

CALIFORNIA DEPARTMENT OF JUSTICE EVIDENTIAL PORTABLE ALCOHOL SYSTEM (EPAS)

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ABSTRACT

The California Department of Justice, Bureau of Forensic Services is committed to providing a statewide portable evidential breath test (PEBT) program for DUI enforcement. We will deploy 800 Evidential Portable Alcohol Systems (EPAS) instruments for use in patrol vehicles used by the Bureau's client agencies. In addition to the instruments, the program will include technical support, training, and expert testimony to ensure the requirements of Title 17 of the California Code of Regulations for forensic alcohol testing are met. The automated design of the PEBT insures accuracy and quick distribution of results to DMV and District Attorneys through the Bureau's Statewide Alcohol Information Network (SAIN). The inherent value of this equipment over stationary instruments is the ability to provide evidential results at the time of the DUI stop. With the subject's alcohol level determined in the field, alternate transportation to the jail can be arranged keeping the officer on the street. The California Department of Justice is taking a leadership role in being the first agency in the U.S. to provide this new technology for enforcing drinking and driving laws.

INTRODUCTION

The needs of law enforcement for driving under the influence (DUI) chemical testing technology are changing because of the increased emphasis on roadside sobriety checkpoints, mobile task forces, and the use of the Preliminary Alcohol Screening (PAS) device for field sobriety and evidential testing. For these programs to be successful, licensed forensic alcohol laboratories must provide equipment, technical support, and expert testimony as specified by Title 17 of the California Code of Regulations. The California Department of Justice is responsible for evidential alcohol programs for 500 agencies covering 46 counties. These agencies are

increasing their demands for the Department's support in administering their DUI enforcement programs. At the present time we lack the equipment to provide adequate support that complies with Title 17 of the California Code of Regulations for mobile DUI enforcement. Additionally the Department's 14 year old Intoxilyzer 5000 devices need to be replaced with equipment that can be used for both stationary and mobile testing.

Large stationary breath instruments used by BFS, and other crime laboratories were not designed for portable testing at roadside checkpoints or at the location of a collision or traffic stop. The instability of these instruments when used with portable power supplies in vans and motorhomes has resulted in test results that are unacceptable. The devices are too large and cumbersome for use in a patrol car. BFS laboratories presently provide backup instruments as well as an analyst to constantly monitor the devices' condition for use at roadside sobriety checkpoints. As an alternative, new technology instruments designed for portable evidential testing should be used for sobriety checkpoints.

There are over 4,000 Preliminary Alcohol Screening devices (PAS) in use statewide with 1,200 in the BFS service area. They are used as a voluntary part of the field sobriety examination and to enforce the juvenile zero tolerance law. Recent court decisions, including *People vs. Bury*, have validated PAS test results as evidence when obtained as part of the field sobriety exam. However, the PAS at present is not compliant with Title 17 of the California Code of Regulations and cannot be used as the primary evidential test. Mobile patrol car task forces that concentrate on problem drinking and driving areas have been found to be as effective as sobriety check points, which are limited to a single location. A PAS device that can be relied on for use as both a screening and evidential instrument will be a powerful tool for DUI enforcement that will eliminate the need for the patrol officer to transport the subject to a jail or law enforcement agency for the test. Additionally, many of the frivolous court arguments based on doubt about the blood alcohol concentration (BAC) at the time of the stop versus time of the test will be reduced. The California Department of Justice has developed, with the assistance of OTS, an evidential PAS instrument that meets requirements.

With the recent introduction of some PAS results as evidence, the Department has received numerous requests from district attorneys for expert testimony on the use of the instrument as part of the field sobriety test (FST). Many of the DA's in the Department's service area want to introduce the readings in court as evidence in all DUI cases. The devices must be comply with Title 17 of the California Code of Regulations before the results can be scientifically supported in court. The crime lab in court can scientifically support only portable devices that comply with Title 17 of the California Code of Regulations.

ATTEMPTS TO SOLVE THE PROBLEM

The California Department of Justice continues to devote more and more resources to maintaining the Intoxilyzer 5000 as a stationary breath alcohol instrument, and at the request of the Department's client agencies, provide them for use at roadside check points. While stationary breath alcohol instruments are helpful at checkpoints during peak drinking and driving periods, they cannot be used on the street from a patrol car where most DUI arrests are made.

During the last two years with the assistance of the California Office of Traffic Safety the California Department of Justice has worked on making the hand-held fuel-cell instrument a Title 17 of the California Code of Regulations compliant device that can be used routinely for alcohol screening and evidential testing. The Department's work in developing and testing these instruments has demonstrated that they can be used successfully for portable evidential use at the location of a DUI stop.

PROJECT GOALS

To meet the needs of DUI enforcement agencies in the BFS service area by providing a single breath alcohol technology that can be used for both screening and portable evidential testing by September 30, 2000.

PROJECT OBJECTIVES

1. To deploy 800 Draeger 7410 Plus Instruments to all DUI enforcement agencies serviced by the Department of Justice.
2. To train all Department of Justice technical staff on the theory of fuel cell technology and the functioning of the Draeger 7410 Plus Instruments by the Department of Justice's California Criminalistics Institute.
3. To provide training on the theory and operation of the Draeger 7410 Plus Instruments to all DUI enforcement personnel in the Department of Justice service area .

ADVANTAGES OF THE EVIDENTIAL PORTABLE ALCOHOL SYSTEM

1. BAC at or near the time of the stop is the best evidence.
2. Rising BAC Defense is less likely to be used.
3. The officer is not required to return to the station for testing, keeping he or she on the street.
4. Extremely valuable in remote areas.
5. The cost is much less than a stationary instrument.
6. The courts, District Attorneys, Police, and the Department of Motor Vehicles have indicated this technology would be valuable for DUI enforcement.

GENERAL REQUIREMENTS FOR AN EVIDENTIAL PORTABLE ALCOHOL SYSTEM

1. Two way communicates with a small computer or Palm Device to enter subject and officer information.
2. Internal date and time stamp for each test.
3. Unique number assigned to subject information.
4. Automated accuracy testing with lock out using ethanol/nitrogen dry gas.
5. Must use a magnetic driver's license card reader for entering subject information.
6. Must meet all standards of the Federal Department of Transportation and the California Department of Health Services for evidential breath testing.

NETWORKING AND DATA COLLECTION

1. 7410 Plus → Station PC → Host PC.
2. Universal Serial Bus (USB) cables - 7410 → Station PC
3. Plug USB cable into 7410 and upload commences
4. Erase 7410 memory after verified data transmission.
5. Automated Station PC calls Host PC to upload data.
6. Data is stored at the Department of Justice Centralized for databases management and reports.