



DUI NEWS

MT. CARMEL POLICE DEPARTMENT HONORED AS BEST IN NATION FOR TRAFFIC SAFETY

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The Mount Carmel, Tennessee, Police Department was honored at the meeting of the International Association of Chiefs of Police in Miami, Florida. The department led by Chief Jeff Jackson received the Clay J. Hall Memorial Award recognizing the eight member department as having the most comprehensive highway safety program in the country. All agencies who submitted an application to the National Law Enforcement Challenge Program were considered for this award.

The Mount Carmel application documented programs conducted by the agency that were considered “out of the box” and progressive, especially for an agency of their size. Among other programs, this agency cut a police car in half, using the rear of the car, the rear doors and back seats to demonstrate to parents the proper method for installing child safety seats. Additionally, they created posters that were placed in every store within the city which contained a different highway safety message each month. This agency’s commitment to traffic safety has created a fatality free environment for their citizens and allowed the State of Tennessee to bring home the top national highway safety award.

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The grand prize at the IACP Conference, a 2005 Ford Expedition was awarded to the Mount Carmel Police Department.

Governor’s Highway Safety

This material was developed through a project funded by the Tennessee Department of Transportation, Governor’s Highway Safety Office and the National Highway Traffic Safety Administration.

Seven IACP National Awards for Tennessee

First place in the nation awards were received by Mount Carmel in the category of departments with 1-10 officers, to the Tennessee Highway Patrol for state police departments with 500-1000 officers and to the Fort Campbell Police for military police departments. A second place award went to the Memphis Police Department for agencies with 2000 or more officers. The National Speed Award went to the Paris Police Department. The Commercial Vehicle Award went to the Tennessee Highway Patrol. Tennessee was a first year participant in the Law Enforcement Challenge. No first year participant in history had ever received so many honors.

RECENT DECISIONS FROM THE COURT OF CRIMINAL APPEALS



State v Arnett 2005 Tenn. Crim. App. LEXIS 714

The defendant pled and reserved a certified question of law concerning a suppression motion. The Court found that the certified question was not dispositive of the case. "There is abundant independent evidence, apart from anything taken from the defendant and subject to suppression, primarily the testimony of the bystanders and the officers, to prove the defendant's guilt."

State v Cleveland 2005 Tenn. Crim. App. LEXIS 739

The State appealed the ruling of the trial court concerning erroneous language in the H.M.V.O. statute. The Court affirmed. The problem: the legislature used an "and" when an "or" was needed. The result is that a reckless driving conviction can not be used in HMVO petitions unless the legislature fixes the problem. The statute indicates that a reckless driving conviction must be in addition to a DWI conviction. DWI no longer exists. The Court was not willing to recognize the legislature's intent, but instead strictly interpreted the wording of the statute.

State v Dotterweich 2005 Tenn. Crim. App. LEXIS 825

The defendant pled guilty and reserved a certified question of law concerning an investigatory stop. The court affirmed the conviction. The defendant had been in a fight. An anonymous call resulted in Johnson City officer's being dispatched to an apartment complex. A security guard and another witness indicated the defendant was in the fight. The defendant went to leave in his car. The officer chased after defendant on foot and stopped him. He smelled of alcohol. The Court found the investigatory stop was reasonable based on the information received, training and experience. The Court states, "Relying on their knowledge and experience as law enforcement officers, the police had ample objective facts upon which to base a reasonable suspicion that the car attempting to leave may have contained persons recently involved in criminal activity."

State v Phillips 2005 Tenn. Crim. App. LEXIS 807

A security guard notified the police of the defendant's bad driving. He saw the defendant "going from one lane to the other across the center line back – the inner shoulder of the road back across through the outer shoulder of the road." Children were in the car. Jacksboro officer, Bryan Parker, found the defendant and a small child in the Wal-Mart parking lot. The defendant was obviously drunk. He had urinated on himself. He was in the driver's seat. The defendant's sister testified that she was the driver. She denied the bad driving observed by the security guard. The sister did not do well during the cross examination of prosecutor Scarlett Ellis. Several of her responses were "incomprehensible". The defendant was convicted of two counts of child endangerment. The appellate court found plain error and merged the convictions. "The child endangerment statute prohibits a course of conduct – that of driving while intoxicated and accompanied by a child under age thirteen – as opposed to an individual act or result. Consequently, a single episode of driving while intoxicated typically constitutes a single offense even though the driver was accompanied by more than one child.

State v Lloyd 2005 Tenn. Crim. App. LEXIS 907

In a typical DUI conviction Lloyd was speeding and crossed the double yellow line twice. He performed poorly on five of six field tests. Lloyd provided some humor in his appeal. He failed to stop as required counting backwards from 36-24. He took credit for exceeding requirements!

Recidivist Wall of Shame

Some impaired drivers are exceptional. They just won't stop. They endanger themselves and fellow citizens every night. Statistics from the National Highway Traffic Safety Administration indicate that an impaired driver gets caught once out of every eighty times he drives impaired. Imagine how often the individuals listed below have been on our roads under the influence.

Melvin David Hughes 49, of Chattanooga, TN, pled guilty to DUI 7th offense and felony operation on September 22nd. He is scheduled to enter a plea to his pending DUI 8th offense and felony operation charge soon. Hughes assaulted a woman who tried to stop him from driving drunk and taking her car. The woman's 12 year old daughter also tried to stop him from driving. Hughes pushed the woman out of her car and drove away. Hughes in his next episode was in another stolen car, which he could not keep in a lane of traffic. He attempted to run from the officer, but learned that drinking and running don't mix. He was quickly detained.

James Robert Ryan, 49, Wildwood, Georgia pled guilty in Hamilton County Criminal Court to two consecutive DUI 8th offenses as well as a driving on revoked license October 3d.

Dion Myers, 38, of Whitesburg, TN, was convicted of DUI 6th offense, evading arrest and violation of the implied consent law in Hamblen County, TN. Myers had been declared an habitual traffic offender in 2002.

Jeffery Ray McMahan, 37, of Sevierville, TN has been sentenced to ten years in prison for his 10th DUI. Judge Rex Henry Ogle lowered the boom on McMahan who had been convicted of forty three various crimes including the DUI's. This defendant was first declared an habitual motor vehicle offender in 1991 in Sevierville.

George Moore 35, of Johnson City, TN, was recently in a crash in Washington County. Three persons were injured. Moore has eleven prior DUI's and left the scene of the wreck to keep from getting caught. He was captured and charged with DUI 12th offense, leaving the scene and simple possession.

TWO HOUR TESTING

Alcohol and drug testing must be completed within two hours of the defendant's arrest or initial detention pursuant to the amendment to TCA 55-10-406 (a) that permitted multiple tests. Sections (d) concerning the admissibility of blood drawn for medical purposes was not changed in this amendment. The two hour limit refers to blood or breath testing requested by an officer in implied consent situations. Section (e) of the statute concerning forced blood in vehicular homicide and aggravated assault cases was not changed. Case law concerning medical blood and forced blood is available from the DUI Training Division.

The two hour limit created a restriction on the State's right to obtain evidence in DUI cases. This is a challenge for law enforcement and prosecutors that may require a change in procedure. For instance, blood can be drawn by E.M.T.'s at the scene of a crash before a defendant is transported to a hospital. Blood can be drawn at the jail by a phlebotomist during the twenty minute observation period for the breath test.

It is a good time for law enforcement administrators to get creative to find methods to comply with the two hour requirement and use the multiple test law to collect evidence of guilt.

Governor’s Highway Safety Office Tennessee Law Enforcement Challenge

Mark Hutchinson GHSO Program Director

The Governor’s Highway Safety Office (GHSO) recently held the 1st annual Law Enforcement Challenge Awards Program at the Gaylord Entertainment Center in Nashville. The Law Enforcement Challenge is a law enforcement award program that mirrors the International Association of Chiefs of Police (IACP) "Law Enforcement Challenge" which is funded by the National Highway Traffic Safety Administration (NHTSA). The program is designed to recognize and reward the best overall traffic safety programs throughout the state. Agencies are invited to submit an application that documents their traffic safety program addressing the areas of occupant protection, speed, and impaired driving. Once the applications are received they are sent to the IACP for judging. A panel of judges from across the nation reviewed each application and assigned points based on the criteria. After the judging, scores were averaged and a final score was assigned. After all of the applications were scored, the agencies were ranked in their categories. The scores were then sent back to the GHSO where the winning agencies were determined.

During this, our first year, the GHSO received a total of 46 Law Enforcement Challenge Applications placing Tennessee among the top five states throughout the nation in the number of applications received by the International Association of Chiefs of Police (IACP). Tennessee’s scores were forwarded back to GHSO for the selection of Law Enforcement Challenge winners and all Tennessee applications were entered into the IACP National Law Enforcement Challenge.

Of the 46 applicants, 26 agencies received awards and 35 agencies were eligible to win the 3 Grand Prizes; a Ford Crown Victoria Challenge vehicle, a Kustom Speed Trailer, and a Total Station from Laser Technology International. Approximately 270 officers from across the state attended the ceremony.



(Grand Prize, Fully Equipped Ford Crown Victoria)



(2nd Grand Prize, Kustom Speed Trailer)

**Awards were presented to winning agencies based on agency size.
The following agencies received awards:**

<u>CATEGORY 1</u> – 1-10 Officers	<u>CATEGORY 2</u> – 11-25 Officers
3 rd Place- Decherd Police Department Chief Jimmy Daniels	3 rd Place- Soddy Daisy Police Department Chief Allen Brannum
2 nd Place- Dover Police Department Chief Kim Wallace	2 nd Place- Unicoi County Sheriff’s Dept. Sheriff David Harris
1 st Place- Mt. Carmel PD Chief Jeff Jackson	1 st Place- Collegedale Police Department Chief Dennis Cramer

TENNESSEE STATE AWARDS

CATEGORY 3- 26-50 Officers

3rd Place- Maryville Police Department
Chief Tony Crisp

2nd Place- Brownsville Police Department
Chief Gill Kendrick

1ST Place- Paris Police Department
Chief Thomas Cooper

CATEGORY 7- 500 or more Officers

1ST Place- Memphis Police Department
Director Larry Godwin

CATEGORY - University Police Departments

2ND Place- University of Tennessee

1st Place- East TN State University
Chief Jack Cotrel

CATEGORY 4- 51-100 Officers

3rd Place- Williamson Co. Sheriff’s Office
Sheriff Ricky Headly

2nd Place- Bradley County Sheriff’s Office
Sheriff Dan Gilley

1ST Place- Gallatin Police Department
Chief John Tisdale

CATEGORY – Military Police

1st Place - Fort Campbell
Major John Genis

CATEGORY - State Police/Highway Patrol

The THP submitted one statewide application to the GHSO in an effort to compete with other agencies from around the country in the IACP’s Law Enforcement Challenge. Additionally, each District was invited to submit an application documenting their efforts throughout their district region.

CATEGORY 5- 101-250 Officers

3rd Place- Sullivan County Sheriff’s Office
Sheriff Wayne Anderson

2nd Place- Murfreesboro Police Depart.
Chief Glenn Crisman

1ST Place- Johnson City Police Department
Chief John Lowry

3rd Place- District 2 - Chattanooga
Captain Lucious Howard

2nd Place- District 1 - Knoxville
Captain Laxton

1st Place- District 4 - Memphis

MOTORCYCLE HELMETS SAVE LIVES

Florida repealed it’s mandatory helmet law in 2000. A study, “Evaluation of the Repeal of the All-Rider Motorcycle Helmet Law in Florida”. Motorcyclist fatalities increased by 81 percent comparing 2001-2003 to 1997-1999, compared to 48 percent nationally. Admissions for head injuries increased by 82 percent. The average head injury treatment cost increased by almost \$10,000 to \$45,602. The full study is available by request.

CATEGORY 6- 251-500 Officers

3rd Place- Chattanooga Police Department
Chief Steve Parks

2nd Place- Shelby County Sheriff’s Office
Sheriff Mark Lutrell

1ST Place- Knoxville Police Department
Chief Sterling Owen

IACP National Law Enforcement Challenge

What is the Law Enforcement Challenge Program?

The Law Enforcement Challenge is a competition between similar sizes and types of law enforcement agencies. It recognizes and rewards the best overall traffic safely programs in the United States. The areas of concentration include efforts to enforce laws and educate the public about occupant protection, impaired driving, and speeding. Departments submit an application (usually in a three ring or presentation binder) which documents their agency's efforts and effectiveness in these areas. The winning safety programs are those that combine officer training, public information and enforcement to reduce crashes and injuries within its jurisdiction.

Why does IACP do this?

This program is financed through a grant awarded to the IACP by NHTSA. IACP & NHTSA believe an increase in traffic enforcement in a community results in a decrease in motor vehicle crashes, injuries, and fatalities and they have the studies to prove it! In fact, no single other program or strategy works as well as law enforcement in making the roads safer. This program compliments all the other training and public information programs that NHTSA does to promote traffic safety. The IACP believes one of the best ways to promote, build, and increase participation in the national program is to establish state challenge programs. This way a state can conduct its own program and then forward the applications to us to include in the national competition. There are currently ten states that have compatible state programs.



Celebrating success at the IACP Convention From left: Larry Goodwin, Memphis Police Chief; Jeff Jackson, Mt. Carmel Chief; Fred Phillips, Commissioner of Safety; Chuck Taylor, Director GHSO; Lynn Pitts, Colonel of the Highway Patrol, Lt. Pearson, Paris Police; Master Sergaent Phillip Chatigny of Fort Campbell.

NATIONAL AWARDS FOR ROCKY TOP STATE

CATEGORY 1 - 1- 10 Officers

1st Place Nationally
Mount Carmel Police Department
Chief Jeff Jackson

CATEGORY PD-9 – 2001 or more Officers

2nd Place Nationally
Memphis Police Department
Director Larry Godwin

CATEGORY – Military Police

1st Place Nationally
Fort Campbell

CATEGORY – STATE POLICE 3 (501 – 1000 Officers)

1st Place Nationally
Tennessee Highway Patrol
Colonel Lynn Pitts

CATEGORY – NATIONAL SPEED AWARD

Paris Police Department
Chief Thomas Cooper

CATEGORY – Commercial Motor Vehicle Award

Tennessee Highway Patrol
Colonel Lynn Pitts



STATE AWARDS First Time Entry & Pedestrian Award

Mount Carmel Police Department
Chief Jeff Jackson

Child Passenger Safety Award
Mount Carmel Police Department
Chief Jeff Jackson

Occupant Protection Award
Collegedale Police Department
Chief Dennis Cramer

Impaired Driving Awareness Award
Bradley County Sheriff's Office
Sheriff Dan Gilley

Speed Awareness Award
Paris Police Department
Chief Thomas Cooper

Underage Alcohol Prevention Award
Clinton Police Department
Chief Rick Scarborough

Technology Award
Chattanooga Police Department
Chief Steve Parks

TEARS IN TENNESSEE



519 MEMORIES

519 MOTHERS, FATHERS, SISTERS, BROTHERS, CHILDREN OR PARENTS ARE GONE FOREVER. These are the people who died on our highways due to alcohol related crashes in 2004. The total represents an increase of 17% or 76 persons from 2003. Forty percent of all traffic fatalities in 2004 involved alcohol. In the previous four years the average had been 26%.

Overall our roadways were more dangerous in 2004 than the previous year. In 2004 ninety five more people died on our roads than the previous year. The increase included an additional 139 persons killed in alcohol related crashes. Tennessee's increase in fatalities occurred while fatalities across the nation were decreasing. Nationwide 42,636 died, down from 42,884 the year before.

Across the nation the largest increase in fatalities (8%) involved motorcycles. Fortunately our legislature did not pass the proposal to make motorcycle helmets optional.

Fatalities in SUVs increased 5.6% from 4483 to 4735, while fatalities in cars, pickup trucks and vans decreased by 834 persons.

In 2004, 55% of those killed in passenger cars were not wearing seat belts. NHTSA estimates that traffic fatalities cost the nation \$230.6 billion dollars per year, the equivalent of \$820 per person.

TENNESSEE BY COUNTY

Alcohol related fatalities with a .08 blood alcohol level or above were lower in 24 Tennessee counties. The greatest reductions occurred in Overton County which lowered fatalities from five to zero and Lincoln and Decatur Counties which lowered from five to one.

Fatalities with .08 or above increased in 56 counties. The largest increases in alcohol related fatalities occurred in Montgomery 5 to 21; Loudon 1-8; Davidson 21-39; Hamilton 10-19 and Shelby 19-37.

The largest number of alcohol related fatalities occurred in Davidson (39), Shelby (37), Knox (24), Montgomery (21), Hamilton (19), Rutherford (12), Henderson and Blount (11) each.

Nine counties had no alcohol related fatalities at all. Included is Moore County with it's fifth year in a row without an alcohol crash death.

The Tennessee Legislature passed Public Chapter 117 last year which urges the Department of Transportation to study roadside memorials to those killed in traffic fatalities. Perhaps more effort and funding should be spent on reducing the need for memorials.



GHSO BEGINS NEW PLAN TO REDUCE FATALITIES

Impaired and dangerous drivers should get ready to be stung. The GHSO has released a new program called W.A.S.P. or Wider Area Saturation Patrols. The plan identifies sixteen counties that have had some of the worst traffic fatality rates in the State. The plan also identifies the location and time of the fatalities. With the cooperation of the Highway Patrol and local law enforcement citizens in the sixteen counties will see increased saturation patrols. The patrols will aim at the roads and times in which citizens have been in the most danger. The GHSO will fund radio advertising in the counties involved to warn potentially dangerous drivers to stay sober and slow down. Law Enforcement will be out in force to deliver a sting and a ride to jail for dangerous offenders.

SCHNECKLOTH v BUSTAMONTE CONSENT TO SEARCH

The Tennessee Supreme Court did not mean to cause nightmares or nervous twitches in a recent decision concerning the consent to search. The case **State v. Cox, 2005 Tenn. LEXIS 683** reaffirms long standing law in Tennessee concerning consent. Ms. Cox was stopped after failing to signal a left hand turn. After the stop Officer Odell of the Clarksville Police Department noticed her license plate was registered to another vehicle. The defendant granted permission to search the car and a seed and flake were found. The officer then asked for and received consent to search the motel room Cox was staying in where drugs were found.

The defendant sought a new standard for consent searches. She wanted the Court to require officers to inform defendants of a right to refuse consent. The Court denied her request. Instead the Court wrote, "Indeed, the United States Supreme Court has expressly held that an individual need not be informed of his or her right to refuse consent as a prerequisite of valid consent. The Court cited **U.S. v Drayton** 536 U.S. 194 (2002) and the infamous **Schneckloth** 412 U.S. 218 (1973).

Average law school students everywhere remember the name of the **Schneckloth v Bustamonte**. Most also remember cursing themselves, because they couldn't remember the other fifty cases they had memorized before they had to master **Schneckloth v Bustamonte**. If ever a case name brings back haunted memories of tortuous law school days, it is **Schneckloth v Bustamonte**. If these paragraphs are causing you nervous twitches, get up from behind your desk, read the License to practice law hanging on your wall and relax. When the defense lawyer starts arguing about consent to search, you can tell him/her about **State v. Cox** and for fun throw in a cite to **Schneckloth v Bustamonte**.

Drug Dogs in Tennessee

In January the U.S. Supreme Court held that the use of a well-trained narcotics-detection dog, one that did not expose non-contraband items that otherwise would have remained hidden from public view during a lawful traffic stop, generally did not implicate legitimate privacy interests in **Illinois v. Caballes, 125 S. Ct. 834 2005**.

In August, the Tennessee Court of Criminal Appeals affirmed the suppression of evidence discovered by a drug dog at a traffic stop. The decision in **State v. Bruce, 2005 Tenn. Crim. App. LEXIS 900** may have had more to do with principles involved in appellate review than anything else. Judge Scott in Anderson County had suppressed the evidence. He ruled the defendant had been detained beyond the time necessary to complete the traffic stop. The Appellate Court found no evidence to preponderate against the trial judge's finding.

FORFEITURE

Is a conviction for DUI necessary to forfeit the driver's car? That question was posed to the Court of Appeals in **Hargrove v. State, 2005 Tenn. App. LEXIS 585**. The answer is a resounding no. Hargrove was arrested for fourth offense DUI. A hearing was conducted and an Administrative Law Judge ruled that his vehicle be forfeited. For unknown reasons an order nolle prosequi was entered in the Criminal Court for Humphrey County.

Hargrove appealed the forfeiture to the Chancery Court and won. The Chancery Court ruled that a conviction for DUI was a prerequisite to forfeiture. The Court of Appeals recognized that the burden of proof established by the Legislature for forfeiture is a preponderance of the evidence. The State met that burden in the case.

OPINIONS FROM THE ATTORNEY GENERAL
Concerning Traffic Safety



Attorney General Paul G. Summers

General Summers has served as Attorney General since 1999. Previously he served on the Court of Criminal Appeals and as District Attorney General for the 25th Judicial District. He is also the State Staff Judge Advocate for the National Guard with more than 30 years of service as an officer.

To read the legal analysis of these opinions go to the Attorney Generals web page at: <http://www.attorneygeneral.state.tn.us/>

OPINION #5-41

Expungement of a DUI Conviction Pursuant to Either Pretrial or Judicial Diversion

QUESTIONS

1. Are DUI's expungeable offenses for any pretrial diversion program, including but not limited to T.C.A. § 40-35-313?
2. Is a judicial diversion, or a post plea diversion, included in the pretrial diversion program contemplated in T.C.A. § 55-10-403(b)(1) for the purposes of prohibiting utilization of such diversion programs to expunge DUI's from a person's driving record?

OPINIONS

1. No, a DUI cannot be expunged pursuant to any pretrial diversion program or pursuant to judicial diversion.
2. No, judicial diversion is not included within the pretrial diversion program specified in T.C.A. § 55-10-403(b)(1). Nevertheless, judicial diversion cannot be used to expunge a DUI conviction from a person's driving record because T.C.A. § 55-10-403(b)(1) makes a person convicted of DUI ineligible for judicial diversion.

OPINION 5-69

Duty of Health Care Providers to Report Potential DUI or Drug Use / Right Against Self-Incrimination

QUESTION

The proposed amendment to Section 3 of Senate Bill 1873 would require a health care provider to notify law enforcement authorities to investigate when: (1) the provider has a reasonable belief that the patient was the operator of a vehicle involved in a collision; and (2) positive drug or alcohol test results notify the provider that the patient was at least potentially impaired due to the use of drugs or alcohol. Does this proposed amendment violate a criminal defendant's protection against self-incrimination under the Tennessee or United States Constitutions?

OPINION

No. Under neither the Tennessee nor United States Constitution does the reporting of blood test results by a physician to law enforcement violate a criminal defendant's right against self-incrimination.

OPINION 5-87

Cameras at Intersections

QUESTION

1. Whether use of cameras at intersections or in other locations in the City of Knoxville to monitor traffic violations would be allowable.

OPINION

Yes. The City of Knoxville can use its inherent "police power" to enact ordinances to allow the use of video technology to enforce the city's traffic laws.

DRUG RECOGNITION CLASSIFICATION PROGRAM UPDATE

**AMERICAN BAR ASSOCIATION
DRE ENDORSEMENT**

BE IT RESOLVED

That the American Bar Association endorses and supports the Drug Recognition program initiated by the National Highway Safety Administration and the Bureau of Justice Assistance provided it is applied in a manner fully respecting the subject's constitutional rights.

BE IT FURTHER RESOLVED

That the American Bar Association encourages adoption and use of the drug recognition program by the states and other jurisdictions.

**FIRST GROUP OF DRUG
RECOGNITION EVALUATORS HARD AT
WORK**

Ten law enforcement officers have completed the rigorous training required to be acknowledged as drug recognition evaluators in Tennessee. Training included an intensive eighty hour course; twelve field evaluations under the supervision of instructors and a seven hour long final knowledge examination. The ten are:

- Richard Holt**, DRE Coordinator, GHSO
- Brian Hickman**, Collegedale Police Dept.
- Chris Buss**, Nashville Metro Police Department
- Michael Dudley**, Nashville Metro Police Dept.
- Dale Farmer**, Kingsport Police Department
- Kevin Shearon**, Nashville Metro Police Dept.
- Clint Shrum**, Winchester Police Department
- Jerry Tucker**, State SFST Coordinator, GHSO
- Kenneth Walburn**, Nashville Metro P.D.
- Daniel Blake**, GHSO Law Enforcement Liaison

Six more officers will soon complete the final field evaluations to qualify to attempt the final knowledge examination.

The next D.R.E. class will be conducted in the Spring of 2006 in Memphis.

**METH
DRUG RECOGNITION PROFILE**

DEC Profile: Horizontal gaze nystagmus not present; vertical gaze nystagmus not present; lack of convergence not present; pupil size dilated; reaction to light slow; pulse rate elevated; blood pressure elevated; body temperature normal to down. Other characteristic indicators may include restlessness, body tremors, talkativeness, exaggerated reflexes, anxiety, and track marks or recent injection sites.

METH EFFECTS ON DRIVING PERFORMANCE

Effects on Driving:

The drug manufacturer states that patients should be informed that methamphetamine and amphetamine may impair the ability to engage in potentially hazardous activities such as driving a motor vehicle. In epidemiology studies drive-off-the-road type accidents, high speed, failing to stop, diminished divided attention, inattentive driving, impatience, and high risk driving have been reported. Significant impairment of driving performance would also be expected during drug withdrawal. In a recent review of 101 driving under the influence cases, where methamphetamine was the only drug detected, blood concentrations ranged from <0.05-2.36 mg/L (mean 0.35 mg/L, median 0.23 mg/L). Driving and driver behaviors included speeding, lane travel, erratic driving, accidents, nervousness, rapid and non-stop speech, unintelligible speech, disorientation, agitation, staggering and awkward movements, irrational or violent behavior, and unconsciousness. Impairment was attributed to distraction, disorientation, motor excitation, hyperactive reflexes, general cognitive impairment, or withdrawal, fatigue and hypersomnolence.

Drugs and Human Performance COUPER, Fiona J. and LOGAN, Barry K Technical Report DOT HS 809

Drug Recognition Expert Officers

DRE's are patrol officers with specialized training? They are now responding in cases in which an officer notices signs of impairment of drugs. The poster below shows indications of the use of Methamphetamine. It and other materials concerning the poison meth is available at www.methfreetn.org

METHAMPHETAMINE

Binge use of methamphetamine can be broken down into the following phases:

Rush – (5 minutes)
intense euphoria, rapid flight of ideas, sexual stimulation, high energy, obsessive/compulsive activity, thought blending, dilated pupils;

Shoulder – (1 hour)
less intense euphoria, hyperactivity, rapid flight of ideas, obsessive/compulsive activity, thought blending, dilated pupils;

Binge use – (1-5 days)
The drug is frequently re-administered in an attempt to regain or maintain euphoria;

Twaking – (4-24 hours)
dysphoria, scattered and disorganized thought, intense craving, paranoia, anxiety and irritability, hypervigilance, auditory and tactile hallucinations, delusions, and normal pupils;

Crash – (1-3 days)
intense fatigue, uncontrollable sleepiness and catnapping, continuing stimulation, drug craving;

Normal – (2-7 days)
apparent return to “normalcy” although drug craving may appear;

Withdrawal – anergia, anhedonia, waves of intense craving, depression, hypersomnolence, exhaustion, extreme fatigue.

Meth Use Source:
Drugs and Human Performance
COUPER, Fiona J. and LOGAN,
Barry K
Technical Report DOT HS 809 725

Anatomy of a Meth User

- Extreme loss of appetite
- Malnutrition
- Anorexia

- Loss of vision
- Tooth decay
- Drying of salivary glands
- Permanent nerve damage

- Infected sores or "Meth Bugs" appear and are slow to heal

- Respiratory failure
- Toxic vapors scorch or burn the esophagus and lungs
- Crystals form in lungs

- Breakdown of muscle tissue which may lead to kidney failure

- Chest pain
- High blood pressure
- Build-up of fluid in the lungs and brain
- Internal bleeding & ruptured blood vessels

- Bone loss from mineral and vitamin deficiencies

METH. YOUR FUTURE STOPS HERE

www.meth-is-death.com



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REST IN PEACE

Victims of Alcohol
Related Fatalities:
Tracy K. Brymer, 27, of
Dickson, TN, was killed
in a wreck August ,2005.
She was a passenger in a
car struck by James
Williams of Vanleer. Her
two children 4 and 3
years old were in child
restraint seats in the back
seat. Williams is in
custody with a \$250,000
bond.

Michael England ,
husband and father of
two, was driving on
Clinton Highway in
Knoxville. He was killed
by drunk driver, Earl
Mills in 2003. Mills is
serving a twelve year
sentence. His appeal ask-
ing for extra jail credits
was denied in July.

**AIDING AN IMPAIRED DRIVER MAY
LEAD TO LIABILITY FOR HARM CAUSED**

Brian Tarver was drunk when he stopped at a convenience store to buy booze. The store clerk refused to sell to Tarver because he was obviously intoxicated. Angry and intoxicated Tarver began cursing, then managed to pull three one dollar bills from his pocket. He put them on the counter to purchase gas. He attempted to pump gas, but could not hit the button on the pump to designate the type of gas he wanted. Store employees helped him and he drove away. He did not turn on his headlights and drove south in a northbound lane. Tarver managed to drive 2.8 miles before slamming into a car. Two people were seriously injured.

A lawsuit was filed. The injured parties were disappointed.

The Trial Court granted a summary judgment in favor of the store. The Court of Appeals affirmed the grant of summary judgment as to the negligence per se and negligent entrustment theories of liability, but reversed the trial court on the negligence claim. The intermediate court held, *inter alia*, that “the affirmative acts of Defendant’s employees in both selling gasoline to and in helping a visibly intoxicated Tarver pump the gasoline into his vehicle created a duty to act with due care.”

The Supreme Court in **West v. East Tenn. Pioneer Oil Co., 2005 Tenn. LEXIS 652** reversed the summary judgments and stated, “we hold that the convenience store employees owed a duty of reasonable care to persons on the roadways, including the plaintiffs, when selling gasoline to an obviously intoxicated driver and/or assisting an obviously intoxicated driver in pumping the gasoline into his vehicle. Viewed in the light most favorable to the plaintiffs, we conclude that the evidence in the record establishes prima facie cases of negligence and negligent entrustment.”

Liability has not been established in this decision. However, the plaintiffs can proceed to trial with an attempt to prove negligence and negligent entrustment at trial.

It does not pay to help an impaired driver commit his crime. Citizens and businesses alike should be aware that impaired driving is extremely dangerous. Helping the impaired driver may also be extremely costly.

THE TWO BEER LIE

Every day the story repeats itself. The impaired driver claims he had two beers in two hours. The prosecutor watches a video and the defendant was obviously impaired. He weighed 220 pounds and had a .13 Blood Alcohol result. The defendant is planning to go to the mat with the two beer lie. Interested in knowing how many beers he consumed? A web site called Health Status has a nice blood alcohol calculator at: <http://www.healthstatus.com/calculate/bac>. The Defendant needed nine 12 ounce beers to accomplish his .13.