

SFST Manual Update: What you Need to Know

Sgt. Robert Hayes, Albany Police Department

Sr. AAG Deena Ryerson, Oregon Traffic Safety
Resource Prosecutor

Why is it Important to Know the SFST Manual??

- To have a better understanding of field sobriety tests
- Know what your officer knows (or doesn't)
- The defense will know it and use it
- To help use it during direct examination of officer
- To help protect your officer during cross examination

IT GOES SOMETHING LIKE THIS:

Defense: This is the manual by which you and every police officer in the state of Oregon is trained?

Officer: Yes sir.

Defense: If somebody refers to this as the bible of training for DUII for police officers you would agree?

Officer: Yes.

Defense: There is nothing in this manual you would disagree with?

Officer: No sir.

NHTSA MANUAL REVISIONS

**This lecture will include revisions to the Student and Instructor Manuals –
May 2013**

- Manual cover shows “March 2013”
- The content of the manual references “May 2013” in all areas
- State specific manual may include NHTSA manual and state specific material

PREFACE – Removed from Student Manual

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 SFSTs will not always be administered under ideal conditions in the field, because such conditions will 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 affect on the evidentiary weight given to the results. However, this does not necessarily make the SFSTs invalid.

New Percentages

- HGN – 88% accurate
- Walk and Turn – 79% accurate
- One Leg Stand – 83% accurate

- *Percentages from the San Diego field validation study

<h1>HGN</h1>	
--------------	--

<h2>NHTSA MANUAL REVISIONS</h2>	
<p>Resting Nystagmus:</p> <ul style="list-style-type: none">• If resting nystagmus is observed officer “can continue with the remainder of the test to check for other possible indicators of impairment and any possible indicators of medical conditions.”	
<p>Instructor Manual - Session 8, pg. 35</p>	

<h2>NHTSA MANUAL REVISIONS</h2>	
<p>Equal Tracking:</p> <ul style="list-style-type: none">• “...the speed of the stimulus should be approximately the same speed used as checking for the lack of smooth pursuit.”• “...there should be a clear, distinguishable break between the check for equal tracking and lack of smooth pursuit.”• Equal Tracking can be performed once or twice.	
<p>Instructor Manual - Session 8, pg. 35</p>	

Lack of Smooth Pursuit

- The “marble rolling across glass” reference was removed from the manual.
- The “windshield wipers on wet glass” example is still in the manual.

TIPS:

- When describing Lack of Smooth Pursuit to a jury, officers should use their hands to visually indicate the movement they observe.
- Talking about the jerking movement of a water sprinkler is also a good example.

NHTSA MANUAL REVISIONS

Rotational and Post Rotational Nystagmus:

- “Neither Rotational nor Post Rotational Nystagmus will interfere with the Horizontal Gaze Nystagmus test because of the conditions under which they occur.”

Student Manual - Session 8, pg. 12

NHTSA MANUAL REVISIONS

Positional Alcohol Nystagmus:

- “In the original HGN study, research was not conducted for performing HGN on people lying down. Current research demonstrates that HGN can be performed on someone in this position.”

• *Nystagmus Testing in Intoxicated Individuals*
Karl Citek, O.D., Ph.D.

Student Manual - Session 8, pg. 13

NHTSA MANUAL REVISIONS

Optokinetic Nystagmus:

- “During the Horizontal Gaze Nystagmus test, the suspect is require to fixate the eyes on a penlight, pencil or similar object that moves in accordance with the HGN testing procedures, thus optokinetic nystagmus will not occur. The movement of the stimulus and the fixation on the stimulus by the subject precludes this form of nystagmus from being observed by the officer.”

Student Manual - Session 8, pg. 13

NHTSA MANUAL REVISIONS

Vertical Gaze Nystagmus:

- “For VGN to be recorded, it must be definite, distinct and sustained for a minimum of four seconds at maximum elevation.”

Student Manual - Session 8, pg. 15, 39

NHTSA MANUAL REVISIONS

Medical Impairment:

- More detailed discussion on medical impairment included in the manual.

Student Manual - Session 8, pg. 17

NHTSA MANUAL REVISIONS

Different number of clues from right to left eye:

- "It is possible that all three clues definitely will be found in one eye, while only two (or sometimes only one) will show up in the other eye. It is always necessary to check both eyes, and to check them independently. Notwithstanding, it is unlikely that the eyes of someone under the influence of alcohol will behave totally different. Thus, if one eye shows all three clues distinctly while the other eye gives not evidence of nystagmus, the person may be suffering from one of the pathological disorders covered previously."
- **Student Manual - Session 8, pg. 25**

Walk and Turn

NHTSA MANUAL REVISIONS

TEST CONDITIONS:

- "Whenever possible" test should be conducted on a reasonable dry, hard, level, non-slippery surface.
 - Removed – "Requires a designated straight line"
- Still says: "Recent field validation studies have indicated that varying environmental conditions have not affected a subject's ability to perform this test." (Don't forget the PREFACE)

Student Manual Session 8, pg 41

NHTSA MANUAL REVISIONS

TEST CONDITIONS:

- Test conducted on those over 65
- "Less than 1.5% of the test subjects in the original studies were over 65 years of age."
 - "Officers should consider all factors when conducting FST's."

Student Manual Session 8, pg 41

Walk and Turn

- "Note: There may be times when the suspect takes a wrong number of steps or begins the heel-to-toe walk with the wrong foot resulting in a turn on the right foot instead of the left. If this occurs the suspect would normally be assessed a clue for an incorrect number of steps and not assessed a clue for an improper turn if the turn was made using a series of small steps as instructed and the suspect did not lose his/her balance while attempting the turn. This scoring is consistent with the original research and training conducted the Southern California Research Institute and with the administration and scoring of the Walk and Turn test in the San Diego Field Study."

SFST Instructor Manual Session 8, pg. 67

NHTSA MANUAL REVISIONS

TEST PERFORMANCE:

- Safety Precautions (added)
- Keep subject on left side during demonstrations
- Never turn back on subject
- Be aware of surroundings
- Left handed officers should demonstrate test at a distance more than arm's length

Student Manual - Session 8, pg 41

NHTSA MANUAL REVISIONS

TEST PERFORMANCE:

During your demonstration of the Walk and Turn, do NOT stop – this includes before, during and after the turn. If you demonstrate a stop and later count “stops while walking” as a clue, your subject will claim in court that he/she was merely doing it the way you demonstrated.

OR

State that you are stopping to instruct the next portion but they should not stop when perform

NOT A REVISION

NHTSA MANUAL REVISIONS

- “Remember that the SFSTs are a tool to assist you in seeing visible signs of impairment and are not a pass/fail test.” – Student Manual Session 8, pg. 46

Instructor Manual Session 8, pg. 68

- Do not use the terms “pass” and/or “fail” when describing a suspects performance on the field sobriety tests.
- Using the term “validated clues”: If challenged, discuss with prosecutor

One Leg Stand

NHTSA MANUAL REVISIONS

TEST CONDITIONS:

- “Standardizing this test for every type of road condition is unrealistic. The original research study recommended that this test be performed on a dry, hard, level, non-slippery surface and relatively safe conditions. If not, the research recommends:
 - subject be asked to perform the test elsewhere, OR
 - only HGN be administered.
- However, recent field validation studies have indicated that varying environmental conditions have not affected a subject’s ability to perform this test.”

Student Manual Session 8, pg. 49
Instructor Manual Session 8 pg. 70

NHTSA MANUAL REVISIONS

TEST CONDITIONS:

- Test conducted on those over 65 and those overweight-
- “Less than 1.5% of the test subjects in the original studies were over 65 years of age.”
 - “There was no data containing the weight of the test subjects in the final report.”

Student Manual Session 8, pg 49

NHTSA MANUAL REVISIONS

TEST PERFORMANCE:

- “Foot parallel to the ground”
- When describing how to do the test:
 - “Keep raised foot approximately six inches off ground, foot parallel to the ground”
 - “foot parallel to ground” was taken out of Session 8 of the Student Manual but it is in Session 7, pg. 14 and Session 15, pg. 10
 - Not in Instructor Manual Session 8, but is in Session 15, pg. 19

NHTSA MANUAL REVISIONS

TEST PERFORMANCE:

- “Foot pointed out”
- When describing how to do the test **DO NOT** include the phrase “foot pointed out”
- “Keep raised foot approximately six inches off ground, foot pointed out” – Student Manual Session 8, pg 51 (not contained in the instructor manual)
- The intent was to take “foot pointed out” from all manuals.
- The original instruction (which remains) only discusses “foot parallel to the ground”

CONTACT INFORMATION

Deena Ryerson

Department of Justice
610 Hawthorne Ave SE, Ste 210
Salem, Oregon 97301
Wk – (503) 934-2030
Cell – (503) 991-0313

Sgt. Robert Hayes

Albany Police Department
1117 SE Jackson Street
Albany, Oregon 97322
Wk – (541) 917-7680
Cell – (541) 979-2663

deena.a.ryerson@doj.state.or.us Robert.hayes@cityofalbany.net
