



---

*The Advocacy Institute Is Pleased to Announce*

## **PROGRAM ANNOUNCEMENT**

### **PROSECUTOR ALCOTEST TRAINING**

**February 27, 2012**

**9:30 a.m. to 3:30 p.m.**

**Middlesex County Prosecutor's Office Police Training Center**

**11 Patrol Road**

**Edison, New Jersey**

#### *Program Summary*

This program will provide an overview of the basics of a DWI prosecution and will include instruction, by a certified breath test coordinator, on how the Alcotest 7110 MK-IIIIC works, a demonstration of a re-calibration of an Alcotest instrument, and a demonstration of how a breath test is conducted. This program will also review current hot topics being raised by defense attorneys in DWI prosecutions, including repair records, discovery issues, RFI/EMI Interference, the central database, data deletion, twenty-minute observation period, Standard Statement & the Ignition Interlock device, and the 2-minute lockout.

#### *Who Should Attend?*

This program is open to municipal and county assistant prosecutors as well as deputy and assistant attorneys general within the Division of Criminal Justice only.

#### *Who Is the Faculty?*

**Robyn Mitchell** is a Deputy Attorney General with the New Jersey Division of Criminal Justice. DAG Mitchell joined the Division in January 2000, where she worked in the Legislation Section until 2003, and in the Appellate Bureau between 2003 and 2011. Assigned to the Prosecutors Supervision & Coordination Bureau since March 2011, DAG Mitchell handles matters involving DWI and Alcotest-related issues, and provides legal guidance and support to assistant and municipal prosecutors in the prosecution of DWI cases. She started her career in 1991 as a Staff Attorney in the Criminal Defense Division of The Legal Aid Society in Manhattan. She received her B.A. degree in 1988 from Rutgers College, and her J.D. in 1991 from The University of Maryland School of Law in Baltimore, Maryland.

**Trooper II Marcus A. Arroyo** is currently with the New Jersey State Police Alcohol and Drug Testing Unit, Forensic Investigations Bureau, Special Investigations Section wherein he is responsible for conducting the re-calibration on the Alcotest 7110 MKIII-C within the assigned area Passaic County, Essex County and Hudson County. His responsibilities also include assisting with Operator Re-certification Course and the four-day Alcotest 7110 MKIII-C Operator Course. He became a Trooper with the State Police in 2003, and has worked in several different capacities during his career thus far. He earned an Associates of Art Degree from Fairleigh Dickinson University in 1998, and a Bachelor of Arts, Justice Studies from Montclair State University in 2002.

**Trooper II John Surowiec** is currently assigned to the Alcohol and Drug Testing Unit of the New Jersey State Police. He is also a Breath test Coordinator/ Instructor appointed by the Attorney General of New Jersey. In this capacity he is responsible for the coordination of all law enforcement Alcotest 7110 MKIII-C instruments in certain areas of northern New Jersey. He is personally responsible for the maintenance of over 60 Alcotests. This includes bi-annual calibrations as well as regular and unscheduled visits in order to troubleshoot issues relating to the Alcotest 7110 MKIII-C. Within this assignment he is also responsible for the training of all law enforcement personnel in the proper operation of the Alcotest 7110 MKIII-C. Trooper II Surowiec instructs the Alcotest initial operator classes as well as the Alcotest refresher classes. Prior to his assignment to the Alcohol and Drug Testing Unit, he was assigned to the Field Operations Section of the New Jersey State Police where he was active in the DWI enforcement program. Trooper II Surowiec was also detached for over one year to a Narcotics Task Force where he created informants and acted in undercover capacity. He holds an Associates degree in Liberal Arts from Sussex County Community College.

### *How Do I Register?*

Most State and some county employees will be able to register for this course by going to <http://reg.dcj.lps.state.nj.us/login.aspx?portalid=2> and creating an account. (Your computer must be attached to the government's Garden State Network.). If you are unable to access the above link kindly email the Advocacy Institute at: [AdvocacyInstitute@lps.state.nj.us](mailto:AdvocacyInstitute@lps.state.nj.us) for an authorization code to allow you access to the registration system through the My New Jersey portal. Once you receive the authorization code you will be prompted to go to the My New Jersey portal at <http://www.state.nj.us/> and create an account, if you do not already have one. Once you do, you then will be able to register through the portal at <http://www.state.nj.us>.

### *CLE Credit*

**NJ CLE Credit:** This program had been approved by the Board on Continuing Legal Education of the Supreme Court of New Jersey for 5.5 hours of total CLE credit. Of these, 0.0 qualify as hours of credit for ethics/professionalism, and 5.5 qualify as hours of credit toward certification in criminal trial law.

**NY CLE Credit:** 5.5 substantive credits (pursuant to the approved jurisdiction policy).

**PA CLE Credit:** 4.5 substantive credits (\$7.50 mandatory registration fee required).

### *Special Notice*

As many of you are aware, the Attorney General's Advocacy Institute cannot, pursuant to OMB guidance, as interpreted by this office, provide refreshments at its programs. In this instance, our co-sponsor, the New Jersey State Municipal Prosecutors' Association, is graciously doing so. Because this is a joint-venture for educational purposes, Deputy Attorneys General and Assistant Attorneys General attending this program may partake of the refreshments. If, however, you are planning to attend this program and are not a Deputy Attorney General or Assistant Attorney General, you should check with your Department's or agency's ethics officer to see what, if any, restrictions exist on your partaking in these refreshments. Please do not contact the Institute on this issue. Thank you.

**Prosecutor Alcotest Training**  
**9:30 - 3:30**

- |              |  |                      |
|--------------|--|----------------------|
| I.           | <u>Introduction</u><br>A. Instrument Functions<br>B. Nomenclature<br>C. Method of Analysis   | 9:30 - 9:45          |
| II.          | <u>Set-up and performing re-calibration of Alcotest</u> <ul style="list-style-type: none"><li>• Includes:<ul style="list-style-type: none"><li>• preparation of simulators</li><li>• Solution change</li><li>• conducting data download</li><li>• review of where results/tolerance located</li><li>• demonstration of use of NIST-traceable thermometer</li></ul></li></ul> | 9:45 - 10:45         |
| <b>BREAK</b> |  | <b>10:45 - 11:00</b> |
| III.         | <u>Administration of Breath Test Demonstration</u> <ul style="list-style-type: none"><li>• step-by-step demonstration</li><li>• demo of subject-driven error codes</li><li>• demo of instrument driven error codes</li></ul>   | 11:00 - 12:00        |
| <b>LUNCH</b> |  | <b>12:00 - 1:00</b>  |
| IV.          | <u>Basics of DWI Prosecution</u><br>A. Observation Case (Under the Influence)<br>B. Per Se Case<br>C. Refusal<br>D. School Zone Cases<br>E. Plea Bargains, Downgrades, Dismissals  | 1:00 - 1:30          |
| V.           | <u>Evidentiary Proofs</u><br>A. Discovery<br>B. Documents<br>C. <u>State v. Chun</u><br>D. Subsequent Case Law   | 1:30 - 2:00          |

**BREAK**

**2:00 - 2:15**

VI. Current Issues

2:15 - 3:00

- repair records
- central database
- RFI/EMI
  - inspection, photographing Alcotest room
- data deletion
- 20-min. observation period
- Standard Statement & Ignition Interlock device
- 2-minute lockout
- defense subpoenas of State experts
- fuel cell replacement
- Burps/GERD

VII. Defense Motions, Experts, Discovery Requests,  
& Issues Commonly Seen in Expert Reports

3:00 - 3:20

VIII. Questions/Discussion

3:20 - 3:30