



Between the Lines

Mark Your Calendars

**The 21st Annual IACP
DRE Section's Training
Conference on Drugs, Alcohol,
and Impaired Driving**
Cincinnati, Ohio
Aug. 10–12, 2015

Drive Sober or Get Pulled Over
NHTSA
Aug. 21–Sept. 7, 2015

2015 GHSA Annual Meeting
*Drunk, Drugged & Distracted:
Reaching High-Risk Drivers*
Nashville, Tennessee
Aug. 30–Sept. 2, 2015

**Lifesavers National Conference
on Highway Safety Priorities**
Long Beach, California
Speaker Proposals due
Oct. 15, 2015

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The Significance of a Drug Recognition Expert *Prosecutor* in the Courtroom

By Kenneth Stecker

Recently, a prosecutor and officer in Michigan successfully convicted a defendant of operating while intoxicated—third offense (felony), along with other offenses including failing to stop at a crash. The trial was the first felony case in Michigan to include testimony of, and be based on the investigation of, a Drug Recognition Expert (DRE). In another case, a prosecutor successfully convicted a defendant of driving under the influence of prescription pills when she crashed her car, killing two people. The prosecutor presented a witness who testified to seven prior incidents where the defendant had police contact due to alleged drugged driving. The judge sentenced the defendant 25 to 50 years in prison. In both of these cases, the prosecutors had completed Michigan's DRE training course alongside police officers.

In 2009, an effort began in Michigan to address the serious issue of driving under the influence of a controlled substance, intoxicating substance, and/or intoxicating liquor. Through the dedicated efforts of many highway safety professionals, Michigan was approved for the Drug Evaluation and Classification (DEC) Program and joined the ranks of DRE states in 2010. Unlike some other DRE states however, Michigan DRE officials invited prosecutors to attend, participate, and complete the nine-day DRE classroom training and field certification training. The experience and knowledge that the prosecutors received during the extensive training was simply unparalleled.

One of the most important benefits for prosecutors was that DRE instructors taught classes and helped give prosecutors a more realistic and accurate perspective on police procedures. Specifically, the instructors taught prosecutors Standardized Field Sobriety Testing, the signs and symptoms of the seven major drug categories, and drug recognition expert procedure. The benefit to law enforcement officers of having prosecutors attending the training was that prosecutors provided their expertise to officers on traffic safety laws, legal standards, case preparation, and testimony.

In addition to the standard DRE classroom and field training, the Michigan Office of Highway Safety Planning implemented a DRE Mock Court Class to help prosecutors and officers prepare for court. Within six months following graduation from the DRE School, police officers were brought back for expert witness training. The agenda included classroom instruction on expert courtroom testimony and a mock trial scenario. The Michigan judicial outreach liaison served as the judge and prosecutors that attended the previous DRE School played the roles of prosecutor and defense attorney.

While prosecutors and defense attorneys (played by prosecutors) prepared a list of DRE questions to use, officers were encouraged to utilize their own skills and experience whenever they could during their testimony. Each DRE officer was on the stand approximately 10 minutes. Afterward the DRE instructors, prosecutors, and the judge provided critiques of

the officers' testimony. While mock trials often put stress on the officers, the majority of the students (officers) indicated on the evaluations that they enjoyed the experience.

In addition to the DRE school and mock court training, one of Michigan's Traffic Safety Resource Prosecutors (TSRPs), who incidentally graduated from the first Michigan DRE class, visited the Maricopa County Jail in Phoenix, Arizona to gain a better understanding of drug impairment. The jail is one of the premier sites for conducting DRE field certification training. Law enforcement personnel come from all over the country, and all over the world, to learn the steps in identifying drug impairment and to conduct DRE evaluations.

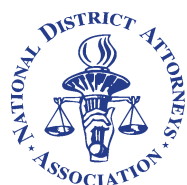
By participating in identifying drug impairment and conducting DRE evaluations at the jail, the Michigan TRSP came away with a better understanding of the significance of observations by DRE officers who encounter people under the influence of drugs. This understanding can be key to eliciting critical information and observations from non-DRE trained officers, even when those officers did not see the relevance of the information. To help Michigan prosecutors, the TSRP then developed trainings based on this experience and provided information through resources, such as the Green Light News — a traffic safety newsletter published by the Prosecuting Attorneys Association of Michigan, regarding the insights gained from the Maricopa County Jail DRE field certification training.

All of these efforts help prosecutors and law enforcement officers in Michigan to work as a team and target impaired driving at all levels and from numerous impairing substances. As a result, Michigan DRE prosecutors have made tremendous improvements in evaluating drug impaired driving cases, meeting challenges from defense attorneys, responding to motions, working with DRE and non-DRE officers, and litigating cases. From the officers' perspec-

tive, having the prosecutors attend the DRE training made them better courtroom advocates for all impaired driving cases. The knowledge that prosecutors acquired through the DRE program has made them more adept at cross-examining experts, directing police officers and lab personnel, and at tying evidence together for the jury.

While having prosecutors attend a nine-day DRE school alongside law enforcement officers might be the best way to address impaired driving, it may not be practical in every jurisdiction. TSRPs and the National Traffic Law Center (NTLC) can help prosecutors and law enforcement improve prosecution through specialized training, technical assistance, and various resources, including motions, briefs, and other litigation material. Prosecutors can also attend a two-day in-person Advanced Roadside Impaired Driving Enforcement (ARIDE) training or access ARIDE online right from their offices. To access the ARIDE On-Line Course, visit <http://www.rita.dot.gov/tsi/> and click on the second tab "Course Catalog." ARIDE was developed by the National Highway Traffic Safety Administration (NHTSA) and the International Association of Chiefs of Police (IACP) as a 16-hour course to build on SFST courses. The objectives are to teach signs of impairment related to drugs and alcohol. For more information about DRE school and ARIDE please contact your state's TSRP, the NTLC, or NHTSA.

Ken Stecker is a Traffic Safety Resource Prosecutor in the State of Michigan. As a prosecutor, he specialized in prosecuting cases involving drugged driving, driving under the influence of alcohol, and the synergistic effects of drugs and alcohol. For more information on this article and PAAM training programs, contact Kinga Gorzelewski or Kenneth Stecker, TSRPs, at (517) 334-6060 or email at gorzelewskik@michigan.gov or steckerk@michigan.gov.



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