



OCT/NOV 2001

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**Note To Our Readers:**  
The Domestic Violence Impact Panel has been temporarily suspended.

## To All The Victims, Their Families And Friends –

Our hearts and prayers are with you.  
God Bless You. God Bless Us All.

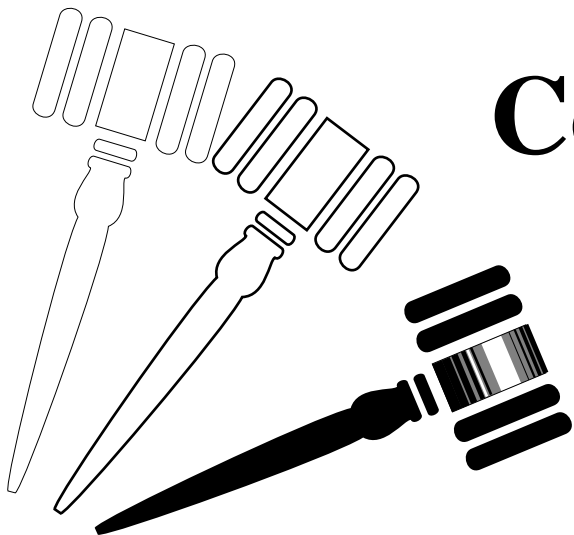
### IF I KNEW.....

If I knew it would be the last time  
That I'd see you fall asleep, I would tuck you in more tightly  
and pray the Lord, your soul to keep.  
If I knew it would be the last time that I see you walk out the door,  
I would give you a hug and kiss and call you back for one more.  
If I knew it would be the last time  
I'd hear your voice lifted up in praise, I would video tape  
each action and word, so I could play them back day after day.  
If I knew it would be the last time,  
I could spare an extra minute to stop and say "I love you,"  
instead of assuming you would KNOW I do.  
If I knew it would be the last time  
I would be there to share your day, well I'm sure you'll have so many more,  
so I can let just this one slip away.  
For surely there's always tomorrow to make up for an oversight,  
and we always get a second chance to make everything just right.  
There will always be another day to say "I love you,"  
and certainly there's another chance to say our "Anything I can do?"  
But just in case I might be wrong, and today is all I get,  
I'd like to say how much I love you and I hope we never forget.  
Tomorrow is not promised to anyone, young or old alike,  
And today may be the last chance you get to hold your loved one tight.  
So if you're waiting for tomorrow, why not do it today?  
For if tomorrow never comes, you'll surely regret the day,  
That you didn't take that extra time for a smile, a hug,  
or a kiss and you were too busy to grant someone,  
what turned out to be their one last wish.  
So hold your loved ones close today, and whisper in their ear,  
Tell them how much you love them and that you'll always hold them dear  
Take time to say "I'm sorry,"  
"Please forgive me," "Thank you," or "It's okay."  
And if tomorrow never comes, you'll have no regrets about today.

Author: Unknown

*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?**

## **GETTING AWAY WITH MURDER?**

It is extremely unnerving when a DWI offender walks away from a vehicular homicide charge because the police did not do their job, not because the offender was innocent.

That's exactly what happened in this case. From the beginning, it was poor police work and in the end it was the same appalling foul-ups by the police that let the offender walk away with only consequences for the second DWI he received earlier this year. A victim's family is traumatized when a DWI crash occurs and their loved one is killed, it is just as traumatizing to endure years of agony when the case is dragged through the courts.

In this case almost three years after the crash, the offender continues to drive impaired and there are no words to describe the injustice done. The community loses as well and until we stand up and let it be known that the behavior of the police, the prosecutors, the judges and the defense attorneys must be held accountable – we will never 'win' this battle against drunk driving.

Last year, 205 people were killed in DWI crashes, keeping New Mexico fourth WORST in the nation for drunk driving crashes. There is no mystery why we have such a serious problem. Will we ever learn? On a personal note, I have the highest regard for the men and women of the Albuquerque Police Department and thank them for their part in keeping the streets here safer – if it's only by removing impaired drivers for a short time. My exception now is for those officers who fail in their job to keep these DWI offenders off the streets by doing what is required by the law.

**COURT DATE:** July 6, 2001

**DATE OF ARREST/CRASH:** August 29, 1998

**BLOOD ALCOHOL CONTENT (BAC):** .12/.12

**DATE OF SECOND ARREST:** March 30, 2001

**SECOND ARREST (BAC):** .17

**VICTIM:** Offender's motorcycle passenger was killed. No one killed or injured 2<sup>nd</sup> Arrest.

**CHARGES:** Vehicular Homicide, aggravated DWI, reckless driving, no insurance.

**CHARGES SECOND ARREST:** Aggravated DWI 1, Careless Driving

**RESULTS:** Offender pled no-contest to reckless driving to the fatal '98 crash. He also pled guilty to a subsequent DWI and careless driving charges from March 2001. All other charges dismissed.

**SENTENCE:** 270 days jail, suspended on the following conditions; nine-months supervised probation, complete counseling and or treatment at Recovery Unlimited, attend the DWI Victim Impact Panel, complete DWI School, pay any necessary restitution to the victim's family, pay any fines for second DWI, keep employment and pay \$15.00 per month for probation costs.

**COMMENTS:** The DWI officer and the DWI Sergeant in charge of the Vehicular Homicide investigation failed to establish "probable cause" before the blood was drawn causing the judge to not allow the results of the blood alcohol test. The officers on the scene initially failed to show up in court and the chief investigating officer at the scene retired from the police department a year after the crash and would not come to court to testify (Shame on him!). One witness had seen the offender driving the motorcycle with his passenger, but did not see the crash. So, with no other witnesses to the crash, and no show officers, the case was lost.

Back in May of 2000, the defense attorney tried to get the case dismissed, saying the offender was incompetent to stand trial because of his lack of memory (due to injuries) he couldn't

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**Beer Typically The Choice Of Underaged Drinkers**

People who drink the most alcohol and underage drinkers tend to choose beer as their drink of choice, *Substance Abuse Funding News* reported Sept. 25.

According to an analysis of data from the 1995-96 National Alcohol Survey, beer is the drink of choice in most cases of heavy drinking, binge drinking, drunken driving and underage drinking.

The analysis showed that the beer consumed by the 5 percent of beer drinkers who consume the most beer accounts for 32 percent of all alcohol drunk in the United States. On the other hand, the wine drunk by the 5 percent of the heaviest wine drinkers represents only 1.5 percent of all alcohol consumed. In addition, beer is involved in 80 percent of all cases of binge drinking.

Researchers conducting the analysis concluded that beer is the biggest problem because of the public's perception that it is safe and socially acceptable. Beer also is the most widely advertised alcoholic drink, and the least taxed. The analysis is published in the *Journal of Studies On Alcohol*.

**New DUI Trial Granted for Ex-Chief**

Former Moncks Corner Police Chief Gregory Hoover was granted a new trial Tuesday due to jury misconduct.

**Kennedy Ex-Wife Undergoing Alcoholism Treatment**

The former wife of Senator Edward Kennedy is being treated for alcoholism at a Massachusetts hospital. Patrick

Kennedy said in a statement that his mother is receiving treatment for the chronic disease of alcoholism.

**University Boots Fraternity**

The University of Nebraska-Lincoln has yanked recognition of the Theta Xi fraternity as an approved student living unit after fraternity members violated university alcohol policy for the third time in three years.

**Student Who Fell Out of Window Was Drunk**

An autopsy shows a New York State University College at Cortland student was intoxicated when he accidentally fell to his death last week, Cortland police said.

**Alcohol Led to College Student's Death**

A Lynchburg College student who died in a single-car accident on Sept. 2 had a blood alcohol content level exceeding the legal limit at the time of the crash.

**Driver Charged With Homicide**

A Pennsylvania man faces homicide charges following an vehicle accident in which his 18-year old nephew died.

**Poundstone Gets Probation For Child Endangerment**

Comedian Paula Poundstone was sentenced Wednesday to five years probation, 180 days in an alcohol treatment program and told she could never be a foster parent again.

**DWI Arrests and Crashes - Year To Date**

Albuquerque	As of 8/00	As of 8/01
Arrests	3388	3459
Crashes	307	268

Source: Albuquerque Police Department

New Mexico Fatalities	As of 9/00	As of 9/01
Total Deaths	333	356
Alcohol involved deaths	155	142
%Alcohol involved	47%	40%

Source: NM Traffic Safety Bureau

**BE A DWI RESOURCE CENTER SUPPORTER**

I am enclosing a check for:

\$25  \$50  \$100  \$\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**Thank you!** Your contribution is 100% tax deductible as allowed by law. A copy of our latest financial report may be obtained by calling us at 255-5205. **Please mail to return address below.**

The DWI Resource Center is a nonprofit, 501(c)3 tax-exempt organization formed to serve as a central clearing-house of information on DWI and related issues. The Center's goals are to educate the public, provide prevention programs, assist victims and thereby reduce DWI injuries and deaths in New Mexico.

Funds are always welcome and needed.

Continued from page 2

assist his attorney in his defense (not mention the alcohol effects to his memory). The judge denied that theory but later agreed to let a higher court rule on its merits - it was denied! This took about one year to get the decision from the Court of Appeals. Delays caused by the defense are a tactic played out over and over again in DWI cases – the right to a speedy trial is not a common request from defense attorneys. Victims, however, would love to have the right to demand a speedy trial! Their loved ones are only given the right to remain silent... This offender appears to have gotten away with killing someone, someone he knew.

- Joan Fleetwood, Victim's Advocate and Linda Atkinson, Executive Director

**COURT DATE:** 4-12-01

**DATE OF CRASH:** 10-7-00

**BLOOD ALCOHOL CONTENT:** (BAC) .16/.17

**VICTIM:** Victim suffered back, neck and rib injuries. Vehicle totaled.

**CHARGES:** Aggravated DWI 1<sup>st</sup> and careless driving.

**RESULTS:** Offender entered plea agreement to DWI 1<sup>st</sup>, all other charges dismissed. Judge asked for a pre-sentence report because of prior 1997 conviction in Socorro.

**SENTENCE:** 3 days jail, 87 days jail suspended, continue counseling and treatment, 6-months supervised probation and 6-months unsupervised, 48 hours community service, \$400.00 fine, court costs and fees of \$228.00, attend both Victim Impact Panels used by the courts, no alcohol, no arrests, probation costs waived, and no driving without a valid drivers license.

**COMMENTS:** Impact to the victim's vehicle was so forceful that it was almost cut in half! Seeing their little girl's car seat completely demolished was especially frightening to them. They were so thankful she wasn't in it at time of the crash.

**NOTE:** In a follow-up phone call to Metro Court, I found out the offender **did not** attend the Victim Impact Panels, **did not** pay his fines, **did not** appear for a probation violation hearing and **did not** continue his alcohol treatment as ordered by the judge. He has been before the judge twice (in May and June) for non-compliance of his sentence. The judge **re-instated** the sentence both times (gave him another chance to comply). In September, the judge issued a bench warrant for his arrest since he was still non-compliant. By law the judge should have imposed the **MANDATORY 2 days jail for non-compliance**, she chose to ignore the law! She also could have imposed the suspended 87 days jail. Both the victims and I believe he is a serious danger to the public and were very distressed to see the judge not apply the mandatory jail time when she had the chance. I just pray he doesn't hurt or kill someone before he's caught.

- Joan Fleetwood, Victim Advocate

**To Our Readers,**

Please remember this – Time is the defense attorneys best friend and they will do almost anything to ensure they get LOTS of it – it will kill a case. Time is what they play for, and what it gets them, is a hefty fee and their client OFF, ready for some repeat business (because their clients will do it again – whether they get caught or not is the only issue).

Most New Mexicans are embarrassed that so many DWI offenders have multiple arrests and convictions with few, if any consequences. It isn't going to take tougher laws, it's going to take tougher judges and prosecutors to enforce the laws we have and stop letting the defense bar run our courts. - Linda Atkinson, Executive Director.

**DWI Victim Impact Panel**  
 Every second Tuesday of the Month  
 November 13 and December 11, 2001  
 7 PM - 8:30 PM  
 5400 Gibson SE  
 Lovelace Education Building



P.O. Box 30514  
 Albuquerque, New Mexico 87190-0514

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**DOMESTIC VIOLENCE  
IMPACT PANEL**

September 6, 2001  
6:30 - 8:30 PM

**Lovelace Education Building  
5400 Gibson SE**

*Public Is Welcome*

Court Date: 7-6-01

Date of Arrest/Crash: 8-29-98

Date of (2<sup>nd</sup>) Arrest: 3/30/01

Blood Alcohol Content: (BAC).12/.12

2<sup>nd</sup> Arrest BAC: .17

Victim: Offender's motorcycle passenger was killed.

No one killed or injured 2<sup>nd</sup> Arrest.

Charges: Vehicular Homicide, aggravated DWI, reckless driving, no insurance.

Charges on 2<sup>nd</sup> Arrest: Aggravated DWI 1, Careless Driving

Results: Offender pled no-contest to reckless driving to the fatal '98 crash. He also pled guilty to a subsequent DWI and careless driving charges from March 2001. All other charges dismissed.

Sentence: 270 days jail, suspended on the following conditions; nine-months supervised probation, complete counseling and or treatment at Recovery Unlimited, attend the DWI Victim Impact Panel, complete DWI School, pay any necessary restitution to the victim's family, pay any fines for second DWI, keep employment and pay \$15.00 per month for probation costs.

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