



# NLLEAGRAM

National Liquor Law Enforcement Association

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## Message from the President

Dear National Liquor Law Enforcement Association Members,

It is an honor and privilege to serve as your NLLEA president this year. Although I've been in law enforcement for nearly 33 years, I admit it is only after almost 5 years in liquor enforcement that I fully understand and appreciate the mission and the challenges of liquor law enforcement. I know of no other area of law enforcement that is so outgunned by the industry they regulate. All of us fight our battles with the industry so I know that I'm not the only one who sometimes feels like the underdog David in the story of David and Goliath. However, it gives me strength and resolve to know that when we speak as the National Liquor Law Enforcement Association, the playing field is much more level when dealing with the industry.

### *Staying in Touch*

As a national organization, keeping our members involved and informed is a challenge, and communications was a hot topic at the recent conference in San Diego. The board is committed to keeping you informed, but we also feel it is important that we hear from you on issues or concerns. In addition, there are times when it is important for NLLEA members to be able to get information from other NLLEA members. Please see page 3 for an explanation of the "Email Members" option on the NLLEA web page.

### *NLLEA and PIRE*

Several NLLEA members at the conference asked about NLLEA's relationship with the Pacific Institute for Research and Evaluation (PIRE), so I thought I'd give you a brief history of our relationship with PIRE. In

May, 2000, Gregory Hamilton, Bill Patterson, and David Reitz visited Washington, DC, to introduce the NLLEA to members of Congress, the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the National Highway Traffic Safety Administration (NHTSA) and PIRE. As noted in their minutes from the 2000 NLLEA Business Meeting, none of the agencies or legislators "knew that NLLEA existed."

The NLLEA Board of Directors then invited Bob Reynolds, then Director of the Center for Policy Analysis and Training Division of PIRE, to speak at our annual business meeting, held in Denver, Colorado in August, 2000. Bob provided an overview of PIRE, and stressed the fact that public health groups and law enforcement should come together and become powerful allies in efforts to protect the public's health and safety. It was agreed at the meeting that NLLEA and PIRE should explore developing a partnership to achieve their mutual goals and objectives.

In May of 2001, NHTSA awarded a contract to PIRE to work with the NLLEA to accomplish several goals. The objectives of the first contract were to identify, organize, synthesize, promote and distribute the research and practical knowledge of the NLLEA to national, provincial, regional and local law enforcement officials and organizations.

In July of this year, PIRE was awarded a three year cooperative agreement to work in conjunction with NLLEA to provide training and technical assistance for legal research and information requests for enforcement best practices; develop a database of alcohol enforcement and compliance measures; serve as professional liaison and assist with organizational development of NLLEA; and demonstrate effective enforcement



*President's message, continued*

strategies to reduce impaired driving and underage drinking.

What this means in reality is that PIRE provides staff support to assist NLLEA board members and our membership. Rebecca Ramirez in PIRE's Calverton, Maryland office and Carol Cannon in their Felton, California office have both gone above and beyond supporting and contributing to the business of running the NLLEA and our national conference in conjunction with OJJDP. When Aidan and I were asked to do a presentation at the National Weed and Seed Conference, Ivette Hernandez from PIRE set up and single-handedly staffed a booth for NLLEA to help recruit new members. This was a great opportunity to market our association and I don't think the opportunity would have happened without our partnership with PIRE.

I wanted to share this history of our PIRE partnership with you so there is no misunderstanding. PIRE is certainly not running the NLLEA, but we do benefit from the advice and counsel of their nationally recognized experts in a number of fields as we strive to take the NLLEA to the next level. The NLLEA board continues to run the business of the organization and will continue to do so with input from our membership. PIRE provides the board and the organization with administrative and staff support to help grow and nurture the NLLEA. The NLLEA newsletter and website are just two of many ways that PIRE helps support the NLLEA. PIRE's accountants have assisted us in developing a business accounting model that we hope will eventually make NLLEA eligible for direct government grants. PIRE's Congressional contacts have also been working tirelessly to get Congress to earmark funds for more liquor enforcement dollars for the states, and we are optimistic that those efforts will bear fruit in the next year.

***Committees: Get Involved!***

On another topic, I'd like to encourage you to get involved in one of our committees. NLLEA Committee Chair Assignments for 2004-2005 are as follows: Training—Shawn Walker; Membership—Stacy Drakeford; Bylaws—Rick Phillips; Conference—Aidan Moore; Awards—All Board Members. In addition, I'm proposing adding an historical committee this year. Close your eyes and imagine that you are an NLLEA member in the year 2104.

That's right, 2104, a hundred years from now. How would you like the history of NLLEA to read? Do you want to be a part of that history? (The correct answer is "yes!") Assuming you all answered correctly, then what steps do we need to take now to preserve the history of the NLLEA for our successors. That is the proposed charter of this committee. As our founding members retire and move on to greener pastures or golf courses, I believe it is important for the organization to have a mechanism to capture the history and artifacts that they created. If you are interested in serving on this committee, please call Linda Ignowski at (503) 872-5115 or email her at [linda.ignowski@state.or.us](mailto:linda.ignowski@state.or.us). She'd love to hear from you!

If you have an issue that you believe NLLEA needs to take a position on and are interested in facilitating either a committee or discussion group, please let me know and the board will assist you in setting it up. We need to keep our membership invigorated and involved if we want to grow into a world class association of liquor law enforcement professionals.

Sincerely,



Rick Phillips  
NLLEA President

The NLLEA would like to thank the following contributors to this newsletter:

Carol Cannon	Amy Lewis
Mike Carter	Aidan Moore
James Copple	Rick Phillips
Richard Coward Jr.	William Roche
Eddie Edwards	Shawn Walker
Bob Hohn	Mark Willingham
Jeffery Jackson	Charles Woolridge

We're looking for articles for the Winter 2005 Newsletter.

If you would like to contribute an article, personal news notes, or career updates to the next NLLEAgram, please submit it to:  
NLLEA

11710 Beltsville Drive, Suite 300  
Calverton, MD 20705

Phone: 301-755-2795

Fax: 301-755-2799

Email: [support@nllea.org](mailto:support@nllea.org)

# News From the Hill

## Congressional Update: Our Opportunities in Washington

by James E. Copple

Since our last report, some very significant progress has been made related to our funding requests and earmarks before Congress. These requests will enhance liquor law enforcement training. As previously reported, we have secured an earmark from Commerce, Justice, and State in the House of Representatives for PIRE to support and evaluate liquor law enforcement training in partnership with NLLEA. Our House request was for \$2.5 million. Our “mark” is what they call a soft earmark, which means that a funding level was not identified, but the organization was identified. The House will commit to a certain funding level during conference. We met with the Senate side of Commerce, Justice, and State, and with the assistance of Aidan Moore, we have secured a funding level of \$250,000 from Senator Gregg of New Hampshire, the Chair of the committee. This means that we will be funded somewhere between \$250,000 and \$2.5 million to support and evaluate liquor law enforcement training.

The other piece of good news and progress we have made regarding support for NLLEA is the Underage Drinking and Retail Assistance Act of 2005. Congressman Sensenbrenner, Chairman of the House Judiciary Committee has agreed to send the bill to Legislative Council for drafting. This is a crucial first step in getting the bill before sponsors. We anticipate this bill being introduced in January and hearings conducted in February. This bill will provide grants to the states to enhance and support liquor law enforcement.

The Enforcing Underage Drinking Laws appropriation for 2005 is in great shape. The \$25 million program is in the Commerce, Justice, and State appropriations bill and will be continued for next year. At this point, we must begin finding an additional champion for this legislation and move forward to grow this initiative. We remain committed to identifying and adding resources to this program.

## NLLEA Website: Emailing the Membership

The NLLEA website can be found at [www.nllea.org](http://www.nllea.org) and is a great resource for NLLEA members. You can click to read NLLEA bylaws, check out criteria for NLLEA awards, find out where the next conference is, browse the NLLEA Circle of Honor, and even post job openings.

If you click on Membership, you can go to the “Members Only” section by scrolling down to your name and then entering your password. If you are a member and have not requested access to the members only page, simply call the NLLEA at (301) 755-2795 or email [support@nllea.org](mailto:support@nllea.org) with this request and you will get connected.

The “Members Only” section of the web page contains a membership roster, a calendar of events, treasurer’s reports and several other options. One of the most useful is the “E-Mail Members” option. When you click on this option, you’re taken to a screen where you can type a message that will be sent to all 281 NLLEA Members who have email addresses. It is a handy tool for conducting surveys and getting other information from your colleagues around the country.

The email distribution tool does not allow you to attach documents. However, if you have a document you want to send out, you can compose the document in your word processing program and then highlight and copy the entire document. You can then paste the entire contents of the document in the message box on the web page.

In fact, if your message is longer than a paragraph or so, it is probably easier to compose the message entirely in your word processing program and then simply copy and paste it to the web page message box. It’s a good idea to save a backup copy of your message. That way, if the server is down, you don’t have to retype your message!

## *Sustained Impaired Driving Enforcement*

### **Why Your Efforts are So Critical**

by Bob Hohn

With participation and support from law enforcement agencies across the country and increased Federal funding for paid advertising, the **2004 National Impaired Driving Crackdown - August 27 through September 12** - achieved new levels of heightened, high visibility impaired driving enforcement and publicity. However, a two-week blitz alone will not address America's impaired driving problem.

While terrorism is a serious threat to our Nation's safety and security, and the tragic consequences on September 11, 2001, led to the death of nearly 3000 people, more than 5 times that number die every year on U.S. highways in alcohol-related crashes. On average, one person dies in these crashes every 30 minutes. In 2003, this number reached 17,013.

Periodic, high visibility bursts of impaired driving enforcement, such as the Labor Day Crackdown, can gain the public's attention. However, to make a long-lasting difference in behavior and reduce the deaths and injuries that occur on our highways, research shows that ***sustained enforcement efforts have the greatest chance for success.***

This has been demonstrated repeatedly over the years. In the mid-1980's, in Clearwater, Florida, sustained, highly visible enforcement efforts were conducted over a period of one year, coupled with extensive and frequent publicity, based on enforcement-related messages. In the 1990's, Tennessee coordinated a statewide campaign - "*Checkpoint Tennessee*" - in which law enforcement officers conducted and publicized more than 800 sobriety checkpoints over a one-year period. More recently, the State of Georgia conducted a massive effort, in which nearly 3,000 sobriety checkpoints and other highly visible enforcement efforts were conducted and publicized using paid and donated media. Each of these efforts led to significant decreases in alcohol-related crashes.

Is there a formula for success? Not precisely. But, there are a number of strategies that are known to make a difference.

**High Visibility Enforcement** – Enforcement must be conducted in a way that will be highly visible to the public. Sobriety checkpoints have been shown to achieve the greatest level of deterrence. However, they are not permitted in some jurisdictions. Where sobriety checkpoints cannot be conducted, law enforcement agencies should use other highly visible techniques, such as saturation patrols. Liquor law enforcement strategies, such as compliance checks and over service enforcement, should be coordinated as part of the overall sustained enforcement effort.

**Frequency** – Highly visible enforcement efforts must be conducted frequently enough for the public to notice. Researchers have not yet identified an exact threshold that is sufficient to achieve general deterrence. However, past experience can serve as a guide. In the 1990's, 800 sobriety checkpoints in Tennessee, resulted in a 20 percent reduction of alcohol-related fatal crashes. More recently, nearly 3,000 sobriety checkpoints reduced alcohol-related crashes by 12 percent in Georgia. We recommend that individual jurisdictions conduct sobriety checkpoints or other highly visible enforcement efforts weekly (or at least not less than monthly).

**Publicity** – Without publicity, enforcement efforts impact only the individuals who are stopped under suspicion of impaired driving. Publicity creates the potential that many others who otherwise might have driven while impaired may choose instead not to do so. With paid advertising, messages can be placed during programming likely to be seen or heard by audiences most at risk, such as males between the ages of 18 and 34. States and communities should take full advantage of earned media. Encourage local television, newspapers and radio to warn the public about enforcement actions before they take place; invite members of the media to "ride-along" or observe sobriety checkpoints while they're being conducted; post highly visible signs when appropriate during enforcement actions; and provide the media with information afterwards, so they

can report on the results of enforcement (such as the number of DWI or other arrests, safety belt citations, fugitives apprehended, liquor enforcement violations for over service, sales to minors, underage possession, or recovered stolen vehicles). The public should be made aware that liquor law enforcement is taking place, before and after the fact, for it to be effective as a deterrent.

**Coordination** - Enforcement and publicity should be coordinated on a statewide basis, to enhance these efforts and stretch resources. For example, while individual law enforcement agencies may conduct enforcement efforts monthly, a State can coordinate their timing, so it appears to the public that enforcement is taking place on a weekly basis. Ideally, States should develop year-long sustained enforcement and media plans, and they should adhere to those plans strictly.

**Next Steps** - Will it be easy to conduct sustained high visibility law enforcement? In many locations, it will not. But it has been accomplished in many jurisdictions and can be accomplished elsewhere. This is a great opportunity for liquor enforcement agencies to partner with traditional law enforcement to impact the number of impaired drivers on the streets and highways and better utilize limited available resources.

For the latest information on conducting and publicizing sustained, high visibility enforcement, go to [www.stopIMPAIREDdriving.org](http://www.stopIMPAIREDdriving.org) or [www.nhtsa.gov](http://www.nhtsa.gov).

## *Hot Issues*

### **Fairbanks, Alaska: Enforcing Over-Service Laws and Preventing DUIs** by William Roche

The Alaska ABC Board is launching an intensive over-service enforcement program in the Fairbanks area to determine whether enforcement of prohibitions of service to drunken persons can have a significant effect on DUIs. Baseline data on DUI arrests in the past 3 years has been collected. Starting October 15, 2004 a team consisting of an ABC investigator and an Alaska State Trooper (AST) investigator will be working undercover in bars,

restaurants and private clubs in the Fairbanks. The team will be using highly sophisticated miniaturized digital video surveillance equipment. The cameras look like ink pens or pagers. Surveillance of package stores will also be conducted.

Premises will be targeted from anecdotal information from local police and state troopers as well as complaints from citizens. Troopers will also collect “last drink” information from persons arrested for DUI. Servers observed serving drunken persons will be arrested. Drunken persons will also be arrested for knowingly remaining on licensed premises. A media campaign will begin on October 15, 2004 to complement the enforcement effort. At the conclusion of the program in October 2005, DUI rates will be compared with the rates during the previous three years. We are projecting a 30% reduction in DUIs in the Fairbanks area during FFY 2005. This program is being funded by the Alaska Highway Safety Office.

## *What's New*

### **NLLEA's 18<sup>th</sup> Annual Conference: A Great Success**

The NLLEA's 18<sup>th</sup> Annual Conference was held August 25-28 against the backdrop of the sunny skies and blue waters of beautiful San Diego. Making the most of the setting, the Wednesday night President's Reception was held in an outdoor pavilion next to the marina. After this relaxing start, the Thursday morning Opening Ceremonies brought the goals and purpose of the NLLEA into focus. The San Diego County Sheriff's Department Color Guard opened the ceremonies with a solemn presentation of the flags. NLLEA President Aidan Moore welcomed everyone and introduced the other speakers—Maria Carmona, Director of the Underage Drinking Enforcement Training Center, William B. Kolender, Sheriff of San Diego County, Jerry Jolly, Director of the California Department of Alcoholic Beverage Control, and Bob Hohn, Highway Safety Specialist at the National Highway Traffic Safety Administration.



Once again, the Annual Conference was held in conjunction with the annual National Leadership Conference of the Underage Drinking Enforcement Training Center (established by the Office of Juvenile Justice and Delinquency Prevention). This year, the conference was also co-hosted by the California Department of Alcoholic Beverage Control. California ABC staff seemed to be everywhere, selling NLLEA merchandise at the exhibit table, staffing their own informative booth, offering an exciting General Session, and generally helping out anywhere that help was needed. Joining forces with the National Leadership Conference meant that members had 40 workshops to choose from, in addition to two plenary sessions and a host of NLLEA General Sessions and meetings. With nearly 1,200 people in attendance altogether, there was no shortage of networking opportunities.

### **Conference Program**

Although all of the general sessions and workshops were well attended and provided valuable information, some of the highlights from the conference program include:

- A General Session in which a vigorous roundtable discussion of NLLEA training initiatives took place. The future of the Training Academy and new opportunities such as a training program for the District of Columbia’s Alcohol Beverage Regulation Administration were debated. This discussion will be continued by the Training Committee, who will report their recommendations to the NLLEA Executive Board.
- William Goggins of the Vermont Department of Liquor Control (DLC) led a workshop session entitled “Enforcement and Education Go Hand in

Hand” about Vermont’s successful training program for employees of licensed establishments. Compliance testing gives the DLC the information they need to identify whether or not these employees are meeting the statutory education requirements.

- “Reducing Alcohol-Related Crimes Through Bar Security” was the topic of discussion in the workshop presented by Scott Friedlein of the Champaign, Illinois Police Department. The Bar Employee Security Training (BEST) program was developed in response to alcohol-related tragedies involving security staff of bars and taverns.
- The California Alcoholic Beverage Control Department’s Grant Assistance to Local Law Enforcement Program was presented in a General Session. Jerry Jolly and Roberta Crabb, Director of the Grant Assistance program, described the program, which provides seed grants to local law enforcement agencies to engage in liquor law enforcement activities. Everest Robillard, District Administrator from the CABC, Craig Wong of the Vallejo Police Department, and Michael Sparks of the Free to Grow Initiative presented the case study of Vallejo, California, where alcohol-related problems were dramatically reduced through collaboration among state and local law enforcement and community groups, with the support of the grant assistance program.

The NLLEA wishes to thank all the speakers who presented at the conference—your contributions made this a valuable and stimulating experience for everyone who attended. We encourage everyone to start thinking about workshops or other presentations for next year’s conference. It’s never too early to start planning!

### **Business and Pleasure**

In addition to offering a wide range of informative sessions, the conference also provided some opportunities for mixing business and pleasure. The OJJDP-sponsored Networking Reception on Thursday night took place on the USS Midway, a decommissioned aircraft carrier permanently docked in San Diego. Conference attendees were able to view the San Diego skyline from the nearly four acres of flight deck on this historic vessel, and docents were on hand to describe its 47 years of active duty around the world.

On Saturday, the annual Business Meeting was held. After reports from the Board and the Committees were made, and various issues discussed and voted on (for a copy of the unapproved minutes from this meeting, check the Meeting Minutes page of the Members Only section on the NLLEA website). The election for a new Sergeant at Arms was held with Lt. Eddie Edwards and Captain Stacy Drakeford throwing their names in the hat. Stacy Drakeford was elected to this position, and a vote was taken to advance all other members of the Board into new positions.



This process was completed at the closing banquet, when the new Board—Rick Phillips, President; Linda Ignowski, Vice-President; Shawn Walker, Secretary-Treasurer; and Stacy Drakeford, Sergeant at Arms—were sworn in. Past President Aidan Moore introduced a lighter note by passing on the President’s “cheese head” hat to new President, Rick Phillips. This tradition was initiated by former President Roger Johnson, who generously donated a Wisconsin “cheese head” hat to his successor. In turn, the Board presented Aidan with a plaque, thanking him for his year of service and dedication as President of the association.

### ***Conference a Great Success***

The 2004 Annual Conference was a great success. Not only did more than 20 new members join the Association as a result of the conference, but the Association’s goals and mission were validated for members and other attendees alike. The dates and location for next year’s conference will be announced in January, 2005 and this event promises to continue to serve as an excellent opportunity to get to know each other better, share information, learn new skills, and advance our mission to promote and encourage the role of liquor law enforcement in protecting the public’s health and safety.



### **2004 NLLEA Awards for Liquor Law Enforcement Excellence**

The annual awards for excellence in the enforcement of alcohol laws were presented at the 2004 Annual Conference during the Law Enforcement Awards Luncheon on Friday, August 27, 2004. The keynote speech at the luncheon was given by Dr. David Manning, Regional Administrator for the National Highway Traffic Safety Administration (NHTSA) Western Region, who gave a dynamic presentation linking the importance of enforcement to the devastating effects of impaired driving and traffic fatalities. Following his presentation, Dr. Manning assisted NLLEA President Aidan Moore with the presentation of the following awards.

#### **John W. Britt Community Service Award: Chief Larry Saunders and the Lakewood Police Department**



This award was given to Chief Larry Saunders and the Lakewood, Washington Police Department for their innovative work to reduce violent crime through their “Raising the Bar” program. This program brings together multiple city agencies, such as the fire department, building and safety officials, and community groups to provide seminars to licensed establishments about their responsibilities to the community. Sweeps of these establishments are then conducted by this

team to ensure compliance with the laws. In only six months, the number of “serious bar incidents” in these establishments has decreased from 151 to 61 per quarter. Russell Martin of the Lakewood Police Department accepted the award on behalf of the Department and Chief Saunders, who was unable to attend as he was in the middle of a major departmental reorganization.

### **Innovative Liquor Law Enforcement Program of the Year Award: California Department of Alcoholic Beverage Control**



The California ABC has continued its record of pursuing new strategies to enforce alcohol laws with the development of TRACE – Target Responsibility for Alcohol Connected Emergencies. As investigators at the CAABC began noticing an increase over the last several years in alcohol-related incidents involving minors, they began working on a policy to actively involve investigators on ground floor investigations of collisions and incidents where underage alcohol use is suspected. The TRACE protocol solidifies the agency’s commitment to partnering with local law enforcement and the California Highway Patrol to target and prevent underage drinking and provides these agencies with ABC officers to help determine where and how the alcohol was obtained with possible criminal procedures for persons who sold or furnished the alcoholic beverages to the minor and administrative sanctions for those liquor establishments involved in the selling/furnishing of the alcohol. Accepting on behalf of the California ABC was Director Jerry Jolly, who invited Lynne Goodwin to the stage to share in the award. Jolly credited Ms. Goodwin with having convinced the ABC and other state agencies to create this protocol following the tragic death of her daughter caused by a teen driving under the influence.

### **Liquor Law Enforcement Agent of the Year Award: Frederick G. Mahony, Chief Investigator, Massachusetts Alcohol Beverages Control Commission**



In a year in which many ABC agencies faced cuts in resources and funding, the NLLEA was pleased to present this award to Chief Investigator Frederick Mahony for his leadership and advocacy in ensuring that the Massachusetts ABC investigators were able to continue doing their great work. In 2003, the ABCC Investigative Unit was dismantled and 11 of the agency’s 14 investigators were laid off. After the layoffs, Mr. Mahony worked tirelessly to find ways for the investigators to be rehired. The ABCC ended up being moved to the control of the State Treasurer’s office and the agency was eventually fully refunded to rehire the laid off investigators. Mr. Mahony was instrumental in helping this process along and now Massachusetts again has an effective liquor law enforcement agency in the state.

### **Liquor Law Enforcement Agency of the Year Award: Utah Department of Public Safety, State Bureau of Investigation, Liquor Law Enforcement Section**





This agency has a total of 15 officers, including supervisors, yet they have been able to implement a wide array of innovative programs to promote compliance with all provisions of their ABC laws and regulations. As an example, the Liquor Law Enforcement section has implemented a program to identify establishments that have a history of serving obviously intoxicated through undercover operations, and to use both undercover and uniformed officers to prevent these individuals from leaving the establishment and driving under the influence of alcohol. They also have implemented programs to stop illegal importation of alcohol from neighboring states, a problem they have found prevalent in underage drinking situations, where attempts are made to bring in large quantities of alcohol for underage drinkers to sidestep Utah's prohibition of beer kegs. Accepting on behalf of the agency were Sergeants Greg Willmore and Dale Neal.

Following the NLLEA awards, the first **Office of Juvenile Justice and Delinquency Prevention (OJJDP) Underage Drinking Enforcement Training Center's Law Enforcement Partner of the Year Award** was presented. This award is given to a law enforcement officer, agent, or agency whose commitment to reducing underage drinking at the local community or state level has resulted in notable accomplishments in at least three areas: 1) measurable reductions in alcohol availability to youth; 2) innovative implemented programs; 3) training for law enforcement, community or merchants; 4) recognition by peers, local community and or media. OJJDP Administrator J. Robert Flores handed out the awards to this year's awardees: **Sgt. Tony Barone of the Billings Montana Police Department and Alcohol Enforcement Team Five in School District Five of Lexington and Richland Counties in South Carolina**. These recipients have worked long and hard to keep their communities safe through enforcement of underage drinking laws.

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## **Report on NLLEA Training Session: Washington D.C. Alcohol Beverage Regulation Administration**

by Eddie Edwards

NLLEA conducted a week-long (September 13–17) training session for the Washington D.C. Alcohol Beverage Regulation Administration (DC ABRA).

Enveloped in this nation's rich history, while working with our brother and sister investigators from DC ABRA, gave me a tremendous feeling of pride. I believe this project demonstrated our ability as an association to deliver timely and credible training to our membership and build upon its success, enabling us to seize future opportunities.

Participants were provided training in the following areas of alcohol beverage administration and enforcement, such as commonly found violations, verbal survival, surveillance and monitoring techniques, interview and interrogation, false identification, report writing, mock hearings and preparation, ethics, and community policing.

As you can imagine, we had a very busy week, but we still found time to share some stories and many laughs. I found this agency to be full of proud and intelligent individuals possessing wide-ranging backgrounds and experience. I personally admire the late night work and dedication of Director Maria Delaney and Chief Vincent Tolson. The commitment to their staff and communities was an inspiration.

On behalf of my fellow trainers, Bill Goggins (Vermont Department of Liquor Control) and Aida Cantu (Texas Alcoholic Beverage Commission), I would like to express our deepest gratitude to Maria Delaney, Vincent Tolson, Aidan Moore, Shawn Walker, Rebecca Ramirez and the NLLEA membership for their assistance and support during the entire process.

I leave you with this quote, which I feel sums up our experience:

*Excellence doesn't just happen. It must be forged, tested, and used. It must be passed down and woven into the very fabric of our soul until it becomes our nature.*

*General Charles C. Krulak*

## **Feedback from the DC ABRA Training Participants:**

The Investigative Training that was provided by NLLEA was very beneficial and useful. As a seasoned Investigator and First Line Supervisor, I knew

several investigative methods but this training provided me with the knowledge of implementing these techniques. I have become a better supervisor by listening, communicating, and providing a clear direction to the people I supervise...

Supervisor Jeffery Jackson

The classes were very informative, interactive, and gave our investigators many ways to improve on our profession... Each instructor brought a dynamic approach to the training sessions and was well prepared and very knowledgeable...

Thanks again,

Investigator Charles Woolridge

As a new investigator with the Alcoholic Beverage Regulation Administration, I was honored to be a part of the training provided by the NLLEA. The training provided was very informative and useful as it pertains to my capacity as an investigator with ABRA...

Investigator Richard Coward Jr.



*(Standing, left to right):* Charles Woolridge, D'Maz Lumukanda, Bill Goggins, Wanda Ford, Eddie Edwards, Richard Coward, and Donnell Butler

*(Sitting, left to right):* Kevin Lee, Sam Carpenter, Chief Vince P. Tolson, Director Maria Delaney, Supervisor Jeff Jackson, and LaRoy Coleman.

*(Not Pictured):* Aida Cantu, Supervisor Juliana Tengen

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## Leadership to Keep Children Alcohol Free Executive Working Group Meeting

by Shawn Walker

NLLEA received an invitation from the Governor's Spouses Initiative, *Leadership to Keep Children Alcohol Free*, to participate in the group's Executive Working Group Meeting in Bethesda, Maryland on September 21, 2004. NLLEA enjoys a positive

working relationship with the Leadership and I was pleased to be able to attend the meeting on behalf of the Association. The meeting was very productive and some of the topics discussed were federal legislation, the establishment of the Leadership Foundation and a strategy session on the "next steps" for the Leadership.

First, the working group was advised that NIAAA had an internal meeting at the highest levels very recently where the issue of underage drinking was discussed. It would appear that NIAAA, a respected authority in alcohol and alcohol abuse research, is going to become more involved in research directed at underage drinking. One of the areas that NIAAA will be looking at is the developing brain function of underage persons that consume alcohol. In addition to the benefit to the medical community, such research would provide an additional vehicle to get the issue of underage drinking before the public in a manner that is easily related to by all.

We were also briefed on Senate Bill S. 2718 "Sober Truth on Preventing Underage Drinking Act" or the STOP legislation. This bill would provide possible grant funding to state and local coalitions for the prevention of underage drinking as well as launch a national media campaign, albeit smaller but hopefully similar to the ONDCP media campaign on drug use. This legislation has not been acted on in the current session but will be re-introduced in the next congressional legislative session. NLLEA will undoubtedly be called upon to support this legislation along with our partners in underage drinking prevention.

As we learned at the Executive Working Group Meeting and as other efforts and opportunities develop, NLLEA is poised to continue to be a national leader in matters that affect the mission of our member agencies. We will likely be calling on many of you for assistance as these opportunities hit the fast track.

## Accolades and Congratulations

The Virginia ABC reports that: **Don Boswell**, Deputy Director of the Bureau of Law Enforcement at Virginia ABC has taken a promotion as the Director of the Enforcement Division of the Virginia Department of

Motor Vehicles. Don leaves ABC with 11 years experience, and progressed through the ranks from Special Agent to Deputy Director. While the departure is a loss for ABC, our sister agency has gained a valuable leader. We wish him the best in his new position.

The FBI National Academy Associates is pleased to announce the election of **Mark Willingham** as President of the 17,000 member international law enforcement association. He will assume office on January 1, 2005. Mark Willingham is a retired Major with the Florida Division of Alcoholic Beverages and Tobacco, and is a principal in the consulting firm of Alcohol Solutions, LLC. He is a member and supporter of NLLEA and looks forward to serving the needs of law enforcement executives and liquor law enforcement officers in his capacity as FBI NAA President.

## *On the Legal Side*

by Aidan J. Moore

### *“Plain Words Aren’t Always so Plain!”*

In 2002 the Macomb Michigan Circuit Court took up the case of *Shorecrest Lanes and Lounge, Inc. v. Michigan Liquor Control Commission* LC No. 99-000995-AA.

The Respondent, Michigan Liquor Control Commission (MLCC), appealed a March 8, 2000 trial court order which reversed the MLCC Appeal Board’s finding that petitioner, Shorecrest Lanes & Lounge, Inc; d/b/a Shore Crest Lanes, had violated the Michigan Liquor Control Code, MCL 436.1801(2). The violations involved the service of alcohol to two minors in petitioner’s establishment.

The Commission challenged the trial court finding that enforcement action under the Liquor Control Code may not proceed against petitioner unless enforcement action is also taken against petitioner’s employee who sold the alcohol to the minors.

### **Facts of the Case**

On the night of March 6, 1998, officers from the St. Clair Shores Police Department conducted a decoy operation at petitioner’s place of business to determine whether alcoholic liquor was being sold to minors. Under the direction of the police, a 19 year old decoy (Minor #1) entered the establishment, sat down at the

bar, and ordered a beer. Without asking Minor #1 for identification, the bartender served him the beer. Upon Minor #1’s prearranged signal, officers entered petitioner’s establishment, secured the beer as evidence, identified the bartender who sold the beer, located the owner, and requested the owner to produce the liquor license which was not publicly displayed.

While waiting for the liquor license to be produced, one of the officers observed a person who appeared to be an underage patron drinking beer (Minor #2). Minor #2 was asked for identification, and he produced a Michigan driver’s license which showed that he was 19 years old. A minor in possession violation was issued to Minor #2. The officers determined during their investigation that Minor #2 had personally ordered the beer from, and been served the beer by, the same bartender who served Minor #1. Their investigation further determined that Minor #2 had not been asked to produce any identification before he was served. However, the bartender was not issued a citation for either of the prohibited sales.

A complaint was issued charging petitioner with four violations of the Michigan Liquor Control Act, including two counts of furnishing alcohol to a minor in violation of MCL 436.1801(2) and 436.1701(1), one count of allowing a minor to consume alcohol on the premises, contrary to Rule 436.1009(1), of the Michigan Administrative Code, and a fourth count for failure to keep a liquor license on display contrary to Rule 436.1015(1) of the Michigan Administrative Code. After an administrative hearing, petitioner was found responsible on two counts of furnishing alcohol to a minor and one count of allowing a minor to consume alcohol on the premises. The fourth count was dismissed due to insufficient evidence.

Petitioner appealed the Administrative Law Judge’s decision to the MLCC Appeal Board, arguing that MCL 436.1701(4) did not permit enforcement action against the licensee, unless enforcement action was also taken against the person who served the alcohol to the minor. Petitioner reasoned that since no violation had been issued to the bartender in this case, petitioner could not be charged with a violation. The MLCC Appeal Board affirmed the hearing referee’s order, finding that the hearing referee’s decision “was based on competent, material and substantial evidence.”

Petitioner appealed the MLCC Appeal Board’s decision to Macomb Circuit Court, again arguing that the plain language of MCL 436.1701 did not permit an enforcement action against petitioner in the absence of enforcement action against the server. The trial court reversed the decision of the MLCC Appeal Board, finding that pursuant to MCL 436.1701(4), enforcement action against a licensee was prohibited if the employee of the licensee who served the alcohol to the minor was 21 years of age or older, and was not also subjected to enforcement action. The trial court also found, however, that the statute permitted enforcement action against the licensee if the server was less than 21 years of age. Since the bartender’s age was not made a part of the record, the trial court remanded the case for this factual determination.

### Standard of Review

The Court held that questions of statutory interpretation are questions of law, which are reviewed under a *de novo* standard of review. *Robertson v Daimler Chrysler Corp*, 465 Mich. 732, 738- 739; 641 N.W.2d 567 (2002).

### Analysis

MCL 436.1701 provides in pertinent part: “. . .(4) If the enforcing agency involved in the violation is the state police or a local police agency, a licensee shall not be charged with a violation of subsection (1) or section 801(2) unless enforcement action . . . is taken against the minor who purchased or attempted to purchase, consumed or attempted to consume, or possessed or attempted to possess alcoholic liquor *and, if applicable, enforcement action is taken under this section against the person 21 years of age or older who sold or furnished the alcoholic liquor to the minor. . . .* (emphasis added) However, this subsection does not apply under any of the following circumstances: . . .

(c) The violation of subsection (1) is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action. However, any initial or contemporaneous purchase or receipt of alcoholic liquor by the minor shall have been under the direction of the state police, the commission, or the local police agency and shall have been part of the undercover operation. [MCL 436.1701(4)(c).]

The Court noted in the plain language of the statute

that section 701(4) of the act generally does not permit enforcement action to proceed against a licensee for improper service of alcohol to a minor, unless enforcement action has also been taken against the person who served the alcohol. “. . . [i]t is also clear from the plain language of section 701(4) (c) of the act that when the minor who was impermissibly served is part of an undercover operation at the time the minor is served, an exception to the general rule applies and enforcement action against the server is not required in order to proceed with enforcement action against the licensee.”

Applying the statute to the facts in the present case, the Court found that the trial court correctly interpreted the statute in connection with the enforcement action related to the service of alcohol to Minor #2, but erroneously interpreted the statute in connection with the enforcement action for improper service of alcohol to Minor #1.

“Because the service of alcohol to Minor #1 occurred in connection with an undercover operation, the requirement that enforcement action also be taken against the server was not applicable under the plain language of the statute. In contrast, because the impermissible service of alcohol to Minor #2 did not occur as the result of an undercover operation, but was only *discovered* because of the undercover operation, enforcement action *was* required to be taken against the server if the server was 21 years of age or older. As to the action against petitioner involving Minor #2, then, the trial court correctly determined that remand to the Administrative Law Judge was necessary to determine whether the server was 21 years of age or older, before it could be determined whether enforcement action on this count against the petitioner was permitted or prohibited.”

Based on the foregoing analysis, the Court reversed the trial court’s ruling that enforcement action was prohibited against petitioner for service of alcohol to Minor #1, but affirms the finding of the trial court to the extent its order remanded to the Administrative Law Judge for a determination of the age of the bartender who served alcohol to Minor #2.

### Summary

This case is representative of type of analysis that courts give to the “plain meaning” of the statutes enforced by our members. As always it is a prudent decision to consult with your legal counsel on the interpretation of statutes but that isn’t a guarantee it will not result in an appeal.