



**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF SAFETY**  
**DIVISION OF STATE POLICE**  
**PROFESSIONAL STANDARDS OF CONDUCT**



DIRECTIVE TITLE: TRAFFIC LAW ENFORCEMENT PROCEDURES

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**CHAPTER 61-A**  
**TRAFFIC LAW ENFORCEMENT PROCEDURES**

**61-A.0.0 DISCUSSION:**

It is the Division's policy to ensure that traffic enforcement actions are uniformly applied, commensurate with applicable laws and take into account the severity and special circumstances of any given violation.

**61-A.1.0 DEFINITIONS:**

Marked Cruiser: Fully marked cruiser with light bar.

Semi-Marked Cruiser: Marked cruiser with no light bar and no trunk markings.

Unmarked Patrol Cruiser: Patrol cruiser with State Police plates only. No markings or light bar.

Unmarked Cruiser: Detective and Staff cruiser.

Undercover Vehicle: Undercover, non-conventional police vehicle

**61-A.1.1 DIVISION TRAFFIC LAW ENFORCEMENT PRACTICES:**

A. **VISIBLE TRAFFIC PATROL:** Uniformed Division members are responsible for being familiar with traffic patterns within their assigned patrols and will make reasonable efforts to enforce traffic laws, especially during periods of peak traffic volume.

B. **STATIONARY OBSERVATION:** When practical, consideration should be given to monitoring traffic from a fixed position. Continuous visibility of a cruiser in a particular location will reinforce proper driving habits of all drivers.

Note: Stationary flagging of motor vehicle violators has been rescinded.

- C. **USE OF UNDERCOVER VEHICLES:** Use of undercover vehicles to enforce traffic laws is not recommended. In the event a Division member driving such a vehicle encounters a motor vehicle offense serious enough to require action, the Division member should request assistance from the closest cruiser to conduct the enforcement action.

**61-A.2.1 TRAFFIC LAW ENFORCEMENT ACTIONS:**

**A. PHYSICAL ARREST:** May occur:

1. When the violator has committed a class "A" misdemeanor or felony traffic offense.
2. When the violation requires physical arrest by its very nature, i.e. DWI, warrant arrests, etc.
3. At the discretion of the Division member if/when the situation warrants and physical arrest is lawful under the laws of arrest.

Further guidance concerning physical arrest may be found in Professional Standards of Conduct Chapters 41-A ARREST, 41-B RELEASE AND BAIL PROCEDURES, 41-C SPECIAL ARREST & BAIL SITUATIONS, 41-T PRISONER TRANSPORTATION and 41-U CUSTODIAL SEARCH OF PERSONS.

**B. RELEASE WITH WRITTEN SUMMONS:** Issuance of a written summons to a motor vehicle code violator is appropriate when necessary to stop the violator from committing future offenses.

1. Use of a motor vehicle record check may be used to determine a violator's past driving habits and a propensity of committing motor vehicle violations.
2. At the time a motorist is charged with a violation, the following information shall be provided prior to release.
  - a. The appearance or answer date of the summons.
  - b. If attendance at a court is mandatory.
  - c. The address of issuing Court.
  - d. Notice of whether the motorist may plead and/or pay a fine via mail.
  - e. Amount of fine if applicable.

C. **WARNINGS:** Division member's have the discretion to issue warnings in lieu of summonses in cases where:

1. The violation was minor in terms of seriousness and danger,
2. A motor vehicle record check shows the person not to be a regular violator and/or
3. It appears that the violation was inadvertent.
4. All motor vehicle warnings should be documented on the DSSP 5 Enforcement Action Slip.
  - a. Although there may be times when documented warnings are impractical, use of undocumented verbal warnings is discouraged as there is no way to account for them.

**61-A.3.1 SPECIAL TRAFFIC LAW VIOLATION SITUATIONS:**

A. **NON-RESIDENTS OF THIS STATE:** Non-residents shall not be treated differently than residents during traffic stops.

1. In many instances New Hampshire enjoys a reciprocal agreement with other compact member states, where out of state violators are to be treated as residents of this State.

B. **JUVENILES:** Summonses can be issued to Juveniles in cases involving:

Motor Vehicle Offenses  
Aeronautics Offenses  
Navigation Offenses  
Fish and Game Offenses  
Liquor Law Violations  
Tobacco law violations  
Violations of City Ordinances.

1. Children age fifteen (15) years or younger shall not be issued adult summonses, but shall be brought to Juvenile Court utilizing Juvenile Petitions alleging them to be a **Delinquent Child per RSA 169-B.**
2. Persons sixteen (16) years of age and older shall be treated as adults when they have been found to have violated a motor vehicle law.

- a. Consult with the appropriate County Attorney in any Felony Motor Vehicle Case. Persons sixteen (16) must be certified as adults before being tried in Superior Court for Motor Vehicle Felonies, i.e.

Negligent Homicide  
Manslaughter  
Aggravated DWI Offenses.

- b. In cases involving the combination of juveniles, motor vehicles and alcohol, refer to Professional Standards of Conduct Chapter 82-B "UNLAWFUL TRANSPORTATION / MINORS IN POSSESSION OF ALCOHOL"

**C. LEGISLATORS:**

1. The constitution of the State of New Hampshire Part 2: Article 21 (Privileges of Members of Legislature) states: "No member of the house of representatives or senate shall be arrested, or held to bail, on mesne process, during his going to, returning from, or attendance upon, the court.
2. The constitutional immunity set out in Part 2, Article 21 does not apply to criminal cases. Thus, legislators are not immune from enforcement action based on violations of motor vehicle or other criminal laws and they should be treated in the same manner and with the same courtesy as any other citizen.

**D. FOREIGN DIPLOMATS AND CONSULAR OFFICIALS:**

1. All foreign Diplomats serving within the United States are required to register their motor vehicles and obtain driver's licenses through the State Department's

Diplomat Motor Vehicle Office (DMVO)  
3507 International Place NW  
Washington, DC 20008

2. When a Division member encounters a person who claims to have a legitimate diplomatic immunity, and the Division member is confident with those credentials, the following course of actions will apply.
  - a. **Summons for Traffic Violation:** Issuance of a summons for a motor vehicle violation is acceptable and does not constitute an "arrest" of persons with Diplomatic Immunity. Diplomats shall be treated like any other person during motor vehicle stops for traffic violations.

- (1) A copy of the summons shall be forwarded through the chain of command to be mailed to the DMVO.
- b. **Motor Vehicle Accidents:** Motor Vehicle Accidents should be investigated normally.
  - (1) A copy of the report shall be forwarded through the chain of command to be mailed to the DMVO.
- c. **Driving While Intoxicated:**
  - (1) Persons with Diplomatic Immunity cannot be arrested. The following steps should be taken:
    - (a) Give Field Sobriety Tests,
    - (b) Issue a summons,
    - (c) Arrange for transportation and/or bring driver to a safe place so they can arrange for transportation and
    - (d) Send DWI report to DMVO.
  - (2) A driver with Diplomatic Immunity cannot be arrested and taken to a police station.
    - (a) However if the person is combative, it is acceptable to use any means to provide protection to the public, officer, and driver. This can include temporarily placing a driver in a cell as a last resort. The driver would be "**held for protection**". DMVO needs to be notified immediately of this type of incident.
3. When doing any report involving a person with diplomatic immunity status, never use the word "**detained**" or "**detention**", use words such as "**delayed**" or "**held for protection**".

E. **MILITARY PERSONNEL:**

1. Military personnel enjoy no specific immunity unless the Division member is convinced that a national emergency exists requiring the military member to violate a motor vehicle law.

Approved:

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Commissioner of Safety

Ordered:

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Director of State Police