

Suggested Cannabis Impaired Driving Investigation Protocol

**Prove These Cases Through Impairment – Not Chemical Tests:
First, Develop RAS of the Consumption of an Intoxicant and Subsequent Impairment:**

1. The Initial Encounter: Investigate, verify, document, witness statements (Why were you there?)
 - a. Operation Indicative of Impairment?
 - b. Call for Service?
 - c. Consensual Encounter?
 - d. Crash?

ESTABLISH A TIME FRAME!

 - i. Operator.
 - ii. Witness(s).
 - iii. Cause.
 1. Verify.
 - iv. Post-Consumption?
 - e. Establish PC of the element of operation

2. Personal Contact:
 - a. Medical Questions.
 - b. Activity Questions.

MAINTAIN THE TIME FRAME!
 - c. Consumption Questions.
 - i. What and Where?
 - ii. Time Consumption Began? Time of Last Consumption?
 - iii. Total Amount Consumed? Is this normal, a lot, a little for you? How does (the substance consumed) make you feel?
 - d. Plain: sight, smell, hearing, feel.
 - e. Distracting Questions: ignores, pauses, or answers incorrectly.
 - f. Establish a connection between the consumption of an intoxicant and subsequent impairment.

If There Is RAS to Suspect Consumption and Impairment, Proceed with Pre-Arrest Screening:

3. Field Sobriety Tests: “a” through “c” if alcohol suspected; add “d” and “e” when cannabis is suspected.
 - a. The Eyes
 - i. HGN
 1. Not likely present in cannabis only cases; suspect other causes if present.
 - ii. VGN
 1. Not likely present in cannabis only cases; suspect other causes of present.
 - iii. LOC
 1. Present in 78% of the cases.
 - iv. Pupil Size
 1. Dilated (may be normal). Suspect other causes if constricted.
 - v. Redness, Droopy, Watery
 1. In 95% of the cases.
 - b. WAT
 - i. Two or more clues
 - c. OLS
 - i. Sway and one other clue
 - d. Romberg
 - i. Eyelid Tremors
 - e. Finger to Nose
 - i. 3 or more misses; Eyelid Tremors

*A cannabis impaired positive finding requires two or more of “b” through “e” **

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Use Chemical Testing Merely to Confirm Presence of Cannabis

4. Chemical Testing
 - a. Urine indicates past presence only.
 - b. The majority of THC in whole blood is only measurable for 2-4 hours after *consumption*.
 - c. THC levels in blood do not correspond to impairment in a manner that is generally accepted by the scientific community.
 - d. There is no BAC for THC.

These Are Impairment Cases, Investigate Them Like a Refusal or No-Test OUI

5. Miscellaneous Cannabis Impairment Data: *
 - a. 47% of Marijuana operation is speeding and weaving.
 - b. Over 80% showed 2 or more clues on the WAT.
 - c. 77% Showed Sway on OLS.
 - d. More than 62% showed tremors.
 - e. More than 75% show 4 or more missed on the FTN test.
 - f. 85.7% shows eyelid tremors on FTN or Romberg.
 - g. 95% of eyes were reported as droopy, reddened or watery.
 - h. Dilated Pupils (may be normal) DRE Protocol.
 - i. LOC in 78% of marijuana cases.

*Source:

Drug Recognition Expert Examination Characteristics of Cannabis Impairment. Accident Analysis & Prevention. Vol. 92, July 2016, Pages 219-229. (302 Cannabis only cases DRE evaluated and toxicologically confirmed).

See also:

An Examination of the Validity of the Standardized Field Sobriety Test (SFST) in Detecting Drug Impairment. Amy J. Porath-Waller, Ph.D., and Douglas J. Beirness, Ph.D. Canadian Centre on Substance Abuse.

Detecting Impairment Associated with Cannabis with and without Alcohol on the Standardized Field Sobriety Tests. Luke A. Downey, et. al. Psychopharmacology (2012) 224: 581-589.

An evaluation of the sensitivity of the Standardised Field Sobriety Tests (SFSTs) to detect impairment due to marijuana intoxication. K. Papafotiou, J.D. Carter, C. Stough, Psychopharmacology (2005) 180: 107-114.

A 2-Year Study of Delta 9-tetrahydrocannabinol Concentrations in Drivers: Examining Driving and Field Sobriety Test Performance. Kari Declues, M.S.; Shelli Perez, M.S.; and Ariana Figueroa, M.S. J Forensic Sci, 2016 doi: 10.1111/1556-4029.13168

Drug Evaluation and Classification Training Program the Drug Recognition Expert School Manual. January 2018 Edition U.S. Department of Transportation. Transportation Safety Institute. National Highway Traffic Safety Administration. HS172 R01/11.

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