



Kane officials take aim at drugged drivers

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A year ago, Alice Hans' minivan was hit by a vehicle that had crossed the center line into her lane.

The 54-year-old was in a coma for two weeks, was on a ventilator and has endured three surgeries so far.

The immediate post-crash reaction focused on a typical problem: speeding. Authorities allege the driver, a student at St. Charles North High School, was traveling between 57 and 65 mph in a 35 mph zone on Red Gate Road, just west of the high school.

But a less obvious factor in the Aug. 30, 2006, crash came to light months later when the driver was charged with driving under the influence of marijuana. He has pleaded not guilty.

Across the suburbs more drivers are facing DUIs for driving drugged. Police have gone back to the basics, learning to use "gut instincts" to detect impairment without the aid of roadside tests like the Breathalyzer, used to measure if a driver is drunk.

Police hope better training will help identify impaired drivers during routine traffic stops. Experts say many drugged drivers now avoid detection until they hurt or kill someone in an accident, legally allowing police to demand blood and urine samples.

Without more training, a police officer may have a gut feeling a driver is impaired but not end up making an arrest on a DUI charge because a Breathalyzer test clears them, said Steve Sims, who heads Kane County's DUI courtroom.

"By providing this police training, I'm confident that drug-impaired drivers who might have slipped by undetected in the past will now find themselves facing a DUI arrest," he said.

Yet the effort is not without opposition. Civil liberties groups say it potentially could penalize drivers for things they've done in the privacy of their homes days earlier, saying drug residue can stay in someone's blood long after it is ingested even though it no longer has an impact on their driving.

High behind wheel

Illinois is one of only 12 states that make it illegal to operate a motor vehicle with any level of a prohibited drug in the blood. Kane County is the only county in the state to send prosecutors, and not just police, to school to find out how to ferret out impaired drivers who think they've found a way around the system.

Because states have different ways of measuring drug-impaired driving, national statistics on the extent of the problem don't exist. In many cases, officials don't keep separate statistics for drug- and alcohol-related crashes or tickets.

The Walsh Group, a not-for-profit that specializes in international research on drugged driving, will soon recommend standards that will define drugged driving so that data from states and other countries are comparable.

J. Michael Walsh, president of the Maryland-based group, said a set of 136 recommendations in three categories were hammered out over the course of a year and are expected to be published in a journal soon.

"In this particular area -- the collar counties -- we have a lot of narcotic abuse. The rate is higher than the national average," said Bruce Talbot, a former Woodridge police officer who now offers police training courses. "That is just as big a problem as someone who is drinking Jack Daniel's."

Apiwat Ford, an emergency room doctor at Sherman Hospital in Elgin, said he's seen drugged drivers in the hospital for years, but their numbers seem to be on the rise, particularly among the 20-30 age group.

The primary drug is marijuana, followed by cocaine.

"We see it regularly in the ER department," Ford said.

The National Highway Traffic Safety Administration reports that 16,000 people are killed annually in the U.S. by drunken and drugged driving.

It's estimated that for every two charges of driving while under the influence of alcohol, police should have one charge of "drugged driving," based on statistical snapshots done in studies across the country by universities, federal traffic safety groups and drug use surveys, Talbot said.

The Traffic Institute at Northwestern University recently compared citations from 200 crashes with injuries in the Chicago area to toxicology reports received later from those crashes. The institute found 54 percent of the crashes involved the use of drugs and alcohol. Thirty-two percent of those involved marijuana. Police detected alcohol use, but failed to detect drug use in any of the roadside investigations.

Increasing scrutiny

Nearly every police officer in Illinois has been trained to spot drunken drivers. But Talbot, who offers the only state-approved drugged driver recognition class in the suburbs, said only about 3 percent of Illinois officers are trained in drugged driver recognition.

He equates the situation to where drunken driving education for police and the public was nearly 25 years ago.

Kane County has been the only county to offset the drop in state training money with its own to pay for officers' education, Talbot said.

In April, it launched what will be an annual program using fees assessed on drunken driving convictions to train officers from 10 departments including Elgin, Aurora, Gilberts, Lake in the Hills, state police and the sheriff's department.

Kane also became the first county to send prosecutors to the course to learn what evidence is needed to justify arrests and prove drug use. While urine and blood tests can detect drugs, drivers do not have to consent to them in all cases.

The tests also are expensive, and hand-held versions of Breathalyzers for drug detection have yet to receive federal approval. That makes recognizing the physical signs of drug abuse and finding paraphernalia key to a successful prosecution.

Nearly 13 percent of high school seniors admitted driving high on marijuana, according to a the U.S. Monitoring the Future, a national survey of high school students conducted in 2004.

"It's become almost a rite of passage," said Twyla Blakely, a victims' advocate with the Alliance Against Intoxicated Motorists based in Schaumburg.

Crackdown critics

But civil liberties groups and some defense attorneys say the crackdown on drugged drivers goes beyond protecting motorists to potentially penalizing people's private actions at home.

NORML, a national group that advocates the legalization of marijuana, campaigns against such laws, noting that a person could ingest drugs on Friday night in the safety of home but get pulled over for driving under the influence of drugs Monday morning on the way to work.

Robert Forey, an expert forensic toxicologist, testified recently in a Kane County trial that the chemical THC, absorbed from smoking one marijuana cigarette, typically leaves the blood within 12 hours. But, the metabolites left by its decomposition can be found in the urine for about 48 hours. Once the chemical leaves the blood, the impairment effects of the drug stop.

NORML contends THC metabolites can stay in the body even longer for heavier users. The group produced a report, "You Are Going Directly To Jail," in 2005 that attacks the zero-tolerance laws as simply backdoor ways to stop drug use while having little to do with protecting motorists or identifying truly impaired drivers.

Illinois tickets drivers for any amount of an illegal drug or misused prescription drug in their systems. Attempts during the last few years by Congress to apply the same law across the country and tie it to federal road funds have hit opposition.

"The amount of drug doesn't matter. It's any amount," Kane County First Assistant Prosecutor Clint Hull said recently during the trial of John Homatas, a Wayne man convicted of killing two people and an unborn child while driving with alcohol, marijuana and cocaine in his system.

Critics of laws like Illinois' say there is no scientific merit to prove impairment. Critics want something for drug use akin to the .08 blood alcohol content rule for drunken driving, which is based on studies of driver reaction time and perception.

Left with no chance to argue the drug in the person's system was old and lost its potency, defense attorneys in states like Illinois must focus on finding improprieties in the arrest or try to cast doubt on the toxicology test or officer's observations that led the officer to suspect impairment.

While any amount of ingested drug can lead to a misdemeanor driving under the influence conviction in Illinois, as it did for Homatas -- who was convicted of several other charges -- it has been harder to win lengthy prison sentences for felonies without additional proof of impairment.

Homatas' reckless homicide conviction was tied heavily to his drinking that night.

Defense attorney Tim Martin successfully argued against prison time for Ronald Hickey, 37, of Poplar Grove in a fatal 2004 crash in Elmhurst, in part by arguing that tests for marijuana use lacked a specific measure of impairment. Hickey was sentenced in March to four years' probation for the death of his passenger, Daniel Olson, 32, of Northlake.

Sims said prosecutors have to take a zero-tolerance stance to save lives.

An American Management Society survey found one-third of people felt a coworker's drug abuse was affecting work. Sims questioned how many of those employees drove to work.

"It would be nice to think they do that only in the safety of their own homes, but that would be naive," Sims said. "They are using and they are driving."

High behind the wheel

Drivers using drugs are a daily occurrence on suburban roads. Young drivers are even more likely to get behind the wheel high. But police say more training can help crack down on it.

- Only 12 states, including Illinois, make it illegal to operate a motor vehicle with any level of prohibited drugs in the blood. Other states require the driver appear "impaired" or meet specific drug-level thresholds in blood or urine.
- A 2003 survey estimated 4.8 percent of the population 15 and older and 14.1 percent of the population between 18 and 25 has driven while using a drug.
- Various state studies in the last decade found 4 to 14 percent of drivers sustaining injury or death in a traffic accident tested positive for marijuana.
- A study of crashes in seven states in 1990 and 1991 found 18 percent of driver deaths involved drug use, sometimes in addition to alcohol use.
- 30 percent of truck drivers involved in fatal crashes test positive for drugs, according to a 1993 study.
- In 2004, a national survey of high school seniors found 12.7 percent admitted driving under the influence of marijuana compared to 13.2 percent driving under the influence of alcohol.
- An estimated 38,000 high school seniors in the United States reported in a 2001 survey that they crashed a vehicle while driving under the influence of marijuana compared to 46,000 while using alcohol.

Source: National Institute on Drug Abuse, National Highway Traffic Safety Administration, NIDA Monitoring the Future 2004 study, Northwestern University Traffic Institute Study, National Transportation Safety Board, Centers for Disease Control and Prevention