

Dealing with Disappearing DWI Defendants

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I've had several questions recently about how to handle cases in which the defendant was charged with DWI, failed to appear, remained absent for several years, then reappeared. Often, the arresting officer has retired, moved, or can't remember the case well enough to testify. The defendant wants the case reinstated and wants to plead not guilty, hoping that the state will be forced to dismiss. The state isn't able to proceed on the DWI but doesn't want the defendant to benefit from his failure to appear.

The most common issues that arise in this situation include whether the state is required to reinstate the case, whether the state may attempt to negotiate a plea without disclosing the officer's unavailability, and whether the state may charge the defendant with failure to appear. I answer those questions in [this paper](#). Although this situation seems to arise most often with DWIs, and there are some DWI-specific aspects to the paper, much of it is relevant to any case in which a defendant disappears, and then reappears.

I should add that the paper is much better as a result of input from several of my colleagues. And of course, I welcome feedback, via email or blog comments, from readers who have an opinion about the issues addressed in the paper.