

The GREEN LIGHT NEWS

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Know the "ABCs" for Your Case

By: Edward Zych

As the Marion County, Indiana Fatal Alcohol Crash Team Prosecutor, part of my duty is to respond to the scene of fatal OWI and serious bodily injury crashes. In the course of my experience, it is my opinion that the development of a close working relationship with the police agencies in your county is critical to the prosecution of your case. When prosecuting an OWI case involving death or injury, time is of the essence in the gathering of evidence of intoxication.



The Indiana State Excise Police is empowered with the duty to regulate and limit the manufacture, sale, possession, and use of alcohol and alcoholic beverages in the State of Indiana. My team has developed a close working relationship with this agency and it has proven critical in a few of my cases.

One critical aspect of the powers that the Indiana State Excise Police have is that they have the power to enter the premises of any business that has an alcohol

our suspect was drinking at a bar or a restaurant, we have called out Indiana State Excise Officers and they have gone to these establishments and gathered video evidence, credit card receipts and also have taken statements from servers and bartenders for us. Where other police agencies would need a search warrant for many of these materials, the Indiana State Excise Police are able to gather this information without the use of a warrant within hours or even minutes of our crash.

The evidence and data that we collect as part of our investigation is also shared with the Indiana State Excise Police to help them in their investigation of an establishment that may have violated Indiana liquor laws. Thus, the

One agency in particular has been instrumental in the gathering of evidence for the cases that I prosecute.

permit and seize any documentation or video that they need without a search warrant. If we are able to ascertain that

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Repeat Offenders and Paper Plates

Picture it – a driver is arrested for Operating While Intoxicated (OWI) or Driving on a Suspended License (DWLS) and this is not their first offense – one of the common questions among law enforcement is: Do I take the plate and give them a paper plate? This has been the question ever since the Repeat Offender Law went into effect in 1999. While there is an easy way to get an answer, how it gets there can be confusing. The easy way is to run a "35;1;" on a person's driving record through LEIN. Or another way to say it, the officer should request a driving status. The printout will then say if the person has any prior "alcohol violations," or any prior "mandatory additional suspensions." Those two terms are

key when trying to determine if a plate should be seized.



MCL 257.904c is the section of the law that tells an officer to seize a plate

and then put a paper plate on the vehicle. It states that when an officer believes that the vehicle is required to be immobilized by the courts, then the plate should be seized and a paper plate attached. Immobilization by the courts is determined by MCL 257.904d.

It is fairly clear to everyone that if there is a prior conviction for OWI or Impaired

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Prosecuting Truck Crashes

by: Lt. David Ford

Truck crashes have a dramatic impact. Given the physics of a heavy vehicle moving at freeway speeds, a truck crash frequently generates injuries or fatalities, almost always at the expense of the passenger car occupants. They often generate intense media scrutiny, particularly when a fiery crash is splashed across the evening news with the header of “Killer Trucks” or “Rolling Death.” A truck-involved crash is not quickly resolved, and the resulting congestion regularly creates additional crashes due to traffic stopping too quickly or gawkers not paying attention.

In a study for the U.S. Department of Transportation, the Pacific Institute for Research and Evaluation estimates



that the average cost of a truck-involved crash was \$91,112 (2005 dollars). A crash involving double trailers, a common sight in Michigan, is estimated at \$289,549. A truck-involved fatal crash is estimated at \$3,604,518.

In 2006, the total number of truck crashes dropped significantly (see table at the end of the article), but the number of fatal injury crashes only decreased slightly. As mentioned earlier, physics play an important part in truck crashes, and the line between an injury crash and a fatal crash is very thin.

Motor Carrier Officers of the Michigan State Police Traffic Safety Division (TSD;

formerly the Motor Carrier Division) are often called upon to inspect a commercial vehicle after it has been involved in a crash.

Motor Carrier Officers (MCOs) are not trained as crash reconstructionists, however they are trained to identify violations of the Federal Motor Carrier Safety Regulations (FMCSR), which

The Motor Carrier Investigators can provide the prosecutor with a very clear picture of the driver’s qualifications to operate a commercial vehicle

are the minimum safety standards for commercial vehicles while being operated on a highway.

MCOs cannot identify or testify to the cause of the crash. However they are qualified to identify and testify to commercial vehicle violations that may have contributed to the crash, such as vehicle (e.g., equipment) or driver (e.g., log book) violations.

An additional resource that the TSD can bring to the prosecution is the Hazardous Materials and Investigation Unit. This unit is comprised of two sergeants at Division HQ and 11 Motor Carrier Investigators (MCIs) stationed throughout the state. The Unit

is responsible for conducting audits and investigations on trucking companies.

While most investigations involve violations of the federal commercial vehicle regulations, MCIs also participate in criminal and homeland security investigations. All Motor Carrier Officers and Investigators have the statutory authority to demand all transportation related documents from a trucking company (Section 480.16 of Act 181 PA 1963).

By reviewing the driver’s and the company’s documents, the MCI can reconstruct the driver’s activities for the past six months to determine compliance with the

Hours of Service regulations, as well as review the driver’s medical qualifications and alcohol and drug testing results. The MCI can provide the prosecutor with a very clear picture of the driver’s qualifications to operate a commercial vehicle.

Last, the Unit sergeants have access to a variety of commercial vehicle and criminal intelligence databases that may be useful during a truck crash investigation.

Editor’s Note: Lt. Ford is with the Traffic Services Division of the Michigan State Police. He has been with MSP for 22 years.

Michigan Truck/Bus Crash Statistics by Calendar Year

	2006	2005	2004	2003	2002	2001
Total Crashes	13,069	15,641	16,696	16,518	16,789	17,699
Fatal Crashes	119	122	120	111	132	122
Percentage of Crashes with Fatalities	1.0%	.8%	.7%	.6%	.8%	.6%
Injury Crashes	2,372	2,823	3,070	3,031	3,133	3,092
Percentage of Crashes with Injuries	18%	18%	18%	18%	19%	17%
Persons Killed	136	136	128	122	151	129
Persons Injured	3,329	3,892	4,156	4,240	4,389	4,288

Know the “ABCs” for Your Case (Continued from page 1)

working relationship benefits all parties involved.

In the summer of 2005, the FACT team first worked with the Indiana State Excise Police the same day as

longest suspensions the Indiana State Excise Police have ever obtained.

Far too often Prosecutor’s Offices and police agencies do not have a good working relationship. This

does a disservice to the citizens of our counties that expect the very best we have to prosecute our cases. When a prosecutor’s office takes the time to work with

police agencies in their county to develop a good working relationship, better evidence is gathered which

leads to much stronger cases for the prosecution.

Editor’s Note: Edward Zych is the Fatal Alcohol Crash Team (FA.C.T.) Assistant Prosecutor for the Marion County Prosecutor’s Office. This office includes the city of Indianapolis, Indiana. He has been assigned to that position for the past three years and he has been a prosecutor for over 5 years.

For Michigan, the “Excise Police” would be part of the Michigan Liquor Control Commission. In some states, the Liquor Control Commission is known as the Alcohol Beverage Control Boards, thus ABCs.

The Indiana State Excise Police were called out to help in the investigation and were able to gather credit card receipts which showed that in three hours the Defendant had accumulated around a \$350 bar bill.

the Indianapolis 500 race that year, a Defendant was driving while impaired and speeding. This Defendant flipped his car and ejected his passenger who was killed. Officers at the scene determined that the Defendant had been drinking at a local restaurant close to the crash. Officers from the Indiana State Excise Police were called out to help in the investigation and were able to gather credit card receipts which showed that in three hours the Defendant had accumulated around a \$350 bar bill. Also, based on their investigation, the Indiana State Excise Police were able to determine that this restaurant knowingly served the Defendant and others with him while underage. Because of their investigation, I was able to successfully prosecute this Defendant. This restaurant also lost their liquor license for one month which is one of the



How to Attract Media Coverage

by: Richard Amme

Gaining positive media coverage is no small accomplishment; it can be gold, especially for small to medium companies. It confers legitimacy, attracts customers, and gives everyone a constructive way of looking at your business or institution. Non-profits thrive on it too because notoriety can motivate donors.

So, how do you bait the journalistic hook? Here is an updated version of that original list.

1. First, ask yourself “Who Cares?”

News is *that which means the most to the most people*. Your item, issue, or event must matter to others. Would your story idea interest anyone beyond your business and social circles? Does it appeal broadly? Publicity-seekers too often believe their only responsibility is to call a media outlet or mail a news release and hope for the best. Wrong. First ensure your proposal would truly

attract an audience. If it doesn’t, see the next step.

2. Make them care!

Sometimes an abstract idea or issue can be made meaningful to others with a touch of creativity. *Example* – A TV news director once told me he wanted every issue reported through the eyes of an average person. For instance, to

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How to Attract Media Coverage (Continued from page 3)

report a tax increase, we had to locate a typical taxpayer to show how the increase would affect his life. This is people-izing your story. Try to do that before calling for coverage, which leads naturally to step 3.

3. Put people in the story!

Do more than filter the story through a human point of view. Include people. *Example* – For a story highlighting an historic building, locate an elderly person who once worked or lived in the structure, and make that individual available. Involve regular people rather than officials or executives. (Local political figures such as mayors are often no attraction since reporters see them routinely.)



4. Make it visual!

Take advantage of colorful settings to help reporters illustrate your story. *Examples* –Talk about water in front of a reservoir instead of inside an office. In the historic building case, hire a cherry picker to elevate photographers to take pictures from unusual angles. Offer old photos or films that revive the early days.

5. Link to a major event or hot topic!

Tie your idea to a current news event or hot item of public fascination. *Example* – Connect your company's ability to help people save money to everyone's concern about the recession.

6. Schedule shrewdly!

Hold an event mid-morning mid-week - Tuesday through Thursday - about 9:30 to 10 am. Why? News operations tend to have more reporters available those days. Weekend workers off Mondays and Fridays mean smaller staffs those days. The 9:30 to 10 am timing is good because most news crews are not yet

deployed to competing events. (Weekly newspapers and business journals have mid-week publishing deadlines that you may want to exploit.) Nights and weekends are risky for coverage because skeleton staffs are frequently shifted to hard or breaking news.

7. Call, write, and call again!

Alert newsrooms to your story with a personal call a couple of weeks (not months) in advance and then follow up immediately with a written reminder. Call again about 24-48 hours before the event. News coverage is usually a last-minute decision based on logistics and story options. Calling far in the future rarely changes that equation.

8. Call in the early afternoon!

Make first contact for coverage between 1 pm and 3 pm when news decision-makers are less harried with scheduling or preparing the news product for the evening or the next morning.

(Note to crisis managers – Do the opposite of steps 1-8 if you want to reduce your odds of coverage. Of

course if your situation is serious enough, scheduling tricks will not deter determined journalists.)

9. Take a reporter to lunch!

Get acquainted with reporters. Learn their preferences, and perhaps make a friend – a potential ally should a crisis strike some day. Networking news people is smart. This may give you an ear for your ideas, and - should something serious happen - ensure that you get a fair hearing. It will NOT stop legitimate journalism.

10. Build a reputation for valuable tips!

Call for press attention only when it is warranted. Doing otherwise will hurt your credibility. Companies and organizations that barrage newsrooms with tepid news releases every few days would be dismayed to learn how little attention they receive. It is like crying, "Wolf!"

Editor's Note: Richard Amme is president of Amme & Associates, Inc. He has presented for the prosecutors in Michigan on ways to be more effective with the media. He can be contacted at rick@amme.com or (336) 631-1855. More information on Richard can be found at www.amme.com.



Repeat Offenders and Paper Plates (Continued from page 1)

It is the mandatory additional suspensions that determine if a person's plate should be seized, not the number of DWLS convictions.

Driving and the person is being arrested for a second or subsequent offense OWI, then the plate should be seized. Very few people have a problem with this concept. An officer looks at the driving record, sees an OWI conviction prior to this OWI arrest, then the plate is seized – it is one or more OWI convictions.

However, when the person is arrested for DWLS or another traffic violation, (For a complete list of offenses see MCL 257.904d(7).) an officer should not look at the DWLS convictions. A common warrant request by an officer to the prosecutor's office is DWLS 3rd because the officer believes that the person arrested is a repeat offender and has to be charged as a 3rd offender. There is no such charge as DWLS 3rd. Again, it is the mandatory additional suspensions that are important, not the number of DWLS convictions.

In this situation, the officer should first ask if the driver is currently suspended. If yes, then the officer needs to look for the mandatory additional suspensions. It is the mandatory additional suspensions that determine if a person's plate should be seized. Those are suspensions

that are issued by the Secretary of State's Office in certain situations (pursuant to MCL 257.904(10), (11), or (12)), and it requires a careful examination of the driving record to determine if a person has at least two prior mandatory additional suspensions. This is why it is important to run "35;1;" when checking on a driving record. It makes an officer's job easier to determine if a plate should be seized.

A couple other comments on this area, an officer should not seize rental,

tribal, trailer, manufacturer, dealer, US government, nor out-of-state plates in these situations. If it is a leased vehicle, then the plate should be seized. Also, the paper plate remains on the car until the case is adjudicated. This is regardless of who owns the vehicle, and regardless if the person knew or didn't know that the driver was a repeat offender. If the owner was not the repeat offender then that person will have to appear in court and state he or she did not knowingly allow the repeat offender to operate that car. It is up to the court to determine if the vehicle should be immobilized.



Severe Weather Driving Tips

On Ice or Snow

Bridges and overpasses freeze first, so always slow down and avoid sudden changes in speed or direction.

Keep windows clear.

Keep your speed steady and slow -- but not so slow that your car gets stuck in deeper snow.

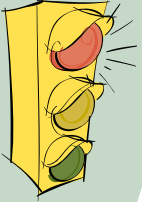
Use your brakes cautiously. Abrupt braking can cause brake lock-up and cause you to lose steering control.

To make Antilock Brakes work correctly, apply constant, firm pressure to the pedal. During an emergency stop, push the brake pedal all the way to the floor, if necessary, even in wet or icy conditions.

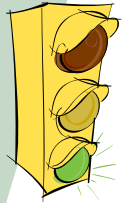
If you get stuck in snow, straighten the wheels and accelerate slowly. Avoid spinning the tires. Use sand or cinders under the drive wheels.



Red Light, Green Light

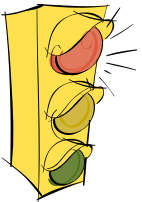


Red Light: Recent research reveals the dangers of mixing alcohol with popular energy drinks such as Red Bull and Adrenaline Rush. It's a phenomenon sweeping college campuses. Drinking alcoholic beverages and energy drinks at the same time can in essence delay the perceived effects of the alcohol, misleading people into thinking they're not as affected by it as they really are, in turn endangering their bodies and making risky behavior more likely. Dr. Mary Claire O'Brien, an emergency room physician and associate professor of emergency medicine at Wake Forest University Baptist Medical Center in Winston-Salem, NC, is lead author of the study. "In our study, one in four college drinkers is mixing alcohol with energy drinks. ... We found that they did it in order to be able to drink more without passing out. Indeed, there is a much greater incidence of drunkenness and a much greater incidence of heavy episodic drinking when students mix alcohol with energy drinks. But, the real thing we were interested in was the association with serious, alcohol-related consequences, like riding with a drunken driver or being hurt or injured or needing medical treatment. And indeed, all those things were twice as likely among students who mixed alcohol with energy drinks." *CBS News, November 7, 2007.*



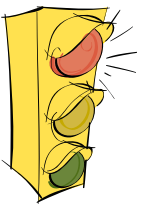
Green Light (? – You Decide): St. Mary's County, Maryland – A newspaper editor, whose family has dealt with deadly drunk driving crashes, is offering a coffin to the first person who dies in the 2007 holiday season from a drunk driving crash. St. Mary's Today editor Ken Rossignol was never shy about a journalistic style some say borders on the sensational. For years, he has posted the names of local people arrested on DWI charges in every weekly edition. "So the message is, don't drink and drive." He says people aren't listening. Now, he offered a free coffin to the first person who kills him or herself in a drunk driving crash in the Charles/Calvert/St. Mary's County region. "You wanna die? We're gonna make it cheaper for you." His unorthodox approach is getting mixed reviews; some say it's crazy while others think it's a good idea. Rossignol has seen too many people killed by drunk drivers, including his brother in 1975. His goal is that no one accepts his offer. "We hope we don't have to award a free coffin, but if they want it, they'll get it." *ABC News, November 29, 2007.*

Editor's Note: *The following Red Light Articles all seem to come under the title – Family Issues*



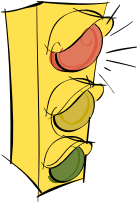
Red Light: Ypsilanti, Michigan – Police detained a Northville couple after a wife who drove to pick up her young son when her husband was stopped for drunken driving showed up even more intoxicated than he was, police alleged. "I've never seen it happen like that to the same family in one situation," said Ypsilanti Police Sgt. Kevin Dorsey. "They made their bed. She had been drinking too." The couple was jailed late Saturday and their children, a 12-year-old boy who had been traveling with his father and a 9-year-old girl who had been in the car with her mother, were released to a relative. A police report said the man was pulled over when an officer said he saw a Jeep run a traffic light. The driver appeared intoxicated, and a breath test indicated he had an alcohol level of 0.11. Officers allowed the 12-year-old to telephone home for a ride, but when mom showed up, she too appeared to be drunk. She told officers she'd drunk some wine and became combative when she tried to leave the scene. A breath test indicated her alcohol level was 0.13. "We were going to turn the kids over to mom, but she was intoxicated too," Dorsey said. "She drew a lot of attention to herself." *Detroit News, printed October 30, 2007.*

And in the same vein



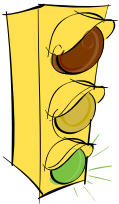
Red Light: Clio, Michigan – A police officer checking on a truck that got stuck in the mud at a city park was startled to find a 13-year-old boy behind the wheel. The officer also was surprised that the boy appeared to be drunk. So did the teen's father, who was riding in the front seat. He told police that he had turned over the driving duties to his son because he'd had too much to drink. Open containers of beer and liquor were found in the vehicle. Clio Police Chief James McLellan told The Flint Journal "(The boy) even said he didn't want to drive because he was too drunk." The father, 41, is facing several misdemeanor counts, including child endangerment, allowing an intoxicated person to drive his vehicle, and allowing an unlicensed minor to drive. The boy has been petitioned into juvenile court on charges that include driving while intoxicated. The pair were trying to get home when they turned into the park to turn around. The truck rolled off the pavement and became stuck in the muddy soil. *MLive.com – Associated Press, November 2007.*

And yet again. . . .



Red Light: Hilltown, Pennsylvania – It's a pretty safe bet you'll be in deep trouble if the police have to call your mom because you've been arrested on drunken driving charges. But if mom shows up to the police station and she's drunk, all bets are off. Hilltown police arrested a 16-year-old Perkasio boy at 3 a.m. on DUI and underage drinking charges after driving erratically on Main Street. After the teen submitted to a blood alcohol test, police phoned the boy's mom from the station saying she should come get him. But his mother showed up intoxicated, and after failing field sobriety tests, was arrested on DUI charges. Both mother and son were eventually released to a sober third party. "If she had admitted to us in the beginning she was drinking, we would have made other arrangements to get the (teen) home," said Hilltown Police Chief Chris Engelhart. As strange as it sounds, Hilltown sees a case like this almost every year.. *Printed in Phillyburbs.com on October 16, 2007.*

But a **Green Light** for a Very Brave Daughter



Green Light: Galisteo, New Mexico –Robert Montoya, 52, was drunk behind the wheel with three teenage girls trapped inside, two of them his daughters. One of the daughters made the frantic call to 911 as she attempted to get her dad to pull over.

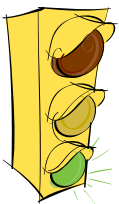
Caller(crying): "Dad!" Male Voice: "You guys are the ones that got me going this way." Caller: "We didn't have any....drinking and speeding, Dad, pull over!"

As the girls pled with Montoya to stop, he only went faster.

Operator: "Tell him to pull over." Caller: "I'm trying, he's like going 100 now." Operator: "Going 100? Ok, are you guys belted in? OK, make sure you have your seat belts on, OK?"

The ride finally ended where police took Montoya into custody and found out he'd been in trouble with the law before with five previous DWI arrests. Montoya admitted to drinking a six-pack of beer while waiting for the girls at a pumpkin patch. Officers could not complete a sobriety test on Montoya because he could not stand without falling back down. Montoya is charged with one count of DWI and three counts of abandonment or abuse of a child. With his own daughters turning him in, this time authorities hope Montoya will remember what's important and live on to be a father in the future. *KOAT.com, Albuquerque News, October 29, 2007.*

And This **Green Light** for a Very Brave Son



Green Light: Vancouver, Washington – An 8-year-old boy riding in a car with his mother and little sister called 911 at least twice to report that his mother had been drinking and was driving in the wrong direction. Authorities say the call led to the woman's arrest on drunken driving and other charges. Paulette Spears, 33, was arrested after she drove to a fire station and said she had a medical problem. Guided by her son's description of what he could see from the car, as well as by global positioning technology to track the phone calls, deputies arrived at the station less than a minute later. At one point, Spears took the cell phone from the boy, told the dispatcher not to worry, and hung up. She also bit the boy's hand and grabbed the phone from him. Tapes show the 911 dispatcher asked the boy to put his mother on the phone, but the woman ended the call instead. The dispatcher called back and the boy's mother hung up again. Then the boy called 911 again and told the dispatcher his mother was "jabbing" him with her hands, insisting he give her the phone. The boy and his sister were placed with an aunt. Spears was jailed for investigation of drunken driving, two counts of reckless endangerment, and assault of a child. Records show she has at least one conviction for drunken driving. *CBS News, October 23, 2007*

Editor's Note: It is unknown if this Ms. Spears is related to Britney Spears.

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This material was developed through a project funded by the Michigan Office of Highway Safety Planning and the U.S. Department of Transportation.

For Your Information

The International Association for Chemical Testing is an organization composed primarily of employees of governmental agencies involved in chemical testing in related traffic safety. They may be at a local, county, parish, state, national, or international level. The purpose of the organization is to promote professionalism in the field of chemical tests for alcohol and other drugs in relation to traffic safety; to develop and promote training programs for personnel in the field of chemical testing; to facilitate discussion and dissemination of information concerning alcohol determinations and testing for abused drugs and other chemical substances; and to motivate a true spirit of cooperation between agencies devoted to the detection of alcohol and other drugs. The organization (IACT)



was formed in March 1988 in Chicago, Illinois.

It is made up of both scientific and criminal justice professionals including researchers, criminalists, forensic scientists, regulatory inspectors,

manufacturing representatives, law enforcement personnel, and others. The membership of approximately 400+ boasts representatives from a majority of the states and several international members. It hosts an annual conference where exchange of information is accomplished through presentation, panel discussions, manufacturer's exhibits, and, of course, one-on-one discussions at breaks. In addition, it publishes three newsletters yearly and provides numerous other information updates throughout the year. For more information, go to: www.iactonline.org.