

WINTER HAVEN POLICE DEPARTMENT

GENERAL ORDER 61.3

D.U.I. ENFORCEMENT

ACCREDITATION STANDARDS: CALEA – 61.1.11; CFA – 18.03

EFFECTIVE DATE: MARCH 28, 1996

RESCINDS: G.O. 61.3 January 5, 2018 and all applicable Amended/Temporary Orders prior to March 18, 2020

LAST REVISED DATE: March 18, 2020

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POLICY

It shall be the policy of the Winter Haven Police Department to implement countermeasures to reduce the number of alcohol and/or drug-related traffic offenses.

PURPOSE

The purpose of this General Order is to establish guidelines for Driving Under the Influence (DUI) Enforcement and provide for the consistent handling of drivers suspected of being impaired by alcohol or drugs.

SCOPE

This General Order shall apply to all Department members.

DISCUSSION

The heightened concern of the public and the need for more precise enforcement and investigative techniques requires a set of operational procedures for the DUI Enforcement of Statute. In conjunction with the efforts of members on patrol in alcohol enforcement countermeasures, additional selective enforcement measures may be utilized.

PROCEDURES

I. Enforcement Procedures

- A.** The Department shall utilize the following countermeasures in various combinations, in its DUI Enforcement Program:
1. Selective assignment of members based on a time/location analysis of violations and/or crashes involving impaired drivers;
 2. Alcohol related crash investigations and analyses of findings;
 3. Selected roadway checks for deterrent purposes; and
 4. Selective enforcement of impaired driver laws, by concentrating on existing alcohol and drug related offenses and expeditious processing of violators.

II. On-Scene Investigation

- A.** If a member observes erratic or illegal driving and suspects impairment of the driver, the member shall note the actions of the driver and initiate a traffic stop.
1. The driver's physical appearance, condition, actions, demeanor, and speech shall be observed and documented.
 2. Members shall be aware of the possible odor of an alcoholic beverage emanating from the vehicle and/or the driver's breath.
 3. Members should be aware of other conditions that may give the appearance of impairment. These conditions may result from inattentive drivers, poor driving habits or medical condition.
- B.** An investigation shall be conducted to determine if the driver is impaired. Standardized Field Sobriety Tasks should be utilized to determine impairment in accordance with National Highway Traffic Safety Administration Standards. These Standardized Field Sobriety Tasks may include the following:
1. The Horizontal Gaze Nystagmus Task;
 2. One-Leg Stand Task;
 3. Walk and Turn Task;
 4. Finger to Nose Task; and/or
 5. Rhomberg Balance Task.
- C.** If the investigating member determines probable cause to charge the suspect with DUI, the member shall use the DUI Uniform Traffic Citation as the charging document. The member shall advise the driver they are being arrested for DUI. (CALEA 61.1.11)
- D.** When an impaired driver is arrested, they shall be handcuffed and secured in accordance with General Order 71.1. (CALEA 61.1.11)

- E. The prisoner's vehicle shall be handled in accordance with General Order 61.7.
 - F. The prisoner may be transported to the Department or the Polk County Jail, where the administration of a Breath Alcohol Content test (BAC) will be offered. (CALEA 61.1.11)
 - G. The operator should be a person other than the arresting member, if possible. (CALEA 61.1.11)
 - H. The arresting member shall remain with the prisoner at all times, until all tests are completed. The BAC test shall be completed in accordance with Florida Department of Law Enforcement procedures. (CALEA 61.1.11)
 - I. In cases that do not involve death or serious bodily injury, the prisoner shall be advised of the Implied Consent Law before a BAC or another alcohol content test is administered. The appropriate Implied Consent forms shall be completed. Unless extenuating circumstances exist (e.g. prisoner cannot complete a breath test due to injuries or provide urine), blood alcohol content tests shall be offered in the following order:
 - 1. Breath Test
 - a. The breath test may be refused and a Refusal form shall be completed.
 - 2. Urine Test
 - a. The urine test may be refused and a Refusal form shall be completed.
 - 3. Blood test
 - a. If death or serious bodily injury does not exist a request for a blood test may be refused and a Refusal form shall be completed.
- Note:** Members shall document in their report the type of test administered and any extenuating circumstances that prevented the test being administered.
- J. Blood Tests: A blood test may be obtained from the driver involved in a traffic crash resulting in death or serious bodily injury, if probable cause exists to believe the driver was impaired. The blood test shall be obtained in accordance with Florida State Statute 316.1933. (CALEA 61.1.11)
 - 1. Before a blood draw is conducted the member shall obtain consent from the driver. This consent shall be documented on the Consent to Search/Waiver of Search Warrant Form (whpd-99), which shall be signed by the driver prior to the blood draw.
 - 2. If the driver refuses to consent to the blood draw, the member shall obtain a search warrant. The search warrant shall be prepared and obtained in accordance with General Order 74.2 and the State Attorney's guidelines.
 - a. If there are extenuating circumstances that delay obtaining a search warrant (e.g. SAO or judge cannot be contacted), which would affect any evidence to be seized, the member may obtain the blood without the

warrant (this is in accordance with SAO guidelines). After the blood draw, the member shall contact the SAO as soon as possible and obtain the search warrant.

3. When a member requests a blood sample to be drawn, the member shall witness the blood draw. The sample shall be logged into Property and Evidence in accordance with General Order 83.1 and 84.1.

- 1) A Crime Scene/Evidence Work order (whpd-141) shall be completed by the submitting member at the time the sample is logged into Property and Evidence.

4. In the event the member is unable to obtain a blood sample, a court order requiring the medical facility to release the results of blood samples may be obtained.

K. Urine Tests: (CALEA 61.1.11)

1. Urine samples may be obtained, if the arresting member suspects that the driver's impairment is a chemical substance other than alcohol.

- a. The urine sample may be requested in addition to the BAC.

- b. The driver shall be transported to a medical or detention facility in order to obtain the urine sample. A Department member, of the same gender, shall witness the taking of the sample.

- c. The container shall be properly sealed and logged into Property and Evidence in accordance with General Order 83.1 and 84.1. A Crime Scene/Evidence Work order (whpd-141) shall be completed by the submitting member at the time the sample is logged into Property and Evidence.

- d. If the driver refuses to provide a urine sample, the arresting member shall advise the driver of the Implied Consent Law and complete a Refusal to Submit to Breath, Urine, or Blood Test.

- I. Members shall complete the appropriate report forms. The prisoner's driver's license shall be attached to the DUI Uniform Traffic Citation.

III. DUI Crash Investigation (CFA 18.03d)

- A. When a member is investigating a traffic crash where a driver appears to be impaired, the member must conduct two separate investigations.

1. The first investigation shall be directly related to the crash.

2. The second investigation shall be related to the suspected DUI.

3. There shall be a clear changing point where the crash investigation stops and the DUI investigation starts.

- a. For DUI investigations, members shall follow the rules and procedures of criminal investigations (e.g. Miranda, consent, search warrants, etc).

- B.** The member shall identify all witnesses at the crash scene. Statements obtained from witnesses may be used in both investigations.

IV. Juvenile DUI Offenders

- A.** The member shall notify the juvenile's parents or legal guardian and request that they meet the member at the Department, where the juvenile shall be released, once the investigation has been completed.
 - 1.** If the parents or legal guardian cannot be located or they refuse to respond, the juvenile shall be held until a determination is made by the Department of Juvenile Justice (CALEA 61.1.11)

V. Sobriety Traffic Checkpoints

- A.** The Chief of Police or their designee shall assign a member to supervise the Sobriety Checkpoint conducted by the Department. This Supervisor shall be responsible for drafting an Operational Plan for approval. The members assigned to the Sobriety Checkpoint shall follow the specified procedure for conducting the checkpoint and the enforcement of laws.
- B.** Warning devices, marked patrol vehicles and signs shall be utilized to inform the public of law enforcement presence at the checkpoint:
 - 1.** Traffic safety vests shall be worn by participating members.
 - 2.** All patrol vehicles shall be parked not to obstruct the flow of traffic or the vision of motorists.
 - 3.** Traffic barricades and cones shall be used to direct the flow of traffic through the checkpoint.
 - 4.** Sobriety Checkpoint identification signs shall be placed in a clearly visible location to give motorists advanced warning of a stop.
- C.** Checkpoint Procedures and Responsibilities:
 - 1.** The supervisor in charge shall have the following responsibilities:
 - a.** Ensure that proper equipment is available for use during the checkpoint.
 - b.** Announce the uniform of the day for all participating members.
 - c.** Determine the specific assignment of the members.
 - d.** Conducting a roll call, inspection, and briefing for all members.
 - e.** The supervisor in charge shall be responsible for decisions relating to the operation of the Sobriety Checkpoint to include, but not limited to:
 - 1)** Directing the parking locations of the operations patrol vehicles used at the site.

- 2) Establishing the exact location where the Standardized Field Sobriety Tasks shall be administered.
 - 3) If the circumstances create a hazard to the members or motorists, they may stop the checkpoint operation.
 - 4) They may change the criteria for stopping the selected vehicles to eliminate the obstruction hazard as stated in the Operational Plan.
2. The members involved in the Checkpoint shall have the following responsibilities to include, but not limited to:
- a. Direct the traffic as needed,
 - b. Constantly remain aware of merging traffic for both vehicles leaving and approaching the checkpoint.
 - c. Making contact with vehicle drivers that have been directed off the roadway.
 - d. Check drivers for signs of impairment.
 - e. Conduct Standardized Field Sobriety Tasks when reasonable suspicion exists.
 - f. Establish probable cause before affecting the arrest for DUI violations.
 - g. Determine enforcement action for any other observed violation.
 - h. Transport and booking of any violator that is taken into custody for further processing.
3. All Standardized Field Sobriety Tasks shall be administered in the areas designated by the Operational Plan.
4. Upon arrest, the member shall handle the driver's vehicle in accordance with General Order 61.7.
5. When the member has completed the booking process, they shall return to the scene of the Sobriety Checkpoint and resume their assigned duties.

Note: All sobriety checkpoints shall be announced through local media, which will contain date, time and place of the checkpoint.

VI. Definitions – None

APPROVED



**Charles E. Bird
CHIEF OF POLICE**