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| <p>RABUN COUNTY SHERIFF'S OFFICE</p>  <p>General Order Number: 6.03</p> | <p>Date of Issue</p> <p>2/23/2016</p> | <p>Effective Date</p> <p>2/23/2016</p> | <p>Revision Date</p> |
| <p>Subject: <b>ENFORCEMENT OF IMPAIRED DRIVING LAWS</b></p>  | <p>Amends:</p>                        | <p>Rescinds:</p>                       |                      |
| <p>Index as:<br/>Enforcement of Impaired Driving Laws<br/>Uniform Patrol Division</p>  | <p>State Certification Standards:</p> |  |                      |
| <p>Special Instructions:</p>   |                                       |  |                      |

**PURPOSE**

The purpose of this General Order is to prescribe the policies and procedures of the Rabun County Sheriff's Office regarding the Enforcement of Impaired Driving Laws.

**STATEMENT OF POLICY**

It shall be the policy of the Rabun County Sheriff's Office that all applicable state statutes regarding the enforcement of impaired driving laws be fully enforced by this department.

**DISCUSSION**

The strict enforcement of impaired driving statutes can have a positive impact on the number of traffic deaths and injuries each year in Rabun County. Therefore, it is a primary mission of the Rabun County Sheriff's Office to enforce these statutes and further protect the citizens of Rabun County.

For the purpose of this General Order, the terms Impaired Driving and Driving under the Influence shall mean the same.

## DEFINITIONS

ARREST — The restraint of liberty of a person to come and go as he or she pleases, no matter how slight. An individual has been arrested when he or she is not free to go, regardless of whether formal words of arrest have been used.

CHAIN OF CUSTODY — The continuity of material and items collected as physical evidence.

O.C.G.A. — The Official Code of Georgia Annotated

D.P.S. — The Department of Public Safety

### I. IMPAIRED DRIVING ENFORCEMENT

- A. Driving under the influence of alcohol/drugs has been interpreted by the courts to mean that there is a presumption of impairment when a motorist's ability to operate a motor vehicle is adversely affected by the consumption of alcoholic beverages or other drugs.
- B. The mere fact that a driver has the odor of alcoholic beverages on his/her breath is not sufficient cause for an arrest. The violation occurs when the driver's ability is impaired.
- C. Driving under the Influence offenses are potentially life threatening violations which require immediate and decisive enforcement actions to prevent suspected violators from committing a deadly act.
- D. Drivers found to be in violation of the state statutes regarding DUI will be arrested. The arrest will be based upon probable cause and the observed actions of the driver on the roadway, during a traffic stop, at a check point, or after their involvement in an accident and the subsequent verification of these observations by a field sobriety, intoximeter, urine, and/or blood alcohol tests.
- E. Drivers impaired by alcohol and/or drugs represent a serious threat to the lives and safety of persons using the roadways of Rabun County. Accordingly, the use of a variety of comprehensive, coordinated, and on-going DUI countermeasures involving education, enforcement, adjudication, treatment, and public support are essential if the agency is to have long-term success in combating the DUI problem. Enforcement is the key element in the department's DUI Countermeasures Program. All enforcement personnel must be vigilant in detecting and arresting impaired drivers if the rest of the department's Countermeasures Program is to be effective.

### II. DUI ENFORCEMENT MEASURES WILL INCLUDE

- A. Selective assignment of enforcement personnel at the time when, and to locations where, analysis have shown that a significant number of violations and/or accidents involving impaired drivers have occurred.
- B. Selective surveillance of roadways where citizens have reported sightings of impaired drivers.
- C. Roadway sobriety checkpoints for the deterrence and detection of alcohol/drug offenders.

- D. Observation of motorists operating a vehicle in a manner indicating possible impairment will be stopped so that a further investigation can be performed to determine the driver's continued fitness to drive. Such observable driving characteristics are, but not limited to:
1. An inability of the driver to maintain consistent directional control within the traffic lane;
  2. Uneven or jerky stops and/or starts;
  3. Sudden stops, jackrabbit starts, or prolonged stops;
  4. Speeds above or below the flow of traffic; and/or
  5. Other potentially dangerous acts such as sudden lane changes or forcing other drivers to take evasive actions to avoid a collision.
- E. While conducting a traffic stop, deputies will be alert for any signs of alcohol/drug impairment. Recognizable symptoms usually associated with impairment are, but not limited to:
1. Flushed face and red eyes;
  2. A noticeable odor of alcohol;
  3. Problems associated with performing physical tasks related to the traffic stop;
  4. Slurred speech or other related deficiencies such as clarity, volume and sentence structure;
  5. Hiccapping, belching, vomiting, sweating, crying, or laughing at an appropriate time; and/or
  6. Simple divided attention skills are impaired. (i.e. knowing time of day without looking at watch)
- F. After conducting an initial investigation at the scene of a traffic related contact and checking for specific signs of impairment with a certainty of observation, if probable cause is present, deputies will physically arrest the subject.

### III. INITIAL DUI OFFENDER HANDLING PROCEDURES

- A. Deputies shall take the following actions when handling a suspected DUI offender:
1. **Be polite and professional**, remaining aware that the driver's judgment, self-restraint, and self-confidence are the first forms of behavior to become distorted. This often leads the motorist to demonstrate a lack of cooperation, belligerency, and even physical contact;
  2. **Do not become argumentative** with the violator. Answer any questions posed by the motorist, so that she/he will be further encouraged to talk and thereby reveal their ability to speak and any odors of alcoholic beverages on their breath;
  3. **Ask the driver questions** while she/he is attempting to perform a task, such as search for the insurance card or driver's license. Questions like "What is your middle name?" or "What is your address?" or "Can you tell me what time it is?" are designed to divide the attention of the driver and

provide indicators of impairment by revealing whether the motorist has difficulty, or cannot perform, a mental and physical task simultaneously;

4. **Do not allow the subject to move the vehicle** when impairment is suspected;
  5. **Request the subject exit the vehicle** if there is reasonable cause to believe the driver's ability is impaired;
  6. Proceed to a safe location on the shoulder of the roadway in order to better observe the individual's balance, appearance, and general ability to perform walking movements; and
- B. Administer the standardized field sobriety test(s) if trained by the NHTSA standards. If available, request the dispatch of a back-up unit to witness the testing and for officer safety. Deputies will use one or a combination of the following tests: (but not limited to)
1. Horizontal Gaze Nystagmus;
  2. One-leg Stand; and/or
  3. Walk and Turn.
- C. If the officer has access to an Alco-Sensor, one can be used as an additional field sobriety test.
- D. If the motorist is not impaired, either release the driver; arrange for alternate transportation if alcohol use is suspected; or proceed to handle the situation as is appropriate for the other violation(s) that was committed.

#### IV. FOLLOW-UP DUI OFFENDER HANDLING PROCEDURES

- A. Place the suspect under arrest for DUI once it is determined that the driver is under the influence of drugs/alcohol to the extent that it is unsafe for the individual to continue to operate a motor vehicle. The individual will be handcuffed and searched incidental to the arrest. Once the motorist is placed under arrest, she/he becomes subject to the testing procedures under the Implied Consent Law. (O.C.G.A. 40-5-55)
- B. Read the Georgia Implied Consent Warning in its entirety, exactly as it is printed on the card currently issued by the Department of Public Safety. State clearly which test or tests are to be administered and ask the subject if she/he understands the warning that has been read. The entire warning must be read each time a separate test is requested.
- C. After the arrest is made, Miranda Warning must be given if any questions are asked pertaining to the case.
- D. Transport the suspect to the Rabun County Jail to administer the breath test and/or to Mountain Lakes Medical Center to administer the blood and/or urine test. It is permissible to request more than one test, based upon the circumstances:
  1. If the suspect is obviously under the influence of alcohol, a breath test might be appropriate;

2. If the individual is obviously under the influence of drugs, a blood or urine test may be required; or
  3. If the suspect appears to be under the influence of both drugs and alcohol, then the blood and urine test may be appropriate.
- E. If the suspect refuses to take the test(s) requested by the arresting officer, she/he will be brought to the Rabun County Jail for book-in and placement in jail.
- F. If the suspect agrees to take the test(s), she/he may request an additional test be administered by someone of their own choosing and at their own expense: (O.C.G.A. 40-6-392)
1. This request is a matter of right and must be granted;
  2. However, if the test is to be administered at another location removed from the Rabun County Jail, it must be within a reasonable distance from the department's facilities; and
  3. Should the results of the breath test show that the driver is not impaired, the violator may be arrested, when appropriate, for other violations or issued a citation and released.
- G. Once all tests are administered, the suspect shall be transported to the Rabun County Jail for book-in or to an appropriate medical facility for medical treatment when the results are .25 or higher.
- H. Following the booking in of the suspect, the arresting officer shall:
1. When applicable, complete and have notarized, the most current DPS Form 1205. This form must then be mailed to reach the Department of Public Safety within ten days;
  2. Take the driver's license and forward it with the court's copy of the citation, regardless of whether the driver is a resident of Georgia or of another state. This only occurs if a 1205 is not completed.
  3. Attach a DPS temporary 180 day permit to the violator's copy of the DUI traffic citation, if applicable; and
  4. Complete an Incident Report, fully describing the reasonable suspicion for the initial stop and the probable cause for the arrest. Describe all the facts and circumstances of the case; fully identify any witness/passengers with knowledge of the matter and/or who may have been present during the reading of the Implied Consent Warning; list all field sobriety tests administered and their results; and identify any subsequent tests administered, the persons giving the test(s), and any witnesses present during the test(s). In the event a driver's license is not attached to the court's copy of the citation and the driver is not charged with failure to have their license, it is mandatory that the arresting officer explain in the report narrative why the driver's license was not attached.
- I. Vehicle handling procedures
- The arresting officer shall exercise one of the following options:
1. The offender's vehicle may be released at the scene of the arrest to another third party at the driver's request, provided all other surrounding circumstances are reasonable and safe;

2. If no one is available to assume responsibility for the vehicle or the vehicle is not located on the violator's property, it will be impounded by the wrecker of the offenders choice or the on call wrecker if no request is made for safekeeping; or
3. If for any reason the vehicle is needed for evidentiary reasons, it will be impounded.

## V. EVIDENCE HANDLING PROCEDURES

- A. The original copy of the intoximeter results shall be attached to the citation or warrant; the violator shall be provided a copy; and the officer shall retain a copy.
- B. Blood and urine samples shall be sent through the United States Postal Service in the provided GBI blood / alcohol kit and sent to the GBI lab for processing.

## VI. SUPERVISOR RESPONSIBILITIES

Supervisors shall thoroughly read all DUI related reports for completeness before the arresting officer departs from duty. Reports will be returned to deputies who fail to adhere to the above procedures to make the necessary corrections. The following documents shall be required:

- A. Incident Report;
- B. Traffic Accident Report (as needed);
- C. Any Supplemental Reports;
- D. DPS required documents;



By Order of the Sheriff: **Chad K. Nichols**  
Sheriff, Rabun County