92-005 Video Recording of Driving Under the Influence (D.U.I.) Chemical Test Refusals

Los Angeles County Sheriff's Department

FIELD OPERATIONS DIRECTIVE

Field Operations Support Services

VIDEO RECORDING OF DRIVING UNDER THE INFLUENCE

(D.U.I.) CHEMICAL TEST REFUSALS

PURPOSE

The purpose of recording Driving Under the Influence (DUI) chemical test refusals is to provide physical evidence of the refusal. Many of the cases that go to trial center on the credibility of the deputy regarding the advisement, rather than the drunk driver. It is anticipated that with video evidence, pre-trial guilty pleas will increase and those cases that go to trial will result in a conviction.

POLICY AND PROCEDURES

The following procedures shall be followed in all DUI chemical test refusals:

- Ascertain if the suspect intends to refuse chemical testing;
- If the suspect refuses chemical testing, the refusal must be recorded on video. This can be done in the field, hospital, or station;
- The type of device used to record the refusal must have the capability to transfer the video to a medium that can be physically booked into evidence. (i.e. CD, USB storage device, etc.)
- When recording the refusal, have the suspect face the camera, state the suspect's full name and date of birth, your name, and any other Department member present for the recording;
- If an interpreter is necessary, name the interpreter on camera
- Advise the suspect there are sanctions for failure or refusal to submit to a blood alcohol test, and they are deemed to have consented to chemical testing of blood or breath per sections, 13353 and 23612 of the California Vehicle Code (CVC);
- Ask the suspect if he/she will provide a sample for a chemical test. Try to elicit a verbal response from the suspect;
- After the advisement and the suspect's refusal, stop recording;
- Include the suspect's advisement and refusal on video in the narrative portion of the arrest report; and
- Remove the video tape, disc, memory card, or copy the recording onto a medium and book it into evidence.

All recordings will be held for evidence until the case has been adjudicated. If recordings are requested by

subpoena for the defense, whether by private or public defender, they must supply a blank recordable CD, or suitable media device, ten business days in advance. They must also supply a copy of the front and back of the original arrest report.

All evidence handling procedures shall be adhered to per Volume 5 - Chapter 4, Property and Evidence Procedures, of the Manual of Policy and Procedures.