

THE RALEIGH POLICE DEPARTMENT

1109-10

TRAFFIC ENFORCEMENT

PURPOSE

The purpose of this directive is to establish uniform policies, procedures and practices related to traffic enforcement.

VALUES REFLECTED

This directive reflects our values of Service, Courage, Fairness, Integrity, and Compassion. We will engage in preventive and proactive traffic enforcement activity in a fair, impartial, professional and courteous manner to earn community confidence and support, to promote the safety of the community and to gain voluntary compliance with motor vehicle law.

UNITS AFFECTED

All Divisions/Sworn Officers

REFERENCES/FORMS

DOI 1108-02 "Legal Process"
DOI 1109-11 "Traffic Investigations"
DOI 1109-25 "Vehicle Checking Stations"
DOI 1104-02 "Department, Appearance and Wearing of Police Uniforms"
G.S. 20-4.19 "Issuance of Citations to Non-Residents"
G.S. 20-8 "Persons Exempted from Licensing"
G.S. 20-16.2 to G.S. 20-16.5 "Enforcement of DWI Offenses"
Waiver of Liability Form
G.S. 8050.2 "Results of Speed-Measuring Instruments; Admissibility"
N.C. Administrative Code 1C-6 "Powers of North Carolina Criminal Justice Education and Training Standards Commission"
N.C. Administrative Code Chapter 9 "North Carolina Administrative Code Rules Relevant to Speed-Measuring Instrument Programs of the North Carolina Criminal Justice Education and Training Standards Commission"
N.C. Justice Academy "RADAR Operator's Manual"
A Manual of Model Police Traffic Services, Policies and Procedures, U.S. DOT/NHTSA
Police Traffic Services, Basic Training Program, Vol. 3, U.S. DOT/NHTSA

May be Released to the Public

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Prepared By: Estella D. Patterson
Chief of Police

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Approved By: M. Adams-David
City Manager

GENERAL POLICIES

Traffic enforcement will be directed toward reducing or eliminating specific problems that adversely affect the safety of the community and advancing the Department's overall objective of gaining community support and confidence.

All enforcement action will be conducted in a courteous and impartial manner. We recognize that traffic stops are often the only contact a citizen has with the police. We will strive to make each contact educational and leave the violator with the impression that the officer has performed a necessary task in a professional manner.

Officers will apply professional and impartial discretionary judgment in situations involving traffic law violations. However, Driving While Impaired violations will be strictly enforced. Officer discretion in felony violations is sharply limited. Traffic stops have two objectives; the first is to take enforcement action and the second is to favorably alter the driver's future behavior.

NON-RESIDENT VIOLATORS

Both state and federal law dictate special provisions for non-resident traffic violators.

Out-of-State Residents

Motorists bearing a valid operators license from another state will not be required to post an appearance bond, except for violations of those offenses that would result in suspension or revocation of an operator's license in this state (G.S. 20-4.19).

Non-resident foreign nationals who bear a valid international license or a license from their home country are not required to be licensed in this state. They are required to post an appearance bond. Officers should consider the use of warnings for non-hazardous violations.

Military Personnel

Military personnel are exempt from licensing requirements while operating a vehicle of the armed forces. Military personnel and their spouses are not required to be licensed in this state if they bear a valid operators license from their home state (G.S. 20-8).

Diplomatic Officials

Foreign diplomats, bearing the diplomatic identification issued by the State Department, are immune from arrest or detention. Officers should contact a supervisor and the State Department for guidance when presented with diplomatic credentials.

Other Government Officials

There is no North Carolina law which exempts any state or local official, either appointed or elected, from compliance with federal, state, or local laws. The Constitution prohibits the incarceration of a Congressman en-route to or from Congress, but the limited detention of a Congressman for Driving While Impaired has been upheld by the courts.

JUVENILES

A juvenile who is 16 or 17 years of age can be charged as an adult for any violation of Chapter 20 of the North Carolina General Statutes. Officers should consult the Juvenile Court Counselor for all

offenses other than those found in Chapter 20.

If a minor, 16 or 17 years old, is cited for reckless driving, hit and run, or any other offense carrying 4 or more points as listed in G.S. 20-16(c), the officer must make a reasonable effort to notify the minor's parents (DOI 1108-2 "Legal Processes").

Officers may not issue a Uniform Traffic Citation to a juvenile below the age of 16. Officers are required to utilize the petition and intake process established for juvenile proceedings. Officers will notify the juvenile's parent or guardian and release the juvenile into their custody unless the conditions for "secure custody" are present (refer to 1109-13 "Initial Response to Juvenile Calls").

TRAFFIC ENFORCEMENT GUIDELINES

Enforcement of traffic regulations may take several different forms, including verbal or written warnings, issuance of traffic citations, or physical arrests. The enforcement option selected should be one that maintains the safety of the public, discourages a repetition of the violation, and causes the least inconvenience to the violator.

Verbal Warnings

Recognizing that a properly administered warning can be more effective than any other type of enforcement, officers may elect to use a verbal warning in cases when the violation is minor and any threat to public safety is minimal, or when the violation may be due to ignorance of a unique local ordinance.

Written Warnings

Written traffic warnings may be issued by officers in lieu of a traffic citation for non-hazardous traffic violations, or where the evidence present would weigh against the officer obtaining a conviction in court. Officers must be certain to explain to the violator that a criminal summons may be issued if proof of compliance for equipment violations is not demonstrated within the specified time.

Uniform Traffic Citations

Uniform traffic citations should only be issued for clear and substantial violations. The violator is not required to sign the citation, but officers should be certain to explain the violator's rights and obligations listed on the defendant's copy.

As a general policy, officers should not issue citations for new traffic control devices or traffic regulations that have been in effect for less than 14 days. During this period, officers should issue written warnings instead.

Officers may void citations for clerical errors that would render the citation invalid. Voids for any other reason must be approved by a supervisor. The District Attorney's Office must approve the voiding of a citation once the original is turned in to the Clerk of Court's office or if the defendant's copy is unavailable (DOI 1108-02 "Legal Process").

Physical Arrest of Motorists

Issuance of a citation is inappropriate for traffic offenses related to death by motor vehicle, driving while impaired, or attempting to elude arrest. An officer may elect to arrest an offender if a misdemeanor has been committed and the offender gives indications the offender will not comply with a citation. Refusing to sign a citation is not sufficient to justify arrest.

An officer may not arrest for a violation of an infraction.

State law does not permit an officer to impound the vehicle of an arrested motorist if the vehicle is legally parked and not subject to seizure (DOI 1110-08 "Searches and Seizures – Investigative Stops and Frisks"). The driver may release custody of the vehicle to another person. In such cases, the officer should record the name of the other person, and request that the driver sign a "waiver of liability" form. Refusal to sign the waiver does not authorize the officer to tow the vehicle.

The officer may request that the driver allow the officer to drive the vehicle off the roadway. Officers should obtain verbal permission or a signed waiver of liability prior to doing so. If the vehicle is obstructing the roadway and cannot be moved, the officer should complete a vehicle inventory and tow the vehicle according to procedure (DOI 1109-9 "Traffic Services").

If the Magistrate finds "no probable cause" for the arrest, and the motorist requests assistance, the motorist should be returned to their vehicle.

Multiple Violations

In the event of multiple violations, officers may choose to issue a uniform citation for the most serious offense and warn on the others.

Hazardous Violations

Hazardous violations are serious moving violations (i.e. red light, stop sign, speeding, tailgating, careless and reckless, etc.). The Department seeks enforcement practices which further public support, which encourages voluntary compliance and which may be successfully prosecuted. Officers must take into account the totality of circumstances surrounding the violation and use their discretion as to the issuance of a citation, a written warning, or a verbal warning.

Parking Violations

Officers should allow violators a reasonable opportunity to move their vehicle prior to issuing a parking citation. Officers may void parking citations if the owner returns, a parking meter controlling a space is found to be inoperable, or the citation contains a clerical error that would render it invalid. Officers will write the reason for the void on the ticket, and turn all copies into their supervisor.

Police supervisors may void parking citations issued by officers within 48 hours of issuance for the following reasons.

- The violator can demonstrate that his/her vehicle was disabled and that he/she was in the process of having it removed.
- The area was improperly posted, or the signs were obscured.
- The ticket was issued in error, such as for a vehicle that already had a ticket on it or for an incorrect charge.

After 48 hours, the parking enforcement contractor must be advised prior to voiding a parking citation to ensure that a summons has not been issued.

School Bus Violations

When an officer issues a citation or written warning to a school bus driver, the officer should report the violation, the bus number, and the school to which the driver is assigned to their supervisor.

Supervisors should forward a memo and a copy of the citation to the Field Operations Administrative Assistant who will notify the Wake County Public School System.

Off-Road Vehicles

Officers may occasionally encounter off-road vehicles (dirt bikes, ATVs, etc.) being operated on public streets. Off-road vehicles shall be held to the same legal standards as other vehicles (requiring registration, insurance, inspection, and a licensed driver).

Driving While License Revoked

Driving while license revoked is a misdemeanor. Although officers have the discretion to make an arrest when they deem necessary, they should normally abide by the following guidelines.

A traffic citation may be issued for a Driving While License Revoked violation where the subject can be positively identified and Driving While Impaired issues are not present or a motor vehicle collision involving personal injury has not occurred. Officers will not allow violators to continue operation of a motor vehicle after a Driving While License Revoked citation has been issued.

Officers will make a physical arrest when enforcing driving while license revoked violations when a subject's license is:

- Revoked as a result of a DWI conviction
- Suspended by NC DMV as a result of a 30 day civil revocation or as a result of a willful refusal of a chemical test.
- Revoked and they are involved in a motor vehicle collision involving personal injury
- Revoked and they cannot be positively identified
- Revoked and they have been previously issued a traffic citation for Driving While License Revoked, but are later observed operating a motor vehicle

Bicycle and Pedestrian Violations

Officers have considerable discretion in the enforcement of laws pertaining to the safe operation of bicycles and movement of pedestrians. The following guidelines will result in a more consistent application of the law.

In those areas where congestion and the frequency of traffic collisions involving bicycles is high, those laws pertaining to the safe operation of bicycles should be strictly enforced.

On streets with a substantial flow of vehicular traffic and where hazardous moving violations involving bicycles are observed, the applicable laws regarding the safe operation of bicycles should be enforced. North Carolina law allows for the arrest of a bicycle operator for Driving While Impaired, and officers who suspect a bicyclist of Driving While Impaired should follow the same protocol as if the suspect were operating a motor vehicle, omitting clearly non-applicable procedures.

Officers may use discretion when enforcing pedestrian violations unless there is an extreme violation which may result in serious injury.

Commercial Vehicle Violations

With few exceptions, commercial vehicle violations will be considered in the same manner as private vehicles. In some cases, officers should consider that the type of vehicle or cargo may create a situation that is significantly more hazardous than a passenger vehicle under similar conditions. Some conditions apply only to special vehicles such as the State law requiring an alcohol concentration of 0.04 for a DWI charge against a driver of a commercial vehicle.

Felony Speeding to Elude Arrest

Under GS 20-141.5, (felony speeding to elude arrest) the officer shall seize the vehicle the defendant is driving. Officers will use the following protocol when considering a vehicle seizure for felony speeding to elude:

- Establish probable cause the speeding to elude offense has occurred, and, if possible, effect the arrest of the offender,
- Contact ECC and request that the appropriate towing agency be dispatched to your location for a felony speeding to elude seizure. If necessary, have another officer stand by with the vehicle so the arrestee can be processed. Ensure that the vehicle's keys are given to the towing agency. The towing agency will impound the vehicle until it is released or forfeited. The officer does not complete a Notice of Towing Form or a Vehicle Storage Report in a felony speeding to elude seizure,
- Prepare the Affidavit of Impoundment (top half of AOC-CR-323B) and present it to the Magistrate when probable cause for felony speeding to elude is presented,
- If the Magistrate does not find probable cause for the felony speeding to elude charge, then the vehicle will be released,
- If the Magistrate finds probable cause for the felony speeding to elude, the the Magistrate will review the Affidavit of Impoundment and if impoundment is proper, the Magistrate will issue an Order to Hold the Vehicle (bottom half of AOC-CR-323B),
- If the vehicle is ordered to be held, then the officer must take the completed and signed AOC- CR-323B form to the Downtown District Desk Officer. This must be done immediately after processing the arrestee. The Downtown District Desk Officer shall transmit the information to the NC DMV within 24 hours of the arrest. NC DMV has the responsibility of contacting the vehicle owner(s), lien holders, and the insurance company (if damaged).

The form that the officer is required to complete should be available at the Magistrate's Office.

There will be situations where an officer does not have a chance to seize the vehicle at the time of the offense. The officer should still complete the Affidavit and apply to the Magistrate for the Seizure Order. The vehicle can be seized pursuant to the Order. The officer can enter the property of the defendant to seize the vehicle, however consent or a search warrant is preferred if probable cause exists that the vehicle is located inside the defendant's residence/garage. If the vehicle, subject to seizure, is on the property of another person, not the defendant, then consent or a search warrant will be necessary to enter the property and seize the vehicle.

When the vehicle is not seized at the time of the offense, the following protocol should be used:

- Establish probable cause that the Speeding to Elude offense occurred,
- Prepare the Affidavit of Impoundment (top half of AOC-CR-323B) and present it to the Magistrate when probable cause of Felony Speeding to Elude is presented,

- If the Magistrate finds probable cause for the felony speeding to elude, the Magistrate will review the Affidavit of Impoundment and if the impoundment is proper, the Magistrate will issue an Order to Hold the vehicle (bottom half of AOC-CR-323B),
- Contact ECC, request phone 4, and enter the vehicle in DCI as a felony vehicle. State in the NCIC entry that the vehicle has a valid Affidavit of Impoundment for Felony Speeding to Elude,
- Take the completed and signed AOC-CR-323B form to the Downtown District Desk Officer. This must be done immediately after processing the arrestee. The Downtown District Desk Officer shall transmit the information to the NC DMV within 24 hours of the arrest. NC DMV has the responsibility of contacting the vehicle owner(s), lien holders, and the insurance company (if damaged).
- Conduct reasonable efforts to locate the vehicle subject to the Affidavit of Impoundment.

SPEED ENFORCEMENT

Although speeding is a serious violation, the Department seeks enforcement practices which further public support, which encourages voluntary compliance and which may be successfully prosecuted.

Allowable Speed Tolerances

The Police Department does not have a speed tolerance before a motorist is cited for speeding. Officers must take into account the totality of circumstances surrounding the violation and use their discretion as to the issuance of a citation, a written warning, or a verbal warning.

RADAR, LIDAR, TD/SMI Operators

Both RADAR, LIDAR, and Time Distance/Speed Measurement Instrument operators must maintain continuous certification for the type of instrument utilized. They will operate speed measurement instruments in compliance with guidelines issued by the N.C. Criminal Justice Training and Standards Commission. Operators must be able to demonstrate that they can properly set up, test, and read the RADAR, LIDAR, or TD/SMI instrument to enhance obtaining a conviction in court.

- Operator Training: The Department shall conduct periodic speed-measurement instrument operator training courses, for certification and recertification purposes, on an as needed basis. These course offerings shall meet the standards established by the North Carolina Criminal Justice Education and Training Standards Commission and shall be coordinated by the Administration Division, Training Unit.

Speed Measurement Equipment

The speed-measuring instrument employed by certified operators shall be one approved for use by the North Carolina Criminal Justice Education and Training Standards Commission in conjunction with the Secretary of Crime Control and Public Safety, pursuant to 17C-6.

Operational Procedures

The RADAR Operator's Manual contains the statutory authority sheets for operator calibration and testing for accuracy and operating procedures for each type and model of speed-measuring instrument on the Commission's approved listing. Each certified operator shall ensure compliance

with these procedures when operating speed-measuring instruments.

Programmed Maintenance

All speed-measuring instruments employed by the Department shall be tested annually for accuracy by a technician possessing at least a second class or general radiotelephone license from the FCC or a certification issued by an organization or committee endorsed by the FCC.

Sergeants are responsible for ensuring that the above maintenance is conducted as part of the monthly inspections of vehicles assigned to their officers. The District Commander's designee for Field Operations and Traffic Enforcement Unit Sergeant for Special Operations are responsible for ensuring that the maintenance is conducted for handheld radar devices within their Division that are not assigned to a vehicle.

Maintenance and Calibration Records

Individual Districts/Divisions shall be responsible for ensuring the proper maintenance and calibration records for each Departmental speed-measuring instrument that is assigned to them.

Proper Care and Upkeep

Each District Commander shall, on a District level, ensure that all Departmental speed-measuring instruments are properly cared for.

- The District Commander's designee shall be responsible for inspecting each speed-measuring instrument and maintaining the RADAR sign out/in log at the Districts. All units shall be inspected to verify that the required components are present and appear to be functional and not damaged. All speed-measuring instruments assigned to the substations shall be checked out/in by a District supervisor.
- Radar Repairs: Any unit needing repair or parts replacement shall be taken to the City radio shop for necessary repairs or replacement of lost parts. Any loss or damage to the units shall be addressed as is the loss or damage of any other piece of equipment.

DRIVING WHILE IMPAIRED

It is the policy of the Department to aggressively enforce DWI violations. All enforcement actions, must comply with G.S. 20-16.2 through G.S. 20-16.5, and G.S. 20-138.1 through G.S. 20-139.1.

Determining Sobriety

Officers should develop sufficient evidence, independent of chemical analysis, to demonstrate impairment of a driver. If the driver appears dazed or incoherent, the officer should check for medical alert identification. If the driver appears ill, the officer should first obtain medical assistance. When possible, DWI suspects should be asked to submit to a roadside preliminary breath test to determine the relevance of alcohol to observed impairment.

Pre-Arrest Chemical Analysis

Where there is suspicion of Driving While Impaired, G.S. 20-16.2(i) entitles a person to request a chemical analysis for alcohol prior to being arrested. The following conditions apply to requests for pre-arrest chemical analysis:

- The request does not prohibit the officer from arresting the driver for another violation

unrelated to driving while impaired.

- The driver must request the test prior to being arrested. The officer is not required to inform the driver that this request may be made.
- The driver is required to ride in the police vehicle and may be searched by the officer. If the driver refuses either, the driver is deemed to have withdrawn the request for the pre-arrest test.
- The officer must inform the chemical analyst performing the chemical test that a "pre-arrest" analysis is being requested. The chemical analyst will then provide the driver with a request form.
- If the driver refuses to submit to the test or otherwise comply with restrictions attached to the test, the request is deemed to have been withdrawn. At the point when the driver withdraws their request for the pre-arrest test, or after the driver has completed the pre-arrest test, the officer may proceed with DWI arrest procedures. Any valid breath sample submitted for a pre-arrest test is admissible in court.

Duties upon Arrest

Once an arrest for driving while impaired is made, the driver must not be allowed to eat or smoke. Vomiting or other signs of illness must be reported to the chemical analyst.

- The officer shall secure the arrestee's vehicle.
- Officers shall transport the arrestee to the Wake County Jail testing facility for a breath test for alcohol. See the section below for blood test procedures and for procedures concerning drug impairment cases.
- Officers shall refrain from attempting to determine if the arrestee will submit to an analysis until they are in the presence of the test operator.
- Officers will secure their weapons, in the storage lockers or their vehicles, while at the Wake County Jail testing facility.
- Upon arrival at the testing facility, the arrestee will be allowed an opportunity to telephone an attorney or a witness to view the testing procedures. The testing will not be delayed more than 30 minutes from the time the arrestee is notified of their implied consent rights.
- The officer must present the arrestee to a chemical analyst for analysis.
- Following the test, the officer must present probable cause to the Magistrate and complete the booking process.
- Under G.S. 20-139.1(d), an officer must assist an arrestee who wishes to obtain additional chemical testing. The statutory requirements are met when an officer obtains access to a telephone for the arrestee to arrange for any additional test. The officer is not required to contact a qualified person for the arrestee and any additional testing will be at the arrestee's expense. An officer is not required to assist a person in obtaining testing if the person refused the chemical analysis requested by the officer.
- If the arrestee refuses the test, the officer and chemical analyst must indicate the refusal on the Affidavit and Implied Consent Form. The officer should be certain to note if the offense

involved death or critical injury. A search warrant may be requested in cases where a subject refuses to submit to a breath sample. Officers should follow the guidelines listed below in the section titled "Blood Samples".

Extreme Readings

An arrestee should be provided with medical attention if either of the two breath samples shows an alcohol concentration of 0.30 or above.

If any breath sample shows a low alcohol concentration inconsistent with observed impairment, a Drug Recognition Expert (DRE) should be called to evaluate the arrestee. Medical attention should be obtained if no DRE is available. A blood sample should be obtained if there is probable cause to believe that the arrestee is impaired by drugs.

Blood Samples

If blood sampling is to be administered on the basis of implied consent and the arrestee has been taken to a hospital emergency room, the officer should contact Emergency Communications and request that a chemical analyst meet them at the hospital. The chemical analyst will oversee the test procedure. Hospital staff will draw blood specimens and turn them over to the officer. When an arrestee is not an emergency room patient, the officer should contact Emergency Communications and request that a chemical analyst meet them at the Wake County Jail. The chemical analyst will oversee the test procedure. The Jail Nurse will draw blood specimens and turn them over to the officer. Upon completion of the blood draw, the officer should receive the Statement of Blood Withdrawal and Chain of Custody form from the Jail Nurse (Wake County Sheriff's Department Form). The form should be attached to the officer's DWI paperwork for court purposes.

A search warrant may be requested to obtain a blood sample in cases where an arrestee refuses to provide a sample of breath or blood for chemical analysis. Whether an officer applies for a blood search warrant should be based on the totality of the circumstances. Factors that may be considered include:

- Whether field sobriety tests were conducted,
- If the case involves injury or death,
- The number of other observed signs of impairment.

A chemical analyst need not be present when an officer serves a search warrant to obtain a blood sample as the service of a search warrant does not trigger implied consent rights.

Once the blood samples are drawn, the officer must store the samples in one of the refrigerated evidence lockers and complete required Request for Analysis forms [DOI 1108-4 "Evidence and Found Property"].

Drug Recognition Experts

Officers trained and certified as Drug Recognition Experts (DREs) enhance the Department's efforts to reduce impaired driving. Drug Recognition Experts are specifically trained to complete a Drug Influence Evaluation and determine the following:

- If a subject is impaired
- If the impairment is due to alcohol, drugs, or a medical condition

- If the impairment is due to drugs, the category of drugs causing the impairment

An officer should call a DRE if the officer arrests a driver that is suspected of being impaired by drugs. The DRE will advise the arresting officer on how to proceed with the investigation. Under normal circumstances, the DRE will meet the officer and the driver to conduct a Drug Influence Evaluation. A DRE that completes a Drug Influence Evaluation should provide a copy of their report to the charging officer and the Departmental DRE Coordinator within five days of evaluation.

Driving While Impaired and Under the Age of 21

It is unlawful for a person under the age of 21 to operate a motor vehicle on a highway, street or public vehicular area while consuming alcohol, or while any alcohol remains in the driver's body, or while any controlled substance, with the exception of those prescribed by a physician, remains in the driver's body. The odor of alcohol on the driver's breath is insufficient evidence to prove this offense (G.S. 20-138.3) beyond a reasonable doubt, unless the driver refuses to provide a breath or blood sample.

A person less than 21 years of age may be charged with both G.S. 20-138.3 (Driving after consuming) and G.S. 21-138.1 (Impaired driving); G.S. 20-138.3 is NOT a lesser included offense of G.S. 20-138.1.

Fifteen year old drivers, with a learners permit, can be taken into temporary custody and transported to the Wake County Jail testing facility or the Northeast District's testing facility for breath alcohol testing. In cases where the odor of alcohol and other significant evidence is present, officers may forego the use of a calibrated preliminary breath tester to prove the presence of alcohol. If there is sufficient evidence, officers will obtain a juvenile petition and the juvenile will be released to a responsible adult. Officers may transport the juvenile home if necessary. While it is lawful to take a juvenile to the Wake County Jail testing facility, juveniles under the age of 16 will not be booked into the jail.

DWI Vehicle Seizures

Officers are required by law to seize vehicles being driven by an impaired driver who is driving with a license that was revoked for a previous impaired driving or related conviction and meet certain criteria (vehicle seizure, impoundment and forfeiture law is found in NCGS 20-28.3).

Officers MUST seize a vehicle when the vehicle is being driven by a person who is violating GS 20-138.1 (impaired driving) or GS 20-138.5 (habitual drunk driving) or GS 20-138.2 (impaired driving in a commercial vehicle) or GS 20-141.4 (felony death by vehicle) or other homicides arising out of impaired driving AND when the driver's license has been revoked as an "impaired driving license revocation" as defined in GS 20-28.2(a). Impaired driving license revocation includes:

- A person under 21 driving with any alcohol or controlled substance in their body or for the refusal to submit to a test
- Impaired driving on a military base
- Willful refusals
- Failure to pass a breath or blood test, or refusal of a chemical analysis under the immediate pretrial civil revocation statute
- Impaired driving convictions or impaired driving of a commercial vehicle
- Probation conditions, in impaired driving cases, that prohibit driving

- Pretrial impaired driving revocations
- Second or subsequent convictions under GS 20-138.7 (transporting open container)
- Involuntary manslaughter if impaired driving involved
- Felony death by vehicle
- Conviction for habitual impaired driving
- Conviction of assault with a motor vehicle involving impaired driving
- Conviction in another state of impaired driving
- Revocations in other states for conduct that would support one of the other covered revocations if committed in North Carolina

Additionally, officers MUST seize a vehicle when the vehicle is being driven by a person who is violating GS 20-138.1 (impaired driving) or GS 20-138.5 (habitual drunk driving) or GS 20-138.2 (impaired driving in a commercial vehicle) or GS 20-141.4 (felony death by vehicle) or other homicides arising out of impaired driving AND when the driver does not have a valid license AND when the driver is not covered by an automobile liability policy.

There are two instances when a vehicle is NOT subject to seizure even though the driver is impaired and the license is revoked for one of the above reasons. If the officer knows that the vehicle being driven is stolen or is a rental vehicle and the person driving is not an authorized driver on the contract then the vehicle is not to be seized for forfeiture.

Procedure for DWI Seizures

Officers will use the following protocol when considering a vehicle seizure for DWI:

- Establish probable cause that the DWI offense has occurred and affect the arrest.
- Check the driving record of the arrestee.
- If driving while license revoked, check the reason(s) for the revocation.
- If their license is revoked for one of the reasons listed above, then:
 - Seize the vehicle
 - Contact ECC and request that the appropriate towing agency be dispatched to your location for a DWI seizure. If necessary, have another officer stand by with the vehicle so the arrestee can be processed. Ensure that the vehicle's keys are given to the towing agency. The towing agency will impound it until it is released or forfeited. The officer does not complete the Notice of Towing Form or the Vehicle Storage Report in a DWI seizure.
 - Prepare the affidavit of impoundment (top half of AOC-CR-323A) and present it to the Magistrate when probable cause for the DWI is presented.
 - If the Magistrate does not find probable cause for the DWI charge, then the vehicle will be released.
 - If the Magistrate finds probable cause for the DWI, then the Magistrate will review the Affidavit of Impoundment and if impoundment is proper, then the Magistrate will issue an Order to Hold the Vehicle (bottom half of AOC-CR-323A).
 - If the vehicle is ordered to be held, then the officer must take the completed and signed AOC-CR-323A form to the Downtown District Desk Officer. This must be done

immediately after processing the arrestee. The Downtown District Desk Officer shall transmit the information to the NC DMV within 24 hours of the arrest. NC DMV has the responsibility of contacting the vehicle owner(s), lien holders, and the insurance company (if damaged).

The form that the officer is required to complete should be available at the Magistrate's Office.

There will be situations where an officer does not have a chance to seize the vehicle at the time of the offense. The officer should still complete the Affidavit and apply to the Magistrate for the Seizure Order. The vehicle can be seized pursuant to the Order. The officer can enter the property of the defendant to seize the vehicle, however consent or a search warrant is preferred if probable cause exists that the vehicle is located inside the defendant's residence/garage. If the vehicle, subject to seizure, is on the property of another person, not the defendant, then consent or a search warrant will be necessary to enter the property and seize the vehicle.

Generally the vehicle will be impounded until there is a forfeiture hearing or the underlying DWI is disposed of without a conviction. There is a process to allow a non-driver owner to apply for either the temporary or permanent pre-trial release of the vehicle. A lien holder or the defendant owner may apply for a permanent pre-trial release of the vehicle. Because storage fees can accumulate quickly and exceed the value of the vehicle, the DWI trial must be scheduled on the arresting officer's next court date or within thirty days of the offense, whichever comes first. Arresting officers must schedule a DWI case, with a vehicle seizure, differently than a DWI without a seizure.

Record Keeping for DWI Cases

Officers should send copies of the Affidavits, test tickets, Implied Consent Rights Forms, and DWIR Forms to Records as soon as possible. Records personnel will review the forms. Any errors found on the Affidavits should be corrected by the appropriate officer as soon as possible. In most cases, the officer should fill out a new Affidavit and write "Amended" across the top. The amended Affidavit must be properly witnessed by a notary or other person authorized to administer oaths.

Officers should ensure that in-car video for DWI cases are properly tagged to avoid unintentional routine deletion. Subpoenas for in-car video should be routed to the Office of Professional Standards Unit. The Office of Professional Standards personnel will follow their procedures for making copies of the videos and providing the videos to the requesting officers. Any in-car video in a DWI case is considered evidence and should be handled as such.

Driving While Impaired cases can be complicated and are usually carefully scrutinized by the court. A case report should be completed when a subject is charged with DWI. Additional information may need to be collected post-arrest, including a driving record and criminal history. Officers are encouraged to use "DWI Case Jackets" to organize their paperwork and track their cases through the court system.

TRAFFIC PATROL AND SURVEILLANCE

Traffic patrol is considered a part of an officer's activity where they move about within a designated geographical area or given roadway for the general purpose of traffic surveillance and enforcement of observed violations.

Objective of Patrol and Surveillance

The basic objectives of traffic patrol are to deter would-be traffic violators. Additional goals include:

- Detect and enforce traffic law violators.
- Report traffic problems, handle emergencies, and facilitate the smooth flow of traffic.
- Report road conditions which need attention.
- Render aid and assistance to motorists where necessary.

Moving Traffic Patrol

The basic types of traffic patrol that may be conducted are:

- Area patrol: patrol in an area or beat which may include several streets, roads, or highways.
- Line patrol: patrol on a designated route between two points, usually on a street or section of highway where violations have been observed by officers, reported by citizens, or where traffic statistics indicate a problem exists.
- Directed patrol: assignments or requests for increased traffic patrol coverage which comes from a supervisor or Emergency Communications throughout a shift. This does not include pre-determined selective enforcement activities.

Stationary Traffic Observation

In addition to the various forms of moving patrol, stationary observation constitutes another form of traffic surveillance. It is observation by officers at selected places, usually a location that experiences a high collision rate or chronic traffic problems. There are three basic ways to conduct stationary traffic surveillance:

- Conspicuous surveillance: officers attract attention by remaining in full view of traffic with a marked patrol vehicle.
- Visible surveillance: officers are located in full view of traffic, but in such a manner as to require some scrutiny by a person to be discovered (i.e. unmarked patrol vehicles, or patrol vehicle parked inconspicuously on a side street). All unmarked vehicles shall be equipped with blue lights and sirens and such vehicles shall be operated in accordance with DOI 1106-5, Operation of Police Vehicles.
- Concealed surveillance: officers are not visible to persons on the roadway during the course of their normal observation of the roadway. This form of surveillance can be utilized to conduct speed surveys, traffic studies, or in combination with marked patrol vehicles with the covert officer observing violations for the officer in a marked vehicle for enforcement action.

TRAFFIC STOP GUIDELINES

The Department recognizes the inherent risk in all traffic stops both to the officer and to the public. All traffic stops will be conducted with due consideration to the safety and well-being of officers and the public.

Officers shall conduct traffic stops in a professional manner and as the situation allows should utilize the eight step method during the stop.

The eight step procedure for vehicle stops should be administered as follows:

1. Greeting- Such as "Good Morning"

2. Identify Self and Department
3. Give the reason for the vehicle stop
4. Inquire as to any justification for the offense
5. Obtain identification from the driver
6. Obtain any additional needed information such as registration and proof of insurance
7. Evaluate the information and make a decision as to the most appropriate action to be taken
8. Close – end the stop with phrase such as “Drive Safely”

Officers should make reasonable efforts to employ the above verbal tactics when conducting vehicle stops. Should an investigative report be required as a result of the stop or any subsequent actions taken, then the above steps should be included in the report.

Known Risk Stops and Roadblocks

Officers should be conscious of traffic congestion, pedestrian traffic, surrounding terrain, and nighttime illumination. The officer should closely coordinate the stop with assisting units, using prescribed known-risk stop techniques.

No roadblocks, including a running block, are to be undertaken. Deliberately ramming or forcing a vehicle off the highway can be interpreted as a use of deadly force and is not to be undertaken.

Traffic Stops

Any traffic stop carries the risk of injury. When making a traffic stop, the officer should seek a location that affords the greatest degree of safety and causes the least inconvenience to the public. Blue lights are to be utilized as long as the vehicles are in the roadway. Traffic stops should be conducted as follows:

- The officer should report the license plate number of the violator, the location of the stop, and a brief description of the vehicle according to standard radio procedures (DOI 1109-02 “Radio Communications, Response to Calls”).
- The officer should obtain identification from the driver, briefly explain the purpose of the stop, and if necessary, have the driver pull onto a side street or off the roadway to conduct further conversations provided the reasonable suspicion for the stop was not for Driving While Impaired.
- Having the driver and occupants remain in the vehicle is preferable to having them outside the vehicle when observation is difficult and doing so creates a hazard to the officer, driver, or occupants. However, an officer may use discretion in allowing a driver or occupant to exit the vehicle, particularly if the driver has been properly identified. Officers should further explain the purpose of the stop and the action they intend to pursue.
- The officer will politely explain any further obligations the motorist may have in connection with any enforcement action taken. If necessary, the officer will assist the motorist in safely re-entering traffic.

Vehicle Checking Stations

Refer to DOI 1109-25 "Vehicle Checking Stations"

ORGANIZATION AND RESPONSIBILITIES FOR THE TRAFFIC FUNCTION

The Department's traffic control function is not centralized. It involves cooperation among Divisions and Districts. Primary responsibility for operation of the Department's Police Traffic Service Program resides with the Special Operations Division and the Field Operations Division.

Field Operations Division

The Field Operations Division is one of the Department's traffic control components. Responsibilities for the Traffic Services Program include:

- Traffic direction and control, including expediting the safe movement of vehicular and pedestrian traffic, relieving congestion on the streets and highways, and securing compliance with traffic laws.
- Traffic law enforcement, including promoting sustained compliance with traffic laws, preventing hazardous traffic situations from occurring and preventing or reducing traffic collisions.
- District Commanders have access to a crash mapping program that shows high crash locations within the City of Raleigh and should assign personnel to enforce violations at these high collision locations.
- Selective traffic enforcement may be implemented as a result of complaints from citizens or other sources. District supervisors are to ensure that personnel are assigned to address specific complaints, that appropriate enforcement action is taken, and that the proper reports are maintained at the District level.
- Collision management, including rendering or obtaining first aid to victims of a traffic collision, establishing safe passage for roadway traffic at collision scenes, documenting the facts surrounding a traffic collision, determining the causes of a collision, taking any warranted law enforcement action, and normalizing the roadway environment (refer to DOI 1109-11, Traffic Investigation).
- Services for motorists, to include providing or making arrangements for assistance to disabled or distressed motorists.
- The Field Operations Division will initiate and promote programs to inform and educate the public as to the conditions adversely affecting the safe movement of traffic and the countermeasures to combat them.

Special Operations Division

The Special Operations Division will be responsible for the following:

- Selective traffic enforcement projects. Efforts will be directed at hazardous traffic violations and will be based on the analysis of traffic collision experience and complaint locations. Projects will also be based on the review of traffic collision data and traffic enforcement data. The data will be provided in the monthly report that is compiled by the Records Division.
- Selective traffic enforcement personnel shall be deployed to areas having the greatest concentration of collisions and/or calls for traffic services, and at the times experience has

shown these to occur. The deployment of selective traffic enforcement personnel shall be based on an analysis of traffic collisions and traffic related calls for service.

- The purpose of selective traffic enforcement assignments is to take enforcement action against those violations determined to cause collisions and will involve countermeasures ascertained to be the most effective for the specific enforcement problems involved.
- Prior to July 1 of each fiscal year, the Special Operations Division Commander or designee will prepare an annual evaluation on the effectiveness of selective traffic enforcement activities.
- The Special Operations Division will develop a liaison with traffic safety groups including the Transportation Division of the Raleigh Public Works Department and the Governors Highway Safety Commission.
- The Special Operations Division will develop a liaison with the City of Raleigh's Bicycle Pedestrian Advisory Committee. Traffic safety education and information and bicycle and pedestrian safety programs will be routed through the Special Operations Division, although many of these programs may be conducted by the District Community Officers and School Resource Officers.

Administrative Services Division

The Administrative Services Division provides technical and data information to the Police Traffic Services Program.

- Providing academy and in-service training on selected topics concerning traffic related functions.
- Compiling monthly collision summaries.

Detective Division

The Youth Services Unit, of the Detective Division, will be responsible for:

- Supervision of the School Safety Patrol Program (see DOI 1106-14 "School Safety Program.")