

HIGHWAY TO JUSTICE

FALL 2012

From The ABA and The National Highway Traffic Safety Administration

RED LIGHT CAMERAS – CHANGING BEHAVIOR AND PREVENTING ACCIDENTS USING TECHNOLOGY TO CHANGE DRIVING PATTERNS

*Hon. Neil Edward Axel
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As judges, we see first-hand the direct result of law enforcement efforts when individuals are charged and prosecuted for traffic violations. In addition to holding offenders accountable, one goal in sentencing traffic offenders is to try to change one's driving patterns so motorists do not re-offend. This goal, of course, is intended to promote safer driving habits. What we don't often see as judges is that some of these same enforcement efforts have the additional impact of preventing offenses and reducing the number of collisions and fatalities.

This point was first driven home for me when my son moved from Maryland to Connecticut and he observed that, in his new State, people did not stop for red traffic signals. He had learned to drive at a time, and in a jurisdiction, where red light cameras were posted at a number of dangerous intersections and the presence of these cameras had impacted in a positive way the driving patterns of motorists in our jurisdiction.

My son's experience in Connecticut was not unlike what occurs on highways across the country. Red light runners cause hundreds of deaths and tens of thousands of injuries each year. In 2010, 673 people were killed and an estimated 122,000 were injured in crashes that involved red light running. About half of the deaths in red light running crashes were pedestrians, bicyclists, and occupants in other vehicles who were hit by the red light violators.¹

In the United States, the use of automated red light cameras currently is authorized by State or local laws in approximately 550 communities in 25 different States.² Red light camera systems are designed to automatically photograph vehicles that fail to stop at the red signal and cite the violators by mail. The cameras are connected to the traffic signal and to sensors in the roadway that monitor traffic as it approaches the stop line. The system continuously monitors the traffic signal, and the camera can capture any vehicle that fails to stop during the red light

phase. Cameras record the date, time of day, time elapsed since the beginning of the red signal, vehicle speed, and license plate. Following a review of the photographic evidence, typically the designated law enforcement agency then mails the citation to the owner of the violating vehicle.

Recent studies and statistics have demonstrated a marked reduction in intersection collisions as a result of the use of these automated camera systems. In Howard County, Maryland for example, studies at 42 intersections demonstrated that red light cameras led to a 26% reduction in collisions,³ and at 26 intersections led to a 72% reduction in red-light violations.⁴

The Insurance Institute for Highway Safety has reported and summarized the results of numerous studies from around the country showing significant reductions in collisions and fatalities, as well as reductions in violation rates from 40 to 94 percent after the introduction of cameras.⁵ Institute studies in Fairfax, Virginia, and Oxnard, California, also found that, in addition to the decrease in red light running at camera-equipped sites, the effect carried over to signalized intersections not equipped with red light cameras, indicating community-wide changes in driver behavior.

Clearly, red light cameras have been shown to be effective not only in holding offenders accountable but, perhaps more importantly, in changing driver behavior and reducing motor vehicle collisions and fatalities. Law enforcement cannot monitor every intersection 24/7 and, ultimately, traffic safety rests in the hands of drivers and their voluntary compliance with the rules of the road, but red light cameras provide an effective supplement to efforts to make our roadways safer.

- 1 Q&A: *Red Light Cameras*, Insurance Institute for Highway Safety, <http://www.iihs.org/research/qanda/rlr.html> (June 2012).
- 2 *Communities Using Red Light & Speed Cameras*, Insurance Institute for Highway Safety, http://www.iihs.org/laws/auto_enforce_cities.aspx (as of July 2012).
- 3 Statistics maintained by the Howard County Department of Police (Md.), January 2008.

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Editor's Note

Highway to Justice is a publication of the American Bar Association ("ABA") and the National Highway Traffic Safety Administration ("NHTSA"). The views expressed in *Highway to Justice* are those of the author(s) only and not necessarily those of the ABA, the NHTSA, or the government agencies, courts, universities or law firms with whom the members are affiliated.

We would like to hear from other judges. If you have an article that you would like to share with your colleagues, please feel free to submit it for inclusion in the next edition of *Highway to Justice*.

To submit an article, please send it to Gena. Taylor@americanbar.org.

The deadline for submission of articles for the Winter, 2013 issue is October 24.

USEFUL INFORMATION AT YOUR FINGERTIPS



The May 2012 report from the National Survey on Drunk and Drugged Driving provides recent statistics on drunk and drugged driving nationwide

<http://www.samhsa.gov/data/2k12/NSDUH109/SR109StateEstDrunkDrugDriving2012.htm>

The Centers for Disease Control has published an interesting fact sheet on Child Passenger Safety:

http://www.cdc.gov/MotorVehicleSafety/Child_Passenger_Safety/CPS-Factsheet.html

RED LIGHT CAMERAS – CHANGING BEHAVIOR AND PREVENTING ACCIDENTS

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- 4 Statistics maintained by the Howard County Department of Police (Md.), 1998-2008.
- 5 See generally, News Release, Insurance Institute for Highway Safety, February 1, 2011, <http://www.iihs.org/news/rss/pr020111.html>; *Annotated Bibliography of Research on Automated Enforcement of Traffic Laws, November 2007*, Insurance Institute for Highway Safety, http://www.iihs.org/research/topics/pdf/auto_enforce_biblio.pdf; and Q&A: *Red Light Cameras*, Insurance Institute for Highway Safety, References, <http://www.iihs.org/research/qanda/rlr.html> (June 2012).

PREVAILING TOOLS IN DETECTING ALCOHOL AND DRUG CONTENT IN IMPAIRED DRIVING CASES

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There are an extensive number of devices, equipment, and supplies {collectively "device(s)"} on the market to measure a person's breath, saliva, urine, sweat, and hair for drug and alcohol content. The type of device utilized for these detections depends upon the objective of the evaluation. There are screens and there are tests. Screens are typically used for post-conviction monitoring, while prosecutors rely on tests to investigate and/or prove DUI, DWI, DUID, and drug cases. These complex technologies are in a constant state of improvement and some vigilance is required to keep current on these developments. The reader is encouraged to make it a point to conduct periodic reviews of case law, scientific journals, and the website of the National Highway Traffic Safety Administration, in order to keep oneself current.¹

It is clear that many drug and alcohol professionals use all or some of these devices for a variety of purposes. Law enforcement use them to establish probable cause for arrest and for monitoring if they are the designated monitoring authority under an established program such as South Dakota's 24/7 Program.² Prosecutors use them to obtain a conviction. Probation/parole officers use them for supervision activities especially in DUI/Sobriety/Hybrid courts for both alcohol and drug detection.³ Judges use them to determine the sobriety of a defendant appearing before them if drug or alcohol use is suspected at any stage of the post and pre-conviction. Personnel at a department of motor vehicles may use them as a condition of the issuance of driving privileges in DUI administrative cases.

Alcohol and Drug Screening Instruments

Screens are used more frequently than tests because they are more affordable, the results are easier to interpret, and they are processed more quickly.⁴ Their greatest drawback, with the exception of the breathalyzer, is their limited admissibility in prosecutions in drug and DUI cases. This limited use is due, for the most part, to their lack of precision. For alcohol detection, screens include breath detection instruments (the breathalyzer, and preliminary breath test or "PBT");⁵ transdermal monitoring devices such

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as SCRAM bracelets;⁶ sensors;⁷ thermometers;⁸ ignition interlock devices;⁹ the newer saliva dip strips/sticks;¹⁰ and, urine dip strips/sticks, such as Etg (Ethyl Glucuronide), which evaluate a person's urine for the by-product ethanol looking back 80 hours, and it's less expensive cousin, EtOH, which looks for ethanol in a person's urine at the time of screening. For drug detection there are also saliva and urine dip strips/sticks that screen for a variety of drugs ranging from a 2 panel screening to a 12 panel screening.¹¹

At roadside, law enforcement personnel primarily use preliminary breath tests (PBT) to establish probable cause for DUI arrests and further substantiate the arrest with blood or urine tests.¹²

Some of the preliminary screening devices are approved by the Department of Transportation (DOT) and the National Highway Traffic Safety Administration (NHTSA);¹³ however, the Substance Abuse and Mental Health Services Administration (SAMSHA)¹⁴ has not yet made a scientific cut-off level for the saliva and urine dip strips/sticks,¹⁵ and courts are reluctant to admit the dip stick results at trial under *Daubert*¹⁶ and *Frye*.¹⁷

Ignition Interlock devices are based upon the breath detection science and technology of the Intoxilyzer. Their use is becoming more prevalent throughout the country.¹⁸ An Ignition Interlock is connected to a car's ignition, requiring a driver to blow into the mouthpiece of the device to determine if alcohol is present. Some Ignition Interlock devices are able to snap a simultaneous photo of the person blowing into the mouthpiece, thereby insuring that the person blowing is truly the one being screened.¹⁹ These devices are used with regularity for monitoring primarily post-alcohol conviction matters. Many states use this technology in their alcohol interlock programs.²⁰ These programs vary across the country with some mandating the use of interlock devices upon first or second DUI convictions²¹ and others making it voluntary for the purpose of obtaining a restricted driving privilege.²² They also vary as to the monitoring authority with some states utilizing the state department of motor vehicles or the secretary of state²³ while others use probation officers or the courts.²⁴

Alcohol and Drug Testing Instruments

Drug and alcohol testing is better positioned than screening for admissibility in courts because they have more scientific reliability. Unlike screens, "tests are much more accurate in determining the presence of a drug (or alcohol)...but only very rarely result in a false positive." For example, the long established use of breath analysis devices, and electrochemical fuel cell technology - or a combination of the two²⁵ - are the most widely used, approved, and admissible devices in driving under the influence of alcohol cases.²⁶ Blood, urine, hair, and sweat testing from a certified forensic laboratory also enjoy approval and admissibility in court for alcohol and drug detection.

The drawback to tests is that "tests are more expensive to conduct than screens. Drug tests also require more expertise from

the tester and a longer waiting period for the results."²⁷ The Intoxilyzer as a test has had a long-held history of admissibility in DUI cases. However, in an interesting development, some jurisdictions are now requiring the release of source codes (that provide information on how the device works) from the manufacturers. If the company refuses to relinquish the codes based on the grounds of trade secrets, some states are dismissing the DUI case for failure to prosecute.²⁸

With the proliferation of legalized medical marijuana,²⁹ increases in prescription drug abuse,³⁰ and the resulting increase in drugged driving cases,³¹ more Drug Recognition Experts (DREs) are being called as witnesses in drug impaired driving cases.³² These police officers are a human based tool for detecting drug content of a suspected drugged-driver. A majority of states have either state, appellate or state Supreme Court cases that hold that the DRE testimony is admissible, however, the theories of admissibility have varied. Some states admit the DRE as an "expert" under a 702 analysis,³³ some under a *Frye* analysis,³⁴ some under a combination 702 and *Frye* analysis,³⁵ some under a *Daubert* analysis³⁶ while others admit them as a "lay" witness with special knowledge.³⁷ At least two states have sanctioned the DRE use by statute³⁸ while some state courts have a mixed approach.³⁹ Some states have an added *Frye-Daubert* type analysis for the determination of an "expert".⁴⁰ In any event, "when corroborated by a blood or urine test confirming the presence of a drug in that person's system, the majority of courts across the country have held that this evidence supports a conviction for driving under the influence of drugs."⁴¹

In Australia, the saliva drug dip strips/sticks are used by law enforcement at roadside⁴² much like a PBT at roadside is used in the United States. Given the disparity of the admissibility of DRE testimony as an expert and the growing acceptability of saliva dip sticks as a monitoring device, perhaps the DRE protocol should consider Australia's approach to augment detection of any suspected drugged driving with saliva dip sticks. This protocol may save expenses associated with the need for full-blown lab testing.

Emerging Technologies

There are new and improved devices in development. Smart Start[®], for example, is developing equipment for a fingerprint test for the detection of drugs due to be unveiled in early 2013.⁴³ There is also a new technique that enables drugs to be screened via exhaled breath. In a recent study, published in *The Journal of Analytical Toxicology*, scientists at Karolinska Institutet, Stockholm, Sweden, report on a unique method for collecting narcotic substances from exhaled breath.⁴⁴ Perhaps someday there will be a virtual hand-held scanner for use by law enforcement, probation/parole officers, drug and alcohol professionals, and judges that will detect the exact

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concentration of drugs and alcohol within a person's body at any given time. This proposition is feasible. For example, currently there are virtual whole-body medical scanners that detect heart, lung, brain, and colon diseases, as well as bone density.⁴⁵ However, any potential detection instrument, while of interest, will still need approval by many agencies and they will need to swim the legal waters of admissibility in the courts.

As technology advances and DREs are more widely accepted in the courts, the detection of alcohol and drugs in the prosecution and monitoring of impaired driving cases should become more straightforward and less costly.

- 1 See, for example, <http://www.nhtsa.gov/search?q=chemical+testing+technology&x=18&y=3>.
- 2 <http://apps.sd.gov/atg/dui247/AnalysisSD24.pdf>.
- 3 See for example Athens Georgia DUI/Drug Court Program and Denver County Court Sobriety Court in Colorado.
- 4 http://www.ehow.com/info_8365361_differences-drug-test-drug-screen.html.
- 5 A breath analysis device which produces an estimate of blood alcohol based upon the chemical analysis of a breath sample http://www.expertlaw.com/library/drunken_driving/Drunk_Terminology.html. Invented in 1953 <http://www.testcountry.org/history-of-dui-how-driving-under-the-influence-became-illegal-in-the-us.htm>.
- 6 <http://www.alcoholmonitoring.com/>
- 7 http://www.alcopro.com/mm5/merchant.mvc?Screen=CTGY&Store_Code=A&Category_Code=ATI
- 8 <http://www.craigmedical.com/qed.htm>.
- 9 Invented in the 1980s <http://www.interstateinterlock.com/common-questions/>.
- 10 <http://www.thefind.com/beauty/info-alcohol-test-strips>.
- 11 See Craig Medical Distribution Inc. for a list of screens for drugs. <http://craig-medical.com/drugtests.htm>.
- 12 See, for example, *People v. Bass* (4th Dist., 2004), 351 Ill.App.3d 1064, 815 N.E.2d 462, and the cases cited therein.
- 13 For a list of approved DOT/NHTSA alcohol screening devices go to <http://www.breathalyzeralcoholtester.com/dot-approved-breathalyzer>.
- 14 www.samhsa.gov.
- 15 <http://alcoholism.about.com/od/work/a/etg.htm>.
- 16 *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993).
- 17 *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923).
- 18 See the study sponsored by the National Highway Traffic Safety Administration, "Case Studies of Ignition Interlock Programs" by Katherine Fieldler, Ph.D., Christine Brittle, Ph.D., and Scott Stafford, April 2012. (<http://www.nhtsa.gov/Impaired>).
- 19 See *Start Smart*.
- 20 See for example Arizona, California, Georgia, Massachusetts, New Mexico, New York, North Carolina, Texas and Utah.
- 21 See Texas.
- 22 See Colorado.
- 23 *Ibid*.
- 24 See Texas.
- 25 <http://en.wikipedia.org/wiki/Breathalyzer>.
- 26 They were invented in the 1970s and represented a significant step forward in technology http://www.ndaa.org/pdf/breath_testing_for_prosecutors.pdf. See also <http://www.duiattorney.com/dui-basics/breath-test-types>.
- 27 http://www.ehow.com/info_8365361_differences-drug-test-drug-screen.html {"alcohol" added}.
- 28 In Florida for example over two hundred cases have already been dismissed because of the failure to provide source codes. <http://floridaduilawyer.com/blog/tag/admissibility-of-intoxilyzer-5000-results/>
- 29 16 States and D.C. have legalized medical marijuana. See: <http://medicalmarijuana.procon.org/view.resource.php?resourceID=000881>.
- 30 There has been a 400% increase from 2000 to 2010. See: <http://www.cs-monitor.com/USA/2010/0715/Prescription-drug-abuse-surged-400-percent-in-past-decade>
- 31 <http://www.nida.nih.gov/Infofacts/driving.html> See also SAMSHA Report, December 2010 for a list of the 20 States with the highest rates.
- 32 As of August 2010, 46 states had a DRE program. Drug Recognition Section of the International Association of Chiefs of Police, 2008 Annual Report. www.decp.org/oversight/2008AnnualReport.pdf.
- 33 *State v. Kanamu*, 112 P.3d 754 (Haw. Ct. App. 2005); *Mace v. State*, 944 S.W.2d 830 (Ark. 1997).
- 34 *State v. Baity*, 991 P.2d 1151 (Wash. 2000)
- 35 *People v. Quinn*, 580 N.Y.S.2d 818 (1991).
- 36 *State v. Aleman*, 194 P.3d 110, 117 (N.M. Ct. App. 2008);; *State v. Daly*, 775 N.W.2d 47 (Neb. 2009); *State v. Sampson*, 6 P.3d 543 (Or. Ct. App. 2000).
- 37 *State v. Klawitter*, 518 N.W. 2d 577 (Minn. 1994); *U.S. v. Everett*, 972 F. Supp. 1313 (D. Nev. 1997)
- 38 David Sandler, *Expert and Opinion Testimony of Law Enforcement Officers Regarding Identification of Drug Impaired Drivers*, 23 U. HAW. L. REV. 151, 160-61 (2000).
- 39 See for example Colorado and Maryland. County Court, Boulder, Colorado Case No. 92M181(Unpublished Opinion) *People of the State of Colorado v. Daniel Hernandez*. "The DRE methods are accepted within the scientific community because they have been found to be reliable." "The court finds that the expert does have sufficient specialized knowledge to assist the jurors in better deciding whether the defendant drove his car when under the influence of a specific drug. The DRE testimony can be used at trial provided a sufficient foundation is laid." "Not all Colorado County Courts agree with the *Hernandez* case however." Judge Mary A. Celeste, NHTSA JOL Region 8. See also *Maryland. State of Maryland v. Charles David Brightful*, Circuit Court for Carroll County, Maryland, Case No. K-10-40259 (March 5, 2012)("The State failed to prove by a preponderance of the evidence that the drug evaluation classification program is not new or novel and is generally accepted within the scientific community and...{T}he drug evaluation and classification does not survive a *Frye/Reed* challenge..." Opinion at p. 36.) **According to one Maryland trial judge**, "although the Carroll County case has gained certain notoriety, other trial judges in Maryland have admitted DRE testimony when challenged, and numerous judges have admitted the protocol when it is not challenged." Judge Neil Axel, JOL Region 3.
- 40 See Utah's *Rimmasch* analysis as addressed in *State v. Layman*, 953 P.2d 782 (Utah Ct. App. 1998); See also Colorado's *Shreck* analysis *People v. Shreck*, 22 P. 3d 68 (Colo. 2001); Maryland's *Reed* analysis *Reed v. Maryland*, 391 A.2d 364 (Md. 1978).
- 41 *U.S. v. Everett*, 972 F. Supp. 1313 (D. Nev. 1997); *State v. Daly*, 775 N.W.2d 47 (Neb. 2009); *Wooton v. State*, 267 S.W.3d 289 (Tex. Ct. App. 2008); *State v. Aleman*, 194 P.3d 110 (N.M. Ct. App. 2008); *State v. Kanamu*, 112 P.3d 754 (Haw. Ct. App. 2005); *State v. Sampson*, 6 P.3d 543 (Or. Ct. App. 2000); *State v. Baity*, 991 P.2d 1151 (Wash. 2000); *State v. Lesley*, 981 P.2d 748 (Idaho Ct. App. 1999); *Williams v. State*, 710 So.2d 24 (Fla. Dist. Ct. App. 1998); *State v. Layman*, 953 P.2d 782 (Utah Ct. App. 1998); *Mace v. State*, 944 S.W.2d 830 (Ark. 1997); *State v. Klawitter*, 518 N.W.2d 577 (Minn. 1994); *People v. Quinn*, 580 N.Y.S.2d 818 (1991).
- 42 <http://www.police.qld.gov.au/programs/roadSafety/drugDriving.htm>.
- 43 "The unique process detects drug metabolites and other substances contained in fingerprints and enables mobile testing with instant results. Smart Start expects to begin offering the new product in early 2013, pending regulatory approval." <http://www.marketwatch.com/story/smart-start-inc-expands-beyond-alcohol-interlocks-monitoring-into-drug-testing-with-revolutionary-portable-fingerprint-testing-device-2012-04-23>.
- 44 <http://www.sciencedaily.com/releases/2010/05/100519081438.htm>.
- 45 <http://www.accuscanutah.com/>.

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Moving Ahead for Progress in the 21st Century Act (MAP-21)

Recently Congress enacted the transportation reauthorization bill known as the "Moving Ahead for Progress in the 21st Century Act" (MAP-21). The statute reauthorized DWI Courts as one of the programs that can receive U.S. Transportation Grant funds as an impaired driving countermeasure. This action by Congress signals its continued support for DWI Courts and provides funding for their expansion.

Another provision in MAP-21 provides a significant improvement for DWI Courts that are utilizing ignition interlock devices. Under the previous transportation bill, states were authorized to grant restricted driver's licenses to repeat DWI offenders after a 45-day hard suspension, if the offenders placed ignition interlock devices on their vehicles. The restricted licenses allowed the recipients to drive to and from work, school and a treatment program.¹

Five states (Michigan, Missouri, Idaho, Georgia and Louisiana) have enacted laws under the above cited federal mandate for the repeat offenders in their state's DWI Courts. While the restricted licenses have proven to be a significant benefit to DWI Court participants, the narrow nature of the authorized driving privileges fell well short of the typical requirements of DWI Courts (i.e. alcohol and drug treatment, alcohol and drug testing, self help meetings, court and probation proceedings, etc.).

MAP-21 Section 1403 (a)(2)(A)(ii) did away with the 45-day hard suspension and "allowed for the reinstatement of limited driving privileges subject to restrictions and limited exemptions as established by State law." Henceforward, each state will set its own terms for repeat DWI offender ignition interlock licenses.

In Michigan, the data from the first year of the DWI Court/Ignition Interlock Program showed that all participants in the formal study put the interlock devices on their vehicles and no new DWI convictions occurred.² While the numbers from the first year were relatively small and covered only one year's worth of experience, these early success indicators help to build a partnership between Michigan's DWI Courts and the Michigan Secretary of State. As a result, these two entities are currently sponsoring an amendment to the Michigan Motor Vehicle Code which will allow repeat DWI offenders in the DWI Courts with ignition interlocks on their vehicles to drive to the following locations:

- the person's residence;
- the person's work location;
- in the course of the person's employment or occupation, as long as a commercial driver's license is not required;
- alcohol, drug or mental health education and treatment as ordered by the court;
- AA/NA or other court ordered self help programs;
- court hearings and probation appointments;
- drug and alcohol testing;
- court ordered community service;

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To learn more about programs offered by NHTSA, please contact one of the following:

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DATES TO REMEMBER

October 3-7, 2012

Drive Safely Work Week

<http://trafficsafety.org/drivesafelyworkweek/about-dsww.php>

October 21-27, 2012

National Teen Driver Safety Week

NHTSA has developed a multi-tiered strategy to prevent motor vehicle-related deaths and injuries among teen drivers: increasing seat belt use, implementing graduated driver licensing, reducing teens' access to alcohol, and parental responsibility. Information can be found here: <http://www.nhtsa.gov/Teen-Drivers>

October 31, 2012

Halloween

Buzzed Driving is Drunk Driving

December 12, 2012 – January 1, 2013

Drive Sober or Get Pulled Over
TV Road Block

TWO BIG STEPS FORWARD FOR DWI COURTS

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- an educational institution at which the person is enrolled as a student;
- ignition interlock service provider location as required;
- a place of regularly occurring medical treatment, for a serious condition or for a medical emergency, for the person or a member of the person's household or immediate family.

The Michigan DWI Courts, reporting on the first year's experience of the DWI Court/Ignition Interlock Program, found that the participants appear to greatly value their restricted licenses, providing a powerful motivation for program compliance. Hopefully the proposed expansions of the restricted licenses for the Michigan DWI Court participants, in conformity with the new language in MAP-21, will add to the continuing success of the Michigan DWI Courts and to the recovery of their participants.

Ignition Interlock Device Guidelines For DWI Courts

The National Center for DWI Courts (NCDC) recently published Ignition Interlock Device Guidelines for DWI Courts to assist DWI Courts that may be considering the use of ignition interlocks in their programs. Ten broad guidelines were identified and short accompanying texts generated. Since the drunk driving laws, driver's license administrative procedures and ignition interlock availability will vary widely from state to state, the guidelines are designed to be a general instructive tool, subject to the circumstances existing in the various states.

The Guidelines cover a variety of subjects, including but not limited to: the circumstances wherein an ignition interlock device can be used to monitor alcohol consumption by DWI Court participants; the use of photo identification technology to identify the person making a blow into a device; responses to the challenges raised by indigent DWI Court participants; and the use of modern ignition interlock data loggers and early recall mechanisms to help keep probation officers informed as to participant compliance.

For more information on the Ignition Interlock Device Guidelines for DWI Courts, contact the National Center for DWI Courts at: www.dwicourts.org.

Editor's Note: The State of Illinois also authorizes the issuance of restricted driving permits for most of the purposes recited above, but only pursuant to the authority given to the Secretary of State to administer the Illinois Vehicle Code, rather than through the circuit courts. See 625 ILCS 5/6-205 and 6-206 and the rules of the Secretary of State at 92 Ill. Adm. Code §1001.420. Thus, for Illinois and other states whose Vehicle Code gives authority over the issuance of driving relief to a state agency to become fully engaged in DWI Courts on the Michigan model, they will have to reconcile this division of authority. For example, while the Illinois' probation statute gives the courts substantial flexibility over the conditions of probation, it does not give judges any authority to issue, or Order the Illinois Secretary of State to issue, restricted driving privileges. See the Illinois Code of Corrections at 730 ILCS 5/5-6-3.

1 23 USC Section 164 (a)(5)(A)

2 Michigan DWI/Sobriety Court Ignition Interlock Evaluation, 2012 Report Kierkus and Johnson, (2012).

2012 NADCP DWI COURT LEADERSHIP AWARD PRESENTED TO JUDGE KENT LAWRENCE

The National Association of Drug Court Professionals Annual Training Conference is the leading program for those in the field. The many forums, programs, and presentations are an valuable resource for ideas and for networking opportunities.

One highlight of the 2012 Conference was the presentation of the NADCP DWI Court Leadership Award to NHTSA/ABA Fellow Judge Kent Lawrence of Athens, Georgia. Judge Lawrence was recognized for his tireless efforts on the local, regional, and national levels to make our communities safer places to live.

Prior to his appointment to the bench, Judge Lawrence served as the first Chief of Police of Athens-Clarke County, GA, and as an assistant Prosecuting Attorney. His service on the bench began in 1985, with continuing service until his retirement in 2011. In 2001 he started the first DWI Court in Georgia. It has since been named a DWI Academy Court, serving as a national role model for how other DWI Courts should be operated. He has served on the Board of Directors of the National Association of Drug Court Professionals, and in many other capacities for that group.

Besides his work in his community and on the bench, Judge Lawrence is remembered by all those in the Bulldog nation as the MVP of the 1967 Cotton Bowl and continues to serve as an invaluable resource to the University of Georgia Athletic Department. He has five children and five grandchildren. His grace, intellect and compassion are an inspiration to all who know him.

The presentation of the award presentation can be viewed here:

<http://www.youtube.com/watch?v=a9IB81TBBiY>



Judge Kent Lawrence (Center) with David Wallace, NCDC, and Judge Mike Barrasse



TRAFFIC RESOURCE CENTER for JUDGES

The Traffic Resource Center for Judges is a cooperative effort between the U.S. Department of Transportation/National Highway Traffic Safety Administration and the National Center for State Courts (NCSC) to establish a resource for judges, court administrators, court clerks, and other court staff on issues related to traffic adjudication. It is an integrated clearing-house of information as well as a training and technical assistance resource to improve court decision-making and processing of impaired driving, drugged driving, distracted driving, commercial driving, and other cases that affect traffic safety.



A key service of the Resource Center is to respond in a timely manner to requests for information and assistance from the court community, the media, and the public and in particular to the National Highway Traffic Safety Administration's Judicial Outreach Liaisons and Judicial Fellows. In addition to merely responding to requests, staff anticipates topics of interest to the court community and proactively prepares information "modules" on current and relevant topics for posting on the web site. In practice, this requires staff to keep current with traffic issues affecting courts, such as impairment caused by the new designer drugs, to organize and sort relevant information from diverse sources into user-friendly modules, and to disseminate information in practitioner pub-

lications, newsletters, court association meetings, and the website www.trafficresourcecenter.org



The Traffic Resource Center, and its associated website, is a useful reference to judges new to the bench or recently assigned to traffic cases, who may need quick access to accurate and timely information until they can receive more formal, structured education. Experienced judges and court staff will also find the website a useful resource for reference materials on specialized traffic issues, evidence-based practices, frequently-asked questions and basic legal references and statutory requirements.



The Traffic Resource Center maintains a liaison relationship with many organizations serving courts and will provide them with materials, speakers, and panel members as requested. Therefore, it is also a repository of training materials, including PowerPoint slides delivered at association meetings, video clips of presentations, and other media designed specifically for the web site, but that also serve as re-usable training resources for the court community.

For more information, please contact:
Greg Hurley at 757-259-1819 or Deborah Saunders at 757-259-1827



THANKS TO OUTGOING JUDICIAL FELLOWS AND JUDICIAL OUTREACH LIAISON

We express our gratitude to Judge Harvey Hoffman and Mr. Marc Loro who have served as our NHTSA/ABA Judicial Fellows for the past two years. Judge Hoffman put together the three webinars presented last fall, and the two presented this fall. He secured faculty and worked with NHTSA and ABA staff to ensure successful participation. Mr. Loro edited our *Highway to Justice* newsletter.

Additionally, our thanks go to Judge Tom Panichi for his work as Judicial Outreach Liaison for NHTSA Region 5. Judge Panichi has worked with judges in Illinois, Indiana, Ohio, Michigan, Wisconsin, and Minnesota on traffic safety issues.

Thanks to these gentlemen for their contributions.

2013 DWI COURT TEAM TRAINING APPLICATIONS NOW BEING ACCEPTED

The National Highway Traffic Safety Administration is gearing up for another year of DWI Court training through their cooperative agreement with the National Center for DWI Courts (NCDC). The DWI Court Training Initiative Application for CY 2013 is available in 2 formats. One is a Word document and the other is in Adobe. The PDF document is set up as a form/fill in the blank – so teams can fill in the boxes without having to be concerned about formatting.

The Application is specific as to the types of training offered. Please note that the closing date for the Application is **Friday, November 30, 2012** to the Highway Safety Offices.

The application procedure is similar to last year's application. When jurisdictions are applying for the training, they must coordinate with their State Highway Safety Office by applying for the training through that office. Highway Safety Office will conduct an initial screening of the application and note their approval. They will then forward this information to the Impaired Driving Division via facsimile or e-mail by **Friday, December 14, 2012**. The applications will then be reviewed by NHTSA and NCDC and final selections will be made.

Applications are available here: <http://www.dwicourts.org/resources/training-programs>



EDITOR'S FAREWELL

As this is my last issue as editor of *Highway to Justice*, I want to acknowledge and thank my colleagues, and offer a few words of encouragement.

First and foremost, I thank my wife, Judy, for her support and encouragement. She believes in me through thick and thin and when I do not believe in myself.

My thanks also go to the NHTSA support staff at the ABA for their hard work and dedication to this project. I am grateful to The National Conference of Administrative Law Judges of the ABA and the Impaired Driving Unit at the National Highway Traffic Safety Administration for giving me the opportunity to serve as a Fellow for the past 22 months.

A special thank you also goes to Mr. Brian Chodrow, with NHTSA who oversaw the program for the better part of my tenure. The program is now in the capable hands of Mr. Samuel Sinclair who is earnest, articulate, and fully engaged.

I spent most of my time working with the Judicial Outreach Liaisons on their contributions to the *Highway to Justice* newsletter, exchanging and discussing information on traffic safety, alcohol/drug abuse, and drunk/drugged driving. This is a dedicated and diverse group of judges who have devoted a substantial part of their career to combating DUI, looking for and developing innovative methods of reducing the incidence of DUI and rehabilitating the offender. The depth and breadth of their knowledge and experience is extremely impressive.

This year I completed my 30th year with the Office of the Secretary of State. When I started, Illinois and the country had only recently begun to take the crime of DUI seriously. We have come a long way since then, in terms of our attitude toward the crime and the problem of alcohol/drug abuse, how to treat the problem, how to deter the crime, and how to (and whether to) rehabilitate the offender. Despite all of these efforts, the problem has shown persistence and resilience, even defiance, and it is clear that there is much work still to be done.

So, we keep at it. My Fellowship has terminated, but I am still at work every day and always available to assist you, your agency, NHTSA and my colleagues in any way that I can. Feel free to call upon me at mlozo@ilsos.net; 217/785-8245. You have my respect and best wishes.