

# Hearsay

## Zero tolerance

There's no denying that state Sen. **Anthony D. Galluccio** got whacked last week when a judge slapped a pair of handcuffs on his wrists and shipped him off to a Billerica jail cell for 12 months after finding he had violated the terms of his very public probation.

The sentence, which caught many in the legal community by surprise, was handed down after the no-nonsense judge ruled that the Cambridge lawyer had consumed alcohol just three days after being placed on house arrest for leaving the scene of an Oct. 4 accident that injured a 13-year-old boy.

As part of his probation, Galluccio was given strict orders to refrain from alcohol.

So when he failed the "Sobriator" breath-test machine installed in his home, it was clear that the judge had enough to find him in violation.

But the question on everyone's minds

was what, if any, punishment Cambridge District Court Judge **Matthew J. Nestor** would hand down.

While the court of public opinion seemed satisfied that Galluccio got what he deserved, criminal defense attorney **William J. Barabino** says few probationers would have been penalized so severely.

"There are people out there saying that the case is an example of a politician getting what a regular person would get," Barabino says. "But in my opinion, and I do a lot of these cases, I thought that both the initial sentence and the probation violation was harsh. In my experience, people who aren't politicians can regularly go into court and get a better disposition. To send him right off to jail for a failed test seems severe."

Even with a criminal history that includes two prior drunk-driving convictions, one for which he received a



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pardon, Barabino says most defendants likely would receive a continuance without a finding, or straight probation sentence.

Barabino, who is not involved in the high-profile case, says the judge had three options at the end of the hearing: terminate probation, impose a one-year sentence or re-probate.

In the event that Nestor opted to re-probate, Barabino says, he would have been free to impose any additional conditions that he saw fit, including mandatory alcohol treatment.

"I really thought the judge would give him a tongue-lashing and then re-probate him," he says. "If I was representing him, once he was found in violation, I would have been pushing hard for him to go to an in-patient detox center. I've had probation matters with leaving the scene, involving people with much tougher records than Galluccio, who have not gone to jail."