

# HIGHWAY TO JUSTICE

WINTER 2012

From The ABA and The National Highway Traffic Safety Administration

## THE NCDC - WORKING TO MAKE YOUR COMMUNITY SAFER

*David Wallace*

*Director, National Center for DWI Courts*

Most first-time DWI (Driving While Impaired) offenders do not repeat the crime; they learn their lesson from the consequences of their arrest, prosecution, and conviction. However, one-third of DWI offenders do reoffend,<sup>1</sup> demonstrating an unwillingness or inability to change their dangerous behavior. We now know that incarceration and traditional punishments are ineffective deterrents for repeat DWI offenders because most are alcohol dependent.<sup>2</sup> It takes more for them to change. That "more" is DWI Court. DWI Courts are this nation's most effective strategy for permanently changing the behavior of repeat drunk drivers. DWI Courts hold these individuals accountable and address the addiction that creates so much devastation.

To educate the public and the criminal justice professionals about DWI Courts, train new judicially run teams, and maintain operational standards the **National Association of Drug Court Professionals** created **the National Center for DWI Courts** (NCDC). Established in 2007, the NCDC is the only dedicated advocacy, policy, training and technical support organization for DWI Courts in the nation. The NCDC is committed to delivering research-driven practices to reduce impaired driving recidivism nationwide.

Part of the NCDC's mission is to raise the public's understanding of these successful courts. That requires being out in the communities talking about them, providing the research and the tales of triumph over addiction. To do that, the NCDC offers a wealth of information about DWI Courts such as:

- the **benefits they bring**,
- the **research** showing their effectiveness,
- who **endorses** DWI Courts, and
- **videos** on what is a DWI Court.

Additionally, DWI Courts are significantly different than traditional courts; thus, the people involved with these courts must receive specialized training. The NCDC is responsible for the necessary training, and for assisting already established DWI Courts. Each year, with the support of NHTSA and State Highway Safety offices, the NCDC holds **training programs** across the country for new teams to learn what it means to become a DWI Court.

Naturally, training is an ongoing process. The research continues to expand, providing more information on what the best practices are, and what is required to be an effective DWI Court. This means that even established DWI Courts need assistance at times to ensure the Court is operating efficiently and effectively. The NCDC is able to provide **technical assistance** for those courts, ranging from training of new team members, team building, program review, to strategic planning.

The NCDC also features a number of publications for the DWI Court field and the public. Recently, the NCDC published the first edition of **The Bottom Line**, a quick-read document on issues that deal with DWI Courts. The inaugural edition discusses why DWI Courts focus on the alcohol dependent DWI offender. Additionally, to keep the public educated on what DWI Courts are doing, and ensure that the 569 DWI Courts nationwide have the most recent information they need to do their job, the NCDC publishes a quarterly newsletter called **The DWI Court Reporter**.

While it is the mission of the NCDC to train and support DWI courts everywhere, it is the belief of us at the NCDC that with DWI Courts developed and supported we are making communities everywhere a safer place to live and to drive. For more information on DWI Courts, DWI Court Training

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## Editor's Note

*Highway to Justice* is a publication of the American Bar Association ("ABA") and the National Highway Traffic Safety Administration ("NHTSA"). The views expressed in *Highway to Justice* are those of the author(s) only and not necessarily those of the ABA, the NHTSA, or the government agencies, courts, universities or law firms with whom the members are affiliated.

We would like to hear from other judges. If you have an article that you would like to share with your colleagues, please feel free to submit it for inclusion in the next edition of *Highway to Justice*.

To submit an article, please send it to Marc Christopher Loro, Senior Legal Advisor, Office of the Secretary of State, Department of Administrative Hearings, [mloro@ilsos.net](mailto:mloro@ilsos.net). Please also copy [Gena.Taylor@americanbar.org](mailto:Gena.Taylor@americanbar.org).

## THE NCDC - WORKING TO MAKE YOUR COMMUNITY SAFER

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Programs, and the National Center for DWI Courts, contact: David J. Wallace, Director, National Center for DWI Courts, (703) 575-9400, [dwallace@dwicourts.org](mailto:dwallace@dwicourts.org), or go to: [www.dwicourts.org](http://www.dwicourts.org).

- 1 U.S. Department of Transportation, National Highway Traffic Safety Administration, *Traffic Safety Facts: Repeat Intoxicated Driver Laws*, February 2007 (DOT HS 810 718W).
- 2 U.S. Department of Transportation, National Highway Traffic Safety Administration, *A Guide to Sentencing DWI Offenders*, 2nd Edition, 2005 (DOT HS 810 555).

## THE GAME OF THE STATES

*Hon. Harvey J. Hoffman*  
*NHTSA Judicial Fellow, Michigan*

### INTRODUCTION

Recently I was asked, as part of my duties as the NHTSA Judicial Fellow, to ascertain the current status of state drug court associations. These associations have traditionally been sources for the development and support of DWI Courts, the training of DWI Court team members and, in some states, they have become major political/legislative players. Discussions were had with Drug and DWI Court practitioners in 36 states, providing enough material to make some generalized observations as to major factors impacting these organizations. It is important to note that each state has its own criminal and highway safety code, political and judicial culture, and economic necessities. Each drug court association is impacted by these localized concerns.

Drug court associations are not judicial associations per se, as they are typically comprised of judges, prosecutors, defense lawyers, treatment and testing providers and probation officers. They always operate in close co-operation with the state court administrators, but they are separate from them. The diversity of the drug court association membership, and their separation from the court administrators can give the associations important freedom of movement and extended policy reach. This can occasionally generate heat when points of views diverge with from those of administrators.

Not all states have drug court associations. In those states, the functions normally undertaken by these organizations are frequently filled by the professional staff of the state court administrative offices. Five states (Georgia, Indiana, Nevada, Ohio and Oklahoma) formerly had drug court associations which have since disbanded. Funding issues (including the reduction or elimination of travel budgets for member courts, and reductions in association funding) were the largest factors in this trend, as well as lack of interest among the courts, lack of leadership and other local considerations.

### LEADERSHIP

Strong, dedicated leadership is clearly a key factor both in developing a strong state DWI Court network and building and maintaining a viable drug court association. Missouri had Chief Justice Ray Price and Commissioner Peggy David, Georgia had Judge Kent Lawrence, Pennsylvania had Judge Mike

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Barrasse, Idaho had Norma Jaeger, Texas had State Judicial Outreach Liaisons (SJOL) David Hodges and Mark Atkinson, and Michigan had a cadre of leaders including Judges Brian MacKenzie, Mike Haley, Pat Bowler and myself.

It is in the area of identification and development of leadership that NHTSA may be able to have the greatest impact on drug court associations and DWI Courts. With Judicial Outreach Liaisons (JOL) in most of the NHTSA regions, and with an increasing number of SJOLs at the state level, NHTSA has a unique opportunity to view the field with an eye to leadership potential. As is the case in Texas, the SJOL may, at times, provide much of the leadership. Upon identification of potential leaders, NHTSA could assist to develop the future leaders.

## CONTINUING EDUCATION AND TRAINING CONFERENCES

Continuing education is essential to the long term success of DWI Courts. Alcoholism and drug addiction are extremely complex human behaviors. To be effective in dealing with alcoholic and addicted drivers, the members of the DWI Court teams need to be kept abreast of current information on these diseases, developing treatment modalities and technological advances. Furthermore, the inevitable turnover in DWI Court team members means that most teams include people who have far less training than the more veteran members.

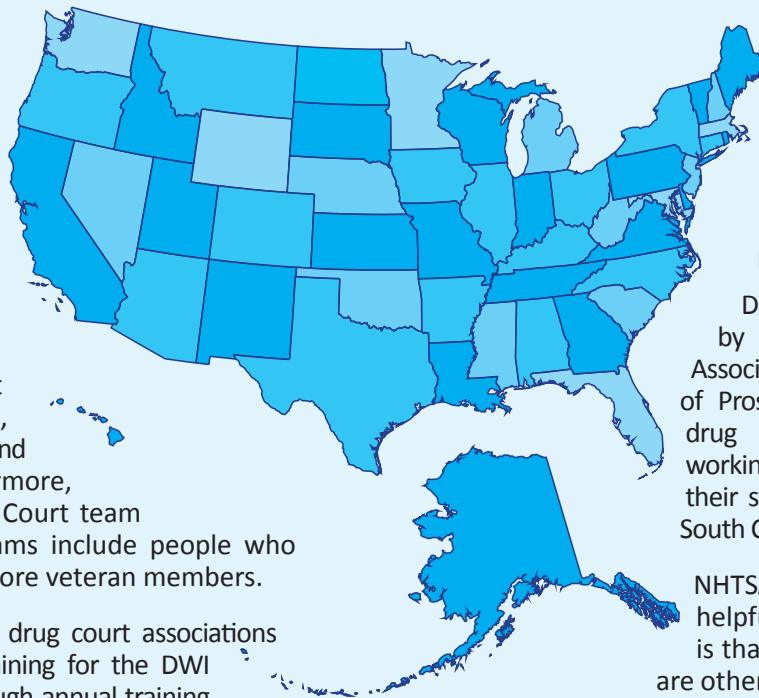
One of the primary functions of drug court associations has been to provide ongoing training for the DWI Court and Drug Court teams through annual training conferences. Due to budget concerns, many states have either eliminated or greatly reduced the frequency of these training conferences, including: Arizona, California, Florida, Kentucky, Minnesota, Nevada, New York and Oregon. This is a truly frightening trend. Without adequate training, it is highly unlikely that the DWI Court teams will be as effective as they have been in the past. The lack of training conferences is also likely to undermine the cohesion of the DWI Court and Drug Court networks in the affected states. The ability of these organizations to promote positive change in public policy in the areas of drug and alcohol addiction and highway safety may be seriously diminished. It is not surprising that the states that have the most comprehensive and well attended annual training conferences (i.e. Michigan, Missouri and Georgia) are the states that frequently lead the nation with inventive policy initiatives and have the most extensive and effective DWI Court systems.

It is not likely that this trend will be changed any time soon, or that any one entity can quickly turn things around. NHTSA, through its Fellows, JOLs and SJOLs can have a positive impact in this area.

Most states that are holding annual training conferences welcome the availability of presentations during their conferences on DWI Courts and substance abuse/highway safety issues. The fact that the Fellows, JOLs and SJOLs are available at little or no expense to the conferences can be a great help to these organizations, many of whom are experiencing severe budget challenges. Similarly, many states have associations comprised of DWI Court team members. For example, prosecutors and probation officer associations frequently have training conferences. These gatherings provide additional opportunities for the Fellows, JOLs and SJOLs to provide education and training. Finally, in 2011 the American Bar Association and NHTSA presented an inaugural series of webinars on a variety of highway safety issues. Included in the series were a number of subjects relevant to DWI Courts. It is anticipated that distance learning will be a growing trend in the training of a wide variety of

professions in the coming years.

By expanding the number and types of professionals serviced by the webinars, a portion of the above cited gap in the training of DWI Court team members may be closed.



## PROSECUTOR ISSUES

DWI courts have been endorsed by the National District Attorney Association and the National Association of Prosecutor Coordinators. Most state drug court associations report good working relationships with prosecutors in their states. Alaska, Florida, Oregon and South Carolina report issues in this regard.

NHTSA has a real opportunity to be helpful here. The basic rule of thumb is that the best people to train judges are other judges. I would assume that the same is true for prosecutors. The NHTSA Prosecutor Fellow is in a unique position to undertake the training and education of prosecutors in the states that have indicated a lack of prosecutorial buy-in. By appearing at the prosecutors associations annual meeting to discuss DWI Court procedures and statistics, misinformation and lack of information issues may be addressed.

## CONCLUSION

A natural strategic partnership exists between NHTSA and the drug court associations that are involved in the development and support of DWI Courts. Their members are on the front lines of the struggle against alcoholic and addicted drivers. Many of those associations are currently undergoing significant funding issues, especially related to the training and education of DWI Court team members. NHTSA may be able to provide some help in this regard. By using its network of Fellows, JOLs and SJOLs, some assistance to secondary issues faced by these associations may be mitigated.

# SOMETIMES YOU HAVE TO RETREAT TO GO FORWARD



*Karen MacKenzie, Executive Director,  
Michigan Association of Drug Court Professionals*

Strategic planning retreats can be an extremely helpful tool for any organization that wishes to revitalize its trajectory and renew its sense of purpose. These days, for-profit, non-profit and public institutions alike tend to engage in some sort of annual review and planning. It is less common for an unfunded institution, such as a statewide association, to have the financial resources or human capital required to establish a practice of regular self assessment and renewal.

As drug courts have spread across the country, they have gradually formed state level alliances among themselves, generally characterized as associations. These associations are intended to augment the work accomplished on the local court level through mutual education and mentorship, and to protect drug court interests and funding through collective action. Drug court associations are populated with drug court judges and other professional staff who work many additional, often unusual hours on top of their standard court assignments. When these busy people find time to assemble with colleagues from across the state, their agendas are generally crammed with the fundamental and consuming business of educating existing courts and spawning new ones, usually within the context of dwindling resources. In this atmosphere, reflective planning can seem to be a luxury.

Illinois, however, has begun to make planning a priority. This past October, the Illinois Association of Drug Court Professionals (IADCP) Board of Directors revisited the strategic plan that they first constructed two years ago when they invited Ann Wilson, Executive Director, Missouri Association of Drug Court Professionals, to facilitate an organizational analysis and help form an initial set of goals. The Board enjoyed the process of self review and strategizing, especially within the context of the beautiful Starved Rock State Park in Utica, Illinois, enough to return this fall. This time they invited me, Karen MacKenzie, Executive Director of the Michigan Association of Drug Court Professionals, to serve as facilitator. My husband, Judge Brian MacKenzie, a former NHTSA Judicial Fellow, also attended as assistant and audiovisual technician.

We have both been engaged in the work of drug courts for a long time. As the Resource and Program Specialist for Oakland County Circuit Court, I helped establish their Juvenile and Adult Felony Drug Courts. When I retired in 2005 after 20 years with the court I soon became the first independently-funded Executive Director for a state drug court association. I am the current Secretary/Treasurer of the National Association of State Drug Court Associations (SDCA).

My husband, Judge Brian MacKenzie, is well known in the national drug court movement. He instituted a sobriety court and a veteran's court in Novi, Michigan, and has written and lectured throughout the country on such issues as substance abuse, domestic violence, drug treatment courts, and court media relations. Although his official job description at the retreat was AV technician and Power Point scribe, he added invaluable insights to my formal presentation.

So, what is involved under the rubric of "Strategic Planning?" The process can take many forms, and is best tailored to the specific needs of the group in question. In the case of the IADCP, having only scratched the surface of self-review, there was plenty of room to embark on a more weighty analysis.

Initially, the Board revisited and condensed their mission, identified values, and reviewed their progress toward original goals. With appropriate satisfaction, they learned that most of their original goals had been met, and if not, it was not for lack of trying. To get a more thorough look at how they were doing in a social context, the traditional SWOT analysis (Strengths, Weaknesses, Opportunities and Threats) was employed, allowing the group to consider together the favorable and unfavorable conditions they were encountering, and to begin to determine what resources might already exist or might be ripe for cultivation. All 18 directors present engaged in very spirited and constructive discussion on these matters.

"Strategic planning can be a bit grueling," I told the group. "Looking into that mirror, and keeping an honest eye, will deepen an organization's self knowledge, but it requires stamina and focus, and sometimes a willingness to accept hard truths and to shift your direction accordingly. This group was remarkable in their intensity, their motivation, and the seriousness with which they embraced the strategic planning process."

Discoveries generated by the SWOT led organically to the establishment of fresh goals. Goals were broken into objectives that were measurable, and specific action steps were assigned and tagged with timelines. At all points, board members showed courtesy toward each other's views without compromising their own perspective. The result was a clean, succinct document that will serve them well in the year ahead.

I continued by saying "Renewal through strategic planning is like spring cleaning. It can look messier before it looks clean. Choosing deliberate disequilibrium, choosing to have hard conversations about board member engagement or specific political pressures could be unsettling to less courageous or professional souls. But this group was flexible, imaginative and collaborative, which yielded an amazingly valuable product."

We, along with the Illinois Association, encourage all state associations to consider yearly planning sessions. The Michigan Association of Drug Court Professionals began to employ the practice more than 6 years ago, with early assistance from NADCP/NDCI's Carolyn Hardin. For several years subsequently, board member Pamela Davis facilitated their review, until this year, when the Board found funding to bring in an outside contractor. Each iteration of their strategic plan has generated new enthusiasm for drug court development in the state, and a fresh view of how to navigate the road ahead. And relationships among board members have been solidified and strengthened in the process.

For more information or advice regarding the strategic planning process for drug court or other associations, please contact Karen or Brian MacKenzie at [madcp@me.com](mailto:madcp@me.com).



Hon. Peggy Fulton Hora  
Walnut Creek CA

The Baby Boomers are yet again changing business as usual. There are now both low tech and high tech programs and devices that help older drivers with health issues who are involved in a crash or suffering a medical emergency.

### Yellow Dot

Responding to an aging population with medical concerns, nine states<sup>1</sup> have adopted the Yellow Dot program. Connecticut started the program in 2002 that allows a driver to share health information with emergency personnel. The concept is simple: a person enrolls in the program, is given a small folder in which to place a photograph and all relevant medical information, and a small yellow dot to place in the rear window of the car. The “file of life” contains information about their medical condition, all drugs taken regularly and other health data that will help first responders do a better job.

This allows communication when the driver is unable to respond after a crash or because of illness. The folder is their voice in case they cannot speak for themselves. The first 60 minutes after a serious crash is the so-called “golden hour” that can make the difference between life and death for the critically injured.<sup>2</sup>

The program has support from older drivers and those with serious health issues and first responders who are helped by the information. It is also lauded by the AAA Foundation for Traffic Safety and the Governors Highway Safety Association. This is the simple kind of program that works and may save lives.

### Wellness Application

Ford Motor Co. and WellDoc<sup>®</sup> are collaborating on a health application for use inside a vehicle. Targeting people with chronic diseases such as asthma and diabetes, the application would relay voice-based data to the health care company servers. For instance, a glucose reader may sound an alert for a person with diabetes whose blood sugar levels are too high or low. They even anticipate the application will have the ability to not only find a restaurant nearby but help the driver make healthy menu choices.

An allergy scanner for people with asthma would trigger the car to close windows and circulate fresh air in the vehicle when passing through high pollen areas that could cause an asthma attack.

Why would such an application be needed? WellDoc<sup>®</sup> says, “According to the U.S. Department of Transportation, Americans spend more than 500 million “commuter hours” per week in their automobiles, making it difficult to follow a daily health routine that is critical to their well-being.”<sup>3</sup>

### Medical Information Thumb Drives

There are a variety of portable devices to record personal health information using USB-flash disc technology<sup>4</sup>. The thumb drive contains a person’s medical information, x-rays, MRIs, EKGs and other diagnostic tests. It provides emergency contact information and designates whether the person is an organ donor or has a Do Not Resuscitate (DNR) order. It can be kept on a keychain and is especially useful for those who travel alone or internationally. A copy can be given to a caregiver, family member or those holding a durable power of attorney re: health care. It can be used by emergency medical personnel everywhere regardless of whether they have internet access.

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**January 2 – February 7**  
Fans Don’t Let Fans Drive Drunk

**May 23 – June 5**  
Click it or Ticket Mobilization

An enforcement crackdown effort which could impact your court. For more information visit: <http://www.nhtsa.gov/CIOT>

**June 14 - 16**  
2012 Lifesavers Conference,  
Orlando, FL

For more information visit: <http://www.lifesaversconference.org/>  
Early bird registration available until January 31, 2012



**Drive Sober or Get Pulled Over Alcohol Campaigns**

For more information visit:  
<http://www.nhtsa.gov/drivesober/>

**Winter 2012**  
Friday, Dec 14 – Monday, Jan 1, 2013

**Labor Day 2013**  
Friday, Aug 16 – Monday, Sept. 2, 2013

**Winter 2013**  
Friday, Dec. 13 – Wednesday, Jan 1, 2014

**Labor Day 2014**  
Friday, Aug 15 – Monday, Sept 1, 2014

**Winter 2014**  
Friday, Dec 12 – Thursday, Jan 1, 2015

**WE ARE PLEASED TO ANNOUNCE THE  
SELECTION OF TWO NEW JUDICIAL  
OUTREACH LIAISONS.**

**JUDGE NEIL EDWARD AXEL WILL  
SERVE AS JOL FOR NHTSA REGION 3,  
AND JUDGE MARY CELESTE WILL  
SERVE AS JOL FOR NHTSA REGION 8**

**JUDGE MARY CELESTE  
JOL FOR NHTSA REGION 8**



Judge Mary A. Celeste sits on the Denver County Court bench where she is the Presiding Judge 2009 and 2010; the first woman to hold that position in the history of that Court. She is the founder of Colorado's largest Sobriety Court. She is also the immediate past president of the Colorado Women's Bar Association Foundation and the American Judge's Association (AJA), a national judicial association with 2000 members across the U.S., Canada and Mexico.

She was an Adjunct Professor at the University of Denver's School of Law and has served as a member of the Colorado Bar Association's Board of Governors, the Denver Bar Association's Conciliation Panel, and

the Colorado Women's Bar Association (CWBA) Board of Governors. She is a graduate of Cal Western, where she was the editor-in-chief of the law school journal. Judge Celeste has published many legal articles in various periodicals, including the 2010 AJA White Paper in the AJA Court Review, and was the executive producer of the 2005 CWBA historical video entitled Raising the Bar, and has participated in many education panels and seminars.

She is the recipient of the Outstanding Editor-in-Chief Award 1982; Human Rights Campaign Award, 1994; the American Association of University Women's Trailblazer Award, 1998; Professional Women of the Year Award, 2002 from the Colorado Business Council; the Judicial Excellence Award from the Colorado Women's Bar Association, 2006; the Judicial Excellence Award from the Denver Bar Association, 2006; the Education Award from the American Judges Association, 2007; the Colorado Humanities Award 2008; the CWBA Mary Lathrop Award 2011; and the Judge William H. Burnett Award 2011 for outstanding service to the AJA.

**SIMPLY SAVING LIVES**

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**For Children**

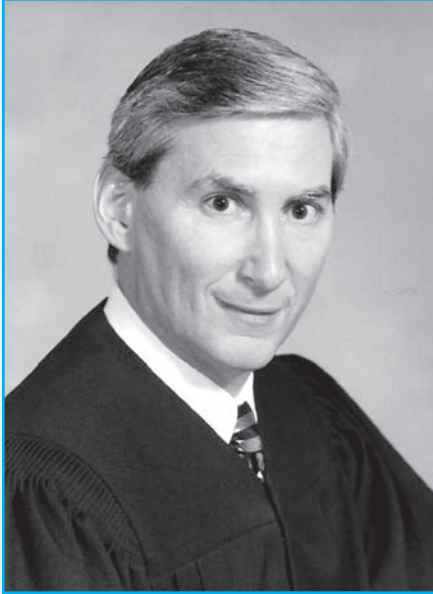
Nothing could be worse than having a child in a car during a crash and not being able to communicate about them. One suggestion, in addition to a "life file" in the glove box for each child, is attaching a large luggage tag with relevant emergency contact information to their car seat. That way if the adult is unable to speak, emergency personnel will know the identification of the child, contact information and their doctor as well as any special medical conditions they may have.

**ICE**

A final very simple suggestion: Program an emergency contact number and file it as "ICE" (in case of emergency) in your cell phone. First responders are being trained to look for this designation.

- 1 Connecticut, Kansas, Illinois, Iowa, Minnesota, Massachusetts, Virginia, Alabama and New York have adopted the Yellow Dot program. Georgia and some other states are considering it.
- 2 Copeland, Larry, "Yellow Dot program speeds help to crash victims," USA Today (May 24, 2011).
- 3 "Ford Motor Company and WellDoc® Announce Unique Research Collaboration to Help Patients Manage their Health on the Road," BusinessWire (May 18, 2011).
- 4 Type "USB medical information" or "medical thumb drive" into your search engine to contact a variety of vendors.

## JUDGE NEIL EDWARD AXEL JOL FOR NHTSA REGION 3



Although born and raised in New York, Neil Edward Axel has been a Maryland resident throughout his professional career and has lived for the past 32 years in Jim Rouse's planned community of Columbia in Central Maryland. He graduated from Syracuse University with a Bachelor of Science Degree in Business Administration before attending law school at American University's Washington College of Law.

Following 22 years in private practice, Judge Axel was appointed to the bench as an Associate Judge of the District Court of Maryland where he has served since 1997. On a daily basis, Judge Axel presides over a variety of cases including criminal

misdemeanors, traffic and alcohol-related offenses, domestic violence, and civil actions where the amount in controversy less than \$30,000.00. During the course of almost 15 years, Judge Axel has presided over more than 100,000 cases. In addition to his regular judicial duties handling civil and criminal matters, Judge Axel has served for more than 6 years as the Judge-In-Charge of a Drug Treatment Court and DUI Court program in his home county. In this capacity, Judge Axel has sole responsibility for the operation of one of three DUI Courts in the State of Maryland that focuses on repeat drunk drivers. This program was developed as a more effective, judicially coordinated, treatment-focused program to help reduce the adverse impact of repeat drug and/or alcohol offenders on the court system and on the Howard County community.

Presently, he serves as Co-Chair of Maryland's Judicial Conference Committee on Problem Solving Courts, which is responsible for promoting and overseeing the development, implementation and operation of problem-solving courts throughout Maryland.

In 2005, Judge Axel was recognized by the Maryland State Bar Association with its Judge Anselm Sodaro Judicial Civility Award, presented annually to one judge whose courtroom demeanor best exemplifies the highest ideals of civility and courtesy.

For the past 10 years, Judge Axel has served on the Board of Directors of Maryland's Judicial Institute, which is responsible for the development, implementation and evaluation of all in-State continuing education for the Maryland Judiciary. In addition to serving on the Board, Judge Axel has been actively involved as coordinator and lecturer at numerous programs on topics involving substance abuse, sentencing, domestic violence, the law of contracts, and perceptions of bias in the courtroom.

Throughout his legal and judicial careers, Judge Axel has been actively involved in Bar Association activities on state and local levels and community non-profits, including Maryland Special Olympics. He served as Chair of both the Howard County and State of Maryland Drug Abuse Advisory Councils and was a member of Maryland's Special Committee to Review the ABA Revised Code of Judicial Conduct from 2007 to 2009. He is a member of the National Association of Drug Court Professionals.

Judge Axel has been married for 35 years to Valerie Axel and they are the proud parents of two wonderful adult children.

## CONTACT INFORMATION

To learn more about programs offered by NHTSA, please contact one of the following:

Hon. Neil Edward Axel, Judicial Outreach Liaison, Region 3 (North Carolina, Virginia, Kentucky, West Virginia, Maryland, Delaware, District of Columbia): [NeilAxel49@gmail.com](mailto:NeilAxel49@gmail.com)

Hon. Kent Lawrence, Judicial Outreach Liaison, Region 4 (Alabama, Florida, Georgia, South Carolina, Tennessee): [lawkent@gmail.com](mailto:lawkent@gmail.com)

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