

<b>YORK-POQUOSON SHERIFF'S OFFICE</b>	<b>GENERAL ORDERS</b>
<b>SUBJECT: Traffic Enforcement</b>	<b>NUMBER: GO 2-19</b>
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## **INDEX WORDS**

Checkpoints  
 Community Policing Motor Vehicle Stops  
 DUI  
 Enforcement; traffic  
 Juveniles; traffic violations by  
 Parking Enforcement  
 Radar  
 Roadblocks  
 Traffic stops – high risk  
 Traffic stops – routine  
 Virginia traffic summons

## **POLICY**

Traffic law enforcement involves all activities and operations that relate to observing, detecting, and preventing traffic law violations and taking appropriate action. Enforcement not only involves arrests and citations, but also includes warnings to drivers and pedestrians to prevent them from committing future minor violations. Traffic enforcement may be initiated from observing violations, by responding to accidents, or in response to community concerns, or may be proactive to prevent traffic violations. However, overzealous enforcement without considering whether the violator is familiar with the legal requirements or without regard for the circumstances surrounding the violation causes disrespect for the law and poor relations between the Sheriff's Office and the community.

## **PURPOSE**

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

## **PROCEDURES**

- Deputy Sheriffs shall enforce traffic laws consistently under similar circumstances.
- Before taking any enforcement, deputies must consider the circumstances of the law violation and decide on a course of action, which relies on experience, training, and judgment.

- Traffic laws shall be enforced without regard to race, sex, nationality, location of the operator's residence, or the nature of the vehicle (type, model, whether commercially or privately operated).
- Types of enforcement actions
  - Warnings
    - Deputy Sheriffs may use their judgement in the issuance of warnings to violators of minor traffic infractions.
    - In their discretion, deputies must recognize that a properly administered warning can be more effective than any other type of enforcement.
    - Warnings shall be verbal and documented by completing a field contact entry in the Sheriff's Records Management System (RMS).
  - Virginia Uniform Summons (VUS)
    - A VUS shall be issued to a violator who jeopardizes the safe and efficient flow of vehicular and pedestrian traffic, including hazardous moving violations or operating unsafe and improperly equipped vehicles.
    - Deputies will provide violators with a Virginia Pre-payable Offense Information Sheet, if available.
    - In accordance with [§ 46.2-936](#), if any person refuses to give such written promise to appear under the provisions of this section, the arresting officer shall give such person notice of the time and place of the hearing, note such person's refusal to give his written promise to appear on the summons, and forthwith release him from custody.
  - Physical arrest
    - In accordance with [§ 46.2-940](#), Code of Virginia, deputies shall make a physical arrest and take the violator before a magistrate when the deputy believes that:
      - ❖ The violator has committed a felony; or
      - ❖ The violator is likely to disregard the summons issued under [§ 46.2-936](#) Code of Virginia; or
- Community Policing Motor Vehicle Stops Data
  - Requirements
    - The following data about the person stopped shall be recorded in the Sheriff's Office RMS for all motor vehicle stops in accordance with Section [52-30.2C](#), Code of Virginia:
      - ❖ Race,
      - ❖ Ethnicity,
      - ❖ Age,
      - ❖ Gender,
      - ❖ Reason for the stop,
      - ❖ Location of the stop,
      - ❖ Whether any of the following resulted from the stop:
        - ❖ A warning issued, either verbal or written,
          - The substance of the warning provided.

- ❖ A written citation or summons was issued,
    - A list of the violation(s) charged.
  - ❖ An arrest was made,
    - A written list of the crime(s) charged.
  - ❖ Whether the vehicle or any occupants of the vehicle were searched
- Handling special categories of violators
    - Non-residents
      - Deputy Sheriff's may consider the use of warnings for non-residents who commit minor, non-hazardous violations.
      - If appropriate, deputies may charge non-residents by issuance of a summons. If the circumstances of infraction so warrant.
      - Deputies shall take non-resident violators directly before a magistrate if any of the following under section [46.2-940](#), Code of Virginia occur:
        - ❖ The violator is believed to have committed a felony.
        - ❖ The violator is believed by the arresting officer that the violator will disregard the summons.
        - ❖ In accordance with [§ 46.2-940](#), if any person refuses to give such written promise to appear under the provisions of this section, the arresting officer shall give such person notice of the time and place of the hearing, note such person's refusal to give his written promise to appear on the summons, and forthwith release him from custody.
    - Juveniles
      - Juvenile traffic offenders are prosecuted in Juvenile and Domestic Relations Court and shall be identified on the summons.
      - Deputies issuing a traffic summons to juvenile offenders shall advise them of their options regarding prepayment or court appearance and that a parent or guardian must accompany them when they appear before the court, or prepay fine if applicable.
      - Summons issued for traffic infractions to juveniles shall be handled in accordance with Va code 46.2-936 and 16.1-260.
    - Foreign diplomatic or other consular officials
      - Diplomatic immunity is granted by the United States Government.
      - Generally, immunity may apply to diplomats, members of their families, and employees of diplomatic missions concerning acts performed in the course of their official duties.
      - Different levels of immunity exist.
      - The burden is on the diplomat to claim immunity and show the appropriate U.S. State Department-issued credentials. Refer to [GO 2-40](#), Diplomatic Immunity for further guidance.
    - The Lieutenant Governor and members of the General Assembly

- During the session of the General Assembly and for five days before and after the session, the lieutenant governor, members of the General Assembly, the clerks, the clerks' full-time assistants, and the sergeants-at-arms of the Senate and House of Delegates shall be privileged from custodial arrest for most traffic offenses.
    - They are not immune from misdemeanor or felony arrests. See [30-7](#) Code of Virginia, and [18.2-8](#) Code of Virginia.
  - Military personnel
    - Military personnel who are passing through the county may be treated as:
      - ❖ Non-residents or,
      - ❖ If stationed in this area, as residents, even if they reside in another state.
  - Members of the United States Senate and House of Representatives.
    - Members of the United States Senate and House of Representatives may not be detained for the issuance of a summons or arrest while they are in transit to or from or during their attendance at session of their respective houses, except for Treason, a Felony or Breach of the Peace.
    - If a member of the Senate or House of Representatives is stopped for a traffic infraction, upon presentation of valid credentials, he or she shall be released immediately.
    - The deputy may then obtain a summons for the member of the Senate or House of Representatives covering the observed violation and make arrangements to serve the summons at a time when the
    - Senate or House of Representatives is not in session.
  - Information regarding traffic summons
    - A Virginia Uniform Summons or E-Summons shall be completed whenever a motorist is to be charged with a motor vehicle violation.
    - Deputies shall advise drivers of the following:
      - ❖ Violation (charge)
      - ❖ The court appearance date and time.
      - ❖ Whether the court appearance by the motorist is mandatory
      - ❖ Whether the motorist may be allowed to enter a plea, and/or pay the fine by mail or in person before the court date at the clerk's office.
      - ❖ Answer other questions that the motorist's might have prior to release.

## **ENFORCEMENT POLICIES FOR TRAFFIC LAW VIOLATIONS**

- Parking Enforcement
  - Deputy Sheriffs shall be responsible for parking enforcement including but not limited to;
    - Limited Time Zones
    - Handicapped parking Zones
    - Fire Hydrants
    - Residential Parking Zones and restricted places as outlined in County Code 15-48

- No parking zones
- Designated fire lanes
- Completed parking tickets shall be turned into Administrative Services and be submitted to the York County Treasurer's office for processing
- Deputy Sheriffs have the discretion to give a warning when the operator is willing to move their vehicle.
- Any contested parking citations should be presented to the Uniform Patrol Commander. The Uniform Patrol Commander will determine if a parking citation should be considered for dismissal.
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- Speed violations
  - Deputy Sheriff's shall clearly demonstrate the violator's speed in court by competently explaining the method of measuring the violator's speed and the circumstances.
  - Appropriate speed may depend on the location of violation. For example, speeding may have occurred through a congested area or a school zone. Also see Pacing, Radar/Lidar sections of this policy
- Other moving and non-moving traffic violations
  - Be able to articulate the nature of the offense and the particular location, which justified the issuance of a summons.
- Equipment violations
  - With only annual inspections required of vehicles, summonses may be issued for any equipment defects which affect the safe operation of the vehicle.
  - Deputies should use proper discretion by only issuing summonses for the most serious defects.
- Seat Belt violations
  - [Section 46.2-1094](#) Code of Virginia requires all front seat passengers at least 18 years of age to wear a seatbelt if the vehicle is so equipped.
  - Seat belt violations are a secondary offense; as such a summons for a seat belt violation can only be issued if the vehicle was stopped for other lawful reasons.
  - [Section 46.2-1095](#) Code of Virginia requires seat belt use for those under 18 years of age and a child restraint device use by persons less than 8 years of age. A violation of this section is a primary offense.
- Public carrier/commercial vehicle violations
  - In issuing a summons, consider traffic congestion, lack of parking, and carrier needs for delivery access.
  - Repetitive violators shall be cited at the deputy's discretion.
- Multiple violations
  - Deputies may issue summonses for all appropriate violations.

- In the event of multiple violations, deputies may issue a summons for the most serious violation(s) and warn on others.
- Avoid issuing multiple summonses only because the violator is argumentative or displays a negative attitude.
- Newly-enacted laws
  - Newly enacted laws do not provide for a grace period when the new laws takes effect.
  - Deputies are not prohibited from stopping a vehicle violating a newly enacted law. However, deputies are encouraged to use this opportunity to educate the violator about the new law.
  - Deputies, may use discretion in observing a reasonable grace period before issuing a summons for the following:
    - A violation of a newly enacted traffic law.
    - Speeding violations in an area, which the speed limit has been reduced.
- Inspections
  - Except as prohibited by § [19.2-59](#), Code of Virginia on his/her request or signal, Deputy Sheriffs who are in uniform, may stop any motor vehicle, trailer, or semi-trailer to inspect its equipment, operation, serial or engine numbers, or any property-carrying motor vehicle or trailer to inspect its contents or load (See § [46.2-103](#) Code of Virginia and [46.2-104](#) Code of Virginia). These stops shall be used judiciously and reasonably.
- DUI - alcohol and drugs
  - See Traffic Law Enforcement Practices of this policy.
- Other moving and non-moving violations
  - Deputies should consider verbal warnings, unless the violations are repetitive or flagrant.
- Off-road vehicles
  - See Special Traffic Problems section of this policy.
- Pedestrian and bicycle violations
  - Deputies should consider verbal warnings, unless the violations are repetitive or flagrant.
- Violations resulting in traffic accidents
  - When required to investigate an accident, deputies shall diligently attempt to determine the cause of the accident and the primary motorist at fault.
  - A traffic summons will normally be issued to the primary at-fault driver especially when second party and/or other additional damage is present. However, the investigating deputy, prior to the issuing of a traffic summons, shall consider all factors available.
- Driving after privileges have been suspended or revoked

- See Traffic Law Enforcement Practices, Suspended and Revoked Licenses.

## **TRAFFIC LAW ENFORCEMENT PRACTICES**

- Normal traffic enforcement involves patrol by deputies who observe and handle traffic violations during the performance of their duties.
- Area patrol involves traffic enforcement within the deputy's assigned area of responsibility.
- Selective Enforcement involves traffic enforcement with concentration on a particular section of roadway.
- Directed patrol instructions can specify enforcement in an area, or at a specific location, depending on the nature of the hazard/violation.
- Stationary observation, either covert or overt, may be used as a technique to make observations about the flow of traffic at a particular location.
- Deputy Sheriffs are encouraged, when completing reports or doing other activities that will keep them out of service for a short while, to park their patrol vehicles in a conspicuous location where the mere presence of the vehicle will serve to remind other drivers to comply with traffic laws.
- Deputies must remain vigilant and maintain situational awareness.
- Objectives of traffic stops:
  - The two primary objectives of any traffic stop are:
    - To take proper and appropriate enforcement action; and
    - To favorably alter the violator's future driving behavior
- Achievement of these objectives requires the deputy to evaluate the violator's mental and physical condition when assessing the facts of the violation itself. In achieving these objectives, deputies must exhibit flexibility to minimize conflict or argument with the violator.
- Routine traffic stops
  - Rules to be followed in all traffic stops:
    - Be alert at all items for the unexpected.
    - Be absolutely certain that the observations of the traffic violation were accurate.
    - Present a positive attitude.
    - Present a professional image in dress, grooming, language, bearing, and emotional stability.
    - Be prepared for the contact by having the necessary equipment and forms immediately available.
    - Decide on the appropriate enforcement action based upon the violator's driving behavior, not attitude.
    - In most cases, decide on the type of enforcement action before contacting the violator.
    - Exceptions include:
      - ❖ Stopping an out-of-state driver who has committed a violation that would not be a violation in his jurisdiction, such as making a right turn on a red light.

❖ The deputy may then decide to issue a verbal warning rather than a citation.

- Before making a vehicle stop:
  - Maintain a reasonable distance between the violator and the patrol vehicle.
  - Locate a safe spot to stop the vehicle.
  - Activate the emergency lights and, when necessary, the siren to signal the vehicle to stop.
  - Advise the dispatcher of the intention to stop the particular vehicle, and give the following information:
    - The location of the stop.
    - The vehicle's license tag number and a description when necessary.
  - The deputy shall position the patrol vehicle approximately one-half to one car length behind the violator's vehicle.
  - The patrol vehicle shall be positioned so that it will offer the deputy some protection from oncoming traffic.
  - The positioning used should provide the maximum safety to the violator, the deputy, and all other traffic.
  - Additionally, when stopping a vehicle in which the occupant(s) is deemed to present a hazard to the deputy's safety, perform the following actions:
    - Request a backup unit and calculate the stop so that the backup unit is in the immediate area before making the actual stop;
    - At night, position the unit's auxiliary lights (spotlight) on the occupant(s) of the vehicle when applicable;
    - When necessary use the vehicle's public address system to give instructions to the occupant(s) of the violator's vehicle.
- Hazards
  - On multi-lane roadways, the deputy shall ensure the safety of the violator during the lane changes by gradually changing from lane to lane with the violator until the right side of the roadway is reached.
  - Should the violator stop abruptly in the wrong lane or in another undesirable location, the deputy shall direct him or her to move to a safer location.
  - Deputy Sheriffs shall use the public address system to instruct violators to move to a safer location.
  - If the deputy's oral directions and gestures are misunderstood, the deputy shall quickly leave the patrol vehicle and instruct the violator.
  - At night, deputies shall exercise caution in selecting an appropriate place for the traffic stop.
  - Once the violator has stopped, to maximize officer safety, use the spotlight and set the headlights for high beam, and employ emergency bar lights and emergency flashers.
- Approaching the violator
  - The following steps in stopping and approaching a traffic violator are intended to provide maximum safety for the deputy, the violator, and other users of the roadway.



- Varying conditions regarding the engineering of the particular traffic way, the urgency to stop the violator (drinking driver), and the existing volume of traffic may require adjusting or altering the recommended procedure. Follow these procedures unless circumstances dictate another reasonable method:
  - The deputy shall leave the patrol vehicle and be continuously alert for any suspicious movement or actions on the part of the violator or other occupants in the violator's vehicle.
  - The deputy shall approach from the rear of the violator's car, look into its rear seat, and generally stop behind the trailing edge of the left front door.
  - This position shall be maintained if there are only occupants in the front seat of the vehicle. From this position, the deputy can communicate with the violator, keeping him in a slightly awkward position and at the same time keep all occupants of the vehicle in view.
  - If the deputy believes that it would be safer to approach from the passenger side of the vehicle, he/she may approach the right side of the vehicle and communicate through the passenger side window
  - In cases where the violator's car has occupants in both the front and rear seats, the deputy shall approach to the trailing edge of the left front door, alert for any unusual actions on the part of the occupants and choosing a path so the door cannot be used as a weapon against the deputy. From this position, the deputy can communicate with the violator and keep all occupants in view.
  - In traffic stops made by two-deputy patrol vehicles, the passenger deputy shall handle all radio communications, write all notes, and act as an observer and provide cover for his or her fellow deputy.
  - At no time shall the two deputies approach the violator together along the same side of the violator's vehicle.
- Communicating with the violator
  - In transacting business with the violator, the deputy shall observe the following rules:
    - Greet the violator courteously with an appropriate title.
    - Inform the violator why they have been stopped and what traffic law if any he or she has violated. (Do not keep the violator in suspense).
    - Ask for and accept only the violator's driver license and vehicle registration.
    - If the driver offers money, the deputy shall refuse it and advise the driver of the illegality of the offer.
    - If the driver has no driver's license, obtain another form of identification.
    - Allow the driver to discuss the violation. Do not argue, berate, belittle, or otherwise orally abuse the violator.
    - Complete the forms required for the enforcement action or administer an oral warning, if appropriate.
    - Explain to the violator exactly what he or she is supposed to do in response to the action taken and how this action will affect him or her.
    - If the enforcement action requires a court appearance, make sure the violator knows where and when to appear. Explain any alternatives to the violator, but do not predict the actions of the court.

- Be alert to any emotional stress exhibited by the driver. If stress is present, the instructions may have to be repeated or the violator may need to calm down before resuming driving.
- Concluding the transaction
  - Return the violator's driver's license, registration.
  - Release the violator after he or she:
    - Signs the summons, and
    - Receives a copy of the summons, and
    - Receives a copy of the Virginia Pre-Payable Information Sheet.
  - Assist the violator in safely re-entering the traffic flow.
  - Do not follow the violator.
- High Risk Stop - Stopping a known or suspected felon
  - Special procedures shall be used in vehicle stops when the occupants are reasonably believed to be armed and dangerous.
  - When a deputy locates a vehicle driven by a known or suspected wanted felon, the deputy shall notify the dispatcher immediately of the suspect's location and give a thorough description of the vehicle and its occupants.
  - The deputy shall keep the suspect vehicle in view and request assistance from a back-up deputy or deputies before making the stop.
  - The deputy shall keep support units informed of the suspect's location and direction of travel to aid their approach with minimal use of emergency equipment.
  - The suspect vehicle shall not be stopped unless absolutely necessary until adequate back-up is available and in position. Circumstances may, however, dictate a one-deputy High Risk vehicle stop.
  - The following procedures shall be used in effecting the stop:
    - The deputy shall plan to stop the suspect vehicle in a location, which presents minimal danger to other citizens.
    - When conditions are appropriate and support units available, the deputy shall move into position to the rear of the suspect vehicle.
    - The deputy shall signal the violator to stop, using all emergency equipment to warn other traffic.
    - The violator shall be stopped on the extreme right side of the road.
    - If the violator is known to be armed and dangerous, the deputy shall have his weapon readily accessible for immediate use.
    - When the suspect vehicle begins to stop, the deputy shall turn off the siren and turn on the public address system.
    - The deputy shall park the patrol vehicle so that it provides maximum protection and cover.
    - At night, the deputy shall focus all lights on the interior of the suspect vehicle.
    - The deputy shall position him/herself behind the door "A" pillar of the vehicle and where the public address system microphone will be readily accessible. The deputy making the stop is in command and shall direct each occupant, using the public address system.

- To reduce confusion, the deputy in command shall instruct support deputies, as appropriate, and shall be the only deputy to direct the suspects until they are in the handcuffing position.
  - The deputy in command shall order the driver to shut off the motor and drop the keys on the ground outside his door.
  - The deputy in command shall order occupants to place their hands, palms up, on the ceiling of the vehicle.
  - The deputy in command shall then order the occupants to exit the vehicle on the driver's side only, one at a time in the following order:
    - ❖ Driver.
    - ❖ Front Seat Passenger(s).
    - ❖ Rear Seat Passengers.
  - Occupants shall then be ordered to walk backward to a location near the deputy's patrol vehicle there they can be handcuffed and searched. If a public address system is not available, the deputy shall give voice commands if they can be heard; if this fails, the deputy should consider that the commands have been heard but ignored.
  - The deputy shall consider other options before leaving a position of cover.
  - The back-up deputies shall cover the arresting officer and remain on the right (Passenger) side of the vehicle until each occupant is in the handcuffing position.
  - Deputies shall exercise extreme caution not to get within each other's line of fire.
  - When each occupant has been removed from the vehicle, a back-up deputy shall move to cover the handcuffing deputy while the suspects are handcuffed and searched.
  - Arrestees shall be handcuffed and search before being placed in a patrol vehicle or transported.
  - Once all occupants are believed to have been removed from the vehicle and secured, deputies shall carefully approach the vehicle to ensure that there are no other occupants or persons needing medical aid in the vehicle.
- Persons charged with revoked/suspended operator's license
    - A VUS shall be issued when a deputy has stopped a motorist who is driving with a revoked or suspended operator's license [§ 46.2-301](#) Code of Virginia.
    - A deputy who sees a person driving who is known to be under suspension or revocation may swear out a warrant if unable to stop the violator.
  - Speed enforcement
    - Excessive speed is a major cause of death and injury on the national highways.
    - Deputies shall uniformly enforce speed laws within the County of York.
    - Procedures for the enforcement of laws applying to speed will vary in accordance with the type of equipment used.
  - Pacing

- Deputy Sheriffs shall follow the vehicle being paced at a constant interval for a reasonable distance, normally at least 2/10 of a mile, to adequately obtain a speedometer reading.
- Speedometers shall be calibrated at least every six months and calibration filed with the clerks of the General District and Juvenile and Domestic Relations courts.
- Radar/Laser speed detection devices
  - Radar/Laser speed detection devices shall not be used for "filler" or "slack" deputy time, but shall be applied where vehicle speed is a hazard to other motorists or pedestrians.
  - The following guidelines govern the use of radar/laser speed detection devices, which shall always be operated in compliance with manufacturer's instructions:
    - The radar/laser speed detection devices unit must be properly installed in the vehicle and connected to the appropriate power supply.
    - Operators of radar/laser speed detection devices shall have received training in accordance with section [9.1-102](#), Code of Virginia and be certified in their operation and use. Proof of training and certification shall be maintained by the training coordinator.
    - Operators must thoroughly understand the effective range of the radar/laser speed detection devices so observations can support the speed meter readings.
    - Operators must choose an appropriate observation location. This location must also be conducive to the effective and safe operation of the radar/speed detection device.
    - The radar/laser speed detection device shall be tested to ensure accuracy in checking speed following the manufacturer's recommended specific methods of testing the radar/laser speed detection device without exception.
    - Deputies shall report promptly any problems with the operation of radar/laser speed detection devices.
    - In court, deputies must establish the following elements of radar/laser speed detected speed:
      - ❖ The time, place, and location of the vehicle, the identity of the operator, the speed of the vehicle, and the visual and radar/laser speed check;
      - ❖ The deputy's qualifications and training in the use of radar/laser speed detection device;
      - ❖ Proper operation of the radar/laser speed detection device;
      - ❖ Proof that the unit was tested for accuracy before and after use by an approved method;
      - ❖ Identification of the vehicle;
      - ❖ The speed limit where the deputy was operating and where the signs were posted.
    - The Patrol Commander is responsible for the upkeep, maintenance, and calibration of radar/laser speed detection devices, maintenance of records, and ensuring that certificates are filed with the appropriate courts every six months.

## **DUI ENFORCEMENT PROCEDURES**

- It is unlawful for any person to drive or operate any motor vehicle, engine, or train while under the influence of alcohol or while under the influence of any narcotic drug of any nature. The term motor vehicle includes pedal bicycles with helper motors (Mopeds), while operated on the public highways (§ [18.2-268.1](#) Code of Virginia through [18.2-268.12](#) Code of Virginia).
- Deputy Sheriffs shall be alert for suspected DUI offenders.
- Deputies shall use and document standardized roadside sobriety tests.
- In addition, a preliminary breath test (PBT), if available, shall be offered to each suspected driver.
- Deputies must carefully document the behavior of the DUI beginning with observations of driving.
- Once the violator has been stopped, the deputy shall note the suspect's appearance, responses to stimuli, speech, admissions of drinking, or drug ingestion.
- Locating and Stopping
  - As soon as a deputy suspects a driver of being under the influence Observations should be noted for future reference. The following is not inclusive:
    - Sitting through a green light.
    - Weaving within their lane of travel or across multiple lanes of travel.
    - Very slow speed
    - Excessive speed
    - Disregard for stop lights or signals
  - When you have observed a driver whose actions are similar to the above or are not consistent with sound driving practices, a stop should be made as soon as it is safe to do so.
  - Be alert and use extreme caution when stopping a suspected intoxicated driver. Keep in mind that alcohol or drugs affect judgment and often result in erratic behavior.
  - Follow established procedures for stopping traffic violators. See Traffic Law Enforcement Practices in this policy.
- Field Sobriety Tests (FSTs)
  - Deputy Sheriffs shall administer a minimum of three recognized field sobriety tests. The list below contains DCJS recognized field sobriety tests:
    - Walk and turn
    - One-leg stand
    - Horizontal gaze nystagmus
  - Deputies may employ additional tests, such as pre-exit questioning, but they must be performed in the same order and manner every time.
  - If the operator fails the roadside tests, a PBT shall be offered if available (§ [18.2-267](#) Code of Virginia).
  - The operator may refuse the PBT, and shall be advised of his/her right to refuse.
  - At the deputy's discretion or if the operator fails the sobriety testing and/or the PBT, he/she shall be arrested for DUI and taken before the magistrate.

- If a deputy suspects that the vehicle operator was driving under the influence of both alcohol and drugs, or drugs alone, he may require the operator to have a blood test performed in addition to testing for alcohol.
- If the suspect refuses consent to draw blood the deputy will secure a search warrant to recover blood evidence (See [GO 2-2 Search Warrants](#))
- Blood samples shall be analyzed by the Department of Forensic Science for evidence of alcohol and for other illegal, prescription, and over-the-counter drugs.
- The deputy shall make a full written report of the circumstances of the DUI arrest, formation of probable cause, and witnesses' observations.
- Arrest for DUI/DUID
  - The arresting deputy shall perform the following:
    - Advise the arrestee that any person, whether or not licensed by Virginia, who operates a motor vehicle on a public highway Commonwealth gives implied consent to have a sample of his breath taken for a chemical test to determine the alcoholic content of his blood, if such person is arrested for violation of § [18.2-266](#) Code of Virginia and [18.2-266.1](#) Code of Virginia.
    - A sample of his blood may be requested, if:
      - ❖ There is reason to believe that the individual is under the influence of drugs,
      - ❖ Breathalyzer/Intoxilyzer is unavailable
      - ❖ The violator has an injury or physical condition that prevents him/her from giving a breath sample.
    - There is no choice available for routine driving under the influence cases.
    - If the arrest occurs because of operation of a motor vehicle on private property, the Implied Consent Law (§ [18.2-268.2](#) Code of Virginia) does not apply.
    - Although Implied Consent does not apply, the deputy shall try to obtain consent from the arrested person to submit to a chemical analysis of the suspect's blood or breath.
    - The deputy shall make all reasonable attempts to obtain a blood or breath sample.
    - Miranda is not required before the driver takes sobriety tests, or otherwise before questioning or administration of a breath or blood test.
    - If the arrestee refuses the available test, inform him or her that unreasonable refusal of the test constitutes grounds for the revocation of the driver's license and that a separate charge shall be placed to which he or she will have to answer in court ([18.2-263.3](#), Code of Virginia).
    - If he or she still refuses, the arrestee shall be advised of the Implied Consent Statute and penalties by the magistrate.
  - Blood test procedure
    - Take the arrested person to a physician, registered professional nurse, graduate laboratory technician, or other technician designated by order of the circuit court acting upon recommendation of a licensed physician, who shall withdraw blood for the purpose of determining its alcoholic content and drugs (§ [18.2-268.5](#) applies).

- The arresting deputy shall also witness the doctor or technician taking the blood sample and ensure that an alcohol solvent is not used to cleanse the withdrawal location.
- The deputy shall complete a Request for Laboratory Analysis form and place the form in blood draw package.
- The medical professional taking the sample shall place his or her name and the name of the accused on the label of each vial with the date and time the blood was taken.
- The arresting deputy shall take possession of the two vials and seal them in the designed container.
- The deputy shall as soon possible, mail the vials to the Department of Forensic Science.
- The Department of Forensic Science will be responsible for retention, subsequent submission of and destruction of the samples unless the Commonwealth Attorney files a written request that the sample be returned within 90 days.
- If such request is made by the Commonwealth Attorney, the sample will be returned to the Sheriff's Office and handled in accordance with [GO 2-15 Evidence Procedures](#).
- **In the event medical personnel refuse to draw the blood from a person arrested for DUI/DUID for any reason, a supervisor shall be consulted prior to taking any enforcement action against medical personnel.**
- Breath analysis
  - Chemical analysis of a person's breath shall be performed by a person possessing a valid Breath Alcohol Operators license, issued by the Department of Forensic Science.
  - In the event the breathalyzer is inoperable or a licensed operator is not available, this test is deemed not available.
  - The type of equipment and the methods used to perform breath analysis shall be in accordance with the regulations established by the Department of Forensic Science.
  - The breath alcohol testing instrument operator shall issue a signed certificate of breath alcohol analysis which indicates:
    - The test results
    - That the test was conducted using equipment specified by the Department of Forensic Science.
    - That the test was conducted in accordance with approved methods established by the Department of Forensic Science.
    - That the accused was given the opportunity to observe the breath alcohol reading on the testing equipment.
    - That the operator currently possesses a license to conduct such tests.
- Breath Alcohol Testing Instrument
  - The security and care of the breath testing instrument is the responsibility of the agency housing the instrument. Maintenance and testing of the breath alcohol testing device is the responsibility of the Department of Forensic Science.
  - The primary breath alcohol testing instrument is located at the Peninsula Regional Jail.

- DUI/DUID accident investigations
  - If the DUI/DUID suspect has been involved in a traffic accident, deputies shall also undertake the following:
    - Deputies may, through the Emergency Communications Center, contact the Virginia State Police to work the accident.
    - Deputies who request Virginia State police to work DUI/DUID accidents shall not make an arrest for the DUI/DUID and leave the accident itself to be worked by the Virginia State Police.
    - Deputies may detain suspected offenders until arrival of the Virginia state Police.
  - If a patrol supervisor directs or a deputy elects to work a DUI/DUID related accident, the accident shall be worked in accordance with [GO 2-20 Accident Investigation](#) policy.
  - The DUI/DUID portion of the accident investigation shall be conducted in accordance with this DUI Enforcement portion of this policy.

## **SPECIAL TRAFFIC PROBLEMS**

- Identification and referral of drivers for re-examination by the Department of Motor Vehicles (DMV).
- During routine traffic law enforcement activities, deputy sheriffs frequently encounter persons whom they suspect of being incompetent either physically, mentally, or having other medical conditions that might prevent the person from exercising reasonable and ordinary care over a motor vehicle.
  - In all such cases, in addition to whatever enforcement he or she may take, the deputy shall notify DMV of these findings or suspicions using the following form, available at [https://www.dmv.virginia.gov/drivers/#medical/med\\_forms.asp](https://www.dmv.virginia.gov/drivers/#medical/med_forms.asp):  
[Medical Review Request, MED 3](#)
- Pedestrian and bicycle safety
  - The Patrol Commander may periodically review county traffic safety records to determine what enforcement actions are needed to provide a proactive pedestrian/bicycle safety enforcement program.
  - Deputies may be assigned to enforcement measures that include:
    - Reducing or eliminate human environmental factors leading to accidents.
    - Reducing or eliminate the behavior, decisions, and events that lead to the accidents.
- Off-road vehicles (including dirt bikes, snowmobiles, golf carts and mopeds)
  - Accidents involving off-road vehicles that do not occur on a public highway do not require a traffic accident report.
  - Any deputy observing an unlicensed off-road vehicle on the highways that cannot be operated legally on public highways shall order it removed and enforce appropriate laws.



- Deputy Sheriffs shall enforce compliance with vehicle registration laws as they pertain to off-road vehicles.
- Deputies shall enforce laws, rules, and regulations concerning the operation of off-road vehicles on county-owned trails, parks, or property.

## **ROADBLOCKS AND CHECKPOINTS**

- Checkpoint are a brief stop of all traffic at a designated location for a limited time to inspect drivers' licenses and vehicle registrations, and thereby increase traffic safety by apprehending or citing persons who violate licensing laws, operate unsafe vehicles, or operate a vehicle while under the influence of alcohol or drugs.
- Checkpoints
  - Traffic check points are often used to check the drivers' license, vehicle registration or insurance status of vehicles and licenses and to detect drivers operating motor vehicles while under the influence of alcohol or drugs.
  - The United States Supreme Court ruled in [Delaware v. Prouse 440 U.S. 648 \(1979\)](#) that it is unconstitutional for a general traffic check point to be randomly established where the law enforcement officers had the discretion to check which ever vehicles they chose.
  - Therefore, all traffic checkpoints shall be establish in accordance with the following requirements:
    - The Sheriff or his designee may authorize Traffic or DUI/DUID Sobriety Checkpoints to be conducted.
    - According to the Virginia Supreme Court in *Lowe v. Commonwealth*, 230 Va. 346, 337 S.E. 2d 273 (1985) traffic and DUI/DUID Sobriety Checkpoints must adhere to following:
      - ❖ There must be a written approved plan detailing the following:
        - Where the checkpoint will be held.
        - The beginning time and ending time for checkpoint operations.
        - How the checkpoint will be conducted.
        - The number of officers needed to safely conduct the checkpoint.
  - Traffic and DUI/Sobriety checkpoints shall not be randomly established.
  - Prior to the establishment of any DUI/Sobriety Checkpoint a written operation plan shall be prepared and contain at a minimum the following:
    - Objectives of the checkpoint.
    - Exact location of the checkpoint.
    - Times the checkpoint will begin and end. Must be specific.
    - Personnel involved in the checkpoint including designation of the checkpoint supervisor.
    - Checking methods to be used and alternate methods to be used during traffic backups and the specific triggers to the use of alternate checking methods.
    - Identifies traffic control measures to be used.
    - Lists equipment to be used by those participating in the checkpoint.

- The written checkpoint plan shall be approved by a supervisor at least one level above the deputy writing the operations plan.
- The location of the checkpoint must be predetermined and shall not be changed unless an alternate location is spelled out in the operations plan.
- The checkpoint must be clearly marked to approaching motorists.
  - A vehicle making a legal U-turn to avoid the checkpoint or legally turning on street prior to the checkpoint does not constitute Reasonable Suspicion for a traffic stop on the vehicle. However, if other violations are observed the vehicle may be stopped.
- **Vehicles shall not be stopped on a discretionary basis.**
- The plan must spell out how vehicles will be checked and how backups will be handled. (I.e. All cars will be checked. If a back-up of 20 or more cars occur, every other car will be checked or if a back-up of more than 400 feet every 4<sup>th</sup> car will be checked, if back-up continues checkpoint will be discontinued until back-up is alleviated).
- Checking of vehicle's shall not begin prior to the time stated in operation plan and must end promptly at the time stated in the operations plan.
- A supervisor shall be on scene to ensure the checkpoint is conducted according to the plan.
- At the conclusion of the checkpoint an after action report will be submitted by the checkpoint supervisor to the Patrol Division Commander which shall include the following:
  - Date of the checkpoint.
  - Time checkpoint began.
  - Number of cars checked.
  - The time when alternate checking methods, as spelled out in the plan, were instituted.
  - The duration in time when alternate checking methods were in effect.
  - Number of arrests and charges.
  - Number of summonses issued
  - Time checkpoint was ended.
  - Suggestions for improvements of future DUI/Sobriety checkpoints if applicable.
- Approved checkpoint conduct
  - Traffic control devices/signs shall be in place prior to the specified start time.
  - Deputies shall place their vehicles so:
    - They are clearly visible to approaching motorists.
    - Do not impede the flow of traffic.
    - Afford some level of protection to those operating the checkpoint.
  - An area outside the actual checkpoint shall be designated for further vehicle inspections and enforcement actions.
  - No vehicle shall be stopped at the checkpoint location prior to the designated start time.
  - Deputies shall be in uniform and displaying their badge of authority.

- 812 ○ Deputies shall wear their issued traffic vests.
- 813 ○ Deputies shall be courteous.
- 814 ○ The checkpoint shall be conducted exactly as the written plan specifies.
- 815 ○ Vehicle stops shall be as brief as possible, typically less than 30 seconds, with
- 816 vehicles needing further inspection or enforcement action directed to the designated
- 817 area so as not to delay other motorists.
- 818 ○ The checkpoint shall conclude and vehicle stops and checks ended at the time stated
- 819 in the operations plan.
- 820
- 821 ● Roadblock
- 822 ○ A method for stopping and apprehending a fleeing suspect involving artificial barriers
- 823 such as vehicles or walls.
- 824 ○ A roadblock is considered an application of deadly force. Further, any kind of
- 825 roadblock that terminates the freedom of movement of a fleeing suspect is a seizure
- 826 within the Fourth Amendment definition.
- 827 ○ See [GO 2-6, Use of Force](#) and [GO 2-9, Vehicle Operations](#) for further requirements
- 828 for use of roadblocks.