

DRIVING WHILE INTOXICATED

BLOOD WITHDRAWAL PROCEDURE FORM

- 1. Officer placed suspect under arrest for Chapter 49 offense involving operation of a **motor vehicle**.
- 2. Officer read DIC-24 to suspect and did provide suspect with written copy.
- 3. Suspect did consent / refuse to give sample / unconscious or incapable of refusal.
- 4. Officer did remove vial from blood collection kit.
- 5. Expiration date on blood kit/vial is _____.
- 6. Officer did fill out label that came with kit completely except for the time blood was drawn.
- 7. Vial was closed when handed to the nurse/technician.
- 8. Preservative/anti-coagulant powder was seen in vial.
- 9. Nurse/technician did the following in withdrawing blood from subject:
 - Used Betadine (or other: _____) solution as disinfectant. (save package)
 - Technician verified suitability with subject (allergies and medication).
 - Technician cleansed subject's left right arm by disinfecting with swab in a circular and outward motion.
 - Rotated vials as indicated or 8 times so as to mix blood with preservative anti-coagulant.
- 10. Vial (top never having been opened) was then delivered to officer and officer finished completing label by adding time blood was drawn and officer and nurse/technician initialed label, which was used to seal vial top closed.

Signed by:

Arresting Officer/PD Department

Nurse/Medical Technician

TURN IN *ALL* ORIGINAL PAPERWORK TO ON-CALL ADA BEFORE LEAVING!

Suspect Name: _____

Date: _____

Offense No.: _____

Time of Blood Draw: _____

AFFIDAVIT FOR SEARCH WARRANT AND MAGISTRATION**I. AFFIANT**

The undersigned Affiant, a peace officer under the laws of the State of Texas, and after first being duly sworn, on oath makes the following statements and accusations:

My name is _____. I am a peace officer employed by _____. I have successfully completed the State-mandated requirements to become a peace officer and have successfully completed courses and/or training in the fields of alcohol detection, including Standardized Field Sobriety Tests, hereafter SFSTs, and intoxication-related offenses. I have seen intoxicated persons in the past and, during the course of my employment, I have observed numerous people who are under the influence of alcohol or other substances and:

- I am certified and/or trained in the detection of drug impaired or intoxicated drivers through my classification as a Drug Recognition Expert (DRE) or through the Advanced Roadside Impaired Driving Enforcement (ARIDE) programs.
- I have formed opinions on intoxication on many occasions and have had my suspicions confirmed by breath, blood, or urine samples that were administered after I performed my law enforcement duties relating to the detection of intoxicated drivers.

II. SUSPECT & CRIME

A. The suspected person ["suspect"] is described as follows:

Name:		
TX DL/ID #		
Race:	Sex:	DOB:
Height:	Weight:	Hair Color:

B. The suspect is presently in the custody of a law enforcement agency here in Fort Bend County, Texas, namely the _____, which will present the suspect to execute the warrant requested herein;

C. The suspect has possession of and is concealing human blood, which constitutes evidence that the suspect committed the offense described in paragraph D below;

D. I have good reason to believe that on the ____ day of _____, 20____, the suspect did then and there operate a motor vehicle in a public place in Fort Bend County, Texas, while intoxicated by not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, or a combination thereof, into the suspect's body.

III. REASON FOR CONTACT / EVIDENCE OF OPERATING

A. My belief that the suspect committed the offense described in paragraph D above is based on the following facts:

1. Based on my observations and investigation, I developed the opinion that on the date specified in paragraph D above, at about _____ o'clock, ____M. the suspect was operating a motor vehicle in a public place in Fort Bend County, Texas, namely at the following location:
_____.

2. The following information influenced my reasonable-suspicion consideration (any that apply are checked):

TRAFFIC STOP: I stopped the vehicle at the above time and location for the following reason(s): _____

and, at the time of the stop, I believed that these facts, among others, possibly indicated that the suspect was committing the following Transportation Code violations or offenses:

_____ and/or the offense of driving while intoxicated;

ENCOUNTER: The suspect's vehicle was already stopped and I believed that the suspect had been driving and/or operating the vehicle, and I observed _____

_____ and, at the time of the contact, I believed that these facts, among others, possibly indicated that the suspect was committing the following traffic and/or criminal violations: _____ and/or the offense of driving while intoxicated.

WITNESSES: One or more witnesses, _____, conveyed information to me about observing the suspect's actions and/or motor-vehicle operation. The details of the conveyed information included, but were not limited to: _____

ADMISSION TO OPERATING: The suspect admitted to me that the suspect had been operating a motor vehicle in a public place in Fort Bend County, Texas.

B. INTOXICATION EVIDENCE:

1. GENERAL OBSERVATIONS: During my contact with the suspect, I made the following observations about the suspect:

ODOR OF ALCOHOL: Strong Moderate Faint None

FACE APPEARANCE: Flushed Dazed Glassy Eyes Bloodshot Eyes

SPEECH: Cotton-mouthed Slurred Confused Stuttered Accent

Other: _____

ATTITUDE: Cooperative Combative Indifferent Carefree Cocky Mood Swings
Talkative Excited Insulting Sleepy Profane Polite

Other: _____

BALANCE: Falling Staggering Hesitant Swaying Unsure Sure

Other: _____

WALKING: Falling Staggering Hesitant Swaying Unsure Sure

Other: _____

ADMISSION TO DRINKING: The suspect admitted to me that they had consumed alcohol. In addition, the suspect admitted beginning drinking at _____ AM PM, at _____ (location), and stopped drinking at _____ AM PM. The suspect said they consumed the following type of alcoholic beverages: _____

OPEN CONTAINERS: I observed the following open containers inside the vehicle: _____

OTHER INDICATIONS OF MENTAL IMPAIRMENT: _____

2. EVIDENCE OF POSSIBLE DRUG/CONTROLLED SUBSTANCE USE:

- Drug paraphernalia found
- Describe drug paraphernalia found _____
- Odor of marijuana detected (describe) _____
- Statements made by the suspect or others indicating possible drug usage:

Other evidence of drug use including pupil size, pulse, body temp, etc: _____

3. FIELD SOBRIETY TESTS IN GENERAL:

The suspect refused to perform (**ALL / SOME**) of the requested field sobriety tests, and this refusal indicated to me that the suspect was attempting to hide intoxication evidence YES NO

During my contact with the suspect, I requested performance of field sobriety tests by the suspect and recorded the minimal results and observations of the suspect's performance of field sobriety tests and signs of intoxication which include the following:

4. SPECIFIC FIELD SOBRIETY TESTS:

HORIZONTAL GAZE NYSTAGMUS (hereafter HGN):

The suspect was first qualified as a candidate by checking the suspect's eyes for equal tracking, no resting nystagmus, and equal pupil size. The suspect was also qualified as a candidate by questions which revealed that he had not suffered from a head injury, did not have any relevant medical problems, and was not currently on any relevant medications.

HGN: At Least _____ Clues Observed

Circle observed clues:

L R 1. Lack of smooth pursuit

L R 2. Distinct and sustained nystagmus at maximum deviation

L R 3. Onset of nystagmus prior to 45 degrees

Vertical Nystagmus: YES NO

Subject swayed excessively: YES NO

Other comments: _____

I know from my training and experience that Horizontal Gaze Nystagmus is caused by the introduction of a Central Nervous System Depressant, Inhalant, or Dissociative Anesthetic into the subject's body.

WALK AND TURN TEST (hereafter WAT):

WAT: At Least _____ Clues Observed

Check appropriate clues:

_____ 1. Cannot keep balance while listening to instructions

_____ 2. Starts before instructions are finished

_____ 3. Stops while walking to steady self

_____ 4. Does not touch heel to toe

_____ 5. Loses balance while walking (i.e., steps off line)

_____ 6. Uses arms for balance (raises arms over six inches)

_____ 7. Loses balance while turning/turns incorrectly

_____ 8. Incorrect number of steps

Other comments: _____

ONE LEG STAND (hereafter OLS):

OLS: At Least _____ Clues Observed

_____ 1. Sways while balancing

_____ 2. Hops

_____ 3. Puts foot down

_____ 4. Uses arms for balance (raises arms over six inches)

Other comments: _____

OTHER TESTS

I had the suspect perform other tests which also indicated that the subject was impaired:

Portable Breath Test Consent – Result: _____

5. ADDITIONAL OBSERVATIONS / FACTORS: I noted the following additional facts leading me to believe that the suspect was intoxicated while operating a motor vehicle in a public place:

6. SUSPECT'S ORAL STATEMENTS: The suspect made the following relevant statements:

7. CHEMICAL TESTS OFFERED: I offered the suspect the following chemical tests which were refused by the subject. This refusal indicated to me that the subject was intoxicated and was hiding evidence of impairment. **TESTS OFFERED TO SUBJECT AND REFUSED :**

Breath - **Blood** - **Urine** - **Portable Breath Test**

8. SUMMARY: Based upon my experiences, my training in intoxication-related offenses, and my observations of the suspect during my contact with him/her, I believe that the suspect is intoxicated by reason of the introduction of alcohol, a controlled substance, a dangerous drug, another impairing substance, or a combination thereof into his/her body, and that the suspect has lost the normal use of his/her mental and/or physical faculties.

9. I know from my training and experience that alcohol and other intoxicating substances are absorbed into the bloodstream of an intoxicated person and that the blood of such person can be analyzed for the presence of alcohol and other intoxicating substances.

WHEREFORE, based upon this affidavit and Beeman v. State, 86 S.W.3d 613 (Tex. Crim. App. 2002), Affiant asks for a search warrant that will authorize Affiant or Affiant's agent to search the person of the suspect for the blood evidence described above and seize the same as evidence that the offense described was committed and that the suspect committed the said offense.

Further Affiant asks for issuance of an order to appropriate third parties directing them to assist Affiant in the execution of said warrant.

Affiant

Subscribed and sworn to before me on this ____ day of _____, 20____, by an official authorized to administer and authorize this oath pursuant to TEX. GOV'T. CODE §602.002.

Peace Officer / Notary / Judge (if in person)

Official's Printed Name & Title

THE STATE OF TEXAS §

COUNTY OF FORT BEND §

SEARCH WARRANT AND ORDER OF ASSISTANCE

The State Of Texas: To any Sheriff or any Peace Officer of Fort Bend County, Texas, or any Peace Officer of the State of Texas:

Whereas, the Affiant, whose name appears on the Affidavit attached hereto is a peace officer under the laws of Texas and did heretofore this day subscribe and swear to said affidavit, which said Affidavit is here now made a part hereof for all purposes and incorporated herein as if written verbatim within the confines of this warrant and whereas I find that the verified facts stated by Affiant in said Affidavit show that Affiant has probable cause for the belief Affiant expresses herein and establishes the existence of proper grounds for the issuance of this Warrant:

Now, therefore, you are commanded to take custody of the suspect and transport the suspect to a physician, registered nurse, qualified technician, phlebotomist or medical laboratory technician skilled in the taking of blood from the human body, in Fort Bend County, Texas, where the said physician, registered nurse, qualified technician or medical laboratory technician shall, in the presence of a law enforcement officer, take samples of the Blood from the body of the following described individual:

Name:		
TX DL/ID #		
Race:	Sex:	DOB:
Height:	Weight:	Hair Color:

Medical personnel are hereby ordered to cooperate and assist the officer by procuring the blood samples according to accepted medical practice. Medical staff is exempt from liability subject to Chapter 724 of the Transportation Code and are not required to admit the subject unless medically necessary (FAILURE TO COMPLY MAY RESULT IN CONTEMPT OF COURT). Law enforcement officers are authorized to use all reasonable force necessary to assist the physician, registered nurse, qualified technician, phlebotomist or medical laboratory technician to take the samples from the body of the suspect. After obtaining the samples of Blood, the physician, registered nurse, qualified technician, phlebotomist or medical laboratory technician shall deliver the said samples to the said law enforcement officer. Herein fail not, but have you then and there this warrant within three days, exclusive of the day of its issuance, with your return thereon, showing how you have executed the same.

Issued on this the _____ day of _____, 20____, at _____ o'clock, ____M.

Judge/Magistrate Fort Bend County, Texas

THE STATE OF TEXAS

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COUNTY OF FORT BEND

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RETURN AND INVENTORY

The undersigned Affiant, being a Peace Officer under the laws of Texas and being duly sworn, on oath certifies that the foregoing Warrant came to hand on the day it was issued and that it was executed on the _____ day of _____, 20____, by making the search directed therein and seizing during such search the following described property:

Specimen(s) of the suspect's blood.

Subject's name: _____

Affiant

THE STATE OF TEXAS

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COUNTY OF FORT BEND

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AFFIDAVIT OF PERSON WHO WITHDREW BLOOD

Before me, the undersigned authority, personally appeared _____
who being duly sworn, deposed as follows:

My name is _____, I am over the age of 18 years and
capable of making this affidavit, I am currently licensed as a Registered Nurse by the State of Texas.

On the _____ day of _____, 20____, at _____ o'clock, ____M., I withdrew a blood
specimen from the following person:

_____, from the right
or left arm using Betadine or other: _____.

The blood specimen was taken using reliable procedures as recognized by the scientific
community in the State of Texas and in a sanitary place. The specimen was properly labeled and
sealed.

Affiant / Signature of person drawing blood

Printed name of person drawing blood

Subscribed and sworn to before me on this _____ day of _____, 20____, by an official
authorized to administer and authorize this oath pursuant to TEX. GOV'T. CODE § 602.002.

Peace Officer / Notary / Judge (if in person)

Official's Printed Name & Title