

**FIGHTING DRUNK DRIVING:  
LESSONS LEARNED IN NEW MEXICO**

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**FIELD HEARING**  
BEFORE THE  
**COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION**  
**UNITED STATES SENATE**  
**ONE HUNDRED TWELFTH CONGRESS**

FIRST SESSION

AUGUST 10, 2011

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ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

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## **FIGHTING DRUNK DRIVING: LESSONS LEARNED IN NEW MEXICO**

WEDNESDAY, AUGUST 10, 2011

U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Albuquerque, NM.*

The Committee met, pursuant to notice, at 11:38 a.m. at the University of New Mexico School of Law, 1117 Stanford Drive, Northeast, Albuquerque, New Mexico 87106, Hon. Tom Udall, presiding.

### **OPENING STATEMENT OF HON. TOM UDALL, U.S. SENATOR FROM NEW MEXICO**

Senator UDALL. I do not know if—the dean of the law school was here, and I guess I missed him. Oh, yes, yes. There you are. OK. I meant—sorry we may be running just a little bit late. I ran into the press out there and got waylaid, so thanks. Thanks, Dean. Great for you—to have you here and to host us.

Good morning, and I would like to welcome all of you to this official hearing of the Commerce, Science, and Transportation Committee. The focus of today's hearing is on drunk driving, and the successes and opportunities we face in ridding our roads of impaired drivers.

I believe New Mexico is the ideal place to hold this hearing for two reasons. Number one, our state has faced great challenges in combating DWI, and, number two, through focused efforts, we have made progress in the battle.

We have had an important story to tell, one that can help other states and other communities who face similar challenges. And that will help them learn how to replicate our success.

We are fortunate to have here with us today three panels of witnesses. They represent a cross-section of advocates, law enforcement, health professionals, and government, all working together to save lives. Their testimony will help us understand the long road we have taken to get to where we are, and why we must continue to make combatting drunk driving a priority.

As all of you may be aware, it was not too long ago that New Mexico ranked first in the Nation in alcohol-related fatalities. I remember it all too well. In the years before I was elected to serve as New Mexico Attorney General, our state ranked worst in the Nation for DWI fatalities, not just once, but seven times. In fact, New Mexico was in the top three worst in the Nation from 1982 through 1992.

During that time, DWIs accounted for nearly 50 percent of all fatal crashes in New Mexico. Now, those dismal rankings and sta-

tistics—they should have been enough to spur change. But unfortunately, that just was not the case. It would take a tragic crash in 1992 that killed a family of four on Christmas Eve for New Mexico to act on the problem in our backyard.

In that crash, a drunk driver was speeding the wrong way down the highway at over 90 miles per hour. He crashed head-on into a car traveling in the correct direction, killing a mother and her three young daughters. On Christmas Eve, their lives ended tragically, their families' lives forever altered, and it was entirely preventable.

It is hard to imagine anything positive resulting from such a horrendous crash. It shakes me to the core just thinking about it. But there was something positive that emerged. This tragedy galvanized public opinion against drunk driving, and helped us advance legislation to reduce drunk driving in New Mexico, and improved the safety of our roads.

After that crash, I worked hard with Nadine Milford, the mother and grandmother of the victims of that terrible accident. Together, Nadine and I and many others—many I see here in the audience—were successful in passing legislation that reduced the legal limit for DUI from .1 to .08 in New Mexico. We were among the first States in the Nation to pass this legislation, far in advance of the Federal law.

We also were successful in passing legislation to close drive-up liquor windows and to impose tougher penalties for repeat offenders.

During those years, we made significant progress in reducing drunk driving fatalities in New Mexico. But there was still much work to be done, and in the years that I have been serving in Congress, New Mexico has taken additional steps to address drunk driving. That includes enacting all-offender ignition interlock legislation, helping to further reduce drunk driving in New Mexico.

Today we will hear more about the path that New Mexico has taken in the hopes that other states will be able to learn from our successes. Additionally, we will learn that despite all the progress that has been made to end drunk driving, it remains a significant challenge today.

But our work still is not done. Today drunk driving still accounts for 30 percent of all traffic fatalities. That is why I introduced the ROADS SAFE Act at the Federal level. This legislation will refund a research program to develop passive, in-vehicle alcohol detection systems that could, in time, end drunk driving. We will hear more about this program before the hearing concludes.

Before we move on to the first panel, I would like to acknowledge the testimony submitted for the record by Dick Roth. Dick was unable to join us today, but he is a recognized expert on ignition interlocks, and is from the State of New Mexico.

I would also like to acknowledge Linda Atkinson. Linda is a tireless advocate who has worked for more than 20 years to reduce and eliminate drunk driving in New Mexico, and I am happy to see she is able to join us today. Linda, why don't you stand up and be recognized here? Thank you. She says, do you remember that was our task force report that we made in—after the Christmas Eve crash to the legislature. We had a task force working for 18 months, and

we were able to at the crucial point, be able to tell the legislature what this task force had done, and what their recommendations were.

Linda, I also look forward to receiving your written testimony. I know you will give us some real insights.

Last, but definitely not least, I want to thank the University of New Mexico Law School, my law school, and in particular, Dean Kevin Washburn and his staff members, Carmen Rawls and Tony Anderson. They generously opened their doors to us for this hearing and helped us make today possible with all their hard work.

And finally, welcome to New Mexico and to the Land of Enchantment to all of our out-of-state witnesses and staff members. We hope you will stay here a long time and spend a lot of money.

[Laughter.]

Senator UDALL. For today's hearing, we ask all witnesses to provide their oral comments in 5 to 6 minutes. Their written testimony will be put into the official record. If they have longer testimony, they are welcome to submit it for the record.

And I understand that some of you in the audience may also wish to offer testimony. We welcome your comments, and we will keep the record open through Friday, August 19, to allow sufficient time to submit something for the official record.

Senator UDALL. And I think by keeping that record open by August 19, some of you that hear this testimony will then be able to respond to it and give us your ideas in your written testimony. And we really, really look forward to that.

If you have a written statement today, you can give it to one of my staff members, also on my left here is the Commerce Committee Senate staff, or you can e-mail directly to the Commerce Committee, which I believe is the e-mail address which is on the handout you received when you came here and walked in the door.

And now I would like to welcome our first panel of witnesses. The first panel—in the first panel we welcome the National Highway Traffic Safety Administration's Deputy Administrator, Ron Medford, and the New Mexico Department of Transportation's Traffic Safety Division Director, Michael Sandoval. Great to have you both here. And, Administrator Medford, why don't you kick it off and start?

**STATEMENT OF RONALD MEDFORD,  
DEPUTY ADMINISTRATOR, NHTSA,  
U.S. DEPARTMENT OF TRANSPORTATION**

Mr. MEDFORD. Good morning.

Senator UDALL. You bet. Thank you. Great to have you here.

Mr. MEDFORD. Mr. Chairman, thank you for the opportunity to testify today.

Impaired driving is one of the most serious traffic risks facing the Nation, killing more than 10,000 people every year. Every day, approximately 30 people die in motor vehicle crashes that involve an alcohol-impaired driver. Put another way, in the United States, someone dies about every 48 minutes due to an impaired driver. The annual costs of alcohol-related crashes totals more than \$51 billion. Addressing this challenging issue is one of our highest priorities at NHTSA.

I would like to commend the Committee and you personally, Mr. Chairman, for your leadership on this very important issue and on highway safety in general. Since the enactment of SAFETEA-LU in 2005, the Nation has enjoyed consistent reductions in highway fatalities and injuries, and the work of the Committee has been a major contributor to this progress.

While we are pleased that the safety impacts are positive, I know we share the view with the Committee that much more needs to be done to reduce the suffering and economic cost of highway crashes, and particularly the criminal behavior of driving while impaired.

The impaired-driving problem is complex and requires a full range of countermeasures to be effective. From our decades of experience and research, we know that effective measures include High Visibility Enforcement, training for law enforcement personnel, enhanced prosecution and adjudication, and zero tolerance for underage drinking. We also put a special emphasis on reaching high-risk populations, such as those with high blood alcohol concentrations and repeat offenders.

We continuously reassess our approach and remain focused on finding even more effective and efficient means for fighting impaired-driving. We also work with State, local, and industry partners to develop and test new strategies and new techniques.

NHTSA supports strong laws for high BAC offenders and for drivers who try to circumvent the law by refusing to submit to a BAC test. We support even tougher impaired-driving laws and improved enforcement and adjudication of these laws as key strategies in efforts to reduce impaired-driving.

The ignition interlocks are another critical component of a comprehensive impaired-driving program. A summary of 10 evaluations of interlock programs in the United States and Canada indicated that interlocks cut DUI recidivism by at least 50 percent compared to similar offenders without interlocks. Based on this strong evidence, NHTSA recommends that ignition interlock programs be more widely implemented. I am pleased to point out that New Mexico has been a leader in ignition interlock program development, and currently has one of the highest rates of interlock installations per capita in the Nation.

Advanced technology could also play an integral role in reducing impaired-driving. NHTSA is working to develop vehicle-based alcohol detection technologies. Such technologies have the potential to prevent drunk drivers from operating vehicles, and if widely deployed, could be invaluable in our efforts to eliminate drunk driving. The goal is to develop a non-invasive, seamless technology that accurately measures driver BAC and prevents a legally-impaired driver from operating a motor vehicle.

The Driver Alcohol Detection System, or DADSS for short, is being developed in partnership with the automotive industry, and has the potential to save a significant number of lives every year. It is estimated that nearly 8,000 lives could be saved annually by a system that could prevent driving by those who are over the legal limit for alcohol. You will hear more about this from other speakers today.



But the most important component needed to reduce impaired-driving is strong leadership and commitment at the highest level of state and local government to enact strong and effective impaired-driving laws, and to implement multifaceted programs.

New Mexico is a model for the Nation in this regard. Our agency recognized this leadership and vision in 2004 when New Mexico applied for and won, through a competitive process, a \$3 million NHTSA grant to develop and implement a comprehensive impaired-driving program. Over the next 5 years, the State's Department of Transportation worked in concert with other state organizations to implement a number of innovative and effective strategies that have significantly reduced impaired-driving in New Mexico.

The model demonstrated by New Mexico now allows other States to identify deficiencies in their impaired-driving program, develop methods to address those deficiencies, and gain support and resources to implement those methods. This model has been proven to be so effective that we now encourage all States to adopt it.

I know, Mr. Chairman, that you have made combatting impaired-driving a centerpiece of your efforts as New Mexico's Attorney General in the 1990s, and continue that work today in the Senate. And with initiatives like this hearing to call attention to this serious public health problem, we congratulate you for doing so.

In the coming weeks, NHTSA will kick off its Annual Impaired Driving National Crackdown from August 19 through September 5. This campaign has helped to reduce impaired-driving nationwide by 17 percent between 2004 and 2009. To keep the campaign fresh, we have developed a new look and feel for this year's campaign, with a "Drive Sober or Get Pulled Over" theme. This is a new theme for us this year. New Mexico has been an active partner in this campaign, and we look forward to maintaining our partnership with the State on the national campaign and on collaboration with State initiatives.

The success of New Mexico's demonstration project has shown that by working together, using effective evidence-based strategies, we can overcome this long-time problem and ultimately save many more lives.

Thank you again for this opportunity and I would be glad to answer any questions that you have.

[The prepared statement of Mr. Medford follows:]

PREPARED STATEMENT OF RONALD MEDFORD, DEPUTY ADMINISTRATOR, NHTSA,  
U.S. DEPARTMENT OF TRANSPORTATION

Good morning Mr. Chairman, and members of the Committee. I appreciate the opportunity to testify before this committee; particularly in such a lovely and humidity-free city.

Impaired driving is one of the most serious traffic risks facing the Nation, killing more than 10,000 people every year. In fact, every day, approximately 30 people die in motor vehicle crashes that involve an alcohol-impaired driver. Put another way, in the United States, someone dies every 48 minutes due to an impaired driver.<sup>1</sup>

<sup>1</sup> CDC, Injury Prevention and Control. Impaired driving. [www.cdc.gov/MotorVehicleSafety/Impaired\\_Driving/impaired-driv\\_factsheet.html](http://www.cdc.gov/MotorVehicleSafety/Impaired_Driving/impaired-driv_factsheet.html).

The annual cost of alcohol-related crashes totals more than \$51 billion.<sup>2</sup> Addressing this challenging issue is one of our highest priorities.

I would like to commend the Committee, and you Mr. Chairman, for your leadership on this very important issue and on highway safety in general. Since the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) in 2005, the Nation has seen consistent reductions in highway fatalities and injuries and the work of this committee has been a major contributor to this progress. While we are pleased that the safety impacts are positive, I know we share the view with the Committee that much more needs to be done to reduce the suffering and economic cost of highway crashes and particularly the criminal behavior of driving while impaired (DWI).

The impaired-driving problem is complex and requires a full range of countermeasures. Research has shown that effective measures include:

- High Visibility Enforcement (HVE);
- training for law enforcement personnel;
- enhanced prosecution and adjudication; and
- zero tolerance for underage drinking.

We also put a special emphasis on reaching high-risk populations, such as high BAC (blood alcohol concentration) or repeat offenders. We continuously re-assess our approach and remain focused on finding even more effective and efficient means for fighting impaired driving. We also work with State, local and industry partners to develop and test new strategies and techniques.

Strengthening impaired driving laws and improving enforcement and adjudication of these laws are key strategies in efforts to reduce impaired driving. The U.S. Department of Transportation (USDOT) supports strong laws for high BAC offenders and for drivers who try to circumvent the law by refusing to submit to a BAC test.

Ignition interlocks are another critical component of a comprehensive impaired driving program. A summary of 10 evaluations of interlock programs in the United States and Canada indicated that interlocks cut DWI recidivism by at least 50 percent, and sometimes more, compared to similar offenders without interlocks.<sup>3</sup> Based on this strong evidence, USDOT recommends that ignition interlock programs be more widely implemented.<sup>4</sup> I am pleased to point out that New Mexico has been a leader in ignition interlock program development and currently has one of the highest rates of interlock installations per capita in the Nation.

Advanced technology could also play an integral element in reducing impaired driving. The Department is working to develop vehicle-based, alcohol detection technologies. Such technologies have the potential to prevent drunk drivers from operating vehicles, and if widely deployed, could be invaluable in our efforts to eliminate drunk driving. The goal is to develop non-invasive, seamless technologies that can accurately measure driver BAC and prevent a legally impaired driver from operating a motor vehicle.

The Driver Alcohol Detection System for Safety, or DADSS for short, is being developed in partnership with the automotive industry, and has the potential to save a significant number of lives annually. It is estimated that nearly 8,000 lives could be saved by a system that could prevent driving by those who are over the legal limit for alcohol.<sup>5</sup> You will hear more about this from other speakers today.

But the most important component needed to reduce impaired driving is strong leadership and commitment at the highest levels of State and local government to enact strong and effective impaired driving laws, and implement multi-faceted prevention programs.

New Mexico is a model for the Nation in this regard. Our agency recognized this leadership and vision in 2004, when New Mexico applied for and won, through a competitive process, a \$3 million USDOT grant to develop and implement a comprehensive impaired driving program. Over the next 5 years, the State's Department of Transportation worked in concert with other State organizations to implement a number of innovative and effective strategies that have significantly reduced impaired driving in New Mexico. The model demonstrated by New Mexico allows

<sup>2</sup>Blincoe L, Seay A, Zaloshnja E, Miller T, Romano E, Luchter S, *et al.*, The Economic Impact of Motor Vehicle Crashes, 2000. Washington (D.C.): USDOT, National Highway Traffic Safety Administration (NHTSA); 2002.

<sup>3</sup>Elder R., Voas R., Beirness D., *et al.*, Effectiveness of ignition interlocks for preventing alcohol-impaired driving and alcohol-related crashes. *Am J Prev Med* 2011;40(3):362–376.

<sup>4</sup>CDC Community Guide: Impaired Driving: Research & Activities, <http://www.thecommunityguide.org/mvoi/AID/ignitioninterlocks.html>.

<sup>5</sup>DADSS (Driver Alcohol Detection System for Safety.) <http://www.dadss.org/>. Accessed on 8/9/11.

states to identify deficiencies in their impaired driving program, develop methods to address those deficiencies, and gain support and resources to implement those methods. This model has proven so effective that we now encourage all states to adopt it.

In the coming weeks, USDOT will kick off its annual Impaired Driving National Crackdown, from August 19 through September 5. This campaign has helped to reduce impaired driving nationwide by 17 percent between 2004 and 2009. To keep the campaign fresh, we have developed a new look and feel this year, with a "Drive Sober or Get Pulled Over" theme. New Mexico has been an active partner in this campaign, and we look forward to maintaining our partnership with the State on the national campaign and on collaboration on State initiatives.

The success of the New Mexico demonstration project has shown that by working together and using effective, evidence-based strategies, we can overcome this long-time problem, and ultimately save many more lives.

Thank you again for this opportunity. I would be glad to answer any questions you may have.

Senator UDALL. Thank you very much, Administrator Medford. And, Director Sandoval, please go ahead with your testimony.

**STATEMENT OF MICHAEL R. SANDOVAL, DIRECTOR,  
TRAFFIC SAFETY DIVISION, NEW MEXICO DEPARTMENT OF  
TRANSPORTATION (NMDOT)**

Mr. SANDOVAL. Good morning, Mr. Chairman. My name is Michael Sandoval. I am the Director of the New Mexico Transportation's Traffic Safety Division. I am here on behalf of my Cabinet Secretary, Alvin Dominguez. I have been with the NMDOT for over 13 years. I would like to thank you for allowing me to testify today on this very important issue.

The following is a chronological listing of important events over the last 7 years that have had a significant impact on the overall reduction in DWI-related deaths in New Mexico. I thought it would be important to show the progression of significant projects, programs, and laws that contributed to the State's overall success.

Starting in calendar year 2004, 219 people died in alcohol-related crashes in New Mexico. At that time, it was the third straight year where no progress was made in reducing DWI-related deaths in our State. New Mexico was in the top three worst States in the Nation on this issue.

Also in 2004, NMDOT was made the lead agency to fight against DWI. DWI became one of the major priorities for our department. This prompted a review and evaluation of all DWI-related funding and projects under the DOT's purview. With the help of many partners, this sparked the beginning of a change in culture regarding this deadly issue in our State.

In 2004, DOT was awarded, through a competitive process, a DWI demonstration project by NHTSA in the amount of \$3 million. The project was focused on DWI enforcement and public awareness in the counties where DWI was the deadliest. This included San Juan, McKinley, Santa Fe, Bernalillo, Dona Ana, and Rio Arriba Counties, along with the Navajo Nation.

Unique enforcement and public awareness partnerships were developed in these areas based on the diversity and the culture of the population. This project was well above and beyond the yearly funding provided by NHTSA through the regular Section 402 program.

In 2005, 194 people died in correlated crashes. This starts a downward trend in the number of people dying resulting from DWI

each year. The downward trend has continued through 2010, where a record low of 139 people died in correlated crashes in our State. This translates into a 36 percent reduction since 2004.

Through this NHTSA project, full-time DWI law enforcement officers were hired in each of the identified counties, up to four in each county. This was above and beyond the normal workforce of the police agency. This allowed the new officers to dedicate 100 percent of their time to enforcing DWI laws through high visibility checkpoints and saturation patrols.

Culturally sensitive media campaigns were developed and launched in each of the identified counties. For example, counties where heavy Native American populations existed had slightly different messaging than counties with heavy Hispanic populations. Targeted enforcement directed at serving alcohol to minors and serving alcohol to intoxicated persons became a priority. There were many bars and restaurants that were not abiding by the Liquor Control Act when it came to these issues.

Legislation was passed and signed into law mandating all convicted DWI offenders to install an ignition interlock device in their vehicle. New Mexico was the first State to pass such a law requiring first offenders to install ignition interlock devices.

And finally, in 2005 a DWI leadership team was formed and met monthly on major issues. This committee was co-chaired by the DWI Czar and by my position. This committee was important in establishing policy change. Overall DWI funding was also discussed so that not to duplicate efforts or to spend money on unproven strategies.

In calendar years 2006 and 2007, 191 and 176 people died, respectively. This marked the third straight year that fatalities had declined in our State, and this was statistical evidence that DWI-related deaths were once again on a steady downward trend.

Projects and programs continued to mature, including a big media campaign in the Four Corners area. This included specific television, radio, and billboard ads directed at the Native American population. All ads included Native American participation input and input on the type of messaging.

A court monitoring project, administered by our department, was implemented to assure that minimum mandatory penalties were being included in judgment and sentencing documentation. The focus was six county courts. The ignition interlock law was a big point of emphasis. It was important to assure that interlocks were installed on convicted offenders' vehicles on a consistent and widespread basis. The NMDOT is responsible for the Ignition Interlock Indigent Fund, and the program. The Motor Vehicle Division's responsibility is the driver's licensing portion.

In calendar year 2008, 143 people died in our State due to DWI. At the time, this was a record low for the number of deaths in our State. New Mexico was now out of the top 10 worst States for DWI-related motor vehicle deaths. Also, New Mexico, because they were out of the top 10, would lose funding of approximately \$1 million because the State was no longer in the top 10, and this is related to the criteria in the NHTSA Section 410 program.

The State worked with McKinley County to incorporate a cross-commissioning agreement between the City of Gallup, the county

of McKinley, State police, and the Navajo Nation. This agreement started the beginning of the McKinley County DWI Task Force, which allowed law enforcement to cross State and tribal jurisdictional lines to enforce DWI-related laws.

And finally, NMDOT conducted a Traffic Safety Summit to gather information and input on the State's new comprehensive traffic safety plan. This was a Federal Highway Administration mandate to incorporate both behavioral and engineering solutions aimed at reducing overall traffic fatalities. This plan incorporated DWI prevention strategies and further increased the exposure of DWI-related projects and programs.

Calendar year 2009 to present, New Mexico has continued to see a reduction in alcohol-related crash deaths. A new record low was established in 2010, which was 139 deaths. After the first 7 months of this year, Mr. Chairman, New Mexico is once again on pace to reach a new record low.

Although New Mexico's effort was a comprehensive approach, looking back, I believe the following three strategies had the most impact on our success. First, implementing the targeted high visibility enforcement and public awareness campaign, with a focus on both a statewide general message and a specific message for local high-risk areas. It was important for law enforcement to have dedicated DWI officers and/or DWI units that were visible and well-known throughout the community. If law enforcement is forced to incorporate DWI enforcement into their other duties, it is likely it would not have a significant impact on deterring drunk driving. Bottom line, if people do not believe they will be caught, they are more likely to engage in this dangerous behavior.

Second, passed laws that are tough on first offenders—tough sanctions for first offender have two positive effects. First, tough laws act as a deterrent to drunk driving in the first place. If people believe even the first offense will have a significant negative impact on them, they will be less likely to engage in the behavior. Too many believe that a first offense will just be a slap on the wrist. Passing the ignition interlock law for the first offender was a major milestone in reducing the occurrence of drunk driving. And, second, if you have tough laws for first offenders, they will be less likely to become a second offender or a repeat offender.

And, third, implementing a court monitoring program with open communication with the judiciary. This both supported law enforcement efforts to help ensure that there are consistent consequences for DWI offenders. Although law enforcement makes the arrest on the front end of the process, they are heavily involved in the back end judicial process. Law enforcement felt supported after the DWI conviction when the offender received the sanctions that were originally outlined in the law. Second, it is difficult to assess what impact laws are having if they are not implemented consistently. Too many times, new laws are passed and don't have the expected positive effect. This may have to do more with the inconsistent implementation rather than the law itself.

So, finally, Mr. Chairman, on behalf of my Cabinet Secretary, Alvin Dominguez, I would like to thank you for your time and your invitation to speak. I would like to close by saying that although the downward trend shows success and that significant progress

has been made in our State, no one will be satisfied until there are zero deaths on our roadways as DWI deaths are 100 percent preventable.

I would be happy to answer any questions or provide more information. Thank you, Mr. Chairman.

[The prepared statement of Mr. Sandoval follows:]

PREPARED STATEMENT OF MICHAEL R. SANDOVAL, DIRECTOR, TRAFFIC SAFETY DIVISION, NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT)

Good Morning, my name is Michael Sandoval and I am the Director of the New Mexico Department of Transportation's Traffic Safety Division. I am here on behalf of my Cabinet Secretary Alvin Dominguez. I have been with the NMDOT for over 13 years. I would like to thank you for allowing me to testify today on this very important issue.

The following is a chronological listing of important events over the last 7 years that have had a significant impact on the overall reduction in DWI-related deaths in New Mexico. I thought it would be important to show the progression of significant projects, programs, and laws that contributed to the State's overall success.

**Calendar Year 2004**

- 219 people died in alcohol related crashes in New Mexico. At the time, it was the third straight year where no progress was made in reducing DWI-related deaths in the State. New Mexico was in the top three worst States in the Nation on this issue.
- The NMDOT was made the lead agency on the fight against DWI. DWI became one of the major priorities for the NMDOT. This prompted a review and evaluation of all DWI-related funding and projects under the NMDOT's purview. With the help of many partners, this sparked the beginning of a change in culture regarding this deadly issue.
- The NMDOT was awarded through a competitive process, a DWI Demonstration project by the National Highway Traffic Safety Administration (NHTSA) in the amount of \$3 million dollars. The project was for focused DWI enforcement and public awareness in the counties where DWI was the deadliest (San Juan, McKinley, Santa Fe, Bernalillo, Dona Ana, Rio Arriba, and Navajo Nation Reservation). Unique enforcement and public awareness partnerships were developed in these areas based on the diversity and culture of the population. This project was above and beyond the yearly funding provided by NHTSA through the Section 402 program.

**Calendar Year 2005**

- 194 people died in alcohol related crashes in New Mexico. This starts a downward trend in the number of people dying as a result of DWI each year. The downward trend has continued through 2010 where a record low of 139 people died in alcohol-related crashes in New Mexico. This translates into a 36 percent reduction in alcohol related deaths since 2004.
- Through the NHTSA project, full-time DWI law enforcement officers were hired in each of the identified counties (up to four in each county). This was above and beyond the normal workforce of the Police agency. This allowed the new officers to dedicate 100 percent of their time to enforcing DWI laws through high visibility checkpoints and saturation patrols.
- Culturally-sensitive media campaigns were developed and launched in each of the identified counties. For example, counties with heavy Native American populations had slightly different messaging than counties with heavy Hispanic populations.
- Targeted enforcement directed at serving alcohol to minors and serving alcohol to intoxicated persons became a priority. There were many bars and restaurants that were not abiding by the Liquor Control Act when it came to these issues.
- Legislation was passed and signed into law mandating all convicted DWI offenders to install an ignition interlock device in their vehicle(s). New Mexico was the first State to pass such a law requiring 1st offenders to install interlock devices.
- A DWI Leadership was formed and met monthly on major issues. This committee was Co-Chaired by the DWI Czar and the Director of the Traffic Safety

Division. This committee was important in establishing policy change. Overall DWI funding was also discussed so that not to duplicate efforts or spend money on unproven strategies.

#### **Calendar Year 2006/2007**

- 191 people died in alcohol-related crashes in 2006. 176 people died in alcohol related crashes in 2007 which marked the third straight year that fatalities declined. This was statistical evidence that DWI-related deaths were on a steady downward trend.
- Projects and programs continued to mature including a big media campaign in the four corners area. This included specific television, radio, and billboard ads directed at the Native American population. All ads included Native American participation and input on the type of messaging.
- A court monitoring project (administered by the NMDOT) was implemented to assure that minimum mandatory penalties were being included in judgment and sentencing documentation. The focus was the six-county courts. The ignition interlock law was a point of emphasis. It was important to assure that interlocks were installed on convicted offender's vehicles on a consistent, wide-spread basis. The NMDOT is responsible for the ignition interlock fund and program. The Motor Vehicle Division is responsible for the ignition interlock driver licensing.

#### **Calendar Year 2008**

- 143 people died in alcohol related crashes in 2008. At the time, this was a record low for the number of deaths in New Mexico related to DWI. New Mexico was now out of the top ten worst States for DWI-related motor vehicle deaths. Also, NM would lose funding (approximately \$1 million) because the State was no longer in the top ten (this is related to the NHTSA Section 410 program).
- The state worked with McKinley County to incorporate a cross commissioning agreement between the City of Gallup, County of McKinley, State Police, and the Navajo Nation. This agreement started the beginning of the McKinley County DWI Task Force which allowed law enforcement to cross State/Tribal jurisdictional lines to enforce DWI-related laws.
- NMDOT conducted a Traffic Safety Summit to gather information and input on the State's Comprehensive Traffic Safety Plan. This was a Federal Highway Administration mandate to incorporate both behavioral and engineering solutions aimed at reducing overall traffic fatalities. This plan incorporated DWI prevention strategies and further increased the exposure of DWI-related projects and programs.

#### **Calendar Year 2009-Present**

New Mexico has continued to see a reduction in alcohol related crash deaths. A new record low was established in 2010 which was 139 deaths. After the first 7 months of 2011, NM is once again on pace to reach a new record low. Although New Mexico's effort was a comprehensive approach, looking back I believe the following three strategies had the most impact on success:

1. Implementing a targeted high visibility enforcement and public awareness campaign with a focus on both a statewide general message and a specific message(s) for local high risk areas. It was important for law enforcement to have dedicated DWI officers and/or DWI units that were visible and well known throughout the community. If law enforcement is forced to incorporate DWI enforcement into their other duties, it is likely that it would not have a significant impact on deterring drunk driving. Bottom line, if people don't believe they will be caught, they are more likely to engage in this dangerous behavior.
2. Passed laws that our tough on the first offense. Tough sanctions for a first offender have two positive effects. First, tough laws act as a deterrent to drinking and driving in the first place. If people believe that even the first offense will have a significant negative effect on them, they will be less likely to engage in the behavior. Too many people believe that a first offense will just be a slap on the wrist. Passing the ignition interlock law for the first offender was a major milestone in reducing the occurrence of drunk driving in New Mexico.
3. Implementing a court monitoring program with open communication with the Judiciary. This both supported law enforcement efforts and helped to assure that there are consistent consequences for DWI offenders. Although law enforcement makes the arrest on the front end of the process, they are heavily involved in the back end judicial process. Law enforcement felt supported when after the

DWI conviction, the offender received the sanction outlined in the law. Second, it is difficult to assess what impact laws are having if they are not implemented consistently. Too many times new laws are passed and don't have the expected positive effect. This may have more to do with an inconsistent implementation rather than the law itself.

On behalf of my Cabinet Secretary Alvin Dominguez, I would like to thank you for your time and your invitation to speak. I would like to close by saying that although the downward trend shows success and that significant progress has been made in New Mexico, no one will be satisfied until there are 0 deaths on our roadways as DWI deaths are 100 percent preventable.

I would be happy to answer any questions or provide more information. Thank you.

Senator UDALL. Thank you, Director Sandoval. And I think one of the things that you have highlighted is how we have slowly been moving down. I remember in the 1990s, in that early period, we were up over 300 deaths a year. And what you have told us here in 2010, we are at 139. So, the difference between that 300 number and 139, those are all saved lives, and we should be proud of that. But just as you summarized your testimony, you know, we need to be vigilant. We always need to be doing better, and I don't think any of us are going to be happy until the number is down to zero. So, thank you for your testimony.

Mr. Medford, I am going to start my questioning with you. As you mentioned, the Driver Alcohol Detection System for Safety, which is—we call, I guess, the acronym DADSS—has the potential to save nearly 8,000 lives annually. This program is a joint effort, or you could call it a public/private partnership between the automakers and NHTSA.

Some may feel this technology should be developed solely by automakers, but could you talk more about the importance of the Federal role in developing this critical technology, and why—why it is important that the automakers and NHTSA work with each other?

Mr. MEDFORD. Mr. Chairman, we—at NHTSA, we have a number of cooperative research programs with auto companies where we share—we think we share the responsibility for finding technical solutions to difficult problems. And the truth is that this problem is related to the driver and the condition of the driver. And we think the technology, which has to work well in the vehicle, has to include the vehicle manufacturer as part of understanding how to incorporate a technology into their vehicle.

So, this is not a new model for us in terms of cooperative research programs. We are developing safety systems. We do it frequently. We have got a number of ongoing joint cooperative research programs and other safety technologies. This is one that gets a lot of visibility, but it is probably one of the most important things that we are doing. So, we think it is a perfectly appropriate and not an uncommon way for us to jointly do research to solve a difficult technical problem.

Senator UDALL. Thank you.

Another question for you, Administrator Medford, some may be concerned with developing in-vehicle alcohol detection systems and think that cars should not be the solution. Can you talk more about the role that advancements in vehicle technology have played in improving the safety of our roads?



Mr. MEDFORD. Yes. I think that, first of all, the technology that we are developing for the alcohol—you know, it is a part of kind of a comprehensive strategy for alcohol, and I mentioned that in there. There really has to continue to be a very comprehensive program, including this technology if we can get it to work effectively.

But we have a number of safety technology research programs that we have developed with the auto companies. I think the—probably the one that is most prominent, and it is probably the most effective safety technology since the seat belt, is something called “electronic stability control,” where we worked and did cooperative research with the industry to then develop a test method and now a Federal regulation. By 2012, every new vehicle in the United States will have to have this technology, which really is able to detect and correct for driver error. If somebody oversteers or understeers a vehicle, instead of going off the road and rolling over and killing themselves, this technology detects it before it happens, and makes a corrective action with the driver not having to do anything. And so, we have lots of technologies like that.

We have got another major program that we are doing through the Intelligent Transportation System today, which is a vehicle-to-vehicle communications technology, which we think is going to be probably the next largest safety improvement in vehicle safety in the next decade, where we are having vehicles communicate with each other and then sharing information, and then taking corrective action.

So, there are lots of examples of pretty tough challenging and technical problems that we have dealt with cooperatively using research. And we think this one is appropriately done in the same way.

Senator UDALL. Thank you very much, and I appreciate your answer on that question.

Mr. Sandoval, in your testimony, you mentioned targeted messaging to address drunk driving. And I have heard that one of the most successful campaigns was the *100 Days and 100 Nights of Summer*. Can you tell me more about the campaign and how it would target drunk driving?

Mr. SANDOVAL. Sure, Mr. Chairman. A lot of the last DWI mobilization periods were only a two-week or less period, and I think with *100 Days of Summer*, because it was such a long period of time, 100 days, we were able to get a stronger commitment from law enforcement.

And what that turned into was a higher level of enforcement over a longer sustained period of time. And when you couple that with the summer months when driving is higher, when there is a higher percentage of fatalities, we were able to get a bigger, stronger bang for our dollar. And we were able to have that consistent message over a longer period of time.

Senator UDALL. All right. Thank you. In your remarks you mentioned that New Mexico lost funding as it successfully addressed drunk driving and rose—it got out of the top 10 offenders, and as a result of that, then lost funding. How critical was that funding to advance the Department of Transportation’s efforts? And would you agree it’s important to maintain funding levels in the next sur-

face transportation reauthorization to help States combat drunk driving and improve the safety on our roads?

Mr. SANDOVAL. So, Mr. Chairman, part one of that question is, that funding was very critical. When you coupled that extra funding that we received with the demonstration project it awarded, that really gave New Mexico the shot in the arm that it needed. We needed some additional resources to do some different things to get the trend moving in the right direction, so that fund—funding was critical.

The second part of your question, I have been doing this for 14 years, and I have never seen the amount of momentum and progress that we have made in the last several years. And I think any cuts to future funding could really potentially harm the progress and possibly have us move back in the wrong direction. So, I am hopeful that funding will at least be maintained so that we continue our momentum and continue our progress.

Senator UDALL. Great. Thank you very much. And that completes my questions for you. We are happy to have you stay, but I know that the both of you have busy schedules and things to do. So, you are excused at this point, and we will—we are going to be moving on to the second panel here.

Mr. SANDOVAL. Thank you, Mr. Chairman.

Senator UDALL. So, we are going to be calling up the second panel at this point.

The second panel today includes the Albuquerque Mayor, Mayor Berry; the Executive Director of the New Mexico Chapter of MADD, Lora Lee Ortiz; the Las Cruces Police Department, Chief Williams; and Dr. Cameron Crandall from the University of New Mexico Department of Emergency Medicine.

And, Mayor Berry, great to have you here. I know this is something in terms of an issue that you have been interested in, and we really look forward to hearing from you. And, please, why don't you start the testimony, and we will just move down the line here.

**STATEMENT OF HON. RICHARD J. BERRY, MAYOR,  
CITY OF ALBUQUERQUE**

Mr. BERRY. Well, thank you, Senator Udall. And thank you for inviting me to present testimony and allowing me to address this important topic of driving under the influence in New Mexico.

First of all, as Mayor of Albuquerque, please allow me, again, to welcome you obviously to your home State, but also to all the visitors with us today from out of state. Welcome to our wonderful city. We hope you have an opportunity to experience our unique and culturally rich community and all that it has to offer while you are here.

The City of Albuquerque encompasses 181 square miles, and it includes both rural and metropolitan areas. With over 545,000 residents in the city, and over 900,000 people in the overall metropolitan area, we are the largest city in the State of New Mexico.

And as you know, Senator, New Mexicans are incredibly and justifiably proud of our heritage, history, and unique culture. Like any other large and geographically diverse State, we have our share of challenges, including DUI.

DUI is a complicated problem with no single solution. I believe strongly that a multi-pronged approach encompassing education, enforcement, adjudication, treatment, and rehabilitation are the keys to positively impacting DUI in any community, including Albuquerque. Preventing and combating DUI in Albuquerque is a top priority for our city, this Administration, advocacy groups, such as MADD and others, and the city's police department.

We are pleased to report that fatal crashes in general have dropped from 38 in 2008 to 32 in 2010 in Albuquerque, and alcohol-related fatalities are on a decline recently. In 2008, there were 11 alcohol-related fatalities, and the number dropped slightly to 9 fatalities in 2009, then back up to 11 in 2010. And for the current year to date, we have had 3 alcohol-related fatalities. While this is an encouraging recent drop, we must remain committed to the cause so that the trend continues.

I have every reason to believe that our officers are working hard to fight drunk driving in our city as DUI arrests are up by 7 percent over this time last year.

I would like to take a few minutes to share with you this Administration's current strategies for addressing DUI in the City of Albuquerque.

Within the area of enforcement, we believe checkpoints are an effective tool in apprehending offenders and getting them off the road. For 2011, arrests at sobriety checkpoints have increased by 23 percent as compared to this time last year.

We maintain good working relationships with our partners and other local law enforcement agencies, which allows us a coordinated approach to DUI. APD frequently conducts multi-agency sobriety checkpoints with the Bernalillo County sheriff's department and New Mexico State police.

The Albuquerque Police Department has increased the number of DUI saturation patrols, and generally conducts at least one saturation patrol per day. Saturation patrols have proven to be very good for combatting DUI, and are oftentimes statistically somewhat more effective than checkpoints.

APD has increased the number of Drug Recognition Expert certified officers by over 20 percent, so that when individuals exhibit signs of impairment for which alcohol has been ruled out, they can identify other potential legal and illicit drugs which may be the source of impairment.

Our DUI-seizure sergeant has implemented a system in collaboration with the City Attorney's Office to hold DUI offenders more accountable in seizure hearings.

We have conducted biannual DUI warrant roundups for offenders who fail to appear in court or fail to comply with conditions as set by the court.

As it relates to the use of emerging technologies to fight DUI, the Albuquerque Police Department is working with the State's Scientific Laboratory Division, which sets regulations for the use of intoxilyzer machines in order to seek the capability to improve our system. For example, once approved by the State lab, the department plans to upgrade intoxilyzer software so that breath card information is automatically uploaded to the District Attorney's office

by e-mail in preparation for prosecution. This provides greater protections for the chain of custody of evidence and relevant data.

Also, within the area of advancing technology, we have acquired new equipment to assist with DUI enforcement, such as a new BAT mobile, laser speed measurement devices for each DUI officer, dash and/or lapel cameras, portable breath testers, and tint meters.

Under the umbrella of awareness, the department has taken steps to highlight the problem of DUI in our community with the intent to encourage people to make better choices. APD has utilized electronic billboards to advertise DUI-seizure auctions, and advised the public of the consequences of DUI. They submit DUI arrest information to the local newspaper, which regularly features the mug shots of individuals who have been recently arrested for DUI.

APD has expanded efforts to include a public awareness and education campaign. The traffic division has increased the number of community functions their officers attend to include presentations at schools and businesses to educate about the dangers of drinking and driving.

The department works in close collaboration with the local Mothers Against Drunk Drivers organization. Representatives of MADD attend checkpoints, assisting group presentations and coordinate the Victim Impact Panel, a very powerful tool to show offenders the very real and negative consequences of drinking and driving.

Our traffic division lieutenant has instituted a program with an emphasis on accountability for officers and supervisors working within the DUI grant overtime. This has resulted in an increase in the number of DUI arrests per officer hour worked. We plan to continue to improve our public education and awareness campaign and reeducate patrol officers on DUI-seizure procedures.

In general terms, I believe we are on the right track in combating DUI in Albuquerque and throughout New Mexico, but we must remain vigilant.

For the last several years, the State has had an aggressive marketing campaign, including compelling television ads geared at various demographics, which have been significantly impacted by DUI. The marketing campaign is funded by the National Highway Traffic Safety Administration. The ads, combined with additional funding, targeted for high-incident counties, such as Bernalillo County, have likely contributed to the decline in DUI fatalities in our region.

I'm encouraged by programs such as Power Talk 21, spearheaded by Mothers Against Drunk Drivers. This initiative attempts to reach young people by asking parents to talk to their kids about drinking and emphasizing the importance of waiting to drink until the age of 21. We cannot take for granted the impact of what drinking at a young age has in terms of negative implications for potential addiction. According to MADD's research, individuals who start drinking early in their teens have a greater chance of becoming alcoholics later in life.

We also must continue to treat the problems that are leading to DUI in our cities. For example, DUI and Drug court programs appear to have a very positive impact on recidivism. The rigorous requirements with a focus on accountability and rehabilitation have

resulted in high success rates among drug and DUI court graduates.

In closing, Senator, thank you for allowing me the opportunity to talk to you about our local approach to DUI and share my perspective on this matter of great public interest. Public safety is of the highest priority to me as a mayor, and I am grateful to you for recognizing the importance of this issue and seeking to understand how it impacts our community.

[The prepared statement of Mr. Berry follows:]

PREPARED STATEMENT OF HON. RICHARD J. BERRY, MAYOR, CITY OF ALBUQUERQUE

Chairman Rockefeller, Senator Udall, and distinguished Committee members, thank you for inviting me to present testimony and allowing me to address the important topic of driving under the influence in New Mexico.

First, as the Mayor of Albuquerque, please allow me to welcome you to our wonderful city. We hope you have an opportunity to experience our unique and culturally rich community and all that it has to offer.

The City of Albuquerque encompasses 181 square miles and includes both rural and metropolitan areas.

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to improve our systems. For example, once approved by the state lab, the department plans to upgrade intoxilyzer software so that breath card information is automatically uploaded to the District Attorney's Office by e-mail in preparation for prosecution. This provides greater protections for the chain of custody of evidence and relevant data.

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In closing, thank you for allowing me the opportunity to talk to you about our local approach to DUI and share my perspective on this matter of great public interest. Public safety is of the highest priority to me as a mayor, and I am grateful to you for recognizing the importance of this issue and seeking to understand how it impacts our communities.

Senator UDALL. Mayor Berry, thank you very much for that testimony, and thank you for all your hard work on this issue. And I think all of us know how important it is to our constituents to work with them and get them motivated on this.

Chief Williams, great to have you here today. I was just down in the City of Las Cruces. It is a little bit warmer down there than here—

Mr. WILLIAMS. Just a little bit.

Senator UDALL.—so I hope we cooled things off a little for you by inviting you up here. Please proceed with your testimony.

**STATEMENT OF RICHARD WILLIAMS, CHIEF OF POLICE,  
LAS CRUCES POLICE DEPARTMENT**

Mr. WILLIAMS. Good morning, Mr. Chairman, and thank you for the opportunity to provide you the law enforcement perspective regarding this very concerning issue.

My name is Richard Williams, Chief of Police for the Las Cruces Police Department. I have been in law enforcement for over 20 years. I began my career with the New Mexico State Police, and I have been stationed in communities throughout New Mexico. I have witnessed rural law enforcement as well as metropolitan law enforcement during my career, and I have an intimate knowledge of the DUI problem in New Mexico.

Let me tell you a little bit about our department. Las Cruces Police Department is authorized 183 commissioned officers, and we patrol 77 square miles of municipal boundary in southern New Mexico. Our community has a population of approximately 97,000 people according to the 2010 census numbers, and our officers answer anywhere between 157,000 to 158,000 calls for service each year.

The City of Las Cruces has its share of DWI problems as well as new offenders who move into and visit our community each year. The city is blessed to have a major university, New Mexico State University, and is surrounded by three military installations: White Sands Missile Range, Fort Bliss Army Installation, and Holloman Air Force Base in Alamogordo.

We have numerous dairies, farms, and ranches that surround our municipality.

There is no shortage of new offenders as we have a revolving population that lives and works in our community. Approximately 75 percent of our arrests involve first-time offenders.

In research and the statistics surrounding this topic, I found that the Las Cruces Police Department, on average, apprehends 522 DWI offenders each year. The Sheriff's Department apprehends a similar amount, and the State Police apprehend close to 400 DWI offenders each year.

Law enforcement in Dona Ana County apprehends anywhere between 1,300 and 1,600 DWI offenders each year. In the City of Las Cruces, we investigate on average 4 fatal crashes each year, and for the last 2 years, half of these crashes have involved alcohol.

The advances in vehicle safety and technology can only do so much when an impaired person decides to drive drunk.

In law enforcement, we are at the front of the efforts to stop DWI offenders. When all other efforts do not stop an offender from driving drunk, we rely on our officers to physically stop these offenders and remove them from our streets.

There are several things that law enforcement has done extremely well as we work to enhance public and traffic safety. Many agencies have made the apprehension and criminal prosecution of offenders a significant priority for their agencies, and have included these efforts in their strategic plan, goals, and strategies.

Many agencies seek out grant funding to augment normal patrol efforts to apprehend these DWI offenders through operations such as DWI checkpoints, directed patrols, and saturation patrols.

Some jurisdictions have implemented a vehicle seizure program to stop repeat offenders and target those who are arrested for driving with a revoked license as a result of a DWI. Last year, the City of Las Cruces seized 348 vehicles that were either driven by a repeat drunk driver or one of those individuals who was driving with a revoked license as a result of DWI.

Many agencies also participate in awareness campaigns, such as the *100 Days and Nights of Summer* campaign, driver education programs, or other various programs that are designed to increase awareness regarding the problems associated with this crime.

There are still many challenges, though, that law enforcement faces as we strive to prosecute—to apprehend and prosecute these offenders. To begin with, there are difficulties the average officer has in identifying a drug-impaired driver as compared to an alcohol-impaired driver. There is also an enormous amount of paperwork that is associated with the arrest of a DWI offender. This large amount of paperwork ties up an officer for anywhere between 1 to 3 hours for a single arrest during their shift. That takes the officer out of service, and they are no longer available to assist in our community. And I can assure you, our call volume is ever increasing, and these lengthy investigations are taking time away from proactive patrols and visibility.

Officers are also facing an ever increasing difficult court battle, and the traditional standard of proof beyond a reasonable doubt is evolving into proof beyond all doubt. In addition, the administrative revocation hearings have some areas that have been turned into discovery hearings or mini-trials, and they go well beyond the scope of the license revocation. Also, challenges to our sobriety testing methods have caused officers to limit their testimony regarding horizontal gaze nystagmus.

And finally, the budget. Budget constraints have limited resources and are impacting our ability to proactively search for impaired drivers as we strive to answer the basic calls for service.

So, DWI will remain a priority for law enforcement as the number of offenders will never completely diminish. We have seen a reduction in the number of DWI arrests, and it is our hope that the message is getting through to our citizens, and make sure they understand that it is no longer socially acceptable to drive drunk in New Mexico.

Law enforcement will continue to place significant emphasis on traffic safety and the apprehension of impaired drivers. We must create a perception of risk so that offenders weigh the costs and risks associated with driving impaired.

While we have come a long way, the problem still exists. We must make the enforcement of DWI laws a priority, and law enforcement has a huge role in securing our communities.

Thank you, sir, for the opportunity, and I will stand for any questions.

[The prepared statement of Mr. Williams follows:]



PREPARED STATEMENT OF RICHARD WILLIAMS, CHIEF OF POLICE,  
LAS CRUCES POLICE DEPARTMENT

**Introduction**

Good morning. My name is Richard Williams and I am the Chief of Police for the Las Cruces Police Department. I have been a law enforcement officer for (20) twenty years. I began my career with the New Mexico State Police and I have been stationed in many communities throughout New Mexico. I have witnessed rural law enforcement and metropolitan law enforcement during my career and I have intimate knowledge of the DWI problem in New Mexico.

The Las Cruces Police Department is authorized (183) one hundred and eighty-three commissioned officers and we patrol (77) seventy seven square miles of municipal boundary in southern New Mexico. Our community has a population of approximately (97,000) ninety seven thousand people, according to the 2010 census numbers and our officers answered (158,000) one hundred and fifty eight thousand calls for service in 2010.

**Nature of the Problem**

The City of Las Cruces has its share of DWI problems and new offenders who move into or visit our community each year. Our city is blessed to have a major university (New Mexico State University), and is surrounded by (3) three military installations (White Sands Missile Range, Fort Bliss Army Installation, and Holloman Air Force Base). We also have numerous dairies, farms and ranches that surround our municipality. There is no shortage of new offenders as we have a revolving population that lives and works in our community. Approximately (75 percent) seventy-five percent of our arrests involve first time offenders.

In researching the statistics surrounding this topic, I found that the Las Cruces Police Department on average apprehends approximately (522) five hundred twenty-two DWI offenders each year. The Sheriff's Department apprehends a similar amount and the New Mexico State Police arrests close to (400) four hundred DWI offenders. Law enforcement in Dona Ana County apprehends between (1,300–1,600) one thousand three hundred and one thousand six hundred DWI offenders each year. We also investigate on average (4) four fatal crashes in the City of Las Cruces each year with half of these crashes involving alcohol. The advances in vehicle safety and technology can only do so much when an impaired person decides to drive drunk.

**Law Enforcement's Perspective**

Law enforcement is at the front in the efforts to stop DWI offenders. When all other efforts do not stop an offender from driving drunk, we rely on our officers to physically stop these offenders and remove them from our streets.

There are several things law enforcement has done extremely well at as we work to enhance public and traffic safety.

- Many agencies have made the apprehension and criminal prosecution of offenders as a significant priority for their agencies and have included these efforts in their strategic plan, goals, and strategies.
- Many agencies seek grant funding to augment normal patrol efforts to apprehend DWI offenders through operations such as DWI Checkpoints, Directed Patrols, and Saturation Patrols.
- Some jurisdictions have implemented a vehicle seizure program to stop repeat offenders and to target those who are arrested for Driving with a Revoked Drivers License.
  - Last year we seized (348) three hundred forty-eight vehicles that were either driven by repeat drunk drivers or those with a revoked license.
- Many agencies participate in education and awareness campaigns such as the *100 Days and Nights of Summer* campaign, driver's education programs, and various other programs designed to increase the awareness of the problems associated with this crime.

There are still many challenges that law enforcement faces as we strive to apprehend and prosecute these offenders.

- The difficulties the average officer has in identifying drug impaired driving as compared to alcohol impaired driving.
- There is an enormous amount of paperwork associated with the arrest of a DWI offender. This large amount of paperwork ties up an officer for (1 to 3) one to

three hours during a shift for a single arrest and takes the officer out of service to our community.

- Our call volume is ever increasing and these lengthy investigations are taking away from time spent on traffic patrol or proactive patrol.
- Officers are facing ever increasing difficult court battles and the traditional standard of proof beyond a reasonable doubt is now evolving into proof beyond all doubt.
- Administrative revocation hearings have in some areas been turned into discovery hearings that go well beyond the scope of the license revocations.
- Challenges to traditional sobriety testing methods have caused officers to limit their testimony regarding Horizontal Gaze Nystagmus.
- Budget constraints and limited resources are also impacting our ability to proactively search for impaired drivers as we strive to answer calls for service.

#### **Future Considerations**

DWI enforcement will remain a priority for law enforcement as the number of offenders will never completely diminish. We have seen a reduction in the number of arrests for DWI and it is our hope that the message is getting through to our citizens that it is no longer socially acceptable to drive drunk.

Law enforcement will continue to place a significant emphasis on traffic safety and the apprehension of impaired drivers. We must create a perception of risk so that offenders weigh the costs and risks associated with driving impaired. While we have come a long way the problem still exists. We must make the enforcement of DWI laws a priority and law enforcement has a huge role in securing our communities.

Thank you and I'll stand for questions.

Senator UDALL. Thank you, Chief Williams.

And, Lora Lee Ortiz, and you are with MADD. You are the Executive Director. Please proceed.

#### **STATEMENT OF LORA LEE ORTIZ, EXECUTIVE DIRECTOR, MADD NEW MEXICO**

Ms. ORTIZ. Thank you. On behalf of MADD, I thank Chairman Rockefeller and Ranking Member Hutchison, for the opportunity to submit testimony before the Committee, and for holding this important hearing. I thank Senator Tom Udall, who has been a steadfast supporter of MADD's efforts to eliminate drunk driving. Many of New Mexico's successes today are due to his efforts while serving as Attorney General of New Mexico, and his leadership on drunk driving is to be commended. His efforts have saved lives.

I also thank the Committee for introducing Mariah's Act, the Motor Vehicle and Highway Safety Improvement Act of 2011. This legislation represents a dramatic step forward in the effort to save lives on our Nation's highways. From MADD's perspective, this committee's bill will put into motion critical initiatives to literally eliminate drunk driving in the United States.

Specifically, I call attention to the authorization of the Driver Alcohol Detection System for Safety, or DADSS program, also known as the ROADS SAFE Act, a bipartisan bill introduced by Senators Udall and Corker. In the House, Representatives Moore, Capito, Shuler, and Sarbanes have introduced identical legislation.

DADSS is a program to provide an advanced in-vehicle option for consumers. This technology could potentially eliminate drunk driving and is a result of a research agreement between NHTSA and many of the world's leading auto manufacturers.

The purpose of this ambitious program is to research, develop, and demonstrate non-invasive, in-vehicle alcohol detection tech-

nologies that can very quickly and accurately measure a driver's BAC. The Insurance Institute for Highway Safety estimates that 8,000 lives could be saved if the technology is widely deployed in the United States.

Just a few years ago, New Mexico was rated as one of the 10 worst States for drunk driving fatalities. Thanks to the leadership of people like Senator Udall, New Mexico has turned a corner. We are proud of our success on the front line in the fight against drunk driving. However, we must not become complacent in our efforts. The following should outrage all of us.

In 2009 alone, still over 100 people were killed in New Mexico because of drunk driving, representing 32 percent of all highway fatalities. Drunk driving costs \$570 million per year. Nationwide, over 10,000 people died in 2009 due to a drunk driver. Over 350,000 people were injured last year in drunk driver crashes. Fifty to 75 percent of convicted drunk drivers will continue to drive on a suspended license, and drunk driving costs our Nation \$129 billion every year.

In 2006, following research approving countermeasures, MADD announced its campaign to eliminate drunk driving, which supports more resources for high visibility law enforcement, requires convicted drunk drivers to install an ignition interlock device, and turns cars into the cure through the development of advanced in-vehicle technology.

The centerpiece of New Mexico's efforts has been to make sure every convicted drunk driver receives an ignition interlock, which works like a breathalyzer attached to a vehicle's ignition system, allowing a DWI offender to continue to drive. They just cannot drive drunk.

The research on interlocks is crystal clear and irrefutable. In fact, the Center for Disease Control recently endorsed requiring interlocks for all convicted DWI offenders. In 2005, New Mexico was the first State to implement this requirement. The downward trend in fatalities began and has continued through today.

We strongly urge this committee to work with the EPW Committee to develop a strategy to encourage every State to adopt an all-offender interlock law as part of the reauthorization bill.

Another component of New Mexico's success was the establishment of a Statewide DWI Coordinator. Mr. Chairman, as you know, DWI is a very complex issue. While State murder codes are typically one page long, State DWI codes can run hundreds of pages. What is more, you have many different agencies working to stop drunk driving, but they may not be communicating with each other effectively.

Providing one central point of contact allows government agencies, community advocates, like MADD, and the public one office to contact. We applaud the Committee's efforts to include the establishment of a DWI Coordinator for high-risk states.

MADD would also like to commend the Committee for including paid ads, such as "Driver Sober or Get Pulled Over," focused on drunk driving. In New Mexico, we take high visibility law enforcement seriously, and from June through September, we hold *100 Days and Nights of Summer*, where we strive to conduct 100 sobriety checkpoints. Summer is one of the most dangerous times on the

road, and conducting sobriety checkpoints, along with advertisements announcing these events, educates drivers. If they choose to drink and drive, they will get caught.

New Mexico has been at the forefront in the fight against DWI. Ignition interlocks play a major role in our 36 percent reduction in DWI fatalities, as did conducting numerous sobriety checkpoints so that drunk drivers do know if they drive drunk, they will get caught.

Finally, the appointment of a coordinator helped New Mexico focus its efforts and improve the State's efficiency in fighting DWI.

MADD applauds this committee's leadership to eliminate drunk driving, and specifically thanks the Committee for including several important provisions. We would like to acknowledge Section 109, High Visibility Enforcement Program; Section 107(g), grants to States that adopt and enforce mandatory alcohol ignition interlock laws; Section 11, Driver Alcohol Detection System for Safety research; Section 102, inclusion of performance measure development and additional oversight to the Secretary of Transportation to ensure that States spend funds on activities that will save the most lives and prevent the most injuries.

Thank you for holding this important hearing to advance our Nation's highway safety program. This committee is to be commended for their leadership on these issues. Thank you.

[The prepared statement of Ms. Ortiz follows:]

PREPARED STATEMENT OF LORA LEE ORTIZ, EXECUTIVE DIRECTOR,  
MADD NEW MEXICO

On behalf of Mothers Against Drunk Driving (MADD) and MADD New Mexico, I would like to thank Chairman Rockefeller and Ranking Member Hutchison for the opportunity to submit testimony before the Committee and for holding this important hearing. I would also like to thank Senator Tom Udall who has been a steadfast supporter of MADD's efforts to eliminate drunk driving. Many of New Mexico's successes today are due to Senator Udall's efforts while serving as Attorney General of New Mexico and his leadership on drunk driving is to be commended. His efforts have helped to save many lives.

I would also like to thank the Committee for recently introducing Mariah's Act, or the Motor Vehicle and Highway Safety Improvement Act of 2011 legislation. This legislation, which would reauthorize the Nation's highway and vehicle safety programs, represents a dramatic step forward in the effort to save lives on our Nation's highways. From MADD's perspective, this committee's bill will put into motion critical initiatives to literally eliminate drunk driving in New Mexico and in the United States.

Specifically, I would like to call attention to the authorization of the Driver Alcohol Detection System for Safety, or DADSS program contained in Mariah's Act. The provision is also known as the ROADS SAFE Act, a bipartisan bill introduced by Senator Udall and Senator Bob Corker. In the House, Representatives Shelley Moore Capito, Heath Shuler, and John Sarbanes have introduced identical legislation.

DADSS is a program currently underway to provide an advanced in-vehicle option for consumers. This technology could potentially eliminate drunk driving. DADSS is the result of a research agreement between NHTSA and many of the world's leading auto manufacturers.

The purpose of this ambitious program 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 8,000 lives could be saved if the technology is widely deployed in the U.S.

**New Mexico and National Statistics**

Just a few years ago, New Mexico was rated as one of the ten worst states in the Nation for drunk driving fatalities. Thanks to the leadership of people like Sen-

ator Udall, former Governor Bill Richardson, and his creation of a statewide DWI Czar to coordinate DUI efforts, New Mexico has truly turned a corner.

In New Mexico we are proud of our success, but realize much more must be done. New Mexico has been on the front line in the fight against drunk driving. However, we must not be complacent in our efforts. The following should outrage us all:

- In 2009 alone, 114 people were killed in New Mexico because of drunk driving.
- This represents 32 percent of all highway fatalities.
- Drunk driving costs New Mexico \$570 million per year.
- Nationwide, 10,839 people died in 2009 due to a drunk driver.
- Over 350,000 people were injured last year in drunk driving crashes.
- 50–75 percent of convicted drunk drivers will continue to drive on a suspended license.
- Drunk driving costs our Nation \$129 billion per year.

#### **Campaign to Eliminate Drunk Driving**

Fortunately, MADD has a plan for the Nation. In 2006, following research of proven countermeasures, MADD announced its Campaign to Eliminate Drunk Driving which:

- First, supports more resources for high-visibility law enforcement;
- Second, requires convicted drunk drivers to install an ignition interlock device; and,
- Lastly, turns cars into the cure through the development of advanced in-vehicle technology.

#### **Ignition Interlocks in New Mexico**

One major prong of MADD's Campaign was chosen as a result of our success in New Mexico. The centerpiece of New Mexico's efforts has been to make sure every convicted drunk driver receives an ignition interlock. The device works like a breathalyzer and is attached to the vehicle's ignition system. The interlock allows a DWI offender to continue to drive wherever they need to go—they just can't drive drunk.

The research on interlocks is crystal clear and irrefutable. In fact, the Centers for Disease Control recently endorsed requiring interlocks for all convicted DWI offenders. New Mexico was the first state to implement this requirement. In 2005 ignition interlocks for all offenders were mandated. The downward trend in fatalities began and has continued through today. Fatalities decreased from over 500 per year to 139 in 2010. This year's trends indicate continued increases in the number of interlocks for all convicted DWI offenders and, as a result, our DWI fatalities have been reduced by in by 36 percent.

MADD believes that New Mexico's success could be replicated nationwide and that incentives for states are an important step toward making this a reality. While MADD has been successful in New Mexico and several other states, we are now hitting roadblocks from the alcohol industry and DWI defense attorneys as we try to pass this law in other state legislatures.

We strongly urge this committee to work with the Senate Environment and Public Works (EPW) Committee to develop a strategy to encourage every state to adopt an all-offender interlock law as part of the reauthorization bill.

Under this committee's jurisdiction, incentives could be offered to states which enact an all-offender interlock law in the first half of the life of the new Federal law, and under the Environment and Public Works (EPW) Committee's jurisdiction, an all-offender interlock Federal standard could be included for the second half of the life of the law. This lifesaving measure is sound policy.

#### **DUI Czar**

Another critical component of New Mexico's success was the establishment of a statewide DUI coordinator, or DWI Czar, to insure that state and local agencies were focused and coordinating their efforts to maximize efforts to stop drunk driving.

Mr. Chairman, as you know, DWI is a very complex issue. While state murder codes are typically one page long, state DWI codes can run hundreds of pages. What's more, you have many different agencies working to stop drunk driving but they may not be communicating with each other. For example, prosecutors need to talk with probation who must communicate with law enforcement. The DMV is responsible for licensing these drivers and lawmakers must constantly improve DWI laws to protect the public.

All of these different groups need coordination and providing one central point of contact is critical because it allows government agencies, community advocates like MADD, and the public one office to turn to for questions about DWI, and action to end it. We applaud the Committee's efforts to include the establishment of a DWI Czar in Mariah's Act for high-risk states. We would like to see every state establish this important office. Recently it was decided that New Mexico's DWI Czar would no longer continue. MADD hopes that this important position is reinstated. Although we have made great progress in the state, we must not become complacent.

#### **High Visibility Enforcement**

MADD would also like to commend the Committee for including at least three paid ad crackdowns in Mariah's Act. This includes two crackdowns, now known as Drive Sober or Get Pulled Over, focused on drunk driving. New Mexico, through the DWI Czar, has also made a commitment to high visibility law enforcement.

In New Mexico, we take high visibility enforcement seriously and from June through September we have what is called *100 Days and Nights of Summer* where we strive to conduct 100 sobriety checkpoints. Summer is one of the most dangerous times on the road and conducting sobriety checkpoints, along with paid advertisements or earned media announcing these events, teaches drivers that if they choose to drink and drive, they will get caught.

#### **Conclusion**

New Mexico has been at the forefront in the fight against DWI. Our focus on ignition interlocks has played a major role in our 36 percent reduction in DWI fatalities. In addition, we have worked to conduct numerous sobriety checkpoints through programs like *100 Days and Nights of Summer* to make sure that drunk drivers know if they drive drunk, they will get caught. Finally, the appointment of a DWI Czar helped New Mexico to coordinate its efforts and improve the state's efficiency in fighting DWI.

MADD applauds this committee's leadership to eliminate drunk driving and specifically thanks the Committee for including several important provisions Mariah's Act. Specifically, we would like to acknowledge:

- Section 109—High Visibility Enforcement Program, with at least three national crackdown periods;
- Section 107(g)—Grants to States That Adopt and Enforce Mandatory Alcohol-Ignition Interlock Laws;
- Section 111—Driver Alcohol Detection System for Safety Research;
- Section 102—Inclusion of performance measure development and additional oversight authority to the Secretary of Transportation to ensure states spend funds on activities that will save the most lives and prevent the most injuries.

Thank you for holding this important hearing to advance our Nation's highway and highway safety programs. You are to be commended for your leadership on these issues.

Senator UDALL. Thank you, Ms. Ortiz.  
Dr. Crandall, please proceed.

#### **STATEMENT OF CAMERON CRANDALL, M.D., EMERGENCY PHYSICIAN AND ASSOCIATE PROFESSOR AND VICE CHAIR FOR RESEARCH, DEPARTMENT OF EMERGENCY MEDICINE, UNIVERSITY OF NEW MEXICO**

Dr. CRANDALL. Mr. Chair, I want to thank you for the opportunity to provide testimony on New Mexico's experience with alcohol-related motor vehicle crashes.

My name is Dr. Cameron Crandall. I am an emergency physician and an Associate Professor and Vice Chair for Research in the Department of Emergency Medicine at the University of New Mexico. In addition to practicing emergency medicine, I have a long-standing interest and background in injury prevention.

I work at University Hospital in Albuquerque, which is the only Level 1 Trauma Center in New Mexico, and as such, we treat a higher proportion of alcohol-related trauma compared to other New

Mexico hospitals. As an emergency physician, I see firsthand the tragic consequences of impaired driving, which includes significant suffering, short- and long-term disability, and, in too many cases, death.

Nationally, we know that there is about 1 death every 45 minutes due to a drunk driving crash, or around 30 to 32 deaths per day. In 2008, there were almost 12,000 people killed in alcohol-related crashes in the United States. In the same year in New Mexico, there were 143 alcohol-related crash deaths.

This is, however, only a portion of the problem. There were more than 10 times as many individuals, over 1,700 persons, who experienced an injury from an alcohol-related crash.

It is important to recognize the contribution that even small amounts of alcohol have in causing impairment. Any level of alcohol in a person's body will reduce attention, task completion, peripheral vision, and reaction times. Impairment begins as soon as alcohol can be detected in the blood, and all of these factors add up to an increased risk of injury and death.

In New Mexico, 39 percent of fatal crashes involved alcohol. In a recent report, among crashes involving injuries but no deaths, only 8 percent involved alcohol. What this means is that the presence of alcohol increases the likelihood that the crash will be fatal.

There are significant economic costs associated with alcohol-related crashes, and each alcohol-related motor vehicle crash fatality costs over \$3 million with over \$1 million in direct costs, and over \$2 million in lost earning potential and lost quality of life. In New Mexico, we estimate that all of the alcohol-related crashes in 2008 had a combined impact of almost \$1 billion in both direct and indirect costs. And on a per capita basis, this would translate to \$466 for every person in New Mexico.

Another important consideration is that alcohol-related crashes involve both intoxicated and sober individuals. As such, everyone is only one step away from a potentially life-changing experience. Estimates are that about 30 percent of Americans will be involved in an alcohol-related crash at some time in their lives. This does not mean that the individuals themselves will be drinking; in fact, many of these individuals will not be drunk; they will simply be injured or killed by someone who is.

In New Mexico, about 36 percent of our victims involved in alcohol-related crashes are sober. Over recent years, we have seen tremendous improvements in the reduction of alcohol-related motor vehicle injury crashes and deaths. And alcohol-related motor vehicle crash fatality rates in New Mexico have dropped significantly from a rate of around 11.9 per 100,000 persons in 2002 to 7.2 per 100,000 in 2008, representing a 39 percent reduction.

A number of potential factors help explain this reduction in New Mexico, and these include, number one, public education efforts, such as the "You Drink, You Drive, You Lose" media campaign; number two, innovative engineering solutions, such as the ignition interlock devices; three, active law enforcement programs, such as the *100 Days and Nights of Summer* with its "Superblitzes," DWI checkpoints and saturation patrols; and finally, number four, legislative efforts to curb drinking and driving, such as closure of drive-up liquor store windows and regulatory efforts, such as the "three

strikes” law for rescinding liquor licenses authorized under the Liquor Control Act.

We must continue these efforts and look for new and innovative strategies to further reduce drunk driving, and the ROADS SAFE Act that you have co-sponsored will support the development of passive in-vehicle alcohol detection systems is one such innovative strategy. And I am pleased to offer that the American College of Emergency Physicians, our national agency, supports this legislation, and I have a letter of support by the College president to include in the record.

Senator UDALL. That will be included without objection. Thank you.

[The information referred to follows:]

AMERICAN COLLEGE OF EMERGENCY PHYSICIANS  
*Washington, DC, August 9, 2011*

Hon. TOM UDALL,  
U.S. Senate,  
Washington, DC.

Dear Senator Udall:

On behalf of the American College of Emergency Physicians (ACEP), our 29,000 members and the nearly 124 million patients we treat every year, we want to express our support for your legislation, the “Research of Alcohol Detection Systems for Stopping Alcohol-related Fatalities Everywhere (ROADS SAFE) Act of 2011” (S. 510).

As emergency physicians, we witness first-hand the consequences of impaired driving and the toll it takes on families, communities and the Nation. It is a tragedy that someone in this country dies every 45 minutes from an alcohol-related crash and, even worse; it is a tragedy that is preventable.

The ROADS SAFE Act would authorize \$60 million over 5 years for the Driver Alcohol Detection System for Safety (DADSS) program. DADSS was created as a joint, public-private venture between the National Highway Traffic Safety Administration (NHTSA) and the Automotive Coalition for Traffic Safety (ACTS), which is comprised of the world’s leading auto manufacturers, to explore the feasibility, potential benefits and public policy challenges associated with using in-vehicle technology to prevent drunk driving.

ACEP is optimistic that the research being conducted by DADSS will develop the solutions, such as devices to determine a driver’s blood alcohol level by simply touching the steering wheel or engine ignition, which will help prevent the thousands of drunk driving fatalities nationwide each year.

Thank you for conducting this field hearing to examine the critical issue of drunk driving and we hope that it will encourage public support for the passage of the ROADS SAFE bill.

We look forward to working with you to enact this important legislation so that we don’t have to tell even one more family that their loved one was killed by a drunk driver.

Sincerely,

SANDRA SCHNEIDER, MD, FACEP,  
*President.*

CC: Senator Bob Corker

Dr. CRANDALL. New Mexico’s commitment to reducing drunk driving has been effective, but more work does need to be done, and no one effort is sufficient. It has been the combined effort of many strategies that will continue to reduce the impact of drunk driving in New Mexico.

I want to thank you for letting me offer my testimony, and I would be pleased to answer any questions.

[The prepared statement of Dr. Crandall follows:]



PREPARED STATEMENT OF CAMERON CRANDALL, M.D., EMERGENCY PHYSICIAN AND ASSOCIATE PROFESSOR AND VICE CHAIR FOR RESEARCH, DEPARTMENT OF EMERGENCY MEDICINE, UNIVERSITY OF NEW MEXICO

Mr. Chair, Senator Udall and other Honorable Members of the Committee:

I would like to thank you for this opportunity to provide testimony on New Mexico's experience with alcohol related motor vehicle crashes.

My name is Dr. Cameron Crandall. I am an emergency physician and an Associate Professor and Vice Chair for Research in the Department of Emergency Medicine at the University of New Mexico. In addition to practicing emergency medicine, I have a long-standing interest and background in injury prevention.

I work at University Hospital in Albuquerque, which is the only Level 1 Trauma Center in New Mexico and, as such, we treat a higher proportion of alcohol-related trauma compared to other New Mexico hospitals. As an emergency physician, I see firsthand the tragic consequences of impaired driving which includes significant suffering, short and long-term disability, and in too many cases, death.

Nationally, we know that there is 1 death every 45 minutes due to a drunk driving crash, or 32 deaths per day. In 2008, there were almost 12,000 people killed in alcohol-related crashes. In the same year in New Mexico, there were 143 alcohol-related crash deaths. This is, however, only a portion of the problem. There were more than 10 times as many individuals, over 1,700 persons who experienced an injury from an alcohol-related crash.

It is important to recognize the contribution that even small amounts of alcohol have in causing impairment. Any level of alcohol in a person's body will reduce attention, task completion, peripheral vision, and reaction times. Impairment begins as soon as alcohol can be detected in the blood. All of these factors add up to an increased risk of injury and death.

In New Mexico, 39 percent of all fatal crashes involved alcohol. Among crashes involving injuries but no deaths, only 8 percent involved alcohol. What this means is that the presence of alcohol increases the likelihood that the crash will be fatal.

There are significant economic costs associated with an alcohol-related crash. Each alcohol-related motor vehicle crash fatality costs over \$3 million, with over \$1 million in direct costs and over \$2 million in lost earning potential and quality of life. In New Mexico, we estimate that all of the alcohol-related crashes in 2008 combined had an impact of almost \$1 billion in both direct and indirect costs. On a per capita basis, this translates to \$466 for every person in New Mexico.

Another important consideration is that alcohol-related crashes involve both intoxicated and sober individuals. As such, everyone is only one step away from a potential life-changing experience. Estimates are that 30 percent of Americans will be involved in an alcohol-related crash at some time in their lives. This does not mean that these individuals themselves will be drinking; in fact, many of these individuals will not be drunk; they may simply be injured or killed by someone who is. In New Mexico, 36 percent of our victims involved in alcohol-related crashes are sober.

Over recent years, we have seen tremendous improvements and reduction in alcohol-related motor vehicle crash injury and death. Alcohol-related motor vehicle crash fatality rates in New Mexico have dropped significantly, from a rate of 11.9 per 100,000 persons in 2002 to 7.2 per 100,000 in 2008, a 39 percent reduction.

A number of potential factors help explain this reduction in New Mexico, these include:

1. public *education* efforts such as the "You drink, You drive, You lose" media campaign,
2. innovative *engineering* solutions such as ignition interlock devices,
3. active law *enforcement* programs, such as the "100 Days and Nights of Summer" with "Superblitzes," DWI checkpoints and saturation patrols; and
4. *legislative efforts* to curb drinking and driving, such as closure of drive-up liquor store windows.

We must continue these efforts and look for new and innovative strategies to further reduce drunk driving. The ROADS SAFE Act (S. 510) co-sponsored by Sen. Tom Udall, which will support the development of passive in-vehicle alcohol detection systems is one such innovative strategy. The American College of Emergency Physicians supports this legislation and I would like to include a letter of support by the College president in support.

New Mexico's commitment to reduce drunk driving has been effective, but more work must be done. No one effort is sufficient. It is the combination of many strategies that will continue to reduce the impact of drunk driving in New Mexico.

Senator UDALL. OK, thank you very much, Dr. Crandall. And I know the kind of devastation you must see every day with victims coming into the emergency room. And I am going to ask you about that in a little bit.

But I have the—my first question is for the whole panel, and it really deals with the issue of the repeat, the chronic, the habitual offenders that we know are a big part of the problem. And all of your testimony highlights how far we have come as a State in addressing drunk driving and saving lives.

Unfortunately, though, I still read far too often in the paper and see on the news stories of the lives lost. And one of the frustrating elements of these stories is how many lives have been lost to habitual offenders. And we kind of see that over and over again. Sometimes these folks have been involved six times, seven times, nine times. I think recently here we saw even more times than that.

And what I would like to know is what each of your thoughts are on what needs to be done to address chronic, habitual offenders. Is the—and even with an interlock license, many drivers are still able to offend. Is there something we can do there? Do you believe that the passive in-vehicle alcohol detection system could help address the chronic offender issue?

Mayor, do you want to—

Mr. BERRY. Sure. Mr. Chairman—Senator, we always go back it seems to when I was in the legislature as well. The discussion oftentimes comes down to the big five, you know, education, enforcement, adjudication, treatment, and rehabilitation. We see far too often people—repeat offenders of DUI in the State of New Mexico.

I think there are a number of things we can work on from the adjudication standpoint—mandatory jail time, tougher penalties, making it the situation where if you have proven time and time again that you are a person who is willing to get behind the wheel of a vehicle intoxicated, at some point there has to be a price to pay for that—that is extreme in my opinion.

We look at the judicial system, and we are currently working with the—in the City of Albuquerque with the judiciary here locally and with our fire departments and our police department and the folks in the county to try to work on ways that we can collaborate to combat this. Streamlining the judicial system in certain ways, giving judges the tools in their toolbox to be able to make more positive impact.

New Mexico currently has a—the law in New Mexico, it is a felony after three convictions. Well, maybe we should look at making it a felony after two convictions. Currently, it is a DWI seizure after your—I believe it is your second offense. Maybe we should start looking at that on some first offense basis. I mean, there are just lot of things that we can do.

If we work with our friends in the legislature, at State government, with Governor Martinez, and really come up with ways to make it less attractive in the first place in the education standpoint, but also make the penalties on the back side of the equation tougher, I think could be meaningful.

Senator UDALL. Thanks, Mayor.

Chief?

Mr. WILLIAMS. Mr. Chairman, a couple of things that come to mind in regard to this issue are, some of these individuals who are repeat offenders, they are going to continue to offend or continue to drive drunk, if you will, unless we physically stop them. And so, that is where my thoughts come behind, we need to be very cognizant at the Federal, State, and local level to ensure that we do not remove the element of enforcement in regard to our fight against DWI.

Some of these individuals, we have seen them time and time again. I arrested an individual several years back. He had 11 DWIs, and 12 did not matter. Thirteen would not have mattered to this individual. The only thing that would have stopped this individual is for the individual to be placed in jail, in custody, incarcerated.

And so, yes, I would agree with the Mayor that we are doing a lot of things that are very innovative here. I think as a State, we have not lacked innovation or creativity in any of these types of technologies, programs, funding, and so on and so forth. But at the end of the day, if there is an individual who decides to drive drunk, that individual has to be stopped, and that is where it stops—with the law enforcement officer.

So, I would like to see that those people that are continuously repeat offenders, that they are incarcerated and that they are removed, because they are far too dangerous to share the same roads that you and I and our families and everyone in this audience and this community share. And they need to be incarcerated.

Senator UDALL. Thank you, Chief.

Ms. ORTIZ. Mr. Chairman, I believe there has to be a completely comprehensive approach. All of the things that we have put in the toolbox, all those tools that have gone in there have been more effective in reducing fatalities. And I think that we always have to remember we want to keep our drunk drivers off the road, but we want to make sure that we reduce fatalities and injuries here in the State. And that comprehensive approach is going to be so important.

We believe interlocks is such an important piece to that, but it also comes to the seizures. You cannot prevent a person—if a person has the ability to sign a waiver or some kind of paper that they are not going to do that, that they will not drive. We just do not believe that happens. We believe that 50 to 75 percent of people still drive. So, we have to somehow take the ability away.

And with the seizures, whether it is a second offense and beyond, you are then creating some disincentive for that person. There is a big loss there, and I think that that is a really important part of it.

The judicial system, the adjudication process is so important. We have been very innovative here in New Mexico and have developed some laws that are just wonderful. If we can make sure that we are implementing those laws and that people are being held accountable, I think that is another way of reducing that.

But I believe—truly believe that the DADSS program would address this and save lives as well. And I think that is just a very key and important piece to that puzzle.

Senator UDALL. Great. Thank you.

Dr. Crandall?

Dr. CRANDALL. Senator Udall, I agree with my panel members here that there be a comprehensive approach. And the way that I think about it is needing to look at engineering solutions, education solutions, as well as enforcement. And all three of these need to work in concert. And there are opportunities at each of these levels.

I think that the ignition interlock provides a very unique opportunity to stop individuals who have been convicted of DWI. However, there are many ways around the system, as has been testified, and we need to strengthen that. And that is why I think the passive detection system really needs to go another step beyond that. If we can create systems that cannot be subverted, then there is a great opportunity for preventing individuals who are intoxicated from driving.

In terms of enforcement, I think that we—looking in terms of correction at least, for individuals who are in the correction system. Unfortunately our dollars are short. And colleagues of mine who work on the Parole Board frequently mention that individuals who are simply arrested and incarcerated for DWI are not getting into treatment sessions; that money is thin and services are thin, and individuals move around in different facilities, and it is difficult to get them in needed treatment while they are incarcerated. And once they are removed or in the community, we really need an intensive supervised probation, really have someone over them to provide some measure of control.

And then finally, we need to continue on this education theme and judicial education, making sure that J and S's incorporate all the necessary components that will lead to effective strategies, and continuing to really raise what I think has ultimately been the most successful issue in New Mexico, is that it is now an issue on our plates. We all understand that this is an issue. We cannot let fall off.

As the number of deaths will go down, it may not be as high on our radar screen, and so we have to remind everyone how serious a problem this is.

Senator UDALL. Thank you, all of you, for your answer on that question.

I would like to ask Ms. Ortiz, Lora Lee, about the whole issue of—you talk about a comprehensive approach. And, you know, many advocate that laws like interlocks should only be applicable to chronic or high BAC offenders. And yet studies have shown the average drunk driver—this is an amazing statistic—the average drunk driver has driven drunk 87 times before the first arrest. What needs to be done to prevent drunk driving by those that have never been arrested?

Ms. ORTIZ. I think that we talked about the education piece is a huge component, that high visibility law enforcement, and letting people know that there will be a consequence, and then consequently, holding them accountable when there is a consequence. I think that is just a really important piece of the factor, so that involves everything from the law enforcement officer through that judicial process, through the probationary period. And it really includes family members as well, and that treatment piece that needs to come into play.

But in all honesty, the only way that you are going to prevent it 100 percent is with some of these passive detection systems that will protect all of us. And this DADSS program, the technology that could take place as a result of that could prevent—it could prevent it 100 percent. It could completely eliminate drunk driving. And that is what we need to work toward in figuring out how can we eliminate this, because with as much education as we have done over the years, the improvement is still there, but so many lives are still being lost, and so many people are being injured.

It impacts the family. It impacts the community. It impacts the workforce. It impacts the economy. And we just have to continue to be innovative and think about what can we do technology-wise to completely eliminate it.

Senator UDALL. Great. Thank you.

Dr. Crandall, I cannot imagine how hard it must be for you to work in the emergency room and know that every victim of drunk driving you see is completely—it is a completely preventable crash. And that must be a very, very difficult situation.

Your testimony on the costs of drunk driving are staggering. And as I pushed to get ROADS SAFE passed, I am often asked about its cost and where the funding will come from. And I just want to confirm from your testimony, each alcohol-related crash fatality costs over a million dollars in direct costs alone. So, if technology proves viable and automakers make it available in cars at a 5-year program cost to the government of \$60 million, those funds would be more than recouped and trauma costs averted. Is that correct? Am I looking at that in the right way? And do those numbers make sense to you?

Dr. CRANDALL. Yes, they do. In fact, we have to remember that these are not just medical costs for, say, the intoxicated individual. You have to consider all the other individuals who are touched by the crash, other passengers or individuals in other vehicles may sustain health care costs.

We spend a tremendous amount of fire and emergency medical services response to motor vehicle crashes. We have a significant law enforcement response. Investigation of time that it takes out of individuals to dedicate to writing up reports and testifying in court.

All of these add up to the costs. There are property costs as well, property damages, court costs, and ultimately, insurance costs.

So, there are a lot of potential opportunities for—to save money, not just medical, but also a number of other sort of personal costs. And then, of course, the other savings in terms of having individuals who do not die, and their continued productivity.

So, at least a million dollars is estimated to save, I think, in direct costs alone. And so, if we can offset 60 deaths, then you would essentially pay for that \$60 million.

Senator UDALL. All right. Thank you.

Mayor Berry, one of the issues has to do with transportation, and I know this is something that you have looked at a lot and worked at. And I think the approach you have talked about is clearly making a difference on saving lives in Albuquerque.

I am wondering on the transportation front, if there are more options for people to get to places, for example, taking the bus, or op-

portunities to walk, those kinds of things, do you think that would help reduce drunk driving? And what has been your experience in that respect?

Mr. BERRY. Well, Mr. Chairman, that is a topic of rather frequent conversation in City Hall, and it has been for a number of years. There have been a number of safe ride programs, other initiatives put into place to try to address that exact issue, with an end goal of ensuring that someone who has been drinking does not get behind the wheel of a vehicle. Some of those programs have been more successful than others.

Currently what we are doing at the City of Albuquerque—I will tell you a little what we are doing currently and then about some additional plans that we have with transportation in general.

We have extended the hours on Central Avenue. Albuquerque is a little unique in our transportation demographic. Almost half of our ridership in Albuquerque is on the central corridor, which is not necessarily normal for a city of our size. So, we have this very highly-used corridor.

So, one of the things that we have done is we have extended the hours of operation during the summer. And what we have done on Central Avenue is we have taken route coverage to 12:30 a.m. on Mondays through Saturdays from June through the end of the State Fair. And what we have also done is we operate those routes until 1:30 a.m. on Friday and Saturday evenings as well. So, we are trying to give people more options.

One of the things we talked about for Albuquerque is the next logical step for transportation, is bus rapid transit. And as a Mayor, I believe that is a good option. We talked to the Federal Transportation Administration, talked somewhat with your staff, I believe, about some of these issues.

The more options we can put into place, the better we are going to be for not just the overall transportation picture, but to give people options. Couple that with walkability, making sure that people get on foot from place to place, have pedestrian—making sure we have pedestrian-friendly corridors. Those are all things we can do, and we are continuing to reach for those.

Senator UDALL. Thank you. And I think all of us appreciate you working on that and moving forward in that area.

Chief Williams, when you talked about law enforcement and your approach to this, you mentioned in your testimony several challenges that law enforcement faces. And you face challenges in the apprehension end and the prosecution end. I wonder if you have additional recommendations on that front.

Mr. WILLIAMS. Mr. Chairman, yes, sir. It all boils down to a limited number of resources. And just let me provide you an example, if you will.

In 2004, when I was a captain in the New Mexico State Police, the State Police was authorized 604 officers, and they had 605 officers. Today, 2011, 7 years later, they are at 490. So, that is our entire State. That is the fifth largest State geographically in the United States.

At the time in 2004, myself and actually the current Chief of the State Police, we prepared a staffing study. We had gone through the Staff and Command College through Northwestern University

where we learned how to do staffing studies. And we conducted that staffing study, and we utilized different variables, including geography, and population, and shift rotations, and all of the things that are necessary to do that. And we utilized some of the most conservative numbers that were available to us. And at the time when we were completed with that study, it said that the State police needed an additional 300+ on top of the 600 that they have—that they had.

And so, if that is the case, then and if really law enforcement is our last line of defense, really quite honestly that is what we are, we want that line to be a very formidable line of defense. And I do not think we are there. I think the budget and all the issues that have happened, the economy, have taken its toll, not only on law enforcement. I would say it is everywhere. But it has taken its toll in our correction system, it has taken its toll in our courts, and it has certainly taken its toll in law enforcement.

So, I would consider that limited number of resources—we need to dedicate the number of resources to the problem to impact it appropriately.

I drove up this morning. I left Las Cruces this morning, and I saw two police officers, and they were on a billboard. I saw no one else between Las Cruces and Albuquerque—230 miles. Is that a formidable line of defense? I say no. So, I think that we need to concentrate and really get those efforts—and that is just one example. There are communities, there are cities. And, you know, I feel very fortunate where we are at in Las Cruces, but in some of the other areas, in the rural areas of the State, they are not so lucky.

So, I would just ask that we focus in on placing the resources where they need to be.

Senator UDALL. Right. Well, this has been an excellent panel, and I think it really demonstrates for me the fact that all across the board we need to tackle this problem, to be vigilant, to keep up the pressure, and that we are doing it at the local level and the State level. And clearly, there need to be improvements if you—as you have just said, Chief. I mean, it is unacceptable to drop from a level of 605 to 490. I mean, the problem is still out there, and it needs to be tackled.

So, we appreciate all of your efforts. We appreciate MADD and Dr. Crandall, where our heart goes out to these ER docs who are in the situation like you are on an every day basis, having to deal with the devastation that has been wrought by drunk drivers.

So, with that, we are going to move to our third panel. Thank you very much. Very much appreciate the testimony. And any additional thoughts you have in writing, we are happy to hear.

Senator UDALL. Thank you, Mayor. Thanks, Chief.

OK. As we switch over here, the last panel today includes: Dr. Sue Ferguson, the Program Manager for Driver Alcohol Detection System for Safety, Automotive Coalition for Traffic Safety; and David Culver, the Vice President of Government Affairs for the Distilled Spirits Council of the United States.

Why don't you—Sue, why don't you go ahead and start off with your testimony, and we will move the way we did on the other panels? Thank you for being here.

**STATEMENT OF SUSAN FERGUSON, Ph.D.,  
PROGRAM MANAGER, DRIVER ALCOHOL DETECTION SYSTEM  
FOR SAFETY, AUTOMOTIVE COALITION FOR TRAFFIC SAFETY**

Dr. FERGUSON. Thank you, Senator Udall, for hosting this hearing and for your continued leadership on drunk driving prevention, particularly on the advanced alcohol detection system for safety.

Senator UDALL. Maybe move that microphone just a little closer to you.

Dr. FERGUSON. OK.

Senator UDALL. Yes, that will be good.

Dr. FERGUSON. Particularly on the advanced alcohol detection research program known as DADSS, which I am here to describe. I am the Program Manager for this exciting activity which is making substantial progress.

Your ROADS SAFE legislation, which would provide increased long-term funding for DADSS, is essential for the long-term success of this research program.

We are pleased to see that your measures included in safety legislation, introduced recently by Senator Pryor of Arkansas, your Committee Chairman, Senator Rockefeller, and others. Chairman Rockefeller's continued support of the measure and the DADSS program is heartening, as is the support of Secretary LaHood and NHTSA Administrator Strickland.

The driver alcohol detection system for safety is a research partnership between the National Highway Traffic Safety Administration and the Automotive Coalition for Traffic Safety, that is developing technologies to prevent vehicles from being driven when a driver's blood alcohol concentration is at or above .08 percent, which is currently the legal limit throughout the United States.

At the end of this five-year initiative in the second half of 2013, there will be one or more promising research vehicles available to demonstrate promising alcohol detection technologies.

The starting point for DADSS is a strong conviction for in-vehicle alcohol detection technologies to be acceptable to drivers, many of whom do not drink, let alone drink and drive. They must be non-obtrusive; that is, accurate, fast, and reliable. They must be durable, and they must require little or no maintenance.

To ensure that sober drivers who are under the legal limit will be inconvenienced, ACTS has developed stringent DADSS performance requirements, stipulating very high levels of accuracy and precision and very fast measurement times, less than half a second.

DADSS devices will be required to meet the exacting standards for in-vehicle use required by automakers, such as long-term reliability, maintainability, and durability, and must be compatible for mass production at a moderate price. And as we have designed this program and looked for certain technologies, we have taken these aspects into account.

Two technologies have been investigated. One is a touch-based approach, allowing assessment of alcohol in human tissue, and a breath-based approach that allows assessment of alcohol concentration in the driver's exhaled breath.

Phase I of the DADSS program is now complete, and we tested three proof-of-principle prototypes. We have done bench testing that has determined the prototype's accuracy, precision, and speed



of measurement, and identified what additional development might be needed.

Limited human subject testing that has been conducted with the Harvard Medical School, allowed us to establish the relationship of blood and breath samples from the subjects with measurements from the prototype devices. Based on this testing, it was concluded that both touch-based and breath-based sensors have the potential in the next phase of development to measure BAC very quickly and with high levels of accuracy and precision.

Phase II will go beyond proof-of-concept devices to develop and demonstrate an in-vehicle system, and that will be forthcoming in the next few months.

Although impressive progress has been made to date, significant additional development is needed. The technology developers have proposed modifications to the sensors that will enable them to meet the DADSS specifications at the end of Phase II. Accuracy and precision performance has to improve and measurement time has to decrease to meet or exceed performance specifications.

For touch-base technology, a sensor redesign is needed to meet the rigors of the vehicle environment. For breath-based technology, additional sensor development is needed, and optimal vehicle sensor locations will be identified based on human breath aerodynamics in the vehicle across a wide range of environmental conditions. All of these technical challenges can be met with the additional development planned for Phase II.

Consumer willingness to buy DADSS-equipped vehicles will come about only if the public concerns are taken into account during the development process. ACTS has begun that process with a series of focus groups around the United States, including one set here in Albuquerque, New Mexico. And these opinions will influence development of the technology. In 2012, a broader understanding of consumer sentiment will be sought through a national survey of drivers.

While impressive progress has been made to date, the successful culmination of efforts to develop non-invasive in-vehicle alcohol detection technologies will depend on continued and accelerated funding of the DADSS program. The technologies must meet a very demanding set of performance requirements for in-vehicle acceptability, and research vehicles need to undergo extensive field testing.

We need to understand how drivers will interact with these systems, and extensive human subject testing will be needed to measure performance under a wide variety of conditions.

As many have already said, the benefits of a successful DADSS program should not be underestimated. DADSS integrated within the vehicle has the potential to save up to 8,000 lives per year, eliminating the deaths and injuries caused by alcohol-impaired driving for generations to come.

Once again, Senator, thanks for the opportunity to speak at this hearing today. I would be glad to answer any questions.

[The prepared statement of Dr. Ferguson follows:]

PREPARED STATEMENT OF SUSAN FERGUSON, PH.D., PROGRAM MANAGER, DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY, AUTOMOTIVE COALITION FOR TRAFFIC SAFETY

Thank you, Senator Udall, for the opportunity to speak at this hearing and thank you for your continued leadership on drunk driving prevention, particularly on the advanced alcohol detection research program, known as DADSS, which I am here to describe.

In 2009, close to 11,000 people died on the Nation's highways and hundreds of thousands more were injured because of alcohol-impaired drivers. Although these numbers have been gradually coming down, the loss of so many lives every year is unacceptable. Strong DUI laws and enforcement of those laws can help to deter people from driving while over the legal limit, but we know that in spite of the best efforts of law enforcement and the judicial system, many millions of drivers will continue to drive when impaired by alcohol, and thousands of deaths and injuries will continue to occur every year. The solution to this problem is to develop vehicles that will prevent alcohol-impaired drivers from operating their vehicle.

In 2008, the National Highway Traffic Safety Administration (NHTSA) and the Automotive Coalition for Traffic Safety (ACTS) began a five-year, \$10 million initiative, known as the Driver Alcohol Detection System for Safety (DADSS) Program, to explore the feasibility, the potential benefits of, and the public policy challenges associated with a more widespread use of non-invasive technology to prevent alcohol-impaired driving. This research and development effort is funded jointly by NHTSA and most of the world's leading automakers (BMW, Chrysler, Ford, General Motors, Honda, Hyundai/Kia, Jaguar Land Rover, Mazda, Mercedes Benz, Mitsubishi, Nissan, Porsche, Toyota, Volkswagen, and Volvo). The DADSS program is developing technologies that would prevent the vehicle from being driven when the device registers that the driver's blood alcohol concentration (BAC) is at 0.08 percent or above (the legal limit throughout the United States). This is a data-driven, scientific research program, with the technologies to be demonstrated in one or more research vehicles by the second half of 2013. As we move forward with this technology and demonstrate its effectiveness, the research has suggested the American public will want to voluntarily adopt the technology in their vehicles.

The starting point for DADSS is a strong conviction that for in-vehicle alcohol detection technologies to be acceptable for widespread use among drivers, many of whom do not drink and drive, it must be seamless with the driving task; it must be non-intrusive, that is, accurate, fast, reliable, durable, and require little or no maintenance. Sober drivers who are under the legal limit of 0.08 percent should not be inconvenienced with such systems. This requires that the performance requirements be extremely stringent.

#### **The DADSS Program**

In 2007, ACTS formed a Blue Ribbon Panel of experts including representatives from automotive manufacturers and suppliers, public interest organizations, government representatives both domestic and international, and experts in the science of alcohol toxicology, behavioral impairment, human factors, and research, to advise the DADSS program on technical and policy issues. The DADSS program then undertook a comprehensive review of emerging and existing state-of-the-art technologies for alcohol detection, and the development of performance specifications. A Request For Information (RFI) was published as a means by which the DADSS program was first communicated to potential vendors. The goal of the RFI was to establish the level of interest among technology developers in taking part in the research, the kinds of technologies available, and their states of development relevant to in-vehicle application. Based on an evaluation of the 17 responses received, a Request for Proposals (RFP) was sent to eight organizations with prior experience in alcohol detection or related technologies. Subsequent to a detailed and rigorous evaluation process, three contracts were awarded for the development of Phase I proof-of-principle prototypes.

Two approaches were identified for Phase I development as having considerable promise in measuring driver BAC non-invasively: (1) Tissue Spectrometry, a touch-based approach allowing assessment of alcohol in human tissue, and (2) Distant Spectrometry, a breath-based approach allowing assessment of alcohol concentration in the driver's exhaled breath. In the touch-based approach, measurement begins by shining an infrared light on the user's skin (similar to a low-power flashlight). A portion of the light scatters several millimeters through the user's skin before returning back to the skin's surface where it is collected by an optical touch pad. This light contains information on the tissue's unique chemical properties which can be analyzed to determine the tissue alcohol concentration. The breath-based approach

makes it possible to perform a contact-free, quick, unobtrusive measurement of the driver's breath alcohol by using the concentration of carbon dioxide as a measure of dilution of the driver's exhaled breath. Multiple sensors placed in the vehicle cabin will allow the system to ensure that the breath sample is from the driver and not other passengers.

#### **Demanding Performance Standards**

Performance standards for in-vehicle alcohol detection devices must be much more rigorous than current alcohol-testing technologies if they are not to inconvenience drivers. To that end, ACTS has developed extremely stringent performance specifications.<sup>1</sup> Requirements for very high levels of accuracy and precision and very fast measurement times (less than half a second) will ensure that drivers who are under the legal limit will not be inconvenienced. We continue to address long-term reliability and system maintenance requirements, the influences of vehicle environment, and issues related to user acceptance, and the technologies must meet the exacting standards for in-vehicle use adopted by automakers.

To validate the performance of the Phase I prototypes, unique standard calibration devices (SCDs) were developed by ACTS for both the breath- and touch-based systems. These SCDs go well beyond current alcohol-testing specifications. Two different SCDs were developed for prototype testing; one breath-based and one touch-based. There are two aspects that were addressed. First, samples of simulated "breath" and "tissue" were developed to provide a calibrated alcohol concentration in vapor and/or liquid to the prototype. These samples provide close facsimiles of human breath and tissue and must exceed the DADSS specifications by an order of magnitude. Next, hardware was developed to deliver the breath-based and touch-based samples to the prototypes for blood alcohol measurement. The SCDs that were developed met the needs for Phase I testing, but additional work is required in order to undertake Phase II testing. Specifically, advances need to be made both in the accuracy and precision of the breath-based and touch-based samples, and refinements are needed for the delivery systems.

#### **Phase I Effort Completed**

The Phase I effort, now complete, focused on the development of working proof-of-principle prototypes capable of rapidly and accurately measuring the driver's BAC non-intrusively. The prototypes, which were required to address just the accuracy, precision, and speed of measurement specifications, did not attempt to simulate the visual appearance, choice of materials or intended manufacturing process. The overall aim was to validate the potential design approach, as well as point to areas where further development and testing may be necessary. Three Phase I proof-of-principle prototype devices were delivered in mid 2010 and were tested at the laboratories of QinetiQ North America. The testing program was designed to determine whether the devices demonstrate the potential to meet the stringent performance specifications established for non-invasive alcohol testing. Bench testing was undertaken to determine the prototypes' accuracy, precision, and speed of measurement, and to identify what additional development might be needed. Limited human subject testing, conducted with the Harvard Medical School, permitted an understanding of the relationship among the various measures of blood alcohol provided through blood and breath samples, and those provided by the breath-based and touch-based prototype devices.

Based on the results of prototype testing, sensors demonstrating both the touch-based approach and breath-based approach are judged to have the potential in Phase II development to measure BAC quickly, and with high levels of accuracy and precision. Currently one of each of the breath-based and touch-based devices have come close to meeting accuracy requirements, but have fallen short on precision measurements. Significant additional development is needed, but the developers have identified potential modifications to the devices that will enable them to meet the DADSS specifications at the end of the Phase II development.

#### **Phase II Program**

Phase II is the major development effort that will lead to one or more research vehicles to demonstrate the technologies. The Phase II program is envisaged to span approximately 2 years and will include only those technologies that have successfully completed Phase I. It is anticipated that Phase II development will begin in the fourth quarter of 2011.

<sup>1</sup>The performance specifications with definitions, measurement requirements, and acceptable performance levels are provided in the DADSS Subsystem Performance Specification Document (<http://dev.dadss.org/performance-specification/download>).

Although impressive progress has been made to date, as technology development continues into Phase II there are many different facets of performance that need to be addressed to prepare the technology for in-vehicle use. Accuracy and precision have to improve, and measurement time has to decrease to meet or exceed performance specifications. With respect to touch-based technology, a sensor redesign using solid state components is planned to meet the rigors of the in-vehicle environment. This requires a new approach both for the sensor architecture and for the algorithms used to estimate tissue alcohol concentration. For the breath-based technology, sensor development needs to be accelerated to improve accuracy and precision, and optimal vehicle sensor locations need to be identified based on in-vehicle human breath aerodynamics, across a wide variety of environmental conditions. Revised prototype designs have been proposed to address vehicle integration and consumer affordability. Both breath-based and touch-based sensors will need to meet the exacting standards automakers require for all new vehicle safety equipment. The development of standard calibration devices required to test the Phase II sensors is ongoing and significant improvements will need to be made to ensure sensors meet the exacting DADSS requirements.

These technical challenges can be met with the additional development planned in Phase II.

#### **Consumer Feedback to the Design Process**

As technology development progresses and decisions are being made about best practices for integrating such technology into vehicles, researchers are soliciting public opinions about the proposed in-vehicle alcohol detection devices. Consumer willingness to deploy the technology in their vehicles will depend on how public attitudes are taken into account during the development process. The failed adoption of seat belt ignition interlocks in the 1970s taught us the need to understand in advance the issues and concerns of the driving public. DADSS has been conducting focus group testing around the United States to gauge public perceptions and concerns about the different technology approaches, and these opinions will influence development of the technology. In the coming years a broader understanding of consumer sentiment will be sought through a national survey of drivers.

#### **DADSS Will Make a Difference**

The technical and public policy challenges are substantial, but the potential benefits to society of in-vehicle alcohol detection systems are compelling. DADSS has the potential to save up to 8,000 lives per year (Insurance Institute for Highway Safety, 2010),<sup>2</sup> and there is evidence that the public is ready for in-vehicle devices to combat alcohol-impaired driving. Two-thirds of drivers say they consider the use of advanced technology to keep alcohol-impaired drivers off the roads to be a “good” or “very good” idea.<sup>3</sup>

While impressive progress has already been made, there is much more to be done before this research is ready for consumer application. S. 510 (ROADS SAFE Act of 2011) will help accelerate this effort and open the door to a future where alcohol-impaired driving fatalities are a rarity versus the chronic traffic safety problem it remains today.

The benefits of a successful DADSS Program should not be underestimated. We are on the cusp of being able to eliminate the deaths and injuries caused by alcohol-impaired driving for generations to come.

Senator UDALL. Thank you very much.  
Mr. Culver, please proceed.

#### **STATEMENT OF DAVID A. CULVER, VICE PRESIDENT, GOVERNMENT AFFAIRS, DISTILLED SPIRITS COUNCIL OF THE UNITED STATES**

Mr. CULVER. Good afternoon, Mr. Chairman. My name is David Culver, and I am Vice President of Government Affairs for the Distilled Spirits Council of the United States. DISCUS is a national trade association representing America’s leading distillers that

<sup>2</sup>Insurance Institute for Highway Safety. 2011 [http://www.iihs.org/research/fatality\\_facts\\_2009/alcohol.html](http://www.iihs.org/research/fatality_facts_2009/alcohol.html). Accessed August 1, 2011.

<sup>3</sup>McCartt, A. T., Wells, J. K., Teoh, E. R. 2010. Attitudes toward in-vehicle advanced alcohol detection technology. *Traffic Injury Prevention*, 11, 158–164.

produce or market nearly 70 percent of all distilled spirits brands sold in this country.

It is an honor today to recognize our newest craft distiller affiliate member, Mr. Colin Keegan from Santa Fe Spirits, who I am pleased is able to be with us here.

On behalf of DISCUS, I appreciate the opportunity to speak today on the topic of drunk driving. I do not claim to be an expert on all aspects of this topic, but I have had extensive experience working on Federal anti-drunk driving issues during my tenure at DISCUS.

Specialists at our sister organization, The Century Council, have spent careers working to prevent and combat drunk driver, and their work is a part of our social responsibility policies. The Century Council is an independent not-for-profit organization funded by many of the same companies that fund DISCUS, and was founded 20 years ago to develop and implement programs that fight drunk driving and under-age drinking.

For over 75 years, the Distilled Spirits Council has been committed to the elimination of drunk driving through education programs and the enactment of comprehensive drunk driving laws. Through The Century Council, the spirits industry also has worked in partnership with law enforcement and the judicial community to target hardcore drunk drivers, those with a BAC of .15 or above and repeat DWI offenders.

These initiatives include stricter penalties for hardcore drunk drivers and resources and developing programs that focus on these drivers, who are the source of a disproportionate share of highway crashes.

Last year, Mr. Chairman, you took another positive step in the fight against drunk driving by introducing the ROADS SAFE Act. DISCUS commends you for your effort, and we are pleased to reiterate our support for this important legislation. The bill provides funding for research to develop in-car alcohol detection technology, and would be a voluntary option for automobile purchasers, and would be set at the .08 BAC limit. We also support the objectives that this technology be highly accurate, moderately priced, and unobtrusive to the responsible driver.

DISCUS will once again urge Congress to act swiftly and pass the current legislation, the ROADS SAFE Act of 2011.

Prior to introducing the ROADS SAFE Act, all stakeholders were given the opportunity to share their thoughts on the legislation with your staff. They provided a clear explanation of the bill and its objectives, and addressed our concerns about the import of this legislation, which are summarized below.

First, there was unease that the purpose of the driver alcohol detection system for safety, DADSS program, was to develop technology that would be mandatory in all cars. Some participants of the DADSS program envisioned a mandatory device at some time in the future, but it is not the stated objective of the program or the research. DISCUS does not support mandating installation of these devices in all cars, nor does the bill have this requirement. MADD, a strong proponent of this legislation, also underscored that this technology, "would be an optional safety feature on new

cars, not mandated on all vehicles,” in its March 21, 2011 press statement applauding introduction of the ROADS SAFE Act.

Second, there was a question whether interlock devices would be set a level lower than the .08 BAC legal limit. In response, your staff stated that interlocks will not be widely accepted if they are set below this legal limit, and provided assurances to address these concerns. Our support for this legislation hinges on the requirement that the device be accurately calibrated at the .08 BAC legal limit. MADD also emphasized in its March 21 press statement that, “The technology would be set at .08 BAC, not lower.”

Third, the bill states that the driver alcohol detection system should be accurate at other BAC levels “as may be established by applicable Federal, State, or local law.” Your staff has repeatedly assured DISCUS that this provision is intended to account for the current Federal .04 BAC limit for commercial drivers, and zero tolerance limits established by States for individuals under the legal drinking age.

Opponents of the bill see ambiguity in this provision and worry that it is a clear indicator that the device could be set at levels below the .08 BAC legal limit. While DISCUS does not share that view, we do respectfully suggest that the Committee consider ways to tighten up and amend the language of this provision to reflect your true intentions.

With this information in hand, the decision for DISCUS to support this bill was not difficult. In sum, the bill provides funding needed for research to develop in-car alcohol detection technology that would be a voluntary option for new car buyers, and would be set at the .08 BAC legal limit.

We appreciate the opportunity to convey our views and look forward to working with you on the passage of this bill.

[The prepared statement of Mr. Culver follows:]

PREPARED STATEMENT OF DAVID A. CULVER, VICE PRESIDENT,  
GOVERNMENT AFFAIRS, DISTILLED SPIRITS COUNCIL OF THE UNITED STATES

Senator Udall and members of the Committee, my name is David Culver and I am Vice President of Government Affairs for the Distilled Spirits Council of the United States (DISCUS). DISCUS is a national trade association representing America’s leading distillers that produce or market nearly 70 percent of all distilled spirits brands sold in this country. Over the years, DISCUS has served as the distillers’ voice on public policy and legislative issues in our Nation’s capital, state capitals and foreign capitals worldwide. Our members include Bacardi USA, Beam Global, Brown-Forman, Constellation Brands, Diageo, Florida Caribbean Distillers, Luxco, Moët Hennessy USA, Patrón Spirits Company, Pernod Ricard USA, Rémy Cointreau, Sidney Frank Importing Company, and a group of 40 craft distiller affiliate members from across the country. It is an honor to recognize our newest craft distiller member, Mr. Colin Keegan from Santa Fe Spirits, who I am pleased is able to join us today.

On behalf of DISCUS, I appreciate the opportunity to speak today on the topic of drunk driving. I do not claim to be an expert on all aspects of this topic, but I have had extensive experience working on Federal anti-drunk driving issues during my tenure at DISCUS. Specialists at our sister organization, The Century Council, have spent careers working to prevent and combat drunk driving and their work is part of our social responsibility policies. The Century Council is an independent not-for-profit organization funded by many of the same companies that fund DISCUS and was founded 20 years ago to develop and implement programs that fight drunk driving and underage drinking. These programs have been launched across the Nation bringing them to millions of parents, youth, educators, law enforcement officials, and traffic safety professionals.

For over 75 years, the Distilled Spirits Council has been committed to the elimination of drunk driving through education programs and the enactment of com-

prehensive drunk driving laws. Our history of responsibility includes anti-drunk driving PSA's dating back to the 1930s, funding the development of a breathalyzer in the 1940s, serving on the Presidential Commission on Drunk Driving in the early 80s, and co-sponsoring with the Department of Transportation the highly successful "Friends Don't Let Friends Drive Drunk" public service campaign in the 1980s that continues today. In addition, in 2001, DISCUS and The Century Council forged a coalition with the Mothers Against Drunk Driving (MADD) in support of a .08 BAC level coupled with comprehensive drunk driving measures.

Through The Century Council, the spirits industry also has worked in partnership with law enforcement and the judicial community to target hardcore drunk drivers—those with a BAC of .15 or above and repeat DWI offenders. These initiatives include stricter penalties for hardcore drunk drivers and resources in developing programs to focus on these drivers who are the source of a disproportionate share of highway crashes. Distillers are proud of our longstanding commitment to social responsibility and will continue to lead the way in preventing and combating drunk driving.

Last year, Senator, you took another positive step in the fight against drunk driving by introducing the ROADS SAFE Act. DISCUS commends you for your efforts and we are pleased to reiterate our support for this important legislation. The bill provides funding for research to develop in-car alcohol detection technology that would be a voluntary option for automobile purchasers and would be set at the .08 BAC limit. We also support the objectives that this technology be highly accurate, moderately priced and unobtrusive to the responsible driver. DISCUS will, once again, urge Congress to act swiftly and pass the current legislation, the ROADS SAFE Act of 2011.

Prior to introducing the ROADS SAFE Act, all stakeholders were given the opportunity to share their thoughts on the legislation with your staff. DISCUS and our industry colleagues were grateful for this opportunity. Your staff provided a clear explanation of the bill and its objectives, and addressed our concerns about the import of this legislation, which are summarized below.

First, there was unease that the purpose of the Driver Alcohol Detection System for Safety (DADSS) program was to develop technology that would be mandatory in all new cars. It is known that some participants of the DADSS program envision a mandatory device at sometime in the future, but that is not the stated objective of the program or the research. DISCUS does not support mandating the installation of these devices in all cars, nor does the bill have this requirement. MADD, a strong proponent of this legislation, also underscored that this technology "would be an optional safety feature on new cars, not mandated on all vehicles" in its March 21, 2011 press statement applauding the introduction of the ROADS SAFE Act.

Interlock devices should be an option for people when they purchase a new car, not a government-required feature in every car. After all, nearly 40 percent of the adults in the United States do not even drink alcohol and the overwhelming majority of those adults who choose to drink do so responsibly.

Second, there was a question whether interlock devices would be set at a level lower than the .08 BAC legal limit. In response, your staff stated that interlocks will not be widely accepted if they are set below this legal limit, and provided assurances to address these concerns. Our support for this legislation hinges on the requirement that the device be accurately calibrated at the .08 BAC legal limit. MADD also emphasized in its March 21 press statement that "the technology would be set at .08 BAC, not lower."

Third, the bill states that the driver alcohol detection system should be accurate at other BAC levels "as may be established by applicable Federal, state or local law." Your staff has repeatedly assured DISCUS that this provision is intended to account for the current Federal 0.04 BAC limit for commercial drivers and zero tolerance limits established by states for individuals under the legal drinking age. Opponents of the bill see ambiguity in this provision and worry that it is a clear indicator that the device could be set at levels below the .08 BAC legal limit. While DISCUS does not share that view, we do respectfully suggest that the Committee consider ways to tighten up and amend the language of this provision to reflect your true intentions.

With this information in hand, the decision for DISCUS to support this bill was not difficult. In sum, the bill provides funding needed for research to develop in-car alcohol detection technology that would be a voluntary option for new car buyers and would be set at the .08 BAC legal limit.

All sectors of the distilled spirits industry—from suppliers to wholesalers to retailers—share the common objective of preventing drunk driving. We have been gratified to note that progress has been made in fighting drunk driving, but we all know

more needs to be done. DISCUS thanks you for your commitment to this issue and we will look forward to helping you enact the ROADS SAFE Act during this Congress. Thank you for allowing me to speak on behalf of the Distilled Spirits Council at today's hearing.

Senator UDALL. Thank you. Thank you, both of you, very much for your testimony.

Mr. Culver, DISCUS and The Century Council have been key to moving forward with ROADS SAFE. And I am also pleased to see industry support broadening to include the Wine and Spirits Wholesalers and the National Beer Wholesalers Association. Their support is in part due to the efforts of DISCUS and The Century Council and your members in helping to combat the misinformation that has been spread by opponents.

Can you explain further on the importance of industry supporting ROADS SAFE and the DADSS research program?

Mr. CULVER. Thank you, Mr. Chairman, for that question.

First, I'll start with saying that all sectors of the beverage alcohol industry are vehemently opposed to drunk driving. This is a commitment that the industry shared for decades. We also have a long-standing commitment to research, and DISCUS in fact can trace our commitment back to the 1940s when we helped fund the development of breathalyzer.

But with regards to the ROADS SAFE Act, your staff has done an excellent job explaining to the industry what this bill does do and what it does not do. And it has been key to our decision to support this bill. They made it very clear to us that the bill would fund the research for ignition interlock technology, that the bill would be—that the device would be voluntary—a voluntary option on new vehicles, and that it would be set at the .08 BAC legal limit. We support all of these points.

And I should also mention that we believe that the bill respects the rights of the responsible social drinker, while keeping the focus on keeping drunk drivers off the roads. So, it is for these reasons that I think DISCUS and others in the industry have decided to support this bill.

Senator UDALL. Thank you.

Ms. Ferguson, opponents to ROADS SAFE legislation have frequently compared the technology being developed to an ignition interlock, and have stated false claims about the accuracy and reliability of this new technology. Can you go into a little more detail into accuracy and reliability of the new system?

Dr. FERGUSON. Certainly, Mr. Chairman. You know, when we began thinking about DADSS and what would DADSS look like, it was clear to us that it was quite a different technology than ignition interlock in so many ways. And we understood that in order for such a technology to succeed, that it really did have to be unobtrusive and visible, if you like, to the sober driver.

And so, when we first began this effort and ACTS pulled together the Blue Ribbon panel of experts, we used some of our experts to try and put together a very rigorous set of performance requirements, and we have posted those on our website.

So, what we were particularly focusing on is a technology that would be very accurate, very precise, very quick, but also would be able to perform in a vehicle in a manner that you would want, like every other safety equipment would have to be reliable, and dura-



ble, maintenance free, so that in no way was it going to inconvenience the driver.

And when it comes to accuracy and precision, we actually adopted a standard that is more than 10 times greater than the current standard for alcohol-related testing devices, and so much so that we actually are in the process of developing our own testing equipment because there is not even any equipment out there that can test the levels of accuracy and precision that we are requiring.

The other aspect, obviously we have set the time it has to measure within less than half a second, which basically means that it is the same as it today. The amount of time you take when you get in your vehicle today for the vehicle to decide that it is OK for you to start it. There is some technology in there that is part of the theft reduction that actually does a quick test to make sure it is OK. And we have decided that that less than half a second is the standard that we are going to use.

Beyond that, when it comes to in-vehicle equipment, we have adopted the very stringent standards of the automobile industry, and we are using a six sigma process for reliability. In other words, there is a 99.99966 percent chance that that component will be defective, and that is absolutely the highest standard in the industry, and we are requiring that as well.

So, we have taken many steps to make sure that this technology will be highly accurate, reliable, and durable, and will not inconvenience the sober driver.

Senator UDALL. The program is currently, Ms. Ferguson, entering Phase II and has a way to go before it can even be considered for vehicle deployment. Can you talk a little further about how you see the technology being implemented in the future? Would it be sold as an option in vehicles, perhaps for parents wanting to ensure their child does not drive drunk?

Dr. FERGUSON. Well, from the beginning, we have always said that this is a voluntary, not mandatory, program. And it is interesting really. I have been in the highway safety field for 20 years, and in that time we have seen massive, I think, implementation of all kinds of safety technology that involves sensors in the vehicle. And we see DADSS sensor as another kind of sensor in the vehicle.

I think it is important to understand it in that way. But as we implement it, as manufacturers implement safety technology, it is typically done as an option that people can buy for their vehicle.

As we have been talking to people around the country and asking them about their concerns, one of the things that they have expressed, particularly parents obviously, is that they would like to have this technology to be available when their children reach teenage years. And I have to say I am a parent, and when my daughter was a teenager, she had all sorts of restrictions that nobody else had. But I would have loved this kind of technology. And I am hoping that 1 day I will be a grandmother, and certainly by the time my grandchildren are old enough to drive, that this technology will be available.

We are doing a lot of the research in the field, both the focus groups and we will be doing national surveys and additional focus groups, because we want to be sure that everybody's concerns are met, so that when this technology finally has been developed and

is available in vehicles, it meets all of those concerns that people have. And they will voluntarily want to adopt this in their own vehicle.

Senator UDALL. Great. I have a couple of concluding remarks, but I first just want to thank both of you. And I know you had to sit through the other panels. We very much appreciate that. And we hope you learned a little bit also from their testimony. But thank you for being here today, and to thank everybody else that is here in the audience.

I think it is clear from these three panels we have made progress, but we still have a lot to do, no doubt about it. And one of the best things, I think, we could do is to enact ROADS SAFE and ignition interlock laws on a nationwide basis. We clearly, as the panels have urged here, need continued awareness and enforcement campaigns.

And Dean Washburn, You are still here. I wanted to mention these new programs that are out, that are innovating here at the law school, you have a program called the DWI/domestic violence prosecution in practice class. The reason I came to the University of New Mexico was because I wanted to see how law came to life. And I think you have one of the best, if not the top, clinical law programs in the country, and one of that—one of those clinical law components is focusing on DWI prosecution, so students have the opportunity, which I did as a law student here, to go through that and to be able to see what is going on, experience the court system, and represent the State of New Mexico. So, thank you. Thank you for that.

And I think it is clear, you know, we will get to a day when we can get in our car and know that our drive home is safe, and we will no longer need to fear that a drunk driver may alter our lives or the lives of our families. And we want that to happen.

And I want to just thank all the advocates and others that are here for their tireless efforts. And I also want to thank the Committee, Chairman Rockefeller, and Ranking Member Kay Bailey Hutchison, for their support. They—in Washington we have done hearings on this issue in a number of different contexts, and both of them have been very supportive as well as other committee members.

And we have a very capable staff member here with us, Alex Hoehn-Saric. He joined us today from Washington. He is working hard with Chairman Rockefeller to ensure that combating drunk driving remains a priority in the next surface transportation reauthorization bill, and that the resources we need are available and in that bill.

And then finally, just let me remind all of you that the record will remain open until August 19. We welcome your written testimony. You can submit it to us today or at my Albuquerque office, or e-mail it directly to the Committee.

And so, with that, we wish you a very, very good day. And the Committee is adjourned.

[Whereupon, at 1:16 p.m., the hearing was adjourned.]

## A P P E N D I X

ALVARADO SOBER LIVING HOUSE  
Albuquerque, NM, 17 August 2011

To: Senator TOM UDALL ([contact@tomudall.senate.gov](mailto:contact@tomudall.senate.gov))  
cc: U.S. Senate Committee on Commerce, Science, and Transportation  
Attn: ALEXANDER D. HOEHN-SARIC, Senior Counsel  
From: J. STEVEN RICHARDS, House Manager  
Re: Written Testimony regarding Drunk Driving subcommittee hearing,  
Albuquerque, NM, August 10, 2011

Senator Udall:

I am writing this letter and submitting my testimony to the Drunk Driving subcommittee hearing pursuant to our conversation in Albuquerque following the hearing on August 10, 2011.

My qualifications to provide testimony are greater than the average member of the general public. I am a treatment/rehabilitation professional, have a Paralegal Studies AAS degree with criminal litigation specialty, am currently a last semester senior about to get a BA in Psychology, will be pursuing a dual masters degree (Social Work and Business Administration), am a professional journalist, and also am an alcoholic/addict in recovery who has experienced the legal system as an offender. I feel that this rather unique combination of experience and education gives me a well-rounded perspective on the subject matter.

I found the hearing and testimony very informative as well as encouraging. The vast majority of testimony I heard I agree with wholeheartedly. I would like to emphasize that I do not support incarcerating first-time offenders except in the most heinous of circumstances.

It has been proven that rehabilitation and treatment in combination with either alternative sentencing options or offender reentry is an effective way to deal with first-time substance abuse offenders—effective in terms of both results and cost-effectiveness.<sup>1</sup> DUI and Drug Courts also have proven to be very effective ways of dealing with alcohol/substance abuse offenders, with astoundingly low recidivism/relapse rates for participating offenders.<sup>2</sup>

The testimony of importance I provide is in order to point out a big gap—a weakness in the system that leads many to relapse and re-offend. That gap is in what happens to a substance use offender after they are discharged from the system, whether it be from incarceration, probation/parole, DUI/Drug Court, treatment, or rehabilitation.

This is a very crucial period, one which often makes or breaks those in early recovery—a period that often determines if the ex-offender is able to successfully become established in long-term recovery.

If they return to their pre-incarceration/pre-recovery environment (living and working situation), it often spells disaster. The ex-offender in early recovery needs a living, working, and social environment conducive to staying clean and sober. If they go back to a dysfunctional home or work environment, especially one in which alcohol/drug use is still taking place, it is next to impossible for them to maintain their recovery. Supportive living/housing environments (such as those found in

<sup>1</sup>Valentine, D. C., Albers, N. A., Huebner, B., and Department of Criminology and Criminal Justice, U. o.-S. (2006, June 30). *Alternative Sentencing & Strategies for Successful Prisoner Re-entry*. Retrieved August 17, 2011, from University of Missouri System: <https://mospace.umsystem.edu/xmlui/handle/10355/2597>.

<sup>2</sup>Roman, J., Townsend, W., & Avinash Singh Bahti, P. (2003, July). *Recidivism Rates for Drug Court Graduates: Nationally Based Estimates, Final Report*. Retrieved August 17, 2011, from National Criminal Justice Reference Service: <https://www.ncjrs.gov/pdffiles1/201229.pdf>.

Sober Living or Halfway Houses) and supportive employment counseling & services (or training/education) can be crucial to the recovery of such ex-offenders.<sup>3</sup>

In New Mexico, if not nationally, Halfway and Sober Living Houses—with the exception of those receiving governmental funding—operate with no functional external oversight. This leaves such facilities ripe for ownership/management dysfunctionality and corruption, placing ex-offender residents at high risk of relapse and recidivism. Fly-by-night operations abound, and respectable effective sober living facilities are few and far between. Not only are more Halfway and Sober Living Houses sorely needed, but minimal functional oversight and regulation is necessary in order to eliminate all the fly-by-night operations that do the ex-offender, and therefore the public good, a gross disservice.

In conclusion, while I agree with, support, and applaud all of the testimony presented at the hearing, there is a severe lack that needs to be addressed. Law enforcement, sentencing, and alternative sentencing has come a long way and is progressive and fairly well-developed. Treatment and rehabilitation, while still underutilized and minimally deployed, is gaining ground at a rapid pace. The severe lack lies in the availability of supportive living environments (Halfway & Sober Living houses), the oversight and regulation of such, and in employment support. Without properly addressing these subjects, most substance abusers will never leave the revolving door of relapse and recidivism, and will continue to be a much larger burden on society than a well-integrated program of rehabilitation and alternatives to incarceration.

Thank you for allowing me to submit/provide testimony on this subject. If you have any questions, please feel free to contact me at the above address, e-mail, or phone number.

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PREPARED STATEMENT OF PROFESSOR MARTINA KITZMUELLER,  
RESEARCH PROFESSOR OF LAW, UNIVERSITY OF NEW MEXICO SCHOOL OF LAW

### **Introduction**

It is an unfortunate reality that New Mexico faces serious problems with both driving while intoxicated and domestic violence crimes. Alcohol is involved in 40 percent of all fatal traffic accidents in the state,<sup>1</sup> resulting in 143 deaths in 2009.<sup>2</sup>

In Bernalillo County alone, District Attorney Kari Brandenburg has shared that there are approximately 7,000 DWI prosecutions per year. A significant portion of these result in dismissal.<sup>3</sup> While there are a variety of reasons, some of these dismissals are attributable to the finite resources of the District Attorney's Office. The District Attorney has stated that her office is forced to operate below 75 percent of the funding currently needed to manage such a caseload.

In 2005, the rate of domestic violence in New Mexico was 26 per 1,000 with an estimated 1 in 3 women and 1 in 7 men age 18 and over suffering from domestic violence during their lifetimes.<sup>4</sup> In 2005, there were 36,594 statewide victims of domestic violence, with each victim suffering an average of 5.5 incidences of violence. In Bernalillo County alone, there were approximately 5,000 domestic violence cases filed by the DA's office. As over one third of instances of domestic violence in New Mexico involve alcohol or drug use, alcohol use is an overriding problem that needs to be addressed in both the DWI and domestic violence contexts.

Overall, the state has an urgent need to reduce the incidents of these crimes through both preventative measures as well as the improved prosecution of these crimes. One of the programs instituted to effectuate this change is the DWI and Domestic Violence Prosecution in Practice course at the University of New Mexico School of Law.

### **Prosecution in Practice**

In May 2010, the School of Law and the Governor's office announced a new law school course titled DWI and Domestic Violence Prosecution in Practice, funded through a grant from the New Mexico Department of Transportation, Traffic Safety Bureau.

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<sup>3</sup> Kedia, S. (2005). *Treatment Effectiveness for Repeat DUI Offenders in Tennessee (2003-2004)*. Retrieved August 17, 2011, from The University of Memphis: Institute for Substance Abuse Treatment Evaluation: <http://isate.memphis.edu/Reports/ADAT-03-04.pdf>.

<sup>1</sup> & NM Department of Public Safety, <http://www.dps.nm.org/lawEnforcement/dwi/>.

<sup>2</sup> DWI Resource Center, <http://www.unm.edu/~dgrint/fars/summ08.html>.

<sup>3</sup> MADD [DRAFT] Interim Report for 2008.

<sup>4</sup> All statistics from Incidence and Nature of Domestic Violence In New Mexico IX: An Analysis of 2008 Data From The New Mexico Interpersonal Violence Data Central Repository.

As New Mexico's only law school, all interested parties realized that the UNM School of Law is in the unique position of preparing students to prosecute domestic violence and DWI cases specifically within New Mexico and its criminal justice system. Unlike out-of-state law schools or general clinical programs, DWI and Domestic Violence Prosecution in Practice educates and prepares students to address the specific needs of DWI and domestic violence prosecution in the state of New Mexico, with its unique issues under its specific laws.

The Prosecution in Practice Program enrolls up to 8 second- or third-year law students per semester. It includes both a classroom and field experience component. Students receive four credit hours for their work in the course. The field experience includes 10 hours per week of direct hands-on experience in prosecuting DWI and domestic violence cases. The students are supervised in their field work principally by the course instructor, only occasionally by a field prosecutor with at least 5 years related practice experience.

The classroom component includes interdisciplinary instruction in the social, economic, psychological, and cultural dynamics of the addictive and violent behaviors. The UNM Medical School has committed to assisting by providing a specialist in the field of addiction. The New Mexico Domestic Violence Leadership Commission has provided its assistance in securing training and other resources directed at domestic violence education, and several other community agencies are participating as well.

Students who finish the Program emerge ready to enter a district attorney's office upon graduation with a strong foundation desirable to any employer, seriously reducing the time needed for training. A prepared next generation of assistant district attorneys is ready to assist in the continued effective prosecution of DWI and domestic violence crimes. In addition, the students bring information from outside the field of law to contribute to the various district attorneys' offices.

To provide a complete education, the Program explores beyond the legal practicalities and educates students on the causes behind and treatment of DWI and domestic violence cases. Through partnering with medical and psychological educators as well as community activists and government resources, such as MADD, the New Mexico Domestic Violence Leadership Commission and victim advocate groups, students get a well-rounded education to prepare them not only to prosecute, but to help work toward the prevention and reduced recidivism of DWI and domestic violence offenses and offenders. Students also explore legislative policy avenues for addressing these crimes and may choose to participate in the legislative process as part of their experience.

The case split within the Practicum is 80 percent DWI cases and 20 percent domestic violence cases. The predominant focus is thus on the prosecution of drunk driving. The Practicum selects domestic violence cases where alcohol was a factor in the offense, to further the students' understanding of the interrelation between different alcohol related offenses. Prosecuting at the same time drunken driving and alcohol related instances of domestic violence, students learn how alcohol abuse impacts community safety on every level.

#### **After the First Year**

After a start-up phase where Professor Hope Eckert developed logistical protocols and student materials, created the curriculum and made contact with various community agencies, DWI and Domestic Violence Prosecution in Practice had its debut in the fall 2010 semester and then continued through the spring of 2011. In the first year, students handled 50 cases and 126 court appearances (hearings and trials).

The Program was a success in meeting its objective of educating and preparing students to prosecute DWI and domestic violence cases. Metropolitan Court Chief Judge Judith K. Nakamura, who sponsored the program in her courtroom, has expressed her satisfaction with the course as well as her support for its renewal. Students have expressed how much they enjoyed the course, how much they learned, and how much more prepared they feel for the practice of law. In fact, several are looking specifically at prosecution careers and have interviewed with various district attorney offices.

As the program develops, it is the expectation that it will be able to offer additional resources to the state such as training or CLE programs and materials to further the understanding, prevention and prosecution of DWI and domestic violence cases.

Because of this success, the Practicum was just renewed for two more years through an additional grant from the Traffic Safety Bureau Division of the New Mexico Department of Transportation. UNM School of Law is very grateful for this support and looks forward to future years of preparing students for the challenges of DWI and domestic violence prosecution in New Mexico.

PREPARED STATEMENT OF RICHARD ROTH, PH.D., EXECUTIVE DIRECTOR,  
SANTA FE IMPACT DWI

### Ignition Interlocks in New Mexico

Ignition Interlocks are the equivalent of having a probation officer in the front seat of an offender's vehicle on duty 24 hours a day paid for by the offender. The interlock samples the offender's breath alcohol content, BAC, and will prevent the vehicle from starting if the offender has been drinking. All BAC measurements are recorded and reported monthly to a judge or his designee.

New Mexico has reduced its rates of alcohol-involved crashes, injuries, and fatalities by over 40 percent since its first mandatory ignition interlock law was passed in 2002. Since 2005, the mandatory interlock sanction period has been 1 year for first offenders, 2 years for second offenders, 3 years for third offenders, and lifetime with 5-year judicial review for a fourth or greater conviction.

As a sanction for drunk driving, ignition interlocks have been proven to be effective, cost-effective, and fair. Their effectiveness is demonstrated in *Figure 1* in which the re-arrest rates of interlocked offenders is compared to that of offenders whose licenses are revoked and who should not be driving at all. Interlocked DWI offenders have only one fourth the re-arrest rate of revoked offenders.

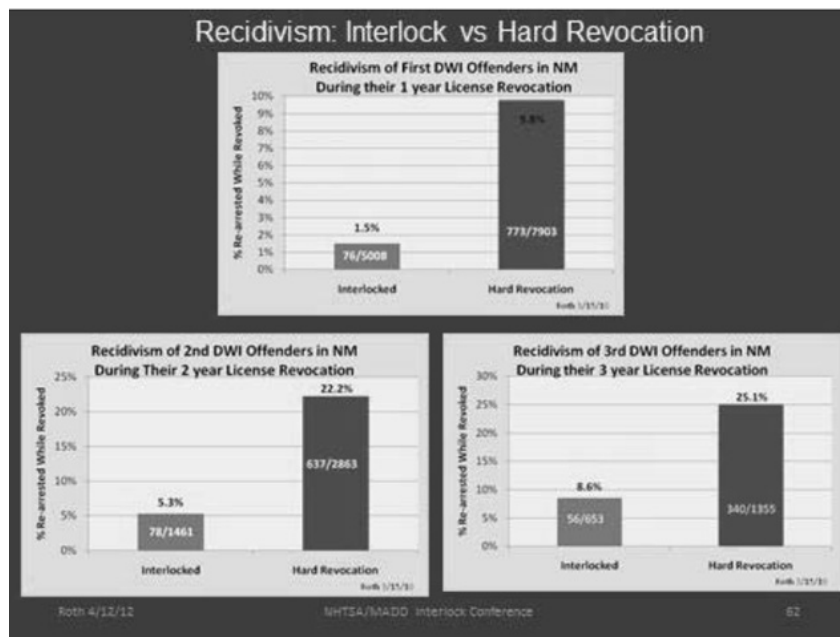


Figure 1 From NHTSA Region 1 Ignition Interlock Institute Presentation by Roth, April 12, 2011.

By preventing drunk driving, interlocks reduce the alcohol involved crashes, injuries and fatalities that are so costly to society. For every one dollar that offenders spend on interlocks, there is a three dollar savings in the economic impact of drunk driving crashes.<sup>1</sup>

Almost everyone considers Interlocks a fair sanction for drunk driving. But even 85 percent of convicted offenders consider the interlock a fair sanction for drunk driving.<sup>2</sup>

New Mexico leads the Nation in the use of interlocks to reduce drunk driving.<sup>3</sup> Over 50,000 interlocks have been installed since 2002 and there are 13,500 inter-

<sup>1</sup> Roth, Richard, Voas, Robert, Marques, Paul (2007) "Interlocks for First Offenders: Effective?" Traffic Injury Prevention, 8:4, p 351.

<sup>2</sup> Anonymous surveys of convicted DWI offenders, R. Roth 2005-2009.

<sup>3</sup> "Estimates of Currently Installed Interlocks in the U.S." October 2010, <http://www.rothinterlock.org/presentations.htm>.

locks currently installed. *Figure 2* shows that NM has more installed interlocks per capita than any other state.

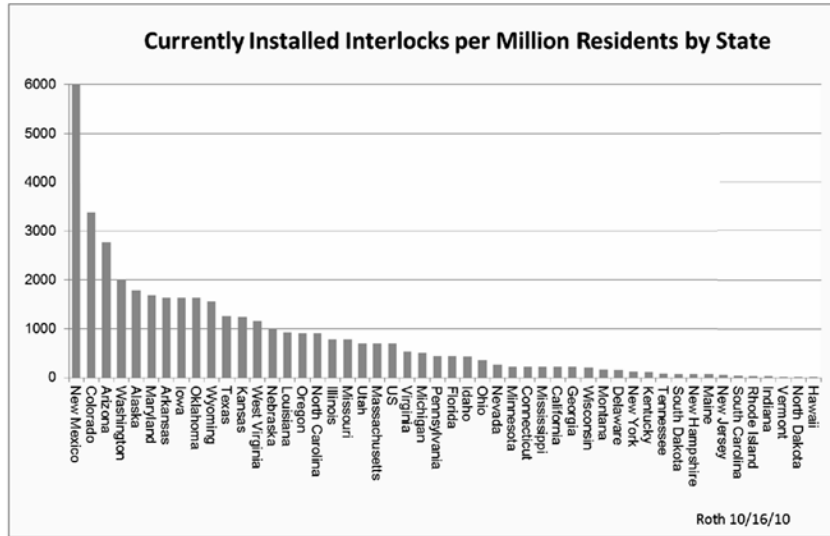


Figure 2 R Roth. *Estimates of Currently Installed Ignition Interlocks in the U.S.*  
 As more and more people become aware of the interlock sanction, the general deterrent effect contributes to reducing overall drunk driving even of those who have never been arrested. New Mexico seems to have reached that tipping point as shown in *Figure 3* the increase in installed interlocks and the decreases in drunk driving crashes, injuries and fatalities are highly correlated.

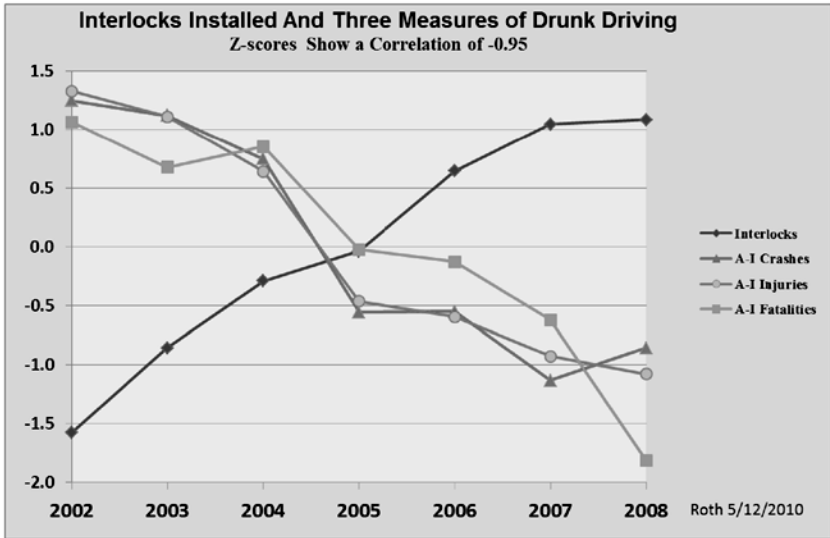


Figure 3 As the number of installed interlocks increased in NM, the number of alcohol-involved crashes, injuries, and fatalities decreased.  
 Research shows that interlocked offenders have reduced recidivism even after interlocks are removed as shown in *Figure 4* where interlocked offenders are followed for up to 8 years.



The bottom line is that the New Mexico Interlock Program has made a major contribution to outstanding reductions in alcohol-impaired driving as shown in the following figures.

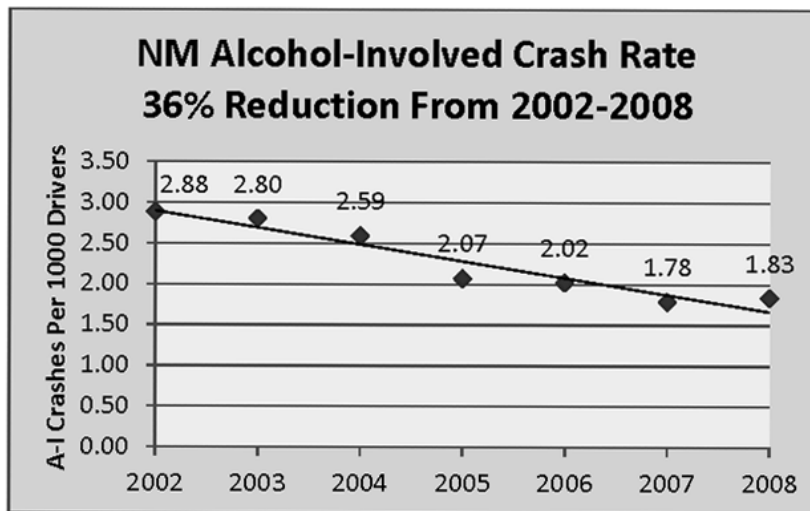


Figure 5 shows a 36 percent reduction in the alcohol-involved crash rate between 2002 and 2008.



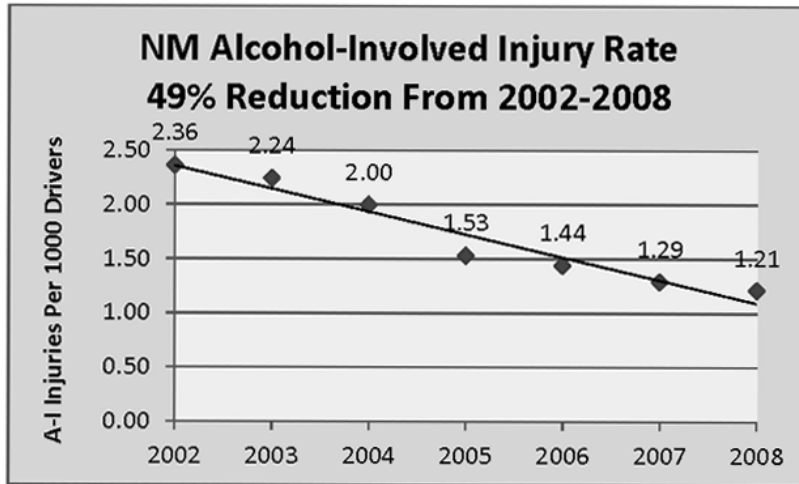


Figure 6 shows a 49 percent reduction in the alcohol-involved injury rate between 2002 and 2008.

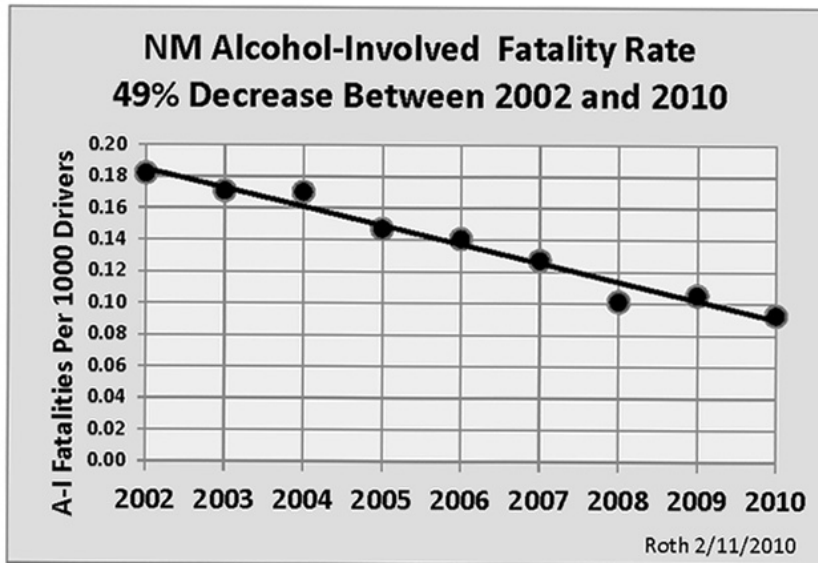


Figure 7 shows a 49 percent reduction in the alcohol-involved fatality rate between 2002 and 2010.

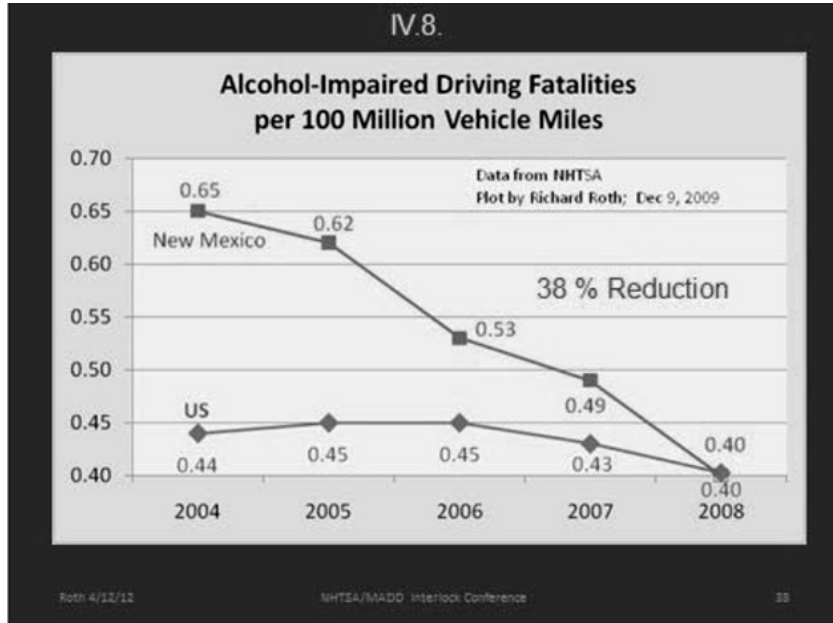


Figure 8 shows that New Mexico shows that the rate of alcohol-impaired driving fatalities fell 38 percent from one of the worst in the Nation in 2004 to the national average in 2008.

And most importantly, there are 373 New Mexicans alive in 2011 who would have been killed by drunk drivers if our 2002 fatality rate had continued to the present.

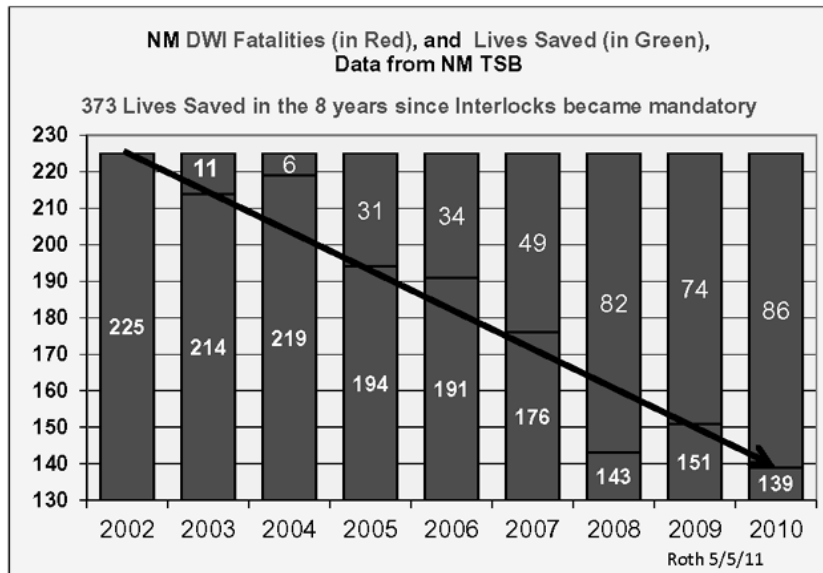


Figure 9 shows the number of New Mexicans who have died in each year from 2002 to 2010. It also shows the number of lives saved because of the reduction in alcohol-involved fatalities.

Interlocks have both specific deterrent effects on interlocked offenders and a general deterrent effect on the general population. There is no question of their effectiveness, their cost-effectiveness, and their fairness to offenders. What is still needed

in most states are laws that get a larger fraction of offenders to install interlocks and changes in outdated Federal legislation that limits their use.

\* \* \* \* \*

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SANTA FE IMPACT DWI IS A 501C3 NON-PROFIT ORGANIZATION DEDICATED TO REDUCING DWI IN NEW MEXICO BY COORDINATING VICTIM IMPACT PANELS AND SUPPORTING ANTI-DWI EFFORTS IN EDUCATION, PREVENTION, ENFORCEMENT, ADJUDICATION, AND TREATMENT.

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