

CHAPTER 2
DETECTION AND EVALUATION

REVISED JUNE 2024

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CHAPTER 2

DETECTION AND EVALUATION

1. GENERAL.

- a. The methods used by the California Highway Patrol (CHP) to detect and evaluate impaired driving are consistent with the Drug Evaluation and Classification Program (DECP).
- b. The DECP is a national program managed by the National Highway Traffic Safety Administration (NHTSA), in association with the International Association of Chiefs of Police (IACP). The CHP Impaired Driving Section (IDS) administers California's DECP and conducts training consistent with established standards

2. DRUG EVALUATION AND CLASSIFICATION PROGRAM MANUALS.

- a. The NHTSA maintains all current DECP training curriculum on their website.
- b. The Standardized Field Sobriety Test (SFST), the Advance Roadside Impaired Driving Enforcement (ARIDE) and Drug Recognition Evaluator (DRE) course manuals can be found at nhtsa.gov.

3. TRAINING.

- a. Cadet Training. In coordination with the Academy, IDS is responsible for providing training to CHP cadets, including driving under the influence (DUI) investigation, the administration of SFST, alcoholic beverage control laws, controlled substances laws, and other training, as appropriate/requested.
- b. Standardized Field Sobriety Test Training.
 - (1) Impaired Driving Section coordinates, facilitates, and teaches SFST and DUI training courses statewide. Any CHP or allied agency DRE/SFST instructor seeking to hold an SFST course should contact IDS in order to obtain Commission on Peace Officer Standards and Training (POST) course numbers and other required information.
 - (2) These courses are primarily designed for allied agency personnel. All CHP cadets receive training that meets SFST training course standards.
 - (3) The SFST course is a prerequisite for DRE training.

- c. Advanced Roadside Impaired Driving Enforcement (ARIDE) Training.
 - (1) Impaired Driving Section coordinates, facilitates, and teaches ARIDE training courses statewide. Any CHP or allied agency DRE/SFST instructor seeking to hold an ARIDE course should contact IDS in order to obtain POST course numbers and other required information.
 - (2) All CHP officers shall attend ARIDE training within one year after completing their one-year probationary period.
 - (3) The ARIDE course is a prerequisite for DRE training.
- d. Drug Recognition Evaluator Training.
 - (1) Impaired Driving Section coordinates, facilitates, and teaches DRE training courses statewide, with the help of selected allied agencies. These courses are generally scheduled one year in advance.
 - (2) Questions regarding DRE courses and/or attending DRE training should be referred to IDS.
 - (3) Additional information regarding the DRE program can be found in Chapter 11, Drug Recognition Evaluator Program, of this manual.

4. VEHICLE IN MOTION CONSIDERATIONS.

- a. It is not necessary for an officer to make prolonged observations before stopping a driver. Once reasonable suspicion has been established, the officer should make an enforcement stop when it is safe to do so. The methodology of the stop and the driver's response should be recorded as additional evidence to assist in proving any DUI charges. Officers should be alert to the most common visual cues exhibited by drivers that are under the influence.
- b. Unusual activity or a moving about of the occupants within the vehicle may occur. There may be an attempted change of drivers while the vehicle is still in motion. **If both parties had physical control of the vehicle as the vehicle was in motion and both drivers are found to be under the influence, both should be taken into custody and charged with DUI.**

5. PRE-ARREST SCREENING CONSIDERATIONS.

a. A DUI investigation should not be conducted at a location that may be hazardous. Although it is recognized that any area can be potentially hazardous, it is generally agreed that certain places which present greater hazards include:

- (1) In front of a drinking establishment.
- (2) In front of the suspect's residence, with a gathering of people consisting of family and/or friends.
- (3) Within sight of any large gathering of people.
- (4) Within a traffic lane.
- (5) Between vehicles.

b. In the event an officer finds themselves in a hazardous situation with a possible DUI suspect, the officer should remove the suspect from the area as quickly as possible and conduct their evaluation in a safe location. **If the officer believes the suspect might be under the influence of alcohol, drugs, or the combined influence of alcohol and drugs, the officer shall not allow the suspect to drive.** The officer should consider the totality of circumstances before moving the suspect and ensure they do not violate the suspect's Miranda Rights. In order to ensure a lawful detention when moving a possible DUI suspect, one of the following should occur:

- (1) Attempt to gain the suspect's consent to move to another location.
- (2) Evaluate the facts present at the time.
 - (a) If, after contact, the driver is determined not to be DUI, the enforcement contact should be handled accordingly.
 - (b) If, after contacting the driver, reasonable suspicion exists that the driver may be DUI, the officer may remove the driver from the hazardous area to a safe location and conduct the FSTs. The officer should make clear to the suspect they are being detained, not arrested. It is important to document the circumstances surrounding the movement of the suspect and the officer's reasoning.
 - (c) If the suspect refuses to consent to movement and a safety hazard exists (e.g., officer contacts a possible DUI suspect blocking a lane of a freeway), and the officer has developed probable cause that a violation has been committed, the officer should place the suspect

under arrest, move the suspect to a safe location, and conduct a DUI investigation while being mindful of the Miranda admonition. The FSTs may be conducted after arrest in order to gather additional evidence to support prosecution as FSTs are not considered testimonial in nature (Muniz [1990] 496 U.S. 582, 592; Bejasa [2012] 205 Cal.App.4th 26, 43.) The officer should note the details in the report, including their reasoning as to why a hazard existed and why the suspect needed to be moved.

c. The officer should ask a series of investigative interview questions. These questions are designed to illicit information that will assist the officer in developing an opinion as to alcohol and/or drug impairment or help identify a medical issue or the need for medical care. The questions contained on page 2 of the CHP 202, Driving Under the Influence Arrest – Investigation Report, may be asked without a Miranda admonition during an investigative detention. However, if the driver is placed under arrest, the officer shall advise the driver of the Admonition of Rights prior to asking any questions intended to solicit incriminating statements.

d. The CHP 202S, DUI Field Evaluation Notes, is an optional tool designed to assist with documenting signs of impairment observed by an officer during a DUI investigation. Officers who complete the CHP 202S shall either attach a copy to their report or incorporate all of their notes recorded on the CHP 202S into the narrative of their report.

6. PRELIMINARY FIELD SOBRIETY TESTS. Due to their scientific validation, Horizontal Gaze Nystagmus (HGN), Walk and Turn (WAT), and One Leg Stand (OLS) tests are considered primary SFSTs and should be used whenever possible. However, officers may use alternative FSTs to ensure the safety of the officer and/or the suspect whenever appropriate. Refer to the NHTSA DECP training curriculum for additional information regarding HGN, WAT, and OLS.

7. ALTERNATIVE FIELD SOBRIETY TESTS. Alternative FSTs may be used if for some reason the scientifically validated SFSTs cannot be given. The following tests are considered alternative or additional FSTs:

a. Modified Romberg Balance Test. Refer to the NHTSA DRE course manual for detailed instructions regarding this test.

b. Finger to Nose Test. Refer to the NHTSA DRE course manual for detailed instructions regarding this test.

c. Hand Pat Test.

(1) Although the Hand Pat test has not been evaluated under scientific conditions, experienced officers have indicated that it is a reliable alternate FST. It requires the suspect to divide their attention between simple mental and physical tasks. Many of the same necessary exercises used to drive a vehicle are tested with the Hand Pat alternate FST. These tasks include:

- (a) Information processing.
- (b) Short-term memory.
- (c) Judgment and decision making.
- (d) Steady, sure reactions.
- (e) Clear vision.
- (f) Small muscle control.
- (g) Coordination of limbs.

(2) Test Administration. Start by instructing the suspect to stand with their feet together and arms to their sides. Instruct the suspect not to begin until told to do so.

- (a) When told to do so, instruct the suspect to put one hand out in front of them with the open palm facing upward. The opposite hand is then placed on top of the first hand with the open palm facing downward.
- (b) The hand with the palm facing upward is held in a stationary position. The hand on top with the palm facing downward will be the only hand moving.
- (c) When told to begin, the suspect will rotate the top hand 180 degrees and pat the back of the top hand to the palm of the bottom hand simultaneously counting out loud, "ONE." The top hand then rotates 180 degrees so the palm of the top hand pats the palm of the bottom hand simultaneously counting out loud, "TWO." The process then repeats. The suspect should start at a slow speed then, gradually increase the speed until a relatively rapid pace is reached.
- (d) The suspect should perform this FST for a minimum of 10 seconds but no more than 15 seconds.

(3) Test Interpretation. The major cues associated with the Hand Pat Alternate FST are:

- (a) The driver's ability to follow instructions.
- (b) The driver starts too soon.
- (c) The driver does not count as instructed.
- (d) The driver does not pat their hands as instructed.
- (e) The driver stops before instructed to do so.

d. Finger Count Test.

(1) The Finger Count alternate FST has been used by experienced officers to assist them in DUI investigations and was among one of the six primary FSTs studied by Southern California Research Institute during the 1977 scientific research of FSTs. The Finger Count alternate FST is also recommended by NHTSA as an additional test to assist an officer with a DUI investigation. Many of the same necessary exercises used to drive a vehicle are tested with the Finger Count alternate FST. Tasks such as:

- (a) Information processing.
- (b) Short-term memory.
- (c) Judgment and decision making.
- (d) Steady, sure reactions.
- (e) Clear vision.
- (f) Small muscle control.
- (g) Coordination of limbs.

(2) Test Administration. Start by instructing the suspect to stand with their feet together and arms to their sides. Instruct the suspect not to begin until told to do so.

- (a) When told to do so, instruct the suspect to extend one hand directly in front of them. Open the hand with the palm facing upward. The thumb is then touched with the index finger and the suspect shall count out loud, "ONE." The thumb is then touched with the middle finger and the suspect shall count out loud, "TWO." The thumb is then touched with the ring finger

and the suspect shall count out loud, "THREE." The thumb is then touched with the pinkie finger and the suspect shall count out loud, "FOUR."

(b) The process is then reversed. The thumb is touched with the pinkie finger and the suspect shall count out loud, "FOUR." The thumb is touched with the ring finger and the suspect shall count out loud, "THREE." The thumb is then touched with the middle finger and the suspect shall count out loud, "TWO." The thumb is then touched with the index finger and the suspect shall count out loud, "ONE."

(c) The suspect is then instructed to perform three complete sets. Ensure that the suspect understands the FST instructions.

(3) Test Interpretation. The major cues associated with the Finger Count Alternate FST are:

- (d) The driver's ability to follow instructions.
- (e) The driver starts too soon.
- (f) The driver does not count as instructed.
- (g) The driver does not touch fingers as instructed.
- (h) The driver does not perform the correct number of sets.
- (i) The driver stops before instructed to do so.

e. Alphabet Test.

(1) The Alphabet alternate FST has been used to assist law enforcement officers in DUI investigations. It also has been recommended by NHTSA as an additional test to assist an officer with a DUI investigation since many of the same tasks used to drive a vehicle are tested with this FST. Task such as:

- (a) Information processing.
- (b) Short-term memory.
- (c) Judgment and decision making.
- (d) Balance, steady, and sure reactions.
- (e) Clear vision, small muscle control, and coordination of limbs.

(2) Test Administration. The Alphabet alternate FST requires a suspect to recite the English alphabet out loud. An alternate method to conduct the Alphabet alternate FST requires a suspect to write the English alphabet and then sign and date the paper.

(3) Verbal Method.

(a) Start by instructing the suspect to stand with their feet together and arms to their sides. Instruct the suspect not to begin until told to do so.

(b) Ask the suspect if they know the English alphabet. Ascertain what education level the suspect may have to ensure their ability to perform this FST.

(c) Instruct the suspect to verbally recite the English alphabet.

(4) Written Method.

(a) Start by instructing the suspect to stand with their feet together and arms to their sides. Instruct the suspect not to begin until told to do so.

(b) Ask the suspect if they know the English alphabet. Ascertain what education level the suspect may have to ensure their ability to perform this FST.

(c) Place a piece of paper on a solid stationary object and give a pen to the suspect. The paper should be a piece of note paper or other paper small enough to be attached to the report.

(d) Instruct the suspect to write the English alphabet on the piece of paper. Also, instruct the suspect to sign and date the paper.

(e) If the suspect is arrested, the paper shall be attached to the arrest report and retained with the original file. If the suspect is not arrested, the paper may be destroyed since there is no legal requirement to retain the paper.

(5) Test Interpretation. The major cues associated with the Alphabet alternate FST are:

(a) The driver's ability to follow instructions.

(b) The driver starts too soon.

(c) The driver does not recite the alphabet correctly.

(d) The driver does not write the alphabet correctly (e.g., omits or repeats letters, runs out of space on paper, size of letters is inconsistent, etc.).

(e) The driver exhibits slurred or incoherent speech.

8. REFUSAL TO COOPERATE.

b. It is impossible to demand or force anyone to complete an FST against their will. If a suspect refuses to perform one or more of the FSTs, the significance of the test and of their refusal should be explained in the narrative of the report. Proper documentation of the suspect's refusal to cooperate may help establish a consciousness of guilt for the suspect.

c. This philosophy is supported in *People v. Bennett*, (1983) 139-Cal.App.3d 767. In the *Bennett* case, the court addressed the following issues:

(1) The administration of an FST does not constitute an unlawful detention. Following a detention, FSTs based upon a reasonable suspicion that the driver is under the influence do not violate the Fourth Amendment.

(2) The administration of an FST does not compel a suspect to incriminate themselves in violation of their Fifth Amendment privilege against self-incrimination. The administration of an FST is not a functional equivalent of a custodial interrogation. The results of the test do not equate to un-Mirandized statements. The results of an FST are not "testimonial" in nature. They are more like handwriting samples or the results of a blood test (i.e., more like "real or physical evidence"). The privilege against self-incrimination is not applicable to an FST.

(3) Probable cause to arrest an "impaired driving" suspect can arise independently of an FST. An officer may, in a particular case, have probable cause to arrest a driver for being under the influence even without the results of an FST.

(a) Field sobriety tests should be administered in all cases except when, in the officer's opinion, it is impractical (e.g., when a suspect is injured and cannot perform specific FSTs due to their injuries).

9. PRELIMINARY ALCOHOL SCREENING DEVICE. The Preliminary Alcohol Screening (PAS) Device should be utilized in conjunction with FSTs or the alternative FSTs listed in this chapter. Except for unusual circumstances, the PAS device shall be utilized after the administration of primary and/or alternative FSTs. Refer to Chapter 7,

Preliminary Alcohol Screening Device, of this manual for additional information related to PAS devices.

10. PRELIMINARY DRUG SCREENING DEVICE. A Preliminary Drug Screening (PDS) device may be used to gain additional evidence of suspected drug use. Except for unusual circumstances, the PDS device shall only be utilized after all FSTs have been completed and the PAS device has been utilized. Refer to Chapter 12, Preliminary Drug Screening Devices, of this manual for additional information related to PDS devices.

11. INTERROGATION OF IN-CUSTODY MINORS. Welfare and Institutions Code 625.6 prohibits a minor 17-years of age or younger from waiving their Miranda Rights prior to consulting with legal counsel. As such, officers are cautioned to evaluate the totality of circumstances prior to questioning a minor. Refer to Highway Patrol Manual 100.69, General Law Enforcement Policy Manual, Chapter 1, Arrest Policies, for additional information.

ANNEX A

CHP 202S, DUI FIELD EVALUATION NOTES (continued)

INVESTIGATION INTERVIEW – (Spanish)	INVESTIGATION INTERVIEW – (English)										
1. ¿Tiene problemas mecánicos con su carro?	1. ANYTHING WRONG WITH YOUR VEHICLE?										
2. ¿Está usted enfermo o herido?	2. ARE YOU SICK OR INJURED?										
3. ¿Es usted diabético o epiléptico?	3. ARE YOU DIABETIC OR EPILEPTIC?										
4. ¿Toma usted insulina?	4. DO YOU TAKE INSULIN?										
5. ¿Tiene usted defectos físicos? (pies, piernas, tobillos, caderas)	5. DO YOU HAVE ANY PHYSICAL IMPAIRMENTS?										
6. ¿Cuándo durmió usted la última vez? ¿Cuántas horas?	6. WHEN DID YOU LAST SLEEP? HOW LONG?										
7. ¿Cuándo comió usted la última vez? ¿Qué comió?	7. WHEN DID YOU LAST EAT? DESCRIBE?										
8. ¿Estaba usted manejando el vehículo?	8. WERE YOU DRIVING THE VEHICLE?										
9. ¿Dónde empezó a manejar?	9. WHERE DID YOU START DRIVING?										
10. ¿A dónde iba usted?	10. WHERE WERE YOU GOING?										
11. ¿Dónde le pararon?	11. WHERE WERE YOU STOPPED?										
12. ¿Qué tomó usted? ¿Cuánto tomó?	12. WHAT HAVE YOU BEEN DRINKING? HOW MUCH? LONG?										
13. ¿Cuándo empezó a tomar?	13. WHAT TIME DID YOU START DRINKING?										
14. ¿Cuándo dejó de tomar?	14. WHAT TIME DID YOU STOP DRINKING?										
15. ¿Dónde estaba tomando?	15. WHERE WERE YOU DRINKING?										
16. ¿Siente usted los efectos de las bebidas?	16. DO YOU FEEL THE EFFECTS OF THE DRINKS?										
17. ¿Ha golpeado su cabeza?	17. DID YOU BUMP YOUR HEAD?										
18. ¿Ha tomado después del accidente? ¿Qué tomó?	18. HAVE YOU BEEN DRINKING SINCE THE ACCIDENT? WHA										
19. ¿Está usted bajo el cuidado de un doctor o dentista?	19. ARE YOU UNDER THE CARE OF A DOCTOR OR DENTIST?										
20. ¿Ha tomado medicina o drogas? ¿Qué tomó? ¿Cuánto tomó?	20. HAVE YOU TAKEN ANY MEDICINE OR DRUGS?										
21. ¿Siente los efectos de la medicina o drogas? Explique/Describa	21. DO YOU FEEL THE EFFECTS OF MEDICINE/DRUGS?										
22. ¿Ha tenido cirugía recientemente?	22. RECENT SURGERY PERFORMED?										
P.A.S. ADMONITION	P.A.S. ADMONITION										
UNDER 21 – Está obligado por la ley a someterse a una prueba preliminar de alcohol.	UNDER 21 – You are obligated by law to submit to a PAS test.										
21 or OVER – Le pido que se someta a una prueba preliminar de alcohol para asistirme en determinar si usted está bajo la influencia de alcohol. Usted puede negarse a someterse a esta prueba. Sin embargo, esta prueba no es parte del consentimiento implícito. Si es arrestado, estará obligado a dar una muestra de su sangre, aliento, u orina para determinar el contenido de alcohol o droga en su sangre. ¿Hará la prueba?	21 or OVER – I am requesting that you take a preliminary alcohol screening test to further assist me in determining whether you are under the influence of alcohol. You may refuse to take this test; however, this is not an implied consent test and if arrested, you will be required to give a sample of your blood, breath, or urine for the purpose of determining the actual alcoholic and drug content of your blood. Will you take this test?										
NOTES	FIELD SOBRIETY TESTS										
	<table style="width: 100%; border: none;"> <tr> <td>1. HGN *</td> <td>6. FINGER COUN</td> </tr> <tr> <td>2. WALK AND TURN *</td> <td>7. HAND PAT</td> </tr> <tr> <td>3. ONE LEG STAND *</td> <td>8. ALPHABET</td> </tr> <tr> <td>4. MODIFIED ROMBERG BALANCE</td> <td>9. P.A.S.</td> </tr> <tr> <td>5. FINGER TO NOSE</td> <td></td> </tr> </table> <p style="text-align: center;">*SCIENTIFICALLY VALID</p>	1. HGN *	6. FINGER COUN	2. WALK AND TURN *	7. HAND PAT	3. ONE LEG STAND *	8. ALPHABET	4. MODIFIED ROMBERG BALANCE	9. P.A.S.	5. FINGER TO NOSE	
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