



## ***WEBER COUNTY SHERIFF'S OFFICE***

### **POLICY AND PROCEDURES**

### **DUI PROCEDURES**

EFFECTIVE DATE: 12/19/08  
 AMENDS/SUPERCEDES:  
 STANDARD NUMBER: 61.1.11

REVIEW DATE: 12/19/08  
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 Sheriff Signature

#### **45.20.1 Purpose**

To establish procedures for the handling of persons suspected or charged with impaired driving.

#### **45.20.2 Rationale**

The investigation and arrest of a person suspected of impaired driving differs from the handling of other traffic law violations. Because of unique statutory and other legal requirements specific to impaired driving, special procedures have been developed to guide deputies in the investigation of impaired driving.

#### **45.20.3 Procedure**

- A. The following action should be taken against the driver suspected of driving under the influence:
  1. From the moment a deputy suspects a driver of being under the influence of alcohol/drugs, he/she shall note observations.
  2. Exercise care and caution in the apprehension of a suspected DUI driver, and summon adequate assistance. During the apprehension of the suspected DUI driver, the deputy will be alert to the driving behavior of the violator.
  3. Once stopped, do not allow the suspected DUI driver to drive any further.
  4. Approach the suspected DUI driver with due caution, but with minimal delay.

5. Make sure the violator's vehicle is safe, out of gear, engine turned off, and brake properly set.
6. Observe and note any unusual occurrences or conditions relative to the driver.
7. Obtain the driver's license or other identification.
8. If possible, conduct field tests to determine impairment.
9. If it is determined the driver is under the influence of alcohol and/or drugs, an arrest should be made. The deputy should not allow a violator he/she determines to be impaired to reenter the vehicle, since the violator may try to drive away from the scene.
10. If the deputy feels another condition has affected the driver's behavior, other appropriate action may be taken (medical aid).
11. Once the driver is arrested for DUI, he/she will be transported to the appropriate site for chemical tests, and his/her vehicle should be towed to a state tax yard.
12. The driver will be advised of his/her rights relative to the Utah Implied Consent law, if applicable.
13. If the driver submits to a chemical test for intoxication, the test will be administered by a qualified person.
14. If the chemical test for intoxication does not substantiate the deputy's observations, other causes for the driver's condition will be examined. A drug other than alcohol may be considered.
15. If the chemical test for intoxication substantiates the deputy's observations, he/she may transport the driver to the Weber County jail. Juvenile violators may be released to parents or guardians.
16. Office forms will be completed as required, thoroughly accounting for the incident, indicating the results of any tests (physical or chemical) that have been administered.

B. Conducting Field Tests

1. Once a driver has been stopped, the deputy should continue his/her investigation to determine if probable cause exists for an arrest. The preliminary investigation can be divided into three stages:
  - a. Initial evaluation.
  - b. Non-structured maneuvers.
  - c. Field sobriety tests.

C. Requesting Blood or Breath Tests and Refusal

1. If probable cause exists for the arrest of the driver for driving under the influence of alcohol or drugs, the arresting deputy shall request the driver to take either a blood test or a breath test pursuant to the State of Utah implied consent law, UCA 41-6a-520.
2. A DUI summons and complaint form will be completed by the deputy and served personally upon the driver and cannot simply be put in personal effects.
3. If at the time of service the driver possesses a valid Utah driver's license and it is in the driver's possession, the license will be seized by the deputy. The "valid" block on the form will be marked. If the driver does not have a valid license the "not valid" block will be marked.

D. Blood Samples in Injury or Fatal Accidents

1. When a deputy has probable cause to believe that a person has been driving under the influence of intoxicating beverages or drugs and has been the proximate cause of a death or serious bodily injury to another, written consent or a search warrant to administer a blood alcohol test shall be obtained and test or tests will be administered with or without the driver's consent.
2. If the deputy does not have probable cause, all drivers involved in serious injury or fatal accidents will be requested to voluntarily submit to a blood test.
3. A deputy will be dispatched immediately to the hospital in cases where blood tests will be required so the specimen may be drawn prior to the driver being taken to X-ray, surgery, etc. (When a driver is under the influence of an intoxicant and/or drugs, and his/her actions are the proximate cause of the injury or death, that fact in itself is sufficient cause to file charges of vehicular assault

(serious bodily injury) or vehicular homicide (death)).

4. A blood sample from any person who has died as a result of a motor vehicle or aircraft accident shall be obtained and tested as required by UCA 41-6a-520, as amended.

E. Suspected Drug Influence

1. If the driver displays behavior indicative of being under the influence of an intoxicant and the odor of an intoxicating beverage is not detected, the deputy should closely observe the interior of the driver's vehicle for drugs or drug paraphernalia in plain view. If the deputy is unable to locate any controlled substance(s) or drug paraphernalia, an arrest is still possible if in the deputy's judgment probable cause exists that the driver is under the influence. After arrest, the deputy shall conduct an appropriate search of the driver and the vehicle to locate any additional evidence.
2. Whenever the odor of an intoxicating beverage is present, however slight, the implied consent procedure should be administered. When a clear indication the driver is under the influence of drugs is present, such as the absence of odor of an alcoholic beverage, or a minimal measurement of alcohol content in the subject's breath, a sample of the driver's blood, urine or saliva may be obtained. The type of test administered to detect the influence of drugs is the choice of the arresting deputy, not the driver.
3. The most accurate test for determining drug influence requires a urine sample from the driver. Drugs are short lived in the blood stream and are more concentrated in the urine making detection much easier. If the driver refuses to submit to a urine test, the action would constitute a violation of the implied consent law and refusal would justify the completion of the "Notice of Revocation or Denial" form. The urine test will be administered at an appropriate facility.
4. When having blood samples drawn for the detection of the presence of drugs, ensure that qualified personnel obtaining the samples are aware the test is for the presence of drugs. If the suspected drug is known, indicate to person drawing blood what the suspected drug is.

F. Chemical Tests - General

1. The driver will be transported to the appropriate facility for breathalyzer, blood tests or urine tests (if appropriate).

- a. If the facility does not require the deputy to complete a waiver form supplied by the facility, the deputy shall utilize the waiver form supplied in the blood kit.
- b. If the facility requires the use of their own consent form, the deputy shall complete the form as instructed.

2. Blood Test Procedure

- a. The deputy may obtain consent for the blood to be taken for legal blood alcohol determination; or, based on probable cause, obtain a search warrant for blood to be taken from the subject.

3. Breath Test Procedure

- a. If the deputy requests a breath test, the driver will be transported to the appropriate facility for administration of the breath test. Only certified operators will operate the intoxilyzer instrument.
- b. Prior to administering the test, the arresting deputy will ensure the driver has taken nothing orally, such as cigarettes, water, gum, or chewing tobacco, etc. Any material introduced orally by the driver fifteen (15) minutes prior to the administration of the test could alter the outcome of the test and result in the suppression of the test results as evidence.
- c. The breath test will be administered by a certified operator in accordance with the procedures outlined by the manufacturer of the intoxilyzer instrument.
- d. If the driver verbally consents to a breath test and then changes his/her mind or if he/she does not satisfactorily perform the test after instruction, the deputy should advise the driver that his/her actions constitute a refusal and the refusal admonition will be read to the driver.
- e. If the breath test results in a reading of .08 grams per 210 liters of breath or greater and the test was administered within two (2) hours of the original contact, the deputy may cite the driver for the violations of driving under the influence, Per Se. A thirty (30) day permit will be issued if the driver has a valid Utah driver's license on his/her person. The driver's license will be seized prior to issuing

the temporary permit. At no time will out-of-state driver's licenses be seized under the law.

- f. If the breath test results are less than .08 grams per 210 liters of breath, the deputy should use his/her discretion on what charge(s) is applicable or to continue the investigation into possible drug involvement. The deputy has the option of citing for the observed violation(s) or DUI if impairment can be established.
- g. Violations committed during the observation of driving behavior should also be listed on the citation as charges.

#### 4. Urine Test Procedure

- a. The driver must sign the appropriate facility form granting consent for the hospital to collect the urine specimen. Should the driver refuse to sign the form, the deputy should instruct the individual that his/her actions constitute a refusal under the implied consent law and a refusal will be submitted. The deputy will read the refusal admonition.
- b. The deputy must determine which substance abuse panel is to be processed. These panels are described as follows:
  - i. Substance abuse panel 6
    - ix Amphetamines
    - ix Barbiturates
    - ix Cocaine metabolite (benzoylecgonine)
    - ix Marijuana THC
    - ix Opiates
    - ix Phencyclidine (PCP)
  - ii. Substance abuse panel 8
    - ix Same as 6, except will include urine alcohol
  - iii. Substance abuse panel 10
    - ix Amphetamines
    - ix Barbiturates
    - ix Benzodiazepines
    - ix Cocaine metabolite (benzoylecgonine)
    - ix Marijuana THC
    - ix Methadone

- ix Methaqualone (Quaalude)
  - viii Opiates
  - ix Phencyclidine (PCP)
  - x Propoxyphene (Darvon)
- iv. Substance abuse panel 12
  - ix Same as 10, except will include urine alcohol
- c. The deputy must witness the collection of the urine specimen by the hospital personnel. If the driver is of the opposite sex, another peace officer, nurse, phlebotomist, or physician of the same sex as the subject will witness the collection of the specimen.
- d. If the driver is unable to void or unable to void a sufficient quantity, the driver, specimens, and forms will remain in the custody of the deputy until an adequate specimen is obtained or the deputy determines otherwise.
- e. If the deputy witnessed the collection of the urine specimen, he/she will print his/her name, sign, date, and time in the "Chain of Custody" area of a form supplied by the hospital.
- f. The specimen will then be placed in the locked box or evidence storage facility at the hospital.