

ADMINISTERING THE FST'S¹

HGN

1. If wearing eyeglasses, have them removed.
2. Verbal Instructions
 - a. "I am going to check your eyes."
 - b. "Put your fee together with your hands at your side."
 - c. "Keep your head still and follow the stimulus with your eyes only."
 - d. "Keep following the stimulus with your eyes until I tell you to stop."
3. Position the stimulus approximately 12-15 inches from suspect's nose and slightly above eye level.
4. Check to see that *both pupils are equal in size*.
 - a. If they are not, this may indicate a head injury.
 - b. You may observe resting Nystagmus.
5. Check suspect's eyes for the *ability to track together*.
 - a. Move stimulus smoothly across the suspect's *entire field of vision*.
 - b. Do eyes track the stimulus together or is one lagging behind?
 - i. This could indicate possible medical disorder, injury, or blindness.
6. Checking for *smooth pursuit*.
 - a. Left eye.
 - i. Move the stimulus to your right.
 - ii. Move stimulus smoothly, at a speed that requires approximately 2 seconds to bring the suspect's eye as far to the side as it can go.
 - iii. While moving the stimulus, look at the suspect's eye and determine whether is *able to pursue smoothly*.
 - iv. Movement of the stimulus should take approximately 2 seconds out and 2 seconds back for each eye.

¹ *DWI Detection and Standardized Field Sobriety Testing*, 2004, 2006 Editions. *Utah DUI Defense The Law and Practice*, Neeley, Nesci, Schatz, 2011

- b. Right eye.
 - i. Move stimulus all the way to the left, back across the suspect's face checking to see if right eye pursues smoothly.
 - ii. Move stimulus smoothly, at a speed that requires approximately 2 seconds to bring the suspect's eye as far to the side as it can go.
 - iii. While moving the stimulus, look at the suspect's eye and determine whether is able to pursue smoothly.
 - iv. Movement of the stimulus should take approximately 2 seconds out and 2 seconds back for each eye.
 - c. Repeat the procedure.
7. Checking for distinct and sustained nystagmus at maximum deviation.
- a. Left eye
 - i. Move stimulus to suspect's left side until the eye has gone as far to the side as possible.
 - (1) Usually no white will be showing in the corner of the eye at maximum deviation.
 - ii. Hold the eye at that position for a minimum of 4 seconds.
 - iii. Observe the eye for distinct and sustained nystagmus.
 - b. Right eye
 - i. Move stimulus all the way across the suspect's face to check the right eye, going as far to the side as possible.
 - (1) Again, usually no white will be showing.
 - ii. Hold the eye at that position for a minimum of 4 seconds.
 - iii. Observe the eye for distinct and sustained nystagmus.
 - c. NOTE
 - i. Do NOT hold eye for more than 30 seconds as this can induce fatigue nystagmus.
 - ii. Defense counsel will pounce on this fact.
8. Checking for onset of nystagmus prior to 45 degrees.
- a. Left eye
 - i. Move the stimulus towards the right (suspect's left eye) at a speed that would take approximately 4 seconds for the stimulus to reach the edge of the suspect's shoulder.

- ii. Watch eye carefully for any sign of jerking.
 - (1) When you see it, stop and verify that the jerking continues and where it occurs.
- b. Right eye
 - i. Move the stimulus towards the left (suspect's right eye) at a speed that would take approximately 4 seconds for the stimulus to reach the edge of the suspect's shoulder.
 - ii. Watch eye carefully for any sign of jerking.
 - (1) When you see it, stop and verify that the jerking continues and where it occurs.
- c. NOTE
 - i. It is important to use the full 4 seconds when checking for onset of nystagmus.
 - ii. If you move the stimulus too fast, you may go past the point of onset or miss it altogether.
 - iii. If the suspect's eyes start jerking before they reach 45 degrees, check to see that some white of the eye is still showing on the side closest to the ear.
 - (1) If no white is showing you have either (1) taken the eye too far to the side (more than 45 degrees) or (2) the person has unusual eyes that will not deviate very far to the side.
 - iv. Nystagmus may be caused by causes other than alcohol such as seizure medication and some other drugs.
 - v. A large disparity between the performance of the right eye and left eye may indicate a medical condition.
- 9. NOTE
 - a. Check each eye twice for each clue.
 - b. For many subjects, the clues will appear in the sequence listed.
 - c. Performance may not be identical in both eyes.
 - d. It is possible for clues to develop in any sequence.
 - e. Always start with the left eye.

10. Test Interpretation
 - a. 3 clues of nystagmus in each eye for total of 6 clues
 - i. Lack of smooth pursuit - eye cannot follow moving object smoothly.
 - ii. Distinct and sustained nystagmus when eye held at maximum deviation for minimum of 4 seconds.
 - iii. Angle of onset of nystagmus is prior to 45 degrees.
 - b. 4/6 clues suggests the BAC is above .08
 - c. By itself, this test is 77% accurate.

Walk and Turn (WAT)

1. Instructions Stage: Initial Positioning and Verbal Instructions
 - a. For standardization in the performance of this test, have the suspect assume the heel-to-toe stance by giving the following verbal instructions, accompanied by demonstrations:
 - i. "Place your left foot on the line." (Real or imaginary.) Demonstrate.
 - (1) NOTE: *Utah DUI Defense* acknowledges that line can be imaginary yet in its Practice Tips section, pg 182, states that the test requires a designated straight line. It then encourages counsel to sarcastically cross-examine the officer about the line.
 - (2) I could not find the requirement that there be a designated line.
 - (a) Note to self: keep looking to verify.
 - ii. "Place your right foot on the line ahead of the left foot, with the heel of the right foot against the toe of your left foot." Demonstrate.
 - iii. "Place your arms down by your sides." Demonstrate.
 - iv. "Maintain this position until I have completed the instructions. Do not start to walk until told to do so."
 - v. "Do you understand the instructions so far?" (Make sure suspect indicates understanding.)
2. Demonstrations and Instructions for the Walking Stage
 - a. Explain the test requirements, using the following verbal instruction, accompanied by demonstrations:
 - i. "When I tell you to start, take 9 heel-to-toe steps, turn, and take 9 heel-to-toe steps back." Demonstrate 3 heel-to-toe steps.

- (1) Do NOT demonstrate using an even number of steps (2, 4, 6) as this will cause you to turn in the wrong direction.
 - (2) This may confuse the suspect and jeopardize the results.
 - ii. “When you turn, keep the front foot on the line, and turn by taking a series of small steps with the other foot, like this.” Demonstrate.
 - iii. “While you are walking, keep your arms at your sides, watch your feet at all times, and count your steps out loud.”
 - iv. “Once you start walking, don’t stop until you have completed the test.”
 - v. “Do you understand the instructions?” (Make sure the suspect understands.)
 - vi. “Begin, and count your first step from the heel-to-toe position as “one.”
3. Clues/Test Performance
- a. Clue 1: Cannot keep balance while listening to instructions.
 - i. Two tasks are required in this test.
 - (1) Balancing heel-to-toe on the line; and
 - (2) Listening carefully to the instructions.
 - ii. Typically an impaired person can only perform one of these tasks; i.e. may listen but not maintain balance.
 - iii. Record this clue if the suspect does NOT *maintain the heel-to-toe position throughout the instructions.*
 - (1) Feet must actually break apart.
 - iv. Do NOT record this clue if the suspect sways or uses arms to balance but maintains the heel-to-toe position.
 - b. Clue 2: Starts before the instructions are finished.
 - i. Suspect may be able to maintain balance but fail to listen to the instructions.
 - ii. Record this clue if the suspect *starts the test before the instructions are finished.*
 - c. Clue 3: Stops while walking.
 - i. The suspect pauses for several seconds.
 - ii. Do NOT record this clue if the suspect is merely walking slowly.

- d. Clue 4: Does not touch heel-to-toe.
 - i. Record this clue if the suspect *leaves a space of more than one-half inch* between the heel and to *on any* step.
 - (1) Even if the suspect does not touch heel-to-toe on every step, this only counts as 1 clue.
 - e. Clue 5: Steps off the line.
 - i. Record this clue if the suspect steps so that *one foot is ENTIRELY off line*.
 - (1) ENTIRE foot must be off line to count as a clue.
 - (a) NOTE: this also means that the suspect has missed touching heel-to-toe. Best guidance available is to not count this as a separate clue.
 - (2) Regardless of how many times suspect steps off line, this only counts as 1 clue.
 - f. Clue 6: Uses arms to balance.
 - i. Record this clue if the suspect raises one or both arms more than 6 inches from the sides of his body in order to maintain balance.
 - g. Clue 7: Improper turn.
 - i. Record this clue if the suspect removes the front foot from the line while turning.
 - ii. Record this clue if the suspect has not followed directions as demonstrated, i.e., spins or pivots around.
 - iii. Even if the suspect does both things, this only counts as 1 clue.
 - h. Incorrect number of steps.
 - i. Record this clue if the suspect takes more or fewer than nine steps in either direction.
 - (1) Even if the suspect takes the incorrect number of steps up and back, this only counts as 1 clue.
4. Test Interpretation
- a. 8 total clues
 - b. 2/8 clues suggests the BAC is above .10
 - c. By itself, this test is 68% accurate.
5. NOTE
- a. Divided attention test
 - i. During instruction phase, attention is divided between a balancing task (standing while maintaining the heel-to-toe position) and an information processing task (listening and remembering instructions.)

- ii. WAT
 - (1) Divides suspect's attention between balancing task (walking heel-to-toe and turning); small muscle control task (counting out loud); and short-term memory task (recalling the number of steps and the turning instructions).
- iii. People with ADD may not be able to perform divided attention tests by virtue of their disability.
- b. If the suspect can't do the test, record observed clues and document the reason for not completing the test.
- c. If the suspect has difficulty with the test (stepping off-line, stopping for questions, etc.), continue from that point, not the beginning.
 - i. The test may lose its sensitivity if repeated several times.
- d. Conduct tests on a reasonably dry, hard, level, non-slippery surface.
- e. Ensure sufficient room for suspect to complete test.
- f. "Recent field validation studies have indicated that varying environmental conditions have not affected a suspect's ability to perform this test." *Utah DUI Defense*, pg. 182.
- g. Individuals over 65 years of age or those with back, leg or middle ear problems had difficulty performing the test.
- h. Persons wearing heels more than 2 inches should be given the opportunity to remove their shoes.

One Leg Stand (OLS)

- 1. Instructions Stage: Initial Positioning and Verbal Instructions
 - a. Explain the test by giving the following verbal instructions, followed by demonstration.
 - i. "Please stand with your feet together and your arms down at the sides, like this." Demonstrate.
 - ii. "Do not start to perform the test until I tell you to do so."
 - iii. "Do you understand the instruction so far?" (Make sure the suspect indicates their understanding.)
- 2. Demonstrations and Instructions for the Balance and Counting Stage
 - a. Explain the test by giving the following verbal instructions, followed by demonstration.

- i. “When I tell you to start, raise one leg, either let, with the foot approximately 6 inches off the ground, keeping your raised foot parallel to the ground.” Demonstrate.
- ii. “You must keep both legs straight, arms at your side.”
- iii. “While holding this position, count out loud in the following manner: ‘one thousand one, one thousand and two, one thousand and three, etc.’”
 - (1) Officers: do NOT look at your foot when conducting the test - Officer safety issue.
 - (2) Test duration is 30 seconds.
- iv. “Keep your arms at your side at all times and keep watching the raised foot.”
- v. “Do you understand?” Make sure the suspect indicates understanding.
- vi. “Go ahead and perform the test.”
 - (1) Always time the 30 seconds allotted for the test.
 - (2) If suspect puts foot down, give instructions to pick the foot up again and continue counting from the point the foot touched the ground.
 - (3) If suspect counts very slowly, terminate the test after 30 seconds.

3. Clues/Performance

- a. Sways while balancing.
 - i. Refers to side-to-side or back-and-forth motion while suspect maintains the one-leg stand position.
 - ii. Counts as 1 clue.
- b. Uses arms for balance.
 - i. Moving arms 6 or more inches away from the side of the body in order to keep balance.
 - ii. Counts as 1 clue no matter how many different time arms are raised.
- c. Hopping.
 - i. Suspect is able to keep foot off the ground, but resorts to hopping to maintain balance.
 - ii. Counts as 1 clue not matter how many hopping episodes occur.

- d. Puts foot down.
 - i. Not able to maintain the one-leg stand position, putting foot down one or more times during the 30-second count.
 - ii. Counts as 1 clue.
- 4. Test Interpretation
 - a. 4 total clues
 - b. 2/4 clues indicates BAC above .10
 - c. By itself, this test is 65% accurate.
- 5. NOTE
 - a. Divided Attention Test
 - i. During the Instruction stage, the test divides the subject's attention between a balancing task (maintaining a stance) and an information processing task (listening to and remembering instructions).
 - ii. During the Balance and Counting Stage, the test divides the subject's attention between balancing (standing on one foot) and small muscle control (counting out loud).
 - b. If the suspect can't do the test, record observed clues and document the reason for not completing the test.
 - c. Conduct tests on a reasonably dry, hard, level, non-slippery surface.
 - d. Individuals over 65 years of age or those with back, leg or middle ear problems had difficulty performing the test.