	NEW PALTZ POLICE DEPARTMENT Policy and Procedures	
	<i>Subject</i> 47.5 Impaired and Intoxicated Driving Cases	
	ISSUED: January 18, 2011	EFFECTIVE: January 18, 2011
	REVISED: May 13, 2021	RESCINDED:
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Impaired and Intoxicated Driving Cases

PURPOSE:

To establish procedures for Members for the proper enforcement of DWI / DWAI / Drugs arrests.

INTRODUCTION

Each year, thousands of lives are lost, and millions of dollars of property are damaged because of alcohol related traffic accidents. About one half of all drivers and adult pedestrians killed in highway accidents had been drinking. In most alcohol related accidents, the driver or pedestrian who had been drinking had a blood alcohol concentration of .08% or higher.

It is imperative that a concerted effort be made to strictly enforce the laws of this State pertaining to DWI and DWAI/Drugs. It is the duty of all police officers to work earnestly toward reducing the number of traffic accidents caused by persons driving under the influence of alcohol or drugs.

DEFINITIONS

- a. **Driving while ability impaired.** No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the consumption of alcohol.
- b. **Driving while intoxicated; per se.** No person shall operate a motor vehicle while such person has .08 of one per centum or more by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva.
- c. **Aggravated driving while intoxicated. (a) Per se.** No person shall operate a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva.
- d. **Aggravated driving while intoxicated with a child.** No person shall operate a motor vehicle in violation of subdivision two, three, four or four-a of New York State Vehicle and Traffic Law section 1192 while a child who is fifteen years of age or less is a passenger in such motor vehicle.
- e. **Driving while intoxicated.** No person shall operate a motor vehicle while in an intoxicated condition.
- f. **Driving while ability impaired by drugs.** No person shall operate a motor vehicle while the person's ability to operate such a motor vehicle is impaired by the use of a drug as defined in The New York State Vehicle and Traffic Law section 1192.
- g. **Driving while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs.** No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the combined influence of drugs or of alcohol and any drug or drugs.
- h. **Commercial motor vehicles: per se - level I.** Notwithstanding the provisions of section eleven hundred ninety-five New York State Vehicle and Traffic Law Section 1192, no person shall operate a



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commercial motor vehicle while such person has .04 of one per centum or more but not more than .06 of one per centum by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article; provided, however, nothing contained in this subdivision shall prohibit the imposition of a charge of a violation of subdivision one of this section, or of section eleven hundred ninety-two-a of this article where a person under the age of twenty-one operates a commercial motor vehicle where a chemical analysis of such person's blood, breath, urine, or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article, indicates that such operator has .02 of one per centum or more but less than .04 of one per centum by weight of alcohol in such operator's blood.

- i. **Commercial motor vehicles; per se - level II.** Notwithstanding the provisions of section eleven hundred ninety-five of this article, no person shall operate a commercial motor vehicle while such person has more than .06 of one per centum but less than .08 of one per centum by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article; provided, however, nothing contained in this subdivision shall prohibit the imposition of a charge of a violation of subdivision one of this section.
- j. **Zero Tolerance Laws.** A drive who is less than 21 years of age and who drives with a .02 BAC to .07 BAC.
- k. **Field testing.** Every person operating a motor vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a police officer, submit to a breath test (for the purposes of this policy, a breath test, aka breath screening is a screening test that is administered via an Alco-Sensor unit) to be administered by the police officer. If such test indicates that such operator has consumed alcohol, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision two of this section.
- l. **Chemical tests*.** (a) When authorized. Any person who operates a motor vehicle in this state shall be deemed to have given consent to a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content of the blood provided that such test is administered by or at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the direction of a police officer: (1) having reasonable grounds to believe such person to have been operating in violation of any subdivision of section eleven hundred ninety-two of this article and within two hours after such person has been placed under arrest for any such violation; or having reasonable grounds to believe such person to have been operating in violation of section eleven hundred ninety-two-a of this article and within two hours after the stop of such person for any such violation,

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(2) within two hours after a breath test, as provided in paragraph (b) of subdivision one of this section, indicates that alcohol has been consumed by such person and in accordance with the rules and regulations established by the police force of which the officer is a member;

(3) for the purposes of this paragraph, "reasonable grounds" to believe that a person has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was driving in violation of such subdivision. Such circumstances may include any visible or behavioral indication of alcohol consumption by the operator, the existence of an open container containing or having contained an alcoholic beverage in or around the vehicle driven by the operator, or any other evidence surrounding the circumstances of the incident which indicates that the operator has been operating a motor vehicle after having consumed alcohol at the time of the incident; or

(4) notwithstanding any other provision of law to the contrary, no person under the age of twenty-one shall be arrested for an alleged violation of section eleven hundred ninety-two-a of this article. However, a person under the age of twenty-one for whom a chemical test is authorized pursuant to this paragraph may be temporarily detained by the police solely for the purpose of requesting or administering such chemical test whenever arrest without a warrant for a petty offense would be authorized in accordance with the provisions of section 140.10 of the criminal procedure law or paragraph (a) of subdivision one of this section.

***- For the purposes of this policy, members will only administer breath or chemical test of blood exams**

BASIC PROCEDURES

One of the most confusing areas of the law is the distinction between the fact or evidence necessary to justify the stop of a car and the fact or evidence necessary to justify the arrest of its operator. The test for an arrest is reasonable cause or probable cause to believe that the operator committed the crime. This is higher standard than that required for the initial stop of the vehicle.

The case law defining the standard for a stop breaks down into two categories: (1) reasonable suspicion of criminal activity; and (2) an "articulable" reason to stop. Reasonable suspicion of criminal activity is a broad category encompassing virtually any violation of law from felonies to equipment violations. Where the conduct observed does not constitute a reasonable suspicion of criminal activity, it may still provide an "articulable" reason to pull a car over. The "articulable" reason must be rational and not the product of whim, caprice or prejudice.



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1. Establishing reasonable suspicion to arrest for DWI or DWAI/Drugs is the key to a successful prosecution. The defendant's Blood Alcohol Concentration (BAC) level is not the sole criterion required to secure a court conviction for DWI. The grounds upon which you base your arrest and how you determine that the person is intoxicated are additional criteria that you must establish.
2. Two of the essential elements of DWI are that the operator "operates" a "motor vehicle." In a typical traffic stop, operation is generally observed by the police officer. However, the issue can be of critical significance where, among other things, there is an accident and no operation is observed, the operator is found sleeping or unconscious behind the wheel, and/or there are several passengers in the vehicle.
3. The definition of what constitutes a "motor vehicle" is found in New York State Vehicle and Traffic Law §125.
4. The Office of Court Administration Pattern Criminal Jury Instructions defines operation of a motor vehicle as; To operate a motor vehicle means to drive it. A person also operates a motor vehicle when such person is sitting behind the wheel of a motor vehicle for the purpose of placing it in operation and when the motor vehicle is moving, or even if it is not moving, the engine is running. It should also be noted that it is well settled in New York State that for purposes of DWI, the concept of "operation" requires the intent to move the vehicle.
5. Operation of a motor vehicle can be proven by circumstantial evidence in the event the officer arrives on the scene of an automobile accident with all occupants of the vehicle out of the car (i.e. there need not be direct, eyewitness testimony that the operator operated the vehicle.) An officer's field investigation documenting the suspected operator's location relative to the vehicle, alcohol on his breath, statements made by him, etc may be enough circumstantial evidence to affect an arrest.
6. To prepare a well-documented case against a person arrested for DWI, take copious notes. It is quite possible that the person will refuse to take a chemical test. If so, this will create an even greater reliance upon subjective information and note taking.
7. The moment you witness a suspected intoxicated driver operating a vehicle on the roadway, begin to collect pertinent information. Record this information on the appropriate forms as soon as possible after it is acquired.
 - a. The location where you first observed the vehicle.
 - b. Its direction of travel.

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- c. The time you first observed the vehicle and its driver.
 - d. The distance you followed the vehicle.
 - e. The overall operation of the vehicle, i.e. fluctuations in speed, weaving, fast stops or starts, any violation of the NYS Vehicle and Traffic Law, and
 - f. The number of times and locations of each observed incident.
8. As soon as possible, stop the vehicle in a safe location
- a. Notify the dispatcher of the appropriate information.
 - b. With safety in mind, approach the vehicle and protect yourself.
 - c. Keep in mind that a driver who has consumed alcohol may have lost some of their inhibitions and may be belligerent or combative.
 - d. With safety in mind, request the driver to step out of the vehicle and escort them to a safe place to have a face-to-face conversation.
 - e. Be alert for any illness or injury that could have possibly caused the driver to operate the vehicle erratically. Certain hidden medical problems such as diabetes, severe allergic reactions and muscular disorders have symptoms that appear to be similar to those of intoxication.
 - f. Determine whether the driver is currently taking a prescribed medication or has failed to do so.
 - g. Note any odor of an alcoholic beverage emanating from the driver's mouth and any visible presence of an alcoholic beverage or drug container within the vehicle.
9. To establish the driver's mental and physical condition, ask them questions such as;
- a. Do you know where you are now?
 - b. Without looking at your watch, do you know approximately what time it is now?
 - c. Where are you going?
 - d. Where are you coming from?
 - e. Are you ill or injured?
 - f. Did you go to a doctor or dentist today? If their answer is "yes" ask them for the name of the practitioner and ask him/her what condition he/she were treated for.
 - g. When was the last time you slept?
10. Standardized Field Sobriety Tests, AKA, Coordination tests are easily performed by a sober person. They shall be administered by officers who are properly trained and certified to do so. Officers shall administer these tests exactly as they were trained each and every time administered. When performed by an intoxicated person, they may quickly reveal a demonstrated lack of coordination, comprehension, judgment, and concentration.



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- a. Give coordination tests outdoors in an area suitable for standing or walking and free from dangers of traffic. At night, select a safe location with good visibility.
- b. Tests given may include:
 - i. Horizontal Gaze Nystagmus
 - ii. Walk and turn
 - iii. One leg stand
 - iv. Finger to nose
 - v. Rhomberg Test
 - vi. Finger count
 - vii. Reciting the alphabet
- c. It should be noted that the three “validated” tests that should be administered during all testing are the;
 - i. HGN Testing – Horizontal Gaze Nystagmus is an involuntary jerking of the eye that occurs naturally as the eyes gaze to the side. Under normal circumstances, nystagmus occurs when the eyes are rotated at high peripheral angles. However, when a person is impaired by alcohol, nystagmus is exaggerated and may occur at lesser angles. An alcohol-impaired person will also often have difficulty smoothly tracking a moving object. In the HGN test, the officer observes the eyes of a suspect as the suspect follows a slowly moving object such as a pen or small flashlight, horizontally with his or her eyes. The examiner looks for three indicators of impairment in each eye: if the eye cannot follow a moving object smoothly, if jerking is distinct when the eye is at maximum deviation, and if the angle of onset of jerking is within 45 degrees of center. If, between the two eyes, four or more clues appear, the suspect likely has a BAC of 0.08 or greater. NHTSA research found that this test allows proper classification of approximately 88 percent of suspects. HGN may also indicate consumption of seizure medications, phencyclidine, a variety of inhalants, barbiturates, and other depressants.
 - ii. Walk and Turn – The Walk-and-Turn test and One-Leg Stand test are "divided attention" tests that are easily performed by most unimpaired people. They require a suspect to listen to and follow instructions while performing simple physical movements. Impaired persons have difficulty with tasks requiring their attention to be divided between simple mental and physical exercises. In the Walk-and-Turn test, the subject is directed to take nine steps, heel-to-toe, along a straight line. After taking the steps, the suspect must turn on one foot and return in the same manner in the opposite direction. The examiner looks for eight indicators of impairment: if the suspect cannot keep balance while listening to the instructions, begins before the instructions are finished, stops while walking to regain

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balance, does not touch heel-to-toe, steps off the line, uses arms to balance, makes an improper turn, or takes an incorrect number of steps. NHTSA research indicates that 79 percent of individuals who exhibit two or more indicators in the performance of the test will have a BAC of 0.08 or greater.

- iii. One Leg Stand – In the One-Leg Stand test, the suspect is instructed to stand with one foot approximately six inches off the ground and count aloud by thousands (One thousand-one, one thousand-two, etc.) until told to put the foot down. The officer times the subject for 30 seconds. The officer looks for four indicators of impairment, including swaying while balancing, using arms to balance, hopping to maintain balance, and putting the foot down. NHTSA research indicates that 83 percent of individuals who exhibit two or more such indicators in the performance of the test will have a BAC of 0.08 or greater.

- d. It should be noted that a driver does not have to participate in field sobriety tests. Although a driver is deemed to have given consent to a “chemical test” for the purpose of determining intoxication pursuant to NYS VTL 1194(2), field sobriety tests are not chemical tests.

11. Breath Test (AKA Breath Screening):

- a. A breath test, aka breath screening is a screening test that is administered via an Alco-Sensor unit to be administered by the police officer during their field sobriety test. If such test indicates that such operator has consumed alcohol, the police officer may request such operator to submit to a chemical test. The breath test result will be noted as “positive” or “negative” along with the time of the test. Numeric readings on the unit will not be used against the operator as they are not considered evidentiary in that the reading obtained is inadmissible in court but should be recorded in the officer’s notes.
- b. Consider the following observations and tests in your decision-making process;
 - i. The driver's ability to operate the vehicle;
 - ii. Observation of the driver's appearance, and ability to stand, walk and talk;
 - iii. Odor of an alcoholic beverage on the driver's breath and any presence of alcohol;
 - iv. Driver's alertness and ability to understand;
 - v. His/her attitude and judgment;
 - vi. Results of any coordination tests given; and
 - vii. If accident related, the results of your accident investigation.

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- c. When you have established reasonable grounds to believe a driver is intoxicated by alcohol or is impaired by drugs:
- i. Inform the driver that they are under arrest for DWI or DWAI drugs or both, as appropriate.
 - ii. Give a warning to the defendant regarding the consequences of refusing to take a chemical test. Use the following warnings:
 1. *DWI WARNING You are under arrest for driving while intoxicated. A refusal to submit to a chemical test or any portion thereof, will result in the immediate suspension and subsequent revocation of your license or operating privilege, whether or not you are found guilty of the charge for which you were arrested. Your refusal to submit to a chemical test, or any portion thereof, can be introduced into evidence against you at any trial proceeding or hearing resulting from this arrest. Will you submit to a chemical test to determine the alcohol or drug content of your blood?*
 2. *DWI/DWAI DRUGS WARNING You are under arrest for driving while ability impaired by the use of drugs. A refusal to submit to a chemical test or any portion thereof, will result in the immediate suspension and subsequent revocation of your license or operating privilege, whether or not you are found guilty of the charge for which you were arrested. Your refusal to submit to a chemical test or any portion thereof, can be introduced into evidence against you at any trial proceeding or hearing resulting from this arrest. Will you submit to a chemical test to determine the alcohol or drug content of your blood?*
 3. Note the defendant's answer.
 4. If the defendant refuses to take the test, they will be given two more opportunities to take the exam, each time being read the appropriate warnings.
 5. If the defendant does not give you an answer or remains mute, consider it as a refusal to take a test. (Paragraph 2 still applies.)
 6. If after three attempts, the defendant continues to refuse to take the exam, the officer will proceed with all appropriate arrest and paperwork procedures and complete NYS DMV form AA-134, Report (either paper or electronically) of refusal to submit to chemical test. In this circumstance, the defendant then must be arraigned. The judge will then seize the defendant's license and issue him a hearing date in front of a DMV Magistrate to begin the process of a refusal hearing.
 7. Members will not advise the defendant that they will be incarcerated if they refuse to take the test.



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8. If they decide to take the test, it must be administered within 2 hours of the arrest.
- iii. The Miranda Warnings should be read to the defendant after reading and receiving a reply to the DWI/DWAID test warning. Usually, if you intend to use any statements made by a DWI defendant, they must first be advised of their rights.
- iv. Case law has permitted general inquiry into the reasons for a driver's erratic driving behavior before advising them of their Miranda Rights. Thus, general questioning to determine the presence of illness, injury, use of medicine, lack of sleep, etc. is permitted.
- v. When the defendant is charged with DWI or DWAI drugs and wishes to consult with counsel before consenting to a chemical test, permit them to do so.
- vi. Should the defendant choose to speak to legal counsel prior to submitting to a chemical test they will be afforded that consideration, however, unnecessary delay should be construed as a refusal.
- vii. The vehicle operated by the defendant shall either be turned over to a licensed operator with the defendant's approval or impounded in compliance with New Paltz Police Department policy and procedure, "47.8 Towing and Impoundment".
- d. In addition to the chemical test that you require and administer/oversee, a person charged with DWI or DWAI/Drugs has the right to have a physician of their own choosing give them a chemical test at their own expense.
- e. The defendant has the right to be advised of the chemical test results when they so requests.
 - i. If after the chemical test is administered, it is believed that the defendant is intoxicated by drugs, a Drug Recognition Expert or DRE should be contacted. If a DRE is not working, one can be requested from the New York State Police or any surrounding agency.
 - ii. Take notes on the physical condition of the defendant as soon as possible after the arrest.
 - iii. In all cases of DWI, DWAI drug arrests the following paperwork will be completed and submitted:
 1. UTTs for ALL probable cause violations / Separate tickets for 1192.2, 1192.3, 1192.4 where applicable. (There is no ticketable offense for section 1194 Refusal to Submit to a Chemical Test) ***When charging DWAI Drugs do not charge 1192.2 or 1192.3 as these sections pertain to intoxication by alcohol.**
 2. A Department Arrest Report.
 3. Required electronic fingerprints.
 4. Required electronic photographs of defendant.
 5. Electronic Supporting deposition/DWI Bill of Particulars & 710.30 Notice.
 6. Breathalyzer Check List if applicable.
- f. Determining the chemical test to be used;

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- i. For most DWI related offenses, members will offer the “Breathalyzer” exam. The breathalyzer is an instrument which directly tests the breath of a person to indirectly determine the percentage of alcohol in the blood of that person. In situations where the operator has been transported to a hospital prior to the breathalyzer being administered, member will proceed to that hospital and offer the operator a blood test exam. This exam will be administered by an approved professional as prescribed in the NYS V&T law. “Urine test” exams and saliva exams will not be offered by this department.
- ii. For all DWAI Drug related offenses, members will transport the operator to NPPD for a chemical test via the Datamaster DMT. After viewing the results, if the arresting officer believes the defendant is intoxicated by drugs, they will contact a DRE as prescribed in paragraph 13. f. After a DRE is consulted, the defendant will be transported to Kingston Hospital for a blood test exam as prescribed in paragraph 1 above. Blood test kits are to be provided by Kingston hospital. If transporting to a different hospital, a blood test kit can be obtained from the New York State Police Highland Barracks. It is recommended that members contact the hospital prior to leaving the station to confirm that they possess a blood kit that is not out of date and that they are available to conduct the exam.
- iii. Members will advise defendants that they have the right to have an independent exam of their blood conducted by an outside professional at their own cost and will not unnecessarily delay their release to hamper this exam.

12. Felony DWI Arrest;

- a. New York State Vehicle and Traffic Law states; A person who operates a vehicle (A) in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, within the preceding ten years, or (B) in violation of paragraph (b) of subdivision two-a of section eleven hundred ninety-two of this article shall be guilty of a class E felony.
- b. *Additionally;*
 - i. A person who operates a vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections

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120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, twice within the preceding ten years, shall be guilty of a class D felony.


- ii. All felony DWIs will require a long form information which should be auto generated as part of the DWI Bill of Particulars in Tracs.

13. Safe transportation and disposition of the arrestee and his vehicle;

- a. Officers are reminded that subjects taken into custody for DWI may have coordination/balance deficits and extra care must be taken to prevent the subject from injuring themselves. When transporting DWI arrestees in a patrol unit, the arrestee will be escorted to the patrol unit and if necessary, assisted in seating in the rear of the unit. Guard the arrestee's head while they are entering the car and apply the appropriate seat belt and/or safety restraining devices to prevent injury during transport.
- b. In the event the arrestee is to be released, at the request of the defendant, members may attempt to secure safe transportation or allow them to sit in the NPPD lobby in order to make arrangements. At no time should a member detain a defendant for longer than necessary in attempts to secure transportation for the subject. Once the defendant is processed and ready to be released, the defendant is to be escorted to the lobby and released from custody.
- c. At the time of arrest, members should assure the safe disposition of the arrestee's vehicle that he/she is driving at the time. Options include releasing the vehicle to a licensed sober driver present at the scene with the arrestee's permission or impounding the vehicle.

14. Zero tolerance/Under age 21 drinking and driving

- a. The Zero Tolerance law applies to a person under age 21 who operates a motor vehicle with a blood alcohol concentration (BAC) of .02% or more but not more than .07%. Even though the law is called "zero tolerance," the minimum BAC is .02 and not 0. This is because certain cough syrups and mouthwashes contain alcohol, and since some families will permit the consumption of small amounts of alcohol as part of religious or family functions. The Legislature decided to set the standard at .02% in order to address only those young people who had willfully consumed alcohol and operated a motor vehicle.
- b. If members encounter an operator of a motor vehicle and you deem them younger than 21 *and* appear to have consumed alcohol, member will temporarily detain the operator for the purpose of taking a breathalyzer test to determine their blood alcohol level (BAC).

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- i. If the operator refuses to take a breath test, they will be subject to a license revocation of at least one year. In this event, members will complete NYS DMV forms 134A (Report of Refusal to Submit to Chemical Test) and 137A (Notice of Chemical Test Refusal Hearing) and follow the directions on both forms. Form 137A require the input of; a date, time and location of a Zero Tolerance Hearing. This information can be obtained from the “Chemical Test Refusal and Zero Tolerance Hearing Calendar posted in the Live Scan room.
- ii. If the operator consents to a breathalyzer and his/her BAC is .02% or more, but not more than .07%. they will be issued a notice to appear for a hearing before an administrative law judge of the Department of Motor Vehicles. This will be accomplished by completing and issuing NYS DMV form AA-137A.1 and scheduling a hearing as prescribed in paragraph “a” above. If there are no other charges, no tickets, fingerprints, photos or arrest report are to be completed. By law, this under age 21 operator is not in custody, but rather being “detained” for the purposes of a breathalyzer and paperwork.
- iii. If the under age 21 operator consents to a BAC and it is more than .05% but not more than .07%, the officer has the option to charge "driving while ability is impaired by alcohol" (DWAI).
- iv. If the under age 21 operator consents to a BAC and it is more than .07% but less than .08% the officer will charge "driving while ability is impaired by alcohol" (DWAI), and for those with a BAC of .08% or more, the charge will be "driving while intoxicated" (DWI).
- v. If an operator is charged with having operated a motor vehicle after having consumed alcohol and are scheduled for a DMV administrative hearing The police officer must prove that:
 - 1. They were the person who operated the motor vehicle;
 - 2. A valid request was made to submit to a chemical test (e.g., breathalyzer);
 - 3. The operator was younger than 21 at the time;
 - 4. The chemical test was properly administered;
 - 5. The test showed the operator had consumed alcohol (.02% or more); and
 - 6. The police officer made a lawful stop of the vehicle.