

Columbus Police Division Directive	EFFECTIVE	NUMBER
	Jan. 30, 1997	5.06
	REVISED	TOTAL PAGES
	Dec. 30, 2015	11
<b>OVI Violators</b>		



## I. Definitions

### A. *Driving Impaired Criminal Enforcement (DICE) Officer*

*An officer with comprehensive training in all facets of impaired driver investigation including the application for search warrants to obtain evidence, felony OVI prosecution, and OVI prosecution involving serious or fatal traffic crashes.*

### B. *Drug Recognition Expert (DRE) Officer*

*In addition to DICE training, DRE Officers are extensively trained in the recognition of impairment in drivers under the influence of drugs other than, or in addition to, alcohol.*

**Note: DRE Officers are DICE Officers; however, not all DICE Officers are DRE Officers.**

## II. Policy Statement

The Division of Police is committed to aggressive enforcement of OVI laws to reduce the danger to the public caused by drivers **who are** impaired by alcohol and/or drugs.

## III. Procedures

### A. Sworn personnel processing an OVI arrest:

1. Advise the violator of the reason for the traffic stop.
2. Complete the Alcohol/Drug Influence Report, form I-10.106.
  - a. Record all applicable information on the form.
  - b. Advise a violator who is taken into custody of his or her constitutional rights prior to asking any question that may elicit an incriminating statement.
  - c. Complete the constitutional rights waiver portion of the form.
  - d. Attach the violator's voluntary handwritten statement written on a U-10.100 Continuation Sheet, form U-10.100A.
  - e. If the violator declines to write a statement, write "declined written statement" at the end of the Alcohol/Drug Influence Report.
3. Complete an Arrest Information, form U-10.100.
4. Transport the violator to a testing site (**police headquarters, Franklin County Jail, another law enforcement agency, a hospital, or use the BAC Truck, as necessary**).

- a. Normally, process a juvenile OVI violator in **police** headquarters.
  - b. If the violator is processed in the BAC room at **police** headquarters:
    - (1) An officer must remain in the room with the violator at all times.
    - (2) The violator should be shackled or handcuffed whenever possible.
    - (3) Secure all firearms and tasers in the lockboxes prior to entering the processing/testing area.
    - (4) Use the Emergency Call button in the processing room or on the walkie to summon emergency assistance.
  - c. If the violator is processed at another law enforcement agency:
    - (1) Comply with the agency's policies.
    - (2) If the agency's policies conflict with this directive, immediately notify a supervisor or, if possible, proceed to another testing site.
5. Prepare for the test.
- a. The preferred chemical sample is blood or breath. **If** the violator is suspected of being under the influence of drugs, **request a blood test. If denied, request a urine sample.**

**Note: If the violator is suspected of being under the influence of drugs a DRE Officer may be contacted to assist.**

b. Obtain a LEADS/OHLEG printout of the violator's driving record and include it in the OVI/Suspension packet, **form S-20.100.**

(1) The present OVI offense becomes a felony if any of the following apply:

- (a) The violator's driving record indicates previous convictions for three or more violations of OVI within six years of the present violation.
- (b) The violator's driving record indicates a previous conviction for a felony OVI at any time in the past.
- (c) The violator's driving record indicates a previous conviction within six years of the present violation for Aggravated Vehicular Homicide, Vehicular Homicide, or Aggravated Vehicular Assault, and the violator was under the influence of alcohol and/or drugs at the time of the offense leading to the conviction.
- (d) The violator has a previous conviction within six years of the present violation for Involuntary Manslaughter involving the operation or participation in the operation of a motor vehicle while under the influence of alcohol and/or drugs.
- (e) The violator's driving record indicates five or more OVI convictions within the past 20 years.

c. If the OVI is a felony:

**(1) Notify a DICE Officer to respond to assist.**

**(2) Process the violator in the BAC room.**

- (3) Do not file misdemeanor charges stemming from or directly related to the same incident, **for example**, driving under suspension, lane violations, speed, etc.
  - (4) Domestic Violence or other misdemeanor charges that are not related to the OVI may be filed.
  - (5) List the probable cause and all facts leading to the arrest on the Arrest Information form.
  - (6) Accident Investigation Unit (AIU) personnel will assist with the completion of the complaint/affidavit and the felony case folder associated with the felony OVI arrest if needed.
  - (7) The preferred course of action is to slate the violator at the jail in the county in which the arrest occurred.
- d. Within two hours of the violation or **traffic crash**, read and show the test and refusal consequences on form BMV 2255 to the violator in the presence of one witness.
- (1) The witness should be another police officer, civilian police employee, medical personnel, or hospital security personnel.
  - (2) Sign and have the witness sign form BMV 2255 to certify that the test and refusal consequences were read and shown to the violator.
  - (3) Have the violator sign Section E of form BMV 2255 to acknowledge the test and refusal consequences were read to them and that they were shown a copy of the consequences.
  - (4) If the violator is unconscious or otherwise incapable of refusing the chemical test:
    - (a) He or she is deemed not to have withdrawn consent.
    - (b) Cause a blood specimen to be obtained in accordance with this directive.
    - (c) Complete an OVI/**Traffic Crash** Medical Condition Form, U-10.106.
  - (5) If the violator refuses to decide whether to take the test within **three** hours, the violator has refused the test.
  - (6) Complete form BMV 2255 and place the form in the OVI/Suspension packet. The Court Liaison Officer files this Monday through Friday.
    - (a) If the violator tested .08 or above, or if the violator refused to submit to a chemical test, complete the affidavit of officer **on form BMV 2255**. Swear to it in the presence of a notary public, Deputy Clerk of Courts, or another peace officer.
    - (b) If the violator tested below .08, or a test result is not known, do not complete the affidavit of officer **on form BMV 2255**.
    - (c) Remove the violator's copy of the citation and **form** BMV 2255 when issuing a summons. Leave all other copies of the citation and **form** BMV 2255 together and place both in the OVI/Suspension packet.

- (d) **Provide** the violator **with** the goldenrod colored copy of **form** BMV 2255.
  - (e) Place a photocopy of the citation in the OVI/Suspension packet along with **form** BMV 2255, minus the violator's copy, when slating the violator.
  - (f) Do not put staples in form BMV 2255 or the citation.
- e. The violator does not have the right to refuse to submit to the test if any of the following apply:
- (1) The violator's driving record indicates two or more OVI or OVUAC convictions within the past six years.
  - (2) The violator's driving record indicates five or more OVI or OVUAC convictions within the past 20 years.
  - (3) The violator's driving record indicates a previous conviction for a felony OVI at any time in the past.
- f. If the violator does not have the right to refuse to submit to a chemical test and the violator refuses to submit to a chemical test,
- (1) Inform the violator that by law, whatever reasonable means may be used to ensure the violator submits to a blood test.
  - (2) Present this information in a non-threatening, non-coercive manner.
  - (3) Provide the violator with another opportunity to voluntarily submit to the chemical testing process.
  - (4) If the subject refuses, indicate the refusal on the **form** BMV 2255.
  - (5) **Contact a DICE Officer to secure a search warrant unless *there is an exigent circumstance. The natural dissipation of alcohol in the bloodstream alone does not constitute an exigent circumstance. The existence of an exigent circumstance is to be determined by viewing the totality of the circumstances.***
  - (6) Transport the violator to the nearest hospital, to a specific or pre-determined facility, or summon a qualified technician to perform a blood draw.
  - (7) Follow existing guidelines established for obtaining blood.
  - (8) Officers may use a reasonable amount of force to ensure the violator submits to a blood test pursuant to a warrant.
    - (a) Two officers shall be present.
    - (b) **The** safety of officers, medical facility staff, security personnel, and the violator shall be maintained.
    - (c) Officer(s) should not exceed a Level of Control 1 **Use of Force** to ensure the violator submits to the blood test. However, if the violator becomes combative, officers may react to the violator's actions in accordance with **Use of Force** Levels. **The** blood sample **may be secured** once officers obtain control of the violator.

- (d) Officer(s) shall not spark the taser (Level of Control 0) to ensure the violator submits to the blood test.
  - (e) If any Level of Control 1 **Use of Force** or above is necessary, the response shall be reported to a supervisor and a **Use of Force Report**, form U-10.128, shall be completed.
  - (f) File additional charges as necessary, [**for example**, assault, obstruction of official business, harassment with bodily substance (spitting, **etc.**)].
  - (g) Follow chain of custody and transportation procedures.
  - (h) Record the necessary information, including witnesses and all persons involved in obtaining the blood sample, on the Arrest Information form.
6. Administer the chemical test(s) within three hours of the violation **or traffic crash**.
- a. If **the violator** requests, permit **him/her** to make a telephone call to an attorney prior to or after submitting to the chemical test.
    - (1) It is a refusal to submit to the chemical test if the violator fails to test when requested. **However, because the test results are beneficial to the prosecution, reasonably accommodate the violator's request to contact an attorney.**
  - b. If the violator refuses the chemical test:
    - (1) Complete the report and affidavit of arresting officer at the bottom of form BMV 2255, and swear to it in the presence of a notary public, Deputy Clerk of Courts, or another peace officer. It is not necessary to notarize/clerk the offender's copy of **form** BMV 2255.
    - (2) Retain the violator's operator's license.
      - (a) Pursuant to ORC sections 4511.191 and 4511.192, **an** OVI offender's **operator's** license shall be seized if the offender charged with OVI tested .08 or above or refused to take a chemical test. Place the license in the OVI/Suspension packet.
      - (b) Ensure the appropriate box is checked on the OVI/Suspension packet.
    - (3) If the violator does not have an operator's license in his or her possession:
      - (a) Order that the license be surrendered to the Clerk of Courts within 24 hours.
      - (b) Include this order on the Arrest Information form and on the OVI/Suspension packet.
  - c. **Breath Tests**
    - (1) Include on the Arrest Information form the name, badge number, and assignment of the breath testing instrument operator.

- (2) Have the breath testing instrument operator complete the BAC test report form.
  - (a) Place the white copy of the test report form, stapled to the white printout, in the OVI/Suspension packet.
  - (b) Retain the yellow copy of the test report form, stapled to the yellow printout, in the BAC room.
  - (c) Give the remaining printout to the violator if he or she requests it. If it is not requested, place the remaining printout in the OVI/Suspension packet.
- (3) If the violator tested .08 or above or refused to take the breath test:
  - (a) Advise the violator of the administrative license suspension.
  - (b) Seize the violator's operator's license and place the license in the OVI/Suspension packet.
  - (c) If the violator does not have an operator's license in his or her possession, follow **the** procedures listed in Section **III,A,6,b,(3)**.
- (4) If the BAC test is below .08, and the Field Sobriety Tests do not support such a low BAC, obtain a blood **or urine** specimen to be screened for controlled substances. It is a refusal to submit to the chemical test if the violator will not agree to provide the blood **or urine** specimen.  
***Prior to obtaining a blood or urine specimen, a DRE may be contacted. If a DRE is requested and not available, contact a DICE Officer.***

**d. Blood Tests**

- (1) A DRE Officer may be contacted prior to a blood specimen being collected due to suspected drug impairment.***
- (2) Qualified technicians, chemists, nurses, or physicians may draw blood. They may refuse to draw blood if they believe the health of the violator would be endangered.
- (3) Obtain a blood specimen envelope from the steel box mounted in or near most Columbus-area hospital emergency rooms. These boxes are locked with a combination lock.
  - (a) The blood specimen envelope contains:
    - i) A non-alcohol based antiseptic swab. Alcohol swabs shall not be used to collect evidence of OVI.
    - ii) Two gray-topped, vacuum-sealed vials containing a solid anticoagulant (***a white powder substance***).
    - iii) Two vial labels.
    - iv) Red evidence tape to seal the vial and envelope.
    - v) A plastic bubble bag to place the vial in.

- (b) The steel boxes can be found in the following locations:
    - i) Doctors Hospital West
    - ii) Grant Medical Center
    - iii) Mount Carmel East Hospital
    - iv) Mount Carmel **West Hospital**
    - v) Mount Carmel St. Ann's Hospital
    - vi) Riverside Hospital
    - vii) University Hospital Campus
    - viii) University Hospital East
  - (c) Notify the **Third Shift Freeway Patrol Unit** if, after you remove an envelope, there are less than three blood specimen envelopes left in the steel box. **Third Shift Freeway Patrol Unit** personnel are responsible for supplying the boxes with envelopes.
  - (4) Verify the expiration date on all items. Ensure the **anticoagulant** is in the bottom of the vial. Give the swab and vial to the person who will collect the blood specimen.
  - (5) Have the person who seals the specimen container place his or her initials and the date and time of collection on the white portion of the red evidence tape used for the seal.
  - (6) Include on the Arrest Information form the name, title, address of hospital, and valid telephone number of the person(s) who collected the blood specimen and sealed the specimen container.
  - (7) Complete the information on the separate, self-adhesive label and adhere it to the specimen container.
  - (8) Place the specimen container in the plastic bag. Do not place evidence tape on the plastic bag.
  - (9) Place the plastic bag containing the specimen container in the envelope. Then, seal the envelope with red evidence tape and place your initials and the date on the white portion of the tape.
  - (10) Complete the chain of custody label on the envelope (date, time, your initials, and the specimen's destination). Indicate the seal by checking the box marked "yes."
  - (11) As soon as possible, submit the blood specimen to the **PCU** so that it can be refrigerated until analyzed.
  - (12) Complete the appropriate contracted laboratory request form and submit it to the **PCU**.
- e. Urine Tests
- (1) **A DRE Officer may be contacted, when practical, prior to a urine specimen being collected due to suspected drug impairment.**

- (2) Request a urine specimen in lieu of a breath test if the violator is suspected of being under the influence of drugs.
- (3) Uncap a sodium fluoride capsule and drop the entire capsule into a plastic screw-top container.
- (4) Give the violator the plastic screw-top container, with the capsule inside, to collect a urine specimen.
- (5) Cause and witness the collection of the urine specimen. If the violator is not of the same sex, cause the collection of the urine sample to be witnessed by a police officer, a civilian police employee, medical personnel, or hospital security personnel of the same sex as the violator.
- (6) Include on the Arrest Information form the name, badge number, and assignment, or name and title, of the person who witnessed the collection of the urine specimen and the time the specimen was collected.
- (7) Complete the information requested on the separate, self-adhesive label and adhere it to the specimen container.
- (8) Seal the specimen container with the supplied red evidence tape and initial the seal.
- (9) As soon as possible, submit the urine specimen to the Property Control Unit (**PCU**) so that it can be refrigerated until analyzed.
- (10) Complete the appropriate contracted laboratory request form and submit it to the **PCU**. ***Any urine specimen requested for drug analysis other than alcohol may involve assistance from a DRE.***

7. Issue traffic ticket(s)

- a. File the appropriate charge(s), based upon the test results. If blood or urine is to be analyzed, the Court Liaison Section will ensure that the appropriate additional charge is added when the test results become available.
- b. If the violator is slated:
  - (1) Write "slated" across the court date box on the traffic ticket.
  - (2) Place photocopies of the traffic ticket and the operator's license in the OVI/Suspension packet.
  - (3) Place the pink copy of the traffic ticket with the prisoner's property after a case number is written on the ticket by a **Deputy Clerk of Courts**.
  - (4) Have the violator slated on all charges arising out of the same incident if you witnessed the misdemeanors, or an exception permits arrest for those misdemeanors not committed in your presence.
  - (5) If the violator has an outstanding warrant, arrest on both the warrant and new charges.

- c. If the violator is an adult and issued a summons:
- (1) Check the box with the appropriate court address on the front of the citation.
  - (2) Assign the same court date to all charges arising out of the same incident.
  - (3) Assign a court date and time:
    - (a) Monday through Friday, five days from the date of violation excluding weekends.
    - (b) Do not assign a court date on a holiday or weekend day.
    - (c) A court time of **9:00** am.
    - (d) Courtroom 4C.
- d. If the violator is a juvenile and issued a summons and the violation occurs within the City of Columbus in Franklin County:
- (1) Check the box with the appropriate court address on the front of the citation.
  - (2) Assign a court date as follows:

Residential County:

Franklin County or Out of State	Monday through Friday, five days from the date of violation excluding weekends.
	Do not assign a court date on a holiday or weekend day.
	A court time of 9:00 am.
In Ohio	Write, "To be set" Franklin County will notify.

- e. If the violator is a juvenile and issued a summons and the violation occurs within the City of Columbus in Delaware County, assign a court date as follows:

Residential County:

Delaware	Assign a court date of Thursday - within five days of violation at 8:30 am, 70 North Union Street, Delaware, Ohio 43015
Other Ohio County or Out of State	Write, "To be set" - Delaware County will notify by mail.

- f. If the violator is a juvenile and issued a summons and the violation occurs within the City of Columbus in Fairfield County, assign a court date as follows:

Residential County:

Fairfield	Assign a court date of Wednesday - within five days of violation at 8:30 am, 224 East Main Street, Lancaster, Ohio 43130.
Other Ohio County or Out of State	Write, "To be set" - Fairfield <b>County</b> will notify by mail.

8. Compile the OVI/Suspension packet
- a. Refer to the content checklist when compiling the OVI/Suspension packet. Place original ticket in the packet. If the violator is also charged with a misdemeanor, place original complaint(s) in the packet.
  - b. Refer to the "Impounding and Towing" directive for information on seizing and impounding vehicles.
  - c. Place a photocopy of the Impounded Vehicle Inventory, form **A-32.107**, in the OVI/Suspension packet.
  - d. If a **traffic crash** was involved, include a photocopy of the Ohio Traffic Crash Report, form OH-1, in the OVI/Suspension packet.
  - e. Submit the OVI/Suspension packet.
    - (1) If the violator is an adult or a juvenile and is issued a summons, submit the completed OVI/Suspension packet at the BAC room in **police** headquarters.
    - (2) If the violator is an adult and is slated, submit the completed OVI/Suspension packet to the Clerk of Courts, 375 South High Street.
    - (3) If the violator is a juvenile and is slated:
      - (a) **Follow the procedures as outlined in the "Handling of Juveniles" directive.** Submit the original traffic tickets and a copy of the Arrest Information form to slating desk personnel at the juvenile detention **center**.
      - (b) Place photocopies of the traffic tickets in the OVI/Suspension packet and submit the completed packet to the BAC room.
9. Complete the Columbus Division of Police Traffic Data Collection Form, U-10.117. If possible, complete the electronic version of the form.

B. Sworn Personnel Involved in the OVI Countermeasures Program

1. Patrol **North** and **South** Subdivision Deputy Chiefs

- a. Determine when, other than holidays, the OVI Countermeasures Program should be put into effect, and
- b. Advise the Traffic Operations Section Lieutenant to implement the program.

2. Traffic Operations Section Lieutenant

- a. Select and train officers and supervisors to detect, apprehend, field test, and process OVI violators.
- b. Maintain a list of trained personnel to assign to the OVI Countermeasures Program in a directed patrol capacity.
  - (1) Assign on-duty officers as needed.
  - (2) Assign a sergeant to monitor, assist, and take an active role in enforcement.
- c. Analyze data, documenting OVI-related traffic problems and select areas in which to implement the program.
- d. Administer the program on or around holidays that have been traditionally high in OVI-related violations and as directed by the Patrol **North** or **South** Subdivision Deputy Chief.
- e. **Direct and monitor all sobriety checkpoint operations.**
- f. Maintain records of program activity to evaluate its effectiveness, and submit an annual report to the Chief of Police by January 15<sup>th</sup>.

3. Patrol Officers and Supervisors

- a. Submit a request through your chain of command to the Traffic Operations Section Lieutenant to volunteer for the OVI Countermeasures Program.
- b. Undergo the necessary training to enhance your ability to detect, apprehend, field test, and process OVI violators.