

# WINTER HAVEN POLICE DEPARTMENT

## GENERAL ORDER 61.2

### TRAFFIC ENFORCEMENT

**ACCREDITATION STANDARDS: CALEA – 61.1.2, 61.1.3, 61.1.4, 61.1.5, 61.1.7; CFA –18.01, 18.02**

**EFFECTIVE DATE: MARCH 28, 1996**

**RESCINDS: G.O. 61.2 January 5, 2018 and all applicable Amended/Temporary Orders prior to March 18, 2020**

**LAST REVISED DATE: March 18, 2020**

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#### **POLICY**

It shall be the policy of the Winter Haven Police Department to take enforcement action, of observed violations, of Florida State Statute traffic laws.

#### **PURPOSE**

The purpose of this General Order is to establish procedures and guidelines for the enforcement of traffic violations.

#### **SCOPE**

This General Order shall apply to all Department members.

#### **DISCUSSION**

The enforcement of violations of the traffic laws is a basic law enforcement responsibility and is a function of members of the Uniform Services Bureau. Members assigned to other Bureau's do not usually enforce traffic laws unless the driver's actions create a danger to the public. Members are encouraged to use courteous and professional language when dealing with a traffic violator.

## **PROCEDURE**

### **I. Vehicle Stops**

- A.** Sworn members are authorized to stop and inspect vehicles and their occupants in order to enforce traffic laws, to assist in investigations, or to stop criminal activity.
- B.** No vehicle, marked or unmarked, shall be used to conduct vehicle stops without the use of audible and visible emergency signal devices approved by the Department.
- C.** Vehicle stops shall be conducted as follows:
  - 1.** Notify Emergency Communications Center (ECC) of intent to stop; advise vehicle tag, type, location of stop.
  - 2.** Contact driver and identify self and agency.
  - 3.** Inform driver of reason for traffic stop.
  - 4.** Request to see license, registration and proof of insurance.
  - 5.** Members may contact other occupants of the vehicle if necessary
  - 6.** Members should contact Crime Information Center (CIC) for wanted information, vehicle registration information and license validity.
  - 7.** If a traffic citation(s) is to be issued, complete paperwork from a position of least vulnerability.
  - 8.** Make a tactical re-approach to the vehicle.
  - 9.** Make contact with the driver and explain the details of the citation(s) and their options.
  - 10.** Return license, vehicle registration and proof of insurance.

### **II. Traffic Enforcement by Plain Clothed Sworn Members**

- A.** Enforcement of civil traffic infractions, including moving violations, by plain clothed sworn members, operating unmarked police vehicles, shall be limited to those situations that create a clear and present danger to lives or property.
- B.** Enforcement of criminal traffic violations by plain clothed sworn members, operating unmarked police vehicles, shall be limited to situations that create a clear and present danger to lives or property, DUI, Reckless Driving, etc.
- C.** Members shall assess each situation for the necessity of immediate enforcement action. Where deferment to a later time is possible, sworn members shall not engage in immediate enforcement activities.
  - 1.** When there is no immediate danger to lives or property, sworn members in plain clothes shall request a marked patrol vehicle for traffic stop.
- D.** Plain clothed sworn members, who attempt to conduct a traffic stop, after assessing the urgency of the situation, shall clearly identify themselves as a police officer. Identification shall include, but not limited to, the following items:

1. Police jacket/windbreaker.
2. Police badge.
3. Other police identification.

### **III. Seized Vehicle License Plates**

- A. Sworn members are authorized to seize vehicle license plates pursuant to Florida State Statute 324.201.
- B. Once seize tag order is confirmed the following steps shall be taken:
  1. Obtain a printout of the registration status check. This printout will represent the Department's authority to remove the tag from the vehicle.
  2. Remove the tag from the vehicle.
  3. Issue all applicable citations.
  4. Proof of insurance along with a receipt showing payment of the reinstatement fee is sufficient reason not to seizing the tag.
  5. The vehicle shall be handled in accordance with General Order 61.7. The member should inform the owner of the following:
    - a. Obtain proof of insurance.
    - b. Go to any Drivers License Office to have their driving privilege reinstated, and
    - c. Another tag may be obtained at any local Tag Office after their driving privilege has been reinstated.
  6. The sworn member shall attach a copy of the registration status printout to the tag and submit to their supervisor with the citations attached.
  7. Once a tag has been seized, the Department/member shall not return the tag to the owner even if the owner provides proof of compliance.

### **IV. Physical Arrest (CALEA 61.1.2a) (CFA 18.02a)**

- A. The decision to affect a physical arrest should be based upon sound legal principles as opposed to peripheral issues such as the violator's attitude.
  1. Physical arrest of the violator shall occur for a misdemeanor offense when:
    - a. The accused fails or refuses to sufficiently identify themselves.
    - b. The accused refused to sign and accept the traffic citation in accordance with Florida State Statute 318.14
    - c. There is substantial risk the accused will refuse to respond to the citation.





- 1) The speedometers of marked patrol vehicles shall be calibrated every six months. A copy of the calibration certificate shall be maintained by the Motorcycle Traffic Unit. This certificate is available for presentation in court in accordance with Florida State Statute 316.1905.
  - 2) Members certified to operate moving RADAR shall make sure the unit they are driving has the speedometer calibrated in accordance with this procedure.
- b.** Radar Detection: Members using RADAR must be certified to do so by the Florida Criminal Justice Standards and Training Commission.
- 1) Members not certified in RADAR operations may support certified operators. Support members shall issue the citation to the violator and list the member that operated the RADAR as a witness and the radar unit number.
  - 2) Members certified to operate RADAR speed measuring equipment shall maintain detailed log containing information on each RADAR traffic case.
  - 3) RADAR units shall have the calibration expiration date placed in the logbook for that particular unit. A copy of the calibration record shall be stored within the logbook. The original of the calibration record shall be maintained by the Motorcycle Traffic Unit Sergeant. It shall be the responsibility of the Motorcycle Traffic Unit Sergeant to check the expiration date on the RADAR units and return RADAR units for proper-programmed maintenance. If calibration is expired, the RADAR unit shall be removed from service and sent for calibration.
  - 4) RADAR units shall be stored in a secure location within the Department. RADAR units may be utilized by members who are certified in RADAR use.
  - 5) It shall be the responsibility of the member using the RADAR unit to examine the unit prior to use and upon return to ensure that components of the RADAR unit, including tuning forks, calibration record and logbook are present and in good condition. If deficiencies are noted, the RADAR unit shall be removed from service until the deficiencies are corrected. The member finding the deficiencies shall notify the Motorcycle Traffic Unit Sergeant to correct the problem(s).
  - 6) All radar equipment shall be owned and maintained by the Department. All maintenance shall be performed by certified technicians. Equipment shall be calibrated every six months. All radar equipment shall meet Division of Highway Safety and Motor Vehicles (DHSMV) standards as specified in Rule 15B-2.0081 (DHSMV Rules and Regulations).

- c. Test to Determine Speed Accuracy of Doppler RADAR Devices: For all RADAR units, internal and external accuracy, tests shall be made at the beginning and end of an operator's shift in accordance with the following:
  - 1) The internal accuracy test shall be made according to manufacturer's specifications. The internal test is passed only if the proper number appears exactly on the RADAR read-out.
  - 2) The external accuracy test shall be made with a certified tuning fork (+1 mile per hour tolerance) furnished by the manufacturer and tested in either the stationary or moving mode.

## VII. Traffic Law Violations

- A. Members en route to any call for service shall not delay response to engage in traffic enforcement for minor infractions.
- B. Traffic citations shall be issued based on probable cause, which satisfies the elements of the specific violation being charged. This shall include the following types of violations:
  - 1. Hazardous Violations – Hazardous violations are violations, which expose a person or property to risk, loss or damage.
    - a. Multiple Hazardous Violations: A member should not refrain from issuing a citation for each hazardous violation when the violations are serious enough to merit a citation. Exceptions to this are those situations where two violations are similar and the law exists for the purpose of compliance with the other law. (CALEA 61.1.5f)
  - 2. Non-hazardous Violations – Non-hazardous violations are violations, which are not likely to involve or expose a person or property to risk, loss or damage. (CFA 18.02c)
    - a. Multiple Non-hazardous Violations – Generally, one citation will be issued in the case of related, multiple non-hazardous violations stemming from the same operation. (CALEA 61.1.5f)
  - 3. Multiple Hazardous and Non-hazardous Violations – In all instances, multiple violations found which can be classified separately as hazardous and non-hazardous will be dealt with independently. A motorist stopped for following too closely and subsequently found to be operating without a license may be issued separate citations.
- C. Equipment Violations – When a vehicle is found to be in violation of several equipment requirements, a citation should usually be issued for the one most serious violation. This action should be taken even when each violation independently is worthy of only a warning. Only one citation will be issued for such multiple equipment violations unless each warrants a separate citation. (CALEA 61.1.5d)
- D. Public Carrier/Commercial Vehicle Violations – Members shall ensure that public carriers and commercial vehicles comply with all applicable laws, rules and regulations. (CALEA 61.1.5e) (CFA 18.02d)

- E. Newly Enacted Laws and/or Ordinances – Members shall consider the fact that citizens may not be familiar with new laws and ordinances. The goal of public education can sometimes be better served by warnings for violations of new laws and ordinances for a period of time after enactment. (CALEA 61.1.5g)

**VIII. Off-Road Recreational Vehicles (CALEA 61.1.5c)**

- A. Members shall take appropriate enforcement action for violations committed by operators of off-road recreational vehicles that are observed and/or reported.
- B. Members shall take appropriate enforcement action, particularly in the following circumstances:
  - 1. Removal of unlicensed vehicles from streets and highways.
  - 2. Violation of off-road vehicle registration laws.
  - 3. Misuse of public trails.
  - 4. Improper use of street and highway crossings.
  - 5. Citizen complaints of excessive noise, trespass and/or property damage.
  - 6. Juvenile offenders.

**IX. Violations Resulting in Traffic Crashes**

- A. The investigating member at the scene of a traffic crash should issue a citation to the individual(s) at fault as is determined by the investigation.
- B. Circumstances when a member may not issue a citation are as follows:
  - 1. The member is unable to determine who is at fault.
  - 2. Charges will be filed at a later date.
  - 3. Single vehicle crashes with no witnesses.
  - 4. Parking lot crashes where a particular statute does not cover the violation. (CALEA 61.1.5h)

**X. Pedestrian and Bicycle Violations**

- A. Members shall take appropriate action when and where pedestrian and bicycle traffic violations are observed.
  - 1. Emphasis shall be placed on high volume or crash areas as determined through the analysis of crash reports.
- B. Pedestrian Enforcement - Pedestrian traffic laws, the “spirit” of the law should supersede the “letter” of the law and application may be made accordingly. (CALEA 61.1.5i)

- C. Bicycle Enforcement - On the roadways with a substantial flow of vehicular traffic, and where hazardous moving violations are observed involving persons operating bicycles, the applicable laws shall be enforced. (CALEA 61.1.5i)

**XI. Traffic Violations Committed by Non-Residents, State Legislators and Military Personnel**

- A. Non-residents, State Legislators and Military Personnel committing violations of Florida traffic laws shall not be afforded special consideration and shall be warned, cited or arrested as appropriate. (CALEA 61.1.3a) (CFA 18.01a)
- B. Military Personnel:
  - a. Physical arrest of military personnel – Whenever a physical arrest is made, the investigating member's supervisor shall contact the liaison officer of the nearest Armed Forces Investigative Headquarters Division. This does not apply to the issuance of a traffic citation when a physical arrest is not made.
  - b. Traffic crashes involving military personnel – Whenever armed forces personnel are involved in a traffic crash resulting in serious bodily requiring hospitalization or death. The supervisor shall notify the nearest Armed Forces Investigative Headquarters Division. This shall apply to civilian employees of the armed forces while acting within the scope of their employment. (CALEA 61.1.3e)
- C. Members of the United States Congress; United States Senators and Representatives – Members of the United States Congress shall in all cases, except treason, felony and breach of the peace, be immune from arrest during their attendance at the session of their respective houses, and in going to and returning from same; and for any speech or debate in either house, they shall not be questioned in any other place. (CALEA 61.1.3c)
- D. Juveniles – Generally, juveniles 16 or over who have committed a traffic violation will not be placed in custody, but will be issued a traffic citation with the following exceptions: (CFA 18.01b)
  - 1. Driving while impaired by alcohol or drugs.
  - 2. Vehicular manslaughter.
  - 3. Driving after revocation or suspension of license.
  - 4. Leaving the scene of a crash with injuries.
  - 5. Willful and wanton reckless driving and fleeing to elude a law enforcement officer.
  - 6. The member is responsible for notifying the juvenile's parents as soon as possible as to the circumstances. If the member deem further custody is required pending a hearing, the member must contact the Juvenile Assessment Center for authorization. The intake section will make the determination to detain or release the juvenile. (CALEA 61.1.3b)
- E. Physicians
  - 1. Upon determining the driver is a physician, the member shall obtain the identity and intended destination of the physician.

2. In the event of an emergency the physician should not be detained.
  3. In the event the traffic violation committed was of a serious and dangerous nature, the member shall verify the physician's identity and not detain the physician. The member shall verify the nature of the emergency after releasing the physician and may take appropriate enforcement action in accordance with Florida State Statute 316.072(5)(a).
  4. If the violation was of a nonhazardous nature, a verbal warning may suffice.
- F. Foreign Diplomats and Consular Officials – Diplomatic officers should not be arrested or detained except for the commission of a grave crime. These officials should be treated with the courtesy and respect that befit their distinguished positions. (CFA 18.01c)**
1. **Traffic Violations –** When a diplomatic officer is stopped for a moving traffic violation, the member on scene should exercise discretion based on the nature of the violation. The issuance of a traffic citation does not constitute arrest or detention in the sense referred to under Consular Immunities.
  2. **Driving while Under the Influence –** The primary consideration in this type of incident should be to ensure that the Consular Officer is not a danger to themselves or the public. Based on a totality of the circumstances, the following options are available.
    - a. Take them to the Police Department where they can sufficiently recover.
    - b. Allow them access to a telephone.
    - c. Call a taxi for them.
    - d. Take them home, if they reside within the City limits.
  3. **Offenses involving family members of a Consular Officer –** Family members of a Consular Officer cannot claim immunity. If the relative is a juvenile, the subject should be released to the parent Consular Officer.
  4. **Reporting incidents to the Office of the Governor –** In the event a Consular Officer, member of their family or personal staff becomes involved in any action(s) taken by members of this Department, the Office of the Governor shall immediately be furnished with all pertinent information through the Office of the Chief of Police. (CALEA 61.1.3d)

## **XII. Traffic Law Enforcement Practices**

- A.** Members shall drive police vehicles in accordance with existing laws.
- B.** In those areas where stationary observation is necessary to maximize the effectiveness of a selective enforcement effort, members shall park in a conspicuous location and manner that does not impede the flow of traffic.
- D.** Unmarked/unconventional vehicles may be used for traffic enforcement only with the approval of a Bureau Commander.

1. Unmarked cars may be used for patrol in the same manner as marked vehicles, if special enforcement needs exist.
  2. All unmarked vehicles used for traffic enforcement shall be equipped with both emergency lights and siren.
- E.** Road side safety checks may be conducted to inspect vehicles to insure that they comply with state statutes. Such inspection shall include but not limited to the following:
1. Directional turn signals;
  2. Headlights and taillights;
  3. Condition of tires;
  4. Audible warning devices; and
  5. Brake light warning systems, etc.
- F.** Member/Violator Contact:
1. Once the member has stopped the violator and begins communications the member shall:
    - a. Be prepared for the contact by having the necessary equipment and forms.
    - b. Decide on appropriate enforcement action based upon the driving behavior, not attitude.
    - c. Greet the violator with in a courteous manner.
    - d. Inform the violator which traffic law has been violated.
    - e. Ask for the violator's license, vehicle registration, and proof of insurance.
    - f. If circumstances permit allow the driver to discuss the violation.
    - g. Complete the forms required for the enforcement action taken.
    - h. Inform the violator where and when to appear if enforcement action requires a court appearance. Explain any alternatives to the violator.
    - i. Return the violator's license, registration, proof of insurance and a copy of the warning or citation.
- G.** Stopping and Approaching the Traffic Violator: (CALEA 61.1.7)
1. Upon stopping violators for any reason, the member's safety is paramount. Members should, take all steps and precautions necessary during traffic stops to ensure their safety and well-being.
  2. These procedures are to be followed when possible:

- a. Notify ECC of the traffic stop in accordance with this General Order.
  - b. If possible avoid stops on hills, curves, intersections, private drives, business locations and bridges, which have limited parking.
  - c. The member should signal the violator to stop.
  - d. The violator should be directed to the right side of or off the roadway, onto a side street, and away from heavy traffic.
  - e. On multi-lane roadways, the member should ensure the safety of the violator during lane changes by gradually changing from lane to lane with the violator until the right side of the roadway is reached.
  - f. If the violator stops abruptly in the wrong lane or in another undesirable location, the driver should be promptly directed to move to a safer location.
  - g. The violator should not be permitted to move their vehicle once it has stopped if it is suspected the driver is under the influence of an intoxicant.
  - h. Once the violator has stopped the member should position their patrol vehicle in such a manner as to provide safety and a tactical advantage.
  - i. The member may approach on the drivers or passenger side being continuously alert for any suspicious movement or actions on the part of the violator or other occupants.
  - j. From this position, the member should communicate with the violator and keep all occupants within view.
  - k. When conducting traffic stops at night members should be aware of the increased risk due to low visibility.
  - l. The writing of a traffic citation or any other document should be done at the rear of the police vehicle.
  - m. The member should not use the citizen's vehicle for the purpose of completing paperwork.
3. In the event a member observes a traffic violation in the oncoming traffic, the member should take the following actions:
- a. Drive the patrol vehicle safely to the extreme right portion of the roadway.
  - b. As the violator approaches, signal for the violator to stop.
  - c. Do not exit the patrol vehicle in an attempt to stop the violator by hand signals, as this places the member in an extremely hazardous position.
  - d. If the violator observes the signal and stops, the member shall turn the patrol vehicle around and position it properly to the rear of the violator's vehicle.



shall not leave a position of cover to approach a felon's vehicle until assistance has arrived at the scene.

11. If the suspect is believed to be armed and dangerous, the member shall draw their weapon and have it ready for immediate use.
12. When all occupants have been removed from the vehicle, the support member should move to a position to cover the arresting member while the persons are searched.
13. If the terrain or room does not permit the prone position, the occupants should be ordered into a kneeling position with their legs crossed and their hands behind their heads, fingers interlaced.
14. If the subjects are in the prone position, handcuffs should be used immediately, and then the subjects should be searched thoroughly.
15. If the subjects are in the kneeling position, a cursory search should be performed prior to handcuffing.
16. The support member shall not give additional commands, as this could tend to confuse the suspects.
17. The support member shall cover the arresting member. Extreme caution shall be exercised by members to avoid getting within each other's line of fire.
18. The occupants should be ordered into a prone position face down, with their hands extended outward and with palms up.
19. When all occupants are secured all weapons should be holstered.

### **XIII. Referral of Drivers for Re-examination**

- A. When a member believes that a licensed operator is a danger to the public or is incompetent to drive a motor vehicle, a request for re-examination shall be initiated.
  1. If the operator's license was issued by the State of Florida, the member shall complete a request for driver re-exam through the DHSMV Drive and Vehicle Information Data Base (DAVID).
  2. If the license was issued by another jurisdiction, the appropriate licensing agency shall be contacted via written correspondence and notified of the request for re-examination.

APPROVED



**Charles E. Bird**  
**CHIEF OF POLICE**