

THE STATE OF TEXAS

COUNTY OF VICTORIA

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 Victoria 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 Victoria 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 Victoria 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.

5. The suspect was operating a motor vehicle in a public place in Victoria 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 Victoria County, Texas just _____ minutes prior to my arrival at _____

A witness, (name) _____

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

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	Attitude/conduct	Balance
Strong	Argumentative	Falling
Moderate	Combative	Unsteady
Faint None	Profane	Swaying
	Sarcastic	Needed support
Eyes	Insulting	Fair
Bloodshot	Cooperative	Good
Red/Pink	Cocky	_____
Glassy	Laughing	
Watery	Carefree	
Dilated	Indifferent	Walking
Normal	Sleepy/Drowsy	Falling
_____	Polite	Staggering
Speech	Silent	Swaying
Thick-tongued	Reserved	Heavy footed
Incoherent	Calm	Fair
Slurred	Talkative	Good
Slow	Anxious	_____
Mumbled	Excited	
Stuttered	Confused	Turning
Talkative	Uninhibited Mood	Falling
Rapid Repetitive	swings	Staggering
Fair	_____	Swaying
	_____	Hesitant
Good	Appearance	Fair
_____	Disorderly	Good
_____	Orderly	
	Signs of urine	_____
	Signs of vomit	

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, Victoria County, Texas

THE STATE OF TEXAS

Docket No.: _____

COUNTY OF VICTORIA

Court: _____

SEARCH WARRANT

The State Of Texas: To any Sheriff or any Peace Officer of Victoria 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 or other clean and hygenic facility in Victoria 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 _____, to certify which witness my hand this day.

Magistrate, Victoria County, Texas

COUNTY OF VICTORIA

THE STATE OF TEXAS

Docket No.: _____

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: _____ TDL: _____

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 _____ to certify which witness my hand this day.

Magistrate, Victoria County, Texas

STATE OF TEXAS

COUNTY OF VICTORIA

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 _____, 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 VICTORIA

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, Victoria County, Texas