


NORTHAMPTON POLICE DEPARTMENT Administration & Operations Manual		
Policy: Driving Under the Influence		AOM:O-302
Massachusetts Police Accreditation Standards Referenced: [61.1.10], [61.1.11], [61.1.5,j]		Issuing Authority <hr/> Jody Kasper Chief of Police
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I. Introductory Discussion

This directive establishes the Northampton Police Department's alcohol enforcement program and procedures for handling driving under the influence arrests. For procedures regarding the search, transportation, booking, and safe confinement of intoxicated persons please refer to ***AOM 0213 Handling Alcoholic & Intoxicated Persons***. This chapter will only provide procedures specific to handling operating under the influence cases.

II. Alcohol Enforcement Training Program [61.1.10]

- A. As a component of the entry level Police Academy Training program, officers shall receive training in the following in accordance with M.G.L. c. 90, §24M:
 1. The enforcement of driving under the influence.
 2. Automatic license suspension statutes; and
 3. Driving under the influence detection techniques.

- B. Further training on alcohol education and driving under the influence may be provided during the departmental Field Training Program as directed by the Officer-in-Charge of Training. [33.4.3]

III. Specialized Details & Assignments [61.1.10]

Whenever possible, officers may be assigned to special driving under the influence detection details as part of the Department's selective enforcement program. The primary objective of these details is to reduce alcohol and/or drug related traffic offenses by fielding units that are specially trained and equipped to apprehend and process alcohol or drug impaired drivers.

These details shall be separate from normal shift coverage and shall be scheduled by the Traffic Supervisor. Assignment of personnel should be based upon an analysis of times and/or locations of accidents or incidents involving impaired drivers.

IV. Procedures [61.1.11]

- A. Upon stopping a motorist suspected of driving under the influence, the officer shall whenever possible, have the operator perform Field Sobriety Tests in order to form an opinion about the driver's level of impairment due to intoxicating liquor or drugs (see [*AOM 0213 Handling Alcoholic & Intoxicated Persons*](#) for a list of approved tests).
 - 1. The refusal by an operator to perform pre-arrest sobriety tests has no impact upon any administrative license action taken subsequent to an arrest for driving under the influence.
- B. An officer may make an arrest without a warrant if they have probable cause to believe that the suspect was operating their motor vehicle while under the influence of intoxicating liquor or drugs. [61.1.5,j]
 - 1. Officers shall impound any vehicle being driven by a motorist prior to their arrest for operating under the influence of liquor and/or drugs. Impoundment is automatic and shall not depend on the type of vehicle, who its current owner is, or whether any passengers are in position to drive the vehicle from the scene of arrest.
 - 2. All costs associated with the impoundment, including towing, storage and maintenance of the vehicle shall be borne by the operator.
 - 3. Following impoundment, the disposition of the vehicle will be determined at the completion of the booking process consistent with the following:
 - a. ***Motorists 21 or over based on test results:*** If the OUI arrestee elects to take the breath test or participate in another form of chemical testing, and they register a blood alcohol content of:

- 1) .05 or below: They or another party on their behalf shall be able to recover the impounded vehicle upon their release; or
 - 2) .06 or above: Only another party, such as a properly licensed parent or friend shall be able to recover the impounded vehicle upon the arrestee's release. However, the arrestee may recover the vehicle themselves, provided that it has been impounded for a minimum of 12 hours.
- b. ***Motorists under 21 based on test results:*** If the OUI arrestee elects to take the breath test or participate in another form of chemical testing, and they register a blood alcohol content of .02 or above, only another party such as their parent or guardian, shall be able to recover the impounded vehicle upon their release. However, the OUI arrestee may recover the vehicle themselves, provided that it has been impounded for a minimum of 12 hours.
- C. Officers shall make appropriate arrangements to ensure the safety of all passengers within the vehicle at the time of the stop.
- D. Under no circumstances will intoxicated individuals be allowed control of the vehicle.

V. Drug Recognition Experts

A. Definitions:

1. A Drug Recognition Expert (DRE), is an officer who has successfully completed a National Highway Traffic Safety Administration (NHTSA) approved program and are certified as a Drug Recognition Expert by the International Association of Chiefs of Police (IACP) or certified by another appropriate agency.
2. Categories of Drugs - Any substances, which when taken into the human body, may impair the ability of the person to operate a motor vehicle safely. The categories of drugs are;
 - a. Central Nervous System (CNS) Stimulants.
 - b. Central Nervous System (CNS) Depressants.
 - c. Hallucinogens.
 - d. Dissociative Anesthetics.
 - e. Narcotic Analgesics.
 - f. Inhalants.
 - g. Cannabis.

B. Process [61.1.11]

1. If a Department DRE is on duty, they shall be directed to assist with the determination of impairment. If none of the Department's DREs are working,

the Officer in Charge will attempt to contact a DRE officer to determine if they are available to respond to conduct an evaluation, provided that the suspect is cooperative and willing to take part in a drug influence evaluation.

2. The DRE will conduct a preliminary examination of the subject to determine if the signs of influence of drugs exists. (Note M.G.L. c. 263 Section 5A, is not applicable for drug cases. Subject's operator's license is not seized, No LEAPS fields required.) If the subject exhibits signs of being under the influence of drugs, the DRE shall:
 - a. Perform the drug evaluation and inform the Officer-in-Charge and the subject of the result.
 - b. Complete ***AOM 0302.a Drug Influence Report Checklist***. This report must be completed whenever a drug evaluation is performed and added to the case file.
3. If the DRE opines that the subject is not impaired, then the arresting officer will be notified and a supervisor will be requested to respond.

Note – A supervisor may authorize the release of any subject where the evidence fails to support a charge of OUI. However, there may be times when the DRE opines that a subject is not impaired at the time of the evaluation, but probable cause exists that the subject was impaired at the time of the motor vehicle stop. In this case the subject shall be held and the charge of OUI shall be prosecuted.

4. Urine Specimen Collection Protocol – The DRE may request a urine specimen from the subject. When consent is given, the DRE will collect a urine sample using the following procedures:
 - a. Have the defendant read and sign the departmental consent form; complete ***AOM 0302.b Drug Evaluation Consent Form***;
 - b. Use a specified specimen container.
 - c. The subject will be escorted to a cell or restroom (this should be done by an officer of the same gender), whenever possible the DRE should witness the subject give the specimen.
 - d. Once the Officer has the sample in the container, they shall:
 - 1) Seal the container.
 - 2) Indicate on the container the subject's name, the time and date.
 - 3) Place the container in a plastic evidence bag.
 - 4) Attach copies of the DRE report (***AOM 0302.a Drug Influence Report Checklist***), the State Police Lab form and the incident report to the evidence bag.
 - 5) Submit the container to the OIC, who will be responsible for storing the evidence in the refrigerator located in the temporary cage.
5. Blood Specimen Collection Protocol – When the defendant is at the hospital for treatment of injuries, a blood sample may be requested. When consent is given, the DRE will collect a blood sample using the following procedures;

- a. Have the defendant sign the departmental consent form; (*AOM 0302.b Drug Evaluation Consent Form*) and provide the hospital with a copy.
- b. The “Guidelines for Drawing Blood OUI and Drug Cases” in the current Breath Test Operator Re-certification Manual by the Department of State Police – Office of Alcohol Testing shall be followed.
- c. Once the DRE/Arresting Officer (officer collecting the samples at the hospital) has the sample tubes, they shall ensure;
 - 1) Indication is made on each tube of the defendant’s name and the time and date.
 - 2) To place the container in a plastic evidence bag.
 - 3) To attach copies of *AOM 0302.a Drug Influence Report Checklist*, the State Police Lab Form and the incident report to the evidence bag containing the samples.
 - 4) To turn the evidence over to the OIC for placement in the refrigerator in the temporary cage.
- d. The DRE should make the appropriate entries on *AOM 0302.c Drug Recognition Evaluation Log*.

VI. Post Arrest Procedures

- A. All booking procedures shall be handled in accordance with *AOM 0213 Handling Alcoholic & Intoxicated Persons*. Booking recordings of individuals charged with operating under the influence may be submitted to the prosecution and shall be handled in accordance with *AOM 0400tb1 Recording of Suspect Interrogations*.
- B. Upon being booked, a copy of M.G.L. c. 263, §5A will be read to the arrestee as set forth in *AOM 0142 Detainee Processing & Confinement*. Section 5A of Chapter 263 requires that any detainee held in custody or detained at the station for operating a motor vehicle while under the influence of intoxicating liquor shall have the right, at their request and at their expense, to be examined by a physician selected by them.
- C. As set forth in M.G.L. c. 90, §24, prior to administering any chemical analysis of the arrestee’s breath (hereafter referred to as breath test), officers shall inform the arrestee that they have the right to refuse such test, and that upon such refusal their license will be suspended for a minimum of 180 days and up to a lifetime loss (3 year loss of license if defendant is under the age of 21).
 1. If the defendant refuses to submit to a breath test, the officer shall immediately complete the breath test indicating a refusal (M.G.L. c. 90, §24(f)).
 2. Upon refusal to submit to the breath test, the officer shall confiscate the defendant’s license and the defendant shall not be issued a temporary one.

3. In accordance with M.G.L. c. 90, §24(1)(f)(1)(iii) commonly known as Melanie's Law, the officer shall impound the vehicle being driven by the operator and arrange for the vehicle to be impounded for a period of 12 hours after the operator's refusal, with the costs for towing, storage, and maintenance of the vehicle to be borne by the operator. [61.1.11]
- D. A copy of the results of any breath test must be made available to the defendant and they must be afforded, if the subject completes a breath test at their request and expense, a reasonable opportunity to have a blood test done for comparison by a physician selected by them (M.G.L. c. 90, §24(e)). In the instance a subject requests a comparison test, the station officer shall notify the bail clerk of that request.
- E. If the results of any breath test indicate:
1. **.05 or less**: The defendant shall be considered not to be under the influence of intoxicating liquor and shall be released from custody. In this situation, the officer will not be held liable for false arrest if they had reasonable grounds to believe that the person arrested had been operating a motor vehicle while under the influence of intoxicating liquor.
 2. **Greater than .05 but less than .08**: In this case, no permissible inference based solely on the breath test shall be made. A reasonable test of coordination or speech coherency may be administered to determine if the person is under the influence.
 3. **.08 or more**: There is a permissible inference that the person was operating under the influence and they shall be confined in the holding facility, until they may be brought before the court, consistent with ***AOM 0213 Handling Alcoholic & Intoxicated Persons***.
- F. M.G.L. c. 90, §24(f) provides that a police officer immediately take custody of a person's Massachusetts driver's license or permit when such person's blood alcohol level is not less than .08 or the person is under 21 years of age and their blood alcohol level is not less than .02.