

# Underage Drinking Enforcement Training Center

## Monthly Resource Alert

### April 2009



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Please visit our enhanced Web site at [www.udetc.org](http://www.udetc.org) for the latest information on underage drinking.

#### April is Alcohol Awareness Month!

To recognize the serious problem of alcohol abuse, April has been designated as "Alcohol Awareness Month" and April 10, 2009, as "National Alcohol Screening Day." The purpose of Alcohol Awareness Month is to draw attention to the problems related to alcohol abuse and to get people in touch with resources that can help. For more information and resources on this most important event from the Substance Abuse and Mental Health Services Administration, please visit <http://ncadi.samhsa.gov/seasonal/aprilalcohol/>.

#### Marin Institute Debuts Online Tool for Alcopops

Several State legislative bodies and governors are considering bills or budget proposals regarding alcohol advertising, alcopops, and/or alcohol taxes. Now the Marin Institute offers information on State government activity and resources for advocacy. To view this resource, click on the following link:

[http://www.marininstitute.org/site/index.php?option=com\\_content&view=category&layout=blog&id=54&Itemid=277](http://www.marininstitute.org/site/index.php?option=com_content&view=category&layout=blog&id=54&Itemid=277).

#### New Study Shows That College Freshmen Drink More Than They Study

According to the National Center on Addiction and Substance Abuse at Columbia University, the number of college students who drink has remained about the same, around 3.8 million or 49 percent of full-time students. However, that same study found that the frequency and intensity of drinking has increased. In recent years, the proportion of students who binge drink three or more times over a 2-week period has increased 16 percent.

A press release by the Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Treatment claimed that "more than 10 million current drinkers are age 12 to 20." Further, a recent survey conducted by NASPA—Student Affairs Administrators in Higher Education—has found that nearly half of all college freshmen who drink spend more time drinking than they do studying. About 25 percent of all college students report academic consequences of drinking, including missing classes, falling behind, doing poorly on assignments, and receiving overall lower grades.

#### Did you Know...?

That an estimated 7.1 million current alcohol users reported using illicit drugs (primarily marijuana) at the same time they last used alcohol? According to an analysis of data from the National Survey on Drug Use and Health (NSDUH), youths aged 12 to 17 and young adults aged 18 to 25 were most likely to report concurrent alcohol and illicit drug use (14.2 percent and 13.5 percent, respectively).

#### April 2009 Resource Alert Legal Case

##### Case Descriptor

#### "The Maine Supreme Court Upholds Warrantless Search by Police in Underage Drinking Case"

In December 2008, the Maine Supreme Court handed down an opinion in the case of *State v. Blackburn*; 2008 ME 178, 2008-ME-1208.392. Pursuant to a conditional plea agreement, Tyler P. Blackburn pleaded guilty to a charge of allowing a minor to possess or consume liquor in a place under his control. Blackburn appealed from the District Court's denial of his motion to suppress evidence obtained by police when they entered his family's home to investigate underage drinking. Blackburn contended the search was not supported by probable cause or any of the exigent circumstances justifying a warrantless search of a residence.

To read more about this case, click on this link:

[www.udetc.org/documents/ResourceAlerts/April2009Case.pdf](http://www.udetc.org/documents/ResourceAlerts/April2009Case.pdf).

#### April National Electronic Seminar

##### Adolescent Development and Alcohol: Brain, Body, Behavior and Cultural Context

Date: Thursday, April 23, 2009

Time: 3:00-4:15 p.m. EDT

Speakers: Dr. Ken Winters, Professor, Center for Adolescent Substance Abuse Research, University of Minnesota-Fairview, and Robin Erz, Assistant Director, South Dakota Division of Alcohol and Drug Abuse

In part two of our look at the interaction between alcohol and the developing adolescent brain, we will discuss not only the latest research on the pre-adolescent and adolescent brain, but also other aspects of adolescent physiology and psychosocial development and how they interact in response to alcohol exposure. This information can help enhance work with law enforcement, parents, communities, and decision makers.

**\*Visit [www.udetc.org/audioconfregistration.asp](http://www.udetc.org/audioconfregistration.asp) to register.\***

To print a copy of this month's Resource Alert visit [www.udetc.org/documents/ResourceAlerts/ResourceAlert0409.pdf](http://www.udetc.org/documents/ResourceAlerts/ResourceAlert0409.pdf).

*The views expressed in this publication do not necessarily represent the views of the Office of Juvenile Justice for Delinquency Prevention (OJJDP) or the Underage Drinking Enforcement Training Center (UDETCC) and are solely of the author/source.*

#### Quick Fact:

According to researchers from Iowa State University, substance abuse prevention programs are economically beneficial, with a nearly \$10 return for every \$1 invested in prevention!

## **The Maine Supreme Court Upholds Warrantless Search by Police in Underage Drinking Case**

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In December 2008 the Maine Supreme Court handed down their opinion in the case of *State v. Blackburn*; 2008 ME 178, 2008-ME-1208.392. Pursuant to a conditional plea agreement, Tyler P. Blackburn pleaded guilty to a charge of allowing a minor to possess or consume liquor in a place under his control. Blackburn appealed from the District Court's denial of his motion to suppress evidence obtained by police when they entered his family's home to investigate underage drinking. Blackburn contended the search was not supported by probable cause or any of the exigent circumstances justifying a warrantless search of a residence.

### The Facts of the Case

On September 13, 2007, two officers from the Windham Police Department responded to an address in Windham at about 11:50 p.m. in response to a complaint about a loud party. While standing outside of the residence, the officers watched through a large picture window as several people who appeared to be teenagers scurried to clear dark-colored bottles from tables and countertops. The officers noticed that some of the teenagers ducked under the window after they were spotted and one girl appeared to drop to the floor.

As the officers approached the front door, they saw through window panels more young people running across the hall to another part of the house. The officers knocked on the door and rang the bell. Tyler Blackburn answered the door, identified himself, and told the officers that his father, who owned the house, was in the hospital. Blackburn was eighteen years old at the time. The officers asked Blackburn if underage drinking was taking place in his house, and Blackburn replied that it was. A sixteen-year-old girl standing beside Blackburn also admitted to the officers that she had consumed one beer about an hour earlier while in the house.

As the officers proceeded to walk into the house, Blackburn told them that they could not enter. The officers responded by telling Blackburn that they had a right to enter because a crime was being committed and they did not want evidence to be destroyed. Once inside, one officer went to the basement where he found five teenagers, three of whom were hiding behind a hot water heater; the other officer went upstairs where he found six others. About half of Blackburn's guests admitted to drinking, and one of the young males appeared to be extremely intoxicated. The officers gathered the names and dates of birth of the individuals, and then issued a summons to Blackburn for furnishing a place for minors to consume alcohol.

Blackburn filed a motion to suppress, arguing that any evidence seized as a result of the officers' search should be suppressed because the police conducted the search without probable cause and without a warrant. In denying the motion, the District Court found that the State met its burden in demonstrating that the officers' warrantless entry was justified by the exigent circumstance of possible destruction of evidence. Blackburn subsequently entered a conditional guilty plea to the

charge of allowing a minor to possess or consume liquor in a place under his control (Class D), 28-A M.R.S. § 2081(1)(B)(1), and he filed this appeal.

### Analysis of the Case

Blackburn argued that the warrantless search of his home was not reasonable because the officers did not have probable cause, and, even if they did, the State presented no evidence to justify the search pursuant to one of the recognized exceptions to the warrant requirement.

Articulating the standard of review the Court noted “[w]e review the findings of fact in a judgment on a motion to suppress for clear error, and we review the court's legal conclusions de novo. *State v. Drewry*, 2008 ME 76, 946 A.2d 981, 988. We uphold a court's denial of a motion to suppress if any reasonable view of the evidence supports the court's decision. *Id.* Under the Fourth Amendment to the United States Constitution and article I, section 5 of the Maine Constitution, a warrantless search of a residence is generally unreasonable unless it is supported by probable cause and conducted pursuant to a recognized exception to the warrant requirement. *See State v. Rabon*, 2008 ME 113, 930 A.2d 268, 274. **Police officers have probable cause when their personal knowledge of facts and circumstances, combined with any reasonably trustworthy information conveyed to them, would warrant a prudent person to believe that the area to be searched holds evidence of a crime.** (Emphasis added) *State v. Bilynsky*, 2007 ME 107, 932 A.2d 1169, 1173.”

In this case, the officers had more than sufficient personal knowledge to believe that underage drinking was taking place inside the home. Not only did they see people who appeared to be under twenty-one years old scurrying from room to room and clearing bottles from tables, but they also heard Blackburn and one of his underage guests admit that minors had consumed alcohol inside the house. Based on these facts, any prudent person would believe that the house contained evidence--namely alcohol and/or empty bottles and people under twenty-one years old--of the crime of furnishing or allowing consumption of liquor by prohibited persons. (fn1)

Next, the Court considered whether the State met the additional burden of proving that the officers were justified in their decision to search the home without a warrant due to exigent circumstances. *See Rabon*, 2007 ME 113, 930 A.2d at 275 (stating that exigent circumstances exist when "there is a compelling need to conduct a search and insufficient time in which to secure a warrant" (quotation marks omitted)).

In this case, the officers watched through the front picture window as teenagers attempted to clear bottles from their view. Subsequently, the officers obtained information directly from Blackburn that minors were and/or had been consuming alcohol in the house. These two officers were rightfully concerned that evidence could be removed, concealed, destroyed or otherwise lost if they waited to obtain a warrant. *See State v. Leonard*, 2002 ME 125, 802 A.2d 991, 994 (listing the potential for loss or destruction of evidence as a justification for a warrantless search of a residence). It was close to midnight; if the officers had taken the time to obtain a search warrant, Blackburn and his guests easily could have emptied any remaining alcohol from the bottles and found a way to conceal them. Exigent circumstances existed here.

In reaching this conclusion, the Court recognized that the United States Supreme Court has placed a heavy burden on the State when it is attempting to justify a warrantless search of a person's home. *See Welsh v. Wisconsin*, 466 U.S. 740, 749-50 (1984) (holding that the warrantless arrest of a suspected drunk driver in his home violated the Fourth Amendment of the United States Constitution). In *Welsh*, the Supreme Court noted that the presumption of unreasonableness that attaches to warrantless home entries should be more difficult to rebut when the government is investigating a minor offense. *Id.* at 750-53.

Blackburn was convicted of a Class D misdemeanor. However, the crime of allowing a minor to possess or consume liquor in a place under one's control can be elevated to a Class C felony if the consumption of alcohol by the minor "in fact causes serious bodily injury to or death of the minor or any other individual." 28-A M.R.S. § 2081(1)(B)(5) (2007). The officers did not know before entering Blackburn's home whether any of the individuals inside had consumed enough alcohol to cause serious bodily injury to themselves or others. Given what we know about the dangers of underage drinking, it was certainly a possibility. The fact that Blackburn ultimately was charged with a misdemeanor was deemed irrelevant to the analysis of this case.

"Because the warrantless search of Blackburn's home was supported by both probable cause and exigent circumstances, the District Court properly denied the motion to suppress."

The entry:

Judgment affirmed.

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Footnotes:

1. Maine law prohibits a person from knowingly "[a]llow[ing] a minor under that person's control or in a place under that person's control to possess or consume liquor." 28-A M.R.S. § 2081(1) (B) (2007).

## Enforcing Underage Drinking Laws Program

# AUDIO CONFERENCE

### TOPIC

### ***Adolescent Development and Alcohol: Brain, Body, Behavior and Cultural Context***

In part two of our look at the interaction between alcohol and the developing adolescent brain, we will discuss not only the latest research on the pre-adolescent and adolescent brain, but also other aspects of adolescent physiology and psycho-social development and how they interact in response to alcohol exposure. This information can help enhance work with law enforcement, parents, communities and decision makers. Given developmental determinants, the question of how teens would be expected to interpret conflicting environmental messages underscores the need to be even more focused on environmental strategies. Join us on the cutting edge of research as it applies to your prevention and enforcement efforts.

The brain images below show how alcohol may harm teen mental function. Compared with a young non-drinker, a 15-year-old with an alcohol problem showed poor brain activity during a memory task. This finding is noted by the lack of pink and red coloring.



### DATE

**April 23, 2009**

### TIME

**3:00–4:15 PM EST**

### PRESENTERS

#### **Dr. Ken Winters**

University of Minnesota-Fairview  
Minneapolis, MN  
winte001@umn.edu

#### **Robin Erz**

South Dakota Division of Alcohol and Drug Abuse  
Pierre, SD  
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### WEB ENHANCED

Internet users will be able to log on to our conference web page to view presentation slides and interact with other participants.

### REGISTER

Please register by using one of our automated options:

- **To register on our website**, please visit [www.udetc.org](http://www.udetc.org) and complete the online registration form, or
- **To register by phone**, please call our toll-free number, 1-877-335-1287, extension 230, and follow the prompts.

**Telephone dial-in instructions and accompanying materials for the audio conference will be mailed one (1) week before the call.**



# National Electronic Seminars Enforcing Underage Drinking Laws Program

The OJJDP Audio-TELECONFERENCE Series

## 2009 National Electronic Seminars Calendar

April 23, 2009 3:00 – 4:15 p.m. Eastern Time

### ***Adolescent Development and Alcohol: Brain, Body Behavior and Cultural Context***

In part two of our look at the interaction between alcohol and the developing adolescent brain, we will discuss not only the latest research on the pre-adolescent and adolescent brain, but also other aspects of adolescent physiology and psycho-social development and how they interact in response to alcohol exposure. This information can help enhance work with law enforcement, parents, communities and decision makers. Given developmental determinants, the question of how teens would be expected to interpret conflicting environmental messages underscores the need to be even more focused on environmental strategies. Join us on the cutting edge of research as it applies to your prevention and enforcement efforts.

May 28, 2009 3:00 – 4:15 p.m. Eastern Time

### ***MLDA Liabilities: College Perspectives***

The Minimum Legal Drinking Age (MLDA) law continues to be a hot topic resulting in great debate about lowering the MLDA from 21 to 18, especially by those in college environments. Some college presidents believe that lowering the drinking age will help eliminate hazardous behaviors by their students, which include binge and extreme drinking practices. However, research clearly contradicts this premise. An expert panel of presenters will discuss various liability issues, including social, economic, and legal impacts relevant to lowering the current MLDA. In addition, participants will learn about available resources they may find useful in efforts to support the current MLDA of 21.



**Underage Drinking  
Enforcement Training Center**



## **We want to hear from you!**

Do you have an Underage Drinking Topic that would make a great National Electronic Seminar? Send us your suggestions at [udetc@udetc.org](mailto:udetc@udetc.org) and put 'NES Topic Suggestion' in the subject line!

For audio-conference registration information, please visit [www.udetc.org](http://www.udetc.org)

All programs provide opportunities for presentation, discussion, and sharing information. Telephone dial-in instructions and accompanying materials will be mailed to registrants two weeks before the audio conference.

To register for any of these free electronic seminars by phone, call toll-free 1-877-335-1287 extension 230