



DUI ENFORCEMENT AND PROCEDURES

INDEX CODE: 1905
EFFECTIVE DATE: 03-30-07

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I. PURPOSE

The purpose of this directive is to provide detailed guidance on the methods and procedures to be used in enforcing DUI/DWI laws. The arrest of a person for driving while impaired differs significantly from the handling of other traffic law violations. Included are methods to be employed for (1) *detection and arrest of drivers under the influence of alcohol and/or drugs*, (2) *proper administration of preliminary breath test*, (3) *procurement and procedures for breath and blood testing*, (4) *safe transportation of impaired arrestees*, (5) *incarceration or release to a responsible third party*, (6) *report and documentation requirements*, and (7) *disposition of the suspect's vehicle*.

II. FIELD PROCEDURES FOR DUI/DWI CASES

A. Detection and Arrest Decisions

Officers should be diligent in their efforts to detect drivers operating vehicles while under the influence of alcohol and/or drugs. Officers should rely on their training and experience to determine if an arrest should be made.

Officers will consider the elements of DUI/DWI and gather evidence to show that the subject was the driver of a vehicle, or attempting to drive, while under the influence of alcohol, impaired by alcohol, so far impaired by any drug, any combination of drugs, or a combination of drugs and alcohol, or impaired by a controlled dangerous substance that they could not operate a vehicle safely.

Officers must be observant of the driver's actions and statements that are indicative of alcohol and/or drug impairment. Officers should also be alert to physical evidence suggestive of alcohol or drug use.

Officers should be mindful that some medical conditions can simulate the outward appearance of alcohol and drugs. If there are indications that the subject may be suffering from a medical condition, the officer shall summons medical personnel to assist in an assessment of the subject's condition.

B. Use of PBT

Officers may utilize a Preliminary Breath Testing (PBT) instrument in helping to decide if an arrest will be made. The officer should request the assistance of a PBT Operator. The PBT Operator shall advise the driver of their rights in reference to a preliminary breath test utilizing the MSP Form 102. If the subject submits to the PBT test and is NOT charged, then the subject will be notified of the test result and provided a copy of the MSP Form 102. If the subject submits to the PBT test and is arrested, the driver MAY NOT be notified of the test result until after the evidentiary test has been refused or administered. After the conclusion of the evidentiary test (refusal or test completed), the driver should be provided a copy of the MSP Form 102 and result of the PBT test. The officer must notify the PBT Operator if the subject submitted to the evidentiary test or not. If an evidentiary test is completed, the officer must notify the PBT Operator of the results of the test. (The PBT Operator should enter the information into his/her PBT Log, MSP Form 104)

The arresting officer shall include the result of or refusal of any preliminary breath test in the Alcohol Influence Report.

C. Disposition of Arrestee's Vehicle

If the driver is alone and stops the vehicle in an unsafe or illegal location or the vehicle is impeding traffic, the officer will make provisions to have the vehicle towed in accordance with department tow procedures. If the driver stops the vehicle in a safe and legal location, the officer will ask the driver if he/she wants the vehicle to be locked and left at the scene, or *towed at the owner's expense*. Officers will *attempt to* honor the request of the driver whenever possible.

If passengers occupy the vehicle when the driver is taken into custody, the officer may release the vehicle to a sober passenger with a valid license, if so requested and authorized by the owner.

D. Transportation of Impaired Arrestees

The driver will be transported to a district station in accordance with department procedures. Special care must be taken to ensure the safety of the arrestee and the officer.

III. STATION PROCEDURES

A. Legal Representation

1. A person must, on request, be permitted a reasonable opportunity to communicate with counsel before submitting to a chemical test. Maryland law permits attorneys to administer a breath test to their clients. Such a test does not substitute for the evidentiary test administered by this department. The attorney may not remove the suspect from police custody to administer a test. The officer will retain visual custody of the suspect during any attorney-administered test.

The introduction of a chemical test device by the attorney is considered "mouth contamination" for evidential testing purposes of the suspect. It will then require the suspect to wait an additional twenty (20) minutes before an evidential test can be administered. The attorney test may not interfere with the compulsory two (2) hour time limit for a chemical test.

2. If a suspect requests counsel prior to the chemical test, the officer will note the time of the request, allow ample use of the telephone to the detained person, and note the number of calls attempted. The officer will not allow this request to interfere with the mandated two (2) hour limit for conducting the department's chemical test, or the four (4) hour limit for a blood test to determine the drug or controlled dangerous substance content of the suspect.

3. Miranda rights are not required prior to the administration of a chemical test.

B. Request for Physician

1. This section applies to suspects arrested for driving under the influence of alcohol or while impaired.

The person tested is permitted to have a physician of the person's own choosing administer tests in addition to the one administered at the direction of the police officer; and in the event no test is offered or requested by the police officer, the person may request, and the officer shall have administered one or more of the tests provided for in

this section (Courts and Judicial Proceedings 10-304). Such examinations will be conducted at the expense of the accused.

2. Officers will only call a physician in the event the **driver** is unable to do so. In this case, officers will clearly **indicate** to the doctor that the services are being requested by the **driver**, who will be solely responsible for any cost incurred. During examinations conducted by private physicians, officers will maintain custody and control of the driver and will scrutinize all procedures used by the physician to ensure the safety of the physician, police personnel, and the general public.

C. Required Reports

The arresting officer is responsible for ensuring that the following reports are completed:

1. *Alcohol Influence Report Form*
2. *DUI Information Data Sheet (PD Form 1905A)*
3. *DR-15 - Advise of Rights to Chemical Test (all drivers, except mandatory test)*
4. *DR-15A - Order of Suspension/Temporary License (if applicable)*
5. *DR-23 - Refusal to Submit to DRE Blood Test (if applicable)*
6. *Uniform Complaint and Citation(s)/ Juvenile Citation(s), reference Charging Chart (Appendix B to this Index Code)*
7. *Statement of Probable Cause (if applicable)*
8. *PD Form 622 "Notice to Defendant" station release form (if eligible)*
9. *DR-102 - Commercial Motor Vehicle, Alcohol Test Result (if applicable)*
10. *DR-103 - Violation of Alcohol Restriction (if applicable)*
11. *L07-4 - "Notice to Appear" green District Court form (if applicable)*
12. *Any other related reports; i.e., MAARS*

IV. CHEMICAL TESTING

MARYLAND IMPLIED CONSENT LAW

Reference: Transportation Article, Section 16-205.1

The Maryland Implied Consent Law states that any person who drives or attempts to drive a motor vehicle in the state of Maryland is considered to have consented to take a chemical test in order to determine the alcohol content, **or a test to determine the drug or controlled dangerous substance content** of his/her blood should he/she be detained on suspicion of driving or attempting to drive while **under the influence of alcohol, impaired by alcohol, so far impaired by any drug, any combination of drugs, or a combination of drugs and alcohol, or impaired by a controlled dangerous substance that they could not operate a vehicle safely.**

The Implied Consent Law also applies to all nonresident operators and all unlicensed operators, since they have been considered to given their consent in return for the privilege of operating a motor vehicle on the highways of Maryland.

A. Time Limitations for Testing

For the purpose of a test to determine alcohol concentration, the specimen of blood or breath shall be taken within 2 hours after the person accused is apprehended. For the purpose of a test to determine the drug or controlled dangerous substance content of a person's blood, the specimen of blood shall be taken within 4 hours after the person accused is apprehended. "Apprehension" is defined as when a police officer has reasonable

grounds to believe that the person is or has been driving a motor vehicle while under the influence or impaired by alcohol or drugs and the police officer takes action to stop or detain the person.

B. Mandatory Chemical Tests

Transportation Article, Section 16-205.1(c) is the governing law for the provision listed below.

1. Any person involved in a motor vehicle traffic accident, which a police officer has reasonable grounds to believe:
 - a. has been operating a motor vehicle while under the influence of alcohol, impaired by alcohol, so far impaired by any drug, any combination of drugs, or a combination of drugs and alcohol, or impaired by a controlled dangerous substance that they could not operate a vehicle safely;

AND

- b. the motor vehicle traffic accident results in the death of, or life threatening injury to another person, is required to submit a chemical test of breath or blood at the request of the police officer.

The determination of the injured person's medical condition is the police officer's responsibility. The phrase "life threatening injury" is not defined in the law. The officer should seek the opinion of an attending medical professional, such as an emergency medical technician, paramedic, nurse, or doctor, if available. The officer should include the names of any such personnel in the official report of the incident.

Should the opinion of a medical professional not be immediately available, the officer should rely on his or her past experience and training in determining if the injuries are life threatening.

The officer should immediately *require* the chemical test once he or she has made the medical determination. Under the law, a vehicle operator who refuses to submit to a chemical test must be compelled to do so if the police officer has made the threshold determination of the injured person's condition.

When the driver is compelled to take a chemical test, there is no requirement to advise the driver of the DR-15, Advice of Rights; therefore the form will not be read to the driver.

Testing will be conducted according to established procedures.

2. If the suspect refuses to submit to a chemical test, the amount of force an officer can apply to obtain a breath or blood test is subject to the following guidelines from the State's Attorney:
 - a. Unless the officer or medical personnel exhibit gross negligence, they are not civilly liable for their actions.
 - b. Physical force may be applied, if necessary, to get the sample. The same amount of force that is reasonable to arrest an unarmed person would apply in these cases.
 - c. Officers will not do anything that overtly or intentionally endangers the driver or is physically harmful. However, officers may physically restrain and immobilize the driver while medical personnel extract a blood sample. An officer may hold each limb and the driver may be strapped down if necessary.
 - d. When administering a breath test, the officer may force the driver to remain in a chair facing the chemical testing instrument and get the best sample possible without overtly or intentionally injuring the driver. *If the driver refuses to provide sufficient breath samples or is otherwise uncooperative and refuses to complete the test, then the driver will be transported to the hospital and a blood test will be completed.*

C. Breath Test Procedures

Whenever a police officer requests a driver to submit to a breath test for alcohol, the officer will:

1. Request Breath Test Operator

The arresting officer will request a Breath Test Operator to respond to the district station when a subject is arrested. The Breath Test Operator shall respond to the district station where the driver is being processed to administer the test. To ensure the safety and custody of the driver, he/she will only be transported to another location for the breath test when the instrument is out of service or the test is being administered at an outside agency's facility.

2. Complete the DUI Information Data Sheet (PD FORM 1905A)

A DUI Information Data Sheet must be completed for all drivers when a breath test is requested.

a. If the driver elects to take the breath test, the form will be provided to the Breath Test Operator, so the driver's information can be entered into the Intoximeter and Chemical Test for Alcohol logbook. A copy of the form will be forwarded to Central Records with the Alcohol Influence Report.

b. If the driver refuses the breath test, the form will be provided to a Breath Test Operator, so the driver's information can be entered into the Intoximeter and Chemical Test for Alcohol logbook. A copy of the refusal Intoximeter test strip will be attached to the form and forwarded to Central Records with the Alcohol Influence Report.

All DUI arrests MUST be entered into the Intoximeter and Chemical Test for Alcohol logbook. Only currently certified Breath Test Operators are authorized to make entries into the Intoximeter and Chemical Test for Alcohol logbook (MSP Form 36B).

3. Complete the DR-15 Form

*MVA form DR-15 has been revised to address the changes in the law. The **most recent** DR-15 is dated "01/07," and will be used whenever an officer **requests** a person to take a chemical test under the new law (**except when chemical test is mandatory**.) (The DR-15 forms are available from the Department Quartermaster.)*

- a. Read the entire DR-15 form to the driver.*
- b. Indicate on the DR-15 form whether or not the person agrees to submit to the test.*
- c. Have the driver sign the DR-15. (If driver refuses to sign the form, indicate near the "Driver's Signature" line, that the driver refused to sign when requested.)*
- d. Sign and fill in the information on the bottom of the DR-15.*
- e. Provide the appropriate copy to the driver.*

At the conclusion of reading the DR-15, the Breath Test Operator will administer the breath test following the proper procedures or if the driver refuses the test, then the refusal should be entered into the Intoximeter and Chemical Test for Alcohol logbook before the operator leaves the district station.

4. Administration of Breath Test

If the driver was transported to a medical facility and then released, the chemical test MUST be a test of blood. The driver cannot be transported back to the station and administered a breath test.

The driver's mouth must be visually checked for any foreign objects. The driver has to be observed for the 20-minute period prior to providing the breath samples. Once the driver has agreed to take a breath test, the arresting officer or Breath Test Operator will check the driver's mouth to ensure there are no foreign objects. If any foreign objects are observed, the driver will be directed to remove the object. The arresting officer should document what was in the subject's mouth and the time that it was removed. The arresting officer or Breath Test Operator will maintain custody of the subject until the breath test is administered. The Breath Test Operator is responsible for ensuring that the proper procedures and observation time were completed prior to administering the breath test.

The arresting officer will provide the Breath Test Operator a completed DUI Information Data Sheet and the subject's driver's license, if available. The officer should standby during the breath test administration to ensure the safety of the operator and test subject.

If a breath test is administered at another agency's facility, the arresting officer will provide a copy of the DUI Information Data Sheet and Breath Test Result (MSP 33) to a departmental Breath Test Operator so the breath test is entered into the Anne Arundel County Chemical Test for Alcohol logbook.

5. Complete the DR-15A Form (if applicable)

If the driver either refuses the requested test or takes the test with a result of **0.08 BAC** or higher, or the person refuses to take a blood test for drug or controlled dangerous substance content when requested by a Drug Recognition Expert:

- a. Fill in all blocks with the proper information; be sure to fill in the date of issuance in the space *provided*.
- b. Indicate whether the person refused the test, took the test with a result of *0.08 BAC but less than 0.15 BAC, result of 0.15 BAC or more, or refused to take a blood test when requested by a Drug Recognition Expert*.
- c. Confiscate the driver's license (Maryland driver's license only). *If the driver already has a temporary license, then confiscate the temporary license and follow same procedures as a normal driver's license.*
- d. Issue a temporary license for the driver (only for Maryland drivers with valid licenses). *If the driver had a temporary license, forward the confiscated temporary license to MVA. If the driver is a non-resident and/or does not have a valid driver's license, then under the "Temporary License" section have the driver sign acknowledging that a temporary license was not authorized. The form will then act as an Order of Suspension notice only.*
- e. Complete the "Statement of Reasonable Grounds" for which the driver was detained. *This section must be completed and include that the driver was advised of the DR-15 rights and refused a chemical test, took a test with a result of 0.08 BAC or higher (specify result) or refused a blood test when requested by a Drug Recognition Expert. Although a copy of the Alcohol Influence report can be forwarded to MVA, this section MUST be completed; it is not sufficient to write "See Attached Report."*
- f. Sign the form.
- g. Have the *Breath Test Operator complete and* sign the certification of a test result of **0.08 BAC** or more.
- h. Provide the "*Driver's Copy*" and the "*Hearing Request*" copy to the driver.

6. Mail Forms to MVA

- a. Attach the confiscated Maryland driver's license to the adhesive strip located on the first copy of the DR-15A.
- b. Seal the following items in the envelope provided, and mail to the MVA:
 1. DR-15 (MVA copy)
 2. DR-15A (MVA Copy)
 3. Confiscated driver's license
 4. A copy of the test result, *if applicable*
 5. A copy of MSP Form 33 (Official Test Result), *if applicable*
 6. A copy of the DR-23, DRE Certification Form, if applicable.
- c. On the backside of the envelope, check off the items enclosed and mail immediately. ***THE ENVELOPE MUST BE MAILED BY THE OFFICER AT A U.S. POST OFFICE OR MAILBOX BY THE END OF THE OFFICER'S TOUR OF DUTY.***

7. Breath Test Results

It is the responsibility of all officers to ensure the safety and welfare of all subjects detained for suspicion of DUI. Officers should remember that some medical conditions or drugs could replicate the appearance of alcohol impairment.

a. If a driver submits to a breath test that results in a reading of .00 BAC, the subject should be taken to a hospital for a medical evaluation. The hospital authorities should be advised that the subject appears to be under the influence, but that the test results were negative.

- 1. If there are reasonable grounds to believe that the subject is under the influence of drugs or a controlled dangerous substance, then the arresting officer will request a Drug Recognition Expert (DRE) to conduct an evaluation.*
- 2. The arresting officer should evaluate the situation and balance the enforcement effort with the welfare of the subject. The primary goal will be to ensure the welfare of the subject.*
- 3. If the subject submits to the DRE evaluation, then he/she shall be transported to the hospital at the conclusion of the evaluation; otherwise he/she should be transported immediately to the hospital.*

*b. In cases where the chemical test has been administered, and the **breath** alcohol reading is **0.30 BAC** or higher, the accused will be transported immediately to the nearest hospital. The arresting officer will advise hospital authorities of the **driver's** high blood alcohol reading.*

*c. When a breath test indicates a result of **0.06 BAC** or below, and the level of impairment is not consistent with the level of breath alcohol concentration, a DRE will be notified. No DRE is required when a result below a **0.07 BAC** is to be used only for charging the subject with a violation of alcohol restriction.*

- 1. If a subject has an alcohol restriction on his/her license and a chemical test results in a BAC of 0.02 to 0.07, a Form DR-103 (Certification of Police Officer – Violation of Alcohol Restriction) shall be completed. The Form should be completed and mailed to MVA in the same manner as the DR-15A.*
- 2. If a subject is operating a Commercial Motor Vehicle and a chemical test results in a BAC of 0.04 to 0.07, a Form DR-102 (Certification of Police Officer – Commercial Motor Vehicle) shall be completed. The Form should be completed and mailed to MVA in the same manner as the DR-15A.*

D. Blood Test Procedures

1. Complete the DUI Information Data Sheet, PD FORM 1905A

*A DUI Information Data Sheet will be completed for all drivers, when a blood test is requested. All blood test/refusals **MUST** be entered into the Intoximeter and Chemical Test for Alcohol logbook. Only currently certified Breath Test Operators are authorized to make entries into the Intoximeter and Chemical Test for Alcohol logbook (MSP Form 36B).*

A blood test shall be administered instead of a breath test under the following circumstances:

- a. A breath-testing instrument is not available.*
- b. Injuries to the defendant require the removal to a medical facility.*
- c. A test is required to determine the drug or controlled dangerous substance content.*
- d. A chemical test is **Mandatory and the driver refuses to cooperate with a Breath Test.***

2. Administering and Mailing Blood Tests

- a. Read the DR-15 to the driver, if he/she is conscious. Complete the DR-15, have the driver sign it, and give the driver his/her copy. If the driver is unconscious, then the Implied Consent Law deems that the person is incapable of withdrawing consent and the test can be administered.*
- b. Obtain a blood alcohol kit from a **district Breath Test Room**. Blood Test kits will remain in the Breath Test rooms in each district, not in officers' vehicles, **except those officers authorized by the Traffic Safety Section Commander or his/her designee**. Check the expiration date on the box and inner specimen tubes before use. **The MSP Lab will not test an expired blood kit. (Expired blood kits will be returned to the Traffic Safety Section.)***
- c. Transport the driver to a medical facility. Only qualified medical personnel approved and licensed by the State Toxicologist may withdraw the blood. All hospitals in the Baltimore metropolitan area are approved.*

- d. The officer must witness the taking of the blood and is responsible for filling out all forms included with the blood kit. The officer must follow the enclosed directions.
- e. The consent form is to be signed by the accused, if conscious, and a copy will be submitted to Central Records with the final reports.
- f. Complete the blood kit manufacturer's "blood collection report".
- g. Complete the "Arrest Information" and "Medical Personnel Payment Authorization" parts of the MSP Form 34, which is included.
- h. The officer must have the "Qualified Medical Person" sign the MEDICAL PERSONNEL PAYMENT AUTHORIZATION section of the MSP Form 34 and the BLOOD COLLECTION REPORT.**
- i. The officer must follow the packaging and sealing procedure enclosed with the blood sample. Include the completed MSP Form 34, blood collection report, and consent form with the blood kit.
- j. Make sure that the syringes are properly disposed of while at the medical facility.**
- k. The mailing package is pre-addressed and postage is provided. **The officer must drop it in the nearest U.S. Postal Service collection box or post office BY THE END OF THE OFFICER'S TOUR OF DUTY.**

The State Toxicologist will mail the blood test results to the Traffic Safety Section, who will send two copies to the States Attorney's Office and the original to the arresting officer.

3. DR-15A Procedures

- a. If the blood test results are **0.08 BAC** or higher, the arresting officer will contact the suspect and issue the DR-15A form.
- b. In the block titled "Issue Date," write the date that the DR-15A is completed, not usually the same as the date of arrest or accident.
- c. In the block titled "Certification of Test Technician or Analyst", print the words "Blood Test – See Attached MSP Form #34".

4. Service of DR-15A on Absent Driver

If it is not practical for the detaining officer to serve the DR-15A on the driver, the detaining officer will:

- a. Complete the DR-15A form as listed above with the exception of: **"Order of Suspension- Issue Date," "Surrender of Driver's License," "Driver's Certified Statement" and the "Temporary License" block.**
- b. Forward the partially completed DR-15A and a copy to the jurisdiction in the area where the driver may be contacted. The detaining officer should retain a photocopy of the DR-15A.
- c. If the DR-15A has not or cannot be served by another agency the arresting officer can serve it on the defendant at court.

V. RELEASE OF DUI/DWI OFFENDERS

A. The accused may be released upon issuance of a written citation and, consequently, not taken before a commissioner if he or she:

- 1. Is a Maryland resident; and
- 2. Has no prior FTA offenses in the last five years; and
- 3. Has no prior DUI or DWI offenses in the last five years; and
- 4. DUI or DWI is the most serious charge and/or there are no associated charges which require an appearance; and
- 5. A sober adult will take custody of the accused.

6. ***The suspect and the adult taking custody understands, via PD 622, that he/she having been arrested for a violation of Maryland Vehicle Law 21-902 that they may not drive a motor vehicle within twelve (12) hours after arrest.***
7. ***Issue green District Court Form L-07-4, "Notice to Appear"***

B. If the accused does not meet all the criteria listed in paragraph "A", he or she must be presented to a District Court commissioner prior to release. For further guidance and processing requirements, see Index Code 2004.

C. The release of the accused to a sober adult upon issuance of a written citation is at the discretion of the arresting officer with approval of a supervisor. Supervisors, in exercising authority and discretion, will consider the best interest of the public. The suspect will be held a minimum of four (4) hours after the time of arrest.

D. In cases where the accused is to be released to sober adult, and not presented before a court commissioner, the arresting officer will read to the accused the information contained on the PD622 entitled, "Notice to Defendant" while allowing the accused an opportunity to read along if he/she desires. The arresting officer will sign this form and the accused will be asked to sign this form also. ***The driver will be issued District Court of Maryland Form L-07-4, "Notice to Appear."***

E. The Department of Juvenile Justice must be notified if the detention period of a juvenile exceeds six (6) hours. See Index Code 1700, "Juvenile Operations" for details.

VI. COURT PREPARATION

When presenting a DUI/DWI case in court, ***the officer shall be prepared to testify to the facts of the case, including:***

A. The circumstances that established the probable cause for an arrest, including all details which led the officer to believe the defendant was operating or attempting to drive a vehicle while either under the influence of alcohol, impaired by alcohol, so far impaired by any drug, any combination of drugs, or a combination of drugs and alcohol, or impaired by a controlled dangerous substance that they could not operate a vehicle safely.

B. The date and time of arrest.

C. That the offense occurred in Anne Arundel County.

D. Information on the advisement of the DR-15 rights. Advisement of Miranda warning, if applicable.

E. In cases where a chemical test is administered, the officer must testify to the type of test, time administered technician's name, and results, ***if the Breath Test Operator or qualified medical person is not summoned to court.***

F. The officer must bring all related documents to court, including a certified copy of the accused driving record; the chemical test results; copies of all written reports and citations; and any photographs that were taken.

G. The chemical test technician must appear if summoned by the defense.

VII. ATTENDANCE AT HEARINGS

Every driver who either refuses a test for alcohol, drugs, or controlled dangerous substance; or takes a test with a result of ***.08 BAC*** or higher, has the right to request an MVA hearing. The request form is printed on the back of the "Hearing Request" copy of the DR-15A form. The driver may submit the completed form to the police officer at the time the DR-15A is completed, or within ten (10) days to the MVA. The arresting officer and/or chemical testing instrument operator must attend a MVA hearing after receiving a subpoena to do so.

VIII. ALCOHOL VIOLATION BY PERSONS UNDER 21 YEARS OF AGE

A. The Maryland Vehicle Law prohibits drivers under the age of 21 with an alcohol concentration of 0.02 ***BAC*** or higher from operating a motor vehicle (Transportation Article, 16-113). When a driver under the age of 21 is suspected of operating a motor vehicle after consuming alcoholic beverages, a chemical test will be requested via the DR-15. If the driver takes a test with a result of 0.02 ***BAC*** or higher, the driver may be charged with an alcohol

restriction violation, in addition to any other charges. A conviction under this section will result in license suspension. If the driver refuses the test, or takes a test with a result of **0.08 BAC or higher**, the license will be confiscated and processed according to DR-15A procedures.

B. If the youth is not charged with DUI/DWI, he or she may be released from custody upon completion of the chemical test and citation. In cases where a driver under age 21 is charged with a DUI/DWI violation and there is a test result of 0.02 or higher, a charge for the alcohol restriction violation should also be made.

IX. REPORT REQUIREMENTS

A. Elements of Report

Officers should complete a detailed and concise report to help ensure a successful prosecution. The report should detail how the accused was identified as the driver, operation/condition of the vehicle, driver's appearance and statements, performance on field sobriety tests or why test were not administered, advisement of DR-15 and/or Miranda rights, any preliminary or evidentiary chemical tests that were administered, charges, disposition of driver/vehicle.

B. When Report Required

Anytime a subject is advised of the DR-15 rights and a chemical test is requested, an Alcohol Influence Report shall be completed. If the test administered is a blood test, the Alcohol Influence Report should reflect that the test result is pending. If charges are deferred until later, it should be documented in the report the charges are "pending."

The Alcohol Influence Report must be completed even if other charges are pressed and an Incident Report is written.

X. DEFENDANTS FOUND NOT GUILTY

Whenever a case of *driving under the influence or driving while impaired* results in a verdict of not guilty, an inter-office memo will be submitted by the arresting officer to the Traffic Safety Section commander. This report must contain the reason(s) why the defendant was found "not guilty". Traffic Safety will use this data to identify procedural problems and to assist in DUI/DWI training and retraining.

XI. REFERENCE SOURCES

The following sources were utilized to compile Index Code:

Transportation Article, Section 16-113;

Transportation Article, Section 16-205.1;

Transportation Article, Section 16-205.2;

Transportation Article, Section 21-902;

Court and Judicial Proceedings, Sections 10-302 to 10-309;

Regulations of the State Toxicologist, Post Mortem Examiners Commission State Of Maryland Regarding Tests of Breath and Blood For Alcohol; and

Law Enforcement Officer's Guide to MVA Forms

XII. PROPONENT UNIT: Traffic Safety Section.

XIII. CANCELLATION: This directive cancels Index Code 1905, dated 06-15-05 and Index Code 1905.1, dated 06-15-05.