



THE DOCKET

The Newsletter of the Michigan Association of District Court Magistrates

Summer 2007

2007 ANNUAL CONFERENCE

MADCM is pleased to announce that the 34th Annual Conference will be held this year on September 19, 20 & 21, 2007 at the beautiful Bay Harbor Resort & Marina. The community of Bay Harbor is located along a five-mile stretch of Little Traverse Bay, four miles west of Petoskey. Encompassing 1,200 acres, the Bay Harbor community has 32 distinct neighborhoods, a colorful village, marina, golf courses and great conference facilities. Members should have already received their registration packets in the mail, along with their membership renewal form.

The Association has obtained a grant from the Office of Highway Safety Planning, administered through MJI, to support our Education Program this year.

We are excited to welcome Dr. Mark Pitcavage from Columbus, Ohio who will present on "Traffic and the Sovereign Citizen". Dr. Pitcavage is a historian and leading authority on extremism in the U.S. He has been actively involved with law enforcement training on terrorism and extremism issues. He has appeared on NBC news and Nightline. Dr. Pitcavage heads the Anti-Defamation League's investigations on extremist movements and groups. He will provide us with the most up-to-date information on extremist groups in Michigan.

Also, Mr. David A. Morena will speak to us on "Electronic Monitoring of Intersections". Mr. Morena has been the safety and traffic operations engineer at the Federal Highway Administration since 1983. Mr. Morena is responsible for developing and maintaining nationwide information and best practices in cutting

edge safety areas including intersection safety and red light running camera operations.

Also, traffic technology in the form of electronic tickets currently used in Michigan will also be explored. Sgt. Robert Phelps from the Saginaw County Sheriff's Department together with Magistrate Dennis Hall will give us an overview of the system currently being used in Saginaw County.

Room rates this year are \$105 per night for a standard and deluxe room and \$140 per night for a parlor suite. Check out the rooms at: www.bayharbor.com To make room reservations call: (231) 439-2400 or (888) BAY-HARBOR. Be sure to mention that you are with the "Magistrates Association" to receive these special rates. Please reserve your room right away – **the Hotel will not hold our block of rooms after August 26th.**

To Register for the Conference itself, use the Application for Attendance form included in your registration packet, or contact Magistrate Tom Truesdell at (734) 484-6690 or treasurer@madcm.org

Extra meals for a spouse (or other important person) may be purchased when you register, but it is important to know your dinner selection for the banquet for you and your guest(s). **Banquet attire is casual – that means no ties.**

Nominations Being Accepted

It's that time of year again – at the Business Meeting portion of our Conference on Wed, September 19th, the membership will vote for Officers and Directors of the MADCM Board for 2008. An Officer serves for 1 year and cannot serve more than 2 consecutive terms. A Director serves a 2 year term and may serve consecutive terms thereafter.

Current Board Members are:

President - James Pahl
 Vice Pres. - Charles Anderson III
 Secretary - Norene Kastys
 Treasurer - A. Thomas Truesdell
 Past Pres. - Thomas Bleau
 Directors - Charles Pope (06-07), Cora Gregory (06-07), Charity Mason (06-07), Jennifer Bennon (06-07), Dennis Hall (07-08), Dena Altheide (07-08), Robert Clark (07-08), and Krista Krause (07-08).

We will elect 4 new Officers and 4 new Directors this year. If you are interested in serving or know of someone who is, please use the nomination form included in your Conference Registration packet or contact Magistrate Dennis Hall at: (989) 790-5397 or dhall@saginawcounty.com. All nominees will be contacted concerning their willingness to serve before being placed on the ballot.

"Can and Will be Used Against You"

From actual police reports or ticket notations of situations where people did not exercise their "right to remain silent".

A police officer wrote in his comments on the speeding ticket that the driver told him she was speeding because: **"I was putting candles on my son's birthday cake"**.

The drunk driving police report stated that the officer pulled up next to a vehicle stopped at a traffic light. The officer looked over and saw that the driver was hunched over and she was "squinting her eyes and she was hiccupping". The officer then heard the "passenger of the vehicle state to the driver – **'sit up and act sober, the cops are next to us.'**"

Speed Measuring Devices Legal?

Submitted by Jim Pahl, President MADCM, Magistrate, 55th District Court

On June 11, 2007, by letter to the criminal justice system, Mike Prince, the Director of the Office of Highway Safety Planning, dissolved the Michigan Speed Measurement Task Force.

His letter stated in part: "Of primary concern is the fact that the Task Force has no legal authority to establish law enforcement training standards in the state of Michigan, nor regulatory authority to enforce those standards. Furthermore, the Task Force's role is limited to only providing recommendations on state guidelines issued by the OHSP."

His letter clearly states the Task Force was advisory only, without any authority, other than to provide recommendations. In the area of unit certification, OHSP never issued any standards. All we have are certificates that show the individual radar units have been tested to the Task Force recommendations.

Mr. Prince appeared at the Magistrates Specialty Seminar sponsored by MJJ on Tuesday, August 7, 2007. He re-affirmed that the Task Force never had any authority to issue anything other than recommendations.

In 1984, the Michigan Court of Appeals issued their now famous opinion in what we all call the Ferency decision. People v Ferency, 133 Mich. App. 526, 351 N.W.2d 225, (1984).

In that decision, the court stated in part:

"Hereafter, in Michigan, in order to avoid any violation of the due process rights of a defendant in a speeding case involving "moving" radar, the following seven guidelines must be met in order to allow into evidence speed readings from a radar speedometer: . . . 7. That the particular unit has been certified for use by an agency with some demonstrable expertise in the area."

The Merriam-Webster dictionary defines "agency" as: an administrative division (as of a government). If the Task Force was advisory only, they never had authority to issue standards for radar units, nor certify

that any units met those standards.

It is therefore my opinion, we currently do not have a radar or lidar unit in this state that meets the seventh requirement of the Ferency decision.

Woman Tests .50 % Blood Alcohol

By Associated Press, Thu Jun 21, 6:55 PM

TACOMA, Wash. - A Pierce County woman apparently tied a record for the amount of alcohol in her blood when the Washington State Patrol toxicology lab measured a blood-alcohol content of 0.50 two hours after she was arrested for investigation of drunken driving.

Ann Marie Gordon, manager of the lab in Seattle, said the reading (more than six times the legal limit of 0.08) tied the highest level ever found by technicians at the patrol's lab. A King County driver also registered 0.50 on a blood test in 2000, Gordon said.

"It certainly would kill many people," she said.

The average blood-alcohol content of drunken drivers stopped in Washington is about 0.15, Gordon added.

Rebecca G. Lingbloom, 45, pleaded not guilty Wednesday to one count of driving under the influence of alcohol on May 10. Authorities contended in an affidavit that she nearly hit a pedestrian that day and was seen swerving all over the road. A Pierce County sheriff's deputy later found her passed out behind the wheel of her car in the Summit area, the affidavit states.

Nevada Deputy Arrests Wife

By Associated Press.

ELKO, NEV. - This might make for a tense time at home. An off-duty sheriff's deputy was pulled over and charged with driving under the influence - by her husband, a fellow deputy.

Charlotte Moore, 36, a jail deputy and 11-year veteran, was driving her 2004 Pontiac Grand Am when

she was pulled over by her husband, Elko County Sheriff's Deputy Mike Moore, a police report said.

She allegedly left before being administered a portable breathalyzer test, Elko Daily Free Press reported.

Mike Moore pulled her over again and called the Elko Police Department for backup. He left shortly after officer Shane Daz arrived. Elko Police Department Sgt. Mark Butterfield also was on scene.

Charlotte Moore was released at 1:47 a.m. on Sunday and placed on paid administrative leave, Elko County Undersheriff Rocky Gonzalez said.

Mike Moore was following procedure when he asked for backup, Gonzalez told the newspaper. The sheriff's office supports the police department's actions, he said.

Training Opportunities

Wake Up, Michigan! Symposium - for those unable to attend the Annual Conference at Bay Harbor Resort, there is a one day symposium on Thurs, **September 20, 2007 from 8 am to 5 pm**, regarding the consequences of insufficient sleep. Sessions will focus on the importance of sleep, drowsy driving dangers, at-risk groups, countermeasures and emerging technologies, the legal impact of drowsy driving, etc. The costs is \$50.00 and it will be held Steelcase University Learning Center, Town Hall, Grand Rapids, MI. For more information, please contact: Dan Vartanian at OHSP - (517) 333-5322 or vartanid@michigan.gov

Legislation To Watch

Based upon materials provided by Thomas Bleau, Magistrate 74th District Court, Legislative Committee

HB 4006 - Would eliminate driver responsibility fees - in House Judiciary Committee.

HB 4123 – Would create civil infraction for disregarding a traffic device at an accident – in House Transportation Committee.

HB 4289, 4920, 4921

The high BAC bills are moving again – passed out of Committee and are going to the House Floor.

HB 4304 – Would prohibit passing in an intersection – Passed House, now in Senate Transportation Committee.

HB 4323 – Would allow off road vehicles on road right of ways - Passed House, now in Senate Natural Resource Environmental Affairs Committee.

HB 4422 – Would raise the Small Claims limit to \$6,000 – in House Judiciary Committee.

HB 4578 – Would allow attorney representation in enforcement actions in small claims court – in House Judiciary Committee.

SB 105 – Would allow magistrates to arraign on contempt and probation violations – Passed Senate, now in House awaiting passage.

SB 492 – Would eliminate double the fine bonds on overweight trucks - Passed Senate, now in House Transportation Committee.

New Laws Passed

Based upon materials provided by Thomas Bleau, Magistrate 74th District Court, Legislative Committee

P.A. 8 of 2007

Changes certain marine safety violations from misdemeanors to state civil infractions.