

CHAPTER 20

DRIVING UNDER THE INFLUENCE COST RECOVERY PROGRAM

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CHAPTER 20

DRIVING UNDER THE INFLUENCE COST RECOVERY PROGRAM

1. LEGAL AUTHORITY. Government Code Sections 53150 through 53158 establish a driver's maximum liability of \$12,000 for the reimbursement of public agency response costs related to incidents caused by a driver who is under the influence of an alcoholic beverage and/or drug.

2. PURPOSE. The purpose of this chapter is to provide guidance and direction to appropriate personnel responsible for Driving Under the Influence (DUI) incident response cost recovery processes.

3. POLICY.
 - a. The Department will seek to recover DUI incident-related costs from a driver who is under the influence of an alcoholic beverage and/or drugs.

 - b. Definition. Although permitted to do so by Penal Code provisions, the Department will not attempt to recover DUI incident response costs through the probation process. Additionally, the Department will not attempt to recover DUI response costs when assisting an allied agency during an incident covered by the law. Therefore, it is the policy of this Department that all commands shall use the centralized DUI cost recovery process.

 - c. Cost Recovery Criteria. The Department will seek to recover DUI incident-related costs for alcohol or a combination of alcohol and drugs provided all the following apply:
 - (1) An arrest was made for a violation of California Vehicle Code (CVC) Sections 23152, 23153, or a greater offense involving alcohol and/or drugs.

 - (2) The arrested party was determined by the investigating officer to have caused a response to an incident.

 - d. In addition to the above criteria, one of the following must also apply to bill upon arrest:
 - (1) A supporting evidential (Preliminary Alcohol Screening is insufficient) test with a Blood Alcohol Concentration (BAC) result of at least .08% or greater (breath tests must have two readings of at least .08%).

(2) A commercial driver while driving a commercial vehicle has a supporting evidential test with a BAC result of at least .04% or greater.

e. In addition to the above criteria in paragraph 3.b.(1) and 3.b.(2), a conviction for CVC Sections 23152, 23153, or greater offense is required when one of the following applies:

(1) A BAC test returns under .08%.

(2) A chemical test is positive for drugs only.

(3) There is no supporting BAC test or drug test (e.g., a refusal).

f. If a case must wait until conviction to meet the DUI Cost Recovery Program criteria:

(1) **It is** considered a conviction in this program when a case results in a plea of nolo contendere (no contest) to the original arrest charges of CVC Sections 23152, 23153, or greater offense involving alcohol and/or drugs.

(2) **It is not** considered a conviction in this program when a case is plea bargained to a lesser offense.

4. AREA RESPONSIBILITIES.

a. Local Procedures. Area offices shall develop local procedures to ensure a CHP 735, Incident Response Reimbursement Statement, is prepared for each arrest that meets the cost recovery criteria. The CHP 735 is located on the CHP Intranet site, under Forms.

b. Completion of CHP 735, Incident Response Reimbursement Statement. The cost recovery criterion is separated into two separate sections on the CHP 735: Section A (refer to Annex A) and Section B (refer to Annex B). Section A shall be completed when the billing is based on arrest. Section B shall be completed when the billing is based on conviction. Submit only those forms which meet **ALL** the criteria in either Section A or Section B; only one section shall be completed per case.

(1) Completed CHP 735s, based on Section A (refer to Annex A) shall be submitted to Fiscal Management Section (FMS), Accounts Receivable Unit (ARU), within ten business days of **one of the following dates**:

(a) The date BAC results of .08% or greater are received.

(b) The date BAC results of .04% or greater are received for a commercial driver.

(2) Completed CHP 735s, based on Section B (refer to Annex B) shall be submitted to ARU within ten business days of the notification of a conviction of CVC Sections 23152, 23153, or greater offense as a result of **one of the following**:

- (a) In the case of a refusal.
- (b) An arrest for drugs only.
- (c) A BAC of less than .08%.

c. Defendant. Include the offender's name, address, date of birth, arrest date, social security number (if available), and driver license number.

NOTE: If the defendant is a transient, log on the CHP 735A, Case Log - DUI Cost Recovery Program, located on the CHP Intranet site, under Forms, but **DO NOT** submit the CHP 735 to FMS.

d. Court. Include the name of the court, court case number, and conviction date (if applicable).

e. Recording Total Staff Hours. Record the total number of staff hours involved in the incident response.

(1) Record staff hours to the nearest fifteen minutes. For example: one hour, thirty minutes = 1:30.

NOTE: Half-hour increments are recorded as **:30**, not :50.

(2) Record the number of staff involved in the incident response.

(a) When only one officer is involved, write their name and ID number under each respective category along with the appropriate hours.

(b) When more than one officer is involved, list each one by name and ID number next to the applicable activity, then record the hours for each activity. All officer hours will be added and totaled in the Total Hours column. If the number of officers per activity exceeds the number of lines available, continue to record the information on another CHP 735.

(c) The number of staff hours charged on the CHP 735 must agree with the appropriate CHP 415, Daily Field Record. Area offices must be able to

verify the hours claimed on the CHP 735 when offenders challenge the hours billed. If an Area office cannot substantiate the hours billed, the Department cannot recover incident costs. In order to reconcile the hours, please ensure the following information is included:

1 Offender's name and court case number shall be included on the CHP 415.

2 When time recorded under a specific category (e.g., Accident Investigation, Partner Assist, Response Time) on the CHP 415 includes more than one activity, indicate the billable DUI time in the Notes portion on the CHP 415.

f. Staff Activity (Officer). The following activities will be included in total staff time billing for which offenders are liable:

- (1) Response Time.
- (2) On-Scene Investigation.
- (3) Follow-up Investigation.
- (4) Report Writing.
- (5) Vehicle Storage.
- (6) Call Back.
- (7) Field Sobriety Testing.
- (8) Transportation.
- (9) Booking.
- (10) Chemical Testing.
- (11) Traffic Control.

g. Other Involved Staff. Include time expended for incident investigation, vehicle storage, or in-custody activity by officers-in-charge, sergeants, lieutenants, or captains. **Do not include their supervision time for these activities.**

h. Total Hours. All hours and minutes charged to the incident will be automatically calculated and recorded in the Total Hours box.

i. Total Costs. The total cost will be automatically calculated by multiplying total activity hours by current officer hourly rates.

NOTE: The hourly rates are sent out to all Area offices via Communications Network message from FMS.

j. Distribution. Commands shall submit the scanned CHP 735, rather than hard-copy, via SharePoint Billing Depot located at: <https://chp2go.sharepoint.com/sites/BillingDepot>, under Upload CHP 735 Docs, for processing. Refer to the Instructions for CHP 735 Processing, on the Billing Depot home page, for instructions on submission. The original shall be retained in the Area office file.

5. CHP 735A, CASE LOG - DUI COST RECOVERY PROGRAM.

a. Log Procedures. CHP 735A, Case Log – DUI Cost Recovery Program, is available to assist Area offices in tracking cases. The use of this form is optional. Area offices using this form, or any other case monitoring system (i.e., logging method), shall include the following information:

(1) Defendant Information. Defendant's full name and street address.

(2) Violation Information. Incident date and CVC Section violated (e.g., 23152, 23153, or greater offense involving alcohol).

(3) Court Information. Court name, case number, and conviction date (if applicable).

(4) Fiscal Management Section Information. Date the CHP 735 was submitted via Billing Depot to FMS.

(5) Blood Alcohol Concentration Test Results. Results of the supporting BAC test.

b. Follow-up Information. Cases that do not result in a conviction within 12 months after submission to the District Attorney may be closed out after court verification. Close out the case by drawing a line through the Conviction Date and Date to FMS; then note the reason for case closure and date of last follow-up check.

6. FISCAL MANAGEMENT SECTION BILLING PROCEDURES. Fiscal Management Section shall review all CHP 735 forms received for completeness of information. Forms that do not contain sufficient information for invoicing an offender shall be

returned to the issuing Area office. When the CHP 735 information is complete, FMS shall prepare an invoice. Invoices will direct the offenders to send their payments to FMS.

7. REFUNDS. Refunds of overpayments, or as a result of erroneous charges, in an amount of \$5.00 or more, will be processed by the Department.

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