





## **POLICIES AND PROCEDURES MANUAL**

	<b>OPERATING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS</b>	
	<b>POLICY NUMBER: 61-2</b>	<b>ISSUING AUTHORITY</b> 
	<b>EFFECTIVE DATE: January 1, 2025</b>	Christine A. Elow Police Commissioner

### **I. GENERAL CONSIDERATIONS AND GUIDELINES**

Traffic laws and enforcement strategies related to impaired driving, alcohol or drugs, are intended to reduce the number and severity of injuries and deaths in motor vehicle crashes induced by such consumption.

In an ideal world, all community members would voluntarily comply with the rules of the road. They may do so out of respect for the social contract that allows communities to function in an orderly fashion, with regard for their own safety and the safety of others around them, or they may comply out of fear of punishment for breaking the rules.

Regardless of the reasons compelling people to comply with traffic laws, it is incumbent on police departments to do what they can to gain the highest level possible of voluntary compliance so that impaired driving is reduced as a cause of serious or fatal injuries to vehicle occupants, bicyclists, and pedestrians.

### **II. POLICY**

It is the policy of the Cambridge Police Department to:

- A. employ community education strategies with regard to responsible driving habits;
- B. analyze crash data in relation to impaired driving and deploy resources accordingly;
- C. follow strict guidelines when arrest is appropriate; and
- D. ensure that impaired drivers do not continue to drive after being stopped.

### **III. DEFINITIONS**

- A. *BAC*: Blood alcohol content.
- B. *BATS*: Breath alcohol testing system.

- C. *CDL*: Commercial driver's license.
- D. *DRE*: Drug Recognition Expert.
- E. *NHTSA*: National Highway Traffic Safety Administration.

## IV. PROCEDURES

- A. Procedures for handling persons charged with driving while under the influence of alcohol or drugs are as follows.
  - 1. Detection
    - a. An officer may come into contact with the operator of a motor vehicle and subsequently suspect impairment for any one of the following reasons. The officer:
      - (1) observes a traffic violation or erratic driving and conducts a motor vehicle stop;
      - (2) observes a parking violation when the operator is still in the vehicle;
      - (3) as a Community Caretaker, investigates a vehicle stopped on the side of the road; or
      - (4) conducts a preliminary investigation of a motor vehicle crash.
    - b. When the officer observes the operator and the contents of the vehicle, indicators of impairment may include:
      - (1) features of the operator's appearance, such as glassy eyes, slurred speech, and profuse sweating;
      - (2) the smell of alcoholic beverage or burnt drugs; and
      - (3) observations of containers or paraphernalia in the vehicle.
    - c. Once concluding there is reasonable suspicion to believe the operator is impaired, the officer may order the operator to exit the vehicle, when safe to do so, to perform a Standardized Field Sobriety Test (SFST), also known as a roadside assessment.
  - 2. Standardized Field Sobriety Testing Procedures
    - a. There are three tests authorized by NHTSA: the Horizontal Gaze Nystagmus, the walk and turn, and the one leg stand.
    - b. Additionally, officers may conduct other tests they are trained to use, such as the Portable Breath Test (PBT), the finger to nose test, and the alphabet or numeric recitation test.
  - 3. Arrest Procedures
    - a. Upon placing an operator under arrest, the officer should call for a transport vehicle or Emergency Medical Services and a tow.
    - b. On arrival at the station, the transporting officer will transfer custody of the detainee to the booking officer and advise the booking officer of any pertinent information if

appropriate. The arresting officer shall then consult with the Shift Commander to discuss the details of the arrest, will write the citation, and file the police report. The detainee should be served the citation in hand prior to the citation being placed in the prisoner's property.

- c. The detainee's statutory rights are visibly posted in the booking area. The booking officer should read the rights aloud and ask the detainee to follow along from the posted copy.
- d. The statutory rights are printed on the consent form, which is given to the detainee when asked if they consent to a breathalyzer or a blood test.
- e. If the detainee is at the hospital and a breathalyzer is unavailable, the consent form will indicate consent for a blood sample rather than a breathalyzer. Due to the complexity of blood samples in OUI cases, officers should consult with a supervisor.
  - (1) If the detainee is expected to be at the hospital for a prolonged period, an immediate blood test may be the only option since blood alcohol levels diminish over time.
  - (2) If the subject is expected to be at the hospital for a short period, the officer should confer with a supervisor regarding the decision to wait to conduct testing until the subject returns to the station.

#### 4. Breath Tests

- a. All breath tests shall be administered by a trained and certified operator.

#### 5. Breath Test Refusal

- a. If after being advised of his or her rights and the consequences of refusing to take a breath test, the arrestee refuses to submit to a breath test, none shall be given. The Registry of Motor Vehicles (RMV) shall be notified of such refusal in a format approved by the Registrar. If at any time following an arrestee's initial consent to the breath test and prior to the successful completion of the test, the arrestee refuses to participate or declines to cooperate, the test shall be terminated, and it shall be noted as a refusal. If the arrestee fails to supply the required breath samples upon request, the test shall be terminated, and it shall be noted as a refusal.
- b. If a subject refuses a breath test, the breath test operator will complete the refusal through the Breath Alcohol Testing System and the subject's license shall be seized and suspended immediately unless it is an out-of-state license.
- c. In accordance with Melanie's Law, the department will arrange for the vehicle driven by the subject to be impounded for a period of 12 hours after the refusal. The cost for towing, storage, and maintenance of the vehicle shall be the responsibility of the operator.

#### 6. Breathalyzer Test Results

- a. For .05 or less the detainee cannot be charged and held for OUI alcohol but may be held if there are other arrestable charges.

- b. For .06--.07 there is no presumption of intoxication; the detainee is not in violation of the per se law but can still be charged for OUI alcohol.
- c. For .08 or higher there shall be a presumption of intoxication; the operator's driver's license confiscated.
- d. For a person who has a CDL, a blood alcohol content of .04 or higher is sufficient to establish a violation of the CDL regulations, the Massachusetts license should be confiscated, and the person processed according to law.
- e. For a person under 21 years of age the blood alcohol content threshold is the same as that for an adult. Additionally, if the reading is .02 or higher, the Massachusetts operator's license shall be seized and the right to operate is subject to an administrative suspension by the registry.

#### 7. DRE

- a. DREs should typically be called when the BAC does not correlate with the behavior of the detainee, when drugs are suspected as the source of impairment, or when an officer needs assistance in identifying the cause of the observed impairment. In some cases, impairment may be caused by a medical condition.
- b. Officers should consult with a supervisor if it is unclear to them whether a DRE should be called.

#### 8. Disposition of Vehicles

- a. Towing procedures and an inventory of the contents of the vehicle should follow guidelines provided in department policy on towing. (See policy 61-5 Towing.)

#### 9. Reports

- a. All pertinent information related to the arrest and circumstances leading up to it shall be included in the officer's police report entered into the Records Management System. Any field notes may be included with the police report at the officer's discretion.
- b. If a vehicle was towed, the Tow Slip shall be filled out in triplicate according to department policy.
- c. Regardless of the BAC reading, the booking officer shall collect all breath test printouts and, if the license has been suspended, a formal printout of the notification should be placed with the detainee's property. Officers shall provide the violator with a copy of the violation in accordance with M.G.L. c. 90, § 2.