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For Immediate Release

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DA Issues Public Safety Warning About Dangers of Nitrous Oxide-Related DUIs

Troubling Increase Seen in DUI Drivers Doing Illegal ‘Whippets’

San Diego County District Attorney [Summer Stephan](#) said today her office has seen a notable increase in drivers arrested for driving under the influence of nitrous oxide and that since October 2024, the San Diego County District Attorney’s DUI Homicide Team has noted an uptick in DUI fatality cases involving the use, or suspected use, of nitrous oxide. Inhaling nitrous oxide or “whippets” is a popular drug that creates a euphoric high by cutting off oxygen to the user’s brain.

During an 11-month period, the DA filed charges in three fatality cases involving the use, or suspected use, of nitrous oxide. Comparatively, prosecutors filed no nitrous oxide or suspected nitrous oxide fatality cases the preceding year.

In addition, between October 2024 and September 2025, the San Diego County Sheriff’s Crime Lab received 30 requests for inhalant testing; 29 of those cases involved DUI drivers. Of the 29 cases involving DUI drivers, 18 cases involved traffic collisions, eight cases were felonies, and three of the eight felony cases were fatalities. The numbers reported by the Sheriff’s Crime Lab translate to one suspected inhalant DUI occurring every other week in the county.

“The increase we’re seeing of drivers abusing this drug is extremely concerning and it’s important that we curb this trend before it gets worse,” said DA Stephan. “We’re currently prosecuting three cases that include evidence of DUI drivers believed to have done ‘whippets’ before the separate crashes that killed seriously injured their passengers or other drivers. People need to know that possessing these nitrous oxide canisters with the intention of abusing them is against the law.”

“While users seek a short time high, the practice carries serious long-term risks,” said San Diego County Sheriff Kelly Martinez. “This growing trend particularly among young people, has been driven by social media promotion, easy access to large-volume containers, and flavored products. I appreciate the District Attorney’s support in these cases and the commitment to bringing dangerous trends to the forefront of our collective discussions.”

According to a National Survey on Drug Use and Health, more than 13 million Americans have misused nitrous oxide in their lifetime. [The CDC reported](#) notable increases in poison

center cases, emergency department visits, and EMS responses involving nitrous oxide in 2023. Nitrous oxide is legal to buy and possess for culinary uses (i.e. to create whipped cream) and vehicle repair (i.e. to increase car engine power). Nitrous oxide is also a legal medical sedative used by doctors and dentists. Due to the myriad legitimate uses of nitrous oxide, it is not considered a controlled substance under federal law. However, California has criminalized the use of nitrous oxide for any recreational purpose.

Under Penal Code 381(b): possession of nitrous oxide with intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, satisfaction, stupefaction, or dulling the senses or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes, or who is under the influence of such a substance or material is guilty of a misdemeanor. Unfortunately, proving a DUI driver was abusing nitrous oxide through toxicology testing is difficult because the drug has rapid absorption and elimination rates, leaving a user's system within a minute or two.

Despite the limited legal uses, smoke, vape, and even sex shops offer cannisters of nitrous oxide that display colorful branding and are offered in flavors like grape, cherry, and blueberry. It is readily apparent that the cannister retailers are abusing a legal loophole and targeting a young population. TikTok influencers in Los Angeles have promoted retailers that sell nitrous oxide products and recently TikTok banned nitrous-related search terms due to the surge in video clips of young people taking hits of the gas before falling on their faces.

In March of this year, the FDA first [issued a warning](#) against the inhalation of nitrous oxide products, including "Cosmic Gas" and "Miami Magic," sold via online retailers like Amazon and at smoke shops or gas stations. In June 2025, the FDA updated its warning to include additional product names like "Exotic Whip" and "Mass Gas" featuring brightly colored canisters evoking psychedelic product packaging akin to many cannabis products.

In response to the growing concern over the recreational misuse of the substance, cities throughout California have begun adopting ordinances to restrict or entirely ban the sale and distribution of nitrous oxide in an effort to hold retailers accountable. The California cities of Los Angeles, Santa Ana and Stanton, and Orange County have all passed ordinances. San Diego does not have such an ordinance in place. In 2017, Rialto, Calif. became the first city in the United States to ban certain sales of nitrous oxide following the death of the mayor's 17-year-old son in a solo vehicle collision when the driver of the vehicle he was a passenger in inhaled nitrous oxide, passed out, and crashed into a tree.

Inhalant requests received by the Sheriff's lab are a combination of both requests for nitrous oxide (NOS/whippets/laughing gas) and 1,1-difluoroethane (DFE/dust-off).

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About the San Diego County District Attorney's Office

The San Diego County DA's Office prosecutes all felony crimes in the county and misdemeanor crimes committed outside the City of San Diego. The office files about 40,000 criminal cases a year and balances prosecution with numerous crime prevention programs. District Attorney Summer Stephan leads the office of more than 1,000 dedicated employees who pursue fair and equal justice, and support victims daily across San Diego County.

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