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OVI Violators		



I. Definitions

A. Driving Impaired Criminal Enforcement (DICE) Officer

An officer with comprehensive training in impaired driver investigations including the application for search warrants to obtain evidence, felony ***Operating a Vehicle Under the Influence (OVI) investigations***, and OVI ***investigations*** involving serious ***physical harm*** 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 of abuse other than, or in addition to, alcohol.

Note: DRE Officers are DICE Officers; however, not all DICE Officers are DRE Officers. ***Refer to the selection and removal process outlined in Section III,C.***

C. OVI Equivalent Offense

Any offense prohibiting the operation of a motor vehicle under the influence of alcohol or drugs of abuse that is equivalent to the offenses listed in Ohio Revised Code 4511.19 (ORC) and offenses from another state or local jurisdiction.

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 of abuse.

III. Procedures

A. Sworn personnel processing an OVI arrest:

1. ***Request a DICE or DRE officer as appropriate.***

- a. ***If a DICE or DRE officer is requested but not available, contact the Communications Bureau.***

Note: The Communications Bureau maintains a call-out list of DICE and DRE officers.

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 portion of the form.
3. Complete **the appropriate electronic report and** an Arrest Information, form U-10.100.
 4. Transport the violator to a testing site. Refer to the “Transport and Slatting” directive.
 - a. Normally, process a juvenile OVI violator in the BAC room at police headquarters and document the occurrence in the **Juvenile Holding Log, form I-20.164**. Refer to the “Handling of Juveniles” directive.
 - b. If the violator is processed in the BAC room at police headquarters:
 - (1) **Secure all firearms and tasers in the lockboxes prior to entering the processing/testing area.**
 - (2) An officer must remain in the room with the violator at all times.
 - (3) The violator should be shackled with a leg iron or handcuffed whenever possible. Secure the leg iron prior to removing the handcuffs and reapply the handcuffs before removing the leg iron.
 - (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 specimen is blood or breath.
 - (1) Request a breath test unless the violator is suspected of being under the influence of a drug of abuse. Follow existing guidelines established for conducting a breath test as outlined in III,A,6,c.
 - (2) If the violator is suspected of being under the influence of a drug of abuse, request a blood **sample or urine specimen**. Follow existing guidelines established for obtaining blood **and urine** as outlined in III,A,6,d **and III,A,6,e, respectively.**
- Note: A blood sample is preferred over a urine specimen.**
- b. **Enhancing Charges**
 - (1) **Enhance** the present OVI offense **to** a felony if any of the following apply:
 - (a) The violator’s driving record indicates **three or four OVI or equivalent offense** convictions within **ten** years of the present violation;

- (b) The violator's driving record indicates a conviction for a felony OVI at any time in the past; **or**
- (c) The violator's driving record indicates five or more OVI **or equivalent offense** convictions within the past 20 years.
- (2) **Do not enhance the present OVI offense for Involuntary Manslaughter, Aggravated Vehicular Homicide, or Aggravated Vehicular Assault convictions. These are not equivalent offenses for the purpose of enhancing OVI charges.**
 - (a) **Determine if there was an accompanying OVI conviction with the criminal convictions listed in Section III,5,b,(2).**
 - (b) **Consult a DICE Officer if the violator has been convicted of any of these offenses.**

Note: An accompanying OVI conviction is an equivalent offense for the purpose of enhancing OVI charges. The offense of Physical Control is not an equivalent offense for the purpose of enhancing OVI charges.

- 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.
- 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 **him or her** and that **he or she was** 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.

- (5) It is a refusal to submit to the chemical test if the violator:
- (a) Does not provide a sufficient breath or urine specimen, when afforded the opportunity to do so, or does not provide a blood specimen despite officers having secured a search warrant to do so, for example, if the violator tries to fight off the attempt to execute the search warrant or otherwise strongly refuses to submit; or
 - (b) Does not submit to the test within three hours.

Note: There is no legal requirement to wait for three hours to elapse when determining if the violator has refused to submit to the test.

- (6) Complete form BMV 2255 and place the form in the OVI/Suspension packet.

Note: The Court Liaison Officer files this Monday through Friday. **Form 2255 must be received by the Clerk of Courts within 48 hours of the arrest.**

- (a) If the violator tested .08 or above, or if the violator refused to submit to a chemical test, complete the affidavit of **arresting** 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 **arresting** officer on form BMV 2255.
 - (c) If the violator's vehicle is seized due to OVI, mark "Vehicle seized under ORC 4511.195 (OVI)" on form BMV 2255.**
 - (d)** 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.
 - (e)** Provide the violator with the goldenrod colored copy of form BMV 2255.
 - (f)** 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.
 - (g)** 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, **Operating a Vehicle Underage Consumption (OVUAC), or equivalent** convictions within the past **ten** years.
 - (2) The violator's driving record indicates five or more OVI, OVUAC, **or equivalent** 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 of his or her breath or urine:
- (1) Inform the violator that by law, whatever reasonable means may be used to ensure the violator submits to a blood test.
- Note: A search warrant must still be secured for the 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 violator 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 hospital, to a specific or predetermined facility, or summon a qualified technician to perform a blood draw.
 - (7) Follow existing guidelines established for obtaining blood as outlined in III,A,6,d.
 - (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 law and the "Use of Force" directive. The blood specimen 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 specimen, 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 *or* her **a reasonable opportunity** 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, a DRE Officer may be requested for assistance.
Follow the procedures listed in section III,A,1 to request DICE or DRE assistance.

d. Blood Tests

- (1) Contact a DICE Officer to secure a search warrant unless there is an exigent circumstance. The natural dissipation of alcohol or any drug of abuse 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.
- (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 specimen **kit** from the steel box mounted in or near most Columbus-area hospital emergency rooms. These boxes are locked with a combination lock.
 - (a) The specimen **kit** 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) **Three specimen seals;**
 - iv) **Two orange evidence seals to seal the specimen kit; and**
 - v) A plastic bubble bag to place the vials in, **containing the:**
 - a) Absorbent pad,**
 - b) Biohazard bag, and**
 - c) Ohio State Highway Patrol Property Control/Crime Lab Submission form.**
 - Note: The specimen kit also contains a sodium fluoride capsule and urine sample vial which are not used in the collection of blood evidence.**
- (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

ix) Dublin Methodist Hospital

x) Mount Carmel Grove City Hospital

- (c) Notify the **OVI Countermeasures Sergeant** if, after you remove a **kit**, there are less than three specimen **kits** left in the steel box. **The OVI Countermeasures Sergeant is** responsible for **resupplying** the boxes.
 - (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) 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.
 - (6) **Follow the collection checklist on the biohazard bag.**
 - (7) Have the person who seals the specimen **kit** place his or her initials **on the two orange evidence seals and place the seals on both ends of the specimen box.**
 - (8) As soon as possible, submit the blood specimen to the Property Control Unit (PCU).
 - (9) Complete the **provided Ohio State Highway Patrol Property Control/Crime Lab Submission form** and submit it to the PCU.
- e. Urine Tests
- (1) **Obtain a specimen kit as described in III,A,6,d,(3).**
 - (2) **Follow the collection checklist on the biohazard bag.**
 - (3) Give the violator a plastic screw-top container to collect a urine specimen.
 - (4) Cause and witness the collection of the urine specimen. If the violator is not of the same sex, cause the collection of the urine specimen to be witnessed by a police officer, a civilian police employee, medical personnel, or hospital security personnel of the same sex as the violator.
 - (5) 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.

- (6) **Have the person who seals the specimen kit place his or her initials on the two orange evidence seals and place the seals on both ends of the specimen box.**
- (7) As soon as possible, submit the urine specimen to the PCU.
- (8) Complete the **provided Ohio State Highway Patrol Property Control/Crime Lab Submission form** and submit it to the PCU.
7. Issue traffic ticket(s)
- a. File the appropriate impaired driving charge at the time of arrest unless directed otherwise by the investigating detective. If a blood or urine specimen is to be analyzed, the Court Liaison Section will ensure that the appropriate additional charge(s) 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 **as follows**:
 - (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 **a.m.**
 - (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 a.m.
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 a.m. , 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 a.m. , 224 East Main Street, Lancaster, Ohio 43130.
Other Ohio County or Out of State	Write, "To be set" - Fairfield County will notify by mail.

- 8. Compile the OVI/Suspension packet
 - a. Refer to the content checklist when compiling the OVI/Suspension packet. Place the original ticket in the packet. If the violator is also charged with a misdemeanor, place the original complaint(s) in the packet.

- b. Refer to the “Impounding and Towing” directive for information on seizing and impounding vehicles. ***If a violator’s vehicle is seized due to a felony OVI arrest, ensure the “Hold for Evidence” and “Vehicle Seized” boxes are checked on the Impounded Vehicle Inventory, form A-32.107.***
- c. Place a photocopy of the Impounded Vehicle Inventory in the OVI/Suspension packet.
- d. If a traffic crash was involved, include a copy of the completed 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:

- (a) ***Submit the completed OVI/Suspension packet to the BAC room in police headquarters if completed by the end of the shift, or to the Clerk of Courts, 375 South High Street, within 48 hours of the arrest if not completed by the end of the shift.***
- (b) ***Submit a copy of the completed documentation electronically to the prosecutor’s office. Do not submit OVI/Suspension packets via interoffice mail from substations.***

(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, ***by the end of the shift.***

(3) If the violator is a juvenile and is slated ***for one of the arrestable offenses listed in the “Handling of Juveniles” directive:***

- (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 ***and Arrest Information form*** in the OVI/Suspension packet and submit the completed packet to the ***Clerk of Courts, 375 South High Street, by the end of the shift.***

B. Sworn Personnel Involved in the OVI Countermeasures Program

1. Patrol *Operations* Subdivision Deputy Chief

- 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. *OVI Countermeasures Sergeant and* 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) **Monitor *the* enforcement *activities of OVI Countermeasures personnel.***
 - 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 **Operations** Subdivision Deputy Chief.
 - e. Maintain records of program activity to evaluate its effectiveness, and submit an annual report to the Chief of Police by January 15.
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.

C. DICE Program Administration

1. DICE Officer Applicant

- a. **Contact the OVI Countermeasures Sergeant for additional information about becoming a DICE Officer.**
- b. **Apply for DICE Officer status as instructed by the OVI Countermeasures Sergeant.**
- c. **Upon appointment to DICE Officer status:**
 - (1) **Comply with all aspects of the OVI Countermeasures training.**
 - (2) **Follow the guidance established in the OVI Countermeasures Training Track when performing OVI enforcement activities.**

2. OVI Countermeasures Sergeant

- a. **Consider DICE Officer applicants according to the following criteria:**
 - (1) **Prior law enforcement experience or other relevant specialized training**
 - (2) **Recommended completion of the OVI-3 course, one year after the completion of the OVI-4 course, and at least three years of service as an officer**
 - (3) **Favorable recommendation from the prosecutor's office**
 - (4) **OVI/Suspension packet preparation and paperwork review**
 - (5) **Approval by Traffic Operations Section Lieutenant**

- b. Review service records of DICE Officer applicants for disqualifying elements, such as the following:*
 - (1) Excessive sick mark-offs*
 - (2) Sustained departmental charges or pending internal investigations that may result in departmental charges*
 - (3) Unfavorable recommendation from the prosecutor's office*
 - (4) Poor OVI/Suspension packet preparation or paperwork*
 - (5) Failure to complete the approved OVI Countermeasures Training Track*
- 3. OVI Countermeasures Sergeant and Traffic Operations Section Lieutenant*
 - a. Select and train officers to participate in the DICE Program.*
 - b. Administer and maintain records associated with the DICE Program.*
 - c. Consider and make a final determination to remove officers from the DICE Program when any of the following criteria apply:*
 - (1) Disqualifying elements listed in Section III, C, 2, b*
 - (2) Deviation from training*
 - (3) Violation(s) of the Rules of Conduct and/or Division Directives*