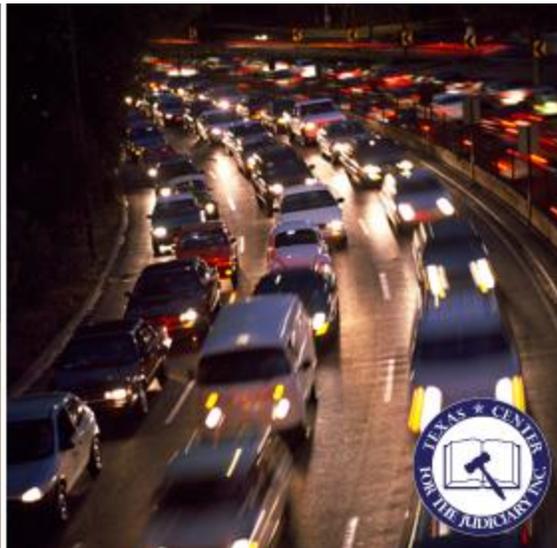


THE DWI NEWSLETTER

brought to you by

THE TEXAS CENTER FOR
THE JUDICIARY *and*
THE TEXAS DEPARTMENT
OF TRANSPORTATION



Spring 2013 Newsletter

Table of Contents

- [In This Issue](#)
- [Message from the Judicial Resource Liaison](#)
- [Upcoming Programs](#)
- [Education Spotlight: DWI College for Court Teams](#)
- [Conference Wrap-Up: Winter Regional Conferences](#)
- [Legislative Update](#)
- [Supreme Court Decision in Missouri v. McNeely](#)
- [In The News](#)
- [DWI Court Resources](#)
- [Contact Us](#)

IN THIS ISSUE



Save a Life[™]
Texas Department of Transportation

In the Spring 2013 Edition of the DWI Newsletter, the "Report from the Judicial Resource Liaison" addresses the recent activities engaged in by [Judge Laura Weiser](#), Judicial Resource Liaison.

Contained herein is information concerning Texas Center Traffic Safety Grant conferences related to impaired driving issues.

The "Educational Spotlight" focuses on the upcoming DWI College for DWI Court Teams and the new Spotlight on Success initiative.

The success of the TxDOT-sponsored sessions conducted at the Winter Regional Conferences is highlighted.

Judge Weiser provides a quick look at some of the bills filed in the 83rd Legislature that deal with DWI and Specialty Courts in the "Legislative Update."

The Supreme Court's decision in [Missouri v. McNeely](#) is presented.

"In the News" provides a link to recent news articles involving impaired driving issues from sources local, statewide, national and international.

We are continuously adding to the [Texas Judges' DWI Resource Website](#) with news articles and upcoming educational opportunities. We hope you find information in this Newsletter interesting and helpful. [Back To Top](#)

MESSAGE FROM THE JUDICIAL RESOURCE LIAISON

Judge Laura A. Weiser



Thank you for the warm welcome I have received as the new Judicial Resource Liaison. I have benefitted so much from the fabulous gentlemen who came before me. Judge Hodges and Judge Atkinson have done amazing work here in Texas and throughout the nation in the areas of impaired driving and traffic safety. I can only hope to continue in that tradition.

April is Alcohol Awareness Month. This year's theme is "Help for Today, Hope for Tomorrow". Many of our TxDOT Program Partners are planning special activities related to this theme throughout the state. The Texas Center for the Judiciary hosted a TxDOT Traffic Safety Program Partners meeting on February 13, 2013. This meeting provides an opportunity for those operating under TxDOT Alcohol and Other Drug Countermeasures Grants to share ideas and develop cooperative projects. I was able to meet many of the program partners and hear about their exciting plans for the coming year.

As we look forward to spring, Holly Doran, TxDOT Program Director, and I will be busy with upcoming programs. The end of April will find us in El Paso providing training to DWI Court teams in the DWI Court model and assisting them as they establish new DWI Courts throughout the state. The DWI Curriculum Committee met April 5th to put the finishing touches on the alcohol monitoring and blood alcohol analysis programs planned for the Criminal Justice Conference scheduled for May 23-24 and finalized the agenda for July's DWI College for DWI Court Teams.

We are monitoring the various bills pending in the Legislature that affect our DWI laws, specialty courts and other areas of interest to the judiciary. You'll see a list in this newsletter of the bills that deal with DWI and specialty courts.

We always welcome input as to any new and different activities and projects, that would assist those handling impaired driving issues.

Laura A. Weiser

[Back To Top](#)

UPCOMING PROGRAMS



Criminal Justice Conference

May 23-24, 2013

Hilton Bella Harbor, Rockwall

The TxDOT Traffic Safety Grant will sponsor three one-hour DWI technology breakout sessions: "Understanding Alcohol Monitoring Technologies," "CSCD Perspective on Alcohol Monitoring" and "Blood Alcohol Analysis and Related Issues."

DWI College for DWI Court Teams and Student Conduct Officers



July 1 – July 2, 2013

Omni Downtown Austin

All members of DWI Court Teams are invited to attend: judges, prosecutors, defense attorneys, probation officers, treatment providers, court administrators, law enforcement officers, researchers and evaluators.

DWI Summit: Nacogdoches

August 15, 2013

Hotel Fredonia, Nacogdoches



The DWI Summit is a four-hour continuing judicial education program targeting rural jurisdictions. The agenda is designed especially for Texas judges by the Texas Center for the Judiciary's DWI Curriculum Committee in conjunction with the Judicial Projects Director of the Texas Association of Counties.

2013 Annual Judicial Education Conference

September 3-6, 2013
JW Marriott, San Antonio

The Texas Traffic Safety Grant will sponsor three one-hour DWI breakout sessions: "Case Law and Legislative Update," and a two-part session entitled "Evidence Based Sentencing: What Works for DWI Offenders."

[Back To Top](#)

EDUCATION SPOTLIGHT: DWI COLLEGE FOR COURT TEAMS

The 2013 DWI College for DWI Court Teams will take place June 30 – July 2, 2013 at the Omni Downtown Austin. For more details about the conference or to register, please visit the conference [website](#). DWI Court Judges, please note that there will be a dinner with facilitated discussion on Monday evening, July 1. This year's College will also provide an opportunity to highlight accomplishments with our new spotlight on success initiative.



Spotlight on Success

Do you know a DWI Court that has been extraordinarily successful in implementing DWI Court Guiding Principle #5-Developing Community Partnerships? Nominate them for recognition at the DWI College. Self nominations are welcome. Please complete the [nomination form](#) and return it to [Holly Doran](#) by June 1, 2013.

Do you have a team member that goes above and beyond the call of duty? Nominate them to be recognized at the DWI College. You may nominate team members in the following categories:

- | | |
|------------------|-------------------------------|
| Judge | Treatment Provider |
| Prosecutor | Community Supervision Officer |
| Defense Attorney | Law Enforcement |
| Evaluator | Program Coordinator |

Please complete the nomination form [here](#) and return it to [Holly Doran](#) by June 1st.

[Back To Top](#)

CONFERENCE WRAP-UP: WINTER REGIONAL CONFERENCES

The Texas Traffic Safety Grant Program would like to thank Judge Randy Gray, Comal County Court at Law #1, Ms. Tracie Palmer, Defense Attorney for Harris County Court at Law #11 SOBER Court, and Ms. Rebekah Hibbs, Manager, Enforcement and Compliance, Texas Department of Public Safety, for their time and effort presenting at the Winter Regional Conferences. Judge Gray's presentation on blood search warrants and Ms. Palmer's and Ms. Hibbs' presentation on occupational drivers' licenses were well received. Comments

from the 200+ judges that attended these TxDOT-sponsored sessions included:



What's New With Blood Discovery Orders?

"Excellent presentation. Speaker well informed; materials were extremely relevant."

"Great speaker and very practical applications for me."

"Nuts and bolts. Practical topic and useful info."



Latest on Occupational Driver's License

"Speakers were extremely knowledgeable and presented a complicated topic in an easily understandable way."

"Felt like drinking from a fire hose because so much info in such a short period."

"Detailed information from the agency involved lets court know the best ways to handle individual cases."

The PowerPoints for each presentation can be found by clicking on the links above.

[Back To Top](#)

LEGISLATIVE UPDATE

Judge Laura A. Weiser



As of print time, these are some of the bills filed in the 83rd Legislature that deal with DWI and Specialty Courts

HB 790 by Rep. Sylvester Turner: Repeals the Driver Responsibility Program (surcharges)

Companion **Bill 104** by Rep. Larry Gonzales

HB 260 by Rep. Callegari: Mandates ignition interlock for DWI first offense

SB 98 by Senator Patrick: Provides for deferred adjudication for first time DWI offenses

SB 462 by Senator Huffman: Consolidates specialty court legislation into a new Subtitle K, Title 2 of the Government Code; Requires Governor to establish a Specialty Courts Advisory Council; Council is to make best practices recommendations to the Criminal Justice Division of the Governor's Office, Mandates registration with the Governor's Office and adherence to the best practices as recommended by the Advisory Council in

order to be eligible to receive any state or federal grant funds administered by any state agency.

HB 2131 by Rep. Dutton: Mandates creation of a DIVERT ("Direct Intervention using Voluntary Education, Restitution, and Treatment Program") court for counties with a population over 200,000 if the county applies for State and/or Federal funds and receives them.

HB 24 by Rep. Fischer Martinez: provides for the creation of an Executive Commissioner for the Prevention of Driving While Intoxicated

HB 516 by Rep. Pitts: Allows blood search warrants to be executed in a contiguous county even if Judge's jurisdiction does not extend to that county.

[Back To Top](#)

SUPREME COURT DECISION IN MISSOURI V. MCNEELY



SUPREME COURT OF THE UNITED STATES

Short name: MISSOURI v. MCNEELY

Date argued/date decided: January 9, 2013/ April 17, 2013

Docket number: No. 11-1425

Respondant McNeely was stopped by a Missouri police officer for speeding and crossing the centerline. After declining to take a breath test to measure his blood alcohol concentration (BAC), he was arrested and taken to a nearby hospital for blood testing. The officer never attempted to secure a search warrant. McNeely refused to consent to the blood test, but the officer directed a lab technician to take a sample. McNeely's BAC tested well above the legal limit, and he was charged with driving while intoxicated (DWI). He moved to suppress the blood test result, arguing that taking his blood without a warrant violated his Fourth Amendment rights. The trial court agreed, concluding that the exigency exception to the warrant requirement did not apply because, apart from the fact that McNeely's blood alcohol was dissipating, no circumstances suggested that the officer faced an emergency. The State Supreme Court affirmed, relying on *Schmerber v. California*, 384 U. S. 757, in which this Court upheld a DWI suspect's warrantless blood test where the officer "might reasonably have believed that he was confronted with an emergency, in which the delay necessary to obtain a warrant, under the circumstances,, threatened 'the destruction of evidence,' " *id.*, at 770. This case, the state court found, involved a routine DWI investigation where no factors other than the natural dissipation of blood alcohol suggested that there was an emergency, and, thus, the consensual warrantless test violated McNeely's right to be free from unreasonable searches of his person.

Held: The judgment is affirmed. The full opinion can be found [here](#).

[Back To Top](#)

IN THE NEWS



Bexar first: DWI Murder verdict

(San Antonio Express, 04/18/2013)

For the first time in Bexar County, a jury on Thursday convicted a habitual drunken driver for "felony murder"

instead of intoxication manslaughter for the death of a 10-year-old and her mother.

Supreme Court rules sobriety blood tests require warrants

(Los Angeles Times, 4/17/2013)

In Missouri vs. McNeely, justices uphold the 4th Amendment's ban on unreasonable searches. Emergencies are the exception, not the rule, they say.

Texas lawmakers want an end to DWI surcharge law

(Dallas Morning News, 03/25/2013)

EL PASO, Texas — The number of drunken driving accidents in Texas has gone up in the last 10 years, despite a state law that forces convicted drivers to pay stiffer fines.

Nestande not unusual in avoiding prison time for auto death

(Austin American-Statesman, 03/02/2013)

Nine days ago, when a Travis County jury recommended Gabrielle Nestande receive only probation in the May 2011 hit-and-run death of Courtney Griffin, many spectators let out a collective gasp. Outside the courtroom, Griffin's mother expressed the outrage and bafflement felt by many who had followed the trial.

'High tolerance' cited in man's drunk driving win

(The Local - Sweden, 02/06/2013)

The man, who works night shifts in Ystad, southern Sweden, told the court he had been drinking heavily on the day he was pulled over by police in November last year, wrote the Skånskan newspaper.

Crime lab backlogs weigh down court system

(Austin American-Statesmen, 02/02/2013)

A mounting backlog of samples awaiting testing at the Austin Police Department crime lab is causing unprecedented delays in the resolution of criminal cases, preventing some from going forward for at least six months and stressing an already bustling county judicial system, documents obtained by the American-Statesman show.

[Back To Top](#)

DWI COURT RESOURCES



The National Center for DWI Courts (NCDC), a professional services division of the National Association of Drug Court Professionals (NADCP), is the only dedicated advocacy, policy, training and technical support organization for DWI Courts in the nation. It is an excellent place to locate resources for DWI Courts. Below are a few that may be helpful to you:

The 10 Guiding Principles for DWI Courts - DWI courts follow the Ten Key Components of Drug Courts and the Guiding Principles of DWI Courts, as established by the National Association of Drug Court Professionals. It is the Guiding Principles that set out the guidelines for DWI Courts.

Ignition Interlock Device Guidelines for DWI Courts - Ignition Interlocks are a proven tool to reduce the incidents of impaired driving and more and more states are requiring their use for individuals convicted of impaired driving. Some states have tied DWI Courts and Ignition Interlocks together providing the offenders/participants the opportunity to get a restricted/limited driver's license if the person is in a DWI Court and has an ignition interlock on his/her car. To help DWI Courts understand the role of interlocks in their program, the NCDC has developed the Ignition Interlock Guidelines for DWI Courts. These are designed to give a DWI Court some information about interlocks and how the DWI Court may want to use them.

The Bottom Line -This new NCDC publication will provide practitioners and policy makers with a quick-read on issues that DWI Courts deal with every day and what they need to know about it. This inaugural edition discusses why DWI Courts focus on the alcohol dependent DWI offender.

[Back To Top](#)

CONTACT US

This newsletter has been provided by the Texas Center for the Judiciary pursuant to a grant from TxDOT. If you have suggestions for items to be included in this Newsletter, or wish to be removed from the Newsletter mailing list, please contact:

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The DWI Listserv is now open to all judges handling DWI cases. If you would like to be added to the Listserv please send an email to hollyd@yourhonor.com.

[Back To Top](#)