

# ***POLICIES, PROCEDURES, AND RULES***

<b>Subject:</b> 61.1 Traffic Enforcement	<b>Effective Date:</b> January 16, 2018
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<b>CALEA:</b> 61	No. Pages: 6

## **I. Purpose**

The purpose of this policy is to establish the procedures that enable the Fayetteville Police Department to execute its traffic related responsibilities and services. The department's activities are specifically directed toward reducing violations through preventive patrol and active enforcement, and our standards govern the relationships that exist with motorists, pedestrians, courts, and prosecutors.

## **II. Policy**

### **A. Traffic Enforcement**

1. The prevailing goal of the Fayetteville Police Department's traffic enforcement efforts shall be the reduction and prevention of traffic collisions. The following measures shall be taken with that goal in mind [CALEA 61.1.1]:
  - a. The patrol captain or designee will periodically review and compare traffic collision data [CALEA 61.1.1 a].
  - b. The patrol captain or designee will oversee compilation and review of traffic enforcement activities data using the department's traffic records system [CALEA 61.1.1 b].
  - c. The patrol captain or designee will compare collision data with that of traffic enforcement activities data with the overall purpose to develop the best implementation of selective traffic enforcement [CALEA 61.1.1 c].
  - d. Traffic complaints taken from the public shall also be taken into consideration.
  - e. Areas and specific times of the day and week where multiple collisions have occurred or where complaints have been validated shall be identified. Information will be provided by the patrol captain or his designee to the patrol lieutenants who shall oversee selective assignments of enforcement personnel. [CALEA 61.1.1 d] Traffic enforcement personnel may be assigned with the purpose of combating the problem areas identified [CALEA 61.1.1 e].
  - f. The patrol captain or his designee will evaluate these areas where selective traffic enforcement assignments were made and identify and document reductions in traffic collisions and traffic complaints [CALEA 61.1.1 f].

2. Officers of the Fayetteville Police Department are required to take appropriate enforcement actions incidental to traffic law violations and shall do so in a firm, fair, and impartial manner. Officers have the discretion to address traffic violations committed by residents and non-residents through warnings, citations, and physical arrests. It shall be at the officer's discretion as to which approach is taken where most traffic violations are concerned. Warnings may be issued when circumstances warrant, especially in the case of inadvertent violations. In the majority of cases, the issuance of a traffic citation is applicable for most minor traffic violations. A physical arrest is the preferred method in all cases where sufficient probable cause exists that an operator of a motor vehicle is DWI or DUI [CALEA 61.1.2, 61.1.3a].
3. This policy establishes procedures for officers in their response to violators of specific types of classifications [CALEA 61.1.3]:
  - a. It is the policy of Fayetteville Police Department that in the case of traffic violations involving juveniles, juveniles may be warned, ticketed, or arrested if justified. Warnings may be issued when circumstances warrant, especially in the case of inadvertent violations. The issuance of a traffic citation is applicable for most minor traffic violations. A physical arrest is the preferred method in all cases where sufficient probable cause exists that a juvenile is DWI or DUI. For arrest protocol, officers shall follow the protocol set forth in 44.1.1 Juvenile Operations Policy [CALEA 61.1.3 b].
  - b. By law, members of the United States Congress and the Arkansas Legislature are immune from arrest during their attendance at the session of their respective houses of the legislature and when going to and returning from these sessions, except in cases of treason, felony, and breach of the peace. Officers should exercise good judgment and discretion when facing traffic violators that fall in this category. [CALEA 61.1.3 c].
  - c. Actions that may be taken regarding foreign diplomats, consular officials, and their staff members depend on the person's status. All persons who may have a legitimate claim to some sort of immunity should carry diplomatic identification issued by the U.S. State Department. It is the expectation of the Fayetteville Police Department and this policy that all dealings with such persons shall be handled with courtesy and respect and an awareness of the importance of avoiding an incident that will reflect unfavorably on our city, state, and country. Diplomatic and Consular Privileges differ upon category. If enforcement action is considered justified and required, a traffic citation is the preferred release method. Each category of official may be issued a traffic citation; however, certain categories of officials cannot be arrested or prosecuted due to immunities. Officers faced with the potential for criminal charges on these officials shall contact supervisory personnel to determine the appropriate course of action. If an arrest is legal and warranted, the supervisor should ensure consular notification is followed as described in Fayetteville Police Policy 1.2.1 (Limits of Authority) [CALEA 61.1.3.d].
  - d. Military personnel may be issued warnings, traffic citations, and may be arrested under the same circumstances as other violators in most cases. In cases where military personnel are legitimately in transport to an active duty station under orders of their commanding officer and when a physical arrest is at stake, officers shall consult their supervisor. The supervisor will assist in making an appropriate

determination based on a review of the military person's paperwork, communication with commanding officers that may apply, and review of Arkansas State Law 16-81-102 where immunity to arrest may apply [CALEA 61.1.3 e].

4. Officers of the Fayetteville Police Department will utilize electronic ticketing, when possible, at the time motorists are charged with violations. Fayetteville Police support personnel will provide patrol continued support in the operations of electronic ticketing. Officers shall provide the following information to motorists relating to the specific charge [CALEA 61.1.4]:
  - a. Court appearance date [CALEA 61.1.4 a.];
  - b. A determination of optional or mandatory nature of court appearance by the motorist [CALEA 61.1.4 b.];
  - c. Notice of whether the motorist is allowed to pay the fine by mail or at the police department [CALEA 61.1.4 c.], and;
  - d. Other pertinent information that must be provided to the motorist prior to release [CALEA 61.1.4 d.].
  
5. It is the goal of this policy to provide officers with a consistent approach toward traffic law violations [CALEA 61.1.5]:
  - a. It is the policy of the Fayetteville Police Department to aggressively enforce situations involving the operation of a vehicle by a driver under the influence of alcohol or drugs. A physical arrest is the preferred method in these situations. Officers will be guided by Fayetteville Police Policy 61.1.11 DWI, DUI [CALEA 61.1.5 a.].
  - b. Officers encountering operators driving with a suspended or revoked driver's license based on a previous DWI are encouraged to make a physical arrest. Operators whose license has been suspended for other reasons may be issued a citation, but officers should ensure they don't continue to drive the vehicle [CALEA 61.1.5 b.].
  - c. Officers of the Fayetteville Police Department shall be afforded discretion when deciding upon speeding violations. Officers may give consideration to weather conditions, the subject's manner of driving, traffic volume, location of the offense, and any pedestrian location in determining the appropriate course of action [CALEA 61.1.5 c.].
  - d. Officers should be attuned to other hazardous violations that can result in motor vehicle collisions, injury, and death. Officers are asked to remain alert and to take appropriate actions with violators [CALEA 61.1.5 d.].
  - e. Officers should be attuned to non-hazardous and non-moving violations. In these types of cases, officers are afforded discretion in ensuring violators understand the laws [CALEA 61.1.5 h.].
  - f. Officers must also be prepared to deal with off-road vehicle violations. In these situations, officers must weigh potential impacts of the vehicle's actions, city ordinances, and state laws [CALEA 61.1.5 e.].
  - g. Officers should be mindful of equipment violations of operators and be willing to take enforcement action. In many of these cases, operators in these situations may be displaying an overt disregard for the law and safety of others [CALEA 61.1.5 f.].

- h. In dealing with commercial vehicle violations, officers should be mindful of state laws regarding commercial drivers' licenses. Officers may utilize the Arkansas State Police, the Arkansas Highway Police, and the Department of Transportation [CALEA 61.1.5 g.].
  - i. Officers may encounter violators that have violated multiple laws. This is often the case involving DWI offenses. Officers should be mindful of these different violations and cite or warn accordingly while documenting the various violations [CALEA 61.1.5 i.].
  - j. Officers shall understand that newly enacted laws and regulations will occur. The department's administration and supervisors will assist in identifying these newly enacted laws and introduce them during shift briefings, via email, and with new policies when necessary. Supervisors shall keep an open mind with newly enacted laws and show a willingness to discuss them with their subordinates [CALEA 61.1.5 j.].
  - k. Officers are expected to stay informed of current traffic law. Officers shall understand the difference between primary and secondary violations listed in state statutes and will not stop a vehicle based solely on a secondary violation.
  - l. Investigating officers will have discretion and make all reasonable attempts to establish fault in motor vehicle collisions and may issue a citation or make a physical arrest when warranted [CALEA 61.1.5 k.].
  - m. Officers should be familiar with state laws and city ordinances that govern the movement of pedestrians and bicycles. Officers are afforded the discretion to issue citations when practical and to take opportunities to educate persons when in the best interest of the safety of that person and the public [CALEA 61.1.5 l.].
6. The following will govern traffic law enforcement practices for the Fayetteville Police Department [CALEA 61.1.6]:
- a. Officers assigned to patrol will perform area traffic patrol assignments within their assigned patrol beats (area, line or directed) [CALEA 61.1.6 a.].
  - b. Officers are permitted, independently or through orders, to conduct stationary observation of traffic. This can be conducted in either covert or overt fashion [CALEA 61.1.6 b.].
  - c. Officers will use standard marked patrol units when making law enforcement traffic stops. Unless exigent circumstances are present, unmarked vehicles shall not be used to make law enforcement traffic stops [CALEA 61.1.6 c.].
7. The majority of violators contacted by police may be ordinary citizens who may form their opinion of the police department based on this one encounter. Officers shall engage in a professional manner in their contacts [CALEA 61.1.8]:
- a. Officers shall professionally and courteously identify themselves by full name and department, state the reason for the stop, and when possible, provide written identification.
  - b. Officers should afford the person the opportunity to provide their explanation of their driving behavior.
  - c. Officers should politely ask for the person's identification and remain courteous while projecting a professional demeanor during the interview or questioning.

- d. Officers shall minimize conflict with the violator while facilitating a professional interaction.
8. Routine enforcement, collision reporting, and investigation activities frequently lead to the discovery of drivers who have suspected incompetence, physical or mental disability, disease, or other conditions that might prevent the person from exercising reasonable care over a motor vehicle. An officer having grounds to believe a driver is incompetent shall forward report documentation with an attached letter to Arkansas Driver Control of the Office of Driver Services [CALEA 61.1.12].
  9. Parking enforcement of the Fayetteville Police Department will be carried out in the following categories to include routine patrol, parking complaints, traffic hazards, and special events [CALEA 61.1.13]:
    - a. Officers assigned to patrol shall use sound judgment and appropriate discretion when encountering parking violations of their own observation;
    - b. Officers responding to a complaint of a parking violation shall first investigate to determine the validity of the complaint and take appropriate action (warning, citation, towing, etc);
    - c. Officers responding to a complaint where a traffic hazard exists shall attempt to locate the operator to remove it before towing the vehicle;
    - d. Officers may often encounter parking violations during special events. Generally, the supervisor in charge of the event will have contingency plans for parking issues in areas of our venues. Officers shall report newly found parking issues during the special event.
- B. Safety Checkpoints - Roadside safety checks when used will be part of a directed patrol assignment. They are required to be planned and supervised by a ranking officer of this department [CALEA 61.1.6 d.].
1. Checkpoints are an effective means of enforcing the laws of the State of Arkansas while protecting all motorists. Safety Checkpoints will be conducted within the following parameters:
    - a. Each checkpoint must be conducted in a location furnishing adequate visibility for motorists traveling in either direction. When considering the location, the consideration for officer and public safety is paramount.
    - b. A pull-off area safe zone will be established for vehicles traveling both directions.
    - c. Marked units with activated emergency lights will be stationed at each end of the checkpoint area.
    - d. A supervisor of the department will be required to administer the safety check point.
  2. Officers assigned to a safety checkpoint will abide by the following rules:
    - a. Officers are required to wear reflective vests.
    - b. Officers are to cautiously approach all vehicles and to be alert to suspicious movements and actions of the occupants.

- c. Officers will allow the driver and occupants to remain inside their vehicle unless their removal from the vehicle is necessary due to facts leading the officer to reasonably suspect that: a crime has been or is being committed; the person presents some danger to the officer or others; or the person is armed and presently dangerous.
- d. Officers are instructed to advise the driver of the vehicle, "This is a police safety checkpoint."
- e. Officers should then check the vehicle operator's driver's license and vehicle registration.
- f. Officers should take any action deemed necessary or appropriate.
- g. Officers should close the stop by thanking the vehicle operator for his cooperation and by promptly releasing the vehicle and occupants unless an arrest is made.

Note: It should be noted that in the case of working in conjunction with the Arkansas State Police, the requirements set forth in this policy meet the requirements of the Arkansas State Police.