

Challenges we face in DUID cases

- These cases are on the rise.

Jury considerations

- The jurors will feel sympathy for your defendant because the drug use usually stems from a medical problem.
- All jurors will have prescription drugs in their home.
- All jurors will have take prescription drugs at one time in the past.
- People don't associate prescription drugs with bizarre behavior.
- THC is becoming commonplace and no longer taboo.

Jury selection is KEY

- Picking a jury with your theme in mind is critical in these cases.
- The theme is generally: drugs affect people in different ways and can make someone an unsafe driver.
- There is no particular behavior that we expect to see since drugs affect people in different ways.
- They have to agree and understand that the standard is not that the person was out of control, just that they were unable to safely operate a motor vehicle.

Must Discuss Topics: experience with addiction

- Have any of you had any family or friends who suffered from a prescription drug problem?
- Follow-up
 - Did the person receive treatment for the problem?
 - Did the juror ever see the person while they were under the influence?
 - Did the person do any research on the drug, or prescription drugs generally in association with the family/friend's situation?

Must Discuss Topics: training

- Do any of you have any medical training or experience?
 - Are you qualified to prescribe drugs to patients?
 - Have you seen people under the influence of different drug?
 - Would you agree that people are affected differently by different drugs?
 - Everyone agree with that?
 - Everyone agree with the notion that there is no particular symptom or behavior that a drug will produce in every person. Drugs affect people differently. Everyone agree with that?

Must Discuss Topics: MJ

- Is there anyone here who think our drug laws should be changed?
- The issue was recently before the voters, right?
- Anyone here disagree with the current state of the law in regards to MJ use?
- Follow-up
 - Do you have an opinion about MJ and driving?
 - Because MJ is more commonplace in today's society, do you believe people should be able to use it and drive?
 - Would you be open to the testimony of a witness regarding the studies on MJ and driving.
 - Or do you feel so strongly that you would ignore their opinion.

Must discuss Topics: prescribed drugs

- Is there anyone here who disagrees with the conclusion that even those who are prescribed a drug can become impaired for driving purposes if they take the drug?
- That the prescription doesn't erase the impairing qualities of the drug? Every agree with that?
- Is everyone comfortable with the concept that it is illegal to drive while impaired, even if you are impaired because of drugs you have been prescribed?
- Anyone here disagree with the notion that when you drive you have a duty to others to be safe.

Expert Witness: Why?

- The Trial → How did this drug affect one's ability to drive with the same "care and caution of a sober person"
- Need to → Link Defendant's driving, objective symptoms, and FSTs to the drug in Defendant's blood
- How → OBSERVATIONS and EDUCATION are your case

Expert Witness: Investigating officer/DRE/Criminalist

- Determine witness roles before trial
 - Build up your investigating officer?
 - Need a DRE?
 - Is the Criminalist your case or corroboration?
- Use each witness to corroborate one another
