

# Most officials refuse Breathalyzer tests

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**AP** Associated Press

AUSTIN, TX -- Public records examined by the Austin American-Statesman show that most elected officials who have been stopped on suspicion of driving while intoxicated in recent years have declined to consent to a blood or breath sample.

The newspaper reported Sunday that it turned up cases involving more than a dozen elected officials in Texas -- including representatives, senators, judges and commissioners -- in which police on the scene asked for a sample to determine whether the driver's blood-alcohol concentration exceeded the 0.08 legal limit.

Except for two cases, both of which occurred outside the state, the politicians refused, the paper reported.

"Among the general public, the refusal rate is about 50 percent, but at the Capitol, the refusal rate is about 100 percent," said Shannon Edmonds, governmental relations director for the Texas District and County Attorneys Association.

Texas leads the nation in the number of alcohol-related traffic deaths, and about 40 percent of all the state's traffic fatalities are alcohol-related, according to the National Highway Traffic Safety Administration. However, the state is one of only 10 prohibiting sobriety checkpoints, and it has yet to join the increasing number of states that have made breath and blood collection mandatory in suspected DWI arrests. At least 17 states now treat refusal as a separate crime.

"Many people refuse to blow; it's a growing problem in Texas," said Karen Housewright, executive director of Texas Mothers Against Drunk Driving. "But we like to think our elected officials would behave as role models and hold themselves to a higher standard."

Police and prosecutors say politicians are among savvy citizens such as Texas Longhorns baseball coach Augie Garrido, who declined to give a breath sample when he was arrested Jan. 17 on suspicion of DWI.

"I'd always heard from attorneys that you should refuse," said state Rep. Mike Krusee, who was pulled over last year in Austin after police said they observed him driving erratically.

Krusee disputes accounts by officers who say he failed three roadside sobriety tests.

"I was shocked. I encourage people to look at the dashboard video," he said.

Krusee refused to blow into a Breathalyzer. His DWI case was dismissed in November.

Defense attorneys say giving breath or blood can only hurt their clients' cases. Even a blood-alcohol level below the legal limit doesn't guarantee the driver will be released, said Jamie Spencer, an Austin lawyer specializing in DWI defense, who called it a "lose-lose proposition."

Drivers who refuse chemical tests are supposed to have their licenses suspended for 180 days -- compared with only 90 days if they submit and fail. But the suspension can be challenged before an administrative judge and, if denied, appealed again before a county judge.

The defendant, meanwhile, can keep driving by obtaining a temporary license. Krusee said he used one until his DWI case was dropped for lack of evidence, at which point his permanent license was returned.

"There are so many loopholes for someone to get his license back," said Tom Gaylor of the Texas Municipal Police Association. "It's a waste of time."