



# TEXAS DISTRICT & COUNTY ATTORNEYS ASSOCIATION

## **DWI Prosecutor Task Force Meeting**

**Courtyard by Marriott Austin Pflugerville & Pflugerville**

**Conference Center**

Pflugerville, Texas

October 9, 2025

### **Thursday, October 9, 2025**

#### **9:00 a.m. Introductions: State of Impaired & Driving Prosecution**

*All Task Force members*

Clay Abbott, DWI Resource Prosecutor, addressed the Task Force and talked about the mission, purpose and procedures of the Task Force. Each member of the task Force introduced themselves.

#### **10:00 a.m. DWI Resource Prosecutor Project**

*Clay Abbott*

- Case Summary

Clay brought to a vote for Jessica Frazier to continue to update the online DWI Case Law Update in FY2026. Everyone unanimously agreed.

- SFST Review

Clay asked if we should continue paying for someone to update the SFST Review. Everyone unanimously agreed. The current subcontractor Mariel Puryear is running for judge. Grayson Miller volunteered and was vetted by the DWI Resource Prosecutor and Task Force to write the SFST Review update starting FY2026.

- Regional Training

Clay proposed continuing the Effective Courtroom Testimony, Guarding Texas Highways, Rolling Stoned and Worst Case Scenario regional trainings for FY2026 and FY2027. Everyone unanimously agreed.

- Jessica Frazier and Clay Abbott reforming Rolling Stoned

- Jessica Frazier reforming Guarding Texas Highways
- Clay Abbott and Andrew James reforming Worst Case Scenario

- 2026 Advanced

Clay proposed recommending the TDCAA Training Committee make Intoxication Manslaughter the Advanced course for 2026. He would be using a case focusing on DRE's and toxicology at this school. Very light on reconstruction. Andrew Figliuzzi and Jessica Frazier suggested adding in causation somehow. Andrew James agreed. The majority of the Task Force agreed to recommend an Intoxication Manslaughter advanced course in August 2026.

- Prosecutor only Defenses training in June

Clay discussed doing a 4-hour prosecutor only training in FY26. We would go to 6 cities. Discussion was had about attorney only training, the general topic and actual content. Everyone unanimously agreed.

Suggested topics:

- revoking consent
- defending blood search warrants
- oath
- toxicologist extrapolation
- no per se on drugs
- BAC trap/disassociation of BAC
- Smith v Arizona
- QI's – why we do it and what the purpose is
- defend SFSTs
- traffic stops – elements
- laboratory incidents
- reviewing the bodycam from the traffic stop
- resources on defense experts
- sanitary place
- qualifying technicians

Suggested places to hold the training:

El Paso (Ada Nwaneri agreed to accommodate this training)

Dallas area (Andrew James suggested Arlington PD)

Lubbock (Craig Oglesby suggested Sherrif's office)

The Valley area

Hays County, Kyle or New Brainfels

Conroe

Clay asked if anyone is seeing alternatives being used other than hospitals to draw blood. Some counties are using jails according to our Task Force members. Clay asked about the use of Urgent Cares and ER's. Craig Oglesby said there has been one instance in his county where they did utilize an Urgent Care/ER.

- 2027 Grant

Clay proposed going down to 24 training in FY2027. Everyone unanimously agreed. Clay proposed updating the DWI Investigation and Prosecution book and the Transportation book in FY2027. Everyone unanimously agreed. Clay asked for anyone interested in becoming a speaker for our Regional Trainings to talk to him about attending TDCAA's Train the Trainer in March 2026. Clay will continue to write 4 articles and 10 case summaries.

- Potential Video Projects

Joe Hooker, TDCAA Asst. Training Director introduced himself. He talked about upcoming online training, including one DWI training that will include Jessica Frazier and DWI terminology. Hopefully will be able to do a video explaining intoxilyzers in the near future. Requested ideas on other DWI topics that would be beneficial to make online training videos for.

Suggestions:

- DRE, qualification, post incident review – Jessica Frazier (Would need to include an updated DRE list with this training). Approved by Task Force
- Trying a DWI without a DRE– Taylor Vanegas. Approved by Task Force
- Breath testing – Taylor Vanegas. Approved by Task Force, but would do the DRE videos first
- Causation, not a voir dire talk – Jessica Frazier. Joe said we could build something around causation, but not just talk about causation (example, rules of evidence). Approved by Task Force
- Put back up Intoxication Manslaughter online course- Andrew James. Joe and Clay said we could bring it back online this year. Approved by Task Force.

- Articles/Documents/Resources

Clay proposed funding writing 3 active bench briefs a year in the FY2027 TxDOT grant. Suggested writing on revoking consent, Burton v Heath/Litigation packet issues, oaths and SFSTs. We would put these on TDCAA's DWI Resources page. Deadline for submitting bench briefs would be June 1<sup>st</sup>. Everyone unanimously agreed.

Bench Brief assignments:

Jessica Frazier, Andrew James and Mariel Kelley – Oath on Search Warrants.

Taylor Vanegas, Matthew Foye and Craig Oglesby – Revoking Consent  
Andrew Figliuzzi, Landon Campbell and Ryan Calvert – 38.23 delayed discovery

## **12:00 p.m. Lunch**

## **1:00 p.m. Oral Fluids**

*Chuck DeWeese & Erin Inman*

Chuck DeWeese and Erin Inman presented on oral fluid. The Task Force received a handout of the PowerPoint regarding their presentation and followed along. Erin let the Task Force know that at this time, they have not had a lot of issues with oral fluid being kept out by defense attorneys. She also stated that oral fluid testing is less invasive and embarrassing for the subject. Chuck brought out the oral testing device and explained how to use it/how it works. He said that it is not intended for court proceedings, only for probable cause. Chuck also brought up that Indiana is having great success with using oral fluid testing. The testing is being used in about 30 states right now.

Questions:

Clay Abbott asked if there are any states compelling oral fluid testing. Erin said she is not aware of that at this time.

Andrew James asked if this is a standalone test or would it need to also have a blood or breath test along with it. Erin said because it is more like a breath test, it would need to be combined with a blood/breath test since it is also used as a screening tool.

Clay Abbot asked if in addition to roadside, is the technology being used in screening for probation, drug courts, pre-trial supervision? Chuck said yes, it is. Clay suggested, if Texas did want to do a pilot program in one of its jurisdictions for oral fluid testing, starting with probation and pre-trial supervision instead of roadside is the way to go. Clay would want to get it in front of the Texas Science Forensics Commission.

Mike Hartman asked about the cost. Chuck said the analyzers are \$48/piece and the cartridges are \$28/piece. Life span is 2 years on the cartridges.

Clay asked if the Task Force would be on board with backing a pilot program in Texas for roadside use of oral fluid screening testing. The Task Force unanimously voted no. Clay asked the Task Force if they would support oral fluid be used in probation and pre-trial supervision and not roadside. The majority of the Task Force agreed.

## **2:00 p.m. Texas DRE**

*Carlos Champion, DRE Coordinator*

Carlos Champion presented on the Texas DRE program. Right now, there are 420 DRE's in Texas. After the DRE schools in Katy, TX and New Braunfels, TX, there will be more

than 160 agencies that have at least 1 DRE. Carlos talked about the scholarship offered by the Be a Blake Foundation that will help pay for the DRE training for officers.

Carlos brought up again his recommendation for bringing all SFST trainings under the State Coordinator at the Impaired Driving Task Force in February 2026. This was unanimously agreed on by the FY2025 DWI Prosecutor Task Force and is still agreed on by this year's (FY2026) Task Force.

Carlos said that one of the questions that comes up with DRE's is what to do when the defendant exercises their Miranda rights when conducting an investigation roadside. He has told the DRE's to ask their local prosecutors' office to see how they would prefer them to handle that and what questions would be considered interrogation questions and what questions wouldn't. Several members of the Task Force made suggestions but concurred the best response was to ask for local advice.

Clay Abbott asked Carlos if there were any significant changes to the curriculum for SFST's and DRE's. Carlos said there wasn't.

Carlos talked about the San Diego Study and his intention to increase education on that study.

Carlos said he would be in contact with Grayson Miller with any SFST updates.

Clay went over the handout provided by the SFST program regarding their training numbers.

The Task Force unanimously agreed they continue to approve on the administration training and curriculum of the current SFST ARIDE and DRE programs.

Clay said he would be talking to the IACP about post incident review and testify to be able to use that as a qualifying for recertification.

## **2:30 p.m. DPS Lab**

*Anna Mudd & Renee Hawkins, DPS Lab*

Anna Mudd, Renee Hawkins and Sam Duncan presented updates regarding DPS labs rules, procedures and hiring after this year's Legislative session.

Requests from DPS labs:

- Review your workloads and let DPS labs know if a case is eligible for destruction. Emails have been sent out to all Elected prosecutors letting them know what cases are still open in their jurisdiction. Clay Abbott asked if there could be a secondary contact added to the contact list for those spreadsheets. Sam said yes, that is possible.

Anna said they still have a TxDOT grant that allows them to outsource cases to NMS Labs if necessary. Jessica Frazier talked about the issues she is having with NMS Labs (knowing who handled the blood, whose signature is on the report and who is going to pay for their travel for testifying). Anna said there are less cases that they are having to outsource to them, but if there are suggestions on what cases to outsource to NMS Labs, let them know. Clay asked if phasing out using NMS Labs for outsourcing DWI cases would be ideal. Everyone unanimously agreed.

### **3:00 p.m. THC and Alcohol and other emerging issues**

*Clay Abbott*

New or ongoing issues around the state:

- Alcohol only DWI still prevalent
- Intoxication/bodily injuries on CR
- Open containers on DWI's
- Drugged driving becoming more prevalent
- Defense weaponizing 39.14, Smith v Arizona and Heath
- DPS labs putting all conversations in their notes which are visible in the electronic case file/litigation packet. Will send a litigation packet even if you don't request it
- Juries being anti-law enforcement or having the defendant remind them of a family member
- Hospital blood draws, hospital staff pushing back on doing the blood draw/not wanting to send people to testify at trial
- Officers not swearing to the warrants and blood not being able to come in as evidence

### **3:30 p.m. Report Drafting & Assignments**

Reach out to Alison about writing an article on DRE post incident review. Andrew Figliuzzi said he could also check with trial attorneys in his office as well.

Andrew James suggested adapting causation into an article. Alison Baimbridge has written one like this before. Will reach out to her regarding writing one for TDCAA. Clay will co-author if needed.

### **4:00 p.m. Adjourn**