press, yell and scream, and act like wild people. We will try to work as rationally and closely as we can with anybody.

The State police have been more than helpful in their efforts to remove the drunk drivers. In the court system, we have done some court watching; we have monitored the courts. We are trying to change the judges' attitude; this is vital.

I feel that a lot of judges, when they see a guy in a three-piece suit standing in front of them, all cleaned up, even though he has been arrested for drunk driving, may say, "Gee, that could have been me; let's give this guy a break." That attitude needs to be changed, and we are working with the judges now regarding hopefully changing that attitude.

Our organization has grown tremendously; it is a national organization now. People are just standing up and saying, "This is enough; we are going to do something about this," and they are.

Senator DOLE. Have you actually identified any judges that you believe give drunk drivers preferential treatment where it is not deserved? Is that part of your efforts to try to identify those law enforcement officials or judges?

Ms. LAMB. Yes.

Senator DOLE. What do you do after you identify a judge, let us say?

Ms. LAMB. Speaking of my particular case, for the man who hit me it was his fourth time for drunk driving. He had been in front of the same judge for his three prior convictions—Judge Stanley Bennett of Frederick County. When the judge was asked why he let this man back out on the road, his answer was, in effect: "If I put him in jail, he will just get out and do it again."

I do not mean to sound like we take an ax to everybody, but this kind of attitude is disgusting and is exposed to the press. We have worked very closely with the press, and we are learning how to utilize the media as far as exposing this type of attitude is concerned and getting out the fact that more people are killed by drunk drivers than victims of crime. Yet drunk driving is not considered a crime.



Senator DOLE. What about other members of the panel? What are you doing to motivate the public interest and action, not just to support your efforts but to pressure law enforcement officials, and in this case Congress to not only look at the problem but try to find some way to address it?

Ms. JOHNSON. We are writing a great many letters, and I have started monitoring the courts. It has been kind of an eye opener, not just in DWI but in finding the attitudes of the judges. It is a very difficult situation, because judges do not want to have anything mandated to them—their power and their influence. I think they do feel, as Cindi said: "There, but for the grace of God, go I."

More than that, I think they do have an argument, in that if you put a person in jail, the first thing they do when they come out is go to a bar. I am talking about alcoholics. I personally feel it would be a very good thing, at least in the second offense, if they gave the choice to either go to jail or to in-house treatment. Sending them to AA is putting a burden on AA. They do not really feel their job is to be police.

I also know that a lot of them can go to AA meetings, and the first place they go when they are out is a bar. There is a great deal of time between their arrest and their conviction. They are still driving for maybe 6 months or a year.

Our own county, Baltimore County, is beginning to monitor the judges. At the end of this period we are going to compile our figures and find out who we think is doing what. Then I guess we will have to go to the press with it. There is no other way to get the word out.

Senator DOLE. I would not wait too long to go to the press.

Ms. JOHNSON. We want facts.

Senator DOLE. I know—once you have facts.

Mr. PLYMAT. Senator, I cannot emphasize too strongly the need for a per se law that sets a legal limit in the amount of alcohol you can have in the blood.

I am a lawyer, sir, and a former State senator. In the early days we had the provision on speed that unreasonable speed was wrong, and then it would be a jury question.

Then we got smart, and we put in a speed limit. Today, if you get caught going 80 miles an hour and the radar says so, you plead guilty; you do not have a jury trial on whether you behaved badly; that is it, and you pay up.

What we need to do in this country—and only 15 States have done it—is get all the States of the Union to pass a specific standard of law violation. If your blood alcohol reading is over 0.10, it is an offense in itself. Then the juries go out of the picture and all the fancy defense tactics go out, and people have to face the fact that they are going to get hit.

I happen to believe in a 2-day jail sentence. It is somewhat arguable, but it has worked. It is working in my State. I was responsible, as a State senator, for getting that adopted in Iowa. Now we have got the per se law in Iowa, and we are going after it. When that is done, then we need the media to get that to everybody.

I am chairman of the Substance Abuse Commission in my State, and I am very sympathetic about alcoholics. Right now in Des Moines, we are sending the people who look like they are alcoholics

into intensive investigation to see if they are. Then we are putting them into therapy, and we are watching them for a year. We are on their shoulder. Everybody who drinks and drives knows that he is going to go to jail, he is going to get hit, or he is going to go into that tiresome analysis and be forced into therapy.

I cannot emphasize too strongly that half of this problem or more occurs between 9 o'clock at night and 3 o'clock in the morning. We need to get people to realize that they are not safe on the roads. They should stay off the roads. I do not drive after 9 o'clock at night, particularly on Friday and Saturday night when 30 percent of the cases occur.

We have to tell people, and when people begin to realize that their freedom is being impaired because they cannot drive after 9 o'clock at night, they are going to be sympathetic and say: "Well, I'm going to stop this and help." You see?

In the absence of a per se law, a lot of enforcement officers say: "What's the use? We can see that he has got a blood alcohol level of 0.13, and the courts will not do anything." We need to see that when they are convicted they get some suspension. Maybe not a year—of course not—the law will not sell.

I think we need to monitor people coming out of bars with these things [indicating machine]. We need to have a policeman, not saying, "You have to blow this," but saying to the guy coming out, "You appear to us to be impaired. Shall I tell you what your blood alcohol reading is?" They can take the reading and say, "Look, man, you are 0.12. Get somebody to drive you home who is sober." If the guy says, "I won't," they can say, "OK, we'll follow you, and if you leave we will arrest you." We cannot really have roadblocks in this country very easily on account of the U.S. Supreme Court decision. So we are stumped there.

We need mass education, such as this little leaflet [indicating leaflet] which will be used to the extent of 150,000 copies being put into the sacks of every bottle of liquor sold in the State of Alabama, Utah, and Iowa. We need to tell people that they have a 25-percent impairment in driving ability at half of the legal limit. We need mass education in that area.

I also think we need to close bars at earlier hours. They run all night in Nevada. They have been running until 5 o'clock in the morning in Alaska and opening at 8. The citizens referendum in Anchorage last month came down 2 to 1 to back it up to 2:30 in the morning and keep it closed until 10.

We have got to realize that drinking all night long in bars is just crazy. We have got to zero in on that. There are just so many things. My testimony is 18 pages long, sir, and I do not have the time to do it here.

The most important thing of all, beside the per se law, is a national commission needed to find out what good things work in one State and what have failed, pass the information back and forth, and get citizen involvement.

President Reagan has stressed the fact that citizen involvement is right, and we have multitudes of volunteers who will work for nothing. We do not need piles of money, but we need a Federal commission. I am so pleased that you have added your signature to the letter going to President Reagan. I know you have plenty of ex-

posure to our President, and I hope you will pass your own personal word along to him if you get a chance.

Senator DOLE. I did not mention it to the President, but I did mention it to Mr. Friedersdorf, the director of congressional relations, this morning. That is just the beginning. I did indicate to him that I thought it might be something the President should take a close look at.

Are you working with the industry? Do you have any contact with the industry?

Mr. PLYMAT. You mean the alcoholic beverage industry? Well, to some extent I do. I am a member of a Coalition for Adequate Alcoholism Programs, and they are represented on that commission. I realize that they may have mingled feelings about some of this, but I find some constructive attitudes. They are concerned about drunk driving too.

Of course, if you really start buttoning down on bars operation, there are going to be some people in the industry who might have conflicting views on that. But we have got to sacrifice that in terms of saving lives.

I think the intelligent people in that industry will go along with reasonable restraints. I personally think so. I have no personal animosity toward them, although I might be suspected of having them.

Senator DOLE. Cindi, do you have anything else you would like to add?

Ms. LAMB. I just want to briefly give you an outline of what happened in Maryland this past year. Shortly after my daughter's and my accident, we went to Governor Hughes and asked for a State task force. We utilized the press in this request, which I believe did put some kind of pressure on Governor Hughes to take some action, and he did.

A State task force was initiated. It included all of the top officials and all of the different outlets as far as drunk driving is concerned, with police officers, judges, rehabilitation experts, AA people, State senators, et-cetera. They have met, and they are still meeting. They came up with six suggestions for changing the Maryland laws. They were revised, re-revised, and they were passed this year. That was action taken on the State level.

On the local level, we have county task forces in six different counties in Maryland now. They are looking at their particular problems within their own counties and hopefully making whatever changes are necessary to protect the people right in their own communities. That is where it starts—within the community.

I am hoping that a Presidential commission can be appointed and the top officials from around the country can get together and do the same thing and come up with some Federal legislation for across the country. I think it would be excellent. I really would like to see that.

Senator DOLE. I think that if it is properly structured, it would be good. Many Presidential commissions expend taxpayers' dollars and file their reports, they are filed with all the other reports of Presidential commissions, and nothing ever happens. It would have to be structured in such a way that there would be some responsibility to report some findings as well as suggested legislation.

Ms. LAMB. I can assure you that the people of MADD will be monitoring whatever the commission does. If there is nothing that is new, then the voice of MADD will be heard.

Senator DOLE. Ms. Johnson, is there anything you would like to add?

Ms. JOHNSON. Just briefly. The American Council on Alcoholism asked me to say this if I had a chance. They would suggest to you the idea of a minimum drinking age throughout the country. They feel a great deal of damage is done with young people going from one State to the other and coming back. They think it would be a great help. I am passing that on to you.

Senator DOLE. I think the biggest problem there would be enforcement, at any age; that might be helpful.

Mr. PLYMAT. Senator, when Michigan raised the legal drinking age from 19 back to 21, there was a marked reduction in fatal traffic accidents and offenses among this group. Many States have 21, and that is where it ought to go, and hopefully it will. They are sweeping the country now to raise it. That is not going to stop every kid from drinking, but it is going to help the school officials, and it is going to dampen down the idea that you can do it.

Young people, when they are learning to drive, are also very sensitive to being influenced by alcohol in their driving conduct.

Senator DOLE. Yes; I assume that we will hear statistics from other witnesses on which age group most offenders fall into and other data of that nature that will help us make a judgment.

I appreciate your testimony very much, and I again apologize for keeping the panel waiting. We will make every effort to keep this moving. I know that the two ladies involved will make every effort to keep the public focused on the problem.

I would hope that we could encourage this administration in a nonpartisan way to really look at this problem and find some way to address it. Our next witness will be Ms. Steed. Maybe she can give us some indication of what they are doing now.

Ms. LAMB. Thank you very much.

Ms. JOHNSON. Thank you.

Mr. PLYMAT. Thank you.

[The prepared statements of Ms. Johnson and Mr. Plymat and an article prepared by the American Council of Alcohol Problems follow:]

#### PREPARED STATEMENT OF SHIRLEY W. JOHNSON

On a Sunday night two and a half years ago my twenty-five year old son was killed on his way to work by a drunken driver driving on the wrong side of a divided highway at high speed. John was a paramedic and had many times expressed his anger at drunken drivers when he had to care for the dying and the injured.

The woman who killed him had had her Maryland license revoked and was driving on a North Carolina license. She had had her insurance cancelled due to three times losing control of her car and hitting objects.

One month before killing my son she totaled a womans parked car and told State police she was sucking on throat lozenges, so they did not test her though they assumed her intoxicated. In my son's death she had a blood alcohol level of 0.26 taken for medical reasons and therefore inadmissible as evidence. Twice her trial was postponed, and when finally brought to trial, after plea bargaining, she was fined and sentenced to one year in jail which was suspended for attending AA three nights a week; and her license was revoked. This is not satisfactory for a fatality in my mind. Six months later she was picked up for drunken driving, and her license was again revoked seven months later. I found this out and asked the judge to check

it out; her sanctions were imposed for breaking probation but she had the right to appeal it.

(I am waiting for further information from the District Court in Belair, Maryland. I believe the case is still pending—2½ yrs.)

As I became involved I learned that there is nothing unusual about this case. In fact the Maryland State Police said this woman received a stricter sentence than most.

I feel that the United States Judicial System is failing the public. My family upbringing and my schooling had always taught me to believe in it and to trust it and now I am disillusioned and so is the public. This applies to not just drunken driving, but all criminal acts.

There is plea bargaining to a lesser charge, inconsistency in sentencing, probation, parole, dismissal on technicalities, and what appears to be overconcern for the rights of the defendant at the expense of the rights of the victim.

In practically all fatal alcohol related accidents the defendant has a prior record of revoked or suspended license, suspended sentences, and DWI arrests. We have a warning system and it is not used or not on the record. The National Driver Register must be used.

Local police told me that many judges do not bother using the computer to check the record, and the police feel discouraged as they arrest drunken drivers only to pick them up again a month later.

I have been monitoring the court on DWI cases and found 75 percent received probation, and 20 percent suspended sentences. This is not a deterrent to drunken driving. Laws, no matter how good they are, are useless if they are not enforced. The driver must know that there is a real chance that he'll be arrested and convicted, and taken off the roads until he is judged a responsible driver. Then maybe we victims of drunk drivers will not have to live with such tragedies.

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PREPARED STATEMENT OF WILLIAM N. PLYMAT

The announced purpose of this hearing is to examine the actions of state and local courts as they respond to our severe drinking-driving problem. If we are to make real progress, however, we must examine the whole spectrum of the drinking-driving problem.

We must find out what is happening across the country--what the specific problems are and how they are now being approached. We must examine all phases of the problem. This may involve many things not related to the court system directly. And we should come up with a comprehensive program of action. This will require research, exchanges of information between states, cities, courts, public officials, legislators, police, safety organizations, schools, and multitudes of ordinary citizens.

The general public needs to be made aware of the nature and extent of the problem. Citizen involvement in prevention should be invited. Then they will become volunteers who can aid law enforcement officials and courts and back the actions of judges who develop the courage to assess adequate penalties and provide proper restrictions.

Today our judicial system is overburdened and can not handle the volume of cases that normally arise. We must do things that find the alcoholics and get them off the roads and into therapy. We must also deal with the careless social drinkers who drink and drive with little concern for others.

Police are often reluctant to arrest drinking drivers because they feel the courts will not do justice to the cases. The foundation of this problem is the fact that in most states we have inadequate laws which are vague and indefinite. These laws operate with presumptions instead of a specific standard of law violation. Therefore police feel it is futile to arrest those who are drinking and driving. Often charges are reduced to reckless driving. Often bail is set at a low figure and the driver is back on the street, quickly drinking and driving again. Until our people become educated and become active in supporting police and the courts there will be no really effective judicial action.

I feel qualified to respond with my testimony today because I have been involved in the area of alcohol concerns for the past fifty years. In my high school and college days I was a leader in youth education about alcohol. After entering the practice of law in Des Moines, I worked to improve the laws in my state which related to the use of alcohol, and also a number of years later when I became a State Senator. While affiliated with an auto insurance company, I became interested in the specific problem of alcohol-related accidents. I conducted

a national study of the nature and extent of the drinking-driving problem, consulting traffic officials and coroners. I became convinced in the early 1940's that drinking was involved in 50% of all fatal traffic accidents.

This led me to conceive the idea of an auto insurance company to insure exclusively persons who did not use alcohol. This company, the Preferred Risk Mutual Insurance Company of Des Moines, started with a very modest capital in 1947. Today it is one of the largest and most successful companies in the country. Its 1980 asset total was over \$160,000,000; its premium collection over \$119,000,000; its policies in force over 400,000; its current surplus (net worth) is over \$67,000,000. It is a mutual company owned by its policyholders; it has 2500 agents, is licensed in 48 states and has 37 branch offices. Best's Insurance Reports gives the company an A+ rating and says that its rate structure averages 15% to 20% below the so-called "Manual" which are the rates charged by the "Bureau" companies, which comprise 60% of the companies writing casualty insurance. The record of this company provides some evidence of what might be hoped for if we were able to substantially reduce the excessive costs of drinking-driving accidents across our country. The losses as a result of a drinking-driving accident are sometimes astronomical in dollar costs.

I have served Preferred Risk for many years as President and then Board Chairman and am now Chairman of the Board Emeritus. For many years I served as legal counsel for the American Council on Alcohol Problems. Since my retirement from active duty at Preferred Risk, I have served the organization as Executive Director. This organization has operated in the field for over 75 years and has some thirty state groups affiliated with it and some 2000 individual associate members. It issues a quarterly publication, The American Issue, and its main office is at 6955 University Avenue in Des Moines, Iowa.

#### COURTS NEED TO DEAL DIFFERENTLY WITH TWO CLASSES OF DRINKING DRIVERS.

There are two kinds of drinking drivers. One consists of alcoholics or severe problem drinkers who should be viewed as addicts to the drug alcohol and who do not have adequate control of their actions in drinking. The other group consists of persons who drink excessively in bars and in social groups without real concern for the dangers they create. Hopefully their minds can be reached and actions can be controlled if they are dealt with quickly by immediate prosecutions and penalties. Prompt and positive actions by courts will reach the press and the minds of thousands who are drinking and driving without regard to the dangers

or the penalties will be reached and hopefully they will conclude that the day of reckoning has arrived.

The average judge needs a great deal of education in order to make an initial decision on the category that each offender fits as he comes before him. However, judges, even if well educated, can not always be expected to do a really efficient job of this task. This is where specialists are needed.

#### A PROGRAM DEALING WITH ALCOHOLICS AND PROBLEM DRINKERS

In Polk County, Iowa (Des Moines) an innovative program is in operation. If an offender has no felony record and is not otherwise barred, he or she is turned over to an assessment center for evaluation. This evaluation takes over two hours. It uses testing, a mental examination, contacts with others, use of a check list of factors that indicate addiction, etc. If this study indicates that the offender is truly an alcoholic or severe problem drinker, lacking in adequate mental control over his or her conduct, the person is referred to a therapy facility for a long term program which hopefully will result in the solution of the problem. In the past fiscal year, ending June 30, 1981, the total arrests in Polk County were 1963 and 968 persons were referred to this agency for assessment. In the case of the 968, around 90% were referred to a therapy facility, and the remainder were returned to the County Attorney for immediate prosecution. Those who were turned over to the therapy groups were given deferred prosecution, which will continue for one year, provided there is no recurrence of a drinking-driving charge. At the end of the year, if the therapy appears to have resulted in success, and they do 40 hours of public service work, the charge is dropped.

At this time it is impossible to know if this program is effective in handling the problem of repeat offenses. One may question how many of this group do find and maintain sobriety, i.e., continuing total abstinence (the only real answer to these problems), but it is possible that if some of these people do continue to drink, they may conclude that they will not drink and drive under any circumstance. A study will be made to determine the long term effectiveness of this program. This deferred prosecution response is based upon the claimed prosecutor's discretion right. These people are considered to be entitled to this type of handling on the basis of the belief that the individuals are sick and unable to control their conduct at the time of the offense and this fact justifies the different treatment from those who may be considered purely volitional violators. This innovative program was instituted by Polk County Attorney Dan Johnston and John Tapscott, who is head of the Des Moines Chapter of the National Council on Alcoholism. Mr. Tapscott, with the aid of state and county money, set up the assessment center.

#### IMPORTANT ACTIONS NEEDED FOR RECKLESS SOCIAL DRINKERS

Records indicate that many offenders are persons in their teens and twenties. Most often these persons are not alcoholics or severe problem drinkers. Also, many others do not classify as alcoholics. The courts should view these people as purely volitional law violators. They should be handled firmly by the courts with adequate fines, etc. In one recent case a young teenage driver (the press reported as intoxicated on alcohol and drugs) ran into two girls on bicycles and killed one and injured the other. The bail set by the court was only \$300. In another recent case in Iowa a 19-year-old driver who had been convicted of speeding seven times in 1981 was driving between 75 and 100 miles an hour at 2:35 A.M. While traveling in the wrong lane of an interstate four-lane road, he ran into another car, killing the other driver and severely injuring the driver's wife. The police had been looking for this youth for many months to serve a suspension of driver's license. He is charged with manslaughter and drunk driving. He was released from jail the same day upon posting a bond of \$5500.00.

Should our law and court administration be such as to permit such a driver to be free to drive again immediately, as he might do, even without a legal license? What should penalties be in the case of this offense? Should deferred sentences be permitted under the law? If so, on what terms? In such cases should there be suspension of licenses to drive for some period of time? Some states require a two-day mandatory jail term for convicted drivers? Is this a wise penalty? I will consider this a bit later.

#### THE IMPORTANCE OF A "PER SE" LAW IN ADMINISTRATION

We need the passage of "per se" laws by all states which have not already passed such laws. Such a law simply says that operating a motor vehicle with an alcohol level above a specified percentage in the blood (.10% in the usual case) is an offense "per se" (in itself). A penalty is then affixed for the offense. I believe ten states have such laws. They constitute an important and necessary improvement over the usual laws which simply outlaw "driving while intoxicated" or "driving under the influence." These usual laws have defined this state in terms of a percentage of blood alcohol and then said that if an alcohol reading is that percentage or above, the driver is "presumed" guilty of the offense. Unfortunately, those presumptions are often quite effectively overcome by testimony of the defendant and his friends. Under a "per se" law a specific and effective "speed limit" is put on drinking and driving.

Under the presumption laws the judge submits the chemical test (blood or breath) of the defendant for the jury's consideration in connection with the testi-

mony of the defendant and friends. Under the "per se" law the judge simply instructs the jury to determine if the test of blood or breath has been properly given. If that is found and the test given has revealed (the usual) .10%, the judge says the jury shall find the defendant guilty of an offense.

In the early days of our country the offense of speeding was simply defined as "unreasonable speed." We got nowhere in controlling speed under such a vague standard. In a similar way we have not made progress under our presumption laws in controlling drinking driving. We need the specific limit, as we have in the case of speed.

When we have a "per se" law we can expect a new attitude on the part of police. When an officer finds a reading of .10% or above he can tell the driver this is an offense. The offender may decide he has no real option but to plead guilty. Today when police radar says a person has been exceeding the speed limit, there is not much he can do but plead guilty. That has caused most drivers to decide they must obey the law. When "per se" laws are adopted and the public is adequately educated, with the help of the media, there is reason to believe drivers will decide they can no longer get away with drinking and driving if caught. Courts will find their case loads dropping to reasonable levels. There will be very few jury trials on the question of "driving while intoxicated." Such a case may still occur, however, where for one reason or another no chemical test reading has been obtained.

It is believed that with "per se" laws, police will be inspired to intensify their efforts to apprehend those who are drinking and driving. And with the public demanding such action, we will begin to reduce the problem. I am informed that the following states now have "per se" laws: Vermont, New York, Delaware, North Carolina, Florida, Wisconsin, Minnesota, Missouri, South Dakota, Nebraska, Utah, Oregon, Maine, California and Iowa.

There is ample justification for "per se" laws based on blood alcohol levels of .10% or lower. Researchers have known for years that even a small amount of alcohol in the blood impairs driving ability. In 1951 the Reader's Digest reported on a well-known Swedish study of expert drivers which revealed that even a slight amount of alcohol "caused a deterioration of between 25 and 30 percent in driving performance." This and many other tests have revealed the somewhat surprising conclusion that impairment is significant after as little as two beers or two mixed drinks, at a blood-alcohol level of .05%. Various experts have concluded that when a blood alcohol level of .10% is reached, a person is physically unfit to drive a car.

During my term in the Iowa Senate (1972-1976) I was unable to convince the



Senate that Iowa should pass a "per se" law; but in 1981 the Iowa Legislature did pass such a law with the level of .13%, which I believe is too high.

SHOULD MANDATORY TWO-DAY JAIL SENTENCES BE REQUIRED?

While I was unable to secure a "per se" law, as a result of my efforts in the Senate, the Iowa Legislature finally passed a requirement of a two-day jail sentence for convicted drinking-driving offenders. At that time I sincerely believed this was wise and would have deterrent value on the drinking-driving public. For those who went through the traumatic experience it would be a powerful message not to repeat the performance.

I came to this belief upon learning about experience in the courts of Chicago. In 1970 a study was conducted there under the supervision of Dr. Edward J. Kelleher, Director of the Circuit Court Psychiatric Institute. The study was of 400 drivers who had been arrested for driving while intoxicated--250 of which were convicted, 100 found not guilty and 50 of whom were defendants from suburban courts. It revealed that only 20% were alcoholics and 80% were occasional or social drinkers. This led Judge Raymond K. Berg to say that there existed a prevalent and deplorable attitude among the driving public that DWI laws were made for chronic alcoholics and not for the occasional or social drinker. He said he thought the occasional drinker would think, "That man they're talking about is a drunk, an alcoholic, not me." This attitude, Judge Berg concluded, increased the possibility that the social drinker would overdrink and drive.

It is well-known that during the Christmas and New Year season there are higher levels of drinking and resulting drinking-driving. In December, 1970, under the leadership of Judge Berg, then supervising judge of the Traffic Court in the Circuit Court of Cook County, Illinois, an announcement was made by the judges of that court that anyone convicted of driving while under the influence after December 17th that year would be sentenced to a minimum of seven days in jail coupled with a one-year's driver license revocation. This was widely publicized by the media in Chicago and known throughout the area. In fact, when I rode a plane to Chicago during that period I was warned by a passenger sitting next to me to avoid all drinking-driving in Chicago.

Fatalities during the period Dec. 18 through Jan. 3 totaled 8 compared with 22 for the same period in 1969; 23 in 1968; and 25 in 1967. During that period also there were 994 personal injury accidents, a substantial drop from the totals of 2003, 2028 and 2156 in the three previous years. This program was continued during the first quarter of 1971. The fatalities for the first quarter of 1971 represented a 32% decrease from the first quarter of 1970; a 42% decrease from

the first quarter of 1969; and a 41% decrease from the first quarter of 1968. The March 31, 1971 report of the Illinois State Police covering traffic fatalities throughout the state indicated that they were up throughout the state with the exception of Chicago. Also, personal injury and property damage accidents dropped during the first quarter of 1971 over 1970. Personal injuries dropped from 9491 to 8341 and property damage accidents dropped from 36,116 to 32,891.

A year later there was a report of a study by three researchers which claimed that the Chicago "crackdown" produced no reduction in the city's number of car-crash fatalities or arrests. I read the report and was not impressed by what seemed to me to be efforts to explain away the figures by suggesting other possible factors, and a claim that Milwaukee had had similar reductions without a "crackdown". It is quite possible that the "fear" of arrest on drinking and driving developed in Chicago may have carried over into nearby Milwaukee and caused the comparable reduction without an actual "crackdown."

I hear comments that some experts in the field of traffic safety are opposed to the mandatory short jail sentence. They say it would fill the jails beyond capacity. But an Iowa state safety official who supports mandatory jail terms says that during the week most county jails are only 20% filled. There is some fear that a jail sentence provision would cause some people to believe this is all that needs to be done. Many times the jail sentence is avoided by judges who permit persons to "plea bargain" down to reckless driving. The severity of penalty is less important than the feeling that one will be caught and suffer almost certain conviction and penalty.

New York this year passed a law mandating jail sentences of 7 to 180 days and fines of \$200 to \$500 for those convicted of drunken driving after their licenses were suspended or revoked for an alcohol-related driving offense.

Maine has just passed new laws on drinking driving. In the case of repeat offenders and speeders charged with criminal violations and convicted, judges are required to impose a minimum \$350 fine and at least a two-day jail term. Governor Joseph Brennan recently said: "I never believed in mandatory jail sentence before, but we felt that nothing else had worked."

Whether the fear of a jail term provides good deterrence can probably only be ascertained by further research--interviews with those who have received this punishment and study of records to determine whether those so punished repeat their offenses as frequently as those who have not been jailed.

When I was in the Iowa Senate and we were considering decriminalizing intoxication, a lawyer who was a recovered alcoholic called me and urged me not to vote

for that. He said he had had a severe drinking problem but had been refusing to admit that he was an alcoholic. Then one night he was picked up and taken to jail. He said: "When that jail door swung closed on me and I found myself locked up for the night like a caged animal, it hit me like a ton of brick. The next morning when I got out I made a decision that this was the end of my drinking days. I went for therapy and have been 100% sober since." This caused me to decide that the two-day jail sentence was at least worth a real try in my state.

#### MONITORING COURT ACTIONS

Practices of deferred sentences, deferred prosecutions and plea bargaining have had an adverse effect in causing many persons who drink and drive to feel that even if they are caught, the penalty will not be severe. The Iowa Legislature has passed a law requiring a period of suspension of driver's license if a deferred sentence is granted. There are serious questions on the granting of low bail and paroles for persons who have been arrested for drinking driving offenses. Sometimes very modest amounts are set, even where there is a death or severe injury in an accident. Citizen groups need to monitor what is going on in the courts and perhaps see that there is adequate publicity on outcomes, which in turn may result in improved actions in our court system. The suspension of drivers' licenses is important because, as it has been said: "Many a man will not stop drinking and driving to protect himself or others from injury or loss of life, but he will do so to protect his driver's license."

If the courts learn that their actions are being monitored by persons who are in the court when cases are heard and by those who may check and tabulate results, it will create strong pressure on judges to resist the often skillful work of defense lawyers who are able to get people quickly released on modest bail, pled down to lesser charges, and in other ways dealt with leniently.

#### MONEY FOR ENFORCEMENT ACTIONS

It is widely believed that the police do not have sufficient funds to properly seek out and arrest drunk drivers, even where federally funded alcohol action safety projects have been in operation. I hear that many of these federally funded programs are being eliminated because of the reduction in federal expenditures. Money is needed to provide adequate numbers of police, court officials and others in an effective program seeking out and arresting violators. It is believed that even where drivers' licenses are suspended, large numbers of drivers continue to drive without a license. We need officers to monitor such persons by frequently watching them when they depart from their residences or business places. Severe penalties should be imposed upon the offense of driving without a license.

Efforts have been made in Minnesota to pass a law to assess a 5¢ tax on liquor-by-the-drink sales. The amount of money that such a tax would raise is very large indeed. It would fund good action programs as well as needed funds for alcoholic rehabilitation programs. So far the legislature there has refused to bring such a bill up for serious consideration.

A good solution would be to raise the federal tax on beer, wine and whiskey. There have been proposals in recent days to raise such taxes and taxes on tobacco by 100%, which might come close to meeting the federal deficit. It appears no such sizeable taxes will be seriously considered with the 1982 elections looming. But a modest tax increase might well be adopted to meet money needs in dealing with the drinking driving problem.

#### MONITORING OF BARS

When Prohibition ended, many states set up state-owned liquor stores. It was claimed that the old saloon would not come back. The contention was that those wanting to drink should buy their bottles and take them home. Yet in due course liquor by the drink came back. Most of today's bars run into the wee hours, sometimes to 4 and even 5 A.M. I believe it is all night in Nevada.

My study in Iowa covering the years 1970, 1971 and 1972 showed that the period from 9 P.M. to 3 A.M. of each day of the week accounted for 351 out of 665 fatal alcohol-related accidents, or 52.8%. These periods starting at 9 P.M. on Friday and Saturday nights accounted for 196 out of the 665 total or 29.5%. A similar study I did of the years 1976, 1977, 1978, and 1979 showed that these hours accounted for 514 such accidents, or 56.9% of the total, and the Friday and Saturday night periods accounted for 289, or 32% of the total.

When liquor-by-the-drink became legal in most states it was argued that a man should be able to have a drink with his dinner. But bars do not close at the end of a normal dinner period, but run hours afterward.

It would be wise to require that any bar legally operating after 9 P.M. should be required at its cost to have an officer in attendance to observe patrons leaving the bar. The officer could invite patrons to test themselves with a convenient breath-testing device. If one suspected of being impaired were to refuse, the officer could say that he or she would be followed. If the driver's conduct seemed impaired, then the person would be stopped and required to submit to a test on pain of losing a license in states which have the implied consent laws.

Since the passage of the new tough Maine laws on drinking and driving, one popular night spot in Bangor added to their establishment a pocket-size gadget which would test the blood alcohol level. A green light indicates the driver

can drive safely and an amber light indicates that someone who is sober should take the person home.

If lawmakers are unwilling to require bars to pay for such monitoring, it could be done with public funds, and then on a spot check basis, if funds were not ample to serve all bars in an area.

#### CLOSING BARS AT AN EARLIER HOUR

If bars were required by law to close at 9 or 10 P.M., I believe there would be a great reduction in our alcohol-related accident toll. Some claim this would merely shift the problem from the late night hours of closing to the hour after an earlier closing. This might be true to some degree. But when bars run into the wee hours, people who might have to go home earlier before they became impaired sit and drink on and on, often losing track of the number of drinks they have had. They wind up a real menace on the road. Perhaps it seems unrealistic to expect that state laws could be passed to do this in the immediate future, but undoubtedly many city and county ordinances could be passed in areas where public concern proves adequate.

#### MEDIA SHOULD RESPOND TO THE PROBLEM

It is believed that the media has not given proper attention to the problem. There should be special efforts to get the media to carry the message to the public about the fact that in the case of arrest there will be adequate investigations, license suspensions, adequate bail, and that citizen groups will monitor court actions. This would have deterrent value. The recommendation for people to avoid driving on streets and highways after 9 P.M. to the maximum extent possible would eliminate many targets for drinking drivers. There is a real challenge for the media in educating the public.

#### NEEDED WARNINGS ON DANGERS OF MODERATE DRINKING AND DRIVING

Most Americans drive with little knowledge of the dangers involved in even moderate drinking. They need to be informed that the National Safety Council has recommended that everyone should wait one hour after every drink before driving. The alcoholic beverage trade has campaigned with the statement that everyone should "know your limits." This implies that there is a safe level of alcohol as far as driving is concerned. The focus should be on the avoidance of all drinking and driving. Attention should be given to the fact that "HALF DRUNK DRIVERS ARE DANGEROUS, TOO." This is the title of a very popular and effective educational leaflet which has been widely distributed by the Preferred Risk Mutual Insurance Company and the American Council on Alcohol Problems. My son, William N. Plymat, Jr., was the author of this leaflet.

The following pages 42-45 contain material protected by the Copyright act of 1976 (17 U.S.C.): HOW (EVEN A LITTLE) DRINKING AFFECTS DRIVERS, HALF DRUNK DRIVERS ARE DANGEROUS TOO!, American Council of Alcohol Problems

The following pages (46-47) contain material protected by the copyright  
Act of 1976 (17 U.S.C.): ALCOHOL FACTS, 5 WAYS DRINKING CAN HURT YOU,  
American Council on Alcohol Problems, Inc.

A NEW NATIONAL ETHIC NEEDS DEVELOPMENT

This same idea is now being presented in the State of Wisconsin. Dr. Ralph F. Hudson of Eau Claire, Wisconsin, has challenged his fellow doctors in a three county medical society to adopt a resolution that all drivers be required to follow the requirements imposed on public vehicle drivers and operators who must have zero % level of alcohol in the blood. Railroad engineers, bus drivers, airplane pilots and ambulance drivers and others are required to be total abstainers while driving. As a result their safety records are outstanding. This doctor, who has seen the sad results of many alcohol-related accidents, asks why all drivers should not be required to refrain from all use of alcohol. He is asking his state medical society to urge that policy as a matter of law. Following his leadership, a high school leader in his town and his principal have just dispatched a letter to all high schools in Wisconsin, calling attention to the fact that one of their student leaders was killed by a drunk driver, and asking that the above-mentioned policy of no alcohol for drivers be made a matter of law in Wisconsin. Hopefully the day will arrive when this would become a national policy. Similar citizen action throughout the country may hasten that day. In the meantime, even without such a law, good citizens should be stimulated to indicate their intentions to refrain from driving after drinking.

NEED FOR EDUCATION

As we said at the beginning, there is a need to face the entire alcohol problem if we are going to solve the drinking driving problem, and this calls for much education of the public, especially youth and newly licensed drivers. The American Council on Alcohol Problems last year brought forth a leaflet titled, WHAT YOU NEED TO KNOW ABOUT ALCOHOL FOR YOUR HEALTH AND SAFETY. This covered the subject of drinking and driving, as well as other subjects and presented a proposed warning for alcoholic beverage bottles. We printed 600,000 copies of this leaflet for widespread distribution. We managed to persuade state-owned liquor stores to distribute these to their customers. Now we have brought forth a new leaflet considered to be of special value in educating youth. It is titled, ALCOHOL FACTS--5 WAYS DRINKING CAN HURT YOU. It also deals with drinking and driving. Over 200,000 of these will be printed and made available very shortly.

NEED FOR LABEL WARNINGS

This need is now being recognized. S. 1543 which would require warnings on labels of liquor bottles is a bill which should pass. Purchasers of bottled liquor should be confronted with the information such warnings would contain, and constantly reminded of the dangers involved. A section of such a warning



refers to the danger of drinking and driving. S. 1543 is being co-sponsored by 12 U. S. Senators. There is a companion bill in the House sponsored by Rep. Geo. E. Brown, Jr. and co-sponsored by 17 other Representatives. Senator Jepsen proposes to amend S. 1543 to include warnings on beer and wine bottles also.

#### ALCOHOL ADVERTISING

It is reported that about \$500 million a year is expended by the alcoholic beverage industries in promoting consumption of their products. Much of this is glamorous in nature and directed at youth, women and minority groups. It would be very desirable if such a volume of advertising could be reduced. Even where it is permitted, so-called "lifestyle" ads should be avoided. If the industry wishes to prove its sincerity in preventing alcohol problems and accidents, without the requirements of legislation, it could avoid such advertising.

The passage of the bill, H. R. 1800, by Rep. Geo. E. Brown, Jr. (D., CA) to make expenditures for alcoholic beverage advertising a non-deductible business expense in computing net income for tax purposes would be of value, and also increase tax revenues into the U. S. Treasury. It could, in itself, provide the extra funds needed for the actions specified above.

#### CURRENT EFFORT TO OBTAIN A NATIONAL COMMISSION

The current Congressional effort to secure a National Commission to be appointed by the President on the drinking driver problem follows the effort which began with the American Council on Alcohol Problems to obtain such a Commission. In August I was contacted by Sandy Golden, of Gaithersburg, Maryland, an investigative reporter, who told me of his efforts spanning 15 months to secure such a Commission. I invited him to speak at the Annual Board Meeting of our Council in Minneapolis on September 17th. He suggested a letter to President Reagan and presented a proposed text. The Board responded immediately and 45 persons present at that meeting, representing some 30 organizations, joined in signing it. This was sent to the President and we are hopefully awaiting a reply.

This led, in turn, to a Congressional press conference on October 6th. The conference was hosted by Representatives Michael D. Barnes, James V. Hansen and Glenn Anderson, and resulted in many newspaper articles across the country and including the Washington Post. Mr. Golden was involved in helping preparations, testifying at the hearing and exhibiting a film which showed the problem and the needs. At this conference, the Representatives mentioned announced they were sending a "Dear Colleague" letter to all members of the House and Senate, asking them to join with them in signing a letter to President Reagan, which was

essentially the same in text as our letter. Already, at the time of preparing this statement, 30 Senators and 143 Representatives have authorized their names to be attached to the letter going to the President.

Sandy Golden left private investigative work to dedicate himself to this mission of research, public speaking on the issue, working with government agencies, and organizing public education and activities in this field. He has worked independently without compensation during this period and deserves much credit. It shows what can be accomplished by one person when a serious human problem is recognized and needs attention.

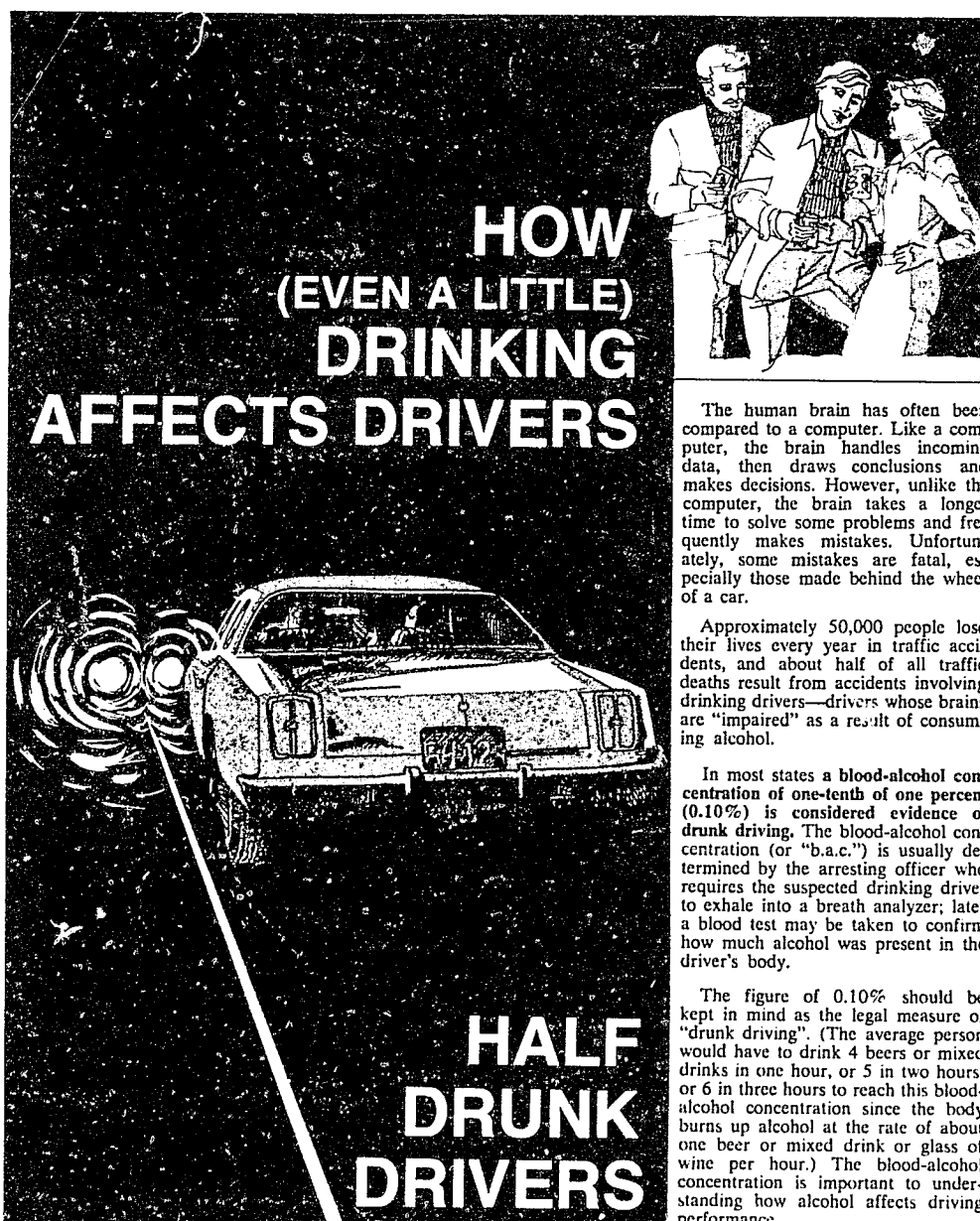
#### WHAT CAN A FEDERAL COMMISSION DO?

As this statement indicates, there are many important aspects to be considered in responding totally to the seriousness of the drinking driving problem. I have outlined a number of them. This leads to the realization of the reason why a National Commission on this problem would be helpful--even necessary. It could produce a master plan to cope with this problem. It could provide leadership and coordination for the task. It could develop public awareness and inspire individuals, communities and states to volunteer their vigilance and support. Further, it could:

1. Make investigations and receive reports of conditions in the various states; study trends in the problem and actions taken which have worked and could be followed in other states; study laws in various states and suggest changes; seek uniformity of laws across the country.
2. Encourage formation of state and local task forces to take needed action. Efforts of citizen task forces in Maryland and California have already accomplished much with new laws being passed, law enforcement enhanced and citizen involvement accomplished.
3. Seek collaboration with enforcement authorities, courts, media, rehabilitation agencies, public officials, schools and citizen groups.
4. Develop changes in public attitudes on drinking and driving to prevent accidents.

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A National Commission on the drinking driving problem would implement many of the ideas and suggestions contained in this statement, and in the end result in a substantial reduction of the annual death toll from this problem. It would result in the reduction also of many other costs which are now borne by the taxpayers of this country. I am hopeful there will be immediate forward motion in this direction.



## HOW (EVEN A LITTLE) DRINKING AFFECTS DRIVERS

The human brain has often been compared to a computer. Like a computer, the brain handles incoming data, then draws conclusions and makes decisions. However, unlike the computer, the brain takes a longer time to solve some problems and frequently makes mistakes. Unfortunately, some mistakes are fatal, especially those made behind the wheel of a car.

Approximately 50,000 people lose their lives every year in traffic accidents, and about half of all traffic deaths result from accidents involving drinking drivers—drivers whose brains are "impaired" as a result of consuming alcohol.

In most states a blood-alcohol concentration of one-tenth of one percent (0.10%) is considered evidence of drunk driving. The blood-alcohol concentration (or "b.a.c.") is usually determined by the arresting officer who requires the suspected drinking driver to exhale into a breath analyzer; later a blood test may be taken to confirm how much alcohol was present in the driver's body.

The figure of 0.10% should be kept in mind as the legal measure of "drunk driving". (The average person would have to drink 4 beers or mixed drinks in one hour, or 5 in two hours, or 6 in three hours to reach this blood-alcohol concentration since the body burns up alcohol at the rate of about one beer or mixed drink or glass of wine per hour.) The blood-alcohol concentration is important to understanding how alcohol affects driving performance.

## HALF DRUNK DRIVERS ARE DANGEROUS TOO!



### How Do We Know?

There are two methods by which researchers study the effects of alcohol as it relates to highway accidents. One is to give experienced drivers measured amounts of alcohol, then observe their actual driving performance in specially designed road tests. Another method is to test the effects of alcohol on various components of driving skill while the subject is seated in a laboratory.

In the 1950's a number of researchers conducted driving performance tests obtaining very similar results. One such test was designed by Dr. Leonard Goldberg of Sweden's Caroline Institute. He chose 37 expert drivers, most of whom were driving instructors, and gave them enough to drink to produce blood-alcohol concentrations of .05%. The drivers performed a number of tests on a closed course, and their initial sober scores were compared with their performance after drinking. Also, part of the group did not consume any alcohol, serving as a "control group". As reported in a Reader's Digest article published in 1951:

"The drivers in the drinking group took longer to make their second run than their first, although they now had the advantage of familiarity with the tests and the feel of the car. In contrast, Dr. Goldberg's control group—the drivers who did not drink between first and second runs—shortened their driving time by almost 20 percent. Dr. Goldberg concluded that even a slight amount of alcohol 'caused a deterioration of between 25 and 30 percent in driving performance of expert drivers.' And on the three tests most closely corresponding to actual driving, ability was impaired on the average by 41.8 percent."

The most noteworthy result of this, and many similar tests, is not that alcohol impairs driving ability, which is a well known fact, but rather the somewhat surprising conclusion that impairment is significant after as little as two beers or two mixed drinks, at a blood-alcohol level of .05%.

### How Does Alcohol Affect Driving Performance?

Road tests can show that alcohol does impair driving performance. But they do not explain how alcohol produces its detrimental effect. Laboratory tests, however, have provided that information, and impairment of various driving skills under the influence of alcohol has been precisely measured.

The 1974 report, "Alcohol, Drugs and Driving", prepared for the U.S.

Department of Transportation, states:

"Alcohol affects driving because driving demands division of attention between a visual search-and-recognition task and a tracking task. This conclusion is supported by evidence that alcohol impairs the rate of processing information, an important ingredient in rapid time-sharing of attention between several inputs."

The phrase "visual search-and-recognition task" simply means that driving requires continual observation of other vehicles, potential obstacles, stop lights and signs and road conditions. Looking through the windshield is not enough, the driver must also rely on the rear-view mirror and an occasional turn of the head to check the blind spot when changing lanes. All these visual procedures constitute a "search-and-recognition task."

The term "tracking task" simply means "using the steering wheel". What the eye sees through the windshield must be translated by the brain into corrective movements of the wheel to keep the vehicle in the proper lane of traffic, and to accurately negotiate turns at intersections.

"Time-sharing" can be translated as "doing several things at once". Driving is a time-sharing activity, requiring the brain to divide its attention between "search-and-recognition" and "tracking". Different bits of incoming information must be analyzed in computer-like fashion, then different kinds of decisions must be made. With these definitions in mind, consider what the scientists have learned.

### What The Tests Show

When a person visits an optometrist for an eye examination, they are asked to read letters from a chart on the wall. The ability to see the letters clearly is referred to as "static visual acuity". Static visual acuity is not greatly affected by alcohol, so that the ability of the eye to resolve images clearly is not impaired if the visual target is standing still.

The ability to clearly see objects in motion is called "dynamic visual acuity". This visual ability is very important for driving, and it is impaired at blood levels as low as .02% in some subjects. So, at one-fifth the blood-alcohol level needed for a drunk driving conviction, after as little as one drink, a driver's ability to see and distinguish moving objects will be impaired.

In baseball, the batter must follow the flight of the ball after it leaves the pitcher's hand. That is an example of "motoric coordination of binocular motility", and it is impaired by alcohol

at blood-levels as low as .03%.

"Dark adaptation" relates to the ability to see clearly at low light levels such as occur when driving at night. The ability to detect low contrast, low illumination targets is usually impaired at blood-alcohol levels of .08% or higher.

"Peripheral vision" refers to what is commonly known as "seeing out of the corner of the eye". When the effects of alcohol on peripheral vision were first tested, no impairment was found. However, one team of researchers tested "... the signal detectability of intermittently presented lights over an extensive range of the ... visual field ... (while) the central visual field was occupied with a simple tracking task." Under these conditions peripheral vision was impaired by 10% at a blood-alcohol level of .05%, and by 28% at a level of .10%. The researchers concluded that the effect of alcohol on peripheral vision is a function of the information load on central vision.

### What This Means

To sum up the effects of alcohol on "search-and-recognition tasks", consider the following example. A driver is approaching an intersection which is controlled by a traffic light. It is night, and the intersection is dimly illuminated. Also, this hypothetical driver has had two beers in the preceding hour and has a blood-alcohol level of about .05%. As the driver approaches the intersection the signal is green, but another car enters the intersection from the other street, running the red light. Will an accident occur? The driver with the green light has been drinking. His ability to see the other car approaching is impaired because he is concentrating on steering his own car. The ability of his eyes to follow the other car is impaired, as is the ability to see it clearly. The question of whether an accident will occur depends on many other factors. How quickly will the driver react after seeing the other car? How quickly can his foot reach the brake pedal? Merely from the standpoint of "search-and-recognition", the impaired driver is faced with a much greater likelihood of an accident than if he were stone-cold sober; however, "tracking" and "time-sharing" will also determine the outcome of this situation.

### Complications

"Tracking", as we have defined it, means the ability to steer a car accurately. Eye-hand coordination is the primary ingredient. Tracking experiments conducted in laboratory settings

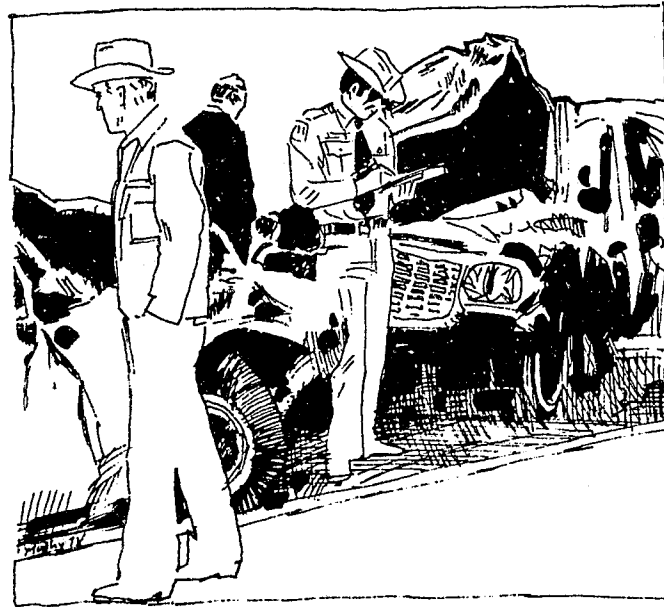
have shown that alcohol does not produce any substantial decline in performance when attention can be devoted solely to the tracking task, at least not at low to moderate blood-alcohol levels. However, when "time-sharing" is introduced into the experiment, such as when tracking is combined with a search-and-recognition task, performance will decline substantially at blood levels below .05%.

It appears that the "time-sharing" requirement is the most important factor in predicting the outcome of drinking-driver situations. Just as peripheral vision was found to be impaired when a central-vision task was taking place, tracking performance will also deteriorate under the influence of a "time-sharing" requirement. The more complex the driving situation, the more visual inputs that must be monitored, the greater the degree of impairment that will result from a given blood-alcohol level.

"Time-sharing" then, is the critical factor. While search-and-recognition and tracking have been shown to be somewhat resistant to the effects of alcohol when studied individually, the time-sharing function is highly susceptible to even small doses of alcohol. One research team found measurable impairment at blood-alcohol levels as low as .015%, equivalent to less than one beer or mixed drink.

The portion of the brain that controls time-sharing activities is called the "reticular activating system" (RAS). When attention is divided under the influence of alcohol, the RAS works more slowly and with less accuracy. Alcohol may not greatly inhibit a particular system within the brain, such as motor coordination necessary for tracking, however, when systems are called upon to work together, alcohol has a profound influence on the ability of the brain to rapidly process information and make accurate decisions. Since a vehicle traveling 55 miles per hour covers more than 80 feet every second, time is a critical factor in highway safety, and alcohol reduces the time-efficiency of the brain.

Consider once again the hypothetical situation in which an alcohol-impaired driver approaches an intersection, only to encounter another vehicle which has run a red light. The likelihood of an accident depends upon rapid visual recognition of the danger, and rapid processing of information to arrive at a successful defensive action, such as steering to avoid collision or stepping on the brake. The key ingredient in this situation is "reaction time", defined as the time taken to initiate response.



In the laboratory, reaction time appears not to be greatly affected by small and moderate doses of alcohol, so that, in a simple reaction time experiment, the subject will not take any longer to press a button when a light flashes. However, as we have seen, individual functions tested separately often do not show much alcohol impairment, while functions combined into a complex task are highly susceptible to alcohol's effect.

Road tests designed to measure reaction time have yielded contradictory information. One test reported no increase in time taken to initiate a lane-change maneuver when a light flashed, however, drivers with alcohol in their blood streams made more tracking errors while executing the maneuver. Another test found a 35% increase in braking distance when drivers reached blood-alcohol levels of .10%.

So the question of alcohol's impairment of the reaction-time function has not been answered conclusively. Yet it seems reasonable to conclude that since defensive reaction to a crisis situation depends upon time-sharing between visual and motor functions, reaction time must be impaired by alcohol in practical applications.

#### Summing Up

From the information presented above, it is obvious that alcohol has a profound impact on driving skill

since it affects the ability of the brain to process information quickly and accurately. However, the impact of alcohol on traffic safety extends beyond its effect on those functions and tasks reported above.

As a mind-altering drug, alcohol resembles sleeping pills and tranquilizers in that it acts as a depressant of the central nervous system. Enough alcohol can induce stupor and sleep, though in social settings, small doses tend to produce a kind of stimulation. This apparent stimulation results from the loss of inhibitions which is caused by alcohol's depressant action. The individual may become more talkative, may laugh more easily and more loudly, and may engage in extravagant behavior that would be unlikely to occur if the person were completely sober. Thus alcohol may produce the seemingly opposite effects of relaxation and stimulation.

The depressant action of alcohol, depending on the dosage, will produce sedation and increased fatigue. It will also produce inattention and drowsiness, leading to a greater likelihood of insufficient response in a driving emergency.

The disinhibitory effect of alcohol will often result in fear-reduction and increased assertiveness. Thus a driver may take more risks, such as by driving too fast, and may be less cognizant of the need for caution and self-restraint. One of the most common effects of drinking is the erroneous belief that driving ability remains unimpaired. On test courses,

drivers have often reported the subjective feeling of driving as well as if they were sober, even when pylons knocked over and other performance deficits proved just the opposite.

So, it appears that in addition to visual search-and-recognition, tracking, and reaction time, alcohol also impairs the emotional and psychological requisites for safe driving.

#### Conclusion

Drunk Driving is a crime. The official charge as recorded by police is usually referred to as OMVUI (Operating a Motor Vehicle Under the Influence) or as DWI (Driving While Intoxicated), and in most parts of the United States a blood-alcohol concentration of .10% is required for conviction. Unofficially, many law enforcement officers report that they will

let drivers off with a warning unless the blood-alcohol level exceeds .15% and a majority of drivers actually arrested and convicted for OMVUI have blood levels of nearly .20%.

Studies have shown that for every legally-drunk driver on the roads, there are at least 30 others driving with lesser degrees of impairment. Additionally, a number of statistical analyses have shown that while drunk drivers take their toll, the majority of alcohol-related fatal accidents are caused by drivers who are close to or under the illegal blood-alcohol level. This is startling, and a cause for concern, since some 25,000 lives are lost each year in alcohol-related accidents.

The law establishing 0.10% b.a.c. as the line between drunk and sober, legal and illegal driving, has in effect sanctioned alcohol-impaired driving. All the available indicators show that drinking drivers with b.a.c.s below 0.10% are substantially impaired in

their ability to drive safely. The public needs to know what level of alcohol consumption constitutes a hazard, since most Americans who drink and drive are almost totally ignorant of the potential danger of small doses of alcohol. Given such information drivers might cut down on drinking after drinking, and the public might be more supportive of law enforcement crackdowns on drinking drivers.

When thinking about drinking—and driving, these points are important to keep in mind:

—According to the National Safety Council, a person should wait one hour for every drink consumed, before driving since it takes the body one hour to burn up the alcohol from the usual "drink". Black coffee, fresh air or cold water will not speed up the process.  
—Driving ability is impaired about 30% after as little as two drinks.  
—Any drinking will cause some impairment of driving ability.

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# ALCOHOL FACTS

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**ways**  
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**can**  
**hurt**  
**you**

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## 1. Traffic Accidents

Alcohol in the blood slows reaction time, reduces muscle coordination, and impairs eyesight. Two beers, two four-ounce glasses of wine, or two mixed drinks can impair driving ability by 25% — enough to turn a near-miss into an accident. Four or five drinks can make a person “legally drunk” and subject to arrest.

The degree of impairment depends on the number of drinks consumed and a person's weight. A 100-pound person is usually twice as impaired as a 200-pound person by the same amount of alcohol.

Safety experts say that before driving you should wait one hour for each drink consumed. It takes the body that long to burn up one beer or other drink. Black coffee and fresh air won't help.

A person does not have to be really drunk to be dangerous. Half-drunk drivers are dangerous too.

## 2. Fatal Overdose

Everyone knows that an overdose of sleeping pills can be deadly. Alcohol works in much the same way. Someone who drinks too much can actually stop breathing and die.



Persons who have consumed a large amount or pass out after drinking may be in danger. Rush them to the emergency room of a hospital. There life-saving actions can be taken. Don't just let them "sleep it off."

Sleeping pills and alcohol together are more dangerous than either by itself. Alcohol and other drugs interact in unpredictable ways.

### **3. Birth Defects**

Babies born to women alcoholics are often deformed or retarded. It's called the "fetal alcohol syndrome."

Research has not yet determined how much alcohol in a mother's blood will harm the baby. Since alcohol reduces the blood's ability to carry oxygen to the unborn child any drinking may be risky, even in the first few weeks of pregnancy.

The Surgeon General of the United States has said: "Pregnant women should avoid alcoholic beverages."

### **4. Damage to the Body**

Alcohol goes directly into the blood stream. It damages the liver, kidneys, heart and brain. Some doctors believe that every drink a person consumes

kills some brain cells. Chronic alcoholics often suffer structural brain damage.

Drinking is the third leading cause of death in the United States, right behind heart disease and cancer, though it may actually contribute to both those diseases as well. Heavy drinking can lead to congestive heart failure. It increases the risk of cancer of the mouth, throat, and esophagus.

Cirrhosis of the liver is probably the most common alcohol-related cause of death.

### **5. Addiction**

Alcohol is an addictive drug. Addiction may be due to physical or mental conditions, or both. Alcoholism has been linked to many factors, such as inherited genetic makeup and individual body chemistry. A person may have strong will power and still be unable to stop drinking.

A compulsion to drink, inability to limit the number of drinks, or memory loss after drinking are symptoms of addiction. A person experiencing one of those symptoms should seek help.

Senator DOLE. Our next witness is Diane Steed, Deputy Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation.

Ms. Steed, I understand you have staff with you. You might introduce them.

STATEMENT OF DIANE STEED, DEPUTY ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, WASHINGTON, D.C., ACCOMPANIED BY GEORGE D. BRANDT, CHIEF, ADJUDICATION BRANCH; JOHN MOULDEN, ALCOHOL COUNTERMEASURES SPECIALIST; AND CHARLES LIVINGSTON, ASSOCIATE ADMINISTRATOR, TRAFFIC SAFETY PROGRAMS

Ms. STEED. Thank you, Mr. Chairman. I am pleased to appear before your subcommittee today to address the extremely critical problem of drunk driving in this country.

Accompanying me today are Mr. Charles Livingston, our Associate Administrator for Traffic Safety Programs, as well as Mr. John Moulden and Mr. George Brandt of Mr. Livingston's staff. They are the real experts in this area, while I am a relative novice on the subject.

#### EXTENT OF DRUNK DRIVING PROBLEM

We have heard a lot of the statistics today and a lot of the information on the scope of the problem, so I am going to try to summarize that portion of my testimony.

I would like to say that the Administration does recognize that drunk driving causes one of the Nation's most serious health problems, and it is one of my agency's highest priorities for the coming year.

Many people have classified the drunk driving problem as an epidemic. The fatality statistics are shocking, and as I said I will not go through them since we have heard them several times today.

The real question is: Why are so many drunk drivers on the roads? One reason is that the drunk drivers do not believe that they are going to be caught. Statistics show that their belief is well founded. The agency estimates that the chances of a drunk driver being stopped are between 1 in 500 and 1 in 2,000. Nationwide, police officers average fewer than five drunk driver arrests per officer per year.

In addition, drivers assume that if they are caught they will not be convicted of an alcohol-related offense. Further, they believe that if they are convicted the sentence will be light, and in some States we know that only 1 in 10 is actually jailed.

How is this possible? How can the drunk driver be treated so lightly in view of the fatality and injury statistics? I think it can fairly be stated that the public has only recently come to consider alcoholism a serious health condition. They still do not consider driving under the influence of alcohol a serious crime.

A drunk driver was not considered responsible for his actions, even if his actions resulted in a death or serious injury. Therefore he was not held accountable, and the general wisdom has held that the driver should not be severely punished.

For example, a study in Michigan revealed that, although one driver in four could have been charged with either manslaughter or negligent homicide as a result of a fatal crash involvement, only about 1 of every 12 was actually charged.

Furthermore, within the small group actually charged with manslaughter or negligent homicide, only one in four was convicted on the original charge; 18 percent of the drivers charged were cleared of the manslaughter or negligent homicide charges.

Today, however, I am happy to say that there is a shift occurring in the general public's attitude toward the drunk driver. Local citizens, such as the ones that you have just heard from, are organizing to force State and local authorities to expand their efforts to fight the drunk driver.

In Maryland, an organization known as Mothers Against Drunk Drivers [MADD] was instrumental in persuading Governor Hughes to organize a State task force on the issue. Grassroots organizations have also been responsible for the establishment of State task forces in New York, California, Pennsylvania, and West Virginia.

In this environment, I believe that it is an especially good time for your subcommittee to hold a hearing on this issue. It will help us focus national attention on the problem and possibly catalyze more grassroots action.

Recognition of the problem, we all know, is not going to solve it, but under the pressure of greater public concern State legislatures, public officials, and agencies will have a mandate and thus a greater resolve to establish and maintain more effective programs to deter those who drink to excess and drive.

#### NHTSA EFFORTS

Let us talk just briefly about what the Federal Government is doing about this problem. Since the passage of our Highway Safety Act, my agency has worked to determine the magnitude of the drunk driving problem and to devise solutions and test them in cooperation with State and local governments.

Our most important effort has been a series of demonstration projects run in 35 communities across the country between 1970 and 1976. Known as alcohol safety action projects, or ASAP, these projects were designed to discover what could be done at the local community level to increase the effectiveness of drunk driver programs. Much of what I say here today is based on an evaluation of those projects.

#### PARALYSIS OF THE JUDICIAL SYSTEM

There is no question but that the drunk driver is a national problem, and yet we believe it can only be solved at the State and local level. State and local laws govern this area, and State and local courts are the only forums for these cases.

The crux of the drunk driver problem in most States is not the lack of adequate laws on drunk driving but the lack of consistent, convincing enforcement of those laws by State and local officials. The risk of punishment is low and the deterrent effect of the laws is therefore weak.

Right now, most State judicial systems cannot handle the drunk driving cases in a swift and certain manner that indicates to the public that this is a serious offense.

Although drinking driving cases form a large percentage of lower court dockets, most States have not coordinated the actions of police, prosecutors, judges, licensing officials, and health officials to improve the processing of these cases. Independent action by any one of these groups may only aggravate the system at another level. Let me just quickly highlight some of the problems in identifying, arresting, penalizing, and rehabilitating the drunk driver.

At the enforcement level, the police are reluctant to arrest drunk drivers because arrest procedures for DWI (driving while intoxicated) are more cumbersome and time consuming than for any other traffic offense. It can take as long as 4 hours for an officer to process a driver arrested on a drinking driver charge, not to mention the time involved in his subsequent court appearances.

At the trial level, the courts are often reluctant to convict on the drunk driver charges. In many instances judges consider the penalties established by a State legislature for this offense, such as mandatory jail sentences and license revocation, too harsh. Defendants appear in court as normal, law-abiding people for whom harsh sanctions seem inappropriate. Legislative actions to set harsher penalties may well result in fewer convictions and a less effective program.

Drunk driver cases are also time consuming, and judges become very amenable to case processing shortcuts, such as plea bargaining, to reduce their docket loads. Some States have sought to use nontraditional methods to deal with those arrested for the first time as drunk drivers. The availability of a less severe penalty and an array of possible sanction combinations such as fines, treatment, and education, encourages some judges to find more drivers guilty of the offense as charged—28 States screen those arrested and allow the judges to refer drivers to alcohol violator schools or rehabilitation programs. We find that this flexibility often does more to deter the drunk driving than a stiff sentence.

Another problem is that drunk driving cases, like all traffic cases, are heard at the local court level, and at that level a high turnover rate for judges exists. Novice judges often do not have the experience to deal with the legal and procedural complexities of a trial for drunk drivers. Accordingly, the agency has devised a special judicial training course to give judges information on the procedural and constitutional issues most frequently raised by the defense counsel in drunk driving cases and what penalties can be imposed depending on the circumstances of the particular case.

Due to plea bargaining and dismissals, many persons originally charged as drunk drivers are not convicted, and without a conviction no record exists. If arrested again on the charge, the person would be considered a first-time offender.

All States currently have laws requiring courts to report all convictions to a central driver record repository. Yet even when the court convicts, we find that it frequently neglects to send a record of the conviction to the central repository. As a result, local prosecutors and courts are unable to identify multiple drunk driving of-

fenders and consequently fail to prosecute, convict, and impose a harsher sanction that such defendants deserve.

In addition to having an accurate record of prior convictions, the court must also know the nature of the driver's alcohol problem in order to fashion a penalty that is most likely to deter the defendant from driving drunk in the future.

While the social drinker can be humiliated and deterred by the typical penalties imposed on the drunk driver, an alcoholic cannot help himself. He requires more extensive attention, which may include Alcoholics Anonymous, group therapy, individual counseling, and probation.

To address this problem, courts in some States conduct presentence screening through a central data bank that consolidates all existing traffic records on a defendant and also evaluates the extent of his alcohol problem. Such systems standardize presentence investigation and make them less costly and time consuming.

At the punishment level, most States have legislated fines and stiff sentence sanctions, license suspensions, or revocations as penalties for the drunk driver. Some States prescribe a minimum jail term.

The agency has been instrumental in getting States to use education or treatment as an additional sanction for those convictions. As I mentioned, however, many judges are reluctant to impose a stiff punishment such as license suspension or jail.

Also, due to the time-consuming nature of the process, the penalty is not imposed until many months after. By losing its immediacy, the penalty may become, in the mind of convicted drivers, society's unjust intrusion into their lives and a threat to their livelihood. This produces resentment rather than contrition.

A more effective approach may be through license suspension or revocation, especially for first-time offenders. The charge can also be processed administratively. The court or administrative agency presiding over the case may be more willing and able to speed the case along and impose the legal penalty.

#### THE SOLUTION: A COORDINATED PROGRAM

Let us talk a little about the solution. Despite the appalling statistics and the apparent continued inability of the criminal justice system to treat drinking and driving as a serious offense, Federal, State, and local officials are not indifferent to this problem, and we believe a systematic solution is at hand.

The goal of any State drunk driving program should be to increase the perceived risk of arrest, conviction, and punishment among the drunk driving population. To accomplish this, arrests and adjudication must be swift and sure. The bottleneck in the enforcement and adjudication system must be eliminated.

State and local officials must not only increase arrests, but they must also shorten booking time, shorten trial time, raise the conviction rate on the original charge, assure appropriate punishment for those convicted, keep a record of the conviction that is easily accessible to the court in case of future arrests on the same charge, and conduct a public information and education campaign.

To achieve these changes, we believe that a program intended to deter drunk driving must:

First, aim to deter the majority of drinking drivers who are not arrested;

Second, we must generate citizen support to provide a political base for increased enforcement;

Third, we must place responsibility for management in the hands of the local officials;

Fourth, we must coordinate all levels of enforcement, adjudication, and sanctioning so that the case processing system works quickly and self-sufficiently by using fines, court costs, and treatment fees to defray the costs of a program; and,

Finally, we must use educational programs to change general public attitudes on drinking and driving.

NHTSA intends to work with the States to develop a comprehensive, coordinated alcohol safety program based on these six elements. We hope that these efforts will provide notable improvements and practical information and encourage other States to establish their own programs. A good starting point for any State would be a State task force on drunk driving, such as the one Cindi just mentioned.

In response to the rise of citizen action groups, such as MADD, RID—remove intoxicated drivers—PARK-IT, and Citizens for Safe Drivers, and political pressure over the drunk driving problem, a number of States in recent years have established drunk driving task forces, and the results have been very impressive.

New York has improved its drunk driving laws and now sends fines back to the local jurisdiction to establish comprehensive, locally managed alcohol safety programs.

Maryland has enacted a preliminary breath-testing law which allows police to test the blood-alcohol level of those arrested in order to establish probable cause to arrest.

California has enacted an illegal per se BAC law and new minimum penalties. It is also presently holding legislative hearings on a proposed 5 cents per bottle liquor tax as a means of financing comprehensive alcohol safety programs.

An effective local drunk driving program places greater demands on the police, the prosecutors, the courts, licensing agencies, and the health and education agencies, and a successful campaign will drain money from the municipal treasury.

One solution to the funding problem is found in a recently adopted New York statute which redistributes all drunk driving fines back to the county for their drunk driving programs.

Virginia also sends money collected from DWI—driving while intoxicated—fines back to the counties, and under this approach the drunk driver—the driver who creates the problem—pays for its solution.

A law making it unlawful, per se, to drive with a high blood-alcohol content is also a useful component of a coordinated drunk driving program—19 States have enacted such laws that make a high BAC level in a defendant sufficient proof of intoxication. These laws reduce not guilty pleas, requests for trials, and thus the pressure to plea bargain or to dismiss drunk driving cases. As a result,

less police time is spent in court and officers have more incentives to make more drunk driving arrests.

It also stands to reason that publicity in the new State campaigns, particularly the increased vigilance by the police as well as the rise in the number of actual arrests and convictions, will heighten the perceived risk. This approach is presently being used effectively by the Maryland State Police.

#### THE FEDERAL ROLE

I want to say just a word about the Federal role in the drunk driving question. We, in NHTSA, recognize that it is the State's responsibility to police the roads to protect the health and safety of its citizens. The Federal role, we think, is to assist the States to perform this function through research and coordination.

To give you an example, we are distributing a manual for police on the detection of drunk drivers and a manual for court caseworkers to improve case processing and disposition. We have developed the only reliable interview questionnaire for presentence investigation and have conducted studies to improve State reporting systems for traffic convictions.

We have developed a model traffic case management system as well as model laws to improve prosecution of the drunk driver, and we have cosponsored a national prosecutors conference on DWI and vehicular homicide.

We are also presenting courses to judges and to police on efficient processing of those arrested as drinking drivers and to alcohol safety program coordinators on how to organize and implement a comprehensive, locally managed program.

Last year the agency conducted a series of workshops, and we are pleased to see the ever-growing public determination to do something about this national health problem.

#### SUMMARY

In summary, the drunk driving problem is not insurmountable. We know what needs to be done. The States do not so much need new laws on the problem as they need greater resolve to enforce existing laws and technical assistance to streamline the criminal justice procedures.

The necessary resolve to change current State practices, however, can only be summoned if local citizens show active and vocal interest. Congressional hearings such as this provide a national forum to elicit comments from these people and inspire action by others.

The grassroots efforts of citizens' groups in some States have been extremely successful, and task forces have been set up, as I mentioned earlier. Now is the time for more citizens to convey to their State legislators, police, prosecutors, and judges that drinking and driving is a serious offense. The criminal justice system can work if Government institutions that maintain the system receive this clear signal.

This concludes my statement, Mr. Chairman. My colleagues and I will be pleased to try to answer any questions you may have.



Senator DOLE. I think the first question we need to ask is: Where does this problem rank in the priorities of the administration? You are probably now in the assessment period, but does it have a priority? If so, can you tell us anything in addition to what you have told us in your prepared statement about future plans? Do you foresee any legislative proposal? I understand your problem with the Federal Government and States, but generally does the administration set this as a priority matter?

Ms. STEED. We certainly do. As a matter of fact, when we took office in the Reagan administration, we looked at what the agency had been doing in the past. Too often we found we had been concentrating too much on making the car safer—designing in safety, if you will.

We think we have got to spend some time on human behavior. One of our two top priorities in the coming years is going to be the alcohol problem and getting people to wear their seat belts. Those two things are very closely related.

I am very pleased to say that, even though we are in a cutback of funds, this year we see about 40 percent of the 402 grant program moneys going into alcohol. It is the second largest category into which that the States are programing Federal funds to solve highway safety problems. It represents a very real increase of \$6 million over what the States spent last year on alcohol. In fiscal year 1982, the States plan to spend approximately \$28 million on alcohol countermeasures.

So we see, and we are very pleased to see, that this is a continuing priority and an even higher priority in the future. We support that wholeheartedly, and we are encouraging the States to spend their highway safety funds for alcohol programs.

As far as what we are going to do in the future is concerned, we are establishing a special task force within the agency to concentrate our resources on this issue. We believe that is a systematic approach to the problem. That is one that helps the police officers identify the drunk driver, helps the States assess their own laws and come up with more effective local solutions, helps the court system understand what the problem is with drunk driving, and teaches both prosecutors and judges what needs to be done in the drunk driving case, working with local rehabilitation efforts to cure the serious drunk driving that we have in the country, coupling all of that with what we see as an enormous public sentiment to do something about this problem—we think if we have all of those elements combined in a program we are going to succeed in solving that drunk driving problem in this country. It is going to take time, and it is going to take determination, but we in the administration are determined to succeed.

Senator DOLE. Have you specifically addressed the legislation that has been introduced by Senator Pell and Congressman Barnes, I guess about 70 House Members, and I am not certain how many Senators? As I understand, you have addressed that in a letter to Congressman Howard.

Ms. STEED. Yes, sir, we have. We agree wholeheartedly with the objectives of this legislation, but we are troubled by some of the very specific provisions that would be enacted into law and applied nationwide.

As you mentioned earlier, the problem is really one of enforcement, and the enforcement team is at the State and local level. We believe it is better to encourage the States to come up with their own task forces to assess the problem in their own States and in their own local communities and develop local solutions to those laws.

We also think it is better, for example, not to impose a mandatory jail sentence or a mandatory community service project of a certain length in Federal legislation. That is better left to the local level.

For example, I have been over to Maryland and ridden with the State troopers to watch their very effective drunk driving program. They are finding that, if a judge can assess the particular person in front of him and perhaps decide to sentence him to spending a weekend at the trauma center over at the University of Maryland, watching cases that involve drunk drivers come in, this may be a better deterrent than a jail sentence or a mandatory 10-day, 10-week, or whatever, community service. It has really got to be flexible and in the hands of the judges.

Senator DOLE. You mentioned highway safety funds. Has there been any thought about withholding those funds until States do certain things that might be helpful?

Ms. STEED. I know that is a proposal in the Pell-Barnes bill, and that, too, troubles us a little bit. We think that we should not hold the whole State highway safety program hostage to what is a myriad of problems out there. We think we can work more effectively with them by encouraging the Governor's offices to establish alcohol task forces and through local task forces.

Senator DOLE. Nineteen States now have the per se law; is that correct?

Ms. STEED. Yes, sir.

Senator DOLE. It would seem to me—and again, it may be in process—that would be an area where the press and the Secretary of Transportation could have some influence at the next Governors' Conference. They have them frequently. Sometimes we get so concerned about taxes and budgets that we overlook people. It may have been addressed.

Certainly in those areas—and I would be interested to know just how you plan to structure the task force, who is going to be on it, what their goals may be, or what their assignment may be—I do not suggest that until you have had an opportunity we should start withholding funds, but there must be some way to encourage States to move. But even after States move, again it gets back to law enforcement.

As you pointed out, it takes a lot of time to process one of these cases. There is not much in it for the States or the local communities as far as revenues are concerned.

Then you have the problem with the judges, and you have, particularly in the smaller communities where everyone knows everyone, as Ms. Lamb pointed out, the situation where they stand before the judge and he says, "Well, you know, I could be there, and he could be up here." You have all those mixed feelings when a judgment is made. It would seem to me that the per se laws would at least make it much easier. It sort of takes the people in



law enforcement off the hook. They cannot plead illness or whatever. I have been through some of these as a county attorney in a small county.

Are you doing anything in that area regarding encouraging States to move?

Ms. STEED. As a matter of fact, we sent a model per se law to all the States, and we are working very closely with some of the citizens' groups to get this adopted and to get the State and local task forces set up out there to do just exactly that. We do hope to take advantage of forums like the National Governors' Association to encourage action at the local level.

If I might, I would like to have Mr. Livingston describe one of the State laws that we think is a model in this area.

Mr. LIVINGSTON. What has been described before is the delay from the time of arrest until something happens to the individual. It is upwards of at least 6 months.

Minnesota has an illegal per se law, and they also enacted an administrative procedure wherein, when the individual is arrested, brought into the station, and tested, as soon as they find that he has tested above 0.10, the police automatically at that point in time lift his driver's license for 90 days and send it to the Motor Vehicle Department. So you have the immediacy of the sanction right there, which is the type of thing we are pressing for.

Senator DOLE. Since several data banks routinely exchange driver's license information, have you considered combining the National Driver Register with the National Criminal Information Center files or the National Law Enforcement Telecommunications System?

Ms. STEED. As a matter of fact, we have. I have to say that I think one of the mistakes that we made early on in the agency was to consider abolishing the National Driver's Register. We took a look at it and found it is not being effectively run at the present time. It is not supported by all of the States, and it takes us far too long to get the information back out to the States.

We are going to continue that system, and we are going to improve it. In the meantime we have also been in touch with the Justice Department. As a matter of fact, I have a meeting next week with them to explore the use of systems like the NCIC for this purpose.

Senator DOLE. I have another question or two, but I think what I may do is submit those questions in writing, because they deal with areas that have some relevance.

I want to commend you and the members of your staff and to indicate that I would hope that this administration would put this on the front burner.

I know there are a lot of things that I think should be on the front burner, and I know changes are being made for the better each day, each week, each year, but we really need to focus on this at the highest levels, and the highest level I can think of is the White House level.

I am certain that if you focus on it that will be more reason for the President to focus on it, because he will have the information. It is one thing to say the President should do this or that, but without good information I would not recommend that he do anything.

Hopefully, you will move very quickly, and we can do what we should be doing as Members of Congress where we have the committee responsibility. I again thank you for coming and waiting and also for your cooperating with the public interest groups, law enforcement groups, and others, and for your work with the Governors' association.

Do we have a per se law in Kansas? You might know. I should.

Ms. STEED. I am afraid to say we do not. We will work on that.

Senator DOLE. We had better work on that when we are both in Kansas.

Ms. STEED. That is right.

Senator DOLE. Thank you very much.

Ms. STEED. Thank you, Mr. Chairman. We look forward to working with you.

[The prepared statement of Ms. Steed follows:]

## PREPARED STATEMENT OF DIANE K. STEED

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before your Subcommittee today to address the problem of the drunk driver in this country. Accompanying me today are Mr. Charles Livingston, our Associate Administrator for Traffic Safety Programs as well as Mr. John Moulden and Mr. George Brandt of his staff. Under the terms of the Highway Safety Act of 1966, the National Highway Traffic Safety Administration (NHTSA), helps the States improve their highway safety programs and reduce the number of traffic accidents, deaths and injuries. NHTSA carries out that responsibility through a State grant program in highway safety under Section 402 of the Act as well as through a highway safety research program under Section 403 of the Act. NHTSA is the principal Federal agency working with the States to attack the drunk driver problem in this Nation.

Extent of the Drinking Driver Problem

Drunk drivers cause one of the Nation's most serious health problems. Many have classified it as an epidemic. The fatality statistics are shocking. Over the past 10 years the number of persons killed on our highways in motor vehicle accidents involving alcohol has averaged 25,000 per year. In 1979, over 650,000 people were injured in accidents involving alcohol.

A recent study of alcohol and health problems by the Department alcohol-related motor vehicle accidents in 1975 exceeded \$5 billion. These deaths and injuries are a direct result of the large numbers of people who are driving drunk on the Nation's roads, particularly at night. According to a study conducted by the University of the Pacific for the Stockton, California Police Department, one out of every 10 drivers in Stockton on Friday and Saturday nights is legally drunk, i.e., their blood-alcohol concentration (BAC) level exceeds 0.10 percent.

Why are so many drunk drivers on the roads? One reason is that drunk drivers do not believe that they will be caught. Statistics show that their belief is well founded. NHTSA estimates that the chances of a drunk driver being stopped are between one in five hundred and one in two thousand. Nationwide, police officers average fewer than five drunk driver arrests per officer per year. In addition, drivers assume that if they are caught, they will not be convicted of an alcohol-related offense. Further, they believe that if they are convicted, the sentence will be light. Again, studies confirm this. The State of Maine's Bureau of Highway Safety issued a report in January 1981 on enforcement of its drunk driver laws. With respect to its law mandating jail for drivers convicted for the second time of driving drunk, it found that only one out of every 10 drivers arrested for and convicted of a second offense was actually jailed.

How is this possible? How can the drunk driver be treated so lightly in view of the fatality and injury statistics? I think it can be fairly stated that the public has only recently come to consider alcoholism a serious health condition. They still do not consider driving under the influence of alcohol a serious crime. A drunk driver was not considered responsible for his actions, even if his actions resulted in a death or serious injury. Therefore, he was not held accountable and the general wisdom has held that the driver should not be severely punished. Statistics on penalties meted out to drunk drivers involved in accidents resulting in the death of another attest to the strength of this attitude. A NHTSA study of drivers convicted of vehicular homicide in which alcohol was involved in Michigan, revealed many prosecution and court inadequacies. Although one driver in four could have been charged with either manslaughter or negligent homicide as a result of fatal crash involvement, only about one out of every 12 was actually charged. Furthermore, within the small group actually charged

with manslaughter or negligent homicide, only one in four was convicted on the original charge. Eighteen percent of the drivers charged were cleared of the manslaughter or negligent homicide.

Today, however, there are signs that a shift is occurring in the general public's attitude toward the drunk driver. Local citizens are organizing to force State and local authorities to expand their efforts to fight the drunk driver. In Maryland, an organization known as Mothers Against Drunk Driving (MADD) was instrumental in persuading Governor Hughes to organize a State task force on the issue. Grass-root organizations have also been responsible for the establishment of State task forces in New York, California, Pennsylvania and West Virginia.

With the emergence of the drunk driver as a more visible issue, I believe that this is a good time for the Subcommittee to hold a hearing on the issue. This hearing will focus national attention on the problem and possibly catalyze more grass-roots action. Recognition of the problem will not solve it. Once greater public concern is manifest, however, the State legislatures, public officials and agencies will have a mandate and, thus, a greater resolve to establish and maintain more effective programs to deter those who drink to excess and drive.

#### NHTSA Efforts

Since the passage of the Highway Safety Act, NHTSA has worked to survey the magnitude of the drunk driver problem, devise solutions, and test them in cooperation with State, county and city governments. Our most important effort has been a series of demonstration projects run in 35 communities across the country between 1970 and 1976. Known as Alcohol Safety Action Projects (ASAPs), these projects were designed to discover what could be done at the local community level to increase the effectiveness of drunk driver programs. Much of what I say today is based on our evaluation of the ASAPs.

#### Paralysis of the Judicial System

The drunk driver is a national problem, yet it can only be solved at the State and local level. State and local laws govern in this area and State and local courts are the only forum for these cases. Unfortunately, despite the thousands of highway deaths and injuries attributable to alcohol, State and local officials have not focused sufficiently on this problem.

The crux of the drunk driver problem in most States is not the lack of adequate laws on the drunk driver but the lack of consistent, convincing enforcement of those laws by State and local officials. The risk of punishment is low, and the deterrent effect of the laws is therefore weak.

As presently constituted, most State judicial systems cannot handle drunk driver cases in a swift, certain manner that indicates to the general motoring public that it is a serious offense. Although drunk driver cases form a large percentage of lower court dockets, most States have not coordinated the actions of the police, prosecutors, judges, licensing officials and health officials to improve the processing of these cases. Independent action at any one level of the system may only aggravate the problems at another level.

#### Arrest Level

At the enforcement level, the police are reluctant to arrest drunk drivers because the arrest procedures on that charge are more cumbersome and time-consuming than for any other traffic offense. It can take as long as 4 hours for an officer to process a driver arrested on a drunk driver charge. He may then spend additional time in subsequent court appearances. Moreover, police chiefs traditionally have not made the arrest of drunk drivers a high priority. They would rather have their men invest their time in patrolling for major criminal activity. When the police do initiate a crackdown and increase the number of arrests of drunk drivers, they often discover that the courts are unable

to handle the increased case load. To manage the increased case load, prosecutors plea-bargain with defendants to reduce the charge to a nonalcoholic one or dismiss their cases entirely. As a consequence, the conviction rate plummets, the morale of the police falls proportionately, and the crackdown comes to an end.

#### Trial Level

The courts are often reluctant to convict on the drunk driver charge. In many instances, judges consider the penalties established by the State legislature for this offense (mandatory jail sentences, license revocation) too harsh. Apart from the defendants' problems with alcohol, they appear to be normal law-abiding people, for whom harsh sanctions seem inappropriate. Legislative action to set harsher penalties may well result in fewer convictions and a less effective program. In our survey of local court actions in those States with mandatory jail penalties, we were repeatedly struck by the degree to which the courts did not impose jail terms in cases calling for them. We found that the judges commonly allowed plea bargaining the charge to a lesser, nonalcoholic offense to permit themselves the discretion to fashion their own remedies in lieu of the "mandatory" penalties.

The courts also find the drunk driver cases are very time-consuming. When the penalties are increased the demands for jury trials also increase. Jury trials take more time and further clog the system. Judges become very amenable to case processing short cuts, such as plea bargaining, to reduce their docket load.

Given large caseloads the reluctance of judges to convict drivers when severe penalties are mandated and the time-consuming nature of a standard trial for the offense, some States have sought to use non-traditional methods to deal with those arrested the first time as drunk drivers. The availability of a less severe penalty and an array of possible sanctions combinations such as fines and treatment or education encourages some judges

to find more drivers guilty of the offense charged. Twenty-eight States screen those arrested and allow the judges to refer those drivers to alcohol violator schools or rehabilitation programs. Arrests under the Statewide Virginia Alcohol Safety Action Program (VASAP) have increased considerably in the past years from 28,578 in 1977 to 38,472 in 1980. Minnesota has instituted an administrative procedure to process, very rapidly, drunk drivers based on the results of the standard blood test given those arrested. Any driver found to register a blood-alcohol concentration (BAC) level above 0.10 percent has his license automatically suspended for 90 days regardless of his case's subsequent disposition. A high BAC level is sufficient in itself to prove the offense, without the need for evidence as to the defendant's impaired behavior. A driver refusing to take the BAC test has his license administratively suspended for 180 days. The Minnesota system raises the probability of swift and certain sanctions.

Another organizational problem hampers judicial effectiveness. Drunk driver cases are heard, as are all traffic cases, at the lower court level. At that level, a high turnover rate for judges exists. Novice judges often do not have the experience to deal with the legal and procedural complexities of a trial for drunk drivers. To provide them with a quick education on the subject, NHTSA has devised a special training course. The course was pilot-tested in Tampa, Florida in December 1980 before 49 judges under the auspices of the Florida State judicial education office. The course gives judges information on the procedural and constitutional issues most frequently presented by traffic cases with emphasis on those issues in drunk driver cases. It also shows judges the diversity of penalties they can impose depending on the circumstances of the particular defendant. At present, 22 States have shown interest in including the package in their judicial education programs.

Due to plea bargaining and dismissals, many persons originally charged as drunk drivers are not convicted on the charge. Without a conviction, no record exists. If arrested again on the charge, the person would be considered a first-time offender. All States currently have laws requiring courts to report all convictions to a central driver record repository. Yet, even when the court convicts it is not uncommon to find that it neglects to send a record of the conviction to the central repository. Further, local courts often do not request driving records on defendants from the State motor vehicle department. Judges may be reluctant to order records because of the cumbersome, time-consuming access procedures required to obtain the records. As a result of these problems, local prosecutors and courts are unable to identify multiple drunk driver offenders and consequently fail to prosecute, convict and impose the harsher sanction such defendants deserve. Ideally, the States should strive to develop a Statewide driver record system to which courts will report drunk driver convictions and from which the courts can readily obtain conviction reports. To go one step further, cases which are plea bargained should be recorded as being alcohol-related. This is now being done in Virginia.

Based on our ASAP experience, we have found that in addition to having an accurate record of prior convictions, the courts must also know the nature of a driver's alcoholic problem. With this knowledge, the courts can fashion the penalty that is best calculated to deter the defendant from driving drunk in the future. While a social drinker can be humiliated by the typical penalties imposed on the drunk driver and may be deterred, an alcoholic cannot help himself. He requires more extensive attention which may include Alcoholics Anonymous, group therapy, individual counseling and probation. NHTSA has developed a course to train court caseworkers and probation officers to perform presentence investigations to screen defendants to deter-

mine the level of their alcohol problems. This course has been presented in New York, Virginia, Pennsylvania and Texas. Courts in Pennsylvania currently conduct the presentence screening through the use of a Statewide computer system known as the Court Reporting Network (CRN). The central data bank consolidates all existing traffic records on a defendant and also evaluates the extent of his alcohol problem. The CRN system standardizes presentence investigations and makes them less costly and timeconsuming. With such a system, prosecutors and judges are more likely to order presentence investigations.

#### Punishment Level

Most States have legislated fines and stiff license sanctions (suspensions or revocations) as penalties for the drunk driver. Some States prescribe a minimum jail term. This agency has been instrumental in getting the States to use education or treatment as an additional sanction for those convicted. As I explained beforehand, many judges are reluctant to impose the stiff punishment of license suspension or jail. Also, due to the time-consuming nature of the process, a penalty is not imposed until many months after arrest. By losing its immediacy, the penalty may become, in the mind of convicted drivers, society's unjust intrusion into their lives and a threat to their livelihood. This produces resentment rather than contrition.

Despite the difficulties in achieving convictions and imposing license sanctions, studies have found license suspension or revocation to be more effective in deterring future violations than either fines or jail. A study in California showed that drivers whose licenses were revoked either did not drive, or drove more cautiously and were less likely to drive during those times when the probability of accidents is higher. As I mentioned earlier, Minnesota, in an effort to shorten the time between arrest and punishment, has initiated an automatic license suspen-



sion system for drivers found with a BAC level above 0.10 percent. This is in the right direction for the first offense. If the change can also be processed administratively, the court or administrative agency presiding over the case may be more willing and able to speed the case along and impose the legal penalty.

#### The Solution: A Coordinated Program

Despite the appalling statistics and the apparent continued inability of the criminal justice system to treat drinking and driving as a serious offense, Federal State and local officials are not indifferent to this problem. As we all know, for decades, Federal, State, and local governments have attempted to combat the drunk driver with projects and programs. Based on our evaluation of our ASAP projects, I want to make the following general recommendations.

The goal of any State drunk driver program should be to increase the perceived risk of arrest, conviction and punishment among this group. To accomplish this, arrest and adjudication must be swift and sure. The bottlenecks in the enforcement and adjudication system must be eliminated. Therefore, a number of procedural actions must be taken simultaneously to prepare the police, judges, the prosecutors, probation officers, correction officials and health officers for the resultant surge in the number of arrests, trials, and convictions. State and local officials must not only increase arrests, they must also shorten booking time, shorten trial time, raise the conviction rate on the original charge, assure appropriate punishment for those convicted, keep a record of the conviction that is easily accessible to courts in case of future arrests on the same charge, and conduct a public information and education campaign. These procedural efforts will broadcast to the public the high priority that all elements of the legal community accord a drunk driver arrest and their common resolve to punish it swiftly.

To achieve these changes, we believe that a program intended

to deter the drunk driver must embrace the following elements. It must: 1) aim to deter the majority of drunk drivers who are never arrested; 2) generate citizen support to provide a political base for increased enforcement; 3) place responsibility for management in the hands of local officials; 4) coordinate all levels of enforcement adjudication and sanctioning so that the case processing system works quickly and self-sufficiency by using fines, court costs and treatment fees to defray the costs of the program; 6) use education programs to change general public attitudes on drinking and driving. NHTSA intends to work with a few States to develop a comprehensive, coordinated alcohol-safety program based on these six elements. We hope that these efforts will provide enough practical information so that other States will be encouraged to establish their own programs.

A good starting point for any State would be a State task force study of the drunk driver problem. In response to the rise of citizen activist groups such as MADD, RID (Remove Intoxicated Drivers), and PARK-IT and political pressure over the drunk driving problem, a number of States in recent years have established drunk driving task forces. Task forces have been established in New York, California, Maryland, Pennsylvania, and West Virginia.

The results of these task forces have been impressive. New York has improved its drunk driver laws and now sends fines back to the local jurisdictions to establish comprehensive, locally managed alcohol-safety programs. Maryland has enacted a preliminary breath-testing law, which allows police to test the blood-alcohol level of those arrested in order to establish probable cause to arrest. California has enacted an illegal per se BAC law and new minimum penalties. It is also presently holding legislative hearings on a proposed 5 cent per bottle liquor tax as a means of financing comprehensive alcohol-safety programs.

An effective local drunk driver program places greater demands on the police, the prosecutors, the courts, licensing

agencies and the health/education agencies. A successful campaign drains money from the municipal treasury. To meet the demands of a program, new sources of funding may be needed, such as the fines collected in the campaign. Many local governments, however, cannot retain fines collected from convicted drunk drivers. They must forward them to the State treasury. One solution to the funding problem is found in a recently adopted New York statute, which redistributes all drunk driver fines back to the counties for their drunk driver programs. Virginia, based on its experience with the Federal ASAP project in Fairfax County in the mid-1970s, also sends money collected from fees back to the counties. Under this approach, the drunk driver, the driver who creates the problem, pays for its solution.

A law making it unlawful per se to drive with a high blood-alcohol level is also a useful component of a coordinated drunk driver program. Nineteen States have enacted illegal per se laws that make a high BAC level in a defendant sufficient proof of intoxication. By reducing the elements of the crime to one item - blood alcohol concentration - this law reduces not-guilty pleas, requests for trials and thus the pressure to plea bargain or to dismiss drunk driver cases. As a result, less police time is spent in court and officers have more incentive to make more drunk driver arrests.

It also stands to reason that publicity of the new State campaigns, particularly the increased vigilance by the police as well as the rise in the number of actual arrests and convictions, will heighten the perceived risk. This proved effective in Great Britain (1964) and New Zealand (1978). It is presently being used effectively by the Maryland State police.

#### The Federal Role

Under the system of Federalism in this country, the States have retained the responsibility for policing roads to protect the health and safety of their citizens. NHTSA was organized,

in part, to help the States more efficiently carry out their responsibility and reduce the number of traffic deaths and injuries. It has traditionally aimed at providing the States with the latest highway safety research, demonstrating results, and serving as a central clearinghouse for the result to State projects or experiments in all areas of highway safety.

Today the States look to NHTSA keep them up-to-date on the latest developments in the drunk driver field. The States want NHTSA to keep them informed on the success or failure of innovative projects in other States. They want to learn from the experience of other States and avoid repeating the mistakes already made by other States. For similar reasons, the States have requested NHTSA assistance to develop the in-house expertise to evaluate the success or failure of their own projects and programs. In an effort to summarize drunk driver techniques that work, NHTSA has prepared a series of manuals and courses that are in great demand. We are distributing a manual for police on the detection of drunk drivers and a manual for court case-workers to improve case processing and disposition. We have developed the only reliable interview questionnaire for presentence investigation. We have conducted studies to improve a State's reporting systems for traffic conviction. We have developed a model traffic case management system as well as model laws to improve prosecution of the drunk driver. We have co-sponsored a national prosecutors conference on DWI and vehicular homicide. We are also presenting courses to judges and police on efficient processing of those arrested as drunk drivers, and to alcohol-safety program coordinators on how to organize and implement a comprehensive, locally-managed program.

#### Summary

The drunk driver problem is not insurmountable. We know what needs to be done. The States do not so much need new laws on the problem as a resolve to enforce them and to streamline

their criminal justice system procedures. NHTSA stands ready to work with the States and provide practical information so that they can set up coordinated and comprehensive drunk driver programs.

The necessary resolve to change current State practices, however, can only be summoned if local citizens show active and vocal interest. Congressional hearings such as this provide a national forum to elicit comments from these people and inspire action by others. The grass-root efforts of citizen groups in some States have been extremely successful and task forces have been set up. Now is the time for more citizens to convey to their State legislators, police, prosecutors and judges that drunk driving is a serious offense. The criminal justice system can work if the government institutions that maintain the system receive this clear signal.

This concludes my statement. I would be pleased to answer any questions you might have.

Senator DOLE. Senator Boschwitz has agreed to come; he should be on his way now.

This should be a very interesting panel of representatives of law enforcement: Lt. Col. Johnny Lough, chief of the Field Operations Bureau, Maryland State Police; Chief Joe Milner, Department of Public Safety, Austin, Tex.; Capt. Wayne Layfield of the Alcohol Enforcement Unit, District of Columbia Police; and Mr. Milton Skyring, clerk of the city court, Baton Rouge, La., formerly in charge of the video program of DUI offenders, Baton Rouge City Police Department.

I do not want to depart in the middle of someone's statement. I am waiting for Senator Boschwitz to arrive.

Colonel Lough, are you going to be first?

Colonel LOUGH. Yes, sir.

Senator DOLE. OK. Please proceed, and if you see a change up here, Senator Boschwitz will be presiding.

Again, I would say that we appreciate your taking time to come, and we appreciate the good work you are doing in Maryland and the other States. We also will try to follow up, and your suggestions will be most helpful, as you deal with it on a daily basis. While we deal with it in a general way, you deal with the real world. We are very appreciative of your coming and giving your time.

# TESTIMONY OF LT. COL. JOHNNY G. LOUGH, CHIEF, FIELD OPERATIONS BUREAU, MARYLAND STATE POLICE, PIKESVILLE, MD.

Colonel LOUGH. Mr. Chairman, I thank you for the invitation to testify in regard to the drinking driving problem. It is not a Maryland problem alone; it is a national problem.

In 1980, approximately 51,700 people died on our Nation's highways, and over 50 percent of those were alcohol related. In Maryland, 782 people died. An indepth study of those 1980 fatal accidents revealed that 62 percent of the drivers, 65 percent of the passengers, and 50 percent of the pedestrians killed had a positive blood-alcohol content.

On May 1 of this year, Gov. Harry Hughes and State Police Superintendent Col. Thomas Smith announced the most comprehensive effort ever undertaken in Maryland to identify and remove the drunk drivers from our highways.

In 1980, 6,212 persons were arrested for drunk driving in Maryland. In the first 9 months of 1981, 8,575 drivers have been arrested for drunk driving in Maryland by the Maryland troopers. This indicates a 38 percent increase over the 1980 totals.

If we continue at our present rate, the projection for drunk drivers by Maryland troopers alone will exceed 11,500 by the end of the year. The statewide total by all police officers in Maryland will exceed 20,000.

This program is also supported by a Federal grant of \$150,000. The majority of that is allocated to the payment of overtime for our troopers.

One of the most frustrating problems of our troopers is the disposition of their cases in court: 4.1 percent of the cases that the troopers took to court received probation before judgment, 17 percent were convicted of driving while intoxicated, and all others were reduced to a lesser charge or violation.

In 1980 Governor Hughes appointed a task force on driving while intoxicated, and as a result of their efforts six new laws were passed and became effective on July 1, 1981. Those six laws can be found in the handout that I have presented today.

I would just like to comment very briefly on one of those laws. That is, when an individual is stopped for drunken driving and refuses to take the breath test, the law is that he receives a 60-day minimum suspension of his driver's license or a mandatory 6-months suspension. The records of our State Motor Vehicle Administration indicate that 89 percent of those people have received a minimum suspension and only 6 percent a maximum suspension.

Also, in addition to those figures, 20 percent have restrictions placed on their driver's license which permit them to drive while their licenses are suspended.

On August 21 of this year, the drunk driving problem took on a new perspective for me. On that day my 8-year-old grandson, Brian Robertson, was struck down and killed by a drunk driver. He was a second offender and was also driving on a revoked license.

When I enter my daughter's and son-in-law's house and see the pain and hurt in their hearts and the change in their lives, and when I see little Laura Lamb who is paralyzed from the shoulders

down and what a drunk driver did to that little girl, I say that it is about time for all those people who are in responsible positions to get off their behinds and do something about the problem. If they do not have the fortitude to do something about this problem, then they should get out of their jobs and be replaced by somebody who has the guts to do the job.

Enforcement alone cannot solve the problem of the drunken driver. All people involved with these problems must do their job and do it well. I am talking about the law enforcement officers, the courts, the probation departments, the motor vehicle administrators, and all others dealing with the drunk driver.

I thank the Federal Government for the support that they have given the Maryland State Police, and I would ask their continued support. I would suggest to this subcommittee that they recommend to the President of the United States that he appoint a blue ribbon task force, not to study the problem of the drunk driver, but deal with it on a national basis.

I thank you for the invitation once again.

Senator DOLE. Colonel, I thank you very much for that excellent testimony. Certainly, a personal tragedy reinforces what you said.

I think we do have a responsibility. You are right: We do not need a task force to study the problem; we need a task force to make strong recommendations and then put enough heat on the Congress or on the States, depending on what the task force might recommend, to do something. We are going to need the help and support of men like we have on this panel.

I am going to now ask Senator Boschwitz if he would be willing to preside for the next 30 or 40 minutes.

Senator BOSCHWITZ. Certainly.

Senator DOLE. He may have some questions of the panel later.

Senator BOSCHWITZ [acting chairman]. Colonel, what happened to the driver? What kind of a suspension did that driver receive who struck down your grandchild?

Colonel LOUGH. The case has been adjudicated, sir. He was charged with three different charges. He was charged with homicide by intoxication and was found not guilty of that charge. He was charged with driving while intoxicated and was found guilty. He was charged with operating on a suspended license and was found guilty on that charge. He was sentenced to 1 year in jail and fined \$250 for the suspended license, which will mean actually that he will receive the fine of \$250 and will be on the road again in 3 months because of good behavior in all probability.

Senator BOSCHWITZ. The jail sentence was suspended?

Colonel LOUGH. It was not suspended.

Senator BOSCHWITZ. We are certainly of a like mind.

Have each one of you on the panel already testified?

Chief MILNER. No, sir.

Senator BOSCHWITZ. In that case, would you please introduce yourself and make your statement?

We are going to continue the hearing until its conclusion, so please proceed.

# TESTIMONY OF CAPT. WAYNE LAYFIELD, ALCOHOL ENFORCEMENT UNIT, DISTRICT OF COLUMBIA POLICE DEPARTMENT, WASHINGTON, D.C.

Captain LAYFIELD. For the past 2 years the District of Columbia has recorded the lowest traffic death rate among the 50 States. The District's rate of 1.6 persons killed for every 100 million vehicle miles traveled is well below the national average of 3.4.

This success has been achieved primarily through limited 402 funding. The alcohol countermeasures program led by the enforcement efforts of the Metropolitan Police Department has spearheaded this attack upon the No. 1 killer on the highway today, the drunk driver.

Between 1970 and 1974, prior to establishment of an alcohol countermeasures program, traffic fatalities were at an all-time high, with alcohol being a major factor in over 57 percent of all fatalities. Fewer than 900 drunk driving arrests were made per year, and the average blood alcohol level was an astonishing .31 percent at time of arrest.

With the assistance of 402 funding, the Metropolitan Police Department was able to update its archaic programs by replacing time-consuming processes such as urine testing, with modern chemical test instruments; by expanding the DUI enforcement unit through overtime programs; and by developing new DUI arrest procedures through utilization of a mobile alcohol van for on-the-scene testing, thereby significantly reducing arrest downtime from 6.5 hours in 1974 to less than 30 minutes in 1980.

Senator BOSCHWITZ. What does that mean—the amount of time an officer's downtime?

Captain LAYFIELD. That is correct, sir. In 1974, officers were down as much as 6½ hours. With the advent of the new equipment and with the advent of the mobile van, we have now reduced that time to less than 30 minutes.

These funds also provided expansion of training programs and over 100 officers were trained on a yearly basis in the operation of the breathalyzer. In 1979 an automated training system for refresher training of police officers was funded. This self-train computer is equipped with an inherent feature that provides for around-the-clock availability allowing the officer to train at his most convenient and less busy time during any tour of duty.

Funds also provided for the purchase of roadside breath testers, a screening device used at the scene to determine borderline drunks rather than utilizing less scientific methods such as psycho-motor testing.

Through the alcohol countermeasures coordinator, a diversion program was established under the auspices of the corporation counsel's office. This program permits those arrested with a .20 or less blood alcohol level, who have no prior convictions or are not involved in a serious accident, to be diverted from the criminal justice system, after pleading guilty, and then receive help from an established and approved alcohol counseling center.

The cost burden of this program is totally the responsibility of the respondent, and the recidivism rate is less than 4 percent, compared to 16 to 18 percent for those who do not enter the program.

Since the implementation of these programs, there are nearly 4,000 drunk drivers arrested on a yearly basis compared with fewer than 900 in the early 1970's.

The average blood alcohol level has dropped from a .31 percent at the time of arrest to .18. Traffic fatalities have decreased from 121 in 1970 to 46, an all-time low, in 1980, with alcohol being a major factor decreasing from 57 percent to 33 percent.

These programs are the principal reasons for making the District of Columbia the safest city in the United States to drive in. One of the things we have to realize is that law enforcement administrators have one common denominator, and that is the reduction of crime in their community, and justifiably so.

However, as opposed to various other criminal justice programs, highway safety does not take a front seat in many typical large urban police departments. Rather, highway safety systems have to be inborn; they have to be instilled through training, through strong leadership and salesmanship; through a tie-in between highway functions, such as the reduction of drunk driving, and an urban police function, such as the prevention of street crime, and the tie-in is the understanding of the relationship between alcohol and street crime.

Federal highway safety programs had helped fill this gap left by many police administrators in their commitment toward crime control and the deemphasis of traffic enforcement brought about by this worthy objective. If this balance is to remain, then it is necessary that Federal funding on a cost-sharing basis continue with input from both local and Federal sources in order to make our highways the safest in the world.

In keeping with President Reagan's philosophy of cost-efficient programing, our alcohol countermeasures program and police traffic services programs have been merged. Alcohol countermeasures and police traffic services—that is, speed enforcement, accident investigation, et cetera—are the two predominant functions of any urban police department's traffic division, and aggressive enforcement of these two prominent causes of fatalities and serious traffic accidents involving alcohol and speed will reduce the carnage on our highways and our cities' streets.

Thank you.

Senator BOSCHWITZ. Thank you, Captain Layfield.

Our next panelist is Chief Joe Milner of the Department of Public Safety, Austin, Tex.

Please proceed.

#### STATEMENT OF CHIEF JOE MILNER, DEPARTMENT OF PUBLIC SAFETY, AUSTIN, TEX.

Chief MILNER. Thank you, very much, Senator. I would like to express my appreciation for the interest of this subcommittee in this important subject.

I have submitted a detailed statement of my testimony, and I would not be redundant by going through all the figures and the statistics that the subcommittee has already taken testimony on. I would simply state that the DWI problem is no different in Texas

than across the Nation. It is one of our leading causes of traffic fatalities.

From the standpoint of the enforcement officer, at the time he confronts the drunken driver, it is not important to him whether it happens to be a problem drinker, a social drinker, or what have you; it is simply an immediate hazard that his job is to remove from the highway.

You heard it mentioned earlier that it takes a great deal of time for an officer to process a drinking driver. Obviously, while he is processing one he is not available for enforcement of that law or other laws.

I echo what has already been said—that perhaps stiffer penalties, per se, are not the answer, but the certainty of apprehension and the certainty of a swift adjudication with appropriate penalties would be the greatest deterrent for reducing this, what I consider, a nationwide problem.

That is all I have to say.

Senator BOSCHWITZ. What is your judgment on swift adjudication, and what should the penalties be, in your judgment?

Chief MILNER. In my opinion, the greatest deterrent would be a suspension of the driver's license. If there was a mandatory suspension of the driver's license of each person convicted of driving while intoxicated, in my opinion that would create the best deterrent for removing drinking drivers.

Senator BOSCHWITZ. For what period of time?

Chief MILNER. The period of time would be arbitrary, but 60 days to 90 days minimum would probably be appropriate in my opinion.

Senator BOSCHWITZ. Do you also feel that part of the statute should not be plea bargaining—they should not be able to plead or that charges should not be dropped for reckless driving?

Chief MILNER. Senator, the most frustrating thing to a law enforcement person is the lack of prosecutions. Plea bargaining is something that occurs because of crowded dockets. The criminal dockets of the Nation are so crowded; it is not unique to driving while intoxicated. Crowded conditions force plea bargaining. It is not a good way to handle it. I do not know of any other way, other than increasing the staff of the prosecutor's office.

Senator BOSCHWITZ. Thank you.

The next member of the panel is Mr. Milton R. Skyring, clerk of the city court of Baton Rouge, La., and formerly in charge of the video program of DUI Offenders, Baton Rouge City Police Department.

Mr. Skyring?

#### STATEMENT OF MILTON R. SKYRING, CITY COURT CLERK AND JUDICIAL ADMINISTRATOR AND PROJECT DIRECTOR, HIGHWAY SAFETY PROGRAM, BATON ROUGE, LA.

Mr. SKYRING. Senator, our local DWI countermeasures program was established in 1979 with 402 seed money as a direct result of Diane Steed's efforts in the local community.

With the understanding that we would receive approximately \$1 million for the 3-year period, we implemented an extremely comprehensive program. Our program included public information and



education, enforcement, the judiciary, probation and rehabilitation, traffic records, legislation, and program management and evaluation.

Basically, our program consists of assigning eight off-duty police officers on Friday and Saturday nights from 8 p.m. to 6 a.m. the following morning. This task force has two vans. Each van is equipped with an intoxilyzer and videotape recording equipment and sound recording equipment. Each van costs approximately \$37,000 to purchase and equip.

When the project originated, it took approximately 6 months for an individual who was arrested to go to court. Within a matter of 90 to 120 days, we had reduced that period to 2 weeks.

We achieved this in three ways: First, a fourth division of the city court was created to handle only DWI-related cases. The grant funds the judge's salary, two clerical employees for the judge, two clerical employees in the clerk's office, and one courtroom bailiff.

Second, the grant funded one additional city prosecutor and a clerical employee that handled only DWI cases in the DWI section of the court.

Third, the grant allowed us to hire three additional probation officers to process all referrals, thereby enabling us to reduce the presentence investigation time to 60 days. Now, from date of arrest to date of sentencing is approximately 70 days in our court.

The videotape made at the time of arrest serves a multitude of purposes. One of the very first experimental tapes we had was of an individual who ran a .16. He was arrested on Saturday night, was unable to bond out, and was brought into court for Monday morning jail callout.

In my office we were reviewing the tapes, and someone recognized the defendant as the same one as being in the courtroom. He was brought in, and we let him review the tape with us.

Within approximately 2 minutes, he was begging us not to force him to continue to watch the film. He was extremely embarrassed and did not realize how he had acted under the influence of alcohol. It is our understanding that he subsequently sought medical treatment for his problem.

Because of this person's reaction to the film, we made a decision to open the films up to defendants, defense attorneys, prosecuting attorneys, and the probation officers.

Ironically, our preliminary figures for 1980 and 1981 show an amazing correlation between DWI arrests recorded on videotape and those individuals not recorded on tape. Specifically, of all cases that went to trial and were found guilty by the judge, there was only a 1-percent difference between those on tape and those not on tape.

Likewise, with those who went to trial and were found not guilty by the judge, again, there was only a 1-percent difference. The largest variation was in the area of "changed plea to guilty prior to trial." In this instance, 6 percent of all individuals who are taped plead guilty prior to trial.

Based on our findings—and, again, these are only after 1 year—we would not recommend that every agency desirous of improving their DWI conviction rate run out and purchase expensive videotape recording equipment.

We do not profess to have the answers to the multitude of problems presented by the individuals who are driving while under the influence. However, of the major cities in Louisiana where historically the number of serious accidents have been steadily increasing each year, for the first time in Baton Rouge this number has been held at a constant figure for 2 years now—the same time as the inception of our program. We would like to think that this is due to our program. From October 1980 to September 1981, our conviction rate has been 98 percent.

Finally, in closing, the greatest difference between our program and the previous alcohol safety action projects is that ours includes a legislatively mandated judgeship.

When Federal and State funding runs out in September of next year, our program will continue and all the ancillary positions with it. The only thing we will suffer is the lack of the public information and education portion.

Thank you.

Senator BOSCHWITZ. Let me say that you seem to have spread this money quite a way. I see you had 11 additional people, as far as I can judge, plus the vans, plus the eight off-duty police officers. You have got a lot of mileage out of the money, I must say.

Pardon my ignorance; I am not a member of this committee, but I am here because of my interest in the subject. I testified earlier this morning, and Senator Dole asked me to conduct the hearing.

That videotape seems to me to be a very effective mechanism, but you say that you do not recommend the videotape for each individual department.

Mr. SKYRING. Again, our figures are only based on 1 year's activity; they are preliminary at best. They are very successful at the probation end and the treatment portion of our program. It assists the judiciary; it takes out the subjectiveness of the police testimony. The officer testifies that, "He swayed." The gentleman is sitting in front of the judge in his three-piece suit and is quite reputable in the community, yet on videotape this individual was swaying and staggering.

Senator BOSCHWITZ. Is that admissible as evidence?

Mr. SKYRING. Yes, sir. We have been taken all the way up to the Supreme Court.

Senator BOSCHWITZ. So it is admissible. That would be something that would be very powerful. Is it something that has been widely used?

Mr. SKYRING. As far as we understand, no other local court is using it anywhere in the Nation. It is being used for arraignment purposes, but it is not being used for trials. I may be incorrect.

Colonel LOUGH. It is being used in Anne Arundel County.

Captain LAYFIELD. In the District of Columbia, we have used it for the past 3 years. We did quit the use of it because of one major factor, and that was the cost involved. You cannot continue to rerun the same tapes, because they become evidentiary materials, and they have to be preserved. When you make nearly 4,000 arrests a year, that calls for a lot of funds to pay for a lot of tapes that have to be preserved until such time as the case has been adjudicated.

Senator BOSCHWITZ. I see. Are you able to get the cases through as speedily as they are down in Baton Rouge?

Captain LAYFIELD. Thanks to our diversion program, we have a very high percentage going into this program now, which means that it really speeds up the total picture of the case.

Senator BOSCHWITZ. Colonel, do you use that kind of thing in Maryland?

Colonel LOUGH. No; we have a problem with that. Our cases run anywhere from 60 days to possibly 3 months before they are adjudicated.

Senator BOSCHWITZ. You have to hold on to the tapes? How long do you hold on to them?

Mr. SKYRING. Thirty days, unless the individual takes an appeal. After 30 days, his right to appeal has gone.

Senator BOSCHWITZ. So you reuse the tapes?

Mr. SKYRING. Yes, sir. We can reuse the tapes as many as 30 times.

Colonel LOUGH. But in Maryland we are not using the tapes in the State police. Anne Arundel County is using them, but I think they keep them for well over 1 year.

Senator BOSCHWITZ. Staff tells me he does not think such a tape would be admissible in Maryland.

Mr. VELDE. That was the problem with the Sting cases. We could admit the audio portion but not the video under the rules of evidence in Maryland as far as the Sting was concerned; I do not know about the DWI cases.

Colonel LOUGH. I believe they are admitting the videotape portion on DWI in Anne Arundel County. They are admissible.

Senator BOSCHWITZ. It is always a pleasure to listen to the experiences of Baton Rouge. Do you do that down in Texas, too?

Chief MILNER. In various counties we have used that, but because, as mentioned, we file about 80,000 DWI cases a year, we just could not afford the cost of that on a statewide basis. It has not proven, at least on a very limited basis, that much better conviction rate.

Senator BOSCHWITZ. But you say that when the defendant sees himself staggering around—

Mr. SKYRING. As far as conviction goes, no, sir, it has not improved our conviction rate at all. We handle approximately 3,000 DWI's a year, and 98 percent of those plead guilty or are found guilty. Of that number, fewer than 50 percent are on videotape. Those figures I have used are only with videotape.

Senator BOSCHWITZ. Let me turn to the staff for a minute, inasmuch as I am not a member of this committee, and ask if they have any questions or if there is anything further we should elicit from these witnesses.

Mr. VELDE. Thank you, Senator.

Have you ever experimented with officers using mobile portable television equipment actually on the scene of the arrest?

Mr. SKYRING. That is what we have.

Mr. VELDE. Oh, that is what you do. I thought it was back at the station.

Mr. SKYRING. No, sir. We have two vans that are out on the road.

Mr. VELDE. It is commonly used, I understand, in the station in other jurisdictions.

Mr. SKYRING. I think that points up the lack of communication between jurisdictions.

Mr. VELDE. Have any of your officers had experience with the National Driver's Registry?

Colonel LOUGH. We participate in it; yes, sir.

Mr. VELDE. Did you use the Inlet system?

Colonel LOUGH. Yes; we did.

Mr. VELDE. Inlet is still in operation, as I understand it.

What about the overall problem of exchanging driver record information with other jurisdictions? Do you have a problem in Texas of persons with a revoked license status in Texas going to other States, getting new driver's licenses, or assuming another name in Texas and getting back on the roads with a license under false pretenses?

Chief MILNER. We do have problems, but I do not know the extent of them. We notice it primarily in interstate long-haul truck drivers who are commonly licensed in many States. A suspension to some of them in one State is not much of a deterrent.

Mr. VELDE. Thank you, Mr. Chairman.

Senator BOSCHWITZ. Let me ask a question that the staff has posed. Do public attitudes toward drunk driving cause the public to resent your enforcement efforts? I wonder, Colonel, if you would speak briefly on that, and we will ask each one of you to speak. What are the public attitudes toward your enforcement of statutes with respect to drunk driving?

Colonel LOUGH. I think the public attitude is probably one of the most difficult problems we have in the enforcement of the drunk driving laws. As other testimony indicated here today, many of the people who are arrested for drunk driving are very reputable people in the community. As they said, "There, but for the grace of God, go I." They are social drinkers. The old saying, "I just had one for the road," or one too many is probably not true. The statistics are showing that not to be true now. Many of the people who are being arrested now are shown to have, as a result of the breath tests and the blood tests, to have a very high concentration of blood alcohol. The attitude of the general public is a very serious problem.

Senator BOSCHWITZ. Are you saying that the public in general objects to your enforcement of these procedures, or are you saying that those who are arrested object? Of course those who are arrested object.

Colonel LOUGH. They really do not object to people being arrested so much; I think it is more just a general apathy on their part. It has not really struck home to the people.

For example, my own daughter who comes from a police family, did not realize that the drunk driving was really a serious problem until it struck in her home and her son Brian was killed on August 21; she did not realize it was really a problem; the apathy was there in the police family.

Senator BOSCHWITZ. I wonder if any of the others on the panel want to discuss the public attitude toward drunk driving and

whether there is resentment with respect to the enforcement that you do.

Captain LAYFIELD. Senator, I think that "apathy" is a very good word to describe the problem that exists. I think that generally the community wants to see the law enforced, but when they are sitting in the jury box and they are hearing a case, they put themselves in the shoes of the defendant and say, "Well, I have done the same thing. I was just fortunate in not getting caught." I think that apathy does exist very, very much.

Yet the public does say, "Well, we want it enforced, but don't enforce it against me; enforce it against everyone else out there who is drinking." I think this is the general feeling. Alcohol abuse itself is a problem in the District of Columbia, as you may be aware. There is more alcohol consumed in the District per capita than anywhere in the United States. Without question, alcohol is a problem, especially in the District, and especially when you have a jury. The chances are that some member of that jury may be an alcoholic as well.

Colonel LOUGH. One of the very first things that you hear asked by a wife when she finds out her husband has been arrested for drunk driving is, "Will it be in the local newspaper?" She asked that before she finds out how drunk her husband was. They are just more concerned about the embarrassment that it is going to cause.

Chief MILNER. The public supports a vigorous enforcement program. I think the public apathy, as has been mentioned here, is reflected more in jury decisions or judges' decisions than actual enforcement. They are all for removing the drunk driver from the road. I think they recognize the problem there. It is only later that, when you talk about the seriousness of the penalty, it is not related to the problem.

Senator BOSCHWITZ. Do you have anything to add to that?

Mr. SKYRING. No. We have the complete support of our local community. No one is against us in our enforcement.

Senator BOSCHWITZ. We thank you, gentlemen, for coming here today and testifying and participating in this important issue.

[The prepared statements of Colonel Lough, Chief Milner, and Mr. Skyring follow:]

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# PREPARED STATEMENT OF COL. JOHNNY G. LOUGH

Mr. Chairman, other distinguished members of the Sub-committee, I thank you for the invitation to testify on the problems dealing with drunk drivers.

## INTRODUCTION

A highway safety problem that has been addressed numerous times and in diverse ways by various groups within our society is the persistent problem of the drinking driver and how the drinking driver significantly correlates with the fatality rate on our highways.

The problem is not a State of Maryland problem alone, it is a national problem. Preliminary estimates by NHTSA reveal that 51,700 lives were lost for the year 1980 due to traffic crashes. An average of 142 persons a day died from this senseless slaughter on our highways. It is estimated that fifty percent of the deaths in traffic crashes in the United States every year are alcohol-related. Maryland experienced 782 highway fatalities in 1980. Of these fatal crashes, 60.2% of the victims tested had a positive BAC. Cost estimates by the National Safety Council for 1979 revealed that motor vehicle accidents cost the nation in excess of \$35 billion. The Insurance Institute on Highway Safety reports that since 1975 the total monetary loss in highway crashes is second only to cancer in total dollars spent.

## HISTORICAL REVIEW

Ever since the automobile began to make its appearance on our streets and highways, we have been confronted by the hazard of the drinking driver. It was not until 1968, however, that significant efforts on DWI enforcement began with the Highway Safety Act of 1966, and the 1968 Report to Congress on Alcohol and Highway Safety that formed the basis for Alcohol Safety Action Projects (ASAPS). In 1979, NHTSA announced a renewed emphasis on curbing the drunk driver. In the spring of 1980, Governor Harry Hughes of Maryland organized a statewide task force in an effort to address the drinking driver dilemma.

A review of Maryland's fatal accidents for 1980 revealed that a low percentage of alcohol related crashes were being reported. Further study found that the medical examiner's results showed a greater alcohol involvement than the actual accident report. This

prompted an indepth study of 1980 fatal accidents which revealed that 62% of the drivers, 65% of the passengers, and 50% of the pedestrians killed had a positive BAC. Seven out of ten of the driving victims had BAC levels at or above the legal limit of .10%.

On May 1, 1981, Governor Harry Hughes and State Police Superintendent Thomas S. Smith announced the most comprehensive effort ever undertaken in Maryland to identify and remove drunk drivers from the highway.

Our emphasis is being supported in part by a \$150,000 federal highway safety grant that pays a Trooper overtime to patrol roads which have been identified as having a high number of alcohol related accidents. Troopers also received additional training in ways to spot drunk drivers and are using a special detection guide that was developed by NHTSA.

#### POLICE ENFORCEMENT OF DWI

In 1980, 6,212 DWI arrests were made by the Maryland State Police. During the first nine months of 1981, there have been 8,575 DWI arrests by our Troopers. This represents a 38% increase over the 1980 total. A projection for 1981 is that our Troopers will apprehend nearly 11,500 drinking drivers. Furthermore, it is projected that 1981 statewide figures will exceed 20,700 drinking driver arrests.

A review of at fault drivers killed and tested in fatal crashes for the first six months of 1981 revealed that 76.2% had positive BAC. Additionally, 44% of the persons killed that were tested for BAC during the same period had BAC at or above the legal limit of .10%.

As of May 1, 1981, Maryland was +12.3% in fatalities over the same period in 1980. Our DWI program began on May 1, 1981 and as of October 1, 1981, the fatalities were at +3.8% over 1980 figures.

Of those fatalities tested for BAC prior to program implementation, 60.2% of those victims tested had positive BAC. This percent was consistent with the 1980 figures.

Of those fatalities tested for BAC during the second four month period, 56.6% were found to have positive BAC. This represents a 3.6% reduction in overall alcohol related deaths when compared to 1980 figures.

Total fatalities tested for BAC during the first eight months of 1981 revealed a 58.4% BAC. This is a 1.8% reduction in alcohol related fatalities when compared to the 60.2% for 1980.

The quantity of arrests has increased but the quality has not diminished. We are, however, arresting a greater number of intoxicated drivers with levels of .05 or more.

In 1968, a major study by the U.S. Department of Transportation revealed that those with drinking problems, as well as social drinkers, contributed disproportionately to highway deaths. Individuals with chronic drinking problems were found to be responsible for about two-thirds of the alcohol related deaths. Most recent studies by NHTSA in 1979 revealed that statistics compiled on drunk drivers each year contradict the popular notion of the poor guy who only had one too many - 45 to 75% of drivers at fault in fatal crashes were severely impaired by alcohol. The majority of drunk drivers at fault in the more than 20,000 alcohol-related fatal crashes each year are at or above the .10% blood alcohol level of intoxication.

#### LEGISLATION VS. ENFORCEMENT

The authority under which police apprehend and arrest drivers for DWI is provided by state and municipal statutes that make it unlawful to drive while intoxicated. While these statutes present a legal framework within which the police officer may act, they also are designed to protect the constitutional guarantees of individual citizens.

Elements of the offense of DWI are subject to considerable variations according to statutes of different states. Legal requirements dictate the nature and sequence of particular steps that the police must follow. Thus, the officers must establish probable cause prior to arrest, including detection of erratic driving behavior and observation or testing the suspect.

Disposition of DWI cases administered by the Maryland State Police in 1980 revealed that 4.1% received probation before judgment. Only 17% of all cases disposed of in 1980 received a DWI conviction. The other cases were either lesser included offenses or disposed of by other means (reduced to another violation). Often, some law enforcement officers perceived their efforts to apprehend and convict

the DWI offender as a futile attempt at best. A manifestation of their cynicism permeates the criminal justice system and creates an unwillingness on the part of law enforcement to divert manpower and resources toward this traffic offense. According to most studies, public attitudes may be the greatest single obstacle to a successful attack on the problem of drinking and driving.

A package of six new laws which was developed by the Governor's Task Force on the Drinking Driver was signed into law by Governor Harry Hughes and became effective July 1, 1981. One law allows police to conduct a roadside preliminary breath test of persons suspected of driving drunk. This pre-arrest screening device can be used to help to determine if the driver should be arrested.

Another law mandates a minimum license suspension of two months and provides for up to a six month maximum suspension for drivers who refuse to take an evidentiary chemical test for alcohol once they have been charged by a police officer with driving under the influence. Another new law authorizes the arresting police officer to determine the type of test to be administered when a motorist initially selected one but later decides to change to another test which is unavailable within specified time limits.

Professional drivers will no longer be able to get an extension of points in licensing actions where the subsequent points result from an alcohol conviction. The previous law allowed certain professional drivers to accumulate 16 points before license suspension, even if they had an alcohol conviction.

Under another law, the Motor Vehicle Administration will record probation before judgment for alcohol offenses on the person's driving record.

The sixth new law reduces the permissible blood alcohol level for drivers using Maryland's highways.

Driving under the influence has been lowered from .10% BAC to .08% BAC and driving while intoxicated has been lowered from .15% BAC to .13% BAC.

#### RECOMMENDATIONS ON HOW LAW ENFORCEMENT PROCESSING OF DWI MAY BE IMPROVED

1. Creation of a National Blue Ribbon Task Force by the Presi-

dent of the United States, not to study the problem of the drunk driver, but to address the problems encountered by law enforcement officers and others in removing the drunk driver from the highway.

2. Creation of a National Breath Test Law which would set minimum requirements for training and instrument performance standards.

3. Federal assistance in developing training programs for the detection and apprehension of the drinking driver. This would include audio visual aids, lesson plans and student guides.

4. Federal assistance in the development of an accurate in-car breath testing instrument.

5. Streamline state laws for the arrest and processing of DWI offenders.

6. Federal statute which protects medical persons from civil liability who withdraw blood from persons arrested for DWI.

6. Creation of a National Standard which would allow the results of chemical tests to be admitted into evidence without the person who conducted the test to be present unless summonsed by the defendant.

#### SUMMARY

On August 21, 1981, the problem of the drunk driver took on an entirely different perspective to me. My eight year old grandson, Brian Robertson, was killed by a second offender drunk driver. He was also driving on revoked license. When I visit my daughter and son-in-law's home and see the loss, pain and change in their lives, and what I feel in my own heart and that of my wife, I realize its time that those people in responsible positions do something about this problem or be replaced by people who will.

Enforcement alone cannot provide a complete solution to the problem of the drinking driver.

Drinking and driving constitutes a national highway safety problem that the states have attempted to deal effectively with for many years. Continued support from the Federal government in the areas previously addressed through the Highway Safety Act and further support by the Federal government of our recommendations directed at unifying state efforts to address this national menace is necessary to deal with the problem.



**CONTINUED**

**1 OF 2**

## PREPARED STATEMENT OF JOE E. MILNER

Mr. Chairman and Committee Members, on behalf of the Texas Department of Public Safety I wish to express our appreciation for the opportunity to testify on this important matter. The following comments regarding the problem of driving while intoxicated are submitted for your consideration.

The drinking driver's effect on the safety of citizens traveling the streets and highways is comparable to a malignant condition. Alcohol's influence on drivers has resulted in a devastating toll of deaths, mangled bodies, and an astronomical economic loss to society. Driving while intoxicated in Texas during 1980 was the primary contributing factor in 875 fatal accidents; 1,006 traffic deaths; 15,464 injury accidents; 24,919 personal injuries; and 17,501 property damage accidents for a total of 33,840 accidents. Using the National Safety Council's formula, the economic loss was estimated to be \$685 million statewide, the drinking driver attributed to 23% of the fatal traffic accidents. The problem reflected in these statistics will probably become much worse in our state due to the projected population increases, economic growth and business vitality of the sunbelt region. Statistical data available in Texas on alcohol related motor vehicle accidents does not accurately measure the magnitude of this problem. We do not have statutory authority for chemical testing of deceased or disabled accident victims but based on findings from states that have that authority, drinking drivers are involved in 50% of all fatal accidents.

Enforcement of driving while intoxicated statutes has encountered limitations that can be attributed to inadequate resources. With increased public demand for police services in other areas, the resources committed to traffic law enforcement by some administrators are not sufficient to control or reduce the problem. There is just not an adequate deterrent to drunk driving at the present time. Texas Department of Public Safety troopers filed 40,273 driving while intoxicated cases in 1980. The state total of arrests in 1980 is not available; however, breath alcohol tests were conducted on 81,220 drivers. Although this department's troopers continue to vigorously enforce the driving while intoxicated statutes and do succeed in

momentarily removing the hazardous driver from the streets and highways, a significant number of persons arrested are never brought to trial. The most apparent reasons for lack of prosecution are crowded dockets in the existing courts and limited staffing of prosecuting attorneys. This problem is not unique to the prosecution of driving while intoxicated cases as it affects all criminal cases in the criminal justice system. This indicates that increased funding is needed to expand the judicial system to meet the demand and ensure a speedy trial for persons charged with offenses. Cases and dispositions were as follows:

Year	Total DWI Arrests	Guilty	Charge Changed	Probated	Acquitted	Not Located	Local Dismissal	No Prosecution	Other
1978	40621	6073	1919	18764	112	77	2308	6372	612
1979	40801	7353	3433	23035	205	182	3492	7291	935
1980	40273	6689	2474	12101	131	110	2179	6256	6963*

\* Includes 6326 arrests which resulted in deferred adjudication.

The Texas Legislature has amended the Misdemeanor Adult Probation Act relating to driving while intoxicated effective January 1, 1982 which will allow the courts to require defendants as a condition of probation to attend an educational program. The objectives of the program are to rehabilitate persons who have been convicted of driving while intoxicated. This educational program must be jointly approved by the Texas Commission on Alcoholism, Texas Department of Public Safety, Traffic Safety Section of the State Department of Highways and Public Transportation and the Texas Adult Probation Commission. Drivers licenses of persons who complete the program shall not be automatically suspended. Failure to successfully complete the program as a condition of probation requires automatic suspension of a person's drivers license for a period of twelve months. This department has supported the requirement of an educational program upon conviction to qualify for drivers license reinstatement; however, rehabilitation programs allow judicial discretion with good cause in dealing with differing characteristics of offenders.

The current trends in resolving this complex problem continue to suggest the majority of the impetus should be enforcement and adjudication with appropriate penalty. Historically, the citizens of this country seem to accept the horrendous loss from traffic accidents simply because they are categorized as accidents. Before major reductions will be achieved, the state of citizen apathy and disinterest must be reversed. Therefore, public education and involvement should become a high priority. It is time we place traffic safety education in the classrooms of this nation where attitudes can be developed at an early age prior to the development of traditional social attitudes toward the use of alcohol. Needed legislative response would follow widespread public support of alcohol countermeasures. Significant public awareness and participation must be achieved before new and innovative ideas will achieve desired results.

The role of the federal level should be that of leadership and supplemental funding to promote successful programs. Research in enforcement strategies, public education, etc. should be of utmost importance to provide expertise in program development. Implementation of programs can best be addressed by local authorities at the state and local levels.

It is essential for our citizens' safety that the number of drinking drivers on our streets and highways be reduced significantly. The combined efforts of Congress, State Legislatures, Governmental Agencies, and Citizen Groups will be required. The most important challenge is a successful campaign to change citizen and individual driver attitudes and modify behavior patterns regarding traffic safety. Without this accomplishment, no real sustained progress to resolve the problem of drinking drivers will be achieved.

In summary, the DRIVING WHILE INTOXICATED PROBLEM is serious and complex. A successful program will involve (1) Federal leadership and funding support of local safety programs; (2) research to develop more effective strategies; (3) countermeasures based on enforcement and adjudication with appropriate penalty; (4) rehabilitation of problem drinkers; and (5) public education to obtain broad public support.

# PREPARED STATEMENT OF MILTON R. SKYRING

My name is Milton R. Skyring. I am the clerk and judicial administrator for the Baton Rouge city court. Additionally, I am the project director for the Baton Rouge highway safety committee. We serve approximately 219,000 people within the city limits and approximately 368,000 within the county or parish.

Our local DWI counter measures program was established in 1979 with 402 seed money. Under the terms of the grant and through local initiative we established a comprehensive DWI counter measures program which includes: (1) Public information and education; (2) Enforcement; (3) The Judiciary; (4) Probation and Rehabilitation; (5) Traffic Records; (6) Legislation; and (7) Program management and evaluation.

With the understanding that the grant would total approximately \$1 million over a three year period. We were able to make projections on how to plan our campaign against driving while under the influence of alcohol.

Basically, through statistics furnished to us from the Louisiana highway safety commission, we assign 8 off-duty police officers, working extra duty, Friday and Saturday nights from 8 p.m. to 6 a.m. We have 2 DWI vans furnished with the intoxilyzer and video taping and sound recording equipment. Each van costs about \$37,000 to equip and purchase.

When the project originated it took nearly 6 months from date of arrest to date of trial. Trial dates are now set two weeks after arraignment. This reduction in administrative delay was achieved in 3 ways: First, a fourth division of court was achieved through legislation to handle only DWI's and related cases. The grant funds the judges salary: 2 minute clerks for the judge: 2 additional clerical employees in the clerk's office and one bailiff for the courtroom: Second, the grant funds 1 additional city prosecutor and 1 clerical employee in the prosecutor's office who handle only DWI cases: Third, and finally the grant allowed us to add 3 additional probation officers to process all referrals, thereby enabling us to reduce the pre-sentence investigation time to 60 days. Total time from arrest to sentencing is about 70 days.

The video tape made at the time of arrest has served a multitude of purposes. If I might add a short anecdote here, one of our very first experimental films was of an individual who ran a .16. The individual was arrested on Saturday, was unable to post bond, and appeared in court Monday for jail call-out. At the same time on Monday morning we were reviewing the video tapes for proper sequence of arrests procedures, lighting, sound, etc. someone recognized the defendant as the same person in the courtroom and he was brought in to review the film. After less than 2 minutes of a 20 minute film the person begged us not to force him to continue to watch the film. He stated he did not realize how he acted under the influence of alcohol and as we appreciate it he voluntarily sought medical attention for his problem.

Because of this person's reaction we subsequently made the video tapes available to probation officers, defense attorneys and the defendant.

Since the film records the entire arrest procedure the arresting officer has had to become more precise in the arresting process. Of the 2 percent not guilty and 1 percent dismissed in 1980-81 few of these can be attributed to officer error.

Ironically, our preliminary figures for 1980-81 show an amazing correlation between DWI arrests recorded on video tape and those not recorded on tape. Specifically, of all cases that went to trial and were found "guilty" by the judge there is only a 1 percent difference between those on tape and those not on tape. Similarly, of all cases that went to trial and were found "not guilty" by the judge, there is again only a 1 percent difference between the 2. The largest variation is in the area of "changed plea to guilty" prior to trial. In this instance 6 percent more people on video tape changed plea than those not on tape.

Based on our findings I would not recommend that every agency desirous of improving their DWI conviction rate run out and purchase expensive video tape recording equipment.

Additionally, over a 2-year period we were able to raise the penalty for DWI from a maximum of \$200 and/or 60 days in jail to a maximum of \$500 and/or 180 days in jail.

We don't profess to have the answers to the multitude of problems presented by the individual who is driving while under the influence. However, of the major cities in Louisiana, where historically the number of serious accidents have been steadily increasing each year, for the first time in Baton Rouge this number has been held at a constant figure for 2 years in a row.

We would like to think this is due to our checkmate program. From October 1980 to September 1981 our conviction rate was 98 percent of all persons arrested for DWI.

And finally, in closing, the greatest difference between our program and other alcohol safety action projects of the past is that ours includes a legislatively created judgeship. When Federal/State funding ends in October 1982 the judge's position and all ancillary offices will continue. The only function of this program that will cease is the public information and education portion.

Senator BOSCHWITZ. At this time we will call on the panel consisting of representatives of the medical statistics profession: Dr. Roger Maickel, head of the Department of Pharmacology and Toxicology of the School of Pharmacy and Pharmacal Sciences of Purdue University; Dr. Alasdair Conn, medical director of the field operations program, Maryland Institute for Emergency Medical Systems, Baltimore, Md.; and Prof. Leonard Schifrin of the Department of Economics, College of William and Mary, Williamsburg, Va.

Is Professor Schifrin here?

[No response.]

Senator BOSCHWITZ. I understand that Professor Schifrin had to be elsewhere at 2 o'clock. We will include his statement in the record.

In that case, Dr. Maickel, would you proceed?

**STATEMENT OF DR. ROGER MAICKEL, HEAD, DEPARTMENT OF PHARMACOLOGY AND TOXICOLOGY, SCHOOL OF PHARMACY AND PHARMACAL SCIENCES, PURDUE UNIVERSITY, WEST LAFAYETTE, IND.**

Dr. MAICKEL. Thank you. I really appreciate the opportunity to participate in this hearing.

I am interested in the drinking driver, and I think a distinction needs to be made between the drinking driver and the drunk driver because of the problem of defining what is drinking or drunkenness.

If you assume that 75 to 90 percent of all motor vehicle accidents are due to human factors—and this would include impairment because of one reason or another—then you have different types of impairment, which creates a problem.

#### TERMINOLOGY

Terms such as DWAI—driving while ability is impaired—DUI—driving under the influence, which could mean any drug—or DWI—driving while intoxicated, which generally refers specifically to alcohol—have no pharmacological specificity. They may have legal specificity, but they certainly do not have it pharmacologically.

#### BAC

We do know—and this is well documented; it has been documented for at least 40 years—that there is a significant impairment of human behavior, the type of behavior that is required to perform in a motor vehicle operating situation, at a blood alcohol level of about .08 and up. This is well documented in studies all over the world.

Senator BOSCHWITZ. Doctor, let me once again express my lack of understanding of some of the terminology. What does .08 mean? Is that eight-tenths of 1 percent?

Dr. MAICKEL. This refers to a blood level of 8 milligrams per 100 milliliters of blood. It is a system that is used pretty much around the world. They round it off as a .08 percent because it represents that percentage of alcohol, approximately, on a weight volume basis in the blood.

This is the entire basis for the implied consent laws in most States—.08, .10, .12, or .15—which is taken as some sort of standard, in many cases prima facie evidence of intoxication.

Senator BOSCHWITZ. .08 is eight-tenths?

Dr. MAICKEL. In some States and in many countries of Western Europe, .08 BAC is.

Senator BOSCHWITZ. Is that eight-tenths of 1 percent?

Dr. MAICKEL. Yes; under this computed situation.

Senator BOSCHWITZ. Thank you.

Dr. MAICKEL. We also know that about 50 percent of the fatally injured drivers have blood alcohol levels well in excess of .10. In fact, in the State of Michigan over the last 3 years approximately 70 percent—70.4, 70.6, or 70.8 in 3 successive years—of the annual number of drivers tested for breath tests blew .15 or higher. This is not just merely two beers; this is, as one investigator put it, drunk as a skunk, literally; .15 is definitely impaired. At that level I do not think I could get my key in the ignition of my motor vehicle, but many drivers have developed a certain ability to compensate so they can get out there and get on the highway.

#### DRUGS OTHER THAN ALCOHOL

There is another confounding variable that needs to be mentioned, and that is the possibility that other drugs may be involved. There has been a lot of controversy over this. I know that the National Highway Traffic Safety Administration has done some effective looking-into to see whether or not there is a problem. The conclusion basically, to date at least, is, "Perhaps there is; there probably is, but we can't pin it down and say definitely there is. On the other hand, we most assuredly can't say that there is no problem."

Where do I see the role of the Federal Government? Very simply, in three things: Facilitate the creation of a national standard and a per se or implied consent law for license revocation where the blood alcohol level is either at .08 or .1. Get the existing DWI's off the road by helping the States and local jurisdictions to adjudicate things better. And, as much as possible, prevent new DWI's from getting on the road by educating, by assisting as much as possible across the country.

Thank you.

Senator BOSCHWITZ. Thank you very much.

Dr. Conn, you are the medical director for the field operations program of the Maryland Institute for Emergency Medical Systems?

**STATEMENT OF DR. ALASDAIR CONN, MEDICAL DIRECTOR,  
FIELD OPERATIONS PROGRAM, MARYLAND INSTITUTE FOR  
EMERGENCY MEDICAL SYSTEMS, BALTIMORE, MD.**

Dr. CONN. Yes, sir.

Senator BOSCHWITZ. What is that?

Dr. CONN. It is a combination, sir, of two organizations. I am speaking here in the capacity of medical director of the field operations program for the State of Maryland. That means I am responsible for the medical direction of approximately 12,000 emergency medical technicians and 1,200 paramedics within the State of Maryland. That is only part of my job. I am also a practicing surgeon, and I work at the Baltimore Shock Trauma Center.

Senator BOSCHWITZ. I could tell from listening to you that you were from Maryland. [Laughter.]

Dr. CONN. As you are probably aware, within the State of Maryland we have a Baltimore Shock Trauma Center serving as the central hub with nine peripheral trauma centers, and these are all linked by the Maryland State Police medivac helicopters. We have 10 helicopters with paramedics on board.

Severe accidents, industrial explosions, and other Maryland citizens who have sustained acute trauma are flown from the scene, and rather than being taken to the closest hospital, which may not have the facilities to be able to deal with that particular problem, they are flown to one of these trauma centers. Within these hospitals, obviously, we have got mandated immediate availability of surgeons, anesthesiologists, operating rooms, and so forth.

Within the Central Baltimore Shock Trauma Unit, we deal with approximately 1,400 patients per year. They are the most severe accidents in the State whose population is 4.2 million. Our figures indicate that approximately 60 percent of these admissions are from road accidents, drivers and passengers of automobiles, pedestrians, or motor cyclists.

As part of the admission procedure, every patient who comes in has a serum alcohol measure. Of those people coming in from road accidents, 50 percent have detectable alcohol in their blood stream, and four out of five of those have a level of greater than .1.

Annually, as you have heard from the statistics from the State of Maryland, approximately 700 people are killed in traffic accidents. What the Governor's task force looked at was the number of people of the drivers at fault in those fatal accidents. A level of alcohol was detected in over 90 percent of those drivers.

When we are dealing with an intoxicated driver, it translates into a considerable financial expense. Every patient who is flown into the Baltimore Shock Trauma Unit only stays with us during intensive care, an average of about 12 to 14 days, and his medical expenses are some \$12,000.

Although I have pointed out some figures of some of the patients who come in, I do not know the figures of the intoxicated driver in the large car hitting the small car with the two citizens—driver and passenger—going around about their daily business. Those figures are very difficult to obtain, but what you are seeing is probably the tip of the iceberg.

To put this into national perspective, as we have heard, the impact is staggering. The cost of trauma care—accident care—this year will be approximately \$82 billion, and 115,000 Americans will die of trauma accidents.

I believe Senator Dole referred earlier to the Vietnam war, where 45,000 U.S. soldiers were killed by the enemy. In the same period of time, 274,000 Americans died on the highway as a direct consequence of alcohol intoxication.

We have heard a lot of suggestions about what we can do to help this problem. Medically, I have only a few. One is the continuation of the drive for dedicated trauma centers.

This initiative was only just begun 2 or 3 years ago on a national basis. Prof. Francis Small, professor of surgery at Harvard, recognized this in his Scudder oration to the American College of Surgeons in October of 1981.

I also would stress that managing accidents in this way in dedicated trauma units we can probably eradicate the death rate or cut it down by approximately one-third, but if we are going to tackle the problem we have got to begin at the basis—that is, getting the drunk driver, identifying him early, removing him from the road, and perhaps rehabilitating him correctly.

As a sideline to that, we in the shock trauma unit deal with this by bringing in some of these young offenders. They look at some of the victims that we manage, and they look at the trauma that these victims have sustained, and that small pilot project does seem to be working.

I thank you for your attention.

Senator BOSCHWITZ. Thank you. I know the light is on, but have you concluded your statement and made all the points you want to?

Dr. CONN. I believe so; yes, sir. I have given a small written comment, and that covers the major points.

Senator BOSCHWITZ. We will put the entirety of it in the record, so that the record is complete.

Dr. CONN. Thank you, sir.

Senator BOSCHWITZ. Doctor, did you also have a statement?

Dr. MAICKEL. Yes, you have a copy of it.

Senator BOSCHWITZ. This is not a statement, it seems to be a background paper. It will also be included in the record.

May I ask either one of you if there is a perceptual difference between the injuries to a drunken driver and to the victims? Specifically, does the drunken driver's condition—the relaxed aspect of being drunk—defend him to some degree from being injured quite as seriously as the victim?

Dr. CONN. Not that we can ascertain, sir; no.

Being intoxicated means that it is more difficult to assess their neurological status. This is one of the difficulties that the paramedics have at the scene. They are not sure whether they have a patient who has a severe head injury and 1 drink or he has had 15 drinks and a mild head injury. We get a certain number of those patients flown in.

Senator BOSCHWITZ. People do have 15 drinks. I remember once during my campaign for this illustrious post I went out with one of my staff people, and he had 12 martinis for lunch. It did not seem



to affect him nearly as much as it did me. He was in treatment very shortly after that.

Do you gentlemen have any questions?

Mr. VELDE. No, thank you.

Mr. MANSON. No, thank you.

Senator BOSCHWITZ. Your statements were very helpful and illuminating. I am not so familiar with medical care, and I can well understand where that would lower the death rate and lower the number of victims of this.

I think that taking people who are convicted or who are drunk drivers to such a trauma unit must be quite impressive. It must have an impact on them to prevent them from doing it again.

I have heard of that. Is it widely done?

Dr. CONN. No, sir. This began as a pilot project in one of the counties approximately 2 years ago. Repeat young offenders were brought in, and on followup 6 months and a year later they were still not in trouble again. That is now expanding, and I believe this year we have got four counties involved in that program, and we are encouraging other trauma centers to initiate similar programs.

Senator BOSCHWITZ. Dr. Maickel?

Dr. MAICKEL. That has been a problem in the past, in that there has been a tendency to say, "Oh, we should not expose the youthful driver to the terrifying face-to-face sight of a crash victim or a crash." I can assure you from my own experience, without doing any followup statistics, it is an effective deterrent.

Senator BOSCHWITZ. I would imagine it would be, and I would have very little hesitation about parading those young, old, or middle-aged drunk drivers through such a trauma ward. Is that done on a national basis, Dr. Maickel?

Dr. MAICKEL. Not at all. There are a few local facilities; Dr. Conn has one, and there is one in California.

Dr. CONN. Unfortunately, also, there are not many of these trauma units yet. For example, if you have a severe accident, you are normally taken to the closest hospital, so there is no concentration of these types of victims.

Senator BOSCHWITZ. But if you go to any hospital practically, there must be several rooms where one could do that.

Dr. MAICKEL. True.

Senator BOSCHWITZ. I think that would be a very worthwhile thing to do.

Do you have any comments?

Mr. VELDE. No, thank you.

Senator BOSCHWITZ. Mr. Manson?

Mr. MANSON. Thank you.

Senator BOSCHWITZ. Counsel has some comments.

Mr. MANSON. Dr. Conn, I would just like to ask if you can identify why perhaps so little attention has been dedicated to the medical problems relating to drunk drivers as compared with other medical problems that we seem to hear so much about today.

Dr. CONN. I am not sure in the past, but I know that the position now is changing, particularly because the medical profession is very well aware of the rising costs and looking at ways in which we can lower costs.

As I said in my testimony, the way that we are probably going to have to do this is to prevent accidents from happening and perhaps when we do have accidents to give them the best treatment possible. That is becoming more and more aware within the medical profession.

Mr. VELDE. What about Federal funds devoted to research in alcoholism as opposed to other major illnesses?

Dr. MAICKEL. I think one of the problems there is that the funding—

Mr. VELDE. Funding is very low by comparison, is it not?

Dr. MAICKEL. It is low, and also it is directed at alcoholism, which includes the problem drinking driver but also includes the nondriving alcoholic. In many cases the clinical research funds on alcoholism are spent on the individual who is so far along that they are not even going to be a viable driver for 2, 5, or 10 years, if ever.

Mr. VELDE. This is not really too germane to the purposes of this hearing, but do you find any correlation between alcohol abusers who are bad drivers and individuals who also are bad airplane pilots, that they have a criminal history as well, are poor credit risks, and other factors? Is there a correlation between alcohol abuse and other social issues?

Dr. MAICKEL. We did a study a number of years ago through NHTSA that found no correlation with any of these other factors, at least no statistically significant correlation, in problem drinking drivers.

However, the difficulty of the impaired driver crashing into somebody else—an analogy is becoming very common in industry. One of the areas that has a very strong interest in alcoholism and alcohol problems is industry. The individual who is operating a forklift in an industrial plant, a punch press, or a steam hammer and is impaired by alcohol is just as hazardous to his coworker as the driver is on the highway to another driver. Industry is beginning to recognize this as a major industrial safety problem as well as in the alcohol-drug interaction area. It is broader than just the highway.

Mr. VELDE. In alcohol-drug interaction you include everything from aspirin on up, do you not?

Dr. MAICKEL. Most certainly. One of the problems that is very obvious is cannabis, and we will not even get into that, because that is a problem all by itself.

One of the insidious types of things is that, for example, the individual who normally goes out and has two cans of beer for lunch will probably not be impaired at all on the highway. However, if on a given day he or she happens to have taken an over-the-counter antihistamine for sniffles that morning and then goes out and has two beers for lunch, there may be enough potentiation by the combination of drugs that they can be significantly impaired.

Mr. VELDE. Thank you.

Senator BOSCHWITZ. Gentlemen, we thank you very much for coming and participating in this hearing.

[The prepared statements of Messrs. Maickel, Conn, and Schiffrin follow.]

## PREPARED STATEMENT OF DR. ROGER P. MAICKEL

This statement addresses four interrelated areas of the problem generally titled "driving while intoxicated": (1) The pharmacological effects of ethyl alcohol that are relevant to operation of a motor vehicle; (2) The relationship of traffic fatalities to driving while intoxicated; (3) The possible role of other drugs in highway safety; and (4) The possible option(s) of the Federal Government in reducing the magnitude of this problem.

1.0 BACKGROUND

Motor vehicle crashes are a major cause of death in the United States. Over the past decade, the annual number of such fatalities (drivers, passengers, pedestrians) has consistently approximated 50,000. Three sets of factors emerge from a careful analysis of such accidents: (1) Vehicular -- related to the design, construction, maintenance, and operating characteristics of the motor vehicle; (2) Environmental -- related to operating and traffic conditions, highways, time of day; (3) Driver characteristics that may influence his/her ability to perform tasks involved in operating a motor vehicle (Jones and Joscelyn, 1978). It is estimated that 75 to 90 percent of all motor vehicle accidents are primarily due to human factors. A major impact in this area is believed to be the alcohol drinking behavior of the driving population (U.S. Department of Transportation, 1968). This is not new information. In 1904, an article expressing concern about the possible adverse effects of alcohol consumption upon the operators of "power motor wagons" appeared in the Quarterly Journal of Inebriety (U.S. Department of Transportation, 1968).

2.0 TERMINOLOGY/SEMANTICS

This brief review of the simple, yet confusing, terminology involved will clarify this presentation.

- Drug may be defined as any substance (other than food) which, after entering the body, produces a significant biological effect.
- Alcohol will be exclusively defined as ethanol or ethyl alcohol.
- BAC, the abbreviation for "blood alcohol concentration," is the weight (quantity) of alcohol in a given volume of blood, usually expressed in the U.S.A. in terms of grams of alcohol per 100 milliliters of blood (percent). Thus, a BAC of 0.10 percent would be equivalent to 0.10 grams (100 milligrams, mg) of alcohol per 100 milliliters (mL) of blood.
- DWI, DUI, DWAI are acronyms used to describe the state of operating a motor vehicle while under the influence of a drug such as alcohol. DWI refers to "Driving While Intoxicated," DUI to "Driving While Under the Influence," and DWAI to "Driving While Ability is Impaired." Depending on the terminology used in statutes and the jurisdiction involved, such laws may be interpreted to hold for alcohol only, drugs (including alcohol) in general, drugs in combination with alcohol, or various permutations and combinations.

- Pharmacological effects are those effects of drugs upon an organism that can be clearly measured and/or defined (such as depression or elevation of blood pressure), as well as those that are more subjective (such as drowsiness or sedation).
- Antagonism refers to the ability of one drug to block or reverse the action(s) of another when both are present in the body. In simple arithmetic terms, antagonism may be expressed as  $2 + 2 < 4$ .
- Addition refers to the ability of one drug to act in concert with another, resulting in a simple summation of magnitude of effect(s), when both are present in the body. In simple arithmetic terms, addition may be expressed as  $2 + 2 = 4$ .
- Synergism or potentiation refers to the ability of one drug to enhance the action(s) of another when both are present in the body. In simple arithmetic terms, synergism or potentiation may be expressed as  $2 + 2 > 4$ .

3.0 PHARMACOLOGICAL EFFECTS OF ALCOHOL

Ethyl alcohol is a small molecule, capable of readily crossing body membranes and generally distributed throughout the water content of the human body. It can be absorbed through the skin and the mucous membrane of the oral cavity, but the most common sites of absorption are the stomach and intestines.

3.1 Characteristics of Alcohol Absorption

After consuming one drink containing alcohol, the BAC reaches a maximum level in 20 to 60 minutes if stomach was empty, or 60 to 120 minutes if the stomach was full. In general, the rate of absorption is related to the concentration of alcohol in the beverage consumed, reaching a maximum rate at about 20 to 25 percent (40-50 proof). There are no fixed absorption rates for alcohol and no "magic limits." Nevertheless, several generalizations can be made. Absorption of alcohol appears to be more rapid in experienced as compared to naive drinkers. The rate of absorption seems to be enhanced by carbonated beverages. In contrast, the rate of absorption appears to be slowed if the subject has food in the stomach. Hard exercise, excitement, or fear, all of which are known to decrease the rate of blood flow to the digestive tract, also tend to reduce the rate of alcohol absorption.

3.2 Characteristics of Alcohol Elimination

Once in the bloodstream, alcohol is eliminated in small amounts in the breath (this forms the basis for breath alcohol measurement tests), saliva, urine, and perspiration. More than 90 percent of alcohol elimination occurs via chemical breakdown in the liver. The rate of breakdown is relatively constant (0.015 percent BAC per hour), although concentrations less than 0.03 percent BAC are destroyed at a slower rate. This breakdown rate is sufficiently constant to

permit extrapolation of approximate blood levels at the time of an incident from BAC measurements made at a later time, assuming that no further consumption of alcohol occurred.

### 3.3 Relationship of Alcohol Levels to Amount Consumed

A formula is often used to relate the BAC at any given point in time to the amount of alcoholic beverages consumed prior to that time. This formula (substantiated and corroborated by many workers) requires a few basic assumptions: the beverages were consumed over a relatively short period of time (1 to 2 hours), and the body weight and body water characteristics of the subject are not extremely unusual. For the male, in whom body water is 68 to 70 percent of body weight, the formula is expressed as:

$$A \text{ (oz. of beverage)} = \frac{\text{BAC} \times \text{body wt. (lbs.)} \times 13.2}{\% \text{ alcohol in beverage}}$$

For females, in whom body water is 56 percent of body weight, the same formula is used, but the result is multiplied by 0.8. Chart I illustrates the application of this formula.

CHART I

#### APPROXIMATE RELATIONSHIP OF BAC TO BODY WEIGHT AND NUMBER OF DRINKS CONSUMED

No. of Drinks*	BODY WEIGHT (lbs)						
	120	140	160	180	200	220	
1	.03	.03	.02	.02	.02	.02	M A L E S
2	.06	.05	.05	.04	.04	.03	
3	.09	.08	.07	.06	.06	.05	
4	.13	.11	.09	.08	.08	.07	
6	.19	.16	.14	.13	.11	.10	
8	.25	.21	.19	.17	.15	.14	F E M A L E S
1	.04	.03	.03	.03	.02	.02	
2	.08	.07	.06	.05	.05	.04	
3	.12	.10	.09	.08	.07	.06	
4	.16	.13	.12	.10	.09	.09	
6	.24	.20	.18	.16	.14	.13	
8	.31	.27	.24	.21	.19	.17	

\*1 drink equals 1 oz. of 100 proof whiskey, 4 oz. of wine or 12 oz. of domestic beer.

### 3.4 Relationship of Blood Alcohol Levels to Behavioral Effects

Examination of the relationship of BAC to behavioral effects identifies some aspects of human behavior and performance relevant to skills directly involved in motor vehicle operation. These relationships include, but are not limited to:

#### 3.4.1 Vision

- The ability to see clearly (static visual acuity) begins to show impairment at a BAC level of 0.05-0.08 percent and is significant in 85 percent of subjects at 0.125 percent BAC.
- The ability to see moving objects (dynamic visual acuity) begins to show impairment at 0.03-0.08 percent BAC and is significant in all subjects at 0.10 percent BAC.
- Night vision (the ability to see dim objects) is significantly impaired in all subjects at 0.08 percent BAC.
- Glare blindness is significantly impaired in 25 percent of subjects at 0.10 percent BAC and in all subjects at 0.20 percent BAC.
- The ability to change focus rapidly (accommodation) is impaired significantly in most subjects at BAC values of 0.08 percent or higher.

#### 3.4.2 Hearing

impairment does not occur in all subjects, but may include decreases in both hearing ability (sounds must be louder and higher pitches may not be heard) and auditory discrimination.

#### 3.4.3 Judgment

Impairment is generally seen at BAC values of 0.08 percent or higher. Distances and dimensions are misjudged, speed is underestimated, and situations are assessed more slowly with a reduced quality of assessment and a higher probability of inappropriate decisions.

#### 3.4.4 Reaction Time

Impairment begins in many subjects at 0.04 percent BAC and is significant in all subjects at BAC values in excess of 0.10 percent.

#### 3.4.5 Coordination

Impairment generally begins at BAC values of 0.10 percent BAC, with greatest effect on the learning process. Difficulties in reciting the alphabet occur in novice or inexperienced drinkers at BAC values of 0.10 percent; experienced drinkers show similar impairment at BAC values of 0.15 percent.

#### 3.4.6 Memory

Short- and long-term memory is impaired at 0.10 percent BAC, with

greatest effect on the learning process. Difficulties in reciting the alphabet occur in novice or inexperienced drinkers at BAC values of 0.10 percent; experienced drinkers show similar impairment at BAC values of 0.15 percent.

#### 3.4.7 Reticular Activating System (RAS)

This system is utilized by the brain to accept, process, and distribute information. Impairment begins at BAC values of 0.03 percent and becomes significant in most subjects at BAC values of 0.06-0.08 percent, especially for tasks (such as motor vehicle operation) that require divided attention.

In summary, there is no doubt that alcohol affects human behavior and impairs performance of tasks such as motor vehicle operation. Chart II illustrates relationships that exist between the BAC value and the type of impairment.

#### 4.0 THE RELATIONSHIP OF TRAFFIC FATALITIES TO DRIVING WHILE INTOXICATED

Attempts to demonstrate relationships between drinking, driving, and motor vehicle accidents emphasize the complexity of the situation. One must first estimate the number of crashes involving drivers with a significant BAC. If this number is significant, the second step is to determine that drinking drivers are more frequently involved in crashes than their non-drinking counterparts. If so, the third step is to determine whether alcohol impairment of driving performance is the major causative phenomena, or if some other factor(s) exist.

Almost 45 years ago, Holcomb (1938) found that alcohol could be implied as a causative factor in a significant number of motor vehicle accidents. Many subsequent epidemiological studies have confirmed this conclusion. A relatively consistent finding, when all crashes are considered, is that 45 to 55 percent of drivers fatally injured had BAC values of 0.08 percent or higher. For single vehicle crashes that fraction rises to 60-70 percent. These studies are reviewed and summarized in Jones and Joscelyn, 1978.

It is important to realize that such retrospective studies do not (and cannot) prove causation. However, they clearly imply alcohol as a causative factor in motor vehicle accidents. Charts IIIA and IIIB illustrate such probabilistic relationship. If the relative probability of involvement equals 1 at a BAC value of 0.00 percent, at BAC values of 0.12 percent, the probability of involvement in a fatal crash for the driver is 12-22 times higher than it is for a non-drinking driver (Chart IIIA). At a BAC value of 0.12 percent, the probability of involvement in a non-fatal, personal injury accident is two to three times greater than for the non-drinking driver (Chart IIIB).

CHART II

#### APPROXIMATE BAC VALUES NEEDED TO AFFECT HUMAN FUNCTIONS

Cross-hatched areas indicate where significant impairment is seen in some drivers; open areas indicate where significant impairment is seen in all drivers.

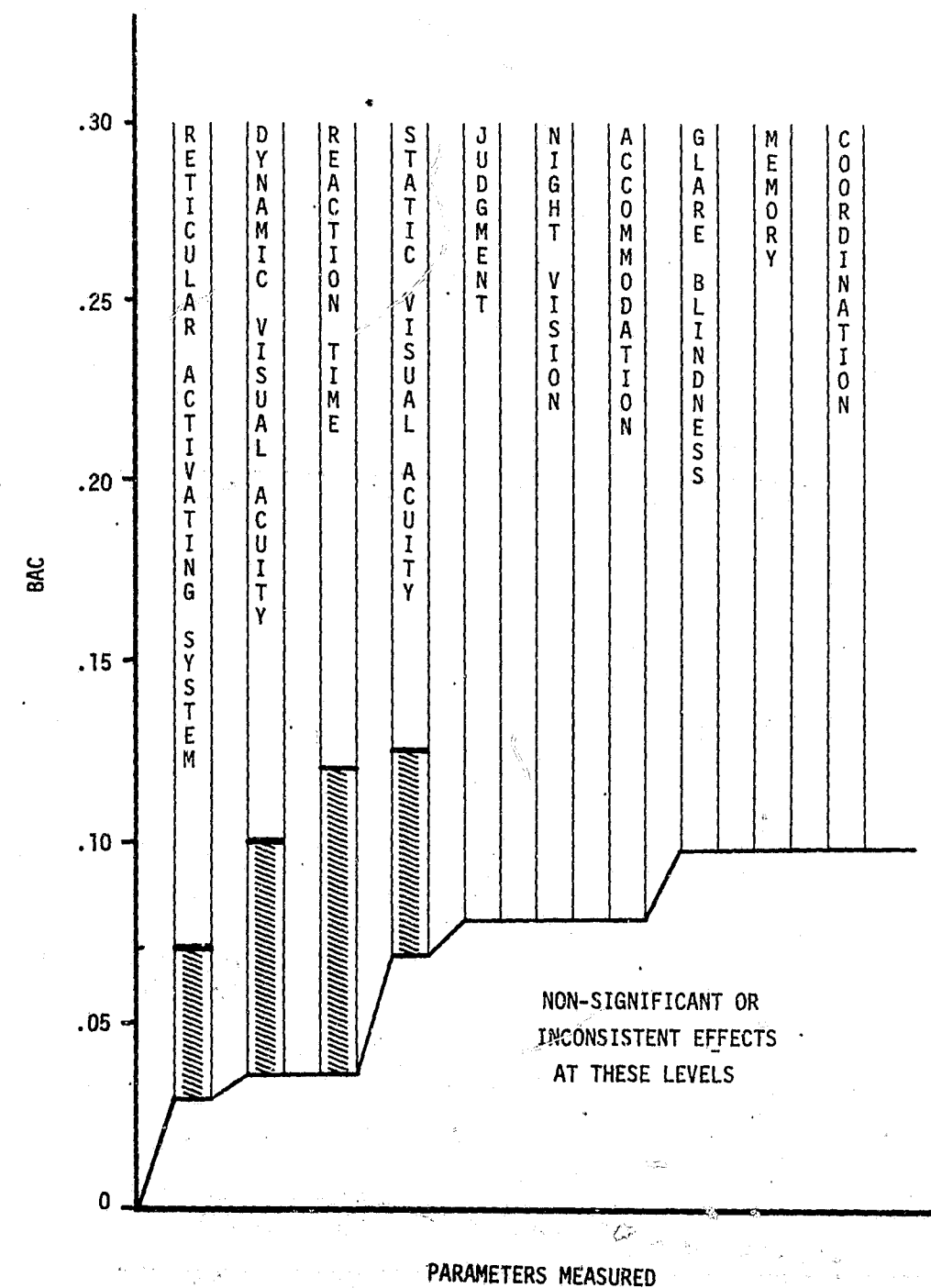
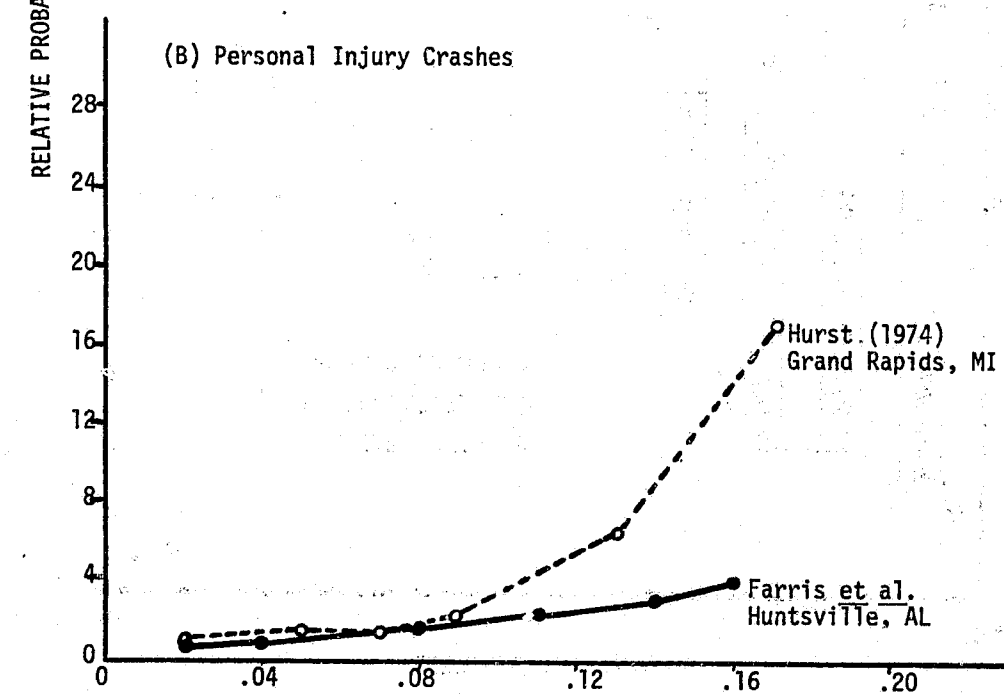
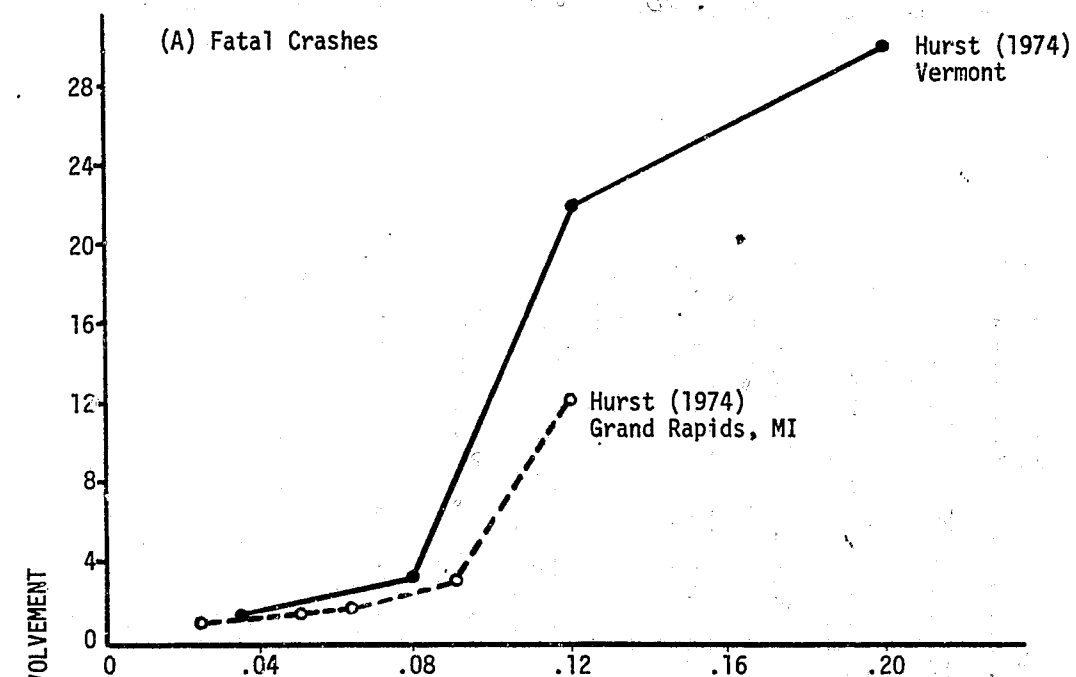


CHART III

RELATIONSHIP OF BAC VALUES TO RELATIVE PROBABILITY OF ACCIDENT



Thus, using the traffic crash toll for 1975, the numbers of intoxicated drivers involved in accidents can be approximated:

- fatal crashes . . . . . 15,000
- personal injury crashes . . . . . 120,000
- property damage crashes . . . . . 765,000

These accidents cost society an estimated five billion dollars. Using the 1975 figures, the number of crashes that could be prevented if alcohol were removed as a probable causative factor are summarized in Chart IV. These estimates are based on the most stringent criteria available. That is, they are the most conservative.

CHART IV

ESTIMATED REDUCTION OF CRASHES IF ALCOHOL-RELATED  
CRASHES ARE ELIMINATED\*

BAC	ESTIMATED FATAL	REDUCTION IN PERSONAL INJURY	CRASHES PROPERTY DAMAGE
> .05	13,600	118,800	965,000
> .10	9,400	83,900	621,000
> .15	5,300	32,700	153,000

\*Data are taken from Jones and Joscelyn (1978)

#### 5.0 THE POSSIBLE ROLE OF OTHER DRUGS IN HIGHWAY SAFETY

Although alcohol is the most likely causative factor in motor vehicle accidents, two other aspects also deserve mention. Other drugs can impair safe motor vehicle operation, alone, or by means of drug-drug (and especially drug-alcohol) interactions. A brief overview must be considered.

##### 5.1 Other Drugs That Can Impair Safe Motor Vehicle Operation

The data available are not as extensive as for alcohol alone. Nevertheless, a brief listing of agents known to alter human behavior, especially in terms of perturbation of performance in complex tasks such as motor vehicle operation, include:

- antianxiety agents (chlordiazepoxide, diazepam)
- Cannabis (marihuana)
- narcotic analgesics (codeine, oxycodone, propoxyphene)
- volatile solvents



- sedative-hypnotics (sleeping pills)
- antihypertensive medications
- antihistamines (over-the-counter cold medicines)

#### 5.2 Drug-drug Interactions Relevant to Motor Vehicle Operation

Again, extensive data are not available, however, based on available pharmacological information, the possibility of combination effects must be considered for a number of agents. This is especially true for additive or synergistic effects with alcohol. Such combinations could easily result in a driver with a BAC value of 0.05 percent showing a degree of performance impairment similar to one having a BAC of 0.15 percent. Drugs likely to act in combination with alcohol to produce either additive or synergistic results include all those listed in Section 5.1 as well as:

- antidepressant agents
- antipsychotic agents

#### 6.0 OPTIONS OPEN TO THE FEDERAL GOVERNMENT TO ADDRESS THE ISSUE OF THE IMPAIRED DRIVER

Several extreme approaches could be adopted, ranging from total disregard of the problem in the hope that it will "go away" to mandating a rigid series of steps to enforce additional governmental controls on the public. The most rational recommendations involve a series of efforts covering areas of: (1) research, identification, and delineation; (2) education and heightened awareness; (3) standardization and increased uniformity of control systems; and (4) acceptance of reality.

##### 6.1 Research, Identification, and Delineation

There is an imperative need for further research to determine the precise role of the drug-impaired driver in highway accidents. Several points are involved. For example, determination of BAC values in accident-involved or obviously impaired drivers is a common procedure but present technology is inadequate to evaluate the possible contributions of other drugs. Routine testing procedures to assess impairment of driving performance are virtually non-existent. Crash-risk probabilities for drug-alcohol combinations need to be determined and the magnitude of the "real world" problem must be defined.

##### 6.2 Education and Heightened Awareness

The hazard of the impaired driver to society as a whole must be brought to the attention of the public. Massive programs of generalized statements in the media ("glittering generalities

and pious platitudes") should be avoided. Instead, efforts should be made to achieve national distribution of educational and informational materials to localities, organizations, and jurisdictions that deal in person-to-person relationships. While not advocating purely "scare" tactics, a strong and realistic approach is needed. The impaired driver should be clothed in the same garb as the hardened criminal or the deviant personality.

##### 6.3 Standardization and Increased Uniformity of Control Systems

It is essential that some national norms be established. A Federal DWI standard should be established. Many European countries have accepted 0.08 percent BAC as a national norm for evidence of DWI with considerable success in reducing alcohol-related highway accidents, injuries, and fatalities. In this country, a precedent exists in the 55 MPH speed limit. At a Federal level, a standard for BAC/DWI would be both rational and reasonable. Juridical standards for handling the convicted DWI could not be established at a Federal level, but advisory recommendations would not be unwarranted.

##### 6.4 Acceptance of Reality

The most crucial point, but also the most sensitive aspect of the problem, is recognition of reality. Until we, as a nation, are willing to accept the fact that the impaired driver is a hazard to society, any efforts to reduce the gravity of the situation will be in vain. One example demonstrates this gravity. In 1979, a total of 32,451 breath tests for alcohol was administered to drivers through the Traffic Services Division of the Michigan Department of State Police. Of these, 22,926 (70.4 percent) yielded BAC values of 0.15 percent or greater. The figures for 1980 were 40,702 and 28,832, respectively; thus, 70.8 percent had BAC values of 0.15 percent or greater. For the first six months of 1981, the figures were 21,618 and 15,228, respectively, indicating that 70.4 percent had BAC values of 0.15 percent or more. If the fractions testing at BAC values of 0.10 percent or greater are compared, the relative percentages are 93.1 percent (for 1979), 93.8 percent (for 1980), and 93.5 percent (for the first half of 1981). There is no question that these figures indicate that the vast majority of drivers identified as being DWI were most certainly drunk and would not operate a motor vehicle with any degree of safety!

Against this type of document, one must place the common observation of a lack of societal sensitivity to the problem. Any visitor to a traffic court will see a common occurrence--the legal plea bargain to a charge lesser than that of a license-

revocable offense such as DWI. Virtually every community is aware of (and can identify) citizens who regularly (habitually?) leave a bar, tavern, country club, or house party in a condition clearly under the influence of alcohol and equally clearly incapable of safely operating a motor vehicle. Yet those same communities are unwilling or unable to deal with those individuals in a manner that will prevent them from operating a motor vehicle in an obviously inebriated condition.

No individual or group is exempt from this problem. The drunk driver is not necessarily a chronic alcoholic. He or she may be a laborer, a student, a lawyer, a judge, a housewife, a physician, a nurse, an executive, a politician, a bank teller, a law enforcement officer; DWI does not have any constraints regarding age, sex, race, creed, or color. The conservative may be under the influence of alcohol, while the liberal may be under the influence of marihuana. The rich may imbibe a \$50 bottle of burgundy. The poor may consume \$2 bottles of muscatel. The net result is the same -- DWI. The best thing that we, as a nation, can hope for is that sometime in the future we will accept the reality that, in order to save lives, to save anguish, to save people, we must do everything possible to:

- remove the known DWI from the highways
- reduce the likelihood of a new DWI reaching the highways

If the drunk driver were a risk only to himself/herself, the problem would be simpler. The fact that the individual is a risk to other citizens as well demands that the Federal Government take an active, leading role in attacking the problem at the state and local level.

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#### PREPARED STATEMENT OF DR. ALASDAIR CONN

SENATOR DOLE AND MEMBERS OF THE COMMITTEE ON THE JUDICIARY. I AM SPEAKING TO YOU IN MY CAPACITY AS MEDICAL DIRECTOR OF THE FIELD OPERATIONS PROGRAMS FOR THE STATE OF MARYLAND. I AM RESPONSIBLE FOR THE MEDICAL DIRECTION OF SOME ELEVEN HUNDRED (1,100) ADVANCED LIFE SUPPORT PERSONNEL (PARAMEDICS) AND SOME TWELVE THOUSAND (12,000) EMERGENCY MEDICAL TECHNICIANS WHO MAN THE AMBULANCES AND RESCUE SQUADS WITHIN THE STATE OF MARYLAND. I'M ALSO SPEAKING AS A SURGEON WORKING WITHIN THE BALTIMORE SHOCK TRAUMA CENTER.

WITHIN THE STATE OF MARYLAND WE HAVE THE BALTIMORE SHOCK TRAUMA CENTER SERVING AS THE CENTRAL HUB WITH NINE PERIPHERAL TRAUMA CENTERS LINKED BY THE MARYLAND STATE POLICE AVIATION DIVISION'S TEN HELICOPTERS. SEVERE ACCIDENTS, INDUSTRIAL EXPLOSION VICTIMS, AND OTHER MARYLAND CITIZENS WHO HAVE SUSTAINED ACUTE TRAUMA ARE FLOWN DIRECTLY FROM THE SCENE AND RATHER THAN TRANSFERRED TO THE CLOSEST HOSPITAL WHERE THE FACILITIES NECESSARY TO TREAT THAT PATIENT'S INJURIES MAY NOT BE IMMEDIATELY AVAILABLE, THEY ARE FLOWN TO ONE OF THESE NINE HOSPITALS IN THE STATE. WITHIN THESE HOSPITALS WE HAVE MANDATED IMMEDIATE AVAILABILITY OF SURGEONS, ANESTHESIOLOGISTS, AND OPERATING ROOMS NECESSARY TO KEEP THESE VICTIMS ALIVE.

WITHIN THE BALTIMORE SHOCK TRAUMA CENTER, WE DEAL WITH APPROXIMATELY 1,350 PATIENTS PER YEAR. THESE ARE THE MOST SEVERE ACCIDENT VICTIMS FROM ALL OVER THE STATE WHOSE POPULATION IS 4.2 MILLION. MY FIGURES INDICATE THAT APPROXIMATELY 60% OF OUR ADMISSIONS ARE FROM ROAD ACCIDENTS EITHER DRIVERS OR PASSENGERS OF AUTOMOBILES, MOTORCYCLES, OR PEDESTRIANS. THE OTHER VICTIMS ARE, OF COURSE, VICTIMS OF ASSAULTS, INDUSTRIAL ACCIDENTS, OR EXPLOSIONS. AS PART OF THE ADMISSION PROCEDURE, EVERY PATIENT HAS A SERUM ALCOHOL

LEVEL MEASURED. OF THESE PEOPLE COMING IN, 50% HAVE DETECTABLE ALCOHOL LEVELS IN THEIR BLOODSTREAM AND OF THIS 50%, 30% OF THESE HAD A BLOOD ALCOHOL LEVEL OF 100 MILLIGRAMS PERCENT OR GREATER. THIS LEVEL IS THE LEGAL LIMIT IN ALL BUT THREE STATES. MARYLAND STILL HAS A HIGH LIMIT OF 0.13% AS THE LEGAL DEFINITION OF INTOXICATION. THIS IS THE HIGHEST IN THE NATION. THE LEVEL OF 0.08% WITHIN MARYLAND IS CONSIDERED DRIVING UNDER THE INFLUENCE.

ANNUALLY WITHIN THE STATE OF MARYLAND, APPROXIMATELY 700 PEOPLE ARE KILLED IN TRAFFIC ACCIDENTS ON MARYLAND HIGHWAYS. STUDIES INDICATE THAT 90% OF THE AT FAULT DRIVERS IN FATAL CRASHES HAD SOME DEGREE OF ALCOHOL IN THEIR SYSTEM AT THE TIME OF THE ACCIDENT.

DEALING WITH THE INTOXICATED DRIVER TRANSLATES INTO CONSIDERABLE FINANCIAL EXPENSES. EVERY PATIENT FLOWN INTO THE BALTIMORE SHOCK TRAUMA CENTER DEVELOPS A MEDICAL BILL OF APPROXIMATELY \$12,000. THIS IS ONLY THEIR INTENSIVE CARE STAY, FOR ONCE THEY ARE OVER THIS ACUTE PHASE, THEY ARE TRANSFERRED BACK TO HOSPITALS NEAR THEIR HOME, TO OTHER HOSPITALS WITHIN UNIVERSITY CENTERS OR OFF TO REHABILITATION. THESE FIGURES, HORRIFYING AS THEY MUST BE, PERHAPS HIDE ANOTHER STATISTIC, ONE THAT IS DIFFICULT TO DELINEATE. SEVERAL TIMES WE GET THE DRIVER AND THE PASSENGER OF A SMALL CAR THAT HAS UNFORTUNATELY BEEN IN A COLLISION, THE LARGER, HEAVIER CAR DRIVEN BY AN INTOXICATED DRIVER WHO HAS, BECAUSE OF THIS LARGER VEHICLE, SUSTAINED RELATIVELY MINIMAL INJURIES.

TO TRY TO PUT THIS INTO THE NATIONAL PERSPECTIVE, THE IMPACT IS STAGGERING, LET ME JUST ENUNCIATE TWO FURTHER STATISTICS. ONE IS THAT TRAUMA WILL COST THE UNITED STATES OF AMERICA 82 BILLION DOLLARS AND IT WILL KILL 115,000 AMERICANS - RELATIVELY YOUNG AMERICANS, AND A LOT OF THEM UNNECESSARILY. THE SECOND ONE IS EQUALLY HORRIFYING, IN THE TEN YEARS OF THE VIETNAM WAR, 45,000 US SOLDIERS WERE

KILLED BY THE ENEMY, AND 274,000 U.S. CITIZENS DIED IN MOTOR VEHICLE ACCIDENTS INVOLVING ALCOHOL.

WHAT CAN BE DONE TO REMEDY THIS NATIONAL PROBLEM? I HAVE, UNFORTUNATELY A FEW SUGGESTIONS. ONE IS THE CONTINUATION OF DEDICATED HOSPITALS SPECIALLY EQUIPPED TO MANAGE THE CRITICALLY INJURED PATIENT - TRAUMA CENTERS. THIS INITIATIVE WAS BEGUN SEVERAL YEARS AGO, BUT ONLY NOW IS BEGINNING TO ACHIEVE THE RECOGNITION IT DESERVES. PROFESSOR FRANCIS MOORE, THE EMERITUS PROFESSOR OF SURGERY OF HARVARD MEDICAL SCHOOL IN HIS SCUDDER ORATION ON TRAUMA TO THE AMERICAN COLLEGE OF SURGEONS IN OCTOBER OF 1981 STATED "NATIONAL PREPAREDNESS OF CASUALTY MANAGEMENT DEPENDS ON ONGOING COLLABORATION BETWEEN MILITARY AND CIVILIAN RESEARCH UNITS, A COLLABORATION THAT ALSO INVOLVES THE MANY NEW TRAUMA CENTERS ESTABLISHED THROUGHOUT THE COUNTRY." IN THIS DAY AND AGE, THERE IS NO NEED FOR THE PATIENTS ON THE ROADSIDE TO BE TAKEN TO THE NEAREST HOSPITAL WHICH MAY NOT HAVE THE EQUIPMENT OR THE PERSONNEL TO MANAGE HIS INJURY IN A COMPETENT MEDICALLY ACCEPTED FASHION. THIS INITIATIVE SHOULD BE ENCOURAGED. AT THE SAME TIME WE SHOULD ENCOURAGE THE NATIONAL HIGHWAY TRAFFIC SAFETY ASSOCIATION TO TRY TO ENCOURAGE PEOPLE TO UTILIZE PASSIVE RESTRAINT SYSTEMS IN CARS. BEFORE I WORKED AT THE SHOCK TRAUMA CENTER, I DID NOT USE MY SAFETY BELT: NOW I DO. SO ALL THE TIME.

MOST OF THE ADVANCES THAT WE HAVE COME TO EXPECT FROM MEDICAL TECHNOLOGY HAVE BEEN THOSE OF PREVENTION. THE ERADICATION OF SMALL POX AND POLIO FROM THE UNITED STATES HAS BEEN BY THE USE OF VACCINES AND THE ESTABLISHMENT OF CLEAN WATER CODES HAVE DRAMATICALLY DECREASED THE INCIDENCE OF INFECTIOUS DISEASES FROM WATER SOURCES.

WE MUST ALLOW THE POLICE FORCES ON OUR HIGHWAYS AND BYWAYS TO MAKE RANDOM STOPS AND MANDATE ALCOHOL TESTING TO ANY SUSPICIOUS INDIVIDUALS. WE MUST WITHOLD LICENSES FROM THOSE FOUND DRIVING WHILE INTOXICATED, AND WE MUST

BRING HOME TO THE INDIVIDUAL FOUND GUILTY, THE SERIOUSNESS OF HIS CRIME. IN MARYLAND, WE OFTEN REHABILITATE THESE PROBLEM DRIVERS AND IS PARTICULARLY A PROBLEM AMONG THE YOUNG THROUGH THE TRAUMA UNIT, AS THEY SEE PATIENTS BEING FLOWN IN. SURPRISINGLY IT IS THIS ONE PROGRAM THAT IS HAVING THE MOST EFFECT IN PREVENTING THESE YOUNG OFFENDERS FROM BECOMING HABITUAL OFFENDERS. MY MOTTO AS A TRAUMA SURGEON SHOULD BE "HELP PUT US OUT OF BUSINESS" AND I AM HOPING WITHIN THE NEXT FEW YEARS A MAJOR PUSH IN REMOVING THE DRUNK DRIVER FROM THE HIGHWAYS WILL DO EXACTLY THAT.

I THANK YOU FOR YOUR ATTENTION.

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PREPARED STATEMENT OF PROF. LEONARD G. SCHIFRIN

Mr. Chairman and Committee Members:

My statement has two quite separate parts. In the first half, I will provide some economic dimension to the overall problem of alcohol abuse, with special focus on the societal impacts of motor vehicle accidents where alcohol is a factor. The second part of my statement considers other facets of beverage alcohol production and consumption, notably the magnitude and pattern of alcohol taxes accruing to various levels of government, and the responsiveness of the demand for liquor to changes in its price, including variations in price caused by additional taxation..

I. The Societal Costs of Alcohol Abuse

Alcohol abuse imposes very large societal costs in the forms of adverse health effects and psycho-social impacts, whether measured in terms of death, illness, or other health criteria, or in terms of the real economic losses they generate. Other researchers (Ralph E. Berry, Jr. and James P. Boland) estimated these losses to have been in the \$40-43 billion range in 1975. My own estimation, following their procedures, puts the losses at a much higher level, perhaps in the \$48-66 billion range for 1975 and between \$74 and 103 billion for 1979 (increasing primarily due to inflation).

My estimations for 1975 and 1979, and the major components therein, are shown in Table 1.

TABLE 1

Estimated Societal Costs Related to Alcohol Abuse, 1979  
(\$ millions)

<u>Category</u>	<u>Revised 1975 Estimate</u>	<u>Updated 1979 Estimate</u>	<u>Basis for Update</u>
Lost production (civ.)	\$24,174 - \$42,610	\$37,881 - \$66,770	56.7% increase in total employee compensation
(mil.)	411	454	10.5% increase in total military payroll
Health care costs	12,743	20,465	60.6% increase in national health care expenditures
Motor vehicle crash costs	5,143	6,768	31.6% increase in total cost of highway accidents
Fire losses	434	647	49.1% mean increase in total employee compensation, health care expenditures, and general rate of inflation (GNP deflator index)
Violent crime	2,857	4,477	56.7% increase in total employee compensation
Social response	1,940	3,467	78.7% increase in government receipts less transfer payments
TOTALS	\$47,702 - \$65,727	\$74,159 - \$103,048	



The economic losses of alcohol abuse, by any measure, are large even when compared with the economic losses imposed by or associated with other major groups of disorders such as cancer, heart and vascular disease, respiratory disease, or metabolic disease. Further, when society's responses to these disease categories are compared, the research and other efforts in regard to alcohol abuse are far smaller than the response to the other disease categories. These latter two points are indicated in Table 2, from a recent report by the Institute of Medicine of the National Academy of Science. (Note here that the costs of alcohol abuse are the lower estimates provided by Berry and Boland, rather than my higher ones.)

TABLE 2

Health Research Dollars in Relation to Economic Cost

Disorder	NIH/ADAMHA Lead Institute Research Effort	Economic Cost	Research Dollars Per Thousand Dollars of Cost
	1978 \$ in millions	1975 \$ in billions (U.S.)	\$
Alcoholism/Abuse	16 <sup>a</sup>	43 <sup>c</sup>	0.4
Cancer	627 <sup>b</sup>	19 <sup>d</sup>	30
Heart & Vascular Disease	284 <sup>b</sup>	46 <sup>d</sup>	6
Respiratory Disease	69 <sup>b</sup>	19 <sup>d</sup>	4

Sources:

<sup>a</sup>ADAMHA Data Book, 1979<sup>b</sup>Basic Data Relating to the NIH, 1979<sup>c</sup>Berry et al.<sup>d</sup>Health US, 1978 (Paringer et al., May 1977 report)

SOURCE: Institute of Medicine, National Academy of Sciences, Alcoholism, Alcohol Abuse, and Related Problems: Opportunities for Research, p. 7.

Since this Committee's attention focuses on the role of alcohol abuse in motor vehicle crash costs, I would like to return to the data in Table 1. The 1979 estimate given there for motor vehicle accidents where alcohol is a factor is \$6.8 billion, but even this figure does not contain all of the relevant costs. Some highway deaths and health care cost effects of these

accidents are included in other impact categories, those that capture all excess deaths and all excess health care costs of alcohol abusers. Further, the so-called "social response" to alcohol-related problems is calculated separately. Among this social response are the costs of alcohol prevention/education programs (including safe driving), and some portion of the welfare, highway safety, and criminal justice systems. When all of these elements are taken into account, the 1979 costs of alcohol-related vehicular crashes (still measured conservatively) run to \$8.6 billion. The components of that total are provided below in Table 3.

TABLE 3

Alcohol-Related Motor Vehicle Accident Costs, 1979

Category of Impact	Cost (\$b.)
Fatalities	
Personal injury	\$4.2 *
Property damage	1.2 *
Health care costs	.3
Alcohol programs related to driving	2.4
Welfare administration; highway safety; criminal justice (proportionate share)	.133
	.357
TOTAL	\$8.6

\*Present value of lost future production

I emphasize that these estimates are conservative. First, I have not included losses in non-market production (household work and community service), private court and legal costs, insurance administration, accident investigation, or vehicular accidents involving pedestrians in whom high Blood Alcohol Concentrations (BACs) were observed, primarily due to either lack of adequate data or for consistency with other studies in this general area.

More importantly, those accidents where alcohol is a factor are defined in my estimate as those in which alcohol is present in the driver at a BAC level of .10% or higher. Yet some, and perhaps considerable driver impairment may occur at lower BAC levels than .10%; a number of authorities believe that some impairment, perhaps serious, occurs at a BAC level half as great, .05%.

Viewing the data in Table 4 on vehicular accidents where alcohol was a factor, and comparing the proportion of all accidents in which BAC levels of .05% or higher were present with the proportion in which BAC levels of .10% or higher were present, some interesting observations emerge.

TABLE 4

Estimates Net Percentage of Crashes  
Attributable to Alcohol Abuse, By Type of Crash

Type of Crash	Estimated Net Percentage of Crashes Due to Alcohol Abuse at or Above	
	BAC $\geq$ .05%	BAC $\geq$ .10%
Fatality	41.5	32.5
Personal Injury		
• Minor/Moderate	13.0	8.5
• Severe/Critical	12.0	7.5
Property Damage Only	7.0	3.0

Source: Berry/Boland

First, by whichever definition of alcohol impairment we employ, the data show that the more serious the accident type, the more often alcohol is a factor. In other words, high blood alcohol levels contribute disproportionately to accident severity.

Second, most of the accidents where an alcohol level of at least .05% is present also remain in our data when the impairment level is raised to .10%. Thus, these data also support the conclusion that high BAC levels contribute disproportionately to accident frequency.

Since accidents are influenced by factors other than alcohol consumption, such as road conditions, weather conditions, traffic density, time of day/night, etc., alcohol consumption cannot be identified as the sole cause of any given accident. Yet, when these other factors can be held constant, alcohol intake, sometimes at .05% BAC levels, but clearly at .10% BAC levels, distinctly makes a substantial difference in the vehicular accident data.

## II. Some Economic Facets of Beverage Alcohol Production and Consumption

Turning now to another economic perspective on alcoholic beverages, I

would like to discuss briefly some aspects of their production and consumption. These aspects include the taxation of beverage alcohol, and some characteristics of the demand for this group of products.

### Beverage Alcohol Taxation.

Excise taxes, license fees, and other taxes and charges on beverage alcohol together comprise one of the largest components of revenue to the various levels of government. In 1980, the Federal government collected somewhat more than \$5.7 billion in alcohol taxes, and for all levels of government the revenues totaled approximately \$12 billion. The greatest proportion (about two-thirds) of this revenue came from liquor, 30 percent from beer, and the remainder from wine.

Total public revenues have increased steadily since repeal, especially for state and local governments. State and local taxes usually are related to the price of beverage alcohol, while the Federal tax is based on volume. If tax rates are not changed, inflation of liquor prices automatically brings revenue increases to governments that levy alcohol sales or excise taxes, but not to those that levy volume taxes. Further, the states and localities have generally raised alcohol tax rates, while the Federal volume tax has remained constant since 1951. Thus, state and local revenues from alcohol have grown because of three factors: greater consumption, higher tax rates, and higher prices; Federal revenues have grown, at least since 1951, only as consumption has grown.

It is clear that total alcohol taxes accruing to all levels of government fall far short of the total economic costs of alcoholism and alcohol abuse that have been presented earlier in this report. In effect, society is compensated in the form of tax revenues to the extent of less than 17 cents, and perhaps as little as 12 cents, for each dollar of alcohol-related costs it bears.

It is probably true, though, that specific taxes levied on many industries provide public revenues only a fraction as large as the societal costs their products impose. The beverage alcohol industries may even compensate society to a relatively greater extent than do other industries. But two qualifications put the tax-social cost relationship of the alcohol industries into

perspective. First, the fact that a number of other industries may pay smaller relative tax compensations to society could imply that all of them might warrant higher tax burdens. Second, tax revenues should be compared to net social costs, that is, costs minus societal benefits. When the benefits of the output of such industries as industrial tools, motor vehicles, and coal mining are considered, they appear to offset in large part the sizeable mortality, morbidity, and other costs deriving from the production or use of their products. In most such cases, we assume that, on balance, there exist net social benefits -- that total benefits outweigh total costs. For alcohol, firearms, and tobacco, the balance is such that there probably are net social costs, i.e., that total benefits from these products fall considerably short of the total costs they impose on society. This analysis suggests that in relation to these net social costs, alcohol based tax revenues are indeed very modest.

The \$5.7 billion coming from the beverage-alcohol industries to the general fund of the Federal government further dwarfs the Federal research outlay on alcoholism described earlier, and also looms many times higher than the budgetary commitment to the National Institute on Alcoholism and Alcohol Abuse. Most state alcohol-tax revenues also go into their general funds. Only 20 states earmark any part of their funds for alcoholism treatment or research programs, and most of these designate only a small portion. Data on these 20 states are presented below in Table 5.

TABLE 5

## States with Taxes Earmarked for Alcoholism

State	Control	Taxes Earmarked
Alabama	Yes	10 percent tax on spirits and wine sold by state stores--1/2 to Mental Health Fund.
D.C.	No	6 percent of license fees (except Class E - retail druggist) appropriated for treatment and rehabilitation of alcoholics.
Indiana	No	Additional fee of \$30 on all retail permits to Commission on Alcoholism.
Michigan	Yes	1 percent tax on liquor sold for off-premise consumption for the Alcoholism Fund.

TABLE 5 (continued)

State	Control	Taxes Earmarked
North Carolina	Yes	2 cent and 5 cent per bottle tax on Beer and Naturally Fermented Wine to respective county commissioners for alcoholism rehabilitation. County Dispensaries' Profits--County Boards may expend 7 percent for alcohol education or rehabilitation.
Oregon	Yes	33 1/3 percent of Privilege Tax Revenue to be distributed to the Mental Health, Alcoholism, and Drug Services Account.
South Dakota	No	5 cent per gallon on distilled spirits and 30 cent per barrel on High Point Beer to Division of Alcoholism.
Tennessee	No	2 percent of sums designated for municipalities and counties to Department of Mental Health to assist in carrying out provisions of the comprehensive Alcohol and Drug Treatment Act of 1973.
Utah	Yes	50 cent of each State Purchaser Permit Fee to State Board of Alcoholism.
Washington	Yes	(1) 10 and 15 percent state sales taxes, 28 percent to cities, 7 percent to counties--2 percent of this distribution to be spent in alcoholism programs. (2) Profits of stores--40 percent to cities, 10 percent to counties; 2 percent of this to alcoholism programs. (3) Class A-F License Fees--20 percent to State Department of Social and Health Services. (4) First \$1 million of Class "H" license fees, penalties and forfeitures to Washington State University and University of Washington for medical and biological research.
Wisconsin	No	Distilled Spirits and Wine taxes--4 percent of these to the administration and enforcement of the beverage tax laws and for the cost of administering alcohol studies.

Source: Distilled Spirits Council of the U.S., 1976 Public Revenues from Alcoholic Beverages, Part IV 12/.

Beverage alcohol production is a \$50 billion industry in the United States, and the absolute volume of tax revenues it generates is large. Yet,

for the most part, little of this revenue is redirected back toward preventing or resolving the societal impacts of alcohol abuse. One implication of this fact is that, from the governmental point of view, beverage alcohol is a good source of general revenues that governments are reluctant to earmark for specific use.

Raising Beverage Alcohol Taxes: The Price Elasticity of Demand for Liquor

What then of the wisdom of using additional taxes to attack the problems of alcohol abuse? If, on the one hand, demand is sensitive to price increases, additional taxes might discourage use sufficiently to reduce the associated problems by a significant amount. On the other hand, if higher prices do not discourage consumption, then additional taxes may produce new revenues that might be earmarked for alcohol abuse programs, without causing any sizeable production and employment effects on the industry. What does the available evidence tell about these two very different possibilities?

Tentative estimates of the price elasticity of demand for liquor place it in the range of 0.2 to 0.5 (i.e., a 1 percent increase in liquor prices is estimated to reduce quantity demanded by 0.2 percent to 0.5 percent, a less than proportionate response). Accordingly, such price inelasticity suggests that additional taxes on liquor would have only a modest effect on consumption, particularly if all beverage alcohol were to incur the additional tax. The policy implications deriving from this observation relate to the two hypotheses posed above: (1) higher taxes for the specific purpose of curbing consumption are not likely to be successful unless they are very high; but (2) higher taxes to generate revenues that could be directed considerable additional funds with little impact on the total quantity of alcohol produced and consumed in the U.S., or on employment and other economic dimensions of the beverage alcohol industries. Admittedly, further research on this particular feature of the demand for beverage alcohol is needed before decisions of this sort should be made, but, in my opinion, the very large negative social effects of alcohol abuse, in vehicular accidents and in other forms, warrant serious consideration of alcohol surtaxes to provide even modest funds to attack these compelling problems.

Senator BOSCHWITZ. We will now adjourn the hearing. Thank you very much.  
[Whereupon, at 1:50 p.m., the hearing was recessed, subject to the call of the Chair.]

## APPENDIX

### ADDITIONAL STATEMENTS FOR THE RECORD

#### STATEMENT

of the

AMERICAN MEDICAL ASSOCIATION

The American Medical Association is very concerned about the public health aspects of drunk driving. The following data and observations are provided to the Committee with the hope that wider recognition of the injury and destruction caused by drunk drivers will generate effective programs to ameliorate the problem.

Acute traumatic injuries are the leading cause of death of persons in the United States who are 1 to 44 years old. According to the Institute of Medicine, such injuries are second in economic cost among all illnesses; in terms of time lost from work or school, visits to physicians and hospitals, and years of life lost to society, few if any conditions have the overall impact of injuries.

Motor vehicle crashes are responsible for about half of all deaths due to injuries: in 1979, about 51,900 persons in the U.S. died in such catastrophes. Alcohol is a very significant factor in vehicle-related crashes and deaths. Of drivers who are fatally injured in single-vehicle crashes, 65% have blood alcohol concentrations of .10% (100 mg/100ml) or above. If a person dies in an early morning crash, the chances are 3 in 5 that he or she was intoxicated. About 6% of all drivers involved in crashes are intoxicated by legal standards. Surveys of representative areas in this country showed that depending on the time of day, 2 to 10% of all drivers are intoxicated.



The consensus among experts is that the ability to drive a car is definitely impaired at blood alcohol concentrations (BACs) of .05% and above. A related problem is that while self confidence increases with alcohol use, actual ability decreases. Concentrations of .08% or above are not compatible with the safe operation of a vehicle; the higher the level of alcohol in the blood, the greater is the likelihood of being responsible for a crash.

AMA believes that a blood alcohol concentration of 100 mg/100 ml should be set by state laws as constituting prima facie evidence of intoxication. The effect of alcohol on any one individual depends on physiological factors such as one's weight, whether one has eaten recently, tolerance to alcohol, overall health status and use of medications, and on psychological factors such as fatigue and personality makeup. Blood alcohol levels that impair teen-age drivers may be lower than for adults, and the effects of marijuana when combined with alcohol are of particular concern at present.

Safety programs and standards regarding alcohol as they relate to traffic problems have traditionally been the province of the states, and AMA believes such issues should continue to be addressed at the state level. The federal government, however, might well consider the development of model guidelines for consideration by to the states. Studies undertaken recently by New York State may be particularly useful.

Fortunately, the average, non-intoxicated driver can take some actions to prevent injury in the event of a crash. One of the best preventive measures is the use of the lapbelt-shoulder harness, which is about 45% effective in preventing serious injury. Larger, heavier vehicles offer more protection in a crash than lighter ones, and the serious injury rates are only half as high on divided highways as on two-lane roads with two-way traffic. Reducing speed limits to 55 mph had a salutary effect in reducing deaths from crashes, even in the face of greater exposure to crashes, that is, more vehicle miles traveled.

Passive preventive measures, however, in which the individual need carry out no specific act to reap the benefits, are the ideal. Examples of safe, effective, passive preventives in other areas of public health

include the chlorination of water, the pasteurization of milk, and the use of high penetration resistant (HRP) windshields. If some of the factors that contribute to injuries could be changed, such as the relatively hard internal surfaces of motor vehicles and their relatively weak passenger enclosures, injuries might more effectively be prevented.

Because the use of alcohol is so widespread in our society, and human character is so difficult to modify, neutralizing or overcoming the "alcohol factor" in vehicle-related injuries, and in injuries of all kinds, will be extremely difficult.

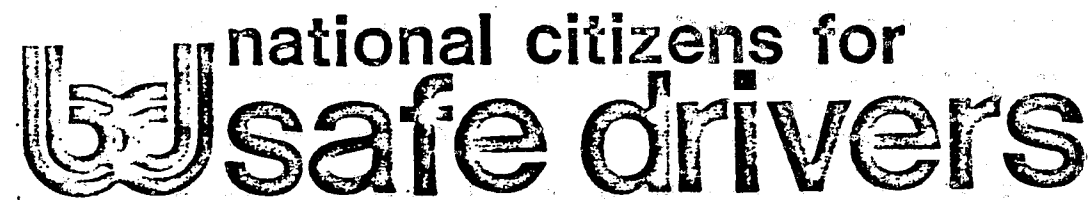
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Attached is a bibliography of sources of additional information for possible use by the Subcommittee.

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against drunk drivers

& chronic offenders



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TESTIMONY FOR U.S. SENATE JUDICIARY COMMITTEE ON COURTS  
November 6, 1981

Citizens for Safe Drivers (CSD) is a national non-profit public interest organization dedicated to reducing deaths and injuries on our highways by working on the problems of the drunk driver and other chronic offenders. Our members across the country include concerned citizens, highway safety experts, law enforcement officials, health professionals, and families and friends of highway crash victims... both as individual members and as affiliate groups.

We welcome this opportunity to comment on the courts in relation to problem drivers, particularly the drunk driver.

We continually receive phone calls and letters from the families of highway crash victims. They are angry because the court system in its efforts to protect the rights of the problem driver ignores the rights of the families of victims. They are outraged because the courts consider the livelihood of the defendant who killed their loved one more important than the life of the victim. They are frustrated because most of the courts give families little or no information about the criminal court hearing, often misinforming them about their rights under a system which seeks to work primarily for the defendant. They are shattered because the courts demean the victims and their families in the process.

Their experience with the courts adds a traumatic burden to their grief.

Courts and the juries are infected by the "there but for the grace of God go I" syndrome which causes them to overempathize with

the defendants. But few judges or juries or prosecutors consider themselves as potential highway crash victims. Yet the National Safety Council predicts that one out of two Americans in their lifetime will be involved in a serious highway crash resulting in either death or a disabling injury.

We recall one mother of a victim lamenting that "they never once called David by his name...always it was 'that kid' or 'the deceased.'" To the court he was a non-person...a nobody."

We have found that we can be most helpful to the families of victims by redirecting their grief and anger into positive social action...to save other lives.

The victim's family is usually concerned first about some specific aspect in the crash which killed their loved one. It may be the failure to give a BAC (blood alcohol content) test or its inadmissibility as evidence; the complexity of the laws and its strong tendency to protect the defendant; or the weakness of the vehicular homicide laws which make it almost impossible to convict the killer; or the wrongful death laws which consider the value of our children's lives as nothing; the insensitivity of the system which allows the drunk driver to get back in a car and continue to drive again, often years before any decision is made in his case. In state after state, the entire system of drunk driving laws ties the hands of driver licensing officials, police, and the courts. Even where strong laws do exist they often are not enforced by the police or used by the courts.

As a result of citizens public information and media campaigns, some states have begun to take a new look at their drunk driving laws and to strengthen them. Maine now has mandatory penalties for drunk driving. Its courts should be watched to see how they are reacting. Will the courts in Maine merely downgrade the charges of alcohol to avoid the mandatory penalties? Or will they really use the law?

Over the past several years, a few other states such as New York, Maryland, and Illinois have made some progress. In most states the first problem that must be tackled is "probation before judgment"

sometimes called "court jurisdiction" or given some other name.

This system wipes the alcohol charge off the record if the driver takes an alcohol or driver safety course and has a clear record for the duration of his 3 to 6 months probation. Each time the offender comes before the court for repeat offenses, he is treated as a first offender, sometimes in several counties or municipalities at the same time.

We feel strongly that the key to dealing with the problem of drunk drivers and chronic offenders, who are overrepresented in serious crashes, is an accurate, complete, and timely driver records system within each state with full interchange of records between the states and complete use of the National Driver Register to prevent drivers already suspended or revoked in one state from rushing to another state to obtain a license.

Unless the court knows whether the driver is a one-time offender, a near-problem driver, or a true problem driver, it cannot appropriately propose treatment or sentencing.

Although the courts are supposed to consider the full driver record before sentencing, many judges fail to check them. Prosecutors also need to consider this valuable information in determining how to handle the charges.

In many cases the driver record...for all intents and purposes... is falsified when charges are downgraded or plea bargained out of alcohol to reckless driving or even to non-moving violations. In Iowa, some courts have been reported to reduce serious charges to phony loud muffler violations.

Even where there is an official conviction for an alcohol offense or other moving violation, some courts fail or delay sending this information back to the central state file and it is lost to the record system.

In our highly mobile society many driving violations occur in states other than the state of residence. Some states, like Connecticut, do not forward the record of the conviction back to the home state. In

other states like Colorado, when a report on a Colorado driver is received from another state it is filed...in the wastebasket. Or if a state does record the violation, it enters a reduced number of points. The driver himself often obtains multiple licenses to spread points among a number of states to avoid suspension. When the driver moves to a new state, he is born again with a clean record. And if the judges want to check the record, there is none to be found.

In almost every state the driver records system needs to be upgraded. In some states, these records are stacked in boxes, inaccessible and unavailable if requested by the courts. Each court needs a computer terminal to quickly determine the driver record and to quickly relay back its own decisions.

The states need uniform ticketing systems so they can account for every ticket and the disposition of the case can be recorded. Continuous research needs to be conducted to determine whether the courts are giving consistent and full sentences based on the complete facts or merely continuing "slap-on-the-wrist justice."

Families of victims want stronger laws and want them to be effective. We want the chances that a drinking driver will be arrested to be great enough so that it will act as a deterrent to driving while drunk. We also want the records to be accurate, complete, and timely so that judges can give fair sentences and so that the alcohol treatment professionals can provide suitable rehabilitation. We want the courts to give penalties that are consistent and appropriate to the offense.

Detering drinking and driving will not only reduce the number of victims but will also reduce the likelihood of the drinking driver himself being killed or injured.

Drunk driving is part and parcel of the total problem driver issue and driver records are a significant key to the solution. We believe that the failure of safety professionals and citizens alike to recognize this fact is partly responsible for the past inability to lessen the problem of the drunk driver.

Violations and accidents by the unidentified drunk driver...the driver whose blood alcohol content has not been tested, or whose charges have been downgraded, or whose violation has resulted from drinking at a lower than legal limit...should not be overlooked or minimized.

The role of driver license suspensions and revocations as a safety tool must be given more emphasis as a penalty by the courts.

The California Hagen Report indicates that even in hard core multiple offending drunk driving cases, license suspensions and revocations are by far the most effective penalty...more so than jail, fines, or treatment, and the effects on reducing crashes last up to 4 years.

In this era of budget austerity, it is important to find new ways to pay for the costs of reducing alcohol related crashes.

We recommend that part of the needed funds for suggested safety programs be obtained from an alcohol excise tax placed in a Traffic Safety Trust Fund similar to the Highway Trust Fund obtained from gasoline taxes.

Funds from this source should be allocated to the states on a formula based on adherence to safety program which can help alleviate the drunk driver and other chronic offender problems. Among these problems are uniform ticketing; accurate, complete, and timely driver records systems both within states and for interstate exchange of records, and for records coordination with the NDR system; uniform and stronger drunk driving laws; consistent enforcement and consistent penalties commensurate with the violation; training of judges for alcohol and injury cases; use of terminals by the courts for immediate access to driver records before sentencing; driver history profiles; research on disposition of cases and resulting driver crashes and violations; membership and conformity with state driver licensing compacts; alcohol counseling, treatment and driver improvement programs; and other related safety programs.

The federal excise tax on alcohol has not been increased in many years. If increased in the same proportion to the price of alcohol when the tax was last adjusted, the available funds would be a major source for safety projects.

The overall court system has begun to consider the victims and to use victim impact statements in their sentencing process but the traffic court, regardless of the severity of the violation and its resulting deaths or maimings, still has little concern for the victim and the family of the victim.

We commend this committee for looking into this problem at this time because the 53,000 highway deaths in 1980 are expected to reach 70,000 annually by 1990.

What other major epidemic would get such short shrift by the segment of authority that could do the most to correct the problem? The court affects most every phase of the process. Yet the court's attitude and often inappropriate sentencing discourages the police who see their efforts wasted. It devastates the families of highway crash victims, invites the irresponsible driver to continue his unlawful and dangerous behavior, and indicates to our youth that society does not care. The courts must act responsibly.

**END**