

DUI ENFORCEMENT

1. **PURPOSE:** To establish guidelines for the detection and apprehension of persons suspected of driving under the influence (DUI) of alcohol, drugs or any other substance which impairs the driver's ability to operate a motor vehicle.
2. **POLICY:** The policy of the Huntsville Police Department is to arrest all persons who are illegally driving under the influence of alcohol, drugs or any substance which impairs the ability of the person to operate a vehicle safely.
3. **SCOPE:** This directive is applicable to all sworn personnel.
4. **RESPONSIBILITY:** It is the responsibility of all sworn personnel to comply with this directive.
5. **DEFINITION: IMPAIRED** will mean the driver's inability to safely operate a motor vehicle as defined by law.
6. **PROCEDURES**
 - A. **DETECTION:** Drivers operating their vehicle in any manner which would cause the officer to believe there is a reasonable probability of impairment by alcohol and/or drugs should be stopped and the cause for the erratic driving ascertained. The observation of any erratic, dangerous or unusual driving behavior is crucial to establishing the reasonable suspicion for making a traffic stop. Officers should exercise due care and caution when following a possibly impaired driver and be alert for any unusual or inappropriate reactions. The officer should document all observed behaviors in the arrest report to substantiate reasonable suspicion. This will provide the officer with clear details of the incident when testifying in court.
 - B. **VEHICLE TRAFFIC STOPS:** Vehicle traffic stops will be made in accordance with the Huntsville Police Department's written directive concerning vehicle traffic stops.
 - C. **DRIVER OBSERVATIONS:** Upon making contact with the suspected driver, the officer should observe the appearance, odors, mannerisms and characteristics of the driver. These factors should be evaluated and if consistent with that of an impaired person, further investigation may be warranted. The officer should ask the suspected driver to exit the

vehicle and to perform a series of field sobriety tests.

- D. **FIELD SOBRIETY TESTS:** All officers should be mindful of officer safety tactics when administering field sobriety tests.

TRAINING: All officers will receive training on Standardized Field Sobriety Tests (SFST) during their Basic Police Academy. Officers will attempt to administer the SFST to the suspected driver, to determine if the driver's motor skills and coordination are impaired. The officer must be able to perform any test(s) he/she requests the suspect to perform and may have to demonstrate these in court.

1. Field sobriety tests should be conducted in an area of relative safety for both the officer and the driver. Whenever possible, SFST test should be conducted on a reasonably dry, hard, level, non-slippery surface. There should be sufficient room for subjects to complete nine heel to toe steps. Recent field validation studies have indicated that varying environmental conditions have not affected a subject's ability to perform this test. An officer may transport a subject to a location more suitable for administration of the SFST if the situation dictates.
2. Distractions should not prevent the administration of field sobriety tests but should be taken into account when evaluating results.
3. Officers trained in the Standardized Field Sobriety Tests are able to administer the following tests:
 - a. Horizontal Gaze Nystagmus (HGN)
 - b. Vertical Gaze Nystagmus (VGN)
 - c. Walk and turn;
 - d. One leg stand;
4. Officers trained in Advanced Roadside Impaired Driving Enforcement (ARIDE) are able to administer the following additional tests:
 - a. Modified Romberg
 - b. Lack of Convergence

c. Finger to Nose

d. Pupil Observations

Note: Officers should document the results of all field sobriety tests for the purpose of probable cause and to be used as testimonial evidence in the event of trial.

- E. **DRUG RECOGNITION EXPERT:** Officers who suspect that a person is under the influence of drugs may request a Drug Recognition Expert (DRE) under the following conditions; a suspect under investigation for DUI, First or Third-Degree Assault (by a Motor Vehicle) or Vehicular Homicide if believed to be drug induced.
- F. **ARRESTS:** In the event of an arrest, the officer should handcuff the suspect in accordance with existing arrest procedures.
- G. **FELONY DUI ARRESTS:** Officers will check all persons arrested for DUI to determine if a felony DUI charge is appropriate. After a third conviction within the preceding ten (10) year period, or if the offender has a previous conviction for felony DUI (regardless of time frame) the Officer shall charge the offender with a class C Felony and proceed with a felony DUI arrest according to established procedures.
- H. **RELEASE TO A RESPONSIBLE PARTY:** An Officer shall administer SFSTs upon contact with a suspected impaired driver, assuming the suspect consents and the circumstances allow. If the suspect does not display enough clues of impairment on the SFSTs to prove impairment based on standards established by National Highway Traffic Safety Administration (NHTSA), but in the Officer's judgement, the suspect is not safe to drive, then reasonable attempts shall be made to secure safe transportation from the scene. The transportation will be of the suspect's choice, within a reasonable amount of time, and may include, but not limited to, choice of taxicab, rideshare, family member, or any other citizen who is sober with a valid driver's license.
- I. **IMPOUNDMENTS:** All impoundments will be made in accordance with the Huntsville's Police Department's written directive concerning vehicle impoundment procedures.
- J. **CHEMICAL TESTING**
 - 1. **BREATH:** Under normal circumstances, the subject shall be transported to the Metro Jail for a Breath Test. The offender will be directed to submit to a chemical breath test to determine the level of blood alcohol. The testing will be conducted according to

training provided by the Alabama Department of Forensic Sciences (ADFS) and will be conducted on an ADFS approved testing instrument. This is the adopted method established by the Huntsville Police Department. Upon completion the offender will begin the intake process at the Detention Facility.

2. BLOOD: A Blood Test should not be conducted unless the officer can articulate why a Breath Test would be ineffective or inaccurate or why a Blood Test was necessary (i.e., probable cause to believe the subject is DUI-Drugs, or other reason required by law). A Drug Recognition Expert or a DUI Task Force Officer should be contacted to assist any blood draw request. If the Blood Draw is a part of a Traffic Homicide Investigation, then the Traffic Homicide Investigator will facilitate the blood draw.
 - a. A Voluntary Consent for a Blood and Urine Test form should be filled out at this time.
 - b. If the offender refuses to take a test the officer should fill out the request form for a warrant and the Request for the Taking of Samples of Blood and Urine under Title 32-5a-194, Code of Alabama form.
 - c. If a person refuses a test, none shall be given without a court order ordering the person to submit to a test.
 - d. Any samples taken will be handled according to established procedures governing DUI drug evidence.
3. ADDITIONAL TESTS: If the violator requests an additional test after having taken the approved instrument test, the arresting officer has a legal responsibility to allow the individual to make arrangements for such a test and then make a reasonable accommodation to transport the individual to the appropriate facility.
 - a. If the violator has chosen an additional test (i.e. blood test), the arresting officer will transport the violator to any medical facility or doctor's office of the violator's choosing that is within reasonable driving distance within the limits of City of Huntsville.
 - b. The Officer shall make no comment concerning fees, costs, or procedures of the medical facility, even if the violator asks him. Such comments tend to cause "confusion" and "discouragement" of the violator from making an independent decision. It is the responsibility of the arrestee, not the officer, to designate the

specifics of the additional testing and the officer must be appraised of those specifics before he/she has a duty to facilitate the arrestee's selection.

- c. The arresting officer will advise the testing facility that the violator, at his/her own request, would like a legal blood alcohol test. The violator has the responsibility for any fees incurred during the administering of any additional test(s).
4. Traffic Crashes: If the offender is involved in a traffic crash involving death or serious physical injury the Officer should attempt to obtain a voluntary blood or urine test at the nearest medical facility.
- a. A Voluntary Consent for a Blood and Urine Test form should be filled out at this time.
 - b. If the offender refuses to take a test the officer should fill out the request form for a warrant and the Request for the Taking of Samples of Blood under Title 32-5a-194, Code of Alabama.
 - c. If a person refuses a test, none shall be given without a court order ordering the person to submit to a test.
 - d. If the person is unconscious, or who is otherwise in a condition in which they are incapable of refusal, a search warrant must be obtained unless exigent circumstances exist.
 - e. Any samples taken will be handled according to established procedures governing DUI drug evidence.
 - f. The driver must be notified in writing, using the AST-61 Form, that failure to submit to a test will result in the suspension of his or her privilege to operate a motor vehicle for a period of two years.
5. PORTABLE BREATH TESTING (PBT): PBTs, such as Alco-sensors or other mechanical screening test(s), are not mandated by law but may be used as an investigative aid in determining if a person should be transported for a designated chemical test(s). Alco-sensors or other mechanical screening test(s) shall be used in accordance with operating instructions.

- a. Officers are not required to read the Implied Consent Warning prior to administering an Alco-sensor test.
 - b. Violators who provide a breath sample and the result is greater than the legal limit established in Alabama Code 32-5A-191 may be arrested for DUI.
- K. D.U.I. ON PRIVATE PROPERTY: Officers may arrest an impaired driver on private property if probable cause exists. Officers should be aware that the implied consent law applies only to the public roadways of the State of Alabama. Therefore, the offender will be read his or her Miranda Warning and then asked to submit to a chemical breath test. If the offender refuses to take the chemical breath test, he or she will not be subject to the penalty of refusal as dictated by implied consent.
- L. D.U.I. CRASH INVESTIGATION: Upon an Officer's arrival at an accident scene, the Officer may arrest an impaired driver, providing that the offender has not left the scene, if:
- 1. The Officer observes the offender in actual physical control of the vehicle; or
 - 2. The offender admits to the Officer that he or she was driving; or
 - 3. If there is a witness at the crash scene who observed the offender operate the motor vehicle and is willing to appear in court as a witness to that fact.
 - 4. Officers should take into consideration that a driver may be disoriented due to an injury as a result of the accident. Officers should follow the criteria set forth within this directive in establishing probable cause for making an arrest. Officers should also be aware of the possibility of any future charges that may result from any injuries and/or death incurred in the crash, in that a DUI charge may jeopardize any future prosecution based on the offender's constitutional right against double jeopardy.
7. CONDUCT AROUND POLICE RECORDING EQUIPMENT: Officers will be mindful of recording equipment used to record DUI arrests. While in the area of such equipment, Officers should not act or speak in a manner they do not want presented before a court of law. Officers should keep in mind that the recordings are evidence and may be used in a later trial.
8. ENFORCEMENT COUNTERMEASURES: The patrol emphasis of the DUI officers will be to reduce alcohol and/or drug related traffic offenses by fielding units that are specially

trained and equipped to apprehend and process alcohol or drug-impaired drivers. These Officers will utilize directed patrol methods of enforcement utilizing the following:

- A. Emphasis on enforcement of all laws and statutes relating to alcohol consumption and the operation of motor vehicles;
- B. Traffic Safety Checkpoints pursuant to the written directive governing operation of safety checkpoints;
- C. In car video surveillance cameras, when available;
- D. Handheld alcohol sensors, when available; and
- E. Approved breath testing instruments provided by the State of Alabama.
- F. Equipment: If an officer is assigned any special equipment pursuant to this duty, he or she will receive instruction on the proper use and care of such equipment. This may be accomplished by instruction from a senior officer, certified instructors, or as directed by the Operations Bureau Commander.