

	MARICOPA COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURES	
	Subject INDEPENDENT TESTING PROCEDURES FOR DUI AND OUI ARRESTS	Policy Number GJ-29
		Effective Date 05-07-26
Related Information Arizona Revised Statutes EB-3, <i>Driving Under the Influence (DUI)</i> ED-9, <i>Operating Under the Influence (OUI)</i> GD-14, <i>Access to Secured Office Buildings</i> GJ-35, <i>Body-Worn Cameras</i>	Supersedes GJ-29 (04-21-23)	

PURPOSE

The purpose of this Office Policy is to establish guidelines and procedures for personnel to follow if a prisoner or inmate requests an independent chemical test such as blood, breath, or urine. These tests are performed by an outside provider for prisoners being booked or inmates already accepted into the Intake, Transfer and Release facility for operating a motor vehicle or motorized watercraft while under the suspicion of the influence of drugs or alcohol.

POLICY

It is the policy of the Office to ensure prisoners being booked, or inmates already accepted into the Intake, Transfer and Release facility for Driving Under the Influence or Operating Under the Influence, who request an independent chemical test in accordance with Arizona Revised Statutes, are provided an opportunity for such tests.

DEFINITIONS

Custody File: The file containing the inmate's judicial and custodial records. The Custody File consists of two files, the Commitment and Jail File.

Driving Under the Influence (DUI): The act of driving or being in actual physical control of a motorized vehicle while under the influence of intoxicating liquor, any drug or it's metabolite, a vapor releasing substance containing a toxic substance, or any combination thereof if the person is impaired to the slightest degree, as specified in the Arizona Revised Statutes.

Hardbound Logbook: A hardbound logbook using consecutively numbered pages to record information concerning the daily operations, incidents, or activities in a specific duty area or location, usually in a custody facility. A hardbound logbook is normally used in areas that do not have access to SHIELD or as a backup log when SHIELD is down.

Inmate: An individual who has been accepted for confinement into an Office jail facility.

Operating Under the Influence (OUI): The act of operating or being in actual physical control of a motorized watercraft that is underway while under the influence of intoxicating liquor, any drug or its metabolite, a vapor releasing substance containing a toxic substance, or combination thereof if the person is impaired to the slightest degree, as specified in Arizona Revised Statutes.

Physician: A medical doctor currently licensed and practicing in the State of Arizona and in good standing with the State Board governing medical doctors.

Prisoner: An individual deprived of their liberty and kept under involuntary restraint, confinement, or custody prior to being accepted into an Office jail facility.

Qualified Person: Any physician, registered nurse, paramedic, phlebotomist, or other person certified by the State of Arizona to draw blood in a medical capacity. Office qualified phlebotomists are required to attend a refresher phlebotomy course every two years to be considered a qualified person.

Sheriff's Inmate Electronic Data (SHIELD): An Office jail management system containing information regarding individuals who are, or have been, incarcerated or booked into an MCSO jail facility. Information is entered in this database when an individual is booked and updated throughout the term of incarceration. This includes but not limited to: inmate charges; holds; court dispositions; bond and fine amounts; inmate listed booked in personal property; locker assignments; housing locations; restrictions; emergency medical information; scheduled inmate appointments; and the day-to-day operations of jail facility housing unit Shift Logs.

Subject: Any prisoner or inmate.

PROCEDURES

1. **Requests for Independent Chemical Tests:** Subjects detained and charged with any violation of Arizona Revised Statutes (ARS) regarding Driving Under the Influence (DUI) or Operating Under the Influence (OUI) have the option of requesting an independent chemical test from the arresting agency. The failure or inability to obtain an additional test by another qualified person does not preclude the admission of evidence relating to the test or tests already taken, as specified in ARS 28-1388 relating to DUI arrest and ARS 5-395 relating to OUI arrest. Subjects detained for questioning regarding a DUI or OUI also have the right to consult with an attorney in private.
 - A. If a subject requests to speak with an attorney in private, deputies shall deactivate their body-worn cameras and document the deactivation as specified in Office Policy GJ-35, *Body-Worn Cameras*.
 - B. Prior to booking, the arresting deputy shall inform the operator of their right to have an independent blood test.
 - C. Subjects in Maricopa County Sheriff's Office (MCSO) custody requesting to have an independent chemical test shall be informed that the test must be administered at a MCSO district substation, a designated DUI checkpoint location, or the Intake, Transfer and Release (ITR) facility. The subject shall be given an opportunity to make arrangements and pay for their independent chemical test.
 1. A subject who requests an independent chemical test shall be provided a telephone book and given a reasonable opportunity to arrange for a physician, registered nurse, or other qualified person to administer the test. The subject requesting an independent chemical test shall have access to a direct dial phone at no cost to them.
 2. Sworn or detention personnel shall dial the telephone number and remain on the line until the legitimacy of the call has been confirmed. Once this confirmation has been made, the subject shall be allowed to make a request for services.
 - a. Under no circumstances shall the subject be permitted unattended access to a direct dial telephone.

- b. All related telephone calls placed by a deputy shall be documented in the *Incident Report* (IR). All related telephone calls placed by detention personnel working at the ITR facility shall be documented in SHIELD and the Independent DUI Test Request Logbook.
 - 3. If a subject is released, it is at their discretion to obtain an independent chemical test.
 - D. Outside agencies are responsible for coordinating and completing the request for independent testing prior to booking their subject into the ITR facility.
 - E. The shift supervisor shall be notified of the subject's request for an independent chemical test.
2. **Liability Waiver for Independent DUI or OUI Testing:** Prior to testing, the subject shall be requested to complete the *Maricopa County Sheriff's Office Liability Waiver for Independent DUI or OUI Testing* form (Attachment A) which absolves the Office of any responsibility concerning the costs of administering the test, the results, or any possible health problems arising as a result of the test.
- A. The completed waiver shall be placed in the Custody File for subjects already accepted into the ITR facility. For subjects not yet accepted into the ITR facility, the completed waiver shall be submitted with the IR.
 - B. If the subject refuses to sign the *Maricopa County Sheriff's Office Liability Waiver for Independent DUI or OUI Testing* form:
 - 1. The deputy shall document the failure to sign in the IR and on the subject signature line on the form; or
 - 2. The detention officer shall document the failure to sign in SHIELD and on the subject signature line of the form.
3. **Administration of the Independent Chemical Test:** An isolated and private area shall be made available for the administration of the test.
- A. For security reasons, only one qualified person shall be allowed to enter the area to conduct the independent test. This person shall be subject to all security procedures, as specified in Office Policy GD-14, *Access to Secured Office Buildings*.
 - B. Family members, even if qualified to do so, shall not be permitted to administer or witness the independent testing.
 - C. The qualified person conducting the independent test shall be required to use their own equipment and supplies to conduct the test.
 - D. The qualified person conducting the independent test shall be required to remove all waste material generated as a result of the testing process, as well as any samples drawn or taken.
 - E. For security reasons, deputies or detention personnel shall observe any independent tests performed on the subject including the drawing of any samples.
 - 1. Office personnel, qualified or not, shall not assist in the administration of any independent tests.

2. Sworn or detention personnel shall note any unusual circumstances or serious issues that occur during the administration of any independent test in the IR or SHIELD. Unusual circumstances may include, but are not limited to, a subject being uncooperative, or the person conducting the independent test acting suspiciously.