

GENERAL ORDER 61.3.4

DUII

GENERAL ORDER CROSS-REFERENCE: None.

SUMMARY

Establishes a procedure for identifying and apprehending persons who are driving under the influence of alcohol and/or drugs.

DISCUSSION

The goal of the Springfield Police Department DUII enforcement program is to detect and apprehend the alcohol and/or drug impaired driver, and reduce the number of accidents and violations involving this type of driver.

Impaired drivers create extreme hazard for the citizens and all Springfield police officers are encouraged to place a high emphasis on DUII detection and apprehension.

POLICY

I

The DUII contact involves four separate phases:

1. Vehicle operation
2. Driver contact
3. Pre-arrest screening
4. Arrest and booking

II

VEHICLE OPERATION

Observe the vehicle in operation and note any driving violations that may indicate a possible DUII crime in progress. The officer must decide if probable cause exists to stop the vehicle, to conduct further investigation to determine if the suspect may be impaired or for another unrelated traffic violation. The officer is not committed to arresting the suspect for DUII based on this initial observation, but should concentrate on gathering all relevant evidence that may suggest impairment. The officer shall note in the report all relevant driving including how the suspect stops.

III

DRIVER CONTACT

During the initial contact, the officer should evaluate the suspect's physical condition to determine if additional field sobriety tests are needed. Areas of concern include, but are not limited to whether the suspect has an odor of an alcoholic beverage, speech patterns, ability to follow direction, coordination and general appearance. Any indicators of impairment should be noted.

IV

PRE-ARREST SCREENINGS

Probable cause to believe the driver is under the influence of alcohol and/or drugs that impair driving and has been operating a vehicle on a public highway or premises open to the public must exist prior to asking drivers to perform field sobriety tests.

Whenever possible, Springfield police officers will administer Standardized Field Sobriety Tests (SFSTs) as part of any DUII investigation. All sworn Officers and Reserve Officers will receive training in SFST administration at the Department of Public Safety Standards and Training (DPPST), a reserve academy, or in subsequent SFST refresher courses taught by certified trainers. The following three tests comprise the SFST battery:

1. Horizontal Gaze Nystagmus (HGN): Suspect is evaluated for observable Gaze Nystagmus (an involuntary jerking of the eye as it moves from side to side). The stimulus should be held 12-15 inches away from the subject's face and slightly above eye level. Starting with the left eye, Officers should first check for resting nystagmus and equal pupil size. Next, the eyes should be checked for equal tracking. The stimulus should be moved at an even pace in accordance with the Officer's training. Six clues can be observed during this test, three clues in each eye. Officers will check for a lack of smooth pursuit in both the left and the right eye. Distinct and Sustained Nystagmus is checked while the stimulus is held for at least 4 seconds at maximum deviation. Finally, an onset of nystagmus is checked in both the left and the right eye.
2. Walk And Turn (WAT): The first of two divided attention tests. The WAT test consists of two stages: the instruction stage and the walking stage. Whenever practical, a line on the ground should be used to place the subject on. If no line is available, the subject should be asked to envision an imaginary line straight in front of them. To begin with, the subject should be placed on the real/imagined line in a heel-to-toe position with the right heel against the left toe. The subject should be instructed to remain standing in that heel-to-toe position with their arms at their side.

The subject needs to be instructed not to move from the instructional position until being told to do so. There are two clues of impairment that can be gathered during the instruction stage. Officers should be watching the subject to see if he/she steps out of the instructional position. They should also document if the suspect begins walking before being told to start the test. Instructions should outline the following:

- a) Subject needs to look down at their feet.
- b) Subject needs to keep their arms by their sides.
- c) Subject needs to take 9 heel-to-toe steps forward while counting aloud.
- d) Once reaching the 9th step, the subject needs to turn using a series of small steps around their lead foot.
- e) Then, the subject needs to take 9 heel-to-toe steps back from the direction they came.
- f) The subject should not stop at any point until completely done with the Test.
- g) The test should then be demonstrated for the subject in the described fashion.

The walking stage consist 6 total clues of impairment. Officers should note if the subject misses heel-to-toe steps by more than half an inch. It should be documented if the subject steps offline during the test. They should note if the arms are raised away from the subject's body by 6 inches or more. Officers should note if the subject stops at any point during the test. Turning in the described fashion using a series of small steps around the front foot is another clue of impairment. Lastly, it should be documented if an incorrect number of steps are taken.

3. The One Leg Stand (OLS) test. The OLS test is comprised of the instruction stage and the balancing stage. There are no clues of impairment observed during the instruction stage, but cues of impairment may be observed. The subject should be asked to stand with their heels and toes together and their arms remaining at their sides. Test instructions should include verbiage that informs the suspect that they will soon be asked to raise one foot off the ground.

- a. It does not matter which foot is raised. Either the left foot or the right foot can be raised. The subject is to be instructed to raise the foot that is comfortable for them approximately 6" off the ground.
- b. The bottom of the foot needs to remain parallel with the ground (demonstrate the position).
- c. Both legs need to be straight.
- d. Their arms need to remain at their sides throughout the test.
- e. While looking down at their foot, they need to count aloud in the demonstrated fashion (one thousand one, one thousand two, one thousand three, one thousand four), and so on until the test administrator says to stop the test. During the test, Officers should use a timepiece to monitor time and to stop the test after 30 seconds has concluded. Once the test has begun, Officers should document whether or not the subject places their chosen foot on the ground. Sway to any perceptible degree should

be documented. Officers should also note if the subject raises their arms from their sides more than 6 inches. Lastly, Officers need to document if hopping occurs.

Other tests may be used at the officer's discretion provided the Officer has been sufficiently trained to administer the tests. Other tests include, but are not limited to:

1. The Finger to Nose Test
2. The Finger Count Test
3. The Alphabet Test
4. The Modified Romberg-Internal Clock Test

The officer should note the responses to these and other tests given on the Oregon State Police (OSP) "Alcohol Influences Interview Report," Form" 41 or in the narrative of the report.

V

ARREST AND BOOKING

Once the officer determines that the suspect is DUII, the suspect shall be advised that he is under arrest for Driving Under the Influence of Intoxicants. The suspect shall be placed into custody per Department policy and transported to a book-in and Intoxilyzer facility.

The involved vehicle shall be impounded if it is not lawfully parked and/or creates a hazard. If the vehicle is impounded the guidelines set forth in G.O. 61.7.3 (Towing Vehicles) shall be followed. If exceptional circumstances do exist, and if the suspect agrees, the vehicle may be released to a responsible third person. If this is the case, these circumstances must be approved by a supervisor and articulated in the officer's report. The officer shall not operate the vehicle without supervisor approval.

Once the suspect is transported to the book-in facility, the officer will begin the minimum 15 minute observation period using the Oregon State Police Forensic Services Division "Intoxilyzer 8000 Operator's checklist". Procedures for using this form are included on the form.

Prior to offering the Intoxilyzer test to a suspect, the officer shall obtain a **DO7** printout from the Department of Motor Vehicles. The officer will also read the appropriate sections of the DMV "Implied Consent Combined Report (ICCR)" Form". This form shall be filled out according to ORS 813.100, 813.110, 813.120, and 813.410.

The results of the Intoxilyzer test shall be recorded on the "Oregon Department of State Police Forensic Services Division Breath Test Report" form. If the suspect has failed or refused the Intoxilyzer test, they will be lodged in jail unless security is posted. The suspect shall be

issued the appropriate Uniform Traffic Citation(s), the driver's copy of the "Breath Test Report," form and the driver's copy of the "Implied Consent Combined Report" Form" prior to being released or lodged in jail.

The officer shall also follow the procedure on the "Implied Consent Combined Report" Form" and from the DO7 form when seizing a driver's license and issuing a temporary driving permit.

If the suspect has taken the Intoxilyzer test and requests an additional blood test, they shall be provided the opportunity to supply a blood sample by a qualified person of their choosing in accordance with the ICCR form. ~~to~~ Any additional blood alcohol test will be performed at the suspect's own expense.

(ADD DUUI BLOOD SW SOP)

If the suspect has taken the Intoxilyzer test and requests an additional urine test, they shall be given privacy at our facility and may not be observed by a Police Officer while producing the sample in accordance with the ICCR form.

VI

Whenever a life-threatening injury or fatal accident is involved, the incident shall be investigated by the Major Accident Investigation Team, and the officer will follow guidelines provided by the Lane County District Attorney's Office.

VII

All DUUI custodies shall be documented on the Department Custody Form, the "Alcohol Influence Interview Report," Form. The "Implied Consent Combined Report Form", the police copy of the "Breath Test Report," the Intoxilyzer 8000 Operator's Checklist, any seized driver's license, and all other forms and reports shall be submitted to the watch commander for approval.

Richard Lewis
Chief of Police