



GENERAL POLICE ORDER

CLEVELAND DIVISION OF POLICE



EFFECTIVE DATE: JANUARY 19, 2007	REVISED DATE: JANUARY 17, 2007	NO. PAGES: 1 of 5	NUMBER: 8.2.05
SUBJECT: OPERATING A VEHICLE WHILE INTOXICATED (OVI)			
ASSOCIATED MANUAL: DISTRICT, CRIME SCENE & RECORDS		RELATED ORDERS: 3.4.14	
CHIEF OF POLICE: <i>Michael McGrath, Chief</i>			

Revisions are printed in Italic.

PURPOSE: To establish procedures for OVI enforcement.

POLICY: It is the policy of the Division of Police to detect and arrest drivers when there is probable cause to believe they are operating vehicles while under the influence of alcohol and or drugs.

PROCEDURES:

I. Felony OVI

Certain prior convictions make OVI a felony. Three or more OVI convictions in the last six years, any prior felony OVI, any previous conviction in the last six years for OVI related Involuntary Manslaughter, Aggravated Vehicular Homicide, Vehicular Homicide, or Aggravated Vehicular Assault makes the current OVI a felony. *If prior convictions exist to warrant a charge of felony OVI, citations are not issued to the violator for OVI/DUI. The citation shall be filled out and the white, green, pink, and yellow copies forwarded with the booking papers. If a felony is warranted; the detectives shall hold the citations. They shall not issue them to the prosecutor. If there is no felony the detectives can issue the completed pre-written citation with all the correct information to the prosecutor. Check the LEADS printout to ascertain prior convictions. If LEADS is down, or the offender has a fresh conviction that has not shown up, the offender shall be charged with ONLY a misdemeanor. If it is later learned that a felony charge is appropriate the detectives shall nolle the misdemeanor and make a felony charge, provided the case has not yet been disposed.* The Record Management System (RMS) report must include the prior conviction particulars in the narrative. District detectives must be provided with a copy of the RMS Report and the LEADS printout.

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II. The BMV Form 2255 must be completed for all OVI arrests. The BMV 2255 is titled, "Report of Peace Officer, Administrative License Suspension/Notice of Possible CDL Disqualification, Immobilization/Forfeiture." Rev.7/06.

III. The following must be forwarded with the booking card.

- A. Goldenrod copy of Form BMV 2255
- B. Alcohol Influence Form
- C. BAC Data Master print-out and form if applicable
- D. LEADS print outs of driver and vehicle
- E. White copy of UTT (non felony OVI).

IV. Chemical Tests

- A. Every effort shall be made to administer chemical tests within three hours of the violation. The breath test is the primary method used to determine the alcohol concentration. Urine testing shall be used when breath test equipment is unavailable, or if drug use is suspected. A refusal to submit to a urine test shall be treated as a refusal even if the violator has already submitted to a breath test.
- B. Blood tests shall only be used when breath and urine tests are unavailable, or it appears that medical treatment will extend beyond two hours. If violators are dead, unconscious, or otherwise incapable to refuse, they are deemed not to have withdrawn consent; therefore, a blood sample may be obtained.
- C. Urine and blood samples:
Samples shall be immediately transported to SIU (or Central Prison Unit when SIU is closed) using the re-sealable specimen transport bag. The white copy of Form BVM 2255 and the ORIGINAL Alcohol/Drug Influence Report shall accompany samples.

V. Citations

Violators arrested for OVI shall be cited for CCO 433.01 (a) (1) *unless they are*

being arrested for a Felony OVI. If being arrested for a felony OVI proceed as stated in Section I. Set court dates within five days from the date of issuance.

Depending on the age of the violator, the type of test, and the results, violators shall be cited for additional charges as listed below. Because the results of urine and blood tests are not known, officers shall complete the citation assuming the alcohol content is above the statutory level of presumed impairment.

Age of Violator	Type of Test	Results	Charge
All ages	Refusal	N/A	CCO 433.01 (a) (1)
21 and over	Breath	.08 or more but less than .17	CCO 433.01 (a) (4)
21 and over	Urine	.11 or more but less than .238	CCO 433.01 (a) (5)
21 and over	Blood(whole)	.08% or more but less than .17%	CCO 433.01 (a) (2)
21 and over	Blood(whole)	.17% or more	CCO 433.01 (a) (6)
21 and over	Breath	.17 or more	CCO 433.01 (a) (8)
21 and over	Urine	.238 or more	CCO 433.01 (a) (9)
Under 21	Breath	.02 but less than .08	CCO 433.01 (b)(3)
Under 21	Urine	.028 but less than .11	CCO 433.01 (b)(4)
Under 21	Blood	.02% but less than .08%	CCO 433.01 (b)(1)
21 and over	Blood serum or plasma	.96 or more but less than .204	CCO 433.01 (a)(3)
21 and over	Blood serum or plasma	.204 or more	CCO 433.01(a)(7)

VI. Drug per-se chemical tests-Juvenile and Adult

DRUG	Drug per se levels 4511.19 (J)		4511.19(j)
	URINE	Whole Blood/ Serum/Plasma	
Amphetamine	> 500ng/mL	>100 ng/mL	(J)(1)
Cocaine	>150ng/mL	>50 ng/mL	(J)(2)
Cocaine Metabolite	> 150ng/mL	>50 ng/mL	(J)(3)
Heroin	>2000ng/mL	>50 ng/mL	(J)(4)
Heroin Metabolite 6 monoacetyl morphine	> 10ng/mL	>10 ng/mL	(J)(5)
L.S.D.	>25ng/mL	>10 ng/mL	(J)(6)
Marihuana	>10ng/mL	>2 ng/mL	(J)(7)
Marihuana Metabolite	>15ng/mL	>5 ng/mL	(J)(8)(I)
Marihuana Metabolite	>35ng/mL	>50 ng/mL	(J)(8)(II)
Methamphetamine	>500ng/mL	>100 ng/mL	(J)(9)
Phencyclidine	>25ng/mL	>10 ng/mL	(J)(10)

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VII. Marihuana Metabolites

- A. If an officer has evidence of impairment **AND** charges 4511.19(A)(1)(a) based roadside field sobriety tests and other indicia of impairment charge with 4511.19(J)(8)(I).
- B. If an officer has no evidence of impairment and does not charge 4511.19(A)(1)(a) charge with 4511.19(J)(8)(II).

VIII. BMV 2255 Administrative License Suspension.

- A. The three hour time limit for obtaining a chemical test or tests does not extend the two hour time limit in which an officer must request and a person consents or refuses to a chemical test.
- B. ALS warnings remain two hours from the alleged violation.

IX. Seizure/forfeiture of vehicle: If the violator has one or two OVI convictions within the last six years, and the violator is the owner, the vehicle shall be towed for an OVI seizure. If the violator has three or more OVI convictions within the last six years, and the violator is the owner, the vehicle shall be towed for OVI forfeiture. Channel Seven must be advised of the hold and a notation must be made on the tow sheet. **If the violator does not have any OVI convictions the violator's vehicle may be towed, but do not place a hold on the vehicle.**

X. Administrative License Suspension: When a driver refuses a chemical test or tests over the legal limit the driver shall have their license immediately seized and suspended. This is an Administrative License Suspension (ALS).

- A. Persons under 21 who submit to a breath test, which results in a BAC of .02 to below .08, shall **not** have their license suspended.
- B. **When using urine or blood tests results are not immediately known so an administrative license suspension cannot be imposed. The BMV 2255 still must be completed.**
- C. In ALS cases, the seized driver license shall be mailed to the Bureau of Motor Vehicles along with the white copy of the Form BMV 2255. Pre-printed envelopes for this purpose are available from the Supply Unit.

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Glassine envelopes shall not be used for forwarding licenses to the BMV.

- D. Violators who test below the legal limit shall not have their driving privileges administratively suspended.
- E. If the license is unavailable for surrender, the violator shall be charged with “Failure to Display an Operator’s License” and the white copy of the Form BMV 2255 shall be mailed to the Bureau of Motor Vehicles without the license.
 - 1. *If the violator does have a driver license but it is unavailable for surrender the officer shall cite the offender for “Failure to Display a Driver License”, CCO 435.06.*
 - 2. *If the violator does not have or never had a valid driver license they should be cited for “Driver License Required”, CCO 435.01*
- F. The above three hour time limit does not extend the two hour time limit specified in 4511.192 when an officer requests and a person consents or refuses a chemical test using the BMV 2255. ALS warnings remain two hours from the alleged violation. Commercial Driver License: A driver of a commercial motor vehicle who also holds a Commercial Driver License (CDL) and is arrested for OVI shall be cited for Ohio Revised Code 4506.15, Driving a Commercial Vehicle While Having a Prohibited Concentration of Alcohol, instead of CCO 433.01.
- XI. Commercial Driver License: A driver of a commercial vehicle who also holds a Commercial Driver License (CDL) and is arrested for OVI shall be cited for Ohio Revised Code 4506.15, Driving a Commercial Vehicle While Having A Prohibited Concentration of Alcohol, instead of CCO 433.01.