

ANATOMY OF THE DEFENSE OF A DUI CASE

A one-day seminar structured for attorneys involved in the defense and prosecution of DUI cases, including public defenders.

MIAMI
APRIL 15, 1994

JUDGE HARVEY BAXTER
North Dade Justice Center
RICHARD ESSEN
Essen & Essen, P.A.
RICK A. SWOPE
*Broward Community College
Criminal Justice Institute*



Includes a LIVE demonstration of
Essen & Essen's Intoxilyzer 5000R breath machine

This course has been approved by The Florida Bar for 6.5 hours of general CLE credit.

Lorman Education Services

TOPICS TO BE DISCUSSED

8:45 a.m.

WELCOME AND ANNOUNCEMENTS

9:00-10:15 a.m.

I. INITIAL STOP

- A. Traffic Offense
 - 1. Position of Officer to Observe
 - 2. Nature of Offense
 - 3. Slow Response to Officer's Emergency Equipment
- B. Actual Physical Control
 - 1. Nature of Offense
 - 2. Confronting Driver
 - 3. Private Property
- C. Accident Cases
 - 1. Corpus Delicti
 - 2. Accident Report Privilege
 - 3. Physical Trauma
- D. Roadblocks
 - 1. Authority
 - 2. Confronting Driver

10:15-10:30 a.m.

BREAK

10:30-10:55 a.m.

II. OBSERVATIONS MADE OF DEFENDANT

- A. Stumbled Exiting Vehicle
- B. Leaned Against Vehicle
- C. Drivers Livens
- D. Bloodshot Eyes
- E. Flushed Face
- F. Slurred Speech
- G. Messy Hair
- H. Disheveled Clothing
- I. Beligerent Attitude
- J. Odor of Alcohol

11:00-11:25 a.m.

III. FIELD SOBRIETY TESTS

- A. "Old Tests"
 - 1. Romberg Balance
 - 2. Finger-to-Nose
 - 3. Alphabet
 - 4. Counting
- B. New Sobriety Tests
 - 1. Horizontal Gaze Nystagmus
 - 2. One-Legged Stand
 - 3. Walk-and-Turn

11:30 a.m.-11:45 a.m.

IV. ARREST

- A. Evaluation of Observations
- B. Probable Cause

11:45 a.m.-12:00 p.m.

V. INVESTIGATIVE TECHNIQUES

12:00-1:00 p.m.

LUNCH (ON YOUR OWN)

1:00 p.m.-3:00 p.m.

VI. TESTING

- A. Breath
 - 1. When
 - 2. How
 - 3. Evaluation
- B. Urine
 - 1. When
 - 2. How
 - 3. Evaluation
- C. Blood
 - 1. When
 - 2. How
 - 3. Evaluation

3:00-3:55 p.m.

VII. VIEW FROM THE BENCH

- A. Pleadings
- B. Pre-Trial Motions
- C. Plea Bargaining
- D. Trial
- E. Sentencing

4:00 p.m.-4:30 p.m.

QUESTIONS AND ANSWERS

HIGHLIGHTS AND BENEFITS

This program will benefit all attorneys involved in either the prosecution or defense of DUI's. It is important in today's stringent atmosphere of the prosecution of DUI's, whether you are a novice or experienced practitioner in handling DUI's, that you are up to date on the current issues. This course is designed to provide you with the current information necessary to successfully handle DUI's. The faculty will examine the current issues facing attorney's handling DUI's. In addition, this seminar will examine and discuss how to handle a DUI from the initial call from the defendant through the investigation, trial and closing argument.

WHO SHOULD ATTEND

This seminar is structured for attorneys involved in the defense and prosecution of DUI cases, including public defenders.

AUDIOTAPES

If you cannot attend, you may order a set of the audiotapes from this program and the accompanying manual by using the registration form.

REGISTRATION INFORMATION

MIAMI • APRIL 15, 1994

Intercontinental Hotel • 100 Chopin Plaza

Registration: 8:15 a.m. - 8:45 a.m.

Session: 8:45 a.m. - 4:30 p.m. (danish & coffee provided)

Lunch Break: 12:00 p.m. - 1:00 p.m. (on your own)



BY FAX: Send the completed registration form to:
715-833-3944. Our FAX line is open 24 hours, 7 days a week.
Please include check or credit card number.



BY MAIL: Mail the completed registration form to: **Lorman Education Services, P.O. Box 509, Eau Claire, WI 54702.**



BY PHONE: Call us at 715-833-3940. Phone in registrations not necessary prior to one week before the seminar.

TUITION:

\$135 for a single registrant. \$125 each for two or more from the same firm. Includes the written material "*Anatomy of the Defense of a DUI Case.*" Please make check payable to Lorman Education Services.

WALK-IN REGISTRATION:

Walk-ins will be accommodated if space is available. Call Lorman Education Services at (715) 833-3940 to check space availability and to confirm that there have been no schedule changes.

AUDIOTAPE:

\$155 for an audiotape of the seminar. Make checks payable to Lorman Publishing Co. Please allow four to six weeks after the date of the seminar for delivery.

CONFIRMATION:

We do not mail confirmation notices. As soon as we receive your registration your name is placed on our official attendance list. If you have any questions, please call (715) 833-3940.

CANCELLATION POLICY:

If notice of cancellation is received at least four business days prior to the seminar, you will be assessed a \$10 service charge and the balance refunded. If you need to cancel three days or less prior to the seminar, you will receive a non-refundable credit memo of equal value which can be used toward any future program. Feel free to substitute someone else in your place.

CERTIFICATE:

You will receive a certificate of attendance at the seminar.

CLE CREDIT:

Members of bars in other states are invited to call us regarding this program's credit approval in other CLE states.

FACULTY

JUDGE HARVEY BAXTER is presently serving his fourth term as County Court Judge with the North Dade Justice Center. He received his L.L.B. degree and his J.D. degree from Brooklyn Law School. Mr. Baxter developed the closed circuit television system for First Appearance Hearings which has been in use since 1982. This system was used for the County Walk (child abuse case) for minors testifying via closed circuit, which was affirmed by the Supreme Court of the United States and is being used today for interviewing witnesses from remote locations. He also drafted legislation to reform auto insurance, D.U.I., traffic laws and computer law for introduction of computer generated traffic records without need for further certification, which has been enacted into Florida law. Mr. Baxter also has the only court and chambers in the State of Florida equipped with a State Terminal for Traffic Histories, including a full Dade County Computer with the capability to print all information on a PC computer.

RICHARD ESSEN is the senior partner in the law firm of Essen & Essen, P.A., where he practices primarily in the defense of drunk driving cases. Mr. Essen is admitted to practice in the States of Florida, New York and The District of Columbia and before the Second, Fifth, Eleventh and District of Columbia Federal Circuit Courts of Appeals as well as the United States Supreme Court. In addition to being a member of many criminal defense organizations, he has authored approximately fifty (50) articles on defending drunk driving cases which have been published in national journals. He is also on the editorial board of the DWI Journal: Law & Science and writes a bimonthly article for the journal entitled "Essen's Notebook." Mr. Essen is the creator and author of the videotape, The Defense of Drunk Driving: An Expert's Approach and is co-author with Richard Erwin, Defense of Drunk Driving Cases: A Practice Guide (1994) published by Matthew Bender & Company, Inc. Mr. Essen has appeared as a featured guest on many nationally televised programs, including "60 Minutes", "The Today Show", "Good Morning America," "Donahue", "Oprah Winfrey", "Geraldo", "The Larry King Show" and "Crossfire." He is also a frequent lecturer on drunk driving issues.

RICK A. SWOPE is an instructor at Broward Community College, Criminal Justice Institute. He also has taught at the University of North Florida, Institute of Policy Technology and Management, the Southern Police Institute and the Palm Beach Community College. Before becoming an instructor at Broward Community College, Mr. Swope was certified as an instructor by the National Highway Traffic Safety Administration, where he began to instruct students across the State of Florida in apprehending and detecting impaired drivers. He was also involved in testing several hundred students that would be given measured amounts of alcohol and monitor them as roadside tests and breath testing would be conducted. In July of 1984, Mr. Swope was assigned to the DUI Task Force of the Broward Sheriff's Office and arrested over 267 impaired drivers in a one-year period. He currently testifies primarily in the field of accident reconstruction and for the prosecution and defense regarding impaired drivers.

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REGISTRATION FORM

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