A. POLICY

1. **A DUI SUSPECT WILL BE CITED AND RELEASED OR BOOKED** as prescribed in this policy under ARS 28-1381A1, 28-1381A2, 28-1382A, and 28-1383

2. **FOR CONVICTION**, the officer must prove:
   a. Suspect was driving or in physical control of a motor vehicle
   b. Suspect’s ability to drive was impaired to the slightest degree by alcohol or drugs, or there is an alcohol concentration of .08 percent or more in the person’s blood or breath

3. **OFFICERS WILL:**
   a. Handle DUI-involved accidents as if the officer witnessed violation (13-3883A3), based on probable cause
   b. Immediately stop suspected DUI drivers
   c. Complete a Chandler Police Department Influence Report
   d. Release suspect vehicle to a responsible party designated by owner/operator
      1) Responsible party shall be at least 18 years of age with valid license
      2) Vehicle shall have current registration and proof of financial responsibility
      3) Suspect’s passenger, if PBT show no impairment
   e. Tow vehicle not meeting listed requirements

B. LEVELS OF INTOXICATION

<table>
<thead>
<tr>
<th>Driver’s BAC</th>
<th>Procedure</th>
</tr>
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<tbody>
<tr>
<td>1. 21 years of age or older with .05 or less</td>
<td>Do not charge unless drugs are suspected</td>
</tr>
</tbody>
</table>
| 2. Greater than .05 but less than .08 | • May charge with DUI 28-1381A1 if impaired to slightest degree  
  • Consider using DRE if drugs are suspected |
| .08 or higher (may use PBT at scene) | Cite and release or book:  
  • DUI (28-1381A1)  
  • DUI with BAC of .08 or higher (28-1381A2) |
| .15 or higher | Cite and release or book:  
  • Extreme DUI (28-1382A) |
| .30 or higher | • If booked, obtain a doctor’s release  
  • If released, medical attention is the driver’s or the person-accepting-custody’s responsibility  
    o Advise responsible party of the suspect’s condition and to obtain medical attention  
    o Document advisement |
C. IMPLIED CONSENT

ARS 28-1321: Any person operating a motor vehicle in the State of Arizona gives consent to the testing of blood, breath, or urine for ARS 28-1381 (charging code)

1. Read to the suspect and complete the Admin Per Se/Implied Consent Affidavit form

2. Give suspect blood test. Drug recognition expert (DRE) may request a urine test.

3. Make every reasonable effort to allow the suspect to contact his attorney by telephone prior to the test. Unreasonable delays constitute refusal.

4. Multiple tests: Confine to situations with disparity between test results and suspect's condition
   a. DRE will perform second test, with supervisor approval
   b. Suspect's failure to perform second test is a refusal

D. BLOOD TESTS

CALL OUT A DEPARTMENT PHLEBOTOMIST. If none is available, take suspect to Chandler Regional Hospital. See G-11 for police phlebotomist protocol.

1. Complete and have suspect sign the “Request by Law Enforcement Officer for Blood Sample” form

2. Observe extraction of the blood specimen and take immediate custody of vials (Hospital personnel should use the non-alcoholic sterilizer contained in the blood collection kit)

3. Properly package and place specimen in briefing room or Property refrigerator with property sheet

4. Attach the original lab request to the original property report and place a copy of the request in the appropriate request basket located on the refrigerator

5. Complete the Right to an Independent Test form
   a. Have suspect sign the form in appropriate location after informing suspect whether cited and released or booked
   b. If booked: refusal to sign will be construed as the suspect's request not to have an independent test

E. INJURED DUI SUSPECTS

IF AN INJURED DUI SUSPECT IS TREATED AND RELEASED within a reasonable timeframe, handle as any other DUI suspect
2. **IF NOT RELEASED**

a. Advise the emergency room personnel of the following:
   1) There is probable cause that the suspect was operating a motor vehicle while under the influence of intoxicating liquor
   2) The officer would like a blood sample from the DUI suspect

b. Inform the suspect that he is under arrest for DUI and advise of admin per se

c. ARS 28-1321C: Request hospital personnel to extract two vials of blood from all DUI suspects who are unconscious or otherwise in a condition rendering them incapable of refusing (ARS 28-1388E: **Officers are entitled to a portion** of any blood or bodily fluids drawn for medical purposes)

F. **RELEASE ON WRITTEN PROMISE TO APPEAR**

1. **REQUIRED CONDITIONS**

a. **Suspect is cooperative**
   1) Suspect’s fingerprints and photographs taken without resistance
   2) Suspect will not be considered uncooperative if he merely refuses to submit to a blood test

b. **Suspect does not have:**
   1) Previous Failure to Appear
   2) DUI arrest within previous 24-hour period

2. **A SUPERVISOR MAY RELEASE** suspect on written promise to appear even if criteria has not been met if it is in the best interest of the city

3. **RECOMMENDATION:** Release suspect into the care of a responsible third party

G. **FELONY DUI (28-1383)**

COMPLETE A FELONY PACKET with the influence report and teletype request form for all cases where felony DUI is implicated

1. **ADVISE SUSPECT OF IMPLIED CONSENT** from the Admin Per Se form. **Do not tell suspect or imply** that a search warrant is an option to prevent coercing the suspect into giving a test. (See blood test protocol)

2. **IF SUBJECT AGREES TO TEST**, proceed as for misdemeanor DUI arrest

   a. **MAY BOOK** into County with **confirmed information** for aggravated DUI if:
      1) Suspect’s license is suspended, cancelled, or revoked as a result of criminal action
      2) Suspect refuses all chemical tests to determine BAC
      3) Suspect is combative
      4) Suspect has valid driver’s license and two (2) or more prior convictions within 60 months
      5) Supervisor gives approval
b. **FELONY PACKET** must contain:
   1) Date the suspect's driving privilege was suspended, canceled, or revoked, and for how long
   2) Reason for suspension or revocation
   3) Date and court of jurisdiction for any prior convictions for DUI, if known
   4) Proof the suspect knew his license was suspended or revoked (May be proven by MVD records or suspect's statements)

### H. SEARCH WARRANT

**IF SUBJECT REFUSES BLOOD TEST,** request a call out for a trained telephonic search warrant officer and a phlebotomist

1. **COMPLETE ADMIN PER SE SUSPENSION** if subject is not complying voluntarily obtain a search warrant

2. **REQUEST COMMUNICATIONS** to:
   a. Notify on-duty supervisor
   b. Call out trained telephonic search warrant officer
   c. Call out phlebotomist

3. **INFORM SUSPECT OF ATTEMPT TO OBTAIN A SEARCH WARRANT.**
   If suspect then consents:
   a. Complete and have the suspect and a witness sign a "Search Warrant Consent" form
   b. Note in the DUI arrest report all of the following times:
      1) The time that the suspect originally refused
      2) The time that the suspect agreed to submit
      3) The time that the suspect submitted to the test
   c. Attach originals of the Search Warrant Consent form to the report and provide the suspect with a copy

4. **A TRAINED TELEPHONIC SEARCH WARRANT OFFICER WILL:**
   a. Obtain information from the arresting officer:
      1) Suspects name, date of birth, and other physical characteristics
      2) Probable cause for stop/apprehension; include date and times
      3) Manner in which suspect refused the test
      4) The driver history information that indicates that the case should be filed as a felony
   b. Be aware of the time constraints of obtaining the evidence and do not allow the suspect to delay the procedure by lengthy arguments
   c. Notify the suspect that a search warrant will be attempted and that the suspect has the option of submitting to a consent search to ensure whether a search warrant is necessary
   d. Search warrant procedures:
1) Prepare a search warrant affidavit if needed
2) Ensure that an audiotape recorder is recording
3) Call the on-call judge and read and record the search warrant affidavit to the judge
4) If the judge agrees, execute the warrant
   a) Advise suspect he has a court order for blood sample
   b) Give suspect a photocopy of the standard duplicate original search warrant
   c) Advise suspect of ramifications of failing to comply with the court order and procedures to follow if suspect continues refusal

e. If the suspect still refuses, involved officers, phlebotomist, and supervisor formulate a plan of action:
   1) Restrain suspect
   2) DO NOT jeopardize the safety of the suspect, officers, or phlebotomist. If it appears the suspect will injure himself or others, cease the attempt to collect blood and add charge of failure to comply with a court order to charges.
   3) If you must take blood by force, the suspect is considered uncooperative. Book as an in-custody arrest.

f. Return the search warrant to the issuing judge within five days

g. Complete a supplemental report to attach to the arresting officer’s report detailing the events that transpired while obtaining or attempting to obtain blood evidence

I. JUVENILE / UNDERAGE DUI SUSPECTS

PROCESS SIMILARLY TO ADULTS EXCEPT:

<table>
<thead>
<tr>
<th>STATUS</th>
<th>ACTION</th>
</tr>
</thead>
</table>
| 1. Misdemeanor DUI | • Use juvenile court date and time  
                     • Cite and release to parent or guardian |
| 2. Felony DUI | • Release to a parent and complete a referral along with remaining felony paperwork |
| 3. Under 21 with any measurable blood alcohol level | May arrest for ARS 4-244.33 (Minor operating or in actual physical control of a motor vehicle while there is any spirituous liquor in the person's body) |
| a. Between .01 and .05 | a. Driver may be charged with ARS 4-244.33  
                          b. And driving was obviously impaired, driver may be charged with ARS 28-1381A1 (Driving while impaired) |
| b. Between .06 to .08 | c. Driving was not impaired, but may be charged with ARS 4-244.33 |
| c. Between .01 and .08 | d. Charge with ARS 28-1381A2, and may charge with 28-1381A1 if impaired driving did occur |
| d. Greater than .08 | e. Complete Admin Per Se form and forwarded to MVD |
| e. Greater than or equal to .08 and refuses to submit to blood or breath alcohol test |
1. **USE TWO OFFENSE REPORT NUMBERS** cross referenced to each other: collision and DUI offense
   
   a. Each report should stand on own merit
   b. The collision report should contain a synopsis of the incident leading to the charge

2. **PROSECUTE A DUI CASE** when a driver involved in a collision is impaired and the only evidence is odor and the blood alcohol laboratory report. Write a DUI influence report.

**K. SOBRIETY CHECKPOINTS**

1. **PHILOSOPHY:** Sobriety checkpoints increase the real and perceived risk of detection and apprehension of the impaired driver. The support and cooperation of the public is essential. Officers must make every effort to ensure that a minimum of intrusion and inconvenience to the public occurs and that enforcement efforts do not create a greater hazard than the one we are attempting to reduce.

2. **JUSTIFICATION AND AUTHORIZATION:** The Police Chief must approve sobriety checkpoints. Justify the selection of a location, date, and time with applicable DUI accident and enforcement data.

3. **NOTIFICATION:** The commander of the checkpoint will:
   
   a. Provide at least one week's notice of the checkpoint to the Public Information Officer, who will in turn provide at least a three-day notice to the media for dissemination
   b. Notify the City Prosecutor's Office, County Attorney's Office, Fire Department, other affected City departments, and community advocacy groups such as MADD and SADD

4. **PHYSICAL CONFIGURATION OF SOBRIETY CHECKPOINTS**
   
   a. The checkpoint must be consistent with the use of an approved traffic control plan, devices, and current court-acceptable procedures regarding the use of warning signs, barricades, traffic cones, warning lights, other safety equipment, and warning devices that may be required
   b. Chandler Traffic Engineering will develop a traffic plan detailing the configuration
   c. The commander of the checkpoint will ensure that permission is obtained from the owner or agent of any private property or parking area to be used in conjunction with the checkpoint

5. **CONTACT WITH VEHICLE OPERATORS**
   
   a. The contact officer must be in uniform, wearing a traffic vest, and, whenever possible, HGN certified
   b. The contact officer will say the following:
1) "You have been stopped at a Chandler Police Sobriety Checkpoint in an effort to detect and deter impaired drivers. Have you consumed any alcohol or controlled substances tonight/today?"
2) "Are you a resident of the City of Chandler?"
3) "Would you please review this brochure, fill out the questionnaire, and mail it back to us with your comments?"

c. The above are the only questions permitted unless the officer determines there is reasonable suspicion to warrant additional questioning and/or field sobriety testing

6. FURTHER INVESTIGATION

a. Justification: Presence of odor of intoxicants and at least one additional indicator of impairment. Fully document the specific circumstances that led to the formulation of a reasonable suspicion of impairment.

b. Limit enforcement action to impaired driving violations or those posing an immediate hazard to the health, welfare, and safety of the officers and/or public. Handle other violations with a verbal warning.

7. PROCEDURES

a. Remove suspect from the vehicle and escort to the follow-up area. Police personnel will properly park the suspect’s vehicle and then request the suspect to perform a series of field sobriety tests.

b. Initial contact officer will remain with that driver throughout the follow-up investigation and arrest process (if an arrest is made) and will be responsible for conducting all field sobriety tests.

c. Release without a blood alcohol test if field sobriety testing indicates that the driver is not impaired.

d. If after administering the breath or blood alcohol testing a driver is not to be charged with DUI, process him and release from custody in accordance with departmental policy.

8. SUPERVISOR RESPONSIBILITIES: A lieutenant or higher ranked officer will be present at all times.

a. If the supervisor determines that there is an unnecessary traffic delay being created, he may use the following formula to relieve congestion:

<table>
<thead>
<tr>
<th>DELAY</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 - 6 minutes</td>
<td>Stop 6, Pass 6</td>
</tr>
<tr>
<td>6 - 8 minutes</td>
<td>Stop 6, Pass 12</td>
</tr>
<tr>
<td>8 -10 minutes</td>
<td>Stop 6, Pass 18</td>
</tr>
<tr>
<td>Over 10 minutes</td>
<td>Pass all vehicles until the delay drops below 4 minutes.</td>
</tr>
</tbody>
</table>

b. Variations to formula
   1) Must be approved by the on-site commander
   2) Must be systematic. Random stopping of vehicles is not permitted.
3) Document the time delay caused to vehicles within the checkpoint each time changes are made in the interval stopping method.

c. **Insufficient officers** to properly conduct the checkpoint: Supervisor may terminate the checkpoint until sufficient officers are available. Document the length of time and reason the checkpoint was suspended.

d. **Maintain the following statistics:**

   1) Number of vehicles through the checkpoint
   2) Number of drivers field tested
   3) Number of drivers arrested
   4) The charges

e. **Make a telephone available** if breath or blood alcohol testing and the booking process are being completed on site (to meet judicial requirements for arrestee contact with an attorney and to facilitate the release of arrestee to responsible parties)

f. **Operational Report:** The checkpoint commander will ensure that a detailed operational report is completed with statistical data and evaluation of the checkpoint. Submit this report to the Chief of Police within **10 working days** of the sobriety checkpoint operation.

9. **AVOIDANCE OF CHECKPOINT**

   a. **Vehicle making a U-turn or using escape route to avoid checkpoint:**
      You may follow vehicle for a distance **not to exceed one mile**
      1) If officer observes a violation or suspicious driving, he may stop the vehicle and proceed as for a normal traffic contact
      2) If officer observes no violation within one mile, return to the checkpoint site without stopping the vehicle

   b. **Refusal to roll down window:** Wave vehicle through and may follow for a distance of not more than one mile

   c. **Refusal to stop** for the stop signs at the checkpoint: May stop and cite drivers for the appropriate violation(s). Examine such drivers for signs of impairment.

   d. **Refusal to cooperate:** Do not detain only for that reason. Follow the procedure outlined in U-turn above.

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