

OFFICE OF THE CHIEF OF POLICE

NOTICE 1.1

December 31, 2018

TO: All Department Personnel

FROM: Chief of Police

SUBJECT: DRIVING UNDER THE INFLUENCE OF DRUGS INVESTIGATIVE PROCEDURES

With the recent legalization of recreational cannabis, it is anticipated that the number of Driving Under the Influence of Drugs (DUID) offenses will increase. This Notice serves to clarify the procedures (refer to Department Manual Section 4/343.25) when placing a person under arrest for any DUID section of the California Vehicle Code (CVC) or California Penal Code (PC) and revises the Narcotic Arrestee Examination, Form 08.40.00. Some of the DUID sections include, but are not limited to:

- 23152(f) CVC – Driving Under the Influence of Drugs.
- 23152(g) CVC – Driving Under the Influence of Drugs and Alcohol.
- 23153(f) CVC – Driving Under the Influence of Drugs causing injury.
- 23153(g) CVC – Driving Under the Influence of Drugs and Alcohol causing injury.
- 21200.5 CVC – Riding a Bicycle while Under the Influence of Drugs and/or Alcohol.
- 21296(a) CVC – Operating an Electrically Motorized Board while Under the Influence of Drugs and/or Alcohol.
- 191.5 PC – Gross Vehicular Manslaughter while Intoxicated.

California law defines a drug as any substance, other than alcohol, that could affect the nervous system, brain, or muscles, thus impairing the person's ability to operate a vehicle. This substance can include illegal drugs, prescription drugs, or even over-the-counter drugs. A person is considered DUID when operating a vehicle and those drugs impair him or her to the point that he or she can no longer drive safely. Unlike Driving Under the Influence of Alcohol (DUI), DUID has no quantitative threshold that dictates when a person is under the influence of drugs. Therefore, prosecution for DUID relies heavily on the observations of the arresting officer and a Drug Recognition Expert (DRE), chemical testing, video evidence, and testimony of witnesses.

When detaining a suspect for DUI or DUID, officers shall:

- Administer the Standardized Field Sobriety Test (SFST); and,
- Request a voluntary breath sample using the Preliminary Alcohol Screening (PAS) device (if no PAS is used, it shall be documented in the report).

If impairment is indicated after completing the SFST and PAS screening, and officers determine that an arrest will be made, officers shall:

- Admonish the person under arrest regarding a chemical test as per the Chemical Test Admonition on the Driving Under the Influence Arrest Report Supplemental, Form 05.02.05;

- Collect a breath sample using the Electrochemical and Infrared Sensor (ECIR);
- Try to obtain a voluntary blood draw (chemical testing) and complete a Request of Medical Professional and Consent for Withdrawal of Blood, Form 04.35.00 (see attachment for reference);
- If the impairment is not consistent with the breath alcohol concentration (BAC) and drug impairment is suspected, request a DRE through Communications Division (from the Area/division, Bureau, then City-wide); and,
- If a DRE cannot be obtained:
 - Obtain medical treatment for the arrestee;
 - If the person under arrest consents, complete the Los Angeles Police Department Authorization to Release Medical Information, Form 05.03.00, and request the examining physician to provide a copy of relevant medical reports; and,
 - If trained, complete the Narcotic Arrestee Examination, Form 08.40.00, and include as a page of the Arrest Report, Form 05.02.00.

If the person under arrest does not consent to the blood draw, the arresting officer shall attempt to obtain a search warrant for a blood draw by completing the Affidavit in Support of Search Warrant, Form 12.25.05 and Search Warrant Return (see attachments for reference). If the arrestee does not comply with the warrant, the circumstances of the case should dictate the necessity for performing a forced blood draw, per Department Manual Section 4/343.40. Upon completing any chemical testing, the arresting officer shall book the arrestee for the appropriate section and book any corresponding evidence relevant to the crime, per Department Manual Sections 4/510.10 and 4/510.12.

Note: Deviation from the above procedures may occur based upon the arrestee's level of cooperation and the circumstances in which the arrest occurs. Any deviations from the above procedures shall be explained in the Arrest Report.

Narcotic Arrestee Examination, Form 08.40.00 – Revised. This Notice also revises the Narcotic Arrestee Examination form, as it pertains to the identification of nystagmus and description of the arresting officer's narcotics expertise.

Form Availability. The revised form is accessible in E-Forms on the Department's Local Area Network (LAN) and is attached for immediate use and duplication. All other versions of the Narcotic Arrestee Examination form shall be marked "obsolete" and placed into the divisional recycling bin. The use, completion, and distribution of the form remain the same.

Any questions regarding this Notice shall be directed to the Drug Recognition Expert Unit, Training Division, at (323) 276-2380.



MICHEL R. MOORE
Chief of Police

Attachments

DISTRIBUTION "D"

Arrestee's Name: _____ (Last, First, MI) Booking No.: _____

Arresting Officer: _____ (Name, Serial No., Div.)

Evaluator: _____ (Name, Serial No., Div. - If different than arresting officer)

Date Examined/Time/Location: _____

Preliminary Medical Information

- Are you ill or injured?..... No Yes If Yes, detail in Arrest Report Narrative.
- Are you under the care of a doctor?..... No Yes If Yes, detail in Arrest Report Narrative.
- Are you taking any medication(s)?..... No Yes If Yes, detail in Arrest Report Narrative.

(Check all that apply)

Appearance

- Blank stare
- Muscle tone
 - Flaccid Rigid
- Nodding
- Profuse sweating
- Relaxed/sedate
- Other _____

Behavior(s)

- Agitated
- Hallucinations
- Hyperactivity
- Lethargic movements
- Mood variations
- Scratching
- Other _____

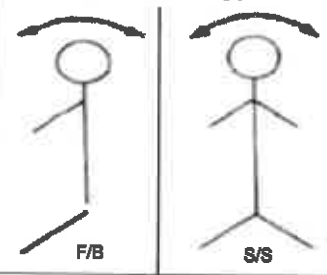
Breath

- Alcoholic
- Chemical
- Other _____

Hands/Fingertips

- Blisters Residue
- Burns Other _____
- Discoloration _____

MODIFIED ROMBERG BALANCE TEST



Internal clock
estimated as 30 seconds.

Face

- Burned lips
- Chapped lips
- Debris in mouth
- Drowsy

- Dry mouth
- Nasal irritation
- Nasal residue
- Other _____

Speech

- Non-communicative Repetitive Soft/quiet
- Rapid Slow Unintelligible
- Raspy Slurred Other _____



Corrective Lens

- None
- Glasses
- Contacts, if so Hard Soft

HGN	Right	Left
Lack of Smooth Pursuit	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Max Deviation	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Angle of Onset Prior to 45 Degrees	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

VGN Yes No

Lack of Convergence

Right Eye	Left Eye
	

Pulse/Time

1. _____ / _____

2. _____ / _____

Pupillary Reaction to Light Pupil Size (MM)

- Normal
 - Slow
 - Little
 - None Visible
- | | | | |
|-------|------------|---------------------|--------------|
| | Room Light | Near Total Darkness | Direct Light |
| Left | _____ | _____ | _____ |
| Right | _____ | _____ | _____ |

Pupillary Unrest

- Yes No

Rebound Dilation

- Yes No

Urine Admonition given: No Yes, Form 08.40.01 completed. Given by: _____

ARRESTING OFFICER'S EXPERTISE: A statement of the arresting officer's expertise should be included in the Arrest Report. The statement should include any training and experience in making any under the influence arrests and/or investigations. This section may also include but not limited to: possession, under the influence (driving included), sales, transportation, etc. Officers should specify the type of drug(s) in which the training, investigation, or arrest was received.

Has this statement been included in the Arrest Report? Yes No

Miranda Admonition given: No Yes Given by: _____

Arrestee's Statement: _____

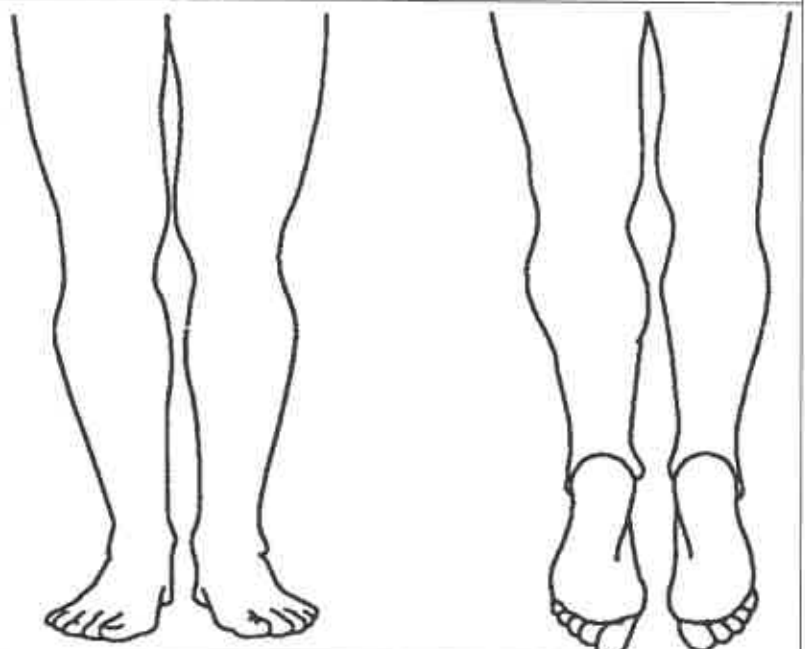
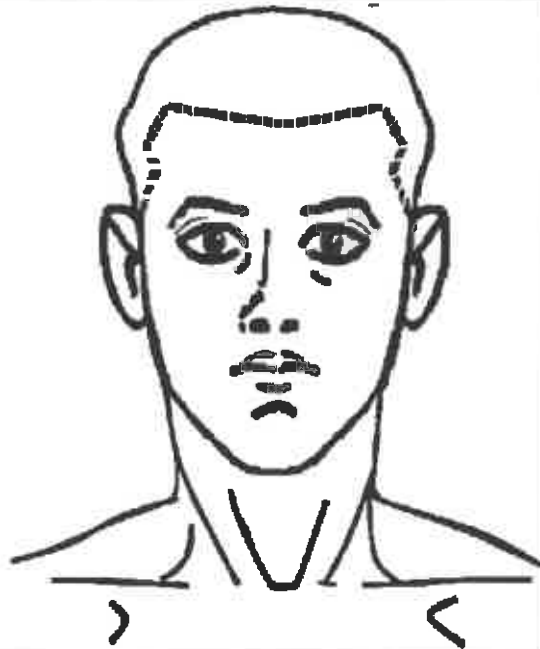
Arrestee's Name: _____ Booking No.: _____ DR No.: _____
(Last, First, MI)

PHOTOGRAPH: When available, include a photograph of the injection site and note on the schematic the location photographed. Is photo attached? Yes No If No, explain in Arrest Report Narrative.

RIGHT ARM



LEFT ARM



AFFIDAVIT IN SUPPORT OF SEARCH WARRANT

I, _____, am a peace officer employed by the Los Angeles Police Department.

On _____, at _____ hours in the County of Los Angeles, I observed the following (check applicable boxes only): I saw _____ driving stopped outside of vehicle

involved in a traffic collision at _____. While driven by _____, the vehicle was speeding weaving going slow. I stopped the vehicle contacted _____ who exhibited the following objective symptoms of driving under the influence:

fumbling with vehicle controls fumbling with documents slurred speech rapid speech
 reddened eyes watery eyes dilated pupils odor of alcoholic beverage about the person
 unsteady admitted drinking admitted taking drugs showed signs of physical and mental impairment during the field sobriety test blood alcohol content measured _____ % on preliminary alcohol screening device. The arrestee refused preliminary alcohol screening refused to submit to breath or blood test after implied-consent admonition given by: _____

Based on my training and my experience of _____ years as a peace officer, it is my opinion that the arrestee, _____ operated a vehicle while under the influence of alcohol and/or drugs.

_____ is a _____, now detained at _____.

Unless a blood sample is obtained promptly, dissipation of alcohol and/or drugs may result in the destruction of evidence.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____, in Los Angeles County, California. Signed: _____

SEARCH WARRANT No. _____

PC 1824(a)(13):

COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN LOS ANGELES COUNTY:

Proof having been made before me this day by the incorporated affidavit above that there is probable cause for believing that a sample of the blood of _____, named and described above, will furnish evidence of the commission of a public offense, you are therefore commanded to make search of the person of _____ at any time of the day or night by causing to be extracted, in a medically-approved manner, a blood sample to be submitted by you for laboratory analysis and to be retained by you, subject to order of the court.

Given under my hand, and dated this _____ day of _____, _____

Printed name: _____

Signature: _____

JUDGE OF THE SUPERIOR COURT
 JUSTICE OF THE COURT OF APPEAL
STATE OF CALIFORNIA

**REQUEST OF MEDICAL PROFESSIONAL &
CONSENT FOR WITHDRAWAL OF BLOOD**

04.35.00 (03/17)

PAGE: _____ BOOKING NO.: _____ DR NO.: _____

CONSENT

I, _____ A PEACE OFFICER READ/PARAPHRASED THE:

- PRINT NAME SERIAL NO.
- CHEMICAL TEST ADMONITION (23612 VC), AND
 ADDITIONAL CHEMICAL TEST ADMONITION, OR
 DRUG ADMONITION

ARRESTEE _____ CONSENTED TO THE BLOOD DRAW FOR THE
PRINT NAME

PURPOSE OF MAKING A BLOOD ALCOHOL/DRUG ANALYSIS TO DETERMINE THE AMOUNT OF ALCOHOL AND/OR DRUGS IN HIS OR HER BLOOD.

IF NO CONSENT GIVEN, COMPLETE SEARCH WARRANT AND PLACE SEARCH WARRANT NO. IN BOX BELOW.

OFFICER'S SIGNATURE _____ DATE _____

ARRESTEE'S SIGNATURE _____ DATE _____

Must check one:

- Consent given by the arrestee
 Search Warrant No.:

REQUEST OF MEDICAL PROFESSIONAL TO CONDUCT BLOOD DRAW

I, _____ A PEACE OFFICER, REQUEST THAT

PRINT NAME TITLE/PRINT NAME
TAKE A BLOOD SAMPLE FROM ARRESTEE _____ FOR THE PURPOSE MAKING
PRINT NAME

BLOOD ALCOHOL AND/OR DRUG ANALYSIS TO DETERMINE THE AMOUNT OF ALCOHOL AND/OR DRUGS IN HIS OR HER BLOOD. THIS REQUEST IS IN COMPLIANCE WITH CALIFORNIA VEHICLE CODE SECTION 23612.

PER CALIFORNIA VEHICLE CODE SECTION 23612(a)(1)(C), CHEMICAL TESTS ARE INCIDENTAL TO ARRESTS AND ARE ADMINISTERED AT THE DIRECTION OF A PEACE OFFICER WHO HAS REASONABLE CAUSE TO BELIEVE THE PERSON WAS DRIVING A MOTOR VEHICLE IN VIOLATION OF CVC 23140, 23152 OR 23153.

DATE OF OFFENSE: _____ TYPE OF OFFENSE: 23140 CVC 23152 CVC 23153 CVC

LOCATION OF BLOOD DRAW: _____

'Notwithstanding any other provision of law, no licensed physician and surgeon, registered nurse, licensed vocational nurse, duly licensed clinical laboratory scientist of clinical laboratory bioanalyst, person who has been issued a 'certified phlebotomy technician' certificate pursuant to Section 1246 of the Business and Professions Code, unlicensed laboratory personnel regulated pursuant to Sections 1242, 1242.5, and 1246 of the Business and Professions Code, or certified paramedic, or hospital, laboratory, or clinic employing or utilizing the services of the licensed physician and surgeon, registered nurse, licensed vocational nurse, duly licensed clinical laboratory scientist or clinical laboratory bioanalyst, person who has been issued a 'certified phlebotomy technician' certificate pursuant to Section 1246 of the Business and Professions Code, unlicensed laboratory personnel regulated pursuant to Sections 1242, 1242.5, and 1246 of the Business and Professions Code, or certified paramedic, owning or leasing the premises on which tests are performed, shall incur any civil or criminal liability as a result of the administering of a blood test in a reasonable manner in a hospital, clinical laboratory, medical clinic environment, jail, or law enforcement facility, according to accepted venipuncture practices, without violence by the person administering the test, and when requested in writing by a peace officer to administer the test.' CALIFORNIA VEHICLE CODE, Section 23158(d).

CAUTION: REQUEST ONLY A PERSON AUTHORIZED BY THE ABOVE LAW TO TAKE THE SAMPLE OF BLOOD.

SUPERIOR COURT OF CALIFORNIA
County of Los Angeles



Warrant No. _____

SEARCH WARRANT RETURN

Officer _____, ID# _____, being sworn, says that he / she conducted a search pursuant to the below described search warrant:

Issuing Magistrate:
Magistrate's Court: Los Angeles
Date of Issuance:
Date of Service:

and searched the following location(s), vehicle(s), and person(s) and seized the items

- described in the attached and incorporated inventory.
 described below:

I further swear that this is a true and detailed account of all the property taken by me pursuant to the search warrant, and that pursuant to Penal Code Sections 1528 and 1536 this property will be retained in my custody, subject to the order of this court or of any other court in which the offense in respect to which the seized property is triable.

(Signature of Affiant)

Sworn to and subscribed before me this ___ day of ___, 20__.

(Signature of Magistrate)

Judge of the Los Angeles Superior Court.

List all items seized, including those not specifically listed on the warrant.

Location #1: One vial of human blood was taken from _____
(Name of arrestee)

at _____ hours on the date of service.
(Time)

The blood draw was obtained at _____ Hospital located at _____ CA _____
(Hospital or Jail)

The blood vial was booked into evidence at the _____ Office and will be tested. Blood test results are pending.