


<b>PBP FORM 290</b>  <b>PITTSBURGH BUREAU OF POLICE</b> <i>"...honor, integrity, courage, respect, and compassion."</i>		<b>SUBJECT:</b> <b>"ARRESTS - DUI AND RULE 519 (b)"</b>	<b>ORDER NUMBER:</b> <b>44-7</b>
		<b>PLEAC STANDARD:</b> <b>2.4.1 a</b>	<b>PAGE 1 OF 5</b>
<b>ISSUE DATE:</b> <b>7/25/2017</b>	<b>EFFECTIVE DATE:</b> <b>11-30-11</b>	<b>ANNUAL REVIEW DATE:</b> <b>NOVEMBER</b>	<b>RESCINDS:</b> <b>COP 06-007</b>
		<b>AMENDS:</b>	

## **1.0 POLICY**

1.1 As a general rule, the policy of the Pittsburgh Bureau of Police regarding the processing and release of persons arrested for violations of 75 Pa.C.S. § 3802 shall be in accordance with 234 Rule 519(B), Pennsylvania Rules of Criminal Procedure which states:

1.1.1 The arresting officer shall promptly release from custody a defendant who has been arrested without a warrant, rather than taking the defendant before the issuing authority when the following conditions have been met:

1.1.1.1 The most serious offense charged is a misdemeanor of the second degree or a misdemeanor of the first degree in cases arising under 75 Pa. C.S. § 3802;

1.1.1.2 The defendant poses no threat of immediate physical harm to any other person or to himself or herself; and

1.1.1.3 The arresting officer has reasonable grounds to believe that the defendant will appear as required. ("Reasonable grounds" as used above would include such things as concerns about the validity of the defendant's address, the defendant's prior contact with the criminal justice system, and the police officer's personal knowledge of the defendant.)From 234 R. 519(B)

## **2.0 PURPOSE**

2.1 The purpose of this order is to establish a PBP-wide standard for handling Driving Under the Influence (DUI) arrests.

*See also General Order 44-1 ARRESTS*

*See also General Order 52-1 WARRANT/SUMMONS APPLICATION*

## **3.0 DEFINITIONS**

3.1 B.A.C.: Blood alcohol concentration.

3.2 Br.A.C.:Breath alcohol concentration.

3.3 D.R.E.: Drug Recognition Expert - An officer highly trained in identifying subjects who are impaired on substances other than alcohol by conducting specific evaluations.

3.4 Drugs: Drugs are any substance that when ingested into the human body impairs a person's ability to operate a motor vehicle safely.

3.5 The Standardized Field Sobriety Test (SFST) is a battery of 3 tests performed during a traffic stop in order to determine if a driver is impaired.

## **4.0 PROCEDURE**

4.1 Reasonable Suspicion -- Officers must be able to articulate clearly the reasonable suspicion (i.e. erratic driving behavior, accident, semblance of intoxication) for stopping any driver who is suspected of driving or operating a vehicle while under the influence.

4.2 Pre-arrest Screening

4.2.1. Initial Contact-- When a driver is stopped for suspicion of DUI, an officer will attempt to identify any

indication of impairment during the initial contact. The initial contact also provides officers the opportunity to identify individuals who may be suffering from a medical problem that produces symptoms similar to impairment.

4.2.2 During initial contact, the officer should ask questions, which at a minimum, indicates the driver has consumed intoxicants and/or medication and whether the driver is physically able to perform any field sobriety tests.

4.2.3. Field Sobriety Tests -- Field sobriety tests focus on those dexterities essential for safe driving: the capability to divide attention between tasks, balance, coordination, and information processing. The following tests shall be administered in order if applicable, if they can safely be performed.

- a. Horizontal Gaze Nystagmus (Requires specialized training to administer).
- b. Walk and Turn Test;
- c. One Leg Stand Test;

\* A minimum of three (3) tests should be administered when conducting a DUI investigation. These should include the Walk and Turn, One Leg Stand, and at least one additional test. Ideally, an officer should routinely conduct the same tests in the same order in each instance of a DUI investigation for purposes of clarity and recollection in courtroom testimony.

4.3 Contact SDD and notify the Intoxilyzer Operator of the suspected impaired driver.

4.4 The Intoxilyzer Operator will conduct his/her own procedures.

4.5 The officer will document in the Investigative Report all observations (blood shot eyes, slurred speech, odor etc.) the SFST results from officer, and the Intoxilyzer Operator.

4.6 The officer will document in the Investigative Report the initial contact time of the driver, time of the Implied Consent Warning and time of the test if applicable.

## 5.0 ARRESTING OFFICER

5.1 When any person is arrested for 75 Pa.C.S. § 3802 pursuant to 234 Rule 519(B), and has been found to be under the influence, the arresting officer(s) shall conduct a name search through J-Net, NCIC, CRRU, and the Allegheny County Sheriffs Office (ACSO) to determine if that person is wanted.

5.2 If it is found that the defendant is *wanted* for some other offense or violation, THE DEFENDANT SHALL BE PROCESSED AND ARRAIGNED AS IN ANY OTHER ARREST.

5.3 Generally, all DUI arrests will proceed by summons except in the circumstances listed in section 4.0 of this General Order.

5.4 The arresting officer will take the defendant into custody, notify SDD and transport the defendant to the Special Deployment Division (SDD) or a hospital for BAC testing.

5.5 For DUI arrests that **do not involve a reportable crash**, the arresting officer shall complete the following reports:

- 5.5.1 Offense/Incident Report PBP Form 2.0
- 5.5.2 Investigative Report PBP Form 3.0
- 5.5.3 Arrest Report PBP Form 6.1
- 5.5.4 Officer Impairment Report

5.6 For DUI arrests that **involve a reportable crash**, the arresting officer shall complete the following reports:

- 5.6.1 Offense/Incident Report PBP Form 2.0
- 5.6.2 Investigative Report PBP Form 3.0
- 5.6.3 Penn DOT Crash Report
- 5.6.4 Arrest Report PBP Form 6.1
- 5.6.5 Officer Impairment Report

<b>SUBJECT:</b> "ARRESTS - DUI AND RULE 519 (b)"	<b>ORDER NUMBER:</b> 44-7	<b>PAGE 3 OF 5</b>
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- 5.7 The arresting officer will request the name and phone number of a responsible adult from the defendant that would be likely to pick the defendant up from SDD. The arresting officer will attempt to contact the responsible adult by telephone and note the time in their report.
- 5.8 Upon arrival at SDD by the designated responsible adult, the arresting officer will release the defendant to the responsible adult after;
  - 5.8.1 verifying the adult's identity *and*
  - 5.8.2 verifying that the adult is not visibly intoxicated or otherwise impaired to the point where the adult could not reasonably be expected to safely convey the defendant to the defendant's residence, hotel room, or other place of lodging.
- 5.9 If the defendant is released to a responsible adult, the arresting officer will document the following in the Investigative Report PBP Form 3.0:
  - 5.9.1 the name, driver's license/ID card number, and telephone number of the responsible adult
  - 5.9.2 the time the defendant was released
- 5.10 The arresting officer will document in their report if the responsible adult is incapable of safely taking the defendant into their care and the defendant had to be transported to the ACJ.

**6.0 CIRCUMSTANCES WHEN 75 Pa.C.S. § 3802 ARRESTS SHALL NOT BE RELEASED**

- 6.1 Persons arrested for 75 Pa.C.S. § 3802 only, or with other related summary offenses, and found to be under the influence SHALL NOT be released from custody in accordance with 234 R. 519(B), under the following circumstances:
  - 6.1.1 If the defendant has no proper or valid identification and can not be reliably identified.
  - 6.1.2 If the defendant has other charges arising from the same incident that meet the criteria to make a physical arrest.
  - 6.1.3 If the defendant has no responsible person to accompany him/her upon release.
  - 6.1.4 If the defendant does not have a responsible person that can pick them up in a reasonable time (with in one hour).
  - 6.1.5 If the defendant has an active warrant.
  - 6.1.6 If the arresting officer believes the defendant poses a threat of immediate physical harm to themselves or another.
  - 6.1.7 If the arresting officer believes the defendant will not appear in court as required.
  - 6.1.8 If the defendant is being charged with a violation of Megan's Law, 18 Pa. C.S. § 4915(E)(2); domestic violence, 18 Pa. C.S. § 2711; or a violation of Protection from Abuse (PFA), 23 Pa. C.S. § 6113(c).

**7.0 AUTHORITY TO RELEASE PERSONS ARRESTED FOR 75 Pa.C.S. § 3802 UNDER 234 R. 519(B).**

- 7.1 The arresting officer shall have the power and authority to make the determination and release from custody, without any other approval, persons charged with 75 Pa.C.S. § 3802 pursuant to 234 R. 519(B).

**8.0 DRUG RECOGNITION EXPERT**

A DRE **SHALL** be contacted by the on duty intoxilyzer officer when a subject is brought to SDD and the subjects level of Impairment does not match the recorded BAC.

- 8.1 A DRE **SHALL** be contacted by the on duty intoxilyzer officer when a subject is brought to SDD and the cause of impairment is suspected to be drug involved.

8.2 An Arresting officer **MAY** contact a DRE directly, if they believe the subject is impaired and the cause of the impairment is not believed to be alcohol, to determine if a Drug Influence Evaluation is appropriate for the investigation. (A DRE may be reached through SDD / Zone 6 Desk)

8.3 DRE Callout:

8.3.1 The DRE shall be contacted by telephone as soon as possible, since time is of the essence with many of these cases.

8.3.2 The DRE will ensure the request is based on an observable and articulable belief by the investigating officer or intoxilyzer officer, that the subject has ingested drugs **and** is impaired.

8.3.3 The DRE will make the final determination as to the necessity of the callout.

9.0 **BLOOD TESTS**

Officers seeking a search warrant for the driver’s blood when any of the following circumstances occur:

9.1 The driver is unable, due to unconsciousness, physical injury, physical incapacity, or other physical limitation, of providing a breath test

9.2 The driver is being treated for a medical condition in an ambulance, aid unit, doctor’s office, clinic, or other location.

9.3 There is probable cause to believe the driver is under the influence.

9.4 Officers shall consider immediate circumstances when determining whether to pursue a blood warrant, including but not limited to:

9.5 Severity of the crime involved

9.6 Supervisory approval

\*When a person involved in a fatal or serious injury accident refuses to submit to chemical tests of their blood, or is physically unable to take a test or the Implied Consent law does not apply, a search warrant for samples of blood should be obtained.

10.0 **CHEMICAL TEST FOR BREATH/BLOOD**

When conducting a breath test on a DUI driver, an **officer will**:

1. Contact SDD and notify an officer that you have a suspected impaired driver.
2. The intoxilyzer operator will perform the SFST test again
3. The intoxilyzer operator will complete the impairment forms (police officers tool kit).
4. If a person refuses to take any chemical test, the Intoxilyzer officer shall read the appropriate form DL-26 Blood or Breath to the arrestee to transmit this information, and shall initial, date, and note the time of the refusal on the form.
5. If driver consents to test but refuses to sign **write** “Refused to Sign” on the form.
6. If the driver refuses the officer may file charges 3802 a1 or 3802 d2.

A refusal is not P.C. for a search warrant.

Approved By:

<b>SUBJECT:</b> "ARRESTS - DUI AND RULE 519 (b)"	<b>ORDER NUMBER:</b> 44-7	<b>PAGE 5 OF 5</b>
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Scott Schubert  
Chief of Police