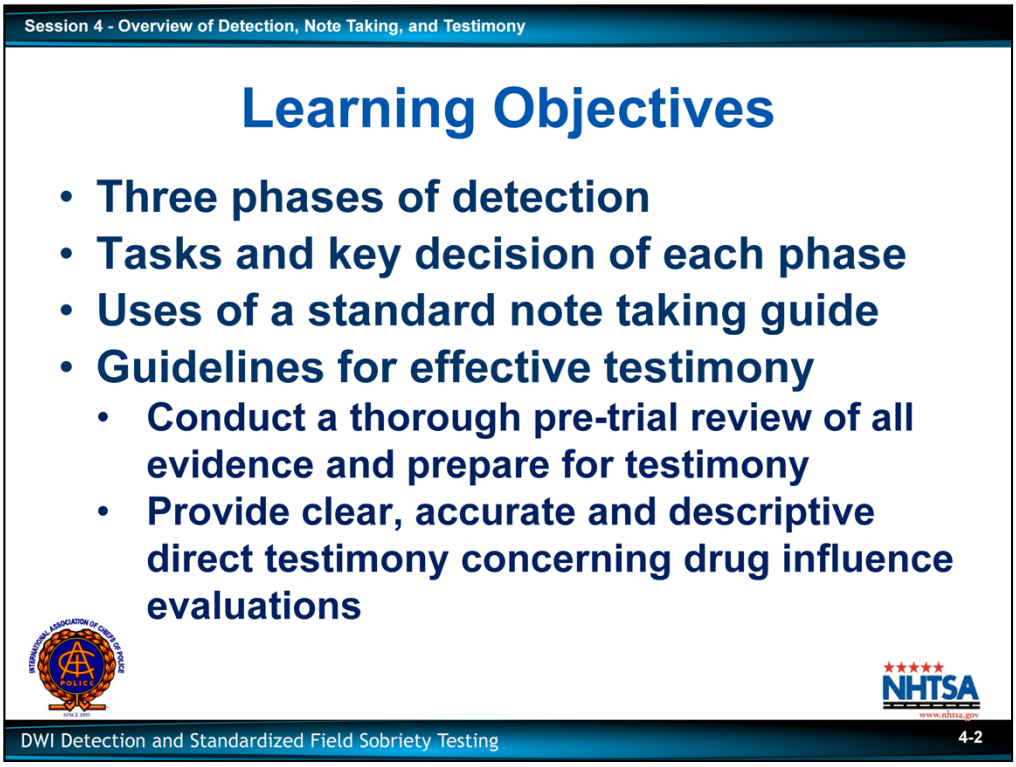
50 Minutes

Session 4

Overview of Detection, Note Taking, and Testimony



Briefly review the objectives, content and activities of this session.

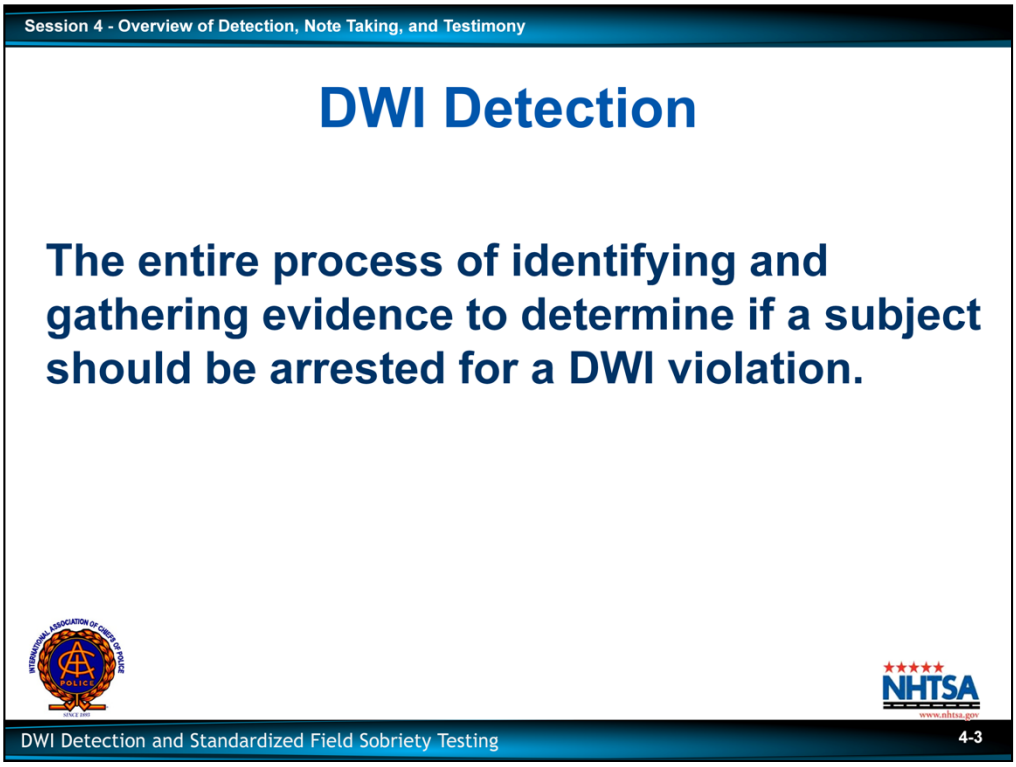
Upon successfully completing this session the participant will be able to:

- Describe the three phases of detection.
- Describe the tasks and key decision of each phase.
- Discuss the uses of a standard note taking guide.
- Discuss guidelines for effective testimony.

Detection is both the most important and difficult task in the DWI enforcement effort. If officers fail to detect DWI offenders, the DWI countermeasures program will ultimately fail. If officers do not detect and arrest DWI offenders, then prosecutors cannot prosecute them, the courts and driver licensing officials cannot impose sanctions on them, and treatment and rehabilitation programs will go unused.

Write on dry erase board or flip chart - "Focus: DWI Detection".

CONTENT SEGMENTS	LEARNING ACTIVITIES
A. Three Phases of Detection	Instructor Led Presentation
B. DWI Investigation Field Notes	Reading Assignments
C. Courtroom Testimony	



The term DWI detection has been used in many different ways. Consequently it does not mean the same thing to all law enforcement officers. For the purposes of this training, DWI detection is defined as: The entire process of identifying and gathering evidence to determine if a subject should be arrested for a DWI violation.

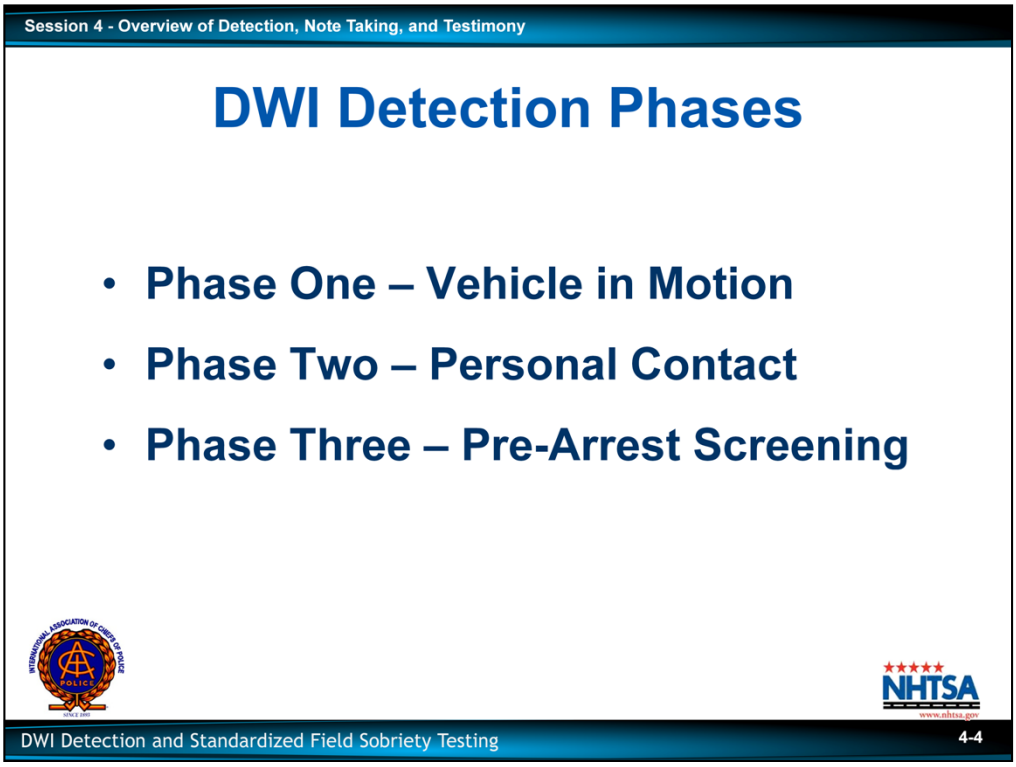
Point out that other definitions sometimes are given for "DWI Detection", but that this particular definition will be used for this course.

Detection begins when the officer develops the first suspicion of a DWI violation.

Point out that the initial suspicion may be very slight in some cases, and may be very strong in others.

Detection ends when the officer decides whether or not there is sufficient probable cause to arrest the driver for DWI. Your attention may be called to a particular vehicle or individual for a variety of reasons. The precipitating event may be a loud noise, an obvious equipment or moving violation, behavior that is unusual, but not necessarily illegal, or almost anything else. Initial detection may carry with it an immediate suspicion that the driver is impaired; or a slight suspicion; or even no suspicion at all. In any case, it sets in motion a process wherein you focus on a particular vehicle or individual and have the opportunity to observe that vehicle or individual and to gather additional evidence.

The detection process ends when you decide either to arrest or not to arrest the individual for DWI. That decision is based on all of the evidence that has come to light since your attention was first drawn to the vehicle or individual. Effective DWI enforcers do not leap to the arrest/no arrest decision. Rather, they proceed carefully through a series of intermediate steps, each of which helps to identify the collective evidence.



A. Three Phases of Detection

The typical DWI contact involves three separate and distinct phases:

- Phase One: Vehicle in motion
- Phase Two: Personal contact
- Phase Three: Pre-arrest screening

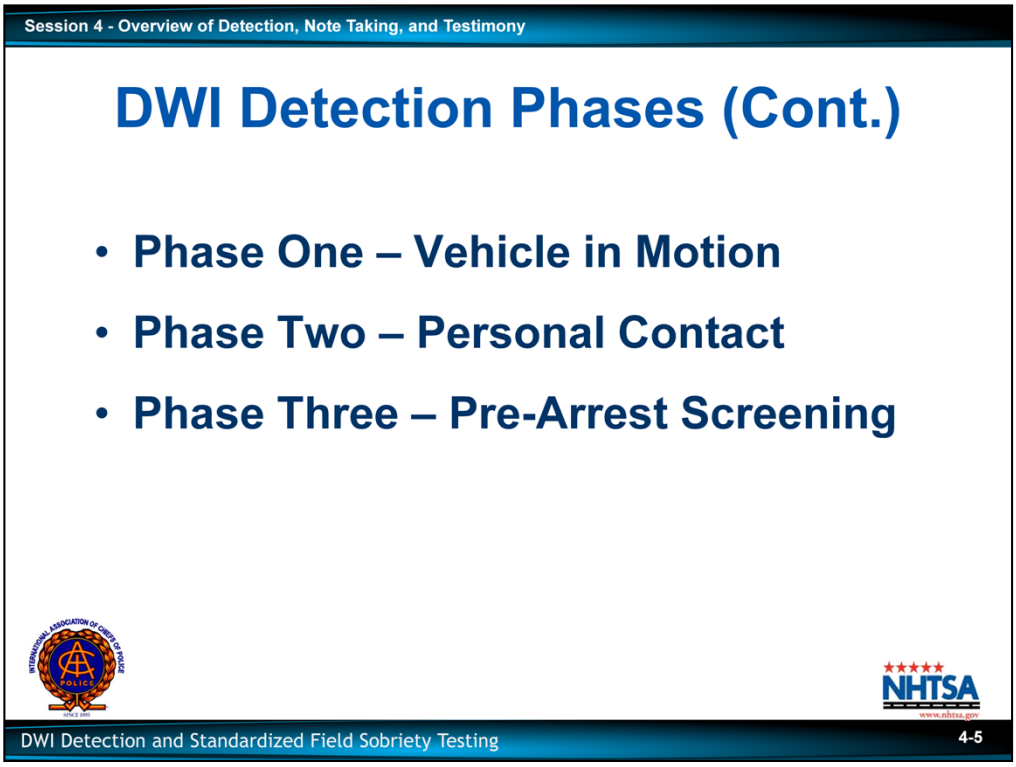
In Phase One, you usually observe the driver operating the vehicle.

In Phase Two, after you have stopped the vehicle, there usually is an opportunity to observe and speak with the driver face to face.

In Phase Three, you usually have an opportunity to administer Standardized Field Sobriety Tests to the driver to determine impairment.

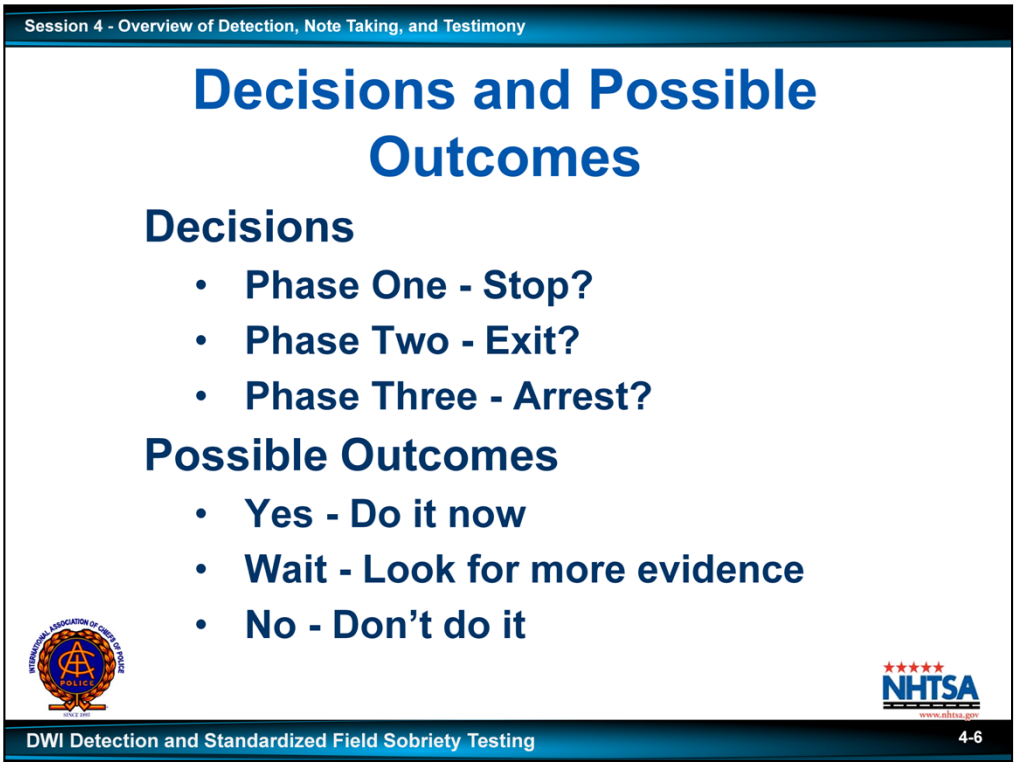
In addition to SFSTs, some jurisdictions may allow you to administer other field sobriety tests, and/or a preliminary breath test (PBT) to verify that alcohol is the cause of the impairment. PBTs can be used to assist in making an arrest decision and should rarely be the only factor in deciding to arrest. PBTs should be used after administering SFSTs.

Emphasize the point that PBTs should be used after administering SFSTs.

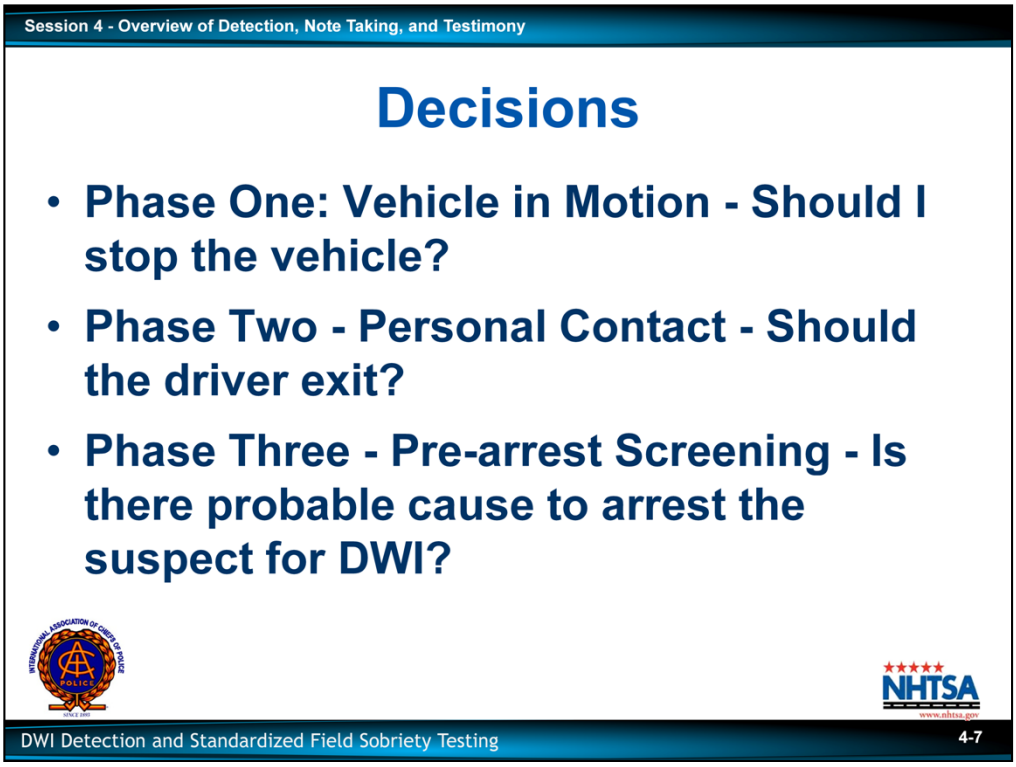


The DWI detection process does not always include all three phases. Sometimes there are DWI detection contacts in which Phase One is absent. These are cases in which you have no opportunity to observe the vehicle in motion. This may occur at the crash scene, at a roadblock or checkpoint, or when you have responded to a request for motorist assistance. Sometimes there are DWI contacts in which Phase Three is absent. There are cases in which you would not administer formal tests to the driver. This may occur when the driver is grossly impaired, badly injured, or refuses to submit to tests.

Emphasize the importance of being able to articulate why the driver did not or could not perform the tests.



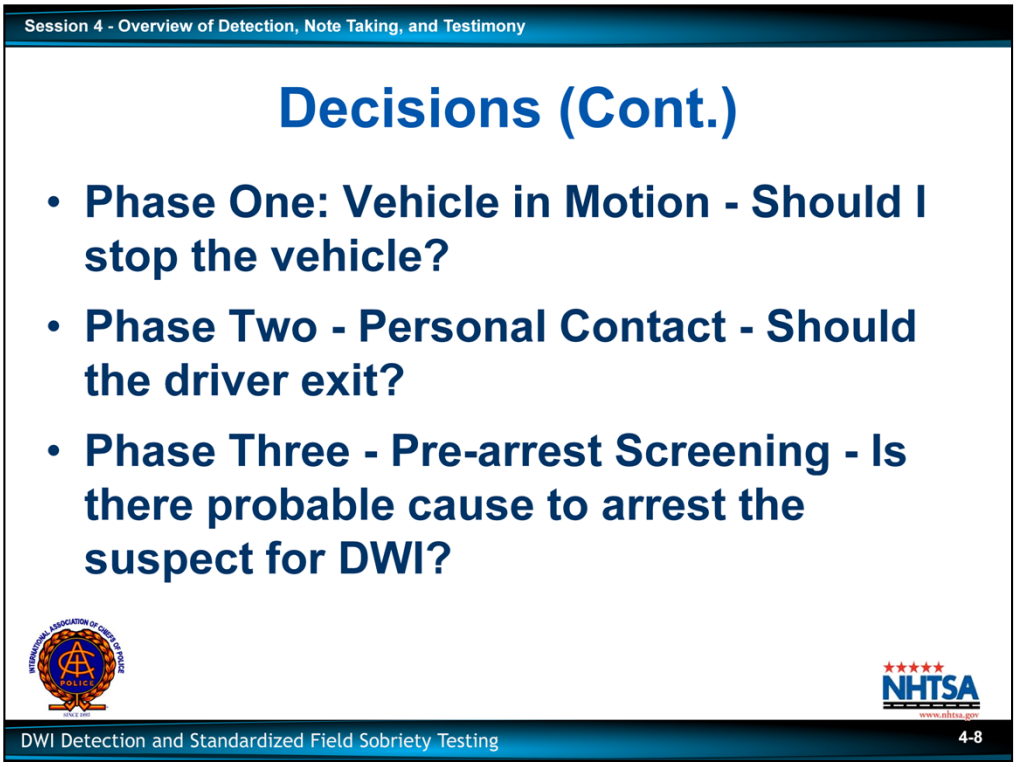
In each of the three phases, there will be decisions and possible outcomes.



Major Tasks and Decisions

Each detection phase usually involves two major tasks and one major decision.
In Phase One: Your first task is to observe the vehicle in operation. Based on this observation, you must decide whether there is sufficient cause to command the driver to stop. Your second task is to observe the stopping sequence. You may want to take a picture of the vehicle or scene, especially if the vehicle was involved in a crash.

Point out that merely stopping the subject doesn't necessarily mean that the officer is committed to arresting the subject for DWI. Emphasize the importance of collecting evidence and the use of mobile video and visual aids in accordance with departmental policy.

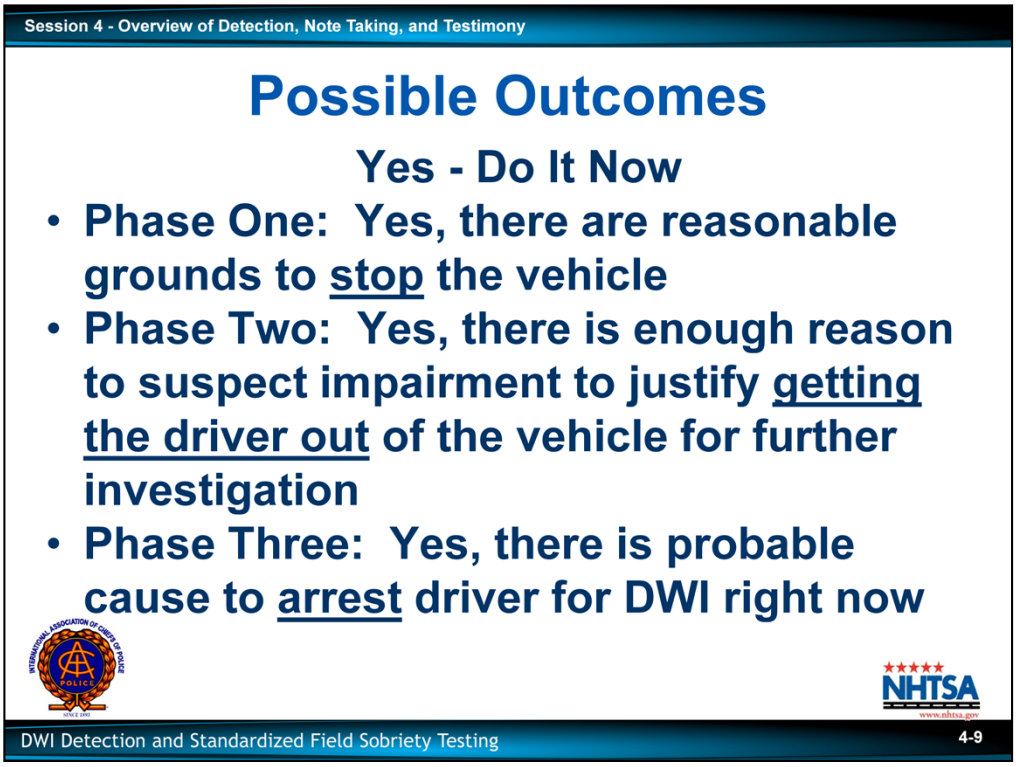


In Phase Two: Your first task is to observe and interview the driver face to face. Based on this observation, you must decide whether there is sufficient cause to instruct the driver to step from the vehicle for further investigation. Your second task is to observe the driver's exit and walk from the vehicle. You may want to take a photo of the defendant.

Point out that, by instructing the driver to exit the vehicle, the officer still is not committed to making the DWI arrest. However, the officer suspects there is a possibility the driver is under the influence.

In Phase Three: Your first task is to administer structured, formal psychophysical tests. Based on these tests, you must decide whether there is sufficient probable cause to arrest the driver for DWI. Your second task is then to arrange for (or administer) a Preliminary Breath Test.

Emphasize that this decision is based on the accumulation of evidence from all three phases, and represents the culmination of the detection process.



Each of the major decisions can have any one of three different outcomes:

- Yes - Do it Now
- Wait - Look for Additional Evidence
- No - Don't Do It

Consider the following examples.

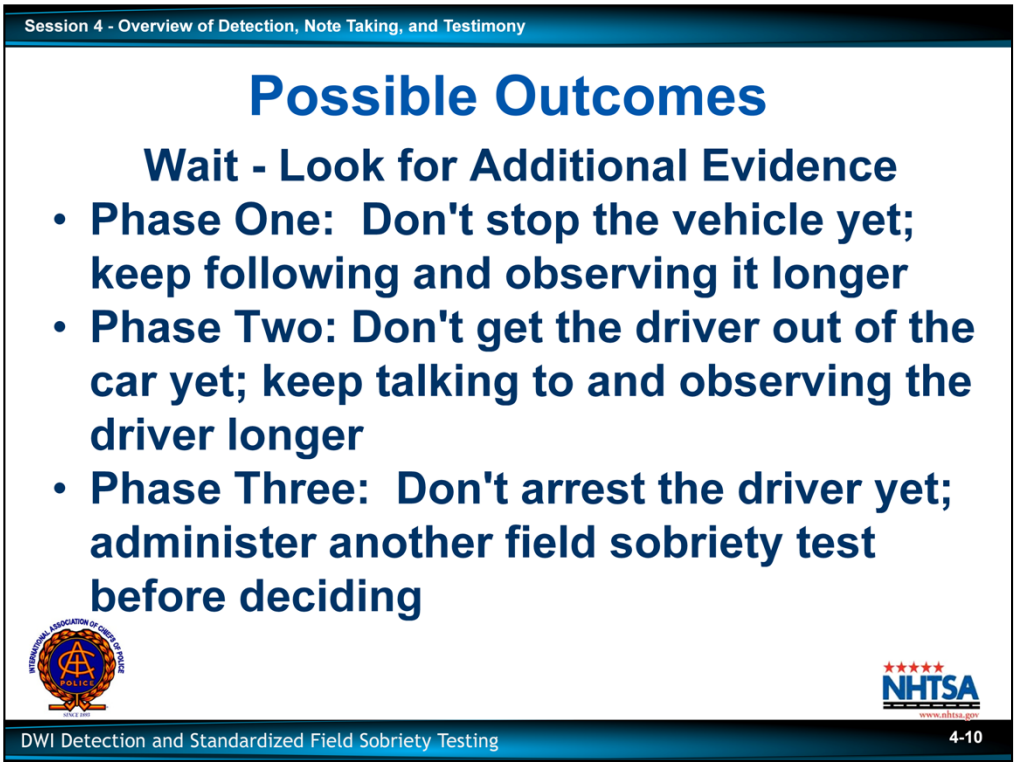
Yes - Do It Now

Phase One: Yes, there are reasonable grounds to stop the vehicle.

Phase Two: Yes, there is enough reason to suspect impairment to justify getting the driver out of the vehicle for further investigation.

Phase Three: Yes, there is probable cause to arrest the driver for DWI right now.

Instructor provide an example and walk through each decision.

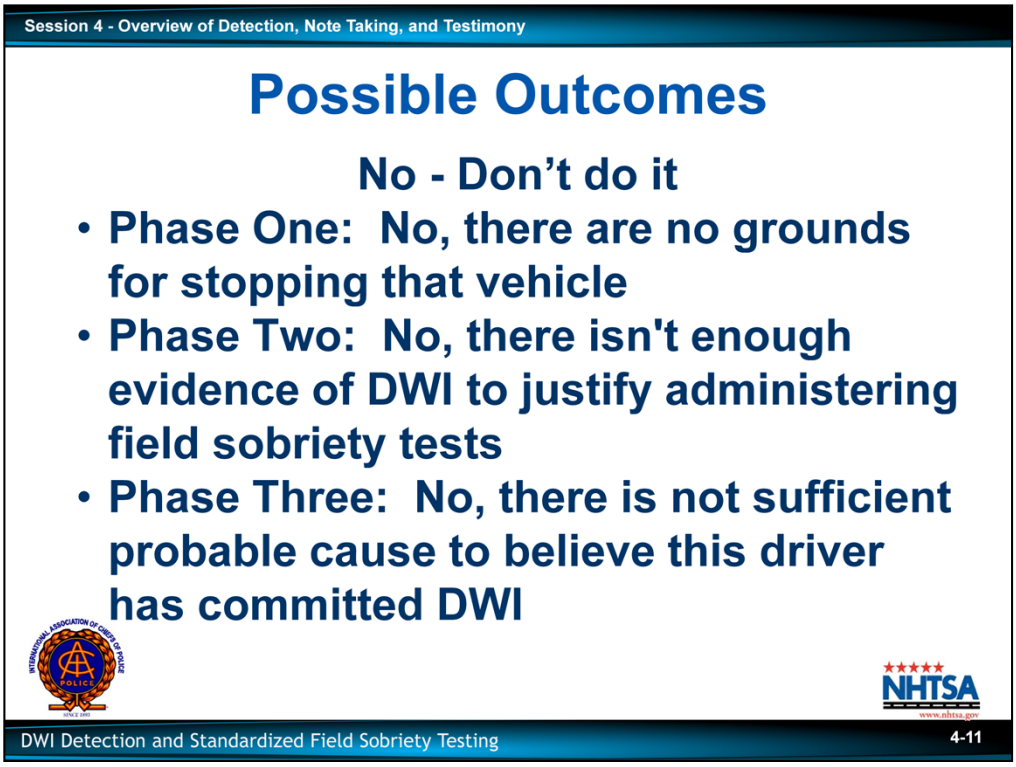


Wait - Look for Additional Evidence

Phase One: Don't stop the vehicle yet; keep following and observing it a bit longer.

Phase Two: Don't get the driver out of the car yet; keep talking to and observing the driver a bit longer. (This option may be limited if the officer's personal safety is at risk.)

Phase Three: Don't arrest the driver yet; administer another field sobriety test before deciding.

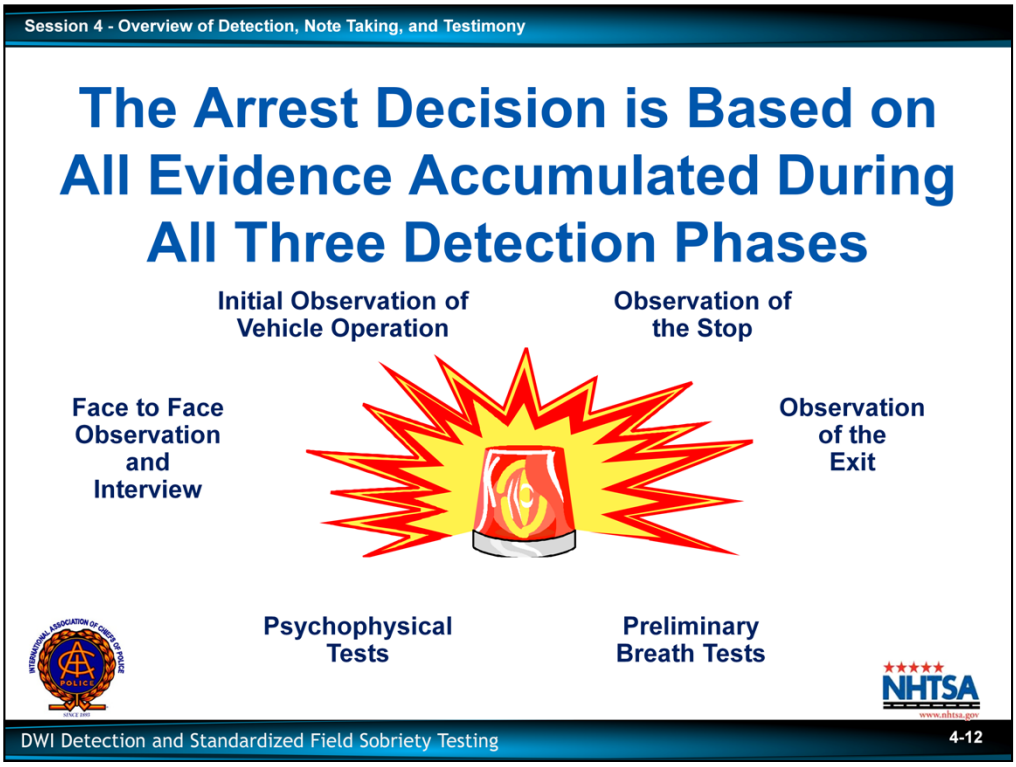


Don't Do It:

Phase One: No, there are no grounds for stopping that vehicle.

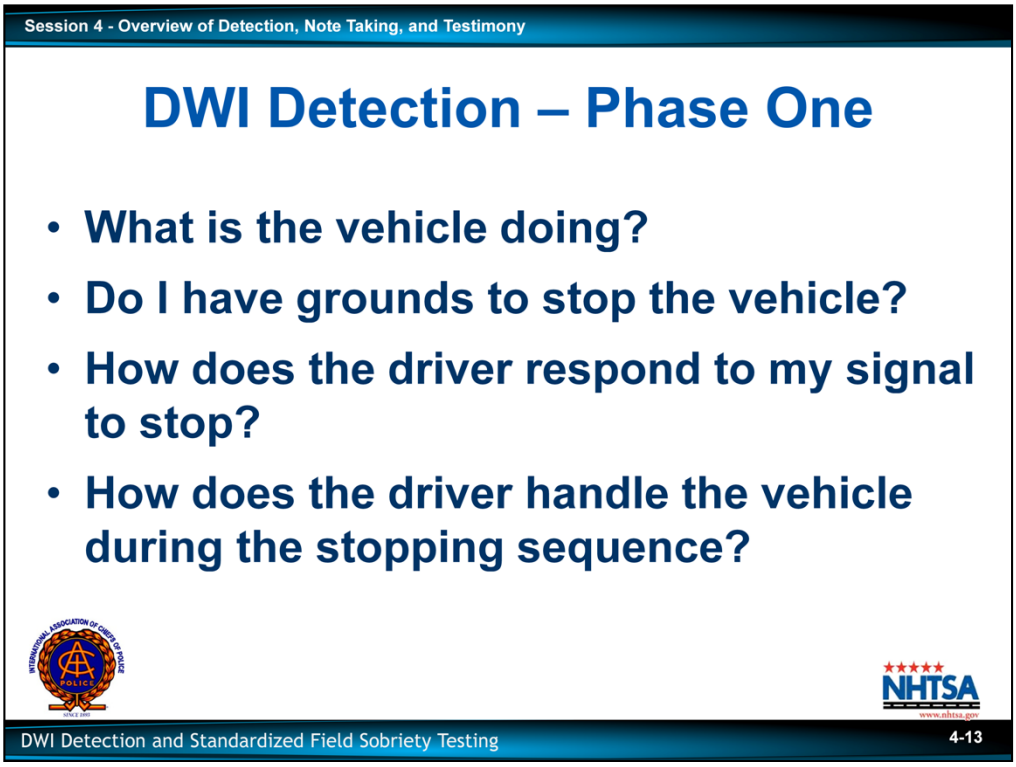
Phase Two: No, there isn't enough evidence of DWI to justify administering field sobriety tests.

Phase Three: No, there is not sufficient probable cause to believe this driver has committed DWI.



Officer Responsibility

In each phase of detection, you must determine whether there is sufficient evidence to establish the "reasonable suspicion" necessary to proceed to the next step in the detection process. It is always your duty to carry out whatever tasks are appropriate, to make sure that ALL relevant evidence of DWI is gathered.



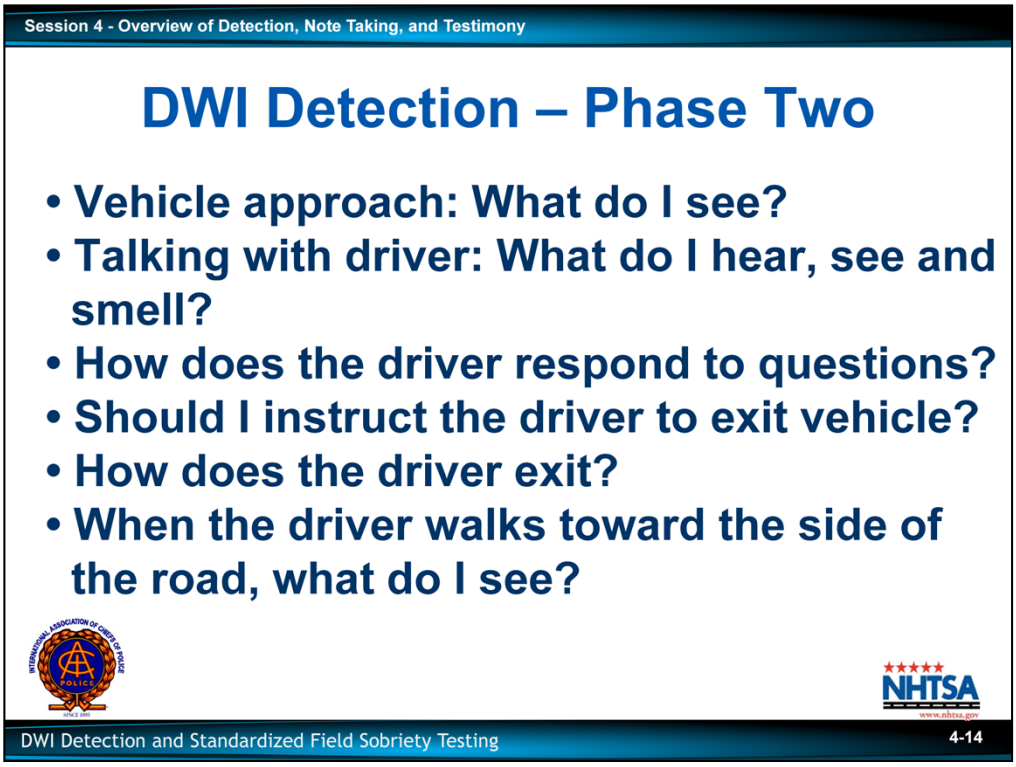
DWI Detection – Phase One

Answers to questions like these can aid you in DWI detection.

Phase One:

- What is the vehicle doing?
- Do I have grounds to stop the vehicle?
- How does the driver respond to my signal to stop?
- How does the driver handle the vehicle during the stopping sequence?

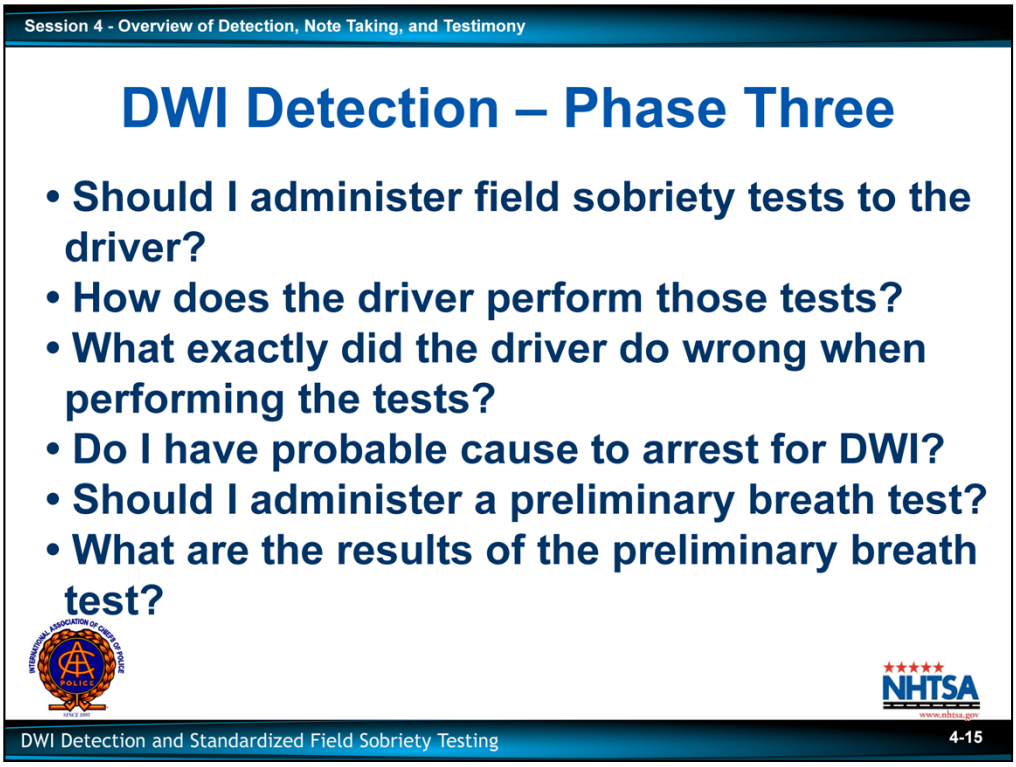
Instructor select a participant to describe a phase one from their experience, or instructor share and example.



Phase Two:

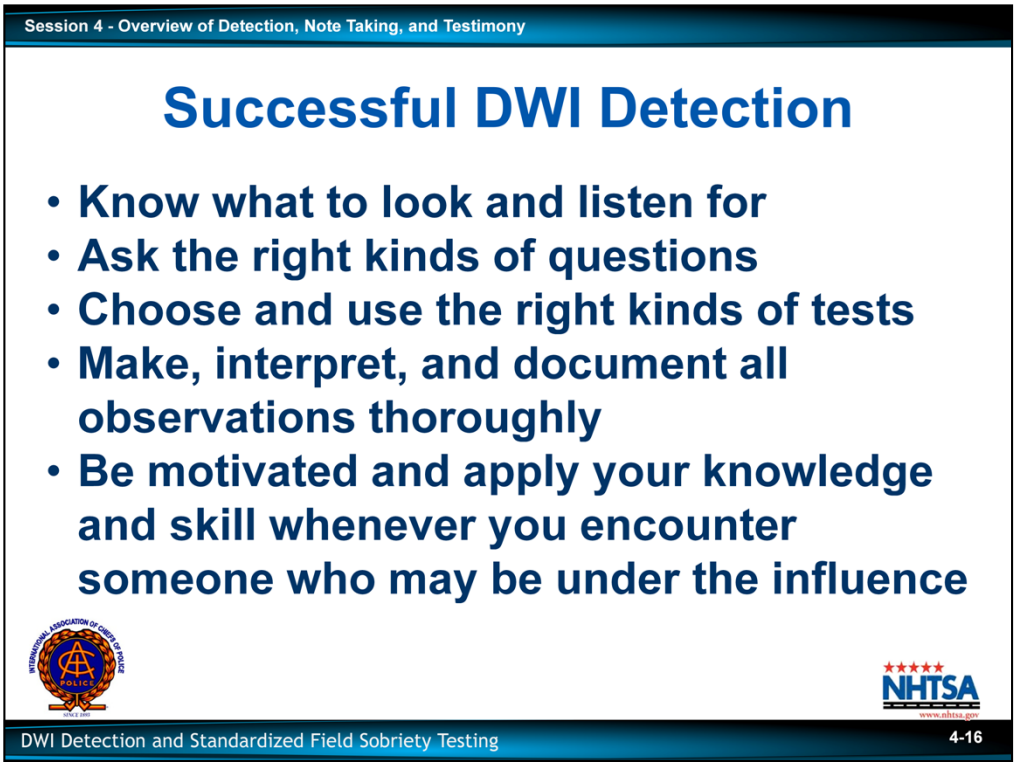
- When I approach the vehicle, what do I see?
- When I talk with the driver, what do I hear, see and smell?
- How does the driver respond to my questions?
- Should I instruct the driver to exit the vehicle?
- How does the driver exit?
- When the driver walks toward the side of the road, what do I see?

Instructor select a participant to describe a phase two from their experience, or instructor share and example.



Phase Three:

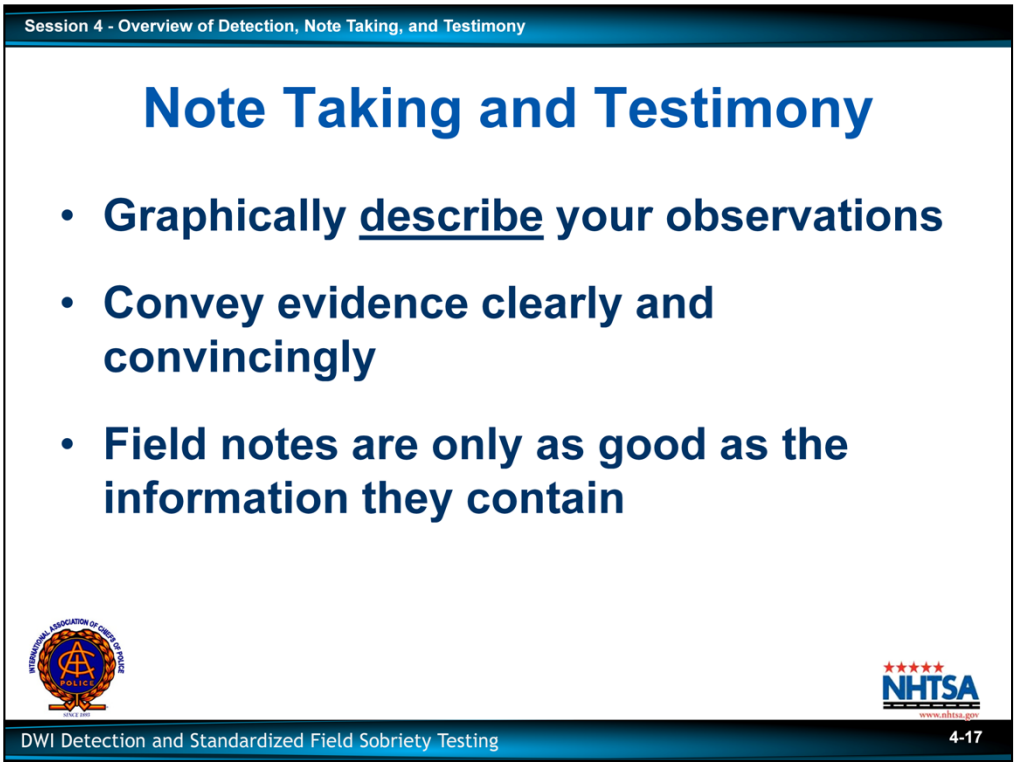
- Should I administer field sobriety tests to the driver?
- How does the driver perform those tests?
- What exactly did the driver do wrong when performing the tests?
- Do I have probable cause to arrest for DWI?
- Should I administer a preliminary breath test?
- What are the results of the preliminary breath test?



The most successful DWI detectors are those officers who:

- Know what to look and listen for
- Ask the right kinds of questions
- Choose and use the right kinds of tests
- Make, interpret, and document all observations thoroughly
- Are motivated and apply their knowledge and skill whenever they encounter someone who may be under the influence

Solicit participants' questions concerning the overview of detection phases.

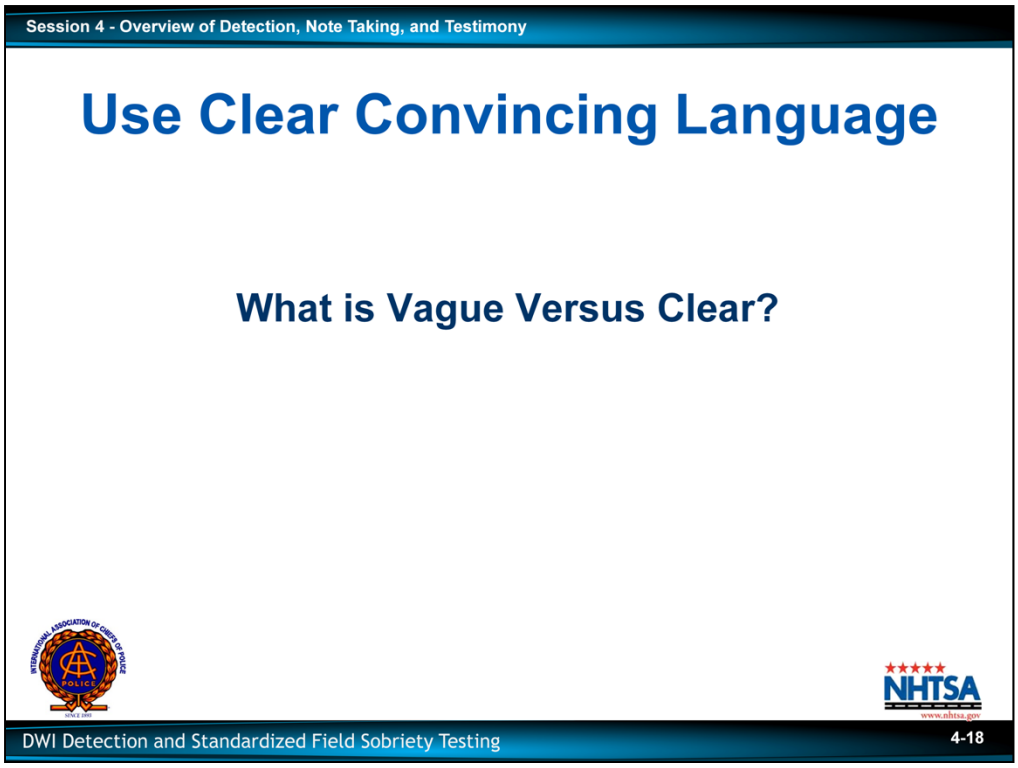


Note Taking and Testimony

A basic skill needed for DWI enforcement is the ability to graphically describe your observations. Just as detection is the process of collecting evidence, description largely is the process of conveying or articulating evidence.

Successful description demands the ability to convey evidence clearly and convincingly. Your challenge is to communicate evidence to people who weren't there to see, hear and smell the evidence themselves. Your tools are the words that make up your written report and verbal testimony. You must communicate with the supervisor, the prosecutor, the judge, the jury and even with the defense attorney. You are trying to "paint a word picture" for those people, to develop a sharp mental image that allows them to "see" what you saw; "hear" what you heard; and "smell" what you smelled.

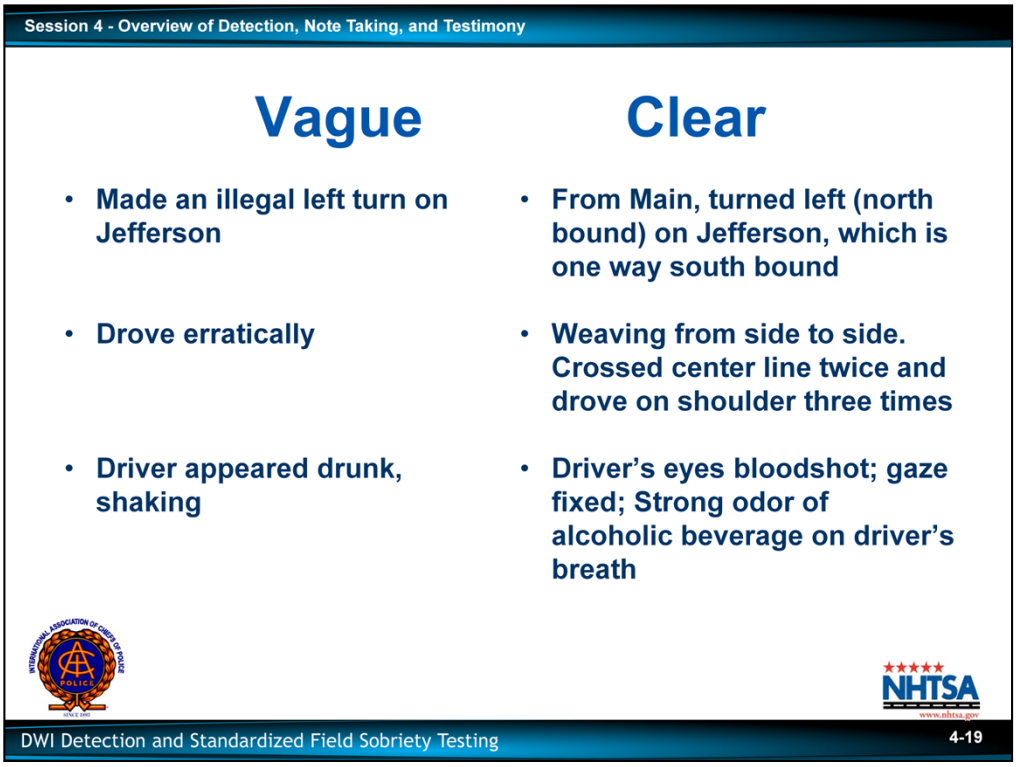
Officers with the knowledge, skills and motivation to select the most appropriate words for both written reports and courtroom testimony will communicate clearly and convincingly, making them more successful in DWI prosecution.



Use Clear and Convincing Language

Field notes are only as good as the information they contain. Reports must be clearly written and events accurately described if the reports are to have evidentiary value. One persistent problem with DWI incident reports is the use of vague language to describe conditions, events and statements. When vague language is used, reports provide an inaccurate picture of what happened. Clear and complete field notes help in preparation for your testimony.

Encourage class interaction to further describe in more detail the "Clear Language" examples in the next two slides. Solicit participants' questions concerning the overview of detection phases.

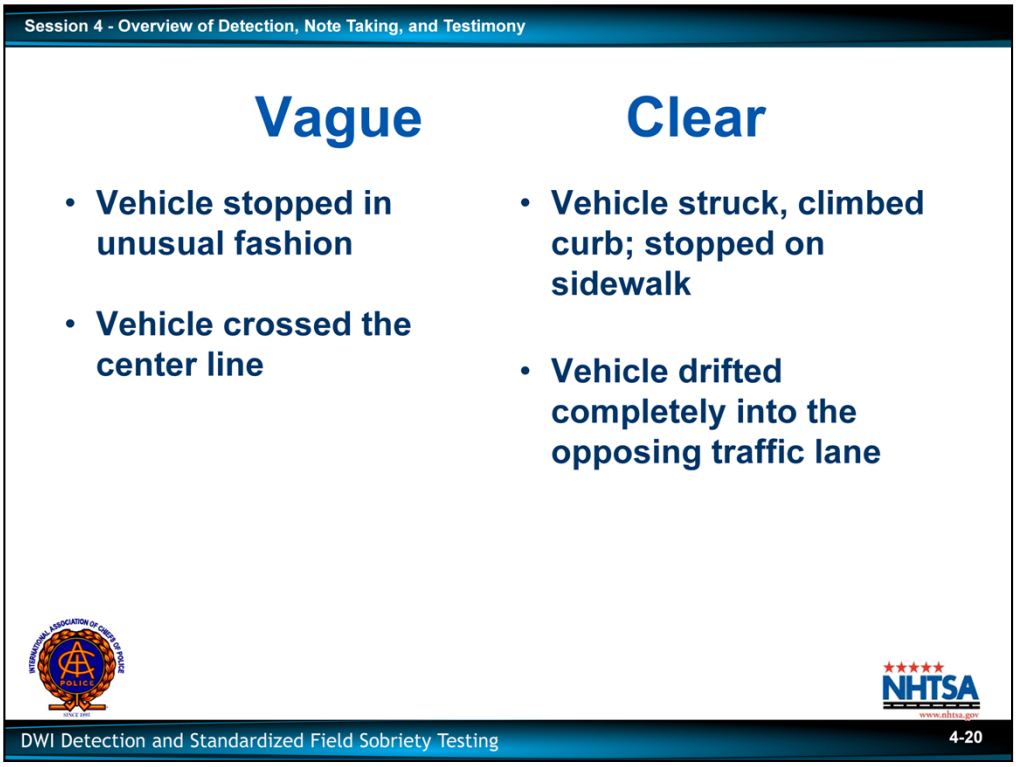


Consider the following examples. Vague Language and Clear Language

- Made an illegal left turn on Jefferson
- From Main, turned left (north bound) on Jefferson, which is one way south bound

- Drove erratically
- Weaving from side to side. Crossed center line twice and drove on shoulder three times

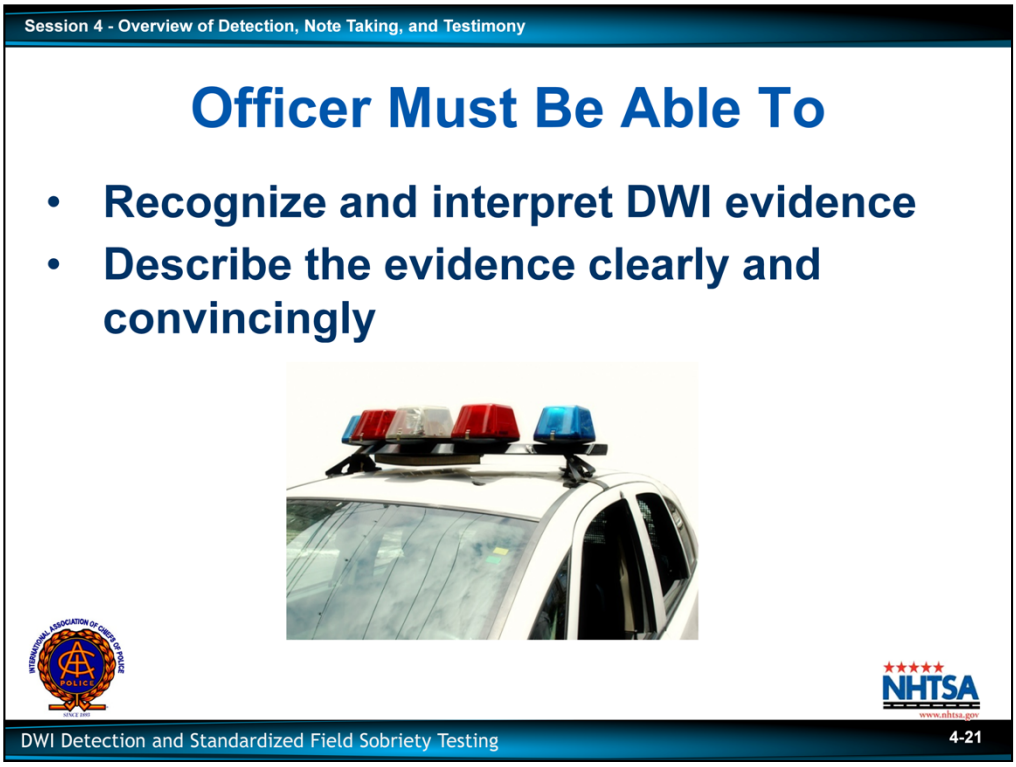
- Driver appeared drunk, shaking
- Driver's eyes bloodshot; gaze fixed; Strong odor of alcoholic beverage on driver's breath



Consider the following examples. Vague Language and Clear Language

- Vehicle stopped in unusual fashion
- Vehicle struck, climbed curb; stopped on sidewalk

- Vehicle crossed the center line
- Vehicle drifted completely into the opposing traffic lane



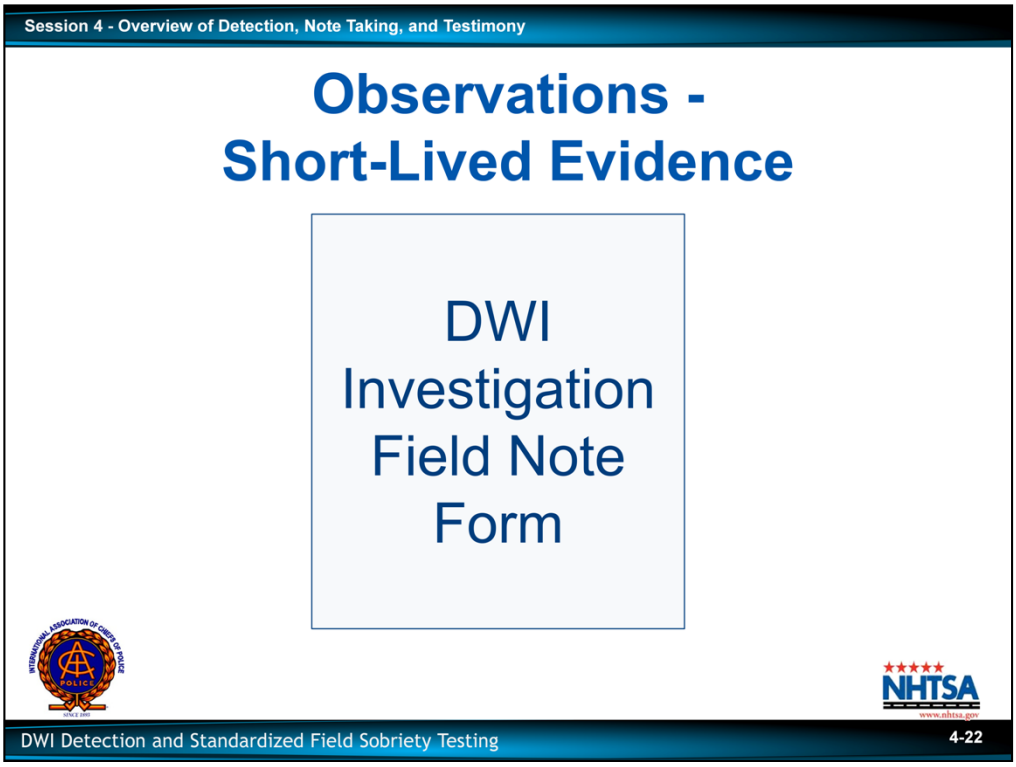
B. <u>DWI Investigation Field Notes</u>

One of the most critical tasks in the DWI enforcement process is the recognition and retention of facts and clues that establish reasonable suspicion to stop, investigate and subsequently arrest persons suspected of DWI. The evidence gathered during the detection process must establish the elements of the violation, and must be completely documented to support successful prosecution of the defendant. This evidence is largely sensory (sight, smell, hearing) in nature, and therefore is extremely short lived.

You must be able to recognize and act on the facts and circumstances with which you are confronted. But you also must completely document your observations and describe them clearly and convincingly to secure a conviction. You may be inundated with evidence of DWI, i.e., sights, sounds, smells. You recognize this evidence, sometimes subconsciously, and on this evidence base your decisions to stop, to investigate and ultimately to arrest.

Point out how the practice opportunities will be provided (e.g., video segments, classroom demonstrations, etc.).

Since evidence of a DWI violation is short lived, you need a system and tools for recording field notes at scenes of DWI investigations.



Write on dry erase board or flip chart: "observations - short lived evidence."

One way to improve the effectiveness of your handwritten field notes is to use a structured note taking guide. The guide makes it easy to record brief "notes" on each step of the detection process and ensures that vital evidence is documented.

The field notes provide the information necessary to complete required DWI report forms and assist you in preparing a written account of the incident. The field notes will also be useful if you are required to provide oral testimony, since they can be used to refresh your memory.

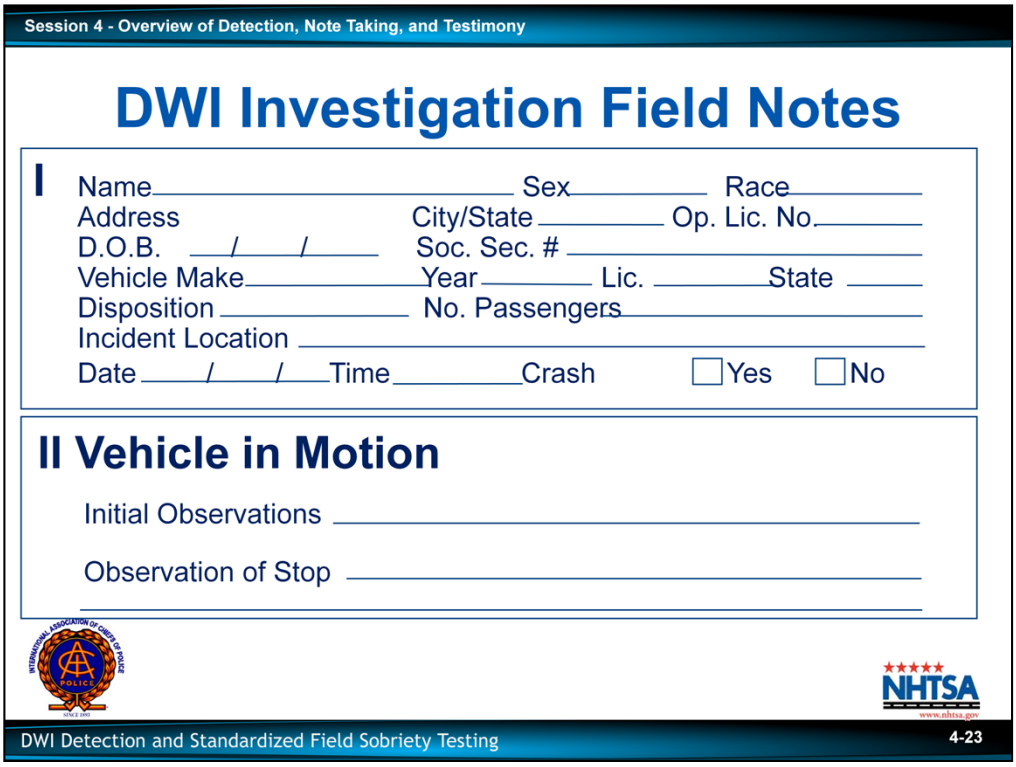
A model note taking guide is provided for your use. A brief description follows. Details are provided in subsequent units.

Note Taking Guide

Distribute DWI Investigation Field Note form to participants.

Advise participants that each section of the note taking guide will be broken down and thoroughly explain in subsequent sessions.

Remember that you must document those actions which gave you reasonable suspicion or probable cause to justify further investigation of a suspected DWI incident.

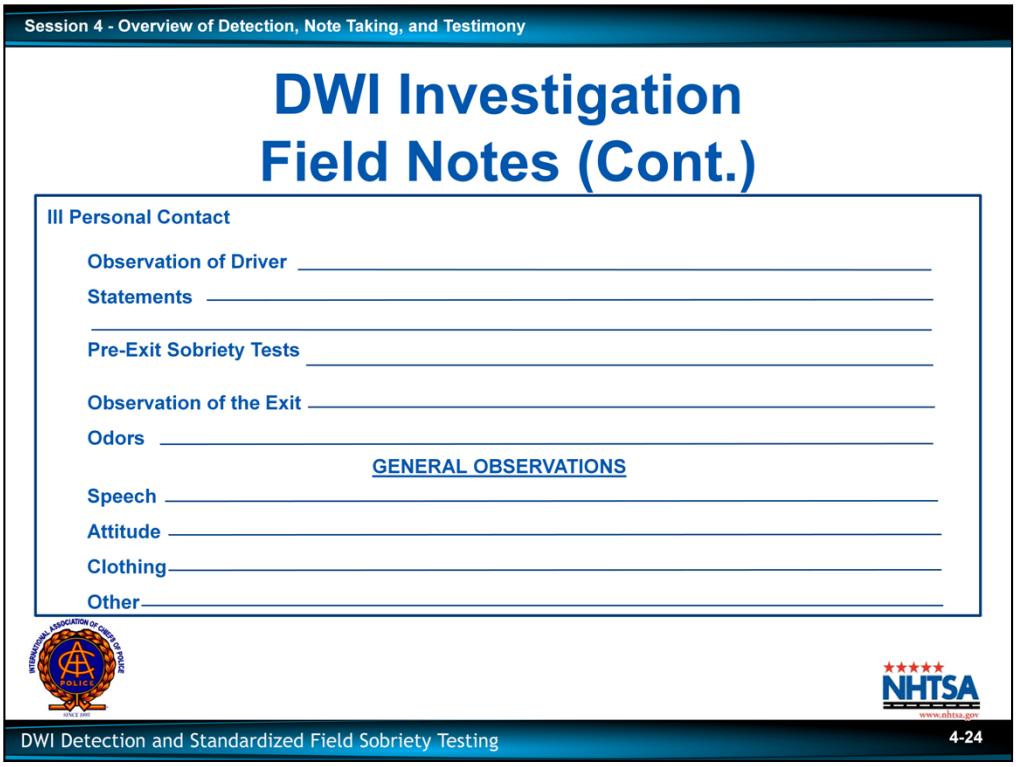


- Section I provides space to record basic information describing the subject, the vehicle, the location, and the date and time the incident occurred.

Briefly indicate the types of notes that should be taken in each section of the standard note taking guide.

- Section II provides space to record brief descriptions of the vehicle in motion (Detection Phase One), including initial observation of the vehicle in operation, and observation of the stopping sequence.

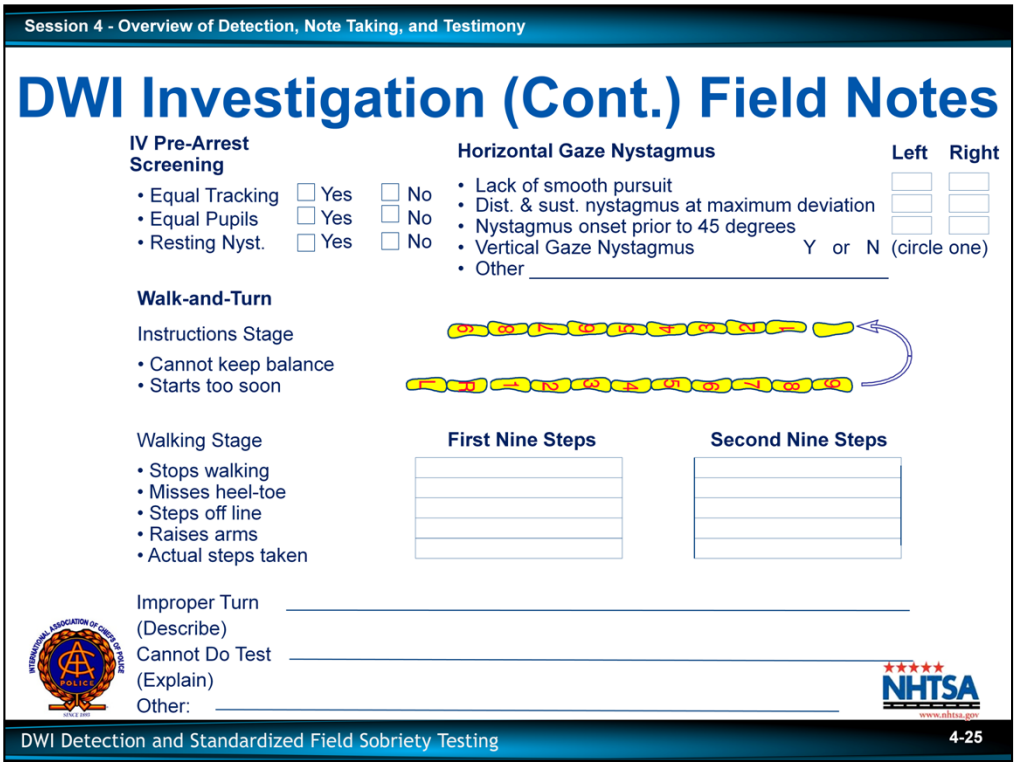
Point out that the specific contents of the guide will be clarified as the training progresses through the three phases of detection.



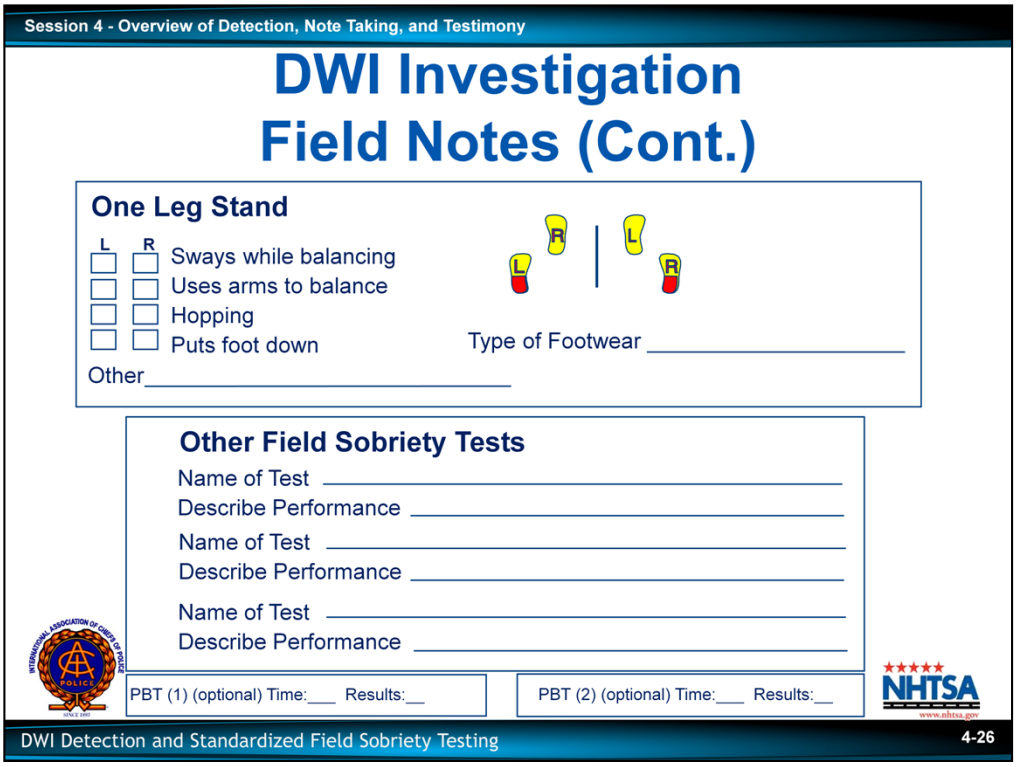
- Section III provides space to record brief descriptions of the personal contact with the subject (Detection Phase Two), including observations of the driver.

General Observations provides space to record the subject's manner of speech, attitude, clothing, etc. Any physical evidence collected should also be noted in this section.

Point out that the participants will use copies of the standard guide to practice taking notes on DWI detection evidence.



Point out that Field Note Guide is to be used to record all observations of suspect's actions. The validated clues of the SFSTs will be discussed in depth in Session 8.



Section IV provides space to record the results of all field sobriety tests that were administered, and the results of the preliminary breath test (PBT) if such a test was given.

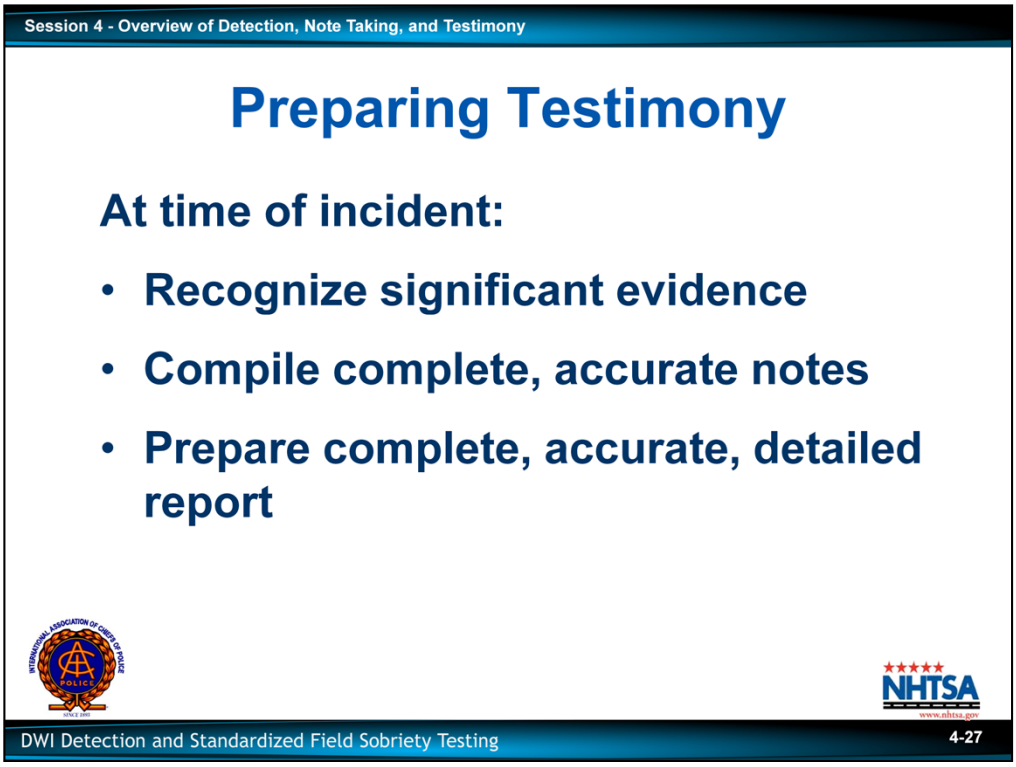
Section V provides space to record the officer's general observations, such as the subject's manner of speech, attitude, clothing, etc. Any physical evidence collected should also be noted in this section.

Since this is a note taking guide and space is limited, you will have to develop your own "shorthand" system. Your notes should be detailed and descriptive of the facts, circumstances or events being described. These notes may be used to refresh your memory and to write the narrative report documenting your observations to testify in court.

Encourage officers not to rely strictly on video to document these observations. Notes should be taken as soon as possible after the arrest.

NOTE: Field notes may be subpoenaed as evidence in court. It is important that any "shorthand" system you use be describable, usable, complete and consistent.

Solicit participant's questions concerning note taking procedures.

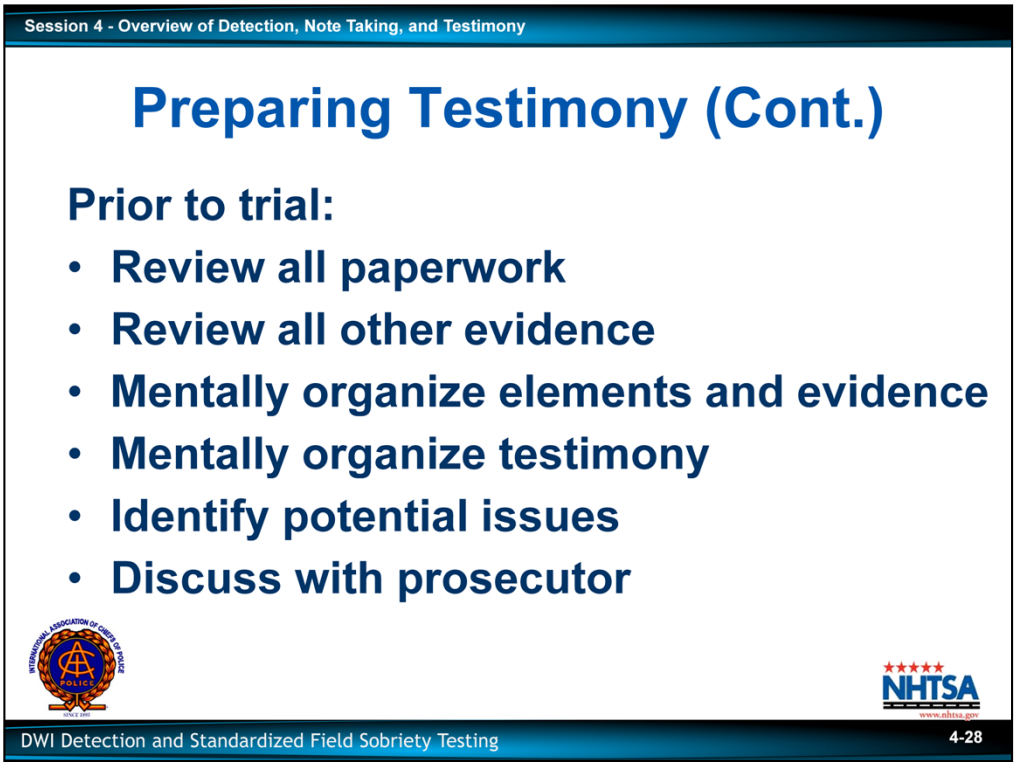


C. Courtroom Testimony

Testimonial evidence in DWI cases establishes that the defendant was in fact the driver and was under the influence. Your testimony should be clear, detailed, and concise. Requirements: Preparation at the scene and prior to trial.

To be effective, testimonial evidence must be clear and convincing. The first requirement for effective testimony is preparation. Testimony preparation begins at the time of the DWI incident. From the very beginning of the DWI contact, it is your responsibility to:

- Recognize significant evidence
- Compile complete, accurate field notes
- Prepare a complete, accurate, detailed report

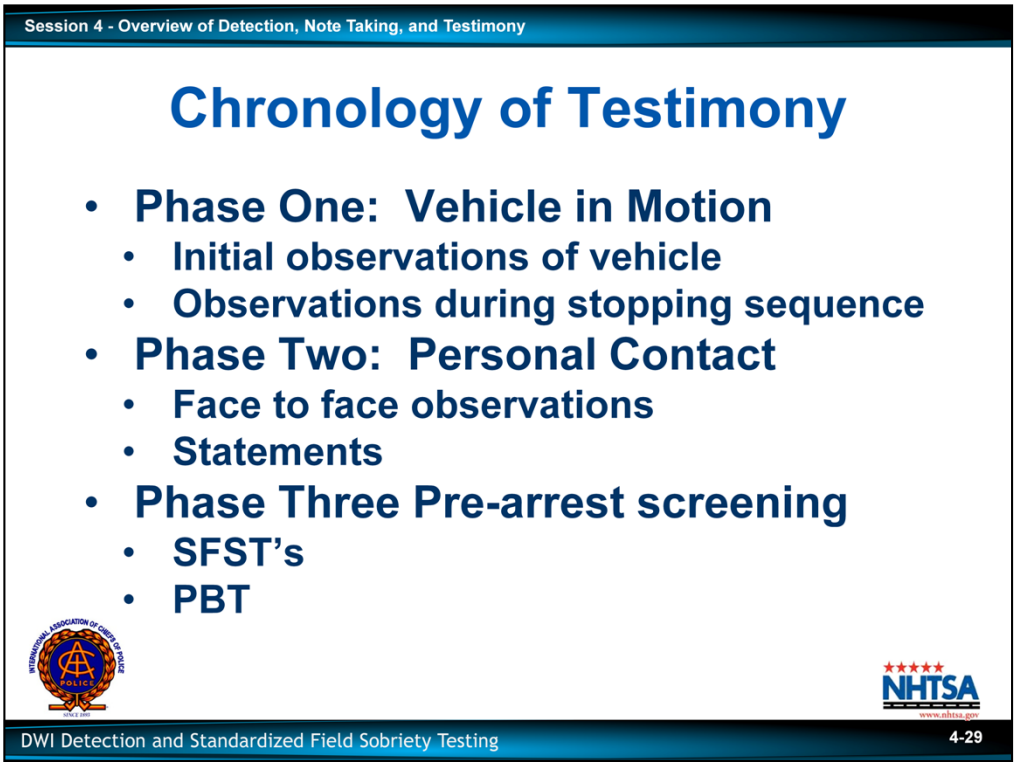


Testimony preparation continues prior to trial. Just before the trial, you should:

- Review field notes, incident report, narrative and other paperwork
- Review other evidence, i.e., video, photographs, etc.
- Mentally organize elements of offense, and the evidence available to prove each element
- Mentally organize testimony to convey observations clearly and convincingly
- Identify weak spots and/or potential issues with the case and decide how to address those issues
- Discuss the case with the prosecutor

Point out that a pretrial conference is recommended. However, the decision whether or not to conduct one is controlled by the prosecutor. The "conference" may occur 5 minutes prior to the trial.

The foundation for preparation and successful testimony is the relationship between the law enforcement officer(s) involved with the arrest and the prosecuting attorney(s) associated with the case. Effective communication and a clear understanding of each groups' objectives and expectations is essential for successful prosecution.



Chronology of Testimony

In court, your testimony should be organized chronologically and should cover each phase of the DWI incident:

Point out that, in many instances, the prosecutor will control the sequence of testimony. However, the officer should organize testimony in a logical time sequence, i.e., to present facts and observations in the order in which they occurred.

Phase One: Vehicle in Motion – initial observation of vehicle, the driver or both including what first attracted your attention to the vehicle/driver and details about the driving before you initiated the traffic stop

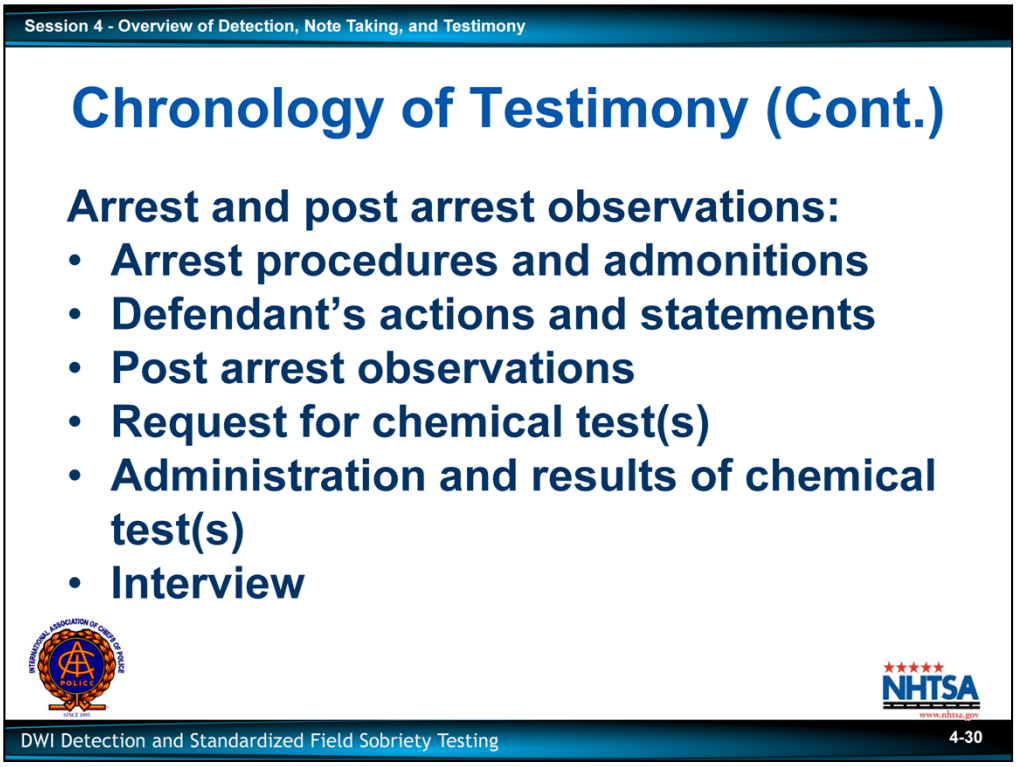
Reinforcing cues, maneuvers or actions, observed after signaling the driver to stop, but before driver's vehicle came to a complete stop.

A "cue" is defined as a reminder or prompting as a signal to do something.

Phase Two: Personal Contact – face to face observations including personal appearance, statements and other evidence obtained during your initial contact with driver.

A "clue" is defined as something that leads to the solution of a problem.

Phase Three: Pre-arrest Screening – sobriety tests administered to the driver and the results of any preliminary breath tests.



Arrest and Post Arrest Observations

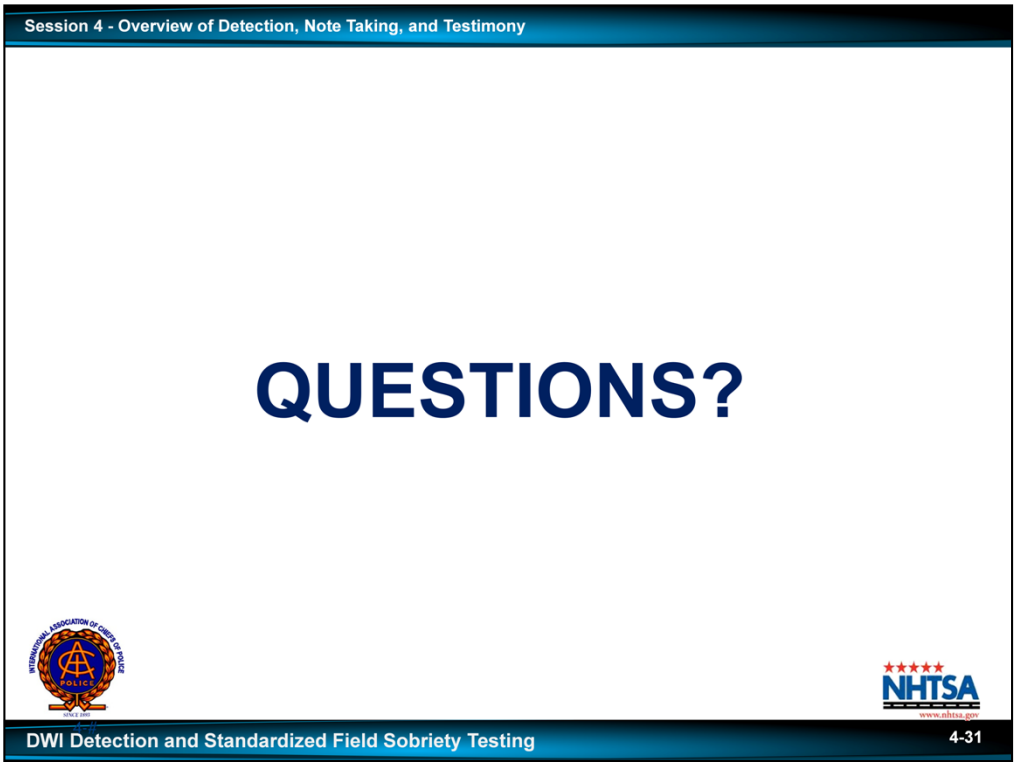
- The arrest itself; including procedures used to inform driver of arrest, admonish subject of rights, and so on
- Defendant's actions, statements, and/or admissions subsequent to the arrest
- Observation of defendant subsequent to the arrest; including not just what the defendant said but actions and reactions
- The request for the chemical test; including the procedures used, admonition of rights and requirements, and so on
- The conduct, actions, reactions, and results of the chemical test, if you were also the testing officer
- The interview of the defendant, including any new observations, statements and/or admissions.

Emphasize the importance of documentation in preparation for court testimony.

Discuss your state's administrative license suspension hearing procedure.

Point out that participants will have the opportunity to practice giving testimony, as the training progresses through the three detection phases.

Solicit participant's questions concerning testimonial requirements.


Session 4 - Overview of Detection, Note Taking, and Testimony
QUESTIONS?
NHTSA
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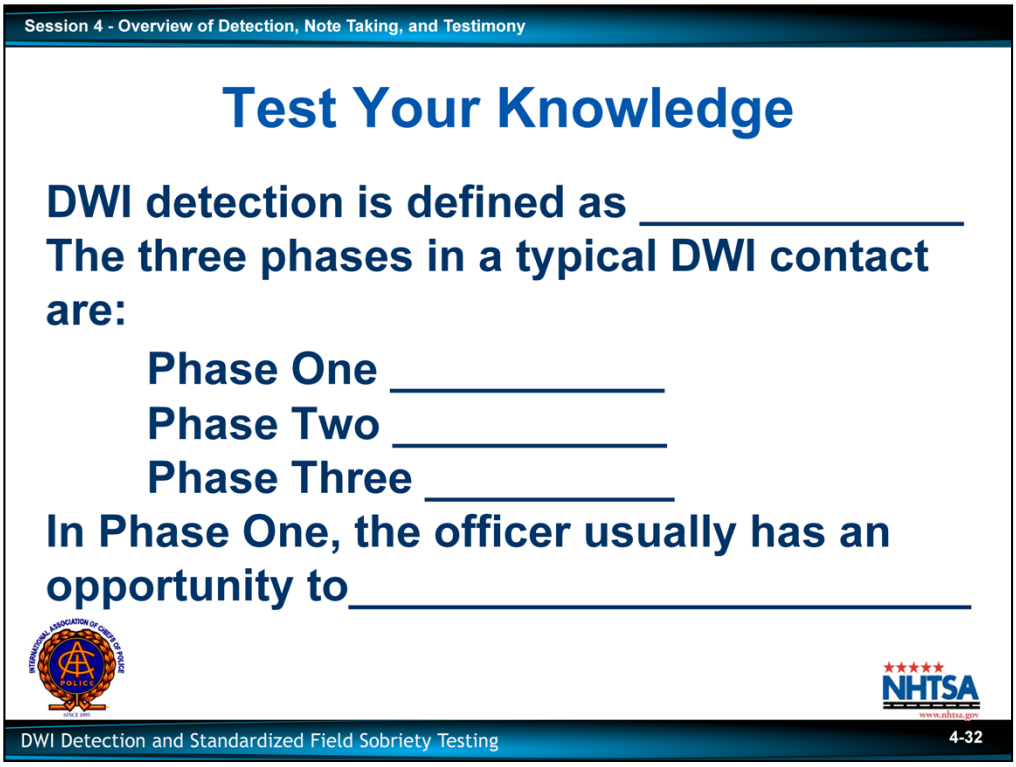
DWI Detection and Standardized Field Sobriety Testing
4-31



TEST YOUR KNOWLEDGE

INSTRUCTIONS: Complete the following sentences.

1. DWI detection is defined as <u>the entire process of identifying and gathering evidence to determine whether or not a suspect should be arrested for a DWI violation</u>

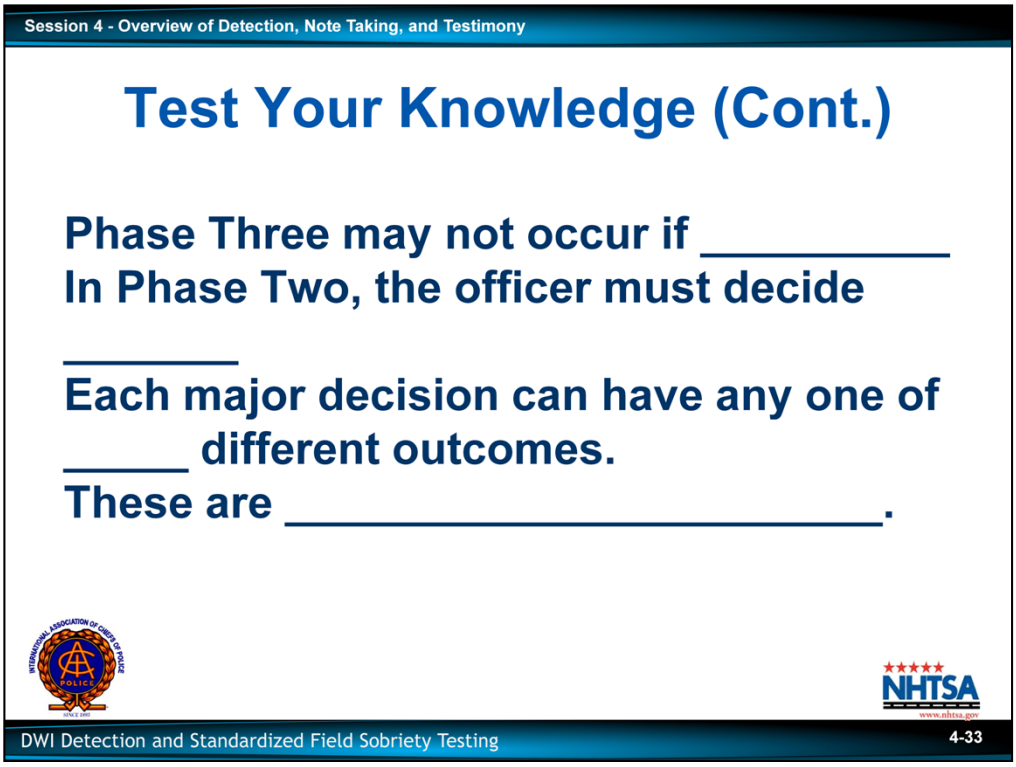
2. The three phases in a typical DWI contact are:

Phase One <u>Vehicle in Motion</u>

Phase Two <u>Personal Contact</u>

Phase Three <u>Pre-arrest Screening</u>

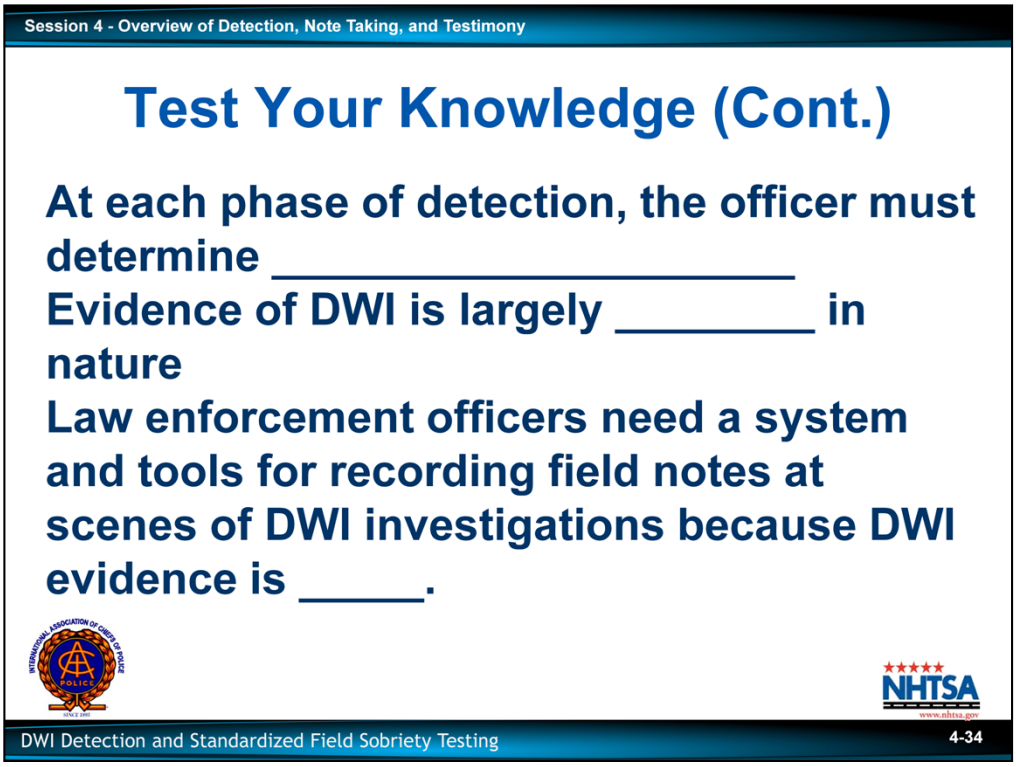
3. In Phase One, the officer usually has an opportunity to <u>observe the driver operating the vehicle</u>



4. Phase Three may not occur if <u>the driver is badly injured, grossly impaired, or refuses to submit to the tests</u>

5. In Phase Two, the officer must decide <u>whether the driver should be asked to exit the vehicle</u>

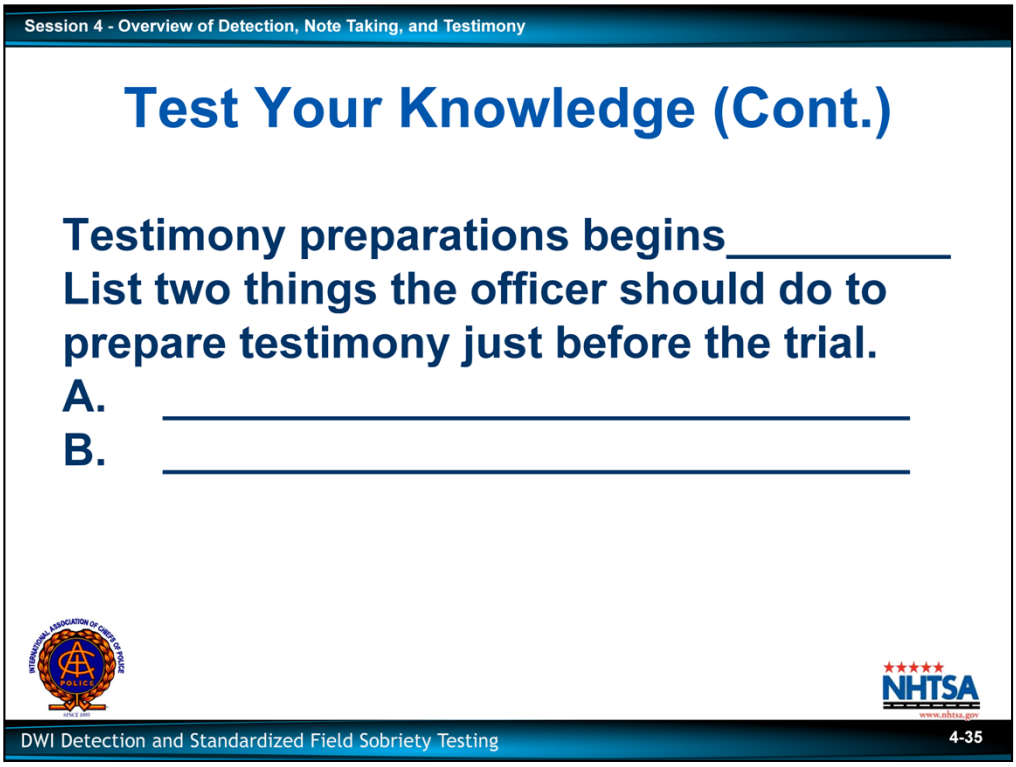
6. Each major decision can have any one of <u>3</u> different outcomes. These are: <u>yes - do it now; wait - look for additional evidence; no - don't do it</u>



7. At each phase of detection, the officer must determine <u>whether there is sufficient evidence to establish "reasonable suspicion" necessary to proceed to the next step in the detection process</u>

8. Evidence of DWI is largely <u>sensory</u> in nature.

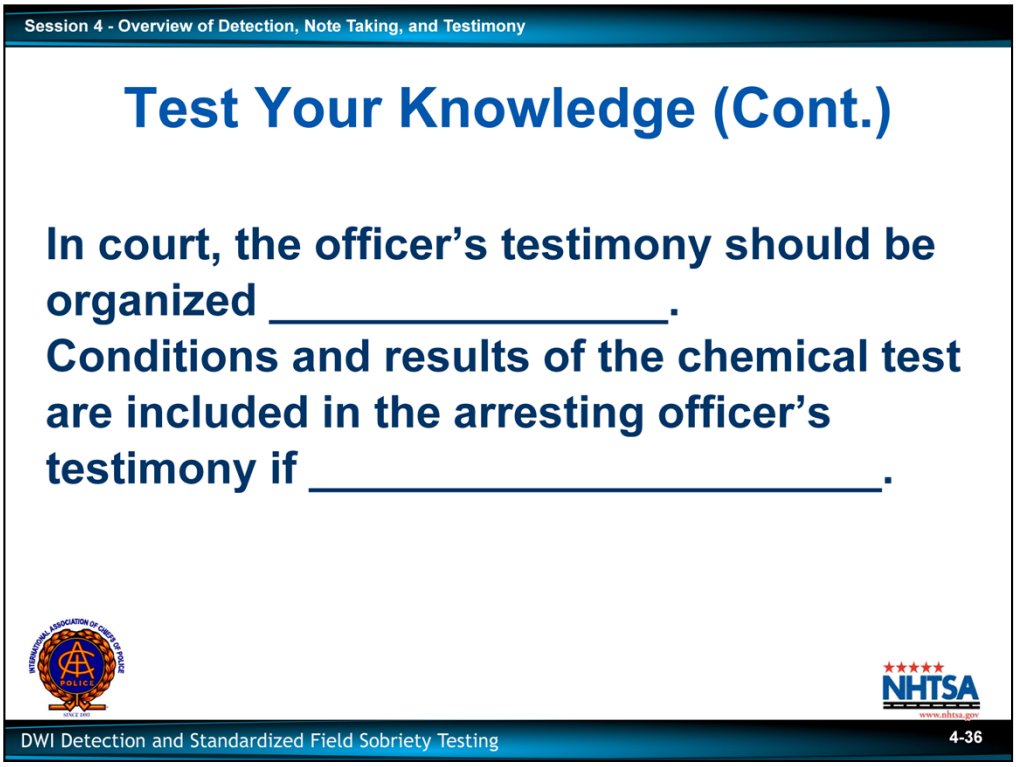
9. Law enforcement officers need a system and tools for recording field notes at scenes of DWI investigations because DWI evidence is <u>short lived</u>.



10. Testimony preparations begins <u>at the time of the DWI incident</u>

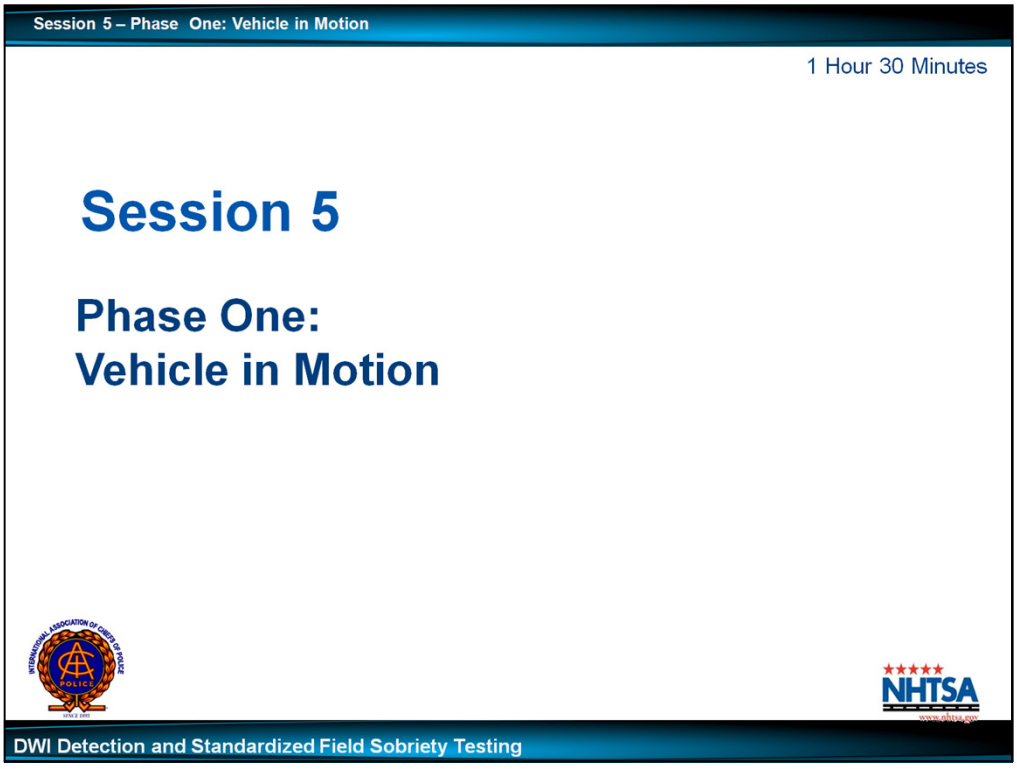
11. List two of the following the officer should do to prepare testimony just before the trial.

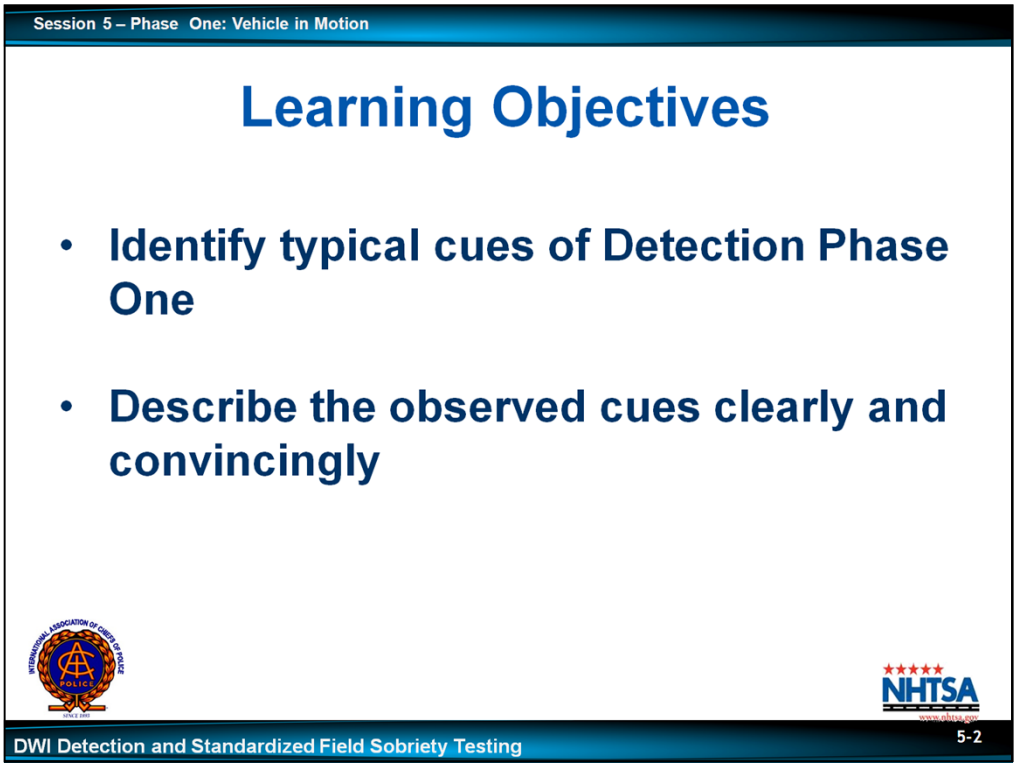
- ***a. <u>Review field notes</u>***
- ***b. <u>Mentally organize elements of the offense</u>***
- ***c. <u>Mentally organize testimony</u>***
- ***d. <u>Identify weak spots on potential issues of the case</u>***
- ***e. <u>Discuss the case with the prosecutor</u>***



12. In court, the officer's testimony should be organized
<u>chronologically and should cover each phase of the DWI incident</u>

13. Conditions and results of the chemical test are included in the arresting officer's testimony if <u>you are the testing officer</u>

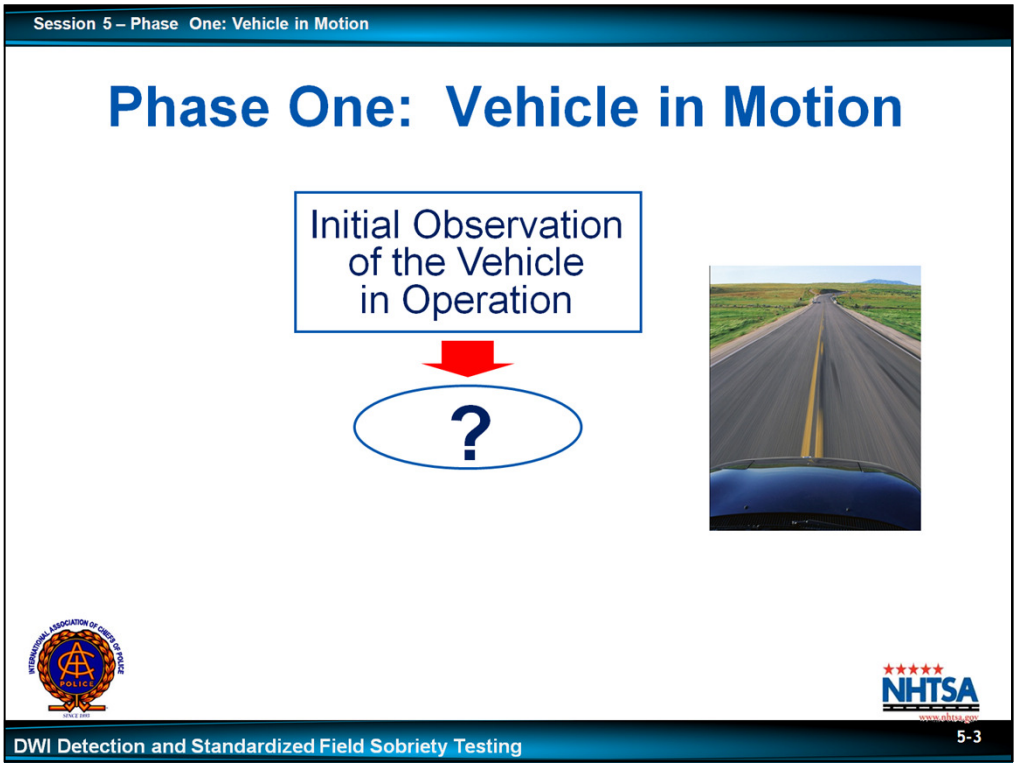

Session 5 – Phase One: Vehicle in Motion
1 Hour 30 Minutes
Session 5
Phase One:
Vehicle in Motion
NHTSA
DWI Detection and Standardized Field Sobriety Testing



At the conclusion of this session, participants will be able to:

- Identify typical cues of Detection Phase One
- Describe the observed cues clearly and convincingly

CONTENT SEGMENTS	LEARNING ACTIVITIES
A. Overview: Tasks and Decision	Instructor Led Presentations
B. Initial Observations: Visual Cues of Impaired Operation (Automobiles)	Video Presentation
C. Initial Observations: Visual Cues of Impaired Operation (Motorcycles)	Video Presentation
D. Recognition and Description of Initial Cues	Instructor Led Demonstrations
E. Typical Reinforcing Cues of the Stopping Sequence	Participant Presentations
F. Recognition and Description of Initial and Reinforcing Cues	



A. Overview: Tasks and Decision

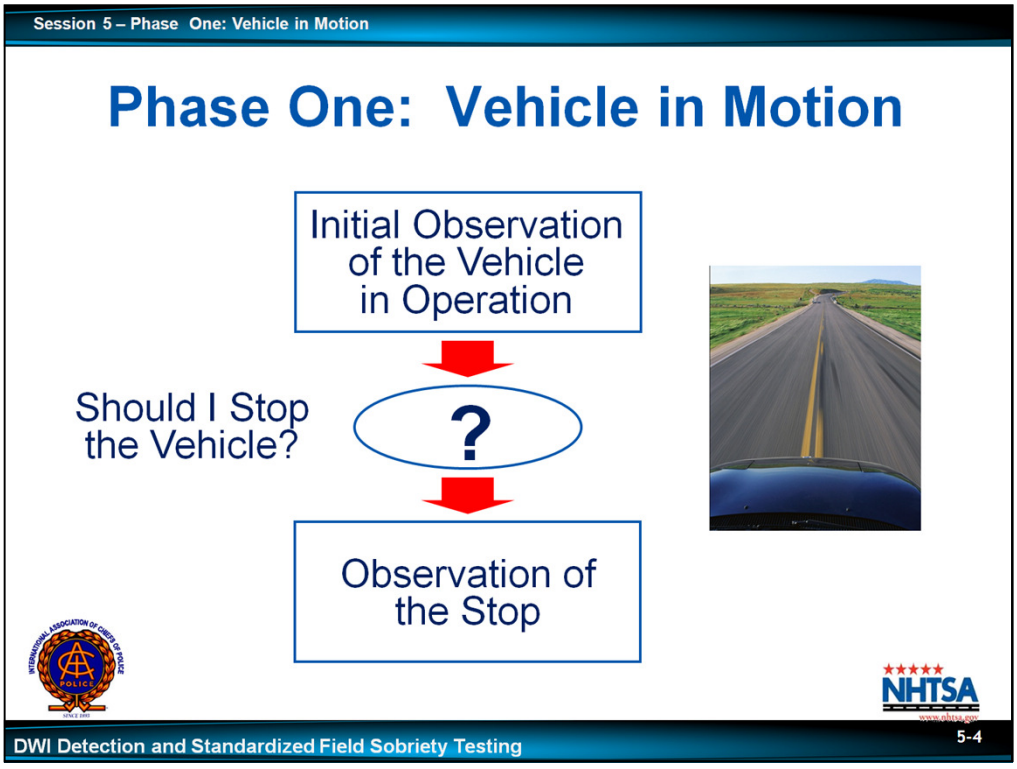
Your first task in Phase One: Vehicle in Motion is to observe the vehicle in operation to note any initial cues of a possible DWI violation. At this point you must decide whether there is reasonable suspicion to stop the vehicle, either to conduct further investigation to determine if the driver may be impaired, or for another traffic violation. You are not committed to arresting the driver for DWI based on this initial observation, but rather should concentrate on gathering all relevant evidence that may suggest impairment. Your second task during phase one is to observe the manner in which the driver responds to your signal to stop, and to note any additional evidence of a DWI violation.

Point out block No. 1 on the slide. Pose this question: "What are some of the kinds of things that might first draw your attention to a vehicle?"

The first task, observing the vehicle in motion, begins when you first notice the vehicle, driver or both. Your attention may be drawn to the vehicle by such things as:

- A moving traffic violation
- An equipment violation
- An expired registration or inspection sticker
- Unusual driving actions, such as weaving within a lane or moving at a slower than normal speed
- Evidence of drinking or drugs in vehicle

If this initial observation discloses vehicle maneuvers or human behaviors that may be associated with impairment, you may develop an initial suspicion of DWI.



Based upon this initial observation of the vehicle in motion, you must decide whether there is reasonable suspicion to stop the vehicle. At this point you have three choices:

- Stop the vehicle.
- Continue to observe the vehicle.
- Disregard the vehicle.

Point out the decision on the slide. Ask class to suggest circumstances under which it would be appropriate to delay the stop decision to continue to observe the vehicle.

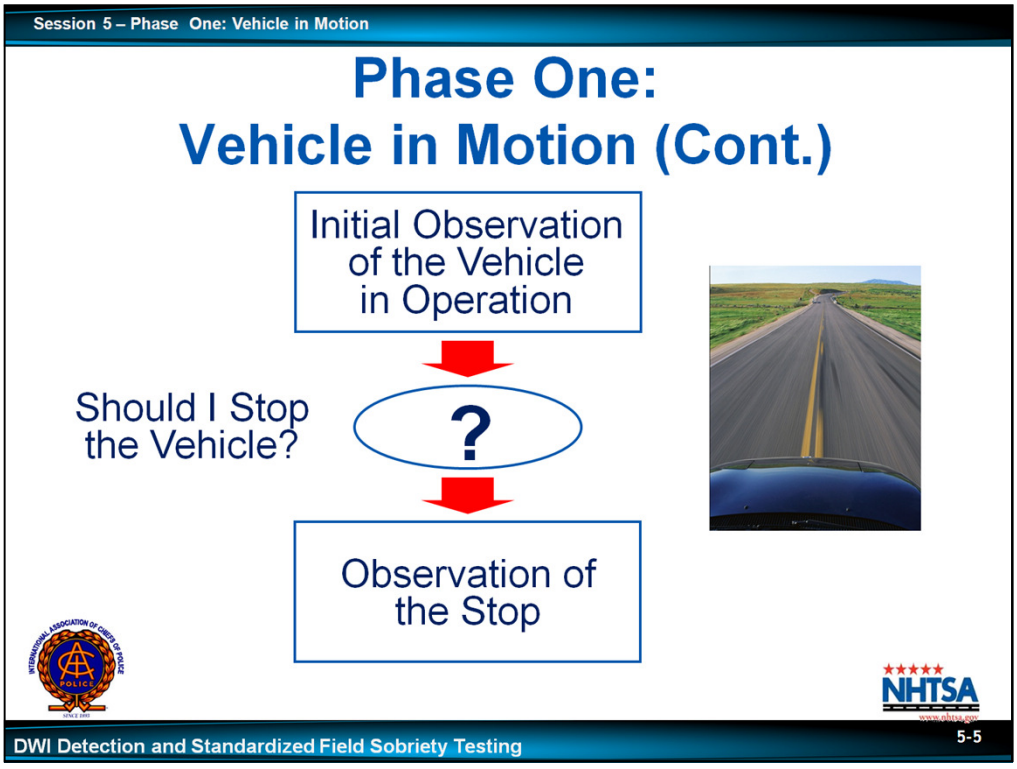
Emphasize that the officer may not have an explicit reason to suspect impairment at this time.

Alternatives to stopping the vehicle include:

- Delaying the stop/no stop decision, in order to continue observing the vehicle
- Disregarding the vehicle

Whenever there is a valid reason to stop a vehicle, the officer should be alert to the possibility that the driver may be impaired by alcohol and/or other drugs.

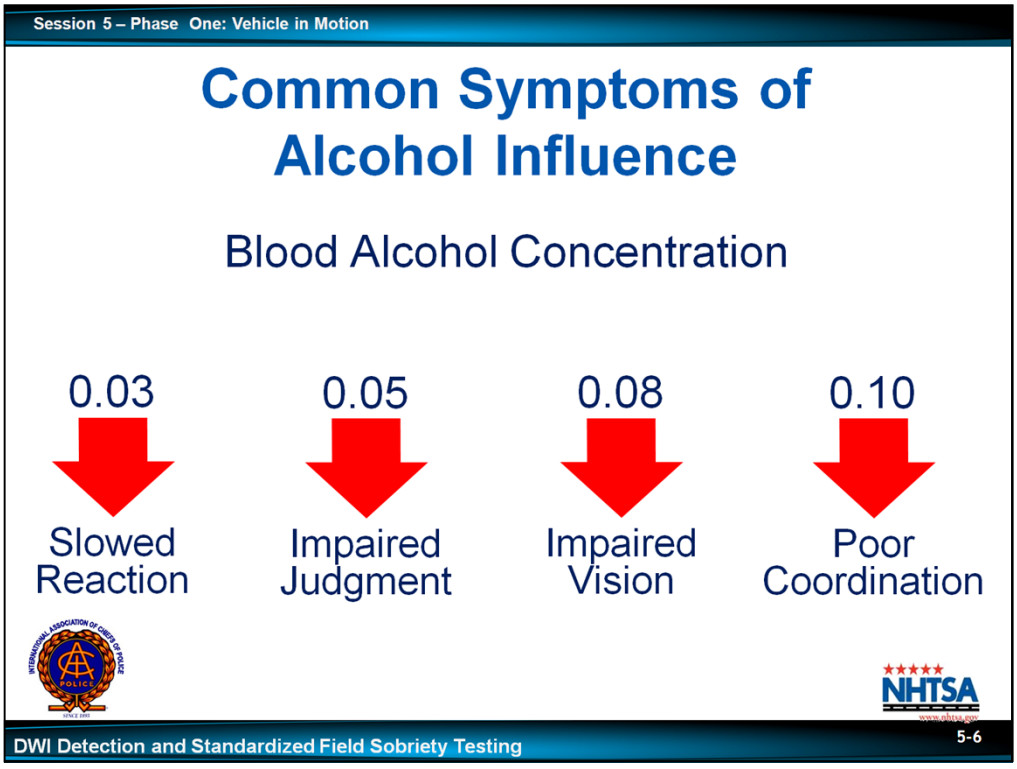
Once the stop command has been communicated to the suspect driver, the officer must closely observe the driver's actions and vehicle maneuvers during the stopping sequence.



Point out block No. 2 on the slide.

Sometimes, significant evidence of alcohol influence comes to light during the stopping sequence. In some cases, the stopping sequence might produce the first suspicion of DWI. Drivers impaired by alcohol and/or other drugs may respond in unexpected and dangerous ways to the stop command.

Emphasize officer's need to be alert for own safety.



B. <u>Initial Observations: Visual Cues of Impaired Vehicle Operation (Automobiles)</u>

The following video segments were produced to show a variety of traffic stop situations being performed by different law enforcement agencies. The goal of this video is to depict the cues associated with impaired driving. Participants should be guided by their own agency's policy regarding traffic stops, officer safety tactics, and professional conduct.

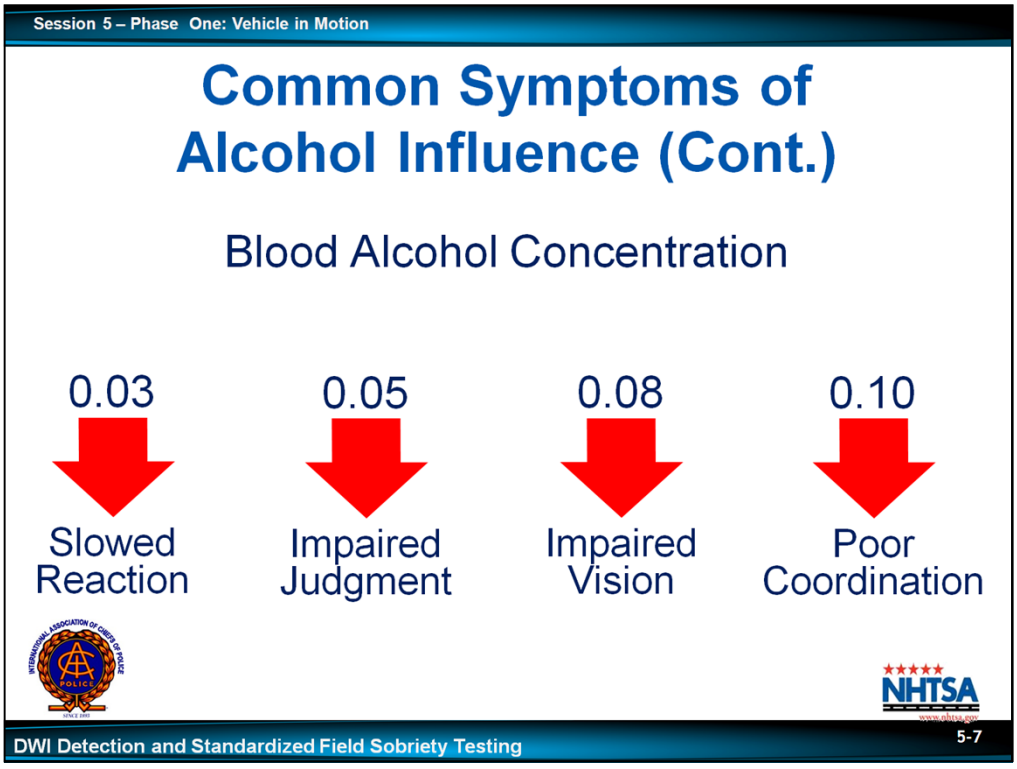
Drivers who are impaired frequently exhibit certain effects or symptoms of impairment. These include:

- Slowed reactions.
- Impaired judgment as evidenced by a willingness to take risks.
- Impaired vision.
- Poor coordination.

Use the following types of questions to involve the participants in a discussion of driving violations/characteristics associated with alcohol influence (all vehicles):

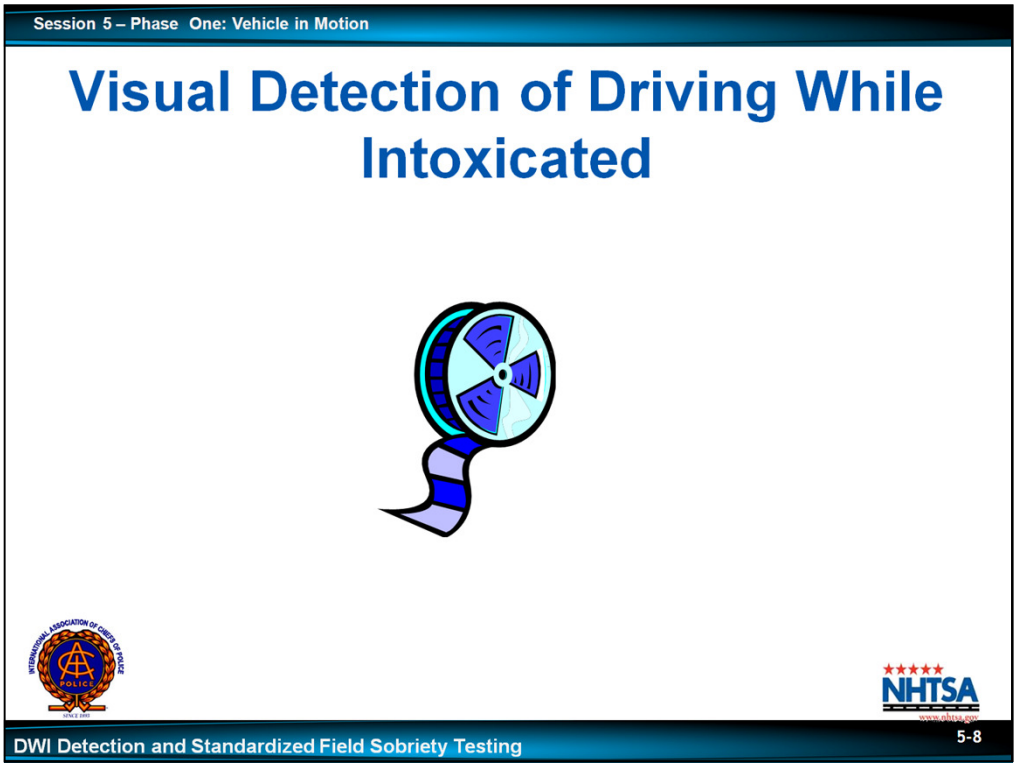
- ***What violations may result from slowed reactions?***
- ***What violations might result from impaired judgment?***
- ***What violations might result from impaired vision?***
- ***What violations might result from poor coordination?***

The next page presents common symptoms of alcohol influence.



This unit focuses on alcohol impairment because research currently provides more information about the effects of alcohol on driving than it does about the effects of other drugs on driving. Remember that whether the driver is impaired, the law enforcement detection process is the same, and the offense is still DWI.

The Drug Evaluation Classification Program (DECP) and the Advanced Roadside Impaired Driving Enforcement (ARIDE) course have increased awareness of the DWI drug problem.



The common effects of alcohol on the driver's mental and physical faculties lead to predictable driving violations and vehicle operating characteristics. The National Highway Traffic Safety Administration (NHTSA) sponsored research to identify the most common and reliable initial indicators of DWI. This research identified 24 cues, each with an associated high probability that the driver exhibiting the cue is impaired. These cues and their associated probabilities are described in the NHTSA publication, The Visual Detection of DWI Motorists.

They also are discussed in Visual Detection of Driving While Intoxicated, a video sponsored by NHTSA to assist law enforcement officers to recognize DWI detection cues.

(ANACAPA Sciences, DOT HS 808 654, 1997.)

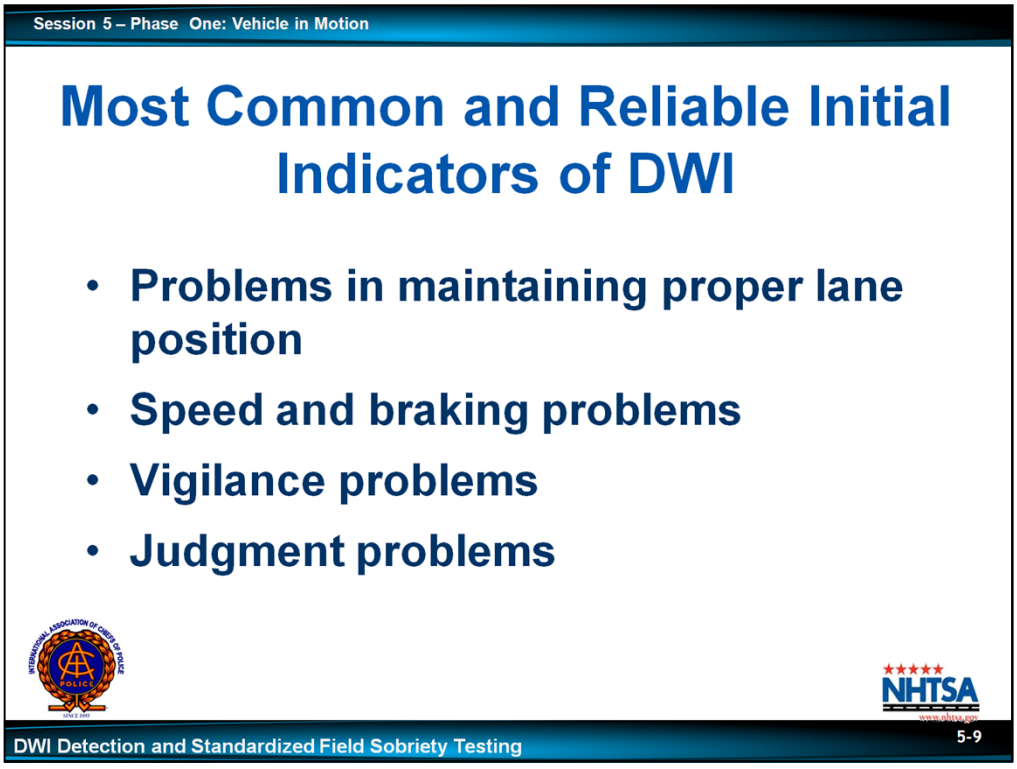
The National Highway Traffic Safety Administration sponsored research to identify the most common and reliable initial indicators of DWI.

Research identified 100 cues, each providing a high probability indication that the driver is under the influence.

The cues presented in these categories predict a driver is DWI at least 35 % of the time.

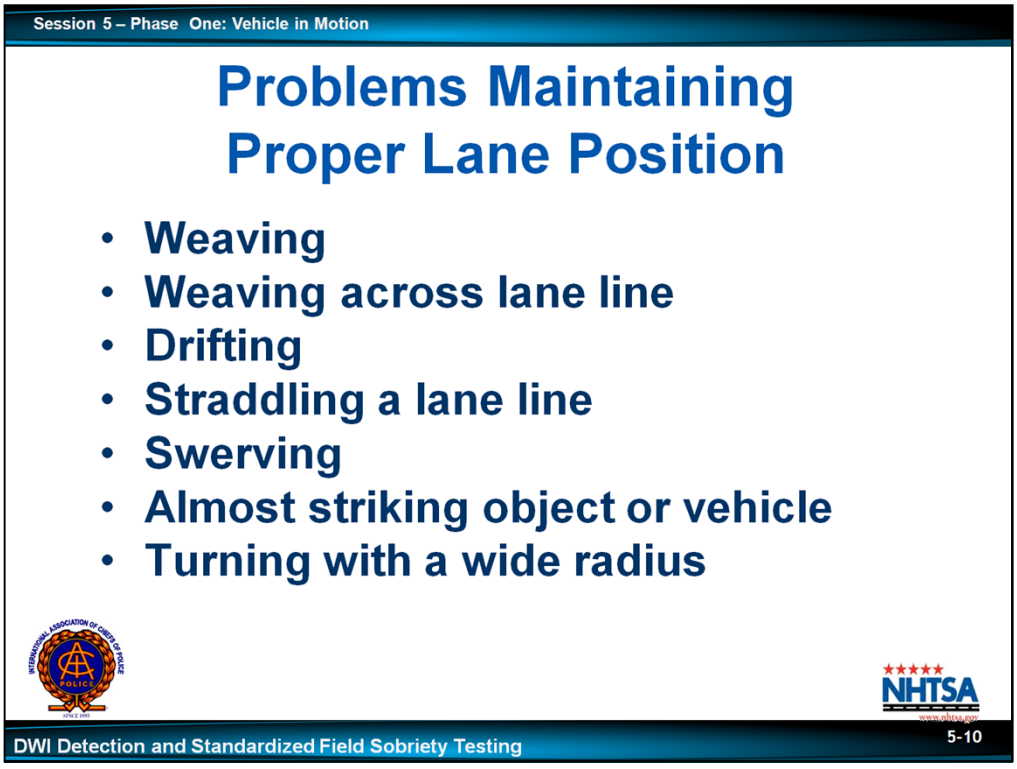
The list was reduced to 24 cues during three field studies involving hundreds of officers and more than 12,000 enforcement stops.

Show Video first. Use slide for review. Allow 12 minutes.



The driving behaviors are presented in four categories:

- Problems in maintaining proper lane position
- Speed and braking problems
- Vigilance problems
- Judgment problems



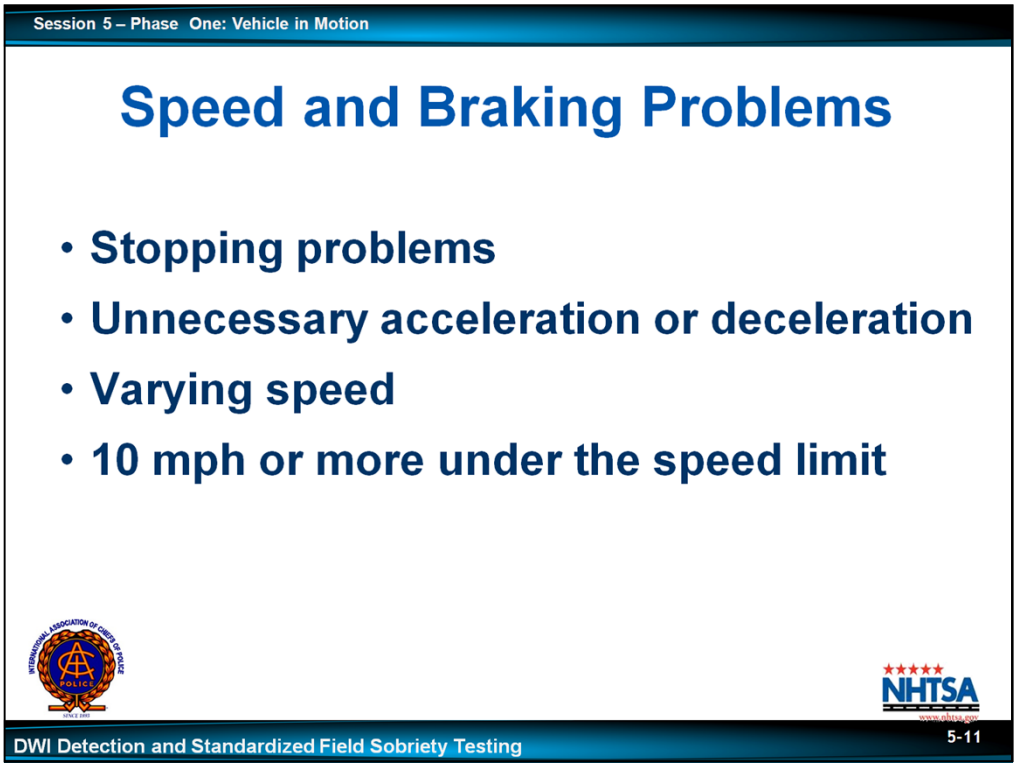
Usually, the probability of DWI increases substantially when a driver exhibits more than one of the cues.

There is a brochure published by NHTSA that contains these cues. The title is "The Visual Detection of DWI Motorists" DOT HS 808 677.

The first category is:

Problems in maintaining proper lane position. [p=.50-.75]

- Weaving.
- Weaving across lane lines.
- Drifting.
- Straddling a lane line.
- Swerving.
- Almost striking object or vehicle.
- Turning with a wide radius.

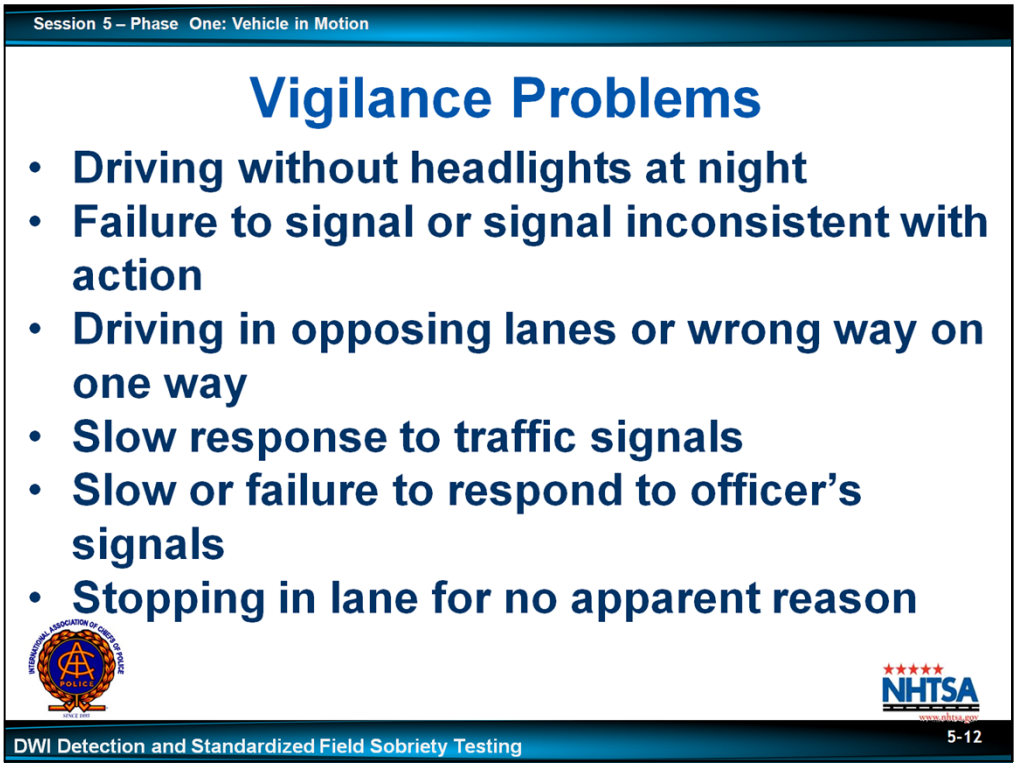


Speed and braking problems. [p=.45-.70].

- Stopping problems (too far, too short, or too jerky).
- Unnecessary acceleration or deceleration
- Varying speed
- 10 mph or more under the speed limit

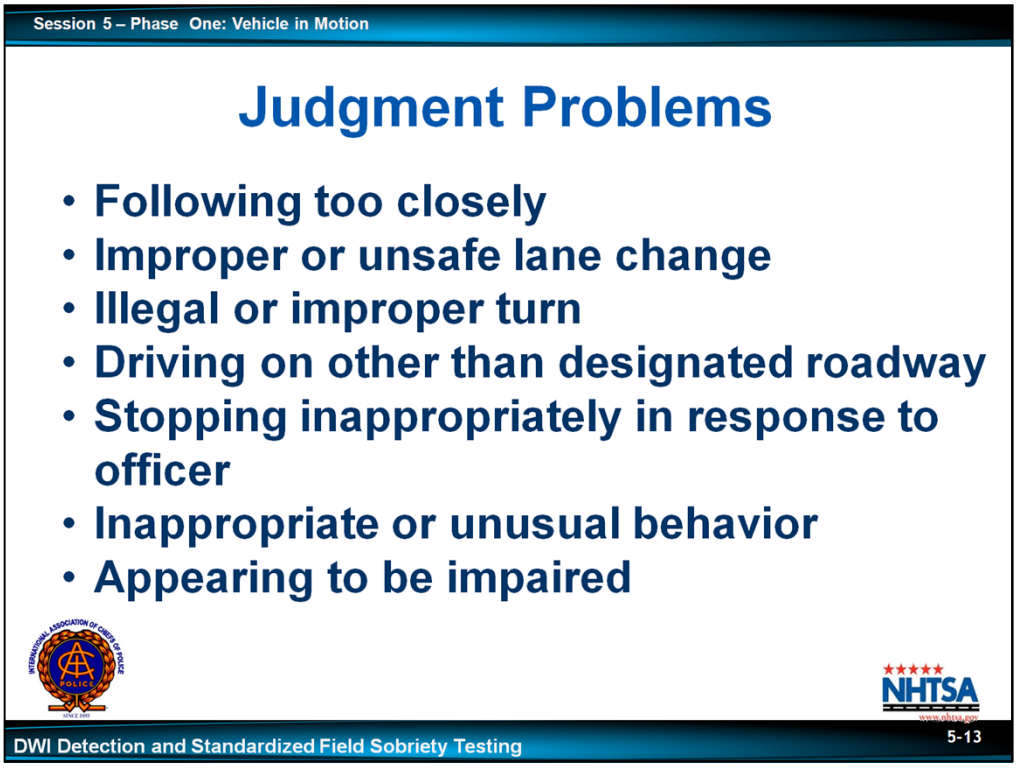
Stopping problems include:

- ***Stopping too far from a curb or at an inappropriate angle***
- ***Stopping too short or beyond a limit line***
- ***Jerky or abrupt stops***
- ***Unnecessary acceleration or deceleration***
- ***Varying speed***
- ***10 mph or more under the speed limit***



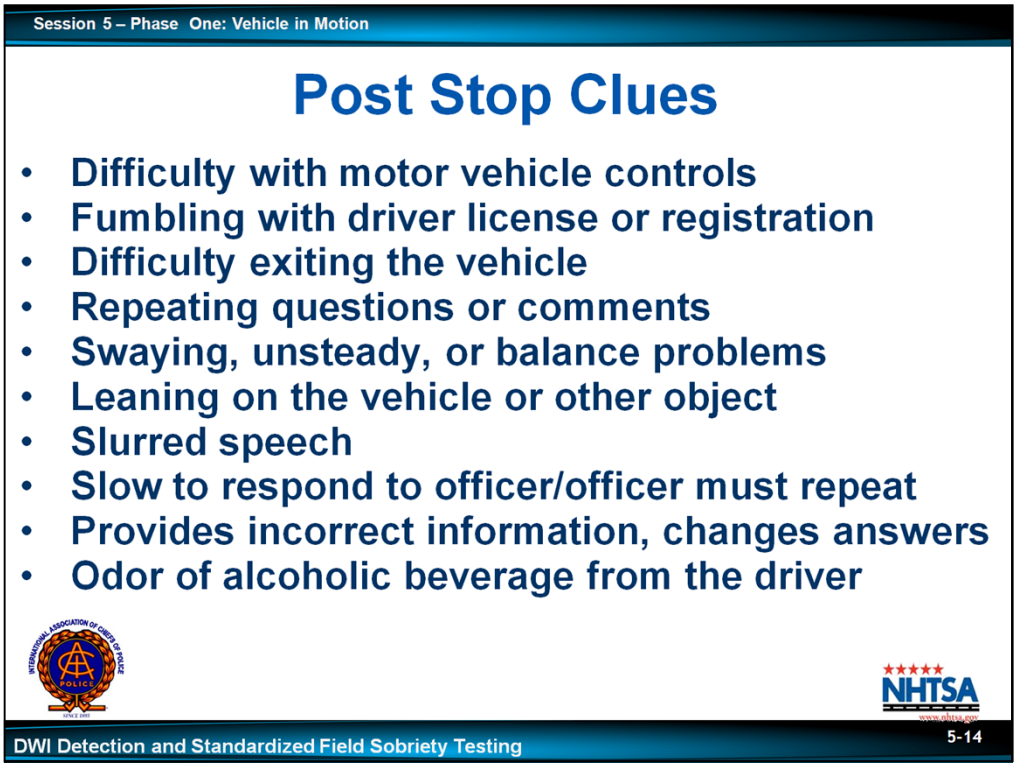
The third problem is vigilance problems. [P=.55-.65]. This category includes, but is not limited to:

- Driving without headlights at night
- Failure to signal or signal inconsistent with action
- Driving in opposing lanes or wrong way on one way
- Slow response to traffic signals
- Slow or failure to respond to officer's signals
- Stopping in lane for no apparent reason



Judgment problems. [P=.35-.90].

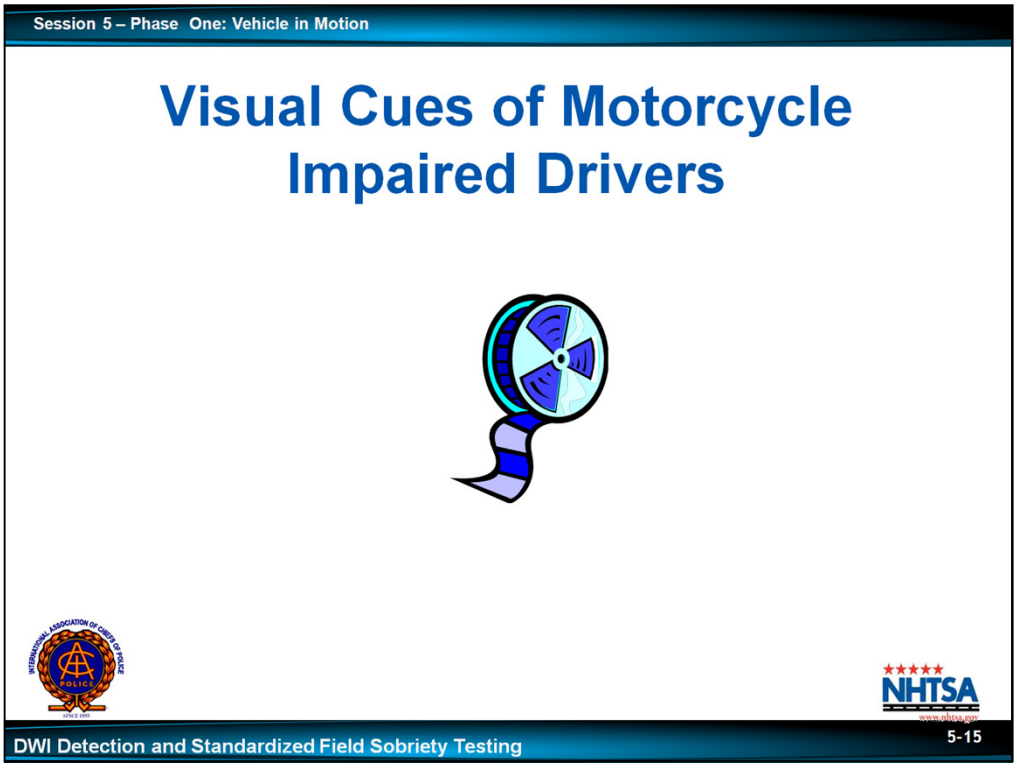
- Following too closely (tailgating)
- Improper or unsafe lane change
- Illegal or improper turn
- Driving on other than designated roadway
- Stopping inappropriately in response to officer
- Inappropriate or unusual behavior (throwing objects, arguing, etc.)
- Appearing to be impaired



The research also identified 10 post stop cues. [P $\geq$ .85].

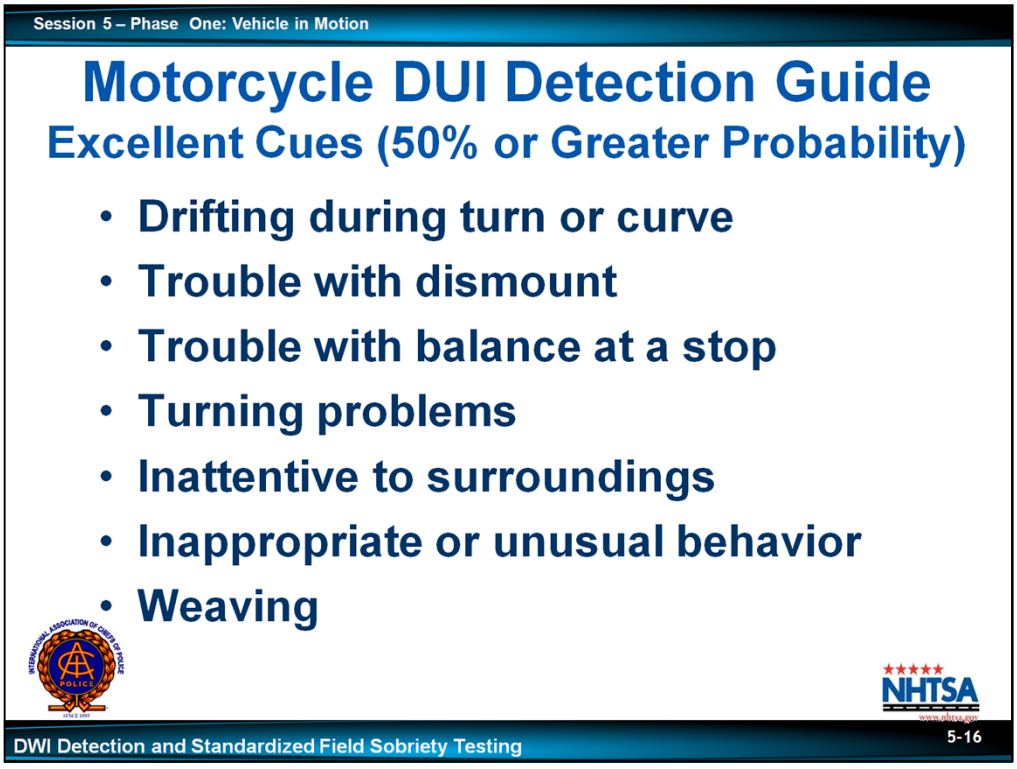
- Difficulty with motor vehicle controls
- Fumbling with driver license or registration
- Difficulty exiting the vehicle
- Repeating questions or comments
- Swaying, unsteady, or balance problems
- Leaning on the vehicle or other object
- Slurred speech
- Slow to respond to officer/officer must repeat
- Provides incorrect information, changes answers
- Odor of alcoholic beverage from the driver

Explanation and illustration of the 24 detection cues.



C. <u>Initial Observations: Visual Cues of Impaired Vehicle Operation (Motorcycles)</u>

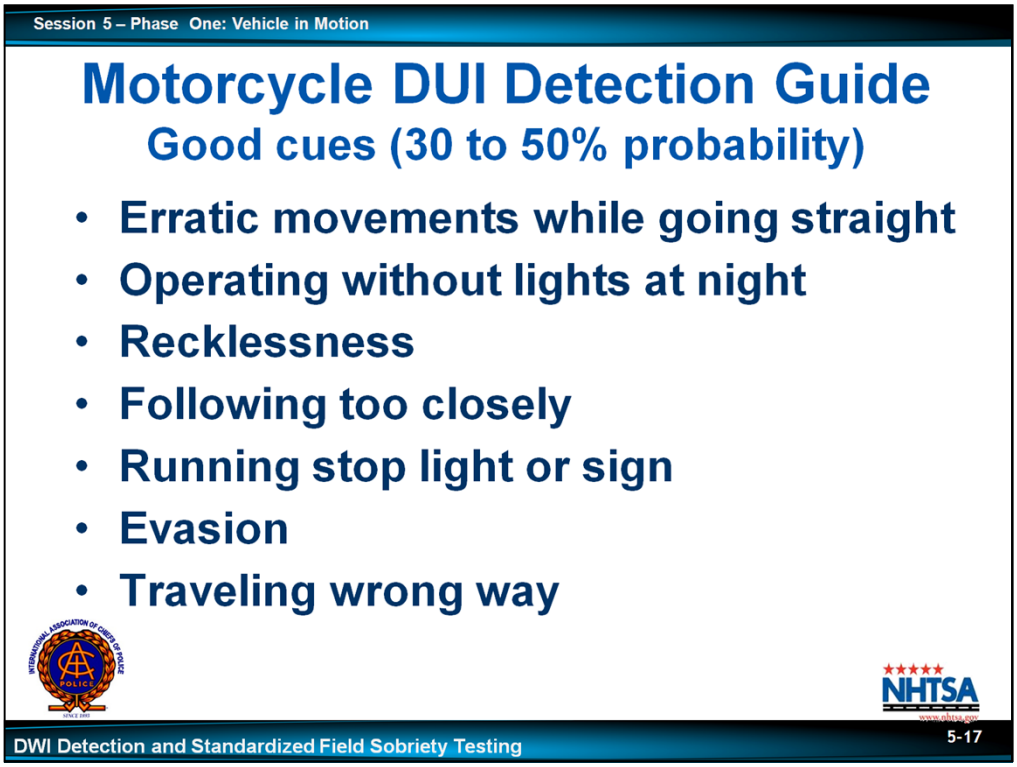
Show video. Allow 13 minutes.



Research has identified driving impairment cues for motorcyclists.
(ANACAPA Sciences, DOT HS 807 839, 1993.)

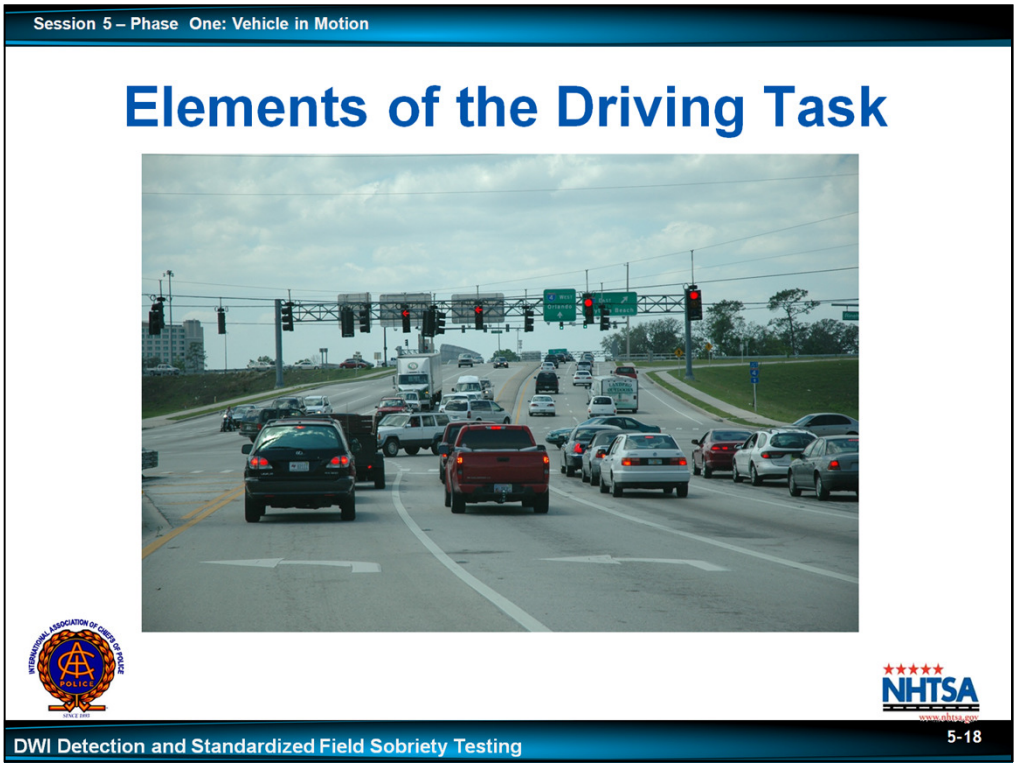
Excellent cues (50% or greater probability).

- Drifting during turn or curve
- Trouble with dismount
- Trouble with balance at a stop
- Turning problems (e.g., unsteady, sudden corrections, late braking, improper lean angle)
- Inattentive to surroundings
- Inappropriate or unusual behavior (e.g., carrying or dropping object, urinating at roadside, disorderly conduct, etc.)
- Weaving



Good Cues (30 to 50% probability)

- Erratic movements while going straight
- Operating without lights at night
- Recklessness
- Following too closely
- Running stop light or sign
- Evasion
- Traveling wrong way



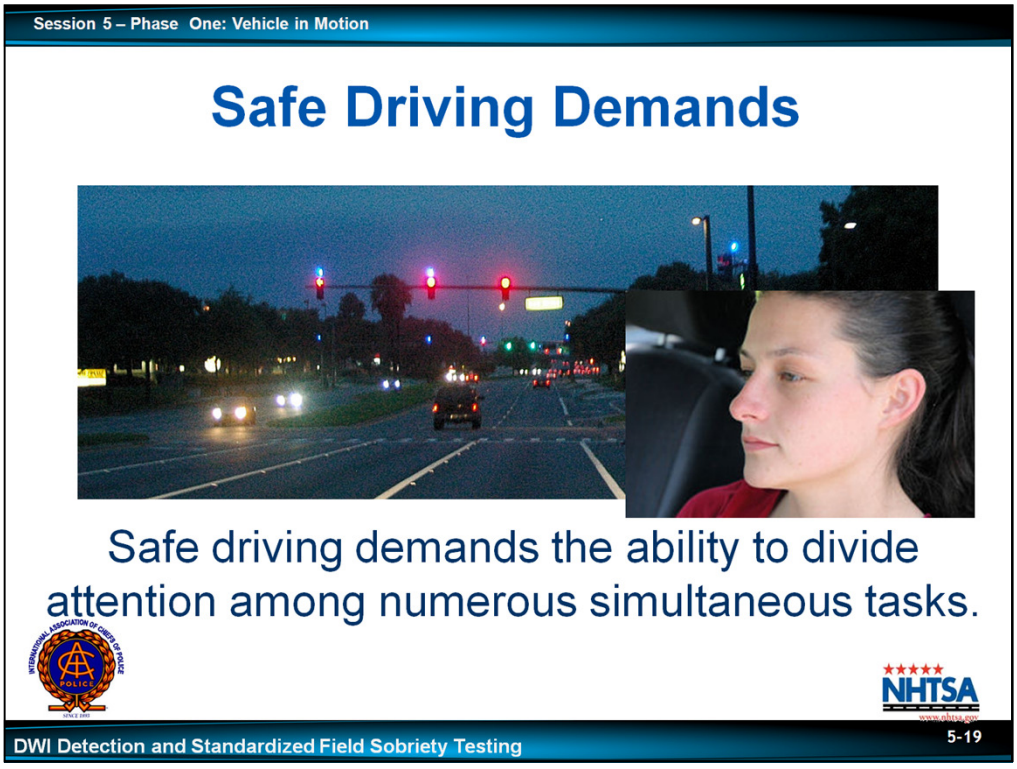
Relationship of Visual Cues to Impaired Divided Attention Capability

Point out that it is important to understand how the effects of alcohol are exhibited in driving, so that officers can recognize the significance of their visual observations.

Driving is a complex task, composed of many parts:

Ask participants to name the various parts of the driving task. List them on the dry erase board or flip chart as they are named.

- Steering
- Controlling accelerator
- Signaling
- Controlling brake pedal
- Operating clutch (if applicable)
- Operating gearshift (if applicable)
- Observing other traffic
- Observing signal lights, stop signs, other traffic control devices
- Making decisions (whether to stop, turn, speed up, slow down, etc.)
- Many other things



In order to drive safely, a driver must be able to divide attention among all of these various activities.

Under the influence of alcohol or many drugs, a person's ability to divide attention becomes impaired.

The impaired driver tends to concentrate on certain parts of driving and to disregard other parts.

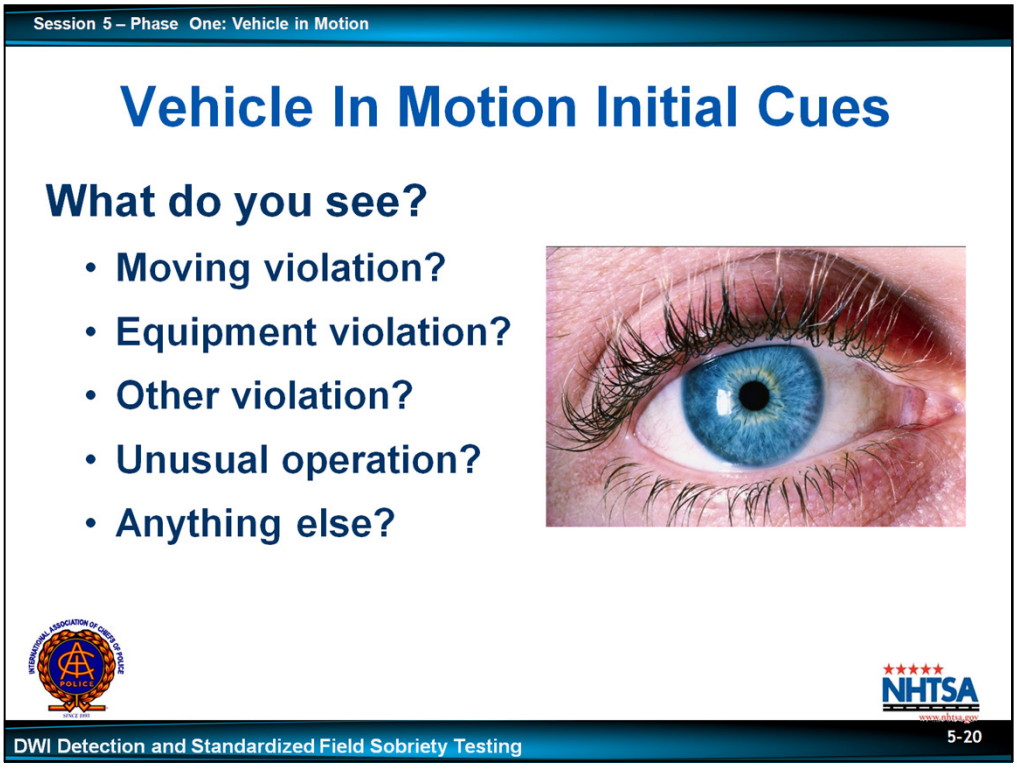
This picture shows a driver running a red light.

Another Example: Person stops at a green light (scene from previous video.)

- Alcohol has impaired ability to divide attention.
- Driver is concentrating on steering and controlling the accelerator and brake.
- Does not respond to the particular color of the traffic light.

Some of the most significant evidence from all three phases of DWI detection can be related directly to the effects of alcohol and/or other drugs on divided attention ability.

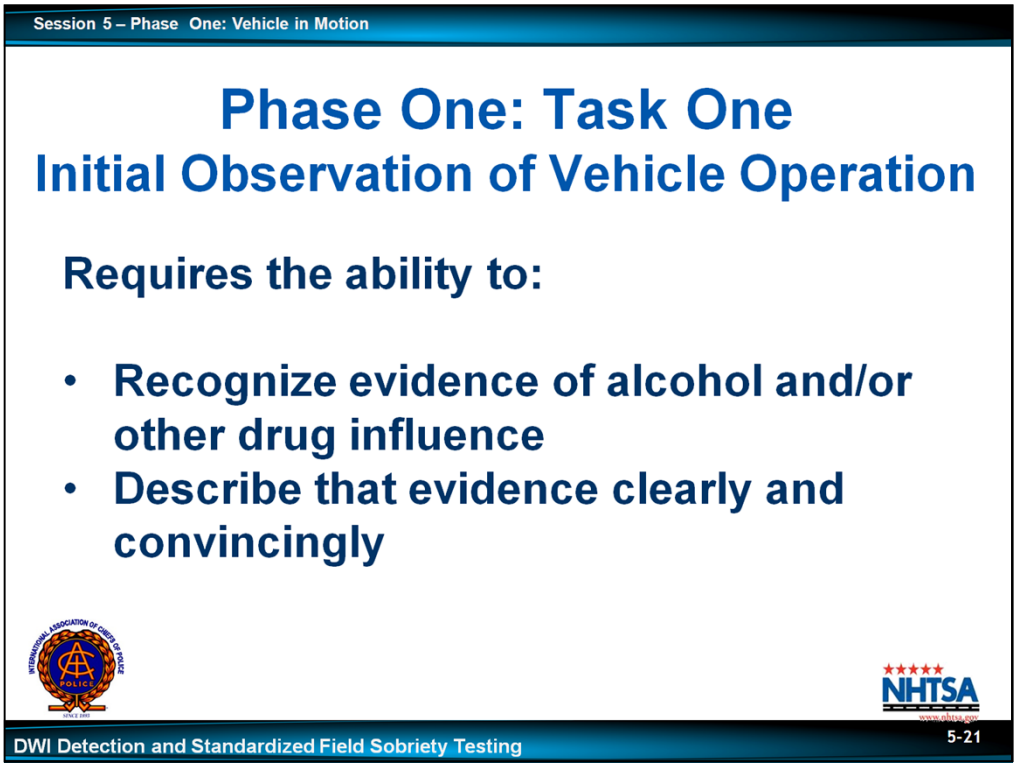
Point out that the concept of divided attention is especially important during personal contact with DWI subjects and during pre-arrest screening of them.



D. Recognition and Description of Initial Cues

What do you see?

- Moving violation?
- Equipment violation?
- Other violation?
- Unusual operation?
- Anything else?



Phase One: Task One Initial Observation of Vehicle Operation

The task of making initial observations of vehicle operation is the first step in the job of DWI detection.

Proper performance of that task demands two distinct but related abilities:

- Ability to recognize evidence of alcohol and/or other drug influence.
- Ability to describe that evidence clearly and convincingly.

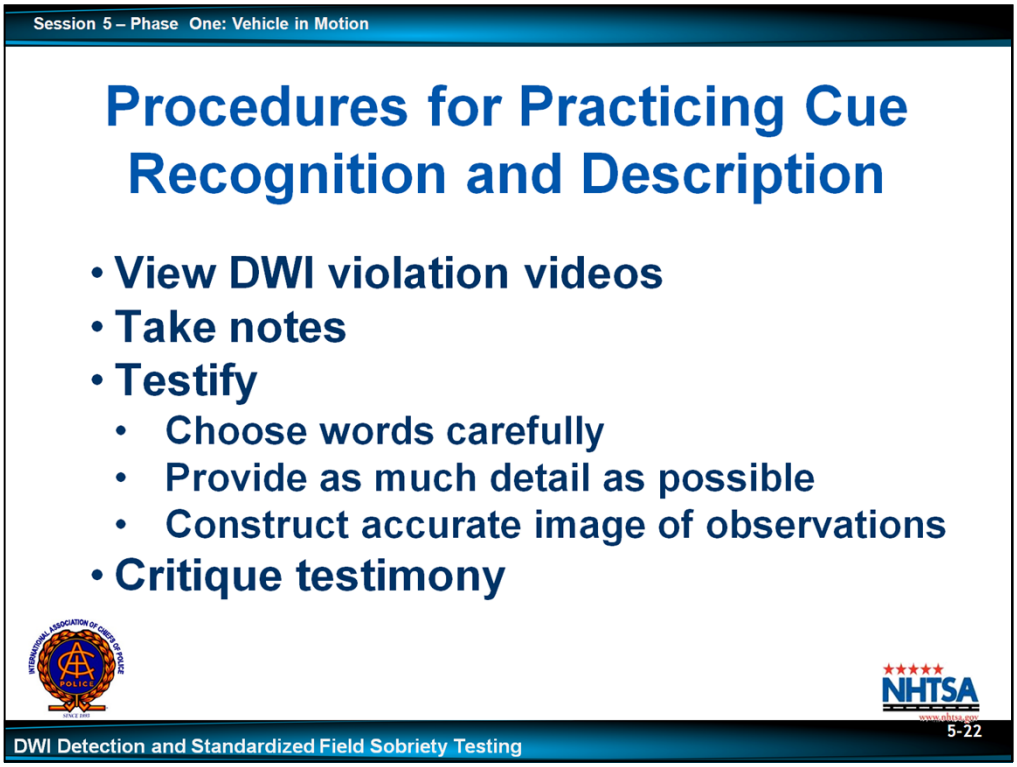
It is not enough that a police officer observe and recognize symptoms of impaired driving. The officer must be able to articulate what was observed so that a judge or jury will have a clear mental image of exactly what took place.

Emphasize that observational evidence is of little value if the officer cannot make the judge or jury "see" what the officer saw.

Improving the ability to recognize and clearly describe observational evidence requires practice.

It isn't practical to have impaired drivers actually drive through the classroom.

The next best thing is to use video to portray typical DWI detection contacts.



Procedures for Practicing Cue Recognition and Description

All participants view brief video segments illustrating possible DWI violations.

Make sure all participants understand the procedures that will be followed during the practice sessions.

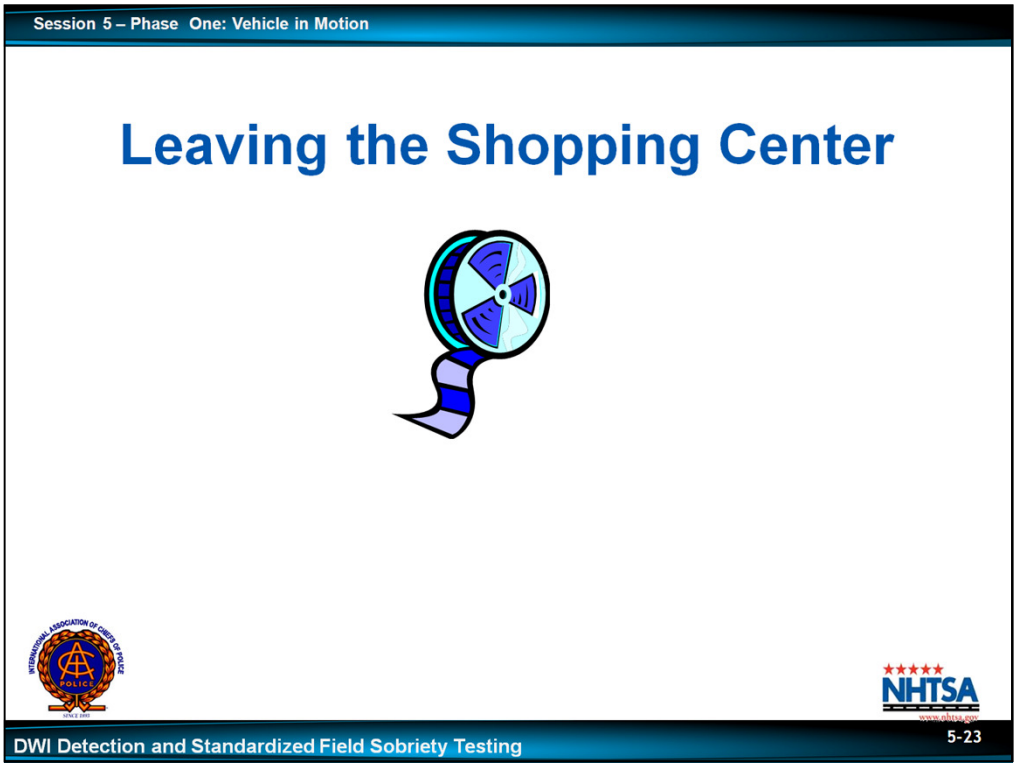
Following the video segment, a few minutes will be given to allow all participants to write notes on what was observed.

Hand out copies of the standard note taking guide.

One or more participants will be called forth to "testify" concerning what was observed. Emphasize that participants are to use the guide to compile notes on their observations of the video segments.

Class will critique the "testimony" in terms of how clearly and convincingly it conveys what was actually observed. Emphasize that the purpose of the critique is not to embarrass anyone, but rather to help everyone become more skilled at providing clear, descriptive testimony.

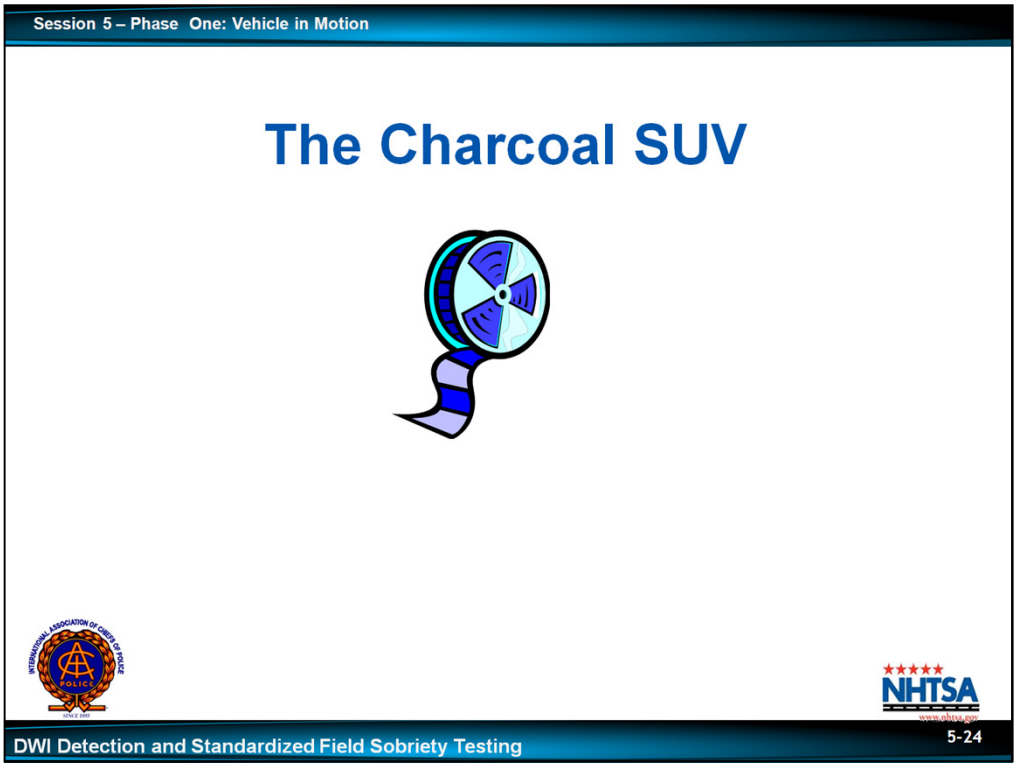
Goal is to choose words carefully and provide as much detail as necessary, to construct an accurate mental image of the observations.



Video Segment "Leaving the Shopping Center")(Video approximately 54 seconds)
Show Video Segment "Leaving the Shopping Center". Allow two minutes for participants to compile notes.
Testimony of Video Segment "Leaving the Shopping Center"
Select a representative participant to come forward and "take the witness stand," facing the class.
Key points to be elicited:

- ***Weather/Traffic conditions.***
- ***Drives up over raised island.***
- ***Makes wide right turn.***
- ***Causes bicyclist to swerve.***

Elicit testimony as follows: "Officer, you have been sworn. Please tell the court exactly what you observed at the time and place in question.
Allow the participants to refer to their notes, if so desired.
When participant completes testimony ask: "Officer, do you have anything else to add?"
Once participant indicates that there is nothing further to add, ask the class to comment on the clarity and completeness of the testimony, and to add any important details that were left out.
Continue to prompt the class to offer comments until all of the key points have been notes.
If so desired and appropriate, repeat the showing of Video Segment No. 1 to point out the key details.

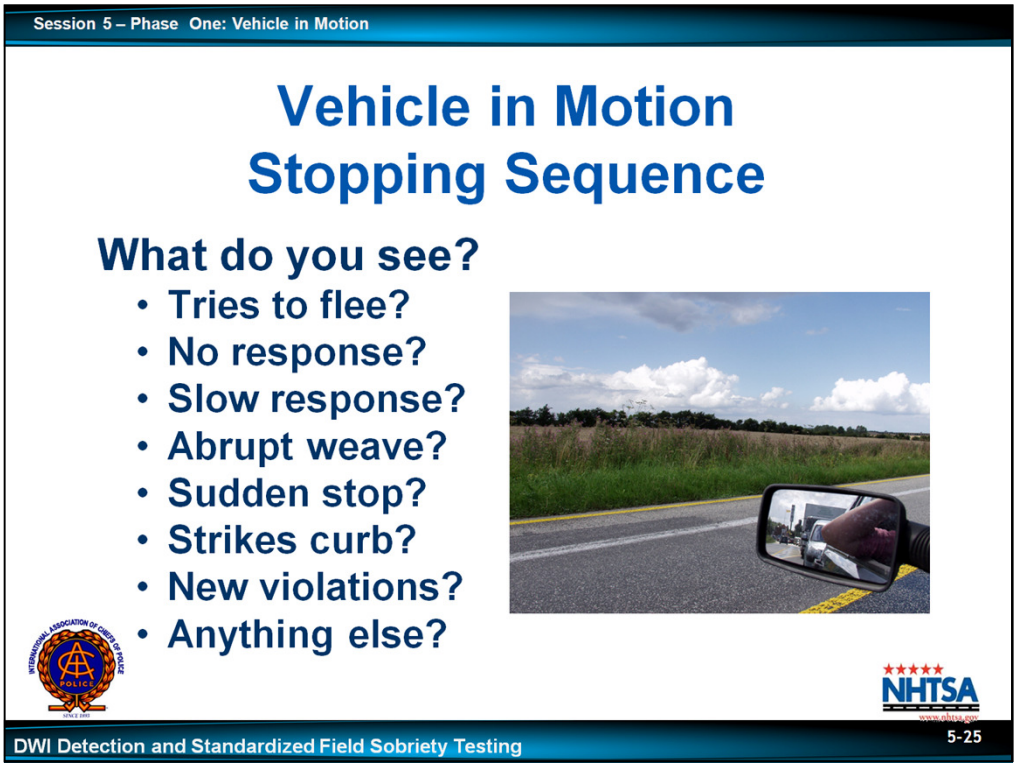


Video Segment "The Charcoal SUV" (Video approximately 1 minute)
Show Video Segment "The Charcoal SUV." Allow two minutes for participants to compile notes.
Testimony on Video Segment The Charcoal SUV" .

Select a representative participant to come forward to "testify". Allow participant to refer to notes. Probe for any additional details, or more descriptive language, in the testimony. Solicit comments from the class.
Key points to be elicited:

- ***Weather/Traffic conditions***
- ***Wrong directional light on***
- ***Sits on green arrow***
- ***Turns on red light***
- ***Drifts first to left then right***

Stress the importance of the particular words used to describe the subject vehicle's motion.
Point out that words such as "swerving" and "drifting," etc., convey a powerful and clear mental image of how the vehicle moved, while terms such as "erratic" and "abnormal," etc., are essentially non-descriptive.
Point out that it is permissible and desirable for the officer to use hand movements, along with verbal testimony, to convey clearly how the vehicle moved.
If desired and appropriate, repeat the showing of Video Segment "The Charcoal SUV"



E. <u>Typical Reinforcing Cues of the Stopping Sequence</u>

After the command to stop is given, the alcohol impaired driver may exhibit additional important evidence of DWI.

Ask participants to suggest possible cues that might be observed <u>after</u> the stop command that might reinforce the initial suspicion of DWI.

Some of these cues are exhibited because the stop command places additional demands on the driver's ability to divide attention.

Point out that the concept of divided attention is especially important during personal contact with DWI subjects and during pre-arrest screening of them.

Point out here the dangers inherent with fleeing operators. If time allows, review agency's pursuit policy.

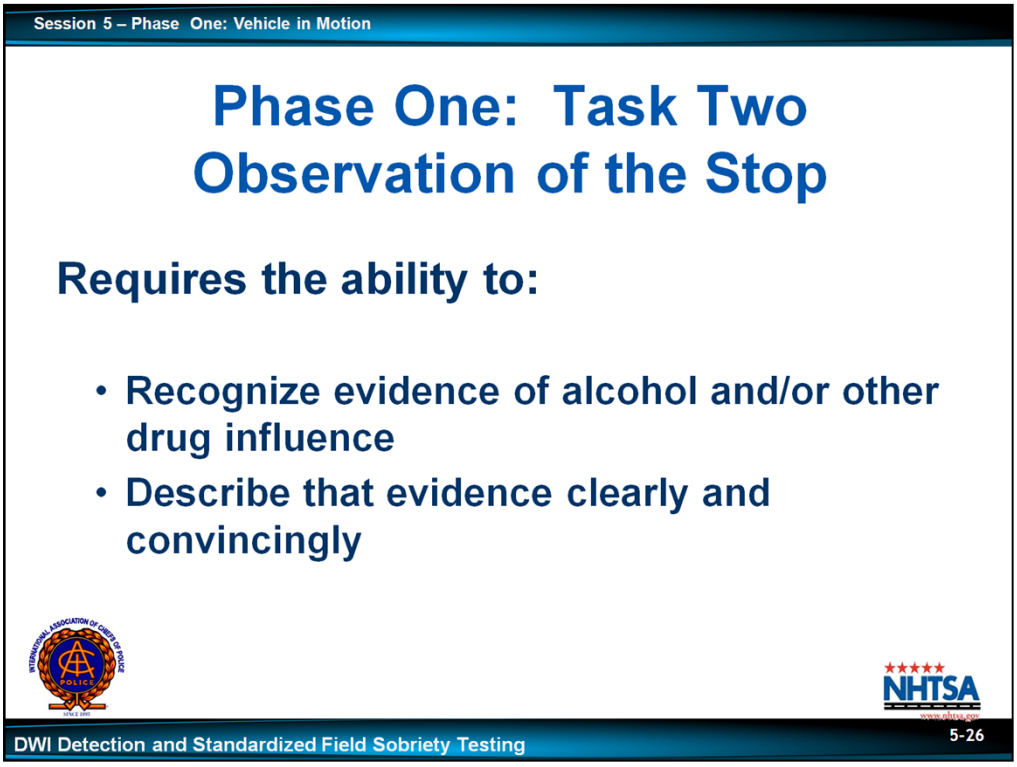
The signal to stop creates a new situation to which the driver must devote some attention, i.e., emergency flashing lights, siren, etc., demand and divert the subject's attention.

Signal to stop requires the driver to turn the steering wheel, operate the brake pedal, activate the signal light, etc.

As soon as officer gives the stop command, the subject's driving task becomes more complex.

If subject is under the influence, the subject may not be able to handle this more complex driving very well.

Emphasize that turning on the patrol vehicle's emergency lights creates a simple test of the subject's driving impairment.



Phase One: Task Two Observation of the Stop
It is the officer's responsibility to capture and convey the additional evidence of impairment that may be exhibited during the stopping sequence.

- Requires ability to recognize evidence of alcohol and/or other drug influence.
- Requires ability to describe that evidence clearly and convincingly.

F. <u>Recognition and Description of Initial and Reinforcing Cues</u>
Procedures for practicing cue recognition and description.

The next two video segments combines both tasks and the decision of DWI Detection Phase One.

- ***Each segment begins with the initial observation of the vehicle in operation.***
- ***In each segment, the decision to stop the vehicle is made.***
- ***Each segment concludes with the observation of the stop.***

Standard note taking guide to be used to compile notes.

Following each segment, a few minutes will be given to allow participants to gather thoughts and compile notes.

Participants will be called upon to "testify" concerning what was observed, both prior to and after the stop command.

Class will constructively critique the "testimony." Make sure all participants understand the procedures.

Video Segment "The Sliding Sports Car"

Show Video Segment "The Sliding Sports Car" . Allow two - three minutes for the participants to compile notes.

Testimony on Video Segment "The Sliding Sports Car"

Select a representative participant to come forward to "testify".

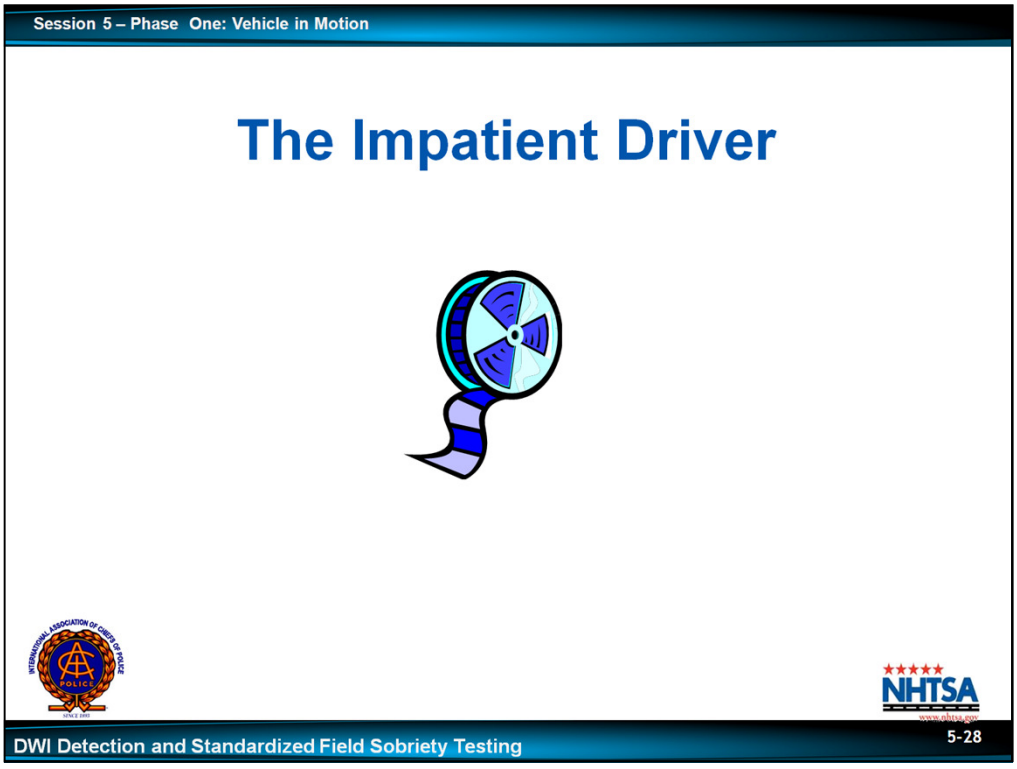
Instruct participants as follows: "Officer, first tell us exactly why you signaled the driver to stop." Make sure participant confines this stage of testimony strictly to what was observed prior to the stop command.

Next, instruct as follows: "Officer, now tell us exactly what you observed after you turned on the patrol vehicle's emergency lights."

Key points to be elicited concerning observations prior to the stop command (allow participants to refer to notes):

- ***Weather/traffic conditions***
- ***Sports car slides through the stop sign***
- ***Crosses over the fog line into the bicycle lane***
- ***Weaves back across right lane and enters middle lane***
- ***Slow response to stop signal***
- ***Stops inappropriately (right tires drive on curb)***

Solicit class comments concerning details or possible improvements to the participant's testimony. If desired and appropriate, repeat the showing of Video segment "The Sliding Sports Car".



Video Segment "The Impatient Driver“

Show Video Segment "The Impatient Driver“ . Allow two - three minutes for the participants to compile notes.

Testimony on Video Segment "The Impatient Driver“

Select a representative participant to come forward to "testify".

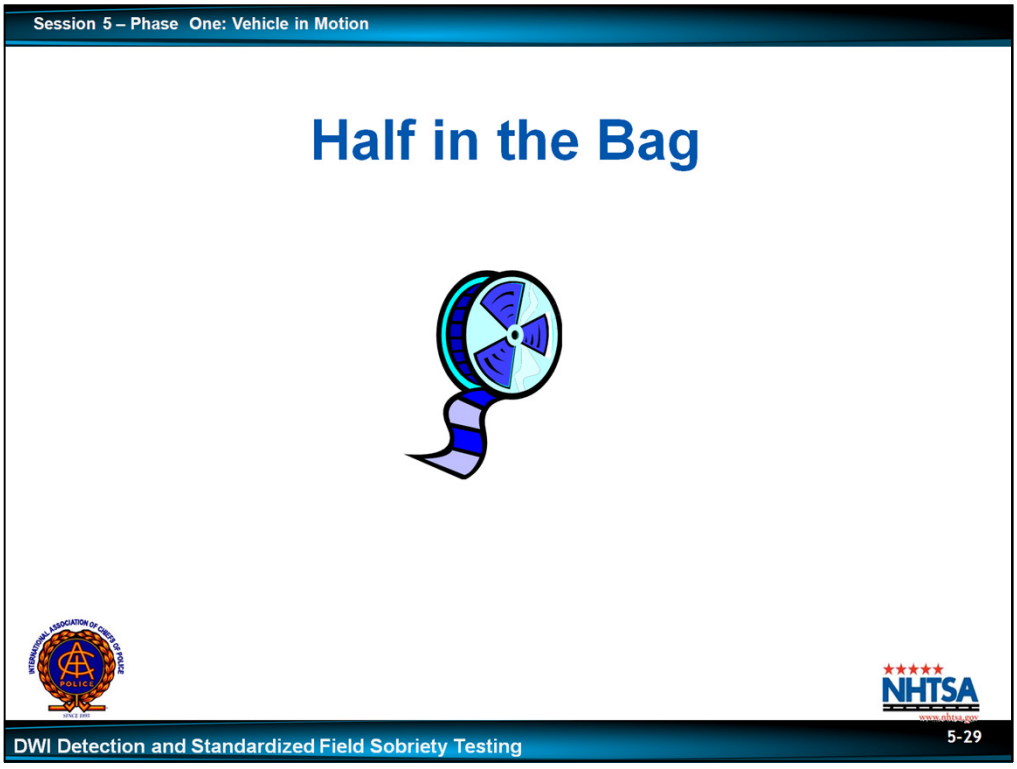
Key Points to be elicited:

- ***Weather/traffic conditions***
- ***Honks at other driver***
- ***Passes on the left out of the driveway***
- ***Violates the “No Left Turn” restriction***
- ***Drives over the concrete island with left tires***

Key points to be elicited concerning observations prior to the stop command (allow participant to refer to notes):

- ***Drifts into left lane and swerves back to right***
- ***Slow response to stop command***
- ***Drifts again into left lane and swerves back to right second time***
- ***Stops with right front tire on curb***

Instruct participant to testify first concerning everything observed prior to the stop command, and then to everything observed after the stop command.



Video Segment "Half In The Bag" Show Video Segment No. 8. Allow two three minutes for the participants to compile notes.

Testimony on Video Segment "Half In the Bag"

Select a representative participant to come forward to "testify".

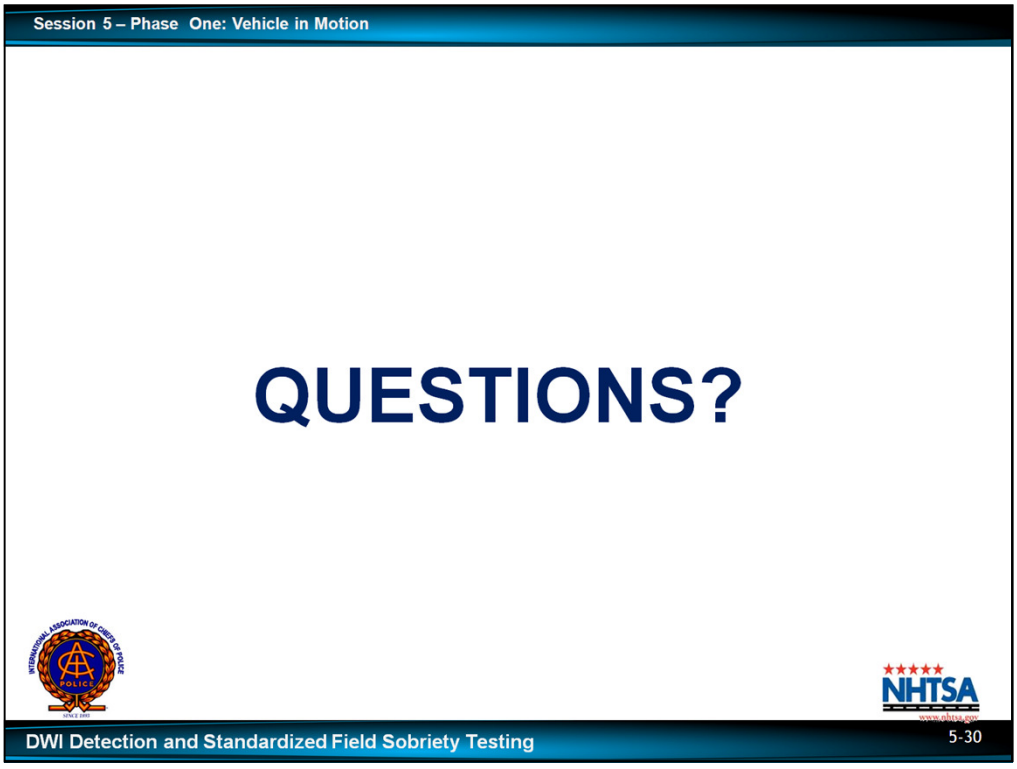
Key points to be elicited concerning observations prior to the stop command (allow participant to refer to notes):

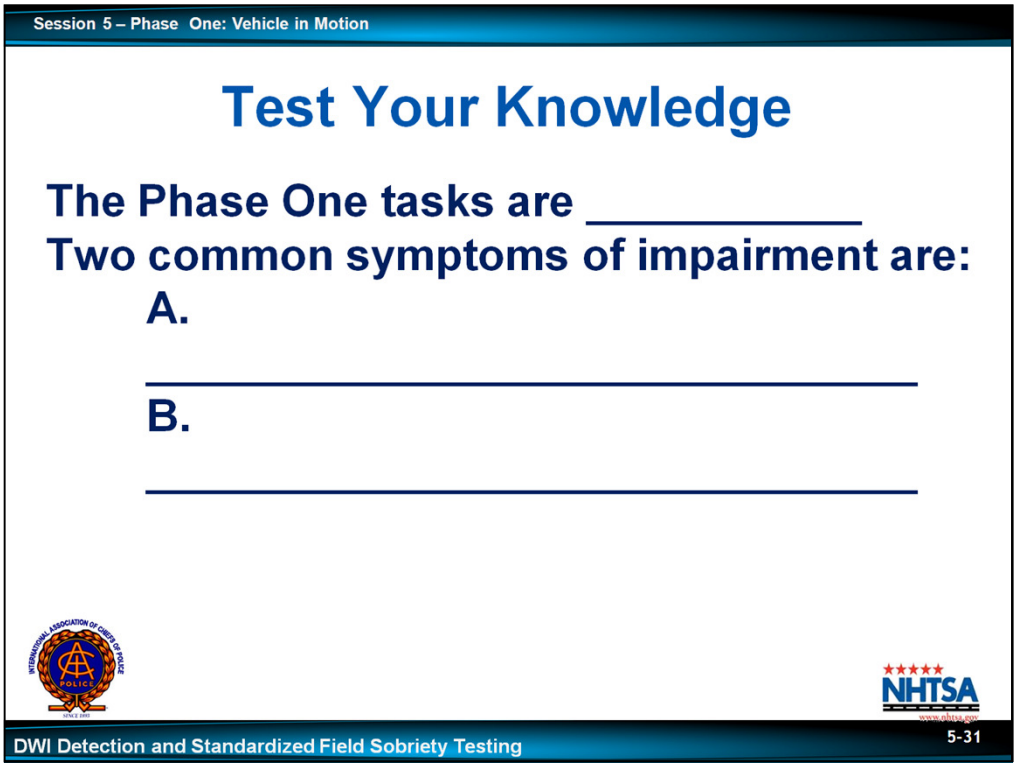
- ***Weather/Traffic conditions***
- ***Fail to stop for stop sign***
- ***Right turn from left turn lane***
- ***Wide right turn***
- ***Driver throws trash at road sign***
- ***Weaves across lane line***

Instruct participant to testify first concerning everything observed prior to the stop command, and then to everything observed after the stop command.

Key points to be elicited concerning observations subsequent to stop command:

- ***Slow response to the stop command***
- ***Drives onto the curb two times prior to stopping.***


Session 5 – Phase One: Vehicle in Motion
QUESTIONS?
NHTSA
DWI Detection and Standardized Field Sobriety Testing
5-30



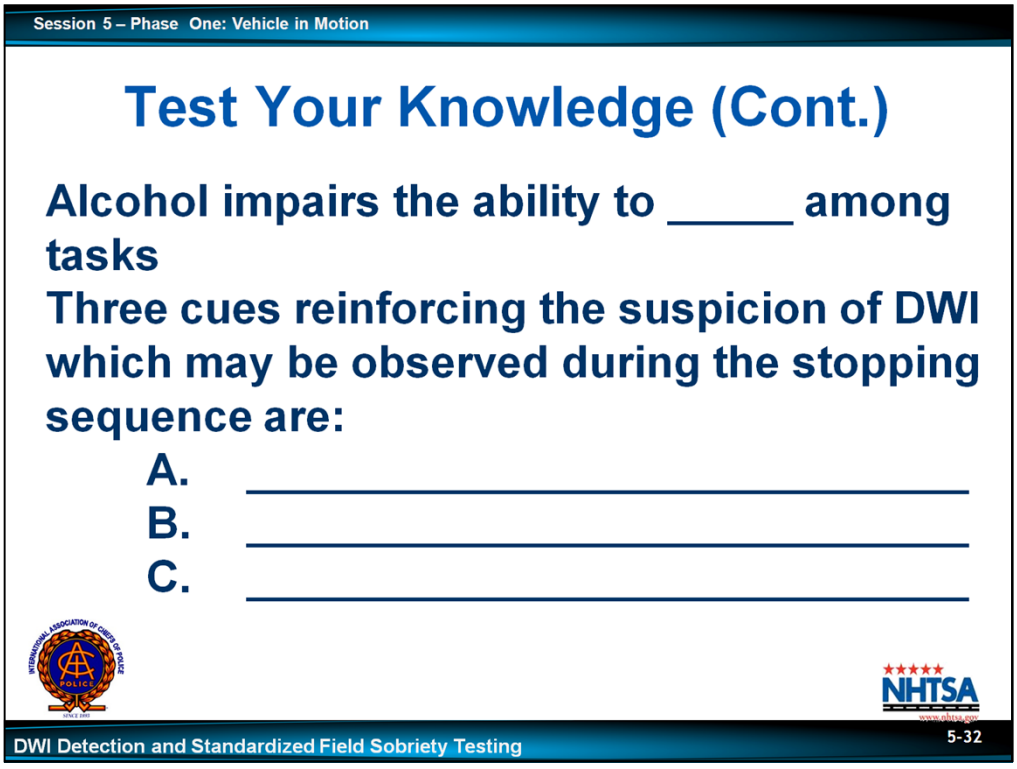
TEST YOUR KNOWLEDGE

INSTRUCTIONS: Complete the following sentences.

1. The Phase One tasks are decide to stop the vehicle or not and to observe the manner in which the driver responds to your signal to stop

2. Two common symptoms of impairment are:

Slowed reactions, impaired judgment, impaired vision, poor coordination



3. Alcohol impairs the ability to__divide attention___ among tasks.

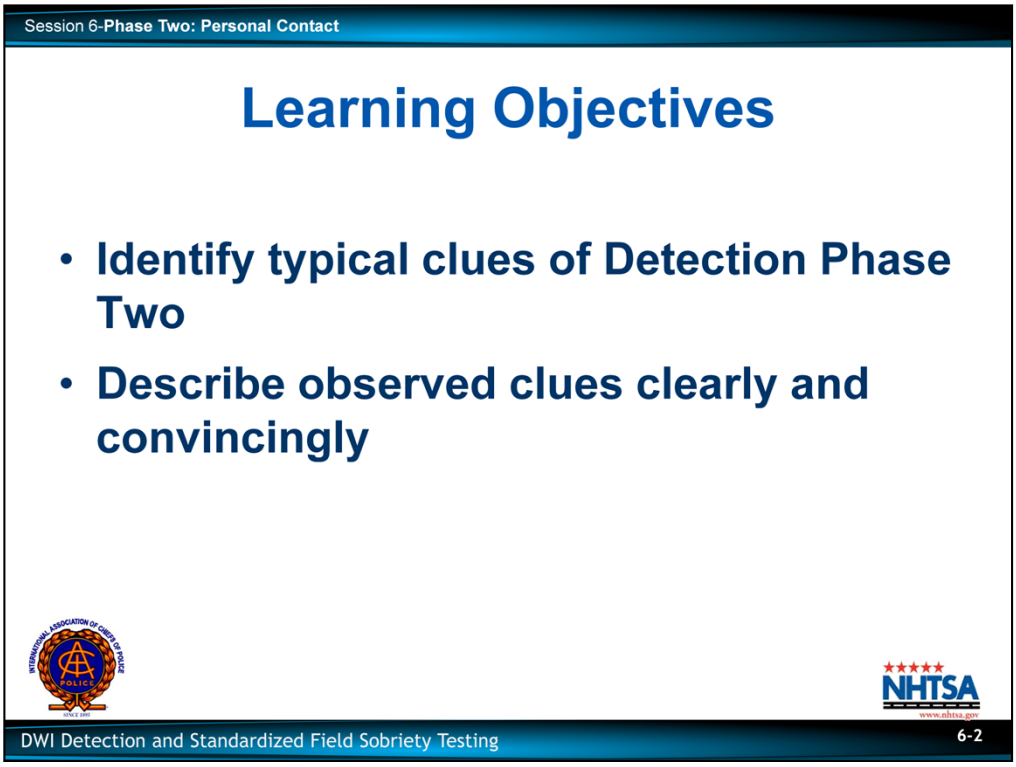
4. Three cues reinforcing the suspicion of DWI which may be observed during the stopping sequence are:

Attempt to flee, no response, slow response, an abrupt swerve, sudden stop, striking the curb or another object

1 Hour 30 Minutes

Session 6

Phase Two: Personal Contact

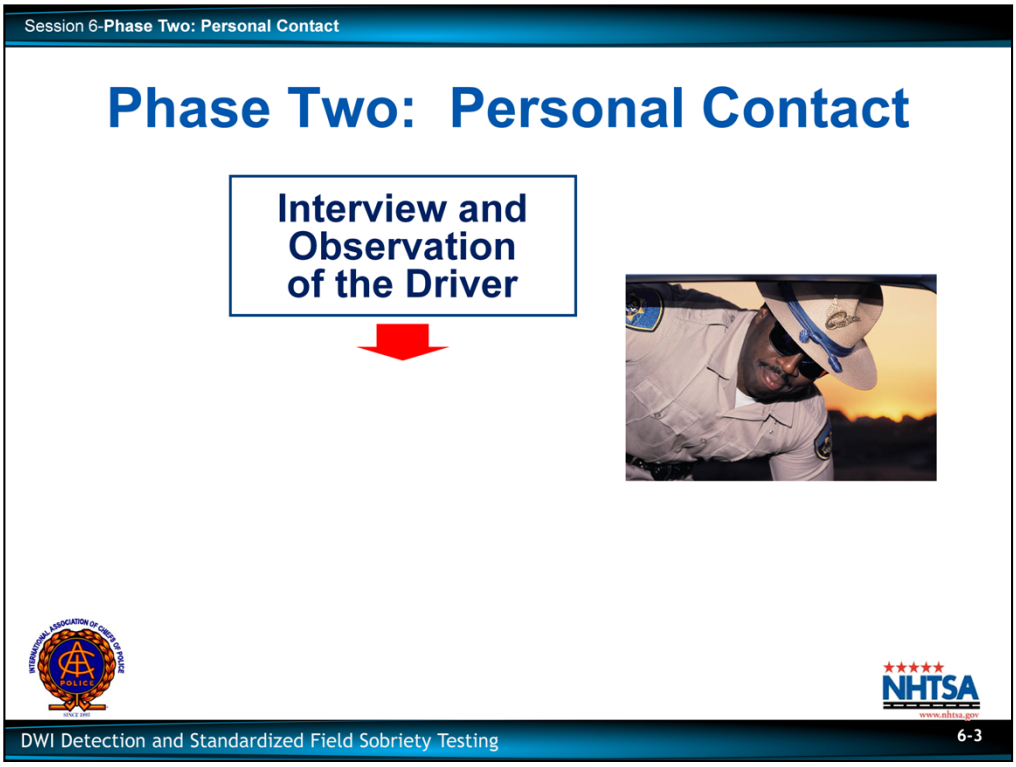


Briefly review the objectives, content and activities of this session.

Upon successfully completing this session the participant will be able to:

- Identify typical clues of Detection Phase Two.
- Describe the observed clues clearly and convincingly.

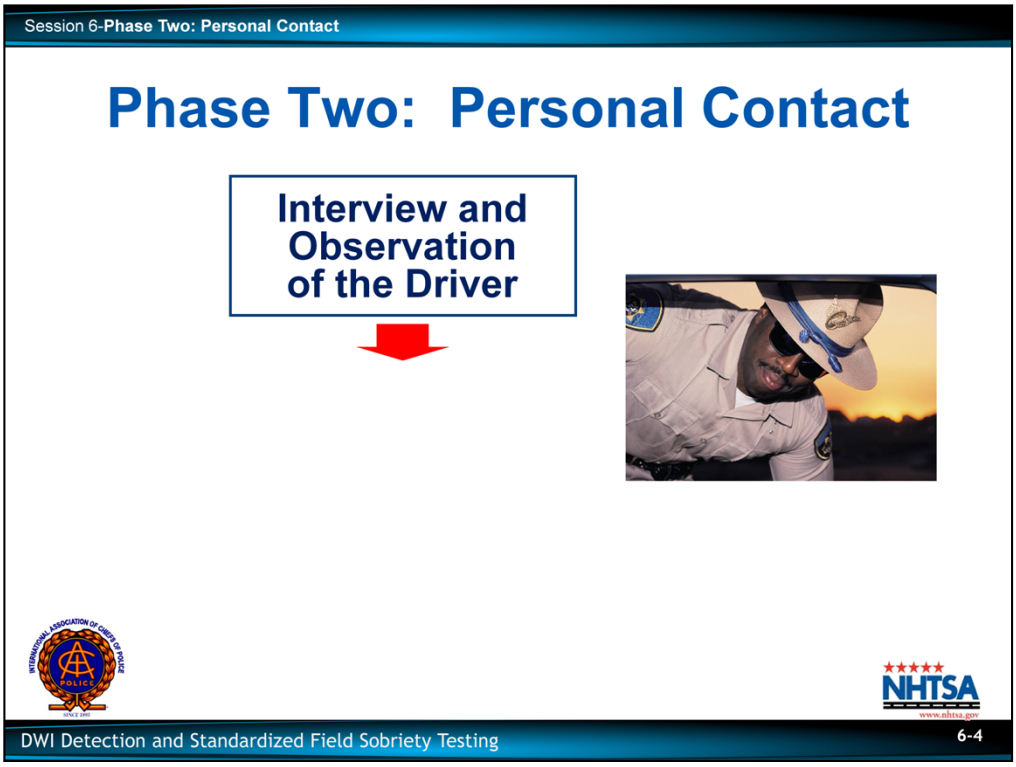
CONTENT SEGMENTS	LEARNING ACTIVITIES
A. Overview: Tasks and Decision	Instructor Led Presentations
B. Typical Investigation Clues of the Driver Interview	Video Presentation
C. Recognition and Description of Investigation Clues	Instructor Led Demonstrations
D. Interview/Questioning Techniques	Participant Presentations
E. Recognition and Description of Clues Associated with the Exit Sequence	



A. Overview Tasks and Decisions

DWI Detection Phase Two: Personal Contact, like Phases One and Three, comprise two major evidence gathering tasks and one major decision. Your first task is to approach, observe, and interview the driver while they are still in the vehicle to Note any face to face evidence of impairment. During this face to face contact you may administer some simple pre-exit sobriety tests to gain additional information to evaluate whether or not the driver is impaired. After this evaluation, you must decide whether to request the driver to exit the vehicle for further field sobriety testing. In some jurisdictions, departmental policy may dictate that all drivers stopped on suspicion of DWI be instructed to exit. It is important to Note that by instructing the driver to exit the vehicle, you are not committed to an arrest; this is simply another step in the DWI detection process. Once you have requested the driver to exit the vehicle, your second task is to observe the manner in which the driver exits and to Note any additional evidence of impairment.

You may initiate Phase Two without Phase One. This may occur, for example, at a checkpoint, or when you have responded to the scene of a crash.



Task One

The first task of Phase Two, interview and observation of the driver, begins as soon as the driver vehicle and the patrol vehicle have come to complete stops. It continues through your approach to the driver vehicle and involves all conversation between you and the driver prior to the driver's exit from the vehicle.

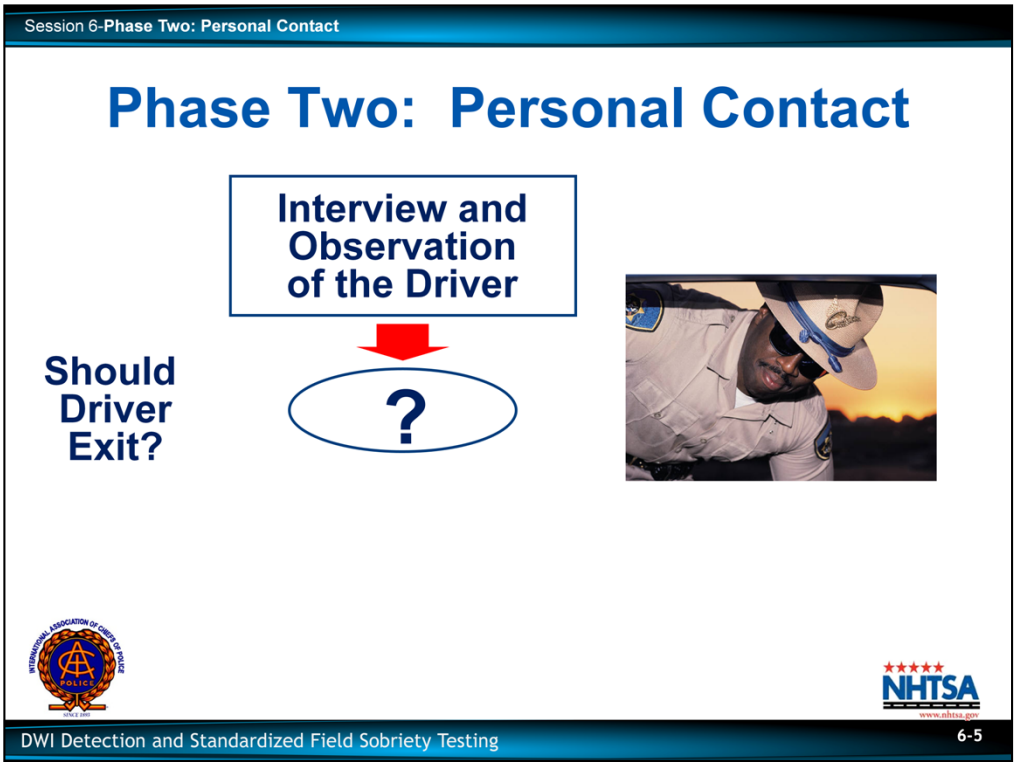
Point out block No. 1 on the slide.

You may have developed a strong suspicion that the driver is impaired prior to the face to face observation and interview. You may have developed this suspicion by observing something unusual while the vehicle was in motion, or during the stopping sequence. You may have developed no suspicion of DWI prior to the face to face contact. The vehicle operation and the stop may have been normal; you may have seen no actions suggesting DWI.

Ask participants to suggest situations where this might be the case.

For example, you may have stopped the vehicle for an equipment/registration violation, or where no unusual driving was evident. In some cases, Phase One will have been absent. For example, you may first encounter the driver and vehicle after a crash or when responding to a request for motorist assistance.

Regardless of the evidence that may have come to light during Detection Phase One, your initial face to face contact with the driver usually provides the first definite indications that the driver is impaired.



Decision

Based upon your face to face interview and observation of the driver, and upon your previous observations of the vehicle in motion and the stopping sequence, you must decide whether there is sufficient reason to instruct the driver to step from the vehicle.

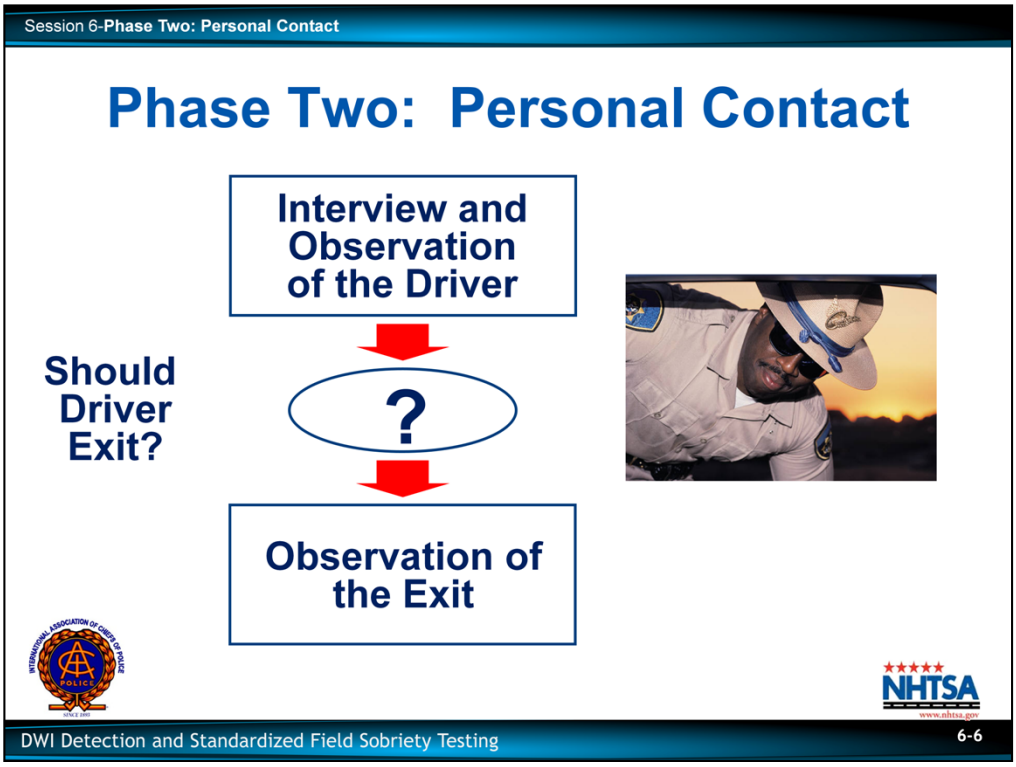
For some law enforcement officers, this decision is automatic since their agency's policy dictates that the driver always be told to exit the vehicle, regardless of the cause for the stop. Other agencies; however, treat this as a discretionary decision to be based on what the officer sees, hears, and smells during observation and interview with the driver while the driver is seated in the vehicle.

If you decide to instruct the driver to exit, closely observe the driver's actions during the exit from the vehicle and Note any evidence of impairment.

Ask participants to suggest circumstances under which it would be appropriate not to instruct the driver to exit.

Ask participants to suggest circumstances under which it would be appropriate to instruct the driver to exit.

Remind participants that they must always practice appropriate officer safety tactics while the driver exits the vehicle.



B. <u>Typical Investigation Clues of the Driver Interview</u>

Face to face observation and interview of the driver allows you to use three senses to gather evidence of alcohol and/or other drug influence:

- The sense of sight
- The sense of hearing
- The sense of smell

***Write "see – hear – smell" on dry erase board*.**

Sight

There are a number of things you might see during the interview that would be describable clues or evidence of alcohol and/or other drug influence. Among them are:

Ask participants to suggest typical things that an officer might see during the interview that would be describable clues or evidence of alcohol and/or other drug influence.

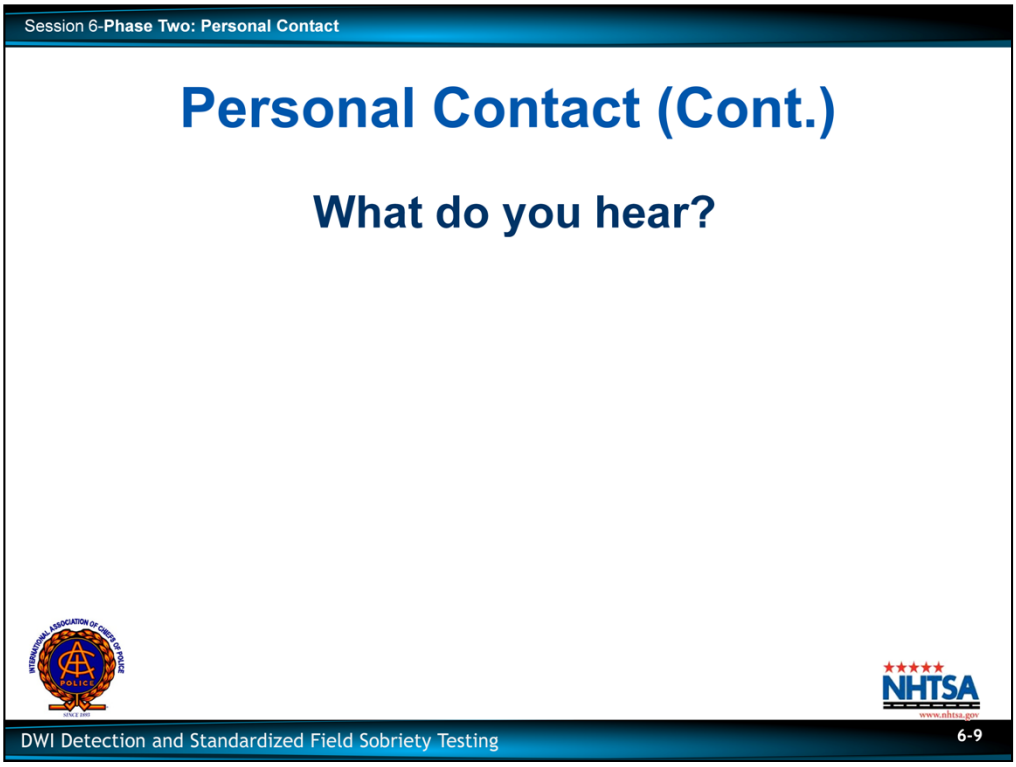
What do you see?

- ***Bloodshot eyes?***
- ***Soiled clothing?***
- ***Fumbling fingers?***
- ***Alcohol containers?***
- ***Drugs or drug paraphernalia?***
- ***Bruises, bumps or scratches?***
- ***Unusual actions?***

After most major sight clues have been suggested display slide 6 – 8.

What do you see?

- Bloodshot eyes?
- Soiled clothing?
- Fumbling fingers?
- Alcohol containers?
- Drugs or drug paraphernalia?
- Bruises, bumps or scratches?
- Unusual actions?



Hearing

Among the things you might hear during the interview that would be describable clues or evidence of alcohol and/or other drug influence are these:

Ask participants to suggest typical things that an officer might hear during the interview that would be describable clues or evidence of alcohol and/or other drug influence.

After most major sound clues have been suggested display slide 6-10.

What do you hear?

- ***Slurred speech?***
- ***Admission of drinking?***
- ***Inconsistent responses?***
- ***Unusual statements?***
- ***Abusive language?***
- ***Anything else?***

What do you hear?

- Slurred speech?
- Admission of drinking?
- Inconsistent responses?
- Unusual statements?
- Abusive language?
- Anything else?

Smell

There are things you might smell during the interview that would be describable clues or evidence of alcohol and/or other drug influence. Typically these include:

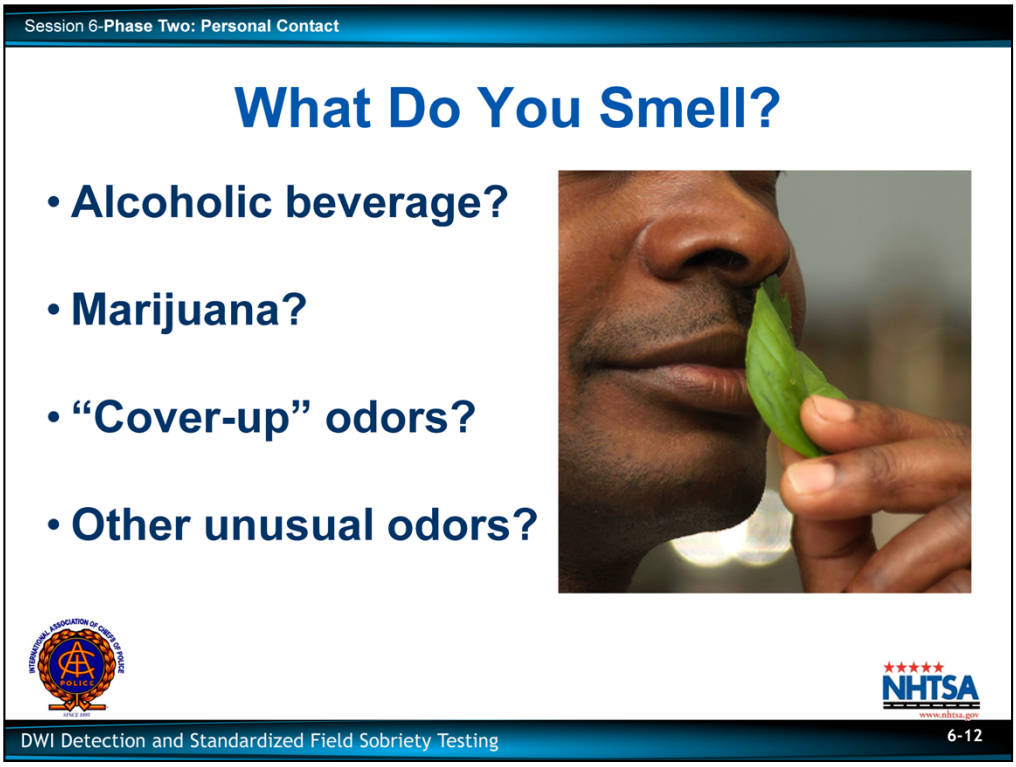
Ask participants to suggest typical things that an officer might smell during the interview that would be describable clues or evidence of alcohol or drug ingestion.

For officer safety be aware of communicable airborne diseases, etc.

After most major odor clues have been suggested, display slide 6-12.

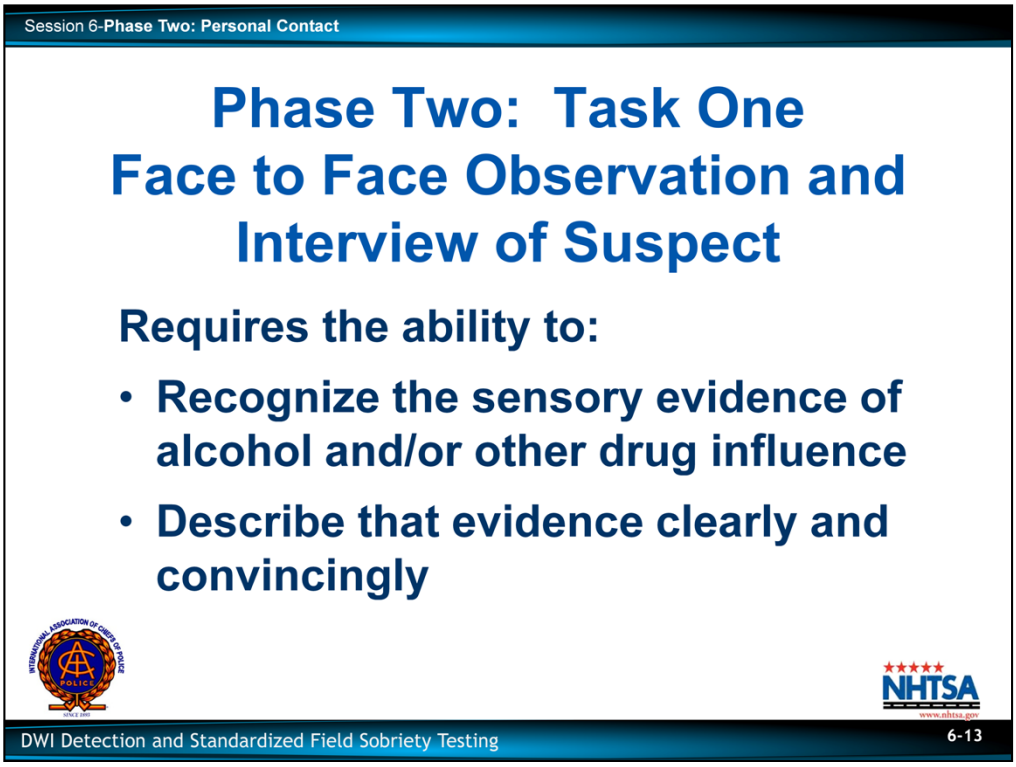
What do you smell?

- ***Alcoholic beverages?***
- ***Marijuana?***
- ***Cover up odors?***
- ***Other unusual odors?***



What do you smell?

- Alcoholic beverages?
- Marijuana?
- Cover up odors?
- Other unusual odors?



Proper face to face observation and interview of the driver demands two distinct but related abilities:

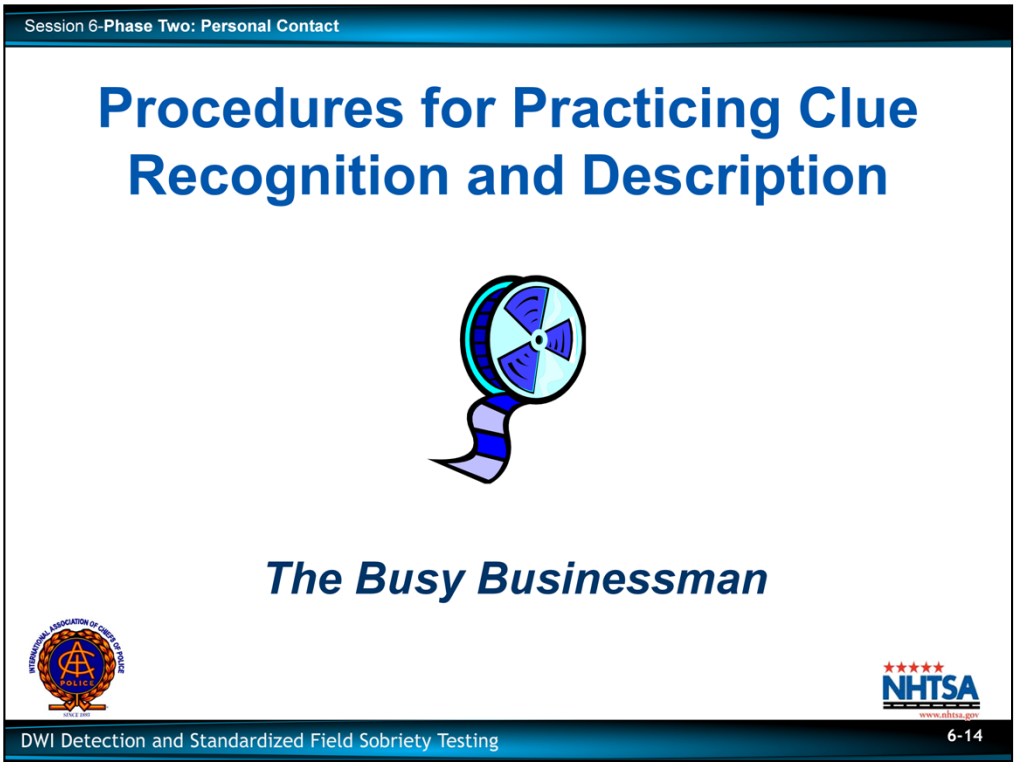
- The ability to recognize the sensory evidence of alcohol and/or other drug influence
- The ability to describe that evidence clearly and convincingly

Developing these abilities requires practice.

C. <u>Recognition and Description of Investigation Clues</u>

A basic purpose of the face to face observation and interview of the driver is to identify and gather evidence of alcohol and/or other drug influence. This is the purpose of each task in each phase of DWI detection.

During the face to face observation and interview stage, it is not necessary to gather sufficient evidence to arrest the driver immediately for DWI.



Procedures for Practicing Clue Recognition and Description

One or more participants will be called upon to "testify" concerning what was seen and heard. Class will constructively critique the testimony.

Make sure all participants understand the procedures.

The next video segment deals strictly with the face to face observation and interview of a driver.

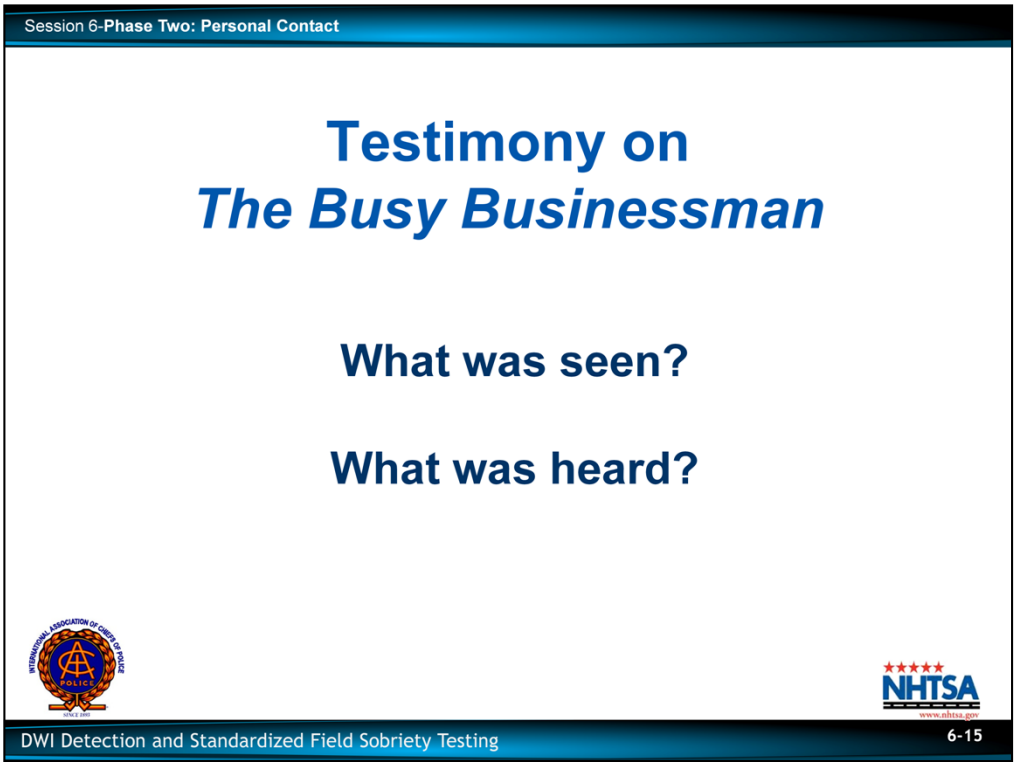
You will have to base your description of the driver's possible impairment strictly on what you see and hear during the face to face contact.

Both senses provide some critically important evidence, not only in this video segment, but in all face to face contacts.

Participants can use the standard note taking guide to compile notes during the video.

When the video segment ends, participants will be given a few minutes to gather their thoughts and compile notes on what they have seen and heard.

Video Segment "The Busy Businessman"



Testimony on Video Segment "The Busy Businessman"

Select two participants to come forward together to testify.

Key points to be elicited concerning what was seen:

- ***Weather/Traffic conditions.***
- ***Driver produces wrong document.***

Instruct participants to testify strictly to what was seen. Solicit class comments concerning details or possible improvements to the first participant's testimony.

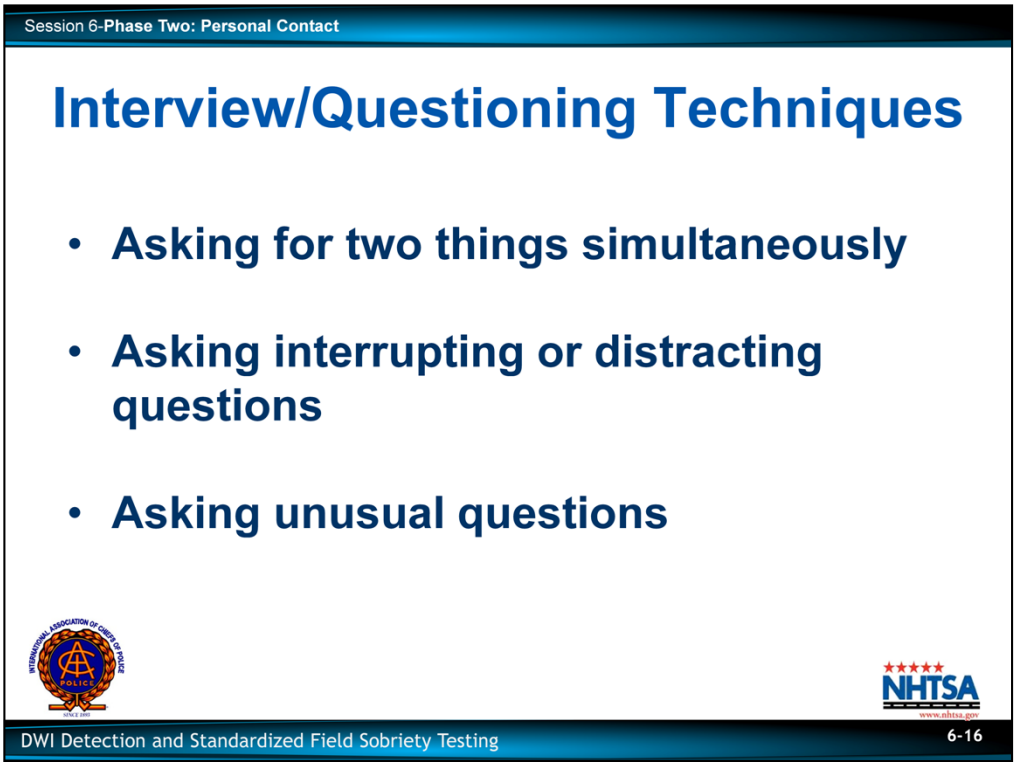
Key points to be elicited concerning what was heard:

- ***Driver does not lower window all the way***
- ***Hair is disheveled***
- ***Hands wrong document initially***
- ***Fails to let go of driver license***
- ***Forgets registration, has to be reminded***

Instruct the second participant to testify strictly to what was heard.

Solicit class comments concerning details or possible improvements to the second participant's testimony.

Replay video (as appropriate) to compare with second participant's testimony.



D. <u>Interview/Questioning Techniques</u>

There are a number of techniques you can use to assess impairment while the driver is still behind the wheel. Most of these techniques apply the concept of divided attention. They require the driver to concentrate on two or more things at the same time. They include both questioning techniques and psychophysical (mind/body) tasks.

These techniques are not as reliable as the Standardized Field Sobriety Tests but they can still be useful for obtaining evidence of impairment. **THESE TECHNIQUES DO NOT REPLACE THE SFSTs.**

Questioning Techniques

The questions you ask and the way in which you ask them can constitute simple divided attention tasks. Three techniques are particularly pertinent:

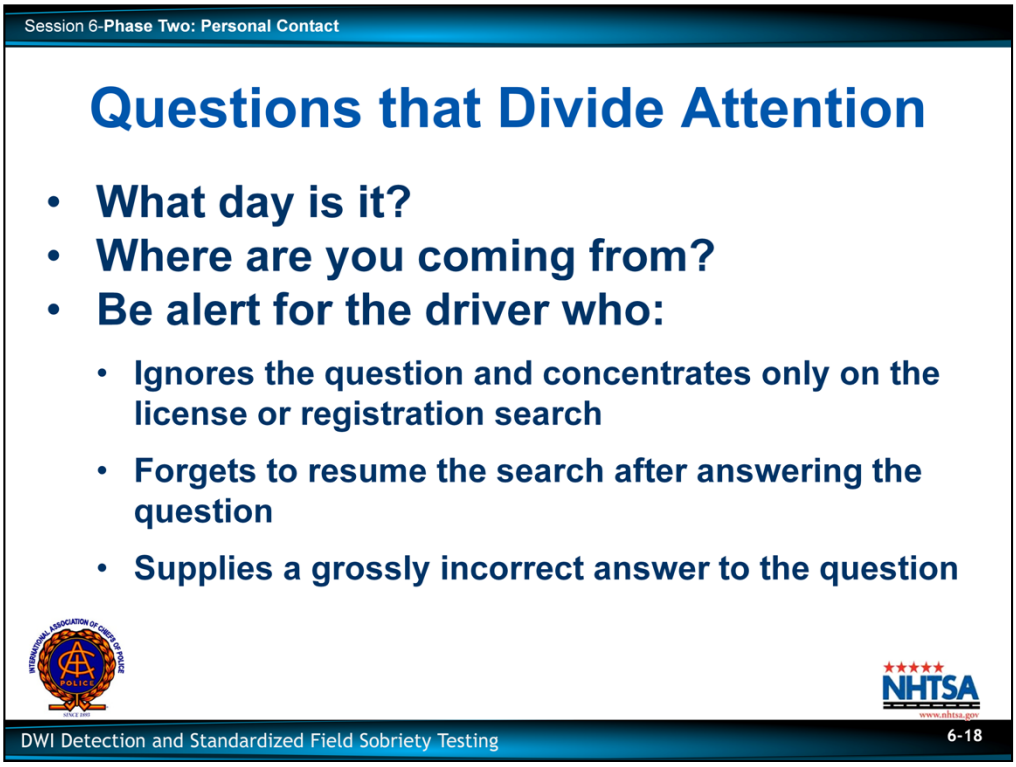
- Asking for two things simultaneously
- Asking interrupting or distracting questions
- Asking unusual questions.

An example of the first technique, <u>asking for two things simultaneously</u>, is requesting the driver to produce both the driver's license and the vehicle registration. Possible evidence of impairment may be observed as the driver responds to this dual request. Be alert for the driver who:

Ask participants to suggest possible evidence of impairment that might be observed during the production of the license and registration.

Possible evidence of impairment that might be observed during the production of the license and registration.

- Forgets to produce both documents
- Produces documents other than the ones requested
- Fails to see the license, registration or both while searching for them
- Fumbles or drops wallet, purse, license or registration
- Is unable to retrieve documents using fingertips



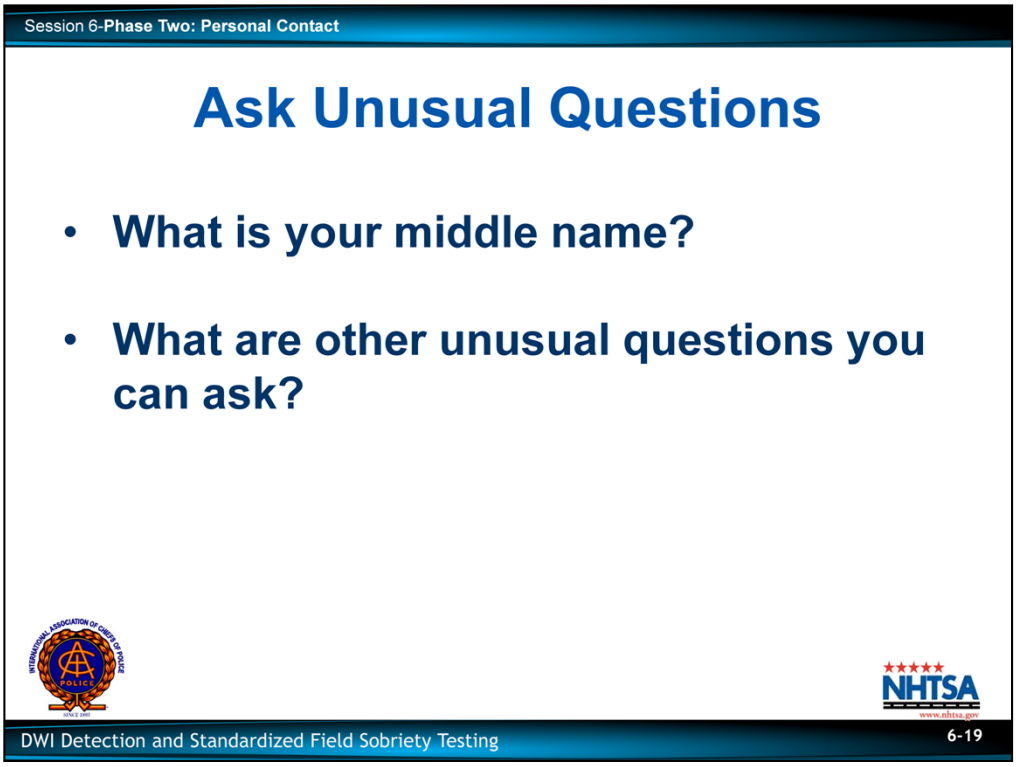
The second technique would be to ask questions that require the driver to divide attention between searching for the license or registration and answering a new question. While the driver is responding to the request for license, registration or both, you ask unrelated questions; "What day is it?" or “Where are you coming from?”

Possible evidence of impairment may be disclosed by the actions of the driver after this question has been posed. Be alert for the driver who:

- Ignores the question and concentrates only on the license or registration search
- Forgets to resume the search after answering the question
- Supplies a grossly incorrect answer to the question

Ask class to suggest possible evidence of impairment that might be disclosed by these types of questions. Continue to probe until all major possibilities have been mentioned.

Ask class to suggest other questions that might be put to a driver during the retrieval of the driver's license.

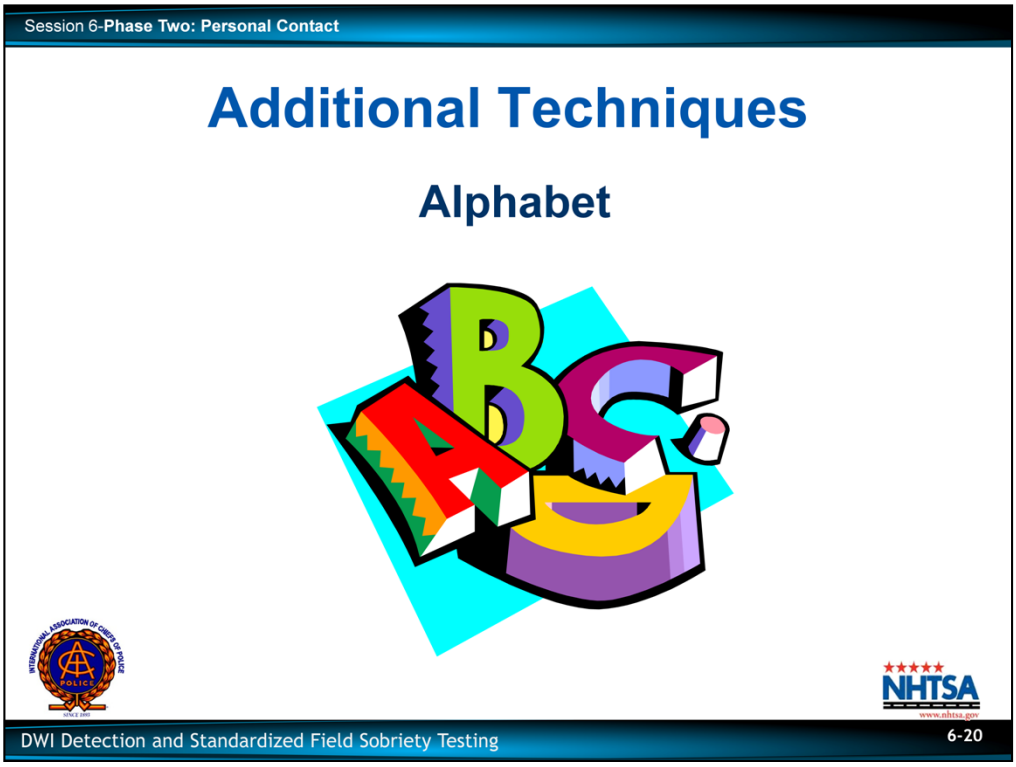


The third technique, asking unusual questions, is employed after you have obtained the driver's license and registration. Using this technique, you seek verifying information through unusual questions. For example, while holding the driver's license, you might ask the driver, "What is your middle name?"

Ask class to suggest other unusual questions that might serve as simple, pre-exit techniques.

There are many such questions which the driver normally would be able to answer easily, but which might prove difficult if the driver is impaired, simply because they are unusual questions. Unusual questions require the driver to process information; this can be especially difficult when the driver does not expect to have to process information. For example, a driver may respond to the question about the middle name by giving a first name. In this case the driver ignored the unusual question and responded instead to a usual -- but unasked -- question.

Asking for two things simultaneously and searching for documents while answering questions assesses the ability to divide attention, while asking unusual questions tests the driver's mental faculties.

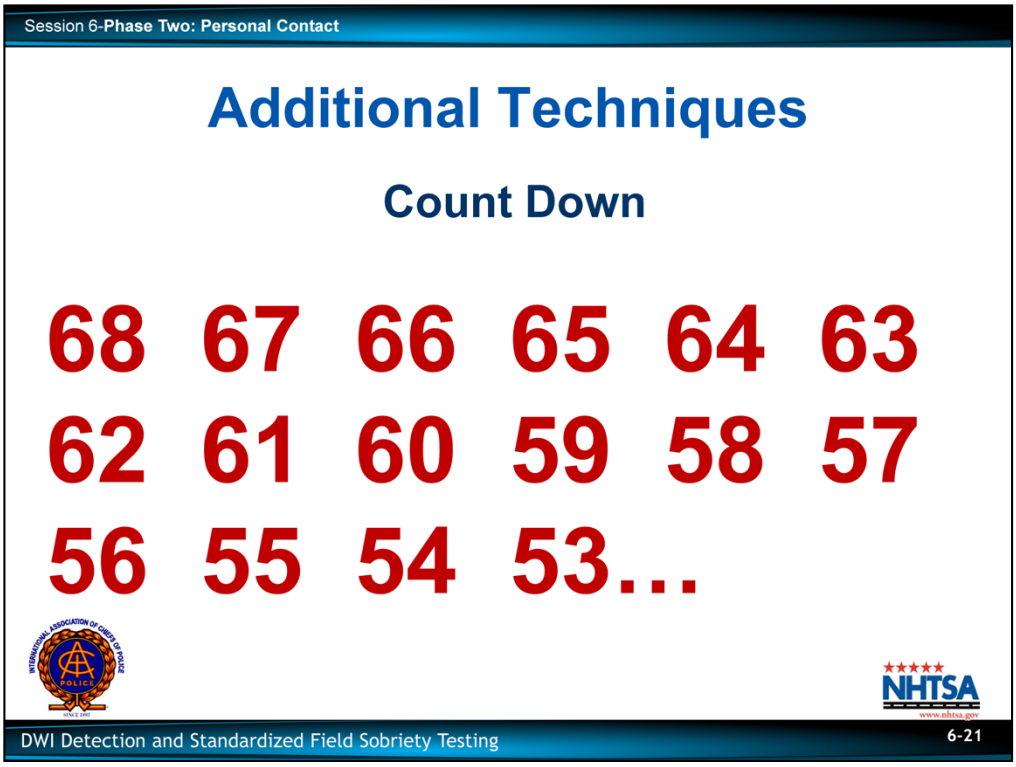


Additional Techniques

Know if there are any judicial restraints in reference to these tests.

Alphabet

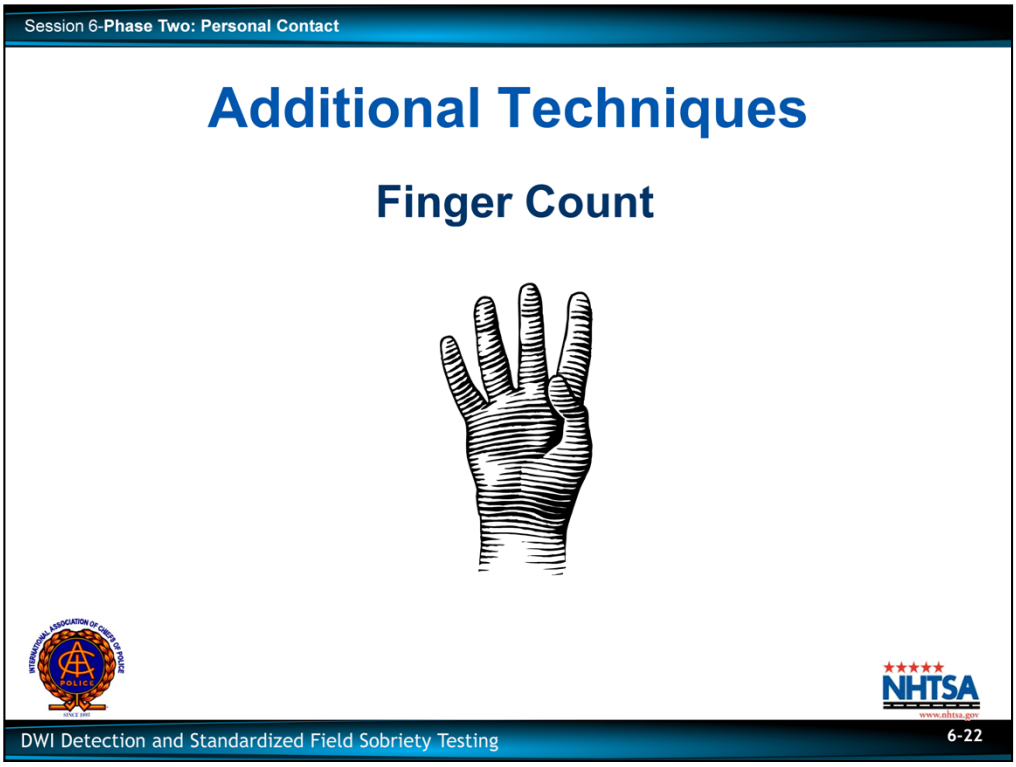
This technique requires the driver to recite a part of the alphabet. You instruct the driver to recite the alphabet beginning with a letter other than A and stopping at a letter other than Z. For example, you might say to a driver, "Recite the alphabet, beginning with the letter E as in Edward and stopping with the letter P as in Paul." This divides the driver's attention because the driver must concentrate to begin at an unusual starting point and recall where to stop.



Count Down

This technique requires the driver to count out loud 15 or more numbers in reverse sequence. For example, you might request a driver to, "Count out loud backwards, starting with the number 68 and ending with the number 53." This, too, divides attention because the driver must continuously concentrate to count backwards while trying to recall where to stop.

This technique should never be given using starting and stopping points that end in 0 or 5 because these numbers are too easy to recall. For example, do not request that the driver count backwards from 65 to 50. Instead, ask the driver to count backwards from 68 to 53.



Finger Count

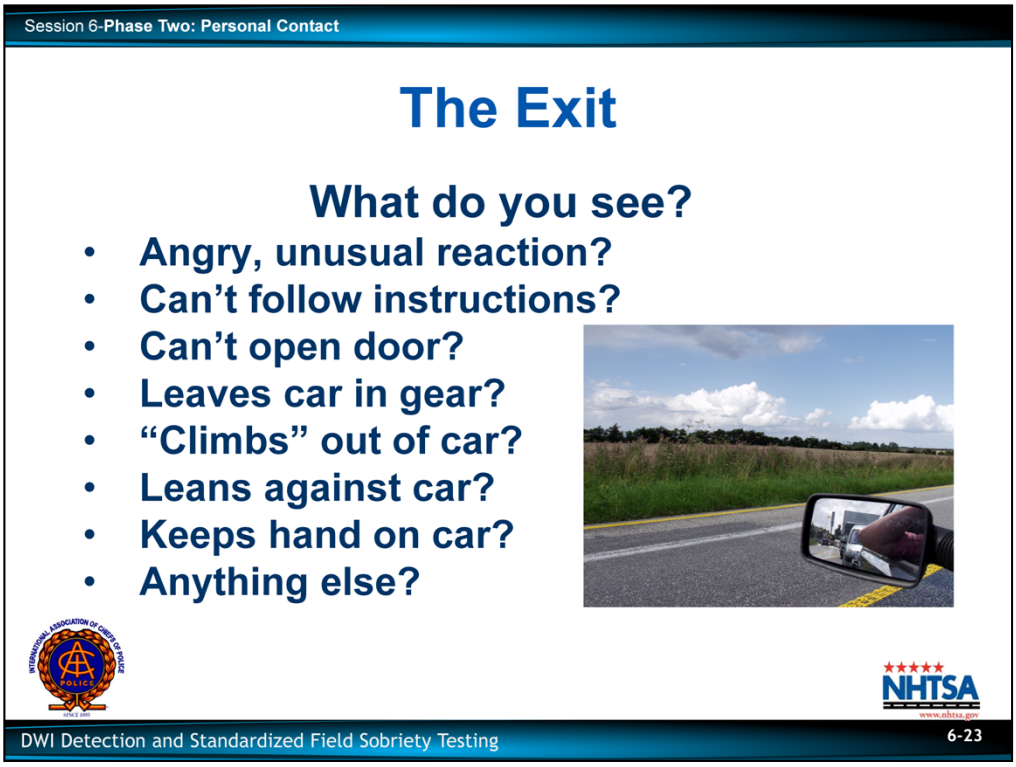
In this technique, the driver is asked to touch the tip of the thumb to the tip of each finger on the same hand while simultaneously counting up one, two, three, four; then to reverse direction on the fingers while simultaneously counting down four, three, two, one.

Demonstrate the finger count.

In each instance, Note whether and how well the driver is able to perform the divided attention task.

Point out that these kinds of tests have not been scientifically validated but still can be useful for obtaining evidence of impairment.

Demonstrate the examples.



E. <u>Recognition and Description of Clues Associated With the Exit Sequence</u>

Your decision to instruct the driver to step from the vehicle usually is made after you have developed a suspicion that the driver is impaired. Even if that suspicion may be very strong, the driver is usually not under arrest when you give the instruction.

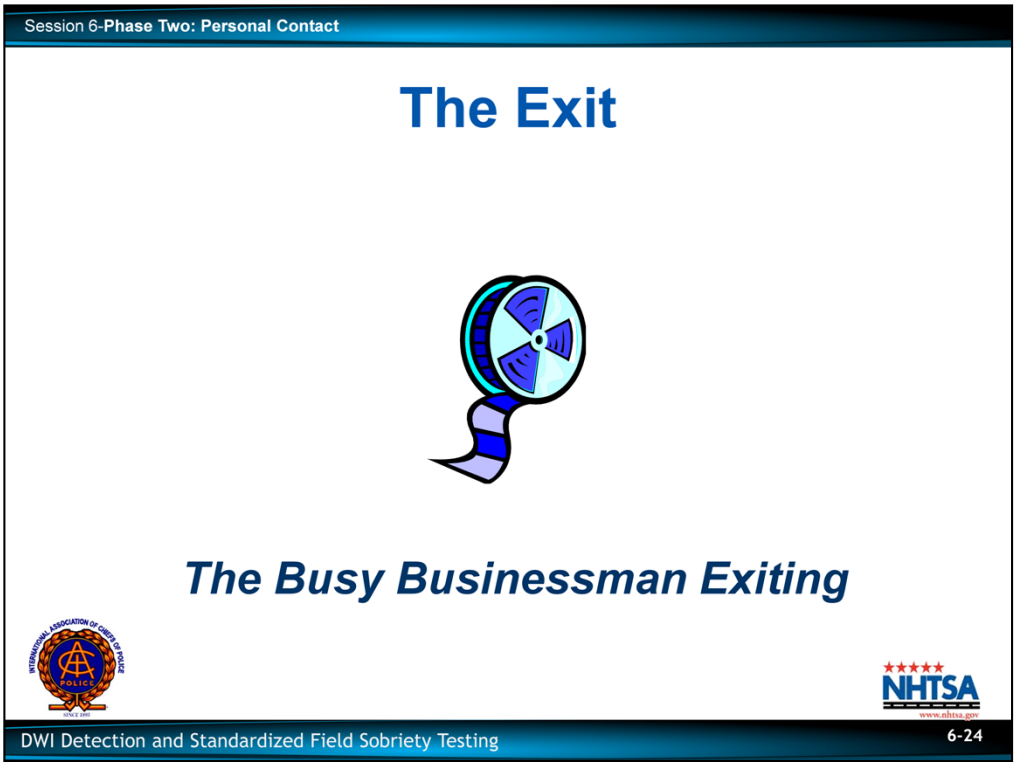
How the driver steps and walks from the vehicle and actions or behavior during the exit sequence may provide important evidence of impairment. Be alert to the driver who:

Ask participants to suggest typical things that might be seen with an impaired driver during the exit sequence.

- ***Shows angry or unusual reactions***
- ***Cannot follow instructions***
- ***Cannot open the door***
- ***Leaves the vehicle in gear***
- ***Climbs out of vehicle***
- ***Leans against vehicle***
- ***Keeps hands on vehicle for balance***

When participants identify items on this list, reveal the bottom portion of the slide.

Proper face to face observation and interview of a driver requires the ability to recognize the sensory evidence of alcohol and/or other drug influence and the ability to describe that evidence clearly and convincingly. Developing these abilities takes practice.



<u>Video Segment "The Busy Businessman Exiting" (Video approximately 1 minute)</u>

Show Video "The Busy businessman Exiting".

<u>Testimony on Video Segment "The Busy Businessman Exiting"</u>

Select a participant to testify.

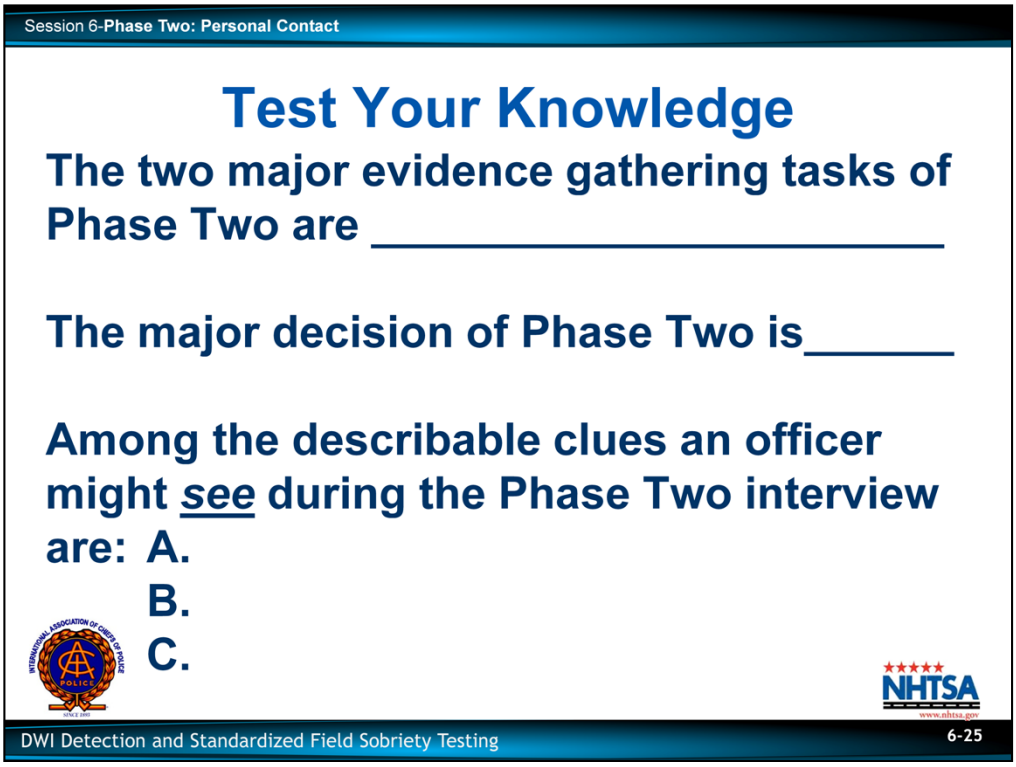
Key points prior to the exit:

- ***Angry response***
- ***Solicit class comments concerning testimony***

Key points during the exit:

- ***Driver says no mechanical problems***
- ***Driver admits to looking at papers while driving (distracted driving)***
- ***Forgets to remove seatbelt***
- ***Uses both hands to exit vehicle (right hand on door, left hand on side of vehicle)***
- ***Uses vehicle to steady himself while walking to rear of vehicle***
- ***Driver drops wallet***

<u>Except</u>, however, that you may instruct a driver to exit the vehicle as a means of ensuring your own safety. Safety considerations take precedence over all other considerations.



TEST YOUR KNOWLEDGE

INSTRUCTIONS: Complete the following sentences.

1. The two major evidence gathering tasks of Phase Two are 1) approach, observe and interview the driver 2) decide whether to instruct the suspect to exit the vehicle

2. The major decision of Phase Two is _do I have enough suspicion of DWI to instruct the suspect to exit the vehicle?

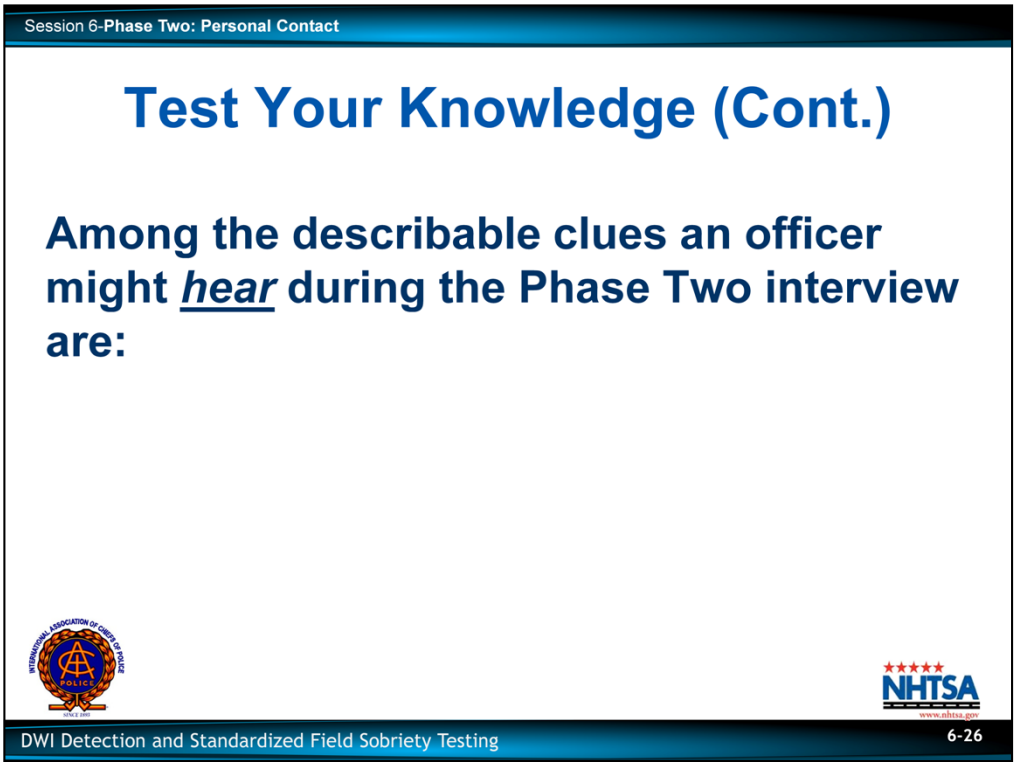
3. Among the describable clues an officer might see during the Phase Two interview are:

A. Bloodshot eyes

B. Soiled clothing

C. Fumbling fingers

Other acceptable answers: alcohol containers, drugs or drug paraphernalia, bruises, bumps or scratches, unusual actions



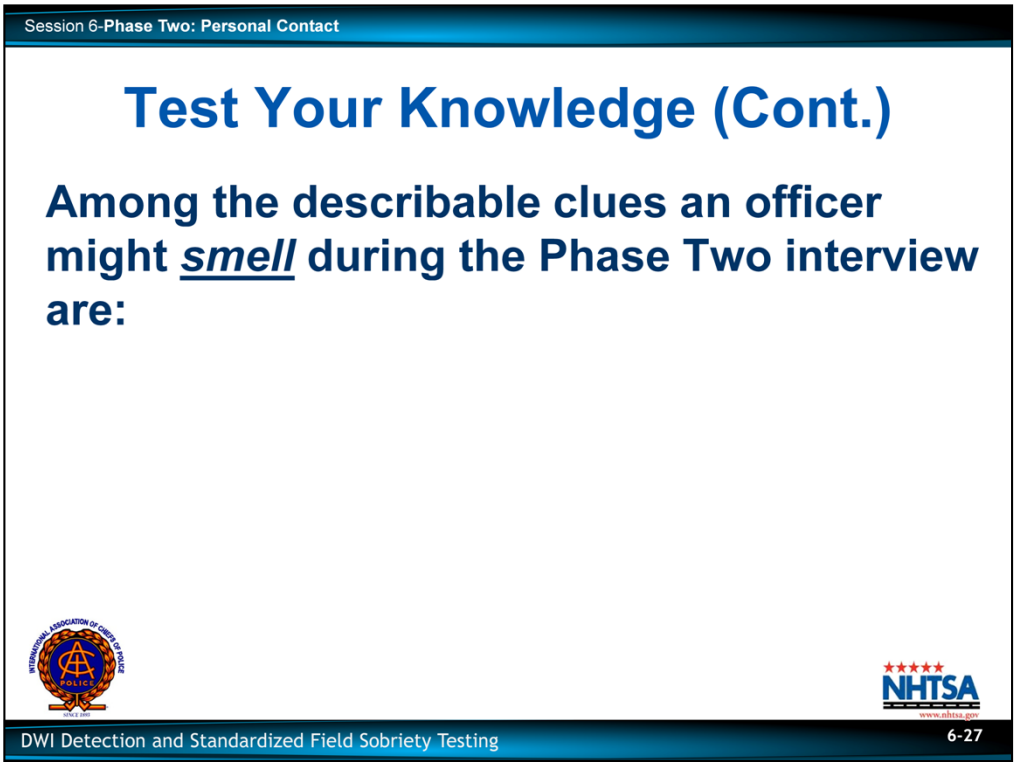
4. Among the describable clues an officer might hear during the interview are:

A. Slurred speech

B. Admission of drinking

C. Inconsistent responses

Other acceptable answers: abusive language, unusual statements

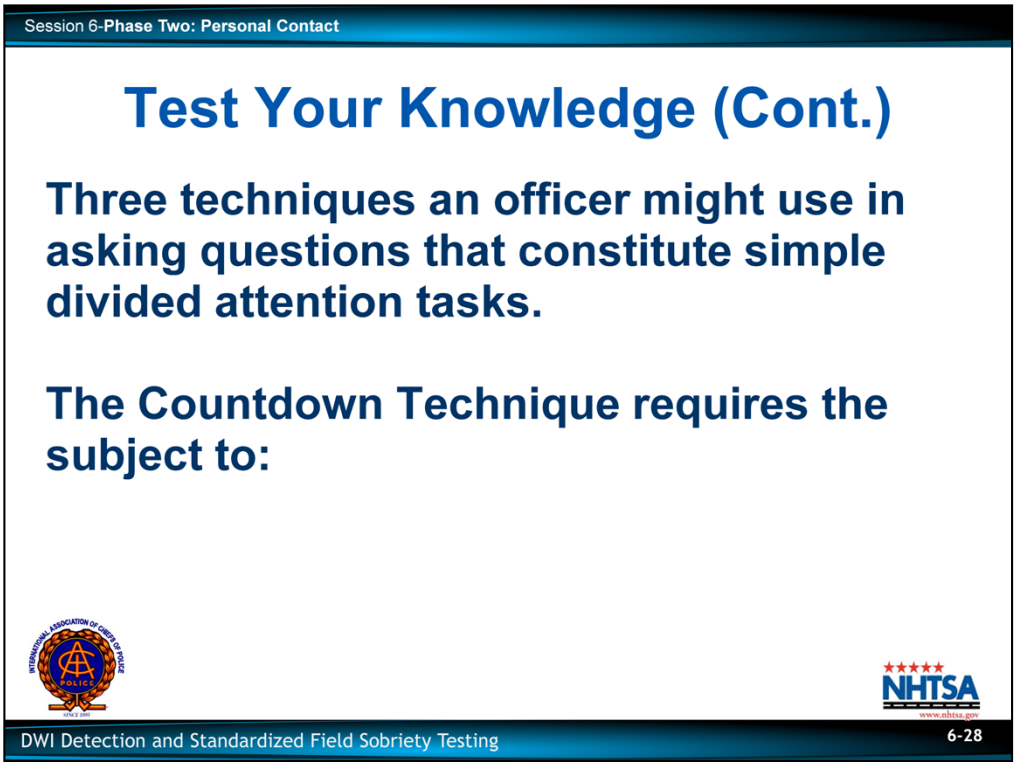


5. Among the describable clues an officer might smell during the interview are:

A. Alcoholic beverages

B. Marijuana

Other acceptable answers: "cover up" odors, unusual odors



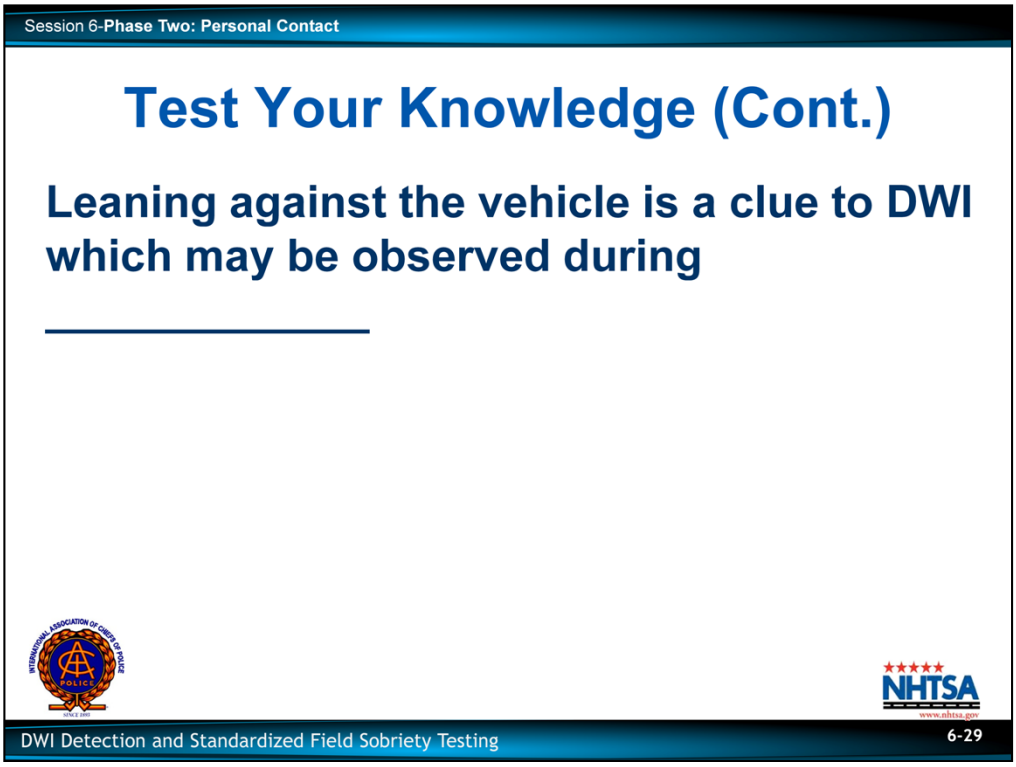
6. There are three techniques an officer might use in asking questions that constitute simple divided attention tasks. These techniques are:

<u>Asking for two things simultaneously</u>

<u>Asking interrupting or distracting questions</u>

<u>Asking unusual questions</u>

7. The Count Down Technique requires the driver to <u>count out loud 15 or more numbers in reverse sequence.</u>



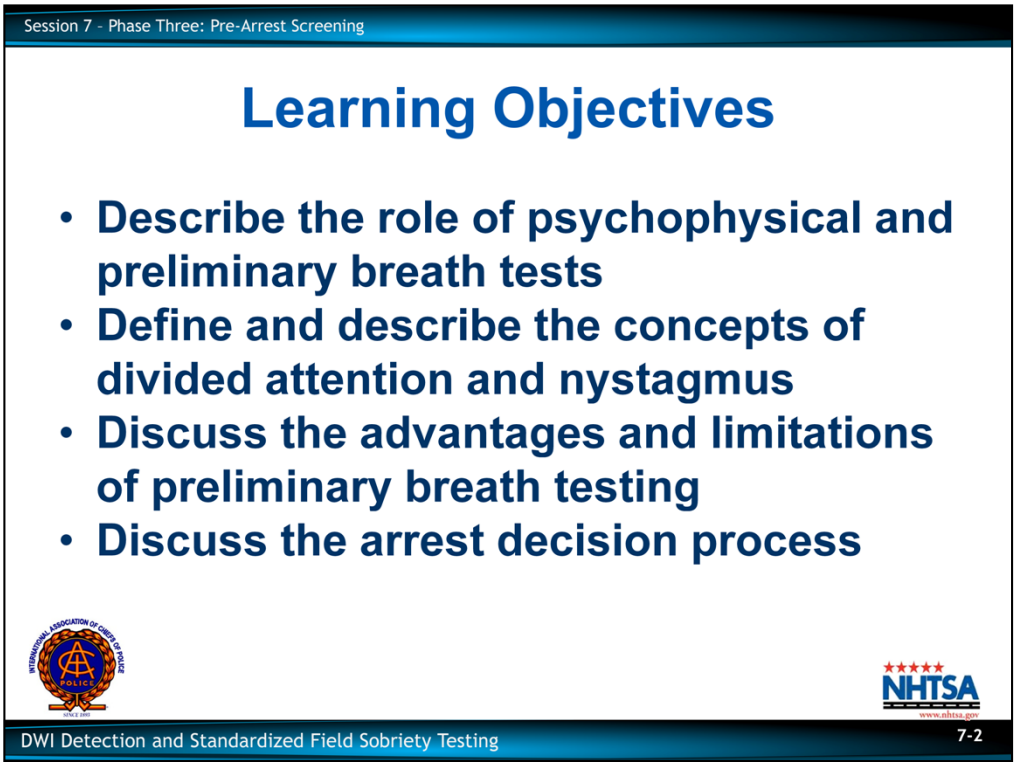
8. Leaning against the vehicle is a clue to DWI which may be observed during the <u>exit sequence.</u>

QUESTIONS?

40 Minutes

Session 7

Phase Three: Pre-Arrest Screening



At the conclusion of this session, participants will be able to:

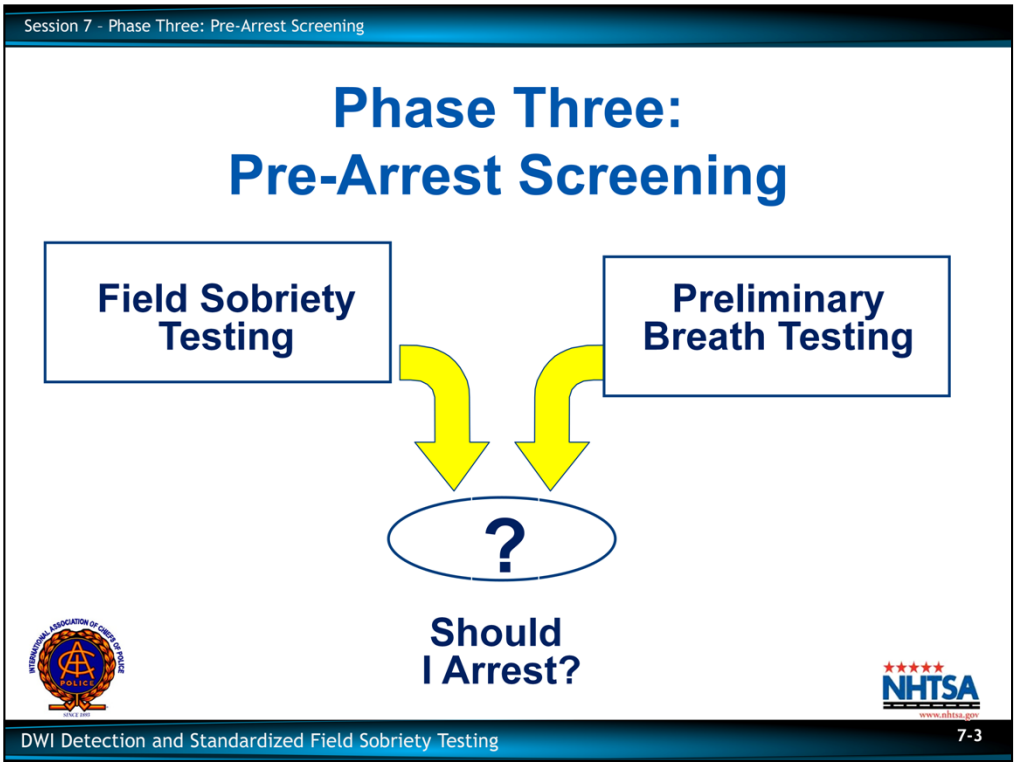
- Describe the role of psychophysical and preliminary breath tests;
- Define and describe the concepts of divided attention and nystagmus;
- Discuss the advantages and limitations of preliminary breath testing; and
- Discuss the arrest decision process.

CONTENT SEGMENTS

A. Overview: Tasks and Decision
B. Gaze Nystagmus - Definition
C. Horizontal Gaze Nystagmus – Definition, Concepts, Demonstration
D. Vertical Gaze Nystagmus – Definition, Concepts, Demonstration
E. Divided Attention Tests: Concepts, Examples, Demonstration
F. Advantages and Limitations of Preliminary Breath Testing
G. The Arrest Decision

LEARNING ACTIVITIES

Instructor Led Presentation
Instructor Led Demonstrations
Video Presentation

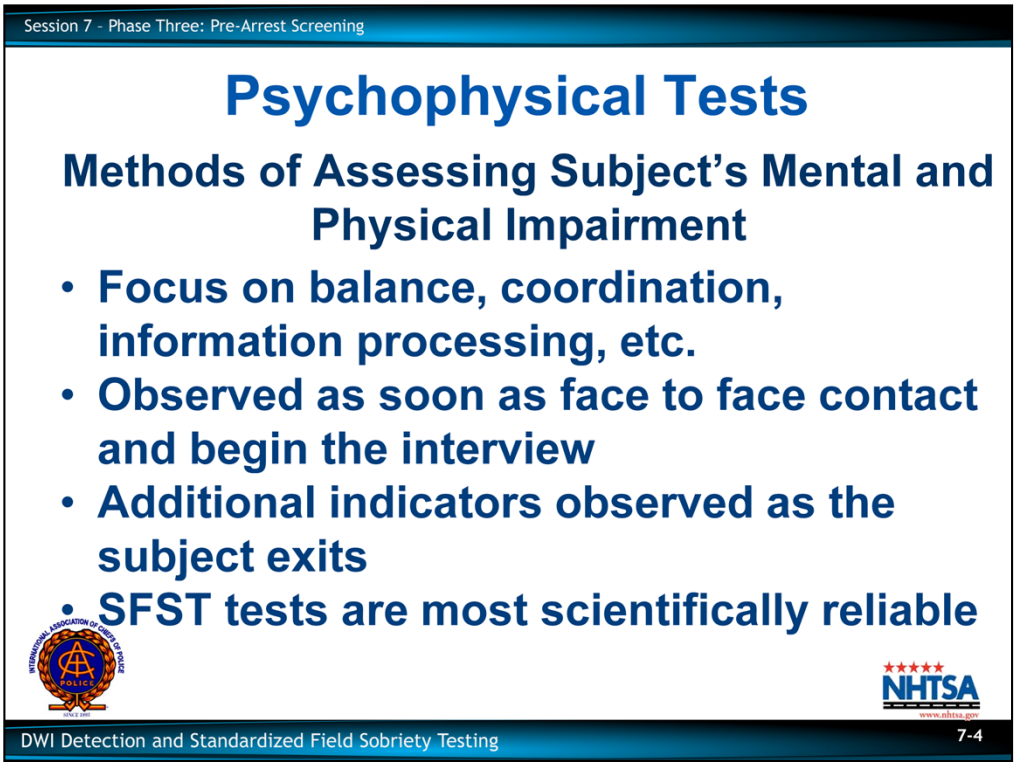


A. Overview: Tasks and Decision

Like Phases One and Two, DWI Detection Phase Three, Pre-arrest Screening has two major evidence gathering tasks and one major decision.

Phase Three: Pre-Arrest Screening

Your first task in Phase Three is to administer three scientifically validated Standardized Field Sobriety Tests. If your agency uses preliminary breath tests (PBTs), your second task would be to administer (or arrange for) a PBT to confirm the chemical basis of the subject's impairment. Based on these tests and on all other evidence from Phase One and Two, you must decide whether there is sufficient probable cause to arrest the subject for DWI. The entire detection process culminates in the arrest/no arrest decision.



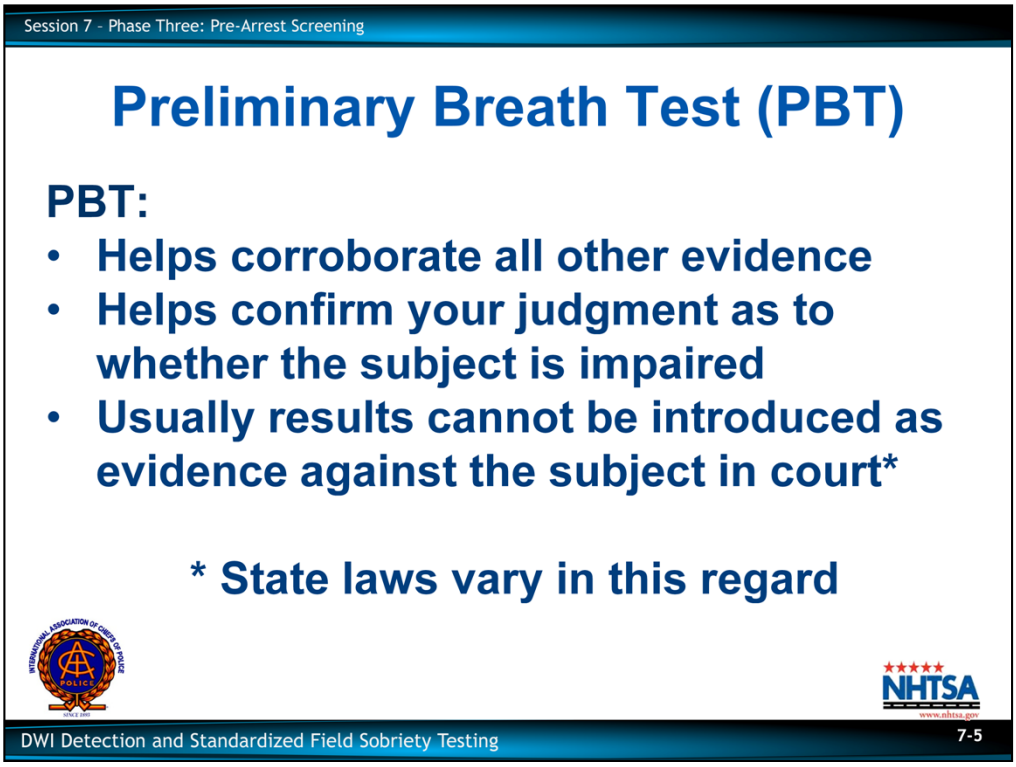
Psychophysical tests are methods of assessing a subject's mental and physical impairment. These tests focus on the abilities needed for safe driving: balance, coordination, information processing and so on.

Indicators of psychophysical impairment may be observed as soon as you come into face to face contact with the subject and begin the interview. Additional indicators of impairment can be observed as the subject exits the vehicle to begin the field sobriety tests. The Standardized Field Sobriety Tests are the most scientifically reliable.

It is the policy of some police departments to conduct psychophysical testing prior to preliminary breath testing, whereas other departments usually conduct preliminary breath testing first. Hence, the two screening tasks are shown as parallel rather than sequential activities on the slide.

The preferred sequence of psychophysical and preliminary breath testing for the participants' department.

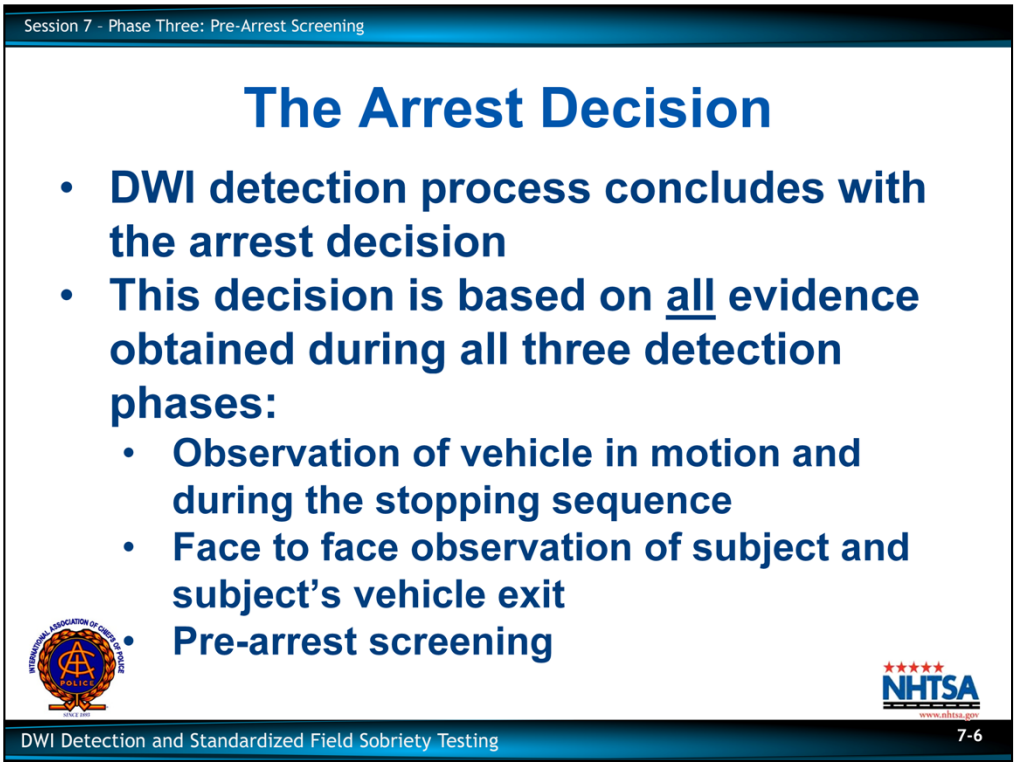
Write on dry erase board or flip chart: "Standardized Field Sobriety Tests."



Preliminary Breath Test

The preliminary breath test (PBT) can help to corroborate all other evidence and to confirm your judgment as to whether the subject is impaired. Usually PBT results cannot be introduced as evidence against the subject in court; however, state laws vary in this regard.

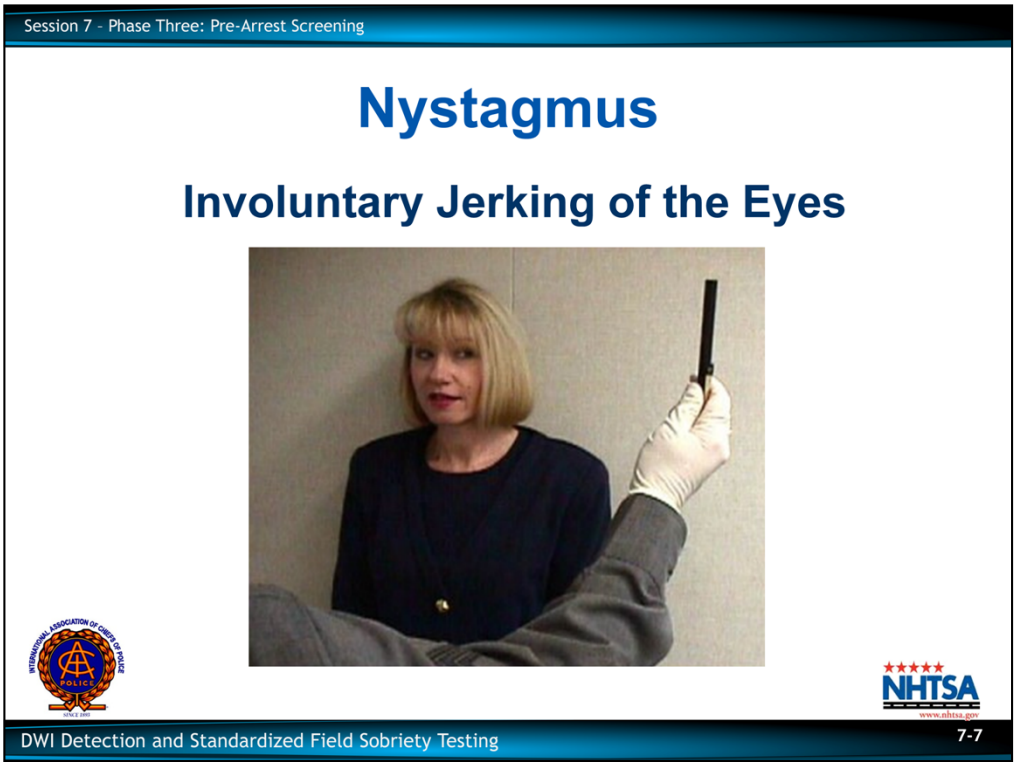
**** In most states, results of a preliminary breath test ordinarily cannot be introduced as evidence by the prosecution. Indicate to participants the limits of admissibility of PBT results in their state.***



The Arrest Decision

The DWI detection process concludes with the arrest decision. This decision is based on all of the evidence you have obtained during all three detection phases: on observation of the vehicle in motion and during the stopping sequence; on face to face observation of the subject and the subject's exit from the vehicle; and, pre-arrest screening.

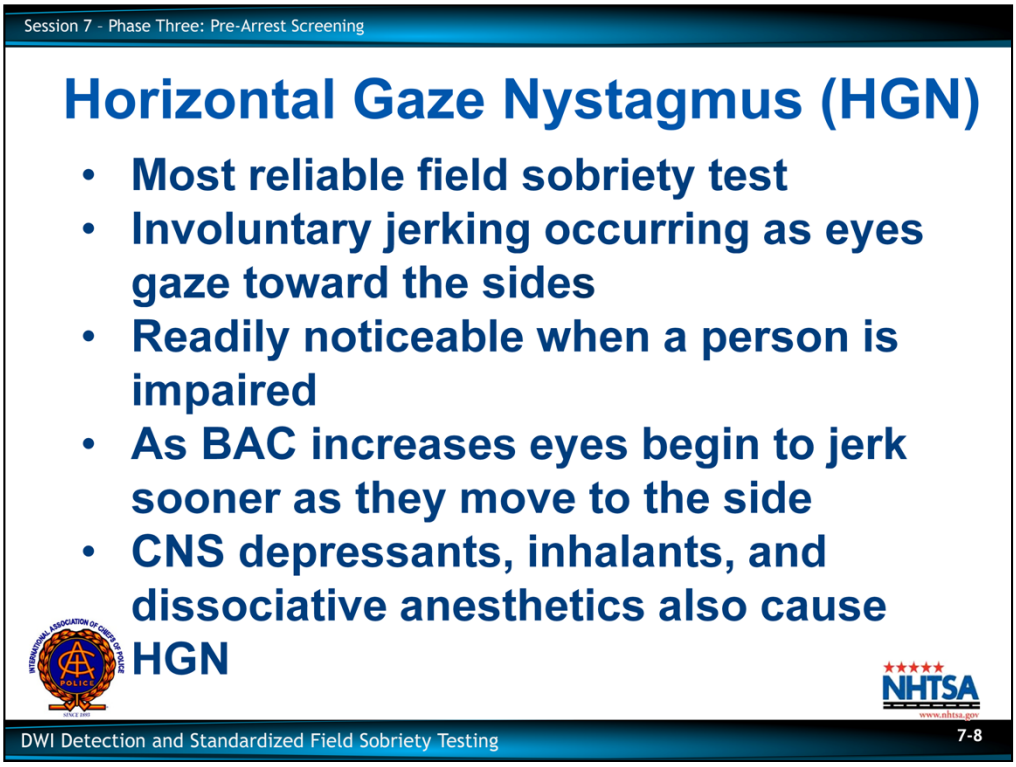
The arrest decision is based on all of the evidence obtained during all three detection phases.



B. <u>Gaze Nystagmus – Definition</u>

"Nystagmus" means an involuntary jerking of the eyes.

Alcohol and certain other drugs cause Horizontal Gaze Nystagmus.



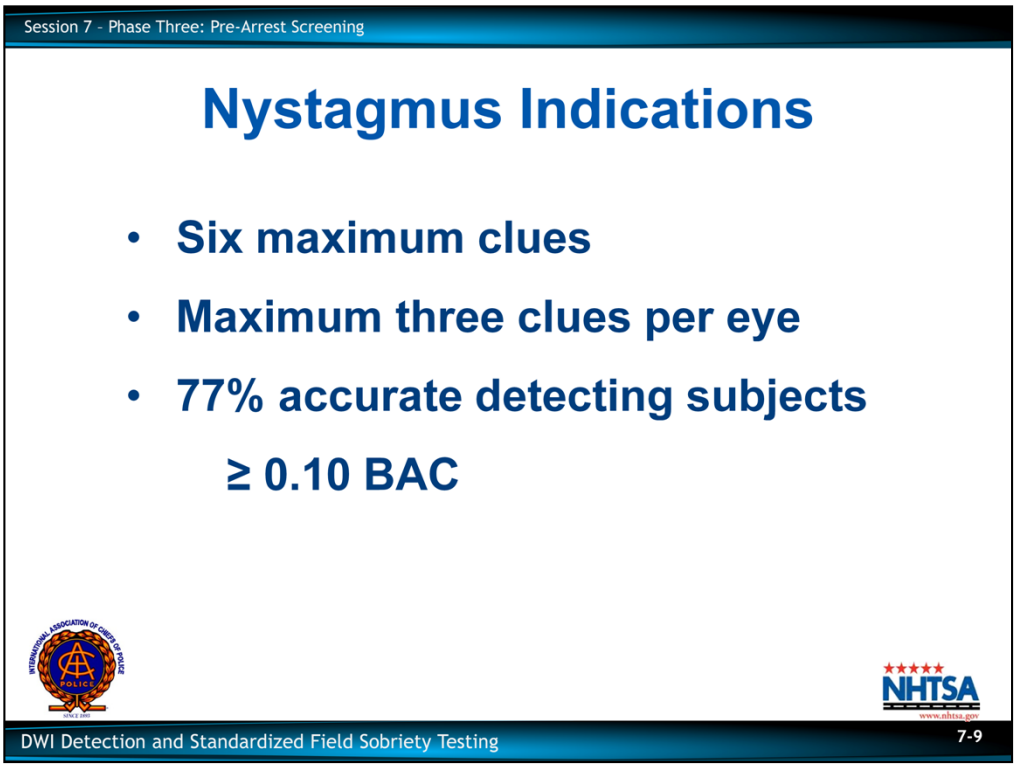
C. <u>Horizontal Gaze Nystagmus – Definition, Concepts, Demonstration</u>

Horizontal Gaze Nystagmus (HGN) is the most reliable field sobriety test. Especially when used in combination with the divided attention tests, it will help law enforcement officers correctly identify subjects who are impaired.

Involuntary jerking of the eyes becomes readily noticeable when a person is impaired. As a person's blood alcohol concentration increases, the eyes will begin to jerk sooner as they move to the side.

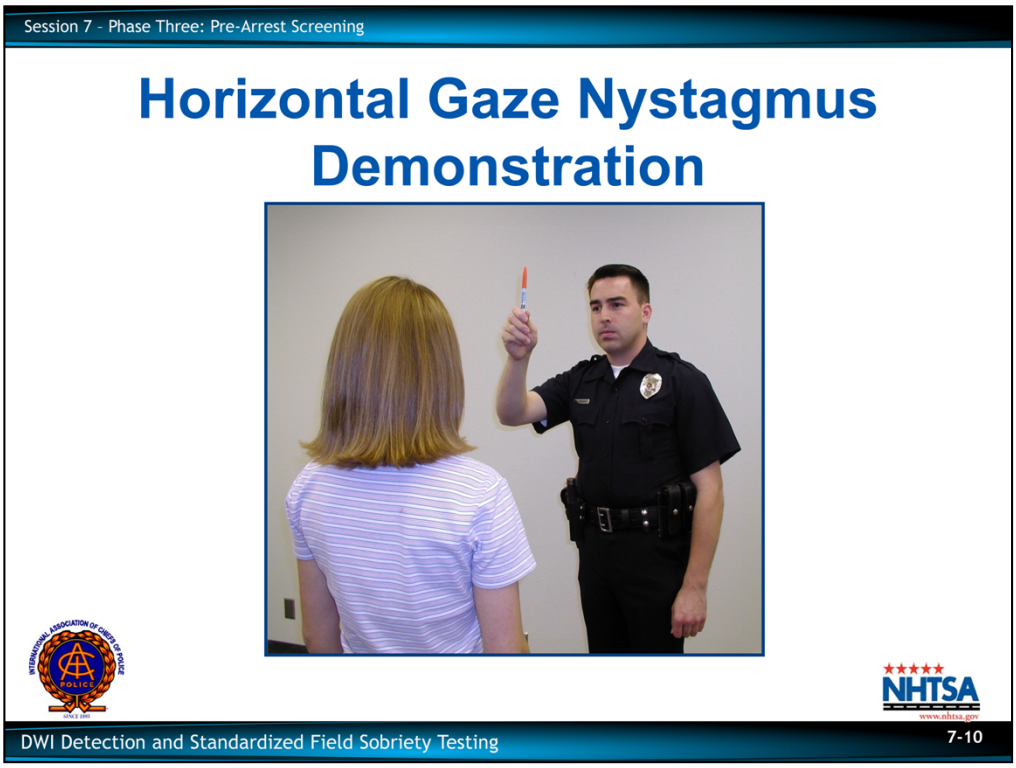
Horizontal Gaze Nystagmus refers to an involuntary jerking occurring as the eyes gaze toward the side. In addition to being involuntary the person experiencing the nystagmus is usually unaware that the jerking is happening.

In administering the HGN test, the officer has the subject follow the motion of a small stimulus with the eyes only. The stimulus may be the tip of a pen or penlight, or an eraser on a pencil, whichever contrasts with the background.



- When the HGN test is administered always begin with subject's left eye. Each eye is examined for three specific clues.
- As the eye moves from side to side, does it move smoothly or does it jerk noticeably? (As people become impaired by alcohol, their eyes exhibit a lack of smooth pursuit as they move from side to side.)
- When the eye moves as far to the side as possible and is kept at that position for four seconds, does it jerk distinctly? (Distinct and sustained nystagmus at maximum deviation is another clue of impairment.)
- As the eye moves toward the side, does it start to jerk prior to a 45 degree angle? (Onset of nystagmus prior to 45 degrees is another clue of impairment.)
- As a person's blood alcohol concentration increases it is more likely these clues will appear.
- The maximum total number of clues is six. The maximum number of clues that may appear in one eye is three.
- The original research was conducted by the Southern California Research Institute (SCRI) and used to develop the initial curriculum showing this test was 77% accurate at detecting subjects at or above a 0.10 BAC.

Remind class that they will receive current validation studies relative to 0.08 BAC in Session 8. Choose a participant to come forward to serve as a demonstration subject. In addition to alcohol, drugs such as CNS Depressants, Inhalants, and Dissociative Anesthetics generally cause HGN.



To test for Horizontal Gaze Nystagmus, the subject is instructed to stand with feet together, hands at sides, hold the head still, and follow the motion of a stimulus with the eyes only.

Ask participant if they have any eye problems or eye abnormalities. If the participant is wearing glasses, have participant remove them.

The object may be the tip of a pen or penlight or the eraser on a pencil, which contrasts with the background.

The stimulus should be held approximately 12 - 15 inches (30 - 38 cm) from the subjects' nose.

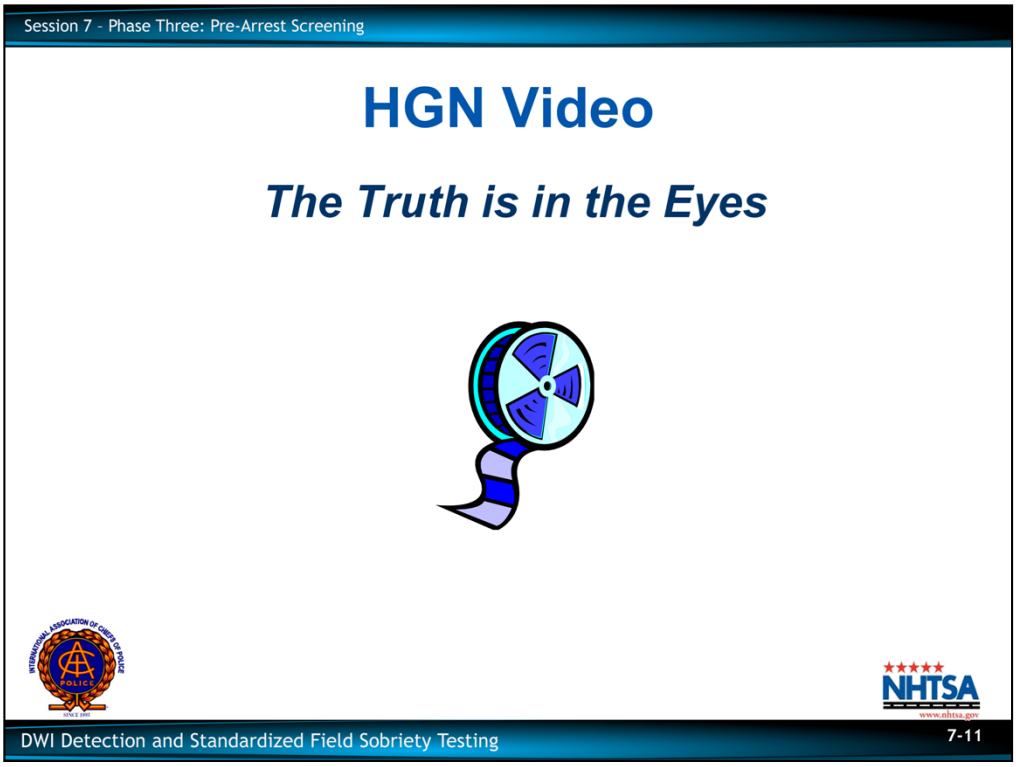
Each eye is checked, beginning with the subject's left. A subjects' height might restrict ability to clearly see nystagmus. Subject may be placed in sitting position to accommodate a better view.

Demonstrate the administration of the Horizontal Gaze Nystagmus test using a participant.

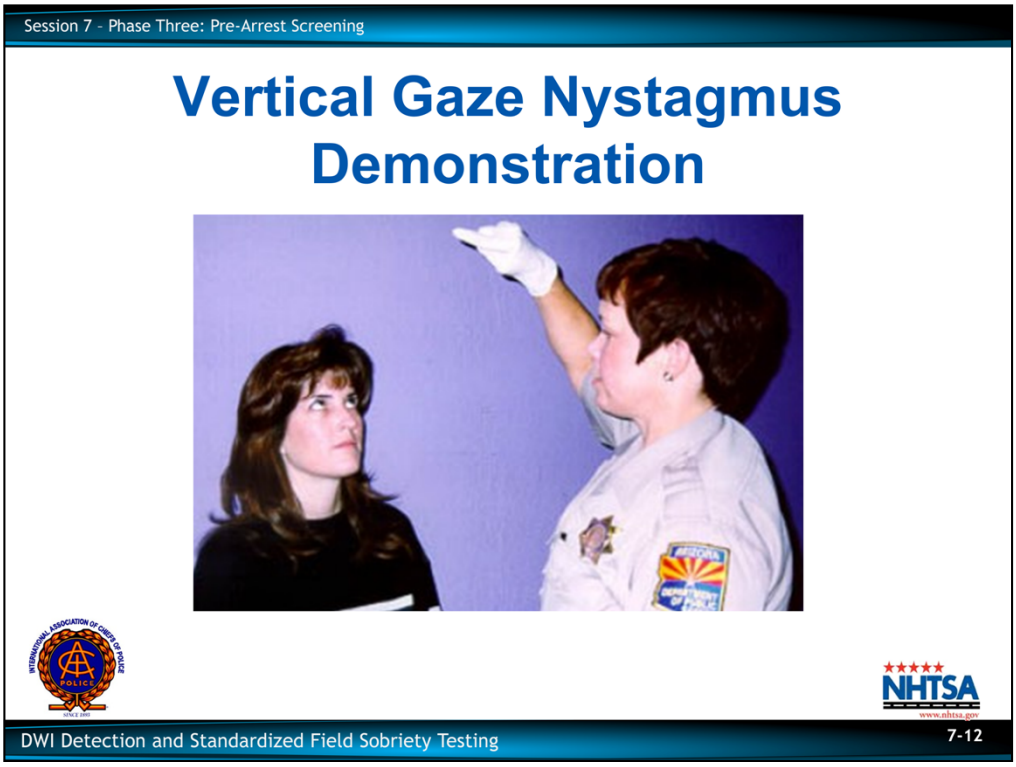
Two or more "passes" are made before each eye, to look for each of the clues of nystagmus.

Allow participant to return to seat.

Subject height may restrict ability to see nystagumus in those cases, a sitting position may work .



Suggest the showing of the video entitled, "The Truth Is In the Eyes" (8 minutes and 55 seconds).



D. <u>Vertical Gaze Nystagmus – Definition, Concepts, Demonstration</u>

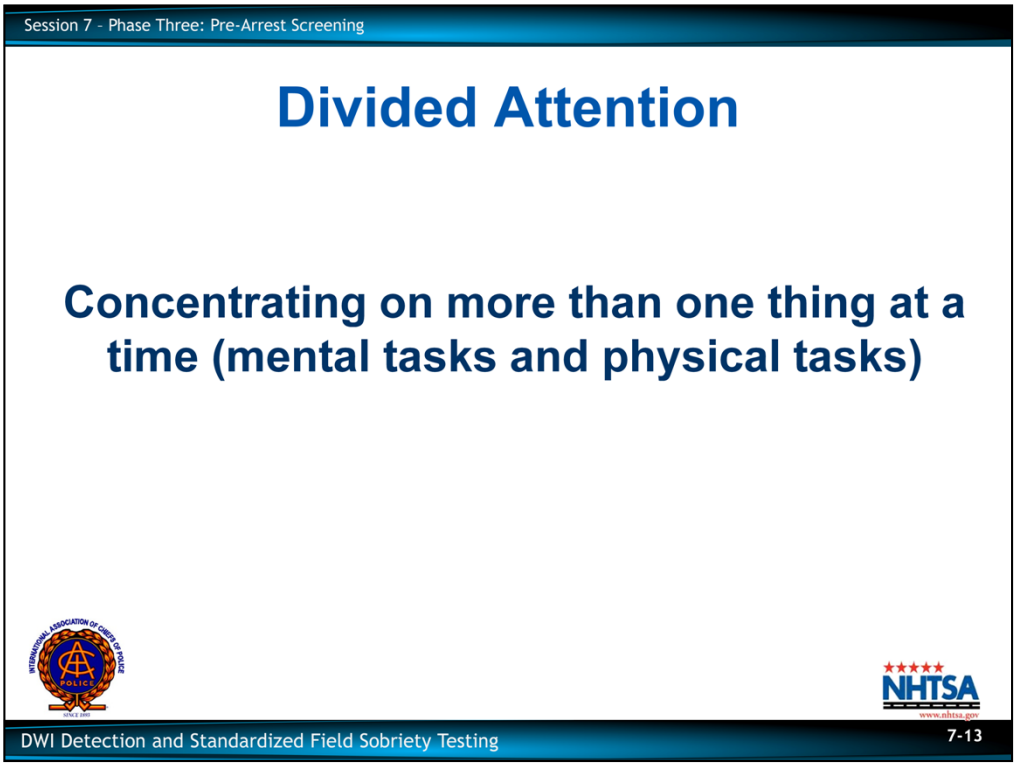
Vertical Gaze Nystagmus was not included in the SFST battery during the original research, however, it is a reliable indicator of a high quantity of alcohol for that individual, or other drug impairment.

Vertical Gaze Nystagmus is an involuntary jerking of the eyes occurring as the eyes are held at maximum elevation.

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

Demonstrate the administration of the Vertical Gaze Nystagmus test using a participant.

Both Horizontal Gaze Nystagmus and Vertical Gaze Nystagmus will be covered in detail in Session 8.



E. <u>Divided Attention Tests: Concepts, Examples, Demonstration</u>

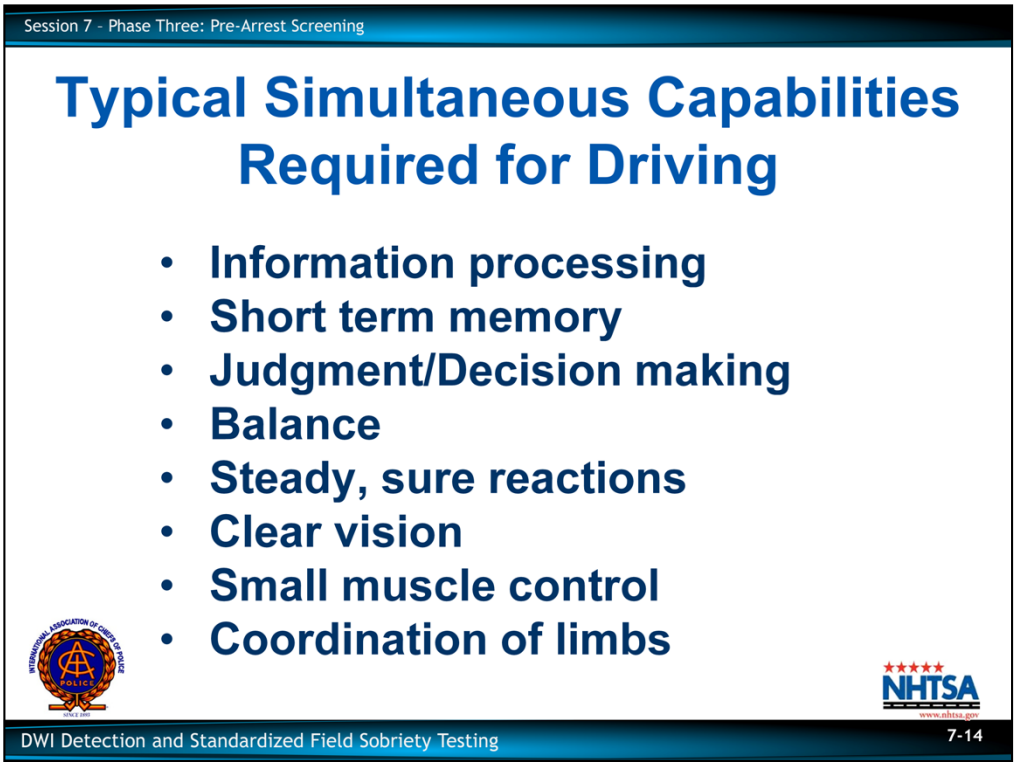
Many of the most reliable and useful psychophysical tests employ the concept of divided attention: they require the subject to concentrate on more than one thing at a time (mental tasks and physical tasks). Driving is a complex divided attention task. In order to operate a vehicle safely, subjects must simultaneously control steering, acceleration and braking; react appropriately to a constantly changing environment; and perform many other tasks.

Alcohol and many other drugs reduce a person's ability to divide attention. Impaired subjects often ignore the less critical tasks of driving in order to focus their impaired attention on the more critical tasks. For example, a subject may ignore a traffic signal and focus instead on speed control.

Even when impaired, many people can handle a single, focused attention task fairly well. For example, a subject may be able to keep the vehicle well within the proper traffic lane as long as the road remains fairly straight. However, most people, when impaired, cannot satisfactorily divide their attention to handle multiple tasks at the same time.

The concept of divided attention has been applied to psychophysical testing. Field sobriety tests that simulate the divided attention characteristics of driving have been developed and are being used by law enforcement agencies nationwide. The best of these tests exercise the same mental and physical capabilities that a person needs to drive safely.

Remind participants of the many tasks subjects must perform in order to operate a vehicle safely.



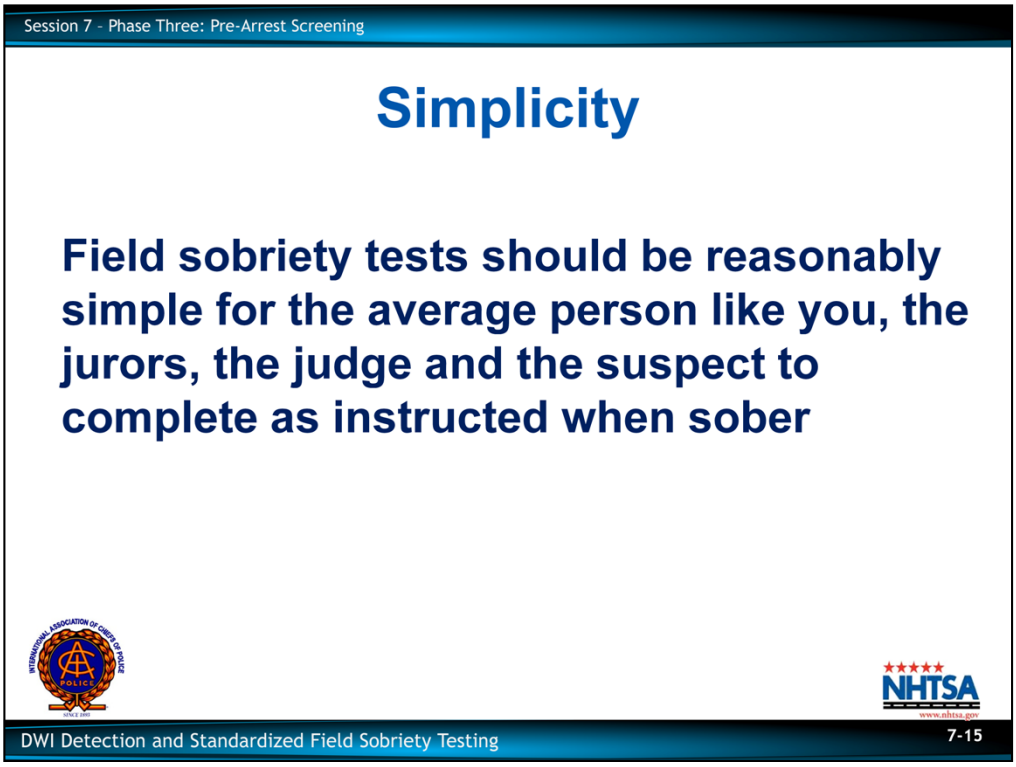
Typical simultaneous capabilities required for driving:

- Information processing
- Short term memory
- Judgment and decision making
- Balance
- Steady, sure reactions
- Clear vision
- Small muscle control
- Coordination of limbs

Briefly give examples/indications of how these capabilities relate to driving.

Any test that requires a person to demonstrate two or more of these capabilities simultaneously is potentially a good psychophysical test.

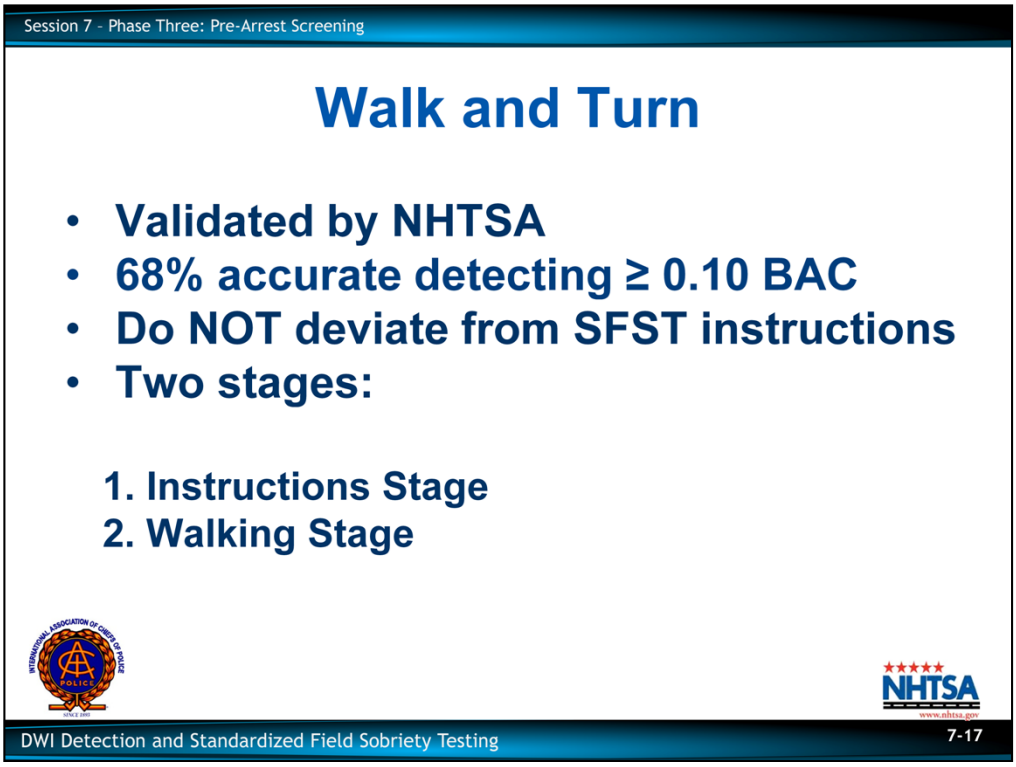
Some of the best psychophysical tests are those that exercise the same mental and physical capabilities that a person needs to drive safely.



Simplicity is the key to divided attention field sobriety testing. It is not enough to select a test that just divides the subject's attention. The test also must be one that is reasonably simple for the average person to complete as instructed when sober. Tests that are difficult for a sober subject to perform have little or no evidentiary value.

Prior to administering the psychophysical tests, ensure the subject is physically able to perform the tests.

Two divided attention field sobriety tests that have proven accurate and effective in DWI detection are the Walk and Turn and the One Leg Stand.



Walk and Turn

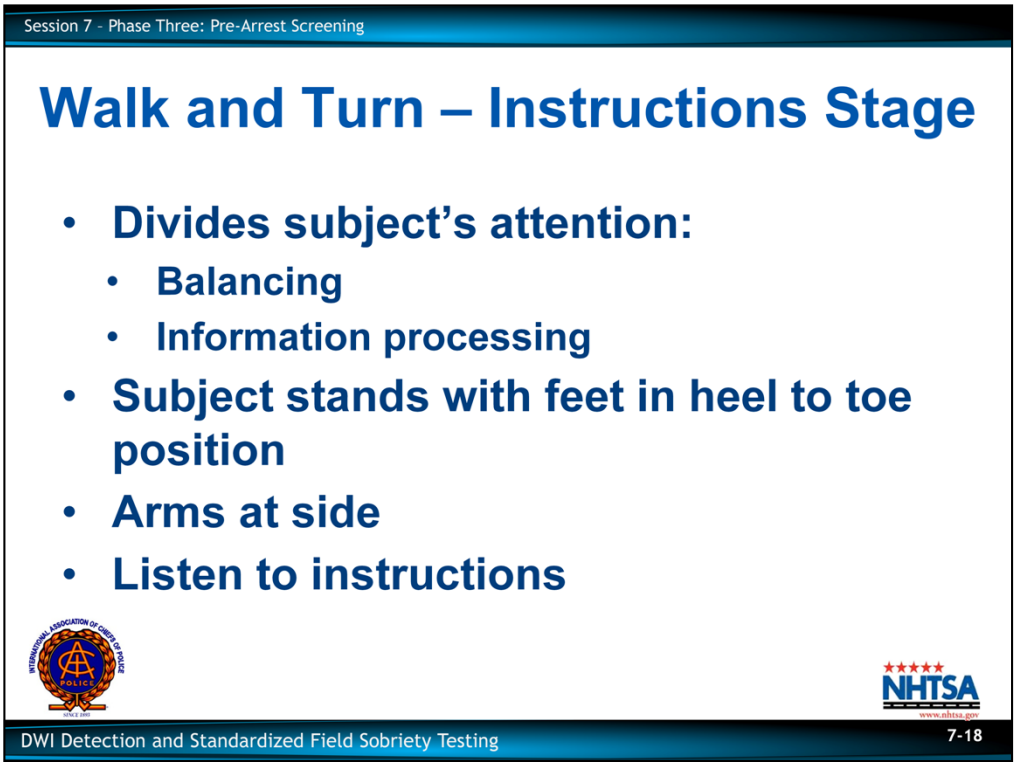
Walk and Turn is a test that has been validated through extensive research sponsored by the National Highway Traffic Safety Administration.

The original research was conducted by the SCRI and used to develop the initial curriculum showing this test was 68% accurate at detecting subjects at or above a 0.10 BAC.

The rigid standards the scientific community must follow in order to validate laboratory research (i.e., the development of psychophysical test for DWI detection) and the differences between validated testing and standardized testing. Officers administering SFSTs at roadside are expected: 1) to be reasonable and prudent in their decision to test; and 2) not to deviate from the SFST administrative instructions described later in this course.

Walk and Turn is a divided attention test consisting of two stages:

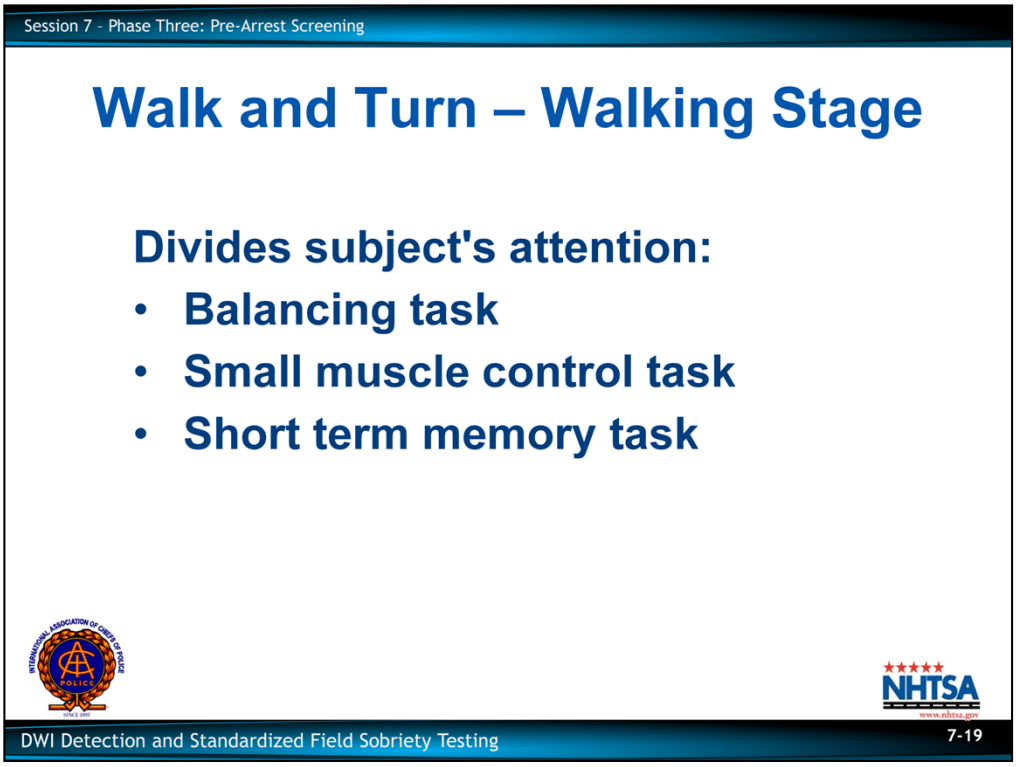
- Instructions stage
- Walking stage



The Instructions Stage divides the subject's attention between a balancing task (standing while maintaining the heel to toe position) and an information processing task (listening to and remembering instructions).

In the Instructions Stage, the subject must stand with their feet in a heel to toe position, keep their arms at their sides, and listen to the instructions.

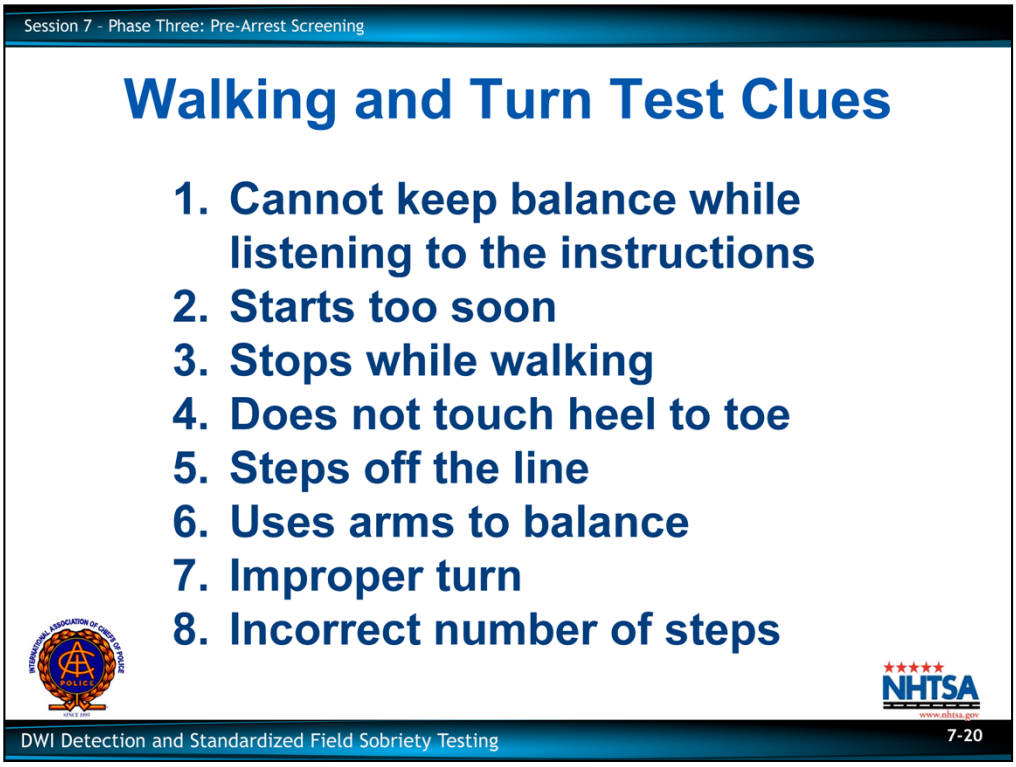
Demonstrate stance.



In the Walking Stage the subject takes nine heel to toe steps, turns in a prescribed manner, takes nine heel to toe steps back, counts the steps out loud, and watches their feet. During the turn, the subject keeps their front foot on the line, turns in a prescribed manner, and uses the other foot to take several small steps to complete the turn. The Walking Stage divides the subject's attention among a balancing task (walking heel to toe and turning); a small muscle control task (counting out loud); and a short term memory task (recalling the number of steps and the turning instructions).

The walking stage divides the subject's attention between a task of listening, comprehending and carrying out the instruction.

Demonstrate turn. Point out that this divides attention between a balancing task and an information processing task. Demonstrate heel to toe steps and simultaneous counting.

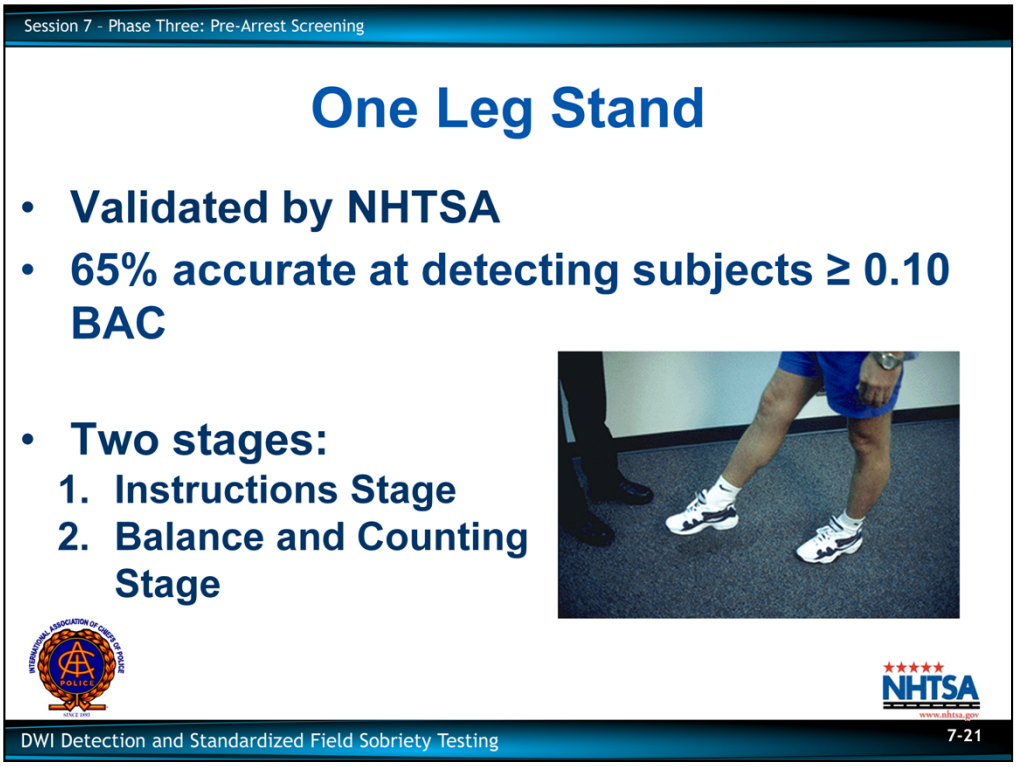


The Walk and Turn test is administered and interpreted in a standardized manner, i.e., the same way every time. Officers administering the Walk and Turn test observe the subject's performance for eight clues:

1. Cannot keep balance while listening to the instructions
2. Starts too soon
3. Stops while walking
4. Does not touch heel to toe
5. Steps off the line
6. Uses arms to balance
7. Improper turn
8. Incorrect number of steps

Inability to complete the Walk and Turn test may occur when the subject is in danger of falling or otherwise cannot complete the test.

Remind class that they will receive information regarding the current validation studies relative to 0.08 BAC in Session 8.



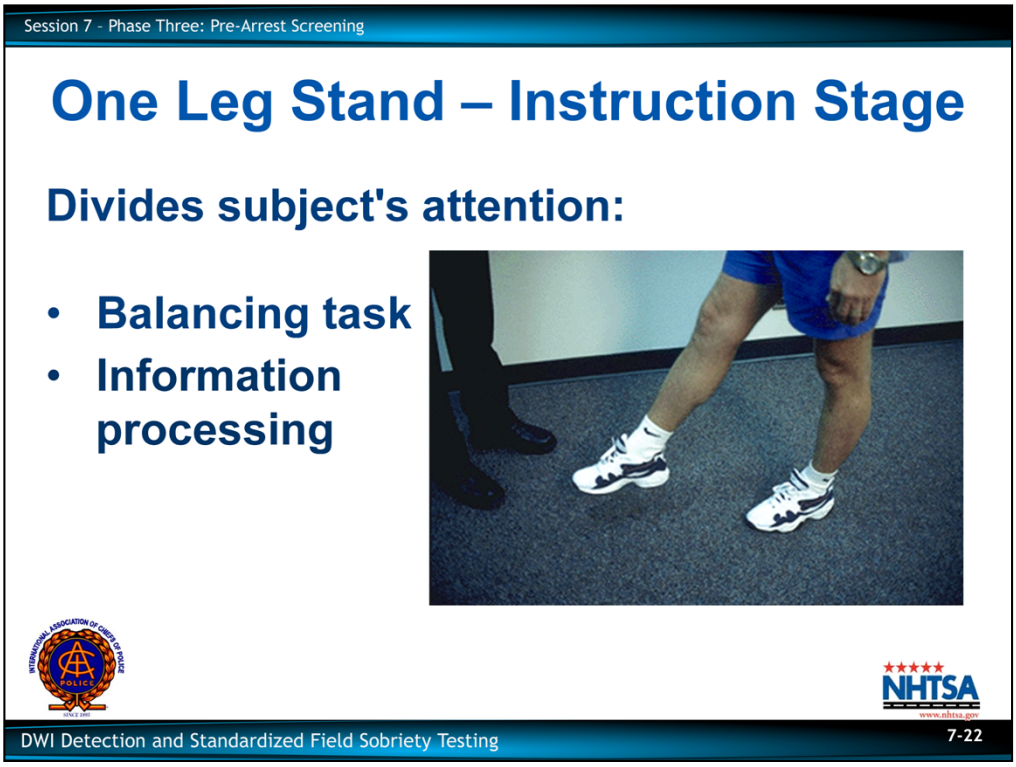
One Leg Stand

The One Leg Stand has also been validated through NHTSA sponsored research.

The original research was conducted by the SCRI and used to develop the initial curriculum showing this test was 65% accurate at detecting subjects at or above a 0.10 BAC.

It is a divided attention test consisting of two stages:

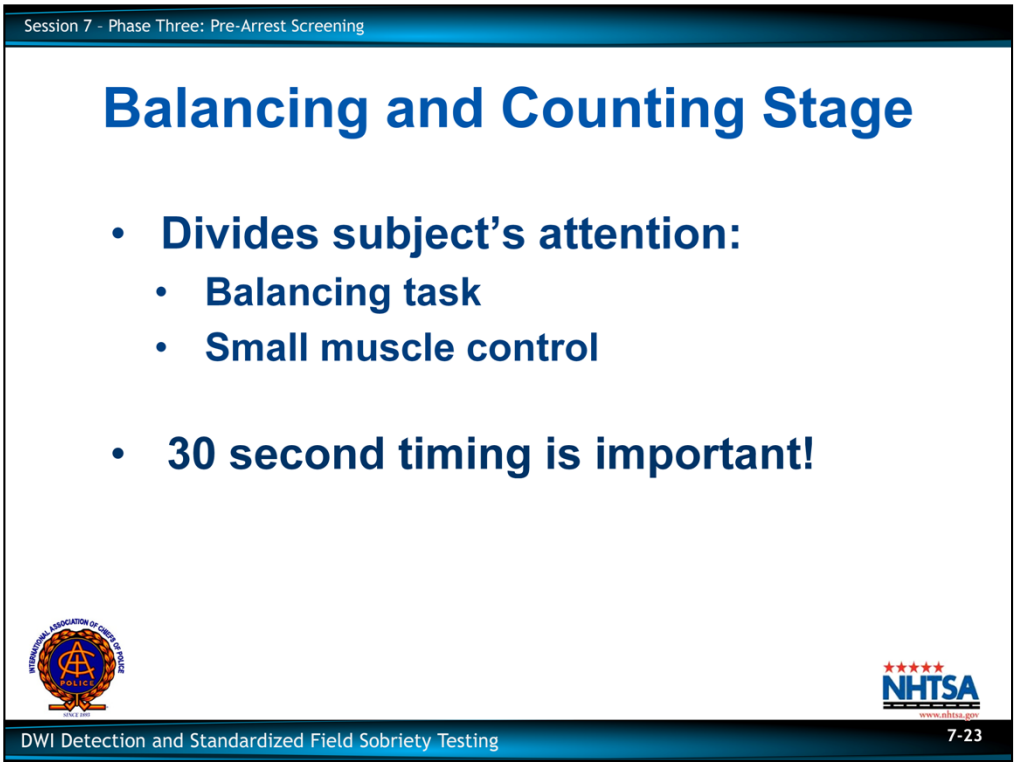
- Instructions stage
- Balance and counting stage



In the Instruction Stage, the subject must stand with their feet together, keep their arms at their sides, and listen to instructions.

This divides the subject's attention between a balancing task (maintaining a stance) and an information processing task (listening to and remembering instructions.)

Demonstrate the stance.

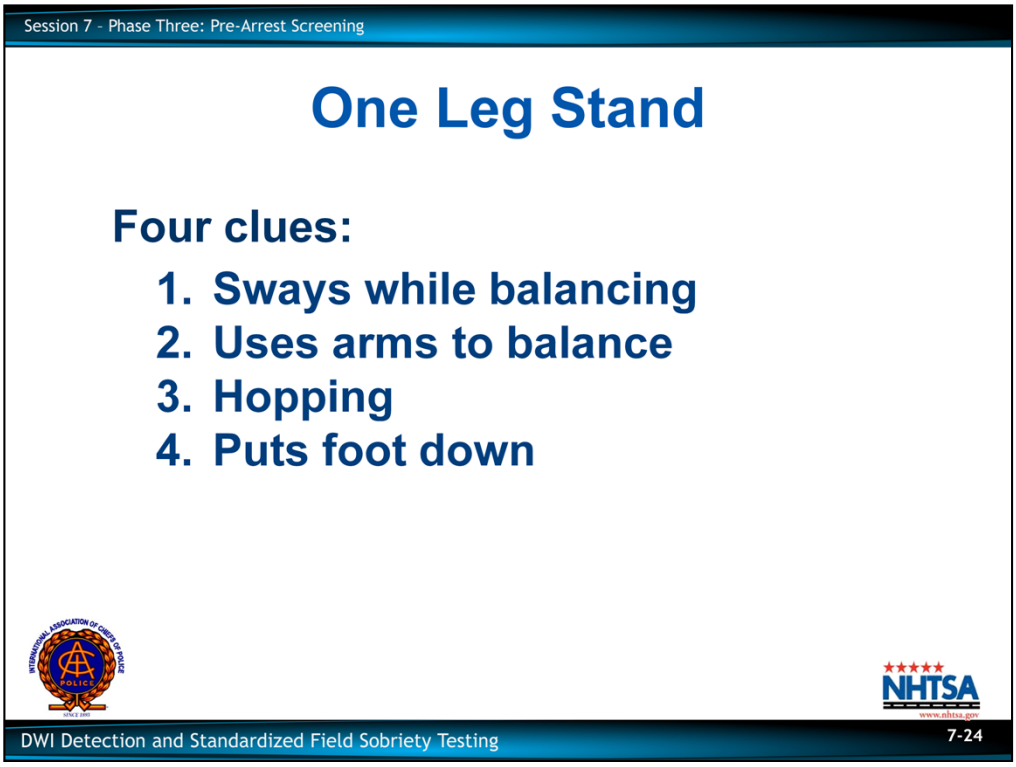


In the Balance and Counting Stage, the subject must raise one foot, either foot, with the raised foot approximately six inches off the ground, with both legs straight and the raised foot parallel to the ground. Have the subject, while looking at the elevated foot, count out loud in the following manner: "one thousand one", "one thousand two", “one thousand three” until told to stop. This divides the subject's attention between balancing (standing on one foot) and small muscle control (counting out loud).

Demonstrate stance and counting. The subject should be timed for 30 seconds while performing this test.

Point out that this divides the subject's attention between balancing and counting out loud.

The timing for a thirty second period by the officer is an important part of the One Leg Stand test. The original research conducted by SCRI in 1977 showed that many impaired subjects are able to stand on one leg for up to 25 seconds, but that few can do so for 30 seconds.



One Leg Stand is also administered and interpreted in a standardized manner. Officers carefully observe the subject's performance and look for four specific clues:

1. Sways while balancing
2. Uses arms to balance
3. Hopping
4. Puts foot down

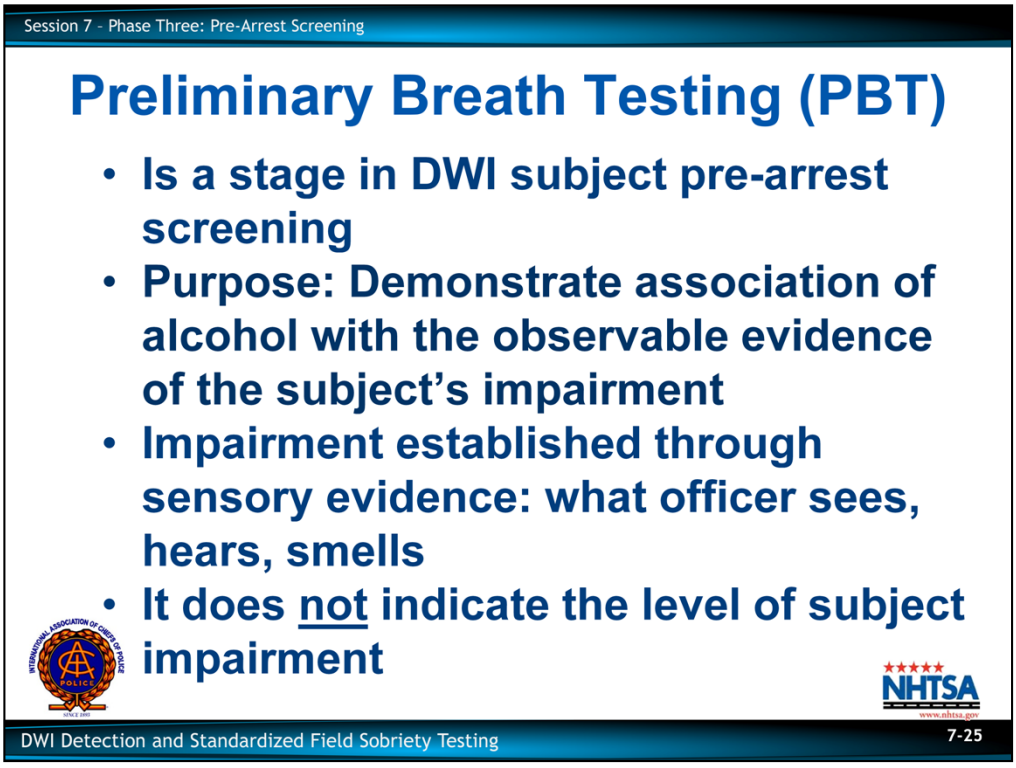
Inability to complete the One Leg Stand test occurs when the subject is in danger of falling or otherwise cannot complete the test.

Remind class that they will receive current validation studies relative to 0.08 BAC in Session 8.

If time permits, explain and demonstrate other divided attention tests that may be used by participant's respective departments.

Other examples of simple, divided attention tests. Typical tests:

- ***Finger to nose.***
- ***Modified Romberg Balance Test.***



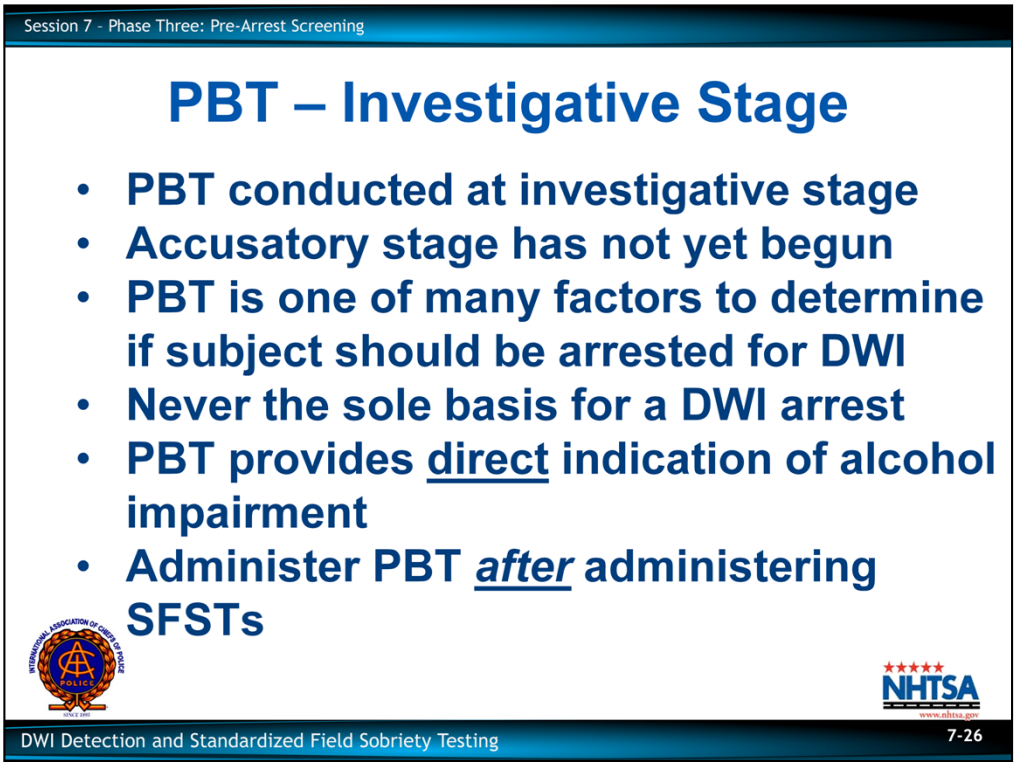
F. Advantages and Limitations of Preliminary Breath Testing

Preliminary breath testing, like psychophysical testing, is a stage in the pre-arrest screening of a DWI subject. Usually the subject is not yet under arrest when requested to submit to the preliminary breath test.

The basic purpose of preliminary breath testing (PBT) is to demonstrate the association of alcohol with the observable evidence of the subject's impairment. The subject's impairment is established through sensory evidence: what the officer sees, hears and smells.

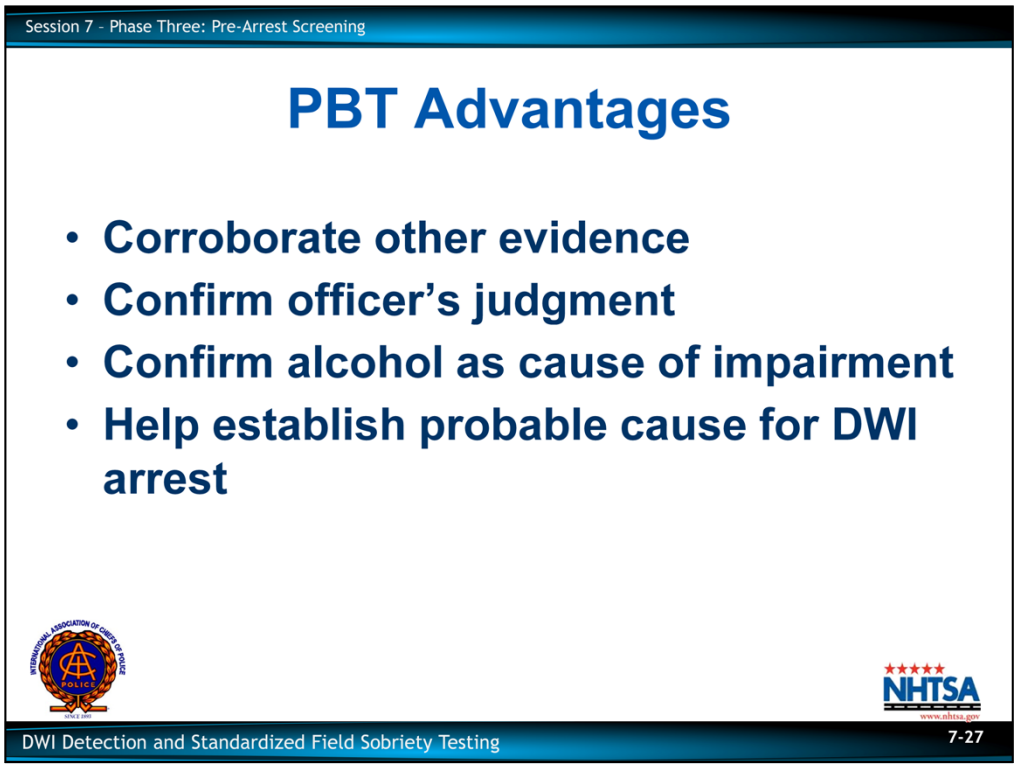
The PBT provides the evidence that alcohol is the chemical basis of that impairment by yielding an on the spot indication of the subject's blood alcohol concentration (BAC). The PBT provides direct indication of the BAC level. **It does not indicate the level of the subject's impairment.** Impairment varies widely among individuals with the same BAC level.

The subject's impairment is established through what the officer sees, hears and smells.



The DWI incident remains at the investigative stage; the accusatory stage has not yet begun. The PBT result is only one of many factors the officer considers in determining whether the subject should be arrested for DWI. Whenever possible, it should never be the sole basis for a DWI arrest. The PBT result is an important factor because it provides direct indication of alcohol impairment. All other evidence, from initial observation of the vehicle in operation through psychophysical testing, indicates alcohol impairment.

The PBT helps to confirm the chemical basis (alcohol) of that impairment. Also, PBTs should be used after administering SFSTs.



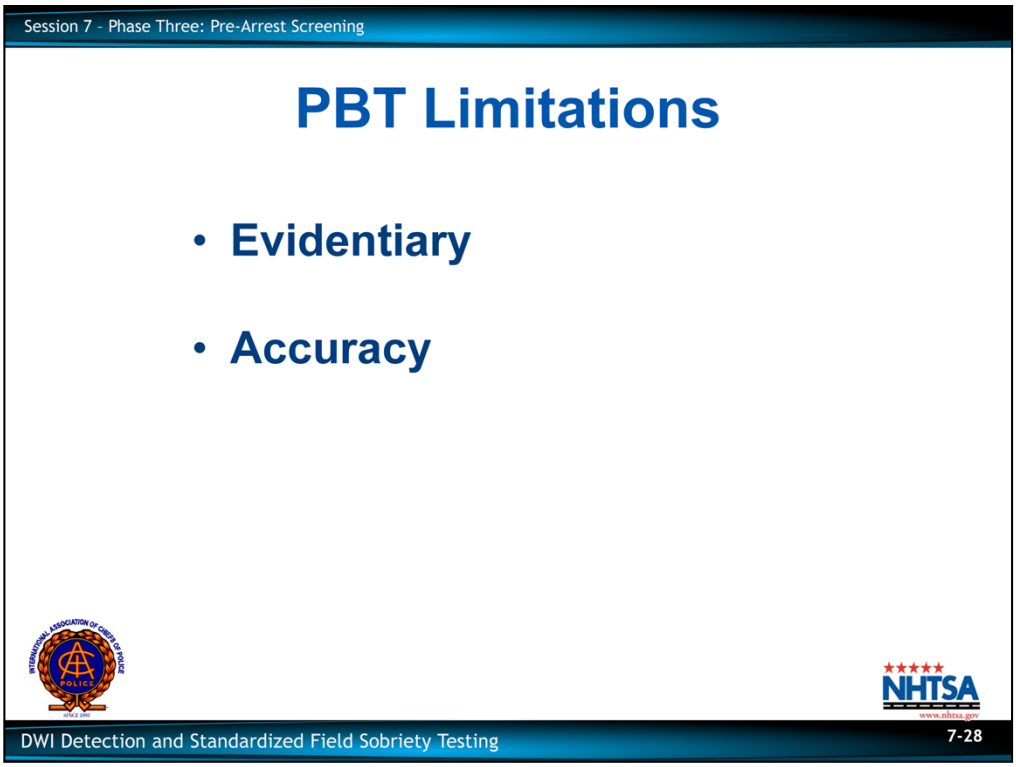
PBT Advantages

A PBT offers several important advantages for DWI detection. It may:

- Corroborate other evidence by demonstrating that the suspicion of alcohol impairment is consistent with the officer's observations of the subject's mental and physical impairment.
- Confirm the officer's own judgment and help gain confidence in evaluating alcohol impairment accurately, based on observations and psychophysical tests. (Many officers experienced in DWI enforcement find that they rely less and less on the PBT as their confidence in their own powers of detection increases).

Many experienced DWI officers find that they rely less and less on the PBT as their confidence in their own powers of detection increases.

- Disclose the possibility of medical complications or impairment due to drugs other than alcohol. (The PBT can confirm or deny that alcohol is the cause of the observed impairment. For example, observed psychophysical impairment coupled with a PBT result showing a very low BAC indicates an immediate need to investigate the possibility that the subject has ingested a drug other than alcohol or suffers from a medical problem).
- Help to establish probable cause for a DWI arrest. (The role of the PBT in establishing probable cause may be affected by the evidentiary value of PBT results in your state. Consult your specific PBT law, your supervisor, or the local prosecutor for clarification, if necessary).



PBT Limitations

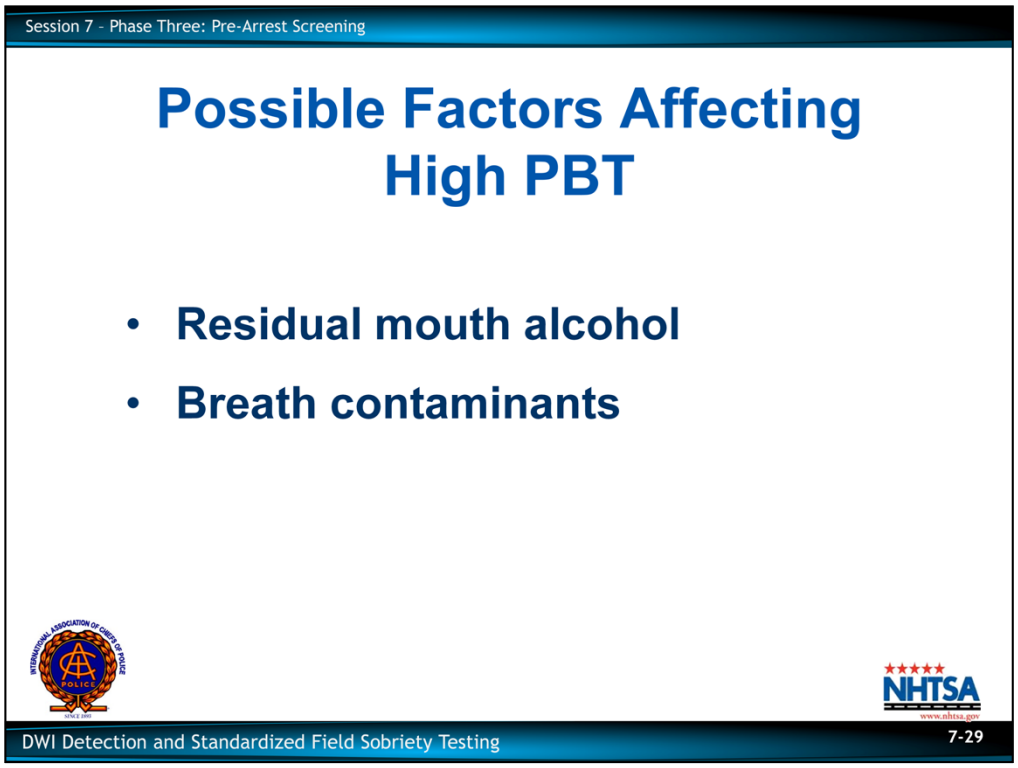
The potential role of the PBT in establishing probable cause may be affected by the evidentiary value of PBT results in your state.

Consult your specific PBT statute, and your local state's or district attorney to clarify this point for your participants.

Explain the specific circumstances under which PBT results may and may not be admissible as evidence in your state. Explain the weight or probative value of PBT evidence, when admissible.

Preliminary breath testing may have both evidentiary limitations and accuracy limitations. Evidentiary limitations vary with specific laws. In some states PBT results are admissible as evidence; in other states they are not admissible. Where the results are admissible, there may be differences in the weight or value they are given. Consult your state PBT law, your supervisor or your local prosecutor, as necessary, for clarification.

Although all PBT instruments currently used by law enforcement are reasonably accurate, they are subject to the possibility of some error, especially if they are not used in the proper fashion.



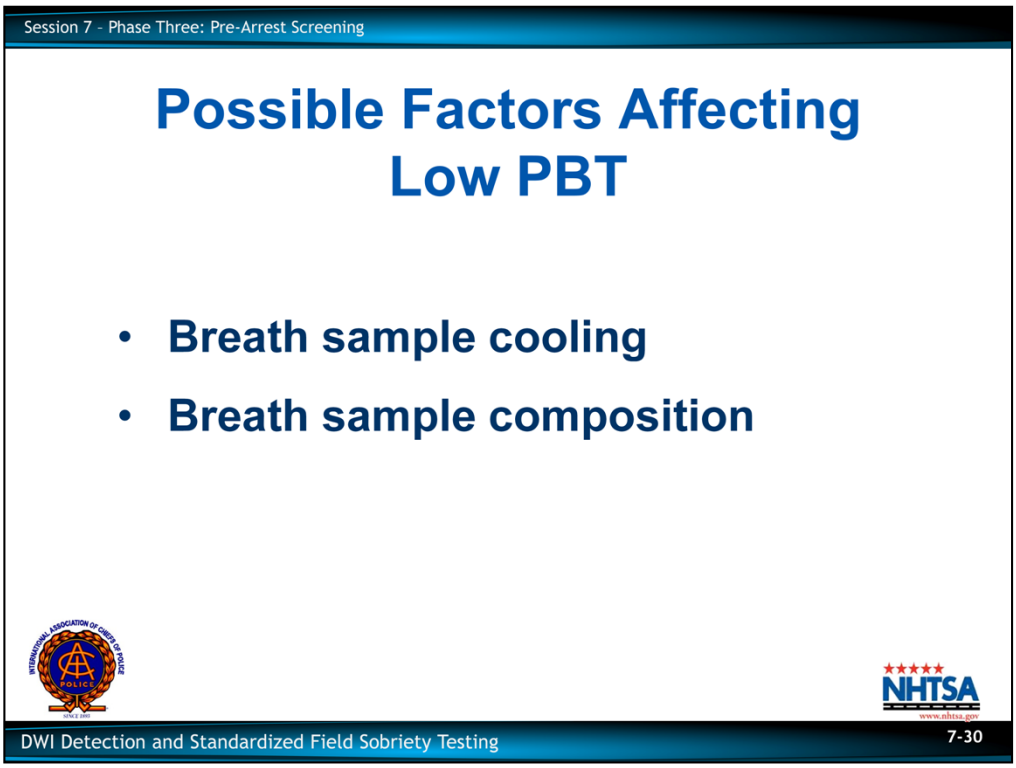
There are two common factors that tend to produce high results on a PBT.

Residual mouth alcohol. After a person takes a drink, some of the alcohol will remain in the mouth. If the person exhales soon after drinking, the breath sample will pick up some of this left over mouth alcohol. In this case, the breath sample will contain an additional amount of alcohol and the test result will be higher than the true BAC.

It takes approximately 15 minutes for the residual alcohol to be eliminated from the mouth.

The only sure way to eliminate this factor is to make sure the subject does not consume any alcohol for at least 15 to 20 minutes before conducting a breath test. Remember, too, most mouthwashes, breath sprays, cough syrups, etc., contain alcohol and may produce residual mouth alcohol. Therefore, do not permit the subject to put anything in their mouth for at least 15 to 20 minutes prior to testing.

Breath Contaminants. Some types of preliminary breath tests might react to certain substances other than alcohol. For example, substances such as ether, chloroform, acetone, acetaldehyde and cigarette smoke may produce a positive reaction on certain devices. If so, the test would be contaminated and its result would be higher than the true BAC. Normal characteristics of breath samples, such as halitosis (bad breath), food odors, etc., do not affect accuracy.

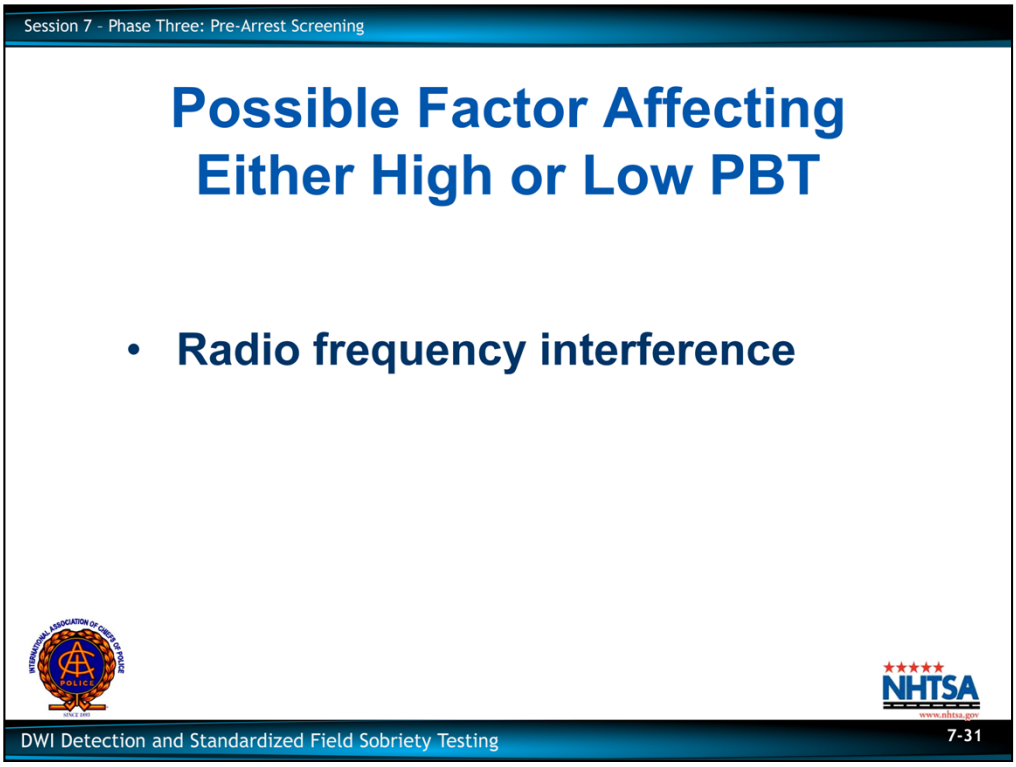


PBT instruments have accuracy limitations. Although all PBT instruments currently used by law enforcement are reasonably accurate, they are subject to the possibility of error, especially if they are not used properly. There are factors that can affect the accuracy of preliminary breath testing devices. Some of these factors tend to produce "high" test results; others tend to produce "low" results.

There are two common factors that tend to produce low PBT results.

Breath sample cooling. If the captured breath sample is allowed to cool before it is analyzed, some of the alcohol vapor in the breath may turn to liquid and precipitate out of the sample. If that happens, the subsequent analysis of the breath sample will produce a low BAC result.

Breath sample composition. Breath composition means the mixture of the tidal breath and alveolar breath. Tidal breath is breath from the upper part of the lungs and the mouth. Alveolar breath is deep lung breath. Breath testing should be conducted on a sample of alveolar breath, obtained by having the subject blow into the PBT instrument until all air is expelled from the lungs.

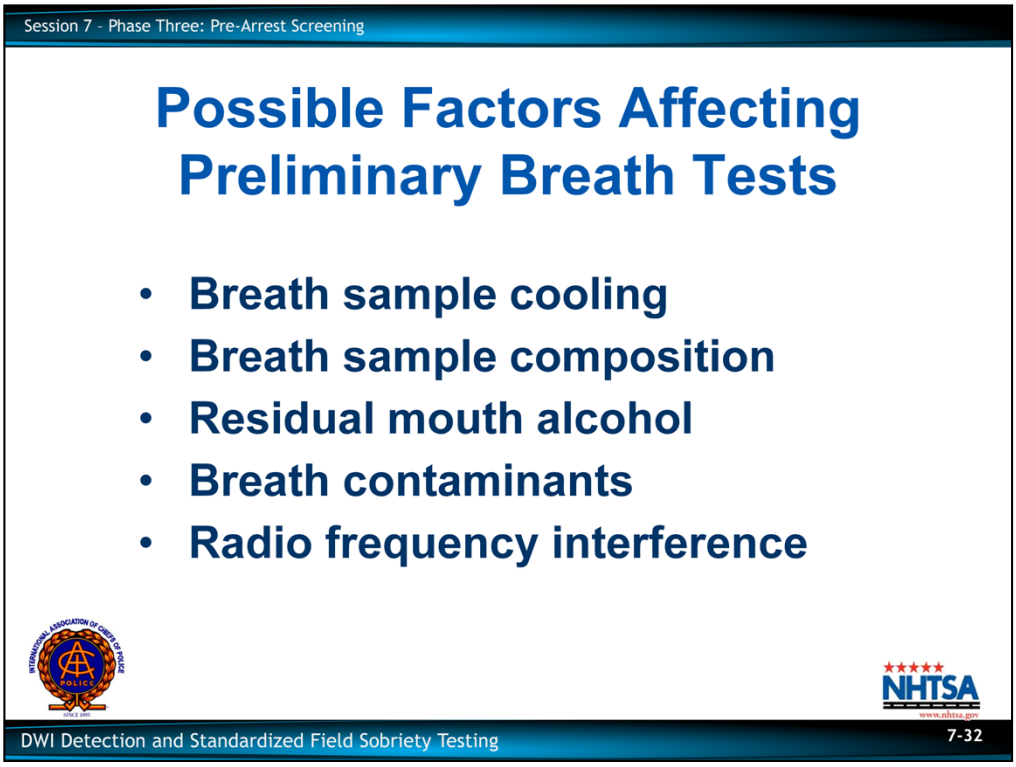


Radio frequency interference (RFI) can produce either high or low test results, or can prevent a breath test device from producing any result. Care should be exercised when utilizing a PBT around radio equipment.

Point out that the first two factors listed act to produce high test results, and that the third and fourth act to produce low test results.

Point out that RFI can produce either high or low test results, or can prevent a breath test device from producing any result.

Briefly explain the factors and their influence.

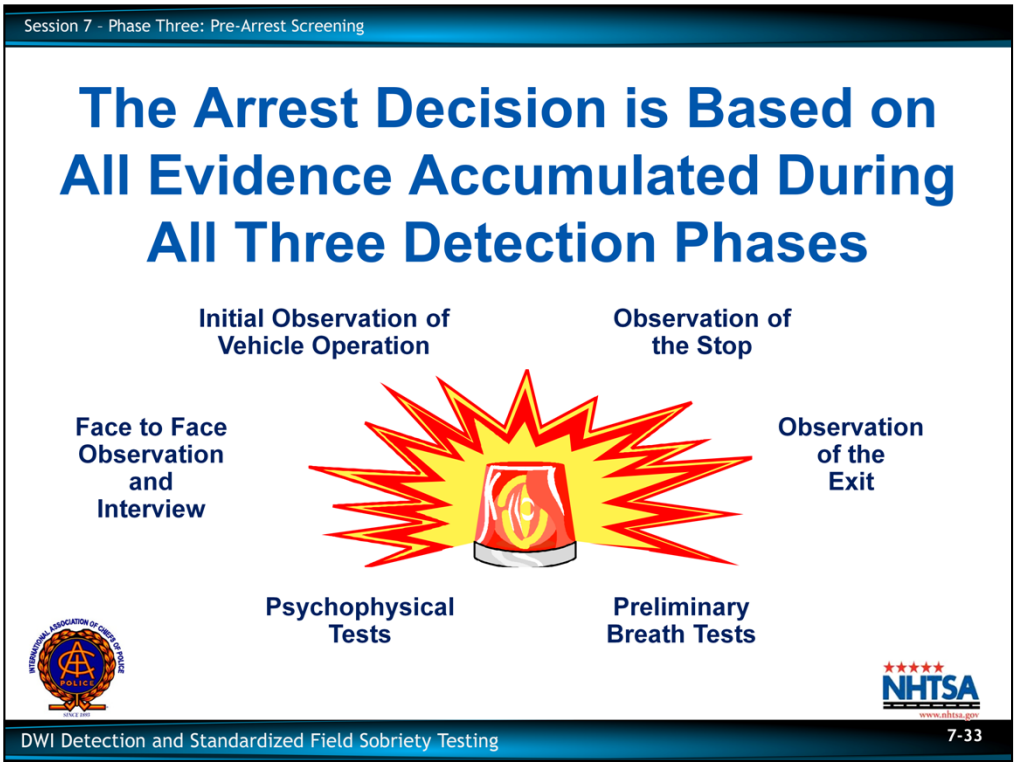


Radio frequency interference (RFI) can produce either high or low test results, or can prevent a breath test device from producing any result. Care should be exercised when utilizing a PBT around radio equipment.

Point out that the first two factors listed act to produce <u>low</u> test results, and that the third and fourth act to produce <u>high</u> test results.

Point out that RFI can produce either high or low test results, or can prevent a breath test device from producing any result.

Briefly explain the factors and their influence.



G. The Arrest Decision

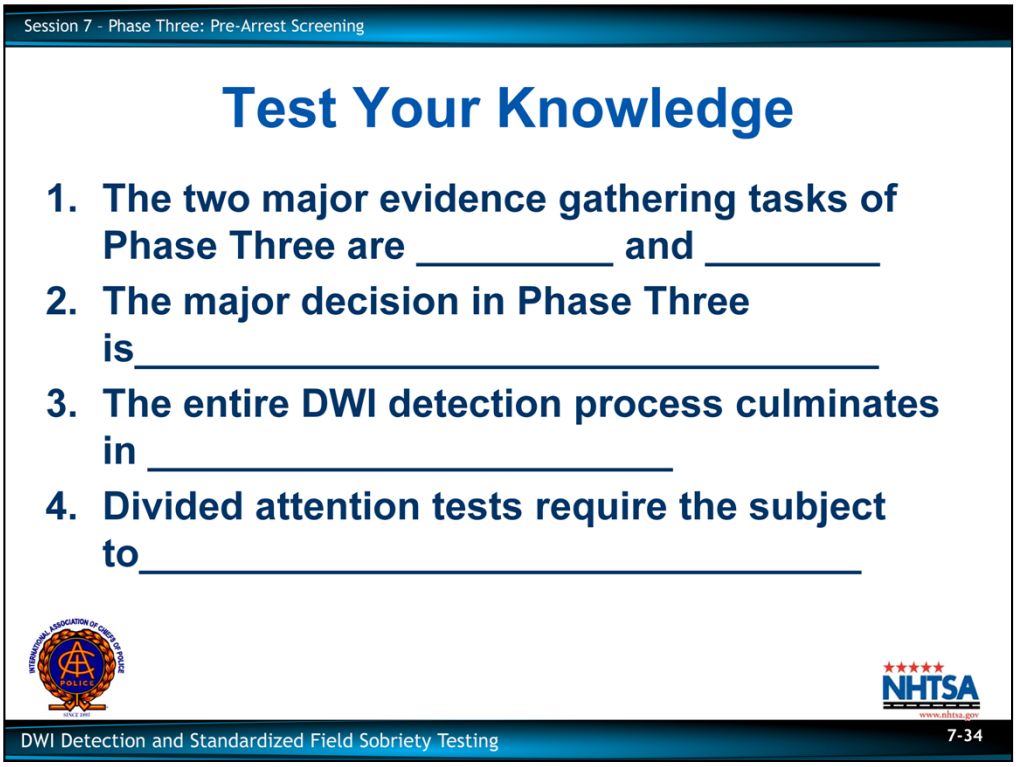
Your arrest/no arrest decision is the culmination of the DWI detection process. That decision is based on all of the evidence that has come to light since your attention was first drawn to the vehicle or individual.

PHASE ONE:
- Initial observation of vehicle in motion
- Observation of the stop.

PHASE TWO:
- Face to face observation and interview
- Observation of the exit.

PHASE THREE:
- SFSTs
- Preliminary breath tests.

Your decision involves a careful review of each of the observations you have made. Conduct a "mental summary" of the evidence collected during vehicle in motion, personal contact and pre-arrest screening. If all of the evidence, taken together, establishes probable cause to believe that a DWI offense has been committed, you should arrest the subject.



TEST YOUR KNOWLEDGE

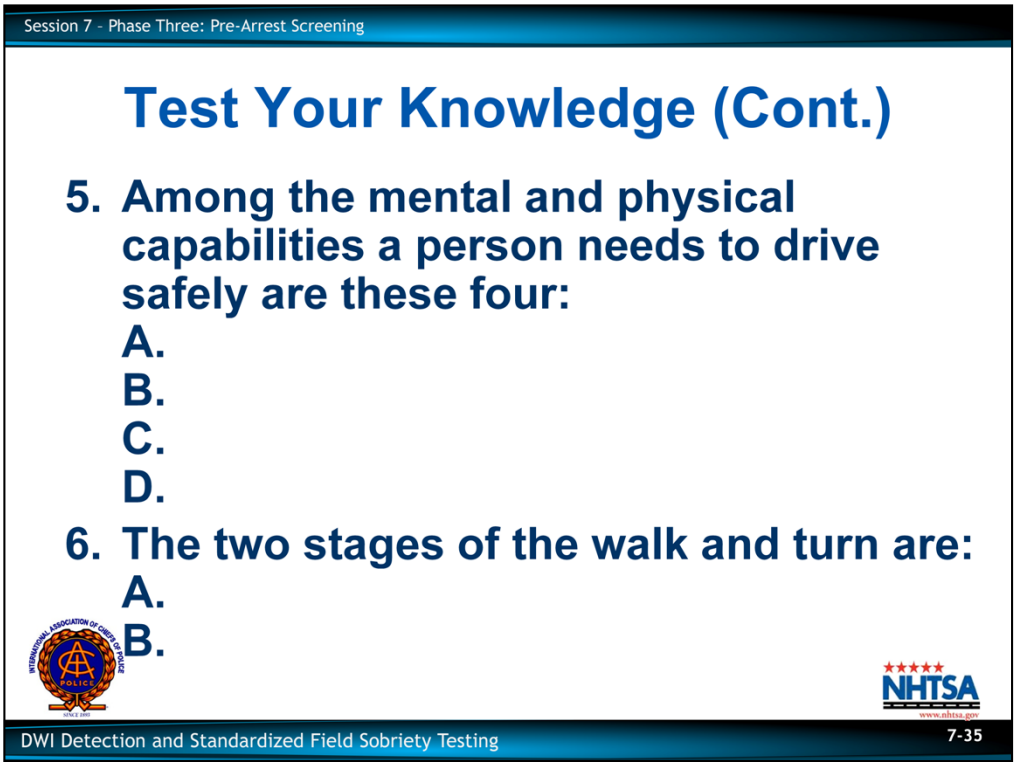
INSTRUCTIONS: Complete the following sentences.

1. ***The two major evidence gathering tasks of Phase Three are 1) psychophysical (field) sobriety tests 2) preliminary breath testing (PBT).***

2. ***The major decision in Phase Three is should I arrest the subject for DWI?***

3. ***The entire DWI detection process culminates in the completion of all the detection phases.***

4. ***Divided attention tests require the subject to concentrate on two things at once .***



5. Among the mental and physical capabilities a person needs to drive safely are these four:

A. <u>Information processing</u>

B. <u>Short term memory</u>

C. <u>Judgment and decision making</u>

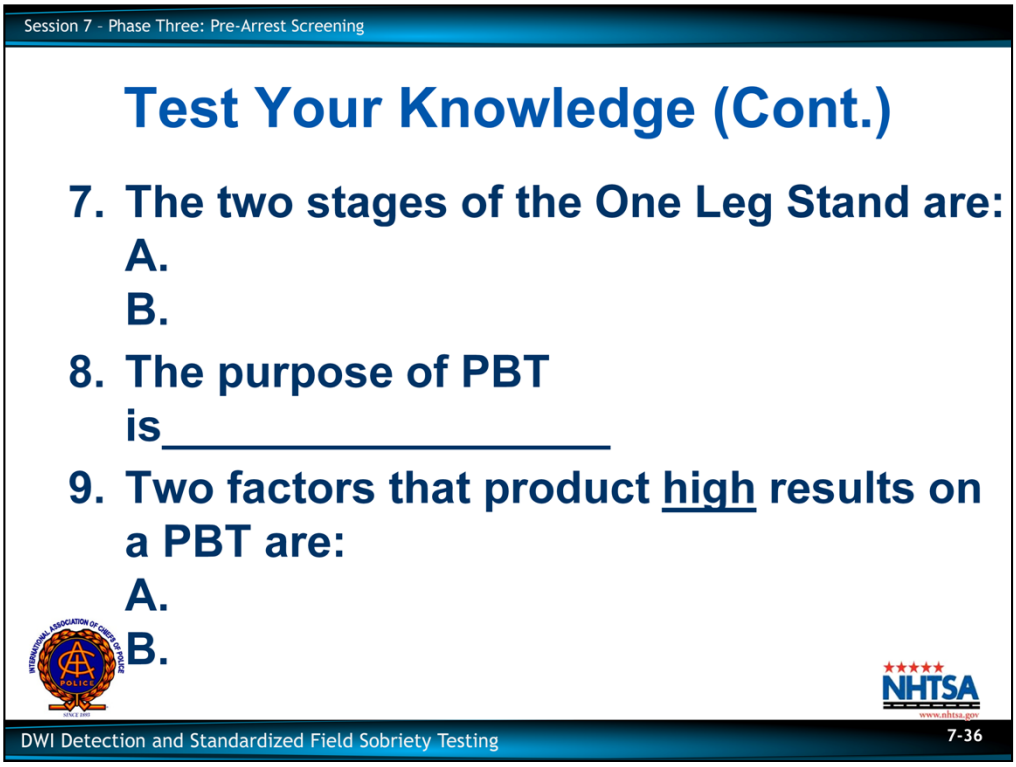
D. <u>Balance</u>

<u>Other acceptable answers</u>: Steady, sure reactions; clear vision; small muscle control; coordination of limbs

6. The two stages of the Walk and Turn are:

A. <u>Instructions stage</u>

B. <u>Walking stage</u>



7. The two stages of the One Leg Stand are:

A. Instructions stage

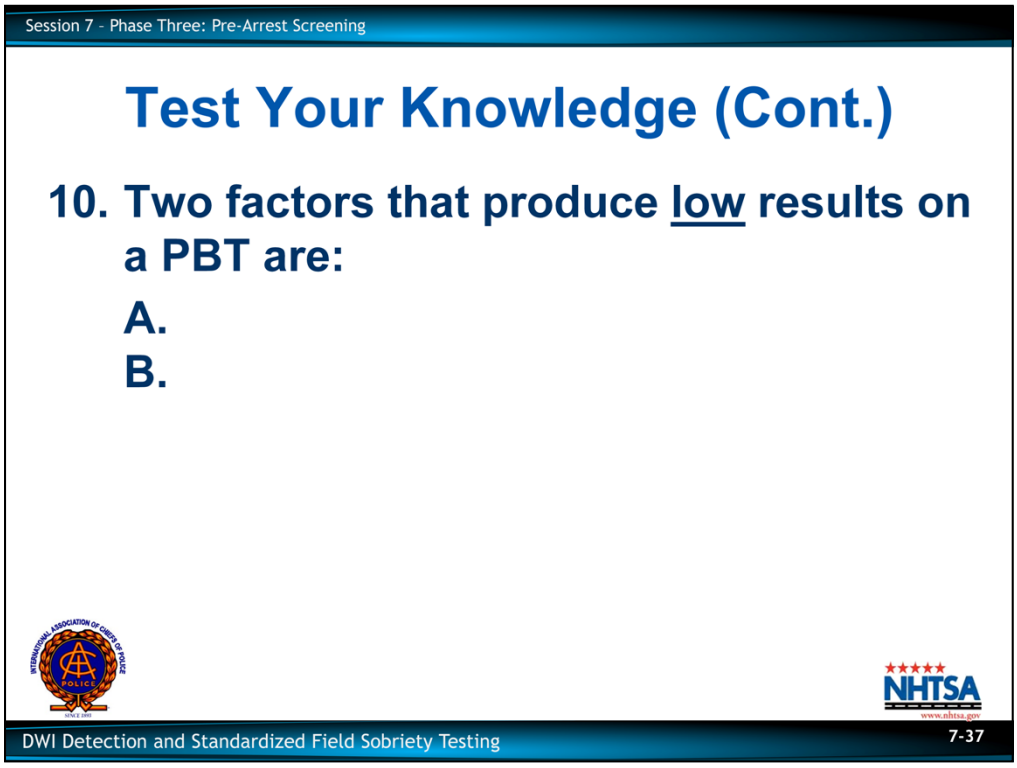
B. Balance and counting stage

8. The purpose of PBT is to demonstrate the association of alcohol with the observable evidence of the suspect's impairment

9. Two factors that produce high results on a PBT are:

A. Residual mouth alcohol

B. Breath contaminants

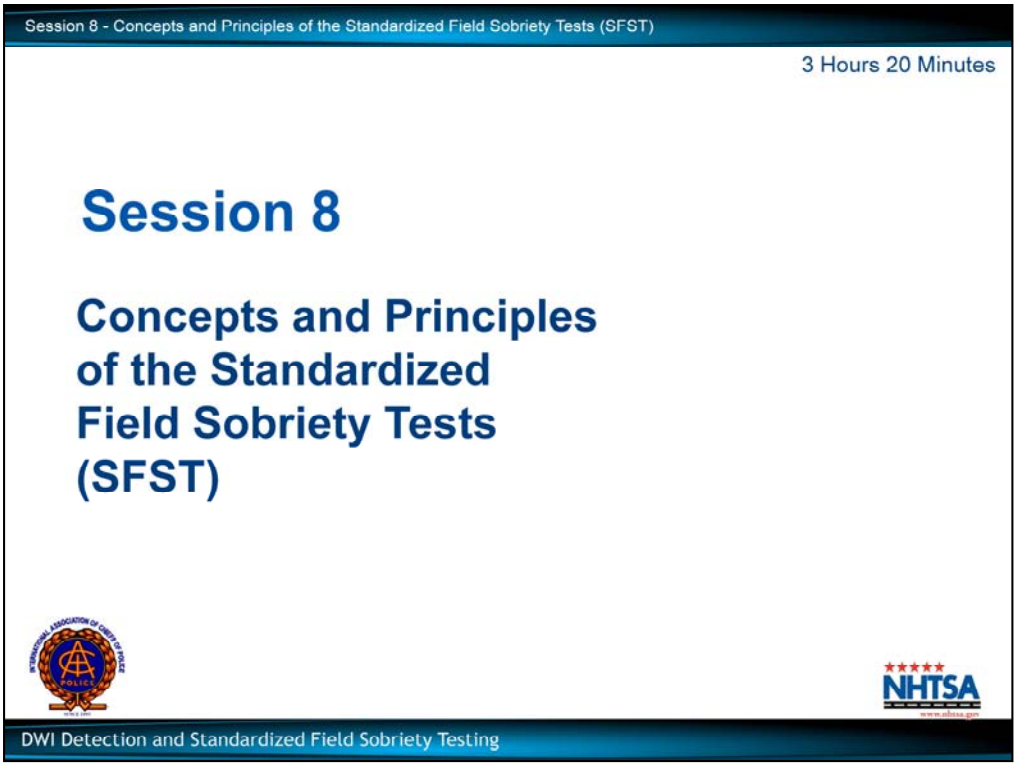


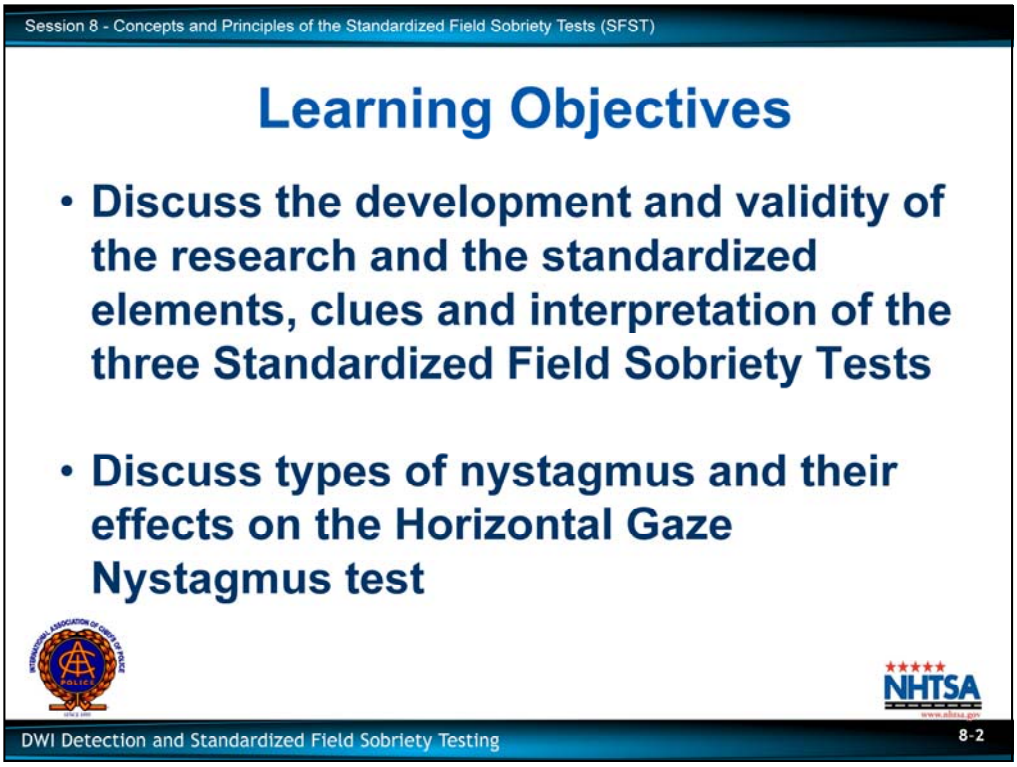
10. Two factors that produce low results on a PBT are:

A. Cooling of the breath sample

B. The composition of the breath sample

QUESTIONS?

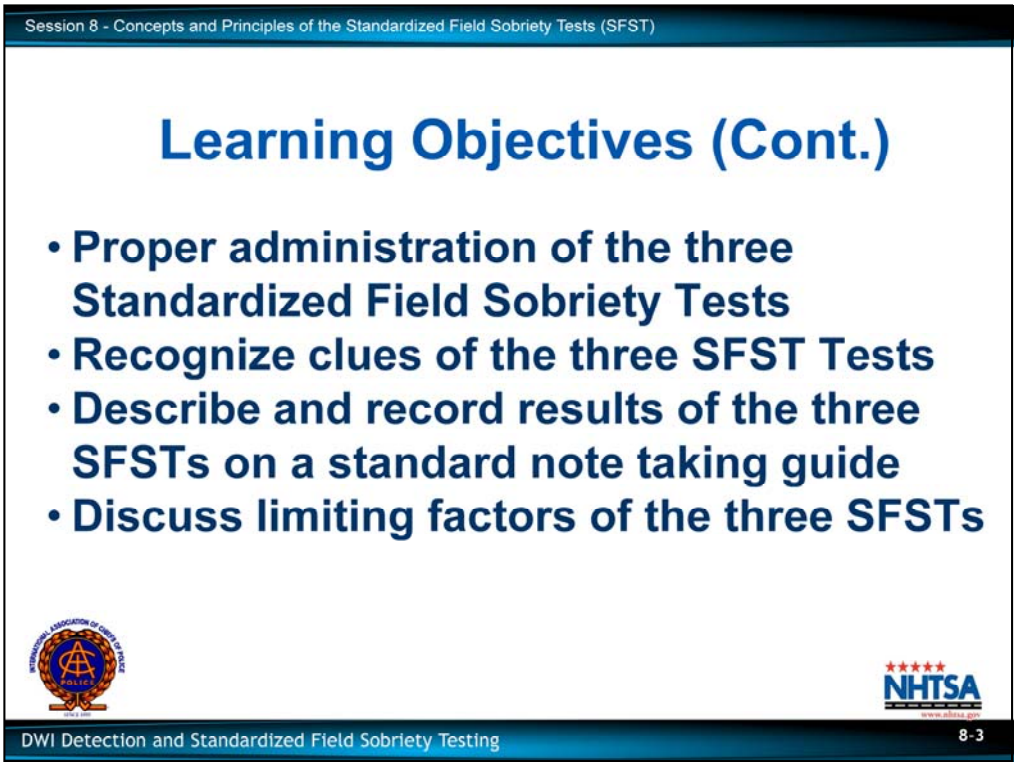

Session 8 - Concepts and Principles of the Standardized Field Sobriety Tests (SFST)
3 Hours 20 Minutes
Session 8
Concepts and Principles of the Standardized Field Sobriety Tests (SFST)
NHTSA
DWI Detection and Standardized Field Sobriety Testing



Briefly review the objectives, content and activities of this session.

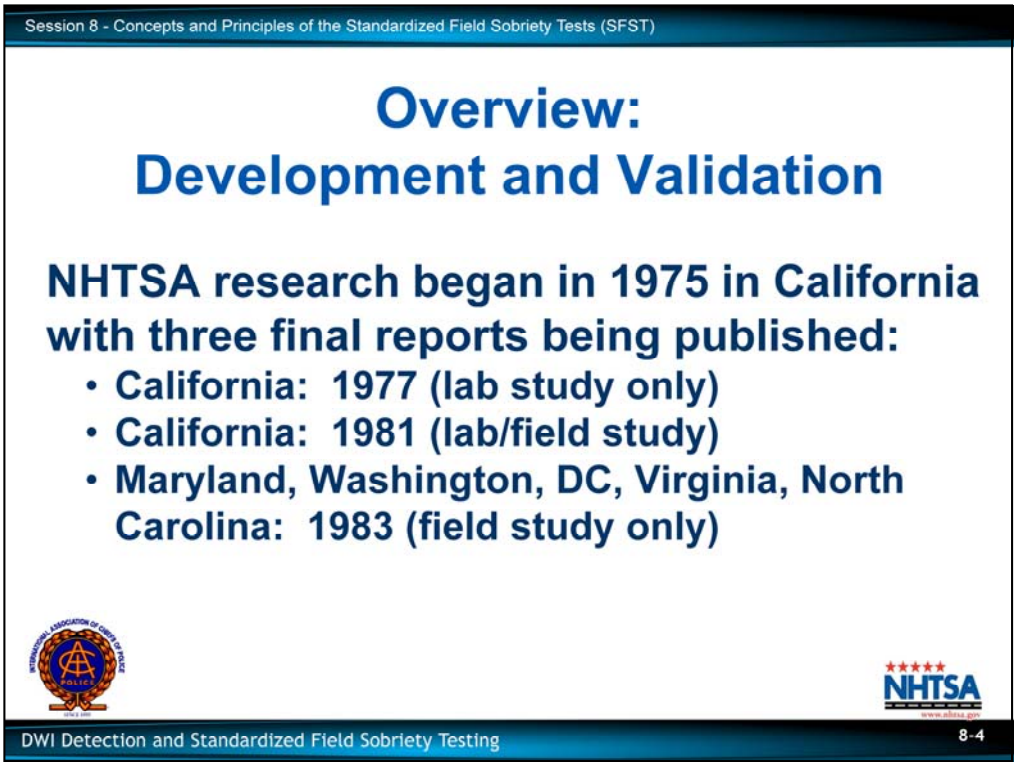
Upon successfully completing this session the participant will be able to:

- Discuss the development and validity of the research and the standardized elements, clues and interpretation of the three Standardized Field Sobriety Tests.
- Discuss the different types of nystagmus and their effects on the Horizontal Gaze Nystagmus test.



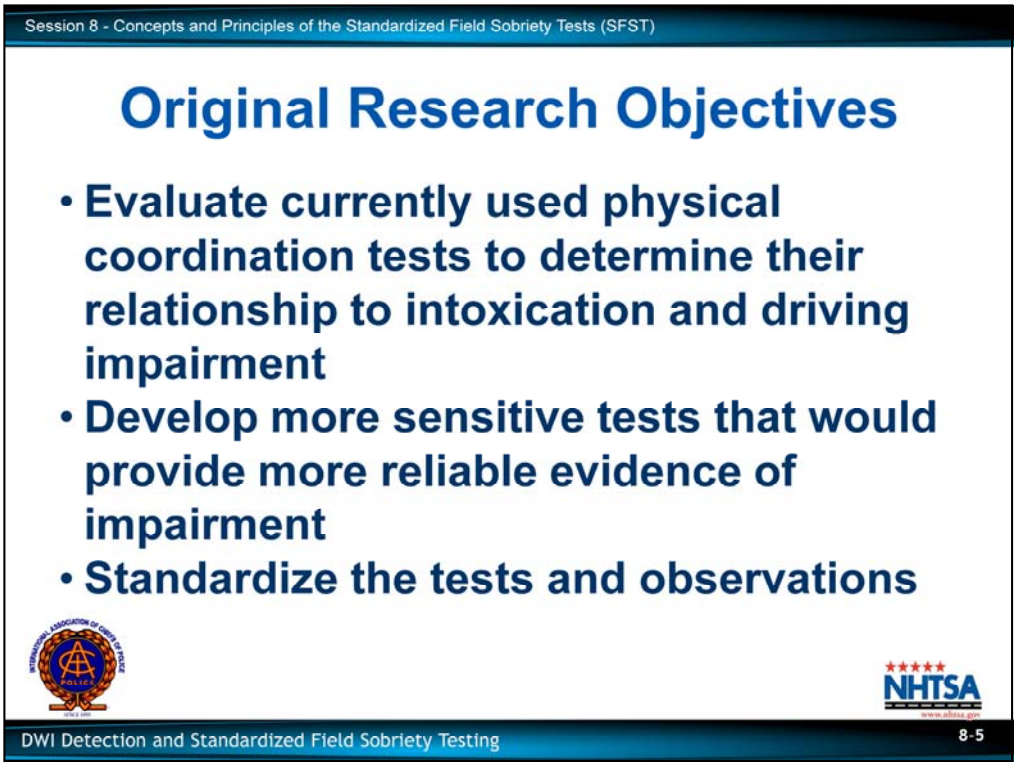
- Discuss and properly administer the three Standardized Field Sobriety Tests.
- Discuss and properly recognize the clues of the three Standardized Field Sobriety Tests.
- Describe in a clear and convincing manner and properly record the results of the three Standardized Field Sobriety Tests on a standard note taking guide.
- Discuss the limiting factors of the three Standardized Field Sobriety Tests.

CONTENT SEGMENTS	LEARNING ACTIVITIES
A. Overview: Development and Validation	Instructor Led Demonstration
B. SFST Field Validation Studies	Participant Practice Session and
C. Horizontal Gaze Nystagmus	Demonstration
D. Vertical Gaze Nystagmus	
E. Walk and Turn	
F. One Leg Stand	
G. Taking Field Notes on the Standardized Field Sobriety Tests	



A. Overview: Development and Validation

For many years law enforcement officers have utilized field sobriety tests to determine a driver's impairment due to alcohol influence. The performance of the driver on those field sobriety tests was used by the officer to develop probable cause for arrest and as evidence in court. A wide variety of field sobriety tests existed and there was a need to develop a battery of standardized valid tests.



The original research objectives were to:

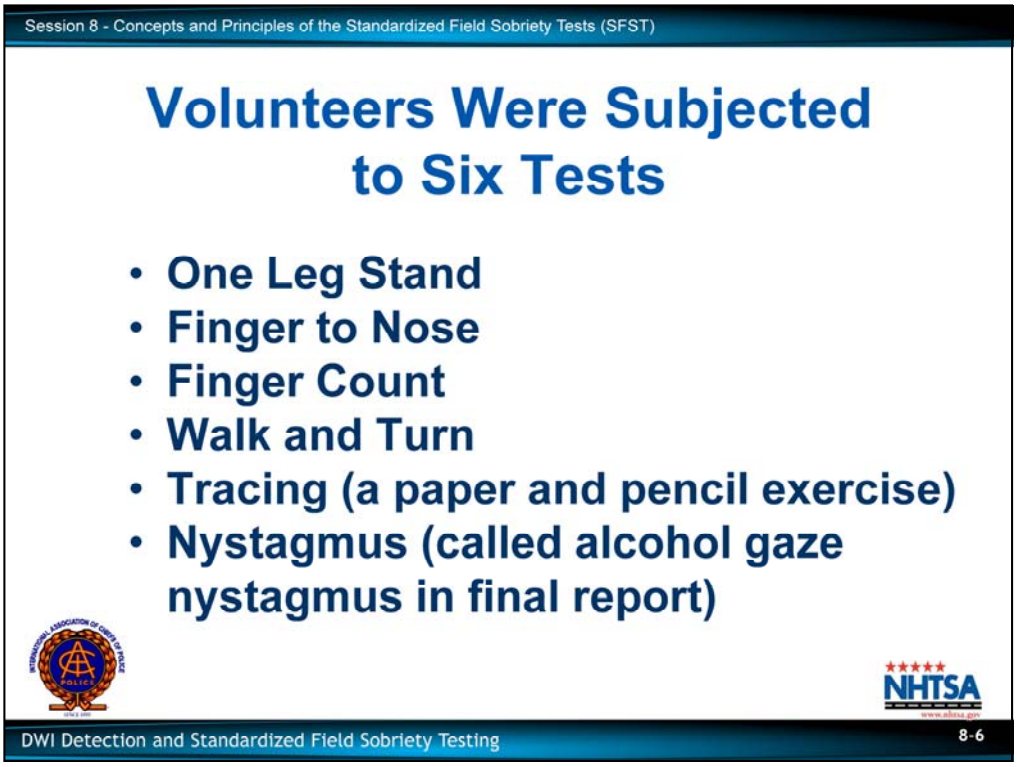
- Evaluate currently used physical coordination tests to determine their relationship to intoxication and driving impairment
- Develop more sensitive tests that would provide more reliable evidence of impairment
- Standardize the tests and observations.

Point out to participants that NHTSA contracted with the Southern California Research Institute (SCRI) in 1975 to develop these field tests. SCRI published the following three reports:

California: 1977 (Lab)
California: 1981 (Lab and Field)
Maryland, DC, VA, NC, 1983 (Field)

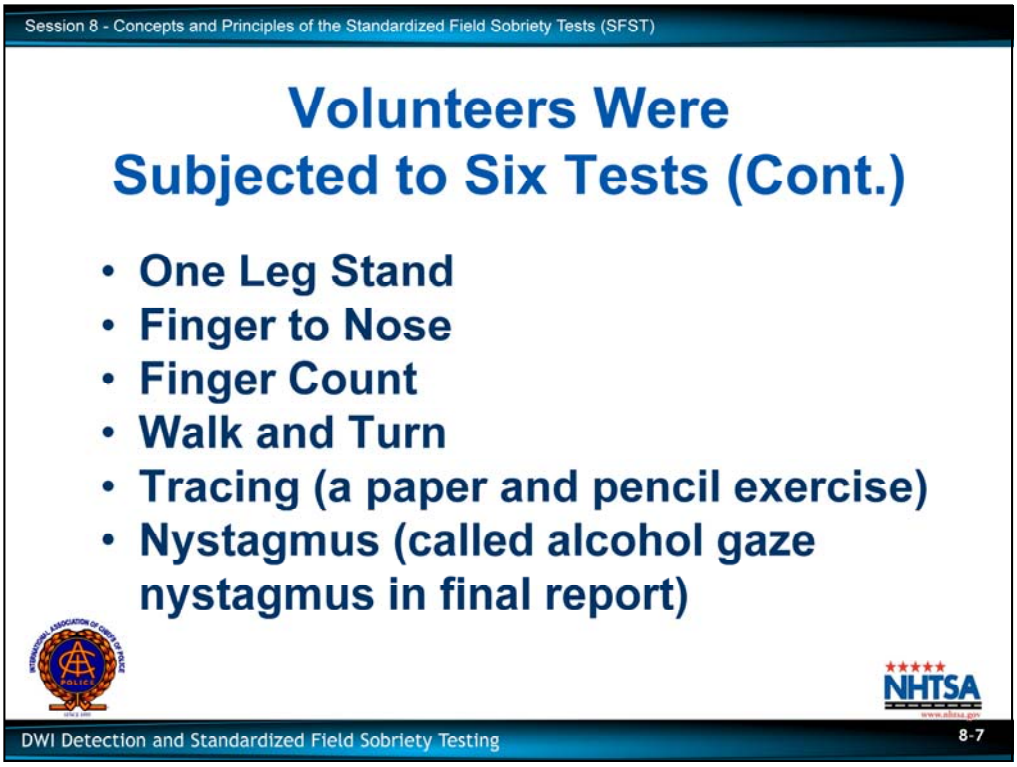
Beginning in late 1975, extensive scientific research studies were sponsored by NHTSA through a contract with the Southern California Research Institute (SCRI) to determine which roadside field sobriety tests were the most accurate. SCRI published the following three reports:

- California: 1977 (Lab)
- California: 1981 (Lab and Field)
- Maryland, District of Columbia, Virginia, North Carolina: 1983 (Field)



SCRI traveled to law enforcement agencies throughout the United States to select the most commonly used field sobriety tests. Six tests were used in the initial stages of this study.

1. One Leg Stand
2. Finger to Nose
3. Finger Count
4. Walk and Turn
5. Tracing (a paper and pencil exercise)
6. Nystagmus (called alcohol gaze nystagmus in final report).



Laboratory research indicated that three of these tests, when administered in a standardized manner, were a highly accurate and reliable battery of tests for distinguishing BACs at or above 0.10; Horizontal Gaze Nystagmus (HGN), Walk and Turn (WAT), and One Leg Stand (OLS).

The research showed that these three tests were the most accurate and the remaining tests were merely reassessing the same skills.

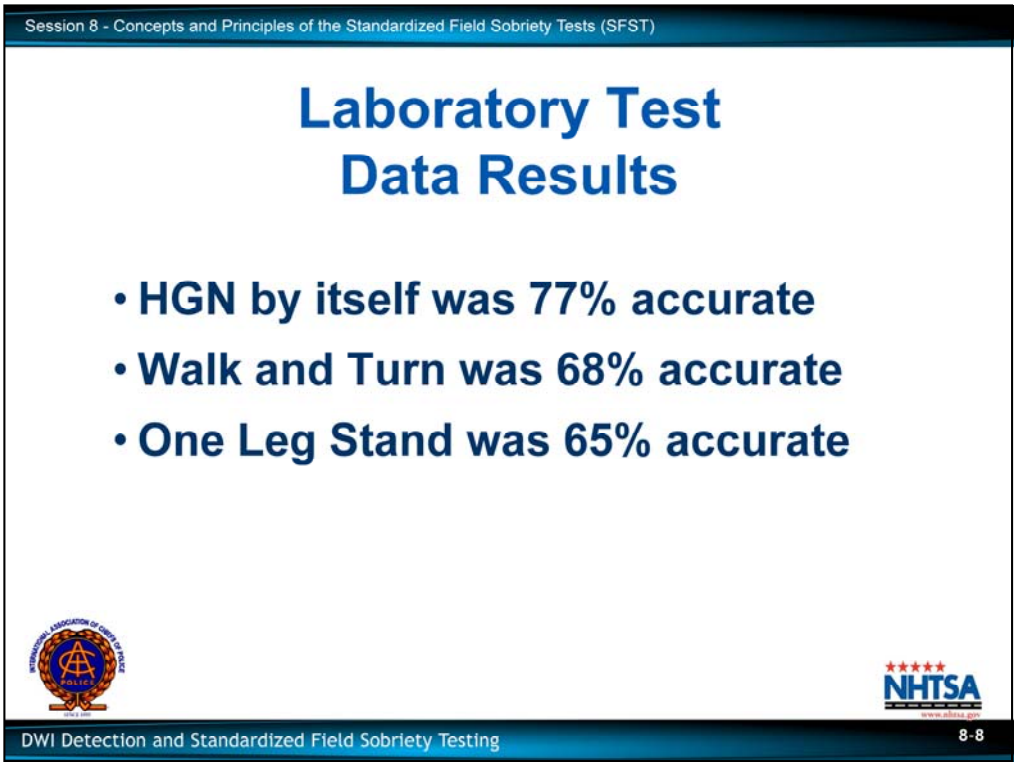
Emphasize to participants that other field sobriety tests (including finger to nose, finger count, tracing, etc.) can be effectively used to assess impairment.

While many field sobriety tests are valid tests, the Standardized Field Sobriety Tests have been validated through numerous research studies.

Explain to participants the difference between valid and validated.

VALID - Conforming to accepted principles. Producing accurate and reliable results; effective.

VALIDATED - A documented act of demonstrating that a procedure, process, and/or activity will consistently lead to accurate and reliable results.



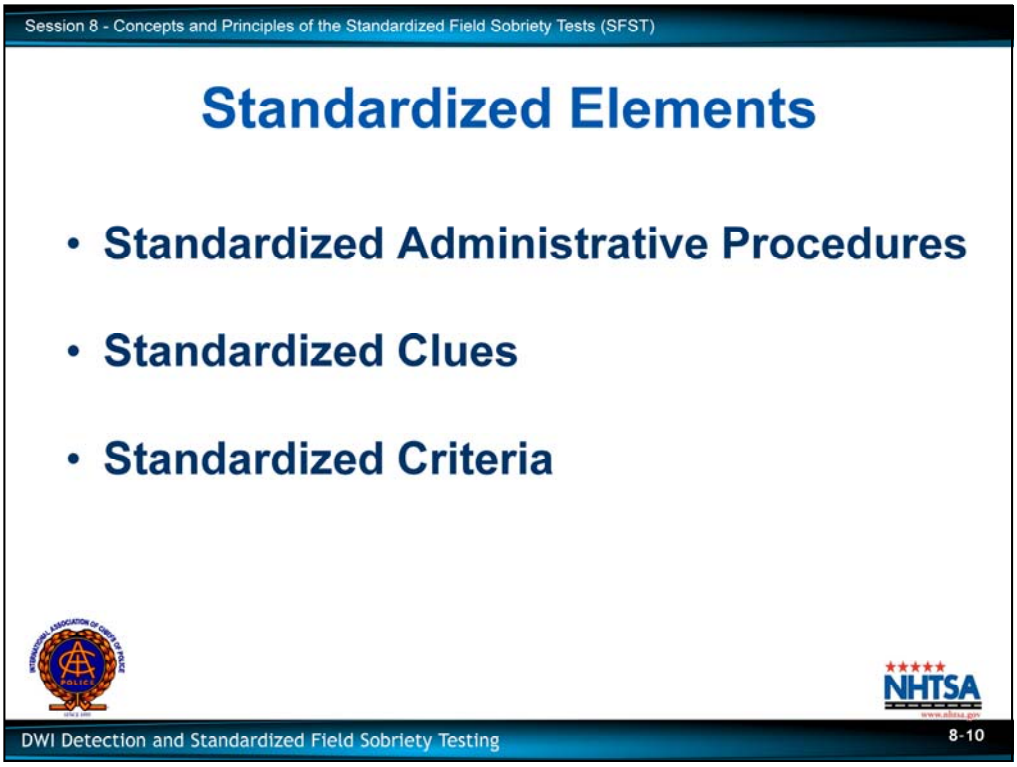
NHTSA analyzed the laboratory test data and found:

- HGN, by itself, was 77% accurate
- WAT, by itself, was 68% accurate
- OLS, by itself, was 65% accurate

B. SFST Field Validation Studies

The final phase of this study was conducted as a field validation.

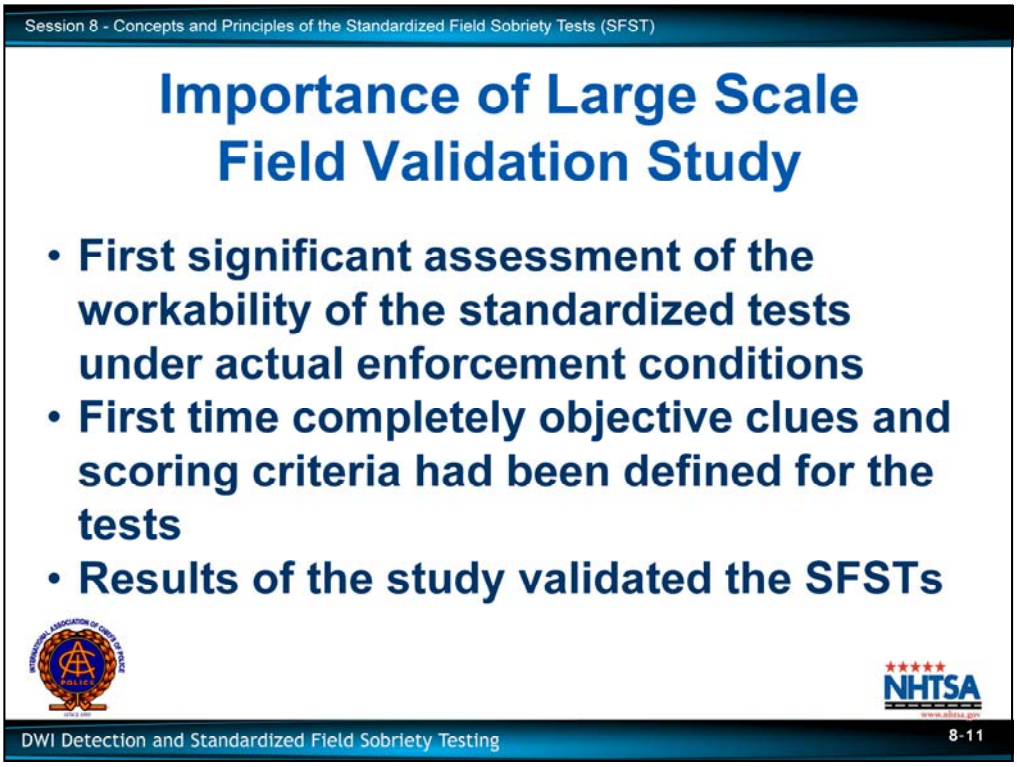
- Standardized, practical and effective procedures were developed
- Determine the feasibility of the procedures for these tests in actual enforcement conditions
- The tests were determined to discriminate in the field, as well as in the laboratory.



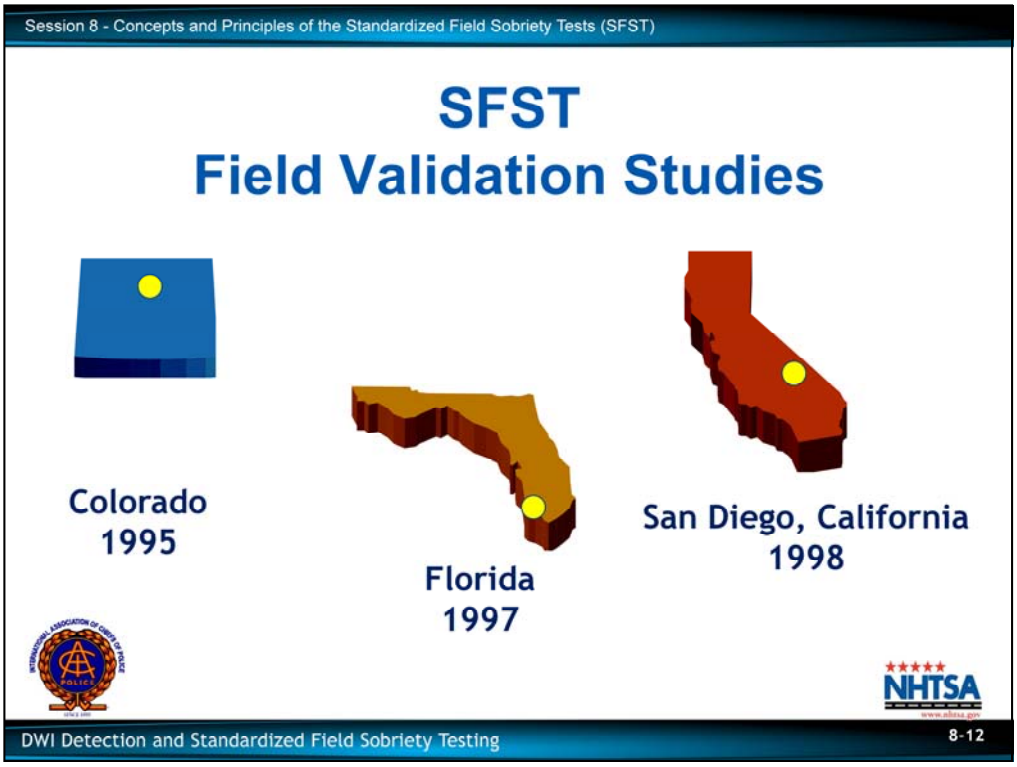
The three standardized tests were found to be highly reliable in identifying subjects whose BACs were at or above 0.10. The results of the study unmistakably validated the SFSTs.

The “Standardized” elements included:

- Standardized Administrative Procedures
- Standardized Clues
- Standardized Criteria



The large scale field validation study was the first significant assessment of the workability of the standardized tests under actual enforcement conditions. It was also the first time completely objective clues and scoring criteria had been defined for these tests. The results of this study validated the SFSTs.



Three SFST validation studies were undertaken between 1995 and 1998:

- Colorado - 1995
- Florida - 1997
- San Diego - 1998

In order to understand the results of the research studies discussed in this course, it is important to define what is meant by a correct arrest decision. A correct arrest decision is made when an officer, after completing the third phase of the detection process, decides to arrest a subject and that subject tested above the illegal per se limit for BAC or the officer decides to release a subject who is below the illegal per se limit for BAC.

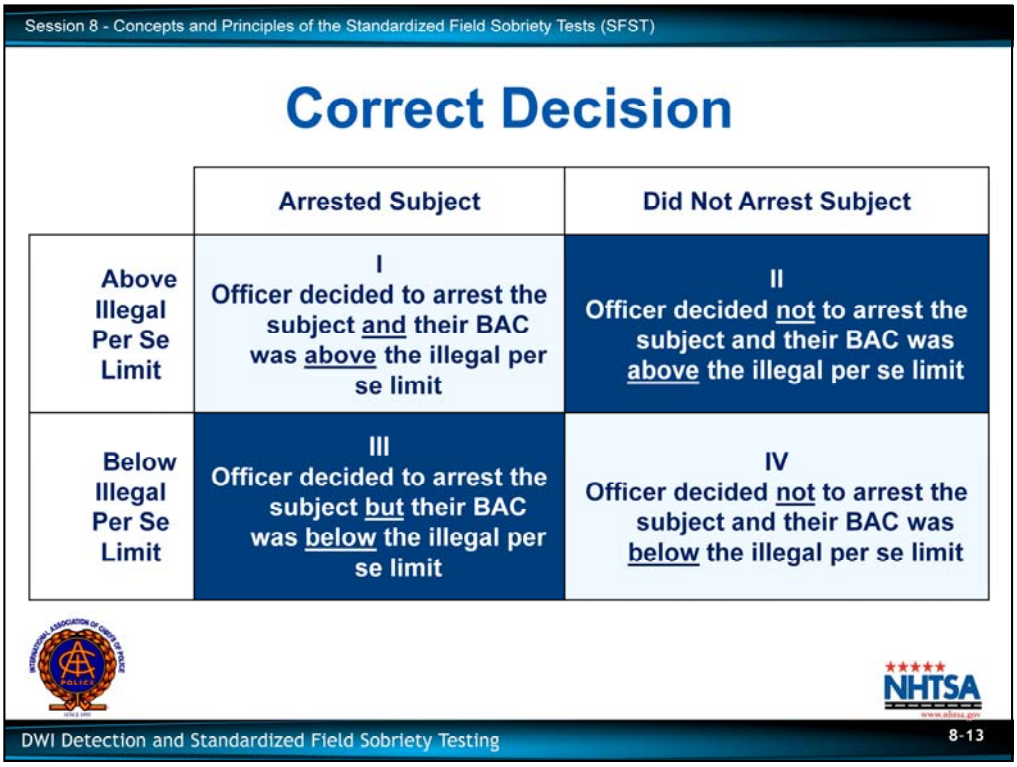


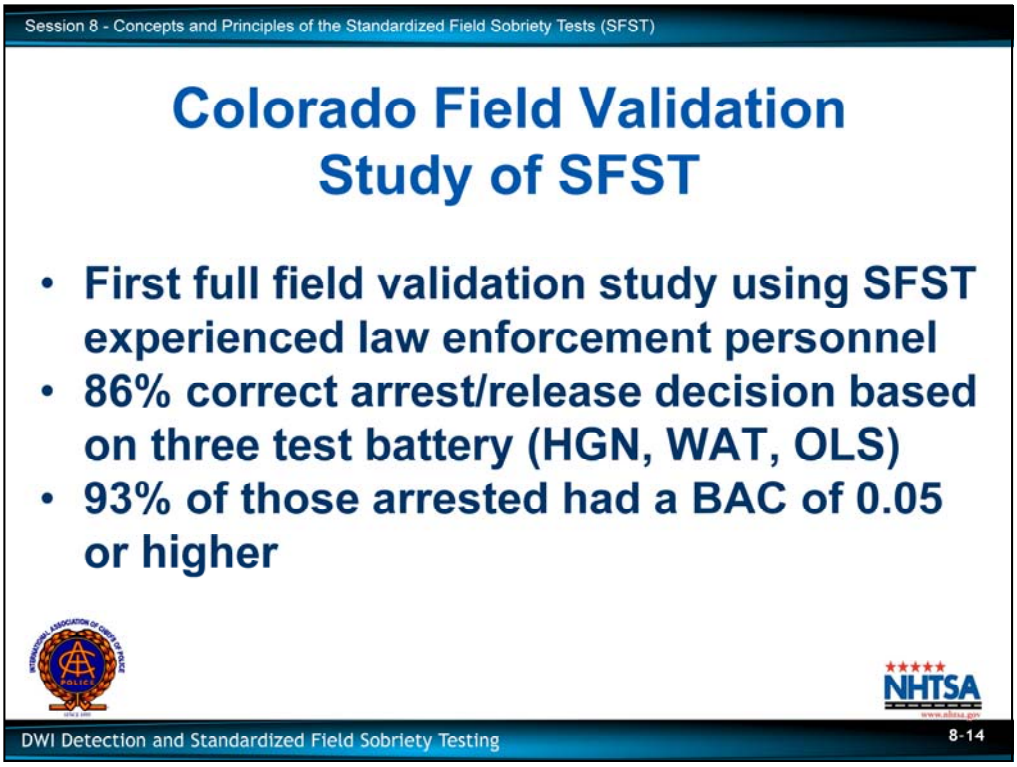
Figure 1: Matrix of possible arrest decisions illustrates the four different decisions which are present in all the validation studies. There are four quadrants, each representing a different decision. The quadrants (I & IV), shaded in gray, represent a correct arrest decision.

The remaining subjects, incorrect arrest decisions, fall into two other categories. Members of the first group were not arrested, but tested above the illegal per se limit for BAC (quadrant II). The Colorado Study noted that a number (approximately 33%) of these individuals were considered alcohol tolerant and performed well on the SFSTs even though their BACs were above the illegal per se limit. Although these release decisions were recorded as errors based on the procedures outlined in the study, this non arrest decision ultimately benefited the driver.

The subjects in quadrant III were arrested, but their BAC was below the illegal per se limit. Many states stipulate in their statute that a driver is considered DWI if they are either above the illegal per se limit for BAC or have lost the normal use of their mental or physical faculties. Even though the arrests in quadrant III are legally justifiable according to an individual state's statute, these decisions are recorded as errors in the research based on the procedures outlined in the study.

Note: It is important for the officer who is trained in SFST to prepare themselves to understand and explain these statistics in layman terms in order to effectively articulate them to a jury in a courtroom.

Each of these studies have shown that the SFST three test battery is a scientifically validated and reliable method for distinguishing between impaired and unimpaired drivers.

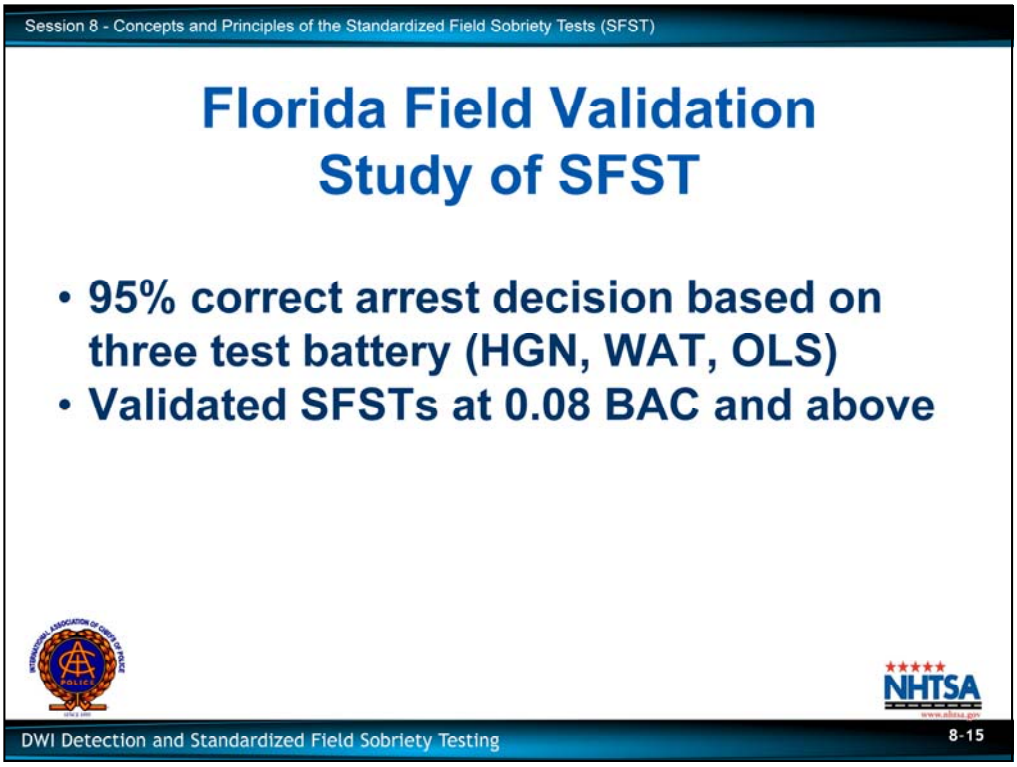


"A Colorado Validation Study of Standardized Field Sobriety Test Battery"

- The Colorado SFST validation study was the first full field study that utilized law enforcement personnel experienced in the use of SFSTs.

- The initial 1977 study utilized only a few experienced officers in DWI enforcement in both a laboratory setting and field setting. These officers received approximately four hours of training in field sobriety testing prior to the laboratory study.

- In the Colorado study, correct arrest/release decisions at a 0.05 BAC were 86% accurate based on the three test battery (HGN, WAT, OLS). 93% of arrested drivers had a BAC of 0.05 or higher. These results, by officers who were trained in the Standardized Field Sobriety Testing curriculum, were substantially higher than the initial 1977 study results.

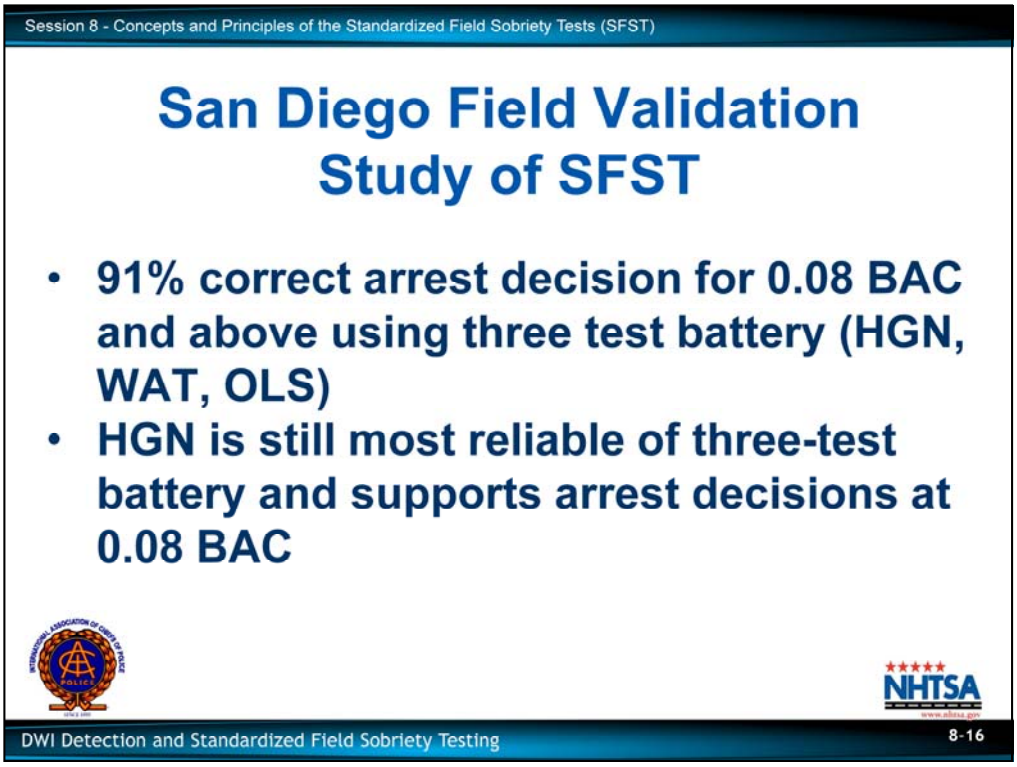


"Florida Validation Study of the Standardized field Sobriety Test Battery"

- The Florida SFST field validation study was undertaken in order to answer the question of whether SFSTs are valid and reliable indices of the presence of alcohol when used under present day traffic and law enforcement conditions.
- Correct decisions to arrest were made 95% of the time based on the three test battery (HGN, WAT, OLS).

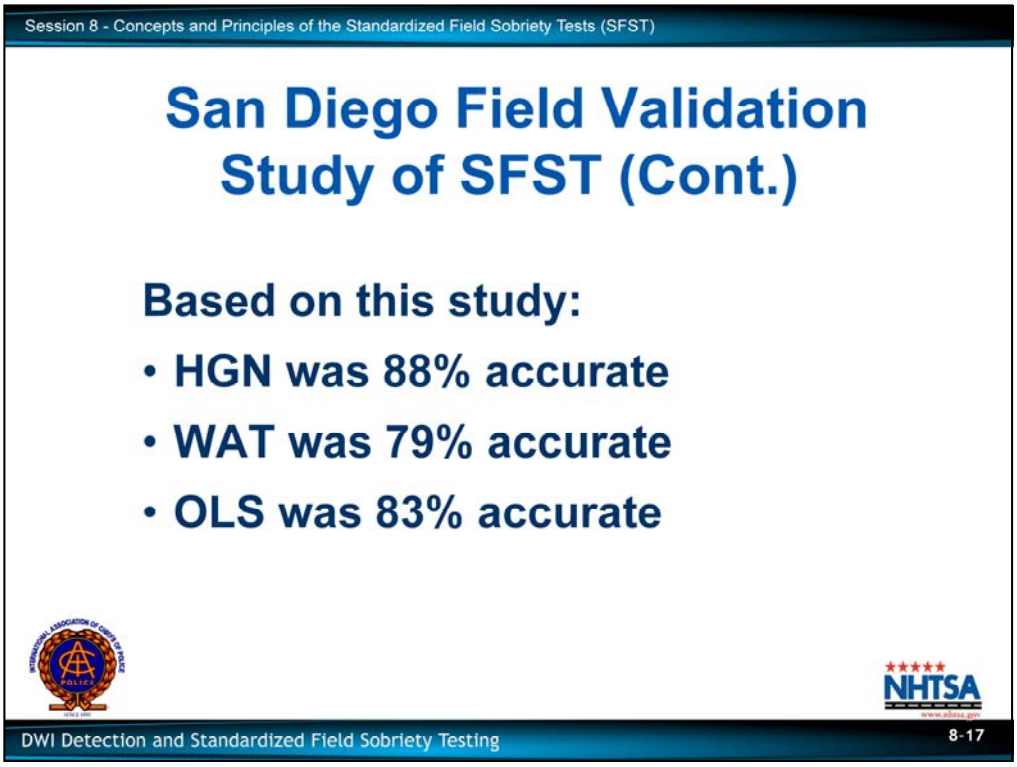
This was the second SFST field validation study that was undertaken.

This study was the first study conducted at the lower BAC limit of 0.08.



"Validation of the Standardized Field Sobriety Test Battery at BACs Below 0.10 %"

- The San Diego SFST validation field study was undertaken because of the nationwide trend towards lowering the BAC limits to 0.08. The question to be answered was "Do SFSTs discriminate at BACs below 0.10%?"
- The study examined the validity of SFST's for both .08% and .04%.
- Correct arrest decisions were made 91% of the time based on the three-test battery (HGN, WAT, OLS) at the 0.08 level and above.

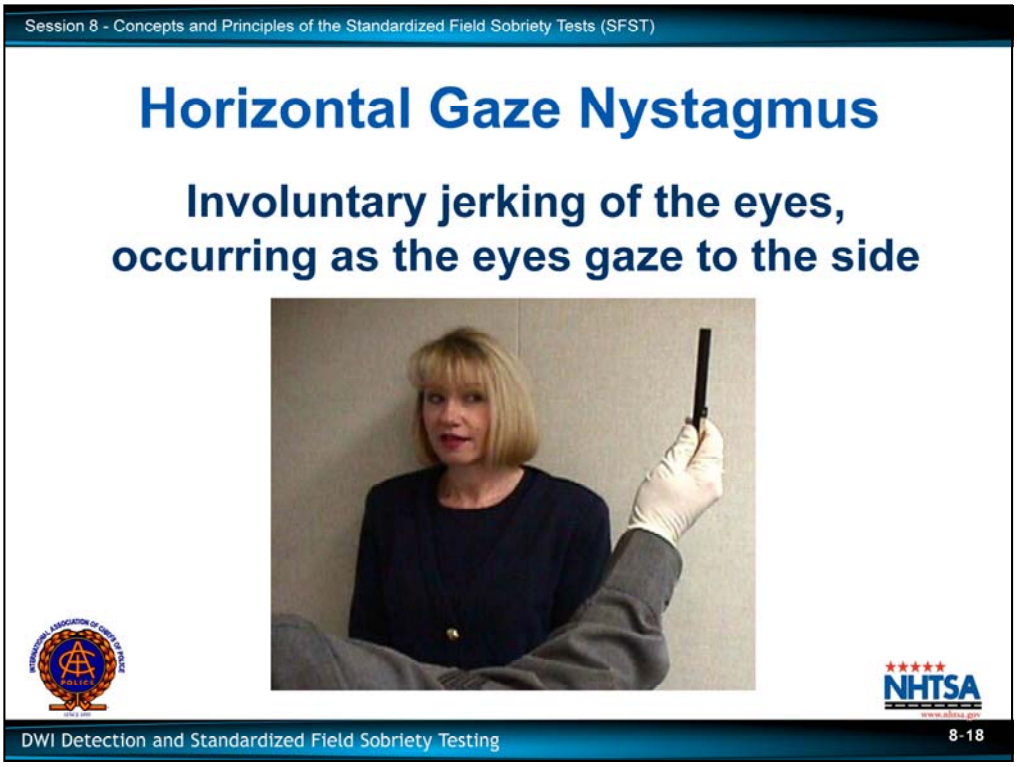


- HGN was 88% accurate
- WAT was 79% accurate
- OLS was 83% accurate

The results of this study provide clear evidence of the validity of the three test battery to support arrest decisions at above or below 0.08. It strongly suggests that the SFSTs also identify BACs at 0.04 and above.

Results: Three SFST 1990's Field Studies	
	% Correct
Colorado	**86% Arrest / Release Decisions**
Florida	**95% Arrest Decisions**
California	**91% Arrest Decisions**

By properly administering and interpreting the Standardized Field Sobriety Tests in a systematic and standardized manner, can allow officers to obtain results similar to the studies mentioned above.



C. Horizontal Gaze Nystagmus

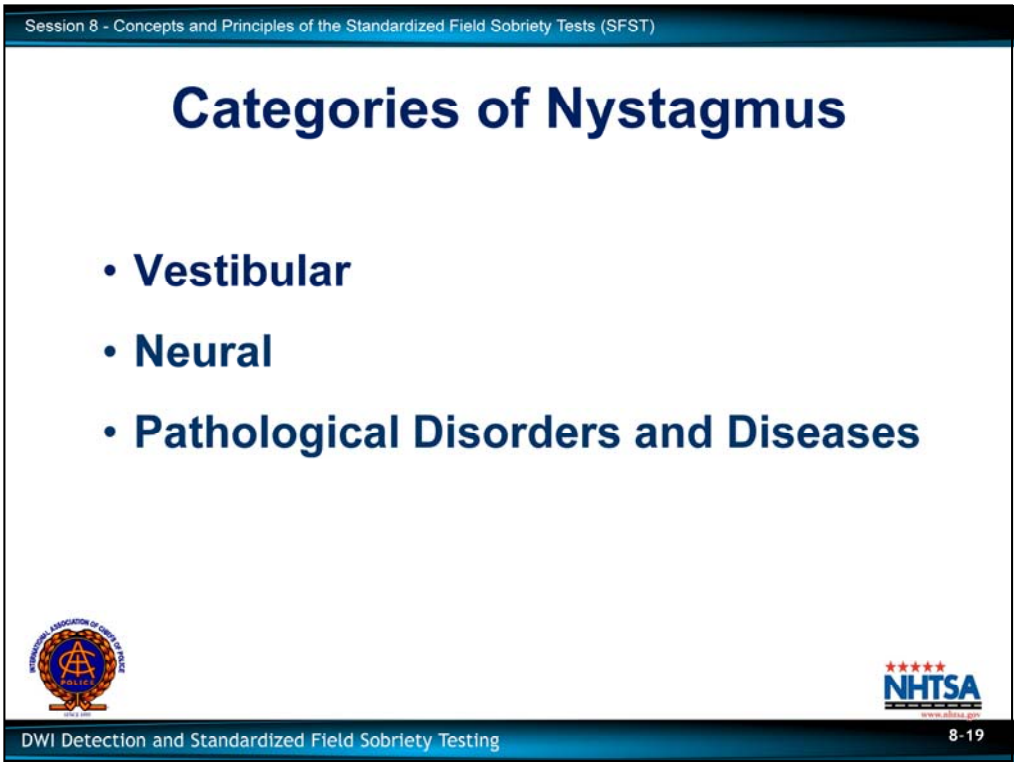
Definition Review: Involuntary jerking of the eyes, occurring as the eyes gaze to the side.

In addition to being involuntary:

- Person is usually unaware that it is happening.
- Person is powerless to stop it or control it.

Key Summary Point: Alcohol and certain other drugs cause Horizontal Gaze Nystagmus.

Other drugs that can cause nystagmus are CNS Depressants, Inhalants, and Dissociative Anesthetics.

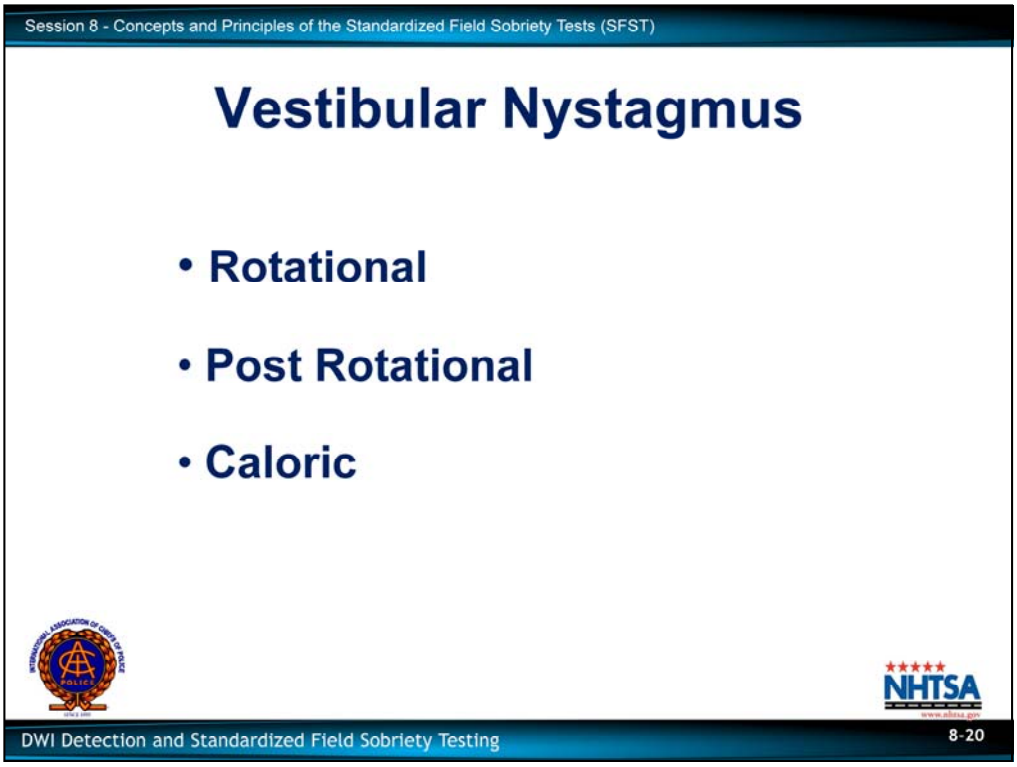


Categories of Nystagmus

Horizontal Gaze Nystagmus is not the only kind of nystagmus. There are other circumstances under which the eyes will jerk involuntarily.
It is important to know some of the other common types of nystagmus, to be aware of their potential impact on our field sobriety tests.

Nystagmus of several different origins may be seen. The three general categories of nystagmus are:

- Vestibular
- Neural
- Pathological Disorders and Diseases



Vestibular Nystagmus is caused by movement or action to the vestibular system.

Point out that the vestibular system is a sense organ located in the inner ear. It provides information to the brain, and consequently to the eyes about position and movement of the head to maintain orientation and balance of the body.

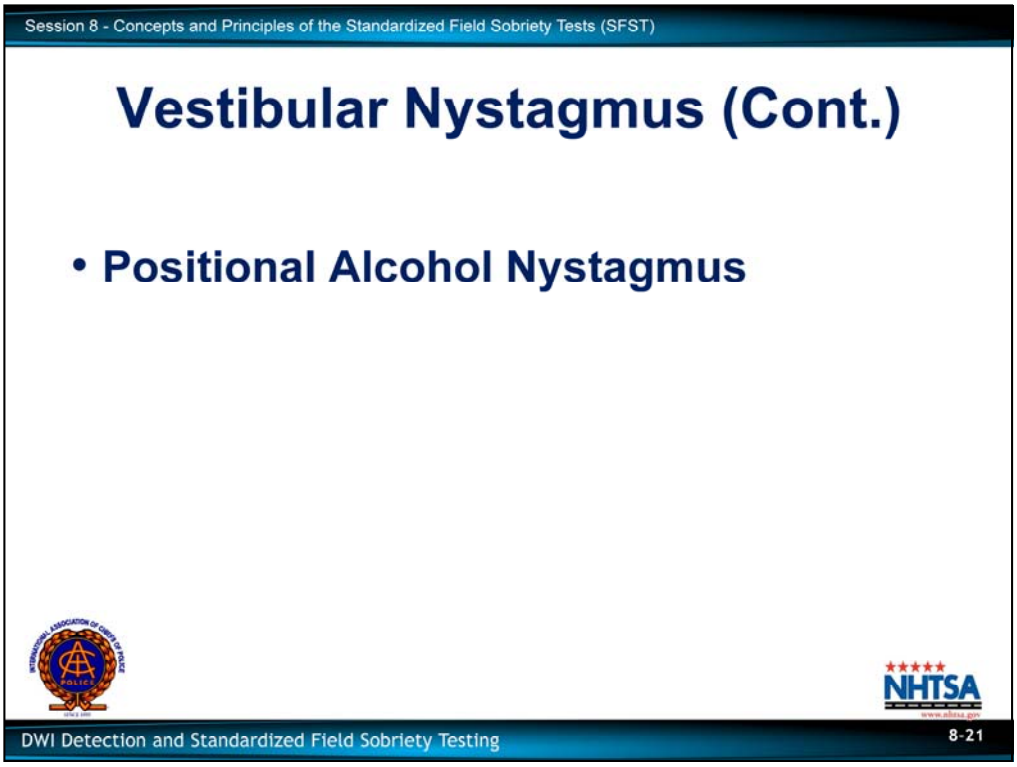
Types of vestibular nystagmus:

- Rotational Nystagmus occurs when the person is spun around or rotated rapidly, causing the fluid in the inner ear to be disturbed. If it were possible to observe the eyes of a rotating person, they would be seen to jerk noticeably.
- Post Rotational Nystagmus is closely related to rotational nystagmus: when the person stops spinning, the fluid in the inner ear remains disturbed for a period of time, and the eyes continue to jerk.

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

To illustrate rotational and post rotational, swirl a half glass of water several times. Stop swirling glass, water will continue to spin for a short period of time.

- Caloric Nystagmus occurs when fluid motion in the canals of the vestibular system is stimulated by temperature as by putting warm water in one ear and cold in the other.



Positional Alcohol Nystagmus (PAN) occurs when a foreign fluid, such as alcohol, that alters the specific gravity of the blood is in unequal concentrations in the blood and the vestibular system. This causes the vestibular system to respond to gravity in certain head positions, resulting in nystagmus.

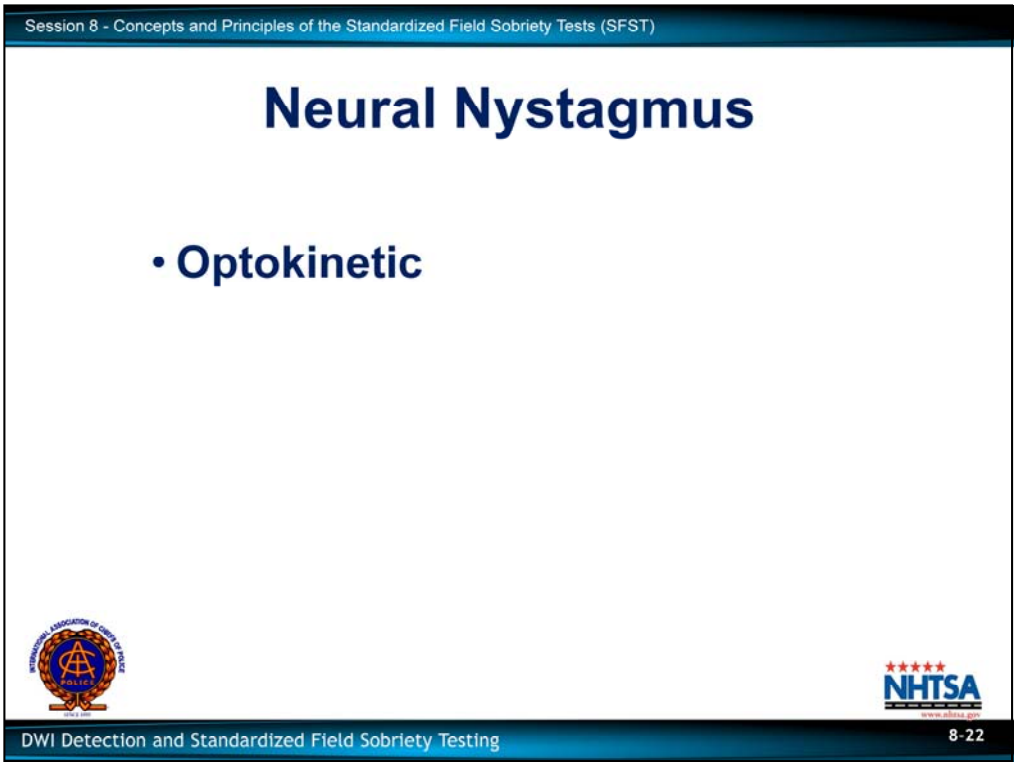
In the original HGN study, research was not conducted for performing HGN on people lying down. Current research demonstrates that HGN can be performed on someone in this position.

There are two types of PAN:

PAN I - occurs when the alcohol concentration in the blood is greater than the inner ear fluid. PAN I occurs while BAC is increasing.

PAN II - occurs when the alcohol concentration in the inner ear fluid is greater than in the blood. An example of PAN is the spinning of a room when a person lies down after consuming alcohol. This occurs while BAC is decreasing.

Reference in 2010 Manual to details of this study is included in section H, 5 #33.



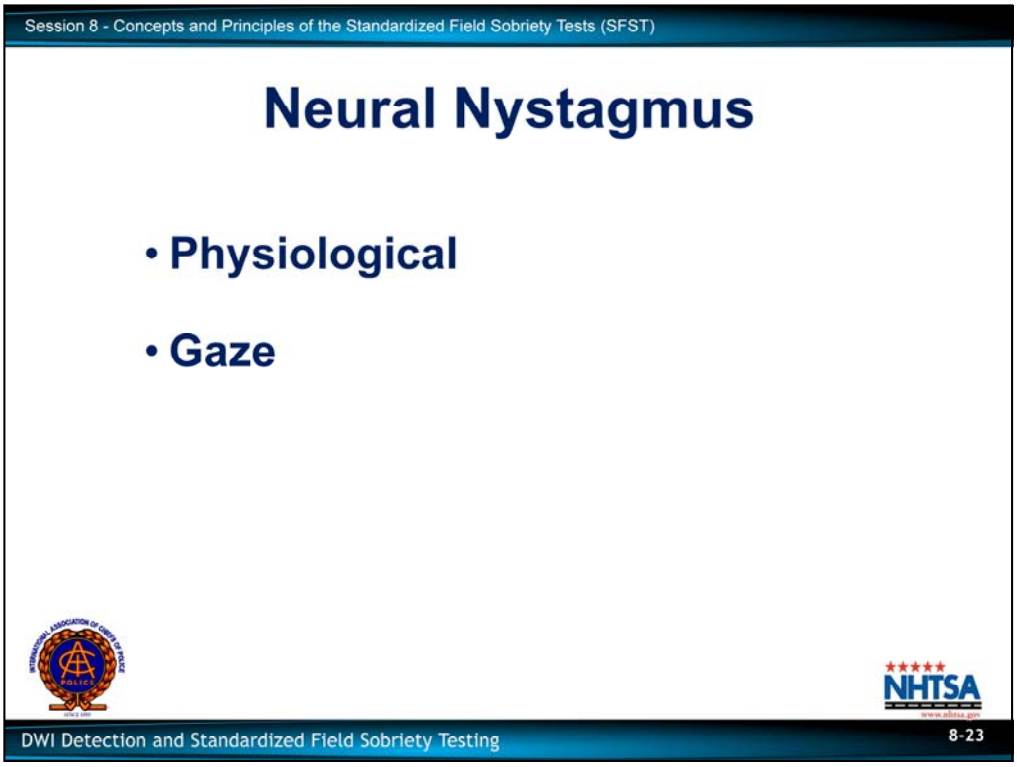
Nystagmus can also result directly from neural activity:

Optokinetic Nystagmus occurs when the eyes fixate on an object that suddenly moves out of sight, or when the eyes watch sharply contrasting moving images.

Examples of optokinetic nystagmus include watching strobe lights, rotating lights, or rapidly moving traffic in close proximity. The Horizontal Gaze Nystagmus test will not be influenced by optokinetic nystagmus when administered properly. During the Horizontal Gaze Nystagmus test, the suspect is required 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.

Point out that during the Horizontal Gaze Nystagmus test, the subject is required to focus the eyes on a penlight, pencil or similar object that moves smoothly and relatively slowly across the field of view, thus optokinetic nystagmus will not occur.

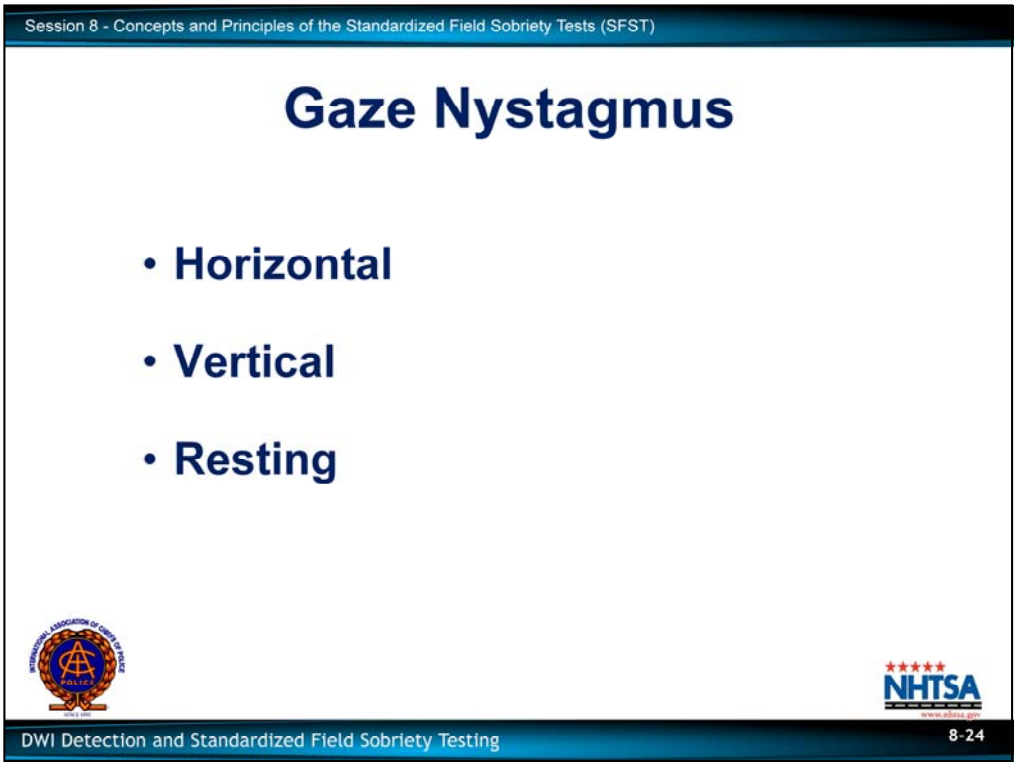
When practical, remind participants to face the driver away from potential distractions that could be raised later.



Physiological Nystagmus is a natural nystagmus that keeps the sensory cells of the eye from tiring. It is the most common type of nystagmus. It happens to all of us, all the time. This type of nystagmus produces extremely minor tremors or jerks of the eyes. These tremors are usually too small to be seen with the naked eye. Physiological nystagmus will have no impact on our Standardized Field Sobriety Tests, because it's tremors are usually invisible.

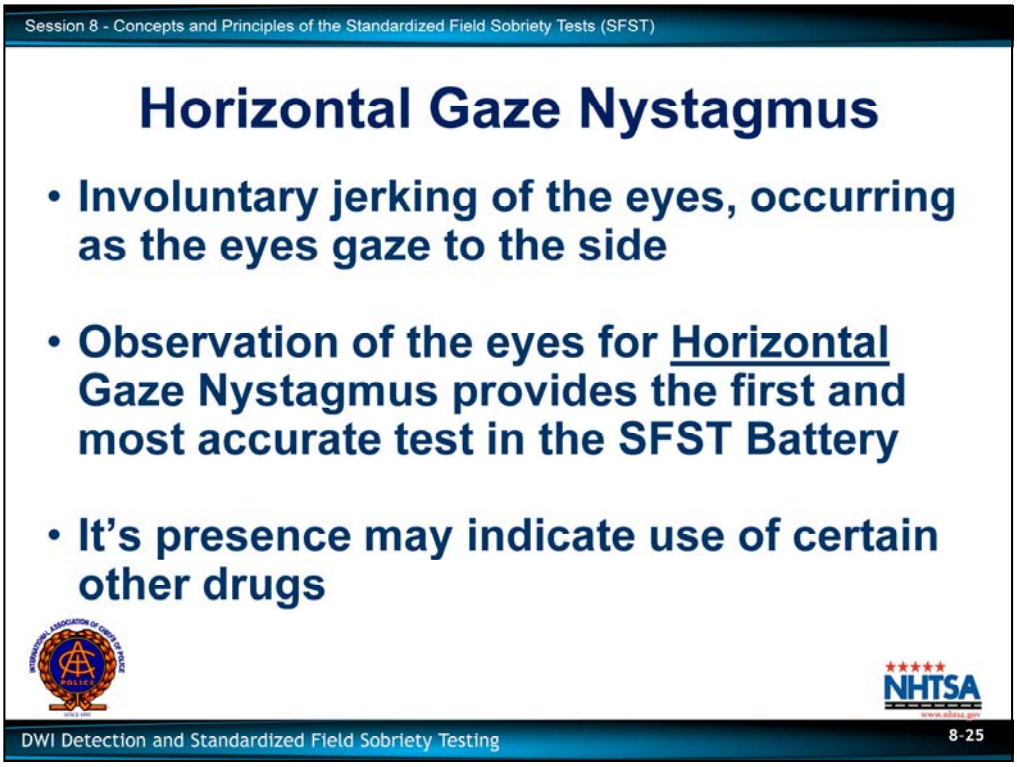
Emphasize that physiological nystagmus will have no impact on our Standardized Field Sobriety Tests, because its tremors are usually invisible.

Gaze Nystagmus is a form of nystagmus that occurs when the eyes attempt to maintain visual fixation on a stimulus.



For our purposes, gaze nystagmus is separated into three types:

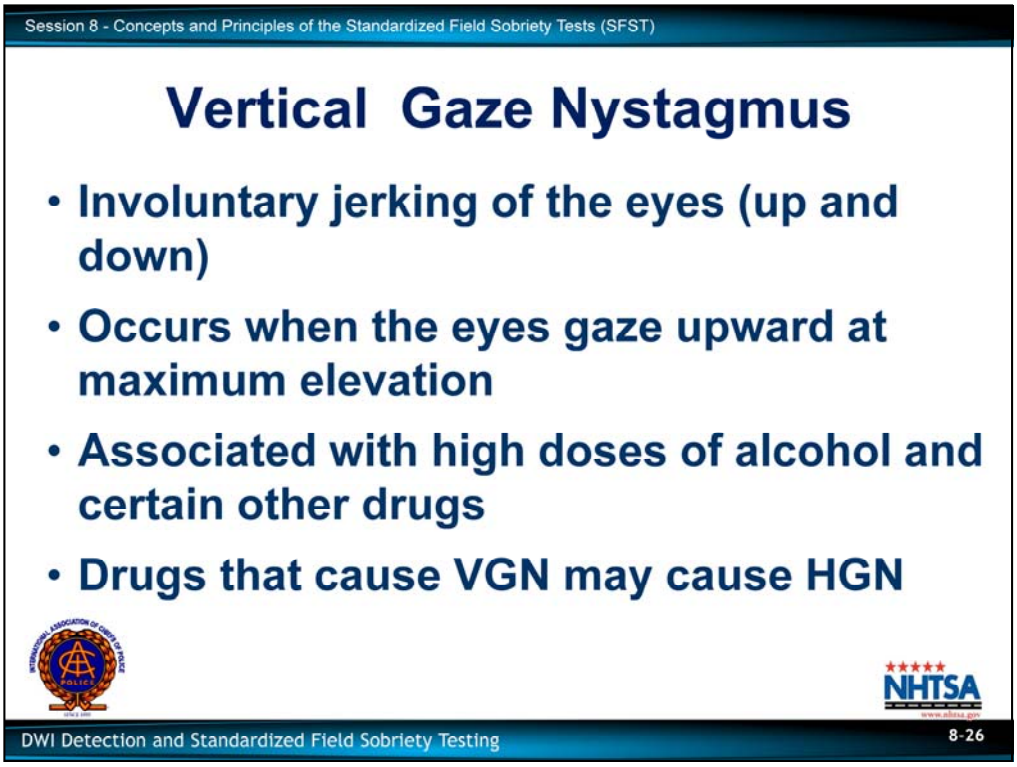
- Horizontal
- Vertical
- Resting



Horizontal Gaze Nystagmus is an involuntary jerking of the eyes, occurring as the eyes gaze to the side. It is the observation of the eyes for Horizontal Gaze Nystagmus that provides the first and most accurate test in the Standardized Field Sobriety Test battery. Although this type of nystagmus is indicative of alcohol impairment, its presence may also indicate use of certain other drugs.

Examples of other drugs are: CNS Depressants, Inhalants, and Dissociative Anesthetics such as PCP and its analogs.

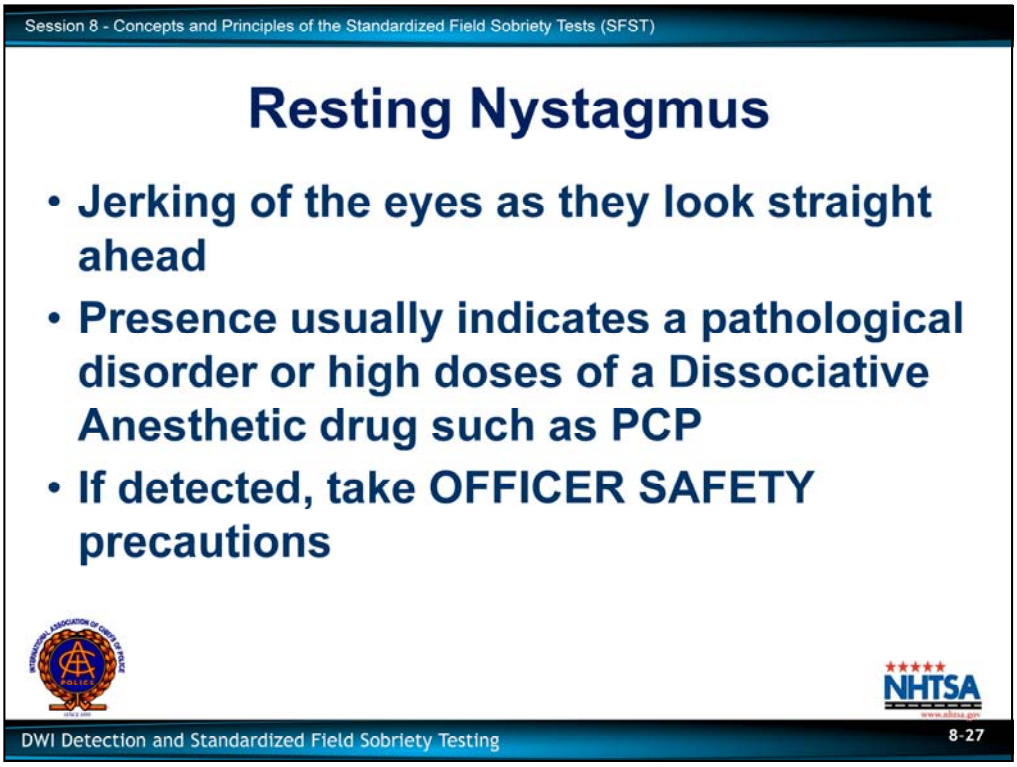
Emphasize to participants that this training course is concerned with Horizontal Gaze Nystagmus and that this procedure has been validated as an accurate indicator for alcohol influence by extensive scientific research.



Vertical Gaze Nystagmus is an involuntary jerking of the eyes (up and down) which occurs when the eyes gaze upward at maximum elevation. The presence of this type of nystagmus is associated with high doses of alcohol for that individual and certain other drugs. The drugs that cause Vertical Gaze Nystagmus are the same ones that cause Horizontal Gaze Nystagmus.

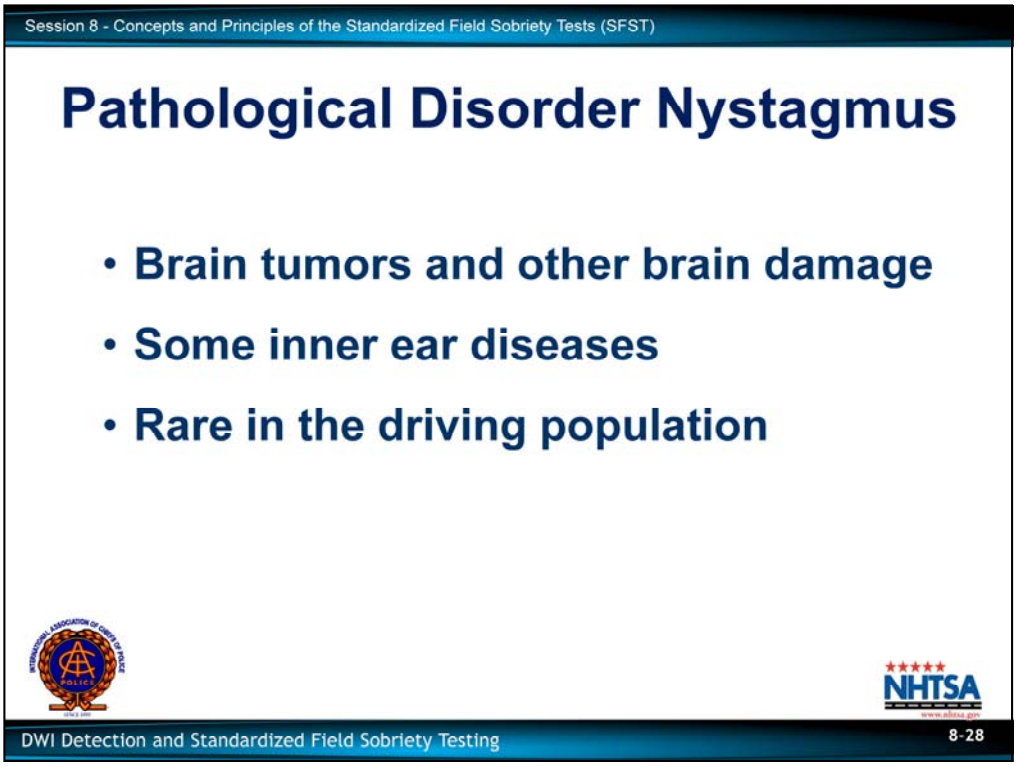
There is no drug that will cause Vertical Gaze Nystagmus that may not cause Horizontal Gaze Nystagmus. If Vertical Gaze Nystagmus is present and Horizontal Gaze Nystagmus is not, it could be a medical condition.

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



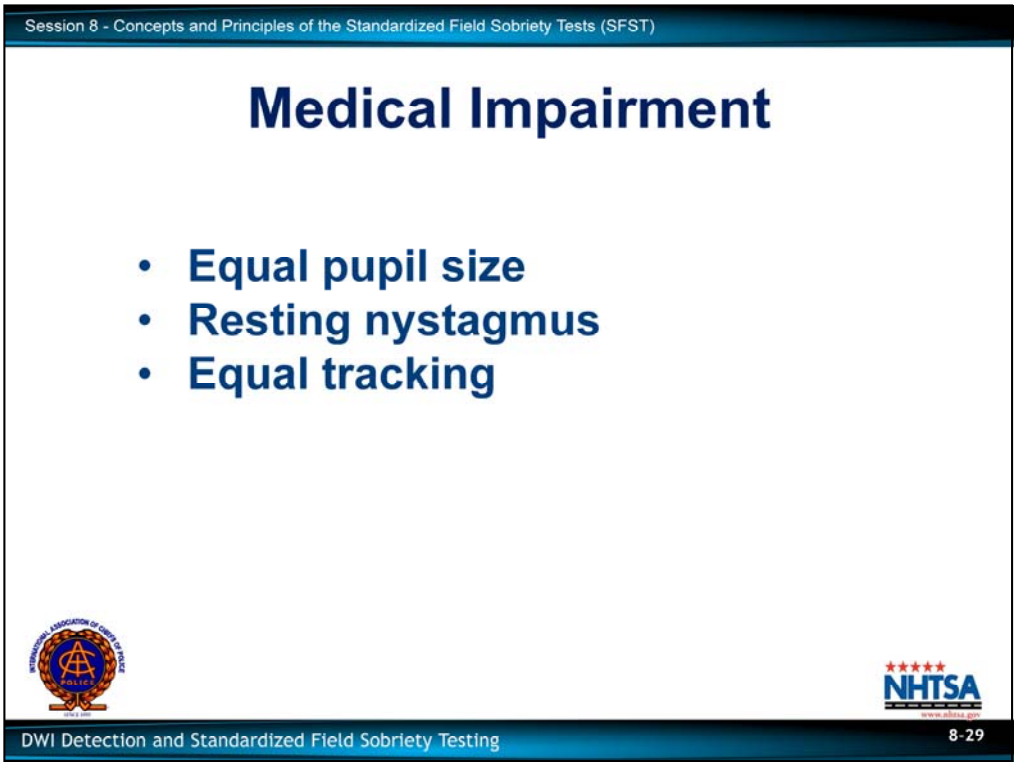
Resting Nystagmus is referred to as a jerking of the eyes as they look straight ahead. Its presence usually indicates a pathological disorder or high doses of a Dissociative Anesthetic drug such as PCP. If detected, take precautions. (OFFICER SAFETY.)

Nystagmus may also be caused by certain pathological disorders. They include brain tumors and other brain damage or some diseases of the inner ear. These pathological disorders occur in very few people and in even fewer drivers.



Nystagmus may also be caused by certain pathological disorders. They include brain tumors and other brain damage or some diseases of the inner ear. These pathological disorders occur in very few people and in even fewer drivers.

Point out that nystagmus caused by pathological disorders is extremely rare in the driving population. Persons suffering from these disorders are rarely able to drive.



Medical Impairment

The examinations that you conduct to assess possible medical impairment include:

- Equal pupil size
- Resting nystagmus
- Equal tracking

Pupil size will be affected by some medical conditions or injuries. If the two pupils are distinctly different in size, it is possible that the subject:

- Has a prosthetic eye
- Is suffering from a head injury
- Has a neurological disorder

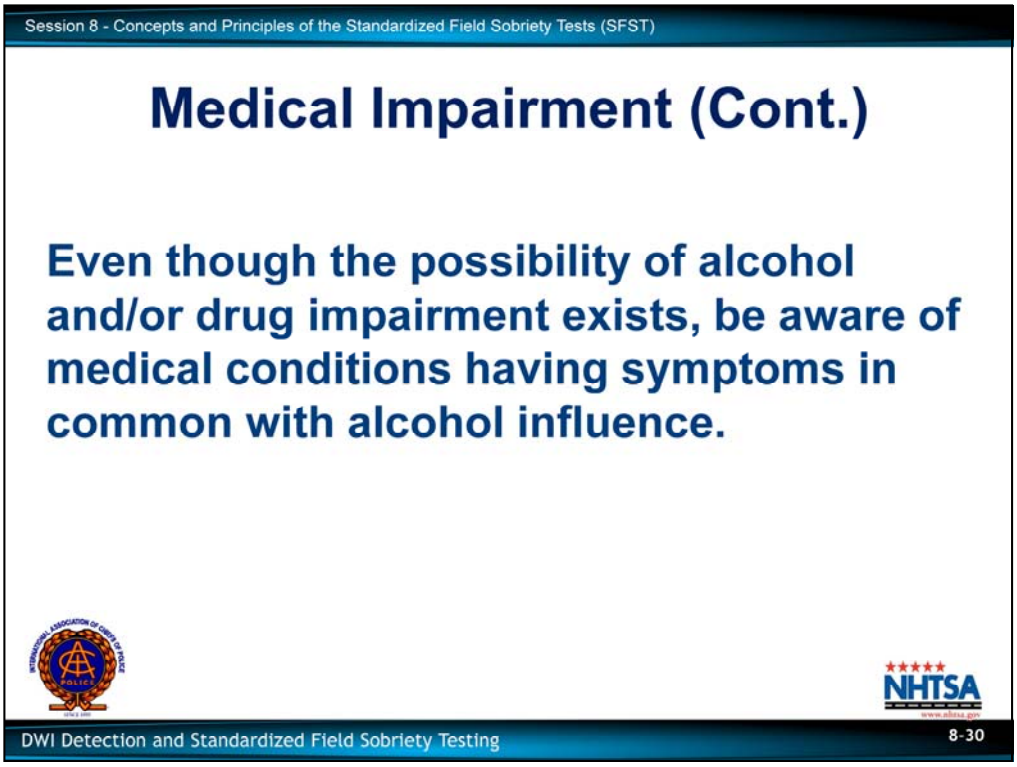
Resting nystagmus is referred to as jerking as the eyes look straight ahead. This condition is not frequently seen. Its presence usually indicates a pathology or high doses of a drug such as a Dissociative Anesthetic like PCP.

Resting nystagmus may also be a medical problem.

Tracking ability will be affected by certain medical conditions or injuries involving the brain.

***Demonstrate how to check for equal pupil size, resting nystagmus and equal tracking*.**

This observation is a medical assessment. If the two eyes do not track together, the possibility of a serious medical condition or injury is present.

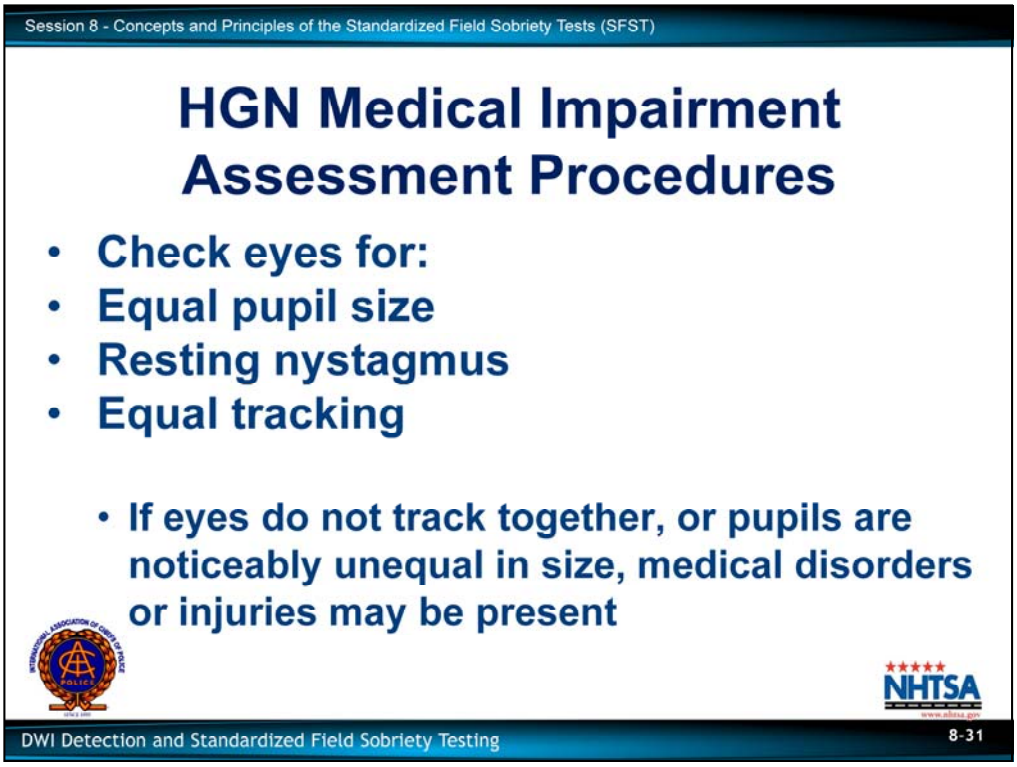


Point out: Even though the possibility of alcohol and/or drug impairment exists, officers should be aware of medical conditions having symptoms in common with alcohol influence.

By passing a stimulus across both eyes, you can check to see if both eyes are tracking equally. If they don't (i.e., if one eye tracks the stimulus, but the other fails to move, or lags behind the stimulus) there is the possibility of a neurological disorder.

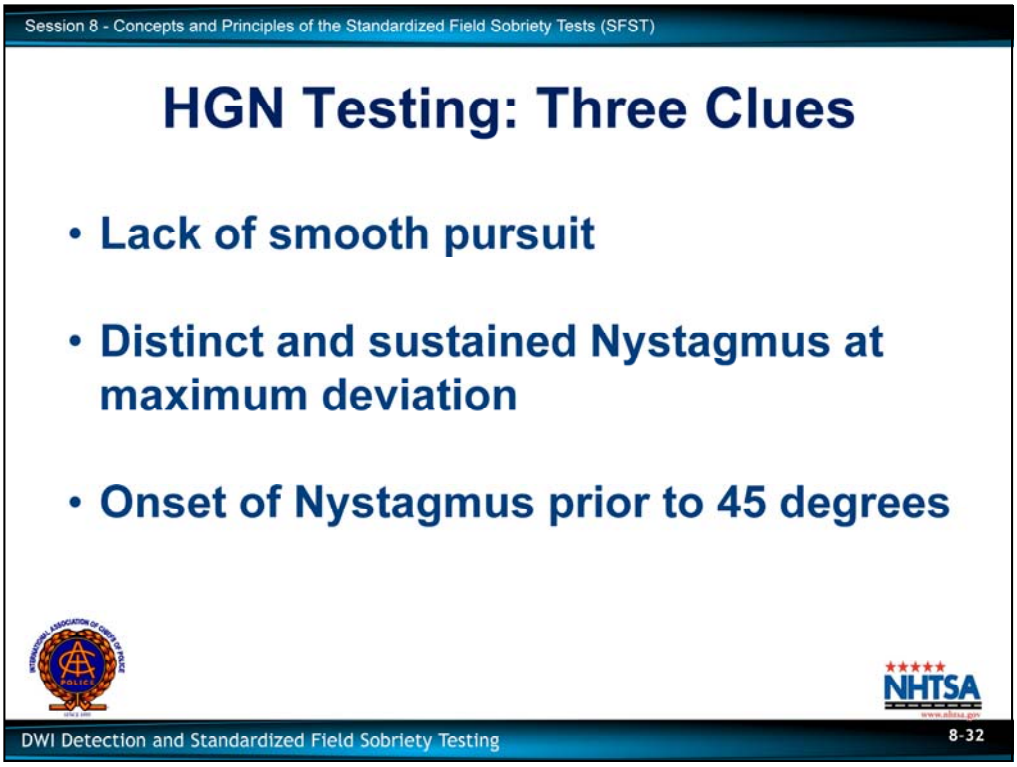
If a person has sight in both eyes, but the eyes fail to track together, there is a possibility that the person is suffering from an injury or illness affecting the brain.

For further information on drugs other than alcohol and procedures for conducting a preliminary examination to check for medical impairment, injury or drug impairment, see the curriculum package entitled "Introduction to Drugged Driving" or "ARIDE."



Procedures to Assess Possible Medical Impairment

Prior to administration of HGN, the eyes are checked for equal pupil size, resting nystagmus, and equal tracking (can they follow an object together). If the eyes do not track together, or if the pupils are noticeably unequal in size, the chance of medical disorders or injuries causing the nystagmus may be present.



Procedures of Horizontal Gaze Nystagmus Testing: The Three Clues

The test you will use at roadside is "Horizontal Gaze Nystagmus" -- an involuntary jerking of the eyes occurring as the eyes gaze to the side. When a person is impaired by alcohol or certain drugs, some jerking will be seen if the eyes are moved far enough to the side.

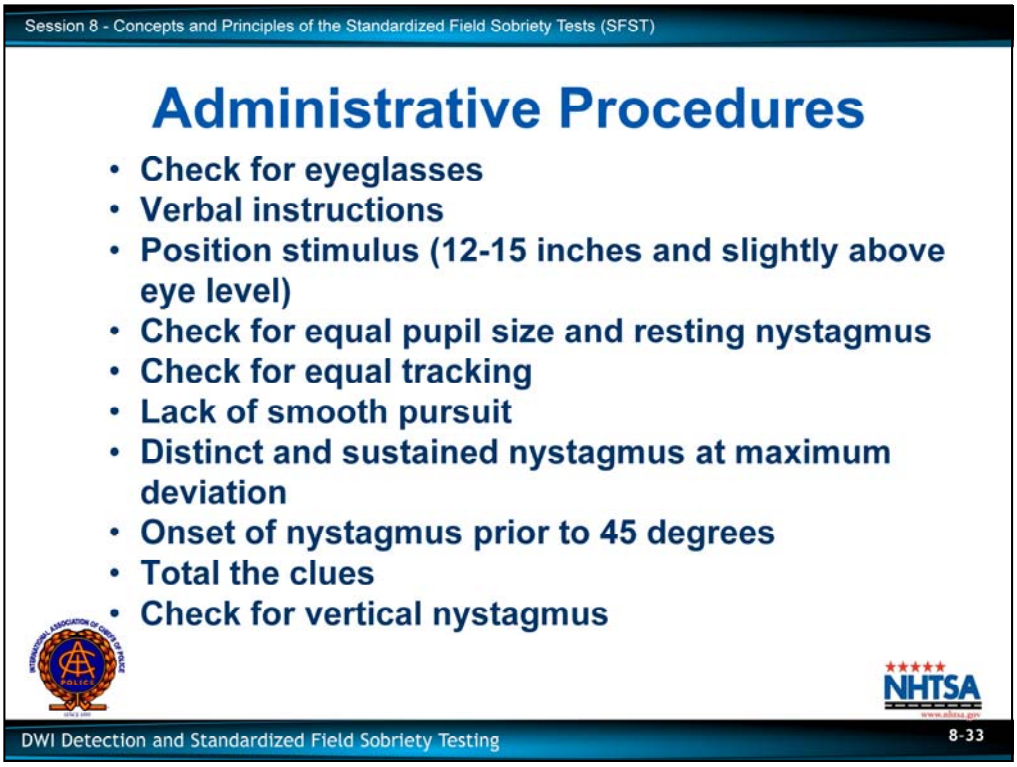
Note: CNS Depressants, Inhalants, and Dissociative Anesthetics can cause HGN.

- The Lack of Smooth Pursuit (Clue Number One) - The eyes can be observed to jerk or "bounce" as they follow a smoothly moving stimulus, such as a pencil or penlight. The eyes of an impaired person will not follow smoothly, i.e., a marble rolling across sand paper, or windshield wipers moving across a dry windshield.
- Distinct and Sustained Nystagmus At Maximum Deviation (Clue Number Two) - Distinct and sustained nystagmus is evident when the eye is held at maximum deviation for a minimum of four seconds and continues to jerk toward the side.

Even unimpaired people may exhibit slight jerking of the eye at maximum deviation, but this will not be evident or sustained for more than a few seconds.

- Onset of Nystagmus Prior To 45 Degrees (Clue Number Three) - The point at which the eye is first seen jerking. If the jerking begins prior to 45 degrees it is evident that the person has a BAC above 0.08, as shown by recent research.

The higher the degree of impairment, the sooner the nystagmus will be observable.

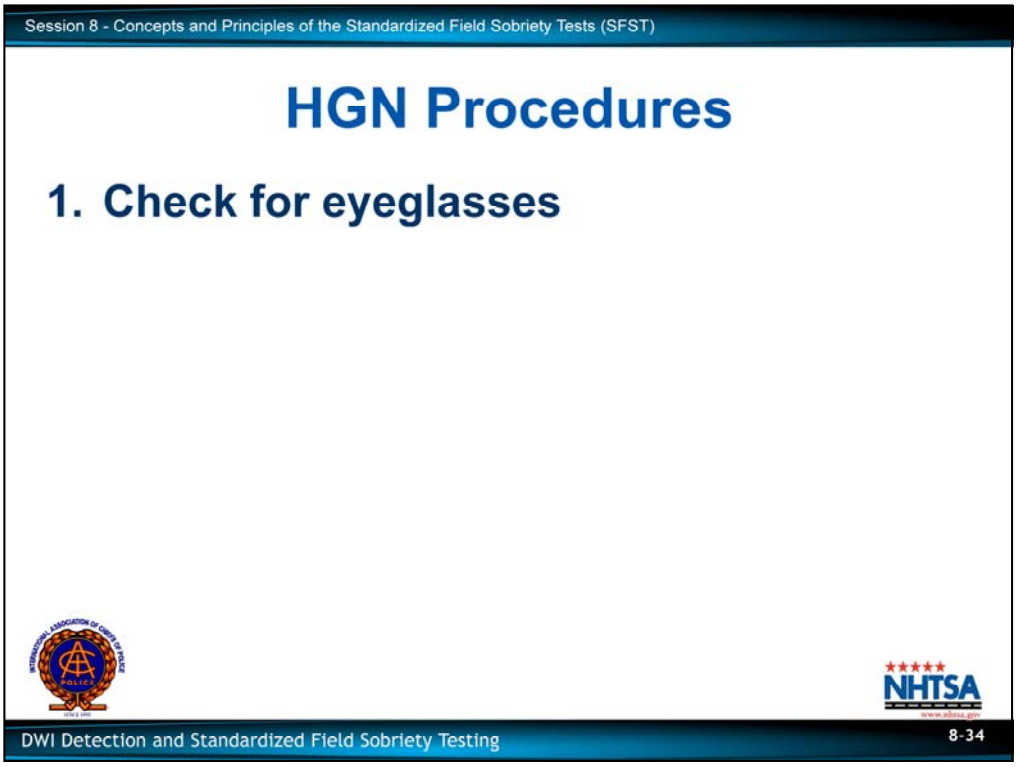


Horizontal and Vertical Gaze Nystagmus can be observed directly and does not require special equipment. You will need a contrasting stimulus for the subject to follow with their eyes. This can be a penlight or pen. The stimulus used should be held slightly above eye level, so that the eyes are wide open when they look directly at it. It should be held approximately 12 - 15 inches in front of the nose. Remain aware of your position in relation to the subject at all times.

OFFICER SAFETY IS THE NUMBER ONE PRIORITY ON ANY TRAFFIC STOP.

Administrative Procedures

- Check for eyeglasses
- Verbal instructions
- Position stimulus (12-15 inches and slightly above eye level)
- Check for equal pupil size and resting nystagmus
- Check for equal tracking
- Lack of smooth pursuit
- Distinct and sustained nystagmus at maximum deviation
- Onset of nystagmus prior to 45 degrees
- Total the clues
- Check for vertical nystagmus



Administrative Procedures for Horizontal Gaze Nystagmus

It is important to administer the Horizontal Gaze Nystagmus test systematically using the following steps, to ensure that nothing is overlooked.

There are 10 steps in the systematic administration of the Horizontal Gaze Nystagmus test.

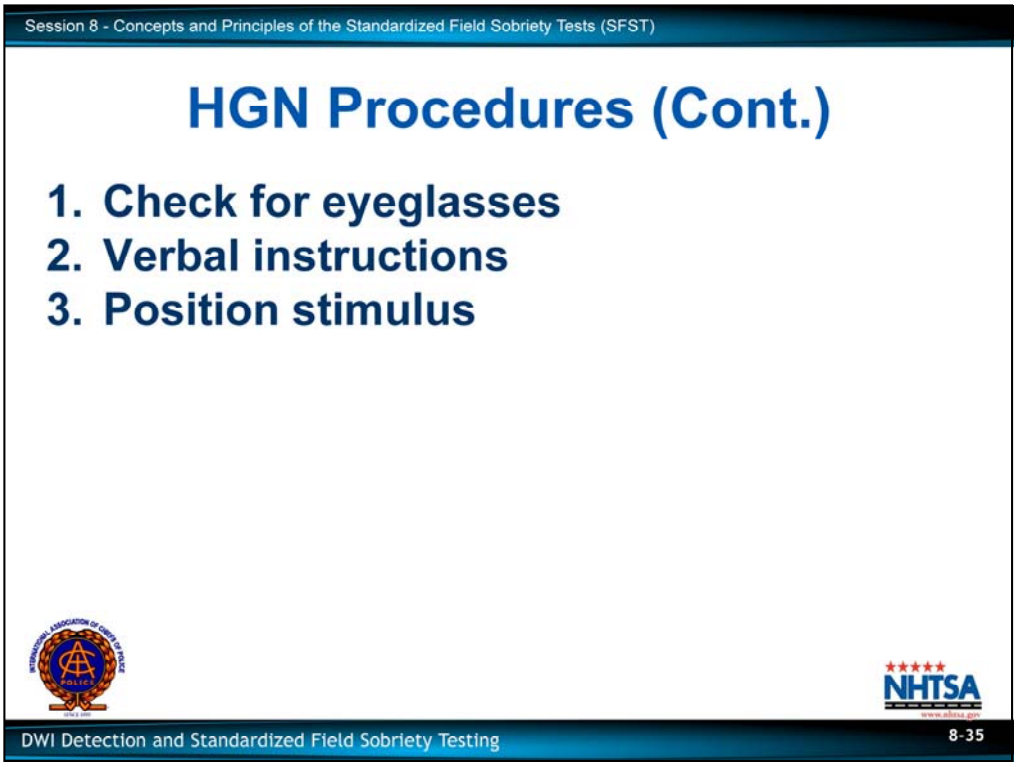
Step 1: Check for Eyeglasses.

Begin by instructing the subject to remove eyeglasses, if worn.

Point out that eyeglasses may impede the subject's peripheral vision, and may also impede the officer's ability to observe the eye carefully.

It does not matter whether the subject can see the stimulus with perfect clarity, as long as subject can see it at all.

Remind participants that nystagmus is not a vision test.



Step 2: Verbal Instructions.

Give the subject the appropriate verbal instructions:

Point out that officers' should note whether subject sways, wobbles, etc. while trying to balance.

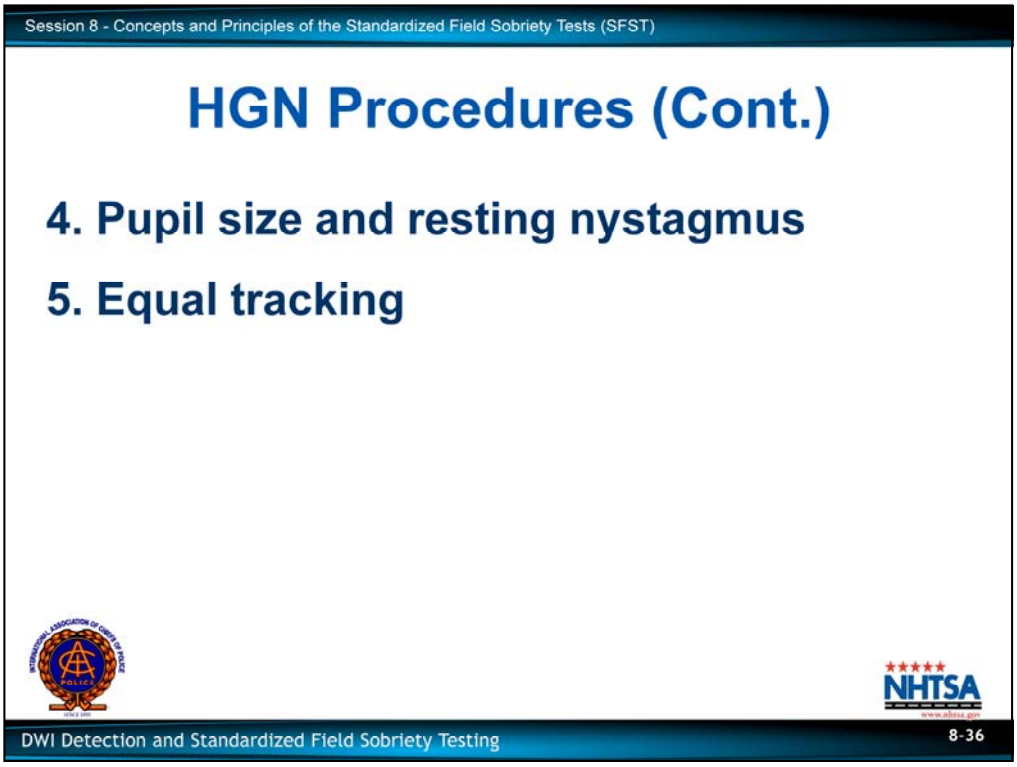
- Put feet together, hands at the side
- Keep head still
- Look at the stimulus
- Follow movement of the stimulus with the eyes only
- Keep looking at the stimulus until told the test is over

Emphasize that these are the major points that must be conveyed during the verbal instructions.

Step 3: Position the Stimulus.

Position the stimulus approximately 12 - 15 inches (30 - 38 cm) in front of subject's nose, and slightly above eye level to commence the test.

Resting Nystagmus may be observed at this time. Officers should note whether the subject displays Resting Nystagmus.



Step 4: Equal Pupil Size and Resting Nystagmus. Check for equal pupil size and resting nystagmus.

Remind the participants that if Resting Nystagmus is observed they can continue with the remainder of the test to check for other possible indicators of impairment and any possible indicators of a medical condition.

Remind participants to also check for resting nystagmus when checking for equal pupil size.

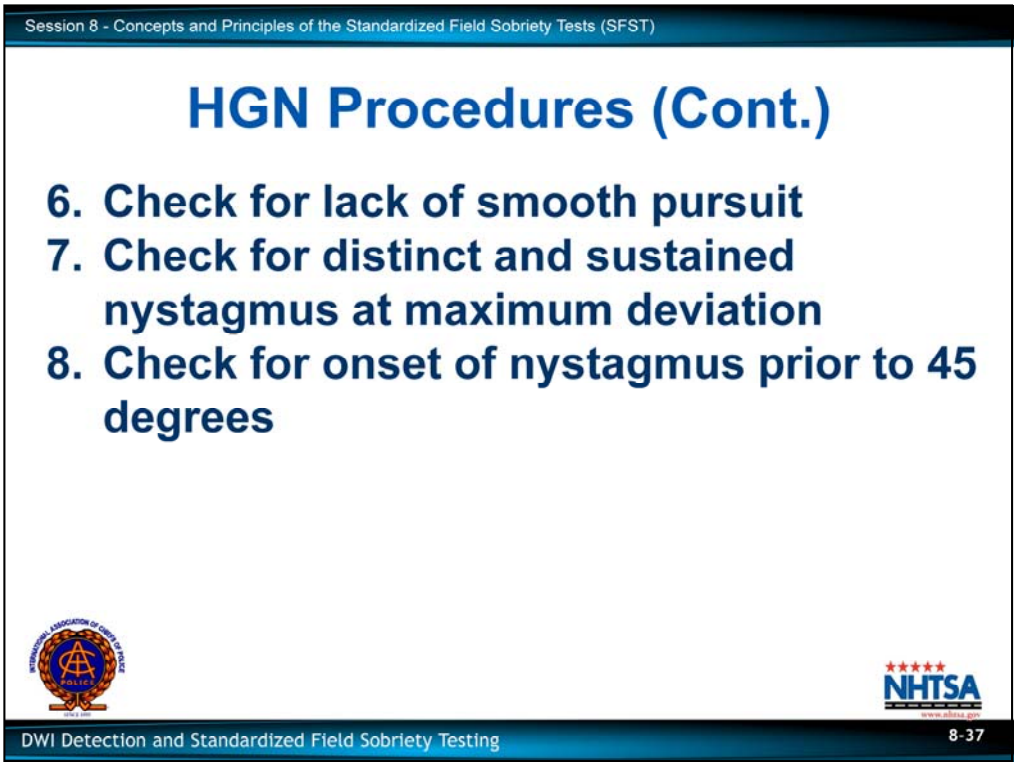
Step 5: Equal Tracking.

Check for equal tracking. Move the stimulus rapidly from center to far right, to far left and back to center.

Remind the participants that the speed of the stimulus should be approximately the same speed used as checking for the lack of smooth pursuit.

Remind the participants to make at least two complete passes in front of the eyes to check for equal tracking.

Point out that there should be a clear, distinguishable break between the check for equal tracking and lack of smooth pursuit.



Step 6: Lack of Smooth Pursuit. Check the left eye for lack of the "Smooth Pursuit" clue. If the eye is observed to jerk while moving, that is one clue.

Check the right eye for lack of the "Smooth Pursuit" clue and compare.

Remind participants to make at least two complete passes in front of the eyes to check this clue.

Step 7: Check the right and left eye for the "distinct and sustained nystagmus at maximum deviation" clue. If the jerkiness is distinct and sustained, that is one clue.

Emphasize that the jerking must be definite, distinct and sustained in order to score this clue. Remind participants to check each eye at least twice for this clue.

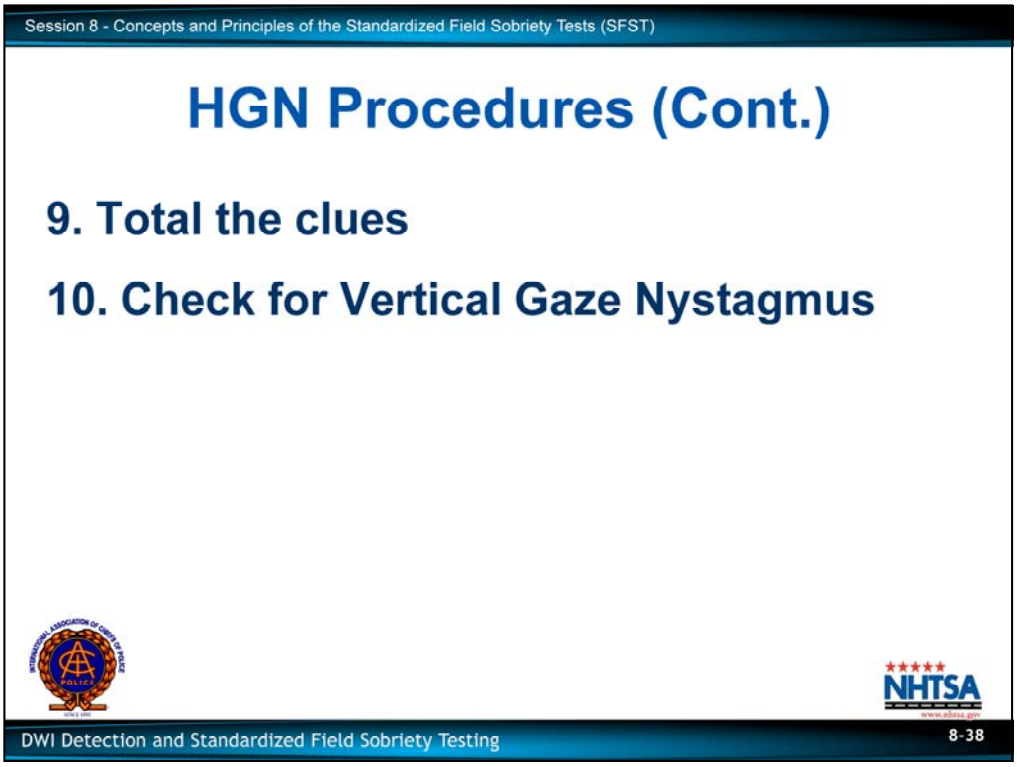
Check the right eye for the "distinct and sustained nystagmus at maximum deviation" clue and compare.

Point out that in most cases no white should be showing in the corner of the eye when observing this clue.

Step 8: Onset of Nystagmus Prior to 45 Degrees. Check the left eye for the "onset of nystagmus prior to 45 degrees" clue. If the jerking begins prior to 45 degrees, that is one clue.

Remind participants to check each eye at least twice for this clue. Point out that, for many subjects, nystagmus clues will appear in the sequence listed.

Check the right eye for "onset of nystagmus prior to 45 degrees" clue, and compare.



Step 9: Total the clues

Maximum number of clues possible for each eye: 3

Total maximum number of clues possible for both eyes: 6

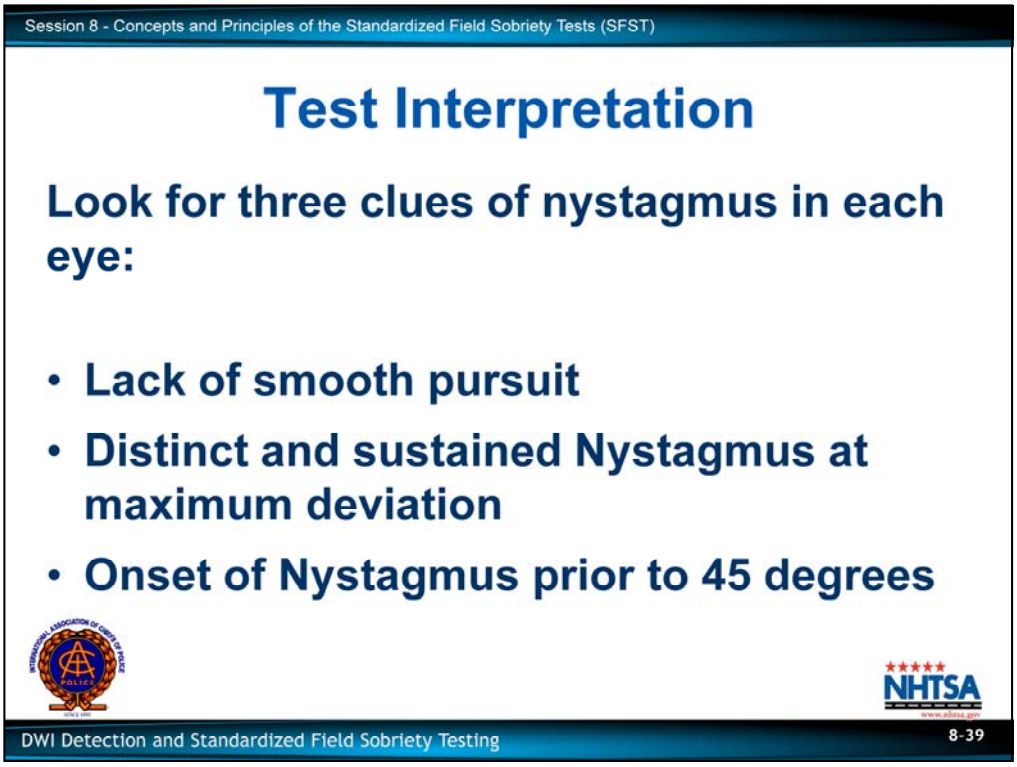
Also, point out that the subject's performance may not be exactly identical in both eyes.

That is, as BAC increases, many people first show inability of smooth pursuit, then show distinct jerkiness at maximum deviation, and finally show an onset within 45 degrees. However, that may not always be true.

Step 10: Check for Vertical Nystagmus

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 no evidence of nystagmus, the person may be suffering from one of the pathological disorders covered previously.



Test Interpretation

You should look for three clues of nystagmus in each eye.

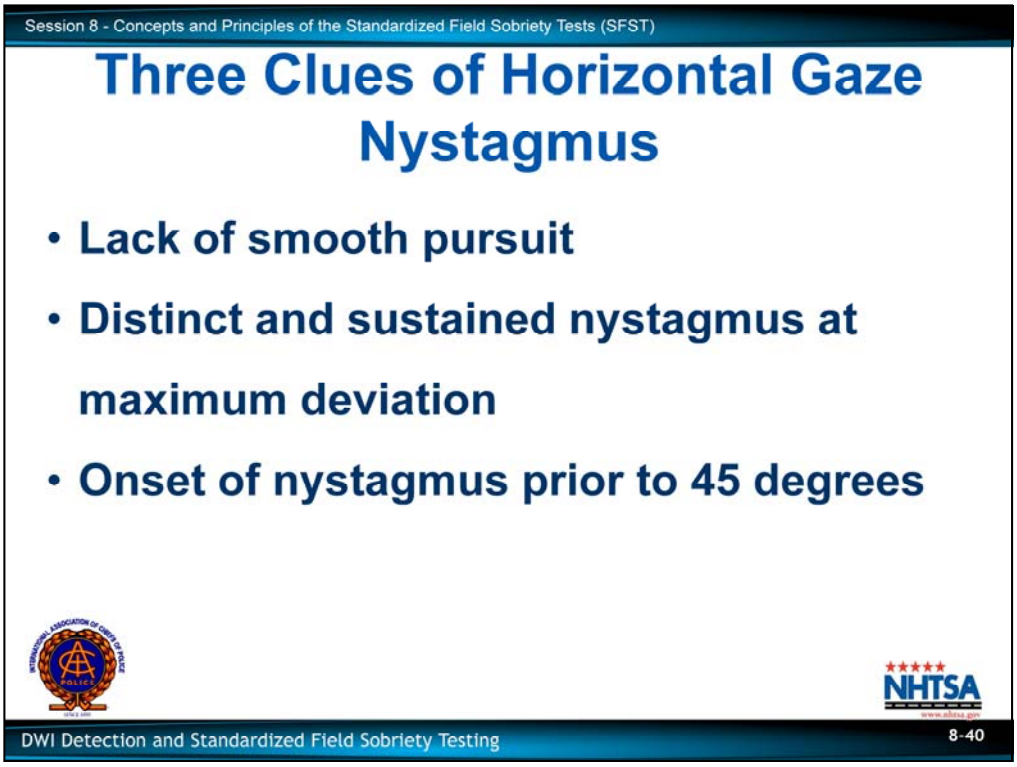
Lack of Smooth Pursuit (The eye cannot follow a moving object smoothly)

Distinct and Sustained Nystagmus at Maximum Deviation (Nystagmus is distinct and sustained when the eye is held at maximum deviation for a minimum of four seconds)

Onset of Nystagmus Prior to 45 Degrees.

Based on recent research, if you observe four or more clues it is likely that the subject's BAC is at or above 0.08. Using this criterion you will be able to classify about 88% of your subjects accurately. This was determined during laboratory and field testing and helps you weigh the various Standardized Field Sobriety Tests in this battery as you make your arrest decision.

This accuracy level was determined through the San Diego Study ("Validation of the Standardized Field Sobriety Test Battery at BACs Below 0.10 %").



Three Clues of Horizontal Gaze Nystagmus

It is important that participants start with the subject's left eye first. Then check the right eye for the same clue. This procedure should be used for all three clues.

When we administer the Horizontal Gaze Nystagmus test, we look for three specific clues as evidence of alcohol influence.

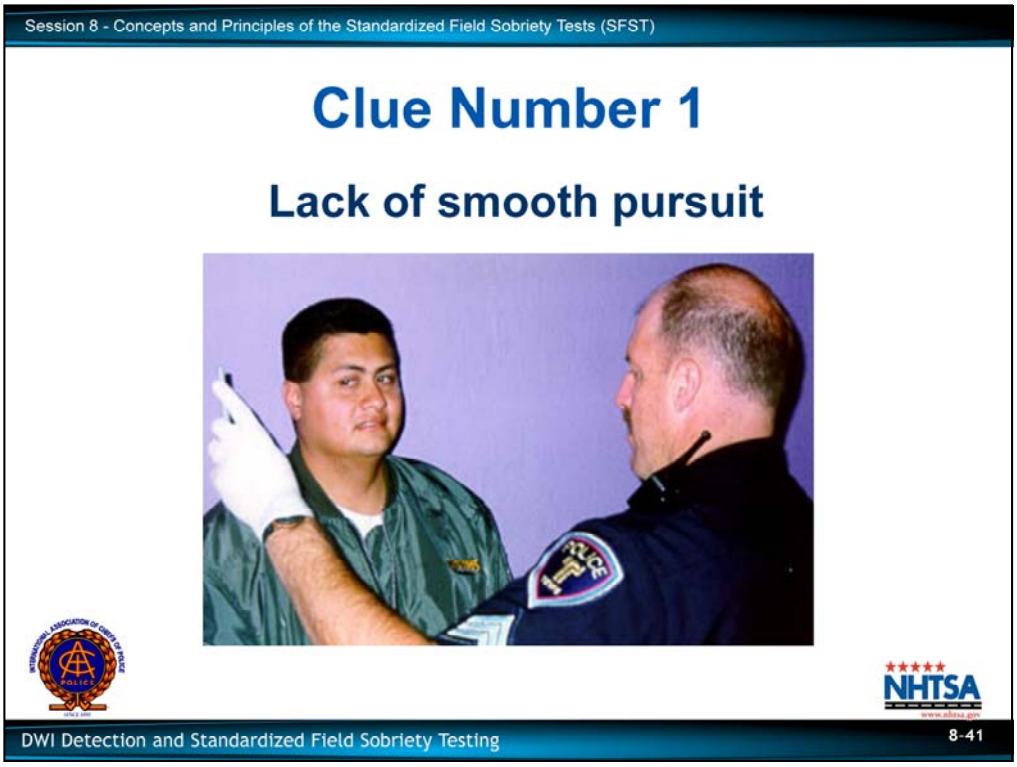
We check each eye independently for each clue.

Remind the participants to check each eye twice for each clue.

For standardization, begin with the subject's left eye. Check for the first clue. Next, check right eye for same clue. Repeat this procedure for each clue starting with left eye, then right eye. Compare and document the results.

When we are checking an eye, it is good practice to administer the test by the numbers each time, to make sure that no step is overlooked.

EMPHASIZE THAT: OFFICER SAFETY IS OF KEY IMPORTANCE WHEN ADMINISTERING THESE TESTS.



Clue No. 1: Lack of Smooth Pursuit

The first clue requires that the subject move the eye to follow the motion of a smoothly moving stimulus.

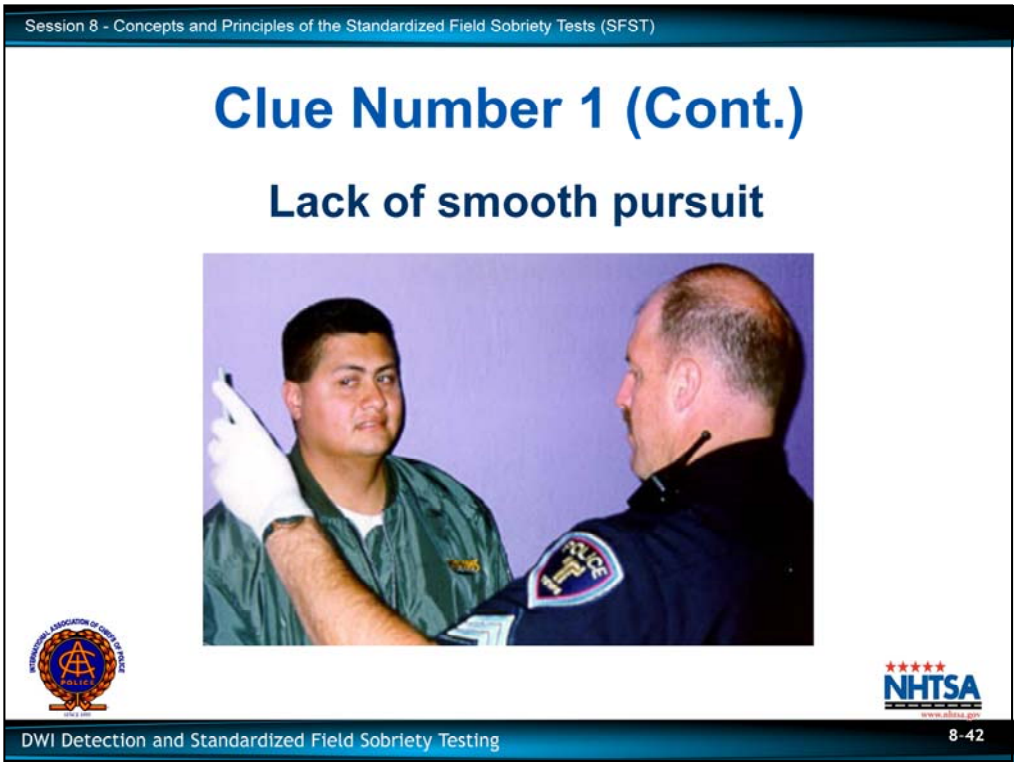
Emphasize that subject must keep the head still and follow the stimulus with the eyes only.

The stimulus may be the eraser on a pencil, the tip of a penlight, the tip of your finger, or any similar small object.

Emphasize here that it is best to use a stimulus which contrasts with the background.

Begin by holding the stimulus vertically approximately 12 - 15 inches (30 - 38 cm) in front of the subject's nose, and slightly above eye level.

Point out that when stimulus slightly higher than eye level, subject will have to open eyes wide to focus on it. Wide open eyes make it easier to see the nystagmus.

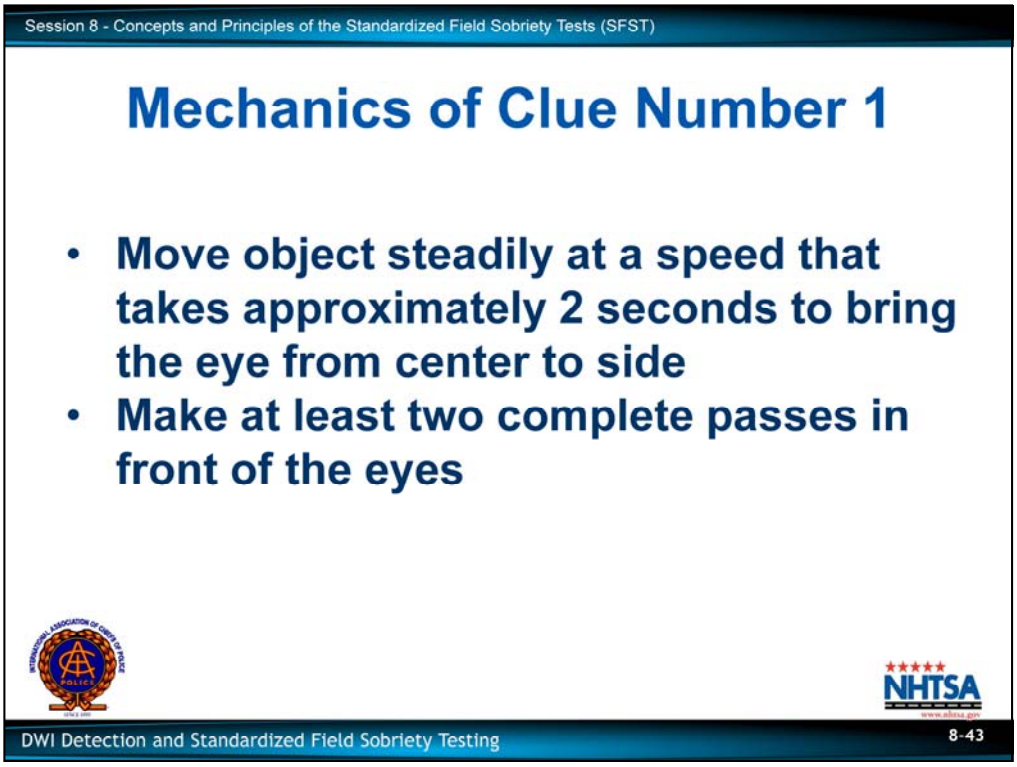


Move the stimulus smoothly all the way out to the right (checking subject's left eye first) then move the stimulus smoothly all the way across the subject's face to the left side (checking the subject's right eye), then back to center.

Make at least two complete passes with the stimulus

If a person is not impaired by alcohol (or drugs that cause HGN), the eyes should move smoothly as the object is moved back and forth.

Analogy: movement of the eyes of a person not impaired by alcohol (or drugs that cause HGN) will be similar to the movement of windshield wipers across a wet windshield versus an impaired person and windshield wipers moving across a dry windshield.



The Mechanics of Clue Number 1

It is necessary to move the object smoothly in order to check the eye's ability to pursue smoothly.

The stimulus should be moved from center position, all the way out to the right side (checking subject's left eye) where the eye can go no further, and then all the way back across subject's face all the way out to the left side where the eye can go no further (checking subject's right eye) and then back to the center.

***Demonstrate*.**

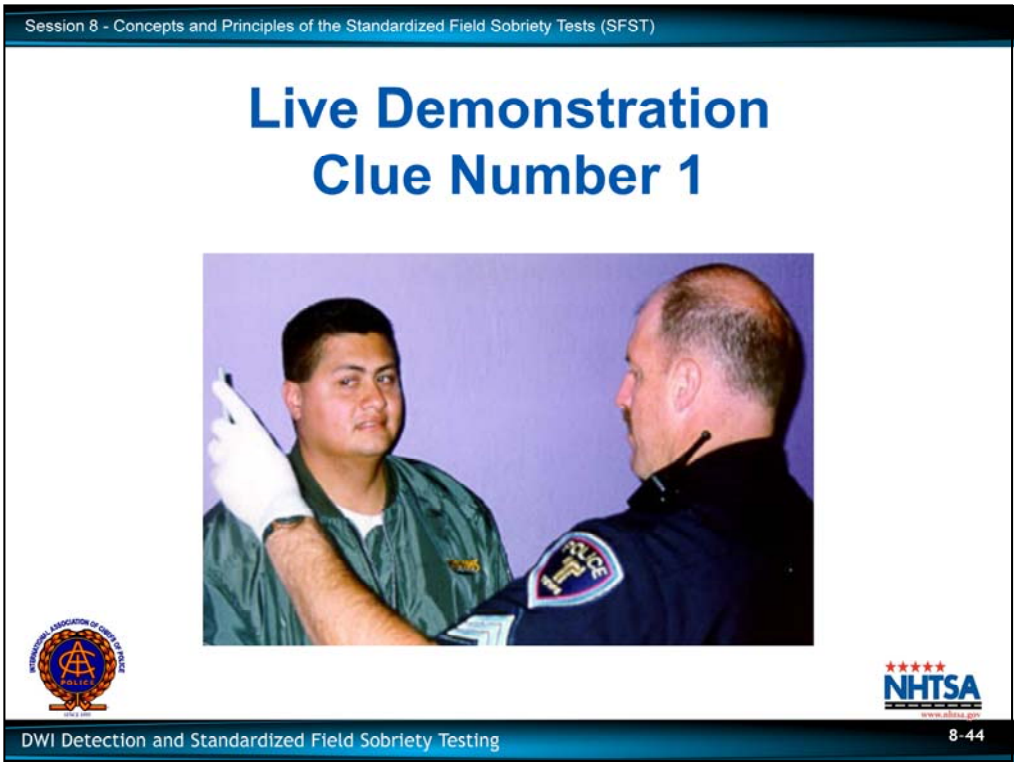
The object must be moved steadily, at a speed that takes approximately 2 seconds to bring the eye from center to side.

Demonstrate.

In checking for this clue, make at least two complete passes in front of the eyes.

Demonstrate.

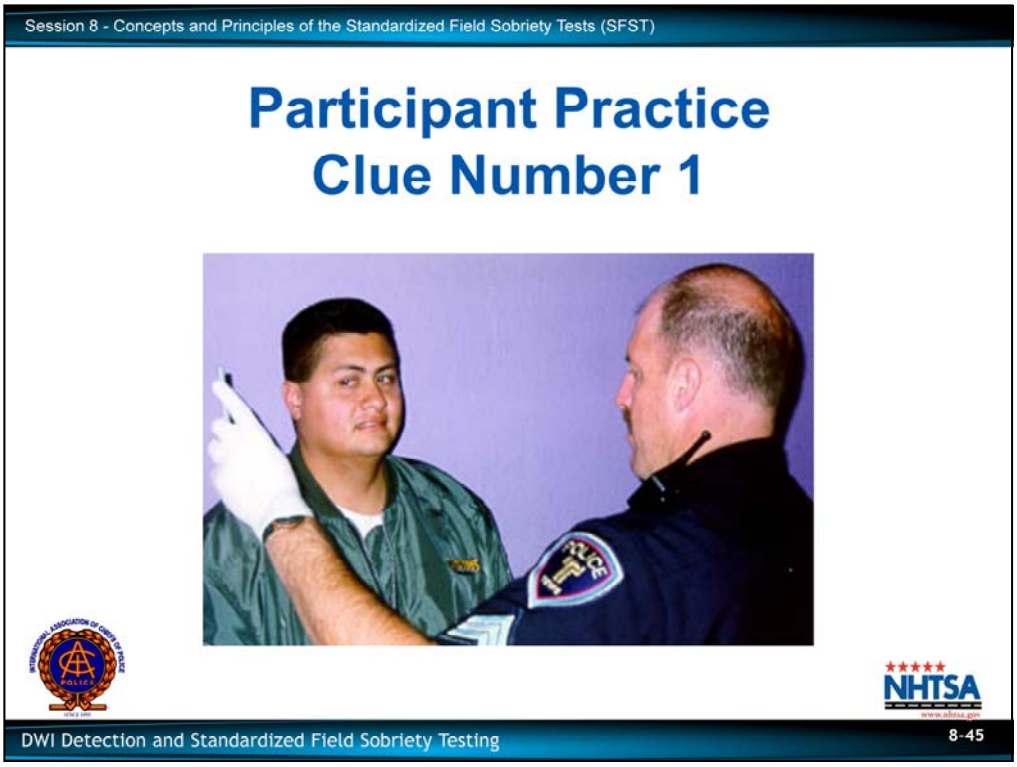
If you are still not able to determine whether or not the eye is jerking as it moves, additional passes may be made in front of the eyes.



Live Demonstration of the Mechanics of Clue No. 1

Solicit a participant to participate in the live demonstration.

- ***Station the participant subject in a position where the eyes can easily be seen by the class. (It may be necessary to conduct the demonstration at two or more locations in the class to permit all to see.)***
- ***Position stimulus approximately 12 - 15 inches (30 - 38 cm) in front of nose, slightly higher than eye level.***
- ***Articulate each step in the procedural mechanics aloud.***
- ***Stimulus is moved smoothly from center all the way out to the right (checking subject's left eye), back across subject's face all the way to the left side (checking subject right eye) then back to center.***
- ***Point out how the arm is held to ensure smooth movement.***
- ***A second pass is conducted the same as the first.***
- ***Point out that each pass takes the eye as far to the side as it can go.***
- ***On each pass, the arm is moved smoothly, and the eye is taken as far to the side as possible.***
- ***Point out that it takes approximately 2 seconds to move the object from center to the side as far as the eye can go.***
- ***Solicit participants' questions concerning the procedural mechanics for Clue No. 1.***



Participant Practice of the Mechanics of Clue No. 1

Practice in groups of two or three, taking turns.

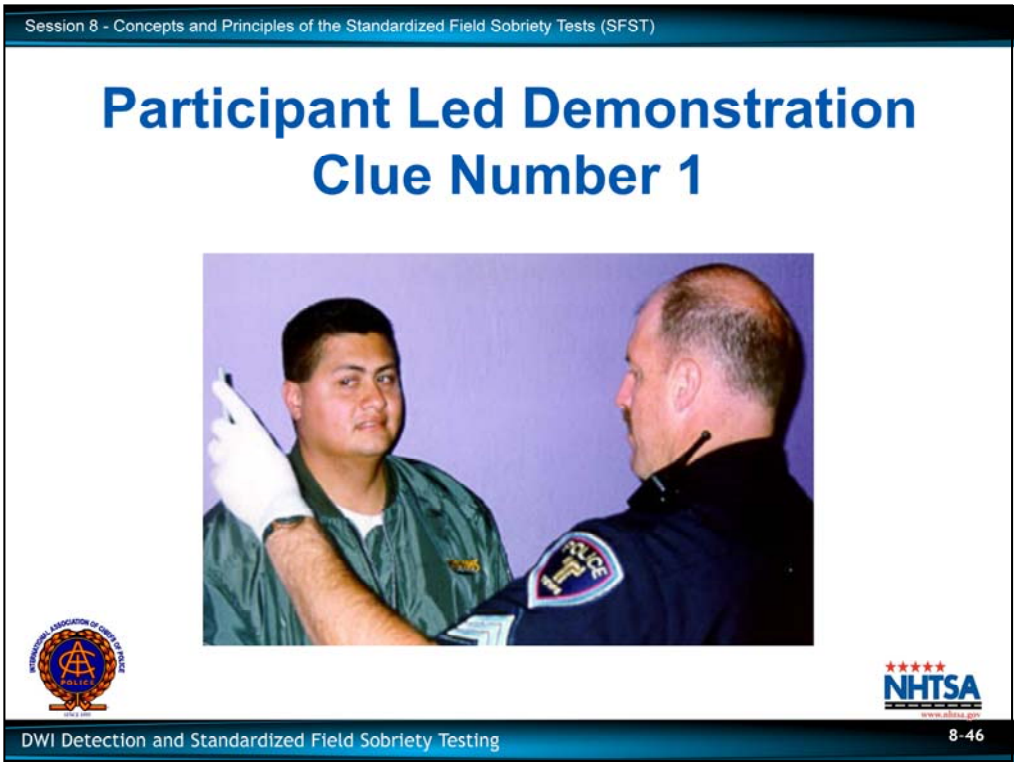
Instruct each participant to practice conducting the test of smooth pursuit, using another participant as a subject.

Remind participants that they are to make at least two complete passes in front of the eyes.

Coaching and critiquing participants' practice.

Common initial mistakes to note and correct:

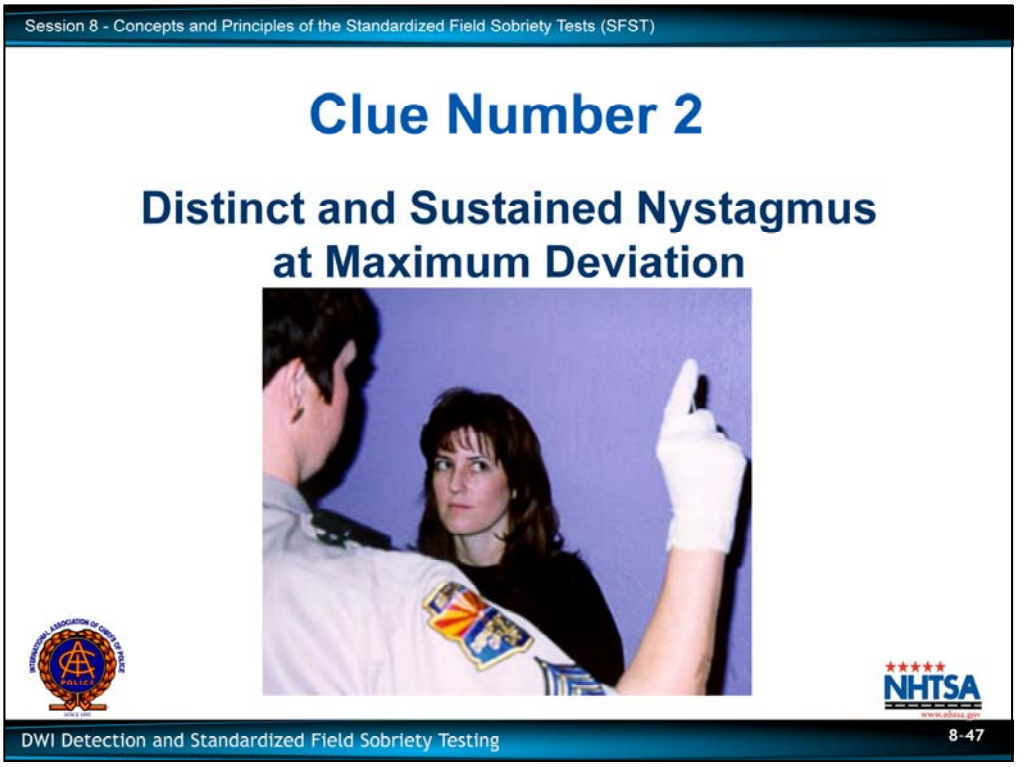
- ***Holding object too close to (or too far from) subject's eyes***
- ***Moving object too slowly (or too quickly) toward the side***
- ***Failing to move object far enough to the side to bring eye to maximum deviation***
- ***Curving downward and curving around. Encourage participants to practice this procedure using a flat surface such as a wall for a guide***



Participant Led Demonstration

Choose a participant who appears to be doing a good job in carrying out the procedural mechanics of Clue No. 1, and have that participant come forward with a subject to demonstrate the mechanics to the class.

Resume participant practice and allow it to continue until all participants appear reasonably proficient in carrying out the mechanics of Clue No. 1.



Clue No. 2: Distinct and Sustained Nystagmus at Maximum Deviation

Once you have completed the check for lack of smooth pursuit, you will check the eyes for distinct and sustained nystagmus when the eye is held at maximum deviation, beginning with the subject's left eye.

The Mechanics of Clue Number 2

Once again, position the stimulus approximately 12 - 15 inches (30 - 38 cm) in front of subject's nose and slightly above eye level.

Demonstrate.

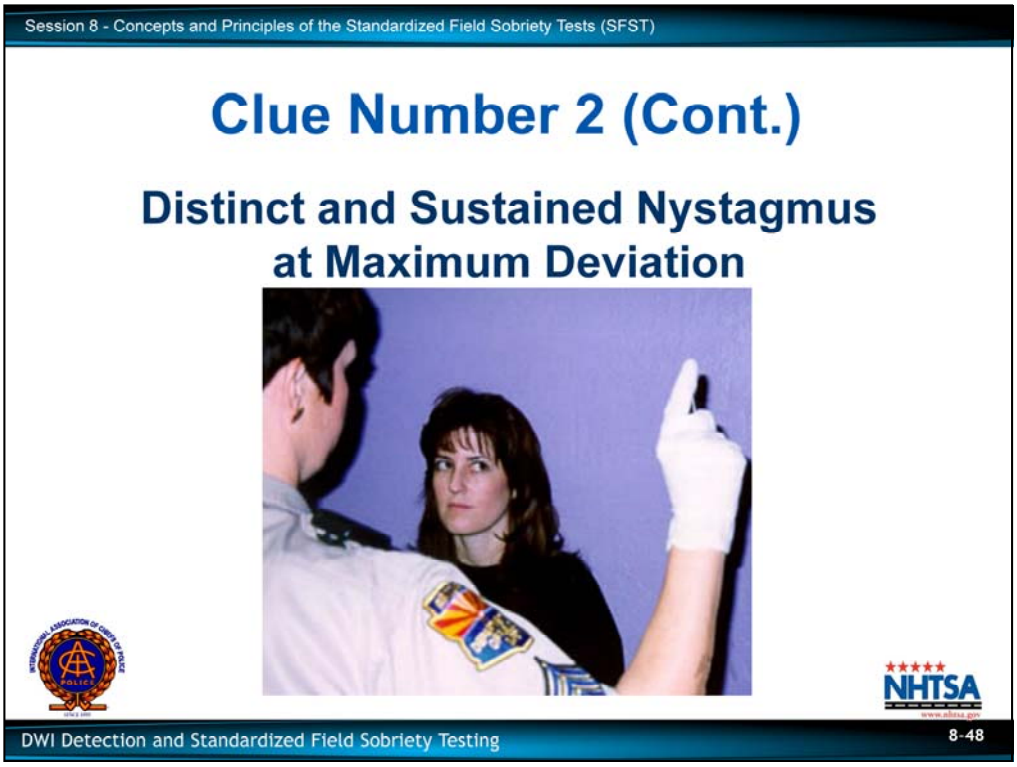
Move the stimulus off to the right side (checking subject's left eye) until the eye has gone as far as possible.

Demonstrate holding the stimulus steadily off to the side.

Hold the stimulus steady at that position for a minimum of four (4) seconds, and carefully watch the eye.

Point out that four (4) seconds is a relatively long period of time. You cannot simply hold the eye to the side for an instant, and expect to observe distinct jerking.

Then, move the stimulus back across the subject's face all the way out to the left side (subject's right eye).



Four seconds will not cause fatigue nystagmus. This type of nystagmus may begin if a subject's eye is held at maximum deviation for more than 30 seconds.

Hold the stimulus steady and carefully watch the eye.

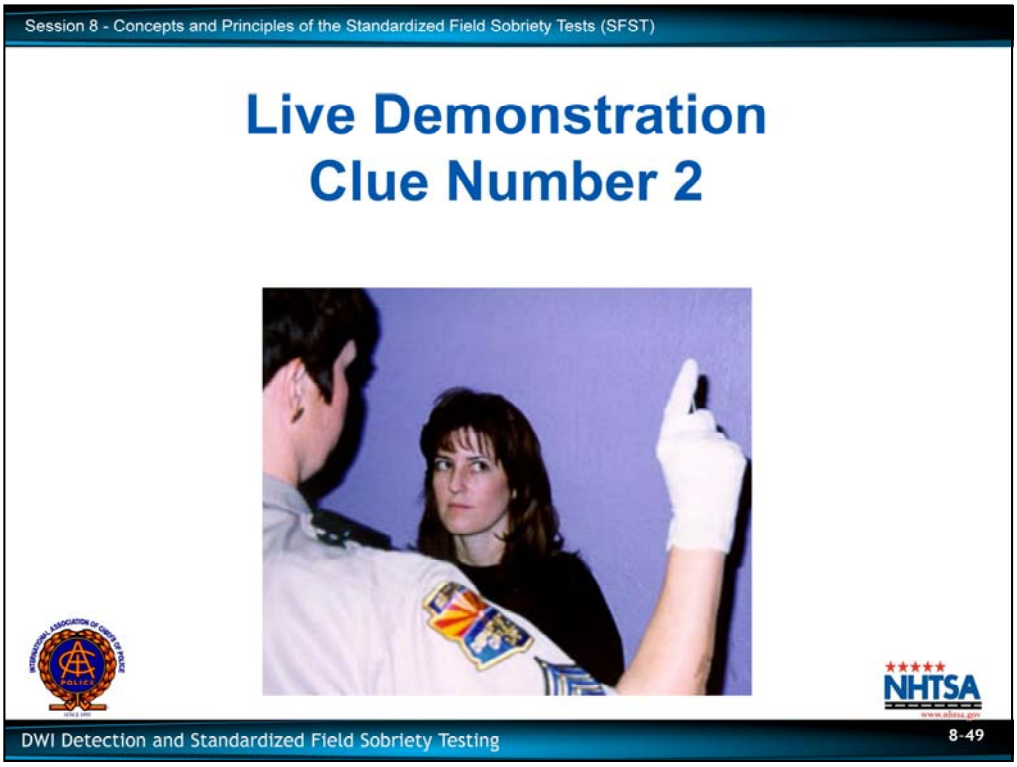
If the person is impaired, the eye is likely to exhibit definite, distinct and sustained jerking when held at maximum deviation for a minimum of 4 seconds.

Emphasize this point.

In order to "count" this clue as evidence of impairment, the nystagmus must be distinct and sustained for a minimum of 4 seconds.

If you think you see only slight nystagmus at this stage of the test, or if you have to convince yourself that nystagmus is present, then it isn't really there.

ONCE AGAIN, EMPHASIZE OFFICER SAFETY.

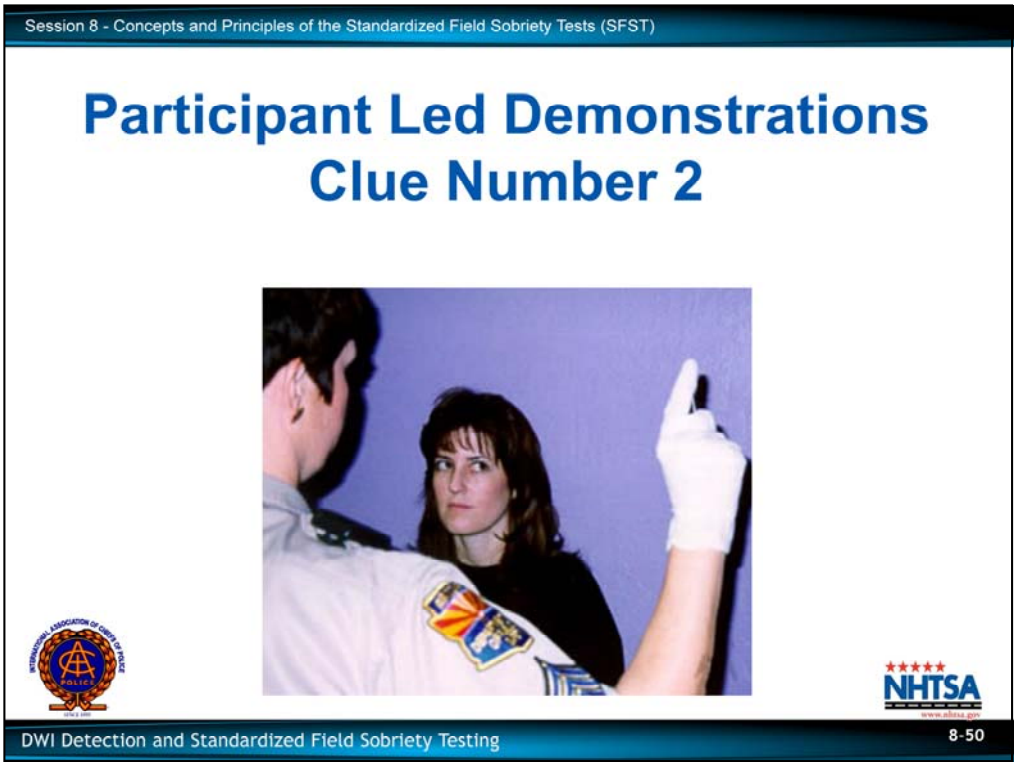


Live Demonstration of the Mechanics of Clue No. 2

Stimulus initially positioned approximately 12 - 15 inches (30 -38 cm) in front of the participant subject's nose, slightly higher than eye level.

- ***Stimulus moved to the side, drawing the eye to its maximum deviation.***
- ***Hold the stimulus steady at that point for a minimum of 4 seconds, to determine whether or not there is distinct and sustained nystagmus.***
- ***Then, move the stimulus back across the subject's face all the way out to the left side (subject's right eye).***
- ***Station the participant subject in a position where eyes can readily be seen by the class. (It may be necessary to conduct the demonstration at two or more locations in the class.)***
- ***Hold the stimulus steady and carefully watch the eye.***
- ***Articulate each step in the procedural mechanics aloud.***
- ***Hold the stimulus steady at that point for a minimum of 4 seconds to determine whether or not there is distinct and sustained nystagmus.***

Solicit a participant to participate in the live demonstration.



Participant practice of the mechanics of Clue No. 2

Participant Led Demonstrations

Instruct each participant to practice conducting the test of maximum deviation, using another participant as a subject.

Practice in groups of two or three, taking turns.

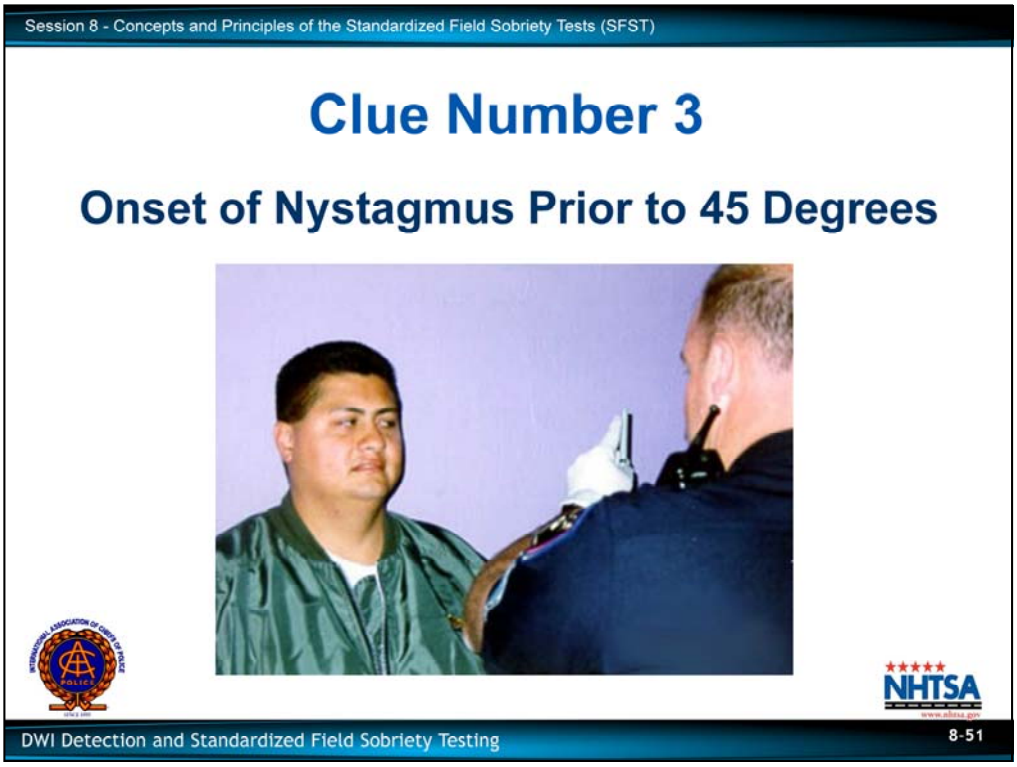
Coaching and critiquing participants' practice.

Common initial mistakes to note and correct:

- ***Not bringing the eye sufficiently far to the side (some white still showing)***
- ***Not holding the object steadily for at least four seconds, at maximum deviation***

Allow participant practice to continue until all participants appear reasonably proficient in carrying out the mechanics of Clue No. 2.

Solicit participants' questions concerning the procedural mechanics for Clue No. 2.



Clue No. 3: Onset of Nystagmus Prior to 45 Degrees

Once again, position the stimulus approximately 12 - 15 inches (30 - 38 cm) in front of subject's nose and slightly above eye level.

EMPHASIZE OFFICER SAFETY.

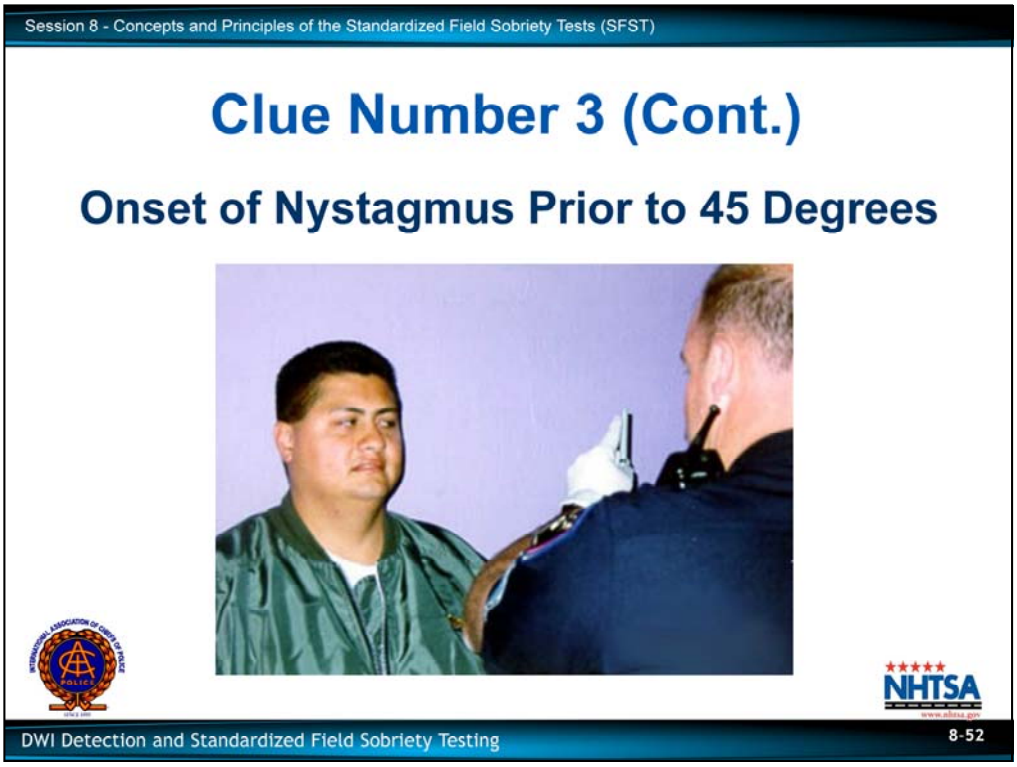
The angle of onset of nystagmus is simply the point at which the eye is first seen jerking.

Examples: With someone at a very high BAC (0.20+), the jerking might begin almost immediately after the eye starts to move toward the side. For someone at 0.08 BAC, the jerking might not start until the eye has moved nearly to the 45 degree angle.

Generally speaking, the higher the BAC, the sooner the jerking will start as the eye moves toward the side.

If the jerking begins prior to 45 degrees, that person's BAC could be 0.08 or above.

REMIND PARTICIPANTS THAT THE ADMINISTRATION OF HGN IS NOT TO BE USED TO ESTIMATE SPECIFIC BAC LEVEL.



It is not difficult to determine when the eye has reached the 45 degree point, but it does require some practice.

Instruct participants that whatever distance you position the stimulus from the nose, you will reach 45 degrees when you have moved the stimulus an equal distance to the side. (i.e., If you start with the stimulus 12 inches from the nose, move it 12 inches to the side.)

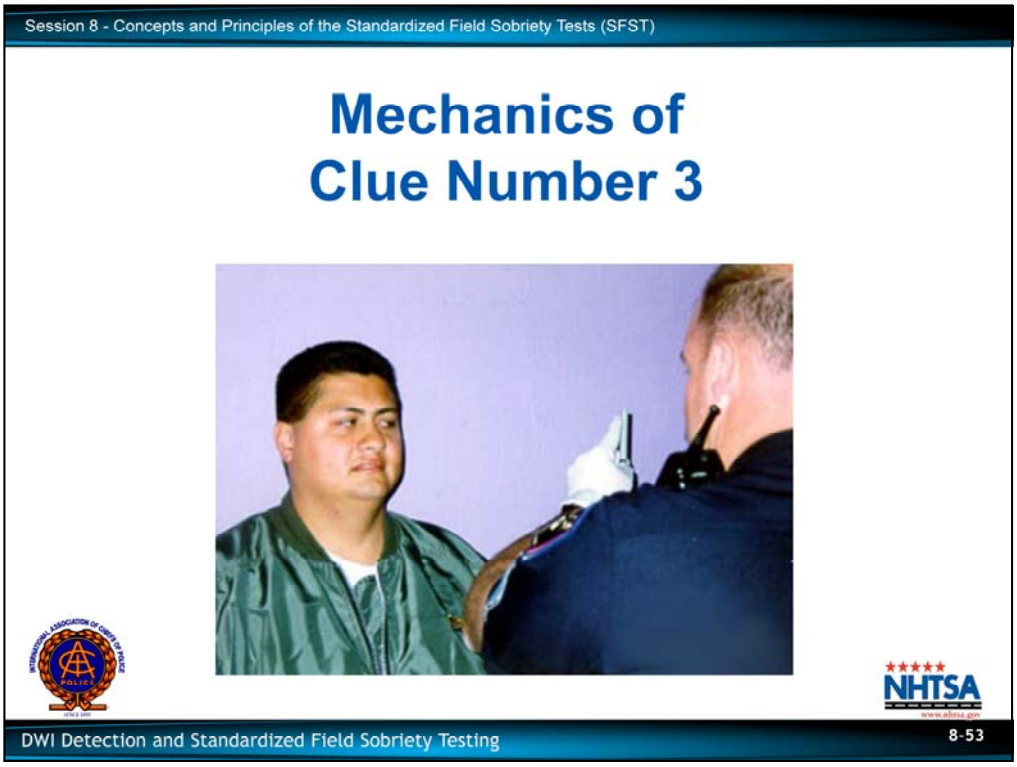
If you start with the stimulus approximately 12 - 15 inches (30 - 38 cm) directly in front of the nose, you will reach 45 degrees when you have moved the stimulus an equal distance to the side. Two other important indicators can be used to determine if the eye is within 45 degrees.

Point out the white showing in the eye portrayed in Slide 8-22. Note that some people's eyes may exhibit no white in the corner prior to 45 degrees.

At 45 degrees, some white usually will still be visible in the corner of the eye (for most people).

If you started with the stimulus approximately 12 - 15 inches (30 - 38 cm) in front of the subject, when you reach 45 degrees the stimulus will usually be lined up with, or slightly beyond, the edge of the subject's shoulder.

Point out that this latter indicator may not be valid if the subject is either a very large or a very small person.



The Mechanics of Clue No. 3

The stimulus is positioned approximately 12 - 15 inches from (30 - 38 cm) subject's nose and slightly above eye level. It is necessary to move the stimulus slowly to identify the point at which the eye begins to jerk.

Start moving the stimulus towards the right side (left eye) at the speed that would take approximately 4 seconds for the stimulus to reach the edge of the subject's shoulder.

Demonstrate stopping the stimulus, and holding it steady.

As you are slowly moving the stimulus, watch the eye carefully for any sign of jerking.

Demonstrate movement at that speed.

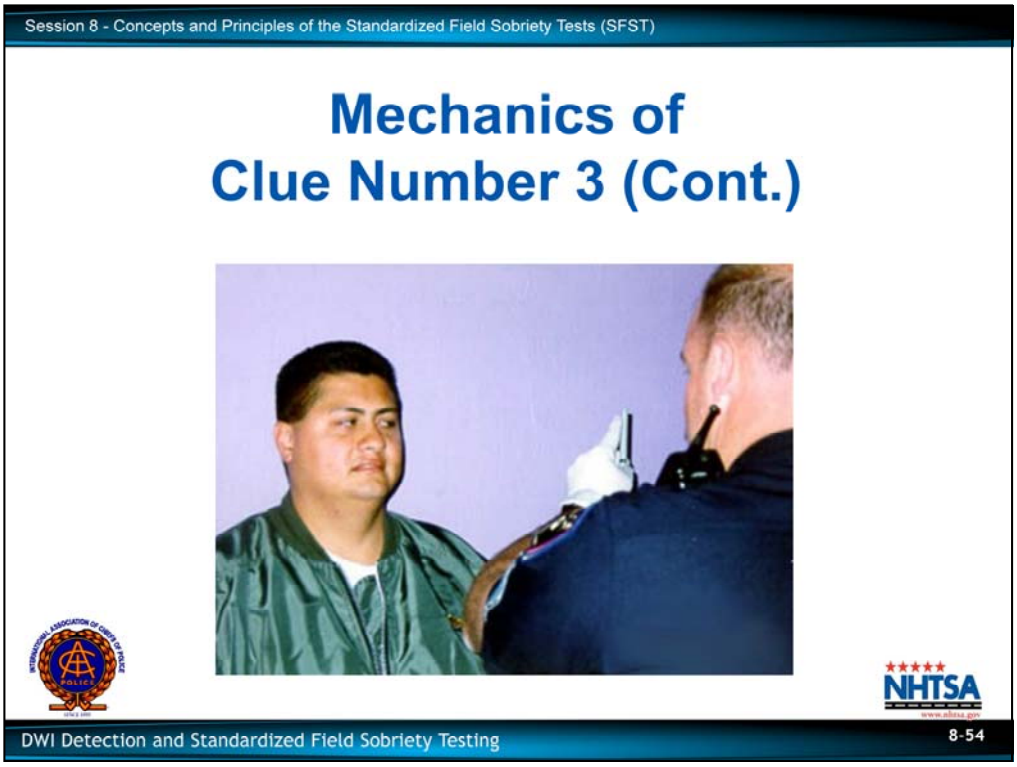
When you see the jerking begin, immediately stop moving the stimulus and hold it steady at that position.

With the stimulus held steady, look at the eye and verify that the jerking is continuing.

If the jerking is not evident with the stimulus held steady, you have not located the point of onset. Therefore, resume moving the stimulus slowly toward the side until you notice the jerking again.

Point out that nystagmus doesn't go away once the eye stops moving. If the officer actually has found the point of onset, the eye will continue to jerk when the stimulus is held steady.

When you locate the point of onset of nystagmus, you must determine whether it is prior to 45 degrees.



Verify that some white is still showing in the corner of the eye.
Examine the alignment between the stimulus and the edge of the subject's shoulder.
Start moving the stimulus towards the left side (right eye) at the speed that would take approximately 4 seconds for the stimulus to reach the edge of the subject's shoulder.

Demonstrate stopping the stimulus, and holding it steady.

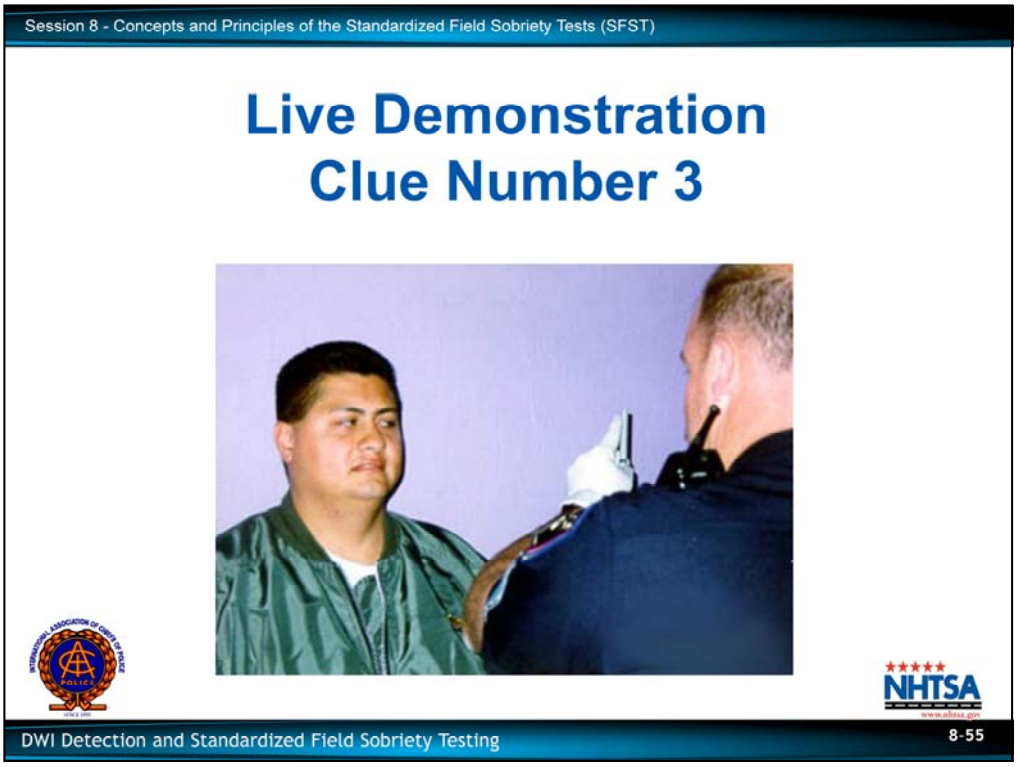
As you are slowly moving the stimulus, watch the eye carefully for any sign of jerking.

Demonstrate movement at that speed.

When you see the jerking begin, immediately stop moving the stimulus and hold it steady at that position.
With the stimulus held steady, look at the eye and verify that the jerking is continuing.

Point out that nystagmus doesn't go away once the eye stops moving. If the officer actually has found the point of onset, the eye will continue to jerk when the stimulus is held steady.

If the jerking is not evident with the stimulus held steady, you have not located the point of onset. Therefore, resume moving the stimulus slowly toward the side until you notice the jerking again.
When you locate the point of onset of nystagmus, you must determine whether it is prior to 45 degrees.
Verify that some white is still showing in the corner of the eye.
Examine the alignment between the stimulus and the edge of the subject's shoulder.



Live Demonstration of the Mechanics of Clue No. 3

Solicit a participant to participate in the live demonstration.

Stimulus initially positioned approximately 12 - 15 inches (30 - 38 cm) in front of participant subject's nose, slightly higher than eye level.

Station the participant subject in a position where participant's eyes can readily be seen by the class. (It may be necessary to conduct the demonstration at two or more locations.)

Slowly move the stimulus toward the side, watching the eye for nystagmus.

Articulate each step in the procedural mechanics aloud.

Stop the stimulus and hold it steady when nystagmus is first observed.

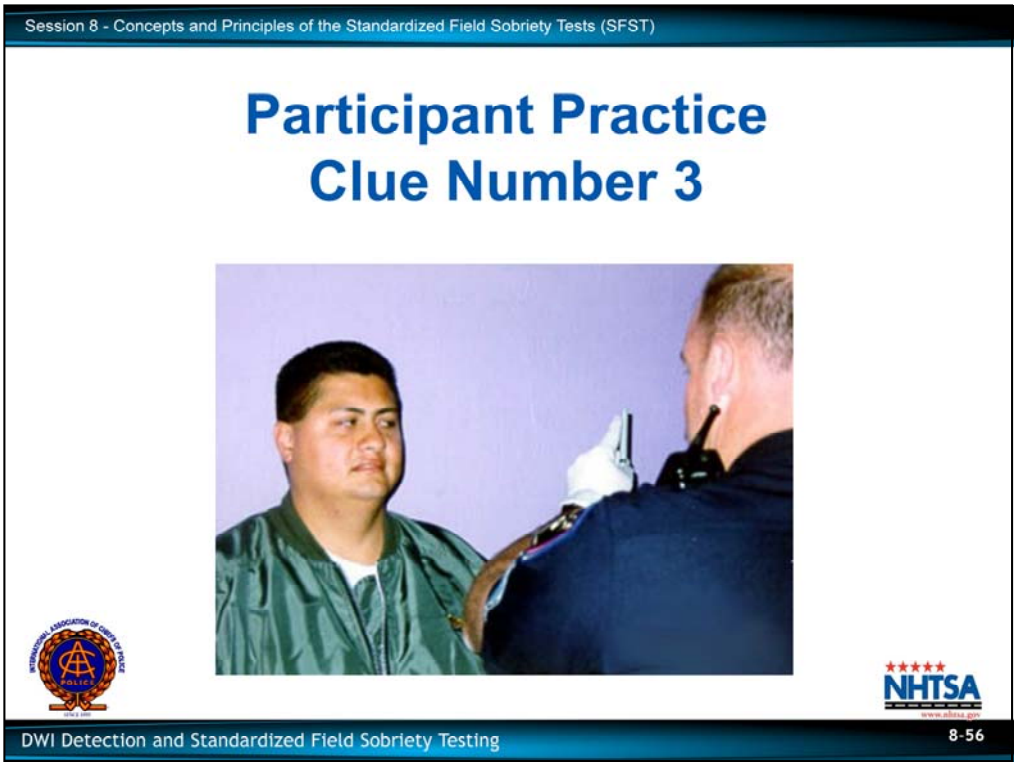
Verify that the jerking is continuing.

Now determine whether the onset of nystagmus is prior to 45 degrees.

Is there white still showing in the corner of the eye?

Is the stimulus within or only slightly beyond the edge of the shoulder?

Solicit participants' questions concerning the procedural mechanics for Clue No. 3.



Participant practice of the mechanics of Clue No. 3

Practice in groups of two or three, taking turns.

Remind participants to move stimulus slowly.

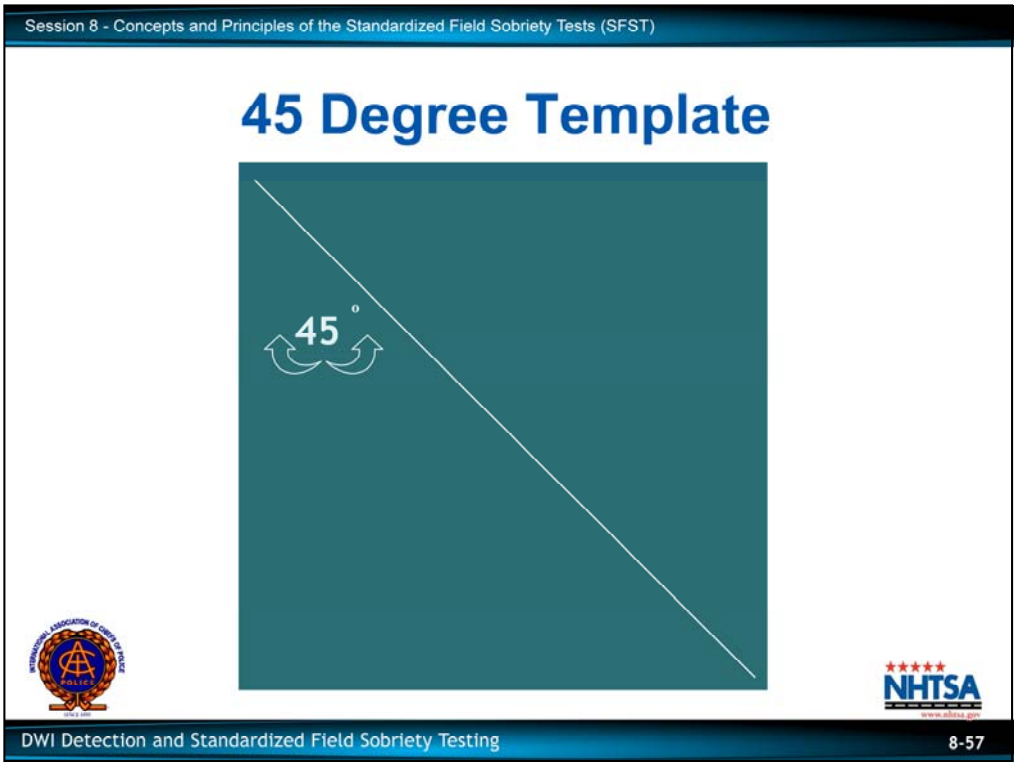
Coaching and critiquing participants practice.

Instruct each participant to practice conducting the test for onset of nystagmus prior to 45 degrees, using another participant as the subject.

Common mistakes to note and correct:

- ***Incorrect position of stimulus***
- ***Moving stimulus too fast***

Participant led demonstration.



Training Aid: The 45 Degree Template

A training aid has been provided to help you practice estimating a 45 degree angle.

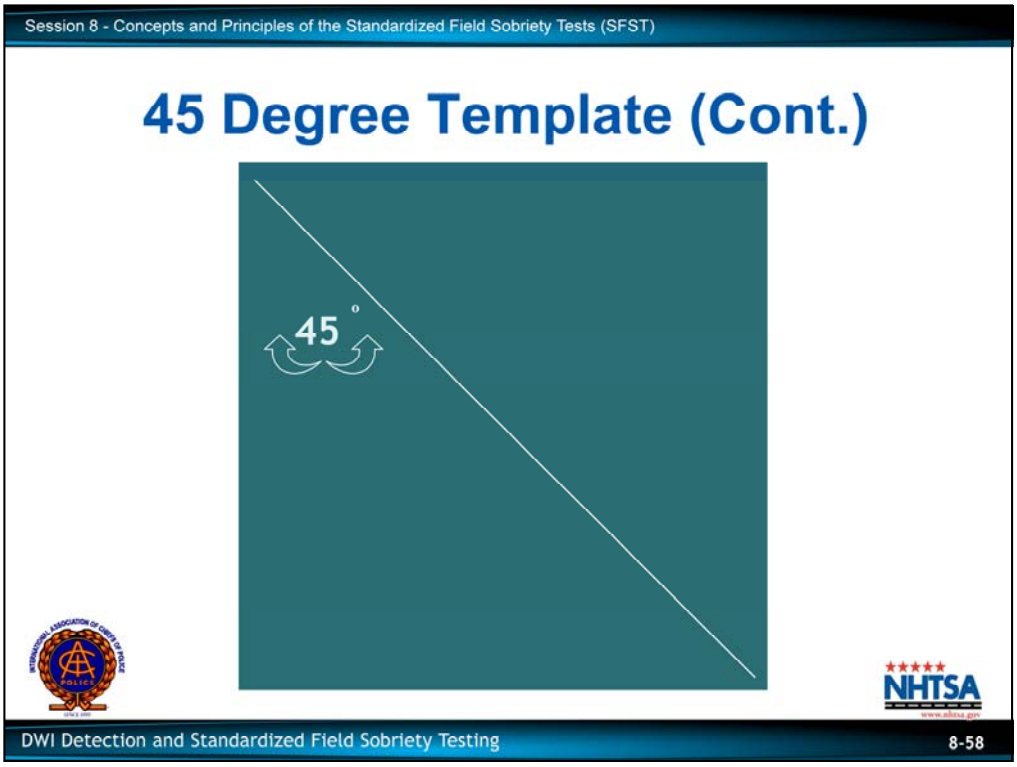
Instruct participants to remove their copies of the template from their participant manuals which is located at the back of Session 8 in Attachments.

- The outline of a square, with its diagonal line, gives us a 45 degree angle.
- This outline, or template, is provided for practice only.
- It is not to be used with actual DWI subjects.

Demonstrate proper placement of the template.

To use the template, have your training partner hold the corner of the square under the nose.

Demonstrate placement of the pencil or penlight.



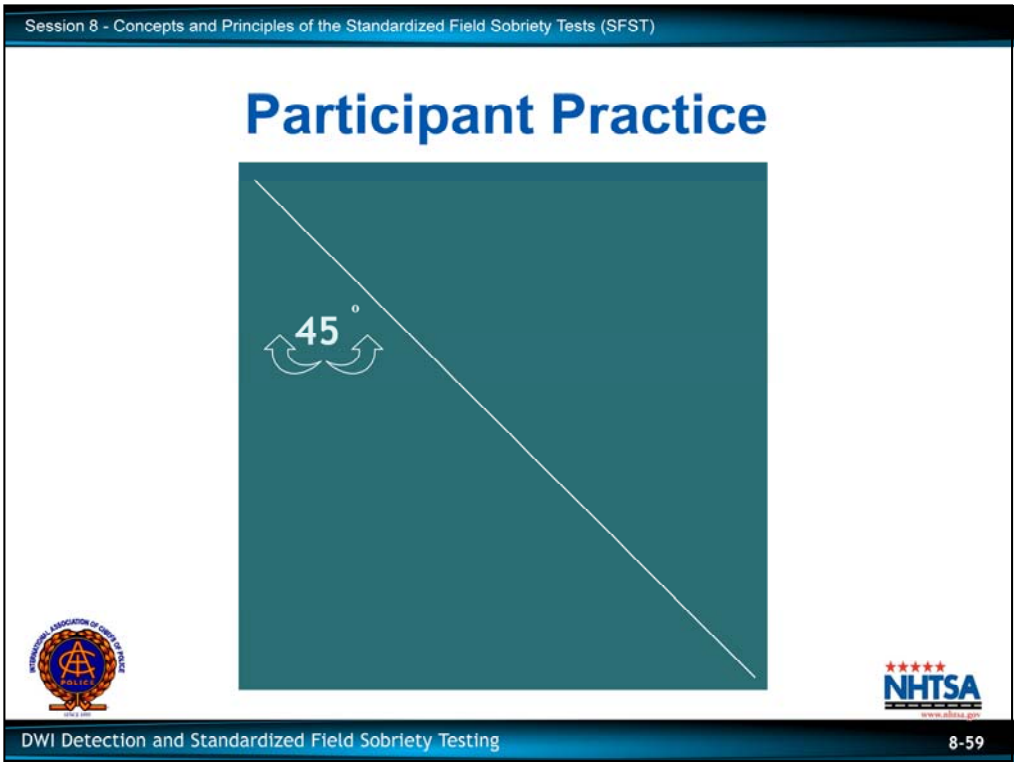
When you line up your stimulus with the diagonal line, your partner will be looking along a 45 degree angle.

Participant practice with 45 degree Template. Practice in groups of two or three, taking turns.

Instruct participants to begin by lining the stimulus up with the diagonal, so they can become familiar with the position of an eye at a 45 degree angle.

Point out the amount of white showing in the corner of an eye at 45 degrees.

Next, instruct each participant to attempt to locate the 45 degree point without using the template, then to raise the template to check the accuracy of the estimate.



Coaching and Critiquing Participants' Practice

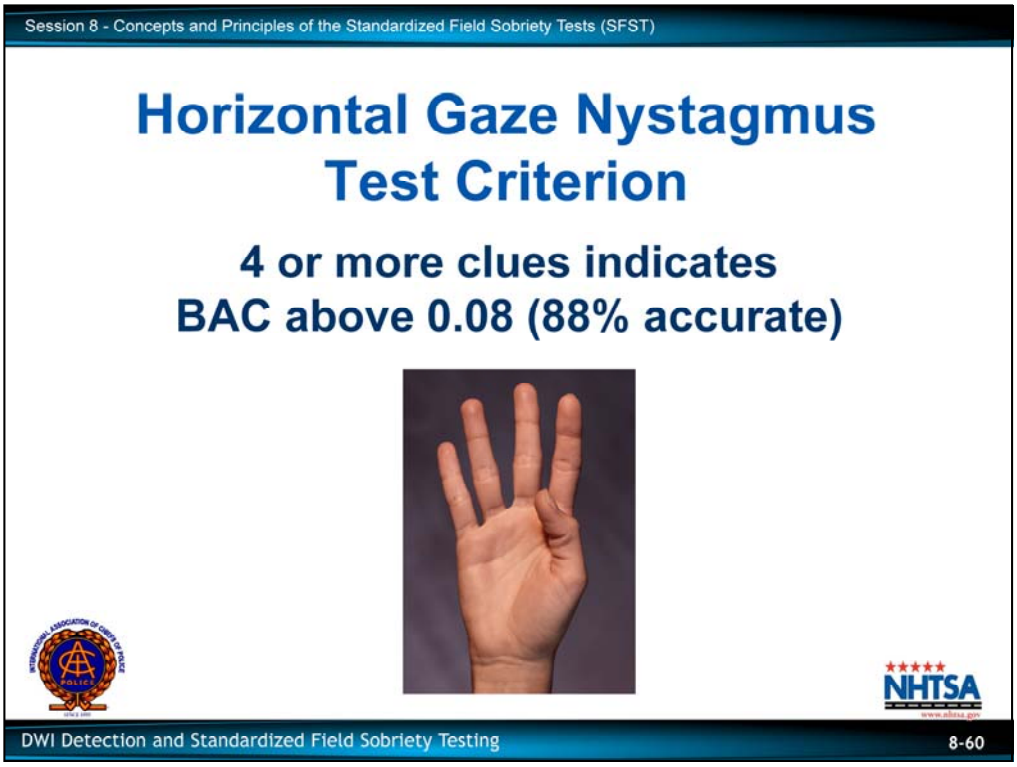
Common initial mistakes to note and correct:

- ***Failing to check for white in the corner of the eye.***
- ***Tending to stop short of 45 degrees.***
- ***Failing to check alignment of object with shoulder.***

Participant led Demonstration

Choose a participant who appears to be doing a good job in estimating a 45 degree angle, and have the participant come forward to demonstrate to the class.

Resume participant practice, and allow it to continue until all participants appear reasonably proficient in carrying out the mechanics of Clue No. 3.



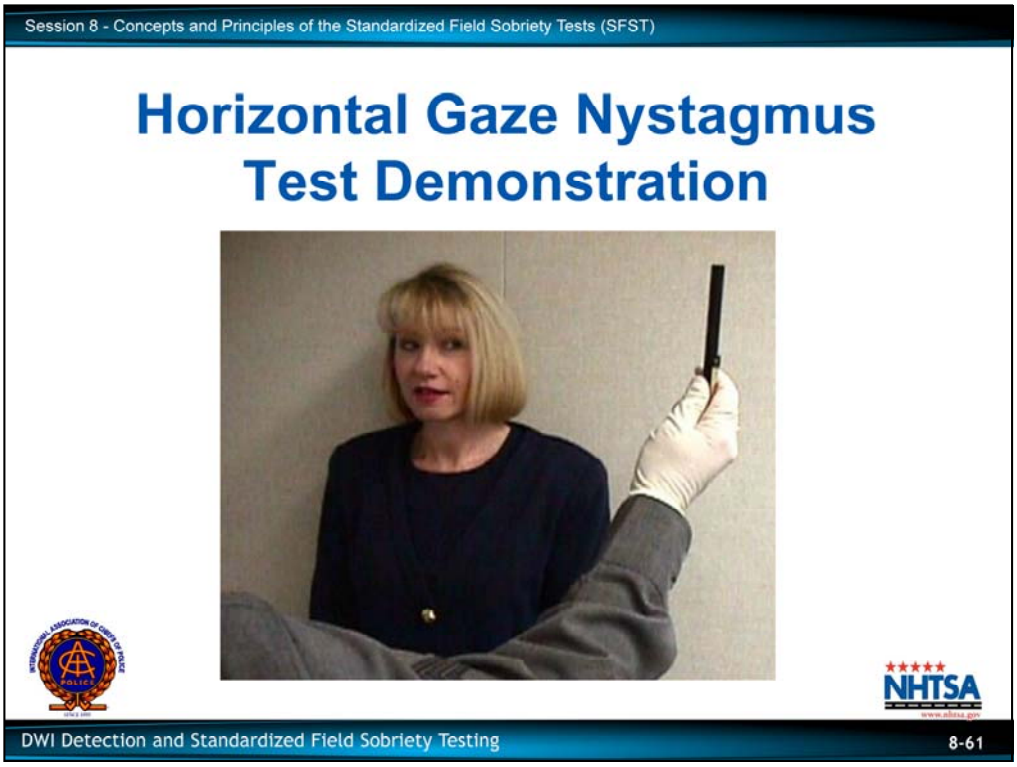
Test Interpretation

Based upon the original developmental research into Horizontal Gaze Nystagmus, the criterion for this test is 4.

If a person exhibits at least 4 out of the possible 6 clues, the implication is a BAC above 0.08.

Using this criterion, the test is 88% accurate.

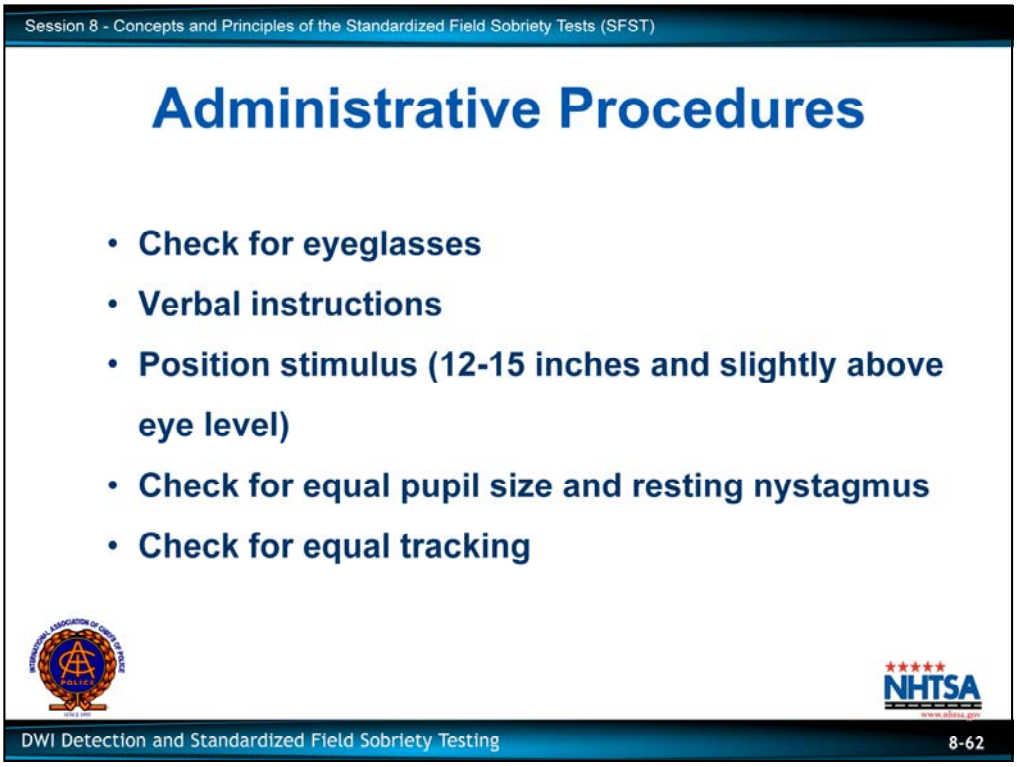
Remind participants that the SFST field evaluation study conducted in San Diego in 1998 indicated that "HGN alone provides valid indications to support arrest decisions at 0.08 BAC."



Test Demonstration

Choose a participant to serve as a demonstration subject.

Advance to next slide to conduct demonstration.



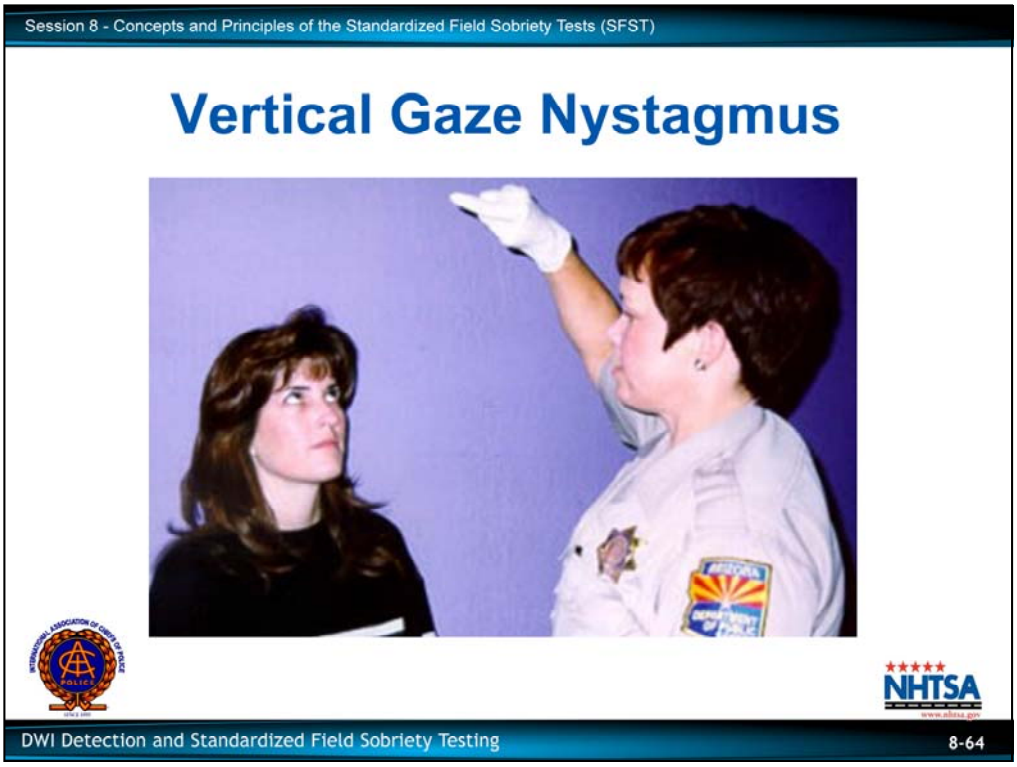
Conduct a complete test of that participant subject, articulating every step in the testing sequence.

Upon completion of the demonstration, solicit participants' questions concerning Horizontal Gaze Nystagmus.

If time permits, conduct another complete demonstration of HGN, using another participant.

Administrative Procedures (Cont.)

- Lack of smooth pursuit
- Distinct and sustained nystagmus as maximum deviation
- Onset of nystagmus prior to 45 degrees
- Total the clues
- Check for vertical nystagmus



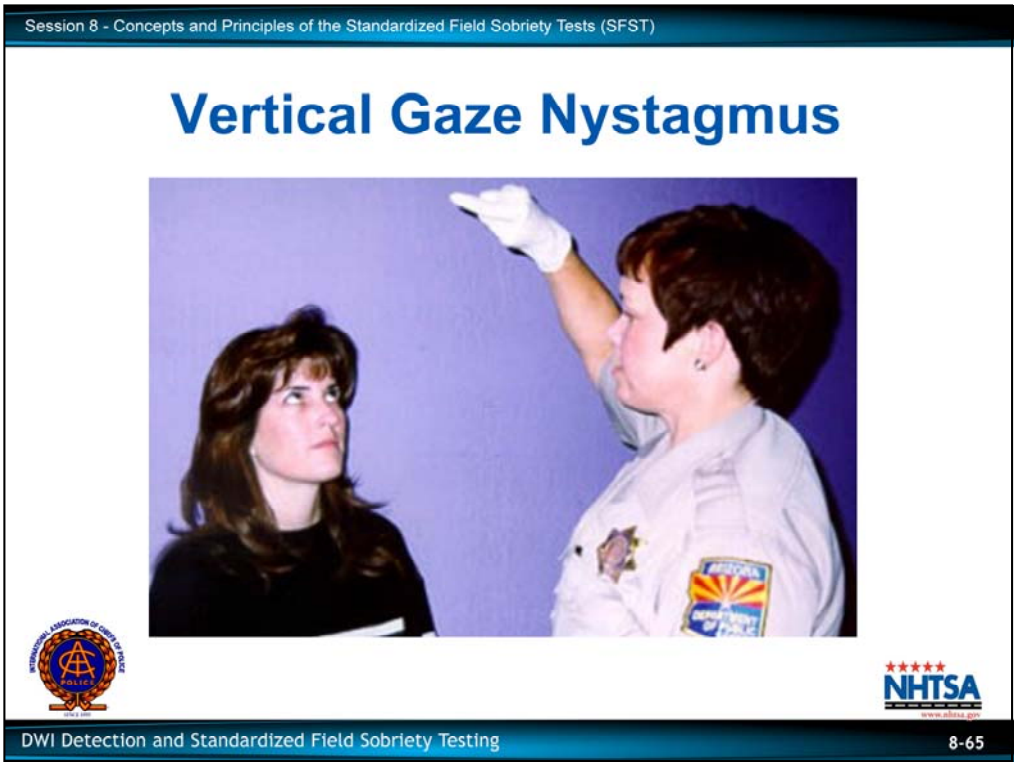
D. Vertical Gaze Nystagmus

The Vertical Gaze Nystagmus test is simple to administer. During the Vertical Gaze Nystagmus test, look for jerking as the eyes move up and are held for a minimum of four seconds at maximum elevation.

- Position the stimulus horizontally, about 12 - 15 inches in front of the subject's nose.
- Instruct the subject to hold the head still, and follow the object with the eyes only.
- Raise the object until the subject's eyes are elevated as far as possible.
- Hold for a minimum of four seconds.
- Watch closely for evidence of the eyes jerking upward.

Point out that vertical nystagmus was not examined in the original research that led to the validation of the Standardized Field Sobriety Test battery (Horizontal Gaze Nystagmus, Walk and Turn and One Leg Stand).

Select a participant or another instructor to serve as a subject and demonstrate the vertical nystagmus test.



Remind the participants to make two checks for Vertical Gaze Nystagmus.

Participant led demonstration.

Practice in groups of two or three, taking turns.

Coaching and critiquing participants practice.

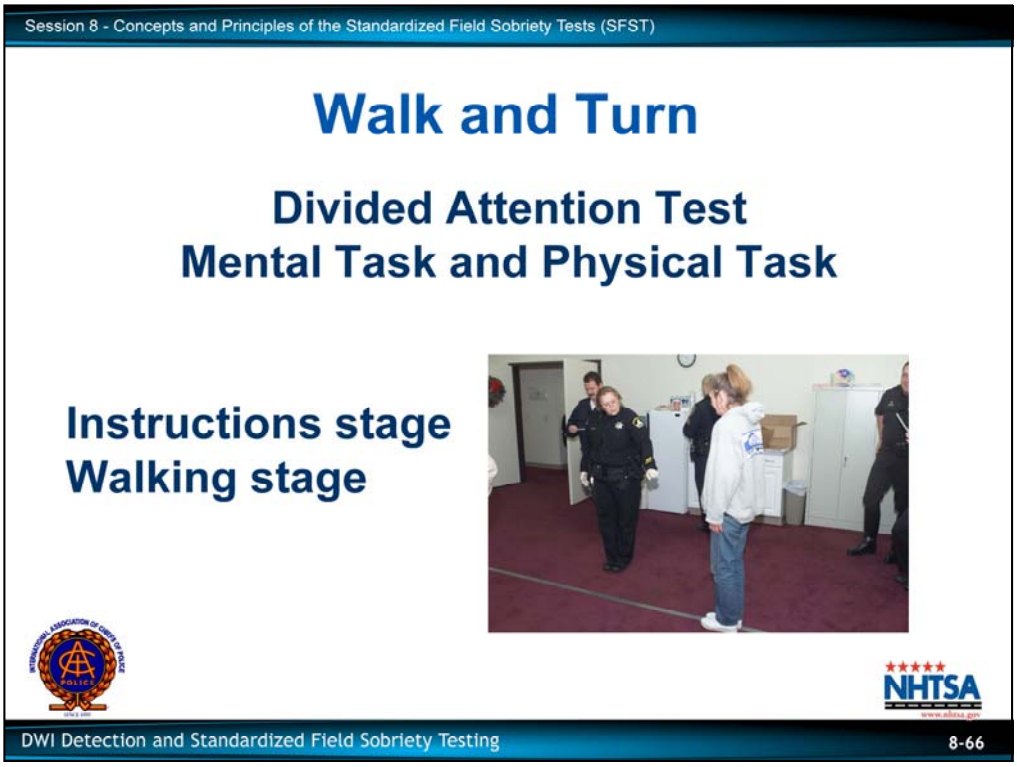
Instruct each participant to practice conducting the test for vertical gaze nystagmus, using another participant as the subject.

Common mistakes to note and correct:

- ***Incorrect position of stimulus (Not at maximum elevation)***
- ***Failure to hold stimulus at maximum deviation for four seconds***

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

VGN may be present in subjects under the influence of high doses of alcohol for that individual, and some other drugs.



E. Walk and Turn

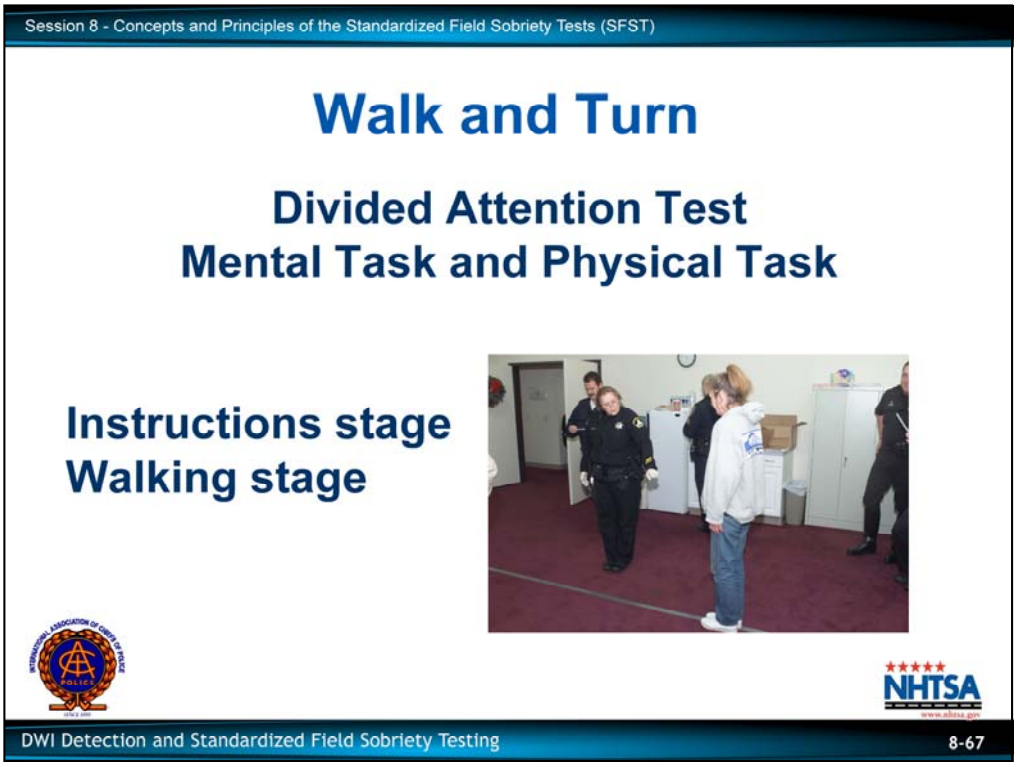
Test Stages

Like all divided attention tests, Walk and Turn has two stages.

They are:

- instructions stage
- walking stage

Both stages are important, because they can affect the subject's overall performance on the test.



Test Conditions

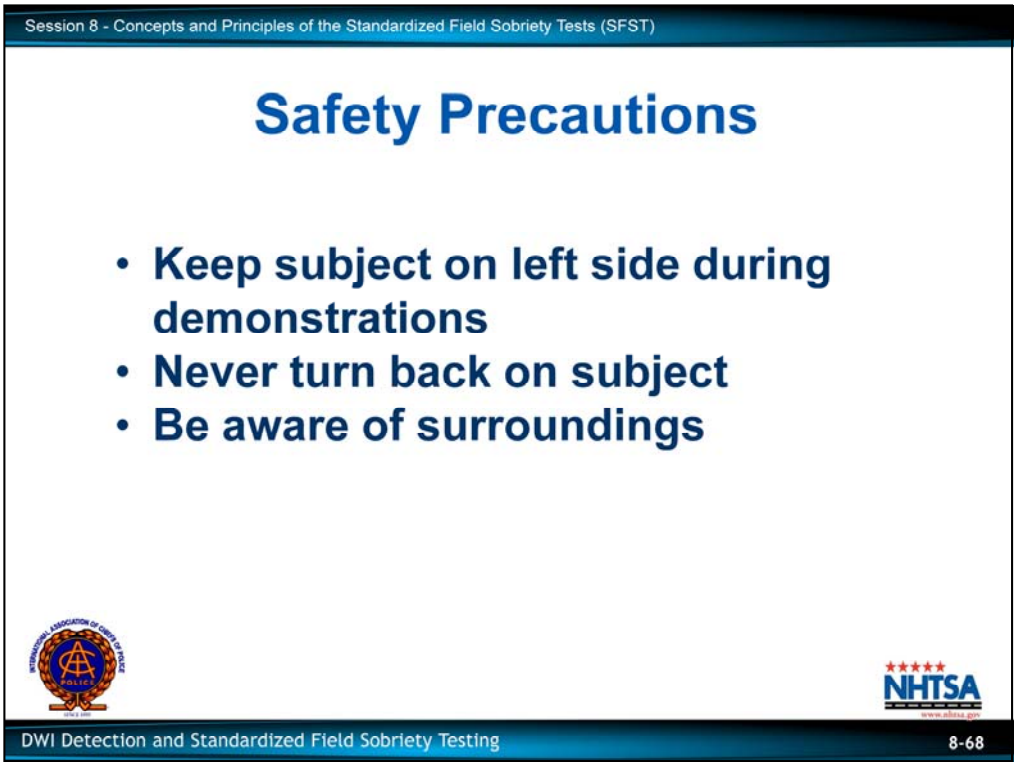
Whenever possible, the Walk and Turn test should be conducted on a reasonably dry, hard, level, non slippery surface. There should be sufficient room for subjects to complete nine heel-to-toe steps. Recent field validation studies have indicated that varying environmental conditions have not affected a subject's ability to perform this test.

The original SCRI studies suggested that individuals over 65 years of age or people with back, leg or inner ear problems had difficulty performing this test. Less than 1.5% of the test subjects in the original studies were over 65 years of age. Also, the SCRI studies suggest that individuals wearing heels more than 2 inches high should be given the opportunity to remove their shoes. Officers should consider all factors when conducting SFSTs.

Stress to participants to consider age along with environmental factors, location, injury, or physical ailments while administering this test. The importance of the totality of all factors should not be overlooked.

Point out that subjects with any form of any unusual footwear (i.e., flip flops, platform shoes, etc.) should be afforded the opportunity to remove that footwear prior to the test.

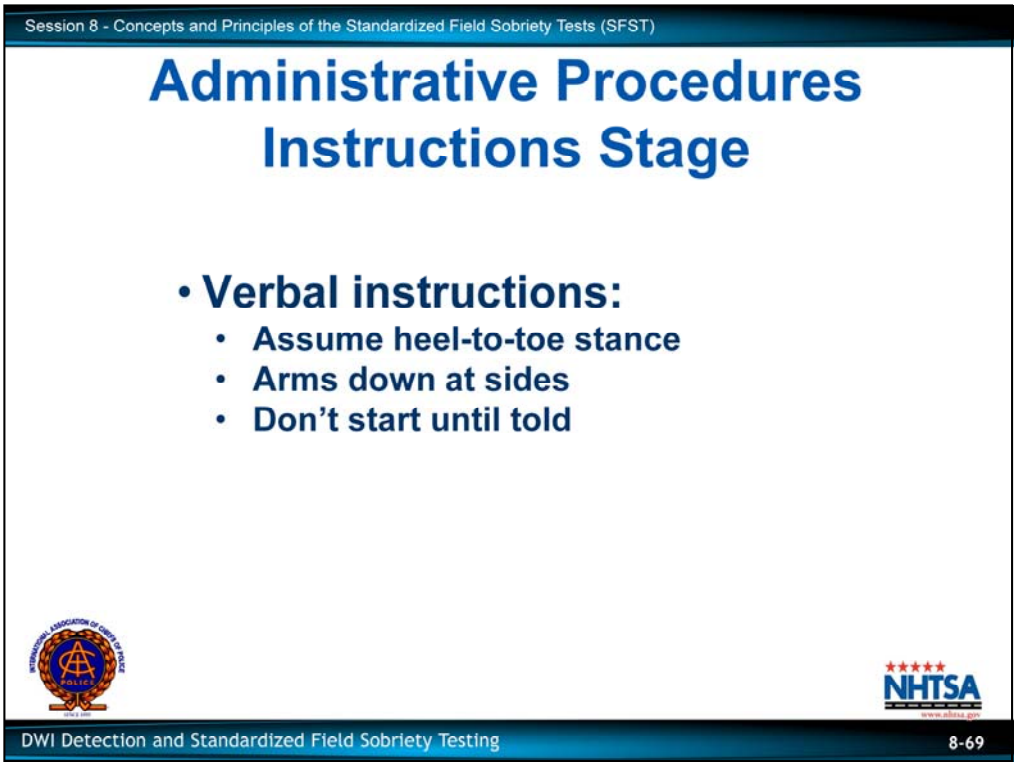
Remind participants that prior to administering this test to ask the subject if they have any physical problems or disabilities.



Procedures for Walk and Turn Testing

Remind participants of officer safety precautions:

- ***Keep subject on left side when initiating demonstrations***
- ***Never turn back on subject***
- ***Aware of surroundings (environment)***
- ***Emphasize that the Officer should not turn his/her back to the subject for safety reasons.***



Instructions Stage: Initial Positioning and Verbal Instructions

For standardization in the performance of this test, have the subject assume the heel-to-toe stance by giving the following verbal instructions, accompanied by demonstrations:

Place your left foot on the line (real or imaginary).

Demonstrate placement of left foot.

Place your right foot on the line ahead of the left foot, with the heel of your right foot against the toe of the left foot.

Demonstrate placement of both feet.

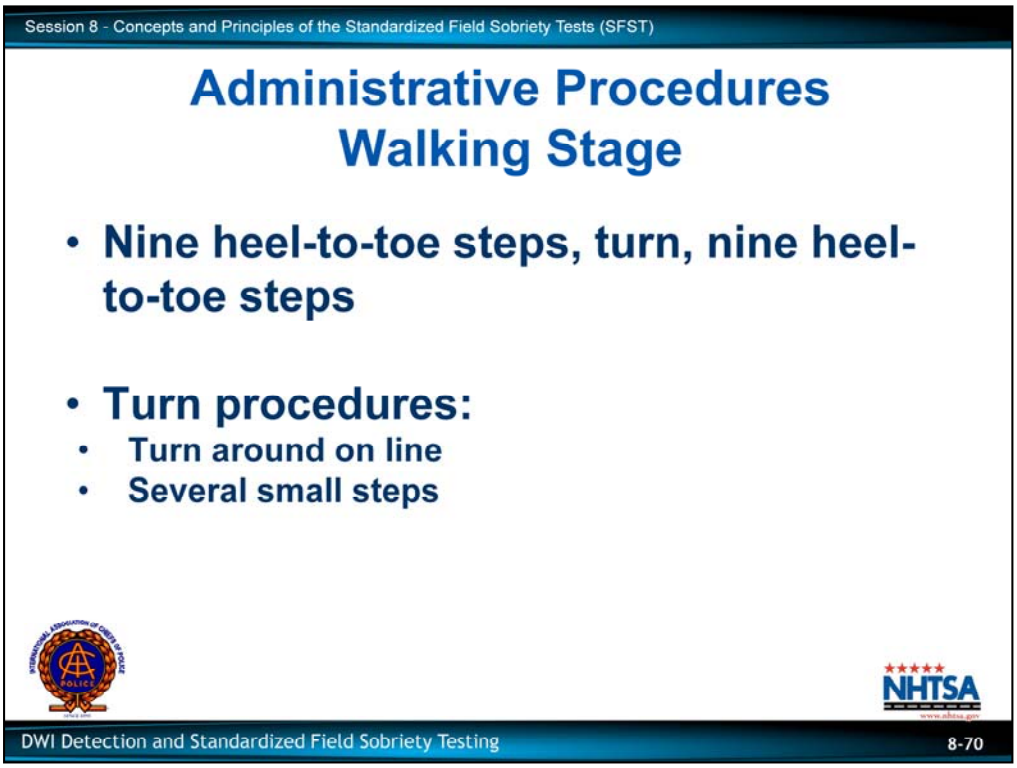
Place your arms down at your sides.

Demonstrate placement of arms at sides.

Maintain this position until I have completed the instructions. Do not start to walk until told to do so.

Do you understand the instructions so far? (Make sure subject indicates understanding.)

Emphasize that officer must receive some affirmative response before continuing.



Demonstrations and Instructions for the Walking Stage

A straight line must be available for this and subsequent demonstrations.

A 10 - 12 foot strip of masking tape on the floor of the classroom will prove suitable.

Explain the test requirements by giving instructions, accompanied by demonstrations:

When I tell you to start, take nine heel-to-toe steps on the line, turn, and take nine heel-to-toe steps down the line.

Demonstrate a minimum of three heel-to-toe steps.

When you turn, keep the front (lead) foot on the line, and turn by taking a series of small steps with the other foot, like this.

Demonstrate the turn and a minimum of three heel-to-toe return steps

While you are walking, keep your arms at your sides, watch your feet at all times, and count your steps out loud.

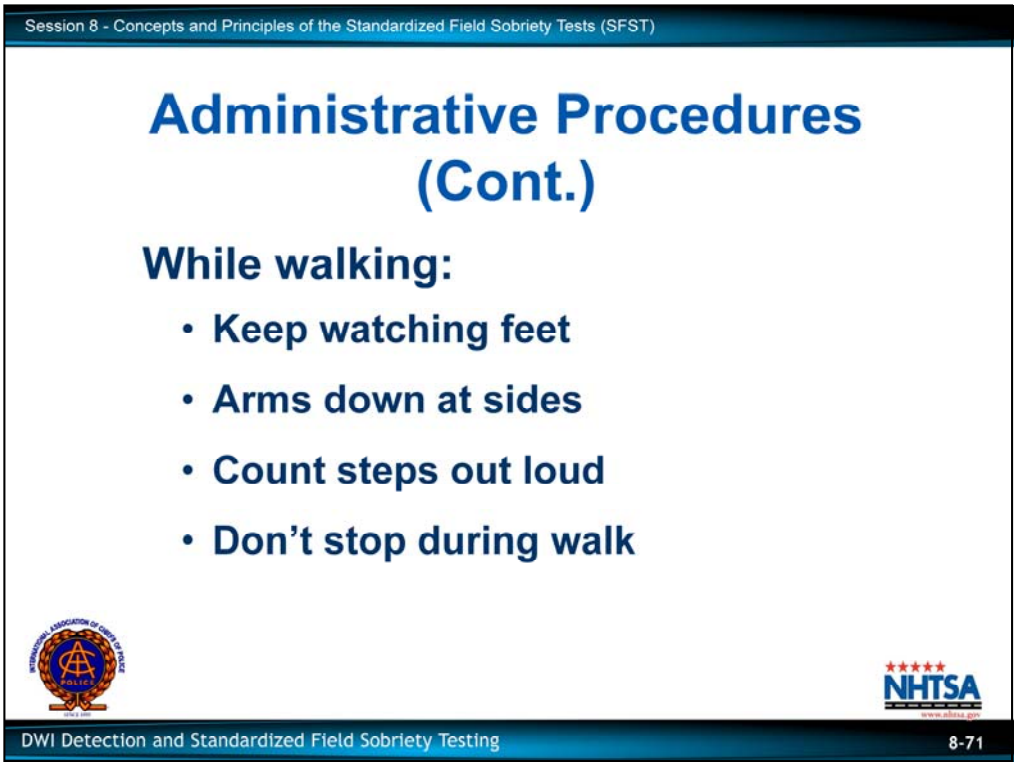
Once you start walking, don't stop until you have completed the test.

Do you understand the instructions? (Make sure subject understands.)

Instruct the person to begin the test.

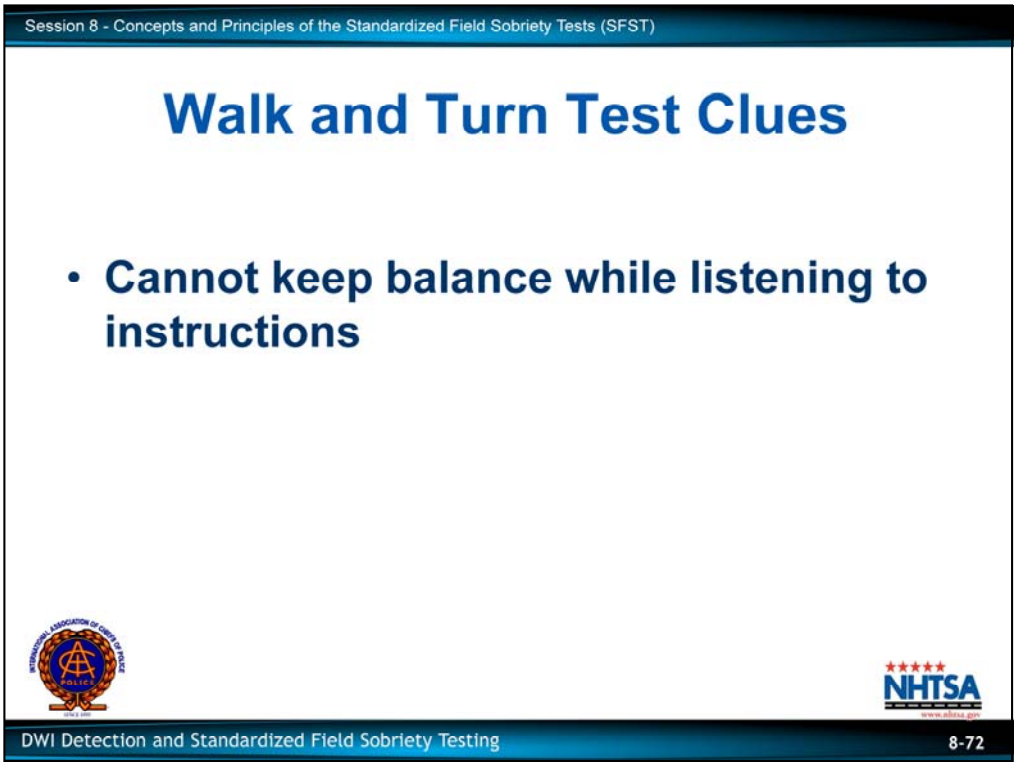
Instructor's demonstration (repeat if necessary).

Instruct the participants that there may be instances when the officer may have to remind the suspect that the first step taken from the heel-to-toe position is step one.



While walking:

- Keep watching feet
- Arms down at sides
- Count steps out loud
- Don't stop during walk



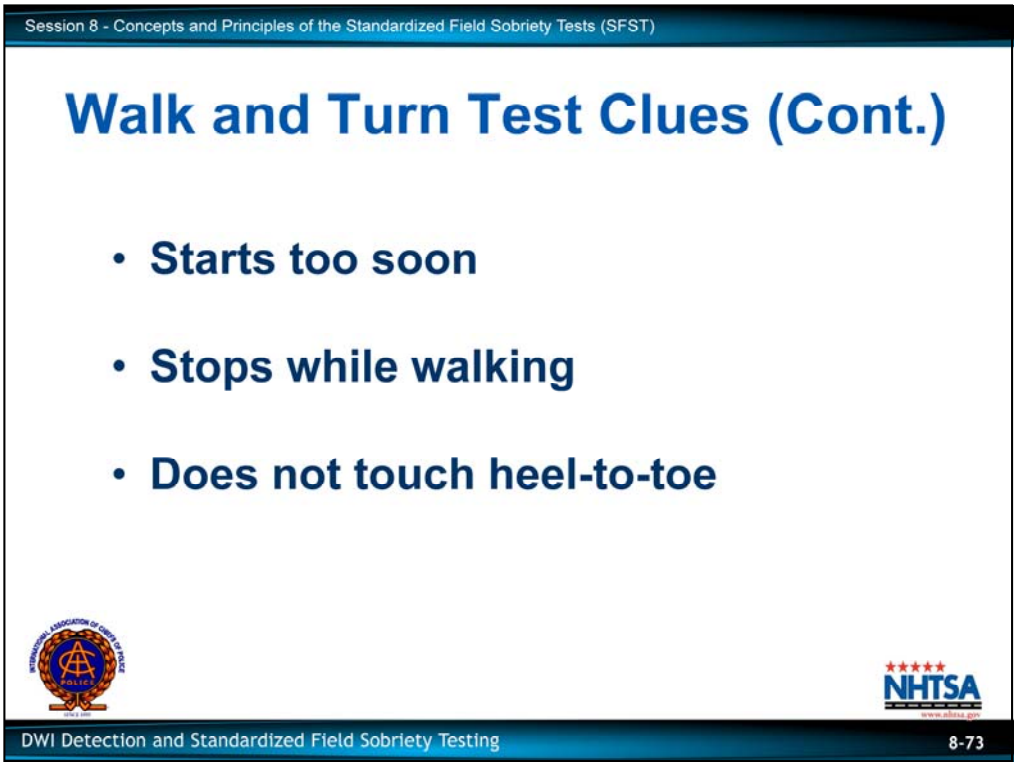
Test Interpretation

You may observe a number of different behaviors when a subject performs this test. Original research demonstrated that the behaviors listed below are likely to be observed in someone with a BAC at or above 0.08. Look for the following clues each time this test is given:

Cannot keep balance while listening to the instructions. Two tasks are required at the beginning of this test. The subject must balance heel-to-toe on the line, and at the same time, listen carefully to the instructions. Typically, the person who is impaired can do only one of these things. The subject may listen to the instructions, but not keep balance. Record this clue if the subject does not maintain the heel-to-toe position throughout the instructions. (Feet must actually break apart or step off the line.) Do not record this clue if the subject sways or uses the arms to balance but maintains the heel-to-toe position.

Instructor may break away from the heel-to-toe stance at this point.

Demonstrate actions that constitute "Cannot keep balance while listening to instructions", and demonstrate other actions that do not justify recording this clue.



Starts too soon. The impaired person may also keep balance, but not listen to the instructions. Since you specifically instructed the subject not to start walking "until I tell you to begin," record this clue if the subject does not wait.

Emphasize that this clue can't be recorded unless subject was told not to start walking until directed to do so.

Stress to the participants that these first two clues, like all clues in this test, can be accumulated only once.

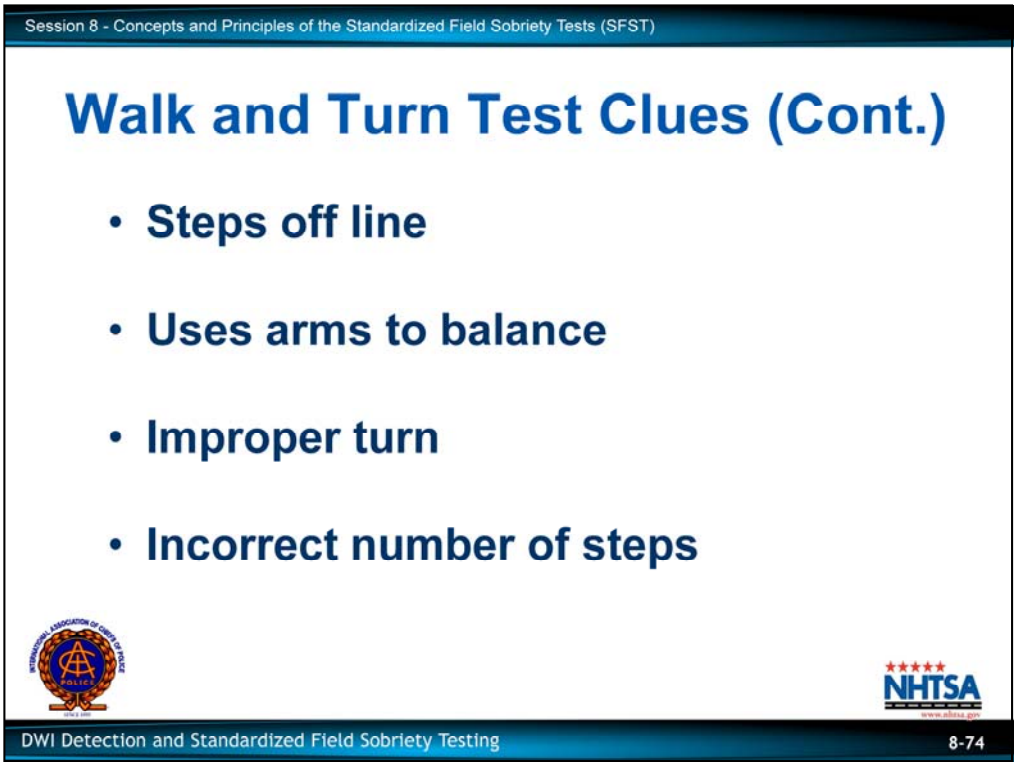
Demonstrate.

Stops while walking. The subject stops while walking. Do not record this clue if the subject is merely walking slowly.

Emphasize that it is because of this clue that it is important to inform the subject not to stop walking once the test begins.

Does not touch heel-to-toe. The subject leaves a space of more than one half inch between the heel and toe on any step.

Point out that a gap of at least one half inch is necessary to record this clue.



Steps off the line. The subject steps so that one foot is entirely off the line.

Uses arms to balance. The subject raises one or both arms more than 6 inches from the sides in order to maintain balance.

Point out that a movement of the arms of six or more inches from the side is required to record this clue.

Demonstrate each of these clues.

Point out that it is often possible to note two of these clues simultaneously. Examples: (Demonstrate)

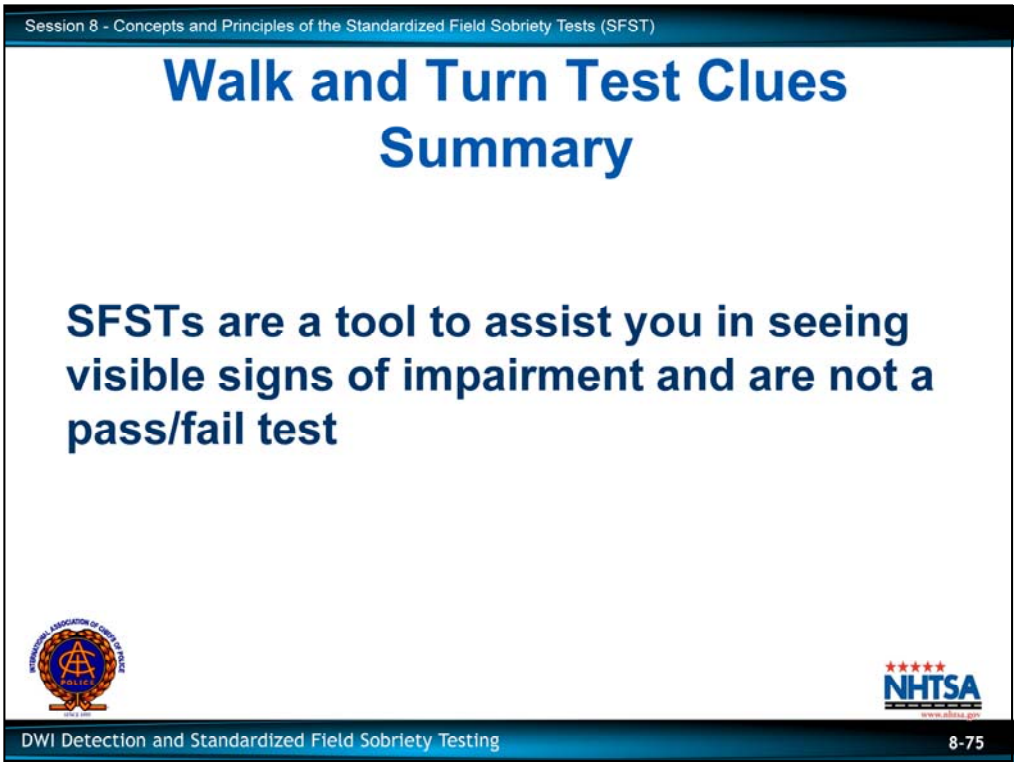
Improper turn. The subject removes the front foot from the line while turning. Also record this clue if the subject has not followed directions as instructed, i.e., spins or pivots around or loses balance while turning.

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.

Demonstrate various ways of turning incorrectly (i.e., pivots, spins).

Incorrect number of steps. Record this clue if the subject takes more or fewer than nine steps in either direction.

Emphasize that it is the number of steps that the subject physically takes that matters here. Mistakes in the verbal count do not justify recording this clue.



If subject can't do the test, record observed clues and document the reason for not completing the test, e.g. subject's safety.

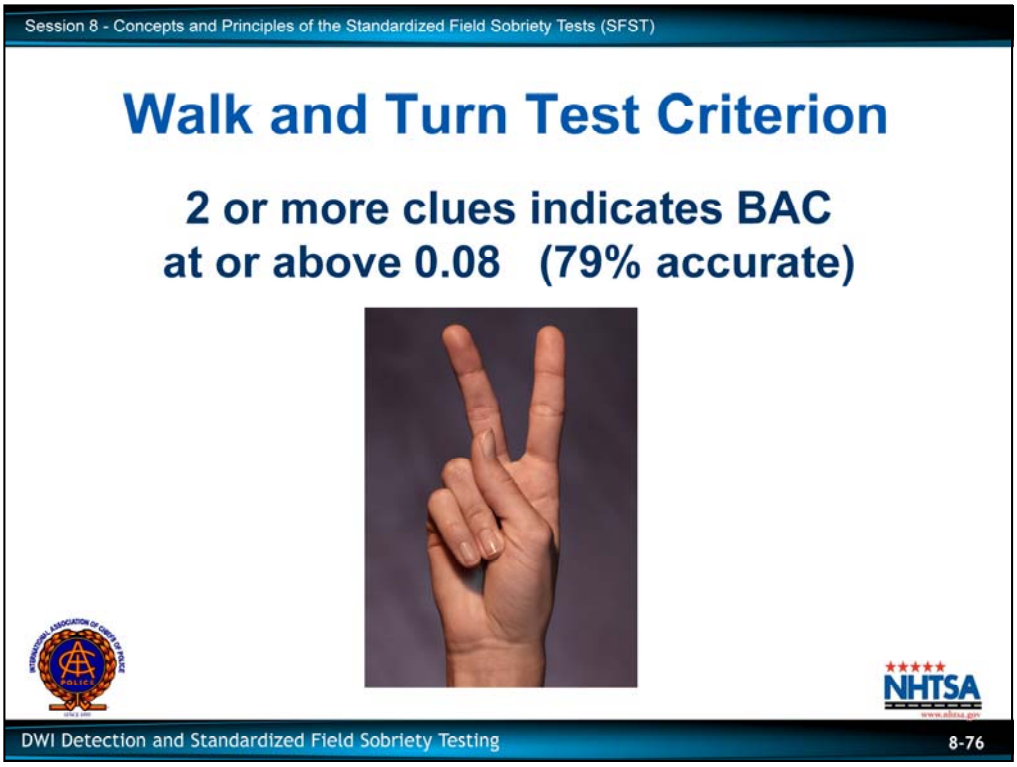
Emphasize that officers should be prepared to explain in court why the subject could not complete the test.

Remember that the SFSTs are a tool to assist you in seeing visible signs of impairment and are not a pass/fail test.

Subject gets into a "leg lock" position (legs crossed, unable to move.)

If the subject has difficulty with the test (for example, steps off the line), Continue from that point, not from the beginning. This test may lose its sensitivity if it is repeated several times.

Observe the subject from a safe distance and limit your movement which may distract the subject during the test. **Always consider officer safety.**



Based on recent research, if the subject exhibits two or more clues on this test or fails to complete it, classify the subject's BAC as at or above 0.08. Using this criterion, you will be able to accurately classify 79% of your subjects.

This accuracy level was determined through the San Diego Study ("Validation of the Standardized Field Sobriety Test Battery at BACs Below 0.10 %").

Review of Divided Attention Definition

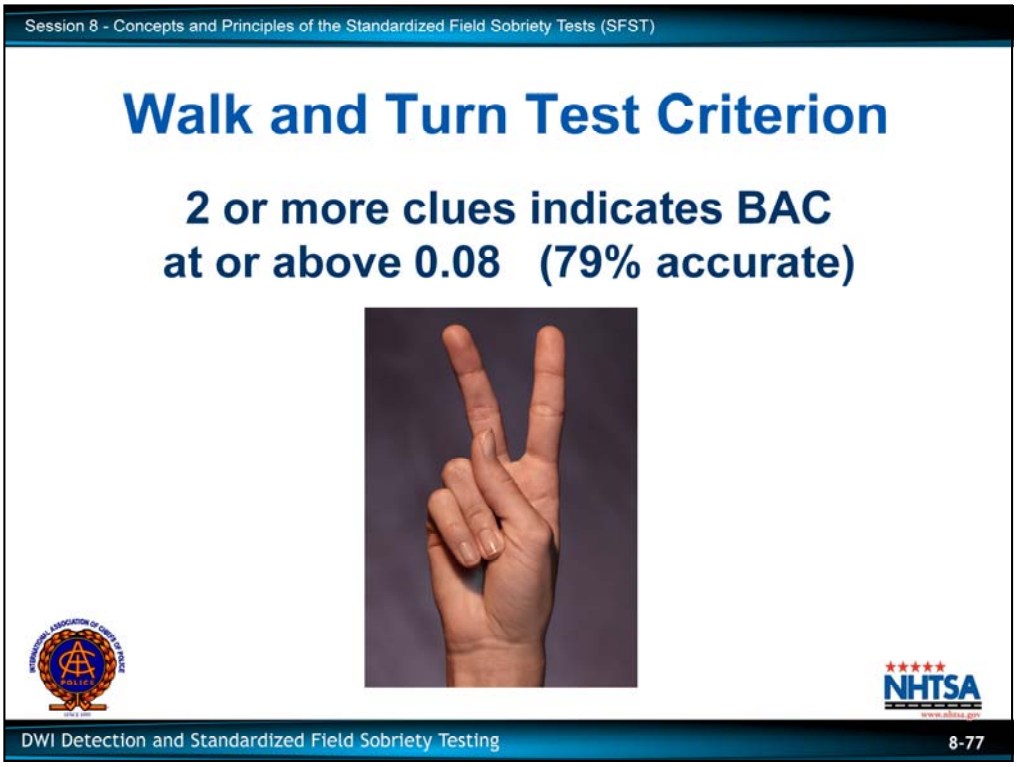
Walk and Turn is a field sobriety test based on the important concept of divided attention.

Pose this question: "What driving skills are assessed during the Walk and Turn test?" Lead the discussion, as these items were previously identified in Session 7.

The test requires the subject to divide attention among mental tasks and physical tasks.

The mental tasks include comprehension of verbal instructions; processing of information; and, recall of memory.

The physical tasks include balance and coordination; the subject is required to maintain balance and coordination while standing still, walking, and turning.



Instruction Stage

Select a participant to participate as a subject in the demonstration.

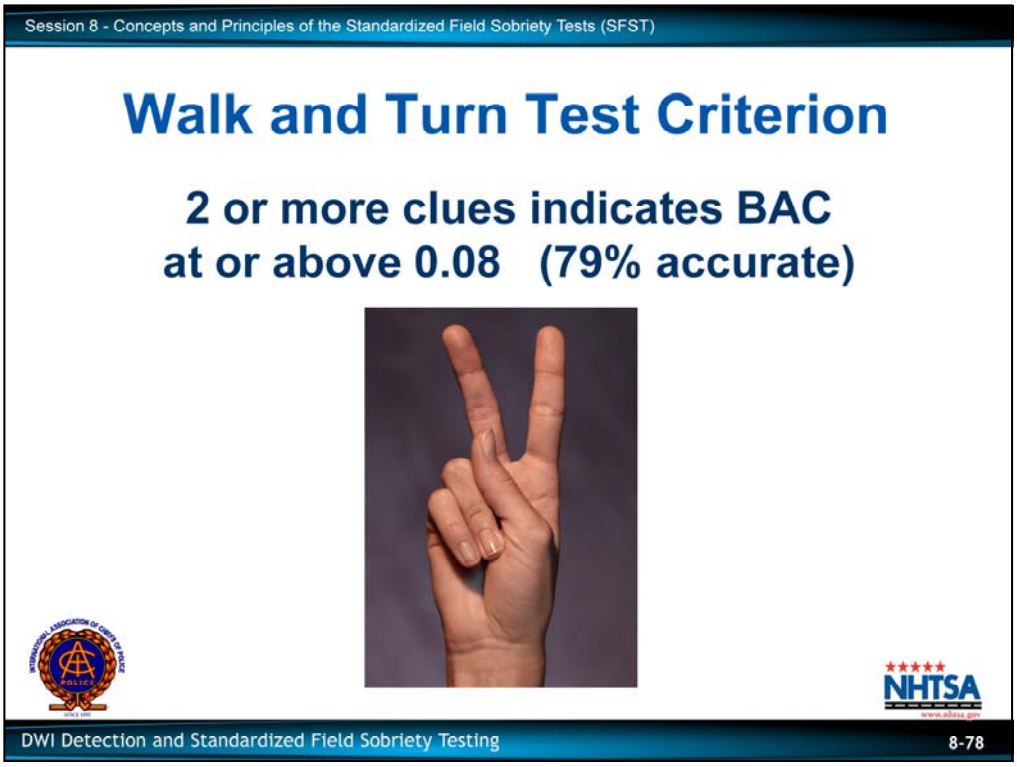
Use precise language to direct the participant subject to assume the instructions stance.

Tell the participant subject to assume the instructions stance.

Make sure directions are understood.

Tell the participant subject not to start walking until told to do so.

Tell the participant subject of the requirement to take nine heel-to-toe steps, to turn, and to take another nine heel-to-toe steps.



Balance and Counting Stage

Demonstrate several heel-to-toe steps.

Tell the participant subject of the required turn procedures.

Demonstrate the proper turn.

Demonstrate the turn.

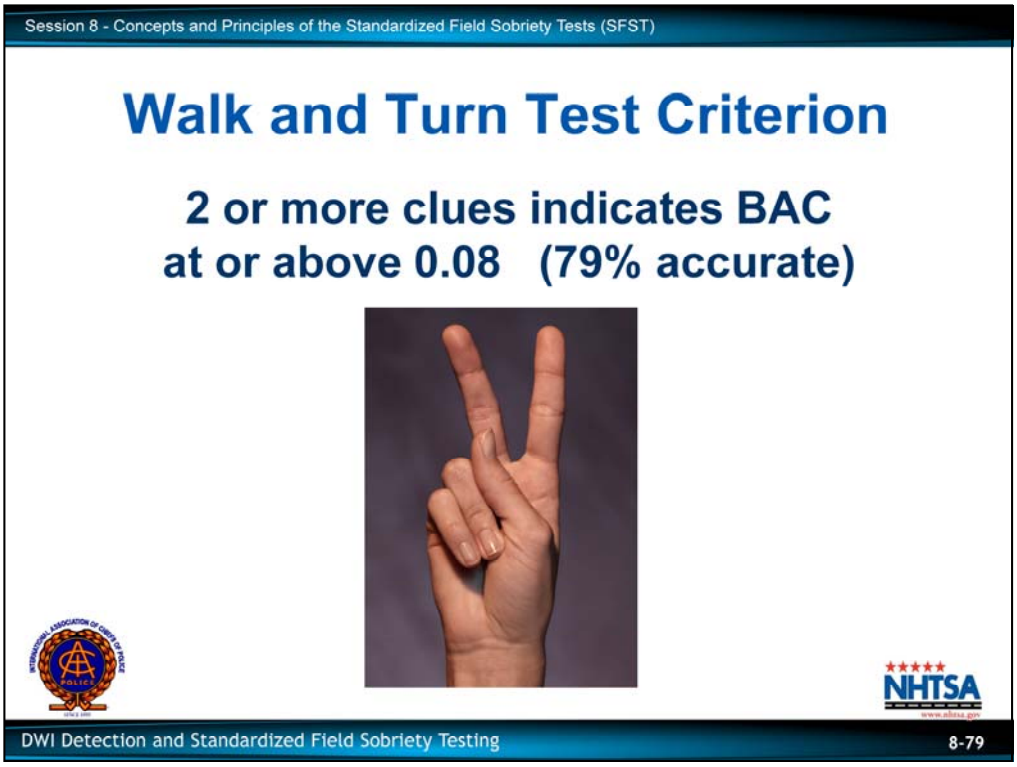
Give the participant subject the final verbal instructions:

- ***Keep watching feet***
- ***Count steps out loud***
- ***Arms at sides***
- ***Don't stop walking until test is completed***

Ask participant subject if instructions are understood. Clarify any parts that are not understandable.

At this point, do not instruct the participant subject to execute the test. Rather, thank the participant subject for participating and allow the participant to return to the seat.

Solicit participants' questions concerning the test administrative procedures.



Test Demonstrations

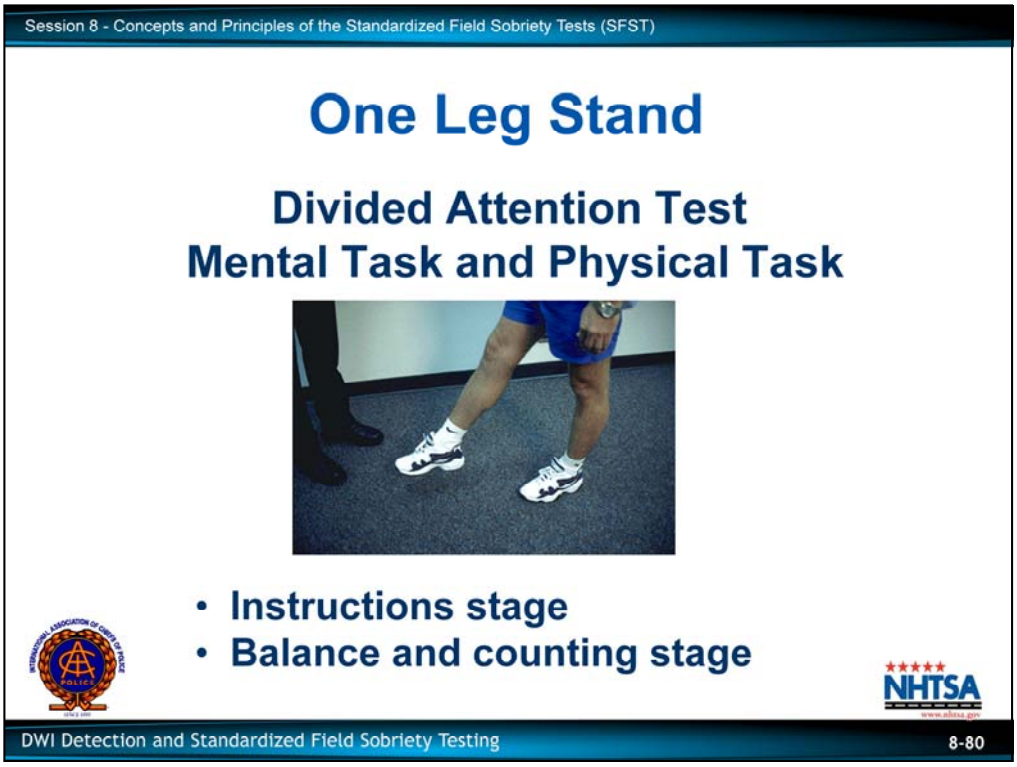
Choose a participant to serve as a demonstration subject.

Conduct a complete test of the participant subject, carefully carrying out all of the administrative procedures. Refer to the walk and turn administrative procedures in the Participant Manual.

Have the participant subject actually perform the walking stage of the test.

Discuss the participant subject's performance in terms of the test scoring factors. Refer to the walk and turn clues in the Participant Manual.

If time permits, conduct another demonstration using another participant subject.



F. One Leg Stand

Remind participants that prior to administering this test to check if the subject has any physical problems or disabilities.

Test Stages

Like all divided attention tests, One Leg Stand has two stages.

They are:

- Instructions stage
- Balance and counting stage

Both stages are important, because they can affect the subject's overall performance on the test.

Test Conditions

One Leg Stand requires a reasonably dry, hard, level, and non slippery surface. Subject's safety should be considered at all times.

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:

1) subject be asked to perform the test elsewhere, or

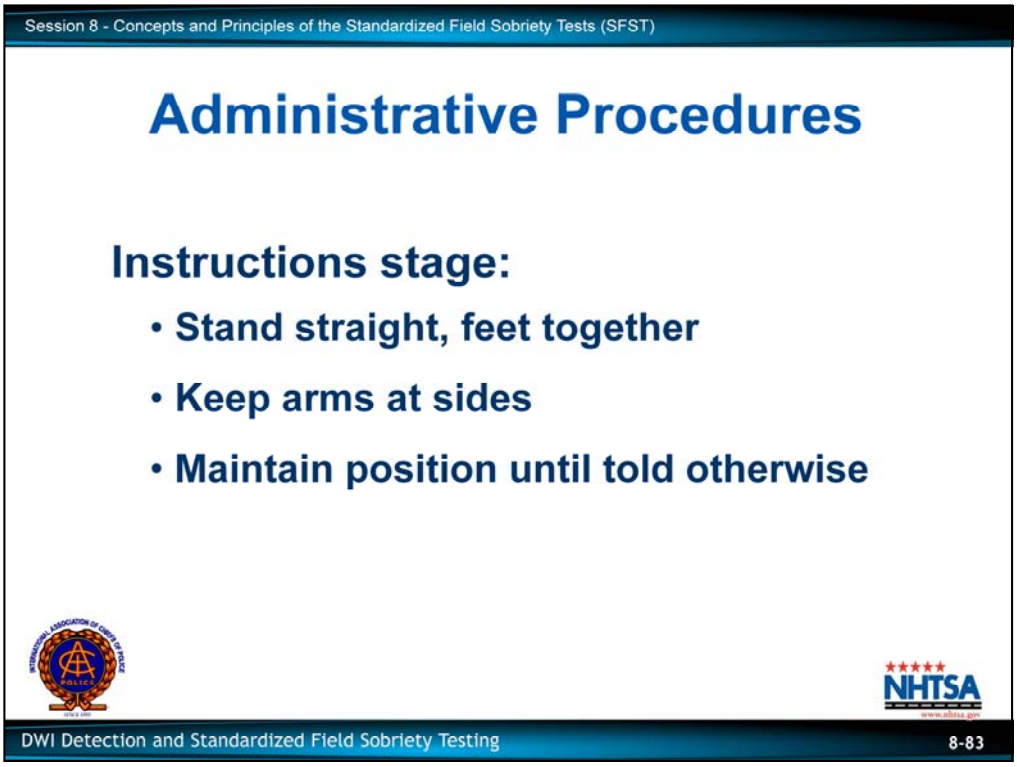
2) only HGN be administered

However, recent field validation studies have indicated that varying environmental conditions have not affected a subject's ability to perform this test.

The original SCRI studies suggested that individuals over 65 years of age; people with back, leg or inner ear problems; or people who are overweight by 50 or more pounds may have difficulty performing this test. 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 included in the final report. Also, the SCRI studies suggest that individuals wearing heels more than 2 inches high should be given the opportunity to remove their shoes.

Stress to participants to consider age and excessive weight along with environmental factors, location, injury, or physical ailments while administering this test. The importance of the totality of all factors should not be overlooked.

Point out that subjects with any form of any unusual footwear (i.e., flip flops, platform shoes, etc.) should be afforded the opportunity to remove that footwear prior to the test.



Instructions Stage: Initial Positioning and Verbal Instructions

Initiate the test by giving the following instructions, accompanied by demonstrations.

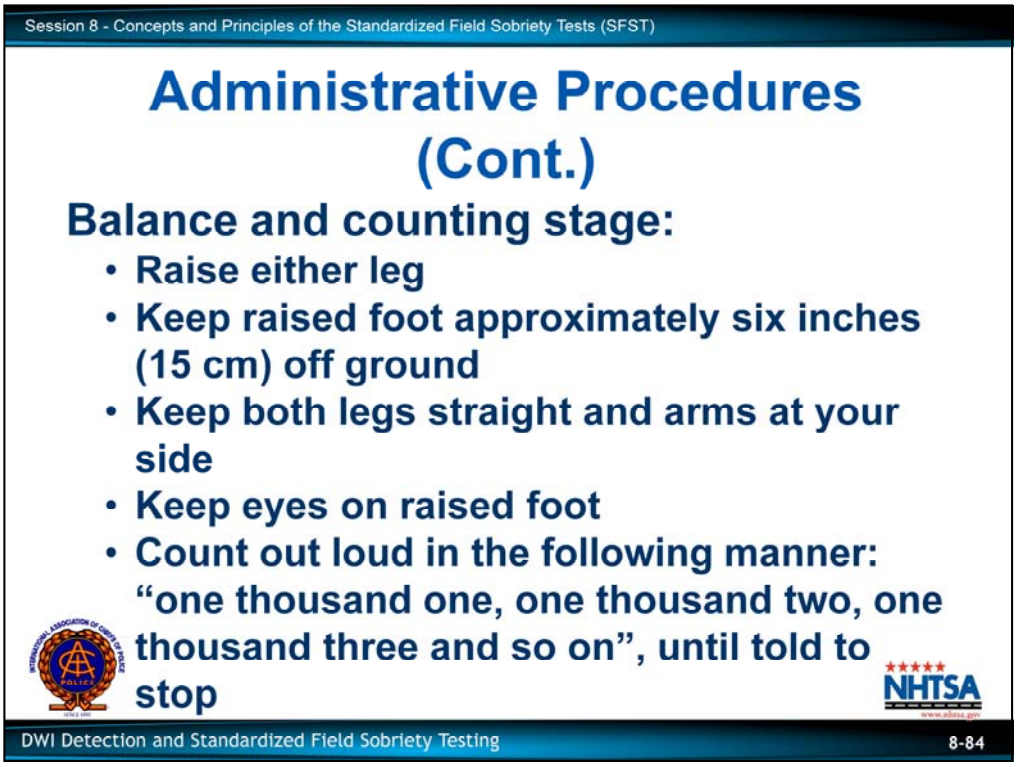
Please stand with your feet together and your arms down at the sides, like this.

Demonstrate placement of both feet and placement of arms at sides.

Do not start to perform the test until I tell you to do so.

Do you understand the instructions so far?

Emphasize that officer must receive some affirmative response before continuing.



Demonstrations and Instructions for the Balance and Counting Stage

Explain the test requirements, using the following verbal instructions, accompanied by demonstrations:

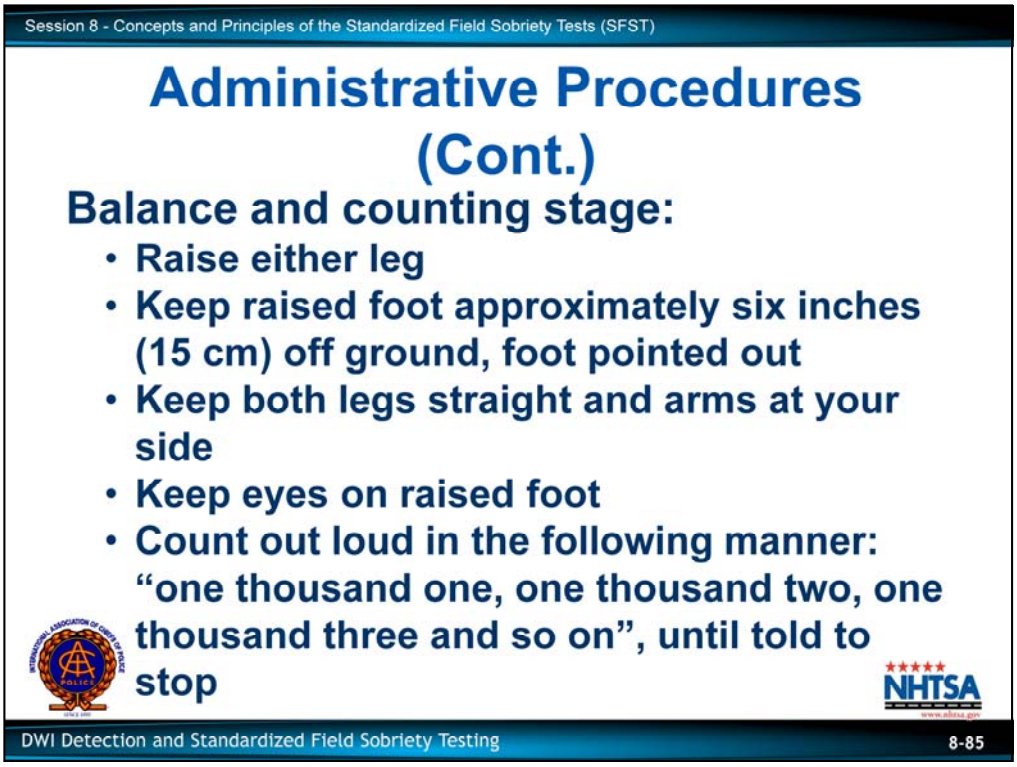
When I tell you to start, raise either leg with the foot approximately six inches off the ground.

Demonstrate this position.

Keep both legs straight and your arms at your side.

While holding that position, count out loud in the following manner: “one thousand one, one thousand two, one thousand three,” and so on until told to stop.

Demonstrate a count, as follows: "one thousand one, one thousand two, one thousand three, etc." Officer should not look at his foot when conducting the demonstration - OFFICER SAFETY.



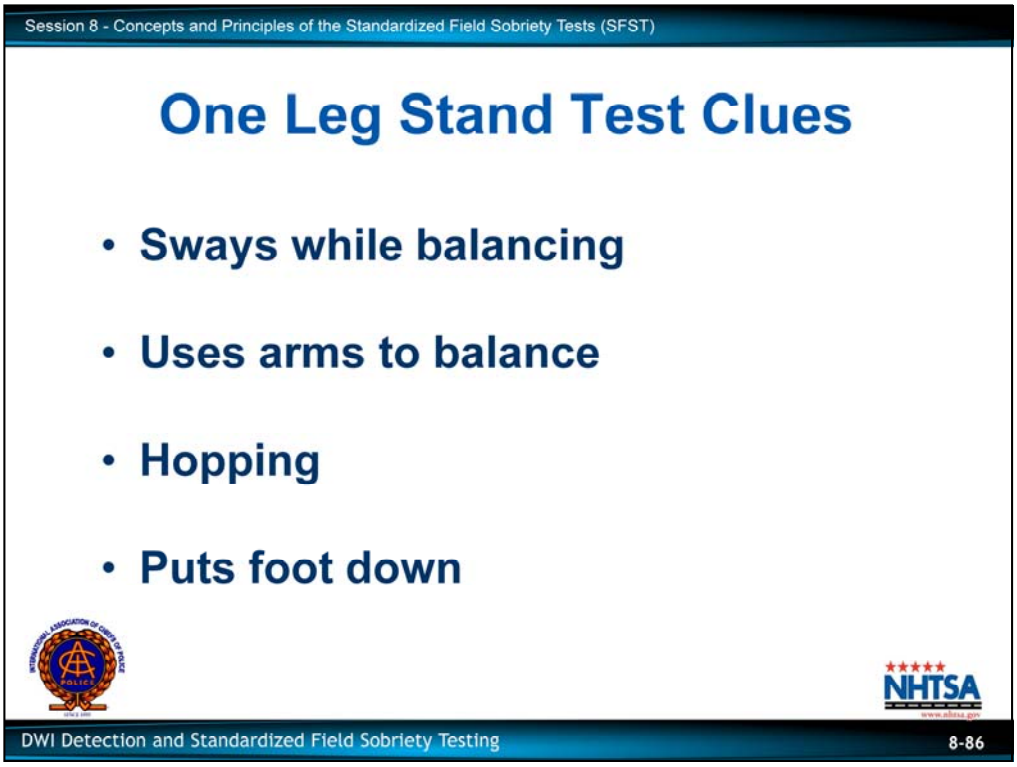
Keep your arms at your sides at all times and keep watching the raised foot.

Do you understand?

Make sure subject indicates understanding and answer any questions the subject may have about the test.

Go ahead and perform the test. (Officer should always time the 30 seconds. Test should be discontinued after 30 seconds.)

Observe the subject from a safe distance. If the subject puts the foot down, give instructions to pick the foot up again and continue counting from the point at which the foot touched the ground. If the subject counts very slowly, terminate the test after 30 seconds.



Test Interpretation

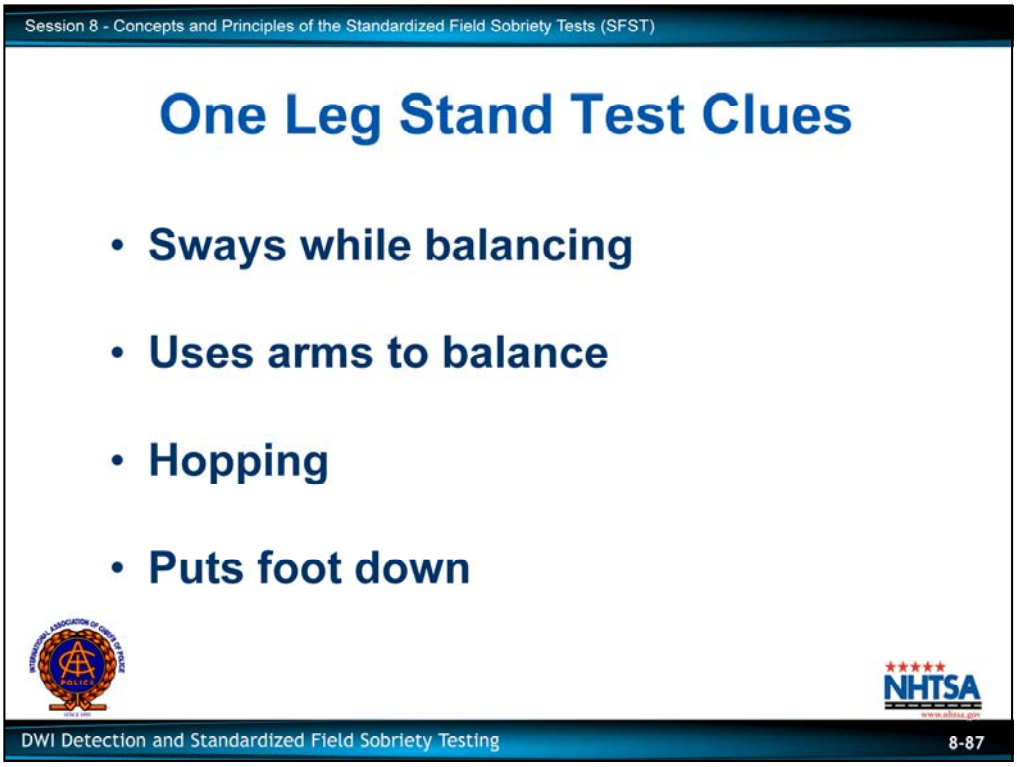
You may observe a number of different behaviors when a subject performs this test. The original research found the behaviors listed below are the most likely to be observed in someone with a BAC at or above 0.08. When administering the One Leg Stand test, we look for certain specific behaviors. Each behavior or action is considered one clue. There is a maximum number of 4 clues on this test. Look for the following clues each time the One leg Stand test is administered.

The subject sways while balancing. This refers to side to side or back and forth motion while the subject maintains the one leg stand position.

Emphasize that swaying means a distinct, noticeable side to side or front to back movement of the elevated foot or of the subject's body.

Slight tremors of the foot or body should not be interpreted as swaying.

Demonstrate swaying.



Uses arms to balance. Subject moves arms 6 or more inches from the side of the body in order to keep balance.

Point out that a movement of the arms of six inches or more from the side is sufficient to record this clue.

Demonstrate uses arms to balance.

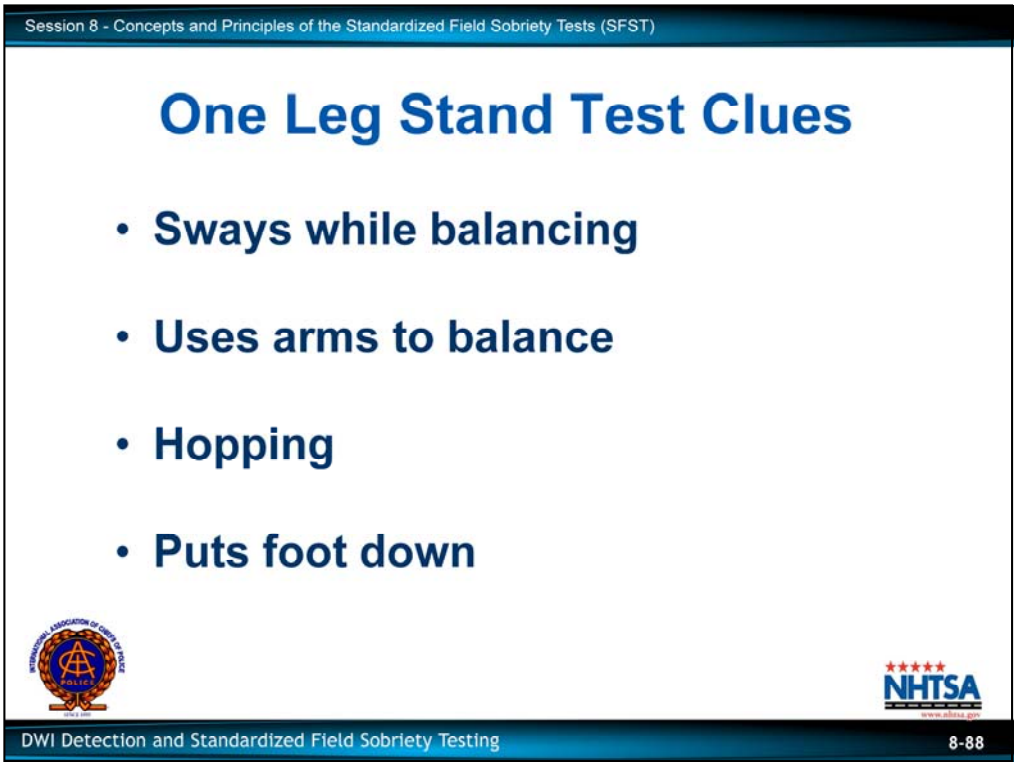
Hopping. Subject is able to keep one foot off the ground, but resorts to hopping in order to maintain balance.

Demonstrate hopping.

Puts foot down. The subject is not able to maintain the one leg stand position, putting the foot down one or more times during the 30 second count.

Demonstrate putting the foot down.

If the subject puts the foot down, give instructions to pick the foot up again and continue counting from the point at which the foot touched.



Emphasize some subjects count slowly and may stand on the leg for more than 30 seconds. Terminate the test after 30 seconds have passed.

Point out that it is possible to note two clues simultaneously.

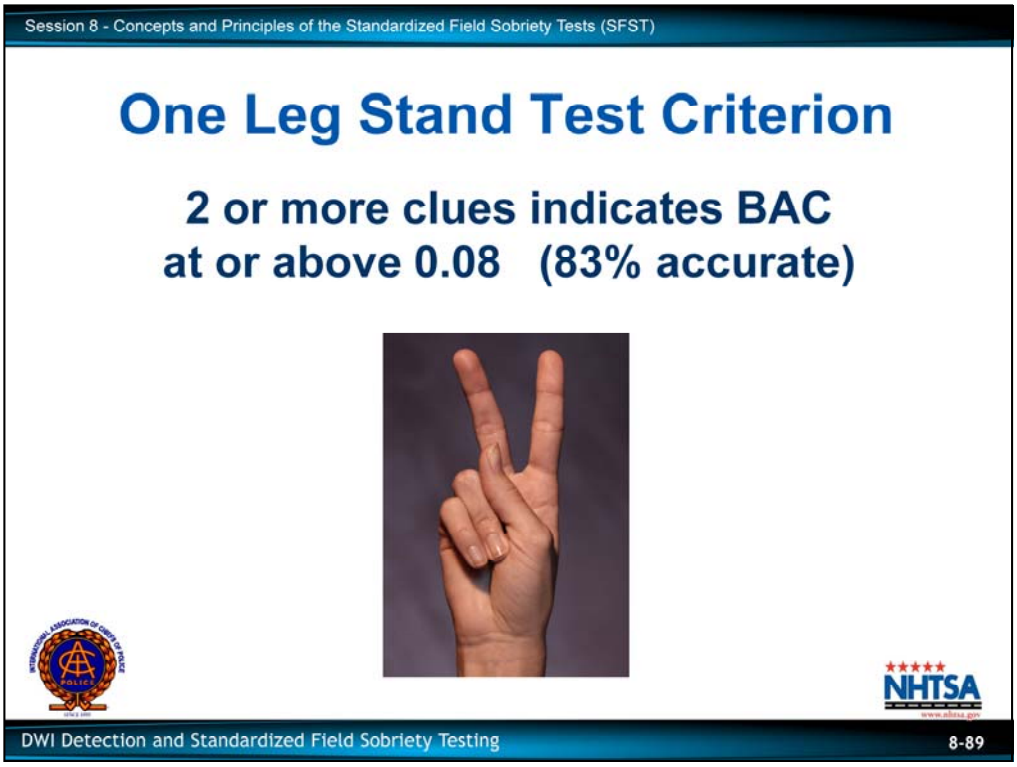
Examples (Demonstrate):

- ***Hopping and swaying***
- ***Foot down and arms raised***

If subject can't do the test, record observed clues and document the reason for not completing the test, e.g. subject's safety.

Emphasize that officers should be prepared to explain in court why the subject could not complete the test.

Remember that time is critical in this test. The original SCRI research has shown a person with a BAC above 0.10 can maintain balance for up to 25 seconds, but seldom as long as 30.



Based on recent research, if an individual shows two or more clues or fails to complete the One Leg Stand, there is a good chance the BAC is at or above 0.08. Using that criterion, you will accurately classify 83% of the people you test as to whether their BAC's are at or above 0.08.

This accuracy level was determined through the San Diego Study ("Validation of the Standardized Field Sobriety Test Battery at BACs Below 0.10 %").

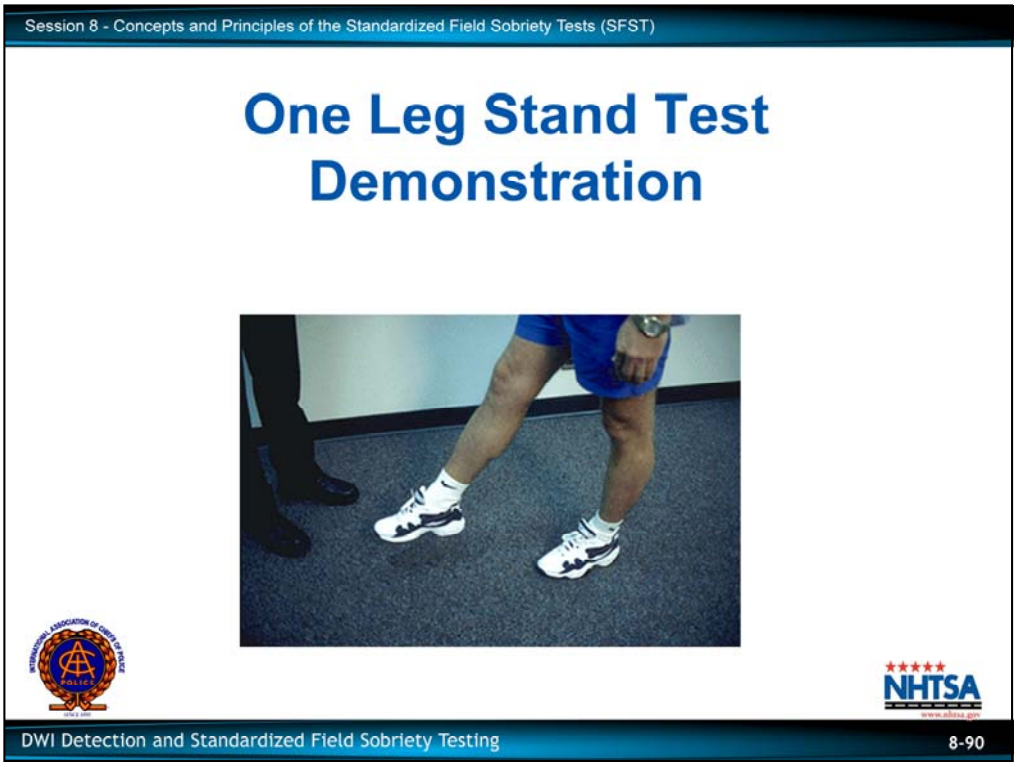
Observe the subject from a safe distance and minimize movement during the test so as not to interfere. If the subject puts the foot down, give instructions to pick the foot up again and continue counting from the point at which the foot touched the ground. If the subject counts very slowly, terminate the test after 30 seconds.

Review of Divided Attention Definition

One Leg Stand is another field sobriety test that employs divided attention.

The subject's attention is divided among such simple tasks as balancing, listening, and counting out loud.

Although none of these is particularly difficult in itself, the combination can be very difficult for someone who is impaired.



Test Demonstrations

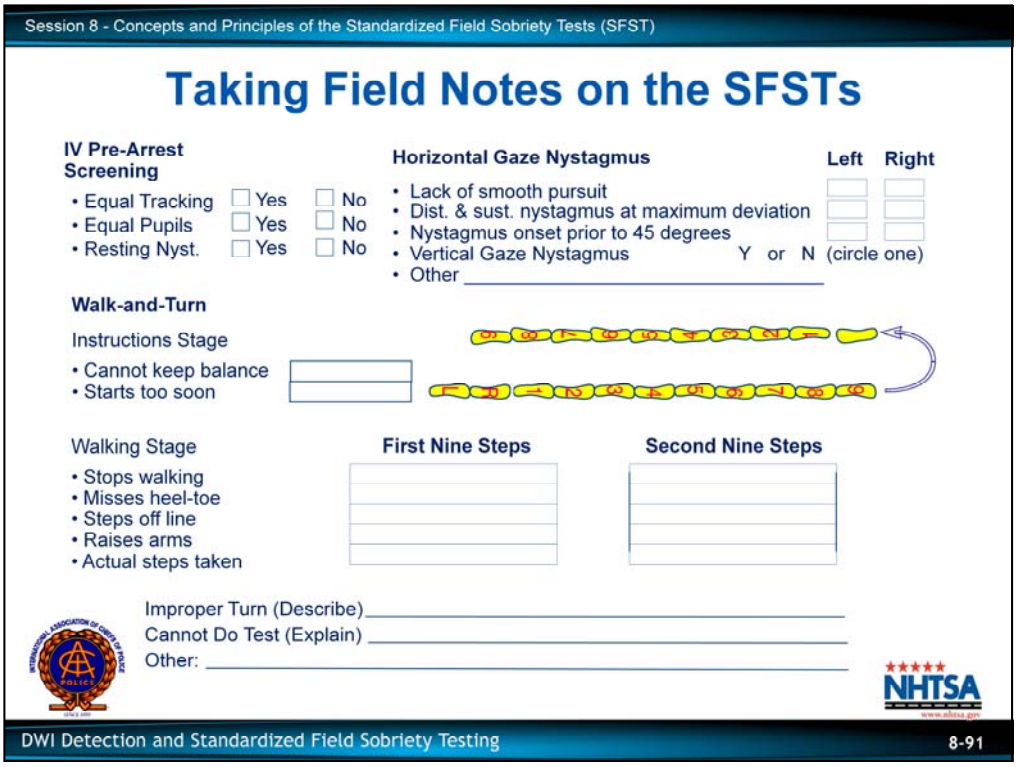
Choose a participant to serve as a demonstration subject.

Conduct a complete test of the participant subject, carefully articulating the verbal instructions.

Discuss the participant subject's performance in terms of the test scoring factors.

If time permits, conduct another demonstration using another participant subject.

Refer to the one leg stand clues in the Participant Manual.



G. Taking Field Notes on the Standardized Field Sobriety Tests

For purposes of the arrest report and courtroom testimony, it is not enough to report the number of clues on the three tests.

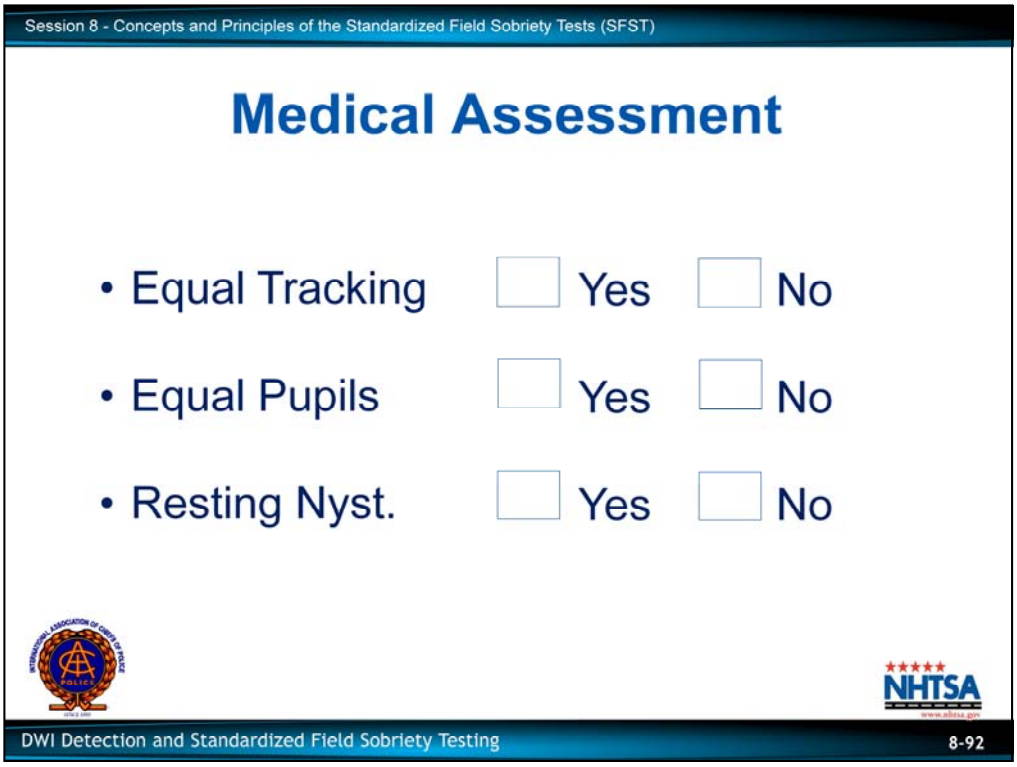
The numbers are important to the police officer in the field, because they help determine whether there is probable cause to arrest.

But to secure a conviction, more descriptive evidence is needed.

The officer must be able to describe how the subject performed on the tests, and what the subject did.

The standard note taking guide is designed to help develop a clear description of the subject's performance on the tests.

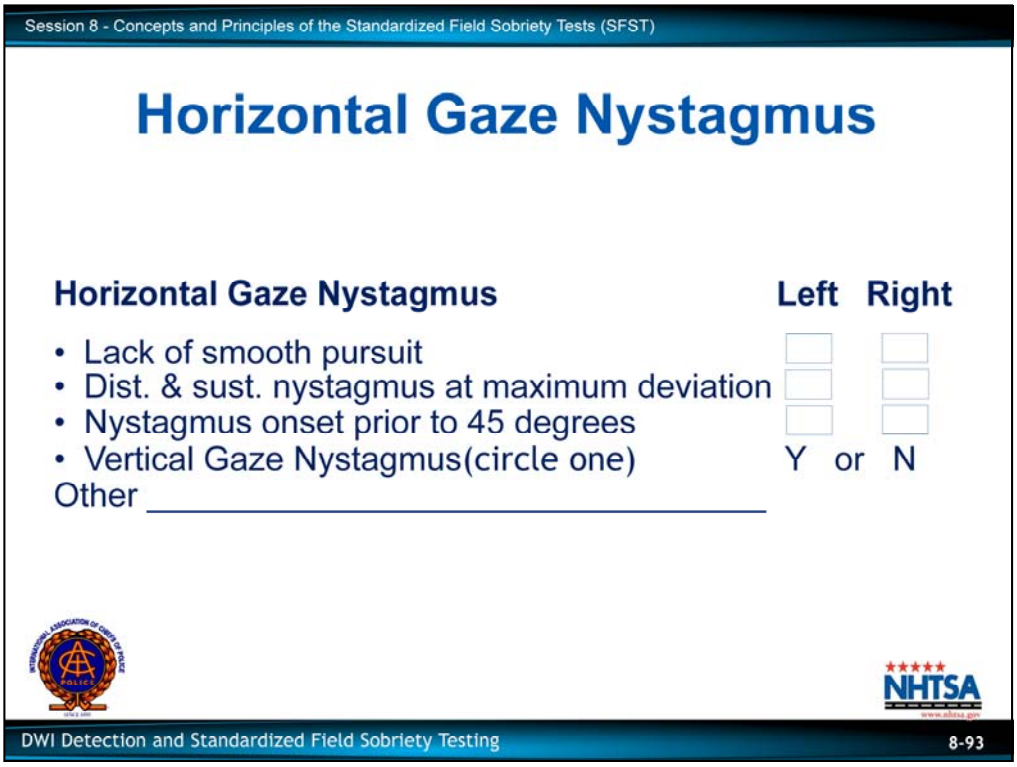
Instruct the participants to take out a copy of the note taking guide to follow along with this discussion.



Equal Pupils	□ Yes	□ No
Equal Tracking	□ Yes	□ No
Resting Nystagmus	□ Yes	□ No

Other _____

Emphasize that officers must be careful to place their check marks in the columns corresponding to the eye actually being checked.



Sections of the note taking guide will be on display throughout the discussion.

Complete the entire procedure for both eyes, checking "yes" or "no" for each clue.

Check box ✓ if the clue is present.

For standardization, test the subject's left eye first.

Then, check for the same clue in the right eye.

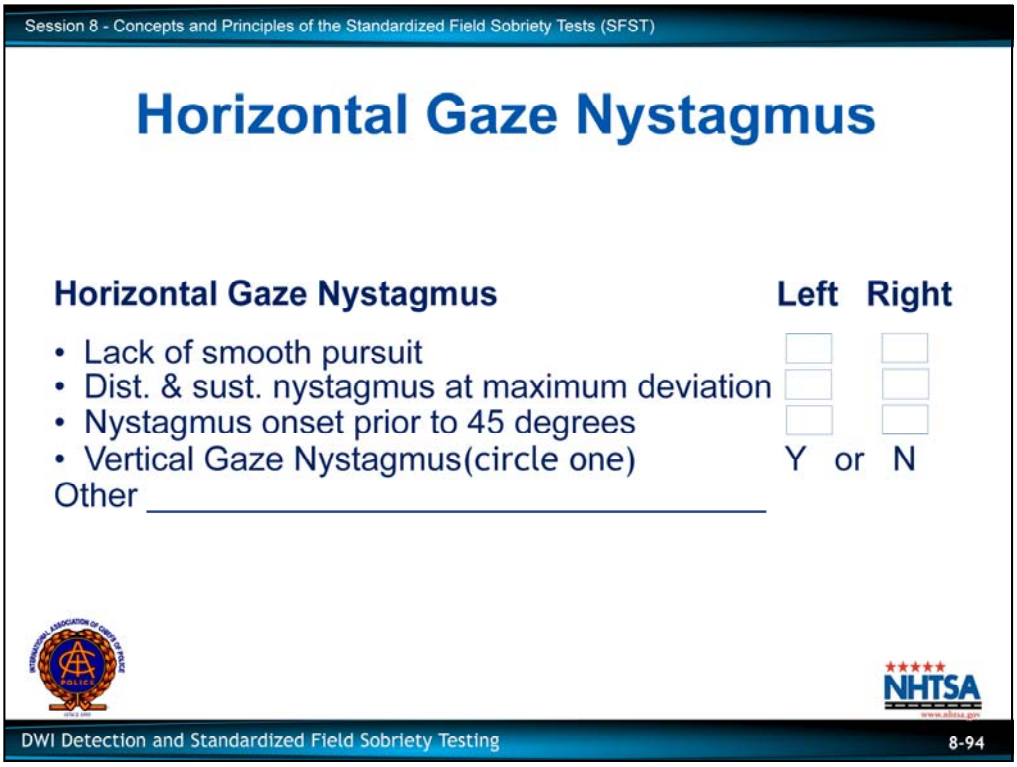
If clue is not present, leave box blank.

After both eyes have been completely checked, total the number of HGN clues observed.

Complete the check for vertical gaze nystagmus

If present, circle Y. If not present, circle N.

In the section labeled "other", record any facts, circumstances, conditions or observations that may be relevant to this procedure.



Examples of additional evidence of impairment emerging while checking for nystagmus:

- Subject unable to keep head still
- Subject swaying noticeably
- Subject utters incriminating statements

Give examples of facts, circumstances, etc., that should be noted in this section of the note taking guide (i.e., Resting Nystagmus).

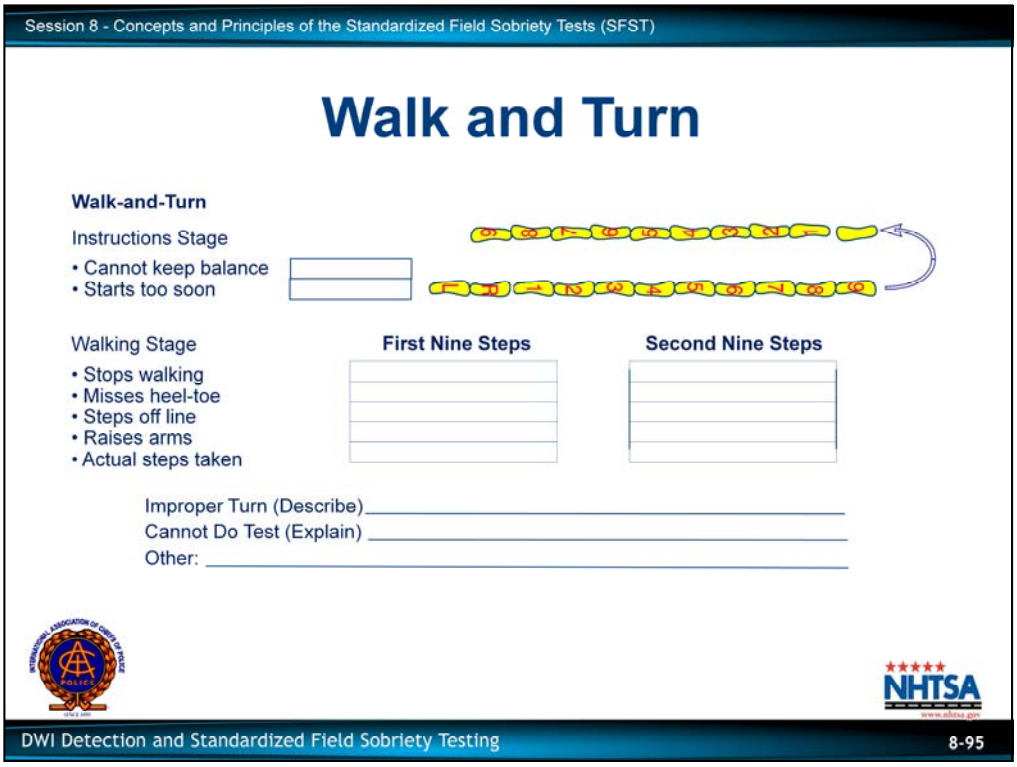
Ask participants to give additional examples of facts, circumstances, etc., that should be noted.

Examples of conditions that may interfere with subject's performance while checking for nystagmus:

Wind, dust, etc. (irritating subject's eyes).

NOTE: Try to face subject away from flashing or strobe lights that could cause visual or other distractions that could impede the test.

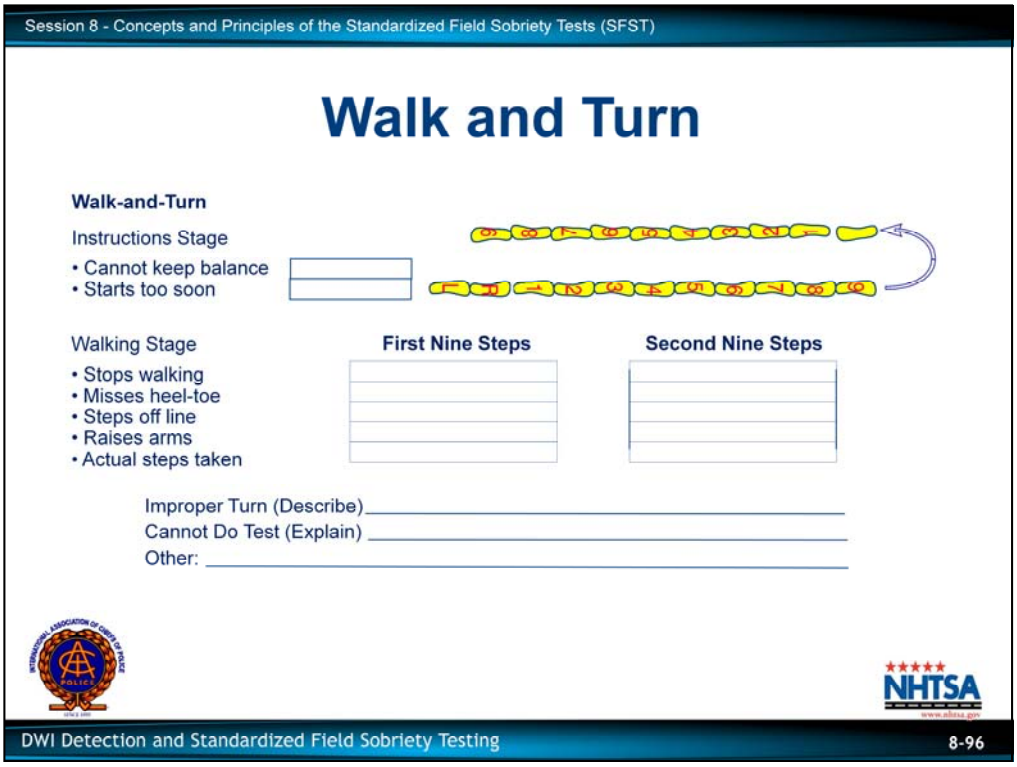
Visual or other distractions impeding the test.



***This slide will be left on display throughout the discussion of Walk and Turn scoring*.**

The section on the Walk and Turn test appears at the top of the guide's back side.

First two clues are checked only during the instructions stage.



In the boxes provided check (√) the number of times the clue appears during the instructions stage.

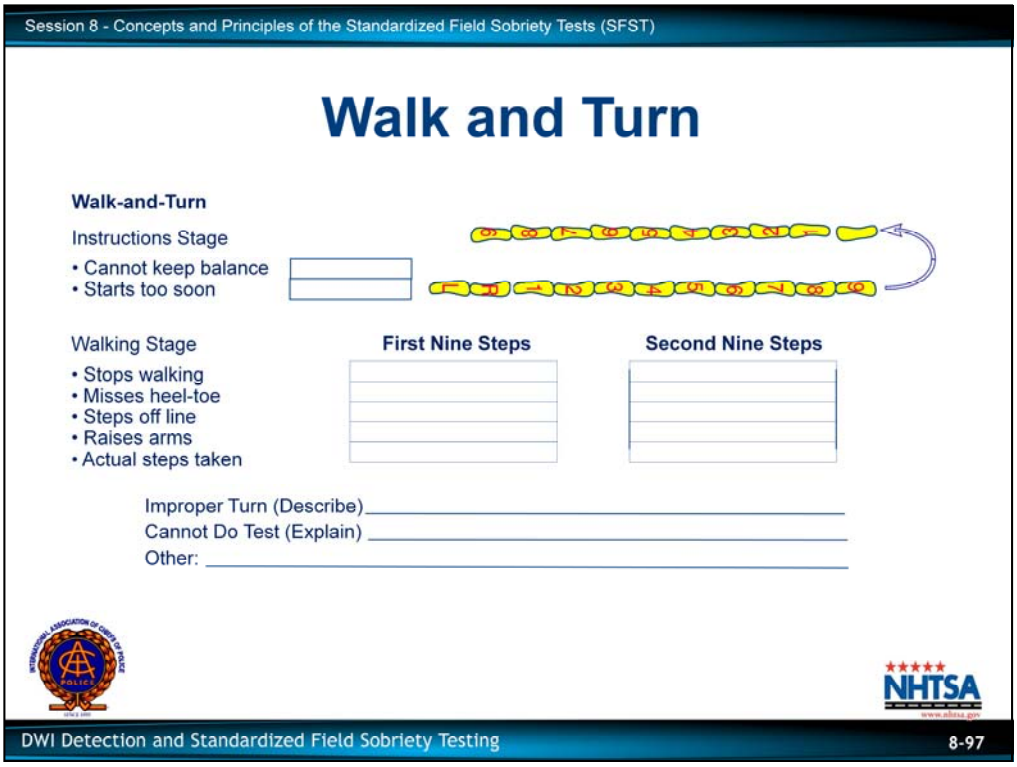
Example: if subject loses balance twice during the instructions stage, Place two (√) check marks in the box.

Remind participants that the clue "loses balance during instructions" is recorded only if the subject's feet "break apart".

Example: If the subject does not start too soon, write "0" in that box.

Emphasize that participants should not leave a box blank if the clue doesn't appear, they should indicate that by writing "0".

Record the next four clues separately for each nine steps.



If subject stops walking, record it by drawing a vertical line from the toe at the step at which the stop occurred. Do this for each of the nine steps.

Instruct participants to place a letter "S" at bottom of vertical line to indicate "stops walking".

How many times during first nine steps?

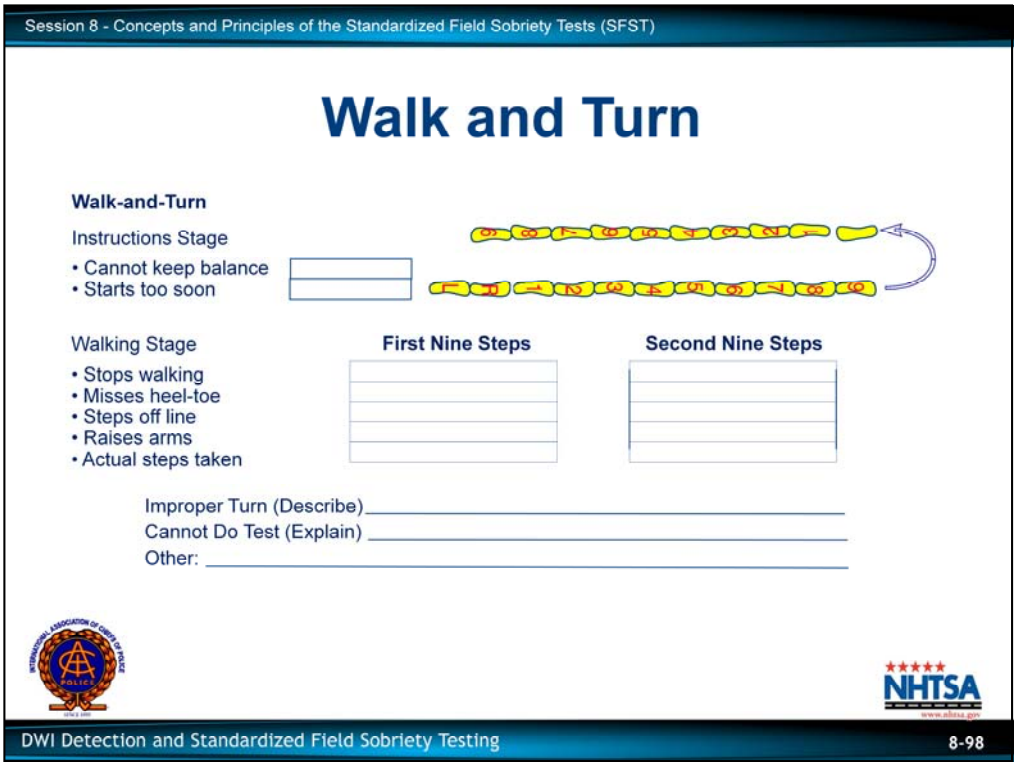
How many times during second nine steps?

Remind participants that, if subject stops walking even once, that will count as one clue; but in order to prepare a clear, descriptive arrest report, it is best to document how many times subject paused while walking.

If subject fails to touch heel-to-toe, record how many times this happens?

Instruct participants to place a letter "M" at bottom of vertical line to indicate missed heel-to-toe.

If subject steps off the line while walking, record it by drawing a line from the appropriate footprint at the angle in the direction in which the foot stepped. Do this for each nine steps.



If subject uses arms to balance, give some indication of how often or how long this happens.

Example: subject raised arms from sides three times

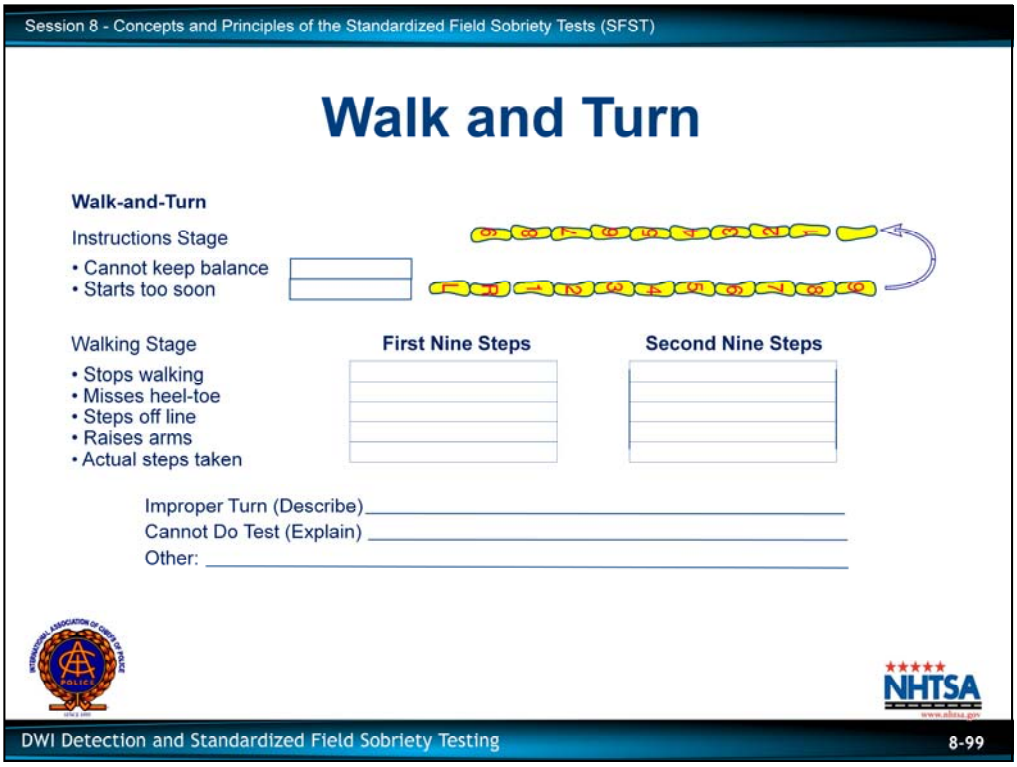
Place three (√) check marks in the box.

Record the actual number of steps taken by subject, in each direction.

Record the actual number of steps taken. "Incorrect number of steps" is the validated clue.

For the next clue, "Improper Turn," record a description of the turn.

- Example: turned incorrectly
- Example: stumbled, to left
- Example: wrong direction
- Example: no small steps
- If the turn is correct, note: N/A



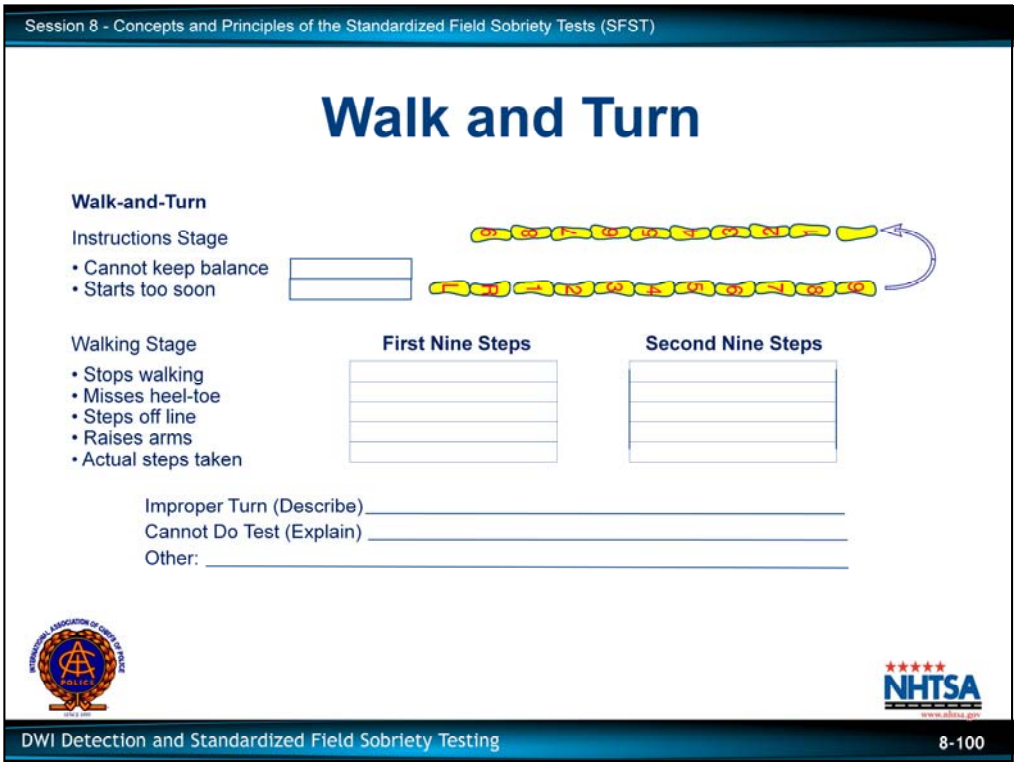
If the subject is unable to safely complete the test, you may stop the test early. Document the reasons the test was stopped.

At end of the test, examine each factor and determine the total number of clues recorded.

***Remind participants that, even if a clue shows up more than once, each clue is counted only once*.**

In the section labeled "other", record any facts, circumstances, conditions or observations that may be relevant to this test.

Examples of additional evidence of impairment emerging during Walk and Turn test.



Give examples of facts, circumstances, etc., that should be noted in this section of the note taking guide.

Subject verbally miscounts steps

Subject utters incriminating statements

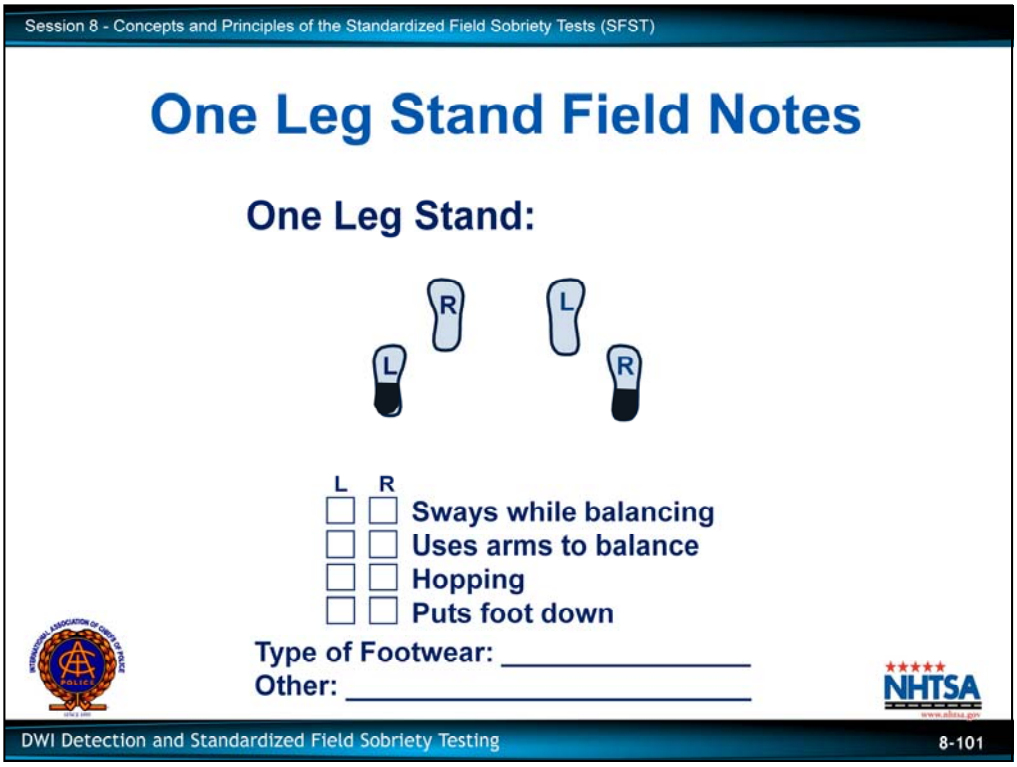
Examples of conditions that may interfere with subject's performance of the Walk and Turn test:

- Wind/Weather conditions
- Subject's age
- Subject's footwear

Ask participants to give additional examples of facts, circumstances, etc., that should be noted.

Subjects with heels 2" or higher should be given the opportunity to remove their footwear.

Point out that subjects with any form of any unusual footwear (i.e., flip flops, platform shoes, etc.) should be afforded the opportunity to remove that footwear prior to the test.

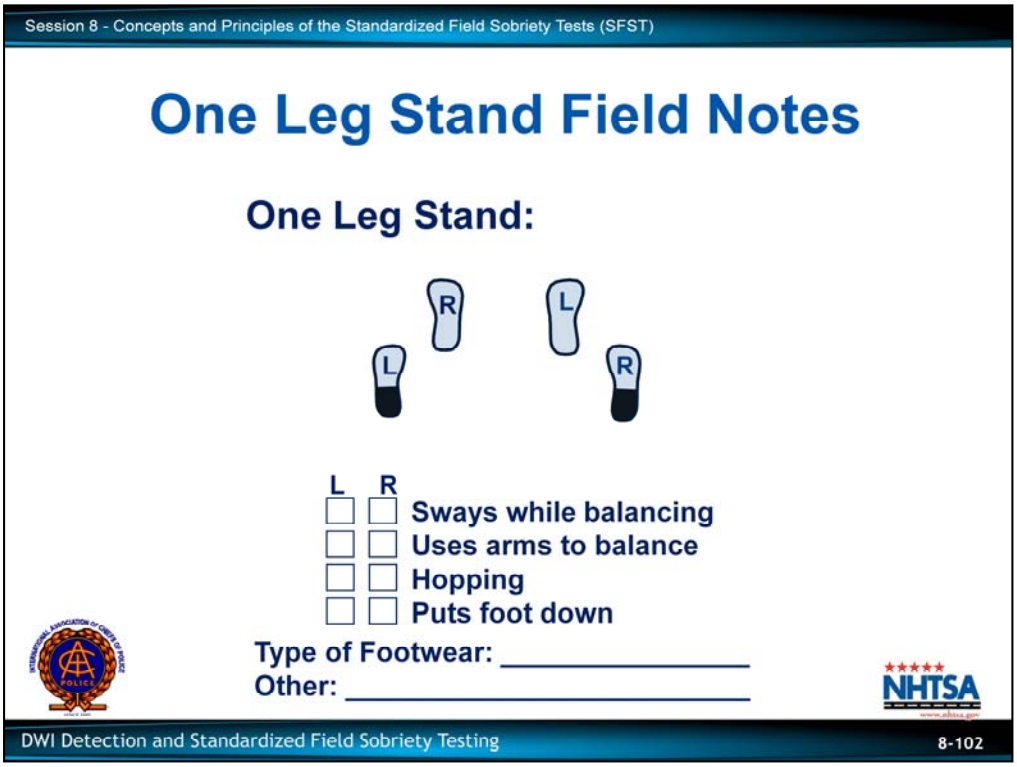


This slide will be left on display throughout the discussion of one leg stand clue.

Type of Footwear _____

Record the subject's performance separately.
For each clue, record how often it appears with a (√) check mark.

Point out that, by recording when things happen as well as what happens, a more descriptive arrest report can be prepared.



If subject sways, indicate how often with a (√) check mark.

Indicate above the feet the number they were counting when they put their foot down.

Check marks should be made to indicate the number of times the subject swayed, used arms, hopped or put foot down.

Place (√) check marks in or near the small boxes to indicate how many times you observed each of the clues.

In addition, if the subject puts the foot down during the test, record when it happened. To do this, write the count number at which the foot came down.

***Demonstrate the proper documentation for observed clues*.**

For example, suppose that, when standing on the left leg, the subject lowered the right foot at a count of "one thousand thirteen," and again at "one thousand twenty."

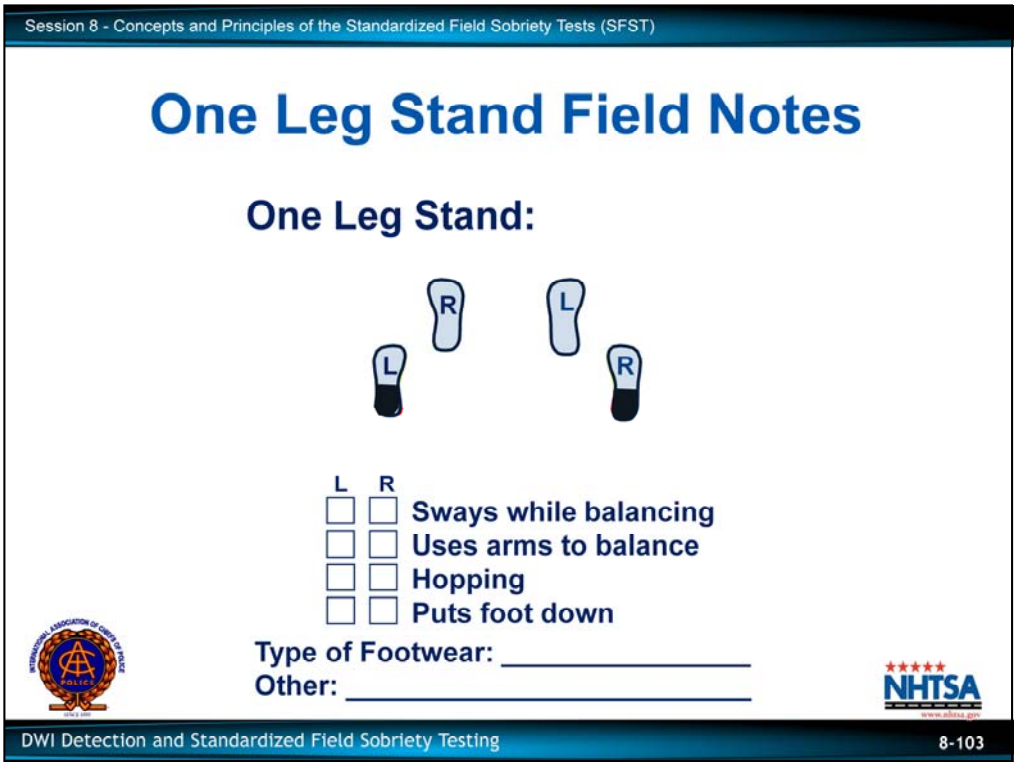
If subject uses arms to balance, indicate how often arms were raised.

If subject hops, indicate how many hops were taken.

If subject puts foot down, indicate how many times the foot came down.

If the subject is unable to safely complete the test, you may stop the test early. Document the reasons the test was stopped.

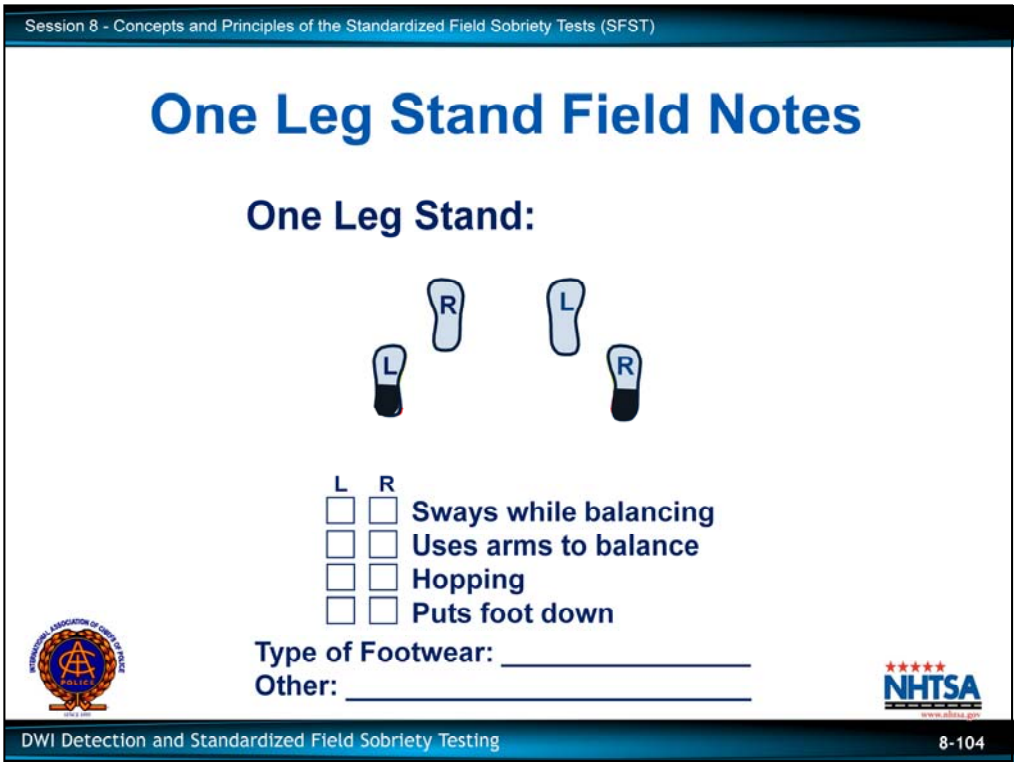
At end of the test, examine each clue and determine how many clues have been recorded.



Remind participants that, even if a clue shows up more than once, each clue is counted only once.

Remind participants that "number" of clues is utilized only for administrative purposes and that for courtroom testimony a complete description of each clue observed is essential.

In the section labeled "other", record any facts, circumstances, conditions or observations that may be relevant to this test.



Examples of additional evidence of impairment emerging during One leg Stand test:

Subject verbally miscounts 30 seconds

Subject utters incriminating statements.

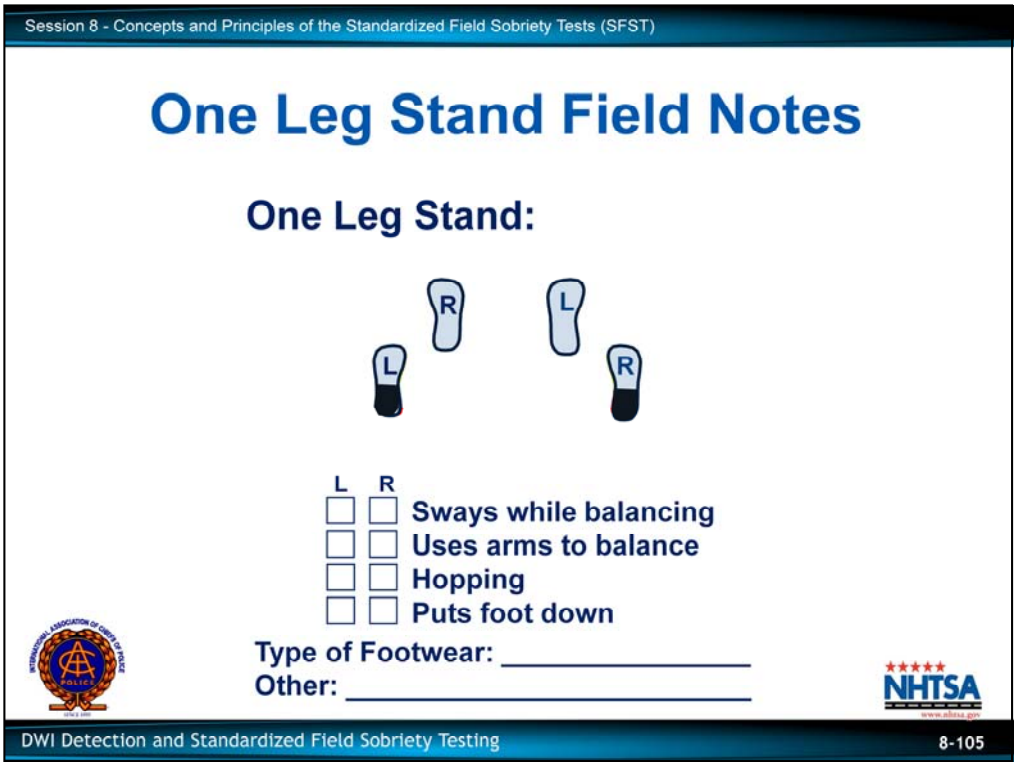
Ask participants to give additional examples of facts, circumstances, etc., that should be noted.

Give examples of facts, circumstances, etc., that should be noted in this section of the note taking guide (i.e., untied shoelaces, removed footwear, etc.).

Examples of conditions that may interfere with subject's performance of One Leg Stand:

- ***Wind/Weather conditions***
- ***Subject's age***
- ***Weight***
- ***Subject's footwear***

Subjects with heels 2" or higher should be given the opportunity to remove their footwear.

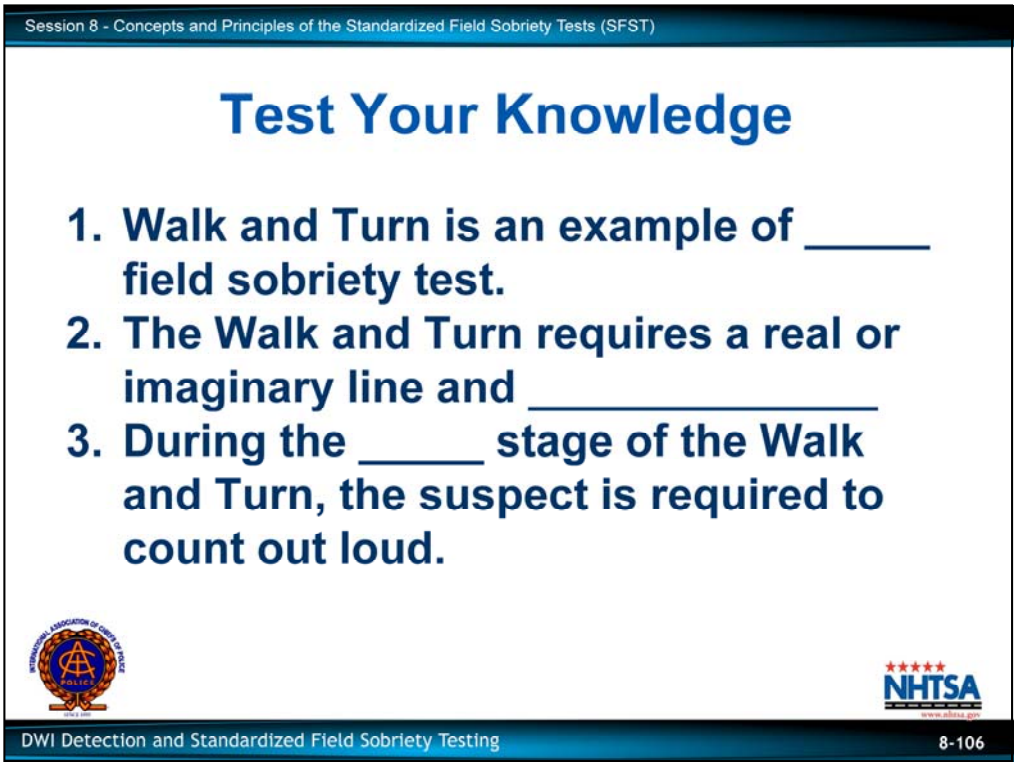


Point out that subjects with any form of any unusual footwear (i.e., flip flops, platform shoes, etc.) should be afforded the opportunity to remove that footwear prior to the test.

Solicit participants' questions concerning field note taking.

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.

Officers who are video recording the Standardized Field Sobriety Tests may choose to document any observed clues by voicing them into the recording as the clues are observed.



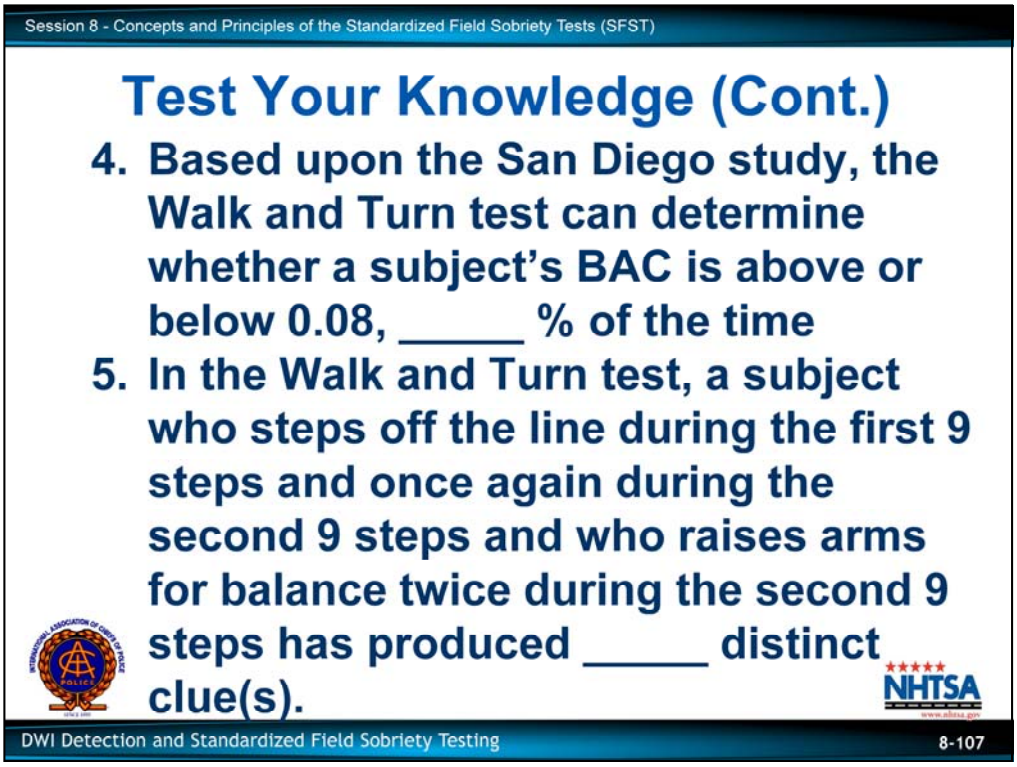
TEST YOUR KNOWLEDGE

INSTRUCTIONS: Complete the following sentences.

1. ***Walk and Turn is an example of <u>a divided attention</u> field sobriety test.***

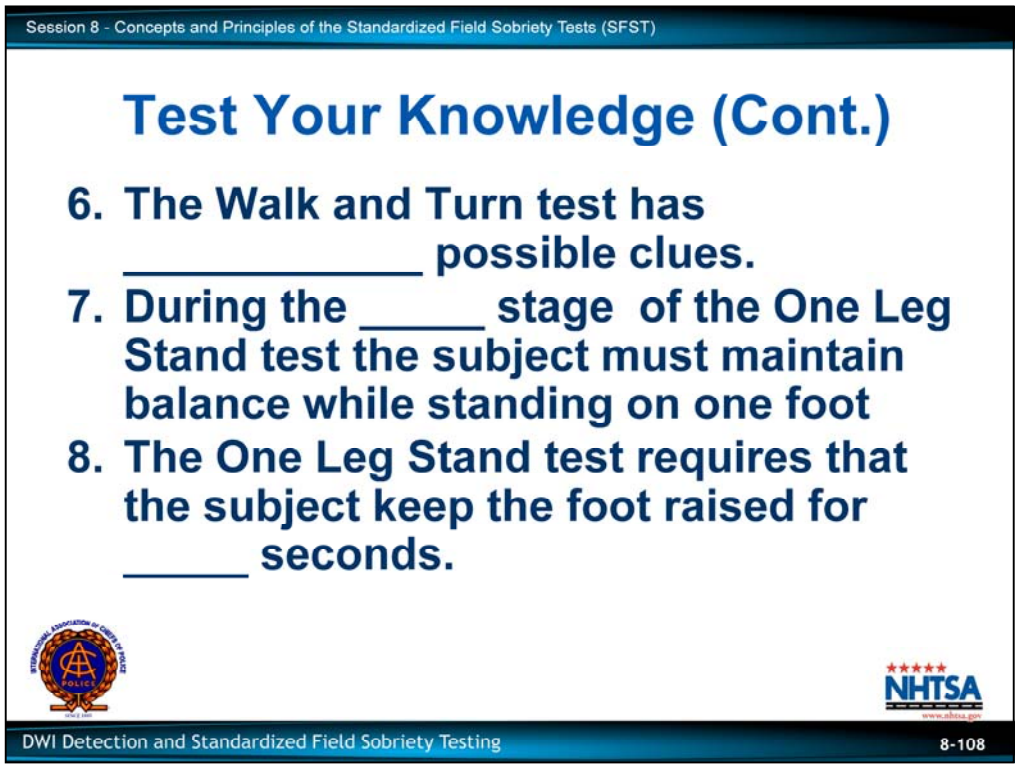
2. ***The Walk and Turn requires a real or imaginary line and <u>the suspect to take nine heel-to-toe steps in a straight line</u>***

3. ***During the <u>walking</u> stage of the Walk and Turn, the subject is required to count out loud.***



4. ***Based upon the San Diego study, the Walk and Turn test can determine whether a subject's BAC is above or below 0.08, __79____ % of the time.***

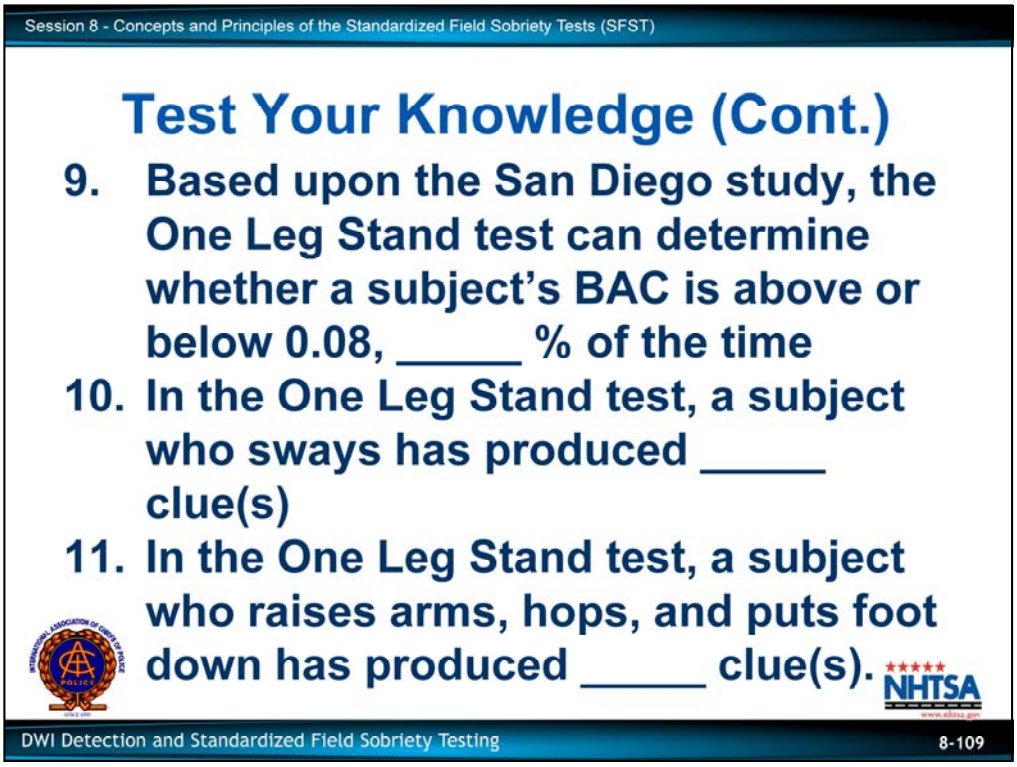
5. ***In the Walk and Turn test, a subject who steps off the line during the first 9 steps and once again during the second 9 steps and who raises arms for balance twice during the second nine steps has produced __two_____ distinct clue(s).***



6. The Walk and Turn test has __8__ possible clues.

7. During the __balance and counting____ stage of the One leg Stand test the subject must maintain balance for 30 seconds.

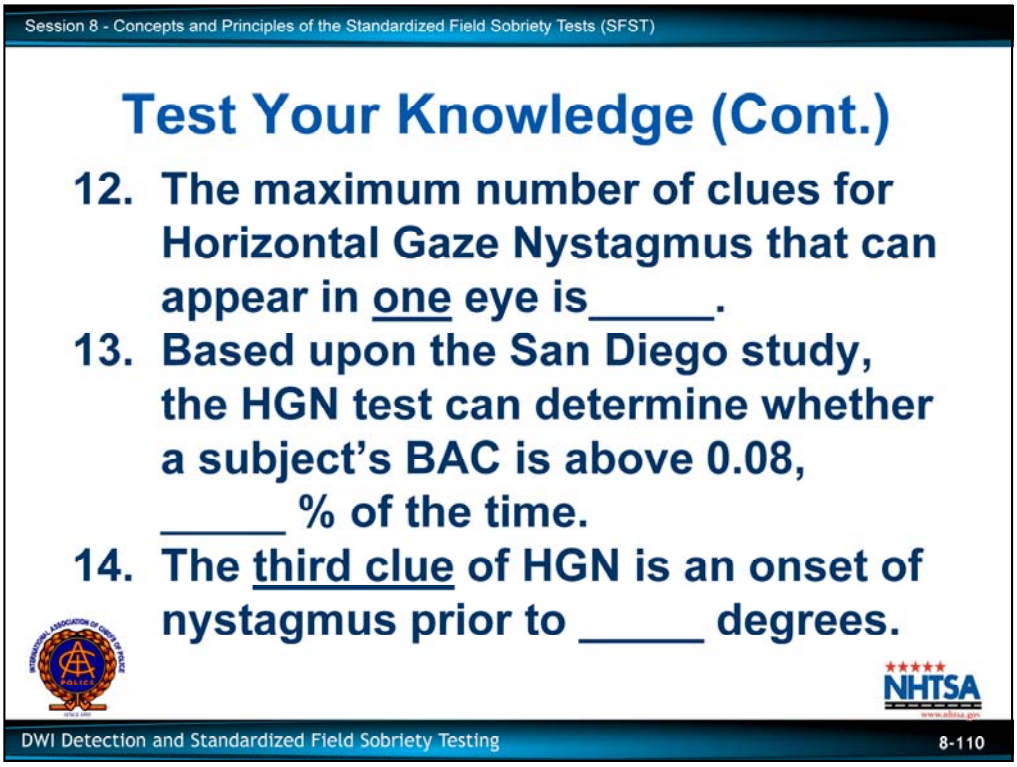
8. The One Leg Stand requires that the subject keep the foot elevated for __30 seconds.



9. Based upon the San Diego study, the One Leg Stand test can determine whether a subject's BAC is above or below 0.08, __83___ % of the time.

10. In the One Leg Stand test, a subject who sways has produced __one___ clue(s).

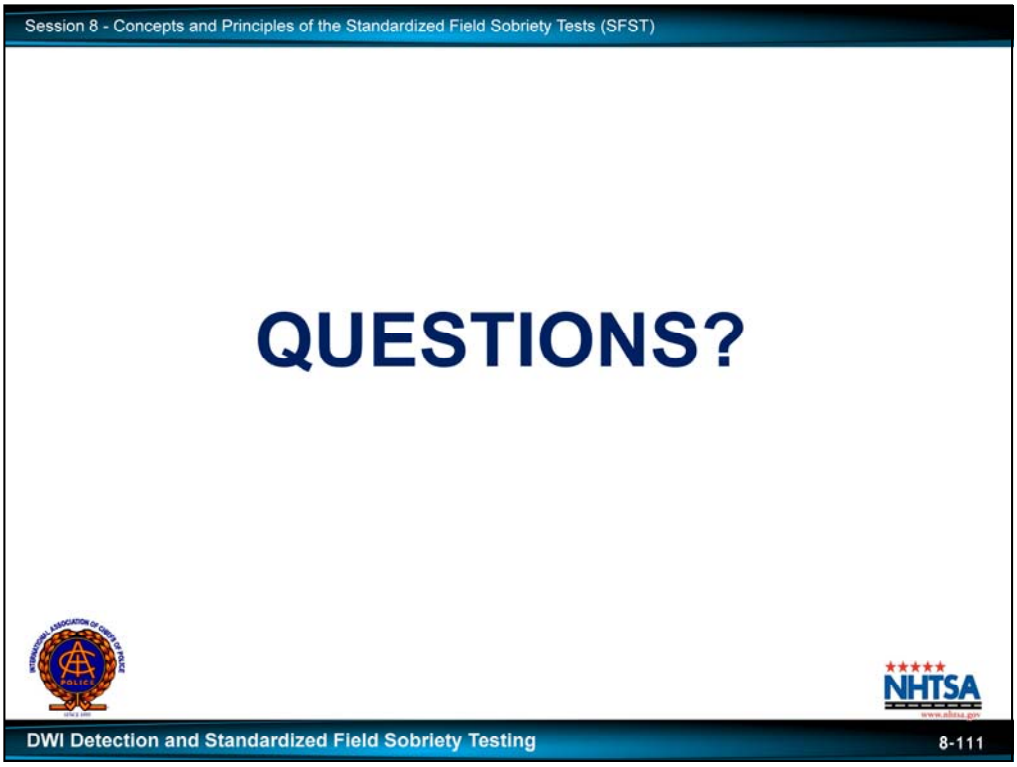
11. In the One leg Stand test, a subject who raises arms, hops, and puts foot down has produced __three___ clue(s).



12. The maximum number of clues for Horizontal Gaze Nystagmus that can appear in one eye is three.

13. Based upon the San Diego study, the Horizontal Gaze Nystagmus test can determine whether a subject's BAC is above 0.08, 88 % of the time.

14. The third clue of HGN is an onset of nystagmus prior to 45 degrees.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QUESTIONS?
NHTSA
DWI Detection and Standardized Field Sobriety Testing
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