



ORONO POLICE DEPARTMENT

STANDARD OPERATING PROCEDURES

Protect with Vigilance & Serve with Compassion and Excellence

Subject:	Traffic Law Enforcement	Policy #	O-40
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MLEAP:	7.27.A.B.C.D		
	<i>Rescinds All Previous Policies Related to This Current Policy</i>		
Issuing Authority:	Chief of Police Daniel Merrill		

I. POLICY:

It is the policy of the Orono Police Department that enforcement of traffic laws and ordinances is a fundamental responsibility of the agency. Uniform enforcement procedures support the goal of traffic law enforcement, which is to achieve voluntary compliance with applicable laws by all motorists, bicyclists, and pedestrians for public safety purposes.

Enforcement of traffic laws and ordinances should be conducted in full compliance with constitutional and statutory safeguards that were established to preserve the rights of all citizens. Employees of this agency shall not engage in traffic enforcement actions that are race or ethnicity-based or that otherwise reflect any form of bias or prejudice.

MLEAP 7.27.A

II. PURPOSE:

The purpose of this standard is to establish guidelines to ensure that enforcement actions are commensurate with applicable statutes and ordinances, and that such actions correspond with the degree and severity of the violation committed. The standard also recognizes that unsafe operation of motor vehicles is a significant source of substantial property damage, as well as serious injuries and fatalities.

The rules for traffic stop data collection to eliminate profiling in Maine are promulgated pursuant to 5 M.R.S. § 4753. They establish the data elements to be collected and reported by law enforcement agencies for alleged traffic infractions in the State, the deadlines for quarterly reports of that data to the Office of the Attorney General, and the retention period for the data

III. DEFINITIONS:

American Indian or Alaska Native: Refers to origins in any of the original peoples of North and South America (including Central America).

Asian: Refers to origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American: Refers to origins in any of the Black racial groups of Africa.

Hispanic or Latino(a): Refers to origins in Spain, Mexico, Puerto Rico, Cuba, Central and South America, and other Latin American or Spanish-speaking countries.

Law Enforcement Agency: An agency in the State charged with enforcement of state, county, municipal or federal laws or laws of a federally recognized Indian tribe, with the prevention, detection or investigation of criminal, immigration, or customs laws or with managing custody of detained persons in the State and includes, but is not limited to, a municipal police department, a sheriff's department, the State Police, tribal police departments, a university or college police department and the Department of

Public Safety. A Law Enforcement Agency Does not include any agency established pursuant to federal law.

Law Enforcement Officer: A state, county, or municipal official or an official of a federally recognized Indian tribe responsible for enforcing criminal, immigration, or customs laws, including, but not limited to, a law enforcement officer who possesses a current and valid certificate issued by the Board of Trustees of the Maine Criminal Justice Academy pursuant to 25 MRSA c. 341 sec. 2803-A.

Motor Vehicle: Is defined pursuant to 29-A MRSA c. 1 sec. 101 (42).

Native Hawaiian or Other Pacific Islander: Refers to origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Non-Binary: Refers to gender identity and/or gender expression outside of the gender categories of male and/or female.

Stop or Traffic Stop: Any detection by a law enforcement officer of a motor vehicle for an alleged traffic infraction.

White: Refers to origins in any of the original peoples of Europe, the Middle East, or North Africa.

I. PROCEDURES:

A. **Enforcement Action Relating to Traffic Violations:** Officers have a duty to observe, detect, and prevent violations of traffic laws and to take appropriate enforcement action. Each officer shall use their discretion in deciding what traffic enforcement action is proper based on their experience, training, the circumstances, and all available information about an offending motorist's compliance history. The range of enforcement actions include verbal warnings, written warnings or defect cards, uniform traffic tickets, and arrests.

In the absence of a specific report of an alleged traffic violation or crime, no officer shall stop, detain, or search any person when such action is motivated by race, color, ethnicity, gender, or sexual orientation.

1. **Warnings or other non-punitive enforcement** actions should be considered in each situation when circumstances warrant. An officer may also issue a warning citation when they believe it is appropriate. The officer should consider the violator's level of interference with other traffic, mitigating factors, road conditions and the officer's ability to educate the violator without seeking punitive action. Officers shall issue warnings in the format prescribed by the CLEO, either paper or electronic (e-warning). When issuing e-warnings, officers shall complete all required fields, including demographic data collection. When completing required data fields, officers should remain aware of *Policy O-40 Traffic Enforcement* IV.C requirements. **MLEAP 7.27.B**

2. **Issuance of Citations (USAC) and/or (VSAC):**

Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

- i. Explanation of the violation or charge.
- ii. Court appearance procedure; including the optional or mandatory appearance by the motorist.
- iii. Notice of whether the motorist can enter a plea and pay the fine by mail or at the court.

Issuance of a Violation Summons and Complaint (VSAC) is appropriate when an officer witnesses a violation that jeopardizes the safe and efficient flow of traffic. The VSAC must be used when a violator commits a traffic violation that is not in the category of a traffic misdemeanor.

Informing the Violator: The issuing officer shall give a traffic violator the following information when a summons is issued: **MLEAP 7.27. C**

When an officer issues a **VSAC**, it shall be issued in the format prescribed by the CLEO. Maine utilizes two formats for VSAC's, paper and electronic (e-citation). When issuing e-citations, officers will complete all required fields, including demographic data collection. When completing required data fields, officers should remain aware of *Policy O-40 Traffic Enforcement IV.C* requirements.

When an officer issues a **VSAC**, they must provide the following information.

- i. A description of the alleged infraction.
- ii. An indication of the statutory title and section number of the traffic offense.
- iii. An indication that relevant information and options are printed on the back of the

VSAC along with an envelope addressed to the Violations Bureau, including:

- i. Instructions on how to pay the fine by mail.
- ii. Instructions on how to pay the fine online.

The officer will explain that a court appearance is optional. If the violator decides to contest the alleged violation, the officer will explain how to contact the Violations Bureau within 35 days of issuance to request a hearing.

If a court date is scheduled but the violator does not appear on the scheduled court date, a fine will be assessed against the violator for payment by default.

Issuance of a **USAC** to the violator, they will explain the following information.

- i. A description of the charges.
- ii. The title and section number of the offense.
- iii. The officer will explain that a court appearance is mandatory.
- iv. The court date is issued by the officer from the court appearance scheduled and listed on the USAC.

3. **Arrests:** Most traffic violations outlined in *Title 29-A* are infractions. Officers will not make a physical arrest of a person who has committed a violation or violations that are solely infractions. Violators committing infractions may be warned or issued a citation (VSAC) as outlined in this policy.

Physical arrest can be made on a number of criminal traffic offenses which are classified as misdemeanors or felonies as outlined in *Title 29-A*. These physical arrest cases usually deal with, but are not limited to:

MLEAP 7.27.D

- i. Vehicular manslaughter.
- ii. Felony and misdemeanor driving under the influence of alcohol/drugs.
- iii. Felony or misdemeanor hit-and-run.
- iv. Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstance habitual offender revocation status.

B. Preparation and processing of traffic reports and citations:

1. **Traffic Misdemeanors:** A narrative report shall be prepared whenever a traffic violator is arrested. When a Uniform Summons and Complaint (USAC) are issued for violations that are misdemeanors, a narrative report shall be completed. Both reports shall include, at a minimum, the following information:
 - i. The reason (i.e., the reasonable articulable suspicion) for the traffic stop.

- ii. How identification of the violator was made and how the violator's date of birth was obtained.
 - iii. Statements made by the suspect.
 - iv. Facts establishing the elements of the offense.
 - v. Violations Bureau record (attached to the incident report).
 - vi. Witness statements if applicable.
 - vii. Reference to a written witness statement.
2. **Traffic Infractions:** Whenever a violator is charged with a traffic infraction, they shall be issued a Violation Summons and Complaint Form (VSAC). Narrative reports are not mandatory with infractions, but some type of description of the violation is required, and a narrative shall be written in a citation report in the department's record management system database (RMS). The disposition of the traffic stop will also be logged in the RMS.
- i. Officers shall complete and submit the VSAC by the end of their shift. The VSAC will be placed in the proper paperwork file.
 - ii. All summons, including those issued to violators and those voided, shall be submitted to the Administrative Assistant.
 - iii. The Administrative Assistant shall collect all the VSAC tickets and send them to the District Court or Violations Bureau.
 - iv. All VSAC's will be forwarded to the Bureau of Motor Vehicles.
 - v. The Administrative Assistant shall send out court lists from VIOLATIONS BUREAU to the officers involved.
 - vi. All VSAC's will be forwarded to the Bureau of Motor Vehicles by the Administrative Assistant within (5) days of the issuance of the VSAC.
4. The officer may dismiss any VSAC for legitimate law enforcement purposes. Examples include:
- i. Failure to provide proof of insurance: If a violator produces proof that insurance was in effect at the time of the stop, the charge may be dismissed.
 - ii. Officer not available for court: It is permissible to reduce a charge by agreement with the violator.
5. In dealing with the District Attorney's office, employees shall not seek the dismissal of any summons for personal reasons. An example would be negotiating the reduction or dismissal of charges to benefit a friend or family member. This would not only be a violation of *Policy A-1 Code of Conduct* but is also a criminal violation.

C. Data Collection of Operators

1. Each law enforcement agency shall collect the following information in the manner described and per the timeline set forth in the *Report of Data (section 2 below)* of these rules for submission to the Attorney General. The information shall pertain to the total number of times law enforcement officers employed by the law enforcement agency stopped drivers of motor vehicles for any alleged traffic infraction of any motor vehicle statutes or ordinances, and shall include:
 - i. Law enforcement agency name and location.
 - ii. Location, date, and time of stop.
 - iii. Perceived race of the person stopped. When reporting this data element, the officer shall select from:
 - a. White

- b. Black or African American
 - c. American Indian or Alaska Native
 - d. Asian
 - e. Native Hawaiian or other Pacific Islander.
- iv. Perceived color of the person stopped. When reporting this data element, the officer shall select from:
 - a. White
 - b. Brown
 - c. Black
 - d. Other non-white
- v. Perceived ethnicity of the person stopped. When reporting this data element, the officer shall select from:
 - a. Hispanic or Latino(a)
 - b. Non-Hispanic or Latino(a)
- vi. Perceived gender of the person stopped. When reporting this data element, the officer shall select from:
 - a. Male
 - b. Female
 - c. Non-binary or other gender
- vii. Perceived age of the person stopped. When reporting this data element, the officer shall record the officer's perception of the age in years of the person stopped in numeric format (e.g., 53).
- viii. Reason for the stop/nature of alleged infraction. When reporting this data element, the officer shall record the relevant Maine Revised Statute citations that formed the basis of any alleged infraction(s) or violation(s) that led to the stop.
- ix. Result of the stop. When reporting this data element, the officer shall indicate any of the following that apply:
 - a. Arrest
 - b. Citation
 - c. Search
 - d. Warning
 - e. Not Action Taken
- x. Any additional information the law enforcement agency determines appropriate. The additional information may not include any other personally identifiable information about a person stopped for a traffic infraction, such as the person's driver's license number, name, or address.
- xi. When reporting the data elements of perceived race, color, ethnicity, gender, and age, the officer shall make the determination of the person's race, color, ethnicity, gender, and age based only on personal observation and perception made during the course of the traffic stop. The officer shall NOT ask the person stopped his or her race, color, ethnicity, gender, or age, or ask question or make comments or statements designed to elicit this information.

2. Report of Data

Each law enforcement agency shall submit the data described in these rules of the Office of the Attorney General quarterly via report generated from the Maine e-citation system maintained by the State of Maine Department of Public Safety, or in compliance with protocols established and approved by the Office of the Attorney General. If the agency is not utilizing the e-citation

system, it will ensure the data is collected and entered into the agency's records management system (RMS).

- i. The following information will be retained either in the agency's RMS database, or annual report by the Orono Police Department.
 - i. The number of persons stopped for traffic infractions.
 - ii. The characteristics of race, ethnicity, gender, and age of each person stopped with the identification of such characteristics based on the observation and perception of the law enforcement officer.
 - iii. The nature of each alleged traffic infraction that resulted in a stop.
 - iv. Whether a warning or citation was issued, an arrest was made, or a search was conducted because of each stop for a traffic infraction.

The first quarterly data report shall be due on October 15, 2024, and shall contain data covering July 1, 2024, through September 30, 2024. Thereafter, quarterly reports will be due to the Office of the Attorney General on the following dates for the corresponding data collection:

- January 15 for data collected October 1 through December 31
- April 15 for data collected January 1 through March 30
- July 15 for data collected April 1 through June 30
- October 15 for data collected July 1 through September 30

3. Data Retention

Law enforcement agencies shall retain data collected pursuant to these rules for a period of five years.

D. Special Processing of Certain Traffic Law Violators:

1. **Non-Residents and Residents:** Non-residents committing violations of Maine traffic laws shall be afforded the same consideration as residents receive under similar circumstances.
2. **Juveniles:** Any person under the age of eighteen who commits a traffic infraction may be summoned by using a Violation Summons and Complaint (VSAC). Juveniles who commit traffic misdemeanors shall be handled as an adult or otherwise stated in the Juvenile Code *Title 15 Section 3103* "Juvenile Crimes."
3. **Legislators:** No officer shall detain any member of the United States Congress or the Maine Legislature when they are attending, going to, or returning from their respective official sessions. (*Constitution of the United States, Article I, Section 6; Constitution of Maine Article IV, Part Third, Section 8*).
4. **Foreign Diplomats/Consular Officials:** Diplomatic immunity is a principle of international law afforded to duly accredited diplomatic officers, their families, and servants. Diplomats should not be arrested or detained except for the commission of a felony. Diplomats on personal business are entitled to the same immunities under *US Law (22 USC 252)* if they are not nationals or permanent residents in the state.
5. **Military Personnel:** Members of the military are exempt from arrest or citation solely following circumstances.
 - i. During military formations, exercises, mobilization, or other duty when exigent, perilous, emergency, or similar circumstances require the member's presence.
 - ii. While traveling to and from military duty locations when exigent, perilous, emergency, or similar circumstances require the member's presence.

- iii. This exemption does not extend to arrest or citation if the military member is operating a vehicle in a reckless manner or while under the influence of any drug or alcohol, or if the violation is a felony.
- iv. Traffic violations committed by military members outside of the exceptions above will be handled in the same manner as any other traffic violation.

E. Stopping and Approaching Violators:

Although enforcing traffic laws is often a routine function that officers perform, all too frequently, officers are injured and, in some cases, killed in situations that initially were a "routine" traffic stop. Therefore, in stopping violators for any reason, officer safety is a paramount concern, and officers shall take all reasonable precautions possible during traffic stops to assure their safety.

The following steps are intended to promote the maximum level safety for the officer, the violator, and other users of the roadway. It is also understood that ideal conditions do not always exist, and that adaptation may be necessary for safety purposes.

1. Officers are justified in stopping a motor vehicle for the following reasons:
 - i. A violation of the criminal code.
 - ii. A criminal or civil motor vehicle violation of *Title 29-A*.
 - iii. A violation of a town ordinance.
 - iv. A request by another Law Enforcement Officer (LEO) to stop a vehicle based on the other LEO's reasonable and articulate suspicion.
 - v. A safety violation or concern for the well-being of a motorist or vehicle passenger.
 - vi. Knowledge of an existing warrant of arrest for the driver or passenger.
 - vii. When there is articulable suspicion to believe that the vehicle contains either evidence of or a person involved in a crime.
2. Officers should attempt to stop violators in a safe location to the right side of the roadway, close to the curb. Stopping at intersections, railroad crossings, hills, curves, etc., should be avoided if possible.
3. When the violator has stopped, the officer shall notify the Communications Center of the location of the stop, identify the state and registration number, vehicle description, and the number of occupants.
4. Officers should greet the violator courteously with an appropriate title and identify yourself to the subject, and advise the operator of the reason for the stop.
5. Once the operator's information is verified, the officer will issue a warning, citation, or arrest (if appropriate).
6. Officers shall remain at the scene of the traffic stop, with emergency lights flashing, until the violator has returned to the flow of traffic. If appropriate, the officer will assist the violator to safely reenter the flow of traffic.