

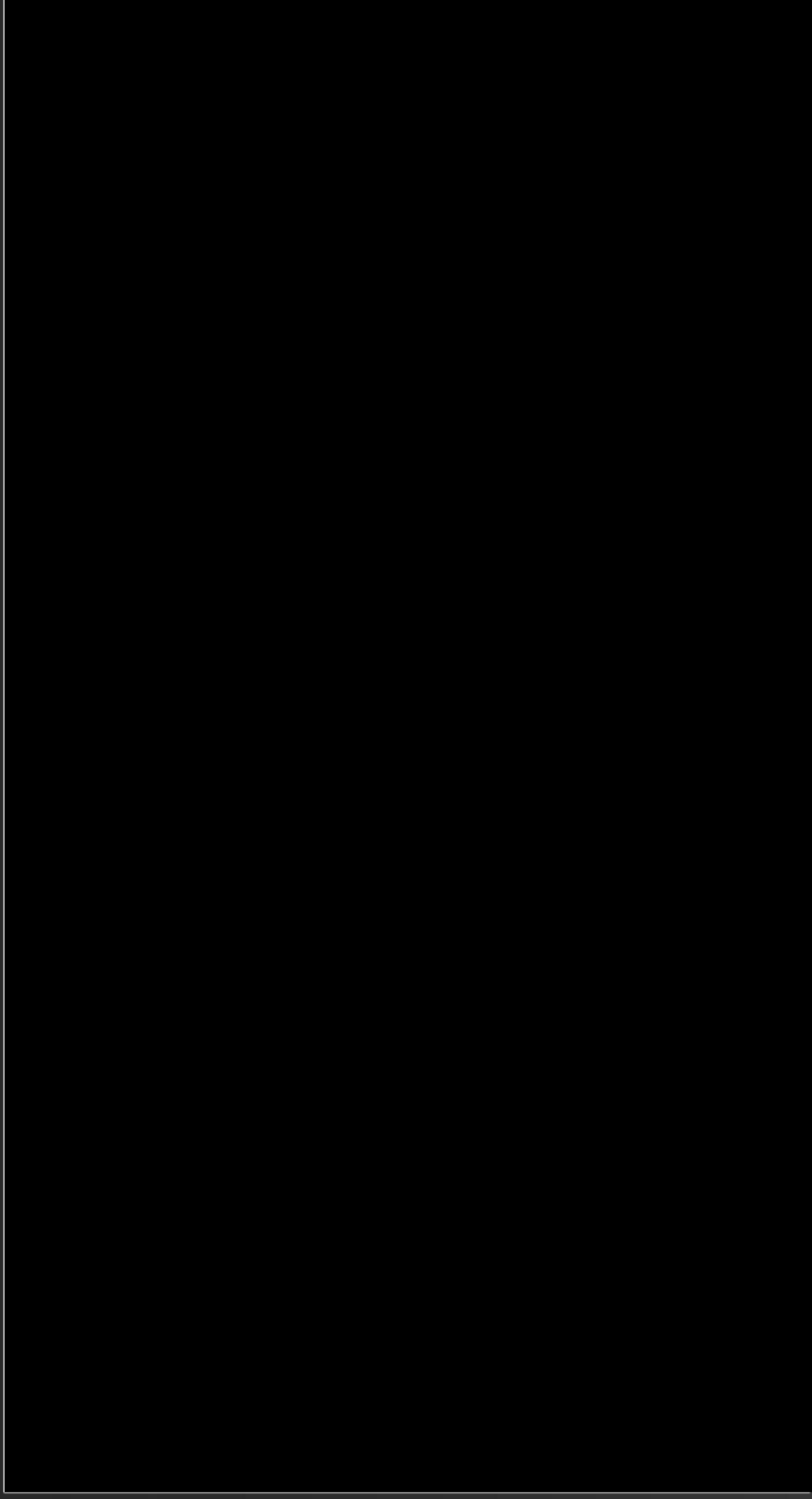
FORGOT ABOUT DRE



[REDACTED]
DEPUTY DISTRICT ATTORNEY

DRE Program

Goals of the Training:



DRE Qualifications

- ▣ POST certified
 - 664 Hours of training (state minimum)
 - Not counting FTO, additional classes
- ▣ SFST Trained/Certified (16 hours)
- ▣ ARIDE Trained/Certified (16 hours)
- ▣ Pass proficiency evaluation
- ▣ Preliminary DRE school (16 hours)
- ▣ Pass Preliminary DRE school exam
- ▣ Pass DRE School (56 hours)
- ▣ Pass DRE final exam
- ▣ Field Certifications
- ▣ Re-certifications every 2 years (plus 8 hours)

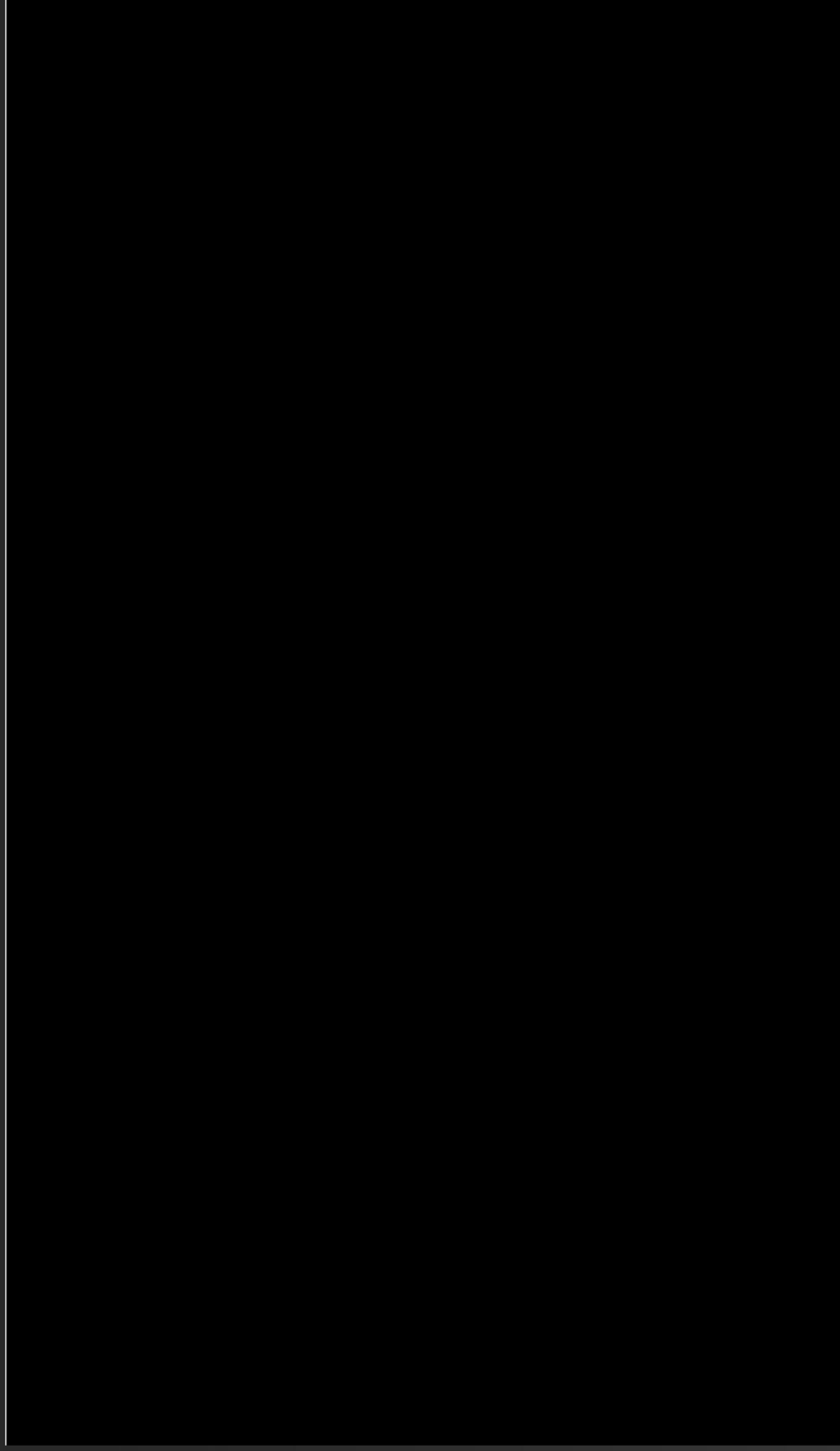
DRE Program

- Started with the Drug Evaluation and Classification Program (DECP) by LAPD in early 1970's.
 - Prevalence of impaired drivers with little/no alcohol in their system
- DECP recognized by LAPD in 1979
- NHTSA and LAPD worked together to form DRE program

DRE Program

- ▣ Chemical tests were not (are not) determinative of:
 - Whether the drug is psychoactive
 - Whether individual is under the influence
- ▣ Three-phase process for DRE evaluation:
 - 1) Determination that impairment exists
 - 2) Rule out of injury/illness
 - 3) Determination of category
- ▣ Program grew to be systematic and standardized

DRE Program



DRE Program

- ▣ Field Validation Study
 - LAPD (1985) (The “173 Study”)
 - Studied 173 subjects arrested for suspicion of driving with impairment from drugs
 - 1 had no drugs or alcohol
 - 10 had alcohol only
 - 162 had a drug in their system
 - 21% had only one drug other than alcohol
 - 47% had two drugs in their system
 - 25% had three or more
 - 92.5% of blood tests confirmed presence of a category opined by DRE

DRE Program

- ▣ Currently run by the IACP
 - Funded by NHTSA
- ▣ Each State has its own coordinator
 - California is coordinated by the CHP
 - Maintain training records and standards
- Rolling Logs
- CV's for DREs

DRE Evaluation

- ▣ 12 Step Evaluation Process
- ▣ Systematic and Standardized
 - Controlled environment (not roadside)
- ▣ Triggering event?
 - Major collisions
 - Impairment inconsistent with BAC level

DRE Evaluation

- 1) Breath test
- 2) Interview of arresting officer
- 3) Preliminary examination
- 4) Eye exam
- 5) Divided attention psychophysical tests
- 6) Vital signs
- 7) Dark room examination
- 8) Check muscle tone
- 9) Check injection sites
- 10) Interview of subject
- 11) Opinion
- 12) Toxicological Exam

DRE Evaluation

STATE OF CALIFORNIA DEPARTMENT OF CALIFORNIA HIGHWAY PATROL DRUG RECOGNITION EVALUATION CMP 2020RHE (Rev. 7-03) OPI 031		TO BE COMPLETED BY D.R.E. TRAINED PERSONNEL	
Page _____ of _____		Officer(s) Charged _____	
Name (Last, First, Middle) _____		Arresting Officer (Name & D. Number) _____	
DOB _____		Sex _____	
Time _____		Date/Time/Location of Examination _____	
Breath test results _____		Refused _____	
Administration of Rights given by? _____		Rights Waived? ☐ Yes ☐ No	
Time Now? _____		When did you last sleep? _____	
Do you take medication? ☐ Yes ☐ No		Do you have any physical defects? _____	
Are you taking any medication or drugs? ☐ Yes ☐ No		Do you have high blood pressure or heart disease? If yes, describe _____	
Speech _____		Coordination _____	
Complaints/Lesions _____		Blindness _____	
Pupil size _____		Eyes _____	
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DRE Evaluation

1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5
OREGON DRUG EVALUATION CLASSIFICATION PROGRAM															
HORIZONTAL GAZE NYSTAGMUS															
VERTICAL GAZE NYSTAGMUS															
LACK OF CONVERGENCE															
ESTIMATION OF PUPIL SIZES															
DRE Average Range															
Room light 2.5mm to 5.0mm															
Near total darkness 5.0mm to 8.5mm															
Direct light 2.0mm to 4.5mm															
PUPILLARY REACTION TO LIGHT															
9.0 9.5 10.0															

DRE Evaluation

INDICATORS CONSISTENT WITH DRUG CATEGORIES

	CNS DEPRESSANTS	CNS STIMULANTS	HALLUCINOGENS	DISSOCIATIVE ANESTHETICS	NARCOTIC ANALGESICS	INHALANTS	CANNABIS
HGN	PRESENT	NONE	NONE	PRESENT	NONE	PRESENT	NONE
VGN	PRESENT (HIGH DOSE)	NONE	NONE	PRESENT	NONE	PRESENT (HIGH DOSE)	NONE
LACK OF CONVERGENCE	PRESENT	NONE	NONE	PRESENT	NONE	PRESENT	PRESENT
PUPIL SIZE	NORMAL (1)	DILATED	DILATED	NORMAL	CONSTRICTED	NORMAL (4)	DILATED (6)
REACTION TO LIGHT	SLOW	SLOW	NORMAL (3)	NORMAL	LITTLE OR NONE VISIBLE	SLOW	NORMAL
PULSE RATE	DOWN (2)	UP	UP	UP	DOWN	UP	UP
BLOOD PRESSURE	DOWN	UP	UP	UP	DOWN	UP/DOWN (5)	UP
BODY TEMPERATURE	NORMAL	UP	UP	UP	DOWN	UP/DOWN/ NORMAL	NORMAL
MUSCLE TONE	FLACCID	RIGID	RIGID	RIGID	FLACCID	NORMAL OR FLACCID	NORMAL

FOOTNOTE: These indicators are those most consistent with the category, keep in mind that there may be variations due to individual reaction, dose taken and drug interactions.

- (1) Soma. Qualaludes and some antidepressants usually dilate pupils
- (2) Qualaludes, ETOH and some antidepressants may elevate
- (3) Certain psychedelic amphetamines may cause slowing
- (4) Normal, but may be dilated
- (5) Down with anesthetic gases, up with volatile solvents and aerosols
- (6) Pupil size possibly normal

DRE Categories

- ▣ Divided into categories based upon the effects of the drugs
- ▣ Why is this important?
 - Helps to identify which types of drugs to target
 - Also helps to explain duration and effects and method of impairment
- ▣ DRE definition of word drug:
 - “Any substance that, when taken into the human body, can impair the ability of a person to operate a vehicle safely.”

DRE Categories

- 1) CNS Depressants
- 2) Inhalants
- 3) Dissociative Anesthetics
- 4) Cannabis
- 5) CNS Stimulants
- 6) Hallucinogens
- 7) Narcotic Analgesics

CNS Depressants

- ▣ CABANA
 - Combinations
 - Anti-depressants
 - Barbiturates
 - Anti-anxiety tranquilizers (minor tranqs)
 - Non-Barbiturates
 - Anti-psychotic tranquilizers (major tranqs)

CNS Depressants

- ▣ Mostly orally ingested
 - Some insufflation/injection
- ▣ Duration varies
 - Some ultra short, some very long, depending on intended effect
 - Short to intermediate are the drugs of most common abuse
 - Soma, GHB, Ambien, Valium, Xanax, Klonopin, Rohypnol
- ▣ More than additive effect with alcohol

CNS Depressants

▣ HGN:	Present
▣ VGN:	Present (high dose FTL)
▣ LOC:	Present
▣ Pupil Size:	Normal
▣ React to Light:	Slow
▣ Pulse:	Down
▣ Blood Pressure:	Down
▣ Body Temp:	Normal

Inhalants

- ▣ Three major categories:
 - Volatile solvents
 - Aerosols
 - Anesthetic gases
- ▣ Usually abused by children/
 - Cheap, mostly legal, household items
- ▣ Absent clear indications of recent use, hard to detect in most cases

Inhalants

- ▣ Volatile solvents
 - Longest lasting inhalant
 - May actually appear in blood stream
- ▣ Volatile because they evaporate easily to make fumes
- ▣ Longer term impairment
 - Gasoline, kerosene, airplane glue, fingernail polish remover, lighter fluid
 - Spray paint (especially metallic)

Inhalants

- ▣ Aerosols
 - Chemicals that are pressurized by gasses that produce intoxicating effects
 - Not going for the substance itself, but the gas used to pressurize it
- ▣ Very short duration of effects
- ▣ Household items
 - Hair spray, deodorant, insecticides

Inhalants

- ▣ Anesthetic Gases
 - Gases that are used as a means to block perception of pain
- ▣ Usually derive from medical uses
 - Ether
 - Nitrous Oxide
 - Extremely fast, very common for abuse
 - Less than 5 minutes

Inhalants

▣ HGN:	Present
▣ VGN:	Present (high dose FTL)
▣ LOC:	Present
▣ Pupil Size:	Normal
▣ React to Light:	Slow
▣ Pulse:	Up
▣ Blood Pressure:	Up/Down
▣ Body Temp:	Up/Down/Normal

Dissociative Anesthetics

- Dissociate the brain from sensory nerves by cutting connection to pain
- Primarily used as a surgical anesthetic
 - Phenyl Cyclohexyl Piperidine
 - Phencyclidine
 - PCP
 - Ketamine (PCP analog)
 - Dextromethorphan (DXM)

Dissociative Anesthetics

- ▣ Ingestion
 - PCP and Ketamine are usually smoked
 - Super joints/cigarettes
 - Usually in foil
 - Usually menthols
 - Eyedroppers
 - Injection (skin pop or muscle)
 - Transdermal
- ▣ Duration
 - PCP: 4-6hrs
 - Ketamine: 1-2hrs
 - DXM: 3-6hrs

Dissociative Anesthetics

▣ HGNI:	Present
▣ VGN:	Present
▣ LOC:	Present
▣ Pupil Size:	Normal
▣ React to Light:	Normal
▣ Pulse:	Up
▣ Blood Pressure:	Up
▣ Body Temp:	Up

Cannabis

- ▣ We know what cannabis is.
- ▣ Has changed significantly
 - Not the same as Woodstock Herb
 - 2013 – average THC 13%
 - Now ranges between 5-28%
 - 2013 Butane Honey Oil – Average 68.4%
- ▣ Effects vary between strains
 - Either sativa or indica (in da couch)

Cannabis

- ▣ Active ingredient is delta-9 tetrahydrocannabinol (delta-9 THC)
 - Active metabolite of hydroxy (OH) THC
 - Inactive metabolite of carboxy (COOH) THC
- ▣ Has medicinal uses (get over it)
 - Issue becomes whether someone can drive on it
 - Toxicological results mean little
- ▣ Lipophilic substance
 - Loves fat (brain, bones), not water (blood, serum)
 - Leaves bloodstream to fatty tissues

Cannabis

▣ HGN:	Not Present
▣ VGN:	Not Present
▣ LOC:	Present
▣ Pupil Size:	Dilated
▣ React to Light:	Normal
▣ Pulse:	Up
▣ Blood Pressure:	Up
▣ Body Temp:	Normal

CNS Stimulants

- ▣ Three categories
 - Cocaine
 - Cocaine, cocaine base, crack cocaine
 - Amphetamines
 - D-Methamphetamine, benzedrine
 - Other
 - Ritalin, cathinone, energy drinks, caffeine

CNS Stimulants

- Methamphetamine
 - Can be prescribed (Desoxyn) (rare)
 - Long effects
 - “High” for 4-8 hours
 - Effects for up to 12 hours
 - HARD downside effects
 - Body reacts to counter effects of drug
 - Very caustic to human body
 - Extreme dopamine rush
 - Can destroy dopamine balance forever
 - Smoking is inefficient, usually escalates

CNS Stimulants

▪ HGN:	Not Present
▪ VGN:	Not Present
▪ LOC:	Not Present
▪ Pupil Size:	Dilated
▪ React to Light:	Slow
▪ Pulse:	Up
▪ Blood Pressure:	Up
▪ Body Temp:	Up

Hallucinogens

- ▣ Typically defined by creating synesthesia, delusions, and illusions
 - Create a sensory experience that exists outside of the mind
- ▣ Two categories of hallucinogens
 - Natural
 - Psilocybin, peyote, salvia divinorum
 - Synthetic
 - LSD, DMT, MDMA, MDA

Hallucinogens

- ▣ Can intensify mood at the time of ingestion
- ▣ Varying time factors
 - Peyote: Up to 10-12hrs
 - Psilocybin: 2-3hrs
 - LSD: 7-12hrs
 - MDMA: 1-12hrs
- ▣ Can cause flashbacks
- ▣ Usually very poor performance on divided attention tests
- ▣ Giant pupils (rimmed out)

Hallucinogens

▣ HG N:	Not Present
▣ VG N:	Not Present
▣ LOC:	Not Present
▣ Pupil Size:	Dilated
▣ React to Light:	Normal
▣ Pulse:	Up
▣ Blood Pressure:	Up
▣ Body Temp:	Up

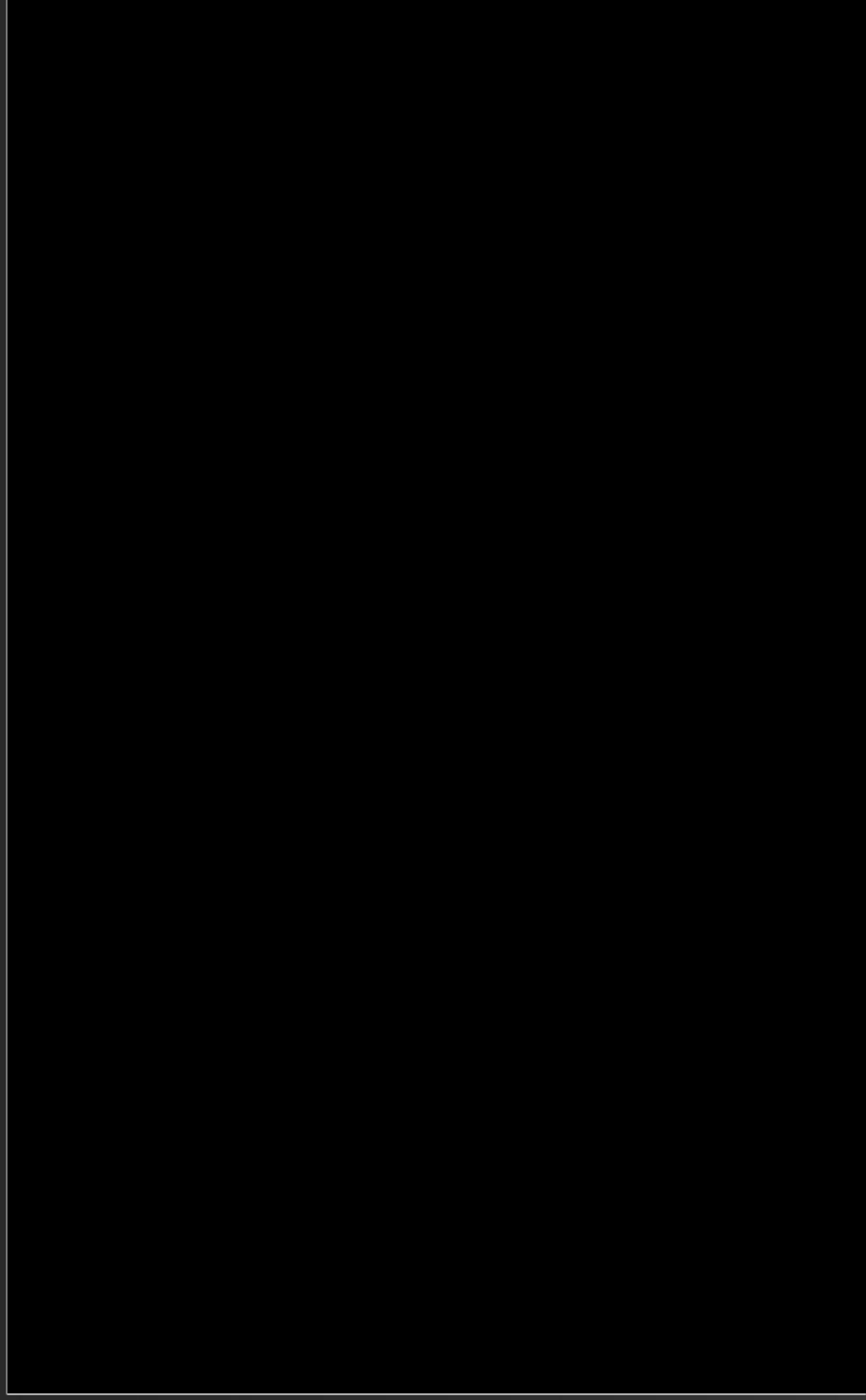
Narcotic Analgesics

- ▣ General purpose is to relieve pain, but also induces numbness and sedation (narcosis)
- ▣ Three categories of NAs:
 - Natural (Opiates) (derived from opium)
 - Heroin, morphine, codeine, dilaudid, hydrocodone, oxycodone
 - Synthetic (Opioids)
 - Demerol, methadone, fentanyl
 - Other
 - Kratom (low dose stim, high dose NA)
- ▣ Constricted pupils – only category
- ▣ Terrible withdrawals

Narcotic Analgesics

▪ HGN:	Not Present
▪ VGN:	Not Present
▪ LOC:	Not Present
▪ Pupil Size:	Constricted
▪ React to Light:	Little/none
▪ Pulse:	Down
▪ Blood Pressure:	Down
▪ Body Temp:	Down

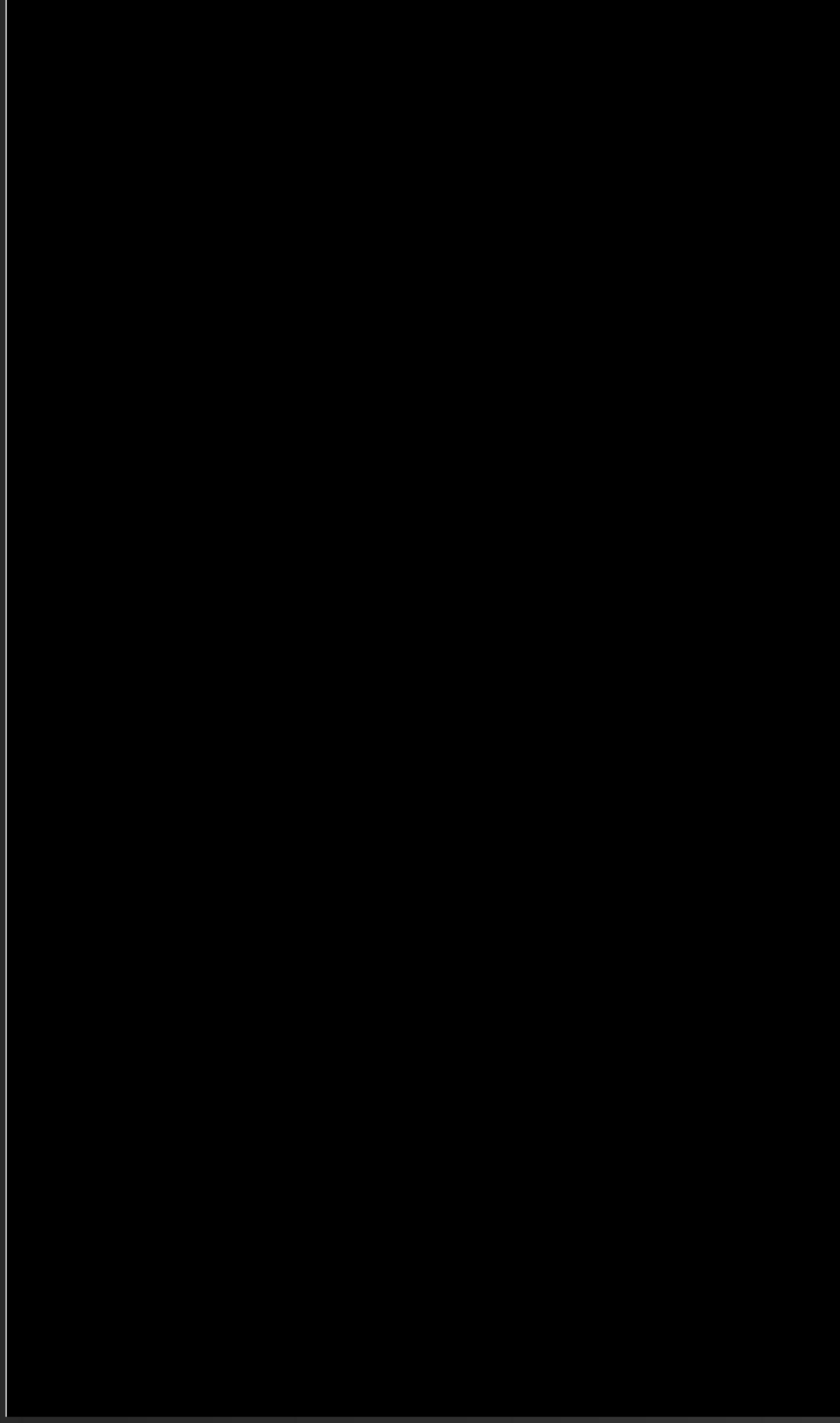
DRE Testimony



DRE Testimony

- ▣ Terms hit list:
 - HOMEOSTASIS
 - Proprioception
 - Miosis
 - Mydriasis
 - Ptosis
 - Bruxism
 - Convergence/Vergence
 - Ocular Accomodation
 - Downside Effect
 - Negative Feedback
 - Polydrug effects
 - Autonomic nervous system
 - Sympathetic
 - Parasympathetic
 - Parasympathomimetic

DRE Testimony



BLOOD DRAWS

- *People v. Cuevas* (2013) 218 Cal. App. 4th 1278
 - ▣ Officers can testify about blood draws and whether they were performed in a reasonable manner under the 4th Amendment.
 - Def was given implied consent admonishment
 - Def consented
 - Blood draw performed by someone the officer believed to be a phlebotomist or blood tech.
 - Def did not appear to be in pain/discomfort
 - Blood draw was routine based on officer's training and experience.
 - Site was cleaned in advance of blood draw
 - Clean needle was used.

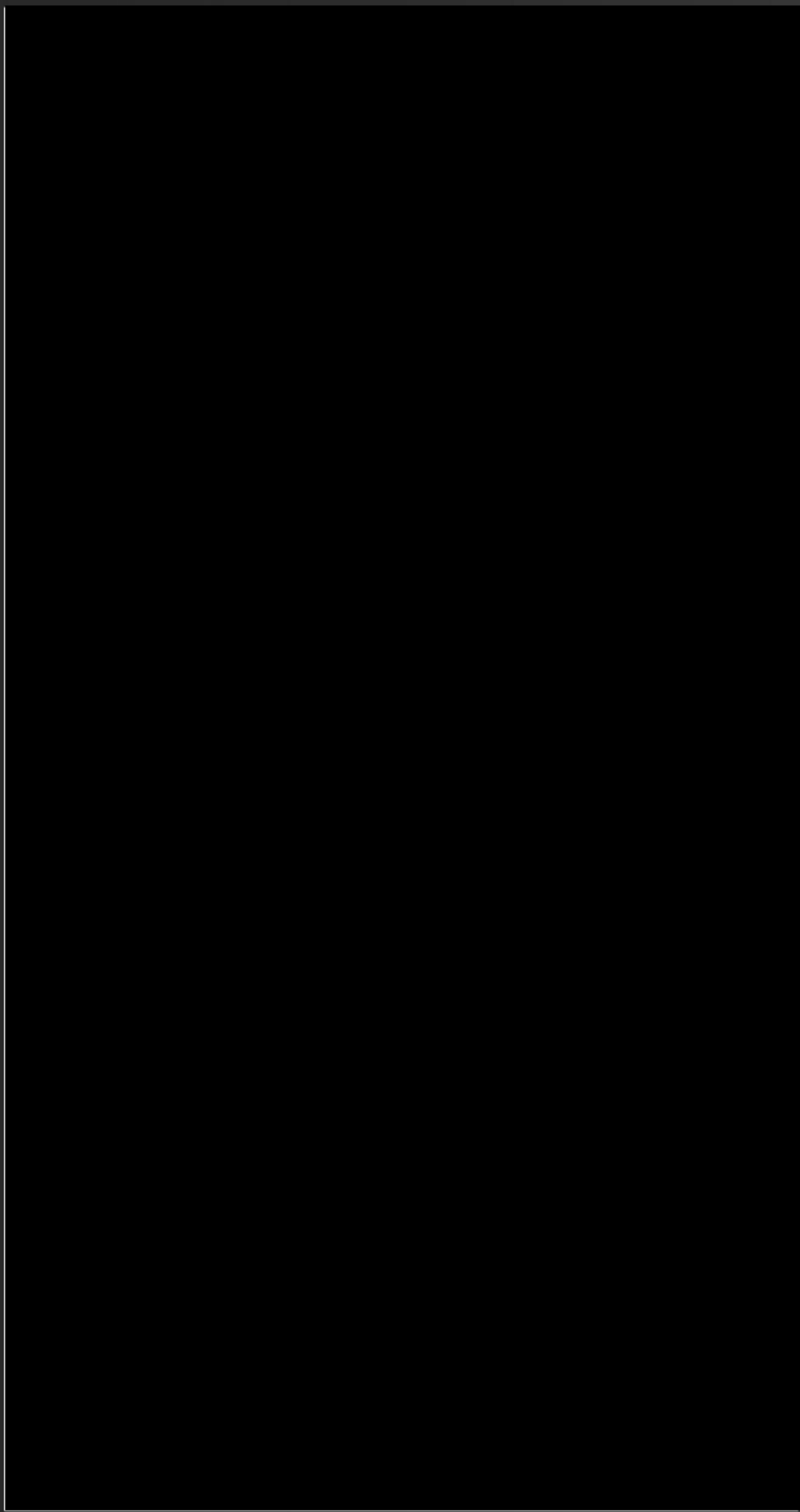
BLOOD DRAWS

- *People v. Fish* (2018) 29 Cal.App.5th 462
 - Valid arrest for DUI
 - Defendant refused to submit to testing, officer got a blood warrant
 - Draw performed at a hospital where officer observed (no testimony regarding manner)
 - Court relies on official duty presumption (Evid. Code 664) and presumption of validity
 - Burden of proving unconstitutional blood draw rested upon the defendant under these facts

CURRENT CASES IN DUI

- *Missouri v. McNeeley* (2013) 133 S. Ct. 1552
- *Birchfield v. North Dakota* (2016) 136 S. Ct. 2160
 - Breath tests without a warrant → search incident to arrest.
- *People v. Toure* (2015) 232 Cal. App. 4th 1096
- *People v. Meza* (2018) 23 Cal. App. 5th 604
- *People v. Vannesse* (2018) 23 Cal. App. 5th 440
- *People v. Gutierrez* (2018) 27 Cal. App. 5th 1155
- *Mitchell v. Wisconsin* (2019) 588 U.S. ____
- *People v. Cruz* (2019) 34 Cal.App.5th 764
- *People v. Lopez* (2020) (3rd DCA C080065 3/11/20)

PEARLS OF WISDOM



DUI PROSECUTION

THANK YOU FOR JOINING US!

ANY
QUESTIONS?

FEEL FREE TO COME AND CHAT CASES WITH US AT
ANY TIME!