

ARIDE & DRE ISSUES

{ Robert Healey, Esq., Suhre and Assoc., LLC
{ rhealey@suhrelaw.com

4511.19 Operating vehicle under the influence of alcohol or drugs - OVI.

(A)

(1) No person shall operate any vehicle, streetcar, or trackless trolley within this state, if, at the time of the operation, any of the following apply:

(a) The person is under the influence of alcohol, a drug of abuse, or a combination of them.

(b) The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

(c) The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

Help!!!

DRE



- ⌘ If your client is **charged with a DUI** and the **administered a field sobriety test and** if it is shown by **clear and convincing evidence** that the officer administered the test in **substantial compliance** with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the **national highway traffic safety administration**, all of the following apply:
 - ⌘ (i) The **officer may testify** concerning the results of the field sobriety test so administered.
 - ⌘ (ii) The **prosecution may introduce the results** of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 - ⌘ (iii) If testimony is presented or evidence is introduced under division (D)(4)(b)(i) or (ii) of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

4511.19(D)(4)(b)

Rev. 12-013
2014



STATE OF OHIO
DEPARTMENT OF PUBLIC SAFETY

HIGHWAY PATROL CRIME LAB
1583 Alum Creek Drive, Room 514
Columbus, Ohio 43209
(614) 466-4790



Report of Analysis

Urine Drug Screen

Name: [REDACTED]
Laboratory Number: 14-005561
Case No: LHP140331004243

Agency: 13 OSHP Batavia Post
1000 Hospital Drive
Batavia, OH 45103

SAMPLE WAS TESTED FOR THE FOLLOWING DRUGS OR DRUG CLASSES:

6-Acetyl-Morphine (Heroin Metabolite)
Barbiturates
Buprenorphine
Cocaine / Benzoylcegonine
Opiates
Phencyclidine (PCP)
Amitriptyline
Citalopram (Celexa)
Diphenhydramine (Benadryl)

Amphetamines
Benzodiazepines
Cannabinoids
Methadone
Oxycodone
Propoxyphene (Darvon)
Carisoprodol/Meprobamate
Cyclobenzaprine
Doxepin

RECEIVED
AUG 25 2014

URINE DRUG SCREEN

Results as confirmed by Gas Chromatography/Mass Spectroscopy:

Amphetamine positive. Results greater than 1000 ng/mL.

4511.19 AI (j)(i), The person has a concentration of amphetamine nanograms of amphetamine per milliliter of the person's urine.

4511.19 AI (J)(1) is to be cited if the concentration of amphetamine nanograms per milliliter (500 ng/ml) or greater.

Alpha-Hydroxyalprazolam 537.63 ng/ml +/- 26.88 ng/ml

Hydrocodone 479.00 ng/ml +/- 28.74 ng/ml

All reported measurement of uncertainty values are expressed at a 95% confidence interval. The uncertainty is calculated through statistical analysis of the standard operating procedure utilized in the analysis of the above specimen.

URINE RESULTS

Amphetamine positive.

- ⌘ (K) Division (A)(1)(j) of this section does not apply to a person who operates a vehicle, streetcar, or trackless trolley while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that division, if both of the following apply:
 - ⌘ (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - ⌘ (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

4511.19 (K)

9/17/2014

AMPHU - Clinical: Amphetamines Confirmation, Urine



MAYO CLINIC
Mayo Medical Laboratories

Web: MayoMedicalLaboratories.com
Email: mml@mayo.edu
Telephone: 800.533.1710
International: 507.266.5700

Values are valid only on day of printing.

Test ID: AMPHU

Amphetamines Confirmation, Urine

Useful For

Confirming drug exposure involving amphetamines such as amphetamine and methamphetamine, phentermine, methylenedioxyamphetamine (MDA), methylenedioxymethamphetamine (MDMA), and methylenedioxyethylamphetamine (MDEA)

WHAT IS IT?

Amphetamines are sympathomimetic amines that stimulate the central nervous system activity and, in part, suppress the appetite. Phentermine, amphetamine, and methamphetamine are prescription drugs for weight loss. All of the other amphetamines are Class I (distribution prohibited) compounds. In addition to their medical use as anorectic drugs, they are used in the treatment of narcolepsy, attention-deficit disorder/attention-deficit hyperactivity disorder and minimal brain dysfunction.

Because of their stimulant effects, the drugs are commonly sold illicitly and abused. Physiological symptoms associated with very high amounts of ingested amphetamine or methamphetamine include elevated blood pressure, dilated pupils, hyperthermia, convulsions, and acute amphetamine psychosis.

3. **BREATH ALCOHOL TEST:** Trooper [REDACTED] obtained a BrAC sample from Ms. [REDACTED] prior to the evaluation. The result was .031% BrAC using the BAC Datamaster # 130675 at Post 13.
4. **NOTIFICATION and INTERVIEW of ARRESTING OFFICER:** Sergeant [REDACTED] was contacted by the Batavia Dispatch Center of the Ohio State Highway Patrol and requested to conduct a DRE evaluation for Trooper [REDACTED]. Sergeant [REDACTED] contacted Trooper [REDACTED] upon his arrival at the Batavia Post where it was determined that [REDACTED] had been arrested by Trooper [REDACTED] for operating a vehicle under the influence of alcohol and/or drugs of abuse. At the time Sergeant [REDACTED] was serving as Trooper [REDACTED] field training officer and was present for the arrest. Trooper [REDACTED] and Sergeant [REDACTED] advised that Ms. [REDACTED] was stopped for following too closely. They advised they observed glassy bloodshot eyes, slow/sluggish reactions and droopy eyelids. Sergeant [REDACTED] stated she seemed drowsy. They also advised an odor of an alcoholic beverage was present on her breath. Trooper [REDACTED] advised Ms. [REDACTED] admitted having consumed alcohol and that she was taking prescription medications including Xanax, Adderall and Vicodin. He advised that horizontal gaze nystagmus was present and she performed poorly on field sobriety tests. [REDACTED] was arrested for OVI after completion of the SFST's.

0.031% BrAC and...

, slow/sluggish
emed drowsy. T

Slow Sluggish Drowsy

droopy eyelids.

she performed poorly on completion of the SFST's.

Interpretation

The presence of amphetamines in urine at concentrations >500 ng/mL is a strong indicator that the patient has used these drugs within the past 3 days.

3 days!?

nervous

↑ pulse / bp normal - not elevated
elevated taste buds?

A.R.I.D.E. Drug Class Matrix

	DEPRESSANTS	STIMULANTS	HALLUCINOGEN	DISSOCIATIVE ANESTHETICS	NARCOTIC ANALGESICS	INHALANTS	CANNABIS
H.G.N.	Present	None	None	Present	None	Present	None
V.G.N.	Present*	None	None	Present	None	Present	None
L.O.C.	Present	None	None	Present	None	Present	Present
PUPIL SIZE	Normal ¹	Dilated	Dilated	Normal	Constricted	Normal ²	Dilated ³
INTERNAL CLOCK	Slow	Fast	fast/slow/unable	Markedly Slow	Slow	fast/slow/unable	Slow
GENERAL INDICATORS	Drowsy	Talkative	Hallucinations	Hallucinations	Low/Slow/Rasp y	Flushed Face	Red Conjunct.
	Disoriented	Dry Mouth	Synestehsia	Violent/Combative	Dry Mouth	Disoriented	Increase Appetite
	Uncoordinated	Excited	Perspiring	Blank Stare	Thirsty	Confused	Odor of Marijuana
	Droopy Eyelids	Agitated	Nausea	"Moon Walking"	Track Marks	Eyes Bloodshot/Watery	Plant Debris in Mouth/Tongue
	Thick, slurred speech	Bruxism	Disoriented	Chemical Odor	Fresh Punctures	Lack of Muscle Control	Impaired Aware. Time & Distance
	Sluggish	Anxious	Difficulty Speaking	Repetitive Speech	Nausea	Residue of Chemical Inhaled	Possible Paranoia in high doses
	Lethargic	Irritable	Paranoia	Cyclic Behavior	Depressed Reflexes	Odor of Chemical on person/face	Relaxed Inhibitions
	Gait Ataxia	Decreased Appetite	Piloerection w/ LSD	Incomplete responses to ?	"on the nod"	Intense Headaches	Disorientation
	Fumbling	Exaggerated Reflexes	Impaired Aware. Time & Distance	Early/resting HGN	Facial Itching	Uncommunicative	Muscle Tremors
	"Drunk" appearance	Insomnia	Flashbacks	Perspiring	Droopy Eyelids	Nausea	Eyelid Tremors
		Increased Alertness	Uncoordinated	Confusion	Drowsy		
		Restlessness	Muscle Tremors	Agitated	Euphoria		
		Nasal Redness/Runny	Dazed Appearance				
		Euphoria	Memory Loss				
		Muscle Tremors					
		Hallucinations OD					

1. Soma & Quaaludes may dilate

2. Normal but may be dilated

3. Pupils may be normal with lower THC levels

Indicators of CNS Stimulant - ~~all~~

Signs also sign of nervousness

sluggish - lam - not consistent w
amphetamine use



What is DRE



GRAPES... WINE...

Tim Huey

Andy Bucher

Ask the OACDL List...

**IN THE MUNICIPAL COURT
XXXXXX COUNTY, OHIO**

STATE OF OHIO

PLAINTIFF,

VS.

XXXXX

DEFENDANT.

: CASE NO.: XXX

:

:

: JUDGE XXX

:

:

:

MOTION IN LIMINE

:

:

IN THE MUNICIPAL COURT
XXXX COUNTY, OHIO

STATE OF OHIO, _____)
 PLAINTIFF,)
)
 v.)
)
XXXXXXXXX)
 DEFENDANT.)
_____)

NO. XXXX

JUDGE XXXXX

DEMAND AND REQUEST PUR-
SUANT TO R.C. §4511.19(E)(3) _____

Pursuant to R.C. §4511.19(E)(3), Defendant, by and through his/her attorney, hereby demands the testimony of the person signing the laboratory report served upon Attorney for Defendant.

IN THE MUNICIPAL COURT
XXXX COUNTY, OHIO

STATE OF OHIO

PLAINTIFF,

VS.

XXXX XXXX

DEFENDANT.

↓ CASE NO.: XXXX

↓

↓

↓ JUDGE XXXX

↓

↓

↓ REQUEST FOR MISSING AND
↓ SUPPLEMENTAL DISCOVERY

↓



[send to a friend](#)

DRE Conference Draws Record-breaking Attendance in Phoenix

Carolyn Cockroft, IACP Manager, Drug Evaluation and Classification Program

Save the Date:

Next year's DRE Section's Training Conference on Drugs, Alcohol, and Impaired Driving will be held August 10–12, 2015, in Cincinnati, Ohio. Visit www.decp.org for updates and to learn more about the DEC Program and the DRE Section.

CINCINNATI IN 2015

Close to 7,000 DREs credentialed by the IACP are currently active and certified. Since its establishment in 1987, the NHTSA/IACP DEC Program has trained and certified more than 22,000 DREs and has become international in scope.

Fran M. Gengo, Pharm.D.

Dent Neurologic Institute

3980 Sheridan Drive, Amherst, NY 14226

200 Sterling Drive, Orchard Park, NY 14127

35 Batavia City Center, Batavia, NY 14020

Phone : 716.250.2000 | Fax : 716.250.2045

TIME TO CALL AN EXPERT

Dr. Gengo serves as Director of Neuropharmacology and the Research Director for the Acute Stroke Treatment Program at DENT, as well as the Chief Science Officer for DENT's research affiliate, DNRC. He is also Associate Professor of Pharmacy and Neurology and a Clinical Assistant Professor of Neurosurgery at the SUNY at Buffalo School of Medicine.

Dr. Gengo has published numerous papers on the effects of various drugs on the central nervous system and his research entails abstraction and statistical analysis of data acquired from several modalities.

Specialty: Neurology, Neuropharmacology, Pharmacotherapy, Medical / Graduate Education,
Philadelphia College of Pharmacy and Science, Philadelphia, PA,

Fellowship: SUNY at Buffalo, Department of Pharmaceutics, Buffalo, NY - Pharmacokinetics and Biopharmaceutics.

\$2500-3500 written opinion on DRE for your case.

\$2500-3500 written opinion on DRE in general.

He will need:

Police Report.

Videos.

DRE Reports.

DRE Rolling Logs.

Confirmatory Lab Results.

Doctor's Letter (I added this asking for list of meds, length of treatment, Dx, side effects, diverting or abusing, safe to drive on meds., etc.)

GENGO WILL NEED

Gengo's Opinion in my case:

- Client suffers from AD-HD
 - Trouble understanding Instructions
 - Especially multi step (*like all SFSTs*)
- Herniated Disk
 - She did well on SFSTs given that medical condition.
- Missing criteria for DRE impairment
- High blood pressure does **NOT** equal impairment
- On the essentially the same meds as when arrested
 - No indications of impairment in records
- Opinion: She was not under the influence of drugs, alcohol, or a combination of the two.

VERBAL OPINION

IN THE CIRCUIT COURT FOR CARROLL COUNTY

STATE OF MARYLAND

*

v.

*

CONSOLIDATED CASES:

*

Charles David Brightful

*

K-10-40259

Harvey Alexander Carr

*

K-10-40331

Ryan Thomas Mahon

*

K-09-39370

Valerie Ann Mullikin

*

K-09-39636

Ronald Dale Teeter

*

MARILAND V BRIGHTFUL

To Whom It May Concern:

[REDACTED] has been prescribed medication for ADHD from our office since December 2012. She is currently taking Adderall XR 20 mg - 1 tab twice daily. This medication has never caused any side effects of drowsiness or any other symptoms that could impair her driving ability to my knowledge. In addition, drowsiness is not a common side effect of Adderall XR, as it is a stimulant medication and generally causes the opposite effects. There has been no evidence of aberrant medication use or behaviors during her treatment in our office that would indicate that she has been diverting or abusing the medication.

If you have any questions or concerns, please don't hesitate to call.

Sincerely,

[REDACTED]

PCP OPINION LETTER

OHIO STATE HIGHWAY PATROL



Curriculum Vitae of:

Sergeant [REDACTED]

Batavia Post #13

DRE CV

Equipment Used During Evaluation

BAC Data Master #130675 for breath alcohol testing.

Standard Ink Pen (Stimulus)

Pupillometer Card - Drug influence chart on rear.

Pen Light – Unknown make/Serial #

Digital Thermometer – Mabis Healthcare Model # 15-733-000

Sphygmomanometer – American Diagnostic Corp.

Stethoscope - American Diagnostic Corp.

Standard wrist watch for timing.

Clip board

Powder free Nitrile gloves

Ohio State Highway Patrol Urine Kit

Standard Ohio Drug Evaluation and Classification Program forms.

DRE EQUIPMENT LIST



DRE NARRATIVE REPORT
Drug Evaluation and Classification Program
Ohio Department of Public Safety



DRE: Sergeant [REDACTED] Agency: Ohio State Highway Patrol
DRE#: 22369 Rolling Log #: 14-05-019 Ticket #: B658134

Subject's Name: [REDACTED] Birth Date: [REDACTED]
Date of this Report: 04/04/2014 Kentucky Driver's License #: [REDACTED]
Date of Evaluation: 04/01/2014 Start Time of Evaluation: 0111

1. **LOCATION:** The evaluation was conducted at the Batavia Post of the Ohio State Highway Patrol. The clinical portions of the evaluation were conducted in the squad room inside the patrol post. The psychophysical tests were conducted in the post garage. The dark room portion of the evaluation was conducted in the main restroom of the post.

2. **WITNESSES:**

Primary: Sergeant [REDACTED] OSHP Post #13 DRE
Witness: Sergeant [REDACTED] OSHP Post #13
Witness: Trooper [REDACTED] OSHP Post #13

3. **BREATH ALCOHOL TEST:** Trooper [REDACTED] obtained a BrAC sample from Ms. [REDACTED] prior to the evaluation. The result was .031% BrAC using the BAC Datamaster # 130675 at Post 13.

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DRE NARRATIVE REPORT

Pulse and time	HGN	Right Eye	Left Eye	Convergence	27/30 ONE LEG STAND 23/30
1. 116 / 0119	Lack of Smooth Pursuit	Pres	Pres		
2. 116 / 0135	Maximum Deviation	Pres	Pres		
3. 116 / 0155	Angle of Onset	None	None		
Romberg Balance	Walk and turn test	Cannot keep balance <input checked="" type="checkbox"/>			L R <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Sways while balancing <input type="checkbox"/> <input type="checkbox"/> Uses arms to balance <input type="checkbox"/> <input type="checkbox"/> Hopping <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Puts foot down Counts by 1's
		Starts too soon	None		
		Stops walking	1 st Nine	2 nd Nine	
		Misses heel-toe	None	None	
		Steps off line	None	<input checked="" type="checkbox"/>	
Eyelid Tremors	Slow & deliberate	Raises arms	None	None	
		Actual steps taken	None	None	
Internal clock 30 estimated as 30 seconds	Describe Turn Spin	Cannot do test (explain) N/A			Type of footwear: Gymshoes
Draw lines to spots touched 	PUPIL SIZE	Room light 2.5 - 5.0	Darkness 5.0 - 8.5	Direct 2.0 - 4.5	Nasal area: Clear
	Left Eye	5.5	8.5	4.5	Oral cavity: Elevated taste buds on tongue
	Right Eye	5.5	8.5	4.5	
	REBOUND DILATION <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		REACTION TO LIGHT: Slow		
RIGHT ARM		LEFT ARM			



OHIO DRUG RECOGNITION EXPERT PROGRAM
LOG OF DRUG INFLUENCE EVALUATIONS



Drug Recognition Expert: Sgt. [REDACTED] Agency: OSHP IACP Certificate Number: DRE022369

Control Number	Suspect's Name	DOB	AGE	Case Number	Date/ Time	Opinion of DRE	Tox Type	Tox Results	Misc	Role
13-01-001	[REDACTED]	[REDACTED]	27	B438374	11/15/13 1650	Narcotic Analgesic/Cannabis/Alcohol/CNS Depressant	R	Reviewed by Instructors Kenney and Gable	I-Kenney S-Taylor	E/St
13-02-002	[REDACTED]	[REDACTED]	22	Training	11/19/13 1308	Cannabis	U	Meth, THC, AMP	I-Gable E-Day S-Day	S/St
13-03-003	[REDACTED]	[REDACTED]	23	Training	11/19/13 1420	Cannabis/CNS Stimulant	U	Meth, THC, AMP	I-Kenney I-Gable S-Day	E/St
13-04-004	[REDACTED]	[REDACTED]	36	Training	11/19/13 1539	Cannabis	U	THC, OPI, OXY	E-day I-Gable	S/St
13-05-005	[REDACTED]	[REDACTED]	24	Training	11/19/13 1725	Cannabis/CNS Stimulant	U	Meth, AMP, THC, Methadone	S-Ganley I-French	E/St
13-06-006	[REDACTED]	[REDACTED]	38	Training	11/19/13 1925	Narcotic Analgesic/CNS Stimulant	U	Meth, AMP, OPI, Methadone	E-Day I-Gable O-Hawkins	S/St
13-07-007	[REDACTED]	[REDACTED]	1	Training	11/20/13 1253	CNS Stimulant	U	Meth, AMP	E-Bush O-Day I-Gable S-Powers	O/St
13-08-008	[REDACTED]	[REDACTED]	21	Training	11/20/13 1343	CNS Stimulant/CNS Depressant	U	AMP, OPI, Benzo, Meth, THC	I-Gable S-Bush	E/St
13-09-009	[REDACTED]	[REDACTED]	73	Training	11/20/13 1505	Cannabis/CNS Stimulant	U	THC	E-Bush I-Gable	S/St
13-10-010	[REDACTED]	[REDACTED]	41	Training	11/20/13 1555	Cannabis/CNS Stimulant	U	Meth, THC, AMP	S-Sanger I-Gable	E/St
13-11-011	[REDACTED]	[REDACTED]	30	Training	11/20/13 1425	Cannabis	U	THC	E-Bush I-Gable I-Schmoll	S/St
13-12-012	[REDACTED]	[REDACTED]	27	Training	11/20/13 1708	Cannabis	N/A	Reviewed by Instructors Gable and Cuckler	S-Bush, O-Day O-Powers, I-Gable, I-Cuckler	E/St

ROLE** (LIST ALL THAT APPLY): E=Evaluator, S=Scribe, O=Observer, St=Student, I=Instructor

1

ROLLING LOG

LAKSHMI SAMMARCO, M.D.

HAMILTON COUNTY CORONER

The Frank P. Cleveland, M.D. Institute of Forensic Medicine, Toxicology and Criminalistics
3159 Eden Avenue, Cincinnati, Ohio 45219-2299 Main Office: 513-946-8700
Fax: 513-946-8730 Crime Laboratory: 513-946-8750 Morgue: 513-946-8740

November 18, 2014

State of Ohio v. [REDACTED]

[REDACTED]

The breath alcohol result of 0.031 g/210 L is equivalent to a blood ethyl alcohol concentration of 0.031 g/100 mL. I would expect a person with this ethyl alcohol concentration to have some degree of diminished attention, judgment and control when driving a vehicle and to be processing information in a slower manner than normal.

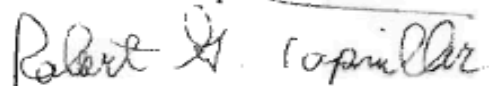
Amphetamine is a central nervous system (CNS) stimulant drug prescribed for weight control and attention deficit disorder. Some effects associated with the use of amphetamine include increased alertness, euphoria, agitation and aggressiveness. High risk driving behavior has been associated with using amphetamine.

STATE'S EXPERT

The identification of alpha-hydroxyalprazolam, amphetamine and hydrocodone in a urine specimen indicates that an individual has either ingested these drugs, or metabolized these drugs from other parent drugs, prior to the collection of the urine specimen. It is not known whether any of these drugs were present in Ms.

██████████'s blood at the time of the arrest and thus influencing her behavior. One possible explanation for any observed abnormal behavior may be that one or more of these drugs were present with ethyl alcohol in Ms. ██████████'s blood and thereby adversely affecting her behavior.

Robert G. Topmiller

A handwritten signature in black ink that reads "Robert G. Topmiller". The signature is written in a cursive style with a horizontal line above the name.

Chief of Toxicology

- ⌘ Opinion of State's Expert:
- ⌘ Hamilton County Coroner's Lab
 - ⌘ DRE's opinion needs science.
 - ⌘ Needs something to say it is really there.
 - ⌘ Took the opinion with a grain of salt.
- ⌘ .031 BrAC
 - ⌘ May experience some diminished capacity
 - ⌘ Equivalent of one drink
 - ⌘ Low end of the spectrum of impairment
- ⌘ Amphetamine
 - ⌘ CNS Stimulant
- ⌘ Other Drugs may have some pharmacological effect
 - ⌘ However, in urine it is difficult to infer any conclusions.
- ⌘ While it is possible the drugs and alcohol may be causing her condition, there are many other possible reasons for it.
- ⌘ Alcohol and these drugs can have an additive effect on her.
 - ⌘ Presence in urine means she has ingested or metabolized these drugs from other drugs.
 - ⌘ Cannot know what was active at the time of her arrest
 - ⌘ No idea what effect the drugs could be having on her.
 - ⌘ No idea what drugs present in her blood at the time.

MY NOTES FROM TALKING TO STATE'S EXPERT

ARIDE & DRE ISSUES

{ Robert Healey, Esq., Suhre and Assoc., LLC
{ rhealey@suhrelaw.com