



IPTM: Highlights from the 2011 Symposium in Palm Beach Gardens

On July 11, 2011, the Institute of Police Technology and Management (IPTM) commenced its 23rd Annual Symposium on Alcohol and Drug Impaired Driving Enforcement in Palm Beach Gardens. IPTM faculty consists of law enforcement and legal professionals who combine their practical experience and academic backgrounds to train more than 14,000 officers from all over the world every year. Law enforcement officers and prosecutors from all over the country attended this year's conference which featured the return of J.D. "Buck" Savage, who offered a motivating presentation concerning how to deal with the intense demands placed on law enforcement officers without losing the perspective necessary to lead a

balanced life.

The conference highlighted the latest developments in DUI enforcement and prosecution. Included in the discussions were topics like the recent prescription drug craze, new technologies, and developments in the law. Of specific interest was the information about the use of electronic data applications (black boxes) in DUI crashes, as well as techniques for solving problems with drugged driving cases, and the ABC's of successful courtroom testimony.

Dr. Laura Barfield, FDLE's Alcohol Testing Program Manager, who has provided expert testimony in state court and federal court over 400 times, discussed blood alcohol analysis, breath alcohol analysis, alcohol reference solutions, the Intoxilyzer 8000, retrograde extrapolation, and medical

blood conversions.

FHP Investigation's Captain Alexa Hancock conducted training in the area of identity theft investigation and the identification of fraudulent documents while Senior Assistant General Counsel Peter Stoumbelis presented a legislative update. One of the most popular workshops was the Overview of the Standard Field Sobriety Test (SFST) Validation Studies, which required a handful of volunteers to participate in sobriety testing in order to experience firsthand the effects of alcohol impairment. The group also discussed off-duty use of alcohol by DUI enforcement officers normally ([to p. 3](#))

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New Look Logo!



You may have noticed that the Legal Bulletin News is no longer; it is now The Legal Highway. After a lively competition, Hattie Jones-Williams and Eileen Bishop submitted the winning new name and logo. Thanks to all OGC folks who submitted suggestions.

Paralegals seek national certification

As is true of students everywhere, OGC paralegals started hitting the books this fall in preparation for a January national certification exam. Led by Tallahassee paralegal Patty Turnage, the OGC members spend an hour each week working together on assignments and reading to prepare for the test given by the National Association of Legal Assistants (NALA). The exam will be administered on January 26 and 27 here in the Kirkman Building. The NALA website explains some of the benefits of certification: "Use of the CLA or CP credential signifies that a paralegal is capable of providing superior services to firms and corporations. National surveys consistently show Certified Legal Assistants/Certified Paralegals are better utilized in a field where attorneys are looking for a credible, dependable ([to p. 3](#))



Doing the Right Thing



With 2012 right around the corner, many of us start thinking about New Year’s resolutions. I came across an article listing the top ten resolutions of folks in the US. They include such popular items as losing weight, quitting smoking or drinking, spending more time with family, paying off debt, and my favorite: getting organized. In fact, OGC is hosting a time management seminar in early January to help us all be better organized in 2012.

Have you considered resolutions tied to the workplace? Here are some resolutions to consider that will help make DHSMV better for all of us in 2012 and beyond.

- I will look at my job not simply as a means to a paycheck, but an opportunity to grow personally and serve others.
- I will show respect in all my relationships.
- I will listen more and talk less.
- I will be unfailingly honest in everything.
- I will laugh more, scowl less, and recognize that each day I have the chance to make the world better for at least one person.

I hope you and your family have a blessed holiday season.

STEVE HURM
GENERAL COUNSEL



“Ethics is knowing the difference between what you have a right to do and what is right to do.”
— Justice Potter Stewart

Team Building Event – November

OGC members from across the state got together in Tallahassee to do some strategic planning and team building in November. Julie Jones and other members of the Executive Leadership Team met with everyone during the morning. Following a working lunch, the breakout sessions for the attorneys and paralegals were very productive. That evening, Deputy GC Mike Alderman and his wife, Sylvia, hosted everyone at their beautiful home near Maclay Gardens. We plan to do similar meetings twice a year to make our terrific team even better!



Attorneys Kathy Jimenez, Jim Fisher (Tallahassee), Rich Coln (Orlando) and Rich Brown (Tallahassee) listen to Motorist Services Deputy Division Director Boyd Walden address the OGC teambuilding meeting.



Attorneys Damaris Reynolds (Lake Worth) and Kim Gibbs (Orlando) enjoying the working lunch from Jimmy Johns.



Paralegal Patty Turnage, Teri and Rich Brown, OMC II Jennifer Clark and Jim Fisher, all from Tallahassee, at the Friday evening soiree.



Lake Worth attorney Jason Helfant

FHP Legal Corner – Traffic Stop Pat-down - when it is lawful?

It is well settled that a trooper or other law enforcement officer may order a driver out of his vehicle where there is a lawful traffic stop. See *Pennsylvania v. Mims*, 464 U.S. 106, 222 (1977). It is also true that a trooper may ask the passengers to get out of the vehicle, as well. While you may lawfully ask them to get out of the vehicle, what is your basis for patting them down?

Recently, in *State v. Herron*, 36 Fla. L. Weekly D1731b, (Fla. 3d DCA 2011), the district court reviewed the requirements of a valid pat down. After executing a valid traffic stop, a Miami-Dade Police Officer ordered Herron, the driver, out of vehicle and to place his hands on the roof of the vehicle. The purpose was to conduct an external pat-down search. The officer observed a bulge

on the small of Herron's back. The bulge turned out to be a holster and firearm.

Under Florida law, the two elements necessary for a lawful pat-down or frisk are: (1) the subject is lawfully detained, and (2) the officer has reasonable suspicion to believe that the subject possesses a dangerous weapon. See § 901.151(5), Fla. Stat. (2010). The test is whether the trooper or law enforcement officer had a founded suspicion of criminal activity or had prior indications that the driver was armed. If there is founded suspicion or reasonable belief the driver is armed, then they may conduct a pat-down or frisk without infringing on the driver's Constitutional rights.

In a concurring opinion in *Herron*, one of the district court judges drew a distinction between the situation where the law enforcement officer could

lawfully ask the driver to step out of the vehicle and to put his hands where he could see them. In *Herron*, the officer, without the reasonable suspicion required under the second element of § 901.151(5), essentially ordered the driver to "assume the position" for the specific purpose of patting him down. Thus, without the required reasonable suspicion that the driver is armed with a dangerous weapon, a trooper can only order a driver to place their hands where the trooper can see them; not to conduct a pat-down of their body. Of course, as an alternative, you can simply ask them if they will voluntarily submit to a pat-down for safety purposes.

JASON HELFANT
PETER STOUMBELIS
ASST. GENERAL COUNSEL

Paralegals (from p.1)

way to measure ability. The credential has been recognized by the American Bar Association as a designation which marks a high level of professional achievement. The CLA or CP credential has also been recognized by over 47 legal assistant organizations and numerous bar associations."

We're proud of Patty and the other DGC paralegals!

IPTM Symposium (from p.1)

tasked with DUI enforcement.

The symposium presented a valuable opportunity to share ideas and network with prosecuting attorneys, breath testing professionals, and DUI officers such as Corporal Susan Barge of Lake County, who asked for tips on successfully testifying at formal administrative review hearings.



New DGC Conference Room

The BAR Scene

BAR hearing officers and senior clerks are looking forward to several days of informative training in Tampa provided by members of the National Judicial College. This training is an annual event and is funded by a Department of Transportation grant. Not only do BAR members receive the latest legal and administrative updates, but it gives them an opportunity to meet and mingle

with their colleagues from around the state. Bureau Chief Kathy Jimenez said the training has been a tremendous benefit to BAR members and ultimately to drivers and other members of the public. "The instructors help instill greater professionalism and confidence in our hearing officers and clerks which benefit them in dealing with drivers, their attorneys and the public," Jimenez

said.

The training is scheduled for mid January.

In other BAR news, bills have been filed in both the House and the Senate to implement changes recommended by last summer's top-to-bottom review of the BAR process. The changes to be considered by the Florida legislature will include:

- Making telephone hearings the standard;

- Subpoena enforcement in county court;
- Consolidation of BAR offices; and
- A waiver program giving first offenders an opportunity to receive a BPO in lieu of a formal or informal review of the suspension of their licenses.

We'll keep you updated on the progress of the legislation. You can track it if you'd like [here](#) for the Senate bill and/or [here](#) for the House bill.

News and Notes

Looking for archived
Newsletters?

You can find them here: [http://
www.flhsmv.gov/Bulletins/](http://www.flhsmv.gov/Bulletins/)

OFFICE LOCATIONS

Headquarters:
2900 Apalachee Parkway
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Lake Worth:
Lake Worth Regional
Communications Center
Florida's Turnpike MM 94
Lake Worth, FL 33463

Orlando:
133 S. Semoran Blvd. Suite A
Orlando, FL 32807



CONGRATULATIONS to Jacksonville BAR Hearing Officer **Candra Pellet** who recently received her Bachelor of Science in Criminology from the University of North Florida. Way to go Candra!

HAPPY BIRTHDAY to

- Barbara Kramer — 11/22
- Kim Gibbs — 12/9
- Kathy Jimenez — 12/23
- Audrey Littlefield — 12/29
- Iris Thorn — 1/11
- Steve Hurm — 1/14
- Cyndi Hunt — 1/31
- Linda Tanner — 2/3



Have an idea for a Legal Highway article or a question you would like to see answered?

Let us know by sending an email to OGC Office Manager [Pam Decembra](#) or by calling her at 850-617-3101. Thanks!



Richard Brown, Asst. General Counsel

Our spotlight this month is on Rich Brown. Rich is the FHP legal advisor for the Commercial Vehicle Enforcement troop, and works as a liaison with the Legislative Affairs office to coordinate reviews of pending legislation. Rich is a Floridian by birth, but grew up in the suburbs of Memphis, TN. He returned to Florida to attend the University of Florida. After earning his J.D. at Stetson University College of Law in St. Petersburg, he eventually found his way to Tallahassee. From 2002-2005, he was an attorney for the Department of Management Services, providing legal advice to and administrative rule-making for the Division of State Purchasing. From 2006-2011, Rich worked for the House of Representatives as an attorney for several committees, including one-year stints with the Governmental Operations and Ethics & Elections committees, followed by four legislative sessions with the Transportation and Highway Safety Subcommittee. Rich lives in Southwood with his wife Terri and his stepson Brandon.



Case Updates:

- On October 7, the First DCA reversed the circuit court order requiring the Department to renew a driver handbook publishing contract with National Safety Commission. On December 8, the Court denied rehearing.
- On December 7, Lake Worth attorney Jason Helfant argued a case before the Florida Supreme Court regarding admissibility of breath test results at BAR review hearings.
- On November 9 a final order was entered in favor of the Department in a Department of Administrative Hearings (DOAH) bid protest filed by CTS America. The case resulted from the award of a contract to handle the sale of online crash reports. In a seven day trial, the Department was expertly represented by Asst. GC Doug Sunshine and Sr. Asst. GC Judson Chapman.