



POLICY & PROCEDURE

PORTAGE POLICE DEPARTMENT

SUBJECT: **TRAFFIC**

SCOPE: All Department Personnel
DISTRIBUTION: Policy & Procedures Manual

REFERENCE:

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PURPOSE: The purpose of this Policy & Procedure is to establish procedures for members of the Portage Police Department for the uniform enforcement of the traffic code, State Statutes and City Ordinance violations. To promote the integrity of the department, enforcement action must be applied in a reasonable, professional and consistent manner. The primary objective of traffic enforcement is to prevent crashes and to provide for the safe flow of pedestrian and motor vehicular traffic. There is a direct relationship between the quality of traffic enforcement and the degree of safety with which citizens may use the streets.

This Policy & Procedure consists of the following numbered sections:

- I. GENERAL TRAFFIC ENFORCEMENT
- II. SELECTIVE TRAFFIC ENFORCEMENT
- III. TRAFFIC ENFORCEMENT PROCEDURES
- IV. ISSUANCE AND DISTRIBUTION OF CITATIONS
- V. VOIDING AND DISMISSAL OF CITATIONS
- VI. SPECIAL GROUP VIOLATORS
- VII. UNIFORM TRAFFIC ENFORCEMENT

- I. GENERAL TRAFFIC ENFORCEMENT

- A. The Portage Police Department shall maintain a policy calling for enforcement action against violators of the traffic code within jurisdictional boundaries. As an officer's use of emergency lighting is inherent in conducting traffic stops, officers shall refer to department policy and procedure 6.02 operation of patrol vehicles.
- B. Traffic enforcement is constant. It will be determined by manpower, call volume, availability, etc. Each individual officer shall be cognizant of the fact that traffic enforcement is a necessary component of patrol duties with or without assigned selective enforcement goals.
- C. Traffic enforcement patrol by the uniform patrol shifts shall be conspicuous to act as a deterrent to traffic code violations.
- D. The officer shall handle traffic contacts in a professional and courteous manner.
- E. Officers, when stopping moving traffic violators, shall make the vehicle stop in a location that is safe for both the officer and the violator if possible. The positioning of the police vehicle should be such as to provide safety to the officer at the scene of the stop, taking into consideration time of day, type of violation and potential hazards.
 - 1. In addition Officers, when stopping moving traffic violators, shall make a reasonable attempt to position the squad car safely in a manner allowing the in-squad video camera if equipped to capture the traffic stop/contact.
- F. Officer Safety During Traffic Stops
 - 1. Officer safety shall be a primary consideration when taking any traffic enforcement action.
 - 2. Initial stop of a motorist
 - a) Officers should choose the location for a traffic stop carefully to avoid hills, curves and intersections that may cause danger from other traffic to the officer and person stopped.
 - b) Officers should be aware of their location and immediate surroundings should it be necessary to seek cover during the stop.
 - c) If practicable the officer should attempt to get vehicle make/model and run the plate number through their mobile computer prior to making the stop.
 - d) The location of the stop, and the vehicle's license plate number and state, or a complete description of the vehicle if the vehicle has no license plates, shall be called into the dispatch center prior to initiating the traffic stop if possible. Every effort must be made to call this information in prior to initial contact with the driver.
 - e) Authorized emergency lighting (red or red and blue oscillating or flashing lights) shall be used to initiate a stop and until the stop is completed.

The use of 4-way flashers or blinking yellow lights on the overhead light bar are not authorized in lieu of the red and blue lights and do not provide the legal protection of Sec. 347.25, Wis. Stats. However, officers are encouraged to use them in addition to the red and blue lights on the police vehicle to provide additional warning.

- f) Officers should position their police vehicle to the rear and slightly off center to protect the officer from other traffic while approaching the stopped vehicle.

3. Initial Contact with a Motorist

- a) Utilizing headlamps, spotlight, and/or take-down lamps at night, officers should observe the occupants of the vehicle prior to and during the approach to the vehicle for unusual activity. Officers should position themselves behind the driver's door or passenger door to avoid a sudden opening of the door when making the initial contact with the driver and should continue observation of all occupants of the vehicle, including those in the back seat or back of a van or truck.
- b) Wanted and driver status checks on the operator, and any passengers for which the officer has probable cause to identify or are willing to identify themselves, should be made. The officer should maintain frequent visual contact with the vehicle and occupants while completing the warning or citation.
- c) Officers hearing radio traffic of a stop by another officer in the area should prompt available officer(s) to drive by that location to ensure the officer's safety or render assistance, as necessary.
- d) Delivery of a warning or citation should be made in the same manner as the initial approach to the vehicle using all precautions. The officer should let the stopped vehicle exit the area first and should not turn off emergency lighting until the officer intends to re-enter the flow of traffic if the traffic stop was conducted on the roadway in a non-designated parking area.

F. The preferred tactical steps for conducting vehicle contacts are:

1. Proper greeting.
2. Identify yourself and the agency.
3. Give the violator the reason for your stop.
4. Ask the violator if there was any justifiable reason for committing the alleged violation.
5. Ask for the violator's driver's license and proof of vehicle insurance.
6. Ask for further information (address, registration, etc.).

7. Make a decision as to the appropriate action toward the disposition of the stop.
8. If applicable, provide the driver with the appropriate court information. Close the contact with an appropriate remark in an attempt to harmonize the contact.

Example: Advise the driver to enter traffic when safe to do so.

- G. Enforcement action is the issuance of a verbal warning, written warning, parking ticket, uniform traffic citation, or in some situations, custodial arrest.
- H. The type of enforcement action taken shall be at the discretion of the officer taking such action unless otherwise directed by supervisory personnel.
1. Violations that are flagrant, interfering with the flow of other motor vehicle or pedestrian traffic, or resulting in a motor vehicle accident would normally result in the issuance of a uniform traffic citation.
 2. Moving traffic violations that are of major concern, but unintentional on the part of the violator and do not substantially interfere with other motor vehicle or pedestrian traffic may result in a written warning.
 3. Moving traffic violations that are of minor concern and not intentional on the part of the violator and do not interfere with motor vehicle or pedestrian traffic may result in a verbal warning, and shall be noted as such, in the CAD notes.
 4. Parking tickets issued for violations for which the parking ticket is designed shall be issued with discretion.
 - a) The officer may issue the comparable traffic citation for the parking violation, if the situation/circumstances warrant same.
 5. Custodial arrest may result in those cases where the custodial arrest of the violator is justified.
- I. When conducting vehicle contacts, officers may request consent to search if there exists a reasonable and articulable suspicion of specific evidence or contraband in the vehicle.
1. If a consent search is conducted during a vehicle contact, the officer will articulate the reason for the search in an incident report.
 2. This does not preclude any other legal reason to search a vehicle, including probable cause, search incident to arrest, reasonable suspicion that the vehicle contains a weapon (Terry v. Ohio), or exigent circumstances.
- J. At the conclusion of all vehicle contacts where a citation is issued or criminal summons, the officer will attempt to provide the driver a City of Portage Municipal Court pamphlet entitled "A Citation: Your Rights and Responsibilities" and attempt to explain the citation, criminal summons, or violation to the operator.

II. SELECTIVE TRAFFIC ENFORCEMENT

- A. Selective enforcement is defined as the application of an enforcement effort against the type of traffic code violations which cause traffic accidents at the time of day and location where traffic accidents are occurring.
- B. Selective enforcement may also be applied to particular locations due to a high frequency of specific traffic code violations that interfere with the smooth flow of motor vehicle or pedestrian traffic.
- C. Selective enforcement shall take place following review of traffic accident frequency at specific locations or upon request from other city departments or citizen complaints of high violation frequency.
- D. Officers are encouraged to apply selective enforcement methods in monitoring problem areas or known high traffic code violation locations within the confines of their assigned patrol area.

III. TRAFFIC ENFORCEMENT PROCEDURES

Officers should consider the following guidelines when determining the type of enforcement action to take.

- A. **Custodial arrest.** Officer discretion is somewhat limited once the officer has elected to arrest for OWI or a Section II offense found in the Traffic Deposit Schedule. Officers shall follow the procedures in the OWI or arrest policies of this department and the State of Wisconsin Uniform Traffic Deposit preamble for forfeiture and misdemeanor bail schedules for release procedures and/or bond posting after a custodial arrest has been made.
- B. **Citation.** Traffic citations are appropriate for more serious infractions, intentional violations, and violations resulting in injury or property damage and for most infractions that are determined to be the cause of a traffic accident or would constitute an officer safety problem. Citations may also be appropriate, even for minor infractions, when the officer determines the violator's prior traffic history or their demeanor with the officer indicates that a written warning would have little impact on deterring future traffic violations of a similar nature.
- C. **Written and Verbal Warnings.** A written warning would be appropriate in cases where the officer believes the violation by the motorist was inadvertent and/or does not constitute a serious infraction and the officer further believes a written warning will serve to deter future similar violations.
- D. Officers shall exercise discretion in electing the type of enforcement action to be taken in accordance with the following criteria:
 - 1. The weather, condition of the roadway, volume of other traffic and the presence of pedestrians in the area.

2. Whether the violation was intentional or unintentional.
 3. The seriousness of the violation to include whether or not the violation may have resulted in injury and/or property damage.
 4. Whether the enforcement action will protect the interests of other persons or drivers involved in the incident.
 5. Whether the enforcement action accomplishes a legitimate police purpose.
 6. Whether the violator has committed similar violations in the past.
 7. Whether the proposed enforcement action is sufficient to deter the violator from committing similar violations in the future.
- E. Officer actions during traffic contacts with motorists should minimize conflict between the officer and violator and facilitate a professional process. Therefore:
1. Officers shall conduct themselves in a courteous, business-like manner during traffic contacts.
 2. Officers should not argue with motorists on the merits of the enforcement action taken nor are they to be dissuaded from taking enforcement action unless extenuating circumstances are clearly present.
 3. Officers should explain why a course of enforcement action is being taken, the elements of the offense, if requested, and the consequences of the enforcement action, if any.
 4. Officers shall provide motorists with the information relative to the specific charge.

IV. ISSUANCE AND DISTRIBUTION OF CITATIONS

- A. At the time a motorist is charged with a violation, the officer shall issue a Uniform Traffic Citation, which shall be documented by using the "Wisconsin Uniform Traffic Citation" form through the Badger Tracs program. A copy of the citation in most circumstances shall be provided to the motorist at the time of issuance.
- B. The officer shall explain to the violator why the course of action is being taken and the elements of the offense, if requested. In addition the officer shall attempt to explain the following points on the citation:
 1. The court appearance date, time and location.
 2. If a court appearance is mandatory.
 3. Whether the person can enter a plea and/or pay the forfeiture by mail or in person at the Portage Municipal Court Office.

- C. In the event that a citation cannot be delivered personally, the citation may be mailed. A form letter may accompany the citation explaining the points detailed in paragraph B above. The cover letter in TRACS will satisfy this policy. The document or report shall indicate if the citation was delivered in person or by mail.

Example: Officer was called away from the traffic stop to a higher priority call and/or equipment failure, such as a printer problem. In this situation the violator should be advised they will be receiving the citation in the mail.

- D. Upon the issuance of a uniform traffic citation by an officer, the officer will complete the necessary items in TRACS and complete the necessary information in the RMS program to document the traffic contact and what the disposition was. A narrative report will be completed if necessary and reviewed by a supervisor. In the event there was an equipment problem with the MDC or printer, documentation and issuance of any dispositional paperwork will be completed prior to the end of shift unless the officer obtains supervisory approval.

V. VOIDING AND DISMISSAL OF CITATIONS

- A. Citations may be voided by the issuing officer only for an error on the citation. A new citation will be issued to correct the error. The officer will inform the CSO of voided citations in the TRACS work flow.
- B. The prosecuting attorney, for cause, may dismiss citations. Officers may request dismissal of a citation by the prosecuting attorney, following review with a supervisor, for any citation that has been wrongfully issued or is in error.
 - 1. Officers may not request dismissal of any citation which was properly issued and not in error.

VI. SPECIAL GROUP VIOLATORS

- A. The following procedures shall be followed when a traffic law violation is committed by a member of the following special groups:
 - 1. Portage residents and non-residents
 - a) The general public, residents and non-residents shall be treated in a similar manner and enjoy no special exemptions.
 - b) It is the officer's discretion whether or not to require out of state subjects, or any subject to post bond. Officers shall consider the totality of the circumstances when making the decision.
 - 2. Juveniles
 - a) Refer to Policy & Procedure 6.20: Juvenile Procedures.
 - 3. Legislators

- a) Legislators enjoy no special exemptions from traffic laws and are treated as the entire motoring public.

4. Foreign Diplomats and Consulate Officers

- a) Diplomatic immunity is granted by the United States Government under the provisions of the Vienna Convention on diplomatic relations. Generally, these provisions apply to two classes of immunity:

- (i) Diplomats and members of their families; and

- (ii) Employees of diplomatic missions and members of their families in respect to acts performed in the course of their official duties.

- b) When diplomats claim immunity through the presentation of valid credentials, the officer may, depending on the circumstances of the violation, wish to verify diplomatic status through the State Department or other agency. Refer to the following telephone numbers:

- (i) State Department, Consular Office, Liaison Division, (202) 647-1985

- (ii) State Department, Consular Office, Operations Center -Duty Officer (202) 647-1512

- c) Officers who encounter, detain, or arrest a person who claims diplomatic immunity from arrest, personally or as a family member, employee, or servant of a diplomatic mission shall immediately notify a supervisor.

- (i) Officers should refrain from physically restraining or handcuffing these individuals unless officer or citizen safety clearly requires such action be taken.

- (ii) When foreign nationals are arrested or detained, they must be advised of the right to have their consular officials notified.

- (iii) In some cases, the nearest consular officials *must* be notified of the arrest or detention of a foreign national, **regardless of the national's wishes.**

- (iv) Consular officials are entitled to access to their nationals in detention, and are entitled to provide consular assistance.

- (v) The supervisor shall determine the appropriate action to be taken with respect to the person claiming diplomatic immunity and make the necessary notification to the embassy or consulate of the country concerned.

- (vi) The investigating officer should document the incident, regardless of the underlying nature of the incident. An incident report shall be completed and should contain a narrative describing the details and circumstances of the contact.

- d) Family members of consular officers cannot claim immunity. If a family member must be immediately processed for a traffic violation, the processing should be consistent with that applied to the general citizenry. If the offense does not require immediate processing, the officer should seek the advice of a superior officer before proceeding further.
- e) This agency should report all serious incidents involving diplomats, consular officers, and their families to the US Department of State, Office of Protocol.

5. Military personnel

- a) Military forces/personnel enjoy no special exemptions from traffic laws, except as specified in State Statutes 346.20 and 343.05 (4) (a) (1).
 - (i) For purposes of traffic law enforcement, military personnel assigned to installations within the State of Wisconsin should be treated as a resident.
 - (ii) Military personnel not assigned to a Wisconsin installation should be dealt with as a resident if they reside in the state when not in the military.
 - (iii) Other military members who are not state residents should be treated as if they do not permanently reside in Wisconsin.
- b) If an active duty member of the armed forces, or military civilian employee acting within the scope of their employment, is involved in an accident resulting in death or injury requiring hospitalization, and military authorities have not been notified by other means, the supervisor shall see that the nearest active duty military installation is notified.
- c) If a Reservist or National Guardsman on active duty is injured or killed, the individual's Reserve or National Guard Armory Unit shall be notified.
- d) All active duty military personnel with a valid Wisconsin Driver's license or those who are assigned to military installations within Wisconsin, even if a legal resident of another state, shall be considered residents of this state for purposes of posting bond.
 - (i) A valid Wisconsin license issued to military personnel on active duty is valid for up to six months after the date of their discharge from such service (Wis. Stat. 343.20(3)).

VII. UNIFORM TRAFFIC ENFORCEMENT

- A. The following procedures shall be followed for each of the following types of violations:

1. Operating While Intoxicated Violations

- a) The issuance of Uniform Traffic Citations and the taking into custody of persons for operating a motor vehicle while under the influence of an intoxicant or controlled substance shall be in accordance with Wisconsin State Statutes governing this violation.
- b) Officers should be observant of the circumstances surrounding an OWI incident and should obtain sufficient corroborating evidence of the violation.
- c) Officers shall insure that the violator's motor vehicle is legally parked and secured or towed if necessary.
 - (i) The officer may park and secure the vehicle if permission is obtained from the violator or owner of the vehicle.
 - (ii) If permission is denied and there is a licensed driver in the vehicle capable of driving, that person may take charge of the vehicle with permission of the violator or owner.
 - (iii) If permission is denied for either paragraph i or ii above, the vehicle may be towed from the scene if not legally parked.
- d) The violator shall be transported to the appropriate facility for detention, medical, or investigative purposes.
- e) Applicable uniform traffic citations shall be issued.
- f) The testing for evidence of the violation shall be conducted according to the Implied Consent Statute.
- g) Release of the violator to another person or confinement shall be in accordance with statutory provisions.
- h) Also refer to Policy & Procedure 6.08: Impairment Due to Alcohol and/or Drugs.

2. Speed Violations

- a) Radar/Lidar Speed Enforcement
 - (i) The radar/Lidar unit model used by the department shall be a model approved by the National Highway Traffic Safety Administration (N.H.T.S.A.) or by an authority designated by N.H.T.S.A.
 - (ii) Only those officers trained in the use of the radar/lidar unit shall operate the unit.
 - (iii) Radar/ Lidar units will be checked for calibration and will be annually certified.
 - (iv) The citation narrative shall contain, information regarding testing and calibrating of the radar / lidar units.

- (v) The radar unit shall be checked for calibration by use of the tuning forks and internal circuitry tests before using to monitor speed. Lidar will also be checked for calibration before being used to monitor speed.
- (vi) The calibration check of the radar/lidar unit should be conducted at the start of an officer's shift and as soon as possible following the issuance of traffic citations for speed violations.
- (vii) Officers should use care in the selection of radar/lidar operation sites and avoid areas where interference to the operation of the unit may be present.

b) Vehicle Pacing

- (i) Vehicle pacing is defined as the maintaining of a constant distance between the suspected violator and the patrol car to determine the speed of the suspected violator's vehicle.
- (ii) The speeding violation and circumstances of the situation may dictate a tolerance based upon the judgment of the officer taking enforcement action.
- (iii) When verifying a speed violation, officers shall attempt to obtain a vehicle pacing position as soon as safe and possible.
 - (a) Vehicle pacing must be done with safety.
 - (b) Officers are allowed by statute to exceed the speed limit to obtain a vehicle pace; however, all other traffic codes are applicable.
- (iv) The normal distance for vehicle pacing shall be no less than the distance of two (2) City blocks; however, individual circumstances may dictate a variation from the normal distance.
- (v) Officers shall terminate the vehicle pacing procedure as soon as possible upon obtaining the evidence of a speeding violation within the normal or required distance to do so.
- (vi) Officers shall stop the violator in a safe and timely manner.
- (vii) Officers are encouraged to use discretion when informing violators of the speed traveled when issuing warnings (verbal or written) in speeding violations.
- (viii) Patrol vehicle speedometers shall be checked for accuracy in the method and frequency as prescribed by the chief.

3. Other Hazardous Violations

- a) High Priority Moving Violations: Violations in which the operation of the vehicle is being conducted with a “high degree of recklessness” or the probability exists that the operation could cause injury or property damage.
 - (i) Enforcement of high priority violations will be consistent with established arrest and warning procedures. Generally, citations will be issued when a high priority violation can be proven.
- b) Low Priority Moving and Non-Moving Violations: Violations in which the operation of the vehicle is unlawful but not a direct threat to life or property damage.
 - (i) Enforcement of low priority violations will be consistent with established arrest and warning procedures. Enforcement may include citations, warnings or any combination thereof.

4. Off-Road Vehicle Violations

- a) Off-Road vehicles include all-terrain vehicles, snowmobiles, dirt and mini bikes, etc.
 - (i) Officers shall take appropriate enforcement action for violations committed by operators of off-road vehicles that are observed and/or reported to them.
 - (ii) Officers shall enforce all applicable laws pertaining to the operation and registration of off-road vehicles in accordance with Wisconsin State Statutes and City Ordinances.
 - (iii) It may be necessary for an officer to contact the WI DNR to investigate some off-road vehicle offenses, especially when injury or death has occurred.

5. Equipment Violations

- a) Under most circumstances when a vehicle is found to be in violation of equipment requirements the officer may issue a verbal warning, written warning or citation to the operator or owner of the vehicle.
- b) In some circumstances an officer may have to order a vehicle off the roadway, or have it towed when it is unsafe to operate.

6. Public Carrier/Commercial Vehicle Violations

- a) The enforcement of traffic laws applies equally to public carriers and commercial vehicles. When a violation is observed that will result in the issuance of a Uniform Traffic Citation, the officer should consider the safety and protection of passengers or cargo in conjunction with the enforcement action.

- (i) Officers should attempt to expedite enforcement actions when dealing with a public carrier so as not to unduly delay the passengers. If appropriate, service of the citation might be delayed until the driver concludes their route.
- (ii) Officers shall reasonably insure that valuable cargo of commercial vehicles is protected or arrangements are made for passengers of public carriers if it becomes necessary to detain the operator.
- (iii) Officers shall consider contacting the Wisconsin State Patrol Motor Vehicle Carrier Enforcement Section for assistance for investigating violations, especially when there has been an accident. In cases of injury or death a supervisor shall contact the State Patrol for assistance.

7. Other Non-Hazardous Violations

- a) These violations include but are not limited to equipment violations, parking violations, operator licensing (including revoked or suspended) and registration violations.
 - (i) Officers should actively enforce these violations to address the violations as well as create public impression of an active police presence to encourage voluntary compliance with traffic regulations.

8. Multiple Violations

- a) Enforcement of hazardous violations will be consistent with established arrest and warning procedures in multiple violations as well as in single violations.
 - (i) As a general guideline, officers should issue citations for the more serious offenses and consider verbal or written warnings for the lesser violations arising from the same incident.
 - (ii) It is within the discretion of the investigating officer whether to issue multiple citations for multiple violations arising from the same incident.
 - (iii) Multiple violations should not be issued to a violator solely as a “punitive” measure, but as needed to deter future violations.

9. Newly Enacted Laws and/or Regulations

- a) Unless otherwise directed by the governing body issuing new legislation or a directive from the Chief of Police, officers should consider issuing warnings for a period of 30 (thirty) days after the effective date of a new traffic regulation (non-criminal).

10. Violations Resulting in Traffic Crashes

- a) During a traffic crash investigation, when an officer determines that a violation of Wisconsin traffic law has occurred, the officer should issue a citation to the driver(s) who committed the violation(s).
 - (i) Officer discretion and common sense should be utilized in making this determination, with the understanding that the department has a “pro-enforcement” stance where clear-cut violations causing accidents are concerned.

11. Bicycle Violations

- a) Officers shall proactively take enforcement action for bicycle traffic violations for all age groups.
- b) Bicycle enforcement should be educational in nature, especially when directed at young and/or inexperienced bicyclists.
- c) Enforcement action for persons age twelve (12) and over may consist of:
 - (i) Verbal warning
 - (ii) Written warning
 - (iii) Uniform Traffic Citation
- d) Discretion on the part of the officer shall determine the type of enforcement action to be taken, depending upon the circumstances and severity of the violation.
- e) Enforcement action for person(s) age eleven (10) and under:
 - (i) Verbal warning
 - (ii) Written warning
 - (iii) Juvenile court referral

12. Pedestrian Violations

- a) Officers shall be alert for pedestrian violations and safety hazards such as walking against traffic signals, standing on roadway, sudden pedestrian movement into traffic, etc.
- b) The normal enforcement action to be taken shall be a verbal warning. However, violations that obstruct or interfere with the smooth/safe flow of traffic or that tend to endanger an individual(s) may require other enforcement action, based upon the severity of the violation.

Keith J. Klafke
Chief of Police

This Policy & Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

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