

## **Repeaters pose the biggest challenge**

### **Dealing with the rise in repeat DUIs**

By **Rose Ciotta and Karl Stark** INQUIRER STAFF WRITERS

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#### **Third of four parts**

John J. Toole of Stratford, Camden County, has been convicted 10 times of driving under the influence. His New Jersey license is suspended for decades to come - but he says he still drives in Pennsylvania.

**Robert C. Komada Jr.** of Warminster, Bucks County, has been arrested 16 times for this crime. Howard J. Geiger of Clayton, Gloucester County, 26 times. Joseph A. Levin of Northeast Philadelphia, eight times - before he struck and killed a pedestrian.

"I thought I could control the alcohol," Levin told a judge, "but the alcohol controlled me." These men typify a breed of driver that experts say is the most dangerous and the hardest to stop: hard-core drinkers who have been arrested and penalized many times but who have kept on driving.

For judges, police, prosecutors and counselors, this has emerged as the toughest piece of the drunken-driving puzzle to solve.

"We haven't affected the core of the problem," says **Robert** Esty, executive director of Chester County's Council on Addictive Diseases. "Fatalities have spiked back up the last couple of years. . . . The real issue is, how are we going to start dealing with the higher and higher percentages of multiple offenders?"

In Pennsylvania, expungement of past arrests shrinks some repeaters' records. **Komada's** Philadelphia court history lists five of his arrests for DUI - but not his 11 others. Some New Jersey repeaters go on driving despite license suspensions that sound like Star Trek log entries: Geiger's is suspended till 2113, Toole's till 2091.

But repeaters don't wear an R on their backs, and they tend to disappear in the high weeds of drunken driving's vast numbers. They drive drunk hundreds of times before an arrest, experts say - 5,000 miles on average, a government study said.

The same national study found that between 1983 and 1998, repeat offenders were in accidents that killed 137,338 people.

Once arrests are made, courts face the daunting job of distinguishing hard-core drunken drivers from others accused of driving under the influence.

Since the 1980s, both Pennsylvania and New Jersey have had laws that say repeat DUI offenders get jail terms, and many of them do. But the laws have exceptions, and in a region of backlogged courts and crowded jails, exceptions become the rule. In Bucks County, house arrest is how some repeaters do time.

"We have 2,000 [DUI] cases a year," Bucks County District Attorney Diane Gibbons says. "We don't have a prison big enough to house 2,000 people."

Montgomery County's 192-bed dormitory-style jail handles the load in shifts - on weekdays, a group of DUI offenders on work-release; another group serving weekends. In between, former prosecutor Edwin Guyer says, "they hose it down and get it ready for the next group."

**Robert** Forman of the Center for Studies of Addiction at the University of Pennsylvania Health System says it takes everything the system can muster - jail, license suspension, fines, alcohol treatment - to reach hard-core repeaters.

"Losing their license is the least of their problems," Forman says. "They're losing their family. They're losing their job. They're losing their mind. They're losing their liver. They're in a nose dive. Unfortunately, those sorts of assaults are what it takes for them to consider they have a problem. . . . Their drinking is more important than their money."

Waking up in Virginia  
still at the wheel

Forman might as well have been describing Howard Geiger, circa 1990.

Geiger, 55, has been sober since 1991. But he remembers "mornings where I was afraid to look at the car, because you don't know if you hit somebody."

He drove with a six-pack in his car; he remembers simply blacking out at times. It happened as he was crossing the Delaware Memorial Bridge one day. When he came out of his stupor, he was in Virginia and still driving.

He was arrested for driving drunk in five towns near home - Franklin, Pitman, Harrison, Monroe, and Elk; and in Pennsauken, Camden County. He ran up \$50,000 in fines and decades of license suspensions. When he recently called Trenton about restoring his license, he says, "the lady on the phone laughed at me."

But like many repeat offenders, Geiger, who works nights in a food warehouse, did not stop driving. He's been cited 31 times for driving under suspension, including as recently as 2000, records show. He says that was an emergency.

New Jersey law emphasizes suspensions and treatment for DUI, and six months' jail for third-time offenders. That's what Municipal Judge J.R. Powell, whose jurisdiction includes 10 South Jersey towns, gave Geiger "pretty much each time he came in front of me. . . . I also counseled him that he should stop drinking alcohol."

But Geiger didn't stop. "You can get drugs and booze in jail probably better than in the street," Geiger says.

Born in Pottsville, he had started drinking beer at age 10 or 11 and soon graduated to his parents' vodka. His first DUI came in his 20s.

Some days he drank a case of beer, some days two. "Why would I want to waste my money on food?" he says. "I needed every nickel and dime I had to drink. . . . I'd get drunk, pass out, wake up, and do it all over."

Geiger's nose dive was in 1991, when he woke up in jail one more time. Someone gave him a book on recovery, and he started reading.

"I said, 'God, I'm tired of doing this. I know there has to be a better way,' and that was the beginning."

Now he's in a 12-step program.

'Nothing to turn around,'  
except his Mustang

If Geiger stands for repeaters who succeed in straightening out their lives, John Toole is a study in defiance.

"I haven't turned my life around," says Toole, 52. "There was nothing to turn around. . . . There was never an alcohol problem."

He owes New Jersey \$88,000 for drunken-driving convictions in the 1980s and 1990s. He has been without a New Jersey license since 1984.

One judge sentenced him to 20 months in prison for his 10th DUI conviction, far more than the state's six-month maximum. Toole made news in the 1990s when he sued, contending that the sentence violated his rights. His suit was dismissed.

He blames his legal problems on overzealous local police, and contends that MADD (Mothers Against Drunk Driving) has "a little bit too much political pull."

He has tips on local police behavior: Philadelphia officers are too busy with "the murder down on the corner" to worry about drunken drivers, but South Jersey is "village land," where towns keep \$95 in fines from each DUI. "Every village has its own militia, and they are competing for [DUIs] and the money."

Toole is right, in a way. New Jersey favors local DUI enforcement and the swift outcomes that experts say send drivers a clear signal. "There's a good likelihood you will be convicted, and convicted within 60 days," says **Robert J. Green**, chief of the New Jersey Health Department's DUI program. Since 1997, six in 10 South Jersey DUI arrests have led to convictions.

At the same time, New Jersey's long license suspensions don't seem to stop repeaters like Toole, who says he still drives - but not in New Jersey.

He says he has a valid license in another state, and keeps a Mustang and a Taurus in Philadelphia. Toole's job takes him out of state, but he won't say what it is.

As for drinking and driving, "What do I do? I bring up my awareness. I pay more attention than I would."

Slipping through  
cracks in the courts

Though not all have records as long as Geiger's or Toole's, the region's repeat drunken drivers number in the thousands.

Last year, Pennsylvania judges put 13,885 defendants in the alcohol-treatment program that is mandatory after a second DUI offense. In Burlington, Camden and Gloucester Counties, judges have convicted about 20,000 drivers of DUI in the last five years. A recent statewide survey found 29 percent of those arrested had at least two prior offenses.

In Philadelphia, records show, 1,980 drivers have had at least three DUI arrests in the last 20 years. And that doesn't count thousands of arrests that are "expunged."

That happens when first-timers opt for Accelerated Rehabilitative Disposition (ARD) to avoid jail. ARD saves the courts time and money. It also gives drivers clean records and restored licenses if they pay court costs and complete 12-hour driver-safety classes plus probation.

In Pennsylvania, about two thirds of the DUI defendants enter this program. Seamus McCaffery, Philadelphia Municipal Court president judge, says ARD exists because "the legislature doesn't want the average person who goes out for a Christmas party or office party to get really banged" with drunken-driving penalties.

But some say ARD can be a hiding place for future hard-core drunken drivers.

"The tendency is to wave the wand and have a canned disposition because it's ARD," warns Lou Rader, head of the Pennsylvania Department of Transportation's alcohol highway safety programs. He says it misses a chance to tailor tougher penalties and treatment for problem drinkers, and courts should use it sparingly.

(PennDot is also fighting a court order telling it to purge old ARD records. The agency says this would stymie efforts to spot repeat offenders; the court said drivers are entitled to a clean slate after seven years.)

Rader also notes that while most of the 39,839 drivers arrested last year in Pennsylvania for DUI were first offenders, 82 percent of those arrested said they were moderate to severe "problem" drinkers.

In other words, bad candidates for ARD, and high risks of repeating.

"Somewhere," Rader says, "they slip between the cracks."

One Bucks County driver who slipped through was Linda Grubb of Levittown, who received ARD for driving drunk in 1985, long before her drunken crash that killed Mark Shreck, 16.

Another was Rory Angely of Chalfont, whose blood alcohol was 0.098 when he crashed into a parked car in 1997. That was enough to charge him with underage drinking and driving; he, too, was given ARD.

Two years later, in 1999, after drinking in Doylestown, Angely, 21, drifted across the center line of Route 611 and struck a car head-on, killing two women and himself.

This time, authorities said, Angely's blood alcohol was 0.12.

Contact Rose Ciotta at 215-854-5024 or rciotta@phillynews.com.

Drunken-Driving

Suspects Generally Are . . .

White. Pennsylvania, 89 percent. New Jersey, 73 percent.

Male. Pa. and N.J., 82 percent.

Employed. Pa., 79 percent. N.J., 73 percent.

Unmarried. Pa., 71 percent. N.J., 69 percent.

About 35. Pa. average age, 34. N.J. average age, 36.

SOURCES: Pa. Department of Transportation, N.J. Department of Health

If You're Caught

In Pennsylvania

First offense: ARD, including classes, court costs, license suspension, and usually probation.

Record may be expunged if probation is completed. Or, if convicted, 48 hours to two years in jail and fines up to \$5,000.

Second offense: 30 days to two years in jail and fines up to \$5,000.

Third offense: 90 days to five years in jail and fines up to \$10,000.

Fourth offense within seven years: One to five years in jail.

In practice, most first offenders get ARD, not jail. Jail terms rarely exceed the minimum.

In New Jersey

First offense: Up to 30 days in jail, \$250 to \$400 in fines, six- to 12-month license suspension, 12 hours of evaluation.

Second offense: Up to 90 days in jail, \$500 to \$1,000 in fines, two-year license suspension, ignition interlock.

Third offense: 180 days in jail, \$1,000 fine, 10-year license suspension, ignition interlock.

All penalties include \$325 in fees and an insurance surcharge of \$1,000 or more.

In practice, first offenders get 12 hours of classes over two days instead of jail. Second offense usually means 48 hours' detention.

Sources: Pa. and N.J. courts, lawyer interviews

More on This Series

SUNDAY: Why the drunken-driving epidemic persists, 20 years after the nation awoke to the problem.

YESTERDAY: Why some of the region's towns do a better job of enforcing DUI laws than others.

TODAY: The repeaters: People who got caught driving drunk again and again.

TOMORROW: How the problem can be addressed - and why Pennsylvania and New Jersey aren't doing more.

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Why we haven't stopped drinking and driving

**Illustration/Photo:** MICHAEL PEREZ / Inquirer Staff Photographer

Lawyer Charles G. Nistico speaks outside Aston, Delaware County, District Court. A DUI defense specialist, Nistico acknowledges having qualms about some of his drunken-driving clients' motives.

MICHAEL PEREZ / Inquirer Staff Photographer

**Robert C. Komada Jr.** (left) has 16 DUI arrests. He spoke with his lawyer, A. Charles Peruto Jr. (right), and an officer after DUI charges were dropped in Levittown this month.

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