

A Tutorial on Obtaining and Processing a Blood Alcohol Specimen

State v. Kroese

It is rare to read an appellate opinion in a criminal case and come away with the feeling that everybody who touched the case from the time of the unfortunate operative event through the writing of the appellate decision gave it their best effort. However, the opinion in *State v. Ashley Bianca Ruth Kroese*, 2024 WL 2034366 (Tenn. Crim. App. May 7, 2024) leaves that impression. The opinion reads as a tutorial for the those who handle impaired driving cases, particularly the most unfortunate sort which result in death and a prosecution for vehicular homicide.

Read the full article here:

<https://tntrafficsafety.org/judicial-news/article/a-tutorial-on-obtaining-and-processing-a-blood-alcohol-specimen-in-an-impaired-driving-case/>



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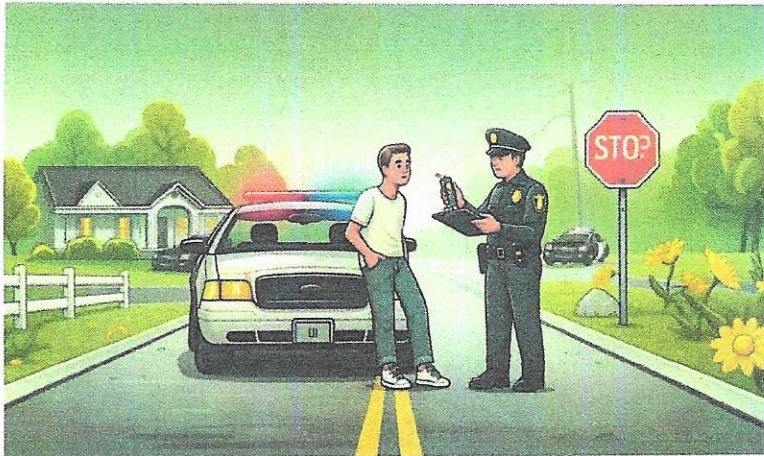
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Sober Drivers Arrested for DUI Attract Concern

The prospect of a false arrest is troubling to all of us. It is particularly troubling to those in the general population who are not immersed in the nuances of probable cause and those unaffected by the pressure to keep the roads safe—two concepts that patrol officers deal with daily. A recent series of investigative reports by WSMV4 television of Nashville highlighted this concern in the context of three Tennesseans who were recently arrested for DUI by the police departments of three different Middle Tennessee municipalities. The charges against the three persons were dismissed after a blood test proved conclusively that each was sober when arrested.

The two men and one woman were driving when they were stopped by police. The officers involved in each stop apparently concluded, based on claims about the smell of an intoxicant and/or standard field sobriety test results, that the drivers were probably impaired.

Read the full article here: <https://tntrafficsafety.org/judicial-news/article/sober-drivers-arrested-for-dui-attract-concern/>

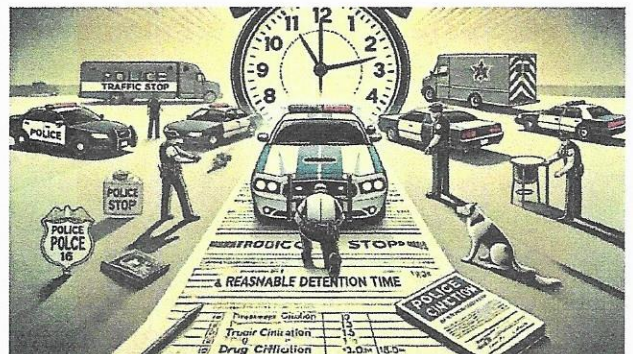


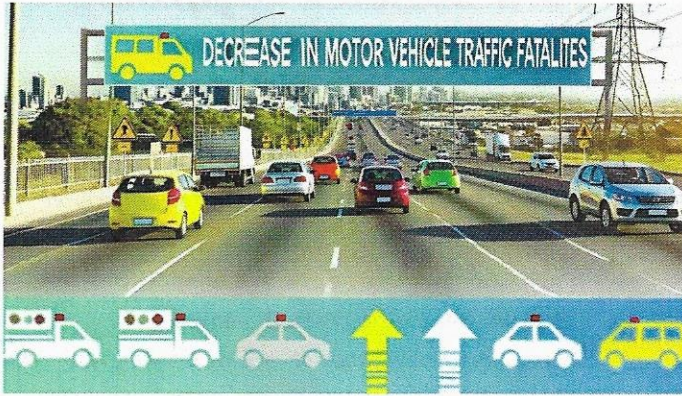
State v. Graves: The Amount of Time Between Traffic Stop and the Drug Dog Sniff

Mr. Graves was a passenger in a car that was stopped by police following an observation of an improper lane change. The stop occurred at 6:58 pm. The driver of the car was asked to consent to a vehicle search and declined to do so. The police officer began to prepare the traffic citation and simultaneously requested a drug dog be sent to the scene. The dog was requested at 7:08pm and arrived at 7:15pm. The officer testified that he began to work on his citation at 7:08pm and had yet to finish when the dog arrived. He also testified that 7-8 minutes or more was commonly required to complete writing a citation. The citation was completed at 7:40 pm.

Read the full article here:

<https://tntrafficsafety.org/judicial-news/article/state-v-graves-the-amount-of-time-between-traffic-stop-and-the-drug-dog-sniff-must-be-reasonable/>





Fewer People Killed in Motor Vehicle Traffic Crashes

In April, the National Highway Traffic Safety Administration (NHTSA) released its Overview of Motor Vehicle Traffic Crashes in 2022 report. NHTSA found that there was a 1.7% decrease in United States roadway deaths in 2022 as compared to 2021, down from 43,230 in 2021 to 42,514 in 2022. That is 716 fewer lives lost. Furthermore, the fatality rate per 100 million vehicle miles traveled (VMT) decreased by 3.6%.

A corollary finding was that the total number of police reported traffic crashes had, as one might expect, also decreased.

Crash fatalities decreased in 2022 compared to 2021 in the following occupant categories (among others):

- Passenger cars and light trucks
- Urban and rural settings
- Speed related crashes
- Distracted-driving crashes
- Alcohol impaired driving crashes
- Crashes involving younger drivers

Read the full article here: <https://tntrafficsafety.org/judicial-news/article/fewer-people-killed-in-motor-vehicle-traffic-crashes/>

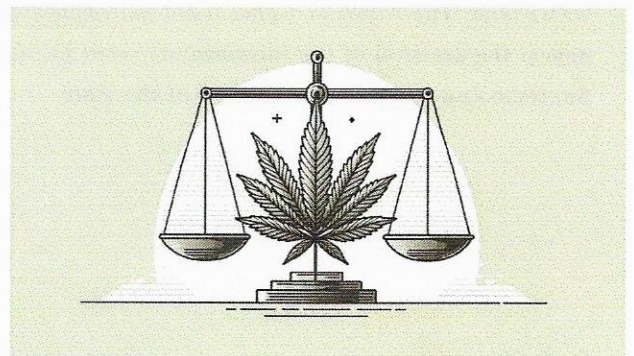


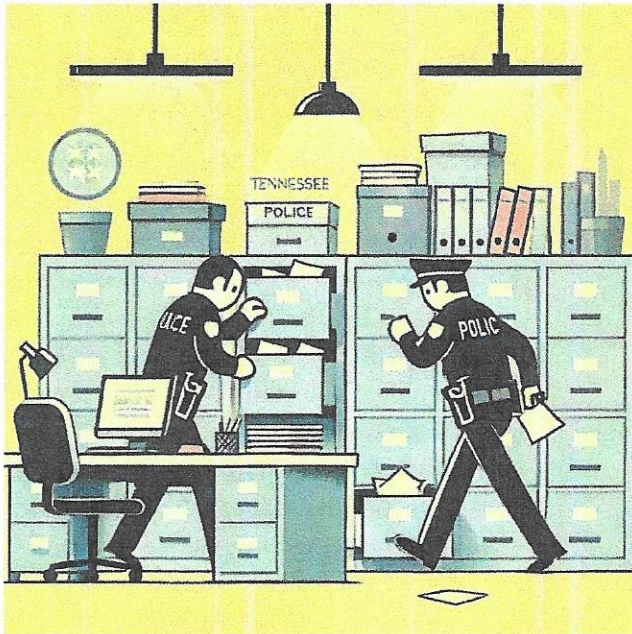
The Experience of Those States Which Have Legalized Marijuana

The sale of marijuana is illegal under federal law. However, several states have legalized the growing, sale and use of marijuana over the past dozen years. Other states, like Tennessee, have seen the legalization of products containing THC. In Tennessee, these products are widely marketed with claims that they are a virtual panacea for what ails one. There is virtually no public monitoring of these products in Tennessee although regulations are under review now. As the regulatory battle plays out in Tennessee, it is wise for those who may impact public policy to consider some of the societal effects that marijuana legalization has had on those states which have legalized it for recreational use.

Read the full article here:

<https://tntrafficsafety.org/judicial-news/article/the-experience-of-those-states-which-have-legalized-marijuana/>





New Statutes Regarding Impaired Driving

Three significant new laws which impact impaired driving enacted in the most recent session of the Tennessee General Assembly are now in effect.

Public Chapter 961, which will be codified within Title 55, Chapter 19, Part 4 is entitled the “Tennessee Prevention of Drunk Driving Act”. The law requires that a police officer investigating a motor vehicle collision which has resulted in death and who has probable cause to believe that a driver was under the influence of alcohol at the time, shall investigate whether that driver was served alcohol at an establishment licensed to sell alcohol and shall notify the Alcoholic Beverage Commission within 48 hours of the event.

Public Chapter 1011 amends T.C.A. 55-10-402(a)(1)(B) to lower the blood alcohol content from 0.20% to 0.15% which then triggers the enhanced punishment for a first offense DUI from 48 hours to seven (7) days.

Read the full article here:

<https://tntrafficsafety.org/judicial-news/article/new-statutes-regarding-impaired-driving/>



Tennessee Constitution Protects Possessions from Warrantless Searches

Article I, Section 7 of the present Tennessee Constitution (and all prior versions thereof) protect the peoples’ “possessions” from unreasonable (warrantless) searches and seizures. The use of the term “possessions” is at variance with and in addition to the provisions of the Fourth Amendment of the United States Constitution which guarantees the people the right to be secure “...in their persons, houses, papers and effects.” The Tennessee Court of Appeals reiterated this proposition in its opinion in *Rainwaters v. TWRA et al.*, 2024 WL 2078231 (Tenn. Ct. App. May 9, 2024). The case deals with private land that is not wild or waste land. The Attorney General did not request permission to appeal the decision of the intermediate court to the Tennessee Supreme Court and is now the law of the state.

Confrontation Clause Requires That the Lab Technician Who Performed the Analysis Testify

The United States Supreme Court has once again held that the introduction of the results of a forensic analysis on what appear to be drugs and drug-related items must be done by the testimony of the person who performed the analysis unless that person is unavailable, and the defendant had the prior opportunity to cross examine the person. The Confrontation Clause of the Sixth Amendment guarantees that an accused has the right to confront that person.



Read the full article here: <https://tntrafficsafety.org/judicial-news/article/confrontation-clause-requires-that-the-lab-technician-who-performed-the-analysis-testify/>

Upcoming Training and Additional Resources

36th Annual Lifesavers Conference and Law Enforcement Challenge, held at Embassy Suites in Franklin, Tennessee: August 14-16, 2024. For more information to to www.tnlifesaverschallenge.com

Hospitals, HIPPA, and Impaired Driving Cases Webinar - National Alliance to Stop Impaired Driving and National District Attorneys Association Webinar. Tuesday, July 30 | 1PM ET. [Register here for the webinar.](#)

Tennessee General Sessions Judges Conference: September 26, 2024, 8:30am, Suspicion of Impaired Driving-Drug and Alcohol Testing (Wet Lab). Sheraton Music City-Nashville.

Tennessee Judicial Conference: October 16, 2024, 1:45pm, Impaired Driving Law Update and Wet Lab Demonstration. Paris Landing State Park.

Impaired Driving 2024: What's New? December 4, 2024, 10am (CST). Offered online by the National Judicial College and presented by Judge Neil Axel of Maryland. Register at www.judges.org/courses/impaired-driving-2024-whats-new/



THSO Director Buddy Lewis, THSO Law Enforcement Liaison Steve Dillard, and Judicial Outreach Liaison Judge Donald Parish talk to members of the Shelby County Traffic Task Force on May 14, 2024. The Task Force announced it's recent success in reducing traffic crashes and fatalities in Shelby County. Shelby County experienced a 30% reduction in traffic fatalities during the first four months of the year.

Read more here: <https://tntrafficsafety.org/thso-shelby-county-task-force-success>

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