

# BERKELEY POLICE DEPARTMENT

DATE ISSUED: April 19, 2010

GENERAL ORDER T-3

SUBJECT: TRAFFIC LAW ENFORCEMENT

## PURPOSE

- 1 - The purpose of this General Order is to establish guidelines and procedures for **traffic** enforcement **accomplished** through **collision** analysis and active patrol.

## POLICY

- 2 - **Employees of this Department shall enforce state and local traffic laws in accordance with this Order to promote public and individual safety through driver education and vehicle collision mitigation.**
  - (a) **Uniformed officers are expected to be alert to violations of state and local traffic and parking laws, and, when practical, take appropriate enforcement action when offenses are observed.**
  - (b) **Vehicles, either operated by a driver or parked, bicyclists, and pedestrians in the roadway or on sidewalks are subject to enforcement action when violations are observed or reported.**
  - (c) **Priority shall be given to enforcement of laws relating to speed, right-of-way, pedestrian and vehicle occupant safety, and driving under the influence of alcoholic beverages and/or drugs.**
- 3 - **Employees should make a reasonable effort to participate in traffic enforcement to a level which meets or exceeds established standards of performance.**

## PROCEDURES

### General

- 4 - **Employees** assigned the primary duty of traffic enforcement shall be in uniform and utilize a distinctly marked vehicle with **with appropriate emergency equipment.**
- 5 - Officers **not primarily assigned to** traffic enforcement **may operate** any **police vehicle having a forward-facing solid red light and siren in the course of enforcing traffic laws.**
- 6 - **While engaged in directed** traffic enforcement **activity, officers and their vehicles are neither required to be completely concealed, nor obviously visible, to traffic under surveillance.**
- 7 - **As appropriate to the situation, traffic enforcement options available to employees include:** physical arrest; **arrest and** release on a signed promise to

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appear (i.e., **written** citation); or, a verbal warning.

- (a) **An arrest** shall be made when required by law.
- (b) **With regard to newly enacted laws or recent changes in a traffic control sign/device, employees should consider an enforcement option appropriate to the situation and that promotes public education about the new law or traffic control sign/device.**

### Parking Enforcement Procedure

- 8 - Parking enforcement personnel **will be** responsible for the enforcement of metered parking, limited time parking zones, and most special use zones.
  - (a) Unless requested by Parking Enforcement **or directed by a supervisor/command officer**, officers should not issue citations for **local ordinance** parking meter **violations**.
- 9 - Officers **shall investigate illegal parking (e.g., red zone, handicapped zone, blocked hydrant, etc.) and particular equipment-related offenses (e.g., missing license plates or registration tabs, expired registration, etc.)** when violations are reported **to this Department and dispatched as a call for service, or when observed by officers in the course of duty and circumstances permit enforcement action.**
  - (a) **Unless other enforcement action is authorized and appropriate, officers shall issue citations for legitimate and verified violations.**
  - (b) Unless an unusual **or hazardous** circumstance exists, officers will not **investigate or take enforcement action** for complaints of vehicles trespassing on private property.
- 10 - **Employees shall adhere to the enforcement procedures set forth in General Order V-2 regarding "abandoned" vehicle (ref. BMC §14.26.050) violations.**

### Traffic Enforcement, Detention Procedure

- 11 - Traffic **enforcement detentions** should be made as soon as **reasonable** after observing **a violation, with appropriate** consideration given to **officer and public safety, and** the impact the **stop may have upon** the flow of **uninvolved** traffic.
- 12 - **Officers conducting a traffic enforcement detention** should initiate their action in a professional and unambiguous manner.
  - (a) **Officers operating an emergency vehicle shall, at minimum, activate**

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the **vehicle's forward-facing solid red light**, and, **as necessary, employ the vehicle's siren to gain the attention of the intended detainee and alert uninvolved parties in the immediate area to the police action.**

(b) **Employees who initiate enforcement action in a mode other than emergency vehicle operation (i.e., on foot, bicycle, etc.) shall employ appropriate verbal and/or non-verbal methods to communicate their enforcement direction(s) to the intended detainee.**

(1) **Employees shall not unnecessarily place themselves into the path of or proximal to a moving vehicle or bicycle for the purpose of communicating and accomplishing a traffic enforcement detention.**

13 - **Officers conducting a traffic enforcement detention while operating an emergency vehicle shall employ both the forward-facing solid red light and siren, as required by VC §21055, to permissibly violate any traffic law while overtaking a violator to accomplish a stop.**

(a) **Emergency vehicles operated under the authority of VC §§21055 and 21056 may utilize blue, amber, or white warning lights, as well as a headlight flashing system to increase vehicle visibility and public safety.**

(b) **White spotlights shall not be used in a manner that projects any glaring light into the eyes of an approaching driver.**

14 - **Employees shall conduct themselves in a professional and courteous manner when engaging persons involved in a traffic enforcement contact.**

(a) **Officers shall request the detainee's identification (i.e., driver's license if a violation related to vehicle operation) and any other document or information necessary to accomplish the enforcement action.**

(b) **At the soonest practical opportunity, employees shall provide an explanation of the circumstances giving rise to the enforcement contact.**

Traffic Citation Procedure

15 - **Employees shall ensure traffic citations they prepare contain all the required information, including, but not limited to, the code and section violated, and a brief description of the violation (i.e., "stop sign").**

(a) Juveniles: Citations **shall** be issued in accordance with the provisions of General Order J-18.

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- (b) Adults: Citations shall be issued in accordance with the provisions of General Order C-10.
- (1) When practical, the citing employee shall explain to the violator how and when to resolve the citation (e.g., show proof of correction, set a court date, etc.), and should point out relevant information on the front and back of the citation to assist in their understanding.
- (c) Identification Numbers: Place only the driver's operator license number in the space designated for that particular information; other relevant identification numbers (i.e., County PFN) should be noted in the section provided for "additional information".
- 16 - When issuing a citation to a driver for a violation that is "correctable" pursuant to VC §40610, the officer should check the appropriate box on the citation form adjacent to the associated violation code/description.
- (a) In the event the initial reason for the traffic enforcement detention was other than the "correctable" violation for which a citation was issued, officers shall note on the citation *in plain text* the violation supporting the stop (e.g., "WARNED STOP SIGN" or "WARNED SPEED").
- 17 - When an officer issues a citation for an equipment, registration, vehicle size, vehicle weight or load violation to the driver of a vehicle that is registered to another person or business, the officer should ensure the citation is prepared to reflect responsibility for correction rests with the owner of the vehicle, as provided by VC §40001(a).
- (a) If an officer issues a citation for a violation covered under VC §40001(a), where responsibility for correction rests with the owner of the vehicle, the following procedure shall be followed:
- (1) Write the identifying information of the driver of the vehicle on the appropriate lines of the citation.
- (2) Write the name of the registered owner of the vehicle on the appropriate lines of the citation.
- (3) List the violation(s) on the appropriate lines of the citation.
- (4) Check the VC §40001(a) box at the top of the citation and write "OWNER RESPONSIBILITY" on the Promise To Appear signature line.

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- (i) Do not **allow or direct** the driver to sign a citation **that is issued to address “owner responsibility” violations.**
  - (b) **When enforcing multiple violations, one or more of which are “owner responsibility”, and the balance are the responsibility of the driver, the citing officer shall ensure violations associated with the driver are documented independently of those applicable to the vehicle owner (i.e., prepare separate citations.)**
- 18 - **Officers shall not issue a citation that includes traffic and non-traffic violations.**
  - (a) **Citations issued for non-traffic violations of other codes (i.e., Penal Code, Health & Safety Code, Welfare & Institutions Code, etc.) shall not be listed on the same citation form as VC or BMC traffic violations.**
  - (b) **Traffic violations codified in the California Vehicle Code and Berkeley Municipal Code Title 14 may be included on the same citation.**
- 19 - **Officers should take appropriate enforcement action for violations of state and local traffic laws committed by operators of off-road recreational vehicles, whether observed or reported to them.**
  - (a) **Off-road vehicles may include, but are not limited to, "dirt bikes," all terrain vehicles, motorcycles and dune buggies.**
- 20 - **Officers who enforce traffic laws against public carriers or commercial vehicles should handle the contact and investigation in the same manner as any other traffic violation.**
  - (a) **To ensure proper and thorough investigation and enforcement action, officers should request assistance from subject matter experts (i.e., Traffic Bureau personnel, California Highway Patrol, etc.), if needed.**
- 21 - **Completed traffic citations shall be turned in daily by placing them in the designated Traffic Bureau citation collection box, or if produced in an electronic format, transferred to the designated citation management system.**
  - (a) **The Traffic Bureau Sergeant, or his/her designee, shall be responsible for the collection and appropriate routing of completed citations, whether submitted hardcopy or electronically.**

Speed Enforcement and Related Equipment Procedure

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- 22 - **Regarding speed-related citations**, additional to accurately documented violator speed, roadway speed limit, and the safe speed under the existing conditions, the citing officer must **be able to** justify any difference between the prima facie (posted) speed limit and the safe speed, **if different**.
- 23 - **Employees assigned to facilitate police fleet maintenance shall ensure enforcement vehicles in their sphere of responsibility employed for speed-related traffic enforcement are equipped with speedometers verified for accuracy by qualified maintenance staff.**
- (a) **Calibration and verification of speedometer accuracy should occur prior to the vehicle being placed into service, and be reconfirmed as necessary during its service life.**
- 24 - **Electronic devices (e.g., radar, laser, etc.) employed by officers of this Department in traffic enforcement to measure vehicle speed shall comply with all applicable state and federal laws (ref. National Traffic Highway Safety Administration standards and VC §40802(c)(1)(D)).**
- 25 - **Only officers who have received and completed required POST-certified training in electronic equipment designed to measure vehicle speed (hereafter generally, “radar”) may use such equipment for speed-related traffic enforcement purposes (ref. VC §40802(c)(1)(A) and (B)).**
- (a) Training shall include courtroom testimony procedure, as well as actual use of the equipment.
- 26 - **Prior to first use in a duty shift, officers shall check their radar units for accuracy via established assessment procedure for that particular device (i.e., use of tuning fork, the internal check of the counting unit, the light segment test, etc.).**
- 27 - Radar units shall only be used on **highways** which are certified for radar enforcement, or which are exempt from the certification requirements as defined in **VC §40802(b)**.
- 28 - **Officers who determine a radar unit is damaged or dysfunctional shall follow “Defective Condition” reporting protocols set forth in General Order V-4.**
- 29 - The Traffic **Bureau Sergeant, or his/her designee**, shall ensure all **Department** radar units are maintained in proper working condition and that **required** repairs are **accomplished in a timely fashion**.
- 30 - The Traffic **Bureau Sergeant, or his/her designee**, shall maintain **thorough** records for each radar unit, including:

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- (a) Date placed into service.
- (b) Operational complaints and repair records.
- (c) Other records showing operation and calibration certification.

Driver License Enforcement Procedure

- 31 -** When a suspended or revoked driver's license is presented **by a driver** and its status is verified by Department of Motor Vehicles (DMV) computer records, the **officer shall:**
- (a) **Confiscate the driver's** license; and,
  - (b) **If required, complete and issue** a "VERBAL NOTICE BY PEACE OFFICER" (DMV form DL-310), **and forward** completed forms, with the license attached, to the Traffic Bureau.
    - (1) The "VERBAL NOTICE BY PEACE OFFICER" shall also be completed and **issued** when the driver does not present a license, and it is determined the person's license has been suspended or revoked and personal notification is required.
- 32 -** When officers encounter drivers without a valid driver's license, the **vehicle seizure provisions of VC §§22651(p) or 14602.6** should be enforced (**ref. General Order V-2**).
- 33 -** **Officers issuing citations that include violations of VC §§12500(a) or 14601 shall obtain a print out of the driver's DMV driving record and forward it, along with a copy of the vehicle tow form, original citation and seized driver's license** to the Traffic Bureau.
- 34 -** **Officers who encounter** drivers who exhibit unsafe driving practices due to the effects of age, health, lack of understanding of the traffic rules, or an inability to safely operate a motor vehicle, **may submit** a "REQUEST FOR RE-EXAMINATION OF DRIVER" form to the **Department of Motor Vehicles via the** Traffic Bureau.

Physical Arrest Procedure

- 35 -** **Officers making a physical arrest for a traffic offense shall follow custodial and, if relevant, citation release procedures set forth in General Orders J-1 and C-10, respectively.**
- 36 -** A numbered Offense Report shall be completed when documentation beyond the traffic citation is required, or when a physical arrest is made.

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Diplomatic Immunity, Military, Non-Resident/Foreign Drivers

- 37 - Provisions of the **federal and state law** shall be followed when the violator is not a resident of California:
- (a) Certain foreign diplomatic and consular personnel have diplomatic immunity to arrest (**ref. Training & Information Bulletin #140**).
  - (b) U. S. legislators and other public officials are not granted immunity **from criminal liability under law**.
  - (c) Active duty military personnel, stationed or based in California, are to be treated as California residents.
    - (1) Military personnel **who are not based in California should be** treated as non-residents.
    - (2) A California driver's license is accepted as proof of California residency.
  - (d) U. S. Government personnel are not required to have a **California** driver's license while operating a motor vehicle owned or controlled by the United States **while engaged in** the business of the United States.

References: Vehicle Code §§12500(a), 14601, 14602.6, 21055, **21056, 22651, 40001(a), 40300 – 40309, 40610 and 40802**  
**Berkeley Municipal Code Title 14**  
General Orders **C-2, C-10, J-1, J-18, R-31, V-2 and V-4**  
**Police Regulation 234**  
Training & Information Bulletin 140