

## Impaired Driving

### 503.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

### 503.2 POLICY

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

### 503.3 INVESTIGATIONS

Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

The Urbana Police department will develop and maintain report forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any DUI investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in Illinois or another jurisdiction.

### 503.4 FIELD TESTS

Officers will only use approved field sobriety tests (FST) that they are trained on through the Police Training Institute (PTI), the Field Training Program and department approved training.

#### 503.4.1 MEDICAL CANNABIS CARDHOLDER

A person who is a medical cannabis card holder and is reasonably suspected of driving or in actual physical control of a motor vehicle while impaired by the use of cannabis is deemed to have consented to standardized field sobriety tests (625 ILCS 5/11-501.9(a)).

## *Impaired Driving*

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### **503.5 CHEMICAL TESTS**

A person implies consent under Illinois law to a chemical test or tests, and to providing the associated sample, under any of the following:

- (a) The arresting officer has probable cause to believe that the person was driving or in actual physical control of a vehicle while under the influence of alcohol, drugs, intoxicating compounds or any combination thereof (625 ILCS 5/11-501.1).
- (b) The person is arrested for driving a vehicle involved in a motor vehicle accident resulting in personal injury or death of any person (625 ILCS 5/11-401).
- (c) The person was driving or in actual physical control of a vehicle and involved in a personal injury or fatality accident (625 ILCS 5/11-501.6).
- (d) The person is under the age of 21, was driving or in actual physical control of a vehicle and the officer has probable cause to believe that the person has consumed any amount of an alcoholic beverage (625 ILCS 5/11-501.8).

Chemical tests shall be taken pursuant to the standards promulgated by the Department of State Police (625 ILCS 5/11-501.2(a)).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

#### **503.5.1 BREATH SAMPLES**

The officer shall ensure that all devices used for the collection and analysis of breath samples have been properly serviced and tested. The officer will document in their report the dates of when the devices were last tested and certified.

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 proper agency.

#### **503.5.2 BLOOD SAMPLES**

Only persons authorized by law to draw blood shall collect blood samples (625 ILCS 5/11-501.2(a)(2)). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

If an arrestee cannot submit to a blood test because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability

# Urbana Police Department

## Urbana PD Policy Manual

### *Impaired Driving*

---

to take a blood test shall not be treated as a refusal. However, that arrestee may be required to complete another available and viable test.

#### **503.5.3 URINE SAMPLES**

If a urine test will be performed, the person should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the person giving the sample. The arrestee should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample.

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

#### **503.5.4 STATUTORY NOTIFICATIONS**

An officer requesting that a person submit to a chemical test, or to a field sobriety test during an investigation of a medical marijuana cardholder driving while impaired by the use of cannabis, shall provide the person with the mandatory statutory warning.

If the person refuses to acknowledge in writing receipt of the warning regarding failure to submit to a chemical test, the officer shall document on the warning that the person refused to sign (See generally, 625 ILCS 5/11-501.1; 625 ILCS 5/11-501.6; 625 ILCS 5/11-501.8; 625 ILCS 5/11-501.9).

#### **503.5.5 DESIGNATION OF CHEMICAL TESTS**

The Watch Commander shall designate which type of chemical tests may be administered by officers.

Officers may generally administer up to two additional tests of urine or other bodily substance even if a blood or breath test, or both, has been administered (625 ILCS 5/11-501.1(a); 625 ILCS 5/11-501.6(a); 625 ILCS 5/11-501.8(a)).

#### **503.6 REFUSALS**

When an arrestee refuses to provide a chemical sample during a DUI investigation, or to submit to field sobriety tests during an investigation of a medical marijuana cardholder driving while impaired by the use of cannabis, officers should:

- (a) Advise the arrestee of the requirement to provide a sample or submit to field sobriety tests (see generally, 625 ILCS 5/11-501.1; 625 ILCS 5/11-501.6; 625 ILCS 5/11-501.8; 625 ILCS 5/11-501.9).
- (b) Audio- and/or video-record the admonishment and the response when it is practicable.
- (c) Document the refusal in the appropriate report.

# Urbana Police Department

## Urbana PD Policy Manual

### *Impaired Driving*

---

#### 503.6.1 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to a chemical test, or to submit to a field sobriety test during an investigation of a medical marijuana cardholder driving while impaired by the use of cannabis as required by law, officers shall personally serve the notice of statutory summary suspension or revocation upon the person and take possession of any state-issued license to operate a motor vehicle that is held by that person and issue the person a temporary driving permit (625 ILCS 5/11-501.1(f); 625 ILCS 5/11-501.9).

#### 503.6.2 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained.
- (b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts such as a lengthy time delay in obtaining a blood sample due to a crash investigation or medical treatment of the person.
- (c) Exigent circumstances exist and the person was driving or in actual physical control of a vehicle while under the influence of alcohol, drugs, intoxicating compounds or any combination thereof and caused death or personal injury to another person (625 ILCS 5/11-501.2).

#### 503.6.3 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.
  - 1. This dialogue should be recorded on audio and/or video when practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure the forced blood draw is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances.

# Urbana Police Department

## Urbana PD Policy Manual

### *Impaired Driving*

---

1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
  2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
  3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.
- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

### **503.7 ARREST AND INVESTIGATION**

#### **503.7.1 PRELIMINARY BREATH SCREENING TEST**

An officer having reasonable suspicion to believe that a person is DUI may, prior to arrest, request that the person provide a sample of his/her breath for a preliminary breath screening (PBS) test using a portable device approved by the State Police. The person may refuse the test, however, if a test is administered, the results may be used by the officer for the purpose of determining whether probable cause exists to require a chemical test as authorized by 625 ILCS 5/11-501.1 and 625 ILCS 5/11-501.2 (625 ILCS 5/11-501.5).

#### **503.7.2 ADDITIONAL TESTING**

A person submitting to a chemical test may have qualified medical personnel of his/her own choosing administer an additional chemical test (625 ILCS 5/11-501.2).

#### **503.7.3 OFFICER RESPONSIBILITIES**

If a person refuses to submit to a chemical test or submits to a test that discloses a prohibited alcohol or drug concentration, the officer shall immediately submit a sworn statement of such fact to the circuit court of venue and the Secretary of State (SOS) (625 ILCS 5/11-501.1(d)).

If a medical marijuana card holder refuses to submit to field sobriety tests or submits to a test that discloses impairment by the use of cannabis, the officer shall immediately submit a sworn statement of such fact to the circuit court of venue and the SOS (625 ILCS 5/11-501.9(e)).

#### **503.7.4 COLLISIONS**

An officer having probable cause to believe that a motor vehicle driven by or in actual physical control of a person under the influence of alcohol, other drugs, or intoxicating compounds or any combination thereof has caused the death or personal injury of another person, shall request that the person submit to a chemical test (625 ILCS 5/11-501.2(c)(2)).

# Urbana Police Department

## Urbana PD Policy Manual

### *Impaired Driving*

---

#### 503.7.5 REPORTING

The Services Commander shall ensure that the Department complies with all state reporting requirements pursuant to 20 ILCS 2630/5.

#### **503.8 SERVICES DIVISION RESPONSIBILITIES**

The Police Services Supervisor will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

##### 503.8.1 WARNING NOTIFICATION

The records division shall forward the warning notification and sworn report in accordance with 625 ILCS 5/11-501.1, 625 ILCS 5/11-501.6, 625 ILCS 5/11-501.8, and 625 ILCS 5/11-501.9.

#### **503.9 ADMINISTRATIVE HEARINGS**

The supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to the Secretary of State (SOS).

Any officers who receive notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

#### **503.10 TRAINING**

Officers will be trained in DUI investigations through the Police Training Institute and the Field Training Program. Additional training will be offered through department approved training when available.