

How Is Michigan Addressing the Growing Drugged Driving Problem?

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A Growing Problem

What is Marihuana?

- It is a psychoactive drug extracted from the plant *Cannabis sativa*.
- The herbal form of drug consists of dried mature flowers and leaves of female plants.
- The resinous is known as hashish.
- The biological active ingredient is THC.



MCL 333.7106-Marihuana

- “Marihuana” means all parts of the plant *Canabis sativa* L., growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant.

The Facts on Marijuana

- Individuals who have used marijuana at least 5 times have a 20 to 30 percent likelihood of becoming addicted to the drug.
- Smoked marijuana has the potential to be as, or more, harmful than cigarettes.
- Marijuana has undisputed negative effects on cognitive functioning, including memory, learning and motor coordination.

Alcohol impaired driver

- Bloodshot, watery eyes
- Slurred speech
- Strong odor of intoxicants
- Unable to pick the correct number between 12 and 14
- BAC of .08 or higher



Drug impaired driver

May be
unknown



Difficulties in OUID cases

- The effects of alcohol are much better known and understood than the effects of other drugs
- The public and the officers are most familiar with alcohol
- Blood testing takes longer than breath testing, is more invasive and more costly

Resulting consequences

- Historically, drug impaired drivers escape prosecution
- No conviction
- No punishment
- No rehabilitation
- No protection to society

Surveys on drug use

- More than 16% of weekend, nighttime drivers tested positive for illegal drugs, prescription drugs, or over-the-counter medication
- 10 million people reported driving under the influence of illicit drugs during the year prior to being surveyed.

Growing problem nationwide

- One in three drivers killed in motor vehicle crashes in 2009 tested positive for drugs
- “Drugged driving is a much bigger public health threat than most people realize.”

Michigan drugged driving issues



*Alcohol-
related
incidents*



*Drug-
related
incidents*

The magnitude of the problem

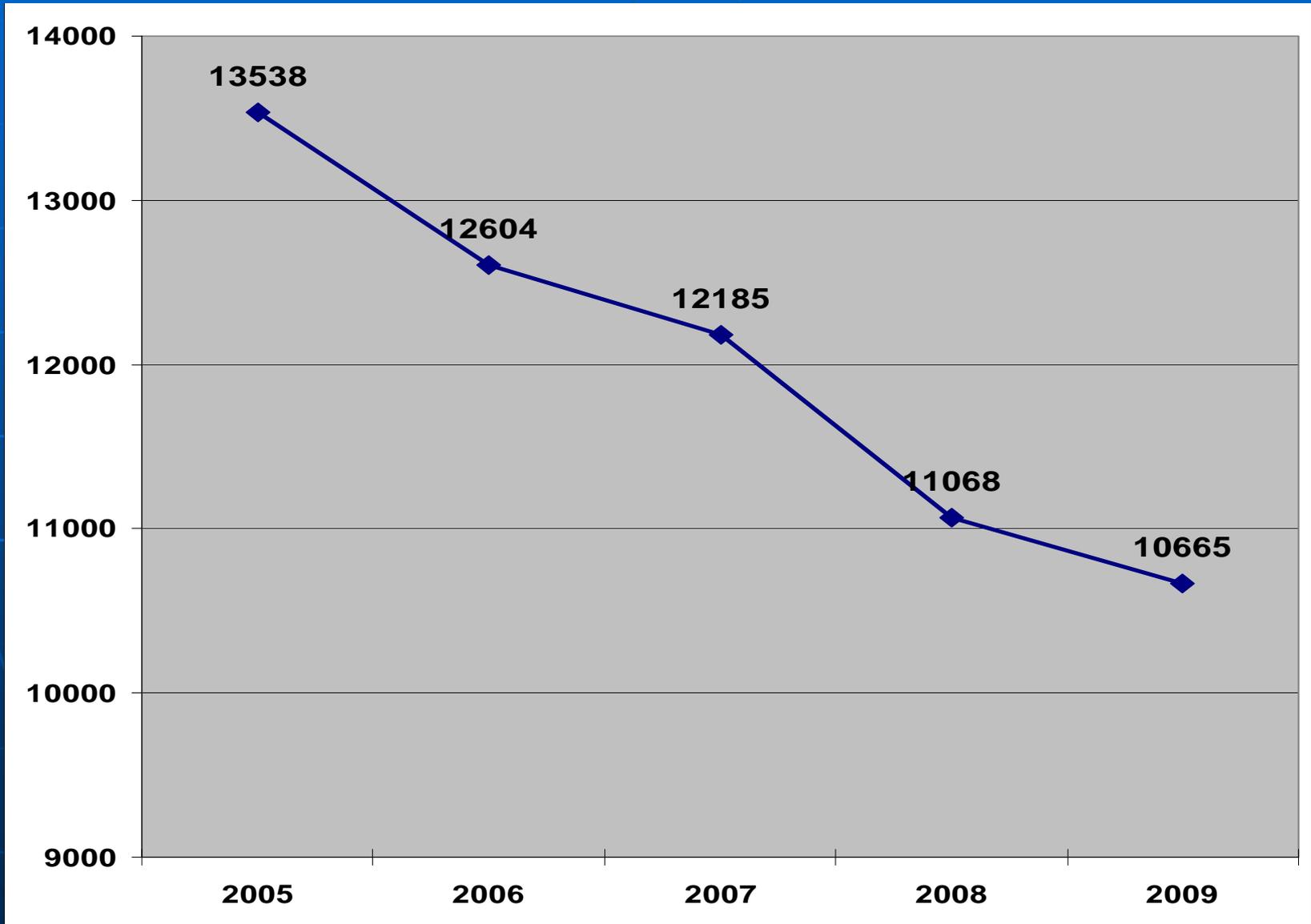
■ Alcohol Related Crashes

- 2008- 11,000
- 2009- 10,700

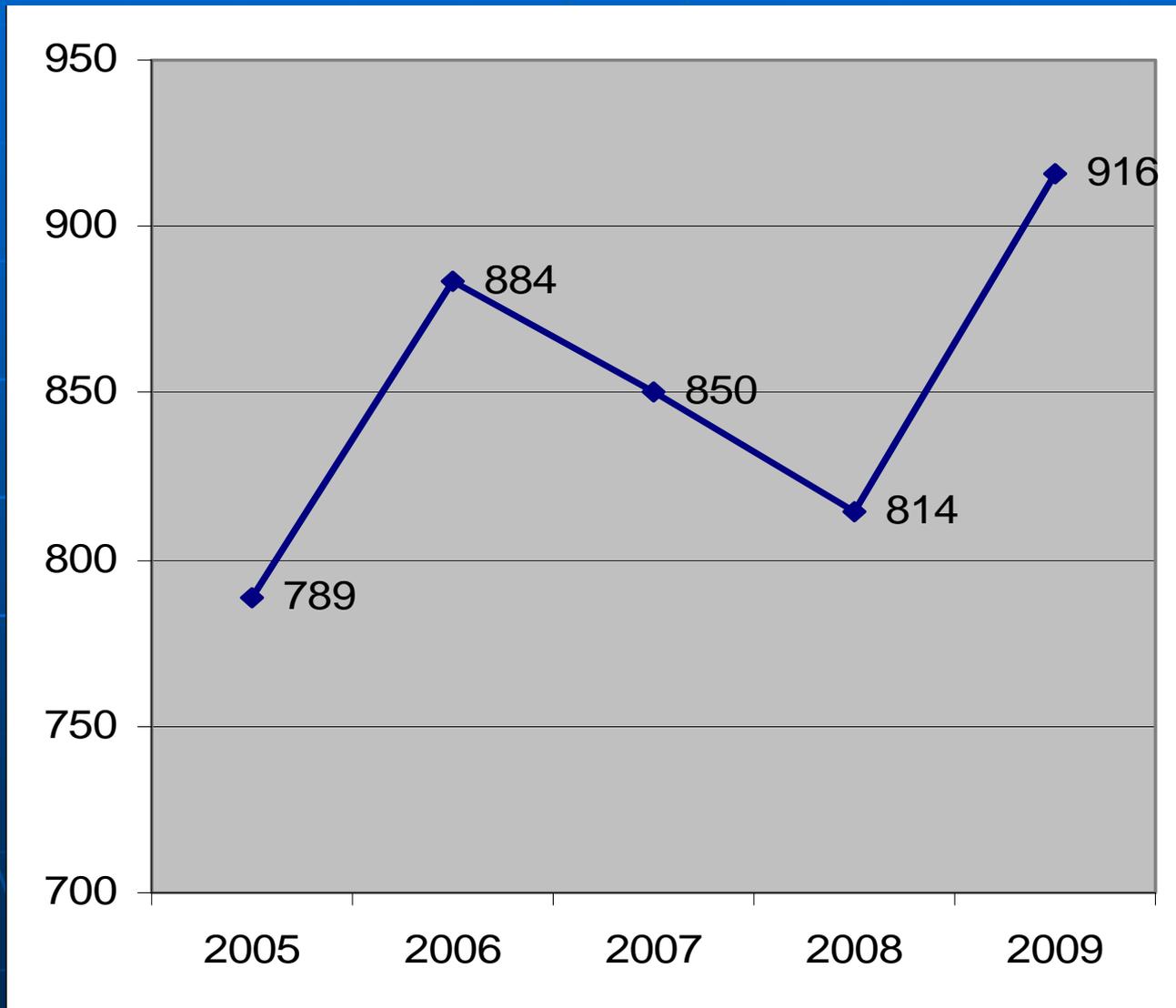
■ Drug Related Crashes

- 2008-1,450
- 2009-1,600

Alcohol-related crashes 05-09



Drug-related crashes 05-09



Available drugs

- Marijuana
- B.C. Bud
- Diverted pharmaceutical drugs
- K2/Spice
- Ketamine
- Ambien

Increase in marijuana use

- Drug use among those aged 12 and older:
 - 8 percent in 2008
 - 8.7 percent in 2009
 - Highest usage in nearly a decade
 - "The results of the survey, to say the least, are very troubling"

Michigan Medical Marihuana Act

Michigan law

- Marijuana is a Schedule 1 drug
- It is a Schedule 1 drug if the Michigan Board of Pharmacy:

“finds that the substance has high potential for abuse and has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.”

Street price

- \$6 a gram in 1981
- \$18 a gram in 1991
- \$10 a gram present
- \$100-\$400 an ounce
- \$700-\$2,000 an ounce in the Midwest
 - "Cocoa puff"- marihuana and cocaine
 - "Frios"-laced with PCP
 - "Fuel"-laced with insecticides
 - "Geek"- crack and marihuana



Prop. 1, 2008

- Physician- approved use of marihuana by registered patients with debilitating medical conditions
- Permit registered individuals to **grow limited amounts** of marihuana for qualifying patients in an enclosed, locked facility
- Require MDCH to establish ID card system for patients and individuals qualified to grow marihuana
- Permit **registered and unregistered** patients and primary caregivers to assert medical reasons for using marihuana as a defense to any prosecution involving marihuana.

Michigan's Medical Marihuana Act

November 4, 2008:

Voters approved ballot initiative to legalize Medical Marihuana (*MCLA 333.26421-333.26430*)

December 4, 2008:

Law takes effect, requires MDCH to implement rules within 120 days.

April 4, 2009:

MDCH adopts rules to implement the Act

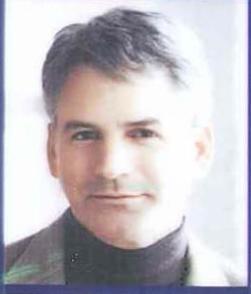
Registry statistics

- 87,973 original and renewal applications received since April 6, 2009
- 49,283 patients registered
- No accurate number of caregivers at this time
- 10,186 applications denied
- Currently, MDCH is working on processing valid applications received mid-September 2010

Identification card system

**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH
MEDICAL MARIHUANA PROGRAM**

**Marihuana Registry
Patient ID Card**



Registry Number: **P1011111-100501**

Patient Name: **John Smith**

Address: **12345 Main St
Lansing, MI 48912**

Date of Birth: **08-11-1965**

Issued: **04-10-2009**

Expires: **05-01-2010**

Authorized to Possess Plants: **No**



**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH
MEDICAL MARIHUANA PROGRAM**

**Marihuana Registry
Minor Patient ID Card**



Registry Number: **P104233-100501**

Patient Name: **Billy Johnson**

Address: **12345 Main St
Lansing, MI 48911**

Date of Birth: **05-06-1994**

Issued: **04-10-2009**

Expires: **05-01-2010**

Authorized to Possess Plants: **No**



Registry identifications cards

**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH
MEDICAL MARIHUANA PROGRAM**

**Marihuana Registry
Caregiver ID Card**

Registry Number: **C777888-333444**
Name: **Sample Card**
Address: **12345 Street**
City MI ZIP
DOB: **04/05/1980**
Issued: **05/25/2010**
Expires: **06/01/2011**

**No
Photo
Available**

Michigan Department of Community Health
MDCH **MMP**

Authorized to Possess Plants: **YES**

C
04/09

**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH
MEDICAL MARIHUANA PROGRAM**

**Marihuana Registry
Patient ID Card**

Registry Number: **P444555-110601**
Name: **Sample Card**
Address: **12345 Street**
City, MI ZIP
DOB: **01/02/1950**
Issued: **05/25/2010**
Expires: **06/01/2011**

**No
Photo
Available**

Michigan Department of Community Health
MDCH **MMP**

Authorized to Possess Plants: **NO**

P
04/09

**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH
MEDICAL MARIHUANA PROGRAM**

**Marihuana Registry
Minor Patient
ID Card**

Registry Number: **P888999-110601**
Name: **Sample Card**
Address: **12345 Street**
City MI ZIP
DOB: **05/06/1995**
Issued: **05/25/2010**
Expires: **06/01/2011**

**No
Photo
Available**

Michigan Department of Community Health
MDCH **MMP**

**NOT AUTHORIZED TO
POSSESS PLANTS**

M
04/09

Physician's role

- Only a physician can make a valid written certification
- Not prescribing marijuana
- Not recommending marijuana
- Only stating an "opinion" as to the likelihood of a medical benefit

Written certification

- Signed by a physician
- States patient's debilitating medical condition
- Indicated that in his/her professional opinion, the patient is likely to therapeutically benefit from the medical use of Marijuana

Benefits

- Qualifying Patient can possess up to 2.5 ounces of usable marijuana 12 plants in an enclosed, locked facility
- Qualifying Patient or the Primary Caregiver can possess the marijuana plants
- Qualifying Patient is protected from
 - Arrest,
 - Prosecution,
 - Or penalty in any manner for medicinal use or possession of marijuana

Medical use

- Defined as the:
 - Acquisition
 - Possession
 - Cultivation
 - Manufacture
 - Use
 - Internal possession
 - Delivery
 - Transfer
 - Or transportation of paraphernalia relating to the administration of Marijuana to treat or alleviate a registered qualifying patient's debilitating condition or symptoms.

Usable marihuana

The dried leaves and flowers of the plant,
and any mixture or preparation thereof,
Does not include the seeds, stalk, and
roots of the plant



Obtaining medical marihuana

- The Act is silent on this issue
- The State of Michigan is not authorized to regulate growing sites or quality of product under this Act

Designation

- Patient designates a caregiver
- Must indicate whether the patient or the caregiver will possess marijuana
- One caregiver per patient
- Caregiver can have up to five patients

What is prohibited?

- Smoking marihuana in any public place
- Smoking marihuana on public transportation
- Use by a person who has no serious or debilitating condition
- Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat
- Any use or possession in a school bus
- Any use or possession on the grounds of any school
- Any use or possession in any correctional facility

Other Michigan laws

“All other acts and parts of acts inconsistent with this act do not apply to the **medical use** of marihuana as provided by this act.” *MCL 333.26427(e)*

Operation of a motor vehicle

- Act prohibits the operation of a motor vehicle while under the influence of Marihuana
- does not make reference to Michigan's current OUID Per Se Law



People v Feezel

No. 138031 (Mich. Sup. Ct., June 8, 2010)

- Court overruled *People v Derror* and held that 11-Carboxy-THC is not a derivative of marihuana
- In doing so, the *Feezel* Court removed 11-Carboxy-THC from the list of Schedule 1 “controlled substances” that can be considered under MCL 257.625(8)

People v. Feezel

Footnote 16, on Page 30

- "...We do not, as the partial dissent suggest, imply that the legalization of marihuana for a limited purpose is equated with an intent to allow its lawful consumption in conjunction with driving or that marijuana itself should no longer be on the list of schedule 1 drugs..."

People v. Chase

September 23, 2010

District Court ruled that:

“MCL 257.625(8) was not amended after the adoption of the Medical Marihuana Act to carve out an exception for the medical marihuana qualified patients to drive with THC in their system.”

People v. Koon

November 16, 2010

Circuit Court ruled that:

“The MMMA, which supersedes MCL 257.625, states that qualified patients are proscribed from operating a motor vehicle while under the influence of marijuana. Therefore, evidence of impairment is a necessary requirement.”

OPERATE PRESENCE SCHEDULE ONE, OR COCAINE

- Requires evidence of specified substance in the blood
- This will require a blood draw
- Does not require evidence of “bad driving”
- Marihuana is a Schedule 1
- Cocaine is added by reference
- **Does not include ALL** scheduled Drugs
(Examples which are not included :
Hydrocodone, Diazepam)

MCL Cite: 257.625(8)

Description : Operate Presence Schedule 1/
Cocaine

MEDICAL MARIJUANA CARDS???

Discuss this issue with your
departments and prosecutors.

Discover treatment options with the new **Symptom Checker**

This interactive decision guide helps identify the underlying cause of common symptoms.

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Advanced Roadside Impaired
Driving Enforcement

ARIDE

NHTSA impaired driving programs

Drug Evaluation & Classification Program



Advanced Roadside Impaired Driving Enforcement



Standardized Field Sobriety Testing

ARIDE-practical solution

- Developed by NHTSA with input from the IACP
- Created to address the gap in training between the Standardized Field Sobriety Testing (SFST) and the Drug Evaluation Classification (DEC) Program
- Allows officers to develop advanced skills and knowledge that will assist them in identifying alcohol and drug impaired drivers

ARIDE in Michigan

- First Michigan class June 2009
- 25 participants (prosecutors and officers)
- 10 more classes averaging 25 per class

Desired outcomes

- Improve identification and assessment of the impaired driver
- More OUID arrests! Safer highways!
- Identify/interest future DRE candidates
- Include police and prosecutors in same training

Other benefits of ARIDE

- More officers enroll in SFST classes to prepare for ARIDE training
- First morning of first day is SFST refresher
- Stirs interest for going onto DRE
- Feedback from ARIDE trained officers:
“Best training I’ve ever received, most useful training I’ve ever received.”

ARIDE Curriculum-Session 1

- Introduction and overview of drugs and highway safety
- Describe roles and responsibilities of the DRE and how this course supports the Drug Evaluation and Classification (DEC) program

Sessions II, III, IV, and V

- SFST update and review
- SFST proficiency and practical examination
- Drugs in the human body
- Observation of the eyes and other sobriety test for impairment

Sessions VI, VII, and VIII, Final Exam

- Seven major drug categories
- Drug combinations
- Pre-and post arrest procedures
- Final exam-must attain a score of 80% or more to receive ARIDE certificate of training

ARIDE Progress in Michigan

- At least one class a month
- Approximately 300 state, city, sheriff, township, village officers and prosecutors trained
- Receiving requests for ARIDE classes
- Will do at least four more ARIDE classes in FY 2011

Success stories

- ARIDE students going onto DRE school
- Officers reported making OUID arrests on the very next shift they worked after class
- Reported that those arrests would never have been made without the ARIDE training
- Michigan OHSP encourages continuation of the training across the state

Drug Evaluation and Classification

DEC

History of DRE

- Early 1970s: Los Angeles Police Department
- 1979: Officially recognized by LAPD
- 1987-1988: Arizona, Colorado, New York, Virginia, Utah, California, Indiana
- 1989: Expanded Across the country
- Currently 48 States have a Program
- Michigan is the 47th state to implement
- First class April 2011-20 Students (16 Officers/4 Prosecutors)

Who is a DRE?

- Law enforcement officers
- Highly trained in detecting and recognizing impairment caused by substances other than alcohol
- Currently, Michigan has four certified DREs

DRE training

- 80 hours classroom
- SFST proficiencies
- Physiology and drugs
- Drug categories
- Examination of vital signs
- 12 step process
- 12 field certifications
- Subjects under the influence
- 80% proficiency required

DRE certifications

- Final knowledge examination
- Cumulative test
- Four-eight hours to complete
- Eight hours annual DRE related training
- Four confirmed evaluations every two years
- Must be supported by toxicology
- Must maintain 80% proficiency rate
- Recertify every two years

Effectiveness of DEC program

- 65,000 evaluations national database
- 93% accuracy
- What does this all mean?
 - The DEC Program is working!

Why do we need the DEC program?

- Michigan has a high incidence of OUID violations 24/7
- Many of these drivers are stopped for moving violations
- Many are subsequently released to drive away, for instance, because the officer was not aware of the signs of drug impairment other than the alcohol they are trained to detect

What will make it special in Michigan?

- DRE evaluation is standardized and systematic
- Standardized because the drug influence evaluation is conducted the same way, each time, whenever possible by every DRE

Four Reasons-Standardized

1. By conducting the evaluations this way each time, it makes the DRE a better observer
2. It minimizes the possibility of errors being made
3. It promotes professionalism with DREs
4. It increases the likelihood that the court will accept the evaluation as evidence of impairment

DRE court case

- DRE evidence is admissible under the *Dabuert* rule
- Ruling was based upon data from the LAPD and a Johns Hopkins study
- Precedent of other courts who considered the evidence admissible

When DREs Are Useful

- OUID enforcement
- Crash investigation
- Criminal investigations

DEC vs. ARIDE

DRE:

- 80 Hrs classroom
- Field certifications
- Comprehensive final examination
- Maintain certification

ARIDE:

- 16 Hrs classroom
- Focus on SFST proficiency
- Broad knowledge of drug impairment indicators
- Introduction to drug ID matrix

Why both programs?

- Better identification of drugged drivers
- Better arrests
- Better prosecutions
- Protect the citizens on roads
- Save lives!

Questions

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