

How the best lawyers consistently win DUI cases

To win regularly, you need to capture both the hearts and the minds of jurors.

The mind is simpler to persuade. You capture jurors' minds through your cross examination, if the defense is one of prosecutorial problems ... bad machine or bad procedures, or through your witnesses if the defense is something else ... GERD, necessity, etc.

The heart is more difficult. To persuade the heart, you need to give jurors a simple answer to the question posed by family and friends, "How come you let the drunk go?" You need to make jurors *want* to let your client off.

Bruce Kapsack's *Innovative DUI Trial Tools* provides strategies and language for persuading both hearts and minds. These methods and arguments have succeeded in trial after trial, and can work for you.

Attention-getting openings

You can't convince them if they aren't listening to you. Here is how to grab jurors in the first sentence and get them thinking that a fellow citizen has been falsely charged:

- Providing a strong argument, not a trial road map. §3:04
- How to make it detailed and personal. §3:04
- Filling in the blanks with positive information. §3:07
- Pointing out the problems with the prosecution's case. §3:08
- Boosting the officer and prosecution expert so you can knock them down on cross. §3:10
- How to use surprise to your advantage. §3:11

9 pattern openings

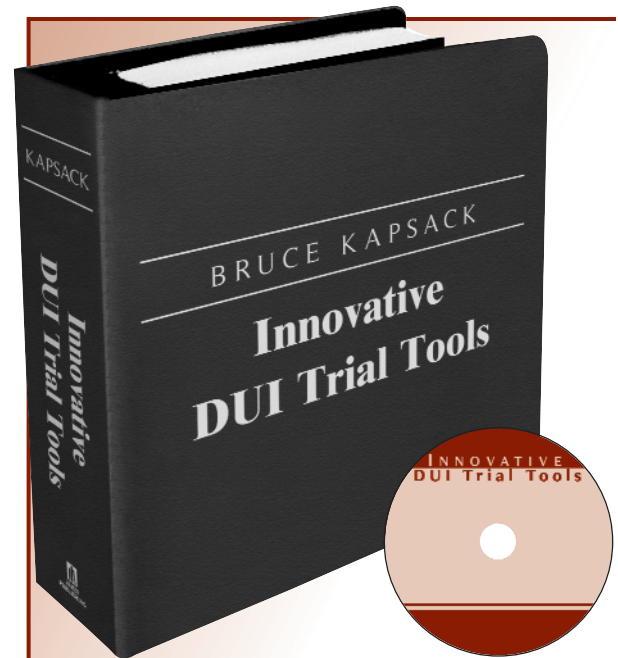
- Deliberate refusal. §3:21
- Refusal due to confusion. §3:21
- Who was driving? §3:20
- Incorrect administration of field sobriety tests. §3:22
- So what? §3:22
- Rising blood alcohol. §3:23
- Keeping an open mind. §3:24
- It wasn't my client. §3:25
- The missing element. §3:26
- And quick ideas for the crime, burdens, facts, law, and client testimony. §3:28

Intellectually-persuasive cross-examinations

Each discussion begins with an explanation of the why and how of the strategy, then lists the points to be made with that adverse witness, and finishes with the cross-examination questions to ask:

- Slipping in drinking receipts as past recollection refreshed. §5:14
- Unfair administration of field sobriety tests. §5:25
- Showing improper administration of one-leg stand, heel-to-toe, and horizontal gaze nystagmus. §5:26
- The 16 common attacks on breath tests. §5:41
- Using partition evidence to refute a charge of driving while impaired. §5:43

List continued inside...



11 practice tips from the book

1. **Arresting officer database.** "When I was a public defender in the Bronx, we started a database on undercover cops to see how unique their reports were. It turns out, not so much. I used this idea in DUI cases to start my own database. It led to finding one officer who did in fact cut and paste part of his report. Three cases were dismissed. What you can find is not only cut and pasted reports, but you will find out just how accurate an officer is in field sobriety tests. Suppose you find that the officer gave SFST's, arrested 10 people, but only 2 were actually over .08. Then this officer is only 20% accurate in SFST's. This database is so simple you will need less than an hour to build it. I set up the headers as follows...." §1:90
2. **Voir dire slides.** "The following power point slides were developed to deal with limited time for voir dire. Simply put one up on a screen or poster board and ask each juror to give his or her numerical position. After every three or four jurors, re-read the question out loud to stop an avalanche of following the answer given by the preceding person. Either you, or even better your client, can input the score for each juror. The higher the score, the better the juror. This can be done so quickly that the prosecutor is not

Practice tips continued inside...

Inexpensive visual aids.

\$8:40

Innovative DUI Trial Tools

8-26

VI. LOW BUDGET IDEAS

\$8:40 Demonstrating Witness Unresponsiveness

So your client cannot afford much more than your fee. You are new and have no access to print shops, power point pros or major exhibits. There is still a lot of good demonstrative evidence you can use to drive

home critical points in your trials. Let's start with the simple concept of the prosecution witnesses not answering you as well as they did the DA. Merely pointing this out to the jury is good, but a visual aid is better. Take a look at the following chart based on an idea from Gary Trichter of Texas. You can change the headers as you see fit.

I don't know	I can't remember	I'm not sure	I don't understand the question	Can you repeat the question
☒ ☒ ☒	☒ ☒ ☒	☒	☒ ☒ ☒ ☒	☒ ☒ ☒ ☒ ☒

Fig. 8-20 Witness Unresponsiveness

During your examination of the witness, place a pad of paper on an easel. Every time one of these answers comes up, put an x in the appropriate field. A couple of different results can happen. The witness may not care and you get a boatload of marks that can be tied into the softball analogy of closing arguments.

See §7:61. Alternatively, the witness can become embarrassed and start to toss out answers just to save face. Well we all know what will happen then; the witness may very well open himself or herself up to a lot of impeachment.

Another way to use this chart is surreptitiously. Keep the scorecard at your table or in your hand, make the marks as outlined above. Then bring it out in large format in closing argument. The DA should object, and then you demand the reporter check your figures since the DA has basically accused you of perjury. If you want to have a little more fun, understate the number by one or two. That will get them.

\$8:41 What's in a Beer

How often have we tried to explain that the expert is using *his* or *her* own definitions. Show it. If your client said he drank a couple of beers and the prosecution's expert states the client must have had more based on his test results, here are some pictures of beer glasses you may find useful. Unlike the standard bottle or can of beer which contains 12 ounces, the imperial pint glass contains 20 ounces and the half-yard glass contains 32 ounces. Alternatively, you can bring the actual glasses to court.

Start by asking the expert if he made a number of assumptions when it came to his/her testimony regard-

ing the number of drinks consumed, the previous BAC and any other aspect of the trial. Then use this approach.

Q: So, expert, you say my client was not being truthful when he said he had two beers?

A: Well you cannot get to a .12 with just two beers

Q: What size beer?

A: I assumed 12 oz.

Q: Well, what if it were an imperial pint? [Show picture.]

A: I don't know

Q: What about a yard? Or a half yard? [Show picture.]

A: Well those would all change the equations.

Q: What alcohol level of beer did you assume?

A: Standard 5%.

Q: Who told you it was 5%?

A: No one, I just assumed it.

Q: Ever hear of Colt 45?

A: Yes.

Q: It's 7%.

A: Okay.

Q: What about Pilsner Urquell 28?

A: Nope.

Q: It's 14%.

A: Wow.

Q: So now that would change the equation too?

A: Yes.

Q: So when you called my client a liar, you were wrong.

A: Based on those changes

Q: Not based on those changes, just not based on your assumptions. Just like you assumption of 2100 to

Pattern closings.

\$7:101

Innovative DUI Trial Tools

7-20

\$7:101 The Inspector (Breath Test Cases)

In life we make many important decisions. No decision you have ever made, unless you have served on a criminal jury before, is even close to the one you make today. Without trying to sound facetious, let's look at the biggest decisions we have made in our lives.

Let us start with what many consider the number one decision, marriage. I am not going to get into the idea of divorce. I will avoid the political and religious concepts. Instead I want to tell you what the courts have said in likening a marriage decision to your decision here today; they do not compare.

That is correct. I am not the one who is saying this, but the judges we have all elected, these scholars who have shown their wisdom over the years. When a trial judge, just like the one sitting here, once likened the decision in a criminal case as similar to the one for marriage, he was rebuked. The more learned judges said he was wrong. They told us that the decision here is far more consequential.

Like it or not, it does make some sense. I apologize to those of you of strong religious beliefs, but it is a reality of today that marriage is not necessarily forever. And if any of you mention this to my wife, we will have a problem, because I do believe in one lifetime marriage. But we all know that divorce is not uncommon. The difference is that you cannot 'divorce' a criminal conviction.

Now what I just said is not entirely true. For the last 15 or so years we have heard of the Innocence Project. That group of lawyers who have used DNA evidence in heinous rape, murder or other crimes to show people were wrongly convicted. So I guess you can 'divorce' a criminal conviction. But not until you sit in jail for 10, 15, 20 years.

Well, in this particular case, DNA evidence will not save the day. So let's look at other decisions.

My good friend Felipe once said, a criminal case is like buying a house. You have the seller (the police officer); the District Attorney as the agent, and you, ladies and gentlemen, are the buyers. You see, the officer has a house he believes you should

buy. He has decided to work with the DA to convince you to buy the house. Before you do so, you must have absolutely no questions as to the soundness of his strategy.

What is my job, you ask? I am the inspector. I will take you up and down in and out of this house to show you why this house is NOT worth buying. There is no way you would want to spend the rest of your life in this house.

So let's look at this house the DA is trying to sell you. Like any house we start with the foundation. In the context of a DUI case, the foundation is the basic rules of how tests are conducted and evaluated. It is the machinery on which any test is performed. We all know, without a strong foundation, the prettiest of houses will eventually crumble.

The foundation of a breath test is Title 17. In order to have a good foundation for your house, you want poured concrete, not river rock or brick. You want the concrete to be poured to the correct thickness, with appropriate rebar. In a breath test, you want a modern machine, used properly, within the working parameters.

We do not have those aspects in this case. The officer admitted that the observation period was compromised. He watched for 5 minutes, then was interrupted, albeit briefly, and resumed for 10 minutes. This compromises, and compromises, his observation period. Well, just like concrete needs a certain time to set, a breath test needs certain time to be acceptable.

If you need to see to it that your slab has 15 days to 'cure' with no rain, it is not okay to say I was there days one to five, left on days six and seven to return on days eight to eighteen. But that is exactly what the DA is trying to sell you here. He says the officer did a pretty good observation period, and the missing couple of minutes does not matter.

Well, just as the builder cannot tell you what happened in those missing days to compromise the integrity of the slab, the officer and the DA cannot tell you what happened to compromise the validity of the test results here. Don't buy this house.

When you build a house, you need to be sure that the parts are all within the appropriate variance.

Key points are best made visually as well as verbally, and Kapsack provides almost two dozen boards, PowerPoints, photos, and powerful-but-free charts like this one.

You receive 4 complete closings and 16 arguments ... all courtroom-tested.

Abbreviated Contents (continued)

The Initial Contacting Officer: Goals, Technical Stop, Speeding, Illegal Turn, Accident, NHSTA Criteria, The Stop, Stop Set Up, Approach, Pre-Exit Interview

The Arresting Officer: Goals, Admission of Drinking, The Exit, SFST's, Preliminary Breath Tests, The Arrest, Drinking Pattern, Transportation and Observation

The Breath Test Operator: Goals, Observation, Accuracy, Maintenance

The State's Expert: Goals, Voir Dire, Articles, Science, Henry's Law

Blood Cases: Taking a Blood Sample, Transporting and Storing a Blood Sample, Testing of the Blood Sample, Plasma vs. Whole Blood, Phlebotomist, Officer with Custody of the Blood Before Pick Up and Delivery, Pick Up and Delivery Person, Log-in at the Lab, Analyst

Doctors: Reluctance to Disagree With Other Doctors and Peer Reviewed Articles, Some Words About the AMA, Sample Cross-Examination

Lay Witnesses: Goals, Sample Cross Examination

5. Preparation of Defense Witnesses and Direct Examination

Percipient Witnesses: Goals, Establish Witness' Lack of Personal Interest and Attempts to Talk to Prosecution, Sample Direct Examination of "Drinking Buddy", Introduction of Receipts Through Percipient Witness, Sample Direct Examination of Bartender

Field Test Experts: Selection and Preparation, Goals, Administration of SFST's, Interpretation of SFST's, Reliability and Meaning

of SFST's, Direct Examination of SFST Expert: Version 1, Version 2

Breath Experts: Goals, Basic Operation of the IR Machine, Blood/Breath (Partition) Ratio, Absorption Phase Testing, Temperature Issues, Two Samples, Steepling Example, Two Breath Samples with .02 Agreement, Example of .02 Agreement, Machine Specificity and Interferents, Acetaldehyde, Airblank Fallacy, Slope Detector/Mouth Alcohol, Diabetes and Hypoglycemia and Dieting, GERD Cases

Alcohol Expert and Rising Alcohol: Goals, Physiology of Alcohol, Destruction of Presumptions, Creating Doubt, Disconnect Theory, Tolerance, Consistency Theory, Blood Tests, Henry's Law

Medical Experts: Treating Physician, Validity of Test, Cross-Examination

6. The Client's Testimony

How to Evaluate Whether the Client Should Testify, Cases That May Call for Client's Testimony

Sample Trial Examination Questions for Client: Why Client Has Decided to Testify, Stress on Client on Day of Incident, SFST's, Physical Limitations, Refusal (Due to Confusion, Due to Belief in Right to an Attorney, Due to Belief Officer Had No Right to Demand Compliance), Rising Alcohol Defense, Medical Condition, Environmental Exposure

Client Handout: 10 Rules Every DUI Defense Witness Should Know Before Testifying at Trial

7. Closing Argument

Goals, Neutralizing Prosecutor's Closing, Capturing the

Forms.

C. Tolerance

§150 Precluding Evidence of Tolerance

More and more often we see the prosecution seeking to introduce evidence of tolerance through their expert. The evidence is often introduced through general testimony regarding what tolerance is and how it would come into play in a DUI case.

Tolerance evidence is intended to explain discrepancies between the defendant's good performance on field sobriety tests or everyday activities and his or her high breath, blood, or urine test results (i.e., that at a .20 the defendant should be falling down). The idea is to leave the jury with the thought that the discrepancy is because the defendant is a chronic drinker who can hold his or her booze and not because the chemical test results are wrong.

§151 Memorandum in Support of Defendant's Motion in Limine to Exclude Evidence of Tolerance

MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF TOLERANCE

A. Introduction

It is anticipated that the prosecution will attempt to argue "tolerance" and present "general" evidence of tolerance, that is, that some people can be "tolerant" to alcohol due to their history of drinking excessively on a regular basis.

B. Evidence of Tolerance Is Inadmissible for Lack of Foundation Because the Prosecution Has No Proof That the Defendant Has a History of Drinking

The proponent of the proffered evidence has the burden of producing evidence as to the existence of the preliminary fact, and the proffered evidence is inadmissible unless the court finds that there is evidence sufficient to sustain a finding of the existence of the preliminary fact, when the relevance of the proffered evidence depends on the existence of the preliminary fact. Cal. Evid. Code §403(c).

There is no evidence that this defendant has a history of heavy alcohol consumption or that the defendant has any acquired tolerance to alcohol, or acquired the ability over time through practice to hide the effects of alcohol. Therefore, any evidence suggested by the prosecution of the defendant's prolonged and/or excessive drinking (i.e., tolerance) is objected to on the grounds of foundation. The prosecution cannot demonstrate that such "possible" evidence relates to this defendant.

C. Evidence of Tolerance Is Inadmissible "Profile" Evidence

In *People v. Robble* (2001) 92 Cal. App. 4th 1075, the court held that the trial court abused discretion in admitting expert testimony constituting profile evidence. The prosecution, in a case alleging sexual crimes, called an "expert" from the Department of Justice "in the area of the behaviors and conducts of persons who commit sexual assaults." The expert had a great deal of expertise investigating sexual offenders. The testimony was that not all rapes involved violence or injury to the victim and described various kinds of conduct engaged in by rapists that were consistent with the facts of the prosecution's case, e.g., the offender returned the victim to her neighborhood, engaged in small conversation, and other behaviors the expert testified were all consistent with sex offenders.

The Appellate Court noted that the admission of expert testimony will not be disturbed on appeal unless a manifest abuse of discretion is shown (citation omitted) and that the expert's testimony constituted improper profile evidence. "Profiles" are a collection of conduct and characteristics commonly displayed by those who commit a certain crime. The court noted that "profile evidence is generally inadmissible to prove guilt." For example, drug courier profiles have been held to be "inherently prejudicial because of the potential they have for including innocent citizens as profile drug couriers..." Every defendant has a right to be tried based on the evidence against him, not on techniques utilized

Voir dire aids.

V. SLIDES AND SCORECARD TO USE WHEN VOIR DIRE IS LIMITED

§280 How to Use

With the increase of limited voir dire, it has become incumbent upon counsel to be prepared to ask quick, simple questions in order to pick a jury. While I do not favor allowing this trend to continue or expand (see the arguments in the beginning of this chapter) I am familiar with reality. The following power point slides were developed based on ideas from Robert Hischorn to deal with this problem.

These are not inclusive and should be a good starting point for your own adaptation and use. Add more specific questions that relate to the issues in your particular case.

Simply put one up on a screen or poster board and ask each juror to give his or her numerical position.

After every three or four jurors, re-read the question aloud to stop an avalanche of following the answer given by the preceding person. Either you—or even better, your client—can input the score for each juror. The higher the score, the better the juror.

This can be done so quickly that the prosecutor is not able to keep up. And the prosecutor will not necessarily know that jurors with the low scores are the ones that he or she wants.

The beauty of this system is, by creating a simple score card to record the number of the answer chosen by each juror, you can tell who you do and do not like. Be sure to draft all your questions the same way so that the higher numbered answers reveal jurors with attitudes that are favorable to the defense. Thus, the higher the total score, the more favorable the juror. It will not help you if good jurors get ones on some questions and sixes on others.

§281 Sample Slides

BURDEN OF PROOF

1 How strongly do you agree or disagree with the following statement of the law:

- The jury must find a person NOT GUILTY if the State does not prove their case beyond a reasonable doubt:

1. Strongly Disagree	4. Slightly Agree
2. Disagree	5. Agree
3. Slightly Disagree	6. Strongly Agree

Fig. 2-01 Burden of Proof

The pretrial discovery requests, discovery motions based on compulsory requests, and motions in limine will encourage you think out of the box.

The author provides dozens of pattern voir dire questions organized by issue, a complete jury questionnaire, and this handy set of slides and scorecard to use when time is limited.

Abbreviated Contents (continued)

Jurors' Heart and Mind, Handling the Defense Stigma

Types of Closing Arguments: The Story Closing, The Rules Closing, The "I Cannot Believe This Piece of Junk Made It This Far" Closing

Analogies, Anecdotes, and Stories: Witness Testimony, Minor Problems, Acceptable Machine Errors, Machine versus People, Rising Alcohol, Circumstantial Evidence, The Note Pad, The Tripod, The Reveal, Three Verdicts: the Hung Jury, Lack of Rebuttal

Complete Closings: The Interrogator (Refusal Cases), The Inspector (Breath Test Cases), Disconnect Cases (High BAC), Circumstantial Evidence Case (No Test or Other Guy Drove)

8. Demonstrative Evidence

Rising Alcohol Defense, Meaning of "Average," "Normal," and "Most People"

Standardized Field Sobriety Tests: Walk and Turn Demonstration, Horizontal Gaze Nystagmus Demonstration, NHTSA SFST Slides, National College for DUI Defense Demonstration Boards, Scoring SFST's, Huser's Totality Charts

Slides for Common Issues and Concepts: Witness Who Tells Only Bad Facts, Objective Symptoms, Standardized Field Sobriety "TESTS," Precision and Accuracy

Low Budget Ideas: Demonstrating Witness Unresponsiveness, What's in a Beer

Miscellaneous Diagrams and Photos: Fuel Cell Diagrams, Infrared Spectroscopy Diagrams, Intoxilyzer 5000 Photos, Filter Wheel Diagrams, Sample Chamber Diagrams, Breath Machine Diagrams, Wavelength and Interference Diagrams, Gas Chromatograph Photos

Perspective: Horse/Frog Sketch, Dihydrogen Monoxide Power Point Presentation

Appendix

District Attorney Manual

About the Book and CD

Bruce Kapsack's *Innovative DUI Trial Tools* contains 275 letter-sized pages in a sturdy and tabbed 3-ring binder.

The book contains discovery requests, motions in limine, voir dire questions, model openings, cross examination questions for all types of prosecution witnesses, direct examination questions for lay and expert defense witnesses, closing phrases for common issues, complete closings, and ready-to-use demonstrative evidence.

Included at no extra charge is an intuitive, full-text CD which requires no installation before use. It may be searched by key word, case name, topic, or form. The CD's forms and chapters are also provided in Word in case you do not want to work with the CD's database.

\$99 buys the book and CD. The book is updated annually for \$69 with replacement pages and a new CD. Both the book and its annual updates are sold on a 30-day trial basis, and may be returned if not to your liking. The update service may be cancelled at any time.

About the Author

Bruce Kapsack

Originated many of the DUI defense strategies used throughout the country. He has worked or lectured with



virtually every nationally-known expert in the DUI arena, and his DUI lectures for the California State Bar and the California Public Defenders are among the best attended in the state.

Mr. Kapsack deposed Dr. Marcelline Burns, the woman responsible for the acceptance of Standardized Field Sobriety Tests. She admitted shortcomings of the tests, and as a result attorneys nationwide are now often able to keep results of field tests out of evidence.

Mr. Kapsack is an Instructor of NHTSA's Standardized Field Sobriety Tests. He has been trained as a user and maintenance technician for the Alco-Sensor IV hand-held roadside BAC breath machine, and owns and operates the Draeger 7410 and 7110 Breathalyzers and the Intoxilyzer 5000. He was the first California attorney to take and pass the National College for DUI Defense's Board Certification exam for DUI specialization, and is a Regent of the College.

Mr. Kapsack began his career as a public defender for the Bronx Legal Aid Society and rose to Senior Trial Attorney in less than five years. He was undefeated in trial as a public defender.

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12 practice tips from the book (continued from front page)

able to keep up. They then will not necessarily know that the low score are the jurors they want. The beauty of this system is by creating a simple score card to record the number of the answer chosen by each juror, you can tell who you do and who you do not like." §2:80

3. **Opening statements.** "Play the emotion card first. Let's face it, DUI trials are emotional. DUI is the only political crime in the country. Name another criminal offense that can be prosecuted with no harm to property or person. There is none. The emotion/bias/prejudice card will be played; if you have a chance to lay it down first do so. For example..." §3:05
4. **Pattern cross examination questions.** "Cross examination is testimony by the attorney for as long as necessary, broken in to individual points that are consistently affirmed by the witness. Each sentence, (and I do mean sentence, as cross should almost never be an actual question) should contain as few words as necessary to make the point. Only one point should be made in each sentence. The point should be phrased in the affirmative. After several points have been established, the thrust should be reiterated. Here is a group of questions that should provide 80% of what you need..." §4:01
5. **How to start your cross.** "The stage is set. All eyes are upon you and what you do. Nothing. Play it cool. Become the officer's friend and supporter. Set the trap and wait. Start by offering the most disarming array of questions you can: officer safety. The witness is totally unprepared for this. It is not only obviously true, it is solicited. You are the enemy, yet you care, you know, you help. In one simple question you have disarmed the officer. How can he or she respond with "deadly force" when you have not shown any weapon?" §4:02
6. **A radical approach to SFST's.** "Let's look at this approach with the Standardized Field Sobriety Tests. There are as many ways to approach these as there are attorneys, but I suggest a rather radical approach: have the officer perform them. I know we are taught never to ask a question, or conduct an experiment, in court to which we do not know the answer or outcome. But I submit, you cannot lose by having the officer perform the SFST's. §4:03
7. **SFST expert's direct examination advice.** "By not asking me each little detail on how the officer administered the standardized field sobriety tests it will make us look good. By not belaboring the tests (other than we flat cannot trust them) we will not look like we are flailing away. Let the prosecutor ask about the details. My experience is that the prosecutor will ask me for those details and it's a double edged sword for her. By asking for the specifics of what was done wrong she is admitting there may be mistakes and that they matter. When she asks, I'll drive it home." §5:25
8. **Airblank fallacy.** "Breath machines perform an air blank between tests. This is where the machine purges the sample chamber by bringing in air from the room through the breath hose, and pushing it through the sample chamber to "clean" it out. In order to prove this worked, the machine then allegedly measures the sample chamber and prints a result of "0.00" to show no alcohol. Sounds great. We learned that it was all a lie. The machine was not in fact cleaning out the chamber and ensuring no alcohol remained. Instead, it was measuring what alcohol was left, and resetting itself to consider that residual a zero. Supposedly the software then deducted this number from the next result. Of course, since the manufacturers hid this from everyone, no one ever had the chance to test to see if the math was actually being carried out." §5:52
9. **Rising alcohol defense.** "This last step is greatly aided by the disconnect theory. The disconnect theory is the concept that any outward manifestations showing a lack of impairment, such as good field sobriety test performance, do not agree with subsequent alcohol levels. In other words, if the guy looks sober, how can he be so drunk? The disconnect theory requires either good performance on SFST's, refusal to submit to SFST's, or explainable failure on SFST's, and relatively few or explainable "objective symptoms." For more on these concepts see the subdivision below." §5:61
10. **Springing the medical condition trap.** "Now the DA will come back with questions pertaining to that night. The DA will attempt to show that the doctor has no knowledge of whether or not the condition was "active" at the time in question to compromise the test. This is a gold mine waiting to be tapped. Prepare your expert to answer as follows..." §5:82
11. **Demonstrating witness unresponsiveness.** "So your client can not afford much more than your fee. You are new and have no access to print shops, power point pros or major exhibits. There is still a lot of good demonstrative evidence you can use to drive home critical points in your trials. Let's start with the simple concept of the prosecution witnesses not answering you as well as they did the DA. Merely pointing this out to the jury is good, but a visual aid is better. Take a look at..." §8:40

Creative DUI defenses.

Yes, send me one copy of Bruce Kapsack's *Innovative DUI Trial Tools* and its CD with an invoice for \$99 plus shipping. If not satisfied, I may return the book within 30 days. Send the annual supplements on the same 30-day review basis. I may cancel the annual updates at any time.

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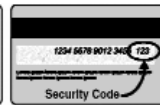
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Demonstrative evidence

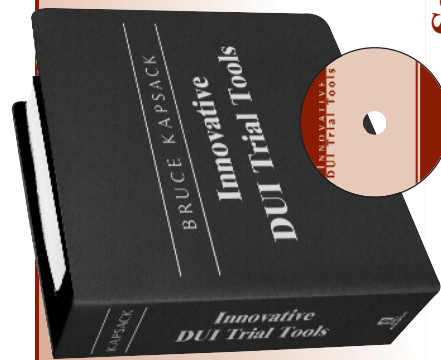
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- Standard deviation chart. \$8:10
- Walk and turn insoles. \$8:20
- Horizontal gaze nystagmus protractor. \$8:21
- NHTSA SFST student slides. \$8:22
- SFST scoreboard. \$8:24
- Huser's totality chart. \$8:25
- Trichter's witness unresponsiveness chart. \$8:40
- Missing filters. \$8:53
- "What you see depends upon where you stand." \$8:70

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- Trial-proven openings and closings. Chapters 3 and 7
- Creative cross-examinations for every type of witness. Chapter 4

This practical 275-page looseleaf includes pattern questions for voir dire, direct examination of your expert and lay witnesses, and cross examination of the arresting officer, machine operator, and intoxication expert.

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See front page for 11 practice tips...