

The Problem of Driving Under the Influence of Drugs: The Views of Four Former “Drug Czars”

The Honorable Robert L. DuPont, M.D.; General Barry R. McCaffrey, USA (Ret.); The Honorable R. Gil Kerlikowske; The Honorable James W. Carroll, Jr.; and Paul J. Larkin, Jr.

KEY TAKEAWAYS

Numerous drugs—some lawful, others illegal—can impair the same safe-driving skills that alcohol undermines.

The opioid epidemic and the legalization of cannabis in some states have increased the number of impaired drivers under the influence of drugs other than alcohol.

Drug-impaired driving has resulted in significant loss of life, and lives will continue to be at risk until the government addresses this problem.

Good afternoon all, and welcome to today’s Heritage event. My name is Paul J. Larkin, Jr. I am a Senior Legal Fellow in the Meese Center and have the distinct privilege of being your host for today’s event on an important but unfortunately underappreciated topic: “Driving Under the Influence of Drugs.”

Safely driving a motor vehicle is a complex activity. It demands alertness; divided yet wide-ranging attention; sustained concentration; eye–hand–foot coordination; and the ability to process quickly visual, auditory, and kinesthetic information. Science teaches us that operating a motor vehicle while under the influence of alcohol is a hazardous activity because alcohol demonstrably impairs the skills necessary for driving safely. Alcohol impairs tracking skills, attention, signal detection, hazard perception,

This paper, in its entirety, can be found at <http://report.heritage.org/hl1322>

The Heritage Foundation | 214 Massachusetts Avenue, NE | Washington, DC 20002 | (202) 546-4400 | heritage.org

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

reaction time, concentration, and hand–eye coordination. Prompted by the advocacy of organizations such as Mothers Against Drunk Driving, society no longer deems alcohol-impaired driving merely a peccadillo. As a result, we have successfully lowered the carnage that alcohol-impaired driving can cause.

Unfortunately, what many people do not realize is that, as contemporary science teaches us, drugs other than alcohol can make driving equally hazardous. The reason is that some drugs, even ones that are lawful to use, can impair the same skills needed to drive safely that alcohol undermines.

That problem is not an isolated phenomenon. Drug-impaired driving is far more prevalent than most people realize. In fact, the evidence is quite alarming. Do not take my word for it. Different presidential administrations have found that drug-impaired driving is a national problem.

For example, a few years ago, the U.S. Substance Abuse and Mental Health Services Administration found that in 2017, 12.6 million people age 16 or older drove under the influence of a psychoactive substance such as heroin, cocaine, methamphetamine, or cannabis. Those drivers put their passengers, the occupants of other vehicles, pedestrians, and themselves at the same risk of death or grievous bodily harm that alcohol-impaired drivers pose. In fact, in 2010, the Obama Administration concluded that drug-impaired driving “demands a response on a level equivalent to the highly successful effort to prevent drunk driving.”¹ The person who reached that conclusion was Gil Kerlikowske, one of today’s speakers.

What has happened is that our response to drug-impaired driving has lagged behind developments in the facts and the law. The opioid epidemic has led to an increase in the number of drivers impaired by drugs like heroin or “jonesing” for a fix. Polydrug use—that is, the use of multiple psychoactive substances, including alcohol—has increased the number of people who drive when they should not. And the decision by numerous states to legalize cannabis for medical or recreational use has been associated with an increase in vehicular crashes and fatalities in states like Colorado, which legalized recreational marijuana use nearly a decade ago.

To save innocent lives, public policy regarding drug-impaired driving must catch up quickly. We hope to help that project along by allowing you to hear from four experts on the problems that drug use causes.

Paul J. Larkin, Jr., is the John, Barbara & Victoria Rumpel Senior Legal Research Fellow in the Edwin Meese III Center for Legal and Judicial Studies, of the Institute for Constitutional Government, at The Heritage Foundation.

Opening Remarks: Robert L. DuPont, M.D.

Thank you, Paul, for leading this important Heritage Foundation event. The Institute for Behavior and Health, of which I am president, is proud to be a co-sponsor.

I am proud to be presenting with three fellow former drug czars, each of whom I greatly admire. Not included in my official bio is my claim that I am probably the only person who has worked with every one of the 17 leaders who have led the White House drug office since it was established by executive order on June 17, 1971. No other national priority has had an office in the White House over those tumultuous five decades. This reflects the importance of the modern drug epidemic that began in the late 1960s.

This evolving epidemic is destined to extend far into the future. The congressional legislation that formally established the first White House Drug Office, Public Law 92-255,² was passed on March 21, 1972, with unanimous support from both parties. Bipartisanship, as you have emphasized already, Paul, has been central to the U.S. drug policy over all of those years. Bipartisanship is, of course, reflected also in our panel today. Two of us former drug czars served under Republican Presidents and two under Democratic Presidents.

The establishment of the Office of National Drug Control Policy (ONDCP) was a major milestone. That legislation³ was led in the Senate by Joseph Biden, who came to the Senate in 1973, the same year that I became the second White House drug czar. I was also the first director of the National Institute on Drug Abuse (NIDA). In that role, I oversaw the publication of a research monograph on drugs and driving that was published in 1977.⁴

I would like to call your attention to the briefing document of this meeting, entitled “Drug-Impaired Driving.”⁵ It lays out the key facts about drugged driving. All of us will be referring to that document and to the IBH website—www.stopdrugdriving.org—which has become a national resource on this topic. Policies to address driving under the influence of drugs (DUID) build on the nation’s 100-plus-year-old effort to reduce driving under the influence of alcohol. This hard work to address alcohol-impaired driving is a major public health and public safety triumph.

Efforts to reduce DUID do not compete with efforts to reduce alcohol-impaired driving. Instead, they support, reinforce, and extend the success made against alcohol-impaired driving. As you have mentioned, Paul, poly-substance use is growing. It is a new challenge. It changes the challenge. Many drivers have multiple impairing drugs on board. Just as impaired driving isn’t just about alcohol, drugged driving isn’t just about cannabis, though cannabis is the most widely used impairing drug other than alcohol.

Drugged driving involves both illegal and legal drugs, including impairing prescription drugs. There are many good new ideas that I want to put on the table for our discussion today. My top six priorities are these.

Priority No. 1: Public education about the dangers of drugged driving is essential. Without heightened awareness by drivers, little progress can be made. The education needs to come from the media, legislation, and the government. “Don’t drug and drive” should be as widely known and endorsed as “Don’t drink and drive.” Together, we can build on our century of experience with alcohol-impaired driving to confront this new and rapidly growing polydrug reality in impaired driving.

Priority No. 2: Every driver arrested for impaired driving and every seriously injured or fatally injured driver should be tested for the most commonly used drugs in addition to alcohol. This will require both law enforcement training and adequate funding of laboratories.

Priority No. 3: Oral fluid testing technology must be widely used to identify drugs in all drivers arrested for impaired driving. Roadside oral fluid testing for drugs is as easy as roadside testing for alcohol, and like the test for alcohol, preliminary positive findings can be confirmed in the laboratory. It is essential to know that before a police officer pulls over a driver, the officer must have reasonable suspicion of a driving infraction, and there must also be probable cause before testing for alcohol and other drugs. This is not random testing. It’s testing after a driver has been pulled over for impaired driving.

Priority No. 4: We must put to rest the common belief that we need to wait for a 0.08 blood alcohol content (BAC) equivalent for cannabis and other drugs. This is not scientifically possible because, unlike alcohol, there is no measurable, stable relationship between blood and other tissue levels and impairment. That is a very important point. We do not need more research to solve this problem. You cannot solve the problem by having a BAC equivalent for other drugs. Cannabis is not the outlier. Alcohol is the outlier in that distinction.

Priority No. 5: We must help individuals who are arrested for driving under the influence of alcohol (DUIA) and DUID access the resources they need to address their problematic alcohol and drug use. The road from active addiction to long-term stable recovery regularly begins with a painful crisis resulting from problematic substance use. An impaired-driving arrest and the subsequent legal consequences create a major crisis that changes many lives for the better when linked to appropriate services, including education, substance abuse treatment, and recovery support.

Priority No. 6: I urge ONDCP and the Biden Administration to make reducing DUID a high priority. A first step is a report from ONDCP reviewing what is known about DUID and making recommendations for how to improve our efforts, including learning from other nations. Both the House and the Senate should hold hearings this year on DUID to develop national bipartisan strategic planning to reduce the serious threat to public safety and public health.

Robert L. DuPont, M.D., served as Director of the Special Action Office for Drug Abuse Prevention (SAODAP), the original White House drug office, in the Administrations of Presidents Richard M. Nixon and Gerald R. Ford. He is currently President of the Institute for Behavior and Health, Inc.

Opening Remarks: Barry R. McCaffrey

This is a very discouraging policy topic. We slaughter more than 10,000 people per year in traffic accidents. The pandemic has seen skyrocketing drug overdose rates. Vehicular accidents cost America \$132 billion per year. There is little political will to seriously engage on the topic.

I spent most of 18 months on Ward 1 in Walter Reed Army Hospital during 1969–1971. I was a patient in a ward full of mangled lieutenants and captains from Vietnam. In general, our morale was sky-high. We were young, still improbably alive, and almost certain to exit our medical care as functional as the professional and caring team at Walter Reed could make us.

Then there were the traffic accident victims, many from drunk driving, many on the weekend. An Air Force retired lieutenant colonel in particular I remember died a difficult end. All his ribs were smashed; he had pneumonia; they were using gravitational drainage to clear his lungs. If my memory serves me, the driver had also killed someone else.

Some Assertions

Hundreds of thousands of Americans drive drunk or drugged all the time and nothing happens. It is believed correctly to be low risk. It is seen as sort of amusing. The consequences of a DUI arrest are serious but not catastrophic (unless you are in the armed forces). So what is the big deal, many say?

Most people driving impaired are not classic substance abuse disorder cases. Among past year marijuana users, 20.9 percent were daily or near daily users. Among past year alcohol users, 6.5 percent were daily or near daily users. However, if you want to get dead, try mixing drugs, be in early

adult years or a teenager, drive on a weekend, and drive at night. That ought to work out for you after a series of trips.

Now that pot is widely available, legal in many states, largely not stigmatized and very hard to test for, driving stoned with severely impaired reflexes is much less likely to get you arrested than using alcohol. Good deal for you. Arrests for driving with THC impairment are greater than alcohol. In my judgment, we seriously undercount the number of stoned drivers on the highway.

The number of dreadful vehicle homicides from multiple-offender impaired drivers is shocking. There is no political will to impound or forfeit first-offense vehicles to include for non-owner offenders, no escalating punitive measures that seriously threaten and deter the casual drug or alcohol user.

Law enforcement is overwhelmed and underfunded. In my observation, police have frequently just given up completely on enforcing existing drug laws. Public drug use, use in restaurants, sales in public—all commonplace in many metro areas. It obviously bleeds over into impaired driving.

The best tool to reduce stoned and drunk driving is mobile law enforcement roadblocks on weekends and holidays that test randomly for impaired driving. Law enforcement is poorly manned to support this, and it creates a legal uproar when enforced.

Current drug-testing laws and technology are not adequate to address drug-impaired driving. In most jurisdictions, there is no political will to collect fluids or hair as evidence. In some cases, a specially trained officer has to arrive at the traffic stop who is certified to identify a stoned driver.

A National Disgrace

The U.S. has suffered roughly 7,000 U.S. troops killed in action in Iraq and Afghanistan since 9/11. Given the extremely high level of combat intensity, it is a tribute to the undeviating attention the armed forces leadership pays to minimizing the number who are killed and wounded.

There is no remotely equivalent orchestrated effort to reduce the carnage on the highways from impaired driving. During the same period since 9/11, it looks as if we have lost 535,000 vehicle fatalities. It is not just those who are stoned or drunk, but also the innocent victims who are crippled or killed.

It is about time for a national discussion of the issue.

General Barry R. McCaffrey, USA (Ret.), served as Director of the Office of National Drug Control Policy in the Administration of President Bill Clinton. He is currently President of his own consulting firm, BR McCaffrey Associates LLC, and a national security analyst for NBC News.

Opening Remarks: R. Gil Kerlikowske

During my tenure as the Director of ONDCP (2009–2014), I was able to meet with every former Director. Uniquely, these were in-person meetings, a practice I hope will return soon. I benefitted greatly from those meetings, gaining firsthand knowledge about the problems of my predecessors as well as the attention and focus they brought to the problem of drugs, domestically and internationally. At that time, the discussion around “drugged driving” or Driving Under the Influence of Drugs (DUID) was not a focus, although both John Walters, my immediate predecessor, and General Barry McCaffrey had both started the discussion, generally as a result of the increase in the legality and use of “medical marijuana.”

When I first assumed the position of ONDCP Director, there was not significant public awareness of or attention to the crisis of opioids outside of subject-matter expert groups. We now know that with the exception of the COVID-19 pandemic, opioid addiction is the second greatest health crisis, taking lives and costing millions of dollars. We also faced the legalization of recreational marijuana in two states through referendums: Colorado and Washington State. Together, both prescription drugs and marijuana have given rise to increased danger on our roads by drivers under the influence.

My remarks are focused more on the use of marijuana by drivers, although other drugs and the combination of alcohol and drugs certainly deserve recognition and attention. As others have pointed out or will point out, the detection of marijuana use by drivers involved in fatal traffic accidents has increased. The problems are, in my opinion, threefold.

First, there is a resounding lack of readily available and cost-effective technology to detect marijuana prevalence in a driver. We know that without standardized testing equipment that has thoroughly been proven in both science and the courts, convictions for related driving offenses can be hard to obtain. One of the most lucrative areas of criminal law defense is in DUI cases, and even experienced and well-trained officers using breath-testing equipment have seen cases dismissed or reduced under intense defense scrutiny.

Second, getting the public’s attention to DUID violations has proven difficult. We have seen advocacy for marijuana legalization continue to increase in public polling without concomitant discussion about the dangers of driving under the influence. Much to their credit, MADD and other advocacy groups have brought significant public attention to alcohol-impaired driving. These organizations should take the same aggressive posture against DUID.

Community organizations, advertising, and victim panels have all made alcohol-impaired driving a subject of community concern. I held discussions with some of these groups but found them to be resistant to including drugged driving as part of their agenda. There were several reasons for this, but I thought as a nation we were missing an opportunity to label DUID with the same negative image that DUI had obtained. In addition, changes in laws have made convictions for operating a motor vehicle above a certain blood alcohol limit easier to obtain. That is why *per se* laws involving marijuana are needed in each state.

Third, this issue goes far beyond law enforcement. We know that over several years, driver's training classes in American high schools have been eliminated or reduced or outsourced to the private for-pay sector. These classes would provide an excellent opportunity to educate new drivers about the dangers of marijuana use and operating a motor vehicle. Other partners, besides schools, need to be engaged.

I could not have had a better partner in our effort than Secretary Ray LaHood at the Department of Transportation (DOT). He was focused, and rightly so, on "distracted driving"—the use of cell phones and texting while driving—but also on cockpit engineering in vehicles whose screens and software distracted a driver's attention. When I met with him and his staff, he took this issue on, and both DOT and the National Highway Traffic Safety Administration (NHTSA) became energetic partners. NHTSA pushed the effort for better data through the roadside surveys.

Since being away from ONDCP and law enforcement, I have not focused on the issues of DUID. Perhaps that is also indicative that, as a country and a government, both at the state and local levels and the national level, we have not put the time, energy, and effort into reducing a problem that demands public awareness.

The time for action is now.

R. Gil Kerlikowske served as Director of the Office of National Drug Control Policy in the Administration of President Barack Obama. He is currently Distinguished Visiting Fellow and Professor of the Practice in Criminology and Criminal Justice at Northeastern University.

Opening Remarks: James W. Carroll, Jr.

Lord, this is tough. All the smart people went first and said all the great ideas.

First, I really would like to thank Heritage and especially you, Paul, for hosting this important event, and I really am honored to be with Bob, Barry, and Gil. It has been a real blessing to have them as predecessors. They are

really the ones responsible for making certain that we as a country are focused on stopping the flow of drugs, teaching prevention, and really treating addiction as the disease that we know it is.

I am also blessed to call them my friends. They were always there when I wanted advice, and they started the example that I was able to follow: that this is not a partisan issue; this is a nonpartisan issue. So that is one thing that we can agree on. I think the other is that we can agree that the staff of ONDCP is just a brilliant and passionate group, and I think we are all really lucky to work with them.

I do want to focus on the conversation about marijuana, since that's so much in the national debate right now. Teens especially, I think, are receiving mixed messages on the role of marijuana in our society. As states legalize this as medicinal or recreational, people have the perception that it is just that, that it is a recreation, that it is a fun activity, or that it's just a medicine, and they think that it is natural. They think that it is eco-friendly, and what they don't realize is that there are real risks associated with its use.

To go slightly off topic, one thing that I did want to mention is the black market. What is never really discussed is the use of banned pesticides and herbicides on the vast amounts of illegally grown marijuana, which is a real issue. I snapped a few pictures, which I think Heritage is going to flash up now. They were both taken from an illegal growth site in California, and you can see on the left, these are banned herbicides and pesticides that were found discarded there at the growth site.

You can see that the pesticides are labeled in Spanish. These growth sites are not by hippies out in California. These are Mexican cartels coming across the border with these banned herbicides and pesticides that are strong enough to kill large mammals—they found dead bears around some of the growth sites there—and God knows by the time it actually reaches the end user.

On the right side, you can see a couple of the marijuana plants. That straight black line at the base of the plant is a hose which illegally diverted water resources from a beautiful stream in the California forest to water the marijuana plants. Therefore, the vegetation around it is being poisoned, and it is also being cut off from the natural resources. That's something that really is not discussed and may be worthy of a future topic.

The other issue that we really need to talk about is the impaired driving and the risk. There is so much confusion about this topic, and it is leading to risky behavior. Right now, there really is a societal taboo on the use of alcohol and drinking, and that really does not exist for drugs. Right now, pretty much everyone understands their alcohol limit, and they know, hopefully, to cut themselves off when they get there. And they also know to cut others off.

This is true among teens and millennials: that they would never dream of letting a friend get behind the wheel of a car if they were intoxicated on alcohol. Most people would call an Uber or drive their friend home. But there is not the same societal taboo on consuming drugs and getting behind the wheel. So you don't know your limit, and what's also scary is that you don't even know what you're consuming. So whether you're smoking, vaping, or consuming marijuana, there's usually no awareness of what's in there, including the THC content.

This is especially true of the black market, which we know is flourishing. There is really a very small black market on alcohol right now, but it's flourishing across the country for illegal, illicit marijuana. There is also, of course, on alcohol, if you look at your can of beer or you look at a bottle of booze in your closet, you'll see that there's a warning label that talks about the dangers of consuming alcohol and driving or operating heavy machinery. That does not exist for the illegal, for the illicitly purchased marijuana. Why not?

These are the things that we need to discuss as a country to make sure that there is awareness. I'm really honored on partnering with SADD, the Students Against Destructive Decisions, to help spread the gospel of prevention, to talk about the very real issues of drugged driving. SADD and I are now partnering with the Colorado Department of Transportation to build a peer-to-peer program and awareness campaign on this topic, and I really think that is where we're going to find the results to be the most promising. We know peer-to-peer recovery for other drugs works extremely well, and I think the peer-to-peer awareness of the dangers of impaired driving will work well as well. The program launched in April, and I am excited to see the results and see how we can fine-tune this and bring it across the country.

But what else needs to be done? There needs to be more research. We have talked about that already, and we need to understand the extent of the problem. Research done already by Liberty Mutual and SADD found that one-third of all teens, exactly 33 percent, perceive that it is legal to drive under the influence of marijuana in states where it has been legalized. That is really scary. They think it is legal. Twenty-seven percent of adults believe it to be legal as well. The other percentage that came out of this study is that 93 percent of parents found driving under the influence of alcohol to be dangerous, but only 75 percent believed it to be dangerous to drive under the influence of marijuana.⁶

So clearly, there is much more work to be done. I am proud to partner with SADD, and I am really proud to partner with Heritage and my predecessors to make sure that we're addressing this as a real national issue.

James W. Carroll, Jr., served as Director of the Office of National Drug Control Policy and Deputy White House Chief of Staff in the Administration of President Donald J. Trump.

Moderated Discussion

Paul J. Larkin, Jr. Thank you, Jim. Thank you all. Let me first, before I ask any questions, find out if Bob, Barry, or Gil have anything that they would like to add in light of what they've heard. Okay. Then let me ask you this: There are a very small number of people in Washington, DC, who can have a major effect on this issue. President Joe Biden is one. Transportation Secretary Pete Buttigieg is another. If either or both called you up on the phone and said, "Tell me three things that I can do this year, right now," what would the three things be?

R. Gil Kerlikowske. I'll start off if that's okay.

Paul J. Larkin, Jr. Certainly.

R. Gil Kerlikowske. President Biden can use, certainly, the bully pulpit of the White House to bring attention to this. We've seen Presidents bring attention to the opioid issue. Under General McCaffrey, we saw Presidents bring attention to the cocaine issue and the distribution. Well, here is a particular issue that the President could bring attention to. I think the delegation or involvement of the Department of Transportation would be a second important point.

Remember, too, that President Biden has granddaughters. He can really, I think, relate to this issue. Those are the two things I see, and I'm going to let my colleagues expand in other areas.

Robert L. DuPont. I am very excited about oral fluids testing. That is a game changer in terms of DUID because it lets the testing go right to the roadside, just the way we do with alcohol. When we have urine testing or blood testing, you have got a big barrier to get the test. To get a saliva sample is very easy for police officers to do at the time of arrest.

So I am very excited about the recent demonstration of how this can be integrated within routine traffic stops. The concept is that every driver who is arrested for impaired driving and every fatally injured driver and seriously injured driver needs to be tested for drugs, and several of us have talked about the fact that we need more data.

One of the things that has happened is when you get to a BAC 0.08, the testing stops. You need to test all those people for the drugs. When that has been done systematically, we'll have a lot better understanding of things, and we'll understand just how widespread the problem is with polydrug use and where we stand. But the oral fluids testing, I think, is really a game changer. It also gets away from the problem with marijuana, that people will have a positive metabolite present for a long time after they have used. That does not happen with oral fluids, which just test for THC. So you take away a lot of the controversy by moving to the oral fluids testing.

James W. Carroll, Jr. I guess I would add, and this is something that Barry touched on, that right now what we're seeing is a dramatic increase in fatal overdoses. We are also seeing a similar rise in suicides. So as soon as it is safe to do so, to open up the economy, to make sure that people can get the treatment that they need, that the kids are able to get the prevention messaging that they need so they don't go down this path, and as soon as possible, in order to be able to lift the morale of folks so that people aren't reverting back to their addiction, and making sure that there's fewer people using, there will be fewer people driving under the influence.

The other thing that I would really like to see is a national awareness of some of the great work being done by law enforcement these days. What we know is that law enforcement were the first ones to really push for diversion courts to make sure that people are not going to jail for their addiction, and they are the ones saying that we need to get those courts back open. And there are also so many groups that are out there. I think of PAARI, this Police Assisted Addiction and Recovery Initiative,⁷ up in New England, and there are several others like that, that if they encounter someone out on the street, not behind the wheel of a car or engaging in other criminal behavior, but if they encounter someone under the influence, they are taking them to get help. They are taking them to get treatment.

That is really the vast majority of police these days. They truly want to serve their community, and by doing that, they will also be able to not have those people behind the wheel, because they will be headed to what is hopefully a lifetime of recovery.

Barry R. McCaffrey. Let me add a thought—and by the way, that Department of Transportation thing that Gil mentioned is a huge deal. The number fixed in my mind is nine million truckers engaged in interstate commerce that are subject to mandatory drug testing when they have a giant accident, among other things. Although we still have huge problems in interstate commerce, as a general statement, it is not a nightmare as it is perhaps in Mexico and other places. So Transportation, the other departments of government beyond Health and Human Services and Justice, do have a role to play.

I know President Biden fairly well. I admire him enormously: a decent civil, experienced, thoughtful man. The people he is bringing into government are almost across the board experts who are people of character. So we've got a good team showing up. But we are still in an era of intense, mindless partisanship, and I don't expect President Biden to call me and ask about taking on anything that has a whiff of opposition to pot consumption. It is a political red herring. They do not want to get near it. The Obama Administration didn't, in my view, face up to it either. So it's going to be a tough issue.

As Bob correctly says, if you get an oral drug testing roadside check that scientifically and legally works, it would be a huge game changer. I do not think that's going to happen. So I'm a little bit skeptical and pessimistic about our ability to address what in general is pot-impaired driving on the nation's highways where accidents are slaughtering thousands of people a year.

Paul J. Larkin, Jr. That brings up my next question. We have now, perhaps, 50 years of experience with efforts to address the alcohol-impaired driving problem. What can we learn from the way those people who were supporting that movement addressed that problem, because they faced opposition as well? Who are the people that are likely to oppose any effort to deal with drug-impaired driving, and what can we learn from the way MADD and others addressed the alcohol-impaired driving problem to help deal with this side of the problem?

That is like the old *G.E. College Bowl*. It is a toss-up for anybody and everybody.

Robert L. DuPont. I think the first thing I would say is, it's really a 100-year effort, not a 50-year effort to deal with alcohol. And you look at what troubles there were along the way with that. That's a cautionary tale about how hard this is.

I think also that we need to get the people who are promoting drug use in various ways, including the sellers, to own up to the fact that it is a serious problem in terms of driving the way the alcohol industry has been kicking and screaming but have done a good job, I think, basically in this area. It's in their interest to do that and to come together and say, "We're talking about impaired driving, and we want to work together on this." I think there is a real hope here to build on what's happened with alcohol in dealing with drugs, but it is an uphill climb, and the events that have happened with alcohol have all to do with getting the media involved in it and getting the public engaged.

I think that is what's going to have to happen here. Gil Kerlikowske used the term "oxygen" in talking to me about DUI. Where is the oxygen? I think the oxygen then comes from the deaths and the stories of the people whose lives have been ended or ruined by drugged drivers. And I think that is going to happen again.

Barry R. McCaffrey. One of the bizarre aspects of being a drug policy director is I learned about money. I never paid much attention to money in the armed forces. They gave me some, but in drug policy, \$19 billion, if I remember, and nine different appropriations bills were things that I monitored and tried to help department secretaries rationalize. And I soon

learned that, as General Colin Powell used to tell us at the Pentagon, “Smart people in Washington don’t argue about policy or white papers or strategy. They argue about dollars.”

On the drug issue, it’s just astonishing. You cannot address the drug issue without addressing mental health. As I have learned from Bob DuPont, there are two sides to the same coin. And yet, the warring factions—I was seen as the plenipotentiary of the drug side in a war against mental health. You see the same thing when it comes to something as straightforward about thousands of people being killed on the nation’s highways.

I once had a little tiff with Mothers Against Drunk Driving, one of the most remarkably successful organizations in behavioral health in the last 100 years. They wanted my money for alcohol, but ONDCP’s enabling legislation says we are not supposed to deal with alcohol abuse. It is a carve-out. The most powerful people in the country are not sheriffs or police chiefs. They’re the regional beer distributors who know that people drinking beer are college kids and the armed forces, under age, and they are selling it to them.

So we’ve got a budgetary problem also that I think ONDCP is positioned to help with. Where do federal dollars really go, and can we get a flow of dollars to the technology issues of impaired driving and to influence states? But again, color me a bit pessimistic about getting the Biden Administration to forcefully face up to anything worthy. What you will hear is they’re after pot-impaired driving.

James W. Carroll, Jr. I was just going to go ahead and say, Barry, we’re now up to 16 departments and agencies that ONDCP oversees, and it’s about \$35 billion, and all we are seeing is the rise in overdose deaths. There was the one-time drop a year or so ago, but now it is right back up there. So we have to look at how we’re doing this and spending taxpayer dollars efficiently and effectively.

Barry R. McCaffrey. Yes.

Robert L. DuPont. I would like to remind everybody that among the drug czars is Michael Botticelli, who went on *60 Minutes* to talk about how a DUI arrest for him turned his life around,⁸ that he has been in recovery for nearly 30 years now, and what turned his life around was that arrest. I think people do not often understand how people get into recovery. It often is in response to a crisis and then what they do with that to turn their lives around. He is one of my best friends and a wonderful leader, and it happened because of a DUI arrest. We do not often think about the fact of how law enforcement is actually very helpful for lots of people in dealing with problems, especially in terms of drug and alcohol problems.

Paul J. Larkin, Jr. Let me follow up on something that several of you have talked about then, which is budgetary, appropriations, money problems. We do not know, I think one of you said, how big a problem this is because people aren't being tested. I know Bob mentioned that. Others did too.

Is this something that Congress should give the states money to do so they can test, even if not for every state to do it, at least on a pilot project basis? Pick some different states and jurisdictions and test every driver involved in a fatal accident for a whole range of drugs? Is that something that can be done this year to try to give us the info that we need to know how big a problem this is?

Robert L. DuPont. Yes, it can be done this year. And there is a wonderful model also in shock trauma centers. Half a dozen shock trauma centers around the country would give us real-time results about the relationship of what drugs are being used and how they are involved in people who are in shock trauma units who were drivers. That is something that's very accessible.

But I think also, Paul, the idea of having state experiments, encouraging states to experiment with DUI changes, like the State of Michigan recently did with oral fluids, I think the states are the laboratories on this. And using federal money to encourage model building that can go forward, I think, could make a huge difference and could incentivize the states to do some experimenting that could lead to major changes.

Paul J. Larkin, Jr. Let me give you another question we got from the audience. If we cannot yet distribute roadside testing devices to all of our law enforcement officers, should we train more law enforcement officers to be drug recognition experts (DREs)⁹ and even phlebotomists so that they can do something until we have roadside devices that we can use on a very widespread basis?

Robert L. DuPont. I think we have devices now that we can use on a widespread basis, but I think the DREs is a wonderful thing. It cannot be the answer because you can't deploy enough of them to do this, but they are good. The DRE idea came from Los Angeles, and NIDA was involved in that original research that led to the DREs. So the DREs is a great thing, but it can't be the major basis, because you just can't deploy enough people and get there to the accidents quickly.

James W. Carroll, Jr. These roadside devices are expensive also. A lot of them are \$4,000 or \$5,000 apiece. That is really tough for some of these small departments to be able to afford to have enough of them out there. With a Breathalyzer these days for alcohol, you can buy one for personal use online. You can get one delivered to your house the next day with Amazon

Prime so that you can test yourself before going out there. We do not have that ability to test for other drugs, so we have to come up with a way to be able to test this efficiently and have a national standard that is recognized by the states.

R. Gil Kerlikowske. Remember too, Paul, that after someone has been arrested and convicted usually of DUID, they are required at their own expense, if they've been able to keep their driver's license, to install a breath-testing piece of equipment within the vehicle that will not allow them to turn the car on until after they have shown that they're alcohol free. These are the kinds of technology that we should be looking at in the future, especially if somebody has been convicted of DUID.

Paul J. Larkin, Jr. That sounds like we could make this into a package. We could have legislation that gives funding to states and localities for the devices, as well as to do the drug testing from a laboratory perspective. Even if we did not do it nationwide, pick different jurisdictions that are likely to be good ones, and then the results of that might inform what we do the following year in 2022.

On behalf of Heritage and myself, I appreciate all the time you spent today and before. I appreciate the wisdom that you have imparted to us, and I'm hoping that people take this to heart, because this is a major problem we need to address. And we can do it because it can be done on a bipartisan basis. Let me thank you very much and tell you that I always remain open to all of you, to help, for any ideas. And with that, we are adjourned.

Endnotes

1. *National Drug Control Strategy*, The White House, 2010, p. 23, <https://obamawhitehouse.archives.gov/sites/default/files/ondcp/policy-and-research/ndcs2010.pdf> (accessed March 23, 2021).
2. S. 2097, Drug Abuse Office and Treatment Act of 1972, Public Law 92-255, 92nd Cong., March 21, 1972, <https://www.govinfo.gov/content/pkg/STATUTE-86/pdf/STATUTE-86-Pg65.pdf> (accessed March 23, 2021).
3. H.R. 5210, Anti-Drug Abuse Act of 1988, Public Law 100-690, 100th Cong., November 18, 1988, <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg4181.pdf> (accessed March 23, 2021).
4. U.S. Department of Health, Education, and Welfare, Public Health Service, Alcohol, Drug Abuse, and Mental Health Administration, National Institute on Drug Abuse, *Drugs and Driving*, ed. Robert E. Willette, NIDA *Research Monograph* No. 11, March 1977, <https://archives.drugabuse.gov/sites/default/files/monograph11.pdf> (accessed March 23, 2021).
5. Institute for Behavior and Health, "Drug-Impaired Driving: A National Threat to Public Health and Public Safety," February 24, 2021, http://thf_media.s3.amazonaws.com/2021/Events/feb_24_Drug-Impaired_Driving_Summary_Handout.pdf (accessed March 23, 2021).
6. News release, "Weed Out the Confusion: One-Third of Teens Think Driving Under the Influence of Marijuana Is Legal in States Where Recreational Use by Adults Is Permitted," Liberty Mutual Insurance, October 12, 2017, <https://www.libertymutualgroup.com/about-lm/news/news-release-archive> (accessed March 24, 2021).
7. Police Assisted Addiction and Recovery Initiative, "About Us," <https://paarius.org/about-us/> (accessed March 26, 2021).
8. See "A New Direction on Drugs," CBS News, *60 Minutes*, December 13, 2015, <https://www.cbsnews.com/news/60-minutes-a-new-direction-on-drugs/> (accessed March 26, 2021).
9. See International Association of Chiefs of Police, "Drug Recognition Experts (DREs)," <https://www.theiacp.org/drug-recognition-experts-dres> (accessed March 26, 2021).