



# DUI NEWS

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## PARTING IS SUCH SWEET SORROW

**Jim Camp**

Nine years ago I left Wisconsin to join my old friend Tom Kimball to embark on a new adventure in the great state of Tennessee and what an adventure it has been! I joined Tom in a mission to save even more lives on our highways than I was able to save in my seventeen years as an elected District Attorney. I'd like to think we have made a difference.

Thanks to Tom and Kendell Poole I have had the extreme pleasure of being part of the greatest highway traffic safety program in the country. This is so because Tom and Kendell believe in our collective mission to save lives on our highways. They do what is necessary and proper to achieve this. They have always thought outside of the box and gone the extra mile. But they haven't done it alone. All of you in this fight who also believe in the mission are equally responsible. Your hard work and sacrifice are obvious not only to those in law enforcement and prosecution but to all who call Tennessee home. All of you are responsible for what appears to be another record year for lives saved on the highways of our great state.

As I now embark on a new adventure but with the same goal and the same mission as when I arrived, I want to take this time to say thank you to all of you who have made this experience one of the greatest of my life. I have not only had a wonderful professional experience but an extraordinary personal one as well.

To begin at the beginning, I want to thank all my bosses and the amazing staff at the Tennessee District Attorney Generals Conference. You work hard and do one heck of a job for the District Attorneys and the people of Tennessee while receiving very little recognition. A special thanks to Training Director Mary Tom Hudgens and our partner in this mission Administrative Assistant Sherri Harper. Your talent and dedication to the cause is seldom publicly recognized. Thank you both for your constant support and above all the warmth and kindness shown to me. Neither Tom nor I could do the work we do without you.

To Kendell Poole, Jason Ivey and the staff at the Governor's Highway Safety Office past and present, none of this could have been accomplished without you. Your belief in the mission of traffic safety, can-do attitude and life saving accomplishments, are shining examples for the nation of how it should be done.

To some of the most hard working, dedicated and down right talented Assistant District Attorneys to grace a courtroom. You are inspiring. It has been an honor to have known so many of you on a personal level and to have made so many lifelong friends. For that I am even more honored and thankful as we continue together on this journey albeit in a slightly different form.

Continued next page

To the elected District Attorneys: I resigned at the beginning of my ninth two year term as an elected DA in order to join the Conference in this mission. Leaving the long-time well established relationships and camaraderie with my fellow “electeds” in Wisconsin was difficult. I soon discovered that I had new friends and comrades as many of you befriended me, brought me into your circle and treated me as one of your own. For that I am eternally grateful. Your friendship and respect is and always will be cherished.

Thank you to my Tennessee law-enforcement friends for your hard work, dedication and commitment to your life saving work. You are intelligent, capable, courageous professionals, always willing to learn and go the extra mile and I am happy to call so many of you friends. We all sleep more soundly at night knowing you are there day in, day out laying your lives on the line to protect us. Be safe out there.

A special thank you to the Tennessee Highway Patrol, my office home for the past nine years. I cannot begin to thank you for...well, everything. You are true professionals who work to do the right thing the right way all the time and constantly strive to improve. Cols. Tracy Trott, Derick Stewart and John Albertson, Capts. Rob Bigham and Don Nicholson, Lts. Steve Lowry and Jerry Rush, Sgts. Shane Stafford and Steve Sakarapone, and too many others to name. You not only treated me like one of your own, you made me one. From giving me the nickname “Jim Lawyer” to constantly letting me know I was appreciated I couldn’t have felt more welcome. It is a true pleasure working with all of you who have been and always will be dear friends to me. I will always have your back.

Finally, to long time partner TSRP and dear old friend Tom Kimball. I can’t thank you enough for bringing me here. You have been a great friend, confidant and inspiration ever since we first taught together at the National Advocacy Center. What a blast it has been working with you! You are the best in the business, a real leader nationally in Traffic Safety and have created the best TSRP program in the business. No one in Tennessee truly knows how lucky they are to have you making a difference.

All of you have much to be proud of and I am proud to have been a part of your professional lives these nine years. I look forward to many more. While I am leaving my position with the DA’s Conference I am not leaving Nashville and I will continue to work with prosecutors and law enforcement in much the same way but from a bit different platform. I will be starting my own consulting firm and will also be joining my long time friend, the great crash reconstruction expert and trainer Professor John Kwasnoski in a separate endeavor to further accomplish our collective mission. I will continue to train prosecutors and law enforcement officers in Tennessee and throughout the nation and I will not be a stranger to my friends in Tennessee.

The past nine years have been a labor of love for me. In the process we have all made a difference. I pray you all never stop making a difference or lose your passion or commitment for this cause. It can be a tough job but it is packed full of great reward.

A large part of that reward for me has been the past nine years with you.

But don’t be afraid to holler. I’ll be around....

“Good night, good night! Parting is such sweet sorrow.

That I shall say good night till it be morrow”

*Romeo and Juliet Act 2, scene 2, 176-185*



#### ABOUT THE AUTHOR

Jim Camp was recently honored by the Foundation for Alcohol Responsibility on Capitol Hill and Shaq for his service to the nation as our Traffic Safety Resource Prosecutor. This was the latest of many honors. His greatest accomplishment was to help save lives. When we were authorized by Kendell Poole to hire Jim in 2005, the annual Tennessee fatality rate was 1,270. Last year we lost 906 people. Jim’s work training the troops at the Highway Patrol added to the increased professionalism, ability to testify in court and better investigate crashes. His work with prosecutors inspired. He will continue to be an asset to Tennessee Prosecutors and Law Enforcement for years to come.

## RECENT DECISIONS

### MANDATORY BLOOD TEST AND CONSENT CASES

**State v. A.D. Smith, III**, 2015 WL 9177646

Smith was arrested for DUI in Shelby County. Based on his prior conviction for DUI, he was informed that he was subject to a mandatory blood draw under Tennessee's implied consent law. Defendant filed a motion to suppress, arguing that his consent was not freely and voluntarily given. The Trial Court suppressed the evidence. The Court of Appeals reversed and remanded the case for trial. "This Court has recently held that a defendant's consent is not "rendered involuntary by the threat of a mandatory blood draw." State v. Patrick Lee Mitchell, No. M2014-01129-CCA-R3-CD, 2015 WL 2453095, at \*4 (Tenn.Crim.App. May 22, 2015) (concluding that informing a defendant that he would be subjected to a mandatory blood draw is not a "baseless threat," even if the officer would have to obtain a warrant if the driver refused), *no perm. app. filed.*"

**State v. Carla R. Richter**, 2015 WL 9412761

In the instant case, the proof reflects that the appellant had been convicted of DUI on three prior occasions; therefore, she was familiar with the criminal justice system in general and with the procedures employed during a DUI stop. While Trooper Leverette read the implied consent form, the appellant twice interrupted him to express her willingness to have a blood test. As the trial court noted, before Trooper Leverette read the section regarding the mandatory blood draw, the appellant interrupted to say that she wanted the test. Once she was fully informed of the consequences of refusing the test, she again eagerly expressed her willingness to have her blood drawn.

### SOBRIETY CHECKPOINT UPHELD

**State v. Kenneth Dwayne Mitchell**, 2015 WL 7826964

Mitchell contested his stop at a Sobriety Checkpoint but lost. He complained that the pre-checkpoint publicity did not get published until five days before the checkpoint. THP Sgt. Anderson testified that the press release was sent to the newspaper seventeen days prior to the checkpoint to comply with the general order. It was not published by the paper at that time. Mitchell also complained that the date of the checkpoint was not specified. The press release indicated checkpoints would be conducted through October 8th.

The complaints were rejected and conviction affirmed. The Court stated, "To the extent that the defendant complains that notice was not provided at least two weeks prior to the checkpoint, he misreads the notice requirement contained in Order 410-1. The Order does not require that notice of the roadblock is actually provided to the public no later than two weeks prior to the date of the roadblock. Rather, the THP is merely required to provide that information to the news media in accordance with that timeframe." The Court further held: "Although one goal of the advanced publicity requirement is to deter those who might otherwise drive intoxicated, a panel of this court has previously found that where the notice provided listed a date range during which the sobriety checkpoint would be conducted rather than a specific date, the deterrent value might actually increase. See State v. Rick L. Muncie, No. M2008-02097-CCA-R3-CD, 2009 WL 3031269, at \*9 (Tenn.Crim.App. Sept. 23, 2009)."

### TRAFFIC STOP UPHELD

**State v Thomas George Headla**, 2015 WL 9586495

Headla pled guilty but reserved his traffic stop issue for appeal. The Court upheld the traffic stop stating, "The record reflects Officer Brantley's testimony that he observed the defendant turning slowly and stopping short of a stop sign and that according to Officer Brantley's training, these were indicators of impairment. Officer Brantley also testified, and the police cruiser video recording reflected, that the defendant failed to drive upon the right half of the roadway, which was a traffic violation. See T.C.A. 55-8-115. The trial court noted the defendant's driving that far over on the left side of the road and the absence of cars parked on the right side of the road. Officer Brantley's observations gave rise to specific, articulable grounds for reasonable suspicion that the defendant was driving while under the influence.

## Court Orders/Search Warrants Necessary for Black Box Data

On December 4, President Obama signed the transportation bill (“Fixing America’s Surface Transportation Act”). Part of the act, the “Driver Privacy Act of 2015” provides that court orders (i.e., search warrants) are necessary to download information from a vehicle “black box” (formally known as “Event Data Recorders”). This new federal requirement conforms with normal practice in Tennessee, as search warrants are routinely sought for such data in crash investigations.

The bill, found at <https://www.whitehouse.gov/briefing-room/signed-legislation>, provides that data in the black box “is the property of the owner” or lessee of a motor vehicle and that such data “may not be accessed by a person other than an owner or a lessee” unless authorized by “a court or other judicial or administrative authority” or unless the owner or lessee provides “written, electronic, or recorded audio consent to the retrieval of the data.” Once retrieved, data is subject to the normal rules for admission of this type of evidence.

The act also provides rulemaking authority for the National Highway Traffic Safety Administration and directs that the agency report to Congress on “the amount of time event data recorders installed in passenger motor vehicles should capture and record for retrieval vehicle-related data in conjunction with an event in order to provide sufficient information to investigate the cause of motor vehicle crashes.”

The bill will also permit State Highway Offices to implement programs with knowledge that the authorization is in effect for five years. For several years State Highway offices had to plan around continuation budgets. Those continuations were always tenuous and hampered planning and implementation of good programs.

## FORD INTRODUCES DRUGGED DRIVING SUIT AS TEACHING TOOL

Ford’s new “Drugged Driving Suit” is designed to show drivers the dangers of driving under the influence of illegal drugs such as cannabis, cocaine and heroin. According to NHTSA, approximately 18 percent of all motor vehicle driver deaths involve drugs other than alcohol, such as marijuana and cocaine. The Drugged Driving Suit will be incorporated into *Ford Driving Skills for Life*, the award-winning novice driver education program that has provided free training to more than half a million people globally

## KNOX COUNTY OFFICERS TO CARRY NALOXONE

Knoxville Police Chief David Rausch announced in September that he is equipping officers with an anti-opiate drug in five areas of the city. Last year there were 133 overdose deaths in Knox County. The drug, naloxone hydrochloride is administered nasally. It immediately reacts to reverse the effects of overdose with a 70 percent “save rate”, according to Rausch. KPD is the first law enforcement agency in the state to equip officers with naloxone. The change was made possible by a change in state law prescribing the drug to anyone who may have contact with an overdose victim. All officers have been trained on how the drug works, how to use it and how to recognize signs of overdose. The drug is harmless if given to a person who has not ingested opiates.

Chief Rausch and KPD show they are committed to save lives of those who are in danger of overdose death.

## PUCKETT CONVICTED AGAIN

In November 2014, The Court of Criminal Appeals reversed the conviction of Marcus Puckett. See **State v Puckett**, 2014 WL 6491058. The Court remanded the case after ruling the breath test was not admissible because Puckett was not observed closely enough during the 20 minute observation period. The Court decided that without the admission of the .20 breath test, the State might not be able to prove it’s case.

Puckett was tried again in October, 2015 and was convicted by a jury after thirty-six minutes of deliberation. Prosecutor Michael McCusker relied on the testimony of the officer and the defendant’s girlfriend, who was in the car crying the night Puckett was arrested. It might not have been a close case after all.

## NO MORE VICTIMS

### MADD WALKS IN TENNESSEE 2015

The 2015 Memphis Walk Like MADD proved to be an incredible event remembering those who could not walk with us and breaking state records for attendance and money raised! The event, held at the Memphis Zoo on October 3, 2015, hosted 530 participants who have raised more than \$54,000 so far to support MADD's mission to eliminate drunk driving, fight drugged driving, support the victims of these crimes, and prevent underage drinking. The previous records, both set in 2013, were for 274 participants and \$25,000 raised.

The 2015 event more than doubled the state record for money raised! A total of 17 teams participated in the event. Team Maddie was honored for Top Fundraising Team and Jennifer Lynch of Team Rachel was honored for Top Individual Fundraiser. Each team was given an opportunity to create a unique table display honoring someone lost or injured in an impaired driving crash. Walkers also carried individual Remembrance Boards which were signs saying "I Walk For" on which names and/or pictures of loved ones were added. Throughout the walk path, victims stopped to read stories of each victim represented at the walk. Participants enjoyed a beautiful morning paying tribute to those who can no longer walk and committing to work for the day when there will be No More Victims!

To commemorate MADD's 35th Anniversary, MADD Tennessee joined MADD offices all over the country for MADD's National Day of Remembrance on December 3, 2015, with the Night of Remembrance held at the Hotel Preston in Nashville. The statewide event included a candlelight vigil to honor those lost or injured due to impaired driving or underage drinking consequences and a Law Enforcement and Community Awards ceremony to recognize individuals, agencies, and organizations who most exemplify MADD's mission.



The Tennessee Excellence Award is given to the top regional prosecutor for outstanding commitment to enforcing DUI laws and for supporting local volunteers' victim-advocacy efforts. The recipient of the Middle Tennessee Excellence Award was Assistant District Attorney Kyle Anderson of Davidson County. The West Tennessee Excellence Award was presented to Assistant District Attorney Chris Post of Madison County. Tom Kimball, Traffic Safety Prosecutor and Assistant District Attorney, was awarded the Statewide Tennessee Excellence Award.



## THE TENNESSEE STATE PRISON

by Leila Donn, TDEC

The Tennessee State Prison was built of recycled and locally-supplied materials, produced most of the food provided to the inmates, and housed several fruitful manufacturing industries. This isn't what you would expect from a prison that was built in 1898, and a prison that later closed because it was so un-sustainable to continue operating. The prison demonstrates how quickly sustainability is developing and changing – in only 100 years the prison went from being a shining example of efficient and modern construction to being a drain on the prison system and taxpayer dollars.

In 1898, the new prison was like a small city with over 1000 inmates, a farm, a dairy, livestock, and several industries all within the walls. The old prison on Church Street was demolished in 1898 and some of its materials went toward the construction of the new prison. The new prison, praised for being in line with the most modern and up-to-date prisons of the country, was built at a cost of over \$500,000 on a tract of land containing 1,200 acres.

### The Inmates

The first prisoner to be confined to the new Tennessee State Prison in 1898 was W.G. Cook of Madison County. Cook was a tailor by profession and sewed his own prison uniform, thereby performing the first labor by a convict in the new prison system.

The prison's earliest census shows a count of 985 black males, 377 white males, 38 black females, and 3 white females. Earlier convicts had no option for rehabilitation; the only thing that they were allowed to do outside of the cell was to work until their sentence was up and they were released.

In January of 1920 the prison population hadn't changed much, having decreased to 927. By 1930 it had risen to 1815 and in 1940 the population was 2087. By the time the prison closed in 1992 it was well over its capacity of 2,000. In 1944 the population was down, at 1256, likely in connection to World War II. From 1966-1967 the daily cost of operation was \$4.28 per prisoner for 1969 inmates, up from ¢0.32 per prisoner at the time of the penitentiary's opening.

The prison had several notable – and notorious – inmates over the course of its existence. In 1953, "The Prisonaires" were the first musical group ever to attract national attention while serving prison terms. The group had five members, including John Bragg, songwriter and long-time friend of Elvis Presley. Elvis actually visited Bragg in the penitentiary in 1961, also taking a tour of the facility during the visit. James Earl Ray, 41-year-old convicted slayer of Dr. Martin Luther King Jr., was also an inmate at the prison, beginning his 99-year sentence in March of 1969.

James Earl Ray, though he did not receive the death penalty, spent some time in the penitentiary's death row. Death row housed 100 people in four pods of 25-people each. Until 1913, the death sentence was executed by hanging, and there are no records of who was hung prior to then. After 1913, electrocution was implemented and two to three executions were carried out most days.

"Old Sparky", as the electric chair was darkly known, was moved, along with all of the inmates who were moved when the prison closed in 1992, to Riverbend Maximum Security Prison in Nashville.

### In line with LEED

It is estimated that 80% of the total cost of the new Tennessee State Prison and all its trappings was spent on materials purchased locally within the State of Tennessee.

All of the stone for the prison walls was quarried in Middle and East Tennessee. The cells were built of Pikeville Sandstone and white brick, manufactured in Robbins in Scott County. All other bricks were made on the state farm. Preference was given to local manufacturers. All of the sanitary pipe was made in South Pittsburg; the doors and sashes were made in Nashville; and the boilers, arches, and ceilings were all made in Chattanooga. A large amount of the soft steel work was changed to malleable iron when it was determined that the iron could be manufactured in Tennessee for the same price.

The building layout was sustainable as well. Each row of cells faced the windows so that the entire building was naturally lit.

Corrections has kept right up with sustainability as it has changed over time. Hopefully the architecturally striking historic Tennessee State Prison will be preserved, not only for its colorful history, but also as a reminder of how what is newest and best is constantly changing and what we must do to keep up with it.

(Continued on Page 7)

## THE TENNESSEE STATE PRISON



(Photo by Dan Strickland)

### Locally grown

The prison has produced a large portion of the necessary produce to feed inmates throughout much of its existence. Prisoners grew their own food on the prison farm. In 1905, the prison dairy had 66 heads of cattle and produced enough milk and butter daily to supply the entire prison. Around that time there were also 5,000 pounds of pork being produced from prison livestock. By the 1950s there were 600 hogs and just as many cows, which were producing about 200 gallons per day. It took almost 2,000 acres of land to grow feed for these animals, with 602 acres of corn, 450 acres of small grain, 500 acres of hay, 90 acres of alfalfa, 164 acres of silage, and 60 acres of soy bean.

Food production was full-circle – food was grown, processed, cooked, and stored on-site. In 1953 the prison canned 43,851 gallons of food. At this time the prison was cooking 4,380 meals per day for around 1,300 inmates. That’s enough food produced daily to sustain the average American family for two years.

### Jobs for Tennessee

The prison had 280,000 square feet of industrial manufacture buildings within the complex, including a soap factory, a foundry, and a boot shop. Prisoners were able to learn a trade and eventually get time taken off of their sentence in exchange for working. Manufactured items were sold outside of the prison.

### ABOUT THE AUTHOR

Leila Donn works for the Tennessee Department of Environment and Conservation (TDEC) Office of Sustainable Practices, where she works to find a solution to Tennessee’s food waste problem, promotes sustainable transportation, provides technical assistance as Tennessee State Parks work to become more green, and writes about Tennessee’s sustainable projects for national and regional publications. Prior to beginning work at TDEC, Leila began her career as a geologist for an oil company on a deep water drill ship and then worked for an environmental consulting company. She has a Bachelor of Science degree in Geology from Sewanee: The University of the South. Leila is committed to furthering sustainable practices in order to conserve and make the best use of our natural environment and resources.

### State v Carey, 2015 WL 8482746

### DUI REVERSED MISSING OFFICER

Carey was convicted of DUI 1<sup>st</sup> offense in Davidson County in part due to his performance during standardized field sobriety tests. A video of his poor performance was introduced. The DUI officer who conducted the tests was not available after retiring from the force. The Court admitted the video as it was not hearsay and not admitted to provide the truth of the matter asserted. The Court of Criminal Appeals reversed stating “we conclude that the video recording contained testimonial hearsay as defined by Crawford. On the video, Officer Taylor is heard saying multiple times on the recording that the defendant is intoxicated and that he is in no condition to drive or to make decisions. This is a “targeted accusation” that the defendant has engaged in criminal conduct.”

“We conclude that, while the video was relevant, portions of the video contained testimonial hearsay. It also contained admissions and statements by the defendant that may have been relevant to his level of intoxication. In the event of further review, in our view the statements made by the defendant on the video are admissions by a party and are therefore admissible.”

### State v Kendall Eayrs, 2015 WL 9311865

### TRAFFIC STOP SUPPRESSED

The issue in this case was limited by the Trial Judge when he shut down a suppression motion to uphold a traffic stop, because the driver was parked in the turn lane on the Pigeon Forge Parkway. No evidence had been presented that parking in the turn lane was a violation of the City Code. Judge Easter in a scathing concurring opinion stated, “I feel certain that the trial court, as I, will never forget that it is not a violation of the state statute to stop, park, or leave standing any vehicle, whether attended or unattended, upon a highway inside a business or residential district. See T.C.A. § 55–8158.” Other issues like physical control were not ruled on once the Judge came to his conclusion.

### INCREASED DRUG FATALITIES

Prosecutors and Judges see a part of the traffic fatality picture in the court process. That picture includes cases in which crimes were committed and a driver survived the crash to face prosecution. Looking at the fatality numbers last year, alcohol and drugged cases are a significant part of the traffic fatality picture.

In 2015, there were 173 known fatalities in which drugs were present. There were 225 fatalities with alcohol. 92 of the fatalities had both alcohol and drugs. That means there were 133 fatalities with alcohol alone and 81 with drugs, but no alcohol. That tells us that 306 of the State's 963 fatalities or 31% were either alcohol or drug related. The alcohol rate is about 24%. In 2004 alcohol was a factor in 40% of all fatalities.

Drugged driving appears to be nearly as much more of a problem as alcohol impaired driving in Tennessee with 17% of fatalities involving drugs, some combined with alcohol and some not. Impaired driving is still a major factor in traffic fatalities.

The Tennessee Bureau of Investigation toxicology unit shared with us the list of most commonly detected drugs found in DUI related cases. 60-65% of the cases include alcohol. If a level of .08 is detected, the blood sample is not tested for drugs, unless requested by the prosecutor, a drug recognition expert or if the case involves a fatality. The next most common drugs by rank are Alprazolam, THC metabolite, Diazepam and it's metabolite, Nordiazepam, Oxycodone, Hydrocodone, Amphetamine, Diphenhydramine, Methamphetamine and Meprobamate.

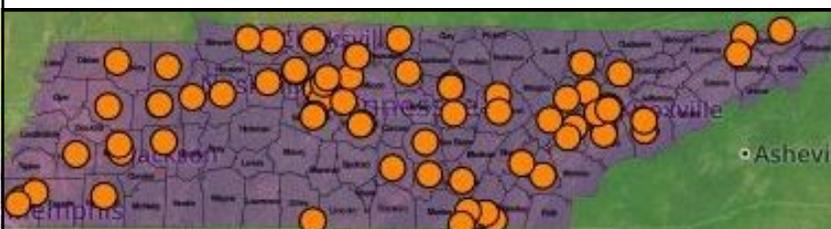


This map shows the location of fatal crashes that involved drugs in 2015. There were 149 crashes resulting in 173 deaths.

To try to cope with the increasing problems created by drugged driving, the State has trained a group of law enforcement officers as Drug Recognition Experts. A drug recognition expert or drug recognition evaluator (DRE) is a police officer trained to recognize impairment in drivers under the influence of drugs other than, or in addition to, alcohol.

Officers trained as Drug Recognition Experts (DREs) are frequently called upon to differentiate between drug influence and medical and/or mental disorders and is an extremely valuable tool in combating the adverse impact of drug and alcohol impaired driving in our communities. To find a DRE near you go to:

<http://tntrafficsafety.org/training/dre-school>. Click on the dots on the map at that site to identify your local DRE's.



Applications for the next DRE school are currently open. Contact Director Richard Holt at: [rm\\_holt@frontiernet.net](mailto:rm_holt@frontiernet.net) to learn about the application process.

Officers are trained using a 12 step process, which includes blood pressure, body temperature and various eye exams in addition to typical field

## RECOGNITION AND AWARDS

The Tennessee Governor’s Highway Safety Office has recognized nearly one hundred officers and law enforcement agencies for their traffic safety enforcement efforts. Regional meetings took place in Jackson, Murfreesboro, Pikeville, Knoxville, and Greeneville.

The regional meetings were conducted by the Governor’s Highway Safety Office’s Law Enforcement Liaisons (LELs). Each of the four Tennessee regions has one LEL that serves as a link between the Governor’s Highway Safety Office and local and state law enforcement agencies. LELs also oversee the development of traffic enforcement networks within their region.

"The awards are a small token of our appreciation for their hard work and tireless efforts. Each of the recipients has dedicated themselves to highway traffic safety and making the roadways of Tennessee safer for travel," said West Tennessee LEL Brenda Jones. Officers were recognized for their efforts in speed enforcement, seat belt enforcement, impaired driving enforcement, and child passenger safety. Officer of the Year awards were presented to law enforcement officers who showed outstanding work in all areas of traffic safety. Beyond the Traffic Stop Awards were given to officers, while performing routine traffic stops, went above and beyond the call of duty. In certain regions, overall departments were recognized for their entire unit’s efforts in a particular category. "These officers are just a few of many that strive hard to make their communities, counties, and our state a safe place to live," added East Tennessee LEL Steve Dillard. "Our partnerships with law enforcement agencies are extremely valuable," Governor’s Highway Safety Office Director Kendell Poole said. "It is our honor to recognize the men and women who go above and beyond to reduce traffic crashes, injuries, and fatalities. We know that their efforts are making an impact across the state of Tennessee." For a complete list of officers and departments that were recognized, visit [http://tntrafficsafety.org/sites/default/files/2015\\_award\\_listing.pdf](http://tntrafficsafety.org/sites/default/files/2015_award_listing.pdf)



### A FEW OF THE AWARD WINNERS:

DUI Prosecutor of the Year Award: General Mike Dunavant (pictured with Jason Ivey)

### Impaired Driving Enforcement Awards:

- Trooper Adam Cash – THP District 8
- Trooper Brandon Rogers – THP District 4
- Deputy Matt Terry – Hardin County Sheriff’s Office
- Officer James Harvell – Memphis Police Department
- Officer Jeff Gordon – Milan Police Department
- Deputy of the Year Award—
- Deputy Jeremy Finney – Tipton County Sheriff’s Office

### Hero of the Year Awards:

- Trooper Tracy Tyler - THP District 8
- Trooper Lee Russell – THP Aviation Unit

### Officer of the Year Awards:

- Officer Brian Hutson – Milan Police Department
- Officer Ronnie Graves – Piperton Police Department

## COPS IN COURT CONDUCTED IN MAYNARDVILLE

District Attorney General Jared Effler and the DUI Training Section conducted a Cops in Court class in Maynardville October 7th. Members of General Effler’s office were joined by former District Attorneys Dan

Alsobrooks and Mike Bottoms and retired ADA’s David Puckett and Wayne Hyatt to help officers better understand their role as witnesses in Courts. Integrity, professionalism and communication lectures were followed by mock court practice and critiques by prosecutors. Thirty officers attended the course. We appreciate the First Baptist Church of Maynardville allowing us to use their meeting rooms for the course.



## VEHICULAR HOMICIDE MURDERERS ROW

### Impaired Driver Convicted in Death of Passenger

Prosecutors with Knox County District Attorney Charme Allen's DUI Unit obtained a conviction October 16th for a crash in which the passenger of the impaired driver lost his life. Joyce Darlene Scott, 50, pled guilty to Aggravated Vehicular Homicide and was sentenced to serve eighteen years in the Tennessee Department of Corrections. Scott had two prior convictions for DUI at the time of the crash.

Assistant District Attorney Joe Welker outlined the State's case in a hearing before Judge Scott Green. Welker explained to the Court that on November 8, 2013, Knoxville Police Department Officer Tim Edwards responded to a single-vehicle crash at 2622 Texas Avenue. Rural Metro also arrived and transported Scott to UT Medical Center, but the passenger, Norman Connaster, was pronounced dead at the scene. Officer Edwards was able to determine based on evidence at the scene that the vehicle driven by Scott left the roadway and struck a utility pole before rolling on its side, sliding through a fence, hitting an embankment, and ultimately, striking an auto parts store at 2622 Texas Ave.



Scott (pictured) was interviewed and admitted consuming alcohol prior to the crash. She told officers she swerved to avoid hitting an animal in the road, and she lost control. Scott's blood was drawn after the crash and showed that in addition to alcohol, Scott had cocaine, prescription pills, and marijuana in her system.

"This is yet another tragic example of the danger of impaired driving," said D.A. Allen. "My Office spends a great deal of effort prosecuting DUI cases in the hope that strict enforcement and aggressive prosecution may help prevent outcomes like the one in this case"

The case was enhanced to Aggravated Vehicular Homicide, a Class A felony, because the defendant had two prior DUI convictions on her record from 2002 and 1998.

### TRACKER REPORT

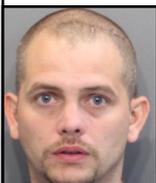
During this quarter, the DUI Tracker captured 2,313 DUI dispositions and 2,903 new DUI cases statewide, which accounts for about 40-50% of all quarterly dispositions. That's based on a typical annual average of about 23,000 dispositions per year or 5,750 per quarter in Tennessee.

In this 3rd quarter of our fiscal year, the district with the most reported dispositions was the 20th District (Davidson County) with 520 dispositions followed by the 16th, 15th, 30th and 26th Districts. The district with the most new cases opened was also the 20th District with 575 new cases followed by the 16th, 22nd, 15th and 19th.

Overall 2,313 dispositions were entered statewide with 1,493 guilty as charged convictions for a rate of 64.55%.

## VEHICULAR HOMICIDE MURDERERS ROW

### TWO PASSENGERS KILLED



Around midnight on February 24, 2014, Wesley Luthringer, 30, of Soddy Daisy, TN, was driving a white 2006 Kia Sedona van, which belonged to passenger Ronald Neely of Bell Buckle in Bedford County. His blood alcohol level was .21. His license was revoked and had been revoked on three other occasions. Ronald K. Neely Jr., 27, of Sparta and Donald J. Lazas, III, 25, of Brentwood died when the van in which they were riding ran off State Highway 82 on a sharp curve at Dye Road and struck trees, according to State Trooper Barry Qualls.

"They were traveling east on State Highway 82. When attempting to negotiate a right hand curve, the vehicle traveled off the left hand shoulder of the roadway becoming airborne and striking a group of trees," Qualls said. "The vehicle came to a final rest on its top facing north." All three men had been drinking and the two who died were not wearing seat belts, Qualls' report said. The belts would have made a difference, Qualls said.



Luthringer had a jury trial on December 15th and was convicted of Aggravated Vehicular Homicide. Prosecutors in the case were Mike Randles and Richard Cawley. Sentencing is pending.

### ONE PASSENGER KILLED



David Bonds, (pictured) had a .17 blood alcohol level and was positive for Venlafaxine, an antidepressant, when he lost control on Trough Springs Road in Montgomery County. His unrestrained passenger, Kenneth Keese, of Antioch, was ejected through a side door of the 1993 Buick. He pled guilty to Vehicular Homicide by intoxication October 30th, 2015 and received a sentence of nine years with split confinement.

State v Harper, 2015 WL 6736747

### CONVICTION REVERSED DUE TO PHOTOS

"After a thorough review of the record, we conclude that the trial court abused its discretion in admitting numerous graphic and gruesome crime scene and autopsy photographs, the prejudicial effect of which far outweighed their probative value, and such error was not harmless. We, therefore, reverse the judgments of the criminal court and remand the case for a new trial."

This case is a must read for all prosecutors preparing for a trial involving death. The case in which this defendant recieved a 30 year sentence will have to be tried again due to this reversal.

### ARE YOU ARIDE EDUCATED ?

Which of the following general indicators are associated with Cannabis impairment?

- A. Decreased appetite
- B. Bloodshot eyes
- C. Grinding of the teeth
- D. Facial itching
- E. Profuse sweating

The only correct answer is B.

The lack of horizontal gaze nystagmus is a clue! The absence of watery eyes is a clue! They indicate alcohol.  
(Question and Answer from the ARIDE final test.)

## TURNING A MISDEMEANOR INTO A CLASS A FELONY

It is not easy to turn a Class A misdemeanor into a Class A felony. William Joseph Smith, 29, of Lexington, Tennessee, managed to turn a DUI 3d offense into something much greater. This particular impaired driver decided he wanted to go out and get some more beer. He had a problem. An Intoxalock ignition interlock device was on his vehicle due to his DUI 2nd offense conviction. The Intoxalock device not only takes pictures, but also shows the location and a time stamp and immediately uploads the information to a server when a person uses the device.

Smith decided it would be a good idea to have his eight year old son give a breath sample to permit his vehicle to start. It took a number of attempts.

At 12:05 a.m. the child's sample was rejected as it was too soft. It was rejected again at 12:07, 12:38, 1:09 and 1:13 a.m. Finally at 1:13 the sample was accepted and dad and son were on the road.

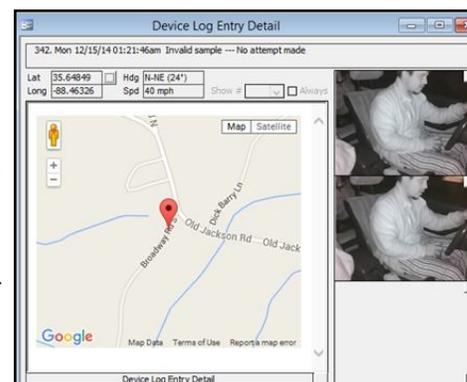
A rolling retest was required from the driver. The driver stopped and had his son move to the driver's seat to blow into the air tube again. At 1:22 a.m., the child's breath sample was rejected as too soft. The next sample was sufficient and the vehicle was restarted. Within an hour this driver had crashed and rolled his Toyota Camry. Fortunately, the child was not seriously injured. Trooper Michael Sullivan of the Highway Patrol investigated. He recovered evidence from the Intoxalock provider as well as evidence from the crime scene.

The child had to move to the driver's seat in order to give a sufficient air samples. Each time he blew into the interlock a picture was taken and time stamped with the longitude and latitude of the vehicle marked on a map. There was plenty of proof as to what occurred. To protect the identity of the child, his photo is not included. This photo tells the story of the driver.

The ignition interlock demanded a rolling re-test while Smith was driving. He skipped the test, but his photo was taken.

Smith was charged with Aggravated Child Endangerment, a Class A felony. On the day of trial, he offered to plead to the A felony for a 20 year sentence with parole eligibility at 45%. The prosecutor in the case was Chris Post, who accepted the offer.

The lesson for law enforcement and prosecutors is that the Intoxalock ignition interlock device produces evidence, when a driver attempts to subvert the purpose of the Court order to comply with the device. Don't overlook evidence collected by the interlock.



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