WHEN LEADERSHIP SAVES LIVES

Tom Kimball
Director National Traffic Law Center
703 519 1641
About NDAA...

- Non-profit organization
- Provides support to prosecutors & Law Enforcement
- Multiple areas of criminal law
- Library of resource materials
- Database of experts
- Publications
- Partners w/other organizations:
  - NHTSA, IACP, ETC
CAVEAT:
"This presentation includes the works of others. These works are included under the fair use exemption of 17 U. S. C. 107. The works have been prepared according to the multimedia fair use guidelines and are restricted from further use."
TRAFFIC SAFETY IS PEOPLE CENTERED

Who gets assigned to traffic & Why?
How are they trained?
How trained for the marijuana issue?
How are they supported?
How do we know if they are doing good work?
Expertise trusted/honored?
NEW JERSEY TRAFFIC SAFETY RESOURCE PROSECUTORS

Robyn Mitchell  
Division of Criminal Justice  
25 Market Street  
PO Box 086  
Trenton, NJ 08625-0086  
Phone: 609 376-02398  
Fax: 609.341.2077  
Email: mitchellr@njdcj.org

Erin Shamy  
Deputy Attorney General  
Division of Criminal Justice  
25 Market St.  
P.O. Box 085  
Trenton, NJ 08625-0085  
Phone: 732 282-6054  
Fax: (609) 341-2077  
Email: shamy@njdcj.org

Jamie Gallagher  
Deputy Attorney General  
Division of Criminal Justice  
25 Market Street  
P.O. Box 085  
Trenton, NJ 08625  
Phone: (609) 376-2394  
Fax: (609) 341-2077  
Email: Gallagherj@njdcj.org
SO MUCH MARIJUANA….so many myths

1) Marijuana is harmless:

Except for: mental illness, heart disease, cancer, lung disease and stroke and emergency room visits,
SO MUCH MARIJUANA....so many myths

2) Marijuana is medicine:

Rejected for medicinal use by prominent national health organizations

Combustible leaf marijuana has no medical contribution

In medical marijuana states, less than 3% of users have cancer, AIDS, glaucoma, etc
3) The marijuana “high” only lasts a short time:

Acute impairment lasts 24 hours.
SO MUCH MARIJUANA....so many myths

4) Presence-in-system testing is unreliable because it does not measure impairment:

Dr Fourney
5) Marijuana is not addictive:

   1 in 10 adult marijuana users will become dependent to the point of requiring treatment.

   1 in 6 adolescent marijuana users develop dependence.
Marijuana is not a gateway drug.

2-5 times greater risk of using other drugs when marijuana is the onset drug.

Frequency of marijuana use is significant with other illicit drugs of abuse and dependence.

Majority of individuals seeking drug treatment list marijuana as their gateway drug.
SO MUCH MARIJUANA....so many myths

7) There are no long-term effects from marijuana use.
   Cognitive decline among marijuana users does not change with adult abstinence
   17% increased risk for depression
   40% increased risk of psychotic symptoms/disorders
8) It is safer to drive with marijuana in your system.
   2-5 times increase to risk of crashes involving marijuana-impaired driving
   Risks include: impaired cognitive function and slowed response times
PHYSICAL INDICATORS OF USE

- Green Tongue
- Dilated Pupils
- Reddened Conjunctiva
Marijuana

- Peak: 10-30 minutes
- Duration: 2-3 hours
- Dissipates: 3-6 hours
- Residual Effects: Up to 24 hours

The method of ingestion (e.g. smoked versus consumed in an edible) will affect the peak and duration of effects (and generally result in a “lower” high.)
SFSTs are only valid for alcohol, they do not show anything for drugs

Study published April 2016 shows that SFSTs, particularly when viewed in totality with DRE eye examinations, were validated for cannabis impairment.

Mental v. Physical Impairment

**MARIJUANA** tends to stay in the brain (mental impairment is primary)

**ALCOHOL AND OTHER DRUGS** (generally) include more obvious physical impairment
THE DRE IS JUST A COP

- Attack
  - Officer has no medical expertise or training

- Response
  - Focus on the DRE’s training
  - Focus on the DRE’s experience - in life & field
  - Discuss toxicological confirmation
**MEDICAL CONDITION**

- **Attack**
  - Medical Condition caused his behavior

- **Response**
  - One major purpose of the personal contact phase and pre-test conversation is to determine if the subject may be suffering from an injury or some other condition not necessarily related to drugs.
  - Problems with legs, eyes, etc
MISSING SIGNS AND SYMPTOMS (DRE)

- **Attack**
  - Defendant does not exhibit all the possible signs and symptoms of a drug category
  - Look what I did right/Focus on what is NOT there

- **Response**
  - It is uncommon to have *every* symptom
  - Not everyone has exactly the same reaction
  - Effects may differ by tolerance, dose, type of alcohol and context
  - Poly-drug use may be a factor
  - Describe what is there
ALTERNATIVE EXPLANATIONS

- **Attack**
  - Other factors like fatigue caused the signs the DRE observed

- **Response**
  - Not a challenge to the observations, but the cause
  - The 12-step process is meant to eliminate other explanations
  - The factors may explain a few but not all of the signs observed
Entitlement is not a legally recognized defense

Defendant may justify impairment but not the decision to drive
THERAPEUTIC RANGE

- The range of drug levels within which most patients will experience significant therapeutic effect without an undesirable degree of adverse reactions
- EVERY drug has a side effect
  - Intended vs. unintended
- Therapeutic ranges on drug reports are merely a guide, not a “limit” of impairment
Therapeutic Ranges

- Therapeutic concentrations of many drugs can cause severe driving impairment
Response

- Is It a Valid Prescription?
- Taken per Rx
- Doctor shopping = Multiple Rx
- Family Rx
- Forged Rx
- Examine the prescription warning labels or look up the medicine in the PDR
- Investigate the prescribed dosage vs. the amount taken
Remember prosecutors have to convince jurors that Defendant was impaired when operating and not specifically how he became impaired.

Need to get beyond the identification bias.
TRUST THE TOOLS IN YOUR TOOLBOX

- Ignition Interlock
- Transdermal monitoring
- 24/7 monitoring of breath/drugs
- DRE Program
- Advanced Roadside Impaired Driving Enforcement
TRUSTING THE TOOLS IN THE TOOLBOX
ignition interlock
TRANSDERMAL MONITORING
24/7 MONITORING PROGRAMS
• PBT (Breath test) - $1.00 per test ($2.00 per day).

• SCRAM (Bracelet) - $5.00 per day monitoring fee.

• Drug Patch - $50.00 per patch.

• U/A (Urinalysis) - $5.00 per test and $25.00 for laboratory confirmation.
THE DRE PROGRAM

Around the Country: One Complaint:

The DRE’s are not used enough!
Tom Kimball

tkimball@ndaajustice.org

571 457 6624