



## **NORTH MIAMI POLICE DEPARTMENT**

### *STANDARD OPERATING PROCEDURES*



### **DRIVING UNDER THE INFLUENCE 300.29**

EFFECTIVE DATE: 09-22-2021

APPROVED:

SUPERSEDES: 09-13-2019

CFA: 18.03D

*[Signature]*  
Chief of Police

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### **I. PURPOSE**

To establish guidelines for conducting Driving Under the Influence (DUI) countermeasure programs designed to reduce alcohol and drug-related crashes.

### **II. POLICY**

To take a resilient approach towards the detection and apprehension of persons who drive under the influence. Officers must be alert in noticing signs of impairment and act accordingly when stopping drivers suspected of driving under the influence. Officers will follow the established Florida DUI laws when conducting said investigations.

### **III. SCOPE**

This policy applies to all sworn members of the Department.

### **IV. DEFINITIONS**

A. Agency Inspector: A certified Department member responsible for the

periodic testing of the calibration and operation of the agency's breath test instruments, including all required preventative maintenance. The Agency Inspector will maintain his/her certification current.

- B. Breath Test Operator: Any officer certified to collect and analyze evidence in the form of breath samples. Breath Test Operators will maintain their certifications current.
- C. Drug Recognition Expert (DRE): Any officer certified to recognize impairment in drivers under the influence of drugs other than, or in addition to, alcohol.
- D. BAC: Blood Alcohol Content or Blood Alcohol Level (BAL).
- E. Language Clarification:
  - Should: Indicates a general or expected action, absent a rational basis for failing to conform.
  - Shall or Will: Indicates a mandatory action.

## **V. SOBRIETY FIELD TESTS PROCEDURES**

- A. Officers will follow the established procedures for traffic stops, Standardized Field Sobriety Tests (SFST), body-worn camera usage, and all chemical testing (breath, urine and blood). All DUI-related forms mentioned in this policy are made available to certified chemical testing officers, as well as the Agency Inspector.
- B. Detection is the first step in any Driving Under the Influence (DUI) enforcement action. The officer's observations are crucial in establishing probable cause upon which the arrest decision is based. Officers are expected to conduct a thorough and complete investigation to obtain all possible evidence concerning the subject's impairment and formulate an appropriate arrest decision based on the evidence accumulated.
- C. When an officer comes in contact with a subject he/she believes may be in violation of Florida State Statutes, regarding DUI, the officer shall advise Communications that a DUI certified officer is needed. The initiating officer, and any other back-up unit, will use their body-worn camera to capture the SFSTs.

- D. The officer will attempt to find clear level ground in the area of the initial contact where the exercises are to be performed. The area must be safe from motor vehicle traffic, and well lit, if possible.
- E. The DUI certified officer will conduct an investigation for driving under the influence of an alcoholic beverage and/or a controlled substance. The DUI officer will administer the five (5) SFSTs to determine if the driver is impaired.
- F. The Standardized Field Sobriety Tests (SFST) include:
  - 1. Horizontal Gaze Nystagmus
  - 2. Walk and Turn
  - 3. One Leg Stand
  - 4. Modified Romberg Balance (specialized training required)
  - 5. Finger to Nose (specialized training required)
- G. The officer will immediately stop the tests if safety is a concern.
- H. Based upon the initial observations, the SFSTs, and other indicators, if the DUI officer has probable cause to believe the driver is impaired, the driver is subject to arrest for operating a motor vehicle while under the influence of an alcoholic beverage and/or a controlled substance.
- I. Following an arrest, the driver will be transported to the North Miami Police Department to be administered breath alcohol analysis tests by a Breath Test Operator utilizing the agency's computerized breath analysis equipment.
- J. If the breath test results are inconsistent with the SFSTs, and the test results are less than .08 BAC, the officer may request a Drug Recognition Expert (DRE) to further process the driver for impairment by a controlled substance.

## **VI. DUI CRASHES**

- A. Drivers involved in a traffic crash, who are suspected of being under the influence of drugs/alcohol, are subject to examination for the same at a designated police facility by a Breath Test Operator. **CFA 18.03D**
- B. When an officer arrives at the scene of a crash and has reasonable suspicion that a driver may be impaired by the consumption of alcoholic

beverages, or a controlled substance, the officer will continue investigating the traffic crash.

- C. Upon completion of the traffic crash investigation, the officer may request a certified DUI officer respond to assist. The DUI officer will inform the driver that the traffic crash investigation is complete and he/she is now conducting a separate investigation for driving under the influence of an alcoholic beverage and/or controlled substance. The driver must acknowledge that this change is taking place. The officer will then follow the procedures outlined in Section V of this policy.
- D. In the event of a traffic crash with serious bodily injury, or a fatality, where the officer has probable cause to believe the driver is impaired, the officer may request a blood or urine specimen from the driver. If the driver refuses, the officer must obtain a search warrant for two blood draws.
- E. It is important that officers issue all citations at the same time, whether they are criminal or non-criminal traffic citations, so as to avoid double jeopardy. It shall be the officer's decision whether to effect a DUI arrest at this time for a serious bodily injury crash and complete the arrest documentation, or wait until the blood test results return from the laboratory and complete the documentation at that time; however, this option is only available for DUIs involving serious bodily injury. All other DUIs require an arrest to be made before any breath, urine, or blood test is administered.

## **VII. DUI ARRESTS AND BREATH TESTING**

- A. When probable cause exists, violators may be arrested, and an arrest affidavit completed, for all offenses that constitute a crime pursuant to Florida State DUI-related Statutes .
- B. When a subject has been arrested for DUI, the violator shall be given the opportunity to take a breath test whenever possible and practical if alcohol impairment is suspected. Breath tests are lawful as searches incident to arrest. The subject can refuse the breath test after the officer reads the subject notice from the Implied Consent Law form made available to Breath Test Operators. If the subject refuses the breath test, the officer will transport the adult subject directly to the Turner, Guilford, Knight Correctional Facility (TGK) after the necessary documentation is completed.

- C. Breath tests shall be administered by a Breath Test Operator who shall conform to the rules and procedures adopted by the Alcohol Testing Program of the Florida Department of Law Enforcement (FDLE).
- D. The Breath Test Operator shall be responsible for the proper log entries, as well as completion of the following applicable documentation:
  - 1. Breath Test Results Affidavit
  - 2. Refusal Form
- E. Log entries are stored within the breath test system's hard drive and are submitted with the Agency Inspection Report to FDLE electronically, and with copies submitted to the State Attorney's Office and the Florida Department of Highway Safety and Motor Vehicles (DHSMV). Agency Inspection Reports shall be submitted monthly by the Agency Inspector in accordance with FDLE standards.
- F. If the subject's BAC does not correlate with the observations of impairment (SFSTs), the Breath Test Operator will notify the on-duty shift supervisor immediately and will request a Drug Recognition Expert (DRE) to evaluate the driver for impairment due to drugs, or seek information regarding a medical condition that may be the cause of the impairment.
- G. If the subject's BAC analysis indicates extreme impairment with a result of 0.30g per 210 liters of breath, or higher, the officer will notify the on-duty shift supervisor immediately and will summon Miami-Dade Fire Rescue for evaluation and transport to the hospital.
- H. The Breath Test Operator will notify the Agency Inspector of any malfunction, deviation, or needed maintenance relating to the breath testing equipment.
- I. If a Breath Test Operator is not available at the time testing is needed, a Breath Test Operator should be requested from another agency. This action shall have prior approval from the on-duty shift supervisor.
- J. If another police agency requests a breath test to be conducted by the Department, the on-duty shift supervisor shall be notified, who will make the decision if an operator is available, and whether the current activity level permits such assistance. If that agency sends their own operator to perform the breath test, they may be allowed access to the breath testing instrument.

## **VIII. DUI ARREST DOCUMENTATION**

This policy provides requirements and guidelines for the issuance of DUI citations, seizure of driver licenses, issuance of temporary driver permits (i.e. the driver's copy of the DUI citation), and the proper completion of related documentation pursuant to the Florida DUI and Administrative Suspension Laws for drivers who have a BAC of .08% or higher, or who refuse a breath, blood, or urine test.

- A. All DUI citations are to be completed in accordance with the procedures outlined in the Uniform Traffic Citation Procedures Manual available through TRACS (traffic crash reports software).
- B. All driver's licenses in the subject's possession, provided he/she has a BAC of .08% or higher, shall be confiscated, attached to the DUI arrest packet, and submitted to the Driver License Bureau of Administrative Review via the Records Unit.
- C. A temporary permit (copy of DUI citation) shall be issued when:
  1. Subject possesses a valid driver's license.
  2. When the subject claims to have a valid driver's license, even if not in his/her possession, and the computer system is not functioning.
  3. When the subject does not have a driver's license in his/her possession, but it can be verified by computer that the subject does have a valid driver's license.
    - a. If the subject does not have a driver's license in his/her possession check the "no" box by "license surrendered" on the citation and insert the reason why in the space provided.
    - b. If the computer system is not functioning, and the officer cannot confirm a driver's license, the officer shall write "computer down" in the "eligible for permit" area on the citation.
  4. A temporary permit will not be issued when a subject's driver's license is under suspension, or the subject does not have a driver's license in his/her possession, and a computer check reveals "no

record found.”

5. Should a subject refuse to take a breath, blood or urine test, he/she shall still be issued a temporary driver's permit if he/she meets all eligibility requirements.
6. A duplicate temporary driver's permit shall not be issued.

D. Original signatures are not required on all copies of the arrest affidavit or on the refusal forms. After the necessary documentation is completed, the adult subject shall be transported to TGK.

E. If the breath test results are under .079 BAC (based on the minimum 210 liters of breath sample), it is presumed that the subject may not be under the influence of alcoholic beverages to the extent that his/her normal faculties were impaired. If so, the on-duty shift supervisor will be notified and the subject may be requested to submit to a urine test, pursuant to the Florida Implied Consent law, preferably by a DRE officer. If the subject refuses to submit to a urine test, the refusal affidavit will be completed and the adult subject shall be transported to TGK.

1. DREs collecting urine samples will treat the same as any other bodily fluid following the exposure control precautions noted in the Infectious Diseases policy, 300.05.

F. The mandates provided in FSS 316.1934 do not limit the introduction of any other competent evidence bearing upon the question of whether the person was under the influence of alcoholic beverages to the extent that his/her normal faculties were impaired.

G. The detainment of juveniles arrested for DUI is not addressed in Florida Statute 316.193. Officers may release a juvenile to his/her parent once citations are completed (if the charge is not a felony.) An Arrest Affidavit with a Promise to Appear (PTA) must be completed with all the documentation for a juvenile. See the Juvenile Procedures policy, 300.08, for further information on juvenile arrests and alternative options in certain cases.

H. When the adult subject is transported to TGK, the following documentation will also be sent:

1. Arrest Affidavit
2. Originals of all DUI and traffic citations issued.

- I. Police reports shall be complete and thorough, and care will be taken to build effective cases by accurately documenting all observations and test results. After placing the subject under arrest, Miranda shall be read before asking any questions of the subject driver regarding his/her whereabouts and activities, drinking habits and locations, locating accomplices and witnesses, etc.
- J. Citations and arrest affidavits will remain with the report in the records management system. The Records Unit will provide copies, as needed, pursuant to public record laws and for officers' court-related appearances.

## **IX. BLOOD TEST REQUEST**

- A. A person cannot be charged with a criminal offense for refusing a blood test. If, after request, the driver refuses to submit to a blood test, he/she will indicate so on a Blood Test Implied Consent Warning form, and the officer will complete the applicable DHSMV officer affidavit refusal form, both of which will be submitted with the arrest packet, as it is admissible as evidence during criminal proceedings.
- B. If the subject is arrested for DUI and transported to a hospital due to illness or injury, there is no injury to another person, and a breath or urine sample is impossible or impractical, then a Blood Test Implied Consent Warning shall be read. If the subject refuses the test, the DUI charges will be direct filed with the State Attorney's Office.
- C. If the subject does provide two blood samples, the same will be impounded and charges will be direct filed with the State Attorney's Office. If a subject provides the samples, but is not hospitalized, the adult subject will be taken to TGK. If he/she refuses to provide blood samples, he/she will also be taken to TGK.
- D. A subject arrested for DUI cannot be released on a Notice to Appear, with the exception of a juvenile.
- E. If the subject has been arrested and is then hospitalized, the investigating officer, or his/her supervisor, will contact the Miami-Dade County Detention Center Booking Watch Commander to coordinate the inmate's processing and security while the subject is hospitalized.
- F. A subject not yet under arrest who is transported to a hospital due to

injuries can be charged with DUI at a later time after their release. The direct file can be submitted to the State Attorney's Office awaiting blood test results that indicate a BAC of .08% or higher, if so; however, an appointment for said direct file to the State Attorney's Office should be set up within 72 hours of the original incident, and shall be forwarded within seven (7) days of the incident. Direct files to the State Attorney's Office in these cases will contain the documents listed on the Department's DUI Cover Sheet form.

## **X. DUI VIDEO HANDLING AND STORAGE**

- A. When body-worn camera footage is required by the State Attorney's Office, a written request for the same will be made to the Body Worn Camera Administrator.
- B. All DUI body-worn camera footage will be retained within the designated software application following the retention guidelines noted in the Body-Worn Camera policy, 100.11.