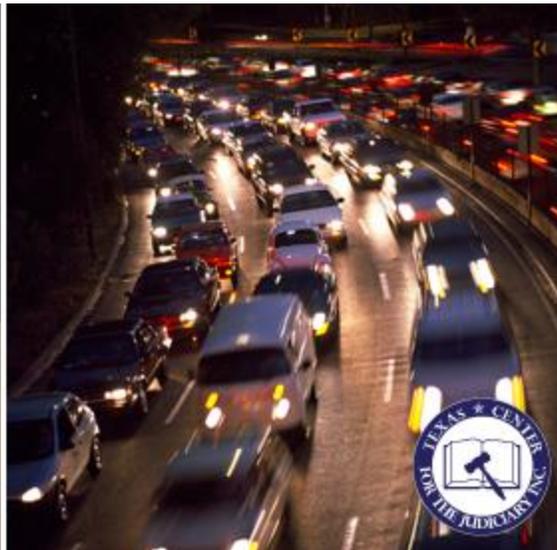


THE DWI NEWSLETTER

brought to you by

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



Summer 2012 Newsletter

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IN THIS ISSUE



Save a Life™

Texas Department of Transportation

In the Summer 2012 Edition of the DWI Newsletter will be found a report from [Judge Mark Atkinson](#), Judicial Resource Liaison and [Holly Doran](#), TxDOT Traffic Safety Grant Program, Program Director, regarding their activities engaged in on behalf of the Program.

The Educational Spotlight focuses on the TxDOT-sponsored sessions at the upcoming Annual Judicial Education Conference to be held in Houston, September 9-12, 2012.

The success of the 2012 DWI College for DWI Court Teams, Administrative Law Judges, Student Conduct Officers and County Judges is highlighted.

Texas' participation in Preusser Research Group's extensive project, *Case Studies of State Interlock Programs*, is detailed.

The recently enacted federal transportation bill is examined by impaired driving and DWI Court stakeholders.

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

Links are provided to other newsletters of interest to judges who preside over DWI cases.

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REPORT FROM THE TEXAS TRAFFIC SAFETY GRANT PROGRAM

Judge Mark D. Atkinson, TxDOT Judicial Resource Liaison, and Ms. Holly Doran, TxDOT Program Director

Summer 2012 was a busy time for us at the Texas Center Traffic Safety Grant Program. Conducting educational conferences, trainings and traveling to provide technical assistance to Texas judges and court personnel made for an active period.



In May, two outstanding presentations were given at the Criminal Justice Conference held in Dallas. Ms. Deandra Grant, Attorney, The Law Offices of Deandra M. Grant PC, and Mr. Terry Robinson, Technical Supervisor, Southwestern Institute of Forensic Sciences, presented "Back to Basics: Intoxilyzer 5000" which provided a balanced look from both the state and defense perspective about the most common breath alcohol analysis instrument licensed in the State of Texas. Ms. Sally Bridges, Judicial Services Liaison, Smart Start Inc., Mr. Terry Fain, Western Regional Director, Alcohol Monitoring Systems, and Mr. Brad Keays, CEO, SOBERLINK, discussed the state of current alcohol monitoring technologies and previewed the future of the industry and technology in the session entitled "Alcohol Monitoring Technology - Today and Tomorrow." Both of these breakout sessions were enthusiastically received by the judges in attendance.

We spent much of the summer preparing for the DWI College for DWI Court Teams, Administrative Law Judges, Student Conduct Officers and County Judges. Activities included conducting pre-conference surveys, communicating with faculty and attendees, and addressing the educational needs of the various groups in attendance.



Special thanks are in order for our Texas judges and DWI Court team members who gave of their time to act as faculty and facilitators. They include Judge Diane Bull, Judge Randy Gray, Judge Ruben Reyes, Judge Dib Waldrip, Judge Ray Wheless, Judge Tim Wright, Ms. Tracie Palmer, Ms. Bernadette Hernandez-Haby, Mr. Pierre Rivolta, and the members of the Williamson County and El Paso DWI/Drug Court teams. Thanks are also in order for the DWI Curriculum Committee, led by Chair, Judge Patrice McDonald, for designing the overall conference program, Ms. Mikiba Morehead, Program

Coordinator for Student Conduct Services, Texas A&M University, who designed the program for the

Student Conduct Officers and Judge John Beeler, Administrative License Suspension and Field Enforcement Team Leader, who worked with the National Judicial College to determine the curriculum for the Administrative Law Judges. A conference wrap-up with links to the presentations can be found below.

The past few months also provided opportunities for us to attend training conferences around the country. By attending the National Association of Drug Court Professionals 18th Annual Training Conference held in Nashville, Tennessee, the 2012 Lifesavers Conference held in Orlando, Florida, the National Transportation Safety Board Forum: Reaching Zero, Actions to Eliminate Substance-Impaired Driving held in Washington, DC, and the 2012 Traffic Safety Conference held in San Antonio, Texas, we learned about national and statewide trends in handling impaired driving cases.

We also continued our regular monthly Grant activities which included Judge Atkinson's sitting by assignment as a visiting judge, observational visits to the innovative model DWI Court in Williamson County, and responding to questions and addressing issues from judges and court personnel.

For a more detailed review of the activities conducted over the past months, since the publication of the Spring Edition DWI Newsletter, please click here to read the "Traffic Safety Grant Program Activities Recap." We provide it for review in order to share the types of activities the TxDOT Traffic Safety Grant engages in. We always welcome input as to new and different activities and projects, which would assist those handling impaired driving issues.

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EDUCATIONAL SPOTLIGHT: ANNUAL JUDICIAL EDUCATION CONFERENCE



The 2012 Annual Judicial Education Conference

is quickly approaching. Please join us September 9 - 12, at the Westin Galleria and Westin Oaks in Houston. The Curriculum

Committee, officers of the Judicial Section, and Texas Center staff have worked together to build an educational and engaging program. Inspired by the 2012 Olympic Games, the conference theme is "Vision, Discipline, Courage" – something that every jurist strives to bring to the bench.

The DWI Curriculum Committee has also worked to put together the following DWI-focused breakout sessions sponsored by the TxDOT Grant Program:

No Pre-requisites Required: Gas Chromatography and Mass Spectrometry for the Non-Scientist Judge

Dr. Sarah Kerrigan

Tuesday, September 11, 1:30 p.m. – 2:30 p.m.

In this first session, Dr. Sarah Kerrigan will provide a primer, for the non-scientist, of the basic principles of gas chromatography, including the operation of the headspace gas chromatograph, for the testing for alcohol, and the gas chromatograph mass spectrometer for the testing of drugs. She will also address principals of laboratory quality control and quality assurance and how labs document and respond to nonconforming events.

Challenges to Analytical Testing in Blood Draw Cases

Dr. Sarah Kerrigan

Tuesday, September 11, 2:45 p.m. – 3:45 p.m.



Dr. Kerrigan will discuss pre-analytical testing issues (sample storage, expiration dates, drawsite prep, material recalls) that may affect lab testing results; laboratory record keeping (What's important? What's not?), discovery requests (review of "standard" discovery orders – What do they want and what should they get?) and laboratory compliance with discovery orders. Included in this session will be a case update in view of *Melendez- Diaz v. Massachusetts*, 557 U.S. 305 (2009) and *Bullcoming v. New Mexico*, 131 S.Ct. 2705 (2011). Judges attending

this session will benefit from attending Dr. Kerrigan's earlier session.

DPS Addresses Alcohol and Drug Conviction Reporting

Ms. Cheryl Garren and Ms. Patti McBee

Tuesday, September 11, 4:00 p.m. – 5:00 p.m.

This session will discuss the basic process for conviction reporting of alcohol, drug and other offenses with court ordered or statutory requirements, such as ignition interlock devices, education programs and drivers' license suspensions. It will include a detailed overview of the appropriate forms to use and when to use them, the fields required to be reported, when to report suspension dates for these offenses and the importance of timely and accurate reporting.

We look forward to seeing you in Houston!

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2012 DWI COLLEGE WRAP-UP

The 2012 DWI College for DWI Court Teams, Student Conduct Officers,



Administrative Law Judges and County Judges was held July 30 – August 1, 2012 at the Omni Downtown Austin.

This year's College once again began with a special session for judges conducting the Drug Court-modeled DWI Court dockets and included issues specific to DWI Courts, including reports from Judge Dib Waldrip, 433rd District Court, Comal County, and Judge Ray Wheless, 366th District

Court, Collin County, on the recently enacted Specialty Courts Advisory Council and Criminal Justice Advisory Council, respectively. A facilitated discussion of the 10 key components of Drug Courts, as embodied in Chapter 469 of the Texas Health and Safety Code, was led by Ms. Robin Wosje, Director of Grant Projects & Special Initiatives, The National Judicial College, and Judge Randy Gray, Comal County Court at Law #1.

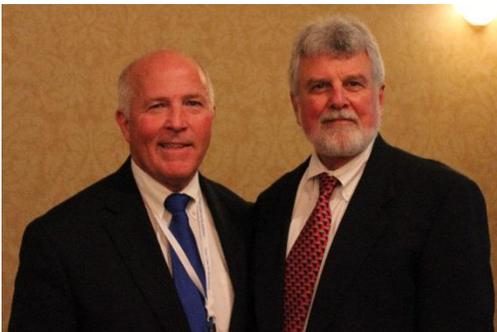
The DWI College commenced immediately following the morning DWI Court judges' session. DWI Court team members, which included judges, prosecutors, defense attorneys, probation personnel, treatment providers, law enforcement personnel, and data evaluators, attended the conference opening session "DWI Courts: Sobriety AND Public Safety," presented by David Wallace, Director, National Center for DWI Courts. Mr. Pierre Rivolta, Ph. D. Candidate & Doctoral Teaching

Fellow, Sam Houston State University, and Mr. Jim Bethke, Executive Director, Texas Indigent Defense Commission, outlined the significance of record keeping and data collection in their presentation “The Importance of Evaluation.” Monday ended with the session “Drug Testing – What’s It All About?” as Ms. Karen Barnes, Drug Court Supervisor, Maricopa County Adult Probation, detailed the different ways participants undermine drug testing methods.



Tuesday morning, July 31, continued to address the importance of evaluation with a session on “Screening and Risk Assessment” by Dr. Tony Fabelo, Director of Research, Justice Center of the Council of State Governments. Judge Diane Bull, Harris County Criminal Court at Law # 11, Ms. Bernadette Hernandez-Haby, Assistant District Attorney, Harris County, and Ms. Tracie Palmer, Attorney, Harris County Criminal Court at Law #11, followed with a three-part presentation that included a look at ignition interlock requirements and compliance, a comparison of various alcohol monitoring technologies, and an in-depth review of occupational drivers license requirements and procedures. Ms. Rebekah Hibbs, Manager, Enforcement and Compliance Services, Texas Department of Public Safety, and other Department of Public Safety representatives were also on hand to answer questions as the related to occupational drivers licenses.

Following a facilitated lunch discussion, where team members were given an opportunity to interact with their like counterparts from other DWI Court teams, Dr. Douglas Marlowe, Chief of Science, Policy & Law, National Association of Drug Court Professionals, gave a two-hour presentation, “Practical Incentives and Sanctions,” which addressed the science behind graduated sanctions and incentives, and provided teams concrete examples of each. In Tuesday’s concluding session, Mr. Paul Cary, Scientific Director, Toxicology and Drug Monitoring Laboratory, University of Missouri Health Care, provided a sobering look at the history, current trends, and future of designer drugs.



The final day of the conference began with a session entitled, “Constitutionality,” presented by Judge Ruben Reyes, 72nd District Court, Lubbock County. Judge Reyes identified some potentially problematic areas that DWI Courts are faced with when it comes to confidentiality and due process issues. The conference concluded with a lively presentation by Judge Ray Wheless and Judge Tim Wright, Williamson County Court at Law #2, entitled “Defining the Team.” Judge Wheless and Judge Wright were entertaining and enthusiastic as they engaged the audience in dialouge regarding team roles.

Presentations and related materials can be found on the [home page](#) of the Texas Judges’ DWI Resource Website or by clicking [here](#).

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CASE STUDIES OF STATE INTERLOCK PROGRAMS

Ms. Tara Casanova Powell M.S., Senior Research Associate, Preusser Research Group



Background: Last year, the Governors Highway Safety Administration (GHSA) entered into a cooperative agreement with the National Highway Traffic Safety Administration (NHTSA) to: 1) assist with the Ignition Interlock Summit that was held November 2010, 2) prepare a report on the Summit proceedings and 3) evaluate one or more aspects of state ignition interlock programs. The evaluation effort is supported with funding from the Centers for Disease Control and Prevention (CDCP) through an agreement with NHTSA.

The first two tasks have been successfully completed and now GHSA is working on the third.

After a competitive bid process, GHSA, with the concurrence of NHTSA and CDCP, selected Preusser Research Group (PRG) to evaluate two questions with respect to state ignition interlock programs: 1) how can states increase the proportion of offenders eligible for or required to use an interlock who, in fact, actually install one (the penetration question), and 2) how can interlock programs be structured to help reduce drinking and driving after the interlock has been removed from the offender's vehicle (the recidivism question)? The answers to these questions will help make state interlock programs have a broader reach and be more effective. As more and more states become involved in interlock programs, it is critical that they have the most current and detailed research about good interlock program practices, and this study will significantly help in that regard.

NHTSA, in cooperation with GHSA, conducted a National Ignition Interlock Summit for states in Washington DC in November 2010. At the summit, states shared their strategies and challenges and identified issues on which more information would be useful. The Preusser Research Group, under a NHTSA contract to GHSA with funding from the CDCP, is investigating these issues. The first two topics to be studied are:

- How can states increase interlock penetration – the proportion of offenders required or eligible to install an interlock who, in fact, install one?
- How can states reduce post-interlock recidivism – extend the interlock's effect of reducing impaired-driving recidivism after the interlock is removed from the offender's vehicle?

To continue reading about the study, click [here](#).

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CENTURY COUNCIL LAUNCHES UNIQUE RESOURCE FOR VIRGINIA JUDGES

Jaime Alvis Lotter, Director, Government Relations & Traffic Safety, The Century Council

Only in the Commonwealth of Virginia are teens and their parents required to attend a new drivers licensing ceremony conducted by a judge. It is a unique and important opportunity to underscore the fact that driving is a significant responsibility and to remind teens that driving is a privilege, not a right.

To support these efforts, The Century Council (TCC) has developed the *I Know Everything* program which includes a facilitator's guide for the presiding judge that pulls together current facts on teen driver safety, tips for parents and teens as they embark on the freedom of driving, a dynamic video on

key safe driving messages and general resources for further information. The materials included in the facilitator's guide was developed in collaboration with the Virginia Supreme Court.

TCC is hopeful that other states will implement the *I Know Everything* program in their courts, in schools and elsewhere that teens learn to drive safely. To encourage states to do so, TCC will be working with various state leaders, like Judicial Outreach Liaisons, to help spread the word.

For more information and to download any of the program materials, please visit the website at: www.iknoweverything.org.

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A LOOK AT THE NEW TRANSPORTATION BILL

On July 6, 2012, President Obama signed into law the transportation reauthorization bill entitled Moving Ahead for Progress in the 21st Century Act (MAP-21). The bill determines impaired driving countermeasures as the top national priority safety program, authorizes transportation funding nationwide, including grants for impaired driving prevention efforts, and includes two major ignition interlock provisions. Below find a collection of responses, press releases and summaries from impaired driving stakeholders:



Coalition of Interlock Manufacturer's

President Obama signed into law the transportation reauthorization bill that includes two major ignition interlock provisions the Coalition of Ignition Interlock Manufacturers had been working to secure. Combined, these new provisions will allow states to pass laws that cover all offenders while also allowing them to implement them with common sense solutions that are relevant to their particular state.



NHTSA will have a new incentive grant program that will provide states that pass laws that require all offenders above a .08 BAC to have an ignition interlock installed on their vehicle. The relevant bill language is found in the National Priority Safety Programs section and can be found [here](#).

The Century Council

Congress passes MAP-21, a landmark transportation bill



Within the National Priority Safety Programs portion of the bill, there is a section that provides funding to states for Impaired Driving Countermeasures. It is within this section that Congress has shown excellent leadership in dealing with Hardcore Drunk Drivers. As states put together plans and grant requests to address drunk drivers on their highways, they can qualify for grants if they plan on implementing certain programs. The Century Council, and many of our partners, is happy to see that many of those programs address the Hardcore Drunk Driver and provide the needed resources for criminal justice professionals. The full blog can be found [here](#).

National Center for DWI Courts (NCDC)

NCDC Applauds Passage of Map-21: DWI Courts Named as Authorized Program for U.S. Department of Transportation Grants.

“The NCDC is extremely pleased to see DWI Courts specifically mentioned as one of the authorized programs for funding,” said David Wallace, Director of the NCDC. “This is a clear indication that Congress recognizes the success of DWI Courts and supports their expansion. There is no doubt that DWI Courts are an important component in any comprehensive and effective approach to end impaired driving.” Continue reading [here](#)...

U.S. Department of Transportation, Federal Highway Administration



U.S. Department
of Transportation
**Federal Highway
Administration**

MAP-21 creates a streamlined, performance-based, and multimodal program to address the many challenges facing the U.S. transportation system. These challenges include improving safety, maintaining infrastructure condition, reducing traffic congestion, improving efficiency of the system and freight movement, protecting the environment, and reducing delays in project delivery. Continue reading [here](#)...

The complete transportation bill can be found [here](#).

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IN THE NEWS



Appeals court: 'Huffing' not covered under drunk, drugged driving laws

(The Oshkosh Northwestern, August 1, 2012)

MADISON — A state appeals court Wednesday ruled in a Winnebago County case that motorists who “huff,” or inhale the contents of a spray can to get high, should be prosecuted under reckless and not drunken driving statutes.

Designer drugs, probation don't mix

(Sun Sentinel, 07/17/2012) Oakland Park resident Jimmy Hewett thought he could smoke Spice even though he was on probation and subject to random drug testing.

He thought wrong.

Alcohol-sensing technology could become standard in all cars

(USA Today, 07/03/2012) The long-term transportation funding bill just approved by Congress includes funds for researching alcohol-detection technology that could eventually be standard equipment in all new cars.

Former NC Judge, Defense Lawyer and Legal Assistant Indicted re Court's Handling of DWI Cases

(ABA Journal, 06/26/2012) A former North Carolina judge, a defense attorney and an assistant to the lawyer have been indicted by a Wake County grand jury in a case related to the judge's handling of up to a dozen or more driving while intoxicated cases.

Drunken driving law not consistently applied

(chinadaily.com.cn, 05/23/2012) Legal experts suggested that the Supreme People's Court should make a judicial interpretation to standardize the penalties for drunken driving, Beijing News reported.

For more news stories please visit the [DWI Resource Website News page here](#).

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OTHER NEWS

In Other Newsletters

The Summer 2012 Issue of *Highway to Justice*, the publication of the American Bar Association and The National Highway Traffic Safety Administration, can be found [here](#).

National Center for DWI Courts' (NCDCC) July 2012 edition of The DWI Court Reporter can be found [here](#).

The Substance Abuse and Mental Health Services Administration's (SAMSA) Advisory, *The Role of Biomarkers in the Treatment of Alcohol Use Disorders, 2012 Revision* can be found [here](#).

To view the Bureau of Justice Assistance's (BJA) Research to Practice (R2P) webinar *Seven Program Design Features: Adult Drug Court Principles, Research, and Practice*, please click [here](#).

Educational Opportunities

The National Drug Court Institute has partnered with National Development and Research Institutes to implement the 'Cultural Proficiency for Drug Court Practitioners' Training Project for selected Drug Courts.

Judge Atkinson will be participating in the American Bar Association's Judicial Division webinar, *Judges' Ethical Issues in Traffic Court, and Perspectives on Alcohol Testing Technologies* on August 28. To learn more about this webinar, or to register, click [here](#).

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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:



Judge Mark D. Atkinson
Judicial Resource Liaison
matkinson@yourhonor.com



Holly Doran
TxDOT Program Director
hollyd@yourhonor.com

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