



ORANGE COUNTY SHERIFF'S DEPARTMENT

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SHERIFF-CORONER
SANDRA HUTCHENS

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August 14, 2018

The Honorable Robert E. Latta
Chairman, Subcommittee on Digital Commerce and Consumer Protection
Energy and Commerce Committee
United State House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515-6115

Dear Chairman Latta:

Thank you for holding the recent subcommittee hearing "Examining Drug-Impaired Driving" on July 11, 2018. Drug-impaired driving is a significant challenge facing our nation and one that deserves the attention of our national leaders.

The Orange County Sheriff's Department was pleased to be represented at the hearing by the Orange County Crime Lab's Assistant Director for Forensic Chemistry, Jennifer Harmon. Please see the attached responses developed by Ms. Harmon to address additional questions received from a member of your subcommittee. In my view, Ms. Harmon and her colleagues at our Orange County Crime Lab are on the cutting edge of compiling the research needed to develop effective policy solutions aimed at reversing the increases in drug-impaired driving.

Please do not hesitate to contact my department should you have any questions or seek further input on efforts to combat drugged driving. Thank you again for your continued focus on this important issue.

Sincerely,



Sandra Hutchens
Sheriff-Coroner

SH/rg

Mr. Robert E. Latta
Chairman
Subcommittee on Digital Commerce and Consumer Protection
United State House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515-6115

Dear Chairman Latta,

Thank you for the opportunity to appear before the Subcommittee on Digital Commerce and Consumer Protection on "Examining Drug-Impaired Driving" on July 11, 2018. I appreciate the opportunity to respond to the questions posed by the Honorable Michael C. Burgess in the letter dated July 31, 2018. Dr. Burgess asked, *"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 combine effect of drug and alcohol use." "What studies have been done or could be done to help identify these effects?"* There are numerous scientific studies that demonstrate the effects that drugs and drugs in combination with alcohol have on driving. Some of the best research has come out of the European Union's DRUID project and Australia, where drugged driving impacts have been studied vigorously over the last twenty years. As an example, in a scientific literature review study by Australian authors Kelly, Darke, and Ross (2004):

"Drugs are detected commonly among those involved in motor vehicle accidents...Cannabis is generally the most common drug detected in accident-involved drivers, followed by benzodiazepines, cocaine, amphetamines and opioids. Poly-drug use is common among the accident-involved drivers. Studies of impairment indicate an undeniable association between alcohol and driving impairment. There is also evidence that cannabis and benzodiazepines increase accident risk...It is apparent that drugs in combination with alcohol, and multiple drugs, present an even greater risk" (P. 319).

Additionally, the National Highway Traffic Safety Association's (NHTSA) Roadside Survey is an excellent opportunity to track drug use trends in the United States, especially in terms of preventative health and education strategies and effectiveness, as well as with drug use perceptions and patterns. As seen through our testing in Orange County, testing of every arrested DUI driver regardless of the blood alcohol concentration and traffic safety related fatality, drug use is complex and typically in combination with more than one substance and at concentrations that may be toxic too much of the population. Scientifically controlled evaluation of real-world drug use patterns and combinations is difficult. The best data will come from collecting epidemiological data.

The only way to collect that data is to improve and increase testing, both by laboratories testing the samples and by law enforcement who are evaluating possible drug impaired drivers at roadside. The Honorable Michael Burgess addresses this in his follow up question, *"What methods are available to identify drug and drug combine with alcohol use in the field?"*

Current methods available to identify these drivers in the field include the Standardize Field Sobriety Tests (SFSTs) and additional training with Advanced Roadside Impaired Driving Enforcement (ARIDE) and Drug Recognition Expert (DRE). The International Association of Chiefs of Police (IACP) administers these programs and is best suited to provide more extensive detail about the training. That being said, these

training programs have educated thousands of law enforcement officers to effectively determine drug-impaired and poly-drug/alcohol impaired drivers for more than 30 years. This is evident from the rate of positives received by crime laboratories. Our laboratory alone has more than a 96% positive rate for drugs, alcohol, or both in its tested apprehended DUI drivers. Additionally, in a 2016 study by authors Watson and Mann, "Combined observations on psychophysical and eye exams produced the best indicators of cannabis impairment" (p. 150). There is also emerging technology in roadside detection with marijuana breath testing and saliva testing, however, these techniques have limitations; most important to note is the limited scope of testing. Finally, there is additional legislated scientific research currently taking place by the University of California at San Diego (UCSD) to aid in validation and development of current and additional tests in conjunction with the DRE program.

The success of the law enforcement programs, SFST, ARIDE, DRE, are dependent upon comprehensive forensic toxicological testing. As noted by Dr. Burgess, *I testified that it is critical for all laboratories to conduct comprehensive toxicology testing.* Toxicology testing is the last step of the DRE program. Officers cannot certify or recertify without it. If law enforcement opines that someone is under the influence but has no mechanism to identify the actual drug causing the observed impairment, it makes the program far less effective. Laboratories must have the needed resources to test for, minimally, the most prevalent drugs in their jurisdictions.

Traffic safety testing is not a priority in many crime laboratories or jurisdictions as many of the cases are misdemeanor crimes and testing is limited to alcohol. Crime laboratories must compete for funding for all areas of forensic science including crime scene investigation, firearms testing, toxicology, latent prints, DNA, and narcotics identification. Currently, DNA is the only area of forensics that has dedicated moneys that jurisdictions are not directly competing for with not only other law enforcement agencies but within their own programs.

Funding chemical testing ensures evidence-based outcomes for law enforcement and support for drug-impaired training. It provides the much needed data for the federal Fatal Accident Reporting System (FARS). It additionally offers a comprehensive picture of drug use trends which can contribute to a better understanding of the true prevalence of the problem in the U.S. Multiple organizations including the Governors Highway Safety Association (2016, P. 7), the Government Accountability Office (2015, P. 12) and the National Safety Council (Logan, et al., 2017, P. 2) have supported that drug-impaired driving is under reported as many traffic safety related samples are not tested or the testing is limited. By improving chemical testing traffic safety policy, prevention, education and treatment programs to reduce recidivism of the drug-impaired can be best developed.

Thank you again for the opportunity to testify and provide response.

Jennifer Harmon
Assistant Director – Forensic Chemistry
Orange County Crime Laboratory
Orange County Sheriff-Coroner Department

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