

APRI

# Between the Lines

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## UPCOMING EVENTS

### 2006 MADD National Conference

*Mission: Possible*  
*A Nation Without Drunk Driving*  
Anaheim Marriott Hotel,  
Anaheim, CA  
September 7–10, 2006  
[www.madd.org/conference](http://www.madd.org/conference)

### Governors Highway Safety Association Annual Meeting

*New Frontiers in Highway Safety*  
Renaissance Convention  
Center Hotel  
Oklahoma City, OK  
September 16–20, 2006  
[www.ghsa.org](http://www.ghsa.org)



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## Making a Difference — In Their Communities and Across the Country

By: Elizabeth Earleywine<sup>1</sup>

**T**he first National Traffic Safety Award for Prosecutors resulted in the National Association of Prosecutor Coordinators (NAPC) receiving dozens of nominations recognizing the hard work and innovative programs undertaken by prosecutors across the country. We announced the recipient of the Award, Warren Diepraam, in the last issue of this newsletter. In this issue we highlight some of the exceptional contributions of Mr. Diepraam and other nominees.<sup>2</sup>

**Warren Diepraam** is an Assistant District Attorney in Harris County (Houston) Texas. Texas, and Houston in particular, is an especially dangerous place to be a motorist; Texas has one of the worst fatality rates in the nation and Houston is one of the worst in the state. Beyond his vigorous prosecution of vehicular homicide defendants, ADA Diepraam commits much of his time to educating youth about the dangers of alcohol abuse and drinking and driving. As an example, while a member of the Houston Young Lawyers Association, Diepraam implemented a program targeting teen audiences that includes an overview of how alcohol impairs, statements from victims detailing the devastation that can result from drinking and driving, and a discussion of the legal consequences of impaired driving. This public service project received national recognition from the American Bar Association. Diepraam also participates in “Teen Court” — a program that encourages high school students to volunteer in the legal system as prosecutors and defense attorneys for cases in which their peers are brought before a judge for traffic citations.

Another nominee, **Cathy Black**, is an Assistant Commonwealth's Attorney for the City of Williamsburg and James City County, Virginia. This past year, Ms. Black spent more than 125 hours writing the *DUI Manual for Virginia's Prosecutors*, a 105-page guide distributed to every commonwealth's attorney's office in the state. At the same time, she assisted in creating the training curriculum *DUI Enforcement and Prosecution: A Joint Training for Virginia Law Enforcement Officers and Prosecutors*. With Ms. Black as course facilitator at each of four trainings around the state, law enforcement and prosecutors came together to focus on creative and cooperative approaches to addressing DUIs. In addition to all this, Ms. Black was involved in proofing and editing Virginia DUI legislation, including meeting with key state legislators.

Assistant District Attorney **Georgia Felner**, Williamson County (near Nashville), Tennessee

has served as a special DUI prosecutor since 2001. From the beginning, Ms. Felner has tirelessly advocated for a comprehensive resolution to DUI cases, including intervention, treatment, punishment and accountability. Working in conjunction with a licensed treatment provider and the local jail staff, Ms. Felner was instrumental in implementing a DUI school for first offenders, which they participate in while serving their jail sentence. 2005 was the first full year for the program and early results are promising.

**Mitchell Morrissey**, Denver, Colorado's District Attorney, has partnered with Mothers Against Drunk Driving (MADD) Colorado to put into practice the “Memorial Signs Program.” A sign is placed at the site of a fatal DUI-related crash — “Please Don't Drink and Drive” and beneath that “In Memory of (Victim's Name).” The sign serves many functions, from illustrating the devastation of the choice to drink and drive to deterring people from drinking and driving to serving as a tribute to the victim, and his or her family and friends. Mr. Morrissey is highly involved in this program. He approves every eligible sign, ensures their maintenance, and attends every ceremony for the placement of each new sign. This program was recently expanded to honor the victims of reckless drivers.

Past president of the Prosecuting Attorneys Association of Michigan, **Jeff Sauter** is the Prosecuting Attorney for Eaton County (near Lansing), Michigan. In 1996, Mr. Sauter started one of the earliest DUI courts, “Sobriety Court.” It is now the model for the state of Michigan. Under Mr. Sauter's leadership, Eaton County has developed an innovative approach to the application of technology to prosecution; in fact, it was the first office in Michigan to use electronic file management. The Eaton County website, [www.eatoncounty.org/prosecutor/index.htm](http://www.eatoncounty.org/prosecutor/index.htm), is recognized as a national model.

Several prosecutors were nominated based on their perseverance through a particularly difficult case and intense media scrutiny. **Kristen Shea**, Assistant District Attorney General in Nashville, Tennessee, prosecuted a commercial truck driver for vehicular homicide after the trucker hit and killed a law enforcement officer who was assisting a motorist on the side of the road. Perhaps because the defendant was neither speeding nor drinking, media coverage suggested the charges were brought solely because the victim was a law enforcement officer. Persistence in obtaining information from the vehicle's electronic data recorder (EDR), however, helped prove that the

defendant never slowed his truck, despite the fact that he should have been able to see the cruiser's emergency lights flashing while still a safe distance away. The defendant pleaded guilty prior to trial to the offense as charged.

**Mark Borello**, Assistant State's Attorney in Duval County (Jacksonville), Florida had the difficult task of prosecuting a defendant accused of DUI Manslaughter for the death of a mother of one-year-old twin boys. Their father, also in the car, suffered brain damage as a result of his injuries. Such an emotional case meant intense media coverage from the beginning. One of the key issues in the case was identification of the driver. Ultimately, Mr. Borello introduced both DNA evidence and footwear impression (the brake pedal left an imprint on the driver's shoe) to prove the defendant was in fact the driver. Mr. Borello also had the jury view the cars and brought the cars' seats into the courtroom to demonstrate the impossibility of the defense theory. The defendant was found guilty and given the maximum sentence under Florida law.

Tarrant County (Fort Worth) Texas Assistant District Attorney

**Richard Alpert's** biggest court victory in 2005 was the appellate court affirmation of the guilty verdict in the first degree murder case of *Texas v. Mallard*, the infamous windshield case. Mr. Alpert was responsible for both the prosecution and the appeal of this case, involving a drug-impaired driver who hit a pedestrian with her car, trapping him in her windshield. The defendant drove to her home, parked her car in the garage and left the victim, still embedded in the car's windshield, to die. The defendant would later leave the victim's body in a park. The case understandably garnered national and international media attention.

These are just a few of the outstanding nominations we received. We hope that by reading these accounts you are inspired to re-energize your efforts in making your local roadways a safer place.

<sup>1</sup> Ms. Earleywine is the Traffic Safety Resource Prosecutor for Illinois and a former Senior Attorney with the National Traffic Law Center.

<sup>2</sup> All information contained in this article was provided by those submitting nominations.

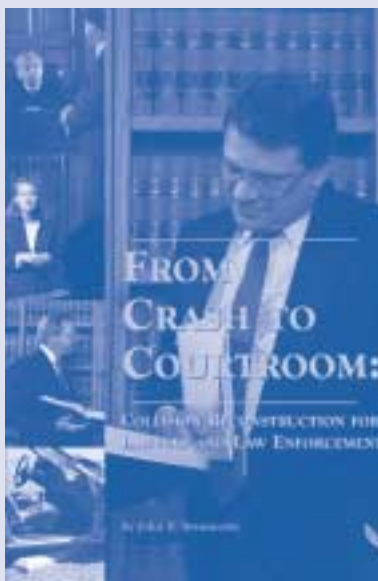
John Kwasnoski, a crash reconstruction expert who has served numerous times as lead faculty for NTLC's *Lethal Weapon: DUI Homicide* at the National District Attorneys Association's Ernest F. Hollings National Advocacy Center, Columbia, South Carolina — as well as countless times across the country — has authored a new book of invaluable assistance to criminal justice practitioners:

### **From Crash to Courtroom: Collision Reconstruction for Lawyers and Law Enforcement**

*Authored by John Kwasnoski*

Authored by John Kwasnoski, one of America's leading experts on motor vehicle crash reconstruction, *From Crash to Courtroom* teaches attorneys what to look for when examining an accident reconstruction expert's report, and explains in detail numerous potential errors an attorney may encounter. Of equal importance to law enforcement professionals, Kwasnoski's work also addresses such critical issues as proper evidence collection and effective crash analysis using the correct application of mathematical equations.

*From Crash to Courtroom* is devoted to ensuring that the science behind traffic collision reports is accurate, and explains how many seemingly accurate findings may in fact be scientifically incorrect. Examples range from the improper use of the non-deployment of an airbag to "prove" a low impact speed to the deliberate misapplication of computer software to supply desired videos and graphs. At its heart, *From Crash to Courtroom* teaches readers how to be more critical of collision experts' reports — then, equipped with a better understanding of the scientific fundamentals and analysis used in the preparation of such reports, attorneys may more effectively challenge the findings put forth by both sides. Cutting through the jargon and mathematical calculations frequently found in other



automobile accident treatises, *From Crash to Courtroom* is written in non-technical terms to help attorneys better understand and more effectively question expert testimony.

"This is an important and long overdue book," says Gerald Partridge, Esq., Adjunct Professor at the National College of District Attorneys. "*From Crash to Courtroom* will serve the trial lawyer as both a sword and a shield — providing the tools needed for dismantling the incompetent or unscrupulous collision reconstructionist, while supplying the roadmap for building a case on a solid foundation of scientific cause and effect."

About the Author: John Kwasnoski is one of the leading national experts in crash reconstruction, and co-author of three best-selling books: "Investigation and Prosecution of DWI and Vehicular Homicide," "The Officer's DUI Manual" and "Courtroom Survival." A Professor Emeritus of Forensic Physics at Western New England College, he has served as an expert in over 750 motor vehicle accident cases, including single and multiple vehicle, pedestrian, train and motorcycle crash cases. Professor Kwasnoski is also

the founder of CRASH! The Science of Collisions, an educational program for high school and college students devoted to reducing young adult motor vehicle fatalities through the use of the sciences and math.

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American Prosecutors Research Institute  
National Traffic Law Center  
99 Canal Center Plaza, Suite 510  
Alexandria, Virginia 22314  
[www.ndaa-apri.org](http://www.ndaa-apri.org)

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