

LOCAL PROSECUTORS AND COURTS PROTECT DRUNK DRIVERS AND THIEVES

CHESTERFIELD AND TOWN AND COUNTRY PROSECUTORS FAIL TO ALLOW DRUNK DRIVERS AND THIEVES TO GRADUATE

ILLEGAL PARKING AND LITTERING DEFINED IN WEST COUNTY COURT CASES

December 03, 2012

By John Hoffmann

In this special Holiday edition of the newsletter I look at the phenomenon where defense attorneys demand jury trials on DWI and theft cases appearing in the municipal courts of Chesterfield and Town and Country. I reviewed all the "jury demand" cases for 2012, which represented well over 100 cases.



Got locked up for DWI in Chesterfield or Town and Country? Have no fear there is a good chance you can pay a \$300 fine for a parking violation.

People charged with crimes where the penalty for a conviction includes the possibility of jail time can demand a jury trial. The case is then transferred to Judge Judy Draper of the St. Louis County Circuit Court, where they are prosecuted by the local city prosecutor and ruled on by Judge Draper.

Normally cases like speeding and running a red light cannot be sent to Clayton for a jury trial because there is no penalty of serving even a day in jail. Many municipalities including Chesterfield and Town and Country are exceptions to that rule as all violations

of the city codes have the same penalty ranging from \$1 to \$1,000 and up to 90 days in jail.

Of all the cases we reviewed only one appears to possibly be headed to a jury trial. All the rest resulted in guilty pleas. The vast majorities of those ended up with convictions for offenses that are infractions with no possibility of jail, such as “Illegal Parking” or “Littering.”

For this to happen, the local prosecutor must present the plea bargain agreement to the judge. Then suddenly a person with Lane Weaving and DWI citations, with a breath test showing blood levels two times over the legal limit, ends up with a Suspended Imposition of Sentence resulting with no official record. They also plead guilty to Illegal Parking while paying a fine between \$200 and \$500. Parking tickets don't go on your driving record.

In other words if you get a speeding ticket for 11 MPH over the limit and you mail in a check, you will have a worse driving record than a person arrested for DWI whose blood alcohol level is twice the legal limit.

The other BIG PROBLEM is that in Missouri DWI and Stealing offenses are graduated felonies. If you are convicted three times it is no longer a misdemeanor offense, but a felony. However if Judges and city prosecutors keep turning DWI and Stealing cases into Illegal Parking and Littering offenses it is impossible to get that third strike on a persistent offender.

I hate to be a cynic but having been around the system since the 1970s here, in Kansas City and in Maryland...what is currently happening here is simply a way for lawyers and cities to make money.

It almost seems as if the mayors, councilpersons in Chesterfield and alderpersons from Town and Country are far more interested in bringing in revenue through the municipal court than actually identifying dangerous people and giving them open public records for their misdeeds whether it is drunk driving or stealing. In Town and Country Municipal Court fines fund 15% of the General Fund which pays for police, fire and EMS services.

CHESTERFIELD WHERE DRUNK DRIVERS ARE CONVICTED PARKING VIOLATORS AND THIEVES ARE CONVICTED OF LITTERING. It might surprise you that despite the large number of DWI arrests and shoplifting arrests in Chesterfield there

are few convictions for those crimes. However, there are a lot of \$500 fines for illegal parking handed out to DWI suspects and similar fines for littering given to thieves.



Chesterfield Municipal Judge Rick Brunk is one of the easiest judges I have ever witnessed. He refuses to hold his court session in a manner where the public can hear what is going on. He calls defendants to the edge of the bench where they whisper back and forth, normally with any guilty plea resulting in a probation term with nothing appearing on the person's record.

<http://chesterfield.patch.com/articles/chesterfield-city-court-features-the-judge-whisperer>



Chesterfield Judge Rick “Let them Loose” Brunk refused to revoke Cardinal announcer Dan McLaughlin’s DWI probation after a second DWI arrest that involved an auto accident.

I personally believe Brunk is actually the most dangerous man in Chesterfield. The police and the courts are supposed to identify dangerous drivers and thieves. The cops do their part, Brunk refuses to do his. One person who lets Brunk get away with this behavior is the city prosecutor who could refuse to accept certain deals.

The Creve Coeur Municipal judge is just as bad. The night I monitored his courtroom, court was never called into session. The judge, Tim Engelmeyer, would motion attorneys to the bench, whisper and the defendant would go pay a fine. No one had any idea what had just happened. <http://crevecoeur.patch.com/articles/night-court-in-creve-coeur-is-a-big-secret>

Judge Engelmeyer has a big effect on justice in Chesterfield. While he is the judge in



Creve Coeur, he is the prosecutor in Chesterfield. He plays a big role in this edition of the newsletter because he is behind a number of people charged with serious offenses who end up branded as parking violators and litterers.

While checking the status on a pending police officer employment lawsuit against Chesterfield I stumbled across three pages of cases where Judge Brunk was avoided when the defense attorney asked for a jury trial.

Do any of these cases go to jury trial? No almost none do. But what made me curious was why any attorney would want to move a case away from one of the easiest tag teams in the region, Judge Rick Brunk and Prosecutor Tim Engelmeyer.

One reason is that the case had already been continued so often the defense was out of continuances. By demanding a jury trial you delay some more. Another reason for this is because the defense attorney's client has not paid them. They keep the case alive waiting for their money by delaying. Waiting for an arresting officer to quit, be sent to an out of town training school or fall ill and die is another reason for delaying a case. Some of the cases we looked at were two years old.

Jury demands from municipal court seem to go to one judge, Judy Draper.



CHESTERFIELD CASES

On September 01, 2011 at about midnight **Sharron Koltun** was observed by Chesterfield Police Officer Katie Gatewood driving very slow in the center lane of

westbound I-64 at Long Road. Other traffic was forced to brake sharply and swerve to the right or left to avoid striking Koltun's 2005 Ford Thunderbird.

Officer Gatewood stopped the car and found the 65-year-old Koltun of St. Charles to be smoking a cigar. Despite the smell of the cigar she could still smell intoxicants on the breath of Koltun. When asked for her driver's license Koltun spent several minutes looking for it and then handed the wallet out the window and suggested Officer Gatewood try and find it.

Koltun denied drinking that evening. She said she had taken some medicine 12 hours earlier for her Parkinson Disease. She failed several field sobriety tests and the officer quit giving other tests as she feared for Koltun's safety. She was arrested and at the station a breathalyzer test proved she was lying about not drinking. Her BAC an hour after being stopped was .119%.

On February 15, 2012 Koltun's lawyer demanded a jury trial and the case was transferred to Judge Draper in Clayton. On April 26, 2012 Koltun pled guilty to one count of Careless Driving and was fined \$500.50. She also pled guilty to Illegal Parking and was fined \$200.50. She never pled guilty or admitted driving while intoxicated.

On January 17, 2012 **well known Chesterfield sculptor Don Wiegand was arrested** for DWI and Improper Lane Usage. A little before midnight Officer Schreiber observed Wiegand while driving his Ford van eave for lane to lane on westbound I-64 at Timberlake Manor. Officer Turntine smelled intoxicants about Wiegand, but Wiegand denied drinking and said he was depressed due to a death in this family.



Don Wiegand in front of his Churchill sculpture, from his Facebook page.

Wiegand failed some preliminary field sobriety tests and then refused to attempt to perform any more, saying he was too depressed. He was arrested and driven to the police station. There he took a breathalyzer test that showed his blood alcohol content

to be .121%; one-and-a-half times the legal limit. He then admitted that he had been drinking bourbon at a friend's house near Shaw Park and had taken some Benadryl.

On March 14, 2012 Wiegand's lawyer demanded a jury trial and the case was transferred to Judge Judy Draper in Clayton.

On July 17, 2012 Wiegand pled guilty to DWI before Judge Draper who issued a 2-year Suspended Imposition of Sentence meaning Wiegand would not have a record of the DWI. He was also allowed to plead guilty to a charge of Illegal Parking reduced from Improper Lane Use and paid a fine of \$226.50. In fact Wiegand's car had never been illegally parked and had been towed to a tow lot in Valley Park from where he pulled over on I-64. This means Wiegand has no points on his driving record despite his DWI arrest and guilty pleas.

At 1:25 in the morning on August 14, 2011 **Thomas J. Toben** of Creve Coeur was arrested for DWI and Improper Lane Usage by Weaving. Officer Lantz followed Toben



on northbound Highway 141 from Ladue Road to Olive Blvd. during which time he watched him weave from lane to lane crossing the center line.

Officer Lantz pulled over Toben after he turned onto Olive and Toben drove onto the parking lot of Steak and Shake. Toben's breath smell of intoxicants, his speech was slurred and he admitted having some beer at his girlfriend's house. He then failed a number of field sobriety tests and was arrested for DWI and Improper Lane Use. His car was locked and left on the Steak and Shake parking lot.

At the police station a breath test showed that Toben's blood alcohol was more than twice the legal limit at .162% BAC.

On March 14, 2012 his lawyer demanded a jury trial and the case was transferred to Judge Judy Draper in Clayton. On May 31, 2012 Toben pled guilty to DWI. Judge Draper issued a two-year Suspended Imposition of Sentence meaning Toben would not have a record of a DWI. Toben also pled guilty to a reduced charge of Illegal Parking and fined \$450.00.

This means Toben has no points on his driving record from this DWI arrest and guilty plea. The police never issued Toben and parking ticket and in fact it was the Chesterfield cops who parked the car on the Steak and Shake parking lot.

On August 6, 2009 at 1:45am **Jamie L. Mantia** of Webster Groves was observed by Chesterfield Police Officer David Cerna driving into the right curb on Baxter Road and weaving from lane to lane. She was stopped after turning off of Baxter near Westknoll Cove and Westmeade Drive.

Officer Lantz then assisted Officer Cerna. Lantz smelled the odor of intoxicants on Mantia's breath and she admitted she had been drinking with some friends at Harpo's. Mantia failed a set of field sobriety tests and was arrested for the Improper Lane Use and for Driving While Intoxicated. Her 1999 purple Saturn coupe was towed.



Janie Mantia from her Facebook homepage, arrested for DWI refused to take a breath test, but only shows an Illegal Parking conviction on her record.

Mantia refused to take a breath test at the police station. Her driver's license was suspended on the spot for refusing to take the test, but she was issued a temporary license. Four months prior to this arrest Mantia file an appeal against another Department of Revenue alcohol suspension of her license, but we were unable to find that original arrest information for that earlier case. She appealed the suspension by the Department of Revenue for the Chesterfield arrest and over two years later won the appeal.

However by then she had already pled guilty to the DWI charge. But for two and a half years after her arrest the case had not been before Chesterfield Municipal Judge Rick Brunk for a final disposition.

On March 14, 2012 her lawyer demanded a jury trial and the case was transferred to Judge Judy Draper in Clayton. On May 31, 2012 Mantia pled guilty to the DWI and was given a two year Suspended Imposition of Sentence probation term.

She also pled guilty to a charge of Illegal Parking which was reduced from the original Improper Lane Use charge. She received a \$250 fine. After delaying almost three years her arrest for DWI Mantia has no moving violations on her record from the DWI arrest.

On Christmas Eve 2010 at 2:11 in the morning **Paul Vogt of Ballwin was arrested** for DWI and Improper Lane Use on Olive Blvd. at I-64. Officer Tim Turntine observed Vogt's white Toyota Camry weaving across lane markers. Under the I-64 overpass the Camry was two feet across the lane divider.

Once stopped Vogt told Officer Turntine that he had three or four beers to drink and he thought he was fine to drive. He failed the field sobriety tests and was arrested for DWI, Improper Lane Use and as a fugitive of the St. Louis County Police due to outstanding warrants. The Chesterfield cops were nice and instead of towing Vogt's car, they parked it on the parking lot of the Drury Inn.

An hour after he was stopped Vogt took a breath test at the police station that showed his BAC to be .173%.

15 months after his arrest the case has still not been heard by Chesterfield Judge Rick Brunk when Vogt's attorney demanded a jury trial and the case was transferred to Judge Judy Draper in Clayton. He also had appealed the suspension of his driver's license for failing the breath test. In July of 2012 a Circuit Court judge upheld the license suspension.

On August 30, 2012, 20 months after his arrest Vogt pled guilty to DWI and was given a two-year Suspended Imposition of sentence probation term. He also pled guilty to a reduced charge of Parking in Taxi or Bus Stand and fined \$100. Vogt's Camry was nowhere near a Taxi or Bus Stand.

On January 25, 2012 **Eda Robsan of St. Louis was arrested on charges of stealing** at the Macy's store in Chesterfield Mall. The 18-year-old Robsan, an Ethiopian national, was using a device to remove security sensors from a shirt, a hat and two jackets valued at \$429. When cutting off the security sensors from each garment she damaged the garments to the point where Macy's could no longer sell them,

Robsan was charged with Stealing, Possession of a Theft Device and Destruction of Property. On March 23, 2012 her lawyer demanded a jury trial. On June 28, 2012 Robsan pled guilty three times to "Littering" and was fined \$300.50, \$125.50 and \$175.50.

Once again, Engelmeyer allowed a thief who came out from St. Louis to target one of Chesterfield's larger taxpayers, Macy's, to avoid being publicly documented as a thief. The public records on case.net which lists Missouri court cases, does not list the actual charges. The public would be led to believe by Mr. Engelmeyer that Robsan was a serial litterer.

On Christmas Eve 2011, one the biggest shopping lifting days of the year, **Donna Cochran of Ballwin was arrested** by the Chesterfield Police after being called to the Dierberg's store on Clarkson Road. Cochran had been caught by store security shoplifting six items worth \$105.06.

On March 23, 2012 her lawyer demanded a jury trial and the case was transferred to Judge Judy Draper in Clayton. On June 28, 2012 she pled guilty to Littering and fined \$300.50. Why does Engelmeyer want to identify retail thieves as litterers? Is it fair to the retail stores that have to suffer the losses and hire loss prevention officers to find and identify shoplifters only to have the City of Chesterfield turn them into litterers?

On July 31, 2011 **Andrew Hayes from Clarendon Hill, Illinois who recently moved to Chesterfield** was clocked speeding 79 mph in a 45 mph zone on Eatherton Road by Officer Hernandez of the Chesterfield Police. Hayes handed Officer Hernandez his bank debit card when he was asked for his driver's license. Hayes' eyes were bloodshot and his breath smelled of intoxicants. His front seat passenger was highly intoxicated. Hayes said he had a "few beers" at a Cardinals game.

He failed field sobriety tests and was arrested. Another Chesterfield officer gave the drunk passenger a ride home. His car was towed.

At the station Hayes blew a .161% BAC when he took a breathalyzer test.

His lawyer demanded a jury trial on April 9, 2012 and the case was sent to Judge Judy Draper in Clayton. On September 20, 2012, 14 months after his arrest, Hayes pled guilty for DWI and was given a two-year SIS probation term by Judge Draper. He also pled guilty to the speeding and was fined \$1,000. In July of 2012 the Department of Revenue upheld the suspension of Hayes' driving privileges as a result of the excessive BAC test. But his public driving record shows no indication of a DWI.

Finally there is the case of Georgios Rushitaj, a former car salesman at Royal Gate Dodge. On December, 30, 2011 Rushitaj was cited for speeding 95mph in a 60mph zone by the Chesterfield Police. On 01/31/2012 Rushitaj's lawyer demanded a jury trial and the case the transferred to Judge Judy Draper of the St. Louis County Circuit Court.

On April 26, 2012 Rushitaj pled guilty to one count of Illegal Parking and was fined \$350.50. He pled guilty to a second count of Illegal Parking and was fined \$75.50.

On January 1, 2007 Rushitaj pled guilty to two charges filed by the Creve Coeur Police that were reduced to Parking Violations. He was fined \$500 and \$100.



On July 24, 2007 Rushitaj pled guilty in the Circuit Court in St. Charles for a defective muffler and fined \$250. Defective muffler, like illegal parking or littering is a non-moving violation and is often a charge defendants with a serious traffic charge are allowed to plea down to and then are given a high fine.

On March 22, Rushitaji again pled guilty and was fined \$125 for a defective muffler on a citation for an unknown violation issued by the Highway Patrol.

Rushitaj should be identified as a dangerous driver. The cops seem to have done their jobs, but the city prosecutors and Judge Draper have not done theirs. Instead of having a driving record that shows serious traffic law convictions Rushitaj can only be identified as a serial parking violator with a loud muffler.

IN TOWN AND COUNTRY

Town and Country's judge Dean Waldemer, is a fulltime prosecutor at the County's Prosecuting Attorney's Office. You might think that a prosecuting attorney by day would be a tough judge in a city court at night. Think again!

Waldemer was featured in a Post-Dispatch series on the court systems in St. Louis being easy on drunk drivers. Waldemer gave probation to John McGuire, who had been charged with driving in excess of 100 mph on I-64 and driving while intoxicated. McGuire refused to take a breath test.



Town and Country Judge Dean Waldemer is a tough County prosecutor by day and an easy judge at night.

His lawyer got a deal and McGuire pled guilty to the DWI but was given a no-record probation term and instead of pleading guilty to driving 100 mph he was allowed to plead guilty to a reduced non-moving violation.

At the time he pled guilty in front of Waldemer McGuire was intoxicated. He was arrested on the Town and County City Hall parking lot trying to leave after court. He was then arrested two more times for DWI driving on I-64 by the Ladue and Chesterfield Police.

Waldemer never revoked the probation term for DWI until the Post-Dispatch article appeared.

However, that said, Waldemer is a tougher judge than Chesterfield's Rick Brunk. There are three pages of lawyers requesting jury trials on cases before Brunk. There are nine pages of cases on case.net where lawyers have asked cases be moved from Waldemer.

Keith Cheung, who is currently the Ladue Municipal Judge, lost his job as the Town and Country and Ballwin city prosecutor after he was sanctioned for unprofessional conduct by the Missouri Supreme Court. He has been replaced in Town and Country by Brian Malone, who like Cheung works at the law firm of Curtis, Heinz, Garrett and O'Keefe law firm by day.



Brian Malone is Town and country's newest prosecutor.

On April 26, 2012 **Ana Marroquin of Florissant** **pled guilty before Judge Draper for Parking in a Taxicab, Limo or Bus Stand. She was fined \$225**, a fine she has not paid. A warrant was issued for her arrest for Failure to Appear in Court on 09/04/2012. What she was actually charged with was Speeding 95 MPH in a 60 MPH zone on NB 270 at Clayton Road. There is no Cab/Limo or Bus Stand on NB I-270. Marroquin got a speeding ticket for doing 35 mph over the limit reduced to a Parking ticket; got no points on her driving record and then didn't pay the fine.

On December 5, 2011 at 7pm **Brittany L. Accardi of Vestal, NY** **was cited for Speeding 95 MPH** on EB 40/I-64 at Ballas in her Mercedes Benz. Sgt. John Flanagan also cited her for not having a Valid Driver's License. A jury trial demand was made on March 1, 2012. On May 31, 2012 Accardi pled guilty to Illegal Parking on a Residential Street and was fined \$250. Last time I checked Highway 40 at Ballas Road was not a residential street.

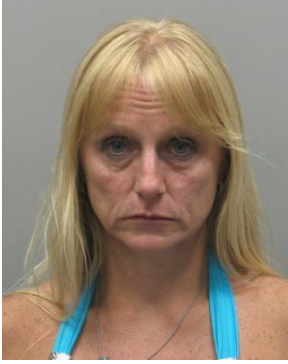
On May 10, 2011 Town and Country Police Cpl. Chris Moore clocked **Mark Aaron Allen of St. Peters speeding 75 mph** in a 60 mph zone on NB 270 before Clayton Road. He also observed Allen swerve toward the median wall and cross a solid yellow line, while driving his Harley-Davidson motorcycle. Allen at first denied having anything to drink, but then admitted to Moore having "two beers." He failed the field sobriety tests and was arrested.

A breath test showed his BAC level was at .128%.

He was cited for speeding 75/60 and DWI. On January 10, 2012 Allen demanded a jury trial. On April 26, 2012 he pled guilty to Careless Driving before Judge Draper and was fined \$600. He did not plea to a DWI or a speeding charge. He is not considered a prior DWI offender under the Missouri graduated felony rule.

On January 17, 2012 Kevin McClanahan of High Ridge, MO **was cited for 112 MPH** in a 60 MPH zone in his Corvette on I-270 at Clayton Road. On February 15, 2012 he demanded jury trial and the case was sent to Judge Draper. On May 31, he pled guilty and was given a 2-year no-record suspended imposition of sentence probation term with no fine. He was however order to pay \$500 to the Missouri School Fund. McClanahan was doing 52 MPH over the speed limit and has no points. How is that for justice?

On July 31, 2011 **Diane Lock of Ballwin** **was arrested for DWI**. Officer Scott Schlager had finished a traffic stop on the North Outer Forty Road before Hwy 141 when Lock



driving her Mercury Gran Marquis approached to the far right of the road, failing to move over for the police car with its flashing lights on almost hitting the police car. Schlager stopped her and it became clear the 5-ft-2in 105-pound Lock had been drinking. She claimed she had one glass of wine, but was staggering and failed the field sobriety tests.

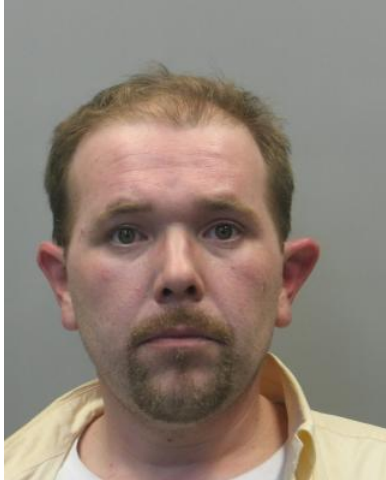
At the police station her Blood Alcohol Level was .153%. That had to have been a very large glass of wine. Officer Schlager determined that Lock had been arrested for DWI on May 10, 2003 in St. Charles.

On 02/15/12 she demanded a jury trial. The case was sent to Judge Draper. On May 31, 2012 Lock pled guilty and was sentenced to 60-days in the County Jail. Judge Draper stayed the jail sentence and placed Lock on a 2-year Suspended Execution of Sentence Probation, fined her \$500, ordered her to attend the Substance Abuse Traffic Offender Program and the Victim Impact Program. This is the one of the only two cases where a drunk driver had any record of their offense of 41 cases we reviewed that had verdicts.

On February 26, 2011 at 3:05am while driving her Mercedes Benz **Suzanne McCubbin of Grover, MO** was stopped by Officer Fowle after making a left turn from the right lane onto Hwy 141. The 5-foot-2-inch 108 pound diabetic McCubbin's eyes were bloodshot, she seemed confused and smell of intoxicants. She claimed she had two beers at Harrah's Casino. McCubbin failed field sobriety tests and was arrested for Driving While Intoxicated. At the station she refused to take a breath test.

On February 21, 2012, five days short of a year she demanded a jury trial. On May 31, 2012 she pled guilty to DWI and Illegal Parking. She was fined \$350 for Illegal parking and given a 2-year Suspended Imposition of Sentence probation term. Here is a person who was driving drunk, made an illegal turn then refused to take a breath test who gets off paying a \$350 fine for a Parking Violation.

On January 15, 2012 at 1:31 in the morning **Brian Fletcher of St. Louis was arrested for DWI** after he was observed lane weaving on southbound I-270 at Clayton Road. Fletcher is another customer headed home from Harrah's. He at first denied having anything to drink. Then he admitted to having one drink. After failing a field breath test he admitted having three or four mixed drinks. It was apparently had been bumble bee night at Harrah's as Fletcher was wearing black pants and a yellow shirt.



At the police station Fletcher's breath tested out at a .148% BAC level.

On February 27, 2012 he demanded a jury trial. On May 31, 2012 Fletcher pled guilty to the DWI and Littering before Judge Draper. He was fined \$350 for Littering. He was placed on a 2-year SIS probation term for DWI by Judge Draper ending up with no adverse driving record.

At 4am On July 17, 2011 Ballwin resident **Anne Garlich** was stopped for lane weaving and failure to signal. Officer Fowle reported her eyes were glassy; she was confused and smelled of intoxicants.

At the station when interviewed she was asked the date and was three days off. She claimed to have been taking medication but didn't know what it was. She denied having anything to drink, saying she had been at a friend's birthday party. She refused to take two breath tests saying she had been told by a lawyer to never take a breath test.



Anne Garlich, clearly not overdressed for the night.

She was charged with DWI and Failure to Signal a Turn. On March 15, 2012 she demanded a jury trial and the case was sent to Clayton. On July 19, 2012 she pled guilty to the Fail to Signal offense and was fined \$350 for a charge that can be paid out of court for \$91. She was given a 2-year SIS probation term by Judge Draper and ordered to have a Interlock Breath device installed on her car for six months. She has no record of a DWI, but at least had a record of a minor moving violation.

Karalee Bergeron of St. Louis was arrested twice within ten weeks by the Town and Country cops for DWI. She was first arrested on April 10, 2011 and for a second time on June 18, 2011.

The arrest in April occurred after Sgt. Jeffrey Wolfe observed Bergeron speeding and lane weaving in her 19-year-old Toyota going west on I-64 at Maryville Center.

When stopped it appeared as if she was intoxicated. She admitted having a “few drinks” with friends. That increased to six or seven vodkas at Novak’s Bar during an interview at the police station.

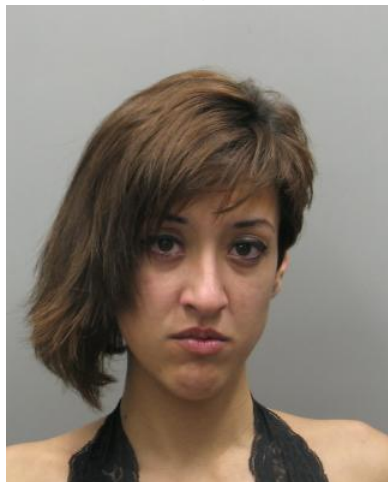
A breath test showed Bergeron’s BAC to be at .156. Sgt. Wolfe issued her citations for Improper Lane Use and DWI. He also determined that she was arrested for DWI four years earlier on April 7, 2006 by the O’Fallon Missouri Police.

The case in O’Fallon was resulted in a guilty plea to a reduced charge of Careless and Imprudent Driving on March 7, 2007, meaning Bergeron did not officially have a DWI conviction on her record.

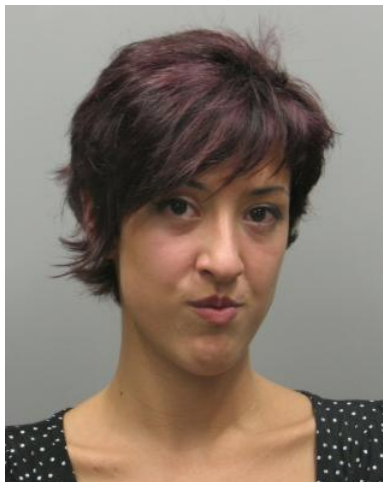
The second DWI arrest involved Officer Fowle. He observed Bergeron driving her 1992 Toyota Celica westbound on Hwy 40/I-64 at I-270 at 2:48am with only one headlight working. When Officer Fowle pulled over Bergeron he observed that her eyes were bloodshot and her breath smell strongly of intoxicants.

She failed field sobriety tests and an unofficial field breath test that showed she was intoxicated.

April Mug Shot



June Mug Shot



Her choice of drink remained the same as she told Officer Fowle she had two vodkas with friends after work. She refused to take an official breath test at the police station. During an interview at the time of her arrest Bergeron stated she thought she was at the Chesterfield Police Department and not the Town and Country PD.

Nine months later she demanded jury trials on both cases. On May 31, 2012 she pled guilty to both DWI charges. Despite having two DWI arrests in less than three months and three DWIs in seven years she was given a SIS probation term meaning there would be no record of the offense on the first charge. She was also order to A Substance Abuse Program and a Victim's Impart Program. On the second charge she was fined \$750, with no stayed jail sentence. Out of three DWI cases she only has one on her record.

Back on December 12, 2009 Ciara Butler of St. Louis, a cashier at the Town and Country Target was arrested by Officer Kent Berry after an investigation by the Target Loss Prevention Department. It had been determined that Butler had manipulated cash register keys when customers used a Target Gift Card where the card was not charged. Butler then kept the gift cards and used them herself to steal over

\$2,000 worth of merchandise. Immediately after her arrest she confessed to Officer Berry about the gift card scheme.



Ciara Butler

27 months later the case was still not disposed of and Butler demanded a jury trial. On September 20, 2012 she pled guilty and was given a no-record SIS probation term of just one year by Judge Draper.

Daniel David Callahan, a prior DWI offender from Chesterfield was arrested for DWI on August 26, 2011. Police Officer Wilson observed Callahan swerving onto the shoulder as he exited westbound Hwy 40/I-64 onto Hwy 141 at 11:33 at night.

Officer Wilson reported Callahan's breath had a strong odor of intoxicants. His eyes were bloodshot, his speech was slurred and he stumbled and almost fell as he walked. He failed field sobriety tests plus a field breath test and was arrested.

At the station he admitted having four or five beers at the Ice and Fuel bar in Kirkwood.

A breath test showed his BAC level to be at .217%.

He was represented by Timothy Devereux, a Clayton lawyer and former assistant prosecuting attorney from back in the 1970s. Of all the attorneys who demanded jury trials and whose clients ended up with no records, Devereux's name came up the most. On March 30, 2012 Devereux demanded a jury trial. On May 31, 2012 Callahan pled guilty. He was given a no-record SIS probation term with a requirement for an Interlock Breath device on his car. The moving violation was amended to Illegal parking and he was fined \$330.

After testing 2 1/2 times above the legal limit Callahan pled guilty to Illegal Parking and despite being a two-time DWI offender he has no "official record" of a DWI conviction and in this case no record of even a minor moving violation. The Chesterfield DWI arrest had also resulted in a SIS probation term with no record of conviction.

Brian Lamont Johnson of Cape Girardeau had a long record of substance and alcohol related offenses when he was arrested on April 17, 2011 in Town and Country for DWI and Driving With a Revoked License.

Officer Nicoletti at 2:04 in the morning on April 17, 2011 tried to pull over a 1988 Mercury for lane weaving on westbound I-64 between I-270 and Mason Road. The driver would not stop and continued with Officer Nicolette in pursuit with flashing lights operating and a siren sounding. The driver was Brian Lamont Johnson, who at the time showed a Ballwin address on his revoked driver's license.

As Johnson was being pursued at 65 mph he continued to swerve and when exiting at Maryville Center Drive he continued on westbound North Forty Outer Road where he took out a cell phone and appeared to start making phone calls. He then went south on Hwy 141 with Officer Nicoletti right behind him. Nicoletti reported that as Johnson slowed he saw him placing something under or behind the driver's seat. He finally stopped on 141 south of I-64, exited the car and laid on the ground with his arms outstretched without being told to by Nicoletti.

Officer Nicoletti found a 1/2 empty bottle of gin and a cup with a mixed drink in it behind the driver's seat.

Johnson told Nicoletti he had not noticed him behind him. Nicoletti reported Johnson's



speech was slurred and confused, his eyes bloodshot, that he was staggering.

At the police station Johnson refused to take a breath test. He told Officer Nicoletti he had a 1/2 cup of alcohol to drink.

In 2000 he pled guilty to Possession of Marijuana. In 2003 he served 10 days in the Cape Girardeau County Jail for Driving on a License Revoked For Failure to Submit to a Breath Test.

In 2001 Johnson was arrested for DWI in Cape Girardeau, pled guilty placed on probation, which he promptly violated and was sentenced to 60 days in jail.

Also in 2003 he did 30-days in the Cape Girardeau County Jail for Domestic Assault. By September of 2003 he was cited again from driving on a Revoked License. He served 30-days on that charge after pleading guilty four years later in 2007.

After his April 2011 DWI arrest by the Town and Country cops Johnson was nabbed for the following offenses including another DWI arrest in Town and Country.

08/05/11	Improper Lane Use Resulting in Accident Driving With a Revoked License DWI	Pending	Town and Country PD
07/21/12	Driving with a Revoked License	30-days jail	Cape Girardeau PD
09/12/12	Driving with a Revoked License	pending	Cape Girardeau PD
10/26/12	Driving with a Revoked License	pending	Cape Girardeau PD

Johnson's lawyer demanded a jury trial on March 9, 2012. On August 30, 2012 Johnson pled guilty to the DWI and was given a 90-day jail term and a \$250 fine but the jail time was stayed and a SES probation term of two years was issued. He also pled guilty to Driving on a Revoked License and was fined \$250.

Finally on the charges of Failure to Yield or Stop for an Emergency vehicle and Improper Lane Usage, one was dropped and the other was amended to Littering and Johnson was fined \$400.

Prosecutor Malone and Judge Draper almost actually found someone guilty of everything they were guilty of...but apparently could not help themselves with Malone tossing in the nonexistent Littering charge in place of the serious Failure to Stop for Police and Lane Weaving charges and Draper accepting it.

Since the guilty pleas Johnson has already violated his 2-year probation term with two more arrests and should have his probation revoked. Of course that would require Malone to do something. Also revoking Johnson probation will cost Town and Country

in extra legal fees from Malone and not result in any more fines being collected from Johnson.

HOW TO FIX THIS MESS:

The easiest way would be to have the teenage children of several area mayors or circuit judges be killed by drunk drivers. However no one wants that to happen, but it would be the quickest way to see change. Currently it is more likely that Town and County Mayor Jon Dalton's 22-year-old son would be the drunk driver than the victim...he was picked up twice for DWI by the Ladue Police in the first six months of 2012. Dalton, Jr. appears before Judge Draper this month. Of course Mayor Dalton was part of the problem back in the late 1980s when as the Sunset Hills prosecutor he gave away DWI cases on a regular basis.

Judges always defend themselves by saying how the defendant normally plead guilty. They never want to mention how they ended up giving the drunk driver a no-record SIS probation term.

MEDIA: One West County police commander knew the stupid game being played where his officers would arrest DWI suspects and the city judge and prosecutor would let them go.

"My position is that I want our officers to do the best job (arresting DWI suspects) they possibly can so when the Post-Dispatch shows up they can't blame it (no one getting convicted) on us."

The Post-Dispatch series on drunk drivers by Jeremy Kohler got lots of attention and then within several months after the last installment it was forgotten. The Post-Dispatch was smart as the series did not appear all at once but over a number of months.

It is clear that the Post-Dispatch and maybe a local TV station need to team up and report on DWI defendants getting off with no records on a weekly basis. It would not only put some heat on court and elected officials it would be surge in readership and viewership.

ELECTED OFFICIALS: It is time for elected officials to start going to municipal courts and see what is going on, even if it means sitting there for three or four hours once or twice a month. That is the first step...then they have to do something about it. Complain at city council meetings and vote against reappointment of judges or prosecutors who

want to hide the records of drunk drivers and thieves. The most important job of an elected official is to protect citizen's health, safety and welfare.

Court clerks are city employees. Aldermen and Councilperson need to review dockets and plea deals on a regular basis. They can't let court clerks, the judges or prosecutors try and bully them and hide records, like many try and do now. I had the Creve Coeur Court Clerk tell me as a reporter certain records might not be public information. I mentioned that I was a former police chief and I know better. She then disgustingly remarked, "You should have said that to begin with."

She was implying it was okay to lie to Joe Public but not someone who knows better. Chesterfield is a perfect example. They have one of the worst judges when it comes to not convicting anyone with serious charges filed against them. Then at the swearing in of reelected councilmen in April it was like a love fest between the councilpersons Judge Rick Brunk.

FINDING THE RIGHT LAWYERS It might involve hiring a retired corporate or military lawyer as a prosecutor or judge. Just make it someone who doesn't feel obligated to give anyone who shows up represented by someone with a local Bar Association card in their wallet a "special deal."

Also the muni courts need to quit discriminating against poor people. They consistently refuse to give deals to defendants who are happy to show up, plead guilty to a reduce charge, pay a high fine, but cannot afford an attorney, who simply walks into a room and gets the deal.

Lawyers will tell you the system requires deals or it will grind to a halt. That is only true to a point. It doesn't require the kind of deals that are now being given. 20 years ago the best deal a defense lawyer could expect was a DWI charge being dropped to a 2-point Careless and Imprudent Driving charge. Now they are getting DWIs dropped down to parking tickets on a regular basis.

If a city tells the world they are not letting DWI defendants off on an expensive parking ticket and the city prosecutor would not agree to deals when defense attorneys start demanding jury trials in Circuit Court, there will not be much of a backlog. In most of these cases defense attorneys know they can't win at trial. Both Town and Country and Chesterfield DWI cases are backed up by in-car videos that show the condition the driver was in so there is no guessing. Circuit Court judges who handle these jury demands need to be tough with cases and move trials along without constant continuances.

MADD AND OTHER CIVIC GROUPS: Mothers Against Drunk Drivers loves to hand out awards to police officers and police departments that make a lot of DWI arrests. They need to spend their time monitoring the courts instead.

They need to track and document the DWI giveaways and then hold press conferences. The cops are doing just fine in finding and arresting drunk drivers, it is the prosecutors and judges who need MADD's attention.

Back in the 1980s when I was a police detective outside of Kansas City I was assigned to give a civic organization (like the Elks, Lions or Rotary Clubs) some ideas on civic projects that would help the police.

I suggested they set up a courts monitoring program of DWI cases. They chose to do something much easier without any long term positive effects.

Not only would a service club get some publicity and recognition they would be doing a world of good in trying to make the community a safer place.

YOU AS A CITIZEN AND A REGISTERED VOTER... Tell councilpersons and alderperson you will not vote for them again unless they get new judges and prosecutors that will do their jobs. When the TV shows are in repeat mode attend some municipal court sessions. If it appears the judge, prosecutors and clerk are trying to keep you from knowing what is going on complain to your elected officials.



No designated driver when out partying?



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