

## Drug Recognition Expert (DRE)

### I. EXPERIENCE, TRAINING AND GENERAL BACKGROUND

Officer \_\_\_\_\_, before we discuss today's case, I'd like to take a few minutes to introduce you to the court and the members of the jury.

1. Please introduce yourself.
2. How are you employed?
3. How long have you worked for the \_\_\_\_\_ (police or sheriff's department/state police/highway patrol, etc.)?
4. What prior law enforcement experience do you have?
5. What special training and/or experiences, if any, have you had in the field of detecting and apprehending drivers impaired by alcohol or drugs?
  - \_\_\_\_\_ Police Academy
  - \_\_\_\_\_ College courses/formal degrees
  - \_\_\_\_\_ Books read
  - \_\_\_\_\_ Narcotics training
  - \_\_\_\_\_ DRE Course/certification
  - \_\_\_\_\_ DRE Instructor Course
  - \_\_\_\_\_ Specialized conferences
  - \_\_\_\_\_ Published articles/classes taught (by the DRE)
6. Have you ever participated in a "drinking lab"?
7. How many times?
8. What is the purpose of a drinking lab?
9. During the lab(s), did you have an opportunity to administer the Standardized Field Sobriety Tests to people and then compare your opinions regarding their levels of impairment to their actual breath alcohol levels?
10. Were you able to accurately and reliably discern their level of alcohol impairment?
11. Have you participated in any labs where subjects were provided illegal or illicit drugs?
12. Why not?
13. Approximately how many people have you stopped for DUI?
14. Did you arrest everyone you stopped whom you initially suspected was DUI?

NOTE: Check with the witness prior to asking this question

15. Why not?
16. How many times have you administered the Standardized Field Sobriety Tests?
17. How many people have you arrested for DUI?
18. After you arrested them, did you have an opportunity to give them breath tests?
19. Did you compare your opinions regarding the arrestees' levels of impairment to their actual breath alcohol levels?
20. Based on that comparison, could you tell us whether you were able to make good arrest decisions using the Standardized Field Sobriety Tests?

**II. The Instant Case**

21. Calling your attention to \_\_\_\_\_ (date of arrest). Were you working on that date?
22. Where were you at approximately \_\_\_\_\_?
23. On that date and at that time, did you perform a Drug Influence Evaluation on someone who later became known to you as \_\_\_\_\_?
24. Do you see that person in the courtroom today?
25. Please point at that person and identify him/her by a unique article of clothing that he/she is wearing.

LET THE RECORD REFLECT THAT OFFICER \_\_\_\_\_ HAS IDENTIFIED THE DEFENDANT, \_\_\_\_\_.

**III. DRE Testimony**

26. Are you familiar with the national Drug Evaluation and Classification Program, also referred to as the DRE Program?
27. What is the DRE Program?

NOTE: The national Drug Evaluation and Classification Program allows specially trained law enforcement officers, called Drug Recognition Experts (Evaluators), or DREs, to accurately and reliably determine whether a person is under the influence of drugs, and, if so, what category of drugs. The program is administered by the International Association of Chiefs of Police (IACP) and funded in large part by NHTSA.

28. What is NHTSA?

NOTE: NHTSA is the National Highway Traffic Safety Administration. It is a federal agency which operates under the auspices of the United States Department of Transportation.

29. How many states participate in the DRE Program?

NOTE: Thirty-eight (38), plus the District of Columbia.

30. How do the IACP and NHTSA provide for the education and training of DREs?

NOTE: They sponsor DRE schools around the country. They also publish the DRE manuals and other materials.

31. Are you a certified DRE?

32. Who certified you?

NOTE: The state coordinator recommends an officer for certification and International Association of Chiefs of Police (IACP) issues the certification.

33. Did IACP issue you a certification card?

34. I'm showing you what has been marked as State's exhibit \_\_\_\_\_ for identification. Do you recognize this exhibit?

NOTE: Prosecutors should NOT introduce an original card into evidence. If they do, the officer may NOT get the card back [though most judges would grant a motion to substitute a copy for the original].

35. Can you tell us what it is?

36. Is it an original or a photocopy?

37. Is it a true and exact copy of the original?

AT THIS TIME, THE STATE MOVES STATE'S EXHIBIT \_\_\_\_\_ FOR IDENTIFICATION INTO EVIDENCE AS STATE'S EXHIBIT \_\_\_\_\_

38. When were you certified as a DRE?

39. How does a law enforcement officer achieve certification as a DRE?

NOTE: Officers seeking DRE certification, also called DRE candidates, must attend nine days of classroom DRE training. The classroom training includes field sobriety testing and basic human physiology and drug pharmacology. After completion of the nine day course, DRE candidates must take and pass a written certification examination.

The candidates that pass the written test must participate in and complete an internship period where they conduct actual drug evaluations under the tutelage of a certified DRE instructor. During this period, DRE candidates must conduct and draft a minimum of 12 drug influence evaluations and must be corroborated by laboratory analysis at least 75 percent of the time when they

submit samples to the laboratory. They must also correctly identify three different categories of drugs as confirmed by laboratory analysis. Finally, they must be recommended for certification by at least two certified DRE instructors. DRE candidates who comply with all of these requirements may be recommended for certification by their states (IACP issues the certification number and paperwork).

40. What procedures do DREs use to determine whether or not someone is under the influence of drugs?

NOTE: DREs administer a drug influence evaluation.

41. What is a drug influence evaluation?

NOTE: The drug influence evaluation incorporates the DRE protocol. The drug influence evaluation is a standardized and systematic process for identifying drug influence and impairment. It utilizes a variety of readily observable signs and symptoms that medically are accepted as reliable indicators of drug influence. The examination includes a brief medical history, pulse, blood pressure, body temperature, pupil size and reaction to light. The process allows a trained Drug Recognition Expert to determine whether or not someone is under the influence of a drug or drugs and, if so, what category of drugs. The process is systematic because it is based on a complete set of observable signs and symptoms that are known to be reliable indicators of drug impairment. The process is standardized because it generally is conducted in the exact same way by every DRE for every subject.

42. Is the DRE Protocol generally accepted to be an accurate and reliable means of identifying drug influence and impairment?

NOTE: The DRE Program is recognized by the United States Department of Transportation, the ACLU, the American Bar Association and the International Association of Chiefs of Police. The 1988 Surgeon General's Workshop on Drunk Driving Panel on Law Enforcement also endorsed the program. Miami-Dade County's DRE Program is endorsed by the Dade County Medical Association, the Broward County Medical Association and the Broward County Psychiatric Association.

43. How many people have you evaluated for drug influence and impairment?
44. Approximately how many times have you determined that a DUI suspect was under the influence of drugs?
45. Have you ever confirmed your opinions by taking urine or blood samples?
46. Based on your training and experience, can you accurately and reliably determine whether someone is under the influence of drugs?
47. Based on your training and experience, assuming a person is impaired, can you accurately and reliably identify the particular drug category or categories causing a person's impairment?

48. How many drug categories are there?

NOTE: There are seven drug categories

49. How are the drugs grouped?

NOTE: Drugs are grouped according to common or shared effects, known as signs and symptoms.

50. What are the seven drug categories?

NOTE: The seven categories are:

- 1) Central Nervous System (CNS) Depressants
- 2) CNS Stimulants
- 3) **Hallucinogens**
- 4) Phencyclidine (or PCP)
- 5) Inhalants
- 6) Narcotic Analgesics
- 7) Cannabis

#### **IV. The DRE Protocol**

51. Can you briefly describe how a drug influence evaluation is performed?

NOTE: There are 12 stages in a DRE evaluation. They are:

- 1) Breath Alcohol Test
- 2) Interview of the Arresting Officer
- 3) Preliminary Examination and First Pulse
- 4) Eye Examination
- 5) Divided Attention Psychophysical Tests
- 6) Vital Signs and Second Pulse
- 7) Dark Room Examination
- 8) Examination for Muscle Tone
- 9) Check for Injection Sites and Third Pulse
- 10) Suspect's Statements and Other Observations
- 11) Opinions of Evaluator
- 12) Toxicological Examination

##### **A. Breath Alcohol Test**

52. Officer, please describe the first component of the DRE evaluation?

NOTE: During the first phase, an officer administers a breath test to the suspect for the purpose of determining the suspect's breath alcohol level (BrAC). Based on the suspect's BrAC, we can determine whether alcohol may be a contributing cause or the sole cause of the suspect's observable impairment.

- 53. Was the defendant given a breath test in this particular case?
- 54. Are you familiar with the defendant's breath test results?
- 55. How are you familiar with his or her results?

NOTE: The DRE should review the breath alcohol test results evidence card that the instrument generated when the defendant blew into it.

- 56. What experience, if any, do you have in recognizing alcohol-induced impairment?
- 57. What did the breath alcohol test results indicate to you as to whether or not alcohol was the sole cause or a contributing factor to the defendant's impairment?

NOTE: The test indicated that defendant's breath alcohol test results were inconsistent with the defendant's performance on the Standardized Field Sobriety Tests.

**B. INTERVIEW OF THE ARRESTING OFFICER(S)**

- 58. Please tell us about the second phase of the DRE examination.

NOTE: During the second phase, we discuss the circumstances of the arrest with the arresting officer(s). We ask the arresting officer(s) about the suspect's behavior, appearance, and driving pattern. We also ask the arresting officer(s) whether the suspect made any statements and whether the arresting officer(s) found any other relevant evidence like a small pipe or a baggie.

- 59. Did you interview the arresting officer in this case?
- 60. Did the arresting officer tell you how the defendant behaved and what, if anything, he said?

NOTE: (If the judge allows the prosecutor to do so, the prosecutor should ask what the defendant's actions or statements meant to the DRE)

**C. PRELIMINARY EXAMINATION AND FIRST PULSE**

- 61. Please describe the third phase of the DRE evaluation.

NOTE: During the third phase, we ask the suspect a series of standard questions relating to the suspect's health and recent ingestion of food, alcohol and drugs. We make observations regarding the suspect's attitude, coordination, speech, breath and face. We also determine whether the suspect's pupils are equal in size and whether the suspect's

eyes can track equally and follow a moving stimulus. Finally, we look for HGN and take the suspect's pulse for the first of three times.

62. What are the purposes of the preliminary examination?

NOTE: There are two main purposes of the preliminary examination. First, we determine whether the suspect may be suffering from an injury or other condition unrelated to drugs. If we believe that this is a possibility, he must seek medical help immediately. If we believe that the suspect's condition is drug related, we continue with the evaluation. Second, we obtain information and make observations which assist us in coming to a conclusion later on.

63. Did you conduct a preliminary examination in this case?

64. Did you ask the defendant some questions?

65. Please tell us what questions you asked the defendant and what answers the defendant gave.

NOTE: The prosecutor may need to refresh the witness' recollection by having the witness refer to the drug influence evaluation form. If that is the case, the prosecutor can use the following predicate:

- a. Would the Drug Influence Evaluation refresh your recollection?
- b. I'm showing you what is marked as State's exhibit \_\_\_\_ for identification.
- c. Do you recognize it?
- d. What is it?

\*The Drug Influence Evaluation I filled out in this case.

(The officer should review the paperwork)

- e. Is your memory refreshed?
- f. Please tell us what questions you asked and the answers the defendant gave.

\*What time is it now?

Defendant's answer: \_\_\_\_\_

\*When did you last sleep?

Defendant's answer: \_\_\_\_\_

\*How long did you steep?

Defendant's answer: \_\_\_\_\_

\*Are you sick or injured?

Defendant's answer: \_\_\_\_\_

(NOTE: The questions relating to medical conditions and treatments are important because they allow us to exclude alternate medical explanations for the impairment)

\*Are you diabetic?

Defendant's answer: \_\_\_\_\_

\*Are you epileptic?

Defendant's answer: \_\_\_\_\_

\*Do you suffer from allergies?

Defendant's answer: \_\_\_\_\_

\*Do you take insulin?

Defendant's answer: \_\_\_\_\_

\*Do you have any physical defects?

Defendant's answer: \_\_\_\_\_

\*Are you under the care of a doctor or dentist?

Defendant's answer: \_\_\_\_\_

\*Are you taking any medication or drugs?

Defendant's answer: \_\_\_\_\_

66. What observations, if any, did you make of the defendant during the preliminary examination?

\_\_\_\_ Speech

\_\_\_\_ Eyes

\_\_\_\_ Face

\_\_\_\_ Breath

\_\_\_\_ Balance

67. Based upon your training and experience, what did the results of your preliminary examination mean to you?

D. EYE EXAMINATION

68. Please describe the fourth phase of the DRE evaluation.



NOTE: During the fourth phase, we examine the suspect for horizontal gaze nystagmus, vertical gaze nystagmus, and a lack of convergence.

**1. HGN Test**

69. What is the first eye test DREs administer?

NOTE: The horizontal gaze nystagmus test, also referred to as the HGN test.

70. How is the HGN test performed?

NOTE: There are three parts to this test. During the first part, we examine the subject's smooth pursuit. We examine the subject's smooth pursuit by moving an object, usually a pen or small flashlight, from a point near the person's nose outwards towards the side of his face so that the eyeball follows it from one side of the eye to the other.

71. What do you mean by "smooth pursuit?"

NOTE: Normally, a person's eyes smoothly track moving objects just as a car's windshield wipers move across a wet windshield. However, if a person is under the influence of depressants, including alcohol, inhalants or phencyclidine, his eyes may exhibit a jerking or tugging motion to the center as his eyes track a moving object. The motion is similar to windshield wipers moving across a dry windshield.

72. Why is this test important?

NOTE: It's important because HGN is an impairment of the eyes' ability to track. In the context of driving, it means that a person may have difficulty observing and tracking other cars or pedestrians.

73. Can you please demonstrate the smooth pursuit portion of the test to the court?

NOTE: We hold a pen or other stimulus 12 to 15 inches from the subject's nose. We move the pen from side to side to see and observe whether or not the subject is able to smoothly follow the moving object.

74. Did you perform this part of the test on the defendant?

75. Did you perform this part of the test on the defendant's left eye?

76. What observations, if any, did you make?

77. Did you perform this part of the test on the defendant's right eye?

78. What observations did you make?

79. What is the second part of the HGN test?

NOTE: During the second part of the test, we examine the subject's eye for distinct and sustained jerkiness at maximum deviation. We hold the pen

steady and look to see if the subject's eye jerks at that position. Jerking at this deviation is considered an indicator if it is "distinct".

80. How long do DREs have a subject hold his eye at the outer corner?

NOTE: DREs have a subject hold his eye at the outer corner for about four seconds

81. Did you perform this portion of the test on the defendant's left eye?

82. What observations did you make?

83. Did you perform this portion of the test on the defendant's right eye?

84. What did you observe?

85. What is the third part of the HGN test?

NOTE: During the third part of the test, we determine if and at what angle from the nose the eye begins to jerk.

86. How is this test performed?

NOTE: Again, we place the pen 12 to 15 inches from the subject's nose and slowly move the pen toward the outer corner of his eye. We always start with the left eye. If we see any jerking, we stop moving the pen and hold it steady. We make sure that the eye is really jerking. If it is not, we start moving the pen further towards the outer portion of the eye and again look for jerking. If the eye jerks, we locate the point at which the jerking begins and estimate the angle of onset.

87. Why do you estimate the angle of onset?

NOTE: Research demonstrates that a person's breath or blood alcohol level can be estimated to within 0.02 by subtracting the angle of onset from 50.

88. Did you perform this portion of the test on the defendant's left eye?

89. What did you observe?

90. Based upon your training and experience, and your familiarity with HGN related research, what, if anything, does this indicate to you?

91. Did you perform this portion of the test on the defendant's right eye?

92. What did you observe?

93. Based upon your training and experience, and your familiarity with HGN related research, what, if anything, did the defendant's performance on the HGN test indicate to you?

## **2. VGN Test**

94. What is the second eye test that DREs perform?

NOTE: The second eye test that DREs perform is the vertical gaze nystagmus test.

95. How do DREs perform the VGN test?

NOTE: DREs ask the subject to look at a stimulus and move the stimulus straight up. We check to see whether the subject's eyes jerk while gazing upward.

96. Did you perform the VGN test in this case?

97. What did you observe?

98. Based upon your training and experience, what did this indicate to you?

## **3. Convergence Test**

99. What is the third eye test that DREs administer?

NOTE: The lack of convergence test.

100. How is this test performed?

NOTE: DREs hold a pen or other stimulus about 15 inches from the subject's face and point the tip of the pen toward the subject's nose. We ask the subject to hold his head still and follow the pen with his eyes. We then move the pen in a slow circle. Once we determine the subject is following the pen, we bring it in slowly and steadily towards the bridge of the subject's nose. We look to see if the subject's eyes converge. A subject's eyes are said to lack convergence if his eyes are unable to converge on the stimulus.

101. Did you perform this test in this case?

102. What did you observe?

103. Based upon your training and experience, what did this indicate to you?

## **E. Divided Attention Psychophysical Tests**

104. Please describe the fifth component of the drug influence evaluation.

NOTE: During the fifth phase of the evaluation, we administer four psychophysical tests: the Romberg Balance; the Walk and Turn; the One Leg Stand; and the Finger to Nose. We can accurately determine whether a suspect is impaired by administering these tests.

105. Are these tests divided attention tests?

106. What is a divided attention test?

NOTE: A divided attention test is an examination which assesses a subject's ability to perform a mental and a physical task at the same time. For example, on the One Leg Stand, we ask the subject to count out loud while holding one foot approximately six inches off of the ground.

107. Why are divided attention tests important?

NOTE: Driving requires people to perform mental and physical tasks simultaneously all of the time. For example, when a driver approaches a yellow light he needs to consider distance, speed and the traffic at the same time, or shortly afterwards. He or she may need to remove his foot from the accelerator and begin to brake. Thus, examinations that test a driver's divided attention skills tell us a lot about the driver's ability to safely operate a motor vehicle.

108. Are these psychophysical tests used exclusively by DREs?

NOTE: No. DUI officers traditionally rely on some of these same tests to identify alcohol influence and impairment. In addition, medical doctors have relied upon these or similar tests for decades.

**1. Romberg Balance Test**

109. What is the first psychophysical test that DREs administer?

NOTE: The Romberg Balance Test.

110. Do DREs instruct each subject how to properly perform the test?

111. Do DREs demonstrate the test to each subject?

112. Would you please explain and demonstrate the test for the court in the same manner that DREs do for each subject?

NOTE: We ask the subject to stand straight with his feet together and his arms down at his sides. We tell the subject to remain in this position until we tell him to begin. We then ask the subject whether he understands this instruction. This is important because an inability to follow instructions is indicative of impairment.

We then tell the subject that when we say to begin, he should tilt his head back slightly and close his eyes. We tell the subject that once he closes his eyes and tilts his head back, he is not to open his eyes until he thinks that 30 seconds have elapsed. We then ask the subject if he understood the directions and tell the subject to begin.

113. What do DREs look for when administering this test?

NOTE: DREs look for:

- \_\_\_\_\_ Body tremors
- \_\_\_\_\_ Eyelid tremors
- \_\_\_\_\_ Sway (distance and direction)
- \_\_\_\_\_ Muscle rigidity/flaccidity
- \_\_\_\_\_ Statements or sounds
- \_\_\_\_\_ The number of seconds that the subject estimates as 30.

- 114. Did you administer the Romberg Balance Test in this case?
- 115. Did you fully explain and demonstrate the test before asking the defendant to perform?
- 116. In the same manner you described and demonstrated earlier?
- 117. Did the defendant perform this test?
- 118. How did the defendant perform?
- 119. Based upon your training and experience, what did this indicate to you?
- 120. What is the second psychophysical test that DREs administer?

NOTE: The Walk and Turn Test.

- 121. Do DREs instruct each subject how to properly perform the test?
- 122. Do DREs demonstrate this test to each subject?
- 123. Can you please explain and demonstrate the test for the court in the same manner that DREs do for each subject?

NOTE: We tell the subject to place his right foot on the line ahead of his left foot with the heel of the right foot against the toe of the left foot. We tell the subject to put his arms down against his sides and keep them there throughout the test.

We then make sure that the subject understands these directions. We instruct the subject that when we tell him to begin, he is to take nine heel to toe steps up the line. We tell him that, on the ninth step, he is to leave his front foot on the line and turn around, taking a series of small steps with the other foot. We instruct him to take nine heel to toe steps back after he completes the turn. We instruct him to watch his feet as he walks and to count off the steps out loud from one to nine. Finally, we tell him that once he begins, he is to keep walking until the test is completed. We then ask him if he understands the instructions.

- 124. What do DREs look for when administering the Walk and Turn Test?

DREs look for:

- \_\_\_\_\_ Keeps balance during the instruction phase
- \_\_\_\_\_ Starts too soon
- \_\_\_\_\_ Steps off of the line
- \_\_\_\_\_ Raises arms while walking
- \_\_\_\_\_ Misses heel to toe
- \_\_\_\_\_ Stops walking
- \_\_\_\_\_ Wrong number of steps
- \_\_\_\_\_ Improper turn
- \_\_\_\_\_ Body tremors
- \_\_\_\_\_ Muscle rigidity/flaccidity
- \_\_\_\_\_ Statements/sounds

- 125. Did you administer the Walk and Turn Test in this case?
- 126. Did you fully explain and demonstrate the test before asking the defendant to perform?
- 127. In the same manner you described and demonstrated earlier?
- 128. Did the defendant perform this test?
- 129. How did the defendant perform?
- 130. Based upon your training and experience, what did this indicate to you?

### **3. One Leg Stand Test**

- 131. What is the third psychophysical test that DREs administer?

NOTE: The One Leg Stand.

- 132. Do DREs instruct each subject how to properly perform the test?
- 133. Do DREs demonstrate this test to each subject?
- 134. Can you please explain and demonstrate the test for the court in the same manner that DREs do for each subject?

NOTE: We ask the subject to stand straight with his feet together and his arms down at his sides. We tell him to maintain this position while we give him the instructions and emphasize that he is not to start the test until we instruct him to begin. We ask him if he understands.

We then tell him that when we tell him to begin, he is to raise his right foot in a stiff leg manner and hold the foot about six inches off of the ground, with the toes pointed outward. We instruct him to keep his arms at his sides and keep looking directly at his foot while counting out 30 seconds or

until told to stop as follows: one thousand and one, one thousand and two, one thousand and three, and so on until told to stop. We then ask him once again if he understands. Finally, we tell the subject to begin. After he completes the test while raising his right leg, we then ask him to perform the test again while raising his left leg.

135. What do DREs look for when administering the One Leg Stand Test?

NOTE: DREs look for:

- Raises arms
- Sway
- Hopping
- Puts foot down
- Standing still and straight during instructions
- Body tremors
- Muscle rigidity/flaccidity
- Statements/sounds

136. Did you administer the One Leg Stand in this case?

137. Did you fully explain and demonstrate the test before asking the defendant to perform?

138. In the same manner you described and demonstrated earlier?

139. Did the defendant perform this test?

140. How did the defendant perform?

141. Based upon your training and experience, what did this indicate to you?

#### **4. Finger to Nose Test**

142. What is the fourth psychophysical test that DREs administer?

NOTE: The Finger to Nose Test.

143. Do DREs instruct each subject how to properly perform the test?

144. Do DREs demonstrate this test to each subject?

145. Can you please explain and demonstrate the test for the court in the same manner that DREs do for each subject?

NOTE: We ask the subject to place his feet together and stand straight. We then tell him to put his arms by his sides and close his hands. We instruct him to extend his index fingers and to remain in that position until we tell him to begin. We then tell the subject that when we tell him to begin he is to tilt his head slightly back and close his eyes.

We instruct the subject that when we tell him to begin, he is to bring the tip of his index finger up to the tip of his nose. We further tell him that as soon as he touches the tip of his nose, he is to return his arm to his side immediately. We tell the subject that we will call out "left" or "right." If we call out "right," he is to bring his right hand index finger forward to his nose; when we tell him "left," he is to move the left hand index finger to his nose. We then ask the subject if he understands the instructions. We then instruct the subject to tilt his head back and close his eyes and to keep them closed until we tell him to open them. We then call out "left ... right ... left ... right ... right ... left."

146. What do DREs look for when administering the Finger to Nose Test?

NOTE: DREs look for:

- Fingertips touch nose or other parts of face
- Sway
- Body tremors
- Eyelid tremors
- Abnormal muscle tone
- Statements/sounds

147. Did you administer the Finger to Nose Test in this case?

148. Did you fully explain and demonstrate the test before asking the defendant to perform?

149. In the same manner you described and demonstrated earlier?

150. Did the defendant perform this test?

151. How did the defendant perform?

152. Based upon your training and experience, what did this indicate to you?

E. VITAL SIGNS AND SECOND PULSE

153. Please describe the sixth phase of the DRE examination.

NOTE: During the sixth phase, we take the suspect's blood pressure, temperature and pulse. Some drug categories may elevate the vital signs. Others may lower them and some may have no effect. Vital signs thus provide considerable evidence of the presence and influence of a variety of drugs.

**1. Pulse**

154. What is the first vital sign that DREs check?

NOTE: The subject's pulse rate.

155. How do DREs check a subject's pulse rate?



NOTE: We check the pulse by placing our fingers on the subject's skin next to an artery. We press down slightly to feel the artery expand as the blood surges through. Each surge is a pulse. We count the pulses that occur in 30 seconds and multiply by two to give us the pulse rate in beats per minute.

156. How do DREs know that they are feeling an artery rather than a vein?

NOTE: Because you can't feel the surge or pulse in a vein.

157. How often do DREs take a subject's pulse?

NOTE: Three times. We take it during the preliminary examination, we take it following the Finger to Nose Test and we take it again during the vital signs examination.

158. Is there a normal range in which most peoples' pulse rates fall?

159. What is the normal range?

NOTE: The normal pulse rate falls from 60 to 90 beats per minute.

160. Is this a medically acceptable range of normal?

161. Did you take the defendant's pulse?

162. How many times?

163. Did you use the same procedure you just described?

164. What were the results?

165. Based upon your training and experience, what did this indicate to you?

## **2. Blood Pressure**

166. What is the next vital sign that you checked?

Note: The next vital sign to be checked is blood pressure.

167. What is blood pressure?

NOTE: Blood pressure is the force that the circulating blood exerts on the walls of the arteries.

168. What do DREs use to measure a person's blood pressure?

NOTE: An instrument called a sphygmomanometer.

169. What training, if any, do DREs have in the use of this instrument?

NOTE: We are trained how to use the instrument during the classroom instruction phases of DRE Pre-School and School.

170. How do DREs use this device?

NOTE: We wrap a special cuff that is attached to the device around the subject's arm. We apply a stethoscope to the subject's brachial artery pulse point and inflate the blood pressure cuff with air. As we pump the air in, the cuff squeezes the subject's arm. When the pressure is high enough, the cuff squeezes the artery completely shut so that no blood flows through it.

We then slowly release the air in the cuff until we can hear the blood spurting through the artery when the subject's heart contracts. The point at which we can first hear the blood spurting is the systolic level and the pressure that this occurs is called the systolic blood pressure.

We continue to release the air from the cuff until it drops down to the point where the blood flows continuously through the artery. This level is called the diastolic level and the pressure reading at this point is called the diastolic blood pressure.

171. How do DREs know when the blood started to spurt, as opposed to when it was flowing?

NOTE: We listen to the spurting blood using the stethoscope. When there is no blood flowing, we can't hear anything through the stethoscope. When we release the air from the cuff, we start hearing a spurting sound when the blood starts to spurt. As we continue allowing the air to escape, the blood surges become steadily longer. When we reach the diastolic pressure, the blood flows steadily and the sounds cease.

172. Is there a normal range in which most peoples' systolic and diastolic blood pressures fall?

173. What is the normal range for a person's systolic blood pressure?

NOTE: From 120 to 140 mmHg.

174. What is the normal range for a person's diastolic blood pressure?

NOTE: From 70 to 90 mmHg.

175. Are these medically accepted ranges of normal?

176. Did you take the defendant's blood pressure?

177. Using the same procedure you just described?

178. What were the results?

179. Based upon your training and experience, what did this indicate to you?

### **3. Temperature**

180. What is the next vital sign that you checked?

NOTE: Body temperature.

181. How do you determine a subject's body temperature?

NOTE: We measure body temperature with a thermometer.

182. Do DREs rely on a range of normal in which most peoples' body temperature falls?

183. What is that range?

NOTE: Between 97.6 and 99.6 degrees.

184. Is that a medically accepted range of normal?

185. Did you take the defendant's body temperature?

186. Using the same procedure you described earlier?

187. What were the results?

188. Based upon your training and experience, what did this indicate to you?

#### **F. DARK ROOM EXAMINATIONS**

189. Please describe the seventh component of the drug influence evaluation.

NOTE: During the seventh phase of the evaluation, we estimate the size of the subject's pupils under three different lighting conditions to determine whether the subject's pupils are dilated, constricted, or normal. Some drugs increase pupil size. Others may decrease pupil size. We also check the eyes' reaction to light. Certain drugs may slow the eyes' reaction to light.

Finally, we examine the suspect's nasal and oral cavities for signs of ingestion.

#### **1. Eye Examinations**

190. How do DREs determine the size of a suspect's pupils?

NOTE: We estimate pupil size with a pupilometer.

#### **MARK AND INTRODUCE THE PUPILOMETER**

191. How does the pupilometer work?

NOTE: The eye gauge has a series of dark circles. The diameters of the circles range from 1.0 mm to 9.0 mm, in half mm increments. We hold the eye gauge along side the subject's eye and move the gauge up or down until we identify the circle closest in size to the subject's pupil.

192. Under what lighting conditions do DREs examine a person's eyes?

NOTE: We examine each subject's eyes under three different lighting conditions: room light, near total darkness, and direct light.

**a. Room Light**

193. How do DREs perform the room light portion of this test?

NOTE: We simply estimate the size of the subject's pupils in room light.

194. Did you perform the room light portion of the test in this case?

195. Using the same procedure you just described?

196. What did you observe?

197. Based upon your training and experience, what did this indicate to you?

**b. Darkness**

198. How do DREs perform the near total darkness portion of the evaluation?

NOTE: We take the subject into a room that is almost completely dark. We then wait 90 seconds to allow the subject's eyes to adapt to the dark. We then examine the subject's eyes with a penlight. We cover the tip of the penlight with our fingers so that only a reddish glow emerges. We move the glowing tip of the light toward the subject's left eye and estimate it. We then repeat the process on the right eye.

199. Did you perform the near total darkness portion of the test in this case?

200. Using the same procedure you just described?

201. What did you observe?

202. Based upon your training and experience, what did this indicate to you?

**c. Direct Light**

203. How do DREs perform the direct light portion of the test?

NOTE: We shine a penlight into the subject's left eye and estimate the pupil. We then repeat the test on the right eye.

204. Did you perform the direct light portion of the test in this case?

205. Using the same procedure you just described?

206. What did you observe?

207. Based upon your training and experience, what did this indicate to you?

## **2. Nasal and Oral Examination**

208. You stated earlier that DREs also check each subject's nasal and oral cavities during the dark room examination. What do you look for?

NOTE: We look for signs that the subject has been using drugs.

209. What kinds of things do DREs look for?

NOTE: We examine the tongue to see if the taste buds are raised. We check to see if the tongue is coated and what color it is. We look for residue in the teeth, gums and nose. We look for nasal irritation and perforation of the septum.

Different categories of drugs have different effects. For example, certain kinds of drugs will have a distinct odor. Others may cause the nose to run. The existence or absence of any of these signs is helpful in determining what category of drugs may be causing a subject's impairment.

210. Did you examine the defendant's nasal and oral cavities?
211. What did you observe?
212. Based upon your training and experience, what did this signify to you?

### **G. EXAMINATION FOR MUSCLE TONE**

213. Please describe the eighth component of the DRE evaluation.

NOTE: During the eighth phase, we examine the subject's muscle tone. Certain categories of drugs may cause the muscles to become rigid. Other categories may cause the muscles to become very loose and flaccid.

214. How do DREs examine the subject's muscle tone?

NOTE: We examine the subject's arms, legs and neck visually and by touch.

215. Did you examine the defendant's muscle tone?
216. Using the same procedure you just described?
217. What did you observe?
218. Based upon your training and experience, what did this indicate to you?

### **H. CHECK FOR INJECTION SITES AND THIRD PULSE**

219. What is the ninth component of the DRE evaluation?

NOTE: During the ninth phase of the evaluation, we examine the suspect for injection sites. Injection sites may indicate the recent or patterned use of

certain types of drugs. We also take the suspect's pulse for the third and final time.

225. How do DREs examine a subject for injection sites?

NOTE: We check the subject's arms and neck. We look for needles marks.

220. Specifically, what procedure do DREs use?

NOTE: We run our hands over the subject's arms and necks and feel for bumps because bumps may indicate needle marks. Once we locate a possible injection site, we verify it by using a lighted magnifying glass to see if the bump is from a needle.

221. How do DREs determine whether bumps were caused by a needle or other things?

NOTE: By using a light and a magnifying lens.

222. Did you examine the defendant for injection sites?

223. What did you observe?

224. Based upon your training and experience, what did this indicate to you?

I. SUSPECT'S STATEMENTS AND OTHER OBSERVATIONS

(WARNING: Prosecutors should skip to Section J, Opinions of the Evaluator, if the defendant did not waive Miranda)

225. Please describe the tenth component of the drug influence evaluation.

NOTE: During the tenth phase, we read Miranda, if we have not done so previously, and ask the suspect a series of questions. We also confirm our prior observations.

226. Did you read the defendant his Miranda rights?

227. Did you tell the defendant that he has a right to remain silent?

228. Did you tell the defendant that anything he said could be used against him in court?

229. Did you tell him that he has a right to an attorney?

230. Did you explain to him that if he could not afford a lawyer, one would be appointed for him at no cost?

231. Did you ask him whether or not he understood these rights?

232. What did he say?

233. Did he voluntarily, knowingly, and intelligently waive these rights?

234. Did you ask the defendant a series of questions?

235. Please tell us what questions you asked the defendant, and what answers the defendant gave.

(NOTE: If the DRE is unable to remember the questions and answers, prosecutors should refresh his or her memory as described under Section C, Preliminary Examination)

\*Have you eaten today?

Defendant's answer: \_\_\_\_\_

\*When?

Defendant's answer: \_\_\_\_\_

\*What have you been drinking?

Defendant's answer: \_\_\_\_\_

\*How much?

Defendant's answer: \_\_\_\_\_

\*Time of last drink?

Defendant's answer: \_\_\_\_\_

\*Time now?

Defendant's answer: \_\_\_\_\_

(Prosecutors should ask the officer what the actual time was)

\*When did you last sleep?

Defendant's answer: \_\_\_\_\_

\*How long?

Defendant's answer: \_\_\_\_\_

\*Were you driving?

Defendant's answer: \_\_\_\_\_

\*Do you feel that you are under the influence?

Defendant's answer: \_\_\_\_\_

\*What medicine or drug have you been using?

Defendant's answer: \_\_\_\_\_

\*How much?

Defendant's answer: \_\_\_\_\_

\*Time of use?

Defendant's answer: \_\_\_\_\_

\*Where were the drugs used?

Defendant's answer: \_\_\_\_\_

J. OPINIONS OF THE EVALUATOR

236. Please describe the eleventh component of the DRE examination.

**\*During the eleventh phase, we form an opinion, based on the totality of the evaluation, as to whether the suspect is impaired. If we determine that the suspect is impaired, we indicate what category or categories of drugs may explain the suspect's impairment.**

237. Did you form an opinion in this case?

238. What is that opinion?

239. What are you basing that opinion on?

(If there is a positive toxicological result or someone found a particular drug in the defendant's possession or there is other circumstantial evidence as to the specific drug the defendant consumed, the prosecutor should ask the following questions. If not, the prosecutor should proceed to Section K, Toxicological Examination)

240. Officer, are you familiar with the drug \_\_\_\_\_?

241. Is that drug within the category of drugs that you believe was influencing the defendant?

NOTE: Prosecutors should pre-try the DRE on the following two questions:

242. How long does it take for that drug to have an effect on an individual, once he has taken it into his body?

243. How long will the effects of that drug last?

K. TOXICOLOGICAL EXAMINATION

244. Please describe the twelfth component of the DRE evaluation.

NOTE: During the twelfth phase, we request a urine or blood sample from each suspect. We then send the sample to the toxicology lab for analysis.



245. Did you request a urine or blood sample in this case?

246. Did you inform the defendant that, if he refused, he would lose his license for \_\_\_\_\_?

247. Did you obtain a \_\_\_\_\_ (blood or urine) sample?

(If no, the prosecutor should ask why not and skip the next series of questions)

248. Please describe how you obtained the sample?

249. Did you witness the defendant provide the sample?

250. What did you do with the sample after you obtained it?

251. What happened to the sample after you logged it in?

252. Did this complete your evaluation of the defendant?