

DUI

By
Meichihko Proctor
Program Attorney & Deputy Counsel
TMCEC

Meanest Mom On Planet...

“OLDS 1999 Intrigue. Totally uncool parents who obviously don't love teenage son, selling his car. Only driven for three weeks before snooty mom who needs to get a life found booze under front seat. \$3,700/offer. Call meanest mom on the planet.”

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10-15-06



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Jurisdiction

- Section 8.07 of the Penal Code: Exception to Age Affecting Criminal Responsibility for most fine-only offenses.
- See also Section 51.03(f) of the Family Code
- Mandatory Waiver v. Discretionary Waiver

Waiver of Jurisdiction

- Procedure
 - What to include?
 - Where to send the information?
 - Response of Juvenile Court?

Minor v. Child?

- Statutes have not defined the term “juvenile.”
- 106.01 ABC: defines “minor” to mean a person under age 21.
- FC: a minor who is a least age 10 and under age 17 is also a “child.”

Status Offenders

- Section 51.02(15) defines “status offender” as “a child who is accused, adjudicated, or convicted for conduct that would not, under State law, be a crime if committed by an adult.”
- The statute lists crimes that are status offenses.

Driving Under the Influence

Alcoholic Beverage Code Section 106.041

- A minor
- Operates a motor vehicle
- In a public place
- Having ANY detectable amount of alcohol in the minor's system

Penalty

■ 1st Offense

- \$1 - \$500 Fine
- Alcohol Awareness Course
- Mandatory Community Service of 20-40 hours related to education about or prevention of misuse of alcohol
- Automatic 60 day driver's license suspension (Court does not order)

■ 2nd Offense

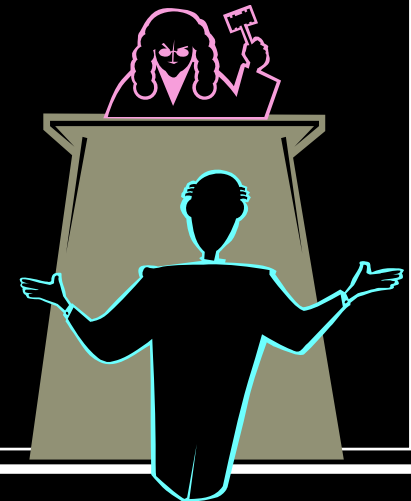
- \$1 - \$500 Fine
- Discretionary Alcohol Awareness Course
- Mandatory Community Service of 40 to 60 hours
- Automatic Driver's License Suspension of 120 days (Court does not order)

Penalty - 3rd Offense

- **Penalty**
 - **Up to 180 Days**
 - **\$500-2000 Fine**
 - **40-60 Hours of CS**
- **Age 17 or Older**
 - **Filed in County Court**
- **Under 17**
 - **Filed in Juvenile Court**

Magistrate Warnings to Juveniles

- Section 51.095 of the Family Code
 - What about electronic recordings?
 - Determination of voluntariness



Juvenile's Appearance

- Article 45.0215, Code of Criminal Procedure:
Open Court
- Determine sophistication and maturity of
juvenile.
- Article 45.057, Code of Criminal Procedure:
Notification of Change of Address
- Parent's Appearance

Failure to Appear

- Of the juvenile:
 - Jailing juveniles?
 - Unadjudicated children, now adults
 - Requirements before 17th birthday
- Of the parent
 - Article 45.202 Code of Criminal Procedure
 - Waiver of presence?

Exercise Time!

- Divide into groups
- Review your scenario
- 5 minute group discussions
 - Proving consumption – what is sufficient evidence of detectable amount. What is odor?
 - What is the appropriate sentence?
 - See your worksheets

Scenario One

- Vehicle driving erratically. 17 year old male agitated. Interior of the vehicle had 4 empty “Budweiser” beer bottles on the passenger side floorboard. Officer smelled a faint odor of alcohol emanating from his person. Said he took large amount of cough medicine for a cold. Beer bottles belonged to his older brother.

Scenario Two

- Vehicle speeding. Young female driver - 16. Parents just purchased the vehicle she was driving for her birthday. Faint odor of alcohol as she spoke. Glass of wine six hours ago. Did not want to go to jail because it may hurt her chance to get into college and that she is at the top of her class.

Scenario Three

- Vehicle speeding. Young male driver – 18. Stumbled and almost fell onto the ground. He and his friend had just been skydiving. Empty Grey Goose vodka bottle on the back seat floor board. I could smell alcohol on the driver's person and when he spoke, the smell became stronger. I asked the driver if he had been drinking, and he replied that he was not going to answer any of my questions and that he wanted his lawyer.

Thank You
&
Have a
Great Day!

