

## **Admissibility in Advance**

In vehicular fatality cases, prosecutors should secure advance rulings whenever possible regarding the admissibility of demonstrative evidence to avoid last minute disappointments. You do not want to risk losing the opportunity for jurors to visualize the crash.

Consider this example from a real case: A truck driver traveling at an excessive speed crashed into the rear of a car that was slowing to a stop. In anticipation of trial, the crash reconstructionist drove the truck (after it had undergone a mechanical inspection) to the scene and videotaped the truck driver's view from the cab of the truck. An exemplar (same make, model & color) of the victim's car had been positioned at the point of impact. The videotape showed the visibility sight distance available to the defendant and illustrated that the defendant had nearly six seconds to initiate evasive action, which he failed to do.

At trial the videotape was ruled inadmissible. Why? Because the reconstructionist did not know the exact position of the victim's vehicle (which was moving) immediately prior to the impact and therefore the video did not adequately portray the events of the collision. The video introduced information that was not known to the degree of certainty the court required.

This unfortunate loss of demonstrative evidence could have been avoided if the prosecutor, knowing the admissibility requirements of the court, had secured an advance ruling on the video. This would have allowed the reconstructionist to re-tape the scene according to the court's requirements. Securing rulings before trial reduces interruptions in the state's case and gives the court a sense of the prosecutor's competence and the expert's credibility.

## **Calling All Surfers**

The National Traffic Law Center has jumped into the new millennium and is now on-line. Our new website is up and running and full of information available right at your fingertips. Learn more about the Center and the services we offer.

You can view a current listing of our brief bank and our publications. Read through the trainings we present along with a calendar of upcoming events. View the current newsletter or find an article from a previous issue. Click onto our legal issues and resources and print out several of our publications including an .08 BAC packet, double jeopardy information, a drug recognition information packet, study listings, the vehicular homicide publication: *Problems and Possibilities in Prosecuting Vehicular Fatalities*, and our popular publication: *Horizontal Gaze Nystagmus The Science and The Law: A Resource Guide for Judges, Prosecutors, and Law Enforcement*.

If you cannot find it on our website, you may be able to find it through one of the additional links listed. Got a question or need help? Fill out our on-line technical request form and e-mail it to us.

We believe this new resource will benefit you and your office. After you surf through, drop us a line and tell us what you think. We are open to any suggestions on how to improve the website. NTLC is a click away. Come on in, the water's fine!

## **NHTSA Youth Sentencing Guide**

By now you should have received a publication entitled "Sentencing and Dispositions of Youth DUI and Other Alcohol Offenses: A Guide for Judges and Prosecutors." This guide was created jointly by the National Highway Transportation Safety Administration and the National Institute on Alcohol Abuse and Alcoholism as an aid to both prosecutors and judges. Specifically, the guide is intended to help both groups more effectively sanction youths for alcohol related offenses, work more cooperatively with administrative agencies and community organizations, and define a role for themselves outside the courtroom in preventing underage drinking and other alcohol related offenses.

## **Arresting Developments**

**Sacramento, California** A thirteen-year-old was playing with his friends on a dead end street when he was struck by a vehicle and killed. The alleged driver of the vehicle, Gerald Weirton, attempted to leave the scene when a group of thirty neighbors formed a human shield to try to stop him from escaping. After Mr. Weirton maneuvered around the crowd, a few neighbors hopped in their cars and chased Mr. Weirton to a local mini-mart where he was surrounded and held until the police arrived. He is charged with DUI, vehicular manslaughter and hit-and-run.

**Portland, Oregon** The DUI Intensive Supervision Program is designed not only to keep third or subsequent DUI offenders off the road, but also to keep them from drinking. The program incorporates an electronic monitoring system, which includes a house arrest monitor and a breathalyzer device positioned by the person's phone. The automated breathalyzer known as the Sobriator, will emit an alarm directing the offender to breath into the device after a voice verification system identifies the person as the offender. The Sobriator detects intoxicating substances and information the authorities if the offender fails.

**David City, Nebraska** During the Thanksgiving holiday in 1998, Jonathan Eaton was intoxicated when he crashed his vehicle over a concrete partition, killing his nineteen-year-old passenger. He recently plead guilty to vehicular homicide. Along with other penalties, the district court judge ordered Mr. Eaton to spend Thanksgiving, the following day, New Year's Eve, New Year's Day and his birthday in jail for the next five years. "It serves as a reminder for the consequences of his actions," added Butler County Attorney Carl Hart Jr.

**Between the Lines** is published quarterly by the **American Prosecutors Research Institute's National Traffic Law Center**. Items may be reprinted if attributed to **APRI's National Traffic Law Center**. Please provide copies to *Between the Lines*. Direct inquiries and news article suggestions to Patricia Gould at 703-549-4253.