Driving Under the Influence of Drugs Bulletin

The Toxicology Unit of the Oklahoma State Bureau of Investigation is often charged with the request to examine specimens for the presence of drugs and intoxicating substances associated with drug-impaired driving for prosecutorial purposes under Title 47 O.S. §11-902.

This bulletin provides basic information and highlights some important issues concerning drug-impaired driving cases for law enforcement, judges, drug recognition experts (DREs) and attorneys. These cases are more difficult to prosecute than alcohol-impaired driving, and require special attention.

INTRODUCTION

The Toxicology Unit of the Oklahoma State Bureau of Investigation (OSBI) is committed to providing cooperative and comprehensive support for the prevention and education of drug-impaired driving at the local, district and state levels. These efforts are intended to provide training to criminal justice constituents.

Unlike Oklahoma’s per-se laws governing alcohol use, drug-impaired driving is basically more complex. The expert opinion of the criminalist concerning driving impairment is often vital for prosecution. Due to various factors correlating levels of a drug with the degree of impairment may be somewhat subjective and makes it very difficult to predict whether someone was impaired based solely on toxicology results.

The criminalist may state if symptoms of the subject are consistent with known effects of drugs. This is done in conjunction with the officer’s testimony of what was observed at the time of arrest such as signs and symptoms of drug use, behavioral observations and driving pattern.

DRUG EFFECTS

Drug effects can vary between individuals. The effects are influenced by history of drug use (chronic or acute user), tolerance, health, individual sensitivity to the drug, metabolism and other factors. Many drugs, especially those that affect the central nervous system (CNS), can impair driving. These include illicit drugs, as well as therapeutic and over-the-counter medications. Many therapeutic drugs are available with or without a prescription and can have undesired side effects that can impair driving performance. Illicit, therapeutic and over-the-counter drugs can impair driving performance.

EFFECTS OF DRUGS ON DRIVING

Drugs can impair skills that are essential for safely operating a motor vehicle:
Drug recognition and documentation of signs and symptoms is especially important in drug-impaired driving cases. The first choice is Drug Recognition Expert (DRE) Certification. Dick Studdard and Len Leeds of the Los Angeles Police Department pioneered the DRE program in California in the 1980s. The program was formally validated through a Field Validation Study by NHTSA in collaboration with Johns Hopkins University in 1985. The program provides specialized training in drug recognition that allows a trained officer to predict the class of drugs that may be present. The DRE plays a crucial role in drug-impaired driving prosecutions.

The information collected by the DRE can provide valuable information to the criminalist. Documentation of drug signs is important in impaired driving cases. If observed, characteristic signs, symptoms or behaviors associated with drug use should be noted in the police report. If drugs are suspected, the arresting officer should document this on the Drug Recognition Evaluation form, which is submitted with the biological sample. Typical signs may include:

**DEPRESSANTS**

Sedated, confused, poor divided attention, slowed reaction times, memory effects, poor psychomotor skills, slurred speech, ataxia, disorientation, decreased pulse and blood pressure.

**STIMULANTS**

Hypervigilance, excitability, anxiety, self-absorbed, agitated, paranoid, delusional, obsessive activity, rapid speech, hand-wringing, bruxism, dilated pupils, elevated pulse and blood pressure.

**CANNABINOIDS**

Relaxed, sedated, confused, poor divided attention, slowed reaction times, memory effects, poor information processing, poor coordination, reddening of conjunctivae (in eyes), elevated pulse and blood pressure.
OPIOIDS/NARCOTIC ANALGESICS

Euphoria, sedated, confused, mental clouding, stupor, slowed reaction times, poor coordination, constricted pupils, decreased pulse and blood pressure.

DRUG ANALYSIS

The initial toxicological investigation of a blood sample is screened by both headspace gas chromatographic analysis for the presence of alcohol and enzyme-linked immunoabsorbant assay (ELISA). If a drug analysis is requested and the blood sample is determined to be positive by ELISA and the blood alcohol concentration (BAC) is less than 0.08 g/100mL, a gas chromatograph-mass spectrophotometry conformational analysis will be performed. If the BAC exceeds 0.08 g/100mL by Title 47 O.S. § 756 the blood sample may not have a confirmatory analysis performed or the subject meets the requirements of DUI for persons under 21 in accordance with Title 47 O.S. § 6-106.4. However, the investigator or prosecutor may contact the toxicology supervisor to request additional drug analysis. The confirmation of cannabinoids must be requested by the District Attorney’s Office four weeks prior to any trial appearance by a criminalist. The Defendant’s retention specimen will be retained for 60 days from the date of collection as provide by Title 47 O.S. § 752 before being destroyed. Any remaining specimens involving DUI will be retained for 120 days from the above date of completion.

TRAINING

The Toxicology Unit of the Oklahoma State Bureau of Investigation can provide on-site training at your agency. To request training on drug-impaired driving or other issues, contact the Toxicology Unit.

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