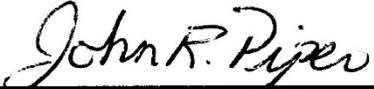




WINCHESTER POLICE DEPARTMENT OPERATION ORDER

NOTE: This policy is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

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| Number 2-13 | | Effective Date March 5, 2018 | Review Date March 2, 2018 | Reviewing Division Administration |
| Subject TRAFFIC ENFORCEMENT | | <input type="checkbox"/> New Policy <input type="checkbox"/> Amends <input type="checkbox"/> Replaces: WPD GO 409, 410, 428, 429, & 502 <input checked="" type="checkbox"/> Revised: June 15, 2010 III. D. January 12, 2011 IV. F. March 5, 2018 III.A.B.1-3,C1,2,6D.2, 5-10,E.1,2-6, IV.A.2,c.1.a-e,2.e.3-7,D.1-3,E.F.1-2c.,V.A2C2,4-6D.1-3,E.1,3-5, G. VI.A.B.C.2-4, VII.B2.3.C,D.1-6 | | This directive shall apply to personnel assigned to the following divisions: <input type="checkbox"/> All Personnel <input checked="" type="checkbox"/> Patrol Division <input checked="" type="checkbox"/> Administration Division <input checked="" type="checkbox"/> Investigation Division <input checked="" type="checkbox"/> ECC Personnel |
| References VLEPSC: ADM.25.06, OPR.07.01 - .12 CALEA | | | | |
|  <hr/> Chief of Police or Designee | | March 5, 2018 <hr/> Date | | |

I. PURPOSE

The purpose of this directive is to prescribe procedures for traffic law enforcement, preventive patrol, proactive enforcement, and relationships with motorists, pedestrians, and the courts.

II. POLICY

Traffic law enforcement involves all activities and operations which relate to observing, detecting, and preventing traffic law violations and taking appropriate action under the circumstances. Enforcement not only involves arrests and citations, but includes warnings to drivers and pedestrians to prevent them from committing minor violations. Traffic enforcement may react to observed violations at traffic crashes, in response to community concerns, or may be proactive to prevent traffic violations. However, overzealous enforcement without considering whether the violator is familiar with the legal requirements or without regard for the circumstances surrounding the violation, causes disrespect for the law and poor relations between the department and the community. The emphasis of an officer's traffic enforcement is placed on violations that contribute to traffic crashes and that present hazards to vehicular and pedestrian traffic.

III. PROCEDURES

A. General

Officers will enforce the same laws consistently under similar circumstances. Before taking any enforcement action, officers must consider the circumstances of the law violation and decide on a course of action which relies on experience, training and judgment. The course of action will either be a written warning or Virginia Uniform Summons. Verbal warnings are no longer permissible. Further, traffic laws will be enforced without regard to race, sex, nationality, location of the operator's residence, or the nature of the vehicle (type, model, whether commercially or privately operated).

B. Types of Enforcement Actions

1. Officers may issue written warning(s) to a violator in lieu of a Virginia Uniform Summons whenever a minor traffic infraction is committed, and it is determined by the officer to be appropriate based on his or her assessment of the situation written warnings are issued using a Warning Citation (WPD-8).
2. A Virginia Uniform Summons will be issued to a violator who jeopardizes the safe and efficient flow of vehicular and pedestrian traffic, including hazardous moving violations or operating unsafe and improperly equipped vehicles.
3. In compliance with Virginia Code, officers will make a physical arrest and take the violator before a magistrate when the officer believes that
 - a. The violator has committed a felony;
 - b. The violator is likely to disregard the summons issued; or
 - c. The violator refuses to give a written promise to appear in court.

C. Handling Special Categories of Violators

1. Officers may consider use of written warnings in lieu of Virginia Uniform Summons for non-residents who commit minor, non-hazardous violations. If appropriate, officers may arrest non-residents by issuance of a summons. If circumstances according to Virginia Code exist, officers will take non-resident violators directly before a magistrate.
2. Juvenile traffic offenders are prosecuted in juvenile and domestic relations court and this will be noted on the summons. Officers issuing a traffic summons to juvenile offenders will notify the juvenile of his or her options regarding prepayment or court appearance and that a parent or guardian must accompany them when they appear before the court.

3. Diplomatic immunity is granted by the United States Government. Generally, immunity may apply to diplomats, members of their families, and employees of diplomatic missions concerning acts performed in the course of their official duties. Different levels of immunity exist. The burden is on the diplomat to claim immunity and show the appropriate U. S. State Department issued credentials.
4. During a session of the Virginia General Assembly and for five (5) days before and after the session, the lieutenant governor, members of the General Assembly, the clerks, the clerks' full-time assistants, and the sergeants at arms of the Senate and House of Delegates shall be privileged from custodial arrest for most traffic offenses. They are not immune from misdemeanor or felony arrests.
5. Military personnel who are passing through the City of Winchester may be treated as non-residents or, if from this area, as residents.
6. Members of the United States Congress may not be detained for the issuance of a summons while they are in transit to or from the Congress. If a member of Congress is stopped for a traffic infraction, upon presentation of valid credentials, they will be released immediately. The officer may then obtain a summons for the member of Congress covering the observed violation and make arrangements to serve the summons at a time when the member of Congress is not in transit to or from Congress or on official business.

D. Traffic Summonses and Parking Tickets

1. All traffic summons, parking tickets, and warning citations are to be issued from the Administration Division through the Administrative Assistant or his/her designee by sequenced number, with the receiving officer's name and book numbers recorded.
2. Officers will be accountable for maintaining control of the traffic summonses, parking tickets, and warning citations issued to them and will account for each summons, ticket, and citations voided or issued to the public.
3. All traffic summonses, parking tickets, and warning citations should be issued to offenders in numbered sequence. It is the officer's responsibility to ensure that he or she plans accordingly to obtain the necessary allotment of traffic summonses and parking tickets for holidays and weekends.
4. If an officer provides a traffic summons, parking ticket or warning citation that has been issued to them to another officer, the officer receiving and issuing the traffic summons, parking ticket or warning citation is responsible for that summons, ticket, or citation.

5. All voided paperwork will be clearly marked “Voided” across the front of the summons, ticket, or citation and will be accompanied by a brief narrative explaining the reason the summons, ticket, or citation was voided.
6. All valid and voided traffic summonses and warning citations will be submitted to the appropriate supervisor for approval. The supervisor will review the traffic summons and warning citations for accuracy and will forward the paperwork to the Records Section for computer entry.
7. All valid and voided parking tickets will be submitted to the appropriate supervisor for approval. The supervisor will review the parking ticket for accuracy and will forward the parking ticket to the Administration Division for processing.
8. If a traffic summons, parking ticket, or warning citation is lost, damaged, becomes missing, or is not useable, the officer issued that traffic summons or parking ticket will complete a memo to their immediate supervisor explaining the circumstances involved. The supervisor will forward that memo through the chain of command to the Captain of the Administration Division.
9. The Records Section will track all traffic summonses and warning citations to ensure the summonses and citations are issued or voided. Any missing summons or citations will be reported to the issued officer’s Division Captain for appropriate action.
10. The Administration Division will track all parking tickets to ensure the tickets are issued or voided. Any missing tickets will be reported to the issued officer’s Division Captain for appropriate action.

E. Enforcement Policies for Traffic Law Violations

1. A Virginia Uniform Summons will be completed whenever a motorist is to be charged with a motor vehicle violation. Officers will notify drivers of the following:
 - a. The court appearance schedule;
 - b. Whether the court appearance by the motorist is mandatory;
 - c. Whether the motorist may be allowed to pay the fine before court and enter a guilty plea;
 - d. Answer the motorist's questions about the summons as thoroughly as possible; and

- e. Provide the motorist with a Virginia Pre-Payable Offense Information Sheet.
2. Virginia Code usually does not provide for a grace period when new laws take effect. Officers may use discretion in observing a reasonable grace period before issuing a summons for the following:
 - a. A violation of a newly enacted traffic law;
 - b. Speeding violations in an area where the speed limit has been reduced; and
 - c. Expired state vehicle registration or state inspection.

IV. TRAFFIC LAW ENFORCEMENT PRACTICES

A. General

1. Normal traffic enforcement involves patrol by officers who observe and handle traffic violations during the performance of their duties. Types of patrol include the following:
 - a. Area patrol involves traffic enforcement within the officer's assigned area of responsibility;
 - b. Directed patrol can specify enforcement in an area or at a specific location, depending on the nature of the hazard or violation; and
 - c. Stationary observation, either covert or overt, may be used as a technique to make observations about the flow of traffic at a particular location.

B. Objectives of Traffic Stops

1. The two (2) primary objectives of any traffic stop are:
 - a. To take proper and appropriate enforcement action; and
 - b. To favorably alter the violator's future driving behavior.
2. Achievement of these objectives requires the officer to evaluate the violator's mental and physical condition when assessing the facts of the violation. In achieving these objectives, officers must exhibit flexibility to minimize conflict or argument with the violator.

C. Traffic Stops

1. Before making a vehicle stop officers will:
 - a. Maintain a reasonable distance between the violator and the department vehicle;
 - b. Identify a safe location to stop the vehicle;
 - c. Notify the Emergency Communications Center (ECC) of the intention to stop the particular vehicle and give the following information:
 - (1) The location of the stop;
 - (2) The vehicle's license number and when not legible or not displayed a vehicle description; and
 - (3) Any additional information deemed necessary.
 - d. Activate emergency warning lights and, when necessary, the siren to signal the violator to stop; and
2. When communicating with the violator, the officer will observe the following rules.
 - a. Greet the violator courteously with an appropriate title;
 - b. Inform the violator of the traffic law he or she has violated.
 - c. Ask for and accept only the violator's driver license and vehicle registration. If the driver offers money, the officer shall refuse the money and notify the driver of the illegality of the offer;
 - d. If the driver has no operator's license, obtain another document of identification;
 - e. Allow the driver to discuss the violation. Do not argue, berate, belittle, or otherwise orally abuse the violator;
 - f. Complete the forms required for the enforcement action or administer a written warning, if appropriate;
 - g. If the enforcement action requires a court appearance, make sure the violator knows where and when to appear. Explain any alternatives to the violator, but do not predict the actions of the court;
 - h. Return the violator's operator's license, registration, and assist the violator in safely re-entering the traffic flow.

D. Stopping a Known or Suspected Felon

1. Felony vehicle stop procedures will be used in traffic stops when the occupants are reasonably believed to be armed and dangerous. When an officer locates a vehicle driven by a known or suspected felon, the officer will notify the ECC immediately of the suspect's location and give a thorough description of the vehicle and its occupants. The officer will keep the suspect vehicle in view and request sufficient assistance in making the traffic stop.
2. The officer will keep backup units informed of the suspect's location and direction of travel to aid their approach with minimal use of emergency equipment. The suspect vehicle will not be stopped unless absolutely necessary and until adequate support is available and in position. Circumstances may, however, dictate a one (1) officer felony vehicle stop.

E. Persons Charged with Revoked or Suspended Operator's License

A summons will be issued when an officer has stopped a motorist who is driving with a revoked or suspended operator's license. An officer who observes a person driving who is known to be under suspension or revocation may obtain a warrant if unable to stop the violator.

F. Speed Enforcement

Excessive speed is a major cause of death and injury on the nation's highways. Officers will uniformly enforce speed laws within the City of Winchester. Procedures for the enforcement of laws applying to speed will vary in accordance with the type of equipment used.

1. When pacing a vehicle, the officer will follow the vehicle being paced at a constant interval for a distance adequate to obtain a speedometer reading. Speedometers will be calibrated at least every six (6) months and calibration filed with the clerks of the district and juvenile courts.
2. Radar or Light Detection and Ranging (LIDAR) will be applied where vehicle speed is a hazard to other motorists or pedestrians. The following guidelines govern the use of radar or LIDAR, which will always be operated in compliance with manufacturer's instructions.
 - a. If installed in a department vehicle, the radar or LIDAR unit must be properly installed and connected to the appropriate power supply as approved by the radar/LIDAR maintenance officer.
 - b. Operators must thoroughly understand the effective range of the radar or LIDAR unit so observations can support the speed meter readings.
 - c. The radar or LIDAR unit will be calibrated to ensure accuracy in checking speed. The operator must follow the manufacturer's recommended specific methods of checking calibration without

exception. Officers will report promptly any problems with the operation of radar or LIDAR units to the radar/LIDAR maintenance officer.

- d. In court, officers must establish the following elements of radar or LIDAR speed:
 - (1) The time, place, and location of the vehicle, the identity of the operator, the speed of the vehicle, and the visual and radar or LIDAR speed check;
 - (2) The officer's qualifications and training in the use of radar or LIDAR;
 - (3) Proper operation of the radar or LIDAR unit;
 - (4) Proof that the radar or LIDAR unit was tested for accuracy before and after use by an approved method;
 - (5) Identification of the violating vehicle; and
 - (6) The speed limit where the officer was operating and where the speed limit signs were posted.
- e. The Chief of Police or his/her designee is responsible for the upkeep, maintenance, and calibration of radar and LIDAR units, maintenance of records, and that appropriate certificates are filed with the clerks of district and juvenile courts.

V. DRIVING UNDER THE INFLUENCE (DUI) ENFORCEMENT PROCEDURES

A. General

1. It is unlawful for any person to drive or operate any motor vehicle, engine, or train while under the influence of alcohol or while under the influence of any narcotic drug of any nature. The term motor vehicle includes pedal bicycles with helper motors (mopeds), while operated on the public highways.
2. Officers will be alert for suspected DUI offenders. Officers will use and document standardized roadside sobriety tests. In addition, the preliminary breathe test, if available, will be offered to each suspected driver. Officers must carefully document the behavior of the DUI suspect beginning with observations of driving. Once the violator has been stopped, the officer will note the suspect's appearance, responses to stimuli, speech and admissions of drinking or drug ingestion.

B. Intoxilyzer

1. The security, care, and maintenance of the intoxilyzer and all physical evidence obtained are every officer's responsibility. Only officers certified to conduct intoxilyzer examinations are permitted to use the instrument.
2. The regulations of the Division of Forensic Science require that the intoxilyzer be stored in a clean, dry location which is only accessible to an authorized licensee, for the purpose of administering a breath test, preventative maintenance check, or other official uses.

C. Sobriety Tests

1. Officers shall administer a minimum of three (3) field sobriety tests from the following list:

The list names the most commonly administered tests. Officers may employ additional tests, however, they must be performed in the same order and manner every time.

- a. Gaze nystagmus (only if properly certified);
 - b. Walk and turn;
 - c. One-leg stand;
 - d. Reciting of the alphabet;
 - e. Counting; and
 - f. Finger to nose
2. If the suspect fails the roadside sobriety tests, a preliminary breath test (PBT) will be offered if available. The suspect may refuse the PBT and will be notified of their right to refuse.
 3. If the suspect shows impairment during the field sobriety tests that he or she is given, and/or meets or exceeds the legal limit (.08) on PBT, the officer at his or her discretion may arrest the suspect for DUI/DIUD and take him or her before a magistrate.
 4. If an officer suspects that the vehicle operator was driving under the influence of both alcohol and drugs, or drugs alone, the officer may request consent from the vehicle operator to have a blood test performed in addition to testing for alcohol.
 - a. If vehicle operator consents to a blood draw the officer may take him/her to the hospital to have an approved nurse draw the blood using the Department of Forensic Science DUI/DUID blood kit

b. If the vehicle operator refuses to consent to a blood draw the officer may present his/her probable cause to the magistrate to obtain a search warrant for blood. If received, the officer shall take the vehicle operator to the hospital for a blood draw. If the vehicle operator refuses to comply with the search warrant the officer may choose to charge the subject with obstruction of justice.

Blood samples will be analyzed by the Division of Forensic Science for evidence of alcohol and for various illegal, prescription, and non-prescription drugs.

5. The officer will make a full written report of the circumstances of the DUI arrest, formation of probable cause, and witness observations.
6. The arresting officer will complete a DUI Offense Report.

D. DUI Arrest

1. The arresting officer will notify the arrestee that any person, whether or not licensed by the Commonwealth of Virginia, who operates a motor vehicle in Virginia, gives implied consent to have a sample of his or her breath taken for a chemical test to determine the alcoholic content of this blood or for the presence of drugs if such person is arrested for violation of Virginia Code regarding driving while intoxicated..
2. If the arrest occurs as a result of operation of a vehicle on private property, the Implied Consent Law does not apply. Although the Implied Consent Law does not apply, the officer will try to obtain consent from the arrested person to submit to a chemical analysis of the suspect's blood or breath. Officers requesting blood or breath samples under these conditions are conducting a custodial interrogation. Therefore, the arrestee will be notified of the Miranda warnings before consent is requested. Miranda warnings are not required before the driver takes sobriety tests, or otherwise before questioning.
3. If the arrestee refuses the available breath test, the arrestee shall be read the information about consequences of refusal form by the arresting officer. The information about consequences of refusal form shall be given to the magistrate. The arrestee may then be taken before the magistrate and a warrant for refusal may be obtained from the magistrate on the arrestee.

E. Blood Test Procedure

1. The arrestee will be taken to a physician, registered professional nurse, graduate laboratory technician, or other technician designated by order of the circuit court acting upon recommendation of a licensed physician, who shall withdraw blood for the purpose of determining its alcoholic content and drugs.

2. The arresting officer shall also witness the doctor or technician taking the blood sample and ensure that an alcohol solvent is not used to cleanse the withdrawal location.
3. The officer will initial the vial labels on two (2) vials before the doctor or technician seals the vials in their containers. The initial will be placed on the label where it does not interfere with the date written by the doctor or technician who took the blood sample.
4. The medical person taking the sample will place his or her name and the name of the accused on the label of each vial with the date and time the blood was taken.
5. The arresting officer will take possession of the two (2) vials and seal the vials in the designated container. The container will then be sealed and the seal will be initialed by the officer. The officer will mail both vials to the Division of Forensic Science by certified mail.

F. Breath Analysis

1. Chemical analysis of a person's breath shall be performed by anyone possessing a valid license issued by the Division of Forensic Science. This may include the arresting officer or anyone participating in the arrest. In the event the intoxilyzer is inoperable or a licensed operator is not available, this test is deemed not available.
2. The type of equipment and the methods used to perform breath analysis shall be in accordance with the regulations of the Division of Forensic Science.
3. The testing officer shall issue a certificate of breath alcohol analysis which indicates that the test was conducted per the manufacturers' specifications, the equipment on which the test was conducted has been tested in the last six (6) months and was found to be accurate, the name of the accused, the date, the time the sample was taken from the accused, the alcohol content of the sample, and by whom the sample was examined.

G. Traffic Crash Investigation

If the DUI suspect has been involved in a traffic crash, officers will perform the following:

1. Identify any witnesses who saw the suspect operating a motor vehicle;
2. Question witnesses about the suspect's condition, actions, and statements immediately after the crash;
3. Establish a time lapse from the time of the crash to the time of arrest. This must be completed within three (3) hours of the offense; and

4. Question witnesses and the suspect about what, if anything, the suspect ingested between the time of the crash and the officer's arrival.

VI. SPECIAL TRAFFIC PROBLEMS

A. Driver Re-Examination by the Department of Motor Vehicles (DMV)

During routine traffic law enforcement activities, officers frequently encounter persons whom they suspect of being incompetent, physically or mentally disabled, or having other conditions that might prevent the person from exercising reasonable and ordinary care over a motor vehicle. In all such cases the officer, in addition to whatever enforcement he or she may take, will notify the DMV of these findings or suspicions, giving the violator's full name, date of birth, operator license number, and a brief description of the disability noted. A driver deficiency report may be used for this purpose.

B. Pedestrian and Bicycle Safety

The Chief of Police or his/her designee will review traffic crash records at least annually to determine what enforcement actions are needed to provide a proactive pedestrian and bicycle safety enforcement program. The Chief of Police may recommend enforcement measures including steps to:

1. Reduce or eliminate human environmental factors leading to traffic crashes; and
2. Reduce or eliminate the behavior, decisions, and events that lead to the traffic crashes.

C. Off-Road Vehicles

1. Traffic crashes involving off-road vehicles that do not occur on a public highway do not require a traffic crash report. If the responding officer finds it convenient, he or she may complete a traffic crash report and attach the report to the incident report.
2. Any officer observing an unlicensed off-road vehicle on the highway that cannot be operated legally on public highways, will order the vehicle removed from the highway and enforce appropriate laws.
3. Officers will enforce compliance with vehicle registration laws as they pertain to off-road vehicles.
4. Officers will enforce laws and rules and regulations concerning the operation of off-road vehicles on public owned trails, parks, or property.

VII. TRAFFIC CHECKPOINTS

A. General

A traffic checkpoint is a brief stop of all traffic through a designated location for a limited time, to inspect drivers' licenses and vehicle registrations, and thereby increase traffic safety by apprehending or citing persons who violate licensing laws, operate unsafe vehicles, or operate a vehicle while under the influence of alcohol or drugs.

B. Guidelines for Traffic Checkpoints

1. All traffic checkpoints shall be conducted pursuant to a written plan which accomplishes the following:
 - a. Describes the objective of the checkpoint;
 - b. Identifies the personnel involved;
 - c. Specifies the location of the checkpoint;
 - d. Provides adequate space for parking department vehicles out of the traffic flow;
 - e. Provides adequate space for vehicles to be pulled out of the traffic flow without creating a hazard;
 - f. Specifies the date and time for beginning and ending the checkpoint; and
 - g. Identifies the traffic control devices or special uniforms or equipment required and their use at the checkpoint.
2. Each vehicle stopped during a traffic checkpoint will be subjected to the same inquiry or procedure as described in the written plan. Vehicle stops will be as brief as possible.
3. Traffic checkpoints will last no longer than (4) hours under most circumstances at one certain location.
4. Nothing in this directive prohibits one (1) or more officers from performing selective enforcement for specific law violations such as speeding or failure to stop at a stop sign.

C. Selection Criteria

1. An ops plan for the site location is completed by the site supervisor and forwarded to the Captain of patrol for approval.
2. The on-scene supervisor will forward the enforcement activity to the Captain of patrol.

D. Traffic Checkpoint Procedures

1. Officers assigned to the traffic checkpoint will park their vehicles so they do not impede traffic flow. The vehicles should be highly visible to approaching drivers and should provide protection to stationary officers.
2. Traffic control and warning devices will be placed to provide adequate warning to drivers.
3. Officers will create a safe location for vehicles that require further inspection, possibly in a lane that has been temporarily closed.
4. All officers assigned to traffic checkpoint duty will be in uniform and will wear traffic vests.
5. Upon approaching a vehicle, officers will scan the interior for weapons and contraband, notify the driver of the purpose of the stop, request operator's license and registration, and will limit the interaction to a reasonable period of time.
6. If the officer observes behavior that furnishes a reasonable suspicion that the driver has been drinking alcohol, the officer may
7. Officers shall not stop vehicles on a discretionary basis. Every vehicle shall be stopped unless the on-scene supervisor directs a change such as stopping every second or third vehicle.