



NO REFUSAL

SAMPLE

STATE OF _____

[LIST LOCAL COUNTY/PARISH/CITY/ETC]

SAMPLE AFFIDAVIT FOR SEARCH WARRANT

BEFORE ME, the undersigned authority, personally came and appeared _____, a law enforcement officer in the [LOCATION], State of _____, who requests that a search warrant issue for the following:

Whole blood or alveolar lung air from the person of:

RACE/SEX _____ DOB _____ DL# _____

who is currently under arrest for the offense of Operating a Vehicle While Intoxicated _____ Offense and in affiant's custody within the territorial jurisdiction of this Court.

The facts and circumstances establishing the basis for the issuance of this Search Warrant are as follows:

Affiant is a full-time law enforcement officer with _____ - _____ and has been employed in law enforcement for _____ years. Affiant has successfully completed Police Officer Standardized Training (POST) and is trained to perform the Standardized Field Sobriety Test (SFST) and is/is not (circle appropriate response) certified to operate the [name of breath test equipment used]. This experience and education has trained affiant to detect impaired or intoxicated drivers by:

- 1) Observing their driving behavior which includes but is not limited to weaving in and/or out of their lane of travel, traffic signal violations, and speeding;
- 2) Observing their physical characteristics which include are but not limited to: blood-shot eyes, unsteady balance, slurred speech, and/or odor of alcoholic beverage; and

- 3) The use of Standardized Field Sobriety Tests including but not limited to the horizontal gaze nystagmus, the one-leg stand and the walk-and-turn tests. These tests are used by the law enforcement profession and affiant finds they are accurate and reliable indications of intoxication (or lack thereof). Affiant has arrested numerous people for DWI based upon their poor performance on these tests (as well as releasing many people based upon their satisfactory performance on these tests).

Over the affiant's law enforcement career, affiant has made approximately _____ arrests for Operating a Vehicle While Intoxicated and observed the same or similar driving behavior and physical characteristics of alcohol/drug impaired driver that are listed above. Affiant has also formed opinions on alcohol/drug impaired drivers on many occasions and his suspicions have been confirmed by breath, blood, or urine samples that were administered after he performed his investigation.

In this case, affiant or a fellow known law enforcement officer was on patrol on the ____ day of _____, 20____, at _____ o'clock a.m./p.m., when affiant or said fellow known law enforcement officer noticed the suspect operating a motor vehicle in[City, State]. Affiant personally observed or was advised by a fellow known law enforcement officer of the following regarding suspect's operation of the vehicle (be sure to include location of operation):

Upon contacting the suspect, affiant personally observed and/or was advised by a known fellow law enforcement officer of the following that tended to establish that the suspect was under the influence of an alcoholic beverage or drugs:

Affiant then conducted Standardized Field Sobriety Tests with the following results:

Based upon the totality of the circumstances, including the suspect's actions, statements, and performance as stated above, affiant was of the opinion that the suspect was intoxicated or under the influence of an alcoholic beverage/controlled dangerous substance at which time the suspect was arrested for the offense of DWI under the provisions of [State statute here].

The suspect was transported to affiant's office, advised of his/her rights pursuant to [State statute here] and interviewed by affiant. During the interview, the suspect told the affiant the following:

After the interview, the affiant directed the suspect to submit to a breath test to determine suspect's blood alcohol concentration, which the suspect refused.

Based upon the observations of the suspect operating his/her automobile, suspect's physical characteristics, his/her performance on the standardized field sobriety tests, suspect's statements to affiant and the education, training and experience of the affiant in investigating and arresting intoxicated drivers, affiant has probable cause to believe that this suspect is under the influence of an alcoholic beverage or controlled dangerous substance while he/she was operating a motor vehicle, as stated above.

WHEREFORE, affiant respectfully requests that a search warrant be issued ordering the suspect to submit to a [name of equipment] breath test at the direction of the arresting officer, or in the alternative, authorizing the affiant or any other peace officer in [City, State], to search for and seize whole blood in an amount sufficient for testing and analysis from the suspect in an appropriate medical setting, as provided for by law.

AFFIANT Tel: (xxx) _____

Fax: (xxx) _____

SWORN TO AND SUBSCRIBED before me on this _____ day of _____,
20____, at _____ o'clock a.m./p.m.

JUDGE

STATE OF _____
[LIST LOCAL COUNTY/PARISH/CITY/ETC]

SAMPLE SEARCH WARRANT

TO: Any Peace Officer in the City, State of

GREETINGS:

Pursuant to the Affidavit for a Search Warrant executed by
_____, who has reason to believe that within the person of:

RACE/SEX _____ DOB _____ DL# _____

there exists evidence of ethanol, an alcoholic beverage or a Controlled Dangerous Substance in the breath/blood of the above described person, which constitutes evidence tending to prove the commission of the offense of Operating a Vehicle While Intoxicated in violation of [List Statute here]. I am satisfied that there is probable cause to believe that the evidence so described is located in the breath/blood of the above described person and that legal grounds exist for the issuance of a search warrant; therefore,

IT IS ORDERED THAT:

- 1) the affiant shall immediately and personally serve a copy of this search warrant on the suspect;
- 2) THE SUSPECT, PURSUANT TO THIS SEARCH WARRANT, IS ORDERED BY THE COURT TO SUBMIT TO A BREATH TEST AT THE DIRECTION OF THE ARRESTING OFFICER to test for evidence of ethanol or an alcoholic beverage;
- 3) if the suspect refuses to submit to the breath test as ordered by the Court, affiant (or any other peace officer) is ordered to seize the above described person and obtain a sample of whole blood in an appropriate medical setting in strict accord with medically acceptable practices by a physician, physician assistant, registered nurse, emergency medical technician, chemist, nurse practitioner or other qualified technician, as provided by law;
- 4) the affiant shall preserve the original executed affidavit for the search warrant and the faxed return of the affidavit and search warrant signed by the judge.

This warrant may be executed any time of the day or night, including Sunday, at any place the person is found and is directed to any peace officer who may use such means and force as necessary to obtain the bodily samples as directed in the warrant.

Issued this _____ day of _____, 20____, at _____ o'clock
a.m./p.m.

JUDGE

* * * * *

The suspect was given a copy of this search warrant/order on _____, 20____,
at _____ o'clock a.m./p.m.

By: _____
Peace Officer