

2.230 DEPARTMENTAL ACCIDENTS

2.230.02 Involved Employees' Responsibilities

- A. Employees who are involved in accidents in vehicles that are owned, leased, or under control of the university will promptly notify:
 - 1. Supervisors or commanders to ensure the accidents are investigated; and
 - 2. Police agencies that have primary traffic enforcement authority for the accident location.
- B. With the exception of hit and run accidents victimizing university vehicles, drivers will not move vehicles from points of impact without approval unless there are threats to the safety of persons or property.
- C. In hit and run accidents, officers, after notifying communications, may leave scenes to attempt to identify or apprehend striking drivers, provided that such departures can be made safely and prudently.
- D. Drivers will:
 - 1. Complete Motor Vehicle Accident Investigation Guides (FS.1); and
 - 2. Comply with Workers' Compensation reporting requirements consistent with **1.425 Accident Leave Management**.

2.230.04 Investigating Officers' Responsibilities {Revised: 12/11/14}

- A. On-duty officers will investigate departmental accidents occurring within the agency's jurisdiction.
 - 1. It is preferred that on-duty patrol supervisors investigate departmental accidents.
 - 2. Any officer who has been designated as eligible to serve as an OIC may be the initial investigating officer in the absence of patrol supervisors or if patrol supervisors are the involved driver.
- B. Duties and responsibilities of investigating officers include, but are not limited to:
 - 1. Performing accident scene duties consistent with **2.228 Accident Investigation**;
 - 2. Completing ACRS reports, if not prepared by Reconstructionists;
 - 3. Completing ACORD Automobile Loss Notices;
 - 4. Ensuring drivers complete their sections of FS.1 forms;
 - 5. Completing the supervisor's section of FS.1 forms;
 - 6. Ensuring Workers' Compensation reporting requirements are met consistent with **1.425 Accident Leave Management**;
 - 7. Making notifications consistent with **2.424 Notifications**;
 - 8. Completing thorough investigative reports for submission to the professional standards officer;
 - 9. Making recommendations as to whether accidents were preventable v. non-preventable consistent with **2.230.08 Administrative Review & Recommendations**;
 - 10. Making recommendations to modify agency directives, training, equipment, or business practices when insufficiencies or inadequacies are discovered; and
 - 11. Submitting completed ACRS, ACORD, and FS.1 reports to Central Records.

2.230.06 Departmental Accidents Occurring Outside the Agency's Jurisdiction

- A. Employees are responsible for complying with requirements of **2.230.02 Involved Employee's Responsibilities**.
- B. The patrol commander, or another specifically designated commander, is responsible for ensuring the applicable provisions of **2.230.04 Investigating Officers' Responsibilities** are completed.
- C. When practical, a supervisor or commander will respond to departmental accidents occurring out of jurisdiction and involving fatalities or serious personal injuries.

2.230.08 Administrative Review & Recommendations

- A. THE UNIVERSITY'S ACCIDENT REVIEW COMMITTEE:
 - 1. REVIEWS ALL ACCIDENTS INVOLVING UNIVERSITY VEHICLES;

2. PROVIDES SUMMARIES OF FINDINGS AND RECOMMENDATIONS TO DEPARTMENTAL REPRESENTATIVES BASED ON TOTALITY OF THE CIRCUMSTANCES AS DESCRIBED IN THE UNIVERSITY SYSTEM OF MARYLAND'S FLEET MANAGEMENT PROGRAM.

- B. Investigative findings will be:
1. **Preventable:** An accident resulting from the failure of the operator to:
 - a. Obey all traffic laws;
 - b. Recognize the rights of others; or
 - c. Use due care in the operation of the equipment; and
 2. **Non-preventable:** An accident resulting from circumstances beyond the reasonable control of the operator and in which the employee exercised either defensive driving and/or due care.
- C. Non-preventable accidents will be closed.
- D. Accidents involving apparent preventable conduct will be handled consistent with **1.720 Punitive Discipline**.

2.230.10 Alcoholic Beverage / CDS Related Accidents

- A. Generally, departmental accidents involving employees who are suspected to be in violation of **TR § 21-902** will be handled consistent with **1.720 Punitive Discipline**.
- B. If employees are suspected of driving in violation of **TR § 21-902**, investigating officers will:
1. Notify a commander during business hours or the Duty Officer during non-business hours for guidance in determining whether or not the employee will or may be criminally charged with violating **TR 21-902**;
 2. Ensure applicable procedures are followed consistent with **2.232 Alcohol Enforcement Countermeasures**;
 3. If directed to do so for administrative purposes, order employees to submit to dexterity and breath or blood tests for alcohol; and
 4. Record in the Confidential Statement of Incident (**UPO.022.D**) and Alcohol Influence Report (**UPO.066.D**):
 - a. Employees' appearance and demeanor; and
 - b. The amount of time, expressed in minutes, between when investigating officers first observed the employees and when the employees took any alcohol tests.
- C. Employees will submit to dexterity test and breath or blood tests for alcohol as ordered for administrative purposes.
1. Tests will be administered as soon as feasible after the accident.
 2. Time limits to conduct blood alcohol testing apply only if employees are or may be criminally charged with violating **TR § 21-902**.

2.230.12 Vision and Hearing Testing

(22.3.1)

- A. Employees found to have caused preventable departmental accidents may be ordered for cause and at no cost to involved employees, to submit to eye tests, hearing tests, or other appropriate medical tests.
- B. The commander responsible for the agency's human resources function will coordinate testing.

2.230.14 Remedial Driver Training

(26.1.4.a)

Employees may be assigned to remedial or other relevant driver training programs when this training is determined to be in the best interests of the employee or agency.

2.230.16 Appearance at Hearings

Employees directed to appear before courts or administrative proceedings relating to departmental accidents will promptly notify the Office of the Chief through their chain of command.

2.230.18 STATEWIDE DISCIPLINARY MATRIX (26.1.4.c)

A. The STATEWIDE DISCIPLINARY MATRIX WILL BE UTILIZED FOR ALL DEPARTMENTAL CRASHES. SEE 1.720 PUNITIVE DISCIPLINE FOR THE MATRIX.

2.232 ALCOHOL RELATED TRAFFIC OFFENSES (61.1.5.a, 61.1.10, 61.1.11)

2.232.02 Alcohol Enforcement Countermeasures

- A. The emphasis on alcohol related traffic offenses is designed to achieve goals of detection and apprehension of influenced, impaired or drugged drivers, and reduction of accidents and violations involving those drivers.
- B. The alcohol enforcement countermeasures program is a component of routine and directed traffic enforcement efforts. The agency may use, in various combinations:
1. Assignment of personnel during times and at locations where there are a significant number of violations and/or accidents involving impaired drivers;
 2. Observance of roadways to determine characteristics of impaired drivers; and
 3. Enforcement of impaired-driving laws through concentration on existing laws and the expeditious processing of violators.

2.232.04 Preliminary Breath Tests

- A. The agency maintains and authorizes the use of Preliminary Breath Test (PBT) devices approved by the State Toxicologist.
1. PBTs are kept in the patrol supply cabinet when not deployed to the field.
 2. Only officers certified by the State Toxicologist will deploy and use PBTs.
 3. Employees will not perform any repairs or make modifications to PBTs.
- B. Tests may be administered to provide officers with guidance as they decide whether to take enforcement actions under **TR § 21-902**.
1. PBTs do not replace, and are not part of, the establishment of probable cause for arrests.
 2. PBTs should be administered only after field sobriety testing is completed and drivers consent to testing.
 3. Officers will use the MSP 102, Advisement of Rights for Preliminary Breath Test, to advise drivers of their PBT rights. Two originals will be completed.
 - a. The related case or CAD number will be written on each original.
 - b. One original will be given to suspects.
 - c. One original will be turned in with all other case related paperwork for supervisory review and submitted to Central Records.
 4. Results will be given to suspects when they are:
 - a. Released without arrest; or
 - b. Arrested, but only after submission to, or refusal of, evidentiary breath or blood tests to determine alcohol concentration.
 5. Defendants must be observed for 20 minutes after PBTs are administered before breath tests for alcohol tests can be administered.
 6. PBT results will not be included in Statements of Probable Cause DC/CR 4.
- C. PBT results may not be introduced by the State as evidence in court, but may be introduced:
1. By the defense;
 2. To support arrests when motions are made by the defense to suppress evidence based on the lack of probable cause; and
 3. In OSCCE proceedings.
- D. Officers must fill out MSP 104, Preliminary Breath Test Log that is maintained in the squad room as soon as practical after administering PBTs.
1. MSP 104 entries will be made only for those instances related to the enforcement of **TR § 21-902**.

2. Officers administering PBTs for **TR § 21-902** violations will complete MSP 104 entries before going off duty from the shifts when tests were conducted.
- E. Officers may also administer PBTs during the course of training, educational, or outreach programs.
- F. The patrol commander will designate a PBT certified officer to serve in an ancillary basis as the agency's PBT coordinator. The PBT coordinator's duties and responsibilities include, but are not limited to:
 1. Ensuring the agency's PBTs are tested at least once a month using required simulated alcohol reference solutions;
 2. Ensuring out-of-calibration PBTs are taken out of service, recalibrated by certified personnel, and returned to service after being recalibrated;
 3. Ensuring monthly routine tests and post-recalibration tests are entered in the PBT Test Log;
 4. Working with Logistics to ensure the agency has adequate supplies of mouthpieces and the most current related MSP form versions; and
 5. Completing and submitting MSP 34As, Alcohol Influence and PBT Use–Monthly Summary to Central Records not later than the fifth day of every month.
- G. Supervisors of PBT certified officers will conduct periodic inspections of the PBT Test Log to ensure their subordinates are recording test information appropriately.
- H. The Central Records supervisor is responsible for ensuring that:
 1. Completed MSP 34As are sent to MSP no later than the 10th day of each month;
 2. Originals of MSP 104s and copies of completed MSP 34As are retained by the agency for three years;
 3. Originals of MSP 102s are filed with corresponding case files.

2.232.06 Alcohol/Drugged Driver Arrest Procedures

- A. Officers should initiate traffic stops and make apprehensions as soon as possible after their attention is drawn to some unusual or illegal operation of motor vehicles or signs of intoxication in drivers' physical appearance.
- B. Defendants' vehicles may be towed as described in **2.434.16 Violations of Transportation Articles**.
- C. Officers have two hours from the time arrests were made, not from the time of traffic stops or accidents, to have breath tests administered. Breath tests conducted after two hours may be accepted, but are not considered *per se* evidence. Officers will:
 1. Keep defendants under observation at all times and will not allow them to eat, drink, or smoke from the time they are arrested until after chemical tests are completed; and
 2. Ensure tests are conducted if defendants initially refuse to take tests, but then agree to take tests within the two-hour time limit.
- D. Following completion of DR-15 procedures, arresting officers will read defendants their Miranda Rights and debrief them by asking the applicable questions on the Alcohol Influence Report (**UPO.066.D**).
- E. Consistent with **TR § 26-202(c)**, people charged with alcohol or drug related traffic offenses will be taken without unnecessary delay before District Court Commissioners for pretrial release determination unless, consistent with **2.620 Traffic Arrests**, are released upon their written promise to appear for trial.

2.232.08 DR-15 & DR-15A

- A. Except for fatal accidents as described in **2.232.28 Accidents With Fatal/Life Threatening Injuries**, officers will, in accordance with **TR § 16-205.1**:
 1. Read DR-15 "Advice of Rights" forms to all persons arrested for violating the provisions of **TR § 21-902**.
 2. Complete DR-15A "Police Officer's Certification and Order of Suspension" only if alcohol or drug tests were refused or test results indicate 0.08% or more alcohol concentration.

3. Distribute copies of DR-15s and DR-15As consistent with the form's printed instructions.
 - a. Confiscated driver's licenses will be attached to completed DR-15As and submitted to Central Records with other arrest-related paperwork. Completed DR-15As serve as property receipts for MVA.
 - b. Central Records staff must mail copies of DR-15s, DR-15As, and any confiscated driver's licenses to MVA within 72 hours after the documents were issued.
- B. DR-15As are sequentially numbered and require full inventory accountability.
 1. Logistics is responsible for ensuring an adequate supply of DR-15As is maintained in the patrol squad supply cabinet.
 2. Supervisors will:
 - a. Issue DR-15A books only to those officers whose duties normally put them in enforcement contact with motorists; and
 - b. Record the information on the sign-out log. See also **2.208 Traffic Enforcement Document Control**.
 3. Officers will promptly complete and submit the DR-15A receipt cards through their supervisors to Central Records.
- C. Temporary licenses will not be issued when drivers do not have licenses in their possession and the MVA computer is out of service. Drivers will be told to contact the Administrative Adjudication Office at MVA in Glen Burnie for further license assistance.
- D. Driver's licenses will be confiscated and temporary licenses issued if the MVA computer is out of service and drivers have licenses that appear to be valid in their possession.
- E. DR-15As containing mistakes will be voided administratively.
 1. Officers will:
 - a. Write the number of the initial DR-15A on the new DR-15A;
 - b. Write "VOID" in large letters across the DR-15A that contains the error;
 - c. Complete Citation Void Reports (**UPO.097.D**); and
 - d. Submit all copies of the DR-15A and Citation Void Reports for supervisory approval prior to ending their tours of duty wherein the DR-15As were written.
 2. Supervisors will:
 - a. Approve only those Citation Void Reports that are consistent with agency directives; and
 - b. Submit all copies of voided DR-15As and Citation Void Reports to Central Records by the end of their tours of duty on the days wherein the citations were written.
 3. Central Records personnel will:
 - a. Send originals of voided DR-15As and a copy of the accompanying Void Citation Reports to the MVA Administrative *Per Se* Unit;
 - b. Retain originals of Void Citation Reports; and
 - c. Destroy all other copies of both documents.
- F. A DR-15A book that has been issued to one officer cannot be used by anyone else. Partially used or previously issued books must be submitted to Logistics for inventory, accountability, and return to MVA.

2.232.10 Right to Counsel

- A. Defendants are entitled to request and communicate with attorneys prior to taking chemical tests. Attorneys may contact defendants at test facilities to speak to them or administer secondary, separate breath tests using attorneys' personally owned test equipment.
- B. Arresting officers will tell defendants that delaying chemical tests to contact attorneys or have them present during testing could cause time limits to be exceeded and considered refusal to take tests.
- C. All attorney-client contacts, prior to breath tests or test refusals, will be conducted in the presence of arresting officers. Requiring and maintaining visual observation of defendants and their attorneys does not breach attorney-client privileges.

- D. Attorneys are subject to pat-downs and having any containers, briefcases, etc. searched for weapons or other things that may compromise the arrest process prior to having contact with defendants.
- E. Secondary testing by attorneys may be allowed only after initial testing by the police.

2.232.12 Prescription Medications

- A. Officers will tell defendants wishing to take prescription medications that, if prescription related time delays result in the expiration of the two hour limit for chemical testing, the actions will constitute a refusal to submit to chemical testing.
- B. Officers must observe defendants 20 minutes after any prescriptions are taken. Arrestees will be processed as refusing to submit to testing if the prescription related observation time causes the two-hour testing time limit to expire.
- C. Arresting officers will document in their alcohol influence reports the times, types of medications, and amounts taken.

2.232.14 Breath Test for Alcohol

- A. Communications maintains a list of nearby allied agencies with breath test equipment.
- B. Arresting officers must remain with defendants during the 20-minute observation period and witness the testing.
- C. Defendants testing at 0.08% BAC or higher should be charged with violating:
 - 1. **TR 21-902 (a)(2)** Driving Under the Influence of Alcohol *Per Se*; and
 - 2. **TR 21-902 a(1)**.
- D. Defendants testing 0.05% BAC or more, but less than 0.07% BAC should be charged with **TR 21-902(b)** Driving While Impaired by Alcohol. Results in this range may not give rise to any presumption that defendants were or were not impaired by alcohol, but may be considered with other competent evidence in determining the guilt or innocence of defendants.
- E. Arresting officers will attempt to have arrestees evaluated by Drug Recognition Experts (DREs) when breath test results are 0.07% BAC or lower and when arrestees' observed levels of impairment are not consistent with breath test results. See also **232.20 DRE Notifications**.
- F. Defendants will be transported to medical facilities for evaluation and treatment consistent with **2.630 Sick or Injured Detainees** when they appear to be highly intoxicated and:
 - 1. Breath tests are refused;
 - 2. Breath tests have results of 0.05% BAC or below; or
 - 3. Breath tests have results of 0.30% BAC or above.
- G. Arrestees will not be released without being formally charged, unless officers and their supervisors confer with OSA personnel and are instructed to release defendants without charges, such as probable cause no longer exists, defendants were admitted to hospitals and will be charged at a later date, etc.

2.232.16 Blood Test for Alcohol

- A. Consistent with Courts & Judicial Proceedings (**CJ**) § **10-305**, blood tests will only be used if:
 - 1. Defendants are dead, unconscious or otherwise incapable of refusing to take other tests to determine alcohol concentration;
 - 2. Defendants' injuries require taking them to medical facilities;
 - 3. Breath test equipment is not available; or
 - 4. It is necessary to determine drug or controlled dangerous substance content.
- B. These local hospitals are authorized to administer blood tests:
 - 1. GBMC; and
 - 2. St. Joseph's.
- C. Blood samples must be drawn within three hours of arrests and, consistent with **CJ** § **10-304**, by a qualified medical person using equipment approved by the toxicologist under the Postmortem Examiners Commission acting at the request of a police officer.

- D. Logistics is responsible for ensuring at least three current and authorized blood test kits are stored in the patrol supply cabinet.
- E. Officers will:
 - 1. Check expiration dates on blood sample kits to ensure that expired kits will not be used. Expired kits will be forwarded to Logistics for replacement;
 - 2. Follow the instructions kept with the kits for proper use and submission of the specimen kits;
 - 3. Witness, if possible, the blood withdrawal to reduce the possibility of the medical personnel having to appear in court; and
 - 4. Ensure completed blood test kits are placed in departmental outgoing mail and addressed to: CTAU, MSP Headquarters, Pikesville, MD 21208 unless circumstances dictate personal delivery.
- F. Blood test defendants should initially be charged with **TR § 21-902(a)(1)** unless OSA personnel advise otherwise to charge additionally with **TR § 91-902(b)**. Arresting officers will contact OSA personnel once blood test results have been received for further guidance on the cases.
- G. If suspects refuse required blood testing or become violent, arresting officers will:
 - 1. Have efforts discontinued to obtain blood samples;
 - 2. Document the circumstances in the DC/CR 4; and
 - 3. Initiate DR-15As.
- H. Have the on-call State's Attorney contacted through Baltimore County Communications if medical personnel refuse to withdraw blood samples.
- I. DR-15As will not be completed, suspension notices served, or driver's licenses confiscated in blood test related cases unless blood test results return results of 0.08% or higher.
- J. Once blood test results have been returned, officers will:
 - 1. Personally serve DR-15As on drivers if they are within our jurisdiction; or
 - 2. Enlist the assistance of allied agencies to serve DR-15As on drivers who live outside this agency's jurisdiction or will not respond to the university for service.

2.232.18 Alcohol Restriction Violation / Charges

- A. All persons under the age of 21 have alcohol restrictions imposed on them of 0.02% or higher.
- B. Court ordered alcohol restrictions are set at 0.01% or higher.
- C. If defendants who have alcohol restrictions refuse testing, arresting officers will charge them with the alcohol restriction violations as well as **TR § 21-902** and complete DR-15As.
- D. Officers charging people who have regular driver's licenses with violating alcohol restrictions must complete MVA Certification of Police Officer – Violation of Alcohol Restriction (DR-103) if test results are above 0.02%, but below 0.08%. Arresting officers will:
 - 1. Submit original and pink copies to Central Records with other case documents; and
 - 2. Give canary copies to defendants.
- E. Officers charging people who have commercial driver's licenses with alcohol restrictions under **TR § 16-813** must complete MVA Certification of Police Officer – Test Result of 0.04% or More (DR-102). Officers will:
 - 1. Submit original and pink copies Central Records with other case documents; and
 - 2. Give canary copies to defendants.

2.232.20 DRE Notifications

- A. DREs will be requested to evaluate suspects when suspects have:
 - 1. Been arrested and are in custody for alcohol or drugged driving violations;
 - 2. Provided evidentiary tests of less than 0.07% BAC or preliminary breath tests (PBTs) of less than 0.07% BAC, but appear to be highly intoxicated or when suspects have been transported to medical facilities; and
 - 3. Been advised of their *Miranda* rights and have agreed to submit to questioning.

- B. Arresting officers will ensure that only one person from the requesting agency phones the MSP Headquarters Duty Officer to request that DREs be paged for assistance. Information that must be provided to the MSP Duty Officer is:
1. The name of the county where the arrest occurred;
 2. The name of the arresting officers' agency, person serving as the point of contact, and telephone number; and
 3. That an on-duty DRE is requested.
 - a. Off-duty DREs will be requested via the MSP Duty Officer if on-duty DREs do not contact the requesting officers within 15 minutes.
 - b. Follow-up calls should be made to the MSP Duty Officer requesting pages be cancelled when several DREs contact the requesting agency.
- C. Defendants tested by DREs and found to be under the influence of alcohol and/or drugs will be:
1. Transported to medical facilities for further evaluation and treatment consistent with **2.630 Sick or Injured Detainees**; and
 2. Subsequently charged, after consultation with OSA personnel with **TR § 21-902(c) Driving While Impaired by Drugs or Drugs and Alcohol Combination** or **TR § 21-902(d) Driving While Impaired by A Controlled Dangerous Substance**.

2.232.22 Juvenile Testing

- A. Juveniles aged 16 and 17 will be treated as adults for the purposes of testing for intoxication.
- B. Juveniles 15 and younger who are suspected of driving under the influence of drugs or alcohol may be given chemical tests for intoxication if their parents or guardians give permission. However:
1. Tests will be conducted:
 - a. If parents or guardians cannot be contacted within two hours from the time arrests were made but the arrested juvenile agrees to submit to testing; or
 - b. If parents or guardians refuse to allow testing, but the juvenile agrees to submit to testing;
 2. Tests will not be conducted if juveniles refuse to submit to testing, regardless of parental or guardian permission or wishes.

2.232.24 Documentation

The reports and/or documents that will be completed as applicable in all alcohol and CDS related driving arrests are:

- A. Arrest ledger;
- B. Statement of Probable Cause DC/CR 4;
- C. TU Police **Alcohol Influence Report (UPO.066.D)**;
- D. DR-15, Advice of Rights;
- E. DR-15A, Officer's Certification and Order of Suspension;
- F. DR-103, Violation of Alcohol Restriction;
- G. DR-102, Commercial Motor Vehicle Alcohol Restriction Violation;
- H. MSP 102, Preliminary Breath Test Advisement of Rights;
- I. MSP 104, PBT Log;
- J. MSP 171, Disposition of Blood Alcohol Chemical Test Case (complete blocks 1-4);
- K. MSP 34, Alcohol Analysis and Medical Personnel Payment Authorization; and
- L. MSP 33, Results of Chemical Test. Arresting officers will ensure that a copy of this form is mailed to the OSA DWI coordinator after the blood work analysis is completed.

2.232.26 Unconscious Persons

- A. Officers will obtain prompt medical attention and arrange transportation to appropriate medical facilities when probable cause exists to make arrests, but drivers are unconscious or otherwise incapable of consenting to tests.

- B. If chemical testing for alcohol will not jeopardize the individual's health or well-being, officers will request qualified medical personnel withdraw blood for a chemical test for alcohol. Consent forms will be completed and the word "unconscious" written where defendants' signatures would normally be placed.
- C. Officers will proceed with the DR-15 process if drivers regain consciousness or otherwise become capable of consenting to or refusing tests prior to the blood being withdrawn.

2.232.28 Accidents With Fatal / Life Threatening Injuries

- A. The BCPD handles all fatal accidents consistent with **1.108 Primary & Concurrent Jurisdiction**. The agency will request assistance from allied agencies consistent with **2.508 Forensic Assistance** for accidents involving life threatening injuries.
- B. Alcohol and/or drug testing of drivers under **TR § 16-205.1(c)** for accidents with fatalities or life threatening injuries will be arranged for by the allied agency responsible for handling the case.