

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

DRUNK DRIVING ARRESTS INVOLVING ACCIDENTS
SUBJECT

DATE: March 1, 2005

NO: T-7

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: **Accidents Involving Drunk Drivers
Drunk Driving Arrest w/Accident
Arrest of Drunk Drivers in Accidents**

I. POLICY

Officers investigating accidents involving intoxicated drivers shall arrest the subject for driving under the influence.

II. LAW

If a blood alcohol test of a driver is taken after an accident, the result will be admissible only if the sample was taken incidental to a lawful arrest or with the subject's voluntary consent.

III. PROCEDURES

A. Misdemeanor arrest for under the influence.

1. In a misdemeanor situation where an injured driver has been driving under the influence of alcohol and is now at the hospital, the investigating officer shall:
 - a. Inform the subject that he or she is under arrest.
 - b. Inform the doctor or nurse that the subject is under arrest and request a blood sample to be taken by hospital employees. (Some hospitals require the officer to sign a form stating the suspect is under arrest.)

NOTE: This procedure will eliminate the need for obtaining a "voluntary consent."

- c. Once the sample is obtained and the subject is released from the hospital, the subject is to be booked at the San Joaquin County Jail.
 - (1) Obtain written clearance to book from attending physician.
- d. If the subject is to be admitted to the hospital as an inpatient, the release date/time cannot be predicted, and waiting is not practical, the investigating officer shall notify his/her supervisor and complete a citation.
 - (1) The signature area for the cited person will be marked "Unable to Sign", unless the subject is able to sign, then he/she will write his/her name in the proper place. The cited person will receive the pink copy. The remainder of the citation will be attached to the report.
 - (2) The "Booking Required" box will be marked and the subject will be given a specific date to appear in Misdemeanor Traffic Court. (See General Order O-1).

B. Felony arrest for under the influence.

1. In a felony situation involving an injured person driving under the influence of alcohol, who is now at a hospital, the investigating officer shall:

- a. Inform the subject he or she is under arrest.
- b. Inform the doctor or nurse that the subject is under arrest and request a blood sample be taken by hospital employees.

NOTE: This procedure will eliminate the need for obtaining a "voluntary consent."

- c. Once the sample is obtained and the subject can be released from the hospital, the subject is to be booked at the San Joaquin County Jail.
- d. If the subject is to be admitted as an inpatient in the hospital, or release time cannot be predicted, and waiting is not practical, the investigating officer shall inform the Watch Commander of the situation and complete an Arrest Report.
 - (1) With the Watch Commander's approval, a sergeant or officer will contact a judge and attempt to arrange an "OR" release.
 - (a) The judge will give verbal permission for the "OR" release.
 - (b) The officer will note all of the pertinent information regarding the suspect's disposition (i.e. released on "OR," etc.) in his/her Arrest Report.
 - (c) The Traffic Section will follow up the release by contacting the District Attorney's Office the following work day or within 72 hours, whichever comes first.
 - (2) If an "OR" release cannot be arranged, the Watch Commander will make the appropriate arrangements for any necessary guards.
- e. The following business day, the Traffic Section will follow up in regard to obtaining a complaint.

C. Juvenile Arrests.

- 1. Juveniles arrested for driving under the influence will be handled by standard juvenile procedures.
 - a. Either cite the juvenile to appear in Juvenile Probation or book into Juvenile Hall.
 - b. If a juvenile is unable to sign due to an injury, then a parent needs to sign the citation.

D. Required Reports

- 1. In both misdemeanor and felony DUI cases where the subject has been involved in a collision, the INTOXICATION narrative will be covered in the Collision Report. The format to be followed for the investigation narrative will be that which is outlined in the current CHP Collision Manual. The officer will then complete an ARREST REPORT face page and the Stockton Police Department Intoxication Report. No additional narrative will be covered on the Arrest Report other than a short sentence stating "See CHP 555 Collision Report." If the arrest is made by other than the officer that is investigating the collision, the intoxication narrative will be made on a CHP 556 Supplemental/Narrative page by the arresting officer. The face page of the Arrest Report and the Intoxication Report will also be completed by the arresting officer.
- 2. In both misdemeanor and felony DUI cases where the subject is to be admitted as an inpatient, or the release cannot be predicted, and waiting is impractical, the investigating officer will complete the required reports.
 - a. The subject will not be placed on the Departmental Booking Screen until physically booked at the County Jail.
 - b. The word "Hospitalized" will be placed written in the Synopsis of the Arrest Report.

- c. When the subject is booked at the County Jail, a second Arrest Report will be completed and the subject will be placed on the Booking Screen.
 - (1) If the subject is given a citation to appear in court, and the court orders the subject to be booked at the County Jail, the Records Section's fingerprint desk personnel will process the arrest as a "court order booking" and place the subject on the Departmental Booking Screen.
 - (a) A copy of the court's Book/Release Form will suffice as the second Arrest Report.