



# COLUMBIA POLICE DEPARTMENT

*"Policing Excellence through Community Partnerships"*

<b>Directive Type:</b> General Order	<b>Effective Date:</b> 09-26-2016	<b>General Order Number:</b> 06.06
<b>Subject:</b> D.U.I. Enforcement		
<b>Amends/Supersedes:</b> Section 06, Chapter 06, D.U.I. Enforcement	<b>Chief of Police:</b> <i>[Signature]</i>	
<b>Distribution:</b> All Personnel	<b>Review Date:</b> July 1	<b># of Pages:</b> 5

## 1.0 DIRECTIVE

The Columbia Police Department will aggressively seek out, apprehend, and prosecute any person who is operating a motor vehicle while impaired by alcohol or other drugs (S.C. Code of Laws §56-5-2930).

## 2.0 APPREHENSION

Recognition and apprehension are the first steps in any D.U.I. enforcement action. The Officer's observations in this stage are crucial in establishing probable cause upon which the arrest decision is based.

### 2.1 D.U.I. Stop

Officers must perform the following tasks before making a D.U.I. vehicle stop:

- Recognize and identify specific driving behaviors that have a high probability of signifying that the driver may be impaired by alcohol and/or drugs.
- Note all observations leading to the suspicion that the driver may be impaired.
- Exercise due care and caution in pursuing impaired drivers and be alert for unusual or inappropriate reactions from the driver. The pursuit of the impaired driver should not be prolonged and a stop made as soon as possible with regard to public safety, officer safety and suitable location.

Officers will notify The Columbia-Richland Communications Center of their intent to stop an impaired driver and will give the intended location of the stop and the vehicles license tag number, make, model, color and occupant descriptions. Police units in the immediate area will respond to the location of the stop until a "Signal 18" is given or the assigned back-up unit arrives at the location.

Approach the vehicle with caution, but with minimal delay. Obtain the driver's license, registration and insurance information and interview the driver. Note all observations that lead to the suspicion that the driver is impaired and if reasonable suspicion exists request the driver to exit the vehicle for further investigation.

## 2.2 Field Sobriety Tests

Field sobriety tests should be administered to those driver's suspected of being impaired if the test are necessary and can be conducted safely. The tests will not be conducted in the space between the patrol vehicle and the suspect vehicle or in the roadway. The suspect will be required to exit his/her vehicle and move to a safe position near the right rear of his/her vehicle, onto the sidewalk if available, under the control of the Officer responsible for the stop.

## 2.3 D.U.I. Arrest

The Officer responsible for initiating the stop of the suspected vehicle will utilize their observations and the results of the field sobriety tests to establish the probable cause for an arrest for Driving Under the Influence. The Officer must also ensure that all the elements of the D.U.I. violation have been clearly established before the arrest.

## 2.4 Driving with an Unlawful Alcohol Concentration (SC Code of Laws §56-5-2933)

Officers have the option to charge the violator with §56-5-2933 instead of §56-5-2930 (D.U.I.) if:

- The original testing of the person's breath or collection of other bodily fluids was performed within two (2) hours or the time of arrest and articulable suspicion existed to justify the traffic stop.
- The suspect's alcohol concentration is eight one-hundredths of one percent (.08%) or more.

## 2.5 Securing the Suspect Vehicle

It is the responsibility of the arresting Officer to assure that the suspect's vehicle is properly secured to prevent theft or vandalism. In most cases that entails the towing of the vehicle to a proper impound area and the removal of items of significant value to be turned over to the Property/Evidence Room or secured in the trunk area. If the registered owner of the vehicle (other than the driver) is present and is not impaired, the vehicle may be released to them at the discretion of the arresting Officer.

## 3.0 DRIVERS LICENSE/DUI CHECKPOINTS

D.U.I. checkpoints may be established at the discretion of the shift supervisor to perform the D.U.I. enforcement function. The establishment of a D.U.I. checkpoint will be in accordance the following guidelines:

- Each checkpoint must have an approved Operational Plan. The plan will identify the location(s) to be targeted and the reason for the operation, i.e., community complaints, holiday suppression and/ or analysis have shown that a significant number of violations have occurred involving impaired drivers.
- The checkpoint(s) will be set up in such manner as to provide optimum safety for both police officers and motorists.
- Signs will be set out alerting motorists to the checkpoints.
- A supervisor will be on site during the operation of all checkpoints
- All officers will wear full duty uniform to include a hat and reflective vest.
- Sufficient police personnel will be available to allow the checkpoint(s) to be conducted in an expeditious manner.
- All observed violations of law will be uniformly enforced. This will preclude claims of unfairness by any driver.
- An After Action report will be completed detailing the results of the operation.

## 4.0 CHEMICAL TESTING

Evidential chemical tests will be conducted in accordance with state law and departmental directive and procedures.

#### 4.1 Breath Sample

A certified Datamaster operator will be utilized to conduct the Datamaster test. The suspect will be offered the Datamaster test in accordance with the procedures of the Implied Consent Law. Regardless of the outcome of the test, the suspect will be charged with D.U.I. If the suspect submits to the Datamaster test and requests an independent blood test at his own expense, it is the responsibility of the arresting officer to provide reasonable assistance in obtaining such a test. This assistance will include transportation to an area hospital. Should the suspect refuse to submit to a Datamaster test, the arresting Officer's responsibility to assist in obtaining an independent test can be limited to allowing access to a telephone and a phonebook.

Should a suspect have a blood alcohol content of .30% or more, a second non-evidential test will be administered twenty (20) minutes after original test. If the second test reveals an increase in the suspect's blood alcohol content, the arresting Officer will have the suspect transported by ambulance to Richland Memorial Hospital for treatment. If the suspect has to be admitted to the hospital, the arresting Officer may summons the suspect to court without having to post bond. This will relieve the Department of the responsibility of guarding the suspect while he is hospitalized. In the case of a repeat D.U.I. offender, a judge will have to be contacted to set a bond. Should the judge set an actual cash bond and the suspect is unable to post the bond, a supervisor will be contacted and a guard posted.

#### 4.2 Blood Sample

If a suspect is physically unable to provide an acceptable breath sample for the Datamaster test due to any reason listed in §56-5-2950, a blood sample may, at the officer's discretion, be requested from the suspect. Any suspect who is unconscious or otherwise incapable of refusing to submit to a chemical test is to be considered to be informed and not to have withdrawn his consent to have blood taken.

The following procedure will be adhered to for the collection and handling of blood samples:

- A licensed medical person will withdraw blood into a sterile collection tube.
- The following information will be printed on a label on the tube after it has been securely closed: name of suspect, time and date of blood withdrawal, and name of person withdrawing the blood.
- Complete all information on the "Urine/blood Collection Report."
- Wrap the tube in suitable material for transportation.
- As soon as possible after the specimen has been collected, it will be hand delivered with the "Urine/Blood Collection Report" to the SLED chemistry laboratory for analysis.
- If the delivery of the specimen is going to be delayed it must be placed into evidence to maintain chain of custody and kept refrigerated until it can be transported to SLED.

#### 4.3 Urine Sample

If the arresting officer has reasonable grounds to believe that the suspect was under the influence of drugs other than alcohol, the suspect may be taken to Palmetto Richland Memorial Hospital to have a urine sample taken in accordance with §56-5-2950.

The following procedures will be adhered to for the collection and handling of urine samples from impaired suspects:

- The sample will be taken by licensed medical personnel using a clean, dry container.
- The container will be given to the suspect with instructions to void directly into the container, filling it to the top with urine. (This must be performed in full view of a witness of the same sex.)
- Have the suspect return the container immediately, replace cap or lid on container and tighten down to prevent leakage.
- Label the container with the following information: name of suspect, time and date of sample

- collection, and name of person collecting the sample.
- Place a piece of tape across the lid or cap and seal to the sides of the container and initial the tape.
  - Complete all information on the "Urine/Blood Collection Report" sheet.
  - As soon as possible after the specimen collection, deliver sealed sample and the "Urine/Blood Collection Report" sheet to the SLED chemistry laboratory for analysis. The arresting Officer must specify on the "Urine/Blood Collection Report" sheet that a drug screening test is required.
  - If the delivery of the specimen is going to be delayed it must be placed into evidence to maintain chain of custody and kept refrigerated until it can be transported to SLED.
  - Within three (3) hours of the time of arrest

## **5.0 REQUIRED REPORTS AND FORMS**

A thorough and complete documentation of all evidence and observations obtained during the investigation of a D.U.I. violation is imperative for the successful prosecution of the case.

The following reports and forms must be completed for all driving under the influence arrests:

- A "Record of Stored Vehicle" form must be completed before a suspect's vehicle is towed.
- A "Uniform Traffic Citation" for D.U.I. must be completed and for any other violations not included in the D.U.I. violation.
- An "Incident Report" detailing all observations and evidence that lead to the D.U.I. arrest and the subsequent test or tests.
- A "Booking Report" must be completed for the arrest of the suspect.

A copy of the suspect's driving record should be attached to the arresting officer's copy of the incident report for court purposes. A certified copy of the suspect's driving record will be required for second or subsequent D.U.I. offenses.

All the above reports and forms must be routed and reviewed by a supervisor in accordance with established directive and procedures.

## **6.0 TRAINING**

All officers will receive D.U.I. Recognition training during Basic Law Enforcement training. DUI Detection and Standardized Field Sobriety Testing classes are offered through the South Carolina Criminal Justice Academy. The courses are available to all personnel and positions will be filled on an "as available" basis.

All Department personnel conducting Datamaster tests will be certified by the South Carolina Criminal Justice Academy pursuant to S.C. Code of Laws §56-5-2950.

All Department personnel will be required to attend legal update classes as needed for new or amended laws.

## **7.0 VEHICLE SEIZURE FOR D.U.I./D.U.S. OFFENSES (S.C. CODE §56-5-6240)**

The Columbia Police Department will actively pursue the seizure of vehicles belonging to the suspect or in which the suspect resides in the household of the owner of record and the suspect is charged with fourth (4th) or subsequent offense D.U.S. or third (3rd) or subsequent offence D.U.I.

### **7.1 Requirements for Confiscations**

Upon arrest of a suspect for D.U.I. third (3rd) offense or D.U.S. fourth (4th) offense, the arresting Officer will immediately confiscate the suspect's vehicle if:

- There have been two (2) or more convictions for D.U.I. in the past ten (10) years or three (3) or more convictions for D.U.S. in the past five (5) years and;

- The offender is the owner of record or;
- The offender is a resident of the household of the owner of record

The confiscating Officer will forward copies of all reports to the Region/Section Commander who, in turn, must notify the Clerk of Court within forty-eight (48) hours of the arrest that the vehicle has been confiscated. The Region/Section Commander will complete the affidavit section of the "Affidavit and Rule to Show Cause" form and deliver it to the Clerk of Court.

The Clerk of Court will issue a "Rule to Show Cause" upon being notified of the confiscation. The "Rule to Show Cause" requires the owner of the confiscated vehicle to provide reasons why their vehicle should not be forfeited. The "Rule to Show Cause" must be returned to the presiding Judge of the judicial circuit or his designated hearing officer within ten (10) days from the date of the issuance.

#### 7.2 Confiscation Hearing

The presiding Judge of the judicial circuit or his designated hearing officer will hold a confiscation hearing.

In order for the owner of record to reclaim the vehicle, the owner must show at the hearing:

- The use of the vehicle was not either expressly or implicitly authorized, or
- The owner of record did not know that the driver did not have a valid license

#### 7.3 Disposition of Confiscated Vehicles

Upon conviction, plea of guilty, or nolo contendere to fourth or subsequent offense D.U.I. or D.U.S., the City Attorney will initiate action in Circuit Court of the County in which seizure occurred to accomplish forfeiture. The City Attorney must give notice to the following:

- Owners of record
- Lien holder of record
- Other persons claiming to have an interest in the vehicle

The notice of the above persons must be made by personal service of the petition. Persons (other than the lien holder of record) who do not appear at the hearing are deemed to waive their claim.

The Circuit Court will order one of the following dispositions for the confiscated vehicle:

- Forfeited and sold (forfeiture is subordinate in priority to all valid liens and encumbrances)
- Returned to owner of record if by a preponderance of evidence the use of the vehicle was not expressly or implicitly authorized or the owner of record did not know that the driver did not have a valid driver's license.

If the vehicle is forfeited, the Department will sell the vehicle at public auction for cash to the highest bidder. The Department must give ten (10) days public notice of the auction by posting an advertisement on the door or bulletin board of the County Courthouse or other locations and publish an advertisement of the auction at least once in a general newspaper in the County.

The Department will forward the net proceeds of the auction of vehicles to the City after payment of all liens, encumbrances and expenses incurred from the seizure, ads, sale, and storage of the vehicles.