



Cannabis Impaired Driving Maryland Law and Policy

Guest Speaker: Officer Jayme Derbyshire, Montgomery County Dept. of Police

Moderator: George Townsend, Legal Resource Center - Cannabis

November 5, 2025

Agenda

George Townsend, Legal Resource Center:

- Maryland restrictions on cannabis and driving

Officer Jayme Derbyshire, Montgomery County Dept. of Police:

- Impact of cannabis use on driving
- Differences between alcohol and cannabis detection
- Traffic enforcement & cannabis impairment



Impaired Driving Laws in Maryland

Impaired Driving

- A person may not drive a vehicle while so far impaired by any drug, combination of drugs, alcohol, or combination of drugs and alcohol as to be unable to operate the vehicle safely.
 - This includes both legal and illegal drug use.
- Penalties vary based on whether the conviction is based on a first or subsequent offense, whether the drug use in question was legal under state law, and whether the driver was transporting a minor while impaired.
 - Minimum penalty: imprisonment up to 2 months and/or fine up to \$500
 - Max penalty (four-time offender): imprisonment up to 10 years and/or fine up to \$10,000

Consumption in Vehicles - Drivers

- It is a criminal offense for the **driver** of a vehicle to consume cannabis in the vehicle while located on a highway.
 - The “driver” is a person in “actual physical control” of a motor vehicle. This is determined based on the circumstances but does not necessarily require the engine to be running.
 - A “highway” is “any way or thoroughfare . . . used by the public for vehicular travel,” whether or not it is publicly owned or designated.
 - Includes vehicles parked on the street and in publicly-accessible parking lots.
 - Violation is a misdemeanor, punishable by a fine up to \$500



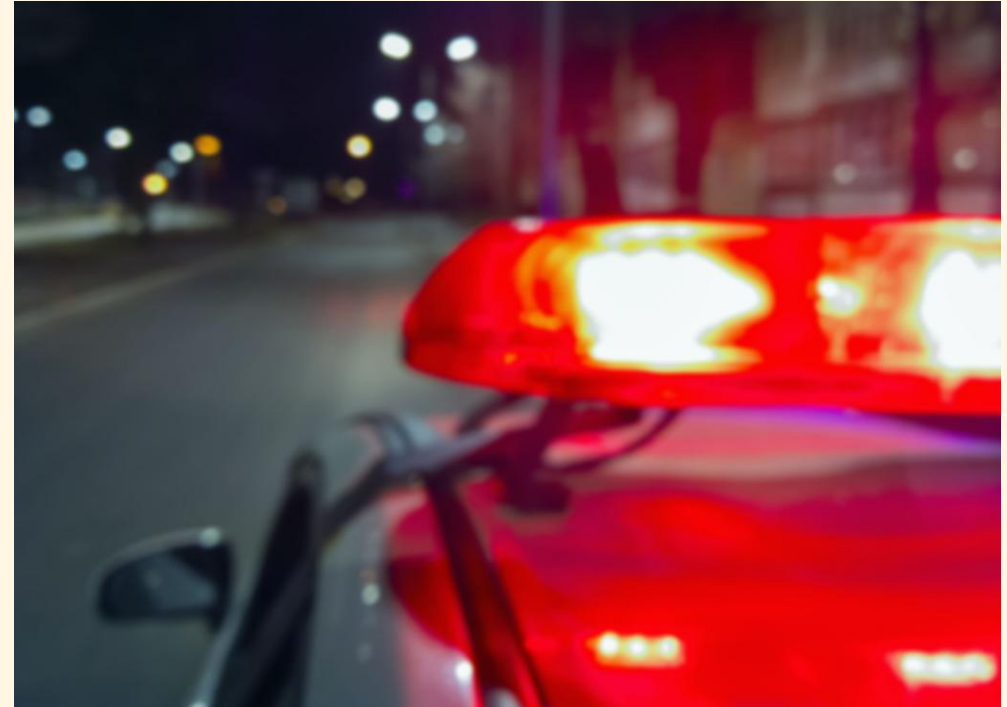
Consumption in Vehicle - Passengers

- An occupant of a motor vehicle, other than the driver, may not **smoke** cannabis in the passenger area of a motor vehicle on a highway.
 - Highway here again applies to vehicles on roads, parked on the street, or in parking lots.
 - Violation is a civil offense, punishable by a fine up to \$25.
 - The passenger restriction applies only to smoked cannabis, does not penalize cannabis vapes, edibles, or tinctures.

*Slide edited 11/6/25



Criminal Procedure and Cannabis



Cannabis Odor and Vehicle Stops

- A law enforcement officer may initiate a traffic stop if there is “reasonable suspicion” to believe that criminal activity “may be afoot.”
- To search the vehicle or to make an arrest, however, there must be “probable cause” to believe a crime has been committed, a much higher standard.
- Under Maryland law, the odor of cannabis does not, by itself, constitute either reasonable suspicion or probable cause for a stop or search of a person or a vehicle.
 - Smelling like cannabis is not a crime and does not demonstrate that criminal activity occurred.
 - Smell is very subjective; it can be hard to verify an individual’s claim that they smelled cannabis.
- The same is true of possession of cannabis up to the personal use amount (for individuals 21 and older).

Cannabis Odor and Vehicle Stops



- Reasonable suspicion and probable cause are based on the “totality of the circumstances.” Other factors can be considered.
- For example, erratic or reckless driving behavior can indicate impaired driving.

Cannabis Tests for Drivers

- Blood tests can be required on suspicion of driving while impaired.
- Blood sample must be taken within four hours of suspect apprehension.
- Blood sample must be taken by a qualified medical person.
- A person may refuse to submit to a drug test; however, to do so may result in the suspension of the driver's license.
 - If a person refuses to submit to a drug test and is subsequently convicted of impaired driving, they can be subjected to a heightened sentence as a result.
 - If law enforcement has reasonable grounds to believe that a driver's impairment resulted in an accident causing death or a life-threatening injury to another person, they may compel a drug test.
 - A driver who is unconscious or otherwise incapable of refusing a test may be subjected to a test.

Officer Jayme Derbyshire

Montgomery County Department
of Police



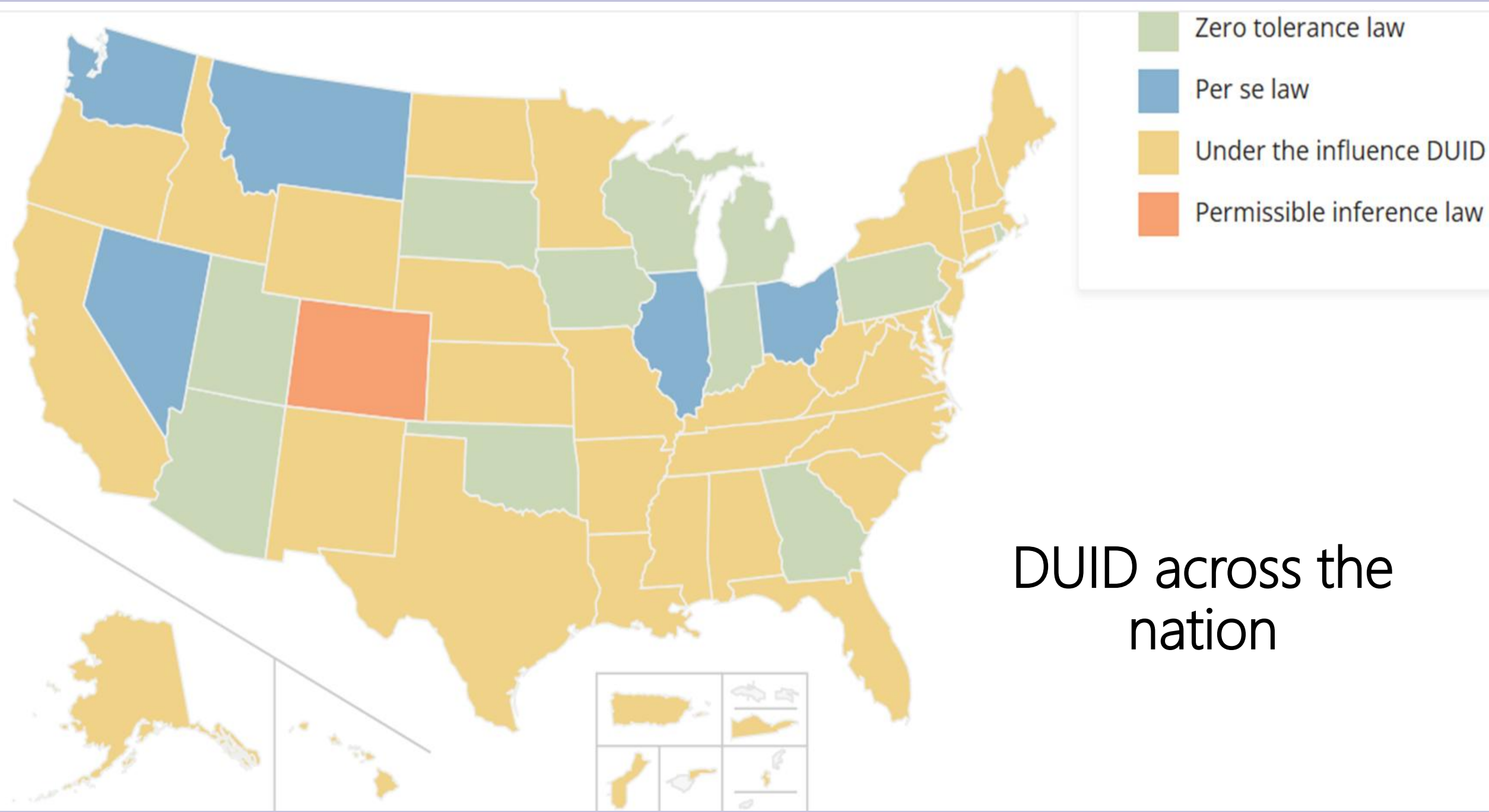
Agenda

- How cannabis impacts driving
- The difference between alcohol & cannabis in terms of detection
- Traffic enforcement & cannabis impairment





How does cannabis impact driving?



DUID across the nation

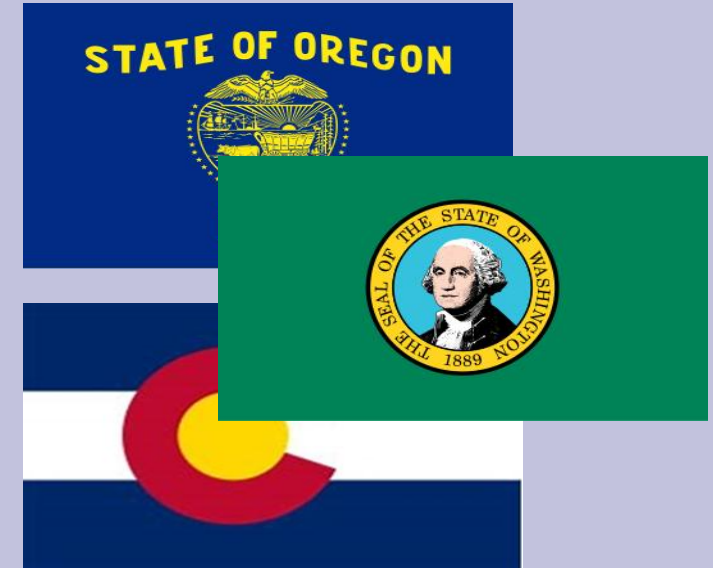
State Data



Illinois: 12% increase in fatal crashes involving cannabis since recreational legalization

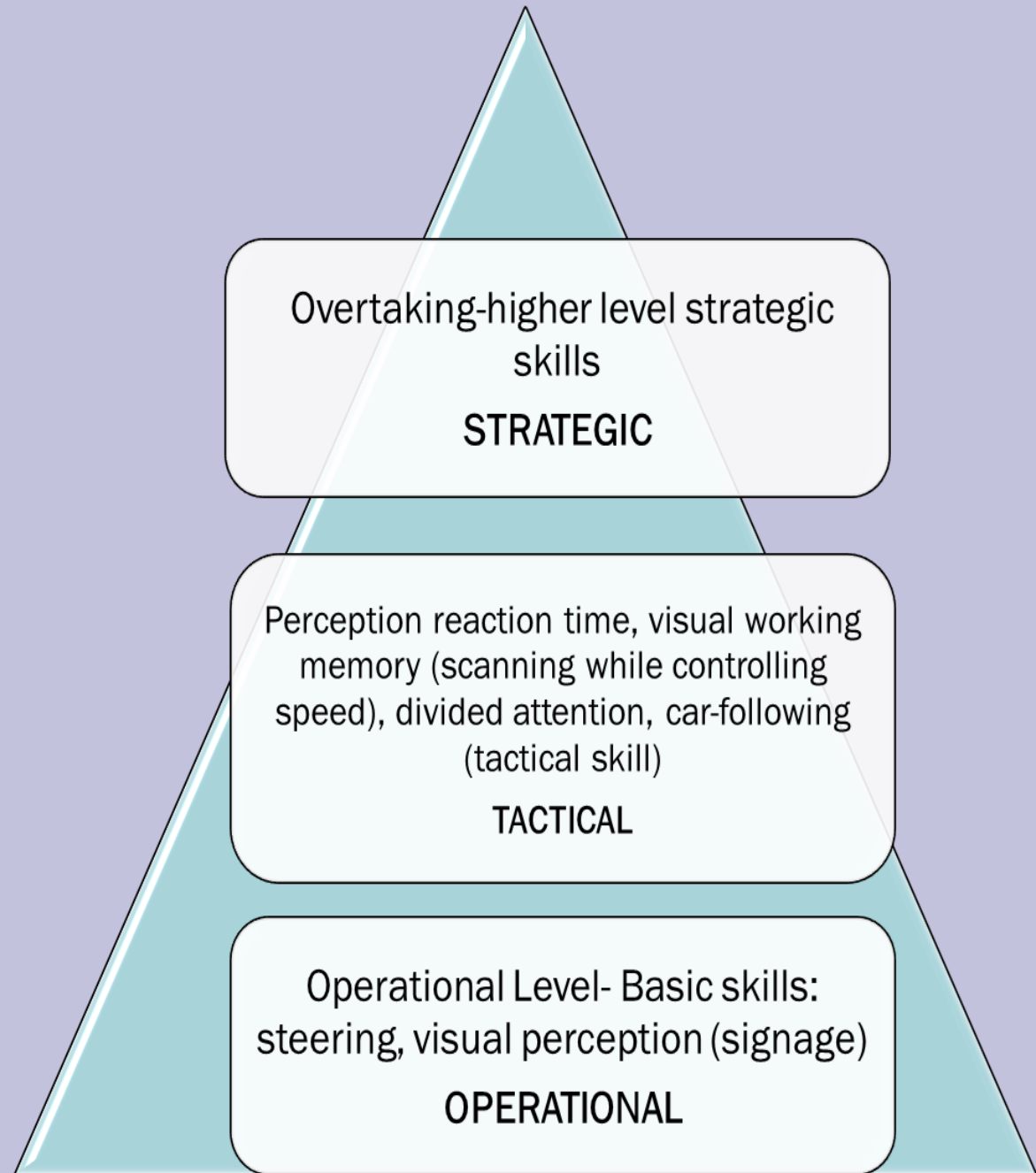
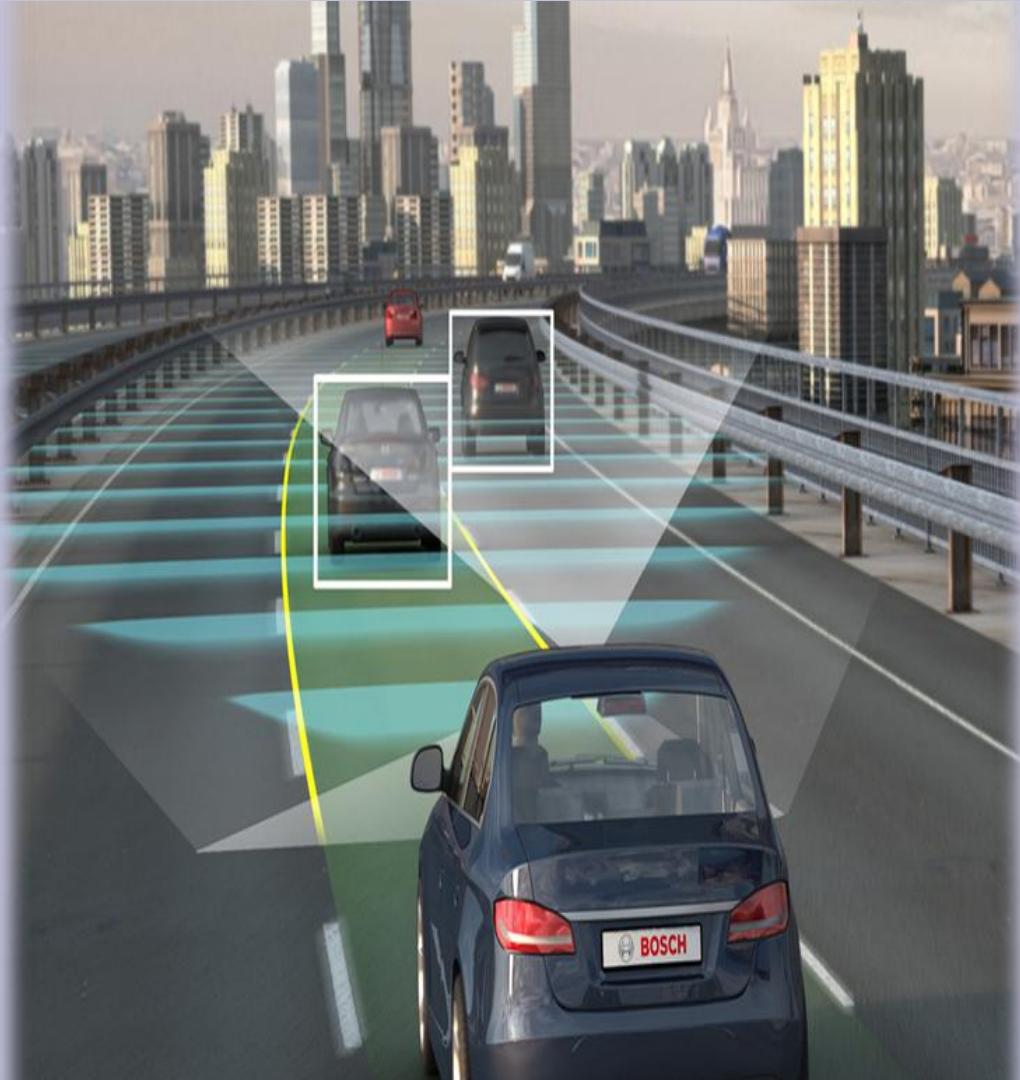


Colorado: 138% increase since recreational legalization in cannabis positive drivers involved in fatal crashes (HIDTA 2023)



Studies show that states that have legalized have a 5% increase in crash risk compared to those that haven't (IIHS)

DRIVING IS A COMPLEX TASK





- Studies are limited due to heavy restrictions:
 - Marijuana is a Schedule I drug
 - Research limitations allow for small THC concentrations
- Cannabis use:
 - Increases reaction time
 - Impacts decision making ability
 - Increases braking pressure
 - Cognition processing issues
 - Memory recall issues



- ❖ Tolerant users seem to be more willing to drive based on their perception of intoxication
- ❖ Few users state they never drive after consumption
- ❖ Many of these users started as, or are still currently, medicinal users
- ❖ Half of cannabis users drive within an hour of using . Many Ultra-High Risk Users don't think of use as causing impairment, but of actually helping abilities (Marcotte UC SanDiego)



Detection of Impaired Driving

Detection isn't that much different than with alcohol:

Impairment is impairment

Vehicle in motion

Personal contact

Pre-arrest screening

Dem Gummies ain't for everybody😂😂😂



3 Test Battery:



1. HORIZONTAL GAZE
NYSTAGMUS



2. WALK AND TURN
TEST



3. ONE LEG STAND
TEST

Advanced Roadside Impaired Driving Enforcement



Revised: 02/2018

Advanced Roadside Impaired Driving Enforcement (ARIDE)

- Formed by NHTSA and IACP to bridge the gap between SFSTs and the DEC Program
- Aids law enforcement in being able to recognize signs of impairment due to drugs, alcohol, or a combination of both
- Includes training in additional field tests to include additional eye indicators and psychophysical tests
 - Lack of Convergence (eyes)
 - Modified Romberg Balance Test
 - Finger to Nose Test

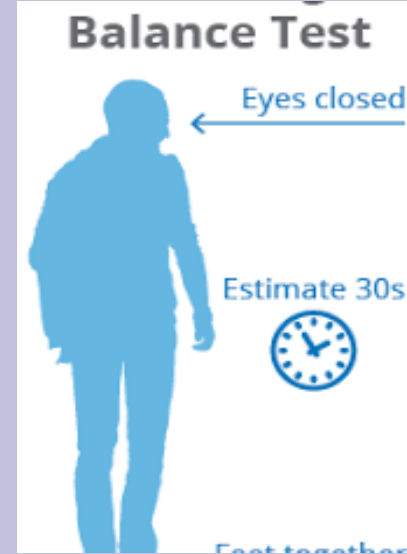
Divided Attention Tests



**Walk
and Turn**



**One Leg
Stand**



**Modified
Romberg
Balance
Test
(ARIDE)**



**Finger to
Nose
(ARIDE)**

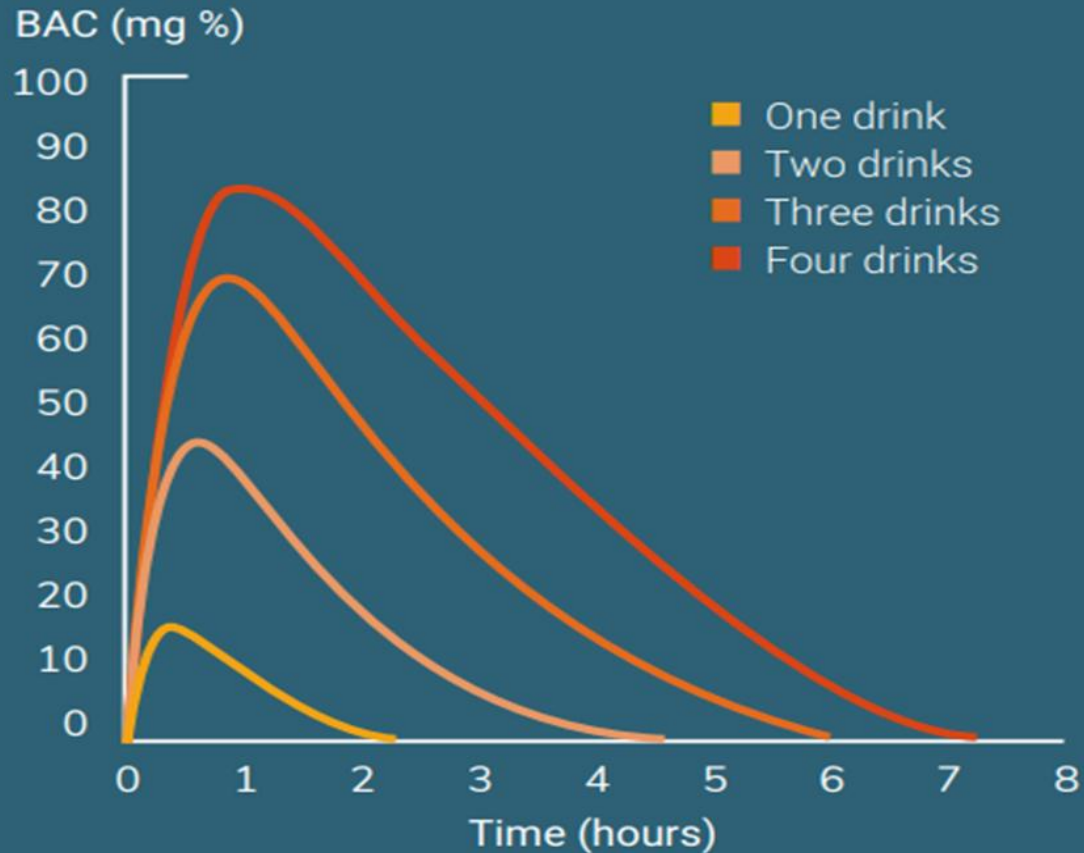
Drug Recognition Experts (DRE)



- Level of impairment is inconsistent with BAC
- DREs are accepted in most states as experts
- Brought in after the arrest decision is made
- Additional testing in an effort to determine drug impairment when it comes to operating a motor vehicle
- Could include a tox screen

FIGURE 3A

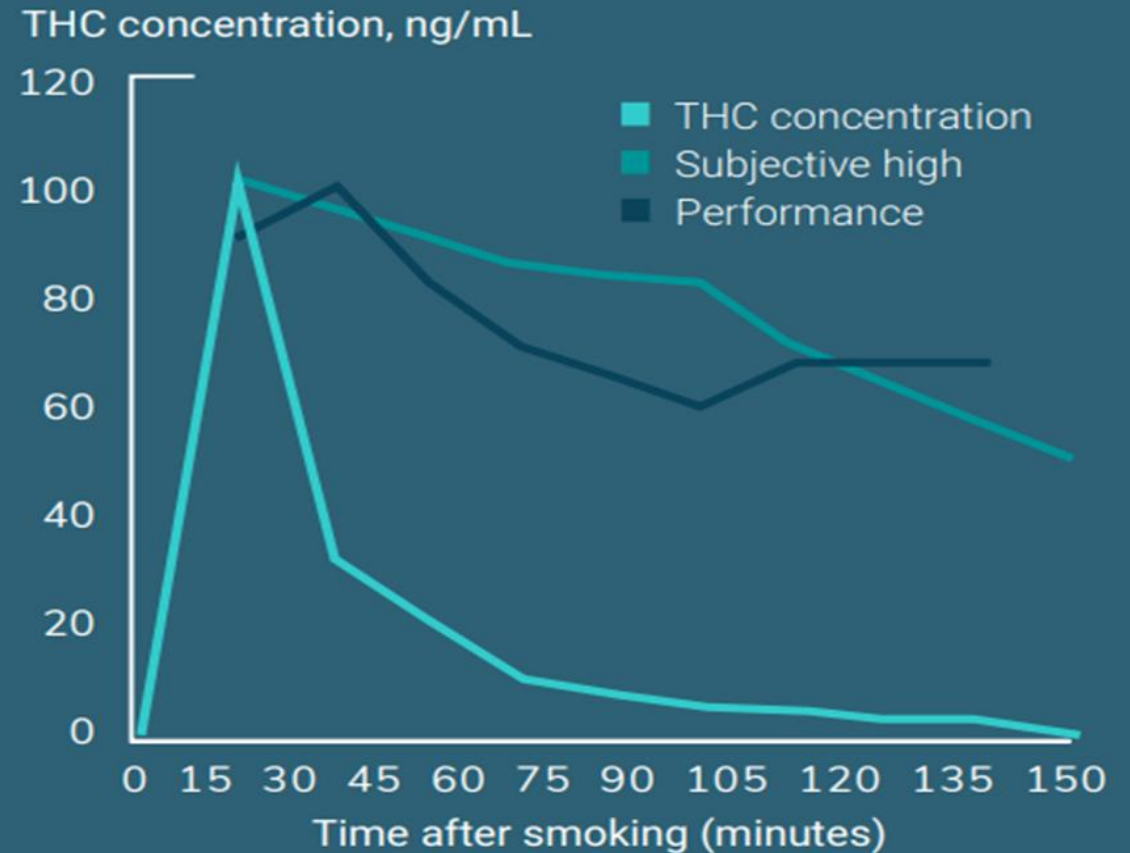
Blood Alcohol Concentration (BAC) Over Time After Drinking



Source: Adapted from NIAAA (1997)

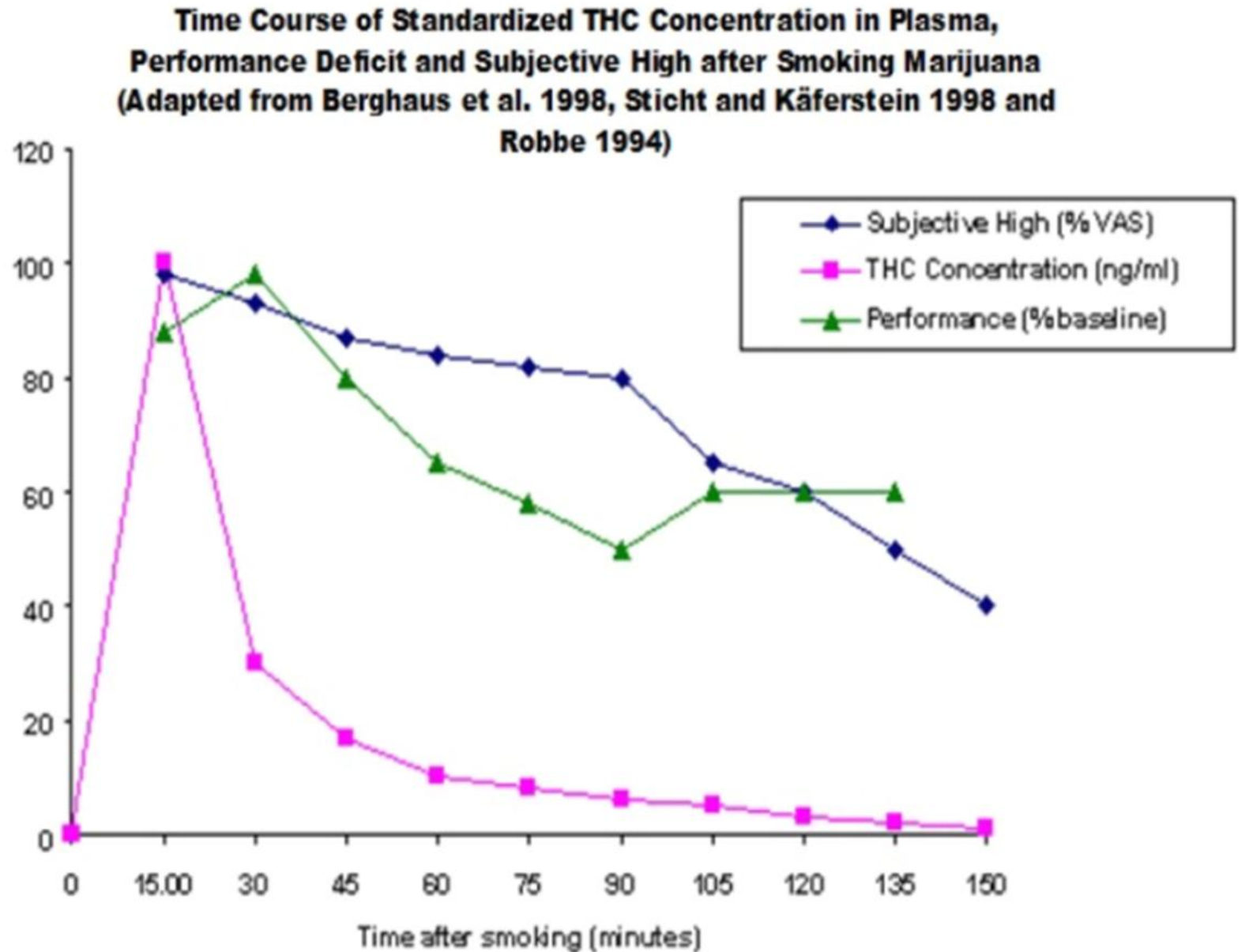
FIGURE 3B

Marijuana (THC) Concentration, Subjective High, and Impairment Over Time After Smoking



Source: Adapted from Compton (2017), Figure 4.

There is no BAC for THC...



Duration of Effects

CONSUMPTION METHOD	TYPES OF CANNABIS PRODUCTS	ONSET OF EFFECTS	DURATION OF EFFECTS
Inhalation	Pre-Rolls, Flower, Vape Pens, Concentrates	Rapid (7-10 min)	Shorter (1-3 hours)
Topicals	Lotions, Salves	Intermediate (30 min-1 hr)	Shorter (1-3 hours)
Sublingual Ingestion	Tinctures	Rapid (10 min-30 min)	Shorter (1-3 hours)
Ingestion	Capsules, Edibles	Slower (1 hr-4 hours)	Longer (4-12 hours)

- Dependent on several factors:
 - how administered AND
 - the product's quality in general
- Marijuana highs usually last for about 2 to 3 hours
 - Smoking = lasts for about 2 hours
 - Orally ingested = about 4-6 hours
- Impairment may last up to 24 hours without awareness of effects
- Many users admit to feeling "fine" after two hours
 - This perception of "feeling fine" is where the problem falls with regard to driving

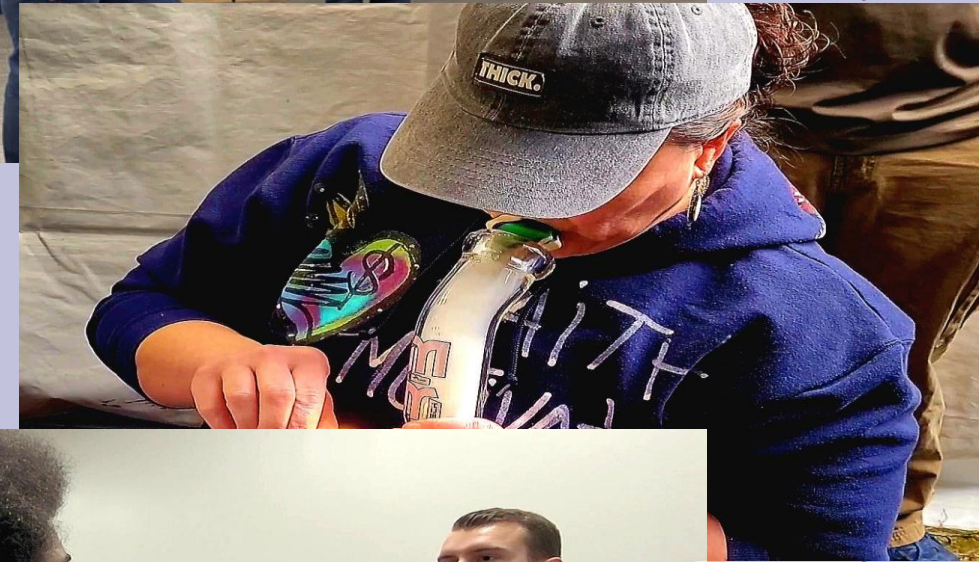


LE's Response to Legalization



Cannabis Labs

- Provided to all officers as required training
- Good arrest decisions
- Educating consumers
- Recognition with a NACo Award, front page of The Wall Street Journal, The Washington Post, Florida and Michigan television outlets, model for numerous others states from other Maryland jurisdictions to Hawaii
- Partnerships – universities, local and state legislators, private industry, dispensaries



Summary

Impaired driving is impaired driving

Alcohol, cannabis, or any other drug are all considered the same. If it impairs your ability to operate a motor vehicle safely than you could get a DUI.

Specialized trainings are increasing recognition potential

Green labs and a push for new roadside technology are helping to improve arrest decision making

Public perception of risk is important

Consequences for driving high are necessary. Responsible consumption is just as important for cannabis as it is for alcohol

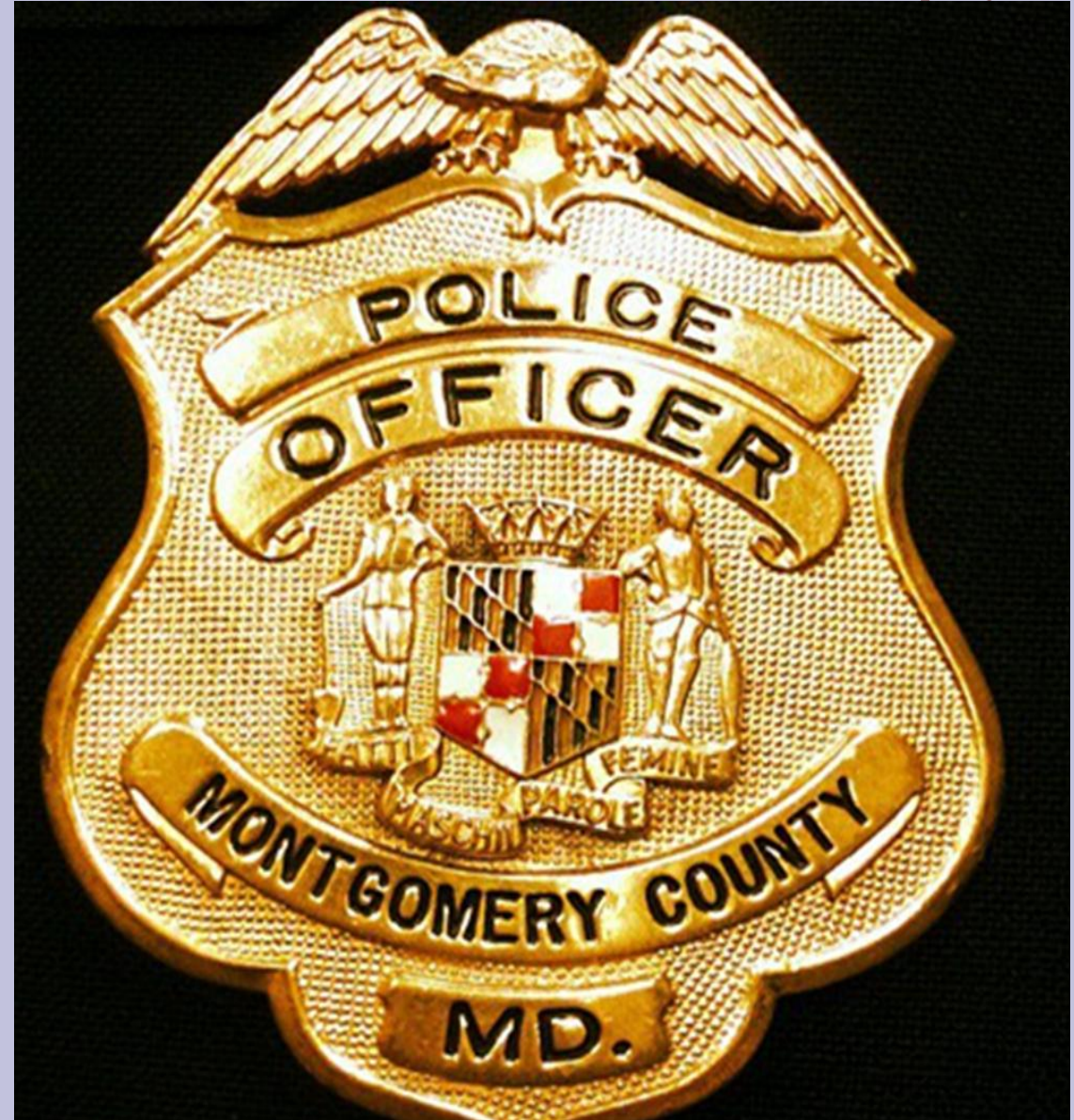
We are all responsible for the educational component

Maryland is just getting started...we need to promote good decision making and responsible use

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Questions?