

	<h1>Garner Police Department</h1> <h2>Written Directive</h2>	
	<b>Chapter:</b> 800 - Operations	
	<b>Directive:</b> 830.02 - Traffic Law Enforcement	
<b>Authorized by:</b> Chief Brandon Zuidema		<b>Effective Date:</b> January 1, 2017
<b>CALEA Standards:</b> 61.1.2, 61.1.3, 61.1.4, 61.1.5, 61.1.6, 61.1.7, 61.1.8, 61.1.9, 61.1.10, 61.1.11, 61.1.12, 61.1.13.		<b>Last Revision:</b> October 1, 2015

### 830.2.1 - Purpose

The purpose of this directive is to establish policy and procedure for the enforcement of traffic laws and regulations.

### 830.2.2 – Policy and Philosophy

- A. It is the policy of the Garner Police Department that traffic enforcement and all services related to enforcement be applied consistently and courteously to promote a positive public attitude and acceptance of whatever enforcement and control are necessary to achieve the goals of the Department.
- B. The primary goal of traffic law enforcement is to protect life and property. This is accomplished by a reduction in traffic crashes. Preventive patrols and active enforcement may reduce traffic crashes. The primary responsibility for traffic enforcement rests with the uniformed personnel of the Patrol and Support Services Divisions; however, all other sworn officers will take appropriate enforcement action when necessary. All officers shall remain familiar with Chapter 20 of the North Carolina General Statutes (NCGS), particularly those articles that pertain to enforcement.
- C. Officer discretion is the key to equitable application of traffic law enforcement with the ultimate goal being the achievement of voluntary compliance. The intent of this directive is to set forth general guidelines for uniform enforcement action for routine situations. This directive cannot and shall not replace officer judgment, for it is impossible to foresee every conceivable situation involving traffic violations. Each officer shall decide what enforcement action is proper based on a combination of training, experience, and common sense.

### 830.2.3 - Traffic Patrol Practices (61.1.6)

- A. Visible Traffic Patrol:
  1. Normal traffic enforcement involves visible patrol by officers during the performance of normal duties as an effective deterrent to traffic law violators. Officers will also be alert to the occurrence of violations while engaged in patrol duties.
  2. The types of visible patrol to be utilized are as follows:
    - a. Area Patrol - Traffic enforcement within the officer's assigned area;
    - b. Line Patrol - Traffic enforcement on a specific street or particular section of roadway, and
    - c. Directed Patrol - Traffic enforcement that is conducted at specific times and/or locations and may be focused on specified offenses.

**B. Stationary Observation:**

1. Stationary observation at a selected place, usually one with an unfavorable crash rate, traffic flow problem, and/or numerous traffic complaints, can serve as an effective traffic enforcement technique.
2. The following are acceptable methods of stationary observation:
  - a. Covert stationary patrol - Stationary observation in which the officer is not visible to drivers being observed.
  - b. Overt stationary patrol - Stationary observation in which the officer is in full view to serve as a deterrent to other drivers. This technique is encouraged when completing reports or conducting other activities that necessitate the officer being out of service for brief periods.

**C. Unmarked Vehicles:**

1. At the discretion of the Chief of Police, unmarked vehicles may be used to accomplish a traffic enforcement purpose. Officers will wear a regulation uniform, and when making traffic stops will take all reasonable measures to make known to drivers that they are police officers.
2. All unmarked vehicles used for traffic enforcement will be equipped with emergency lights (blue or blue and red) and siren.

**830.2.4 - Speed Measuring Devices (61.1.9)****A. Approved Speed Measuring Devices**

1. Sworn department personnel are authorized to utilize only those speed measuring devices approved by the North Carolina Department of Justice, Criminal Justice Education and Training Standards Commission for use in speed enforcement (see 12 NCAC 09C.0601).
2. All speed measuring device operators must be certified through a formal Speed Detection Course as prescribed by the North Carolina Department of Justice, Criminal Justice Education and Training Standards Commission for each type of unit operated, and will operate such equipment in accordance with the procedures established by the commission (see 12 NCAC 09B.0212, 12 NCAC 09B.0213, 12 NCAC 09B.0214 and 12 NCAC 09B.0238).
3. Calibration and testing of approved speed measuring devices will be conducted in accordance with the procedures established by the North Carolina Department of Justice, Criminal Justice Education and Training Standards Commission (see 12 NCAC 09C.0607).
  - a. Such accuracy testing shall be performed for LIDAR, RADAR, and Time/Distance Measurement devices at the beginning and end of the operator's tour of duty, and
  - b. Such accuracy testing shall also be performed for RADAR devices after each enforcement action resulting from the use of the RADAR device.

**B. Department Coordination**

1. The Support Services Division Commander will serve as the speed measuring device coordinator for the Department. He or she will be responsible for the calibration, maintenance and overall care and upkeep of the various devices employed by the Department.

2. The Personnel and Training Sergeant will serve as the coordinator for speed measuring device training and certification. However, once certified, it is the responsibility of the individual officer to ensure that they are scheduled for the necessary class(es) to maintain their certification.

#### **830.2.5 - Alcohol Enforcement Countermeasures (61.1.10)**

- A. The Garner Police Department recognizes that drivers impaired by alcohol and/or other impairing substances present a serious threat to the safety of others. Because of the seriousness of this problem, the Department maintains a Driving While Impaired (D.W.I.) Enforcement Program which includes provisions for public education and enforcement. The Department's D.W.I. Enforcement Program is focused on the enforcement of alcohol and/or drug related traffic offense violations by the fielding of specially trained and equipped personnel and the identification of these offenses as a priority enforcement activity.
- B. Officers will receive formal training in D.W.I. enforcement which includes, but is not limited to:
  1. Identifying D.W.I. motorists by characteristic driving behavior;
  2. Identifying the behavioral signs of intoxication;
  3. The proper administration of field sobriety tests, and
  4. Completion of required D.W.I. reports, forms, and citations to support successful prosecution.
- C. The Department's Traffic Safety Unit is responsible for the development, implementation, and maintenance of drug and alcohol awareness programs for school-aged children and concerned community interest groups.
- D. Selective enforcement efforts to enforce the traffic laws related to alcohol/drug impaired driving will include, but not be limited to, the following:
  1. Selective assignment of personnel to locations where and when analyses indicate that a significantly high ratio of crashes and alcohol related violations occur;
  2. Selected surveillance techniques along roadways at times of high incidents of alcohol/drug related offenses;
  3. Selected alcohol-related crash investigation and analyses of findings by a crash reconstructionist; and
  4. The use of D.W.I. checking stations (note - all checking stations shall meet the requirements set forth in NCGS 20-16.3A and be conducted pursuant to directive 830.07 – *Traffic Checking Stations*).

#### **830.2.6 - Vehicle Stop Protocol (61.1.7; 61.1.8)**

- A. Although enforcing traffic laws is one of the more routine functions that law enforcement officers perform, all too frequently officers are killed or injured in the process.
  1. Traffic law enforcement is a common task performed by patrol officers, but for the violator it is frequently an emotional experience. Officers should be aware of these conditions, striving to make each contact educational, and leaving the violator with the impression that the officer has performed a necessary task in a professional, courteous manner.

2. Each stop offers the potential for danger and no two traffic stops are exactly alike. With this in mind, officers should exercise precautions covered in this directive in order to ensure the safety of themselves as well as the people they serve.
- B. Officers shall use emergency equipment (blue or blue and red lights, siren, etc.) in a prudent, judicious manner when making traffic stops. In addition to applicable State laws governing the use of such emergency equipment, the following procedures shall apply:
1. Emergency lights and siren will be used in accordance with the provisions of directives 810.01 - *Emergency Vehicle Response* and 810.02 - *Vehicle Pursuit* when stopping traffic violators.
  2. Hazard warning lights may be employed when the police vehicle is parked. Hazard warning lights are not intended to be used while the patrol vehicle is in motion.
  3. Spotlight/Takedown Light:
    - a. The spotlight/takedown light should be used as a protection for the officer by illuminating the interior of the violator's vehicle so all occupants are kept in view;
    - b. Spotlights/takedown lights should not be directed in a manner that will hinder oncoming traffic; and
    - c. The spotlight/takedown light should not be used to routinely signal violators to stop.
  4. An officer should employ the vehicle's public address system when it is necessary to provide instructions to a violator prior to any approach.
- C. Officers shall adhere to the following procedures and guidelines when conducting traffic stops, including unknown risk stops:
1. Location
    - a. The officer shall choose the location for the vehicle stop carefully, taking time to effect the stop at a place where any available lighting and nearby cover may be utilized to the fullest advantage if necessary.
    - b. The officer shall also consider the following in choosing a location for a vehicle stop:
      - a. Traffic congestion;
      - b. Pedestrians;
      - c. Road conditions and surrounding terrain, including avoiding curves, hill crests, and intersections; and
      - d. Visibility to oncoming or trailing traffic.
    - c. Use of private driveways or areas providing access to open business establishments will not be used for traffic stops unless absolutely necessary. When private property is used all possible measures will be taken to avoid any inconvenience to property owners and patrons.
  2. When making a traffic stop, the officer will inform the Raleigh-Wake Emergency Communications Center (RWECC) of the following (in the order shown):
    - a. Unit identity and activity conducted;

- b. License plate number, including state of issuance if other than North Carolina;
  - c. The location of the stop; and
  - d. If there is no license plate displayed or the license plate is believed to be fictitious, a brief description of the vehicle, which should include make, model, color, and number of occupants.
3. When approaching the stopped vehicle, officers are to exercise caution, bearing in mind the potential dangers from the violator and/or passengers and existing traffic flow. Officers are encouraged to employ all necessary tactics that will ensure officer safety and accomplishment of a police task.
- a. Officers should check the trunk lid, rear window, rear seat and floorboard as they approach the violator;
  - b. Officers should stop slightly to the rear of the front door or rear door post; and
  - c. Should any occupant of the vehicle exit before the officer has made his/her approach, that person should be directed to get back into the vehicle before attempting the approach.
- D. When making initial contact with the violator, the officer shall
1. Present a professional image in dress, grooming, language, bearing and emotional stability;
  2. Be certain of any violation(s) observed;
  3. Have the necessary forms and equipment which are needed immediately available;
  4. Introduce himself/herself by rank, last name, and "Garner Police Department" and request the violator's driver's license and registration: and
  5. Unless the circumstances dictate otherwise, the officer will advise the violator of the reason for stopping the vehicle; and
  6. Be alert for any signs of physical impairment, emotional distress, and/or alcohol/drug abuse.
- E. The violator is to remain in his/her vehicle unless directed out by the officer.
- F. In the event a high-risk traffic stop is warranted, officers shall modify their traffic stop protocol to adhere to the following procedures and guidelines:
1. The officer shall allow a greater distance between his/her vehicle and the violator's than what is required for a routine traffic stop.
  2. The officer shall not approach a vehicle upon initiating a high risk stop. The vehicle will be cleared in the following manner:
    - a. Each officer involved will seek cover behind a portion of a police vehicle that provides reasonable protection.
    - b. The contact officer will give commands to vehicle's occupant(s) via the PA system. Each person shall be given instructions as to how he/she is to exit the vehicle and where to go and will be instructed to remain in a prone or kneeling position. Instructions shall be given clearly and slowly. The contact officer will give instructions to only one person at a time.

- c. The cover officer will continue to keep visual contact with the occupants of the vehicle with his/her weapon drawn.
  - d. After each known occupant is secured (handcuffed), the contact officer will make another verbal challenge toward the vehicle (in the event someone else is hiding in the car). If no one else is detected the officers may approach and clear the vehicle, keeping in mind the uncertainty of other occupants being in the vehicle.
4. The officer will explain to the violator the nature or reason of the high risk stop. However, this will only be done after the occupants are secured, and it is safe for the officer to do so.

#### **830.2.7 - Enforcement Options (61.1.2; 61.1.4)**

- A. To achieve voluntary compliance with laws and regulations, traffic law enforcement must be supported by uniform and equitable enforcement actions. Members should recognize that qualitative enforcement is as, if not more, important than quantitative enforcement. Officers shall determine the proper enforcement action based on a combination of training, experience, and common sense. The Department does not have a ticket or arrest quota.
- B. The enforcement actions at the disposal of the officer include the following:
1. Physical Arrest:
    - a. Officers should make physical arrests in the following situations:
      - 1) Violations of traffic laws pertaining to Driving While Impaired;
      - 2) Whenever a felony has been committed involving a vehicle;
      - 3) When a charge is made and the violator cannot produce sufficient information to prove their identity;
      - 4) When the violator is licensed by a non-reciprocal state, or
      - 5) When the officer has reason to believe that the person will not comply with the citation if issued.
    - b. In instances where a physical arrest is authorized, the following procedures will apply:
      - 1) Arrestees will be informed of the specific charge(s) against them that warrants their arrest;
      - 2) If the officer intends to question the arrestee about the violation, the arrestee is to be advised of their rights against self-incrimination and their right to counsel;
      - 3) The arrestee's vehicle will be disposed of in accordance with existing Departmental policy, and
      - 4) If the arrestee is physically fit and not in apparent need of medical attention, he/she will be transported to the Wake County Detention Center for necessary processing and subsequent appearance before a magistrate.

2. Citation:
  - a. The issuance of a Uniform Traffic Citation is applicable in most cases for those violators who commit a minor traffic misdemeanor or infraction which jeopardizes the safe and efficient flow of vehicular and pedestrian traffic, including hazardous moving violations, or operating unsafe and/or improperly equipped vehicles.
  - b. When issuing a traffic citation, the issuing officer will relay the following information to the violator:
    - 1) The traffic violation(s) the violator is being charged with;
    - 2) The assigned court date, time and location;
    - 3) If a court appearance by the violator is mandatory or optional;
    - 4) If the violator may be allowed to enter a guilty plea and/or pay the fine by mail and instructions on how to do so, and
    - 5) The location of the Magistrate's Office.
  - c. The Operations Captain, or designee, will provide a schedule of assigned court dates to each officer.
3. Warning:
  - a. A warning, written or verbal, may be issued to a violator whenever there is a minor traffic infraction, equipment violation, or when the act may be a unique violation or where traffic crash potential is minimal.
  - b. If a written warning is issued, the officer will explain to the violator the contents of the warning ticket and provide the violator a copy.
  - c. Warnings or other non-punitive enforcement actions should be substituted for arrests or citations when circumstances warrant, especially in the event the driver was unaware of the violation.

#### **830.2.8 - No Driving Privileges Procedures (61.1.5)**

- A. Suspended / Revoked Licenses: Violators whose driving privileges have been suspended or revoked may be arrested or they may be released on their own recognizance if the officer has reason to believe the violator will make their appearance in court.
- B. No Operator's License:
  1. If the violator does not have a valid operator's license through a DCI/DMV computer check, the officer should cite for no operator's license, unless circumstances warrant a physical arrest (i.e. no supporting identification, out of state resident). The violator shall not be allowed to drive from the location; other arrangements should be made for removal of the vehicle.
  2. If the violator was issued a license in another state and that privilege has been suspended or revoked, the officer should cite for no operator's license, unless circumstances warrant a physical arrest. The violator shall not be allowed to drive from the location; other arrangements should be made for removal of the vehicle.

## C. Procedures for Violators with No Identification:

1. When a violator cannot produce valid identification, the officer shall attempt to confirm the violator's identity using all available criminal justice resources including, but not limited to, the Department's Records Management System, DCI/DMV records and CJLEADS.
  - a. If an officer confirms the violator's identity the officer may use their discretion whether to arrest, issue a citation, or warn the motorist.
  - b. If an officer cannot confirm the identity of the violator he/she shall physically arrest the violator. The officer will advise the magistrate of the lack of identification and request the violator produce proof of identity as a condition of release.
2. In the event that an officer later determines that the violator used a false identity, the officer will:
  - a. Notify the District Attorney's Office that the violator used a false identity and request they dismiss the charges;
  - b. Send a certified registered letter to the person whose identity was misused. The letter will contain information about the charge(s) filed, when/where the incident occurred, and that someone has misused their identity; this is done in case the violator has done this at other times;
  - c. Assist the victim in expungement proceedings in accordance with NCGS 15A-147(a); and
  - d. Initiate a criminal investigation for providing false information to an officer in violation of NCGS 20-29.

**830.2.9 - Driving While Impaired (D.W.I.) Processing (61.1.5; 61.1.11)**

- A. Officers engaged in Driving While Impaired (D.W.I.) enforcement shall be mindful of the strict legal limitations surrounding the apprehension of impaired drivers and the scope of their authority as it relates to enforcement.
- B. An officer's observations are crucial in establishing the requisite probable cause necessary to arrest a violator for D.W.I.
  1. Officers must rely on their formal training and experience in this area, putting particular emphasis on driving actions that give rise to the officer's belief that a motorist is driving while impaired.
  2. Officers shall keep detailed notes of these driving actions and shall activate their in-car camera system to assist in establishing reasonable suspicion for a traffic stop and, ultimately, probable cause for arrest and conviction.
  3. Once an officer decides to stop a vehicle and the driver has pulled over, the officer shall continue establishing probable cause for arrest; this shall include (but not be limited to) the following actions:
    - a. Request the violator's operator's license or other acceptable identification both to identify the violator and to evaluate the violator's divided attention ability;
    - b. Interview the violator, determining that he/she was or is in control of the vehicle;
    - c. Note the number of persons in the vehicle;
    - d. Note any observations that add to your suspicion of intoxication and/or impairment (slurred speech, strong odor of an alcoholic beverage, red and/or glassy eyes, etc.) and

- e. If impairment is detected, request the violator to exit the vehicle and then administer field sobriety tests in a safe location out of traffic.
- C. An officer may require a violator to submit to one or more Field Sobriety Tests (FSTs) and/or an alcohol screening evaluation. Requiring a violator to submit to such evaluations does not constitute an arrest.
1. The test results of any test(s) administered may be used as probable cause to arrest for D.W.I.; the driver's refusal to take any FSTs may not be used as the only probable cause to arrest.
  2. FSTs may include, but are not limited to, the following:
    - a. Horizontal Gaze Nystagmus;
    - b. Walk and Turn;
    - c. One Leg Stand;
    - d. Finger-To-Nose, and
    - e. Alcohol Screening Device.
- D. Once the elements of the D.W.I. violation are clearly established, the officer will effect an arrest following current Departmental procedures and request the violator to submit to a chemical analysis in accordance with the following guidelines (as prescribed in NCGS 20-16.2):
1. The charging officer will choose the type of analysis to be administered. The breath test will be the analysis selected unless there is a reason prohibiting its use;
  2. The charging officer will transport the violator to the site of the chemical analysis. Most breath and blood tests will be conducted at the Wake County Detention Center;
  3. The violator will be taken before a chemical analyst granted a valid permit by the North Carolina Department of Environment, Health and Natural Resources (as prescribed in NCGS 20-139.1(b)) to perform the chemical analysis.
  4. The arrest will be documented on a criminal incident report utilizing the Department's reporting system and on a "*DWI Arrest Supplemental Report*" (GPD form 830.2-A).
- E. Officers will use the following guidelines for chemical analysis test selection:
1. Submission to a breath test(s) will be requested unless:
    - a. The violator is sick, injured, unconscious, admitted to a medical facility, or otherwise unable to be administered such test(s); or
    - b. The breath analysis instrument is not operating properly, preventive maintenance has not been performed, or a licensed chemical analyst is not available.
  2. Submission to a blood test will be requested whenever submission to a breath test is not requested for any of the reasons stated above.
  3. If, at the time of arrest, there is reason to believe that the violator is under the influence of alcohol and drugs (prescription or controlled substance), a breath test will still be required.

- a. If the breath test result is .08% BAC or higher, a blood test will not be required.
  - b. If the breath test result is below .08% BAC, a blood test will be required.
4. The violator may request additional tests (i.e. blood, urine) after he/she submits to the charging officer's initial chemical analysis request. If such a request is made and the violator is not released following their initial appearance, the charging officer must:
- a. Assist the violator in contacting a person to administer the test in accordance with NCGS 20-139.1(d). Allowing the violator to use the telephone is deemed sufficient assistance (State v. Bunton, 27 N.C. Appeal 704 (1975); and
  - b. Allow the person who comes to administer such test(s) access to the violator.
- F. Any violator arrested for D.W.I. is to be taken before a magistrate.
1. Any decision to release the violator to the custody of a responsible third party will be at the magistrate's discretion. This does not preclude the arresting officer from offering the magistrate an opinion or assistance concerning such decision.
  2. One exception to this is that in the event that the violator is to be admitted to a hospital for medical care, the officer may issue a citation in lieu of taking the violator before a magistrate.
- G. Vehicles under the control of a violator arrested for D.W.I. are to be inventoried and towed at the direction of the arresting officer, unless one of the following circumstances exist:
1. The release of the vehicle will not hinder an arrest or investigation and the violator or owner of the vehicle signs a "Consent to Tow, Remove or Store or Leave Vehicle at the scene" form (GPD Form 830.6-B);
  2. The vehicle can be released to a responsible third party who is approved by both the officer and the violator; or
  3. The violator is arrested for D.W.I. and driving while license is revoked, and that revocation came as a result of a previous D.W.I. conviction. In this case, NCGS 20-28 requires the officer to seize the vehicle. The vehicle will be towed by a wrecker service designated by the Wake County School Board.
- H. If the violator arrested for D.W.I. is a juvenile 14 years of age or older, the same procedures will be followed as for an adult with the following exceptions:
1. The charging officer will notify the juvenile's parent or legal guardian of the juvenile's apprehension and request that they meet the officer at an appropriate location where the juvenile will be released to them once the approved test has been administered, and
  2. If the parent or legal guardian cannot be located or does not respond, the juvenile, after the administration of the test, will be held until a determination on custody can be made by the Wake County Juvenile Services Division, Department of Social Services, District Court Judge or Superior Court Judge.

#### **830.2.10 - Uniform Traffic Enforcement Guidelines (61.1.5)**

- A. In order to encourage uniform enforcement standards, officers shall adhere to the following guidelines when enforcing traffic violations:

1. Bicycles: The use of bicycles is governed by many of the same laws that govern motor vehicles. However, a substantial number of bicycle operators are juveniles and are not familiar with or instructed in their proper use pertaining to traffic. The following procedures are intended to result in a more uniform and consistent application of the law:
  - a. In areas where congestion and frequency of traffic crashes involving bicycles is predominant, laws pertaining to the proper operation of bicycles will be strictly enforced;
  - b. On roadways with a substantial flow of vehicular traffic, and where hazardous moving violations are observed involving persons operating bicycles, the applicable laws will be enforced;
  - c. In areas where traffic flow is minimal, visibility is unobstructed, and traffic crash experience is low, officers should exercise broad discretion in the application of laws regarding the operation of bicycles; and
  - d. Officers should be less tolerant with older offenders who should be more aware of the hazards inherent in the operation of a bicycle. Officers should be more lenient in the enforcement of laws and more instructive in their response to youthful offenders.
2. Commercial Carriers: Commercial or "public" carriers who violate traffic laws will be treated in the same manner as the general public. Uniform enforcement policies and procedures outlined in this directive are applicable.
3. Equipment Violations: Enforcement action for equipment violations, i.e. no headlights or worn tires, will be guided by officer discretion. Officers are reminded that voluntary compliance is the goal of enforcement actions for minor violations.
4. Hazardous Violations: Hazardous violations are defined as those violations that pose a direct hazard to the safe and efficient flow of traffic and/or contribute substantially to crashes. These include, but are not limited to, careless and reckless driving, violation of traffic control devices and other crash related violations. The infringement of other people's safety should be a key-determining factor for enforcement action in these situations.
5. Non-Hazardous Violations: Enforcement efforts for non-hazardous violations (those that do not affect the safety or property of others) will be left to the discretion of the officer. Officers should take the appropriate action in order to achieve voluntary compliance.
6. Pedestrians: The enforcement of traffic laws pertaining to pedestrians requires broad discretion from individual officers. Officers should take appropriate enforcement action whenever and wherever pedestrian and bicycle traffic law violations are observed with consideration given to the following:
  - a. Prior to any substantial increase in enforcement directed toward pedestrian traffic, sufficient publicity will be conducted by the Department's administration;
  - b. Officers will concentrate their efforts in areas where pedestrian crashes have been frequent and/or severe; and
  - c. With regard to pedestrian traffic laws, the "intent" of the law will supersede the "letter" of the law, and enforcement will be conducted accordingly.
7. Recreational Vehicles: Any recreational vehicle driven upon the public roadways will be governed by the same registration laws and operator's license laws as any other motor vehicle driven upon public roadways.

- a. Officers are to take appropriate enforcement action for violations committed by drivers of off-road recreational vehicles (i.e. dirt bikes, all-terrain vehicles, mini-bikes) that are observed and/or reported.
  - b. Officers are authorized to have such vehicles towed from the roadway when unlicensed, unregistered, and/or uninsured.
  - c. If misuse of private or public property occurs while operating a recreational vehicle, (i.e. D.W.I., damage to property, trespassing, reckless driving) enforcement action can be taken by officers.
  - d. Juvenile offenders will be handled the same as adult offenders. The seriousness of the offense will be taken into consideration when determining if a parent or guardian should be contacted or if further action will be taken with the Juvenile Services Department.
8. Speed violations: Legally, there is no defense for exceeding the posted speed limit or driving faster than conditions permit. Frequently, violators stopped for speed violations may indicate certain factors unknown to the officer prior to the stop that may have contributed to the violation.
- a. Officers should exercise discretion when deciding if a verbal warning, written warning or a citation is appropriate.
  - b. Consideration should be given to such factors as weather, traffic volume, pedestrians in the area and location of the violation, while being mindful that excessive speed correlates directly with increased traffic crashes.

**B. Multiple violations**

1. When multiple violations are committed by a single violator and arise from a continuous activity, the enforcement action shall be based on the most serious offense committed.
2. Officers may consolidate multiple violations into a single citation or complaint in the following situations:
  - a. When the complaint incorporates all of the simultaneous violations, and
  - b. When the citation addresses overlapping or simultaneous violations.
3. Officers may issue less than the authorized number of citations when it does not compromise their investigative and enforcement responsibilities and it accomplishes a legitimate police purpose; or they may incorporate all charges into a reckless driving charge (NCGS 20-140).
4. In all cases of multiple violations, the enforcement action taken shall be sufficient to support a comprehensive and complete prosecutorial effort.

**C. Newly enacted traffic laws:**

1. When new traffic laws are enacted, the Chief of Police will review them to determine the level and schedule of enforcement action to be taken by Departmental personnel.
2. At his/her discretion, the Chief of Police may authorize verbal or written warnings as the Department's primary enforcement action until the public has been educated on the provisions of the new laws.

**830.2.11 - Special Processing Conditions (61.1.3)**

## A. Non-residents of North Carolina:

1. NCGS 20-4.1 through 20-4.20 govern the reciprocity agreements between North Carolina and other states and regulate when an officer may arrest a non-resident for a violation of the motor vehicle laws of North Carolina.
2. NCGS 20-4.19 provides that an officer shall issue a citation to a non-resident violator if the offense is one which would not result in the suspension or revocation of the person's license under the laws of North Carolina.
  - a. An officer issuing a non-resident violator a citation is forbidden from requiring the nonresident member violator to post bond and is required to release the violator upon personal recognizance.
  - b. Officers issuing citations to nonresident violators shall complete the "Acknowledgement / Personal Recognizance for Appearance" section located at the bottom of the North Carolina Uniform Citation by marking the appropriate box if necessary. The section should then be explained to the nonresident member and a signature obtained.
    - 1) Officers may not issue E-citations to nonresident violators.
    - 2) Nonresident violators who refuse to sign the "Acknowledgement / Personal Recognizance for Appearance" section should be arrested for the original violation and taken before a magistrate.
3. The following states are not members of the Nonresident Violator Compact as of November 1, 2008:

Alaska                  California                  Michigan                  Montana                  Oregon                  Wisconsin

## B. Juveniles:

1. Juveniles will be treated in the same manner as an adult when they commit a traffic violation that is otherwise releasable on a citation for an adult operator.
2. Juveniles who have committed a traffic violation that would necessitate a custodial arrest for an adult will not be taken into custody unless intake is warranted by the nature of the offense. A parent or guardian will be notified as soon as possible and the juvenile will be released into their custody.
3. Juveniles age 16 or 17 with provisional licenses or permits who commit a criminal moving violation may be served with a revocation report (form AOC-CVR-12), arrested and taken before a judicial official for an initial appearance. The officer also has the option to simply issue a citation for the triggering offense and release the provisional licensee. A "criminal moving violation" is defined as "a violation of Part 9 or 10 of Article 3 of this Chapter which is punishable as a misdemeanor or a felony offense. This term does not include the offenses listed in the third paragraph of G.S. 20-16(c) for which no points are assessed, nor does it include equipment violations specified in Part 9 of Article 3 of this Chapter" (NCGS 20-13.3).
4. In all cases where a juvenile is taken into custody, the officer is responsible for notifying the juvenile's parent or guardian of the circumstance as soon as possible. If the officer deems further custody is necessary, he/she must contact the juvenile detention intake for authorization.

5. In all cases, the officer is to obtain the juvenile's name, date of birth, the name of the juvenile's parent or guardian, and the address and a telephone number for the parent or guardian. This information is to then be presented to a Wake County Juvenile Court counselor to determine if further action is to be taken.
6. NCGS 15A-505 requires that the charging officer notify the juvenile's parent or guardian, either in person or by phone (if released on a citation) or by writing within twenty-four (24) hours (if the juvenile is taken into custody) when a minor juvenile less than 18 years of age is charged with any of the following motor vehicle violations for which four or more points could be assessed by DMV:
  - a. Driving while impaired;
  - b. Passing stopped school bus;
  - c. Aggressive driving;
  - d. Reckless driving;
  - e. Hit and run, property damage;
  - f. Following too close;
  - g. Driving on the wrong side of the road;
  - h. Illegal passing; and
  - i. Failure to yield the right of way to a pedestrian, bicycle, motorcycle or scooter.

C. Legislators:

1. Members of the United States Congress and North Carolina State Legislature are, in all cases except treason, felony, and breach of the peace, immune from arrest during their attendance at the session of their respective house, and in going to and returning from the same.
2. There are no North Carolina laws which exempt any other state or local officials, either appointed or elected, from federal, state or local laws. The issuance of a traffic citation, warning (verbal or written), or a physical arrest in those cases where physical arrest is authorized is allowed.

D. Consular Officers/Foreign Diplomats:

1. Under prevailing international law and agreement, a foreign Consular is not liable for arrest or detention pending trial, except in the case of a grave crime (defined as a felony offense that would endanger the public safety) and pursuant to a decision by a competent judicial authority. Immunity from criminal jurisdiction is limited to acts performed in the exercise of Consular functions and is subject to court determination. Family members of Consular officers do not enjoy the same privileges and immunities with respect to the civil and criminal jurisdiction of the receiving state as Consular officers do.
2. Consular Officers can be identified by credentials issued by the State Department and by other locally issued official identification papers. The State Department credentials bear its seal, the name of the officer, his title, and the signature(s) of State Department officials.
3. The mere issuance of a traffic citation does not constitute arrest or detention in the context referred to above.

**E. Military Personnel:**

1. Military personnel whose permanent residence and/or duty station is located outside the State of North Carolina will be treated as a non-resident.
2. In cases where a physical arrest is made, the investigating officer's supervisor will notify the liaison officer of the nearest Armed Forces Investigative Headquarters Division. This does not apply to the issuance of a traffic citation when an actual physical arrest is not made.

**830.2.12 - Request for Re-Examination (61.1.12)**

- A. Persons who have suspected incompetence, physical or mental disabilities, disease, or other conditions that might prevent them from exercising reasonable and ordinary care over a motor vehicle should be reported to the Department of Motor Vehicles.
- B. A written request for re-examination can be made by completing form GPD Form 830.2-B "Driver Reexamination Recommendation". This request should be made in addition to any reports related to the action or incident for which the driver was contacted.
- C. The completed GPD Form 830.2-B "Driver Reexamination Recommendation" shall be forwarded to the Department of Motor Vehicles for processing. A duplicate copy will be maintained in-house and will be forwarded to the Records Unit for filing.

**830.2.13 - Parking Violations (61.1.13)**

- A. Officers on patrol will monitor their assigned areas for parking violations and take action to remedy such violations.
- B. Parking violation notices should be issued when appropriate with consideration given to the following:
  1. Officers will not use wheel-lock devices to prevent the movement of vehicles found in violation of parking ordinances and laws;
  2. Parking violations will be enforced during peak traffic hours only as time and workload permit;
  3. Vehicles in violation of parking ordinances will be towed only when such vehicle constitutes a traffic hazard or is parked in a tow-away zone;
  4. "No parking" zones that are time specific should be checked and enforced during those times if calls for service permit;
  5. In cases where complaints have been lodged concerning parking violations in a particular area, general surveillance or concentrated efforts may be used to curtail the situation; and
  6. Parking enforcement may be conducted while on vehicle, bike or foot patrol.

**830.2.14 - Preparation of Citations/Reports**

- A. Traffic citations and arrest reports form the basis for prosecution and ultimate adjudication of traffic offenders. Therefore, traffic citations and arrest reports shall be complete and accurate.
- B. The following are guidelines for traffic citations and traffic related arrest reports:
  1. Uniform Traffic Citations:

- a. All citations will be neatly and legibly printed and, when handwritten, a non-erasable black ballpoint pen will be used;
  - b. The original top (white) copy of the citation is to be turned into the magistrate or shift supervisor depending upon the circumstances of the charge;
  - c. The audit (yellow) copy is to remain in the citation book;
  - d. The defendant's copy is to be given to the violator, and
  - e. The officer's copy is to be retained by the charging officer for use as notes for later testimony and recollection.
2. An arrest report will be required when a physical arrest of a violator has occurred. This report will be submitted with the officer's daily reports for review by the shift supervisor and then forwarded to Records for disposition.

### **830.2.15 - Accountability for Uniform Traffic Citations**

- A. It is the responsibility of each officer to maintain an adequate supply of Uniform Traffic Citations.
- B. The Quartermaster will issue all citation books, and the control numbers will be logged.
- C. If a citation or citation book is lost or stolen, the officer to whom it was issued will immediately notify his/her supervisor and submit a written memorandum which explains the circumstances and identifies the missing citation or book by control number(s).
- D. If an error is made while writing a citation, or if citations have become damaged, they may be administratively canceled by the officer. The word "VOID" will be written across the citation and all copies. All copies will be left in the citation book.
- E. Amended/dismissed citations:
  1. If an officer wishes to amend or dismiss a citation, he/she may talk to the District Attorney, explaining the reason for the request.
  2. A supervisor may direct an officer to seek dismissal or amend a citation if, upon investigation, it appears that the citation was improperly or inappropriately issued. This type of dismissal will require the approval of the District Attorney, and in no case will any Department employee request a traffic citation issued by another officer be dismissed.
- F. Periodic audits of citation books will be completed at the direction of the Records Manager or his/her designee.
- G. Upon the issuance of the last citation, the citation book shall be turned back into the Records Division for accountability and return to the Clerk of Superior Court.
- H. Court dispositions are kept on computer file at the Wake County Clerk of Superior Court office and are available through that office. They are also available through DCI or CJLEADS.