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Preface

The Standardized Field Sobriety Testing (SFST) training curriculum collectively, prepares police officers and other qualified persons to conduct the SFST’s for use in DWI investigations. This training, developed under the auspices and direction of the National Highway Traffic Safety Administration (NHTSA), and the International Association of Chiefs of Police (IACP), has experienced remarkable success since its inception in the early 1980s.

As in any educational training program, an instruction manual or guide is considered a “living document” that is subject to updates and changes based on advances in technology and science. A thorough review is made of information by the IACP Technical Advisory Panel (TAP) of the Highway Safety Committee of the IACP with contributions from many sources in health care science, toxicology, jurisprudence, and law enforcement. Based on this information, any appropriate revisions and modifications in background theory, facts, examination and decision making methods are made to improve the quality of the instruction as well as the standardization of guidelines for the implementation of the SFST curriculum. The reorganized manuals are then prepared and disseminated, both domestically and internationally, to the states. Changes will normally take effect 90 days after approval by the TAP, unless otherwise specified or when so designated.

The procedures outlined in this manual describe how the Standardized Field Sobriety Tests (SFSTs) are to be administered under ideal conditions. We recognize that the SFST’s will not always be administered under ideal conditions in the field, because such conditions do not always exist. Even when administered under less than ideal conditions, they will generally serve as valid and useful indicators of impairment. Slight variations from the ideal, i.e., the inability to find a perfectly smooth surface at roadside, may have some effect on the evidentiary weight given to the results. However, this does not necessarily make the SFSTs invalid.
Session 1

Introduction and Overview
A. Welcoming Remarks
B. Administrative Details

- Paperwork
- Mandatory attendance
- Breaks
- Facility
- Interruptions
  - All electronic devices off
Participant Introductions

- Name
- Agency
- Duty assignment
- Experience
Upon successfully completing this session the participant will be able to:

- State the goals and objectives of the course
- Describe the course schedule and activities
- Recognize the Participant Manual contents
- Demonstrate their pre-training knowledge of course topics

The goal of this course is to ultimately increase deterrence of DWI violations; thereby reducing the number of crashes, deaths, and injuries caused by impaired drivers.
Enforcement goals are to identify:

- Enforcement’s role in general DWI deterrence
- DWI detection phases, clues and techniques
- Requirements for organizing and presenting evidence in DWI cases

65 deaths and injuries each hour!
• Approximately _____ people now live in _____.
• About _____ of these people will die in vehicle crashes.
• About _____ will die in DWI crashes.

State and Local Data

• Approximately ____________ people now live in ____________.
• About __________ of these people will die in vehicle crashes.
• About __________ will die in DWI crashes.
Job Performance Objectives

- Recognize and interpret evidence of DWI violations
- Administer and interpret Standardized Field Sobriety Tests (SFSTs)
- Describe DWI evidence clearly and convincingly
- Ensure video and/or audio evidence if available is consistent with other evidence

At the conclusion of this training, participants will demonstrate the ability to:

- Recognize and interpret evidence of DWI violations
- Administer and interpret Standardized Field Sobriety Tests
- Describe DWI evidence clearly and convincingly in written reports and verbal testimony
- Ensure video and/or audio evidence, if available, is consistent with other evidence
Job Performance Enabling Objectives

- Understand the tasks and decisions of DWI detection
- Recognize the magnitude and scope of DWI-related crashes, deaths, injuries, property loss and other social aspects of the DWI problem
- Understand the deterrent effects of DWI enforcement
- Understand the DWI enforcement legal environment
- Know and recognize typical vehicle maneuvers and human indicators symptomatic of DWI that are associated with initial observation of vehicles in operation
- Know and recognize typical reinforcing maneuvers and indicators that come to light during the stopping sequence
- Know and recognize typical sensory and other clues of alcohol and/or other drug impairment that may be seen during face to face contact with DWI subjects
- Know and recognize typical behavioral clues of alcohol and/or other drug impairment that may be seen during the subject's exit from the vehicle
- Understand the role and relevance of psychophysical testing in pre-arrest screening of DWI subjects
- Understand the role and relevance of preliminary breath testing in pre-arrest screening of DWI subjects
- Know and carry out appropriate administrative procedures for the Horizontal Gaze Nystagmus test
• Know and carry out appropriate administrative procedures for validated divided attention psychophysical tests
• Know and recognize typical clues of alcohol and/or other drug impairment that may be seen during administration of the SFSTs
• Understand the factors that may affect the accuracy of preliminary breath testing devices
• Understand the elements of DWI prosecution and their relevance to DWI arrest reporting
• Choose appropriate descriptive terms to convey relevant observations of DWI evidence
• Write clear, descriptive narrative DWI arrest reports
The Participant Manual is the basic reference document for this course. The manual contains thumbnails of each instructor presentation that includes key messages for each frame. The manual also contains a glossary of terms that are used in this course.

- Read each session prior to class
- Use the manual to review the material prior to taking the final exam

The course schedule is located in the Participant Manual.
The Glossary of Terms used in the course is also located in the Participant Manual.
C. Pre-Test
Glossary of Terms

Addiction
Habitual, psychological, and physiological dependence on a substance beyond one’s voluntary control.

Alveolar Breath
Breath from the deepest part of the lung.

Blood Alcohol Concentration (BAC)
The percentage of alcohol in a person’s blood.

Breath Alcohol Concentration (BrAC)
The percentage of alcohol in a person’s breath, as measured by a breath testing device.

Clue
Something that leads to the solution of a problem.

Cue
A reminder or prompting as a signal to do something. A suggestion or a hint.

Divided Attention
Concentrating on more than one thing at a time.

Divided Attention Test
A test which requires the subject to concentrate on both mental and physical tasks at the same time. The two psychophysical tests Walk and Turn (WAT) and One Leg Stand (OLS) require the suspect to divide attention.

DWI/DUI
The acronym "DWI" means driving while impaired and is synonymous with the acronym "DUI", driving under the influence or other acronyms used to denote impaired driving. These terms refer to any and all offenses involving the operation of vehicles by persons under the influence of alcohol and/or other drugs.

DWI Detection Process
The entire process of identifying and gathering evidence to determine whether or not a suspect should be arrested for a DWI violation. The DWI detection process has three phases:

Phase One – Vehicle In Motion
Phase Two – Personal Contact
Phase Three – Pre-arrest Screening
EVIDENCE

Any means by which some alleged fact that has been submitted to investigation may either be established or disproved. Evidence of a DWI violation may be of various types:

a. Physical (or real) evidence: something tangible, visible, or audible.
b. Well established facts (judicial notice).
c. Demonstrative evidence: demonstrations performed in the courtroom.
d. Written matter or documentation.
e. Testimony.

EXPERT WITNESS

A person skilled in some art, trade, science or profession, having knowledge of matters not within the knowledge of persons of average education, learning and experience, who may assist a jury in arriving at a verdict by expressing an opinion on a state of facts shown by the evidence and based upon his or her special knowledge. (NOTE: Only the court can determine whether a witness is qualified to testify as an expert.)

FIELD SOBRIETY TEST

Any one of several roadside tests that can be used to determine whether a subject is impaired.

GAIT ATAXIA

An unsteady, staggering gait (walk) in which walking is uncoordinated and appears to be “not ordered.”

HORIZONTAL GAZE NYSTAGMUS (HGN)

Involuntary jerking of the eyes occurring as the eyes gaze to the side. The first test administered in the SFST battery.

NYSTAGMUS

An involuntary jerking of the eyes.

ONE LEG STAND (OLS)

A divided attention field sobriety test. One of the tests administered in the SFST battery.

PER SE

Used to describe a law which makes it illegal to drive while having a certain percentage of alcohol in the blood or breath.

PERSONAL CONTACT

The second phase in the DWI detection process. In this phase the officer observes and interviews the driver face to face; determines whether to ask the driver to step from the vehicle; and observes the driver's exit and walk from the vehicle.
PRE-ARREST SCREENING

The third phase in the DWI detection process. In this phase the officer administers field sobriety tests to determine whether there is probable cause to arrest the driver for DWI. Depending on agency policy, the officer may administer or could arrange to have a preliminary breath test conducted.

PRELIMINARY BREATH TEST (PBT)

A pre-arrest breath test administered during investigation of a possible DWI violator to obtain an indication of the person's blood alcohol concentration.

PROBABLE CAUSE

It is more than mere suspicion; facts and circumstances within the officer’s knowledge, and of which he or she has reasonably trustworthy information, are sufficient to warrant a person of reasonable caution to believe that an offense has been or is being committed.

PSYCHOPHYSICAL

"Mind/Body." Used to describe field sobriety tests that measure a person's ability to perform both mental and physical tasks.

PSYCHOPHYSICAL TESTS

Methods of investigating the mental (psycho-) and physical characteristics of a person suspected of alcohol or drug impairment. Most psychophysical tests employ the concept of divided attention to assess a suspect's impairment.

REASONABLE SUSPICION

Less than probable cause but more than mere suspicion; exists when an officer, in light of his or her training and experience, reasonably believes and can articulate that criminal activity is taking, has taken or is about to take place.

RESTING NYSTAGMUS

Jerking of the eyes as they look straight ahead.

STANDARDIZED FIELD SOBRIETY TEST BATTERY

Standardized Field Sobriety Testing. There are three SFSTs, namely Horizontal Gaze Nystagmus (HGN), Walk and Turn, and One Leg Stand. Based on a series of controlled laboratory studies, scientifically validated clues of alcohol impairment have been identified for each of these three tests. They are the only Standardized Field Sobriety Tests for which validated clues have been identified.

TIDAL BREATH

Breath from the upper part of the lungs and mouth.
TRAFFIC SAFETY RESOURCE PROSECUTOR (TSRP)

Is usually a current or former prosecutor who provides training, education and technical support to traffic crimes prosecutors and law enforcement agencies throughout their state. (For the contact information of your TSRP, contact your Highway Safety Office).

VALID

Conforming to accepted principles. Producing accurate and reliable results.

VALIDATED

A documented act of demonstrating that a procedure, process, and/or activity will consistently lead to accurate and reliable results.

VEHICLE IN MOTION

The first phase in the DWI detection process. In this phase the officer observes the vehicle in operation, determines whether to stop the vehicle, and observes the stopping sequence.

VERTICAL GAZE NYSTAGMUS

An involuntary jerking of the eyes (up and down) which occurs when the eyes gaze upward at maximum elevation. The jerking should be distinct and sustained.

WALK AND TURN (WAT)

A divided attention field sobriety test. One of the tests administered in SFST battery.
Participant Manual

DWI Detection and Standardized Field Sobriety Testing (SFST)

Session 2 — Detection and General Deterrence

Session 2

Detection and General Deterrence
Learning Objectives

At the conclusion of this session, participants will be able to:

• Describe the frequency of DWI violations and crashes
• Define general deterrence
• Describe the relationship between detection and general deterrence
• Describe a brief history of alcohol
• Identify common types of alcohol
• Describe the physiological processes of absorption, distribution, and elimination of alcohol in the body

CONTENT SEGMENTS ................................................... LEARNING ACTIVITIES
A. A. The DWI Problem .................................................. Instructor-Led Presentations
B. B. The Concept of General Deterrence ................................. Video Presentation
C. C. Relating Detection to Deterrence Potential ..................... Reading Assignments
D. Evidence of Effective Detection and Effective Deterrence
E. Physiology of Alcohol

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A. The DWI Problem (Local, State and National)

How Widespread Is DWI?

While not all of those who drive after drinking have a BAC of 0.08 or more, the presumptive or illegal per se limit for DWI in all states, some drivers do have BACs in excess of these limits. Prior to 1994, nearly half of the drivers who died in crashes had been drinking.

Each year, tens of thousands of people die in traffic crashes. Throughout the nation, alcohol is the major contributor to traffic fatalities. In 2013, there were 10,076 alcohol related fatalities representing 31% of all traffic fatalities. (NHTSA, Traffic Safety Facts; 2013 Facts Data, 2014.)

Impaired drivers are more likely than other drivers to take excessive risks such as speeding or turning abruptly. Impaired drivers also are more likely than other drivers to have slowed reaction times. They may not be able to react quickly enough to slow down before crashing and are less likely to wear seatbelts. On the average, two percent of drivers on the road at any given time are DWI. DWI violations and crashes are not simply the work of a relatively few "problem drinkers" or "problem drug users." Many people commit DWI, at least occasionally.
Drivers Under the Influence

29 million people admitted driving under the influence in past 12 months

Estimates indicate that nationwide about 29 million persons, 12 and over, self reported that they drove under the influence in the past 12 months.

It is also estimated that each day in the United States people drive while intoxicated almost 300,000 times, but fewer than 4,000 are arrested.
A frequently quoted, and often misinterpreted, statistic places the average incidence of DWI at one driver in fifty. Averaged across all hours of the day and all days of the week, two percent of the drivers on the road are DWI. The 1 in 50 figure is offered as evidence that a relatively small segment of America's drivers, the so called "problem" group, account for the majority of traffic deaths. There's nothing wrong with that figure as a statistical average, but police officers know that at certain times and places many more than two percent of drivers are impaired. NHTSA research suggests that during the late night, weekend hours, as many as 10% of drivers on the roads may be DWI. On certain holiday weekends, and other critical times, the figure may go even higher.

How Many? How Often?

The issue of how many DWIs are on the road at any given time is an important factor in measuring the magnitude of the problem. However, from an overall traffic safety perspective, the more important issue may be the number of drivers who ever commit DWI. Just how widespread is this violation?
Although it may be true that, on the average, two percent of drivers are DWI at any given time, it certainly is not the same two percent every time. Not everyone who commits DWI is out on the road impaired every Friday and Saturday night. Some of them, at least, must skip an occasional weekend. Thus, the 10% who show up, weekend after weekend, in the Friday and Saturday statistics must come from a larger pool of violators, each of whom "contributes" to the statistics on some nights, but not necessarily on all nights.

There are some who drive impaired virtually everyday; others commit the violation less often. It is likely that at least one quarter of all American motorists drive while impaired at least once in their lives. That figure falls approximately midway between the 55% of drivers who at least occasionally drive after drinking and the 10% of weekend, nighttime drivers who have BACs above the legal limit.
These estimates include everyone who drives impaired everyday, as well as everyone who commits the violation just once and never offends again; and it includes everyone in between. In short, it includes everyone who ever runs the risk of being involved in a crash while impaired.

_Society's Problem and the Solution_

The fact is that far more than two percent of American drivers actively contribute to the DWI problem. DWI is a crime committed by a substantial segment of Americans.

It has been and remains a popular crime; one that many people from all walks and areas of life commit. DWI is a crime that can be fought successfully only through a societal approach of comprehensive community based programs.
• 31% of all fatal crashes on weekends alcohol-impaired;
• Alcohol impaired drivers involved in fatal crashes were 4 times higher at night; and
• 1.28 million drivers were arrested for DWI in 2012;
• These alcohol related fatalities represent an average of one alcohol related fatality every 51 minutes; and
• Based on the most current cost data available, these alcohol related fatalities cost society approximately $49.8 billion in lost productivity, medical expenses, property damages, and other related expenditures.

Alcohol Facts

Drivers with a BAC of .08 or higher accounted for 66% of the fatalities:
• 16% were passengers riding with the driver with a BAC of .08 or higher
• 11% of fatalities were occupants of other vehicles
• 7% were persons not in vehicles

Alcohol Facts

• In 2011, 9,944 lives were lost in speed-related crashes
• 42% of all drivers with a BAC of .08 or higher, involved in fatal crashes, were speeding
• Between midnight and 3:00 a.m., 72% of speeding drivers involved in fatal crashes had a BAC of .08 or higher

In 2013, 10,076 lives were lost in alcohol impaired crashes representing 31% of the total motor vehicle fatalities in the U.S.

Drivers with a BAC of .08 or higher accounted for 65% of the fatalities, 16% were passengers riding with a driver with a BAC of .08 or higher, 11% of these fatalities were occupants of other vehicles, and 8% were persons not in vehicles.


• In 2011, 9,944 lives were lost in speed-related crashes
• 42% of all drivers with a BAC of .08 or higher, involved in fatal crashes, were speeding
• Between midnight and 3:00 a.m., 72% of speeding drivers involved in fatal crashes had a BAC of .08 or higher.

• The rate of alcohol impairment for drivers involved in fatal crashes was almost four times higher at night than during the day (35% versus 9%)

• Drivers with a BAC of .08 or higher who were involved in fatal crashes were seven times more likely to have a prior conviction for driving while impaired as compared to drivers involved in fatal crashes with no alcohol involvement.


• In 2012, 6,730 drivers (59%) involved in fatal crashes had a BAC of .15 or higher.

• Males account for 70% of all traffic fatalities.

• In 2010, the fatal crash involvement rate per 100,000 population was almost three times higher for male drivers than for females. This is the most recent data available.

Source: NHTSA Prevalence of High BAC in Alcohol-impaired-driving fatal crashes, August 2012, DOT HS 811 654
B. Concept of General Deterrence

The fear of arrest is the leading deterrent.

One approach to reducing the number of drinking drivers is general deterrence of DWI. General deterrence of DWI is based in the driving public's fear of being arrested. If enough violators come to believe that there is a good chance that they will get caught, at least some of them will stop committing DWI at least some of the time. However, unless there is a real risk of arrest, there will not be much fear of arrest.

Law enforcement officers must arrest enough violators enough of the time to convince the general public that they will get caught, sooner or later, if they continue to drive while impaired.

*How many DWI violators must be arrested in order to convince the public that there is a real risk of arrest for DWI?*

Several programs have demonstrated that significant deterrence can be achieved by arresting one DWI violator for every 400 DWI violations committed. Currently, however, for every DWI violator arrested, there are between 500 and 2,000 DWI violations committed.
When the chances of being arrested are one in two thousand, the average DWI violator really has little to fear.

There are three noteworthy reasons.

- DWI violators vastly outnumber police officers. It is not possible to arrest every drinking driver each time they commit DWI.

- Some officers are not highly skilled at DWI detection. They fail to recognize and arrest many DWI violators.

- Some officers are not motivated to detect and arrest DWI violators.
**Significant Findings**

In a 1975 study conducted in Fort Lauderdale, Florida, only 22% of traffic violators who were stopped with BACs between 0.10 and 0.20 were arrested for DWI. The remainder were cited for other violations, even though they were legally impaired. In this study breath tests were administered to the violators by researchers after the police officers had completed their investigations. The officers failed to detect 78% of the DWI violators they investigated.

Police officers sometimes fail to recognize and arrest a DWI violator. Ft. Lauderdale (Florida) BAC study (1975): only 22% of traffic violators with BACs between 0.10 and 0.20 were arrested for DWI.


Implication: For every DWI violator actually arrested three others are contacted by police officers, face to face, but are released without arrest.

Significant improvement in arrest rate could be achieved if officers were more skilled at DWI detection.
The Ultimate Goal: Changing Behavior

The goal is to encourage more Americans to:
• Avoid committing DWI
• Control drinking prior to driving
• Select alternative transportation
• Avoid riding with impaired drivers
• Recognize impaired driving is unacceptable behavior at all levels

The Solutions

The Ultimate Goal: Changing Behavior

What must the comprehensive community based DWI programs seek to accomplish?

Ultimately, nothing less than fundamental behavioral change, on a widespread basis. The goal is to encourage more Americans to:

• Avoid committing DWI, either by avoiding or controlling drinking prior to driving or by selecting alternative transportation.
• Intervene actively to prevent others from committing DWI (for example, putting into practice the theme "friends don't let friends drive drunk")
• Avoid riding with drivers who are impaired.

The final test of the value of DWI countermeasures on the national, state and local levels is whether they succeed in getting significantly more people to modify their behavior. The programs also pursue other more immediate objectives that support or reinforce the ultimate goal. However, the ultimate goal is to change driving while impaired to an unacceptable form of behavior at all levels.
Pursuing the Goal: Two Approaches

How can we bring about these changes in behavior? How can we discourage impaired driving, prevent others from drinking and driving, and avoid becoming passive "statistics" by refusing to ride with drinking drivers?

Basically, there are two general approaches that must be taken to achieve this goal.

One: prevention -- gives promise of the ultimate, lasting solution to the DWI problem; but it will require a substantial amount of time to mature fully.

Two: deterrence -- only offers a partial or limited solution, but it is available right now.
Prevention: the Ultimate Solution

DWI countermeasures that strive for the ultimate achievement of drinking and driving behavioral changes have been grouped under the label "Prevention." There are many kinds of DWI preventive activities. Some are carried out by and in our schools, some through the mass media, some through concerned civic groups, and so forth. The various preventive efforts focus on different specific behaviors and address different target groups.

However, they seek to change drinking and driving behavior by promoting more positive attitudes and by fostering a set of values that reflects individual responsibilities toward drinking and driving.

Preventive countermeasures seek society's acceptance of the fact that DWI is wrong. Some people believe that drinking and driving is strictly an individual's personal business; that it is up to each person to decide whether or not to accept the risk of driving after drinking. Preventive activities try to dispel that outmoded and irresponsible belief. Instead, they promote the idea that no one has the right to endanger others by drinking and driving, or to risk becoming a burden (economically and otherwise) to others as a result of injuries suffered while drinking and driving. Realistically, everyone has an obligation not only to control their own drinking and driving, but also to speak up when others are about to commit the violation. Only when all of society views DWI as a negative behavior that cannot be tolerated or condoned, will the public's behavior begin to change. That is the long term solution.
General deterrence of DWI is based on the driving public's fear of being arrested. If enough violators come to believe that there is a good chance that they will get caught, some of them (at least) will stop committing DWI at least some of the time.

Unless there is a real risk of being arrested, there will not be much fear of arrest.

Law enforcement must arrest enough violators to convince the public that they will get caught, if they continue to drive while impaired.

C. Relating Detection to Deterrence Potential

_Deterrence: the Interim Solution_

Deterrence countermeasures that seek a short cut to the ultimate goal of behavioral change usually are labeled "Deterrence." Deterrence can be described as negative reinforcement. Some deterrence countermeasures focus primarily on changing individual drinking and driving behavior while others seek to influence people to intervene into others' drinking and driving decisions.

The key feature of deterrence is that it strives to change DWI behavior without dealing directly with the prevailing attitudes about the rightness or wrongness of DWI. Deterrence uses a mechanism quite distinct from attitudinal change: fear of apprehension and application of sanctions.
The Fear of Being Caught and Punished

Large scale DWI deterrence programs try to control the DWI behavior of the driving public by appealing to the public’s presumed fear of being caught. Most actual or potential DWI violators view the prospect of being arrested with extreme distaste. For some, the arrest, with its attendant handcuffing, booking, publicity and other stigmatizing and traumatizing features, is the thing most to be feared. For others, it is the prospective punishment (jail, stiff fine, etc.) that causes most of the concern. Still others fear most the long term costs and inconvenience of a DWI arrest: the license suspension and increased premiums for automobile insurance. For many violators the fear probably is a combination of all of these. Regardless, if enough violators are sufficiently fearful of DWI arrest, some of them will avoid committing the violation at least some of the time. Fear by itself will not change their attitudes; if they do not see anything inherently wrong with drinking and driving in the first place, the prospect of arrest and punishment will not help them come to this realization. However, fear sometimes can be enough to keep them from putting their anti-social attitudes into practice.

This type of DWI deterrence, based on the fear of being caught, is commonly called general deterrence. It applies to the driving public generally and presumably affects the behavior of those who have never been caught. There is an element of fear of the unknown at work here.
Another type of DWI deterrence, called specific deterrence, applies to those who have been caught and arrested. The typical specific deterrent involves some type of punishment, perhaps a fine, involuntary community service, a jail term or action against the driver's license. The punishment is imposed in the hope that it will convince the specific violator that there is indeed something to fear as a result of being caught, and to emphasize that if there is a next time, the punishment will be even more severe. It is the fear of the known that comes into play in this case.

The concept of DWI deterrence through fear of apprehension or punishment seems sound. But will it work in actual practice? The crux of the problem is this: If the motoring public is to fear arrest and punishment for DWI, they must perceive that there is an appreciable risk of being caught and convicted if they commit the crime. If actual and potential DWI violators come to believe that the chance of being arrested is minimal, they will quickly lose whatever fear of arrest they may have felt.

Enforcement is the mechanism for creating and sustaining a fear of being caught for DWI. No specific deterrence program can amount to much, unless police officers arrest large numbers of violators; no punishment or rehabilitation program can affect behavior on a large scale unless it is applied to many people. General deterrence depends on enforcement -- the fear of being caught is a direct function of the number of people who are caught.

Obviously, the police alone cannot do the job. Legislators must supply laws that the police can enforce. Prosecutors must vigorously prosecute DWI violators, and the judiciary must adjudicate fairly and deliver the punishments prescribed by law. The media must publicize the enforcement effort and communicate the fact that the risk is not worth the probable outcome. Each of these elements plays a supportive role in DWI deterrence.
How much deterrence is enough?

Estimates from around the country vary. For every DWI violator arrested, there are approximately 600 undetected DWI violations.

According to the National Survey on Drug Use and Health (2013), more than 28 million people drove under the influence of alcohol. According to the CDC (2011), the average person who reported driving under the influence also reported doing so an average of 28 times per year. This results in approximately 784 million DWIs per year. According to the FBI UCR, 1.28 million DWI arrests were made in 2012, which means law enforcement arrested approximately one out of every 612 DWI episodes.

How Great is the Risk?

The question now is, are violators afraid of being caught? More importantly, should they be afraid? Is there really an appreciable risk of being arrested if one commits DWI?

The answer to all of these questions unfortunately is: probably not. In most jurisdictions, the number of DWI arrests appears to fall short of what would be required to sustain a public perception that there is a significant risk of being caught.

Sometimes, it is possible to enhance the perceived risk, at least for a while, through intensive publicity. However, media "hype" without intensified enforcement has never been enough to maintain the fear of arrest for very long.
Changing the Odds

- Arrest enough violators to convince many of them it can happen to them
- As arrest rate increases, odds are that it will happen to them eventually

Changing the Odds

If an arrest/violation ratio of 1 in 600 is not enough to make deterrence work, is it then reasonable to think that we can ever make deterrence work?

After all, if we doubled DWI arrests to 1 in 300, we would still be missing 299 violators for every one we managed to catch. If we increased arrests tenfold, to 1 in 60, 59 would escape for every one arrested. How much deterrence would that produce?

Surprisingly, it would probably produce quite a bit. We don't have to arrest every DWI offender every time in order to convince them that they have something to fear. We only have to arrest enough of them enough of the time to convince many of them that it can happen to them. As the arrest rate increases, the odds are that it will happen to them eventually. The law of averages (or cumulative probability) will catch up with them, and sooner than we might at first expect.
D. Evidence of Effective Detection and Effective Deterrence

Can it Be Done, and Will it Work?

Is there any evidence that a practical and realistic increase in DWI enforcement activity will induce a significant degree of general deterrence and a corresponding change in DWI behavior? Yes there is.
Several enforcement programs have succeeded in achieving significant DWI deterrence. Consider, for example, the three year intensive weekend DWI enforcement program in Stockton, California.

As early as 1975, a study showed that the city's total number of DWI arrests (700) were considerably less than one percent of the areas licensed number of drivers (130,000). The implication here was that Stockton police were only maintaining the arrest/violation ration of 1:2,000, or less. In addition, roadside surveys on Friday and Saturday nights disclosed that nine percent of the drivers were operating with BAC's of 0.10 or higher.

Then things changed.

Beginning in 1976 and continuing at planned intervals through the first half of 1979, Stockton police conducted intensive DWI enforcement on weekend nights. The officers involved were extensively trained. The enforcement effort was heavily publicized and additional equipment (PBTs and cassette recorders) was made available. The police effort was closely coordinated with the District Attorney's office, the County Probation office, and other allied criminal justice and safety organizations.

All this paid off. By the time the project came to a close (in 1979) DWI arrests had increased by over 500%, and weekend nighttime collisions had decreased by 34%, and the number of operators committing DWI dropped one third.

The implication of this study, and of other similar studies, is that for every DWI violator actually arrested for DWI, three others are contacted by police officers, but are not arrested for DWI. It is clear that significant improvement in the arrest rate could be achieved if officers were more skilled at DWI detection.
Improved DWI detection can be achieved in virtually every jurisdiction in the country. The keys to success are police officers who are:

- Skilled at DWI detection
- Willing to arrest every DWI violator who is detected
- Supported by their agencies in all aspects of this program, from policy through practical application

Since the historical Stockton study numerous states have conducted similar studies to determine the degree of effect that DWI arrests would have on alcohol related fatalities in general, and total fatalities in particular. Most of these studies were conducted between 1978 and 1986.

The results of these studies graphically illustrated in each state that when the number of arrests for DWI increased, the percentage of alcohol related fatalities decreased. Further, the results of a study conducted in Florida from 1981-1983, showed that when DWI arrests per licensed driver increased, total fatalities decreased (12 month moving average).

Detection: The Key to Deterrence

It is important to understand how increased DWI enforcement can affect deterrence. Deterrence can vastly exceed the level of enforcement officers achieve on any given night. True, weekend DWI arrests can increase by as much as 500 %, as in the Stockton study.
The law of averages quickly starts to catch up with DWI drivers. Unless violators change their behavior, many of them will be caught, or at least will have known someone who has been arrested. Coupled with the heavy publicity given to the enforcement effort, those experiences were enough to raise the perception level of apprehension among DWI operators that sooner or later they would be caught. As a result, many of them changed their behavior. This is the best example of general deterrence.

In addition, during the same time that DWI arrests went up over 500% in Stockton, citations for other traffic violations increased by a comparatively modest 99%. The implication is that Stockton's officers were stopping and contacting only twice as many possible violators as they had before, but they were coming up with more than five times as many arrests.

What have the results of these studies shown? Basically, they have shown that a community will benefit from their officers' increased skills at DWI detection. Principally because of their special training, the officers were better able to recognize "cues" of impairment when they observed vehicles in motion, and they were more familiar with the "clues" or human indicators of impairment exhibited by violators during personal contact. The officers also had more confidence in the field sobriety tests they used to investigate their suspects. The most important factor was that far fewer of the violators being stopped now avoided detection and arrest.

The difficulty in detecting DWI among operators personally contacted by officers has been well documented. Analysis of roadside survey and arrest data suggest that for every DWI violator arrested, three others actually have face to face contact with police officers but are allowed to go without arrest. Direct support of that inference was found in the Fort Lauderdale BAC study, where researchers demonstrated that police officers arrested only 22% of the DWI operators they contacted, whose BAC levels were subsequently shown to be between 0.10 and 0.20.
The ability to detect DWI violators is the key to general deterrence and possibly, the greatest impediment to it. If we accept the three to one ratio of failed detections as being reasonably accurate, the implications are rather alarming. Consider the impact on a DWI violator’s subsequent behavior when, after being stopped by the police, is allowed to continue driving. Very likely, these DWI violators and their friends will become even more convinced of their ability to handle drinking and driving. Further, they will come to believe that they will never be arrested because police officers can’t determine when they are “over the limit.” Instead of creating general DWI deterrence, this attitude breeds specific reinforcement. This helps to develop a feeling among DWI violators that they have nothing more to fear from police than an occasional ticket for a minor traffic offense.

On the positive side, the ratio of undetected to detected violations suggests that much can be accomplished with existing resources, if we use those resources as efficiently as possible. By just being able to improve detection skills of law enforcement officers we could experience an increase in the arrest/violation ratio without any increase in contacts.

This same, or better, degree of effectiveness can happen here.
E. **Physiology of Alcohol**

A brief overview of alcohol:

Alcohol is the most abused drug in the United States.

"Alcohol" is the name given to a family of closely related and naturally occurring chemicals. Each of the chemicals that is called an "alcohol" contains a molecule chemists refer to as a "hydroxy radical." This radical contains one oxygen atom and one hydrogen atom bonded together. The simplest alcohol has only one carbon atom, three hydrogen atoms, and one hydroxy radical. The next alcohol has two carbon atoms, five hydrogen atoms and one hydroxy radical. The third alcohol has three carbon atoms, seven hydrogen atoms and one hydroxy radical. That is how the alcohols differ from one another.

Alcohols are molecularly very similar and produce similar effects. They produce intoxicating effects when ingested into the human body. Only one of them is meant for human consumption. However, when ingested in substantial quantities it can cause death.

Three of the more commonly known alcohols are Methyl, Ethyl, and Isopropyl.

- Methyl alcohol also known as Methanol or wood alcohol
- Ethyl alcohol also known as Ethanol or beverage alcohol
- Isopropyl Alcohol (Isopropanol) also known as rubbing alcohol
The ingestible alcohol is known as ethyl alcohol, or ethanol. Its chemical abbreviation is ETOH. The "ET" stands for "ethyl" and the "OH" represents the single oxygen atom bonded to one of the hydrogen atoms, ("hydroxy radical"). Ethanol is the variety of alcohol that has two carbon atoms. Two of ethanol's best known analogs are methyl alcohol (or methanol), commonly called "wood alcohol", and isopropyl alcohol (or isopropanol), also known as "rubbing alcohol".
Ethanol is what interests us because it is the kind of alcohol that features prominently in impaired driving. Ethanol is beverage alcohol, the active ingredient in beer, wine, whiskey, liquors, etc. Ethanol production starts with fermentation. That is a kind of decomposition in which the sugars in fruit, grains and other organic materials combine with yeast to produce the chemical we call ethanol. This can occur naturally, as yeast spores in the air come into contact with decomposing fruit and grains. However, most of the ethanol in the world didn't ferment naturally, but was produced under human supervision.

When an alcoholic beverage is produced by fermentation, the maximum ethanol content that can be reached is about 14%. At that concentration, the yeast dies, so the fermentation stops. Obtaining a higher ethanol content requires a process called distillation. This involves heating the beverage until the ethanol “boils off”, then collecting the ethanol vapor. It is possible to do this because ethanol boils at a lower temperature than does water.

Distilled spirits is the name we give to high ethanol concentration beverages produced by distillation. These include rum, whiskey, gin, vodka, etc. The ethanol concentration of distilled spirits usually is expressed in terms of proof, which is a number corresponding to twice the ethanol percentage.

For example, an 80 proof beverage has an ethanol concentration of 40%.
Common Drink Sizes

- Bottle of beer – 12 ounces of fluid @ 5% alcohol equals 0.60 ounces of pure ethanol
- Glass of wine – 5 ounces of fluid @ 12% alcohol equals 0.60 ounces of pure ethanol
- Shot of whiskey (80 proof) – 1 and 1/2 ounces @ 40% alcohol equals 0.60 ounces of pure ethanol

Over the millennia during which people have used and abused ethanol, some common sized servings of the different beverages have evolved. Beer, for example, is normally dispensed in 12 ounce servings. Since beer has an ethanol concentration of about four percent, the typical bottle or can of beer contains a little less than one half ounce of pure ethanol.

A standard glass of wine has about four ounces of liquid. Wine is about 12% alcohol, so the glass of wine also has a bit less than one half ounce of ethanol in it.

Whiskey and other distilled spirits are dispensed by the "shot glass", usually containing about one and one half ounce of fluid. At a typical concentration of 40% ethanol (80 proof), the standard shot of whiskey has approximately one half ounce of ethanol.

Therefore, as far as their alcoholic contents are concerned, a can of beer, a glass of wine and a shot of whiskey are all the same.
Ethanol is a Central Nervous System Depressant. It doesn't affect a person until it gets into their central nervous system, i.e., the brain, brain stem and spinal cord. Ethanol gets to the brain by getting into the blood. In order to get into the blood, it has to get into the body.

There are actually a number of different ways in which ethanol can get into the body. It can be inhaled. Ethanol fumes, when taken into the lungs, will pass into the bloodstream and a positive blood alcohol concentration (BAC) will develop.

However, prolonged breathing of fairly concentrated fumes would be required to produce a significantly high BAC. Ethanol could also be injected, directly into a vein; it would then flow with the blood back to the heart, where it would be pumped first to the lungs and then to the brain. And, it could be inserted, as an enema, and pass quickly from the large intestine into the blood. But none of these methods are of any practical significance, because alcohol is almost always introduced into the body orally, i.e., by drinking.
Once the ethanol gets into the stomach, it has to move into the blood. The process by which this happens is known as absorption. One very important fact that pertains to alcohol absorption is that it doesn't have to be digested in order to move from the stomach to the blood.

Another very important fact is that alcohol can pass directly through the walls of the stomach. These two facts, taken together, mean that, under the right circumstances, absorption of alcohol can be accomplished fairly quickly. The ideal circumstance for rapid absorption is to drink on an empty stomach.

When the alcohol enters the empty stomach, about 20% of it will make its way directly through the stomach walls. The remaining 80% will pass through the stomach and enter the small intestine, from which it is readily absorbed into the blood. Because the body doesn't need to digest the alcohol before admitting it into the bloodstream, the small intestine will be open to the alcohol as soon as it hits the stomach.

But what if there is food in the stomach? Suppose the person has had something to eat shortly before drinking, or eats food while drinking; will that affect the absorption of alcohol?

Yes it will. Food has to be at least partially digested in the stomach before it can pass to the small intestine. When the brain senses that food is in the stomach, it commands a muscle at the base of the stomach to constrict, and cut off the passage to the small intestine. The muscle is called the pylorus, or pyloric valve. As long as it remains constricted, little or nothing will move out of the stomach and into the small intestine. If alcohol is in the stomach along with the food, the alcohol will also remain trapped behind the pylorus. Some of the alcohol trapped in the stomach will begin to break down chemically before it ever gets into the blood. In time, as the digestive process continues, the pylorus will begin to relax, and some of the alcohol and food will pass through. But the overall effect will be to slow the absorption significantly. Because the alcohol only slowly gets into the blood, and because the body will continue to process and eliminate the alcohol that does manage to get in there, the drinker's BAC will not climb as high as it would have if he or she had drunk on an empty stomach.
Once the alcohol moves from the stomach into the blood, it will be distributed throughout the body by the blood. Alcohol has an affinity for water. The blood will carry the alcohol to the various tissues and organs of the body, and will deposit the alcohol in them in proportion to their water contents.

Brain tissue has a fairly high water content, so the brain receives a substantial share of the distributed alcohol. Muscle tissue also has a reasonably high water content, but fat tissue contains very little water. Thus, very little alcohol will be deposited in the drinker's body fat. This is one factor that differentiates alcohol from certain other drugs, notably PCP and THC, which are very soluble in fat.

The affinity of alcohol for water, and its lack of affinity for fat, helps explain an important difference in the way alcohol affects women and men. Pound for pound, the typical female's body contains a good deal less water than does the typical man's.

This is because women have additional adipose (fatty) tissue, designed in part to protect a child in the womb. A Swedish pioneer in alcohol research, E.M.P. Widmark, determined that the typical male body is about 68% water, the typical female only about 55%. Thus, when a woman drinks, she has less fluid -- pound for pound -- in which to distribute the alcohol.
As soon as the alcohol enters the blood stream, the body starts trying to get rid of it. Some of the alcohol will be directly expelled from the body chemically unchanged. For example, some alcohol will leave the body in the breath, in the urine, in sweat, in tears, etc. However, only a small portion (about 2-10%) of the ingested alcohol will be directly eliminated.

Most of the alcohol a person drinks is eliminated by metabolism. Metabolism is a process of chemical change. In this case, alcohol reacts with oxygen in the body and changes, through a series of intermediate steps, into carbon dioxide and water, both of which are directly expelled from the body.
Metabolism in the Liver

- The liver burns the ethanol (i.e., causes a chemical reaction of ethanol with oxygen)
- The process is aided by an enzyme called alcohol dehydrogenase
- The ultimate products of the chemical reaction are carbon dioxide and water
- Due to metabolism, the average person’s BAC drops by about 0.015/hr

Most of the metabolism of alcohol in the body takes place in the liver. An enzyme known as alcohol dehydrogenase acts to speed up the reaction of alcohol with oxygen. The speed of the reaction varies somewhat from person to person, and even from time to time for any given person. On the average, however, a person’s blood alcohol concentration -- after reaching peak value -- will drop by about 0.015 per hour. For example, if the person reaches a maximum BAC of 0.15, it will take about ten hours for the person to eliminate all of the alcohol.

For the average sized male, a BAC of 0.015 is equivalent to about two thirds of the alcohol content of a standard drink (i.e., about two thirds of a can of beer, or glass of wine or shot of whiskey). For the average sized female, that same BAC would be reached on just one half of a standard drink. So the typical male will eliminate about two thirds of a drink per hour, while the typical female will burn up about one half of a drink in that hour.
We can control the rate at which alcohol enters our bloodstream. For example, we can gulp down our drinks, or slowly sip them. We can drink on an empty stomach, or we can take the precaution of eating before drinking. We can choose to drink a lot, or a little. But once the alcohol gets into the blood, there is nothing we can do to affect how quickly it leaves. Coffee won’t accelerate the rate at which our livers burn alcohol. Neither will exercise, or deep breathing, or a cold shower. We simply have to wait for the process of metabolism to move along at its own speed.
Dose Response Relationships

People sometimes ask, "how 'high' is 'drunk'?" What is the "legal limit" for "drunk driving"? How much can a person drink before becoming "impaired"? Depends... Time? Sex? Weight? Drinking on an empty stomach? A couple of beers can do it.

There is no simple answer to these or similar questions, except to say that any amount of alcohol will affect a person's ability to drive to some degree. It is true that the laws of nearly all States establish a BAC limit at which it is explicitly unlawful to operate a vehicle. In those cases, that "limit" is 0.08 BAC. But every State also makes it unlawful to drive when "under the influence" of alcohol, and the law admits the possibility that a particular person may be under the influence at much lower BACs.
How much alcohol does someone have to drink to reach these kinds of BACs?

Obviously, as we've already seen, it depends on how much time the person spends drinking, on whether the person is a man or a woman, on how large the person is, on whether the drinking takes place on an empty stomach, and on certain other factors. But let's take as an example a 175 pound man. If he drinks two beers, or two shots of whiskey, in quick succession on an empty stomach, his BAC will climb to slightly above 0.04. Two more beers will boost him above 0.08. One more will push him over 0.10. In one respect, then, it doesn't take very much alcohol to impair someone: "a couple of beers" can do it.
But in another respect, when we contrast alcohol with virtually any other drug, we find that impairment by alcohol requires a vastly larger dose than does impairment by the others. Consider exactly what a BAC of 0.08 means. Blood alcohol concentration is expressed in terms of the "number of grams of ethanol in every 100 milliliters of blood". Therefore, 0.08 means that there is 0.08 grams (g) of ethanol in every 100 milliliters (mL) of blood. You will find that BAC results are reported in a variety of units. Two common variations are milligrams/milliliters and percent. There are 1000 milligrams (mg) in one gram; therefore, 0.08 grams equals 80 milligrams (mg) and a BAC of 0.08 would be reported as 80 mg of ethanol/100 mL of blood. Percent means parts per one hundred. In this example 0.08 grams/100 milliliters of blood is equivalent to 0.08 % BAC.

Note: The term BAC is used in the manual. However, it should be understood to refer to either Blood Alcohol Concentration (BAC) or Breath Alcohol Concentration (BrAC) depending on the legal requirements of the jurisdiction.
1. In typical enforcement jurisdictions one DWI violation in _______ results in arrest.

2. In the Fort Lauderdale study, police officers arrested _____% of the drivers they contacted whose BACs were .10 to .20.
3. Name three different chemicals that are alcohols.

4. Which of these is beverage alcohol, intended for human consumption?

5. What is the chemical symbol for beverage alcohol?

6. What is the name of the chemical process by which beverage alcohol is produced naturally?

7. What is the name of the process used to produce high concentration beverage alcohol?

8. Multiple choice: Blood alcohol concentration is the number of _______ of alcohol in every 100 milliliters of blood.
   a. Grams
   b. Milligrams
   c. Nanograms
9. True or false: Pound for pound, the average woman contains more water than does the average man.

10. What do we mean by the "proof" of an alcoholic beverage?

11. Every chemical that is an "alcohol" contains what three elements?

12. True or false: Most of the alcohol that a person drinks is absorbed into the blood via the small intestine.

13. What is the name of the muscle that controls the passage from the stomach to the lower gastrointestinal tract?

14. True or false: Alcohol can pass directly through the stomach walls and enter the bloodstream.
15. Multiple choice: Suppose a man and a woman who both weigh 160 pounds arrived at a party and started to drink at the same time. And suppose that, two hours later, they both have a BAC of 0.10. Chances are...
   a. He had more to drink than she did.
   b. They drank just about the same amount of alcohol.
   c. He had less to drink than she did.

16. In which organ of the body does most of the metabolism of the alcohol take place?

17. What is the name of the enzyme that aids the metabolism of alcohol?
18. Multiple choice: Once a person reaches their peak BAC, it will drop at a rate of about per hour.
   a. 0.025
   b. 0.015
   c. 0.010

19. True or False: It takes about thirty minutes for the average 175 pound man to "burn off" the alcohol in one 12 ounce can of beer.
Participant Manual

DWI Detection and Standardized Field Sobriety Testing (SFST)

Session 3
The Legal Environment
An understanding of impaired driving laws that apply in your jurisdiction is critical to successful DWI enforcement.

All states (and many local jurisdictions) have their own impaired driving laws. While the specific language of these laws may vary significantly, most include the following provisions:

- DWI Law
- Per Se law
- Implied Consent
- Preliminary Breath Testing

At the conclusion of this session, participants will be familiar with:

- Elements of DWI offenses
- Provisions of implied consent
- The relevance of chemical test evidence
- Precedents established through case law

In this session impaired driving laws are discussed in detail. The illustrations provided are drawn from the Uniform Vehicle Code. You are responsible for learning whether and how each law applies in your jurisdiction.
CONTENT SEGMENTS

LEARNING ACTIVITIES

A. DWI Statute: Driving While Under the Influence  
   Instructor-Led Presentations

B. Per Se Statute: Driving With a Prohibited Blood Alcohol Concentration

C. Implied Consent  
   Reading Assignments

D. Preliminary Breath Testing

E. Case Law Review
A. **DWI Statute: Driving While Under the Influence**

A state's DWI statute may be subtitled *Driving While Under the Influence*, or something similar. Typically the statute describes the who, what, where and how of the offense in language.

**DWI Violation Arrest**

In order to arrest someone for a basic DWI violation, a law enforcement officer must have probable cause to believe that all elements of the offense are present. That is, the officer must believe that:

The person in question was *operating* or in actual physical *control of a vehicle* (truck, van, automobile, motorcycle, even bicycle, according to specific provisions in various states) while *under the influence* of alcohol, another drug, or both.
Conviction

In order to convict a person of DWI, it is necessary to establish that all elements were present.

- Operation
- Control
- Vehicle
- Impairment

If DWI is a criminal offense, the facts must be established "beyond a reasonable doubt." If DWI is a violation, the standard of proof may be less. In either case, it is the officer's responsibility to collect and thoroughly document all evidence for use at trial.

In some States, an operator may be charged with a non-criminal alcohol-related violation and the standard of proof may be less.
B. Per Se Statute: Driving with a Prohibited Blood Alcohol Concentration

Most states include in their DWI statutes a provision making it illegal to drive with a prescribed blood alcohol concentration (BAC). This provision, often called a Per Se law, creates another alcohol-related driving offense which is related to, but different from the DWI offense. Following is a typical Per Se provision:

It is unlawful for any person to:

- Operate or be in physical control
- Of any vehicle
- Within this state
- While having a blood alcohol concentration at or above state’s level.
The Per Se law does not replace every other DWI statute. Rather, the two can be prosecuted at the same time. Each defines a separate offense:

- The DWI law makes it an offense to drive while under the influence of alcohol and/or any drug.
- The Per Se law makes it an offense to drive while having more than a certain percentage of alcohol in the blood or breath.

For the DWI offense, the chemical test result is some evidence. For the Per Se offense, the chemical test result is conclusive evidence.

The principal purpose of the Per Se law is to aid in prosecution of DWI offenders. It is not necessary for the prosecutor to show that the driver was "under the influence." It is sufficient for the state to show that the driver's BAC was at or above the state's level.

Important to remember, an officer must still have probable cause to believe that the driver is impaired before making an arrest. Implied consent usually requires that the driver be arrested before the request of a chemical test. The law also requires that the arrest be made for "acts alleged to have been committed while operating a vehicle while under the influence." Therefore, the officer usually must establish probable cause that the offense has been committed and make a valid arrest before the chemical test can be requested.
Per Se Summary

Police officers dealing with impaired drivers must continue to rely primarily on their own training and experience in detection to determine whether an arrest should be made. It is impossible to obtain a legally admissible chemical test result until after the arrest has been made. Sometimes drivers will refuse the chemical test after they have been arrested. Then the case will depend primarily upon the officer’s observations and ability to articulate their testimony. When making a DWI arrest, always assume that the chemical test evidence will not be available. It is critical that you organize, document, and present your observations and testimony in a clear and convincing manner.
Elements of Implied Consent

- Operates or controls motor vehicle
- Operator shall be deemed to have given consent to chemical test to determine blood alcohol and/or drug content
- When arrested for DWI
- Drivers who refuse may be subject to license sanctions

Implied consent states drivers must submit to a chemical test(s). The law provides penalties for refusal to submit to the test. The law may also provide that the individual’s driver’s license may be suspended or revoked if the refusal is found to be unreasonable. The purpose of implied consent is to encourage those arrested for DWI to submit to a chemical test so that valuable evidence may be obtained.
Legal Presumptions

BAC _____ or more
  • Presumed under the influence

Less than _____
  • Presumed not under the influence

At least _____ but below _____
  • No presumption

Legal presumptions define the significance of the scientific chemical test evidence.

For example, if the chemical test shows that the person’s blood alcohol concentration (BAC) is .08 or more it shall be presumed that the person is under the influence.

In this state – If the test shows that the BAC is _____ or less, it shall be presumed that the person is not under the influence.

If the test shows that the BAC is more than but less than , there is no presumption as to whether the person is or is not under the influence. The weight of the chemical test evidence is presumptive of alcohol influence, not conclusive.

The fact finder (court or jury) may accept the legal presumption and conclude that the driver was or was not impaired on the basis of the chemical test alone. However, other evidence such as testimony about the defendant’s driving, odor of alcohol, appearance, behavior, movements, speech, etc. may be sufficient to overcome the presumptive weight of the chemical test.
Is it possible for a person whose BAC is above the state’s per se or presumptive level to be acquitted of DWI?

Example Number 1

It is possible for a person whose BAC at the time of arrest is above the per se or presumptive level legal limit to be acquitted of DWI. It is also possible for a person whose BAC at the time is below the per se or presumptive level to be convicted of DWI. Consider the following examples:

Example 1

A driver is arrested for DWI. A chemical test administered to the driver shows a BAC of 0.13. At the subsequent trial, the chemical test-evidence is introduced. In addition, the arresting officer testifies about the defendant’s driving, appearance and behavior. The testimony is confusing and unclear.

Another witness testifies that the driver drove, behaved and spoke normally. The court finds the defendant not guilty of DWI.
Example Number 2

Is it possible for a person whose BAC was below the state’s per se or presumptive level to be convicted of DWI?

Example 2

A driver is arrested for DWI. A chemical test administered to the driver shows a BAC of 0.05. At the subsequent trial, the chemical test evidence is introduced. In addition, the arresting officer testifies about the defendant’s driving, odor of alcohol, appearance, slurred speech, and inability to perform divided attention field sobriety tests. The testimony is clear and descriptive. The court finds the defendant guilty of DWI.

The difference in outcomes in the two examples cited is directly attributable to how well the arresting officer articulates the evidence other than the chemical test. Remember that the chemical test provides presumptive evidence of alcohol influence; it does not provide conclusive evidence. While the "legal limit" in a given jurisdiction may be 0.08 BAC, many people will demonstrate impaired driving long before that "legal limit" is reached.
D. Preliminary Breath Testing

Description

Many states have enacted preliminary breath testing (PBT) laws. These laws permit a police officer to request a driver suspected of DWI to submit to a roadside breath test prior to arrest. PBT laws vary significantly from one state to another.

Application

PBT results may be used to assist in determining whether an arrest should be made. The results may not be admissible as substantive evidence against the defendant in court. Discuss state laws regarding admissibility of PBT results. However, PBT laws may provide statutory or administrative penalties if the driver refuses to submit to the test. These penalties may include license suspension, fines or other sanctions.
E. Case Law Reviews

The following cases are landmark court decisions relevant to the admissibility of Standardized Field Sobriety Tests (SFSTs) and Horizontal Gaze Nystagmus (HGN). Challenges to the admissibility have been based on (1) scientific validity and reliability; (2) relationship of HGN to specific BAC level; and (3) officer training, experience, and application.
TO SUMMARIZE:
The prevailing trend in court is to accept HGN as evidence of impairment, provided the proper scientific foundation is laid. However, most courts consistently reject any attempt to derive a quantitative estimate of BAC from HGN. Additionally, officers should recognize the relevance of administering the Standardized Field Sobriety Tests in accordance with the NHTSA/IACP guidelines.
INSTRUCTIONS: Complete the following sentences.

1. If DWI is a criminal offense, the standard of proof is ______.

2. The purpose of implied consent is ______.

3. For the Per se offense, chemical test result is ______ evidence.

4. The Per Se law makes it unlawful to ______.

5. The PBT law permits a police officer to request a driver suspected of DWI to ______.

6. PBT results are used to assist in determining ______.
Participant Manual

DWI Detection and Standardized Field Sobriety Testing (SFST)

Session 4 - Overview of Detection, Note Taking, and Testimony

Overview of Detection, Note Taking, and Testimony

Session 4

50 Minutes
Upon successfully completing this session the participant will be able to:

• Describe the three phases of detection.
• Describe the tasks and key decision of each phase.
• Discuss the uses of a standard note taking guide.
• Discuss guidelines for effective testimony.

Detection is both the most important and difficult task in the DWI enforcement effort. If officers fail to detect DWI offenders, the DWI countermeasures program will ultimately fail. If officers do not detect and arrest DWI offenders, then prosecutors cannot prosecute them, the courts and driver licensing officials cannot impose sanctions on them, and treatment and rehabilitation programs will go unused.

CONTENT SEGMENTS…………………………………………………………………………………………………… LEARNING ACTIVITIES
A. Three Phases of Detection………………………………………………Instructor-Led Presentation
B. DWI Investigation Field Notes ……………………………………….. Reading Assignments
C. Courtroom Testimony
The term **DWI detection** has been used in many different ways. Consequently it does not mean the same thing to all law enforcement officers. For the purposes of this training, DWI detection is defined as: The entire process of identifying and gathering evidence to determine if a subject should be arrested for a DWI violation.

Detection begins when the officer develops the first suspicion of a DWI violation.

Detection ends when the officer decides whether or not there is sufficient probable cause to arrest the driver for DWI. Your attention may be called to a particular vehicle or individual for a variety of reasons. The precipitating event may be a loud noise, an obvious equipment or moving violation, behavior that is unusual, but not necessarily illegal, or almost anything else. Initial detection may carry with it an immediate suspicion that the driver is impaired; or a slight suspicion; or even no suspicion at all. In any case, it sets in motion a process wherein you focus on a particular vehicle or individual and have the opportunity to observe that vehicle or individual and to gather additional evidence.

The detection process ends when you decide either to arrest or not to arrest the individual for DWI. That decision is based on all of the evidence that has come to light since your attention was first drawn to the vehicle or individual. Effective DWI enforcers do not leap to the arrest/no arrest decision. Rather, they proceed carefully through a series of intermediate steps, each of which helps to identify the collective evidence.
A. Three Phases of Detection

The typical DWI contact involves three separate and distinct phases:

- Phase One: Vehicle in motion
- Phase Two: Personal contact
- Phase Three: Pre-arrest screening

In Phase One, you usually observe the driver operating the vehicle.

In Phase Two, after you have stopped the vehicle, there usually is an opportunity to observe and speak with the driver face to face.

In Phase Three, you usually have an opportunity to administer Standardized Field Sobriety Tests to the driver to determine impairment.

In addition to SFSTs, some jurisdictions may allow you to administer other field sobriety tests, and/or a preliminary breath test (PBT) to verify that alcohol is the cause of the impairment. PBTs can be used to assist in making an arrest decision and should rarely be the only factor in deciding to arrest. PBTs should be used after administering SFSTs.

The DWI detection process does not always include all three phases. Sometimes there are DWI detection contacts in which Phase One is absent. These are cases in which you have no opportunity to observe the vehicle in motion. This may occur at the crash scene, at a roadblock or checkpoint, or when you have responded to a request for motorist assistance. Sometimes there are DWI contacts in which Phase Three is absent. There are cases in which you would not administer formal tests to the driver. This may occur when the driver is grossly impaired, badly injured, or refuses to submit to tests.
In each of the three phases, there will be decisions and possible outcomes.

**Major Tasks and Decisions**

Each detection phase usually involves two major tasks and one major decision.
In Phase One: Your first task is to observe the vehicle in operation. Based on this observation, you must decide whether there is sufficient cause to command the driver to stop. Your second task is to observe the stopping sequence. You may want to take a picture of the vehicle or scene, especially if the vehicle was involved in a crash.

In Phase Two: Your first task is to observe and interview the driver face to face. Based on this observation, you must decide whether there is sufficient cause to instruct the driver to step from the vehicle for further investigation. Your second task is to observe the driver's exit and walk from the vehicle. You may want to take a photo of the defendant.

In Phase Three: Your first task is to administer structured, formal psychophysical tests. Based on these tests, you must decide whether there is sufficient probable cause to arrest the driver for DWI. Your second task is then to arrange for (or administer) a Preliminary Breath Test.
Each of the major decisions can have any one of three different outcomes:

- Yes - Do It Now
- Wait - Look for Additional Evidence
- No - Don't Do It

Consider the following examples.

**Yes - Do It Now**

Phase One: Yes, there are reasonable grounds to **stop** the vehicle.

Phase Two: Yes, there is enough reason to suspect impairment to justify getting the driver out of the vehicle for further investigation.

Phase Three: Yes, there is probable cause to **arrest** the driver for DWI right now.

**Wait - Look for Additional Evidence**

Phase One: Don't stop the vehicle yet; keep following and observing it longer.

Phase Two: Don't get the driver out of the car yet; keep talking to and observing the driver longer. (This option may be limited if the officer's personal safety is at risk.)

Phase Three: Don't arrest the driver yet; administer another field sobriety test before deciding.
Don't Do It:

Phase One: No, there are no grounds for stopping that vehicle.

Phase Two: No, there isn't enough evidence of DWI to justify administering field sobriety tests.

Phase Three: No, there is not sufficient probable cause to believe this driver has committed DWI.
**Officer Responsibility**

In each phase of detection, you must determine whether there is sufficient evidence to establish the "reasonable suspicion" necessary to proceed to the next step in the detection process. It is always your duty to carry out whatever tasks are appropriate, to make sure that ALL relevant evidence of DWI is gathered.
DWI Detection – Phase One

Answers to questions like these can aid you in DWI detection.

Phase One:

- What is the vehicle doing?
- Do I have grounds to stop the vehicle?
- How does the driver respond to my signal to stop?
- How does the driver handle the vehicle during the stopping sequence?

Phase Two:

- When I approach the vehicle, what do I see?
- When I talk with the driver, what do I hear, see and smell?
- How does the driver respond to my questions?
- Should I instruct the driver to exit the vehicle?
- How does the driver exit?
- When the driver walks toward the side of the road, what do I see?
Phase Three:

- Should I administer field sobriety tests to the driver?
- How does the driver perform those tests?
- What exactly did the driver do wrong when performing the tests?
- Do I have probable cause to arrest for DWI?
- Should I administer a preliminary breath test?
- What are the results of the preliminary breath test?

The most successful DWI detectors are those officers who:

- Know what to observe
- Ask the right kinds of questions
- Use the right kinds of tests
- Interpret, document, and articulate all observations thoroughly
- Be motivated and apply your knowledge and skills
Note Taking and Testimony

A basic skill needed for DWI enforcement is the ability to graphically describe your observations. Just as detection is the process of collecting evidence, description largely is the process of conveying or articulating evidence.

Successful description demands the ability to convey evidence clearly and convincingly. Your challenge is to communicate evidence to people who weren't there to see, hear and smell the evidence themselves. Your tools are the words that make up your written report and verbal testimony. You must communicate with the supervisor, the prosecutor, the judge, the jury and even with the defense attorney. You are trying to "paint a word picture" for those people, to develop a sharp mental image that allows them to "see" what you saw; "hear" what you heard; and "smell" what you smelled.

Officers with the knowledge, skills and motivation to select the most appropriate words for both written reports and courtroom testimony will communicate clearly and convincingly, making them more successful in DWI prosecution.

Use Clear and Convincing Language

Field notes are only as good as the information they contain. Reports must be clearly written and events accurately described if the reports are to have evidentiary value. One persistent problem with DWI incident reports is the use of vague language to describe conditions, events and statements. When vague language is used, reports provide an inaccurate picture of what happened. Clear and complete field notes help in preparation for your testimony.
Consider the following examples. *Vague Language and Clear Language*

- Made an illegal left turn on Jefferson
- From Main, turned left (north bound) on Jefferson, which is one way south bound
- Drove erratically
- Weaving from side to side. Crossed center line twice and drove on shoulder three times
- Driver appeared drunk, shaking
- Driver’s eyes bloodshot; gaze fixed; Strong odor of alcoholic beverage on driver’s breath
- Vehicle stopped in unusual fashion
- Vehicle struck, climbed curb; stopped on sidewalk
- Vehicle crossed the center line
- Vehicle drifted completely into the opposing traffic lane
Officer Must Be Able To

- Recognize and interpret DWI evidence
- Describe the evidence clearly and convincingly

B. DWI Investigation Field Notes

One of the most critical tasks in the DWI enforcement process is the recognition and retention of facts and clues that establish reasonable suspicion to stop, investigate and subsequently arrest persons suspected of DWI. The evidence gathered during the detection process must establish the elements of the violation, and must be completely documented to support successful prosecution of the defendant. This evidence is largely sensory (sight, smell, hearing) in nature, and therefore is extremely short lived.

You must be able to recognize and act on the facts and circumstances with which you are confronted. But you also must completely document your observations and describe them clearly and convincingly to secure a conviction. You may be inundated with evidence of DWI, i.e., sights, sounds, smells. You recognize this evidence, sometimes subconsciously, and on this evidence base your decisions to stop, to investigate and ultimately to arrest.

Since evidence of a DWI violation is short lived, you need a system and tools for recording field notes at scenes of DWI investigations.
One way to improve the effectiveness of your handwritten field notes is to use a structured note taking guide. The guide makes it easy to record brief "notes" on each step of the detection process and ensures that vital evidence is documented.

The field notes provide the information necessary to complete required DWI report forms and assist you in preparing a written account of the incident. The field notes will also be useful if you are required to provide oral testimony, since they can be used to refresh your memory.

A model note taking guide is provided for your use. A brief description follows. Details are provided in subsequent units.

**Note Taking Guide**

Remember that you must document those actions which gave you reasonable suspicion or probable cause to justify further investigation of a suspected DWI incident.
• **Section I** provides space to record basic information describing the subject, the vehicle, the location, and the date and time the incident occurred.

• **Section II** provides space to record brief descriptions of the vehicle in motion (Detection Phase One), including initial observation of the vehicle in operation, and observation of the stopping sequence.

• **Section III** provides space to record brief descriptions of the personal contact with the subject (Detection Phase Two), including observations of the driver.

General Observations provides space to record the subject’s manner of speech, attitude, clothing, etc. Any physical evidence collected should also be noted in this section.
• **Section IV** provides space to record the results of all field sobriety tests that were administered, and the results of the preliminary breath test (PBT) if such a test was given.

• **Section V** provides space to record the officer's general observations, such as the subject's manner of speech, attitude, clothing, etc. Any physical evidence collected should also be noted in this section.

Since this is a note taking guide and space is limited, you will have to develop your own "shorthand" system. Your notes should be detailed and descriptive of the facts, circumstances or events being described. These notes may be used to refresh your memory and to write the narrative report documenting your observations to testify in court.

NOTE: Field notes may be subpoenaed as evidence in court. It is important that any "shorthand" system you use be describable, usable, complete and consistent.
C. Courtroom Testimony

Testimonial evidence in DWI cases establishes that the defendant was in fact the driver and was under the influence. Your testimony should be clear, detailed, and concise. Requirements: Preparation at the scene and prior to trial.

To be effective, testimonial evidence must be clear and convincing. The first requirement for effective testimony is **preparation**. Testimony preparation begins at the time of the DWI incident. From the very beginning of the DWI contact, it is your responsibility to:

- Recognize significant evidence
- Compile complete, accurate field notes
- Prepare a complete, accurate, detailed report
Preparing Testimony

Prior to trial:
• Review all paperwork
• Review all other evidence
• Mentally organize elements and evidence
• Mentally organize testimony
• Identify potential issues
• Discuss with prosecutor

Testimony preparation continues prior to trial. Just before the trial, you should:

• Review field notes, incident report, narrative and other paperwork
• Review other evidence, i.e., video, photographs, etc.
• Mentally organize elements of offense, and the evidence available to prove each element
• Mentally organize testimony to convey observations clearly and convincingly
• Identify weak spots and/or potential issues with the case and decide how to address those issues
• Discuss the case with the prosecutor

The foundation for preparation and successful testimony is the relationship between the law enforcement officer(s) involved with the arrest and the prosecuting attorney(s) associated with the case. Effective communication and a clear understanding of each groups’ objectives and expectations is essential for successful prosecution.
Chronology of Testimony

In court, your testimony should be organized chronologically and should cover each phase of the DWI incident:

Phase One: Vehicle in Motion – initial observation of vehicle, the driver or both including what first attracted your attention to the vehicle/driver and details about the driving before you initiated the traffic stop

Reinforcing cues, maneuvers or actions, observed after signaling the driver to stop, but before driver’s vehicle came to a complete stop.

A “cue” is defined as a reminder or prompting as a signal to do something.

Phase Two: Personal Contact – face to face observations including personal appearance, statements and other evidence obtained during your initial contact with driver.

A “clue” is defined as something that leads to the solution of a problem.

Phase Three: Pre-arrest Screening – sobriety tests administered to the driver and the results of any preliminary breath tests.
Arrest and Post Arrest Observations

- The arrest itself; including procedures used to inform driver of arrest, admonish subject of rights, and so on
- Defendant’s actions, statements, and/or admissions subsequent to the arrest
- Observation of defendant subsequent to the arrest; including not just what the defendant said but actions and reactions
- The request for the chemical test; including the procedures used, admonition of rights and requirements, and so on
- The conduct, actions, reactions, and results of the chemical test, if you were also the testing officer
- The interview of the defendant, including any new observations, statements and/or admissions.
QUESTIONS?
TEST YOUR KNOWLEDGE

INSTRUCTIONS: Complete the following sentences.

1. DWI detection is defined as __________

2. The three phases in a typical DWI contact are:
   Phase One ______________
   Phase Two ______________
   Phase Three ____________

3. In Phase One, the officer usually has an opportunity to __________

4. Phase Three may not occur if __________

5. In Phase Two, the officer must decide __________

6. Each major decision can have any one of ______ different outcomes. These are: __________
7. At each phase of detection, the officer must determine __________

8. Evidence of DWI is largely __________ in nature.

9. Law enforcement officers need a system and tools for recording field notes at scenes of DWI investigations because DWI evidence is __________.

10. Testimony preparations begins __________

11. List two of the following the officer should do to prepare testimony just before the trial.

   A. ____________________
   B. ____________________
Test Your Knowledge

In court, the officer’s testimony should be organized ________________.
Conditions and results of the chemical test are included in the arresting officer’s testimony if _________________.

12. In court, the officer’s testimony should be organized __________

13. Conditions and results of the chemical test are included in the arresting officer’s testimony if __________
Participant Manual

DWI Detection and Standardized Field Sobriety Testing (SFST)

Session 5

Phase One: Vehicle in Motion
Learning Objectives

- Identify typical cues of Detection Phase One
- Describe the observed cues clearly and convincingly

At the conclusion of this session, participants will be able to:

- Identify typical cues of Detection Phase One
- Describe the observed cues clearly and convincingly

CONTENT SEGMENTS

A. Overview: Tasks and Decision
B. Initial Observations: Visual Cues of Impaired Operation (Automobiles)
C. Initial Observations: Visual Cues of Impaired Operation (Motorcycles)
D. Recognition and Description of Initial Cues
E. Typical Reinforcing Cues of the Stopping Sequence
F. Recognition and Description of Initial and Reinforcing Cues
A. Overview: Tasks and Decision

Your first task in Phase One: Vehicle in Motion is to observe the vehicle in operation to note any initial cues of a possible DWI violation. At this point you must decide whether there is reasonable suspicion to stop the vehicle, either to conduct further investigation to determine if the driver may be impaired, or for another traffic violation. You are not committed to arresting the driver for DWI based on this initial observation, but rather should concentrate on gathering all relevant evidence that may suggest impairment. Your second task during phase one is to observe the manner in which the driver responds to your signal to stop, and to note any additional evidence of a DWI violation.

The first task, observing the vehicle in motion, begins when you first notice the vehicle, driver or both. Your attention may be drawn to the vehicle by such things as:

- A moving traffic violation
- An equipment violation
- An expired registration or inspection sticker
- Unusual driving actions, such as weaving within a lane or moving at a slower than normal speed
- Evidence of drinking or drugs in vehicle

If this initial observation discloses vehicle maneuvers or human behaviors that may be associated with impairment, you may develop an initial suspicion of DWI.

Based upon this initial observation of the vehicle in motion, you must decide whether there is reasonable suspicion to stop the vehicle. At this point you have three choices:

- Stop the vehicle.
- Continue to observe the vehicle.
- Disregard the vehicle.
Alternatives to stopping the vehicle include:

- Delaying the stop/no stop decision, in order to continue observing the vehicle
- Disregarding the vehicle

Whenever there is a valid reason to stop a vehicle, the officer should be alert to the possibility that the driver may be impaired by alcohol and/or other drugs.

Once the stop command has been communicated to the suspect driver, the officer must closely observe the driver's actions and vehicle maneuvers during the stopping sequence.

Sometimes, significant evidence of alcohol influence comes to light during the stopping sequence. In some cases, the stopping sequence might produce the first suspicion of DWI. Drivers impaired by alcohol and/or other drugs may respond in unexpected and dangerous ways to the stop command.
B. Initial Observations: Visual Cues of Impaired Vehicle Operation (Automobiles)

Drivers who are impaired frequently exhibit certain effects or symptoms of impairment. These include:

- Slowed reactions.
- Impaired judgment as evidenced by a willingness to take risks.
- Impaired vision.
- Poor coordination.

The next page presents common symptoms of alcohol influence.

This unit focuses on alcohol impairment because research currently provides more information about the effects of alcohol on driving than it does about the effects of other drugs on driving. Remember that whether the driver is impaired, the law enforcement detection process is the same, and the offense is still DWI.
The common effects of alcohol on the driver's mental and physical faculties lead to predictable driving violations and vehicle operating characteristics. The National Highway Traffic Safety Administration (NHTSA) sponsored research to identify the most common and reliable initial indicators of DWI. This research identified 24 cues, each with an associated high probability that the driver exhibiting the cue is impaired. These cues and their associated probabilities are described in the NHTSA publication, *The Visual Detection of DWI Motorists*.

They also are discussed in *Vehicle in Motion*, a video sponsored by NHTSA to assist law enforcement officers to recognize DWI detection cues.

*(ANACAPA Sciences, DOT HS 808 654, 1997.)*

The National Highway Traffic Safety Administration sponsored research to identify the most common and reliable initial indicators of DWI.

Research identified 100 cues, each providing a high probability indication that the driver is under the influence.

The list was reduced to 24 cues during three field studies involving hundreds of officers and more than 12,000 enforcement stops.
Most Common and Reliable Initial Indicators of DWI

- Problems in maintaining proper lane position
- Speed and braking problems
- Vigilance problems
- Judgment problems

The driving behaviors are presented in four categories:

- Problems in maintaining proper lane position
- Speed and braking problems
- Vigilance problems
- Judgment problems
There is a brochure published by NHTSA that contains these cues. The title is “The Visual Detection of DWI Motorists” DOT HS 808 677.

The first category is:

Problems in maintaining proper lane position. [p=.50-.75]

- Weaving.
- Weaving across lane lines.
- Drifting.
- Straddling a lane line.
- Swerving.
- Almost striking object or vehicle.
- Turning with a wide radius.
Speed and Braking Problems

• Stopping problems
• Unnecessary acceleration or deceleration
• Varying speed
• 10 mph or more under the speed limit

Speed and braking problems. [p=.45-.70].

• Stopping problems (too far, too short, or too jerky).
• Unnecessary acceleration or deceleration
• Varying speed
• 10 mph or more under the speed limit
The third problem is vigilance problems. \([P=.55-.65]\). This category includes, but is not limited to:

- Driving without headlights at night
- Failure to signal or signal inconsistent with action
- Driving in opposing lanes or wrong way on one way
- Slow response to traffic signals
- Slow or failure to respond to officer’s signals
- Stopping in lane for no apparent reason
Judgment Problems

- Following too closely
- Improper or unsafe lane change
- Illegal or improper turn
- Driving on other than designated roadway
- Stopping inappropriately in response to officer
- Inappropriate or unusual behavior
- Appearing to be impaired

Judgment problems. [P= .35-.90].

- Following too closely (tailgating)
- Improper or unsafe lane change
- Illegal or improper turn
- Driving on other than designated roadway
- Stopping inappropriately in response to officer
- Inappropriate or unusual behavior (throwing objects, arguing, etc.)
- Appearing to be impaired
The research also identified 10 post stop clues. \[ P > .85 \].

- Difficulty with motor vehicle controls
- Fumbling with driver license or registration
- Difficulty exiting the vehicle
- Repeating questions or comments
- Swaying, unsteady, or balance problems
- Leaning on the vehicle or other object
- Slurred speech
- Slow to respond to officer/office must repeat
- Provides incorrect information, changes answers
- Odor of alcoholic beverage from the driver

Explanation and illustration of the 24 detection cues.
C. Initial Observations: Motorcycle Visual Detection Cues
Research has identified driving impairment cues for motorcyclists.  

*(ANACAPA Sciences, DOT HS 807 839, 1993.)*

**Excellent cues (50% or greater probability):**

- Drifting during turn or curve  
- Trouble with dismount  
- Trouble with balance at a stop  
- Turning problems  
- Inattentive to surroundings  
- Inappropriate or unusual behavior  
- Weaving

**Good cues (30 to 50% probability):**

- Erratic movements while going straight  
- Operating without lights at night  
- Recklessness  
- Following too closely  
- Running stop light or sign  
- Evasion  
- Traveling wrong way
Relationship of Visual Cues to Impaired Divided Attention Capability

Driving is a complex task, composed of many parts:

- Steering
- Controlling accelerator
- Signaling
- Controlling brake pedal
- Operating clutch (if applicable)
- Operating gearshift (if applicable)
- Observing other traffic
- Observing signal lights, stop signs, other traffic control devices
- Making decisions (whether to stop, turn, speed up, slow down, etc.)
- Many other things
In order to drive safely, a driver must be able to divide attention among all of these various activities. Under the influence of alcohol or many drugs, a person’s ability to divide attention becomes impaired. The impaired driver tends to concentrate on certain parts of driving and to disregard other parts.

- Alcohol has impaired ability to divide attention.
- Driver is concentrating on steering and controlling the accelerator and brake.
- Does not respond to the particular color of the traffic light.

Some of the most significant evidence from all three phases of DWI detection can be related directly to the effects of alcohol and/or other drugs on divided attention ability.
D. Recognition and Description of Initial Cues

What do you see?

- Moving violation?
- Equipment violation?
- Other violation?
- Unusual operation?
- Anything else?
Phase One: Task One
Initial Observation of Vehicle Operation

Requires the ability to:

• Recognize evidence of alcohol and/or other drug influence
• Describe that evidence clearly and convincingly

Phase One: Task One Initial Observation of Vehicle Operation

The task of making initial observations of vehicle operation is the first step in the job of DWI detection. Proper performance of that task demands two distinct but related abilities:

• Ability to recognize evidence of alcohol and/or other drug influence.
• Ability to describe that evidence clearly and convincingly.

It is not enough that a police officer observe and recognize symptoms of impaired driving. The officer must be able to articulate what was observed so that a judge or jury will have a clear mental image of exactly what took place.

Improving the ability to recognize and clearly describe observational evidence requires practice.

It isn't practical to have impaired drivers actually drive through the classroom.

The next best thing is to use video to portray typical DWI detection contacts.
Procedures for Practicing Cue Recognition and Description

- View DWI violation videos
- Take notes
- Testify
  - Choose words carefully
  - Provide as much detail as possible
  - Construct accurate image of observations
- Critique testimony
Leaving the Shopping Center

Leaving the Shopping Center
E. Typical Reinforcing Cues of the Stopping Sequence

After the command to stop is given, the alcohol impaired driver may exhibit additional important evidence of DWI.

Some of these cues are exhibited because the stop command places additional demands on the driver's ability to divide attention.

The signal to stop creates a new situation to which the driver must devote some attention, i.e., emergency flashing lights, siren, etc., demand and divert the subject's attention.

Signal to stop requires the driver to turn the steering wheel, operate the brake pedal, activate the signal light, etc.

As soon as officer gives the stop command, the subject's driving task becomes more complex.

If subject is under the influence, the subject may not be able to handle this more complex driving very well.
Phase One: Task Two Observation of the Stop

Requires the ability to:

• Recognize evidence of alcohol and/or other drug influence
• Describe that evidence clearly and convincingly

Phase One: Task Two Observation of the Stop

It is the officer's responsibility to capture and convey the additional evidence of impairment that may be exhibited during the stopping sequence.

• Requires ability to recognize evidence of alcohol and/or other drug influence.
• Requires ability to describe that evidence clearly and convincingly.

F. Recognition and Description of Initial and Reinforcing Cues

Procedures for practicing cue recognition and description.
The Sliding Sports Car
TEST YOUR KNOWLEDGE

INSTRUCTIONS: Complete the following sentences.

1. The Phase One tasks are _________

2. Two common symptoms of impairment are:

3. Alcohol impairs the ability to _________ among tasks.

4. Three clues reinforcing the suspicion of DWI which may be observed during the stopping sequence are:

   A. 
   B. 
   C. 

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DWI Detection and Standardized Field Sobriety Testing
Phase One: Vehicle in Motion
Session 5
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DWI Detection and Standardized Field Sobriety Testing (SFST)

Session 6

Phase Two: Personal Contact

1 Hour 30 Minutes
Upon successfully completing this session the participant will be able to:

- Identify typical clues of Detection Phase Two.
- Describe the observed clues clearly and convincingly.

CONTENT SEGMENTS .............................................................................................................. LEARNING ACTIVITIES
A. Overview: Tasks and Decision...................................................................................... Instructor-Led Presentations
B. Typical Investigation Clues of the Driver Interview ...................................................... Video Presentation
C. Recognition and Description of Investigation Clues ....................................................... Instructor-Led Demonstrations
D. Interview/Questioning Techniques ................................................................................. Participant Presentations
E. Recognition and Description of Clues Associated with the Exit Sequence
A. Overview Tasks and Decisions

DWI Detection Phase Two: Personal Contact, like Phases One and Three, comprise two major evidence gathering tasks and one major decision. Your first task is to approach, observe, and interview the driver while they are still in the vehicle to Note any face to face evidence of impairment. During this face to face contact you may administer some simple pre-exit sobriety tests to gain additional information to evaluate whether or not the driver is impaired. After this evaluation, you must decide whether to request the driver to exit the vehicle for further field sobriety testing. In some jurisdictions, departmental policy may dictate that all drivers stopped on suspicion of DWI be instructed to exit. It is important to Note that by instructing the driver to exit the vehicle, you are not committed to an arrest; this is simply another step in the DWI detection process. Once you have requested the driver to exit the vehicle, your second task is to observe the manner in which the driver exits and to Note any additional evidence of impairment.

You may initiate Phase Two without Phase One. This may occur, for example, at a checkpoint, or when you have responded to the scene of a crash.

Task One

The first task of Phase Two, interview and observation of the driver, begins as soon as the driver vehicle and the patrol vehicle have come to complete stops. It continues through your approach to the driver vehicle and involves all conversation between you and the driver prior to the driver's exit from the vehicle.

You may have developed a strong suspicion that the driver is impaired prior to the face to face observation and interview. You may have developed this suspicion by observing something unusual while the vehicle was in motion, or during the stopping sequence. You may have developed no suspicion of DWI prior to the face to face contact. The vehicle operation and the stop may have been normal; you may have seen no actions suggesting DWI.
For example, you may have stopped the vehicle for an equipment/registration violation, or where no unusual driving was evident. In some cases, Phase One will have been absent. For example, you may first encounter the driver and vehicle after a crash or when responding to a request for motorist assistance.

Regardless of the evidence that may have come to light during Detection Phase One, your initial face to face contact with the driver usually provides the first definite indications that the driver is impaired.

**Decision**

Based upon your face to face interview and observation of the driver, and upon your previous observations of the vehicle in motion and the stopping sequence, you must decide whether there is sufficient reason to instruct the driver to step from the vehicle.

For some law enforcement officers, this decision is automatic since their agency’s policy dictates that the driver always be told to exit the vehicle, regardless of the cause for the stop. Other agencies; however, treat this as a discretionary decision to be based on what the officer sees, hears, and smells during observation and interview with the driver while the driver is seated in the vehicle.

If you decide to instruct the driver to exit, closely observe the driver's actions during the exit from the vehicle and Note any evidence of impairment.

**B. Typical Investigation Clues of the Driver Interview**

Face to face observation and interview of the driver allows you to use three senses to gather evidence of alcohol and/or other drug influence:

- The sense of sight
- The sense of hearing
- The sense of smell
Sight

There are a number of things you might see during the interview that would be describable clues or evidence of alcohol and/or other drug influence. Among them are:

[Content continues with a list of observations related to sight.]

[Blank lines are included to accommodate additional content if necessary.]
What do you see?

- Bloodshot eyes?
- Soiled clothing?
- Fumbling fingers?
- Alcohol containers?
- Drug and drug paraphernalia?
- Bruises, bumps, scratches?
- Unusual actions?
**Hearing**

Among the things you might hear during the interview that would be describable clues or evidence of alcohol and/or other drug influence are these:
What Do You Hear?

- Slurred speech?
- Admission of drinking?
- Inconsistent responses?
- Unusual statements?
- Abusive language?
- Anything else?

What do you hear?

- Slurred speech?
- Admission of drinking?
- Inconsistent responses?
- Unusual statements?
- Abusive language?
- Anything else?
Smell

There are things you might smell during the interview that would be describable clues or evidence of alcohol and/or other drug influence. Typically these include:
What do you smell?

- Alcoholic beverages?
- Marijuana?
- "Cover-up" odors?
- Other unusual odors?
Proper face to face observation and interview of the driver demands two distinct but related abilities:

- The ability to recognize the sensory evidence of alcohol and/or other drug influence
- The ability to describe that evidence clearly and convincingly

Developing these abilities requires practice.

C. **Recognition and Description of Investigation Clues**

A basic purpose of the face to face observation and interview of the driver is to identify and gather evidence of alcohol and/or other drug influence. This is the purpose of each task in each phase of DWI detection.

During the face to face observation and interview stage, it is not necessary to gather sufficient evidence to arrest the driver immediately for DWI.

**Procedures for Practicing Clue Recognition and Description**

You will have to base your description of the driver's possible impairment strictly on what you see and hear during the face to face contact.

Both senses provide some critically important evidence, not only in this video segment, but in all face to face contacts.

**Video Segment "The Busy Businessman"**
Testimony on Video Segment “The Busy Businessman”

What was seen?

What was heard?