

DEPARTMENTAL GENERAL ORDER 20-027

See [Special Order 23-413](#) for updates to this General Order. 6/28/2023

ST. LOUIS COUNTY POLICE DEPARTMENT  
OFFICE OF THE CHIEF OF POLICE

December 16, 2020

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**INTOXICATED DRIVING OFFENSES**

I. PURPOSE

The purpose of this General Order is to establish policy and procedure **concerning the investigation, arrest, warrant application, and reporting procedure regarding drivers who are** suspected of being intoxicated or impaired.

II. DEFINITIONS

For the purpose of this policy the following terms are to mean:

- A. BAC- Blood Alcohol Content
- B. BrAC- Breath Alcohol Content
- C. Arrest – A prior offense on a suspect’s record that may not reflect a final disposition.
- D. Conviction – A prior offense where the suspect has pled guilty and received SES probation, jail time, a fine, or a combination of the listed.
- E. Observation Period – The minimum 15-minute continuous period that ends when a breath sample has been provided in an analytical breath instrument that detects and quantifies alcohol in the breath in terms of thousands of a gram/210 liter of breath.
- F. Type II Supervisor – An employee who has been trained to maintain the instruments, train Type III operators, and operate the instruments (the certificate is not related to an officer’s rank).
- G. Type III Operator – An employee who has been trained to operate the instruments only.

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- H. **Drug Recognition Expert (DRE)** – An employee who has been trained and certified in the observation, evaluation, and recognition of impairment caused by the use of legitimate or illicit drugs.
  - I. **Service Warrant Precinct** – An acceptable location to convey a DWI suspect due to the fact the precinct is specially equipped with cameras and holding cells to monitor a suspect.
  - J. **Standardized Field Sobriety Tests** – A series of tests that include walk and turn, one leg stand, and gaze nystagmus that may be administered to suspected intoxicated drivers.
  - K. **Instrument** – A device used to analyze a breath sample from an individual suspected of alcohol intoxication.
  - L. **Intoxication** – A state in which a driver's normal capacity to act or reason is inhibited by alcohol, drugs, or both. Intoxication is based upon measurable changes in an individual's performance of a specific task (i.e. driving).
  - M. **DWI Suspect** – An individual suspected of operating a motor vehicle while intoxicated.
  - N. **Suspended Execution of Sentence (SES) Probation** – Probation that is accompanied with jail time, a fine, or both.
  - O. **Suspended Imposition of Sentence (SIS) Probation** – Probation that is occasionally accompanied with community service or a treatment program. After the probation or program is completed by the offender, the record becomes closed.
  - P. **Record Check** – A review of a subject's criminal history, performed by the Bureau of Central Police Records, that is used to determine how many prior offenses a subject has for Driving While Intoxicated. The record check will help the officer determine what offense level the driver should be charged with based on prior criminal history.
  - Q. **Interstate Identification Index (Triple I)** – Printout of criminal records completed by the Bureau of Central Police Records that includes information from DOR, DWITS, REJIS, MULES, and NCIC.
  - R. **Preliminary Breath Test (PBT)** – A handheld breath alcohol testing instrument that tests an individual's breath against standard calibration and is used to assist officers in establishing probable cause for arrest for intoxication.
  - S. **Laboratory Analysis Request (LAR)** – A form that must be completed when seizing blood as evidence with a Missouri State Highway Patrol (MSHP) kit. One form must be submitted with each kit that is sent to the MSHP.
- III. **ENFORCEMENT**
- A. **Saturation Patrol**

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The Department shall conduct saturation patrols throughout the year in an effort to combat the problem of driving while intoxicated. **The coordination and implementation of the patrols shall be organized through the Highway Safety Unit Supervisor. Further information regarding the operation and implementation of the patrols may be found in the Highway Safety Unit Procedure *Saturation Patrols*.**

B. Sobriety Checkpoints

The Department **may** schedule sobriety checkpoints on a periodic basis in an effort to combat the problem of driving while intoxicated. **All coordination and implementation of all sobriety checkpoints for this Department shall be organized through the Highway Safety Unit Supervisor. Further information regarding the operation and implementation of the patrols may be found in the Highway Safety Unit Procedure *Sobriety Checkpoints*.**

IV. ARREST PROCEDURES

- A. When a police officer encounters a situation where probable cause exists to believe that the operator of the motor vehicle is in an intoxicated condition, the officer shall arrest the offender for DWI or other appropriate charge, regardless of the driver's age.
- B. Once the arrest **occurs, but** prior to any interrogation, the arresting officer shall advise the driver of their constitutional rights per the Miranda decision, reading directly from the Alcohol Influence Report (DOR Form 2389).
- C. The law allows two types of tests per arrest, not including use of a PBT. **However,** it is the policy of this Department that **the** breath test shall be the primary test that is administered.
  1. There is no limit to the actual number of tests performed as long as only two types of tests are administered. For example, an officer **initiates** an arrest and during the investigation two breath tests and one blood test are administered. In this case three tests were performed. This is permissible as there were only two types of tests administered.
  2. The type of test(s) administered is determined by the arresting officer and/or supervisor. The suspect cannot consent to one test and refuse to take a second test or a second type of test. This constitutes a **suspect's** refusal. For example: a suspect has consented to take a breath test. Upon completion of the test the officer **requests** blood. If the suspect refuses this second type of test, it is a refusal. The results of the first test are evidentiary and are to be retained and documented. The second test is a refusal, which is also evidentiary, and is also to be documented. The entire case is considered a refusal.
  3. The PBT does not count as a chemical test. If the driver consents to testing, the arresting officer shall ensure that the test(s) is administered.

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- 4. When providing different types of tests (i.e. breath or blood), the implied consent warning shall be read at the start of each new test or provided at the very beginning of the new testing period to ensure all facts regarding the breath test and blood draw are clearly conveyed.**
  - 5. If a person, when asked to submit to a test, requests to speak with an attorney after the implied consent warning is read, the person shall be given access to a telephone, a telephone directory, and granted twenty minutes in private to attempt to contact an attorney before deciding on a chemical test. However, if a person requests to speak to an attorney prior to the implied consent warning being read, they are not entitled to do so until the officer has read the warning. Once the warning has been read, the officer shall remind the person of their request and if the person still wishes to speak to an attorney, the officer shall provide the person access to a telephone, a telephone directory, and grant them twenty minutes in private to attempt to contact an attorney. During this time, the following shall occur:**
    - a. The officer shall ensure visual observation of the person is maintained during the twenty-minute period; and**
    - b. Remain out of hearing distance and ensure no audio recordings are made during the driver's conversation with their attorney; and**
    - c. That anything overheard inadvertently is not included in the final police report.**
    - d. Video with no sound and visual observation is permitted to maintain the integrity of the observation period and ensure the custody and safety of the arrested person.**
  - 6. Occasionally, a person may be able to contact and speak with an attorney before the allotted twenty-minute time frame is over. If this occurs, the officer shall make note of this in the narrative of their final report and proceed with their investigation.**
  - 7. If a person abandons all attempts to contact an attorney during the twenty minute time period, the officer shall confirm with the person they no longer wish to speak to an attorney, make note of this in the narrative of their final report, and proceed with their investigation.**
  - 8. If upon completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal.**
- D. In cases where legitimate or illicit drugs are involved rather than alcohol, a Department Drug Recognition Expert (DRE) may also be contacted through the Bureau of Communications to respond and assist in the investigation.**

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V. **INVESTIGATION**

A. **Preliminary Breath Test (PBT)**

1. **RsMo 577.021** authorizes the use of PBT by police officers to assist in establishing probable cause for arrest.
  - a. Refusal to take the PBT is not a chemical test refusal and does not apply to license revocation. **However**, the refusal **shall** be noted in **both** the police report **and appropriate section of the AIR**.
  - b. **Any results obtained from the PBT shall also be noted in the appropriate section of the AIR and within the narrative of the police report.**
2. Officers using a PBT **shall** familiarize themselves with the operation of the **instrument** by reviewing the manufacturer's operating manual. Officers **shall** ensure that the devices, when not in use, are protected and not exposed to extreme heat or cold. The protective carrycase **shall** be used at all times.
3. Upon contact with a driver suspected of being impaired, officers will give the driver the opportunity to participate in Standardized Field Sobriety Tests. The PBT may then be used to confirm the presence of alcohol.
4. A new mouthpiece **shall** be used for each individual tested.
5. Arrests **shall** not be based solely on PBT results. Arrests are to be based on observations and actions which lead the officer to **believe** there is **probable cause that the driver was operating a vehicle while intoxicated**.
6. Use of the PBT **shall** be **reported** on the Alcohol Influence Report (DOR Form 2389). The officer should check the appropriate box. The PBT name and serial number should be noted **on the AIR form** for future reference.
7. **The following shall occur in order to ensure the operational readiness and proper maintenance of equipment.**
  - a. **An officer assigned to the Highway Safety Unit shall perform accuracy checks of the PBTs.**
  - b. **The attached accuracy check log shall be maintained at the precinct or designated unit office for a period of three years.**
  - c. **A copy of the certifications shall be forwarded to the Bureau of Research & Analysis for accreditation files.**
  - d. **Calibration or repair of PBTs shall be coordinated via the Highway Safety Unit.**

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**B. Evidential Breath Tests**

1. Prior to the breath test, a continuous 15-minute observation of the subject shall be done by a current Type II or Type III permit **operator**.
2. During the observation period, the operator shall remain close enough to a subject to reasonably ensure, using the senses of sight, hearing or smell, that a test subject does not smoke, vomit, or have any oral intake during the observation period. **Additionally, visual inspection of the mouth shall occur before testing.**
3. **Personnel can only operate an instrument for which they hold a valid Type II or Type III certificate.**
4. Any **subject arrested for DWI can either be** taken to a precinct station that has an instrument **or request a certified operator respond roadside to administer the evidentiary device** (including a felony, misdemeanor, test or refusal).
5. **Testing at a Precinct**
  - a. Unless the arresting officer has a valid Type II or Type III certificate, the precincts with instruments **shall** be responsible for **providing a certified operator to administer** breath tests to DWI suspects.
  - b. A DWI suspect may be held at the precinct for conveyance to Intake for the booking process after the breath test or refusal. A felony refusal **subject** may be held at the precinct while a **supervisor approved** search warrant is obtained.
  - c. A precinct without an instrument **shall** have their breath test conducted at a neighboring precinct that has an instrument but **shall** return their suspect to their own precinct for conveyance to intake.
  - d. Other specialized units of this Department may have breath tests conducted in precincts with instruments and may leave their suspect at that precinct for conveyance to Intake, with approval by the precinct Watch Commander.
  - e. If the instrument results indicate the subject's **BAC is 0.300** of one percent or higher, the subject shall be transported to a hospital for a **Fit for Confinement** before transporting the subject to the Intake Service Center.
  - f. If the arresting officer determines that the subject needs a **Fit for Confinement** either before or after the breath tests, the officer **shall** immediately transfer the subject to any area hospital that conducts the exam. This may be based on the subject exhibiting an altered mental capacity beyond what may be

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considered **common symptoms of** intoxication (e.g. extreme signs of speech slurring and/or walking difficulties or an inability to stand).

- g. Troopers with the Missouri State Highway Patrol are authorized to use precinct instruments. Persons who have been arrested by the Missouri State Highway Patrol are not normally remanded to the St. Louis County Police Department at the Precinct Stations. It is the responsibility of the Trooper **to book and release** the person arrested. Missouri State Highway Patrol prisoners may, in certain circumstances, be left at the stations at the discretion of the Watch Commander.
- h. All breath tests **shall** be documented in the instrument's log book by the testing officer, including tests by non-precinct personnel.

**6. Roadside Testing**

- a. **The arresting officer may also contact the Bureau of Communications and request a certified operator respond roadside to administer the test with an Alco Sensor- IV (AS-IV).**
- b. If the instrument results indicate the subject's **BAC is 0.300** of one percent or higher, the subject shall be transported to a nearby hospital for a **Fit for Confinement** before transporting the subject to the Intake Service Center.
- c. If the arresting officer determines that the subject needs a **Fit for Confinement** either before or after the breath tests, the officer **shall** immediately transfer the subject to any area hospital that conducts the exam. This may be based on the subject exhibiting an altered mental capacity beyond what may be considered **common symptoms of** intoxication (e.g. extreme signs of speech slurring and/or walking difficulties or an inability to stand).
- d. All breath tests **shall** be documented in the instrument's log book by the testing officer.

**7. To ensure proper maintenance of any breath instruments the following shall occur:**

- a. The instrument **shall** be **powered on or off** based upon the manufacturer's recommendation; **and**
- b. Type II Supervisors **shall perform and verify that** maintenance tests on **all instruments are completed** and **their findings are forwarded** to the **Missouri Department of Health and Senior Services (DHSS) within the appropriate time frame; and**

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- c. Any errors or problems with an instrument **shall** be reported to the Department's Type II Supervisor email address noted **on** the front of the instrument log. The instrument should **also** be turned off and placed "out of service", if necessary; **and**
- d. Instruments within neighboring precincts, Intake Service Center, **or in patrol vehicles shall** be utilized **once** the Type II Supervisor declares the instrument to be functioning normally.

**C. Blood and Urine Samples**

**1. Blood or urine samples shall be obtained under the following circumstances:**

- a. When a driver suspected of being intoxicated is transported to a hospital due to injury or illness; or
- b. When an intoxicated driver is involved in a motor vehicle **crash that has resulted in a fatality or a serious physical injury; or**
- c. **When an intoxicated driver involved in motor vehicle crash is issued a uniform traffic ticket for a violation of any state law, county, or municipal ordinance, not including equipment violation(s); or**
- d. If a breath test has already been administered and a driver is suspected of being under the influence of drugs, then blood may be taken **for** a second test, **urine should be taken as a last resort;** or
- e. At the direction of a search warrant, when a driver has refused to submit to a chemical test (see Section VII.); or
- f. If the driver is unable to give consent, (i.e. unconscious, deceased or otherwise incapable of refusing) the officer shall either follow the procedure outlined **under the section "After Hours Procedure" for search warrants in this order or refer to the following section to determine if exigent circumstances found in *Mitchell v. Wisconsin* may apply.**

**2. Exigent Circumstances**

- a. **Under the 2019 United States Supreme Court ruling of *Mitchell v. Wisconsin*, officers can mandate that blood be drawn from an unconscious driver without a warrant, when a breath test cannot be given, in order to ensure the integrity of the blood is maintained.**
- b. **On occasion, there may be other exigent circumstances that would permit a warrantless blood draw. Officers are encouraged to look at the totality of the circumstances and various factors such as health, safety, law enforcement needs, and evidence preservation before dismissing the need for a warrant.**



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- c. **In order to initiate a warrantless blood draw due to exigent circumstances, the following shall occur:**
    - 1) **The officer must be able to articulate the exigent circumstance; and**
    - 2) **A felony DWI offense must have occurred involving serious injury or death to a victim(s); and**
    - 3) **A supervisor must be notified of the circumstances and provide final approval whether the situation merits a warrantless blood draw.**
  - d. **If during the process any conflict arises between an officer and nursing staff regarding the warrantless blood draw, the officer shall begin the process of obtaining a search warrant as outlined in section VIII., A. of this procedure.**
  - e. **In certain situations, an officer may elect to obtain a grand jury subpoena for the driver's medical records instead of acquiring a search warrant. This shall be done at the discretion of the officer.**
3. **If blood or urine samples are to be obtained in circumstances that do not warrant an exigent circumstance, the following shall occur:**
- a. **Officers, when seizing blood as evidence of an alcohol or drug related driving offense, will use a MSHP kit. The MSHP Lab system provides BAC submission kits to the St. Louis County Police Department. Precincts and area hospitals have been supplied with MSHP kits. Extra kits are also available at the St. Louis County Police Crime Lab located in Police Headquarters.**
  - b. **Officers are to check the expiration date of the blood vial in the kit prior to the draw. If the tube is expired, they are to obtain another kit. If there is no kit available at either the hospital or precinct station, then a hospital-supplied grey-topped blood collection tube that contains the additive Sodium Fluoride, to obtain at least 10 mL of blood **shall be used**. The grey topped tube will then be placed in a sharps container to prevent breakage during transport to the MSHP.**
  - c. **The officer shall witness the tests including the antiseptic wipe, the blood draw, the inversion of the tube(s). Upon completion, the officer shall receive the samples directly from the person who performed the procedure. The person performing the procedure shall complete the section marked "Statement of Blood Drawer" in the Alcohol Influence Report.**
  - d. **The name of the person performing the blood draw shall also be noted in the officer's CARE report.**

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- e. The tubes are to be **inverted at least 20 times and** placed into the MSHP box which is to be sealed with red **evidence** tape.
- f. **The name of the person who inverted the tubes shall be listed in the CARE report.**
- g. The **evidence** tape **shall be** initialed by the seizing officer along with their DSN.
- h. The complaint number **shall** then be written on the box.
- i. Form SHP-205 **does not need to be prepared or included** when submitting the kit, **as it is intended for use by state troopers.**
- j. The Officer **shall** prepare a Laboratory Analysis Request (LAR) to be sent with the kit. One form is to be **completed** for each kit submitted. Officers **shall** prepare a **Department** evidence receipt.
- k. The MSHP kit, LAR, and **Department** evidence receipt are to be secured in the refrigerator in Intake at Justice Services. It is not necessary to place the kit into an evidence envelope as long as the kit is properly sealed with red evidence tape.
- l. Multiple blood draws will no longer be done over a period of time, but will all be conducted by filing two 10 ml tubes at the same time. One MSHP kit, which contains two tubes, is to be used one for each draw. Only one LAR form is needed.

### **4. Hospital and Medical Facilities**

- a. **DWI suspects may become combative and uncooperative while nursing staff draw blood at the hospital.**
- b. **On occasion, nursing staff may refuse to draw blood due to the resistance of the suspect, although a search warrant may be presented at the time of the draw.**
- c. **Officers shall be aware that the nursing staff's refusal should not be viewed as failing to comply with a search warrant, but rather is done out of concern of the safety of both patient and staff.**
- d. **If the nursing staff refuses to draw blood due to the above listed circumstances, the officer shall either convey the suspect to another hospital or coordinate a new time to arrange a blood draw.**

## VI. **Administrative Testing**

### **A. Breath Alcohol Content (BrAC)**

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**The following shall apply when an officer receives a breath sample from a driver.**

1. The officer shall issue the driver a Notice of Suspension/Revocation entitled "USE ONLY WHEN TEST RESULTS ARE OBTAINED" (DOR Form 2385) when the driver's **BrAC** is greater than 0.080% or a minor violating the Zero Tolerance law has a **BrAC** greater than 0.020%.
2. The officer shall seize the offender's Missouri driver's license when the driver's **BrAC** is greater than 0.080%, **or** when a minor violating the Zero Tolerance law has a **BrAC** greater than 0.020%.
3. **The officer shall still check the "Yes" in the Valid License Surrendered" section if the offender's Missouri license is suspended or revoked.**
4. If the driver does not have their driver's license in possession, the Notice of Suspension/Revocation **shall** still be issued and the officer will check the "No" box in the "Valid License Surrendered" section.
5. **Out-of-state driver's licenses, non-driver's licenses, or identification only cards shall not be seized.**
6. If the driver does not have a Missouri driver's license, but is licensed by another state, the officer **shall** check the "No" box in the "Valid License Surrendered" section of the Notice of Suspension/Revocation. The officer will write the words "Out-of-State License" to the right of the "No" box. The officer will write the state of issue next to the driver's license number at the top of the form.
7. **The officer shall provide the driver with the original copy of the Notice of Suspension/Revocation (DOR Form 2385) on scene, while the carbon copy of the form shall be retained by the officer for inclusion in the DWI packet.**

**B. Blood Alcohol Content (BAC) or Urine**

**When testing for alcohol content in blood or urine, results are often not readily available and are left pending a lab analysis. In these cases the following shall apply.**

1. Officers **shall** not seize a driver's license when the test results are unknown pending a laboratory analysis.
2. **Once lab results are obtained** from the Police Crime Laboratory, the officer shall:
  - a. Issue the driver a Notice of Suspension/Revocation entitled "USE ONLY WHEN TEST RESULTS ARE OBTAINED" (DOR Form 2385) if a driver's BAC is greater than 0.08% or a minor violating the Zero Tolerance law has a BAC greater than 0.020%; **and**

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- b. Forward a **copy of the results** to the Bureau of Central Police Records with the complaint number highlighted so that it is placed with the original **DWI packet**. The officer **shall also** note the results in a supplemental CARE report.
- c. The Bureau of Central Police Records shall forward a copy of the test results to the Department of Revenue.

### **C. Refusals**

**When a driver refuses to submit to any chemical test the following shall apply.**

- a. The officer shall issue the driver a Notice of Revocation entitled "USE ONLY FOR REFUSAL TO TEST" (DOR Form 4323).
- b. A notice of Suspension/Revocation (DOR Forms 2385 or 4323) **shall** be issued regardless of whether a driver's license is currently suspended or revoked, and regardless of the state of issue.
- c. The officer shall seize the offender's Missouri driver's license when the driver refuses to submit to a chemical test
- d. If the driver does not have their driver's license in possession, the Notice of Suspension/Revocation **shall** still be issued, and the officer will check the "No" box in the "Valid License Surrendered" section.
- e. Out-of-state driver's licenses, **non-driver's licenses, or identification only cards shall not be seized.**
- f. If the driver does not have a Missouri driver's license, but is licensed by another state, the officer **shall** check the "No" box in the "Valid License Surrendered" section of the Notice of Suspension/Revocation. The officer will write the words "Out-of-State License" to the right of the "No" box. The officer will write the state of issue next to the driver's license number at the top of the form.

## **VII. SPECIAL CIRCUMSTANCES**

### **A. Drivers of Commercial Vehicles**

The following procedures are to be followed when a driver is operating a commercial vehicle:

- 1. When the driver is found to have any level of alcohol in their system, the driver shall be placed out of service for 24 hours. To place a commercial driver out of service, **an officer of the Commercial Vehicle Enforcement (CVE) Unit or trooper with the Missouri State Highway Patrol Commercial Vehicle Enforcement Division shall be contacted through the Bureau of Communications.**

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- a. **The CVE officer will arrive on scene and conduct an inspection of the vehicle before placing the driver out of service. For further information regarding CVE's role and responsibilities on scene, reference shall be made to CVE unit procedure entitled *Commercial Vehicle Inspections*.**
    - b. Drivers must be operating a commercial vehicle in order to be placed out of service.
  2. When the BAC is unknown due to the arrestee refusing a chemical test, the officer shall **contact a CVE employee through the Bureau of Communications** to place the driver out of service. **Additionally, the officer shall** complete DOR Form 4232, Affidavit of Chemical Test Refusal (for CDL driver only).
  3. When the driver has an alcohol concentration of 0.040% or greater, but less than 0.080%, the officer shall:
    - a. Issue **the driver** a Missouri Uniform Citation for Driving a Commercial Vehicle While **Under the Influence** (RsMo 302.780); or for Driving **with Excessive Blood Alcohol Content** of Four One-Hundredths of a Percent or More (**SLCRO 1212.015**); **and**
    - b. **Contact a CVE employee through the Bureau of Communications** to place the driver out of service; **and**
    - c. Complete **an** Alcohol Influence Report.
  4. When the BAC is 0.08% or greater, the officer shall **contact a CVE employee through the Bureau of Communications** to place the driver out of service and follow the Administrative Revocation process outlined in Section **IV., D.**
- B. Zero Tolerance
  1. If the officer believes the driver is not **impaired**, but in violation of the Zero Tolerance Law (a person under the age of 21, but fifteen years of age or older, with a blood alcohol content of 0.020% or greater), the officer shall arrest the offender for the traffic violation for which the offender was initially stopped.
  2. Zero Tolerance offenders are not arrested for DWI and shall not be issued a citation for DWI. The Zero Tolerance Law is administrative only **therefore an AIR form shall be completed by the officer. However**, the offender should only be charged with the traffic violations resulting from the original stop.
- C. Juveniles
  1. The **use of** Standardized Field Sobriety Tests **may be used with** a driver of any age.

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2. If probable cause **is established** that the driver **operated** a motor vehicle in an intoxicated condition and is **not of an adult age as defined by the State of Missouri**, then **they shall** be taken into custody. **However**, if the juvenile is injured and cannot perform field sobriety tests, then the officer's observations **plus** possible blood/urine testing **will need to be used** to prove **intoxication**.
3. The officer shall contact the Bureau of Central Police Records and request a DOR and **DWITS check**, to determine prior Driving While intoxicated convictions/adjudications/arrests. The officer shall note the results and the DSN of the clerk conducting the check in the narrative section of the Police Report.
4. If the juvenile driver has:
  - a. Two or more prior arrests for DWI or BAC; **and**
  - b. Two or more **previous DWI/BAC** pleas resulting in SIS **probation**; or
  - c. Two or more **previous DWI/BAC** pleas resulting in SES **probation**.

The matter **shall be** referred to Family Court, **and the policies in the** Family Court Manual **shall be** followed.

5. **If the** juvenile **is** under the age of fifteen and **has** been taken into custody for any offense, **the matter shall** be referred to Family Court, **and the policies in the** Family Court Manual **shall be** followed.
6. **If the** juvenile is over the age of fifteen **and** taken into custody for driving while intoxicated, **but is too young to be considered an adult by the State of Missouri, officers shall process the juvenile in the following manner:**
  - a. The arresting officer **shall** advise the driver of the Missouri Implied Consent Law for each test **that is** administered, reading directly from the Alcohol Influence Report. It is unnecessary to read the juvenile Miranda Rights at this time, as no guilt seeking questions will be asked. When a custodial interrogation is to take place, the rules stipulated in the Family Court Manual **shall** be followed.
  - b. If the driver consents to take a test, then the officer **shall** contact the Family Court. The officer will advise the court of the circumstances which led to the driver being taken into custody, as well as the test being requested.
  - c. If the Family Court does not grant permission for the test, this does not constitute a refusal on the part of the juvenile.
  - d. If the Family Court does grant permission, then the above described testing procedures **shall** be followed.

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- e. Upon completion of the testing, the administration revocation procedures are to be followed as described above in section **VI**.
  - f. The juvenile **shall** not to be photographed or fingerprinted. **Reference shall be made to the Family Court Manual for further.**
  - g. All appropriate citations set in correct county, municipal, or state court **shall** be issued to the juvenile.
  - h. If the juvenile suspect has been injured as a result of any part of the incident, medical attention must be provided at the appropriate facility. While at the appropriate facility, officers **shall** consult with hospital personnel regarding the presence of the juvenile's parents or guardians.
7. During the preparation of the CARE report, the officer **shall** advise **the CARE** operator that the suspect has not been processed. This will cause an e-mail to be generated to the record room so that the juvenile offender might be entered into the MSHP DWITS system. Additionally, the driver is not to be referred to the Family Court. The report preparation as described in section VIII is otherwise unchanged from above.
8. **However, if the juvenile is in custody for a felony DWI charge or related offense** then the matter shall be referred to the Family Court. **Reference shall be made to the Family Court Manual for further.**

**VIII. WARRANTS**

**A. Search Warrants**

- 1. Officers are required to apply for a search warrant when a suspect of a DWI refuses to submit to chemical tests **if the driver has:**
  - a. **Two or more previous DWI/BAC pleas** resulting in SIS probation; **or**
  - b. **Two or more previous DWI/BAC** pleas resulting in SES probation; **or**
  - c. If the driver has one of more intoxication convictions related to Involuntary Manslaughter, Assault Second Degree, Assault Second Degree on a Law Enforcement Officer; **or**
  - d. If the driver has been involved in a **leaving the scene** motor vehicle **crash** that involved property damage **over \$1,000 to an identifiable victim or was** subsequently arrested **as either a persistent, aggravated, chronic or habitual offender.**
- 2. **Previous intoxication arrests that do not have a final disposition do not** count as a previous conviction.
- 3. **As of January 2017, Missouri state statue was revised to include the charges of persistent, aggravated, chronic, and habitual offenders when**

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referring to whether certain driving while intoxicated offenses involved injury, endangerment, or death to an individual. If needed, officers shall reference Attachment A for further guidance.

4. **If an officer is ever unsure of whether a circumstance excludes the need for a search warrant, then a search warrant should still be sought.**
5. The officer shall **initiate** contact **with** the Duty Prosecutor, through the Bureau of Communications, to obtain a search warrant.
6. Samples of Search Warrants, Applications and Affidavits are attached to this Order, available under "Department Forms" on **PowerDMS**, and **located in the search warrant folder available at each precinct.**
  - a. The type of test and the **way** that test is administered **will be** defined by the search warrant.
  - b. If the warrant specifies more than one blood test, then a separate Blood Draw Kit will be used for each test. The time of each draw **shall be** noted on the kit.

**B. After Hours Procedure**

The following **shall** be followed for after-hours search warrants **on** blood draws related to alcohol and drug related driving offenses:

1. The officer **shall** notify their supervisor of the need for a search warrant and respond to the closest **Service Warrant Precinct.**
2. If the prisoner remains in the case officer's custody and **is** conveyed and secured at the precinct during the application process, **then** the case officer **shall** arrange to have a record check completed on the suspect. **The results must be** on hand prior to contacting the on-call Assistant Prosecuting Attorney.
3. The case officer **shall** notify the on-call Assistant Prosecuting Attorney **via telephone and present** the facts and circumstances related to their case **as well as** their intent to apply for a search warrant.
4. **After several attempts, if the officer is unable to contact the on-call Assistant Prosecuting Attorney via telephone they shall contact the Bureau of Communications to initiate contact with the on-call Assistant Prosecuting Attorney.**
5. **Upon contact**, the **on-call** Assistant Prosecuting Attorney will provide the officer with the on-call judge's name and court division number.
6. The case officer is responsible for completing the necessary forms for the search warrant (affidavit, application for search warrant, search warrant, return of inventory); **and shall** follow the process provided in "**After Hours Warrant Instructions for Police Officers**" **located in PowerDMS.**



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7. The case officer **shall** follow the process in the "**After Hours Warrant Instructions for Police Officers**" and prepare the search warrant file package to be forwarded by email to the **on-call** Assistant Prosecuting Attorney.
8. The **on-call** Assistant Prosecuting Attorney will review the package and may contact the officer if any changes or corrections are necessary.
9. The **on-call** Assistant Prosecuting Attorney will forward the file to the **on-call** judge.
10. **Once issued**, the officer **shall** execute the search warrant.
  - a. After the warrant is executed, the suspect **shall** be conveyed to the intake holding facility and the officer **shall** secure the blood-draw evidence in the evidence refrigerator or deliver it directly to the St. Louis County Police Crime Laboratory.
  - b. **If the officer is unable to find room for the blood sample in the appropriate storage facilities, the officer shall contact a supervisor, who shall then contact a supervisor from the Bureau of Criminal Identification for further assistance.**
11. The case officer **shall** have the suspect held for 24 hours and proceed to the Warrant Office for an arrest warrant, if the Warrant Office is open, **for an in-custody warrant application.**

**C. Arrest Warrants and Citations**

1. Persons charged with DWI shall be issued a citation for DWI unless the driver has:
  - a. Two or more **prior arrests for DWI/BAC; and**
  - b. **Two or more previous DWI/BAC** pleas resulting in SIS probation; **or**
  - c. **Two or more previous DWI/BAC** pleas resulting in SES probation; **or**
  - d. One or more intoxication **conviction that is related to:**
    - 1) Involuntary Manslaughter; **or**
    - 2) Assault Second Degree; **or**
    - 3) Assault Second Degree on a Law Enforcement Officer; **or**
    - 4) **If the driver has been convicted of being a Persistent, Aggravated, Chronic, or Habitual Offender.**

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2. The officer must make felony warrant application with the Prosecuting Attorney's Office, in accordance with the procedures outlined in General Order **037 Case Management and** shall not issue a citation for DWI. **However, if there are other violations associated with the DWI, those citations may be set in state court and issued to the driver.**
3. The driver **shall** be held **for** 24 hours and the officer **shall** make warrant application while the driver is in custody unless:
  - a. The driver suspected of a felony DWI is compliant in submitting to a chemical test (volunteer blood/breath); **and**
  - b. A record check indicates no prior convictions of serious violent assaults, assaults involving DWI, or similar charges.
4. In these cases, the officer has the option of releasing the subject pending the application of warrants (RPAW).
5. Upon in-custody warrant application, officers shall complete a warrant application supplemental report through CARE.
6. The Office of the St. Louis County Prosecuting Attorney is responsible for obtaining copies of conviction records.

### **IX. REPORTING PROCEDURE**

#### **A. Documents and Supplements**

1. The officer **shall** obtain the following forms from the instrument operator when a breath test is administered:
  - a. Evidence Ticket showing blood alcohol content; **and**
  - b. Copy of the most recent maintenance report completed on the breath test instrument; **and**
  - c. Certificate of Analysis; **and**
  - d. Copy of the permits for the instrument operator and the Type II supervisor who conducted the most recent maintenance report on the instrument.
2. The Alcohol Influence Report and related paperwork **shall** be completed immediately or as soon as practicable.
3. **If** an officer witnesses traffic violations or other situations that result in the arrest of a person for DWI, but is not the arresting officer, the witness officer shall complete a supplemental CARE report describing **their** observations. The supplemental report is needed for DOR administrative procedures.

#### **B. Record Checks**

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1. **Following arrest, the officer shall contact the Bureau of Central Police Records and request a record check to check for prior DWI arrests.**
2. **The Record Clerk or CARE Operator will check DWITS, REJIS, MULES, and NCIC to evaluate an offender's prior history which will assist the officer in determining the appropriate level needed to charge the driver.**
3. **The officer shall obtain the DSN from the Record Clerk or CARE Operator conducting the record check and include it, along with the number of prior offenses found during the record check, in the narrative of the CARE report.**

**C. DWI Packet**

1. Upon completion of all paperwork, the officer **shall turn-in** the following documents to a supervisor in an Alcohol Influence Report Envelope:
  - a. Alcohol Influence Report (current version authorized by DOR); **and**
  - b. All citations issued to the driver; **and**
  - c. Notice of Suspension/Revocation, if issued; **and**
  - d. Missouri driver's license, if seized; **and**
  - e. Forms obtained from the instrument operator, as noted above; **and**
  - f. Any **crash** reports; **and**
  - g. **Tow sheet; and**
  - h. Any other reports/forms incident to arrest.
2. **Each suspect shall have a separate envelope.**
3. After review, the supervisor shall sign the Alcohol Influence Report in the signature box next to the reporting officer's signature.
  - a. **Final approval on CARE reports is not necessary for the packet, however supervisor approval must be on all reports.**
  - b. **Completed DWI packages shall be forwarded to the Division of Patrol Office.**
4. **In order to ensure compliance with RsMo 43.506, both the St. Louis County Police Department and The Department of Justice Services shall forward fingerprints, photographs, and if available any other unique biometric data collected, charges, appropriate charge codes, and descriptions of all persons who are arrested for all intoxication-related traffic offenses to the State of Missouri's central repository. This information is required by state**

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**statute and must be submitted via the LiveScan System or other electronic medium.**

5. The Bureau of Central Police Records **shall:**
  - a. **Maintain an original copy of the DWI packet; and**
  - b. **Forward a copy to the State of Missouri's Department of Revenue; and**
  - c. **Forward a copy to the County Counselor's Office or Prosecuting Attorney's Office when a citation has been issued by the officer for Driving While Intoxicated.**
    - 1) **In these instances, an Interstate Identification Index (Triple I) must be included with the packet.**
    - 2) **It will be the responsibility of The Bureau of Central Police Records to complete and forward the Triple I to the appropriate prosecutor's office.**

**X. SEARCH WARRANT COPIES AND RETURN AND INVENTORY**

1. **When executing a search warrant, the case officer is responsible for making copies and providing the following entities **copies of the warrant during its execution:****

  - a. **Hospital- at the time of blood draw**
  - b. **Defendant- provided via prisoner property bag**

2. **Once the warrant has been executed, it is the responsibility of the case officer to ensure the search warrant's return and inventory is completed and notarized.**
3. **The return and inventory must be completed within ten calendar days of the warrant's execution, and hand delivered to the Circuit Clerk's Office by the officer who executed it.**
4. **The Circuit Clerk's Office shall receive the original copy of the search warrant and return and inventory. Additional copies shall also be provided to the following entities:**
  - a. **The Prosecuting Attorney's Office- at time of arrest warrant application**
  - b. **Judge/Court issuing warrant- at the time of hand delivery to the Circuit Clerk's Office**
  - c. **Record Room- with the final DWI packet**

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Attachments:

[Accuracy Check/Calibration Log](#)  
[After Hours Warrant Instructions for Police Officers](#)  
[Attachment A](#)  
[Search Warrant](#)  
[Application for Search Warrant](#)  
[Affidavit](#)  
[MSHP Laboratory Analysis Request \(LAR\) Form](#)  
[Return and Inventory](#)

Adopted by Command Staff

By order of:

COLONEL MARY T. BARTON  
Chief of Police

MB:mw

Approved at the regular meeting of the Board of Police Commissioners dated December 16, 2020.

\_\_\_\_\_  
COMMISSIONER  
Chairman

\_\_\_\_\_  
COMMISSIONER  
Secretary

Distribution  
All Department Personnel

CALEA Reference  
44.2.1, 44.2.2, **61.1.1, 61.1.5, 61.1.9, 61.1.10, 74.3.1, 74.3.2, 82.2.1, 82.2.2, 83.3.2, 83.2.6, 84.1.2**