

One Hour and Thirty Minutes

SESSION XII
PROCESSING THE ARRESTED SUSPECT
AND
PREPARATION FOR TRIAL

SESSION XII

PROCESSING THE ARRESTED SUSPECT AND PREPARATION FOR TRIAL

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

- o Discuss the importance of correct processing and report writing procedures in DWI arrests.
- o Discuss the correct sequence of DWI suspect processing procedures.
- o Discuss the essential elements of the DWI arrest report.
- o Discuss the importance of pretrial conferences and presentation of evidence in the DWI trial.

CONTENT SEGMENTS

- A. The Processing Phase
- B. Preparing the DWI Arrest Report:
Documenting The Evidence
- C. Narrative DWI Arrest Report
- D. Case Preparation and Pretrial Conference
- E. Guidelines for Direct Testimony

LEARNING ACTIVITIES

- o Instructor-Led Presentations
- o Video Presentation
- o Interactive Discussion
- o Video Presentation
- o Video Presentation



Display XII-O (Session Objectives)



90 Minutes



5 Minutes



Display
XII-1

XII PROCESSING THE ARRESTED SUSPECT AND PREPARATION FOR TRIAL

A. The Processing Phase

1. Relationship to overall DWI enforcement function.
 - a. Processing of arrested suspect is the bridge between arrest and conviction of a DWI offender.
 - b. During processing phase, all evidence gathered during the detection phases is organized to ensure that it will be available and admissible in court.
 - c. Additional evidence may be obtained during the processing phase, subsequent to arrest.
 - d. It is important that proper procedures be followed during this phase; otherwise, important evidence might be ruled inadmissible, and therefore worthless.
2. The processing phase begins with the arrest of the offender.
3. Processing ends when the offender is incarcerated or released to a responsible third party (depending on jurisdiction).

Remind participants to become thoroughly familiar with their agency's guidelines for processing individuals.



Ask a student to give an example of such post-arrest evidence. (e.g. evidential chemical test).



Ask a student to suggest how a procedural error during the processing phase might cause some evidence to be ruled inadmissible.



15 Minutes

**B. Preparing the DWI Offense/
Arrest Report: Documenting
the Evidence**

1. Successful prosecution depends on clarity and completeness with which the arresting officer's and the evaluator's observations are presented.
 - a. Arresting officer must be able to convey observations with sufficient clarity to convince others there was probable cause to believe the suspect was under the influence.
 - b. Chemical test evidence and additional evidence gathered subsequent to the arrest may be suppressed if the arresting officer does not adequately establish probable cause for the arrest prior to the chemical test.
 - c. DWI trials are often held many months after the defendant's arrest.
 - d. A clear, concise report will enable the officer to recall those details and present them through direct testimony.
2. Evidence must be clearly conveyed in the formal structured reports (forms) and in a narrative offense/arrest report.

Point out that officer's efforts in detecting, apprehending, investigation, arresting and testing DWI offenders are of little value if officer cannot document sufficient evidence to prove each element of the DWI offense.



Display
XII-2

3. A well-written, clear and convincing narrative report increases the likelihood that conviction will result because:
 - o Prosecutor is more likely to file the charge if the evidence is organized, clearly documented and compelling.
 - o Defense is less likely to contest the charge when the report is descriptive, detailed and complete.
 - o Helps to ensure convincing verbal testimony in court.
4. The written report should document all evidence available to establish the essential ingredients of the prosecution's case.
 - a. That there was probable cause for arrest.
 - (1) the accused was the operator or in actual physical control of the vehicle;
 - (2) there was reasonable suspicion for stopping/ contacting the accused; and,
 - (3) there was probable cause to believe the accused was impaired.
 - b. That proper arrest procedures were followed.
 - c. That proper procedure was followed with regards to the rights of the accused.

NOTE: Instructor should be familiar with all applicable state laws defining these terms.



20 Minutes

- d. That subsequent observation and interview of the accused provided additional evidence relevant to the alleged offense.
 - e. That there was a proper request for the accused to submit to the chemical test.
5. The narrative offense/arrest report should be organized around the total sequence of events, beginning at the first observation of the offender, continuing through the arrest, and ending with the incarceration or release of the subject.
 6. The DWI Investigation Field Notes describing the evidence observed during the three phases of detection greatly assist preparation of the narrative offense/arrest report.
 7. Video segment of nighttime DWI arrest.

C. Narrative DWI Arrest Report

1. Report writing is an essential skill for every officer.
2. While there is no one best way to write a report, it is helpful to follow a uniform format.

Handout copies of DWI Investigation Field Note form. Show video #2 segment #1. Allow participants 4-5 minutes to complete notes.

Point out that good report writing becomes second nature with practice.

Point out that officers should be guided by departmental policies and/or instructions or requirements specified by the prosecutor.

Aids

Lesson Plan

Instructor Notes



Display
XII-3A and
3B

- 3. Observation/results recorded on the field notes can be used to refresh the officer's memory when preparing the narrative report.

- 4. Suggested report writing format.
 - a. Initial Observations
 - o First observations of the offender and their actions;
 - o Factors that drew officer's attention;
 - o Time and location of first observations.

 - b. Vehicle Stop
 - o Unusual actions taken;
 - o Offender's response to the stop command;
 - o Method(s) officer used to signal the stop command;
 - o The fashion in which the offender stopped the vehicle.

 - c. Face-to-Face Contact
 - o Offender's personal appearance;
 - o Condition of eyes, speech, etc.;

Selectively reveal the essential elements of narrative report via slides XII-3a and XII-3b.

Point out that not every report will require all elements: some may be missing or irrelevant to some DWI investigations.

Briefly discuss each element.

Aids**Lesson Plan****Instructor Notes**

- o Names, numbers, seating locations of passengers;
- o Unusual actions taken;
- o Unusual statements made;
- o What officer saw, heard and smelled.
- d. Operation/Actual Physical Control.
 - o Establish offender as the operator.
- e. Exit from Vehicle
 - o Unusual actions, occurrences.
- f. Field Sobriety Tests
 - o Physical performance;
 - o Mental performance.
- g. The Arrest
- h. Disposition/Location of Vehicle and Keys
- i. Disposition of Passengers and Property.
- j. Transport of Offender
 - o Departure time;
 - o Arrival time.
- k. Evidential Tests
 - o What tests;
 - o Who administered;
 - o Test results.

Aids	Lesson Plan	Instructor Notes
	<ul style="list-style-type: none"> l. Implied Consent/Miranda Admonitions <ul style="list-style-type: none"> o When given. m. Statements of Witnesses n. Notification of Offender's Attorney or Other Party <ul style="list-style-type: none"> o Time of call(s); o Result of call(s). o. Citations/Complaints <ul style="list-style-type: none"> o Charges issued; o When issued. p. Incarceration or Release <ul style="list-style-type: none"> o Time; o If released, to whom. q. Additional Chemical Tests <ul style="list-style-type: none"> o Types of test; o Time taken; o Where taken; o By whom administered. 5. Video presentation "Conducting The SFSTs on a DUI Stop" <ul style="list-style-type: none"> a. Discussion 	<p>Solicit participants' questions concerning the narrative DWI arrest report elements.</p> <p>Refer participants to sample report in their manual.</p> <p>Show segments 1 and 2 of tape two. Distribute copies of sample narrative arrest report.</p> <p>Emphasize the Phase One, Two, and Three indicators of impairment.</p> <p>Solicit participants questions and comments concerning the video and sample narrative report.</p>



25 Minutes

D. Case Preparation and Pretrial Conference

1. Guidelines for case preparation.

a. Case preparation continues with your first contact with the subject:

- o Use field notes to document evidence.
- o Accurately note statements and other observations.
- o Review the case with other officers who witnessed the arrest or otherwise assisted you and note relevant facts.

b. Upon receipt of subpoena or other notification of trial date:

(1) Review all records and reports.

- o Field notes
- o Narrative report
- o Chemical test results
- o Other

(2) Revisit the scene if appropriate.

Point out that it is essential that reports are corroborative or when differences occur, that they be adequately explained. The defense will try to impeach your testimony over any inconsistencies.



Ask participants to identify relevant records/ reports to be reviewed. Probe until appropriate items are identified.

Aids	Lesson Plan	Instructor Notes
	<p>(3) During discovery, list all evidence and properly document it.</p> <p>(4) Compare notes with assisting officers.</p> <p>2. The pretrial conference.</p> <p>a. Successful DWI prosecution also depends on clarity and completeness with which an officer's observations are presented.</p> <p>(1) Officer must be able to convey observations with sufficient clarity to convince others that there was probable cause to believe the suspect was under the influence.</p> <p>(2) Chemical test evidence may be suppressed if the officer does not adequately establish that there were reasonable grounds for the arrest prior to the test.</p> <p>b. A pretrial conference with the prosecutor assigned to the case is essential. Try to insist on a pre-trial conference if at all possible.</p> <p>(1) The prosecutor needs an opportunity not only to review the evidence but to discuss case strategy.</p>	<p>Point out that evidence will not be admitted if these procedures are not followed.</p> <p>Exactness and attention to detail are very important.</p> <p>Emphasize that the defendant in a DWI case could be acquitted if the officers testimony was not sufficient to establish probable cause or prove beyond a reasonable doubt that the defendant was impaired.</p> <p>Point out to participants that the prosecutor will be able to develop an officer's testimony to bring out the most important facts necessary to convict the defendant.</p>

Aids	Lesson Plan	Instructor Notes
	<p>(2) BE HONEST AND FORTHRIGHT.</p> <p>(3) Review all evidence and reasons for your conclusions.</p> <p>(4) If there are weak/strong points in your case, bring them to the attention of the prosecutor.</p> <p>c. Ask the prosecutor to review the trial tactics/ evidence to be presented:</p> <ul style="list-style-type: none"> o The officer's training and experience. o The narrative arrest report. o The officer's ability to articulate observations. o Documents to be presented at the trial. o Questions the prosecutor will ask the officer. o Anticipated defense tactics. o Responses to defense arguments and questions. o The defendant's driving record. <p>d. The main point is to familiarize the prosecutor with the case and your qualifications as a witness,</p>	<p>Point out that there should be "no surprises" during the trial.</p> <p>Ask the participants to give examples of items to be discussed at a pretrial conference.</p> <p>Again, "no surprises."</p>

Aids

Lesson Plan

Instructor Notes



25 Minutes

and to review case strategy.

- e. If you cannot have a pretrial conference, try to identify the main points to be discussed with the prosecutor in the few minutes you will have just before the trial.

3. Pretrial conference

- a. Video
- b. Discussion

E. Guidelines for Direct Testimony

- 1. General guidelines.
 - a. Basic job is to prove that suspect was impaired by alcohol and/or other drugs.
 - b. Don't be afraid to say "I don't know."
 - c. Avoid contact with the defense attorney if possible.
 - d. Don't be upset if prosecutor and defense attorney appear friendly to each other.

Point out that due to a variety of reasons, prosecutors are not able to have pre-trial conferences. That does not mean they are unconcerned. Try to see it from their viewpoint.

If time allows, show video #2 segment #2 . (10 minutes)

Emphasize the importance of the discussion of a DWI case between the arresting officer and the prosecuting attorney prior to going to trial.

Solicit participants' questions concerning the pretrial conference.

Keep this in mind at all times.

Remind participants that both sides have a specific role to play in the case, but that does not preclude a personal or professional relationship.

Aids	Lesson Plan	Instructor Notes
	<p>e. Jury focuses on an officer's demeanor more than content of testimony.</p> <p>f. Do <u>not</u> bring manuals or articles into court for reference.</p> <p>g. Explain technical terms in layman's language.</p> <p>h. Pay attention to what evidence/testimony can be and is excluded.</p> <p>i. When describing suspect's performance on SFST's, state that suspect "performed the test as demonstrated" or "did not perform the test as demonstrated." Provide specific descriptive details concerning exactly what the suspect did or failed to do on the test (e.g., "stepped off the line twice and staggered while turning.")</p> <p>j. <u>Do not</u> appear biased against defendant. Testify accurately and completely, but also dispassionately.</p>	<p>Point out that officer should be polite and courteous during testimony...do not become agitated as a result of defense questions. Do not take personal issue with defense statements, stick to the facts.</p> <p>Review training manuals and other materials before court to become familiar with contents.</p> <p>For example, nystagmus means an involuntary jerking of the eyes. Horizontal Gaze Nystagmus occurs as the eyes gaze toward the side.</p> <p>Point out that if officer testifies on subject matter that was excluded, it could result in a mistrial.</p> <p>Be sure to emphasize that <u>all</u> evidence is taken into account before forming an opinion.</p> <p>Point out that officers should <u>not</u> embellish their testimony...be careful not to open any doors for the defense.</p>

Aids

Lesson Plan

Instructor Notes



2. Video segment three, tape two (The Courtroom Testimony)

3. Typical defense tactics.

a. The defense relies on several factors to "impeach" or discredit your testimony.

(1) By impeaching your credibility:

- o Inconsistencies
- o Comparison with past testimony
- o Testimony that is at odds with other established experts
- o Lack of recall

Point out that the defense attorney's job is to try to create a "reasonable doubt." Don't take it personally.

During this video segment, the prosecutor asks three important questions of the officer. Each question is followed by a stop sign icon.

Instructors are asked to solicit responses from the participants on how they would answer that question. Discussion can follow.

Arresting officer's and assisting officer's testimony should be corroborative. Any differences must be explained.

Get your facts straight and stick to them.

Try to get copies of transcripts of previous trials to review your strong/weak points. If possible, review your testimony with the prosecutor.

Do your homework...review the literature. Explain any differences if possible.

Try to be prepared, but don't be afraid to say "I don't know." Be honest.

Aids

Lesson Plan

Instructor Notes



- b. By exposing the court to alternative conditions which account for your observations:
 - o Sickness,
 - o Injury,
 - o Other.

- c. Defense will challenge your credentials... a bona fide expert has both formal training resulting in a high degree of knowledge and experience in applying that knowledge, by:
 - o Directly challenging formal training and experience.
 - o Demonstrating the officer lacks knowledge in the field by contrasting officer's knowledge with the defense expert's knowledge.

- d. By demonstrating that the officer did not follow testing procedures established by departmental policy, training or legal precedent.

- 4. Video segment four, tape two (DWI Courtroom Testimony)
 - a. Video
 - b. Discussion

Point out that if the defense can discredit your training and/or experience your testimony will have little "weight" with the jury.

The trial tactic is to show that the officer does not have the expertise to accurately identify impairment because of inadequate formal training which lessens the value of field experiences and increases likelihood that the officer's conclusions are wrong.

Point out that field sobriety tests should be administered "by the book" each and every time they are conducted.

If time allows, show the video segment of actual courtroom testimony in "DWI Courtroom Testimony" (15 minutes).

Summarize the relationship between detection phases, field notes, narrative report, pre-trial conference and direct testimony.

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Lesson Plan

Instructor Notes

Aids	Lesson Plan	Instructor Notes
		<p>Emphasize the need for clear and convincing testimony.</p> <p>Solicit participants questions and comments concerning direct testimony.</p>

TRIAL TIPS & TECHNIQUES

Courtroom Decorum

1. **TELL THE TRUTH.** Honestly is the best policy. Telling the truth requires that a witness testify accurately as to what he knows. If you tell the truth and are accurate, you have nothing to fear on cross- examination.
2. Condense your professional resume on to a 3x5 card, which you bring to court with you each time you receive a subpoena. On it, include your P.O.S.T. certification date, classes taken as a law enforcement officer, and other special awards or permits you have.
3. **READ YOUR INCIDENT REPORT** before you come to court. Go over the details in your mind so that you will have an independent recollection of the events of the arrest. **DO NOT** come to court and ask the prosecutor for a copy of your report. Do ask, prior to court, if you cannot locate a copy of your request.
4. Dress neatly and professionally; leave sunglasses, PR-24, flashlight and other cumbersome equipment in your car before coming into the courtroom, unless needed for a demonstration. Wear a coat and tie if you prefer.
5. Do not guess the answer to any question asked. It is **OKAY** to say “I don’t know” or “I can’t remember” in response to questions. Do not give the impression that you are guessing the answer by prefacing your response with “I think” or “I believe.” If you do not know the answer, it is okay to look at your report and refresh your memory. Always give definitive, positive, sure answers.
6. Listen carefully to the question asked. Do not begin your answer until the prosecutor has finished asking the question. Be sure you understand the question before you attempt to give an answer. If necessary, ask that the question be repeated or rephrased if you do not understand it.
7. Take your time. Do not feel pressured to give a quick answer. After a question is asked, there may be an objection; allow this to happen. When you hear the word, “objection”, stop testifying.

8. Answer the question that is asked, then stop. Do not volunteer information not asked for, or you will risk causing a mistrial, or even an immediate acquittal. DO explain an answer, if you feel your answer might appear ambiguous to the jury. You are always permitted to explain your answer. Tell the prosecutor prior to your testimony if there is anything you feel the prosecutor needs to know, but might not!
9. Be serious in the courthouse...Jurors are aware that criminal prosecutions are serious business.
10. Speak clearly and loudly enough so that you can be easily heard.
11. Look at the jury when testifying, even when the defense attorney asking the question is not standing near the box. Always talk to the jury, and maintain eye contact with them, even if it feels unnatural to you.
12. Always be courteous, even when the defense attorney is not. Control your temper, and never allow yourself to be drawn into an argument with that attorney. Remember, the best way to make a good impression with the jury is to appear courteous and professional. You were just doing your job during the arrest, and you do not have a personal stake in the case.
13. Testify in English. Do not say, "The perpetrator exited the vehicle" when in reality "the defendant got out of his car." The person on trial is never a "lady" or "gentlemen," but is always "the defendant." Do not use military times without clarifying the time in laymen's terms. Do not use call signals. It makes more sense to the jury when you speak the same language as they do.
14. It is permissible and desirable to discuss the case with the prosecutor before trial. A defense attorney may ask this question; tell the truth. Obviously, a prosecutor will try to discuss the case with the witnesses before trial; be straight forward in answering this question.
15. A defense attorney will always ask whether you have an independent recollection of the case. That is, aside from your police report or other notes, do you remember the event? Any fact that you remember about the stop and/or arrest of the defendant would be sufficient to answer this question positively.

Specific DUI Trial Recommendations

1. Never give the numerical alco-sensor reading of the defendant when asked by the prosecutor. However, if the defense attorney asks you for the NUMERICAL reading, give it to him/her. The prohibition of alco-sensor results of a defendant do not apply to witnesses, such as passengers in the car.
2. Always demonstrate how you conducted field sobriety evaluations. If the prosecutor forgets to ask you to come off the witness stand to demonstrate, suggest that it will aid your testimony. Be certain, however, that you can do in court all the evaluations you asked the defendant to perform the night of the arrest. If you cannot do them, the jury will not expect the defendant to have done them properly.
3. Know the reasons for giving field sobriety evaluations:
 - They are **divided attention test**, designed to detect when a person is impaired by alcohol and/or drugs.
 - They provide evidence of intoxication in case defendant refuses to take a state administered test under implied consent.
 - They prevent an arbitrary decision to arrest, and allow an Office to articulate the reasons for concluding a driver was DUI to someone not present at the scene.
4. You are not required to know, and in fact know nothing, about the Intoxilyzer 5000 or your jurisdiction breath test instrument, its internal workings or anything other than how to operate it and take a breath sample from a defendant. You are merely an operator of an instrument, and while you have been taught something about how the instrument works when you became certified as an operator, never testify to its internal workings, or the defense attorney will discredit you, and make you out to be a “thinks-he-knows-it-all” who really knows nothing.

Do Not bring the Intoxilyzer 5000 Operator’s manual to court, or the log, unless instructed to by the prosecutor. Discuss any subpoena to produce that you may receive with the prosecutor, before complying with the subpoena.

5. Be aware that the margin of error in the Intoxilyzer 5000 is not + or - .02. The .02 grams comes into play in that the State's breath test results are not admissible if the sequential breath tests differ by more than .020 grams. If the two breath samples differ by more than .02 grams then the Intoxilyzer 5000 will give you an error message and you can either wait 20 minutes and give the defendant another breath test or take the defendant for a blood test. Also, margin of error only applies to statistical sampling such as polling data used in political campaigns. It does not apply to scientific instruments such as the Intoxilyzer 5000. According to the manufacturer the precision of the instrument is a standard deviation of 0.003 BrAC or better and the accuracy is better than federal requirements, $\pm 3\%$ or ± 0.003 BrAC, whichever is greater. Furthermore, the instrument has been approved by the Federal Department of Transportation.
6. If you get an "Invalid Sample" on the Intoxilyzer 5000 the instrument has detected residual mouth alcohol in the subject's breath. You must restart a twenty-minute waiting period and repeat the test or take the subject for a blood test. Remember to write the blood drawer's name on the police report! It is also a "best practice" to witness the blood draw yourself – this may allow the prosecutor not to have to call the hospital personnel as a witness.
7. When testifying about field sobriety evaluations remember to discuss the level of impairment of the defendant. Officers can testify to numerical scores on a field sobriety test, including HGN, and can testify to the level of impairment. For example you could say; "the defendant scored four out of a possible six clues on the HGN and four clues is considered impaired." Sieveking v. State, 220 Ga. App. 218 (1996). A police officer can state a defendant "failed" a field sobriety test. **However, see number 9 below!!!!**
8. If you are NHTSA trained and testify as to the accuracy of the field sobriety tests, make sure you know the numbers and their significance. Considered independently, the Nystagmus test was 77% accurate, the Walk-and-Turn, 68% accurate, and the One-Leg Stand, 65% accurate in identifying subjects whose BAC were .10 or more. NHTSA also found that it would be possible to combine the results of Nystagmus and Walk-and-Turn in a: decision matrix", and achieve 80% accuracy. The problem with numbers is that if you get confused, you can jeopardize a driving under the influence case. So follow the dictates of number 9 below.

Be sure the officer is aware that NHTSA has done validation studies, and the SFST is considered very useful in determining whether or not a defendant is driving while intoxicated. The officer doesn't have to know the numbers, or care, because in *this* case, *this* defendant was impaired.

9. With a proper Motion In Limine from the prosecutor, you can testify only as to the observations you make on the field sobriety evaluations. You would therefore not testify about the numbers of clues or whether the defendant passed or failed any tests. Thus, you would ignore the advice given in numbers seven and eight above. It is very important that you discuss this option with the prosecutor in advance of trial. This avoids the NHTSA requirements of passing or failing a test based on the number of clues. You would only testify as to what you observed regarding the defendant's manifestations of intoxication and performance of the field sobriety evaluations.

Police Witnesses

Although police officers and other professionals peripherally involved with the criminal justice system should be by nature more cooperative and competent as witnesses, it is not wise to assume too much, particularly if you haven't had that person as a witness on prior occasions. Leave nothing to chance. It is safer to prepare these witnesses as any other civilian witness. Accomplish this by always being mindful of the same considerations listed above and cover everything, even the basics. Some frequently encountered pitfalls with these kinds of witnesses include: a) relying too much on notes and reports; b) arguing with defense counsel; c) appearing to be too invested in obtaining a conviction; d) offering unsolicited and improper conclusions and opinion testimony; e) being non-responsive to the point of adding gratuitous comments; f) using too much law enforcement jargon; g) being overly defensive when in error; h) relying on too much "we" type of testimony instead of telling what they did themselves, or testifying to what they usually do as opposed to what they actually did in this case.

SAMPLE DWI INCIDENT REPORT

Defendant: Eryn Greenfield
Age: 31
Date of Birth: 10/03/70
Date of Arrest: XX-XX-XX
Time of Arrest: 9:20 pm
CA - D.L. #: CA 1234567

First Observations:

On XX-XX-XX at approximately 9:00 p.m., I was patrolling westbound on Reed Avenue at the intersection with Interstate-80 (fully marked CHP patrol vehicle #904534). I was stopped at the intersection preparing to make a left turn onto eastbound I-80. I observed a yellow Volkswagon (S/V) traveling down the eastbound I-80 exit ramp approaching the intersection with Reed Avenue. I noticed the S/V traveling with no headlights. Furthermore, I noticed the right tires of the S/V travel over the solid white fog line on the exit ramp by approximately 2 feet. The S/V made a brief stop at the intersection, then made a right turn onto eastbound Reed Avenue. I made a U-turn and followed the S/V. The S/V then made a wide right turn from Reed Avenue onto southbound Riverpoint Drive. An enforcement stop was initiated at which point the S/V began to pull to the right. At the point the right front tire of the S/V rubbed up onto the raised concrete curb that paralleled the roadway.

Observations After The Stop:

I approached the S/V on the passenger side and made contact with the driver (convertible-top down). I immediately noticed that the driver had red and watery eyes. I advised her of the reason for the stop and asked if her vehicle had any mechanical problems. She stated, "no." I requested her driver's license, registration, and insurance. The driver removed a stack of cards from her wallet, which was located in her purse on right front passenger seat. She began sifting through the stack of cards. I observed her clearly pass by her license and continue searching through the cards. Unable to locate her license on the first attempt, she started over at the top and located the license on the second attempt. She was identified as Eryn Greenfield by California driver's license (#CA1234567). After handing me the license, she did not make an attempt to retrieve the other documents I had requested. I asked her again for the registration and insurance cards. She then retrieved them out of the glove compartment. I asked her how much alcohol she had consumed and she stated "a couple of beers about an hour ago." I asked her what size and type of beer and she replied with 12oz. bottles of Heineken. I asked her if she felt the effects of the drinks and she stated, "No, I feel fine." As she spoke, I noticed that her speech was slurred. I asked her to exit the vehicle and step to the side walk so I could administer several field sobriety tests to her (see field sobriety test section). As she exited the vehicle, she stepped around the front as instructed, then stumbled on the raised curb. I asked her several pre-field sobriety test questions of which she answered accordingly (see page 2 of face page). As I communicated with her, I smelled an odor of alcoholic beverage emitting from her breath.

Field Sobriety Tests:

This evaluation was performed on Riverpoint Drive, just south of Reed Avenue. The evaluation surface was smooth concrete. Lighting conditions consisted of patrol vehicle headlights, spotlights, overhead lights, streetlight, and my flashlight. No surface defects were noted or claimed.

Horizontal Gaze Nystagmus (explained):

I observed lack of smooth pursuit, distinct and sustained nystagmus at maximum deviation, and an onset of nystagmus prior to 45 degrees in both of Greenfield's eyes.

Walk and Turn (explained and demonstrated):

Instruction Stage: Lost balance (feet broke apart)

Walking Stage (1st Nine): Walked 10 steps (counted 10).
Raised left arm over 6 inches away from body to assist with balance (at steps 4-5).

Walking Stage (2nd Nine): Walked 10 steps (counted 9).
Raised left arm over 6 inches away from body to assist with balance (at steps 6-7).

Turn: Lost balance during turn.

One Leg Stand (explained and demonstrated):

Greenfield raised her left leg and began counting. She put her foot down on counts 1006 and 1009. As she was counting, she skipped 1017 (counting from 1016 to 1018). Used right arm for balance (6+ inches from body). She counted to 1019 after 30 seconds.

Arrest:

Based on the following information, I formed the opinion that Greenfield was driving under the influence of an alcoholic beverage:

- Driving at night with no headlights.
- Driving to the right of the solid white fog line on exit ramp.
- Making wide right turn from eastbound Reed Avenue to southbound Riverpoint Drive.
- Right tire rubbing against raised concrete curb after stop was initiated.
- My observed divided attention problems while retrieving her license/registration and insurance.
- Her red, watery eyes, and slurred speech.
- Her admissions to consuming alcoholic beverages.

- Stumbling over curb after exiting the vehicle.
- Odor of alcoholic beverage emitting from her breath.
- My observed signs of impairment as she performed the field sobriety tests.

I arrested Greenfield for driving under the influence of an alcoholic beverage at 9:20 p.m. Greenfield was given the proper chemical testing advisement. She chose a breath test and was transported to the breath testing facility. She provided two breath samples of 0.10 and 0.10 at 9:50 p.m. and 9:52 p.m. She was then booked along with her property.

Recommendations:

I recommend a copy of this report be forwarded to the district attorney's office for review and prosecution of Greenfield for driving under the influence and driving with a blood alcohol concentration at or above the legal state limit.

Vehicle Disposition:

Greenfield's vehicle was stored by Reliable Towing.