

	PALACIOS POLICE DEPARTMENT	
	Policy 7.30 Traffic Enforcement	
	Effective Date:1/04/2021	Replaces:02/07/2006
	Approved: <u><i>Milton Rivera</i></u> Milton Rivera, Chief of Police	
	Reference: TBP: 7.21, 7.22, and 7.28	

I. POLICY

Traffic law enforcement involves all activities or operations which relate to observing, detecting, and preventing traffic law violations and taking appropriate action under the circumstances. It is the policy of this department that motor vehicle stops shall be performed professionally and courteously, and with a view towards educating the public about proper driving procedures while recognizing and taking steps to minimize the dangers involved in this activity for the officer, the motorist, and other users of the highway.

Overzealous enforcement, however, 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 department and the community. The emphasis of an officer's traffic enforcement is placed on violations that contribute to accidents and that prevent hazards to vehicular and pedestrian traffic. (TBP: 7.28a)

II. PURPOSE

It is the purpose of this policy to establish guidelines for stopping and approaching motorists in a manner that promotes the safety of the officer and the motorist.

III. PROCEDURES

A. Legal Basis for Stopping Motor Vehicles

1. Officers have legal justification for stopping a motor vehicle as provided by the Fourth Amendment to the U.S. Constitution. Without such justification, evidence of illegal activity discovered during the course of a stop may be inadmissible in court.
2. Officers are prohibited from stopping vehicles under the guise of legal authority when in fact the stop is based solely on the officer's prejudice concerning a person's race, ethnicity, sex, or similar distinction.
3. A motor vehicle may be stopped only for a period of time that is

- reasonable to issue a citation or conduct other legitimate police business.
4. Officers should avoid arrests solely for minor vehicle infractions even if permitted by law when a citation in lieu of arrest is a reasonable alternative.
 5. Officers are reminded that they have full discretionary authority in the type of enforcement actions to be taken, subject to the guidelines contained herein. Officers are encouraged to use good judgment, understanding, and compassion in making a decision on the proper enforcement activity. (TBP: 7.28b)

B. Types of enforcement actions

1. Warnings

Officers may issue warnings to a violator whenever a minor traffic infraction is committed in areas where traffic accidents are minimal, or when the act may be due to ignorance of a local ordinance which may be a unique violation or a violation of which the driver may not be aware. In their discretion, officers must recognize that a properly administered warning can be more effective than any other type of enforcement.

2. Traffic Citation

A traffic citation 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.

NOTE: A violator may not be physically arrested but must be issued a citation for the offenses of speeding or violation of the open container law.

3. Physical Arrest (TBP: 7.28d)

- a. In compliance with Transportation Code 543.002, officers shall make a physical arrest and take the violator before a magistrate when the officer believes that the violator
 - i. has committed a felony
 - ii. has failed to stop at the scene of an accident involving property damage or committed any other violation where the punishment is greater than a fine only
 - iii. If the violator refuses to sign the citation, the officer will write "Refused to Sign" in the signature block and issue the citation to the subject. Physical arrests for refusal to sign will not be made by this agency.

C. Handling special categories of violators

1. Juveniles

Juvenile traffic offenders are prosecuted in municipal court. Juveniles over the age of 14 may be issued citations for offenses

committed in cars. Juveniles over the age of 10 may be issued citations for offenses on motorcycles, motorized scooters, or ATVs. Officers issuing traffic citations to juvenile offenders shall advise them that a parent or guardian must accompany them when they appear before the court. Juveniles must appear in court with their parents or other responsible adult. No prepayment is allowed.

2. Foreign diplomatic or other consular officials
 - a. 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.
 - b. Different levels of immunity exist. The burden is on the diplomat to claim immunity and show the appropriate U.S. State Department-issued credentials.
3. Members of Congress
 - a. Members of Congress may not be detained for the issuance of a summons while they are in transit to or from the Congress of the United States.
 - b. If a member of Congress is stopped for a traffic infraction, upon presentation of valid credentials, he or she shall be released immediately. The officer may then obtain a summons for the member of Congress covering the observed violation and make arrangements to serve the summons at a time when the member of Congress is not in transit to or from Congress or on official business.

D. Information regarding traffic summons

A citation shall be completed whenever a motorist is to be charged with a motor vehicle violation. Officers shall advise drivers of the following:

1. The court appearance schedule and contact information. (TBP: 7.21)
2. Whether the court appearance by the motorist is mandatory
3. Whether the motorist may be allowed to pay the fine before court and enter a guilty plea
4. Answers to the motorist's questions about the summons, being as thorough as possible.

IV. UNIFORM ENFORCEMENT POLICIES FOR TRAFFIC LAW VIOLATIONS

A. Speed violations

1. On public streets within the city that have a speed limit of 30 mile per hour or higher, officers shall not write citations for under 40 miles per hour unless specifically approved for a particular operation or problem-solving activity.
2. In school zones where the speed limit is 20 miles per hour, citations may be written for any vehicle traveling 25 miles per hour or greater.

B. Other hazardous violations

Citations may be issued for any hazardous violation which in the officer's experience has caused accidents at the specific location.

C. Equipment violations

With only annual inspections required of vehicles, citations may be issued for any essential equipment defects which creates a danger or hazard to the driver or others or for expired inspections stickers. Officers shall not issue an inspection citation until the 10th day of the month following the month the inspection expired.

D. 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.

E. Multiple violations

Officers may issue summonses for all appropriate violations. In the event of multiple violations, officers may issue multiple citations for the most serious violations and warn on others if appropriate.

F. Newly enacted laws

The law usually does not provide for a grace period when new laws take effect. Officers, though, may use discretion in observing a reasonable grace period before issuing a summons for the following:

1. A violation of a newly enacted traffic law.
2. Speeding violations in an area which the speed limit has been reduced.
3. Expired state license tags or expired state inspection stickers for approximately ten days after their expiration.

V. TRAFFIC LAW ENFORCEMENT PRACTICES - General

Normal traffic enforcement involves patrol by officers who observe and handle traffic violations during the performance of their duties.

A. Area patrol involves traffic enforcement within the officer's assigned area of responsibility.

B. Line patrol involves traffic enforcement with concentration on a particular section of roadway.

- C. Directed patrol instructions can specify enforcement in an area, on a line patrol, or at a specific location, depending on the nature of the hazard/violation.
- D. Stationary observation, either covert or overt, may be used as a technique to make observations about the flow of traffic at a particular location.
- E. Officers are encouraged, when completing reports or doing other activities which 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.
- F. Objectives of traffic stops
 - 1. The two primary objectives of any traffic stop are
 - a. to take proper and appropriate enforcement action; and
 - b. to favorably alter the violator's future driving behavior.
 - 2. Achievement of these objectives requires the officer to evaluate the violator's mental and physical condition when assessing the facts of the violation itself. In achieving these objectives, officers must exhibit flexibility to minimize conflict or argument with the violator.
- G. Stopping a Violator / Issuing a Citation (TBP: 7.28 c)
 - 1. Rules to be followed in all traffic stops:
 - a. Be alert at all items for the unexpected.
 - b. Be absolutely certain that the observations of the traffic violation were accurate.
 - c. Present a professional image in dress, grooming, language, bearing, and emotional stability.
 - d. Be prepared for the contact by having the necessary equipment and forms immediately available.
 - 2. Before making a vehicle stop:
 - a. Maintain a reasonable distance between the violator and the patrol vehicle.
 - b. Locate a safe spot to stop the vehicle.
 - c. Activate the emergency lights and, when necessary, the siren to signal the vehicle to stop.
 - d. Advise the dispatcher of the intention to stop the particular vehicle, and give the following information:
 - i. The location of the stop.
 - ii. The vehicle's license tag number and a description when necessary.
 - e. The officer 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 officer some protection

from oncoming traffic. This position shall be two feet outside and to the left of the violator's vehicle.

3. Additionally, when stopping a vehicle in which the occupant(s) is deemed to present a hazard to the officer's safety, perform the following actions.
 - a. Request a backup unit and calculate the stop so that the backup unit is in the immediate area before making the actual stop;
 - b. Train the unit's auxiliary lights (spotlight) on the occupant(s) of the vehicle when applicable;
 - c. When necessary use the vehicle's public address system to give instructions to the occupant(s) of the violator's vehicle.
4. Hazards
 - a. On multi-lane roadways, the officer shall insure 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.
 - b. Should the violator stop abruptly in the wrong lane or in another undesirable location, the officer shall direct him or her to move to a safer location. Officers shall use the public address system to instruct violators to move to a safer location. If the officer's oral directions and gestures are misunderstood, the officer shall quickly leave the patrol vehicle and instruct the violator.
 - c. At night, officers 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 head lights for high beam, and employ emergency bar lights and emergency flashers.
5. Approaching the violator (Left Side Approach)
 - a. The following steps in stopping and approaching a traffic violator are intended to provide maximum safety for the officer, 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 as a right side approach.
 - b. After properly advising the dispatch of the traffic stop, location, and vehicle license number, the officer 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.
 - c. The officer shall approach from the rear of the violator's car, look into its rear seat, and stop behind the trailing edge of the left front door. On busy roadways, officers should consider the option of approaching the vehicle from the passenger's side (right) for officer safety. This position shall be maintained if there are only occupants in the front seat of the vehicle. From this position, the officer can

communicate with the violator, and at the same time keep all occupants of the vehicle in view.

- d. In cases where the violator's car has occupants in both the front and rear seats, the officer 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 officer. From this position, the officer can communicate with the violator and keep all occupants in view.
- e. In traffic stops made by two-officer patrol vehicles, the passenger officer shall handle all radio communications, write all notes, and act as an observer and cover for his or her fellow officer.

6. Communicating with the violator

In transacting business with the violator, the officer shall observe the following rules:

- a. Greet the violator courteously with an appropriate title.
- b. Inform the violator what traffic law he or she has violated and the intended enforcement action (do not keep the violator in suspense).
- c. Ask for and accept only the violator's driver license and vehicle registration. If the driver offers money, the officer shall refuse it and advise the driver of the illegality of the offer.
- d. If the driver has no driver's license, obtain another document of identification.
- e. Allow the driver to discuss the violation. Do not argue, berate, belittle, or otherwise orally abuse the violator.
- f. Complete the forms required for the enforcement action or give an oral warning, if appropriate.
- g. 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.
- h. 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.

7. Conducting the transaction

- a. Return the violator's driver's license, registration, and a copy of the citation or warning, if given.
- b. Release the defendant after he or she signs the summons, and receives a copy of the summons.
- c. Assist the violator in safely re-entering the traffic flow.
- d. Do not follow the violator.

VI. CITATION ACCOUNTABILITY

A. Citation Book Security (TBP: 7.22)

1. Citation issuing information, records, and storage of citations is the responsibility of the municipal court.

B. Citation Accountability

1. Officers are directly accountable to enter racial profiling information in the RMS system.

C. Voided Citations

Citations marked “Void” will be received by municipal court and entered into a voided document system so that those citations will not show up as missing. Quarterly audits will be necessary to account for missing citations.

VII. TRAFFIC RECORDS SYSTEM

A. The Patrol Sergeant is responsible for compiling the following traffic information:

1. Traffic accident data (to include location and accident causes)
2. Traffic complaints
3. Traffic engineering deficiencies

B. The Patrol Sergeant is also responsible for compiling traffic enforcement data to include:

1. Analysis of traffic accidents
2. Analysis of traffic enforcement activities
3. Implementation of Selective Enforcement techniques and procedures
4. Deployment of traffic enforcement personnel
5. Evaluation of selective enforcement activities.

Note: “Selective enforcement” refers to selecting location and type of offense to enforce to address a particular problem. It does not refer to the selection of specific individuals to receive enforcement action.

C. Annually the traffic division supervisor will prepare and distribute both traffic and patrol personnel the analysis of accident data and contributing factors. Any recommendations for enforcement and selective enforcement at high accident locations will be included.

VIII. DWI/DUI ENFORCEMENT PROCEDURES

A. Laws

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.

B. Responsibilities

Officers shall be alert for suspected DWI offenders. Officers shall use and document standardized roadside sobriety tests. Officers must carefully document the behavior of the DWI beginning with observations of driving. Once the violator has been stopped, the officer shall note the suspect's appearance, responses to stimuli, speech, admissions of drinking, or drug ingestion.

C. Sobriety tests

1. Officers shall administer a minimum of three field sobriety tests from the following list, which names the most commonly administered tests.
 - a. Gaze nystagmus (only if properly certified).
 - b. Walk and turn.
 - c. One-leg stand.
 - d. Reciting of alphabet.
 - e. Ten count.
 - f. Nose find.
 - g. Coin lift.
2. If an officer 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. Blood samples shall be analyzed DPS Laboratory for evidence of alcohol and for various illegal, prescription, and over-the-counter drugs.
3. The officer shall make a full written report of the circumstances of the DWI arrest, formation of probable cause, and witnesses' observations.

D. Arrest

1. The arresting officer shall perform the following:
 - a. Advise the arrestee that any person, whether or not licensed by Texas, who operates a motor vehicle in this state gives implied consent to have a sample of his blood or breath taken for a chemical test to determine the alcoholic content of this blood or for the presence of drugs if such person is arrested for DWI.
 - b. Advise the arrestee that he/she may elect to have either a breath or blood sample taken, when available, but not both unless the officer suspects the presence of drugs. It is not a matter of defense for the driver in court that neither test was available.

- c. If the arrestee refuses the available test, advise him/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/she will have to answer in court.
- d. If he/she still refuses, the arrestee shall be advised of the implied-consent statute and penalties by the magistrate. If the arrestee refuses to sign a declaration of refusal, which shall be presented to the arrestee at this point, then the magistrate may sign the form certifying the refusal.

E. Blood-test procedure

1. Take the arrested person to a physician, registered professional nurse, graduate laboratory technician, or other technician designated by order of the court who shall withdraw blood for the purpose of determining its alcoholic content and drugs.
2. The arresting officer 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 officer shall initial the vial labels (on two vials) before the doctor or technician seals the vials in their containers. The initial shall be placed on the label where it does not interfere with the date written by the doctor or technician who took the blood sample.
 - a. The medical person 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.
 - b. The arresting officer shall take possession of the two vials and seal them in two containers designed to hold them.
 - c. The arresting officer shall further perform the following:
 - i. Place the name of the arrested person, officer's name, date and time of arrest on each of the containers.
 - ii. Mail one of the containers to the laboratory selected by the accused, if the accused so directs. If the accused does not recommend disposition of the sample at this time, the officer shall keep the sample in the department refrigerator for up to 72 hours.
 - iii. Destroy the container if no such direction is received in writing within 72 hours.

F. Breath analysis

1. Chemical analysis of a person's breath shall be performed by anyone possessing a valid license, issued by the Division of Forensic Science. This may include the arresting officer or anyone participating in the arrest. In the event the breathalyzer is inoperable or a licensed operator is not available, this test is deemed not available.

2. The type of equipment and the methods used to perform breath analysis shall accord with the regulations of the Division of Forensic Science.
3. The testing officer shall issue a certificate of breath alcohol analysis that indicates that the test was conducted per the manufacturers' specifications, the equipment on which the test was conducted has been tested in the last six months and was found to be accurate, the name of the accused, the date, the time the sample was taken from the accused, the alcohol content of the sample, and by whom the sample was examined.

G. Accident investigation

If the DWI suspect has been involved in a traffic accident, officers shall also undertake the following:

1. Identify any witnesses who saw the suspect operating a motor vehicle.
2. Question the witness about the suspect's condition, actions, and statements immediately after the accident.
3. Establish a time lapse from the time of the accident to the time of arrest.
4. Question the witnesses and the suspect about what, if anything, the suspect ingested between the time of the accident and the officer's arrival.

IX. SPECIAL TRAFFIC PROBLEMS

A. Identification and referral of driver recommended for reexamination to the Department of Public Safety (DPS). During routine traffic law enforcement activities, officers frequently encounter persons whom they suspect of being incompetent, physically or mentally disabled, or having other 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 officer shall notify DMV of these findings or suspicions, giving the violator's full name, date of birth, operator license number, and a brief description of the disability noted. A driver deficiency report may be used for this purpose.

B. Pedestrian and bicycle safety

The Chief of Police shall review the traffic accident records at least annually to determine what enforcement actions are needed to provide a proactive pedestrian/bicycle safety enforcement program. The Chief may recommend to officers enforcement measures including steps to:

1. Reduce or eliminate human environmental factors leading to accidents.
2. Reduce or eliminate the behavior, decisions, and events that lead to the accidents.

C. Off-road vehicles (including dirt bikes, motorized scooters, and ATVs)

1. Accidents involving off-road vehicles that do not occur on a public highway do not require a traffic accident report. If the responding officer finds it convenient, he or she may complete an accident report and attach it to the offense report.
2. Any officer 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.
3. Officers shall enforce compliance with vehicle registration laws as they pertain to off-road vehicles.
4. Officers shall enforce laws, rules, and regulations concerning the operation of off-road vehicles on public-owned trails, parks, or property.

X. ESCORTS

A. General rules

1. Officers shall not provide emergency or non-emergency escorts for private vehicles. If a medical emergency exists, then an ambulance should be summoned.
2. Officers may provide escorts of vehicles with oversize or hazardous loads. These escort duties shall be conducted under the authorization of the Chief of Police or the on-duty supervisor. The Chief shall coordinate the escort with the authority having control over the escorted vehicles. Further, the escort shall take place only per a written plan approved by the Chief.
3. Officers may provide funeral escorts with marked vehicles. The escort duty shall be conducted under the authorization of the on-duty supervisor only. Further, the escort shall take place per an articulated plan approved by the on-duty supervisor.

B. Funeral escorts

1. Before conducting a funeral escort, officers shall confer with the funeral home director to:
 - a. Plan the route to be taken to account for the most direct method, expected traffic density and anticipated obstacles.
 - b. Determine the circumstances of the escort to include which traffic lanes to use, speed of travel to the destination, and how to handle adverse weather.
2. Officers shall not lead funeral processions into an intersection on a red light. Once the procession has entered an intersection on a green light, the escorting officer shall take reasonable measures to allow the entire procession to continue even though the light changes.
3. No escorts shall be provided if the body of the deceased is not in the procession.