



**ROCKFORD POLICE DEPARTMENT
GENERAL ORDER
- NUMBER 40.23 -**

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ORDER TITLE DRIVING UNDER THE INFLUENCE (DUI)	SERIES NO. 40	SERIES TITLE / SUBJECT LAW ENFORCEMENT OPERATIONS
TOPICS / REFERENCE Chemical Tests, DUI, Implies Consent, Zero Tolerance		APPENDICES A B C
EFFECTIVE / ORIGINAL ISSUE DATE November 7, 2006	REISSUE/ EFFECTIVE DATE July 13, 2010	EXPIRATION DATE This order remains in effect until revised or rescinded

POLICY

The Rockford Police Department recognizes the significant threat to public safety posed by drivers impaired by alcohol and/or drugs. The Department philosophy is that strong countermeasures against alcohol related driving offenses must be in place. All officers, regardless of assignment, are obligated to actively attempt to detect drivers driving under the influence of alcohol, drugs, other intoxicating compounds or a combination thereof. Therefore, it is the policy of the Rockford Police Department to detect, apprehend and assist in the prosecution of persons in violation of the Driving Under the Influence statutes.

PURPOSE

The purpose of this General Order is to establish policy and procedures in the detection of drivers suspected of driving under the influence of alcohol, drugs, other intoxicating compounds or a combination thereof. These procedures include guidelines for the implementation of the Implied Consent Law and enforcement of Zero Tolerance (Under 21) as well as legal requirements for obtaining samples of breath, and both obtaining and securing samples of blood and urine for chemical testing.

These guidelines are not meant to be all-inclusive, since each incident must be dealt with on an individual basis, but are intended as broad guidelines to assist the employees and supervisors involved.

This General Order is comprised of the following numbered sections.

- I. DRIVING UNDER THE INFLUENCE ENFORCEMENT**
- II. DRIVING UNDER THE INFLUENCE ARREST PROCEDURES**
- III. OTHER CHEMICAL TESTS**
- IV. ZERO TOLERANCE – UNDER 21 ARREST**
- V. EFFECTIVE DATE**
- VI. REVIEWS, REVISIONS AND CANCELLATIONS**

APPENDICES

- A. Section 1286.320 –Department of State Police Adopted Rules**
- B. Section 1286.330 – Department of State Police Adopted Rules**
- C. Protocol for DUI Blood/ Urine when DUI kit is not readily available**

I. DRIVING UNDER THE INFLUENCE ENFORCEMENT

- A.** Procedures for handling intoxicated drivers will be in accordance with the Illinois Vehicle Code, **625 ILCS 5/11-501 et al.**
- B.** The identification of persons suspected of driving under the influence of alcohol, drugs or other intoxicating compound is an important component of the patrol function.
- C.** Even with dedicated personnel assigned DUI enforcement duties, all officers are responsible for DUI enforcement and are responsible for knowing proper DUI investigative procedures.
- D.** Officers should be familiar with the signs of alcohol impaired driving and utilize this information to establish probable cause for conducting a traffic stop.
- E.** Drivers suspected of being impaired should be given standard field sobriety tasks currently recognized as having validity in establishing probable cause for a DUI related arrest.
- F.** The Department will utilize periodic DUI enforcement strategies including, but not limited to:
 - 1. Roadside safety checks in conjunction with the Illinois State Police, Winnebago County Sheriff's Department or other agencies as requested.
 - 2. Hireback of off-duty personnel via grant funding or normal overtime budget funds.

II. DRIVING UNDER THE INFLUENCE ARREST PROCEDURES

- A.** When an officer has probable cause to believe that an individual is operating a motor vehicle while under the influence of alcohol, drugs, other intoxicating compound or a combination thereof, the officer will:
 - 1. Conduct the stop in accordance with traffic stop procedures set forth in General Order **40.22 – Traffic Enforcement**.
 - 2. Obtain the motorist's driver's license and insurance card or other acceptable identification while noting driver actions and behaviors.
 - 3. Interview the motorist to determine:
 - a. Did he/she have control of the vehicle.
 - b. Indications/signs of intoxication (odor of alcoholic beverages, driver statements).
 - c. Probable cause to conduct field sobriety tasks noting times of each task and behaviors. Be aware of both officer and driver safety while conducting field sobriety tasks.
 - 4. After the initial field sobriety tasks are given, a Preliminary Breath Test (PBT), if available, can also be used to help establish probable cause for further action.

- a. If a traffic crash is involved and the suspected DUI driver is being treated for medical purposes, an officer may ask the medical personnel for the blood alcohol content of blood draws taken during routine medical treatment and prior to the actual arrest. This blood alcohol content can then be used to establish probable cause for the arrest. If the arrest has already been made, the information should still be included in the officer's incident report.
5. Based on probable cause, arrest of the offender and note the time of the arrest.
6. Secure the offender in your vehicle, and follow procedures for impounding offender's vehicle for 12 hour DUI hold and in accordance with procedures set forth in General Order **40.06 – Impounding or Towing of Motor Vehicles**.
 - a. If the offender is violent or otherwise uncooperative the Squadrol should be used to transport the offender.
7. Transport the offender to the Public Safety Building.
8. Once at the Public Safety Building, cite offender for the initial probable cause offense followed by the DUI traffic citation (**625 ILCS 5/11-501(a)(2)**).
9. Read the offender the Warning to Motorist from top to bottom without comment from the officer. Remember that there is no statutory requirement that the offender understand the warning.
10. The officer will now make a request of the offender to take a chemical test to determine blood alcohol content. The majority of the time the test will be a test of the offender's breath.
11. If the offender **agrees** to take the test, a 20-minute observation period must take place. The officer must be able to later testify that the offender did not belch, vomit, take anything into their mouth, or use any tobacco product.
 - a. A certified breath test operator must administer the test.
 - b. If the test shows a result indicating a BAC of 0.08% or higher, an additional traffic citation is written for that offense (**625 ILCS 5/11-501(a)(1)**).
 - c. A test result indicating a BAC of less than 0.08% does not invalidate the arrest. It simply means that other factors must be present in order to support a conviction for DUI.
 - d. Once testing is completed, the officer will complete the Law Enforcement Sworn Report.
12. If the offender **agrees** to take the test but it is clear that a medical condition (asthma, epyhsema) prevent him/her from completing the test or, the offender appears to be purposely failing to complete the test, the officer should consider having the offender submit to a blood or urine test.

- a. A blood draw can only be completed and collected at a licensed medical facility.
 - b. Department of State Police Rules, Section 1286.330 (see **Appendix A**), allows an officer to collect urine for this purpose. The Traffic Unit Supervisor will be responsible for keeping a supply of vials available for officer's use.
 - c. Collected urine must be collected and handled in accordance with General Order **60.01 – Collection and Handling of Evidence and Found Property**.
13. The Law Enforcement Sworn Report must be completed, being certain to include a brief probable cause statement in the indicated portion of the form.
- The Law Enforcement Sworn Report will be completed whether or not an offender agrees or refuses to take a chemical test.***
- a. This form serves notice to the offender of administrative sanctions for either failing the BAC or refusing to take the test.
 - b. Once the front of the form is completed the reverse side of the “offender/driver” copy is completed, prior to giving this copy to the offender.
 - c. This form will replace the offender's driver's license, which will be surrendered to the jail upon booking.
 - d. If the offender does not have valid driver's license, “VOID” should be written in large letters across this portion of the form.
14. The officer also fills out the Motor Vehicle Intoxication Report. Since the offender is arrested and in custody, a Miranda warning must precede filling out this form. If the offender invokes their right to silence, the officer will only complete the portion of the form, which includes observations of the offender's behavior and physical characteristics.
15. The officer will ensure the offender has all their property and copies of required forms and lodge the offender in the Winnebago County Jail.
16. The officer will complete the incident report being certain to include all details and pertinent information regarding the incident. All significant times and events will be documented in the report as well. All DUI paperwork must be consistent.

III. OTHER CHEMICAL TESTS

- A. Some DUI incidents require obtaining legal blood or urine tests from medical facilities. Many of the principles and concepts are the same as in other DUI cases and officers should not be wary of making these types of arrests.

- B. Most DUI arrests that result in the procurement of a blood test are going to occur when either the officer suspects that drugs or an intoxicating compound other than alcohol is involved, or the offender is injured in a traffic crash.
- C. Upon meeting with the offender at the hospital where they are being treated or examined for injuries, the officer will make a decision as to whether probable cause exists to make an arrest for DUI. See section **II** above.
- D. If an offender agrees to a blood or urine test, the test can be completed **without** any 20-minute waiting period.
- E. In situations where the offender is dead, unconscious or otherwise in a condition rendering them incapable of refusal, the person is deemed to have given consent. The test is then administered. (**Note:** The Warning to Motorist is still read even though the offender may not be able to understand, the reading is a statutory requirement. The reading should be witnessed by a third party.)
- F. Medical personnel will complete the test and turn the completed kit over to the officer. Be certain the personal information of all medical personnel assisting with the test is obtained and included in the incident report.
- G. The completed kit is now evidence and will be treated as such following guidelines set forth in General Order **60.01 – Collection & Handling of Evidence and Found Property**.
- H. An officer has the authority to request a urine test in addition to the blood test; **however**, the officer should suspect some sort of illegal drug involvement prior to doing so. **Urine tests are not quantitative and will not disclose BAC.** The test is historical in that it will indicate a presence of the suspected illegal substance in the body. If there is sufficient evidence to believe the driver is under the influence of alcohol, and there is nothing to indicate the use of illegal drugs, officers should request blood only.
- I. When a blood or urine test is completed, the officer should fill in all sections of the Law Enforcement Sworn Report except for the:
 1. Notice of Summary Suspension date.
 2. The results of the chemical test.
 3. The date on the lower right portion of the form, and the receipt to drive, unless the offender has no valid driver’s license, in which case that portion is marked “VOID”
 - a. The reason for this is that the notice of summary suspension cannot be given until lab results on the blood sample are obtained. In cases where the offender refuses to submit to the blood and/or urine test, the officer should complete the form.

IV. ZERO TOLERANCE – UNDER 21 ARREST

- A. Zero Tolerance refers to **ILCS 625 5/11-501.8**, which is part of the DUI statute and specifically prohibits any driver under the age of 21 from operating a motor vehicle upon a public highway with any amount of alcohol in their blood.

- B. Zero Tolerance is not a criminal offense. It is an administrative action taken against an under 21 year old driver who has consumed an alcoholic beverage. If it is believed that the individual is DUI, the individual will be processed as such.
- C. In order to enforce Zero Tolerance, the following should take place:
 - 1. A violation of the Illinois Vehicle Code is observed.
 - 2. Upon stopping the driver, behavior is exhibited that makes you believe he/she has consumed an alcoholic beverage.
 - 3. A traffic citation is issued for the observed offense.
 - 4. The offender is transported to the Public Safety Building and read the entire Warning to Motorist (including the sections for drivers under 21) when arrested for DUI.
 - 5. If charging for Zero Tolerance by itself, the officer will read the separate Zero Tolerance Warning to Motorist form.
 - 6. A breath test is administered in the same fashion as that for a DUI arrest.
 - 7. The officer completes the under 21 portion of the Law Officer Sworn Report when arresting for DUI, or the Zero Tolerance Sworn Report when making a Zero Tolerance charge.
- D. Keep in mind when you charge for Zero Tolerance first, you cannot go back and later arrest for DUI if the individual is found with a BAC over 0.08%. However, if you have probable cause to believe the violator is DUI and evidence later shows a BAC under 0.08%, you may still enforce Zero Tolerance.
- E. Zero Tolerance enforcement should not affect an arrest for minor drinking or similar statute. That arrest should still take place when applicable.

V. EFFECTIVE DATE

- A. The Department's policy on Driving Under the Influence became effective on November 7, 2006.

VI. REVIEWS, REVISIONS AND CANCELLATIONS

- A. This General Order will be reviewed each **July** by the **Traffic Unit Supervisor** and, when necessary, revised or cancelled in accordance with the procedures for reviewing written directives established in General Order **10.01 – Written Directives**.
- B. This order is a revision of and supercedes General Order **40.23 – Driving Under the Influence** issued November 7, 2006.
- C. Any employee with suggestions for revisions and/or improvements to this order are encouraged to submit their ideas to **the Deputy Chief of the Support Services Bureau**.

BY ORDER OF

Chet Epperson
Chief of Police

APPENDIX A

ILLINOIS REGISTER

DEPARTMENT OF STATE POLICE NOTICE OF ADOPTED RULES

Section 1286.320 Blood Collection for Determining the Presence of Alcohol, Other Drugs or Intoxicating Compounds

The following procedures shall be used to obtain a blood sample from a subject to determine the alcohol concentration, or presence of other drugs or intoxicating compounds:

- a) The blood sample shall be collected in the presence of the arresting officer, another law enforcement officer, or an agency employee who can authenticate the sample.
- b) For samples collected in Illinois, the blood sample shall be collected by a licensed physician, registered nurse, trained phlebotomist, or certified paramedic. When a blood test of a person who has been taken to an adjoining state for medical treatment is requested by an Illinois law enforcement officer, the blood may be withdrawn only by a physician authorized to practice medicine in the adjoining state, a registered nurse, a trained phlebotomist acting under the direction of the physician, or certified paramedic. (Section 11-501.2(a) of the Illinois Vehicle Code)
- c) The blood sample should be drawn using proper medical technique.
- d) Officers shall use DUI kits provided by the Department, if possible. If kits are not available, officers may submit two standard grey top vacuum tubes. (Pursuant to generally accepted industry standards, grey top vacuum tubes contain an anticoagulant and preservative.)
- e) The individual tubes shall be labeled with the name of the subject, date, and time of the withdrawal and treated as biohazard evidence.
- f) The blood samples shall be delivered as soon as practicable to a laboratory certified by the Department (see Section 1286.170).
- g) The testing laboratory shall maintain any remaining sample for a period of six months after testing unless otherwise directed by the submitting agency or the appropriate prosecuting authority.

APPENDIX B

ILLINOIS REGISTER

DEPARTMENT OF STATE POLICE NOTICE OF ADOPTED RULES

Section 1286.330 Urine Collection for Determining the Presence of Alcohol, Other Drugs or Intoxicating Compounds.

UAC testing is not a preferred method of determining the amount of alcohol in a subject and the feasibility of other testing procedures should be explored before deciding UAC testing for alcohol concentration. Urine is the preferred method of drug confirmation.

The following procedures shall be used to obtain a urine sample from a subject to determine the presence of alcohol, other drugs or intoxicating compounds:

- a) A sample of urine shall be collected in a manner to preserve the dignity of the individual and to ensure the integrity of the sample.
- b) A urine sample may be collected by the arresting officer, another law enforcement officer, or an agency employee who can authenticate the sample. The officer or agency employee shall be of the same sex as the subject undergoing testing.
- c) A urine sample of approximately 60 ml should be collected.
- d) The urine sample shall be collected in a clean dry container.
- e) No preservatives shall be used. The container(s) shall be closed.
- f) The container(s) shall be labeled with the name of the subject and the date of the collection.
- g) The urine samples shall be delivered as soon as practicable to a laboratory certified by the Department.

The testing laboratory shall maintain any remaining sample for a period of six months after testing unless otherwise directed by the submitting agency or the appropriate prosecuting authority.

APPENDIX C

PROTOCOL FOR DUI BLOOD/ URINE WHEN AN ILLINOIS STATE POLICE DUT KIT IS NOT READILY AVAILABLE

A. TO ENSURE THE “CHAIN OF EVIDENCE ”

1. The arresting officer or a representative of the law enforcement agency must be present during the actual collection procedure(s). For urine collection, the officer, agency representative, or nurse must be of the same sex as the subject.
2. Label each vial and/or container with the following information:
 - a. subject’s name;
 - b. date and time of collection;
 - c. collecting attendant;
 - d. authorizing officer’s signature or initials and agency identification; and
 - e. type of anticoagulant/ preservative used in blood vials.
3. Complete the laboratory analysis Report form and enclose with the samples.
4. Prepare the vials and containers to be shipped as bio-hazardous materials to an Illinois State Police certified laboratory. Ensure the vials and containers are properly sealed.
5. Handle the vial and/or container as bio-hazard evidence.

B. WHO MAY DRAW BLOOD SAMPLES FOR EVIDENCE?

ONLY a physician, certified paramedic, registered nurse or phlebotomist may collect blood for use in a DUI situation.

C. COLLECTING BLOOD FOR ALCOHOL, OTHER DRUGS, OR INTOXICATING COMPOUNDS

1. ENSURE the disinfectant used to clean the skin, the equipment, or the containers for the collected blood **does not** contain alcohol or other volatile, organic substance, e.g., use a povidone-iodine prep pad.
2. ENSURE the two 10ml blood vials are clean, dry, not expired, and contain an anticoagulant/ preservative, e.g., 20 mg of potassium oxalate and 100 mg of sodium fluoride or grey top vacuum tubes.
3. USING proper, sterile technique collect a minimum of 20 ml of whole blood and divide it into approximately equal parts directly into the two 10 ml blood vials.

D. COLLECTING URINE FOR ALCOHOL, OTHER DRUGS OR INTOXICATING COMPOUNDS

1. ENSURE the two 30 ml. Urine containers are clean and dry.
2. COLLECT 60 ml. of urine from the subject in a clean, dry container. Use **no** preservative in the containers. Dispense equally into two containers.
3. Properly close and label each container.