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Drunk drivers beating judicial system

By M.B. Dillon Ward
staff writer

Drunk driving in the Farmington area looms as a large problem that the system doesn't deal with very effectively.

That's the opinion of Judge Michael Hand, Chief of Probation Carole Laconis of the 47th District Court and Farmington Hills Lieutenant Ernest Miller.

The figures seem to confirm their opinion as fact.

Of the nine fatal accidents in Farmington Hills during 1981, six (and possibly seven) were alcohol-related, according to Miller.

Five of the 10 fatalities in Farmington Hills during 1980, in which ten deaths resulted from those mishaps.

In Farmington Hills, there were eight alcohol-related traffic deaths in 1979, three in 1978, eight in 1977 and seven in 1976.

During the past five years, the death toll from car accidents involving alco-

hol reached 450 in Oakland County. Injuries numbered 21,000 with the total economic loss estimated at \$168 million in lost wages and productivity and insurance costs, according to Jerry Petterson of the Traffic Improvement Association in Bloomfield Hills.

THE FIRST-TIME offender can be charged with a misdemeanor, fined up to \$500 and sentenced to 90 days in jail. For the second offense, a high misdemeanor, the fine jumps to a maximum of \$1,000 and the jail term to six months to a year. The third offense constitutes a felony.

But despite legal sanctions:

- 75 percent of the caseload in the 47th District Court Probation Department involves drinking.
- Only about 10 percent of those charged with drunk driving in 47th District Court lost their licenses in 1981.

Hand says many people mistakenly believe judges can take away licenses. In fact, only the Secretary of State has that power.

- Relatively few cases go to trial.

Eighty-five to 90 percent of drunk driving cases are plead out in one form or another, says Hand.

Of some 500 cases handled in 1981 by Hand and his colleague Judge Margaret Schaefer, about 20 percent involved repeating offenders.

COMPOUNDING the problem, Hand says, is the easing of sentences by the Department of Correction. "Imprisoned drunk drivers" get five days for good behavior, five days for working in the prison library, five days here and there for all kinds of things until their sentences are drastically reduced," he says.

The lessening of time served probably results from the theory that people basically are good, and are able to be rehabilitated, Hand adds.

"It's not realized that there are people who choose crime as a profession just as others choose law or journalism."

Miller considers the shortage of prison facilities another prime factor.

"If the law was enforced to the ex-

tent it could be, I doubt there's a county jail in Michigan that could handle the volume," he says.

THE PROBLEM of limited jail space hasn't hampered Miller, however. Last year, he initiated a plan for the chronic offender.

"We are seeking warrants from the Oakland County Prosecutor's Office for second and third time offenders," says Miller. "We've secured 30 to 40 warrants so far."

Miller adds he's not sure if his tactics are taking drunks off the road, but they do complicate plea bargaining for repeat offenders without "throwing the families of first-time offenders into an upheaval."

Defense attorneys, prosecutors, and the courts seem to harbor a soft spot for the families of drunk drivers.

"Defense attorneys fight for lesser charges," Hand says, "and the courts tend to go along with them. If you take away a license, it usually means the loss of a job. In this area, there is no public transportation worthy of the

name, especially in the suburbs.

"And in these economic times, if a defendant has to employ an attorney and pay legal costs on top of a fine, you're talking about a lot of money."

AS LONG AS "sufficient punishment" is handed down, prosecutors don't argue with lesser charges for a defendant either, Hand says.

Usually, first-time offenders are fined \$250 by Judge Hand. He also sends drivers to alcohol rehabilitation programs.

Although Hand has seen "lots of fatalities" due to drunk driving during his more than 18 years as a judge, he notes that the alcohol programs have spurred some progress.

"Since the rehabilitation programs were instituted (more than a decade ago), the amount of convictions in Oakland County show a decline in the amount of drunk driving, and the number of arrests has increased as well," Hand says.

The loss of drivers' licenses for persons who fail to complete the rehabilitative program probably serves as an incentive to attend the sessions, he adds.

The recent lowering of the amount of alcohol in the blood legally allowable for drivers (from .15 percent to .1 percent) also may be partially responsible for the trend, says Hand.

DRUNK DRIVING DOESN'T appear to be a dilemma that's going to disappear.

"The consumption of alcohol, unlike cocaine or heroin, is accepted in almost every family where all, or at least some members drink," Hand says.

"Drinking isn't a crime until it endangers someone's life."

Laconis agreed. "It's a people problem more than a judicial problem," she said. "It's a disease, and it originates in the home."

"With our laws, there's no way you can force people to accept treatment. Prohibition didn't work before, and it won't work now."

War of noise relentless

By Craig Piechura
staff writer

Persons who drive north on the I-275 expressway undoubtedly have noticed a large, angry message tacked to the side of an old farmhouse nestled next to the roadway at Nine Mile.

The sign's message is: "Rearrang, Miliken, Woodford: I-275 Noise Abatement - Here? When?"

More than four years have passed since the expressway opened, but Mrs. Joan Barber of 39040 Nine Mile Road hasn't mellowed toward the road one bit.

In fact, she says, the noise generated by cars and semitrucks is getting worse because more vehicles are using the freeway. And she'll show you decibel-level sound readings from her hand-held meter to back up the claim.

The right lane of the expressway is 130 feet from the western wall of the Barbours' 148-year-old Greek Revival farmhouse, a home listed in the state register of historic sites.

The 20-foot canvas sign on the house seen by expressway travelers is only one example of the lengths Mrs. Barber has gone to in publicizing her plight.

She wore a sweater with the words "Noise Hurts" to a hearing in Lansing on highway noise. A stack of newspaper clippings about the freeway and scholarly treatises like Lewis Mum-

ford's "The City and the Highway" are stacked on the kitchen table. A transportation official in Lansing said he has a file more than two inches thick on his desk with copies of Mrs. Barber's correspondence with state and federal officials.

SHE WON'T stop squawking, she says, until the state agrees to erect a concrete sound barrier along the length of her property like the ones built further south on the expressway.

"Nobody seems to listen to my words so I do it silently, like (billboard) advertising, hoping the message sinks into their heads," Mrs. Barber said.

"I'm just a housewife who's trying to preserve the home her husband's lived in almost all his life. He's not a fighter, but I am. My mother taught me not to use bad language, but I'm damn mad."

Miles of sound-deadening concrete walls were erected by the state three and four years ago along I-275 through Canton Township, Plymouth Township and part of Livonia with the help of federal funds. Mrs. Barber wants to know why a similar sound barrier can't be built alongside her home.

"It's not economically feasible or reasonable to use Michigan taxpayers' funds to build a noise-abatement wall worth as much or more than her home and property," said Joe DeFrain, engineer in the testing and research divi-

sion of the Michigan Department of Transportation (MDOT).

BUILDING 1,000 FEET of sound wall at a cost of about \$130,000 for one family would establish a costly precedent and might not reduce the noise much, DeFrain says, because sound could seep in from either end.

MDOT has offered alternative solutions to alleviate the Barbours' noise woes, DeFrain says.

In January of 1980 John Woodford, MDOT director, wrote a letter to State Rep. Wilbur (Sandy) Brotherton telling him state officials were "investigating alternatives" to a sound wall for the Barber residence. These alternatives included paying an estimated \$30,000 to relocate the home farther away from the freeway either on the same piece of property or elsewhere.

The plan to move the historic home was dropped, DeFrain said, because it coincided with a letter Mrs. Barber wrote the same month to Gov. William Milliken. In that letter she stated "We own an historic family farm home on an historic, original site, and we are determined to keep it. We must have noise protection. Moving a house is not a solution."

Last Thursday Mrs. Barber's husband, Dr. Robert Barber, a Livonia dentist, said he never knew the state was willing to pay to have his home



RANDY BORST/staff photographer

Joan Barber monitors the sound level in her back yard with a hand-held meter that measures the noise of passing traffic on I-275.

moved. Barber said he'd like to meet with state officials to discuss the possibility of relocating the house.

MOVING THE HOUSE isn't an acceptable offer, says Mrs. Barber. The

45-year-old mother of four vows to continue devoting most of her free time to fighting for a sound barrier. She also works midnights as a nurse at St. Mary Hospital in Livonia and attends a class in historic preservation at Eastern

Michigan University. Another alternative suggested by state officials is an acoustic treatment of the house with sound-deadening materials.

Please turn to Page 5A

Freeway stop brings a brush with death

By Craig Piechura
staff writer

A car dealer from Holland, Mich., narrowly escaped serious injury or death Wednesday evening when he was shot at on the M-102 expressway in Farmington Hills in an apparent robbery attempt.

Just before the exit to eastbound I-695, Elmer Nienhuis, 63, of Holland,

says a car pulled alongside his, and a passenger in the other car told him the undercarriage of his car was burning.

The message was a ruse to get Nienhuis to pull over in an apparent armed robbery attempt. While bent over to inspect the car, Nienhuis says, he was ordered in obscene language to stay down on the ground by the same man who told him he had car trouble.

Ignoring the order to stay down, Nienhuis attempted to stand up and was struck in the back of the neck with the butt of the handgun.

"It just about knocked me out," said Nienhuis. "It knocked me to my knees. That's about when I heard the shot. I didn't know whether he shot me or hit me. I scrambled for the road and the lights. I knew I was in trouble."

THE BULLET passed twice through his bunched up wool overcoat and four times through the wrinkled folds of his suitcoat underneath, according to Nienhuis — a claim verified by state police spokesman Robert Garcia.

"The way he shot at me proves to me something I originally believed," Nienhuis said. "You don't die before your time. I think there's something in it for

me. Things don't happen by chance. We're Reformed Church people and that's what we believe."

Nienhuis said he's "not a fanatic" but believes the incident means "there's something I've got to live for, there's a purpose to my life."

As owner of Suburban Motors of Holland, Nienhuis makes weekly trips to the Detroit area every Wednesday and Thursday to buy and sell cars at various dealerships. He had just purchased a Volkswagen Rabbit from Bob Saks' showroom at Grand River and Drake and was driving back to join his wife at a motel in Canton Township when he met up with the two suspects.

"He was shaking when he met me back at the motel," Mrs. Nienhuis said. "I said, 'You've been shot; you smell like gunsmoke.'"

Trooper Garcia says Nienhuis might have been seen buying the car at the car dealership and followed by the two

suspects to the freeway.

The state police spokesman warned that attacks or robberies similar to this one are occurring lately. Criminals, in some instances, have even intentionally rammed their car into a victim's vehicle, forcing the person to stop and inspect the damage.

THE SUSPECT who did the shooting with a small caliber handgun is described as white, well-dressed, in his mid-20s, with thinning, short brown hair.

There's no description of the driver of the car the two suspects escaped in because he never got out of the vehicle. The car is described as a white two-door mid-70s Olds Cutlass or Chevy Malibu. Police have no leads on the suspects or their vehicle.

No money was taken from Nienhuis because the two fled after the gun discharge.

Imposter strikes

Scam costs elderly woman \$2,000

Anna D'Agostino, an 84-year-old resident of Detroit Baptist Manor in Farmington Hills, recently was robbed of \$2,000 by a youth posing as a friend of her grandson.

Mrs. D'Agostino told police she received a phone call from a man claiming to be her grandson, Bob. She has a 22-year-old grandson named Robert D'Agostino Jr.

The caller told the woman he was "in trouble, was involved in an accident and needed \$2,000."

He added "not to tell dad," according to police.

Mrs. D'Agostino told her "grandson" that she didn't have the cash at home, but would go to the bank.

The woman received a second call after getting a ride to and from the National Bank of Detroit, where she withdrew \$2,000.

After learning that Mrs. D'Agostino had the money, the caller told her he was "at Dad's house and couldn't come over because he was in a hurry to pick

up Tina." His friend "Peter," the man said, would be there to pick up the money. Mrs. D'Agostino's grandson is married to a woman named Tina.

The man called a third time and stayed on the phone until "Peter" arrived, greeting Mrs. D'Agostino as "grandma."

She handed a white envelope containing \$2,000 to "Peter," who walked out to the elevator and left.

Mrs. D'Agostino told police she realized the next day that she had been tricked.

During one of the phone calls, Mrs. D'Agostino's "grandson" told her he would pick her up at 5 p.m. the following day to take her to his parents' house for dinner.

When no one arrived, she called her son, Robert D'Agostino Sr., and discovered that neither he nor his sons knew anything about the incident.

"Peter" is described by Mrs. D'Agostino as a husky white male, 5-6 feet, 25-27 years old with light brown hair.

of the residence.

Officer Donald Fradette reportedly found a multi-colored winter jacket covered with blood in a stream near the hill.

Police tracked prints as far as the Masonic Temple at Grand River and Farmington Road, where tracks were lost on the sidewalk.

2 youths beat and mug man, 74

Shay Foreman, 74, of 24665 Farmington Road, was walking down his driveway toward his car at 9:20 a.m. Thursday when he was beaten with a ratchet wrench and robbed of \$3,000 by two youths, according to police.

Foreman told officers the youths came from the side of his garage and began beating him on the head with the object, saying, "We know where the

money is."

They then took \$3,000, mostly in \$100 bills, from Foreman's pants pocket, officers said.

Police said Foreman believed the youths were trying to kill him. He described one youth as a five-foot-10 19-year-old with blond wavy hair, and the other as a 120-pound 15-year-old with dark hair.

FOREMAN was treated at Botsford Hospital for extensive head injuries. He was still in the hospital Saturday.

Officers from Farmington Hills, the Detective Bureau and the Youth Bureau reported to the scene and followed two sets of tracks in the snow from Foreman's driveway to a hill just south

what's inside

Community Calendar . . . 6C
Editorials 8A
Inside Angles 3A
Obituaries 4A
Shopping Cart . . . Section B
Suburban Life . . . Section B

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