
Under the Influence/Impaired Driving

504.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence/driving while impaired (DUI/DWI).

504.2 POLICY

The Easton Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of Maryland's impaired driving laws.

504.3 INVESTIGATIONS

Officers should not enforce DUI/DWI laws to the exclusion of their other duties unless specifically assigned to DUI/DWI enforcement. All officers are expected to enforce these laws with due diligence.

The Patrol Commander will develop and maintain, in consultation with the prosecuting attorney, report forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any DUI/DWI investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum:

- (a) The standardized field sobriety tests (SFST) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock.)
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in this state or another jurisdiction.

504.4 FIELD TESTS

The Patrol Commander should identify standardized SFSTs and any approved alternate tests for officers to use when investigating violations of DUI/DWI laws.

504.5 CHEMICAL TESTS

A person implies consent under Maryland law to a chemical test or tests, and to providing the associated chemical sample, when an officer has detained the person on suspicion of driving or

Easton Police Department

Policy Manual

Under the Influence/Impaired Driving

attempting to drive a motor vehicle when the person is (Md. Code TR § 16-205.1(a)(2); Md. Code TR § 16-205.2(a); Md. Code TR § 16-813:)

- (a) Under the influence of alcohol or impaired by alcohol.
- (b) So impaired by any drug, any combination of drugs or a combination of a drug and alcohol that he/she cannot safely drive a vehicle.
- (c) Impaired by a controlled dangerous substance.
- (d) In violation of an alcohol restriction.
- (e) Driving, operating or in physical control of a commercial vehicle with any concentration of alcohol in his/her blood or breath.

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

A test to determine alcohol concentration shall be taken within two hours after the person is apprehended. A test to determine the presence of a drug or a controlled dangerous substance shall be taken within four hours after the person is apprehended (Md. Code CJ § 10-303.)

504.5.1 STATUTORY NOTIFICATIONS

Officers shall advise the detained person that:

- (a) Neither a refusal nor the taking of a preliminary breath test shall prevent or require a subsequent chemical test (Md. Code TR § 16-205.2(b).)
- (b) Upon receipt of a sworn statement from the officer that the person was charged with DUI/DWI and refused to take a test, or was tested and the result indicated an alcohol concentration of 0.08 or more, the Motor Vehicle Administration (MVA) shall (Md. Code TR § 16-205.1(b):)
 - 1. Suspend the person's driving privilege pursuant to state law.
 - 2. Disqualify the person's privilege to operate a commercial vehicle pursuant to state law.

The result of the preliminary breath test shall be used only to decide whether an arrest should be made (Md. Code TR § 16-205.2(c).)

504.5.2 BREATH SAMPLES

A breath test shall be administered at the direction of an officer by a qualified person trained in the use of equipment that has been approved under the Postmortem Examiners Commission. The arresting officer may not administer the breath test (Md. Code CJ § 10-304(b).)

Members shall first contact the Maryland State Police when a breath test is necessary and request the nearest location where a technician is available. If MSP does not have a technician available, members will check with other surrounding agencies/jurisdictions,

Easton Police Department

Policy Manual

Under the Influence/Impaired Driving

Unless otherwise required by law, a breath test shall be used to determine alcohol concentration (Md. Code CJ § 10-305(a).)

504.5.3 BLOOD SAMPLES

Only a qualified medical person trained in the use of equipment that has been approved under the Postmortem Examiners Commission shall draw blood to collect blood samples. The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task (Md. Code CJ § 10-304(c)(1).)

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

The sample shall be handled as required by the state crime laboratory.

A test of blood shall be administered as follows (Md. Code CJ § 10-305):

- (a) To determine alcohol concentration when:
 - 1. The person is unconscious or otherwise incapable of refusing to take a test.
 - 2. Injuries to the person require removal of the arrestee to a medical facility.
 - 3. Equipment for administering the test of breath is not available.
 - 4. An officer has reasonable grounds to believe a person who was involved in a motor vehicle accident that resulted in death or a life-threatening injury to another person was driving while under the influence or impaired by alcohol, pursuant to Md. Code TR § 16-205.1(c)(1)(ii.)
- (b) In addition to a breath test pursuant to Md. Code TR § 16-205.1(c)(1)(iii).)
- (c) To determine drug or controlled dangerous substance content.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test shall not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

504.5.4 TYPE OF TEST

A blood test may be required: (Md. Code CJ § 10-305):

- (a) To determine alcohol concentration when:
 - 1. Injuries to the person require removal of the arrestee to a medical facility.
 - 2. Equipment for administering the test of breath is not available.
 - 3. An officer has reasonable grounds to believe a person who was involved in a motor vehicle accident that resulted in death or a life-threatening injury to another person was driving while under the influence or impaired by alcohol or drugs, pursuant to Md. Code TR § 16-205.1(c)(1)(ii) or (c)(1)(iii).
- (b) The officer reasonably believes that the impairment is caused by drug or controlled dangerous substance content.

Easton Police Department

Policy Manual

Under the Influence/Impaired Driving

504.6 DRE EVALUATIONS

It is the duty of a Drug Recognition Expert to evaluate suspects of drug impaired driving using the systematic and standardized twelve step DRE evaluation process.

When an Officer suspects a driver to be operating a vehicle while impaired by any substance, that Officer shall have the driver perform Standardized Field Sobriety Testing, as they would for suspected alcohol impairment.

If the driver has not performed the test to a satisfactory level, the Officer shall arrest the driver and read the DR-15 form. At that time the driver may take the evidence test for BrAC or they may refuse the test.

If the test is refused the Officer shall issue the DR-15A form per the DUI policy and procedure. If the test is taken and the driver has a BrAC of .07 or less, the Officer shall determine if an Easton Police Department DRE is available. If an Easton Police Department DRE is unavailable, the Officer will request the Maryland State Police to send a state wide page for a DRE.

504.7 REFUSALS

When an arrestee refuses to provide a chemical sample, officers should (Md. Code TR § 16-205.1(b)(2):)

- (a) Advise the arrestee of the requirement to provide a sample and the administrative sanctions or criminal penalties for refusal (Md. Code TR § 16-205.1(b)(1).)
- (b) Audio- and/or video-record the admonishment and the response when practicable.
- (c) Document the refusal in the appropriate report.

Any person who drives, operates or is in physical control of a commercial motor vehicle and refuses to take a chemical test to determine the alcohol concentration shall be placed out of service for the 24-hour period immediately following the time the officer detects alcohol in the driver's blood or breath (Md. Code TR § 16-813(b).)

504.7.1 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to an alcohol concentration test or a drug and controlled dangerous substance test, officers shall (Md. Code TR § 16-205.1(b)(3):)

- (a) Confiscate the person's driver's license.
- (b) Personally serve an order of suspension of the driver's license on the person.
- (c) Issue a temporary license to drive.
- (d) Inform the person that the temporary license allows the person to continue driving for 45 days.
- (e) Inform the person of his/her rights, as listed on the MVA Advice of Rights form.

504.7.2 BLOOD SAMPLE WITHOUT CONSENT

A blood sample should be obtained when any of the following conditions exist:

Easton Police Department

Policy Manual

Under the Influence/Impaired Driving

- (a) A person has refused to submit to a chemical test and the officer has reasonable grounds to believe that the person was involved in a vehicle accident while driving under the influence of alcohol or a controlled substance that resulted in serious bodily injury or death of another (Md. Code TR § 16-205.1(c)(1)).
- (b) The officer has reasonable grounds to believe a person was driving while under the influence of alcohol or a controlled substance and the person is dead, unconscious or otherwise in a condition that renders him/her incapable of refusing a test. (Md. Code CJ § 10-305; Md. Code TR § 16-205.1(d)(1)).
- (c) A warrant is required if either of these circumstances exists, unless the officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts, such as a lengthy time delay resulting from an accident investigation or medical treatment of the person.

504.7.3 FORCED BLOOD SAMPLE

The use of force to obtain the test required in section 16-205.1 of the TA is prohibited.

504.7.4 PERSON INCAPABLE OF REFUSING TO TAKE A TEST

If an officer determines that a person is unconscious or otherwise incapable of refusing to take a test, the officer shall (Md. Code TR § 16-205.1(d):)

- (a) Obtain prompt medical attention for the person.
- (b) When necessary, arrange for removal of the person to a nearby medical facility.
- (c) If a test would not jeopardize the health or well-being of the person, direct a qualified medical person to withdraw blood for a test.

If the person regains consciousness or otherwise becomes capable of refusing before the taking of a test, the officer shall follow the procedures set forth in this policy for notification and testing.

504.8 ARREST AND INVESTIGATION

504.8.1 REPORTING

The Patrol Commander shall ensure that this department complies with all state reporting requirements pursuant to Md. Code TR § 16-205.1(b)(3)(viii.)

504.8.2 TEST ADMINISTERED BY OUTSIDE PHYSICIAN

A person is permitted to have a physician of his/her own choosing administer tests, in addition to the test administered at the direction of an officer. In the event a test was neither offered nor requested by the officer, the person may request, and the officer shall have administered, one or more of the tests provided by state law (Md. Code CJ § 10-304(e).)

504.9 RECORDS SECTION RESPONSIBILITIES

The Administrator of Records will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

Easton Police Department

Policy Manual

Under the Influence/Impaired Driving

504.10 ADMINISTRATIVE HEARINGS

The Administrator of Records will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to the MVA.

Any officer who receives notice of required attendance at an administrative license suspension hearing should promptly notify the prosecuting attorney.

An officer called to testify at an administrative hearing should document the hearing date and the MVA file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.