

Questions for the Record
Following the House Energy and Commerce Committee’s
Subcommittee on Digital Commerce and Consumer Protection Hearing
“Examining Drug-Impaired Driving” July 11, 2018

Questions from Honorable Michael C. Burgess
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Submitted August 6, 2018

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- 1. According to the Governors Highway Safety Association, the percentage of fatal accidents involving alcohol-impaired driving has decreased, while the rate of drug use among those tested has continually increased. But, we have no consistently reliable data on the combined effect of alcohol and drug use.**
 - a. What studies have been done or could be done to help identify these effects?**

The scientific literature on drug-impaired driving has grown significantly over the last decade, with particular focus on comparing the impairing effects on driving of various drugs, as well as the combined effects of alcohol and drugs, particularly marijuana (THC).¹ However, as noted in my testimony, no amount of new research will determine a 0.08 g/dL BAC equivalent for any drug – alone or in combination with alcohol. As a result, what the nation needs is not new research studies to identify the *effects* of combined alcohol and individual drugs (or even the most commonly used drugs) but instead new and expanded efforts to test drivers identified as impaired for the prevalence of alcohol *and* drugs.

This starts with using reliable field testing technology to test every driver arrested for impaired driving for alcohol and impairing drugs, including marijuana. It also means requiring

every driver involved in a crash which results in a fatality or significant injury who could be charged with a moving violation to provide a sample for testing for alcohol and drugs. Only with this combination of actions will we understand the full extent of the prevalence of drugs, and drugs in combination with alcohol, among impaired drivers.

¹ E.g., Hartman, R. L., et al. (2015). Cannabis effects on driving lateral control with and without alcohol. *Drug and Alcohol Dependence*, 154, 25-37; Dubois, S., et al. (2015). The combined effects of alcohol and cannabis on driving: impact on crash risk. *Forensic Science International*, 248: 94-100; Sewell, R. A., et al. (2009). The effect of cannabis compared with alcohol on driving. *American Journal on Addictions*, 18(3), 185-193.

b. What methods are available to identify drug and drug combined with alcohol use in the field?

Law enforcement officers document their observations about driving behaviors of drivers suspected of impaired driving, as well as drivers' speech, physical movements, et al. Assessing a driver for impaired driving typically includes the Standardized Field Sobriety Test (SFST) and often a preliminary breath test. Although the SFST was designed and is validated to identify alcohol-impairment, the SFST is also an effective screening tool to identify impairment among drivers who used central nervous system stimulants, central nervous system depressants, marijuana and narcotic analgesics.² As a result, these procedures provide law enforcement officers an excellent foundation for detection of drug- and combined drug-and-alcohol-impaired driving.

Officers may use a preliminary breath testing at the roadside as part of evidence collection. If an impaired driving suspect has a low BAC, officers can then use an oral fluid screening test for the most common drugs. This technology is used in many nations across the world and has been piloted in the US by police departments in several states. Analogous to the

preliminary breath test, an oral fluid screening test is non-invasive, easy to use, and is another tool for officers to collect evidence at the roadside.

When an officer has probable cause that the driver is impaired – whether or not by alcohol, a drug, or both – an arrest is made. The driver is then required to submit to a test to determine BAC. It is at this point when the collection and testing of specimens for alcohol *and* drugs must take place. If blood is collected for alcohol testing, a blood sample can be sent to a laboratory to test for drugs. Alternatively, oral fluid specimens can be collected and sent to laboratories for confirmation analysis for the presence of drugs.

Drug Recognition Experts (DREs) offer another tool in the detection of drug-impaired drivers. These specially trained officers can identify the impairing drug(s) with impressive accuracy. Although DREs are very useful in the field, there are not enough DREs on which to rely only or even use primarily for drugged driving detection.

Policy changes are needed to permit the testing of drivers for drugs using updated technology and *explicitly in addition to testing for alcohol* in all suspected impaired driving cases. This begins with permitting the use of oral fluid collection screening and confirmation testing. It also means providing incentive for law enforcement officers to test impaired driving suspects for both alcohol *and* drugs, for example, providing additional penalties to impaired drivers that are positive for multiple drugs, including alcohol.

² Porath-Waller, A. J., & Beirness, D. J. (2014). An examination of the validity of the standardized field sobriety test in detecting drug impairment using data from the Drug Evaluation and Classification program. *Traffic Injury Prevention, 15*(2), 125-131.

2. In your testimony you state that every driver found to have been impaired and positive for drugs, including marijuana, should experience the same remedies and penalties as those found to have been driving under the influence of alcohol.

a. Why do you believe this will help address the issue?

The nation has made tremendous progress in reducing alcohol-impaired driving – through strong policies backed by effective enforcement and widespread education campaigns. We can similarly reduce the problem of drug-impaired driving – but we need action *now*.

One of the most remarkable policies used to effectively reduce alcohol-impaired driving is Administrative License Revocation (ALR). Under these laws, licenses are promptly revoked for drivers arrested for impaired driving or who refuse a chemical test, effectively removing dangerous drivers from the road. Criminal prosecutions for impaired driving proceed as usual – often months or even years after the offense. Applying ALR to drug-impaired driving suspects is an important first step to reducing the drugged driving problem.³

³ Talpins, S. K., DuPont, R. L., Voas, R. B., Holmes, E., Sabet, K. A. & Shea, C. L. (2014). License revocation as a tool for combating drugged driving. *Impaired Driving Update*, 18(2).