



Roll Call Training Bulletin

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Daniel Hahn, Chief of Police
Volume 91

Driving Under the Influence (DUI) Investigations

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DUI's are one of the most common arrests made by police officers. Often, officers find themselves having questions on how to properly investigate a DUI, particularly when a DUI involves an uncooperative person. The purpose of this training bulletin is to provide some guidance and resources on how to properly investigate those complicated DUIs.

Officers should consider using the multi-phase investigation technique when investigating DUIs. Each phase provides the officer with information and facts to support an officer's probable cause to arrest for DUI.

Phase 1 (Information and facts gathered prior to contacting the driver)

Phase 1 includes observations made while the vehicle is in motion. These observations may support probable cause (PC).

The following are examples of irregular driving that would raise doubt as to a driver's sobriety:

Indicator	Deviations
Movement	<ul style="list-style-type: none">weaving, swerving, driftingturning with wide radiusturning abruptly or illegallystriking or almost striking an object or another vehicledriving into opposing traffic
Speed	<ul style="list-style-type: none">low speed (more than 10-mph below)stopping (without cause) in a traffic laneaccelerating or decelerating rapidlystopping inappropriatelybraking erratically
Position	<ul style="list-style-type: none">straddling center or lane markerdriving on other than designated roadway (e.g., shoulder)tires on center of lane markerfollowing too closely
Driver Action	<ul style="list-style-type: none">appearing to be impaired (e.g., slack facial muscles, drooping eyes)driving with headlights offslowly responding to traffic signalssignaling inconsistent with driving actions



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Note: Although DUIs are usually initiated through direct observation, officers can also become aware of a DUI through reports from other persons, and calls involving a vehicle collision. Officers should consider speaking to witnesses as they can often provide vital information that may likewise support PC for DUI.

Phase 2 (Personal contact)

Officers should look for signs of impairment. The following table identifies possible indicators an officer might look for during the initial contact.

Indicator	Deviation
General Appearance	<ul style="list-style-type: none"> appearance associated with the lack of sleep (e.g., drooping eyelids, red, and/or watery eyes, relaxed facial muscles)
Eyes	<ul style="list-style-type: none"> apparent difficulty focusing eyes upon an object, or refusal to look directly at the peace officer
Speech	<ul style="list-style-type: none"> odor of intoxicants on the breath poor enunciation, slurred speech
Attitude	<ul style="list-style-type: none"> signs of nervousness unusual cheerfulness or friendliness apparent hesitancy in complying with lawful orders or instructions appearing agitated other inappropriate behavior
Actions	<ul style="list-style-type: none"> impaired motor skills (poor balance and coordination) difficulty in understanding simple questions or instructions manner of getting out of the car tremor of hands poor hand coordination

Phase 1 and Phase 2 are significantly more important in cases where a person refuses to do field sobriety tests (FSTs) and/or submit to a preliminary alcohol screening (PAS) test. Officers are advised not to overly rely on FSTs and the PAS, that we tend to minimize the importance of these first two phases.

Phase 3 (Pre-arrest screening)

Phase 3 involves doing the preliminary interview (should always be done before FSTs), FSTs and having the driver blow into a PAS. Officers should always attempt to do FSTs when possible. Being involved in a vehicle collision **does not** automatically exempt a driver from FSTs. Officers should evaluate the driver's injuries (if any) to determine if an injury may affect the driver's ability to perform any or all FSTs. Even when a person is transported to the hospital, consider whether you can conduct any FSTs at the hospital (HGN, alphabet, counting, PAS).



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Also, as a reminder, officers are not required to provide Miranda during the FSTs. However; officers must give Miranda prior to asking questions, if the driver is in custody.

Officers are also reminded that the PAS may be used to **support** your investigation, but it is not enough to comprise your **ENTIRE** investigation. The PAS should be used after completing FSTs. Using a PAS prior to FSTs could be argued that it prejudices the FSTs.

At the completion of Phase 3, officers will determine if there is PC for a DUI arrest. In cases where a driver refuses to do FSTs and submit to a PAS or Drager, the officer can still charge 23152 (b) - DUI with BAC of .08% or more; however, the officer must articulate (document in the report) as to why the officer believes the driver has a BAC of .08% or more. This can be done based on training and experience the officer has at the time of the arrest.

Chemical Test

Once the officer has completed their investigation and determined there is enough evidence to establish probable cause for a DUI arrest, the arrestee is required by state law to submit to and complete a Chemical Test. To conduct a chemical test, an offer needs either:

• **Consent**

- A DUI arrestee's consent to submit to a blood draw **must be free and voluntary**
- If they are hesitant, or do not consent:
 - Read them the appropriate admonishment (separate admonishments for alcohol and drug DUIs) on the back page of the DS367, verbatim (**Safest way to ensure 23612 VC compliance**).
 - Document their response or their refusal to answer the questions asked after the admonishments.
 - **Anything other than free and voluntary consent requires a warrant.**

• **Searchable conditions** within: Probation, Parole, or PRCS

• **A Warrant**

- See Officer Morlan's DUI field guide ([click here](#)) for warrant process.
- Don't forget to complete a warrant return within 10 days of executing the warrant.
- Templates for the warrant and warrant return can be found in the HUB under agency forms. You can also click here: ([Warrant](#)) and ([Warrant return](#))

• **Exigent circumstances**

- Possible examples:
 - Immediate medical treatment (e.g. driver going into surgery), and limited time for the draw.
 - Driver is hospitalized and unconscious, unable to provide consent
 - Inability to obtain a warrant in a reasonable timeframe.



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The Chemical Test can be either blood or breath. The arrestee has the option (if the officer has consent and cooperation). Outside of consent and cooperation, a blood test is the only option. A driver suspected of DUI drugs is required to give a blood test unless they are on a hemophiliac or on anti-coagulant medication.

Review Questions

1) If a person refuses to do FSTs and submit to a PAS, can the officer still arrest for DUI?

Answer: Yes, if there is alternative PC. The officer will have to rely on observations made during the phase 1 and phase 2 of the DUI investigation to determine if there is probable cause for a DUI arrest.

2) True or False: Officers can do FSTs on someone who has been involved in a vehicle accident.

Answer: True. Officers should evaluate the injuries (if any) and determine if the injuries can affect the person's ability to perform any of the FSTs. If FSTs are not done, officers should document in their report as to why.

3) Officers arrest a person for DUI. The arrestee tells the officer he will not submit to a breath or a blood test. Can the officer try to persuade the arrestee to give consent?

Answer: No. Consent must be free and voluntary. The officer will need to get a warrant.

Additional Resources

- General Order 537.01 – Driving Under the Influence Procedures ([click here](#)).
- **Officer Morlan has created a comprehensive DUI field guide ([click here](#)) with all the information you need for a DUI investigation. The document is a great resource and provides information on the following:**
 - DUI related crime codes
 - Tow policy and authorities
 - A break down of all Standardized Field Sobriety Tests (with instructions)
 - Juvenile DUI Procedures
 - DUI Probation Procedures
 - DUI Drug Procedures
 - Hospital DUI Procedures
 - DUI Warrant Procedures