

**GENERAL ORDERS MANUAL  
WESTERN MICHIGAN UNIVERSITY  
DEPARTMENT OF PUBLIC SAFETY**

**I. PURPOSE**

The purpose of this general order is to detail procedures for processing those persons who have been arrested for Operating a Motor Vehicle While Intoxicated (OWI) or Operating Under the Influence of Drugs (OUID) and to establish guidelines to assist in completing a thorough incident report.

**II. POLICY**

It is the policy of the Western Michigan University Police Department to arrest those drivers determined to be under the influence of alcohol and/or drugs. In addition, a detailed incident report is expected in order to assist in post-arrest procedures, hearings, and/or trials.

**III. INITIAL INVESTIGATION / ARREST**

- A. The reason for the traffic stop, contact, or investigation should be documented in the incident report. The initial contact with the driver and any other notable events during the officer's contact with the driver should also be documented in the incident report.
- B. Field Sobriety Tasks
  1. Field sobriety tasks should be performed by the driver at the scene, when practical.
  2. Officers who successfully completed the Standardized Field Sobriety Training may request the subject perform the one leg stand, walk and turn, and Horizontal Gaze Nystagmus (HGN) tasks, based on their training.
  3. Only officers with documented training in HGN should use the HGN task.
  4. The officer may ask the driver to perform additional reasonable tasks.
  5. Mobile video recorders should be on and reasonably adjusted to record the tasks.
  6. All tasks requested and performed should be documented in the incident report.
- C. Preliminary Breath Test (PBT)

The PBT should be offered to the driver after being advised of his/her PBT rights and after all psycho/physical evaluations and tasks have been administered. If the PBT is refused, a civil infraction traffic citation may be issued.
- D. Witnesses

All witnesses who observed the person driving shall be identified, interviewed, and listed in the report.
- E. ZERO TOLERANCE LAW

When an officer stops a vehicle being operated by a person under the age of 21 and the officer suspects that the driver has been drinking, the stop shall be handled as an OWI investigation. The Zero Tolerance Law applies to drivers under 21 with any bodily alcohol content, or a BAC of at least .02% and less than .08%.

**F. Probable Cause / Arrest**

1. When the officer witnessed the person driving and has probable cause to believe the person was operating a vehicle while impaired by alcohol or drugs or has a higher-than-legally-permitted Blood Alcohol Concentration (BAC), the driver shall be arrested for OWI/OUID.
2. When probable cause is primarily based on reliable and credible information from a witness, or following an accident investigation, the officer shall arrest the person for OWI/OUID if the arrest can be made in a timely manner after the incident occurrence.
3. If the driver is 16 years old or under, they must be released to a parent or legal guardian. Instruct the driver and parent that the minor may not drive a motor vehicle until their blood alcohol level has decreased. Document these instructions in the report. The paperwork shall be sent to the Prosecutor's Office for disposition through Family Court.

**G. License Plate Confiscation**

State law requires confiscation of the arrestee's license plate if charged with a second or subsequent alcohol driving (Section 625) violation.

**H. Video Evidence Preservation**

Officers shall take the necessary measures to preserve any audio-video recordings related to the investigation. Recordings from WMU patrol cars and within the WMU Police Department shall be saved per general order COM-9. Videos from any other location or agency shall be requested as well (e.g. Officers must complete a video request form at the KCSD jail in order to make sure the KCSD Datamaster room recordings are preserved). Officers shall document the actions they take to preserve these recordings in the incident report.

**IV. CHEMICAL TEST**

A. The arrestee shall be advised of rights for the chemical test, noting the time of the reading on the form and which test is requested.

B. If the arrestee is unsure if he/she wants to take the chemical test requested, or wants to contact an attorney, the arresting officer must allow a reasonable period of time for the arrestee to decide about the test or contact an attorney. After a reasonable amount of time, if the arrestee does not take the test, the arresting officer shall inform the arrestee a refusal will be recorded.

**C. Breath Test**

1. The "Questions Prior to Testing" portion of the WMU Police Datamaster Worksheet should be reviewed prior to administering a breath test.
2. The arrestee will not be allowed to smoke, eat, chew gum, drink anything or place anything in their mouth during the observation period preceding a breath test.
3. A breath test may only be administered by a person properly trained and certified to conduct the requested test. The test must be administered in accordance to

Datamaster guidelines. The printed results (OD-80) should be attached to other report paperwork and submitted at the time of the report.

4. If the results of a breath test are .30% BAC or greater, paramedics will be notified to determine if the arrestee will be transported to a hospital for treatment before being lodged in jail.

**D. Blood Test**

1. A blood test will be requested if drugs/narcotics are suspected as the source of impairment or if an open wound in or near the mouth prohibits the use of the breath test. A blood test will also be requested when a person arrested suffers from any type of respiratory condition that would prohibit them from providing the Datamaster with an adequate sample of breath. The officer will request a blood test by reading the Chemical Test Rights.
2. Evidence handling procedure for a blood sample requested by officers:
  - (a) A current Biological Specimens kit will be obtained.
  - (b) Officer shall witness the withdrawal of the blood and assure the Alcohol and Drug Determination form (FSD-093) is thoroughly completed. The agency copy shall be submitted with other report paperwork and the other copies placed in the kit.
  - (c) The blood sample shall then be secured with the seal provided in the kit.
  - (d) The kit will then be placed in outgoing mail where it will be sent to the Michigan State Police Crime Lab.
3. The name and contact information of the person drawing the blood shall be listed in the report as a witness.

**E. Test Report Form and Temporary Operator's License**

Following a breath, blood, or urine test, the arresting officer will complete the Breath, Blood, Urine Test Report (DI-177) form and give the driver's copy to the arrestee, which will also serve as a temporary operator's permit if the arrestee had a valid Michigan operator's license prior to the arrest.

**F. Arrestee Choosing Their Own Analysis**

1. Only after taking the chemical test requested by the officer, may the arrestee have a person of their own choosing administer a breath, blood, or urine test. It is the arrestee's choice who will collect the specimen and perform the chemical test, as long as that choice is reasonable with respect to time and distance. (Note: The person or agency whom the arrestee makes this request to is under no obligation to withdraw the blood or administer a test.)
2. An arrestee requesting their own test is responsible for payment of all lab fees, test results, and chain of custody. Neither the WMU Police or KCSD will take possession of any blood or urine samples from an independent test. Therefore, it is the responsibility of the arrested subject to have the hospital or lab retain the sample for analysis.

**G. Chemical Test Refusal**

If the arrestee refuses the test, the officer reading the Chemical Test Rights form shall file the Officer's Report of Refusal to Submit to Chemical Test (DI-93). Only the officer reading the Chemical Test Rights will sign it. In the event the person first agrees to a breath test but later refuses, the name of the Datamaster operator shall be documented on the refusal form. The arresting officer will complete the DI-93 and issue the arrestee the driver's copy, which will serve as a temporary operator's permit if the arrestee had a valid Michigan operator's license prior to the arrest.

**H. Arrestee's Driver's License Disposition**

1. Non-Michigan driver's licenses shall NOT be seized and destroyed, per this policy.
2. The arrestee Michigan operator's license shall be seized and destroyed if any of the following exist:
  - (a) Arrestee's breath test result is .08% BAC or more
  - (b) Arrestee is under 21 years of age with breath test result of .02% or more
  - (c) Arrestee refuses to submit to a chemical test
3. Michigan driver's licenses will be seized and attached to the pink officer's copy of the DI-177 form when an arrestee submits to a blood test, pending blood test results. The Michigan driver's license will be destroyed if the result is .08% BAC or more, or if the arrestee is under 21 years of age with a result of .02% BAC or more. Otherwise, the detective or officer assigned to the follow up investigation will return the driver's license to the owner by first class mail, to the address given at the time of the arrest.

**V. CITATIONS / WARRANT REQUESTS / COURT APPEARANCE DATES**

- A. The arresting officer shall request a driving conviction report and CCH on the arrestee to determine if any prior OWI/Per Se/OUIL/OUID convictions exist in Michigan or in another state. If prior convictions exist, the arrestee shall be mirandized and questioned about the specifics of the prior convictions.
- B. Requests for authorization for OWI/OUID II, OWI High BAC (.17% BAC or higher), and OWI/OUID III must be sent to the Prosecutor's Office for review.
- C. If the officer can determine the arrested driver has prior convictions, and the time limits are met, the appropriate second or third offenses charges shall be pursued by the department.
- D. In cases where the defendant is to be charged under a violation of state statute with additional offenses, the case will be referred to the Prosecutor's Office and a multiple-count warrant will be requested. A misdemeanor citation will not be issued if other charges connected with the same incident will be pursued (e.g. OWI offense where a controlled substance is located and requires a lab analysis).
- E. The court appearance date for OWI/OUID/Operating While Visibly Impaired/Operating with the Presence of a Controlled Substance/less than 21 Years (Zero Tolerance) shall be set for the next court date following the arrest date and shall not be set for weekend days or a holiday. The court appearance date for OWI with Occupant less than 16 (Child Endangerment), OUIL II/OWI II, and OUIL III/OWI III will be determined after a warrant is requested and authorized by the Prosecutor's Office.

**VI. LAW ENFORCEMENT INFORMATION NETWORK (LEIN)**

- A. After all arrests for OWI/OUID, the arresting officer must ensure arrest data is entered into LEIN. These entries must be made whether the arrestee submits to the chemical test or refuses the test.
- B. If applicable, confiscated license plate and paper plate information should also be entered in to LEIN.

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**Issued by:**



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