

	<b>GENERAL ORDER</b>	<b>Effective: 02-28-2022</b>	<b># 09-03</b>
	<b>Section: Operations</b>	<b>Replaces or Modifies: GO #09-03; 8-15-2017</b>	
	<b>Title: Traffic Enforcement</b>		
<b>Issued by: Chief Deputy Mattie Provost</b>			

**I. Purpose:**

To establish guidelines for enforcement of traffic related laws in a manner that promotes the safety of officers and the public.

**CORE PRINCIPLES**

Sanctity of Human Life. FBCSO employees shall make every effort to preserve human life in all situations.

De-escalation. All FBCSO employees shall use de-escalation techniques and tactics to reduce any threats or gain compliance to lawful commands without the use of force or with the lowest level of force possible.

Procedural justice. Procedural justice is defined as the fairness of processes used by those in positions of authority to reach specific outcomes or decisions. Procedural justice is based upon four central principles, - treating people with dignity and respect, giving citizens “voice” during encounters, being neutral in decision making, and conveying trustworthy motives.

Fair and impartial policy. This policy is established to ensure FBCSO employees perform without bias or prejudice toward any person and that all policing activities are fair and impartial.

**II. Policy Statement:**

Officers making traffic stops are to take all reasonable / lawful actions to insure the safety of officers, violators, and motorists. All traffic stops carry a high risk potential (especially since the risk is often unknown to the officer due to the inherent difficulty in determining what violators are possibly concealing within vehicles), so officers are reminded to approach them with a mindset of diligence and caution.

Traffic Enforcement actions are to be commensurate with applicable laws and take into account the degree and severity of the violation(s) committed. The Agency’s ultimate aim in its uniform enforcement of traffic law is to achieve voluntary compliance with traffic laws.

The Fort Bend County Sheriff’s Office (FBCSO) prohibits establishment of traffic citation quotas as defined in the Texas Transportation Code Sec. 720.002.

Neither the Sheriff or his/her Deputies may arrest or accost a person for driving a motor vehicle on a highway in violation of a law relating to motor vehicles unless the sheriff or deputy displays his/her badge. [per Texas Transportation Code Sec. 720.001].

Specific guidelines on the operation of FBCSO vehicles is covered in General Orders 05-03 and 09-

01. Specific guidelines concerning Racial Profiling are found in General Order 03-03.

### III. Definitions:

Officer - An employee or reserve deputy of the FBCSO who is appointed as a Peace Officer and who is not on any status that precludes exercise of police powers (whether due to disciplinary, light duty, or other cause).

Agency – Fort Bend County Sheriff's Office

### V. Details and Procedures:

#### A. Traffic Stop Safety Related Topics

1. Unless conditions make it unsafe, impractical, or impossible the following should be adhered to:
  - a. Prior to stopping a violator - a record of the intended location of the stop, the vehicle license number, and vehicle description should be communicated to public safety dispatch via police radio or MDC. The preferred method is to communicate location via police radio; however, in instances of heavy radio traffic and in cases where a traffic assignment (or similar action) is being worked and the general location has already been communicated – the MDC method is approved.
  - b. Stops should be made in the safest locations readily and reasonably available, (taking into consideration road design, lighting, traffic conditions, etc...). The right side of the roadway is preferred. In cases where the violator chooses to stop in an unsafe location, the officer should direct the violator towards a safer location if possible, (using the public address system as necessary), Once stopped, a suspected DWI/DUI driver should not be allowed to operate his/her vehicle further (taking all reasonable and lawful steps to prevent further operation).
  - c. Violators are to be given notice that they are to stop, using appropriate and lawful means as situations dictate (the preferred methods are red/blue police lights, siren, or actual visual directions of a uniformed officer).
  - d. Police vehicles stopping violators should be positioned in a manner to provide reasonable distance for officer reaction time to possible threats and in a manner to provide the best cover and concealment to deal with possible threats.
  - e. Officers should approach violators in a manner that reasonably maximizes the ability of the officer to deal with possible threats: keeping in mind lines of sight, potential hazards (both inside the violating vehicle and around it [including approaching traffic], and possible cover & concealment options. Approaches from either the driver's or passenger's side are acceptable.
  - f. In those traffic stops made by two or more officers, one officer should be primary and other officer(s) should act as observer(s)/support and provide cover for the primary officer.
2. High Risk Stops:

When a vehicle driven by a known or suspected felon is to be stopped (or other reasonable articulable circumstances lead an officer to believe that a lawful stop may involve high risk to officers / violator/ or the general public), Dispatch is to be notified via police radio of the nature of the high risk stop, location, and description of the vehicle & occupants, the following procedures will be used:

  - a. Officers are to follow all safety precautions and general stopping principles found in

section I.A. of this General Order, keeping in mind the heightened threat potential in high risk stops.

- b. In addition, the following precautions are to be practiced whenever possible and applicable:
  - 1.) Officers will make all reasonable efforts to initiate such stops with a minimum of two marked patrol units. If unmarked vehicles are involved, then officers in the unmarked vehicles should make all reasonable efforts to be in attire that clearly indicates they are peace officers.
  - 2.) Weapons should be drawn and all firearms safety precautions taken until the situation is stabilized.
  - 3.) A single officer should be established to maintain all voice commands with the violator(s) to minimize confusion. Other officers should not give commands unless necessary and appropriate. (Sirens should be turned off if possible when the time comes to give any voice commands).
  - 4.) Occupants are to be removed and secured from the vehicle in a manner which provides maximum cover and concealment to involved officers.

#### B. Violator Contact

1. Unless conditions make it unsafe, impractical, or impossible the following should be adhered to when an officer contacts a violator:
  - a. Greet violator with officer's name and Agency's name (ex. Good Morning, I am Deputy John Doe with the Fort Bend County Sheriff's Office)
  - b. Tell violator the reason for the stop (ex. You were stopped for running a red light).
  - c. Ask the violator for Driver's License and Proof of Financial Responsibility
  - d. Tell violator the proposed enforcement action
  - e. Take appropriate enforcement action
    - 1.) In cases where a citation is issued tell the violator
      - a.) That the signature is not a plea of guilty, only a promise to appear
      - b.) The court date and that appearance is mandatory unless other arrangements are made with the Court
      - c.) That they should read their copy of the citation for specific legal notices and options for disposition (such as entering a plea and paying prior to the court date, issues concerning juveniles, etc...)
    - 2.) In cases where a warning is issued explain that no court action will follow and that the action will not appear on their State driving record.
  - f. Return documents to violator and give a copy of the citation/warning to violator as applicable.
  - g. Release the violator and assist with their reentry into traffic where applicable.
2. Uncooperative violators
  - a. Violators who want to argue the merits of the citation are to be informed in a professional manner that the proper venue for argument is in the Court.
  - b. Officers are not required to show items such as video, laser reading, radar reading, etc... to the violator. An officer may choose to do so at their discretion or the discretion of a Supervisor.
  - c. Officers should allow violators a reasonable chance to give explanatory comments and discuss the issue at hand.
  - d. A Supervisor will be summoned to the scene if a violator demands to speak to one. If a supervisor is not available or an estimated time of arrival is unreasonable, then the violator will be given instructions on how to contact a supervisor to register their

concerns (these determinations on availability and estimated time of arrival are to be made by a supervisor).

C. Enforcement Actions Pursuant to Traffic Law Violations

1. Officers have the following enforcement options available to them. In deciding which option to use, officers are expected to use appropriate discretion and follow all applicable statutory and case law.

a. Physical Arrest

- 1.) DWI, DUI (Minor), Intoxication Assault, Intoxication Manslaughter - On scene arrest should be made unless reasonable, articulable circumstances exist to justify another action.
- 2.) Other Traffic Related Offenses of a grade Class B Misdemeanor or Higher (examples include but not limited to Reckless Driving, Driving while License Invalid [in keeping with procedures established by the Texas Department of Public Safety]) – On scene arrest may be made as appropriate. Officers may choose to file the case and obtain a warrant or indictment as appropriate.
- 3.) Traffic Related Offenses that are Class C Misdemeanor grade – On scene arrest may be made if the person refuses to sign a promise to appear or is unable to provide reasonable proof of their identity and place of residence. Prior to making an on scene arrest solely under the provision of this section, a person of supervisory rank must approve the action.
- 4.) Persons Exempt from physical arrest –
  - a.) Except in cases of treason, felony, or breach of the peace Members of the U.S. Congress and the Texas Legislature are exempt from physical arrest while in session or going to and returning from session (Texas Code of Criminal Procedure Article 1.21)
  - b.) Except in cases of treason, felony, or breach of the peace a person attending an election or going to or returning from a polling place are exempt from physical arrest (Texas Election Code Article 276.005)
  - c.) Persons with Diplomatic Immunity as recognized by the U.S. Department of State (USDS) are immune from arrest [may apply to certain family members]. If the violation is grave (ex. Resulting in the death of someone...) a Supervisor should be notified and information given to the USDS.
  - d.) Persons with Consular status as recognized by the USDS have limited immunity from arrest (as to those actions performed in the exercise of their consular functions); however, this determination is made by a judicial authority. On scene arrest is not permitted. Immunity does not apply to family members. In serious cases a Supervisor should be notified and information given to the USDS.
  - e.) Except in cases of treason, felony, or breach of the peace, members of the military going to or coming from a place required for military duty are not subject to physical arrest. (Texas Government Code Section 431.086).
  - f.) Persons covered in the Texas Transportation Code Section 543.004 (current law lists those charged only with speeding and violation of open container laws). These persons must be issued a citation in lieu of physical arrest. They may be physically arrested if they refuse to sign the written promise to appear. For situations concerning licensed drivers from other States officers will follow the law as found in the Texas Transportation Code Chapter 703.

b. Citation – Is the usual form of enforcement for traffic related offenses that are graded

as Class C Misdemeanors. Physical arrest in lieu of citation in these cases must be approved by a person of supervisory rank and supported by reasonable, articulable justification (attitude of the person arrested alone is not an acceptable justification).

- 1.) Citations are the type of enforcement generally recommended for the following violation categories:
    - a.) Speed
    - b.) General Hazardous and Non-hazardous violations
    - c.) Off road vehicles
    - d.) Equipment
    - e.) Public carrier / Commercial carrier violations
    - f.) Multiple offenses
    - g.) Those Resulting in crashes
    - h.) Pedestrian and bicycle
  - 2.) A person stopped or issued a citation who claims immunities under Title 22 United States Code Chapter 6 (Diplomats/Counsels) or presents a license issued by the United States Department of State will be handled according to Texas Transportation Code Section 543.011.
  - 3.) A member of the military going to or coming from a place required for military duty may be issued a citation; however, the appearance date may not conflict with the member's duty hours. (Texas Government Code Section 431.086)
  - 4.) Juveniles may be issued citations in compliance with the Texas Transportation Code and the Texas Family Code.
- c. Warnings
- 1.) Written warnings are acceptable for minor violations of traffic related offenses where the offender may be expected to correct the issue without need for further action. (If circumstances justify ending a traffic stop prior to the ability to complete a written warning [one example is having to immediately respond to an in progress felony call] then it is permissible to submit the written warning with incomplete information noting the justification details.)
  - 2.) Warnings are also used when a new law is enacted to help educate the public (time frames are established by FBCSO as warranted).
- d. Enforcement Actions not on a highway
- 1.) Highway is defined as the width between the boundary lines of a publicly maintained way any part of which is open to the public for vehicular travel.(Transportation Code Section 541.302)
  - 2.) Enforcement actions (arrest/citation/warning) for violations of the Transportation Code Title 7, Subtitle B and Subtitle C are not authorized unless the violation occurred on a highway.
    - a.) Exceptions to this enforcement ban are those cases where the Transportation Code provision specifically applies to a different place.
      - i.) One example is Reckless Driving (Section 545.401) – this is an example of providing additional authority to enforce for activity taking place somewhere other than a highway.
      - ii.) Another example is Failure to Stop and Render Aid (Section 550.021) and Failure to Stop and Give Information (Section 550.022).
      - iii.) In these and like cases enforcement is authorized in keeping with established enforcement priorities and the defined parameters within the specific section of law.
- e. Violations of motor vehicle liability insurance requirements (including but not limited to Transportation Code Sections 601.053 and 601.191)

- 1.) Enforcement of these violations that are subject to fine only punishment shall be limited to citation or warning unless provisions of Section III.A.1.c are applicable and followed.
- 2.) Citations for these violations may not be issued until there has been a check attempted through the verification system established by the Transportation Code Title 7, Subtitle D, Subchapter N.
  - a.) All citations issued for these violations shall include a statement that is an affirmative indication that the issuing officer was unable at the time of the alleged offence to verify financial responsibility for the vehicle through the verification program established under Subchapter N.
- 3.) Except in cases where a court has ordered impoundment related to violations concerning motor vehicle liability insurance requirements, towing of vehicles solely for these violations is prohibited. Towing is allowed if additional towing authority justifies the tow (one example is arrest pursuant to Section III.A.1.c.)

#### D. Speed Measuring Devices

1. Both radar and laser speed measuring devices are approved for use by Officers. Approval of types/manufacturers of devices used after the effective date of this policy will be by Commander over the Patrol Division.
2. A copy of the following on approved devices will be maintained by the Patrol Division where applicable
  - a. Equipment specification
  - b. Operational procedures
  - c. Proper care and upkeep instructions
  - d. Maintenance and calibration records
3. Before an officer uses an approved device he/she will be trained on its proper operation, care, and upkeep. Officers will obtain certification as applicable. Officers will operate and care for approved devices in the manner presented in training consistent with manufacturer's suggestions on the device.

#### E. Special Circumstances

1. Officers may disarm a violator who has a license to carry a handgun in accordance with Texas Government Code Section 411.207.
2. Drivers Needing Referral for Reexamination by Licensing Authority – If an officer who discovers a licensed driver who is incapable of safely operating a motor vehicle, the officer will document the facts supporting this conclusion in an FBCSO report. The officer will also prepare appropriate forms and submit them to Texas Department of Public Safety.

#### F. Enforcement Priorities/Activities/Practices

1. The highest priority for traffic enforcement will be locations where a history of crashes resulting in death, injury, and/or major property damage indicates that enforcement is a viable option of reducing these types of crashes.
2. Routine traffic enforcement is conducted by uniformed patrol officers
  - a. Visible routine traffic patrols as part of the daily patrol pattern will generally follow an area philosophy (concentrating on the officer's assigned District).
  - b. Directed patrol will be used in response to supervisory instruction, officer discretion, or calls for service on a shift – based upon citizen complaints on a particular shift and/or observation of a problem on a particular shift. This also applies to line patrol (targeting

- a particular stretch of roadway).
- c. Stationary and moving methods of enforcement are allowed (from a vehicle or foot). Using one officer to detect and another to cite is also allowed.
- d. Sight restrictions are allowed; however, concealment for the sole purpose of enforcing traffic laws is only allowed when in accord with the Law and with prior supervisory approval.
- e. Stopping moving traffic law violators without other violations present will be done by marked units, unless prior supervisory approval has been given to conduct the stop with an unmarked unit. An officer conducting a stop in an unmarked unit will insure that he/she is clothed in a manner that readily identifies themselves as a police officer.
- f. Roadside safety checks in compliance with Statutory and Case Law are allowed only with prior approval of Division Commander or higher authority.

3. Selective traffic enforcement activities

a. Traffic Assignments

- 1.) May be generated in response to crash locations [with highest priority on crashes resulting in injury] (targeting areas where enforcement is seen as a tool in reduction in number and/or severity).
- 2.) Will be generated in response to citizen or other Department (examples include other police agencies and other Fort Bend County agencies or departments) complaints of non-compliance (targeting areas where enforcement is seen as a tool in gaining compliance).
- 3.) Any officer may generate a traffic assignment.
- 4.) The Traffic Unit will work traffic assignments on a routine basis. Other marked patrol units will also work these assignments when possible and/or as directed by supervisory personnel.
- 5.) Will generally be 10 days in length unless conditions dictate otherwise. As time permits a follow up may be conducted on locations where there have been previous assignments.

- b. The Commander over the Patrol Division will establish a record keeping system on traffic assignments and issue further directives as needed to respond to needs identified in regards to selective traffic enforcement activities.

G. Specialized Enforcement Initiatives

- 1. Initiatives on specific topics (examples include but are not limited to State Grants for Selective Enforcement, DWI task forces, Seat belt and Child Restraint initiatives) will be approved and coordinated as directed by the Commander over the Patrol Division.
- 2. The Chief Deputy's approval is required prior to application or acceptance of any Grant.

H. Enforcement of Laws Pertaining to Parking, Standing, or Stopping of Vehicles

- 1. Public Safety issues are the primary consideration in determining enforcement actions concerning illegally parked, standing, and/or stopped vehicles. In accordance with State Law and appropriate discretion – officers may take action from citation to removal/impoundment of a vehicle. Generally, citations will be utilized as a means of gaining compliance prior to removal/impoundment of vehicles unless a safety concern suggests immediate need for removal/impoundment.
- 2. Removal/impoundment of vehicles from public roadway or under specific authority under State Law concerning Law Enforcement removal of vehicles from private property
  - a. Officers removing/impounding a vehicle (including vehicles legally defined as abandoned and/or nuisance [junked]) will do so using the Agency's Wrecker Rotation.

- b. A written report will be prepared (including an inventory when possible) and information relayed to the Dispatch function so the vehicle may be entered into the State Computer System.
    - c. The Supervisor over the Dispatch function will maintain and update records on these vehicles.
  - 3. Removal/impoundment of vehicles from private property by private persons
    - a. Generally, private property owners will accomplish removal of vehicles under the appropriate provisions of the Transportation Code (Chapter 683 for Storage Facilities and general private property concerns) and/or the Occupations Code (Chapter 2308 for Parking Facilities) using their own chosen towing company.
    - b. A report of such tow received by the Agency as official notification will be processed according to provisions in the Transportation Code and/or Occupations Code, including generating a report and entering the vehicle into the State Computer System as appropriate (as described above for public roadway removal/impoundment).
- I. Only Officers are authorized to perform actions covered under this General Order. The only exception to this is if authorization is given by a different General Order and in accordance with State Law.
- J. Only the Sheriff or Chief Deputy may authorize exceptions to this General Order.