

# Georgia Department of Public Safety

## Policy Manual

SUBJECT <b>ENFORCEMENT</b>	POLICY NUMBER <b>11.01</b>
DISTRIBUTION <b>SWORN EMPLOYEES</b>	DATE REVISED <b>12/17/2014</b>

### 11.01.1 Purpose

To provide guidelines to promote uniformity statewide as well as specify types of enforcement action required or prohibited for certain violations of the law.

### 11.01.2 Policy

It shall be the policy of the Georgia Department of Public Safety to allow its sworn members appropriate latitude in determining types of enforcement action to be taken. Traffic law enforcement is a primary responsibility of the Georgia State Patrol. Commercial motor vehicle compliance is the primary responsibility of the Motor Carrier Compliance Division. Security of the Capitol and related Government buildings is the primary responsibility of the Capitol Police. Sworn members shall take the enforcement action that they deem necessary to ensure the safety of the motoring public, reduce the number and severity of traffic crashes and reduce the number of criminal acts committed on the highways of this state.

### 11.01.3 Definitions

- A. Enforcement Action – shall include custodial arrests, the issuance of the uniform traffic citation, civil assessments or written warnings.
- B. Uniform Traffic Citation (UTC) – a document, normally used when accusing a person of committing a traffic violation and may function as a charging instrument in the subsequent criminal prosecution.
- C. Written Warning – Documentation of non-punitive enforcement action taken by a sworn member.
- D. Warrants – Within the framework of the daily operations of the Georgia Department of Public Safety, a member may expect to encounter the following types of warrants:
  - 1. Arrest Warrant: A legal instrument signed by a judicial officer authorizing the seizure of a person for a criminal offense.
  - 2. Search Warrant: A legal instrument signed by a judicial officer authorizing the search of a person, place or other location in which there is a reasonable expectation of privacy.

## 11.01.4 Procedures

### A. Notification of First Responders and/or Supervisors

1. The primary responsibility of members engaged in enforcement activity is the safety of persons and property. Therefore, any member who determines that a person is in need of medical attention, or a dangerous situation exists, shall immediately arrange for the notification of the appropriate agency or agencies. These may include:
  - a. Local law enforcement agencies;
  - b. Emergency medical services;
  - c. Fire and rescue agencies;
  - d. State or county highway/road departments;
  - e. State and Local Emergency Management Agencies;
  - f. Public utilities, and
  - g. Medical Examiner/Coroner.
2. Supervisory notification and response shall be required in the following circumstances:
  - a. Crashes involving a departmental vehicle;
  - b. Incidents involving on-duty employees that result in an injury;
  - c. Nighttime road checks, and
  - d. Shootings involving members.
  - e. Unusual situations that require the presence of a supervisor.

### B. Enforcement Actions

1. In general, sworn members who initiate traffic stops or investigate a traffic crash or other crime shall take and document appropriate enforcement action. The sworn member shall also take into consideration the seriousness of the violation and whether the violation is one that requires a custodial arrest.
2. Written warnings may be issued for offenses and conduct that do not warrant the issuance of a UTC when the facts and circumstances surrounding the observed behavior so provide. Appropriate use shall be made of warnings, as they are an integral part of the enforcement effort. The warning shall be completed on the DPS 562 form.
3. The UTC shall be completed on all arrests. A separate citation shall be issued for each violation or each count of a violation.
  - a. Requirements and options for satisfying or answering to the charges shall be given to the violator prior to release, either verbally or in writing. This

information is unique to each county and local municipality. It shall include, but not be limited to:

- 1) The appropriate court of jurisdiction.
  - 2) A specific date for appearance in court, if the court so requires.
  - 3) A phone number for the appropriate court.
  - 4) Any other information deemed necessary by the member.
- b. Violators shall be notified that signing the citation is not an admission of guilt and that failure to sign will result in the person having to post a cash bond. If the violator refuses to sign the citation, the violator will be required to go before a judicial officer or traffic violations bureau and post a cash bond.
- c. Sworn members are to deliver traffic citations to the defendant personally. If there are extenuating circumstances the member shall get approval from their Post Commander/Unit Supervisor to have traffic citations delivered by certified mail. The receipt showing the citations were sent by certified mail shall be retained at the Post/Unit. The fact that the citation was sent by mail shall be noted in the remarks section of the citation.
- d. An appearance citation may be used for misdemeanor violations in lieu of a custodial arrest. In general it is not permissible to issue a notice to appear for any of the following offenses (an exception may be made, for example if the violator is hospitalized):
- 1) Homicide by vehicle;
  - 2) Homicide or serious injury by interference with official traffic control device or railroad sign or signal;
  - 3) Feticide by vehicle;
  - 4) Any felony in the commission of which a motor vehicle is used;
  - 5) Hit and run or leaving the scene of an accident;
  - 6) Racing on highways and streets;
  - 7) Using a motor vehicle in fleeing or attempting to elude an officer;
  - 8) Fraudulent or fictitious use of or application for a license;
  - 9) Driving under the influence;
  - 10) Possession of drugs;
  - 11) Driving on suspended or revoked license;
  - 12) Serious injury by vehicle;
  - 13) Reckless driving;
  - 14) Aggressive driving;

- 15) Any out of state resident whose state is not a member of the Non-Resident Violators Compact Agreement; a list of the current states are listed in the Exhibit #17.12-2, and/or
  - 16) Any other offense for which the court having jurisdiction requires bond.
4. On any offense where the violator is issued a UTC and refuses to sign, the sworn member shall have the option of taking the violator to the local authorities for posting bond.
  5. When appropriate, warrants shall be obtained from local officials. In such cases, the UTC shall be completed and filed in same manner as other citations issued. Citations issued for felony non-traffic offenses shall not be sent to the court, but shall serve only as the official department record of the arrest. All felony citations, both traffic and non-traffic, shall be filed separately and maintained in the unit files for seven years.
  6. Custodial arrests for traffic offenses shall only be effected for the offenses listed in paragraph 3 (1-16) above, any other offense for which a license may be suspended for a first offense by the Commissioner of Department of Driver Services, or if the person is charged with any traffic offense in conjunction with any non-traffic related criminal offense. If the offender is under 21 years of age the member shall refer to O.C.G.A § 40-5-57.1.
  7. Warrants
    - a. All warrants shall be confirmed with the originating agency before executing.
    - b. If the agency issuing the warrant is located in another county or state, the issuing agency must express intent to extradite before the warrant is executed.
  8. Arrested Persons
    - a. Persons arrested and taken into custody shall be released to another officer or agency or shall be incarcerated in an authorized holding facility.
    - b. No holding facilities shall be established or maintained by the Department nor will any room or area on the Department's property be used to confine unattended prisoners.
    - c. Arrested persons who are on the Department's property shall be under the continuous supervision and control of the arresting member or designated member(s).
    - d. This paragraph shall not apply to the inmates, designated by the proper authorities, to attend and work on a daily basis at that facility.
  9. Sworn members making custodial arrests of juveniles shall adhere to the Juvenile Operations Policy #17.01.
  10. When obtaining a warrant, sworn members shall be governed by the following:
    - a. An arrest warrant shall not be required before effecting a custodial arrest for an offense committed in the presence or immediate knowledge of the

member, if a failure of justice would ensue from a delay in making the arrest, and for any act of Family Violence as defined in O.C.G.A. § 19-13-1.

- b. In cases requiring the issuance of an arrest warrant, the member shall apply for the warrant before an appropriate member of the judiciary.
- c. It is the responsibility of the sworn member to present the facts (Probable Cause) of their case to the appropriate Judge as completely and accurately as possible. The powers entrusted in the Judge allow for discretionary judgment in the issuance of said warrant.
- d. Sworn members shall professionally accept the discretionary opinion of the Judge. Under no circumstances shall the sworn member argue with or arrest the official responsible for making such determination.
- e. Service of Warrants
  - 1) Any sworn member of this Department, or any other sworn person may serve an arrest warrant.
  - 2) A sworn-member encountering a person against whom it is confirmed that an arrest warrant has been issued has the authority to arrest that person.
- f. When probable cause exists that contraband or evidence of a crime may be found at a person's home, place of business, or other location in which there is a reasonable expectation of privacy, the member shall first apply for and receive a search warrant from the appropriate member of the judiciary before executing the search.

### C. Enforcement Guidelines

- 1. Driving Under the Influence of Alcohol or Drugs
  - a. Whenever practicable, a person determined to be driving under the influence of alcohol or drugs shall be taken into custody and be delivered to the local authority for booking. Normally it shall not be permissible to issue a notice to appear for a DUI charge. Local policies and procedures shall establish guidelines to be adhered to if the violator is hospitalized.
  - b. All sworn members of the Department shall successfully complete the Advanced Roadside Impaired Driving Enforcement (ARIDE) course.
  - c. Arrest and processing shall be in accordance with State statute and Georgia Department of Public Safety policy.
- 2. Driving While Driver's License Suspended or Revoked
  - a. If the violator has a license that is suspended, disqualified or revoked, a UTC shall be issued and a custodial arrest shall be made. If the suspension is due to a failure to appear or insurance cancellation, the member shall confirm the date of service of said suspension and place it on the citation.
  - b. In the event a sworn member seizes a driver's license for any authorized violation, the license shall be attached to the proper form and forwarded to

the affected court or the Revocation and Suspension Division of the Department of Driver Services.

- c. In the event a member encounters a motorist whose license is suspended, disqualified or revoked for reason requiring a service date and the motorist has not yet been served, the member shall so serve the motorist and release.

### 3. Traffic Law Violations

- a. While all situations cannot be described in this policy a member shall use their knowledge of the circumstances, training and experience in determining whether to issue a warning or a UTC.

- b. Speed and Moving Hazardous Violations

- 1) In determining whether to issue a citation sworn members should consider at a minimum:
  - a) Whether the violation affected other traffic;
  - b) Contributed to a traffic crash;
  - c) The severity of the violation, and/or
  - d) Other attendant factors such as weather conditions and frequency of traffic crashes in the area.
- 2) Speeding violations are to be considered a serious traffic offense which causes traffic crashes, personal injuries, and property damage. The enforcement of speed violations is considered to be a high priority, especially in those areas which have proven to possess a high crash rate related to excessive speed.
- 3) All detected speeding violations shall be enforced by a written warning or citation.

- c. Equipment Violations

- 1) Sworn members should consider:
  - a) The number of equipment violations present.
  - b) The seriousness of the violation(s).
  - c) Evidence that the violation has existed for a lengthy period of time.
  - d) Whether the violation was due to willful negligence.
- 2) Sworn members shall refer to the specific Georgia Code section upon the issuance of a UTC.

- d. Pedestrians, Bicycle, and Off Road Vehicle Violations

- 1) Enforcement action shall include the regulation of pedestrians, bicycles and off road vehicles according to State law.

- 2) In areas that have experienced high crash rates involving such persons or vehicles, enforcement of applicable law shall be stressed.
- e. Occupant Protection
- 1) All sworn members of the Department shall successfully complete the Child Passenger Safety Technician (CPST) course.
  - 2) All members should make every effort to detect occupant protection traffic violations. Enforcement action should be taken whenever such a violation occurs whether during routine patrol or in the course of an accident investigation. Members are to use good judgment, taking into consideration the circumstances of the situation, when determining whether to issue a warning or citation.
- f. Commercial Vehicle Violations
- 1) Violations committed by drivers of commercial vehicles shall be enforced in the same manner as for other drivers.
  - 2) Since most commercial vehicles require greater stopping distance, special attention shall be given to violations involving excessive speed and following too closely.
  - 3) In cases involving serious equipment violations, duty status requirements, etc., sworn members may request the assistance of an officer from the Motor Carrier Compliance Division.
  - 4) Members should ensure that the operator possesses the proper classification of commercial driver license and that any required endorsements have been obtained.
  - 5) Members shall complete an Out of Service Notification Form (DPS 1256) when a driver of a commercial vehicle is found to have any measurable amount of alcohol in their system or who refuses to submit to a test to determine the presence of alcohol in their system.
- g. Other Non Hazardous Violations
- Special attention shall be given to the use of restraints and proof of insurance.
- h. Parking Violations
- Parking Violations shall be enforced as deemed appropriate by the member.
- i. Multiple Violations
- 1) Sworn members shall determine whether to issue a written warning, UTC or a combination of both.
  - 2) A separate written warning or UTC shall be issued for each violation.
- j. Newly Enacted Laws and/or Regulations

Sworn members shall use discretion in the enforcement of newly enacted laws and/or regulations.

k. Violations resulting in Traffic Crashes

It shall be the general policy of the Department that a citation be issued when the Trooper determines the driver has committed a violation.

l. Civil Assessments

1) Overweight Citations

2) Compliance Review Violations

m. Juvenile Enforcement Guidelines

Juvenile enforcement guidelines set forth in the Juvenile Operations Policy #17.01 shall be adhered to.

D. Selective Enforcement

1. The ultimate goal of selective traffic enforcement is the protection of life and property through the reduction of traffic crashes. The management of vehicular and pedestrian traffic requires a selective traffic enforcement program as well as the best practical response to demands for service. An effective selective traffic enforcement program requires uniform, sustained enforcement operations in locations and at times which have proven to be most hazardous to highway users.
2. Post/Region Commanders/Unit Supervisors shall be responsible for developing and maintaining effective selective enforcement programs within their respective territories. Post/Region Commanders/Unit Supervisors should consider the application of techniques that utilize the assignment of personnel and equipment in locations and at times that target specific unlawful and hazardous driving behavior.

These techniques should be based on available statistical analysis material both current and from previous dates and other information including but not limited to the following:

- a. Frequent crash locations;
  - b. Specific roadways with high volume of crashes;
  - c. Daily and seasonal variations in traffic volume and/or crashes;
  - d. Calls for service;
  - e. Rural or suburban area, and
  - f. Enforcement activity summary.
3. Post/Station Commanders/Unit Supervisors shall assign available personnel and equipment with enforcement priorities directed at the types of violations of highest traffic crash potential. Assignment shall be based upon the analysis of date, time, location, violations and other contributing factors in traffic crashes.



Troop/Region Commanders/Section Supervisors shall monitor these activities and may deviate the assignment if impractical.

4. Post/Region Commanders/Unit Supervisors shall evaluate their selective enforcement programs and determine their effectiveness on a continuing basis. Evaluations shall be conducted more frequently if traffic density and crashes increase.
5. Selective Enforcement programs may include but are not limited to activities as follows:
  - a. Road checks;
  - b. Stationary observation;
  - c. Radar enforcement;
  - d. Concentrated patrols;
  - e. Special enforcement programs made possible by grant funds, and
  - f. Any other appropriate program.
6. Analysis reports shall be forwarded on a semi-annual basis to the Troop Commander/Section Supervisor to be reviewed for effectiveness. Troop Commanders/Section Supervisors shall document their review and direct any revisions to their Post Commanders/Unit Supervisors.

#### E. Traffic Enforcement Practices

1. Sworn members shall engage in preventative patrols unless otherwise assigned.
2. Supervisors shall assign preventative patrols where problem areas exist within their territory.
3. Visibility shall be enhanced by frequently changing patrol patterns.
4. Visible stationary patrols should be used at locations where the volume of traffic or crashes is high.
5. Patrol speeds by members should be based on traffic and weather conditions. Generally, members shall observe all traffic regulations except as allowed by law.
6. Patrol vehicles without bar lights should be utilized to facilitate enforcement of traffic violations, such as aggressive driving.
7. Unmarked vehicles are not regularly utilized in daily patrol operations.
8. Region Commanders of MCCD will maximize patrols to effectively enforce commercial compliance of commercial vehicles.

### **11.01.5 MCCD MCSAP Classifications**

- A. Members of the Motor Carrier Compliance Division shall comply with the time and activity reporting requirements as related to the Motor Carrier Safety Assistance

Program (MCSAP), DPS Commercial Vehicle Safety Plan (CVSP), and the DPS State Size and Weight Enforcement Plan.

- B. For the purposes of MCSAP, screening and patrolling are defined as follows:
1. Screening – is a static (stationary), preliminary assessment of a commercial motor vehicle, its cargo, and/or operator, to determine whether such vehicle or operator warrants a MCSAP inspection.
  2. Patrolling – is a mobile effort by an officer designed to target for MCSAP inspection commercial motor vehicles and commercial vehicle operators.