



DUI NEWS

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*This material was developed
through a project funded by the
Tennessee Highway Safety
Office and the National
Highway Traffic Safety
Administration.*

VEH. HOM. BY ALCOHOL REQUIRES ABC NOTICE

Pursuant to recently enacted Public Chapter 961 (2024), Tennessee law enforcement agencies have additional responsibilities when investigating alcohol-related motor vehicle fatalities. The law mandates that:

A law enforcement officer investigating a motor vehicle accident resulting in the death of a person and having probable cause to believe that an operator of a motor vehicle involved in the accident was driving under the influence of alcohol, shall investigate whether the operator was served alcoholic beverages or beer at an establishment licensed to sell alcoholic beverages or beer. The Alcoholic Beverage Commission must be notified of the investigation within forty-eight (48) hours of the incident.

Please send notifications to https://stateofennessee.formstack.com/forms/trace_investigation_form. Timely notification is crucial for the TABC to determine if a licensed location contributed to an alcohol-related fatality. If the TRACE (Target Responsibility for Alcohol Connected Emergencies) investigation finds a licensed location responsible, the TABC will file an administrative case against the business's license. This applies to establishments licensed by the TABC or local beer boards, including bars, restaurants, package stores, grocery stores, and convenience stores.

Please include the following information with each notification:

- Name of investigating agency
- Investigating officer's name and contact information
- Date, time, and location of the accident
- Incident Number
- Names of witnesses and their contact information
- Pictures of the Driver and Passengers at the scene

Investigations should identify and preserve evidence related to the following:

- False identifications
- Receipts, bags, and labels indicating a retail establishment where alcohol was purchased

(Continued on page 12.)



RECENT DECISIONS

State v. William Tony Burrell, 2024 WL4512446 (Certified question was found improper)

On August 25, 2018, a 911 caller complained about a speeding red truck and gave the license number to dispatch. An officer responded and identified the truck by the license plate number. The truck was travelling in the opposite direction. The officer turned around and followed the truck, which pulled into a Family Dollar store. The officer never used lights, but he did stop behind the truck, blocking it from leaving. The officer rolled down his passenger window and started speaking to the defendant as he walked by. The defendant admitted to drinking and speeding. After showing signs of impairment, Mr. Burrell was arrested for DUI. The trial court ruled that the 911 call gave the officer reasonable suspicion to detain Mr. Burrell. Mr. Burrell plead guilty and reserved a certified question for appeal. The State argued that the certified question did not comply with Rule 37(b) and the CCA agreed that the certified question lacked the specificity required under Rule 37(b), specifically it lacked the reasons that the defendant relied upon in filing his motion to suppress and the reasons the court relied upon in denying the motion. The appeal was dismissed.

State v. Andrew Martin Robbs, 2024 WL4553674 (Certified question was found improper)

Mr. Robbs drove his vehicle into another vehicle that was parked on an interstate exit ramp. When officers arrived, they observed many signs of impairment. A search warrant was obtained for a blood sample. The General Sessions court dismissed the case due to failure to prosecute because the officer repeatedly failed to appear for hearings. The State obtained an indictment from the Grand Jury, after the one year statute of limitations. Mr. Robbs filed a motion to dismiss, based upon the initial affidavit of complaint failing to state that the defendant was in physical control of the vehicle. The trial court denied the motion and Mr. Robbs entered a guilty plea to DUI 3rd offense and he filed a certified question of law. The CCA stated that when a certified question fails to narrowly construe the issues and identify the trial court's holding, then it does not provide an adequate basis for review. Since Mr. Robbs' certified question failed to identify the scope and limits of the legal issue reserved and failed to state sufficiently the trial court's holding, the appeal was dismissed.

State v. Jacob Wyatt Allen, 2024 WL4678018 (Revocation of Judicial Diversion due to DUI arrest)

While on probation and judicial diversion, for a felony aggravated animal cruelty case, Mr. Allen was later arrested for DUI, on two separate occasions, and for aggravated criminal trespass. The trial court revoked Mr. Allen's diversion and sentenced him. Mr. Allen appealed. Judicial diversion operates much like probation. T.C.A. § 40-35-313(a)(1)(A), (a)(2). As in the probation context, a trial court may revoke judicial diversion if it finds by a preponderance of the evidence that the defendant has violated the conditions of his diversion. *Id.* § 40-35-311(e)(2). The trial court's decision was reviewed for an abuse of discretion with a presumption of reasonableness. The CCA determined that the trial court's rulings were reasonable and the judgment of the trial court was affirmed.

State v. Joshua L. Hutcherson, 2024 WL4949058 (Denial of Alternative Sentencing)

On October 19, 2015, Mr. Hutcherson plead guilty to four counts of vehicular assault, two counts of driving on a revoked license with a prior DUI, one count of leaving the ... (Continued on page 3.)

RECENT DECISIONS (Continued)

scene of an accident with injuries, four counts of reckless aggravated assault, and one count of felony reckless endangerment, with sentencing to be determined by the trial court. On November 3, 2014, Mr. Hutcherson ran into the back of a vehicle that was stopped for a school bus, seriously injuring one child and assaulting the three passengers in the vehicle that he hit. Mr. Hutcherson fled the scene, but was found soon afterward. A blood sample was obtained, by consent, and the BAC was 0.124%. Mr. Hutcherson admitted that he was heavily medicated at the time and that he drank a fifth of vodka, because he was "pill sick." Mr. Hutcherson had plead guilty to DUI months before this crash. The trial court sentenced Mr. Hutcherson to an effective sentence of fourteen years.

On appeal, Mr. Hutcherson argues that the court erred in denying probation. A trial court's decision to grant or deny probation is reviewed under an abuse of discretion standard with a presumption of Reasonableness, when the sentence reflects the purposes and principles of sentencing. *State v. Caudle*, 388 S.W.3d 273, 278-79 (Tenn. 2012). "[A] trial court's decision to grant or deny probation will not be invalidated unless the trial court wholly departed from the relevant statutory considerations in reaching its determination." *State v. Sihapanya*, 516 S.W.3d 473, 476 (Tenn. 2014). The CCA determined that the judgments of the trial court were appropriate and they were affirmed.

State v. Nancy Abbie Tallent, 2024 WL5167716 (Sufficiency of the Evidence, Pro Se)

On January 10, 2020, Ms. Tallent backed her car out of her driveway and into a neighbor's truck. The owner of the other vehicle tapped on Ms. Tallent's window, but she did not respond and she was "staring straight ahead." When officers arrived, five minutes later, Ms. Tallent had moved her vehicle into her driveway and she was now "asleep, unconscious, [and] not awake behind the wheel of the car." Ms. Tallent showed many signs of intoxication and had difficulty walking and standing. A blood sample was obtained and her BAC was 0.341%. Ms. Tallent represented herself at trial. A jury convicted Ms. Tallent of DUI 3rd offense and the trial court sentenced her to serve eleven months and twenty-nine days at seventy-five percent.

Ms. Tallent filed a motion for new trial and she filed a notice of appeal. An order was given that the appeal was premature because the motion for new trial had not been heard. Ms. Tallent then filed another notice to appeal, a motion to recuse the trial judge and a motion to withdraw all post-trial motions pending in the trial court. Ms. Tallent was informed that the motion to recuse the trial judge stayed all other motions. Ms. Tallent was warned at a hearing that her withdrawal of post-trial motions would affect what she could argue on appeal and that many of her arguments would be waived. She then filed a notice of no intent to present post trial motions. After she also withdrew her motion for new trial, the CCA took jurisdiction of the case.

"Before a defendant may raise an issue on appeal as the basis for seeking a new trial, the defendant must present the issue to the trial court in a timely, written motion for a new trial." *State v. Tony Lamons Gooch, III*, 2024 WL 2814624, at *4 (Tenn. Crim. App. June 3, 2024). Since Ms. Tallent withdrew all post trial motions, including her motion for new trial, she limited her appellate review to sufficiency of the evidence. Viewed in the light most favorable to the State, the CCA determined that the evidence presented at trial was sufficient for a rational jury to have found Ms. Tallent guilty, beyond a reasonable doubt, of 3rd offense DUI and 3rd offense DUI per se. The prior judgments were affirmed.

STATE v. ARORA – NO NEED FOR A SECOND WARRANT



STATE OF TENNESSEE v. RITIKA ARORA (COURT OF CRIMINAL APPEALS, FILED 12/23/2024), No. M2024-00147-CCA-R9-CO

At 4:20 p.m. on July 26, 2020, a Williamson County Sheriff Deputy responded to a single-vehicle crash with injuries. The vehicle had left the roadway and struck a tree. Ms. Arora admitted that she had consumed one glass of wine. The deputy smelled alcohol and observed watery, bloodshot eyes and slurred speech; and Ms. Arora was unsteady on her feet. After performing poorly on field sobriety tests, Ms. Arora was arrested for DUI. The deputy also found a green, leafy substance in her purse. The deputy later found a pipe, rolling papers, two grinders, and a cigarette roller. Ms. Arora refused to give a blood sample and the deputy obtained a search warrant. Ms. Arora filed a motion to suppress, arguing that the testing of the blood sample was a second search that exceeded the scope of the search warrant. The trial court granted the motion to suppress based upon the testing being a search under the 4th Amendment and the State failed to follow the terms of the search warrant because it did not expressly request the blood sample to be tested. The State appealed the ruling.

The Court of Criminal Appeals reversed the trial court's order suppressing the blood sample and remanded the case to the trial court for further proceedings. The CCA ruling is interesting since it is limited to the analysis of the initial search warrant and not to the broader issue of whether the limited testing of a blood sample for the presence of drugs or alcohol violates the 4th Amendment protections against **unreasonable** searches. The trial court and the CCA both agreed that seizing a defendant's blood and chemically testing a defendant's blood are two separate intrusions implicating a defendant's expectations of privacy and protections under the Fourth Amendment to the U.S. Constitution and Article I Section 7 of the Tennessee Constitution. The CCA relied upon language in *Skinner v. Ry. Labor Executives' Assn.*, 489 U.S. 602 (1989) and *State v. Scarborough*, 201 S.W.3d 607 (Tenn. 2006) and held that the drawing of the blood and the chemical analysis of the blood are two separate intrusions upon a person's privacy interests (relying on *Scarborough* at 616, quoting *Skinner* at 616). (However, the CCA did not consider or refer to the holdings in both of these cases (*Skinner* and *Scarborough*), which found **the limited testing of the samples for drugs, alcohol, or for DNA/identification purposes, reasonable searches**, and without need for a search warrant or particularized suspicion.)

The CCA rejected the State's reliance on *Schmerber v. California*, 384 U.S. 757, 770-771 (1966), wherein a seizure and search of blood was found to be justified by exigent circumstances. The CCA noted that the defendant in *Schmerber* didn't raise the issue of a separate warrant being needed to test the blood and that since *Skinner* was decided 23 years later, the *Schmerber* court did not look at the two searches being separate (However, the *Skinner* court approved of the *Schmerber* decision and reasoning). The CCA also explicitly rejected the use of two other cases used by the State, stating:

"The State's reliance on *Bates* and *Morris* is misplaced, though, because our supreme court specifically stated in *Scarborough* that the chemical analysis of blood constitutes a separate and discreet invasion of privacy for Fourth Amendment purposes from the physical extraction of that blood. Moreover, because the testing is a separate search, it follows that a search warrant is required for that testing, just as a search warrant would be required for a cell phone found in a home searched pursuant to a warrant. ...

(Continued on page 5.)

STATE v. ARORA (Continued)

See, e.g., Riley v. California, 573 U.S. 373, 401 (2014) (concluding that a warrant is generally required to search a cell phone, even when that cell phone is lawfully seized incident to an arrest). Thus, we conclude that the trial court correctly found that the testing of the Defendant's blood was a separate search under the Fourth Amendment and turn to whether the chemical analysis of the Defendant's blood sample exceeded the scope of the search warrant."

The CCA then analyzed the search warrant involved in *State v. Arora*, and determined that the search warrant authorized, not only the seizing of the defendant's blood, but also the chemical testing of that blood, because the chemical testing of the blood was a search within the scope of the warrant in question. In holding this, the court relied upon language in the search warrant itself. Specifically, even though the warrant (only) authorized the Deputy to "search for, seize and maintain as evidence," the Defendant's blood (and not to "chemically test it," explicitly), the warrant specifically described the evidence being searched for within the blood as follows:

"There exists evidence of any intoxicant, marijuana, controlled substance, drug, substance affecting the central nervous system or combination thereof that impairs the driver's ability to safely operate a motor vehicle."

The CCA held that a commonsense reading of these words in the warrant necessarily requires the reader to conclude that the warrant is a warrant to both seize and chemically test the blood, because there's no other way that a seizure could find the evidence that the warrant explicitly describes as the object of its search. On the way to this conclusion, it quoted persuasive language from the Texas Court of Criminal Appeals on the same issue (See *Cridler v. State*, 607 S.W.3d 305 (Tex. Crim. App. 2020), which also discussed that the obtaining of the blood sample and the testing of it were separate searches), which stated:

"[T]he ultimate touchstone of the Fourth Amendment is **reasonableness**." *Riley v. California*, 573 U.S. 373, 381-82 (2014) (quoting *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006)). A neutral magistrate who has approved a search warrant for the extraction of a blood sample, based upon a showing of probable cause to believe that a suspect has committed the offense of driving while intoxicated, has necessarily also made a finding of probable cause that justifies chemical testing of that same blood. Indeed, that is the purpose of the blood extraction. This means that the constitutional objective of the warrant requirement has been met: the interposition of a neutral magistrate's judgment between the police and the citizen to justify an intrusion by the State upon the citizen's legitimate expectation of privacy. See *State v. Villarreal*, 475 S.W.3d 784, 795-96 (Tex. Crim. App. 2014) (op. on orig. subm.) (citing *Johnson v. United States*, 333 U.S. 10, 13-14 (1948), for the proposition that the purpose of the Fourth Amendment's warrant requirement is to provide a neutral arbiter between the police and citizens to determine whether probable cause exists to justify a police intrusion). Whether we say the warrant that justifies extraction of the blood also, by necessary implication, justifies chemical testing, search for Fourth Amendment purposes, or we simply acknowledge that a ...

(Continue on page 6.)



STATE v. ARORA (Continued)

magistrate's finding of probable cause to extract the blood for chemical testing necessarily constitutes a finding of probable cause also to conduct the chemical test for intoxicants, is of no moment. However we choose to characterize it, the chemical testing of the blood, based upon a warrant that justifies the extraction of blood for that very purpose, is a **reasonable search for Fourth Amendment purposes**. *Id.* (emphasis added)

Finally, the CCA noted that, within the probable cause affidavit in the warrant application, which affidavit was explicitly incorporated by reference in this warrant's language, the deputy in this case said, "I know from my training and experience that alcohol and other intoxicating substances are absorbed into the bloodstream of an intoxicated person and that the blood of such person can be analyzed for the presence of alcohol and other intoxicating substances," suggesting that, even without the clear language regarding the objects of the search quoted above, commonsense would have forced the reading of the warrant as a warrant to seize **and** chemically analyze the defendant's blood. The CCA then ruled that the testing of the blood sample did not exceed the scope of the search warrant. The trial court's granting of the motion to suppress was reversed and the matter was remanded to the trial court for further proceedings consistent with this opinion.

Although the CCA did not address current statutory law, as of May 1, 2024, the following language was adopted by the Tennessee Legislature, amending T.C.A. § 55-10-408(a) as follows:

If the sample of a person's blood was procured pursuant to § 55-10-406, then the limited testing of the blood sample for the alcohol content, drug content, or both shall be considered a **reasonable** search for all evidentiary purposes and shall be allowed into evidence without further need for a search warrant or court order. (emphasis added)

Also, prior statutes, such as T.C.A. § 55-10-406 provide a statutory framework and authority for obtaining and testing blood samples in impaired driving cases. Subsection (j) states, "The results of blood tests or breath tests authorized and conducted in accordance with this section and § 55-10-408: (1) Shall be reported in writing by the person making the analysis, shall have noted on the report the time at which the sample analyzed was obtained from the operator, and shall be made available to the operator, upon request; and (2) **Shall be admissible in evidence at the trial** of any person charged with an offense specified in subsection (a)." (emphasis added) *Id.*

T.C.A. § 55-10-408 further states, that a blood sample that is validly obtained for the purposes of determining the alcohol and drug content of a person and forwarded to the crime lab, shall be tested, and a report of the test results shall be made. "The certificate provided for in this section shall, when duly attested by the director of the Tennessee bureau of investigation or the director's duly appointed representative, **be admissible in any court, in any criminal proceeding, as evidence of the facts therein stated, and of the results of the test[.]**" (emphasis added) *Id.*

T.C.A. §38-6-103 authorizes the Tennessee Bureau of Investigation to establish a crime lab and to provide standards and procedures for it. The statute further states, "When examinations, tests and analyses have been performed in compliance with these standards and procedures, the results ...

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STATE v. ARORA (Continued)

shall be prima facie admissible into evidence in any judicial or quasi-judicial proceeding, subject to the rules of evidence as administered by the courts.” (emphasis added) *Id.* It is possible that any law enforcement difficulties created by the holding in *State v. Arora* are rectified by the statutes.

Also not considered by the CCA was the **reasonableness** of a limited search of the blood sample by testing for alcohol and drugs. Although an individual has an expectation of privacy in a sample of their blood, numerous federal and state courts that have addressed this specific issue, reaching the same result, concluding that an individual has no reasonable expectation of privacy in the alcohol and drug concentration of blood that a state has properly seized, and it can be tested as a **reasonable** search, without need of a search warrant (emphasis added). See, e.g., *Dodd v. Jones*, 623 F.3d 563, 569 (8th Cir. 2010) (“[o]nce Jones had sufficient grounds to draw blood from Dodd after he was arrested for driving while intoxicated, the subsequent testing of that blood had ‘no independent significance for [F]ourth [A]mendment purposes.’ ”); *United States v. Snyder*, 852 F.2d 471, 474 (9th Cir. 1988) (holding that when blood is validly seized “based on probable cause to believe that the suspect was driving under the influence of alcohol, the subsequent performance of a blood-alcohol test has no independent significance for [F]ourth [A]mendment purposes, regardless of how promptly the test is conducted”); *Jacobson v. State*, 603 S.W.3d 485, 491 (Tex. App. 2020) (“[t]he Fourth Amendment does not require the State to obtain a second warrant to test a blood sample that was seized based on probable cause that a person was driving while intoxicated.”); *State v. Randle*, 930 N.W.2d 223, 239 (Wis. 2019) (“[a] defendant arrested for intoxicated driving has no privacy interest in the amount of alcohol in that sample.”); *State v. Wentzel*, 987 N.W.2d 473, 486 (Ct. of App. Iowa 2022) (holding that a 2nd search warrant was not needed for testing the blood sample that was lawfully obtained in a search warrant used to obtain the blood sample.); *Harrison v. Comm’r of Pub. Safety*, 781 N.W.2d 918, 921 (Minn. Ct. App. 2010) (“[W]hen the state has lawfully obtained a sample of a person’s blood under the implied-consent law, specifically for the purpose of determining alcohol concentration, the person has lost any legitimate expectation of privacy in the alcohol concentration derived from analysis of the sample.”); *People v. Woodard*, 909 N.W.2d 299, 305 (Mich. Ct. App. 2017) (“[S]ociety is not prepared to recognize a reasonable expectation of privacy in the alcohol content of a blood sample voluntarily given by a defendant to the police for the purposes of blood alcohol analysis.”); *State v. Price*, 270 P.3d 527, 530 (Utah 2012) (“[o]nce a blood sample has been legitimately seized, the individual from whom that sample was taken has no legitimate expectation of privacy in the contraband contents of his blood.”); *State v. Hauge*, 79 P.3d 131, 144 (Haw. 2003) (“It is clear that once a person’s blood sample has been obtained lawfully, he can no longer assert either privacy claims or unreasonable search and seizure arguments with respect to the use of that sample.”); *People v. King*, 663 N.Y.S.2d 610, 614 (NY App. Div. 1997) (“It is also clear that once a person’s blood sample has been obtained lawfully, he can no longer assert either privacy claims or unreasonable search[-]and[-]seizure arguments with respect to the use of that sample.”); see also *Andrei Nedelcu, Blood and Privacy: Towards A “Testing-As-Search” Paradigm Under the Fourth Amendment*, 39 Seattle U. L. Rev. 195, 201 (Fall 2015) (“[N]ational search[-] and[-]seizure jurisprudence is largely in agreement: No express judicial authorization is needed to analyze a suspect’s blood (or any other biological sample) once it has already been lawfully procured.”). As stated above, caselaw across the United States agrees that once a blood sample has been lawfully obtained, the limited search by testing for alcohol and drugs, is a **reasonable** search and does not require a search warrant or any further exception. The limited search by testing the blood sample for the evidence of the crime, alcohol and drugs, does not violate the defendant’s expectation of privacy.



UPCOMING TRAINING

How to Present A "Cops in Court" Seminar - January 31, 2025, Virtual Training for Prosecutors

This course teaches prosecutors how to present the 8 hour Cops in Court Seminar. It includes how to teach the class portions and how to conduct the mock trial portion, in which each officer experiences a direct and cross examination. Prosecutors are given all resources to present this seminar.

Cops in Court - February 7, 2025, Sumner County, TN

This course teaches law enforcement officers the challenges and difficulties associated with impaired driving cases. It also includes a mock trial presentation in which each officer experiences a direct and cross examination. Prosecutors are encouraged to participate in the mock trial presentation.

20/20 Medical Foundation of Eye Movements & Impairment - March 4-6, 2025, Memphis, TN

This seminar will be located at the Southern College of Optometry in Memphis, TN and it will be taught by faculty members and professors of optometry. The legal and physiological aspects of eye movement and the detection of impairment will be covered. Registration is open to prosecutors, drug recognition officers, TBI analysts, and SFST instructors. Officers will receive training needed to be qualified as an expert on HGN.

Lethal Weapon/Vehicular Homicide Seminar - April 28-May 1, 2025, Pigeon Forge, TN

This course will be a joint effort with prosecutors and law enforcement officers from Kentucky. It features all aspects of the investigation and prosecution of vehicular homicide cases. Included topics are: the role of the prosecutor at the scene of a fatality, crash reconstruction, expert cross-examination, and a group discussion of current vehicular homicide cases.

Drugged Driving Trial Academy - July 16-18, 2025, Chattanooga, TN

This course gives the prosecutor on drugged driving cases, the tools and information needed to successfully prosecute the drugged driver. It presents legal and scientific knowledge through experienced trial attorneys and expert witnesses.

TENNESSEE HIGHWAY SAFETY OFFICE TRAINING CLASSES

DUI Detection & Standardized Field Sobriety Testing

February 17-19, 2025, Tullahoma, TN
March 26-28, 2025, Bristol, TN
March 26-28, 2025, Murfreesboro, TN
April 7-9, 2025, Martin, TN
May 12-14, 2025, Gallatin, TN
August 25-27, 2025, Bristol, TN

Advanced Roadside Impaired Driving Enforcement

January 13-14, 2025, Alcoa, TN
February 3-4, 2025, Jonesborough, TN
May 28-29, 2025, Murfreesboro, TN

DUI TRACKER

DUI Tracker this last quarter

The results below were taken from the Tennessee Integrated Traffic Analysis Network (TITAN) from October 1, 2024, through December 31, 2024, and reflect the DUI Tracker conviction report for all judicial districts within the State of Tennessee. These numbers include the Circuit Courts, Criminal Courts, General Sessions Courts and Municipal Courts. The total number of dispositions for the period from October 1, 2024, through December 31, 2024, since the last quarter were 2,046. This number is slightly down from the previous quarter by 89. (These numbers only reflect the cases that were entered into the TITAN network. Many DUI cases are handled in jurisdictions that do not have access to the TITAN network). The total number of guilty dispositions during this same period of October 1, 2023 through December 31, 2023 were 1,942.

Fatal Crashes this last quarter

The following information was compiled from the Tennessee Integrated Traffic Analysis Network (TITAN) using an *ad hoc* search of the number of crashes involving fatalities that occurred on Tennessee's interstates, highways and roadways, from October 1, 2024 through December 31, 2024. During this period, there were a total of 298 fatalities, involving 274 crashes, which is a decrease from the previous quarter and a decrease over this same time last year. Out of the total of 298 fatalities, 49 fatalities involved the presence of alcohol, signifying that 16.44% of all fatalities this quarter had some involvement with alcohol. This percentage is lower than the previous quarter. Further, there were a total of 36 fatalities involving the presence of drugs, signifying that 12.08% of all fatalities this quarter involved some form of drugs.

The year-to-date total number of fatalities on Tennessee roads and highways is 1,232. This is down by 130 from the 1,362 fatalities incurred last year at this same time. For most of the year, we experienced a consistent decrease from last year, in the number of fatalities on our roads. This is the first year in many years that the number of fatalities has decreased. Let's make impaired driving enforcement a priority for 2025. Impaired driving is preventable. Continue the great work!

Cops in Court Seminar

On December 16, 2024, the DUI training staff, in partnership with the Tennessee Highway Patrol Training Center, held a Cops in Court Seminar in Nashville, TN. 49 Cadets participated in the seminar and acquired information about the importance of communication, court procedure and evidence presentation in impaired driving related cases.



VEHICULAR HOMICIDE MURDERER'S ROW

State v. Samuel Lopez-Reyes, 2022 CR-143

On March 26, 2022, Mr. Reyes was driving his pickup truck on Interstate 840 in Dickson County. He was travelling approximately 80 mph, in the right hand lane, when he lost control and exited the roadway to the right. Mr. Reyes then overcorrected, drove through the grass median and became airborne, striking the side of an SUV, being driven by Leslie Booker, that was travelling in the opposite direction. Mr. Reyes' pickup impacted the rear driver-side door, where Ms. Booker's five year old son was sitting. Ms. Booker, her son and daughter, were on their way to a vacation at Disney World.

After the crash, Mr. Reyes was able to crawl out of the wreckage. Ms. Booker and her daughter suffered minor physical injuries. Her son, B.B., was unconscious and unresponsive. B.B. was pronounced dead at the scene. Mr. Reyes suffered from a bleeding headwound and before being life flighted, a THP Trooper obtained a blood sample, based upon exigent circumstances. The BAC was 0.128%, less than an hour after the crash. A later drawn, hospital blood sample was consistent. With



a motion to suppress pending, Mr. Reyes pled guilty to one count of vehicular homicide by intoxication, and two counts of aggravated assault with a deadly weapon, for an effective sentence of eight years to serve in TDOC. Immigrations and Customs Enforcement also placed a detainer on Mr. Reyes.

State v. Justin Lamont Williams, 2023

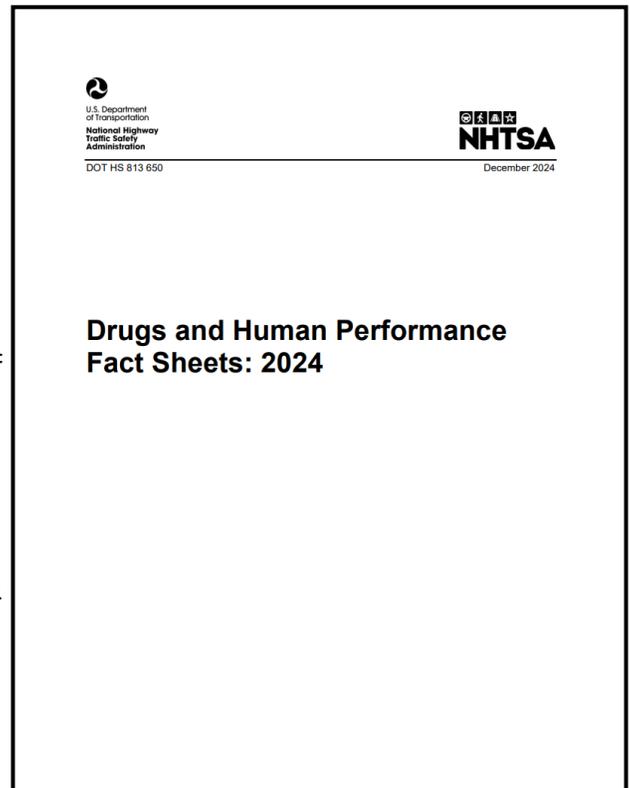
Mr. Williams would drive to Mississippi regularly to purchase cocaine, which would often be laced with Fentanyl. Mr. Williams could always tell when Fentanyl was present because of the way that it made him feel. On June 26, 2023, Mr. Williams purchased some Fentanyl laced cocaine, used some of it, and immediately could tell that Fentanyl was present as he drove back to Tennessee. Mr. Williams became disoriented and ended up driving southbound in the northbound lanes of I-269. He knew he was on the wrong side, but he could not figure out how to turn around, so he continued driving at 50 mph in the dark, against oncoming traffic. Eventually, Mr. Williams hit 28 year old Amiee Scarlett's Geo Metro head-on. Ms. Scarlett was killed instantly.

A Fayette County Grand Jury indicted Mr. Williams for Vehicular Homicide by Intoxication, Vehicular Homicide by Recklessness, Second Degree Murder and Simple Possession of Fentanyl. The Second Degree Murder charge was filed since Mr. Williams admitted to knowingly engaging in conduct that created a high likelihood or certainty of death. After consulting with the victim's family, the State agreed to a plea of 8 years at 100%, in TDOC, for one count of Vehicular Homicide by Intoxication.

DRUGS AND HUMAN PERFORMANCE FACT SHEETS FOR 2024

The long-awaited update to the NHTSA Drugs and Human performance Fact Sheets has finally been completed and released! If you're unfamiliar with this document, last released in 2014, then you're missing out on a fantastic, at-your-fingertips, resource for understanding drug intoxication and its relationship to driving. The best way to characterize these fact sheets is as a summary of studies (and studies of studies) on the effects that drugs have on humans, with a special focus on their effects relating to the operation of motor vehicles (and divided attention tasks). The link is here: <https://rosap.ntl.bts.gov/view/dot/78924>.

Here's what's new. The 2014 document addressed more than **16** distinct substances over the course of 97 fairly densely packed pages. The updated document addresses more than **34** distinct substances over the course of 294 pages. In the original, there was information specifically developed for officers in the Drug Evaluation and Classification Program (your DREs). However, the updated information has been formatted to easily accessible quick-find tables. Additionally, the new document contains a much more inclusive bibliography of scientific studies, and easily accessible "General Effects" tables (also not present in the 2014 version). An added benefit this year, is a much more satisfactory and informative description of the effects of cannabinoids on human performance. (Compare **6** pages on Cannabis in the 2014 edition to **28** pages on cannabinoids in the 2024 edition. The bibliography for cannabinoids in the 2024 edition is roughly the size of the entire cannabis section in the 2014 edition.) The update also includes information about oral fluid detection for different drugs (and classes of drugs) that was entirely missing from the previous fact sheets.



A continual concern in the United States and throughout the world is driving after the use of psychoactive substances. At issue are methods for identifying drug-impaired drivers on the road, assessment, and documentation of the impairment they display, availability of appropriate chemical tests, and interpretation of results. (All documented and verified by world leading doctors and scientists). These Drugs and Human Performance Fact Sheets are an invaluable resource for understanding and presenting this evidence during a prosecution of an impaired driving case.

If you want to direct-examine, or cross-examine, either a state expert or a defense expert, familiarity with this document as a starting-point is a must. You can be virtually assured that your expert will be familiar with the relevant portions of this document prior to testifying. (I once disqualified a purported defense expert as an expert in forensic toxicology, during the voir dire in a vehicular homicide case, using the 2014 edition, based on a claim he had made during the defendants direct-examination earlier in that voir dire.) Please download and use this great resource.



VEH. HOM. BY ALCOHOL & ABC NOTICE (Continued)

- Statements of witnesses indicating where they consumed alcohol before the crash
- Any other evidence that would indicate the deceased or witnesses were served alcohol before the crash
- Preserve and photograph any evidence that may help the investigation

Below is a copy of the TRACE referral QR code and TABC handout.



Help Deter Future Fatalities with **TRACE** Referrals

TARGET RESPONSIBILITY FOR ALCOHOL CONNECTED EMERGENCIES

IDENTIFY



Identify crashes involving death or potentially life-threatening injuries where alcohol may have been a factor.

DOCUMENT



Gather all relevant details, including statements, evidence, and witness information related to the alcohol source.

REPORT



Notify Tennessee Alcoholic Beverage Commission (TABC) immediately to initiate a TRACE investigation.



https://stateofennessee.formstack.com/forms/trace_investigation_form

Alcohol-Related Motor Vehicle Fatalities:

TCA 55-10-120(c) requires law enforcement to notify the TABC of all alcohol-related motor vehicle fatalities within 48 hours of the incident and preserve evidence related to whether the operator was served alcoholic beverages at a state or local licensed business.

If the TABC TRACE (Target Responsibility for Alcohol Connected Emergencies) investigation finds a licensed business responsible, the TABC will file an administrative case against the business's alcohol license. For local beer permit holders, the TABC will notify the local authorities.

Timely Notification is Crucial!

Investigations Should Preserve Evidence Related to the Following:

- Evidence identifying a business where alcohol was purchased or served
- Statements of witnesses indicating where they consumed alcohol before the crash
- Preserve and photograph any evidence that may help the investigation
- Pictures or descriptions of the Driver and Passengers at the scene
- False identifications



Alcoholic Beverage Commission, Authorization No. 316677, No. of copies, 3000. This public document was promulgated at a cost of \$.72 per copy. 10/01/24

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