



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-42

Effective: 11/14/19 Review: 11/14/19 Replaces: 03/23/16

2-42 DWI INVESTIGATIONS AND REVOKED/SUSPENDED LICENSE

Related SOP(s): None

2-42-1 Purpose

The purpose of this policy is to provide direction to Department personnel in completing Driving While Intoxicated (DWI) investigations and investigations involving drivers with suspended or revoked licenses.

2-42-2 Policy

It is the policy of the Department to apprehend, arrest, and assist in the efficient prosecution of persons who are found to be operating a motor vehicle while under the influence of intoxicating liquor, drugs, or driving a vehicle while their license is revoked or suspended for a previous DWI violation.

2-42-3 Procedures

7

A. Initial Contact with DWI Suspects

1. Officers who make contact with a driver of a motor vehicle and develop reasonable suspicion to believe the driver may be impaired by alcohol and/or drugs shall ensure that a DWI investigation is conducted.
2. DWI investigations will be conducted in accordance with the National Highway Traffic Safety Administration (NHTSA) guidelines.
3. Miranda warnings are only required after an arrest has been made or during custodial interrogations. Miranda warnings are not usually required during roadside DWI investigations or prior to a chemical test.

6

B. Preliminary Breath Testing (PBT)

1. PBT Operation
 - a. Officers should, have probable cause in every case to believe the driver is driving while intoxicated, before utilizing the PBT. The random use of PBT on drivers not suspected of being intoxicated is prohibited.
 - b. Officers should wait at least 15 minutes after contacting the driver to test them to allow any mouth alcohol to dissipate.
 - c. Officers issued a PBT will use it for their own investigations. However, officers may allow another officer to use their PBT but the requesting officer will conduct the test for themselves.
2. PBT Calibration



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-42

Effective: 11/14/19 Review: 11/14/19 Replaces: 03/23/16

- a. The use of a PBT is a non-evidentiary test. However, officers noting a difference of .03 or greater from the preliminary test to the evidential test shall take the PBT out of service and return it to the DWI supervisor so the PBT can be sent back to the manufacturer for re-calibration.
- b. It will be the operator's responsibility to ensure the PBT remains properly calibrated.

7 C. Check for Prior Convictions

1. Any person arrested for DWI must have their conviction record checked to determine if the person has prior DWI convictions.

7 D. Breath Alcohol Testing (BAT) mobile Booking

1. Any officer may book any individual at the BAT mobile. Booking officers will have the discretion to refuse some prisoners. The DWI Sergeant will have final say over any booking disagreement.

6 E. Administering a Breath Test

1. The arresting officer shall complete the Intoxilyzer logbook at the testing location. The log shall be filled out completely.
2. Distribution of the Breath Alcohol Test Card for the CMI Intoxilyzer 8000 model is as follows:
 - a. A copy shall be submitted to the Motor Vehicle Division (MVD), with the DWI Affidavit, the MVD copy of the DWI citation, and the individual's New Mexico driver's license. Any other state driver's license will be returned to the driver.
 - b. A copy shall be placed with the individual's paperwork, which will be placed in their property.
 - c. A scanned copy must be emailed to apdcentralrecords@cabq.gov.
3. Procedures for handling damaged or illegible Breath Alcohol Test Cards or malfunction of the breath alcohol instrument are as follows:
 - a. Regardless of the test score, in the event a Breath Alcohol Test Card is damaged, illegible, or prematurely printed upon, the card shall be maintained as evidence and submitted with the original report.
 - b. Under no circumstances shall any Breath Alcohol Test Card used in a breath alcohol test be discarded or destroyed.
 - c. Breath alcohol tests may be administered until a valid test is obtained. All test cards will be maintained as evidence and submitted with the original report.
4. Supervisors will ensure all uniformed officers have completed the eight-hour Intoxilyzer 8000 Certification Course or any re-certification class in order to maintain their current certification.



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-42

Effective: 11/14/19 Review: 11/14/19 Replaces: 03/23/16

6

F. Administering a Blood Draw

1. Blood tests will only be administered for felony cases involving great bodily harm or death by motor vehicle and the driver is injured or incapacitated after a warrant is obtained.
2. If a blood test is necessary, a blood draw shall be administered by a physician, a licensed nurse, or laboratory technician or technologist.
3. Communications shall notify the blood technician.
4. Upon arrival of the blood technician, the arresting officer will be present to witness the blood being drawn.
5. Upon completion of the blood draw, the officer will give the blood technician a case number and the individual's information for his/her report. The blood technician will then surrender the sealed blood test kit back to the arresting officer. The arresting officer will tag it into evidence according to Department Evidence procedures.
6. The Notice of Revocation copies and MVD copy of the DWI citation shall be retained by the officer until results are obtained. The driver's license shall not be taken and will remain with the driver's property when booked or issued a summons.
7. When blood test results are received, the information shall be filled in on the Notice of Revocation forms and MVD copy of the DWI citation. The Notice of Revocation and MVD copy of the DWI citation shall be placed in the DWI citation drop box, located at the area command substations/testing locations.

7

G. Implied Consent Advisory

1. Once a suspect is placed under arrest for DWI, the New Mexico Implied Consent Advisory shall be read directly from New Mexico Department of Transportation (NMDOT) provided posters or pocket cards. If the arresting officer is not certified in the primary language of the individual under arrest, the officer should use the Language Access Line. However, if the arresting officer is certified in the primary language of the individual under arrest, the Language Line will not be used.

7

H. Documentation of Refusal/Warrant Requirement

1. On misdemeanor DWI arrests, if the subject refuses to submit to the chemical test the officer specifies, the officer will check all of the appropriate boxes on the Notice of Revocation and submit it in the normal manner.
2. The standard procedure in misdemeanor cases is to obtain a breath sample and not compel a sample (blood sample).



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-42

Effective: 11/14/19 Review: 11/14/19 Replaces: 03/23/16

3. For felony investigations, Implied Consent Advisory is sufficient for breath test results. If a blood sample is needed, a warrant will be obtained.

7

I. DWI Citation

1. The DWI Citation will be filled out the same way as other citations with the inclusion of the blood alcohol concentration box.
2. At no time will "See the Report" be placed in the essential facts section of the citation. Officers must provide a basis for the DWI charge in this section.

7

J. Arrests for Driving While Driver's License is Revoked (per 66-8-122(G))

1. Booking

- a. Officers will take the individual into custody and book him under NMSA 66-5-39 (Pursuant to 66-8-122(G) Driving while license is revoked).
- b. Prior to booking the individual, the officer will need to obtain a copy of the read out from the National Crime Information Center (NCIC) operator.
- c. The arresting officer will then give this documentation to the booking officer at the time of booking the individual.
- d. If multiple offenses apply, officers shall book the individual for all traffic violations.
- e. Officers will generate a traffic citation and will indicate "booked" for all traffic related charges, including 66-5-39.

7

K. Proving Revocation in Court

1. It is an important element to show the individual knew or should have known that his or her license had been revoked at the time of the violation.
2. Proof through MVD
 - a. The MVD will send notice of revocation to the individual by registered mail.
 - b. The MVD is responsible for providing any other pertinent documentation showing notice of revocation, including a certified, notarized copy of the Notice of Revocation, which will be kept in the District Attorney's Office.
3. Additional ways to prove revocation
 - a. The individual has been arrested for DWI and physical proof of the following can be obtained:
 - i. Chemical test results at or above the per se limit.
 - ii. Individual refused to submit to a chemical test.
 - iii. Individual arrested for a second or subsequent DWI offense.



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-42

Effective: 11/14/19 Review: 11/14/19 Replaces: 03/23/16

- iv. If second or subsequent DWI charge, the prior arresting officer will be called to testify in court that the officer served upon the individual a notice of revocation, at the time of the individual's arrest.

7

L. Drug Recognition Expert(DRE)Program

1. The DRE Program provides certified Drug Recognition officers trained in the identification and detection of drivers under the influence of substances other than alcohol.
2. The coordinator may come from any area of the department. The DRE Coordinator is directly responsible to the DWI Lieutenant for any DRE issues.
3. DRE Officer
 - a. Is assigned on a rotation basis to an on-call list. This schedule will be posted in the DWI Sergeant's office, be distributed department wide and an On Call List will be sent to radio communications.
 - b. Responds to requests requiring drug recognition skills and performs DRE evaluations in accordance with DRE regulations per the International Association of Chiefs of Police (IACP).
 - c. Arrests persons suspected of driving while under the influence of alcohol or drugs.
 - d. Directs blood draws and testing on suspected DWI drug offenders and logs results.
 - e. Prepares written reports of drug influence evaluations and complies with the requirements set forth by the NM state DRE coordinator. Enters the DRE report information into the DRE national database.
 - f. Will respond to hospitals in the event of a suspected drug involved crash and if possible record any pertinent information in a report.
 - g. Will conduct a DRE examination rather than only obtain a blood sample if possible.

6

4. DRE Procedures

- a. Officers must be aware of officer safety during the DRE evaluation.
- b. Individuals under the influence may react unexpectedly or violently.
- c. Officers may secure firearms in a locker or trunk of a police vehicle.
- d. DRE Officers are responsible for the drug influence evaluation investigation. An additional officer will be available to maintain officer safety during the evaluation.
- e. Two DRE officers should be used if available, one to conduct the exam and one to scribe. If two DRE officers are not available, a field officer may be used for officer safety.

7

5. Reports Distribution



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-42

Effective: 11/14/19 Review: 11/14/19 Replaces: 03/23/16

- a. DRE officers are responsible for ensuring all original forms are forwarded to the DRE State Coordinator.
- b. DRE officers are responsible for making and maintaining personal copies of all forms and evaluations.
- c. The DRE officer is responsible for reviewing all DRE forms and for forwarding the originals to the Records Division, through their supervisor in a timely manner.
- d. The DRE officers are responsible for entering the DRE report information into <https://dredata.nhtsa.gov/main/login.cfm> upon completion of the report.

6. Evidence Handling

- a. DRE officers are responsible for the disposition of blood evidence; all other evidence will be the responsibility of the arresting officer.
- b. The DRE officer is responsible for taking the blood evidence to the Scientific Evidence Division (SED) laboratory within 24 hours.
- c. If the blood cannot be taken within 24 hours, the DRE officer will tag the blood into evidence. Once the evidence unit has concluded the intake process (usually 3-4 days), the DRE will check out the evidence and transport it to the SED laboratory for processing.
- d. It is recommended that the DRE officer call Evidence at 823-4200 prior to pick up to ensure it can be checked out. This process must be completed within 5 days of the actual blood draw.

6

7. DRE Call-Out

- a. Investigating officer's supervisor will approve all call-out requests.
- b. Officers may call-out DRE personnel in cases where:
 - i. Impaired driving was observed by an officer;
 - ii. The driver is under arrest for DWI;
 - iii. The driver has submitted to a breath alcohol test; and
 - iv. The results of the breath alcohol test and field sobriety tests are inconsistent with each other.
- c. A DRE will not be called solely based on an admission to the use of medications or drugs.
- d. The DRE officer will conduct a supplemental investigation. The DRE will complete a supplemental report documenting the drug influence evaluation, and advise the arresting officer of the findings.
- e. The DRE will ensure the arresting officer receives the blood tests results so that a criminal summons can be filed.

7

8. DRE Equipment

- a. DRE officers will maintain all issued equipment in good working condition.



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-42

Effective: 11/14/19 Review: 11/14/19 Replaces: 03/23/16

- b. DRE officers will report any equipment discrepancies to the DRE State Coordinator as soon as possible. The DRE State Coordinator will replace the equipment.