

Crash, Boom, Bang



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DUI Deaths Fall in 32 States,

Rise in WV

Drunken-driving deaths fell in 32 states in 2007, the government reported last month. Nearly 13,000 people were killed in crashes in which a driver had a blood alcohol concentration of 0.08, the legal limit in the United States, or at higher levels.

Overall, alcohol deaths were down nearly 4 percent compared with 2006, when nearly 13,500 people died on the highway. Among the states, California had 117 fewer alcohol-impaired driving deaths last year, the largest decrease in the nation. California conducted more than 1,000 sobriety checkpoints during the year and encouraged motorists to dial 911 on their cell phones if they spot a potentially drunken driver, said Christopher Murphy, who leads the state's traffic safety office.

North Carolina had 66 more deaths, the most among states. In addition to North Carolina, alcohol-impaired deaths increased in Alabama, Alaska, Delaware, Maine, Massachusetts, Minnesota, Montana, Nebraska, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Virginia, **West Virginia**, Wisconsin and the District of Columbia.

—Taken from Associated Press Reports

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WV DUI Fatalities Rise

GAO Report on
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Prosecutors in Other States



New research shows that first-time drunk-driving offenders whose cars were fitted with ignition-interlock devices were 60 percent less likely to re-offend than those who were not ordered to install the devices, which prevent a car from being started when the driver has any amount of alcohol in their body.

In 2006, the percentage of legally intoxicated motorcycle riders in fatal crashes was greater than the percentage of legally intoxicated drivers of passenger cars, SUVs or pickup trucks. In fact, of all age groups, motorcyclists between 30 and 49 years old have the highest rates of alcohol involvement in fatal crashes.



Government Accountability Office Faults Prosecutors for Weak DUI Prosecutions

In a recent document by the GAO, weak prosecutions were partially faulted as being responsible for the stagnant rates of fatalities in seat belt and DUI related fatalities. The document found that there has been a historical decline in fatalities resulting from the Click It Or Ticket (CIOT) and Over The Limit, Under Arrest (OTLUA) programs. However, compliance and death



rates have not changed in several years. The study focused on several states and relied on the opinions of law enforcement officers and judicial representatives in forming this conclusion. The study did not analyze prosecution statistics and no prosecutors were interviewed. However this conclusion is shared by many vehicular crimes prosecutors, and should be taken as a call to prosecutors in the field to do more in these types of prosecutions.

NHTSA provides valuable funding to numerous groups and law enforcement agencies on behalf of CIOT, OTLUA, and other programs. As mentioned above, these programs are very helpful in the fight against road fatalities. To address these concerns, it may be time for prosecutors in the field to obtain grant funding for vehicular crimes sections or vehicular crimes initiatives.

The GAO report partially faulting weak prosecutions for the stagnancy in seat belt compliance and DUI fatalities may not have been based upon prosecution statistics or interviews, but the message is clear. Prosecutors should play a greater role in this area. By employing new methods to send stronger cases to the court system, prosecutors can help to stem the tide of fatalities on our roads. Funding is available from NHTSA for prosecutors in the courts and should not be ignored as a funding resource to employ more vehicular crimes prosecutors or increase the effectiveness of prosecutions.

— Courtesy of Warren Diepraam, the NAPC/NHTSA Traffic Safety Prosecutor Fellow and Chief Vehicular Crimes Prosecutor in Harris County, Texas

DUI Defendant Went to Bar Instead of Jail

ERIE, Pa. - A woman charged in the drunken-driving death of her son went to a bar after his funeral instead of reporting back to jail, state police said.

A judge had given Erin Howard, 26, of Corry, PA permission to leave the Erie County Prison for 24 hours to attend her son's funeral in Ohio, with orders to return to the lockup by 3 p.m. Saturday.

Instead, Howard went to a bar in Hamilton, Ohio, about a mile from the church where the funeral for 6-year-old Samuel Carpenter was held, police said. Howard had been in prison in lieu of \$75,000 bail on charges that she was driving drunk when she crashed into a creek bank near Corry, PA killing Samuel on June 14 — her 26th birthday.

—Courtesy of Yahoo News.

What Issues are Prosecutors in DUI Cases Facing in Other Parts of the Country?

Defense attorneys are keeping prosecutors across the country busy with novel defenses to DUI cases. Below are just a few issues confronted by Prosecutors in DUI cases in the last few months.

*The effects of dentures and denture adhesives on mouth alcohol retention. Does denture use by the defendant, with or without adhesive effect the outcome of a breath test?

*Dealing with HIPPA in DUI fatalities. If HIPPA is a civil statute imposing civil remedies for privacy violations, does it apply to law enforcement in a criminal proceeding?

*HGN accuracy. Courts generally accept officer testimony about the One-Legged Stand and Walk and Turn tests, but may not admit testimony about HGN.

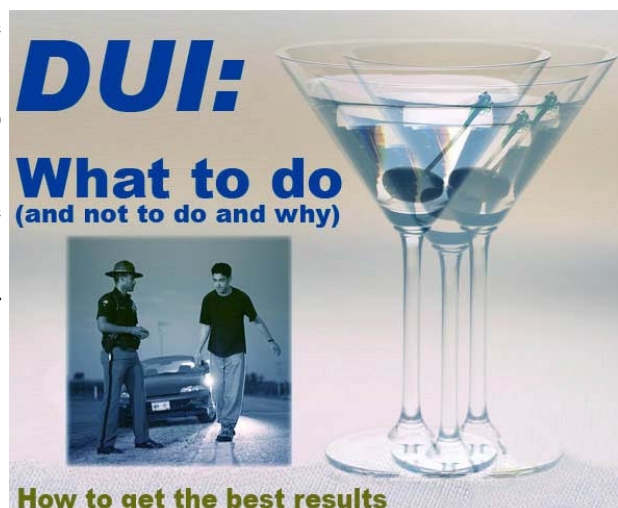
*Voir Dire questions for Jurors in DUI cases. What can we ask? What should be standard questions?

*Proving DUI on a motorcycles. How do you prove erratic driving on a motorcycle?

*The rising B.A.C. defense. Did the defendant have a lower B.A.C. when he/she was driving than when they took the breath test?

*Regurgitation effects on the breath test. If the defendant regurgitates before the breath test, will that result in a higher reading?

If you face any of these issues and need some help or just have a question, contact the Traffic Safety Resource Prosecutor and the Prosecutors' Institute.





SLEEP SMART. DRIVE SMART.

DROWSY DRIVING KILLS

It is recognized that Drowsy Driving has caused hundreds of thousands of deaths and injuries across the country. It is now estimated that over a million crashes a year are fatigue related.

November 5-11 is the first ever National Drowsy Driving Prevention Week. The National Sleep Foundation is choosing that week as it is when Day Light Savings Time changes. Drowsy Driving Prevention Week is a public awareness campaign designed to educate young drivers (and everyone on the road!) about the dangers of driving while sleepy.

If you would like to promote this worthwhile week, you can find quite a bit of material at www.drowsydriving.org.



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