

May 1, 1968

MEMORANDUM NO. 23

TO: ALL UNITS
FROM: COLONEL T. A. WELTY
SUBJECT: DEPARTMENT POLICY ON THE USE OF THE BREATHALYZER AS IT APPLIES TO TESTING PERSONS ARRESTED BY OTHER LAW ENFORCEMENT AGENCIES

Members of the Department of Public Safety, at the request of members of Police Departments of Municipalities of less than 5,000 population who are covered by Civil Service, or Sheriffs and their Deputies of rural counties with less than 30,000 population may test on the Breathalyzers those persons lawfully arrested by them for driving a motor vehicle on the public streets and highways of this State while under the influence of intoxicating liquor.

No such test shall be administered at the request of Constables, Police Departments of Municipalities of 5,000 or more population or Sheriffs and their Deputies of Urban or Metropolitan Counties with 30,000 or more population.

The Census of 1960 as contained in the West Virginia Blue Book will be used as a basis for determining Municipal or County populations.

In questionable cases involving the use of the Breathalyzer at the request of outside police agencies, the final decision will be left up to the Detachment Commander, but in no event will the test be administered for those individuals or agencies excluded by law.

This policy is effected for reasons of economy, due to the cost involved in running the tests and also to avoid having members tied up excessively in court by running the tests indiscriminately for other departments.

TAW/js