



Charleston County Sheriff's Office Policy and Procedures Manual

Sheriff Carl Ritchie

13-05 DUI ENFORCEMENT

- ☐ NEW
- ☒ REVISED
- ☒ REVIEWED

ACA Standards Reference:
CALEA Standards Reference: 61.1.9, 61.1.10
NCCHC Standards Reference:
SCLEA Standards Reference:
SC Minimum Standards:

This policy dated 1/29/2025 replaces prior policies cited above and supersedes all previously issued directives.

I. Purpose:

To establish a public safety highway countermeasures program for the Charleston County Sheriff's Office and outline procedures for handling persons charged with *Driving Under the Influence (DUI)*.

II. Policy:

It is the policy of the Charleston County Sheriff's Office to aggressively enforce statutes prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs.

III. Definitions:

- A. For purposes of this procedure, the word "deputy" applies to all agency employees with a certification classification of Class I, Class II, Class III, or Reserve Deputy, as defined by the South Carolina Criminal Justice Academy.

The following terms are used interchangeably; however, they carry guidance to specific employees based on usage of the term:

1. Deputy, deputies, deputy sheriff, detention deputy, sworn employee, uniformed sworn employee, sworn administrative employee, and
2. civilian, non-sworn employee.

- B. *Employee*: When used without further clarification, the term employee is inclusive of all agency members (sworn and non-sworn).

IV. Procedure:

- A. Alcohol and Drug Enforcement Countermeasures Programs:

The arrest of an individual for driving while impaired differs significantly from other traffic law violations. Any person who operates a motor vehicle while under the influence of alcohol or other self-administered intoxicants or drugs poses an unpredictable hazard to law abiding motorists. Therefore, each deputy sheriff of the Charleston County Sheriff's Office will make every effort to remove this type of driver from the highway. Accordingly, the Sheriff's Office has established a proactive alcohol enforcement program that has as its goal the reduction of motor vehicle accidents involving alcohol. This program functions, essentially, as follows:

1. Commensurate with its traffic enforcement responsibilities, the Traffic Enforcement Unit (hereafter Traffic Services) will determine the areas with the highest concentrations of alcohol-related collisions and the times and days of the week most appropriate for enforcement countermeasures. The unit will also provide enforcement recommendations and suggestions as to patrol techniques.
2. The Traffic Services supervisors are responsible for assignment of personnel for enforcement duty and the assignment of regular patrols to cover the high *DUI* activity area. They are also responsible for assignment of targeted *DUI* patrols to concentrate on violation areas, times, and days that relate to infractions. (Ref: CALEA 61.1.9)

B. *DUI* Arrest Procedures:

The detection and arrest of impaired drivers varies from other law violators because of the specific legal and technical requirements necessary for achieving successful prosecution. There are specific inferences of impairment as defined by §56-5-2930 and §56-5-2950 of the South Carolina Code of Laws, 1976, as amended (hereafter the State Code). Procedures for the administration of the chemical tests of a violators breath, blood, or urine will be as prescribed in §56-5-2950 and State Law Enforcement Division (SLED) policies. State Law mandates the types of tests that can be administered to determine the alcohol and/or drug content of those arrested for impaired driving and outlines the scope of authority deputy sheriffs have regarding detention, arrest, and processing of impaired drivers.

1. Detection is the first step in any *DUI* enforcement action. It is during this step that probable cause for arrest is established. Detection includes (but is not limited to) the following:
 - a. Maintaining a knowledge and understanding of current statutes, court decisions, and policies and procedures involved in the enforcement of the *DUI* statutes in the State Code.
 - b. Staying current in technical advances, methods and equipment used in the detection and collection of evidence of those arrested for *DUI*.

- c. Recognizing and identifying specific driving behaviors, patterns and habits that suggest a driver may be impaired by alcohol and/or drugs.
- d. Recognizing and identifying specific behaviors occurring during motor vehicle stops that provide evidence or cause suspicion that a driver may be impaired.
- e. Interviewing the driver and, if an arrest is eminent, gathering as much information from passengers as possible to help support a *DUI* charge and/or verify information received from the driver.
- f. Recognizing, identifying and noting any specific actions, attitudes or characteristics commonly manifested by impaired drivers during face-to-face contact.
- g. Requesting the suspected impaired driver exit the vehicle and move to a safe location out of the way of traffic to accomplish field sobriety tests.
- h. If certified, administer the Standardized Field Sobriety Tests to assess impairment. These tests include Horizontal Gaze Nystagmus test, Walk and Turn, and One Leg Stand. If not certified by the National Highway Traffic Safety Administration (NHTSA) in the administration of the Standard Field Sobriety Tests, the deputy may utilize other tests that they have received training to administer in order to determine impairment.
- i. Making arrest decisions based on probable cause suggesting impaired driving, including arrests of drivers not observed in motion such as incidental to a motor vehicle accident investigation. (Ref: CALEA 61.1.10)

2. Arrest and Processing:

If all the elements of the *DUI* State Code (i.e., §56-5-2930) are evident, deputy sheriffs will affect the arrest of the driver. The following steps should be included during the various phases of the arrest process:

- a. Notify the driver of the charge or charges, as well as Miranda rights, in front of the patrol car making sure that the advisement is captured on video.
- b. Handcuff and search subject for weapons, potential weapons, and any contraband.
- c. Make arrangements for securing the subject's vehicle.
- d. Make sure the vehicle and any property therein have been secured and arrangements for transportation of any passengers is accomplished; before releasing the vehicle to a passenger, the deputy sheriffs will assess the impairment of the passenger prior to allowing them to drive.
- e. Transport subject to a facility for testing and processing. Subject's safety should be of concern to deputy sheriffs at all times.
- f. Once at a testing site, deputy sheriffs should secure all firearms and comply with the standard safety practices of the facility where testing is being administered.
- g. Deputy sheriffs operating vehicles equipped with mobile video/audio recording equipment must begin recording at the activation of the patrol vehicle's blue lights and include the driver's actions prior and subsequent to stopping the vehicle, violator's field sobriety testing, and Miranda warnings. The video/audio recording should continue until the subject reaches the detention facility in an effort to collect additional evidence concerning driver's impairment. If the patrol vehicle is not equipped with video/audio recording equipment, all efforts should be made by the deputy sheriff to capture the field sobriety testing. If this task is not possible or if the recording device fails during the incident site recording, the deputy sheriff should complete a *Failure to Produce Video Recording Affidavit (CCSO form-181)* prior to the court hearing.
- h. If an on-scene videotape is made and the arresting deputy sheriff is a certified breath testing operator, the arresting deputy sheriff may administer the breath test to the driver.

- i. If the arresting deputy sheriff is unable to administer the breath test, they will supply the breath testing deputy sheriff or officer with whatever pertinent information is required.
- j. If the arresting deputy sheriff cannot administer the breath test, the deputy or officer administering the breath test cannot have been on scene at the time of the *DUI* arrest.
- k. Complete the *Implied Consent Form*. The implied consent warning will be read and explained to the driver prior to the breath test.
- l. Advise subject of the bond requirement of the offenses involved. Individuals with medical conditions may be released into the custody of relatives, their attorney, or another responsible adult.
- m. If the defendant submits to a designated test, as required under State Code §56-5-2950, begin administration of the selected test as set forth by State Code following guidelines established by SLED.
 - i. If the sample taken is breath, and the defendant cooperates and gives consent, deputy sheriffs should administer the test using the Datamaster Breath Testing Instrument, to be administered by a qualified Datamaster operator.
 - ii. If the sample is blood, only a physician, registered nurse, or qualified technician may draw the sample in conformity with the standards set forth by SLED, utilizing a SLED Blood Evidence Collection Kit.
 - iii. If the driver is unconscious, has an injury to their mouth and/or is otherwise unable to be administered a breath test, the arresting deputy sheriff will have a qualified medical personnel attest to the fact on the medical documentation.
 - iv. If the sample is urine, the deputy sheriff will facilitate the appropriate paperwork at the medical facility regarding the collection of evidence and the

preservation, storage and transportation of the collected sample to be analyzed by SLED.

- n. In the event the defendant refuses to submit to a breath, blood or urine test, the arresting deputy sheriff is required to complete a *Notice of Suspension Form*, supplied by SLED, as required under State Code §56-5-2951(A), and send it to the South Carolina Department of Motor Vehicles (SCDMV). The South Carolina driver's license should be seized and forwarded to the SCDMV with the *Notice of Suspension Form*; however, out-of-state and international licenses should not be seized. The SCDMV has the responsibility of notifying the offender's licensed state of the violation and refusal to submit to the alcohol concentration test.
- o. If the driver submits to a breath test and the blood alcohol content is .08% or higher, the arresting deputy sheriff may elect to change the charge from Driving Under the Influence to Driving with an Unlawful Alcohol Concentration (DUAC); as provided in State Code §56-5-2933, which does not require proof of impaired ability to safely operate a motor vehicle and carries the same penalties.
- p. If the deputy sheriff has reasonable suspicion that the subject is under the influence of drug(s) other than alcohol, deputy sheriffs may request that the subject submit to a urine analysis to check for drug impairment. Deputy sheriffs should also consider medical conditions that may result in the subject's apparent impairment. Deputies should also consider notifying a Drug Recognition Expert (DRE) to respond to perform an evaluation of the driver. A DRE can advise the deputy if the driver is impaired by a medical condition or under the influence of a drug. If the impairment is from a drug, the DRE can advise what category or categories of drugs that the driver is under the influence of.
- q. Written documentation of the deputy sheriff's observations concerning a *DUI* arrest, as well as documentation relating to technical tests administered subsequent to the arrest, is crucial for the successful prosecution of *DUI* cases.

- r. Deputy sheriffs are required to properly complete all associated arrest documentation listing witnesses, evidence, and general facts of the case. This documentation should include, but is not limited to, the incident report, arrest report, Datamaster results, traffic ticket, laboratory request forms (if applicable), vehicle tow sheet, refusal form (if applicable), and copies of the deputy sheriff's observations and notes.
- s. A copy of the subject's driving record should be included in the prosecution package, along with the vehicle registration information.
- t. If the driver is being charged with a third or subsequent violation of *DUI* within a ten-year time frame, the vehicle will be impounded at the time of arrest and taken to this agency's impound lot for subsequent asset forfeiture proceedings (see also [Policy 11-07 Asset Forfeiture](#)).
- u. A prosecution package (as described in subparagraphs B(2q-s) supra) should be forwarded to the Deputy County Attorney assigned to the Sheriff's Office for all cases requiring a jury trial or a bench trial in which the deputy sheriff feels that a prosecutor's support will be necessary for a successful prosecution.
- v. In magistrate level cases in which the defendant is unable to post bond to be released from the detention facility, the deputy sheriff shall make arrangements to take the defendant to court at the earliest possible date (see also [Policy 9-07 Bond Procedures](#)).
- w. Juvenile defendants will be released to their respective parent or guardian at the conclusion of the arrest and testing procedure. In the absence of such an adult, the juvenile will be turned over to the juvenile detention facility.
- x. A copy of the documentation concerning the towing and/or impoundment of an offender's vehicle will be given to the offender or a responsible party to whom the defendant will be released.
(Ref: CALEA 61.1.10)