

Office of the Kane County State's Attorney



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SUPER BOWL NO-REFUSAL OPERATION NETS 5 DRUNKEN DRIVERS 13 POLICE AGENCIES PARTICIPATE; NEXT UP IS ST. PATRICK'S DAY WEEKEND

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Kane County's Super Bowl Sunday No-Refusal operation, a collaborative effort of the Kane County State's Attorney's Office and 13 law-enforcement agencies county-wide.

The operation included 11 Fox River communities – West Dundee, East Dundee, Carpentersville, Elgin, South Elgin, Gilberts, St. Charles, Geneva, Batavia, Aurora and Montgomery – along with Illinois State Police District 2 and the Kane County Sheriff's Office.

Super Bowl Sunday was chosen because DUI fatalities historically are elevated on that day.

"Our first objective is safety and deterrence," Kane County State's Attorney Joe McMahon said. "In advance of what is a big day to party and celebrate, we spread the word that there would be heightened DUI enforcement. Many of the participating police agencies even enhanced beyond that with extra patrols and some roadside safety checks.

"Five DUIs is five too many, but we are pleased that we are able to get BAC samples from all of those charged, and we appreciate the participation of 13 police agencies.

"Because of the continued success of this initiative, I am announcing today that we will conduct a No-Refusal the weekend of St. Patrick's Day next month."

The March 16-17, 2012, No-Refusal will be the second in Kane County held during St. Patrick's Day. The first St. Patrick's No-Refusal was in March 2009 in St. Charles. Three motorists were charged with DUI.

Super Bowl Sunday – the details

From 8 p.m. to midnight Feb. 5, 2012, officers who stopped and then arrested a suspected drunken driver – a driver who was lawfully stopped for a moving violation and subsequently displayed signs of impairment or intoxication – transported the suspect to the local police station. At the station, the suspect was asked to submit a blood-alcohol concentration sample in the form of breath. Any suspect who refused to provide the sample was transported to the Aurora, Elgin or St. Charles police

stations and instructed by an assistant state's attorney that a court order would be sought ordering them to provide the sample if they continued to refuse. Any suspect who continued to refuse to submit to chemical testing after a being presented with a search warrant likely would have faced additional sanctions.

Illinois courts have consistently held that there is no right to refuse chemical testing when probable cause exists.

Of the five who were arrested, two 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, one defendant agreed to provide the breath sample and the other defendant continued to refuse. A warrant was obtained for the sample, and when presented with the warrant the defendant agreed to provide a breath and blood sample.

The BAC breath samples collected were .110, .134, .152, .205 and .233. The blood sample was submitted for testing, and the BAC content of the sample has not yet been returned to authorities. Illinois law states that a person is presumed to be unlawfully intoxicated for the purposes of operating a motor vehicle if their BAC is .08 or higher. None of the defendants previously has been charged with DUI.

The participating agencies and those charged:

AURORA

Gerardo N. Gomez, 45 (d.o.b. 7-14-1966), of the 800 block of Columbia Avenue, Aurora, 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. March 6, 2012, in Courtroom 123 in front of Associate Judge Thomas J. Stanfa.

Jose. L. Sanchez-Hernandez, 32 (d.o.b. 8-1-1979), of the 700 block of North Avenue, Aurora, was 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. March 6, 2012, Courtroom 123 in front of Associate Judge Thomas J. Stanfa.

BATAVIA

None

CARPENTERSVILLE

None

EAST DUNDEE

None

ELGIN

None

GENEVA

Lynda S. Johnson, 49 (d.o.b. 2-14-1962), of the 1100 block of Lewis Road, Geneva, was charged with two counts of DUI, each a Class A misdemeanor, and other offenses. Her next court appearance has been set for 8:30 a.m. March 7, 2012, in Courtroom 123 in front of Associate Judge Thomas J. Stanfa.

GILBERTS

None

ILLINOIS STATE POLICE DISTRICT 2

None

KANE COUNTY SHERIFF

None

MONTGOMERY

Erica J. Gonzalez, 39 (d.o.b. 7-6-1972), of the 1100 block of Lincoln Avenue, Montgomery, was charged with two counts of DUI, each a Class A misdemeanor, one count of driving without a license, a Class A misdemeanor, and other offenses. Her next court appearance has been set for 9 a.m. March 14, 2012, in Courtroom 123 in front of Associate Judge Thomas J. Stanfa.

ST. CHARLES

Ambrocio Gomez-Carrera, 36 (d.o.b. 12-7-1974), of the 100 block of Michael Lane, Addison, was charged with two counts of DUI, each a Class A misdemeanor, one count of driving without a license, a Class A misdemeanor, and other offenses. His next court appearance has been set for 8:30 a.m. March 2, 2012, in Courtroom 123 in front of Associate Judge Thomas J. Stanfa.

SOUTH ELGIN

None

WEST DUNDEE

None

Background

The Super Bowl No-Refusal initiative was the eighth to be conducted in Kane County; the first was in May 2008. In the seven prior No-Refusals, a total of 61 motorists were charged. Most have pleaded guilty to DUI, although many cases are pending.

According to 2008 data from NHTSA, the more than 11,000 alcohol-impaired traffic fatalities accounted for 32 percent of that year's total motor vehicle fatalities nationally. But on Super Bowl Sunday, 49 percent of all traffic fatalities national involved a driver with a blood-alcohol concentration of .08 or higher.

Further, according to the consumer research group The Nielsen Company, Super Bowl Sunday ranks eighth among the highest beer-selling occasions annually. Nielsen data shows that nearly 52 million cases of beer are sold the week prior to the big game and on Super Bowl Sunday.

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, law-enforcement officers are able to expedite the DUI booking process. With guidance from an assistant state's attorney, police officers can quickly obtain a search warrant to compel a DUI suspect to submit to a lawfully requested blood or breath 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.

For the last several years, however, according to the Illinois Secretary of State's Office, 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 DUI Facts

- Between midnight and 3 a.m., drunken driving claims a life every 23 minutes
- Every day nationwide, 1,440 people are injured and are 29 killed because of drunken driving
- 11,000 people die on U.S. roads every year because of drunken driving

For more DUI facts from NHTSA: <http://www-nrd.nhtsa.dot.gov/Pubs/811385.pdf>

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.