A Message From General Counsel
Randall L. Sarosdy

Thank you for your participation in the Texas Justice Court Training Center's DWI Bond Condition Program. TJCTC sincerely appreciates your county’s commitment to enhancing public safety and improving outcomes in DWI cases in the State of Texas, and we commend you for your dedication to the program.

We recently conducted the fourth annual Impaired Driving Symposium at Horseshoe Bay and are pleased to report that it was very well attended and very well received. We believe there is great value in holding conferences that include justices of the peace, municipal court judges, county judges, county court at law judges and district judges and that afford the participants the opportunity to consider common approaches in dealing with DWI issues. The conference included many excellent speakers on developing legal issues and current practices. I was pleased to be able to moderate a panel discussion on Solving Practical Problems with Judge Rick Hill, Judge Rodney Adams, Judge Mark Hocker and Judge Brett Bray. We are looking forward to the fifth annual Impaired Driving Symposium on July 25-26, 2019, in San Antonio.

We also are very pleased to report that we and the A&M Texas Transportation Institute jointly conducted the first Ignition Interlock Summit in McAllen on July 17-18. More than 80 judges, law enforcement and CSCD personnel from South Texas attended this program. The speakers provided much practical and useful information, including an excellent presentation by our staff attorney, Rebecca Glisan, on the legal issues relating to setting, monitoring and enforcing bond conditions in DWI cases. The evaluations for the program were very positive and we are planning a similar program next year in another location in Texas.

We are continuing to make additional counties aware of and interested in participating in the DWI Bond Condition Program. Counties that are participating in the program include Rockwall, Matagorda, Bandera, Jim Wells, Brooks and Polk Counties, and meetings are scheduled in additional counties over the coming months. (See page 11 for map)

Thanks to the excellent work of Rebecca Glisan we are also improving both the classes on impaired driving issues at our judges and court personnel judicial education seminars and the resources available on our website. References and links to these resources are included in this Newsletter.
Continued From the General Counsel

If you would like to request changes to the forms used by your county to administer the program, or if you’d like to update the bond conditions you are using in DWI cases, please don’t hesitate to contact us. We are ready to assist you with your county’s administration of the program in any way that we can. Additionally, if you have any ideas about how we can better serve participating counties, please let us know. We want to continually improve and expand this program in order to reduce DWI offenses throughout the state. Thank you again for your participation. We look forward to working with all of you in the 2019 fiscal year.

CHECK OUT OUR SPOTLIGHT VIDEO ON THE DWI BOND CONDITION PROGRAM

http://www.tjctc.org/tjctc-resources/traffic-safety-initiative/bondschematic.html
The Times They Are a Changin’

Marijuana users are coming out of the shadows as laws in various states begin to allow usage medically and even recreationally. One of the questions this raises is how do drivers who use marijuana reconcile their lifestyle with safety behind the wheel? What do you do if you are a pot smoker who wants to drive safely and avoid getting arrested for driving under the influence of drugs?

There needs to be a basic rule of thumb that can be applied to smoking weed and driving. When it comes to alcohol, we have a rule of thumb. We emphatically recommend waiting a calculated amount of time after drinking before driving. The reasoning behind this is fairly simple …

For most people, when we drink our impairment rises and ebbs predictably along with our blood alcohol concentration (BAC). As we drink more, our BAC raises along with our impairment and it takes longer for the effects to wear off. The more one drinks, the longer one must wait before they can safely drive.

The second reason for waiting is both chemical and legal. BAC is a primary yardstick used by police to determine if you are under the influence. They measure it with a breathalyzer and if you refuse the breathalyzer, you will likely lose your license anyway! So by waiting an appropriate time for impairment to pass, we can drive without fearing the breathalyzer.

The desired outcome from waiting after drinking before driving is that symptoms of impairment will have passed and we can drive without endangering others or worrying about being arrested for DUI/DWI.

It turns out a variation of this approach may be the best road to take with marijuana, though it’s a bit of a minefield out there right now. As states are changing their stance toward pot, they are tasked with refining laws on what constitutes a pot impaired driver and what the consequences are.

OLD SCHOOL VS. NEW TESTS

Let’s be clear. If you are in a state where smoking pot is still illegal, a joint smoked a couple of weeks ago can cause you to lose your license. You are basically expected to choose between smoking pot and being able to drive. It is our first Rule of Thumb. If arrested for impaired driving in these states, you could be tested at the police station by a blood draw or urine sample. Testing on blood or urine can reliably show the presence of THC in the body weeks after smoking. Be sure you understand what the state and local laws are wherever you drive if you were to test positive for cannabis.

The issue this Zero Tolerance approach raises is that impairment from smoking weed tends to last only a couple of hours despite how long it stays in your body. To understand this disparity, let’s take a simplified look at what happens to THC when you smoke a blunt.
Smoking anything introduces a large number of chemicals to your system. The National Institutes of Health reports that smoking cannabis releases over 2,000 chemical compounds. The usual goal of a pot smoker is to interact with the psychoactive chemical (the one that impairs you) - THC. But THC itself is complex with several molecular configurations, each with different properties.

Out of all this, there are two compounds of importance to this discussion of pot and driving, Delta 9 THC (THC) and Delta 9 Carboxy THC (THC-COOH).

THC exits your body primarily through feces, urine, and saliva. But Delta 9 and Carboxy THC leave the body at extremely different rates of speed.

Delta 9 THC is the compound associated with the (impairment) high. After smoking, Delta 9 levels rise and ebb along with impairment within a few hours. The peak is actually short-lived and much of the high tends to come and go within the first hour.

Delta 9 Carboxy THC-COOH rises after smoking, however it takes many days for the levels to drop back down. Levels of THC-COOH bear no relation to current impairment. A urine test used by law enforcement will detect THC-COOH and therefore imply marijuana usage sometime in the past week or more.

In recent years, saliva tests which detect Delta 9 THC have been developed for use in the field by law enforcement. (example 1 Oral Cube, example 2 DDT5000 and DrugWipe) Testing positive for THC with these saliva tests indicate smoking within the last 2-3 hours.

States where marijuana has been decriminalized for medicinal or recreational use are looking at this matter and these new testing devices more closely. What many legislators would like to see is an acceptable per se limit like every state uses with alcohol. Alcohol impairment for most people rises predictably along with BAC with expected symptoms being experienced at expected BAC levels. The corresponding relationship between symptoms of impairment and levels of THC has not been mapped out so clearly yet. Some opposition to laws creating a per se standard for pot are based on the lack of current science to trace this relationship as precisely as with alcohol.

In other words, there are not (yet) established links between a specific symptom of impairment and an XX nanogram THC level.

Still, setting a limit is the comfortable thing to do and we’ve seen that happen in Washington, Montana, and Colorado. Between the accuracy of the current testing methods and the laws being written, we can see that waiting for Delta 9 levels to drop before driving will greatly decrease the possibility of getting arrested for driving under the influence. DrinkingAndDriving.Org recommends waiting 3 hours after smoking marijuana before driving.

Waiting three hours after smoking before driving is also the best approach to take in terms of safety. It is our 2nd Rule of Thumb. Now, let’s look at what marijuana impairment is and how it affects the driver.
HOW’S MY DRIVING?

First, understand that while the symptoms of alcohol impairment may be more extreme, smoking marijuana does cause impairment and its impact on driving should never be dismissed.

Here are the impairment symptoms associated with smoking pot from the NHTSA’s page on cannabis. We’ve bolded the ones which can affect driving …

Symptoms of Cannabis Intoxication

Psychological
relaxation, euphoria, relaxed inhibitions, sense of well-being, disorientation, altered time and space perception, lack of concentration, impaired learning and memory, alterations in thought formation and expression, drowsiness, sedation, mood changes such as panic reactions and paranoia, and a more vivid sense of taste, sight, smell, and hearing. Stronger doses intensify reactions and may cause fluctuating emotions, flights of fragmentary thoughts with disturbed associations, a dulling of attention despite an illusion of heightened insight, image distortion, and psychosis.

Psychological
The most frequent effects include increased heart rate, reddening of the eyes, dry mouth and throat, increased appetite, and vasodilatation.

DrinkingAndDriving.Org Note - Vasodilatation causes lower blood pressure which can lead to dizziness, blurred vision and confusion.

The effects these symptoms can have on your driving is nothing to scoff at. According to NORML’s whitepaper on the subject, the pot-impaired driver may appear more cautious driving slower and keeping more distance between their car and the one ahead of them. But it also states they could have difficulty staying in their lane and be slow to hit the brakes. Both are dangerous behaviors. They may even experience eye movement control issues. This could cause one to visually misperceive the trajectories of other vehicles in a situation requiring instant decision making and reaction.

Then again, both NORML and the NHTSA point to studies that show the impaired pot smoker is more likely to know they are impaired than the impaired drinker. A drunk person is more likely to want to drive than the stoned person.

For the most part, no matter who you listen to, the NHTSA, NORML, or the NIH, the driver who is high on pot tends to try to drive more carefully. Surprisingly, even this can be a problem. Current autonomous vehicles being tested on our roads are routinely rear-ended by human drivers. Why? Because they come to a complete ‘behind the line’ stop at stop signs and traffic lights, they travel at or below the speed limit, and they very cautiously make their turns. This is probably not the way the guy in front of you drives unless they've been smoking weed. In fact, these behaviors can trigger suspicion by police that a driver is impaired by marijuana.

EATING, DRINKING, AND SMOKING

If you are consuming THC edibles, you will need to wait longer than smokers. It takes longer for the THC to pass through to your bloodstream and the stages of impairment become drawn out and last longer. It is literally like taking pills. We recommend waiting 6 hours after eating THC edibles before driving as our 3rd Rule of Thumb.

But there is more we need to consider. What if you are also drinking? NORML, NHTSA, and NIH all say that the effects of combining marijuana and alcohol are ADDITIVE. They compound one another. For this reason, our 3rd Rule of Thumb recommends that pot smokers who drink should treat their wait-time as ADDITIVE. Wait 3 hours for the pot PLUS the appropriate time for what you drink before getting in the car. For example, if you knock down a couple of shots while smoking, you should wait at least 4.5 hours before driving.

ROLLING UP OUR RULES OF THUMB

We have two more rules you need to adopt as driving pot smokers. Our 5th Rule of Thumb is NEVER smoke WHILE driving. If you are following our other rules, this won’t happen. Yet it needs to be said. It is both dangerous and dumb. No matter how lax the laws become in your state, smoking while driving is going to give you a headache. If you are caught, at the very least it will be an infraction, but don't count on being given a ticket and sent on your way. Before they write that ticket, they will likely give you the swab test we were talking about a few paragraphs ago. As much as possible, you should keep pot and paraphenalia out of your car, period.

Our 6th and final piece of advice is not just to drivers or smokers, but to everyone. As with drunk drivers, NEVER let yourself be the passenger of a stoned driver. First, it's a real drag to be with someone who gets pulled over. But there is also a genuine risk here. Stoned drivers, like drunk drivers, can kill their passengers along with pedestrians and people in other cars.
TRAFFIC SAFETY RESOURCES

TJCTC Traffic Safety Initiative

http://www.tjctc.org/tjctc-resources/traffic-safety-initiative.html

Flow Charts and Forms

Blood Search Flowchart
Toxicology Reporting Form
ODL Eligibility Chart
(see page 10)
ODL Flowchart

Electronic Publications

The following publications are updated every year at the end of September and can be found here: http://www.tjctc.org/tjctc-resources/publications.html#publications

- 2017 DWI Magistration Inquest Field Guide
- 2017 Reporting Requirements Guide for Justice Courts

Newsletters

2018 Traffic Safety Newsletter
Featured Articles:
- Utah Enacts Toughest DWI Law
- Impaired Interlock Laws Summit
- Drugged Driving is a Problem in our Country
- New Research from NHTSA Traffic Safety Initiative

2017 Traffic Safety Newsletter
Featured Articles:
- Rehabilitation for Minors who Have Committed Alcohol Offenses
- Improving Bond Conditions in DWI Cases Through the Texas DWI Bond Schematic Program
- Latest Report on Drugged Driving
- News on Legislative Session
- The Basics on Ignition Interlock

2016 Traffic Safety Newsletter
Featured Articles:
- Courts to Law Enforcement: Get a Blood Search Warrant Before Drawing Blood
- Occupational Licenses and Ignition Interlock Devices
- Uber Claims Credit for Drop in Drunk Driving Accidents. But Where’s the Evidence?

Traffic Safety Websites

http://www.nhtsa.gov/impaired
National Highway Traffic Safety Administration Impaired Driving Website

http://tti.tamu.edu/group/cts/TexasTransportationInstituteCenterforTrafficSafety

http://www.bdot.gov/safety/tips/default.htm
TxDOT Traffic Safety Tips

http://www.texastrafficsafetycoalition.com/
Texas Traffic Safety Coalition

http://www.cjcenter.org/idi/ImpairedDriving_Initiatives_(SHSU)

http://www.dyingtodrink.org
A website that offers resources and countermeasures against impaired driving.
Drivers surveyed during the daytime in Washington were more likely to test positive for marijuana after the state legalized recreational sales of the drug than before, an IIHS analysis has found. The proportion of drivers surveyed at night who tested positive did not change.

In what could be a sign of changing attitudes after legalization, drivers who tested positive for marijuana a year after legalization were more likely to admit to researchers that they had used the drug recently than drivers who tested positive when sales were still illegal in the state. They were also less likely to say marijuana impairs driving.

With more states making marijuana legal, researchers are trying to get a handle on the drug's effect on crashes. Simulator and on-road studies have shown that marijuana can degrade some aspects of driving performance, but pinning down the relationship between marijuana use and real-world crashes has been more difficult.

An analysis by HLDI last year showed that states that have made marijuana sales legal have seen an increase in crashes relative to nearby control states. The study looked at collision claims in Washington and two other states that allow recreational marijuana sales — Colorado and Oregon — and found that legalization was associated with a 3 percent increase in collision claims rates (see "High claims: Legalizing recreational marijuana is linked to increased crashes," June 22, 2017).

In this new analysis of Washington roadside data, IIHS Senior Research Scientist Angela Eichelberger sought to learn how marijuana use and people's perception of its risks changed following legalization of recreational marijuana sales.

The Washington roadside survey was a collaboration of the National Highway Traffic Safety Administration, Pacific Institute for Research and Evaluation, Washington Traffic Safety Commission and IIHS. Researchers surveyed drivers three times — in June 2014, the month before retail marijuana sales began, in November-December 2014 and in June 2015. Information was collected on Fridays during the day and at night and on Saturday nights. A total of 2,355 drivers completed a questionnaire about their past and current marijuana use and perceived risks of driving after using marijuana. Of those participants, 99 percent gave saliva or blood to test for THC, the primary psychoactive chemical found in marijuana and hydroxy-THC, a psychoactive metabolite. The presence of either generally indicates recent use of marijuana but doesn't necessarily indicate impairment because the chemicals can be detected in the body for hours or, in the case of some frequent users, days.

Marijuana use and driving in Washington state: opinions and behaviors before and after implementation of retail sales
Roadside Survey
(continued from page 7)

Among drivers surveyed in the daytime, the proportion testing positive for THC increased from 8 percent before retail sales began to 23 percent six months after. Among those surveyed at night, the proportion stayed constant at about one-fifth.

"This is very different from what we see with alcohol. Drinking and driving is much more prevalent at night than during the day," Eichelberger says.

THC-positive drivers were more willing to admit to marijuana use in the final survey wave. Seventy-two percent reported past-year marijuana use a year after retail sales began, while only about one-third did during the first two waves.

"Legalization may have made using marijuana more socially acceptable, so people more readily admit to it," Eichelberger says.

THC-positive drivers’ perceptions about the effect of marijuana on driving also changed. Before sales began, 45 percent of those who tested positive said it impairs driving. A year into legalization, only 17 percent did. The percentage among THC-negative drivers went from 52 to 56 percent.

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### 2018-2019 TJCTC Educational Schedule

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PLEASE VISIT OUR WEBSITE AT: WWW.TJCTC.ORG
FOR A SCHEDULE OF OUR EDUCATIONAL WEBINARS
Drunk Driving Prevention Tools

https://www.drinkinganddriving.org/tools/

Take the SoberDrivers Pledge
Make a personal commitment to avoid driving drunk as well as to prevent drunk driving when you see it about to happen right in front of you.

Passenger Protection Tool
DrinkingAndDriving.Org and Uber are partnering to make sure you never allow yourself to be the Passenger of a drunk driver! If your ride home has been drinking, please do NOT get in the car with them. Your first Uber ride is free up to $20 using the DrinkingAndDriving.Org code DADO.

Print and Share
It's our DUI Avoidance Lesson Plan formatted as tri-fold brochures. Print the ones you like and give them to your family and friends. There is also a really cool door hanger to use at your next party.

How are you getting home? What is your Plan? Here are some useful tools to help you Make a Plan and Stick to the Plan.

The National Directory of Designated Driver Services (NDDDS)
LAST UPDATED 04/09/2018
1226 listings - 834 Counties - 43 States
Designated Driver Services are those companies that will drive you AND your car home safely! Read all about how to use one and see if one is available in your area by checking the most complete list of Designated Driver Services anywhere.

Tools For Designated Driver Services
Resources and information for the Designated Driver Services industry. If you run a Designated Driver Service, or you want to start one, this page is for you.

County Level Statistics and Resources
Explore drunk driving statistics down to the county level in our DUI Arrest/Fatality Rate Map. This map is actually a report card on the drunk driving habits across the country. DrinkingAndDriving.Org has graded every state and every county in the U.S.A. based on detailed statistics we've compiled on DUI arrest rates as well as DUI-related fatalities.

Other Drunk Driving Prevention Tools
Sober Rides - From TxDOT, live public transportation routing info that works everywhere
BAC Calculator - from BuzzCheck
Mr. Checkpoint - Get DUI checkpoint updates on your phone

Article provided by DrinkingAndDriving.Org
## Eligibility for an ODL

(Transportation Code § 521.242; 521.001(a)(6))

For a person to be eligible for an ODL, their license (including a permit, a privilege to operate a motor vehicle, and a non-resident’s operating privilege) has to first be suspended.

[Note: All citations below are from the Transportation Code.]

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<th>Reason Doesn’t Have License</th>
<th>Eligible for an ODL?</th>
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<tr>
<td>License expired or was never issued and they <em>just haven’t gone to the DMV to get it.</em></td>
<td><strong>No!</strong> There has been no “suspension.” They could just go to the DMV, so that’s what they need to do.</td>
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<tr>
<td>License or privilege suspended due to a <em>physical or mental disability or impairment.</em></td>
<td><strong>No!</strong> This is an exception in the law — suspensions for this reason are not eligible.</td>
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<tr>
<td>License or privilege automatically suspended or canceled for a conviction of an offense.</td>
<td><strong>Yes!</strong> BUT must file application in the court where they were convicted, which will <em>almost never be a justice court.</em> <em>(And applicant must not have been issued more than one ODL after an automatic suspension upon conviction in the past 10 years.)</em></td>
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<tr>
<td>• Offenses where conviction results in automatic suspension are listed in Subchapters O &amp; P of Ch. 521.</td>
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| License or privilege suspended for a reason other than an automatic suspension upon a conviction (so administratively suspended by DPS on its own or as a result of a court order). Includes:  
  • Suspension for failure to pay surcharges (708.152).  
  • Refusal to submit to a breath or blood test following a DWI stop (Ch. 724).  
  • Providing a breath/blood sample with over .08 BAC following a DWI stop (Ch. 524).  
  • Any cause for suspension listed under 521.292.     | **Yes!** Must file application in a justice, county, or district court in the precinct or county in which:  
  • The person resides; or  
  • The offense occurred for which the license was suspended.                                          |
| License cannot be renewed because of *placement in OMNI.*                                   | **No!** This is not a suspension. This is a non-renewal. The remedy is for them to do what is necessary to remove themselves from OMNI. |

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## But What If....?                                                                                     | Eligible for an ODL?                                                                                   |
| The applicant’s *license has EXPIRED*, and they now can’t renew for an eligible reason listed above.  | **Yes!** The applicant’s privilege has been suspended, so they are eligible.                           |
| The applicant *NEVER had a license*, and they now can’t get one for an eligible reason listed above.  | **Maybe!**  
  • Literal reading of statute: no license or privilege to be suspended, so NOT eligible.  
  • DPS position: will honor an ODL in this situation if all other requirements are met.     |
| The applicant is a *minor* and is otherwise eligible.                                              | **Yes!** *(Subject to the limitations described in 524.022(d)).*                                     |
| The applicant wants an ODL to *operate a CMV* and is otherwise eligible.                           | **No!** *(But a CDL holder may get an ODL to operate a non-CMV vehicle).*                             |
Key

- **Green**: Counties signed up for the program
- **Blue**: Counties currently considering the program
- **Red**: Counties expressing interest in the program