

A CALL TO COMMON SENSE

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I appreciated your recent description of modern villains as “the extremists we encounter in the current day world of politics...preventing us from solving important issues facing us because extremism prevents compromise, which is what we need if we are to make progress on critical issues”. This is gravely evident in how we are handling the issues of drinking drivers in our community. The widespread public misperceptions propagated by powerful pressure groups on this issue have led directly to extreme practices that often do more harm than good.

A review of the latest statistics published by the Michigan State Police in their 2009 Criminal Justice Information Center Annual Driving Audit blame *sober* drivers for over 90% of the mayhem on our highways. Sober drivers are those who do not have any alcohol or drugs in their system. In Oakland County, 93% of injury crashes and 97% of property damage crashes were a result of sober drivers. These statistics expose the fallacy of the public’s perception. Why is it, if we were to ask our neighbor or spouse to estimate the percentage of accidents involving alcohol or drugs, they would likely choose a number much higher than the actual 3% to 7%? This is where we can begin to understand the exaggeration that has allowed the development of so many current practices in our courts that have replaced common sense with nonsense.

As the first attorney in the State of Michigan to specialize in this area of law, I have written and lectured extensively on the subject, appeared in court on behalf of over 5000 drinking drivers and watched many more undergo the legal process. I have taught courses to police, prosecutors, and judges, and I have participated in and closely watched the evolution of many positive improvements in our laws and attitudes. It is with my 35 years of focused experience that I recognize the unfortunate significance of what’s happening within our community regarding drinking and driving. I have never been more alarmed than I am today by the extremes that are being performed by the legislature and the courts. It’s important for the public to know that the pendulum has swung so far that it is now working contrary to the needs of our community.

The public should be questioning to what extent legislators and judges, particularly those who stake their reputation on being tough on drunk driving, inflate the severity of the problem as a platform for electability, ultimately clogging up our jails, impeding our liberties and expanding the criminal class at a great cost to taxpayers.

By sheer volume, drinking and driving is the most frequent circumstance of which Birmingham and Bloomfield citizens will interact with the courts. With almost 6,000 arrests in Oakland County and 60,000 statewide for drinking and driving, this area of law is in the forefront of the battle to preserve personal liberties which are increasingly under attack these days. What the public generally doesn’t know often surprises them to learn, and by the time they do find out, it’s too late and perhaps they have already unknowingly supported an extreme agenda that with full disclosure and common sense, most would not.

Most judges, attorneys and sheriffs understand that the courts and jails have been hijacked to promote well financed pressure group agendas but are reticent to act unless the public becomes deprogrammed. Drinking and driving is now used as a platform by elected officials and used against them under threat that these pressure groups will support, or put forth, their competition in the next election. I have heard statements from many judges who don't agree with the penalties they're required to impose on first offense drinking drivers because they are not reflective of the cases that come before them. I often speak with sheriffs who are frustrated with the inflated volume of alcohol-related offenders, as compared to other more dangerous inmates, who they are sometimes forced to release to prevent overcrowding when there are better alternatives like Oakland County's highly underutilized, state of the art, GPS tether program that is capable of measuring alcohol in someone's body and can pinpoint a person's location within a three foot radius, 24/7.

Progress can be made both socially and economically if the laws and courts would recognize the difference between a driver who will probably never again offend and one that probably will. Two thirds of those who commit a first offense drinking and driving, never offend again, this without jail time. However, the remaining one third is likely to offend *more* than one time after the first conviction. The public would be better served by avoiding costly jail time for the larger segment and ensuring alcohol treatment for the latter. Currently, there is little differentiating between a driver who has the disease of alcoholism, a drunk driver with no regard for the safety of others, and the majority of drivers who miscalculated the lawful levels of alcohol with all other mitigating factors before getting behind the wheel. –

Any drinking and driving conviction stays on a citizen's record FOR LIFE. When you consider the current and future ramifications of employability, educational opportunities and overall potential productivity in society, especially with our young people, this is a very important issue, worthy of serious legislative reconsideration. In comparison, for example, if an individual is convicted of breaking and entering into one of our homes, that felon's criminal record can be expunged after five years. Does this make sense? We should be acting in the spirit of increasing employability for the economic benefit of our state rather than increasing membership in the criminal class.

People who have not conferred with proper counsel are going into court today charged with first offense drinking and driving and pleading guilty without the knowledge that the charge, even if reduced to impaired driving, will remain on their record for life, that they won't be allowed into Canada for a minimum of five years, and that their court costs and fines will be in the four figure range in addition to the state's assessment fee for the conviction which will also be in that four figure range. At present, there is no legal obligation for the courts or their appointed counsel to inform the defendant of the above information and the courts don't make any money unless there is a conviction.

This is only the tip of the iceberg. There are many more technical aspects of this issue in need of consideration, such as the effects of ADHD medication, over-the-counter acid reducers, bariatric surgery, the possible 20% variation between the whole blood testing by the state vs. the serum analysis measured at Oakland county hospitals, air bag deployment effects on Michigan's Data-Master breath machines, the approximate 15% variation between men and woman of equal weight and equal alcohol consumption, among others.

It's time for a truth seeking, common sense evaluation of how we are specifically addressing these issues and at what economic and social costs to the public.

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