



TRAFFIC OFFENSES INVOLVING ALCOHOL/DRUGS

FC No.: 515

Date: 11-21-18

If a provision of a regulation, departmental directive, or rule conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61)

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I. Policy

In accordance with the requirements of the Maryland Transportation Article, officers of this department will vigorously enforce the laws regarding driving under the influence (DUI) or driving while impaired (DWI).

II. Definitions

- A. Drug Recognition Expert (DRE) – A law enforcement officer with specialized training who has been nationally certified to recognize impairment in drivers under the influence of drugs other than, or in addition to, alcohol, and to identify the category or categories of drug(s) causing the impairment.**
- B. Driving Under Influence (DUI): Driving, attempting to drive, operating, moving or being in actual physical control of a motor vehicle, on public property or private property used by the public in general, with a blood or breath alcohol concentration (BAC or BrAC) of 0.08 or higher. In addition, if probable cause exists for DUI, a driver can be charged without providing an evidentiary sample.**

- C. ***Driving While Impaired (DWI): Driving, attempting to drive, operating, moving or being in actual physical control of a motor vehicle, on public property or private property used by the public in general, with a BAC BrAC of more than 0.05 but less than 0.08, or while impaired by any drug, controlled dangerous substances (CDS) or a combination of drugs and alcohol.***
- D. ***EC/IR (Electro Chemical Oxidation & Infrared Absorption Test): Evidential test instrument that performs a quantitative analysis of alcohol in the breath. The instrument detects and measures alcohol in a person's breath using an electrochemical fuel cell. Infrared energy absorption is used to monitor the breath sample to insure a deep lung sample is collected and not contaminated by mouth alcohol. Commonly referred to as an Intoximeter.***
- E. ***Standardized Field Sobriety Test (SFST): a battery of tests developed by the National Highway Transportation Safety Administration (NHTSA) used to determine impairment by alcohol or drugs.***

III. Arrest Procedures

A. Initial Contact

1. The officer ***should*** stop the operator at the earliest possible time after reasonable suspicion has been developed. Consideration for the safety of the officer, violator, and the public should be taken when choosing a location for the stop.
2. If possible, the officer will interview the operator at the scene of the stop, asking how much the operator has had to drink, when the operator started and stopped drinking, if the operator has taken any drugs/medication, etc. The officer should not read Miranda rights to the operator at this point.
3. The officer will ask the operator to perform the Standardized Field Sobriety Tests (SFST) to establish additional probable cause for arrest.

B. Defendant's Vehicle

1. When an arrest is made, ***an*** officer ***should*** search the defendant's vehicle incident to arrest for evidence relating to the DUI/DWI arrest.
2. The officer may move the vehicle, upon receiving permission from the defendant, to a nearby lawful parking area, lock the vehicle and take the keys, or leave it at the scene of the stop if it is in a safe and legal location.
3. The keys may be turned over to a sober adult (***possessing a valid driver's license***) who has an ownership interest in the vehicle or the keys may be retained in a location designated by the district commander. ***The officer will advise the defendant and/or the adult taking custody of the defendant's vehicle that the defendant has been arrested for violation of Maryland Vehicle Law 21-902 and that they may not drive a motor vehicle within twelve (12) hours after arrest (TR 21-902.1).***
4. The final decision regarding whether to tow the vehicle rests with the arresting officer.
5. The officer should take reasonable steps to arrange alternative transportation for the passenger(s). A back-up unit may be used since the arresting officer's primary responsibility is processing the defendant within the specified time limit. Factors such as time of day, adverse weather conditions, location of arrest, age, sex, and the physical condition of the passenger(s) should be used as guidelines when weighing the alternatives.

IV. Processing the Defendant

- A.** *All defendants will be processed at a police facility, hospital or a State approved mobile breath testing vehicle.*
- B.** Advising a defendant of the Miranda rights is discretionary, but if Miranda rights are given, it should only be done after the execution of the DR-15 but prior to asking questions from the *incident* report concerning amount of alcohol consumed, when it was consumed, etc.
- C.** DR-15, “Advice of Rights”
In all arrests for alcohol/drug related violations involving the operation of a motor vehicle, the officer will execute the DR-15 form, “Advice of Rights”.
1. The officer will read the entire form to the *defendant and/or utilize the most current DR-15 audio file authorized by the Motor Vehicle Administration.*
 2. The defendant will be given the opportunity to sign the form acknowledging receipt.
 3. If the defendant refuses to sign, the officer will write “refused” in the space designated “*Signature of Driver.*” If the defendant refuses to sign but agrees to take the test, the test will be administered and the officer will write “refused to sign but agreed to take test” in the space designated “*Signature of Driver.*” In both instances, the officer will initial what is written in the “*Signature of Driver.*” space.
 4. *The officer will ensure all applicable sections are completed.*
 5. The arresting officer will retain the original and give a copy to the defendant. The MVA copy will be forwarded to MVA with the DR-15A (if the DR-15A is utilized).
- D.** Article 24 of the Maryland Declaration of Rights requires that a person detained for DUI/DWI must, on request, be permitted a reasonable opportunity to communicate with an attorney before submitting to a breath test.
1. The arresting officer has no responsibility to affirmatively suggest a detained person contact counsel at this point. If a request is made by the defendant prior to conducting the chemical test, the officer will:
 - a. Note the time of the request.
 - b. Allow ample use of the telephone to the detained person.
 - c. Note number of calls attempted.
 - d. Provide the Public Defender’s phone number (*301-563-8900*) if the defendant so requests. The Public Defender’s Office will only accept calls for routine DUI/DWI cases during regular working hours (*M-F 8:30-4:30*). “On-call” Public Defenders will talk with defendants concerning charges of traffic homicide, manslaughter, or alcohol-related death.
 2. The officer will not allow this request to interfere with the mandated two-hour time limit for conducting the chemical test. If it appears that notification of counsel will cause the two-hour limit to elapse, the officer will advise the detained person of the administrative penalties imposed for exceeding the time limit to take a chemical test. The officer will initiate a DR-15A if the two-hour time limit elapses. The two-hour time limitation begins at the time *the officer has reasonable grounds to believe that a person is or has been driving a motor vehicle while intoxicated or while under the influence of alcohol and reasonably acts upon that information by stopping or detaining the person.*
- E.** If the defendant refuses the test, or takes the test and the results are .08 *BAC* or higher, the officer will execute the DR-15A.
- F.** If the defendant shows the officer a valid DR-15A in place of a license, the officer will seize that copy and issue a new DR-15A to the defendant. The officer will include the original seized DR-15A in the envelope to MVA and make a copy for the officer’s case file.

- G.** If the officer is issuing a DR-15A as a temporary license and the defendant refuses to sign the form, the officer will write “refused” *and initial* on the signature line of the DR-15A. The defendant may sign the defendant’s copy of the DR-15A at a later date to validate the temporary license.
- H.** If the defendant agrees to submit to a test, a *certified* breath test operator will conduct the breath test. An officer will remain with the defendant during the 20-minute *uninterrupted observation* period prior to the test. The officer will not allow the defendant to eat, drink, smoke, or place anything in the defendant’s mouth from the time of the arrest until after the chemical test has been administered.
- I.** The officer will complete the DR-102, “Certification of Police Officer, Test Result of 0.04 to **0.07 BAC**, Commercial Motor Vehicle,” when the officer detains an operator of a commercial vehicle for violations of Section 16-813 of the Maryland Vehicle Law.
- J.** When an operator of a commercial motor vehicle is to be charged with a violation of TA 16-813, the officer will request, through ECC, that a certified commercial motor vehicle inspector respond to the scene to assist with the investigation.
- K.** The officer will use the DR-103, “Certification of Police Officer, Violation of Alcohol Restriction,” when an officer arrests:
1. An individual under 21 years of age for violation of the alcohol restriction.
 2. Any person for a violation of an alcohol restriction on that person’s license; however, if the BAC is **.08 BAC** or higher, then the DR-15A is completed.
- L.** No prisoner will be allowed access to medicine, even if it is part of the prisoner’s property. If a certified emergency exists, department personnel will notify and request assistance from Montgomery County Fire and Rescue Services (MCFRS) personnel for the decision to administer any medications. If the prisoner is suffering life-threatening conditions (e.g., chest pains, asthma, etc.) and has possession of prescribed medication, an officer will advise MCFRS personnel of its existence, the contents of the label, and the prisoner’s symptoms. The officer will follow MCFRS instructions regarding administration of the medicine. Any remaining medication will be turned over to the responding MCFRS personnel. If the prisoner is transported to a medical facility, the test performed will be the blood test. If the prisoner does not require transportation to a medical facility, a second 20-minute observation period will be initiated and the Chemical Test for Alcohol will be administered. This should be done even if the required treatment causes the two-hour time limit to elapse. The circumstances of both the refusals and the tests conducted under these circumstances will be evaluated on a case-by-case basis *and documented in the report*. Refer to FC 811, “Handling, Searching, and Transporting Prisoners,” for procedures regarding the transporting of prisoners to health care facilities.
- M.** When placing charges, officers must remember that as a matter of law, it is the officer’s opinion that is important and not necessarily the results of the breath test. Prior to administering the breath test, the officer should have already formed an opinion as to the level of intoxication. Officers have full discretion to charge the defendant with either driving under the influence or driving while impaired by alcohol regardless of the results of the breath test.
- N.** The officer will complete the citation(s) in the following manner when charging defendants with violations of the DUI/DWI laws (*See DUI Flow Chart, Appendix B & C*):
1. Driving Under the Influence
21-902(a)(1)(i) “Driving Under the Influence of Alcohol.”
 2. Driving Under the Influence Per Se (If applicable)
Only issue the Driving Under the Influence Per Se TA 21- 902(a)(1)(ii) when a defendant’s blood/breath test result indicates a .08 BAC or higher.

3. **Driving While Impaired by Alcohol**
21-902(b)(i), “Driving While Impaired by Alcohol.”
 4. When alcohol and drugs are a factor or when driving while under the influence of CDS, consult the DRE for the proper charging citations based on the DRE’s evaluation.
 5. **Alcohol Restriction Violations**
When a Maryland resident under 21 years of age is stopped and the officer detects an odor of an alcoholic beverage upon the driver’s breath and through observations determines that the driver should be arrested, the DR-15 will be read to the defendant, and the defendant will be given the opportunity to **submit to a breath or blood test according to Section V C.**
 - a. **Refusal: If the subject refuses the chemical test, the officer will charge the defendant with TA 21-902(a)(1)(i) “Driving Vehicle While Under the Influence of Alcohol,” TA 21-902(b)(1)(i) “Driving While Impaired by Alcohol, TA 16-113(h), “Driving vehicle in violation of restricted license requirement,” TA 16-113(j), “Driving motor vehicle with alcohol in blood in violation of restriction.” The officer will seize any Maryland License and issue a DR-15A.**
 - b. **Breath Test Results .00 to .07: If the subject submits to a chemical test with a .00 to .07 BAC, the officer will issue a citation for TA 16-113(h), “Driving vehicle in violations of restricted license requirement.” If the test result is a .07 BAC, the subject will be processed as a DUI/DWI; however, an officer may use discretion in charging DUI/DWI cases below a .07 BAC if the officer’s observations substantiate alcohol impairment or drug impairment. The officer will consult a Drug Recognition Expert (DRE) for BAC results .05 or less. Additionally, if the test result is a .02 BAC or higher, the subject will also be charged with “driving motor vehicle with alcohol in blood in violation of restriction,” TA 16-113(j). Any Maryland License will be returned to the defendant and the Violation of Alcohol Restriction (DR-103) form will issued.**
 - c. **Breath Test Results .08 or higher: If the subject submits to a chemical test with a .08 BAC or higher, the officer will issue a citation for TA 16-113(h), “driving vehicle in violations of restricted license requirement,” TA 16-113(j), “driving motor vehicle with alcohol in blood in violation of restriction,” and charged as a DUI/DWI. The officer will seize any Maryland License and issue a DR-15A.**
- O.** If a subject is arrested for DUI/DWI and it is found that the subject has been previously convicted of an alcohol/drug related driving violation, **and/or refuses to submit to a breath alcohol concentration test**, the arresting officer should immediately complete a “Subsequent Offender/**Refusal** Addendum” and serve the defendant with the last copy prior to release. The charging officer will maintain the original copy and forward the remaining copies, along with a copy of the report to the State’s Attorney’s Office (SAO)/**DUI Screening Unit**. **The officer will note in their report the subject was served with a Subsequent Offender/Refusal Addendum.**
- P.** In all cases involving alcohol/drug related fatal collisions, the SAO will be notified.
1. Contact will be made by the Collision Reconstruction Unit investigator, or designee, as soon as possible.
 2. The results of the State’s Attorney contact, including the identity of the attorney, will be noted within the collision report supplement written by the CRU investigator.
 3. The Collision Reconstruction Unit (CRU) investigator will confer with the SAO liaison officer to determine the appropriate charges that will be filed.
 4. When charges of homicide by motor vehicle while intoxicated or manslaughter by motor vehicle are placed, the defendant must be taken before a commissioner.
- Q.** In all non-fatal collisions where the defendant is charged with DUI/DWI, Records **Section** will forward a copy of the **collision (ACRS)** report to the SAO.

R. The EC/IR automatically enters the required data when a chemical test is administered to a defendant. To properly account for and track all DUI/DWI arrests, the supervisor will ensure a certified breath test operator completes the data entry for defendants who are administered the blood test or who refuse the chemical test. When this is necessary, the arresting officer will add the following statement on the first line of the report narrative:

“EC/IR data entry completed by” (Place certified breath test operator’s name here).

S. Release of a Defendant

1. Ensure the defendant has copies of the citation(s) issued, MSP 33, “Notification to Defendant of Result of Test for Alcohol Concentration” (*if applicable*), DR 15, and DR 15A (if applicable).
2. After being charged and processed, the defendant will be released by one of the following methods:
 - a. Taken home by a spouse, relative, or friend,
 - b. Picked up by taxicab or transport by hire service,
 - c. Taken home by an officer (optional, *with supervisor approval*). Officers are not required to take DUI/DWI defendants home after release even if all other means have been exhausted, or
 - d. Transported and processed at the Central Processing Unit (CPU)
3. Juvenile defendants must be released to a parent or guardian.
4. Prior to an intoxicated defendant being released to walk home unescorted from the police station, a supervisor shall be notified and shall authorize the defendant’s release. Once the *electronic citations (Etix) have been issued by the officer to the defendant or* the defendant has signed the *paper citations*, the officer has no authority to detain the person.

V. **Chemical Tests for Alcohol**

A. The type of test administered to a defendant will be the breath test. The blood test may be used in any of the following circumstances:

1. ***Injuries to the defendant that require removal to a medical facility and the defendant provides consent.***
2. ***The defendant is incapable of taking a breath test due to a medical condition (stoma, blood in mouth).***
3. Equipment for administering a breath test is not available ***and the defendant provides consent.***
4. ***Case specific exigency declared by an executive officer.***
5. ***Absent case-specific exigency, the investigating officer will obtain a search warrant for a blood test. Officers will follow the procedures described in Function Code 714 when obtaining a search warrant.***

B. EC/IR

1. The officer will request through ECC that a certified breath test operator respond to a designated location to administer the test.
2. If the results do not correspond with the level of intoxication (appears under the influence but the breath test results are .05 or less), and the defendant is not suffering from a medical condition, the officer shall contact ECC and request a Drug Recognition Expert (DRE), if one is available, to perform a drug influence evaluation. If a medical condition is suspected, the officer will contact ECC and request MCFRS to evaluate the defendant’s condition.
3. ***If the defendant exhibits an altered mental status, unresponsive, or lack of motor coordination marked by inability to stand, walk or sit without assistance due to alcohol and/or drug impairment,*** the officer will ***request*** MCFRS to evaluate the defendant’s condition.
4. If a breath test is performed for an allied agency, the breath test operator will release the chemical test evidence to the arresting officer. This allows the officer to testify to the results in court. If the operator prefers to retain the evidence, copies will be made for the officer.

5. In all breath test cases, the *certified* breath test operator shall be subpoenaed.
6. When a district's breath test *instrument* is out of service, the officer will transport the defendant to another district/allied agency with a working *instrument* and a certified operator will administer the test.
7. If it is determined that the defendant is not to be charged, the officer will obtain a *case report number* and complete a Police Information Report (2938) including details on the arrest and release of the defendant.

C. Blood Alcohol Test

If the criteria for use of a blood *alcohol* test have been met, the officer will adhere to the following guidelines, (*See Appendix D, Maryland Blood Kit Procedures*):

1. *Only the blood alcohol collection kit approved by the State Toxicologist will be used for the withdrawal of blood. An officer will obtain a self-addressed, pre-stamped blood alcohol kit from a district station. If the blood kit is expired, the blood kit will not be used and the officer will obtain a new blood kit (Note: MSP will not analyze expired blood kits). An officer will transport the defendant, DR-15, DR-15A, and the blood kit to the nearest hospital.*
2. *The officer (investigating or designee) will read the entire DR-15 form to the driver and/or utilize the most current DR-15 audio file authorized by the Motor Vehicle Administration.*
3. *The driver will be given the opportunity to sign the DR-15 and the blood kit consent form.*
 - a. *If the driver refuses the test and refuses to sign, the officer will write "refused" in the spaces designated "Signature of Driver" (DR-15) and "Signature" (blood kit consent form). If the driver refuses to sign but agrees to submit to the blood test, the blood test can be administered. Consent can be captured via Body Worn Camera System (BWCS) and/or witness. The officer will write "Refused to sign- Consents to Submit to Blood Test" in the space designated "Signature of Driver" (DR-15) and "Signature" (blood kit consent form). In both instances, the officer will initial what is written in the "Signature of Driver" (DR-15) and "Signature" (blood kit consent form) spaces.*
 - b. *If the driver is unable to sign but agrees to submit to the blood test, the blood test can be administered. Consent can be captured via Body Worn Camera System (BWCS) or witness. The officer will write and "Unable to Sign – Consents to Submit to Blood Test" in the space designated "Signature of Driver" (DR-15) and "Signature" (blood kit consent form).*
 - c. *The officer will ensure all applicable sections are completed.*
4. *The officer will request the blood draw from the medical personnel and advise of the time remaining of the two-hour limit. No blood will be drawn from an unconscious person without the driver's prior consent, search warrant, or exigency. In the rare event of exigent circumstances, blood tests will only be drawn with executive level approval. The officer will note the approving executive officer in their report.*
5. *The officer will witness the blood withdrawal and immediately take possession of the containers. The officer will subpoena the following persons:*
 - a. *The Chief Chemist or Designee Chemical Test for Alcohol Unit Maryland State Police
1201 Reisterstown Road
Pikesville, Maryland 21208-3899*
 - b. *If in the rare event the officer does not observe the blood draw, the officer will subpoena the medical personnel to court via the traffic citation. The officer will advise the medical personnel to contact the SAO before coming to court so that they may be placed on-call if desired.*
6. *The officer can give the driver a copy of the MSP 34, "Blood Analysis – Medical Personnel Payment Authorization," at this time or the officer can wait until the blood test results are returned from the laboratory and then provide the defendant with the MSP 34 and the results of the blood test.*

7. *The officer will ensure a certified breath test operator enters the blood kit data into the Intoximeter instrument and log book (MSP 36B) in a timely manner. The arresting officer is required to ensure a certified breath test operator transcribes the results of the blood tests on the same page and line as the original arrest entry upon receipt of the analysis from Maryland State Police.*

D. Testifying to Test Results

If an officer observes the blood draw and maintains the chain of custody, the medical personnel is not required to testify in court.

VI. Chemical Tests for Drugs/Drug Recognition Experts

- A. Only officers designated and trained as Drug Recognition Experts (DREs) will be permitted to request blood samples from subjects under arrest for driving under the influence of drugs. Officers can request a DRE perform a series of psycho-physical and clinical tests on the arrested subject. From that evaluation, the DRE will be able to determine if the subject has ingested drugs and, if so, what category. The DRE can then testify in court as to the results of the tests.
- B. The sites at which these evaluations are administered must be approved by the DRE coordinator based on standards pertaining to sound, space, floor covering, etc. Officers requesting the assistance of a DRE must transport the subject to the site designated by the DRE. If the subject is hospitalized, a DRE evaluation can still be conducted and testified to by the DRE. DREs will not be called to an arrest location to determine if a subject should be arrested.
- C. The following are criteria to request a DRE evaluation:
 1. A suspect is arrested for driving under the influence and the subject's blood alcohol content, as determined by a breath test unit, registers *.05 BAC* or less, and/or does not correspond with the suspect's level of intoxication, *and*
 2. A subject's condition is not medically related, *or*
 3. The suspect admits to using drugs or the officer discovers evidence of recent drug use, *or*
 4. The CRU requests a DRE to assist with their investigation, *or*
 5. Any other instance not listed above where a DRE may be helpful, with the approval of a supervisor.
- D. While a DRE generally will be called for DUI/drug cases, a DRE may also be used to determine drug usage in events other than traffic.
- E. Officers requesting a DRE will contact ECC who will attempt to locate an on-duty DRE before using the callback list. The DRE will contact the requesting officer by telephone to determine whether a DRE will respond. The DRE has the final authority to respond based on the facts and circumstances of the case.
- F. The breath test, if administered, must be conducted prior to any drug evaluation.

VII. Unconscious Persons

When an operator of a motor vehicle is unconscious or otherwise incapable of refusing to take a chemical test for alcohol, the investigating officer will:

1. Obtain prompt medical attention for the individual and, if necessary, arrange for transportation to the nearest medical facility.
2. *Absent case specific exigency, the investigating officer will obtain a search warrant for a blood test. Officers will follow the procedures described in FC 714 when obtaining a search warrant.*

3. If the individual regains consciousness *and reasonable grounds exists to believe the individual has been driving or attempting to drive a motor vehicle under circumstances requiring that you be asked to submit to a test under Maryland Transportation Article §16-205.1*, the investigating officer will advise the individual of *their* rights via DR-15 (*Advice of Rights*) *for consent or refusal to submit to a blood kit (See Section IV Paragraph C)*.

VIII. Drivers Involved In Fatal/Life Threatening Injury Collisions

A. CRU Notification

Upon confirmation of a fatal/life-threatening collision where alcohol or drugs are suspected, CRU *will be* notified. The CRU supervisor, or designee, will notify the ECC supervisor. *The ECC supervisor* will ensure that a DRE or *AIU (Alcohol Initiative Unit)* responds to assist with the investigation. Patrol officers will not conduct SFSTs, interviews, or further process the suspect without permission from the CRU supervisor or designee.

IX. Deceased Persons

- A. When the operator of a motor vehicle dies as a result of injuries sustained in a *motor vehicle collision*, the Deputy Medical Examiner will take charge of the body.
- B. The Deputy Medical Examiner will, as a matter of policy, take a blood sample from the deceased and have it analyzed for blood alcohol content by the State Toxicologist Laboratory. The results of the blood analysis will be made available to the investigating officer.

X. *DUI/DWI Log*

- A. As requested by the Office of the Chief Medical Examiner of the State of Maryland, MSP 36B, “Alcohol Influence Log,” (DUI/DWI log) entries are to be completed for all alcohol related driving arrests, i.e., those defendants who elect to take the breath test, those given the blood test, and those defendants who refuse either test *when requested by law enforcement*.
 1. *Arrests where a breath test is conducted utilizing an allied agency’s Intoximeter EC/IR instrument will require the arrest information be submitted to a certified breath test operator for entry into a Montgomery County Police District Station log book (MSP 36B).*
 2. *Certified breath test operators will only make an entry into the log book (MSP 36B) for impaired driving related arrests by Montgomery County Police Officers or other agencies that are not participants of the breath test program.*
- B. Results of the breath test will be entered at the time of initial information entry. *The initial entry of blood tests will be entered into the logbook (MSP 36B) by a certified breath test operator immediately after completion. The arresting officer is required to ensure a certified breath test operator transcribes the results of the blood alcohol test on the same page and line as the original arrest entry upon receipt of the analysis from Maryland State Police.* Only certified breath *test* operators are to make entries, changes or write in the log book (MSP 36B).
- C. If an error is made in a log entry, a single line must be drawn through that entry *with the certified breath test operator’s initials* and a new entry made on the next consecutive line.
- D. Officers shall note in *the incident* report the log book page *number* on which the test information is contained.

- E. MSP 104, "Preliminary Breath Test Log"
PBT operators shall make a notation on the MSP 104 each time a ***traffic related*** preliminary breath test is either accepted or refused. ***PBT operators are required to keep and maintain an up-to-date MSP 104.***

XI. Notification of Chemical Test Results

- A. Under Maryland law, Courts and Judicial Proceedings Title 10-306, the defendant or attorney must be notified, by the State, in writing, at least 30 days before trial, of the State's intention to go to trial using the chemical test results without the technician's presence. A defendant taking the breath test will receive a copy of the official result of the chemical test (MSP 33) at the time of the test; however, when a blood test is conducted, this is not possible.
- B. The MSP Chemical Test for Alcohol Unit will notify the MCP Chemical Test Alcohol Coordinator by mail of test results based upon submitted information from the MSP 34. The results will be promptly forward to the arresting officer for follow-up.
1. If the defendant resides or works within the county, the officer will notify the defendant of the blood test results by personally providing the defendant with a copy of the test results.
 2. If the defendant lives or works outside of the county, the officer will make a reasonable attempt to have the defendant ***or representing attorney*** report to the station and sign for the results. If that is unsuccessful, the officer will mail the results to the defendant via registered mail, return receipt requested.
- C. Once the defendant has been notified of the State's intent to proceed without the appearance of the technician (via MSP 33), the defendant must notify the State within 20 days of trial if the technician is requested to appear at trial. In the event a defendant will not be notified within the 30-day time limit, or notified at all, the officer will relay this information to the Assistant State's Attorney assigned to the case, prior to trial. Otherwise, the results may be inadmissible once trial proceedings have started.

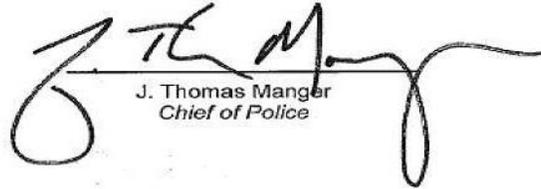
XII. Checklist

- A. Summation of Forms for DUI/DWI Cases
- MVA DR-15, "Advice of Rights"
 - MVA DR-15A, "Officer's Certification and Order of Suspension"
 - MVA DR-102, "Certification of Police Officer, Test Result of 0.04% or more- Commercial Motor Vehicle"
 - MVA DR-103, "Certification of Police Officer, Violation of Alcohol Restriction"
 - MSP 33, "Notification to Defendant of Result of Test for Alcohol Concentration"
 - MSP 34, "Blood Analysis – Medical Personnel Payment Authorization"
 - MSP 102, "PBT Advisement of Rights" (if PBT is used)
 - Driving While Intoxicated/Impaired ***Incident*** Report
 - Subsequent Offender/***Refusal*** Addendum
 - Maryland Uniform Complaint and Citation
 - A print out of defendant's driving record
 - MCP 50, "Miranda Warnings" (***if applicable***)
- B. Arresting officers should maintain the above documents in a case file for court presentations. If a breath test is conducted and originals are retained by the breath test operator, the officer should make copies for the case file. ***Officers should scan and attach all appropriate court related documents into the electronic report writer system for SAO review.***

XIII. CALEA Standards: 1.2.1, 41.2.4, 42.1.4, 61.2.1, 61.2.2, 61.2.4, 82.2.1, 82.2.2, 82.3.5

XIV. Proponent Unit: *Traffic Division*

XV. Cancellation: *This directive cancels Function Code 515, effective date 07-18-02.*



J. Thomas Manger
Chief of Police

IN THE DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND

STATE OF MARYLAND

VS.

CITATION NUMBER(S):

DEFENDANT

Subsequent Offender/Chemical Test Refusal Addendum

This is to advise the defendant in the above captioned case that the State has evidence of his/her **previous conviction(s)** of the same substantive offense with which he/she is presently charged, and that the State intends to seek increased punishment upon conviction herein as a second or subsequent offender as authorized by law. The previous conviction(s) upon which the State relies are as follows:

Offense	Citation Number	Violation Date	Conviction Date
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This is to further advise the defendant that his/her refusal to submit to a chemical test (breath or blood) will subject him/her to additional penalties consistent with Section 21-902(g) of the Maryland Transportation Article, and that the State intends to pursue those penalties if applicable.

By: _____
John McCarthy
State's Attorney for Montgomery County, Maryland

Points and Authorities

- 1) Maryland Rules of Procedure 4-245
- 2) Annotated Code of Maryland, Transportation Article, §§21-902 (a)(1)(iii); a(2)(ii); (b)(1)(ii); (b)(2)(ii); (c)(1)(ii); (c)(2)(ii); (d)(1)(ii); (d)(2)(ii); and (f).

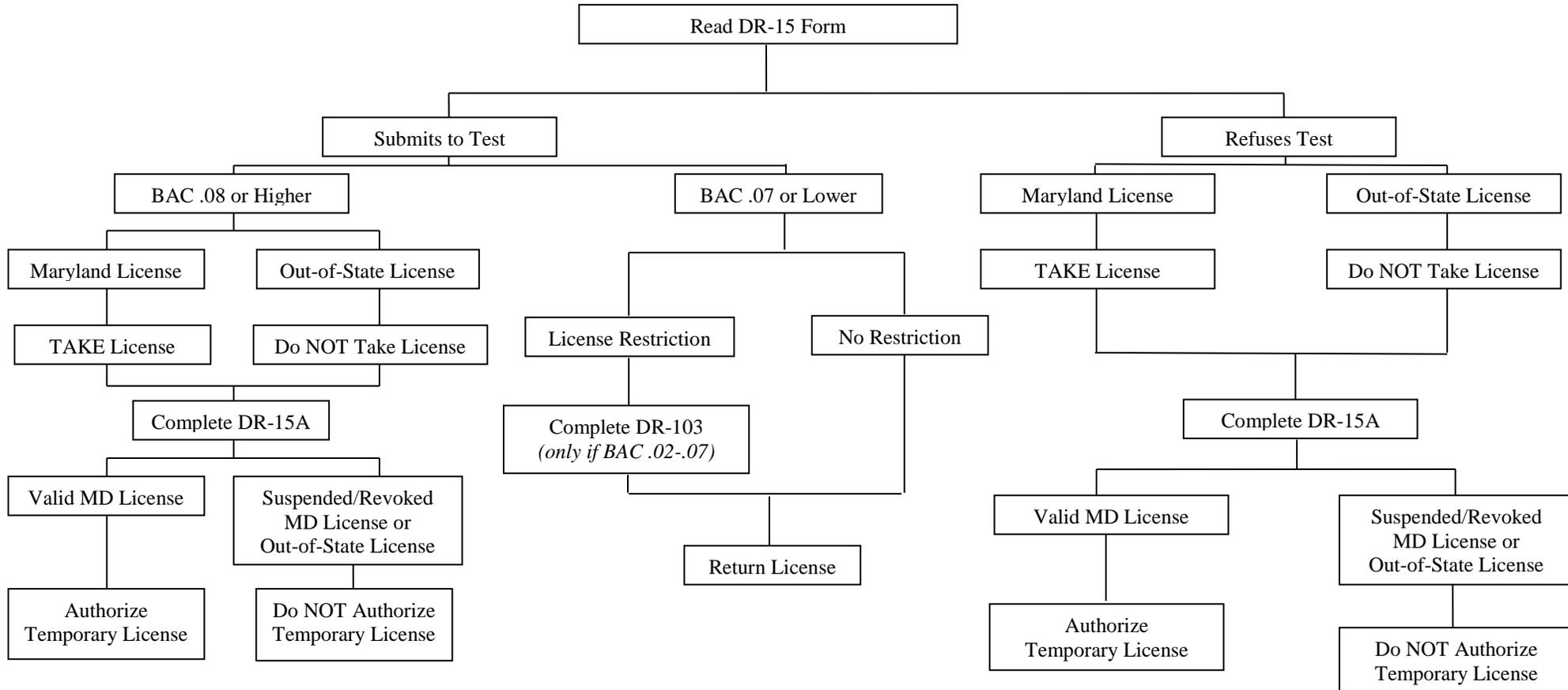
CERTIFICATE OF SERVICE

I, the undersigned police officer, hereby certify, that on this _____ day of _____ (month), _____ (year), a copy of the foregoing subsequent offender/chemical test refusal addendum was hand delivered to _____ (Defendant).

Police Officer

SIGNED ORIGINAL AND COPIES 1 AND 2 TO STATE'S ATTORNEY'S FILE COPY 3 TO OFFICER COPY 4 TO DEFENDANT

DUI Arrest Flow Chart 21 Years Old and Over



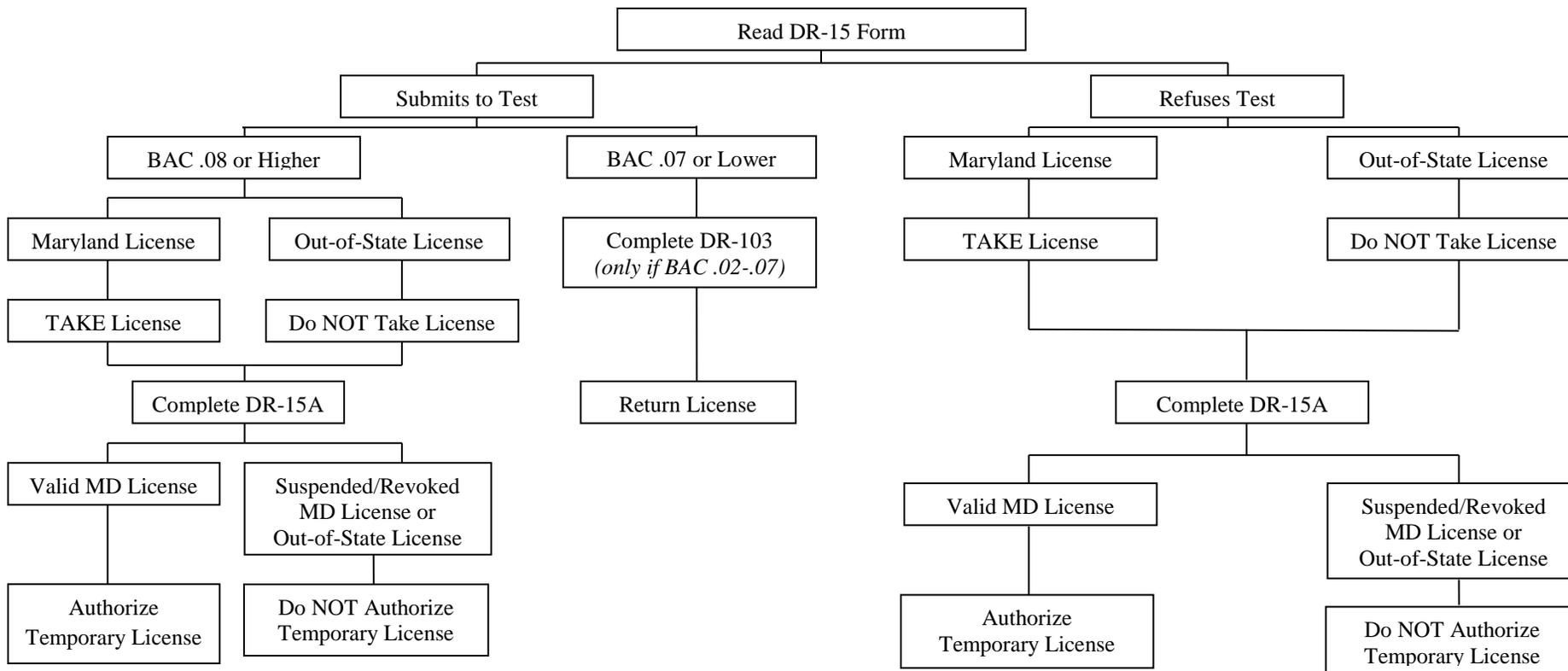
CHARGING

- DUI: TA 21-902(a1i) → .07 BAC and above, or refusal
- DWI: TA 21-902(b1i) → .02 BAC and above based on Officer's opinion, or refusal
- DUI Per Se: TA 21-902(a2i) → .08 BAC and above
- Violating License Restriction: TA 16-113(h) → Proof of any alcohol in body is sufficient
- Violating Alcohol License Restriction: TA 16-116(j) → .02 BAC and above
- Underlying Charge(s)

IF BAC IS .05 OR LESS, CONTACT A DRUG RECOGNITION EXPERT (DRE)

Updated 11/2018

DUI Arrest Flow Chart **Under 21 Years Old**



CHARGING

- DUI: TA 21-902(a1i) → .07 BAC and above, or refusal
- DWI: TA 21-902(b1i) → .02 BAC and above based on Officer's opinion, or refusal
- DUI Per Se: TA 21-902(a2i) → .08 BAC and above
- Violating License Restriction: TA 16-113(h) → Proof of any alcohol in body is sufficient
- Violating Alcohol License Restriction: TA 16-116(j) → .02 BAC and above
- Underlying Charge(s)

IF BAC IS .05 OR LESS, CONTACT A DRUG RECOGNITION EXPERT (DRE)

Updated 11/2018

MARYLAND BLOOD KIT PROCEDURES

- Check expiration date on outside of box and remove glass blood tubes from plastic tubes. Retain plastic tubes.
- Qualified medical person must sign MSP Form 34 and blood collection report (small card included in kit).
- If conscious, suspect must sign DR-15 and consent form (small card included in kit). If unconscious, print “Unconscious” on the signature line of both forms and initial to the right of the word “Unconscious”. If the suspect consents to the blood test but refuses to sign any paperwork, write the words “Refused to Sign” on the signature line of both forms and initial to the right of the words “Refused to Sign”.
- Fill out the 2 small stickers with all information except time and date of blood withdrawal. Once the needle goes into the suspect’s vein, write in the date and time of blood withdrawal. Use these labels to seal the glass tubes after taking possession, covering the grey rubber stoppers completely.
- Shake tubes gently, place full glass tube back inside plastic tubes, and replace caps on plastic tubes.
- Place tubes in plastic clamshell box in the sponge cutout. **NOTHING ELSE SHOULD BE PLACED IN THE PLASTIC BOX.**
- Seal plastic box along the edges using 2 of the included red or blue evidence/security seals. It doesn’t matter which color evidence seal is used.
- Using a felt tip permanent marker, initial BOTH evidence seals on either side of the words, “Laboratory Results” located at the bottom of the Blood Collection Report that’s attached to the plastic box. The initials must overlap the evidence seals and the Blood Collection Report.
- Fill out the information on the lid of plastic box. “Location of drawing” is hospital name.

CHAIN OF CUSTODY (ON TOP OF PLASTIC CLAMSHELL BOX)

- “Received from”-qualified medical person’s name.
- “By”-your name.
- Date and time you received the tubes. This will normally be the same date and time of the blood withdrawal.
- Place PLASTIC BOX ONLY in biohazard bag. NO PAPERWORK IS TO BE SEALED IN OR PLACED IN ANY OPEN POCKET OF THE BIOHAZARD BAG.
- Seal biohazard bag and place in cardboard mailer along with completed MSP Form 34 (minus the arresting officer’s copy), consent form (card), and blood collection report (card).
- Close and seal open edges of cardboard mailer with at least 2 of the remaining evidence/security seals.
- Immediately place in U.S. Mail or hand deliver to CTAU.