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State of Louisiana
Department of Public Safety and Corrections
Public Safety Services

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FROM: Lt. Colonel Jay D. Oliphant, Jr.
Deputy Superintendent - Patrol

SUBJECT: Drug Recognition Experts (DRE) Utilization

In an effort to enhance prosecution for Driving While Intoxicated (DWI) and Driving Under the Influence of Drugs (DUID) when motorists are encountered during a traffic stop and/or are involved in a vehicle crash, the Louisiana State Police is aggressively focusing on encouraging the use of Drug Recognition Experts (DRE's). During an arrest for DWI, or crash investigation when a serious/fatal injury has occurred, or it is likely that a fatal injury may result from the crash, officers shall make every effort to utilize all available means to evaluate drivers or suspected drivers to determine if they are impaired. Officers should inspect the driver for the smell of alcoholic beverages or other drugs, bloodshot eyes, fumbling fingers, slurred speech, admission of drinking or drug use, abusive language, inconsistent responses, etc. Officers should also be

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observant of the interior of the vehicle for alcoholic beverage containers, drug paraphernalia or other contraband that are in plain view. Those persons suspected of impairment should be subjected to a battery of Standardized Field Sobriety Tests. If impairment is obvious and the blood alcohol level (BAC) is low or does not equate to the level of impairment observed, a DRE should evaluate the subject or be consulted according to Louisiana State Police policy. Drug Recognition Experts are highly-trained to recognize the indicators of impairment from alcohol and/or drug use, so along with an effective traffic education and enforcement strategy, we can help to reduce serious injury or fatality crashes in the state of Louisiana.

JDO/nwd

SAMPLE

61.1.11 DWI PROCEDURES

Drivers who operate motor vehicles under the influence of drugs and/or alcohol pose a significant problem. This problem shall be given priority consideration by St. Charles Parish Sheriff's Office deputies, who shall be familiar with Louisiana laws and St. Charles Parish Sheriff's Office policy and procedures for the detection and arrest of impaired operators of vehicles.

The detection and arrest of an intoxicated driver differs from that of other traffic law violators. There are specific legal limits of intoxication. Specific statutes govern driving while under the influence of drugs and/or alcohol, implied consent for chemical tests, and the chemical tests for blood/alcohol contents. These statutes outline the deputy's scope of authority and establish procedures for detection, arrest, and processing of an intoxicated driver.

- A. Detection and investigation of impaired drivers is a three-step process, which includes the Vehicle In Motion Phase, the Personal Contact Phase, and the Pre-Arrest Screening Phase.
1. **Vehicle in Motion Phase:** The first step in any Driving While Intoxicated (DWI) enforcement action is the Vehicle In Motion Phase. During this stage, the deputy observes clues that are consistent with the manner in which impaired drivers operate their vehicles. In this stage the clues observed by the deputy are usually moving violations, but there are non-moving violations that are also common with impaired drivers. During this stage the deputy should:
 - a. Recognize and identify specific driving behaviors that signify the driver may be impaired by alcohol and/or drugs
 - b. Choose as safe a location as possible giving consideration to weather, lighting, and traffic conditions as well as general location and other pertinent circumstances to initiate the traffic stop of the suspected impaired subject;
 - c. Use caution in pursuing intoxicated drivers and be alert for unpredictable reactions;
 - d. Avoid prolonged pursuits and apprehend as soon as possible in a safe location;
 - e. Advise the Communications Center of the location and vehicle description (summon assistance if necessary)
 2. **Personal Contact Phase:** During this phase the deputy actually makes contact with the suspected impaired driver. The deputy should note any behavior or statements made by the violator that further indicate the driver is impaired. It is in this phase that the deputy may also dispel suspicions of the violator being impaired. This evaluation process should include:
 - a. Approaching the vehicle with caution or having the driver exit his/her vehicle;
 - b. Obtaining the necessary documentation from the violator including driver's license, vehicle registration, and proof of insurance;

- c. Interviewing the driver using non-culpatory questions to determine the violator's mental and physical state;
 - d. Interviewing the passengers may be necessary to document them for the purposes of the Deputies report, to this end the deputy may ask the passengers to produce identification;
 - e. Recognizing, identifying, and noting specific actions, attitudes and characteristics commonly manifested by an intoxicated driver during face-to-face contact and;
3. Pre-Arrest Phase: During this phase the deputy is formally documenting impairment through the Standardized Field Sobriety Test (SFST), if present, for the purposes of determining whether or not to effect an arrest of the violator. If the violator satisfactorily performs the SFST, it will be utilized for the basis of not effecting an arrest. During this phase the deputy will:
- a. Instruct the subject to exit the vehicle and move to a safe location to conduct field sobriety tests if this has not already been done;
 - b. If certified in the (SFST) by the deputy who conducted the traffic stop will administer said test or it will be administered by another law enforcement officer certified to administer the SFST;
 - c. Formulate appropriate arrest decisions based on evidence accumulated;
 - d. The deputy may also decide to not arrest the violator based on a lack of evidence of impairment or to have a non-impaired driver come to the scene to retrieve the impaired drive;
 - e. Once the driver is suspected of being intoxicated, do not allow the driver to move the vehicle;
 - f. Once the deputy has determined the violator is impaired, the deputy should advise the violator of his rights as per Miranda before asking any questions that may be self-incriminating;
 - g. Following the arrest of the violator, the arresting deputy and/or his designee may search the vehicle's passenger compartment only, for evidence of the arrestee's impairment such as open alcoholic containers, prescribed medication, over the counter medication, and/or controlled dangerous substances;
 - h. If probable cause exists, the arresting deputy and/or his designee may search the entire vehicle for whatever other contraband is believed to be present.

B. Arrest

1. If arrested, the deputy shall handcuff the suspect, and transport him/her to the correctional facility to administer the state approved test, or to a hospital if injured.
2. At the appropriate time, the deputy who has arrested someone for DWI, or other appropriate law enforcement officer, will advise the arrestee of the portions of the Arrestee Rights Form, Rights Relating To The Chemical Test For Intoxication form that applies to the arrestee. The deputy shall have the prisoner sign the form indicating the prisoner's rights have been read to him/her. If the arrestee refuses to sign the form, the deputy shall complete the appropriate section of the form. A law enforcement officer, certified to administer the state approved instrument(s), will at the appropriate time instruct the arrestee to submit a breath sample into the state approved instrument(s) to determine the arrestee's blood alcohol concentration (BAC). This will be done in all instances when the arrestee is transported to the correctional facility whether or not it is believed the arrestee's impairment is caused by alcohol.
3. A law enforcement officer certified to administer said test will complete all appropriate paperwork regarding the state approved instrument(s).
4. Chemical test(s) shall be conducted in accordance with La. R.S. 32:661-32:670.
 - a. In all cases a breath test shall be administered on the state approved instrument(s) by a certified operator at the direction, and whenever possible, in the presence, of the arresting deputy; and
 - b. If the prisoner is injured, the deputy may use a Biological Sample Kit to obtain a sample of whole blood in an appropriate medical setting in strict accord with medically acceptable practices by a physician, physician's assistant, registered nurse, emergency medical technician, chemist, nurse practitioner, or qualified technician if deemed necessary. If it is determined that urine is also needed, said Biological Sample Kit may be utilized for the collection of urine also.
5. As part of the booking process, the deputy shall complete the implied consent form.
 - a. Implied consent shall not be applicable on private property, however the violator may be arrested for Driving While Intoxicated (DWI).
 - b. If the arrestee refuses to take the required test(s), or if the arrestee submits to taking the state approved instrument(s) and the state approved instrument(s) indicated the arrestee BAC is over the prescribed amount for that individual; the deputy shall retain the driver's license of the arrestee and forward it to the records division to be forwarded to the Louisiana Department of Public Safety and Corrections for proper processing.

- c. When a prisoner is unconscious, a blood specimen should be drawn by a person qualified to do so as deemed by the State of Louisiana.
6. In cases of the state approved instrument(s) malfunctioning, the deputy shall note such on the log and relocate to another state approved instrument(s) after the second malfunction.
7. Prisoners that exercise their right to have an additional test shall have the additional test conducted at their own expense.
8. If the arrestee refuses to submit a breath sample into the state approved instrument(s), the arresting deputy, or other appropriate law enforcement officer, will seek a warrant from a Magistrate ordering the arrestee to submit a valid breath sample into the state approved instrument(s) and ordering the arrestee to provide blood and urine specimens for proper chemical analysis.
9. If the arrestee's level of impairment is not consistent with the arrestee's BAC, as determined by the state approved instrument(s), the arresting deputy is to attempt to contact a drug recognition expert (DRE) as established by the National Highway Traffic Safety Administration (NHTSA) and the Louisiana State Police, Applied Technology Section, to conduct an evaluation of the arrestee for the purposes of determining whether the impairment is due to a medical issue, is caused by alcohol alone, or caused by some other drug(s) in combination with alcohol.
10. If the DRE determines the impairment is caused by something other than alcohol, or in combination with alcohol, the DRE will seek to have blood and/or urine specimens collected from the arrestee by working in conjunction with the arresting deputy. The DRE will assist the arresting deputy in obtaining and executing a search warrant for specimens of the arrestee's blood and urine if the arrestee will not voluntarily provide said samples, or in completing the execution of a warrant already obtained for said items by the arresting deputy.
11. Though the search warrants sought from a Magistrate will give the deputy authority to forcefully obtain blood and urine from the arrestee, the affiant will not seek to forcefully obtain blood or urine if the arrestee subsequently submits a breath sample into the state approved instrument(s) in a reasonable amount of time, and the BAC at that time is consistent with the arrestee's level of impairment, or the BAC is at or over .080g% by weight of alcohol in the blood. In cases where the BAC is lower than .080g% and not consistent with the arrestee's level of impairment or the arrestee has been involved in a vehicular crash resulting in serious injury or death, the affiant may still forcefully obtain blood and urine samples if necessary.
12. When a search warrant is necessary in a DWI investigation the arresting officer, or the proper affiant, will:

- a. Prepare a search warrant and affidavit requesting the Magistrate grant the search of the arrestee's person for alveolar lung air, whole blood, and urine from the arrestee.
- b. Contact the proper Magistrate after the affidavit and search warrant have been completed.
- c. Electronic signatures, facsimiles, and e-mail may be utilized if they are available and the Magistrate approves of their use.
- d. Sign the affidavit in all appropriate locations and send the affidavit and search warrant to the Magistrate.
- e. The affiant should remind the Magistrate to swear him/her in over the telephone.
- f. Once the magistrate has signed the affidavit and search warrant and returned the documents to the affiant, the affiant will make a copy of the signed warrant, read the search warrant to the arrestee in its entirety, and present it to the arrestee. The affiant will offer the arrestee a second opportunity to administer a breath sample into the state approved instrument(s) only after the magistrate signs the warrant. The affiant will then inform the arrestee of the arrangements to draw blood and urine if deemed necessary.
- g. If the arrestee administers a breath sample into the state approved instrument(s), and the instrument indicates the arrestee's BAC is consistent with the arrestee's impairment, or the arrestee's BAC is over .080g% by weight of alcohol in the arrestee's blood, the affiant will not seek to obtain whole blood and urine specimens from the arrestee unless one or more of the circumstances noted above is present.
- h. If the arrestee still refuses to submit a breath sample, the affiant will make arraignments to have the medical personnel in the correctional facility, or other appropriate person as enumerated by Louisiana State Law, draw the blood. If it is determined that urine must also be collected, and the arrestee refuses to provide said urine sample, the appropriate medical personnel in the correctional facility will also forcefully obtain said urine sample utilizing acceptable medical practices. If medical personnel are not available in the correctional facility, the arrestee will be transported to an appropriate medical facility and have blood and/or urine drawn by authorized hospital personnel, as provided in the warrant.
- i. Only valid blood or blood/urine collection kits obtained from the Louisiana State Police will be utilized for collecting blood/urine specimens. The affiant will make sure no alcohol products are utilized in the collection of the specimens.
- j. The affiant/arresting deputy should maintain proper protocol and chain of custody with blood / urine evidence.
- k. After the search warrant is executed, the affiant will prepare a return listing the item(s) seized, the location where the item(s)

are/were seized, and the names of the witnesses who were present when the affiant served a copy of the search warrant and return on the arrestee by placing a copy of the search warrant and return in the arrestee's property.

1. The affiant is required to obtain the original warrant and affidavit and file them with the original return in the Clerk of Court's Office within ten days. It is preferred, whenever possible, the affiant obtain these documents the next business day. The affiant should assure a certified copy of the warrant, affidavit, and return from the Clerk of Court's Office are forwarded to the Magistrate, the District Attorney's Office, and to the St. Charles Parish Sheriff's Office Records Division.
13. If whole blood and/or urine samples are obtained from the arrestee, the evidence custodian will complete a lab request form. The evidence custodian will also assure the specimens are maintained refrigerated and transported by him or his designee to the proper laboratory within twenty-four (24) hours of receipt or send the specimens via approved shipping retaining proof of the shipment date and time.
14. The whole blood and urine specimens will be stored in a refrigerator, designated for this sole purpose, until transported to the laboratory for proper chemical analysis.
15. If whole blood and/or urine samples are obtained from the arrestee, the evidence custodian will assure that a copy of the laboratory analysis of the specimens is forwarded to the records division of the St. Charles Parish Sheriff's Office, the investigating deputy and the Office of the District Attorney once they are received. This action does not require a supplemental report be completed.
16. No deputy, except the appropriate members of the Crime Scene Division, will contact the laboratory to inquire as to the status of the analysis of the specimens, unless approved to do so by their supervisor.
17. The appropriate St. Charles Parish Sheriff's Office forms shall be completed, as required, thoroughly documenting all evidence gathered during the investigation. These forms shall include a Louisiana Uniform DWI Citation Packet that must be filled out completely as per the instruction sheet provided.
18. Once all forms are completed and have been reviewed by the Shift Commander, the following shall be sent to the Criminal Records Division:
 - a. Louisiana Uniform Driving While Intoxicated Packet;
 - b. Printed Arrest Narrative;
 - c. Arrestee's Driver's License if surrendered;

- d. Test Record and Checklist for the state approved instrument(s); and
 - e. Impoundment, Seizure, and Inventory of Motor Vehicle Record.
- C. When a citizen informs a deputy of a suspected drunk driver the deputy shall attempt to obtain the complainant's name, address and phone number, but not at the expense of losing the alleged violator. If the alleged violator is in the deputy's view, the deputy shall attempt to apprehend. In cases where alleged violators are not in the deputy's view, assistance shall be summoned from other deputies and/or agencies. The deputy shall give all information obtained to include the vehicle license plate number, color, number of doors, and any other information that may be valuable in the apprehension of the suspect vehicle.
- D. Any person whose blood alcohol level (BAC) is .30g% or greater shall be transported to the nearest medical facility.
1. When a person who refuses to be tested appears excessively inebriated, and the deputy has reason to believe that the violator is unable to make reasonable decisions, that individual will be examined by the medical personnel in the correctional facility. If after an examination the medical personnel, determine based on medical evidence, the arrestee needs to be treated in a hospital setting, the arrestee shall be transported to the nearest hospital for evaluation and/or treatment by a medical doctor if one is not on duty at the correctional facility.
 2. If the doctor refuses to treat the person, the deputy shall document that the doctor or the medical facility refused to treat the violator, or the deputy shall obtain written documentation from the doctor stating that the violator was refused treatment. The deputy shall attempt to obtain a physician's order stating that the violator can be incarcerated.
 3. If a test is being administered and the subject passes out, the deputy shall contact the nearest emergency medical service.
- E. If the BAC of the arrestee is under the level prescribed by law to be presumed intoxicated or if the BAC is at a level where the arrestee is presumed to not be intoxicated, the arresting Deputy will continue to process the arrestee for the charge of violation of RS:14:98 based on the probable cause established by the SFST administered at the time of arrest unless a Drug Recognition Expert or medical doctor determines the impairment is due to a medical condition.
1. Deputies shall follow the guidelines established in *La. R.S. 32:662 Administering chemical tests; use of results as evidence*, after obtaining results from the chemical test.