

Over Service



Yellowstone County Alcohol Enforcement Team

- Multi-jurisdictional team consisting of:
 - Billings Police Officers
 - YCSO Deputies
 - Laurel Police Officers
 - MSUB Campus Police
 - Supervised by BPD Sgt

Alcohol Enforcement Team Functions

- Provide education/training to alcohol serving community (RASS)
- Enforcement of laws relating to service to alcohol:
 1. Compliance Checks
 - sales to minors
 - “shoulder taps”
 2. Over Service Details

MCA CODE

16-3-301. Unlawful purchases, transfers, sales, or deliveries -- presumption of legal age.

(4) It is unlawful for any licensee, a licensee's employee, or any other person to **sell, deliver, or give away** or cause or permit to be sold, delivered, or given away any alcoholic beverage to:

- (a) any person under 21 years of age; or
- (b) any person **actually, apparently, or obviously** intoxicated.

Methods to Consider: “Actually”

- Officers “dosed” to intoxication?
 - Careful documentation
 - Re-dosing during detail
 - Primary witness is drunk
 - Public perception?

METHODS TO CONSIDER: “APPARENTLY”



Methods to Consider: “Apparently”

- Officers/Actors acting intoxicated
 - Use of cameras
 - Charging someone for serving a sober person

Methods to Consider: “Obviously”

- Surveillance of drunk patrons
 - Use cameras/PBT/receipts
- Key witness is intoxicated
- Key witness unwilling to cooperate

All have disadvantages:

- Work with your attorneys first
- Talk to your judges
- Document everything
- Consider using outside agency to assist

Problems Encountered

- Start time/location of detail
- Methods of documentation (body cams, recorders, PBT, surveillance video, reports)
- Other observed crimes in progress (disturbances, drug activity, minors)
- SOP if officers are “made” by patrons/server in bar.

Charging Over service “After the fact”

- Serious injury/deadly crash
- Violent assault
- PFMA
- Endangerment

What works in one place....

- Multiple solutions with multiple problems
- Consider forming a multi-jurisdictional team
- Don't forget education, prevention, and enforcement
- Get the public behind you

Time permitting:

“Use of underage buyers”

- Only to buy alcohol
- On and off premise
 - Shoulder taps
- Train your buyers
- Actual ID's
- Bait money
- How to cite

LAWS AND CASE STUDY



BREAK DOWN

What laws can you be charged with regarding DUI/Crash or other alcohol related incidents?

- Misdemeanors

- Felonies

MONTANA LAWS

⦿ MISDEMEANOR

- MCA 61-8-460 OPEN CONTAINER
- MCA 61-8-401 DUI
- MCA 61-8-465 AGGRAVATED DUI

⦿ FELONY

- MCA 61-8-401 DUI
- MCA 45-5-207 CRIMINAL ENDANGERMENT
- MCA 45-5-205 VEHICULAR ASSAULT
- MCA 45-5-106 VEHICULAR HOMICIDE

OPEN CONTAINER IN VEHICLE

- ① 61-8-460. Unlawful possession of open alcoholic beverage container in motor vehicle on highway
- ② A person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container **within the passenger** area of a motor vehicle on a highway.

DUI

- MCA 61-8-401 Driving under the influence alcohol/drugs
- alcohol/drugs to drive or be in actual physical control of a vehicle upon the ways of this state open to the public;
- Being under 21 with BAC of .02 or higher
- Under the influence, and vehicle was involved in accident causing property damage
- Involved in accident causing serious bodily injury or death

AGGRAVATED DUI

- **61-8-465. Aggravated DUI**
- (1) A person commits the offense of aggravated driving under the influence if the person is in violation of **61-8-401**, **61-8-406**, or **61-8-411** and:
 - (a) the person's alcohol concentration, as shown by analysis of the person's blood or breath, is 0.16 or more;
 - (b) the person is under the order of a court or the department to equip any motor vehicle the person operates with an approved ignition interlock device;
 - (c) the person's driver's license or privilege to drive is suspended, canceled, or revoked as a result of a prior violation of **61-8-401**, **61-8-402**, **61-8-406**, or **61-8-411**;
 - (d) the person refuses to provide a breath or blood sample as required in **61-8-402** and the person's driver's license or privilege to drive was suspended, canceled, or revoked under **61-8-402** within 10 years of the commission of the present offense; or
 - (e) the person has one prior conviction or pending charge for a violation of **45-5-106**, **45-5-205**, **61-8-401**, **61-8-406**, **61-8-411**, or this section within 10 years of the commission of the present offense or has two or more prior convictions or pending charges, or any combination thereof, for violations of **45-5-106**, **45-5-205**, **61-8-401**, **61-8-406**, or **61-8-411**.

FELONY CHARGES

DUI - FELONY

- MCA 61-8-401 Driving under the influence alcohol/drugs
 - Fourth offense or higher makes it felony.

ENDANGERMENT

- ◎ 45-5-207. Criminal endangerment
 - (1) A person **knowingly** engages in conduct that creates a substantial risk of death or serious bodily injury to another
- ◎ 45-5-208. Negligent endangerment
 - (1) A person **negligently** engages in conduct that creates a substantial risk of death or serious bodily injury to another

ASSAULT

- **MCA 45-5-205. Negligent Vehicular Assault**
 - (1) A person negligently operates a vehicle, while under the influence of alcohol, a dangerous drug, and who causes bodily injury to another

HOMICIDE

- **MCA 45-5-102 Deliberate Homicide**
 - **purposely or knowingly** causes the death of another human being
- **MCA 45-5-104 Negligent Homicide**
 - **negligently** causes the death of another human being

VEHICULAR HOMICIDE

- ⦿ **MCA 45-5-106. Vehicular Homicide While Under Influence.**
 - (1) A person commits the offense of vehicular homicide while under the influence if the person **negligently causes the death** of another human being while the person is operating a vehicle in violation of **61-8-401**, **61-8-406**, or **61-8-411**.
- ⦿ **CONVICTION** - imprisoned in a state prison for a term not to exceed 30 years or be fined an amount not to exceed \$50,000, or both.

Fatal Crash

- AUGUST 22, 2015
- 0111hrs
- Intersection of 1st Ave N and Hwy 312
(Main St)

INITIAL CHAOS

- Multiple calls to dispatch of vehicle traveling with damage and sparks coming out from under the vehicle.
- Report of motorcyclist struck by vehicle at intersection
- YCSO Deputy observed vehicle at intersection of 4th Ave N and Main St (Entrance to METRAPARK)

DETAILS COME TOGETHER

- Suspect vehicle was identified as being related to all calls.
- Motorcyclist was still on roadway and unresponsive pronounced dead on scene
- Suspect driver displayed signs of impairment.

INVESTIGATION LEADS TO

- Suspect arrived at bar on west end of Billings at approximately 2030hrs
 - Entered business sat at bar
 - Was served and consumed over 15 alcoholic beverages between 2030hrs and 0100hrs
 - Stumbles to vehicle, observed by employees, and drives away

INVESTIGATION LEADS TO

- Travels 2.0 miles
- Strikes planter at 29th and Montana Ave
- Continues 2.0 miles, observed by witnesses
- Collides with victim who was waiting at red light at the intersection of 1st Ave N and Hwy 312 (Main St)

INVESTIGATION LEADS TO

- ⦿ Suspect – Travis Dedmore 34yo male
 - Investigated for DUI
 - Cooperative with the investigation and consented to a blood draw
 - Blood results .247
 - 2 lifetime BAC/DUI Convictions

INVESTIGATION LEADS TO

- Victim – Rodney Bayman 56yo male
 - Was headed home from work on the south side of Billings to the Heights
 - Harley Davidson enthusiast
 - NOT UNDER THE INFLUENCE.....

SENTENCE

- Dedmore sentenced on December 23, 2015
- 22yrs in MSP

INVESTIGATION OF BAR

- Reviewed Security Video
 - Suspect was served by both employees
 - Outside alcohol
 - Employees watched him stumble to vehicle....no reasonable effort.
 - Both employees cited for over service

QUESTIONS?