

# SOUND JUDGMENT

## Happy New Year and Welcome New Judges!

By Judge Rod Ring, (Ret.)

Happy New Year Judges. I hope you had safe and enjoyable holidays and were able to get some time off from your courthouses. We all know the season brings an increased number of both criminal and civil cases to our doors and many are in a crisis mode when they arrive.

January is a time to look back on failures and accomplishments and make plans for improvement in the new year. The Statewide Judicial Education program is working with the Oklahoma Bar Association and the Oklahoma Highway Safety Office to plan for the summer Judicial Conference. We strive to bring you exciting and informative speakers with an emphasis on Oklahoma problems and solutions in the area of impaired driving. We are also planning the fall program to be held during the OBA Annual Meeting in November. My contact information is included at the end of this newsletter, and I welcome your suggestions and comments.

The Oklahoma Judiciary is going through unprecedented change this year with almost



40 new judges taking the bench.

Welcome and congratulations to those of you elected or appointed. and good luck. You will soon be getting a letter from me explaining the Statewide Judicial Education Program and how it can help you adjust to your new role as a judge. Keep your eye on your OSCN email account for the *Sound Judgment* newsletter

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Delaware, Guam, Kentucky, Massachusetts, Oklahoma, and West Virginia were recently awarded grants to make America's roads safer.

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published quarterly and for a Welcome Letter.

The Retired Judges Association is working to provide mentors for new judges, and I encourage you to take advantage of those resources and all judicial education opportunities. One of our goals is to connect judges with low or no cost educational opportunities, so watch the newsletter.

## Drunk driving fatalities decreased in 2017

**FROM JUDGE RING:** Drunk driving fatalities have decreased significantly in the last 35 years. Below are the latest available statistics from 2017. There are many causes for this decrease including early education and a change in the way our culture views impaired driving. Judges using evidence-based approaches to Sentencing and Treatment Courts have been a part of the success.

By Maureen Dalbec on Oct 3, 2018

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The National Highway Traffic Safety Administration (NHTSA) released the latest available traffic fatality statistics for 2017 which showed a decrease in the overall number of people killed on our nation's roadways. According to NHTSA, 37,133 people were killed in motor vehicle crashes in 2017, a

decrease 1.8 percent from 37,806 in 2016.

In 2017, drunk driving fatalities decreased nationally and in 26 states; the noted decrease comes after two consecutive years of increases. The number of drunk driving fatalities decreased 1.1 percent from 10,996 in 2016 to 10,874 in 2017. Drunk

See **Fatalities** on Page 2

# Drinking Among High School Seniors Reaches All Time Low In 2018



By Maureen Dalbec on Dec 17, 2018  
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According to the just released 2018 Monitoring the Future Survey, underage drinking continues a slow and gradual decline, with the majority of students reporting they have never consumed alcohol. Among 12th grade students drinking at all levels reached the lowest levels recorded including significant decreases from 2017 to 2018 in lifetime, past month, and daily consumption, and a statistically significant decrease in binge drinking. Among teens in grades 8, 10, and 12 combined, nearly six out of ten (59 percent) report they have never consumed alcohol in their lifetime. Over the past decade the number of combined students reporting they have consumed alcohol decreased 25 percent, proportionally, and 49 percent from a record high of 80 percent in 1991, clear indications of the success in delaying the onset of underage drinking. At the individual grade levels, lifetime consumption decreases significantly among high school seniors from 2017 to 2018.

## Drunk Driving Deaths Decreased in 2017



driving fatalities accounted for 29 percent of all traffic fatalities, the lowest proportion of overall traffic fatalities since record-keeping began in 1982. The longterm trend continues to show downward movement, with drunk driving fatalities declining 7 percent over the past decade and 48 percent since record-keeping began in 1982.

The number of vehicle miles traveled (VMT) increased 1.2 percent in 2017 and resulted in a 1.16 fatality rate per 100 million VMT (a 2.5 percent decrease from 2016). Additionally, there were other human choice factors impacting motor vehicle fatalities. In 2017, speeding accounted for 26 percent of total fatal crashes, distract-

ed driving (nearly 9 percent), and drowsy driving (two percent). Though the 2017 numbers are not yet available, the 2016 data and NHTSA's latest most recent National Roadside Survey both showed a significant increase in drugimpaired driving.

Any life lost in a traffic fatality is one too many especially due to preventable human choices behind the wheel. These latest statistics remind us there is still more work to be done to keep our roads free from impaired drivers. [Responsibility.org](http://Responsibility.org) remains committed to leading efforts to eliminate drunk driving and working with others to address other forms of impaired driving. By Maureen Dalbec on Dec 17, 2018 together we can #EndImpairedDriving.

## Less than 1 IN 3 Traffic Fatalities



# How Exercise Could Help Fight Drug Addiction

**FROM JUDGE RING:** Treatment Court Judges are always looking for effective, low cost tools to help participants avoid relapse. We have always known exercise makes us feel better, sleep better and improves our mood. This study suggests it also may help addicts avoid using because exercise causes physical changes in the brain. If your treatment plans do not include an exercise component, you may want to add one.

**NEUROSCIENCE**  
**NEWS** NOVEMBER 14, 2018

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**Summary:** A new mouse study reveals exercise may help curb drug addiction and buffer against relapse by altering the production of peptides in the brain. Source: ACS.

The siren call of addictive drugs can be hard to resist and returning to the environment where drugs were previously taken can make resistance that much harder. However, addicts who exercise appear to be less vulnerable to the impact of these environmental cues. Now, research with mice suggests that exercise might strengthen a drug user's resolve by altering the production of peptides in the brain, according to a study in the journal ACS Omega.

Re-exposure to drug-related cues, such as the location where drugs were taken, the people with whom they were taken or drug paraphernalia, can cause even recovered drug abusers to relapse. Prior studies have shown that exercise can reduce craving and relapse in addicts, as well as mice. Although the mechanism was unknown, exercise was thought to alter the learned association between drug-related cues and the rewarding sensations of taking a drug, possibly by changing the levels of peptides in the brain. Jonathan Sweedler, Justin Rhodes and colleagues at University of Illinois at Urbana-Champaign decided to explore this theory by quantifying these peptide changes in mice.

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paraphernalia, can cause even recovered drug abusers to relapse.

Mice were given cocaine injections over four days in special chambers with a distinctive floor texture to produce a drug association with that environment. The animals were then housed for 30 days in cages, some of which included a running wheel. The researchers found that mice that exercised on these wheels had lower levels of brain peptides related to myelin, a substance that is thought to help fix memories in place. Reexposure to the cocaine-associated environment affected running and sedentary mice differently: Compared with sedentary mice, the animals with running wheels showed a reduced preference for the cocaine-associated environment. In addition, the brains of re-exposed runners contained higher levels of hemoglobin-derived peptides, some of which are involved in cell signaling in the brain. Meanwhile, peptides derived from actin decreased in the brains of re-exposed sedentary mice. Actin is involved in learning and memory and is implicated in drug seeking. The researchers say these findings related to peptide changes will help

to identify biomarkers for drug dependence and relapse.

## **About this neuroscience research article**

**Funding:** The research was supported by the National Institute on Drug Abuse.

Source: Katie Cottingham – ACS Publisher: Organized by [NeuroscienceNews.com](http://NeuroscienceNews.com).

Image Source: NeuroscienceNews.com image is in the public domain. Original Research: Open access research for “Exploring Exercise- and Context-Induced Peptide Changes in Mice by Quantitative Mass Spectrometry” by Sarah E. Dowd, Martina L. Mustruph, Elena V. Romanova, Bruce R. Southey, Heinrich Pinardo, Justin S. Rhodes, and Jonathan V. Sweedler in ACS Omega. Published October 24 2018. doi:10.1021/acsomega.

8b01713 ACS “How Exercise Could Help Fight Drug Addiction.”

NeuroscienceNews. NeuroscienceNews, 14 November 2018.

<<http://neurosciencenews.com/exercise-drug-addiction-10197/> (accessed November 14, 2018).

# FREE TRAINING FOR JUDGES



Mark your calendar! The National Judicial College is offering a free 50-minute webcast for Oklahoma Judges on December 11, 2019.

## Ethically Handling Commercial Drives in Criminal & Traffic Courts

After this course, participants will be able to:

- Identify applicable Federal and state CDL/CMV laws;
- Determine what constitutes “masking”;
- Discover the unique definition of a “conviction” under CDL/CMV laws;
- Recognize the legal, financial and social consequences of failures to enforce CDL/CMV laws;
- Detect the ethical implications of mishandling CDL/CMV cases;
- Apply recent expungement laws to holders of commercial driver licenses; and
- Develop ethical and efficient procedures for the handling of CDL/CMV cases in your court.

For more information and to enroll contact the National Judicial College at: <https://www.judges.org/ethicallyhandling-commercial-drivers-incriminal-traffic-courts/>

# States Receive Federal Funding To Help Stop Drug-Impaired Driving



**Tanya Mohn, Contributor, [www.forbes.com](http://www.forbes.com)**  
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Delaware, Guam, Kentucky, Massachusetts, Oklahoma, and West Virginia were recently awarded grants to make America’s roads safer by helping law enforcement better address and combat drug-impaired driving.

The announcement of the more than \$100,000 in federal funding was made earlier this month by the National Highway Traffic Safety Administration (NHTSA).

“Law enforcement is the first line of defense when it comes to removing impaired drivers from our roads and protecting the traveling public,” Heidi R. King, deputy administrator of NHTSA said in a statement. “Ensuring that law enforcement officers are properly trained to recognize and handle drug-impaired drivers is a direct investment in safety. This grant is one more way in which the Department of Transportation is helping our state and local partners address this risk to the traveling public.”

The new drugged driving grants will support law enforcement training in 2019, which will increase the number of officers in recipient jurisdictions trained to recognize drivers who are impaired by drugs, including opioids and marijuana. The courses, the federal agency said, will train law enforcement

officers to observe, identify, and articulate the signs of impairment related to drugs, alcohol, or a combination of both in order to reduce the number of impaired drivers and traffic crashes.

The recent grants supplement similar funding awarded earlier this year to Idaho, Minnesota, New York, Rhode Island, and Vermont by the Governors Highway Safety Association, a nonprofit organization representing state highway safety offices, in partnership with the Foundation for Advancing Alcohol Responsibility. The two groups will administer the new grants.

“NHTSA’s funding serves to ensure that all 11 jurisdictions that applied for grants in 2018 received funding,” the GHSA said, noting that the training will help remove drug-impaired drivers from the roads and equip law enforcement with the skills needed to identify, test and arrest drugged drivers.

“GHSA is grateful for NHTSA’s continued dedication to helping states eradicate drug-impaired driving, as well as its support for law enforcement,” Jonathan Adkins, executive director of the GHSA, said in a statement. “Drugged driving is a growing concern on our roads, and increased training for police officers who are able to detect and evaluate this behavior is very valuable.”

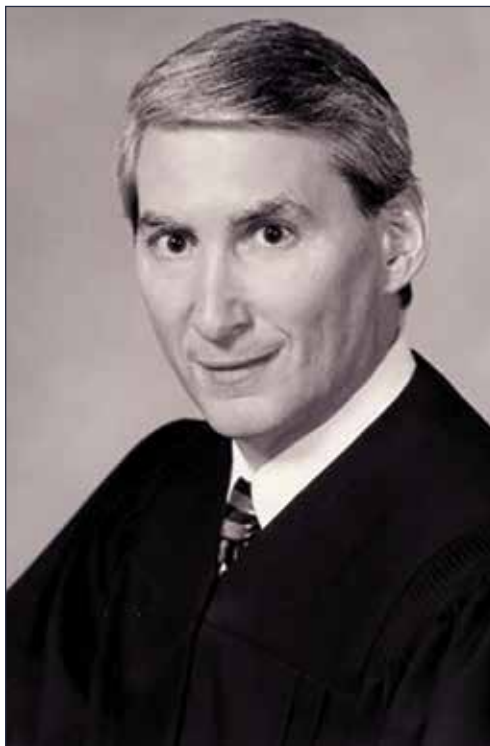
# U.S. Supreme Court Grants Certiorari in Implied Consent Case

Hon. Neil Edward Axel  
American Bar Association Judicial Fellow  
American Bar Association Judicial Division

On January 11, 2019, the U.S. Supreme Court granted certiorari in a case that may extend or apply its prior holdings in *McNeely* and *Birchfield*, so it is likely to be an important case with significant implications, and one that we may wish to follow.

Petitioner in this case is appealing his convictions for operating while intoxicated and with a prohibited alcohol concentration, which were affirmed by the Supreme Court of Wisconsin in *State v. Gerald Mitchell*, 383 Wis.2d 192, 914 N.W.2d 151 (2018). The issue presented by the Petitioner is: “whether a statute authorizing a blood draw from an unconscious motorist provides an exception to the Fourth Amendment warrant requirement.”

By way of background, following his arrest for drunk driving and while in route to the police station for secondary chemical testing, Mitchell became “lethargic” so the officer transported him to the hospital. At the hospital, the defendant became totally unconscious. The police officer requested hospital staff draw blood as evidence which they did without a warrant. The Supreme Court of Wisconsin held that the warrantless blood draw was not an unreasonable search, and therefore no Fourth Amendment violation. “We conclude that Mitchell voluntarily consented to a blood draw by his conduct of driving on Wisconsin’s roads and drinking to a point evidencing probable cause of intoxication. Further, through drinking to



The Honorable Neil Edward Axel

the point of unconsciousness, Mitchell forfeited all opportunity, including the statutory opportunity to withdraw his consent previously given; and therefore, Section 343.305(3)(b) applied, which under the totality of circumstances reasonably permitted drawing Mitchell’s blood.”

*Thanks to Judge Axel for bringing this case to our attention. I encourage everyone to use our newsletter to share cases that may impact our work in the area of impaired driving.*

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