



Section 4/300 ♦ Traffic Enforcement		
4 / 304	Traffic Offenses Involving Alcohol / Drugs	02/05/96 Rev. 6/08/04
Accreditation Standards	61.1.2/61.1.5/61.1.10/61.1.11	

4 / 304.05 POLICY

The Laurel City Police Department recognizes that drivers impaired by alcohol and/or other intoxicants represent a serious threat to the safety of others. Because of the seriousness of this problem, the policy of this Department is to maintain a driving while impaired enforcement program which includes provisions for public education and enforcement.

4 / 304.10 PURPOSE

The purpose of this order is to establish procedures for the arrest of individuals for driving or attempting to drive a motor vehicle while intoxicated or under the influence of alcohol and/or drugs.

4 / 304.15 DRIVING WHILE IMPAIRED COUNTERMEASURES

Training

Officers receive formal training in driving while intoxicated (DWI) enforcement in the entrance level police training academy, which is further reinforced during the field training program.

The training includes, but is not limited to:

- Identifying impaired motorists by characteristic driving behavior;
- Identifying the behavioral signs of intoxication;
- The proper administration of field sobriety tests; and
- Completion of the required alcohol influence reports and citations.

Chemical Analysts

The current approved instrument for the analysis of breath samples as a measure of alcohol concentration in a person’s breath is the Intoximeter EC/IR, Maryland Certification.

Departmental breath test operators receive detailed instruction in the administration of intoximeter equipment and are certified in its operation by the State of Maryland, State Toxicologist.

Departmental technical/maintenance persons receive detailed instruction in the administration and maintenance of a chemical test for alcohol program and are certified by the State of Maryland, State Toxicologist to perform preventive maintenance on utilized breath testing equipment.

Departmental Preliminary Breath Test (PBT) operators receive detailed instruction in the administration of PBT tests and are certified by Departmental instructors.

Preventive

The Department’s D.A.R.E. officer is responsible for the development, implementation, and maintenance of several drug and alcohol awareness programs for school-aged children. The Community Liaison Officer will be expected to develop programs for community interest groups.

Efforts in the area of selective enforcement pertaining to DWI/DUI violations will include:

- Selective assignment of personnel to locations where and when analysis indicate that a significantly high ration of accidents and alcohol related violations occur.
- Selective surveillance of those roadways and locations where analyses indicate an unusually high incidence of accidents involving alcohol/drug impaired drivers.

4 / 304.20 ARREST PROCEDURES

In accordance with Sections 16.205.1 and 21.902 of the Maryland Vehicle Law, the following procedures will be used when making an arrest for alcohol/drug related traffic offenses.

Initial Contact

- Apprehend the defendant at the earliest possible time after probable cause has been established.
- The advisement of Miranda Rights is not necessary unless an interrogation beyond identification requirements will be asked.
- If the defendant requires any prescription medication, proceed as follows:

- Advise the defendant that if the taking of the medication causes the two-hour time limit to expire, the defendant's action will be considered as a test refusal and may result in the suspension of the defendant's license to drive. Advise the defendant that they can present medical evidence substantiating the need for medication at the MVA hearing to rebut this action.
- If the defendant still wants the medication, afford the opportunity to take the medication; wait 20 minutes and conduct the test.

NOTE: The only medications normally required immediately are those for heart and chest pain (usually nitroglycerin), pulmonary function or diabetes. However, it is a Departmental policy not to refuse a DWI defendant any prescription medication. In the absence of a prescription container for the medication, the representation by the defendant that the medication is, in fact, prescription medication will be accepted.

When a medical difficulty becomes apparent, have the defendant transported via ambulance to the nearest hospital emergency room where medical personnel can assess the problem.

Defendant's Vehicle

If the defendant is alone and stops the vehicle in an unsafe or illegal location, or the vehicle is impeding or will impede traffic for an upcoming rush hour, the officer may elect to move the vehicle, upon receiving permission from the defendant, to a nearby legal parking area. The officer will ensure that the vehicle is locked and will take the keys. If permission to move the vehicle is refused, the defendant fails to respond, or the officer chooses not to operate the vehicle (for health, safety, or liability reasons), the vehicle will be towed in accordance with the established towing policy. If the defendant stops the vehicle in a safe and legal location, the officer should ensure the vehicle is locked and left at the scene. The keys may be turned over to a sober adult possessing a valid driver's license who responds to take custody of the defendant.

If the vehicle is occupied by passengers when the defendant is taken into custody, officers may release the vehicle to them under the following conditions:

- The defendant has an ownership interest in the vehicle and grants permission to a sober, licensed adult passenger to operate the vehicle.
- One of the passengers has an ownership interest in the vehicle and is licensed and sober; or this person grants permission to another licensed and sober individual to operate the vehicle.

If the passengers do not meet the above criteria, the vehicle and the keys will not be released. The vehicle will then be towed or parked and locked and the officer will retain the keys. The officer should take reasonable steps to arrange alternative transportation for the passengers. Factors such as time of day, adverse weather conditions, location of arrest, age, sex, and the physical condition of the passengers should be used as guidelines when weighing alternatives for the disposition of the passengers.

In all arrests for driving while intoxicated, (except fatalities, refer to 4/304.35), the DR-15 form "Advice of Rights to Chemical Test" will be executed. All blanks must be filled in and the completed form read to the defendant, who will be given the opportunity to sign the form acknowledging they have been given the choice of either consenting to or refusing the test. If the defendant refuses to sign, write "refused" in the space designated "Operator's Signature". The arresting officer will retain the original and a copy will be given to the defendant.

NOTE: Article 24 of the Maryland Declaration of Rights requires that a person detained for suspected Driving Under the Influence of Alcohol or Driving While Impaired must, on request, be permitted a reasonable opportunity to communicate with counsel before submitting to an intoximeter test. Additionally, the defendant has the right to learn the results of the PBT prior to signing the DR-15.

The reasonable grounds field on the DR-15A must be filled in. "See attached" may be used only if the defendant is provided with the attachments at the time of arrest. The sentence "the above stated facts are true and accurate to the best of my knowledge, information and belief" must be inserted at the end of the attachment.

Arresting officers have no responsibility to affirmatively suggest a detained person contact counsel at this point in processing the defendant. If a request is made by the defendant prior to conducting the chemical test:

- Note the time of the request;
- Allow ample use of telephone to the detained person;
- Note number of call attempted; and
- Provide Public Defender's phone number if requested by defendant.

Officers will not allow this request to interfere with the mandated two (2) hour time limit for conducting the chemical test. If it appears that notification of counsel will exceed the two-hour limit, advise the detained person of the administrative penalties imposed for exceeding the time limit to take a chemical test. If this causes the time limit to be exceeded, note a refusal on the DR-15. The two-hour time limit begins at the moment of apprehension.

Remain with the defendant during the twenty minute waiting period prior to the test and witness the administration of the test to provide corroborating testimony if necessary. **Do not allow the defendant to place or keep anything in their mouth from the time of the arrest.**

If the defendant agrees to submit to a test, the intoximeter test will be conducted. If the defendant refuses the test, the DR-15A form must be completed. A properly prepared DR-15A form is a necessary condition for the Exercise of Administrative Jurisdiction by the Motor Vehicle Administration under the Implied Consent Law.

Disposition of copies:

- The officer will submit copies with all other paperwork;
- The defendant will be given a copy; and
- Fold, seal and mail the hard copy to MVA following the instructions on the back of the form. The arresting officer must complete and have ready to mail by the end of his/her tour of duty.

The defendant will be charged on a Maryland State Citation by circling the preprinted charge, if available, or by writing in the applicable charge.

If the defendant refuses the Intoximeter test, then two (2) citations, one for 21-902(a)(1) and one for 21-902(b), should be issued.

Complete the Laurel Police Department Alcohol Influence Arrest Report and include a brief statement of facts in the narrative.

If the defendant is a Maryland resident, with transportation home by a sober adult, and there is no concern regarding the defendant's appearance in court, the defendant need not be taken before a District Court Commissioner when DWI is the most serious charge and/or there are no associated charges which require appearance.

4 / 304.25 CHEMICAL TESTS FOR ALCOHOL

The type of test administered to a defendant will be the intoximeter test. The blood test may be used in any of the following circumstances:

- If the defendant is unconscious or otherwise incapable of refusing the intoximeter test;
- Injuries to the defendant require removal to a medical facility; or
- When an intoximeter is not available.

Intoximeter

A .07% blood/alcohol level is prima facie evidence of driving while impaired. A .08% blood/alcohol test is prima facie evidence of driving under the influence of alcohol.

If the results are above 0.35%, the defendant will be transported to the nearest hospital emergency room for examination.

If an intoximeter test is performed for Maryland State Police, release the chemical test evidence to the arresting trooper. This allows the trooper to testify to the results in court. If the operator prefers to retain the evidence, make copies for the trooper.

If a Laurel Police Department Intoximeter Operator performs a test for another agency that is a member of CTAU, that arrest will be logged in that agency's logbook. If the other agency is not a member of CTAU, the arrest will be logged in LPD's log.

Blood Test

If one of the criteria mentioned above for utilization of a blood test has been met:

The arresting officer will obtain a self-addressed, pre-stamped blood alcohol kit and transport the defendant and the kit to the hospital in accordance with the following:

- The officer will report to the emergency room, request the test, and advise the receptionist of the time remaining before the test becomes invalid due to the expiration of the two-hour time limit.
- Only the blood alcohol collection kit approved by the State Toxicologist will be used for the withdrawal of blood. The forms contained in the blood kit will be filled out as follows:
 - The consent form is to be signed by the accused and retained by the officer.
 - Complete the blood collection report (MSP-34) and include it with the samples. This must include the date and time of arrest. MSP will not process the sample without this information.
 - Complete all four seals; attach two seals to the blood tubes (one on each) and the remaining two will be used to seal the kit inside the mailing container.
 - The MSP-34 form will only be completed in the section titled "Arrest Information". All areas are self-explanatory except the following:

- Case # - use the LPD Arrest #
- Time – use arrest time
- Installation Commander – disregard
- Send Results to – use arresting officer’s name and LPD station address

The entire kit will be properly sealed and mailed immediately ONLY from a mailbox where a daily pickup is made. Registered mail is not necessary.

- The arresting officer will witness the withdrawal of blood and immediately take possession of the containers so that the medical personnel will not have to appear in court.

The MSP Chemical Test for Alcohol Unit will notify the arresting officer by mail of test results based upon submitted information from MSP-34. The arresting officer will notify the defendant of the blood test results by providing the defendant with a copy of the letter.

4/304.30 UNCONSCIOUS PERSONS

When an operator of a motor vehicle is unconscious or otherwise incapable of refusing to make a chemical test for alcohol and probable cause exists to make an arrest, the officer will:

- Obtain prompt medical attention for the individual and, if necessary, arrange for transportation via ambulance if possible to the nearest medical facility.
- If a chemical test for alcohol will not jeopardize the individual’s health or well-being, the officer will direct a qualified medical person to withdraw blood samples, using a blood alcohol collection kit approved by the State Toxicologist. The consent form will be completed and the word “unconscious” written where the defendant’s signature would normally be placed.
- If the individual regains consciousness or otherwise becomes capable of refusing the test prior to the withdrawal of blood, the investigating officer will proceed with processing as indicated in Section 4/304.20 of this directive.
- The investigating officer will witness the withdrawal of blood and immediately take possession of the containers so that the medical personnel will not have to appear in court.

Blood samples obtained under this procedure will be forwarded as indicated in Section 4/304.25 of this directive.

4/304.35 DRIVERS INVOLVED IN FATAL ACCIDENTS

If a person is involved in a motor vehicle accident that results in the death or life threatening injury of another person, and the person is detained by a police officer who has reasonable grounds to believe that the person has been driving or attempting to drive while intoxicated or while under the influence of alcohol, the person shall be required to submit to a chemical test, as directed by the officer, of the person’s blood or breath to determine the alcohol content of the person’s blood. Any medical personnel who perform any test required by this section are not liable for any civil damages as the result of any act or omission related to such a test, not amounting to gross negligence. (Transportation Article, Section 16-205.1(c)).

Do not complete the DR-15. When involved in a fatal accident, the detained person is required by law to submit to a chemical test as directed by the officer.

If the intoximeter test is selected, the officer will follow the procedures previously set forth in this directive. Refusal of the detained person to cooperate fully will require transport to the appropriate hospital for a blood test.

If the blood test is selected, the officer will witness the withdrawal of blood (using approved blood kit) and immediately take possession of the containers so that the medical personnel will not have to appear in court. Blood samples obtained under this procedure will be forwarded to the State Toxicologist as indicated in Section 4/304.25 of this directive.

4/304.40 DECEASED PERSONS

When the operator of a motor vehicle dies as a result of injuries sustained in an automobile accident, the Deputy Medical Examiner will take charge of the body.

The Deputy Medical Examiner will, as a matter of policy, take a blood sample from the deceased and have it analyzed for blood alcohol content by the State Toxicology Laboratory. The results of the blood analysis will be made available to the investigating officer.

END OF ORDER