

# Alberta Darling

## Wisconsin State Senator

Co-Chair, Joint Committee on Finance

### TESTIMONY BEFORE THE SENATE COMMITTEE ON JUDICIARY AND PUBLIC SAFETY

Senate Bills 6, 7, 8, 9, and 345

September 4, 2019

Thank you Chairman Wanggaard and committee members for holding a public hearing today on Senate Bills 6, 7, 8, 9, and 345. The bills before you today involve Wisconsin's Operating While Intoxicated (OWI) laws.

Getting behind the wheel and driving while intoxicated is a serious problem we face in Wisconsin. According to statistics provided by the Department of Transportation, in 2017 alone, we had over 22,000 OWI convictions. In the past, I have worked to address this chronic abuse of driving while intoxicated by working on legislation to provide harsher penalties, while also expanding access to treatment for these individuals. Due to some of these measures, the state of Wisconsin has continued to see a decrease in overall OWI convictions.

Unfortunately, there are instances where an individual's irresponsible act of driving drunk kills someone. In some of these cases, the driver is only incarcerated for two or three years. Senate Bill 8 creates a mandatory minimum of five years for these instances. When someone takes the life of another, they must be given a sentence that provides justice for the family members who have lost a loved one.

Even though we have seen a decrease in overall OWI convictions in the past few years, whose conviction rate has not decreased as significantly is 5<sup>th</sup> and 6<sup>th</sup> OWI offenders. Currently, OWI offenders in this category are required to be incarcerated for at least six months. It is my hope Senate Bill 6 will deter individuals from getting behind the wheel intoxicated by increasing the mandatory minimum to 18 months in prison. With the expansion of treatment and diversion programs and other alternatives, it is my hope that Senate Bill 6 will never have to be used.

SB 345 addresses a tactic used to delay prosecution, sometimes resulting in a prior charge being dropped or a pending case being improperly charged. This legislation fixes that problem by increasing the statute of limitations for OWI arrests and prosecutions, from two years to three years for a first offense, and from three years to six years for the second and third offense. This would decrease the incentive for offenders to delay prosecution to prevent proper charging, and help our justice system operate more effectively.

Currently, Wisconsin is an outlier when it comes to first time OWI convictions. In Wisconsin, if a person is convicted of their first OWI, it's considered a civil violation, and that person does not have to make an appearance before the court. The final two bills before you take steps to address those issues.

First, SB 7 would require all first time offenders' make a court appearance. Second, SB 9 would change the classification for first time offense by making it a Class C misdemeanor, bringing us in line with other states. An important aspect of SB 9 is the second chance provision. Under this bill, if a person does not commit any other OWI related offenses within a five year period after their first conviction, they may petition the court to have the first offense amended to a civil violation.

I want to thank Representative Ott for his leadership on OWI legislation. It has been a pleasure continuing to work with him on this important matter. Thank you again, Mr. Chairman and members, for listening to testimony on Senate Bills 6, 7, 8, 9, and 345.

I urge you to support these important bills.



# JIM OTT

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Good morning Chairman Wangaard and committee members. Thank you for holding this hearing on some very important bills.

I will give a brief description and rationale for a number of the bills on today's calendar as well as their status in the Assembly.

Senate bill 6 imposes a mandatory minimum sentence of 18 months incarceration for those who commit 5<sup>th</sup> or 6<sup>th</sup> OWI. Under current law 5<sup>th</sup> and 6<sup>th</sup> OWI is a class G felony, which carries a sentence of anywhere from 6 months to 10 years incarceration. However, according to the Department of Corrections, the average sentence for 5 and 6<sup>th</sup> OWI in Wisconsin is 16 ½ months. Those who chronically commit OWI are a menace on the roads, and a stiffer mandatory minimum would send a strong message that we will not tolerate this behavior, and keep chronic offenders off the road for a longer period of time. I have accepted an amendment which gives the judge the discretion to impose a reduced sentence if "the court finds a compelling reason and places its reason on the record". The Assembly companion, AB 16, has received a public hearing and should receive a committee vote later this month.

Senate bill 7 and its companion Assembly Bill 15, would require 1<sup>st</sup> time OWI offenders to personally appear in court. Only some counties in Wisconsin currently require a personal appearance. The rationale behind this bill is that standing before a judge in a courtroom may have enough of an impact on some first time offenders that they decide they never want to experience this again, and may change their behavior before they receive a second OWI arrest. Additionally an amendment on this bill would eliminate the 10 year look back on second offense OWI. Currently second offense OWI only counts as a civil forfeiture if it occurs more than 10 years after the first offense. This is an outdated provision that dates to a time when the Department of Transportation only kept records for 10 years. This provision should be eliminated. AB 15 passed the Assembly on a voice vote on June 20th.

SB 8, once it is amended, and its companion AB 17 would require those convicted of homicide while OWI to serve a presumptive mandatory minimum sentence of 5 years in prison. The Department of Corrections reports the average time served for homicide while OWI is 4 years and 8 months. However, I have heard of too many instances in which an offender has been incarcerated for as little as a year or two, which can only add to the pain experienced by the family who has lost a loved one to a drunk driver. AB 17 passed the Assembly on a voice vote on June 20th.

SB 9 would make first offense OWI a criminal misdemeanor. As you are probably aware Wisconsin is the only state in which first offense OWI is not a criminal offense. Under this bill someone convicted of first offense OWI could have the offense revert to a civil forfeiture if they did not reoffend for a period of 5 years. The assembly companion bill, AB 18, has received a public hearing and awaits a committee vote.



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SB 345 has been recently introduced and would increase the statute of limitations for first offense OWI from 2 years to 3 years, and for 2<sup>nd</sup> and 3<sup>rd</sup> offense from 3 years to 6 years. Because of the difficulty in getting data on OWI convictions that occur in other states, delays sometimes cause the clock to run out, and offenses in Wisconsin cannot be properly prosecuted. The assembly companion bill, AB 379, awaits a public hearing.

In case you are wondering why I have introduced so many bills that increase penalties for OWI, I can assure you that I am not interested in having people spend more time incarcerated or paying higher fines. My only interest is in providing a deterrent dangerous and reckless behavior that happens way too often on Wisconsin roads. Less drunk driving means safer roads for everyone, and I hope that is something we can all agree on.

Thank you and I would be glad to answer any questions.

**My name is Diane Urban.** I'm from New London WI, in Waupaca County.

I never expected to be doing something like this, speaking to you, but 21 months ago changed all that. **December 17, 2017.** I am here today to represent two people that are no longer here because of a drunk driver.

(Show pic of Dad and Hazel)



This is my father David A Rosol. I am the oldest of his four children. He was married to my mother Margaret for 44 years before she passed in 1999. He has 11 grandchildren, 7 great grandchildren and one more on the way. David was a volunteer Fireman, worked for Illinois Bell, was a pilot, a member of the Experimental Air Craft Association, which is based in Wisconsin, a Boy Scout Leader and a Veteran. He was also a Wisconsin landowner and displayed a sticker proudly next to his Illinois license plates that said he was a WI taxpayer.

With him is our dear friend Hazel DeWitt. She is survived by her husband of 60 years. Ron, 3 children and 5 grandchildren. She played volleyball into her 60's, loved garage sales, was the go to person for advice for every kid on the block and my mother's best friend. She grew up in the Green Bay area and still has family there and was also a WI property owner.

Hazel never had a driver's license so my dad would drop her at relatives to visit. They made this trip almost monthly from LaGrange Park, Illinois up to northeast WI to visit their families, but it would be their last.

I was awoken at 3 am the next morning by an Outagamie police officer and the county corner to tell me what happened. They weren't even 10 minutes from their destination. I was handed a bag with my father's wallet, car keys and watch.

This was a 4<sup>th</sup> offense drunk driver. We would later find out that he had had a 3<sup>rd</sup> OWI 15 days prior and was let go, he hadn't even gone to court for it yet. He had a blood-alcohol content of 0.262 percent, more than three times the legal limit.

I am here to plead to you that it is necessary to change the laws in Wisconsin. Wisconsin remains the only state in the nation that treats a first offense as a civil violation akin to a speeding ticket rather than a crime. **You would think criminalizing first-offense drunken driving, and imposing stiffer penalties and ways to enforce them, would be a no-brainer.**

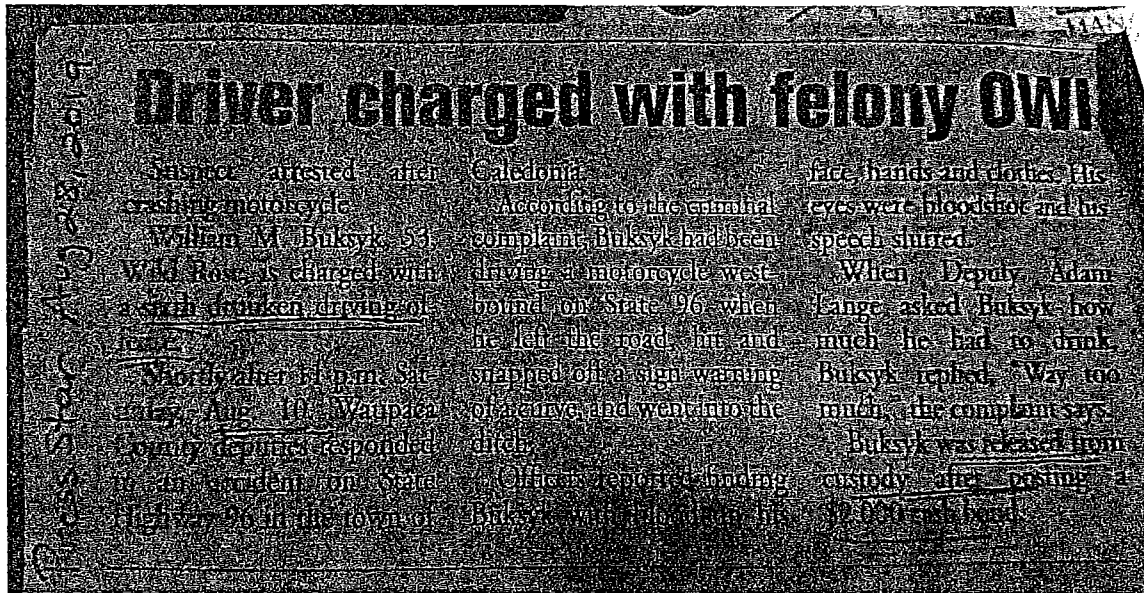
Since the short time I have been involved in this, all I've heard from the state of WI is lets go after the 4, 5 and 6 offenders. That it will cost money and crowd our courts and prisons if we criminalize a first offense. Yes, it will!

I think it would deter more people from drinking and driving if there was more of a consequence instead of a slap on the hand on a first offense. Why not nip it in the bud at the first OWI. I believe a good percent **would not** go on to a 2nd, 3rd, 4th or more if this was taken more seriously. Some will decide, I don't want that first offense because of what will happen

Also said by the state "we'll be destroying lives" No you're not! People need to be made accountable for what they have done. Currently people who drink and drive screw up their lives all on their own. You break the law you pay the consequence, you don't get off, you learn from your mistakes. At least that how I grew up. Whatever is happening with the 4, 5, 6 and more offenders is not working that needs to be changed too.

(Read article)

Just this week in my local paper.....



The police can do nothing more than by what laws we have now. They need to be changed.

(Show pics from car accident – pass around)



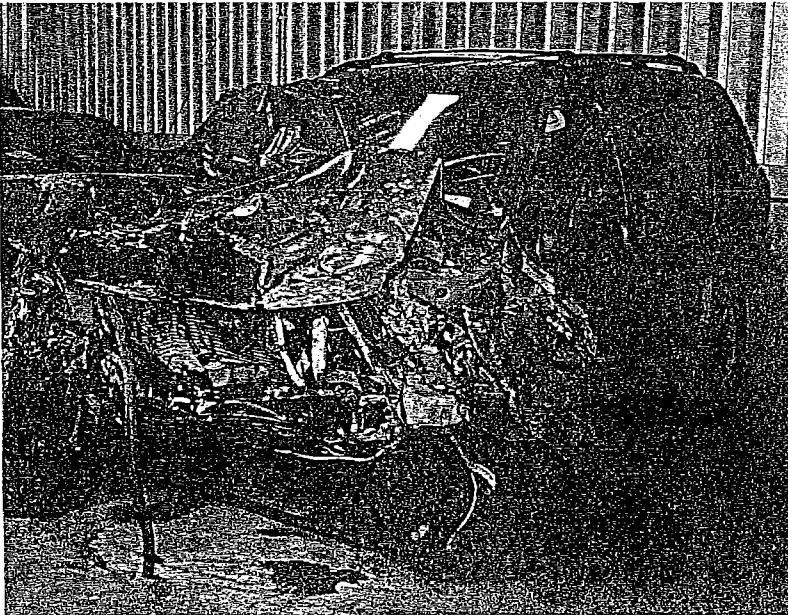
Dad's new car a 2017 Dodge Journey



Jaws of Life used



Hit Square in the middle

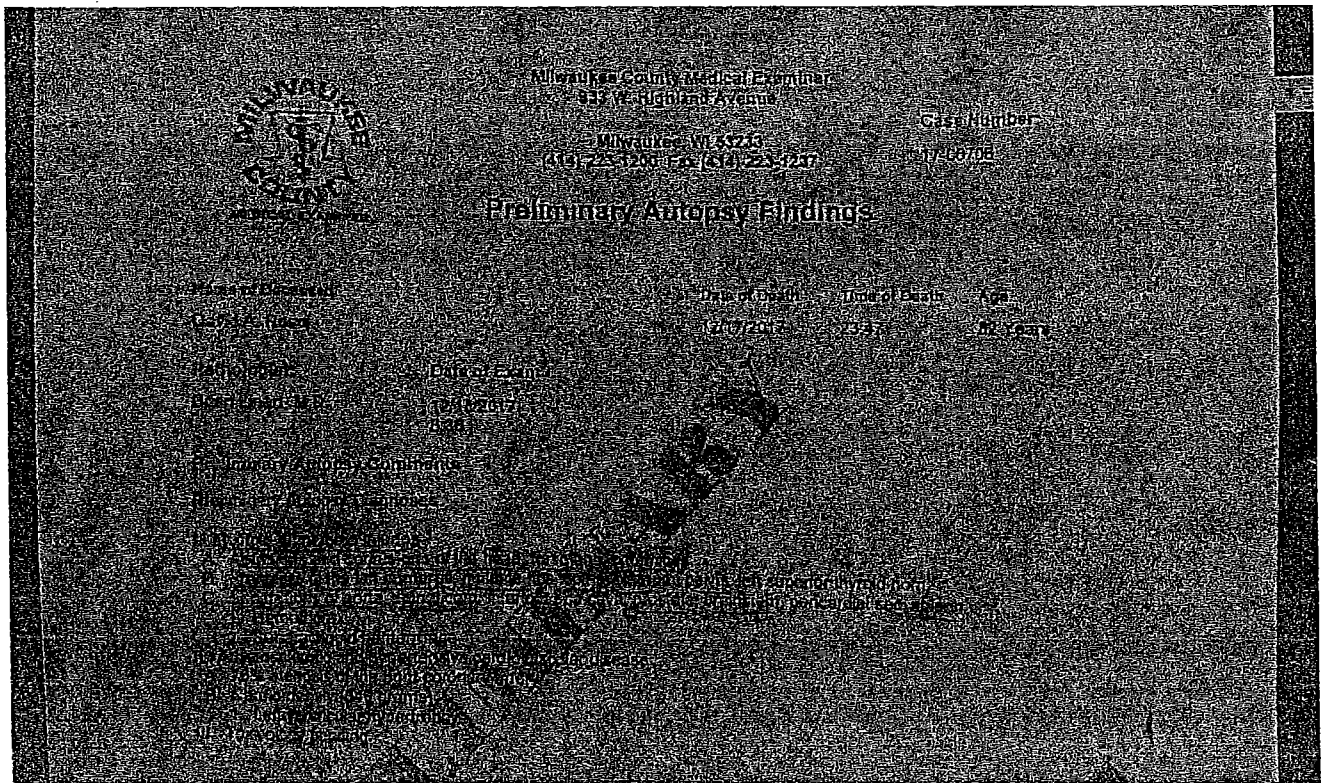


Drunk driver's vehicle

My dad had just bought his brand new 2017 Dodge Journey 5 months before, in Wisconsin no less. Even with all the bells and whistles, air bags etc., he had no chance.

My father went almost instantly. I think you would, if a vehicle t-boned you at over 70 miles per hour and they had to use the jaws of life to get you out. I'll read you some of the autopsy report.

(Read a few items from Dad's autopsy findings)



No one should ever have that happen to them. Hazel lingered for a few hours worrying about my dad then she too passed. I have guilt that I wasn't there for either of them and found out after the fact. Why should I have guilt?

Our two families have known each other for more than 50 years. We've gone to family events together, weddings, vacations, baptisms and funerals. It was like losing two parents.


This was **not** an accident, this was a HORRIFIC CRASH caused by a person who cared for only themselves. If you get in a vehicle and you're drunk, it's intentional.



I'm here to see that people are responsible for their actions. I understand the drunks in this state need help too, but what about the victims of crashes or the families that are left behind after a friend or family member has been killed. When is there going to be something for us. Feeling safe on the roads would be welcomed.

Everything is for the drunk driver.... It is like they get the message: Go drink again, its okay. Many families have lost young parents or children that still had a lot of life ahead of them that were just taken. Those left behind are lost or in pain. Those that were in a crash and survived are never the same either. My dad David was 82 and Hazel 83. Some would say they lived a long life. They never were in the hospital and still lived in their own homes... healthy people for their age. YES, but it's not any less of a life than anyone else's family member who was also lost to a drunk driver. **Who would want to die like that?** They never saw it coming. It could have been prevented with laws that need to be addressed.

As a Wisconsin tax payer, I would pay more if needed to stop this insanity. We're already paying for the defendant in my father's case to have a public defender and then a second one while in prison so he can file for an appeal. He is currently in prison for 20 years plus 10 years supervision after. I would much rather pay for the prevention early on at the start when people are more likely to wake up and see the error of their ways.

I'd like to see a show of hands on this committee .... How many of you have lost a loved one or close friend to a drunken drive? (And knowing an acquaintance that had it happen to their family doesn't count.) Does this have to happen personally to you for things to change? *This question mainly for those that will be voting in the Senate*   
*Our state is a joke when it comes to drunken driving laws*

I believe in the changes that need to be taken in to consideration. So please think about it, it's the right thing to do. . Please pass these bills into laws. **Change Wisconsin for the better, NOW!**

I am for all the bills  
especially SB9

9/4/2019

I am Laura Rosol-Hibbler, I live in Lake Geneva, Wisconsin. I am a physician and I have served Walworth county for over 20 years. I have taken many days away from serving my patients because I think this issue is that important, but today I could not. Today I send my message as a daughter. I am here to add my family's story and my voice to the plea for reform of drunk driving laws in Wisconsin.

On December 17<sup>th</sup>, 2017 our father David Rosol and dear family friend Hazel DeWitt were killed by a drunk driver in Outagamie county. Their deaths were shocking and tragic for our family. Processing their deaths has included an education in the justice system but also the sickening realization that drunk driving laws in Wisconsin are woefully behind other states. My father and Hazel were both Wisconsin land owners, but they were IL residents. Their deaths were on the Chicago news, and were portrayed as yet another death due to drunk driving in Wisconsin. I said it then and I say it now, Wisconsin should be ashamed of itself. Wisconsin's laws contribute to Wisconsin's reputation as a high alcohol consumption state. Is that really the sad reputation we want for our state? In an article recently about drunk driving laws in Sweden Wisconsin was singled out at a bad example. When our Green Bay Packers played in Canada recently it was pointed out in the media that some fans would be unable to attend due to their drunk driving offense history because Canada is more on the ball on this issue than we are. Again, this points to Wisconsin's culture of drinking – do we really put the drinking industry above lives and common sense? What I have learned since my father's death seems to say yes.

Wisconsin is the only state where the first offense is paramount to getting a ticket. I say that again, Wisconsin is the ONLY state .

One out of every 10 Wisconsin residents has been convicted of at least one OWI, and our state is one of the worst states for binge drinking and alcohol-related crashes. Those sad pieces of information are related.

Please ask yourself – do you agree that drinking and driving is not okay? I hope so because it is against the law. Drinking and driving hurts and kills people. Laws are supposed to protect us, please protect us. Stop erring on the side of those who are breaking the law.

Several of the proposed bills have to do with the first drunk driving offense. I firmly believe, and this is confirmed by talking with many drunk driving offenders both alcoholics and people that have made bad choices, and alcohol rehab professionals, that an earlier wake-up call to the seriousness of drunk driving would have changed their path. Unfortunately, it is human nature to make excuses and if we get away with something we are not likely to change that behavior.

Make the first drunk driving offense a misdemeanor, make the offender come before the judge and hear what the judge has to say. I also think enforcing the use of the interlock device on all first drunk driving offences, not just those over 0.15 would have a positive impact of drunk driving first and repeat offences in this state, making us all safer. The offender pays for it, rather than us the family members left behind when our loved ones are killed. All these consequences would make for a stronger wake up call for that first offence, so that person would be less likely to do it again. These things are not going to ruin anyone's life – but they may save a life!! They **will** save lives. Studies and statistics support this.

The argument that this change would flood the courts is an admission that there is a serious problem in Wisconsin. The first-time offender that is made uncomfortable with the consequences is less likely to offend again. The 25-year-old who gets a wake-up call with their first offence is less likely to become the 45-year-old who drinks and drives on a weekly basis and is playing Russian roulette with everyone on the roads, or the 56-year-old who on his 4<sup>th</sup> offense kills my father and dear family friend.

We are pleading with you to listen; no cost is more than the cost of a life. We hope your wake-up call is now, not a 4 am call that your loved one is dead. Don't you want to be on the right side of history on this? Do we look back and say past changes to drunk driving laws were a bad idea, no, we see they have saved lives – don't you want to save more lives?

What are you afraid of? That the tavern league will not support you if you support these bills. Then what is the tavern league afraid of?? We are not trying to eliminate drinking in Wisconsin, we are trying to eliminate drinking and driving. People will still spend money in their establishments – they will just have to get a safe ride home. Is that too much to ask?

I asked you what you are afraid of.... I am afraid a drunk driver will kill another one of my family members. I am afraid when my kids drive that a drunk driver will cross their path. I am afraid when I drive, especially at night that a car will come out of nowhere and T-bone me, leaving my family to grieve my death.

Please do what is right and good for the people of Wisconsin. Thank you.

Laura Rosol-Hibbler

1170 Mobile St

Lake Geneva, WI, 53147

I'm here today to Represent the Folts Family - Oconto County

I know that NO amount of time in prison will ever make up for any loss of anyone's Loved ones that have been taken from a Drunk Driver situation.

But what on earth is 10 years in Prison and 10 years for

Probation For Eric Solomon.

Or

7 1/2 years Prison and 7 1/2 years

Probation for Kelly Crispin

Oconto Co  
In killing our Son Cory

Folts Age 22

COME ON WISCONSIN THE DRUNK DRIVING LAWS NEED TO CRACK DOWN AND HAVE MORE PRISON TIME FOR KILLING SOMEONE AND MORE PUNISHMENT IN PLACE FOR OWI TRAFFIC ISSUES.

My Son Cory Ray Folts was one of my 3 wonderful children and they are all my pride and joy.

I would have sooner had my life taken then to have one of my children's lives taken from me.

NO PARENT SHOULD EVER HAVE TO LOSE ONE OF THEIR CHILDREN.  
ESPECIALLY UNDER SUCH SENSELESS CIRCUMSTANCES.

My heart feels shattered in pieces and it has ached since Sept 12<sup>th</sup> at 1:00 AM. When two Oconto police officers and a Coroner came to my door and told me the news of Cory's fatal car accident, while handing me a plastic bag of his personal belongings that he had on him. I have never felt so desperate and alone in my life. Myself and Cory's little brother Thomas (age 13) were the only ones home at the time as Jeff (Cory's dad) was working out of town two hours away from home. I was in so much shock and despair that I had to have the police officers call Jeff, and our daughter Falicia (age 25) to tell them the devastating news.

Cory was a wonderful person inside and out; there isn't anything Cory wouldn't have done to help anyone out. Even after working 60 hours a week and only having two days on the weekends to fit his own free time in, he would leave his personal desires and come help you first. Cory had a servant heart, which is very unusual and unique for a 22 year old young man. Cory, at the age of 13, was helping all the farmers he could help if he could get to them by way of pedal bike. At the age of 15, Cory was working full-time during the summer for Comfort Pro Insulators and part-time after school in the evenings during school months. You do not find very many kids with such a work ethic and the amount of dependability as he had. Cory was incredibly humble and responsible. Cory was a volunteer for the Pensaukee fire dept. at the age of 16 when he began as a junior fire fighter. The night of the accident, many of his fellow volunteers responded to his accident. I will forever be grateful and indebted to them and their hearts to serve, especially under such horrible circumstances.

Cory had bought his own house with 40 acres and was only in it for 7 months before that fatal night. And the weekend before the accident which was Sept. 8<sup>th</sup> and 9<sup>th</sup> 2018 Cory, Jeff (his dad), Thomas (his brother) had just finished building their deer stands for the year. He was so proud to be able to share his hunting land with his dad and little brother. He was looking forward to sharing his little brother's first hunting season

teaching him the ways of a sportsman. Sadly, Thomas went through his first hunting season without his best friend by his side. Both boys were so looking forward to the many adventures they would have. Thomas should never have lost his hero of a big brother, we are so proud of the love those boys shared and are torn apart to see it come to a close so abruptly. Seeing the horror and grief in Thomas when we had to tell him the awful news will forever haunt our family.

Cory also left behind 2 year old nieces, whom he adored. He was so excited when he found out his sister was having twin girls. We looked forward to him having his own family one day because of his love he had toward his little brother and his nieces. His kind and loving heart was incomparable.

This is all just very devastating and overwhelming to our whole family as we are a very close family that loves each other very much. We would not hesitate to see Eric Solomon and Kelly Crispin imprisoned for life or at the very least the maximum sentencing for taking such a precious life from us. We will continue to have this hole in our hearts that will take our own "life sentence" to continue to heal.

Praying for justice to be served in the fullest,  
Cory's Mother, Tracy Folts

~~embarrassed to be a Resident of WI~~

~~Cory was an outstanding cat~~

My name is Connie Ihm. I am Alexandra Ihm's mom.

Alexandra was the strongest person I know. Her view was that there was no point in doing anything if you weren't going to do your best. She played sports in high school, and her leadership, work ethic and intelligence were apparent both on the court and in the classroom. She stayed up late into the night to finish her homework after returning from sporting events and outings. She was Class President, Valedictorian and Homecoming Queen of her high school class, and she was on the Dean's List at the UW Madison for every semester she attended. She was a born leader. She was sure of herself, definitive and fiercely independent. She was also hilarious and just so much fun. She had an incredible, infectious laugh that I will never hear again. Alexandra wanted to be an elementary school teacher. If you ever saw her with a child, you would know it was a clear calling.

On January 15, 2017, Alexandra was out with her boyfriend Nick and another friend. The three of them were walking across the street in a crosswalk at the intersection of Regent and Randall Streets here in Madison. They saw a car coming that they assumed would stop at the red light, but it did not stop. The car hit Alexandra and did not stop. Alexandra was thrown into the air and landed wedged under a parked car. The parked car had to be lifted off of her before she could be transported by ambulance to the hospital. She had nerve damage in both legs, damage to one elbow, multiple lacerations and bruises, a broken nose and a cracked molar. We thought she was lucky.

We found out later that the driver had been stopped in Middleton and charged with OWI, that the Middleton police officer had noted the recent damage to her car and called Madison, that Madison police had traveled to Middleton with pieces of the driver's car to match to the damage on her vehicle, and to speak with her, and further charged her with running a red light and hit and run. The driver was then released to her boyfriend.

While I am grateful that the driver was stopped before she could hurt anyone else, it is unbelievable to me that the driver was released from custody before I even arrived at the hospital.

Alexandra was a junior at the UW. She was now unable to walk. She was unable to return to her apartment as it was a second floor walkup. When Alexandra was released from hospital the evening of January 16, 2017, we took her home to our farm in Hollandale.

We got her a wheelchair, a walker and crutches. She slept in a recliner in our living room, as she was unable to negotiate the stairs up to her bedroom. We drove her to and from school every day. She was unable to work the wheelchair by herself because of the elbow injury.

I always knew Alexandra had a very high pain tolerance, as she had played sports with injuries in high school without complaint. She had never complained much, so her complaints about her pain resonated with me. I cannot imagine the pain she actually felt from the damaged nerves and other injuries.

My story is about choices. The driver chose to have several drinks, and then she chose to drive a car. While driving drunk, the driver chose to run a red light, hit Alexandra on campus, and ~~she~~ chose to not stop. The driver was stopped in Middleton for drunk driving. According to the Middleton police report, the driver's blood alcohol content was .14, almost twice the legal limit. When the

police officer asked her about the recent damage to her car, she chose to lie, saying she had hit a deer a while back. She chose to lie and deny that she was involved in the hit and run incident recently reported in Madison, even though as far as she knew, she had left Alexandra dead in the street.

Alexandra struggled with the level of pain she was enduring, her loss of independence, and the interruption to her life, but she continued to be strong. She was angry, but she was determined not to take time off from school or to fall behind. She attended as many classes as she could, and she went to physical therapy appointments and doctor appointments. In short, she did everything she was supposed to do, and everything her doctors told her to do. But her movements were limited due to her injuries as well as the constant pain she was enduring.

On March 6, 2017, after she had been at school all day, I drove Alexandra home and helped her into the house, and then I ran a 15-minute errand. When I got home, her dad met me in the garage and said something was wrong with Alexandra. I went up and she was on the floor in the bathroom. She was panting, she said "I can't see", and "I can't breathe." Doug called 911 while I tried to help her to calm and slow her breathing. She said again "I can't see" and "I can't breathe", and she said "Help me." And then she stopped breathing.

Her death certificate lists cause of death as "pulmonary embolism (blood clots on lungs) as a direct result of January 15 incident."

We will never see Alexandra again in this life. We miss her every minute of every day. We will not hear her laugh, see that beautiful smile, talk to her, or listen to her tell a story. We will not see her graduate from college, be a bridesmaid at her sister's wedding, get married, have children, get a teaching position, and make a difference in the lives of thousands of children. All of this was taken from her and from all of us.

The driver hit Alexandra on January 15, 2017. Alexandra die March 6, 2017. The DA's office filed charges in July of 2017, including Homicide by Operating a Motor Vehicle While Intoxicated, Homicide by Operating a Motor Vehicle with Prohibited Alcohol Concentration, Hit and Run Resulting in Death, and two counts of Second Degree Recklessly Endangering Safety. The driver pled guilty to OWI homicide in October of 2018. The judge sentenced her to three years in prison. *in January of this year DA recommended maximum sentence*

Three months after the driver was sentenced, a different offender (before the same judge) pled guilty to Homicide by Driving Under Influence of a Controlled Substance, where he had driven into a stopped car on John Nolen Drive. At his sentencing, his attorney asked that he be given three years in prison, as this same judge had given a different offender that sentence a few months before for basically the same crime. He was sentenced to 10 years in prison. When sentencing, the judge said the difference between the two cases was that in the prior case (Alexandra's case), the defendant was drinking legally before getting into her car, while this driver was doing illegal drugs before getting into his car. I do not see the difference. I see the same poor judgment and lack of character, and the same outcome. Whether the driver was drinking or doing illegal drugs, when the driver decides to get behind the wheel, it is an illegal act, and when they kill someone while driving illegally, it is a tragedy, and definitely not an accident.

The disparity between the two sentences is not acceptable to me, and it should not be acceptable to any of us. The fact that defense attorneys are now using that light 3-year sentence as a recommendation should not be acceptable to any of us.

Thank you.



# Neenah woman held in fatal hit-and-run

**The suspect in the death of a Town of Menasha woman is expected to make a court appearance Tuesday**

By Andy Thompson  
Post-Crescent staff writer

OSHKOSH — A 38-year-old Neenah woman is being held in the Winnebago County Jail in connection with the hit-and-run death of a 55-year-old Town of Menasha woman late Friday night.

The victim, identified as Marlene J. Boushley, died after being struck by a vehicle while she was walking along American Drive in the Town of Menasha.

Winnebago County Coroner Jane Van De Hey said Boushley, who was living at the Fox Valley Inn, was pronounced dead at the scene at 1:30 a.m. Saturday. Van De Hey said Boushley died immediately from "traumatic injuries."

An autopsy was conducted Saturday by Dr. Helen Young, a Green Bay forensic pathologist. Van De Hey said the results are pending.

The Neenah woman is being held on a preliminary charge of causing death by hit-and-run driving.

Winnebago County Dist. Atty. Joseph Paulus said the suspect is expected to make an initial court appearance on Tuesday. No courtroom proceedings will be held Monday because of the Dr. Martin Luther King Jr. holiday.

Paulus said that the state Crime Laboratory was summoned to the scene to process physical evidence.

The accident reportedly occurred at about 11:30 p.m. Friday on American Drive, 150 feet south of Copperhead Drive.

The suspect reportedly was taken into custody early Saturday after police were informed that a body had been discovered along American Drive.

Town of Menasha police said the investigation into the fatal accident is continuing. Anyone with information is asked to call the department at 414-739-2333.

OSHKOSH AND AREA NEWS

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08-51  
4917



KEVIN KRECK/OF THE NORTHWESTERN

Frank, rear, and Debbie and Greg Hoff in the New Club Omro, Cathy Roesler, the bowling facility which the four will operate.

# is in Omro

owners will keep day jobs, too

Roesler, who works at Evco Plastics, Oshkosh, expects sleep patterns will be normal after they adjust to their working hours.

"Saturday was our first day on the job. No one is really nervous. Being in a small town, we kind of know everybody," Roesler said.

Frank, 53, believes it's a unique situation that four Omro residents would buy the bowling alley, which was built nearly 50 years ago.

"You hope it will work out," said Frank. "With four people working together it can present itself with some opportunities."

One of those opportunities could be to operate open bowling and summer leagues, says Roesler.

Mrs. Hoff said the four saw buying the bowling alley as a good opportunity.

"We're young and full of ideas," Mrs. Hoff said. Frank seemed pleased he could sell the facility to residents of Omro, and said it's like transferring the facility from one bowling family to another.

"I've had children from the Hoff's and

# Woman jailed for hit, run

A Neenah woman remained jailed Sunday in the hit-and-run death of a 55-year-old town of Menasha woman.

Marlene J. Boushley was struck about 11:30 p.m. Friday by a vehicle while she walked along American Drive in the town of Menasha.

Boushley was pronounced dead at the scene at 1:30 a.m. Saturday by Winnebago County coroner Jane Van De Hey.

Van De Hey said an autopsy conducted Saturday showed that Boushley died of multiple trauma.

She said Boushley lived in a motel with her husband and daughter.

A 38-year-old Neenah woman was being held in the Winnebago County Jail on a preliminary charge of causing death by hit-and-run driving.

The woman was expected to make an initial court appearance Tuesday, District Attorney Joseph Paulus said.

Town of Menasha police said the investigation was continuing.

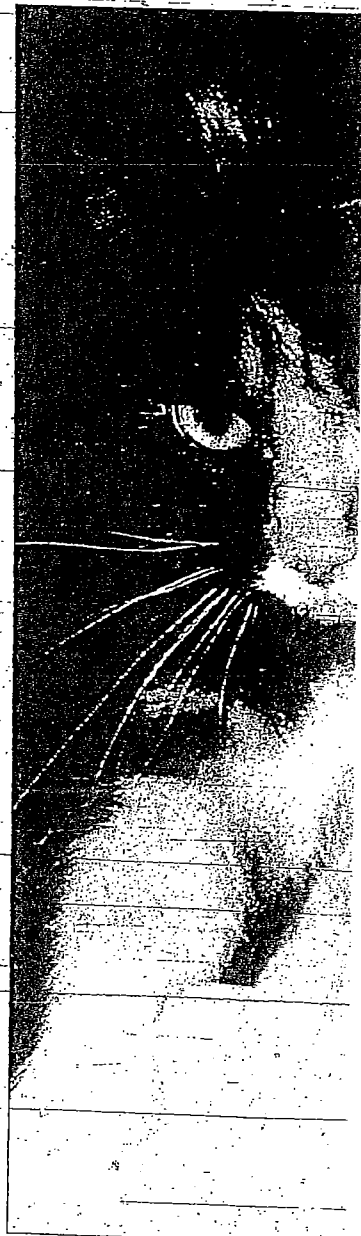
# Fire engulfs car

RIPON — No one was injured when a fire engulfed a car Sunday at County Trunk KK and Highway 49 in the town of Ripon, according to a spokesman from the Ripon Police Department.

The spokesman said the car started on fire at about 5:42 p.m., but the flames were extinguished by the Ripon Fire Department.

The spokesman said occupants of the car got out safely and were not injured.

The spokesman did not know how the fire started or



# Pet of the w

Ethel is a 3-year-old female cal sweet. She can be seen at 815 Dempsey Trail. In addition, cats and dogs in need of good tens and dogs in need of good 1.1 a.m. to 6 p.m. Monday through Saturday. There is a fee to adopt.

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... Station, 197 S.  
Green Bay Road, Neenah.  
The tavern was one of three  
targeted in December during  
a Neenah Police Department  
undercover investigation into  
payouts allegedly being made  
to patrons for credits ac-  
cumulated on video gambling  
machines.  
The complaint said that Eit-  
ing, the daughter of Rick Eit-  
ing, who owns the tavern, told  
investigators she knew the  
machines at the tavern were  
being used as gambling de-  
vices.  
Seven other people, includ-

of 307 E. Doty Ave., Neenah,  
pleaded no contest Dec. 27  
and was sentenced to three  
days in jail and fined \$446.  
He also surrendered his bar-  
tending license.  
► Helen Hinch, 40, of 207 E.  
Doty Ave., has an arraign-  
ment scheduled for Friday.  
► Melvin J. Glatz, 60, of 178  
Villa Drive, Neenah, has an  
arraignment scheduled. The  
date was not available  
Wednesday night.  
Klitzke owns Blitz's Bar,  
1348 S. Commercial St., and  
Glatz owns Glatz's Butterfly  
Bar, 1020 S. Commercial St.

# Blood test pending in hit, run accident

BY TODD HAEFER  
OF THE NORTHWESTERN

## POLICE

A 38-year-old Neenah  
woman arrested for a hit-and-  
run death was released from  
jail Tuesday while author-  
ities wait for her blood-  
alcohol test results.

over to American Drive and  
returned. One told the cou-  
ple, "You didn't hit deer. It  
was a lady — she's dead."  
The police then were con-  
tacted.

The woman was arrested  
following the Saturday death  
of Marlene J. Boushley, 55, of  
the town of Menasha. Boush-  
ley was struck about 11:30  
p.m. Friday by a vehicle  
while she walked along the  
1600 block of American Drive  
in the town of Menasha.

Town of Menasha police ex-  
ecuted the search warrant  
Saturday at the Winnebago  
County sallyport, a garage  
area at the Public Safety  
Building. The officers collect-  
ed hair, blood, fibers, dam-  
aged truck parts and other evi-  
dence from the impounded  
black-and-maroon 1990 Chev-  
rolet pickup truck.

She was pronounced dead  
at the scene at 1:30 a.m. Satur-  
day by Winnebago County  
Coroner Jane Van-De-Hey.

The search warrant did not  
indicate whether the woman  
had been drinking.

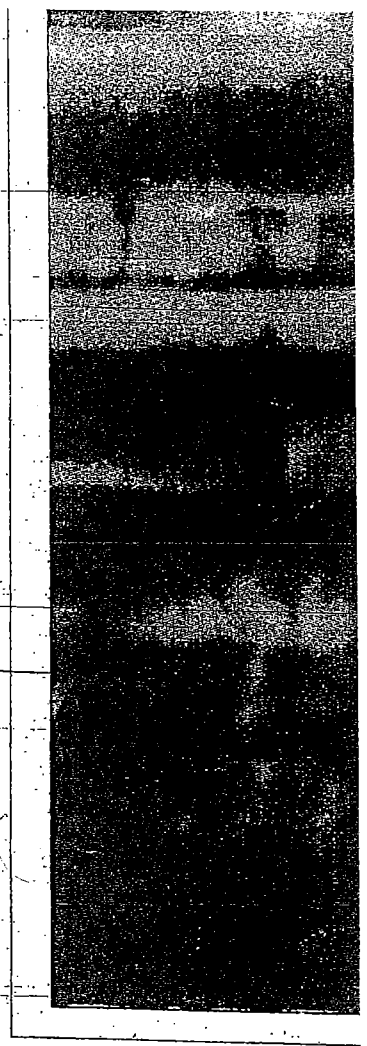
According to a search war-  
rant affidavit filed Tuesday  
in Winnebago County Circuit  
Court, the woman and her  
husband told authorities they  
were coming around a curve  
when they heard a thud and  
thought they had struck a  
deer.

Thomas Gritton, Winnebago  
County deputy district at-  
torney, said the suspect was  
released pending the results  
of a test to determine her  
blood-alcohol content.

The woman, who was driv-  
ing, said she backed the truck  
up and looked around, but  
didn't see anything and drove  
home.

He said it was felt that  
stronger evidence was need-  
ed of the woman's blood-  
alcohol level than that pro-  
vided by a breathalyzer test  
administered by police after  
the woman's arrest. He said  
the blood test results prob-  
ably would be available with-  
in 10 days.

She said that when the cou-  
ple saw damage to the front of  
the truck, they contacted  
friends. The friends drove



# Fair Ac

BY STEVE HAAS  
OF THE NORTHWESTERN

Oshkosh Transit will start  
providing bus service Mon-  
day to the Fair Acres Shop-  
ping Center on Jackson  
Street.

Alan Rodenstein, trans-  
port coordinator, said service to  
the shopping center had been  
provided, when requested by  
riders, since Dec. 12. The new  
service will be part of a regu-  
lar bus route.

The North High Route (No.  
4) bus will stop at the center  
at 2 minutes and 32 minutes  
after the hour.

Buses traveling on Jackson  
will turn into Fair Acres and



ner®

er®

WATERS

Energy-Saving  
Water Heater

59<sup>99</sup>

available at all  
6 locations

Open 7 days  
a week

tz & Feil

Ever

AS SEEN  
ON TV!

# Driver in weekend traffic death released from jail

■ **Authorities must receive blood test results before making a decision on charges**

By Steve Wideman  
Post-Crescent staff writer

OSHKOSH — A 38-year-old woman jailed since Saturday in connection with the hit-and-run death of a Town of Menasha woman has been released while authorities wait for blood-alcohol test results from the state Crime Laboratory.

Winnebago County Dist. Atty. Joe Paulus said specific charges in the incident cannot be prepared without the blood test results.

"Until we get those results, we won't be in a position to take any action," Paulus said. "She has been released from jail pending further investigation."

The test results are not expected to be ready for at least two weeks, Paulus said.

Charges are pending against the driver, Cindy L. Lind, 736 Hummingbird Lane, in the Town of Menasha.

The 55-year-old victim, Mariene J. Boushley, was struck as she was walking along American Drive in

the Town of Menasha by a pickup truck allegedly driven by Lind.

Boushley, who authorities said was a short distance from her residence at the time of the accident, was pronounced dead at the scene.

Winnebago County Coroner Jane Van De Hey said Boushley died instantly from traumatic injuries. An autopsy was conducted in Green Bay by forensic pathologist Dr. Helen Young.

"There were no drugs or alcohol present in the blood of the victim," Van De Hey said.

Authorities did not explain why blood taken from the Neenah woman was taken to the crime lab for testing rather than Neenah's Theda Clark Regional Medical Center, which performs blood tests for the coroner's office.

The accident occurred about 11:30 p.m. Friday. Lind was taken into custody shortly after police learned a body had been found near the road.

Police said Boushley was walking along the road when Lind looked away from the roadway toward a passenger in the truck.

She reportedly told police she heard two bumps and thought she had struck a deer, so she kept driving.

Lind had been held in jail on a preliminary charge of causing death by hit-and-run driving.

## **Marlene J. Boushley**

**Menasha**

Age 55, passed away Friday January 13, 1995. Marlene was born September 28, 1939 in Sheboygan. She married Harry Boushley on June 18, 1960. Marlene is survived by her husband, three daughters: Debra Boushley, Madison; Lisa Boushley, Menasha; Jennie Boushley, Neenah; three sons: Jeff Boushley, Neenah; Robert Boushley, Appleton; Michael Boushley, Neenah. Funeral services will be Wednesday January 18, 1995 11 a.m. at the Laemurich Funeral Home, Menasha with Father Roy Geenen officiating. Burial will be in St. Margaret Cemetery, Neenah. Friends may call at the funeral home on Wednesday from 9 a.m. until the time of service. A memorial has been established.

My name is Sheila Lockwood. This is my daughter, Morgan, she is 25 and my son, Landon. Today is Landon's 23<sup>rd</sup> birthday. This is how my youngest son is spending his 23<sup>rd</sup> birthday. Here, pleading for laws to ~~fit the crime~~. <sup>Keep roads safer,</sup> This is their brother, Austin Lee Lockwood. ~~Austin would be 24,~~ but on June 10, 2018, we were sentenced to life without him. Austin was taken by a drunk driver in Three Lakes, WI. We had just celebrated Austin's 23<sup>rd</sup> birthday 16 days prior to the crash that took him. The last happy birthday we will ever have was on May 26, 2018 when we were a whole family.

Austin had gone up to Three Lakes, ~~that weekend~~ and to HELP a friend clean up their summer cabin. His kindness cost him his life. I have watched the entire video from the first police officer that responded. The driver was clearly impaired when the police arrived. From the dash camera and audio, the driver's speech was slurred, he was not standing steady and he did not have any concern for Austin. My son was taken from us upon impact, he had no chance. The police officer on site was phenomenal. He did everything by the book, he was respectful and professional. Investigation has told us that the driver was going extremely fast (almost double the speed limit on that road) and that his BAC was 0.117, almost three hours after the crash. According to studies, his BAC may have been about 0.165 at the time of the crash. The police officer on this horrible night did his job by the book. He did everything correctly. Now we need the lawmakers and our courts to do their jobs.

My life has been ruined. Austin's brother and sister's lives have been ruined, turned upside down and shattered. I can barely function, I have a difficult time remembering things, focusing and I struggle to do simple tasks at work and home that I have done most of my life. I shake, I do not eat well, I cannot sleep, and my chest is in constant pain. I have been a single mom for over 22 years, I am very self-sufficient and am very independent. My 3 beautiful kids have always been my priority. They are my life. Morgan, Austin and Landon have never known life without each other. The 3 of them were all born only 2 years and 7 months apart. My children are the very best of friends. They always came first to each other, they watch out for each other, they take care of each other. The kids went to school together, they worked together, they played together. The love they have for one another is like nothing I have ever seen.

The drunk driver has his license and has been driving since the crash. He went back at college a month and a half after he took Austin's life. He graduated a few months later, in December. I struggle to do the job I have done for 17 years, yet he has no remorse and can go to college

and study? He attends parties, Cub games, camping trips, family holidays and is living like nothing happened. He has not spent one day behind bars! Austin's family has suffered every single day since 1:40 AM on June 10, 2018 when a senseless act took Austin from us, when we were told that Austin would never come home to us. My new life consists of shaking uncontrollably and counseling every single week since ~~July 2018~~ <sup>the crash</sup>. ~~It has been 63 weeks since Austin was murdered, I have been to over 60 hours of counseling.~~ I cannot drive alone, every morning my commute to work at 5:30 AM, I talk to my mother. This helps me get to work without panic and anxiety overtaking me. I was hospitalized for 4 days in May, on bereaved Mother's Day, just days before Mother's Day and Austin's birthday, the grief is unbearable. Our home is empty and quiet. Austin's dog waits by the door for Austin to come home, he lays on Austin's bed waiting for him to come to his room. Austin's hockey skates, rollerblades, tool chest...all sit in the garage untouched. I still have Austin's favorite cereal still in my pantry, I cannot touch it. Austin and his brother attended college together, they both graduated May 12, 2018, less than one month before Austin was murdered by a drunk driver. These boys know and love hard work, they were looking forward to starting the next chapter in their young lives and working on wonderful new careers. Austin had plans for his life! Austin had plans on that SUNDAY!! He had plans to go fishing with his brother and best friend, Jonathan, that day!

This is not right. The court system is slow and does not work for the victims. It works for the criminal. The maximum penalty is 25 years, most of these killers get supervision, at best a few years in prison. How is this a penalty for murder with a vehicle? How can our courts justify this is acceptable? My son is a loving, kind, hard-working and amazing young man. Committing murder with a vehicle while impaired should get 25 years minimum! There is no "mistake" when it comes to driving impaired, that is a choice. These killers ruin families, they take mothers and fathers away from children and siblings away from their best friends. This killer took several lives. He took my precious son and he took my life. He took my future with my son, my future grandchildren, future holidays, future wedding celebrations, future birthdays and every future day to come, I suffer every minute, Austin's brother and sister suffer every minute. We pay a price that we should not have to pay.

Laws are supposed to protect our safety and ensure our rights as citizens against abuses by other people. Laws are supposed to safeguard our personal property and our lives. When it comes to drunk and impaired driving laws, I do NOT feel protected. Our loved one was murdered by use of a vehicle. Now, we are serving a life sentence. At this time, the criminal

has had no consequences to his life. Laws must be strict with significant repercussions when broken so they are a deterrent! We want the laws strict so people think twice before getting behind the wheel impaired. ~~Crimes MUST have consequences! When the consequences are inconsequential, it is double jeopardy for the victim and families.~~ Wisconsin ranks as one of the worst states for binge drinking and drunken driving in the nation. It is the ONLY state where getting an OWI is not a misdemeanor and is one of the most lenient states for punishment overall. It is incomprehensible to me that someone knows they could hurt or kill if they drive impaired, but still get behind the wheel. Our police officers do their jobs, we need our law makers and courts to do theirs.

Please do what is right. We do not want to keep hearing about the loss of another innocent, loving man, woman or child because of a drunk or impaired driver. Please think how devastated you would be to lose your child, your spouse, your loved one, a family member, your friend.

Drunk driving is a 100% preventable. Drinking and getting behind the wheel is not a mistake, it is a choice.

Thank  
you.



Hello, My name is Dawn Johnson. I am here with you today to support ~~the~~ drunk driving legislation that is imperative in Wisconsin. I would like to thank the Committee on Judiciary and Public Safety for taking the time to hear discussion regarding these bills as well as the assembly and senate members who wrote and cosponsored them. The continued diligence on the drunk driving concerns in Wisconsin is most appreciated. I hope the process today will move us a step further to insure that change happens as I'm concerned that in the eight years since my father's untimely death due to a drunk driver, I have seen little change. So, I am here again to share our story and remind this committee of the reason this change is necessary. This emotional burden continues to haunt our family as well as countless other Wisconsin families.

The assembly and senate bills discussed here today have the power to change laws that would require first time offenders to appear in court, require a mandatory period of confinement due to homicide while intoxicated,

insure penalties for operating a variety of vehicles and violating traffic laws while intoxicated as well as help incentivize the use of ignition interlocks. Here's our family's story.

A man named Russell Peters killed our father on Saturday, May 14, 2011 at approximately 4:15 pm. My parents had recently retired and moved to Florida, and they were back in Wisconsin visiting for Mother's Day. After visiting family members in Kewaskum, my father, Darwin Hoefert SR headed to the home he had built with his own hands in Crivitz, WI. My father had worked hard all of his life and was ready to relax and enjoy time on the beach. Those days never arrived.

My father departed before 4 pm in order to have dinner with some close friends as my mother was helping my grandfather. A mere thirty minutes later, he was passing through Sheboygan County on that Saturday afternoon and was killed near the intersection of Hwy 28 and County W. The crash smashed into him

with full force on the front driver's side corner of his truck. While friends waited anxiously for him, well after his expected arrival time, his body lay in a ditch when a passing nurse went to inspect the sight and discovered there was nothing she could do. He had been crushed to death on impact.

The drunk driver, Russell Peters killed my dad after choosing to volunteer as a bartender while drinking alcohol all day at his local Rod and Gun Club. His blood alcohol was .197, which is well over two times the legal limit. Peters veered off the road two times hitting three road signs in all. He proceeded to cross the centerline and hit the driver's side corner of my father's vehicle. Before the crash my father, who was a professional truck driver for 20 years, was recorded as traveling 14 mph, and had tried to avoid Peters by heading into the ditch.

I did not find out my father was killed until 10:30 p.m. that night after a state trooper was able to contact my mother at her father's home. The

phone rang as I was heading to bed that evening. In an instant my 68 year-old father had been pronounced dead. After deciphering the fateful news between my mother's sobs, I began crying and screaming while my children and husband gathered around me trying to figure out what had happened. I immediately drove an hour and a half to console my mother and siblings, and spent the next week preparing for the funeral. Meanwhile, my own husband and children including my daughter, who had just been diagnosed with T1D, only two months prior, were left to fend for themselves. This tragic event changed all of our lives forever.

Our family did not have the opportunity to say goodbye, and for the rest of our lives we will live with that while the drunk driver is alive and had no mandatory time in prison to reflect on his crime. Our family was forced to put back the pieces of what remained of our family as well as the physical remains of a full and successful 68 years. He was taken from our family due to a drunk driver.

At the sentencing of Peters on April 4, 2012 after a mere 45 seconds in chambers after testimonies were shared, Judge Bolgert from Sheboygan County sentenced Peters to one year of jail time with Huber privileges with some community service. This meant that Peters continued to live his life with little change while my talented and thoughtful father, the victim, was killed and whose voice can no longer be heard. I do not want him to be another statistic. I want to find meaning and see progress in Wisconsin. I want to change the way Wisconsin handles impaired drivers.

We know that drunk driving continues to plague Wisconsin. We blame it on culture, we blame it on the Tavern League, and we think. "If only...?" For me, it was, "If only I would have been able to say goodbye?" on Mother's Day a week prior. I have tried to find meaning in this horrible crime, and have spent more time thinking, What if? What if, for example, we could change our culture? What if we had the

skills, knowledge and solution-finding thinking necessary to change some laws? Well, I am here to tell you that together we can.

We need to carry this burden together instead of throwing up our hands and saying "It's just our culture." When people feel that there is no chance of change they develop apathy. I do not want us to develop indifference when we can make a difference. We need reminders of the reason this change must take place. It is the emotional, social and physical ramifications of driving while intoxicated that affect the lives of the people of Wisconsin. We need the facts and we need change, like these laws, that are solutions to help our culture. I encourage some of you here to stop looking for problems with these laws and instead see them as solutions and make minor adjustments to insure more lawmakers can support them.

I did some very brief research and pulled up some more recent facts from the Wisconsin Department of Transportation from 2015. The

information continues to scare me and make me concerned about driving Wisconsin roads. Four years ago :

- 448,624 drivers were reported to have had one DUI conviction and 2 drivers had 16 DUI convictions in WI. That would be 8% of the population that year if every resident of the state could drive. So, what if we took out unlicensed drivers? That % would most likely double.

- Looking more closely at 2015, of the 5,121 drunk drivers involved in crashes, 363 (7%) were under age 21 and 4,747 were age 21 or older.

- Of the 23,931 drivers convicted of drunk driving that same year, 1,713 (7%) were under age 21 and 22,218 were age 21 or older.

- And, the median alcohol concentration for 2015 citations were an alarming .16%

The number of crashes has declined since 2006 when 15% of the intoxicated drivers involved in crashes were under age 21. It took 9 years to reduce that number to half. I speculate

that our young people are learning that drunk driving practices need to change, but our older people are not getting the message. Laws requiring first time offenders to appear in court, stiffer penalties for homicides while driving, ways to help those who need support and incentives to insure ignition interlocks are on their vehicles will help make more than marginal progress.

Our population CAN learn to drink responsibly and be taught that if we get behind the wheel of a vehicle we are in essence planning on committing manslaughter. It is no "accident." It is, in fact, premeditated murder. Thank you for allowing me to share our story.