

ORANGE COUNTY SHERIFF'S OFFICE



GENERAL ORDER

Effective Date: June 8, 2024	<input checked="" type="checkbox"/> Amends G.O. 6.1.1 (March 5, 2019)	Number: 6.1.1
Distribution: All Personnel	Review Month: September	Reviewing Authority: SOD / Traffic
Subject: DUI Traffic Enforcement		

This order consists of the following:

1. Purpose
2. Policy
3. Definitions
4. Procedures

1. Purpose

The purpose of this policy is to discourage people from driving while impaired through enforcement action.

2. Policy

The agency shall vigorously enforce all DUI laws.

3. Definitions

- A. Actual Physical control - When approaching the operator of a stopped vehicle without ever observing the vehicle in motion. The vehicle must be able to be driven and the driver must be in the driver's seat with the ability to operate it to be considered for a DUI investigation. The location of the vehicle keys and the vehicle's operability are very important facts that will be noted in the Arrest Affidavit if an arrest is made.
- B. Advance Roadside Impairment Driving Enforcement (ARIDE) - a DUI class that focuses on how to observe, identify, and articulate the signs of impairment that relates to drugs, alcohol, or a combination of both.
- C. Blood Alcohol Content (BAC) – an unlawful BAC of 0.08g/100ml or higher is presumptive proof of impairment and prima facie evidence that the person was under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.
- D. Breath Alcohol Content (BrAC) – an unlawful BrAC of .08g/210L or higher is presumptive proof of impairment and prima facie evidence that the person was under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.
- E. Drug Recognition Expert (DRE) - Law Enforcement Officer who has received specialized training and has been certified by the International Association of Chiefs of Police (IACP) to evaluate suspects and determine, if the subject is impaired, what drug category(s) is/are causing the impairment, and if a medical condition is causing the impairment.

- F. DUI – driving under the influence as defined by FS [316.193 \(1\)\(a\)\(b\)\(c\)](#).
- G. DUI Uniform Traffic Citation – a citation issued only for DUI arrests when the driver’s BrAC or BAC is .08 or higher or when the driver refuses to submit to a blood, breath, or urine test.
- H. DUI Worksheet - can be found on OCSO agency portal. This form includes a check off list, Health questions, Psychophysical evaluations, and the Standardized Field Sobriety Exercise worksheet.
- I. Lack of Convergence - inability of an individual to cross their eye when focusing on a stimulus as it is moved towards the bridge of their nose (must be ARIDE certified).
- J. Modified Romberg - adapted and modified from its original use as a neurological assessment tool in order to check a subject’s internal clock, balance and presence of tremors (eye lid and body). (must be ARIDE certified)
- K. National Association of State Boating Law Administrators (NASBLA) - An organization that certifies law enforcement officers in the Seated Battery exercise method.
- L. Presumption of Impairment – a person under the influence of alcoholic beverages, encompassing anyone with a BAC of 0.08g/100ml or a BrAC of .08g/210L or higher, any chemical substance defined in FS [877.111](#), or any controlled substance under FS [893](#) to the extent normal faculties are impaired.
- M. Seated Battery - an alternate exercise typically used for Boating Under the Influence investigations. This alternate exercise may be used on the roadside if other exercises are not practical.
- N. Standardized Field Sobriety Exercises (SFSE) -The National Highway Traffic Safety Administration (NHTSA) has sanctioned three standard field sobriety exercises which include Horizontal Gaze Nystagmus (HGN), Walk and Turn, and One Leg Stand.
- O. Uniform Traffic Citation (UTC) – standard traffic summons issued for traffic offenses.

4. **Procedures**

- A. Phase 1 (Vehicle in Motion)
The following circumstances may identify an impaired driver:
 1. Traffic violation(s) committed by the operator.
 2. Specific behavior or driving pattern that indicates a high probability that the operator may be impaired. This driving pattern could include the following, headlights off, weaving in and out of lane, extremely slow speeds, erratic driving, unusual driver actions, or other traffic violations.
 3. Locating an occupied vehicle based upon a description from a citizen complaint.

4. The vehicle and/or occupants are suspects in any criminal act.
- B. Phase 2 (Personal Contact)
- When reasonable suspicion has been established, deputies shall initiate traffic stops in accordance with GO [6.1.6](#). Deputies shall be alert for any signs of impairment that may be seen after the traffic stop is initiated. The following procedures will be followed:
1. When approaching vehicles, deputies should observe the vehicle interior for evidence such as open alcoholic beverage containers or drug paraphernalia.
 2. Deputies shall request the driver's license, vehicle registration and insurance card. Deputies shall be alert for the ability of the driver to comply with requests as well as any odor of alcoholic beverages or drugs.
 3. Deputies shall be alert for signs of impairment which include, but are not limited to:
 - a. Bloodshot, glassy, watery eyes
 - b. Driver's balance while standing
 - c. Speech and thought process
 - d. Demeanor
 - e. General appearance
 4. Deputies shall advise the driver of the specific reason for the stop. Deputies may inquire, at roadside, if the suspect has been drinking and if so, how much, where and how long ago, without reading the Miranda warning.
 5. When approaching the operator of a stopped vehicle without ever observing it in motion, the driver must be in, or on, the vehicle with the ability to operate it to be considered for a DUI investigation. The location of the vehicle keys and the vehicle's operability are very important facts that will be noted in the Arrest Affidavit if an arrest is made.
- C. Phase 3 (Pre-Arrest Screening)
1. During phase 1, phase 2, and phase 3, when deputies suspect that the driver is impaired, deputies shall request the driver perform roadside Standardized Field Sobriety Exercises (SFSE). If the driver agrees, deputies shall request the driver to perform the following National Highway Traffic Safety Administration (NHTSA) Standardized Field Sobriety Exercises unless the driver is medically unable to perform the exercises or due to their level of impairment.
 - a. Horizontal Gaze Nystagmus
 - b. Walk and Turn
 - c. One-Leg Stand
 2. Alternate Exercises that may be used are:
 - a. Finger to Nose
 - b. Romberg (Alphabet or Number Count)
 - c. Lack of Convergence (ARIDE certified)
 - d. Modified Romberg (ARIDE certified)
 - e. Seated Battery (NASBLA certified)

3. After the Standardized Field Sobriety Exercises or Alternate Exercises are completed and probable cause exists, deputies shall affect the arrest.
4. If the driver refuses to perform the standardized Field Sobriety Exercises or Alternate Exercises, deputies shall advise the driver that refusing limits the investigative outcome decision to observations of, and interactions with, the driver up to that point. Further explain, that the driver's refusal may be used as evidence against them in any potential criminal or civil proceeding. If the driver still refuses, deputies may use the refusal as part of their probable cause determination.

D. Arrest

If the driver has been arrested, the following procedures will be followed:

1. The defendant shall be handcuffed immediately upon arrest, and then searched.
2. Deputies shall notify the dispatcher of the arrest and shall note the time of the arrest. The time given by the dispatcher will be the official time of arrest.
3. The defendant's vehicle will be towed for safekeeping by the appropriate contract wrecker service, except in the following circumstances:
 - a. If the defendant is the registered owner and upon the defendant's request, the vehicle may be released to a licensed passenger who is sober.
 - b. The owner of the vehicle is sober and present at the scene.
 - c. The arrest is made at the owner's residence.
 - d. The vehicle is lawfully parked, and the defendant agrees to not have the vehicle towed.
4. The arresting deputy shall transport the defendant to the DUI Testing Center.
5. If the defendant is in need of medical attention, has been transported to the hospital or to another medical facility, and the administration of the breath test or urine sample is impossible or impractical, the arresting deputy can ask the defendant to provide a voluntary blood sample. The blood kits along with the DUI blood draw packets are available at the DUI Testing Center. The kit must be placed in the Sector 4 evidence refrigerators as per evidence guidelines.

E. DUI Processing Phase

1. When defendants are brought to the DUI Testing Center for processing, the following procedures will be followed:
 - a. Breath testing and video recording will be conducted in accordance with SO [20.0](#).
 - b. The arresting deputy shall be responsible for necessary paperwork in accordance SO [20.0](#).

- c. Deputies shall adhere to the provisions of FS [322.2615](#) relating to the seizure and suspension of the defendant's driver's license.
 2. Defendants shall remain handcuffed at all times while at the DUI Testing Center, except for administrative purposes, DRE Evaluation or necessary restroom use if deemed safe by the deputy. Deputies shall stay in close proximity to the defendant when un-handcuffed for safety reasons.
 3. Defendant's do not have a right to call or meet with an attorney prior to the breath test.
 4. When defendants request an independent blood test in addition to the administration of a breath test a deputy shall not interfere with the defendant's opportunity to obtain an independent blood test at his/her own expense, in accordance with SO [20.0](#).
- F. Video Procedures
- DUI Technicians and arresting deputies shall refrain from soliciting incriminating statements from the defendant. However, they are not to repress the defendant's spontaneity. The video procedure will include the deputy reading the implied consent warning to the defendant on camera in the testing room. The DUI technician shall cue the deputy when the video begins.
- G. DUI Arrest Forms
- A DUI Uniform Traffic Citation will be used for refusal or unlawful BrAC /BAC (.08g or greater) cases. In all other cases, a standard UTC will be used.
1. When valid sample results of the breath tests are less than .08g/210L, the defendant's license will not be seized for suspension unless the defendant refuses the urine.
 2. When the results of the breath test are less than .08g/210L, and there is reasonable suspicion for possible drug impairment, the arresting deputy may request the defendant give a urine sample after reading the defendant the appropriate implied consent warning. The urine sample, if given, will be sent to the FDLE lab for drug toxicology testing in accordance with evidence procedures.
 3. FS [322.2615](#) provides for the seizure and suspension by the arresting deputy of the driver's license of persons charged with DUI, FS [316.193](#), under certain circumstances. The seizure and suspension by the arresting deputy may be conducted under the following circumstances:
 - a. When the results of the breath test indicates an unlawful breath alcohol level of .08g/210L or greater.
 - b. The defendant refuses to submit to a blood, breath, or urine test.
- H. Transfer of Probable Cause, DUI Arrests
1. Occasionally a deputy may have the need to transfer probable cause for a DUI arrest to another law enforcement officer. In these instances, the following procedures will be adhered to when a deputy requests another

law enforcement officer to respond to assist with a suspected impaired driver:

- a. Prior to calling another deputy, the requesting deputy shall make every attempt to stop suspected defendants. Deputies shall determine whether reasonable suspicion exists that the driver may be impaired prior to calling another deputy.
 - b. The stopping deputy shall not give the defendant any type of Standardized Field Sobriety Exercises. If any Standardized Field Sobriety Exercises are administered prior to the arrival of the second deputy, the case cannot be transferred.
 - c. While the stopping deputy is waiting for the second deputy to arrive on scene, the stopping deputy shall remain active in the DUI investigation in some way which could include writing traffic citations, courtesy notices, or using the OCSO DUI worksheet to ask medical prescreening questions about the driver's health.
 - d. Upon the arrival of the second deputy, the stopping deputy shall advise the second deputy of the traffic stop details. The second deputy shall conduct his/her own DUI investigation.
 - e. At the conclusion of the investigation, the second deputy shall determine whether probable cause exists to arrest the defendant. This determination will be based on the totality of the circumstances and the facts specific to the case. If probable cause exists, the second deputy shall arrest the defendant.
 - f. If the second deputy cannot arrive on scene with the stopping deputy within a reasonable amount of time, the requesting deputy shall conduct the DUI investigation.
2. Prior to leaving the scene of the traffic stop, the stopping deputy must accomplish the following:
 - a. Complete a handwritten witness statement or a supplemental report explaining the reason(s) for the stop.
 - b. If a supplemental report narrative is completed, a JURAT must also be completed. The JURAT shall be given to the second deputy prior to the second deputy transporting the defendant to the DUI Testing Center. A photocopy of the JURAT and the printed supplemental report narrative is needed for the DHSMV DUI packet.
 - c. Address the traffic violations observed by issuing a verbal warning, Courtesy Notice, or Uniform Traffic Citation to the defendant.
 - d. The second deputy shall verify the stopping deputy is listed as a witness on the Arrest Affidavit.
 3. When a second deputy is not available, the stopping deputy may request assistance from the Florida Highway Patrol, or a municipal agency should the stop occur within their jurisdiction. If no one is available to assist, the deputy shall conduct the DUI investigation.
 4. Under no circumstances shall any deputy of the agency permit an impaired driver to continue to operate the vehicle. Deputies shall take enforcement action when probable cause exists.

- I. Administrative Proceedings
 1. An integral part of the judicial process for DUI cases involves the Driver's License Administrative Hearing. This hearing is conducted by the Department of Highway Safety and Motor Vehicles (DHSMV) Bureau of Administrative Reviews (BAR). There is a separate subpoena process for the Driver's License Administration Hearings. Witness subpoenas and hearing notices may be issued by the BAR on behalf of the defendant. Hearing notices may be sent via email or mail and will have the same authority as any subpoena.
 2. The Administrative Rules governing Driver's License Hearings (FS [92.142](#)) require witness fees be paid prior to the testimony of the witness. When the arresting deputy receives a Witness Fee check, it must be endorsed with the notation: "Payable to Orange County Sheriff's Office". The check is forwarded to Fiscal Management.
- J. Temporary Detention Training
Personnel charged with monitoring temporarily detained individuals in the DUI Testing Center facility are provided initial training on the use of the temporary detention area(s) and retraining at least once every three years.