Proof and Problems in Alcohol Impaired Driving

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Proof:
Follow the
Officer's Lead



Vehicle in Motion

- What did the officer see?
- What did the offender's vehicle do?
- How did the stop sequence play out?
- Was there a crash?
- •Was it a checkpoint?

Personal Contact

What did the officer see? Smell? Hear?

How did the offender exit the car?

Pre-Arrest Screening

SFSTs

Other field sobriety tests

Preliminary breath test

Post-Arrest Evidence



Evidentiary breath or blood test



Observations



Conversations



Arrest and booking procedures



Lack of understanding: Stops

- Wrong standard applied (probable cause rather than reasonable articulable suspicion)
- Misapplication of precedent
- Crashes: misapplication of circumstantial evidence
- Checkpoints: misunderstanding of law and "no bad driving"

Lack of understanding: Probable Cause

- Misapplication of standard
- Reluctance to believe HGN
- Misunderstanding of the appearance of impairment
- Misunderstanding of how alcohol moves through the body

Lack of understanding: Beyond Reasonable Doubt

- Misapplication of standard
- Mistrust of breath testing instruments
- Lack of knowledge regarding "margin of error" vs. "margin of tolerance"
- Viewpoint that impaired driving is a minor offense

Officers

Prosecutors

Solutions

- Training for judges, officers, and prosecutors
- Educating the trier of fact
- Legislation to reduce discretion
 - Fix ourselves

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