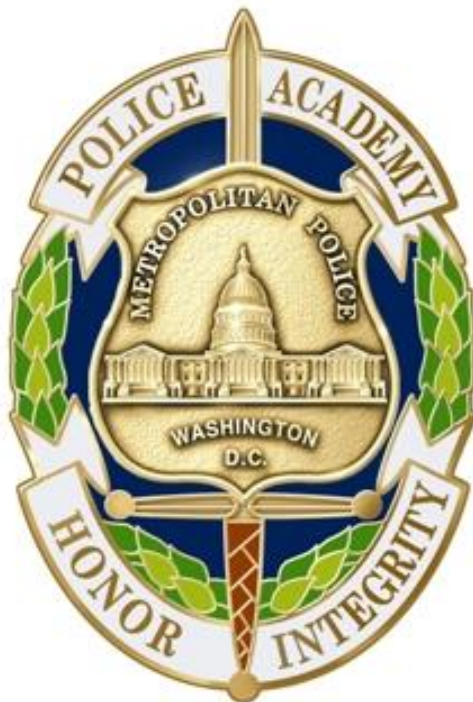


Metropolitan Police Academy



13.2 DUI/DWI

Approved 4/26/2023

13.2.1 Define key terms related to DUI and DWI investigations

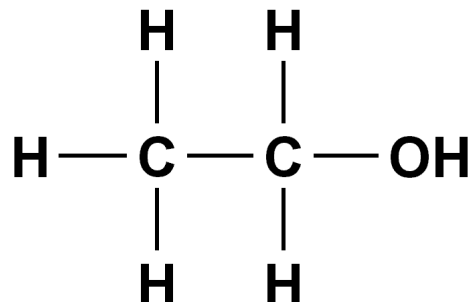
DUI and DWI operators of vehicles result in numerous traffic fatalities, injuries, and instances of property damage. MPD officers therefore must have sufficient knowledge of key terms related to DUI and DWI investigations. Such terms are applicable in both investigations. DUI and DWI investigations involve a driver who was operating or in physical control of a vehicle while under the influence of drugs or alcohol. DUI and DWI investigations can stem from traffic stops, parking complaints, suspicious vehicle calls, traffic crashes, and more. MPD officers must conduct a full and thorough investigation into all encounters with suspected DUI and DWI drivers.

The National Highway Traffic Safety Administration (NHTSA) has supported much research in regard to DUI and DWI investigations. Perhaps most influential is the series of studies that NHTSA has sponsored to law enforcement in determining whether operators of vehicles are, in fact, under the influence of alcohol and/or drugs. NHTSA has published the results of these studies and allowed police to standardize the procedures used in such investigations.

Standardized Field Sobriety Tests (SFST) are essential to most DWI investigations conducted by law enforcement. MPD officers need not be certified in SFST in order to handle DWI investigations. A request for an SFST-certified officer (if one is not already on the scene) and a good working knowledge of the key terms and procedures related to DWI investigations give all MPD officers this ability. Therefore, an MPD officer must understand the meaning of the words, terms, and symbols associated with DWI.

The type of alcohol consumed in alcoholic beverages is called ethanol (EtOH). It is odorless and colorless in its pure form. EtOH has two carbons bonded to a hydroxyl group (-OH). Note that hydroxyl groups bonded to carbon are what distinguish alcohols from other organic molecules (such as ketones, aldehydes, etc.).

EtOH can be visualized as:



It is the presence of this hydroxyl group that makes EtOH quickly and conveniently measured by MPD breath test instruments. Impairment by EtOH can be measured in grams of EtOH per 210 liters of breath (BrAC). MPD utilizes the **Intoximeter EC/IR II** as its official breath test instrument. These instruments are maintained by the Office of the Chief Medical Examiner (OCME). MPD breath test instruments use both an electrochemical sensor (EC) and infrared detection (IR) of EtOH molecules to determine the grams of EtOH per 210 liters of the person's breath (BrAC). This testing method is a scientifically proven and accurate means of measuring the EtOH content in breath.

Additionally, EtOH impairment can be measured via a subject's blood by measuring the grams of EtOH per 100 milliliters of blood (BAC) or urine by measuring the grams of EtOH per 100 milliliters of urine (UAC). Although not as convenient, the OCME provides such testing for MPD and the OAG.

NOTE: A BrAC reading of ≥ 0.35 g EtOH requires that you summon immediate medical assistance for the arrestee followed by notification of the element watch commander.

Key terms and symbols involved:

- BrAC – Breath Alcohol (EtOH) Content
- BAC – Blood Alcohol (EtOH) Content
- UAC – Urine Alcohol (EtOH) Content
- \geq - greater than or equal to
- $<$ - less than
- $>$ - more than

Driving Vehicle under the Influence of Alcohol (DUI) (§ 50-2206.11)

DUI is defined as operating or being "in physical control of any vehicle in the District:

(1) While the person is intoxicated; or

(2) While the person is under the influence of alcohol or any drug or any combination thereof."

According to § 50-2206.51(a)(1), if the defendant's alcohol concentration at the time of testing was < 0.05 g of blood or < 0.06 g of urine, a rebuttable presumption is established that the person **was not**, at the time, under the influence of alcohol.

According to § 50-2206.51(a)(2), if the defendant's alcohol concentration at the time of testing, however, was ≥ 0.05 g of blood or breath or > 0.06 g of urine, but < 0.08 g of blood or breath or < 0.10 g of urine, it constitutes prima facie proof that the person **was**, at the time, under the influence of alcohol.

The rebuttable presumption is not applicable, however, if:

- There is evidence that the person is impaired by a drug.
- The defendant was operating or in physical control of a commercial vehicle.
- The defendant at the time of arrest was under the age of twenty-one (21).

DUI, however, does not only involve EtOH. DUI is additionally defined by DC Code as occurring when there is evidence that the person is under the influence of a drug that alone or in combination with alcohol.

According to DC Code, **intoxicated** means:

- An EtOH concentration at the time of testing of ≥ 0.08 g BAC/ BrAC or ≥ 0.10 g UAC.

- Any measurable amount of EtOH in the person's blood, urine, or breath if the person is under twenty-one (21) years of age regardless of the type of motor vehicle driven (AKA zero tolerance).
- When driving a commercial vehicle, an EtOH concentration at the time of testing of ≥ 0.04 g BAC/BrAC or ≥ 0.08 g UAC.

The penalty for a DUI conviction (first offense) is 180 days in jail or \$1,000 fine or both. Certain mandatory minimum stays in jail are required based on high concentrations of alcohol. Subsequent DWI convictions may carry up to one (1) year of jail time or a fine of up to \$10,000 or both.

Driving Vehicle While Impaired (DWI) (§ 50–2206.14)

DWI is defined as “No person shall operate or be in physical control of any vehicle in the District while the person's ability to operate or be in physical control of a vehicle is impaired by the consumption of alcohol or any drug or any combination thereof.”

According to the DC Code, **impaired** means a “person's ability to operate or be in physical control of a vehicle is affected, due to consumption of alcohol or a drug or a combination thereof, in a way that can be perceived or noticed.”

The penalties for DWI convictions are the same as for DUI, including that there are mandatory minimums that come into effect for those who are above certain thresholds of BAC, BrAC, or UAC.

The procedure on how to obtain breath, blood, or urine samples must be understood before an arrestee is charged with DUI or DWI.

Implied Consent

The DC Implied Consent Act provides that any person who operates a motor vehicle in the District of Columbia shall be deemed to have given their consent to testing two (2) specimens of their blood or breath or urine for the purpose of determining blood-alcohol and/or blood-drug content.

- A single specimen may be comprised of multiple breaths into an instrument to complete a valid breath test, or a single blood draw or urine sample regardless of how many times the blood or urine sample is tested.
- Tests administered under the Implied Consent Act shall be at the direction of an MPD officer who has reasonable suspicion to believe the person was operating or in physical control (see below) of a motor vehicle while intoxicated, or under the influence of intoxicating liquor and/or drugs.
- In cases of DWI or DUI arrests involving motor vehicle crashes, testing is mandatory under the Implied Consent Act. Therefore, obtaining the consent of the arrestee is *not* necessary in such a situation.
- In addition to submitting up to two (2) specimens, the arrestee may also request, at their expense, testing by a physician, registered nurse, or other person of their own choosing who is qualified to administer such test(s). The arrestee's failure or inability to obtain additional tests shall not preclude tests administered at the direction of the member, as required under the Implied Consent Act.

- When the arrestee is unconscious or in a condition rendering them incapable of refusing, the arrestee shall be deemed **NOT** to have withdrawn the consent and the tests may be administered.
 - If a previously unconscious arrestee objects post-arrest to the test results on valid religious or medical grounds, DC Code provides that the evidence is inadmissible and the case shall be prosecuted as a refusal (discussed in more detail in section 13.2.2 below).
 - However, the physical specimens are still potential evidence and shall be handled in accordance with **General Order 601.1 (Recording, Handling, and Disposition of Property Coming into the Custody of the Department)**.

Of course, an arrestee cannot be charged with DUI or DWI unless it has been established that he or she was operating or otherwise in physical control of the motor vehicle.

Physical Control

A person need not be actually operating a motor vehicle in order to be charged with DUI or DWI. A person need only be in physical control of the vehicle. DC Courts have stated that “in physical control” means “being in actual physical control of the vehicle, capable of putting the vehicle into movement or preventing its movement.” *Maldonado v. District of Columbia*, 594 A.2d 88, 89 (D.C. 1991).

Neither motion of the vehicle nor alertness of the defendant, however, is required. *Goines v. United States*, 964 A.2d 141, 146 (D.C. 2009). This means that someone in a parked car with the car keys in the ignition and engine running while sleeping in the driver’s seat can be charged with DUI or DWI.

Public Highway

According to DC Code, a public highway “means any street, road, or public thoroughfare, or the entire width between the boundary lines of every publicly or privately maintained way, when any part thereof is open to the use of the public for purposes of vehicular or pedestrian travel.”

According to the holding in *Henig v. District of Columbia*, 213 A.2d 824 (D.C. App. 1965), traffic laws and regulations apply to private property that is available for public use.

What may be a scenario where you cannot make an arrest due to the situation not meeting the definition of highway as set forth in the DC Code? A private lot that is closed to any other vehicles and accompanied by a “no trespassing” sign *cannot* be considered a public highway. According to the definition above, however, a private parking lot of an apartment community with vehicles oftentimes passing in and out *should* be considered a public highway. This brings us to next to what exactly is a vehicle.

Vehicle

According to DC Code a vehicle can be defined in two ways:

- "Vehicle" includes any appliance moved over a highway on wheels or traction, including streetcars, draft animals, and beasts of burden. (This means that DUI can be charged on an operator of a bicycle or a horse-drawn carriage.)
- "Motor vehicle" means all vehicles propelled by internal-combustion engines, electricity, or steam. The term does not include traction engines, road rollers, vehicles propelled only upon rails or tracks, personal mobility devices, or a battery-operated wheelchair when operated by a person

with a disability. (Therefore, an operator can be charged with a DUI on a motorcycle but not a Segway.)

13.2.2 Identify forms used in DUI and DWI arrests

The importance of DUI and DWI investigations means that there will be numerous forms that ensure the information garnered from them are available for prosecution. Like all other investigations, DUI and DWI investigations require a comprehensive account from the initial encounter with the driver to the acquisition of alcohol testing, chemical testing, and/or questioning.

For example, the arresting officer must obtain a **Witness Statement - DUI (PD119A)** from all officers on the scene who have pertinent information about the DUI or DWI investigation. Witness statements from all civilian witnesses on scene are also important. Although a good practice, obtaining witness statements from all civilians on the scene is not always possible. Nonetheless, the investigating officer on a DUI or DWI scene must keep detailed notes on the identities of all potential witnesses to include passengers in vehicles, pedestrians, etc. It is the arresting officer's responsibility to obtain witness statements and ensure that they become part of the arrest packet that is eventually presented by MPD to the Office of the Attorney General.

Witness statements, particularly from investigating officers on the scene and civilian witnesses, are helpful in obtaining convictions in DUI and DWI offenses. In some cases, the Witness Statements become essential because the arresting officer has not witnessed certain critical aspects of the DUI or DWI offense.

Scenarios whereby the arresting officer must obtain a Witness Statement include (applied only when the arresting officer cannot give a personal account):

- The SFST Officer
- The Officer or Civilian who witnessed the DUI/DWI subject operating or in physical control of the vehicle
- The Officer or Civilian who witnessed incriminating actions by the DUI/DWI subject
- The Officer obtaining a statement or interrogating the DUI/DWI subject
- The Officer obtaining chemical test samples from the DUI/DWI subject

Failure to obtain a requisite Witness Statement can cause the criminal case against a DUI or DWI suspect to be dropped. A good DUI or DWI arrest cannot be made without at least one Witness Statement.

These arrests are processed using a version of the Arrest/Prosecution Report used specifically for DUI and DWI prosecutions. This is called the **Arrest/Prosecution Report for DUI/DWI Arrests**. The report has special sections that are applicable only to DUI and DWI arrests. This form is the centerpiece of all arrest packets for DUI and DWI arrests, which contain a multitude of forms and notes.

Ways in which the Arrest/Prosecution Report for DUI/DWI Arrests are different from other Arrest/Prosecution Reports include:

- SFST results
- Signs of defendant impairment
- Information on open containers of alcohol (if applicable)

Another form that is essential to the DUI and DWI arrest process is the **Implied Consent Form (PD29)**. In order to obtain a sample of blood, breath, or urine for chemical testing, an MPD officer must first advise the arrestee of the details of the Implied Consent Act. This is significant in that if the arrestee refuses to submit to an alcohol test or chemical testing under the stipulations of the Implied Consent Act, then he or she will be charged differently: with **DUI – Refusal**.

Before obtaining samples for analysis, it is important that MPD officers advise the driver of his or her rights under the DC Implied Consent Act by reading and having the driver sign an Implied Consent Form. If the arrestee refuses to submit to mandatory testing and/or to sign the Implied Consent Form, the MPD officer shall inform the driver that failure to submit to such tests will result in the revocation of his or her DC license or the privilege to drive in the District of Columbia, if the person is a nonresident.

Should the arrestee consent to a test but refuse to sign the Implied Consent Form, MPD officers shall make sure that the refusal to sign is witnessed (as explained on the form) and then enter “Refused” in #5 of the “Advised” section of the form.

If the arrestee still refuses to submit to testing, no test shall be administered and the MPD officers shall then:

- Documents the refusal on the Implied Consent Form; and
- Charge the driver with DUI Refusal.

Should the driver sign the Implied Consent Form, officers shall obtain a blood, breath, or urine sample from the driver.

NOTE: Blood, breath, and urine specimens shall not be obtained until the driver has been arrested and signed the Implied Consent Form.

Blood, breath, and urine samples are critical evidence used in DUI and DWI prosecutions. Being evidence, the chain-of-custody of the samples is of the utmost importance. Criminal prosecutions need to account for the handling of the evidence in order to utilize them as evidence.

The **OCME Toxicology DUI Submission Form** allows MPD to account for blood and urine samples obtained from defendants and submitted to the Office of the Chief Medical Examiner (OCME). Be sure to affix this form to the property bag in which the blood or urine specimen is held.

The **Notice of Proposed Suspension (DMV-3340)** is an important form for DUI and DWI arrests in that the DC Code calls for the possible suspension of all those arrested for DUI or DWI. Additionally, the DMV-3340 is used for those who refuse to provide a blood, breath, or urine sample for testing. The arrestee must be both served with the DMV-3340 and afforded an opportunity to sign that he or she was served with a

copy. The original is then sent to the DMV in order to suspend the arrestee's driver operating privileges in Washington, DC.

13.2.3 Classify impaired driving offenses

You have learned that impaired driving includes drivers who display symptoms of impairment by alcohol, drugs (illegal, prescription, or over the counter), inhalants, other chemicals, or a combination of them. MPD officers must be prepared to conduct or have someone else conduct the proper tests to determine if there is probable cause for an arrest and additional chemical testing. An arrest should be made if probable cause of impairment is established.

Commercial Vehicle

Encounters with commercial vehicle drivers must be handled differently from other private vehicle drivers. According to DC Code, a commercial vehicle "means a vehicle used to transport passengers or property:

- If the vehicle has a gross vehicle weight rating of greater than 26,000 pounds or a lesser rating as determined by federal regulation but not less than a gross vehicle weight rating of 10,001 pounds;
- If the vehicle is designed to transport more than 15 passengers, including the driver;
- If the vehicle is a locomotive or a streetcar;
- If the vehicle is used to transport a material found to be hazardous by the Mayor in accordance with Chapter 14 of Title 8 [§ 8-1401 et seq.] or by the Secretary of Transportation in accordance with the Hazardous Materials Transportation Act, approved January 3, 1975 (88 Stat. 2156; 49 U.S.C. § 1801 et seq.); or
- If the vehicle is a vehicle for hire."

An MPD officer who stops a person who is operating a commercial vehicle (e.g., a tractor-trailer, charter bus, cement truck) and then determines that the operator is impaired must adhere to the different EtOH levels in alcohol concentration test standards in deciding whether to charge DUI or DWI, as noted above.

The MPD officer must then document in the DUI or DWI Arrest Report the commercial driver's license (CDL) number, Department of Transportation (DOT) number, type of commercial vehicle or vehicle for hire, any gross weight signs or hazmat placards on the vehicle, and any notations on the registration.

As in other DUI and DWI reports, the arresting MPD officer must document all the pertinent details regarding the signs of impairment and any pertinent facts, such as the presence of controlled substances or other evidence, in the narrative of the DUI Arrest Report.

Underage Drinking Enforcement Act

This law allows zero tolerance DUI and DWI enforcement for drivers who are minors (under twenty-one (21) years of age). A zero-tolerance law makes it illegal "per se" (meaning in and of itself) for persons under the age of twenty-one (21) to drive with any measurable amount of alcohol in their blood. This makes a DUI or DWI charge possible for young drivers who merely have $\geq 0.01g$ EtOH reading for BrAC.

In 2007, 31 percent of young drivers aged 15 to 20 years old who were killed in alcohol-related vehicle crashes had a blood alcohol concentration (BAC) of .01 or greater, and 26 percent of young drivers had BACs of .08 or greater. The risk of a fatal crash for drivers under age twenty-one (21) is greater at low alcohol levels than it is for older drivers.

A youth with a measurable amount of alcohol in his or her body is in violation of the law and loses his or her driver's license, usually for six (6) months to one (1) year. For youths not yet licensed to drive, the law typically delays issuance of a driver's license for a specific period (usually six (6) months to a year).

Adults and parents who aid minors in obtaining alcohol may be fined \$300 and have their drivers' licenses suspended for up to ninety (90) days.

Vehicles for Hire

According to DC Code, a vehicle for hire "means:

- Any motor vehicle operated in the District by a private concern or individual as an ambulance, funeral car, sightseeing vehicle, or for which the rate is fixed solely by the hour;
- Any motor vehicle operated in the District by a private concern used for services including transportation paid for by a hotel, venue, or other third party;
- Any motor vehicle used to provide transportation within the District between fixed termini or on a schedule, including vehicles operated by the Washington Metropolitan Area Transit Authority or other public authorities, not including rental cars; or
- Any other vehicle that provides transportation for a fee not operated on a schedule or between fixed termini and operating in the District, including taxicabs, limousines, party buses, and pedicabs."

The MPD officer must document in the DUI Arrest Report the commercial or personal driver's license number, Department of Transportation (DOT) number (if applicable), type of vehicle for hire, and any gross weight signs or hazmat placards on the vehicle or notations on the registration.

As in other DUI and DWI reports, the arresting MPD officer must document all the pertinent details regarding the signs of impairment and any pertinent facts, such as the presence of controlled substances or other evidence, in the narrative of the Arrest Report.

13.2.4 Describe the patrol officer's role in DUI and DWI investigations

The patrol officer's role in DUI and DWI investigations is critical. The overwhelming majority of DUI and DWI cases are initiated while on routine patrol or by responding to calls for service. The majority of these are either traffic stops or crashes.

Upon first encountering a suspected impaired driver on a traffic stop or crash, the patrol officer must establish that the person was either operating or is in physical control of the vehicle while the driver was under the influence of alcohol and/or drugs to include cases where the operator was behind the wheel with the vehicle parked, with the keys in the ignition and the engine running. These facts can be

substantiated by a witness or by an MPD officer who saw the person operate or be in physical control of the vehicle. MPD officer and witness testimony may also be used as evidence about the sobriety or degree of impairment of the operator in order to charge with DUI or DWI.

If the driver appears to be suffering from a physical or medical emergency or condition that requires immediate medical attention, the MPD officers must:

- Immediately notify an on-duty official and request DC Fire and Emergency Medical Services to respond to the scene.
- Render prompt assistance, taking any action as may be necessary.
- Permit the arrestee to receive any necessary medical attention, and document in the DUI or DWI Arrest Report any medication administered to the arrestee and whether blood was drawn or urine was taken.

If an MPD officer is investigating a crash in which a suspected impaired driver has already been transported to a hospital prior to an opportunity for an SFST to conduct tests, the MPD officer must respond to the hospital and:

- If so trained, attempt to conduct the horizontal gaze nystagmus (HGN) SFST on the operator.
- If not so trained, request that an SFST-trained member respond to the hospital to determine what tests may be performed.
- With probable cause that the operator is impaired, place him or her under arrest.
- Request that a blood sample be drawn or, if the hospital refuses, a urine specimen is taken and ensure he or she has informed the operator about the taking of the sample under the Implied Consent law. The MPD officer will work with the Office of the Attorney General to issue subpoenas to hospitals in cases of refusal.

NOTE: Districts have a supply of NIK blood evidentiary kits. In the event NIK kits are not readily available and hospital tubes are utilized, request that medical personnel refrain from using alcohol wipes to clean the injection site.

After an MPD officer establishes reasonable suspicion of the driver's impairment, the MPD officer then:

- If trained, shall administer the SFSTs to the driver; or
- Shall request through the Office of Unified Communications (OUC) the assistance of an SFST-trained member at the location.

NOTE: Drivers may refuse to participate in the SFSTs!

If an SFST-trained officer from the officer's element is not available, a request must be made through OUC for an SFST-trained officer to respond from another district.

If probable cause to arrest is not established, MPD has to release the driver from custody after the applicable Violation Citation and/or NOIs are issued, in accordance with Standard Operating Procedures, entitled **Violation Citation (61D)** and/or **General Order 303.02 (Notices of Infraction Procedures)**, regarding what led to the traffic stop.

If probable cause does exist to believe that the impairment is caused by a substance *other than alcohol* (through observations, SFSTs, and other evidence such as chemical odors, and/or the presence of drug paraphernalia/prescription bottles), then MPD officers must arrest the driver and:

- Transport the arrestee to a police facility.
- Read the Implied Consent Act to the arrestee.
- Have the arrestee provide a breath sample.

If the breath sample indicates a low concentration of alcohol inconsistent with the level or type of impairment observed, then the officer shall collect a urine or blood sample and document in the DUI or DWI Arrest Report all of the pertinent facts that were indicative of impairment. The investigating MPD officer must then advise the driver of his or her Miranda rights.

If the driver waives his or her Miranda rights, the officer shall request through the Office of Unified Communications (OUC) that a **Drug Recognition Expert (DRE)** respond and assist with further testing.

NOTE: In most instances, a DRE will not be available.

Drug Recognition Expert (DRE) are police officers (MPD, US Capitol, Park Police, or otherwise) who are specially trained to conduct evaluations of suspected drug-impaired subjects. DREs use a standardized twelve (12) step evaluation procedure to determine whether an individual is impaired by drugs other than alcohol.

If no MPD DREs are available, the officer investigating the DUI can request through OUC to make an inquiry to the US Capitol Police (USCP) or the US Park Police (USPP) as to the availability of a DRE. In the event no DREs are available either, then the MPD officer has to document in the DUI or DWI Arrest Report all the observations and facts that led the member to suspect that a substance other than alcohol was causing the impairment.

If probable cause is established that the driver is impaired and unable to operate a motor vehicle safely, then the driver must be placed under arrest. The driver is then advised of his or her rights under the DC Implied Consent Act by reading and having the driver sign the Implied Consent Form.

As noted above, if the arrestee refuses to submit to mandatory testing and/or to sign the Implied Consent Form, the arresting officer must inform the driver that failure to submit to such tests will result in the revocation of his or her DC license or the privilege to drive in the District of Columbia if the person is a nonresident.

If the arrestee consents to a test, but refuses to sign the Implied Consent Form, the member has to have the refusal to sign witnessed (as explained on the form), with "Refused" entered in #5 of the "Advised" section of the form. If the driver still refuses to submit to testing, no test can be administered. The MPD officer just documents the refusal on the Implied Consent Form and, instead, charges the driver with DUI

or DWI Refusal. If the driver ends up signing the Implied Consent Form, obtain a blood, breath, or urine sample from the driver.

NOTE: Blood, breath, and urine specimens shall not be obtained until the driver has been arrested and has signed the Implied Consent Form.

13.2.5 Explain special considerations for DUI- and DWI-related evidence

There are numerous special considerations for taking custody of DUI and DWI-related evidence. One situation occurs when one or minors are being transported by an impaired driver. If making an arrest for DUI or DWI when one or more passengers under the age of eighteen (18) are in the vehicle, the arresting officer must document in the DUI or DWI Arrest Report and the Gerstein:

- Each minor's age;
- Each minor's location in the vehicle;
- The type of child restraint used by each minor or, if none, that none was used; and
- How the age of each minor was determined.

There is an enhanced penalty for convicted impaired drivers who transport one or more minors at the time of their impaired driving.

Another special consideration when it comes to DUI- and DWI-related evidence is the refusal to consent to chemical testing on medical or religious grounds. If the person refuses a particular test on medical or religious grounds, MPD officers should offer to administer a different test. If the person still refuses, MPD officers must document in the narrative section of the DUI or DWI Arrest Report and the Gerstein the refusal and the nature of the refusal (meaning the reason given for refusing or if the defendant consistently failed to provide a sufficient sample of breath or urine). As always, MPD officers must document all of the pertinent details regarding the signs of impairment and any pertinent facts, such as the presence of controlled substances or other evidence, in the Arrest Report.

If the arrestee is at the hospital, the arresting officer will have to obtain a blood sample to submit to the OCME. He or she does this through a request to a medical professional (i.e., a physician, registered nurse, licensed practical nurse, or any other person who is trained to draw blood, such as a phlebotomist) to obtain a blood specimen for the purposes of determining alcohol or drug content.

If the medical professional refuses the request, the arresting officer will try to inform the medical professional that, in accordance with DC law, he or she is immune from any criminal or civil liability when drawing blood at the direction of a police officer who has reason to believe an operator is impaired. If the medical professional still refuses the request, the arresting member shall document the refusal in the DUI or DWI Arrest Report and continue with the processing of the arrest by obtaining an alternative breath or urine sample.

The MPD officer must then notify his or her supervisor and request that the watch commander call the medical facility and request to speak to the on-call hospital administrator.

NOTE: Refusal on the part of the health care provider to obtain a blood specimen does not constitute refusal by the arrestee to submit to tests under the Implied Consent Act.

A frequent occurrence in DUI and DWI arrests is the necessity for obtaining a urine specimen from the arrestee. The procedure must be followed diligently for the evidence to be usable in court. As in the case of blood, it is imperative that the arresting officer identify the persons having contact with the urine sample (the chain of custody).

Only officers of the same sex as the arrestee can obtain a urine specimen from the arrestee. The specimen-collecting officer will escort the arrestee to a restroom within the prisoner processing area, provide the arrestee with a specimen bottle, and witness the actual urine collection. When a sufficient amount of urine has been obtained (i.e., the specimen bottle is at least half-filled), the collecting officer will tightly secure the cap of the bottle. The bottle is then sealed and provided to the arresting officer.

The arresting member then affixes a plain gummed label on the bottle that contains the arrestee's name, CCN, date of arrest, time and date of specimen, and the arresting member's name, element, and badge number.

NOTE: The white label on the bottle cannot be covered with the plain gummed label, but the temperature strip can be covered.

The arresting officer then places the sealed and labeled bottle with the urine specimen back into the zip-top plastic bag, ensuring that the packet with the absorbent towel is also in the bag.

The arresting officer then records the appropriate information on the outside of the **PD Form 14 (Lock-Seal Envelope)**, places the specimen bottle in the PD Form 14, and:

- Fills out an original **Office of the Chief Medical Examiner Toxicology Laboratory (OCME TOX) Agency Evidence Submission Form – DUI** (See **Attachment A of GO502.02**) and logs the specimen into the chemical test analysis book. The MPD officer must pay special attention to completing the chain of custody box, including a notation regarding the placement of the specimen into the secured storage (refrigerator).
- Secures the original copy of the OCME TOX, Agency Evidence Submission Form – DUI to the outside of the lock-seal envelope containing the specimen and places the envelope and forms in the DUI refrigerator located at the district (following the instructions for use of a district refrigerator).

NOTE: The specimen will be delivered to the OCME by a member of the **Impaired Driver Support Unit**.

Another special consideration for DUI- and DWI-related evidence is what happens when an arrest is made but the breath test indicates a BrAC of < 0 .05, meaning below the legal limit. The arresting officer has to then obtain a urine sample to submit for chemical analysis when there is an assumption that the driver is possibly under the influence of drugs.

In order to assist with the prosecution of DWI and DUI cases, the Office of the Attorney General (OAG) has requested that the MPD provide it with station cell block video of all such arrests. As such and effective immediately, arresting officers of DWI and DUI subjects shall email the following information to **dui.adminbox@dc.gov** upon completion of processing the arrest.

The following information is to be included when requesting a copy of the station cell block video:

- Defendant name
- Arrest date
- Approximate time of arrest
- Arrest number
- CCN
- District where processing took place
- Physical description of defendant (**Please include a clothing description**)

The information you provide will allow the Tactical Information Division (TID) to locate the appropriate video and provide it to the OAG. Any questions regarding this procedure should be **directed to Sergeant Terry Thorne at (202) 391-6999** or by email to **terry.thorne@dc.gov**.

13.2.6 Complete an Event Report and Arrest/Prosecution Report for the offenses encountered in this instructional unit

(Guided and Independent Practice)

Summary

Understanding the procedural requirements officers must adhere to for detecting, processing, and handling impaired drivers is a key component to keeping the citizens of the District of Columbia safe. Roadway and highway safety is a major aspect of a patrol officer's duties and this includes keeping impaired drivers from driving. This goal can only be achieved by familiarizing yourself with the laws, policies, and procedures surrounding DWI and DUI investigations.

REFERENCES

GO-SPT-303.05	Revoking Operator Permits	01/17/2012
GO-PCA-502.02	Handling Cases Involving Persons Suspected of "DWI" and/or "DUI"	08/26/2015
TT-05-071-15	DWI/DUI Arrests and Cellblock Videos	05/12/2015
DC Official Code		