

## 2025 Edition Foreword

In the past year, the New Jersey Supreme Court's decision in *State v. Zingis*, 259 N.J. 1 (2024) fundamentally changed the way New Jersey drunk-driving cases will be tried in the future. As will be explained in Chapter 2 of this volume, the *Zingis* decision imposed a number of new procedures that prosecutors, defense counsel and judges must follow in cases where there is evidence of a prior drunk-driving conviction in New Jersey. The case also established new standards of proof in drunk-driving cases that will alter the way these cases will be tried in the future.

The case law during the past year has also added to a level of confusion as to when a defendant is driving on the revoked list as the result of a drunk-driving or refusal suspension sufficient to trigger criminal liability under N.J.S.A. 2C:40-26. A revised section 33:82 *infra* will provide helpful analysis.

A number Fourth Amendment issues affecting drunk-driving enforcement were considered by the Appellate Division in the past year, each of which is explored in detail in the various sections of Chapter 5.

Over the past 12 months, the march toward determining the scientific reliability of the Alcotest 9510 continued with hearings before a special adjudicator. In the interim, the Alcotest 9510 was in use throughout the state with many cases being adjourned indefinitely, pending a decision by the Supreme Court. The predictable result will be an enormous backlog of cases numbering in the tens of thousands that will have to be resolved at some future date.

This year's edition also contains an analysis of a topic that will be of growing importance in the years to come, the use of body-worn cameras by police. The case law on this subject is still sparse, but its use in drunk-driving enforcement will be universal among police agencies in the state. As a result, it is vital for defense attorneys, prosecutors and judges to know and understand the statutory and regulatory limits to the lawful use of this novel technology.

Finally, on October 24, 2023, the Supreme Court issued an order in *State v. Cunningham*, 255 N.J. 450 (2023) which removed any further obstacles to the expansion of the Alcotest 9510 to

other counties in New Jersey beyond Monmouth. This authority was granted prior to a ruling by the Court as to the scientific reliability of the Alcotest 9510's hardware and software. That determination will occur many months from now following a study and report from a special master, oral argument from numerous parties and a formal opinion from the Court.

Finally, this year's edition contains scores of updates to the law of drunk driving which are intended to aid the user in both prosecuting and defending these cases.

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