



HIGHWAY SAFETY

LAW UPDATE



August 25, 2015

Office of the Prosecuting Attorneys Training Coordinator

July, August, 2015

National and Iowa Fatal Crash Statistics

In an August 17 press release, the National Safety Council reported that nationally, traffic deaths and serious injuries are substantially higher for the first six months of 2015 than they were for the same period in 2014. The NSC says that 18,630 people died in traffic crashes in across the country during those six months, “putting the country on pace for its deadliest driving year since 2007”—an increase of 14% from the corresponding period in 2014.

The NSC points to “an improving economy with lower gas prices and unemployment rates” resulting in “increases in vehicle miles traveled.” In addition, “average gas prices are 30 percent lower than they were in 2014 and are projected to remain relatively stable heading into 2016.” The result is an increase in traffic because more people can afford to drive, and many will take vacations and travel longer distances.

The NSC says that if the level of increase in fatalities observed during the first two quarters of 2015 were to remain consistent through the end of the year, total motor-vehicle fatalities in 2015 could possibly exceed 40,000 for the first time in eight years.

In Iowa, there have been 202 traffic fatalities as of Monday, August 24, 2015. In 2014, on the same date, there had been 188 fatalities. The 2015 figure represents a 7.45% increase from 2014.

Despite that increase, Iowa fatalities as of August 24 are still below the state’s five year average for that date. From 2010 to 2014, an average of 207 fatalities had occurred as of August 24—so the 2015 total is 2.42% less than that five year average.

Iowa traffic safety and fatality statistics are available at <http://www.iowadot.gov/mvd/FactsandStats.html> The Iowa DOT statistics include historical records of fatal crashes in Iowa, fatal crashes on rural interstates, motorcycle fatalities, and other statistical analyses.

The DOT site also includes some criminal history data, OWI license revocations by county, and county conviction data for seat belt violations, school bus passing violations, and speeding violations.

New Director for PATC

Thomas J. Ferguson of Black Hawk County has been named Director of the Prosecuting Attorneys Training Coordinator division of the Iowa Department of Justice, and Executive Director of the Iowa County Attorneys Association. Tom succeeds Corwin Ritchie, who retired June 30 after 15 years in the position.

Tom was elected to seven consecutive terms as Black Hawk County Attorney and was serving in that position when appointed to his position with PATC. He has served as a board member and as a past president of the Iowa County Attorneys Association. In addition, Tom was the Iowa State Director for the National District Attorneys Association, and is currently chair of the Iowa Criminal Juvenile Justice Planning Advisory Council and the Public Safety Board.

In announcing Tom’s appointment, Attorney General Tom Miller noted that Tom’s “background as an elected county attorney and experience beyond his elected office will be a huge asset to all county attorneys as well as our office.”

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Have Training, Will Travel



The Prosecuting Attorneys Training Coordinator has short training programs available at no charge for law enforcement officers and prosecutors. Topics include vehicle stops and other search and seizure issues, OWI enforcement (including drugged driving), vehicular homicide, and youth alcohol issues (.02/zero tolerance, possession under the legal age, and supplying alcohol to persons under legal age.) Contact Pete.Grady@iowa.gov for more information.

Cases of Interest from the Iowa Supreme Court

Private residence? Not 'public' intoxication.

State v. Paye, ___ N.W.2d ___ (Iowa, 6/12/15) A person on his or her own steps/porch who appears intoxicated is not guilty of "public intoxication" unless the resident(s) of the house have made the area in some sense "public" by inviting the general public to come upon the property; contrast with State v. Booth, 670 N.W.2d 209, (Iowa, 10/08/03) (apartment steps and common hallways are "public places" for public intoxication and open container laws) and compare with State v. Lake, 476 N.W.2d 55 (Iowa 1991) (the interior of a car is not a "public place" for purposes of the public intoxication statute)

Automobile search incident to arrest limited

State v. Gaskins, ___ N.W.2d ___ (Iowa, 6/30/15) Under article I, section 8 of the Iowa Constitution, if an officer has arrested the driver in a traffic stop, the officer may not search the vehicle incident to that arrest unless there is a likelihood that the arrestee "could access the vehicle to obtain a weapon or destroy evidence"; this interpretation is more protective of citizens' rights than the standard under the U.S. Constitution, which, according to Arizona v. Gant, 556 U.S. 332 (4/21/09) would permit a search incident to arrest in such cases if "it is reasonable to believe the vehicle contains evidence of the offense of arrest." **Note:** although this case does not overturn police power to conduct probable cause searches of vehicles under the automobile/exigency exception to the warrant requirement, the Court clearly expresses a preference for search warrants in automobile searches.

RECENT UNPUBLISHED DECISIONS INVOLVING ALCOHOL AND TRAFFIC SAFETY

Citation of unpublished cases is governed by I.R.App.Pro. 6.904(2)(c), which provides that unpublished opinions do not constitute binding authority and requires that when citing an unpublished opinion, a party include an electronic citation where the opinion can be readily accessed on-line. (Note: all opinions may be accessed online in the Archives section of Opinions of the Iowa Court of Appeals or Supreme Court, at <http://www.iowacourts.gov/>).

Recent Unpublished Decisions of the Iowa Court of Appeals Arranged by County

Black Hawk County State v. Timothy James McClain, No. 14-1473 (Iowa Court of Appeals, filed June 10, 2015.) **Driving while barred conviction affirmed and issues preserved for possible post conviction relief.** Record inadequate to determine if counsel had in fact failed to inform the defendant of the maximum fine and incarceration which could be imposed; conviction affirmed and issue preserved for possible post conviction relief.

Black Hawk County State v. John Paul Drahos, No. 14-0823 (Iowa Court of Appeals, filed June 10, 2015.) **Investigatory seizure supported by reasonable articulable suspicion; suppression motion properly denied.** An officer "aware of . . . illegal activity being conducted" (in an area where the officer had been given permission to prosecute trespassers who were discovered on the property) observed the defendant sitting in a car in the area with the engine off at 3:30 a.m.; the officer "had the reasonable articulable suspicion necessary to detain" the defendant; trial court suppression ruling and conviction affirmed.

Black Hawk County State v. Jorge G. Garcia-Villa, No. 14-0837 (Iowa Court of Appeals, filed June 10, 2015.) **Driving outside the scope of a temporary restricted license violates the underlying sanction; driving while barred conviction affirmed.** Receipt of a temporary restricted license does not change the underlying sanction; the temporary restricted license is valid only for its stated purposes (here, for

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Peter J. Grady
Pete.Grady@iowa.gov

Office of the Prosecuting
Attorneys Training
Coordinator

1st Floor, Hoover Bldg.
Des Moines, Iowa 50319

Phone:
(515) 281-5428



“travel to and from work”); when stopped, the defendant was driving outside the scope of the restrictions and therefore, the original sanction applies; driving while barred conviction affirmed.

Black Hawk County State v. David Ray Goddard, No. 14-1076 (Iowa Court of Appeals, filed June 24, 2015.) **Terry search of car resulted in the finding of pill bottle which, with other factors was probable cause to search the car.** Officer who observed a driver of a stopped car reach toward the glove box and make erratic movements inside the car, and who, upon approaching the car “immediately recognized the driver” as a person with a history of violence and assaulting officers; who concluded based upon the driver’s behavior that the driver was under the influence of methamphetamine and who saw a large knife between the driver’s seat and the console, had grounds to conduct a *Terry* search of the car while the driver was handcuffed and supervised by a back-up officer; when the officer found a pill bottle in plain view which “in the officer’s training and experience, typically was used to store narcotics and contraband”; the officer had probable cause to search the car without a warrant under the automobile exception to the warrant requirement; the trial court properly denied the defendant’s motion to suppress.

Black Hawk County State v. Mar’yo D. Lindsey Jr., No. 14-0773 (Iowa Court of Appeals, filed June 24, 2015.) **Search of student’s equipment bag valid; conviction affirmed.** School superintendent could search school-owned equipment bag issued to student; student had lesser expectation of privacy in the bag, the superintendent knew that the student had previously been suspended for possession of paraphernalia and “was the subject of weapons charges”; and although seriously injured, the student was “preoccupied” with the bag even while hospitalized for the injury, a preoccupation which “would have led a reasonable person to suspect the bag contained something illicit.”

Black Hawk County State v. Arthur Cherry, No. 14-1248 (Iowa Court of Appeals, filed August 5, 2015.) **Consent was voluntary where officer’s answer to defendant’s question was “factually correct.”** OWI defendant told the officer that he had only drunk ½ a Smirnoff malt beverage, and then asked the officer if he would be able to pass the test; the officer told the defendant that “if he was truthful and that’s all that he had to drink and it’s been over an hour, that he should be able to pass the test” and further explained that “on average an adult male can process one drink per hour”; the officer’s statements were not deceptive and were truthful; defendant’s consent was voluntary, and the trial court properly denied a motion to suppress the alcohol concentration test results of 0.120.

Black Hawk County State v. Mandy Lynn Loge, No. 14-1734 (Iowa Court of Appeals, filed August 19, 2015.) **No grounds to stop car; driving while barred conviction reversed.** Officers observations at 1:10 a.m. of a car that went between the center line and the fog line several times in ½ mile, and that was traveling 45 in a 55 mph zone did not give rise to reasonable articulable suspicion to justify an OWI stop; “there was no aggravated weaving or quick jerking motions of the vehicle”; the car “did drift to the right side of the lane four times, but two of the movements coincided with vehicles approaching in the left lane”; the trial court should have granted the motion to suppress; driving while barred conviction reversed.

Bremer County State v. Wade Walter Cole, No. 14-1565 (Iowa Court of Appeals, filed July 22, 2015.) **Judge need not supply a separate list of reasons for a sentence when the court adopts and imposes the joint recommendation of the parties.** Where the parties provided a plea agreement with a joint sentencing recommendation and the trial court imposed the joint recommendation, the trial court need not state separate reasons for imposing the agreed upon sentence; the defendant and the State “received the sentence they requested. Thus, any alleged failure to furnish reasons for the sentence was harmless”; OWI and child endangerment convictions and sentences affirmed.

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Peter J. Grady
Pete.Grady@iowa.gov

Office of the Prosecuting
Attorneys Training
Coordinator

1st Floor, Hoover Bldg.
Des Moines, Iowa 50319

Phone:
(515) 281-5428

Bremer County State v. Morgan Lea Myers, No. 14-1474 (Iowa Court of Appeals, filed August 5, 2015.) **Probable cause to search purse in car.** Officer who, through a consent search, found a digital scale used to weigh drugs and butane fluid in plain sight and who knew that the defendant and her companion had six drug offenses between them, who observed that the two were exhibiting nervous behavior, and that they were parked in someone's driveway "at 12:38 a.m. with no credible explanation of their presence or destination" had probable cause to search the defendant's purse; further, the automobile exception to the warrant requirement permitted the search to proceed without a warrant. (**Note:** the case contains a discussion of State v. Gaskins, ___ N.W.2d ___ (Iowa, 6/30/15)—see page 2, above—and notes that although opinions in Gaskins discuss the wisdom of the automobile exception to the warrant requirement, the exception remains the law.)

Buena Vista County State v. Guy Christopher Johns, No. 14-1435 (Iowa Court of Appeals, filed August 19, 2015.) **Proof of mailing of DOT notices inadequate; driving while barred conviction reversed.** State's evidence in driving while barred case failed to show that the DOT actually mailed notice to the defendant; an affidavit of mailing was not introduced into evidence, and the testimony proffered by the State was not sufficient to prove mailing. See State v. Green, 722 N.W.2d 650 (Iowa, 10/13/06). "To satisfy Green, the DOT must furnish records that establish a connection between the notice at issue and the mailing certificate. Without verification that (the defendant's) notice was in the bulk mailing, we cannot find sufficient evidence to support the offense of driving while barred. Thus, we reverse and remand for dismissal of the charge."

Calhoun County State v. James Curtis Craig III, No. 14-1074 (Iowa Court of Appeals, filed June 10, 2015.) **Stop valid despite trial court's determination that driving behavior was not reckless; the officer's stop was not a "mistake of law."** Where the defendant was stopped because he was "operating his car in reverse on a winter night on a commercial street [on] a collision course with another vehicle" (and the other vehicle had to take evasive action to avoid a collision), the fact that the officer charged the defendant with reckless driving—and that the trial court disagreed with the officer's assessment that the defendant's actions constituted reckless driving—did not make the stop invalid as a "mistake of law"; the facts of the case show that the stop was appropriate to investigate the cause of the erratic driving. OWI conviction affirmed.

Cerro Gordo County State v. William Frank Fetner, No. 14-1472 (Iowa Court of Appeals, filed June 10, 2015.) **Driving while barred and possession of marijuana consecutive sentences affirmed.** Trial court did not abuse its discretion by ordering consecutive sentences; the joint recommendation of the parties was not binding on the court, the sentences were authorized by statute, and the trial court provided reasons for the sentence.

Cerro Gordo County State v. Michele Lee Secory-Monson, No. 14-1844 (Iowa Court of Appeals, filed August 19, 2015.) **Patient entering secure hospital setting has no reasonable expectation of privacy.** Hospital staff, not law enforcement, have control of hospital settings; defendant under civil commitment had no expectation of privacy as she entered a locked setting; officer's request that the defendant empty her pockets did not implicate constitutional guarantees against unreasonable search and seizure; trial court properly denied defendant's motion to suppress marijuana found in her pocket; possession of marijuana conviction affirmed.

Chickasaw County State v. Dennis Todd Steinlage, No. 14-0664 (Iowa Court of Appeals, filed June 10, 2015.) **No right to 804.20 consultation before taking PBT test.** Suspects have no right under Iowa Code section 804.20 to consult with an attorney before taking or refusing a PBT; this defendant received and exercised 804.20 rights after the arrest and before deciding whether to consent to a test; OWI conviction affirmed.

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Clinton County Terry Houston v. State, No. 14-1474 (Iowa Court of Appeals, filed August 5, 2015.) **OWI is general intent crime; therefore, statutory intoxication defense does not apply.** Trial counsel was not ineffective in failing to argue that involuntary intoxication is a defense to OWI; the Iowa intoxication defense at Iowa Code section 701.6 generally applies to specific intent crimes and OWI is a general intent crime; to the extent that Iowa has an involuntary intoxication defense to OWI, this defense is limited to the prescription drug defense of Iowa Code section 321J.2(11) which would be inapplicable in this case, because that defense is available only if there is no evidence of alcohol consumption, and the defendant had admitted to drinking alcohol before driving.

Des Moines County State v. Ricky Deshaun Cratton, No. 13-0517 (Iowa Court of Appeals, filed July 22, 2015.) **Extensive criminal history supports prison sentence for driving while barred.** Defendant, who was sent to prison for driving while barred, had accumulated a “glaring” criminal history—a list of convictions that “goes on and on and on” which justified the prison sentence imposed; conviction and sentence affirmed.

Des Moines County State v. Dwayne Grady Jefferson, Jr., No. 14-1703 (Iowa Court of Appeals, filed August 19, 2015.) **Substance abuse evaluation and treatment an appropriate term of probation in aggravated assault case, but being barred from Class C or D liquor establishments is “excessive.”** Facts of the case indicate that the court properly ordered a substance abuse evaluation and treatment as a term of probation for defendant convicted of aggravated assault, but although probation is not supposed to be “painless”, the court’s restriction on entering establishments holding the liquor licenses was “excessive”; although the court noted that the defendant had tested positive for alcohol at a pretrial appointment, “(t)he record does not reflect his condition at the pre-trial appearance was related to any such establishments.”

Dubuque County State v. Troy David Capesius, No. 14-1330 (Iowa Court of Appeals, filed June 24, 2015.) **License revocation imposed with drug conviction is direct consequence, but ineffective assistance not shown in guilty plea.** The license revocation of Iowa Code section 901.5(10) is a direct consequence of a guilty plea to a drug offense, but although the defendant claimed counsel was ineffective in failing to advise him of the revocation and, therefore, argued that his plea was not voluntary and knowing, the defendant did not show that, but for the ineffective assistance, he would not have entered the plea and insisted on going to trial; the defendant received the benefit of the plea bargain and avoided jail by entering the plea; no ineffective assistance of counsel shown and conviction affirmed.

Grundy County State v. Brett Oliver Rosedale, No. 14-0928 (Iowa Court of Appeals, filed July 22, 2015.) **Sufficient evidence of OWI.** Defendant was driving at a high rate of speed when stopped, smelled of alcoholic beverages, failed sobriety tests, and exhibited evasive behavior (as captured on the squad car camera); sufficient evidence existed to support the guilty verdict.

Lee County State v. Russell Keith Kutcher, No. 14-0602 (Iowa Court of Appeals, filed August 19, 2015.) **Officer’s testimony sufficient to support DUS conviction.** Defendant stipulated that his license was suspended and officer observed the defendant driving; the officer’s testimony was substantial evidence supporting the guilty verdict, notwithstanding the contrary testimony of the defendant and his spouse.

Pocahontas County State v. Douglas Henry Ollinger, No. 14-1619 (Iowa Court of Appeals, filed July 9, 2015.) **Report of “suspicious activity” and general description of car do not provide grounds to stop car.** Officer did not have grounds to stop a car after a report from a named informant that a car was engaged in “suspicious activity” (parked at a rural home where the husband had died and the spouse was being moved to a care facility) and that the car had left the scene when the informant had shined a light on the car; the information was only a vague

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accusation, and the informant provided only a general description of the vehicle, causing the responding deputy to have to choose between two vehicles matching the general description provided; OWI 2nd conviction reversed.

Pocahontas County State v. Douglas Henry Ollinger, No. 14-1619 (Iowa Court of Appeals, filed July 9, 2015.) **No probable cause to stop car for crossing the center lane.** Officer's testimony that a car "touched" the centerline did not provide probable cause to stop a car for crossing the centerline (see Iowa Code section 321.297(1); that section "does not criminalize touching the centerline but rather mandates 'driving' on the right half of the roadway." Also see State v. Tague, 676 N.W.2d 197 (Iowa, 2/25/04).

Polk County State v. David Winslow Dunham, No. 13-0220 (Iowa Court of Appeals, filed June 10, 2015.) **No "seizure" so no Fourth Amendment issue.** The defendant was already stopped when he was approached by the officer on foot; "(i)n general, when an officer does not stop a vehicle, but walks up to a vehicle that is already stopped, there has been no seizure."

Polk County State v. Cindy Christine Hebron, No. 14-1344 (Iowa Court of Appeals, filed June 24, 2015.) **Convictions for assault and OWI affirmed.** Trial counsel not ineffective for allowing client to plead to OWI after she had been convicted of related assaults at trial; the record of the guilty plea established that the plea was knowing and voluntary and supported by sufficient evidence; in addition, the defendant made no claim she suffered prejudice until her reply brief on appeal, which failed to preserve the issue (although the court reached the merits and decided against the defendant); convictions affirmed.

Polk County State v. Lacey Rose Brown, No. 13-2054 (Iowa Court of Appeals, filed July 22, 2015.) **Open alcohol in a car, in a private parking lot, does not violate the 'open container' law.** Iowa Code section 321.284, which prohibits having an open container "upon a public street or highway" is not violated when a person has an open container in a vehicle in a private parking lot which is not open "for purposes of vehicular traffic"; a search based upon finding the open container was based upon a "mistake of law" (the officers' mistaken belief that the open container law covered private parking lots) and the fruit of that search, "a half-smoked marijuana cigar", should have been suppressed; trial court order reversed and case remanded.

Polk County State v. Curtis Udell White, No. 14-1121 (Iowa Court of Appeals, filed August 5, 2015.) **Guilty plea waives challenge to denial of suppression motion.** Defendant's entry of guilty plea to OWI waived his challenge to the validity of the automobile stop; further, defendant did not allege ineffective assistance of counsel or claim his plea was involuntary; conviction affirmed.

Pottawattamie County State v. Steven Charles Schueman, No. 14-0516 (Iowa Court of Appeals, filed June 10, 2015.) **Missing stop sign, unsafe turn, and lack of turn signal support stop.** Where road construction caused the temporary removal of a stop sign at an intersection, and a deputy observed the defendant go through the intersection without stopping and then make an unsafe turn and not use a turn signal, the deputy had grounds to stop the driver; the absence of the stop sign was a "mistake of fact" and the stop was valid; "(i)f there was never a stop sign at this intersection, then this Court believes it would be a mistake of law and the stop of the defendant would not be reasonable" but both the deputy and the defendant testified that the stop sign was normally there, and "(t)he deputy testified he believed the stop sign to be present on the day in question" and therefore, the stop was an objectively reasonable mistake of fact; OWI 2nd conviction affirmed.

Scott County Jon Keener v. Iowa District Court for Scott County, No. 14-1462 (Iowa Court of Appeals, filed June 10, 2015.) **Privilege against self incrimination does not prohibit cross-examination within scope of testimony.** Where a person

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testifies about a subject, he/she may not refuse to answer a proper cross examination question within the scope of the person's direct testimony on the basis of the privilege against self incrimination; testimony about a subject waives the privilege regarding the details of the subject; court does not reach issue of whether the privilege against self incrimination applies in a contempt action.

Scott County State v. McCall D. Abrams, No. 14-0260 (Iowa Court of Appeals, filed June 24, 2015.) **"Recent passenger" has no standing to contest search of vehicle.** Defendant who was neither the owner nor the driver of a vehicle but was instead merely a recent passenger had no standing to contest a search of the vehicle; contrast with the right of a passenger to contest the stop of a vehicle, Brendlin v. California, 551 U.S. 249, 127 S.Ct. 2400, 168 L.Ed.2d 132 (6/18/07).

Scott County State v. Rayshawn Cole, No. 14-1405 (Iowa Court of Appeals, filed July 22, 2015.) **Robbery stop supported by reasonable articulable suspicion.** Within minutes of a reported robbery and at a location within 10 blocks of the site of the robbery, officers observed and began following a car that was "very similar" to the one described as driven by the robbery suspects; the car accelerated away from officers and accelerated from stop signs but did not commit any traffic offenses; based upon the totality of these circumstances, the officers' decision to stop the car was supported by reasonable articulable suspicion.

Scott County State v. Gary Duffel, No. 14-1830 (Iowa Court of Appeals, filed August 19, 2015). **Public intoxication conviction affirmed without reference to PBT.** Sufficient evidence of public intoxication where officer described two encounters with the defendant; in the first one, the officer observed the defendant "smelling of alcohol" and in the second one, the defendant was openly drinking on a sidewalk, and, as captured on video, the defendant was observed pouring beer on the sidewalk and exhibiting slurred speech; in light of this evidence, the defendant could not show (in support of an ineffective assistance of counsel claim) that he suffered prejudice by way of testimony of PBT results and a jury instruction on permissive inferences tied to alcohol concentrations.

Story County Mollie Joan Ashton v. Nicholas Allan Brock, Todd Gohlman, Joel Congdon and John Nordyke, No. 14-1257 (Iowa Court of Appeals, filed June 10, 2015.) **Officers not liable for not preventing harm to victim.** Trial court properly granted summary judgment to officers who were sued for negligence in investigating alleged criminal activity; "Iowa law does not recognize a tort for negligent law enforcement response and investigation in the absence of a special relationship between the plaintiff and law enforcement"; there was no evidence of a special relationship between the plaintiff and the officers and therefore, no particularized duty to protect the plaintiff over and above the general duty officers owe to the public.

Story County State v. William James Vary, No. 14-0887 (Iowa Court of Appeals, filed July 9, 2015.) **Ex-probationer not entitled to credit for probation time.** OWI 3rd defendant who was placed on probation under the supervision of the Center for Creative Justice (and *not* the supervision of the department of correctional services) and whose probation was subsequently revoked was not entitled to credit for time spent on probation; that credit is awarded only when a person is under the supervision of the department of correctional services. See Iowa Code sections 907.3(3) and 901B.1(a)(2); for credit to be awarded when probation is under the department of correctional services, see Anderson v. State, 801 N.W.2d 1 (Iowa, 7/29/11.)

Story County State v. Misbakh Aumemah Abbasi, No. 14-1576 (Iowa Court of Appeals, filed August 19, 2015.) **No power to order evaluation where incarceration is the sentence.** Trial court did not have the power to both order the defendant to serve a term of incarceration and to complete a mental health evaluation and recommended treatment; if probation is granted, courts "have broad authority to tailor

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conditions of probation”, but in this case, where the defendant was sentenced to jail with no other supervision, Iowa Code section 901.5 does not enable the court to impose mental health treatment. (Note: section 901.5 is a general sentencing statute, unlike Iowa Code section 321J.2, which provides for sentencing provisions in addition to incarceration.)

Webster County State v. Matthew Allen Curtis Davis, No. 14-0829 (Iowa Court of Appeals, filed August 19, 2015.) **OWI “under the influence of alcohol or drugs” reversed and remanded.** Evidence in the case showed “classic signs of alcohol intoxication” but no evidence of drug intoxication; “(w)ithout a drug recognition expert to identify the signs of drug intoxication and without the discovery of drugs. . . (jurors). . . would have been required to engage in speculation to infer he was under the influence of drugs”; trial court improperly instructed the jury with regard to drugs, and no special interrogatory was given to the jury to identify the relevant theory of culpability and therefore, the reviewing court could not say with assurance that the jury’s verdict rested on sufficient evidence of alcohol impairment only; reversed and remanded for new trial.

**Citations from previous issue of the
Highway Safety Law Update**

Rodriguez v. U.S., 575 U.S. ___, 135 S.Ct. 1609 (4/21/15)
State v. Young, 863 N.W.2d 249 (Iowa, 4/3/15)
State v. Lyon, 862 N.W.2d 391 (Iowa, 4/17/15)
State v. Penn-Kennedy, 862 N.W.2d 384 (4/17/15)
State v. Thacker, 862 N.W.2d 402 (Iowa, 4/17/15)
Sanford v. Fillenwarth, 863 N.W.2d 286 (Iowa, 5/8/15)

**Prepared by the
Prosecuting Attorneys Training Coordinator (PATC)**

Under a project approved by the Governor’s Traffic Safety Bureau (GTSB), in cooperation with the National Highway Traffic Safety Administration (NHTSA). The opinions, findings, and conclusions expressed in this publication are those of the author and not necessarily those of the PATC, GTSB, NHTSA, or the Iowa Department of Justice. *With the retirement of Corwin Ritchie, I am now the oldest member of the Prosecuting Attorneys Training Division of the Iowa Department of Justice. When I look in the mirror, I realize that I am also the best looking member. Unless, of course, my eyesight is failing. Which can happen to old guys like me.*

Submissions and / or comments may be sent to:
Peter Grady, PATC
Iowa Dept. of Justice
1st Floor, Hoover State Office Building
Des Moines, IA 50319
Phone: 515-281-5428 ~ Fax: 515-281-4313
E-mail: pete.grady@iowa.gov

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MOTOR VEHICLE LICENSE SANCTIONS

(does **not** include Graduated Driver's License issues under 321.180B)

Code Section	Reason for Sanction	Sanction and Length of Sanction	321A Proof in Future	Penalty/ Sanction
123.47	second or subsequent conviction for possession of alcohol, ages 18-20	suspension imposed by court up to 1 year	No	123.47, 123.90, and 701.8
321.177	under 18 w/out driver's ed. unless under 321.180B; holds other license, is suspended or revoked; chronic alcoholic or addict; incompetence; failed exam, physical or mental disability; chauffeur under 18, CDL under 18, or delinquent account owed to the state	denial until reason no longer exists	No	321.218
321.178	Minors w/out available driver's ed. who receive restricted work or health care license	If 1 moving violation, suspend for 30 days; if 2, revoke until 18	Yes	321.218
321.189	motorized bicycle licenses	cancel for moving violation; reapply after 30 days	Yes	321.218
321.193	violation of DOT imposed restriction on license	suspend or revoke; 30 days	yes	321.218
321.194	school licenses for minors	suspend for 30 days if 1 moving violation or accident; revoke for 1 year or until 16 if 2 or more	yes if revoked	321.218
321.201	license should not have been issued or false information provided	cancel; if for CDL, then no CDL for 60 days	no	321.218
321.205	out of state conviction (or notice the person "acted in a manner") which would result in suspension or revocation in Iowa; includes commercial motor vehicle convictions	suspend or revoke as in Iowa	yes	321.218

321.208	commercial driver's licenses	<p>disqualify for 1 year if, while operating a comm. vehicle, person has .04 BAC, operating with any amount of a controlled substance, operating while revoked, suspended, cancelled, or disqualified, or involved in fatality with a moving violation conviction that contributed to the accident;</p> <p>disqualify for 1 year if, while operating any vehicle, person has OWI, test refusal, failure to stop and render aide, or non drug agg. misd. or felony involving comm.. vehicle;</p> <p>disqualify for 3 years if any of the foregoing involved hazardous material requiring placarding; ; if two or more separate incidents of foregoing disqualify for life, (can be later reduced to 10 years);</p> <p>disqualify for life if vehicle used in mfg. or delivery of drugs; disqualify for 60 to 120 days for multiple convictions within 3 years of certain offenses; disqualify for 90 days to 5 years for out of service violations; disqualify for 60 days to 1 year for railroad crossing violations.</p>	No	321.218
321.209	<p>evocation for manslaughter;</p> <p>felony using motor vehicle;</p> <p>failure to stop at accident with death or personal injury;</p> <p>perjury or false statement involving DOT; 2 convictions for reckless; conviction for drag racing or eluding</p>	<p>revocation; 1 year for all but reckless (5 to 30 days) or drag racing without injury or damage (6 months)</p>	Yes	321.218

321.210	suspension for habitually reckless or negligent; habitual violator; incapable of safe operation; permitted unlawful/fraudulent use of license; foreign driving which would result in Iowa sanction; serious violation; subject to sanction in another state via nonresident compact	suspension which is discretionary from 60 days up to 1 year for habitually reckless, habitual violator, unlawful use, serious violations, and speeding at least 25 mph over the limit; suspension for out of state driving behavior is the same as if committed in Iowa; "incapable" suspension ends when person is restored to capability; nonresident compact suspension continues until satisfied in foreign jurisdiction	yes if habitual violator or serious violation, or from out of state conviction	321.218
321.210A	Failure to pay traffic fine	suspension until paid	No	321.218
321.210B	Failure to pay indebtedness owed to the state	suspension until installment agreement procedures in place	No	321.218
321.210C	"Moving violation (excluding the first two speeding violations of 10 mph or less in speed zones from 35 mph to 55 mph) within 1 year of end of suspension, revocation, or bar if from conviction of moving violation or from foreign conviction which would be grounds for suspension, revocation or bar in state, or 321J revocation"	suspension, revocation or bar for same length as the 1 which had expired within the previous year, not to exceed 1 year	Yes	321.218
321.210D	indictment or trial information filed charging vehicular homicide	suspension by DOT upon receipt of trial information; suspension terminates upon failure to convict; if conviction, suspension terminates in favor of revocation under 321.209	no (if no conviction)	321.218
321.213 and 232.52(2)(a)(5)	adjudication of delinquency for any other delinquent act, if court orders suspension	suspension imposed by court up to 1 year	no	321.218
321.213A and 232.52(2)(a)(4)	adjudication of delinquency for listed offenses (alcohol purchase or two possession offenses, drugs, tobacco, assault on school employee, weapons on school grounds)	"suspension or revocation" for 1 year, TRL is possible	No	321.218
321.213B	juvenile revocation for truancy	revocation until 18 or until returns to school	No	321.218

321.218	general punishment for chapter 321	generally, specific period of suspension, revocation or disqualification is doubled upon conviction	see specific sanction	321.218
321.261	failure to stop for accident involving personal injury or death	revocation for 1 year	yes	321.218
321.560	bar as habitual offender resulting from 3 convictions	bar lasting 2 to 6 years depending upon point total, computed as follows: perjury or false statement - - 2 points; driving under suspension or revocation under chapters 321 and 321A -- 2 points; driving under revocation under chapter 321J -- 3 points; OWI -- 4 points; driving while barred -- 4 points; felony using motor vehicle -- 5 points; failure to stop and render aid -- 5 points; manslaughter -- 6 points. When the 3 convictions are totalled, persons with 6-7 points are barred for 2 years; those with 8-9 points are barred for 3 years; 10-12 points is a 4 years bar; 13-15 points is a 5 year bar; 16 or more points is a 6 year bar.	no	321.561
321A.4	failure to report an accident	suspension	no	321A.32
321A.5	suspensions following accident of each operator unless insurance	suspension until compliance received, or 1 year after the accident if no lawsuit filed or judgment rendered; if lawsuit or judgment, then suspension until satisfied	no	321A.32
321A.6(4)	after an accident but before suspension, an installment payment contract is filed with the department; there is then a default in installment payment	suspension until total amount paid or 1 year after default; if lawsuit filed or judgment rendered, the suspension continues until satisfied	no	321A.32
321A.7(3)	after an accident an after suspension, an installment payment contract is filed with the department; there is then a default in installment payment.	suspension until total amount paid or 1 year after default; if lawsuit filed or judgment rendered, the suspension continues until satisfied.	no	321A.32

321A.13	after a judgment is entered and the debtor fails to pay the judgment	suspension until total amount paid or creditor consents to payments	yes	321A.32
321A.16	after a judgment is entered, judgment debtor applies for and receives court order setting installment payments; debtor then defaults	suspension until total amount paid	yes	321A.32
321A.17	after conviction or license revocation under chapter 321J (except 321J.2A) and after other convictions as noted	suspension until proof of responsibility filed for two years	yes	321A.32
321J.4	after conviction for OWI and no administrative revocation has occurred (or for certain convictions, whether administrative revocation has occurred or not)	1st offense revocation for 180 days; no temp. restricted license (TRL) for 30 days if test over .15 or if crash involving personal injury or property damage; if under 21, no TRL for 60 days, if deferred judgment, 90 day revocation; TRLs immediately available if no crash and test under .15 -- with no ignition interlock for tests between .08 and .10, and with an ignition interlock for tests between .10 and .15; for 2nd offense, two year revocation, no TRL for one year; for 3rd or subsequent offense, 6 year revocation, no TRL for 1 year; if personal injury caused by OWI, revocation for 1 year in addition to any other revocation; if death caused by OWI, 6 year revocation, no TRL for 2 years; in all cases, if person is under 18, revocation to last at least until age 18	yes	321J.21

321J.4B	driving while revoked under 321J.21 for an OWI based revocation is punished at several places in the impoundment and/or immobilization section of chapter 321J	-- vehicle driven may be impounded or immobilized upon arrest [321J.4B(2)(b)] -- owner of a vehicle driven by a person who is revoked may be subject to criminal penalties and civil liability [321J.4B(4)] -- plates and registration of first offender seized [321J.4B(7)(a)] -- vehicle of second or subsequent offender seized and forfeited [321J.4B(6)]	yes, for underlying revocation, but no additional requirement under 321J.4B	321J.4B penalties contained within section; otherwise 321J.21 penalties apply
321J.9	administrative revocation following refusal to submit to testing	“Revocation for 1 year for 1st refusal; revocation for 2 years for 2nd refusal with no TRL for either revocation until 90 days have passed; if under the age of 21 and processed for a 321J.2A civil license violation (zero tolerance) the same revocation periods apply, but no TRL is possible.”	yes unless person is under 21 and processed for 321J.2A	321J.21
321J.12	administrative revocation following failure of chemical test	1st offense revocation for 180 days no temp. restricted license (TRL) for 30 days if test over .15 or if crash involving personal injury or property damage; if under 21, no TRL for 60 days; if deferred judgment, 90 day revocation; TRLs immediately available if no crash and test under .15 -- with no ignition interlock for tests between .08 and .10, and with an ignition interlock for tests between .10 and .15; no TRL for 60 days if under 21; revocation for 2nd and subsequent test failure 365 days with no TRL possible for 45 days; if under 21 and processed for 321J.2A civil license violation, 60 day revocation; no TRL; if 2nd or subsequent 321J.2A violation, 90 day revocation, no TRL	yes unless the person is under 21 and processed for 321J.2A	321J.21
321J.21	general punishment section for driving while revoked under chapter 321J	revocation period is doubled for conviction	yes	321J.21

252J8	suspension for failure to pay child support	suspension continues until certificate of noncompliance is withdrawn	no	321.218
707.6A (1)(a)	revocation for OWI vehicular homicide conviction	revocation for 6 years, no TRL for 2 years	yes	321A.32 and/or 707.6A (1)(a) and 701.8
714.7D	second offense theft motor vehicle fuel	discretionary suspension by court up to 30 days	no	321.218
901.5(10) and 321.212	revocation (or delayed ineligibility for licensing) for conviction of drug offenses	revocation/ineligibility for 180 days, to commence only when then-existing suspensions or revocations end	No	321.218