

UPCOMING TRAININGS & CONFERENCES

A full list of NDAA's virtual learning sessions is available at ndaa.org/training-courses/. For current information, effective best practices, and targeted resources for prosecutors, visit ndaa.org/covid-19.

NDAA's Mastering Masking Digital Course/ On Demand Training (CLE Available)
ndaa.org/training/mastering-masking-2/

NDAA's Human Trafficking and the Impact on Commercial Driver's Licenses/On Demand Training
ndaa.org/training/human-trafficking-and-the-impact-on-commercial-drivers-licenses/

NDAA's Prosecuting DUI Cases Online Course/ On Demand Training (CLE Available)
ndaa.org/training/prosecuting-dui-cases/

NDAA's Investigation and Prosecution of Drug-Impaired Driving Cases Online Course/On Demand Training (CLE Available)
ndaa.org/training/on-demand-learning-investigation-and-prosecution-of-drug-impaired-driving-cases/

Competency Proceedings in Juvenile Cases (Live Webinar)
November 10, 2022 @ 3:00-4:00 pm (ET)

Culture Matters: Key Tenets to Winning & Retaining Talent (Live Webinar)
November 15, 2022 @ 2:00-3:15 p (ET)

RESOURCES

Impaired Driving Resources
ndaa.org/programs/ntlc/

CDL-Related Resources
ndaa.org/programs/ntlc/commercial-drivers-license/

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The National Traffic Law Center is a division of the National District Attorneys Association. This document was prepared under Cooperative Agreement Number 693JJ91950010 from the U.S. Department of Transportation National Highway Traffic Safety Administration. Points of view or opinions in this document are those of the authors and do not necessarily represent the official positions or policies of the Department of Transportation or the National District Attorneys Association.



Volume 30, Issue 11 | November 2022



Image courtesy of Tennessee Highway Safety Office.

Tennessee's Unique Distracted Driving Enforcement Campaign

Enforcement with the Deterrence Goal in Mind

By Arriale Tabson and Linda D. (Walls) Sharer

A driver of a car traveling at sixty miles per hour will travel almost thirty yards (twenty-nine and ninety-two-hundredths [29.92] of a yard to be exact) in one second. In five seconds, the driver will travel one-hundred-forty-nine and six tenths (149.6) of a yard, which is more than the length of a football field, including both endzones. If the driver needed to stop the car, it would take approximately one hundred (100) feet to come to a complete stop. Adding a distraction to this equation reveals the inherent dangers of driving while distracted.

According to the Center for Disease Control, nine people lose their lives in crashes involving distracted driving every day in the United States.¹ Distractions can range from eating or

¹ www.cdc.gov/transportationsafety/distracted_driving/

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drinking to using a navigation system or a cellphone. Although all distractions pose a danger, with the average text message taking approximately five seconds to read or send, cellphone use is the most dangerous activity a driver can engage in while driving. The driver's attention, hands, and eyes are diverted to the cellphone, preventing the driver from seeing, perceiving, and responding to changes in driving conditions.²

In 2009, Tennessee enacted Tennessee Code Annotated Section 55-8-199. This statute was designed to prohibit drivers from using mobile phones and similar devices to send, receive, and read text messages while the vehicle was in motion. The statute read, in pertinent part, as follows:

No person while driving a motor vehicle on any public road or highway shall use a hand-held mobile telephone or a hand-held personal digital assistant to transmit or read a written message; provided, that a driver does not transmit or read a written message for the purpose of this subsection (b) if such driver reads, selects or enters a telephone number or name in a hand-held mobile telephone or a personal digital assistant for the purpose of making or receiving a telephone call.

Recognizing that novice teen drivers lacked significant experience in the divided attention task of driving an automobile, in 2018, the Tennessee General Assembly amended the statute to require those drivers under eighteen (18) years of age to refrain from any use of hand-held electronic devices, whether to talk or text and required the use of hands free devices in school zones on public roads or highways by those eighteen (18) years of age or older with the enactment of Tennessee Code Annotated Section 55-8-201.

In the years between 2011 and 2018,³ the number of distracted driving related crashes steadily increased from slightly over nineteen thousand crashes to over twenty-four thousand. The statutory language in existence from 2009 until 2018, which prohibited texting but not the dialing of numbers to place a telephone call, made enforcement and prosecution almost impossible. For this reason, new strategies regarding education and enforcement became necessary.

Seeking to boost efforts to reduce distracted driving related crashes, educate the public, and deter distracted driving in Tennessee, an innovative statewide campaign mirroring a local effort instituted by the Tennessee Highway Patrol (THP) in the Nashville District⁴ was developed and instituted in 2017. This campaign, developed by the Tennessee Highway Safety Office (THSO) Public Information Officer Arriale Tabson, was implemented for the first time during National Distracted Driving Awareness Month. Bringing together local law enforcement and the THP, the program utilized a large, black and tan THP bus to transport law enforcement as they observed motorists for traffic violations. During the tour, officers within the THP bus communicated to patrol vehicles on the road. Those officers within the patrol vehicles would initiate a traffic stop and take appropriate enforcement action based upon the observed violations of officers on the bus. Each participating THP district operation lasted one to two hours.

Law enforcement were not the only bus occupants and participants in the campaign efforts. The bus also contained members of each major media outlet within the THP district in which the bus tour operated. Press briefings were conducted both before and after the tours. The result was a highly publicized deterrence campaign for the viewers and two-hundred-twenty-four traffic citations issued to the offenders between April 10 and April 13, 2017.

Although all distractions pose a danger, with the average text message taking approximately five seconds to read or send, cellphone use is the most dangerous activity a driver can engage in while driving.

² For a detailed discussion on the impact of distracted driving, particularly cellular phone use, see the National Safety Council's publication, *Understanding Driver Distraction*, available for download at www.nsc.org/road/safety-topics/distracted-driving/distracted-brain.

³ Historical crash data for Tennessee from tn.gov website. Data used here is located via tn.gov/content/dam/tn/safety/documents/crash_stats/2022/DriverDistraction_10102022.pdf.

⁴ The Tennessee Highway Patrol has eight districts: Knoxville, Chattanooga, Nashville, Memphis, Fall Branch, Cookeville, Lawrenceburg, and Jackson.

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A second distracted driving bus tour was conducted from October 9 to October 12, 2017, utilizing two marked THP buses. One bus toured through West Tennessee and the other toured through East Tennessee and met in Middle Tennessee for the final enforcement push. This October campaign resulted in nine-hundred-five total traffic citations being issued statewide. The success of this October campaign was the result of increased law enforcement partnerships and participation in all regions of Tennessee with continued success evidenced in the third bus tour in April of 2018.



Image courtesy of Tennessee Highway Safety Office.

In November 2018, a new branded approach was developed to enhance the deterrent effects. Branded and promoted as Operation Incognito (OI), the bus tour corresponded with and promoted national Traffic Incident Response Week from November 11 through November 17. The primary focus of OI was to reduce distracted driving and the resulting serious traffic crashes and fatalities. A secondary focus included saturations of high-risk construction and utility maintenance zones. The results of the effort were amazing with three-thousand-three-hundred-seventy-seven citations issued statewide and statewide media acknowledgement of the effort before and after the enforcement activities.

The second OI event was held in April of 2019 in conjunction with great success as well. Held in conjunction with the National Highway Traffic Safety Administration's nationwide mobilization to combat distracted driving, this event brought additional resources to the effort. Local transit authority buses, local law enforcement agency buses, as well as THP buses were utilized for enforcement purposes. Bus tours were conducted on the first day of the campaign with standard enforcement efforts, such as saturation patrols, used for the other four days of the campaign schedule. The combined enforcement efforts of local law enforcement and THP yielded four-thousand-sixty-nine citations for traffic violations statewide. Positive results were also seen in the number of distracted driving related crashes decreasing from 24,691 in 2018 to 23,764 in 2019.

Ultimately, the Tennessee General Assembly followed other states in requiring that drivers use only handsfree devices when the vehicle is in motion on any road or highway on or after July 1, 2019.⁵ To promote and educate the public about the new law, Operation Incognito became Operation Hands Free with local transit authorities and THSO leased Gray Line buses prepared to participate in an April 2020 bus tour. Georgia was starting its own bus tour coordinating with Tennessee for a joint enforcement push. However, health and safety concerns regarding the spread of COVID-19 prevented the implementation of this initiative and efforts in 2021.

In April 2022, the Tennessee Highway Safety Office resumed and revived Operation Hands Free campaign. Although the goals of education and deterrence remained at the forefront of the bus tour, the methods switched from the issuance of citations to warnings and educational materials. Hopefully, the results will continue to push the incident of distracted driving related crashes down further toward the goal of zero.

⁵ T.C.A. §55-8-199 (b) reads: (1) A person, while operating a motor vehicle on any road or highway in this state, shall not: (A) Physically hold or support, with any part of the person's body, a: (i) Wireless telecommunications device. This subdivision (b)(1)(A)(i) does not prohibit a person eighteen (18) years of age or older from: (a) Using an earpiece, headphone device, or device worn on a wrist to conduct a voice-based communication; or (b) Using only one (1) button on a wireless telecommunications device to initiate or terminate a voice communication; or (ii) Stand-alone electronic device; (B) Write, send, or read any text-based communication, including, but not limited to, a text message, instant message, email, or internet data on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1)(B) does not apply to any person eighteen (18) years of age or older who uses such devices: (i) To automatically convert a voice-based communication to be sent as a message in a written form; or (ii) For navigation of the motor vehicle through use of a device's global positioning system; (C) Reach for a wireless telecommunications device or stand-alone electronic device in a manner that requires the driver to no longer be: (i) In a seated driving position; or (ii) Properly restrained by a safety belt; (D) Watch a video or movie on a wireless telecommunications device or stand-alone electronic device other than viewing data related to the navigation of the motor vehicle; or (E) Record or broadcast video on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1) does not apply to electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle.

About the Authors

Linda D. (Walls) Sharer graduated Magna Cum Laude in 1993 with a Bachelor of Arts degree in Social Sciences from Cumberland University in Lebanon, Tennessee. She received her Juris Doctor degree in 1997 from the University of Memphis Cecil C. Humphreys School of Law. Linda began her legal career as a staff attorney with Southeast Tennessee Legal Services in Chattanooga, Tennessee before becoming an Assistant District Attorney General in the Ninth Judicial District in 1999. In 2001, she transferred to the District Attorney General's Office for the Fifteenth Judicial District, her home district, where she prosecuted all types of criminal cases but developed a passion for prosecuting driving under the influence and related cases. Linda moved to the Tennessee District Attorneys General Conference in 2018 into the position of Traffic Safety Resource Prosecutor where she currently serves today. Linda and her husband Billy Sharer reside in Lebanon, Tennessee.

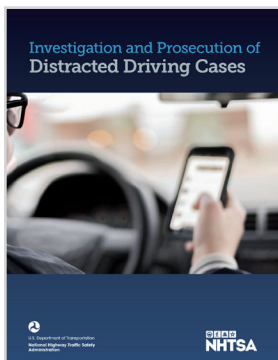


Arriale Tabson is the Public Information Officer for the Tennessee Highway Safety Office (THSO), a division within the Tennessee Department of Safety and Homeland Security. She began this role in June 2016. Arriale serves as the THSO's spokesperson and is responsible for all earned-media communications regarding the state highway safety office. She was born in Charleston, South Carolina, but is a native of Clarksville, Tennessee. She graduated from Middle Tennessee State University with a Bachelor of Science degree in Mass Communication. In 2021, she earned the Governors Highway Safety Association's Peter K. O'Rourke Special Achievement Award on behalf of the THSO for creating Tennessee's distracted-driving enforcement bus tour campaign. Prior to serving in state government, Arriale handled entertainment tour publicity for companies based in Nashville.



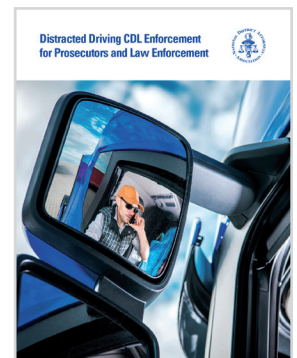
Additional NTLC Distracted Driving Resources Available

The National Traffic Law Center offers two, free monographs dedicated to the investigation and prosecution of distracted driving cases.



The first, *Investigation and Prosecution of Distracted Driving Cases*, provides information about why distraction is a problem, the different types of distraction, the trends in enforcement, as well as tips for investigating, charging, and proving distracted driving cases in court.

The other, *Distracted Driving CDL Enforcement for Prosecutors and Law Enforcement*, focuses on the unique issues presented in distracted driving by commercial drivers. In addition to the topics described above, this monograph provides further information relating to truck driver drowsiness and fatigue and other distinctive matters arising in cases involving commercial motor vehicles.



To download these resources, or for additional information relating to distracted driving or any other traffic safety-related issues, please visit the National Traffic Law Center's webpage at ndaa.org/programs/ntlc/.