



SUBJECT

## Intoxicated Driving Arrests

AMENDS

REFERENCE

P.I. – Juvenile Apprehensions; Recovered Property; Ambulance Calls and Arrests Taken to Hospitals, Towing and Protective Custody of Vehicles and Contents, Detaining and Questioning, Search and Seizure Procedures; Crimes Against Children; D.M. – Court Procedures

RESCINDS

P.I. 12-8  
D.M. 12-20

### I. INTRODUCTION

This procedural instruction will provide detailed procedures for processing intoxicated driving arrests.

### II. TERMINOLOGY

- A. **Commerce** – The exchange or buying and selling of commodities on a large scale involving transportation from place to place.
- B. **Commercial Driver's License (CDL)** – A license issued by a state or other jurisdiction, in accordance with the standards contained in the Federal Motor Carrier Safety Administration Title 49 CFR Part 383, to an individual to operate a class of a commercial motor vehicle.
- C. **Commercial Motor Vehicle** - Refers to any self-propelled or towed vehicle used on public highways in commerce to transport passengers or property when the vehicle:
  - 1. Has a gross vehicle weight rating (G.V.W.R.) or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
  - 2. Is designed to transport more than eight passengers, including the driver, for compensation; or
  - 3. Is designed to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
  - 4. Is used in the transportation of hazardous materials in a quantity requiring a placard under regulations issued by the Department of Transportation (DOT) under the Hazardous Materials Transportation Act.

- D. **"Drive," "Driving," "Operating"** – As used in this policy, the terms “drive,” “driving,” “operating” mean physically driving or operating a motor vehicle. For example, a person may be considered the operator of a vehicle if the vehicle is parked on or near a roadway, the keys are in the ignition and the engine is running or has been running, the driver is observed starting or turning off the car, or it is the driver’s vehicle. Physical control alone is not a valid basis to support a conviction.
- E. **Implied Consent** - Any person who operates a motor vehicle in the State of Missouri will be deemed to have given consent to a chemical test, or tests, of the person’s breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of the person’s blood. The person must be arrested while driving a motor vehicle and while in an intoxicated or drugged condition. "Implied Consent" is not withdrawn because of unconsciousness or other physical incapacitation.
- F. **Log Book** - A log book is a book containing daily records of hours and routes, carried and kept by drivers. Motor carrier drivers are required to record their duty status for each 24-hour period. Log books are not required for commercial vehicles operated within a 100 air mile radius of their office.
- G. **On-Duty Time** - Time from when a commercial vehicle driver begins work, is required to be in readiness to work, or until is relieved from work and all responsibility for performing work.
- H. **Out-of-Service** - When the commercial vehicle operator is officially told by the sworn member not to operate any commercial vehicle for the next 24-hour period. Violation of this warning may result in additional enforcement action being taken against the operator by the Department of Transportation.
- I. **Refusal** - An arrestee, after having been requested to take the chemical test, declines to do so of their own volition. The refusal may consist of verbally saying, "I refuse", by remaining silent, by not providing a valid chemical sample, or by vocalizing some sort of qualified or conditional consent or refusal.
- J. **Valid Chemical Sample** - A complete and adequate chemical sample for the chemical test to be valid.
1. Law enforcement sworn members may demand two valid chemical tests for determining blood alcohol content.
  - \*2. Chemical samples include breath or blood. Missouri case law has ruled you are not limited on the number of tests you may administer but you may not administer more than two types of tests.
  - \*3. While Missouri law permits saliva and urine testing, area prosecutors will not accept cases using urine tests.

### III. TABLE OF ANNEXES

This directive has been arranged in annexes for easy reference.

Annex A	Arrest and Testing
Annex B	Administrative Suspension/Revocation
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Annex F	False Identity Given by Arrestee
Annex G	Operation and Security of Breath Testing Equipment

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Chief of Police

Adopted by the Board of Police Commissioners this \_\_\_\_\_ day of \_\_\_\_\_  
2014.

Alvin Brooks  
Board President

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## ARREST AND TESTING

### A. Standardized Field Sobriety Testing (SFST)

1. When a sworn member has reasonable suspicion that a driver is under the influence of alcohol or other drugs, the sworn member will have the driver perform the Horizontal and Vertical Gaze Nystagmus, Walk-And-Turn, and the One-Leg-Stand tests, provided these tests can be safely performed by the subject and there are no justifiable reasons (i.e., medical or physical) why the driver cannot comply. Unless exigent reasons exist for not doing so, these tests should be performed at the scene of the arrest.
2. If the driver cannot successfully complete any of the field sobriety tests, or refuses to complete any of the tests, and the sworn member believes probable cause exists that the driver was driving or operating a motor vehicle while in an intoxicated or drugged condition, the sworn member will:
  - a. Advise the driver that he/she is “under arrest” for driving while under the influence of alcohol or other drugs and
  - b. Request the driver to submit to a chemical test within a reasonable amount of time.

### B. The Miranda Warning

The warning will be read verbatim to the arrestee prior to any questioning, utilizing the Miranda Warning portion of the Alcohol Influence Report (D.O.R. Form 2389). The warning does not need to be read prior to any chemical or field test. For the procedures dealing with minors under the age of 15 ½, refer to Annex B, of this written directive. If the arrestee doesn't speak English or doesn't fully comprehend the arrest process because of a disability, refer to the current written directive entitled, “Detaining & Questioning and Search & Seizure Procedures.”

### C. The Implied Consent Law

1. The Implied Consent Law will be read verbatim to the arrestee prior to any chemical test, utilizing the Implied Consent Portion of the Alcohol Influence Report (D.O.R. Form 2389).
2. In addition to the Implied Consent Law, the “Zero Tolerance” section will be read to arrestees under 21 years of age. Sworn members will advise the arrestee that if the test indicates they are under the influence, the information can and will be used against them in Adult/Juvenile Court, however, if they refuse to take a chemical test, Missouri State Statute will allow sworn members to complete refusal paperwork.

- D. The chemical breath test is the primary method for determining blood alcohol content (BAC). The arrestee does not have a choice of which statutory chemical test to take. The decision of testing methods will be at the discretion of the sworn member following current department procedures. If an arrestee refuses to take a chemical breath test, the sworn member will complete the refusal paperwork.
- \*E. A current Type II or Type III permit holder must conduct the continuous 15-minute observation period prior to starting a chemical breath test. This permit holder must also remain close enough to the subject to reasonably ensure that he/she does not smoke, vomit, or place any substance from outside the body into the mouth during the observation period.
- \*F. The sworn member will check the subject's mouth for any foreign matter prior to starting the observation period. This requirement can be satisfied by doing a limited visual inspection of the subject's mouth. This requirement is also satisfied if the subject is asked and denies having any substance in their mouth. If a substance is present, it must be removed prior to beginning the observation period.
- G. Contacting an attorney
  - \*1. If an arrestee made a request to contact an attorney at any time during your contact with the arrestee, the arrestee must be given 20-minutes to attempt to contact an attorney after the implied consent has been read. A phone must be available when the 20 minute time period is started. If, after reading the implied consent, the arrestee has not made a request to contact an attorney, the sworn member may proceed with the process. Sworn members should not give legal advice nor explain the legal consequences of submitting to a chemical test.
  - 2. Arrestees may call anyone during the 20-minutes for assistance in contacting an attorney.
  - 3. If an arrestee asks to contact an attorney, but abandons the attempt to contact an attorney, the sworn member will ask the arrestee if they wish to submit to a test.
  - 4. After the arrestee makes contact with an attorney, the sworn member must still ask the arrestee if they wish to submit to the test.
  - \*5. The arrestee does not have a constitutional right to have an attorney present when deciding whether to take the chemical test or during the actual test. However, an attorney may be present prior to and during any questioning related to the arrest. A current Type II or Type III permit holder must always be present during the 15-minute observation period even if the arrestee is talking to their attorney. The 15-minute observation period may be part of the 20-minutes given to contact an attorney.

- H. A person is presumed to be under the influence of intoxicants when a chemical test reveals their BAC at a .08% level or greater.
- I. If a person's BAC registers between .05% and .08%, sworn members may use discretion when issuing a citation.
  - 1. Indicators, such as the person's physical impairments observed during field testing procedures, test results affected due to extended elapsed time from arrest to testing procedure completion, etc., should be considered when determining if a person is under the influence of alcohol.
  - 2. Detailed supportive documentation is essential for court testimony.
- \*J. The driver of a commercial motor vehicle (C.M.V.) is considered intoxicated with a BAC of .04%, not the standard .08%. Any sworn member who comes in contact with an impaired C.M.V. driver should contact a member of the Commercial Vehicle Enforcement (C.V.E.) Section. If after 1400 hours Monday through Friday, contact the on-call C.V.E. sworn member through the Communications Unit.
- K. Before a citation is issued, the sworn member will contact the D.U.I. Section or T.I.S. personnel to determine if the arrestee meets the qualifications to be charged at the state level (refer to Annex D for qualifications). If the D.U.I. Section or T.I.S. personnel are not available, complete an Investigation Arrest Approval, Form 176 P.D., and place a hold on the arrestee for T.I.S. personnel.
- L. The sworn member, as soon as possible after the arrest, will complete the Alcohol Influence Report (D.O.R. Form 2389), whenever a chemical test is required. The sworn member will ensure:
  - \*1. The Breath Test Record is printed and attached as the final page of the completed Alcohol Influence Report, (D.O.R. Form 2389), and will be numbered accordingly.
  - 2. A photocopy of the Alcohol Influence Report, (D.O.R. Form 2389) has the original signature of the sworn member, and is mailed to the Department of Revenue, Driver's License Bureau, utilizing the pre-printed mailing envelopes.
  - 3. The Notice of Suspension (D.O.R. Form 2385) is completed.
    - a. The form must be completed on all persons whose test results are obtained at a BAC of .08% or greater. A signature of the arrestee is required on the form.
    - b. If the arrestee refuses to sign the form, the sworn member will note "refused to sign" in the signature block of the Notice of Suspension (D.O.R. Form 2385) and document the reason for the refusal in the report.

\*c. The form will not be served if blood is taken and the results are not available. The form is served by mail when the results of the blood draw are obtained from the toxicology report and indicate a BAC of:

- (1) .02% or more in Zero Tolerance cases,
- (2) .04% or more for commercial motor vehicles, and
- (3) .08% or more for all others.

M. A mandatory court appearance is required when a sworn member issues citations for driving or operating a motor vehicle, including a commercial vehicle, while in a drugged/intoxicated condition. Sworn members will follow the procedures in accordance with the current written directive entitled, "Court Procedures".

N. Test result information will be made available to the subject verbally by the sworn member conducting the breath test.

O. Each breath test, or refusal, will be logged on the patrol division Breath Test Log, (Form 166 P.D.). In addition, sworn members will maintain a complete record of all tests they perform in accordance with the requirements of Type II and Type III permits.

\*1. Refusals before the test is started will not be documented in the log.

\*2. A refusal after the test is started needs to be logged.

\*3. A refusal card is only required if the subject refuses during the test.

P. Blood Test

A blood test will be administered when a subject is transported to a medical facility due to injury or illness and a breath test is not feasible or another type of drug is suspected.

*Exception:* The Veterans Administration (VA) Hospital at 4801 E. Linwood Blvd. will not draw blood or other body fluids specifically for law enforcement purposes, however, unused blood or other body fluids already drawn from a VA patient for treatment purposes may be provided to law enforcement.

When requesting a blood test, the sworn member will:

1. Inform the arrestee they are under arrest and document the restraint applied or the reasons the subject was not restrained.

NOTE: The Missouri Supreme Court has held that it is not necessary to place an arrestee under physical control if they are injured.

2. Read the Implied Consent Law verbatim to the arrestee.
3. Advise the arrestee that a blood sample will be used to determine the alcohol/drug content.
4. Witness the blood sample collection at the medical facility.
  - \*a. Two sterile tubes containing an anticoagulant are required when collecting a blood sample. Only gray tubes are acceptable for blood alcohol content.
  - b. Place information including the sworn member's initials, complaint number, date, time of collection, and the name of the person the blood was drawn from, on the label of the tubes.
  - c. Place the tubes in a protective carrier. Protective carriers (50 milliliter tubes) are available at the Kansas City Missouri Police Crime Laboratory/Crime Scene Investigation Section or at the Traffic Investigation Unit.
  - d. Do not seal or tape the capped top of the recovered blood tubes or the protective carrier.
  - \*e. Place the protective carrier(s) in a yellow envelope and seal it with orange evidence tape. Mark the envelope with:
    - (1) The sworn member's name, serial number, and date.
    - (2) Case Report Number.
    - (3) Name of arrestee, race, sex, and date of birth.
    - (4) Date and time of blood draw.
    - (5) Location of draw.
    - (6) Description of property (e.g. two gray top vials of human blood).
  - f. Do not take the driver's license when blood is obtained.
  - g. Complete the necessary sections of the Statement of Blood Drawer, Form 26 P.D., for each blood recovery incident. A copy of the form will be provided if requested by hospital personnel.



**ADMINISTRATIVE SUSPENSION/REVOCAION**

- A. Driver's licenses will be administratively suspended or revoked for any person, regardless of age, whose BAC is .08% or greater.
  
- B. A person less than 21 years of age:
  - 1. Driver's license will be administratively suspended or revoked for any person less than 21 years of age who has been stopped while driving with a BAC of .02% or more.
    - a. The sworn member can request a person less than 21 years of age to submit to a chemical test if the sworn member has probable cause to believe the person is driving with a BAC of .02% or more and was stopped either based upon reasonable suspicion or was stopped upon probable cause that the person has committed a traffic violation.
    - b. Once it is determined the person is under the influence of intoxicants, the sworn member will:
      - (1) Administratively suspend or revoke the person's driver's license.
      - (2) Issue a citation for the initial moving violation(s) and any other violations observed.
      - (3) Take possession of any Missouri driver's license when a breath alcohol test reveals a BAC level of .02% or greater. The driver's license will be mailed to the Department of Revenue with the appropriate paperwork.
  - 2. Charge the driver with a D.U.I. if the BAC is .05% or greater.
  
- C. Juveniles under 15 ½ years of age:
  - \*1. A Deputy Juvenile Officer (D.J.O.) and the juvenile's parent(s) must be present before any questioning is conducted. Once the D.J.O. is notified and the minor agrees to take the chemical test, the sworn member will complete the test. The D.J.O. and the parent(s) do not need to be present for the chemical test.
  - 2. If a juvenile is released at the scene, he/she must be released to the custody of a parent or legal guardian. If a parent or legal guardian of a juvenile will not respond or cannot be contacted, the sworn member will follow the guidelines in written directive entitled, "Juvenile Apprehension."

- D. Juveniles over 15 ½ years of age:
1. The arrestee will be treated in court as an adult traffic violator. Sworn members do not need to notify a DJO or the parents or legal guardian of the juvenile who has violated a municipal traffic ordinance or non-felony state traffic violation. **They will be read the Miranda Warning prior to any chemical test or questioning.** (Refer to the written directive entitled, "Juvenile Apprehension.")
  2. SHALL NOT be fingerprinted, unless certified as an adult, if issued a citation for a non-felony traffic violation.
  3. If a juvenile is released at the scene, they must be released to the custody of a parent or legal guardian. If a parent or legal guardian of a juvenile will not respond or cannot be contacted, the sworn member will follow the guidelines in written directive entitled, "Juvenile Apprehension."
- E. A Juvenile Custody Report or Juvenile Apprehension Report will not be completed. Sworn members will note the reasonable suspicion for stopping the juvenile and that the juvenile was apprehended and the disposition of the juvenile in the narrative portion of the Alcohol Influence Report, D.O.R. Form 2389.
- F. A juvenile who has been certified as an adult and who has been arrested for D.U.I., will be processed the same as an adult arrestee.
- \*G. When obtaining chemical samples of breath, sworn members need to remember that all juvenile arrests need sight and sound separation from adult prisoners.
1. Prior to any testing, the sworn member will check the area of the BAC equipment to ensure sight and sound separation.
  2. If sight and sound separation is not present, contact the desk sergeant for further direction.

**REFUSAL/REVOCAATION**

- A. Arrestees must be transported to a division station with a breath test instrument, even if the arrestee refuses to take a chemical test. Only those refusals that are so physically combative who pose a threat to sworn members and/or the Intoxilyzer 8000 instrument may be taken directly to the Detention Unit at Headquarters.
- B. Sworn members are required to read the Implied Consent Law verbatim from the Alcohol Influence Report, D.O.R. Form 2389, to a combative arrestee who refuses to take a chemical test.
- C. If the arrestee does not provide a sufficient breath sample, before the deficient sample message is displayed, it should be considered a refusal. A sworn member may give the arrestee additional opportunities to take the test if the sworn member believes the arrestee is making a valid effort to provide a sample. If a sample is not obtained, the sworn member will request a blood test. If the blood test is refused, the sworn member will mark refusal on the report.
- D. The Alcohol Influence Report, (D.O.R. Form 2389), will be completed even if a chemical test is not administered.
- E. When there is a refusal to submit to a chemical test, the sworn member will complete the following:
  - 1. Chemical Test Refusal Section on the Alcohol Influence Report, (D.O.R. Form 2389).
  - 2. Missouri Department of Revenue Refusal to Submit to Alcohol Chemical Test Notice of Revocation of Your Driving Privilege/15-Day Driving Permit, (D.O.R. Form 4323).

NOTE: The 15-Day Driving Permit area of the Form 4323 will only be completed when the driver has a valid Missouri driver's license.
- F. If a person is under 21 years of age and is stopped for a traffic violation, and if after the stop the sworn member believes the subject is impaired, but the subject refuses to submit to a chemical test, the sworn member will:
  - 1. Complete refusal paperwork and issue citations.
  - 2. Take possession of any Missouri driver's license. The driver's license will be mailed to the Department of Revenue with the appropriate paperwork. Sworn members will not take possession of any out-of-state driver's license.

3. Follow the arrest procedures outlined in Annex B of this written directive.

G. A subject, whose license has been revoked, may also request an administrative hearing. It is imperative that the sworn member be able to prove:

1. The sworn member had probable cause to believe the subject was driving or operating a motor vehicle while in an intoxicated condition.
2. The subject was advised that he/she was under arrest and advised of the reason for the driving under the influence (D.U.I.) arrest.
3. The Miranda Warning and The Implied Consent Law were read verbatim from the Alcohol Influence Report, D.O.R. Form 2389
4. The subject actually refused to submit to the test.
5. Whether an attorney was requested and the twenty (20) minute time limit was observed.

NOTE: If all conditions are not proven by the sworn member by a preponderance of evidence, the judge can order the Director of Revenue to reinstate the subject's license or permit to drive.

**FILING OF STATE CHARGES ON OFFENDERS WITH PRIOR  
ALCOHOL-RELATED CONTACTS**

- A. Certain criteria must be met before state charges can be filed on offenders with prior alcohol-related contacts. Offenders who meet the below listed criteria and have a BAC of .08% or greater, will be held for state charges.
  - 1. In Cass, Clay, Jackson, and Platte counties, offenders will be held for state charges when their record reveals two (2) or more prior D.U.I. contacts or arrests. No time frame is required and the arrest can be from any state.
  - 2. An offender with a BAC of .30% or greater will be held for state charges. Sworn members will contact a member of T.I.S. (during Watch II and Watch III) or the D.U.I. Section (during Watch I) for guidance in these situations.
- B. Ensure the driving under the influence arrests are based on probable cause and not merely on previous offender information provided by dispatchers. Sworn members must document the probable cause clearly and in a detailed manner in their reports, as this is very important in the pursuit of state charges.
- C. Contact the on-duty D.U.I. Section or T.I.S. personnel to determine if the arrestee has two prior alcohol related enforcement contacts.
- D. The D.U.I. Section or T.I.S. personnel will access the DWITS system or D.O.R. system to determine if an arrestee has two prior alcohol related enforcement contacts.
- E. If the D.U.I. Section or T.I.S. personnel are not available, complete an Investigation Arrest Approval, Form 176 P.D., and place a hold for the Traffic Investigation Section.
- F. When a D.U.I. Section sergeant or sworn member is unavailable to assist, the sworn member(s) will conduct the breath test.
- G. When a BAC with results of .08% or above is completed, or there is a refusal the sworn member(s) will:
  - 1. Obtain a printout of the arrestee's criminal history computer record from a closed record terminal.
  - 2. Be attentive to previous ordinance numbers related to alcohol/drug arrests, i.e., 34.116a, 34.116b, 34.119, 34.120, 70.302a, and 70.304 and dispositions.
  - 3. Check for prior alcohol related driving contacts or convictions.

4. Check entries (multiple entries can exist for the same incident).
5. Obtain an Investigative Arrest Approval Form (Form 176 P.D.). During Watch I, sworn members will first attempt to contact a D.U.I. Section sergeant or sworn member to approve the form. During Watch II and Watch III, a T.I.S. sergeant or detective should be contacted for approval. If D.U.I. or T.I.S. personnel are not available, any sergeant may approve the Investigative Arrest Approval Form (Form 176 P.D.).

NOTE: The D.U.I./T.I.S. personnel, or desk sergeant, must review the arrestee's computer record and verify prior alcohol arrest information.

H. Citations will not be issued by the sworn member for any charges related to the arrest, unless directed by a:

1. T.I.S. sergeant or detective,
2. D.U.I. Section sergeant or sworn member, or
3. Desk sergeant, if no D.U.I. personnel are available.

I. Sworn members are required to complete all reports normally applicable for a D.U.I. arrest before going 10-42. Copies of reports will be disseminated as follows:

1. A copy of the Alcohol Influence Report (D.O.R. Form 2389), (which does not need to be notarized), printout of the arrestee's criminal history computer records, and all other applicable reports must be completed prior to the sworn member's end of tour-of-duty. Due to the twenty-four hour time limitation for investigation of state charges, all reports must be available for detectives to complete a case file.
2. The original Alcohol Influence Report (D.O.R. Form 2389), will be retained at the respective element for a period not less than 90 days. (The original does not need to be notarized.)
3. A copy of the Alcohol Influence Report (D.O.R. Form 2389), and copies of all other applicable reports, will be mailed to the Department of Revenue.

NOTE: Desk sergeants will ensure reports are signed by the sworn member.

In the event that questions arise regarding State booking procedures of D.U.I. offenders, sworn members are advised to contact T.I.S. detectives between 0700 – 1500 hours, the Accident Investigation Section (A.I.S.) between 1500 – 2400 hours, or the D.U.I. Section between 2000 – 0500 hours. If unable to reach A.I.S. or D.U.I. personnel during their duty hours, contact the on-call T.I.S. detective through the Communications Unit.

**DRUG RECOGNITION EXPERT (D.R.E.) PROGRAM**

- A. The D.R.E. examination and evaluation is designed to detect signs of impairment and establish probable cause for further investigation. Sworn members are trained to examine persons believed to be under the influence of drugs. A request for either urine or blood from the subject, for toxicological screening and confirmation, can be made by the D.R.E. based upon the results of the evaluation.
- B. The D.R.E. will be available to assist not only Patrol Bureau sworn members with subjects suspected of driving under the influence of drugs, but may also respond for evaluations for other elements within the department. Evaluations may be conducted on suspects, victims, witnesses, or any subject(s) believed to be under the influence of drugs.
- C. Sworn members may request a D.R.E. when they have determined, by breath testing, that the subject's BAC is below .08% and the signs of physical impairment are not consistent with the BAC results.
- D. The D.R.E. will conduct a preliminary alcohol and drug evaluation prior to conducting a complete 12-point evaluation. The D.R.E. will also provide the requesting element with copies of all pertinent reports.
- E. The D.R.E. will be responsible for the completion of all reports involved in their examinations and evaluations and the proper collection of any evidentiary samples obtained.
- F. Requests for a D.R.E. will be made through the traffic dispatcher. In the event that a D.R.E. is unavailable, an "on-call" D.R.E. may be requested through the Communications Unit Supervisor.

**FALSE IDENTITY GIVEN BY ARRESTEE**

The sworn member will be notified by receiving a Miscellaneous Investigation/Fingerprint Identification Report when the Fingerprint Identification Section determines an arrestee has given a false name.

- A. If the Miscellaneous Investigation/Fingerprint Identification Report contains the correct identity of the arrestee, the sworn member will initiate a Stop Order, and complete and mail the following information to the Department Of Revenue, Drivers License Bureau:
  - 1. A notarized Missouri Department of Revenue Report entitled, "Affidavit to Withdraw Alcohol Influence Report" (D.O.R. Form 4479). This report must be scanned into Intellivue to be included in the case file.
  - 2. A corrected photocopy of Alcohol Influence Report (D.O.R. Form 2389), showing the correct identity information of the driver.
  - 3. A photocopy of the Miscellaneous Investigation/Fingerprint Identification Report.
  - 4. A photocopy of the citations.
  - 5. A photocopy of the City Wanted/Cancellation Notice (Form 42A P.D.).
- B. If the Miscellaneous Investigation/Fingerprint Identification Report does not contain the true identity of the arrestee, the sworn member will:
  - 1. Complete and notarize the Affidavit to Withdraw Alcohol Influence Report (D.O.R. Form 4479). This report must be scanned into Intellivue to be included in the case file.
  - 2. Mail the notarized Affidavit to Withdraw Alcohol Influence Report (D.O.R. Form 4479), to the Driver's License Bureau.
- C. Void the original citations in accordance with the current directive entitled, "Arrest Guidelines."

**OPERATION AND SECURITY OF BREATH TESTING EQUIPMENT**

- A. A valid Type I permit allows the permit holder to determine the alcoholic content of blood from a sample of breath, blood, or urine utilizing standard quantitative chemical analytical methods approved by the Department of Health. Type 1 permits are held by forensic toxicology laboratory personnel.
- B. A valid Type II permit allows the permit holder to operate, repair, or otherwise service the breath analyzer. D.U.I. sworn members hold this permit. Only the D.U.I. section will service department-owned breath analyzers.
- \*C. A valid Type III permit allows the permit holder to operate breath analyzers to determine alcoholic content of blood from a sample of expired (alveolar) air. These permits must be renewed every two years. A minimum of 10 tests in the previous 12 months or five self-tests under the supervision of a Type II permit holder accompanied by a two hour refresher course is required. A Type III permit holder will:
  - 1. Follow the operating procedures set forth and approved by the Department of Health for the breath analyzer for which they hold a permit.
  - 2. Not modify any breath analyzer or its operating procedure.
  - 3. Certify with each report of test:
    - a. That there has been no deviation from procedures set forth and approved by the Department of Health.
    - b. That to the best of their knowledge the breath analyzer was functioning properly.
  - 4. Maintain a complete record of all tests performed.
  - 5. Record the results of the breath test in the patrol division Breath Test Log (Form 166 P.D.).
  - 6. Notify the D.U.I. Section six weeks in advance of the expiration date for renewals.
- D. Breath analyzers will be kept in designated areas of the patrol divisions where they can be monitored. The patrol division Breath Test Log (Form 166 P.D.) and all supplies for the breath analyzer will be issued by a desk sergeant.

- E. If damage or a malfunction to the breath analyzer is discovered or occurs, the sworn member will:
1. Post an out-of-order notice on the instrument.
  2. Notify the desk sergeant.
  3. Notify the D.U.I. Section immediately to inspect or replace the analyzer, if necessary.
  4. Prepare an Interdepartment Communication (Form 191 P.D.) with the circumstances surrounding the damage or the discovery of the damage and forward it through their chain of command.
  5. The supervisor will forward the report through the chain of command ensuring that a copy is sent to the D.U.I. Section.