

# ELGIN POLICE DEPARTMENT POLICY MANUAL - PART 4



## 4/1.13.00 Traffic Enforcement, Investigation & Tolerance Chart

### 4/1.13.01 Traffic Enforcement

#### DEFINITION

- Roadside Or Roadway Hazard

Such hazards include:

1. Debris in the roadway;
2. Defects in the roadway itself;
3. Lack of, or defects in, highway safety features (e.g., impact attenuation devices, reflectors, etc.);
4. Lack of, or visually obstructed, or down or damaged mechanical traffic control devices and/or traffic control and informational signs;
5. Lack of or defective roadway lighting systems; and
6. Any other roadside hazards, including parked or abandoned vehicles on or near the roadway.

#### POLICY

It is the policy of this Department that enforcing traffic laws and regulations is a shared responsibility of all commissioned personnel. Officers will take enforcement action when detecting a violator of traffic law without regard for such factors as attitude, intent or frivolous excuse. Such enforcement action may consist of a verbal or written warning, written citation or physical arrest. Based upon the circumstances involved and the officer's training, experience, and common sense, which option should be applied in a given instance is left to the officer's discretion – except where otherwise required by statute.

Enforcing traffic laws is often a routine function that officers perform, but officers can be injured and killed in situations arising from what appeared to be (even to a trained observer) a "routine" traffic stop. A courteous demeanor exhibited by a police officer during the course of a traffic stop is of utmost importance to establishing the educational rapport that is so necessary in changing driver behavior. However, it is nonetheless realized that the safety of the officer is of paramount importance. Officers will, therefore, take all steps and precautions necessary during traffic stops to assure their safety and well-being. Traffic stops will be conducted as per Department training.

#### TRAFFIC STOPS AND APPROACHES (UNKNOWN RISK STOP):

Although enforcing traffic law is one of the more routine functions that field officers perform, there is much potential danger. No two traffic stops are exactly alike. The following procedures are a guide as to how to conduct stops on traffic law violators by field officers of this department:

1. **CONTACT:** The field officer should:
  - a. Choose the stop location carefully, avoiding curves, hill, crests, and intersections. Always consider stop locations where adequate cover is available should it be needed.
  - b. Inform the Dispatcher of the vehicle license plate number; include the state if other than Texas, make and color of the vehicle and the location of the stop prior to initiating the first contact.
  - c. Stop the violator by activation of emergency equipment. To alert the violator of the intended stop the officer should first activate the emergency lights, then, if necessary, use the police vehicle horn. If the violator still does not heed, the field officer should activate the siren. If still no compliance, the officer will continue to follow the vehicle until it is determined by the officer or supervisor to disengage.
2. **AFFECT SAFE STOP:** The field officer should:
  - a. When the violator's vehicle is finally stopped, position the police patrol unit about fifteen feet behind the violator's vehicle and offset to the left. If the situation dictates the officer taking

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- the entire lane or none of the lane, the officer is permitted to do so. The officer should refrain from taking up only a small portion of the lane.
- b. Turn the front wheels to the left, leave the engine running, and the driver's door unlocked.
  - c. Consider who may be in the immediate area before leaving the police patrol vehicle in this condition and alter this procedure, if necessary.
3. **APPROACH PROCEDURES:** The field officer should:
- a. Observe the occupant(s) of the violator's vehicle before and after the stop is made for furtive movements. At night, high headlight beams, spotlight, and takedown lights should be used to conceal the field officer's movements from the occupant(s) of the vehicle and for clear visibility inside the vehicle. The officer should use their best judgement on whether to approach the vehicle on driver side or passenger side of the violators vehicle.
  - b. Order the subject back inside the vehicle if any of the occupants attempt to get out of the vehicle. The officer must be prepared to take evasive or defensive action should the subject continue to advance.
  - c. Consider weapon readiness on every stop and while approaching; stay very alert. The officer should watch occupant(s), check for altered plates, check the trunk to see that it is closed or locked, and observe the interior for possible weapons or occupants attempting to hide. The officer should not approach the violator vehicle by walking in between the front of the patrol vehicle and the rear of the violator vehicle.
  - d. Stand beside the violator's vehicle as closely as possible, and just to the rear of the door or in front of the A pillar on either side of the vehicle. However, officers must be wary of the rear seat.
  - e. Keep a steady observation of the occupant(s)' hands. The officer should have the operator reach outside the vehicle to present the requested documents. The documents should be accepted with the officer's non-dominant hand.
  - f. The use of dispatch or use the mobile data terminal to check the operator through TCIC/NCIC for license validity, license suspension, and wants or warrants.
  - g. Complete any paperwork such as citations, written warnings, etc., at the patrol unit, this will enable the officer to watch the vehicle and the occupants.
  - h. Maintain awareness when returning to the stopped vehicle to issue the citation, written warning, etc., for any changes within the vehicle.
  - i. The officer should watch the traffic and the violator as they return to their patrol unit. Allow the other vehicle to leave the scene of the stop before the officer, affording the violator the protection from oncoming traffic. The officer should turn off emergency lights after re-entering traffic.

### HIGH-RISK TRAFFIC STOPS:

When an officer is in the process of performing a High-Risk traffic stop on a stolen vehicle, a person wanted on a felony charge, violent crime suspect, a suicidal person where a weapon is suspected, or any other time the officer deems the situation is dangerous, the officer will utilize the following procedures:

1. Prior to initiating the traffic stop with lights and/or siren, the officer will request a second and/or third unit. Once the unit(s) are with the primary officer, the primary officer will notify dispatch that the units will be performing a High-Risk Traffic Stop.
2. The officers will then initiate the High-Risk stop utilizing their overhead emergency lights and siren, if needed. Once the violator has yielded, the Dispatcher will be notified of the location.

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3. The primary officer will position his/her vehicle to the left if able and the secondary unit will position his/her vehicle to the right of the violator's vehicle if able. Allow enough space between the two patrol units to allow for the handcuffing and searching of any suspects. The third unit will position their vehicle behind the first and secondary unit and position the vehicle to take up one lane or multiple lanes perpendicular to deter traffic from rear ending the first and secondary unit. The third unit for park 12-15 feet away from the first and secondary unit.
4. If only a primary and secondary unit are being used on the traffic stop, the far left unit should communicate that they will be moving the front passenger A-Pillar area of their vehicle while the secondary unit will position themselves behind cover on their driver's side A-Pillar. If a third unit is being used the primary and secondary unit will position themselves behind the cover of the driver's side doorpost of their vehicles and the third unit will position themselves behind cover of the passenger's side A-Pillar of the far left vehicle. This third position is usually taken by the supervisor on scene.
5. The primary officer will begin giving commands to the occupants of the vehicle utilizing the Public Address system mounted in his/her patrol unit or, if able, use a loud, clear voice. The assist officer will not give commands during this time; this will prevent any confusion on behalf of the suspect(s).
6. The primary officer will instruct all occupants inside the vehicle to put their hands in the air so that officers can see them. Due to the stress of the situation the primary officer should instruct the occupants to "Do it now". The phrase "Do it now" should follow each order.
7. The primary officer will then instruct the driver of the vehicle to turn the vehicle engine off and remove the keys from the ignition with his/her left hand and place the keys on the roof of the vehicle or drop them to the ground outside the driver's door. \* "Do it now."
8. The primary officer will then instruct the driver to unlatch his/her seatbelt with his/her left hand, open the driver's side door and exit the vehicle with his/her hands in the air. \* "Do it now."
9. Once the driver steps out of the vehicle, the primary officer will instruct the driver to take a hold of his/her shirt at chest level and raise the shirt so the officer can visually inspect the driver's waistline for any weapons. The driver will then be instructed to turn completely around and face away from the officer. \* "Do it now."
10. The primary officer will then instruct the driver to walk backwards toward the sound of the officer's voice. \* "Do it now." Should a weapon be seen in the front waistband of the suspect, the officer will use best judgement on whether it would be safer to have the suspect walk forward toward the officers instead of backward to keep visual of the weapon.
11. The primary officer is responsible for guiding the subject to a point situated between the marked patrol units. If possible, the subject should be positioned between the front fenders of the units to allow the secondary officer room for handcuffing and a search of the subject.
12. While the primary officer is providing cover for the secondary officer. The secondary officer will direct the driver to a safe handcuffing position. The secondary officer should utilize the prone or kneeling handcuffing position. Should a third unit be utilized the primary unit will communicate to the secondary unit to take over commands once the suspect is between the front fenders of the patrol vehicle. The third unit will be responsible for handcuffing and searching the suspect.
13. Once the driver is handcuffed, the secondary or third officer will perform a search for weapons.
14. After a search of the driver is performed, the secondary or third officer will secure the subject in the backseat of his/her patrol unit unless a third unit is on scene, in which case, the third unit's patrol vehicle will be used to secure the subject.

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15. Once the subject is secured, the secondary or third officer will return to his/her position of cover and advise the primary officer that he/she is ready to resume and relinquish verbal commands to the primary officer.
16. The process will be repeated if there is more than one vehicle occupant. All occupants will exit the same door to ensure proper cover and control of the vehicle.
17. After the officers believe the vehicle is empty and all subjects are secured, both officers should safely and tactically approach the vehicle avoiding any crossfire in a "wagon wheel" formation. Officers can begin a search of the vehicle for more threats.
18. After the vehicle is cleared, officers can begin their investigative stop in detail (interviews, etc.).

### VERBAL OR WRITTEN WARNINGS

In lieu of a written warning, an officer may give a verbal warning when enforcing a minor traffic violation in limited circumstances. When an officer initiates a traffic stop for an alleged violation, but it is discovered the violation did not occur, no warning (verbal or written) shall be given, only racial profiling data documented. When an officer must break from a traffic stop for an emergency situation, a verbal warning may be given, and racial profiling data documented. Minor traffic offenses generally are defined as any traffic offense other than vehicular manslaughter; DWI; canceled, suspended or revoked driver's license; or any traffic offense declared to be a felony.

### STATUTORY LIMITS ON OFFICER DISCRETION

Although it is generally an officer's decision to arrest, cite or warn violators, some statutory restrictions do exist:

1. Officers shall arrest after confirming the existence of a confirmed active warrant.
2. Officers identifying drivers who are unable to safely operate a vehicle due to chemical, physical or mental impairment must remove the driver from the roadway as is appropriate or required by law.
3. At the scene of a traffic crash investigation, an officer may not arrest for driving violations not committed in his presence unless the offense is proven by physical evidence located at the scene or by witness statements. Officers may only cite or warn such violator in all other incidents.
  - a. An officer may cite or arrest, as appropriate, for the following situations occurring on a public roadway:
    - i. misdemeanor hit and run (property damage)
    - ii. reckless driving
    - iii. cancelled, suspended or revoked driver's license
    - iv. violation of restriction imposed on a restricted license which was revoked or suspended (i.e., hardship, or drive for work only permit)
  - b. An officer must arrest for:
    - i. felony hit and run
    - ii. DWI (note: when driver incapacitated by injury the officer should get a warrant of arrest)
4. When a person demands to be taken before a magistrate or refuses to give written promise to appear on an issued citation, he/she must be arrested.

### NONRESIDENT VIOLATORS

A nonresident is subject to the same responsibilities and duties to obey the traffic rules as local residents and, therefore, is subject to the same enforcement action. The State of Texas is a member of the nonresident violators compact.

### JUVENILE TRAFFIC OFFENDERS

Juvenile operators of a motor vehicle who are cited for Class C traffic offenses must appear with a parent at the time of their court date. Officers issuing citations must indicate on the citation that a parent must appear with the juvenile at the court appearance.

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### DIPLOMATS AND CONSULAR OFFICIALS

1. When a person believed to have diplomatic immunity is stopped for a moving traffic violation and properly identifies himself, the officer may issue him the appropriate traffic citation or warning, but in accordance with federal law may not effect an arrest.
2. In DWI cases, the primary consideration is assurance that the driver does not endanger himself or the public. The diplomat should not be handcuffed or subjected to any sobriety test, and should be treated with respect and courtesy. He may be told that the officer's primary responsibility is to care for his safety and the safety of others. Based on the circumstances, the following options are available in lieu of arrest:
  - a. The subject may be taken to a location to permit him to recover sufficiently to enable him/her to drive safely.
  - b. Provide access to a telephone so that the individual may call a relative or friend to respond.
  - c. Call a taxi for the person.
  - d. Provide transportation to the person's place of residence.
3. The officer's supervisor shall be advised of the situation and called to the stop location.

### LEGISLATORS

Texas State Senators and Representatives shall – except in cases of treason, felony or breach of the peace – be privileged from arrest while the legislature is in session and while going to and returning from legislative sessions, allowing one day for every twenty (20) miles such member may reside from the place at which the legislature is convened.

### MILITARY PERSONNEL

Traffic violations committed by military personnel will be handled in the same manner as any other except when the military person is involved in a traffic crash and is killed, injured or requires hospitalization. In such cases, the military law enforcement agency at the base where the victim is stationed will be notified and provided information necessary to advise the military member's unit of assignment and next of kin.

### PEDESTRIAN AND BICYCLE VIOLATIONS

Both pedestrians and cyclists are subject to traffic laws and may be cited for their violations. For minor infractions, a warning coupled with a safety message may be the most fitting course of action to take. The safe interaction between bicycles, pedestrians, and motor vehicles is the responsibility of all involved parties.

### PUBLIC CARRIER/COMMERCIAL/GOVERNMENT VEHICLE VIOLATIONS

When encountering violations of this nature, officers may request information or assistance from other agencies and base enforcement action on their recommendation:

1. Department of Public Safety Commercial Vehicle Enforcement.
2. Texas Department of Transportation.
3. Military bases in the surrounding area for assistance in military vehicles.

### OFF ROAD VEHICLES

As off-road vehicles become more popular, an increasing number of them are finding their ways to the streets. For the most part, these vehicles lack the proper equipment and registration to operate on a public road and the operators may be under aged and/or improperly licensed. In addition, these vehicles may find their way into the various city parks, causing damage and endangering the public. As such, the officer should be aware of these locations and take appropriate action when necessary. If these vehicles are found to be operating on a public road, the officer shall stop the violator, and cause the vehicle to be removed from the roadway.

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In the case of juveniles, the officer may contact the guardian and have that person assume responsibility for the removal of the vehicle.

### OTHER VIOLATIONS

The officer should evaluate equipment violations as to the hazard presented and knowledge of the violation. Non-hazard violations should be evaluated as to the flagrancy of the violation.

### MULTIPLE VIOLATIONS

Drivers often commit multiple violations, both hazardous and non-hazardous. It is not necessarily prudent to arrest and/or cite for each violation.

It may be sufficient to arrest or cite for some violations and effectively communicate verbal warning for the remainder.

### VIOLATOR/OFFICER CONTACT

Officers shall maintain their professional demeanor at all times and treat the violator with courtesy and respect. If a citation is issued, the officer should explain the following: [a] the violation(s) being cited for; [b] the date of the court appearance (optional or mandatory); [c] the address and phone number for municipal court (should also show violator printed location on citation); and [d] the officer shall direct any question regarding the citation to municipal court that pertains to disposition of the citation or if the violator is allowed to enter a plea and/or pay the fine by mail or in person.

Officer safety is paramount; thus, all traffic stops shall be conducted in accordance with Department training. Officers will, therefore, follow the appropriate steps and take all precautions necessary during traffic stops to assure their safety and well-being.

Officers at no time shall give advice or opinion to the violator as to the disposition of the citation, nor make any suggestion for the violator to request of municipal court.

### NEWLY ENACTED LAWS AND/OR REGULATIONS:

Once new laws and regulations have reached their effective date, officers will begin the enforcement.

### ROADSIDE AND ROADWAY HAZARDS

- *Officer*
  1. Officers encountering roadway and/or roadside hazards shall make an effort to reduce or eliminate the hazard by correcting it or reporting the hazard to the Communications Unit.
  2. Officers who encounter a hazardous condition that presents an immediate threat of danger to motorist or pedestrians shall stand by and protect the scene until the hazard is removed.
  3. Should an officer encounter a hazardous material on or near the roadway, the officer shall notify the Communications Unit and isolate the material to protect the public and the officer. If this can be done without endangering the officer or others, an attempt should be made to identify the material and its source.

### EDUCATION MATERIALS

Education materials regarding traffic safety and enforcement shall be made available to the public in the Department's lobby.

#### **4/1.13.02 Use Of Speed-Measuring Devices**

##### Speed Violations

- Radar/Laser Operation

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Officers will be properly trained in the use of the radar unit before issuing citations using the equipment. Radar assignments will be handled as patrol duties permit, and selection of sites will be made with the safety of the public and officer(s) in mind.

1. Calibration tests must be performed prior to, and periodically during, use to ensure accuracy of the radar unit. If the described test results are not obtained:
  - a. Discontinue use of the radar unit.
  - b. Dismiss all citations issued after the last successful calibration test.
2. Procedures for Operating Radar
  - a. Responsibilities of sector supervisor
    - (i) Monitor radar locations;
    - (ii) Assign radar locations based on current traffic conditions, traffic statistics, and citizen complaints;
    - (iii) Prevent misuses of radar.
  - b. Responsibilities of radar operators
    - (i) Ensure that radar is not worked in concealed areas such as:
      - (aa) At the bottom of hills;
      - (bb) Around curves;
      - (cc) In other areas that would create a hazard to the officer or public.
    - (ii) Give the public a reasonable slow-down area (except in school zones) for drivers to reduce their speed when emerging from a higher speed limit to a lower speed limit (e.g. do not stop a motorist for speeding based on a clock made as the vehicle passes the speed limit sign, but make the stop based on the speed of the vehicle after it is well into the lower speed zone).

### **4/1.13.03 Selective Traffic Enforcement**

This Department directs appropriate enforcement efforts toward traffic violations not only in proportion to the frequency of their occurrence in crash situations but also in terms of traffic related needs identified in the City of Elgin.

### **4/1.13.04 Driving While Intoxicated Procedures**

#### **PURPOSE**

Refer to PC Chapter 49, TC Chapter 724, ABC Chapter 106.041, traffic enforcement policy to assist in the successful investigation of DWI. To the extent of any conflict between this procedure and guidance from prosecutor's office, case law, or the National Highway Traffic Safety Administration (NHTSA), the most appropriate and recent document shall control.

#### **POLICY**

It is the Department's philosophy to aggressively enforce state DWI statutes. The following countermeasures will be performed to accomplish this philosophy:

1. Assigning personnel at times and locations where analysis has shown a significant number of violations have occurred;
2. Assigning personnel at locations where analysis has shown that a significant number of crashes involving impaired drivers have occurred.
3. Selected surveillance to ascertain the characteristic violation profile of problem drinkers who drive.
4. Selected alcohol-related crash investigations and analyses of findings.

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5. Selective enforcement of drunk-driving laws through concentration on existing laws and expeditious processing of violators.

## PROCEDURE

- *Officer*
  1. When a DWI suspect has been arrested, the arresting officer shall transport the suspect in accordance with the EPD Arrest Procedures policy.
  2. Prior to transport, the officer will confirm an Intoxilyzer Operator is available, if needed.
  3. In cases where the person is arrested for an offense under Sections 49.07 or 49.08 of the Texas Penal Code, an officer will transport the suspect to the appropriate medical facility for obtaining a mandatory blood specimen.
  4. The paperwork for the disposition of the arrestee's vehicle shall accompany the arrestee to his/her final destination.
- *Intoxilyzer Operator*
  1. All breath tests will be conducted according to the procedures approved by the scientific Director of the Texas Department of Public Safety's Alcohol Testing Program.

### **4/1.13.05 Blood/Urine/Breath Alcohol Analysis And/Or Blood/Urine Drug Screen Analysis**

Chapter 724 of the Texas Implied Consent To Chemical Tests Law states that all persons who drive on Texas highways, regardless of whether or not they have a driver's license, are subject to a chemical test of breath and blood. A test of urine may be required if the driver holds a commercial license and was operating a commercial vehicle at the time of arrest. These tests may be administered any time a person is suspected of driving under the influence of intoxicating liquor, controlled substances or both.

#### WARNINGS BY PEACE OFFICER

Before requesting a person to submit to taking of a specimen, the officer shall inform the person orally and in writing by the DIC 24 statutory warning. If a driver holds a commercial license and was operating a commercial vehicle, then commercial vehicle statutory warning shall be used.

#### TAKING OF SPECIMEN

The peace officer shall designate the type of specimen to be taken. One or more specimens may be taken.

#### BREATH SPECIMEN TESTING

A certified breath test operator using a certified breath instrument will do breath testing. The breath test operator will follow all procedures and guidelines set forth by the Texas Department of Public Safety.

#### PROHIBITION ON TAKING OF A SPECIMEN

A specimen may not be taken if a person refuses to submit. Exception:

1. A peace officer shall require the taking of a specimen of a person's breath or blood if:
  - a. The person was arrested for an offense under Chapter 49 (DWI) and
  - b. The person was the operator of a motor vehicle involved in an accident and
  - c. At the time of arrest the officer reasonably believes that a person has died or will die as a result of the accident and
  - d. The person refuses the officer's request to submit to taking of the specimen voluntarily.

If a person under arrest refuses to submit to a required chemical test as directed by a police officer, reasonable force may be used to the extent necessary to draw a blood sample. Whenever physical force is used in taking a blood sample, it must be reasonable based on the amount of resistance offered by the suspect. Humane, medically accepted restraint procedures must also be used. Prior to use of physical force in obtaining a blood sample, the officer should afford the arrestee a final opportunity to consent to the procedure.

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### PERSON INCAPABLE OF REFUSAL

A person who is dead, unconscious or otherwise incapable of refusal is considered not to have withdrawn the consent.

### BLOOD SPECIMEN TESTING

Only a physician, qualified technician, chemist, RN or LVN may take a blood specimen at the request or order of a peace officer. The sample must be taken at a sanitary place.

Evidence custodians will dispose of blood and urine samples upon adjudication of the case, pending no appeals, with instructions to destroy the evidence. Samples also will be destroyed after dismissals, unless the detective notifies the evidence vault to retain the evidence.

Blood and urine samples that are not routinely disposed of through case clearances, dismissals, etc. (excluding those related to homicides, officer-involved shootings, and felony DWI cases) will be destroyed one year after the date of collection, unless retention is directed by court order.

### 4/1.13.06 Drug Recognition Expert (DRE) Policy

#### DEFINITIONS

- Drug Evaluation and Classification (DEC) Program

A nationally recognized and regulated drug influence training program.

- Drug Recognition Expert (DRE)

An individual who has successfully completed all phases of training requirements for certification established by the International Association of Chiefs of Police and the National Highway Traffic Safety Administration (NHTSA).

- Standardized Field Sobriety Test (SFST)

The Standardized Field Sobriety Tests include three tests developed and validated through a series of controlled experiments supported by research grants from NHTSA.

- Blood/Breath Alcohol Concentration (BAC)

The concentration of alcohol in a person as measured by blood or breath.

- Drug

As defined by NHTSA in regards to the DEC program, any substance which, when taken into the human body, affects a person's ability to operate a vehicle safely.

- Rule-out

A determination made by a DRE that an individual's impairment is other than drug-related (i.e., medical).

- Agency Coordinator

The person designated within each department or agency responsible for maintaining program records, ensuring maintenance of program standards and conducting training and certification sessions within the agency.

The Drug Recognition Expert (DRE) program is part of the Department's efforts to curb drug impaired driving. The program's objective is to provide officers with certified experts capable of gathering evidence necessary to substantiate charges of being under the influence of drugs in DWI cases. Only members who have received approved National Highway Traffic Safety Administration (NHTSA) DRE training and International Association of Chief's of Police (IACP) certification/recertification may be considered a Department Drug Recognition Expert.

The DRE program is intended to promote:

1. Traffic safety within the city by arresting and prosecuting subjects found to be driving while intoxicated by drug(s) other than alcohol or a combination of both.

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2. Assisting with investigations that involve subjects who are intoxicated by drug(s) other than alcohol or a combination of both and to document such impairment. This assistance provides officers an affirmative link to drugs or to explain a subject's behavior or actions.
3. To assist the Elgin Independent School District with identifying students who are under the influence of drug(s), alcohol or both on campus, as well as take appropriate action.
4. Strictly enforce laws and increase public awareness to deter the use of drugs within our community.

DREs are trained to articulate impairment and the category of drug(s) causing impairment through use of a standardized, twelve-step evaluation. Through that evaluation, in concert with other articulated evidence emerging during contact with a subject, a trained DRE can reach reasonably accurate conclusions concerning the drug category(s) or medical conditions causing a subject's impairment.

Based on these conclusions, the DRE can request the collection and analysis of an appropriate chemical sample to obtain corroborative, scientific evidence of the subject's drug use.

### PROCEDURES

1. In regards to a DWI investigation, the officer should begin the investigation as normal and administer the SFST battery and a breath test on the Intoxilyzer 5000 or a Preliminary Breath Tester (PBT).
2. If the results of the SFST and the observed impairment are not consistent with the results of the breath test, and the results of the breath test are below .08 BAC or any signs of ingestion are visible, the investigating officer may wish to request a DRE. In such cases, the arresting officer can notify their supervisor and explain the circumstances.
3. The on-duty supervisor authorizes DRE call-outs.
4. Once a DRE is notified, the DRE will determine whether to respond to the scene or have the arresting officer transport the arrestee to the police station or detention center for the evaluation.
5. When the DRE begins the drug evaluation, the arresting officer shall remain on scene and remains ultimately responsible for the arrestee.

When the evaluation is complete, the DRE will notify the arresting officer of his or her opinion and complete their portion of the report before leaving. The only exception would be if the evaluation resulted in a "rule-out," or no-drug-impairment determination by the DRE. Regardless whether the arrestee is released or remains in custody on other charges, the DRE will complete a Supplemental Report to the original Offense Report on the evaluation.

### 4/1.13.07 Cancelled, Suspended Or Revoked Drivers Licenses

Officers who contact violators whose driver's license/privilege has been cancelled, suspended or revoked must make every effort to investigate the status. Based on that investigation, a determination will be made whether to arrest the offender or release with charges being filed at a later date.

### DEFINITION

The Texas Department of Public Safety (DPS) cancels, suspends or revokes a driver's license/privilege for various reasons. Generally speaking, the following explanations apply:

- Cancellation

Usually involves a license/privilege termination due to a problem with the initial application, testing and or payment process, and requiring correction before reinstatement of the license.

- Suspension

The removal of license/privilege usually due to a DWI arrest or subsequent FTMFR violations. Suspensions are temporary for a definite period of time and will have an expiration date for the suspension.

- Revocation

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Almost always is the result of a habitual violator or medical impairment. In this instance, the license privilege to drive is terminated. Revocations are for an indefinite period and the license remains revoked until the person makes an effort to reinstate the license.

### POSSESSION OF INVALID LICENSE

It is a Class B Misdemeanor to display, cause or permit to be displayed, or have in the person's possession a driver license that the person knows is fictitious or has been cancelled, suspended, revoked or altered.

### RECORDS CHECK

A driver's license records check should be made if the officer suspects any prior driving/arrest history. The privilege to drive may have been cancelled, suspended or revoked in this state even if the operator is in possession of a driver's license from another state. (For example, a suspect may have an out-of-state drivers license, but shows an arrest for DUI in Texas resulting in his Texas privilege being revoked even though his out-of-state license is valid outside the State of Texas.)

### VEHICLE DISPOSITIONS

Officers shall not permit drivers with cancelled, suspended or revoked privileges to drive away in their vehicle. Alternatives such as arrest and tow, field release and tow, release to a licensed driver, or other appropriate action may be taken.

### **4/1.13.08 Requesting Reexamination Of Drivers By Licensing Authorities**

#### DISCUSSION

Routine traffic enforcement, collision reporting, and investigation activities frequently lead to the discovery of drivers who have suspected incompetence, physical or mental disability, disease or other conditions that might prevent the person from exercising reasonable and ordinary control of a motor vehicle.

#### POLICY

Officers who detect a person who appears to be incompetent, physically or mentally disabled or suffers from disease or other conditions that prevent that person from exercising reasonable and ordinary control of a motor vehicle will complete the appropriate forms to request through the Texas Department of Health a reexamination by the Texas Department of Public Safety.

#### PROCEDURE

1. A request for reexamination will be directed to the Texas Department of Public Safety.
2. To preclude officers from having to appear at a medical evaluation hearing, it is essential that the form be completed carefully and in its entirety.
3. The information to be entered is self-explanatory; however, certain portions must be specifically addressed:
  - a. The physical defects must be described in specific detail.
  - b. The summary portion must be written in such detail that reasonable grounds for the reexamination are conclusively established.
4. The form must be signed by the initiating officer.

### **4/1.13.09 Traffic Crash Investigations**

This procedure establishes guidelines for traffic crash investigations. It is the policy of the Department to ensure crash and investigation responsibilities are met efficiently and effectively.

#### DEFINITIONS

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- Non-Reportable/Reportable Crashes  
Reporting requirements are defined in Texas Transportation Code 550; Collisions and Collision Reports.
- TTC  
Texas Transportation Code
- Leaving the Scene (LTS) crash  
A Leaving the Scene (LTS) crash occurs when the vehicle and or driver fails to remain at the scene after a crash. Leaving the Scene crashes are classified in one of four categories:
  1. Fail to Stop and Render Aid
  2. Fail to Stop and Provide Information
  3. Fail to Stop and Provide Information Upon Striking Unattended Vehicle
  4. Duty on Striking Fixture or Highway Landscape
- TxDOT - State of Texas Crash Report (TDSTCR)

### GENERAL RESPONSE PROCEDURE

1. An Officer will be dispatched to motor vehicle crashes on public roadways. An Officer shall work the crash if:
  - a. The crash involves a DWI.
  - b. The crash involves a leaving-the-scene offense and there are investigable leads.
  - c. The crash involves property of the City of Elgin.
  - d. The crash meets the requirements for collision reporting set forth by TTC.
2. An Officer will be dispatched to private property crashes and shall investigate the crash only if the following conditions exist:
  - a. Death or injury as set forth in TTC;
  - b. City of Elgin-owned vehicle;
  - c. Driver involved is under the influence of alcohol or drugs and is still on the scene; or
  - d. Leaving-the-scene crashes with investigable leads.

If the above conditions do not exist, an officer may be dispatched to facilitate the exchange of information between parties and create an event of the incident.

### *First Responding Officer*

1. First responding officer on scene will assume control of the scene until relieved or relinquished.
2. Identifies potential or actual fire hazards, injuries of person(s) involved or other dangerous conditions so that appropriate action can be taken.
3. Summons additional assistance as needed.
4. Protects the scene.
5. Directs responding units to establish a safe traffic flow around the scene.
6. Takes appropriate law enforcement action.
7. Expedites the removal of debris and the vehicles involved from the roadway.
8. Controls property belonging to crash victims.
9. Facilitates driver information exchange.
10. Completes an incident report for all leaving-the-scene crashes that have investigative leads.

### DETAILED CRASH PROCEDURES

Officers routinely investigate traffic crashes as a part of their daily duties. There are two types of crashes:

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1. Non-Reportable Crashes
  - a. As a courtesy, the officer will issue all parties involved at a Non-Reportable crash an information exchange form to assist them with complying with TTC 550.023, Duty to Give Information. The officer will ensure all information (driver license number, license plate, and insurance) is correct on the exchange form and add their name, employee number, and event number to the form.
  - b. Non-reportable crashes will be cleared in the Computer Aided Dispatch (CAD) system. Event numbers are issued for insurance purposes only.
2. Reportable Crashes
  - a. If the crash is reportable, written documentation is required and the TDSTCR report will be completed.

### *Leaving-the-Scene Crash:*

The TDSTCR will be completed and, if there are any investigable leads, an RMS report will be completed as well.

An Officer who responds to either a Non-Reportable Crash or a Reportable Crash shall ensure that all pertinent information related to the crash is added to the incident via MCT (or dispatch). This information should include all driver's license returns, vehicle returns, insurance returns and a brief comment of the causation of the crash and identify contributing factors.

Officers may issue non-moving violation citations on a non-reportable (No Report) cleared crash. Moving violation citations are discouraged unless a Crash report is completed. If citations are issued at a non-reportable (No Report) cleared Crash, notes identifying these violations shall be added to the call report.

Officers should ensure that the Exchange Form is completed and exchanged between the parties involved. An event number shall be obtained and added to the form.

### *Crash (TDSTCR) TTC 550.041 and 550.062:*

The officer shall investigate the crash and complete this report any time one of the following exists:

1. A crash involves any injury or death.
2. A vehicle is towed due to damage.
3. A vehicle cannot be normally and safely driven from the scene.
4. When there is damage as per TTC.

The officer shall assign themselves as the primary unit if they are responsible for completing the TDSTCR report.

Crashes involving a fatality should be handled by the Crash Reconstruction Team (CRT).

### *Leaving the Scene Crash:*

On all leaving the scene crashes, a TDSTCR will be required at the minimum. If there are any investigable leads, an offense report will be completed. The collection of evidence, statements and photographs are essential if applicable. All reports and evidence will be submitted in accordance with policy, as with any other offense investigation.

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### *Fail to Stop and Render Aid (FTSRA) (TTC):*

Officers responding to a LTS crash that results in death, serious bodily injury or bodily injury of any person will be required to complete a TDSTCR (Crash/LTS) with as much information as they can ascertain and attach a case number to the TDSTCR report. Reporting officers will then create (or duplicate) a separate incident for Fail to Stop and Render Aid and complete an offense report containing all pertinent information for investigation.

The Fail to Stop and Render Aid offense report should only be completed if the crash investigation reveals that the crash resulted in death, serious bodily injury or bodily injury, as defined by Section 1.07, Penal Code, to a person.

Note: If the injury severity is that of an “A”, “B”, or “K” in the TDSTCR, the FTSRA offense report should be completed. If a “C” is the highest injury severity code used in the final findings, the offense report should reflect a FTSPI and not FTSRA.

### *Fail to Stop and Provide Information (FTSPI) (TTC 550.022, 550.023):*

When an officer responds to a LTS crash resulting only in damage (non-reportable) to a vehicle that is driven or attended by a person, and the vehicle is not towed due to damage and can normally and safely be driven under its own power and in its usual manner, without additional damage or hazard to the vehicle, other traffic, or the roadway, the officer shall create a separate offense report containing all pertinent information for investigation, if requested by the victim.

If at any time a vehicle has to be towed due to damage or if the vehicle cannot be normally and safely driven under its own power and in its usual manner, without additional damage or hazard to the vehicle, other traffic, or the roadway, the officer will be required to complete a TDSTCR report.

### *FTSPI Striking Unattended Vehicle/Structure, Fixture or Highway Landscaping (TTC):*

When an officer responds to an LTS crash (Non-Reportable) where the operator of a vehicle collides with and damages an unattended vehicle and the vehicle is not towed due to damage and can normally and safely be driven under its own power and in its usual manner, without additional damage or hazard to the vehicle, other traffic, or the roadway, shall create a separate offense report containing all pertinent information for investigation, if requested by the victim.

If at any time a vehicle has to be towed due to damage or if the vehicle cannot be normally and safely be driven under its own power and in its usual manner, without additional damage or hazard to the vehicle, other traffic, or the roadway, the officer will be required to complete a TDSTCR report in addition to the Strike an Unattended Vehicle report.

If the damage is to a fixture categorized as property defined as;

1. Any utility property
2. Railroad property
3. House or building
4. Bridge support

The officer shall complete a TDSTCR and an offense report.

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If at any time a vehicle is located at the scene and has to be towed due to damage or if the vehicle cannot be normally and safely driven under its own power and in its usual manner, without additional damage or hazard to the vehicle, other traffic, or the roadway, the officer will be required to complete a TDSTCR report in addition to the Striking Fixture or Highway Landscaping offense report.

### *Crash / Fail to Report:*

If at any time a single vehicle is located at a scene and damage to the vehicle is over the amount per TTC, but no damage exists to any other party, and the operator of the vehicle is not located; a Crash report shall be generated and the vehicle inventoried and impounded. This type of crash is not considered a leaving the scene crash. The Officer shall document all available information in the offense report and TDSTCR Crash Report.

### *Impounds:*

An officer will impound a vehicle from a crash when the owner or driver of any involved vehicle is not available to take custody of their property due to leaving the scene, death or injury requiring transport by EMS.

If the owner or driver of an operable vehicle involved in a crash is present at a scene and they are free from injury and able to operate the vehicle, and remove it from the roadway, an impound is not necessary.

### *Vehicle Holds:*

A vehicle hold will not be placed on vehicles without supervisor approval. If a vehicle is involved in serious bodily injury crashes or fatalities, it may be brought to the police department and placed in the vehicle evidence storage facility.

### *Special Conditions:*

In exigent circumstances (icy roads and vehicle slides off roadway, natural disasters, etc.) where a tow may be required but no injuries have resulted, crashes may be cleared with call notes within the CAD system. If the vehicle is abandoned, the officer will attach a "Red Tag" to reduce the number of multiple responses.

## CRASH RECONSTRUCTION TEAM

The Department's Crash Reconstruction Team (CRT) provides the Department with additional investigative support and shall investigate fatality crashes and serious bodily injury crashes that may result in death. CRT personnel will be placed on "on-call" status. Each CRT officer will have one hour to respond to the scene of crash after notification of required response.

### On-Duty Patrol Supervisors:

1. Determine if a CRT is needed at the scene;
2. Ensure that incident command has been established; and
3. Notify additional personnel as needed.

### Reconstruction Officers:

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1. Upon arrival to the scene, gather and organize as much information as possible to adequately reconstruct the crash.
2. Determine if additional reconstruction team members are needed.
3. Complete the investigation and reconstruction of the crash.

### **4/1.13.10 Identifying On-Call Wrecker Companies; Procedure For Dispatching Back-Up Wrecker Company**

On-call companies are all companies listed on Department's rotation list. The next wrecker company will be called only when the on-call company cannot or fails to respond to a wrecker request within 45 minutes from receipt of a call for service. Consideration should be applied to this time limit during traffic rush hours.

- *Officer Requesting Wrecker*
  1. Notifies dispatch of need and location for wrecker.
    - a. Indicates number of wreckers needed with one wrecker called for each vehicle.
    - b. Indicates special towing needs – i.e., motorcycle, trailer, or dollies.
    - c. Provides dispatch with license plate numbers and descriptions of vehicles to be towed.
  2. Notifies dispatch when on-call wrecker company fails to respond within 45 minutes.

### **4/1.13.11 Traffic Accident Investigative Follow-Up**

#### **PURPOSE**

To establish procedures for follow-up activities subsequent to traffic accident investigations.

#### **POLICY**

This agency shall perform follow-up traffic accident investigations regarding accidents involving serious injury, death, hit-and-run, city vehicles, DWI or any accident where further investigation is warranted. The assigned Officer will then determine what action to take and if criminal charges are appropriate.

When warranted, follow-up information should include:

1. Collecting off-scene data;
2. Obtaining and recording witness (affidavits) statements;
3. Preparing formal reports to support any criminal charges.

#### **PROCEDURE**

- *Investigating Officer*
  1. Officers will interview drivers and witnesses obtaining all pertinent information concerning the traffic crash in the event that a follow-up investigator needs to confirm or obtain further information.
  2. If the officer determines the crash resulted in serious bodily injury or death, they shall make supervisory notification.
- *Follow-Up Investigating Officer*
  1. The officer assigned to conduct a follow-up investigation may have to interview drivers and witnesses in their homes, place of business, or hospital room.
  2. To minimize any inconvenience to citizens, the officer shall try to make prearranged appointments.
  3. The interview may be recorded in the form of audio/video recording.

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## Uniform Traffic Tolerance Chart

The following charts cannot cover each situation or violation; this is only a guide for commonly used citation titles.

### Hazardous Violations

| Violation Type   | Citation Title                                   | Guide  |
|--|--|--|
| Speed Tolerances   | Speeding   | Over Limit -- Posted Speed Zone (Radar) - may allow at least nine (9) mph in excess of the specified speed. Cite at ten (10) mph or greater over the limit   |
|  | Speeding - School Zone                           | School Zones - should allow four (4) mph in excess of the specified speed. Cite at five (5) mph or greater.  |
|  | Speeding   | Officers may cite at any speed if the facts, circumstances or conditions would justify enforcement at a lower speed. Examples can be, but are not limited to: Wet, icy, or slick road conditions, residential area, construction zones, and special events involving pedestrian and/or bicycle traffic. Officers must be able to articulate why the speed was not reasonable or prudent for the circumstances. |
| Speed over limit - "posted area" (radar & non-radar)       | Speeding   | Lower to at least 1 mile per hour less than speed (i.e. 49 in 35 zone - lower to at least 48)  |
| Speed over limit - "school zone"                           | Speeding<br>"SCHOOL ZONE"                        | Same as above (i.e. 27 in 20- lower to at least 26)  |
| Speed over limit - "Construction Area" (radar & non-radar) | Speeding<br>"Construction Zone, Workers Present" | Same as speed "posted area" Construction workers must be present w/signage indicating "Const. Zone, Fines Double when Workers Present."  |
| Speed over limit - "construction area" (radar & non-radar) | Speeding<br>"Construction Zone"                  | Same as speed "posted area" Construction workers not present but signage indicates "Const. Zone"   |
| Imprudent speed (crash)                                    | Imprudent Speed                                  | Any vehicle at any speed when existing conditions are such as to make the speed unreasonable or imprudent.   |
| Impeding traffic   | Impeding Traffic                                 | An operator drives at a speed that impedes the normal and reasonable movement of traffic for a distance of 3 blocks or more  |

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|  |   |   |
|--|---|---|
| Right-of-way   | Fail to Yield ROW<br>(Left turn, right turn, no left turn no right on Red etc.) | If involved in crash or causes serious interference to another vehicle, pedestrian or bicyclist.  |
| Signs, signals & markings (see below)                            | (see below)   | Warning citations will be issued for a 3-day period after installation of new signs, signals & devices. Exceptions would be where a crash occurs or in aggravated situations. |
| Impeding traffic   | Speed Under Minimum, Unsafe   | If conditions above are not met – Vehicle traveling for a period of 3 or more blocks, will be removed from roadway.   |
| Red light  | Ran Red Light   | When involved in crash or when vehicle had not reached nearest stop line or crosswalk when light changed red.   |
| Flashing red light   | Ran Flashing Red Light  | Same as Stop Sign   |
| Ran warning sign/disregard of flashing amber light               | Disregard Posted Sign   | When involved in crash or apparently deliberate and hazardous   |
| Unsafe change of lanes   | Unsafe Change of Lane (from Marked Lane)  | When involved in crash or apparently deliberate and hazardous   |
| Crossing Physical Barrier  | Crossing Physical Barrier   | When crossed concrete, grass or other physical object. <b>Does not apply to crossing solid lines.</b>   |
| Drove Left of Double Yellow Line or Passing in a No Passing Zone | Drove Left of Double Yellow Line or Passing in a No Passing Zone                | Do not cite if operator crossed double yellow line or passed in a no passing zone in a safe manner for the sole purpose of passing a vulnerable road user                     |
| Turned from wrong lane   | Improper Right/Left Turn, Exit or Approach                                      | Turned from wrong lane, or wide right turn <b>interfering with other traffic</b> (if no interference--warn)   |
| Illegal U-turn   | Illegal U-turn, Crest/Bottom of Hill  | Involved in crash or <b>interfered with another vehicle</b> (if no interference--warn)  |
| Wrong side of road/wrong way                                     | Wrong Side of Road - Passing Or Drove Wrong Way on One-Way                      | Involved in crash or near crash, or where traffic is heavy (if no interference--warn)   |
| Following too closely  | Fail to Maintain an Assured Clear Distance.                                     | Willful or sustained, or involved in crash (Use common sense regarding enforcement during peak traffic periods when congestion exists).                                       |
| Cut through private drive  | Cut Through Private Drive to Avoid Light/Sign                                   | Cite if cut through in deliberate attempt to avoid traffic control device   |
| Fail to yield right-of-way to pedestrian                         | FTYROW to Pedestrian in Marked Crosswalk  | Cite if pedestrian in marked crosswalk has to move/run to avoid being hit   |
| Seat belt violations   | No Seat Belt - Driver/Passenger   | Cite per Transportation Code  |

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## NON-HAZARDOUS VIOLATIONS

| Violation Type   | Citation Title   | Guide  |
|--|--|--|
| Vehicle Registration                                       | Expired Registration                                       | Allow six (6) day grace period from expiration date  |
| Defective brakes   | Defective Equipment- Brakes                                | No emergency or weak foot brakes. Vehicle will not stop within 30 feet @ 20 mph. Or, brake on only one wheel |
| Defective headlights, tail-lights or other light violation | Defective Equipment- headlight, tail-light, etc.           | Evidence of willful neglect or multiple warning violations   |
| Open door to traffic                                       | Open Vehicle Door into Traffic                             | Involved in crash or interferes with movement of another vehicle.  |
| Commercial vehicle equipment violations                    | Do Not Cite or cite at direction of appropriate authority. | All suspected commercial vehicle equipment violations will be responsibility of the appropriate authority.   |
| Soiled or damaged license plate or no front plate          | Obscured LP; No Front LP                                   | Evidence of willful neglect or multiple warning violations   |
| License plate bracket or mounting violations               | Obscured LP  | Warn on first offense of partially obscured plate.   |
| other lighting violations                                  | White Light to Rear; Neon Lights                           | Evidence of willful neglect or multiple warning violations   |
| Buyer, & dealer in-transit tag violations                  | Misuse of Dealer In-transit/Demo Tag; Buyer's Tag Expired  | Evidence of willful neglect or multiple warning violations   |
| Defective exhaust, mufflers smoke etc.                     | Defective Exhaust - Noise /Smoke                           | Evidence of willful neglect or multiple warning violations   |
| Altered or fictitious vehicle registration                 | Altered or fictitious vehicle registration                 | Fact Specific or criminal offense  |
| Driver's license Violation (expired)                       | Expired DL   | Citations may be issued upon expiration  |
| Driver's license Violation (fail to change address)        | Fail to Change Driver's License                            | Cite per Transportation Code   |
| No insurance, 1st and 2nd offenses                         | Fail to Maintain Financial Responsibility                  | Cite per Transportation Code   |
| Window tint violation - front door windows- both sides     | Unlawful Window Tint                                       | Warn on first offense if light transmission is 21% to 24%. Cite if light transmission is 20% or less.        |
| Window tint violation - windshield                         | Unlawful Window Tint                                       | Cite if light transmission more than 5" from top of windshield is 65% or less                                |

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Signed Original Maintained in the Office of the Chief

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John C. Noble