

The Anti-Drunk Driving Campaign: A Covert War Against Drinking

By Charles V. Peña

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Introduction

In the beginning, the campaign against drunk driving — led by Mothers Against Drunk Driving or MADD — was about saving lives. Born in the grief of its grassroots membership, in the 1980s it took on a real menace: society's tendency to wink at plastered drivers who caused mayhem to themselves and others.

MADD's legislative efforts resulted in states passing and enforcing a raft of anti-drunk driving laws. Across the nation, there are now more than 23,000 traffic safety laws.¹ MADD also helped to correct social norms about drunk driving; drunks who drove were transformed in the popular eye from lovable, comic figures to reckless public enemies. For its original mission, MADD found many allies and spawned similar groups such as RID (Remove Intoxicated Drivers), SADD (formerly Students Against Drunk Driving and now Students Against Destructive Decisions), and RADD (Recording Artists, Actors and Athletes Against Drunk Driving).

With such broad backing, MADD succeeded. Drunk driving fatalities fell from 28,000 in 1980 to 16,000 in 1998 (a 40% decrease) before rising slightly to 17,448 in 2001.² By 1995, MADD had already reached

its Year 2000 goal of reducing drunk-driving fatalities.³ But along the path to success, the original mission of getting truly drunk drivers off the road was lost. Indeed, the "cause" changed, blurring the line between (a) drunk driving and (b) driving after *any* amount of alcohol consumption — a couple of drafts at a ball game, a split of wine at an anniversary dinner, a retirement toast or two.

Although MADD officially denies it is seeking the prohibition of moderate drinking when dining out, it remains *unofficially* committed to the prohibition of alcohol. Temperance is on the tongue of the organization's highest officials:

- According to former MADD President Katherine Prescott, "There is no safe blood alcohol level, and for that reason responsible drinking means no drinking and driving."⁴
- "Lowering the legal [arrest] standard will be a deterrent for *light drinkers* as well as heavy drinkers," Prescott told *USA Today* in 1998. (Emphasis added.)⁵
- "If you choose to drink, you should never drive. We will not tolerate drinking and driving — period," MADD

President-elect Carolyn Nunnallee told an NBC audience in 1997.⁶

- MADD President Wendy Hamilton urged potential contributors in a November 2002 fundraising letter to, “Forget the limits on BAC. It’s just not acceptable to drink and drive. Period.”⁷
- In a September, 2002 letter to the *St. Louis Post-Dispatch*, Hamilton said: “Driving is a very serious and complex task. The thought that it can be successfully combined with alcohol on the part of the driver or even the passengers defies any logic I can imagine.”⁸

The .08% BAC Debate

BAC, or blood alcohol content, is the measurement that determines how much alcohol an individual has in his or her bloodstream. A BAC of .06 means that your blood has a .06% blood alcohol content. BAC also serves as a quick-and-easy quantifiable measurement that allows law enforcement to define “drunk” in the context of drunk driving. In the 1990s, most states set .10% BAC as the legal limit for driving — anything over that limit and you were breaking the law.

In 1998, MADD pushed Congress to withhold federal highway funds from any state that failed to lower their legal limit to .08% BAC. MADD lost the battle in Washington that year, and in the states. 1998 and 1999 saw more than 50 separate legislative ses-

sions covering 32 states consider the .08% BAC standard. Only Texas and Washington adopted it. But in 2000, MADD successfully reintroduced their legislation at the federal level — far away from the normal citizens whose state representatives passed hundreds of other highway-safety laws on their merits. At a high-profile White House Rose Garden event, Bill Clinton signed the .08% BAC bill into law. Now the 17 states that haven’t caved into federal blackmail are in the fight of their life. It isn’t easy tackling MADD and swelling budget deficits at the same time.

The battle over .08% BAC legislation glaringly illustrates how MADD has turned its attention from truly drunk drivers to drinking more generally. And how the anti-drunk driving message shifted from “friends don’t let friends drive drunk” to the more radical message of “don’t drink and drive.”

MADD generally attempts to mask its radical, neo-prohibitionist agenda in the veneer of sound science and sober statistics. So the push to blackmail states into lowering the legal BAC level required “studies” that might provide “evidence” of reduced drunk-driving fatalities should their law pass. A few inconvenient facts stood in MADD’s way. First, the U.S. Department of Transportation’s Fatality Analysis Reporting System (FARS) data show that the average BAC level in a fatal crash where a driver was actually tested is .17% — more than double the proposed .08% BAC standard.⁹ Second, the typical DWI fatality is caused by a person who has had more than *nine drinks* before driving.¹⁰ And third, nearly two-thirds of alcohol-related deaths involve drivers with

BACs of .15% and above.¹¹ Even MADD knows that lowering the BAC to .08% BAC will have no affect on these flagrant scofflaws.

Pseudo Science

Despite the challenges introduced by reality, MADD still manages to cite studies claiming that the .08% BAC law saves lives. The most prominent of these was conducted by Boston University sociologist Ralph Hingson, who declared that a national .08% BAC law would save “500 to 600 lives a year.” Even before considering its methodological flaws, the Hingson study should be considered suspect because its author — who is not a traffic safety professional — has a serious axe to grind. Hingson has a history of anti-drinking activism, has published nearly 50 manuscripts on the dangers of alcohol generally, and currently serves as MADD’s Vice President of Public Policy.¹² He is anything but an impartial researcher.

Dr. Robert Scopatz is a traffic-research scientist who directed New York City’s Transportation Research Office before helping create NHTSA data-analysis programs. He reviewed the Hingson study.¹³ What did he discover?

Hingson’s study paired several .10% states with “neighboring” states that had adopted .08 BAC laws. But Hingson had gone “state shopping.” For example, he compared .08% BAC California with .10% BAC Texas — hardly “neighbor” states. Had Hingson compared .08% BAC California to .10% BAC Arizona, he would have found no difference between the two. Clearly, Hingson was picking and choosing his comparison states

so that the results would align with his prejudices. Using the same data and number crunching techniques as Hingson, Scopatz concluded: “Selection of logically valid comparison states eliminated any evidence of an effect of the .08% BAC laws in the states that passed them.”¹⁴ But Hingson’s number crunching techniques were invalid as well. Scopatz observed Hingson’s meta-analysis approach is “not commonly applied to traffic safety research.”

Another study by Dr. Robert Voas estimated that “590 lives could have been saved” in 1997 if all states adopted .08% BAC laws.¹⁵ But Voas, like Ralph Hingson, has been a member of MADD’s board of directors. And Voas works for the Pacific Institute for Research and Evaluation, which endorses a roadblock program that stops every other car at least once annually.¹⁶ He is anything but objective.

Aside from Hingson’s flawed study, and Voas’s wild assertions, opponents of drinking and driving also point to a report published by NHTSA — which increasingly marches in lock step with MADD — arguing that 500 lives would be spared every year were the .08% BAC law to pass.¹⁷ But in 1999, the General Accounting Office (GAO), the watchdog of the Federal Government, completely refuted NHTSA’s .08% BAC study. In fact, of seven NHTSA papers the GAO reviewed, they found four that “had limitations and raised methodological concerns.”¹⁸ Guess whose paper was included in the GAO’s rebuke? That’s right. Ralph Hingson’s.

Among the NHTSA-sponsored studies admonished by the GAO was one 1991

report predicting a 12% drop in alcohol-related highway deaths in California under a .08% BAC standard. The GAO said the study failed to factor in lives saved by a new license-revocation law. A 1995 California DMV study, which found .08% BAC a non-factor in fatal crashes, the GAO found “more methodologically sound.” Yet, noted the GAO review, “although the 1995 study was more comprehensive than the 1991 study, NHTSA’s public statements and literature often quote the 12% reduction cited in the 1991 study and rarely refer to the 1995 study.”¹⁹ Indeed, NHTSA used the 1991 study in testimony before Congress, even though it was a prediction — a prediction refuted by hard data from the 1995 study.²⁰ Unfortunately, this discrepancy is just one of many indications that NHTSA had abandoned professional and analytical objectivity in favor of unabashed pursuit of a .08% BAC standard.

The GAO also dismissed a 1994 NHTSA staff study of the first five states to adopt .08% BAC that conveyed “the impression that fatal crashes involving alcohol went down 40% in one of the five states.”²¹ In fact, the 40% figure held true in Vermont for only one of six measures the NHTSA staffers included in their study. Moreover, GAO concluded the study was hamstrung by “several important limitations that made its findings ‘preliminary.’” Nevertheless, GAO critically observed, “NHTSA’s public statements...were more definitive.”

Three other NHTSA-cited studies, said GAO, “fall short of conclusively estab-

lishing that .08% BAC laws by themselves have resulted in reductions in alcohol related fatalities.”²² Specifically:

- (1) A 1999 NHTSA study of 11 states with .08% BAC laws concluded that just two of the 11 saw reductions in alcohol-related fatalities, while nine did not. Yet NHTSA cited the study as “additional support for the premise that .08% BAC laws help to reduce alcohol-related fatalities” — a relationship, said the GAO, that even the study’s authors “[did] not draw.”²³
- (2) The GAO accused NHTSA of *suppressing its own study* concluding, “that the .08 BAC law in North Carolina had little clear effect.” Disturbed by the study’s failure to support the proposition that .08% BAC saved lives, NHTSA asked its author, Dr. Robert Foss, to recalculate. “We looked real hard [for] measurable effects of this law,” said the scientist. “Try as we might, we didn’t find anything.”²⁴ NHTSA then waited 13 months to unveil Foss’ report, only to pass it off as *supporting* the agency’s .08% BAC position.²⁵
- (3) GAO dismissed a 1999, 50-state NHTSA study for using flawed methodology. They chose an analytical method apt to produce a “numerical effect that is larger than other methods.” In common parlance, that’s called exaggeration.²⁶

Considering all the pseudo science employed by NHTSA, the GAO concluded:

[T]he evidence does not conclusively establish that .08 BAC laws by themselves result in reductions in the number and severity of crashes involving alcohol. ...NHTSA's position—that the evidence was conclusive—was overstated.”²⁷

Dismissing the conclusions of its own authors, willfully employing flawed methodology, and selectively publicizing misleading information. That's the NHTSA, which — in its zeal to promote MADD-inspired legislation — improperly places the imprimatur of a supposedly neutral government agency on junk science.

NHTSA can no longer be considered an impartial arbiter of the nation's accident statistics. Its oft-quoted statistic that drunk driving took 17,448 lives in 2001 is based on flawed initial reporting, questionable computer simulations, and outright misrepresentation. The *Los Angeles Times* tells the story of an Alabama State Trooper named Darrick Dorough who was assigned to investigate a fatal crash.²⁸ Dorough reported that the driver had been drinking, but he never took an alcohol test, and he later could not recall why he suspected drinking in the first place: “I don't think drinking was the primary cause of the accident. It could have contributed to it. That's a guess.”²⁹ Still, NHTSA labeled that “guess” as an alcohol-related fatality. Such are the stories that comprise NHTSA's statistics.

Then there are the cases where no one

even reported alcohol usage. NHTSA uses a mathematical model to determine whether some crashes involved alcohol. According to the *LA Times*, “If a young man hits a tree early in the morning, the model would classify the crash as alcohol-related, even without any evidence of alcohol.”³⁰ One wonders: if NHTSA uses their model to say alcohol was involved when no evidence exists to that effect, perhaps they should start using the model to say alcohol was not involved, even if the driver had an open bottle of whisky in hand.

Only about 5,000 of the flawed 17,448 number are innocents killed by drunk drivers. Between 2,500 to 3,500 cases involved alcohol, but neither driver was drunk. 1,770 were drunk pedestrians killed by sober drivers. And about 8,000 involved only a single car. For the most part, the driver himself was the only one killed in these cases.³¹

.08% BAC Despite the Facts

Undeterred by the many problems with the 17,448 figure, the director of NHTSA's data compilation center confidently claims that all these highway deaths would have been prevented if no driver had consumed any alcohol. Never mind the nearly 2,000 drunk pedestrians who got themselves killed. NHTSA is less concerned with accuracy than with achieving its agenda.

The more evidence that comes in from states that have gone to a .08% BAC standard, the weaker the case is for .08. In a fair fight of facts, the argument for .08% BAC lost again and again:

- Of the first 13 states that dropped their BAC threshold to .08% BAC, 46% saw alcohol-related fatality *increase* in one of the first two years thereafter.³² The logical inference: it's even money whether death rates will drop or rise post-.08, because the standard is safety-neutral.
- A December 1998 report to the New Jersey Senate — written by a blue-ribbon task force including police officers, judges, clergy members, and doctors — found that “the impact of [.08 laws] is inconclusive.”³³
- Even .08% BAC advocate Voas wrote, “drivers in the .08 to .09 range...often do not exhibit the blatant erratic driving of higher BAC offenders.”³⁴ Could this be because they are not dangerous?

Statistics like these compel Tom Rukavina, a state legislator from Minnesota, to deny any safety benefit from a .08 law. He estimates that the law would merely result in 6,000 additional criminal arrests in Minnesota, costing the public sixty million dollars.³⁵

The Interlocking Directorate

NHTSA's most recent publication of traffic safety facts (2000) shows that the percentage of non-alcohol-related fatalities has been going up almost continuously since 1986, while the percentage of alcohol-related fatalities has been going down over the same period of time.³⁶ The death toll from non-alcohol related accidents on the road rose

39% in the last two decades to 24,700 in 2001. That's nearly 50% higher than the inflated 17,448 number. Even so, NHTSA spends more than half its funds on drinking and driving programs. What explains this disproportionate fund allocation?

Clearly, NHTSA uses taxpayer dollars to help further MADD's agenda. But what's less clear is how NHTSA and MADD, government authorities and the nonprofit sector, have formed an “interlocking directorate” that make it difficult to separate academic from activist, professional from propagandist.

No NHTSA event would be complete without MADD. When NHTSA decided to celebrate the holiday season this past December with a campaign called “You Drink and Drive. You Lose.” MADD featured prominently at the press conference. So did Chief William B. Berger, former president of the International Association of Chiefs of Police, who declared, “We will not allow a man or woman to leave [a roadblock] knowing they consumed alcohol.”³⁷

Taking Berger's rhetoric at face value, any drinking prior to driving is outlawed, no matter how responsible or legal the driver. A glass of wine at dinner, a beer at a ballgame or a cocktail at a friend's house can put you on the wrong side of the police. What about .08? Isn't it legal to drive under that level? Not if you listen to Berger, flanked by officials from MADD and backed up by NHTSA Administrator Jeffrey W. Runge. In the campaign's press release he is quoted as saying: “There are nearly one billion drinking and driving trips annually... this crime will not be tolerated.”³⁸

“You Drink and Drive. You Lose.” promised a nationwide system of roadblocks, the real purpose of which is not to catch the dangerously impaired; rather it is to ensnare responsible social drinkers who committed the “crime” of having an adult beverage with their meal before driving home. MADD freely acknowledges the purpose of roadblocks on its website, arguing, “If the public is aware the police will be conducting checkpoints...they drink less.”³⁹ No wonder MADD wants Congress to set up a billion dollar fund for more roadblocks. Its good friend NHTSA would administer the cash.

MADD lobbies to have NHTSA allotted additional funds, NHTSA gives lobbying money to MADD. In 1997, NHTSA granted almost a half-million dollars to MADD and another group to “impact state legislative deliberation” and create a “network of highly motivated thoroughly trained individuals that will assist in the passage of impaired driver legislation.”⁴⁰ That means tax dollars were going directly into the hands of neo-prohibitionist lobbyists. An outraged U.S. Rep. Billy Tauzin reacted by inserting language in NHTSA’s reauthorization barring it from third-party lobbying.⁴¹

But the damage had already been done. MADD had 11 chapters at the end of 1981. Nine months later MADD boasted 70 chapters—thanks to a grant from NHTSA for “chapter development.”⁴² And it’s not just money. It’s people too. Take James Fell, former chief of research and evaluation in NHTSA’s Traffic Safety Programs department. He’s now on MADD’s national board.⁴³ NHTSA and MADD should be

considered a revolving door of money and people, with taxpayers footing the bill and responsible drinkers suffering the consequences.

From Drunk Driving to Prohibition

The campaign against drunk driving has transformed into a crusade seemingly intent on making alcoholic beverages so disreputable they will be consumed only in one’s home or some place removed from polite society. Drunk driving is a natural starting point for this movement because drunk driving deaths engender such passion and emotion.

The road to neo-Prohibition proceeds along two lines of attack. First, anti-drunk driving advocates aim to steadily decrease the amount of alcohol a motorist can consume before becoming a criminal. Second, the movement works to ever expand the settings where *any* drinking of alcoholic beverages is verboten.

Countdown to .02% BAC

In 1998, even before a .08% BAC sanction had been passed and adopted, President Clinton promised to stand with MADD and like groups if they returned to demand an even lower threshold.⁴⁴ It didn’t take them long.

While waging the .08% BAC war, MADD reserved the right to agitate for still lower BACs if “research” suggested levels below .08% posed a danger.⁴⁵ Predictably, that research immediately materialized: an August 2000 study published by NHTSA claims, “alcohol significantly impaired performance on some measures [of driving skills] at all examined BACs from .02 to .10%...” “The major

conclusion of this study is that a majority of the driving population is impaired in some important measures at BACs as low as .02%...The data provides no evidence of a BAC below which impairment does not occur.”⁴⁶ Studies like these have piled up in recent years. But Brian O’Neill, President of the highly respected Insurance Institute for Highway Safety, is skeptical. He argues that, “we should focus on people who are seriously impaired” and points out that, “theoretically, very small amounts of alcohol in your blood impairs you, but so do antihistamines and lack of sleep.”⁴⁷ Unfortunately, the drunk driving debate has become so emotional that common sense like O’Neill’s is a rarity.

MADD’s current President, Wendy Hamilton, sat on the Board of MADD Canada when it was pushing for a .05% BAC limit.⁴⁸ Lawmakers in at least eight current .08 states — Utah, Oregon, Hawaii, Vermont, New York, New Mexico, Washington — have attempted to lower the BAC to .06% or below. “We call it prohibition drip by drip,” says the president of the Ohio Senate, Richard Finan.⁴⁹ Even a United States Senator echoes the zero tolerance sentiment: “we may wind up this country going to zero tolerance — period” says Barbara Boxer (D-CA).⁵⁰

Neo-Prohibitionism

In 1998, delegates to the American Medical Association’s (AMA) annual conference heard a speech by a Norwegian influential in his country’s anti-alcohol movement.⁵¹ The speaker introduced to the assembly the notion of “alcohol-free zones” — places or

situations where policymakers might reasonably restrict the consumption of beer, wine, and liquor. These included:

- in traffic
- on the water, whether boating or swimming
- at work
- during conflicts
- during pregnancy
- while in mourning or depressed
- around children
- during sports or other outdoor activities.

While some of these “alcohol-free zones” make sense in proper context, if adopted in totality they would virtually eliminate social drinking as a public activity (no more alcohol-enhanced office parties, hockey games, or Fourth of July picnics). And by drawing the circle of social acceptability ever tighter, they would implicitly brand alcohol consumption in bars and restaurants as deviancy — to be avoided by all “good citizens.” After all, if drinking is bad in most places, why not everywhere?

This neo-prohibition, as measured by ever-mounting anecdotes, is a process well under way. Consider how far the following depart from traditional tolerance of responsible drinking:

- The Association of Flight Attendants wants airlines to stop serving passengers “pre-departure drinks” and The Center for Science in the Public Interest has promoted a banning

alcohol on planes as a way to curb violent behavior by passengers.⁵² There has been almost no pushback from the airlines. Indeed, United and Northwest promised to cut back on in-flight sales.

- Banning alcohol in the air is hardly a new idea. The Crabby Traveler, who writes a travel column for ABC News' Web site, cites examples of a few deranged air passengers who have made trouble and urges activists to "fight for an alcohol ban as vigorously as they did to extinguish smoking."⁵³ Statistics provided by British Airways take a bite out of the Crabby Traveler's argument. The airline reported only 266 "disruptive" passengers out of the 41 million who flew on the carrier in 1997. What's more, only 37 of those incidents involved alcohol.⁵⁴
- Having a beer at lunch is now a firing offense for Michigan state employees since the Civil Service Commission imposed a .02 BAC during work hours. "Our position," said one civil-service official, "is that on-duty activity, whether you're representing our state *at a convention* [emphasis added] or sitting in your office, means that you don't drink."⁵⁵
- Oregon's Department of Motor Vehicles refused to issue a vanity license plate with the letters "W-I-N-E" to a retired wine dealer, describing

this message as "offensive."⁵⁶

- Anti-alcohol activist Sandy Golden argues that, "It's time to get the country looking at the alcohol industry in exactly the same way we're looking at tobacco.... We're 10 to 15 years behind the tobacco people, and we want to close that gap in the next year or two."⁵⁷
- A 1999 MADD television spot shows heroin being boiled in a spoon and sucked into a syringe while the voice-over intones that alcohol kills more people under 21 than all illegal drugs combined. Message: just as there is no safe amount of heroin or crack cocaine, there is no safe drinking.
- In Arlington, Texas, MADD opposed any beer drinking by golfers at a public course. "I've seen how alcohol can destroy lives," said a MADD spokesman. "Life is risky enough on its own."⁵⁸

These opponents of alcohol would be well served to hear what economist, Mark Thornton has to say: "The lessons of Prohibition should be used to curb the urge to prohibit. Neoprohibition of alcohol ... would result in more crime, corruption, and dangerous products and increased government control over the average citizen's life."⁵⁹

Americans who treat adult beverages like the plague are getting a boost from the U.S. government, which is painting the moderate and reasonable consumption of alcohol, *unrelated to driving*, as a public-health problem. From 1990 to 2000, the National

Institute on Alcoholism and Alcohol Abuse (NIAAA) — a taxpayer-funded agency with a \$243 million budget — set out to cut the consumption of adult beverages by 24% as part of a “Healthy People 2000” coalition.⁶⁰ No one, least of all the beverage industry, supports alcohol abuse. But NIAAA defined a “lifetime alcohol user” in need of medical treatment as anyone who had consumed just 12 drinks in any one-year period.⁶¹

Healthy People 2000 ended the decade within reach of its goal: U.S. per-capita consumption of alcohol had dipped 21% between 1981 and 1996, with the average American imbibing more than a half-gallon less per year by the end of that period.⁶² The coalition celebrated its victory in that battle, but did not call off the war. By 2010 it hopes to reduce per-capita alcohol intake by another 9%.⁶³

The Robert Wood Johnson Foundation is one of the driving forces behind the neo-prohibitionist movement. It has contributed over \$160 million to anti-alcohol organizations since 1999.⁶⁴ Its goal is to reduce per capita alcohol consumption — a very different aim than reducing alcohol abuse or drunk driving. To achieve that goal, the Robert Wood Johnson Foundation supports anti-alcohol publicity campaigns, limits or bans on the consumption of alcohol in public places, bans on Sunday liquor sales, increased taxes, and restrictions on where retailers can set up shop. The Foundation funds conferences of alcohol’s opponents, where participants present papers funded by the Robert Wood Johnson Foundation.

One such paper, written by the Rand Corporation’s Deborah Cohen, argued that

alcohol-related health problems in a population are directly related to per capita consumption. To reduce per capita consumption, she recommends a not-so-surprising combination of “greater restrictions on alcohol accessibility, stricter disciplinary measures for violations and stricter licensure requirements.”⁶⁵ She told the *Dallas Morning News*: “it’s easier to control the providers than it is the consumers.”⁶⁶ Of course, MADD praised the study’s “proven and important recommendations.”⁶⁷

Influenced by this neo-Prohibitionist movement, more Americans are seeing alcohol as unhealthy. Consider these findings from national polls:

- 81% of the public believe drinking alcohol is as harmful or more harmful than smoking marijuana.⁶⁸
- 80% think the problems of alcohol consumption far outweigh the benefits. Among “drinkers,” 62% think the problems outweigh the benefits.⁶⁹
- 44% feel the government is doing too little to regulate alcohol (versus 38% with that attitude about tobacco).⁷⁰
- Only 21% dispute the proposition that the health negatives of wine vastly outweigh its health benefits.⁷¹
- 55% agree that the spirits industry is a “harm” or a “great harm”; 50% think the beer industry harmful; 43% say the same of the wine industry.⁷²

These numbers are particularly disturbing since numerous scientific studies link moderate alcohol consumption to longer life:

- Researchers in Bordeaux, France, have found that Frenchmen who drink two to three glasses of wine daily have “a significantly lower risk of death from all causes” than do teetotalers.⁷³
- Research from the TNO Nutrition and Food Research Institute associates moderate beer drinking with a lower risk of cardiovascular diseases.⁷⁴
- Men who consume four to six drinks a week, according to a Harvard study, reduce their risk of fatal heart attacks by 60%. (Of this group, those who went from four drinks to five or six actually enjoyed a further 19% risk reduction.)⁷⁵
- Some diabetics, reports *The Journal of the American Medical Association*, seem to enjoy a “strong reduction” in death due to heart disease by drinking light to moderate amounts of alcohol.⁷⁶
- “The science supporting the protective role of alcohol is indisputable; no one questions it any more,” says Dr. Curtis Ellison, a professor of medicine and public health at the Boston University School of Medicine. “There have been hundreds of studies, all consistent.”⁷⁷

How far has neo-prohibition progressed? In Wisconsin (often called America’s Bavaria), Sheriff Paul Bucher unleashed his deputies to enter private residences “by force if necessary” if they suspected minors were drinking inside.⁷⁸ No warrants. Anti-alcohol fever evidently trumps the Fourth Amendment. Meanwhile, SecurityLink is pitching a breathalyzer/video-camera array that permits police to check the sobriety of Americans in their own homes.⁷⁹

A man’s “castle” is no longer safe, and neither is his tavern. It will probably surprise you to learn that “you can’t be drunk in a bar.” So says Fairfax County (VA) Police Chief J. Thomas Manger.⁸⁰ He claims that public intoxication is an offense worthy of arrest, and a tavern is a public place. This January, officers burst into Northern Virginia bars in search of intoxicated patrons. Anyone registering over .08% BAC — the state’s legal limit for *driving* — was subject to arrest. Bar-goers with that unlucky fate “would be transported to an adult detention center until they sobered up.”⁸¹

Here’s *The Washington Post* with one woman’s story: “as the designated driver in her dinner party, Pat Habib was careful to consume no more than one alcoholic drink and follow it up with two sodas. So she was shocked when a police officer singled her out of the crowd at Jimmy’s Old Town Tavern in Herndon and asked her to step outside to prove her sobriety.”⁸² That’s right. The police forced her to *prove* she was sober — in a bar. Among the tactics they used to tell who might be drunk: “frequent trips to the bathroom.” You’d think law enforcement

would have something better to do than play hall monitor.

The county constables insist that their policy of harassing social drinkers is “proactive,” and claim to be targeting “the root causes of alcohol-related deaths.”⁸³ In other words, they’re subjecting people to arrest for what they *might* do. As former Congressman Bob Barr (R-GA) noted in the wake of the raids, The Department of Precrime in the Tom Cruise film *Minority Report* was supposed to be fictional.⁸⁴ Unfortunately, when it comes to the zeal of anti-alcohol forces, it seems that nothing is off limits.

MADD’s hijacking of the anti-drunk-driving crusade into a never-ending agenda advocating zero-tolerance proceeds apace. In an effort to demonize even prudent alcohol consumption, the organization has officially advocated a substantial increase in taxation on alcoholic beverages.⁸⁵ Moreover, MADD opposes legal reforms to eliminate “joint and several liability.”⁸⁶ That is, it supports “deep pockets” litigation, believing that companies tangentially connected with product misuse should be liable in case of a mishap. Such legal practices obviously increase pressure on corporations to suppress product sales as a means of self-protection.

There is some good news: The nation’s anti-alcohol religion wanes as well as waxes. In America’s early days, writes Edward Behr, everyone drank, including the babies whose milk was laced with rum and the horseback preachers whose calls were occasions to tip a jug.⁸⁷ Later came the keg-busters and the hatchet brigades, which have returned, if in

somewhat blander form. But if history is a guide, they will not endure.

Focus on Drunk Driving, not Drinking

I worry that the movement I helped create has lost direction. [08 legislation] ignores the real core of the problem...If we really want to save lives, let's go after the most dangerous drivers on the road.

— Candy Lightner, founder of MADD⁸⁸

What is to be done? We must unmask the true menace — the chronic, ungovernable drunk driver who is not deterred by drunk driving laws of any kind. Political and financial resources being finite, it’s imperative not to spend them chasing responsible social drinkers just to keep special interest groups in business.

Even MADD occasionally shows signs of understanding the real problem when it comes to drunk driving. In late 1999, it launched a nationwide offensive against “repeat offenders and super-drunk drivers.”⁸⁹ In a press release, it cited NHTSA data that spotlighted, for once, the real problem. According to NHTSA, two-thirds of all alcohol-related highway deaths implicate drivers with a BAC level of .15% or higher.⁹⁰ Indeed, the driver who killed MADD founder Candy Lightner’s daughter had a .20% BAC.⁹¹ And the killer of former MADD President Karolyn Nunnallee’s child registered .24% BAC.⁹² Too bad MADD generally ignores the evidence that strikes closest to home.

Even when public attitudes toward drinking and driving were highly permissive, the

“super-drunk driver” with an alcohol addiction has been the overarching threat. According to Voas, approximately one-half of first-time DWI offenders have BAC of at least 0.15% when arrested.⁹³ A nationwide pre-trial screening service discovered that more than 70% of repeat drunk-driving offenders were hard-core alcoholics, with an average BAC of .20%.

The driving peril of high-BAC drivers who cause the lion’s share of alcohol-linked highway deaths will remain undiminished as long as law-enforcement energies focus on the wrong target: low BAC drivers. Ever-lower BAC standards, as the 1995 California DMV study of that state’s .08% BAC law concluded, merely cause in-control drinkers to further restrict their intake before driving.⁹⁴ The alcoholic scofflaw keeps on drinking to the max.

States that allow on-the-spot administrative driver’s licenses suspensions, that aggressively enforce sensible BAC limits, and that strongly penalize convicted drunk drivers who continue to drive on suspended licenses are pursuing strategies that really get potential killers off the road. What’s missing, however, is a system of graduated penalties. Every state in the nation employs such a system for speeding — fining, for example, the driver who exceeds the speed limit by 40 mph substantially more than the one who goes 10 mph over the limit. Only recently have states begun to acknowledge the need for increased penalties for high-BAC drivers, but these levels generally start at twice the federal mandate of .08% BAC. In most states, however, stay just this side of your

state’s BAC and you are (generally) unpunished. Go one-hundredth of one percent over the line and endure the same sanctions that await a serious drunk driver.

The result? Society recoils from legislating the kind of sanctions that truly drunk drivers deserve, lest they be forced to apply overly-harsh punishments to technical violators of BAC laws. Even NHTSA admits that a 120-pound woman with an average metabolism will hit .08% BAC if she drinks two six-ounce glasses of wine over the course of two hours.⁹⁵ Common sense says she shouldn’t go to jail for getting behind the wheel.

Penalties for repeat offenders should be substantially harsher, with prison terms — hard time — awaiting drunk drivers who drive on a suspended license. Truly drunk driving *is* a crime. It’s time we began applying the same punishment paradigm to that offense that governs all others.

MADD’s founder is right: “if we really want to save lives, let’s go after the most dangerous drivers on the road.”⁹⁶ Marshaling public support for this goal would be the first step in seeing a dramatic decrease in the toll of drunk driving’s victims.

Treatment

The other piece of the puzzle that requires attention and resources is treatment. To be sure, truly drunk drivers need to be punished. But punishment alone is not likely to succeed in curbing their drinking habit. Chronic alcohol abusers and alcoholics need treatment for their drinking problems, so that they don’t become drunk

drivers. The traffic safety community has long recognized this, but traditional means of prevention have had little or no effect. Education programs, license suspension or revocation, and other sanctions do not deter these drivers. Even jail time does not stop them from drinking and driving once they are released.

The only way to effectively deal with the “hard core” drunk driver is treatment. Treatment works, but there is no “one-size-fits-all” treatment for alcoholism and chronic alcohol abuse. AA has been hugely successful in helping people to stop drinking (and currently claims more than 100,000 groups and over 2,000,000 members in 150 countries), but the program does not work for everyone.⁹⁷ Treatment centers such as the Betty Ford Center and Hazelden have helped countless people, but can be costly.⁹⁸ And pharmaceutical products such as naltrexone have proved to be effective in curbing alcohol dependence.⁹⁹

Treatment is not an absolute guarantee that an alcoholic will recover and never again pose a threat as a drunk driver. But without treatment, an alcoholic is destined to live the rest of his or her life out of a bottle, and that virtually guarantees that he or she will continue to be a drunk driver.

Recognizing the need for treatment, many jurisdictions around the country (including Phoenix, AZ; Bakersfield and Chico, CA; Hancock County, IN; Albuquerque, NM; Charlotte, NC; Stillwater, OK; and Fredericksburg, VA) have created DUI courts modeled after the successful drug court system.¹⁰⁰ DUI courts apply the ten key

components of drug courts to the problem of hard core drunk drivers:

- Integrate alcohol treatment services with justice system case processing.
- Employ a non-adversarial approach, where prosecution and defense counsel promote public safety while protecting participants’ due process rights.
- Participants are identified early and promptly placed in the program.
- Provide access to a continuum of alcohol treatment and rehabilitation services.
- Abstinence is monitored by frequent testing.
- Coordinated strategy governs court responses to participants’ compliance.
- Ongoing judicial interaction with each participant is essential.
- Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
- Continuing interdisciplinary education promotes effective court planning, implementation, and operations.
- Forging partnerships with public agencies and community-based organizations generates local

support and enhances court program effectiveness.

DUI courts represent a legal means of intervention to provide treatment for alcoholism and alcohol abuse. In other words, DUI courts recognize that the act of drunk driving is a crime, but the consumption of alcohol is not. And the system is set up to help the individual with his or her particular alcohol problem. So, unlike more broad and sweeping measures (e.g., .08 BAC and roadblocks), DUI courts are focused, and directly address the drunk driving problem without infringing upon those who act responsibly and don't endanger innocent people.

Conclusion

No one denies that *some* drinkers of adult libations habitually overconsume, with tragic consequences for themselves, their families, and innocents unfortunate enough to cross their weaving path on the highway.

Drinking alcohol is not, as the New Prohibitionists assert, all bad. It is hard to name a freedom that carries no risk, or a product that human irresponsibility has not at some point turned into a weapon. Perspective is what balances the equation.

MADD and its allies oppose any "drinking and driving." That certainly is their right. Yet the traditional role of alcohol as a social lubricant and host to conviviality cannot be denied. "The sun looks down on nothing half so good," wrote C.S. Lewis, "as a household laughing together over a meal, or two friends talking over a pint of

beer."^{ci} Today, tens of millions of Americans value those same experiences. They find camaraderie, cement friendship, and reaffirm love in restaurants where alcohol helps confirm these vital human ceremonies. Many must use a car to get there, and to return home. How great is the risk?

For the vast majority of these citizens—the responsible majority, who know when to stop—the risk is small. To eliminate it totally removes these people's right to publicly celebrate the most fundamental human connections. The risk that such celebrations create is no more inordinate than that created when we allow drivers to go 65 mph on an interstate, knowing full well that a 25 mph cap would be safer. In a free society, the question is one of balancing competing goods.

The Prohibitionist—the Absolutist—impulse is always with us. Once its spokesmen alleged that drinkers might explode if they stood too close to an open flame. Today they charge that drinkers, however prudent and careful in consumption, are wreaking slaughter on other motorists and pedestrians. Folly then, folly now.

What's needed is a new alliance of reason—a league of hard-headed realists that would preserve revered social rituals by tempering the New Temperance, yet champion safety by relentlessly targeting the reckless few.

To fight with each other while this menace barrels past, claiming new victims, is to exacerbate the problem. It is not to behave with sobriety.

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