

Office of the Kane County State's Attorney



JOSEPH H. McMAHON

State's Attorney

Kane County Judicial Center
37W777 Route 38 Suite 300
St. Charles, Illinois 60175

General Offices: (630) 232-3500
Contact:
Christopher Nelson (630) 232-3500

THANKSGIVING EVE NO-REFUSAL NETS 14 DRUNKEN DRIVERS 17 POLICE AGENCIES PARTICIPATE; 13 BAC SAMPLES COLLECTED

December 4, 2012

Kane County's Thanksgiving eve No-Refusal operation, a collaboration of the Kane County State's Attorney's Office and 17 law-enforcement agencies, resulted in the acquisition of 13 blood-alcohol concentration samples from 14 DUI arrests.

The operation included 14 Kane County communities – Aurora, Batavia, Carpentersville, East Dundee, Elburn, Elgin, Geneva, Huntley, Montgomery, Pingree Grove, St. Charles, South Elgin, Sugar Grove and West Dundee – along with Illinois State Police Districts 2 and 15, and the Kane County Sheriff's Office.

Seventeen marked the most agencies to participate in a single No-Refusal event. Huntley and Pingree Grove participated for the first time.

Three of the 13 blood-alcohol concentration samples were more than twice Illinois' threshold of .08. All samples acquired were breath samples.

"No matter how many police departments participate, we always have a goal of zero DUI arrests. But that's out of our control. We are pleased that 13 BAC samples were obtained and 14 impaired drivers were stopped and removed from the streets," Kane County State's Attorney Joe McMahon said.

"The No-Refusal initiative has proven to be effective as a law-enforcement tool and as a means to deter and educate about the risks and consequences of drunken driving, and we will continue to use it."

The Nov. 21, 2012, No-Refusal was the first in Kane County held the night before Thanksgiving.

Thanksgiving eve – the details

From 11 p.m. Nov. 21 to 3 a.m. Nov. 22, 2012, officers who stopped and then arrested a suspected drunken driver – a driver who was lawfully stopped and subsequently displayed signs of impairment or intoxication – transported the suspect to the local police station.

At the station, each suspect was asked to submit a blood-alcohol concentration sample in the form of breath. Any suspect who refused to provide the sample was

instructed that if they continued to refuse, a search warrant would be sought ordering them to provide the sample. Any suspect who continued to refuse to submit to chemical testing after a being presented with a search warrant likely would face additional sanctions. Illinois courts have consistently held that there is no right to refuse chemical testing when probable cause exists.

Of the 14 who were arrested, three initially refused to provide the lawfully requested BAC sample. When told that law enforcement would obtain a search warrant that gives police the authority to collect a blood, breath or urine sample, two defendants continued to refuse. When presented with the search warrant, one defendant agreed to provide the breath sample, and one continued to refuse. That defendant was charged with felony obstructing justice. One blood sample was collected.

The BAC breath samples collected were .059, .086, .099, .104, .104, .107, .123, .129, .144, .150, .166, .172 and .173. Illinois law states that a person whose BAC is .08 or higher is presumed to be unlawfully intoxicated for the purposes of operating a motor vehicle.

At least four of those arrested face additional felony charges for driving without a valid license, and at least four had one or more prior DUI offense.

The participating agencies and those charged:

AURORA

Jason D. Armstrong, 38 (d.o.b. 1-18-1974), of the 900 block of Talma Street, Aurora, was charged with two counts of DUI, each a Class A misdemeanor, and other offenses. His next court appearance is set for 8:30 a.m. Dec. 18, 2012, in Courtroom 123 in front of Associate Judge Thomas J. Stanfa.

Lawrence N. Brown, 65 (d.o.b. 5-20-1947), of the 500 block of South River Street, Aurora, was charged with two counts of DUI, each a Class A misdemeanor. His next court appearance is set for 8:30 a.m. Dec. 18, 2012, in Courtroom 123 in front of Judge Stanfa.

Clemencio Chavez, 45 (d.o.b. 7-22-1967), of the 900 block of Superior Street, Aurora, was charged with four counts of aggravated DUI, each a Class 4 felony, and other offenses. His next court appearance is set for 9 a.m. Dec. 12, 2012, in Courtroom 313 in front of Associate Judge James C. Hallock.

Manuel De la Cruz, 29 (d.o.b. 5-14-1983), of the 1200 block of Indian Avenue, Aurora, was charged with two counts of DUI, each a Class A misdemeanor, and other offenses. His next court appearance is set for 8:30 a.m. Dec. 18, 2012, in Courtroom 123 in front of Judge Stanfa.

Isaac E. Muhammad, 24 (d.o.b. 9-29-1988), of the 700 block of Gates Avenue, Aurora, was charged with two counts of DUI, each a Class A misdemeanor, and other offenses. His next court appearance is set for 8:30 a.m. Dec. 12, 2012, in Courtroom 123 in front of Judge Stanfa.

Manuel S. Puga-Ferrer, 24 (d.o.b. 12-28-1987), of the 700 block of George Avenue, Aurora, was charged with two counts of DUI, each a Class A misdemeanor, and other offenses. His next court appearance is set for 8:30 a.m. Dec. 12, 2012, in Courtroom 123 in front of Judge Stanfa.

Juan C. Rodriguez, 37 (d.o.b. 5-5-1975), of the 8500 block of South Kildare Avenue, Chicago, was charged with two counts of DUI, each a Class A misdemeanor, and other offenses. His next court appearance is set for 9 a.m. Jan. 3, 2013, in Courtroom 319 in front of Circuit Judge John A. Barsanti.

BATAVIA

None

CARPENTERSVILLE

Patricia Peters, 61 (d.o.b. 3-9-1951), of the 0-99 block of West Briarwood Drive, Streamwood, was charged with one count of DUI, a Class A misdemeanor, and other offenses. Her next court appearance is set for 1:30 p.m. Dec. 14, 2012, in Courtroom 313 in front of Judge Hallock.

EAST DUNDEE

None

ELBURN

Stacey S. Swander, 32 (d.o.b. 1-20-1980), of the 300 block of Ridge Road, North Aurora, was charged with two counts of DUI, each a Class A misdemeanor, and other offenses. Her next court appearance is set for 8:30 a.m. Dec. 6, 2012, in Courtroom 123 in front of Judge Stanfa.

ELGIN

None

GENEVA

None

HUNTLEY

None

ILLINOIS STATE POLICE DISTRICT 2

None

ILLINOIS STATE POLICE DISTRICT 15

None

KANE COUNTY SHERIFF

None

MONTGOMERY

None

PINGREE GROVE

None

ST. CHARLES

Jesus F. Olvera-Carrion, 51 (d.o.b. 7-9-1961), of the 1500 block of Riverside Avenue, St. Charles, was charged with two counts of DUI, each a Class A misdemeanor, and other offenses. His next court appearance is set for 8:30 a.m. Dec. 19, 2012, in Courtroom 123 in front of Judge Stanfa.

SOUTH ELGIN

Kevin B. Ward, 44 (d.o.b. 9-6-1968), of the 600 block of Franklin Avenue, South Elgin, was charged with two counts of DUI, each a Class A misdemeanor. His next court appearance is set for 8:30 a.m. Dec. 19, 2012, in Courtroom 123 in front of Judge Stanfa.

Lazaro Chavarria, 39 (d.o.b. 4-6-1973), of the 1700 block of Maple Lane, Elgin, was charged with two counts of DUI, each a Class A misdemeanor, and other offenses. His next court appearance is set for 8:30 a.m. Dec. 10, 2012, in Courtroom 123 in front of Judge Stanfa.

Jason H. Branch Jr., 24 (d.o.b. 3-27-1988), of the 1000 block of Leawood Drive, Elgin, was charged with one count of DUI, each a Class A misdemeanor, and other offenses. His next court appearance is set for 8:30 a.m. Dec. 27, 2012, in Courtroom 123 in front of Judge Stanfa.

SUGAR GROVE

Valerie M. McNamera, 25 (d.o.b. 6-7-1987), of the OS block of Rowe Road, Elburn, was charged with two counts of DUI, each a Class A misdemeanor, and other offenses. Her next court appearance is set for 8:30 a.m. Dec. 19, 2012, in Courtroom 123 in front of Judge Stanfa.

WEST DUNDEE

None

Background

The Thanksgiving eve 2012 No-Refusal initiative was the 11th to be conducted in Kane County; the first was in May 2008. In the 10 prior No-Refusals, a total of 91 motorists were charged. Most have pleaded guilty to DUI, although many cases are pending.

The initiative is designed to thwart suspected drunken drivers who refuse to submit to a breath test after an arrest on DUI charges. Through the No Refusal strategy, officers expedite the DUI booking process. With guidance from an assistant state's attorney, officers efficiently seek a search warrant to compel a DUI suspect to submit to a lawfully requested BAC test as required by Illinois' Implied Consent statute.

The operation is buoyed by Illinois law and the courts, including the fact that driving is not a right but a privilege granted by the Secretary of State; Illinois' Implied Consent statute, which is based on the principle that when people drive on Illinois streets and roads, they have implicitly consented to submit to a lawfully requested test to determine the alcohol content of their blood, breath, urine or other bodily substance; and Schmerber vs. California, in which the U.S. Supreme Court in 1966 ruled that taking blood against a person's wishes did not violate a person's right against unreasonable searches and seizures or compelled self-incrimination.

According to the Illinois Secretary of State, approximately 50,000 motorists each year are cited for DUI. Of those, about 40 percent, or 20,000, refuse to submit to a BAC test, denying the state lawfully allowed evidence needed to prosecute a criminal case. The No-Refusal operation is designed to ensure that the evidence is lawfully collected.

NHTSA National DUI Facts

- Between midnight and 3 a.m., drunken driving claims a life every 23 minutes
- Every day, 1,440 people are injured and 29 are killed because of drunken driving
- 11,000 people die on U.S. roads every year because of drunken driving
- 1.4 million people were charged with DUI in 2009 in the United States

The charges against those named above are not proof of guilt. A defendant is presumed innocent and is entitled to a fair trial in which it is the state's burden to prove his or her guilt beyond a reasonable doubt.