

	Operational General Order	12.01 Traffic Law Enforcement	PAGE 1 OF 8
	SUBJECT		EFFECTIVE DATE
	Virginia Beach Police Department General Order Chapter 12 – Traffic Operations		05/18/2007
			ORIGINATOR/REVIEW
DISTRIBUTION		Special Operations	
ALL		CALEA: 1.2.6, 1.2.7, 61.1.2, 61.1.3, 61.1.4, 61.1.5, 61.1.6 61.1.11, 61.1.12	
BY THE AUTHORITY OF THE CHIEF OF POLICE:			<i>James A. Cooper</i>

Purpose

To establish guidelines for the traffic enforcement function of the Virginia Beach Police Department.

Policy

The enforcement of traffic laws as established by the Code of Virginia and the Municipal Code of the City of Virginia Beach is the responsibility of all Virginia Beach Police Officers. Officers are vested with the enforcement of traffic codes for the purpose of gaining voluntary compliance in furtherance of enhancing traffic safety in the City of Virginia Beach.

Enforcement Actions (CALEA 1.2.7, 61.1.2 C, 61.1.4, 61.1.6 A, B, C)

Officers will take enforcement action upon the detection of an illegal or potentially hazardous act by persons operating vehicles, bicycles or other conveyances, or pedestrians. Enforcement action may consist of a warning, the issuance of a Virginia Uniform Summons, or in certain circumstances, a physical arrest.

Uniformed officers assigned to the operations division are assigned geographic areas in which they are responsible for providing police services to include the enforcement of traffic laws. Uniformed officers assigned to Special Operations are assigned based on both geographic areas and specialized function. Uniformed officers utilize a variety of strategies to promote traffic safety through traffic law enforcement to include overt proactive visible patrols in marked police vehicles and covert methods via the use of stationary concealed positions and unmarked police vehicles.

Warnings (CALEA 1.2.6)

Officers have the discretion to issue a warning when the officer believes that a warning will achieve the objective of voluntary compliance with the law. The Virginia Beach Police Department does not have a written means for issuing or tracking warnings for traffic violations. Officers are encouraged to note that a warning was issued in the comment section of the case assigned to the traffic stop by the Computer Aided Dispatch System (CADS).

Virginia Uniform Summons

At the discretion of the officer who observes the violation, a Virginia Uniform Summons may be issued to a motorist or a pedestrian for a violation of the traffic code when the officer believes that the issuance will achieve the objective of voluntary compliance with the law. Officers who wish to charge a motorist or a pedestrian shall take the name and address of such person as well as the license number of his motor vehicle and issue a Virginia Uniform Summons for the violation. The issuance of the Virginia Uniform Summons will provide information relating to the charge, the scheduled court date, and instructions for appearing in court or prepayment of fines if applicable. The court date for any issued Virginia Uniform

Summons shall be set at least 30 days from the date of the violation unless a speedy trial is requested by the violator. Conditions under which the motorist may be physically arrested and taken before a magistrate are dictated in the Constitutional Issues Field Guide.

Nonresidents (CALEA 61.1.3 A)

If the motorist is a non-resident, the question of reciprocity must be considered. Reciprocity represents an agreement among states effecting the processing of some traffic violations. This agreement extends to residents of member states, while outside their home state jurisdiction, the rights and privileges of their home state. Residents of states, which are party jurisdictions in a reciprocal agreement with Virginia, are to be processed in a similar manner as Virginia residents. Consequently, most traffic violations will be charged through the summoning procedure except:

- The violation is such that conviction requires the revocation of the motorist's license
- The motorist specifically requests to post collateral or bond in a manner provided by law
- In the absence of the motorist's written promise to appear in court on the date and time indicated on the Virginia Uniform Summons
- The motorist is likely to disregard a Virginia Uniform Summons

See Appendix I for the states that participate in the Non Resident Reciprocal Compact

Officers who wish to issue a Virginia Uniform Summons to a motorist licensed in a state that is not a member of the Non Resident Reciprocal Compact may either issue the summons or take the motorist before a magistrate.

Juveniles (CALEA 61.1.3 B)

Officers who encounter juveniles who have committed a traffic violation may, at the officer's discretion, issue either a warning or a Virginia Uniform Summons. All Virginia Uniform Summons issued to juveniles must be heard in Juvenile Court.

Legislators (CALEA 61.1.3 C)

Sworn members shall take action against members of the General Assembly, clerks, their assistants, and the Sergeant at Arms in accordance with the Code of Virginia. Privilege is extended to these persons for the period that the legislature is in session and five days before and after the session. Privilege extends to criminal and civil process with the exception of criminal offenses (felonies and misdemeanors). As such, officers shall not issue a summons or make an arrest for a traffic infraction when the provisions of the code apply.

As DUI is a criminal offense, members of the legislature may be arrested in accordance with the procedures set forth in the DUI Investigative Field Guide.

Foreign Diplomats/Consular Officers (CALEA 61.1.3 D)

When a driver believed to have diplomatic immunity is stopped for a moving traffic violation and has proper and valid identification indicating immunity; officers may issue an appropriate traffic citation or warning. Issuance of a traffic citation does not constitute an arrest or detention. **If a person with**

diplomatic immunity refuses to sign the summons they should not be arrested. “Refused / Diplomat” should be written on the signature line and the summons should be processed as if signed (with a copy sent to the U.S. State Department).

- Whenever the following occurs, officers should, in addition to normal procedures, send a copy of summons for moving violations and accident reports to:

U.S. Department of State
Diplomatic Motor Vehicle Office
International Center
3507 International Place, N.W.
Washington, D.C. 20008
FAX (202) 895-3646

- A summons is issued to the driver of a vehicle (or the accident involves a vehicle) with U.S. Department of State diplomatic license plates.
- A summons is issued to (or the accident involves) a driver whose identity has been confirmed by the U.S. Department of State, Office of Protocol, as a member of a foreign mission entitled to immunity.
- Upon receipt of each summons or accident report, it is the responsibility of the U.S. Department of State, Diplomatic Motor Vehicle Office to notify the cited individual’s embassy of the citation and obligation to pay any fines, and assign points to the individual’s driver record after disposition of the summons. This can only be done, however, if copies of the summons and accident reports are sent to the Driver Records Unit at the Office of Foreign Missions.
- Papers, documents or archives of a person entitled to immunity or in a vehicle bearing federal diplomatic plates are not to be searched, examined or seized, even if the driver is restrained or the vehicle removed or immobilized.

DUI (Diplomats)

Of primary consideration in a DUI incident is assurance that the driver does not endanger himself or the public. Preventative steps may include taking the subject to another location to permit sufficient recovery to drive safely, providing transportation or taking other appropriate corrective action while respecting any immunity that may apply. Access to a telephone must be provided.

The official, if entitled to immunity, should not be subjected to any sobriety or other mandatory test, and, except in extreme cases, should not be restrained.

Persons with Diplomatic Immunity may be released to embassy, consular or U.S. Department of State officials who present proper credentials.

Military Personnel (CALEA 61.1.3 E)

Under the provisions of the Federal Soldiers and Sailors Relief Act, military personnel licensed as operators in their home states are permitted to drive a motor vehicle upon the highways of Virginia. Furthermore, in the event their operator’s license expires while they are stationed in Virginia, they may continue to drive on the otherwise valid operator’s license. As such, military personnel and dependents shall be treated in the same manner as Virginia residents.

Parking Enforcement (CALEA 61.1.12)

Parking regulations have been established to ensure the safe and efficient movement of vehicular and pedestrian traffic. All sworn officers, and designated ancillary personnel authorized by the Chief of Police, are responsible for the enforcement of these laws in a reasonable and equitable manner.

Should officers or designated ancillary personnel determine that current parking regulations need to be revised; this should be documented on a memorandum and forwarded to the command representative to the Traffic Safety Committee coordinated by Public Works/Traffic Engineering. If the suggest change involves a code change, the memorandum should be forwarded to the City Attorney's office via Chain of Command. This memorandum should describe the problem in detail and any suggested course(s) of action.

General Enforcement Practices (CALEA 61.1.5)

Uniform enforcement activities support the goal of traffic law enforcement, which is to achieve voluntary compliance with traffic laws and regulations.

This policy is not intended to supplant officer judgment, for it is impossible to foresee every conceivable situation involving traffic violations. In unusual circumstances, the officer must decide what enforcement action is proper based upon a combination of training, experience and the needs of the community. Judgment and considerations of circumstances regarding violations shall be thoroughly reviewed by the officer prior to taking any law enforcement action. Traffic laws shall be enforced without regard to race, sex, national origin, type of vehicle, location or state of residence of operator, or purpose of the vehicle (whether public, commercial, or privately owned and operated).

Under normal circumstances the following general types of violations should result in proper enforcement action when violations are observed or established.

Driving Under the Influence of Alcohol/Drugs (CALEA 61.1.5 A)

Officers are expected to apprehend, and arrest intoxicated or impaired drivers who come to their attention. (See General Order 12.04, Alcohol Enforcement Countermeasures).

Suspended or Revoked Licenses (CALEA 61.1.5 B)

A person detained for driving on a revoked or suspended license, may be released on a Virginia Uniform Summons or arrested and taken before a magistrate, depending on the attendant circumstances. Officers will normally arrest an individual reasonably believed to be driving in knowing violation of an order of revocation or suspension, such as when the driver acknowledges that his license was suspended, or when the officer has personal knowledge that the suspension was imposed in court. In other cases, the individual may be arrested or released after the issuance of a Virginia Uniform Summons, and completion of a Department of Motor Vehicles Suspension/ Revocation/ Disqualification Notice [DSA-10]. (The Virginia Beach Police Department is in compliance with [46.2-936](#) in that "prior general approval has been granted by the general district court" and an officer may make an arrest.)

Speeding Violations (CALEA 61.1.5 C)

Accidents resulting from excessive speeds may cause a great deal of property damage, serious injury or death. The enforcement objective of the Virginia Beach Police Department is to establish and charge speeding violations, which are either too fast for road conditions or in excess of posted speed limits.

Occupant Restraint Violations

The major concern in dealing with this class of violation is that drivers and passengers are properly restrained. This will occur through the use of one of the following:

- seatbelts
- child safety seats
- child booster seats

Many injuries and deaths occur each year as a direct result of failing to be properly restrained. As a result of the departments' commitment to traffic safety, we must recognize the importance of these violations and our role in reducing them. The enforcement objectives of the Virginia Beach Police Department is to establish and charge occupant restraint violations which have been set forth in the State Code.

Other Hazardous Violations

In addition to DUI and speeding violations the National Safety Council has identified the following as principal accident causing violations:

- Failure to yield right of way
- Following another vehicle too closely
- Improper turning movements
- Driving on the center-line
- Failure to heed stop signs
- Improper passing
- Disregarding signals

Equipment Violations (CALEA 61.1.5 D)

Although equipment violations may not appear to be as important as the moving violations, many accidents are the direct result of faulty vehicular equipment. As a result of the Departments commitment to traffic safety, we must recognize the significance of these violations and our role in reducing them.

Motor Carrier Safety / Commercial Vehicle Violations (CALEA 61.1.5 E)

The major concern in dealing with this class of violation is that drivers are properly licensed and qualified to safely operate the vehicle and that the vehicle is properly registered, equipped and insured to legally operate upon the highways of the City. Special Operations supports the Motor Carrier Safety Unit, which is available to assist the uniformed patrol officer with the enforcement of codes that are specific to these types of vehicles.

Other Non-Hazardous violations

Because of the limited relationship of non-hazardous violations to accident causation an officer's law enforcement discretion is greater. Officers should use discretion in the enforcement of licensing and equipment violations in accordance with the goals of achieving voluntary compliance with traffic codes. Officers are reminded of the procedures set forth in General Order 17.01(Court Procedures) requiring motorists issued a Virginia Uniform Summons for a licensing or equipment violation to appear in court in order to properly dispose of charges.

Multiple Violations (CALEA 61.1.5 F)

In the event a motorist is stopped and may be charged with more than one violation, a separate Virginia Uniform Summons will be issued for each charge.

Newly Enacted Laws and / or Regulations (CALEA 61.1.5 G)

Officers are not authorized to either initiate or extend legislative periods of grace; however, the best interests of the community may be served through officer judgment and application of appropriate enforcement action.

Violations that result in traffic collisions (CALEA 61.1.5 H)

Officers charged with investigating traffic accidents are directed by General Order 12.05 (Traffic Crash Investigations) to take appropriate enforcement action in keeping with the goal of voluntary compliance with the law.

Special Enforcement Practices**Bicycle and Pedestrians (CALEA 61.1.5 I)**

Police Officers should control bicycle and pedestrian traffic so as to minimize their interference with and exposure to vehicular traffic.

Enforcement action should be taken against bicyclists and pedestrians who recklessly disregard traffic laws and / or create a hazard to themselves and others.

Bicyclists who operate in a careless and reckless manner upon the public streets and roads should be cited, as could any other vehicle operator.

Pedestrians or bicyclists involved in traffic crashes should be charged if it is found, upon investigation that they are at fault.

Moped and Motorized Scooters / Skateboards

As this is an evolving area of law, officers need to be aware of the latest definitions and laws concerning these devices. The general rules for these devices are as follows:

- Electric-powered wheeled devices: The Operator must be fourteen (14) years of age unless supervised by an adult. Persons of fourteen (14) years of age or younger must wear a helmet. The device must not be capable of traveling at more than thirty (30) miles per hour. These devices may be ridden on sidewalks and bike paths; however they may not be ridden on resort sidewalks or bike

paths, the Boardwalk, or any Oceanfront Park or Plaza. When ridden on the street or highways, operators must abide by all traffic laws.

- Gas-powered wheeled devices: The operator must be sixteen (16) years of age and must have identification in possession confirming this. Operators must wear a helmet and safety goggles, safety glasses or a face shield unless the vehicle is equipped with a windshield. Gas-powered engines may not exceed 50cc in size and the vehicle cannot be capable of speeds in excess of thirty (30) miles per hour. Gas-powered devices may not be ridden on any sidewalks, bike paths, the Boardwalk, City Parks or Plazas. When ridden on the street or highways, operators must abide by all traffic laws.

As the majority of violations that occur involving mopeds, scooters and skateboards involve juveniles, officers should use discretion in enforcement keeping in mind the goal of voluntary compliance with traffic codes.

Off-Road Vehicles

The need for enforcement exists with the increase in use and popularity of off-road recreational vehicles while on the public highways.

This requires a strict enforcement approach to enforcing licensing, registration, equipment and operations violations committed with off-road recreational vehicles while on the public highways, misuse of bike paths and public trails which prohibit any motor vehicles, violations of motor vehicle laws and ordinances on public beaches and boardwalk areas, or, excessive noise or trespassing violations.

In accordance with the Code of Virginia, an exception to such enforcement allows particular type of motorcycles to operate on portions of the public highway while participating in certain approved and sanctioned sporting event.

Accidents involving off-road vehicles are to be investigated in the same manner as any other motor vehicle crash.

Driver Re-Examination (CALEA 61.1.11)

During the course of traffic enforcement, an officer may detect a motor vehicle operator who appears to be incapable of safely operating a vehicle. In order to request a reexamination of the driver, the following procedure must be adhered to:

- Complete the Virginia Department of Motor Vehicle “Medical Review Request,” Form [MED 3](#):
- The information should be self-explanatory and lead one to reasonably conclude that a reexamination is necessary.
- The officer should complete the form by identifying himself as the “requestor” and mail the completed form as specified on the Medical Review Request.

Appendix I

NON-RESIDENT VIOLATOR COMPACT**Purpose**

The Non-Resident Violator Compact allows states to suspend drivers for failure to comply with an out-of-state citation. Compliance can either be failure to appear at a required court appearance or failure to pay fine.

STATE	JOINDER DATE	STATE	JOINDER DATE
Alabama	10/1981	Montana	Not a Member
Alaska	Not a Member	Nebraska	01-1982
Arizona	01-1993	Nevada	02-1990
Arkansas	01-1986	New Hampshire	01-1982
California	Not a Member	New Jersey	07-1983
Colorado	01-1982	New Mexico	01-1985
Connecticut	01-1981	New York	06-1982
Delaware	02-1979	North Carolina	09-1980
District of Columbia	08-1980	North Dakota	07-1980
Florida	10-1981	Ohio	01-1985
Georgia	02-1980	Oklahoma	07-1987
Hawaii	01-1996	Oregon	Not a Member
Idaho	10-1992	Pennsylvania	07-1979
Illinois	07-1984	Rhode Island	04-1986
Indiana	01-1980	South Carolina	01-1981
Iowa	11-1980	South Dakota	05-1980
Kansas	01-1983	Tennessee	09-1984
Kentucky	12-1978	Texas	01-1982
Louisiana	11-1979	Utah	07-1985
Maine	01-1982	Vermont	10-1985
Maryland	07-1979	Virginia	07-1980
Massachusetts	12-1987	Washington	10-1993
Michigan	Not a Member	West Virginia	07-1978
Minnesota	10-1978	Wisconsin	Not a Member
Mississippi	03-1979	Wyoming	07-1987
Missouri	10-1980		