

Judicial Think Tank

*on underage drinking
enforcement & prosecution*

Texas Sport Coalition

Summary of Proceedings

*August 30, 2002
TABC Hearings Room
Austin, Texas*



Hosted by:
*Texans Standing Tall/Texas Sport Coalition
Texas Alcoholic Beverage Commission
Office of the Governor/Criminal Justice Division*

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Overview

The Texas Sports Coalition's *Judicial Think Tank* on underage drinking prosecution was sponsored by Texans Standing Tall (TST)/Texas Sports Coalition, the Texas Alcoholic Beverage Commission (TABC), and the Office of the Governor's Criminal Justice Division (CJD). This meeting was part of the Texas Sport Coalition, one of several grants funded by the Office of the Governor's Sports Violence and Substance Abuse Prevention program. The *Judicial Think Tank* was held on August 30, 2002 from 10:00 a.m. to 3:00 p.m. in the TABC Hearings Room in Austin, Texas.

The purpose of the *Judicial Think Tank* was to bring together select Texas officials with the authority to arrest, prosecute, and hear cases involving underage drinking to develop prosecution strategies to reduce underage drinking and violent behavior on our campuses and in our communities. Campus and community officials were invited to examine recent research findings from the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the Texas Sports Coalition. They were also invited to examine arrest and citation data from TABC and to participate in brainstorming sessions to develop creative solutions for enhancing enforcement and prosecution efforts in Texas.

Mary Hill moderated the event.

Presenters included:

Glenn Brooks, Director of Justice Programs, CJD
Mary Hill, Associate, Higher Education Center for Alcohol and Drug Prevention (HEC) and Consultant, TST
Lou Bright, Legal Counsel, TABC
Thomas Cloud, Student, Texas Sports Coalition
Mark Hughes, Sam Houston State University
Ellen Ward, Executive Director, TST
Atalie Price, Youth Co-Chair, TST Management Team
Honorable Sherry Robinson, District Attorney, Waller County
Honorable James Farren, District Attorney, Randall County
Honorable Jo Ann DeHoyos, Judge, Bexar County Court at Law 11
Dr. Dave Parrott, Dean of Students, Texas A&M University, College Station
Chris Heaton, Executive Director, Texas Municipal Police Association (TMPA)
Rayford Stephens, Chief of Police, Prairie View A&M University
Andrea Morrozoff, Programs Administrator, TABC
Rolando Garza, Administrator (now previous Administrator), TABC

Participants included:

County attorneys, district attorneys, county judges, a municipal judge, police chiefs, local police department officials, university deans/judicial officers, a student affairs officer, university/campus police officials, community representatives, TABC officials and agents, university students and graduate students, a victim's assistant coordinator and drug use and alcohol prevention consultants. (See Appendix B for a complete list of participants.)

Part I: Welcome and Introduction

Mary Hill welcomed the participants and thanked them for their interest in the program and time to attend the *Judicial Think Tank*. She introduced Glenn Brooks, Director of Justice Programs for CJD, who welcomed the group and gave a background of the drug and violence prevention grants awarded by CJD, and the role of their grantees in underage drinking prevention in Texas.

The Texas Sport Coalition, one of the Governor's Office Sports Violence and Substance Abuse Prevention grants, is a statewide prevention network that has partnered with higher education institutions and high school campuses to reduce underage alcohol use and violent behavior. The coalition trains model student athletes on environmental approaches to correct misperceptions about underage alcohol use to foster productive citizenship and encourage athletes to develop healthy coping skills. These students then take on a leadership role on their campuses by training other students on these topics and facilitate interactive discussion of alcohol related issues the students face. Because of the program's success, the coalition is expanding to train other model students and reach campus groups including sorority and fraternity members and cadets.

Through sessions at the 2001 TST Summit and in over 200 small focus group sessions of the Texas Sports Coalition—representing over 2,100 college and high school athletes—the need to address the enforcement and prosecution of underage drinking violations was identified. During these sessions, students indicated underage drinking laws were not being enforced and prosecuted consistently both on college campuses and in the community. Interview sessions with campus and university police reinforced the student's perspective that the prosecution of the underage drinking laws is not handled consistently. Because each campus, city, and county has the flexibility to determine who handles alcohol violations and how the cases are prosecuted, strategies were needed to focus enforcement and prosecution of cases and ensure cases are handled consistently within different jurisdictions.

The think tank was designed to provide an understanding of the professional roles and responsibilities of all participants through brief reports from varied perspectives of law enforcement, prosecutors, judicial officers, and students and then to use this information to develop strategies to enhance enforcement and prosecution by participating in a brainstorming session (See Appendix A.)

Part II: The Scope of the Problem

The first presenter was Mary Hill. Ms. Hill stressed importance of understanding the scope of the problem and, then, using prevention approaches based on sound public health theory. This process is summarized in the recently published document from the HEC, *A Call to Action: Changing the Culture of Drinking at U.S. Colleges (2002)*. This report notes the highest risk for underage drinking and alcohol related problems on college campuses is with college freshmen, "Greeks" (or sorority and fraternity members), and athletes. Ms. Hill cited the HEC study's finding that alcohol was involved in 1,400 student deaths, 500,000 unintentional injuries, 600,000 assaults, and 70,000 sexual assaults or acquaintance rapes. Other findings were that 2.1 million students drive while under the influence, 400,000 students have unprotected sex, and 150,000 students develop alcohol-related health problems. Additionally, 25 percent of students report academic consequences, including earning lower grades, doing poorly on exams or papers, missing class, or falling behind in classes due to alcohol use.

The Harvard School of Public Health's 2002 *College Alcohol Study* also measured consequences for drinkers related to (1) frequent/heavy drinkers and (2) non-heavy drinkers. Findings indicated that frequent/heavy alcohol use was related to negative student actions including a) doing something they regretted, b) getting behind on schoolwork, c) getting hurt or injured, d) having unprotected sex, e) damaging property, and; f) getting into trouble with police.

Ms. Hill also reported on the 2002 *Underage College Students' Drinking Behavior, Access to Alcohol, and the Influence of Deterrence Policies* from the Harvard School of Public Health.

The following comments from the report relate to underage students:

- when they drink they are more likely to get drunk than students of legal drinking age
- there are increased alcohol-related problems
- underage drinkers consume approximately half of all alcohol consumed
- there are strong indications that "minor in possession" or "MIP" laws limit the student's drinking

This study suggests it is imperative for campus and communities to collaborate to (1) enforce and prosecute underage drinking laws; (2) limit sources of obtaining alcohol; (3) involve parents and students to develop policies; and (4) increase law enforcement on campus and in communities. Similar recommendations were offered in the other reports.

For instance, the HEC report recommends the following policies and initiatives that demonstrated success with the general population:

- increased enforcement of minimum drinking age laws,
- programs and enforcement of laws to reduce alcohol-impaired driving,
- restrictions on alcohol retail outlet density,
- increased price and excise taxes on alcoholic beverages, and;
- responsible beverage service policies.

The HEC report recommends using comprehensive prevention strategies based on a public health model. This model uses individual and peer factors, which have been the focus in past prevention efforts, in combination with strategies based on environmental management. Environmental management includes institutional factors, community factors and public policy in prevention. Strategies based on environmental management create an environment that:

- supports health-promoting norms,
- restricts marketing and promotion of alcoholic beverages,
- limits alcohol availability and access,
- offers social, recreational, public service, and other extracurricular options, and;
- develops and enforces campus policies and local, state, and federal laws (HEC, 2002).

Ms. Hill closed her presentation with the major steps of prevention. These steps include:

1. to develop effective alcohol policies,
2. educate the community,
3. enforce the policies or laws, and;
4. prosecute those in violation of the policy or law.

More in-depth information on the HEC report and others may be found on the HEC's website at www.edc.org/hec or at the Harvard School of Public Health's website at <http://www.hsph.harvard.edu/>.

Enhancing Underage Drinking Law Prosecution On and Around College Campuses

Mr. Lou Bright, Legal Counsel for the TABC, presented 2000-2001 statistics related to violations of minor in possession of alcohol or consuming an alcoholic beverage (17-20). TABC alone had approximately 10,000 cases filed. The bulk of the cases were for high school seniors and college freshmen. Mr. Bright outlined the disposal of cases and explained the legal remedies in Texas law. The disposal of cases is often dependent upon records, reporting, and the coordination between agencies. For example, lack of coordination between municipal or local criminal justice agencies may result in failure to enforce campus policies for students cited for violating alcohol laws by local law enforcement. Furthermore, those with previous violations that are unknown to local justice officials may not receive as severe a punishment than if the previous violations were known. Improving coordination between local agencies and agencies statewide is necessary to ensure appropriate and consistent prosecution of alcohol violations.

Student Perspective

Mr. Thomas Cloud, a student at St. Mary's University in San Antonio, presented the student perspective. Mr. Cloud is a "Star Athlete" and an Olympic medallist who works with the Texas Sport Coalition. The Texas Sport Coalition (hereafter referred to as the "Coalition") is a statewide prevention network that has formed a partnership with institutions of higher education and high school campuses to reduce underage alcohol use and violent behavior. The Coalition uses environmental approaches to correct misperceptions about underage alcohol use, fosters productive citizenship, and encourages athletes to develop healthy coping skills. The Coalition works with a "train-the-trainer" model with TST staff and advisors training selected student leaders who in turn present the program to freshman athletes on their campuses. These trained athletes then train high school leaders using research-based practices such as social norming, marketing, policy development and enforcement, and wellness-based approaches. The format of the program begins with a mini-lecture to introduce the module. Small focus discussion groups, interactive activities, workshops and "think tanks" follow.

The major points Mr. Cloud stressed from the student perspective came from 2000-2002 Texas Sport Coalition research findings. These findings include:

- students drink to be normal, and;
- underage drinking laws are not being enforced or prosecuted consistently.

Student Perspective—Research Findings

Mr. Marc F. Hughes, graduate student from Sam Houston State University, presented preliminary data from "*The Relationship between Underage Drinking and Academic Achievement Among Adolescents*". The section presented compared the academic performance of three groups of students.

1. Never Drank
2. Onset \leq 15
3. Onset \geq 16

The variables measured included academic performance, behavior in school, and behavior in past 12 months. Findings suggest that onset of alcohol use at age 15 or earlier was associated with more negative academic performance and negative behavior in school than those that began using alcohol later in life or than those who never drank (See Appendix D for data analysis).

Successful Strategies

Ms. Ellen Ward, Executive Director of TST, presented several successful strategies in prosecuting underage drinking violations from Texas and other states. A summary of these strategies follows.

- A study from the state of Iowa shows that deferred adjudication on the *first* offense does not result in lower recidivism. Therefore, it is important to send a strong message to first-time violators.
- Texas cities of Carrollton, Dallas, Mesquite, Grand Prairie and Lewisville, share data on MIP and DUI citations, thus more accurately tracking first, second, and third-time offenders.
- San Marcos, Bryan/College Station and other pilot sites have instituted a General Nuisance Abatement Ordinance in collaboration with TABC and the Office of the Attorney General, successfully addressing many of the alcohol-related problems in community neighborhoods.

Ms. Atalie Price, Youth Co-Chair of the TST Management Team, introduced the youth-led campaign, “*What Part of Zero Don’t You Understand?*” to the group. In 1997, with strong input and support from teens, the Texas Legislature enacted laws on zero tolerance for underage drinking and driving. TST, in cooperation with the Texas Department of Transportation (TxDOT), developed the “*What Part of Zero Don’t You Understand?*” campaign as an ongoing tool for communities:

- to assess the scope of the underage drinking problem,
- to identify the roles that each segment of the community plays in the prevention of underage drinking, and;
- to foster collaboration on community-wide strategies to prevent underage drinking.

Ms. Price shared a video from the project entitled, *Judgement Call*, which is used to engage members of the judicial system in this community-wide campaign.

Professional Perspectives

At this point in the proceedings the perspectives of district attorneys, judges, judicial officers, law enforcement and University law enforcement were presented. Speakers included:

Honorable Sherry Robinson, Waller County DA, Honorable James Farren, Randall County DA, Honorable Jo Ann DeHoyos, Bexar County Court At Law 11 Judge, Dr. Dave Parrott, Texas A&M University-College Station Dean of Students, Chris Heaton, TMPA Executive Director, Rayford Stephens, Prairie View A&M University Chief of Police.

The following is a summary of the comments from this group:

- Law enforcement officers want to chase “real crime” not misdemeanors.
- There is redundancy of paperwork.
- A 2001 survey indicates negative peer pressure on taking time for minor crimes and two to three hours are tied up while officers miss “serious” violations.
- Homicides can be processed faster than DWI or DUI.
- Many judges favor “carrot and stick” rather than ruining kids lives.
- Courts in school appear to be beneficial in prevention by demonstrating the consequences of irresponsible behaviors.
- The Texas-Mexico Border is unique and has similar yet very different challenges in combating underage drinking issues.
- Campus judicial officers deal with alcohol violations.
- Resource materials from Texas A&M—Dr. David Parrott, Dean of Student Life and Mr. Michael Collins, Assistant Director of Student Life (See Appendix E).
- Each new academic year brings a massive infusion of freshman students on campus who are faced with new freedom, thus alcohol problems are recurring and requires continuous attention.
- Freshman students often lack understanding of the responsibility that comes with their new freedom.
- New temptations/opportunities seem to bring little or no apparent consequences.
- Health through Art on Campus and Community (Prairie View A&M) is a student/peer driven program and creates positive, health-oriented messages on bulletin boards, posters, T-shirts and other media to counter the negative effects of the pervasive alcohol and drug advertising in our communities.
- Chief’s Basic Role: “Identify qualified personnel in student leadership and community resources and GET OUT OF THE WAY!” (i.e. As Chief of Enforcement don’t “micro-manage—delegate to qualified personnel and then trust their judgment). Chief R.V. Stephens, Prairie View A&M University.

Part III:

Brainstorming Session

Overcoming Obstacles to Successful Prosecution of Underage Drinking Violations

At this point, the participants were divided in to four groups for the brainstorming session. Each group had a representative from each profession represented at the meeting, including students and staff members from TABC and TST. Each group was given four questions to discuss. They were instructed to record their responses on a flip chart to share with the entire group at the end of the session.

Questions for Judicial Think Tank Brainstorming Session:

1. What obstacles have you found that prevent the successful prosecution of underage drinking violations?

2. Who are the major players in successfully prosecuting underage drinking violations?
3. List strategies that you have found successful in prosecuting underage drinking violations.
4. What resources are available that would enhance the successful prosecution of underage drinking violations? (Example—training, associations, continuing education resources, etc.)

The following is a summary from each group.

Group 1: (David Garcia, County Attorney; Dario Martinez, Municipal Judge; Rayford Stephens, Chief of Police; Chris Heaton, Texas Municipal Police Association; Mary Hill, TST; Mike Collins, Judicial Officer; Thomas Cloud, student; Christina Guerra, TABC Lieutenant)

1. What obstacles have you found that prevent the successful prosecution of underage drinking violations?

- Public perception
- Culture
- Selective enforcement
- Lack of training/education

2. Who are the major players in successfully prosecuting underage drinking violations?

- Trust, respect and interaction among and within
Communities→Parents→Students→Police→Judiciary→Media
- Media subgroup→Advisors and student organizations

3. List strategies that you have found successful in prosecuting underage drinking violations.

- Public information
- Education
- Media campaign and high profile local education campaign
- Consistent
- Assess and evaluate strategies regularly

4. What resources are available that would enhance the successful prosecution of underage drinking violations?

- Community Coalitions!!!
- Media information and news releases through numerous venues—inclusive

Group 2: (James Farren, District Attorney; Al Alonso, County Court at Law Judge; Barney Witt, Police Department; Deborah Brown, Chief of Police; Ellen Ward, TST; Frank Parker, Vice President of Student Affairs; Lt. Ron Stadler, UT Police, Field Operations)

1. What obstacles have you found that prevent the successful prosecution of underage drinking violations?

- Little or no sharing of information
- Culture that tolerates consumption of alcohol
- Minors don't know all risks involved
- Parental denial
- Lack of enthusiastic investigations

2. Who are the major players in successfully prosecuting underage drinking violations?

- Police must continue to be major players
- Prosecutor
- Judge
- Parents
- Experts to educate jury
- Informed community
- MADD

3. List strategies that you have found successful in prosecuting underage drinking violations.

- Educating community from whom jurors are chosen
- Reputation of Zero Tolerance for underage drinking and standing by it
- Alcohol assessments
- "Sting" operations
- School and Community joint support

4. What resources are available that would enhance the successful prosecution of underage drinking violations?

- DARE
- MADD
- OJJDP and other grant programs
- Shattered Dreams
- Victim Impact Panel
- Peer influence

Group 3: (Sherry Robinson, District Attorney; Jo Ann DeHoyos, County Judge; Tom Mylett, Police Department; Lou Bright, TABC; Steve Ross, TST; Moonki Hong, student; Stephanie Smith, community organization)

1. What obstacles have you found that prevent the successful prosecution of underage drinking violations?

- Different codes
- Police/Prosecutor forgiveness
- Parental denial—lack of follow-through
- Unequal application
- Lack of infrastructure for tracking MIP/DUI

2. Who are the major players in successfully prosecuting underage drinking violations?

- Parents
- Law enforcement
- Judges
- Legislature
- Peer groups
- Media

3. List strategies that you have found successful in prosecuting underage drinking violations.

- Parents present at plea bargain
- Victim impact panels
- University underage drinking policy

4. What resources are available that would enhance the successful prosecution of underage drinking violations?

- County/State Attorney Association
- Law Enforcement Association
- Community coalitions
- University officials

Group 4: (Hillary LaBorde, Assistant District Attorney; Sandra Jefferson, Chief of Police; Kay Hagar, Judicial Officer; Greg Hamilton, TABC; Dave Parrot, Dean of Students; Marc Hughes, student; Gil Faren, Victim Assistance Coordinator)

1. What obstacles have you found that prevent the successful prosecution of underage drinking violations?

- Parents
- Political pressure from school officials
- Jurisdictional problems
- Jurors—not concerned with underage drinking

- Police avoiding DWI investigation—just giving DUIs
- Peers not helping in prosecution
- Myths about impact of charge

2. Who are the major players in successfully prosecuting underage drinking violations?

- Law enforcement (University police, local police, and state grant programs—S.O.B.E.R—Slow On the Bottle, Enjoy the Ride)
- Parents
- Community
- Local vendors/restaurants, bars
- Campus judicial officers
- Students
- Prosecutors and judges

3. List strategies that you have found successful in prosecuting underage drinking violations.

- S.O.B.E.R. Program
- Collaboration by and with university police, local police, campus judicial officers, local communities
- Collaboration by and with prosecutors and police
- Sharing of information by and with key players
- Developing meaningful relationships by and with university staff, police, district attorneys

4. What resources are available that would enhance the successful prosecution of underage drinking violations?

- Student education about alcohol by peers, university staff
- Working more with MADD
- Having more Victim Impact Panels for offenders
- Restorative Justice Models
- More cross-training with prosecutors and university staff
- More support from athletic coaches
- TABC presence at off-campus parties—uniform presence generally

Part IV: Commitment

Following the brainstorming session, the participants were asked to fill out a brief questionnaire. The questionnaire asked the participants to list one or more activities related to enhancing the successful prosecution of underage drinking that each would be willing to pursue in the coming year. Responses to this questionnaire are listed below:

- I will make sure that our university gets involved with the collegiate alcohol education program that was presented.
- Develop a procedure to track DUI 2nd and 3rd offenses so that these cases can be prosecuted. Presently, these cases are not being filed or prosecuted in our jurisdiction.
- Contact all JPs and municipal judges and remind them that Cannon 2 and 3 stress that a judge WILL OBEY the law and then refer them to Chapter 106 of the ABC.
- I will commit to work with the courts to make sure parents must attend court with their under 21 defendants/children at all sentencing for alcohol related offenses.
- Corpus Christi Police Department continues and will continue to engage in minor stings/street enforcement/source enforcement/community education/retailer education/parent-teacher-student education—partnering with OJJDP/TABC/others. And, more recently educating the community to voice their concerns to our DA on a continuous basis.
- I am very interested in working to get the community and the university’s authorities to share more information with one another. I will also work on identifying and encouraging student peers.
- I will better complete investigations and reports to support cases by officers. I will continue to support Zero Tolerance for underage drinking.
- Teach/speak at conferences and seminars.
- I will work with my campus community, city community, parents, businesses (that sell and serve alcohol) and students to educate, and follow through on prosecution of all alcohol violations. I really want to be proactive instead of re-active.
- Get more involvement by MADD—get their presence in the courtroom. Talk to high school students about the law dealing with drinking and underage drinking.
- Working with the judiciary.
- Work to organize trainings for continued collaboration in San Antonio. TxDOT funds for ongoing training.
- Collaboration with local authorities. Peer education.
- Contact local University Judicial Officer and establish a relationship. Contact “all” local courts of jurisdiction to help establish conformity in prosecution.
- Meet with all JPs. Meet with school administrators. Publish information concerning underage drinking.
- Working to enforce the reporting of convictions of minors in possession.
- First is to create opportunities for officers to participate in forums in residential areas on underage alcohol. Provide alcohol violation enforcement training. Apply for grant to fund coalition.
- Hopefully, resources to cut the rates of underage drinking should be discussed. The research that I am doing is about the youth-team sports participation, and the deviant behaviors and school performance. My theory is that the youth who participate in sports activities do not have much time to hang out with their deviant peer. My finding is that there is a difference between team sports participants and non-students. Team sports participants are less likely than non-participants to drink alcohol. And, they have a higher relationship with their parents, which is one of the protective factors in Question 2. Although my research is still going on, but will be done soon, I really hope that I will have an opportunity of sharing insightful ideas with those who are interested in the same topic for the next meeting.

Part V: Call to Action

Mr. Rolando Garza, then Administrator of the TABC, passionately delivered the call to action. Participants were challenged to make every effort to make a positive difference in the lives of the young people of Texas and to work with every facet of their community. Young people working closely with law enforcement and the judicial system can, and will, make a difference. Consistent prosecution of underage drinking violations will deliver a united message that the health and safety of all young people is of the greatest importance.