

**DWI DEFENSE
AND WHAT WORKS ON
THE SOUTH PLAINS**

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ALR HEARING

- If you are hired in time, request the ALR Hearing
- ALR is a civil case that has a burden of preponderance of the evidence
- Request discovery under ALR rules
- Review and compare ALR discovery to DA discovery

SUBPOENA

- Right to subpoena certain officers
- ALR rules require you to show good cause

ALR HEARING

- Take your time
- Ask questions
- DO NOT cross-examine
- Ask open-ended questions
- LISTEN to his/her answers
- Review the video
- What if the officer's testimony is wrong?
- Obtain copy of transcript/tape

BENEFITS OF ALR HEARING

- Movement of officers
- Work out pre-filing

CHARGE

- Look at information/indictment to see how DWI is charged
- Alleged priors

POLICE REPORTS

- Do not assume what officer says or writes is correct
- Do not assume officer knows what he is talking about
- Listen to your client
- Compare report to video
- DO NOT negotiate without seeing the video

FIELD SOBRIETY TESTS

- Know/understand tests
- Were they administered correctly?
- Have manuals
- If you know the information, you will discover good points – What if officer “misfoots” your client, etc.

SCENE

- Physically go
- No stop sign
- No lanes marked
- Google Earth the area

KNOW YOUR OFFICER

- Personnel file for each officer
- Request TCLOSE reports via email
(lilliana@tclose.state.tx.us)

LISTEN TO YOUR CLIENT

- View video/scene then discuss with your client
- Any issues – medical conditions
- Obtain documentation
- Get medical records
- Get pictures of any surgery scars
- Discuss bad areas of video with client

Negotiations

- Negotiate settlement
- Use “some” ammo
- Hold something back for trial
- Fail to get results – Go to the next step

PRETRIALS

- Work pre-trials
- File everything you can ethically file
- PC for stop is 65 in a 55 – File motion to suppress
- Litigate calibration of radar
- Motion to suppress HGN if officer not qualified
- HGN off camera – Why?

PRETRIALS

- Motion to suppress for failure to preserve evidence
- File motion to suppress for PBT
- Motions to redact the video
- State must keep out inadmissible areas
- Make state remove officer comments
- Litigate. Litigate. Litigate.

TRIAL PREPARATION

- Preparing a case for trial means you know the facts and issues
- Prepare backwards – Begin with closing
- Use a data base for organization
- Case Map allows you to enter facts and link them to people, evidence and legal issues with easy editing.

VOIR DIRE

- Tell jury your client's story
- Talk about facts of your case
- Customize Voir Dire to facts of case
- Discuss bad driving facts with jury
- Discuss answers that will help you
- Discover jurors that won't be good for you – "I would never drive when tired."
- Discuss how much they believe one can drink before becoming intoxicated

OPENING STATEMENTS

- Never waive opening statements
- Don't use opening as a "roadmap"
- Stay away from statements like "We expect the evidence to show..."
- If the state objects...
- Tell the jury things your client did right
- Tell what your client did that was normal
- Tell the facts the state will highlight, but show them in your favor

**Good luck
and
good hunting!**
