

RENO POLICE DEPARTMENT GENERAL ORDER

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Chief of Police: Jason Soto /s/		
Approving Deputy Chief: Tom Robinson /s/		
General Order No P-190-17	Issued: September 1, 2005	Revised: March 23, 2017
General Order Title: DUI ENFORCEMENT		

POLICY

The Reno Police Department trains and expects officers to enforce Driving Under the Influence Laws.

DEFINITIONS

Articulable suspicion - is less than probable cause to make an arrest or conduct a search, but must be more than capriciousness or arbitrary harassment. This term is used to designate the amount of cause required to request a chemical test under Nevada Informed Consent or a Preliminary Breath Test (PBT).

Illegal per se - Refers to the liability upon a motorist with a blood, breath and/or urine concentration that meets or exceeds the legal intoxication level established in NRS who drives or is in actual physical control of a vehicle on any public highway or on premises to which the public has access.

PROCEDURES

Enforcement Procedures

An arrest for driving under the influence of alcohol and/or a controlled or prohibited substance may be made when an officer has reasonable cause to believe any or all of the following apply:

- A person has committed the elements of driving or being in physical control under the influence as witnessed by an officer of this or another law enforcement agency.
- A private person witnessed the driving or physical control element of the offense and can identify the suspect.
- The suspect was involved in a traffic accident and can be.
- That evidence can show that the suspect was in actual physical control of one of the involved vehicles.

Arrest Procedures

When an officer makes contact with a suspected intoxicated driver, the procedures are as follows:

1. Medical Alert Identification - Per NRS 171.147 officers will, when arresting any person who appears to be intoxicated, investigate to determine whether that person is wearing or carrying any medical alert identification which might account for the person's actions.
2. Standardized Field Sobriety Tests (SFST) - Consent is necessary to administer and SFST. An SFST is not required by law and should not be administered if:
 - a) Suspect refuses.
 - b) Officer safety could be compromised.
 - c) Traffic or weather conditions make it too hazardous.
 - d) There is a significant language barrier
 - e) Suspect is injured.

If an SFST is not performed, officers will include the reason in their report.

3. Preliminary Breath Tests (PBT) – A PBT measures blood alcohol levels. Articulate suspicion is required to administer a preliminary breath test. The PBT can be used to assist in establishing reasonable grounds to make an arrest. Although a PBT is not required to make an arrest, it should be used in conjunction with the field sobriety test while at the scene. No admonition is required for a PBT.
4. Prior Offense Determination - When it appears the investigation will result in an arrest, a check for prior DUI offenses with convictions within the past seven years will be made through the Records Section. This should be completed as soon as practical to do so.
 - a) Records Section Procedures - Police Assistants in the Record Section will check NCIC, DMV (to include Nevada, California, State of suspect's birth, all other states the suspect has had a prior association with as listed in their criminal or DMV history, and any additional states requested by the arresting officer), CJIS, Ill and master card files for prior convictions. For a prior offense to be considered as a valid usable prior, the date of the offense must have been committed within the previous seven years and there must be a record of the conviction. A printout of the record will be made for the Records Personnel to include in the report.

- b) Charges under Nevada Revised Statute - Charges should be filed as a felony if any of the following exists:
 - i. The suspect has two or more prior DUI offenses and convictions within the past seven years
 - ii. If probable cause exists to believe that the suspect was the proximate cause of a crash resulting in substantial bodily harm or death to another person.
 - iii. The suspect has ever had a previous conviction for a Felony DUI in any state at any time.
 - iv. If the suspect was transporting a person who is less than fifteen years of age the arresting officer will document this, in both the Declaration of Probable Cause and in the narrative of the report. The charge of Child Endangerment may be charged at the officer's discretion. Officers will follow the Juvenile Procedures General Order to determine the need for further action regarding the involved juvenile.
5. Informed Consent – an officer must inform the suspect that: they have the right to refuse evidentiary testing; that refusing to consent will result in the immediate revocation of the suspect's driver's license and driving privileges; and that if they refuse, a seizure order may be requested in order to compel the testing. Officers will read the Informed Consent admonition as it appears on the corresponding DUI forms.
- a) If the suspect is non-English speaking, a reasonable attempt to explain the Informed Consent admonition shall be made (see the Limited English Proficiency G.O. and/or the Communicating with Hearing Impaired G.O.).
 - b) The admonition will be given in all but extreme cases. If not given, the reason will be included in the Officer's report. The Informed Consent admonition mandates that the subject will submit to an evidentiary test.
 - c) If a suspect is under the age of 18 years, an attempt must be made to contact a parent or legal guardian in accordance with Informed Consent.

Evidentiary Tests

The following three evidentiary tests are normally available.

1. Breath Test – Preferable, when available, the breath test will be administered by an officer certified in the use of the breath testing equipment. If another officer (other than the Arresting Officer) administers the test, the testing officer must complete and sign the required forms.

Officers should discontinue administering the breath test and evaluate other methods of evidentiary testing, if any of the following occurs:

- a) If the suspect fails to or is unable to provide either of the two breath samples or,
- b) Due to equipment malfunction,
- c) When two valid readings cannot be obtained (law prohibits more than 3 valid samples from being obtained in a 5-hour period).
- d) If the suspect is taken to a hospital prior to booking.

2. Blood Test - Regardless of the type of DUI investigation, suspects may request and/or consent to a blood test and officers may seek a seizure order for a blood test. Blood testing will be accomplished through a single blood draw in all cases except those where reasonable cause exists to believe the suspected driver has caused death or substantial bodily harm to another person. In those circumstances and in others where the arresting officer believes it essential to the case, a descending series of blood draws will be conducted. The descending series will consist of three draws on half hour intervals. No more than 3 samples may be obtained within a 5-hour period.

If drug usage is suspected, officers will follow the procedures for either a blood test or urine test.

- a) Consensual Blood Test Procedures at the Washoe County Jail - Blood tests will occur per Washoe County Sheriff's Office procedures.
 - i. The officer will request a phlebotomist through WCSO's Central Control. If a Phlebotomist is not available, the suspect must then be transported to a hospital for a blood draw.
 - ii. The officer will prepare the necessary forms, slips, envelopes and seals. The draw technician is responsible for filling out the affidavit.
 - iii. Officers will be responsible for:
 - a. Packaging the sample following provided instructions;
 - b. Recording the data and the appropriate forms; and for
 - c. Securing the evidence in WCSO's secured blood evidence container.
 - b) Consensual Blood Test Procedures at a Hospital – Blood tests will be administered at a hospital when a suspect needs medical treatment, when a phlebotomist is unavailable at the jail or when obtaining samples at the a hospital is most practical. For Blood tests that occur at a hospital, hospital procedure will be followed so long as it safe to do so.
 - i. The officer will prepare the necessary forms, slips, envelopes and seals.
 - ii. The phlebotomist is responsible for filling out the affidavit.
 - iii. The officer will secure the evidence in WCSO's secured blood evidence container.
 - c) Seizure Order Blood Test Procedures – A seizure order is necessary any time a blood test is refused; when obtaining a seizure order would enhance the safety of the involved officers, phlebotomists etc.; or when it is necessary to improve the investigation
 - d) Forced Blood Draw – are necessary when the suspect is physically resisting attempts to obtain a sample. If a forced blood draw occurs at the jail, officers will follow WCSO 's procedures. In the event that a forced blood draw is necessary at the hospital the arresting officer shall request assistance from other officers to affect the draw safely, while making every effort to follow hospital procedures.
3. Urine Test - Urine tests may be administered when breath testing is not possible (see above 1.) and the suspect claims to have hemophilia, or claims to be on anticoagulant medication or when there is probable cause to believe that the suspect is under the influence of controlled or prohibited substances.

- a) Two urine samples are required to be taken at a hospital or the jail. Procedures of the facility will be followed to the extent possible.
 - b) Samples must be obtained under the direct supervision of an officer of the same sex as the suspect
 - c) Samples must be taken thirty minutes apart and both samples must be in sufficient amounts.
4. Juvenile Suspect - NRS requires that a reasonable attempt be made to notify the parent, guardian or custodian of a person under the age of 18, if they are known, prior to an evidentiary test being performed. There is no requirement that contact be achieved and there is no right of the Parent or Guardian to be present during testing. The Parents or Guardian's consent to an evidentiary test is not required. Juveniles may be cited and released to their parents after evidentiary testing is completed.
 5. Suspect Request for an Independent Test - An arrested person may choose a qualified person to administer an evidentiary test (at the arrested person's expense). This is in addition to the department's investigation and will not affect the procedures outlined in this policy. This test will be arranged by the defendant through the booking personnel after they are booked and without the need for RPD involvement.

Crashes Involving Intoxicated Drivers

When a suspect has been involved in a traffic crash, the procedures will be the same as above with the following exceptions:

1. Injured Conscious Suspects - When suspects are injured and transported to the hospital, and are conscious and coherent, a limited SFST will be conducted not to interfere with the ongoing emergency medical treatment. Reasonable grounds is all that is required for evidentiary blood test. If a suspect is undergoing medical treatment at a hospital, breath testing is deemed to be not available and a blood test will be administered.

If the suspect requires hospitalization for an indefinite time, a citation may be issued in lieu of booking. For NRS charges, or when the suspect is unable to or refuses to sign the citation, the case should be forwarded to Traffic Detectives to request a warrant.

If there is a prior DUI conviction, the officer should include that information in the "To Wit" section of the Citation and "see full report" in the narrative section of the citation.

2. Unconscious Suspects - If a suspect is unconscious and the officer can articulate that impairment was a factor, the officer will follow blood test procedures.
3. Deceased Suspects – When a suspect has died in an accident and the officer can articulate that impairment may have been a factor, the officer should notify the Medical Examiner from the Washoe County Medical Examiner's Office. The Medical Examiner's Office obtains blood samples as part of their death protocol.

Notice of Revocation Form

The following guidelines are to assist officers with the completion of administrative revocation forms. The DP-45, Notice of Revocation Form, will be completed on every DUI investigation.

1. The Notice of Revocation Form is issued to suspects if they submit to a breath test and have a blood alcohol content meeting or exceeding the legal intoxication level.

The Revocation Form serves several functions:

- a) Notice of Revocation - This is the official notice of revocation to the ~~driver~~ suspect and it informs the suspect of the right to request a hearing.
 - b) Notice for Surrender of Driver's License - This allows officers to seize any Nevada driver's license in the suspect's possession when the suspect fails a breath test.
 - c) Temporary License - This is only issued to a person who currently holds a valid Nevada driver's license and fails the evidentiary breath test with at least one of the two or three consecutive breath samples, or refuses to submit to evidentiary testing. This serves as a temporary driver's license for seven days from the date of issuance, and is invalid if any part is detached.
 - d) Officer's Certification of Cause - This certifies that the officer had reasonable grounds to believe the suspect was in physical control of a vehicle while under the influence of alcohol and at the time of testing had 0.08 percent or more by weight of alcohol in their blood.
 - e) Appeal Process - This provides the suspect with instructions on how to file an appeal on the revocation. This is on the reverse side of the form.
2. Notice of Revocation for Breath Tests or Refusals – The Notice of Revocation form will be completed and signed whenever a suspect fails a breath tests or whenever a suspect refuse to submit to any evidentiary test. The officer will seize the suspect's Nevada driver's license and provide the suspect with a copy of the revocation form. For suspect's with out of state driver's license, the license will not be seized. Instead, the suspect will be informed that their license is valid in Nevada for seven days following the date of arrest. Officers will complete the Notice of Revocation Form and write "Nonresident Driver" on it to explain why the license is not attached. The license is not to be written on, altered or defaced.
 3. Notice of Revocation for Blood or Urine Tests - The Notice of Revocation form will be completed at the time the blood or urine test is administered. The officer will complete the form and submit it with their report. Once the test results have been obtained, the officer will sign and date the Notice off Revocation form.
 4. Notice of Revocation for Minor Drivers - The same procedures will be followed when dealing with drivers less than 21 years of age. The only differences are spelled out on the Notice of Revocation Form.