

Operating Under the Influence of Something or Other ... We Think...

Drugged driving: The New
Fashionable Charge &
Voodoo of DREs



William Maze

Maze Legal Group, PC



THANK YOU!!!



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<https://www.facebook.com/MazeLegalGroup>



DREs are here in Michigan!

- The new “war” on drugged driving has come to Michigan.
- Materials provided online: Cheat sheets regarding DRE clinical symptoms (DRE Drug Matrix), an important case, Maryland v Consolidated Cases, that struck DREs in Maryland, Baity v Washington State, which accepted the clinical testimony of DREs, & a landmark Florida case on DREs (Williams v Florida) that is very long



Tony Corroto – The Godfather



- Tony Corroto – one of the original DREs: Atlanta PD, DUI task force, et al.
- Tony & I teach SFSTs & offer a DRE overview course
- www.DUIexpertwitness.com



OTHER RESOURCES



- Physicians' Desk Reference
- Baselt - Disposition of Toxic Drugs and Chemicals in Man
- Darrow Criminal Defense Forum (josh@mielcarr.com or william@duimaze.com)
- www.owidenselaw.com



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Drunk vs. Drugged Driving

Drugged driving is a growing problem in the United States. Because there is no national standard to measure the level of drug impairment, detecting drug impaired drivers is not easy. Some states have drug per se laws that forbid any presence of a prohibited substance or drug in the driver's body while operating a vehicle. Most states also train law enforcement officials to help them identify drug impaired driving.

The Governor's Highway Safety Association supports elevating drugged driving to a national priority and calls upon states to implement strategies in drugged driving detection, enforcement and prosecution.



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Impairing substances

- MCL 257.625 was amended in 2013.
- "Operating while intoxicated" means any of the following: (a) The person is under the influence of alcoholic liquor, a controlled substance, or other intoxicating substance or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance.



Driver crashes, admits to huffing

Clarkston man held pending charges

Michigan State Police troopers arrested a 24-year-old Clarkston man who allegedly crashed his vehicle after inhaling an air duster product.

Authorities said Tuesday that troopers from the Brighton post responded about 3:30 p.m. Monday to a crash in the Kroger parking lot at 10059 E. M-59 in Hartland Township to find a 2003 Pontiac Sunfire had struck a fire hydrant.

While checking the driver for injuries, the driver advised Troopers Andrew Urbiel and Jay Rider that he passed out while traveling in the parking lot before he struck the curb and fire hydrant, Sgt. Mark Thompson of the Brighton post said.

The driver, who police did not identify by name, advised the troopers he had been "using an inhalant," Thompson said.

"The driver stated he was inhaling an 'air duster' product," the sergeant said.

Troopers located about 18 cans of compressed gas duster in the suspect's vehicle.



Written by
Lisa Roose-Church
Daily Press &
Argus

Dec. 4, 2013 |  Comments

What is a drug according to NHTSA?

For our purposes, a “drug” is:

- Any substance when taken into the human body, can impair the ability of the person to operate a vehicle safely.
- This definition excludes some substances that physicians consider to be drugs.
- This definition includes some substances that physicians don't usually think of as drugs.



What is a drug according to Michigan?

- Any controlled substance listed under MCL 333.7201 et seq. or the administrative code.
- Admin Code: Board of Pharmacy – Controlled Substances R 338.3101 – 338.3199q

[Licensing and Regulatory Affairs → Bureau of Health Care Services → Board of Pharmacy]

- Many “drugs” under our drunk driving laws have no impairing effect on a person's ability to operate a vehicle in a normal manner. May improve driving performance.



Excluded substances?

- Don't we want drivers who suffer from ADHD to take their medicine?
- What about narcolepsy?
- How about cancer patients?
- “There are motorists out there driving around right now with lethal doses of pain killers coursing through their blood, and it barely manages their pain. They are not intoxicated. They are driving to their doctor's appointment.”



Cataplexy



NEW NHTSA MANUAL!!!

DWI Detection and Standardized Field Sobriety Testing

March 2013 Edition

Participant Guide



- Changed from “Manual” to “Guide” (attempt to avoid standards)
- Written at a 3rd Grade level with lots of pictures
- First chapter is extensive and all about DRUGGED DRIVING.



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NHTSA Standardized Field Sobriety Training for Police Officers

- 1 in 50 drivers at any given time is intoxicated.
- 1 in 10 of all motorists at night on the weekend are intoxicated.
- 25% of all people drive intoxicated at some point.
- The average DUI offender drives drunk 80 times a year before getting caught.
- Arrest/Violation ratio: 1 arrest for every 2000 drunk drivers.
- THESE NUMBERS ARE EXTRAPOLATED FROM FLIMSY, BIASED RESEARCH



Inflated Alcohol-Related Fatalities

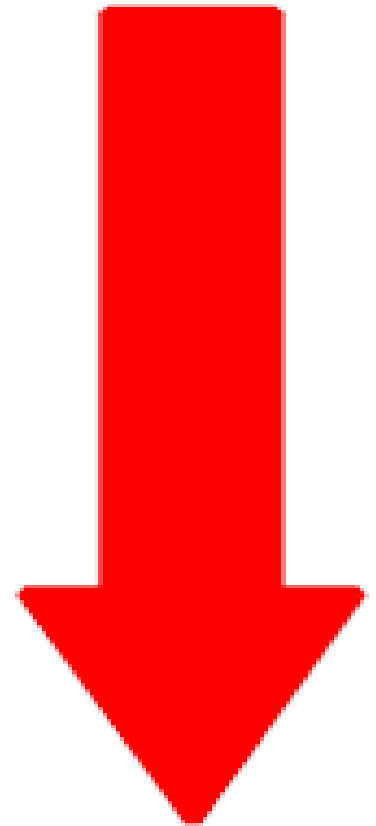
- NHTSA and MADD proclaimed that 17,970 people were killed by drunk drivers in 2002; 16,885 in 2005; 12,998 in 2007; 10,839 in 2009; 10,228 in 2010.
- These numbers were fabricated using the term of art “alcohol-related fatalities.”
- MSP tests for blood in most fatal accidents, including postmortem. The numbers reflect 359 to 204 alcohol fatalities for Michigan as an average. MSP runs approximately 50 draws per year in fatal vehicle accidents, and those numbers have NOT changed dramatically from 2002 to 2010.



Declining Accident Rates or Carnage on the Roadways?

- Borkenstein et al.'s Grand Rapids Study 1964 BAC of .14 - .16 showed steep incline in accidents. Most alcohol related fatalities BAC >.17, which is now our “super drunk.”
- May 14, 2013: NTSB announces desire to reduce legal BAC to .05. Huge backlash from public and media. November 2013 Deborah Hersman, Chairman of the NTSB again encourages .05 limit.
- Canada 2002: U.S., Canada, Australia, Great Britain and Sweden studied by The Traffic Injury Research Foundation. Concluded that lower BAC of .05 will not result in safer roadways.

. 17
. 15
. 10
. 08
. 05



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Standardized Field Sobriety Tests

- PHASE I - Vehicle in Motion
- Driving behaviors
- Stopping sequence
- PHASE II – Personal Contact
- Signs of consumption
- Exit from vehicle



Pre-Arrest Screening

- Walk and Turn
- One Leg Stand
- Horizontal Gaze Nystagmus
- Preliminary Breath Test and its limitations



IT IS NECESSARY TO EMPHASIZE THIS VALIDATION APPLIES ONLY WHEN:

- o THE TESTS ARE ADMINISTERED IN THE PRESCRIBED, STANDARDIZED MANNER**
- o THE STANDARDIZED CLUES ARE USED TO ASSESS THE SUSPECT'S PERFORMANCE**
- o THE STANDARDIZED CRITERIA ARE EMPLOYED TO INTERPRET THAT PERFORMANCE.**

IF ANY ONE OF THE STANDARDIZED FIELD SOBRIETY TEST ELEMENTS IS CHANGED, THE VALIDITY IS COMPROMISED.

At end of the test, examine each factor and determine how many clues have been recorded. Remember, each clue may appear several times, but still only constitutes one clue.

HGN – Introduction to Voodoo

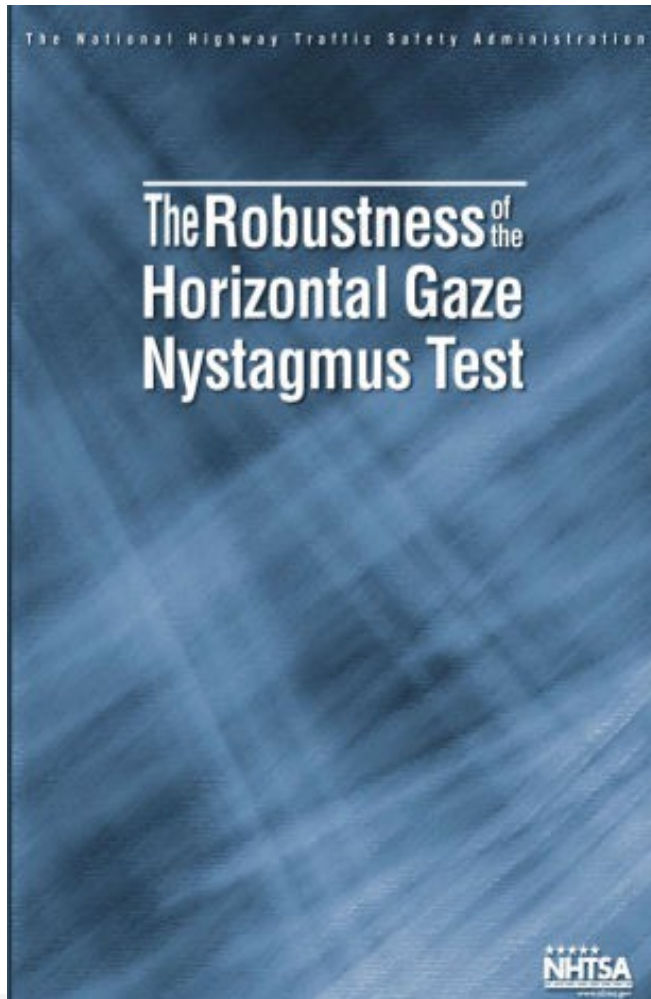
- HGN has been described as the most accurate test for intoxication.
- This is not true, statistically or otherwise. It was, and remains, a big, fat lie. Wholly invented and changed repeatedly by SCRI before implementation.



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HGN – Robustness Study

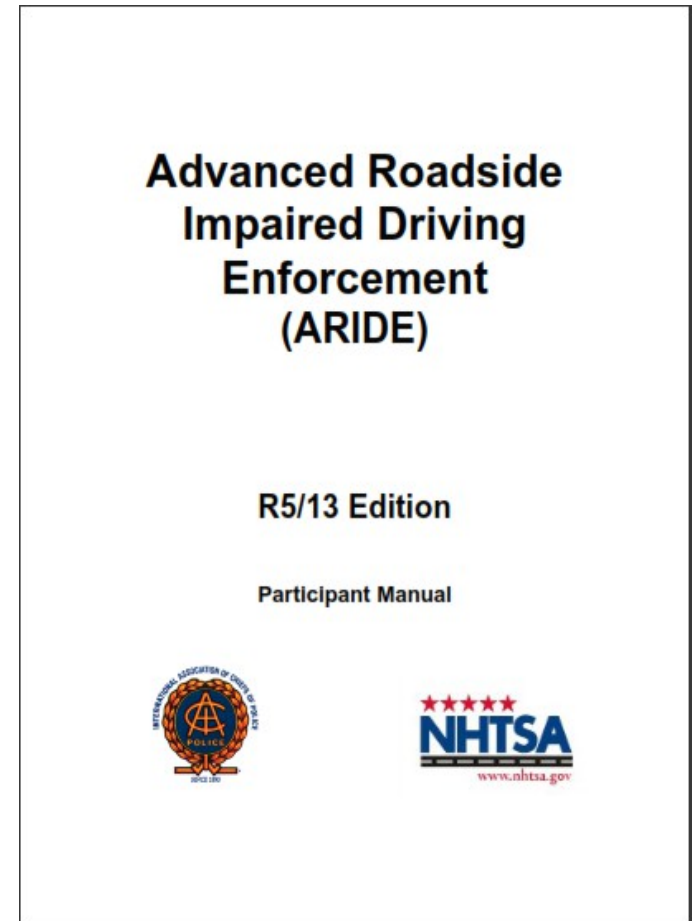


- Robustness Study, delayed for several years, established a 77% rate of inaccuracy.
- This increased to 93% when officers performed the test too quickly or at too high an angle.
- You have accepted this nonsense because the lie repeated enough times, so you are prejudiced to believe all the other magic tricks.



The Bridge Drug from HGN to DRE: ARIDE

- ARIDE is a new program offered widely to police officers.
- Supposedly a “bridge” between SFSTs and DREs.
- Once police officers express a willingness to arrest “drugged drivers” (i.e. those who blow .000 on PBTs) without hesitation, the program will be abolished.



ARIDE – Desensitize & Normalize

“This course will train law enforcement officers to observe, identify, and articulate the signs of impairment related to drugs, alcohol or a combination of both in order to reduce the number of impaired driving incidents, serious injury, and fatal crashes.

This course will train other criminal justice professionals (prosecutors, toxicologists, etc.) to:

- **Understand the signs of impairment related to drugs, alcohol, or a combination of both.**
- Enable them to effectively work with law enforcement in order to reduce the number of impaired driving incidents, serious injury, and fatal crashes.”



ARIDE

Pharmacokinetics accounts for how a chemical substance is transported through the body in terms of absorption, distribution, metabolism, and elimination. As stated in the objectives, this session will also:

- Explain the different types of drug ingestion.
- Describe medical conditions, which may mimic the signs and symptoms of alcohol and/or drug use.
- Identify the seven drug categories used by the DEC program.
- Introduction of a drug indicator matrix.



ARIDE: Pinnacle of Science

Medical Conditions Which May Mimic Drug Impairment

There are various medical conditions and injuries that may cause individuals to appear to be impaired by alcohol and/or other drugs. Some of the more common medical conditions that may mimic drug impairment include:

- Head Trauma
- Stroke
- Diabetes
- Conjunctivitis (Pinkeye? Seriously? Pinkeye...)
- Shock
- Multiple Sclerosis
- Other Conditions (???)



7 Drug Categories

Based on the definition of a “drug”, the DEC program divides drugs into seven categories. These drug categories are based on the observable signs and symptoms they produce.

1. Central Nervous System Depressants. Includes a large number of different drugs. The common drug in this category is alcohol. CNS depressants slow down the operation of the brain and other parts of the central nervous system.
2. Central Nervous System Stimulants. Influence the human body by speeding up, or over stimulating the brain. Cocaine is an example of a CNS stimulant.
3. Hallucinogens. Includes some natural, organic substances as well as some synthetic chemicals. All hallucinogens impair the subject’s ability to perceive reality. LSD is an example of a hallucinogen.



7 Drug Categories

4. Dissociative Anesthetics. Consists of the drug Dextromethorphan (DXM), PCP and its various analogs. DA's are powerful drugs that act like a depressant in some ways, but also cause the body to respond similar to a stimulant as well as a hallucinogen. (*Dextromethorphan, ie cough medicine is an "impairing substance" because it is an OTC substance.*)
5. Narcotic Analgesics. Relieves pain, produces addiction, and withdrawal symptoms. Heroin is an example of a narcotic analgesic.
6. Inhalants. Breathable chemicals, which are contained in familiar household items that can be easily purchased. Gold spray paint is an example of an inhalant. (*Also an "impairing substance" since gold spray paint is not a controlled substance.*)
7. Cannabis. The most popular widely used and abused illegal drug and is most commonly referred to as marijuana.

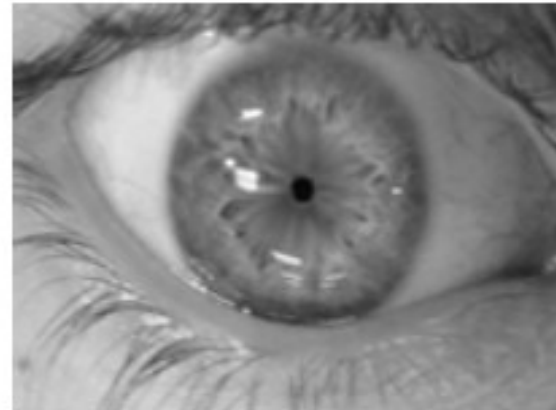
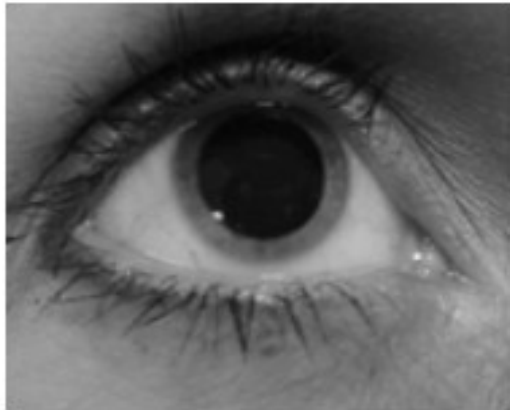


ARIDE: Focus on the Eyes

Session 5 - Observation of the Eyes and Additional Tests for Drug Impairment

Pupil Size Observation

The eyes are often referred to as “The windows to the soul”



Advanced Roadside Impaired Driving Enforcement

5-7



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ARIDE: Focus on the Eyes

- Pupil Size
- Lack of Convergence (LOC)
- VGN
- Modified Romberg Balance test



Section 1: Administration of the Eye and Head Movement Test for Drunk Driving

LOC Testing Procedure

- Begin by moving the stimulus in a circle in front of the subject's face
- Observe the eyes to verify that the subject is tracking the stimulus
- Slowly move the stimulus in toward the bridge of the nose

LOC

Notes: _____

Administration of LOC

Instructional Stage

- Inform the subject that you will be moving the stimulus around in a circle, and will be moving it toward the bridge of their nose. In addition, inform the subject that you will not actually touch the nose with the stimulus. This notice is important so the individual will not move their head away.
- Instruct the subject to keep their head steady and to follow the stimulus with their eyes only.
- Position the stimulus approximately 12-15 inches in front of the subject's nose in the same position as used in the HGN test.
- Law enforcement officers should not touch the bridge of the nose with the stimulus.



- If the eyes are able to cross (converge), i.e., if they both come together when the stimulus is stopped approximately 2" from the bridge of the subject's nose, lack of convergence is "not present."

Session 5 - Observation of the Eyes and Additional Tests for Drug Impairment

Lack of convergence is present if the subject's eyes do not come together and cross as they track and stay aligned on the stimulus

Advanced Roadside Impaired Driving Enforcement 5-13

Notes: _____

LOC is "present" if one eye, or both eyes drift away or outward toward the side instead of converging toward the bridge of the nose.



Willie Mays Challenge: DO IT.

- “LOC is 'present' if one eye or both eyes drift away or outward toward the side instead of converging toward the bridge of the nose.” ???
- LOC has never been tested or validated!
- “There are no validated clues associated with the LOC test, the officer should note all observations associated with this test.”



We haven't talked about GREEN TONGUE, have we?

At the most, a green - or any color for that matter - coating on the tongue means that the person ingested something. That "something" could have been marijuana, mints, toothpaste, or anything else. Certainly, if someone is regularly smoking something, the person's tongue may show signs of being irritated. And if someone is smoking a hand-rolled marijuana cigarette, I wouldn't be surprised to discover that some of the marijuana debris has been deposited in the person's mouth.

As far as "raised taste buds" goes, the most I would do in court is testify to my observation that the person's tongue looked to have small bumps on his/her tongue. And that was consistent with people I have seen who I believed were smoking marijuana (or crack, or meth, or something else).

Both these "signs" are simply observations made by officers during many DRE evaluations. At the most, they are signs of possible drug use, and not drug influence." – TOM PAGE



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Response to Tom Page

Anonymous - Friday, June 14, 2013 at 6:08:00 PM PDT

This is the most ridiculous thing I have ever read, and I read a lot of ridiculous things. In particular, it's horrifying to think that any police officer would testify to such nonsense as this: "that was consistent with people I have seen who I believed were smoking marijuana (or crack, or meth, or something else). Raised taste buds" are consistent with eating, drinking and smoking cigarettes or cigars. You might as well say that breathing is consistent with people who you believed were smoking marijuana. Any "green tongue" that you see that is not attributable to lemon-lime Gatorade, a green Life Saver, green Jello, or the like, is a figment of your overactive imagination. People SMOKE marijuana, they don't EAT it by the fistful.



Caution

- **Although effects displayed in the table are what you will usually find when observing a subject impaired by various types of drugs, you may not always find them**
- **Not everyone is affected the same way by drugs**



And... Further Disclaimers:

The law enforcement officer who successfully completes this course shall use only their roadside observations to make a decision as to whether the subject is impaired or not impaired according to their specific state's statutes and support an arrest or no arrest decision.

Important Note: (Caution)

*Although effects displayed in the table are what you will **usually** find when observing a subject impaired by various types of drugs, you **may not always** find them.*

Not everyone is affected the same way by drugs. You need to remember this when describing drug effects. It is best “never to say never” and “always avoid saying always.”

The officer who completes this course is NOT certified as a DRE and does not have the training required to support the selection of a specific drug category, which may be the source of the subject's impairment.



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10/06/2009 10:47:03

CH 06

BREAK



The DRE Program

- Drug Evaluation and Classification Program (“DEC”)
- “A participant who successfully completes all phases of the DEC Program is known as a Drug Recognition Expert or Drug Recognition Evaluator (DRE).” (Note: The term “**expert**” is a gratuitously self-imposed title by IACP/NHTSA, not much unlike how lab analysts at MSP become “forensic scientists.”)
- Purpose of the program is to allow normal, everyday police officers to testify in court as “experts” to suggest that a person was under the influence of a certain substance, while “forensic scientists” and toxicologists might refrain from such a conclusion.



DRE “EXPERTS”

- According to IACP/NHTSA, DREs can “reach reasonably accurate conclusions concerning the category or categories of drug(s), or medical conditions causing the impairment observed in the subject. Based on these informed conclusions, the DRE officer can request the collection and analysis of an appropriate biological sample (blood, urine, or saliva) to obtain corroborative, scientific evidence of the subject's drug use.”



Page ___ of ___				DRUG INFLUENCE EVALUATION				EVALUATOR		
ARRESTEE'S NAME (LAST, FIRST, MI)				AGE	SEX	RACE	BOOKING NO			OR
DATE EXAMINED/TIME/LOCATION				BREATH RESULTS			CHEMICAL TEST			
MIRANDA WARNING GIVEN				Results			<input type="checkbox"/> Urine <input type="checkbox"/> Blood <input type="checkbox"/> Both Tests <input type="checkbox"/> Refused <input type="checkbox"/> Refused			
Given by		What have you eaten today? When?		What have you been drinking? How much?		Time of last drink?				
Time now?	When did you last sleep? How long?	Are you sick or injured?		Are you diabetic or epileptic?						
Do you take insulin?		Do you have any physical defects?		Are you under the care of a doctor/dentist?						
Are you taking any medication or drugs?		ATTITUDE		COORDINATION						
SPEECH		BREATH		FACE						
CORRECTIVE LENS		Eyes:		Blindness:		Tracking:				
<input type="checkbox"/> Glasses <input type="checkbox"/> Contacts, if so <input type="checkbox"/> Hard <input type="checkbox"/> Soft <input type="checkbox"/> None		<input type="checkbox"/> Normal <input type="checkbox"/> Bloodshot <input type="checkbox"/> Watery		<input type="checkbox"/> None <input type="checkbox"/> L. Eye <input type="checkbox"/> R. Eye		<input type="checkbox"/> Equal <input type="checkbox"/> Unequal				
PUPIL SIZE		HGN Present		Able to follow stimulus:		Eyes:				
<input type="checkbox"/> Equal <input type="checkbox"/> Unequal (explain)		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Normal <input type="checkbox"/> Droopy				
PULSE & TIME		HGN		Vertical Nystagmus?		ONE LEG STAND				
1. /		Lack of Smooth Pursuit		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Normal <input type="checkbox"/> Droopy				
2. /		Max. Deviation		Convergence Right Eye Left Eye						
3. /		Angle of Onset								
BALANCE EYES CLOSED		WALK AND TURN TEST		Cannot keep balance						
				Starts too soon		1st Nine 2nd Nine				
				Stops Walking				L R		
				Misses Heel-Toe				<input type="checkbox"/> Sways while balancing.		
				Steps off Line				<input type="checkbox"/> Uses arms to balance.		
				Raises Arms				<input type="checkbox"/> Hopping.		
				Actual Steps Taken				<input type="checkbox"/> Puts foot down.		
INTERNAL CLOCK		Describe Turn		Cannot do Test (explain)		Type of Footwear				
_____ Estimated as 30 sec.										
<input type="radio"/> Right <input type="radio"/> Left Draw lines to spots touched		PUPIL SIZE		Room Light		Darkness		INDIRECT		
		Left Eye						Direct		
		Right Eye						NASAL AREA		
		HIPPUS		REBOUND DILATION		Reaction to Light		ORAL CAVITY		
		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No						
BLOOD PRESSURE		RIGHT ARM		LEFT ARM						
_____ / _____										
TEMP										
_____ °										
MUSCLE TONE										
<input type="checkbox"/> Near Normal <input type="checkbox"/> Flaccid <input type="checkbox"/> Rigid										
Comments										
What medicine or drug have you been using? how much?		Time of use?		Where were the drugs used? (Location)						
DATE/TIME OF ARREST		TIME ONE NOTIFIED		EVAL START TIME		TIME COMPLETED				
CONTROL #		EXAMINING OFFICER		SERIAL NO		DIVISION		UNAVAILABLE DATES		
								REVIEWED BY		

12 Step DRE Process

1. Breath Test

If the breath test produces very low numbers or .000, the officer will have the DRE perform an evaluation.



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2. DRE Interviews Officer



- Circumstances of the arrest.
- Subject's behavior, appearance, and driving.
- Suspect's statements & drugs found in vehicle.



3. Preliminary Examination and First Pulse

- Questions subject re: health, food, alcohol and drugs.
- Observes subject's attitude, coordination, speech, breath and face.
- HGN test
- Takes the subject's pulse for the first of three times.
- Medical assistance OR continue evaluation.



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```
IF .000_BreathAlcohol  
  { medical_condition |  
    call_ambulance }  
[ ELSE { drugged_driving |  
  prove_case } ]
```



4. More Eye Tests. By God we eye love tests!

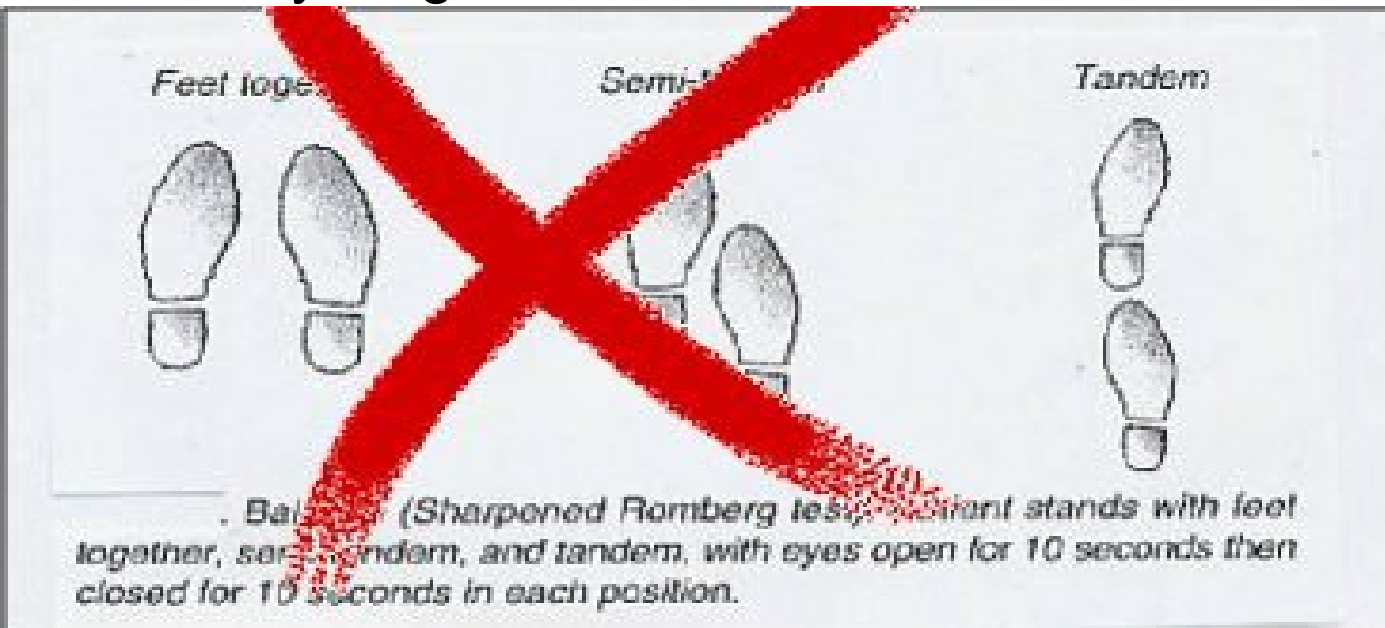
- HGN (again!)
- Vertical Gaze Nystagmus (VGN)
- “Lack of Ocular Convergence” (LOC)
- DID drugs cause all three
- Marijuana = LOC only



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5. Divided Attention Psychophysical Tests

- Romberg Balance (30 Second test AND eye lid and body tremors... huh?)
- WAT / Walk and Turn
- OLS / One Leg Stand
- Finger to Nose test (Rejected in 1977 study)
- Ignore the SFST protocols and score everything as if it were a clue!



6. Vital Signs & Second Pulse

- Blood pressure
- Temperature
- Pulse
- “Some drug categories may elevate the vital signs. Others may lower them. Vital signs provide valuable evidence of the presence and influence of a variety of drugs.”



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7. Oh boy, more eye tests!

--Dark Room Examinations--

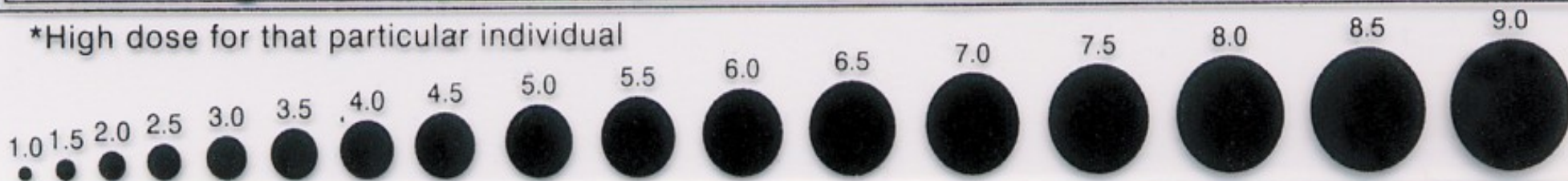
- The DRE estimates the subject's pupil sizes under three different lighting conditions with a measuring device called a pupilometer.
- Dilated, constricted, or normal?
- Some drugs increase pupil size (dilate), while others may decrease (constrict) pupil size.
- Eyes' reaction to light: Slow the eyes' reaction to light?
- Examine nasal (cocaine) and oral cavities (green tongue)



INDICATORS CONSISTANT WITH DRUG CATEGORIES

MAJOR INDICATORS	CNS DE-PRESSANTS	CNS STIM-ULANTS	HALLUC-INOGENS	PHENCY-CLIDINE	NARCO-TICS	INHALANTS	CANNABIS
HORIZ. GAZE NYSTAGMUS	PRESENT	NONE	NONE	PRESENT	NONE	PRESENT	NONE
VERTICAL NYSTAGMUS	PRESENT (HIGH DOSE)*	NONE	NONE	PRESENT	NONE	PRESENT (HIGH DOSE)*	NONE
LACK OF CONVERGENCE	PRESENT	NONE	NONE	PRESENT	NONE	PRESENT	PRESENT
PUPIL SIZE	NORMAL (1)	DILATED	DILATED	NORMAL	CONSTRICTED	NORMAL (4)	DILATED (6)
REACTION TO LIGHT	SLOW	SLOW	NORMAL (3)	NORMAL	LITTLE OR NONE VISIBLE	SLOW	NORMAL
PULSE RATE	DOWN (2)	UP	UP	UP	DOWN	UP	UP
BLOOD PRESSURE	DOWN	UP	UP	UP	DOWN	UP/DOWN (5)	UP
BODY TEMPERATURE	NORMAL	UP	UP	UP	DOWN	UP/DOWN/NORMAL	NORMAL

*High dose for that particular individual





8. Examination for Muscle Tone



“The DRE examines the subject’s skeletal muscle tone. Certain categories of drugs may cause the muscles to become rigid. Other categories may cause the muscles to become very loose and flaccid.”



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9. Check for Injection Sites and Third Pulse

- The DRE examines the subject for injection sites, which may indicate recent use of certain types of drugs.
- The DRE also takes the subject's pulse for the third and final time.
- (Hey, wait a minute... Wouldn't you see injection sites when you take blood pressure & examine muscle tone?)



10. Subject's Statements and Other Observations

“The DRE typically reads Miranda, if not done so previously, and asks the subject a series of questions regarding the subject's drug use.”

- But, didn't we already ask the subject all this stuff back in Step 3?
- Why wasn't the subject already Mirandized?
- Can't we do another eye test?



11. Analysis and Opinions of the Evaluator

“Based on the totality of the evaluation, the DRE forms an opinion as to whether or not the subject is impaired. If the DRE determines that the subject is impaired, the DRE will indicate what category or categories of drugs may have contributed to the subject’s impairment.”

- **QUESTION:** Totality of circumstances is required for reasonable cause to arrest. All of these tests are done at the police station. So...



12. Toxicological Examination

“After completing the evaluation, the DRE normally requests a urine, blood and/or saliva sample from the subject for a toxicology lab analysis.

Nothing in or about the DRE protocol is new or novel. The DRE protocol is a compilation of tests that physicians have used for decades to identify and assess alcohol- and/or drug-induced impairment.” (Note the reassurance from the government.)



Court responses to DREs

- Daubert challenges have been successful
- Other courts treat clinical symptoms as observable data
- No court has approved, and the government has not attempted to validate, VGN, LOC, eye tremors, or green tongue, but all eye movements were lumped together as “HGN” in Williams (case included in materials). VGN, LOC and Tremors are NOT HGN and bear no relation!



How reliable is DRE 12 step?

Kane *Journal of Negative Results in BioMedicine* 2013, **12**:16
<http://www.jnrbm.com/content/12/1/16>



RESEARCH

Open Access

The methodological quality of three foundational law enforcement drug influence evaluation validation studies

Greg Kane



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Drug Influence Evaluation

LEDA (index)

Prove impairment

① ②

SFST

③ ④

Diagnose drug category

⑤

Circumstances,
Search, Questions

Physical

⑥

DRE Opinion

⑧

Confirms
impairment

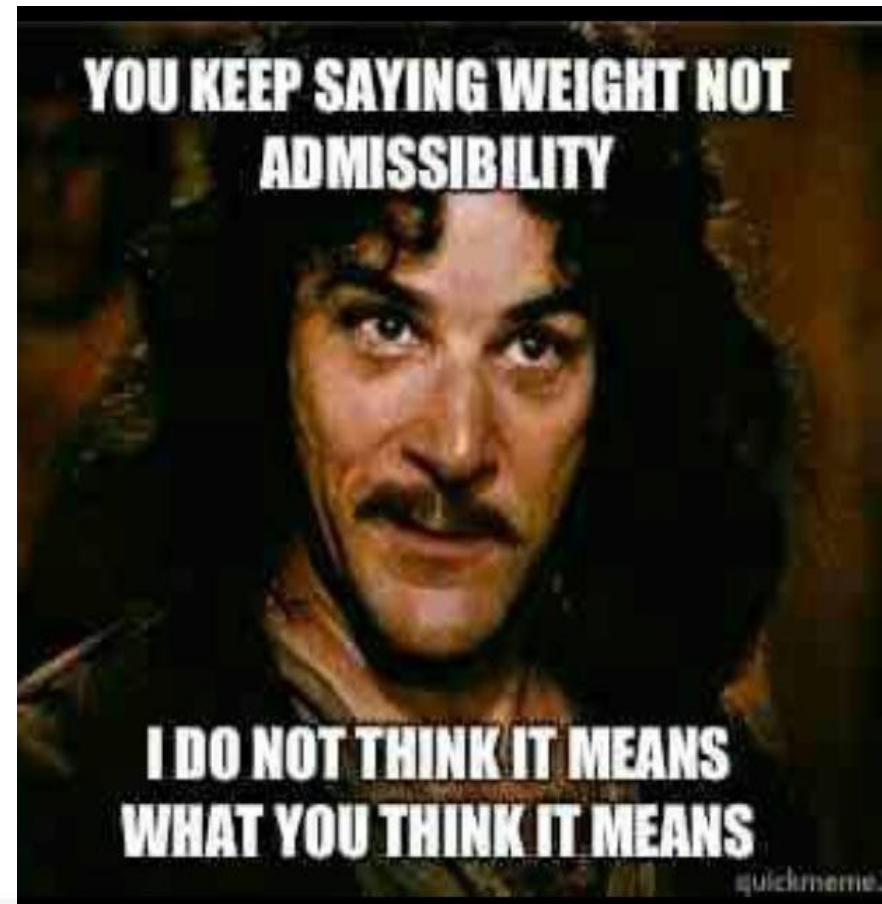
Toxicology (reference)

⑦

Anyone with any level of any
drug is said to be drug impaired

Challenges: Daubert or Trial?

- Daubert motions: Do NOT go unprepared. The government has a vested interest in this program.
- At trial: Let the cop drone on? Who really cares about all this nonsense?
- Compare and contrast the clinical signs and get “Rolling Logs” to consider actual success rate.



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But ... Jurors Don't Like Drugged Driving.

- 11 ng/mL amphetamine sounds scary to jurors
- Anyone driving with marijuana is suspect
- Overcome SNAP decisions / FSTs



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Thank you again!

- Feel free to call me anytime. (734) 591-0100
- Jump on facebook and follow my rants on www.facebook.com/MazeLegalGroup



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