One for the Road

Canada takes impaired driving seriously. In 2008 impaired driving was the single largest category of criminal prosecution, accounting for 12% of criminal concerns.\(^1\) In 2010 the province of British Columbia moved to largely decriminalize drunk driving and Manitoba has also adopted a similar approach. In the decade following these changes there has been a 50% decrease in British Columbia’s alcohol-related deaths. According to Andrew Murie, CEO of Mothers Against Drunk Driving (MADD) Canada, “That’s an incredible accomplishment that hasn’t been accomplished anywhere else in the world. We have way more people alive today than if BC hadn’t changed their system. Our organization is all about stopping deaths, not punishing people.”\(^2\)

According to H.L. Ross, an early advocate of decriminalization, “A major problem with the criminal justice system is that it fails to deliver punishment to drunk drivers with sufficient certainty and swiftness to support the credibility of the deterrent threat.”\(^3\) Rather than having impaired drivers face lengthy trials and criminal records, administrative procedures can result in the immediate revocation of drivers licenses and impounding of a vehicle. In such cases when a driver fails a blood alcohol content test, officers may immediately take the driver’s license and impound the vehicle.

One benefit of decriminalization is that it streamlines the legal process, reducing pressure on an already overburdened justice system. Administrative penalties such as revocation and impound are not subject to the same evidentiary standards as criminal trials and therefore move much more swiftly. For example, following a roadside license revocation the police action can be submitted to appeal. Administrative hearings do not require attorneys, and the standard of proof would follow the “preponderance of the evidence” as opposed to a standard of “beyond a reasonable doubt.” In such cases the only demonstration required is that the stop was legal and the test accurate and legally administrated. This reduced standard makes upholding the revocation swifter and more likely.

According to the National Post, “It’s obvious that decriminalizing drunk driving simply makes things a lot easier on the government, as well, which should raise some red flags.”\(^4\) The administrative process of responding to impaired driving makes punishment swift and certain at the expense of reducing procedural safeguards to the limitation of individual liberties. But others worry that this sort of decriminalization may erode the sort of retributive response that is appropriate for those who harm others with their reckless behavior.

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Case from the 2020 Regional Intercollegiate Ethics Bowl.

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