

<b>MESA POLICE</b>  Department Policy Manual	<b>DUI – General Guidelines</b>	<b>DPM 2.7.90</b> Effective 06/12/2017 Revised 09/29/2021
Approved by: <b>Chief of Police</b>	Chapter: Traffic Related Incidents	Page: <b>1 of 3</b>

## 1. PURPOSE

This policy provides Mesa Police Department (MPD) members with general guidelines for Driving Under the Influence (DUI) investigations.

## 2. GENERAL

### 2.1 General Guidelines

- A. Persons suspected of DUI – Alcohol are booked and held or cited and released under [ARS 28-1381A1](#), [ARS 28-1381A2](#), or [ARS 28-1381A3](#).
- B. Persons suspected of DUI – Drugs are to be charged via Long Form Complaint under [ARS 28-1381A1](#) and [ARS 28-1381A3](#).
- C. In cases involving accidents, based on probable cause, handle drivers suspected of DUI as if the violation was witnessed.
- D. Stop a driver who appears to be DUI immediately.
- E. Upon arrest, search, secure and advise of Miranda Rights prior to questioning the DUI suspect.

### 2.2 Required Elements

- A. Driving or actual physical control of a motor vehicle.
- B. While under the influence, driving impaired by alcohol, drugs, or toxic vapors.
- C. There is a .08 or more alcohol concentration within two hours of driving or being in actual physical control of a motor vehicle.

### 2.3 Implied Consent

- A. If arrested for DUI, [ARS 28-1381](#) states:
  1. Any person operating a motor vehicle in Arizona gives consent to test or tests of blood, breath, urine or other bodily substance to determine alcohol or drug content.
  2. To conduct a warrantless blood draw, the officer must be able to articulate specific facts that, under the totality of the circumstances, an exigency reasonably exists such that the time it would take to obtain a search warrant would undermine the effectiveness of the testing.
  3. The officer must specifically document their reasoning in the report.
    - a. Example: Probable cause exists for DUI arrest and subject is being taken into surgery.

### 2.4 Multiple Tests

- A. May be required of a suspect to determine the alcohol or drug content of their blood.

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1. The use of a second test will be confined to those situations where there is an obvious disparity between the results of the test and the suspect's condition or appearance.
  - a. Example: The suspect produces an extremely low Intoxilyzer reading, but his/her driving actions, field tests, and physical appearance indicate impairment.

## **2.5 Suspect Phone Use**

- A. Provide DUI suspect with “direct dial” telephone if requested.
- B. Document “direct dial” phone use and time of use in report.

## **2.6 Request for an Attorney**

- A. Before Blood Test:
  1. Transport to MPD Holding Facility or DUI van.
  2. Make every effort to grant request.
  3. Provide private “free” phone room with white and yellow pages.
  4. Give reasonable amount of time without delaying investigation (10-15 minutes).
- B. After Blood Test:
  1. Allow suspect to use private phone room.

## **2.7 Issuing Citations or Using the Long Form Complaint Process**

- A. When determining to issue a citation on written promise to appear (cite and release) on an alcohol related DUI, consider the following:
  1. There are no previous convictions for DUI.
  2. The suspect has not been arrested for DUI within the previous 24-hour period.
  3. Suspect has a responsible person to take them home.
- B. If the DUI is related to drugs, charges will be filed via a Long Form Complaint upon the completion of the confirmed blood drug results from the MPD lab.
- C. Until further notice, upon completing the initial DUI investigation, the case is to be held via the Long Form Complaint process pending return of the blood results from the lab.
  1. All documentation is the same except in the Arrest Module, you will use the “Suspicion of...” charge for both misdemeanor and/or felony DUI.
  2. Upon the return of the lab results, the officer/detective will complete a supplement documenting the results and complete a new Arrest Module with the actual DUI charges listed.
- D. A lieutenant may authorize the release of a DUI suspect on a written promise to appear, even though the above conditions have not been met, when it is in the best interest of the City of Mesa (COM) to do so.

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Approved by: <b>Chief of Police</b>	Chapter: Traffic Related Incidents	Page: <b>3 of 3</b>

- E. A lieutenant may deny the release of a suspect if, in their opinion, it is unsafe to do so.
- F. Refer to [DPM 2.4.10 Cite & Release Protocols](#) for further guidelines.
- G. NOTE: A suspect is considered cooperative if his/her fingerprints and photographs are taken with no resistance. The suspect will not be considered uncooperative if he/she refuses to submit to a blood test or breath test.

## 2.8 Documentation

- A. Officer completing the DUI report completes all related citations.
- B. Officers who witness moving violations and make the initial stop complete a supplemental report.

## 2.9 Vehicle Disposition

- A. If approved by the owner/driver, release the vehicle to a person that is not impaired and is available at the scene.
- B. Otherwise, tow vehicles on DUI arrests.
  - 1. Leave only the ignition key in the vehicle.
  - 2. Give the remaining keys to the suspect.
  - 3. Refer to [DPM 2.7.35 Towing](#) and [DPM 2.7.40 20-Day Impound Tow](#).

## REFERENCES

- [DPM 2.4.10 Cite & Release Protocols](#)
- [DPM 2.7.35 Towing](#)
- [DPM 2.7.40 20-Day Impound Tow](#)
- [DUI Cheat Sheet](#) (PowerDMS)