

**DEPARTMENT TRAFFIC COORDINATOR
TRANSIT SERVICES BUREAU**

August 17, 2021

NOTICE
8.1

TO: All Department Personnel

FROM: Department Traffic Coordinator, Transit Services Bureau

SUBJECT: DRUG RECOGNITION EXPERT (DRE) EXAMINATIONS – REMINDER

PURPOSE

The purpose of this Notice is to remind officers of the required steps to be conducted prior to requesting a DRE officer to evaluate a motorist that is believed to be under the influence of drugs or a combination of alcohol and drugs, and to remind DRE officers of the required steps to be followed when conducting a DRE evaluation.

BACKGROUND

The National Highway Traffic Safety Administration (NHTSA) has established guidelines that are utilized by the International Association of Chiefs of Police (IACP) to develop certification requirements for DREs nationwide. The Drug Education Classification (DEC) Program is a national training standard that is accepted by the scientific and legal communities. The national training standard requires every DRE officer to conduct a 12-step drug evaluation test to determine whether an individual is under the influence of drugs or a combination of alcohol and drugs.

PROCEDURES

When an officer detains a person for driving under the influence of drugs or combination of alcohol and drugs, various investigative steps must be taken prior to requesting a DRE. Once these steps are taken, the DRE officer is required to conduct an additional evaluation. Adherence to this evaluation process increases the likelihood of successful prosecution.

Note: A DRE officer should not be requested when the person is only under the influence of alcohol.

Arresting Officer's Responsibility

When an officer detains a person believed to be under the influence of drugs or a combination of drugs and alcohol, the officer shall:

- Conduct a Standardized Field Sobriety Test (SFST);
- Formulate the opinion that the individual is under the influence; and,
- Cannot operate a vehicle safely.

If the person is placed under arrest for driving under the influence (DUI) of drugs or a combination of alcohol and drugs, the arresting officer shall:

- Read the Chemical Test Admonition verbatim, which is located on the DUI Arrest Report Supplemental, Form 05.02.05;
- Administer a chemical test to the arrestee; and,

Note: Whenever possible, a breath test should be administered to determine the blood alcohol concentration (BAC) level.

- When the breath test results are **less than .08% BAC**, but the impairment exhibited is not consistent with the reading, the arresting officer shall request a DRE officer.

Drug Recognition Expert Responsibility

When the DRE arrives, the arresting officer shall explain the indicators that led them to believe the arrestee is under the influence of drugs or a combination of alcohol and drugs. The DRE will ask what signs of impairment were identified in the SFST as well as any admissions from the arrestee of drug use, possession of narcotic paraphernalia, and other evidence of drug impairment.

The DRE officer shall conduct the 12-step drug influence evaluation process. The evaluation shall be conducted in a room large enough to permit an unobstructed administration of the psychophysical test, provides total darkness for an eye examination, and is free from outside distractions. A DRE officer can deviate from the 12-step drug influence evaluation process under the following conditions:

- When an arrestee is suspected of using tetrahydrocannabinol (THC) or Cannabis, the DRE can obtain a blood sample prior to finishing the evaluation due to the quick metabolism of Cannabis; or,
- Exigent circumstances exist.

Note: A common exigent circumstance example is when a DRE responds to a hospital and the arrestee is injured from a traffic collision and is unable to perform all the tests or all the tests are not available. The DRE officer will perform as many steps possible and render an expert opinion on impairment, taking into consideration the proximate cause of the collision and observations or evidence of impairment at the scene.

Any deviations from the DRE 12-step drug influence evaluation process shall be noted and explained in the Drug Influence Evaluation Report, Form 08.04.02. A DRE examination in a parking lot or a DUI trailer is prohibited by the standards set by NHTSA and the IACP, unless exigent circumstances exist.

Note: It is important to remember that the DRE officer is not the arresting officer. The DRE is confirming and identifying the drug category the arrestee is under the influence of. It is the arresting officer's responsibility to write the arrest report, book the arrestee and evidence.

CONCLUSION

The legalization of marijuana and expanded use of illicit drugs has increased the number of community members operating a motor vehicle while under the influence drugs. Unlike a DUI arrest for alcohol, the City Attorney's Office requires additional testing by a DRE officer to successfully prosecute these cases. Consequently, it is paramount that both the arresting officer and DRE officer adhere to established procedures.

If you have any questions, please contact the Drug Recognition Expert Unit, Traffic Coordination Section, Traffic Group, at (323) 276-2380.



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APPROVED:



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