

WEST PALM BEACH POLICE DEPARTMENT

III-29 TRAFFIC WARNINGS, CITATIONS, AND ARRESTS

EFFECTIVE: 10/01/2005

CALEA Standards: 61.1.1.1, 61.1.2, 61.1.3, 61.1.4, 61.1.5, 61.1.6

61.1.9, 61.1.12, 61.1.13, 61.3.1, 82.3.4

CFA Standards: 22.01- 22.03, 22.06, 34.08

I. POLICY: The West Palm Beach Police Department has established uniform enforcement policies of traffic law violations for officers issuing written warnings and traffic citations to vehicle operators, pedestrians, or bicyclists. Enforcement action should seek to deter, detect and apprehend traffic law violators and can result in warnings, citations or physical arrest. The written warning, when the offense is not flagrant, may be sufficient to prevent the violator from repeating the offense. The citation is a more serious form of enforcement and is the basis for prosecution and ultimate adjudication of traffic offenses. It is essential that specific procedures be followed from the point that citation books are received by the Department through ultimate adjudication and disposition of each individual citation. Traffic law enforcement is designed to bring about voluntary compliance with traffic laws and reduce the number of traffic crashes.

II. TRAFFIC ENFORCEMENT PROCEDURE:

A. Driving Under the Influence of Alcohol/Drugs - Officers should arrest persons suspected of driving under the influence of alcohol or drugs.

B. Traffic Violations - To determine which method of enforcement is necessary, the officer should consider the seriousness of the violation (such as comparing the violator's speed to the posted speed limit), any hazardous conditions created by the violation, surrounding traffic, the presence of pedestrians, weather and road conditions. For example, speed violations, as determined through the use of radar, laser, pacing, or other means, will be enforced through the use of citation or written warning. When the violator is driving in excess of 15 m.p.h. above the posted speed limit, the issuance of a traffic citation is recommended.

C. Other Hazardous Violations - Will be enforced by issuing a written warning or citation. The enforcement action chosen by the officer will depend on the type of violation and the circumstances surrounding it.

D. Equipment Violations - Equipment violations will be enforced by issuing a written warning or citation. When deciding which enforcement action to use, the officer should consider whether the violation presents an immediate hazard to the safe, continued operation of the vehicle or to surrounding vehicles and pedestrian traffic. If such a hazard exists, then a citation is in order.

1. When in the officer's opinion the vehicle is unsafe to drive, the officer may impound the vehicle per SOP III-28, Impoundment of Vehicles.

2. When the violation is non-hazardous and the driver was unaware of the condition, the issuance of a written warning is appropriate.

E. Public Carrier/Commercial Vehicle Violations No special consideration will be given to public carrier or commercial vehicles. These vehicles must comply with all state, county and municipal laws and regulations, and are subject to citation or written warning as may be deemed appropriate by the officer. If the officer feels that a public carrier or commercial vehicle may be in violation of regulations that are federally or state mandated and such violation is serious or hazardous, the officer should request the assistance of either another officer who is familiar with such regulations or a commercial vehicle enforcement officer from the Florida Department of Transportation, Division of Motor Carrier Compliance.

F. Non-Moving Violations - Non-Moving violations are enforced through the use of warnings or citations. Certain non-hazardous violations (i.e., wearing a headset, failure to wear a seatbelt, etc.) can potentially lead to hazardous situations and appropriate enforcement action should be taken.

G. Multiple Violations - If the violation is serious enough to warrant multiple citations, the officer will follow established guidelines for warnings, citations, and arrests. As in all enforcement actions, the ultimate decision rests with the officer.

H. Newly Enacted Law and/or Regulations - When new laws are enacted or new traffic control devices are installed, a written warning may be used in lieu of citations during a specified grace period set by law or by the Department at the direction of the Chief of Police or a designee.

I. Off-Road vehicles – Operators of off-road or all-terrain vehicles, under 16 years of age, are required to wear a Department of Transportation approved helmet. Officers will enforce the helmet requirement in accordance with F.S. 316.2074. Officers will take appropriate enforcement action for any other off-road violations that occur in their presence.

J. Pedestrians and Bicycles – Officers will enforce F.S. 316.2065 that requires children under 16 years of age to wear a bicycle safety helmet. An officer who observes a pedestrian or bicycle violation will take corrective actions to assist in decreasing pedestrian and bicycle crashes.

III. ENFORCEMENT TACTICS:

A. The agencies traffic enforcement tactics will be directed toward those violations that most often result in traffic crashes. Supervisors should emphasize the quality of traffic stops, not the quantity. The following techniques may be employed to achieve this objective:

1. Analysis of areas with high incidents of traffic crashes,
2. Analysis of traffic enforcement activities,
3. Officers may be deployed to combat specific problems or complaints,
4. Analysis of selective traffic enforcement activities.

B. The Traffic Section Sergeant will communicate with the Traffic Engineering Department to discuss complaints or suggestions concerning traffic engineering deficiencies and procedures for transmitting collision and enforcement data to local or regional traffic engineering authorities.

C. Officers will utilize marked police cars or marked police motorcycles while working general enforcement. In all cases, enforcement vehicles will be equipped with emergency lights and sirens.

D. While working selective enforcement from a stationary position, the officer will not select an area of partial concealment that is on private property or areas that would imperil the officer or the motoring public when the officer enters the roadway.

E. When working an area where a recurring traffic problem exists and the enforcement units are in plain sight of the motorists, all vehicles will be parked in such a manner that the normal traffic flow is not impeded.

IV. RADAR AND LASER DETECTION:

A. The agency will only utilize speed measuring devices in compliance with Florida Statutes 316.1905 (speed calculation devices) and 316.1906 (radar speed measuring devices) and Florida Administrative Code of the Department of Highway Safety and Motor Vehicles, Chapter 15B-2.

B. Speed measurement devices will be operated consistent with the manufactures guidelines, CJSTC training programs, and FS 316.1906.

C. Radar /laser operators will be responsible for the proper care and upkeep of the detection units.

D. Radar/laser units will be calibrated and recertified every six months as specified in F.S.S. 316.1905.

E. Maintenance and calibration records for all speed measurement devices will be kept in the Traffic Section.

F. Radar/laser operators will complete an approved operator school, and receive certification through the Criminal Justice Standards and Training Commission.

G. The radar/laser operator will record the unit number on traffic citations and maintain a radar/laser test log in accordance with Florida Administrative Code 15B-2, Department of Highway Safety and Motor Vehicles.

V. UNMARKED VEHICLES FOR TRAFFIC ENFORCEMENT:

A. The Traffic Section Supervisor may deem it necessary to utilize unmarked vehicles to enforce traffic laws in areas where traffic crashes or violations have been reported.

B. Unmarked vehicles used for traffic enforcement must be equipped with suitable emergency lights and a siren.

VI. WARNING THE VIOLATOR:

A. When an officer issues a written warning for a traffic violation, he or she will:

1. Complete all required sections of the warning.
2. Have the offender sign the warning.
3. Give the appropriate copy of the warning to the offender.

B. An officer should issue a verbal warning only if circumstances dictate that the officer must leave the scene, i.e., a call of an emergency nature.

VII. CITING THE VIOLATOR:

A. When an officer issues a citation for a traffic violation, he or she will:

1. Complete all required sections of the citation legibly and in black ink.
2. The officer's name, I.D. number and a case number (when applicable) will be written on the upper left side margin of the face copy.
3. Officer notes, if required, are written on the back of the pink copy.
4. After completing the citation, the officer will give the violator the appropriate copy. Include the dollar amount of the fine on the violator's copy when applicable.
5. Provide the violator with the following information:
 - a. If court appearance by the violator is mandatory, provide the scheduled court date.
 - b. If court appearance is not mandatory, provide the current return envelope from the Clerk of the Circuit and County Court with:
 - 1) the amount of the fine;
 - 2) Instructions to all violators that they must follow the directions on the return envelope provided by the Clerk of the Court for fine payments, pleading not guilty and requesting a court date, or attending driver improvement school.

3) Other information that may need to be provided to the violator prior to his or her release.

B. When a violator does not produce a driver license as a form of identification, the officer will obtain the driver's right thumb print on the back of the first white copy of the citation in the space provided.

C. When there are witnesses to the traffic violation, the officer will complete a witness subpoena list and attach it to the original citation. This will be forwarded to the courts and may be used to assist in the prosecution of the violator at a later date.

D. When an officer determines that a vehicle driver may be incompetent, physically or mentally disabled, or suffering from a condition that prevents the safe operation of a vehicle, the officer will request the driver for reexamination with the following procedures:

1. Complete the DHSMV Driver License Division Request for Reexamination Form.
2. Verify that the information contained in the request addresses the nature of the problem including all physical defects.
3. Establish that reasonable grounds for the reexamination exist and forward the completed form to the district secretary for submission to the DHSMV.

E. When an officer observes a Parking violation, they may take one of the following actions:

1. Issue a uniform traffic citation to the driver/owner if present. Under no circumstances will a uniform traffic citation be attached to an unattended vehicle.
2. Issue a West Palm Beach Parking Citation to the driver/owner if present, or securely attach the citation to the vehicle's windshield if unattended.
3. Have the vehicle towed per SOP III-28, Impoundment of Vehicles.

F. Officers will turn in all traffic citations to his or her platoon or unit supervisor for review. The citation will then be forwarded to the Records Division for dissemination.

VIII. CITING DRIVERS WITH SUSPENDED, CANCELED OR REVOKED LICENSES:

A. When the officer is certain the violator's driver's license is suspended, canceled or revoked, the officer will determine if the driver had knowledge of the suspension. A traffic citation will be issued with the proper subsection for that violation.

1. Validation of the license status will be information teletyped from the Department of Highway Safety and Motor Vehicles (DHSMV) or its equivalent from another state.
2. If the driver is in possession of a driver license, the officer will take the license. The officer will complete a report, to include an evidence report, and submit the confiscated license and completed citation to the Evidence Section.
3. The Evidence Section will log these items before notifying the Records Section to take custody of the license and citation for transmittal to the Clerk of the Court.

B. The officer will physically arrest persons determined to be "Habitual Traffic Offenders" in violation of F.S.S. 322.34(5). There is no discretion on the officer's part. The violator must be arrested and taken to the County Jail or other appropriate holding facility

C. The officer may physically arrest the violator if the officer believes that the violator will not appear in court, i.e., numerous suspensions, F.T.A.'s, etc.

D. If not placed under physical arrest, the driver will not be permitted to drive the vehicle

1. If accompanied by a licensed driver, the companion may be allowed to drive the vehicle if given permission by the registered owner.
2. If the driver is the owner and he or she is alone, the driver may legally park the vehicle or have it towed by the towing company of his or her choice.
3. If the driver is not the owner of the vehicle, the officer will attempt to contact the owner.
 - a. Should the officer make contact with the owner, the owner may come to the site of the traffic stop within a reasonable amount of time and take possession of the vehicle.
 - b. If the owner is unable to respond within a reasonable amount of time, the officer will have the vehicle towed by the towing company of the owner's choice or by the towing company under contract to the City.
 - c. If the owner is unable to be contacted, the officer will have the vehicle towed by the towing company under contract to the City.

E. If the driver does not have a driver license in possession, the officer will issue a citation for failure to carry and exhibit on demand.

1. If it is later learned that the subject's license is suspended, canceled or revoked, the officer will submit a citation with the appropriate charges for issuance by the Clerk of the Court.

F. In all instances where the driver of the vehicle has a suspended, canceled or revoked license the officer will obtain the driver's right thumb print on the back of the first white copy of the citation in the space provided.

IX. ARRESTING THE VIOLATOR:

A. Officers will affect the physical arrest of any person in violation of those traffic laws pertaining to:

1. Driving under the influence of alcohol or controlled substance in violation of F.S.S. 316.193.
2. Willful and wanton reckless driving in violation of F.S.S. 316.192.
3. Fleeing or attempting to elude a police officer in violation of F.S.S. 316.1935. The officer will carefully consider, prior to pursuing a fleeing violator, that the pursuit is justifiable as defined in SOP III-25.
4. Leaving the scene of an accident involving serious injury or death in violation of F.S.S. 322.34.
5. Persons determined to be "Habitual Traffic Violators" in violation of F.S.S. 322.34(5). There is no discretion on the officer's part. The violator must be arrested and taken to the County Jail or other appropriate holding facility.
6. Failure to sign a citation in violation of F.S.S. 318.14. The officer will notify a supervisor that the violator has refused to sign the citation prior to affecting the arrest.

B. For the following violations, officers should consider the circumstances surrounding the violator and violation, arrest and driving history, and/or lack of community ties that may make a court appearance by the violator unlikely. Under most circumstances, the issuance of a traffic citation will suffice. However, the officer will bear in mind that the violations are misdemeanors and may be handled as such. Officers may effect a physical arrest for the following misdemeanor traffic violations:

1. Driving while knowingly under license suspension, revocation, or cancellation in violation of F.S.S. 322.34 (with the exception of "Habitual Traffic Offender").

- 2. Failure to obey a lawful command of a police officer or Fire Department member in violation of F.S.S. 316.072(3).
- 3. Leaving the scene of a crash involving attended property (hit and run) in violation of F.S.S. 316.061.
- 4. Making a false accident report in violation of F.S.S. 316.067.

C. Any other traffic violations that are misdemeanors, i.e., driver license or tag expired more than six (6) months or misrepresentation of insurance will normally be handled with the issuance of a citation. Only under extremely unusual circumstances should a physical arrest be made for these violations.

- 1. When a violation involving an invalid tag and/or decal (expired, unassigned, altered, etc.) is identified, the license tag and/or decal will be seized, an Evidence/Property form completed, and the tag and/or decal will be submitted to Property and Evidence no later than the end of the duty day. If no citation is issued, the submission will be as found property.

D. Physical arrest of a violator may occur with any valid confirmed traffic or criminal arrest warrant.

E. All arrests, including juveniles, must be in compliance with Chapter 901, Florida State Statutes.

X. VIOLATORS REQUIRING SPECIAL PROCESSING:

A. Nonresidents:

- 1. The same guidelines are used as those followed with local residents.

B. Juveniles:

- 1. When an officer issues a moving citation to a juvenile violator who is under the age of 16 and is not accompanied by a licensed driver 18 years of age or older, the officer will attempt to contact the parent or guardian of the violator.
- 2. If the offense warrants towing of the vehicle and the driver is not the owner;
 - a. The officer will make contact with the owner of the vehicle. The owner may come to the site of the traffic stop within a reasonable amount of time and take possession of the vehicle.
 - b. If the owner is unable to respond within a reasonable amount of time, the officer will have the vehicle towed by the towing company of the owner's choice.
 - c. If the owner is unable to be contacted, the officer will have the vehicle towed by the towing company under contract to the City.
- 3. Juveniles 16 years of age or older who have committed a traffic infraction will not be placed into custody, but will be issued a moving citation.

C. State Legislators:

- 1. When an officer makes a traffic stop and the violator identifies himself or herself as a state legislator, the officer will follow the guidelines regarding traffic citations and physical arrests applicable to any violator.

State legislators may not claim the privilege to Diplomatic Immunity.

D. U.S. Representatives and Senators:

- 1. When an officer makes a traffic stop and the violator identifies himself or herself as a member of the U.S. House of Representatives or the U.S. Senate, diplomatic immunity does apply to members of the

House and members of the Senate. They are exempt from physical arrest during their attendance in session of their respective Houses or while traveling to or returning from the same. The privilege from arrest cannot be claimed when the offense involves treason, a felony, or breach of the peace.

E. Foreign Diplomats/Consular Officials:

1. When an officer makes a traffic stop and the violator identifies himself or herself as a Foreign Diplomatic Officer or Consular Official, the officer may issue the violator a traffic citation when enforcement action is necessary. When a traffic stop is made and the officer determines the violator is D.U.I. or other circumstances are present that require physical arrest, the following guidelines will apply:

a. Under international law, all accredited diplomatic officers and ambassadors of foreign nations are immune from arrest. They may be detained only for the time necessary to confirm their diplomatic status.

1) Any diplomatic officer or ambassador found driving while under the influence of alcoholic beverages or narcotic drugs will be released to family members, friends, or taken home.

2) Officers coming in contact with diplomatic officers or ambassadors who meet the criteria for Baker or Marchman Act treatment will contact the embassy of the nation concerned or, if contact cannot be made, with the United States Department of State in Washington, D.C. in order to determine what action to take.

b. Under international law, foreign consular officers are not immune from arrest; however, physical arrests will be made only upon court order for a felony offense (arrest warrant).

2. If during any investigation a person to be arrested claims to be a diplomatic officer or ambassador, the officer conducting the investigation will contact his or her supervisor, who will contact the United States Department of State (Appendix A) and determine the person's status prior to effecting the arrest.

3. Under certain circumstances, some persons have privilege from arrest. As distinguished from immunity, privilege does not prevent an officer from making an arrest which is otherwise legal. Privilege from arrest simply means that the one who has such privilege may have the arrest set aside. The arrest remains valid until voided.

F. Military Personnel:

1. If an officer makes a traffic stop and determines that the violator is currently assigned to any of the branch of the United States Armed Forces, the officer may issue the violator a traffic citation.

2. At a traffic stop where the violator is determined to be D.U.I. or other circumstances exist requiring the physical arrest of the violator, the investigating officer(s) supervisor will notify the appropriate branch of the military (Appendix A).

XI. ACCOUNTABILITY OF TRAFFIC CITATIONS:

A. Members will obtain Traffic Citations through their Shift Lieutenant. The Lieutenant will fill in the appropriate section in the citation log book with the officer's name, I.D. number, date, and citation numbers issued. The issuing Lieutenant will fill in his or her initials and I. D. number. The Traffic Section Supervisor will handle the distribution of Traffic Citations for all Traffic members and any other designated employees. The log book sections are for recording:

1. Florida Uniform Traffic Citations,

2. Florida DUI Uniform Traffic Citations, and

3. City of West Palm Beach, Florida Uniform Complaint and Ticket Non Moving Violation.

B. Each member will complete the "Officer Receipt Form" located in the front of the Florida citation book and submit the form to his or her supervisor. The Officer Receipt Form will be forwarded to the Records Division.

C. As each citation is issued, the citation number, the date issued or voided, and the violator's last name or "void" will be entered on a "Moving Citation Log" form PD 469.

1. Enter the name and ID # of the officer the citation book is issued to next to the first citation in the series. No other entry is needed unless a citation from the book is issued by another officer whose name and ID # shall be entered next to the appropriate citation.

2. When all citations have been issued, the completed Moving Citation Log will be attached to the last citation issued from the book and turned in to the appropriate supervisor to be reviewed for completeness and forwarded to the Records Section.

- a. Supervisors will not accept the last citation without the log nor a log containing blanks. Any log with blanks will be returned to the submitting officer to complete.

- b. The reviewing supervisor will place their initials and ID number in the margin at the bottom of the log prior to forwarding the Log to Records.

D. All completed citations will be turned in by members at the end of each shift. Members will ensure that completed citations are left for their appropriate supervisor to review. The supervisor will forward all completed citations to the Records Division at the beginning of the next work day.

E. Personnel from the Records Division will enter into a database all citations known to be issued to violators, reported lost or stolen, or voided. The data will be compared to the citation data file provided by the Clerk of the Courts to ensure the integrity of issuance of citations and provide a continuous audit of the system.

1. When there is a citation missing from the series assigned to an officer, the officer's supervisor will be notified.

2. The supervisor will be responsible for investigating why the citation did not show up on the list (lost, voided, stolen, etc.).

3. The Support Services Division Commander or a designee will conduct an annual integrity audit to ensure the accuracy of the continuous citation audit.

- a. The annual integrity audits will be maintained in the Records Section.

- b. An audit may be conducted at any time at the discretion of the Support Services Division Commander or the Chief of Police.

XII. LOSS OR THEFT OF CITATIONS:

A. In the event a citation or citation book is lost or stolen, the officer will immediately notify his or her immediate supervisor and submit a written report through appropriate channels to the Division Commander.

B. The Bureau Commander will review the report and forward it to the Records Division.

XIII. VOIDING OF CITATIONS:

A. If an error is made while writing a citation, or if citations have become damaged due to rain, separation, etc., they may be administratively voided by the officer.

1. The officer will print "void" on the ticket and complete a "Citation Cancellation Report" (Appendix B). The report will include concise justification for the voiding of the citation and will be signed by the officer's immediate supervisor, the Division Commander and the Bureau Commander.

2. When completing the citation cancellation report for a citation voided due to error or false information, the number of the replacement citation issued will be recorded on the form. All copies of the voided citation will be turned in with the citation cancellation report.

B. The following are the most common reasons for voiding a traffic citation:

1. The violator gave the officer false information.
2. The officer entered the wrong information.
3. The officer was unable to complete the citation due to an emergency call.

XIII. REFERENCES:

- F.S.S. 316.027- Accidents involving death or personal injuries.
- F.S.S. 316.061- Accidents involving damage to vehicle or property.
- F.S.S. 316.067- False reports.
- F.S.S. 316.072(3)- Obedience to and effect of traffic laws.
- F.S.S. 316.192- Reckless driving.
- F.S.S. 316.193- Driving under the influence; penalties.
- F.S.S. 316.1935- Fleeing or attempting to elude a law enforcement officer; aggravated fleeing and eluding.
- F.S.S. 316.193- Driving under the influence; penalties.
- F.S.S. 318.14- Noncriminal traffic infractions; exception; procedures.
- F.S.S. 322.15- License to be carried and exhibited on demand; fingerprint to be imprinted upon a citation.
- F.S.S. 322.34- Driving while license suspended, revoked, canceled, or disqualified.
- F.S.S. Ch. 901- Arrests
- SOP # III-25 Vehicle Pursuits.
- SOP # III-28 Impoundment of Vehicles.
- SOP # III-30 Persons suspected of D.U.I.
- SOP # II-17 Records Functions.

Delsa R. Bush, Chief of Police

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Job Title Task Files: Bureau or Division Commander, Supervisor, Record Sergeant, Records Data Entry Clerk

APPENDIX A

- A. For Diplomatic Officers and Ambassadors call the U.S. Department of State:
 - 1. For incidents involving criminal charges during regular business hours:
 - a. Office of Foreign Missions at (202) 647-1404
 - 2. For incidents involving traffic infractions during regular business hours:
 - a. Office of Foreign Missions at (202) 895-3532/3521
 - 3. At all other hours:
 - a. Bureau of Diplomatic Security Command center at (202) 647-7277
- B. For arrests involving military personnel, call the appropriate branch as follows:
 - 1. U.S. Army- (317) 510-3711. For AWOL personnel, the appropriate U.S. Army phone number may appear in the narrative portion of the pick up order.
 - 2. U.S. Air Force- (407) 494-2008. This is the number for their Law Enforcement Division.
 - 3. U.S. Coast Guard- (561) 844-5030 or (561) 844-4470. These are local numbers for Coast Guard personnel based in this area. For those personnel based out of this area, the specific base that he or she is assigned to must be notified.
 - 4. U.S. Marines- (561) 683-4443.
 - 5. U.S. Navy- (317) 614-3216.

