

DUI - Impaired Driving

504.1 PURPOSE AND SCOPE

This policy provides guidance to Sahuarita Police Department (SPD) members who play any role in the detection, investigation, arrest, transportation, processing, or prosecution of driving under the influence (DUI) - also referred to as impaired driving. This policy references DUI violations as defined by Arizona Revised Statute (ARS), Title 28, sections 28-1381, 28-1382 and 28-1383 and any other applicable ARS or case law.

504.2 POLICY

- A. The SPD is committed to the safety of the roadways and the community and will pursue fair and assertive enforcement of Arizona's DUI and impaired driving laws. If a member has information to believe or reasonable suspicion to believe a person is, or has been driving or in actual physical control of a motor vehicle, within two hours, or another legally defined time period, of a violation of DUI, the member shall conduct a timely and thorough DUI investigation.
- B. When probable cause has been established to make a lawful arrest of a suspect for DUI, members shall take enforcement action to include, making a custodial arrest and collecting all pertinent evidence. Members shall enforce all applicable misdemeanor and felony DUI laws determined to have been violated by a suspect during the member's investigation. All applicable Title 28 ARS sections (DUI, Extreme DUI, Aggravated DUI, etc.) should be enforced.

504.3 INVESTIGATIONS

- A. SPD members shall conduct complete and impartial DUI investigations and utilize official SPD and MVD DUI investigative forms, documents, and reports to properly document DUI investigations.
- B. Members shall utilize the SPD DUI investigative report writing format (Reason for Stop/Contact, Reason for Arrest, Reason for Search) as outlined in the SPD Report Writing Manual (RWM). This includes incidents that involve traffic collisions (T/C). If a DUI investigation involves a T/C, both the DUI and T/C reports should contain information that documents how an investigating member determined the suspect was the driver, or was in control of a particular vehicle during the T/C or DUI incident.
- C. Both the DUI and T/C reports should refer back to each other and should have the same SPD case number. However, each report (DUI and T/C) must present clear information, following the SPD RWM, on how a driver was identified as a driver.
- D. Members shall complete the SPD DUI Investigation report form (#SPD080) for all DUI investigations. This document provides several sections to assist in the documentation of a DUI investigation. Members shall evaluate all available pertinent information and facts from their investigation to determine if probable cause exists to make an arrest for DUI and document all such information in their police report.

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504.4 FIELD SOBRIETY TESTS

- A. Members shall only employ DUI field tests, commonly referred to as Field Sobriety Tests (FST), or Standardized Field Sobriety Tests (SFST), that they have been instructed in via either internal (SPD) or external (other law enforcement agency or organization) DUI training.
- B. While members are encouraged to use multiple FST/SFST (field tests), there is no set number of field tests that must be administered during a DUI investigation.
- C. Members may determine some DUI investigations require a different number or type of field tests dependent upon circumstances. It is possible that probable cause can exist without field tests being administered; however, members may elect to continue with investigation via field tests or other methods prior to making an arrest.

504.5 BLOOD SAMPLES

- A. Only persons authorized/qualified by law to draw blood shall collect blood samples (ARS 28-1388). A DUI blood draw should be witnessed by a SPD member.
- B. A blood sample is to be obtained in a medically approved manner.
- C. If a person cannot submit to a blood test because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she may be required to complete another available and viable test. If the location (e.g., a hospital) and time permits, and is in accordance with the two hours investigation and evidence collection period, members may have medical personnel evaluate if a blood sample can be safely obtained.
- D. A blood sample may be taken without consent and in the absence of a search warrant only when the member can articulate exigent circumstances exist.
 - 1. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's blood.
 - 2. Exigency may be established by the existence of special circumstances, such as a lengthy time delay in being able to obtain a blood sample resulting from an accident investigation or medical treatment of the person.
- E. DUI blood samples may be taken by force in accordance with the following criteria,
 - 1. A warrant to obtain a blood sample from the subject has been issued.
 - 2. The blood sample is obtained in a medically approved manner.
 - 3. A member has, through good faith effort, advised the subject that force may be used and the subject could be injured during the process to obtain a blood sample.
 - 4. The subject, through words or other actions, indicates they will not peacefully cooperate with the blood draw.
 - 5. If a blood sample is required to be collected by way of force, the blood draw shall be first approved by a sergeant or higher ranking member.

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6. The sergeant or other sworn manager/command staff member who is evaluating a forced blood draw shall already be aware of or shall receive a briefing on why the blood sample cannot be obtained without force prior to giving authorization for a forced blood draw. The sergeant or other manager/command staff member may provide authorization via electronic communication (phone, text message, email, etc.).
7. Whenever possible, the sergeant or other sworn manager/command staff member shall monitor the forced blood draw or receive a timely briefing on the results of the forced blood draw, typically within an hour of the forced blood draw.
8. Whenever possible, the complete process of any forced blood draw, to include a warning advisement that physical force may be used and could result in injury to the subject, shall be recorded audibly and visually and the recording shall be placed into evidence or a SPD approved secure storage system.
9. The force used is appropriate - typically consisting of handcuffing type techniques, control holds, or techniques applied to place and restrain a subject in a restraint chair. All attempts to gain compliance as well as use of force shall be documented in the DUI report.
10. Any blood draw from a minor (person under the age of 18 years old) shall only be done after a warrant has been issued to obtain a blood sample or both the minor and their parent or legal guardian grant permission to obtain the blood sample.

504.6 CHEMICAL TESTS AND ADVISEMENTS

- A. A member arresting a person for DUI or that is responsible for the implementation or collection of a DUI chemical test(s) of a person shall assure the person is provided with all mandatory statutory or SPD warnings or advisements associated with a DUI arrest or incident (Admin Per Se, 28-1321, 28-1388, etc.).
- B. A person implies consent under Arizona law to a chemical test or tests, and to providing the associated chemical sample, under any of the following (ARS § 28-1321):
 1. The arresting member has reasonable grounds to believe the person was driving or in actual physical control of a motor vehicle while under the influence of alcohol or drugs.
 2. The arresting member has reasonable grounds to believe the person is under 21 years of age and has any amount of alcohol in his/her body.
 3. A member has reasonable grounds to believe that the person was involved in a traffic accident that resulted in death or serious physical injury and has probable cause to believe that the person caused the accident (ARS § 28-673).
- C. If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the member should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample. In a situation such as this, members shall apply for a search warrant to obtain a blood sample.

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504.7 PRELIMINARY TESTS

- A. A member who has reasonable suspicion to believe that a person is in violation of ARS 28-1381 (DUI), ARS 28-1382 (Extreme DUI), or ARS 28-1383 (Aggravated DUI) may request that the person submit to a preliminary breath test before arrest (ARS 28-1322).

504.8 URINE SAMPLES

- A. If a urine test sample needs to be collected, the person should be promptly transported to the appropriate testing site. The member shall follow any directions accompanying the urine evidence collection kit.
- B. Urine samples shall be collected and witnessed by a SPD member, jail staff, or other appropriate person (first responder, medical personnel, etc.), of the same sex as the person providing the sample. The person tested should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still insuring the accuracy of the specimen.
- C. The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

504.9 BREATH SAMPLES

- A. The FSD Commander shall insure that all devices used for the collection and analysis of breath samples are properly serviced and tested and that a record of such service and testing is properly maintained. The FSD Commander may assign these responsibilities to other members provided that such responsibilities are clear and includes a reporting and documentation process that officially creates a record of such maintenance.
- B. Members obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the FSD Commander.

504.10 REFUSALS

- A. When a person refuses to provide a chemical sample, members shall:
 - 1. Advise the person of the consequences of refusing a test requested pursuant to ARS 28-1321 or 28-1388, etc.
 - 2. Audio and/or video-record the advisement and the response(s) when it is legal and practicable.
 - 3. Document the refusal in detail in the appropriate report.
 - 4. Upon refusal to submit to a chemical test, members shall personally serve the notice of suspension, reading out loud all advisements, requirements, or possible repercussions verbatim to the person, on behalf of the Arizona Department of Transportation (ADOT), and in accordance with law, take

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possession of any state-issued license or permit to operate a motor vehicle that is held by that person.

- (a) If the person's license is surrendered, the member shall issue the person a temporary driving permit in accordance with statute. If the person's license or permit is not surrendered, the member should include the reason why in his/her report.
- B. It is the policy of the SPD to obtain a prompt and appropriate DUI chemical test sample of all persons suspected of DUI whenever reasonably possible. A blood sample is the preferred DUI chemical test sample of the SPD. When a person refuses to submit to a DUI chemical test, the arresting member, or member who has contact, custody, or control of the person shall immediately begin, or cause to begin, the process to request a warrant for a blood sample. If such warrant is issued, the member shall promptly complete the process of collecting a blood sample in accordance with this policy.

504.11 RECORDS BUREAU RESPONSIBILITIES

- A. The Police Records Supervisor (PRS) will make sure that all case-related reports, DUI documents, and related forms are included as part of any DUI investigative report. The process to assure this occurs is left to the PRS to implement.
- B. If any such documents have not been forwarded to the records bureau, the PRS will promptly notify the sergeant who approved the DUI investigation, or other members associated or responsible for such reports, documents, or forms, and direct them to have the completed report, document, or form be promptly submitted to the records bureau.

504.12 ADMINISTRATIVE HEARINGS

- A. The Police Records Supervisor will put in place a process that assures all appropriate administrative hearing forms, reports, and documents related to administrative license suspensions are reviewed and forwarded to ADOT.
- B. If a member receives notice of required attendance to an administrative license suspension hearing they shall promptly notify the Records Bureau who will then notify the prosecuting attorney in an effort to assure the members(s) and prosecutor are able to attend the hearing.

504.13 TRAINING

- A. The training coordinator should assure that members participating in the enforcement of DUI laws receive appropriate training.
- B. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to DUI investigations.
- C. The training coordinator should confer with the prosecuting attorney's office and update training topics as needed.

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504.14 ARRESTEE / SUSPECT DISPOSITION - JAIL BOOKINGS / CITE AND RELEASE

- A. When a person has been arrested (custodial arrest) for DUI, the person shall either be booked at the county jail or released by citation. Prior to this decision, the member shall check, or cause to have checked, the arrestee's driving, arrest, and criminal history records, to include local RMS (Spillman) records, to make a better informed decision on the appropriateness of a jail booking or citation release. Listed below are reasons a person would not qualify for a citation release.
1. Prior DUI arrest in the last 7 years within any U.S. jurisdiction.
 2. Arrested person has not been positively identified.
 3. Arrest or case charges include Extreme or Aggravated DUI.
 4. Person was uncooperative during contact with members.
 5. Suspect involved in a T/C involving, Hit & Run, injuries to other persons, or significant property damage to the property of others (private or public).
 6. Driver is unlicensed, or has a suspended, expired, or revoked license status.
 7. Other charges associated with the arrest make it inappropriate to release by citation.
 8. In the investigating/arresting officer's opinion, or that of a supervisor, a citation release would not serve public safety
 9. There is no fully identified, responsible adult, that has not been drinking alcohol, taking drugs or medication that impairs them to the slightest degree and that can care for and prevent the person from driving until no longer impaired.
- B. Any person who is released by citation on any DUI charge, shall only be released to a responsible adult. The responsible adult shall not be impaired to the slightest degree by alcohol, drugs, or medication, The responsible adult must be able to reasonably care for the arrestee, and sign the SPD DUI Third Party Release form promising to abide by the DUI Third Party Release criteria.

504.15 DUI VEHICLE SEARCH / DISPOSITION

- A. Whenever possible, vehicles used during the crime of DUI shall be thoroughly searched incident to arrest, in accordance with the law, for evidence related to the crime of DUI or any other known crime at that time, which permits such a search.
- B. A search of a DUI vehicle shall be completed promptly and the results made aware to the member making the decision on whether to book or cite and release the arrestee prior to such decision.
- C. Members shall tow or impound DUI vehicles incident to arrest, in accordance with ARS 28-3511 and Town Code 10-25-010. Per ARS 28-3511 C, a member who has probable cause to to arrest the driver of a vehicle for ARS 4-244, paragraph 34, section 28-1382 or section 28-1383 shall cause the removal (tow), immobilization, or impoundment of a DUI vehicle. Probable cause for these charges, for the purpose of removal

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(tow), immobilization, or impoundment, may be established by a a single reading of a Preliminary Breath Test (PBT) or Intoxilizer device.

- D. Any search of a vehicle incident to a DUI arrest, associated with a vehicle tow or impoundment, along with the results of the search, shall be be properly documented in the DUI report and any other appropriate police report (tow/impound form, etc.). When towing or impounding a vehicle, members shall complete a thorough inventory search of the vehicle, its compartments and containers.

504.16 POLICY ISSUANCE OR REVIEW

02/15/2023 - Reviewed by Chief John D. Noland - SP#002

05/07/2025 - Reviewed by Chief John Noland, SP#002