514  IMPAIRED DRIVING ENFORCEMENT AND EVIDENCE COLLECTION

514.1  PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of impaired driving.

514.2  POLICY

The Columbia Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of Missouri's impaired driving laws.

Patrol officers and officers assigned to the DWI Unit are familiar with and trained in DWI detection and the administration of field sobriety tests. Officers should be alert for signs of alcohol and/or drug impairment in all contacts with motorists.

The observed driving, involvement in a crash, results of field sobriety tests, and/or observations of the driver's demeanor and physical condition are considered collectively in the decision to arrest.

Officers are reminded that chemical tests are supplemental methods only, and a refusal to submit to a chemical test does not constitute cause to issue a citation for a lesser offense.

Generally, officers should arrest any driver found to be in violation of the impaired driving laws. All officers are expected to enforce these laws with due diligence, however, officers should not pursue enforcement of DWI laws to the exclusion of their other duties unless specifically assigned to DWI enforcement.

514.3  DWI ENFORCEMENT PROCEDURES

Missouri has a presumptive level of intoxication.

RSMo 577.012 - A person commits the offense of driving with excessive blood alcohol content if such person operates:

(1) A vehicle while having eight-hundredths of one percent or more by weight of alcohol in his or her blood; or

(2) A commercial motor vehicle while having four one-hundredths of one percent or more by weight of alcohol in his or her blood.

Specific laws govern driving while under the influence of alcohol and/or drugs, implied consent for chemical tests, and the actual chemical tests for determining blood alcohol content. These statutes outline the officer's scope of authority, and establish procedures for detection, arrest, and processing of an intoxicated/impaired driver.
514.3.1 DETECTION

Detection is the first step in any DWI enforcement action. In this stage, probable cause to arrest is established. Detection includes the following steps:

1. Recognize and identify specific driving behaviors that indicate the driver may be impaired by alcohol and/or drugs;
2. Recognize and identify specific behaviors occurring during the vehicle stop that provide evidence or suspicion that the driver may be intoxicated/impaired;
3. Note all observations which lead to the belief the driver may be intoxicated/impaired;
4. Use caution in attempting to stop suspected impaired drivers, and be alert for unpredictable reactions;
5. Suspected violators should be stopped as soon as possible and in a safe place;
6. Advise Boone County Joint Communications of the location, vehicle license/description, and request assistance if necessary;
7. Approach the vehicle with caution, and obtain the violator's driver's license and proof of insurance, if applicable;
8. Recognize, identify and note specific actions, attitudes, and characteristics commonly manifested by intoxicated/impaired drivers during face-to-face contact;
9. Interview the driver and any passengers;
10. Request the violator to exit the vehicle, and move to a safe location to assess impairment;
11. Formulate appropriate arrest decisions based on evidence accumulated; and,
12. Do not allow the violator to operate the vehicle once the driver is suspected of being intoxicated.

514.3.2 FIELD SOBRIETY TESTS

The officer should attempt to perform field sobriety tests prior to the administration of a Preliminary Breath Test. The field sobriety tests that may be done include but are not limited to the Horizontal Gaze Nystagmus Test, Walk and Turn Test, the One Leg Stand Test, Romberg, Finger to Nose, Alphabet, Counting, and the Lack of Convergence Test.

514.3.3 PRELIMINARY BREATH TESTER (PBT)

1. When available, qualified officers may be issued a PBT as part of their equipment.
2. Before being issued a PBT, officers must possess a Type II or Type III permit from the Missouri Department of Health and Senior Services and must complete the manufacturers training associated with the PBT they are issued.
3. The PBT should only be used in conjunction with other observations of the driver derived from officer contact (see, hear, smell, observed driving and face to face). CPD Officers may perform field sobriety tests, but are not required to do so and may determine probable cause from officer contact and the result of a Preliminary Breath Test. PBT results shall not be used as your only probable cause for an arrest for DWI.
4. Anytime an officer uses a PBT where enforcement action is taken, they shall record the results in their police report and probable cause statement, when applicable.
5. An officer is not required to use the PBT.
6. Refusal to take a PBT is not considered a refusal to submit to a chemical test under implied consent. It is important to document a PBT refusal in associated reports as it can be considered when establishing probable cause for a DWI arrest.

7. It is up to the individual officer to make sure his/her PBT is kept in good working order and is regularly checked for accuracy as a means of maintaining its validity in court proceedings.

514.4 **DWI ARREST AND PROCESSING PROCEDURES**

1. If a custodial interrogation is conducted, the subject is read his or her Miranda rights prior to questioning;
2. If probable cause exists that a DWI violation is evident, the officer should affect a physical arrest of the subject;
3. The officer conducts a search of the vehicle as allowed by applicable law, circumstances at hand, and in accordance with policy 322 SEARCH AND SEIZURE.
4. The violator's vehicle may be towed, if necessary, after a thorough inventory search of the vehicle is conducted and property is secured. If the vehicle is legally parked, and not a hazard, it may be left at the scene. If the vehicle needs to be removed for safety or security reasons it may be released to an authorized person with driving privileges who is capable of removing the vehicle. If an authorized person cannot respond to remove the vehicle in a reasonable amount of time, the officer should have the vehicle towed.
5. Subject is transported to the police department or hospital for processing, evidential testing, and medical treatment if necessary. An exception to this, assuming the driver does not need medical attention, would be a complete or partial investigation conducted by a DWI Unit officer who is equipped to perform such investigations at the scene of the stop or driver contact.
6. Read the Implied Consent Form to the violator, and request the subject submit to a chemical test(s) to determine blood alcohol content.
7. Conduct chemical test(s) in accordance with state and local requirements. Generally, a test of the subject's breath is conducted. Blood or urine samples may be collected by authorized personnel as an alternative or in addition to a breath sample, however, no more than two types of tests are allowed;
8. If the subject refuses to submit to the chemical test(s), the refusal form is completed;
9. If blood or urine is collected, process, label and secure the blood and/or urine samples as evidence according to the most current instructions contained in the Columbia Police Department Evidence Submission Manual and Complete a Lab Analysis Request form;
10. Complete departmental and other related forms as required, thoroughly documenting all evidence gathered during the investigation;
11. A copy of the subject’s driving record is included with the DWI report. Officers need to check for previous DWI convictions for assessment concerning prior, persistent, chronic, and aggravated offender charges;
12. Unless a juvenile is under 15 1/2 years of age, then they are processed as an adult with the exception of other juvenile handling procedures;
13. Forward citations and all reports for supervisor approval;
14. First time DWI’s are typically sent through Municipal Court, unless circumstances dictate different actions. All other DWI offenders and refusals should be sent to the Circuit Court.
15. Release of the arrestee should follow guidelines in policy 420 ARREST AND BOND POLICY.
514.5 SAMPLE COLLECTION CONSIDERATIONS

514.5.1 BREATH SAMPLES

The Department designated Type II permit holder should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Department designated Type II permit holder.

Collection of breath samples should be consistent with current guidelines provided by the State of Missouri in the Alcohol Influence report, department approved/provided training, and specific instructions for the breath instrument used by the department and for which the officer is certified to use.

Generally, breath samples are requested of subjects arrested on suspicion of driving while intoxicated and transported to the police department or the Boone County Jail for testing and processing. Breath samples may also be requested roadside by DWI Unit officers specially equipped to conduct expeditious DWI investigations.

514.5.2 BLOOD SAMPLES

Many possible conditions may lead an officer to believe that a breath sample would be a less desirable choice for chemical test (e.g. subject repeatedly vomiting). Blood samples may be requested at the discretion of the officer at any time.

Depending on the circumstances of an investigation (e.g. driver involved in a vehicle crash and is being treated at the hospital), a blood sample may be a reasonable and appropriate test to request. Blood samples must be taken from the violator by qualified medical personnel (described in RSMo 577.029 and RSMo 577.033).

If an arrestee cannot submit to a blood draw as described in RSMo 577.029, he/she shall not be required to submit to a blood test, however, the person may be required to complete another available and viable test.

RSMo 577.029 - Blood alcohol content tests, how made, by whom, when — person tested to receive certain information, when. — A licensed physician, registered nurse, phlebotomist, or trained medical technician, acting at the request and direction of the law enforcement officer, shall withdraw blood for the purpose of determining the alcohol content of the blood, unless such medical personnel, in his or her good faith medical judgment, believes such procedure would endanger the life or health of the person in custody. Blood may be withdrawn only by such medical personnel, but such restriction shall not apply to the taking of a breath test, a saliva specimen, or a urine specimen. In withdrawing blood for the purpose of determining the alcohol content thereof, only a previously unused and sterile needle and sterile vessel shall be utilized and the withdrawal shall otherwise be in strict accord with accepted medical practices. Upon the request of the person who is tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to him or her.
RSMo 577.033 - Inability of person to be tested to refuse, effect. — Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusing to take a test as provided in sections 577.020 to 577.041 shall be deemed not to have withdrawn the consent provided by section 577.020 and the test or tests may be administered.

a. **EQUIPMENT FOR BLOOD SAMPLE COLLECTION**

- Gray top tubes (denotes it contains Sodium Fluoride) usually 2-10 ml tubes if available. Some tubes may be smaller if provided by a hospital. Attempt to get a minimum of 20 ml of blood, Expired tubes should not be used;
- Plastic evidence tubes if applicable for packaging;
- Biohazard stickers;
- Plastic evidence bag;
- Evidence tape.

b. **BLOOD SAMPLE COLLECTION PROCEDURES**

Blood samples may only be drawn by qualified medical personnel as described in § 577.029 RSMo and § 577.033 RSMo listed above in 514.5.2

c. **BLOOD SAMPLE SUBMISSION TO EVIDENCE AND LAB**

Officers should follow the guidelines provided in the Columbia Police Department Evidence Submission Manual located on PowerDMS for submitting blood samples to the lab and requesting laboratory analysis.

514.5.3 **URINE SAMPLES**

Generally, breath samples are requested of subjects arrested on suspicion of driving while intoxicated and transported to the police department or the Boone County Jail for testing and processing. Generally, urine samples are not a viable source for testing blood alcohol content. The Missouri State Highway Patrol Crime Lab will not test urine for blood alcohol content. Urine samples may be requested if the results of the breath test are abnormally low compared to the level of impairment displayed while driving, while performing field sobriety tests, or during other officer contacts. Urine may also be requested if the subject was found in possession or believed to be under the influence of drugs.

If a urine test is performed, the officer shall follow any directions accompanying the urine evidence collection kit and procedures established through department-approved training. The collection kit shall be marked with the person’s name, case number and the name of the witnessing officer or department employee.

a. **EQUIPMENT FOR COLLECTING URINE SAMPLES**

- Rubber gloves;
b. **URINE SAMPLE COLLECTION PROCEDURE**

- Rubber gloves should be worn when handling samples.
- Obtain a sample from the person;
  - A substantial amount of urine is needed for an accurate test (60-90 ml);
  - Sample collection must be witnessed by an officer, or other department employee of the same sex as the violator.
- Once the sample is collected from the violator, place the lid on the container and seal with parafilm.

c. **SUBMITTING URINE SAMPLE TO EVIDENCE AND LAB**

- Officers should follow the guidelines provided in the Columbia Police Department Evidence Submission Manual located on PowerDMS for submitting urine samples to the lab and requesting laboratory analysis.

**514.6 CHEMICAL TEST REFUSALS**

When an officer, conducting a DWI investigation, encounters a subject who refuses to submit to a chemical test, the officer should do the following:

1. Advise the person of the requirement to provide a sample (§ 577.020, RSMo).
2. Audio-record the admonishment and the response when it is practicable.
3. Document the refusal in the appropriate report.
4. Complete all appropriate forms.

**514.6.1 STATUTORY NOTIFICATIONS**

RSMo 577.040.2. - *The request of the officer to submit to any chemical test shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person. If such person was operating a vehicle prior to such detention, stop, or arrest, he or she shall further be informed that his or her license shall be immediately revoked upon refusal to take the test.*
514.6.2 OFFICER RESPONSIBILITIES

The following are responsibilities of the arresting officer:

1. Provide the person with statutory notifications;
2. If the violator at any time prior to providing a chemical sample, requests to speak with an attorney, he or she shall be given twenty (20) minutes to contact an attorney after being advised of the implied consent laws. The subject should be allowed to do so in a manner that respects their right to privileged communication with an attorney.
3. If the person is in possession of a valid Missouri driver’s license, and applicable circumstances exist, the officer shall seize the license to be sent to the Missouri Department of Revenue;
4. Officers should utilize authorized forms and guides in all DUI/DWI investigations and complete each form section as appropriate. Details documented on the forms are not required to be duplicated in the narrative portion of the report unless further clarity is warranted.

514.7 DWI ENFORCEMENT UNIT

In addition to Patrol officers trained in DWI detection and enforcement, the Columbia Police Department fields a DWI Unit comprised of specially trained and equipped officers whose primary purpose is to detect and apprehend alcohol and/or drug impaired drivers in an effort to reduce impaired driving crashes and fatalities in our community.

Officers of the DWI Unit use various sources of information to identify problem times and areas and various combinations of countermeasures in their selective alcohol enforcement program.

DWI saturation enforcement is a common tactic used during selected times on selected roadways.

Officers of the DWI Unit are equipped to conduct a complete and expeditious DWI investigation on scene if appropriate and release the violator according to the ARREST AND BOND POLICY 420. This expeditious processing allows the specialized DWI Unit more time to allocate to the detection and apprehension of impaired drivers.

514.8 DRUG RECOGNITION EXPERTS (DRE)

Officers will encounter individuals that may be under the influence of drugs and/or alcohol. If the officer believes that after administering field sobriety tests, and the administration of a Preliminary Breath Test, that the performance on the tests is inconsistent with the Breath Alcohol Content, the officer should consider having a Drug Recognition Expert (DRE) respond to perform an evaluation on the suspect. Before calling for a DRE the following should be considered:

- The officer should ensure that probable cause exists for an arrest for driving while intoxicated.
- The officer should document whether or not the suspect has consented to submitting to the evaluation with the DRE.
- The officer should contact a supervisor to advise of the situation.
- The officer should attempt to contact a DRE that is on duty at the time.
• In the event a DRE is not on duty, the officer should notify a supervisor and request a DRE is called out to respond for an evaluation.

The role of the DRE is to assist with the primary investigating officer’s DWI investigation. The officer will need to remain with the DRE and suspect during the entire evaluation process.

514.9 SEARCH WARRANTS FOR BLOOD DRAWS PROCEDURE

Officers applying for a search warrant for blood for a DWI investigation will use the guidelines established in the following procedure:

1. The officer should apply for a search warrant for blood on any refusal involving a DWI charge. If the subject refuses to submit to a chemical test, inform them you will be applying for a search warrant for their blood. The officer should notify a supervisor of their intent to obtain a search warrant.
2. Complete the search warrant application and all associated documents.
3. Have a supervisor review and approve the search warrant.
4. If after normal business hours, contact the appropriate State Prosecuting Attorney (PA). Submit the search warrant documents according to the procedure in place at the time.
5. After service of the search warrant, complete the return to the Boone County Circuit Clerk within ten (10) days.
6. The up to date search warrant template will be housed on PowerDMS and should be the only one in use for this purpose.
7. Supervisors will have the authority to abort a search warrant if reasonable circumstances exist (e.g. the subject is combative and there is danger to the officers, nurses, medical staff or the suspect when attempting to get the sample under the authorization of a search warrant).