

MISDEMEANOR DUI/ PHYSICAL CONTROL/ MINOR CONSUMING

NEW DUI STATUTE
AS OF SEPT. 28, 2013



*** BREATH ONLY ***

READ IMPLIED CONSENT WARNINGS FOR BREATH

**D. AGREES TO TEST =
PROCESS AS USUAL**

**D. REFUSES TEST =
PRINT REFUSAL
IF YOU WANT BLOOD,
YOU MUST...**

WHAT IF BAC DOESN'T MATCH IMPAIRMENT?

WHAT IF D. UNABLE TO PROVIDE A SAMPLE?

WHAT IF D. IS IN THE HOSPITAL AFTER A
CRASH AND THERE IS NO BAC AVAILABLE?

**APPLY FOR A
SEARCH
WARRANT**



**DRUGS OR
DRUGS + ALCOHOL**



CALL OUT A
DRE IF DRIVER
<.08 ALCOHOL

**NO IMPLIED CONSENT
WARNINGS**

1

**APPLY FOR SEARCH
WARRANT**

OR

2

**READ VOLUNTARY
CONSENT FORM**

ONLY USE VOLUNTARY
CONSENT FORM IF
AUTHORIZED BY YOUR LOCAL
PROSECUTING AUTHORITY

**WHAT IF D. REFUSES AFTER I READ
VOLUNTARY CONSENT FORM?**

→ APPLY FOR A SEARCH WARRANT



VOLUNTARY CONSENT IS REVOCABLE AT ANY POINT - FERRIER

FELONY DUI/ VEHICULAR HOMICIDE/ VEHICULAR ASSAULT

AND UNCONSCIOUS D. AND DUI ARREST WITH SERIOUS BODILY INJURY TO ANOTHER/ NON-FELONY



OR



ALCOHOL, DRUGS OR COMBO

1

SEARCH WARRANT

2

**EXIGENT
CIRCUMSTANCES**

3

**VOLUNTARY
CONSENT**

**READ SPECIAL EVIDENCE
WARNINGS BEFORE BLOOD DRAW
ON EXIGENT CIRCUMSTANCES AND
SEARCH WARRANT BLOOD DRAWS**

DO NOT READ VOLUNTARY CONSENT WARNINGS

ONLY USE VOLUNTARY
CONSENT FORM IF
AUTHORIZED BY YOUR LOCAL
PROSECUTING AUTHORITY

**WHAT IF D. REFUSES AT ANY POINT AFTER
READ VOLUNTARY CONSENT FORM?**

→ APPLY FOR A SEARCH WARRANT



HOW DO I KNOW IF I CAN RELY ON VOLUNTARY CONSENT, OR IF MY JURISDICTION REQUIRES A SEARCH WARRANT FOR BLOOD?

→ DISTRICT COMMAND (WSP) OR AGENCY MUST REQUEST GUIDANCE FROM LOCAL PROSECUTING AUTHORITY

BOOKING NOW MANDATORY IF D HAS PRIOR OFFENSES



- SAME CONSIDERATIONS AS FOR MANDATORY DV ARRESTS
RCW 10.31.100(2)(D)
- SUSPECT SHALL NOT BE RELEASED UNTIL SEEN BY A JUDGE
- FOLLOW DEPARTMENT POLICY REGARDING HOSPITAL/"NOT FIT FOR BOOKING" ISSUES
- PRIOR OFFENSES WITHIN 10 YEARS (SAME AS DEFINED FOR SENTENCING/FELONY DUI)
RCW 46.61.5055

CONVICTION FOR

- DUI/PHYSICAL CONTROL
- VEH NOM/VEH ASSAULT UNDER DUI PRONG
- ANY OF ABOVE CHARGES REDUCED TO NEG 1, RECKLESS DRIVING OR RECKLESS ENDANGERMENT
- OUT OF STATE VIOLATION COMPARABLE TO ABOVE
- DEFERRED PROSECUTION FOR ANY OF ABOVE CHARGES

NO MORE PUNCHING A DRIVER'S LICENSE FOR DUI



MISDEMEANOR PRESENCE RULE FOR WARRANTLESS ARREST EXPANDED

- MINOR CONSUMING ALCOHOL OR MARIJUANA
RCW 46.61.503



- COMMERCIAL MOTOR VEHICLES WITH ALCOHOL OR MARIJUANA
RCW 46.25.110
(≥.04 ALCOHOL OR ANY MEASURABLE THC)



BECAUSE MARIJUANA DISSIPATES RAPIDLY FROM THE BLOOD, CONSIDER DOING THE BLOOD DRAW **PRIOR** TO THE DRE EVALUATION IF MARIJUANA IS SUSPECTED



WHY IS MARIJUANA STILL REFERENCED IN THE NEW BREATH-ONLY ICWS?
→ THE INITIATIVE PROCESS PREVENTS CHANGES FOR 2 YEARS.
→ NO, THE DATAMASTER CANNOT TEST FOR MARIJUANA.

DO I HAVE EXIGENT CIRCUMSTANCES?

TOTALITY OF CIRCUMSTANCES

POTENTIAL FACTORS:

- TIME OF DAY
- REMOTENESS OF AREA
- UNABLE TO REACH A JUDGE
- DELAY DURING HOSPITAL TRANSPORT
- BLOOD SAMPLE IN JEOPARDY BY IMMEDIATE TRANSFUSION OR MEDICATIONS
- NO OFFICERS TO ASSIST IN CRASH AND/OR INVESTIGATION



DOWNLOAD THE UPDATED
DUI PACKET
(ENGLISH/SPANISH) HERE:
<http://www.wsp.wa.gov/breathtest/btpindex.php#dui>



DOWNLOAD THE UPDATED
BLOOD SEARCH WARRANT
PACKET HERE:
<http://www.wsp.wa.gov/breathtest/dredocs.php>

