

PINELLAS COUNTY SHERIFF'S OFFICE
LEADING THE WAY FOR A SAFER PINELLAS

DRIVING UNDER THE INFLUENCE INVESTIGATIONS		
STANDARD OPERATING PROCEDURE	DISTRIBUTION:	ALL MEMBERS OF THE PATROL OPERATIONS BUREAU
	EFFECTIVE:	01-04-06
	AMENDS:	03-22-04
	RESCINDS:	
	FIRST POLICY	POB-25, 04-06-89
ACCREDITATION STANDARDS: CALEA 81.1.11 CFA NONE		

**POB
33**

I. PURPOSE:

The purpose of this Standard Operating Procedure is to establish guidelines for investigating and handling persons charged with Driving Under the Influence of Alcohol and/or Drugs (DUI).

II. DISCUSSION:

The detection and arrest of impaired drivers differs significantly from other traffic law violators. Specific statutes and regulations govern driving under the influence, implied consent, chemical test for impairment, and establish legal limits of impairment or intoxication. These statutes and regulations include many provisions which affect a deputy's authority and establish procedures for conducting tests and initiating the DUI sanction process.

III. PROCEDURE:

A. Training

1. All Patrol Operations Bureau members shall complete a comprehensive training on Driving While Under the Influence of Alcohol and/or Drugs (DUI) detection and standardized field sobriety testing.
2. All Sheriff's Office members conducting chemical tests for impairment shall complete operator training programs, and appropriate in-service training, and be certified in accordance with state/local requirements.

B. Detection and Psychophysical Evaluations

All observations in this stage are crucial in establishing probable cause upon which the arrest decision is based. Deputies must perform the following tasks:

1. Recognize and identify specific identification cues that have a high probability of signifying that the driver may be impaired by alcohol and/or drugs e.g., weaving, braking erratically, headlights off.
2. Recognize and identify specific reinforcement cues occurring during vehicle stops that provide additional evidence/suspicion that the driver may be impaired e.g., fleeing, littering, inappropriate signaling and/or stops.
3. Note all observations leading to the suspicion that the driver may be impaired and exercise due care in stopping the violator.
4. The stop should be made in a safe location as soon as is practical.

5. Notify the Communications Section of stop location and vehicle identification e.g., license plate number, vehicle description.
6. Once the vehicle has stopped and you suspect the driver is impaired, do not allow the driver to move the vehicle.
7. Request a back-up unit whenever possible.
8. Obtain driver's license and other appropriate documents e.g., registration, proof of insurance and note specific characteristics, attitudes and actions commonly manifested by impaired drivers during face-to-face contact.
9. Deputies should on-view location, license plate number, and vehicle description as soon as possible after obtaining driver information.
10. If reasonable suspicion exists, request the driver to exit the vehicle and move to a safe location to conduct field sobriety tests.
11. If the vehicle was not observed in motion, determine if probable cause exists to charge the driver with actual physical control.
12. Select and administer appropriate field sobriety tests to assess impairment, e.g., Horizontal Gaze Nystagmus (HGN) test, walk-and-turn test, one-leg stand test.
13. Advise the subject if they refuse to take the standardized field sobriety tests it will be used against them in a court of law. The deputy will then document the subject's refusal in the narrative of the report. The narrative will also include the observations of the driving, personal contact phase, and statements made to substantiate the initial arrest.
14. Read the driver their rights under MIRANDA from the card issued by the State Attorney's Office prior to asking the driver questions from the field sobriety test form.

C. Arrest and Processing

1. If all elements of the DUI violation have been clearly established, the deputy may physically arrest the driver.
2. Handcuff and search the subject.
3. The subject will be placed in the rear, caged area of the patrol unit.
4. Secure the subject's vehicle and property in accordance with General Order 7-3, *Vehicle Impound and Inventory*, regarding towing procedures.
5. Arrange for transportation/safety of any passengers requiring or requesting assistance.
6. Transport the subject to the Central Breath Testing Facility for videotaping, evidential chemical testing and processing. If the subject is violent or combative, take the subject directly to the sally port /Booking Facility. It is advisable to have a witness present when the implied consent form is read to a combative subject.
7. Videotaping

When conducting a standardized field sobriety test, the deputy may use an in-car video system, if available, or the video room at the Central Breath Testing Facility. The use or non-use of videotaping will be documented in the offense report.

D. Roadside Videotaping

1. Upon completing the initial interview with the suspect violator, the decision to continue with field sobriety tests and site selection shall be carefully considered.
 - a. The deputy conducting the DUI investigation shall be responsible for ensuring that a safe and appropriate environment be used for all field sobriety tests.
 - b. The site selection may include but will not be limited to closed businesses, e.g. banks, stores, parking lots away from thoroughfares.
 - c. Site selection of closed businesses with exterior lighting at night is desirable to enhance video production quality.
2. Video Production
 - a. The deputy will ensure that there is adequate lighting for night taping of DUI investigations. The use of cruiser headlights and spotlight or alley lights may be required.
 - b. The deputy will be responsible for the operation of the videotaping.
 - c. All members present during videotaping will be responsible for the content of the videotaped investigation.
 - d. Should the person to be tested refuse to be videotaped, the subject will be advised that the videotape can and will be used in court as evidence. If the subject continues to refuse being videotaped, a refusal should be documented in the offense report and no videotaping will take place.
 - e. If the subject complies with the videotaping, the deputy will begin the taping procedure by identifying him/herself using the below listed format while facing the camera and standing next to the person to be tested:

Example format: "I am Deputy _____ of the Pinellas County Sheriff's Office. We are located at _____. Today's date is _____, and the time is _____. I have with me Mr/Mrs/Ms _____ for field sobriety testing."

 - f. Do not administer the HGN test on videotape. The deputy will ask the required health related questions and administer the appropriate psychophysical tests.
 - g. Upon completion of the field sobriety tests, the deputy will read the Miranda warning from the State Attorney card and the waiver questions on the reverse side of the State Attorney card being sure to solicit an affirmative response to each question.
 - h. The deputy will continue the investigation by asking the driver interview questions. Upon the completion of questions and responses, close the videotape by stating:

"This concludes the videotaping of Mr/Mrs/Ms _____, the time now is _____" (military time).
 - i. The deputy will then retrieve the videotape from the camera or ensure that the digital video is uploaded as soon as practical.
 - j. Should an arrest result from probable cause for DUI, the arrest may be conducted on video.

E. Videotaping at the County Jail

1. Take the subject to the Central Breath Testing Facility. Secure your firearm in your vehicle. There must be a minimum of two deputies and/or certified breath test technicians in the Central Breath Testing facility whenever there is a subject waiting or being tested.
2. Conduct the DUI investigation that is outlined in IV, D, 2.
3. Stop the video recording. Remove the tape or DVD and label it as evidence. Place the tape and the property receipt in the drop box located in the Central Breath Testing Facility.

F. Evidential Control for Video Recording

1. The deputy will be responsible for securing of the videotape.
2. The video recording will be marked with the appropriate date, case number, deputy name (case agent) and the defendant's name and date of birth (DOB).
3. The deputy shall submit the video recording to the Property and Evidence Division.
4. The deputy will include the video recording as evidence in the offense report dictating all pertinent information.

G. Evidential Chemical Testing

1. Conduct chemical breath test(s) in accordance with state/local requirements.
2. If a subject's Breath Alcohol Content is not consistent with their impairment and drugs are suspected, request a urine test in accordance with state/local requirements. A drug recognition expert will be notified, if available.
3. If the subject refuses to submit to a breath or urine test, complete appropriate forms to invoke the implied consent sanction.
4. Blood tests will not be routinely requested on routine DUI arrests but will be mandatory on crash cases resulting in the death or serious bodily injury of a human being if alcohol or drugs are suspected. If a breath test is impossible or impractical in medical related cases, a blood test will be requested.

H. Complete Arrest Report and Other Required Forms

1. Agency reports must be completed by arresting deputy as required, thoroughly documenting all evidence gathered during the investigation.
2. If a citation for the violation is warranted for the traffic stop, it will be completed by the initiating deputy or by a member of the Selective Traffic Enforcement Program (STEP). If the STEP Unit member completes the citation, the initiating deputy will be listed as a witness on the worksheet and will complete a supplemental report to include the probable cause for the stop.
3. Copies of all citations will be given to arrested individuals.
4. Complete paperwork associated with administrative suspension of driver's license, if applicable.

I. Independent Blood Alcohol Testing

1. The person tested may, at his or her own expense, have a physician, registered nurse, or other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist or technician, or other persons of his or her own choosing administer an *independent* test in addition to the test administered at the direction of the law enforcement officer for the purpose of determining the amount of alcohol in the person's blood or breath, or the presence of chemical substances or controlled substances at the time alleged, as shown by chemical analysis of his or her blood or urine, or by chemical or physical test of his or her breath. The failure or inability to obtain an *independent*, additional test by a person does not preclude the admissibility in evidence of the test taken at the direction of the law enforcement officer. *The law enforcement officer shall not interfere with the person's opportunity to obtain the independent test and shall provide the person with timely telephone access to secure the test, but the burden is on the person to arrange and secure the test at the person's own expense.*
2. Upon request of the person tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to the person or his or her attorney.
3. The deputy will then document, in the offense report, the suspect driver's request, means of access for the processing of the request, time, and name of individual and/or company completing the blood alcohol test.

J. Juvenile DUI Offenders

1. The deputy will follow the guidelines as outlined in IV, B through I.
2. After completion of the evidential breath testing and Adult Arrest affidavit, the juvenile will be transported to the AFIS Section.
3. The deputy will then transport the juvenile to a receiving facility, where they will be screened for admission. A Marchman Act form will be completed on the juvenile.
4. The Adult Arrest affidavit will be direct filed to the State Attorney's Office.
 - a. Another certified law enforcement officer must notarize the affidavit (FSS 117.10).
 - b. The remaining DUI related forms will be forwarded the same as an adult.

K. Transfer of DUI Investigations

1. Upon detection of a suspected DUI by a sector unit, STEP may be requested to assume the investigation if a STEP unit is available and can arrive within ten minutes.
2. The initiating deputy or STEP Unit member will complete a citation for the violation that established cause to stop the vehicle. If the STEP Unit member completes the citation, the initiating deputy will be listed as a witness on the worksheet and will complete a supplemental report to include the probable cause for the stop.
3. If an arrest is made, the STEP Unit member will transport the subject and complete all necessary procedural steps for the DUI arrest.
4. If a STEP Unit member is unable to respond, the sector unit will investigate the DUI and conduct the arrest, if probable cause exists.

L. Zero Tolerance Administrative Suspensions

1. Per Florida Statute 322.2616, notwithstanding 316.193, it is unlawful for a person under the age of 21 who has a breath alcohol of 0.02 or higher to operate or be in actual physical control of a motor vehicle.
2. In enforcing the non-criminal administrative suspension provision of the statute, the deputy will initially conduct a DUI investigation. If the subject does not meet the criteria of impairment for the arrest of DUI, the deputy will conduct the zero tolerance investigation.
3. The deputy will request the subject to take a breath test with a portable breath test device listed in the U.S. Department of Transportation conforming product list of evidential measuring devices. If the subject has a blood or breath alcohol level of 0.02 or higher, the deputy shall, on behalf of the Department of Highway Safety and Motor Vehicles (DHSMV), suspend the driving privilege of such person. The deputy shall take the subject's driver's license and issue a ten-day temporary driving permit if they are eligible and issue the notice of suspension.
4. A temporary permit issued at the time of the issuance of Notice of Suspension shall not become effective until twelve hours have elapsed and will expire at midnight of the tenth day following the day of issuance.
5. A minor under the age of 18 years proven to be driving with a blood-alcohol or breath-alcohol level of 0.02 or higher may be taken by a law enforcement officer to the addictions receiving facility in the county in which the minor is found to be so driving, if the county makes the addictions receiving facility available for such purpose.
6. The deputy will advise the subject that his/her driving privilege is suspended for a period of six months for a first violation or for a period of one year if his/her driving privilege has been previously suspended, as provided in 322.2616.
7. If the driver refuses to submit to a lawful breath test, the deputy must advise the individual that his/her driving privilege will be suspended for a period of one year for a first refusal or for a period of 18 months if their driving privilege has been previously suspended as a result of a refusal to submit to a test.
8. The deputy will then complete an incident report of the zero tolerance investigation.