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SUBJECT: TESTING FOR BREATH ALCOHOL CONTENT AND URINE TESTING FOR CONTROLLED SUBSTANCES

- I. **POLICY:** Testing for breath alcohol content (BRAC) will be conducted by a state certified BRAC technician on all detainees brought into the Central Breath Testing Unit (CBTU) on DUI charges. A urine sample to determine presence of controlled substances in the detainee's system, will be obtained only at the request of the arresting or transporting officer.

- II. **REFERENCE:** Florida Statute 316.193
Florida Statute 327.35
FDLE Rule 11D-8, Implied Consent

- III. **SCOPE:** This procedure applies to all CBTU personnel.

- IV. **PROCEDURE:** The following will apply to processing detainees brought into CBTU on DUI charges:
 - A. Medical Support for DUI detainees
 1. If the detainee has a serious pre-existing injury, the arresting officer will be responsible for transporting the individual for medical treatment.
 2. If an individual is injured in CBTU or claims to have been injured while in CBTU, or if there is any medical question raised, the booking nurse will be called to evaluate the detainee.
 3. In a situation where the individual has a pre-existing injury which does not appear to be serious but requires medical attention, the nurse in Central Booking will be advised.

 - B. Twenty Minute Observation Period:
 1. The arresting officer or other law enforcement officers must make certain the subject has not taken anything by mouth or has not regurgitated for at least 20 minutes before administering the test.
 2. Beginning Observation Time
 - a. The officer shall have sole responsibility to conduct a proper 20 minute observation of the DUI detainee and will complete the form located at the top of the Breath Alcohol Analysis Report, recording the beginning and ending times of the observation.

C. Video recording of DUI detainee:

1. The CBTU technician will provide the arresting officer with a copy of the implied consent to be read to the arrestee at video recording.
2. All detainees brought into CBTU should be video recorded as the implied consent is read. When time permits, the video recording will be done prior to the twenty (20) minute observation period.
3. If a subject refuses to be video recorded the CBTU technician will witness the reading of the implied consent and indicate such on the Breath Alcohol Analysis Report.
4. Once started, the video camera will not be stopped until the completion of the implied consent.
5. Upon conclusion of the video recording, the arresting officer shall escort the detainee back into the CBTU waiting room and the 20 minute observation period begins.
6. The CBTU technician shall maintain a Transfer of Evidence Form and will record all video recordings taken in by:
 - a. Shift time, beginning and ending
 - b. Citation number
 - c. Subjects name
 - d. Agency
 - e. Video/disc number
 - f. Signature and PID number of impounding technician

D. Refusal to submit to breath testing:

1. The following actions by a DUI detainee will constitute a refusal to submit to breath testing.
 - a. Verbally refuses any or all tests.
 - b. Refuses to say "yes" or "no" to the request to take the breath test.
 - c. Agrees to take breath test but then does not blow any air into the testing instrument or fails to provide an adequate sample for analysis.
 - d. Fails to give two breath samples within 15 minutes for analysis.
 - e. Becomes combative.

2. During the video recording the arresting officer will inform the detainee that refuse to submit to breath testing will result in a suspension of driving privileges for a period of one year for the first refusal or 18 months if his\her license has previously been suspended for test refusal.
 3. Should the DUI detainee still refuse to submit to breath testing:
 - a. The arresting/transporting officer will complete a refusal to submit to breath testing form, HSMV 72054, in duplicate.
 - b. The refusal to submit form will be notarized by a detention deputy or law enforcement officer.
 - c. The CBTU technician will complete the refusal affidavit, form 5224, and present it to the arresting officer for signature.
 4. Should a DUI detainee refuse to submit to breath testing, at a remote testing facility, no additional opportunity to comply will be provided at CBTU once the refusal to submit to test forms have been completed and notarized.
- E. Testing for Breath Alcohol Content (BRAC).**
1. Under no circumstances will a pre-arrest breath test be conducted.
 2. Following the 20 minute observation period the detainee will blow into the breath testing instrument for a first BRAC sample.
 3. A second sample will be obtained within 15 minutes of the first sample and should be, but is not required to be, on the same printer card as the first test.
 4. A third sample will be gathered, if required by the breath instrument, when the first and second sample readings are greater than 0.02%.
 5. The certified BRAC technician will follow all testing procedures as outlined in the FDLE rule 11D-8. To comply with chapter 316.193(a), Florida State Uniform Traffic Control Information, the technician will compute the approximate number of hours it will take the subjects breath reading reach 0.05% or less. This time will be noted on the printer card as a guide for the detention deputies to estimate when to return the subject to the CBT Unit for a pre release screening.
 6. Breath alcohol reading of 0.05% or less:
 - a. When a 0.05% or lower BRAC reading is obtained the breath technician will advise the arresting officer that a urine sample should be collected and sent to a lab referred by their agency for analysis.
 - b. Should the detainee fail to comply with the officer's request for a urine sample the officer will initiate a refusal to submit to breath testing procedures under the implied consent rules.

c. In all cases where the detainee's impairment far exceeds the BRAC reading obtained, the CBTU technician will notify the booking nurse and the detainee shall be evaluated.

7. Breath alcohol readings of 0.30% or higher:

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a. A BRAC of 0.35% or higher will not be accepted for Booking. The Booking Sergeant and nurse shall be notified. The arresting officer will be advised to transport the detainee to a local medical facility to obtain a medical clearance (in writing) prior to the detainee being presented to Booking.

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b. When a 0.30% to 0.34% BRAC reading is obtained the Booking Nurse will be notified immediately so that the detainee can be evaluated. In the event the individual is not accepted for booking and is referred to the hospital for evaluation, the booking nurse will initiate an incident report outlining the reasons for the refusal.

F. Urine collection for controlled substance analysis.

1. Urine specimens will be collected only at the request of the arresting officer having reasonable cause to believe that a subject was driving or was in physical control of a motor vehicle while under the influence of a controlled substance or if a DUI detainee recorded a 0.05% or less on the BRAC test.

2. Should a detainee fail to submit to the collection of a urine sample, at the request of the arresting officer, the CBTU technician who administered the breath test will initiate refusal procedures as outlined in FDLE rule 11D-8.

3. When a request for a urine collection is made the following will be accomplished:

a. If the detainee is the same gender as the arresting officer, the arresting officer shall supervise the collecting of the sample. If the detainee is not the same gender the CBTU technician who performed the breath analysis will notify the booking sergeant, who will provide a detention deputy, of the detainees same gender, to secure the sample.

b. Prior to the collection of the forensic sample, the CBTU technician who administered the breath test will provide the arresting officer with the following:

1. One (1) sterile urine container with label

2. One (1) pair of disposable rubber gloves

3. One (1) plastic bag

4. Evidence tape

5. FDLE work request form

6. FDLE request for analysis form

4. Collection of a forensically acceptable urine sample requires witnessing the collection of the specimen, however, the dignity of the DUI detainee will be maintained during the collection procedure.

G. Juvenile DUI procedures.

1. The same testing procedures shall be followed for a juvenile detainee as for an adult.
2. CBTU technicians should make notes of events leading up to and including the tests of juvenile detainees.

H. Foreign language or deaf detainee testing.

1. The same CBTU testing procedures shall be followed for a foreign language/deaf detainee as for an adult DUI detainee, with the following exceptions:
 - a. When it becomes obvious the detainee does not or cannot understand or verbalize the English language, the CBTU technician shall notify the Booking Sergeant that an interpreter is needed in CBTU. The DUI detainee will remain in the unit's waiting area until the translator arrives.
 - b. It is the responsibility of the Booking Sergeant to maintain a current listing of approved translator services.
 - c. If no translator can be located within a reasonable time period, resulting in the breath test not being conducted, the arresting officer will escort the detainee to booking for processing without a test being conducted or a refusal being written.

I. Non DUI detainee screenings.

1. Protective custody detainee screenings:
 - a. The CBTU technician will obtain one breath sample from a protective custody detainee. The detainee's name, date of screening, type of screening, and CBTU technicians name shall be entered into the instrument log and the top copy of the printer card given to the arresting officer.
 - b. The CBTU technician will compute the approximate number of hours it will take the individual to reach a BRAC reading of 0.05%. The technician will record this time on the printer card as a guide to detention personal to determine when to return the subject to CBTU for a pre-release screening.
 - c. BRAC results of 0.30% or higher: Refer to V.E.7 of this procedure
2. Disorderly intoxication detainee screening: Procedures for the screening of disorderly intoxication detainees are the same as for medical screenings.

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3. Maritime: If the subject to be tested was the operator or captain of a maritime vessel, or recreational boat, and has been charged with an alcohol related violation, the detainee shall be tested and processed in the same manner as a DUI detainee.
 4. Court ordered testing, locally or other judicial areas: These tests shall be conducted as a regular DUI test with copies of the results going to the ordering judge.
 5. Public employees: Employees of the Hillsborough County Sheriff's Office and other public employees who have not been charged with DUI will be screened for alcohol content upon authorization of the shift commander. These screenings will be conducted the same way as a protective screening.
 6. Department of Corrections parolees or probationers:
 - a. Upon request of a parole or probation officer, a CBTU technician will administer a breath test to a court ordered probationer for random breath alcohol testing.
 - b. The CBTU technician will administer these court ordered tests by obtaining two breath samples as a regular DUI test.
 - c. In the absence of the probation officer any test result indicating a 0.01% or higher the CBTU technician will immediately notify the probation officer who requested the test.
 7. Other screenings: At the request of the booking sergeant, the CBTU technician will administer a breath screening to any detainee brought into the unit from the booking area. The CBTU technician will follow the same procedures as for a protective custody detainee.
- J. Use of Force/Restraints:**
1. CBTU technicians shall refrain from engaging in any physical contact with any detainee except when their personal well being is in jeopardy or slight contact is needed for the satisfactory completion of a breath test.
 2. In the event a DUI or any other detainee becomes uncooperative, combative, or presents a danger to himself or others, the CBTU technician shall:
 - a. Summon assistance immediately by using the radio and calling a Signal 24.
 - b. Summon medical assistance if required.
- K. Breath Alcohol Content Disclosures.**
1. CBTU technicians may disclose BRAC test results to the following individuals after proper identification of the requesting party, and the identity of the person to whom the BRAC reading pertains has been established:
 - a. The individual tested.

- b. The State Attorneys Office.
- c. The individual's attorney.
- d. DUI school employees.
- e. Law enforcement personnel on an "as needed" basis.
- f. Members of the judiciary or their staff.

L. Back up breath testing instruments.

- 1. Two state certified breath analysis instruments shall remain on line at all times within the Central Breath Testing Unit. At least one (1) other state certified breath analysis instrument shall remain in ready status as a back up at all times. The following will apply to the use of the back up instruments:
 - a. Should an instrument in active status malfunction it will immediately be removed from active service and secured in the designated area. A back up instrument will be placed into active status and the running log for the corresponding instrument will be used to record all tests administered on that instrument.
 - b. A memo stating the serial number of the instrument taken out of service, the serial number of the instrument placed in active status, and a detailed explanation of the malfunction will be written and placed in the maintenance technician's box with a copy going to the supervisor.

David M. Parrish, Colonel
Department of Detention Services

<p>Amends or Supersedes:</p> <p>Annual review: PID _____ Date ____/____/____ PID _____ Date ____/____/____ PID _____ Date ____/____/____ PID _____ Date ____/____/____</p>
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