



To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation and Team Spirit.

NOTE: Pursuant to Section 101 of the Aviation and Transportation Security Act (49 U.S.C. 114(n)), this directive and all related Handbooks, Attachments, and Appendices establish Transportation Security Administration (TSA) policy and must be applied accordingly.

REVISION: This revised directive supersedes TSA MD 1100.75-4, *Addressing DUI and DWI Offenses*, dated April 15, 2009.

SUMMARY OF CHANGES: Section 1, Purpose, transferred the previous purpose statement to the Policy Section, and revised statement; Section 3, Authorities, removed certain authorities; Section 4, Definitions, updated; Section 7, Procedures, added notification requirements and revised the penalty for non-law enforcement officers; and various administrative and format changes throughout the directive.

1. **PURPOSE:** This directive provides TSA policy and procedures for addressing alcohol related offenses, as defined in Section 4.
2. **SCOPE:** This directive applies to all TSA organizational elements and all TSA employees.
3. **AUTHORITIES:** The Aviation and Transportation Security Act, Pub. L. 107-71 (ATSA)
4. **DEFINITIONS:**
 - A. Adverse Action: A suspension of more than 14 days, including an indefinite suspension, an involuntary demotion for performance/conduct, or a removal.
 - B. Alcohol Awareness Program: A state or local government, or court-approved, program designed to deter drunk driving.
 - C. Alcohol Related Offense: For the purposes of this directive, preponderant evidence that an employee was driving under the influence, driving while intoxicated, or refused to submit to alcohol testing; e.g., breathalyzer and field sobriety tests. Preponderant evidence may be a police report, test result of blood-alcohol content, charge, indictment, or conviction.
 - D. Disciplinary Action: Actions consisting of a Letter of Reprimand to a suspension of 14 days or less.
 - E. Driving Under the Influence (DUI): Also referred to as driving while intoxicated (DWI) or “drunk driving”. The criminal offense of operating a motor vehicle while under the influence of alcohol or drugs, including prescription drugs, at a level which prevents the driver from thinking clearly or driving safely. State laws specify the levels of blood alcohol content at which a person is presumed to be under the influence. This is the level that is determined to be

the level at which an individual cannot safely operate a motor vehicle.

- F. Driving While Intoxicated (DWI): Also referred to as DUI or “drunk driving”. The criminal offense of operating a motor vehicle while under the influence of alcohol or drugs, including prescription drugs, at a level which prevents the driver from thinking clearly or driving safely. State laws specify the levels of blood alcohol content at which a person is presumed to be under the influence. This is the level that is determined to be the level at which an individual cannot safely operate a motor vehicle.
- G. Employee: An individual employed by TSA in any temporary or permanent capacity. This definition does not apply to contract personnel.
- H. Law Enforcement Officer: Any individual designated to perform law enforcement duties as defined in [TSA MD 1100.88-1, Law Enforcement Position Standards and Hiring Requirements](#).
- I. Management Official: A TSA manager who is a higher-level official in the employee’s chain of supervision or as designated by the Assistant Administrator (AA) for the affected program office.
- J. Preponderance of the Evidence: That degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a purported fact is more likely to be true than untrue.
- K. Security/Operational Personnel: TSA employees who are assigned to security and/or operational duties, e.g., Federal Security Directors (FSDs), Deputy FSDs, Assistant FSDs, Deputy Assistant FSDs, Transportation Security Managers, Transportation Security Officers, and Transportation Security Specialists – Explosives.
- L. Support Personnel: All TSA employees, including management officials, who are not Security/Operational Personnel.
- M. Transportation Security Officers (TSOs): All TSA employees within the 1802 occupational series: TSOs, Lead TSOs, Supervisory TSOs, Master TSOs, and Expert TSOs, including all Behavior Detection Officers, Coordination Center Officers, and Security Training Instructors.

5. RESPONSIBILITIES:

- A. Management officials are responsible for implementing necessary personnel actions and procedures set forth in this directive to assist in maintaining TSA’s reputation, workplace order, efficiency, and productivity.
- B. TSA employees are responsible for:
 - (1) Conducting themselves in a manner that does not adversely reflect on TSA, or negatively impact TSA’s ability to discharge its mission, cause embarrassment to the agency, or cause the public and/or management officials to question the employees’ reliability, judgment, or trustworthiness;
 - (2) Observing and abiding by all laws, rules, regulations, and agency policies; and

- (3) Reporting all arrests, including arrests for an Alcohol Related Offense, to their immediate supervisor or anyone in the chain of supervision within 24 hours of the arrest.

NOTE: If reporting within 24 hours is not possible due to circumstances beyond the employee's control, he or she must report as soon thereafter as possible. See [TSA MD 1100.73-5, *Employee Responsibilities and Code of Conduct*](#).

6. POLICY:

- A. TSA employees who engage in the reckless, illegal, and dangerous behavior of DUI/DWI offenses demonstrate a disregard for TSA's mission of protecting the nation's transportation systems to ensure freedom of movement for people and commerce. As an agency empowered with the important and visible role in leading America's battle against terrorism, it is especially important that TSA actively work to keep the public's confidence and trust. Employees who misuse and/or abuse alcohol or drugs raise a serious issue about their potential ability to appropriately deal with security threats. This concern is aggravated by an employee's decision to drive in an intoxicated state and endanger the public.
- B. An Alcohol Related Offense negatively affects a TSA employee's ability to discharge his/her functions and accomplish the mission of TSA because such behavior calls into question the employee's reliability, judgment, and trustworthiness, and erodes the public confidence in TSA's ability to perform its mission. This directive articulates TSA's position that, for all employees, repeated DUI/DWI offenses are incompatible with continued employment with TSA.

7. PROCEDURES:

- A. Once an employee reports an Alcohol Related Offense, or a management official otherwise learns of the incident, the management official –¹
 - (1) Will not permit the employee to perform screening, security, or law enforcement related duties pending the outcome of an administrative inquiry;²
 - (2) Will assign the employee to non-screening, non-security, or non-law enforcement related duties, such as handling baggage (not to be confused with the functions of a baggage TSO), directing passengers, or administrative duties;
 - (3) Will exercise his or her discretion with respect to the appropriate level of duties Support Personnel should perform pending the outcome of administrative inquiries into the Alcohol Related Offense; and
 - (4) Will not place any employee on administrative leave solely because of an Alcohol Related Offense.

¹ A TSA employee's failure to report such occurrences may be separate grounds for disciplinary or adverse action.

² "Security-Related Duties" include, but are not limited to, such duties as screening passengers and baggage, observing passengers, other checkpoint functions, and operating a government vehicle. "Law Enforcement Duties" include, but are not limited to, such duties as carrying a firearm, operating a government vehicle, flying in connection with official business (duty status), or a combination of these activities.

B. Required Administrative Action for Alcohol Related Offenses:

- (1) Immediately upon learning of an employee's DUI/DWI offense, the management official must report the offense to the Office of Inspection (OOI) Hotline at (571) 227-1800 for coordination, to determine the facts and circumstances of the Alcohol Related Offense, which include a review of the official police report, an interview of the employee, and obtaining a signed statement from the employee. The management official must also notify Personnel Security Section in accordance with [TSA MD 1100.73-5, *Employee Responsibilities and Code of Conduct*](#).
- (2) In cases involving:
 - (a) Non-law enforcement officers, a suspension of seven (7) days will be the standard administrative action proposed for the first Alcohol Related Offense, notwithstanding the provisions of any other TSA policy or directive, consistent with the process of [TSA MD 1100.75-3, *Addressing Unacceptable Performance and Conduct*](#).
 - (i) The notice will include, among other things, a direction for the employee to enroll in and successfully complete an Alcohol Awareness Program, at his or her own expense, and it should be issued without regard to the ultimate outcome of any criminal proceeding (e.g., deferred prosecution or conviction).
 - (ii) The final imposed penalty may be decreased if significant mitigating factors exist. The proposed penalty may be increased if aggravating factors as described in Section 7.B(3) below are present and the higher penalty is approved by the AA for the Office of Professional Responsibility (OPR) or the AA for the affected program office, as appropriate.
 - (b) TSA Security/Operational Personnel (as defined in Section 4), the management official, at his or her discretion depending upon the facts and circumstances in each case, including the determination that the employee can safely perform the screening or security related duties, may return the employee to full duties either once the employee enrolls in an Alcohol Awareness Program or after the employee successfully completes the Alcohol Awareness Program.
 - (c) TSA law enforcement officers, a suspension of 30 days will be the standard administrative action proposed for the first Alcohol Related Offense, notwithstanding the provisions of any other TSA policy or directive, consistent with the process of TSA MD 1100.75-3.
 - (i) The notice will include, among other things, a direction for the employee to enroll in and successfully complete an Alcohol Awareness Program, at his or her own expense, and it should be issued without regard to the ultimate outcome of any criminal proceeding (e.g., deferred prosecution or conviction).
 - (ii) The final imposed penalty may be decreased if significant mitigating factors exist. The proposed penalty may be increased if aggravating factors as described in

Section 7B(3) below are present and the higher penalty is approved by the AA for OPR or the AA for the affected program office, as appropriate.³ The management official, at his or her discretion depending upon the facts and circumstances in each case, including the determination that the employee can safely perform law enforcement related duties, may return the employee to full duties either once the employee enrolls in an Alcohol Awareness Program or after the employee successfully completes the Alcohol Awareness Program.

NOTE: This only applies to law enforcement officers as defined in TSA policy that are authorized to carry firearms.

- (3) Management officials have the discretion to take and/or initiate action with a higher penalty than the actions described above in Section 7B(2), if there are aggravating factors in the employee's first Alcohol Related Offense. Examples of aggravating factors include, but are not limited to, consideration that the Alcohol Related Offense occurred:
 - (a) While employee was in TSA uniform;
 - (b) While employee was in route to or from a TSA work location;
 - (c) On TSA owned or leased property or airport property; or
 - (d) Involves other serious aggravating factors in which case the management official or OPR official may consult the Office of Chief Counsel.

NOTE: Serious aggravating factors must be specific to the Alcohol Related Offense and do not include the employee's prior disciplinary record.

- (4) If an employee is arrested a second time for an Alcohol Related Offense while employed with TSA, the management official will take action to remove the employee from employment consistent with the provisions of [TSA MD 1100.75-3](#).
- (5) If there are exceptional mitigating factors and circumstances, the AA for OPR or the AA for the affected program office, as appropriate, or if he/she designates the Deputy AA, may approve or disapprove an exception to the requirement to remove an employee who has been arrested for his or her second Alcohol Related Offense as a TSA employee, based on the written recommendation from the Deciding Official and review of the case file. If the request for exception is denied, the AA for OPR or the AA for the affected program office, or the Deputy AA, if previously designated to review the request for an exception, will serve as the Deciding Official, and the employee will be notified accordingly. If the exception is approved, the facts supporting the exception must be incorporated in the final decision. The affected employee may challenge the final decision through the applicable grievance/appeal process.

NOTE: In cases not handled by OPR, the Deciding Official must be at least one (1) level above the Proposing Official in the employee's chain of supervision and at a level approved

³ Pursuant to Section 7.L of TSA MD 1100.88-1, Law Enforcement Position Standards and Hiring Requirements, law enforcement officers who are convicted of a felony offense must be removed from employment.

in writing by the AA, or designee, of the affected program office.

- C. Evidence to Support Action: The disciplinary or adverse action described in this directive must be supported by the preponderance of the evidence. In the vast majority of the cases, a blood-alcohol reading by a law enforcement official will be determinative of the employee's level of intoxication. A refusal of the employee to submit to a blood-alcohol test, for the purpose of this directive, will be considered conclusive evidence of the employee's intoxication.
- D. Effect of Final Court Proceedings on Disciplinary or Adverse Actions: As indicated above, the standard of evidence required to support disciplinary or adverse actions is not the same standard applied in the criminal process. In many jurisdictions, there are arrangements where citizens are ultimately not found guilty of an Alcohol Related Offense, but some other traffic violation. As with other disciplinary or adverse actions, final court determinations are not determinative of the employment action management officials may take with regards to a DUI/DWI situation.
 - (1) Employment determinations and the criminal justice system are two (2) different forums and have different standards of proof with different rules of evidence. It is foreseeable that there will be instances where a case may be dismissed on jurisdictional or technical grounds or an employee is found guilty of a non-DUI/DWI offense such as "reckless endangerment." In many of those cases, the employment action described in this directive is still appropriate based on the facts relating to the incident.
 - (2) Cases where the disciplinary or adverse actions described in this directive are not taken because of a final court decision that is contrary to the original arrest report must be coordinated with and approved by the AA for the appropriate component or by OPR.

8. **EFFECTIVE DATE AND IMPLEMENTATION:** This policy is approved and effective the date of signature unless otherwise specified.

APPROVAL

Signed

June 26, 2014

Karen Shelton Waters
Assistant Administrator for Human Capital

Date

EFFECTIVE

Date

Distribution: Administrator, Deputy Administrator, Assistant Administrators, Regional Directors, Federal Security Directors, Supervisory Air Marshals in Charge,

**TSA MANAGEMENT DIRECTIVE No. 1100.75-4
ADDRESSING DUI AND DWI OFFENSES**

Business Management Division Directors, Administrative Officers, and
Human Resources Specialists

Point of Contact: HRAccess Helpdesk: HelpDesk@tsa-hraccess.com