

Testimony of Laura Dean-Mooney
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Of the
Senate Committee on Commerce, Science, & Transportation
NHTSA Oversight: An Examination of the Highway Safety Provisions of SAFETEA-LU
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Thank you Chairman Pryor and Ranking Member Wicker for the opportunity to testify before the Subcommittee on Consumer Protection, Product Safety, and Insurance. Your leadership and the leadership of this committee are to be commended as we work to save lives and eliminate drunk driving in our nation.

Just last week, Mothers Against Drunk Driving (MADD) celebrated its 30th Anniversary with a national conference held here in our nation's Capital. This past Thursday we held a rally on the Hill, with hundreds of MADD volunteers focused on one thing: the elimination of drunk driving in America.

Since our founding in 1980, drunk driving fatalities have dropped by over 40 percent. We are proud of our successes, but as we reflect on 30 years of advocacy with the goal of saving lives, we must not accept complacency. We all must recommit to saving lives and the elimination of drunk driving. The National Highway Traffic Safety Administration (NHTSA) recently released its fatality analysis reporting system (FARS) statistics. While fatalities are down, there is much more work to be done. Every one of us should be outraged that 10,839 people, one-third of all highway fatalities, died due to drunk driving.

Over MADD's 30 year history of advocacy, 300,000 lives have been saved since our founding. We have put a face to the crime of drunk driving, sharing story after story of lives cut short due to someone's senseless actions. It is these stories, including my own, that continue to propel our organization forward, moving toward the attainable goal of eliminating this public health epidemic once and for all.

I became involved with MADD after my husband, Mike Dean, was killed in Texas by a drunk driver, leaving me to raise our 8-month old daughter alone. On November 21, 1991, Mike left a business meeting in Oklahoma and drove to the Dallas-Fort Worth area to visit his family.

At 7:15 p.m., a drunk driver going the wrong way on a Texas highway met Mike's car head on, killing him instantly and simultaneously making me both a grieving widow and a single mom. The offender, who died at the crash scene, had a blood alcohol concentration (BAC) of .34 and was driving with an almost empty bottle of whiskey in his car.

For more than 17 years, I have worked as a volunteer to advance MADD's mission at the local, state, and national level.

Mr. Chairman, we have made great progress in the fight against drunk driving – much of which occurred in the 1980's and through the mid-1990's -- thanks to strong laws like the 21 minimum drinking age, administrative license revocation, zero-tolerance for youth, and the national .08 BAC standard. These laws coupled with the equally important efforts of law enforcement, publicized at certain high-risk times of the year through high-visibility crackdown mobilizations, have led to tremendous reductions in fatalities and injuries.

While drunk driving fatalities have decreased, America continues to practice a "catch and release" program: law enforcement does their very best to catch drunk drivers, and we as a society through our legislatures and courts, oftentimes let them go with few consequences.

A couple of statistics collected by the National Highway Traffic Safety Administration (NHTSA) paint a startling portrait of what's happening on our roads.

- ◆ One Arkansas resident holds the record for most DUI's with 44 convictions.
- ◆ In my home state of Texas, 124,662 motorists are driving with three or more DUI convictions and 18,271 are driving with five or more convictions.

Unfortunately, this type of data is not available for all states.

Campaign to Eliminate Drunk Driving

Fortunately MADD, with support from Members of Congress, NHTSA and others in the highway safety community, has a plan.

Following only those solutions proven to work, MADD announced the Campaign to Eliminate Drunk Driving in November 2006.

The Campaign consists of three parts, all singularly focused on putting a long-overdue end to drunk driving tragedies of our roads:

- Support the heroes who keep our roads safe. High-visibility law enforcement catches drunk drivers and discourages others from driving drunk.
- Require convicted drunk drivers to blow before they go. Ignition interlock devices, or in-car breathalyzers, require all convicted drunk drivers to prove they are sober before the car will start.
- Turn cars into the cure. Tomorrow's cars will protect each of us, automatically determining whether or not the driver is at or above the legal limit of .08 and failing to operate if the driver is impaired.

High-Visibility Law Enforcement: A Proven Solution

Studies show that the combination of paid media ads combined with high visibility law enforcement is proven to deter drunk drivers from getting behind the wheel. MADD advocated authorizing \$29 million per year for NHTSA to conduct three annual mobilization efforts as part of SAFETEA-LU. We thank the Committee for authorizing the program, and we hope to see it continue at even more robust funding levels. *Drunk Driving: Over the Limit, Under Arrest* is conducted twice yearly and *Click it or Ticket* once per year. Both campaigns have been highly-effective.

The paid ads target audiences at the highest risk to drive drunk. While the ads are running on television and radio, law enforcement conducts sobriety checkpoints and saturation patrols. Would-be offenders see the advertisements, see law enforcement out in force, and realize that they will be caught if they drive drunk.

MADD recommends that the next reauthorization bill include increased funding for up to five yearly crackdowns focusing on drunk driving and seatbelt enforcement.

Interlocks Save Lives

In the past, we as a society have focused on license revocation as the primary countermeasure to drunk driving. If you're caught driving drunk, you'll lose your driver's license. The reality is that 50 to 75 percent of these offenders will continue to drive illegally. In addition, unless you live in an area with accessible mass transit options, you need a car to get to and from work, school, treatment and other everyday destinations.

An alcohol ignition interlock is a breath test device linked to a vehicle's ignition system. When a driver wishes to start their vehicle, they must first blow into the device. The vehicle will not start unless the driver's BAC is below a pre-set standard.

The alcohol ignition interlock allows a DUI offender to continue to drive wherever they need to go. He or she just can't drive drunk and hurt your family or mine.

Studies overwhelmingly show that interlocks work. The Centers for Disease Control (CDC) has reviewed ignition interlocks and has stated that "based on strong evidence of the effectiveness of interlocks in reducing re-arrest rates, the (CDC) Task Force recommended that ignition interlock programs be implemented." In addition to the CDC, there are more than 15 published studies on interlock effectiveness which show that interlocks are associated with substantial and impressive reductions in recidivism, ranging from 50 percent to 90 percent. The evaluations involve a diversity of programs, accounting for the variation in results.

The research on ignition interlocks is crystal clear and irrefutable. Beyond the research, we have fatality data that proves interlocks are effective. In 2005, New Mexico became the first state to require interlocks for all convicted DUI offenders. Since this

time, DUI fatalities in the state have been reduced by over 30 percent. Arizona passed a similar law in 2006 and has seen a 33 percent reduction in DUI fatalities.

Today, thanks in part to MADD's campaign, 11 states require all DUI offenders to use an ignition interlock device. Two states highly incentivize DUI offenders to use an interlock and California passed a pilot program requiring all convicted DUI offenders in four counties (with a total population of 14 million people) to use an ignition interlock device.

The population in these states and counties covers over 84 million Americans – a subset of America that is now under the protection of all offender ignition interlock laws.

Every American should be protected by this lifesaving policy. It is the right thing to do be. That is why MADD is calling for a federal standard which would require interlocks for all convicted DUI offenders. This is the same approach the Congress took with the 21 minimum drinking age law and the .08 per se BAC law. No state has ever lost money as a result of the national standards.

While MADD has made great progress in state advocacy work, we have encountered several roadblocks to progress. Therefore, we must turn to the Congress for help.

An example of this roadblock is in Maryland where an ignition interlock law was considered in a legislature dominated by criminal defense attorneys. The Senate President, Michael Miller, is a DUI defense attorney who, according to his law firm's Web site "practices in the areas of criminal law, traffic law, DWI and personal injury." Senator Miller worked to amend interlock legislation to remove the interlock penalty for DUI offenders who plead down to a lesser punishment, known as probation before judgment. Roughly half of those arrested for DUI in Maryland will plead to this lesser offense.

In the House of Delegates, the Judiciary Chairman is also a well known DUI defense attorney who routinely amends sound DUI law in favor of significant judicial discretion. The **Washington Post** Editorial Board commented on this fact in a March 30, 2010 editorial which I will submit for the record. It is titled *Maryland Lawmakers Need to Stop Coddling Drunk Drivers*.

Maryland is but one example. The truth is that these patterns exist across the country. The need for a federal interlock standard could not be more clear.

In the House, Chairman Oberstar and Ranking Member Mica have included just such a standard in their version of the highway reauthorization bill. In the Senate, Senators Lautenberg and Tom Udall have introduced the Drunk Driving Repeat Offender Prevention Act, or DDROP, which mirrors language in the House reauthorization bill by requiring all DUI offenders to use an interlock for at least 6 months.

MADD strongly urges this committee to work with the Senate Environment and Public Works Committee to include an all offender ignition interlock standard in the Senate version of the highway reauthorization bill. The Insurance Institute for Highway Safety estimates that 1,100 lives could be saved if every state required all drunk drivers to use an ignition interlock device. This is due to specific deterrence. MADD expects that more lives could be saved as New Mexico and Arizona both experienced over 30 percent reductions in DUI fatalities due to general and specific deterrence from widespread use of ignition interlocks.

Advanced Alcohol Detection Technology

While interlocks are currently the most proven technology available to stop drunk driving, a program is underway which could one day literally eliminate drunk driving. During a 2007 Senate Environment and Public Works hearing, Chairman Barbara Boxer referred to this effort as the “Manhattan Project” for drunk driving.

The Driver Alcohol Detection System for Safety, or DADSS, is the result of a cooperative research agreement currently underway between NHTSA and the Automotive Coalition for Traffic Safety (ACTS), comprised of many of the world’s leading auto manufacturers. The agreement is a public-private partnership with both entities providing \$1 million per year for 5 years.

The purpose of this \$10 million agreement is to research, develop, and demonstrate non-invasive in-vehicle alcohol detection technologies that can very quickly and accurately measure a driver’s BAC. The Insurance Institute for Highway Safety estimates that over 8,000 lives could be saved if advanced alcohol technology is widely deployed in the United States. These advanced technologies offer the potential for a system that could prevent the vehicle from being driven when the driver’s BAC exceeds the legal limit.

Any technology which is developed must be highly accurate, nearly instantaneous, and not hassle the sober driver. If the technology is successful, a sober driver would notice no difference in his or her driving experience. Any technology developed must be set to detect blood alcohol concentrations of .08 or above.

In the first phase of technology development, three companies have been selected through a request for proposal process and testing will be performed in conjunction with the Harvard Medical School. While we are encouraged and hopeful that DADSS will succeed in identifying a technology to one day eliminate drunk driving, we need the help of Congress to guarantee that this technology becomes a reality.

Senator Tom Udall and Senator Bob Corker have introduced bipartisan legislation, the Research of Alcohol Detection Systems for Stopping Alcohol-related Fatalities Everywhere Act, or ROADS SAFE, which would authorize an additional \$12 million per year for DADSS. Many Senators on this Committee are cosponsors of the

legislation, and we thank them for their leadership and support. In the House, Representatives Ehlers and Sarbanes have introduced similar legislation.

ROADS SAFE has been included as part of the Motor Vehicle Safety Act (MVSA) in both the House and the Senate. On behalf of all DUI victims, and potential future victims of this violent crime, MADD urges Congress to pass the MVSA this year with an authorization for this program. The additional funding would provide an essential financial boost to the development of this technology, as well as ensure a greater federal commitment toward eliminating drunk driving.

It is of vital importance that ROADS SAFE be authorized as soon as possible. Every year that we allow drunk drivers to continue to drive on our roads, there are thousands of unnecessary deaths and injuries. MADD urges Congress to provide \$12 million a year to address a problem that costs the United States \$130 billion each year. This is an excellent return on taxpayer investment.

Reevaluating the Highway Safety Grant Formula Program

MADD looks forward to working with you and your staff to provide specific policy recommendations to strengthen the current highway safety grant programs.

MADD agrees with our friends at the Governors Highway Safety Administration (GHSA) that the highway safety grant program needs to be streamlined. It is logical to combine programs into one large “pot” with funding allocated to those areas of critical importance to highway safety. This allows states to use one application yearly instead of applying for numerous different grants at various times throughout the year. Because funding is limited, it is critical that dollars be spent in key areas such as impaired driving, safety belts and data collection.

MADD would like to offer some particular recommendations toward the impaired driving countermeasure program, commonly known as the 410 program.

First, it is imperative that impaired driving funds be distributed to all states. Taxpayer’s pay into the highway trust fund and it is important that this funding go back to the states to be spent on proven impaired driving countermeasures. Currently, the 410 program requires states to meet certain criteria each year in order to qualify for this funding. In addition, the 10 best and 10 worst states automatically receive funding. MADD would like to do away with this current structure. While well intended, the 410 program creates an unnecessary burden to states in order to receive funds. We do not want to withhold this funding from any state since it serves as such a large portion of all funds spent on impaired driving efforts. What we do want is to make sure that funds are spent wisely and effectively.

MADD recommends that funding be spent on activities that work, and performance and activity measures should be in place to gauge program effectiveness. In the impaired driving category, this means activities like implementation of alcohol

ignition interlock programs, law enforcement activities, DUI data collection, and DUI judicial education such as through the Traffic Safety Resource Prosecutor (TSRP) program.

In return for receiving funds, states must create specific, meaningful performance and activity measures that will show progress, or lack thereof, in reducing DUI fatalities year to year. States should be measured against themselves year to year.

MADD also asks the committee to consider giving NHTSA more authority in working with states as they develop their strategic highway safety plan. In the past, NHTSA had plan approval authority to ensure that states were spending funds effectively. That authority was taken away in the late 1990's, and as a result there have been concerns that NHTSA does not have enough recourse to effectively work with states which are trending in the wrong direction.

Concerns that grew as a result of the removal of NHTSA's plan approval authority led this Committee and others to consult with the Office of the Inspector General (OIG) and the Government Accountability Office (GAO). A series of OIG and GAO reports have been released, showing what is needed to improve traffic safety grant programs. Some of these reports focus specifically on impaired driving resources.

In the OIG's Department of Transportation (DOT) FY2007 Top Management Report, the OIG states that:

“[N]o appreciable improvement in the number of highway fatalities can be achieved until alcohol-related fatalities drop dramatically. States are the linchpin in achieving this drop and ensuring that \$555 million in Federal funding authorized for state alcohol-impaired driving incentive grants are targeted toward strategies that have the most impact.”

One of the OIG's recommended actions from the FY07 report was: “Promoting Improved Performance Measures and Enhanced State Accountability to Maximize Efforts to Reduce Fatalities Caused by Impaired Driving.” The report goes on to state the following:

“NHTSA – the lead Federal agency responsible for reducing alcohol-impaired driving – could assist in this effort by ensuring that the states include more meaningful measures linked to key program strategies in their performance plans.”

While NHTSA has since worked with the states to develop indicators to measure performance in priority program areas, MADD does not feel that these measures are meaningful enough to fulfill the intent of the OIG.

In a March 2007 OIG report titled “Audit of the National Highway Traffic Safety Administration’s Alcohol-Impaired Driving Traffic Safety Program” (report #MH-2007-036), the OIG states:

“Officials in NHTSA and the 10 states we reviewed attributed success in combating alcohol-impaired driving to many factors. They agreed that, while other strategies may be important, a successful traffic safety program should include strategies focusing on two key elements: 1) sustained enforcement of laws (to include highly visible police presence and media efforts) and 2) effective prosecution and full application of available sanctions...we concluded that NHTSA should do more to measure state implementation of these strategies so that additional funding for countering alcohol-impaired driving is effectively used.”

The OIG includes the following table as an example of potential improved performance measures:

Table 3. Benefits From Potential Improved Performance Measures

Strategy	Potential Improved Performance Measure	Potential Benefits for NHTSA if States Used Such Measures
Sustained Enforcement	Accomplish sustained enforcement at a set percentage* of at-risk areas in the state.	<p>NHTSA could better determine the degree to which states were carrying out SAFETEA-LU required assurances to pursue this strategy.</p> <p>NHTSA could better determine whether emphasis on sustained enforcement had an impact on alcohol-related fatalities and injuries in at-risk areas.</p>
Prosecution and Sanctions	Achieve a set percentage* of successful convictions for alcohol-impaired driving offenses.	<p>NHTSA could better determine whether specialized training programs for prosecutors had an impact on conviction rates.</p> <p>NHTSA could better determine the impact of structural change, such as the establishment of courts specializing in alcohol-impaired driving cases.</p>
<p>Source: OIG *Percentage to be determined by NHTSA and the states.</p>		

To demonstrate the lack of NHTSA’s ability to fully gauge the impact of federal resources on traffic safety, and the way in which establishing more meaningful performance measures and goals would help, the OIG points out that:

“According to NHTSA, sustained enforcement was defined as ‘at least one enforcement event conducted weekly in areas of a state where 60 percent or more of the alcohol-related fatalities occurred.’ Yet, none of the states included this measure in their annual plans or reports provided to NHTSA...Regarding effective prosecution, NHTSA had not yet established a specific measure, although one state did report to a limited extent on improvements in conviction rates for alcohol-impaired driving offenses.”

The GAO has also reviewed NHTSA’s programs, highlighting management difficulties in a March 2008 and stating that:

“NHTSA’s intermediate outcome measures do not include measures to track behaviors that influence alcohol-related fatalities. Such measures could include the numbers of impaired driving citations issues, arrests, and convictions.”

The OIG and GAO have made several recommendations to NHTSA, including the development of intermediate performance measures in coordination with the states. Since that time, MADD is pleased that NHTSA and the states have moved forward with the development of performance and activity measures. However, the report that resulted from this collaborative effort, in MADD’s opinion, has not resulted in the establishment of meaningful performance and activity measures that respond to serious concerns raised by this Committee and the OIG and GAO. The August 2008 NHTSA/DOT report, titled “Traffic Safety Performance Measures for States and Federal Agencies” (DOT HS 811 025) is a starting point, setting forth a “*minimum* set of performance measures” (emphasis added), but does not go far enough.

MADD appreciates the work this Committee has done over the years in directing GAO and the IG to review NHTSA’s programs, and outlining steps that NHTSA can take to improve its oversight functions and the effectiveness of state expenditures. We look forward to working with the Committee to make additional improvements, with the ultimate goal of eliminating drunk driving.

MADD has one final recommendation that we would urge the Committee to consider: we believe it would be beneficial to encourage all states to hire a statewide DUI coordinator. This is based on the highly successful model of New Mexico’s appointment of a DUI Czar. Drunk driving is an enormous problem that encompasses many jurisdictions: law enforcement, the judiciary, administrative offices, probation, treatment, etc. Often times these jurisdictions do not effectively coordinate and communicate their efforts, making it difficult to have a functional system in place. A DUI coordinator would also bring greater accountability and minimize finger pointing between state agencies. We believe that if every state had a DUI coordinator we would see great improvements in state efforts to combat drunk driving, much like in New Mexico.

Conclusion

The Campaign to Eliminate Drunk Driving started as a lofty goal in 2006 and has rapidly progressed to being on the verge of reality. In 2006, just 2 million Americans were protected by all offender interlock laws. Today, 84 million people are protected by these laws, but MADD will not stop until interlocks for all offenders becomes the law of the land.

With this Committee's leadership, we will eliminate drunk driving. MADD asks the committee to consider ways to make alcohol ignition interlocks an important part of the next reauthorization bill.

We also ask for the support of Congress to turn cars into the cure for drunk driving by passing the ROADS SAFE Act.

Finally, by streamlining and revamping the current highway safety formula grant program, we can make changes which will ensure states receive their funding and spend it on activities that will save the most lives and prevent the most injuries.

Thank you to this Committee, and thank you to Chairman Pryor and Ranking Member Wicker for holding this important hearing, and for your leadership on this issue.