



RICHMOND POLICE DEPARTMENT GENERAL ORDER



Subject: DUI/DUID	Chapter 6	Number 8	# Pages 16
CALEA Standard(s): 61.1.10 VA Code §16.1-247, 16.2-248.1, 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-268.3, 18.2-272(B), 46.2-301.1, 46.2-391.2	Related Orders: 6-14, 7-18, 8-3 and 8-7	Effective Date: 08/10/21 Revised By: Review Prv. Rev. Date: 09/06/18	
Chief of Police: <div style="text-align: center;"></div>			

I. PURPOSE

The purpose of this directive is to establish the policy and procedure for administering sobriety tests, breath tests and/or blood tests to persons arrested for operating a motor vehicle under the influence of alcohol and/or drugs, including persons under the age of 21 arrested for operating a motor vehicle after the illegal consumption of alcohol and for conducting other legally required tasks in a driving under the influence of alcohol and/or drugs, including prescription drugs, (DUI/DUID) situation.

The Drug Evaluation Classification Program (DECP) is part of the Richmond City Police Department’s efforts to reduce drug-impaired driving. The objective of this program is to provide the field with certified Drug Recognition Experts (DRE’s) capable of gathering evidence as necessary to substantiate charges of drug influence in operating under the influence (OUI) cases. As a continuing practice and as deemed necessary, the department will train members to become certified DRE’s. Only members who have received approved National Highway Traffic Safety (NHTSA) DRE training and International Association of Chief of Police (IACP) certification and or re-certification may be considered a department DRE or DRE Instructor.

II. SUMMARY OF CHANGE

This policy is due for triannual review. The new CALEA standard recommends using Drug Recognition Experts to further DUID enforcement. The department already has DRE personnel and their function is already defined in this policy. Any specific changes shall be noted in bold italicized text throughout the document.

III. POLICY

The Richmond Police Department recognizes the need to maintain a safe environment for all operators of motor vehicles. Therefore, the policy of the Department is to enforce all laws concerning DUI/DUID. It is unlawful for any person to drive or operate any motor vehicle, engine, or train while under the influence of alcohol or while under the influence of any drug of any nature to the extent it impairs their driving ability.

IV. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this general order. Failure to comply will result in appropriate corrective action. Responsibility rests with the Division Commander to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated.

This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

V. DEFINITIONS

- A. Drug Evaluation Classification Program (DECP) - A 12 step standardized and systematic process to determine if a motorist is driving under the influence of drugs (DUID).
- B. Drug Recognition Expert (DRE) - Officers with specialized training who perform an evaluation procedure that can distinguish individuals under the influence of alcohol, other drugs, combination of alcohol and other drugs, and injury/illness.
- C. International Association of Chief of Police (IACP) – A non- profit organization that provides training and information exchange in the police profession to improve and advance the science and art of police services.
- D. IMPLIED CONSENT – Persons arrested while operating a vehicle within the Commonwealth of Virginia are deemed to have consented to have samples of their breath and/or blood tested to determine alcohol and/or drug content.
- E. MOTOR VEHICLES – Any motorized vehicle, i.e. car, motorcycle, truck, bus, recreational vehicle and/or pedal bicycle with helper motor (moped) operating on public highways.

NOTE: Pedal Bicycles without helper motors are not subject to DUI/DUID regulations. (VA Code §18.2-266)

- F. National Highway Traffic Safety Administration (NHTSA) – A government agency of the Executive Branch, part of the Department of Transportation.
- G. Operating Under the Influence (OUI) – Operating a motor vehicle under the influence of alcohol or other chemical substances.

VI. PROCEDURES

A. Training:

1. Officers must receive annual training or required retraining in Standardized Field Sobriety Testing (SFST) and Preliminary Breath Testing (PBT).
2. Sector Squad Sergeants shall ensure that officers under their command have proper SFST and PBT training. The Richmond Police Academy shall also maintain a copy of records documenting the officer's training.
3. The Richmond Police Department Training Academy shall provide said training using an approved Virginia Department of Criminal Justice Services (DCJS) DUI/DUID program.
4. Upon satisfactory completion of the approved DUI/DUID training, officers shall be authorized to conduct standardized field sobriety testing.
5. The Training Academy shall maintain the original record of each officer who has completed the approved testing and shall be responsible for administering re-training when necessary.
6. Drug Recognition Experts shall have National Highway Traffic Safety approved training in Drug Evaluation Classification, and International Association of Chief of Police (IACP) certification and or re-certification.

B. Driving Under the Influence of Intoxicants (DUI/DUID) – Sobriety Testing: [CALEA 61.1.10]

1. Officers shall be alert for suspected DUI/DUID offenders. Officers shall use and document standardized field sobriety tests. Officers must carefully document the behavior of the DUI/DUID suspect; beginning with observations of the suspect's driving.
2. Officers operating vehicles with Digital Mobile Vehicle Recorders (DMVR) installed must ensure that the equipment is activated and functioning properly during all DUI/DUID traffic stops. (General Order 6-14, Digital Mobile Video Recorder System.)
3. Officers shall make every reasonable effort to capture the incident; however, if terrain is inadequate for testing, suspect safety, or if officer safety is questionable in view of the camera, recording the incident shall be of low priority and considered not necessary during those unsafe conditions.
4. When a police officer stops a person suspected of driving under the influence of intoxicants, the officer shall conduct a field sobriety test using the following procedures:
 - a. Identify himself/herself and advise the person of the reason for the stop.
 - b. Request that the person furnish his/her operator's license and registration card.
 - c. If the officer has reason to suspect the operator of the motor vehicle to be impaired by DUI/DUID, he/she may, at their discretion, administer an

approved non-standardized field test prior to administering the standardized field sobriety tests.

5. Additional approved field sobriety tests that may be given at the officer's discretion prior to actual standardized field sobriety tests are as follows:

- a. Alphabet Test: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

NOTE: DO NOT INSTRUCT THE SUBJECT TO SAY THE ALPHABET BACKWARDS

- b. Finger Count Test: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- c. Count Down Test: [REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

NOTE: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6. Request that the suspect take the following standardized field sobriety tests, which are in compliance with National Highway Traffic Safety Administration (NHTSA) standards. (Standardized field sobriety tests should be conducted at the scene whenever practical. The officer must demonstrate each test to the accused.)
- a. Horizontal Gaze Nystagmus Test (HGN) – This test can only be administered by an officer who has been trained and certified to use this technique;
 - b. Walk and Turn; and,
 - c. One Leg Stand;

NOTE: The above noted standardized field sobriety tests are listed in the order in which they must be given.

7. Officers must carefully document all employed standardized field sobriety tests, observations and clues.

8. Officers must carefully document the suspect's appearance, responses to stimuli, speech and admissions of drinking or drug ingestion.
9. Miranda warnings are not required before the driver takes sobriety tests or otherwise before questioning.

C. Preliminary Breath Testing:

1. Under no circumstances shall a suspect be given a PBT in lieu of or prior to any SFST unless the subject is physically unable or refuses to perform the SFST. When the PBT is available, it shall be offered to the subject even if he/she refuses to take the SFST. The subject can specifically request the PBT after refusing the SFST.
2. In the field, Preliminary Breath Tests shall only be administered after 20 minutes of visual contact with the subject to ensure that no objects or substances of any kind were placed in the subject's mouth during that period.
3. If the field sobriety tests show the person may be impaired, the officer must first read the Preliminary Breath Advisory to the suspect prior to the administering of the PBT.
4. The officer will further advise the suspect that he/she is entitled to have his/her breath analyzed, to refuse to permit his/her breath to be so analyzed, and that test results shall not be admitted into evidence in any prosecution for violation of Virginia Codes §18.2-266, §18.2-266.1, §18.2-272(B) or any similar local ordinances.

D. Drug Evaluation:

1. Members certified as DRE's are trained to articulate impairment and the category of drug(s) causing the impairment through use of a standardized and systematic DRE 12-step process.
2. A DRE should be utilized when a subject's level of impairment is not consistent with the blood alcohol concentration (BAC-below a .08) obtained or when there is evidence of ingestion of drugs.
3. It is recommended that a DRE be contacted to assist in crash investigation cases under the following circumstances:
 - a. When the driver of a vehicle involved in a crash has been placed under arrest for DUI, or criminally related charges and physical evidence developed during the investigation reveals drug use as a possible cause of impairment.
 - b. If the crash results in a fatality or serious physical injury and based upon the opinion of the investigators, or the supervisor, a DRE is needed to determine drug/alcohol/medical impairment.

- c. A DRE may be utilized for additional evidence recognition at the scene or back at the department. A DRE may assist detectives in obtaining a physical evidence warrant (Blood Warrant) for crucial drug usage evidence.

E. Arrest:

1. When Standard Field Sobriety Testing, Preliminary Breath Testing and/or **Drug** Recognition procedures are completed and the officer/**DRE** determines that a DUI/DUID arrest will be executed, based upon reasonable and articulable suspicion of impairment, the arresting officer shall follow the below course of action:

[CALEA 61.1.10]

- a. Advise of the Implied Consent Law
- b. If the suspect complies, the officer shall issue a breath and/or blood test, follow arrest procedures and advise the suspect of the Miranda Warning.
- c. If the suspect refuses to submit to a blood or breath test, the officer shall read the Implied Consent Advisory.
- d. If the suspect consents, following the Implied Consent Advisory reading, the officer shall then issue the blood and/or breath test, follow arrest procedures and advise the suspect of the Miranda Warning.
- e. If, following the Implied Consent Advisory reading, the suspect continues to refuse, the officer shall then read and complete the Declaration and Acknowledgement of Refusal - Breath/Blood Test (Declaration of Refusal) Form, follow arrest procedures and advise the suspect of the Miranda Warning.

NOTE: If suspect gives consent for a breath or blood test to be given, the officer does not need to read the Implied Consent Advisory or Declaration of Refusal.

2. The officer shall charge the person with a DUI/DUID violation for one of the following levels:

.08 BAC (Blood Alcohol Concentration (or Content)) or higher	All suspects
.04 BAC or higher	Commercial Motor Vehicles
.02 BAC or higher	Persons under age 21 only
NOTE: Officers may execute DUI arrests between .05 – .08 BAC if he/she can articulate observed impairment based upon the following:	
.05 - .08 BAC– § 18.2-269. Presumptions from alcohol or drug content of blood. A.(1): If there was at that time 0.05 percent or less by weight by volume of alcohol in the accused’s blood or 0.05 grams or less per 210 liters of the accused’s breath, it shall be presumed that the accused was not under the influence of alcohol intoxicants at the time of the alleged offense; A.(2) If there was at that time in excess of 0.05 percent but less than 0.08 percent by weight by volume of alcohol in the accused’s blood or 0.05 grams but less than 0.08 grams per 210 liters of the accused’s breath, such facts shall not give rise to any presumption that the accused was or was not under the influence of alcohol intoxicants at the time of the alleged offense, but such facts may be considered with other competent evidence in determining the guilt or innocence of the accused.	

3. When an arrest is necessary, the suspect must be arrested for a DUI/DUID violation within three hours of the DUI/DUID offense for the Implied Consent Advisory to be valid.
4. [REDACTED]
5. The arresting officer shall take the suspect directly to Richmond’s Breath Test Room located within 2nd Precinct at 177 E. Belt Boulevard or to the Criminal Justice Center at 1701 Fairfield Way. Chesterfield and Henrico Counties shall be contacted to conduct the test if Richmond’s breath rooms are unavailable. The arresting officer or the police wagon will transport the suspects to the other jurisdiction for testing only if the arrest was executed within 3 hours of the offense.
6. If the breath test is unavailable in all three jurisdictions or if the suspect is physically unable to submit to the breath test, the officer shall carefully document this information, and thereafter, the officer shall take the suspect directly to a treating medical facility, and have the suspect take the blood test.
7. If the arresting officer is advised by a supervisor or a treating medical facility’s Emergency Unit official; that a person certified to perform an official blood draw is unavailable, that supervisor or official must be subpoenaed to court along with a duty log substantiating the reason for the unavailability.

8. After having made an arrest for a violation of §18.2-266 (i) or (ii) or both, and after the suspect has submitted to a breath test, refused to take or was incapable of taking the breath test, the officer may require the suspect to submit to tests to determine the drug or both drug and alcohol content in his/her blood if the arresting officer has reasonable cause to believe the suspect was driving under the influence of any drug or combination of drugs or the combined influence of alcohol and drugs.
9. The officer shall read the Notification of Rights (Misdemeanor and Felony Arrest) card, to the arrested suspect and shall compile a PD-59 (Alcohol Field Sobriety Notes Report). The accused must be advised of his/her rights prior to the interview portion of PD-59 being conducted and compiled.
10. Immediately following the arrest of the suspect for a DUI/DUID violation, the arresting officer shall contact the Warrant and Information Services Unit (Radio Room 899) to check with the Department of Motor Vehicles for the suspect's prior convictions of DUI/DUID and request that a hard copy be sent to the Warrant and Information Services Unit, or the officer may contact the Radio Room and advise them of a pending email via the vehicle's Mobile Data Computer (MDC) for a driving record and/or a criminal history record. This should be done prior to taking the suspect to the Magistrate.
11. If there is a previous conviction(s) within five to ten years (5 – 10) of the current date, the warrant obtained from the Magistrate should state the previous offense(s) and whether they were all within a 5 year or 10-year period. When obtaining the warrant, the officer should request a court date at least 30 days following the arrest.
12. The officer should alert the assigned attorney from the Commonwealth's Attorney's Office of any potential problems prior to the day of the trial.
13. Prior to the end of their shift, the officer shall make a full Incident Based Report (IBR) of the circumstances of the DUI/DUID arrest, formation of probable cause, and witnesses' observations, being sure to include the suspect's statement(s), time of arrest, time of breath and/or blood test, time of accident and time of stop, in the narrative section.
14. Administrative Notice of Suspension should be issued to the suspect upon completion of an official breath test. The original shall be submitted to the court along with the warrant. A copy shall be given to the suspect and a copy shall be delivered to the Warrant and Information Services Unit for immediate entry into the NCIC database.
15. The officer shall ensure witness subpoenas are issued to breath operators who have conducted the breath analysis and have signed the certificate of analysis.

F. Refusal to Take Breath and/or Blood Test:

In the event the suspect refuses (either verbally or through conduct) to take the Breath and/or Blood Test:

1. The suspect will be charged with two violations: Operating Under the Influence of Intoxicants and Refusing to Take Either Chemical Test.

2. The officer shall complete the Declaration of Refusal.
3. The officer shall ensure that the Magistrate signs the Declaration of Refusal upon issuing the Warrant for Refusal.
4. The officer shall turn in the original Declaration of Refusal to the proper court, along with the warrant, and maintain a copy for his/her records.

G. An Unconscious DUI/DUID Suspect:

If the suspect is unconscious due to extreme intoxication or injuries, a blood sample for chemical testing can be obtained from the suspect after the suspect has been transported directly to the treating medical facility's Emergency Unit. Taking such a sample does not violate the suspect's constitutional rights.

H. The Breathalyzer Test:

The Breath Alcohol Operator will conduct the breath test in the presence of the arresting officer and the suspect (who has the right to observe the process of analysis). The arresting officer will provide the suspect with a copy of the certificate of the test results. The original certificate will be sent to the court by the arresting officer, attaching it to the original arrest warrant. The arresting officer will remain with both the Breath Alcohol Operator and the suspect in the Breath Test Room during the entire testing procedure. If the arresting officer is a Breath Alcohol Operator, he/she may administer the test (VA Code §18.2-268.9).

I. Blood Sample Test:

1. Only a physician, registered nurse, licensed practical nurse, phlebotomist, graduate laboratory technician, technician or nurse, designated by order of a Circuit Court, acting upon the recommendation of a licensed physician on duty at VCU Medical Center – Emergency Unit or the alternate medical facility, will take the blood sample. (VA Code §18.2-268.5)
2. The arresting officer shall make sure the person withdrawing the blood sample properly completes the Certificate of Blood Withdrawal to include the following:
 - a. The name and address of the person arrested;
 - b. The name of the person and his/her title (ex: Dr., RN, etc.) taking the blood sample;
 - c. The date and time the blood sample was taken;
 - d. The arresting or accompanying officer's printed name and code; and,
 - e. The address of the appropriate court listed below:

Court Name	Address
Richmond General District Traffic Court – North	400 N. 9 th St., Richmond, VA 23219
Richmond General District Traffic Court – South	920 Hull St., Richmond, VA 23224
Juvenile and Domestic Relations Oliver Hill Court Building	1600 Oliver Hill Way, Richmond, VA 23219
Manchester General District Court	920 Hull St., Richmond, VA 23224

- The arresting officer shall give a Blood Specimen Collection Kit to the person withdrawing the blood. The arresting officer shall then request the person withdrawing the blood sample to open the kit and follow the printed instructions found inside. The officer shall remain in the room and observe the procedure to verify compliance with the instructions.

NOTE: Soap and water, polyvinylpyrrolidone, pvp iodine, providone iodine and benzalkonium chloride are approved substances that may be used to cleanse the part of the body from which a sample of blood is taken.

- The arresting officer shall make sure the person withdrawing the sample seals the vials with the plastic seals provided, fills out the attached labels on each vial and returns both sealed vials to the arresting officer.
- Upon receipt of the kit, the arresting officer shall check the spelling of the name of the person arrested, ensure that the name and title of the person drawing blood is correct, the appropriate court is listed and the time of blood draw is correct on each blood vial label. Afterward, the arresting officer shall ensure that the vials are properly placed in the provided kit and the kit is sealed immediately. The arresting officer shall initial, date and affix the security seal provided on the outside of the kit.
- The arresting officer shall personally hand-carry the kit forthwith to Department of Forensic Science (DFS). During non-business hours, weekends and holidays, officers shall:

Place blood kit in a Property and Evidence Unit locker with a completed lab sheet attached specifying the test being requested, i.e. alcohol analysis, drug analysis or alcohol and drug analysis.

NOTE: Do NOT log blood vials into the Property and Evidence Unit Computer System.

- Whereupon a victim and/or suspect has serious injury(s), imminent death or actual death, the officer shall, under all circumstances, attempt to secure a search warrant for samples taken by the medical facility, when the subject has refused to give a sample of his/her blood or when the hospital refuses to take the blood.

8. Richmond Police officers shall not arrest, or take any other adverse action against medical personnel for refusing to withdraw the blood sample(s) of a subject, or for ordering other staff members to refuse to withdraw the blood sample(s).

J. Driving Under the Influence of Drugs (DUID):

1. If a Breathalyzer test indicates a 0.08 BAC or higher, no drug testing should be requested, even if the driver is suspected of using other drugs. The arresting officer shall handle the arrest as any other DUI/DUID case.
2. If the driver is impaired to a degree that the Breathalyzer test results are not consistent with the level of observed impairment (0.08 BAC or less) and if there is reason to suspect the use of other drugs (drug possession, chemical odors, etc.), then the arresting officer may request a blood sample for drug testing.
3. Blood samples for DUID shall be collected in the same manner as for DUI. The kit shall be personally hand-carried to:

Dept. of Forensic Science

Attention: DUID



Richmond, VA 23219

- a. One (original) DFS 70-001 form MUST accompany each blood sample. This form, normally used to submit evidence to the DFS, should include as much information as possible as to the facts which lead the arresting officer to believe that the driver was under the influence of drugs and what drugs were suspected.
 - b. A copy of the DFS 70-014 form MUST be included.
4. Persons arrested for driving while under the influence and suspected of drug impairment should be evaluated by a DRE whenever the BAC is below 0.08%.
 5. A DRE should be contacted if the alcohol impairment is not consistent with the BAC% result.
 6. The evaluation should be conducted or witnessed by a certified DRE, if a certified DRE is not available to respond for the evaluation the arresting officer can consult a DRE by telephone assistance.

NOTE: A timely response is critical, as the effects of some drugs dissipate rapidly; therefore; members should try to enlist the services of the nearest DRE whenever possible.

7. If a DRE is not on duty or unavailable, Dispatch may contact a supervisor for authorization to call –out a DRE.
8. Whenever a Department DRE conducts an evaluation requiring a written report, the drug evaluation report will be submitted in a timely manner following department policy.

9. A copy of the drug evaluation report will be forwarded to the arresting officer, the prosecutor having jurisdiction of the case and the Department DRE Coordinator. The evaluation report shall conform to the NHTSA/IACP and department standards and guidelines.
10. The DRE will ensure that evidence collected from the defendant (i.e., blood, suspected drugs, etc.) is submitted into evidence in a timely manner following department guidelines.
11. Each Department DRE shall submit a year-end “rolling log” report no later than January 15th of each year to the Department DRE Coordinator. The Rolling Log shall list all evaluations conducted including opinions, toxicology results and case dispositions.
12. Each Department DRE shall maintain their Departments DRE certification as specified in the National DECP Guidelines formulated by NHTSA and IACP.
13. DFS’ DUI/DUID protocol: Once impairing concentrations of alcohol or drugs have been identified, the testing is stopped and a certificate of analysis is generated. If testing is stopped after either Level I or Level II, a statement will appear on the certificate of analysis indicating that “no other analyses were performed.” This protocol is designed to identify alcohol and drugs that can impair driving using 3 levels of testing: alcohol, drugs of abuse and a comprehensive basic drug screen as shown below:

Level I	Blood Alcohol Testing	
Level II	DUI/DUID Screening Panel (Immunoassay) Including: <ul style="list-style-type: none"> • Cocaine metabolite • Opiates • Oxycodone • Methamphetamine/MDMA • Phencyclidine (PCP) • Barbiturates • Benzodiazepines • Carisoprodol/meprobamate • Fentanyl • Cannabinoids • Methadone 	Identification/Quantitation of Detected Drugs

Level III	Comprehensive Drug Screening (GC/MS)	Identification/Quantitation of Detected Drugs
Step 1	<p>Level I Blood Alcohol Testing: All samples are analyzed for ethanol.</p> <ul style="list-style-type: none"> a. If ethanol is greater than or equal to .10%, testing is discontinued and the results are reported. b. If ethanol is less than .10%, the results are included in the report and the analysis continues with Step 2. 	
Step 2	<p>Level II Drug Screening:</p> <ul style="list-style-type: none"> a. If no drug classes are detected, the analysis continues with Step 4. b. If any drug is tentatively present, the analysis continues with Step 3. 	
Step 3	<p>Level II Identification/Quantitation:</p> <ul style="list-style-type: none"> a. If drugs are identified as present at a concentration at or above generally accepted concentration indicating impairment, testing is discontinued and the results are reported. b. If no drugs are present, the analysis continues with Step 4. c. If drugs are identified as present but at a concentration below generally accepted concentrations indicating impairment, the results are included in the report and the analysis continues with Step 4. 	
Step 4	<p>Perform Level III Screening:</p> <ul style="list-style-type: none"> a. If no drugs are present, testing is discontinued and the results are reported. b. If any drug is tentatively identified as present, the analysis continues with Step 5. 	
Step 5	<p>Perform Level III Identification/Quantitation:</p> <ul style="list-style-type: none"> a. The results are reported. 	

14. Questions regarding procedures for requesting a DUID test can be addressed by calling the Dept. of Forensic Science at [REDACTED].

K. Crash Investigations:

If the DUI or DUID suspect has been involved in a traffic accident, in addition to procedures directed in this general order, officers shall follow procedures as stated in General Order 8-3, Crash Investigations and Reporting.

L. Autos/Property in Possession of Arrested Person:

Should the vehicle belonging to the arrested person need to be towed, the officer should refer to and follow all procedures as stated in General Order 8-7, Inventory, Towing, Seizure, Storage and Abandoned Vehicles.

M. Administrative Impoundment of Motor Vehicles (VA Code §46.2-301.1):

1. Pursuant to VA Code §46.2-301.1, the arresting officer shall complete a Notice of Vehicle Impoundment/Immobilization and serve said notice upon the arrested person. The notice shall include information on the person's right to petition for review of the impoundment pursuant to subsection B. A copy of the notice of impoundment shall be attached to the arrest package and delivered to the Magistrate. Thereafter the Magistrate will promptly forward to the Clerk of the General District Court of the jurisdiction where the arrest was made.
2. All reasonable costs of impoundment or immobilization, including removal and storage expenses, shall be paid by the offender prior to the release of his/her vehicle. Where the officer discovers that the vehicle was being rented or leased from a vehicle renting or leasing company, the officer shall not impound the vehicle or continue the impoundment but shall notify the rental or leasing company that the vehicle is available for pick-up and its location.

NOTE: All unoccupied motor vehicles not legally parked or vehicle(s) at risk of theft or damage shall be towed.

N. Arrest Procedure for Administrative Suspension of License Pursuant to VA Code §46.2-391.2:

1. If the suspect's blood alcohol content on the breath test is .08 BAC or more, OR the results for persons under 21 years of age shows a blood alcohol concentration of 0.02 BAC or more, OR if the suspect refuses to submit to the breath test, and upon issuance of a petition or summons, or upon issuance of a warrant by the Magistrate, for a violation of VA Codes §18.2-51.4, §18.2-266, §18.2-266.1 or §18.2-268.3, or any similar local ordinance, the suspect's (Virginia) license shall be suspended immediately for seven days for a first offense, 60 days for a second offense and until trial for a third or any subsequent offense.

NOTE: Do not issue an administrative suspension notice unless an official breath result reading is obtained. An administrative suspension cannot be issued if a blood test was administered without taking a BAC reading.

2. The officer shall serve notice of suspension personally on the arrested person, and the officer shall promptly take possession of the suspect's license and promptly deliver it to the Magistrate.
3. In the case of an unlicensed person, a person whose license is otherwise suspended or revoked, or a person whose driver's license is from a jurisdiction other than the Commonwealth, such person's privilege to operate a motor vehicle in the Commonwealth shall be suspended immediately for seven days.

4. Promptly after arrest and service of the notice of suspension, the arresting officer shall forward a sworn report of the arrest to the Magistrate that shall include:
 - a. Information which adequately identifies the person arrested; and,
 - b. A statement setting forth the arresting officer's grounds for belief that the person violated VA Codes §18.2-51.4, §18.2-266, §18.2-266.1 or a similar local ordinance or refused to submit to a breath test in violation of §18.2-268.3 or a similar local ordinance.

NOTE: THE REPORT SHALL BE SUBMITTED ON FORMS SUPPLIED BY THE SUPREME COURT.

O. Procedures for Juveniles & Persons Under the Age of 21:

1. Driving Under the Influence (DUI/DUID):

- a. It is unlawful for any person under the age of 21 to operate any motor vehicle after illegally consuming alcohol. Any such person with a blood alcohol concentration of 0.02 BAC or more but less than 0.08 BAC shall be in violation of VA Code §18.2-266.1.
- b. If the juvenile's breath test comes back below 0.08 BAC and the officer arrests the juvenile for a violation of VA Code §18.2-266.1, and if the arresting officer's field observations indicate that the juvenile is under the influence of drugs and/or drugs and alcohol, the juvenile shall be transported to VCU Medical Center Pediatric ER to have a sample of blood taken. Once the blood has been packaged, a lab analysis form shall be completed indicating which drugs the arresting officer wants analyzed from the blood sample.
- c. It is the arresting officer's responsibility to notify the parent(s) or guardian(s) of the juvenile who has been arrested for DUI/DUID. The arresting officer shall notify the juvenile's parent(s) or guardian(s) to respond to Police Headquarters, 200 W. Grace St.
- d. The arrested juvenile shall be transported to the first available location that has a breath testing room if a breath test is to be taken or to VCU Medical Center Pediatric ER – Main Hospital (age 17 or younger) if it is determined that a blood test is required and the proper paperwork compiled. The parent(s) or guardian(s) do not have to be present for the administration of the breath or blood test.
- e. The arresting officer will then hand carry the blood sample immediately or on the first business day the laboratory is open, to the Dept. of Forensic Science (DFS) located at [REDACTED] maintaining the normal chain of custody. The arresting officer must make it clear when presenting drug testing blood samples to the DFS personnel that the defendant is a juvenile, so that the certificate of analysis may reach the Clerk's Office of the Juvenile Court within a 21-day period.

2. Arrest Procedure if Suspect is a Juvenile:

- a. The arresting officer should refer to and follow all procedures as directed in General Order 7-18, Juvenile, Truancy and Curfew Procedures, and in accordance with VA Code §16.1-247.
- b. For misdemeanor DUI related offenses, the juvenile shall be released to a parent/guardian or responsible adult. The arresting officer shall advise them that they will be contacted by the Juvenile Court of when to appear. Felony DUI arrests shall follow normal juvenile arrest procedures.
- c. Per VA Code §16.1-248.1, if no responsible adult can be found within a reasonable time to take custody of the juvenile, a Juvenile Court Intake Officer shall be contacted. A juvenile court intake officer is on call between 1600 to 0700 hours Monday through Friday and on weekends and holidays. The on-call list is at the Warrant & Information Services Unit.

3. Refusal to Submit to Blood or Breath Test:

If the juvenile refuses to submit to the blood or breath test, the officer shall compile the necessary refusal forms on a JVAR charging the juvenile with refusal to submit to a test. The juvenile may then be released to his/her parent(s), guardian(s) or a responsible adult. The arresting officer will be notified by the Juvenile Court Intake Unit when to sign the petition.

P. Equipment and Maintenance:

1. The Department shall only use approved PBT equipment as outlined on the Department of Forensic Science's (DFS) approved equipment list.
2. Preliminary Breath Tests will be calibrated at least every 30 days or according to the manufacturer's instructions.
3. Precinct Commanders shall designate a supervisor to be accountable for PBT calibration.
4. Each precinct shall maintain a log of any assigned PBT device and its date of calibration.

VII. FORMS

- A. Notice of Vehicle Impoundment/Immobilization
- B. PD-59, Alcohol Field Sobriety Notes Report
- C. Implied Consent Advisory
- D. Acknowledgment/Declaration of Refusal – Breath/Blood Test Form
- E. Preliminary Breath Test Advisory card
- F. Miranda Rights Card