

CHARLOTTESVILLE POLICE DEPARTMENT



Note: This directive is for internal use only and does not enlarge an officer's liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by the Charlottesville Police Department and then only in a non-judicial administrative setting.

Type of Directive: General Order	Number: 89-99
TRAFFIC ENFORCEMENT	Date: October 31, 2019
VLEPSC Number: OPR.01.03, OPR.07.01 thru OPR.07.04	Manual Number: 540.30
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Authorization: Chief R.M. Brackney <i>Rm Brackney</i>	Follow-up Date: As Needed

I. PURPOSE

The purpose of this directive is to establish uniform expectations, guidelines and procedures for officers to follow in enforcing the traffic laws of the City of Charlottesville and Commonwealth of Virginia as an accepted method of protecting lives by preventing accidents, as well to protect property and create a sense of order.

II. POLICY

It is the policy of the Charlottesville Police Department to proactively address traffic violations through stopping violators and issuing summons to court and writing written warnings.

All motor vehicle traffic enforcement shall be conducted in accordance with State Laws and City Ordinances. Traffic law enforcement is considered to be a law enforcement prevention method that saves lives, reduces injuries, protects property and maintains a sense of order and predictability for other drivers and pedestrians. In addition to high visibility enforcement being a deterrent to criminal activity, it serves as a deterrent to violations of motor vehicle statutes.

Traffic enforcement includes not only summoning and custodial arrest of serious violators, but also warnings given to those motorists and pedestrians who commit less serious violations. Furthermore, any officer conducting traffic enforcement in any Departmental vehicle (marked or unmarked) will be equipped with at least a siren and emergency lights in operational order, and in constant radio communications with the Emergency Communications Center (ECC).

III. PROCEDURE

A. Types of Enforcement

1. Warnings

- a. A written warning is the preferred method to utilize a warning. A written warning to a motorist or pedestrian in lieu of a summons for an observed traffic violation is considered to be an effective means of traffic enforcement. The written warning permits an officer to leave the citizen with a positive and favorable

impression of the Department and may favorably influence the citizen towards future compliance. Warnings should be reserved for infractions that do not present a significant threat to public safety.

- b. Officers, issuing a warning, shall inform the motorist of the observed infraction and courteously request that the motorist not repeat the offense.
- c. Officers issuing warnings shall not chastise, rebuke, lecture or speak in a condescending tone to the citizen. The warnings should be polite, and made in a positive request for voluntary compliance in the interest of traffic safety.
- d. Nothing in this policy should be considered to influence any officer from not writing summonses for observed violations.

2. Summons

The Virginia Uniform Traffic Summons shall be issued to a motorist or pedestrian when, in the opinion of the officer observing the violation, a mere verbal warning would be insufficient for the violation committed.

3. Custodial Arrest

An officer shall make a custodial arrest in the following circumstances:

- a. The officer has probable cause to believe that the driver of the vehicle has committed a felony;
- b. the operator of the vehicle is being arrested for Driving Under the Influence or Refusal of a Breath or Blood Test;
- c. the driver refuses to sign the Virginia Uniform Summons; and
- d. the officer has reason to believe the operator of the vehicle will not comply with the “promise to appear provision” of the Virginia Uniform Summons.

B. Handling Special Categories of Traffic Law Violators:

1. Non-Resident of Virginia

- a. A resident of a reciprocal state shall be issued a summons in the same manner as residents of the Commonwealth of Virginia. If the person refuses to sign the summons, the officer must take the individual into custody and transport the subject to the magistrate.
- b. A resident of a non-reciprocal state must be arrested (custodial arrest) and taken before a magistrate.

2. Juveniles

- a. Officers who issue a summons to juvenile traffic law offenders must clearly indicate that the Juvenile and Domestic Relations Court is the court of jurisdiction.
- b. If the juvenile refuses to sign the summons, the officer must take the juvenile into custody and proceed as any other juvenile custodial arrest.

3. Legislators

- a. Except for treason, a felony, or breach of the peace, members of the General Assembly, Governor, Lieutenant Governor, their clerks, and their assistants are privileged from being detained during any session of the General Assembly and five days before and after the session.
 - b. Except for treason, felony, or breach of the peace, members of the United States Congress are privileged from being detained during any session of Congress and fifteen days before and after the session.
 - c. As such privilege pertains to traffic enforcement, an officer encountering any of the legislators mentioned in this section, during the time period specified in (III, B, 3a and b) this directive, who has committed a traffic violation that may warrant more than a warning, shall notify a shift supervisor of the incident and confer with the Commonwealth's Attorney for a decision to prosecute.
 - d. Legislators who are suspected of Driving under the Influence of alcohol or drugs shall not be allowed to continue the operation of the vehicle. The officer shall notify the shift supervisor immediately and make contact with the on-call Commonwealth's Attorney for guidance.
4. Military Personnel
- a. The driver's license of a member of the armed services of the United States, while serving outside the Commonwealth of Virginia, shall be held not to have expired for the duration of such service and for a period of six months thereafter. However, no such extension shall exceed five years from the date of expiration shown on the license. (Section 46.2-331 if the Code of Virginia)
 - b. Military personnel, licensed in a non-reciprocating state, but stationed in Virginia, may be issued a traffic summons for traffic violations.
 - c. Military personnel, licensed in a non-reciprocating state and stationed outside the Commonwealth, are not eligible for release on a summons for a traffic charge.
5. Diplomats
- a. Ambassadors and ministers are the highest-ranking diplomatic representatives of a foreign government. Ambassadors, ministers and their families are afforded total immunity from any local process, including traffic summonses. Their employees, who are neither U.S. citizens nor permanent U.S. residents, are afforded total immunity for only those acts performed in the course of their official duties.
 - b. Consular officers of foreign governments are afforded limited immunity from local process. However, they may be arrested for committing a grave felony that endangers public safety. Consular officers may also be issued a summons. Family members and staff consular officers have no immunity.
 - c. If a diplomatic officer's actions would normally require an arrest (such as in the case of D.U.I), the diplomatic officer may be detained without restraint for their own safety and the safety of others until arrangements can be made to release the diplomat to a responsible custodian or ensure safe return to their residence.

- d. Any law enforcement contact with the diplomatic officer, their family or staff, shall be reported in writing through the chain of command to the Chief of Police, who shall cause contact to be made with the Office of Protocol of the State Department to request their assistance in preventing the reoccurrence of a similar incident.

6. Other Foreign Nationals

- a. Citizens of foreign countries (foreign nationals) are subject to all local ordinances, as well as all state and federal laws unless immune by diplomatic status.

C. Information to be provided to the recipient of a traffic summons

1. The issuing officer shall explain the following information on the front and reverse of the violator's copy of the summons:
 - a. The specific charge(s);
 - b. State the date, time and location of the court the violator is required to appear in;
 - c. Explain the implications of signing the summons.
 - d. Advise the violator if court appearance is mandatory or whether the violator may prepay the fine by mail or in person at the Charlottesville General District Court Clerk's Office.
 - e. The officer should answer any other questions that are related to the summons that the violator may have.
 - f. The officer shall not quote the cost of the fine for any violation of law. Officers may provide the violator with the most recent updated pre-payment sheet that is provided by the Virginia State Supreme Court if one is available.

D. Enforcement of Traffic Law

1. Police Officers have a broad range of discretion in the enforcement of traffic law violations. The following sections provide guidelines for enforcement:
 - a. Driving Under the Influence of Alcohol or Drugs (DUI and DUID);
 - b. DUI and DUID are serious life endangering offenses. Officers are expected to thoroughly investigate these cases and file the appropriate charges.
 - c. Driving with a Suspended or Revoked License; and
 - d. drivers who have their driving privileges suspended or revoked have generally demonstrated a repetitive disregard for motor vehicle laws and ordinances, or irresponsible attitudes towards the consequences of previous convictions. Officers are expected to make an appropriate charge in this situation.

2. Speeding Violations

- a. Speeding violations range from barely exceeding the posted speed limit to violations where the speed is dangerous to the motoring public who are safely utilizing the roadways of the community. Officers should follow their training guidelines for speed tolerance, and additionally, officers should consider the

following when taking enforcement action:

- i. Posted speed limit;
- ii. traffic condition and weather;
- iii. speed related accidents in the area;
- iv. frequency of speed related neighborhood complaints; and
- v. departmental and Traffic Engineering statistical data that may provide times and peak hours of violations.

3. Other Hazard Violations

- a. There is a broad range of serious hazardous violations that an officer is likely to encounter. The violations range from passing and turning maneuver violations to signal light violations. Officer should take the necessary enforcement action as outlined in Section A, 1, 2 and 3 of this directive.

4. Off-Road Vehicle Violations

- a. Recreational vehicles that are described as All Terrain Vehicles (ATVs) and go-carts are not eligible for licensing in the Commonwealth and shall not be operated on public streets or highways. The operation of these vehicles violates the licensing, inspection, insurance and safety equipment statutes. Driving helmets are required for the operation of off-road vehicles, with exceptions as noted in Virginia Code Section 46.2-915.1
- b. Farm equipment, construction and other similar type vehicles, which are not subject to the state inspection and licensing laws, must be operated on the highway in a safe manner. These types of vehicles are required to be marked with a slow emblem marker that is attached to the rear of the vehicle per Virginia Code Section 46.2-1081.

5. Equipment Violations

- a. Defective or improper motor vehicle equipment can present significant roadway safety hazards. Although the state has an annual motor vehicle inspection program, in the interest of safety officers are to observe and enforce any motor vehicles for state code equipment violations.

6. Public Carrier and Commercial Vehicle Violations

- a. There is an increased risk to public safety that has been created by the greater size and/or cargo capacity of many commercial vehicles, which include public service carriers such as buses. Traffic violations committed by the operators of these vehicles pose a greater risk to all users of the highway system. Traffic accidents involving public carriers and commercial vehicles are considered to present more of a risk per accident in injury, death and/or property damage. Officers should consider the aforementioned factors when deciding on the type of enforcement action they will take.

7. Other Non-hazardous Violations
 - a. Officer should take into consideration whether non-hazardous violations are repetitive or flagrant in nature when deciding on the type of enforcement action to take. Traffic violation investigations should be based on a case-by-case basis.
8. Multiple Violations
 - a. When an officer observes multiple violations by the driver of a motor vehicle they may cite the driver for all violations observed or only for the most serious violation. In the case where the officer decides to enforce only the most serious violation they shall issue a written warning to the violator on the less serious infractions.
9. Newly Enacted Laws and/or Regulations
 - a. Unless public safety is jeopardized, members of the Department should allow a grace period before taking enforcement action on newly enacted legislation or ordinances. Additionally, the same consideration should be given to motorists in areas of the City where speed limits have changed.
10. Violations Resulting in Motor Vehicle Crashes
 - a. When a traffic violation(s) results in or is a contributing factor to a traffic crash, the investigating officer should summons or arrest, as appropriate, for that violation(s).
11. Pedestrian and Bicycle Violations
 - a. Officers should be aware of traffic law violations committed by both pedestrians and bicyclists. Officers should appropriately cite or warn pedestrians or bicyclists for observed traffic violations.