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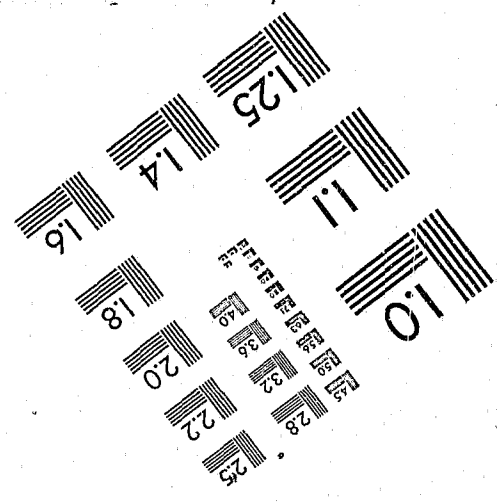
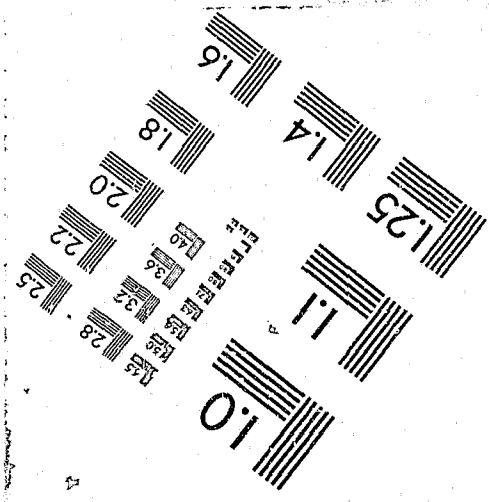
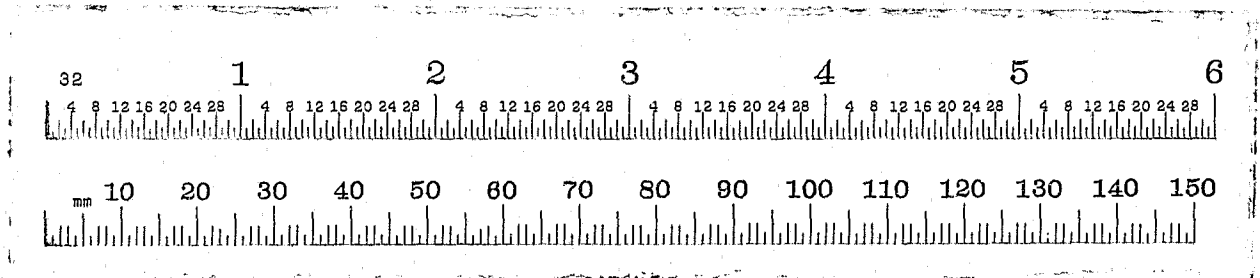
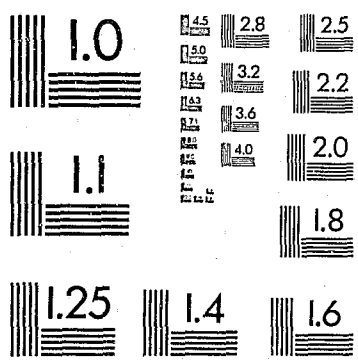
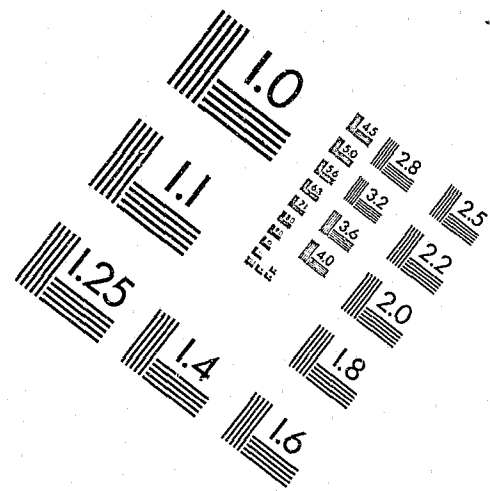
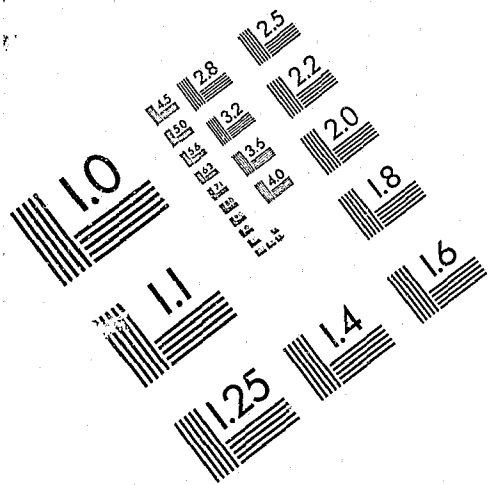
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DUI Enforcement:

By Richard D. Morrison

Considered by many police officers to be merely a routine assignment, traffic enforcement is one of the more important law enforcement duties. Of particular importance in this area is the detection, arrest and conviction of those driving while impaired.

The ultimate goal of course is fewer accidents and deaths. But better enforcement entails something other than just more arrests and more convictions.

Through information gathered at the national level, a lot has been learned about driving under the influence effects and behaviors:

1. The average DUI violator commits that offense about 80 times a year.
2. The psychophysical faculty generally affected first by alcohol is reaction time.
3. More than half of the drivers who die in vehicle crashes have been drinking.
4. Most dead drivers who were drinking were legally under the influence.
5. Alcohol related crashes are nine times more likely to result in death than are non-alcohol related crashes.

Reducing the number of drinking drivers on the road is one law enforcement strategy. DUI deterrence is based on the public's fear of being arrested.

If a person truly believes there is a good chance he will be arrested for driving drunk, he will stop driving while under the influence (at least some of the time).

On the other hand, if there is no real risk of arrest, there is no deterrent effect. Accordingly, police officers provide the perceived threat through the arrest of violators.

Moreover, with improved DUI detection efforts, this widespread crime is being reduced and lives are being saved. Aggressive DUI enforcement does make a difference.

DUI enforcement officers report three key factors improve their effectiveness:

1. Being skilled at DUI detection.
2. Being willing to arrest every DUI violator.
3. Receiving 100% support from their agency.

Better enforcement entails something other than just more arrests and more convictions.

Without any one of these three factors an agency's DUI enforcement efforts will suffer immeasurably.

Driving while impaired has been an accepted practice by the public for too long. Too many drivers have learned there is little risk in taking a chance when it comes to driving under the influence. All strata of society are represented in committing this offense.

Recently, a "get tough on drunk drivers" attitude has gained popularity. Organizations such as MADD (Mothers Against Drunk Drivers) and SADD (Students Against Drunk Drivers) have helped educate the public about the dangers caused by drinking drivers.

Their goal is to encourage citizens to avoid committing DUI offenses through increased education about the hazards of such behavior. Such behavior modification strategies are effective if the techniques are properly utilized.

But voluntary compliance is essential. The majority of the public sector has to be informed about the problem before widespread cooperation will result. For many, the legal consequences of violating the law are enough to curb the prohibited behavior. For others, there is no threat strong enough to present them from drinking and driving. Tragically, while they are on the

Improving Detection and Deterrence

road and seriously impaired, everyone else is at risk.

It has been estimated that one in four drivers sometimes drives under the influence, and during the late night weekend hours, the number of drunk drivers multiplies by nearly five times the norm. So the magnitude of the problem is obvious. Likewise, it would be naive to expect or believe that enough police officers could be deployed to provide 100% coverage of DUI offenses.

But the detection of DUI drivers is



Deputy fills out DUI ticket.



DUI Enforcement officer puts arrestee into patrol car.



In car camera records field sobriety test.

more complicated than just figuring out when they will be driving. The fine art of recognizing the signs of driving under the influence is crucial to the effectiveness of a DUI specialist. Effective DUI enforcement lies in targeting peak violation periods, proper detection of impaired drivers and certain arrest of the violators when they are caught.

Good observation skills of officers are particularly important in DUI enforcement. Typically, an officer observes the vehicle in motion, makes personal contact with the driver, and utilizes some form of pre-arrest screening to make the arrest decision.

Officers who excel in DUI detection and convictions seem to have several traits in common. They:

1. know what to look for;
2. ask the right questions;
3. make the right kinds of observations;
4. document the evidence needed to get a conviction.

Describing observations for later use in court is essential and written reports and notes have to convey the evidence clearly and convincingly. Evidence gathered during the detection process has to establish the elements of the violation and the probable cause for each step of the investigation. A common mistake is the use of vague language which leads to confusion in written reports and thereby weakens the strength of DUI cases.

The five senses are invaluable aids to DUI investigators. But even with the benefit of a video camera, these sensory forms of evidence gathering have to be properly recorded on paper for later retrieval. Field notes can provide the needed answers, if they are complete.

Of course there is no way of knowing at the time of arrest which ones will wind up in court. So relying solely upon the breath test machine for a conviction is risky business. It is indisputable that testimonial evidence will also be needed because defense attorneys always attack the weakest link in the prosecutor's case.

Preparation for court testimony should begin at the time and place of

violation contact. Unfortunately, that particular time is also at a point place where officer safety has to be put above all other observations. Staying alive takes precedence over any other concerns of the moment and successful officers learn to think in unilateral terms. That process requires a conscientious effort to stay alive while also documenting everything needed to make the arrest and get a conviction.

As mentioned, the time to start preparing for court testimony is at the scene, before the arrest is completed. Evidentiary clues need to be recorded as soon as possible after the arrest is concluded.

First, make mental notes of the incident beginning with the initial obser-

Ten Clues To DUI

- Making wide turns;
- Straddling the center line;
- Weaving;
- Driving off the roadway;
- Swerving;
- Following too close;
- Drifting;
- Driving too slow;
- No headlights at night;
- Illegal turns and lane changes.

vation of the vehicle and driver. Later all of the driver's maneuvers, statements or other evidentiary clues obtained need to be documented for use in court. For example, what drew your attention? What did you observe that would give you probable cause to stop the vehicle?

As a trained professional, you know that drivers under the influence exhibit certain symptoms of the impairment. But you must also record these behaviors for the court case file, make a note of exactly what you saw. Don't forget any driving error which may indicate impairment.

After the command to stop is given the driver may give you additional evidence to indicate he is under the influence. Note any of the following:

- An attempt to flee;
- A sudden stop;
- No response;
- Slow response.

Any of these actions may indicate the driver is unable to divide his attention adequately because he is under the influence.

Once you approach the driver, you can utilize your sense of sight, hearing and smell to add to the evidentiary clues you have already established prior to the stop.

Before asking the driver to exit the vehicle, you should observe his behavior. Physical and verbal actions should be closely observed for any tell-tale signs of impairment. For example, when you asked for a driver's license and a registration, what did the person do? Be alert for any sign that he has trouble with a dual request.

Be alert for drivers who:

- Cannot follow instructions;
- Leave the vehicle in gear while the engine is running;
- Cannot open the door;
- Lean on the vehicle or hold onto the vehicle.

Note any problem of balance, coordination or mental impairment.

Field sobriety tests have come under fire recently in some courts. In Florida, some judges have put restrictions on them and at least three judges have deemed FSTs inadmissible. The

counties of Bay, Orange and Pinellas each have at least one judge who will not allow the tests in DUI trials.

Most Florida jurisdictions allow the tests, but some restrict officer testimony about the validity of the exercise. In these particular courts, FSTs cannot be referred to as "tests" and also there can be no mention of "pass", "fail" or "results." Officers can not infer that there is any scientific validity to the tests.

In response, some defense attorneys are telling their clients to refuse the FSTs. Officers in these jurisdictions have to utilize anything and

everything else available to make their cases.

If this practice against allowing FSTs spreads across the nation, there will be greater emphasis placed upon an officer's documentation and testimony regarding the detection methods used to identify DUI's.

Simplicity is the key to field sobriety testing. Tests that are too difficult for even a sober person to perform are worthless. As a result, most agencies have a standard list of field sobriety tests which have been proven to be acceptable in local courts. Just be sure that you can properly demonstrate in court what you asked the impaired driver to do beside the roadway.

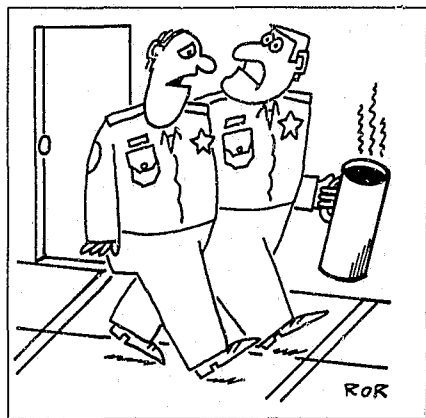
Scientific tests analyzing the breath help substantiate the pre-arrest tests you have documented. It is your courtroom testimony that will tie it all together.

A defense attorney will attack the weakest part of your DUI case, and it usually won't be the evidentiary chemical test that he challenges. More than likely, he will attack you on your grounds for arrest, proper arrest procedures or anything where a motion to suppress can be used to keep the chemical test from being accepted.

Finally, a DUI arrest report doesn't have to be lengthy, but it does have to be accurate. The better the report, the easier the prosecution and all the harder for the defense to wreck your case.

Practice and experience will make you more effective in combating drunk drivers.

Richard D. Morrison is a free-lance writer based in Panama City, FL.



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