



### Mark You Calendar

**National Association of  
Prosecutor Coordinators**  
Summer Meeting  
July 10—12, 2013  
San Diego, CA

**National District  
Attorneys Association**  
Summer Conference  
July 13—16, 2013  
San Diego, CA

**19th Annual DRE Section  
Training Conference on  
Drugs, Alcohol and  
Impaired Driving**  
August 5—7, 2013  
Oklahoma City, OK

**Drunk Driving National  
Enforcement Crackdown**  
August 16—September 2,  
2013

### Upcoming NDAA Courses

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# *Between the Lines*

## IMPAIRED DRIVING CRASH SCENE

By Sarah Garner\*

When a drug dealer is shot to death by a rival dealer, why does he get more attention from law enforcement than a mother taking her child to a ballet class that is slaughtered by an impaired driver? Why do we get in a hurry for the investigation into the mother's death, but give the drug dealer all the resources we can muster? Is the drug dealer "more dead"?

Crash scenes are crime scenes. We all know the statistics of carnage as the result of impaired driving. They are staggering. Yet we still have the attitude that the scene must be cleared. We treat these homicides on our roadways like they are fender benders that need to be moved to the shoulder. We are wrong and we must change.

When the drug dealer is murdered, the scene is secured: often for days. There is an officer posted at the perimeter to note everyone that enters the scene and get information as to their agency and contact number. Detectives with specialized training are dispatched. Crime scene specialists, trained to collect hair, fiber, DNA, and other physical evidence arrive. Everything is documented with photographs. The murder weapon is seized, bagged, and locked away in a secure location. The victim's body is autopsied, and later an expert will testify as to cause of death. Witnesses are taken to offices and interviewed, and their statements are later neatly transcribed with contact information. For weeks the investigation continues, with additional evidence gathered.

When the mother is murdered, a volunteer fireman will put out some orange

cones. He will direct traffic through the crime scene, often causing the destruction potential evidence. In fact, he may get out his broom and sweep evidence aside so no one's tires are damaged. The impaired driver will wander around the crime scene unsecured while a traffic officer tries to sort out what happened. Emergency personnel will move the mother's body before photographs can be taken. Maybe another traffic officer will arrive and park on the crime scene. Perhaps a collision reconstructionist is available to actually see the scene. Witnesses are handed a piece of paper and asked to write down what they saw. The victim's body will be transported to a morgue, identified, and sent straight to the funeral home without autopsy. In fortunate situations, the local newspaper will show up so there are pictures of the crash scene. The entire time the investigating officer's sergeant is screaming that the intersection must be cleared. Then- worst of all- the murder weapon is not bagged, tagged, and secured. It is loaded on a tow truck and driven to a junk yard where it is left out in the elements behind a chain link fence.

What is wrong with us? Why do we treat our most innocent of victims as if they were in an "accident"? More importantly, how do we change our approach?

Here is a list of suggestions to improve the way we investigate vehicular homicide:

Continued on Page 2

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Continued from Page 1

**1. Set policies for traffic control in anticipation of these crimes occurring.** Unfortunately, they will happen. When the Department of Transportation is doing work on roads, there is no one telling them to hurry or to clear an intersection. There are detours and closed lanes. We can do this as well. Set policies whereby supervising officers determine whether traffic should be re-routed or lane closure will suffice. The crime scene must be secured.

**2. Develop a plan for investigation.** If you have reconstructionists available, work out plans for immediate contact. Take advantage of crime scene collection teams within your jurisdiction, and develop protocols whereby they can respond as well. Traffic officers have training in determining impairment and how collisions occur, not hair and fiber collection. These people do exist: call them in, even if they don't normally do crash scenes. If someone was shot in a car, they would be called immediately. Take advantage of their skills and ask for help. In rural jurisdictions, one agency may have experts in one field that another agency does not. Have mutual aid agreements in place so calling upon another officer with specialized training to respond can be done in a seamless fashion.

**3. Assign tasks.** Every case has a lead investigator. That person should assign specific duties: who takes photos; who identifies witnesses and conducts interviews; who takes control of the defendant; etc. That same lead investigator should also be the person to gather everything for the case file from the people to whom these tasks are assigned.

**4. Train first responders.** These folks are dedicated and often volunteer. Unfortunately, their primary purpose is not the same as ours. Their training is not either. They must be provided with information as to what they should do at a crash scene to reduce the destruction of evidence. This can be done through training conducted by the local prosecutor or traffic squad. Another method would be for local law enforcement, fire department, and EMS supervisors to meet and develop policies that do not interfere with the primary purposes of any agency. In some jurisdictions law enforcement officers may actually be volunteer firemen or EMTs and can help facilitate this.

**5. Secure the murder weapon.** The vehicle driven by an impaired driver is a murder weapon. Treat it as such. Do not move it until all potential evidence is collected. Explain the importance of it to the tow truck driver. Photograph the vehicle carefully before it is towed to prove whether damage was caused by the crash or as a result of being towed. Secure it in an indoor location until it can be photographed and perhaps re-examined for additional evidence. Do not throw the broken pieces in the

back seat or trunk. Do not release it. Shooters don't get their gun back pretrial either.

**6. Prosecution.** All prosecution offices should have at least one person who can be contacted anytime and anywhere as soon as the crash occurs. When possible, the prosecutor should go to the crime scene and offer advice without interference in the investigation. The perspective of law enforcement officers and prosecutors is different. Things that seem inconsequential to an officer may be invaluable to a prosecutor, and vice versa. Issues such as intent and state of mind are often important, and a prosecutor can advise an officer as to what potential evidence is necessary to prove these factors. Most importantly, the prosecutor can advise the officer as to what charges are appropriate based on the officer's findings.

**7. Know your resources and limitations.** Do you know whether to turn off a cell phone collected at a scene, or whether you should leave it on? Can you conclusively determine the direction of travel by viewing the vehicle at rest, or should you ask for help from an expert in reconstruction? No odor of alcohol does not mean lack of impairment: do you know the signs of drug use? There is always someone who can answer these types of questions: seek them out.

**8. Document thoroughly.** Make sure everyone involved in the investigation documents everything they see, hear, and smell. Equally important is that they don't document their opinions. Opinions are for experts. Investigators gather facts.

None of this is meant to imply that traffic officers do not perform a horrific task in an amazing way. They do. The purpose of this is to point out that the institutional mindset that clearing a roadway is more important than solving a murder is wrong. There are no do-overs with these crimes. With improved communication, training, and cooperation we can stop discounting the lives of our victims. These crashes are crime scenes. Treat them as such.

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