

THE STATE OF TEXAS

COUNTY OF McLennan

AFFIDAVIT FOR SEARCH WARRANT

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

My name is _____. I am a peace officer employed by the following law enforcement agency: _____. I have successfully completed the State-mandated requirements to become a peace officer.

- 1 There is in McLennan County, Texas a suspected person (“suspect”) described as follows:
Name: _____
Race: _____ Sex: ____ DOB: _____ DL/ID: _____
Height: _____ Weight: _____ lbs Hair color: _____
 - 2 Suspect is presently in custody of a law enforcement agency here in McLennan County, namely the _____, which will present the suspect to execute the warrant requested herein.
 - 3 The suspect has possession of and is concealing human blood, which constitutes evidence that the suspect committed the offense described in paragraph 4 below.
 - 4 On the ____ day of _____, 20 ____, at or about _____ o’clock p.m. / a.m., the suspect did then and there operate a motor vehicle in a public place in McLennan 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, a combination of two or more of those substances, or any other substance into the suspect’s body.
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- 5 The suspect was operating a motor vehicle in a public place in McLennan County, Texas on the above date and time based on the following facts:
- I observed the suspect doing so.
 - The suspect admitted to me that the suspect had been operating a motor vehicle in a public place in McLennan County, Texas just _____ minutes prior to my arrival at _____ o'clock p.m. / a.m.
 - A witness, (name)

_____ conveyed information to me that he/she witnessed the suspect operating a motor vehicle in a public place in McLennan County, Texas just _____ minutes prior to my arrival at _____ o'clock p.m. / a.m.

- 6 Driving behavior: Additional facts leading me to believe that the suspect was intoxicated while operating a motor vehicle in a public place include:

_____.

- 7 During my contact with the suspect, I made the following observations about the suspect:

Odor of alcohol

- Strong
- Moderate
- Faint
- None

Eyes

- Bloodshot
- Red/Pink
- Glassy
- Watery
- Dilated
- Normal

- _____

Speech

- Thick-tongued
- Incoherent
- Slurred
- Slow
- Mumbled
- Stuttered
- Talkative
- Rapid
- Repetitive
- Fair
- Good

- _____

Attitude/conduct

- Argumentative
- Combative
- Profane
- Sarcastic
- Insulting
- Cooperative
- Cocky
- Laughing
- Carefree
- Indifferent
- Sleepy/Drowsy
- Polite
- Silent
- Reserved
- Calm
- Talkative
- Anxious
- Excited
- Confused

- Uninhibited
- Mood swings

- _____

Appearance

- Disorderly
- Orderly
- Signs of urine
- Signs of vomit

- _____

-

Balance

- Falling
- Unsteady
- Swaying
- Needed support
- Fair
- Good

- _____

Walking

- Falling
- Staggering
- Swaying
- Heavy footed
- Fair
- Good

- _____

Turning

- Falling
- Staggering
- Swaying
- Hesitant
- Fair

- Good
- _____

- 8 During my contact with the suspect, the suspect was requested to perform field sobriety tests and I recorded my observations, signs of intoxication and the results below if the suspect complied. Field sobriety tests were conducted by:
- Affiant who is certified and/or trained in the detection of impaired or intoxicated drivers through the use of three standardized field sobriety tests [SFSTs], namely: Horizontal Gaze Nystagmus [HGN], One-Leg Stand [OLS], and Walk and Turn [WAT].
 - _____, a fellow peace officer, who is known by your Affiant to be certified and/or trained in the detection of impaired or intoxicated drivers through the use of three standardized field sobriety tests [SFSTs], namely: Horizontal Gaze Nystagmus [HGN], One-Leg Stand [OLS], and Walk and Turn [WAT].

Horizontal Gaze Nystagmus Test

The suspect was first qualified as a candidate by checking the suspect’s eyes for equal tracking and equal pupil size. I have indicated below the clues that were present in the left eye (L) and right eye (R):

- L R Lack of smooth pursuit
- L R Distinct and sustained nystagmus at maximum deviation
- L R Onset of nystagmus prior to 45 degrees

Vertical nystagmus: YES NO

HGN: Total number of observed clues: _____

- Refused to perform test

Other comments:

Walk and Turn Test

I have indicated below the clues that were present during the suspect’s performance of this test:

- Cannot keep balance while listening to instructions
- Starts before the instructions are finished
- Stops while walking
- Does not touch heel to toe
- Steps off the line

- Uses arms to balance (raises arms over six inches)
- Improper turn
- Incorrect number of steps

WAT: Total number of observed clues: _____

- Refused to perform test

Other comments:

One Leg Stand Test:

I have indicated below the clues that were present during the suspect's performance of this test:

- Sways while balancing
- Hops
- Puts foot down
- Uses arms for balance (raises arms over six inches)

OLS: Total number of observed clues: _____

- Refused to perform test

Other comments:

I have learned through my training and experience that the National Highway Transportation Safety Administration has determined from studies that were conducted that 4 or more clues on the HGN test and 2 or more clues on the OLS test and the WAT test are reliable indicators of intoxication.

9 Other tests: If indicated below, the suspect performed additional tests for intoxication and I recorded the results as shown below.

- Recite a portion of the alphabet; result:

- Finger count: (1,2,3,4; 4,3,2,1; each finger to thumb); result:

- Rhomberg: Close your eyes. Tilt you head back, hands at your side, stop after 30 seconds; result:

- Hand clap: (Count to 10; front and back of palm is one #); result:

- Nose touch: (Close eyes; arms extended out to the side; touch tip of nose with tip of index finger as instructed; call out “right” or “left”); Result:

- Portable breath test; result: _____

10 Suspect’s oral statements: The suspect made the following statements:

11 Open container evidence.

- I did not find an open container.
- I found an open container of an alcoholic beverage, namely:

_____ in the following location:

12 Drug/Controlled substance evidence.

- I did not find any evidence of possible drug/controlled substance use
- I found the following drugs/drug paraphernalia:

_____ in the following location:

- I detected the odor of marijuana
 - on the suspect’s person;
 - inside the suspect’s vehicle
- Statements made by the suspect or others indicating possible drug usage:

- Other:

13 Refusal evidence: After placing the suspect under arrest for Driving While Intoxicated, I requested a sample of the suspect's breath and/or blood, and the suspect refused to provide a sample in violation of the Texas Implied Consent law. This is an indication to me that the suspect is attempting to hide evidence of his/her intoxication. Other relevant statements made by the suspect when refusing include:

14 As a peace officer I have successfully completed courses and/or training in the field of alcohol detection 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 were under the influence of alcohol or other substances. Additionally, I have formed opinions on intoxication on many occasions and have had my suspicions confirmed by breath or blood samples that were analyzed after I performed my law enforcement duties relating to the detection of intoxicated drivers.

15 Summary: Based upon my experiences, my training in intoxication-related offenses, and my observations of the suspect and the results of the tests performed by the suspect, if any, during my contact with the suspect, I believe that the suspect is 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, a combination of two or more of those substances, or any other substance into the suspect's body.

16 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 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_____.

-
- Peace officer, State of Texas
 - Notary Public, State of Texas
 - Magistrate, McLennan County, Texas

THE STATE OF TEXAS

Docket No.: _____

COUNTY OF McLennan

Court: _____

SEARCH WARRANT

The State Of Texas: To any Sheriff or any Peace Officer of McLennan 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 subscribed and swore to said affidavit before me, (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 **HOSPITAL, MEDICAL FACILITY, OR OTHER SANITARY PLACE HAVING MEDICAL PERSONNEL, INCLUDING THE MCLENNAN COUNTY JAIL** in McLennan County, Texas where you shall search for, seize and maintain as evidence the property described in said Affidavit, to-wit: **HUMAN BLOOD** from the body of the following described individual:

Name: _____

Race: _____ Sex: _____ DOB: _____
DL/ID: _____ Height: _____ Weight: _____ lbs
Hair color: _____

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 P.M. / A.M., to certify which witness my hand this day.

Magistrate, McLennan County, Texas

THE STATE OF TEXAS

Docket No.: _____

COUNTY OF McLennan

Court: _____

ORDER FOR ASSISTANCE IN EXECUTION OF SEARCH WARRANT

To any physician, nurse, medical technician, or phlebotomist, licensed by the State of Texas, or other person qualified in the intravenous removal of human blood:

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 before me (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 Order), and whereas I find that the verified facts stated by affiant in said Affidavit show that affiant has probable cause for the belief he/she expresses herein and establishes existence of proper grounds for issuance of a search warrant;

And whereas, this court has issued a **warrant to search for and seize blood** from the suspect named and described in the Affidavit, to-wit:

Name: _____

Race: _____ Sex: _____ DOB: _____
DL/ID: _____ Height: _____ Weight: _____ lbs
Hair color: _____

Therefore you are hereby ordered and commanded to cooperate with any peace officer requesting your professional assistance in the execution of this warrant.

Herein fail not, as this order is directed to any individual whose aid and assistance is requested by the officer bearing the accompanying search warrant, is authorized by the full authority of this Court to issue warrants and orders to enforce the laws of the State of Texas, and Article 18.08 of the Texas Code of Criminal Procedure. **Any individual who fails to comply with this Order when requested shall be liable for contempt of this Court and subject to all penalties authorized by law.**

Ordered this the _____ day of _____, 20__ at _____ o'clock P.M. / A.M. to certify which witness my hand this day.

Magistrate, McLennan County, Texas

STATE OF TEXAS

COUNTY OF McLennan

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 employed by _____ as a

- Physician
- Qualified technician
- Registered professional nurse
- Licensed vocational nurse
- Other: _____

On the ____ day of _____, 20____, at _____ P.M./A.M., I
withdrew a blood specimen from the following person: _____.

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

Signature of person drawing blood

Printed Name

SWORN TO AND SUBSCRIBED before me on the _____ day of _____,
20_____.

- _____
- Peace Officer, State of Texas
 - Notary Public, State of Texas

Printed Name of Peace Officer or Notary

STATE OF TEXAS

COUNTY OF McLennan

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:

A specimen of the suspect's blood.

Affiant

SUBSCRIBED AND SWORN to before me, the undersigned authority on this _____ day of _____, 20_____.

- _____
 - Peace Officer, State of Texas
 - Magistrate, McLennan County, Texas

BLOOD WITHDRAWAL PROCEDURE FORM

- 1) Officer placed suspect under arrest for a Chapter 49 offense involving operation of a motor vehicle.
- 2) Officer read DIC-24 to suspect and provided suspect with written copy.
- 3) Suspect ___ did consent ___ refused request to give blood sample (mandatory) ___ unconscious or incapable of refusal. (check one)
- 4) Officer ___ provided vial ___ used vial provided by _____. (check one)
- 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) Preservative/anti-coagulant powder was seen in vial.
- 8) Nurse/technician did the following in withdrawing blood from subject:
 - Used betadine (or other: _____) non isopropanol solution to disinfect arm.
 - Officer saved swab packaging (optional).
 - Rotate/Invert vial 8 times so as to mix blood with preservative anti-coagulant.
- 9) Vial (top never having been opened) was then delivered to officer and officer completed label with time of blood draw and officer and nurse/technician initials.

Signed by:

Arresting Officer/Police Dept.

Nurse/Medical Technician

SUSPECT NAME _____ DATE: _____

OFFENSE NO. _____ TIME OF BLOOD DRAW: _____

BLOOD WITHDRAWAL FORM / ORDER

Person Arrested: _____

Location: _____

Date and Time: _____

Pursuant to Transportation Code Sec. 724.012, the undersigned peace officer requires that the above-named person (hereafter "suspect") give a specimen of blood, which will be taken by force, if necessary. I have arrested the suspect for an offense under Penal Code Chapter 49 based on my reasonable belief that the suspect was operating a motor vehicle or watercraft while intoxicated. The suspect has refused my request to voluntarily give a specimen of blood. *(Check one of the following)*

- **DWI 3rd**. At the time of the suspect's arrest, I possessed or received reliable information from a credible source that that the suspect has been previously convicted or received community supervision for Driving While Intoxicated on two or more occasions.
- **DWI with minor child under 15**. A child under age 15 was a passenger in the vehicle operated by the suspect while intoxicated.
- **Crash with death to anybody, serious bodily injury to another, or another person who suffered bodily injury was transported to a medical facility for treatment**. The suspect was involved in a crash that I reasonably believe occurred as a result of the suspect's intoxication. When I arrested the suspect, I reasonably believed that as a direct result of the crash that:
 - Any person has died or will die;
 - A person other than the suspect suffered serious bodily injury; or
 - A person other than the suspect suffered bodily injury and was transported to a hospital or medical facility for medical treatment.
- **Prior conviction: PC Sec. 49.045, 49.07 or 49.08**. At the time of the suspect's arrest, I possessed or received reliable information from a credible source that the suspect has been previously convicted or received community supervision for DWI with minor child, Intoxication Assault, or Intoxication Manslaughter.

This request is made pursuant to Transportation Code Sec. 724.012 for you to acquire a specimen or specimens of the suspect's blood. The officer's obligation to obtain a chemical sample is mandatory. **Therefore, this is an order from a peace officer authorized by statute**, and under Transportation Code Sec. 724.017, the person taking the specimen and the hospital where the specimen is taken are not liable for damages for compliance with this order nor are they subject to discipline by any governing body, provided the specimen is obtained according to recognized medical procedures and is accomplished without negligence in the taking of the specimen. If the subject resists the search, this is not evidence of negligence. Furthermore, the statute provides that the subject is not required to be admitted or treated as a patient unless it is medically necessary.

Date / Time

Officer's Signature / Agency

Name of Person Form Delivered to

Name and Occupation of Person Obtaining Specimen