


<b>POLICY 506</b>	<b>DUI ARRESTS, FORMS AND USE OF B.S.O. TASK FORCE/B.A.T. UNITS</b>	
	REVISED: 10/97, 12/00, 11/05, 6/08, 03/10, <b>10/13</b>	RELATED POLICIES:
	CFA STANDARDS: <b>22.03, 22.07, 23.01</b>	REVIEWED: 11/05, 6/08, 03/10, <b>10/13</b>

**A. PURPOSE**

The purpose of this policy is to describe procedures to be used in performing DUI investigations, arrests, necessary forms, and the use of the Broward County Sheriff's Office Breath Alcohol Testing (B.A.T.) Unit or DUI Task Force Deputies.

**B. PROCEDURES FOR DUI INVESTIGATIONS/ARRESTS**

1. Identify and observe suspected impaired drivers as they operate motor vehicle.
2. If the officer is made aware of the offense by a civilian witness, the witness's full name, address and telephone number (if possible), along with their direct observations, shall be included in the report.
3. In cases where the officer is dispatched based on anonymous information received by the Communications Center, and the officer locates and subsequently arrests the suspected DUI driver, the officer shall request the Communication Center furnish a copy of the phone tape and any other documentation created by the Communications Center via the 911 Audio Records Custodian.
4. Traffic stops will be performed in accordance with the procedures established in Policy 217.
5. Immediately following the initial stop, the investigator may ask basic questions such as: Where have you been? Where are you going? Have you been drinking? And if so, how much? And when was your last drink? Once the officer forms an opinion as to the subject's intoxication and determines that there is probable cause that a DUI has occurred, the suspect is not free to leave the scene, and no further questions should be asked until after the roadside tasks and breathalyzer tests have been completed. Investigators should delay reading Miranda as long as possible. Miranda does not apply to roadside tasks or breathalyzer testing. The investigator must explain to the suspect that they do not have the right to refuse the roadside tasks or breathalyzer test or have their attorney present during testing. To avoid confusion, before requesting the suspect to perform the breathalyzer test, the investigator must ask the suspect if they understand that Miranda does not apply. If it is absolutely necessary to ask additional questions, the officer must inform the subject of their rights against self-incrimination.
6. Through conversation and visual observation assess suspect driver for signs of impairment.

7. Request the suspect perform roadside tasks for sobriety. The suspect must be given the choice. DO NOT tell the suspect the tasks are voluntary. If the suspect refuses to perform tasks, or asks if the tasks must be performed, inform the suspect that their refusal or failure to comply can and will be used against them in court.
  - a. If the suspect refuses to perform the roadside tasks:
    - (1). Explain the purpose of the tasks is to confirm or dispel your suspicions.
    - (2). Inform the suspect that the refusal to perform the tasks can and will be used in court against them.
    - (3). Explain the possible adverse consequences of the refusal.
  - b. Prior to administering roadside tasks, ask the suspect if they are sick, injured, handicapped, taking medication or is there any other reason why they cannot physically perform the tasks or anything that will affect the outcome.
  - c. Roadside tasks must be performed on flat, level ground in a well-lighted area.
  - d. The following roadside tasks are recommended, and use of at least three of them are required:
    - (1). Walk and Turn;
    - (2). Finger to Nose;
    - (3). One Leg Stand;
    - (4). Romberg (standing balance test).
    - (5). The above should be combined with recitation of the alphabet.
    - (6). If the officer has been personally trained in the use of the Horizontal Gaze Nystagmus, this test may also be utilized.
8. Based on ALL observations, determine if Probable Cause exists to make an arrest.
  - a. If Probable Cause exists, make arrest and list all observations in offense report. A Probable Cause Affidavit may serve as a DUI arrest offense report. In order to include any information that would not normally be included in a probable cause affidavit, such as response to resistance, medical treatment or tow information, a supplemental report shall be completed in addition to the P.C. when necessary. The supervisor reviewing this "P.C. only" report will be responsible for determining if and when a supplement should be completed.

- b. If Probable Cause does not exist, release driver.
9. If an arrest is made, transport the suspect to the nearest appropriate testing facility (e.g.: BSO B.A.T. Unit).
10. Following testing, the suspect will be transported directly to the BSO main jail (without stopping at the FLPD processing area). The officer will complete the booking process at BSO. The officer shall complete all necessary traffic citations and test refusal form, if required. The officer will be required to get 2 copies of his/her PC and return them to the FLPD processing area when he/she clears BSO.
11. The arresting officer shall then complete all necessary reports. The offense report must include the time of the initial stop, the time of the arrest, and the time of the breathalyzer tests.
12. If the suspect has a BAC level of 0.08% or higher, or refuses to take a test, a DUI Uniform Traffic Citation must be written in place of a Uniform Traffic Citation, and the officer must seize the defendant's driver's license. No citations are to be attached to the Probable Cause Affidavit.
  - a. The defendant is given the yellow (Defendant's) copy of all citations issued. All other copies of all citations and the driver's license, if seized, shall be placed in the Bureau of Driver Improvement envelope, and left in the appropriate basket in the write-up room.
  - b. In cases where a suspect is charged with multiple counts of DUI, only one DUI charge should be on the DUI Uniform Citation. Any additional DUI charges should be written on a Uniform Traffic Citation.
13. If the arrestee has a BAC of .05% or less it is presumed, by law that the person is not under the influence of alcoholic beverage to the extent that their normal faculties are impaired. [§316.1934(2)(a) Florida Statute]
  - a. In such cases the arresting officer shall request the arrestee provide a urine sample to test for the presence of alcohol or other chemical substance.
  - b. Urine samples collected for testing for alcohol or other chemical substance shall be placed in refrigerated storage in the evidence unit. The urine sample shall be delivered for testing in the same manner as described for blood samples.
  - c. Refusal to submit a urine sample, upon request, shall constitute a refusal. If the arrestee refuses to submit a urine sample they shall be advised that the refusal will result in the suspension of the person's privilege to operate a motor vehicle. [§316.1932(1)(a) Florida Statute]
14. Copies of all paper work received from the BSO B.A.T. facility will be placed in the appropriate DUI envelope in the write-up room for transmittal to the Bureau of Driver Improvement.

### **C. UTILIZATION OF D.U.I. TASK FORCE DEPUTIES**

The Fort Lauderdale Police Department and the Broward County Sheriff's Office have both determined that the detection and apprehension of impaired drivers is of the highest priority. To that end, the Broward County Sheriff's Office has established a D.U.I. Task Force, comprised of specially trained deputies who are assigned specifically to the enforcement of traffic and D.U.I. statutes. Whenever practical Fort Lauderdale officers shall seek the assistance of the BSO, D.U.I. Task Force to process D.U.I. arrestees. The BSO DUI Task Force shall not be used to investigate DUI crashes with death or serious bodily injury.

1. If, through personal observations, an officer believes they are dealing with an impaired driver, that officer may request that a BSO D.U.I. Task Force deputy respond to their location. Those observations may include, but are not limited to, the manner in which the suspect was operating and/or controlling a motor vehicle, the suspect's balance, speech, eyes, clothing and odor of an alcoholic beverage.
2. If no Task Force deputy is available, the officer will conduct the DUI investigation, as outlined above.
3. If a deputy from the Task Force is available, the officer will detain the suspect in a manner, which ensures the safety of the officer and the safety of the suspect and their property. This may include handcuffing the suspect and/or the placing of the suspect in the rear of the police unit.
4. Upon the arrival of the deputy, the officer will:
  - a. Remand the suspect to the deputy for testing,
  - b. Remain on scene as a back-up for the deputy,
  - c. Assist the deputy as required.
5. Should the deputy determine there is not enough Probable Cause to effect an arrest, the officer will issue all appropriate traffic citations to the suspect and release the motorist at the scene.
6. Should the deputy effect an arrest for DUI, the officer will issue any appropriate traffic citations to the suspect and turn the entire citation, minus the blue DHSMV copy, to the deputy for inclusion with the deputy's paperwork. The DHSMV copy of the citations shall be turned in to Records for entry in the Records Management System (RMS).
7. The officer must complete a DUI Report regarding the incident.
  - a. The report should contain all observations made by the officer concerning the behavior of the suspect, the name of the Task Force deputy making the arrest, the BSO Report Number and any other information the officer deems appropriate or necessary to completely document the incident.

- b. The report will be marked to ensure that a copy of it is forwarded to the State Attorney's Office, DUI Unit.

8. Arrestees Requiring Medical Clearance or Treatment

Medical clearance or treatment of minor injuries required for any person remanded to the custody of the BSO, D.U.I. Task Force for processing shall be the responsibility of the Fort Lauderdale Police Department, provided the medical treatment is not the result of injuries received while in the custody of the BSO Task Force.

In cases where medical clearance or treatment for minor injuries is required:

- a. The Fort Lauderdale Officer shall advise the Task Force member to contact the Department upon completion of processing.
- b. The Fort Lauderdale Officer shall also advise their supervisor that the arrestee requires medical treatment.
- c. In cases when the processing extends past the current shift that supervisor shall notify the oncoming shift supervisor that the arrestee requires medical treatment.
- d. Upon being notified by the Task Force that the processing has been completed a Patrol Division supervisor in the district where the initial incident occurred shall assign an officer to transport the arrestee to the appropriate medical facility and then to the appropriate processing facility.

The Task Force member may refuse to accept any arrestee when they deem the injuries are serious enough to require immediate treatment. In such cases the Fort Lauderdale Officer shall obtain medical clearance prior to releasing the arrestee to the Task Force.

**D. DUI INVESTIGATION INVOLVING MINOR TRAFFIC CRASHES**

1. In traffic crashes involving no or minor injury the officer will perform the DUI investigation as above.
2. If the suspect is transported to a hospital for any treatment the officer should obtain two blood sample kits with the accompanying DUI Blood Test Packet and follow the suspect to the hospital.
  - a. Upon making contact with the suspect at the hospital, the officer shall attempt to obtain consent from the suspect to obtain two samples of the suspect's blood for testing. The consent should be documented on the Department-approved consent form and audio recorded, when possible. The obtaining of consent to draw blood is NOT pursuant to the "Implied Consent" Statute and therefore "Implied Consent" should not be read to the suspect at this time.

- b. If the suspect fails to give consent, then the "Implied Consent" (Form Z-511B) should be read to the suspect but DO NOT advise the suspect that they are under arrest. If the suspect refuses the test, fill out Refusal Form HSMV 72054 to be filed with the not in custody case.
  - c. If after "Implied Consent" is read, the suspect agrees to submit to the drawing of their blood, then the procedures described in the DUI Blood Kit Collection Procedure Checklist should be followed.
  - d. In all cases involving blood testing the subject should not be arrested, but instead a "Not in Custody" case is prepared once the test results are known.
  - e. The officer will obtain the name, address and telephone number, of any person who actually examines or treats the suspect including paramedics, triage nurses, physicians and anyone else who may draw blood for testing, for their report.
  - f. If samples are collected, follow instructions on collecting the samples and securing the blood kits from form BA2:INS.2 that is included in each kit. The officer will fill out a Fort Lauderdale Toxicology Property Receipt (Form Z-624) and place the samples in the refrigerator in the evidence locker room. The samples will be logged in on the appropriate log. The evidence section will be responsible for arranging transportation of the samples to the Toxicologist Lab.
  - g. Once the results are received the officer will prepare all appropriate citations as well as a "Not In Custody" Probable Cause Affidavit, and place it in the DUI basket in the write-up room.
3. When the offense involves an accident, and the investigator intends to ask the defendant any questions about a criminal offense, the investigator must advise the defendant that he/she has completed their accident investigation and is commencing an investigation of the criminal offense of DUI.

**E. PROCEDURES FOR DUI CRASHES INVOLVING DEATH OR SERIOUS BODILY INJURY**

1. In crashes involving death or serious bodily injury, as defined in FSS: 316.1933, where the officer has reason to believe that a vehicle driven by a person under the influence of alcohol or drugs has caused or contributed to the cause of death or serious bodily injury of a human being, an officer has the right to seek consent to draw blood samples.
2. If the subject refuses to give consent and the officer has probable cause to believe that a vehicle driven by a person under the influence of alcohol or drugs has caused or contributed to the cause of the death or serious bodily injury of a human being, then the officer shall obtain the blood samples via a search warrant. Probable cause can be established by contact with the suspect at the scene or

hospital or by interviewing witnesses at the scene. All reasonable efforts should be made to collect blood samples in an expeditious manner, as soon after the crash as possible. The Broward Sheriff's Office DUI Task Force shall not be used to investigate DUI crashes with death or serious bodily injury.

3. When confronted with a potential traffic homicide crash, the following guidelines shall be followed to initiate a T.H.I. call-out.
  - a. Unless there are fatalities on the scene, do not request T.H.I. be called based on information provided by Fire Rescue. The decision to call-out T.H.I. will be based on information and updates provided by hospital emergency room personnel. A trauma alert instance will not be grounds for a call-out in and of itself.
  - b. When a patient is transported to the hospital, contact needs to be made with the detail officer as soon as possible to get an update on the individual's condition. If no detail officer is available a patrol officer shall be dispatched to the hospital to obtain this information.
  - c. While the determination of a T.H.I. call-out is being made, the scene shall be held as if it is a traffic homicide scene.
  - d. If the information supplied by hospital personnel indicates there is any potential loss of life, the on-scene supervisor will request that the T.H.I. supervisor/designee be called.
  - e. The on-scene supervisor will have the Communications Center supervisor page the T.H.I. supervisor/designee and provide a contact number so the T.H.I. supervisor/designee can contact them directly.
  - f. The T.H.I. supervisor/designee will determine if a T.H.I. response is required and if so will make any additional call-outs, i.e.: Crime Scene Unit.
  - g. In the event T.H.I. elects not to respond, the on-scene supervisor shall determine if additional call-outs are required.
4. If the suspect is transported to a hospital before the officer has arrived on the scene, the officer shall go to the hospital and establish contact with the suspect.
  - a. The officer shall attempt to obtain consent from the suspect to obtain two samples of their blood for testing. The consent should be documented on the Department-approved consent form and audio recorded, when possible.
  - b. If the subject refuses to provide consent, the officer shall obtain a search warrant for the drawing of blood, utilizing the Department approved template.

- c. Upon obtaining the warrant from the judge, the officer shall obtain two blood sample kits and the accompanying DUI Blood Test packet.
  - d. Collect samples and seal the blood kit as per instructions on form BA2:INS.2 that is included in each kit.
  - e. A second sample should be collected 45 minutes to an hour after the first sample was collected, following the above procedures.
  - f. When possible, each blood draw will be photographed to aid in identification of the suspect and person drawing the blood.
5. If consent or a warrant has been secured and the suspect is still on the scene upon arrival of the officer, but is to be transported to a hospital for treatment, the officer shall request a paramedic on the scene to collect a sample. Subsequently, a second sample shall be drawn at the hospital using the procedure described above.
  6. If consent or a warrant has been secured and the suspect is not transported to a hospital the officer shall request a paramedic on the scene to collect one sample. If the suspect and paramedic are still on the scene 45 minutes to an hour later a second blood sample shall be drawn on the scene by the paramedic. The suspect should be kept at the scene as long as needed for the crash investigation, including the obtaining of a consensual blood draw and/or the securing of a search warrant for a blood draw. Once the investigator is finished with the suspect, they must be released or they may be considered in custody. The investigator must be careful to avoid an in custody situation by detaining the suspect simply to draw the second blood sample. When drawing blood based on consent or a search warrant, the suspect should not be removed from the scene solely for the purpose of drawing blood, unless the search warrant specifically authorizes removing the suspect from the scene.
  7. The Traffic Homicide Investigator assigned to a fatality or possible fatality will assist the officer in obtaining blood samples. The on-scene Traffic Homicide Supervisor will make the decision whether a second investigator is to be called out to assist at the scene or at the hospital in collecting the blood sample.
  8. Once the samples are collected the officer will fill out a Fort Lauderdale Police Toxicology Property Receipt (form Z-624) and place the samples in the refrigerator in the Evidence locker room. The samples will be logged in on the appropriate log. The Evidence Section will be responsible for arranging transportation of the samples to the Toxicologist lab.
  9. The on-scene Traffic Homicide Investigator will have the responsibility of completing any necessary follow-up investigation (i.e.: taking of statements, obtaining medical records, etc.)
  10. If there is no Traffic Homicide Investigator on the scene, the officer who investigates a DUI with serious bodily injury will forward a copy of all to the Traffic Homicide office for follow-up.



## **F. REQUESTS FOR SEPARATE TESTS BY ARRESTEES**

1. In cases where an officer makes an arrest for DUI the suspect may request a separate, independent test of their blood, urine or breath, for the purpose of determining the amount of alcohol in the person's blood or breath or the presence of chemical substances or control substances to attempt to refute any results obtained by the required blood, breath or urine testing. Should such a request be made, the following procedures will be followed:
  - a. If the suspect has refused a breath, blood, or urine test, it is the position of the Broward County State Attorney's Office that based on Florida Statutes and current case law; they have no right to an independent test, as they have not provided a required test to compare any independent results against, for refutation purposes.
  - b. The suspect will be informed that all additional tests will be performed at the suspect's expense.
  - c. If the suspect still desires the independent testing be performed, and has previously provided a valid breath, blood and/or urine sample, the suspect will be transported to the facility of their choice, provided the facility has the ability to administer the test, and is reasonably convenient.
    - (1). The facility must have the ability to draw, test and store any independent tests as this agency will not be responsible for handling this type of independent evidence.
    - (2). The facility must provide all necessary equipment for the taking of the sample. No test kits will be provided by the Fort Lauderdale Police Department.
    - (3). The facility must be willing to accept payment from the suspect or be willing to bill the suspect for the tests performed, and must agree that the City of Fort Lauderdale, the Fort Lauderdale Police Department and the officer will not be held liable or responsible for any expenses associated with the testing.
    - (4). The facility must be prepared to perform the test within a reasonable amount of time, so as not to unnecessarily delay the officer's return to duty.
  - d. Following the independent testing procedure, should one be performed, the suspect will be transported back to the FLPD prisoner intake processing area.
2. If circumstances beyond the control of the arresting officer make the request for an independent test unreasonable, the request for such testing may then be denied. If such a request is made by a suspect, the request will be documented in the police report, including whatever actions are taken to meet that request, or the

reasons for which the request is denied. Some of the circumstances might be no facility in area available, no facility in area willing to test, no medical staff available, etc.

3. Paramedics will not be used to draw blood as a result of a request for independent testing as they have no means of storing, testing or maintaining custody of samples.
4. If the request is granted, the officer will obtain the name, address and telephone number of the person who physically draws the suspect's sample, along with the time the sample was taken. Any statements made by that person or by the suspect during this time will be noted, and all of this information will be included in the report.
5. If a camera is available, the officer may photograph the blood kit used, once it is sealed. This photograph may be placed into evidence, but under no circumstances will the officer take custody of any independent blood or urine test kits or samples.