



State trooper Brian Gavin on patrol in Seattle.

A SOBERING TASK

Washington's **DREs** step up in the fight against impaired driving

by **ROB BHATT**

It's 1:30 a.m. on a Saturday, and Washington State Patrol trooper Brian Gavin, a certified drug-recognition expert (DRE), is explaining the "halo effect" as he drives his white Chevy Caprice down Interstate 5 in Seattle. "The vast majority of drivers will begin to mind their P's and Q's when they see a state patrol vehicle approaching," he says. "They'll make sure they are driving at the speed limit. They'll sit up straight, with both of their hands on the wheel."

For most of the seven hours that have passed since his shift began on this stormy November night, Gavin has been driving from the scene of one non-injury collision to the next to fill out incident reports and arrange tows for damaged cars. But the rain, wind and chaos have died down. The few vehicles on the highway at this wee hour move at a uniform speed, as if they were placed on a conveyor belt. Creeping

past them from the right-hand lane, Gavin explains that he is keeping an eye out for "the car that stands out." One that is moving too fast, having a hard time changing lanes or having a hard time staying in one lane. Just then, a Subaru Forester whizzes by in one of the middle lanes, and an adrenaline-pumping chase begins. Within moments, Gavin has accelerated to more than 90 mph. At about the same time as he activates his flashing red-and-blue lights, the Subaru exits the freeway and heads onto a surface street in Seattle's Georgetown neighborhood, before coming to a stop a few blocks away in a convenience store parking lot.

Despite greater public awareness than ever before about the dangers of impaired driving and stricter laws against it, impairment by alcohol and/or drugs continues to be one of the top contributing factors to fatal crashes (approximately half of Washington's fatal crashes in 2014 involved an impaired driver). I'm riding along with Gavin for a firsthand look at how police are enforcing impaired driving laws amid

PHOTOGRAPHS by **BRIAN SMALE**



old Seattle resident, to step out of the car. During the ensuing field-sobriety test, Gavin notices signs of marijuana influence, most notably dilated pupils and apparent short-term memory loss—the man asks the officer to repeat his instructions several times. After observing other signs of possible intoxication, Gavin arrests the motorist on suspicion of DUI and places him in handcuffs for a ride back to the state patrol’s substation on Roanoke Street.

Of the approximately 10,000 officers employed in Washington by police departments, sheriffs’ offices, the state patrol and other agencies, only about 200, or 2 percent, are certified DREs. Thanks to a statewide mutual-aid arrangement, agencies with no DREs on staff can receive assistance from a neighboring agency, with the WTSC covering the extra staffing costs resulting from such resource sharing.

Gavin, who earned his DRE certification last spring, saw the program as both a step toward future career advancement and a valuable tool in his present job. “When I go out at night, I want to pull over as many impaired drivers as possible, because impaired drivers pose the greatest risks,” he says. “I don’t want to let someone go, and then find out later that they hurt or killed somebody while they were impaired by drugs. I knew the DRE training would help me with my DUIs, because you learn so much about the human body.”

The DRE program was created in the 1970s by two Los Angeles Police Department (LAPD) officers, in consultation with medical professionals. The National Highway Traffic Safety Administration later teamed with the LAPD to turn it into a nationwide program with a standardized 12-step protocol. Washington’s first DREs were trained in 1996, and today, DREs are on staff with agencies across the state. They are almost always called to the scenes of crashes involving a fatality, serious injury or vehicular assault, and they are available to assist officers in other cases involving subjects appearing under the influence of drugs. In one recent high-profile case, a man deemed responsible for a crash that killed a motorcyclist in Bellevue in 2014 was found to have 9 nanograms per milliliter of THC in his blood, nearly twice the state’s 5 ng/mL per se limit, established under I-502. The evidence, obtained from a blood draw following a DRE evaluation, led to

an apparent change in the nature of impaired driving. Last fall, the Washington Traffic Safety Commission (WTSC) reported that the number of drivers involved in fatal crashes testing positive for delta-9-THC, the active ingredient in marijuana, more than doubled in Washington in 2014, compared to the previous four-year average. During the same period, those at or above the .08 percent per se limit for alcohol dropped. The WTSC notes that this data alone does not establish a link between marijuana and crash risk, and alcohol is still the number one substance found in impaired drivers. Nevertheless, due to the complexities of identifying the influence of drugs other than alcohol on motorists, DREs such as Gavin are playing a vital role in the fight against impaired driving.

Most law enforcement officers are trained to identify the signs of alcohol impairment and conduct a standard field sobriety test. The DRE-certification program advances an officer’s impairment-detection skills exponentially. Through an intensive two-week training program followed by an additional week of field certification, DREs are trained to recognize the objective signs of impairment from substances in any of seven recognized categories of drugs not detectable by a Breathalyzer, including depressants, marijuana, stimulants and hallucinogens.

When Gavin approaches the Subaru, he smells alcohol on the driver’s breath and asks the man, a 22-year-

felony manslaughter charges against the driver, now serving a 34-month prison sentence. Without the DRE evaluation, the individual might have only been charged with negligence.

In Washington, a person can be convicted of impaired driving with a blood-alcohol level below .08 percent or a THC level below 5 ng/mL—if other evidence proves that the individual was impaired by a substance or substances. In many DUI cases, suspects are impaired by a combination of drugs, including alcohol and/or marijuana below the per se limit for each. These are among the factors that a DRE considers during a drug evaluation.

The evaluations typically take place in a controlled environment, such as a police station, after a subject has been taken into custody. The DRE begins by asking standard questions about the subject’s diet and drug use, and analyzes the individual’s eye movements and pulse. As the process continues, the DRE assesses the subject’s ability to walk and turn; stand on one leg; and touch a finger to his or her nose. The DRE also checks the individual’s blood pressure and body temperature; estimates the person’s pupil size under different lighting conditions; and rechecks his or her pulse two more times. The first 10 steps are designed to reveal not only if a person is impaired by drugs, but also the category or categories of drugs he or she might have taken. In step 11, the DRE determines if the evidence points to impairment; if so, the 12th step is to obtain a warrant for a urine, blood and/or saliva sample for analysis.

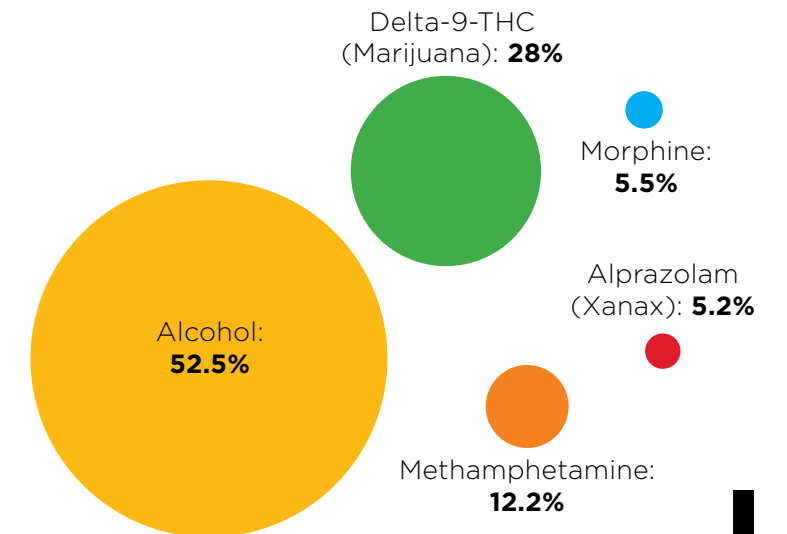
All DREs are required to document their evaluations in what’s called a “Rolling Log,” and their reports are regularly reviewed to monitor how closely toxicology results match up with officers’ conclusions. “It’s important for DREs to remain statistically relevant with their opinions,” explains Washington State Patrol’s Sgt. Mark Crandall, who coordinates the DRE program for the state. “A DRE can also determine ‘no influence’ or ‘medical condition,’ and those, too, need to be tracked on the Rolling Log. Not every DRE evaluation will result in toxicology, and therefore, the log helps in demonstrating the validity of the process.” Interestingly enough, the implied consent law, which requires any motorist suspected of driving under the

influence of alcohol to submit to a breath test or face license suspension, does not apply to DRE evaluations.

Back at the Roanoke office, the Subaru driver refuses to submit to an official breath test, and then, while still in handcuffs, becomes extremely uncooperative, yelling and physically struggling with Gavin and his supervisor. Ultimately, the officers decide to have

INTOXICANTS: (BY THE NUMBERS)

MOST COMMON DRUGS, BY PERCENTAGE OF BLOOD SAMPLES, FOUND IN IMPAIRED DRIVING SUSPECTS IN 2014. INCLUDES CASES INVOLVING INDIVIDUALS TESTING POSITIVE FOR MULTIPLE SUBSTANCES.



Source: Washington State Toxicology Lab.

Gavin take the suspect to jail, where the man is booked on suspicion of DUI, malicious mischief and assault.

By the time Gavin turns the Subaru driver over to jail authorities, it’s past 3 a.m. The suspect’s lack of cooperation has delayed the DUI investigation, but his conduct has him facing a probable license suspension and possible felony charges. As Gavin drives home from work, he might find comfort in knowing that this suspected impaired driver is not going to be out on the roads with the potential to hurt or kill somebody for quite some time. ❶