



April/May  
2003

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LOGO

## How Serious Is DWI?

On January 14, 2003 I accompanied my son to court on a DWI case. Judge Barnhart heard our case. I went with the idea that the facts of the case were important and the person who caused this crash would receive punishment that fit the severity of the case. After all, it was only by the grace of God, that the 18-year-old drunk driver did not kill my son or cause him great bodily injury.

But the fact of the matter is, that none of the facts matter! The police reports were not read. The witness accounts, from four good citizens who felt it important to make a statement were not noted. It didn't matter that the defendant was drunk and failed the sobriety test. It didn't matter that he was driving at such a high speed that he jumped two medians before hitting my son, who was just waiting for the light. It didn't matter that the defendant had no insurance. The fact that my son's new car (one month old) had major damage and his insurance had to cover the repairs, or that my son had to find other transportation to his job, and that he missed days from that job were also unimportant.

What seemed important was the process of getting through as many cases as possible. Defendants ran through the system, one after another. As Judge Barnhart joked with defendants, rescheduled dates, dismissed charges and invited defendants to come back for another visit, some of the seriousness of being in court seemed to get lost.

Since our visit to court, I have come to the conclusion that the court has one goal in mind, getting through as many cases as possible, as quickly as possible. Defense attorneys make the best "deals" for their clients and the prosecuting attorney goes along with what is quick and usual punishment as they see fit. The punishments are not enough to make the defendant think or deter them from repeating this crime.

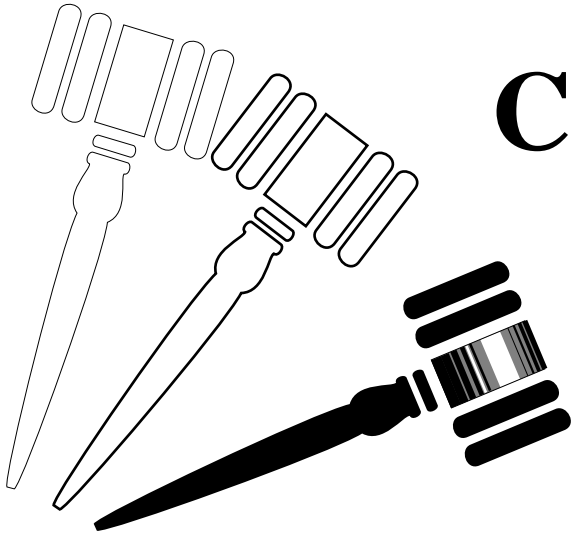
First offense, repay the out of pocket costs of the victim, take a DWI class...the end. This due process took a total of five minutes. Some how, the seriousness of the situation lost its meaning. Just another case...another clap on the hand.

In all, I guess in some ways we actually did OK. At least the case wasn't dismissed.

*J. Torres*

*This newsletter funded in part by the New Mexico Crime Victims Reparations Commission with funds from the Office for Victims of Crime, U. S. Department of Justice*

# Court Observations



**JUSTICE?**

**CHARGES:** Aggravated DWI 1<sup>st</sup>, careless driving and no insurance.

**RESULTS:** Offender enters plea agreement to DWI, remaining charges dismissed on plea.

**SENTENCE:** No jail, pay \$328 in court costs and fees, pay restitution of \$250 to victim, attend Victim Impact Panel, attend DWI school, no alcohol related incidents, citations or arrests and one year unsupervised probation.

**COMMENTS:** Victim was glad for a DWI conviction and restitution. He was still upset that his insurance company had to pay for his vehicle repairs and now his insurance premiums have gone up because of this claim. While victim was stating his anger about the insurance, the defense attorney said his client was insured but never offered proof or a policy number. I hoped the judge would order that information to be given to the victim, but it was not.

— Joan Fleetwood, Victim Advocate

**COURT DATE:** None

**DATE OF ARREST:** 7-21-99

**BLOOD ALCOHOL CONTENT:** .11/.11

**VICTIM:** Vehicle totaled.

**CHARGES:** Felony DWI 4<sup>th</sup> offense and possession of a controlled substance.

**RESULTS:** Felony charges reduced. State only had one good prior DWI, the others were too old. Case was sent back to Metro Court to be prosecuted as a misdemeanor.

**SENTENCE:** None, No trial date has ever been re-set since the case was sent back as a misdemeanor.

**COMMENTS:** State has asked the officer to refile the criminal complaint since April 2002 but that has not happened yet.

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**COURT DATE:** 1-14-03

**DATE OF ARREST:** 9-5-02

**BLOOD ALCOHOL CONTENT:** .06/.07 from blood draw.

**VICTIM:** Underwent physical therapy for injuries, over \$8,000 in auto repairs victims insurance paid for. Also requested restitution for auto deductible.

## CANDLELIGHT VIGIL

The Socorro County MADD chapter is hosting this years "Candlelight Vigil of Remembrance and Hope" statewide event Saturday, April 12<sup>th</sup>, from 5:00 pm – 6:00 pm, at the Socorro Plaza.

*For more information  
call Adolfo and Helen Baca*

**505- 838-3900**

## DWI Arrests and Crashes

YEAR TO DATE

<u>New Mexico Fatalities</u>	<u>February 2002</u>	<u>February 2003</u>
Total Deaths	66	56
Alcohol involved deaths	36	22
Alcohol unknown	1	12
%Alcohol involved	55%	39%

Source: NM Traffic Safety Bureau

# April 6 - 12<sup>th</sup> is National Crime Victims Rights Week

This year marks the 23<sup>rd</sup> anniversary of National Crime Victims Week, a week honoring crime victims and those who serve them. Each year a theme is selected to highlight some aspect of the ongoing struggle for better services and assistance for victims of crime; this year the theme is "Victim's Rights: Fulfill the Promise."

What is our "promise" to victims? And how have we fulfilled, or not fulfilled, that promise?

When the first community-based service program for victims began in the early 1970s, few people were conscious of the struggle crime victims faced. In the United States, where the U.S. Constitution reigns as the law of the land, we are all familiar with the legal protections accorded the accused – the rights to be informed of their rights; to counsel; to face their accusers; and of course, "innocent until proven guilty." But few people, except those with direct experience, were even faintly aware of the lack of protection, services, information, and basic respect accorded to those individuals who were victims of crime.

The promise dreamed, pursued by and carried out by thousands of nameless volunteers and professionals since then, is that victims of crime be accorded the same rights, information and legal protection that are constitutionally guaranteed to offenders.

Today, all states and U.S. Territories have enacted victims' rights statutes that guarantee a range of rights to crime victims, including the rights: to receive information about their rights; of notification about the offender's status and location; to reasonable protection; to submit a victim impact statement detailing the many effects of the crime upon the victim; to restitution from the offender; and in the case of violent crimes, to be eligible to receive compensation from state victim compensation funds.

Today there are over 32,000 federal and state laws on the books that define and protect victim's rights, as well as over 10,000 community-based and criminal and juvenile justice system-based organizations dedicated to crime victim assistances.

We have come a long way in fulfilling the promise of guaranteeing the legal rights and comprehensive services that should be afforded every victim of crime. But there is still much to be done. While both states and federal government have done much to guarantee victims rights and services, there can be

no true guarantee of equal protection until it is provided by the U.S. Constitution. A crime victims' amendment to our constitution is pending in Congress, and it's passage and ratification would be a landmark in the struggle for comprehensive protection for victims of crime.

Another challenge that many states are grappling with is the frequency with which statutorily guaranteed victims' rights are not enforced, through simple oversight or even ignorance of their existence by public officials charged with their enforcement. Many states have taken bold and dynamic steps to confront this situation and are working "outside the box" to fashion remedies.

The promise that so many heroic individuals nationwide have been working for to fulfill for so long is a noble one that harkens back to the very premises that our country was founded upon; the right to be free and to be treated equally under the law. Crime victims should have these rights; they should not have to fight and endlessly plead with and remind those in positions of power that these rights, in some cases are and, and other cases should be, theirs.

National Crime Victims' Right Week is a time for us to reflect upon the direction we are headed, as individuals and as a nation, to assist those who are victimized by crime. It is a good time to take a good, hard look at the promise we owe crime victims and what more we can do to fulfill that promise.



VICTIMS RIGHTS WEEK LOGO

# New Breath-Test Device Holds Up in Court

October 15, 2002 — Police in Modesto, Calif., are using a new field sobriety test that provides immediate breath analysis and sufficient legal evidence for DUI cases to hold up in court, the Corpus Christi Caller-Times reported Oct.7.

Called the Evidential Portable Alcohol System, the system provides precise blood-alcohol readouts, enabling police officers to immediately determine whether a suspect's blood-alcohol content is 0.08 or higher.

The Modesto Police Department, which was the first in California to use the new breath analyzers, is equipped with nine devices. Other police agencies in the state are expected to add them soon.

"The beauty of this is it gives you a test virtually at the time of the stop. The benefit is also the officers can better utilize their time," said Kurtis Smith of the state Department of Justice.

The Justice Department plans to distribute 1,100 of the new testing devices to police agencies statewide. The device, which cost \$3,700, is funded with grant money from the state Office of Traffic Safety.



**VICTIMS' RIGHTS LOGO**

*True justice cannot be achieved  
until victims' rights are not only  
celebrated annually, but  
practiced daily.  
— John W. Gil I is*

## **DWI Victim Impact Panel**

Every second Tuesday of the Month  
7 PM - 8:30 PM

**Starting May 13, 2003 the location has moved to:**

U.N.M. Continuing Education Building  
1634 University Blvd. N.E.

*Simultaneous Spanish Translation Provided*

**PUBLIC IS WELCOME**

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## **VICTIMS' RIGHTS RALLY**

April 8, 2003, Mayor Martin Chavez and the Victims' Rights Project will be holding a Victims' Rights Rally and Proclamation at the Civic Plaza in downtown Albuquerque at 12:00 noon, in honor of all crime victims and those that serve them. Victims/survivors of all crimes and their advocates are invited to attend. The Project will also be announcing the pro bono legal team formed to assist all crime victims in the criminal justice system.



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