



Policy 1108

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| Subject | |
| DUI/DWI PROCEDURES | |
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By Order of the Police Commissioner

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POLICY

It is the policy of the Baltimore Police Department (BPD) to arrest and/or charge persons who violate the Alcohol and/or drug related subtitles of the Maryland Transportation Article (See [Appendix A](#), Primary DUI/DWI Violations). Members who arrest and/or charge these persons must ensure that probable cause exists to support such charges. Any test for Alcohol concentration, whether of breath or blood, shall not be the sole basis for arrest and charging but shall be supported by the member's observations of the driver, the driver's operation of a vehicle or Vessel, and the results of any field sobriety testing that may be conducted.

CORE PRINCIPLES

Appropriate Vehicle Stops. Members may conduct a vehicle stop for a traffic violation when the member has probable cause to believe that the driver has committed a traffic violation, or reasonable suspicion based on specific and articulable facts that the vehicle or an occupant of the vehicle has been, is, or is about to be engaged in the commission of a crime. The stop shall last no longer than the time reasonably required to conduct the investigation and issue a citation for the violation, if warranted, which includes the time to run the necessary license, vehicle registration, insurance, and warrant checks. If the member has reasonable articulable suspicion (RAS) of a DUI (driving under the influence) or DWI (driving while impaired), the stop may last a reasonable period of time for the member to investigate and either establish probable cause or dispel the RAS of the DUI or DWI.

Procedural Justice. Treatment of a person by law enforcement officers in such a way that the person feels they were treated fairly and with consistency, dignity and respect, they were given voice, the officer was neutral and transparent, and the officer conveyed trustworthy motives. (See [Policy 325, Procedural Justice in Interactions](#)).

Non-Discriminatory Policing. Members shall not consider demographic category (including but not limited to race, ethnicity, national origin, religion, gender, sexual orientation, age, disability, gender identity or expression, or affiliation with any other similar identifiable group) as a factor in conducting a vehicle stop, or in conducting a DUI/DWI investigation. (See [Policy 317, Fair and Impartial Policing](#)).

Public Safety Purpose. Members shall engage in DUI/DWI enforcement for public safety purposes and not for the purposes of making an arrest. Members are encouraged, in situations where there was no bodily injury or death and no ongoing risk to public safety, to exercise discretion as to releasing a driver with citations only, or processing them through the Central Booking and Intake Facility (CBIF). Additionally, consistent with the prohibited actions for investigative stops and BPD's community policing priorities, members may not target specific locations or prior drivers for DUI/DWI to establish RAS for a stop.

DEFINITIONS

Alcohol – As defined in Maryland law, Alcohol is any substance or substances containing any form of Alcohol, including ethanol, methanol, propynol, and isopropynol.

Alcoholic Beverage – As defined in Maryland law, an Alcoholic Beverage is any spirituous, vinous, malt, or fermented liquor, liquid, or compound that contains at least 0.5% Alcohol by volume and is fit for beverage purposes.

Competent Evidence – Legally admissible evidence that tends to prove a particular allegation. In DUI/DWI enforcement, Competent Evidence can include a member's observations of illegal, unsafe, or unusual operation of a vehicle. Signs of intoxication, impairment in a driver's speech, physical appearance, and results of standardized field sobriety tests are considered Competent Evidence of DUI/DWI as well.

Drug Recognition Expert (DRE) – A law enforcement member with specialized training who has been nationally certified to recognize impairment in drivers under the influence of drugs other than, or in addition to, Alcohol, and to identify the category or categories of drug(s) causing the impairment.

Implied Consent – Any person who drives or attempts to drive a motor vehicle, including a commercial vehicle, on a highway or on any private property used by the public in general, is deemed to have consented to take, as appropriate, either a test of breath or blood when a member has reasonable grounds to believe the person is impaired by Alcohol; is so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and Alcohol that the person could not drive a vehicle safely; is impaired by a controlled dangerous substance (CDS), is in violation of an Alcohol restriction, or is in physical control of a commercial motor vehicle while the individual has any Alcohol in their blood or breath.

NOTE: A person may not be compelled to take either test for Alcohol concentration, except if the member obtains a search warrant or in a case where the person is involved in a collision that results in the death of, or life-threatening injury to, another person.

Per Se – A legal phrase meaning an act is inherently illegal. As applied to DUI/DWI enforcement, “Per Se” refers to occasions where certified testing of a sample of a person’s blood or breath reveals an Alcohol concentration greater than or equal to that specifically stated in the law.

Standardized Field Sobriety Tests (SFST) – A set of three tests administered to a person by a law enforcement member and evaluated in a standardized manner so as to obtain validated indicators of impairment and assist in establishing probable cause for arrest. The three tests are: Horizontal Gaze Nystagmus (HGN); Walk-and-Turn (WAT), and; One-Leg Stand (OLS).

Vessel – Every description of watercraft, including an ice boat but not including a seaplane, that is used or capable of being used as a means of transportation on water or ice.

DIRECTIVES

Member

1. The stopping of any vehicle or Vessel by a BPD member is considered a vehicle stop, which is a seizure under the Fourth Amendment and therefore it is subject to constitutional limitations:
 - 1.1. Members shall stop any vehicle or Vessel only for a reasonable period of time necessary for the member to complete the necessary license, vehicle registration, insurance, and warrant checks; issue a citation, if warranted; and, if the member has RAS of a DUI or DWI, or another traffic or criminal violation, may investigate to either establish probable cause or dispel the suspicion of the violation(s)."
 - 1.2. All members shall follow the directives in [Policy 1112, Field Interviews, Investigative Stops & Weapons Pat-Downs](#) regarding directives and mandatory documentation for vehicle stops.

NOTE: As with any stop, the member must activate their body-worn camera (BWC) in accordance with [Policy 824, Body-Worn Camera](#).

2. Upon observing a driver whose behavior indicates that they are impaired or under the influence of Alcohol and/or CDS and/or other drugs, the member shall develop the necessary probable cause prior to placing a person under arrest for any DUI/DWI violation. Probable cause requires facts and circumstances both that the person is operating the vehicle, or attempting to operate

the vehicle, and that they are under the influence of Alcohol, CDS, and/or other drugs. Elements contributing to probable cause for DUI/DWI can include:

- 2.1. Observations that a vehicle is being operated in an unusual or illegal manner, such as excessive speed, driving too slowly, swerving, striking a fixed object, or making sudden starts and stops.
- 2.2. Signs or physical indicators that the operator of a vehicle is impaired by, or under the influence of, Alcohol, drugs and/or CDS, such as stumbling, slurring, odor of Alcohol, flushed face, blood shot eyes, among others.
- 2.3. Evidence observed within a vehicle such as open Alcoholic Beverage containers or CDS.
- 2.4. The results of a properly administered Standard Field Sobriety Test (SFST).
- 2.5. Preliminary Breath Testing (PBT)
- 2.6. Blood test, if necessary

NOTE: Members should consider all of the factors in assessing whether probable cause exists for a DUI/DWI, as a single element may not be sufficient to establish probable cause.

NOTE: The signs of Alcohol impairment are often similar to the symptoms of a health condition. The member should assess whether the person may have a health condition, or a negative reaction to prescription medication that warrants medical attention.

3. When sufficient probable cause exists that the driver was operating a vehicle while under the influence, the member shall place the driver under arrest and note the time at which the arrest is made for use in determining breath or blood test time limits.
 - 3.1. A breath Alcohol test must be administered within two hours of the time the driver is arrested.
 - 3.2. A blood sample taken when only impairment by Alcohol is suspected must be taken within two hours of the time the driver is arrested.

NOTE: Prior to attempting to obtain a blood Alcohol test, the member may contact the Accident Investigation Unit for guidance.

- 3.3. A blood sample taken when impairment by drugs or CDS is suspected must be collected from the driver within four hours of the time the driver is arrested. This blood sample may only be ordered by a certified DRE.
4. The member shall send MSP Form 034 (Appendix G) and Blood Test Kits to the Chemical Test Alcohol Unit, Maryland State Police. Retain "Arresting Officer" copy for the case folder and attach a legible image of the form to the Incident Report.
5. Member shall always prioritize medical treatment over investigative efforts.
 - 5.1. If a member is assigned to handle a traffic crash or other traffic related call for service and in so doing makes observations that lead them to suspect an involved driver is under the

influence of, or impaired by, Alcohol, CDS, and/or other drugs, the member's DUI/DWI enforcement efforts shall not interfere with the prompt rendering of medical aid.

- 5.1.1. If the involved driver is transported to a hospital, a breath Alcohol test may no longer be administered. Only a blood test may be administered, regardless of whether or not the driver is admitted to the hospital.
 - 5.2. If the driver indicates or the member otherwise has reason to believe that the driver has a health condition, including a possible adverse reaction to prescription medication, impacting their impairment, the member shall seek immediate medical attention for the driver.
 6. The member shall obtain a central complaint number from the police dispatcher and complete an Incident Report, including the DUI Form, and any other required reporting. Upload and attach to the Incident Report legible images of any paper forms.
 7. In accordance with [Policy 902, Towing Procedures](#), the member shall arrange for the release of, or impounding of, the driver's vehicle.
 8. The member shall determine if the driver has a valid license and any open arrest warrants.
 - 8.1. If the driver's privilege to drive is not valid (e.g., they have a State soundex number identification only), or is suspended or revoked, the member shall note this information and refer to it later when completing Form DR-15A, *Member's Certification and Order of Suspension* (See Appendix C).
 9. The member shall transport, in accordance with [Policy 1114, Persons in Police Custody](#), the driver to a location that has been designated as the site where a breath Alcohol test will be administered.
- NOTE:** In general, this will be the first floor of the BPD Headquarters in the Intoximeter/DRE Office.
- 9.1. If the testing equipment at headquarters is unavailable, or if no Crime Laboratory Technician or certified breath test operator can be located within the necessary timeframe to administer the test, the member shall consult with a permanent-rank supervisor as to transporting the driver to another police agency's station, precinct, or barrack, for use of that agency's testing equipment.
 10. Upon arrival at the testing site, the member shall read Form DR-15, *Advice of Rights* (See [Appendix B](#)) to the driver in its entirety, word-for-word, without skipping or shortening any sections.
 - 10.1. If after Form DR-15 has been read to the driver, the driver chooses to consult with an attorney prior to consenting to the breath Alcohol test or DRE examination, member shall allow the driver to consult with an attorney.
 - 10.1.1. This consultation can include an in-person meeting at the testing site with the attorney, and the attorney can actually administer an informal breath test to the driver with a device such as a Preliminary Breath Test (PBT).
 - 10.1.2. Regardless of how the driver/attorney consultation occurs, it cannot interfere with the two-hour time limit. If the time limit expires due to the driver's request to

consult with an attorney, or if the consultation itself continues long enough for the time limit to expire, either of these circumstances is considered a refusal.

11. The member shall complete the *Officer's Observation Report*, Form 94/54 (See [Appendix F](#)).
12. If the driver consents to the breath Alcohol test, the member shall have the driver sign where necessary on Form DR-15. The member will then contact the police dispatcher on the city-wide channel and request a certified breath test operator to respond and administer the breath test.

Preliminary Breath Testing (PBT)

13. Drivers detained for suspicion of an impaired driving offense may be requested to submit to a PBT based on the results of the SFSTs.
14. When used during the investigation of a suspected impaired-driving offense, members should offer the PBT only after the administration of SFSTs and prior to arrest.
15. Prior to administering a PBT, members shall advise the suspect of their rights using a Preliminary Breath Test Advisement of Rights (Form 102).
16. Whether or not the suspect submitted to a PBT, or an arrest was made, the member shall record the results in the PBT Log (Form 104).
17. Members are not required to allow the suspect to consult with an attorney prior to submitting to, or refusing, a PBT.
18. PBT results will only be used by the member as a guide when developing probable cause to support the DUI charges prior to arrest. It does not replace other methods of developing probable cause for the arrest.
19. A driver placed under arrest will not be given the result of their PBT until they either submit to or refuse an evidentiary breath test or the two-hour limit for an evidentiary test has passed.
20. PBTs will only be administered by members who are certified by the Chief Toxicologist, Maryland State Police.
21. All PBTs shall be issued by the Breath Testing Supervisor of the Baltimore Police Department and shall be registered with the Maryland State Police, Chemical Test for Alcohol Unit.
22. Members shall check the accuracy of their assigned PBT during each calendar month and record the results in the PBT Log (Form 104); defective PBTs will be returned to the Breath Testing Supervisor for repair or replacement.
23. Only PBTs that have undergone monthly accuracy checks will be used. Members who fail to conduct monthly accuracy checks will be required to return the PBT to the Breath Testing Supervisor.
24. Any loss of, or damage to, the member's PBT must be immediately reported to the Breath Testing Supervisor.

25. A copy of the member's Form 104 must be forwarded to the Breath Testing Supervisor by the last day of each calendar month, regardless of whether the PBT was used during that calendar month.
26. Members may also use PBTs in other appropriate circumstances (e.g., to determine if a passenger may be permitted to drive a vehicle after the original operator has been arrested).
27. Members shall include PBT results in the Incident Report, and the "Reasonable Grounds" section of MVA form DR-15A.

Refusal to Consent to Breath/Blood Test

28. If the driver refuses to consent to the breath Alcohol test, or if the driver appears unable to understand Form DR-15 due to their suspected level of intoxication/impairment and therefore cannot give a clear answer, the member shall:
 - 28.1. Consider either case to be a refusal.
 - 28.2. Attempt to have the driver sign where necessary on Form DR-15. If the driver refuses to sign, or if they are unable to sign, the member shall mark the form accordingly.
 - 28.3. Confiscate the driver's Maryland Driver's License if it is in their possession.

NOTE: Members may only confiscate a Maryland Driver's License. A driver's license issued by any other state, territory, etc., may not be confiscated.

- 28.4. Complete Form DR-15A, *Officer's Certification and Order of Suspension*.
 - 28.4.1. If the driver does not have their Maryland Driver's License at the time of arrest, the member shall ensure that the sections entitled "Surrender of Driver's License" and "Driver's Certified Statement" on Form DR-15A are completed properly.
- 28.5. Record the "Control Number" printed at the top-right of the Form DR-15A on the appropriate line at the bottom-right of the Form DR-15.
- 28.6. Attempt to have the driver sign where necessary on Form DR-15A. Use the following items to determine whether or not the driver will be issued a Temporary Driver's License:
 - 28.6.1. If the driver is willing to sign Form DR-15A as directed, and the member has verified that the driver has a valid driver's license, both the member and the driver must sign where indicated under the section entitled Temporary Driver's License on Form DR-15A.
 - 28.6.2. If the driver refuses to sign Form DR-15A, and they have a valid driver's license, the member shall sign the form and provide the driver with the "Driver" copy. The driver is permitted to sign the form at a later time.
 - 28.6.3. If the member has determined that the driver does not have a valid driver's license or the license is suspended and/or revoked, the member shall not issue a Temporary Driver's License to the driver.

28.6.3.1. If the member does not authorize the issuing of a Temporary Driver's License to the driver, the member shall write "Not Authorized" on the lines reserved for the "SIGNATURE OF DRIVER (if Temp. Authorized)" and for the "SIGNATURE OF OFFICER (if Temp. Authorized)", (see Form DR-15A, [Appendix C](#)).

29. The member shall distribute copies of the various forms as follows:
- 29.1. Give the driver the "Driver" copy of both Form DR-15 and Form DR-15A. If the driver meets the criteria described, the "Driver" copy of Form DR-15A will serve as their Temporary Driver's License.
 - 29.2. Save a legible copy of Form DR-15, *Advice of Rights*, for the case folder by attaching a legible image of it to the Incident Report. Multiple images may be necessary for legibility.
 - 29.3. Place the following documents in the DWI REFUSAL tray at the testing site:
 - 28.3.1. White copy of Form 94/54, *Officer's Observation Report*;
 - 28.3.2. Officer copy of Form DR-15, *Advice of Rights*; and
 - 28.3.3. Law Enforcement copy of Form DR-15A, *Officer's Certification and Order of Suspension*.
 - 29.4. Place the following documents into the postage-paid envelope attached to the back of the Form DR-15A packet:
 - 28.4.1. The driver's Maryland Driver's License, if one was confiscated;
 - 28.4.2. The MVA copy of Form DR-15, *Advice of Rights*; and
 - 28.4.3. The MVA copy of Form DR-15A, *Officer's Certification and Order of Suspension*.
 - 29.5. Immediately following the completion of the DUI/DWI process, deposit this envelope in any United States Postal Service mailbox.
30. In accordance with [Policy 906, Traffic Citations](#), the member shall issue all appropriate citations, mark all related citations (both incarcerable and non-incarcerable) as "Must Appear" and link or "loop" the citations by giving the related citation number in the relevant box. For handwritten citations, either have the driver sign each one, or mark the bottom of each as "Defendant Arrested" or "REFUSED" as appropriate. Indicate in the Incident Report what citations were issued.
31. The member shall consider the following elements when evaluating what charge(s) will apply:
- 31.1. Did the violation involve only Alcohol?

NOTE: If the driver refused to submit to a breath/blood test, Maryland Transportation Article §21-902, "Driving/Attempting to drive vehicle while under the influence of Alcohol Per Se," (See [Appendix A](#)) cannot be charged. This "Per Se" violation requires the driver submit to an Alcohol concentration test and the test produce a result of 0.08 or higher.

- 31.2. Did the violation involve any drug (including CDS), any combination of drugs, or a combination of one or more drugs and Alcohol?
- 31.3. Was the driver transporting a minor at the time of the violation?

Withdrawn Refusal to Consent to Breath/Blood Test

32. A driver who initially refuses to consent to a breath Alcohol or blood test may withdraw that refusal.
33. The member shall provide a driver who withdraws their initial refusal with an opportunity to submit to a breath Alcohol or blood test, if the withdrawal of the initial refusal meets all of the following criteria:
- 33.1. The withdrawal is unequivocal and is made by the driver alone;
- 33.2. The withdrawal is not made at the insistence of, or upon the advice of, any BPD member;
- 33.3. The withdrawal is made while the driver is still in the custody of the member, but not at a time where operational priorities of the BPD will be unreasonably impacted (e.g., DUI/DWI driver attempts to withdraw their initial refusal upon arrival at the Central Booking and Intake Facility (CBIF));
- 33.4. The withdrawal does not interfere with the timely and functional administration of any test. Factors that define timely and functional can include:
- 33.4.1. Whether a certified breath test operator is still available to administer the test;
- 33.4.2. Whether the testing equipment is available;
- 33.4.3. Whether the delay between the driver's initial refusal and subsequent withdrawal of that refusal has, or will, interfere with the administration of any test to another DUI/DWI suspect; and
- 33.4.4. Whether or not the delay between the driver's initial refusal and subsequent withdrawal of that refusal has, or will, unreasonably interfere with other duties and assignments of the member or the certified breath test operator who must administer any test.
34. DUI/DWI suspects may not withdraw their initial refusal if so much time has elapsed since they were taken into custody that:
- 34.1. Any required testing or evaluation cannot be completed within two hours for a breath test and four hours for a blood test, and/or
- 34.2. Any required breath and/or blood samples cannot be collected within the time limits established by law.
- 34.3. The member should consult with a certified breath test operator in any case where there is a question of sufficient time remaining to honor a driver's withdrawal of their initial refusal.

35. If a driver withdraws their initial refusal after Form DR-15 was marked as "REFUSED," and it is possible to administer the appropriate tests, the member shall:
- 35.1. Draw one single line through the refusal blocks on the form;
 - 35.2. Check the appropriate block to indicate the driver has consented to the testing; and
 - 35.3. Write the member's initials next to the changed portions on the corrected form.

Breath Alcohol Test Result is 0.08 or Higher

36. If a driver consents to a breath Alcohol test which reveals a blood Alcohol content of 0.08 or more, the member shall:
- 36.1. Ensure the certified breath test operator who administered the test:
 - 36.1.1. Completes the entire section entitled Certification of Test Technician or Analyst on Form DR-15A, to include the operator's signature,
 - 36.1.2. Completes the operator's portions of MSP Form 33, *Notification to Defendant of Result of Test for Alcohol Concentration* (See [Appendix D](#)).
 - 36.1.3. Records the central complaint number at the top-right of MSP Form 33.
 - 36.2. Complete the remainder of Form DR-15A, and:
 - 36.2.1. Confiscate the driver's license, if they have one in their possession and it is a license issued by the State of Maryland.
 - 36.2.2. Determine whether or not the driver is eligible for a Temporary Driver's License. If a driver does not have a valid license, or their license is suspended/revoked, they are not eligible for a Temporary Driver's License.
 - 36.2.3. If the driver is eligible for a Temporary Driver's License, the member shall:
 - 36.2.3.1. Have the driver sign the appropriate line on Form DR-15A under the section entitled Temporary Driver's License.
 - 36.2.3.2. Provide the driver the "Driver" copy of the form and explain that it will serve as their Temporary Driver's License.
 - 36.2.3.3. If the driver refuses to sign, still issue the "Driver's" copy as the driver is permitted to sign it at a later time.
 - 36.2.4. Copy the "Control Number" printed on the top-right of Form DR-15A onto the appropriate line at the bottom-right of Form DR-15.
 - 36.3. The member shall issue the following traffic citations:

- 36.3.1. If applicable, any citation for any violation that may have provided an original justification for stopping the driver.
- 36.3.2. The following DUI/DWI citations per §21-902 (See [Appendix A](#)):
 - 36.3.2.1. Driving/Attempting to drive vehicle while under the influence of Alcohol.
 - 36.3.2.2. Driving/Attempting to drive vehicle while under the influence of Alcohol Per Se.
 - 36.3.2.3. Driving/Attempting to drive vehicle while impaired by Alcohol.
- 36.3.3. If the driver is under the age of 21 years, also issue a citation for driving a vehicle in violation of restricted license requirement per §16-113.
- 36.3.4. Any other related citations from §21-902 and §16-113 of the Maryland Transportation Article that might apply.
- 36.4. The member shall record the number of the primary citation on both Form DR-15A and MSP Form 33.
- 36.5. The member shall place the following documents into the postage-paid envelope attached to the back of the Form DR-15A packet:
 - 35.1. MVA copy of Form DR-15.
 - 35.2. MVA copy of Form DR-15A.
 - 35.3. MVA copy of MSP Form 33.
 - 35.4. If applicable, any confiscated Maryland Driver's License.
- 36.6. Immediately following the completion of the DUI/DWI process, the member shall deposit this envelope in any United States Postal Service mailbox.
- 36.7. The member shall make or retain copies of all DUI/DWI-related forms, test results, etc., for the case folder by attaching legible images to the Incident Report. Release to the operator of the testing equipment any copies that they request.
- 36.8. The member shall transport the driver to the CBIF for booking, or follow the procedures outlined in the section of this policy, entitled Discretionary Release of DUI/DWI Violators.

Breath Alcohol Test Result is 0.07

37. If a driver consents to a breath Alcohol test which reveals a blood Alcohol content of 0.07:
 - 37.1. Form DR-15A, *Officer's Certification and Order of Suspension*, is not needed.
 - 37.2. On the bottom-right of Form DR-15, the member shall write "N/A" on the line entitled "DR-15A Control #."

- 37.3. If the driver holds a Maryland Driver's License, that license is not subject to a DUI/DWI-related confiscation.
- 37.4. The member shall ensure the certified breath test operator who administered the test:
- 37.4.1. Completes their portions of MSP Form 33, Notification to Defendant of Result of Test for Alcohol Concentration.
- 37.4.2. Records the central complaint number at the top-right of MSP Form 33.
- 37.5. The member shall make or retain copies of all DUI/DWI-related forms, test results, etc., for the case folder by uploading and attaching legible images to the Incident Report. Release to the operator of the testing equipment any copies that they request.
- 37.6. The member shall issue the following traffic citations:
- 37.6.1. If applicable, any citation for any violation that may have provided an original justification for stopping the driver.
- 37.6.2. The following DUI/DWI citations per §21-902 (See [Appendix A](#)):
- 37.6.2.1. Driving/Attempting to drive vehicle while under the influence of Alcohol.
- 37.6.2.2. Driving/Attempting to drive vehicle while impaired by Alcohol.
- 37.6.3. If the driver is under the age of 21 years also issue a citation for driving a vehicle in violation of restricted license requirement per §16-113:
- 37.6.4. Any other related citations from §21-902 or §16-113 of the Maryland Transportation Article that may apply.
- 37.7. The member shall record the number of the primary citation on MSP Form 33.
- 37.8. The member shall transport the driver to CBIF for booking, or follow the procedures outlined in the section of this policy entitled Discretionary Release of DUI/DWI Violators.

Breath Alcohol Test Result is Under 0.07

38. If a driver consents to a breath Alcohol test which reveals a blood Alcohol content of less than 0.07, there are two potential courses of action that a member may take depending on:
- 38.1. If the driver's breath Alcohol test reveals a blood Alcohol content between 0.02 and 0.06, and the member believes Alcohol is the only cause of the driver's impairment (i.e., the driver is displaying signs of impairment solely due to having consumed ONLY Alcoholic Beverages and NOT prescription drugs, CDS, etc. – for example, has blood shot eyes, slurred speech, or is unable to stay awake):
- 38.1.1. The member may still charge the driver with DUI/DWI violations:

- 38.1.2. The member should consider other Competent Evidence in determining whether the driver was impaired or under the influence of Alcohol. Other Competent Evidence will include, but is not limited to:
- 38.1.2.1. Observations made during administration of SFSTs;
 - 38.1.2.2. Physical evidence observed at the scene; and
 - 38.1.2.3. Information recorded by the member on the Officer's Observation Report.
- 38.1.3. The member's ability to articulate this Competent Evidence both in a Statement of Probable Cause and when testifying in court will be vital to their case.
- 38.1.4. The member should issue citations for any DUI/DWI violations and other violations that may be appropriate based on observations and Competent Evidence.

NOTE: The member should err on the side of not charging in these cases, and require some particularized facts that, given the low blood Alcohol level, to support the decision to arrest (such as public safety or observation of dangerous behaviors).

- 38.2. If the driver's breath Alcohol test reveals a blood Alcohol content between 0.00 and 0.06, and the member believes the driver is under the influence of CDS or other drugs:
- 38.2.1. The member shall request a DRE via the Shift Commander, Communications Section as soon as possible;
 - 38.2.2. A DRE must be able to perform their evaluation of the driver and obtain a blood sample within four hours of the time the driver was taken into custody;
 - 38.2.3. If a BPD DRE is not available:
 - 38.2.3.1. The Shift Commander, Communications Section, will attempt to locate an on-duty DRE in another jurisdiction; and
 - 38.2.3.2. If a DRE is located in another jurisdiction, but they cannot respond to the member's location, the member is required to transport the driver to the out-of-jurisdiction location for the DRE evaluation and blood work.

NOTE: An arrest cannot be made unless a DRE makes the determination of impairment based on probable cause, unless the member can articulate clear signs of intoxication and physical evidence to support the indication of substance use (e.g., presence of a pill bottle, needle, etc.).

- 38.2.4. The member is responsible for all non-DRE examination related paperwork.
- 38.2.5. The member should issue any appropriate citations.

NOTE: The members shall consider possible health conditions and comply with [Policy 1114, Persons in Police Custody](#), and [Policy 1105, Custodial Interrogations](#), when attempting to take statements.

Special Circumstance – Breath Alcohol Test Result is 0.27 or Higher

39. If a driver consents to a breath Alcohol test which reveals a blood Alcohol content of 0.27 or higher, the member shall:
- 39.1. Obtain one extra set of test result print-outs from the certified breath test operator who administered the test;
 - 39.2. Have the driver transported to the nearest emergency room to be examined for potential Alcohol poisoning;
 - 39.3. Provide the hospital staff with the extra set of test result print-outs from the driver's breath Alcohol test; and
 - 39.4. Complete the remainder of the driver's processing in accordance with the procedures given in the section of this policy entitled Breath Test Result is 0.08 or Higher.

Special Circumstance – Alcohol Restriction on License

40. If a driver consents to a breath Alcohol test which reveals a blood Alcohol content of 0.02 or more and the driver has an Alcohol restriction on their driver's license, the member shall:
- 40.1. Carry out the procedure listed previously in this policy for the driver's breath Alcohol test results;
 - 40.2. In addition, complete MVA Form DR-103, Certification of Police Officer Violation of Alcohol Restriction;
 - 40.3. Issue citations for any applicable DUI/DWI violations;
 - 40.4. Issue any citations from §16-113 of the Maryland Transportation Article that may apply, including, but not limited to:
 - 40.4.1. Driving a vehicle in violation of any license restriction, which includes the Alcohol restriction that all Maryland drivers under the age of 21 will have on their licenses.
 - 40.4.2. Driving or attempting to drive a vehicle in violation of a court order prohibiting a driver from driving or attempting to drive with any Alcohol in their blood. A driver with multiple previous DUI/DWI convictions, an Ignition Interlock Device, etc., might have this restriction.

Discretionary Release of DUI/DWI Violators

41. Under most circumstances, members may release a driver upon issuance of the appropriate citations. Citation and release is encouraged in situations where there was no bodily injury or death and there is no ongoing risk to public safety. In exercising discretion as to releasing a driver with citations only, or processing them through CBIF, members must consider the best interests of public safety. Every person has a different tolerance for Alcohol consumption, so it is imperative that members give full consideration to the driver's current mental and physical state prior to any decision to release the driver. If there is any doubt as to the advisability of releasing a particular driver, the driver shall not be released.

NOTE: Youth DUI/DWI drivers, those under the 18 years of age, are never eligible for discretionary release. They must receive medical attention before being processed through the Baltimore City Juvenile Justice Center (BCJJC) or released to their parent or guardian.

42. The member may release an adult DUI/DWI driver when all of the following criteria have been met:
 - 42.1. The identity of the driver is clearly established;
 - 42.2. The driver is mentally and physically suitable for release to a responsible and sober person;
 - 42.3. The driver has a responsible and sober adult able to respond in a timely manner to retrieve the driver;
 - 42.4. Both the driver and the responsible parties are to be specifically cautioned against returning to the vehicle and allowing the driver to drive within 12 hours after the arrest.
 - 42.5. The driver has not been convicted of or had a PBJ for DUI/DWI in the past 5 years: and
 - 42.6. The driver did not flee or elude police by foot or vehicle.
43. The member shall complete *Discretionary Release of DWI/DUI Violators*, Form 450 (See [Appendix E](#)), in addition to any citations/reporting related to the incident, and:
 - 43.1. Provide the driver with copy number one.
 - 43.2. Submit copy number two to your supervisor with all related BPD reporting by attaching a legible image to the Incident Report.

Commercial Vehicle Driver

44. All members shall process the operator of a commercial vehicle in the same manner as any adult person operating or attempting to operate a vehicle while under the influence of Alcohol, drug(s) and/or CDS.
45. If the driver submits to a breath Alcohol test and the breath/blood Alcohol content is 0.08 or above, the member shall complete the required paperwork and citations, and check all appropriate blocks relating to Commercial Vehicles and/or Commercial Driver's License (CDL).
46. If the driver submits to a breath Alcohol test and the breath/blood Alcohol content is 0.07, the member and the Crime Laboratory Technician or certified breath test operator shall complete MVA Form DR-102, Certification of Police Officer Alcohol Test Result of 0.04 to 0.09 Commercial Motor Vehicle. The member might issue the following citations:
 - 46.1. Driving/Attempting to drive vehicle while under the influence of Alcohol.
 - 46.2. Driving/Attempting to drive vehicle while impaired by Alcohol.
47. If the driver submits to a chemical test and the breath/blood Alcohol content is between 0.04 and 0.07, the member and the Crime Laboratory Technician or certified breath test operator shall

complete MVA Form DR-102. The member shall issue the following citation:

- 47.1. Individual, driving operating, or in physical control of commercial vehicle with any Alcohol concentration in blood or breath per § 16-813.

Operator of Vessel

48. Per the Maryland Natural Resource Articles § 8-738, this section applies to the following:
 - 48.1. A Vessel required to be registered with the Maryland Department of Natural Resources under this subtitle;
 - 48.2. A Vessel required to have a valid number awarded in accordance with a federal law or a federally approved numbering system of another state; and
 - 48.3. A Vessel from a foreign country using the waters of Maryland.
49. All members shall use the same arrest procedures for the operator of a Vessel who is found to be under the influence of, or impaired by, Alcohol, drugs or CDS, as that of an operator driving or attempting to drive a vehicle under the influence of, or impaired by, Alcohol, drugs or controlled dangerous substances, with the following exceptions:
 - 49.1. The defendant shall be given the opportunity to take the SFST on land after being given the opportunity to become reoriented to land in a timely manner.

NOTE: This exception cannot interfere with the two-hour time limit to administer the breath Alcohol test.

50. The member shall transport the defendant to the designated testing site to complete all paperwork. All citations shall be on Maryland Department of Natural Resources police standard forms and citations, when applicable.
 - 50.1. The Vessel will be properly secured and released to the owner or other sober and responsible adult per current established procedures of the Special Operations Section.
 - 50.2. As there is no requirement to possess a Maryland driver's license to operate a Vessel, the DR-15A will not be completed in any circumstance. No driver's license will be confiscated for charges of operating a Vessel under the influence/while impaired.
51. The member shall contact the Special Operations Section for assistance when necessary.

REQUIRED ACTIONS

Documentation

52. Members shall complete an Incident Report, including the DUI Form and indicating any citations issued.

53. Members shall complete all required forms, and attach legible images of any paper forms, citations, and the confiscated driver's license, if applicable, to the Incident Report. Multiple images of the same form may be needed to ensure legibility.

First-Line Supervisor

54. Supervisors shall ensure all reports and forms are accurately completed.
55. Supervisors shall ensure all procedures are followed before youth are released to parent or guardian.

Commanding Officer, Traffic Unit

56. Commanding Officers shall appoint with the approval of the Commanding Officer, Special Operations/Support Services Section, a DRE Coordinator and a Sobriety Checkpoint Coordinator for the BPD.
57. The DRE Coordinator and Sobriety Checkpoint Coordinator shall be responsible for regular communications with the Traffic Unit Commander to receive directions and provide updates on their respective programs. Failure to do so will result in revocation of their coordinator status.
58. The DRE Coordinator shall be responsible for:
- 58.1. Recruitment, training, scheduling and certification of all BPD DRE's and their equipment; and
 - 58.2. Recruitment, training, and certification of all departmental SFST and records.
59. The Sobriety Checkpoint Coordinator shall:
- 59.1. Approve and ensure that Sobriety Checkpoint operations are conducted in a lawful manner; and
 - 59.2. Provide a Standard Operating Procedure for members participating in Sobriety Checkpoint operations.

Breath Test Supervisor or Designee

60. When results of a blood Alcohol test are received from the Chemical Test Alcohol Unit, the Supervisor shall forward a copy to the arresting/charging member.
61. The Supervisor shall ensure an adequate supply of Forms DR-15 and DR-15A, and any other required forms, are kept at the testing site in a secure location for accountability.
62. The Supervisor shall ensure Form 54, the "Law Enforcement" Copy of the DR-15A, and the Officer's Copy of the DR-15 are collected from the member.

Certified Breath Test Operator

63. The Operator shall, upon request, respond to the testing site and administer the breath Alcohol test with the arresting/charging member present.
64. If the subject's breath Alcohol test results are .27 or higher, the Operator shall print out an additional copy of the breath Alcohol test results for the arresting member to be presented to medical personnel.
65. The Operator shall ensure all forms are completed and signed by the driver and assist the arresting/charging member with any paperwork or forms pertaining to test results or refusals to take the tests.

APPENDICES

- A. Primary DUI/DWI Violations: Maryland Transportation Articles
- B. Advice of Rights, Form DR-15
- C. Officer's Certification and Order of Suspension, Form DR-15A
- D. State of Maryland - Notification to Defendant of Result of Test for Alcohol Concentration, MSP Form 33
- E. Discretionary Release of DWI/DUI Violators, Form 450
- F. Officer's Observation Report, Form 94/54
- G. Department of State Police, Chemical Test for Alcohol Unit, MSP Form 034
- H. DUI/DWI Arrest Procedures Flowchart

ASSOCIATED POLICIES

[Policy 902, Towing Procedures](#)

[Policy 905, Traffic Crash Investigation and Reporting](#)

[Policy 906, Traffic Citations](#)

[Policy 1105, Custodial Interrogations](#)

[Policy 1112, Field Interviews, Investigative Stops, & Weapons Pat-Downs](#)

[Policy 1114, Persons in Police Custody](#)

RESCISSION

Rescind Policy 1108, *DUI/DWI Arrest Procedures*, dated 9 February 2021.

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.

APPENDIX A

Primary DUI/DWI Violations: Maryland Transportation Articles;

- §21-902(a)(1)(i) Driving or Attempting to Drive Vehicle While Under the Influence of Alcohol.
- §21-902(a)(1)(ii) Driving or Attempting to Drive Vehicle While Under the Influence of Alcohol Per Se - Driving or attempting to drive any vehicle with a breath or blood Alcohol concentration of 0.08 or more, as measured by grams of Alcohol per 210 liters of breath or grams of Alcohol per 100 milliliters of blood.
- §21-902(a)(2)(i) Violating either subsection of §21-902(a)(1) while transporting a minor
- §21-902(b)(1)(i) Driving or Attempting to Drive Vehicle While Impaired by Alcohol - Driving or attempting to drive a vehicle with a breath or blood Alcohol concentration equal to 0.07, as measured by either grams of Alcohol per 210 liters of breath or grams of Alcohol per 100 milliliters of blood.
- §21-902(b)(2)(i) Violating §21-902(b)(1) while transporting a minor
- §21-902(c)(1)(i) Driving or Attempting to Drive Vehicle While Impaired by Drug(s) or Drug(s) and Alcohol - Driving or attempting to drive any vehicle while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely
- §21-902(c)(2)(i) Violating §21-902(c)(1) while transporting a minor
- §21-902(d)(1)(i) Driving or Attempting to drive vehicle while impaired by a controlled dangerous substance (CDS).
- §21-902(d)(2)(i) Violating §21-902(d)(1) while transporting a minor
- §16-113(h) Driving Vehicle in Violation of Restricted License Requirement - Driving a vehicle in violation of a license restriction. For example, a Maryland license that bears the restriction code "J" prohibits the holder of that license from driving a vehicle with a blood Alcohol concentration of 0.02 or higher.
- §16-113(j) Driving or Attempting to Drive Vehicle With Alcohol in Blood in Violation of Restriction- Driving or attempting to drive any vehicle with Alcohol in the blood (as determined by chemical testing) in violation of a court order. For example, a violation of this type would be a motorist who has been ordered by the District Court to operate only a motor vehicle equipped with an ignition interlock system, and is then found to have been driving that vehicle with an Alcohol concentration of 0.02 or greater.

APPENDIX B

Advice of Rights, Form DR-15

ADVICE OF RIGHTS – (Maryland Transportation Article § 16-205.1)

DR-015 (10-16)

You have been stopped or detained and reasonable grounds exist to believe that you have been driving or attempting to drive a motor vehicle under circumstances requiring that you be asked to submit to a test under Maryland Transportation Article §16-205.1. In this situation, the law deems that you have consented to take a test to measure the alcohol concentration or drug or controlled dangerous substance content in your system. You may refuse to submit to the test(s), unless you were in a motor vehicle accident resulting in the death of or life-threatening injury to another person.

Suspension of Your Maryland Driver's License or Driving Privilege:

If you refuse to submit to the test, or if you submit to the test and the result indicates an alcohol concentration of 0.08 or more at the time of testing, your Maryland driver's license shall be confiscated, you will be issued an Order of Suspension and, if eligible, a temporary license valid for 45 days. The following periods of suspension shall be imposed against your license or privilege to drive in Maryland:

- If you refuse to submit to a test, your suspension shall be 270 days for a 1st offense and 2 years for a 2nd or subsequent offense.**
- If your test result is an alcohol concentration of at least 0.08 but less than 0.15, your suspension shall be 180 days. If the offense involves a motor vehicle accident that resulted in the death of another person, your suspension shall be 6 months for a 1st offense and 1 year for a 2nd or subsequent offense.**
- If your test result is an alcohol concentration of 0.08 but less than 0.15, your suspension may be modified or a restricted license may be issued at a hearing.**
- If your test result is an alcohol concentration of 0.15 or more, your suspension shall be 180 days for a 1st offense and 270 days for a 2nd or subsequent offense. If the offense involves a motor vehicle accident that resulted in the death of another person, your suspension shall be 1 year for a 1st offense and for a 2nd or subsequent offense your license shall be revoked.**
- If you refuse a test, or take a test with a result of 0.15 or more, you shall be ineligible for modification of your suspension or the issuance of a restricted license, unless you participate in the Ignition Interlock System Program under Maryland Transportation Article §16-404.1.**

If you hold a commercial driver's license (CDL) and were driving a non-commercial motor vehicle when you were stopped, and you refuse to submit to a test, your CDL or privilege shall be disqualified for 1 year for a 1st offense or for life if your CDL or privilege has been previously disqualified for at least 1 year under Maryland Transportation Article §16-812 (a) or (b), a federal law, or any other state's law.

If you were operating a commercial motor vehicle and your test result indicates an alcohol concentration of 0.04 or more, or if you refuse to submit to a test, your commercial driver's license or privilege shall be disqualified for a period of 1 year for a 1st offense, 3 years for a 1st offense committed while transporting hazardous materials required to be placarded, and disqualified for life if your commercial driver's license has been previously disqualified for at least 1 year and/or you have incurred 2 offenses of Maryland Transportation Article §16-812 (a) or (b), a federal law, or any substantially similar offense(s) under any other state's law.

If you are convicted of a drunk or drugged driving offense under Maryland Transportation Article §21-902, and the judge or jury finds beyond a reasonable doubt that you knowingly refused to take a test of breath arising out of the same circumstances, an additional criminal penalty of not more than \$500 or imprisonment for not more than 2 months, or both, may be imposed under Maryland Transportation Article §27-101 (x).

If you are convicted of a drunk or drugged driving offense under Maryland Transportation Article §21-902 (b) or (c), and the judge or jury finds beyond a reasonable doubt that you knowingly refused to take a test of breath arising out of the same circumstances, the Court shall require you, under Maryland Transportation Article §27-107.1, to participate in the Ignition Interlock System Program for 1 year pursuant to Maryland Transportation Article §16-404.1.

You may request an Administrative Hearing at any time within 30 days of the date of the Order of Suspension to show cause why your driver's license or privilege should not be suspended. You must request a hearing within 10 days of the date of the Order of Suspension to ensure that your privilege to drive is not suspended prior to your hearing. Your request for a hearing must be made in writing. You may use the "Hearing Request" form if available. Send your request to the Office of Administrative Hearings at 11101 Gilroy Rd., Hunt Valley, MD 21031-1301. You must include a check or money order for \$150.00, which is the required filing fee, made payable to the "Maryland State Treasurer." Your request for a hearing will be invalid if submitted without the required \$150.00 filing fee or applicable fee waiver.

Your driver's license or privilege will be suspended on the 46th day after the Order of Suspension if you do not request a hearing within 10 days of the date of the Order of Suspension or, if eligible, you do not elect within 30 days of the Order of Suspension to participate in the Ignition Interlock System Program. In order to receive credit for the suspension, you must surrender your driver's license or certify that you no longer have the license in your possession. If you submit a valid hearing request, a suspension will not be imposed unless a decision is rendered against you, or if you fail to appear for the hearing.

Instead of requesting a hearing or upon the suspension or revocation of your driver's license, you may elect to participate in the Ignition Interlock System Program if the following conditions are met: 1) your driver's license is not currently suspended, revoked, canceled, or refused; and 2) within 30 days of the date of this Order of Suspension you a) elect in writing to participate in the Ignition Interlock System Program for 1 year if your test resulted in an alcohol concentration of 0.15 or more or you refused the test or 6 months if your test resulted in an alcohol concentration of at least 0.08 but less than 0.15; and b) surrender a valid Maryland driver's license or sign a statement certifying that the license is no longer in your possession. An Ignition Interlock Election form is located on the reverse side of the driver's copy of the Order of Suspension.

Certification: I, the Undersigned Police Officer, certify under the penalties of perjury, that I have advised the driver of the above stated rights and sanctions and have provided the driver with the aforementioned advice in: English and Spanish.

Certificación: Yo, el oficial de policía abajo firmante, certifico bajo pena de perjurio que he aconsejado al conductor acerca de sus derechos y sanciones arriba mencionados, y que le he proporcionado la notificación arriba mencionada al conductor en: inglés y español.

Signature of Officer _____ I.D. No. _____ Police Agency _____
Firma del Oficial N.º de Identificación LE Agencia de Policía

Read before Signing: I, the undersigned driver, acknowledge that I have been read or I have read the above stated Advice of Rights as certified by the police officer. I understand that this requested test is in addition to any preliminary tests that were taken.

Leer Antes de Firmar: Yo, el conductor abajo firmante, reconozco que me han leído o he leído la Notificación de Derechos arriba mencionada según lo certifica el oficial de policía. Comprendo que esta prueba solicitada es adicional a cualquier prueba preliminar que se haya realizado.

Having been so advised, do you now agree to submit to a test? (Officer check driver's reply)

Habiendo sido de este modo notificado, está Usted de acuerdo ahora en someterse a la prueba? (Oficial, revise la respuesta del conductor)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Yes - Agree to submit to an alcohol concentration test <i>Sí - Acepta someterse a una prueba de concentración de alcohol en la sangre</i> | <input type="checkbox"/> Yes - Agree to submit to a test for drug or controlled dangerous substance (CDS) <i>Sí - Acepta someterse a una prueba de drogas o sustancias peligrosas controladas (CDS)</i> |
| <input type="checkbox"/> No - Alcohol concentration test, refused <i>No - La prueba de concentración de alcohol en la sangre ha sido rechazada</i> | <input type="checkbox"/> No - Drug or CDS test refused (DRE must complete & submit DRE Certification Form) <i>No - La prueba de drogas o CDS ha sido rechazada</i> |

Signature of Driver _____ Date _____ Time _____ DR-015A Control # _____
Firma del conductor Fecha Hora

APPENDIX C

Officer's Certification and Order of Suspension, Form DR-15A

| | | | | | | | | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------|--|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------------------------------------------|-----------------------------|-------------|-----------------|-------|
| "MVA" COPY | | | | | | | | | | | |
| Officer's Certification and Order of Suspension Please read and complete both sides. DR-15A 10-16 <small>(as provided in § 16-205.1 of the Maryland Vehicle Law)</small> | | | | | | | | | | | |
| (FOR OFFICIAL USE ONLY) | | | | | | | | | | | |
| OCCURRENCE (MONTH/DAY/YEAR/TIME) _____ <input type="checkbox"/> A.M. <input type="checkbox"/> P.M. | | | | | COMMERCIAL LICENSE? <input type="checkbox"/> YES <input type="checkbox"/> NO COMMERCIAL VEHICLE? <input type="checkbox"/> YES <input type="checkbox"/> NO HAZARDOUS MATERIAL? <input type="checkbox"/> YES <input type="checkbox"/> NO | | | CONTROL NUMBER AJ | | | |
| LOCATION (SPECIFY COUNTY OR BALTO. CITY AND ADDRESS): | | | | | | | | | | | |
| DRIVER'S NAME: LAST | | | | | FIRST | | | MIDDLE | | | |
| RESIDENCE STREET ADDRESS | | | | CITY | | STATE | | COUNTY | | ZIP CODE | |
| DRIVER'S LICENSE NUMBER | | | | | STATE | ISSUE DATE | | SP. CODE | RESTRICTION | ENDORSEMENT | |
| LICENSE CLASS | | LICENSE TYPE | | HGT. | WGT. | SEX | RACE | BIRTH MONTH/DAY/YEAR | | VEHICLE TAG NO. | STATE |
| ORDER OF SUSPENSION - ISSUE DATE: (MONTH / DATE / YEAR): _____ | | | | | | | | | | | |
| Pursuant to Transportation Article, Section 16-205.1; of the Maryland Vehicle Law, you are hereby notified that your Maryland Driver's License/Privilege will be suspended effective on the Forty-sixth (46) day from the above "Issue Date" because: | | | | | | | | | | | |
| <input type="checkbox"/> You refused to take a test to determine alcohol concentration when requested by the Police Officer. <input type="checkbox"/> Offense Involved Death Of Another Person <input type="checkbox"/> You submitted to a test indicating an alcohol concentration of at least 0.08 but less than .15 <input type="checkbox"/> You submitted to a test indicating an alcohol concentration of .15 or more <input type="checkbox"/> You refused to take a blood test for drug or controlled dangerous substance content when requested by a Drug Recognition Expert. (See attached Drug Recognition Expert's Certification Form) | | | | | | | | | | | |
| SURRENDER OF DRIVER'S LICENSE | | | | | TEMPORARY LICENSE | | | | | | |
| By law, the officer is required to take your Maryland driver's license and if valid, issue a temporary license to allow you to continue driving 45 days from the above "Issue Date". <input type="checkbox"/> License was confiscated. <input type="checkbox"/> License was not confiscated because: _____ | | | | | The "Driver's Copy" of this entire form, signed by you and the police officer, serves as a Valid Temporary license which expires on the 45th day after issuance of the Order of Suspension or upon completion of a hearing, whichever occurs first. | | | | | | |
| DRIVER'S CERTIFIED STATEMENT | | | | | SIGNATURE OF DRIVER (if Temp. Authorized) _____ | | | | | | |
| I hereby certify under penalty of perjury, that I do not possess a Maryland driver's license to surrender to the police officer and should the license come into my possession I will immediately forward it to the Motor Vehicle Administration. | | | | | SIGNATURE OF OFFICER (if Temp. Authorized) _____ | | | | | | |
| SIGNATURE _____ | | | | | I acknowledge that a temporary license was not authorized. | | | | | | |
| DATE _____ | | | | | SIGNATURE OF DRIVER _____ | | | | | | |
| CERTIFICATION OF POLICE OFFICER | | | | | | | | | | | |
| I, the undersigned officer, had reasonable grounds to believe that the driver described and named above had been driving or attempting to drive a motor vehicle on a highway or on any private property that is used by the public in general in this State while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely while impaired by a controlled dangerous substance, in violation of an alcohol restriction, or in violation of Section 16-813 of the Maryland Vehicle Law. | | | | | | | | | | | |
| REASONABLE GROUNDS: _____ | | | | | | | | | | | |
| Odor Of Alcoholic Beverage on Driver's Breath: <input type="checkbox"/> None <input type="checkbox"/> Faint <input type="checkbox"/> Moderate <input type="checkbox"/> Strong Refer Summons No. _____ | | | | | | | | | | | |
| I certify under penalty of perjury that the contents of the foregoing document are true and correct to the best of my knowledge, information and belief, and after being fully advised of sanctions that shall be imposed as provided in the Advice of Rights Form DR-15, the person described above (1) refused to take a test to determine alcohol concentration when requested by this officer, (2) was tested and the test result indicated an alcohol concentration of 0.08 or more as indicated above, or (3) refused to take a blood test for drug or controlled dangerous substance content when requested by a Drug Recognition Expert. | | | | | | | | | | | |
| OFFICER'S SIGNATURE _____ | | | | | DATE _____ | | OFFICER'S PRINTED NAME _____ | | | | |
| LAW ENFORCEMENT AGENCY _____ | | | | | ID NUMBER _____ | | | | | | |
| ADDRESS _____ | | | | | | | | | | | |
| CERTIFICATION OF TEST TECHNICIAN OR ANALYST | | | | | | | | | | | |
| I do solemnly declare and affirm, under penalty of perjury, and upon personal knowledge that I performed a test for alcohol concentration on the person described above and the test results were 0._____ from the Intox EC/IR. <input type="checkbox"/> Testing procedure was explained. <input type="checkbox"/> Person appeared in good health. <input type="checkbox"/> Refusal - Insufficient Breath. I further certify that the driver refused to take a test when the driver failed to provide sufficient breath samples for analysis. | | | | | | | | | | | |
| EXPLANATION: (Specify instructions issued and behavior of driver): _____ | | | | | | | | | | | |
| SIGNATURE OF TEST TECHNICIAN/ANALYST _____ | | | | | DATE _____ | | PRINTED NAME OF TEST TECHNICIAN/ANALYST _____ | | | | |
| FACILITY NAME AND ADDRESS _____ | | | | | | | | | | | |

APPENDIX E

Discretionary Release of DWI/DUI Violators, Form 450

DUI/DWI Discretionary Release Notice
Form 450/05

BALTIMORE POLICE DEPARTMENT
DUI/DWI DISCRETIONARY RELEASE NOTICE

The citation(s) you have been issued charges you with a crime. Read the instructions on the reverse side of the citation(s) for a full explanation of the procedures to be followed. All persons charged with an alcohol-related traffic offense **MUST APPEAR IN COURT**. Your failure to appear can result in the issuance of a warrant for your arrest. The Maryland District Court will notify you of a trial date.

You have the right to have an attorney. An attorney can be helpful to you for the following reasons:

- A. Explaining the charge(s) in your case.
- B. Telling you of possible penalties.
- C. Assisting you at trial.
- D. Protecting your Constitutional Rights.
- E. Assuring a fair penalty, if convicted.
- F. Even if you plan to enter a guilty plea, an attorney can be helpful.

If you desire to have an attorney, but you do not have the funds to retain one, a Public Defender will provide representation for you. The Public Defender's Office for Baltimore City may be contacted by phone at (410) 333-4900, and/or in-person at their offices located at 1400 E. North Avenue. You must contact the Public Defender's Office at least ten (10) working days before your trial date.

Do not wait until the date of your trial to obtain an attorney. If you do not have an attorney before the trial date, you may have to go to trial without an attorney.

When you have been charged with a DWI or DUI, Maryland State Law prohibits you from driving a motor vehicle for 12 hours from the time of the arrest (T/A 21-902.1.b). Further attempts to operate a vehicle at this time may result in additional charges being placed against you.

YOU WERE ARRESTED AT _____ a.m./p.m. **ON** _____ (DATE).
YOU ARE NOT PERMITTED TO DRIVE A MOTOR VEHICLE UNTIL _____ a.m./p.m. **ON** _____ (DATE).

I, _____,
have read/been advised the above information.

Affixing my signature IS NOT an admission of guilt. I also understand that by signing this form I agree not to drive a motor vehicle until _____ a.m./p.m. on _____ (date).

Defendant's Signature

Name, address and signature of responsible person to whom the defendant was released:

Name Address Signature

Arresting Officer's Name (print) Signature

Sequence Number Date Assignment CC#

Copy #1 - Defendant Copy #2 - Arresting Officer

APPENDIX F

Officer's Observation Report, Form 94-54

Laboratory Division
OFFICER'S OBSERVATION REPORT
Form 94/54
1160-25-48

POLICE DEPARTMENT
BALTIMORE, MARYLAND

CC# _____ *

(Check all that apply)

Driver Accident

Violation Other

A.M.

P.M.

Date and time of Accident or Violation _____

Name _____

Address _____

DOB _____ Age _____ Sex _____ Race _____ Weight _____

Driver's License # _____ State _____ DWI Citation # _____

Location of Offense _____

What first led the officer to suspect alcoholic influence? _____

Unusual actions or statements _____

What time did Officer begin observing the subject to assure that nothing was taken by mouth? _____

OBSERVATION - (Draw circles around words describing observed conditions. Add other words of your own)

| | |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------|
| BREATH | Odor of alcoholic liquor: Strong Moderate Faint Apparently none |
| CLOTHES | Disorderly Disarranged Soiled Mussed Orderly (Describe) |
| ATTITUDE | Sleepy Care-free Talkative Hilarious Excited Polite (Other) Insulting Combative Cocky Antagonistic Indifferent Cooperative |
| UNUSUAL ACTIONS | Fighting Profanity Hiccough Belching Vomiting (Other) |
| WALK | Falling Staggering Stumbling Swaying Fair Sure (Other) |
| SPEECH | Incoherent Confused Stuttering Slurred Fair (Other) |
| EFFECTS OF ALCOHOL | Extreme Obvious Slight Apparently none |

Printed Name of Officer

I.D. No.

Signature of Officer

PRINT IN DUPLICATE

NOTE: USE OTHER SIDE FOR REMARKS.

* NOTE - CC # MANDATORY FOR B.P.D. ARREST

APPENDIX G

Department of State Police, Chemical Test for Alcohol Unit, MSP Form 034

| | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|--------------------------------|-----------------|---------|
| Department of State Police Chemical Test For Alcohol Unit Blood Analysis - Medical Personnel Payment Authorization | | CTAU #: | Local Case #: | |
| ARREST INFORMATION | | | | |
| Department: | | Barrack/Station: | | |
| Suspect Name; | | Date of Arrest: | Time of Arrest: | |
| Date & Time Sample Collected: | | Location of Sample Collection: | | |
| Arresting Officer Name & ID #: | | | | |
| Send Results To: | | | | |
| MEDICAL PERSONNEL PAYMENT AUTHORIZATION | | | | |
| I, the undersigned, obtained this blood sample at the direction of a police officer using equipment approved by the Chief Toxicologist in the Department of State Police Forensic Sciences Division and certify that I am a "Qualified Medical Person" as defined in Section 10-304 of the Article of Courts and Judicial Proceedings. | | | | |
| Signature: | | | | |
| Name of Medical Personnel: | | | | |
| Hospital Name: | | | | |
| LABORATORY USE | | | | |
| Chain of Custody | | | | |
| Received From | By | Date | Time | |
| | | | | |
| | | | | |
| | | | | |
| Condition of Kit & Seals: | | | | |
| Tested By: | Date: | Sample: | Control #: | CTAU #: |

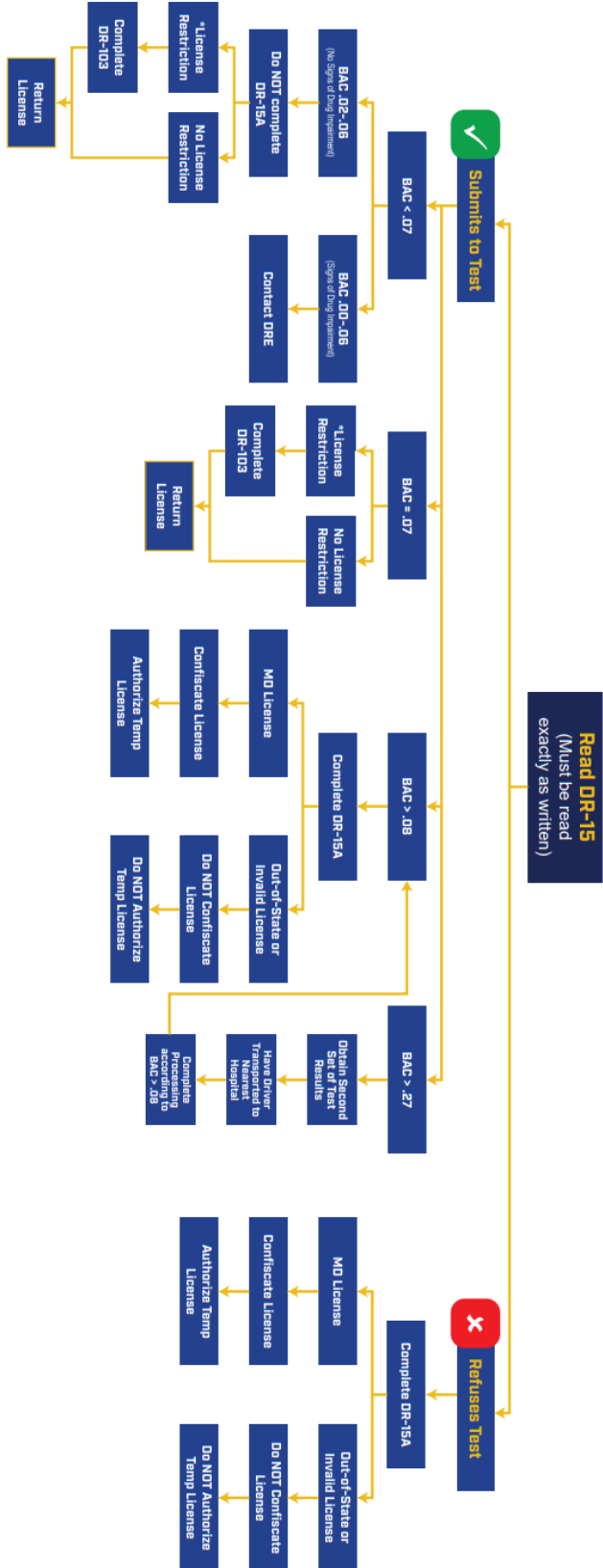
APPENDIX H

DUI/DWI Arrest Procedures Flowchart



POLICY 1108, DUI/DWI ARREST PROCEDURES FLOWCHART

READ THE FULL POLICY: BALTIMOREPOLICE.ORG/POLICIES



- CHARGING**
- §21-902 (a)(1)(i) → .07 BAC and above, or refusal of test
 - §21-902 (a)(1)(ii) → .08 BAC and above, DUI Per Se
 - §21-902 (b)(1)(i) → .02 BAC and above based on Officer's opinion or refusal
 - §21-902 (c)(1)(i) → Driving or attempting to drive vehicle while so far impaired by drugs or alcohol
 - §21-902 (d)(1)(i) → Driving or attempting to drive vehicle while impaired by a controlled dangerous substance (CDS)
 - §16-113 (h) → Driving vehicle in violation of restricted license requirement
 - §16-113 (i) → Driving or attempting to drive motor vehicle with alcohol in blood in violation of restriction
- *If the driver is under 21 years old, they will have an alcohol related license restriction and should be processed accordingly.