

MINNEAPOLIS POLICE DEPARTMENT

SPECIAL ORDER



BY ORDER OF THE CHIEF OF POLICE

DATE ISSUED: XX XX, XX	DATE EFFECTIVE: XX XX, XX	NUMBER: SOXX-0XX	PAGE: 1 of 5
TO: Distribution "A"			RETENTION DATE: Until Rescinded
SUBJECT: Manual Revision – 7-605 Chemical Testing- Driving Violations			APPROVED BY:

MP-8806

Introduction:

Effective with the issuance of this Special Order, Section 7-605 of the MPD Policy and Procedure Manual shall be amended as follows:

7-605 Chemical Testing- Driving Violations

(10/05/01) (08/21/03) (09/26/16) (11/08/16) (01/01/26) (XX/XX/XX)

I. Policy

A. Implied Consent and Breath, Blood, and Urine Testing Procedures

1. Breath testing

~~A.~~ When arresting a person for driving, ~~operating,~~ or physically controlling a motor vehicle while under the influence of alcohol or drugs, or handling a private person making an arrest (citizen's arrest) for ~~DUI/DWI~~, the arresting ~~officer-member~~ shall transport the suspect-arrested person to the Chemical Testing Unit and a certified DMT-G (Data Master Transportable— Gas with fuel cell option) Operator shall offer the suspect person a breath test. ~~(11/08/16)~~

~~a.~~ The Minnesota Breath Test Implied Consent Advisory (PS 01802-09) shall be read before offering the breath test. The member shall read the Breath Test Advisory as written on the form and shall record the reading of the Advisory to the person.

~~1-i.~~ The suspect person has the right to refuse the breath test.

~~a.~~ The Implied Consent Advisory (PS 01802-09) shall be read before offering the breath test.

~~b.~~ii. If a breath test has been offered and refused, the refusal is considered a crime under ~~Minn. Stat.~~ MN Statute section 169A.20, sSubd. 2 (see P&P 9-203 Booking Authorization and Procedures).

iii. Prior to testing, the person has the right to consult with an attorney. If the person invokes that right, the person must be given access to a telephone and directories and be given a reasonable amount of time to attempt to consult with an attorney.

~~2.b.~~ If the Chemical Testing Unit is closed, the ~~officer~~ member will try to locate a certified DMT-G Operator by contacting MECC.

c. For additional information on breath testing, members shall reference P&P 9-204 Arrests for Driving While Intoxicated (DWI).

2. Blood and urine testing

~~3.a.~~ A search warrant shall be secured for a blood or urine test if any of the following apply (P&P 9-302):

- ~~A~~ a certified DMT-G Operator is not available.
- ~~†~~ The suspect person is medically, mentally, or otherwise physically incapable of taking a breath test.
- ~~the suspect starts a breath test but claims he or she cannot physically complete the test, or~~
- Evidence indicates the presence of drugs other than alcohol.

b. The member shall provide the Search Warrant Advisory to the person prior to the execution of the search warrant.

c. The member shall record the reading of the Search Warrant Advisory.

d. Special kits are available in the Chemical Testing Unit for taking a blood or urine sample.

i. Blood samples can ~~only~~ be drawn by an authorized medical professional, a phlebotomist, or otherwise authorized person pursuant to MN Statute section 169A.51 Subd. 7(a) ~~hospital personnel~~.

ii. The blood or urine sample must be marked on the outside of the kit box with the case number, and the sample shall be deposited in the Chemical Testing Unit refrigerator.

e. If the search warrant authorizes the member to collect either a blood or urine sample, the member can direct the collection of either a blood or a urine sample first. If the subject refuses to provide the initially directed sample (e.g., a blood sample), the member must direct the other type of sample authorized in search (e.g., a urine sample). The person must be advised that refusing to provide a sample of blood or a sample of urine is a crime.

- f. Except in the circumstances of a Criminal Vehicular Operation or Criminal Vehicular Homicide investigation, a person can refuse to submit to the search warrant (e.g., refuse both the blood and urine tests). Refusal to submit to a search warrant is considered a crime pursuant to MN Statute section 169A.20 Subd. 2.
- g. The person does not have to consult with an attorney prior to the execution of a search warrant obtained for a driving while impaired incident.

3. Alternative testing

- 4.a. The ~~suspect person~~ is ~~also~~ entitled to have additional testing done by a person of their own choice and at their own expense while in custody if the person affirmatively requests an additional test and has provided the requested test as directed by the member.
- a.i. The ~~officer-member~~ shall document the request in the ~~CAPRS Police R~~report and allow the ~~suspect person~~ to use a telephone to make arrangements for alternative testing before transporting to Hennepin County Jail (H CJ).
- b.ii. ~~Jail-H CJ~~ personnel shall be notified that arrangements for alternative testing have been made by the arrested party.
- iii. If the person has not yet made arrangements for alternative testing by the time the person is to be booked into jail, the member shall inform jail personnel that the person has requested an alternative test and that they need access to a telephone and directories. The member should document in the Police Report the name of the jail personnel the member informed that the person has requested an alternative test.
- e.iv. The alternative test will be conducted at ~~Hennepin County Jail~~H CJ.

~~B.A. Special kits are available in the Chemical Testing Unit for taking a blood sample.~~

~~1. Blood samples can only be drawn by authorized medical/hospital personnel.~~

~~2.1 The blood sample must be marked on the outside of the kit box with the case number and the sample shall be deposited in the Chemical Testing Unit refrigerator.~~

4. Drug recognition evaluator (DRE)

C. A ~~d~~Drug ~~r~~Recognition ~~Expert-evaluator~~ (DRE) should be called when ~~an-officera~~ member believes a person has been driving, /operating, or in physical control of a motor vehicle while under the influence of a drug other than alcohol or in addition to alcohol.

1.a. The ~~officer-member or Chemical Testing Unit personnel~~ shall contact MECC to request a DRE.

2.b. If no DRE is available in the city, or the contacted DRE does not respond within 30 minutes or cannot arrive at the scene within one hour of notification, MECC will

request a DRE from another agency (~~i.e.~~e.g., Minnesota State Patrol, Hennepin County Sheriff's Office, or University of Minnesota).

- ~~3. If no DRE is available from another agency, MECC will contact an off-duty Minneapolis DRE from the callback roster to respond.~~

5. Chemical testing of minors

- ~~D.a.~~ When conducting chemical testing of a minor in a DWI investigation~~In all cases, including testing of juveniles, the testing officer-member shall conduct ensure that all required procedures are audio or video recorded in accordance with P&P 4-223a videotaped interview. This will include videotaping the reading of the Implied Consent Advisory.~~
- b. If questioning a minor rises to the level of a custodial interview, members must comply with the minor interrogation requirements in P&P 8-302 [II-C], including contacting the Juvenile Investigations unit to conduct the interrogation, which will include the administration of the Enhanced Miranda Warning.
- c. Chemical testing interactions with minors shall comply with P&P 8-101 Engaging with Minors and 8-301 Minor Search, Seizure, and Arrest Policy.
- ~~1.d.~~ After completing the ~~videotaped recorded~~ interview and DRE evaluation (if requested), the ~~officer-member~~ shall complete the identification process in accordance with P&P 8-303 [I-B-2] and:
- ~~• Issue a citation and release the individual to a responsible person; or~~
 - ~~• Issue a citation and transport the individual to a detoxification facility; or~~
 - Process the individual-minor through the Hennepin County Detention Center.
 - If a DRE evaluation was completed and ~~or~~ a blood ~~specimen or urine test was~~ taken on a ~~DUI~~DWI, request a Release Pending Complaint (RPC). When completing the Authority to Detain form, ~~officers-members~~ must write on the form "RPC- DRE Case."
 - DRE evaluation forms will be forwarded to the prosecuting office of the Minneapolis City Attorney that has jurisdiction over the offense. This includes those partial evaluations not completed because of ~~arrestee-an arrested~~ person's refusal to finish the evaluations.
- e. The Hennepin County Detention Center will not accept minors arrested for 4th-degree DWI.
- i. A minor arrested for a 4th-degree DWI shall be brought to the Juvenile Investigations unit or CAR 21 in the event that no one is in the Juvenile Investigations unit.
- ii. The minor will be photographed, fingerprinted, and released to a parent or guardian.
- iii. If a parent or guardian is not available, members shall follow the procedures of P&P 8-307 [I-B].

E.B. Driver's License Revocation

1. For an arrested persons who refuses testing or for an arrested persons who takes the breath test with a .08 or more result (.04 or more for a commercial vehicle-driver), the officer-member shall clip the non-photographed corner of the person's driver's license to invalidate the driving privileges. ~~(11/08/16)~~
 - a. When clipping the license, the officer-member shall ensure all descriptive information remains intact.
 - b. The officer-member shall complete the State-Minnesota Notice and Order of Revocation form (which is generated via e-chargingPS 31123-10) and return the corner clipped license to the arrested person.
2. If only a blood or urine test is given, the officer-member shall return the license to the arrested driver without clipping the license. It is the responsibility of the Minnesota Department of Motor-VehiclesPublic Safety to act upon the test results.
3. If the arrested person has an out-of-state Driver's License, ~~do-members shall~~ not clip the license. The officer-member shall complete the Minnesota Notice and Order of Revocation and return the license to the arrested person.
4. If the arrested person does not have a driver's license, the member shall still complete ~~t~~The State-Minnesota Notice and Order of Revocation form ~~shall also be completed for arrested persons not having a driver's license, however the officer shall~~ and write "Not a Driver's License" on the top of the form.
5. In all cases, the original top copy of the Minnesota Notice and Order of Revocation form shall be given to the arrested person ~~and the remaining copies will be left in the Chemical Testing Unit along with all other associated paperwork. Chemical Testing Unit personnel will forward the paperwork to the Records Unit.~~