

THE CRIME REPORT

YOUR CRIMINAL JUSTICE NETWORK

LAW ENFORCEMENT PRIMER: DUI Arrest Procedures

(for marijuana or any non-alcohol, intoxicating drug, including pain killers)

(prepared by Howard Wooldridge)

Overview:

Based on the street experience of the author (400 arrests for DUI or DUID), arresting anyone for non-alcohol related DUI follows closely the same procedures as alcohol-related DUI.

The three (3) differences are that on the side of the road, there is no instrument-based test to determine the level of intoxication.

The second difference is that blood should be drawn before the arrestee is put in jail.

The third is the results of the blood test are not known, until after the arrestee has been released from jail. Regardless of the court outcome, public safety is served.

Steps:

1. Officer observes bad driving or responds to an accident.
2. Officer conducts a field interview (questions and observations) of the driver to determine sobriety.
3. If sobriety is in question, officer has subject perform physical & mental tests.

NOTE: In some states, a DRE (drug recognition expert) will also run the suspect through a series of physiological (pulse rate, nystagmus) and performance tests. A DRE is advantageous but not necessary.

4. If tests indicate intoxication above the legal standard and alcohol is not detected, the subject is arrested and read their rights for a chemical test.
5. The officer requests the arrestee submit to a blood test, as a breath test

would be useless.

6. The arrestee is taken to a medical facility and blood is drawn. Arrestee is taken to jail. Formal charge is DUI of Drugs. The blood is taken to a lab. NOTE: if arrestee declines to take the test, a search warrant is obtained and blood is drawn with or without their cooperation.
7. X Days later the results from the lab are sent to the prosecutor's office. The prosecutor would then issue a complaint and warrant for DUI of Drugs, if the facts warrant such.

NOTE: Pennsylvania used to have a 5ng/ml THC/blood standard for DUI but in 2011 amended it to 1ng/ml. Some states set the level at zero (Michigan) or 2ng/ml (Ohio, Nevada). Colorado and Washington are now 5 ng/ml.

8. If a trial takes place, the prosecution uses the following elements to demonstrate guilt to the jury: driving, field interview and the presence of marijuana in the blood (or other intoxicating drugs---note most common in my experience was prescription pain killers).
9. Generally speaking the punishment for DUI alcohol and DUI marijuana is the same.
10. The federal government has set a national standard of 0.08% for alcohol DUI (in order to receive highway funds), but it has *not* set a standard for marijuana or any other intoxicating drug (cocaine, heroin, Oxycodone, Vicodin, etc).