

Drug Recognition - Predicate Questions to Arresting/SFST Officer

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0. State your name for the record.
0. Where are you employed?
0. What is your current assignment with the police department?
0. How long have you been assigned to traffic patrol?
0. Were you on duty _____(date)?
0. Did you stop a _____
(description of car)?
0. When you walked up to the car what did you see?
0. Did you notice anything else about the defendant?
- 0.
0. (There may be a number of foundation questions or questions

surrounding the stop that you want to ask the officer. This list of predicate questions is strictly to assist in admitting the HGN test at trial. You will want to develop your own questions for other areas of examination.)

- 0. Did you ask the defendant to perform field sobriety tests?
- 0. What are field sobriety tests?
- 0. Were you trained in administering these tests?
- 0. Officer, I want to ask you specifically about a test known as horizontal gaze nystagmus or HGN. Are you familiar with this test?
- 0. What part of the body are you observing when you give this test?
- 0. Have you received specific training in the administration of the HGN test?
- 0. What is HGN?
- 0. Where did you receive your training in the administration of the HGN test?
- 0. How many hours of training did you receive?
- 0. When did you receive this training?
- 0. Who were the instructors?
- 0. Was there an alcohol workshop as part of your training?

0. What is an alcohol workshop?
0. So you know at the workshop that people have probably been drinking. Do you know how much an individual has had to drink before you test him/her?
0. Do all of the subjects at the alcohol workshop drink?
0. Do you know before administering the field sobriety tests whether a particular subject has been drinking or not?
0. Other than the alcohol workshops, have you given the HGN test to persons that you knew were sober?
0. Under what circumstances?
0. What differences have you observed in the eye movements of sober persons vs. impaired persons in doing this exercise?
0. When you learned the HGN test, were you required to pass a practical skills examination?
0. Please describe this examination.
0. As a result of your training, did you receive any certificates?
0. From what organization(s) did you receive this certificate?
0. Do you have this certificate here today? _(If you wish to have the certificate entered into evidence, be sure to have a photocopy to submit. Have the officer bring the original in case there are

questions about authenticity, however, enter the photocopy into evidence. Otherwise, the officer may not get the certificate back for months.)

0. Have you had any additional training in the administration of the HGN test other than that which you have just described?
0. Please describe that training.
0. Approximately how many times have you given the HGN test?
0. Do you keep a log of the times you have administered the HGN test?
0. (This is not required and the officer may not maintain a log. Be sure to check this in advance.)
0. What is your purpose in maintaining this log?
0. Officer, based on your training and experience, is the presence of HGN a reliable indicator that a person has consumed alcohol?
0. Is there a standard way in which the test for HGN should be given?
0. Please describe the test. (You might offer as demonstrative evidence a videotape of the HGN test. However, some courts may find such evidence too prejudicial.)

0. What specifically are you looking for when you administer this test?
0. Did you give the test to the defendant in the same way that you have described?
0. Did you ask the defendant if s/he understood what s/he was supposed to do?
0. Did s/he indicate that s/he understood?
0. Did the defendant have any difficulty in following your directions?
0. Officer, I would like to ask you about the six clues you previously testified that you are looking for when you give this test. What is the first clue of the HGN test?_(Lack of smooth pursuit)
0. Can you describe for the jury what you mean by a lack of smooth pursuit?
0. When you gave this part of the test to the defendant, what did you see?
0. What is the second clue of the test?_(Distinct nystagmus at maximum deviation)
0. How long do you hold the stimulus at the point of maximum

deviation?

0. Why?
0. When you gave this part of the test, what did you see?
0. What is the final part of this test?_(Angle of onset)
0. How is this part of the test done?
0. How do you estimate the angle of onset?
0. When you gave this part of the test to the defendant, what did you see?
0. What did your observations of the defendant's performance on this test indicate to you?
0. In your experience, is there a connection between horizontal gaze nystagmus and the amount of alcohol a person has consumed?
0. What is that connection?_(Be clear before trial that you are not asking the officer to tell you that a specific angle of onset equals a specific BAC. The information you are seeking is that people who have been drinking tend to show nystagmus and the more they have had to drink, the easier the nystagmus is to see. You might even have a judge allow the officer to state that the earlier the angle of onset, the higher the BAC

but be careful not to sound as if a numeric correlation is being made.)

0. Officer, are the clues you saw when you administered the test to defendant indicative of alcohol impairment?
0. Based on your training and experience, what does the presence of all six clues indicate?
And how many clues did you see when you gave the test to the defendant?