

# National District Attorneys Association Newsclips January 29, 2010

## Today's Clip Headlines

- **Hands-Free Cellphones Just As Likely To Distract Driver**
- **U.S. Bans Truckers, Bus Drivers From Texting While Driving**
- **Constitutionality Of 'Jessica's Law' Questioned**
- **4COL, New TXT MSG Fine Is OTT :(**
- **Bill Calls For Expunging Iowa Alcohol Possession Convictions**
- **'Forced Compliance' Tracks Down 192 Chicago-Area Sex Offenders**
- **Kansas Committee To Debate Death Penalty Repeal**
- **Audit Says State Could Save Millions By Consolidating Judicial Districts; Local Judge Critical**
- **House Votes Protections For Victims Of Stalkers**
- **P.G. Lawmaker Wants Special Plates For Repeat Drunk Drivers**
- **Panel Releases Latest Domestic Violence Report**
- **Mississippi House Complicates Meth Recipe**
- **Rank And File To Vote On Court Furloughs**
- **Cell Ban Fails Crash Test**
- **Warrantless Search Bill On Track**
- **Plan To Change Registry Altered**
- **Senate Passes Bill Updating Public Defender Limits**
- **Evaluation of Trial-Level Indigent Defense Systems in Idaho NLADA Releases its report, "The Guarantee of Counsel"**

## Clip Synopses and Links

*The Washington Post*

### **Hands-Free Cellphones Just As Likely To Distract Driver**

More than five years after the District banned the use of hand-held cellphones while driving, the first definitive evidence emerged Friday that it hasn't made the streets much safer.

Ten days after a national study found that cellphones and texting were to blame for 28 percent of crashes, a report released Friday concludes that hands-free cellphones are no less distracting than those held to the ear.

"Insurance collision loss experience does not indicate a decrease in crash risk when hand-held laws are enacted," said the study by the Insurance Institute for Highway Safety. "There is no evidence that bans on hand-held use by drivers has affected . . . collision claims."

As the larger issue of distracted driving has gained traction, with U.S. Transportation Secretary Ray LaHood in the vanguard of an effort to address it, behavioral testing in laboratory settings indicates that hands-free cellphone conversations are just as

distracting as the hand-held variety.

<http://www.washingtonpost.com/wp-dyn/content/article/2010/01/29/AR2010012900053.html?hpid=topnews>

*The Washington Post*

### **U.S. Bans Truckers, Bus Drivers From Texting While Driving**

On Tuesday, the federal government formally barred truckers and bus drivers from sending text messages while behind the wheel, putting its imprimatur on a prohibition embraced by many large trucking and transportation companies.

“We want the drivers of big rigs and buses and those who share the roads with them to be safe,” said U.S. Transportation Secretary Ray LaHood. “This is an important safety step, and we will be taking more to eliminate the threat of distracted driving.”

LaHood has made the effort to curtail driver distractions a centerpiece of his tenure as the nation’s top transportation official. Some saw his announcement as a step that might ultimately fuel a push to ban cellphone use by all drivers.

<http://www.washingtonpost.com/wp-dyn/content/article/2010/01/26/AR2010012603238.html>

*Los Angeles Times*

### **Constitutionality Of ‘Jessica’s Law’ Questioned**

Treating sex predators differently from other violent offenders may violate equal protection guarantees, the California Supreme Court says.

The California Supreme Court ruled 5 to 2 Thursday that a 2006 ballot initiative that permitted the state to lock up sexually violent predators indefinitely may violate constitutional guarantees of equal protection.

The ruling, written by Justice Carlos R. Moreno, did not strike down the measure, Proposition 83, also known as “Jessica’s Law.”

Instead, the court said a fact-finding hearing must be held to determine whether valid reasons exist for treating sex predators differently from others subject to civil confinement, such as mentally disordered offenders.

Proposition 83 increased penalties for repeat sex offenders, prohibited them from living near schools and parks, and changed the law to permit their indefinite confinement to mental institutions, instead of two years with the possibility of extensions.

<http://www.latimes.com/news/local/la-me-sexpredator29-2010jan29,0,977394.story>

*Chattanooga Times Free Press*

### **4COL, New TXT MSG Fine Is OTT :(**

Carlos Cavasos hears a lot about how truckers cause problems for other drivers, but he never felt more singled out than he did Tuesday.

That's when President Obama's transportation secretary released a policy that prohibits truckers and bus drivers from sending and receiving text messages behind the wheel. If caught texting by police, commercial drivers could pay up to \$2,750 in fines.

"There is no difference between a big truck and a car going down the road texting or anything else," Mr. Cavasos said Thursday while stopped at Cochran's Auto Truck Stop in Ringgold, Ga. "I couldn't afford it."

The policy states that truckers are responsible for the full fine, requiring no financial assistance from their employer.

Last year, Tennessee legislators passed a law that makes text messaging illegal for all drivers, including truckers. Georgia legislators are considering similar legislation.

The maximum fine in Tennessee -- \$50 along with \$10 in court costs -- is considerably lower than the federal agency's recent texting ban on commercial drivers.

Research cited in a U.S. Department of Transportation news release shows that texting drivers are more than 20 times more likely to wreck.

Officials see a correlation between distracted driving and catastrophe, but state authorities are scrambling to find ways to add substance to the new policy. Like many policies issued by the federal government, state and local authorities must enforce the rule.

<http://www.timesfreepress.com/news/2010/jan/29/4col-new-txt-msg-fine-is-ott/>

*Quad-City Times*

### **Bill Calls For Expunging Iowa Alcohol Possession Convictions**

A bill to allow young adults to have convictions for alcohol possession expunged from the records won unanimous approval from the Iowa House Judiciary Committee Thursday.

House File 553 addresses what Rep. Nate Willems, D-Lisbon, called a loophole in the law that allows juveniles and those over 21 to have certain alcohol-related convictions expunged, but not 18-, 19-, and 20-year-olds.

Under the bill, two years after conviction for public intoxication, possessing, purchasing or attempting to purchase alcohol under legal age and for similar local ordinances a person may petition the court to expunge the record of the conviction. To have the convictions erased, however, the person must not have had other criminal convictions other than simple misdemeanor violations during the two-year period.

The committee amended the bill to require that when a person's conviction is expunged, that information is shared by the Judicial Branch with the Department of Public Safety so it can clean up its records.

[http://www.qctimes.com/news/state-and-regional/iowa/article\\_ff56d77a-0c6a-11df-88c0-001cc4c03286.html](http://www.qctimes.com/news/state-and-regional/iowa/article_ff56d77a-0c6a-11df-88c0-001cc4c03286.html)

*Chicago Tribune*

### **'Forced Compliance' Tracks Down 192 Chicago-Area Sex Offenders**

A coalition of local, state and national law enforcement agencies said today that they had tracked down 192 non-compliant sex offenders in the Chicago area.

The eight-week operation, dubbed Operation Forced Compliance, started after officials identified 720 sex offenders in the area who they believed were not complying with state reporting requirements.

Since November, 82 of the offenders were found to already be in custody. Another 40 were arrested, and the remainder were either found to be compliant, had been deported, had died or were out of state.

<http://www.chicagobreakingnews.com/2010/01/operation-forced-compliance-chicago-police-sex-offender-compliance.html>

*Wichita Eagle*

### **Kansas Committee To Debate Death Penalty Repeal**

Legislation to repeal the Kansas death penalty law was awaiting possible action by a Senate committee Friday.

One measure before the Judiciary Committee would repeal the 1994 law and replace it with a new crime of aggravated murder, punishable by life in prison without parole.

<http://www.kansas.com/news/breaking/story/1158256.html>

*Lawrence Journal-World*

### **Audit Says State Could Save Millions By Consolidating Judicial Districts; Local Judge Critical**

An audit estimates the state could save nearly \$6.2 million if it consolidated its 31 judicial districts to 13 districts, a move that would lump Douglas County in with six other counties to the south.

The report from the Legislative Division of Post Audit released this week also considers consolidating to only seven judicial districts, which would combine Douglas County with 10 other counties throughout Northeast Kansas. That would save the state \$8.1 million, the report says.

According to the audit, the consolidation could eliminate several judges and more than 100 full-time staff positions. The primary savings is based on the assumption that the state would eliminate its one-judge-per-county rule and substitute magistrate judges for district judges in some districts.

[http://www2.ljworld.com/news/2010/jan/28/audit-says-state-could-save-millions-consolidating/?kansas\\_legislature](http://www2.ljworld.com/news/2010/jan/28/audit-says-state-could-save-millions-consolidating/?kansas_legislature)

*Boston Herald*

### **House Votes Protections For Victims Of Stalkers**

Ten years almost to the day that an Everett waitress was cruelly executed by a random stalker's package bomb, lawmakers unanimously passed a measure allowing victims to get restraining orders against dangerous creeps.

The proposal has stalled repeatedly and been re-filed every year since Jan. 20, 2000 - the day 32-year-old Bickford's waitress Sandy Berfield was killed when she opened an explosive package left at her door by an obsessed customer.

[http://www.bostonherald.com/news/politics/view/20100129house\\_votes\\_protections\\_for\\_victims\\_of\\_stalkers/](http://www.bostonherald.com/news/politics/view/20100129house_votes_protections_for_victims_of_stalkers/)

*Baltimore Sun*

### **P.G. Lawmaker Wants Special Plates For Repeat Drunk Drivers**

**Trend is 'growing,' AAA official testifies**

There are several tipoffs that a driver might be drunk: swerving, traveling the wrong way on a street, pulling out of a bar late at night.

And a **Prince George's County** lawmaker wants to add one more. He says the state should replace license plates of repeat drunken drivers with bright yellow tags that read "DUI."

"Displaying the special license plates will give people some understanding of who they are sharing the roadways with," Marvin E. Holmes Jr., a Democrat, said at a hearing on his bill Thursday.

The legislation would require the yellow plates for five years for anyone convicted of drunken driving three times. There are 2,029 drivers in the state who fit that description, he said.

[http://www.baltimoresun.com/news/maryland/bal-md.plates29jan29\\_0\\_6169739.story](http://www.baltimoresun.com/news/maryland/bal-md.plates29jan29_0_6169739.story)

*Bangor Daily News*

### **Panel Releases Latest Domestic Violence Report**

Although the state's crime rate continues to be one of the lowest in the nation, the domestic violence homicide rate is worryingly high, Maine Attorney General Janet Mills said.

Of the 31 homicides that occurred in Maine in 2008, 20 of them, or 65 percent, were related to domestic violence. Of the 25 homicides that happened in 2009, 10 of the victims, or 35 percent, were killed by family or household members.

<http://www.bangordailynews.com/detail/135770.html>

*The Commercial Appeal (Memphis)*

### **Mississippi House Complicates Meth Recipe**

*Makes pseudoephedrine prescription only*

State House members approved legislation Thursday requiring a doctor's prescription to buy products like Claritin-D and Sudafed, which contain the key ingredient found in the illegal drug methamphetamine.

By a 105-15 vote, House members said medicine containing the drug pseudoephedrine could be dispensed only after buyers produced a physician's prescription.

The measure, which was amended to become effective Oct. 1, was sent to the Senate, where passage is virtually assured.

<http://www.commercialappeal.com/news/2010/jan/29/house-complicates-meth-recipe/>

*Concord Monitor*

### **Rank And File To Vote On Court Furloughs**

#### **Union leadership agrees to proposal**

Court and union officials reached a tentative agreement last night to allow the judicial branch to put staff on unpaid furloughs and avoid layoffs.

Chief Justice John Broderick proposed up to 17 days of unpaid furloughs over two years to find \$3.1 million in savings ordered by Gov. John Lynch. That figure is the judicial branch's part of a \$25 million cut Lynch must make in statewide personnel costs.

All of the state's courts and administrative offices would be closed on furlough days. The first furlough would be in April, followed by one in May and one in June, Broderick said.

There would likely be a furlough day once a month for most or all of 2011, he said. The days have not been chosen, but Broderick said the goal would be to schedule them on either side of a weekend.

<http://www.concordmonitor.com/apps/pbcs.dll/article?AID=/20100129/FRONTPAGE/1290306/1001/NEWS01>

*Times Union (Albany)*

### **Cell Ban Fails Crash Test**

Accidents haven't declined despite law against mobile use

It's an increasingly common sight behind the wheel: Nearby drivers chatting away on cellphones, even though it has been against state law since 2001.

A study issued Thursday by an insurance industry group finds that crash rates have not declined in New York after the hand-held cellphone driving ban was adopted. The same thing happened after bans were imposed in California, Connecticut and the District of Columbia.

"The laws aren't reducing crashes, even though we know that such laws have reduced

hand-held phone use, and several studies have established that phoning while driving increases crash risk,” said Adrian Lund, president of the Highway Loss Data Institute.

He said the industry group, which analyzed collision insurance claims for about 1.7 million accidents dating back a decade, was surprised not to see accident reductions in the wake of cellphone laws and was “gathering data to figure out the mismatch.”

A partial answer might be found in the institute’s files from a study issued three months ago. It suggested that in New York, a lot of people obeyed the law at first but began to ignore it as time passed -- even as the odds of getting a ticket or maybe even having an accident continue to rise.

<http://www.timesunion.com/AspStories/story.asp?storyID=894729>

*The Post and Courier (Charleston)*

### **Warrantless Search Bill On Track**

#### **Charleston’s Chief Mullen touts crime-fighting effort**

Urged by law enforcement leaders, state lawmakers on Thursday moved a step closer to allowing police to search people on probation and parole without a warrant.

A subcommittee sent the bill to allow the warrantless searches to the full House Judiciary Committee and put it on track for a showdown on the chamber floor. The proposed law is aimed at protecting the public from career criminals.

Charleston Police Chief Greg Mullen said warrantless searches will help deter illegal activity and make sure dangerous criminals are locked up.

“We’re looking for the violent, repeat offenders who are victimizing the community on a continuing basis while they are out on probation and parole,” Mullen said. He traveled to the Statehouse complex to advocate for the bill on behalf of a coalition of law enforcement officials, solicitors, victims’ advocates and elected officials, including Charleston Mayor Joe Riley.

<http://www.postandcourier.com/news/2010/jan/29/warrantless-search-bill-on-track/>

*Argus Leader (Sioux Falls)*

### **Plan To Change Registry Altered**

#### **AG proposal means sex offenders must petition to move to lower tier**

A state Senate committee Thursday accepted an amendment proposed by the attorney general on the much-debated sex offender registry bill.

The amendment now will become the base for Senate Bill 12, which would create a three-tiered system to classify sex offenders and give those convicted of lesser crimes an opportunity to get their names removed from the list.

The Senate Judiciary Committee voted unanimously to move forward with Attorney

General Marty Jackley's amendment, which among other changes does not automatically assign offenders to a specific tier, but makes it the offender's responsibility to petition the court to be assigned to a lower tier.

<http://www.argusleader.com/article/20100129/NEWS/1290322/1001/news>

*Wisconsin State Journal*

### **Senate Passes Bill Updating Public Defender Limits**

The state Senate has passed a bill that will make it easier for poor people to be represented by public defenders.

A similar bill is pending in the Assembly.

The measure passed by the Senate 21-12 updates income guidelines to get public defender representation for the first time since 1987.

That has resulted in many applicants who earn below the federal poverty level not qualifying for public defender representation.

[http://host.madison.com/news/state-and-regional/wisconsin/article\\_1a94222f-a7ad-530f-98fa-af4467e6c67c.html](http://host.madison.com/news/state-and-regional/wisconsin/article_1a94222f-a7ad-530f-98fa-af4467e6c67c.html)

*National Legal Aid & Defender Association*

### **Evaluation of Trial-Level Indigent Defense Systems in Idaho NLADA Releases its report, "The Guarantee of Counsel"**

With the release of *The Guarantee of Counsel: Advocacy & Due Process in Idaho's Trial Courts* (January 2010), the National Legal Aid & Defender Association (NLADA) finds that the state of Idaho fails to provide the level of representation required by our Constitution for those who cannot afford counsel in its criminal and juvenile courts. By delegating to each county the responsibility to provide counsel at the trial level without any state funding or oversight, Idaho has sewn a patchwork quilt of underfunded, inconsistent systems that vary greatly in defining who qualifies for services and in the level of competency of the services rendered. While there are admirable qualities of some of the county indigent defense services, NLADA finds that none of the public defender systems in the sample counties are constitutionally adequate.

<http://www.mynlada.org/content/idaho-report>

## **Conferences**

### **Bootcamp: An Introduction to Prosecution**

February 8-12, 2010

NAC, Columbia, South Carolina

[http://www.ndaa.org/pdf/NAC\\_September\\_2009\\_March\\_2010.pdf](http://www.ndaa.org/pdf/NAC_September_2009_March_2010.pdf)

### **Investigation & Prosecution of Child Fatalities & Physical Abuse**

February 1-5, 2010

Santa Fe, New Mexico

[http://www.ndaa.org/pdf/childFatalities09\\_SantaFe\\_final.pdf](http://www.ndaa.org/pdf/childFatalities09_SantaFe_final.pdf)

**NDAACapital Conference**

February 8-10, 2010

Washington, DC

The Liaison Capitol Hill

For reservations, call 866.233.4642

NDAARoom rate is \$209

Cut-off for reservations is January 16, 2010

To register, click here:

[http://ndaasupport.org/tinc?key=XQjOC5wC&formname=Capital\\_Conference](http://ndaasupport.org/tinc?key=XQjOC5wC&formname=Capital_Conference)

**Prosecuting Drug Cases**

February 21-25, 2010

Memphis, Tennessee

[http://www.ndaa.org/education/ndaa/drug\\_prosecution\\_training\\_schedule.html](http://www.ndaa.org/education/ndaa/drug_prosecution_training_schedule.html)

**Cybersleuth I**

February 22-26, 2010

NAC, Columbia, South Carolina

**National Institute on the Prosecution of Domestic Violence:** for prosecutors working in specialized domestic violence units and co-located environments

February 23-26, 2010

New Orleans, Louisiana

Application / Scholarship Form:

[http://www.ndaa.org/education/ndaa/domestic\\_violence\\_training\\_schedule.html](http://www.ndaa.org/education/ndaa/domestic_violence_training_schedule.html)

**Unsafe Havens II (Prosecuting Online Crimes Against Children)**

March 1-5, 2010

NAC, Columbia, South Carolina

[http://www.ndaa.org/pdf/NAC\\_September\\_2009\\_March\\_2010.pdf](http://www.ndaa.org/pdf/NAC_September_2009_March_2010.pdf)

**Prosecuting Homicide Cases**

March 7-11, 2010

Orlando, Florida

[http://www.ndaa.org/education/ndaa/homicide\\_capital\\_litigation\\_training\\_schedule.html](http://www.ndaa.org/education/ndaa/homicide_capital_litigation_training_schedule.html)

**26th National Symposium on Child Abuse**

March 22-25, 2010

Von Braun Center, Huntsville, Alabama

<http://www.nationalcac.org>

**Trial Advocacy II**

March 22-26, 2010

NAC, Columbia, South Carolina

[http://www.ndaa.org/pdf/NAC\\_September\\_2009\\_March\\_2010.pdf](http://www.ndaa.org/pdf/NAC_September_2009_March_2010.pdf)

**Cross-Examination**

March 29-April 1, 2010

NAC, Columbia, South Carolina

[http://www.ndaa.org/pdf/NAC\\_September\\_2009\\_March\\_2010.pdf](http://www.ndaa.org/pdf/NAC_September_2009_March_2010.pdf)

**NDAA Spring Board Meeting**

April 8-10, 2010

Charleston, SC

Francis Marion Hotel

For reservations, call 877.756.2121

NDAA room rate is \$189

Cut-off for reservations is March 17, 2010

**Childproof: Advanced Trial Advocacy for Child Abuse Prosecutors**

April 25-30, 2010

NAC, Columbia, South Carolina

[http://www.ndaa.org/pdf/NAC\\_September\\_2009\\_March\\_2010.pdf](http://www.ndaa.org/pdf/NAC_September_2009_March_2010.pdf)

**National Child Support Attorney College**

April 26-29, 2010

Costa Mesa, Orange County, California

[www.csdaca.org](http://www.csdaca.org)

**Equal Justice for Children: Investigation & Prosecution of Child Abuse**

May 17-21, 2010

Charleston, SC

[http://www.ndaa.org/pdf/ChildAbuse\\_May10\\_Draft\\_Agenda.pdf](http://www.ndaa.org/pdf/ChildAbuse_May10_Draft_Agenda.pdf)

**NDAA Summer Board Meeting**

July 9-11, 2010

Napa, California

**NDAA 2010 Summer Conference**

July 11-14, 2010

Napa, California

**Change, Add or Delete E-mail Addresses**

If you no longer wish to receive the clips or wish to add an e-mail address, please send a message to [jean.hemphill@ndaa.org](mailto:jean.hemphill@ndaa.org)

**Member Benefits**

New NDAA membership benefits available: <http://www.ndaa.org/>

**Need Case Assistance?**

NDAA can help. Send a message to NDAA's technical assistance e-mail address and we will get your request to one of our program specialists or out to prosecutors around the

country. E-mail [jean.hemphill@ndaa.org](mailto:jean.hemphill@ndaa.org)