

# National District Attorneys Association Newsclips

August 27, 2009

## Send Me Your Topics for Clips

Let me know which topics you would like me to pick up from newspapers across the country. I may be missing an aspect of criminal justice you need to follow.

### Prosecuting Drug Cases

September 13-17, 2009

San Diego, California

[http://www.ndaa.org/ncda/ncda\\_course\\_prosecuting\\_drug\\_cases\\_09.php](http://www.ndaa.org/ncda/ncda_course_prosecuting_drug_cases_09.php)

### Managing Mobile Forensics: What Every Peace Officer Must Know

October 14, 2009, 1:00 pm-3:00 pm EST

Free Webinar

Regional Computer Forensics Laboratory

Participants will learn the proper handling of handheld devices such as smart/cell phones, GPS, iPods, USB/flash drives at crime scenes, along with basic data recovery techniques and legal issues.

To learn more or to register for the free event, visit [www.rcfl.gov](http://www.rcfl.gov).

## Today's Clip Headlines

- **New Decision on Melendez-Diaz Issues**
- **Public Defender Priorities At Issue**
- **New Orleans Public Defender's Office Could Close If It Doesn't Receive Money From Traffic Cameras, Chief Says**
- **Md. Approves \$454 Million Cut to Fill Latest Gap**
- **Limited Jail Space Kept Woman With 40 Tickets On The Road**
- **Metro Gang Strike Force Hearing: Plenty Of Blame, But No Answers**
- **Pharmaceutical Industry Funding Will Help Fight Meth Labs In Missouri, Kansas**
- **Traffic Cameras Win Half Of Cases**
- **Sheridan Promises Action On Drunken-Driving Laws**

## Clip Synopses and Links

### New Decision on Melendez-Diaz Issues

There is a brand new published decision (yesterday) from the 2<sup>nd</sup> District Court of Appeal on the issues raised by Melendez-Diaz v. Massachusetts. The case is People v. Rutterschmidt (8/18/2009), \_\_ Cal.App.4<sup>th</sup> \_\_, 2009 Cal.App.LEXIS 1361. The link to the slip opinion on the Judicial Council website is below. The opinion addresses the issue of whether a supervisor who reviewed the lab work but did not personally handle the sample or testing equipment can give testimony about the results. The opinion is favorable to the prosecution.

In Rutterschmidt (a two defendant murder case), the prosecution introduced toxicology lab results through the testimony of the lab director for the coroner's toxicology lab. The lab director had not personally done the analysis (which had been done by four other criminalists in the lab, acting under his supervision). The analytical data was actually generated by a machine. The lab director did a peer review or administrative review of the work of each criminalist, then signed off on the report. One of the defendants made a Crawford objection at trial; Melendez-Diaz was discussed by the parties in briefing on appeal as a pending USSCt. case; then after M-D was decided by the USSCt. on June 2, the defendant filed a letter brief with the DCA. The DCA opinion fully discusses the impact of Melendez-Diaz (see slip opinion at pages 26-34).

The DCA held that the testimony of the lab director did not violate the confrontation clause under Crawford or Melendez-Diaz. The DCA opinion analyzes this situation basically the same way it was discussed at last week's training: (1) the Crawford and Melendez-Diaz reasoning does not extend to the established rule that an expert can testify to his/her own opinion based on the work of another expert; (2) Melendez-Diaz specifically deals with a situation where no expert testified, a piece of paper was admitted without any live testimony, while here, testimony was given by a live witness; (3) Melendez-Diaz does not specifically address the situation here, but the majority opinion as a practical matter can go no further than the limits identified by the fifth vote, Justice Thomas, and his concurrence indicates that testimony of this type is not covered by the confrontation clause; and (4) both the established California rule about the basis for expert testimony, and the Federal Rules of Evidence, are in accord with the admission of this testimony.

While this opinion is not yet final, since it has been certified for publication, it can be cited in addressing these issues as we face them in court. Rule of Court 8.1115(d).

Judicial Council link to opinion:

<http://www.courtinfo.ca.gov/opinions/documents/B209568.PDF>

*The Washington Post*

**Public Defender Priorities At Issue**

Md. Chief's Firing Tied to Dispute Over Service

The firing last week of Maryland's chief public defender stemmed in large part from philosophical differences over how to represent the state's poorest criminal suspects, according to internal letters and interviews with people on both sides.

The head of the board that oversees the agency said that in lean times, public defenders must scale back efforts outside the courtroom, such as employing social workers or helping clients find proper housing.

Forster, 51, is among those who say the efforts of social workers -- to get certain clients into drug or mental health treatment, for example -- free lawyers to do courtroom work and keep clients from committing more crimes, saving money in the long run.

<http://www.washingtonpost.com/wp-dyn/content/article/2009/08/26/AR2009082603577.html>

*The Times Picayune*

**New Orleans Public Defender's Office Could Close If It Doesn't Receive Money From Traffic Cameras, Chief Says**

If New Orleans doesn't come up with the money from revenue from its traffic cameras before March, the man who heads the city's public defender's office says they will have to close.

Chief Public Defender Derwyn Bunton said Wednesday that so far he has not seen a penny of the money his office is supposed to get from the cameras and is looking at closing down his operations in March unless something is done.

If that happens, Bunton says they would not be able to resume representing indigent defendants again until the new fiscal year began on July 1.

The public defender's office represents over 88 percent of the 220,000 criminal and traffic court defendants each year.

[http://www.nola.com/politics/index.ssf/2009/08/new\\_orleans\\_public\\_defenders\\_o.html](http://www.nola.com/politics/index.ssf/2009/08/new_orleans_public_defenders_o.html)

*The Washington Post*

**Md. Approves \$454 Million Cut to Fill Latest Gap**

To close its latest budget shortfall, Maryland will shut down a state-run psychiatric hospital, nearly eliminate money for county road projects, slash funding for cancer research, reduce reimbursements for health-care workers and facilities caring for Medicaid patients, and close a minimum-security prison.

On Wednesday, the panel of three Democrats charged with making midyear budget cuts unanimously approved Gov. Martin O'Malley's plan to carve away \$454 million to close the spending gap that emerged last month. As in the rest of the Washington region, lower-than-expected tax collections and rising unemployment have battered state revenue projections.

The cuts by the Board of Public Works, along with \$280 million in spending reductions it approved last month, amounted to just 5 percent of the state's \$13.4 billion general fund. But after prior reductions, the latest action lifted Maryland's list of spending cuts since 2007 to more than \$4 billion. It also made clear that these and any future cuts would affect direct state services that many taxpayers consider entitlements.

<http://www.washingtonpost.com/wp-dyn/content/article/2009/08/26/AR2009082603612.html>

*Detroit Free Press*

**Limited Jail Space Kept Woman With 40 Tickets On The Road**

Despite run-ins, cops hadn't jailed woman without license

A Detroit woman arrested Tuesday in Ferndale in a suspected stolen car has never had a driver's license but she has been cited for at least 40 outstanding traffic violations since 1999 -- including drunken driving, state officials said Wednesday.

Authorities said Renee Beavers, 33, never was arrested because Detroit and Highland Park police lacked jail space.

Detroit Police Chief Warren Evans said the practice of letting traffic scofflaws drive off with just a ticket, even when there are outstanding traffic warrants, is commonplace in Detroit -- and said he plans to change that.

<http://www.freep.com/article/20090827/NEWS05/908270366/1001/NEWS/Limited-jail-space-kept-woman-with-40-tickets-on-the-road>

*St. Paul Pioneer Press*

### **Metro Gang Strike Force Hearing: Plenty Of Blame, But No Answers**

Lawmakers grope for facts, investigators say full story of downfall yet to be told

Fingers were pointed and blame widely assigned for the demise of the Metro Gang Strike Force at a lengthy legislative hearing Wednesday.

The hearing in a packed room with nearly 30 legislators left many unanswered questions, including why apparent misconduct occurred at the task force and what should happen next.

"The story of the Metro Gang Strike Force, or at least the story of its decline and fall, is going to come to you in several chapters," said Legislative Auditor James Nobles.

The audit from his office, released in May and criticizing the now-defunct strike force for being unable to account for more than \$18,000 in seized cash and 14 seized cars, was the first chapter.

The second chapter was last week's release of an independent review that found perhaps 10 to 12 strike force employees engaged in misconduct and some in criminal acts by taking seized goods home for their own use and seizing cash from people never linked to criminal activity.

The FBI, which is conducting its own investigation, and the U.S. attorney's office could write the third chapter, Nobles said. The Legislature will write the final chapter, he said.

[http://www.twincities.com/ci\\_13211808?nclick\\_check=1](http://www.twincities.com/ci_13211808?nclick_check=1)

*Kansas City Star*

### **Pharmaceutical Industry Funding Will Help Fight Meth Labs In Missouri, Kansas**

In Kansas and Missouri, new laws say a methamphetamine cook shouldn't be able to get enough of his key ingredient to make a good-size batch.

Except that neither state can afford to fund the laws, which are intended to link pharmacy records and prevent multiple purchases of cold medicine.

As a result, a meth cook can go from one store to another, buying the legal maximum of cold medicine — a source of the key meth ingredient — at each store until he has all he needs.

That should change with the pharmaceutical industry's offer to fund a linked database in Kansas and Missouri.

It is a move designed to better combat meth labs, and also could fend off attempts to legislate cold medicine into a prescription drug.

Final touches are being put on public-private agreements with the Consumer Healthcare Products Association.

Law enforcement officials think that is a sweet deal.

<http://www.kansascity.com/news/politics/story/1407865.html>

*The Columbus Dispatch*

### **Traffic Cameras Win Half Of Cases**

As handful of drivers contest tickets, Heath police say traffic is slowing

The 45-year-old electrical engineer from Westerville arrived at the Heath Municipal Building last night ready to argue his case after receiving one of the 12,554 speeding tickets issued by the city's traffic-enforcement cameras last month. About 15 people showed up to contest their tickets of the 40 who had requested hearings.

With the number of tickets dropping steadily, however, that might not be for long. So far in August, the cameras have logged fewer than 3,000 violations. There were 3,900 in the first week of July alone.

Heath police Sgt. Craig Black said the numbers are lower because fewer people are speeding.

[http://www.dispatch.com/live/content/local\\_news/stories/2009/08/27/Tickets.ART\\_ART\\_08-27-09\\_B1\\_87ESS0V.html?sid=101](http://www.dispatch.com/live/content/local_news/stories/2009/08/27/Tickets.ART_ART_08-27-09_B1_87ESS0V.html?sid=101)

*Milwaukee Journal Sentinel*

### **Sheridan Promises Action On Drunken-Driving Laws**

The state Assembly will start to overhaul drunken-driving laws in September to require ignition interlocks for repeat offenders and make fourth offenses felonies in many cases, the leader of the house said Wednesday.

Assembly Speaker Mike Sheridan (D-Janesville) said the bill would pass the house in mid- to late September and then be sent to the Senate. Both houses are controlled by Democrats.

The bill, sponsored by Rep. Tony Staskunas (D-West Allis), would make a fourth offense a felony if it occurs within five years of the previous offense. Under current law, drunken driving isn't a felony until the fifth offense.

The bill also would require ignition interlocks to be installed on vehicles for repeat drunken drivers and first-time offenders who have a blood-alcohol level of 0.15 or more. A level of 0.08 is considered proof of intoxication under state law. An ignition interlock is a device that requires a driver to blow into it to start a car. If the device detects more than trace amounts of alcohol, the vehicle won't start.

Offenders would have to pay for at least some of the cost of installing the devices.

<http://www.jsonline.com/news/statepolitics/55118547.html>

## Conferences

### **Prosecuting Drug Cases**

**September 13-17, 2009**

**San Diego, California**

[http://www.ndaa.org/ncda/ncda\\_course\\_prosecuting\\_drug\\_cases\\_09.php](http://www.ndaa.org/ncda/ncda_course_prosecuting_drug_cases_09.php)

### **Safety Net: Multidisciplinary Investigation and Prosecution of Technology-Facilitated Child Sexual Exploitation**

**September 14-18, 2009**

**Winona, Minnesota**

[http://www.ndaa.org/pdf/safety\\_net\\_sept\\_09\\_brochure.pdf](http://www.ndaa.org/pdf/safety_net_sept_09_brochure.pdf)

### **NAJIS Annual Conference - National Association for Justice Information Systems "Fine Tuning Technology in Today's Economy"**

**September 15-17, 2009**

**Nashville, Tennessee**

<http://www.najis.org>

### **Courtroom Technology**

**September 15-18, 2009**

**November 3-6, 2009**

**January 26-29, 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)

### **Strategies for Justice: Advanced Investigation and Prosecution of Child Abuse and Exploitation**

**September 21-25, 2009**

**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)

### **Trial Advocacy I**

**September 28-October 2, 2009**

**December 7-11, 2009**

**February 1-5, 2010**

**March 15-19, 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)

**Strategic Cross-Examination**

**October 5-8, 2009**

**St. Louis, Missouri**

[http://www.ndaa.org/ncda/ncda\\_courses.php](http://www.ndaa.org/ncda/ncda_courses.php)

**5th National Community Prosecution Conference**

**October 6-8, 2009**

**Los Angeles, California**

[http://www.ndaa.org/pdf/5th\\_National\\_CP\\_Conference\\_09.pdf](http://www.ndaa.org/pdf/5th_National_CP_Conference_09.pdf)

**Managing Mobile Forensics: What Every Peace Officer Must Know**

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**NDAAs Fall Board Meeting**

**October 15-17, 2009**

**Denver, Colorado**

**Lethal Weapon: Advanced Trial Advocacy (vehicular fatality cases)**

**October 19-23, 2009**

**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)

**The Executive Program**

**October 24-28, 2009**

**Myrtle Beach, South Carolina**

[http://www.ndaa.org/ncda/ncda\\_course\\_executive\\_program\\_09.php](http://www.ndaa.org/ncda/ncda_course_executive_program_09.php)

**National Conference on Domestic Violence**

**October 31 – November 4, 2009**

**San Antonio, Texas**

[http://www.ndaa.org/ncda/ncda\\_course\\_domestic\\_violence\\_09.php](http://www.ndaa.org/ncda/ncda_course_domestic_violence_09.php)

**Bootcamp: An Introduction to Prosecution**

**November 9-13, 2009**

**January 11-15, 2010**

**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)

**Prosecuting Homicide Cases**

**November 8-12, 2009**

**San Francisco, California**

[http://www.ndaa.org/ncda/ncda\\_course\\_prosecuting\\_homicide\\_09\\_fall.php](http://www.ndaa.org/ncda/ncda_course_prosecuting_homicide_09_fall.php)

**Forensic Evidence**

**December 6-10, 2009**

**San Diego, California**

[http://www.ndaa.org/ncda/ncda\\_course\\_forensic\\_evidence\\_09.php](http://www.ndaa.org/ncda/ncda_course_forensic_evidence_09.php)

**Prosecuting Sexual Assaults**

**December 6-10, 2009**

**Washington, D.C.**

[http://www.ndaa.org/ncda/ncda\\_course\\_prosecuting\\_sexual\\_assault\\_09.php](http://www.ndaa.org/ncda/ncda_course_prosecuting_sexual_assault_09.php)

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

**February 21-26, 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)

**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)

**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)

### **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)