



Police Department

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DEPARTMENT GENERAL ORDER 20-06

OFFICE of the CHIEF OF POLICE
REPLACES: General Order 00-25

DATE: January 28, 2020

TRAFFIC ENFORCEMENT

I. PURPOSE.

To establish uniform procedural guidelines in taking law enforcement action incident to traffic law violations. This will include the circumstances dictating the type of action to be taken, as well as the procedures for handling certain classes of violators. Furthermore, it shall address the types of information officers are to provide violators relative to their outstanding charges, disposition options, and court data.

II. DEFINITIONS.

Citation - Any traffic enforcement action that involves a written notice to the accused to appear and that contemplates adjudication or disposition to determine the guilt or innocence of the person charged with a violation.

Immunity - A legal state wherein a person is exempted from, or protected against, civil and criminal process. Such immunity may be total or partial.

Police Officer - Any sworn member of the Police Department authorized by law to initiate arrests and/or issue traffic citations.

Roadside Safety Check - A temporary operation in which law enforcement or other authorized personnel stop some or all traffic to inspect individual vehicles, their contents, or to interview the drivers.

Statutory Violations - Any reference to a Missouri Uniform Traffic Ticket, which was issued per the legal authority established by Missouri State Statute, the adjudication of which is set in an Associate Circuit Court.

Traffic Violations Bureau - The functional unit responsible to serve as administrative support for the City of Clayton Municipal Court in regard to the processing, scheduling, and dispositions of traffic violations.

III. ENFORCEMENT PROCEDURES.

All sworn officers, having given due consideration to the surrounding circumstances, shall take appropriate enforcement measures while conducting themselves in a courteous and professional manner. Discretion, based on integrity and sound judgement, is the hallmark of a successful traffic enforcement program. For this reason, officers are encouraged to use a combination of enforcement methods, the intent of which will be to both educate the driving public and ensure compliance with the law. Available enforcement options are listed below.

A. Warning

This will take the form of either a verbal or written acknowledgement of a traffic law violation, and may be used as a substitute for custody arrests and/or formal traffic citations. Verbal and written warnings should be used when circumstances warrant same, particularly for inadvertent violations or as a means to educate the offender. A written warning attaches no official penalty, either in the form of fines or points.

Books containing blank warning tickets are ordered and issued to sworn personnel, upon request, by the Administrative Division. Each individual ticket is numbered sequentially and consists of a two-part notice. At the time same is issued, the original notice shall be retained by the officer, while the carbon copy is provided the violator. Completed warning tickets shall be subsequently delivered to the officer's supervisor for review, and then forwarded to the Communications Unit for entry into the department's mainframe computer system. Records pertaining to warning tickets shall be maintained for one year past the date of issue.

B. Traffic Citation

A method of traffic enforcement reserved for those vehicle operators who willfully, or through negligence, jeopardize the safe movement of vehicular or pedestrian traffic; this includes the commission of hazardous moving violations, parking violations, driving while impaired by alcohol or drugs, and/or the operation of an unsafe or improperly equipped vehicle. Such violations shall routinely be directed to the City of Clayton Municipal Court for disposition, with the possible exception of certain cases (e.g. a third DWI offense following two prior convictions, etc.) which shall be treated as statutory violations and submitted to an Associate Circuit Court.

At the time a violator is stopped, officers may cite the driver for each separate and distinct traffic violation committed in the presence of the officer. The citation(s) will be issued through Mobile Ticketing.

Completed traffic citations shall be submitted to the officer's supervisor on a daily basis. Following his/her review, same shall be forwarded to the Communications Unit, at which time they will be entered into the department's main frame computer system. At the conclusion of this process, the appropriate copies of the citation will be submitted to TVB.

C. Physical Arrest

Officers may effect the custodial arrest of a traffic violator as provided for in Department General Order 99-07. This shall be accomplished in accordance with established procedures, and will be based on the type and severity of the violation, not on the attitude of the violator. Violations where a full custodial arrest would be warranted include, but are not limited to: 1) Driving while under the influence, 2) Driving while suspended or revoked, 3) Careless and imprudent driving, and 4) multiple violations where the operator initially refused to stop for police.

IV. ENFORCEMENT PRACTICES.

The two basic components of traffic enforcement include both prevention (deterrence) and enforcement (apprehension), but prevention should be given priority in terms of application, whenever possible. To set an example for the general public, officers shall be expected to display exemplary driving practices, except where conditions and/or circumstances may dictate otherwise. As a means to reinforce deterrence and also serve as an educational tool for the driving public, enforcement practices adopted by the department will be proactive and straightforward in their application.

A. Deployment Practices

Absent a traffic enforcement function, routine traffic enforcement shall be conducted by on-duty patrol units. This may involve assigned traffic details or enforcement actions initiated at the officer's own initiative. Such activities may cover a general geographical area (e.g. subdivision), a line in the form of an individual street, or monitoring a specific location (e.g. intersection).

1). Overt Deployment

Traffic enforcement shall be conducted in a manner conspicuous to traffic without impeding its natural flow.

2). Vehicle Usage

All routine traffic enforcement shall be conducted by marked/unmarked police vehicles.

B. License Seizures

In conjunction with the enforcement of various traffic violations, sworn officers may seize the operator's or chauffeur's license of the offender in lieu of bail. However, certain restrictions shall apply to such seizures. Licenses shall generally not be seized from Clayton residents or those individuals who work in the City unless Department of Revenue records indicate the individual being cited has a past history of "Failure to Appear." In addition, licenses shall not be seized from out-of-state drivers except in those instances where some unusual or over-riding circumstance dictates otherwise.

Should a license be seized, the driver's copy of the citation will then serve as a temporary driving permit until the case is adjudicated.

The discretionary limits placed on officers in regard to routine license seizures shall not apply to those cases involving alcohol and/or drug-related traffic offenses. In these type violations, sworn officers shall, without exception, seize the violator's operator's license in lieu of bail. The officer will be forwarded to the Traffic Violations Bureau. Should the case be set in Municipal Court, the Court Clerk will retain the license pending a court hearing. Should the case be directed to a state court, the Court Clerk will forward the license and other file documents to the appropriate Associate Circuit Court.

C. Roadside Safety Checks

No roadside safety check may be established by sworn members of this department without the express prior approval of the Chief of Police.

Roadside safety checkpoints must be clearly visible, and provide adequate warning to allow approaching vehicles to come to a safe stop. As such, emergency lights will be activated on all authorized emergency vehicles positioned at a safety checkpoint. Officers shall wear reflective traffic vests, and utilize flares and/or traffic cones as necessary.

Officers shall not generally block the entire roadway, and will leave one or more lanes open as a safety outlet for on-coming traffic, except as directed.

The senior ranking officer present shall be in charge of the safety checkpoint, which will be staffed by the number of officers required to adequately man

same. There will be no set time requirements or restrictions governing the operation of a roadside safety checkpoint.

Officers manning a roadside safety checkpoint may check every vehicle passing through the checkpoint, or elect to check every second or third or fourth vehicle; however, random vehicle checks shall be prohibited in conjunction with such an operation.

At the conclusion of a roadside safety check, the officer in charge will designate a subordinate member of the team to document the event and any enforcement actions by internal memo and submit same to the Commander of the Field Operations Bureau.

V. SPECIAL ENFORCEMENT REQUIREMENTS.

A basic tenet of traffic enforcement is discretion; yet there are certain classes of traffic violators who, by reason of their age, occupation, legal status, or place of residence, require special processing. As such, the following classes of violators will be dealt with and/or processed in accordance with prevailing legal and policy guidelines.

A. All Non-Residents

The Revised Statutes of the State of Missouri (re: RSMo 544.046) provides for reciprocal provisions with certain other states to address how violators are treated, specifically through the Nonresident Violator Compact. By virtue of this compact, the State of Missouri, in cooperation with the other signatories, has an agreement for the disposition of moving traffic violations. Stipulations of the agreement are that a violator's operators license will not be seized pursuant to the issuance of a citation, but that a subsequent guilty plea or conviction, should there be one, will be forwarded to the state of original jurisdiction.

If the subject is a resident of Missouri but a non-resident of Clayton, the violator will be dealt with and/or processed in accordance with all prevailing legal and policy guidelines.

B. Juveniles

The St. Louis Family court has no jurisdiction over those juveniles fifteen and a half years of age or older who have been charged with a non-felony violation of the state or municipal traffic code. In such instances, the juvenile offender shall be subjected to the same system of justice as an adult operator of a motor vehicle.

As such, a qualifying juvenile violator may, at the discretion of the officer, be

issued a citation or be subjected to custodial arrest. Should a citation be issued, same shall be completed and processed in the same manner as that for an adult. DWI offenses shall also be handled in accordance with those procedures established for adults.

Should a full custody arrest be initiated, the juvenile will be booked and processed in accordance to the appropriate guidelines.

In the event a juvenile fifteen and half years of age or younger is charged with a traffic offense, the officer will file a police report, complete a juvenile F-11 form, and attach same to the incident report. The traffic offense(s) the juvenile is being charged with shall be listed in the appropriate spaces on the F-11 form. The completed report and associated documentation shall then be forwarded to the St. Louis Family Court.

C. Legislators

Elected representatives of both the state and federal legislative branches of government are protected (immune) from the application of the vast majority of state and local traffic laws. Their protective mandates and officer guidelines for such encounters are listed as follows:

1). State Legislators

In accordance with Section 19, Article III, of the Missouri Constitution, members of both the state senate and house of representatives shall in all cases except treason, felony, or breach of peace, be privileged from arrest during the session of the general assembly, and for fifteen days before the commencement of the session, and fifteen days after the termination of the session.

Should a member of the Missouri Senate or House of Representatives be stopped for a routine traffic violation, upon verification of their identity and position, they shall be immediately released with no further action taken.

In the event a state legislator is found to be driving in an impaired condition, the individual should be detained only until a family or staff member, friend, or colleague, can respond to convey the legislator elsewhere.

2). Federal Legislators

Members of the United States Congress shall not be detained for the issuance of a summons while they are in transit to or from the

Congress, or at any time while Congress is in session. If a member of Congress is stopped for a violation, upon verification of their identity and position, they shall be immediately released.

Should a violator be found to be driving in an impaired condition, the Senator or Congressman should be detained only until a family or staff member, friend, or colleague, can respond to convey the legislator elsewhere.

D. Foreign Diplomats/Consular Officials

International law requires that domestic law enforcement authorities of the United States extend certain extraordinary privileges and immunities to members of foreign diplomatic missions and consular posts. Most of these privileges and immunities are not absolute, but are contingent upon the position of the individual. As such, traffic citations may be issued to certain diplomats and consular officials while others are completely protected against federal, state, and local laws. Refer to General Order 99-16 for enforcement guidelines.

E. Military Personnel

Military personnel assigned to a local military reservation or facility should be treated as residents of the state. They may be issued a traffic citation and their operator's license seized as necessary. Those military personnel not assigned to local installations should be dealt with in accordance with the provisions listed for "Non-Residents" above.

It should also be noted that the home state operator's license of military personnel does not expire until ninety (90) days after the individual's separation from active duty.

VI. CHARGE INFORMATION.

At the time a motorist receives a traffic citation, the issuing officer shall provide certain information to ensure the violator's proper understanding of the violation and the subsequent adjudication process. Specific charge information will be provided as follows:

A. Court Appearance Schedule

As officers have the option of selecting one of the next two regularly scheduled court dates in connection with the issuance of a citation, the officer shall indicate the court appearance date on the citation form, verbally advise the violator of the date, and provide a copy of the citation to same.

In those instances where a case is to be set in state court, the phrase "To Be Notified" will be placed in the date and time sections of the citation.

B. Optional or Mandatory Appearance

The issuing officer shall explain whether the violation(s) in question has an optional or mandatory court appearance. Such information shall be available on the inside flap of the payment envelope provided to each violator. Most traffic cases may be disposed of without a mandatory court appearance, however violators charged with the following offenses must appear in court:

1. Speeding 20 plus miles over the limit.
2. Driving while Under the Influence.
3. Driving without a valid operators license.
4. Failure to obey reasonable directions of police officer.
5. Driving while license suspended or revoked.
6. Careless and imprudent driving.

Similarly, any violator under seventeen years of age must appear in court with a parent.

C. Ticket Disposition Options

The officer shall explain to the violator that on any optional appearance violation, if the individual elects not to contest the charge, the fine may be mailed in via the payment envelope provided, or in person during normal TVB business hours. Payment must be made prior to the scheduled court date. Should the violator desire to contest the citation, they may appear in court as scheduled. Any payment of fines and court costs will then be submitted to the Court Clerk at the conclusion of the hearing.

D. Other Information

The issuing officer will advise the violator that their signature on the citation form does not signify innocence or guilt, merely that the person agrees to appear in court on the indicated date to answer the charge against them. In addition, the officer will provide courteous responses to any inquiries posed by the violator prior to their release from the scene.

VII. ENFORCEMENT POLICIES.

Strategies and tactics for traffic law enforcement must be consistent and equitably applied to be effective. To achieve this goal, officers not only need to have a clear understanding of the departmental policies governing routine enforcement situations, but also be able to articulate the policy and procedural guidelines involved to those affected most -- namely the drivers who have been cited. To assist in this process, the following addresses the

procedures which should be taken on those occasions when an officer has elected to initiate enforcement action. However, it should be noted that nothing contained herein is intended to preclude or limit the use of individual officer discretion. The material presented in this section is solely to compliment and guide the decision-making process.

A. Driving While Under the Influence of Alcohol or Drugs

Persons discovered to be operating a motor vehicle while under the influence of alcohol or drugs shall be handled in accordance with the guidelines contained in General Order 00-6.

B. Driving While Suspended or Revoked

Individuals discovered to be operating a motor vehicle while suspended or revoked may be cited or taken into custody, contingent upon the circumstances. In either event, the violator shall not be permitted to continue to drive. As such, the vehicle may be towed, left parked and locked in a safe location, or released to another licensed driver at the violator's request.

Should the operator produce papers indicating that his/her driving privileges have been reinstated, the officer will attempt to verify same. If confirmation is obtained, the driver will be released. If the reinstatement papers are false, the officer will document the incident by report and submit same for warrant.

C. Speed Violations

Persons determined to be exceeding the posted speed limit may be issued a warning, be cited for the offense, or be taken into custody depending upon the seriousness of the violation as determined by conditions and circumstances. As a general guide, the following will apply:

1. Verbal/written warning - Speed violations for up to ten miles over the posted limit.
2. Warning/citation - Speed violations between ten and twenty miles over the posted limit.
3. Citation/arrest - Speed violations of twenty miles or more over the posted limit.

Should a written warning or citation be issued, same shall be completed and processed in accordance with the provisions provided elsewhere in this order.

Arrests and vehicle tows will adhere to the guidelines presented in General Order 99-15, "Arrests" and Section VII of General Order 00-4 covering vehicle towing.

D. Other Hazardous Violations

Officers shall decide what enforcement action is proper, based upon a combination of training, experience, and common sense. Considerations in the decision process will include, but not be limited to:

1. Severity of the violation.
2. Location of violation.
3. Driver history.
4. Time of day violation committed.

In such instances, officers will have the option of issuing a verbal or written warning, a citation, or affecting a custodial arrest.

E. Off-road Vehicle Violations

Special utility vehicles (SUVs), motorcycles, mopeds, and other vehicles capable of off-road or all-terrain operation shall be treated in accordance with the provisions of this order.

Special emphasis should be directed to the illegal use of these type vehicles on sidewalks, in public parks, along bike trails, and other areas where damage and/or injury may result.

F. Equipment Violations

Persons operating a vehicle with an equipment violation (e.g. headlight out, tail lights out, no muffler, turn signals inoperative, missing license plate, etc.) may be issued a verbal or written warning, or a citation. However, the latter should generally not be used if the vehicle operator was unaware of the equipment failure at the time of the traffic stop.

In the event a citation is issued, the operator may avoid a fine by displaying proof that the equipment violation has been corrected. This may be accomplished by signature of a Clayton officer, or providing documentation at the Traffic Violations Bureau.

Should the equipment violation be of such a serious nature as to present a hazard to the driver, passengers, or other traffic, the operator will not be permitted to continue, but allowed to legally park the vehicle, request a private tow, or be towed in accordance with established procedures.

G. Public Carrier/Commercial Vehicle Violations

Individuals operating a public carrier or commercial vehicle who commit a traffic violation may be handled in the same manner as that utilized for personal vehicles. However, the officer initiating a stop in such circumstances shall consider the safety of any passengers or valuable cargo prior to embarking on a specific course of action. Yet another consideration shall be the existence of an appropriate City ordinance to cover the violation. In the absence of a governing ordinance, citations should indicate the appropriate state statute, and be marked with "To Be Notified" in the spaces allotted for the court date and time. The citation will then be forwarded to an Associate Circuit Court.

H: Other Non-hazardous Violations

Any person discovered committing a non-hazardous traffic violation may be issued a verbal or written warning, or a citation, contingent upon the circumstances surrounding the violation. In each instance, established procedure will be followed.

I. Multiple Violations

Any person found in violation of multiple traffic offenses may be charged with each individual violation and issued a separate citation for each.

Example: A DWI suspect may be observed to violate three electric signals and a stop sign, repeatedly cross the center yellow line, fail to yield to oncoming traffic, and be driving without headlights in excess of the posted speed limit.

The violator may be issued a citation for:

Driving Under the Influence
Careless and Imprudent Driving
Violation of Electric Signal/Stop Sign (4 Counts)
Speeding

It should be noted however, that multiple citations should not be written if the offense charged requires articulation of more than one violation. To use the example above, the C & I charge would include improper lane usage, failure to yield, and driving without lights.

Dependent upon the seriousness of the charges, a full custodial arrest may be the necessary and prudent course of action.

J. Newly Enacted Laws and/or Regulations

Officers will have a certain amount of discretion in enforcing newly enacted laws or regulations, but as a matter of department policy, enforcement will be restricted to verbal and written warnings for a specific grace period (e.g. two weeks, thirty days, etc.) following the enactment of any such law or ordinance.

K. Violations Resulting in Traffic Collisions

It is the policy of this department to issue citations at accident scenes where the investigating officer determines that violations of the Municipal Traffic code or applicable state statutes have been committed by one or more parties to said accident. It is not the intent of this policy to assess blame regarding an accident.

Citations which are issued in such circumstances will be handled and processed in accordance to established procedure.

L. Pedestrian and Bicycle Violations

Persons found in violation of those ordinances governing pedestrian and bicycle movement or operation, may be cited in similar fashion to that utilized for motor vehicles. However, enforcement action will generally only be taken in response to a complaint, or where such behavior poses a safety hazard or threat to private property.

Typically these violations will be handled via verbal or written warnings, yet should the circumstances warrant the issuance of a citation, a distinct effort will be made to dispose of the case without a mandatory court appearance.

M. Failure to Show Proof of Insurance

In those instances when a motor vehicle operator fails to exhibit an insurance identification card as required by RSMo 303.024, the officer will, except under exigent circumstances, issue a citation to the operator for a violation of City of Clayton Ordinance, Section 21-101, "Financial Responsibility of Motor Vehicle Operators."

As part of recent revisions to the applicable state statutes, the use of the "Failure to Produce Financial Responsibility Form" has been eliminated. Officers will no longer be responsible to complete the form, attach same to motor vehicle accident reports, or forward the form to the Missouri Department of Revenue when a motor vehicle operator fails to show proof of insurance.

BY ORDER OF:



MARK J. SMITH
Interim Chief of Police

MJS:sak

CALEA Reference: 61.1.2/61.1.3/61.1.4
61.1.5/61.1.6