


<b>POLICY 506</b>	<b>DUI INVESTIGATIONS</b>	
	REVISED: 10/97, 12/00, 11/05, 6/08, 03/10, 10/13, 11/17, 06/18, 04/21, <b>09/24</b>	RELATED POLICIES:
	CFA STANDARDS:	REVIEWED: AS NEEDED <b>THIS VERSION EFFECTIVE DATE: OCTOBER 4, 2024</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, FLPD DUI Unit Officers or DUI Task Force Deputies.

Drivers impaired by alcohol and/or drugs represent a serious threat to the life and safety of persons using the streets and highways of this state. A comprehensive, coordinated countermeasures program involving education, enforcement, prosecution, treatment, and public support is essential if long-term success in combating the D.U.I. problem is to be realized.

**B. PROCEDURES FOR DUI INVESTIGATIONS**

1. Officers should identify specific driving actions exhibiting a high probability the driver may be impaired by alcohol or drugs.

Note: It is not required that a vehicle be in motion. It is sufficient to establish the suspect was in actual physical control of the vehicle.

2. Traffic stops will be performed in accordance with the procedures established in Policy 217.
3. Officers will ask drivers to show their driver license, vehicle registration, and proof of insurance.
4. While speaking with a driver, officers will note any further evidence such as:
  - a. Alcoholic beverage odor around the driver's person.
  - b. Bloodshot eyes, flushed face, slurred speech, etc.
  - c. Open alcoholic beverage containers in vehicle (FS 316.1936 violation).
5. Officers may ask basic questions such as:
  - a. Where have you been?
  - b. Where are you going?
  - c. Have you been drinking or taking any drugs?

- d. How much have you had to drink?
- e. When was your last drink?
6. Once the officer develops a reasonable, articulable suspicion that the driver is under the influence of alcohol and/or drugs, the suspect is not free to leave the scene and a DUI Investigator shall be requested to respond to the scene when available. If it can be reasonably avoided, refrain from handcuffing and placing the suspect in a police vehicle prior to completion of the DUI investigation unless it is required to prevent the suspect from fleeing or fighting officers.
7. Upon the arrival of the DUI Unit or deputy, the officer will:
  - a. Remand the suspect to the DUI officer or deputy for testing,
  - b. Remain on scene as a back-up for the officer or deputy,
  - c. Assist the officer or deputy as required.
8. If no DUI Unit officer or BSO Task Force deputy is available, the officer will conduct the DUI investigation, as outlined.
9. The driver shall be advised that the officer is now conducting a DUI investigation.
10. The officer will ask the driver to exit from the vehicle and request that the driver take the Standardized Field Sobriety Tasks (SFST) unless it is unsafe to do so. While these tests are voluntary, it is not legally required to inform the suspect of such. However, if the suspect refuses to perform the tasks, they should be informed that their refusal can be used against them in court.
11. Since SFSTs are not testimonial in nature, Miranda warnings are not required at this point.
12. If the suspect refuses to perform the roadside tasks:
  - a. Explain the purpose of the tasks is to confirm or dispel your suspicions.
  - b. Inform the suspect that the refusal to perform the tasks can and will be used in court against them.
  - c. Decide whether an arrest is appropriate based on probable cause developed up to this point.
13. Prior to administering SFSTs, ask the suspect if they are sick, injured, handicapped, taking medication or if there is any other reason why they cannot physically perform the tasks. Verify level of education, that they understand/comprehend the English Language, and if English is not understood, request an officer who speaks subject's primary language.
14. Roadside tasks must be documented in the officer's report and performed in a well-lit area on flat, level ground when safe and practical.

15. The following roadside tasks are recommended, and uses of at least three of them are recommended when the subject is willing and able:
  - a. Horizontal Gaze Nystagmus (HGN) if trained
  - b. Walk and Turn
  - c. One Leg Stand
  - d. Finger to Nose
  - e. If medical limitations exist or obvious injury is present, the Modified Romberg Balance (standing balance test) and/or reciting the alphabet can be used.
16. Based on ALL observations, determine if there is probable cause that the driver's ability to operate the motor vehicle has been affected by the consumption of alcohol or controlled substance.
17. If Probable Cause exists, make an arrest and a DUI offense report must be submitted with a completed P/C affidavit, which will include assisting officers/witnesses involved. Articulate specific descriptions of suspect's driving actions including direction of travel, speed, how long the vehicle was followed, actions witnessed, SFST performance, appearance, odors noticed, statements made, etc.
18. If Probable Cause does not exist, release the driver.
19. Should the DUI Unit or BSO deputy effect an arrest for DUI, the initial officer will issue any appropriate traffic citations to the suspect and provide a copy to the officer or deputy for inclusion with the DUI packet. Originals will still be submitted to Records.
20. The initial officer must complete a DUI Report or supplement if FLPD DUI makes the arrest regarding the incident.
  - a. The report should contain all observations made by the officer concerning the behavior of the suspect, the name of the DUI Unit officer or BSO Task Force deputy making the arrest, the BSO Report Number (if applicable) 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.
21. If an arrest is made, the officer shall request a breath/urine test. If the suspect refuses, then implied consent shall be read from an approved form and the procedures listed below will be followed in accordance to the arrestee's response.
  - a. If arrestee agrees to submit to a chemical test, then they are to be tested by an FLPD DUI Unit Officer equipped with an FDLE approved breath alcohol testing device or transported to the BSO B.A.T. facility for chemical testing. The arrestee shall then be observed for a 20-minute period, prior to chemical

testing, to ensure that the arrestee does not vomit, belch and/or ingest any items during observation period.

- b. While administering any breath test it is imperative that all electric devices or instruments be turned off to avoid Radio Frequency Interference (RFI). This is to include but not limited to, radios, in car cameras, body worn cameras, cell phones, smart watches, etc., or any other device that emits a radio, Wi-Fi or bluetooth signal.
- c. A breath test operator SHALL have a back-up officer present (within view) to maintain radio contact with dispatch for safety purposes.

Note: Radio waves transmitted in proximity to a breath testing instrument can possibly affect the analysis of breath samples if they are in sufficient strength and wavelength. The breath test instrument contains an RFI detector to indicate that RFI is in sufficient strength to affect the instrument.

- d. If the arrestee refuses to submit to a chemical test, then all penalties involved with a refusal shall be read from the approved form and another request will be made. If the arrestee still refuses the chemical test, then a DHSMV affidavit of refusal to submit to breath, urine, or blood test shall be completed and submitted. The arrestee shall then be issued the proper citations for the DUI and the refusal as well, if it is a second or subsequent refusal.

NOTE: If the arrestee refuses to submit to a chemical test, it is NOT REQUIRED to transport the arrestee to BSO B.A.T., and they can be transported to FLPD Holding Area or BSO Main Jail.

- 22. Cooperative suspects may be booked at FLPD Jail and transported by FLPD detention staff if they are not required to be transported to BSO BAT for testing or require medical clearance. If the suspect's blood alcohol level is 0.30 or above and / or if a subject is intoxicated to the extent that they cannot stand/walk or complete the booking process, the arresting/initial officer shall transport the subject to a medical facility and/or BSO Main Jail as required. The officer shall complete all necessary traffic citations and test refusal form, if required. The officer will be required to obtain 2 copies of his/her PC and return them to the FLPD processing area when he/she clears BSO.
- 23. 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 the Implied Consent was read. Also include when the 20-minute observation period was conducted, and that the arrestee did not vomit, belch and/or ingest any items during observation. Subject shall be given a copy of all citations issued related to this arrest and advised that the DUI citation is now used as the subject's license upon license being seized.
- 24. If the suspect has a BAC level of 0.08% or higher, or refuses to submit to a chemical test, a DUI Uniform Traffic Citation must be written in place of a Uniform Traffic Citation, and the officer must seize the arrestee's driver's license. No citations are to be attached to the Probable Cause Affidavit.

- a. The defendant is given copies of all citations issued. All other copies of all citations and the driver's license, if seized, shall be placed in the DUI Packet (from Property Control), and turned in to Records.
  - 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.
25. 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 or delivered to the Broward County Medical Examiner's Office. 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]
26. A DUI packet will be assembled, and shall contain all paperwork completed during the incident including:
- a. P/C Affidavit, Offense Report
  - b. Citations
  - c. Florida Driver License
  - d. Refusal affidavit (if applicable)
  - e. Criminal History of prior DUI convictions and/or chemical test refusals via DAVID printout as well as any paperwork completed by B.A.T Investigator

All paperwork will be put in the proper DUI envelope by the arresting officer and turned in to Records to be forwarded to the Bureau of Driver Improvement.

### **C. DUI INVESTIGATION INVOLVING MINOR TRAFFIC CRASHES**

- 1. In traffic crashes involving no or minor injury the officer will request a DUI investigator, if available, to perform the DUI investigation as above. If a DUI investigator is not available, then the officer will perform the DUI investigation.
- 2. If the suspect is transported to a hospital for any treatment the officer should obtain one blood sample kit 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 one sample 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, and probable cause does not exist to make an arrest, then "Implied Consent" does not apply and the DHSMV refusal form will not be submitted. If probable cause does exist to make an arrest, then read the "Implied Consent" to the suspect and submit the refusal form if a chemical test is refused.
  - 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 cases involving blood testing where the subject is injured, 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 Property Receipt 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, if not delivered to the Medical Examiner's Office by the officer.
  - g. Once the results are received the officer will prepare all appropriate citations as well as a "Not In Custody" Probable Cause Affidavit, and turn in to Records.
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 the accident investigation has been completed, and he/she is now commencing an investigation of the criminal offense of DUI. Miranda is NOT needed and does not apply. This is still an investigatory stop and Miranda does not apply to DUI Investigations.

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

If during an investigation of a crash involving serious injury or death, there is a reasonable suspicion that one of the drivers is DUI and an FLPD DUI Unit is not on duty, the Traffic

Homicide Sergeant shall be consulted. BSO DUI Task Force shall not be used to investigate DUI crashes involving serious injury or death.

1. In crashes involving death or serious bodily injury, as defined in FSS: 316.1933, where 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 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, the hospital or by interviewing witnesses at the scene. All reasonable efforts should be made to collect blood samples, as soon after the crash as possible.
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 Police Records Teletype Unit 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, or video recorded 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. Medical treatment or transport shall NOT be delayed for any reason. If needed, blood draw will be done at the Hospital.
  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 Property Receipt 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, if not delivered to the Medical Examiner's office by the officer.



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, unless the investigator is assigned to the DUI Unit.

**E. ARRESTEES REQUIRING MEDICAL CLEARANCE OR TREATMENT**

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

1. 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.
2. 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 BSO Main jail.

**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 to the BSO Main Jail 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 or video is available, the officer may photograph /record the blood kit used, once it is sealed. This photograph/video shall be uploaded into Evidence.com but under no circumstances will the officer take custody of any independent blood or urine test kits or samples.