	<b>DRIVING UNDER THE INFLUENCE INVESTIGATIONS</b>	<b>Operations Order 7.5.04</b>
	<b>PHOENIX POLICE DEPARTMENT</b>	Rev. 03/28/25

1. **DRIVING UNDER THE INFLUENCE (DUI) VIOLATIONS**

<p><b>A. DUI/Alcohol, Drugs, or Any Combination</b> <a href="#">Arizona Revised Statute (ARS) 28-1381A1</a></p>	<ul style="list-style-type: none"> <li>• Suspects must have been driving or in actual physical control of a motor vehicle.</li> <li>• The ability to drive must have been impaired to the slightest degree by the use of intoxicating liquor, drugs, toxic vapors, or any combination thereof.</li> </ul>
<p><b>B. Blood Alcohol Concentration (BAC) of .08 or More Within Two Hours of Driving</b> <a href="#">ARS 28-1381A2</a></p>	<ul style="list-style-type: none"> <li>• Suspects must have been driving or in actual physical control of a motor vehicle.</li> <li>• Suspects must have an alcohol concentration of .08 or more within two hours of driving or being in actual physical control of the vehicle.</li> </ul>
<p><b>C. DUI While Having Any Drug or Its Metabolite in the Body</b> <a href="#">ARS 28-1381A3</a></p>	<ul style="list-style-type: none"> <li>• Suspects must have been driving or in actual physical control of a motor vehicle.</li> <li>• Suspects must have had a drug, as defined in <a href="#">ARS 13-3401</a>, or its metabolite in their body.</li> <li>• This section may only be charged if a certified drug recognition expert (DRE) officer has evaluated the suspect and determined that drug impairment is actually present, or in the absence of a DRE evaluation, after the blood/urine has been analyzed. In the latter situation, the City Prosecutor's Office will file this charge.</li> <li>• Without exception, this charge will only be written along with an ARS 28-1381A1 violation.</li> </ul>
<p><b>D. Driving a Commercial Vehicle While Having a BAC of .04 or More</b> <a href="#">ARS 28-1381A4</a></p>	<p><u>Definition of Commercial Vehicle:</u></p> <ul style="list-style-type: none"> <li>• For the purposes of this charge, a commercial motor vehicle is one that requires a person to obtain a commercial driver's license as defined in <a href="#">ARS 28-3001</a>.</li> <li>• Officers may consult a member of the Department's Commercial Vehicle Squad if they have any questions.</li> </ul> <p><u>Charging Criteria:</u></p> <ul style="list-style-type: none"> <li>• Suspects must have been driving or in actual physical control of a commercial motor vehicle.</li> <li>• Suspect must have a blood alcohol concentration of .04 or more at the time of driving or being in actual physical control of a commercial vehicle.</li> </ul>
<p><b>E. Extreme DUI BAC .15 to .199</b> <a href="#">ARS 28-1382A1</a></p>	<ul style="list-style-type: none"> <li>• Suspects must have been driving or in actual physical control of a motor vehicle.</li> <li>• Suspects must have an alcohol concentration of .15 to .199 within two hours of driving or being in actual physical control of the vehicle.</li> </ul>
<p><b>F. Extreme DUI BAC .20 or More</b> <a href="#">ARS 28-1382A2</a></p>	<ul style="list-style-type: none"> <li>• Suspects must have been driving or in actual physical control of a motor vehicle.</li> <li>• Suspects must have an alcohol concentration of .20 or more within two hours of driving or being in actual physical control of the vehicle.</li> </ul>
<p><b>G. Aggravated DUI</b> <a href="#">ARS 28-1383</a></p>	<p>A person is guilty of aggravated driving or actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs if the person does any of the following:</p> <ul style="list-style-type: none"> <li>• Commits a violation of ARS 28-1381 or ARS 28-1383 while the person's driver's license or privilege to drive is suspended, canceled, revoked, or refused, or in violation of a restriction placed on a driver's license as a result of violating ARS 28-1381 or ARS 28-1385</li> <li>• Commits a violation of ARS 28-1381 or ARS 28-1383 and has two prior convictions for violations of ARS 28-1381 or ARS 28-1383 within a period of 84 months prior to this incident – Acts committed in another state, a court of the United States or tribal court also apply</li> <li>• Commits a violation of ARS 28-1381 or ARS 28-1383 while a person under 15-years of age is in the vehicle</li> <li>• Commits a violation of ARS 28-1381 or ARS 28-1383 and has a previous conviction for a violation of ARS 28-1381 or ARS 28-1383 and has never applied for a driver's license</li> <li>• Aggravated DUI committed under paragraphs A (1) or A (2) is a class 4 felony.</li> <li>• Aggravated DUI committed under paragraph A (3) is a class 6 felony.</li> </ul>

2. INVESTIGATION OF DUI VIOLATIONS

A. Making the Traffic Stop

- (1) Officers will make every effort to prevent intoxicated individuals from driving a vehicle.
- (2) Any driver who appears to be DUI will be stopped immediately if it can be done safely.

B. Standardized Field Sobriety Tests (SFSTs) - SFSTs **will be** administered to all impaired drivers.


- (1) Exceptions - Must be thoroughly documented in the Incident Report (IR) Narrative section.
  - Suspect refuses
  - Suspect safety concerns
    - \* Dangerous conditions and suspect could not be moved to a safer location
    - \* Injured suspect (physically incapable of performing SFSTs, not just complaint of injury)
  - Officer safety concerns
    - \* Combative and/or threatening suspect
    - \* Dangerous conditions and suspect could not be moved to a safer location

C. Horizontal Gaze Nystagmus (HGN)

- (1) Only HGN certified officers or officers who have successfully completed HGN training and are in the certification process will:
  - Administer HGN tests to suspected DUI drivers.
  - Make notations in the HGN portion of the field sobriety test worksheet in the Suspect-Impaired Driver Report (IDR) section of the IR.

(2) HGN Log Information:

(a) <b>Maintenance of HGN Logs</b>	<ul style="list-style-type: none"> <li>• HGN-officers will document each administration of HGN test resulting in an arrest in the web based HGN Log located at the City Prosecutor’s website, <a href="https://www.phxlr.com/hgn/jsps/Login.jsp">https://www.phxlr.com/hgn/jsps/Login.jsp</a></li> <li>• Entries will be made while <b>on duty</b> within <b>one week</b> following the administration of the HGN test.</li> <li>• HGN Logs may be inspected by the City Prosecutor’s Office, Department supervisors, the Professional Standards Bureau (PSB), and the Organizational Integrity Bureau (OIB).</li> <li>• HGN certification may be forfeited if the officer fails to maintain the log.</li> </ul>
(b) <b>Required Documents to be Submitted</b>	<ul style="list-style-type: none"> <li>• All HGN-certified officers will immediately submit complete (no information blacked out) copies of their AzPOST Certificate of Achievement (or equivalent), if issued, and their “Standardized Field Sobriety Testing and HGN Progress Log” to the:           <ul style="list-style-type: none"> <li>* Legal Assistance Unit of the City Prosecutor’s Office</li> <li>* Vehicular Crimes Bureau of the Maricopa County Attorney’s Office.</li> <li>* Vehicular Crimes Unit (VCU) - DUI Detective</li> </ul> </li> <li>• HGN Logs are available on the internet and paper copies will no longer be used.</li> </ul>

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2. C. (2) HGN Log Information: (Continued)

<b>(c) Requests for Information</b>	<ul style="list-style-type: none"> <li>• If an officer receives a request to update their HGN Log, it will be done immediately via the City Prosecutor's Office website.</li> <li>• Officers will provide copies of the following documents in response to a subpoena or at the request of a prosecuting agency: <ul style="list-style-type: none"> <li>* A copy of their AzPOST Certificate of Achievement, if issued</li> <li>* A copy of their Standardized Field Sobriety HGN Control Sheet</li> </ul> </li> <li>• Officers will forward a copy of the requested documents within one week of receiving the subpoena or request.</li> <li>• If officers are unable to meet this time line, they will immediately notify both the requesting agency and their immediate supervisor and provide an anticipated date when the documents will be forwarded.</li> </ul>
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D. Preliminary Breath Test (PBT)

- (1) PBT devices are tools used to determine BAC for the purpose of charging, impounding vehicles, and/or the need for a drug recognition expert (DRE).
- (2) In impaired driver cases, every attempt will be made to use a PBT device by a PBT trained officer after completing SFSTs.
- (3) All PBT devices will be submitted to the Traffic Bureau calibration technicians at least every six months to confirm the device is functioning properly.
- (4) Authorization for Use of Personally Owned PBTs - Ownership of a PBT device is strictly voluntary; they are not required equipment.
  - (a) Only PBT devices authorized by the Laboratory Services Bureau (LSB) will be used.
  - (b) PBT device operators will be trained on the operation of the PBT by the DRE coordinator or LSB.

3. **PROCESSING DUI SUSPECTS**

A. Arrest of DUI Suspects

- (1) Officers will arrest, search, and secure DUI suspects following the procedures as outlined in [Operations Order 7.7.00, Arrestees](#) and [7.7.01, Arrestee Searches](#).
- (2) Officers will transport the suspect to the nearest precinct, DUI van, Northern Command Station, or other DUI processing location, for administering a blood draw (see section 3.G of this order for more information).
  - (a) For transports to a DUI van, see section 6 below for further information.
  - (b) If the arresting officer/s is not a phlebotomist and is transporting the suspect to a precinct or the Northern Command Station, an on-duty phlebotomist should be requested City-wide through a Communications operator, to respond to the location where the suspect is being detained, to obtain a blood sample.
  - (b) When a blood draw is not possible, and with a supervisor's approval, suspects will be taken to either the Northern Command Station or South Mountain Precinct where a breath test will be administered (see section 6.C of this order for more information).

**NOTE:** Samples of urine **will not** be requested for determining BAC (urine is only used when drugs, toxic vapors, or substance combination is suspected).

3. A. (3) The period of time a suspect spends in police custody should be kept to the minimum necessary to properly process the suspect.
- B. The following chart provides information regarding procedures and **required** documentation for processing DUI suspects:

DOCUMENTATION AND PROCEDURES	(1) MISDEMEANOR DUI	(2) FELONY (AGGRAVATED) DUI	(3) AGGRAVATED ASSAULT/HOMICIDE
(a) Admin Per Se/Implied Consent <sup>4</sup>	YES	YES	YES
(b) Arizona Traffic and Ticket Complaint (ATTC)	YES <sup>1</sup>	NO	NO
(c) IDR <sup>4</sup>	YES	YES	YES
(d) IR	YES	YES	YES
(e) Blood Test	YES	YES	YES
(f) Breath Test	YES <sup>2</sup>	YES <sup>2</sup>	YES <sup>2</sup>
(g) DRE Call Out	YES <sup>3</sup>	YES <sup>3</sup>	YES

<sup>1</sup> Supervisor approval is required if BAC is .06 to .07 and impairment is visible. See section 3.N.(4) of this order for charging criteria.  
<sup>2</sup> **Only** if collecting blood evidence is not possible  
<sup>3</sup> If impairment is inconsistent with PBT results  
<sup>4</sup> The Admin Per Se/Implied Consent and IDR are available on PolicePoint under Resources/Document Center/Authorized Forms/DUI Packet.

- C. Incident Report (IR) - An IR will be completed for **ALL** arrested impaired drivers.
- Names of occupants will be listed in the appropriate IR sections (Victim, Witness, Suspect, Investigative Lead, or Other Person) based on the circumstances of their involvement.
- D. Impaired Driver Report (IDR) - Officers will ensure the following IDR sections are completed:

<b>(1) IDR Sections</b>	<ul style="list-style-type: none"> <li>• Interview questions           <ul style="list-style-type: none"> <li>* Advise suspect of their Miranda Rights, utilizing the Adults Right Card PPD #29 for adults or the Juvenile Arrest/Miranda Warnings Worksheet 80-119D for juveniles, prior to interviewing</li> <li>* If the suspect requests an attorney during the course of the interview, the interview will end and the suspect will be permitted access to the telephone and the "A" section of the "Yellow Pages". If the suspect refuses to answer the interview questions, the specific reasons will be documented in the Narrative section of the IR.</li> </ul> </li> <li>• Independent chemical test advisement (see section 3.L for additional information)</li> <li>• Chemical test information           <ul style="list-style-type: none"> <li>* If search warrant is completed, it will be scanned and attached to the IR as a "Document."</li> </ul> </li> <li>• Phlebotomy information</li> <li>• DUI records check           <ul style="list-style-type: none"> <li>* Driver license checks <u>and</u> DUI history (past 84 months) will only be made through the Information Services Unit (ISU)</li> <li>* When officers are unable to verify driver license history information with ISU and no other bookable charges are reasonable, the subject should be issued an ATTC and released following the procedures as outlined in <a href="#">Operations Order 7.6.00, Arizona Traffic Ticket and Complaint</a>.</li> </ul> </li> <li>• Observations of subject's physical condition           <ul style="list-style-type: none"> <li>* Officers are encouraged to more fully describe the suspect's condition in the "Description" boxes</li> </ul> </li> </ul>
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3. D. Impaired Driver Report (IDR) (Continued)

<b>(1) IDR Sections (Continued)</b>	<ul style="list-style-type: none"> <li>• Information concerning phone calls/attorney           <ul style="list-style-type: none"> <li>* Suspects will be specifically asked if they wish to make any telephone calls.</li> <li>* The suspect will be given a reasonable amount of privacy during the call.</li> <li>* If the suspect requests complete privacy, officers will ensure it is provided.</li> </ul> </li> <li>• External conditions at scene of arrest</li> <li>• SFSTs</li> </ul>
<b>NOTE:</b> The completed IDR must be saved and attached to the IR as a "Document."	

E. Arizona Department of Transportation (ADOT) Motor Vehicle Division (MVD) Admin Per Se/Implied Consent Affidavit Form 40-5807 (English) or 40-5801 (Spanish)

- (1) In all cases where DUI is being charged, suspects **will be** advised, in their language by a certified translator if not English speaking, Arizona State Law requires officers to:
  - Give suspects a choice of whether to submit to chemical tests of the officer's choosing to determine the alcohol concentration or drug content
  - Inform suspects their driver license **will be** suspended in the following circumstances:
    - \* If they have an alcohol concentration of .08 or more
    - \* If they refuse to submit to the test/s requested by the officer
  - (a) The Admin Per Se/Implied Consent Affidavit "Admonition" **will be** read in their language by a certified translator if not English speaking, to all suspects refusing to submit to tests to determine alcohol concentration and/or drug content.
  - (b) The suspect's responses to the "Admonition" on the Admin Per Se/Implied Consent Affidavit will be documented in the "Additional Comments" box for evidentiary purposes.
- (2) The Admin Per Se/Implied Consent Affidavit also applies to drivers in violation of the underage drinking and driving law, [ARS 4-244.33](#) and DUI-Drugs ARS 28-1381A3.
- (3) The implied consent provision applies whether the DUI occurs on private or public property.
- (4) The Admin Per Se/Implied Consent Affidavit will be completed on all suspected impaired drivers and will include:

<b>(a) Probable Cause</b>	<ul style="list-style-type: none"> <li>• Officers will specify what actions led them to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs; for example:           <ul style="list-style-type: none"> <li>* Improper driving</li> <li>* Physical impairment/actions</li> <li>* Odor of intoxicating liquor</li> </ul> </li> <li>• If probable cause is not established, MVD will not schedule a hearing and the suspension will be voided.</li> </ul>
<b>(b) Expressed Consent</b>	<ul style="list-style-type: none"> <li>• Arrestees must expressly (verbally) consent in their language and physically submit to a blood draw; otherwise a search warrant will be obtained (see section 3.G of this order for more information)</li> <li>• The exact verbiage of the response will be documented in the IDR and/or IR.</li> </ul>
<b>(c) Failure to Complete Test</b>	<ul style="list-style-type: none"> <li>• If the arrestee refused or failed to successfully complete any test/s, specify the manner in which the refusal or failure occurred by using a factual statement; for example:           <ul style="list-style-type: none"> <li>* Refused-stated they would not submit to/take any tests</li> <li>* Completed one test, refused another</li> </ul> </li> </ul>



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3. E. (4) (Continued)


<b>(d) Serious Physical Injury</b>	<ul style="list-style-type: none"><li>• Indicate by checking “yes” or “no” if the arrestee caused serious physical injury.</li><li>• <a href="#">ARS 13-105</a> defines serious physical injury as “physical injury which creates a reasonable risk of death, or which causes serious and permanent disfigurement, or serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.”</li></ul>
<b>NOTE:</b> The completed Admin Per Se/Implied Consent must be saved and attached to the IR as a “Document.”	

F. Blood Draws

- (1) All DUI suspects will be informed they are under arrest for DUI before they are asked to give a blood sample for analysis.
  - (a) Blood draws will be administered by a Department phlebotomist (preferred) or other qualified phlebotomist.
  - (b) When an arrested DUI suspect asks to contact an attorney prior to submitting to a blood draw, access to a telephone, and the “A” section of the “Yellow Pages”, will be provided.
    - Suspects will be given a reasonable amount of privacy during the call.
    - The officer should note in the IDR the time/s of the suspect’s request/s to contact an attorney and whether or not the suspect requested privacy.
    - If a suspect requests privacy, it **will be** provided.
    - If the suspect is unable to reach an attorney after being given a reasonable opportunity to do so, the suspect must decide whether or not they consent to the blood draw.
  - (c) A search warrant will be obtained when a suspect refuses to consent to a blood draw (see section 3.G. of this order for information/procedures reference search warrants).
- (2) When obtaining blood samples, Department phlebotomists will follow the phlebotomy procedures outlined in [Operations Order 5.8.04, Phlebotomy Procedures](#).

G. Search Warrants for Impaired Drivers

- (1) Responsibility for Completion of Search Warrant - Only officers trained to complete the search warrants will do so.
- (2) Procedures
  - (a) When it is determined a DUI suspect is refusing to provide blood, breath, or urine samples, the arresting officer will:
    - Notify his/her supervisor prior to obtaining the warrant.
    - Contact an on-duty warrant-qualified officer.
  - (b) The arresting officer must be able to articulate the following:
    - All probable cause, such as improper driving actions, odor of intoxicating liquor on the suspect’s breath, standardized field sobriety test impairment, or HGN
    - Admin Per Se/Implied Consent Affidavit was read and how the suspect refused
  - (c) The arresting officer will ensure the suspect has been read the Admin Per Se/Implied Consent Affidavit “Admonition” and applicable “Order of Suspension” and understands the consequences for refusing the test/s.

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3. G. (2) (c) (Continued)

- The arresting officer will submit the Admin Per Se/Implied Consent Affidavit as a refusal.
- The arresting officer will inform the suspect a request for a search warrant for blood will be made based on the refusal.
- If the suspect changes their decision, prior to the search warrant being issued, a blood draw will be offered in accordance with routine procedures and the Admin Per Se/Implied Consent Affidavit will be modified to reflect the change.

(d) If a suspect requests to speak to an attorney prior to the service of the search warrant, reasonable attempts to accommodate the request will be made.

- A suspect is not guaranteed the right to have counsel present during the actual service of the search warrant, however, it may be allowed if it does not hinder the investigation.

(e) The arresting officer will be available to assist the responding search warrant-qualified officer during the continuation of the investigation.

(3) Search Warrant-Qualified Officer Responsibilities

(a) The search warrant-qualified officer will contact the arresting officer and/or suspect to confirm the suspect understands he/she is under arrest for DUI and the suspect is refusing to submit to or successfully complete the specified test/s.

- Once facts are established, the search warrant-qualified officer will advise the suspect a search warrant for a biological sample will be requested.
- If the suspect continues to refuse, the process to obtain a search warrant will begin.
- If a judge grants the search warrant, the search warrant-qualified officer will be responsible for overseeing the taking of a blood sample from the suspect, even if the suspect continues to refuse.
- If the suspect re-opens dialogue, the officer will explain the Department's policy on search warrants and blood draws and answer questions asked by the suspect; the conversation will be documented in the IR/Incident Supplement.
- The suspect will be allowed the opportunity to consent to the blood draw **only** prior to the search warrant being issued by the court/judge.

(b) The search warrant-qualified officer will complete the Search Warrant and Affidavit with the information obtained from the arresting officer.

(c) Search Warrant - Once the warrant is completed, the search warrant-qualified officer will contact a judge:

- The affiant must sign the Search Warrant and Affidavit.
- The search warrant-qualified officer must include a return facsimile telephone number and a contact telephone number in case the judge has any additional questions.

(e) If the search warrant-qualified officer is not a phlebotomist, he/she will contact a Communications operator and request an on-duty phlebotomist to respond to the location where the suspect is being detained to obtain a blood sample.

(f) The search warrant-qualified officer will serve the suspect with a copy of the Search Warrant, noting the date and time of service on the warrant.

(4) Obtaining a Blood Sample From an Uncooperative Suspect - In compelling a suspect to give a blood sample, officers will take all steps necessary to ensure only reasonable force is used to obtain the blood sample.



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3. G. (4) (a) The shift commander of the precinct in which the warrant was served will be notified prior to the use of any force to obtain a blood sample.
- The circumstances surrounding the arrest and processing of the suspect will be explained to the shift commander who will make the final determination on whether or not the search warrant will be executed.
- (5) Procedures for Obtaining a Blood Sample
- (a) When a blood sample is obtained, the search warrant-qualified officer will be responsible for observing the draw if he/she is not the phlebotomist.
- (b) Upon completion of the blood draw, the search warrant-qualified officer will document the number of tubes of blood taken from the suspect on both copies of the warrant as property taken.
- (6) Return of the Search Warrant
- (a) The search warrant-qualified officer will return the following completed document to the issuing judge **within** three (3) business days after serving the search warrant:
- Return of Search Warrant
- (b) The search warrant-qualified officer will ensure one complete copy of all the search warrant documents is distributed as follows:
- Impounded under the appropriate IR listing the search warrant number and issuing court in the Narrative section
- (c) If officers were unable to execute the search warrant, the reason/s must be documented on the search warrant prior to its return to the issuing judge.
- H. Photographs - Officers will take a digital photograph of the suspect which will be attached to the IR/Incident Supplement as an "Image" and then deleted from the memory card (see [Operations Order 5.8.05, Photographs and Audio/Video Procedures](#), for more information).
- Physical restraint will not be used to obtain photographs and if the suspect refuses or fails to cooperate in having their photograph taken, they **will be** booked.
- I. Fingerprints - Officers **WILL** fully fingerprint (ten-print) **ALL** DUI suspects whether they are booked or released.
- Physical restraint will not be used to obtain fingerprints and if the suspect refuses or fails to cooperate in having their fingerprints taken, they **will be** booked.
  - Fingerprints may be obtained by either of two methods:
    - \* LiveScan system
    - \* Inked prints using the Federal Bureau of Investigations (FBI) Criminal Fingerprint Card (FD-249) which will be forwarded to the Automated Fingerprint Identification System (AFIS) Detail of Central Booking via interoffice mail.
- J. Seizure of Driver Licenses
- (1) Arizona driver licenses will be seized in **ALL** DUI investigations and attached to a copy of the face sheet of the Admin Per Se/Implied Consent Affidavit and forwarded to MVD.
- EXCEPTION:** When PBT results are below .08 and no drug impairment is confirmed by a DRE, driver licenses **will not** be seized.



3. J. (1) (a) Valid breath tests must be .08 or more to seize a driver license except in the case of a .04 or more reading on a commercial motor vehicle charge.
- (b) Out-of-state licenses or permits **will not** be seized.
- (c) The Surrender of Arizona Driver License section of the Admin Per Se/Implied Consent Affidavit will be completed ensuring one box is checked under Order of Suspension.
- (2) When a Driver's Arizona Driver License is Unavailable - If the driver's Arizona driver license is already suspended or not able to be seized: for example, not in possession, lost, or destroyed, the listed steps will be followed:
- Ensure the descriptive portion of the Temporary Driver Permit section is completed.
  - After printing the driver's copy, fill in the box labeled "Permit Not issued Because" indicating why the permit is not issued (license already suspended, etc.).

K. Distribution of the Admin Per Se/Implied Consent Affidavit

<b>(1) All Impaired Drivers</b>	
<b>(a) Driver</b>	<ul style="list-style-type: none"> <li>• A copy of all the pages of the Admin Per Se/Implied Consent Affidavit will be given to the driver.</li> <li>• These copies will serve as the Notice/Order of Suspension and temporary driving permit.</li> <li>• If the driver refuses to sign the Admin Per Se/Implied Consent Affidavit, the word "SERVED" will be written on the licensee's signature line.</li> <li>• The driver is responsible for reading, understanding, completing, and delivering or mailing if a summary review or hearing is requested.</li> </ul>
<b>(b) MVD</b>	<ul style="list-style-type: none"> <li>• A copy of the face sheet of the Admin Per Se/Implied Consent Affidavit and the driver license will be placed in a pre-addressed envelope and sent with the downtown paperwork for mailing to MVD.</li> </ul>
<b>(c) Department</b>	<ul style="list-style-type: none"> <li>• A copy of the face sheet of the Admin Per Se/Implied Consent Affidavit will be attached to the impounded evidence sample.</li> </ul> <p style="text-align: center;"><b>NOTE:</b> The Admin Per Se/Implied Consent Affidavit will not be listed as an impounded item.</p>
<b>EXCEPTION:</b> If the PBT results are below .08 and no drug impairment is confirmed by a DRE, a copy <b>will not</b> be sent to MVD.	

- L. Advisement of Right to Independent Chemical Tests - Officers will advise suspects under arrest for DUI they have the right to arrange and pay for an independent chemical test.
- (1) The advisement will be documented in the appropriate section of the IDR.
- (2) This right applies whether or not the suspect has refused to submit to a blood draw or breath test.
- (3) Telephone Calls Reference Independent Chemical Tests - The suspect will be given the opportunity to make a reasonable number of telephone calls to arrange for such tests as soon as practical.
- (a) Officers should record the telephone number dialed and who, if anyone, was contacted.
- (b) This information should be included in the IR Narrative section and/or IDR.
- (c) If suspects are to be booked, the call will be made **prior** to transporting them to jail.
- At the discretion of the Maricopa County Sheriff's Office (MCSO) Intake, Transfer, Release (ITR) staff, medical personnel may be permitted access to the jail for the purpose of an independent chemical test.



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### 3. M. Disposition of DUI Vehicle/Keys

- (1) If requested by the driver, the vehicle may be towed and the keys will be left with the vehicle/towing company.
  - If the driver does not request the vehicle to be towed, it will be legally parked and secured at or near the scene.
- (2) DUI Suspects Booked into Jail - If the DUI suspect is to be booked into jail, the vehicle keys will be included with the personal property, and no further action is required.
- (3) DUI Suspects Cited and Released - If the DUI suspect is to be cited and released, the vehicle keys will remain in storage at a precinct a minimum of 10 hours from the time of arrest.
  - (a) Required Documentation - Completed by the arresting officer (forms are available on PolicePoint under Resources/Document Center/Authorized Forms/DUI Packet):

(i) <b>Release of Vehicle Keys Information (Form 80-150D)</b>	<ul style="list-style-type: none"> <li>• A printed copy will be given to the suspect prior to release.</li> </ul>
(ii) <b>DUI Key Impound form</b>	<ul style="list-style-type: none"> <li>• The DUI Key Impound form will include:               <ul style="list-style-type: none"> <li>* Name of vehicle's registered owner</li> <li>* Name of DUI suspect</li> <li>* Vehicle description</li> <li>* Date and time of arrest</li> <li>* Location of vehicle</li> <li>* Arresting officer's name</li> <li>* Arresting officer's signature</li> </ul> </li> <li>• The DUI Key Impound form will be printed, placed in an impound envelope, and filed at the precinct along with the vehicle keys.</li> </ul> <p><b>NOTE:</b> Officers <b>will</b> ensure the IR number is written on the impound envelope.</p>
<b>NOTE:</b> The completed forms must be saved and attached to the IR as a "Document."	

- (b) Advising the Suspect of the Disposition of the Keys - DUI suspects will be advised:
  - Their keys will remain in storage a minimum of 10 hours from the time of arrest
  - Which precinct they may pick up their keys from after the ten hours have passed
- (c) Release of Keys
  - (i) Vehicle keys will not be released within 10 hours of the DUI arrest.
  - (ii) Vehicle keys may be released to the following individuals:
    - DUI suspect
    - Registered owner of the vehicle
    - Person presenting the signed Authorization for Release of Vehicle Keys section of the Release of Vehicle Keys Information form
  - (iii) Keys may be released by personnel designated by the precinct commander (police aides, etc.).
  - (iv) Keys will not be released to any intoxicated person.
    - If a question exists, an officer will be summoned to evaluate the situation.
    - If there is a doubt as to the person's condition, the keys will not be released.



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3. M. (3) (c) (v) Those persons taking possession of the vehicle keys will be required to sign the DUI Key Impound form.
- If the signed Authorization for Release of Vehicle Keys section on the Release of Vehicle Keys Information Form 80-150D has been presented, it will be retained and attached to the DUI Key Impound form.
  - The DUI Key Impound form and Release of Vehicle Keys Information form will be scanned and inserted into the records management system (RMS) Incident module using the "Doc" viewer.
    - \* Once verified the form/s has/have been suitably inserted into the Incident module, the original form/s will be shredded.
- (d) Keys Held Longer Than 72 Hours - Precinct DUI key files will be checked on a regular basis.
- Keys that have not been released within 72 hours of the DUI arrest will be impounded as Evidence-*Safekeeping* by completing an IR supplement.
  - The arresting officer's original plastic evidence envelope will be used for this purpose.
- (4) Exceptions - Exceptions to section 3.M may be authorized by a supervisor, providing the following conditions are met:
- (a) The person demanding the keys has a legal right to the vehicle; for example, a registered owner or spouse of the suspect driver.
  - (b) The person has not been drinking; there is no evidence of recent alcohol consumption or other impairment.
  - (c) The person accepts responsibility for ensuring the suspect driver does not drive the vehicle within the 10-hour period.
  - (d) Officers will indicate in the Details of Arrest section of the IDR the name and address of the person taking possession of the keys.
- N. Misdemeanor DUIs
- (1) General Enforcement Guidelines - Issuing an ATTC as a CLD should be strongly considered when the elements of a misdemeanor DUI are present.
- (2) Exceptions to Issuing a CLD:
- (a) The suspect is uncooperative; for example, refuses to be photographed or fingerprinted.
    - Suspects will not be presumed uncooperative if they refuse to consent to a blood draw or take the breath test.
  - (b) The suspect is not a local resident (outside the metropolitan area) and has no local business interests.
  - (c) The suspect has an extensive record of "failure to appear".
  - (d) The suspect is charged with Aggravated DUI ARS 28-1383 (see section 3.O for more information).
  - (e) Suspect is unable to get a responsible person to take him/her home.

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3. N. (2) (f) The arresting officer believes the suspect will drive again if released.
- The officer will document all relevant information supporting that belief in all appropriate reports; for example, statements made by the suspect, or lack of a responsible party to release the suspect to.
- (3) Completion of ATTCS When the Suspect is Booked - When a misdemeanor DUI suspect is booked, **only** the civil violations will be listed on the ATTC.
- (4) Charging Criteria for Misdemeanor DUIs

<b>(a) BAC of .05 or Less</b>	<ul style="list-style-type: none"> <li>A driver whose blood alcohol concentration is .05 OR LESS will not be charged with the offense of DUI unless drugs are suspected (28-1381A3) or a commercial vehicle (28-1381A4) is involved.</li> <li>When the driver is charged with a DUI offense and will be cited in lieu of detention (CLD) following the guidelines as outlined in <a href="#">Operations Order 7.6.00, Arizona Traffic and Ticket Complaint</a>, an ATTC will be issued for violation of ARS 28-1381A1.</li> </ul>
<b>(b) BAC of More than .05 but Less than .08</b>	<ul style="list-style-type: none"> <li>A driver may be charged with DUI if the blood alcohol concentration is MORE than .05 but LESS than .08 and the visual examination indicates strongly that a person is intoxicated.</li> <li>Charging a person with a BAC of .06 to .07 requires the permission of a supervisor.</li> <li>If the officer chooses to charge the driver with DUI, the charge will be ARS 28-1381A1.</li> </ul>
<b>(c) BAC of .08 or More</b>	<p>When a driver's blood alcohol concentration is .08 or more on all tests, the driver will be charged with all of the following:</p> <ul style="list-style-type: none"> <li>ARS 28-1381A1, DUI</li> <li>ARS 28-1381A2, Driving (or in Actual Physical Control of) a Motor Vehicle with a BAC of .08 or more</li> </ul>
<b>(d) BAC of .15 to .199</b>	<p>When a driver's blood alcohol concentration is .15 to .199 on all tests, the driver will be charged with all of the following:</p> <ul style="list-style-type: none"> <li>ARS 28-1381A1, DUI</li> <li>ARS 28-1381A2, Driving (or in Actual Physical Control of) a Motor Vehicle with a BAC of .08 or more</li> <li>ARS 28-1382A1, Extreme DUI with a BAC of .15 to .199</li> </ul>
<b>(e) BAC of .20 or More</b>	<p>When a driver's blood alcohol concentration is .20 or more on all tests, the driver will be charged with all of the following:</p> <ul style="list-style-type: none"> <li>ARS 28-1381A1, DUI</li> <li>ARS 28-1381A2, Driving (or in Actual Physical Control of) a Motor Vehicle with a BAC of .08 or more</li> <li>ARS 28-1382A1, Extreme DUI with a BAC of .15 to .199</li> <li>ARS 28-1382A2, Extreme DUI with a BAC of .20 or more</li> </ul>
<b>(f) BAC of .35 or More</b>	<ul style="list-style-type: none"> <li>When the BAC is .35 or more, a <a href="#">Medical Examination Report Form 80-22D</a> will be completed and a doctor's examination conducted before the suspect is booked.</li> <li>When suspects are released, medical attention becomes their responsibility or the responsibility of the person accepting custody.</li> <li>When the BAC is .35 or more, the accepting party will be advised to seek medical attention for the suspect.</li> <li>Applicable reports will indicate the person accepting custody of the suspect was advised of the suspect's physical condition</li> </ul>
<b>(g) Refusal to Submit to Any Test</b>	<ul style="list-style-type: none"> <li>Cite the suspect for violation of ARS 28-1381A1, DUI.</li> </ul>
<b>(h) Blood Samples Obtained</b>	<ul style="list-style-type: none"> <li>Department phlebotomists will impound blood evidence as outlined in <a href="#">Operations Order 5.8.04, Phlebotomy Procedures</a>.</li> <li>If PBT results are known, cite all applicable charges.</li> <li>If PBT results are not known, cite ARS 28-1381A1.</li> </ul>

3. O. Felony DUI - All suspects arrested for Aggravated DUI, ARS 28-1383 **will be** booked into jail unless the suspect is admitted to a hospital or the release is in the best interest of the Department **and** is approved by a lieutenant or higher.
- (1) If after being advised of their rights, and the suspect waives those rights, officers must interview the suspect as to the status of his/her driver license.
  - (2) The Felony DUI box on the IDR will be marked. The IDR will also contain the following information:
    - Suspect's driver license number listed in the appropriate box, even if it is suspended, revoked, expired, etc.
    - Details leading to the apprehension as well as substantiation for all alleged traffic violations committed by the suspect
  - (3) ATTCs **will not** be issued for any Aggravated DUI.
    - When a DUI-related ATTC is written prior to learning of the aggravated driving violation, the ATTC will be voided in accordance with procedures outlined in [Operations 7.6.00, Arizona Traffic Ticket and Compliant](#).
  - (4) Charging Criteria for Felony DUIs - **DO NOT** charge the suspect with any **misdemeanor DUI** charges.

(a) <b>Suspended Revoked License</b>	<ul style="list-style-type: none"> <li>• The person's driver license or privilege to drive is suspended, canceled, revoked, or refused, or restricted as a result of violating ARS 28-1381, 28-1382, or 28-1385.</li> <li>• Charge the suspect with ARS 28-1383A1.</li> </ul>
(b) <b>Two or More Prior DUI Convictions</b>	<ul style="list-style-type: none"> <li>• After two (2) confirmed DUI convictions within a period of eighty-four months, driver commits a third or subsequent DUI</li> <li>• Charge the suspect with ARS 28-1383A2.</li> </ul>
(c) <b>Passenger Under the Age of 15</b>	<ul style="list-style-type: none"> <li>• Driver commits a DUI violation while a person under 15 years of age is in the vehicle</li> <li>• Charge the suspect with ARS 28-1383A3 for every person under 15 years of age.</li> </ul> <p>The following will be documented in the IR and/or completed:</p> <ul style="list-style-type: none"> <li>• Digital photographs of each child/victim <b>will be</b> taken and processed/stored as outlined in <a href="#">Operations Order 5.8.05, Photographs and Audio/Video Procedures</a>.</li> <li>• The name, date of birth, current address, and telephone number of each child/victim</li> <li>• The name, date of birth, current address, and telephone number of a parent, guardian, or responsible person who assumed care of the child (usually the person other than the suspect who can identify the child by name and age)</li> <li>• Any statements indicating the suspect's knowledge as to the age of the children involved</li> <li>• Any information regarding the relationship of the child to the suspect</li> </ul>
(d) <b>Ignition Interlock Device</b>	<ul style="list-style-type: none"> <li>• Driver commits a DUI violation while the person is ordered by the court or MVD to equip any motor vehicle he/she operates with a certified ignition interlock device</li> <li>• Charge the suspect with ARS 28-1383A4.</li> </ul>

P. Drugs, Toxic Vapors, or Substance Combination Suspected - Procedures for handling DUI/drugs, toxic vapors, or DUI/combination drugs/alcohol/toxic vapors will be the same as for DUI involving alcohol.

(1) Preliminary Breath Tests

- In those instances where drugs, toxic vapors, or substance combinations are suspected, a PBT will be administered by a DRE, phlebotomist, and/or PBT trained officer to establish the absence or presence of alcohol concentration.



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3. P. (2) DRE - A DRE will be requested to assist the arresting officer with processing the suspect whenever drugs, toxic vapors, or any combination is suspected and/or the BAC reading is not consistent with the impairment observed.
  - (a) Only certified DRE officers will perform drug evaluations on suspected drug-impaired drivers.
  - (b) If a DRE is not available by radio, officers will contact a Communications supervisor to request a DRE.
  - (c) DRE officers must maintain certification from the International Association of Chiefs of Police (IACP).
  - (d) All DRE officers will document each evaluation performed (including rule-outs) in the officer's DRE Log.
    - These logs will be inspected periodically by supervisors and the compliance staff of the Organizational Integrity Bureau (OIB).
    - DRE certification may be forfeited if the officer is found to have failed to maintain their log.
  - (e) If toxic vapor substances (as defined in [ARS 13-3401](#)) are involved, a blood sample must be obtained to confirm the substance.
  
4. **COLLISIONS INVOLVING DUI**
  - A. In cases involving collisions, based on probable cause, officers will handle drivers suspected of DUI under [ARS 13-3883A3](#) as if the officers had actually witnessed the violation.
  - B. Collisions involving impaired drivers may result in criminal prosecutions; for example, aggravated assault or endangerment.
    - Elements to support these charges must be backed by a thorough on-scene investigation.
  - C. Collisions Involving Serious Physical Injury or Death
    - (1) In serious injury and/or fatal collision situations when a driver shows signs of impairment, the investigating officer must realize the situation is no longer "just a collision" and is now a criminal investigation.
      - Officers will not inform suspects they are under arrest for DUI.
      - Officers will collect evidence of impairment, such as SFSTs, PBT readings, or any other observations.
      - Officers will collect any evidence of drugs; to include prescription medication and any illegal drugs and/or drug paraphernalia in the vehicle or in the suspect's possession.
      - Admin Per Se/Implied Consent warnings will be given.
    - (2) DRE certified officers will process all impaired drivers involved in a serious injury and/or fatal collisions.
    - (3) In those instances where there is doubt as to the elements of the offense, or the investigation requires a greater level of expertise than is readily available, the Vehicular Crimes Unit (VCU) should be contacted for assistance.



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## 4. D. Gathering Evidence at Collision Scenes Involving DUI

- (1) The following evidence must be obtained at collision scenes involving impaired drivers and will be documented in the IR:
  - A complete description of the scene
  - A listing of the victim's injuries (if serious or life threatening)
  - Digital photographs (if serious or life-threatening injuries exist)
  - Witness statements
  - Suspect's injuries
  - Names of medical personnel tending to impaired drivers, if necessary
  - Any evidence supporting the fact the suspect was driving or in actual physical control of the vehicle at the time of the collision
- (2) Officers will document any evidence supporting the fact the suspect was driving or in actual physical control of the vehicle at the time of the collision, to include:
  - Identification of witnesses who can place the suspect as the driver
  - Whether the suspect suffered injuries consistent with being in the driver's seat
  - If all possible drivers on the scene were intoxicated
  - Who had the keys to the suspect vehicle when the officer arrived
  - Who exercised control of the vehicle in deciding disposition; for example, vehicle parked and locked or towed
  - Any additional information pointing to the suspect as the driver
  - Evidence of beer or any other liquor, open or unopened, in the vehicle

## 5. INJURED DUI SUSPECTS

### A. Treated and Released

- If injured DUI suspects are treated and released from either Fire personnel on scene or a hospital within a reasonable length of time, they will be processed the same as other DUI suspects.


### B. Hospital Follow-Up

- (1) If officers suspect a driver is DUI and the driver is transported to a hospital, officers should make their hospital follow-up as soon as possible.
- (2) If follow-up will be delayed, a second unit should be requested to proceed to the hospital to conduct the DUI portion of the investigation.
- (3) If a law enforcement officer has **PROBABLE CAUSE** to believe a person has violated [ARS 28-1381](#), a blood sample **will be** collected.
- (4) Officers will make every effort to utilize a Department phlebotomist to obtain blood samples; however, in rare cases another qualified phlebotomist may be used.
  - (a) Unconscious Suspects - If the suspect is unconscious or otherwise in a condition rendering the suspect incapable of consent, officers will make every effort to obtain a search warrant following the procedures outlined in section 3.G. of this order.

5. B. (4) (b) Conscious Suspects - If the suspect is conscious and capable of consenting, officers will place the suspect under arrest and ask for consent to obtain blood.
- If verbal consent is given, a Department phlebotomist should collect blood samples following the procedures outlined in [Operations Order 5.8.04, Phlebotomy Procedures](#).
  - If verbal consent is not given, the suspect will be processed as a refusal and officers will make every effort to obtain a search warrant following the procedures outlined in section 3.G. of this order.
- (5) Blood Samples Drawn for Medical Purposes - Are a last resort option to obtain DUI evidence; therefore, officers will make every effort to obtain a search warrant for blood samples for law enforcement (not medical) purposes.
- (a) Per [ARS 28-1388E](#), if hospital personnel collect urine or other bodily substance from a suspect for any reason, a portion of that sample sufficient for analysis shall be provided to a law enforcement officer if requested for law enforcement purposes; however, officers should still obtain a search warrant for the medically drawn blood samples.
- (b) Officers may temporarily seize (and then later permanently seize pursuant to a search warrant) medically drawn blood samples when all of the following has been established:
- The suspect consented to medical treatment generally or the capture of the blood specifically
  - Probable cause exists to support DUI
  - Exigency (other than simply that alcohol dissipates) justifies the warrantless seizure of part of the medically drawn blood sample
- NOTE:** Officers **SHALL ENSURE PROBABLE CAUSE** exists before accepting the medically drawn blood sample and must document in the IR the details of how the suspect consented to the taking of the medically drawn blood sample and any exigent circumstances for the temporary or permanent seizure of the medically drawn blood sample without a warrant and that the sample obtained was: "blood drawn for medical purposes".
- (c) Hospital personnel who fail to comply with ARS 13-1388E are guilty of a class 1 misdemeanor.
- (6) Procedures for Blood Drawn for Medical Purposes
- If possible, hospital personnel drawing blood for medical purposes should be requested to use a Department Blood Alcohol Kit or a preservative vial (gray colored top).
    - \* If possible, officers will observe the sample being taken.
- (7) Procedures for Processing Blood Evidence - Officers will impound any blood sample as evidence by taking it directly to a precinct, command station, or LSB refrigerator.

<b>Blood Samples</b>	<ul style="list-style-type: none"> <li>• Collected blood samples will be refrigerated as soon as possible.</li> <li>• A draft copy of the IR Evidence section will be printed and left with the blood sample.</li> <li>• A copy of the face sheet of the Admin Per Se/Implied Consent Affidavit will also be left with the blood sample (except in refusal cases).</li> </ul>
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- 5.----B. (8) Required Documentation - Officers/phlebotomists will document the following information in the IR:
- Name, address, employee identification number, and telephone number of the medical person who drew the blood if not a Department phlebotomist
  - Type of non-alcohol preparation used; for example, betadine
  - Date, time, and hospital address where the blood was drawn
- (9) Hindering Prosecution - Hospital personnel who prevent or obstruct by means of force, deception, or intimidation, officers from performing a blood draw, may be charged with Hindering Prosecution, [ARS 13-2511](#) or [13-2512](#).
- Hospital personnel performing their normal job duties or emergency medical procedures will not be considered as hindering prosecution.
  - Officers will not arrest or issue an ATTC to hospital personnel who refuse to comply.
  - An IR will be completed requesting prosecution, which will be routed to VCU.
- (10) Officers will not interfere with medical procedures.
- (11) Issuing ATTCs to Injured Drivers
- (a) If officers believe a suspect is misdemeanor DUI based upon probable cause, the suspect will be issued an ATTC.
- (b) If the suspect is unconscious or otherwise in a condition rendering the suspect incapable of signing the ATTC, a responsible person (spouse, parent, etc.) may acknowledge receipt of the ATTC.
- In such cases the ATTC has the same effect as a summons.
  - The responsible person should be properly identified and noted in the IR.
  - If an ATTC cannot be acknowledged by a responsible person, an ATTC will not be issued which will be noted in the IR.

6. **IMPAIRED DRIVER ENFORCEMENT UNITS**

- A. The Impaired Driver Enforcement units are assigned to the Northern and Southern Command stations.
- B. These units, commonly referred to as DUI (driving under the influence) vans, are designed to streamline processing subjects in custody for driving under the influence by conducting the entire investigation in the field.
- C. DUI Van Availability
- (1) DUI vans are normally available to assist field units seven days a week with their DUI investigations from 7 p.m. to 3 a.m. (hours subject to change).
- (2) One unit will normally be available in each precinct area.
- D. Request Procedures for DUI Van Assistance
- (1) Requests for assistance from DUI van personnel will be made by police radio.
- (2) Combative and handicapped DUI suspects will not be processed at the DUI vans for the safety of the detainees and the officers involved.

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6. E. Field units receiving assistance from the DUI van will:

- Complete the original IR to include:
  - \* The probable cause documented in the Narrative section and in the Administrative Per Se/Implied Consent Affidavit form.
  - \* The Suspect-Impaired Driver Report (IDR) section to include the Field Sobriety Test Worksheet panel (see section 3.D above for more information).

**EXCEPTION:** The Phlebotomy information may be documented in the original IR or an Incident Supplement by the phlebotomist who conducted the blood draw.

- Identify which citations should be issued.
- Complete the citations if the DUI van officer requests assistance.
- Transport DUI suspects to the jail if they are to be booked.
- Return to service as soon as possible.

7. **OTHER DUI PROCESSING PROCEDURES**

A. Juvenile DUI Suspects - If parental consent cannot be obtained, officers will obtain a search warrant following the procedures listed in section 3.G of this order.

- (1) Appropriate ATTCs will be issued, and the juveniles will be released to a parent or guardian, whenever possible.
- (2) Officers will advise parents the juvenile should be examined by a doctor.
- (3) Officers will complete an IR to include the IDR.
  - Ensure the name and telephone number of the juvenile's parents or guardian are listed in the Other Person section.
- (4) If juveniles must be detained, they must first be transported to a hospital where a medical release will be obtained.


B. Underage Drinking and Driving, ARS 4-244.334 - A defendant must be under arrest for DUI or underage drinking and driving before a blood draw (or breath test if blood draw is not possible) can be required.

- (1) This offense **will be** cited any time a driver under the age of 21 is determined by any test to have **any** measurable alcohol concentration.

**EXCEPTION:** If charging the suspect with Aggravated DUI, see section 3.O for proper procedures and charging criteria.

- (a) If a PBT result is available, use the result as probable cause and charge the suspect with ARS 4-244.34 and all other applicable charges.
  - (b) If no PBT is available, charge the suspect with ARS 4-244.34 and ARS 28-1381A1.
- (2) Enforcement Guidelines - Follow the procedures as outlined in Operations Order 7.6.00, Arizona Traffic Ticket and Complaint, for issuing ATTCs to the below violators:

<b>(a) Violators Under 18</b>	<ul style="list-style-type: none"> <li>• Juveniles under the age of 18, who are charged with Underage Drinking and Driving, ARS 4-244.34, will be cited into the Maricopa County Juvenile Court Center (JCC).</li> <li>• Juveniles, who are 17 on the violation date but will turn 18 on, or prior to, the court date, will be cited into City Court.</li> </ul>
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7. B. (2) Enforcement Guidelines (continued)

<b>(b) Violators 18 to 21</b>	<ul style="list-style-type: none"> <li>All misdemeanor DUI and underage drinking and driving violators between the ages of 18 and 21, will be cited into City Court.</li> </ul>
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- (3) Charging for Underage Drinking and Driving Only - A DUI charge will not be included with the underage drinking and driving charge when the alcohol concentration is below .05 and no other evidence of drug impairment exists.
- (a) An IR is required.
- (b) The IR must include the facts establishing probable cause (odor of alcohol, bloodshot/watery eyes, etc.).
- (c) Ensure the IR number is included on the ATTC.
- (d) The arresting officer will issue the ATTC and submit to the appropriate court depending on the suspect's age.
- (4) Charging for Misdemeanor DUI and Underage Drinking and Driving - Only one IR **will be** completed when charging both ARS 28-1381, DUI, and ARS 4-244.34, Underage Drinking and Driving.
- (a) The fact that the ARS 4-244.34 charge is being made, and the basis for it, will be included in the Narrative section of the IR.
- (b) The ARS 4-244.34 charge will be cited along with the applicable DUI charge/s and submitted to the appropriate court depending on the suspect's age.
- (5) Aggravated DUI - See section 3.O for proper procedures and charging criteria.

C. Aid and Abet

- (1) Examples of DUI aid and abet:
- The vehicle owner is a passenger and the driver is obviously intoxicated and it is apparent the owner knew the driver was intoxicated.
  - The responsible party who takes custody of a cited and released DUI suspect, allows the suspect to drive.
- (2) The suspect being charged with aid and abet will be listed in the same IR as the DUI driver.
- (3) ARS 28-1381A1 will be selected as the offense code for aid and abet DUI.
- (4) An ATTC should be issued following the guidelines as outlined in [Operations Order 7.6.00, Arizona Traffic and Ticket Complaint](#).

D. Breath Testing

- (1) Breath tests will **only** to be administered when a blood draw is not possible.
- (a) The breath test should be done within **two hours** of the time the defendant was first seen driving.
- (b) All DUI suspects will be informed they are under arrest before they are asked to give a breath sample for analysis.



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7. D. (1) (c) Where the test was conducted, South Mountain Precinct or Northern Command Station, and the serial number of the employee who transported the suspect to the station will be noted in the IDR.
- (2) Persons Authorized to Conduct Breath Tests - Breath tests will only be conducted by officers or LSB personnel who have been trained and certified by the Arizona Department of Public Safety (DPS) on the use of the Intoxilyzer 8000.
- (3) Documentation of Breath Test - Data entered into the Intoxilyzer 8000 is recorded and may be retrieved by contacting LSB.
- (4) Administering the Breath Test
- (a) When a person suspected of DUI asks to contact an attorney prior to taking a breath test, access to a telephone, and the "A" section of the "Yellow Pages", will be provided.
- Suspects will be given a reasonable amount of privacy during the call.
  - The officer should note in the IDR the time/s of the suspect's request/s to contact an attorney and whether or not the suspect requested privacy.
  - If a suspect requests privacy, it **will be** provided.
  - If the suspect is unable to reach an attorney after being given a reasonable opportunity to do so, the suspect must decide whether or not to take the test.
- (b) The breath test operator will utilize the approved DPS operational checklist and will initial the appropriate places on the checklist for each test administered.
- (c) Force or restraint will not be used to obtain breath samples.
- (d) The suspect's name, date of birth, violation date, time the breath tests were conducted, and the officer's initials and serial number will be placed on the suspect's photograph.
- (e) Officers will advise suspects of test results upon completion of the examination.
- (5) Operation of Breath Test Instruments - Breath tests for alcohol concentration will be conducted on an Intoxilyzer 8000 using the following procedures:
- (a) Conduct a 15-minute deprivation period; the Deprivation Period is defined as a 15-minute period immediately prior to a quantitative duplicate breath test during which time the suspect has not ingested any fluids, vomited, eaten, smoked, or placed any foreign objects in the mouth.
- (b) Complete and follow, in writing, the DPS standard operational procedure checklist for the specific breath test instrument used.
- (c) Administer two breath tests **NOT LESS** than five minutes and **NOT MORE** than ten minutes apart.
- Results of both tests **must be** within .020 alcohol concentration.
  - If the second test is not within .020 alcohol concentration of the first test and not within the specified time limits, perform additional tests until the results of **two consecutive tests** are within .020 alcohol concentration of each other.
- (d) Advise the suspect of the right to obtain an independent chemical test.



**DRIVING UNDER THE INFLUENCE  
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7. D. (5) (e) **No** additional sample is required to be provided to the suspect when duplicate tests are conducted successfully.
- (f) Faulty instruments will be immediately reported to LSB 24 hours a day.
- (6) 15-minute Deprivation Period - The exclusive use of a 15-minute deprivation period followed by duplicate tests is required for breath tests performed on the Intoxilyzer 8000.

Last Organizational Review:

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