

 <div>Policy and Procedure</div>		<div>Policy Number</div> <div>12.06</div>
Chapter	Traffic Operations	<div>Approved By:</div> <div>Robert L. Ticer, Chief of Police</div>
Article	Impaired Driving	
Effective Date: January 18, 2021		

PURPOSE

To provide guidance to Loveland Police officers for the successful investigation and prosecution of impaired drivers.

POLICY

Impaired driving is statistically proven to increase the likelihood an impaired driver will be involved in a motor vehicle crash. In keeping with the Loveland Police Department's mission to "Save lives, fight crime, survive," the Loveland Police officers will strictly enforce and seek out instances of drug or alcohol impaired driving. The Loveland Police Department seeks to reduce the frequency and seriousness of motor vehicle crashes and their associated human and economic impacts by removing impaired drivers from our roadways. <CALEA 61.1.9>

DEFINITIONS

None

GENERAL GUIDELINES

Impaired Driving Investigations <CALEA 61.1.5 (a)>

Persons suspected of impaired driving will be handled pursuant to procedures established by the Colorado Department of Public Health and Environment (CDPHE)(breath and blood tests), the Department of Revenue (Expressed Consent), the National Highway Traffic Safety Administration (Standardized Field Sobriety Maneuvers), and by Department policy.

Impaired-Driving Investigations <CALEA 61.1.10>

Officers will be alert to the indicia of impairment during patrol operations, traffic stops, and crash investigations. Once in contact with a suspected impaired driver, an officer should:

- Continually assess the driver's cause and degree of impairment;
- Request a cover officer;
- Request the driver exit the vehicle;
- Ask the driver to complete voluntary roadside maneuvers;
- Determine if an arrest is warranted;
- Determine if Drug Recognition Expert assistance is necessary;
- Determine appropriate dispositions for passengers and the vehicle; and,
- Complete the chemical testing and booking processes.

Standardized Field Sobriety Maneuvers (SFST)

The officer will demonstrate and conduct the SFST test battery pursuant to National Highway Transportation Safety Administration (NHTSA) protocols. Such tests will only be conducted by officers with the appropriate certification.





Expressed Consent <CRS 42-4-1301.1>

As soon as practicable after a driver is in custody for an impaired driving offense, the officer will inform him/her of Colorado Expressed Consent.

Generally, the driver will be offered the choice of a breath or blood test. However, if the officer suspects the arrestee is impaired solely by drugs, the officer will tell the arrestee that s/he must submit to a blood test.

If the officer believes that the driver is impaired by alcohol and drugs, and the driver submits to a breath test with results that are inconsistent with the officer's observations of impairment, the officer will inform the driver s/he must submit to a blood test.

If the driver elects to submit to a breath test, the driver will be transported to the Department or any other agency with a certified Evidential Breath Alcohol Testing (EBAT) instrument.

If the driver chooses a blood test, the driver will be transported to a medical facility where a qualifying medical professional draws the driver's blood. The attending officer will ensure the medical professional uses a Department-approved blood-test kit. <CRS 42-4-1301.1 (6)(a)>

If the driver refuses to submit to chemical testing, the officer will advise the driver that there is the potential of administrative sanctions against their driving privilege.

If the results of any of the chemical tests are at, or above, legal limits set by state law, or if the driver refuses a chemical test, the officer will complete an Express Consent Affidavit and Notice of Revocation and mail it to the Department of Revenue with a copy of all documents related to the impaired driving investigation.

The driver's vehicle may be: 1) secured and locked at the scene; 2) released to a sober person of the driver's choosing; or, 3) towed in accordance with Department policy. Officers will document the disposition of the vehicle.

Drug Recognition Experts (DREs)

If an officer conducts roadside maneuvers on a driver and they do not perform them in a manner consistent with sobriety, and no indicators of alcohol impairment exist, drug impairment should be considered.

If an officer believes the driver is impaired, the officer should make the arrest as any other DUI arrest. The officer shall advise the driver of expressed consent and ask the driver to comply with the taking of a blood test. Once the blood sample is collected, advise the driver of their rights under Miranda and ask them if they are willing to perform a drug influence evaluation. If the driver waives Miranda and agrees to the evaluation, request assistance from a DRE. If no DRE is on-duty, ask for approval from the on-duty supervisor to send a DRE page.

If an officer has questions about drug impairment or how to process a DUID, a DRE consult page can be sent with approval of the shift supervisor. A DRE will contact the officer to assist.





Final Disposition of Driver

After booking has been completed, the officer will determine whether the driver qualifies for release. If the driver does not qualify for release, the driver will be transported to the Larimer County Jail. If the driver qualifies for release, but is unable to locate a responsible party, the driver will be released according to Department policy.

Felony DUI <CRS 42-4-1301 (1)(b)>< People v. Raider, 2021COA1 (Colo. App 2020)>

Driving Under the Influence (DUI) is a class 4 felony if the violation occurred after three or more prior convictions arising out of separate and distinct criminal episodes for DUI, DUI Per Se, or DWAI; vehicular homicide, as described in section 18-3-106(1)(b).

A person is deemed to have a prior conviction for DUI, DUI per se, or DWAI; vehicular homicide, as described in section 18-3-106(1)(b), if the person has been convicted under the laws of any other state, the United States, or any other territory subject to the jurisdiction of the United States.

There is no statutorily defined look-back period the prior alcohol related driving offense convictions had to have occurred within. If the conviction occurred in the lifetime of the DUI driver, it will count towards the three prior alcohol related driving convictions required for the felony DUI.

Check the arrestee's driver's history, criminal history, and the Colorado Courts website to determine an accurate amount of prior alcohol-related driving convictions.

The officer must advise the driver of Colorado Expressed Consent as in any other DUI arrest. If they refuse to comply with or select a chemical test, officers may apply for a search warrant for the taking of their blood without the suspect's consent only when the officer has probable cause to believe that the person has committed:

- Criminally negligent homicide pursuant to C.R.S. 18-3-105; or
- Vehicular homicide pursuant to C.R.S. 18-3-106(1)(b); or
- Assault in the third degree pursuant to C.R.S. 18-3-204; or
- Vehicular assault pursuant to C.R.S. 18-3-205(1)(b); or

Intoxilyzer Training

The Department will train or verify training has been provided to each officer prior to expecting the officer to use the intoxilyzer. Operators are required to maintain certification according to Department and CDPHE guidelines.

