

**Forensic Report Regarding NHTSA DWI Detection and  
Standardized Field Sobriety Testing  
in the Matter of**

**[Redacted]**

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**[DATE OF REPORT]**

Expert Witness Report Drafted on Behalf of Attorney  
[redacted]

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# Summary of the expert's qualifications and employment/educational experiences

William J. Maze has extensive experience as an expert witness in standardized field sobriety testing (SFSTs) and breath testing in drunk driving cases. His expertise is built on a combination of academic, legal, and practical experience, making him a highly qualified and credible authority in these areas.

## **Academic and Teaching Background:**

Adjunct Professor of Forensic Science (2021-2024): At Madonna University, Maze taught courses on Ethics & Expert Testimony and Criminal Law and the Rules of Evidence, further solidifying his understanding of forensic science and its application in legal contexts.

## **Legal Practice:**

As a criminal defense attorney since 1997, Maze has focused on drunk driving defense, civil asset forfeiture, and Freedom of Information Act (FOIA) litigation. He has handled over 100 jury trials and several notable appellate cases, including challenges to forensic evidence.

Notable cases include *People v. Wrybkowski* (2007), where he successfully argued for the admissibility of defense expert testimony challenging the Horizontal Gaze Nystagmus (HGN) test, and *Amberg v. City of Dearborn* (2014), which established that third-party video surveillance recordings are public records under FOIA.

## **Training and Expertise:**

Maze has completed advanced training in NHTSA Standardized Field Sobriety Testing (SFSTs), Horizontal Gaze Nystagmus (HGN), and BAC Datamaster breath testing. He has also attended factory training for the BAC Datamaster and conducted hundreds of experiments on breath testing instruments.

He is well-versed in the scientific literature and statistical reliability of SFSTs and breath testing, as well as the effects of alcohol on the human body.

## **Professional Affiliations:**

Maze is an active member of several legal organizations, including the National College for DUI Defense (NCDD), DUI Defense Lawyers Association (DUIDLA), and Criminal Defense Attorneys of Michigan (CDAM). He has held leadership roles, including President of CDAM (2014-2015) and membership on the Board of Directors for the Michigan Association of OWI Attorneys (2023-present).

**Publications and Presentations:**

He authored Witness Preparation and Examination for DUI Proceedings (2012) and has lectured extensively on topics such as cross-examination of flawed SFSTs, breath testing challenges, and drugged driving defense.

Maze has also testified before the Michigan Senate Judiciary Committee on standardized field sobriety testing (2015).

**Expert Witness Experience:**

Qualified as an Expert in SFSTs and Breath Testing: Maze has been qualified as an expert witness in numerous Michigan courts, testifying on the administration, scoring, and scientific validity of SFSTs and the accuracy and reliability of breath testing instruments like the BAC Datamaster.

**Key Testimony:**

Provided evidentiary hearing testimony on the NHTSA development of SFSTs, phases of DWI detection, and the technical requirements of the HGN test.

Testified on the operation and reliability of the BAC Datamaster, including the accuracy of duplicative breath testing results.

Challenged improper administration or interpretation of SFSTs and breath tests by law enforcement, often leading to favorable outcomes for the defense.

**Notable Cases:**

People v. Wrybkowski (2007): Successfully argued for the admissibility of defense expert testimony challenging the HGN test.

Qualified as an expert in SFSTs and BAC Datamaster: Testified in multiple cases, including jury trials, on the scientific validity of SFSTs and breath testing protocols.

**Summary:**

William Maze is a highly qualified expert witness with a deep understanding of standardized field sobriety testing and breath testing in drunk driving cases. His expertise is grounded in extensive legal practice, advanced training, and a thorough knowledge of the scientific literature. Maze has been qualified as an expert in numerous cases, providing critical testimony that challenges the reliability of SFSTs and breath testing protocols. His ability to explain complex scientific concepts in a courtroom setting makes him a valuable resource for defense attorneys in DUI cases.

## Standard for Admissibility of Expert Testimony

The opinions provided in this report are fair, objective, and non-partisan. I have employed, to the best of my ability, an unbiased and standardized methodology, deriving my opinions from standardized published procedures. The opinion evidence I present is strictly related to matters within my area of expertise. I am committed to providing any additional assistance the court may reasonably require to help determine a matter in issue. If sworn, I can competently testify that these duties prevail over any obligation owed to any party by whom or on whose behalf I was engaged in this action.

MRE 702 provides:

### Rule 702 Testimony by Expert Witnesses

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the proponent demonstrates to the court that it is more likely than not that:

- (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- (b) the testimony is based on sufficient facts or data;
- (c) the testimony is the product of reliable principles and methods; and
- (d) the expert's opinion reflects a reliable application of the principles and methods to the facts of the case.

And MRE 703 provides:

### Rule 703 Bases of an Expert

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. The facts or data must be in evidence—or, in the court's discretion, be admitted in evidence later.

Under Michigan evidentiary law, which incorporates the requirements of the United States Supreme Court's decision in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 469 (1993), the proponent of expert testimony must establish that proposed expert witness testimony is reliable by demonstrating that it "is based on sufficient facts or data," that it "is the product of reliable principles and methods," and that the proposed expert witness "has applied the principles and methods reliably to the facts of the case." MRE 702. As outlined in *Daubert* and MRE 702, "the trial court's role as gatekeeper does not require it to search for absolute truth, to admit only uncontested evidence, or to resolve genuine scientific disputes." *Chapin v. A & L Parts, Inc.*, 274 Mich. App. 122, 127, 732 N.W.2d 578 (2007) (opinion by Davis, J.). Instead, the proper role of the trial court is to filter out expert evidence that is unreliable, not to admit

only evidence that is unassailable. The inquiry is not into whether an expert's opinion is necessarily correct or universally accepted. The inquiry is into whether the opinion is rationally derived from a sound foundation. [*Id.* at 139, 732 N.W.2d 578.] See also *Nelson v. American Sterilizer Co. (On Remand)*, 223 Mich.App. 485, 491-492, 566 N.W.2d 671 (1997). The standard focuses on the scientific validity of the expert's methods rather than on the correctness or soundness of the expert's particular proposed testimony. *Daubert*, supra at 589-590, 113 S.Ct. 2786. An expert's opinion is admissible if it is based on the "methods and procedures of science" rather than "subjective belief or unsupported speculation." *Id.* at 590, 113 S.Ct. 2786.

In *People v Peebles*, 216 Mich App 661 (1996), the Michigan Court of Appeals held that a police officer's testimony regarding field sobriety testing was admissible as expert testimony where:

The trial court considered the following evidence regarding the officer's qualifications: he had been a police officer for one year and seven months at the time of the stop at issue and he had received four or five hours of training on the field tests at issue and had received on-the-job training regarding such tests. This evidence indicated that the officer possessed knowledge, training, and experience regarding the field sobriety tests at issue. On the basis of this evidence, the trial court found the officer qualified to offer expert testimony with respect to the field sobriety tests and denied defendant's motion in limine.

By contrast, I have participated in numerous training seminars, researched field sobriety tests and breath testing issues for over twenty years, taught the proper administration of standardized field sobriety to over a hundred attorneys over the course of several years, and I am actively engaged in the science and study of field sobriety tests and breath testing on a daily basis.

Statutorily, the Michigan legislature has held that my opinion testimony regarding field sobriety tests is admissible based upon a preliminary showing that I am "qualified by knowledge, skill, experience, training, or education, in the administration of standardized field sobriety tests, including the horizontal gaze nystagmus (HGN) test." As MCL 257.625s states in relevant part that:

MCL 257.625s Testimony of person qualified in administration of standardized field sobriety tests.

A person who is qualified by knowledge, skill, experience, training, or education, in the administration of standardized field sobriety tests, including the horizontal gaze nystagmus (HGN) test, shall be allowed to testify subject to showing of a proper foundation of qualifications. . . .

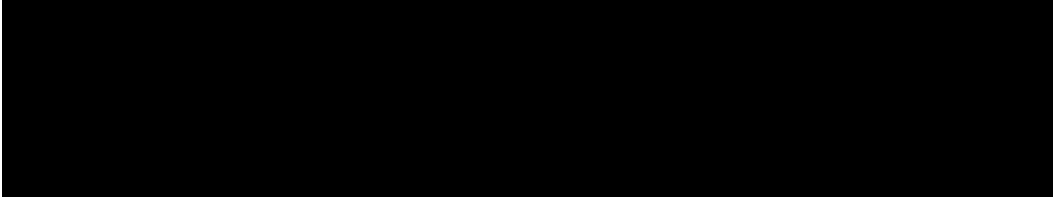
## Scope of Investigation and Directions from Attorney

Attorney [Redacted] engaged me as an expert consultant to:

- Conduct a comprehensive review of his client's body-worn camera recordings, police reports, and blood test results;
- Analyze potential indicators of impairment;
- Evaluate whether field sobriety tests were administered in substantial compliance with NHTSA DWI detection and Standardized Field Sobriety Testing protocols; and
- Provide expert testimony, if required, on the inherent limitations and scientific reliability of these procedures.

## Documents Reviewed

I was provided and reviewed the following videos:



I was also provided with paper discovery consisting of two separate files from the prosecutor's office consisting of XXXXXXXXXXXXXXXXXXXX

Bodycam video for Officer [Redacted] has not been provided until it begins at XXXX a.m., and this video is important because it should record the initial contact with [Redacted].

Bodycam video for [Redacted], who appeared during the investigation, has also not been provided.

## Assumptions and Limitations

For purposes of my opinion, I assume that the investigating officer has been properly trained in a standardized course covering the materials detailed in the NHTSA DWI Detection and Standardized Field Sobriety Test (SFST) Participant Manual. This assumption is based on two factors: 1) MCOLES requires training in this core course material, and 2) the investigating officer employed the horizontal gaze nystagmus test (HGN), which is a NHTSA test developed by the Southern California Research Institute (SCRI) in connection with the development of the 3-test standardized field sobriety test battery.

The NHTSA SFST course is standardized across the nation to ensure uniformity, and instructors of the course must be trained utilizing the NHTSA DWI Detection and Standardized Field Sobriety Test (SFST) Instructor Guide. Standardized materials are provided including standardized manuals and standardized powerpoint presentations and videos. These materials may be utilized in whole or in part by instructors, but the goal is to provide uniform instruction across the country. It is important to note, however, that SFST training remains consistent year after year, even though new manuals are frequently published. An officer trained in the SFST battery in 2004 will conduct the same tests in the same manner as an officer trained in 2023, even though the manuals may be slightly different.

My findings in this report are preliminary and subject to revision insofar as additional discovery may be provided for my review in the future and subject to change in part based upon the testimony of the investigating officer.

Video recorded evidence, while often compelling, has several evidential limitations. Some of the sensory clues that officers are trained to detect during the personal contact phase cannot be recorded on video. The angle and perspective of the camera can significantly influence what is captured. Important details might be missed if they occur outside the camera's field of view, and the footage might not provide a complete picture of the event. It can be difficult to ascertain whether an officer holds the stimulus at the correct distance unless a lateral video recording is provided. Poor video quality, low resolution, or bad lighting can obscure details, making it hard to identify individuals or actions clearly. This can lead to misinterpretation or disputes over what the footage actually shows. An officer operating a body camera might selectively record certain events while omitting others, either intentionally or unintentionally. This selective recording can create a biased representation of the incident. If the video does not have accurate time and date stamps, it can be difficult to establish when the events occurred, which is often critical in legal proceedings. Many video recordings lack audio or have poor audio quality, which can be a significant limitation. Verbal exchanges and other auditory cues are often important for understanding the full context of an event.

## Methodology

The methodology used in this case involves comparing the events described in the written discovery and those captured in the video evidence with the relevant phases taught in the NHTSA DWI Detection and Standardized Field Sobriety Test (SFST) course. The NHTSA DWI Detection and Standardized Field Sobriety Test (SFST) Participant Manual describes three phases of the DWI investigation: Vehicle in Motion, Personal Contact, and Pre-Arrest Screening. These phases are evaluated based upon the officer's report, the officer's administration and scoring of the tests, the published NHTSA research, and relevant peer-reviewed studies.