

Sunday, April 8, 2007

Field sobriety testing amounts to a search.

Cops are on the constant lookout for making drunk driving arrests. (Image from National Institute of Standards & Technology). Last year, the Maryland Court of Special Appeals determined that field sobriety testing amounts to a search requiring reasonable articulable suspicion to proceed with such tests in drunk driving cases. *Blasi v. State*, 167 Md. App. 483, 893 A.2d 1152, cert. denied, 393 Md. 245, 900 A.2d 751 (2006). The Court said: "[T]he administration of field sobriety tests by a police officer during a valid traffic stop intrude into an area of an individual's reasonable expectation of privacy because: (1) the process of conducting field sobriety tests exposes certain aspects of an individual not otherwise observable by the public; and (2) the information disclosed by the field sobriety tests may reveal private facts about an individual's physical or psychological condition. Therefore, we hold that the administration of field sobriety tests by a police officer during a valid traffic stop constitutes a search within the meaning of the Fourth Amendment to the U.S. Constitution." *Blasi*, 167 Md. App. at 505. *Blasi* is important for showing judges -- and police and prosecutors -- that field sobriety tests are anything but consensual police-suspect encounters, and that evidence of the tests' administration and results must be suppressed absent reasonable articulable suspicion of a violation of the drinking and driving laws. Jon Katz.

Posted by Jon Katz in Drunk driving/DWI/DUI at 00:00