POLICY/PURPOSE:
Persons who drive while under the influence of alcohol or other drugs present significant hazards to the public. A primary function of the Cedar Rapids Police Department’s (CRPD) Patrol Division is to reduce alcohol and drug related traffic offenses. This is best accomplished through the use of officers trained in the use of alcohol and drug detection procedures.

Special emphasis is placed on enforcement of laws relating to driving while intoxicated and statutes restricting drinking and driving. The CRPD will make diligent efforts to detect such drivers and enforce the law as intended by The Iowa Legislature. Officers shall stop any driver who is believed, with reasonable suspicion, to be operating a motor vehicle while impaired from the effects of alcohol and/or other drugs and shall arrest when probable cause exists.

DEFINITION:
Serious Injury – Refer to Chapter 321J.1 (9) and 702.18 of the Code of Iowa.

Communication by Arrested Persons – Refer to Chapter 804.20 of the Code of Iowa.

SCOPE:
The CRPD will conduct special enforcement programs and countermeasures aimed at the enforcement of Operating While Intoxicated (OWI) laws. These programs and countermeasures may be in conjunction with other law enforcement agencies within the area. The CRPD will actively pursue state and federal grants pertaining to alcohol enforcement. In addition to utilizing grants, the CRPD also includes OWI programs and countermeasures which include, but are not limited to: [61.1.10]

- Specialized enforcement projects.
- Directed patrol.
- Educating through driver’s education classes.
- Education through controlled drinking exercises.

PROCEDURE FOR ADULT: [61.1.11]
Impaired/Intoxicated Drivers:
When officers have reasonable suspicion that a motor vehicle may be operated by an intoxicated driver, officers should conduct a traffic stop with the motor vehicle to investigate further. If during an encounter with a driver, the investigation leads officers to believe that the driver of a vehicle is impaired, or the driver is under 21 years old and appears to have been drinking, officers should:

- Administer the Standardized Field Sobriety Tests (SFST) according to training.
If possible, the SFSTs and any additional tests should be conducted at a location where they are recorded by the in-car audio/visual recording equipment (A/VRE) if equipped.

- Officers should attempt to conduct the SFSTs at a location safe from heavy traffic and extreme inclement weather.
  - This may require one officer to stand by with the suspect vehicle while the suspect is transported to a close and acceptable location to be tested.
    - If possible, avoid testing at the LCCC, because Iowa Code 804.20 applies on arrival.
  - The Joint Communications Agency (JCA) must be notified of the transport.
    - Officers will include sex of the suspect, beginning and ending mileage, and alternate testing location with their radio traffic to JCA.

- If the suspect refuses a standardized field sobriety test, the officer should proceed to the next test and make certain the suspect is offered each test individually.
- If the suspect is impaired to the point it is unsafe to administer the SFSTs, the SFSTs should be stopped and the reasoning for stopping the tests should be noted in the officer’s report.
- Field tests other than the SFSTs may be utilized and may help to show impairment exists; however, the tests have not been evaluated properly by the National Highway Traffic and Safety Administration (NHTSA) and are not standardized. These tests should be conducted in accordance to training and may include but are not limited to, reciting the alphabet, counting backwards, and finger count.
  - These tests may be the only alternatives to the SFSTs for individuals who are physically unable or too intoxicated to perform the SFSTs.

- Offer a Preliminary Breath Test (PBT).
  - In criminal proceedings for OWI-related charges, the PBT result is not admissible. Also, officers can not testify that a PBT indicated the presence of alcohol; however, the PBT is admissible to the extent that officers can inform the jury a PBT was administered. A PBT should be used only to confirm any impairment observed by officers is due to alcohol and not another substance.
    - Officers who are issued a PBT must check the PBT at least once per calendar month.
      - PBTs shall be calibrated if necessary. [Iowa Administrative Code 661-157.5(2)321J] This record will be maintained on the PBT Calibration Log Form (CRPD # 748) located in the Traffic Unit.
The PBT should be administered after the SFSTs if possible, unless the suspect refuses the SFSTs or is physically unable to complete the SFSTs.

If possible, administer the PBT in view of the A/VRE, but avoid reading the result of the PBT out loud to the defendant.

Officers should note what time the PBT was administered or refused.

If officers determine there is probable cause to make an arrest for OWI, the suspect should be notified of any charges and transported as soon as practical to the Linn County Correctional Center (LCCC) for OWI processing.

When dealing with a suspect with previous OWI convictions:
- Notate the previous convictions in the officer’s report
- Charge with the appropriate enhanced crime
- Avoid stating any enhanced charges on camera.

NOTE: Officers will not charge suspects with OWI until specimen results are received. Suspects may be charged on other offenses stemming from the same incident while waiting on specimen results.

OWI Processing At Linn County Correction Center (LCCC):
Once at the LCCC, officers should advise deputies of required information in order for deputies to input the information into the Data Master while officers read the Iowa Implied Consent Form. Officers must meet certain standards in Iowa Code 321J.6 in order to invoke implied consent, and will advise the suspect of the Iowa Implied Consent Advisory prior to requesting a chemical test. Officers will:
- Complete all OWIs with the Mobile Operation While Intoxicated (MOWI) form located in the Traffic and Criminal Software (TraCS) at the LCCC.
- Include all conditions which permit invocation of implied consent on the Iowa Implied Consent Advisory Form (State of Iowa # 432013).
- Read the entire implied consent advisory, word for word, out loud to the suspect. Allow the suspect to follow along with their own copy. Do not summarize the implied consent advisory.
- Request a breath specimen verbally and signature via MOWI.
- Allow a reasonable amount of time for phone calls or attempts if requested by the suspect.
  - Iowa Code 804.20 permits the suspect an opportunity to contact a family member, friend, or legal counsel when requested.
- Ask the suspect to sign the Implied Consent Form (State of Iowa form #432013).
  - If they refuse, attempt to have them sign “Refused”.
    - A signature is not required for consent or refusal.
Determining the Appropriate Charge and Length of Revocation:

- The number of previous OWI convictions and deferred judgements that have occurred in the last 12 years are used to determine if the suspect will be charged with OWI first, second, or third offense.
  - Pending charges that have not yet ended in a conviction cannot be used to enhance the charge.

- The number of revocations determines how long the suspect will lose their driving privileges.
  - Zero tolerance/.02 violation revocations count as prior revocations.
  - Deferred judgements will count as a previous conviction; however, it will not count towards the suspect’s revocation period.
  - If uncertain of the proper revocation period, charge the suspect with the shorter revocation period. The Iowa Department of Transportation (IDOT) will amend the records later if needed.

- Always confiscate Iowa issued licenses or permits if the suspect is placed under arrest (failed or refused).
  - Do not take licenses or permits if waiting on blood or urine results.
  - Do not take out of state licenses.
  - Temporary restricted licenses, as a result of the Implied Consent revocation notice, will not be issued to suspects that:
    - Are suspended, revoked, or barred.
    - Do not have a valid license.
    - Have an out of state license.
    - Have a valid license, but not in their possession.
  - Officers will notify the suspect of the appropriate time frame of their suspended license, depending upon the offense.

- Copies of all paperwork should be included with the officers arrest paperwork when turned in to the command desk.
  - All MOWI
  - Implied Consent Form (State of Iowa form #432013).
  - Incident Report (CRPD #600) or Hit and Run Report (CRPD #606).
Independent Test:

- If the suspect consents to a breath test and gives a sample, they have a right to an independent test after the breath test if they request the test. This test is at the suspect’s own expense, and will only be done at St. Luke’s Hospital. The Linn County Deputy administering the breath test will advise the suspect of this right.
  - If requested by the suspect, the arresting officer will transport the suspect to St. Luke’s Hospital.
    - The suspect should be escorted directly to the lab for the independent test. Registration is not required.

Urine Test for Drugs:

- If a suspect’s breath sample has an alcohol concentration below 0.08, and officers are able to articulate why they believe the offender to be under the influence of drugs or the combination of drugs/alcohol, the officer should ask for a secondary urine test.
  - If the suspect consents to the urine test:
    - Another officer must bring a urine sample kit from the command vault to the LCCC.
    - An officer of the same sex as the suspect will observe the collection of the urine to ensure it is not contaminated by the suspect.
    - The time and location of the collection should be noted in the officer’s supplement.
    - After the collection, the bottle should be:
      - Securely closed.
      - Labeled with two identifiers. Name and date of birth.
      - Labeled with a biohazard sticker and place into a sealable plastic bag and tagged with a property receipt.
  - If the suspect refuses the urine test, the test is considered a refusal, even though the suspect consented to the breath test, as long as the officer has probable cause to believe the suspect is under the influence of drugs.

- If specimen samples have been submitted to the lab for analysis, officer should charge the suspect with any applicable charges except for OWI. OWI related charges depend upon the lab results.
**JUVENILES: [61.1.11]**

Juvenile OWIs are handled in the same manner as adult OWIs with the following exceptions:

- Transport the juvenile to the LCCC to process.
  - Notify the LCCC that the driver is a juvenile.
  - Do not enter the jail until LCCC staff advises they are ready to accommodate a juvenile.

- After the arrest of a juvenile, officers must make an attempt to contact the juvenile’s parent/guardian. [44.2.2e]
- Read the juvenile the Iowa Implied Consent Advisory in front of a parent/guardian.
  - If the parent/guardian is not present for the OWI processing, the Implied Consent Advisory may be read over the phone to the parent/guardian while reading it to the juvenile.
- Read the juvenile their Miranda Rights. [44.2.2c]
- The juvenile makes the implied consent decisions.
  - The parent/guardian may make suggestions; however, the final decision is up to the juvenile.

- Juveniles are charged in MOWI located in TraCS in the same manner as an adult.
  - All additional paperwork should be completed the same as if the suspect were an adult.

- Release juvenile to parents or transport them to juvenile detention if needed.
  - Prior to release, the juvenile should be processed for fingerprints and photographs.
    - This can be completed at the CRPD station or at the LCCC if workload allows.

- Do not ask questions unless given permission by the parent/guardian.

**ZERO TOLERANCE/0.02 VIOLATIONS: [61.1.11]**

Iowa Code 321J.2a provides for administrative revocation for persons under the age of twenty-one who operate a motor vehicle with an alcohol concentration greater than 0.02, but less than 0.08. This is an administrative action and not a criminal charge. It can result in a revocation of driving privileges. Officers should:

- Treat each driver as if they may be over an alcohol concentration of 0.08.
- Conduct field sobriety tests same as adults
- If the driver falls into the Zero Tolerance/0.02 violation, do not tow the suspect vehicle. Contact parent/guardian, or registered owner to retrieve vehicle if possible.
- Inform the parent/guardian if the driver is under the age of eighteen. [44.2.2e]
o Have parent/guardian meet you at the jail if possible.

- Transport the driver to the LCCC to process
  o Notify the LCCC if the driver is a juvenile.
    ▪ If the driver is a juvenile, do not enter the jail until LCCC staff advises they are ready to accommodate a juvenile.

- Read the driver the Iowa Implied Consent.
  o If the driver is a juvenile and the parent/guardian is not able to meet at the jail, read the implied consent advisory over the phone while reading it to the driver.
  o Allow the driver to then speak with the parent/guardian on the phone after reading the implied consent advisory.

- The driver makes the implied consent decisions.
  o If the driver is a juvenile, the parent/guardian may make suggestions; however, the final decision is up to the juvenile.
    ▪ A failed breath test results in a sixty day revocation on a first offense and ninety days on subsequent offenses.
    ▪ A refusal to test results in a one year revocation on a first offense, and two years on subsequent offenses, or until their 18th birthday.

- The driver may not request an alternative test (blood). This is not an option as the Zero Tolerance/.02 Violation is an administrative action.
- Always take Iowa issued licenses or permits, and issue a temporary license that is valid for ten days.
  o Do not take out of state licenses.
  o Temporary licenses will not to be issued to suspects that:
    ▪ Are suspended, revoked, or barred.
    ▪ Do not have a valid license.
    ▪ Have an out of state license.
    ▪ Have a valid license, but not in their possession.
  o Officers will notify the driver of the appropriate time frame of their suspended license, depending upon the offense.

- If the driver is a juvenile, release them to a parent/guardian, adult family member, or adult the parent/guardian has agreed the juvenile may be released to.
If the driver is an adult and has a BAC over .08, then officers should proceed as an adult OWI.

If the driver is an adult and has a BAC under .08, then the driver may be released.

**Parental and School Notifications of Juvenile Offenders:**
Subsequent to following the procedure with juvenile OWIs and .02 violations, parents or guardians have already been contacted or an attempt has been made.

School notifications should be accomplished by completing the Juvenile PULA Form (CRPD #731). These forms shall be forwarded to Juvenile Court. A Juvenile Court Officer will make any school notifications.

**Serious Injury or Death:** [61.2.1a, d]
The Traffic Unit Commander will be contacted for all serious injury or fatality accidents.

Each serious injury or fatality accident should be approached as if the driver is impaired and will refuse chemical testing. If officers can establish probable cause that the suspected impaired driver was 1) driving, 2) is intoxicated, and 3) that the intoxicated driver was the proximate cause of the accident, then officers need to immediately begin to apply for a warrant. Officers should not wait for a refusal and then begin to apply for a warrant. When asking for consent, if the suspect refuses, the warrant should be either in hand or the process at least started to avoid wasting valuable time.

At the scene of an accident where serious injury and/or death may result, officers should:
- Document the injuries, odor, observations, admissions, and open containers to establish probable cause.
- If possible, attempt to administer the SFSTs in the field.
  - Officers may have to wait until arrival at the hospital.
    - SFSTs may not be possible due to injuries sustained in the accident.
- A PBT may be used when a peace officer has reasonable grounds to believe that the operator has been involved in a motor vehicle accident resulting in injury or death. (State of Iowa Code 321J.5)

Assisting officers will assist with:
- Traffic control
- Collecting evidence
- Obtaining formal witness statements.
OWI packets are located at the nurses’ station in the emergency rooms of both local hospitals.

If the driver is to be released from the hospital, the investigating officer or their commander will contact the Traffic Unit Commander, prior to release, to confer if any action is to be taken.

**NOTE:** Suspects admitted to the hospital should not be charged with any offenses until all investigations and specimen analyses are complete.
- Do not place a Police Hold for any charges if an OWI charge is pending.

**Unconscious, Incapable, and Deceased Drivers:**
- If invoking implied consent and a licensed physician, physician assistant, or advanced registered nurse practitioner has determined that the suspect is incapable, unconscious, or dead, officers should immediately obtain a warrant and proceed with a withdrawal of a specimen for chemical testing pursuant to the obtained search warrant. If the two hour window, starting from when the defendant last operated the vehicle is nearing, complete the forms as outlined in the Specimen Requirement’s section, and also:
  - Request the licensed physician, physician assistant, or advanced registered nurse practitioner and lab technician to fill out the proper portions of the St. Luke’s Hospital Legal Blood/Urine Testing Request and Chain of Custody triplicate form (hospital form) or applicable University of Iowa form(s).

**Conscious Drivers:**
If the suspected impaired driver is transported to a hospital and is conscious and alert, proceed with normal implied consent procedures documented above under OWI Processing, with the following exceptions:
- Officers will use the paper version of the Iowa Implied Consent Advisory Form (State of Iowa # 432013) rather than electronic signature pad.
- A breath test will not be requested as an official breath test can only be administered at the LCCC.
- An appropriate blood or urine test should be requested depending upon the suspected substance to be tested for.
  - Preferred specimens for tests are blood for alcohol and urine for drugs.
- If the suspect consents, officers should complete the forms as outlined in the Specimen Requirement’s section and;
A lab technician will fill out the proper portions of the St. Luke’s Hospital Legal Blood/Urine Testing Request and Chain of Custody triplicate form (hospital form) or applicable University of Iowa form(s).

- If blood is requested and the suspect refuses, officers must give the suspect the option of a urine test.
  - If both the blood and urine tests are refused, the implied consent should be marked as a refusal.

- If urine is requested and the suspect refuses, no other test will be offered and the implied consent should be marked as a refusal. Proceed with draw of a specimen for chemical testing pursuant to the obtained search warrant.

In the event that any legal issues need to be addressed during an investigation, the Traffic Unit Commander or the on-scene commander will contact the County Attorney or 1st Assistant. If a warrant is required, warrants may be signed by a Magistrate/Judge:

- Traditionally and in-person:
  - Utilize the Application for Search Warrant for Body Specimen Form (CRPD #751)

- Over the phone (paper copies):
  - Follow the Checklist for Obtaining a 321J.10 Search Warrant by Telephone Form (CRPD # 752).
    - Complete, as much as possible, the Application for Search Warrant for Body Specimen/Search Warrant For Body Specimen Form (CRPD #751).
  - Officers should check with the Magistrate/Judge to determine if the officially signed Application for a Search Warrant for Body Specimen/Search Warrant For Body Specimen Form (CRPD #751) needs to be picked up as soon as feasible, or if the Magistrate/Judge will turn in the paperwork to the Clerk of Court.

When executing a warrant:

- Make certain the Iowa Implied Consent Advisory Form (State of Iowa # 432013) is completed with the refusal.
- Make certain a copy of the search warrant and the completed Return of Service is given to the suspect.
- The doctor and lab technician will fill out the proper portions of the St. Luke’s Hospital Legal Blood/Urine Testing Request and Chain of Custody triplicate form (hospital form) or applicable University of Iowa form(s).
  - If urine is collected for alcohol, it will be placed into the test tubes, with gray stoppers, for urine alcohol located at both hospitals.
  - If urine is collected for drugs, officers should follow the same procedure for collecting urine listed previously as for OWI processing at the LCCC. The urine sample kit with the sample cup or the test tubes used for urine alcohol may be used for this. Additional test tubes or a sample kit cup are available at the command vault.
  - If blood is collected, it may be placed into test tubes from the hospital.

- Officers will observe the drawing of blood or urine from the suspect with discretion.
- The St. Luke’s Hospital Legal Blood/Urine Testing Request and Chain of Custody triplicate form (hospital form) or applicable University of Iowa form(s) will be signed by the officer to ensure chain of custody of the specimen. One copy will be included with the officers arrest paperwork and the remaining copies will stay at the hospital.

**NOTE:** If the suspect adamantly refuses the breath, blood, or urine test even with a warrant, it is up to hospital staff to determine what scope of obtaining the specimen they will utilize. Review Iowa Code 321J.10 with medical staff if they have any questions. Medical personnel who use reasonable care and accepted medical practices in withdrawing blood specimens are immune from liability for their actions in complying with requests made of them pursuant to search warrants or pursuant to section 321J.11 - Iowa Code 321J.10(9).

- A subject may be held in contempt for resisting efforts to withdraw a specimen pursuant to a search warrant.
  - If all options fail to obtain a specimen even with a warrant, charge the suspect with an OWI refusal and forward paperwork to the Linn County Attorney’s Office requesting a warrant for contempt (Iowa Code 665.2).

Officer should, as immediately as possible, transport any collected specimens to the station and place the specimens into the Property/Evidence refrigerator.

- All body specimens obtained in OWI accident investigations will go to the Department of Criminal Investigation (DCI) Laboratory for analysis if a death has occurred or any of the parties have serious or life threatening injuries.
- All body specimens to be tested for drugs will go to DCI regardless if any injury has occurred.
Body specimens obtained in OWI investigations not meeting the above criteria should go to Weland Lab.

Notation of the transported specimen should be included in the officer’s report.

The officer collecting the specimen shall email “Police Traffic” and “Police Evidence” to notify them that the evidence has been turned into the Property/Evidence Unit refrigerator.

Commercial Motor Vehicles:
Drivers operating Commercial Motor Vehicles (CMV) have the same process as adult OWIs with some minor exceptions:

- Officers must have a reasonable basis to believe the driver of a commercial vehicle has a blood alcohol concentration over 0.04.
  - The lower alcohol concentration, 0.04, only applies to those with a Commercial Driver’s License (CDL), and while operating a commercial motor vehicle.

- It is very important to read the entire implied consent advisory including the section “Additional Implied Consent Advisory for Commercial Motor Vehicle Operators Only.”
- Only revocations in the last twelve years can be used to enhance charges.
- A test with an alcohol concentration 0.04 or more results in a one year revocation
  - Operating a commercial vehicle, that requires placarding, while impaired is a three year revocation.

- Second offense OWI for a driver with a CDL while operating a CMV results in the driver’s CDL disqualified for life.
- .04 Violations will not result in the CMV being impounded, unless the driver’s BAC is over .08.
- .04 Violations are not a criminal charge. Officers will not charge for OWI but will administer the Iowa Implied Consent Form (State of Iowa #432013).
- If a CDL driver has a BAC.08 or more, then it is not a .04 violation. The driver is processed in the same manner as a non-CDL driver.

Boating While Intoxicated:
Boating While Intoxicated (BWI) can be enforced by any certified peace officer in Iowa. An Iowa Department of Natural Resources (DNR) Conservation Officer should be utilized for any BWI offenses. If a DNR Conservation Law Enforcement Officer is not available, CRPD officers may proceed with any processing.

NOTE: Iowa DNR Boating While Intoxicated packets can be found in the command vault. These packets contain a step by step checklist for officers to follow when processing a suspect for BWI.
The blood alcohol concentration for BWIs is the same as an OWI at 0.08. BWIs should be treated similarly to OWIs with some exceptions:

- SFSTs should be conducted on land, to ensure a stable, non-moving platform.
  - Ensure the boat operator has been on land an adequate amount of time prior to administering the SFSTs.

- A PBT for boating may be used for similar circumstances as with an OWI. See Iowa Code 462.14A.
  - If a peace officer has reasonable grounds to believe that any of the following has occurred, the peace officer may request that the motorboat or sailboat operator provide a sample of the operator's breath for a preliminary screening test using a device approved by the commissioner of public safety for that purpose:
    - The motorboat or sailboat operator may be violating or has violated section 462A.14.
    - The motorboat or sailboat has been involved in an accident resulting in injury or death.
    - The motorboat or sailboat operator is or has been operating carelessly or recklessly, in violation of section 462A.12.

- Unless the boat is needed for an investigation involving a serious injury or death, officers may release the boat to a responsible sober person designated by the boat operator or owner.
  - See the DNR’s Release of Vessel to Responsible Party Form located in the DNR BWI packet.

**BWI Arrests:**

If officers determine there is probable cause to make an arrest for BWI, the suspect should be notified of any charges and transported as soon as practical to the Linn County Correctional Center (LCCC) for BWI processing.

At the LCCC officer should:

- Read the Implied Consent Advisory for boating found in the BWI packet. This is not the same Implied Consent Advisory as for OWIs. See Iowa Code 462A.14A.
  - If convicted, a BWI does not affect a person’s driving status.
  - A BWI conviction will affect a person’s boating privileges.

- Complete all applicable forms from the DNR BWI Packet.
NOTE: BWIs are not reported in the same manner as OWIs. Officers will not populate suspect information into the computer for a BWI. Officer should advise LCCC staff that a “non-memory test” should be used. This is the same test that is completed for Public Intoxication charges.

Serious Injury or Fatality – Boating:
If a serious injury accident or fatality occurs, contact the DNR.

The same procedures as OWIs should be followed with the exception that if a warrant is requested, the vehicle portion should be changed to motorboat or sailboat.

- If the boat operator has an alcohol concentration above 0.08, they should be booked into the LCCC.
- If the operator was transported to the hospital, similar procedures as OWI subjects at the hospital should be followed.
- If the subject was below 0.08 alcohol concentration, and officers are able to articulate that they believe the offender to be under the influence of drugs or the combination of drugs/alcohol - the officer should ask for a secondary urine test.

If a boating accident occurred, officers should consider if any additional charges are applicable. Per Iowa Code 462A.7, an operator involved in a boating accident resulting in property damage or the injury or death of a person must:

- Stop their vessel immediately at the scene of the accident and,
- Assist anyone injured or in danger from the accident, unless doing so would seriously endanger their own vessel or passengers and,
- Give, in writing, their name, address, and vessel identification to anyone injured and to the owner of any property damaged by the accident.

Refer to Iowa Code 462A, where the majority of Iowa’s boating regulations can be found. If necessary, officers may consult with the Linn County Sheriff’s Office or the local DNR Conservation Law Enforcement Officer(s).