

Marijuana and Driving: Trials and Tribulations

Debunking the Myths

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Sponsored by the ABA Center for Professional Development



Hon. Mary A. Celeste
NHTSA JOL Reg. 8
Hon. Peggy Fulton Hora (Ret.)
NHTSA JOL Reg. 9

Lifesavers April 28, 2014 Nashville TN

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Overview

- Facts About Marijuana
- Marijuana and Driving
- Marijuana Driving Laws
- Marijuana & Toxicology
- Cases of Note
- Marijuana, Stops & Pre-Trial Issues
- Marijuana & Trials
- Marijuana & Drug Testing

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Marijuana is Cannabis

Cannabis is a genus of flowering plants that includes three putative varieties, cannabis sativa, cannabis indica, and cannabis ruderalis.

These three taxa are indigenous to Central Asia, and South Asia (female)

Marijuana
Resinous is know as Hashish
Active ingredient THC
(delta-9-tetrahydrocannabinol)

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True or False

▪ Quiz #1

Marijuana Was Never Legal in the U.S. Until Now

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Marijuana History 1600s-1930s USA

Regulations and restrictions on the sale as a drug began as early as 1619

- Around 1910 there was a wave of legislation aimed to strengthen requirements for their sale and remove what were commonly referred to as "loopholes" in poison laws. **The new revisions aimed to restrict all narcotics, including cannabis, as poisons**, limit their sale to pharmacies, and **require doctor's prescriptions**. Under poison laws definitions had to be labeled as poison
- Outright prohibitions began in the 1920s
- By the mid-1930s Cannabis was regulated as a drug in every state. **The Marijuana Tax Act of 1937** made possession or transfer of cannabis illegal throughout the U.S. under federal law excluding medical and industrial uses, in which an inexpensive excise tax was required.

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Facts About Marijuana

- In 2009, 17 million Americans used marijuana.
- Marijuana is Legal in 20 States inclusive of Washington D.C.
- Recreational use legal in Colorado and Washington 2013
- Attorney General will not enforce Federal law so long as states have strict regulatory schemes
- There may be initiatives for recreational marijuana on the ballot in Alaska in 2014 and in California, Maine, and Oregon (among others) in 2016

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"Medical" Marijuana States

States That Allow Medical Marijuana

States with allowances for medical marijuana.
 ■ Yes ■ No

Source: Americans For Safe Access, Marijuana Policy Project

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Pending Legalization

Proposed Marijuana Bills/Initiatives in 2014

■ Recreational Marijuana Legal
 ■ Proposed Medical Marijuana in 2014
 ■ Proposed Recreational Marijuana in 2014

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True or False

▪ Quiz #2

The Potency Level of Marijuana Has Doubled Since the 1970s

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Potency

- There was a 175% jump in the potency of marijuana (3.2 to 8.8% THC concentration in seized samples)
- "The THC potency in marijuana seized in the 1970s, when marijuana use was most prevalent, was less than 1%; today such potency levels have climbed to 8.8%."
- <http://www.casacolumbia.org/newsroom/press-releases/2008-marijuana-3>

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Behavior Relevant to Driving

1. Alertness and arousal
2. Attention and processing speed
3. Reaction time and psychomotor functions
4. Sensory-perceptual functions
5. Executive functions

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True or False

▪ Quiz #3

**Driving Under the Influence of Marijuana
Makes You a Safer Driver**

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Marijuana's Effect on Driving

Evidence from both real and simulated driving studies indicates that marijuana can negatively affect a driver's attentiveness, perception of time and speed, and ability to draw on information obtained from past experiences

"Drugged driving," NIDA Infofacts, (2010)

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Marijuana studies, cont.

A meta-analysis of approximately 60 experimental studies—including laboratory, driving simulator, and on-road experiments—found that **behavioral and cognitive skills related to driving** performance were impaired with increasing THC blood levels

"Drugged driving," NIDA Infofacts, (2010)

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2013 Study: CHRONIC USE OF CANNABIS LEADS TO LONG-LASTING DECREMENTS IN DRIVING PERFORMANCE

- Performance on the critical tracking (CTT) and divided attention (DAT) tasks was assessed
- Among chronic cannabis users, performance on driving related tasks was affected as much as three weeks after drug use was stopped.

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Drivers under 25

- 1:4 (23%) of fatally injured drivers who tested positive for drugs were under the age of 25.
- Almost half (42%) of fatally injured drivers who tested positive for marijuana were under the age of 25.

NHTSA

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True or False

▪ Quiz #4

Cocaine Is the Common Drug Used While Driving Under the Influence of Drugs

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Marijuana Use While Driving

▪ Marijuana is the most common illicit drug in drugged driving cases. A recent survey showed more people driving with drugs than with alcohol.

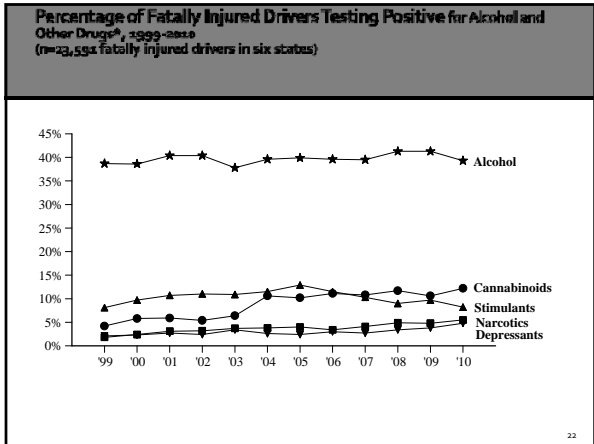
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Marijuana Use While Driving on the Rise

- Fatal car crashes involving marijuana use have tripled in 10 years
- Center for Injury Epidemiology and Prevention at Columbia University study
- "If this trend continues, in five or six years non-alcohol drugs will overtake alcohol to become the most common substance involved in deaths related to impaired driving."

▪ <http://healthyliving.msn.com/health>

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Marijuana Driving Laws

- *Per Se* Laws
- Zero Tolerance Laws
- Non *Per Se* Laws

True or False

- Quiz #5

Zero Tolerance Laws and *Per Se* Laws
Are the Same Thing

**Difference Between
Per Se & Zero Tolerance Laws**

- *Per se* laws proscribe a set level of a drug or metabolite while driving
- Zero tolerance laws forbid drivers from having any detectable level of an illicit drug or drug metabolite present
- Under this standard, any driver who tests positive for any trace amount of an illicit drug or drug metabolite (byproducts, though not necessarily psychoactive ones, produced following drug metabolization), is guilty *per se* of the crime of "drugged driving"

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Per Se Drugged Driving Law

- A *per se* drugged driving law is one in which a specified level of a drug in the body of a driver is defined as an offense.
- This may be a level at which there is evidence that the drug has been shown to effect driver performance such as the 0.08g/mL limit for alcohol and 5 nano grams THC for marijuana.
- No impairment need be shown

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19 States Have Per Se Laws

<ol style="list-style-type: none"> 1. AK* 2. AZ 3. DE 4. GA 5. IL 6. IN 7. IA 8. MI 9. MN 	<ol style="list-style-type: none"> 10. MS 11. NV 12. NC** 13. OH 14. PA 15. RI 16. SC* 17. UT 18. VA 19. WV <p style="font-size: x-small; margin-top: 10px;">*Included in DWI statute ** Schedule I controlled substances</p> <p style="font-size: x-small; margin-top: 10px;">Governors Highway Safety Association GHSA (May 2012)</p>
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Zero Tolerance Laws

- A dozen states, including Illinois, Iowa, Arizona, Georgia, Illinois, Indiana, South Dakota and Utah, have passed *per se* laws, in which it is illegal to operate a motor vehicle if there is **any** detectable level of a prohibited drug in the driver's blood.
- Some states include active metabolites and inactive metabolites and some exclude them.

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Zero Tolerance, cont.

- Nevada and Montana have *per se* DUID laws.
- In Ohio & Nevada, a driver is *per se* guilty of DUID if the level of THC in his or her blood exceeds two nanograms per milliliter (ng/mL) of blood. In Pennsylvania it is 1 ng/mL.
- In Montana, the *per se* limit is five ng/mL for medical marijuana

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Non- Per Se Laws

- Impairment must be proven
- Behavior based
- Evidence collected by police
- Specialists in drugs (DRE*, ARIDE**) may be necessary
- Biological specimen (blood, breath, urine) or refusal

*Drug Recognition Evaluator
** Advanced Roadside Driving Impaired Enforcement

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True or False

▪ Quiz #6

**A Medical Marijuana Card
is a Defense to a DUID Charge**

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Zero Tolerance, Per Se and MMJ Laws

- Three medical marijuana states — Arizona, Delaware, and Rhode Island -- have *zero tolerance* laws criminalizing driving with any amount of THC or marijuana metabolites in one's system.
- However, these three laws include an exception for medical marijuana.
- In Ohio, a doctor's recommendation to use cannabis is NOT a prescription or an affirmative defense.

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People v. Koon

- Issue: Does Michigan Medical Marijuana Act protect a defendant under the Michigan "zero tolerance law"
- **YES:** MMMA's protection supersedes Michigan zero tolerance law

Court of Appeals MI No. 301443, Grand Traverse Circuit Court No. 10-28194.

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True or False

▪ Quiz #7

Washington and Colorado
Have the Same Marijuana Driving Laws

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Colorado & Washington MJ Laws

- Both States have a 5 nano gram limit for driving
- Washington is *per se* level
- Colorado is a permissive inference level

- The permissive inference leaves the trier of fact free to credit or reject the inference and shifts no burden to the defendant. The jury may be instructed as to a permissive inference provided: (1) there is a rational basis to support the inference; and (2) proof of the predicate fact makes it more likely than not that the inferred fact exists http://people.scp.fed.cdm.edu/~rfranklin/arc/US_pov/arc/cv.htm%20B&L%20Edofaa

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True or False

▪ Quiz #8

You Can Be Convicted of DUID
With Only a Metabolite of THC

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Understanding Marijuana Toxicology

THC a/k/a delta-9-tetrahydrocannabinol is the main psychoactive substance found in marijuana

11-Hydroxy-THC is the main psychoactive metabolite of THC formed in the body after marijuana consumption

11-nor-9-Carboxy-THC is the main secondary metabolite of THC which is formed in the body after marijuana is consumed. It is NOT active.

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Toxicology, cont.

- US Department of Transportation Report states that while a positive test for drug metabolites is "solid proof of drug use within the last few days, it cannot be used by itself to prove behavioral impairment during a focal event."

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Cases of note

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State of Idaho v. Stark

- Defendant convicted of "driving under the influence of a drug or intoxicating substance." Toxicology found the presence of Carboxy-THC in the blood sample. (Ct. App., 4-4-13)
- Court held that the presence of Carboxy-THC, which is a metabolite of the active ingredient of marijuana, THC, only proves that the defendant used marijuana at some point in the past. It did not prove the impairment as observed at the time of the arrest

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People v. Feezel

- People v. Feezel, Mich. 184 (2010): Held that 11-carboxy-THC does NOT constitute a derivative of marijuana and thus, is not a controlled substance
- (Overruled People v. Derror, 715 N.W.2d 822)

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Arizona v. Harris

- Medical marijuana law is irrelevant regarding DWI
- DWI covers any trace of the drug or its metabolite
- Result? People legally (under state law) using pot in Washington and Colorado could be convicted of DWI if arrested while driving in Arizona weeks later

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**Constitutional Right to Use
"Medical" Marijuana?**

- In Jan. 2014 CO Supreme Court announced it will review a case involving a worker using medical marijuana after work hours
- Court announced it would look at protected off hour activities
- It will also decide if CO constitution gives a right to use medical marijuana

▪ Coats v. Dish Network 2013 COA 62

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Marijuana, Stops & Pre-Trial Issues



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The Traffic Stop

- Driving Behavior, crash, observations, e.g., weaving, smoking joint
- Physical Signs of Impairment, e.g., eyes, personal behavior, green tongue
- Physical Evidence, e.g., smells, joint in ashtray, drug paraphernalia

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Stop, cont.

Standard Field Sobriety Test (SFST)

1. Horizontal Gaze Nystagmus Test (HGN)
2. Walk-and-turn
3. One-leg-stand
4. DRE/ARIDE Protocol

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True or False

▪ Quiz #9

SFSTs Are Valid for Drugs Other Than Alcohol

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SFST Marijuana

▪ MAYBE. Two studies indicate some evidence of reliability for marijuana

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SFST Marijuana

- SFSTs in marijuana cases
- 1) Australian study: SFSTs may be “moderately accurate for marijuana”
- 2) “Mildly sensitive” to impairment from cannabis

1) Papafotiou, et al., "An evaluation of the sensitivity of the Standardised Field Sobriety Tests (SFSTs) to detect impairment due to marijuana intoxication," *Psychopharmacology* (2005) 180: 107-114
 2) Bosker, et al., "A placebo-controlled study to assess Standardized Field Sobriety Tests performance during alcohol and cannabis intoxication in heavy cannabis users and accuracy of point of collection testing devices for detecting THC in oral fluid," *Psychopharmacology* (2012) 223:439-446

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SFST Marijuana

- The addition of a new sign, head movements or jerks (HMJ), SFTs increased the percentage of participants classified as impaired.
- Impaired performance on the SFTs is positively related to the dose of THC administered and that the inclusion of HMJ as a scored sign in the SFTs improves their predictive validity when testing for THC intoxication.

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Horizontal Gaze Nystagmus (HGN)

- Is a scientific test subject to *Frye*
 - (*Illinois v. McKown, Sup. Ct. 2010*)
- Some courts say it satisfies *Dauber*
- Acceptable scientific testimony
- Who may testify? Arresting officer or medical personnel? HGN present with what drugs?

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HGN Admissibility

- Not a "scientific test" but 8 states admit as FST
- "Scientific test" but N/A in 4 states
- "Scientific test"; meets *Frye* (17)
- "Scientific test" but inadequate evidence to admit in a specific case (12)

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HGN as Scientific Test

- HGN testing satisfies *Frye* (except WA, MS, NH)
- One facet of SFSTs to be considered by trier of fact re: impairment
- Applies to DWID?

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To Admit HGN

- Proper foundation:
 - i. witness has training
 - ii. tested in accordance with training
 - iii. specific test administered in accordance with training

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HGN, cont.

- Cannot use to relate to BAC or THC level of impairment
- May be used for officer's opinion that subject was impaired

Witte, G. Michael, "A Review of *People v. McKown*: Horizontal gaze Nystagmus (HGN) Testing Satisfies *Frye* Test in Illinois," Highway to Justice, ABA/NHTSA (Winter 2011)

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Question

- May a DRE testify as to the absence of HGN to indicate the type of drug that was allegedly impairing driver?

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HGN and Motion to Suppress

- Issue: Should testimony about HGN test be suppressed in determining officer's probable cause for arrest?
- D asserted the suppression court had erred by allowing the HGN evidence. He stated the HGN was the "primary basis" for the arrest decision, and cited to cases disallowing such evidence at trial.
- Appellate Court noted the evidentiary difference between determining probable cause and adjudicating guilt.
- "Officer Hunter, who was trained in the administration of the HGN test, was permitted to rely on his observations gained from that procedure to support his conclusion that Appellant was driving under the influence of a controlled substance."
- *Pennsylvania v. Weaver* (2013) PA Super 245

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Drug Recognition Evaluator (DRE)

- 49 States have a DRE Program
- 63 schools conducted in 2010
- 1,344 officers trained
- Less than 1% of the country's police officers are fully trained for sobriety tests for drugged driving (May 20, 2013 Drugfree.org)

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The DRE Protocol

The DRE protocol is a standardized and systematic method of examining a Driving Under the Influence of Drugs (DUID) suspect to determine the following:

- (1) whether or not the suspect is impaired; if so,
- (2) whether the impairment relates to drugs or a medical condition; and if drugs,
- (3) what category or combination of categories of drugs are the likely cause of the impairment.

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Theories of Admissibility

- Some states admit the DRE as an "expert" under a 702 analysis
- Some under a *Frye* analysis
- Some under a combination 702 and *Frye* analysis
- Some under a *Daubert* analysis

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Theories Are Varied, con't.

- Others admit them as a "lay" witness with special knowledge
- Some States have additional case law analysis, *i.e.*, CO-Schreck; MD-Reed, UT-Rimmasch; CA-Kelly.
- Hawaii, New York and North Carolina have sanctioned DRE testimony use by statute

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Argument for Scientific Reliability

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 or other drug-induced impairment.

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DRE Admissibility

A majority of states have either trial, appellate or state supreme court cases that hold DRE testimony is admissible.

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DRE Accuracy

Findings by NHTSA:

- When the DREs claimed drugs other than alcohol were present, they were almost always detected in the blood (94%);
- All of the drugs were identified in almost 50% of the subjects;
- 87% of the time the DREs correctly identified at least one drug other than alcohol

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ARIDE (Advanced Roadside Impaired Driving Enforcement)

- Intended to bridge the gap between SFSTs and DRE
- In 2012, 485 ARIDE classes were conducted, with approximately 10,074 students being trained.
- Approximately 11,400 officers trained

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ARIDE

- ARIDE has the goal of training students to observe, identify, and then be able to articulate with some specificity what they "believe to be" indicators of impairment by way of alcohol, drugs, or a combination of both.
- ARIDE stresses the importance of correctly identifying not a specific drug, but a category drug that can impair a driver.

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Marijuana & Trials

- Admissibility Drug Testing
- Admissibility Toxicologist's Testimony
- Confrontation Clause/Forensic Reports

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**Law and Motion
Pre-Trial/Voir Dire**

- Suppression issues
- Motions in Limine
- Voir dire issues (reluctance with marijuana; prejudice about other illicit drugs?)

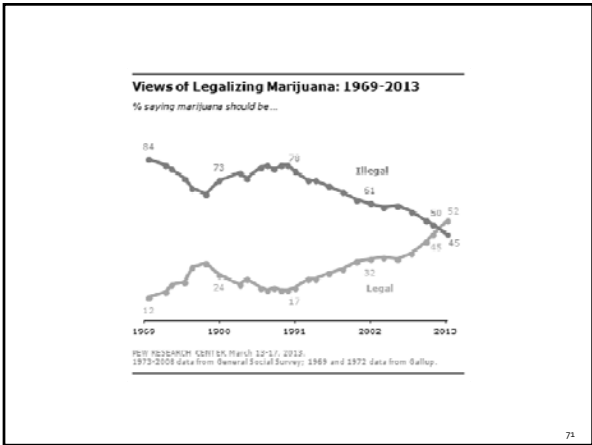
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Jury Attitude

- Might the drug effect the verdict?
- Methamphetamine, heroin, marijuana vs. O-T-C drugs?
- "The CSI effect". How much science does a jury want to convict?

See: *Court Review* Vol. 47, No. 1-2 (2011)

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True or False

▪ Quiz #10

There is No Test to Determine Marijuana Use

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Emerging Science & Technology

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Roadside Testing

- Oral fluid tests are being used at the roadside in Florida and California. Florida study just completed Feb. 2014 by NMS Labs.
- 16 states have a statute that permits roadside saliva testing. Already in use in Victoria, Australia and other locations.
- Acts as screening test with follow-up lab testing

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THCTesting

- NIDA says an easy-to-use roadside saliva test that can determine recent marijuana use — as opposed to long-ago pot use — is in final testing stages and will be ready for police use soon.
- The 3 most accurate qualitative devices so far: Drager DT 5000; DrugWipe5; and Affiniton.
- Quantisal is a quantitative oral fluid test
- Smart Start is developing a finger thermo-type test.

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Best Evidence of Marijuana Use?

- Blood test -- most accurate and is usually admissible
- But most invasive procedure and requires transportation of the subject to a phlebotomist or clinic to collect the sample.
- Valuable time is lost and many highly impairing drugs can disappear from the blood stream during this timeframe.
- Some states have law enforcement officers who are certified phlebotomists

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Drug Testing

- Different response to same dose depending on genetics and drug metabolism.
- Age, sex, weight, disease state and drug-drug and drug-alcohol interactions also can cause differences in how an individual behaves under the influence of a drug.
- List of drugs of abuse is long. It is not practical to study all the drugs of abuse under the almost limitless range of circumstances that can affect driving behavior.

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True or False

▪ Quiz #11

THC Dissipates in the Body Slower Than Alcohol

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Admissibility of Drug Testing

- In marijuana cases there is no absolute **standard** relationship between blood levels of marijuana and (or metabolites) and impairment.
- Blood concentrations rise and fall as marijuana is distributed and metabolized, however the drug's behavioral effects are often prolonged.
- Tolerance to a drug also plays a role in the level of impairment observed

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Ethanol in the Body

Absorption phase:

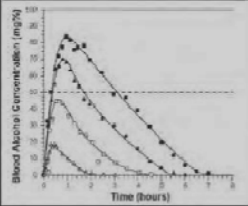
- Peak levels are reached in about 30 - 60 minutes.
- Absorption is delayed by food in the stomach.

Distribution phase:

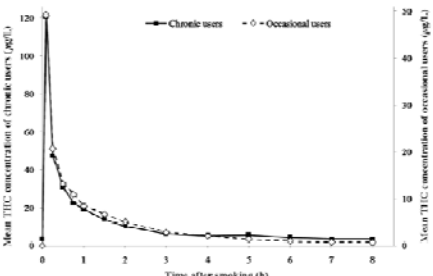
- Rapid: ~30 - 60 minutes
- Water soluble

Metabolism/Elimination rates:

- Relatively constant
 - (0.015 % hr.)
- Faster for experienced drinkers
 - (0.020 % hr.)



THC Dissipation



Comparison of Cannabinoid Pharmacokinetic Properties in Occasional and Heavy Users Smoking a Marijuana or Placebo Joint Stefan W. Tonnesen¹, Johannes G. Ramaekers², Eef L. Theunissen², Manfred R. Moeller³, and Gerold F. Kauer²

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Dissipation of THC

- THC level drops over 80% within the first hour after smoking
- For the first 45 minutes or so, the drop in blood level is attributed to two factors: metabolism and equilibration between pools in the body
- Majority of blood tests coming back with less than 5 ng/ml of THC in blood

(Toennes, et al., J of Analytical Toxicology, 2008; V32:470-477)

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Marijuana Metabolism

Action

- Impairs attention and ability to perform divided attention tasks

Symptoms

- Bloodshot eyes, memory loss, loss of inhibition, limited divided attention

Time of Onset

- 10 seconds (by inhalation)

Duration of Action:

- 2-4 hours

Detectable in Urine

- 1-2 joints: 2-3 days
- Chronic user: 30 + days

Detectable in Blood: 2-6 hours

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THC Rapid Dissipation from the Blood

- Research suggests that setting a cutoff level at less than 5 ng/mL for blood would fail to identify many drivers who smoked cannabis because THC is rapidly cleared from the blood

DuPont, Drugged Driving Research, 13

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True or False

▪ Quiz #12

The recent U.S. Supreme Court case of *McNeely* prevents law enforcement from drawing blood without the consent of the Defendant.

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McNeeley v. Missouri (2013) 5-4

McNeely was stopped by a highway patrol officer for speeding. McNeely failed several FSTs and was asked to submit to a breath test. He refused.

He was then transported to a medical clinic where the staff administered a blood test without the suspect's consent and without a warrant.

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Plurality Holding

A divided Supreme Court affirmed the Missouri

Supreme Court, agreeing that an involuntary blood draw is a "search" as that term is used in the Fourth Amendment. Because of 4th Am. Implications

As such, a warrant is generally required. However, the Court left open the possibility that the "exigent circumstances" exception to that general requirement might apply in some drunk-driving cases.

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Implied Consent & McNeeley

Under Implied Consent Statutes, if a Defendant refuses to take a breath or blood test, law enforcement is **not** precluded from drawing blood with a warrant.

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Warrants Upon Refusals

- At least seven states are using this approach (at least on the local level) Arizona, California, Michigan, Oregon, North Carolina, Nevada and Utah, Lacey, Brannard, and Smitow, Drug Per Se Laws, 14, 71, 75, 91, 96, 100, 105.
- Statutes providing for a telephonic search warrant trumps the driver's refusal to submit a blood sample in seven states (Arizona, Illinois, Indiana, Ohio, Pennsylvania, Rhode Island, and Utah) Lacey, Brannard, and Smitow, Drug Per Se Laws, 14, 71, 75, 91, 96, 100, 105.
- Data have consistently shown that refusal rates vary dramatically ranging from about 2 % to 81% with an average rate of 22 %

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Toxicology and Evidentiary Issues

- Difficulties in Toxicology
 - Laboratory Issues
 - Chain of Custody
(Linkage between sample and person)
 - Linkage between concentration and impairment
 - Metabolite v. original substance

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Admissibility: Forensic Toxicologists

- Expert testimony from a toxicologist might be essential in DUID cases, where the effects of drug or poly-drug consumption, and the meaning of drug concentrations, are not a matter of common knowledge to the layperson.

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**Toxicologist's Testimony
Forensic Toxicologists**

- Depending upon the evidentiary rules in your jurisdiction, a toxicologist may be necessary to testify at trial to establish the authenticity of the toxicology report, chain of custody and the implication and validity of the test results.

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Forensic Reports-Confrontation Clause

- *Crawford* (2004) held cannot use out-of-court testimonial statements without producing witness (911 call?)
- Forensic reports that certify incriminating test results are testimonial – *Melendez-Diaz* (2009)
- May not introduce a forensic lab report containing a testimonial certification through the in-court testimony of another scientist *Bullcoming* (2011)

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Bulcoming

The defendant has a right to be confronted with the analyst who made the certification, unless he or she is unavailable at trial, and the defendant has had an opportunity to cross-examine him or her prior to trial.

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Williams v. Illinois (2012) 4-1-4

- Swab from rape kit sent to out-of-state lab for DNA profile
- Expert testified lab was accredited, samples sent to lab and samples returned
- Witness testified DNA result matched Defendant's blood
- Witness did not testify as to results of outside lab, lab's handling of sample, or lab's results accuracy

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**Plurality Opinion
(Alito, Roberts, Kennedy, Breyer)**

- DNA profile was not testimonial
- Emphasized that the report did not accuse a targeted individual of a crime and that the report appeared reliable
- Thomas concurring: Forensic report NOT testimonial
- Report was not sufficiently "formal" or "solemn" to rank as "testimonial"

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Dissent
(Kagan, Scalia, Ginsberg, Sotomayor)

- "Been there/done that"
- Reliability of lab report could only be determined by confronting those who prepared it (outside lab)
- "The Confrontation Clause, Confused"

The New York Times editorial (6-19-12)

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Sentencing

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Any Differences Between DWI and DWID?

- DWID sentences different from alcohol DWI?
- Driving impaired by an illicit drug sentenced more harshly than marijuana in recreational use states?
- Conditions of probation?

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May Court Prohibit MJ Use as a Probation Condition?

Issue: May a probationer be prohibited from using medical marijuana?

Held: probationer should not be allowed to use medical marijuana while on probation because marijuana is illegal federally. The statutorily mandated condition of probation requiring a probationer not to "commit another offense" while on probation include commission of **offenses under federal law includes marijuana**.

People v. Watkins COA 15. No. 10CA0579 (Colo. 2012), *cert den*.

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Opposite Holding

- California Court of Appeal reversed a probation revocation for marijuana possession for "failure to obey all laws" because state courts do not enforce federal law
- May assert medical marijuana use as a defense

People v. Tilekkooh, 113 Cal. App. 4th 1433 (2003)

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Questions/Comments



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