

Maricopa County Attorney's Office  
Prosecution Policies and Procedures

CHAPTER PLEA AGREEMENTS	EFFECTIVE DATE 08/13/2020	PROCEDURE # 7.7
SECTION DRIVING UNDER THE INFLUENCE OFFENSES		
DISTRIBUTION TRIAL ATTORNEYS	REVISION DATE	REVISION #

This policy applies to all DUI offenses regardless of which bureau is handling the case.

A. GENERAL CONSIDERATIONS

When determining whether a plea offer is appropriate, whether the presumptive offer should be extended, and the specifics of any plea agreement, DCAs should consider the following:

1. the defendant's driving behavior,
2. field sobriety test observations,
3. criminal record,
4. overall driving record, and
5. the level of impairment as shown by the results of any scientific test.

B. AGGRAVATED DUI

1. Aggravated DUI Based on License Suspension, Cancellation, Revocation or Refusal

If the defendant is charged with Aggravated DUI based on suspension, cancellation, revocation or refusal, the presumptive plea offer is to an endangerment, a class 6 designated felony and a misdemeanor DUI offense with a stipulation to probation and a four month jail term along with all other legally required consequences of a plea to DUI if

- a. the defendant has no prior felony record, and
- b. the defendant has no more than one prior misdemeanor DUI conviction in the previous 84 months.

2. Aggravated DUI Based on Priors

If the defendant has two or more DUI convictions within 84 months any plea must be to the charge.

3. Aggravated DUI Based on Minor in Vehicle

- a. If the only basis for an Aggravated DUI charge is the fact that a person under the age of 15 was in the vehicle, the presumptive offer is a plea to at least a class 6

undesigned felony with a stipulation to at least the minimum sentence proscribed for the misdemeanor DUI.

- b. If another felony DUI is charged in addition to the Aggravated DUI based on a minor in the vehicle, the defendant must plead to the highest level Aggravated DUI.

C. MISDEMEANOR DUI

1. Presumptive Offers Based on BAC. Unless the defendant has a prior DUI conviction within the last 60 months, blood alcohol content should be considered in the following manner:

- a. if the BAC is below .09, a plea to a non-DUI offense is permissible after a full consideration of all the factors in (A) above.
- b. if the BAC is between .09 and .15, the presumptive offer is a plea to the charge.
- c. if the BAC is below .17, the presumptive offer is a plea a to DUI pursuant to A.R.S. § 28-1381.
- d. if the BAC is between .17 and .22, the presumptive offer is a plea to Extreme DUI pursuant to A.R.S. § 28-1382(a)(1).
- e. if the BAC is .22 or above, the presumptive offer is a plea to Extreme DUI pursuant to A.R.S. § 28-1382(a)(2).

2. DUI Priors

- a. Prior within 60 months. DCAs must allege a DUI prior that is within 60 months of the current offense, and those allegations must not be dismissed as part of a plea.
- b. Prior older than 60 months. DCAs may dismiss an allegation of a prior DUIs that is more than 60 months from the current offense in a plea agreement after consideration of all the factors in (A) above.

D. ATTEMPTED DUI

DCAs are not permitted to plead any DUI offense to an “attempt.” Attempted DUI and attempted Aggravated DUI are not considered DUIs for purposes of alleging a prior DUI conviction by either the Motor Vehicle Division or courts.