

## TRAFFIC LAW ENFORCEMENT

### PREAMBLE:

Traffic law enforcement is intended to enhance the safety of public roadways. The Omaha Police Department (OPD) strives to maintain enforcement practices that result in fair, safe, and efficient traffic enforcement activities. Officers must have legal justification (Reasonable Suspicion or Probable Cause) to stop a motor vehicle.

### POLICY:

It is the policy of the Omaha Police Department (OPD) that officers who observe traffic law violations are expected to take appropriate enforcement action, when practical, and to do so in a manner that is as uniform as possible. All officers shall use discretion and sound judgment while engaged in traffic law enforcement activities, and shall make enforcement decisions based on their training, experience, and common sense. Off-duty OPD officers shall not engage in traffic law enforcement unless there is a significant risk to public safety and only to the extent described in this policy.

### DEFINITIONS:

Articulable Facts: Facts that officers can verbalize which give rise to a reasonable suspicion that a person has committed, is committing, or is about to commit a crime.

Highway: The entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.  
[Nebraska Revised Statutes \(NRS §60-332\)](#)

Probable Cause: Probable cause exists where the facts and circumstances within the officer's knowledge are more probable than not to warrant a belief that the suspect has committed, or is in the process of committing a crime. Probable Cause is established by two building blocks: 1) An awareness of the articulated facts, and 2) A gathering of supportive evidence.

Reasonable Suspicion: Specific, reasonable inferences which the officer is entitled to draw from the facts in light of their experience. Reasonable suspicion is something less than the probable cause standard, and shall not support an arrest. Reasonable Suspicion is established by three building blocks: 1) Specific articulated facts, 2) Rational inferences, and 3) Plausible conclusions.

Vehicle Identification Number (VIN): Serial and/or engine number; usually a lengthy combination of alpha-numeric characters.

### PROCEDURE:

#### I. Traffic Stops

- A. Reasonable Suspicion can stand alone as a reason for initiating a traffic stop. Probable Cause must attach to Reasonable Suspicion at the conclusion of the traffic stop in order to justify an arrest.
- B. Given the totality of the circumstances, officers should be able to articulate specific facts that, together with rational inferences, support the plausible conclusion that the person(s) in the vehicle to be stopped has committed a traffic violation or is about to commit some other type of criminal activity.
  1. Where an officer has Reasonable Suspicion of wrongdoing, they may conduct a brief investigative stop to seek additional information to confirm or dispel concerns.

2. Any facts that suggest criminal activity that an officer obtains after the stop commences cannot be used to justify the stop itself. However, these facts can be used to justify the continued detention of the person(s).
- C. Traffic stops should be made in safe locations whenever possible. Officers should consider the following factors:
1. The need to make the stop immediately, as opposed to delaying the stop until a more preferable location can be selected.
  2. Factors such as traffic flow, roadway width, lighting, hillcrests, curves, intersecting roadways, and similar circumstances that can affect safety.
  3. Weather and other environmental factors that can affect road surface conditions and visibility.
- D. Officers shall attempt to notify the 911 dispatcher prior to the actual traffic stop or as soon as practical. Officers shall transmit the following information to the 911 dispatcher as soon as practical:
1. Location of the stop.
  2. License number of the vehicle.
  3. Description of the vehicle.
  4. Number of occupants.
  5. Multiple officers working a specific traffic enforcement operation on a 10-7 assignment shall inform 911 dispatch of their location and status both prior to and at the conclusion of the operation. Individual stops need not be announced on a primary channel if communication with on-location back-up officers is established.
- E. When officers park a police vehicle to approach a violator's vehicle, they shall position the vehicle so as to avoid unnecessary future crashes, as well as to afford adequate cover and safety for themselves.
- F. In some isolated situations, officers may elect to wave over moving offenders while on foot. This may be appropriate when multiple officers are working a low-speed surface street or checkpoint operation (with prior command approval).
1. All stops made in this manner are still considered traffic stops and are subject to the same rules and procedures as any other traffic stop.
  2. Officers who participate in such activities for traffic enforcement reasons must be in full uniform and must wear their florescent police traffic safety vests.
  3. Officers who conduct on-foot traffic operations shall exercise great care in selecting appropriate, safe, and clearly visible locations, avoiding proximity to hillcrests, blind curves and high-speed roadways such as the Interstate(s) or the West Dodge Expressway.
  4. Officers must also consider the time of day, sunlight angle, street lighting, weather and surface conditions before setting up any on-foot traffic operations.

- G. Should an off-duty officer observe dangerous driving behavior they determine must be addressed, they may:

1. Request on-duty officers to conduct a traffic stop.

**NOTE:** Under no circumstance shall an off-duty officer conduct a traffic stop in their personal vehicle.

2. If an on-duty officer is not immediately available, and the off-duty officer believes it is in the public's best interest to maintain a visual observation of the party until on-duty officers are available, the off-duty officer shall request 911 immediately, notify the on-duty UPB sergeant and advise the sergeant of the reason they feel a stop is necessary and that they are maintaining a visual observation of the vehicle. The sergeant shall determine if the off-duty officer continues to follow the vehicle.

**NOTE:** The off-duty officer may not violate any traffic laws while following the vehicle.

3. Off-duty officers shall recognize that citizens may not realize that an officer is following them in a personal vehicle, and they may fear for their own safety once they recognize they are being followed.

## II. Violator Contacts

- A. Officers should be aware that the traffic stop might be the person's FIRST ever contact with a police officer. They may be stressed, nervous, and even embarrassed about being stopped. Officers should be courteous in their conversation and demeanor. By doing so, officers forge a professional de-escalation technique.
- B. Upon contact, officers shall:
1. Introduce themselves by name and agency.
  2. Inform the driver of the reason for the traffic stop.
  3. Request the driver's license, registration, and proof of insurance.
- C. Citations shall be issued as described in the OPD "[Citations](#)" policy.
- D. Officers shall complete the Traffic Stop Analysis (TSA) in the electronic reporting system in accordance with the OPD "[Unlawful or Improper Bias](#)" policy. If the electronic reporting system is down, officers shall complete [OPD Form 169](#).

## III. Required Documentation

- A. On all traffic stops, officers shall document the Probable Cause/Reasonable Suspicion for the stop via one or more of the following:
1. Field Observation Card (FO): At minimum, driver information shall be listed.
  2. Citations shall be issued as described in the OPD "[Citations](#)" policy.
    - a. Courtesy Citation.
    - b. Traffic Citation.
    - c. Criminal Citation.

3. Incident Report.

**NOTE:** Officers shall complete the Traffic Stop Analysis (TSA) in accordance with the OPD "[Unlawful or Improper Bias](#)" policy.

#### IV. Special Considerations

- A. Non-resident violators: Non-resident violators shall be handled in the same manner as residents, except in cases of Proof of Financial Responsibility and Driving Under Suspension, as described in this policy.
- B. Nebraska Legislators: Officers shall not issue Traffic Citations to, or take into custody for a misdemeanor offense, any member of the Nebraska Legislature while the Legislature is in session or within 15 days of the beginning or end of the session.
- C. Members of the Armed Forces: Members of the Armed Forces who violate traffic laws shall be handled in the same manner as residents, except with respect to laws governing the expiration and renewal of drivers' licenses and license plates. Armed Forces members and their spouses who are stationed in Nebraska on active duty are exempt from the State's licensing requirements, if licensed in their state of residence.
- D. Diplomats and Consular Officials: Traffic Citations that do not involve a physical arrest may be issued to diplomats and consular officials.
- E. Juveniles: Several types of operators' licenses are issued by the Department of Motor Vehicles (DMV) to juveniles who are at least 14, but less than 18 years of age, as described in Nebraska Revised Statute §60-480. Juveniles who possess one of the below listed types of licenses may be issued the appropriate citation:
  - 1. Provisional Operator's Permit (POP).
  - 2. Learner's Permit (LPD).
  - 3. School Permit (SCP).
  - 4. School Learner's Permit (LPE).
  - 5. Farm Permit (FMP).
- F. Impaired Drivers: When an officer encounters an operator or person in physical control of a motor vehicle who exhibits physical signs of impairment, an investigation shall be conducted to determine whether that person is under the influence of alcohol/drugs, and enforcement action shall be taken in accordance with the OPD "[Driving Under the Influence](#)" policy.
- G. Speeding Violations: Drivers stopped for violating the posted speed limits may be warned or issued a citation. Individual officers may use discretion to determine whether a Courtesy Citation or a Traffic Citation is most appropriate.
- H. Accident-Causing Violations: Accident-causing violations can result in motor vehicle crashes, injuries, and death. Courtesy Citations are not appropriate for violations which have caused crashes. When fault can be determined, officers shall issue the appropriate citation(s), in accordance with the OPD "[Citations](#)" policy. Officers shall be alert to accident-causing violations and shall take the appropriate enforcement action. Common accident-causing violations include, but are not limited to, the following:

1. Reckless Driving.
  2. Following Too Close.
  3. Improper Turn.
  4. Failure to Yield the Right-of-Way.
  5. Disobey a Traffic Signal or Stop Sign.
  6. Speed Too Great for Existing Conditions.
  7. Texting While Driving.
- I. Off-Road Vehicle Violations: Various City Ordinances deal with the operation of motor vehicles off of roadways. Officers should be familiar with these ordinances and take the appropriate action with violators. Officers may take enforcement action against drivers who operate a motor vehicle on private property who are intoxicated or who operate in a careless and imprudent manner.
- J. Equipment Violations: Officers shall take enforcement action against the operators of motor vehicles that are in violation of the various laws and ordinances dealing with equipment on the vehicles. Officers will use their discretion to determine whether a Courtesy Citation or a Traffic Citation is most appropriate.
- K. Commercial Vehicle Violations: Nebraska Revised Statutes require many operators of commercial vehicles to possess a valid Commercial Driver's License (CDL). Officers should be familiar with the special restrictions and requirements for persons with CDLs and shall take appropriate enforcement action when violations are observed.
- L. Non-Accident-Causing Violations: Many laws and ordinances exist that govern non-accident causing motor vehicle operations violations. Officers shall be familiar with such laws and be attentive to violations. Some of these violations require special emphasis by officers.
1. Child restraint laws are often violated. Because a child who is not properly secured in a motor vehicle is at great risk in case of an accident, officers shall be alert to such violations. Officers shall issue a Traffic Citation when the child restraint laws are violated.
  2. Seat belt laws can be enforced only when violators are stopped for primary violations due to the fact that seat belt violations are secondary offenses.
- M. Multiple Violations: A traffic law violator may often violate more than one law or ordinance at a time. Officers may issue citations for all violations observed or they may issue a Traffic Citation for the most serious violations.
- N. Newly-Enacted Laws: When new laws or ordinances are enacted that govern motor vehicle operations, officers should consider allowing a 30-day grace period before violators are cited to court. Depending upon the nature of the law, officers may elect to issue a Courtesy Citation rather than a Traffic Citation to violators during this grace period.
- O. Violations Resulting in Traffic Crashes: If probable cause exists and is supported by information including, but not limited to, drivers' accounts, witness statements, and physical evidence, a Traffic Citation shall be issued. Courtesy Citations are not appropriate for violations which have caused crashes.

- P. Pedestrian and Bicycle Violations: Ordinances regulate the movements of pedestrians and bicycles on city streets. Officers shall be familiar with these ordinances. Often, officers may use these ordinances as educational tools when contacting violators.
1. State statutes, such as NRS §[60-614.02](#) - [60-614.04](#) and [60-678](#), also define and regulate the use of electric bicycles.
- Q. Roadway Hazards: Officers shall immediately report roadway hazard conditions to the Information Operator for immediate referral and action by the appropriate agency (Street Department of Omaha Public Works or State of Nebraska).

## **V. Driving During Suspension**

- A. Driver's License Compact and Non-Resident Violator's Compact: When an officer encounters a driver with a suspended driver's license from a state other than Nebraska, the options are:
1. Issue a Criminal Citation in lieu of arrest as prescribed in the OPD "[Citations](#)" policy.  
– OR –
  2. Book the person for "Operation After Revocation" (§[60-4,186](#)), file the bond required for a Class III Misdemeanor, and verify the charge.
- B. Duplication of Charges: When officers make an arrest for "Driving While Suspended" (§[60-4,108](#)), they shall not additionally issue Traffic Citations for the offense "No Operator's License." Doing so results in a duplication of charges and can result in inadvertent sentencing. For example, the offender pleads guilty to the citation, forcing the suspension complaint to be dropped.

## **VI. Warrantless Searches of Vehicles – Traffic Stops**

- A. A vehicle shall not be searched solely on the basis of a traffic infraction. Officers are prohibited from requesting permission to search on a random basis, absent a legitimate reason or articulable suspicion. Officers must be able to articulate the reason or suspicion that led to the request for permission to search.
1. Examples of a legitimate reason include:
    - a. Concern for officer safety.
    - b. The driver and/or passenger have a recent history of serious criminal violations.– AND / OR –
    - c. There is Probable Cause or Reasonable Suspicion that the driver and/or passenger violated the law.
- B. For more information on conducting warrantless searches of vehicles, officers shall refer to the OPD "[Searches- Vehicles](#)" policy.

## **VII. Public Roadways**

- A. Officers working off-duty are not authorized to direct traffic on a public roadway. No person other than an on-duty peace officer is authorized to direct traffic on a public roadway under any circumstances, with the following exceptions:
1. An emergency situation such as temporary construction or an obstruction in the street.

2. In the case of automobile crashes.
  3. Similar events that create a temporary hazard to the moving public.
- B. In these cases, traffic could be controlled by any interested party for the safety and well-being of passing motorists which could become endangered due to a temporary hazard.

### **VIII. Motorcycle/Moped Operation**

- A. Motorcycle/Moped Operators must have a Nebraska Class M License or a license to operate a motorcycle from another state.
- B. Operators shall wear eye protection or have a motorcycle/moped windshield which protects the operator's and passenger's horizontal line of vision.
- C. Motorcycle/Moped Helmets
1. Motorcycle operators must wear protective helmets (helmet manufactured for use of such vehicles), is secured with a chin strap while in motion and shall meet or exceed [DOT Standard 49CFR §571.218](#) (helmet specifications) and eye protection as required per NRS [§60-6.279](#).
    - UNLESS the operator meets one of these three exceptions:
      - a. Is twenty-one (21) years of age or older and has a Nebraska Class M license prior to May 1, 2024 and has completed the "Motorcycle Safety Foundation Basic Motorcycle Rider" e-course and submitted the completion of the program to the DMV;
        - OR –
      - b. Is twenty-one (21) years of age or older and has a Nebraska Class M license on or after May 1, 2024 and has completed the basic motorcycle safety course as provided in the Motorcycle Education Safety Act and submitted the completion of the program to the DMV;
        - OR –
      - c. Has a license to operate a motorcycle by another state.
  2. Motorcycle passengers must wear protective helmets (helmet manufactured for use of such vehicles), is secured with a chin strap while in motion and shall meet or exceed [DOT Standard 49CFR §571.218](#) (helmet specifications) and eye protection as required per NRS [§60-6.279](#).
    - UNLESS this exception is met and if it is met, the passenger does not need to wear a helmet.
      - a. The passenger is twenty-one (21) years of age or older and the person operating the motorcycle meets VIII.C.1. (a), (b), or (c) above.
- D. Any person in violation of this section shall be guilty of an infraction and fined according to the amount set in NRS [§60-6.282](#).

1. Enforcement of this section shall be accomplished only as a secondary action unless the violation involves a person under the age of eighteen (18) years of age riding on any portion of the motorcycle or moped not designed or intended for the use of passengers when in motion.

## **IX. Off-Road Vehicles**

- A. The illegal operation of off-road vehicles on city streets, quasi-public property, and private property, is a recurring problem within the City of Omaha. Additionally, the winter months may result in enforcement problems involving snowmobiles.
- B. Officers who observe violations involving off-road vehicles shall use applicable traffic codes to cite violators.
- C. Per Nebraska Revised Statute [§60-339](#), the definition of “off-road” vehicles not authorized by law for use on highways includes, but is not limited to “golf car vehicles, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles, utility-type vehicles, snowmobiles which are registered or exempt from registration under Sections §60-3,207 to §60-3,219, and mini-bikes.” Mopeds and electric personal assistive mobility devices are not considered motor vehicles per this statute.
  1. Use of the above-described vehicles is restricted within the city limits. It is unlawful for any person, whether owner or operator of “any motorized cart, mini-bike, motor scooter, or motorcycle to use, operate, drive, or race the vehicle on any public property, public sidewalk, or public place in the city except at properly licensed tracks or establishments” (Omaha City Ordinance [16-163-164](#)).

**NOTE:** The operation or driving of electric powered, noiseless off-road vehicles on private premises or the use, operation, or driving of off-road vehicles upon the operator's private driveway is legal.

2. Properly licensed motorcycles and motor scooters may be driven on public streets and shall be governed by the Traffic Code. Operation of properly licensed motorcycles/motor scooters in to and out of quasi-public property for business on a direct entry and exit route is not considered to be in violation of City Ordinance.
  - a. However, this does not authorize the operation of motorcycles or other off-road vehicles on quasi-public property in non-transportation activities.
3. An officer who observes a violation of City Ordinance [16-162](#) in the operation of off-road vehicles may:
  - a. Handle the violation as a Juvenile Street Release if the violator is under fifteen (15) years of age and issue a Criminal Citation to the parent, guardian, or adult who knowingly permitted use of the vehicle.

– OR –
  - b. Issue a Criminal Citation directly to the violator if they are fifteen (15) years of age and older.

## **X. Proof of Financial Responsibility**

- A. Officers shall enforce Nebraska Revised Statute [§60-3,167](#), which requires proof of financial responsibility for owners of motor vehicles. Violators shall be issued a Criminal Citation.

1. Officers shall not enforce proof of financial responsibility laws for other states.
- B. OPD officers shall adhere to the following procedures:
1. Proof of Financial Responsibility is not a primary offense. This means officers may not stop a motorist simply to determine if the motorist has proof of financial responsibility.
  2. Officers shall not impound a vehicle for violation of the Financial Responsibility Statute alone. Vehicles may be impounded for other reasons, if justified.
  3. Resident owners of vehicles being driven in an in-transit status ARE NOT EXEMPT from the Financial Responsibility Law.
  4. Citations for “No Proof of Financial Responsibility” shall not be issued to persons driving vehicles that have been legally licensed outside of the State of Nebraska.
  5. Proof of Financial Responsibility forms may vary in size. The usual form is a wallet-size card. However, some companies may issue a temporary coverage form (letter size or larger) or an electronic form. If the form appears to be an official insurance company form, i.e., bears the name of the insurance company, policy number, vehicle identification number, policy dates of issuance and expiration, and information regarding the owner, then officers shall accept it as valid.
  6. When an officer has reason to request a certificate of insurance from a vehicle owner, and the insurance card states the owner is insured for all vehicles registered in their name, this shall be considered sufficient proof of financial responsibility provided that the named insured on the certificate matches the name of the registered owner of the vehicle.

## **XI. Racial Profiling**

- A. Racial profiling is prohibited by the OPD. See the OPD “[Unlawful or Improper Bias](#)” policy for details.

## **REFERENCES:**

### **I. Laws and Court Cases**

- A. The following court cases are applicable to this policy: Arizona v. Johnson 555 US 323, 330, 129 S.Ct. 781 (2009), Brendlin v. California, 551 U.S. 249 (2007), Maryland v. Wilson, 519 U.S. 408 (1997), and State v. Gutierrez, 611 N.W.2d 853 (2000).

### **II. Previous OPD Orders**

- A. Previous General Orders: #74-75, 52-84, 71-85, 10-86, 10-86 Supplements #1 and #2, 43-86, 9-87, 61-87 and 61-87 Supplement #1, 103-88, 111-88, 69-90, 71-90, 80-90, 90-90, 48-92, 7-96, 63-96, 37-98 and 37-98 Supplement #1, 1-00, 77-00, 25-02, 81-02, 7-03 Supplements #1 and #2, 26-03, 28-03, 15-06, 29-07, 7-08, 10-10, 7-11, 7-11 Supplement #1, 8-11, 47-12, 20-14, 33-15, 49-17, 97-18, 27-22, 97-23, 33-24, and 9-25.
- B. Previous Information Orders: #177-89 and 256-93.

### **III. Accreditation Standards**

- A. Relevant CALEA Accreditation Standards: 1.2.4, 1.2.7, 61.1.2, 61.1.3, 61.1.4, 61.1.5, 61.1.7, and 61.1.8.

**IV. Other**

- A. PPM Monthly Updates: #2-2017, 3-2017, 5-2017, 11-2017, and 4-2021.
- B. OPD Training Bulletin [#06-25](#).