



NEW JERSEY DRUG RECOGNITION EXPERT GUIDE

(DRE)OVERVIEW&RECALL PROCEDURES



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NJSACOP

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Section 1. STATEMENT OF PURPOSE

It is important to recognize and address the increase of dangers imposed by drivers under the influence of illicit drugs and prescription medications. The total number of illegal drug and medication related crashes increased in 2019, from 1,668 in 2018 to 1,764. (2022 NJ HSP).

Drugged driving (illicit and/or medication) contributed to 15 percent of motor vehicle fatalities in 2019 and preliminary figured for 2020 are indicating a 13 percent make up. One of the reasons for the large increase in drugged driving in New Jersey is due to the addition of a secondary Driver Physical Status field on the NJTR-1 Crash Report, which enables reporting officers to indicate more than one physical status for each driver at the time of the crash. New Jersey also has the second highest amount of certified Drug Recognition Experts (DREs) in the US, which in tandem with a robust county-wide call-out program in 11 counties led to increased detection capabilities. (2022 NJ HSP)

Does recreational cannabis threaten public safety? A 2020 report from the AAA Foundation for Traffic Safety is raising concerns about the connection between marijuana use and serious traffic crashes. Researchers compared information about fatal crashes in the state of Washington before and after recreational marijuana was legalized in that state. They found that prior to the legalization of marijuana in the state, about 8.8% of drivers involved in fatal traffic crashes tested positive for THC. Over the 12-24 months following legalization, that percentage more than doubled, to 18%. By 2017, the fifth year after legalization, 21.7% of drivers involved in fatal accidents were THC-positive.

(<https://newsroom.aaa.com/2020/01/fatal-crashes-involving-drivers-who-test-positive-for-marijuana-increase-after-state-legalizes-drug/>)

Across the nation, states have implemented a variety of laws to address this issue. However, a universal standard to detect cannabis-impaired driving does not exist, largely because THC presence in the bloodstream, alone, does not indicate impairment. Given the difficulties and expense involved in establishing cannabis or other drug related impairment, New Jersey is one of the 47 out of 50 states that does not differentiate between alcohol and other drugs in such cases or stack the charges. This can serve as a deterrent for law enforcement to test for cannabis impairment when alcohol is present. Specifically, this will skew available data on the prevalence of cannabis-impaired driving.

To augment the shortcomings related to testing, the National Highway Traffic Safety Administration (NHTSA) supports research related to reliable roadside tests and supports training for law enforcement through the Drug Recognition Expert (DRE) and Advanced Roadside Impaired Driving Enforcement (ARIDE) programs. Yet, the DRE program only trains just over one percent of law enforcement officials nationwide, 1.5% in NJ. Since 2017, the NJSP have hosted 94 ARIDE training classes, training 1,978 officers. An additional 25 ARIDE courses are scheduled for the remainder this year (2021).

In a March of 2021 United States Senate Report on International Narcotics, “Marijuana and America’s Health”. the Caucus strongly urged the federal government to:

1. Accelerate research regarding the detection of cannabis-impaired driving, including the development of standardized field testing.

2. Strongly urges NHTSA to increase funding for the DRE and ARIDE programs so that the maximum number of law enforcement and other personnel can be trained on how best to detect cannabis-impaired driving.
3. The Caucus further urges Congress to increase federal funding for state forensic and toxicology labs to ensure that testing for cannabis-impaired driving is expanded and required, so that available data more accurately reflects the scope of the problem, and to expand innovative and effective programs, such as DUI/DWI courts.

Section 2. WHAT IS A DRE? WHAT DO THEY DO?

A drug recognition expert (DRE), sometimes referred to as a drug recognition evaluator, is an individual who has successfully completed all phases of the Drug Evaluation and Classification Program's (DECP) training requirements for certification as established by the International Association of Chiefs of Police (IACP) and the National Highway Traffic Safety Administration (NHTSA). A DRE is skilled in detecting and identifying persons under the influence of drugs/ alcohol and in identifying the category or categories of drugs causing the impairment.

Section 3. THREE DETERMINATIONS OF A DRE

A DRE conducts a detailed, diagnostic examination of persons arrested or suspected of drug-impaired driving or similar offenses. Based on the results of the drug evaluation, the DRE forms an expert opinion on the following:

1. Is the person impaired? If so, is the person able to operate a vehicle safely? If the DRE concludes that the person is impaired...
2. Is the impairment due to an injury, illness, or other medical complication, or is it drug-related?
3. Which category or combination of categories of drugs is the most likely source of the impairment?

DREs conduct their evaluations in a controlled environment, typically at police precincts, intake centers, troop headquarters or other locations where impaired drivers are transported after arrest. The drug evaluation is never done at roadside and is typically a post-arrest procedure.

In some cases, the person evaluated will be a driver the DRE personally arrested. In many cases, however, the DRE will be called upon to conduct the evaluation after the driver was arrested by another officer. The DRE is requested to assist in the investigation because of his or her special expertise and skills in identifying drug impairment.

The DRE drug evaluation takes approximately one hour to complete. The DRE evaluates and assesses the person's appearance and behavior. The DRE also carefully measures and records vital signs and makes precise observations of the person's automatic responses and reactions. The DRE also administers carefully designed psychophysical tests to evaluate the person's judgment, information processing ability, coordination, and various other characteristics. The DRE will systematically consider everything about the person that could indicate the influence of drugs.

Section 4. NJ ATTORNEY GENERAL GUIDANCE ON DRE AND BODY-WORN CAMERA (JUNE 2021)

The NJAG Policy on BWCs has a preference for officers to be equipped with body worn cameras. However, if a DRE is off-duty and not in uniform, they would not have to wear a BWC. If feasible, a member of the arresting agency should be present, with an activated BWC, to record the evaluation.

If a DRE is the arresting officer, they would have to comply with the Policy and re-activate their BWC at the completion of breath testing.

Similarly, if the DRE is on-duty, in uniform, and is requested to perform an evaluation either in their own agency or an outside agency, they would have to comply with the Policy and activate their BWC.

The NJAG's Office is aware that not all agencies have obtained BWC but are working toward compliance. DREs are not required to obtain a BWC to record an evaluation in those instances where an agency is currently non-compliant, and an arresting agency officer cannot record the evaluation.

Section 5. DRE RECALL PROGRAM OVERVIEW

Examination of a driver suspected of being under the influence of a narcotic, hallucinogenic, or habit-producing drug by a certified Drug Recognition Expert greatly aids in the proactive enforcement and successful prosecution of N.J.S.A. 39:4-50. Following examination of a driver pursuant to the standardized, systematic 12-step evaluation process, a certified DRE can reach reasonable, accurate conclusions concerning not only impairment, but also the drug category or categories causing the impairment. DRE examination can also rule out impairment, instead identifying a possible causative medical condition.

The Division of Highway Traffic Safety currently supports DRE recall programs in 12 counties and strongly encourages the expansion of the model throughout the state. The goal of the program is to provide New Jersey's law enforcement agencies with greater access to certified DREs capable of obtaining evidence crucial to the prosecution of drug-influenced violations of N.J.S.A. 39:4-50. To do so, the program establishes a call-out procedure by which all law enforcement agencies will have access to a certified DRE when needed. The DREs are selected from a pool of all certified DREs employed within participating counties as well as statewide access via the NJ State Police DREs. The DHTS supported county and NJSP programs, establishes an alternative source of funding to alleviate the fiscal burden of agencies who maintain a DRE cadre and participate in the recall program. The Recall Program compensates DREs called out pursuant to the agreed upon procedures and for subsequent, related court appearances as well as DRE Instructor report review.

Section 6. WHEN TO CONTACT A DRE

An officer who suspects the driver of a motor vehicle of being under the influence of a narcotic, hallucinogenic, or habit-producing drug must first determine, based on his or her own training and experience, whether the driver should be arrested or detained for further investigation.

Where the officer has probable cause to believe the driver is under the influence, the officer should arrest the driver for Driving Under the Influence, (hereinafter "DUI"). Only where evidence or suspicion of drug impairment exists should an officer consider contacting a DRE.

After arrest, the driver must be asked to provide samples for chemical breath testing to determine whether alcohol is either the singular cause or a contributing cause of the driver's impairment. **The decision to contact a DRE should be made only after administration of chemical breath testing.**

***Always refer to your county DRE -Recall Policy for more specific information.**

A DRE can be contacted to assist in the investigation of a motor vehicle collision:

If following a motor vehicle collision, the only charge for which probable cause exists is DUI, N.J.S.A. 39:4-50, and the officer has reason to believe the cause of the driver's impairment is a narcotic, hallucinogenic, or habit-producing drug.

Where the collision has caused a fatality or serious bodily injury, such that probable cause exists to charge the driver with an indictable crime, e.g.,

N.J.S.A. 2C:11-5 (Death by Auto) or N.J.S.A. 2C:12-1c(2) (Assault by Auto), a DRE evaluation **will not** be completed

A DRE can be contacted for a qualifying juvenile driver. The juvenile driver's parent(s) or guardian(s) should be contacted and be present during the DRE examination. All Standard Operating Procedures governing the handling of juvenile arrestees should be followed.

Section 7. WHEN NOT TO CONTACT A DRE

A DRE should not be contacted in any of the following circumstances.

The driver's blood alcohol content (hereinafter "BAC" is 0.08% BAC or higher.

The driver was driving a commercial vehicle and their BAC is 0.04% BAC or higher.

The driver is under the age of 21 and their BAC is 0.01% BAC or higher.

The driver refuses to provide samples of their breath for chemical breath testing. In this situation, the driver should be charged with refusal to submit to chemical breath testing, N.J.S.A. 39:4-50.4a or, where applicable N.J.S.A. 39:3-10.24.

Section 8. GENERAL DRE RECALL REQUIREMENTS & DELIVERABLES

Prior to contacting a DRE through a Program's call-out procedure, the arresting officer and/or breath test operator should have already done all the following:

Read the Standard Statement to the driver.

Completed chemical breath testing; and

Have informed the driver of their Miranda rights.

The DRE will meet the arresting officer and driver at the arresting officer's police headquarters. The arresting officer must have prepared a room in the station suitable for conducting the DRE evaluation.

The room must be:

Large enough to accommodate the performance of psychophysical tests.

Have two chairs.

Be capable of being made dark enough for pupil examination or there must be another room at the department of being made sufficiently dark.

The arresting officer may render assistance during the DRE evaluation including, but not limited to providing information on the circumstances surrounding the stop and arrest of the driver and any physical evidence recovered. The arresting officer may assist in recording the evaluation, as directed by the DRE. The arresting officer may also provide backup for the DRE during the evaluation process.

At the conclusion of the DRE evaluation, the DRE will render an opinion regarding the driver's impairment and the cause of impairment and advise the arresting officer of the same. All charging decisions and the issuance of charges should be made by the arresting officer, the DRE will not be the complaining officer.

It is the responsibility of the arresting officer and their department to submit any biological samples, specifically urine obtained from the driver during the DRE evaluation to the New Jersey State Police Laboratory, or other laboratory, for toxicological testing. It is the responsibility of the arresting officer or department to forward the results of such testing to the DRE upon receipt of the test results.

The DRE will complete a face sheet and narrative regarding his or her evaluation within ten (10) days and provide copies of each, along with a copy of the DRE's certification card, to the arresting officer for the case file.

Section 9. HOW TO CALL OUT A DRE IN PARTICIPATING COUNTIES

A request for a DRE should be fulfilled in the following order:

If a DRE is employed by and currently on duty with the arresting department, that DRE should be contacted to perform the DRE evaluation.

If the arresting department employs an officer or officers that are certified DREs, but that officer or officers are not on duty at the time of the arrest, the department may request the assistance of an off-duty DRE employed by the department.

If there is no DRE available from, or on duty in the arresting department, the arresting officer can initiate a request for a DRE from the county DRE Recall Program. Such request should be made by contacting the County call out number.

The requesting officer must provide the County Call Out Program dispatch with all the following information:

- The name of the requesting police department
- The name of the requesting officer
- A call-back telephone number
- The location of the driver

With the information provided, the Dispatch Center will initiate a call-out via mass text message or similar method to available DREs.

When a DRE receives the text message and is available to respond he/she will then confirm the recall with the dispatch center.

Each request will be texted out a maximum of twice over a period of 20 minutes. If no DRE calls back within that 20-minute timeframe, dispatch will advise them that no DRE's are available from the county list. **(Refer to NJSP, ROIC DRE Recall number).**

Once an officer notifies the dispatch center that he is available to respond to the call he/she will give the following information. The dispatcher will add this information to the CAD entry.

The name of the requesting Police Department

Name of the requesting officer

Call back Number for the officer requesting.

Location of the individual needing to be evaluated.

The CAD number for the incident.

Section 10. HOW TO CALL OUT A DRE STATEWIDE VIA THE NJSP ROIC

When a DRE is needed for a State Police or non-State Police agency's arrest and no on duty DREs are available, or within a reasonable proximity to the arresting officer's headquarters, the NJSP allows for the call out of an off-duty Trooper DRE to respond and conduct the evaluation.

All requests for NJSP DREs will follow the same procedures outlined in the county-based programs.

Section 10. DRE RECALL MATRIX

County	Status	Contact Information
Atlantic	Active Recall	(609) 909-7200
Bergen	Active Recall	(201)785-8500
Burlington		
Camden		
Cape May	Active Recall	(609) 909-7200
Cumberland		
Essex		
Gloucester		
Hudson	Active Recall	(201)795-6300
Hunterdon	Active Recall	(908)526-2500
Mercer	Informal	
Middlesex	Active Recall	(732)745-3271
Monmouth	Active Recall	(732) 577-8700
Morris	Active Recall	(973) 285-2900
Ocean	Active Recall	(732)349-2010
Passaic		
Salem		
Somerset	Active Recall	(908)526-2500
Sussex	Active Recall	(973) 285-2900
Union	Active Recall	(908)654-9800
Warren		
NJSP	Active Recall- State Wide	(609)963-6900 ext. 1

Section 11. Traffic Safety Contacts

Unit Head, Alcohol Drug Testing Unit

Lt. Thomas J. Snyder #5792
New Jersey State Police
Office Phone: (609)584-5051 ext. 5617
Cell: (609) 947-6695
EMail: Thomas.Snyder@njsp.org

DRE State Coordinator

SFC Mike Gibson #6353
New Jersey State Police
Alcohol / Drug Testing Unit
Cell: (609) 780-2720
Email: Michael.Gibson@njsp.org

NHTSA Region 2, Law Enforcement Liaison

Chief Raymond Davis, Ret.|
New Jersey State Association of Chiefs of Police
Cell: (609) 839-8555
Email: rdavis@njsacop.org
On assignment to NHTSA

NJ Division of Highway Traffic Safety, Law Enforcement Liaison

Chief Michael J. Morris, Ret.
New Jersey State Association of Chiefs of Police
FBI NA #235
Cell: (609) 226-7620
Email: mmorris@njsacop.org

President – New Jersey Police Traffic Officer’s Association

Nicholas F. Schock, Ed.D
Special State Investigator / Acting County Sergeant
Gloucester County Prosecutor's Office
High Tech Crimes / Grand Jury / Crash Investigation Unit
Office: (856) 384-5635
Fax: (856) 384-5596
Email: nschock@co.gloucester.nj.us