



Anchorage

SECTIONS

Why do drunk drivers who kill get such light sentences in Alaska?

Marcelle McDannel | February 23, 2015

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OPINION: Drunk drivers are the most uniformly dangerous offenders to the broadest swath of the population, and the punishment should match that danger.

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Our state has yet again distinguished itself as a national leader in violent crime, but most of you reading this column will be happy to know that the risk of ending up a homicide victim is not shared evenly. If you are fortunate enough to have the resources, you can take steps to virtually eliminate your own chances: secure permanent housing in a quiet neighborhood; keep your vices at home; don't conduct any kind of illegal business deals on the street; don't stay in an abusive relationship.

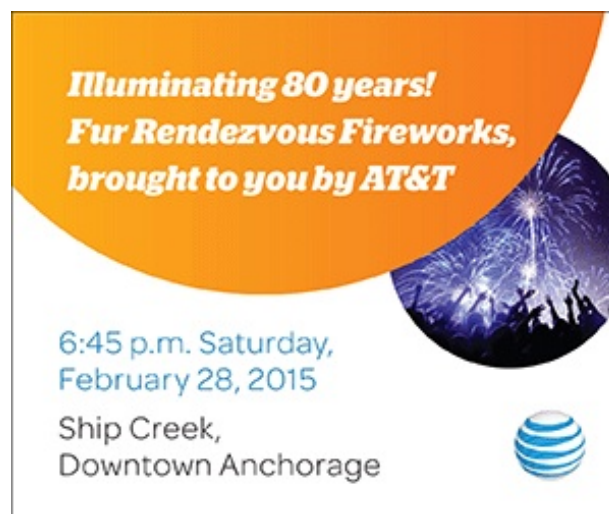
But there remains one type of killer against whom no amount of money, precautions or planning can offer adequate protection: the drunk driver. Even if you lead the dullest of lives, you may still be killed by a drunk driver. Unless you never leave your house (and I seem to recall a news story about a drunk plowing through the wall of someone's house and landing in a bedroom), you're vulnerable.

Given this omnipresent danger, wouldn't you think our legal system would prioritize removing drunk drivers who kill from our society for as long as possible? But curiously, the law treats drunk drivers far more leniently than just about all others who kill through acts of extreme recklessness, which is the basic definition of second-degree murder.

Two weeks ago, Stacey Graham, a man who had gained notoriety by killing two teenage girls, [was sentenced on two second-degree murder convictions in the Anchorage Superior Court](#). His young victims were the epitome of the “innocent bystander.” They had no connection to the defendant whatsoever. They were walking home from a back-to-school shopping trip along a paved bike path. For their deaths, the judge imposed a sentence of 32 years to serve, noting that it was the longest sentence in Alaska’s history for “conduct of this type.”

The prosecutor at Graham’s sentencing urged the court to give him a sentence longer than Anchorage’s last notorious drunk driver, Lori Phillips. Phillips maimed a 31-year-old mother of two and killed her fiancé in a head-on collision. Once again, the two victims had nothing to do with Phillips, no knowledge that she was swerving toward them in a Ford Explorer with a blood alcohol level four times the legal limit. When Phillips was sentenced in 2012 for first-degree assault and second-degree murder, [the judge imposed a total sentence of 20 years to serve](#).

Both Phillips’ and Graham’s sentences were at the very high end of those imposed for drunk drivers who kill. In fact, it’s only been in the last decade or so that these cases were charged as second-degree murder instead of the lesser crime of manslaughter.



But let’s change the facts a bit. Let’s say that Phillips didn’t kill because she was driving drunk, but instead had polished off a bottle of vodka and started shooting a gun into oncoming traffic on the Seward Highway. Or let’s imagine that she had decided to sell some marijuana that she’d been growing in her basement to a friend, but got into an argument over the price and shot him because she was scared he was going for a gun.

The charge of second-degree murder encompasses a wide range of lethal activities: shootings, stabbings, beatings with fists, stomping with feet, hitting with clubs. If Phillips had committed second-degree murder through any of these means -- particularly with her record of prior convictions -- her sentence would have been far in excess of 20 to 30 years. In Alaska’s trial courts, second-degree murder sentences typically start in the 20- to 30-year range and go up from there.

So why do drunk drivers get such a break? They are the most uniformly dangerous to the community at large, and their victims -- unlike a participant in a drug deal, for example -- have made no bad choices that contribute to the defendant’s recklessness. Part of the explanation, I think, lies in how class and race have subconsciously shaped our laws and determined what kind of behaviors the community regards as dangerous.

The law directs courts to impose sufficient jail terms to reflect a principle of sentencing called “community

condemnation.” It’s much easier for the community to condemn crimes associated -- fairly or not -- with people who have been traditionally marginalized: Poor people, people of color, drug addicts, prostitutes. Drunk drivers, on the other hand -- even repeat drunk drivers -- can be teachers, engineers, doctors, judges. They’re our neighbors, and really, who hasn’t driven home after one too many glasses of wine at dinner?

This principle can also be seen in the way our criminal laws treat drinking and driving in comparison to other drug use. Get caught drinking and driving, even if you’re as drunk as Phillips, and it’s still a misdemeanor, punishable by no more than one year in jail, and usually much less than that. Do it again, and it’s still a misdemeanor. It only becomes a felony the third time you’re caught and convicted. But if the police find one rock of crack, a sliver of heroin, a packet of cocaine in your pocket just once, it’s a felony.

Is this really how we want to allocate our state’s dwindling resources? If we can get past the visceral fear that the “war on drugs” has ingrained in us, we have to admit that the repeat drunk driver poses far more danger to the community than someone walking down the street with a crack pipe in their pocket. If we want to make better use of our money, perhaps it’s time to re-examine our priorities so that we incarcerate people based more on the actual danger they pose to the community, rather than how well they conform to our conception of a “criminal.”

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