

**The Bill Blackwood
Law Enforcement Management Institute of Texas**

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**Taking a Stand on Drunk Driving in the State of Texas and the Effects
of Private Organizations on Impaired Driving Laws**

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**An Administrative Research Paper
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ABSTRACT

After years of gradual improvement, fatalities in alcohol related crashes are on the rise nationally (NHSTA, 2002). This is a crime that is 100 percent preventable if people chose to be responsible and not drink and drive. The purpose of this research has two goals. The first goal is to examine how effective the lowering of the blood alcohol concentration (BAC) has been at deterring drunk driving. The second goal is to recognize the influences that private organizations have on legislation and public awareness. After careful consideration, this author's conclusion is, lowering of the BAC to .08 was not in itself been sufficient in deterring people from drinking and driving. An approach to deterring drunk driving is better education, and stiffer penalties for the alcoholic abuser who chooses to ignore the existing arrest thresholds. The alcoholic abuser, "the hard core drunk driver," accounts for 65 percent of the serious alcohol related auto collisions (Haley, 2002). The benefit of this research is to educate the public and the law enforcement officials that with the help of private organizations and specialized training/education drunk driving accidents can and will be decreased.

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INTRODUCTION

One of the hardest jobs a police officer has to do is tell a family member that their loved one was killed by a drunk driver; a crime that is preventable. After years of gradual improvement, fatalities in alcohol-related crashes are on the rise nationally (NHTSA, 2002). In 2003, more than 17,000 people were killed in alcohol-related crashes on the nation's highways, representing a death every 30 minutes (NHTSA, 2003). There is no excuse to lose more than 40 lives a day to a crime that is 100 percent preventable.

This research has two goals in mind. The first goal is to examine how effective the lowering of the blood alcohol concentration (BAC) has been at deterring drunk driving. The second goal is to recognize the influence that private organizations have on legislation and public awareness. The author will examine the importance of harder penalties for repeat offenders, better education programs and how important it is to concentrate on the "hard core" repeat drunk drivers. A survey will be conducted with police officers for their insight into this avoidable crime.

Several private organizations have voiced their anger. The most influential organization has been Mothers Against Drunk Driving, also known as MADD. This group was founded in 1980 by a mother whose thirteen-year old daughter was killed by a drunk driver who had been released from jail two days earlier from another drunk driving motor vehicle accident. Since then, MADD has grown to include over 600 chapters across the nation. One of the solutions that MADD has developed into their program is a support network to the families who have lost loved ones involving drunk driving motor vehicle accidents. The

tragedy of drunk driving affects everyone's life across Texas. This tragedy destroys the lives of drunk drivers as well as the victims and their families. Members of MADD are active in many ways. The most influential way is through lobbying to lower the blood alcohol concentration law. In Texas, MADD members lobbied to lower the legal limit blood alcohol concentration law from .10 to .08. In May of 1999, MADD applauded the Texas legislation for lowering the states legal limit. This was a major accomplishment by the members; however, Texas still leads the nation in the number of people killed yearly in alcohol related motor vehicle accidents.

According to statistical reports by the National Highway Traffic Safety Administration (NHTSA), Texas led the nation in 2002 with a total of 3,725 traffic accident fatalities (NHTSA, Safety Facts 2002). The number of alcohol related fatalities was 1,745. Statistics show that 47percent involved alcohol. MADD has worked very hard with Texas in lowering the legal limit. However, since the state has lowered the limit, the number of alcohol related motor vehicle accidents has not had a significant decline. A survey will be conducted with the question of lowering the legal limit to .06 BAC and whether this will deter drunk driving.

This research will also look over the statistics presented by getMADD (**Mis**informed **A**bout **D**runk **D**riving). This group is very vocal about the misrepresentation of facts presented by MADD and the National Center for Statistics and Analysis (NCSA). GetMADD's web site begins with a quote from Mark Twain-"There are three kinds of lies: Lies, Damn Lies, and Statistics. They are offering \$20,000 for the first person to prove that 17,419 people were killed by drunk drivers in 2002. This reward is offered by a partnership of getMADD.com

and National Motorists Association, with further support from R.I.D.L. (Responsibility in DUI Laws). R.I.D.L is a non profit organization dedicated to educating the public and lawmakers about the misdirection of the current DUI laws. Currently no one has won the \$20,000 within the last 10 months.

Impaired drivers represent one of our nation's greatest threats and innocent victims are paying the price. There is no such thing as a drunk driving "accident". Virtually all crashes involving alcohol could have been avoided if the impaired person was sober. The messages for drunk drivers needs to be if you have had too much to drink do **not** drive.

REVIEW OF LITERATURE

MADD activists have been working since 1984 to make the national BAC limit change from 0.10 to 0.08. They have succeeded. In October 2000, U.S. Congress passed a national law lowering the BAC measure (NHTSA, 2003). Under this law, states had until 2003 to lower the BAC level or 2 percent of their highway money will be lost. If they did not lower the BAC by 2006, they will lose 8 percent. This is a major accomplishment and should be commended. Setting the BAC limit at .08 is a reasonable response to the problem of impaired driving. This is not a couple of beers after work or glass or two of wine with dinner. "At .08, everyone is impaired to the point that driving skills are degraded" (Haley, 2002, p. 11). Ninety-five percent of the police officers surveyed believed that MADD has had a positive impact on drunk driving. It was not too long ago drinking and driving was considered sociably acceptable.

But the fact still remains that drinking and driving is still a major concern. You are considered to be “driving under the influence” of alcohol when your blood alcohol content (BAC) reaches .08 percent. This means that there is roughly one drop of alcohol in you bloodstream to every 800 drops of blood (Grosshandler-Smith, 1996). With the lowering of the BAC to 0.08 there has not been a significant decline in drunk driving. “An estimated 258,000 persons were injured in crashes where police reported that alcohol was present-an average of one person injured approximately every 2 minutes” (NCSA 2002 facts). You have to ask your self what else do we need to do to save lives?

Research has shown that even low blood alcohol concentration (BAC) impairs driving skills and increases crash risk (Alcohol Alert-National Institute on Alcohol Abuse and Alcoholism, April 2001). Each person responds to alcohol differently. Many things affect how your body absorbs alcohol. “How much you weigh, whether you are male or female, how much food you’ve eaten, and how long you have been drinking determine how your body handles the liquor you drink” (Grosshndler-Smith, 1996, p.17). Some users may become intoxicated at a much lower BAC level then in indicated in the attached appendix.

With each drink consumed, a person’s blood alcohol concentration increases. Although the outward appearances may vary, virtually all drivers are substantially impaired at .08 BAC (Haley, 2002). In a driver performance tests, a blood alcohol content of .08 percent affects the skills needed for steering, changing, and judgment of speed and distance (Grosshandler-Smith, 1996). In a recent study of 168 drivers, every one was significantly impaired with regard to at least one measure of driving performance at .08 BAC. The majority of drivers

(60-94%) were impaired at .08 in any one given measure (Haley, 2002). This is regardless of age, gender, or driving experience.

There are four major factors that can influence the effect of alcohol; alcohol tolerances, age, sleep deprivation and day of the week/time of day. Research suggest that the repeated performance of certain tasks will under the influence of alcohol can make a person less sensitive to impairment at a given BAC, therefore building up a greater "tolerance"(Alcohol Alert-National Institute on Alcohol Abuse and Alcoholism, April 2001).

Based on miles driven, the highest driver fatality rates are found among youngest. Among male drivers younger than age 21, a BAC increase of 0.02 percent more than doubles the relative risk for a single-vehicle (Alcohol Alert, April 2001). The presence of other teenagers in the car may encourage risky driving. Studies show that alcohol advertising may predispose young people to drinking (Hamilton, May 26, 2004). The alcohol industry spent more than \$990 million dollars on television advertising compared to \$10 million on responsibility ads in 2002 (Hamilton, May 26, 2004). MADD is pushing for congress to fund a national underage drinking media prevention campaign to end irresponsible alcohol industry advertising practices and dispel the myth that is glamorous for youth under 21 to drink illegally.

Drowsiness increases collision risk, and research shows that BAC as low as 0.01 percent increase susceptibility to sleepiness (Alcohol Alert, April 2001). Alcohol consumption also increases the adverse effects of sleep deprivation. Subjects given low does of alcohol following a night of reduced sleep perform

poorly in a driving simulator, even with no detectable alcohol in the blood (Gerdes, 2001)

The rate of alcohol involvement in fatal crashes is more than 3 times as high at night as during the day (63 percent vs. 19 percent) and for all crashes, the alcohol involvement rate is 5 times as high at night (15 percent vs. 3 percent) (Traffic Safety Facts 2002). "In 2002, 54 percent of all fatal accidents occurred during the weekend, compared to only 31 percent on weekdays" (Traffic Safety Facts, 2002). For all crashes, the alcohol involvement rate was 4 percent during the week and 11 percent during the weekend.

After careful review of the literature one has to ask, is .08 BAC still low enough? According to the police officers surveyed, 84 percent believed that .08 BAC is low enough to deter drunk driving. The officer's surveyed believed better education programs for youth, mandatory treatment programs for repeat offenders, stiffer penalties for repeat offenders and mandatory suspension of driver licenses for repeat offenders would better deter drunk drivers.

MADD's greatest opponent is getMADD. Their web site is full of information showing how MADD and The National Highway Traffic Safety Administration (NHTSA) have misled the American people about the severity of drunk driving. The most alarming statement is that the National Highway Traffic Safety Administration (NHTSA) admits that they do not have alcohol data on about 60 percent of the drivers involved in fatal crashes. They were not tested for alcohol, so they "fill-in" the missing numbers (getMADD.com). A single-vehicle accident occurring late at night involving absolutely no alcohol can be-and often is-classified as an "alcohol-related" accident, according to the U.S. Department of

Transportation (U.S Dot, 2002). By the governments definition, if a sober driver barrels through a red light and kills a woman driving responsibly after drinking a glass of wine, that is an alcohol-related accident and the same goes for a sober driver who kills a jaywalker who has as little as one drink” (Haley,2002, p. 21). GetMADD acknowledges that there is a serious problem with drinking and driving but they do not want the social drinker paying the price for the alcohol abuser.

METHODOLOGY

The goal of this research is to examine how effective the lowering of the blood alcohol concentration (BAC) has been at deterring drunk driving and the influence that private organizations have on legislation and public awareness. After careful consideration, the authors conclusion is, lowering of the BAC to .08 was not in itself sufficient in deterring people from drinking and driving. Therefore, lowering the BAC to .06 would not deter people from drinking and driving. An approach to deterring drunk driving is better education and stiffer penalties for the alcoholic abuser who chooses to ignore the existing arrest thresholds.

The author has reviewed information presented by government sponsored agencies: The National Highway Traffic Safety Administration, U.S. Department of Transportation, state and local police agencies. The author has utilized MADD's web sight to examine their statistics, news releases and powerful personal stories. Various books and pamphlets were examined to give an unbiased approach to drunk driving.

The author spent several hours talking to police officers and getting their view on what steps need to be taken to deter drunk drivers. The author had them complete a survey that I then turned into statistical data.

The information reviewed will be examined and analyzed with an unbiased perspective. The goal is to save future lives from a crime, which this author believes, is 100 percent preventable.

FINDINGS

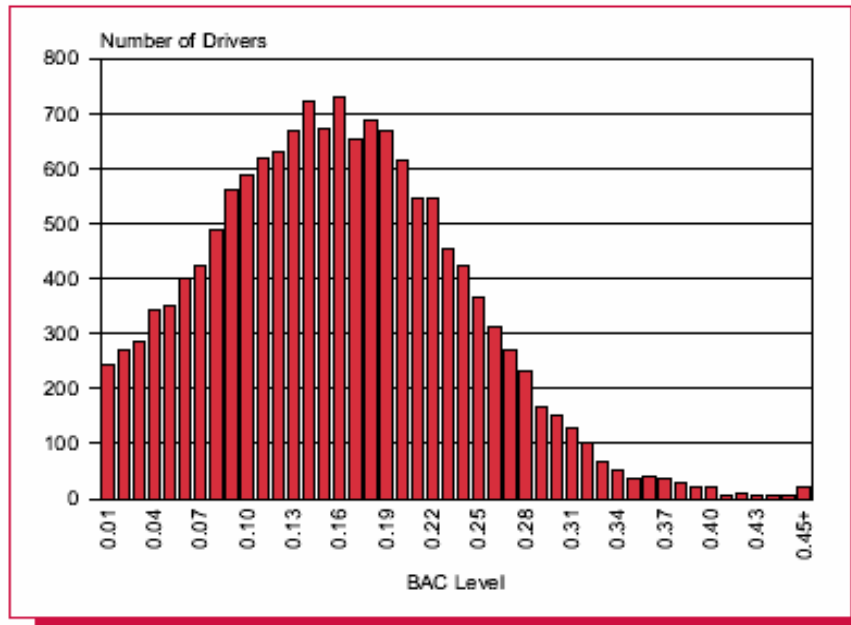
Drunk driving is the most frequently committed violent crime. As a police officer, it is very disturbing to author on **why** people chose to drink and drive and risk their lives along with innocent victims. In Texas, every 19 minutes someone is hurt or killed by a drunk driver and five lives are taken daily (TDT, May 24, 2004). Texas' stand on drunk driving is: Impairment begins with the first drink. The legal limit for intoxication in Texas is .08 blood alcohol concentration (BAC). "Drivers can be stopped and cited for impaired driving due to alcohol or other drugs regardless of their BAC. Texas also has zero tolerance law. For anyone under 21, it is illegal to drive with any detectable amount of alcohol" (Save a Life, Texas Department of Transportation).

Forty-eight percent of the police officers surveyed believed that the penalty for first time DUI offenders is **not** strong enough. Under Texas law, penal code sec. 49.04, a first time offender face's up to a \$2,000 fine, 72 hours to 180 days in jail and driver's license suspension from 90 days to 1 year, if convicted.

On the other hand, eight-eight percent of the police officers polled believed that the penalty for repeat offenders is **not** strong enough. Under Texas law, repeat offenders face up to \$10,000 fine, 30 days-10 years in penitentiary and driver's license suspension from 180 days to 2 years, if convicted. Police officers need to target this group to help protect victims and the drunk driver.

The hard core drunk driver causes up to 65 percent of the serious alcohol related accidents (Haley, 2002). Many of these chronic drunk drivers refuse to change their behavior when threatened with standard punishments such as fines, jail, and the loss of a driver's license. Although research shows that license suspension reduces repeat DUI offenses, there is also evidence that up to 75 percent of suspended drivers continue to drive (Alcohol Alert, April, 2001). "Effective remedies for keeping these hard core offenders off the roads include ignition inter locks devices, and vehicle seizure for those caught driving with suspended licenses. Most importantly, treatment programs, though a **long-term** process, are essential for second-time offenders, the majority of whom are alcohol abusers" (Haley, 2002, p. 54).

As shown by the figure below, taken from NCSA, Traffic Safety Facts-2002, the hard core drunk driver is a problem that needs to be addressed. "In 2002, 84 percent (12,344) of the 14,662 drivers who had been drinking (with BAC .01 g/dl or higher) and were involved in fatal crashes had BACs at or above the intoxication level (.08 g/dl)" (NHTSA, Alcohol 2002).



Distribution of BAC Levels for Drivers Involved in Fatal Crashes with BAC .01 or Higher

In part, the challenge presented by this group lies in identifying the “hard core” alcohol abuser. Studies have shown that the hard core drunk driver represent less than one percent of night time drivers therefore making it very challenging to target them through traditional enforcement (Haley, 2002). As stated earlier this “hard core” drinker accounts for 65 percent of serious collisions. The major reason for this is that they drive with very high BACs, which a profound effect on their risk of being in a serious traffic accident. “A driver with a BAC of .20 or higher is 460 times more likely to be involved in a fatal crash than a driver with no alcohol or very low amounts of alcohol, in their system” (Haley, 2002, p. 56). We as police officers have to focus our attention and find these “hard core” drunks and get them off the streets.

Of all the social ills that bedevil us, drunk driving is one we seem to be able to do something about, thanks to increased public awareness. MADD believes that the first line of defense against drunk driving is education (Haley,

2002, p. 51). "Enforcement is most likely to be effective in deterring alcohol-impaired driving if it is publicized, and it is most likely to be actively pursued by the police if they feel there is a strong demand for such action" (Gerdes, 2001,p. 68). More paid and public service ads need to be aired. "Studies reviewed indicated that under some conditions, well-executed mass media campaigns can contribute to reduction in alcohol-impaired driving crashes" (Ham, June 16, 2004). The most powerful public service ad this author read came from a true story regarding Jacqueline Saburido:

"Early on Sunday morning, September 18, 1999, Jacqueline Saburido, 20, and four friends were on their way home from a birthday party. Reggie Stephey, an 18-year-old star football player, was on his way home from drinking beer with some buddies. On a dark road on the outskirts of Austin, Texas, Reggie's SUV veered into the Oldsmobile carrying Jacqui and the others. Two passengers in the car were killed at the scene and two were rescued. Within minutes, the car caught on fire. Jacqui was pinned in the front seat on the passenger side. She was burned over 60% of her body; no one thought she could survive. But Jacqui lived. Her hands were so badly burned that her fingers had to be amputated. She lost her hair, her ears, her nose her left eyelid and much of her vision. She has had more than 50 operations since the crash and has many more to go".



(Photograph and story taken from www.texasdwi.org)

Jacqueline Saburido is one of the most courageous persons this author has ever read about. She is helping the fight against drunk driving by talking about her story. This is a powerful message that needs to be seen and heard over and over again, along with others.

CONCLUSION

The war on drunk driving is an up hill battle, a battle worth fighting and one that can be won. With the help of organizations like MADD along with dedicated police officers drunk driving accidents can and will be decreased. Regardless of how you look at statistics, innocent people are being killed by drivers who choose to drink to the point of intoxication and then choose to drive.

After careful review of the information presented to me, the lowering of the current .08 BAC to .06 BAC would not serve as a deterrent for drunk drivers. Despite the impressive gains that have been made in the fight against drunk driving, a dangerous minority, called the “hard core” drunk driver keeps bucking the trend. We have to face the fact that we have to focus our attention to the drunk driver who is the alcohol abuser. The hard core drunk driver accounts for 65 percent of the serious alcohol-related auto collisions (Haley, 2002).

“There is not one piece of credible evidence that proves .08 percent BAC legislation saves lives. Although the U.S. DOT has funded numerous studies in the 15 years since the first .08 percent BAC law went into effect, the agency has been unable to demonstrate that .08 percent saves lives” (Haley, 2002 p. 22). According to the U.S. DOT, it will be illegal for a 120-pound woman to drive after drinking just two six-ounce glasses of wine over a two-hour period (Haley, 2002). As a result, society is reluctant to “throw the book” at drunk drivers. The drunk driver who’s BAC is .25 percent is faced with the same fines and laws as the lady who consumed 2 glasses of wine.

An effective deterrent is making the punishment fit the crime. Unlike speeding, drug possession or even murder, the drunk driving offense is generally punishable with a one-size-fits all sentence. Whether you are one sip over the arrest threshold or you’ve downed a fifth of bourbon, you are equally “drunk” in the eyes of the law. If a driver has a sky-high BAC level, they should be presumed to have a drinking problem and treated accordingly. Stiff fines, mandatory jail time and license suspension should accompany intensive therapy for alcoholism.

At the top of what needs to be done are mandatory treatment programs for high BAC and repeat offenders. "Because so many of the hard core drunk drivers are alcohol abusers or dependent-up to 75 percent of second time offenders, there is a need to get offenders into treatment. To ensure that officials prescribe the most appropriate treatment for offenders, a reliable screening and assessment technique should be used to identify the nature and severity of their problems" (Haley, 2002, p. 56).

To reach today's drunk driver, we need to try new strategies that target alcohol abusers. We have to apply solutions that affect their behavior by treating their addiction problems. MADD has done a great job on getting the word out to the social drinker. It is imperative to keep educating the youth along with the social drinker about the importance of not drinking and driving to insure that innocent victims along with the drunk driver are being saved.

This is a crime that is 100 percent preventable if people who chose to drink and drive do the responsible thing and "know when to say when" and furthermore "friends don't let friends drive drunk".

Appendix

0.02-0.03 BAC: No loss of coordination, slight euphoria and loss of shyness. Depressant effects are not apparent. Mildly relaxed and maybe a little lightheaded.

0.04-0.06 BAC: Feeling of well-being, relaxation, lower inhibitions, sensation of warmth. Euphoria. Some minor impairment of reasoning and memory, lowering of causation. Your behavior may become exaggerated and emotions intensified.

0.07-0.09 BAC: Slight impairment of balance, speech, vision reaction time, and hearing. Euphoria. Judgment and self-control are reduced, and caution, reason and memory are impaired. (.08 is legally impaired and it is illegal to drive at this level) You will probably believe that you are functioning better than you really are.

0.10-0.125 BAC: Significant impairment of motor coordination and loss of good judgment. Speech may be slurred; balance, vision, reaction time and hearing will be impaired. Euphoria.

0.13-0.15 BAC: Gross motor impairment and lack of physical control. Blurred vision and major loss of balance. Euphoria is reduced and dysphoria (an emotional state of anxiety, depression, or unease) is beginning to appear. Judgment and perception are severely impaired.

0.16-0.19 BAC: Dysphoria predominates, nausea may appear. The drinker has the appearance of a "sloppy drunk."

0.20-BAC: Feeling dazed/confused or otherwise disoriented. May need help to stand/walk. If you injure yourself you may not feel the pain. Some people have nausea and vomiting at this level. The gag reflex is impaired and you can choke if you do vomit. Blackouts are likely at this level so you may not remember what has happened.

0.25 BAC: All mental, physical and sensory functions are severely impaired. Increased risk of asphyxiation from choking on vomit and seriously injuring yourself by falls or other accidents.

0.30 BAC: STUPOR. You have little comprehension of where you are. You may pass out suddenly and be difficult to awaken.

0.35 BAC: Coma is possible. This is the level of surgical anesthesia.

0.40 BAC: Onset of coma, and possible death due to respiratory arrest. (above information obtained from www.cityoflacrosse.org/Police/bac.htm)

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Survey – Attachment A

My name is Corporal Gary Sharpen with the Shenandoah Police Department. I am currently enrolled in The Bill Blackwood Law Enforcement Management Institute of Texas and I am writing a research paper on drunk driving in Texas. I would appreciate your help by answering a few questions. Thank you for your help and cooperation.

Name_____

Department_____

Is the current BAC at .08 sufficient in deterring drunk driving? Yes-80% no-20%

In your opinion do you think that the BAC should be lowered from .08 to deter drunk driving?

Yes-16%

No-84%

Do you feel that the penalty for DUI's, first time offenders is:

- ☐ Sufficient-12%
- ☐ not strong enough-88%
- ☐ to strong-0

Do you feel that the penalty for repeat offenders is:

- ☐ sufficient-12%
- ☐ not strong enough-88%
- ☐ to strong-0

In your opinion what would help decrease the number of drunk driving accidents:
(check as many as you feel are relevant)

- better education-10
- mandatory treatment programs for repeat offenders-12
- lower the BAC to .05 for repeat offenders-4
- holding liquor stores accountable for selling alcohol to under the influence patrons-2
- holding bars accountable for selling alcohol to under the influence patrons-4
- making bars who have over 100 patrons supply or make available breathalyzers-4
- holding friends and family accountable for allowing a friend or family member to drive drunk-0
- stiffer penalties for repeat offenders-21
- mandatory suspension of driver licenses for repeat offenders-19
- more public service ad campaigns showing the danger of drunk driving-11
- other_____

In your opinion, what is the number one factor that would decrease drunk driving._____

Has Mother's Against Drunk Driving (M.A.D.D.) had a positive effect on drunk driving?

Yes-95%

No-5%

Do you personally know someone who has been arrested for drunk driver?

Yes-90%

No-10%

Do you personally know someone who has been killed by a drunk driver?

Yes-30%

No70%

Personal comments:

Thank you for your help!