

General Order

Houston Police Department



SUBJECT: DRIVING WHILE INTOXICATED

ISSUE DATE:

May 1, 2001

NO.

500-04

REFERENCE: Supersedes General Order, 500-04
dated April 4, 1994

POLICY

Officers who encounter a person believed to be driving while intoxicated (DWI) will arrest and process that person for the appropriate offense. A lesser charge of a traffic violation or public intoxication will not be filed in lieu of the DWI charge. The charge of DWI will be filed if the offense occurs on private property open to public use. This General Order applies to all employees.

1 SIGN-IN PROCEDURES

After arresting a DWI suspect and properly disposing of the suspect's vehicle, the officer will transport the prisoner to the nearest police station capable of processing a DWI suspect.

Special Note: Employees should be sensitive to the fact there are health conditions (e.g., diabetic shock) that appear as intoxication. Leaving such conditions untreated could cause death or severe injury to the prisoner. Employees having reason to believe such a condition is present should call an ambulance to evaluate the prisoner's medical condition.

Upon arrival at the police station's DWI processing room, the arresting officer will:

- a. Ensure prisoners are handcuffed at all times while in the video section except while being videotaped or given an intoxilyzer (breath) test.
- b. Fill out the video tag.
- c. Fill out all applicable forms.

Violent DWI Prisoners

2 INTOXILYZER (BREATH TEST)

Before entering the intoxilyzer-testing room, arresting officers will give the above completed forms to the intoxilyzer operator and unhandcuff the prisoner.

After entering the intoxilyzer-testing room, it is necessary that both the arresting officer and the intoxilyzer operator remain with the prisoner.

Before offering the prisoner a breath test, the intoxilyzer operator will perform the following procedures with the prisoner:

- a. Read aloud the DWI statutory warning.
- b. Furnish the prisoner the bottom (yellow) copy of the signed *DWI Statutory Warning* form and help them understand their rights to the best of their ability.
- c. Explain the charges.
- d. Request the taking of a specimen of their breath in order to analyze and determine the alcohol concentration.

If a prisoner takes and fails the breath test, the arresting officer will complete the *Peace Officers Sworn Report* form. The arresting officer will also complete the *Notice of Suspension* form and give the prisoner the #2 copy which outlines the procedures for requesting an administrative hearing.

When prisoners refuse to take the breath test, the intoxilyzer operator will ask them to sign the *Peace Officers Sworn Report* form indicating their refusal. Whether prisoners sign the form or not, the intoxilyzer operator will complete the appropriate form(s) by signing and placing the address and name of the Houston Police

Department in the proper place at the bottom of each form.

The arresting officer may sign any appropriate form as a witness, verifying a prisoner's signature or the prisoner's refusal to sign the form. The arresting officer will complete a *Peace Officer Sworn Report* form indicating the prisoner refused to take a breath test. The officer will also complete a *Notice of Suspension* form and give the prisoner the #2 copy.

Officers will follow the procedures listed in section 8 of this General Order when handling prisoners who pass the breath test and yet appear to be obviously intoxicated.

3 VIDEO TAPING SESSION

The arresting officer will notify a video operator when a prisoner is ready to be videotaped after completing the intoxilizer procedures. At no time will a suspect be forced into the video room. If the suspect refuses to enter the room, such actions will be noted in the officer's incident report. The officer will then book the suspect on all appropriate charges.

Video Operator's Responsibilities

The video operator will follow the guidelines and requirements set forth by the Traffic and Accident Division and the district attorney's office. At the end of the videotaping session, the video operator will remove the videotape, label it, and place it into the videotape lock box, after removing the tape's re-record tab.

Arresting Officer's Responsibilities

The arresting officer will accompany the suspect into the video room and remain in the room during the entire video-taping session.

After leaving the video room, the arresting officer will:

- a. Make sure all necessary forms have been completed.
- b. Provide Automatic Fingerprint Identification System (AFIS) intake personnel with the completed *Prisoner's Booking Data Information* form.

- c. Report to Traffic and Accident Division (or designated area if at a police station) with completed paperwork.

4 BLOOD TEST

Mandatory Blood Specimen

A blood sample may only be required from a suspect if all of the following circumstances exist regarding the same incident:

- a. Suspect was arrested for DWI.
- b. Suspect was involved in an accident the officer reasonably believes occurred as a result of the DWI offense.
- c. At the time the suspect was arrested, the officer reasonably believed that a person died or will die as a direct result of the accident.
- d. The suspect refused the officer's request for a voluntary blood sample.

If a blood sample is required, the arresting officer will complete and submit a *Mandatory Blood Specimen* form. Requested or required blood samples will only be drawn by qualified medical personnel on duty at Ben Taub or Lyndon B. Johnson General Hospitals, except as noted below.

Refusal of Blood Test

If the prisoner refuses to take a mandatory or requested blood test, the prisoner will be requested to sign the *Statutory Warning* form. The intoxilizer officer will sign the form as a witness to verify the prisoner's signature or refusal to sign the form. The arresting officer will sign the refusal form and have it notarized.

DWI Suspect's Personal Blood Sample

If a DWI prisoner has already given a sample of breath, the prisoner may request a blood sample be drawn by a person of the suspect's own choosing if each of the following conditions are met:

- a. The sample is taken by a physician, registered nurse, or qualified technician.

- b. The prisoner agrees to pay for the expense of the drawing and analysis of the sample.
- c. The blood sample is taken within two hours of the arrest.
- d. The person drawing the blood sample must come to the prisoner to take the sample. The person must also furnish the required equipment to properly take the sample.

5 URINE SPECIMEN

If the prisoner refuses to take the intoxilyzer test or the blood test, but submits to having a urine sample taken, a refusal form will be completed for the tests refused by the prisoner.

A urine specimen may be taken from a prisoner only when all of the following are true. The suspect:

- a. Consents.
- b. Was driving a commercial vehicle.
- c. Is suspected of being under the influence of drugs and has been examined by a Drug Recognition Expert (DRE) who then requests the urine sample.

6 TRAFFIC AND ACCIDENT DIVISION

After arriving at Traffic and Accident Division (or designated area of a police station), the arresting officer will:

- a. Enter the prisoner's hold-card information on the computer terminal.
- b. Obtain the prisoner's criminal history and driver license records.
- c. Complete the DWI traffic case report.

If the prisoner is booked at the Central Police Station, the arresting or transporting officer will deliver all original completed forms to Traffic and Accident Division personnel. If the prisoner is processed through another police station, a copy of the completed forms will be transmitted to Traffic and Accident Division immediately. The original forms may be held until the first

available mail run, but must be delivered to Traffic and Accident Division as soon as possible.

Traffic and Accident Division personnel will file DWI charges, unless other charges are attached. In this instance, the arresting officer will file all charges.

7 SPECIAL CIRCUMSTANCES

Suspects under 17 years of age will be taken to the intoxilyzer testing room and given the opportunity to submit to a breath test, but only if the request to give a specimen is videotaped. If the juvenile refuses the intoxilyzer test, a refusal form will be completed and notarized. All paperwork pertaining to the juvenile will be turned over to the Juvenile Division.

Juveniles will be kept separate from adults both physically and by sight and sound. The juvenile suspect, all paperwork, and the videotape will be turned over to the Juvenile Division after the suspect has been processed through the Traffic and Accident Division. Additionally, officers will follow all procedures in General Order 500-06, Disposition of Arrested Juveniles, when handling juveniles.

8 SUSPECTS REGISTERING LESS THAN 0.08 BREATH-ALCOHOL CONTENT

If the prisoner has less than 0.08 breath-alcohol content and the arresting officer believes the prisoner is under the influence of another substance, the officer should contact a Traffic and Accident Division supervisor. The Traffic and Accident Division supervisor will attempt to arrange for the prisoner to be evaluated by a department DRE. The evaluation will be conducted at the Central Police Station video room. A DRE will not be requested until after a breath test has been administered. If the suspect refuses a breath test, charges may be filed as intoxication due to an unknown substance.

If a department DRE is unavailable, the supervisor will contact the Harris County Sheriff's Office or the Texas Department of Public Safety dispatcher to determine if a DRE is available through these agencies.

When a DRE from another agency conducts an evaluation, the test will be conducted at one of the following locations of the DRE's choosing:

- a. Central Police Station Video Room, 61 Riesner Street.
- b. Harris County Sheriff's Department, Wallisville Station, 14350 Wallisville Road.
- c. Harris County Sheriff's Department, Clay Road Station, 16402 Clay Road.

If the prisoner passes a DRE's evaluation and probable cause exists for filing other charges, the arresting officer will contact an assistant district attorney for approval to file the other charges.

If the prisoner passes all tests and evaluations, and no other charges are filed, the arresting or transporting officer will make an effort to recover the suspect's vehicle. If the vehicle cannot be readily returned, the prisoner will be

released. None of the above listed forms need to be completed unless the suspect is under twenty-one years of age. The DWI traffic case report will be completed and submitted with the word *PASSED* written on the front of the report.

9 DWI SUSPECTS FROM OTHER LAW ENFORCEMENT AGENCIES

Officers from other law enforcement agencies will be allowed to run their suspects through the department's intoxilyzer and videotaping system if it is not feasible for them to go to another location. Their prisoners will not be placed in a city jail and no holds will be authorized by this department.



**C.O. Bradford
Chief of Police**