Day 1 PM:
Illinois State Police
The arrest process and field sobriety
Basic DUI Statute

It is unlawful for any person to...

• operate or be in actual physical control of ...

• any vehicle ...

• within this state ...

• while under the influence of alcohol and/or any drug.
Key Features of Implied Consent

• Any person who operates a motor vehicle upon the public highways of this state …

• Shall be deemed to have given consent to a chemical test …

• For the purpose of determining the alcohol and/or drug content of that person’s blood …

• When arrested for any acts alleged to have been committed while the person was operating or in actual physical control of a vehicle while under the influence of alcohol and/or any drug.
Legal Presumptions

______or more...
  Presumed under the influence

Less than ________...
  Presumed not under the influence

At least ________ but below ________
  No presumption
Key Point:

Chemical test evidence is **PRESUMPTIVE**, Not Conclusive
Is it possible for a person whose BAC is above the state’s per se or presumptive level to be acquitted of DWI?
Is it possible for a person whose BAC was below the state’s per se or presumptive level to be convicted of DWI?
Illegal “Per Se” Statute

Is it unlawful for any person to...

• operate or be in actual physical control of...

• any vehicle...

• within this state...

• while having a BAC at or above state’s level.
Phase One: Vehicle In Motion
Phase One: Vehicle in Motion

Should I Stop the Vehicle?

Initial Observation of the Vehicle in Operation

Observation of the Stop
Common Symptoms of Alcohol Influence

Blood Alcohol Concentration

- **0.03**
  - Slowed Reaction

- **0.05**
  - Increased Risk Taking

- **0.08**
  - Impaired Vision

- **0.10**
  - Poor Coordination
Most Common and Reliable Initial Indicators of DUI

- Turning with wide radius.
- Almost striking object or vehicle.
- Weaving.
- Straddling center or lane marker.
- Appearing to be impaired.
- Driving on other than designated roadway.
- Driving into opposing or crossing traffic.
- Slow response to traffic signals.
- Turning abruptly or illegally.
- Stopping inappropriately.

- Accelerating/decelerating rapidly.
- Headlights off.
- Swerving.
- Following too closely.
- Drifting.
- Speed slower than 10mph below limit.
- Stopping without cause in traffic lane.
- Tires on center or lane marker.
- Braking erratically.
- Signaling inconsistent with driving.
Motorcycle DUI Detection Guide

Excellent Cues (50% or Greater Probability)

- Drifting during turn or curve
- Trouble with dismount
- Trouble with balance at a stop
- Turning problems (e.g., unsteady, sudden corrective, late breaking, improper lean angle)
- Inattentive to surroundings
- Inappropriate or unusual behavior (e.g., carrying or dropping object, urinating at roadside, disorderly conduct, etc.)
- 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
- Travelling wrong way
Safe driving demands the ability to divide attention among numerous simultaneous tasks.
Vehicle in Motion

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:

1. Recognize evidence of alcohol and/or other drug influence
2. Describe that evidence clearly and convincingly
Vehicle in Motion

What Do You **See**?

Tries to Flee?  
No Response?  
Slow Response?  
Abrupt Weave? 

Sudden Stop?  
 Strikes Curb?  
New Violations?  
Anything Else?
Phase One: Task Two

Observation of the Stop

Requires the Ability to:

1. Recognize evidence of alcohol and/or other drug influence

2. Describe that evidence clearly and convincingly
Phase Two:
Personal Contact
Phase Two: Personal Contact

Interview and Observation of the Driver

Should Driver Exit?

Observation of the Exit
Personal Contact

What Do You See?

Bloodshot Eyes?
Soiled Clothing?
Fumbling Fingers?
Alcohol Containers?
Drug and drug paraphernalia?
Bruises, Bumps, Scratches?
Unusual Actions?
Personal Contact

What Do You *Hear*?

- Slurred Speech?
- Admission of Drinking?
- Inconsistent Responses?
- Unusual Statements?
- Abusive Language?
- Anything Else?
Personal Contact

What Do You *Smell*?

Alcoholic Beverage?
“Cover-Up” Odors?
Marijuana?
Other Unusual Odors?
Phase Two: Task One

Face-to-Face Observation and Interview of Suspect

Requires the Ability to:

1. Recognize the sensory evidence of alcohol and/or other drug influence

2. Describe the evidence clearly and convincingly
Interview/Questioning Techniques

- **Simultaneously** request license and registration
- Pose **distracting/interrupting** questions during license search
- Pose **unusual** questions to verify license information
The Exit

What Do You See?

Angry, Unusual Reaction?
Can’t Follow Directions?
Can’t Open Door?
Leaves Car in Gear?
“Climbs” Out of Car?
Leans Against Car?
Keeps Hand on Car?
Anything Else?
Phase Three: Pre-Arrest Screening
Phase Three: Pre-Arrest Screening

Field Sobriety Testing

Preliminary Breath Testing

Should I Arrest?
Psychophysical Tests

Methods of examining mental and/or physical impairment
Nystagmus:
Involuntary Jerking of the Eyes
“Divided Attention”

...Concentrating on more than one thing at a time (mental tasks and physical tasks)
Typical Simultaneous Capabilities Required for Driving

• Information Processing
• Short-term Memory
• Judgment/Decision Making
• Balance
• Quick Reactions
• Clear Vision
• Small-Muscle Control
• Coordination of Limbs
Simplicity

Is it Reasonable to Assume That, If Sober...

Anyone Like The Suspect

...Would “Pass” the Test?
Walk and Turn
(Divided Attention Test)

• Instructions Stage
• Walking Stage
One Leg Stand
(Divided Attention Test)

- Instructions Stage
- Balance and Counting Stage
Basic Purpose of Preliminary Breath Testing

Demonstrate Association of Alcohol with the Observable Evidence of the Suspect’s Impairment
Advantages of PBT

- Corroborate other evidence
- Confirm officer’s judgment
- Confirm alcohol as cause of impairment
- Help establish probable cause for DWI arrest
Possible Factors Affecting Preliminary Breath Tests

- Breath sample composition
- Breath sample cooling
- Residual mouth alcohol
- Contaminants in the breath
- Radio frequency interference
The Arrest Decision is Based on All Evidence Accumulated During All Three Detection Phases

- Initial Observation of Vehicle Operation
- Observation of the Stop
- Face-to-Face Observation and Interview
- Observation of the Exit
- Psychophysical Tests
- Preliminary Breath Tests
Concepts and Principles of the Standardized Field Sobriety Tests (SFST)
Overview: Development and Validation

NHTSA Research Began in 1975 in California With Three Final Reports Being Published:

1. California: 1977 (lab study only)

2. California: 1981 (lab/field study)

3. Maryland, Washington, DC, Virginia, North Carolina: 1983 (field study only)
Original Research Objectives

• To evaluate currently used physical coordination tests to determine their relationship to intoxication and driving impairment.

• To develop more sensitive tests that would provide more reliable evidence of impairment.

• To standardize the tests and observations.
Volunteers were Subjected to Six Tests:

1. One-leg stand
2. Finger to nose
3. Finger count
4. Walk and turn
5. Tracing (a paper and pencil exercise)
6. Nystagmus (called alcohol gaze nystagmus in final report)
Laboratory Test Data

Results

• HGN by itself was 77% accurate.

• Walk and Turn was 68% accurate.

• One Leg Stand was 65% accurate.

• It would be possible to combine the results of HGN and Walk and Turn and be 80% accurate.
“Standardized” Elements

- Standardized Administrative Procedures
- Standardized Clues
- Standardized Criteria
Importance of Large Scale Field Validation Study

- First significant assessment of the workability of the standardized tests under actual enforcement conditions.
- First time completely objective clues and scoring criteria had been defined for the tests.
- Results of the study validated the SFSTs.
Field Validation Studies

- Colorado 1995
- Florida 1997
- San Diego, California 1998
Colorado Field Validation Study of SFST

• First full field validation study using SFST experienced law enforcement personnel.

• 93% correct arrest decision based on three-test battery (HGN, WAT, OLS).
Florida Field Validation Study of SFST

• 95% correct arrest decision based on three-test battery (HGN, WAT, OLS).

• Validated SFST’s at 0.08 BAC and above.
San Diego Field Validation Study of SFST

• 91% correct arrest decision for 0.08 BAC and above using three-test battery (HGN, WAT, OLS).

• HGN is still most reliable of three-test battery and supports arrest decisions at 0.08 BAC.
Horizontal Gaze Nystagmus

Involuntary jerking of the eyes occurring as the eyes gaze to the side.
Categories of Nystagmus

• Vestibular
  - Rotational
  - Post-rotational
  - Caloric
  - Positional alcohol nystagmus

• Neural
  - Optokinetic
  - Physiological
  - Gaze
    Horizontal
    Vertical
    Resting

• Pathological disorders and diseases
Administrative Procedures

1. Eyeglasses

2. Verbal instructions

3. Position object (12-15 inches) (30-38 cm)

4. Pupil size and resting nystagmus

5. Equal tracking
Administrative Procedures

6. Check for lack of smooth pursuit

7. Check for distinct and sustained nystagmus at maximum deviation

8. Check for onset of nystagmus prior to 45 degrees

9. Total the clues

10. Check for Vertical Gaze Nystagmus

Check each eye independently beginning with the suspect’s left and compare.
Three Clues of Horizontal Gaze Nystagmus

• Lack of smooth pursuit.

• Distinct and sustained nystagmus at maximum deviation.

• Onset of nystagmus prior to 45 degrees.
Clue Number 1

Lack of smooth pursuit
Distinct and sustained nystagmus at maximum deviation
Clue Number 3

Onset of nystagmus prior to 45 degrees
Horizontal Gaze Nystagmus Test Criterion

4 or more clues indicates BAC above 0.10 (77% accurate)
Vertical Gaze Nystagmus
Walk and Turn

(Divided Attention Test - Mental Task and Physical Task)

- Instructions Stage
- Walking Stage
Administrative Procedures

1. Verbal Instructions:
   - Assume heel-toe stance
   - Arms down at sides
   - Don’t start until told

2. 9 heel-to-toe Steps, Turn, 9 heel-to-toe Steps

3. Turn Procedures:
   - Turn around on line
   - Several small steps

4. While Walking:
   - Keep watching feet
   - Arms down at sides
   - Count steps out loud
   - Don’t stop during walk
Walk and Turn Test Clues

1. Can’t balance during instructions
2. Starts too soon
3. Stops while walking
4. Doesn’t touch heel-to-toe
Walk and Turn Test Clues

5. Steps off line

6. Uses arms to balance

7. Improper turn (or loses balance on turn)

8. Wrong number of steps

Note: If suspect can't do the test, record observed clues and document the reason for not completing the test.
Walk and Turn Test Criterion

2 or more clues indicates BAC above 0.10 (68% accurate)
One-Leg Stand

(Divided Attention Test - Mental Task and Physical Task)

• Instructions Stage

• Balance and Counting Stage
Instructions Stage:
- Stand straight, feet together
- Keep arms at sides
- Maintain position until told otherwise
Balance and Counting Stage:
- Raise one leg, either leg
- Keep raised foot approximately six inches (15 cm) off ground, foot parallel to the ground
- Keep both legs straight
- Keep eyes on elevated foot
- Count out loud in the following manner: “One thousand and one, one thousand and two, one thousand and three and so on”, until told to stop

Note: It’s important for the officer to time the 30 second count for the test.
One-Leg Stand Test Clues

• Sways while balancing
• Uses arms to balance
• Hops
• Puts foot down

Note: If suspect can't do the test, record observed clues and document the reason for not completing the test.
One-Leg Stand Test Criterion

2 or more clues indicates BAC above 0.10 (65% accurate)
Any Questions?