

Impaired Driving Investigation and the Screening Equipment

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Context

- Technology is increasingly present in our society.
- The field of policing is no exception.
- The impaired driving investigation is not immune to it either but... Caution!



Impaired Driving Under the *Criminal Code*

Operation while impaired

253 (1) Every one commits an offence who operates a motor vehicle or vessel or operates or assists in the operations of an aircraft or of railway equipment or has the care or control of a motor vehicle, vessel, aircraft or railway equipment, whether it is in motion or not,

a) while the person's ability to operate the vehicle, vessel, aircraft or railway equipment is impaired by alcohol or a drug;



Impaired Driving Under the *Criminal Code*

Testing for presence of alcohol or a drug

254(2) If a peace officer has ***reasonable grounds to suspect that a person has alcohol or a drug in their body*** and that the person has, within the preceding three hours, operated a motor vehicle or vessel, operated or assisted in the operation of an aircraft or railway equipment or had the care or control of a motor vehicle, a vessel, an aircraft or railway equipment, whether it was in motion or not, the peace officer may, by demand, require the person to comply with paragraph (a), in the case of a drug, or with either or both of paragraphs (a) and (b), in the case of alcohol:

- a) to perform forthwith **physical coordination tests** prescribed by regulation to enable the peace officer to determine whether a demand may be made under subsection (3) or (3.1) and, ***if necessary***, to accompany the peace officer for that purpose;
- b) to provide forthwith a sample of breath that, in the peace officer's opinion, will enable a proper analysis to be made by means of an **approved screening device** and, ***if necessary***, to accompany the peace officer for that purpose.



What are the tools available to a police officer?

- The approved screening devices



- The physical coordination tests



Drug Screening Devices

Dräger DT5000



Alere DDS2



Food for Thought

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- Should these tools be systematically used during an impaired driving investigation?
- Can a complete investigation replace their use (reasonable grounds to believe)?
- Is there a risk to use these tools if our impaired driving evidence (s. 253 (1)(a) of the *Criminal Code*) is not completed?



Introduction of the Technical Evidence in Court

Problems faced:

- Legal rights
- Compliance with the protocol for the use of the devices
- Maintenance and verification of the tools



Impaired Driving Investigation Training in Quebec

- The Police Act defines the mandate of École nationale de police du Québec (ENPQ).
- The ENPQ:
 - has the exclusive responsibility to provide training to police officers in Quebec;
 - conducts training-oriented research;
 - advises concerning professional training matters;
 - encourages cooperation and collaboration among the various institutions.



The Three Investigation Phases

1- Vehicle in Motion

Vehicle Operation

Stopping of the vehicle



2- Personal contact

Face-to-face interview and
observation of the driver

Observation of the exit of the
vehicle



3- Pre-arrest screening (if necessary)

Approved screening device

Physical coordination tests



Phase 1: Vehicle in Motion

The percentage (%) indicates the probability that the person might be intoxicated

- **Turning with a wide radius (65%).**
- **Straddling a lane line (60%).**
- **Almost striking an object or vehicle (60%).**
- **Stopping for no apparent reason (50%).**
- **Following too closely (50%).**

Source Police Review, September 27, 1995.



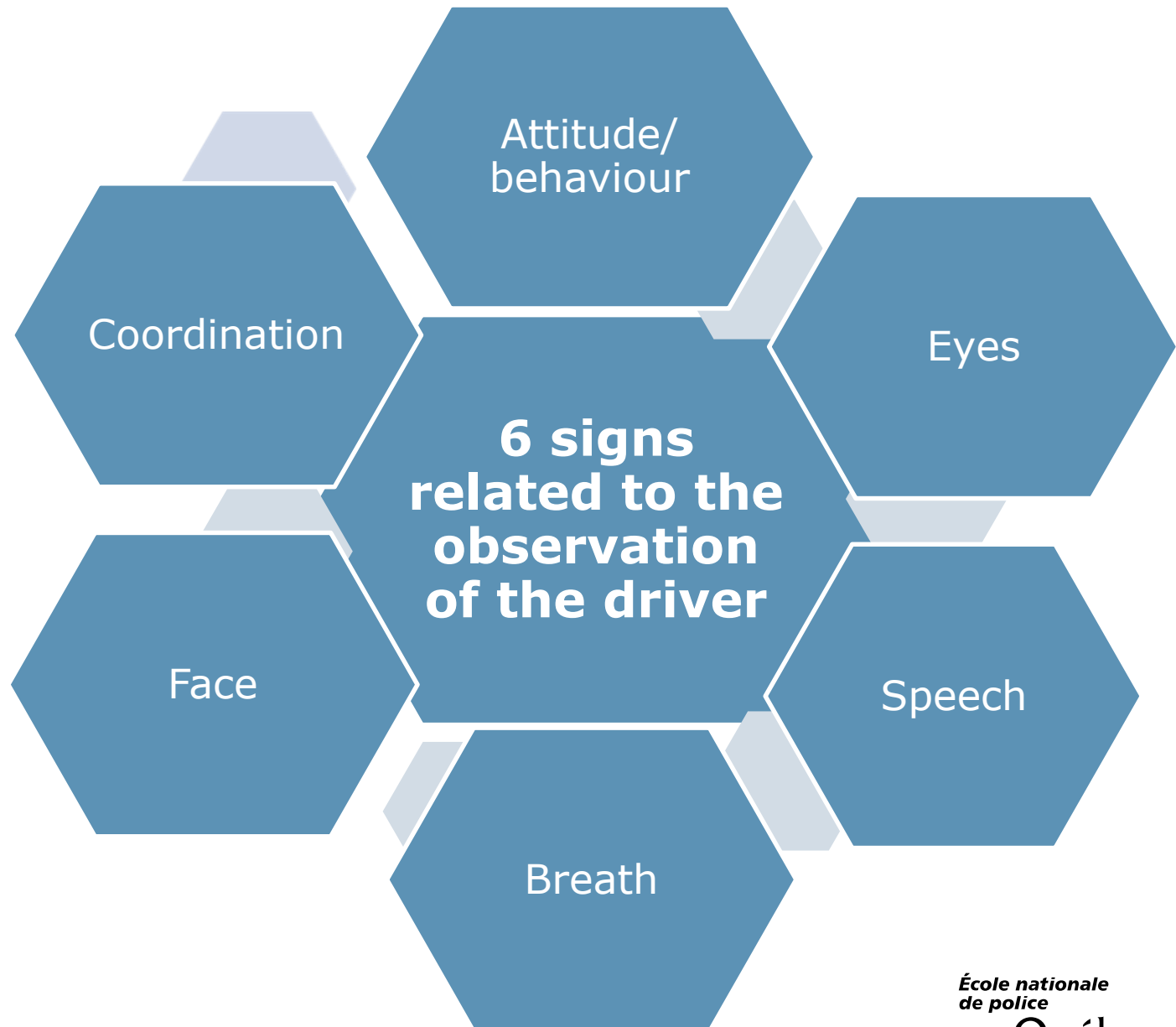
Phase 2 – Personal Contact



Interview and observation of the driver

Should the driver exit?

Observation of the exit



Attitude / Behaviour

- Sluggish
- Drowsiness
- Confusion
- Excited
- Hallucinations
- Paranoia
- Perspiring
- Blank stare
- Changing behaviour
(up and down)





Dilated pupils



Constricted pupils



Decision

At this stage of the investigation,
the police officer must make a decision



PHASE 3: PRE-ARREST SCREENING

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The Three Investigation Phases

3- Pre-arrest screening (if necessary)

Approved screening device

Physical coordination tests



Conclusion

The use of the investigative tools can help the police officer to have the driver convicted for impaired driving ... **but**

A good police investigation without using such tools will also lead to that conviction.



Thank you!
Merci!

