

Dear friends,

I wanted to share an online debate with a couple of friends of mine regarding politics, D.U.I.s and what I perceive to be a trend in “conservative” thought. It is a bit lengthy, but some people might find it entertaining and even thought provoking. John, who responded to my initial on-line posts, is a cop, and Dwight added some unsolicited comments. My first couple of posts aren't particularly well thought out, since I wasn't expecting a debate, but my last is my best effort. The name of the author is at the beginning of each so you can skip to the good parts. Please enjoy. Bob.

From Bob-

Victory is ours. My company passed all of its ballot issues to get liquor licenses for businesses, mostly by blowouts. The statewide success in general seems to indicate that small businesses benefitted from Republican candidates staying home, as there were only Democrats on the ballot. WTF?

In my youth in the 80s and 90s it was always Democrats pushing stricter DUIs, anti-cigarettes, Tipper-Gore censorship. What happened to the Republicans who were about keeping government out of people's personal business? Are they all anti-porn/booze/immigration, etc.?

From John-

I don't think immigration is a personal matter, it's a core function of government.

Bob-

When W. and a Republican Congress went to .08 DUI, was that not a core function of government (I agree, it wasn't)? In Ohio the Republicans had held that down for ten years, but when W. and friends passed it, not a peep from my Republican friends WHO WORK IN THIS INDUSTRY WITH ME. Not to mention the Republican's draconian anti-porn law. Sometimes a core function of being a d--k, is being a d--k.

John-

The .08 BAC is a public safety issue. We're not talking about drinking responsibly or buying wine on Sunday. We're talking about boarding a 3000 lb. guided (well, partially) missile and driving it down the road while impaired. The government is not trying to protect people from themselves in the case, but from each other. This is a core function of government. We've probably all driven impaired at one time or another and should try to avoid doing it again. The stricter DUI laws are one of several reasons that our highway fatalities are the lowest since the 1960s. Look at the penalties for DUI in UK or Europe which in some cases are the equivalent of felonies here in the US. Frankly, you can have the Republicans and the Democrats. Both spend like drunken sailors on projects and programs government has no business involving themselves in. In a contest of

paternalism, however, I think the Democrats have the edge.

Dwight-

First of all, the reduction of BAC to .08 was about as much about safety as offering of larger condoms are related to general growth in penis size. The reduction was about 1 thing. Money. .08 lowered the consumption to about 1 drink for the average person in the course of an hour. If it were truly about safety, they would make a law that they ... See Morecould stand outside bars watching for people getting into cars. They could make it illegal for a bartender to serve to anybody who doesn't have a designated driver. There are soo many more direct ways to get people who are physically impaired off the road. Ohio fought it until they were threatened with federal money being withheld. Lowering the BAC opened up the DUI courts to a larger "customer base".

Secondly, I am not sure where the fact that we have reduced Alcohol related deaths was garnished. I would like to see the method of collecting that data. It is not found on any of the US statistic sites using a quick check. However, I will say that since the 90's, we have seen higher safety standards (including airbags, structural reinforcement, bigger cars, and better breaking systems)as well as improved trauma care to name a few. To attribute a reduction of fatalities strictly to improved laws is taking liberty with statistics. I can tell you that not one person I know has said, "Oh the law has been reduced to .08, so I am not going to drink that extra beer tonight."

John-

The direct way to get impaired drivers off the road is called DUI enforcement and it works. I've done practicals on BAC and impairment and my experience is if you have a buzz you're over the limit and impaired. So that's a good barometer. The cost of prosecuting a DUI case far exceeds the \$1000 or so fine that is imposed after a conviction. ... Most of the money spent by the defendant goes to attorneys and classes.

You have taken liberty with the text of my previous post. "The stricter DUI laws are one of several reasons that our highway fatalities are the lowest since the 1960s."

<http://www.cnn.com/2009/TRAVEL/04/06/us.traffic.deaths/index.html>

I guarantee you there are more people now than in the 70s or 80s who consider the danger of driving impaired. That general deterrence reduces the number of "casual" (ie, people with a life and something to lose) drunk drivers and that contributes to an improvement in traffic safety.

If it makes you feel better probably 95% of the DUI cases I see are well in excess of the .08 BAC.

Dwight-

First of all, DUI is hardly a direct way to save people from dying in auto accidents in which alcohol was indicated as the cause. If this was a business, this would be a highly inefficient way to achieve your results. There are 20 drivers at a bar. One cop sitting in a cruiser down the street from a bar pulling over a car because the driver has a ... See Morebroken license plate light. The officer then spending the next two hours with him should he be so lucky to catch that particular driver. Considering the other bars and parties going on that night, this driver makes up less than 1% of the intoxicated drivers on the road that evening. Better would have been to have the officer standing outside the bar addressing drivers as they walked out the door. "If you get in the car, I will have you pulled over" to somebody who has obviously been drinking. The officer is now affecting a higher percentage of drivers. Statistically speaking, it is unlikely that this particular driver was going to be the one to get into a fatal crash that night. If the officer just took the offender home, he could be back on the road a lot quicker.

Next, if this "life saving" business considers that BAC is about as predictable of a factor for an accident as age is for responsibility for being drivers. Two people with the exact same BAC can show extremely different results on the performance exams. Many other factors affect both BAC and tolerance. Really there is no quantifiable way that wouldn't "infringe upon our freedom" to keep alcohol off the road. Well there are, but it would be expensive and include state sponsored taxi services.

You can "guarantee" there are more people now that consider the dangers? I am thinking the alcohol industry is booming even in our crippled economy. If you mean they are "aware of them" and more consciously disregard them, then I agree.

\$1000. I would like to see a breakdown in that. Most of my friends that have went through the DUI process goes like this. They spend a couple of hours with a police officer. That is a "Fixed expense". The officer was going to be on the beat anyway. The Person appears before the judge and pleads not guilty. That process takes about 5 min on a bad day. Then the Plaintiff gets a lawyer, who calls to police officer and asks him, "what day do you want to come in on overtime to talk about how cooperative my client was?" Eventually though that meeting never happens. The prosecutor and the attorney over dinner agree that the Plaintiff deserves to have the fine reduced to "reckless Op". 5 more min in front of the judge, a predetermined sentence, and they just earned \$1000 plus "court costs". This isn't off the top of my head, I have seen this script run exactly that way to friends of mine 4 times. \$1000 for 10 min work in on par with my medical bills.

The reason 95% of the ones you have seen prosecuted are more than .08, is because nobody involved actually believes .08 is a credible BAC level. They see the Plaintiff as being unlucky more than a danger.

John-

OK, Dwight. I'm not going to change your mind. Good luck and be safe.

Bob-

John, I checked out the article on your post regarding the decrease in road fatalities. It mentioned nothing about DUIs. In fact, it was talking about the difference in fatalities between 1961 and 2006, and the only factor mentioned was, "Transportation Secretary Ray Hood cited more widespread seatbelt use." The citation you provided seemed to support Dwight's position much more than your own. No one is questioning whether improved DUI enforcement since 1961 has saved lives, but whether the move to .08 BAC from .10 was wise, or even properly motivated. The article you cited doesn't address this even in the most minimal way.

As to your argument that a core government function is protecting people from one another, I would agree to an extent, but, as I'm sure you're one to argue for strict Constitutional interpretation, the founders intentionally left much of this to the states. Of course the government has stepped in to protect the RIGHTS of people, which is why we have the 13th amendment, et al, but the founding fathers restricted some of the power of the federal government to act for public safety for fear of government tyranny. The Supreme Court changed this in 1987 with the case of South Dakota v. Dole where it held that the government could withhold federal money from the states, the money paid by the states, as part of regulating interstate commerce, if those same states failed to follow the federal mandate to lower the maximum BAC to .10. This had nothing to do with regulating commerce, and it was a power grab by the federal government. It is relevant here because my statement you've taken issue with is the Republicans' lowering the BAC to .08 and forcing it on the states by the same principle.

But again, the issue is whether lowering the BAC to .08 is meritorious, or whether it comes from a political desire for some people to lord power over others, which was my initial argument. Given the depth of this issue, I admit I've done the barest of research. I picked the 2006 date you cited and tried to find DUI arrests between .08 and .099 and tried to compare them to DUI fatalities between .08 and .099, and I couldn't find anything. Maybe you'll fill me in. But I did find an interesting stat., which was the average number of DUI arrests in Colorado, where you live, is 76 per 10,000, and the average number of DUI arrests in Ohio is 27 per 10,000 (this is from drinkinganddriving.org). That amounts to 32,580 arrests in Colorado in 2006, and 30,942 arrests in Ohio over the same period. The population of Colorado was approximately 4,300,000, and the population of Ohio was 11,460,000. In 2006, all DUI fatalities in Colorado according to the NHTSB were 179. The DUI fatalities in Ohio in the same period were 451. Adjusting for population differences, total Colorado DUI enforcement resulted in 9 fewer fatalities for 21,070 arrests. If you adjusted for drivers between .08 and .099, by your numbers ("probably 95% of the DUI cases I see are well in excess of the .08 BAC"), that 5% would amount to zero. But realistically it's more than that, and 1 would be a fair estimate. So the question is how many thousands of DUI arrests, paying cops, checkpoints, stops, labeling thousands as criminals, and generally elevating the atmosphere of fear and accusation, are worth a life. The kneejerk reaction is "any number", but it is not so. If you allow people to be free, bike without helmets, shoot rifles on their properties, etc., someone will occasionally die. A single life lost when millions of people do something is not a justification to blindly restrict the activity.

A factor in this assessment is law enforcement of repeat offenders and regular drunks who slip by while law enforcement is focused on “buzzed” drivers. I failed to find it online, but there was a study from the North Carolina Attorney General of the North Carolina Highway Patrol done in 1996 that concluded that going from .08 to .10 would not decrease DUI fatalities, for the very reason I just gave you. But scared people don’t care about studies and statistics, unless those statistics justify their fears.

I think the most damning thing you wrote justifying your position was, “My experience is that if you have a buzz, you’re impaired.” I’ve gotten a buzz from a single beer at least hundreds of times. Not always, but there are times, particularly on hot days when you’ve been working outside, where I’ve had a beer and it seems to go right to your head, in a good way, and a sense of relaxation follows. But if I were to immediately get into a car and drive, by your standards, and the standards of millions of non-drinking, “hard-core” Americans who believe as you do, I’m impaired, and I should get arrested and put into jail. The difference that is hard to account for is that I would choose to drive a little more carefully. I would pay much better attention to the road and be prepared for the need to stop suddenly, and I would be less dangerous than the average driver. But by your argument, which people like you will continue to make, any buzz is too much. Zero tolerance. Every word you wrote, every whit of it, could be applied to going from .08 to .05, which is what MADD is now pushing for. It’s not backed by well thought out statistics, but by angry and vengeful thinking. Your argument also applies to going from .05 to .00. You must be aware that the founder of MADD, who lost a daughter to a drunk driver, later became a lobbyist for Seagrams. A brave person of conscience sees a problem and stands up to oppose it. And she got what she sought, and the public was made aware of the problem of drunk drivers. And then a cult of angry followers springs up that wants nothing less than zero tolerance.

And the other items I mentioned initially that were Republican or “conservative” initiatives, the new Arizona immigration law and Ohio’s hard-core anti-porn law, stem from the same angry “zero tolerance” thinking. You wrote that in terms of paternalism, Democrats have the edge. I can’t disagree with that at this point. But the core point of my first post, the one you took issue with, was that in the 80's and 90's the Republicans were the party that opposed that kind of paternalism, at least to an extent, and I voted for them because of that. But that seems to have completely disappeared, and it has been replaced by protecting the rights of corporations to do as they choose and forcing upon us the morality of misguided Christians. Given that reality, why would any freedom-loving American, meaning the freedom of the people (and despite the Supreme Court ruling, a corporation is not a person), vote for anyone pushing this line of reason? I knew in my youth many Republicans whom I agreed with and acclimated to who claimed, “fiscal conservative, social liberal.” W. was the opposite of both, and yet the few of them who have broken ranks are going with the Palinites, which is socially even more “conservative.” And when you wrote, “this isn't about selling wine on Sunday”, well those voters who I was happy stayed home are about 10 to 1 the same people who would agree with your position.

This isn't meant to argue that we shouldn't arrest people for driving drunk. Certainly not. But we found a spot at .10 DUI, an arguably reasonable spot of enforcement, and people like you argue that we should be stricter and stricter. Where does it end? Help me out here.

I would add that saying to Dwight, "I'm not going to change your mind", and then wishing him well, as a way of ending a debate, is a bit cowardly, when you also haven't yielded a point. I look forward to your response.

Bob Young.

John-We can agree to disagree, Bob, but it's usually not good form to call your opponent a coward. This is where we part ways. Good luck to you as well."

[It is at this point that John un-friended me, effectively ending the discussion.]