

City of Johns Creek Police Department

<i>Subject:</i> Traffic Law Enforcement	<i>Number:</i> 02-19
<i>Reference:</i> See also “Alternatives to Arrest (Diversion)”	<i>Amends:</i>
<i>Effective:</i> 04/08 <i>Revised:</i> 02/10	<i>Review Date:</i> Annually <i># of Pages:</i> 6

PURPOSE:

Establish traffic law enforcement procedures to effectively reduce the number of fatalities and personal injuries, and the amount of property damage as a result of traffic accidents.

POLICY: (02-19)

Traffic law enforcement is the responsibility of all uniformed police personnel regardless of specific assignments. All officers are charged with observing, detecting and preventing traffic law violations and taking appropriate corrective action. Enforcement action will be taken without regard for such factors as attitude, intent, or excuse. Enforcement not only involves arrests and citations, it also includes effective warnings to drivers and pedestrians.

The reduction of the number and severity of traffic accidents will be the sole motivation of the Department's traffic enforcement efforts. The Department will collect and analyze traffic accident data in order to direct selective enforcement efforts to those areas or conditions which contribute to traffic accidents. Every officer, or unit involved in the Department's selective enforcement effort will attempt to reduce the number or severity of traffic accidents in those targeted areas.

PROCEDURES:

Enforcement Alternatives (02-19-01)

Based on professional judgment, officers are to use discretion to determine which form of enforcement action is taken. The action chosen by the officer must be appropriate for the violation. Officers have the following options:

- A. Verbal Warning - The violator has committed a minor violation posing little or no potential danger to the public.
- B. Written Warning - A written warning is considered by this Department to be a proper alternative to a minor traffic infraction committed in those areas where traffic accidents are minimal. Written warnings are also considered appropriate for those violations which occur within tolerances generally allowed by our Department and are endorsed by our courts. These tolerances would include speeds in excess of the legal limit but less than speeding for which an arrest would generally result. It would also be considered applicable for equipment violations, minimum speed limits,

and stop sign violations in those areas where traffic is considered minimal and no individuals have been placed at risk. The decision to issue a written warning or to issue a citation will be at the sole discretion of the officer. A warning which is properly given can be considered to be very effective. It may also assist with developing positive rapport with the operator.

- C. Written Traffic Citations - Traffic citations should be issued to all violators who jeopardize the safe and efficient flow of vehicular and/or pedestrian traffic. This should include hazardous moving violations and operating unsafe or improperly equipped vehicles.

OCGA 17-6-11 permits an officer to issue a copy of the charges in lieu of making a physical arrest in the majority of all traffic violations. Excluding:

1. DUI;
2. Revoked or suspended license;
3. Reckless driving;
4. Fleeing or attempting to elude a police officer;
5. No License;
6. Homicide by Vehicle; or
7. Other violations considered to be serious in nature.

If under exceptional circumstances an offender is released on a copy of charges for any of the above offenses, it must be approved by a supervisor and the reasons and approval documented in the incident report. An example of an exceptional circumstance would be if the offender is required to remain in the hospital for medical care.

Officers are to use individual discretion, based upon their professional judgment, as to what form of enforcement action is appropriate. To help facilitate uniformity in the application of traffic laws, these guidelines shall be used. Multiple violations or the number of citations issued to an offender shall not be considered a part of criteria that solely constitutes whether an arrest is to be made.

The only purpose for taking an individuals operators license in lieu of bail, is to ensure his/her court appearance. Therefore, unless the officer can substantiate the operator will not appear, it is our policy that we do not take the operators license unless required to do so by state and/or local law.

Any operator who has had his/her operators license taken in lieu of bail will be given a full explanation that the confiscation of that license is to require his/her appearance in court. They should also be informed they are permitted to operate their vehicle on their copy of the citation until their scheduled court date or until their case has been properly resolved through the court. All confiscated operator's license shall be securely attached to the courts copy of the citation.

- D. Physical arrest - Arrest is an extreme action taken when the continued operation of the vehicle would result in immediate danger to the public. The driver shall also be arrested when the driver's license has been suspended or revoked by the Georgia Department of Public Safety or the Department of Public Safety of any other state or as stated in the above section C. In this case, the driver must have been properly served with notice of suspension or revocation. If the status of the suspension cannot be determined, the officer will not make a physical arrest.

Uniform Enforcement Policies for Traffic Law Violations (02-19-02)

The following guidelines are provided to assist officers in making decisions as to whether or not a traffic summons is warranted:

- A. Speed Violations: In the City of Johns Creek, and via national statistics, it has been concluded that excessive speed is directly correlated with serious injuries and accidents. It is incumbent on each member of the department to maintain strict enforcement of the speed laws and to take appropriate actions when a violation is witnessed. Uniform methods of enforcement of speed laws within the City of Johns Creek shall be applied by all certified police personnel. Cases should be a clearly convincing case in court. May depend on location and time of violation (congested area, school zones, etc.)
- B. Seatbelt Violations: Officers shall remain aware of the fact that seatbelt usage saves lives and limits injuries in accidents. With that in mind, officers shall continuously be observant for violations of the seatbelt law and take enforcement action accordingly.
- C. Other Hazardous Violations: Consider degree of hazard, time, place, previous accident history of location.
- D. Equipment Violations: Consider whether the equipment defect has accident causing potential.
- E. Public Carrier/Commercial Vehicle Violations: Consider the time, place, and degree of hazard.
- F. Other Non-Hazardous Violations: Consider issuing a warning unless the offense is repetitive or flagrant.
- G. Newly Enacted Laws and/or Regulations: Normally, a grace period (30 days) is established during which only warnings will be given. Thereafter, officers should use discretion.

Traffic Patrol Strategies (02-19-04)

A. Visible traffic patrol:

1. Area: Moving or stationary observation in an area that includes a number of streets or sections of the highway. The officer's assigned area of responsibility (zone).
2. Line: Moving or stationary observation of a specific street or highway which is between two points.
3. Directed: Either area or line patrol which is specifically directed by supervisory personnel and is determined based on unfavorable traffic accident data, hazardous violations, or enforcement data.

B. Stationary observation:

1. Covert: Traffic enforcement units are not permitted to be concealed from view of the roadway to the extent that the officer is not visible to persons/motorist using ordinary powers of observation.
2. Overt: Traffic enforcement units will be positioned in such a manner near the roadway or intersection which is clearly visible and can be seen by individuals using ordinary powers of observation.
3. Unmarked vehicles: Unmarked vehicles and/or plainclothes officers shall not be utilized for traffic enforcement activity.

C. Selective Enforcement

1. The computerized traffic management program provides data for the analysis of traffic accidents and traffic enforcement activities. This analysis of location, time, and violation factors in traffic accidents provides a database that allows for implementation of selective enforcement techniques and procedures.
2. The Traffic Safety Unit Supervisor or his/her designee is responsible for traffic analysis and ensures that a traffic enforcement analysis report is provided for all supervisors. This enforcement is readily accessible by the computerized traffic management program on all terminal locations. This analysis identifies geographic, temporal, and causative factors to enable selective enforcement activities. The objective is to develop enforcement efforts that are directed toward violations in proportion to the frequency with

which they occur in accident situations and to respond to traffic-related needs identified in the community.

3. The Traffic Safety Unit Supervisor or his/her designee shall conduct an annual evaluation of the selective traffic law enforcement program. The evaluation will determine the effectiveness of selective traffic law enforcement efforts and document enforcement activity.

D. Personnel Deployment

1. Deployment of personnel for traffic enforcement shall be based on an analysis of traffic accidents and/or traffic related complaints for service.
2. Personnel shall be deployed to those areas where the greatest number of accidents or calls for service have occurred. Personnel should take the appropriate action to enforce any violation known to be the cause of motor vehicle accidents, or those which adversely effect the general safety of the community.

Pedestrians, Bicycles and Off-Road Vehicles (02-19-05)

Violations of traffic laws related to pedestrians, bicycles and off-road vehicles often receive a low priority in the overall enforcement of traffic laws. This is often due to the perceived seriousness of the violation, the age of the violator, or difficulty in apprehending the violator.

It will be the policy of this Department to enforce these traffic laws in a manner similar to any other traffic violation and to take a pro-active role in the prevention, education and investigation of incidents involving these violations.

Enforcement activities will be based on analysis of traffic accident experience and/or complaints. Countermeasures shall be based upon such factors as:

- A. Factors leading to accidents;
- B. Actions of the violators that contributed to the accident; and
- C. Type of accident

Specific examples of the enforcement of off-road vehicle regulations include: removing unlicensed vehicles from the roadway; apprehending juvenile offenders; preventing the misuse of public trails, violations of off-road vehicle registration laws and the improper use of roadway crossings.

Issuance of Warning Citations/Courtesy Warnings (02-19-06)

Warning citations may be issued to violators on the standard Uniform Traffic Citation form for minor traffic violations when the officer desires that a permanent record be made of the incident. The warning citation should contain all normal information except a court date. At the top of the citation, the pre-printed word "Warning" should be circled, the word "WARNING" written in the remarks section and an "X" drawn through the court date section at the bottom.

Processing of Non-Residents (02-19-07)

If a violator's state of residence is a member of the Non-Resident Violator Compact, the officer may release the person on a copy of the citation and advise the violator that if the citation is not paid, or if he/she does not appear in court on the date indicated, the Georgia Department of Public Safety will notify the Department of Public Safety of the violator's home state and the driver's license will be suspended until the fine is paid.

If a violator's state of residence is not a member of the Non-Resident Violator Compact, the violator must be escorted to the Detention Facility to post a bond. The citation should be marked "Posted Bond" in the remarks section of the citation, and appropriate copies forwarded to Records.

Processing of Juvenile Offenders (02-19-08)

If a driver under the age of 17 violates a law or ordinance governing the operation of a motor vehicle upon the highways or street, the citation should be directed to the Fulton County Juvenile Court. No court date should be given either verbally or in writing. This will be done by Juvenile Court. The remarks section of the citation should be clearly marked "JUVENILE".

A Juvenile Report Form shall accompany violations of the offenses whether the juvenile is arrested or released with a citation, in lieu of incarceration. A Juvenile Report may also accompany other citations where the officer feels that additional information surrounding the circumstances of the violation would be beneficial to the court.

Juveniles sixteen or older who have a valid driver's license and who are taken into custody for DUI should be given their rights under the Georgia Implied Consent Law for the purpose of the chemical test(s) for alcohol or drugs. If the juvenile takes the test(s), the results should be noted in the officer's Juvenile Report. If the Juvenile refuses to take the chemical test(s), it should also be noted in the officer's Juvenile Report and the proper forms for a refusal completed and forwarded to the Georgia Department of Public Safety.

The chemical breath test should be administered in the appropriate Detention Facility. Drawing of blood and/or obtaining urine samples should be done by qualified medical personnel and at a medical facility. All necessary precautions should be taken to expedite a juvenile's stay in the book-in area. Juveniles under the age of sixteen may not be given the test without parental consent. (See also Juvenile Offenders)

Immunity from Arrest/Traffic Citations (02-19-09)

The following persons have immunity from arrest and traffic citations as described in the chapter on arrest procedures.

- A. Legislators - All legislators, state or federal will have complete immunity from arrest when traveling to and from their legislative sessions and/or committee meetings. Our Department policy is to extend courtesy to all legislators by deferring the issuance of a citation until such time the legislative session and/or committee has adjourned. An arrest may be made during the legislative sessions or committee meetings only if the violation involves:
 1. Treason;
 2. A felony or breach of the peace;
 3. D.U.I.;
 4. Fleeing or attempting to elude a police officer;
 5. Vehicular homicide; and
 6. Hit and run type accidents.
- B. Foreign Diplomats/Consular Officials - Any person having diplomatic or consular status will be immune from arrest for any criminal or traffic related offenses unless so ordered by a Federal Magistrate. Consular immunity does not normally extend to family members or employees of Consular officers.
- C. Active Duty Military Personnel - The members of the organized militia or military forces shall in all cases, except treason, felonies, or breach of peace, be privileged from arrest during their attendance at drills, parades, meetings, encampments, election of officers, and going to and returning from their performance of any active duty as such members (OCGA 17-4-2). Whenever a police officer stops any military personnel who is on active duty, they may affect an arrest if the offense meets the above listed

criteria. The police officer will notify the violators commanding officer and the District Attorney's Office. On all traffic violations, military personnel are not immune from prosecution; however, physical arrest cannot be initiated. Officers should confiscate the operator's drivers license if a citation is issued.

In situations where the violator is charged with DUI, the incident report will reflect that the operators driving constituted a breach of peace. This should be established before a physical arrest is made. In this situation, the violator's commanding officer and the District Attorney's Office will be notified on the next business day following the arrest.

Any immunity claimed by a suspect must be verified with the appropriate authorities.

Refer to chapter on "Arrests, Search and Seizure: Immunity from Arrest" for procedures and additional, specific information.

Requests for Re-Examination of Drivers (02-19-10)

Any officer having reason to believe a person is not physically or mentally qualified to be a Georgia licensed driver should send that person's name, address and date of birth to the Georgia Department of Public Safety. The request for re-examination will be in letter form to the Driver's License Advisory Board. Physical or mental defects of the person must be described in specific detail, and the letter must be signed by both the initiating officer and the officer's supervisor.

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