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**Member-Initiated Driver Incapacity Proceedings
(DMV Re-Examination of Drivers Form DS 427)**
(Re-Issue DB 16-067)

California Vehicle Code § 21061 permits an officer to issue a Notice of Department of Motor Vehicle Re-Examination to a driver who cannot safely operate a vehicle because of the driver's mental or physical condition. Evidence of incapacity is defined as "**serious physical injury or illness or mental impairment or disorientation**, which is apparent to the traffic officer."

This "Notice" requesting a DMV re-examination may be issued when an officer determines any of the following:

- The driver lacks the mental or physical capacity to safely operate a vehicle.
- The driver is incapable of operating a motor vehicle safely and/or without danger of risk of injury.
- The driver demonstrates an inability to safely operate a vehicle due to a lack of knowledge and/or skill.

DMV re-examinations are designated as either "priority" or "regular." Both "priority" and "regular" re-examinations require evidence that a driver is incapable of safely operating a vehicle. Both require law enforcement to complete DMV form "DS 427," indicating whether it is a "priority" or a "regular" re-examination, and describe the driver's behavior and condition under penalty of perjury.

A Request for Regular Re-Examination may be requested if a traffic violation is observed, or at the scene of a collision, and you determine the driver demonstrates an inability to safely operate a vehicle due to a lack of knowledge and/or skill.

However, a *Priority Re-examination* includes additional requirements. In addition to the above, you must articulate that you observed the driver exhibiting evidence of physical or mental incapacity and describe why the driver potentially poses a significant traffic safety risk. DMV is required to respond immediately to "priority" re-examination requests.

To initiate a DMV Re-Examination proceeding against a driver, members shall:

1. Obtain a supervisor's approval prior to initiating a DMV re-examination of a driver, including whether the re-examination is designated a "priority" (i.e. urgent) or "regular."
2. Complete the Notice of Re-Examination of Driver form (DMV form DS 427) and indicate whether the DMV re-examination is a "priority" or "regular." Describe any CVC violations observed, driving behavior, and actions of the driver that led you to

- reasonably believe the person is incapable of operating a motor vehicle safely and/or without danger of risk of injury. Include a description of the serious physical injury, illness, mental impairment or disorientation of the driver. If the driver is involved in a collision or arrested, the information should be listed. Sign under penalty of perjury.
3. Provide the driver the pink "Driver" copy of the form when initiating "priority" re-examination. (The form notifies drivers that their license will be automatically suspended if they do not call DMV or appear at DMV within five days of the officer's request for priority re-examination. DS 427 is a triplicate form that designates the white copy for DMV, the canary copy for law enforcement, and the pink copy for the driver.)
 4. FAX the "priority" re-examination form, as soon as practical and before end of watch, to the DMV office nearest the driver's home. (The FAX numbers for all DMV offices in California are listed on the back of the re-examination form.)
 5. Forward the White "DMV" copy of the re-examination request and copies of any reports to Traffic Administration and the re-booking officer will forward the information to the DMV.
 6. Book into evidence the Canary "Law Enforcement" copy of the completed and signed DMV re-examination form.
 7. Document in an incident report (or by a supplement to an initial report) the following information:
 - The factual basis for the re-examination.
 - The type of re-examination (priority or regular).
 - The supervisor who authorized the DMV re-examination and what type of re-examination the supervisor approved (priority or regular).
 - The time, date, and manner in which the member provided the driver a copy of the DMV priority re-examination form.
 - That the member booked a copy of the DMV re-examination form into evidence.

The DS 427 DMV Form is available from the Supplies Clerk, and is not in the SFPD Forms Folder.


WILLIAM SCOTT
Chief of Police

Per DB 17-080, sworn members are required to electronically acknowledge this Department Bulletin in HRMS.