Dazed & Confused:
Marijuana-Impaired Driving – Policy & Solutions

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Alcohol-Impaired Driving Fatalities 1982-2016

Total Alcohol-Impaired Driving Fatalities

Drunk driving fatalities have declined 50% from 1982 to 2016.

Source: NHTSA/FARS, 10/17
Why have we made progress?

• Passage of laws to target multiple facets of the problem
• Sustained and high visibility enforcement efforts
• Identifying the countermeasures that work; evaluation and strengthening of programs
• Targeting high-risk offenders
• Assessment and treatment
• Public education and awareness
• Changing societal norms
Marijuana-impaired driving: Magnitude of the problem
Is Canada ready to deal with stoned drivers?

As Canada prepares to legalize marijuana, it is totally unprepared to deal with the most dangerous side effect
Limitations in crash data

• States vary considerably in how they collect DUID data:
  – How many drivers are tested?
  – What tests are used?
  – How are test results reported?

• The rate at which states test drivers involved in fatal crashes ranges from less than 10% to over 90%.

• FARS data merely reflects drug presence; it does not identify drug concentrations.
Percent of *Fatally-Injured* Drivers that Tested Positive for Drugs

- 2005: 28%
- 2009: 33%
- 2013: 40%

Source: NHTSA / FARS, 2015
43% of fatally-injured drivers with a known test result tested positively for drugs, more frequently than alcohol was present.

Source: 2015 Fatality Analysis Reporting System (FARS)
In 2015 nationwide, 57.0% of fatally-injured drivers were tested for drugs.

Of those tested:

- **35.6%** Marijuana
- **9.3%** Amphetamine
- **55.1%** Other
- **34.3%** A drug in the FARS list was found
- **7.4%** Drug not in the FARS list
- **55.4%** No drugs detected
- **2.9%** Unknown

Source: 2015 Fatality Analysis Reporting System (FARS)
<table>
<thead>
<tr>
<th>Substance</th>
<th>Weekday Days</th>
<th>Weekend Nights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tested positive for some drug or medication</td>
<td>22.4%</td>
<td>22.5%</td>
</tr>
<tr>
<td>Illegal drugs, including marijuana</td>
<td>12.1%</td>
<td>15.2%</td>
</tr>
<tr>
<td>Medication</td>
<td>10.3%</td>
<td>7.3%</td>
</tr>
<tr>
<td>Marijuana</td>
<td>11.7%</td>
<td>12.6%</td>
</tr>
<tr>
<td>Alcohol</td>
<td>1.1%</td>
<td>8.3%</td>
</tr>
</tbody>
</table>

Marijuana: Roadside survey

- The drug that has shown the largest increase in weekend nighttime prevalence is THC.
- In the 2007 NRS, 8.6% of weekend nighttime drivers tested positive for THC. This number increased to 12.6% in the 2013-2014 NRS. This reflects a 48% increase.

Marijuana and DUID Policy
Why legalize?

Colorado 2016: $1 billion in sales = $200 million in tax revenue
**Drugged driving** is more complicated than drunk driving.

<table>
<thead>
<tr>
<th></th>
<th>DRUGGED DRIVING</th>
<th>DRUNK DRIVING</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number:</strong></td>
<td>Hundreds of drugs</td>
<td>Alcohol is alcohol</td>
</tr>
<tr>
<td><strong>Data on Use by Drivers &amp; Crashes:</strong></td>
<td>Limited</td>
<td>Abundant</td>
</tr>
<tr>
<td><strong>Use by Drivers:</strong></td>
<td>Increasing</td>
<td>Decreasing</td>
</tr>
<tr>
<td><strong>Impairment:</strong></td>
<td>Varies by type</td>
<td>Well-documented</td>
</tr>
<tr>
<td><strong>Crash Risk:</strong></td>
<td>Varies by type</td>
<td>Precise</td>
</tr>
<tr>
<td><strong>Beliefs &amp; Attitudes:</strong></td>
<td>No strong attitudes – public indifferent</td>
<td>Socially unacceptable</td>
</tr>
</tbody>
</table>

**GHSA**  
[Responsibility.org](http://responsibility.org)
Emerging trends in DUID legislation

- Increased nanogram limits
- Implied consent language
- Oral fluid/saliva testing
- Open container laws
- Enhanced penalties for poly-substance use
- ZT for under 21
SOLUTIONS
Report authored by Dr. Jim Hedlund

Recommendations formed by an expert panel consisting of representatives from:

- NHTSA
- ONDCP
- GHSA
- National Traffic Law Center
- AAMVA
- Colorado HSO
- WTSC
- Institute for Behavior and Health
- Responsibility.org
What can states do?

Planning

• Assess your state’s drugged driving issues
• Build broad partnerships
• Create a drugged driving strategic plan

Education

• Survey public opinions and attitudes
• Develop and implement a campaign
• Develop targeted messaging for high-risk groups
California DUID Blueprint

• The Office of Traffic Safety has employed a task force approach.

• Multiple working groups comprised of practitioners and national experts formulated recommendations to address various aspects of the problem (e.g., data collection, enforcement, license issues, prevention, etc.).

• Outcome: **DUID Blueprint** that will serve as a strategic plan to prioritize and address long-standing issues through proven countermeasures and enhancement of existing programs.

• Model can be replicated by other states that seek to address drug-impaired driving issues.
Colorado: Drive High, Get A DUI
Colorado: *Drive High, Get A DUI*
CONSUMING CAN CAUSE CRASHING.

It takes up to two hours for an edible to affect you. Don’t be behind the wheel when your high hits.

IF YOU’RE HIGH, DON’T DRIVE.
Colorado: *Drive High, Get A DUI*
What can states do?

Laws and sanctions

- Zero tolerance for illegal drugs
- Zero tolerance for drivers under 21 for all drugs
- Enhanced penalties for polysubstance use
- ALR for drugged drivers
- Mandatory screening/assessment and treatment
- Separate DUI and DUID charges
- Modify implied consent language
- Appropriations for law enforcement training
What can states do?

**Train practitioners**
- Law enforcement (ARIDE and DEC)
- Prosecutors (NTLC, TSRPs)
- Judges (JOLs, National Judicial College)
- Probation (NHTSA/APPA Probation Fellow)

**Testing**
- Test all fatally-injured drivers for drugs
- Test all DUI arrestees for drugs
- Develop accurate, inexpensive, and convenient roadside testing devices (e.g., oral fluid)
DUID Enforcement Grants

• R.org partnered with GHSA to provide $20,000 grants to states to increase the number of officers trained in ARIDE or certified as DREs.

• Shaquille O’Neal joined R.org to promote the grants and raise awareness about the need for more training on Capitol Hill.

• In 2016-2017, 9 states received grants (FL, IL x2, MT, NV, TX, WA, WV, WI) resulting in more than 1,300 officers trained in DUID enforcement.
What can states do?

Prosecution and adjudication

• Screen and assess all DUI/DUID offenders to identify substance use disorders and mental health issues (CARS: www.carstrainingcenter.org)

• Place high-risk, high-need DUID offenders in a DUI Court setting

• Utilize intensive supervision and treatment interventions as appropriate

• Alcohol and drug testing
What can states do?

Data collection

• Track DUID and DUI separately in crash, arrest, court data
• Use surveys to track public knowledge and attitudes

Research

• Evaluate the effectiveness of drugged driving laws and education/awareness campaigns
• Continue research on establishing the impairment produced by different concentrations of the most widely-used drugs
**Policy Options**

**Establish a state task force to address DUID.**
- Include every facet of the DUI system, including advocacy groups and other interested parties, to create a strategic plan to prevent and reduce DUID.

**Provide more tools to law enforcement.**
- Provide funding to train officers (DRE/ARIDE).
- Launch an oral fluid pilot program to identify DUID drivers effectively and efficiently.

**Establish enhanced penalties for polysubstance-impaired driving.**
- Drugs used in combination or with alcohol cause greater impairment and heighten crash risk. This justifies tougher sanctions similar to those in place with drivers who have high blood alcohol concentrations (BACs of .15+).

**Require treatment if indicated by an assessment.**
- Tie treatment completion to re-licensing as a condition of probation.

**Increase the number of DUI or hybrid DUI/Drug Courts.**
- Increase the number of DUI or hybrid DUI/Drug Courts in your state to deal with the highest-risk offenders (e.g., repeat offenders). These programs are highly effective in reducing recidivism and saving costs.

**Improve your state’s DUID data collection.**
- Mandate alcohol and drug testing of all fatally-injured drivers.
- Encourage alcohol and drugs testing for surviving drivers in fatal and serious-injury crashes.
Create parity in sanctions between DUI and DUID where appropriate.

Many states have unequal penalties for DUI and DUID.

Mandate screening and assessment.

All impaired drivers need substance use and mental health disorder screening/assessment to identify underlying causes of offending and to reduce recidivism.

Establish a zero tolerance law for all drugs, including marijuana, for drivers under the age of 21.

Impairment plus inexperience increases youth crash risk relative to other age groups. This law establishes parity with existing zero tolerance laws for alcohol for drivers under the age of 21.

Separate DUI and DUID statutes.

It is important to accurately quantify alcohol, drug, and polysubstance-impaired driving and not report all three as a single behavior.

Ensure that the language in your DUID statute is broad enough.

Ensure that the language in your DUID statute is broad enough to include inhalants and emerging synthetic/designer drugs.

Additional Sources

For more information about DUID, refer to Drug-Impaired Driving: A Guide for What States Can Do, produced by the Governors Highway Safety Association (GHSA) with funding from Responsibility.org. It summarizes the state of knowledge on DUID and identifies state actions to address the problem.
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