



## LOOKING DOWN THE ROAD

### Pretlow's Vehicle Confiscation Bill Addresses Recidivism Issue

By William Aiken Jr.



Drunken drivers who continually get behind the wheel intoxicated despite multiple run-ins with the law put all of us in danger. I receive news clippings all the time of such cases. Dennis Drue, who was convicted of killing two high school students while driving drunk on a New York Highway, had five license suspensions and 22 prior traffic offenses before he caused this fatal crash. Drue was pushed along in our legal system without ever being held accountable. When his reckless conduct finally caught up with him, it resulted in the taking away of two innocent young lives, devastating their families and friends.

Fortunately, some of our elected officials are paying attention. Assemblyman, J. Gary Pretlow of Mount Vernon in Westchester County (89th Assembly District), has a bill; NYAB00995, which allows the confiscation of vehicles when the driver has been convicted of multi-offenses related to drunken driving.

NYAB00995 requires forfeiture of vehicles for six months for a second DWI offense and permanent forfeiture and registration denial for the third DWI offense; prohibits the issuance of a new license where there are two DWI convictions where physical injury has resulted from each offense.

The constitutional concerns of punishing a defendant before they're convicted don't apply in NYAB00995. The confiscation of the vehicle occurs once the drunken driver is convicted. Interlock ignitions have been an effective tool in reducing recidivism. However, drunken drivers find ways to get around them. The bill

allows the law to step in before these recidivist drunken drivers are able to wreak further havoc on society.



*Assemblyman Gary Pretlow, 89th District*

Assemblyman Pretlow responded to my questions regarding his bill.

#### **What inspired you to write 00995?**

I was leaving Albany and almost collided with a vehicle driving towards me on a one way road. After that experience I felt that people should not be on the road risking the lives of innocent people.

**The asset forfeiture laws in New York State are very strict when it comes to crimes involving drugs. Often a vehicle is seized on the presumption that it was purchased with drug proceeds without requiring any conviction. In your view, why aren't the AF laws applied in a similar manner when it comes to repeat drunken drivers who continually flaunt the law?**

Historically our Country has been tolerant to the abuse of alcohol but we need to amend our laws to include intoxicated drivers.

#### **Why do you think ABNY00995 is needed in our criminal justice system?**

This legislation is needed because we need to hold people accountable for their careless actions; in doing so we can save the lives of so many innocent people.

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# AFFLUENZA AFTERMATH

By William Aiken Jr.



*Ethan Couch after his Arrest in Mexico (Daily News)*

In a high profile case in a Fort Worth courtroom, defense lawyer, Reagan Wynn was trying a tough case. His client, Ethan Couch was charged in a tragic DWI crash that caused four deaths. So in a moment of desperation, Wynn threw up a hail Mary to Judge Jean Hudson Boyd. He had a sociologist testify the Couch's upbringing by irresponsible parents prevented him from knowing right from wrong. To everyone's amazement Judge Boyd answered Wynn's prayers. She agreed with the absurd argument that because his spoiled, rotten client, Ethan Couch, 16 had lived a privileged lifestyle governed by poor parenting, he shouldn't be held accountable for his actions that took the lives of four 4 people. She sentenced Couch to 10 years probation.

When Judge Boyd rendered her sentence, there was widespread outrage. The case shined a light on our criminal justice system that carried favor to wealthy defendants while ignoring the victims' families' pleas for justice. The backlash against Judge Boyd was immediate and forced her to announce her retirement soon after her ruling. But that was not the end of it. The public was paying attention to Ethan Couch.



## **Uneven Justice: Texas Judge Jean Hudson Boyd**

The Couch case highlighted a bias in Texas's criminal justice system, particularly concerning Judge Boyd. In another case she handled involving a 16 year old in a fatal DWI crash; the outcome was starkly different.

On the evening of June 15, 2013, Couch lost control as he drove his family's pickup truck after he and his friends had played beer pong and consumed beer that some of them had stolen from Wal-Mart. The vehicle veered into a crowd of people helping the driver on the side of the road. Authorities later estimated that he was going 70 mph in a 40 mph zone. The crash fatally injured the stranded motorist, a youth minister who stopped to help her and a mother and daughter who came out of their nearby home. Three hours after the incident, Couch had a BAC (blood alcohol content) of 0.24.

But prosecutors in Fort Worth said they didn't ask to have his case moved to the adult system because they thought the judge would refuse. Instead, he stayed in juvenile court and became infamous for his psychologist's assertion that his wealthy parents coddled him into a sense of irresponsibility the psychologist called "affluenza." [1]

Once Judge Boyd announced her decision, there was absolutely no recourse for the victims' families. Legally, there were no appeals that could be filed or any process to impeach Judge Boyd. She acted within the scope of the law when she handed down this ludicrous sentence. The families had to stomach the sight of watching Ethan Couch strut out of court a free man, while their loved ones were forever gone. They had been victimized again by a criminal justice system that let them down.

Nine years earlier Judge Boyd exhibited a much more harsh sense of justice when she was the judge overseeing the case of Eric Bradlee Miller, who was also 16 when he was involved in a fatal DWI crash that took the life of a 19 year old father. Miller's BAC at the time of the crash was .11. Miller was found guilty in a jury trial. But when Miller's attorney, Richard Gladstone argued that his client should get a break because of his troubled upbringing, his plea to Judge Boyd fell on deaf ears.

Boyd sentenced Miller, a troubled teen whose mother was a drug addict and who was being raised by his grandfather, to 20 years behind bars.

How could Judge Boyd treat Ethan Couch's crimes that were significantly more damaging with such extraordinary leniency

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# AFFLUENZA AFTERMATH

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while administrating a draconian sentence to Miller? Couch was responsible for three more deaths, severely injured several others at the crash site and his BAC was twice that of Miller's. The answer seemed to point to the vast difference in the two teenagers' socio and economic status. Couch's parents could afford the best legal representation money could buy, while Miller had no financial resources and was assigned a public defender.

How Judge Boyd could issue such opposite merits of justice in these two similar cases became a tipping point that infuriated the community. After getting excoriated on social media, she left the bench without ever explaining her decisions.

So Ethan Couch quickly became the poster boy of a criminal justice system where the scales are tipped in favor of the wealthy and affluent. This case also conjured up anger that DWI fatalities weren't being taken seriously. The community's outrage was palpable. Couch didn't slip into oblivion. Like OJ, he was on everyone's radar.

A few months after Couch's sentence, a user on twitter posted a video along with a caption stating that Couch was in violation of his probation. The video shows several young people playing beer pong at a party, one of whom appears to be Couch. This conduct would be in direct violation of Couch's 10-year probation if any alcohol consumption were involved. Consequences might include a re-sentencing, which could mean a maximum of 10 years imprisonment, according to the Tarrant County District Attorney's Office. A warrant was issued for Couch on December 11, 2015, after his probation officer could not reach him. [2]

On December 18, 2015, Couch and his mother were reported as missing, and as having not been reached after failing to make contact with Couch's probation officer. The fugitive hunt for Couch became a federal matter in December 2015 with the U.S. Marshals Service, FBI, and other agencies joining the hunt for the suspect who was believed to have fled the country. A \$5,000 reward for information leading to the whereabouts or arrest of Ethan Couch was offered. [2]

Couch and his mother were discovered and arrested in Puerto Vallarta, Jalisco, Mexico on December 28, 2015. The case was transferred to the adult court system on February 19, 2016, and the court stated that Couch will remain on probation until 2024. On April 13, 2016, the court sentenced Couch to serve four consecutive terms of 180 days in jail (one term for each of the 2013 car crash victims) equaling two years in jail, as punishment regarding his original drunk driving case from 2013 in light of his recent trip to Mexico.[3]

The law finally caught up with Ethan Couch. Thankfully, no one else was harmed while he enjoyed his freedom, though his initial sentence was a bitter pill to swallow for the victims' families. The resources and committed efforts devoted by law enforcement to hold him accountable are evidence of the change in the public's attitude toward drunken driving that was fostered by RID founder, Doris Aiken.

In 1978, the year RID started, there were hundreds of injustices similar to Ethan Couch. They were so commonplace that most of these cases never even made the news. While the original sentence was a travesty of justice, the public outcry forced an inept judge to retire and put pressure on law enforcement to ensure that Ethan Couch couldn't slip through the cracks again.

This case and its aftermath is a testament to how far we have progressed as a society. Doris Aiken had a simple focus for her mission when she started RID, which was for the criminal justice system to treat drunken driving as a crime, not an accident.

In the beginning, she was told many times that her efforts to fight for this change were futile, that nothing could be done about it. That she should accept drunken driving as an unfortunate norm of society.

To the benefit of us all, she stubbornly refused to go along. She paved a road that along her journey has saved thousands of lives. Going forward, we need to continue the vigilance she exemplified so effectively – to never forget the importance of educating the next generation to drive sober while holding those accountable who fail to do so.

*Sources: [1] The Daily News, [2] CNN, [3] The New York Times*

# MAKING A DIFFERENCE

*By Bill Dikant*

I am writing this article to best explain the purpose of the DWI Victim Impact Panels and the effect they have made over the years to the families who are victims of fatalities.

Many years ago I was approached by a woman who was determined to get the drunk drivers off our highways and asked me to assist her by getting the victim impact panels set up for judges to be able to send the offenders to. Her name



was Doris Aiken and she inspired me to take the lead and get as many judges in Rensselaer County to require the offenders to go and listen to victims in hopes they would never go out and drink and drive again.

The first time we tried to hold a Victim Impact Panel only two offenders were sent by the judges to listen to the victims. It was discouraging to think this criminal act was not taken seriously, and the judges at that time felt it was too harsh in addition to other fines.

Feeling the need to succeed, I approached the senior Judge of Schodack, who was Albert. T. Peter, to assist us in getting the Justices in our county to realize the need for this panel. Making the point that this would benefit for both the offenders and the victims, he assembled as many Justices as he could to a meeting to discuss the issue and encouraging them to make it mandatory as part of their sentence.

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# AIKEN HONORED AS ANTI-DWI PIONEER AT MEMORIAL CEREMONY

By William S. Aiken Jr.



*New York State Senator Jim Tedisco holds a proclamation honoring Doris Aiken at Ellis Hospital. The Senator affectionately deemed Aiken a Pitbull, a term she used in her 2002 memoir, "My Life as a Pitbull: Collaring the Drunken Driving."*

On September 25th, 2017, a clear blue sky coupled with an unseasonably hot September morning was the backdrop for a beautiful memorial ceremony honoring Doris Aiken for starting the movement against drunken driving. A plaque acknowledging Doris's achievements (see below) was unveiled before a crowd of members of the community that included; New York Senator Jim Tedisco, Schenectady Mayor Gary McCarthy, Schenectady DA Robert Carney, the Schenectady Police Department, Ministers, Wendy Bartell and Lynn Gardner of the Schenectady Unitarian Church.

Senator Tedisco presented me with a posthumous proclamation honoring Doris. He was the first speaker and after presenting the award to me, he used a quote of an inspirational speech given by Winston Churchill, who said never, never, never give up. "Well," he told the crowd, "When it came to fighting for the rights of victims and their family members killed by drunken drivers....Doris Aiken never gave up. She did something we all aspire to and that's to leave the earth in a better place than we found it."

Mayor Gary McCarthy had known Doris for 40 years. He pointed out that beyond the laws and attitudes she fought to change, she saved thousands of lives. "People whose lives were saved are with us today" McCarthy said, "because of her tough tactics. No one knows just how many lives she saved or who those lives are. In addition to her accomplishments through advocacy, Doris was a thoughtful and kind person. She really cared about people. There's no doubt she led a substantive and substantial life."

The next speaker, District Attorney Robert Carney reflected on how persuasive she could be in changing people's minds toward drunken driving. Earlier in the ceremony, I had mentioned how in 1978 the Schenectady DA's indifference to a family's loss caused by a drunken driver lit a fire in her. The DA's callous attitude was a huge factor that

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## Making a Difference

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Many survivors, especially those affected by a death of a loved one, found it very difficult to speak at first but as time went on many realized it was another way to help get the word out on how it affected them and wanted to tell their story in hopes it would keep others from having to go through what they did.

The offenders are asked to fill out an evaluation at the end of the meeting, and many are very sorry and profess they will never drink and drive again.

Hoping the panels will help educate the public on the seriousness of Drinking and Driving, here are a few responses from the offenders that one may find interesting.

"The information given to me made me feel lucky that my actions didn't cause a tragedy such as I heard. My behavior is inexcusable and will not be repeated. The men on the panel didn't deserve what happened to them and their families and I do not want to be the reason another family has to deal with these events."

"Absolutely very compelling. Haven't had a drink since the incident. I had to do a lot of soul searching. Very informative. Enlightening and heartbreaking. I have nine grandchildren and 6 children between my husband and myself, and I don't ever want to experience what I heard tonight from the soulful panelist. God Bless Them."

"I wish to thank all the participants on the panel for their stories and insight. I feel the entire public would benefit from these events drinkers or not, everyone needs to be educated. Thank you again for this, I wish you well and now I feel their pain. I will pass this along to everyone I encounter."

There are many, many more evaluations I have read, therefore one can only hope the word gets out and we can save lives.

Bill Dikant has been a long time member of RID as well as a Victim Impact Speaker. On December 29, 1977, his wife, Barbara and their two children, Mike and Karen, were all killed by a drunken driver in Rensselaer County.



# DORIS AIKEN & RID MADE A DIFFERENCE!

By Al Crancer

The tireless effort of Doris Aiken, RID, and others has finally paid off with a statistically significant decline in the percentage of motor vehicle fatalities DUI related. The steady decline in the percentage of DUI fatalities stopped in 1999 when the “Friends Don’t Let Friends Drive Drunk” campaign ended. For fifteen years the percentage of fatalities DUI related was stuck at 30% or more (Table Below).

Also shown in the table is the first decline of male drivers DUI, starting in 2015. However, the data shows a steady increase in the percent of female drivers DUI. Also note that in **2015** we still had more than **10,000 fatalities**, way too many to claim success for a national prevention program.

| Year | Total Fatalities | Persons Killed, Driver BAC 0.08+ |         | % Drivers BAC 0.08+ |        |
|------|------------------|----------------------------------|---------|---------------------|--------|
|      |                  | Number                           | Percent | Male                | Female |
| 1998 | 41501            | 12546                            | 30      | 23                  | 12     |
| 1999 | 41717            | 12555                            | 30      | 23                  | 12     |
| 2005 | 43510            | 13582                            | 31      | 24                  | 13     |
| 2010 | 32999            | 10136                            | 31      | 24                  | 15     |
| 2011 | 32479            | 9865                             | 30      | 24                  | 14     |
| 2012 | 33782            | 10336                            | 31      | 24                  | 14     |
| 2013 | 32893            | 10084                            | 31      | 23                  | 14     |
| 2014 | 32744            | 9943                             | 30      | 23                  | 15     |
| 2015 | 35092            | 10265                            | 29      | 21                  | 14     |

## Negative Facts Persist

There are two major negative factors that are persisting and must be addressed by a prevention program. NHTSA FARS reports that the average DUI driver in fatal crashes in 2015 has a **BAC of 0.16, twice the legal limit**, and 67% WITH BAC of 0.15 or more. Further, drug involvement in fatal crashes is increasing, especially marijuana.

| Group     | 1999         | 2005  | 2010  | 2015         |
|-----------|--------------|-------|-------|--------------|
| DUI       | 7825         | 8360  | 7333  | 6245         |
|           | 25190        | 26186 | 24291 | 22536        |
|           | <b>31.1%</b> | 31.9% | 30.2% | <b>27.7%</b> |
| All DRUGS | 2614         | 4453  | 5687  | 6522         |
|           | 12026        | 16587 | 17445 | 16830        |
|           | <b>21.7%</b> | 26.8% | 32.6% | <b>38.8%</b> |
| Marijuana | 1099         | 1582  | 2117  | 2826         |
|           | 12026        | 16587 | 17445 | 16830        |
|           | <b>9.1%</b>  | 9.5%  | 12.1% | <b>16.8%</b> |

## The Futility of “Report Drunk Drivers - Call 911”

The Top 3 factors of DUI Drivers in Fatal Motor vehicle crashes are: hitting another vehicle 30%, running off road 38%, and rollovers 13%. All factors hard to identify before a crash on the highway.

Speeding is the most obvious observable factor but that has problems. Speeding alone on the highway really doesn’t identify DUI drivers since other groups of drivers in fatal crashes are also speeding a high percentage of the time. DUI speeding 42%, Marijuana 38%, All Drugs 33%, and No DUI drivers 25%.

Worse yet, the laws in most states say that using your cell phone to report a “DUI Driver” is illegal while driving!

In summary the slogan is basically ineffective in stopping DUI and drugged driving.

## A return to promoting the role of the significant other in stopping Drunk & Drugged Driving

The highly successful “Friends don’t let friends drive drunk.” proved successful in the late 90s and led to a decline in drunk driving down to 30% of fatalities in 1999 when the program stopped.

One of the reasons for stopping the program was that there was opposition from two groups:

Eating establishments that want the alcohol tab to be about 30%. Sellers of alcohol which want to keep a high level of alcohol sales.

Also, the friends were very often accused of stopping others from drinking well before they were legally prohibited from driving. This was probably true, but when we see the average BAC of the DUI driver in fatal crashes at the DOUBLE Drunk level of 0.16 BAC, we see that something more than calling the Highway Patrol after they are driving is required. And this coupled with the increased presence of marijuana which is increasing at a high rate in crashes and is presently at about 17% in fatal crashes, more than half the level of DUI drivers which is about 30%.

A new National program approach might be as follows:

**STOP Drunk/ Drugged DRIVERS!**  
**Before they Start, Crash, Kill!**  
**STOP D&D Drivers!**  
**Before they Start, Crash, Kill!**

It combines the basic element of the “Friends” slogan and clearly states the reason for intervention of significant others. Your comments and suggestions on this information are welcome and certainly RID, one of the leaders in deterring drunken driving would also appreciate your comments

Al Crancer’s work has appeared in Time Magazine, USA Today and Science, among many other publications. He can be reached at [acrancer@bureauat.com](mailto:acrancer@bureauat.com).

# Looking Down The Road...

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David S. Suggs, Photo Credit:  
New York State Police

## DWI REDIVISM PUTS US ALL IN DANGER

David S. Suggs is an Albany man who authorities say state troopers stopped while he was driving the wrong way on an upstate New York highway. Suggs is a good example of why the law needs to have the ability to confiscate the vehicles of repeat drunken drivers. Suggs, has a track record of showing his determination to drive drunk no matter what punishment he's received, which puts the

rest of us at risk.

Authorities say Suggs was seen driving south in the northbound lane of I-87 in the early morning hours of December 20th, 2015. He was going 72 MPH in Colonie, when town police pulled him over and reported seeing physical signs of intoxication. According to police Suggs had driven 23 miles before being stopped. Nine months later, Suggs was pulled over in Guilderland displaying signs of intoxication. A breathalyzer shows his BAC level to be at .16, twice the legal limit. Studies show that drunken drivers can drive hundreds of times at a high level of intoxication before they are pulled over, especially when they have a high tolerance for alcohol. (1)

## LICENSE SUSPENDED 36 TIMES

On July 24, 2017, a Blasdell man whose driver's license has been suspended 36 times was arrested Saturday night after police found him passed out behind the wheel of a car near a major Orchard Park intersection, according to authorities.



Tyler M. Melisz, 25, of Blasdell.  
(Orchard Park Police)

Orchard Park police reported finding Tyler M. Melisz, 25, in his vehicle that was stopped in traffic.

Officers woke him up and administered field sobriety tests, which Melisz failed, police said. Officers found a small plastic baggy containing white powder, believed to be heroin, inside the vehicle, as well as a hypodermic needle, according to police.

Police charged Melisz with driving while ability impaired by drugs, first- and second-degree aggravated unlicensed operation of a vehicle, seventh-degree criminal possession of a controlled substance and criminal possession of a hypodermic instrument. (2)

Assemblyman Pretlow is trying to put a stop to drunken drivers with multi-suspensions of their license from getting back on the road, putting the rest of society at risk. The case of Tyler Melisz

is proof that law makers and the New York State Department of Motor Vehicles need to do more corral recidivism and have the tools to do it.

How is it possible for a 25 year old man to accumulate 36 suspensions of his driver's license? If he got his license at 16 he would have to average four suspensions every year to reach that figure. Obviously, the system is broken with many failures on behalf of individuals for this outrageous circumstance to have occurred. We're fortunate that Tyler Melsiz didn't injure or kill anyone (that we're aware of). Some people in our society refuse to adhere to the laws of the land. Some will simply persist to drive drunk and the only way to stop them is to take away their freedom or their vehicle.

ABNY00995 is geared toward those drunken driving offenders who behave in a reckless disregard after they come into contact with the law. When my mother, Doris Aiken, started RID, she unleashed an avalanche of victims and harnessed their voices to change the laws and later public attitudes.

After many legislative successes to toughen the penalties for drunken driving and raising awareness of the importance of driving sober, I think society has grown a bit complacent. The laws need to be shored up, so that the David Suggses and Tyler Melsizs of the world don't end up falling through the cracks and wind up killing someone. These cases are warning signs staring us in the face. If we don't heed them, it's only a matter of time before more lives will be lost.

\* \* \*  
1) Times Union, Albany, NY 2) Buffalo News, Buffalo, NY

## What are the issues related to drunken driving in your community?

If you're interested in submitting an article for the newsletter, RID would love to hear from you!

William Aiken, Vice President  
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*William Aiken addresses the media at Memorial for Doris Aiken.*

*(Photo: Marc Schultz/Daily Gazette: <https://dailygazette.com/article/2017/09/25/schenectady-leaders-honor-anti-drunk-driving-advocate>)*

## **Aiken Honored**

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inspired Doris to form RID. In 1979, Carney started working for that same DA.

“I saw a transformation in how DWI cases were handled by the DA in our office and I can tell you that Doris Aiken played an instrumental part in leading that change. Over the years, I’ve tried many cases and I’ve seen the juries’ attitude change as well. Certainly, Doris deserves credit for that as well.”

After the scheduled speakers finished their comments, several friends of Doris shared their feeling of loss with the audience. Pat Gioia, a long time friend, marveled how before RID got started, she met Doris while campaigning for a local candidate. She knocked on Doris’s door. To her surprise and joy, right away, Doris offered to volunteer with her. Jackie Donegon told a similar bonding experience. She worked with Doris in the early 1970s at Save the Children, a charity in Westport, CT, devoted to helping to feed and educate poor kids. Jackie’s round-the-clock care for Doris in her final days made a huge difference in her quality of life. She expressed the sorrow that many in audience now feel that she’s no longer with us.

Pat and Jackie’s stories revealed how early on Doris had a drive and desire to get involved in the community – to make a difference in people’s lives. She had a long history of volunteering with social justice organizations like working with the iconic Houston Congresswoman Barbara Jordan in the mid-1960s. She trained minority women how to improve their job interviewing skills. She was born with a passion that couldn’t be taught or replicated.

I concluded the ceremony by quoting a statement from Carl Strock, a long time investigative columnist with the Daily Gazette.

“It’s very hard to change laws.” he said while speaking at Doris’s funeral service last Spring, “But what Doris Aiken did was change attitudes.”

I chose to close the ceremony with this quote as it summarizes how my mother was much more than a pioneer. Her commitment and determination to prevent drunken driving was just as impactful as it was groundbreaking.

After the ceremony ended, I was happy to do two interviews with the local papers covering the event as well as a brief interview with one of the TV stations. Due to some illnesses and scheduling conflicts, several associates that were close to Doris couldn’t make the event.

Fortunately, a local TV producer, Janice Thompson, had assembled a panel of Doris’s colleagues, friends and law enforcement two weeks ago. They shared their experiences with Doris in front of the cameras. This tribute show is an intimate and personal portrayal that explains why she was such a tremendous force and what made her tick. The show also features video clips from her appearances on the Donahue Show, the Maury Povitch Show and her own TV shows she produced for public television, as well as many photographs documenting her illustrious career.

Anyone can view the Tribute by going to the website SACC.TV and clicking on the Tribute to Doris Aiken link or you may order a DVD for \$25.00 + \$3.00 for S&H by sending a check payable to:

RID-USA  
PO Box 520  
Schenectady, NY 12301

### **“THE SAFETY TREE”**



Doris Aiken founded Remove Intoxicated Drivers, the nation’s first anti-DWI organization in Schenectady, NY on February 15, 1978. In March of 2008, she conceived the idea of a Safety Tree as a way to honor victims killed by drunken drivers.

*This plaque honoring Doris Aiken for conceiving the idea of the Safety Tree and starting the movement against drunken driving was unveiled to the public at Ellis Hospital, Schenectady, NY on September 25th, 2017.*

## A CITIZEN'S PROJECT TO REMOVE INTOXICATED DRIVERS

P.O. Box 520, Schenectady, New York 12301

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