



SAN JOSE POLICE DEPARTMENT

TRAINING BULLETIN

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: ADMIN PER SE HEARING
EVIDENCE**

DATE: October 24, 2022

Bulletin #2022-036

On April 15, 2022, the Second Appellate District Court ruled that the State of California Department of Motor Vehicles (DMV) process of utilizing a DMV Hearing Officers as an advocate for the DMV and being a fact finder during Admin Per Se Hearings was unconstitutional.

On September 06, 2022, the DMV implemented new policies to comply with this ruling.

New Evidence Review and DMV Procedures

If an officer makes a DUI arrest and serves a notice of Driver's License suspension, local DMV Safety Offices will request all documentation related to the arrest including the Officer's Statement (DS367), arrest report, collision report, supplemental reports, and video (including Body Worn Camera footage) to assist with an investigation. The DMV will no longer subpoena officers for Admin Per Se hearings to account for insufficient or inadmissible reports and will use the requested documentation to determine if there is enough evidence to suspend a subject's Driver License. The DS367 is considered a "sworn" document, which means it is completed within five days, is on the correct forms, and is signed.

Failure to properly complete the DS367, by signing, dating, and submitting all forms to the DMV within five business days will prevent the DMV from suspending the subject's Driver License. The DMV will still subpoena officers involved in fatal or serious injury collision hearings.

Due to the DMV policy change, and no longer relying on an officer being subpoenaed for Admin Per Se hearings, the Department should expect an increase in requests for DUI-related evidence, including Body Worn Camera video release for Admin Per Se Hearings.

A handwritten signature in black ink, appearing to read "A. Mata".

Anthony Mata
Chief of Police

AM:SD:JP