

SALINA POLICE DEPARTMENT			Number
GENERAL ORDER			O2201
SUBJECT: DRIVING UNDER THE INFLUENCE			
EFFECTIVE:	11/11/22	ISSUED: 11/11/22	REVIEW: Annual
CANCELS:			
AMENDS: O2201 issued 2/23/18			Distribution A
CALEA References: 61.1.10.			

POLICY

Officers shall stop any driver who is believed to be operating a vehicle while under the influence of alcohol and/or drugs and affect an arrest for same when probable cause exists.

PROCEDURE

1. When an officer contacts a vehicle operator who is suspected of being under the influence of intoxicating liquor and/or drugs, the following procedures will be followed:
 - 1.1. Under most circumstances field sobriety testing will be conducted. (If operator impairment is evident and probable cause exists to arrest without field testing, such testing may be dispensed with). The tests consist of several physical dexterity and mental exercises designed to assist the officer in determining whether the operator is impaired. The officer shall have the operator perform as many of the prescribed tests as possible given the existing field conditions. The officer shall consider the operator's attitude, any possible injuries suffered by the operator, age and weight, weather conditions, interference from other persons, and the officer's safety in deciding whether to conduct sobriety testing. The tests performed shall include, but are not limited to the following:
 - 1.1.1. Officer qualified Horizontal Gaze Nystagmus
 - 1.1.2. Walk and Turn Test
 - 1.1.3. One Leg Stand Test
 - 1.1.4. Preliminary Breath Test (PBT) - (See attachment A of this General Order.)
 - 1.1.5. Should the officer suspect the operator is impaired by drugs, an ARIDE officer should conduct testing to determine impairment.
 - 1.2. If field observations, field sobriety testing and/or the PBT lead the officer to believe that the operator is impaired, either by drugs or alcohol, the officer shall place the operator under arrest and take the operator to the Intoxylizer Testing Room located in the booking area of the Saline County Jail.
 - 1.2.1. Upon arrival at the booking area the officer must first secure all weapons in one of the locked boxes provided.
 - 1.2.2. The officer must request entry into the Intoxylizer testing room area through Jail Control by utilizing the intercom system located at the entry doors from the Sally port.
 - 1.2.3. Once inside of the testing room the officer must remain inside of the secured testing room with the prisoner at all times keeping him in constant supervision.
 - 1.2.4. In the event of an emergency, officers may utilize their portable radios or the telephone inside of the testing room, or the intercom system to summons assistance.

- 1.2.5. The doors to the testing room are controlled by Control and are kept secure at all times.
- 1.3. Upon arrival at the Intoxylizer testing room, the arresting officer shall read and furnish a copy of the implied consent provisions of KSA 8-1001 to the operator. The officer will then request that the operator submit to an Intoxylizer breath test to determine his breath alcohol level. If arrested and the operator is below the .08 legal limit, a urine and/or blood test shall be requested and a Drug Recognition Expert (DRE) should be notified.
- 1.3.1. Intoxylizer testing shall be performed by operators certified on the equipment in use, having received the appropriate training as required by the Kansas Department of Health and Environment.
- 1.3.2. Once requested, if the operator refuses a breath test, or any tests offered, it shall be deemed a REFUSAL, and treated as same. On a test refusal, the officer will complete the electronic DUI search warrant, requesting breath, blood, urine, or any combination of these.
- 1.3.3. Urine samples shall be obtained in an area which provides privacy to the operator and the officer. The officer shall view the sample as it is being given. Should the operator and arresting officer be of different sexes, another officer or matron of the same sex as the operator shall obtain the sample.
- a. Containers with urine specimen shall be sealed and appropriately labeled to indicate the name of the subject being tested, the date, the case number, what tests are being requested and the name of the officer requesting test(s).
- b. Containers with urine specimen shall be appropriately packaged and personally placed, by the officer requesting the test, into the refrigerated evidence locker and it will be sent to the KBI laboratory by the evidence technician.
- c. Urine specimen containers and appropriate labels are maintained in the Intoxylizer room and at the police department.
- 1.3.4. Blood samples will be taken by a qualified medical technician and processed according to procedures specified by the Kansas Department of Health and Environment.
- a. It is important that the arresting officer specify whether the blood examination is for the content of alcohol or other drugs.
- b. Containers with blood specimen shall be sealed and appropriately labeled to indicate the name of the subject being tested, the date, the case number, what tests are requested and the name of the officer requesting test(s).
- c. Containers with blood specimen shall be appropriately packaged and personally placed, by requesting officer, into the refrigerated evidence locker and it will be sent to the KBI laboratory by the evidence technician.
- d. If alcohol and drugs are to be tested, more than one (1) blood tube is needed.
- e. Blood specimen containers and appropriate labels are maintained at the police department and Salina Regional Health Center.

- 1.4. The Salina Police Department DUI Report will be used to record the operator's responses and the officer's observations.
- 1.5. In the event that an operator suspected of being under the influence of alcohol and/or other drugs is admitted to a hospital or medical treatment facility for treatment of injuries sustained in a traffic accident, the officer shall request that the operator submit a blood sample to determine the alcohol content.
 - 1.5.1. Should the operator be admitted to a hospital, the officer shall notify the staff that once the individual is ready to be released from the hospital, the Department shall be notified so that the arrest and bonding process may be completed.
- 1.6. Operators may obtain additional testing of their choice at the completion of Departmental testing. Any costs incurred for such testing will not be the responsibility of the Department.
- 1.7. At the conclusion of the testing, if sufficient evidence exists to support the charge of Driving Under the Influence, bond will be set by the bond schedule maintained by booking personnel. Should the operator fail to receive bonding for a District Court charge, a court appearance date will be scheduled by the booking officer. On Municipal Court charges the booking officer will schedule a court appearance date the first Tuesday, forty-two (42) days from the date of arrest.
 - 1.7.1. The arresting officer shall properly complete the appropriate Officer's Certification and Notice of Suspension form (DC-27, DC-28, or CDL-5) and personally mail it along with the operator's driver's license and test results if completed, to the Kansas Department of Revenue for suspension purposes.
 - a. Addressed and stamped envelopes are maintained in the Squad Room. The envelopes will then be placed in the Department's outgoing mail.
- 1.8. Should an operator suspected of Driving Under the Influence refuse to submit to any testing procedures offered, such refusal shall be noted on the Certification and Notice of Suspension form.
 - 1.8.1. Operators suspected of Driving Under the Influence shall be booked into jail for the offense.
 - a. Upon release to booking, the operator suspected of Driving Under the Influence shall personally and physically be served with his portion of the Certification form which shall serve as notification of pending suspension until further action by the Kansas Department of Motor Vehicles.
 - 1.8.2. When a blood or urine sample is requested in lieu of a breath test, the Certification and Notification of Suspension form shall be maintained in the original case file until results of requested testing are received. Should results return positive, the Certification and Notification of Suspension form will be mailed to the last known address of the operator indicated on the form; this form will serve as a pending suspension notice until further action by the Kansas Department of Motor Vehicles.
- 1.9. After all testing and documentation is completed, unless otherwise indicated, the operator suspected of Driving Under the Influence shall be booked into jail.
- 1.10. Disposition of Operator's Vehicle
 - 1.10.1. When a custodial arrest has been made of an operator suspected of driving while under the influence of alcohol and/or drugs, the vehicle maybe turned

over to another sober person at the owner's request, or towed in accordance with provisions stated in General Order O2409.

1.10.2. An officer is granted immunity from civil or criminal liability for the care and custody of a motor vehicle operated by a subject arrested for Driving Under the Influence if the officer acts in good faith and exercises due care (KSA 8-1011).

1.10.3. The final disposition of the operator's vehicle will be recorded in the DUI offense report by the arresting officer and, if the vehicle is impounded, an impound report will be included with the DUI report.

2. Juveniles – Driving Under the Influence

2.1. If a juvenile age 10-13 is arrested for Driving Under the Influence, at the completion of testing or test refusal, the officer will refer the case to District Court and release the juvenile to JIAS.

2.2. If a juvenile age 14-17 is arrested for Driving Under the Influence, at the completion of testing, or test refusal, the officer will complete an official traffic citation and a court date will be set on a Tuesday no sooner than forty-two (42) days from the issue date. The juvenile will then be released to JIAS.

BY ORDER OF

CHIEF OF POLICE

ATTACHMENT A**KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT**

KSA 8-1012. Preliminary screening test of breath for alcohol concentration; request by officer, grounds; notice required; refusal to take test is traffic infraction; use of results of tests; additional tests.

- A. A law enforcement officer may request a person who is operating or attempting to operate a vehicle within this state to submit to a preliminary screening test of the person's breath to determine the alcohol concentration of the person's breath if the officer has reasonable grounds to believe that the person has been operating or attempting to operate a vehicle while under the influence of alcohol or drugs or both alcohol or drugs.
- B. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made and whether to request the test authorized by KSA 8-1001 and amendments thereto.
- C. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results shall not be admissible in any civil or criminal action except to aid the court or hearing officer in determining a challenge to the validity of the arrest or the validity of the request to submit to a test pursuant to KSA 8- 1001 and amendments thereto.
- D. Following the preliminary screening test, additional tests may be requested pursuant to KSA 8-1001 and amendments thereto.

GUIDELINES FOR PRELIMINARY BREATH TESTING

- 1. PBT'S (Preliminary Breath Testers) should be used as a part of field sobriety tests.
- 2. Results are not admissible into court except in a challenge to the validity of the arrest.
- 3. PBT'S give an approximation of breath alcohol content.

GUIDELINES FOR PRELIMINARY BREATH TESTING WITH THE ALCO SENSOR IV

- 1. Allow at least 10 - 40 seconds to obtain final reading.
- 2. Training must be conducted according to manufacturer's operating instruction.
- 3. Calibration must be done every 31 days.
- 4. PBT'S may be used numerous times in a one hour period allowing one (1) minute between testing.