

An overview of drugged driving in Michigan

By Kinga Canike and Ken Stecker

Prosecuting Attorneys Association of Michigan

Drugged driving kills, and we continue to see that in headlines around our state. Prosecutors and law enforcement officers must have a good grasp of what drugged driving is and what laws apply to it to thoroughly investigate and prosecute these crimes.

Drugged driving in the news

In 2019, Kane Richard disregarded a stop sign in Menominee County and crashed into another vehicle.¹ A man was ejected from that vehicle and died from his injuries.² Richard's blood results contained tetrahydrocannabinol (THC) and diazepam.³

In 2018, Theresa Gafken ran a red light while driving more than 100 miles per hour during morning rush hour in Port Huron.⁴ She hit another vehicle, killing a 48-year-old woman headed to work.⁵ Gafken's blood results showed she had 5 nanograms of THC at the time of the crash.⁶

In 2016, Charles Pickett Jr. crashed into a group of bicyclists on the side of the road in Kalamazoo County.⁷ He killed five of them and seriously injured another four. His blood results came back with methamphetamine, muscle relaxers, and pain medication.⁸

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Reducing crashes the goal during Distracted Driving Awareness Month

April is Distracted Driving Awareness Month, and its goal is simple: to reduce traffic crashes caused by distracted drivers by educating motorists and ultimately preventing injuries and deaths associated with cell phone use, texting, and other behind-the-wheel distractions.

According to Michigan Traffic Crash Facts (michigantrafficcrashfacts.org), there were 14,236 motor vehicle crashes involving a distracted driver during 2020 in Michigan, and 48 of those crashes resulted in a fatality. The most common crash type for distracted driving in 2020 was rear-end crashes, which accounted for 44.7 percent of distracted driving crashes.

According to the National Highway Traffic Safety Administration (NHTSA), between

What is distracted driving?

Any activity that diverts attention from driving, including talking or texting on your phone; eating and drinking; talking to people in your vehicle; and fiddling with the stereo, entertainment, or navigation systems — anything that takes your attention away from the task of safe driving.

2014 and 2020, nearly 23,000 people died nationwide in crashes involving distracted drivers. In 2020, there were 587 non-occupants (pedestrians, bicyclists, and others) killed in crashes involving a distracted driver.

Distracted driving is a problematic trend among younger drivers. In fact, 8 percent

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GHSA study shows pedestrian fatalities rising

A new study from the Governors Highway Safety Association (GHSA) projects that U.S. drivers struck and killed 3,441 pedestrians in the first six months of 2021, up 17 percent — or 507 additional lives lost — from the same period the year before.

This troubling projection continues a



decade-long trend of rising pedestrian deaths on our roads and comes as speeding, impaired and distracted driving, and other dangerous driver behaviors remain at unacceptably high levels.

GHSA's annual Spotlight on Highway Safety report offers the first look at state

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www.youtube.com/ohsp



www.michigan.gov/ohsp

Ford Fund, GHSA teen-driving grants to target speeding

Ford Motor Company Fund and the GHSA are extending their commitment to improving teen-driving skills by awarding grants totaling \$135,000 to Michigan and five other state highway safety offices to help combat teen speeding.

Michigan has been awarded a \$25,000 grant to create and implement programs to address teen speeding. Ford Fund and GHSA also awarded grants totaling \$110,000 to state highway safety offices in Kentucky, Montana, New York, Tennessee, and Utah.

Vehicle crashes remain the leading cause of death for teen drivers. Data from a Ford Fund and GHSA report released last year revealed that, from 2015 to 2019, teens accounted for a greater proportion of speeding-related fatal crashes (43 percent) than all other age groups (30 percent).

During 2020 in Michigan, 11.2 percent of drivers in the 15- to 20-year-old age group involved in crashes were speeding.

“As a former prosecutor, public safety is a core issue for me, and we must work together to keep young Michiganders safe on the roads,” said Governor Gretchen



Vehicle crashes remain the leading cause of death for teen drivers.

Whitmer. “And as a mom, I know how I want my daughters to be safe behind the wheel, just as all parents do. We know that teen drivers account for a greater proportion of speeding-related fatal crashes than any other age group and that vehicle crashes are the leading cause of death for



teen drivers.

“This grant from the Ford Fund and GHSA will help us save lives by educating parents about the dangers, and consequences, of speeding. We want to ensure everyone can get to where they need to go safely and on time.”

According to NHTSA, traffic deaths reached a 13-year high in 2020, despite a decline in driving during the pandemic. NHTSA reported that 38,680 people were killed in 2020 — an increase of 7.2 percent from 2019.

“The alarming number of crashes and fatalities involving teen drivers is tragic — and preventable,” said Alicia Sledge, interim director of the Michigan Office of Highway Safety Planning (OHSP). “We’re grateful to the Ford Fund and GHSA for providing grants and continued support to help us educate parents and teens about this vital issue and save lives.”

Speeding is often identified as a factor in fatal crashes. In 2020, speeding-related fatalities rose by 17 percent from the previous year.

To learn more about Ford Driving Skills for Life, visit drivingskillsforlife.com.

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of drivers aged 15 to 19 years old involved in fatal crashes in 2019 were reported as distracted.

However, according to NHTSA’s latest data from 2020, handheld cell phone use was highest among 25- to 69-year-old drivers.

That deviates from the previous pattern that existed from 2007 to 2019, where young drivers aged 16 to 24 years old were observed using handheld electronic devices while driving at higher rates than older drivers.

On April 7, law enforcement agencies throughout Michigan participated in the nationwide “Connect to Disconnect” (C2D) distracted driving enforcement and awareness initiative.

This enforcement effort, in collaboration with NHTSA’s national “U Drive. U Text.

Connect to Disconnect

Numerous Michigan law enforcement agencies participated in the April 7 distracted driving enforcement and awareness initiative:

Allegan County Sheriff’s Office
Birmingham Police Department
Brighton Police Department
Brownstown Police Department
Dearborn Police Department
Grand Blanc Township Police Department
Hazel Park Police Department
Ingham County Sheriff’s Office
Kent County Sheriff’s Office
Livonia Police Department
Macomb County Sheriff’s Office
Monroe County Sheriff’s Office

U Pay” campaign, was held to remind drivers about the dangers and consequences of distracted driving.

City of Mount Pleasant
MSP 7th District Hometown Security Team
MSP Gaylord Post
MSP Grand Rapids Post
MSP Lakeview Post
MSP Marshall Post
MSP Mount Pleasant Post
MSP Paw Paw Post
MSP Wayland Post
Newaygo County Sheriff’s Office
Oakland County Sheriff’s Office
Portage Department of Public Safety
Shiawassee County Sheriff’s Office
Southfield Police Department
St. Clair Shores Police Department
Stanton Police Department
Thomas Township Police Department
Wyoming Department of Public Safety

For more information on C2D or the “U Drive. U Text. U Pay.” enforcement campaign, visit <https://bit.ly/3KBR6fs>.

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Every week prosecutors throughout Michigan handle drugged driving cases that put many innocent lives at risk.

What is drugged driving?

Drugged driving is driving under the influence of substances other than alcohol, whether legal or illicit.⁹ Examples of legal substances include recreational marijuana for those 21 years of age and older and prescribed medications. Cocaine, heroin, and methamphetamine are examples of illicit substances. Polydrug use is when a person uses more than one substance at one time.¹⁰ Polydrug use is especially dangerous for drivers because combining substances can amplify the impairing effects of each substance used.¹¹ Examples of polydrug use include the following combinations: alcohol and prescription stimulants such as Ritalin or Adderall; alcohol and benzodiazepines such as Xanax; cocaine and heroin; and cocaine and ecstasy.¹² This list is endless and trends in polydrug use evolve over time.

Drugged driving on the rise

In 2018, 12.6 million people aged 16 or older in the United States drove under the influence of illicit drugs in the past year, according to the National Survey on Drug Use and Health (NSDUH).¹³ That number is up over 20 percent from 10.1 million in 2014.¹⁴ The NSDUH is conducted by the Substance Abuse and Mental Health Services Administration, which is a part of the United States Department of Health and Human Services.¹⁵ It is a self-reported survey.

Drug use in drivers is also on the rise according to the National Roadside Survey (NRS), which is conducted by NHTSA. In 2014, about 20 percent of drivers tested positive for at least one drug, up from 16.3 percent in 2007.¹⁶ In addition, more than 15 percent of drivers tested positive for at least one illegal drug, up from 12 percent in 2007.¹⁷ It's important to note that this study only looked into whether a driver had the presence of a drug in his or her system. Presence alone does not indicate impairment. However, this information does paint a picture for us on what trends are occurring in drivers around the country.

Drugged driving falls under Michigan's OWI Law

Michigan's Operating While Intoxicated (OWI) law encompasses drugged driving. Pursuant to MCL 257.625(1), a person can be under the influence of alcoholic liquor, a controlled substance, an intoxicating substance, or any combination of

these three categories.¹⁸ A controlled substance is any substance that is included in schedules 1 to 5 under the Michigan Public Health Code.¹⁹ Examples in Michigan include methamphetamine, heroin, fentanyl, and hydrocodone. An intoxicating substance is a "substance, other than food, taken into a person's body, including, but not limited to, vapors or fumes, that is used in a manner or for a purpose for which it was not intended, and that may result in a condition of intoxication."²⁰ Examples include inhalants such as Dust Off and nitrous oxide whippets, kratom, and dextromethorphan (medication used as cough suppressant).

To prove that a person was operating while intoxicated due to a controlled and/or an intoxicating substance, a prosecutor must show the person was "under the influence" of that controlled and/or intoxicating substance.²¹ "Under the influence" means a person's ability to operate a motor vehicle in a normal manner was substantially lessened due to consumption of that substance or substances.²²

Schedule 1 controlled substances are treated differently under Michigan's OWI law. Per MCL 257.625(8), a driver cannot have any amount of a schedule 1 controlled substance in his/her system when operating a vehicle.²³ Cocaine is a schedule 2 controlled substance, but it also falls under this section.²⁴ To prove this charge, prosecutors simply must show the driver was operating a vehicle while having in his/her system the schedule 1 controlled substance or cocaine.²⁵

Conclusion

It is very important that law enforcement officers who work the roads receive training on drugged driving. In Michigan, the training available includes the Standardized Field Sobriety Test, Advanced Roadside Impaired Driving Enforcement, and the Drug Evaluation and Classification trainings.

Prosecutors may also attend these trainings to gain a better understanding of drugged driving investigations. Drugged driving cases are challenging, and teamwork between law enforcement officers and prosecutors is essential to successfully handling them in the courtroom.

Views expressed in this article are solely those of the authors. Please consult your prosecutor, local counsel, or commanding officers if you need any further guidance on anything discussed in this case or before changing procedure based on this article. For more information on the Prosecuting Attorneys Association of Michigan Traffic Safety Training Program and the trainings mentioned in this article, contact [Ken Stecker](#) or [Kinga Canike](#).

Ken Stecker is a graduate of Loyola Marymount University and the University of Detroit School of Law. He has run the Traffic Safety Training Program for the Prosecuting Attorneys Association of Michigan (PAAM) since 2008. Prior to working as a traffic safety training prosecutor, Ken served more than 11 years as an assistant prosecuting attorney in Kalamazoo and Branch Counties and eight years as the Branch County chief assistant prosecuting attorney.

Kinga Canike became Michigan's second traffic safety resource prosecutor in 2014. Prior to joining the PAAM, she worked at the Wayne County Prosecutor's Office for more than ten years. Kinga earned a bachelor of science in journalism from Michigan State University and her law degree from Wayne State University Law School.

¹ <https://bit.ly/3LYwDd0>

² Id.

³ Id.

⁴ <https://bit.ly/3LVEQDn>

⁵ Id.

⁶ <https://bit.ly/3rdVmlC>

⁷ <https://bit.ly/3jmWLC1>

⁸ Id.

⁹ <https://bit.ly/3E51SAm>

¹⁰ <https://bit.ly/3KykR8y>

¹¹ Id.

¹² Id.

¹³ <https://bit.ly/3O1j91K>

¹⁴ <https://bit.ly/3uuuflj>

¹⁵ Id.

¹⁶ <https://bit.ly/3NVVYQ9>

¹⁷ Id.

¹⁸ <https://bit.ly/3rhRyQe>

¹⁹ <https://bit.ly/3LUaw7s>

²⁰ <https://bit.ly/37FUEQN>

²¹ <https://bit.ly/3jpdONt>

²² Id.

²³ <https://bit.ly/37FUEQN>

²⁴ Id.

²⁵ <https://bit.ly/3O0WIKa>

“Drive Sober” holiday enforcement results released

Officers from 80 agencies took 140 impaired drivers off the roads during campaign

Law enforcement officers from 80 police departments, sheriff offices, and Michigan State Police (MSP) posts recently increased patrols across the state during the holiday “Drive Sober or Get Pulled Over” enforcement campaign targeting impaired drivers that ran from December 17, 2021, to January 1, 2022.

Before and during the Christmas and New Year’s holidays, law enforcement officers throughout Michigan participated in the enforcement campaign with the goal of saving lives and decreasing crashes by stopping impaired drivers.

“If you are impaired by any substance, you shouldn’t drive. The goal of this campaign was to get dangerous drunk and drugged drivers off our roadways,” said



Alicia Sledge, interim director of the OHSP. “Officers were able to take 140 impaired drivers off our roads and issue more than 900 speeding citations, making it safer for everyone.”

Preliminary reports indicate officers made 4,099 traffic stops, arrested 127 drunk drivers and 13 drivers under the influence of drugs, and issued 906 speeding citations and 35 seat belt citations. In addition, officers made 103

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and national trends in 2021 pedestrian traffic deaths, based on preliminary data provided by State Highway Safety Offices in all 50 states and the District of Columbia (D.C.). The analysis found that, nationwide, there were 1.04 pedestrian deaths per 100,000 people, up from 0.90 in both 2020 and 2019.

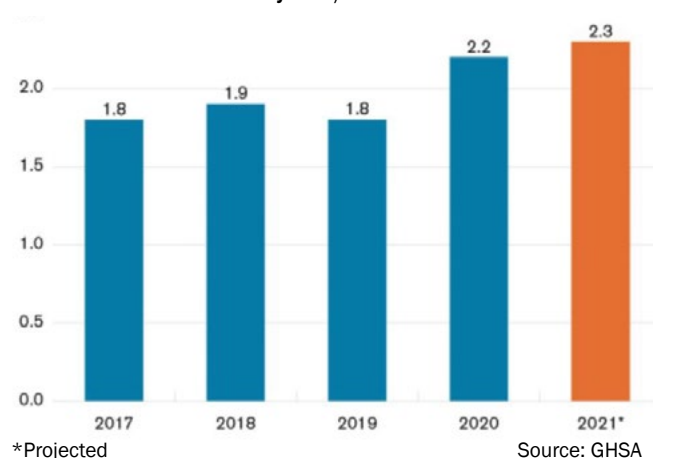
The data also shows that the rate of drivers striking and killing pedestrians rose to 2.3 deaths per billion vehicle miles traveled in the first six months of 2021. That’s an increase from the historically high rate of 2.2 deaths per billion VMT in 2020 and significantly more than the rate of 1.8-1.9, which remained steady in 2017-2019. The data analysis was conducted by Elizabeth Petraglia, Ph.D., of the research firm Westat.

What is causing this increase in both the total number of pedestrian deaths and the fatality rate? A combination of factors that include a surge in dangerous driving that began at the start of the pandemic and has not abated, larger vehicles that are more likely to seriously injure or kill people on foot in the event of a crash, roads designed to prioritize fast-moving traffic over slower speeds that are safer for pedestrians, and inadequate infrastructure such as sidewalks and lighting in many parts of the country.

To address these causes and reduce the number of pedestrian deaths, GHSA supports a comprehensive solution based on the Safe System approach, as outlined in the U.S. Department of Transportation’s National Roadway Safety Strategy. Each of the five elements of the Safe System approach — safe road users, safe vehicles, safe speeds, safe roads, and post-crash care — contribute in different ways to provide this multilayered safety net that can protect people outside of vehicles.

The increase in pedestrian fatalities over the first half of 2021 continues a long-term trend of roadways being more dangerous for people on foot. Over the last decade, pedestrian deaths have skyrocketed by more than 2,000 — from 4,457 in 2011 to 6,516 in 2020 — a 46 percent increase. Overall traffic fatalities are also surging. NHTSA reported that 31,720 people died in crashes in the first three quarters of 2021, which is the highest number of fatalities during the first nine months of any year since 2006.

Pedestrian Fatalities per 1 Billion Vehicle Miles Traveled (VMT)
January-June, 2017-2021



At a state level, pedestrian fatalities increased in 39 states and D.C. during the first half of 2021.

Meanwhile, 11 states experienced declines in the number of pedestrians killed by drivers, with three states reporting two consecutive years of declines and two states posting double-digit fatality reductions in 2021. The analysis also noted that three states — California, Florida, and Texas — accounted for 37 percent of all pedestrian deaths in the first six months of 2021 but are home to 27 percent of the U.S. population. These states have warmer climates, which tend to increase travel on foot, as well as many urban areas where pedestrians and motor vehicles are more likely to share the road.

GHSA will publish a second, comprehensive Spotlight report this spring that will include state fatality projections for all of 2021, an analysis of recently released 2020 data from NHTSA’s Fatality Analysis Reporting System and an overview of proven strategies states and communities are employing to reduce pedestrian crashes and injuries.

Schools across Michigan participating in teen safe-driving program

“Strive for a Safer Drive” in its eleventh year

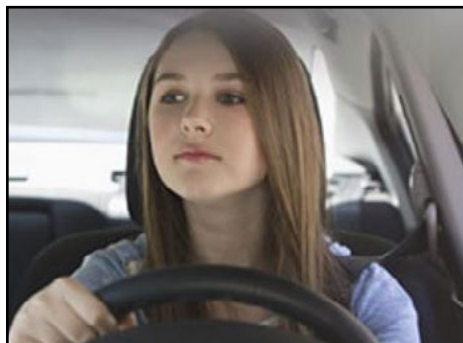
Students at 38 Michigan high schools will have the opportunity to become better, safer drivers by participating in the “Strive for a Safer Drive” (S4SD) program.



S4SD, a peer-led traffic safety campaign, aims to

reduce the leading cause of death for teens — traffic crashes.

In 2020, there were 473,443 licensed drivers aged 15 to 20, which represented 6.7 percent of all Michigan drivers. However, they accounted for 7.3 percent of all traffic deaths in Michigan, with 51.9 percent of those deaths being the driver. Inexperience and risk-taking behavior are the primary factors contributing to teen-driver fatalities.



In its eleventh year, S4SD is a public-private partnership between Ford Motor Company Fund’s Driving Skills for Life program and the OHSP. The program encourages teens to talk with their peers and their communities about making safe-driving choices.

As part of the S4SD program, each school receives \$1,000, which students use to create a teen-led campaign that will educate their classmates and community about various traffic safety topics, including speeding; seat belts; pedestrian, bicyclist, and passenger safety; and impaired, distracted, nighttime, and winter driving. Schools will submit videos or PowerPoint presentations outlining their campaigns. The top-five schools judged to have winning campaigns will receive cash prizes ranging from \$500 to \$1,500.

Since the 2011 creation of S4SD, 176 different Michigan high schools have participated in the program. The OHSP has partnered with the Transportation Improvement Association to coordinate activities of the S4SD program. For more information about S4SD, please visit Michigan.gov/S4SD.

S4SD participating schools, 2021-2022, by county

Allegan:	Martin High School Otsego High School
Barry:	Lakewood High School
Bay/Arenac:	Bay-Arenac Career Center
Berrien:	Brandywine High School
Branch:	Coldwater High School
Calhoun:	Athens Jr/Sr High School Harper Creek High School
Clare:	Clare-Gladwin Regional Education Service District
Eaton:	Grand Ledge High School
Genesee:	Grand Blanc High School
Macomb:	Cousino High School Dakota High School Lake Shore High School
Mason:	West Shore ESD - Career & Technical Education Center
Midland:	Dow High School Meridian Early College High School
Monroe:	Dundee High School
Oakland:	Berkley High School Holly High School Lake Orion High School
Ontonagon:	Ontonagon Area Schools
Presque Isle:	Posen High School
Saginaw:	Freeland High School Swan Valley High School
Sanilac:	Croswell-Lexington High School
St. Clair:	Peck Community Schools Anchor Bay High School Memphis Sr. High School Port Huron Northern High School Yale High School
Tuscola:	Vassar High School
Washtenaw:	Dexter High School Greenhills High School Skyline High School
Wayne:	Fordson High School Plymouth High School Woodhaven High School

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felony arrests and 309 misdemeanor arrests during the enforcement period.

In Michigan, it is illegal to drive with a blood alcohol concentration (BAC) of .08 or higher, although motorists can be arrested at any BAC level if an officer believes they are impaired. Michigan’s drunk driving law contains a zero-tolerance provision for drivers with certain illegal drugs in their system. The same penalties for drunk driving also apply to those convicted under the zero-tolerance drug provision.

According to the 2020 Michigan Annual Drunk Driving Audit by the MSP, 41.8 percent of all fatal crashes that occurred involved alcohol, drugs, or both.

In their holiday enforcement reports, officers statewide witnessed an alarming number of vehicles traveling well above the posted speed limit.

The “Drive Sober or Get Pulled Over” campaign is supported with federal traffic safety funds provided by the USDOT and NHTSA and is coordinated by the OHSP.



A gas pump topper used during the 2021 “Drive Sober or Get Pulled Over” enforcement campaigns.

INSIDE THE OHSP

STAFF PROFILE

Heidi Parker

**ACTING FISCAL MANAGER
AND ACCOUNTANT**

Heidi has been with OHSP just over a year and with the State of Michigan (SOM) almost four years. Prior to working at the SOM, Heidi worked briefly for the Michigan National Guard and was also an auditor for the State of Wyoming.

What do you like most about your job?

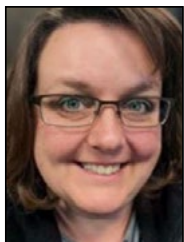
I love knowing what we do makes a difference, even if I'm "just" paying the bills.

What are you most proud of at work?

I stepped into the acting manager role after being with OHSP for just nine months — I'm proud of the fact that I've kept things moving and have been able to make some process improvements to make our jobs a little less complicated.

What are your interests or hobbies?

I have an amazing 11-year-old daughter and a 14-year-old blue heeler. I love spending time with my daughter and the rest of my family. When I have down time, I love to scrapbook and craft and occasionally find time to read a good book.



What personal achievement are you most proud of?

I got my bachelor's degree later in life. I'm proud of that and what I've accomplished since then.

What's your favorite vacation spot?

I am not too picky. Anywhere we can get away from the routine of home is good with me.

What's something people don't know about you?

I spent most of my adult life in Cheyenne, Wyoming. That's where my dad's side of the family is from.

BEHIND THE SCENES



The OHSP always enjoys working with Brogan & Partners creating and sharing important traffic safety messages. On March 23, OHSP Communications and Brogan staffers gathered with a video crew and a group of actors to shoot a TV spot for the upcoming "Click It or Ticket" enforcement campaign in mid-May.

Mallory Fox named an MSP Employee of the Quarter

Mallory Fox, grant technician in OHSP's Planning and Administration Section, has been named a Michigan State Police Field Support Bureau's Employee of the Quarter.

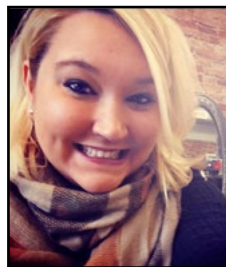
Joining OHSP in January 2018, Mallory is responsible for managing the online grants management system (Magic+). She is the point of contact for OHSP grantees who may need assistance with the grant process.

Mallory helped streamline the system by creating an improved federal grant amendment process for use by the OHSP staff. This new process eliminated redundant processes for the office and now serves as the

tracking spreadsheet to view the status of each grant amendment. Mallory is the OHSP project management contact for the new online grant management system that will debut in FY2023. She works with the system programmers, OHSP staff, and the MSP Grants and Community Services Division to improve the work process flow to make sure all federal guidelines and requirements are met, as well as the needs of the staff and grantees.

Mallory also manages the monthly staff newsletter and serves on several voluntary OHSP committees, including the Summit Speaker Series and OHSP Community Services.

Congratulations, Mallory!



Former commissioners honored for dedication to traffic safety

Three State of Michigan professionals were honored for their dedication to traffic safety and valuable service as commissioners during recent Governor's Traffic Safety Advisory Commission meetings.

Former OHSP Director Michael L. Prince, Kenneth Micklash of the Michigan Department of Education, and Rachel Telder of the Michigan Aging and

Adult Services Agency left the commission in December.



■ Mr. Prince became a member of the commission at the time he was named OHSP's director in 2003. He served as the commission's chair from June 2011 until

his retirement in December 2021.

■ Mr. Micklash was appointed to the commission in June 2008 and served until his retirement in December 2021. He worked as a school district consultant and also advocated for pupil transportation safety.

■ Ms. Telder was appointed in June 2018 and served until December 2021. Her role on the commission was to represent aging adults and those with disabilities. Ms. Ashley Ellsworth has been appointed to the commission and will continue those advocacy efforts under the newly created Health and Aging Services Administration.



Former OHSP Director Michael L. Prince was honored for his commitment to traffic safety.



Kenneth Micklash, Department of Education, was honored for his work on school traffic safety issues while serving on the commission.



Interim OHSP Director Alicia Sledge (left) presents a plaque to Rachel Telder of the Michigan Aging and Adult Services Agency for her dedication to traffic safety.

OHSP VIDEO FILES



Check out this video that was part of the "Buckle Up in Your Truck" campaign, which began in November 2021 and continues through April.

**Distracted driving
is no joke.**

**Ditch the phone.
Focus on the road.**

#DistractedDrivingAwarenessMonth

