


<b>MELROSE POLICE DEPARTMENT</b>		Department Manual: <b>Policy No. 5.01</b>
<b>Traffic Enforcement</b>		
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 61.1.1, 61.1.3, 61.1.5, 61.1.6, 61.1.12, 61.4.4		<b>GENERAL ORDER</b>  <b>61-001</b>
Effective Date: <b>November 7, 2022</b>  Revised: June 25, 2003 February 29, 2024	Issuing Authority <i>Kevin Faller</i> <b>Kevin Faller</b> Chief of Police	

## GENERAL CONSIDERATIONS AND GUIDELINES:

Traffic enforcement, education and engineering are elements of an overall traffic safety program to promote the safe, efficient, and orderly movement of motor vehicles over the roads and highways in each community. Enforcement and education programs are designed to change illegal and dangerous driving behavior and to promote *voluntary compliance* with the laws of the Commonwealth of Massachusetts. Effective traffic safety programs:

- Maximize the presence of personnel and equipment at locations and times conducive to enhancing traffic safety and flow;
- Maximize the utilization of traffic data, accident reports, and citations information as key identifiers for personnel deployment and selective traffic enforcement; and
- Maximize partnerships for sharing information and knowledge with other law enforcement agencies, transportation, researchers and educators to focus attention on prevention programs and problem solving activities.

Another goal is to facilitate the safe and expeditious movement of vehicular and pedestrian traffic, accomplished through the public's voluntary compliance with traffic regulations. Departments meet these goals through a combination of education, enforcement, engineering, and public support.

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With the ever-increasing number of vehicles and operators on the roadways, traffic crashes will continue to occur. To limit the likelihood of accidents, it is essential to understand the importance of accident investigation and reporting. Data from such are the prime source of information for accident prevention programs. It is therefore imperative that proper information be gathered for use in planning, evaluating, and implementing efforts to achieve highway safety goals.

### **POLICY:**

It is the policy of the Melrose Police Department to reduce traffic collisions, fatalities, and injuries; facilitate the safe and expeditious movement of vehicular and pedestrian traffic; report and respond to traffic accidents according to this and other policies; and make motor vehicle stops based solely on the violation observed, not on the profile of the vehicle's occupants.

### **PROCEDURES:**

#### **A. Traffic Enforcement**

##### **1. General Enforcement**

The ultimate objective of traffic enforcement is to favorably alter the violator's future driving behavior, thus fostering a climate of safe driving throughout the community.

- a. The department is unequivocally opposed to preferential treatment pertaining to adjudication of traffic cases in any manner by any agency, official or person.
- c. Traffic law enforcement will not be used to generate revenue for the department.
- d. The number of citations issued by an officer shall not be the sole basis of determining an officer's traffic enforcement efforts. The quality of the citations, i.e., accidents and injury-causing types of violations and other elements, will also be considered in an overall evaluation.
- e. In cases where conventional directed visible traffic patrol enforcement (marked visible cruisers) is unsuccessful, the use of stationary observation, covert and overt and unmarked or unconventional vehicles should be utilized. Unmarked vehicles and stationary observation may be used where specific violations must be addressed, such as passing school buses, speeding vehicles, crosswalk violations, stop sign violations, etc. Covert enforcement should be utilized where overt enforcement has failed and as determined by the Chief of Police or his/her designee.

**2. Selective Enforcement/Assignment of Personnel**

- a. To ensure maximum reduction of accidents, enforcement pressure should be applied in proportion to need at the locations, and at the hours, of greatest accident expectancy.
- b. The Traffic Supervisor will periodically compile, review, and compare collision data and traffic enforcement data. This analysis shall be used to suggest the assignment of personnel and plan selective enforcement activities including, but not limited to, the deployment of additional personnel and/or traffic enforcement equipment (radar, speed trailers, unmarked cars, etc.). **61.1.1 (a-e)**
- b. Traffic laws will be enforced at a level sufficient to ensure the safe and expeditious movement of traffic.
- c. Enforcement activities will be conducted in a consistent and uniform manner and will not give preference to either residents or non-residents. It should be directed against the violations that cause the largest number of accidents and against the group of drivers who are responsible for the majority of the violations and constitute the greatest hazard to the community.
- d. **PROFILING PROHIBITED:** Racial, age, gender, and any other type of profiling is strictly prohibited as a justification for any police officer to conduct any type of stop or seizure of a citizen. Traffic enforcement shall be based solely on the basis of the violation observed and not the profile of the operator and/or occupants.
- e. The deployment of patrol personnel will be based on an analysis of traffic accidents and residents' perceptions of traffic related problems in their area. The deployment of additional personnel will be directed by the Officer in Charge with close coordination with the Traffic Supervisor and the Traffic Division. **61.1.1 (e)**
- f. Annually, the Traffic Supervisor, or his designee, shall evaluate selective enforcement efforts conducted within the City to ensure that enforcement action is reducing accidents. The results of this evaluation will be documented and reported to the Chief of Police. **61.1.1 (f)**

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### B. Categories of Drivers:

Establishes procedures for handling traffic violations committed by;

- i. NONRESIDENTS: Enforcement activities shall be consistent and executed in a uniform manner that does not give preference to local residents or non-residents. **61.1.3 a**
- ii. JUVENILES: There are no special procedures dealing with juvenile offenders of the traffic laws and in the issuance of citations. Special procedures come into play only if there is an arrest of a juvenile. When this occurs, officers are to be guided by the departmental policy on **Juveniles**. **61.1.3 b**
- iii. STATE LEGISLATORS: The Massachusetts Constitution (Part 2, Chap. 1, Sec. 3, and Article 10) stipulates that state legislators, while attending, going to, or returning from a session of their respective houses shall be **exempt from physical arrest**. However, citations may be issued as appropriate. **61.1.3 c**
- iv. U.S. SENATORS & REPRESENTATIVES: United States Senators and Members of the House of Representative **are immune from physical arrest** while attending, going to, or returning from a session of their respective houses. **61.1.3 c**
- v. DIPLOMATIC AND CONSULAR OFFICERS: These officials shall be accorded their respective privileges, rights, and immunities as directed by international law and federal statute. These officials shall be treated with the courtesy and respect that befit their distinguished positions. **61.1.3 d**
- vi. Diplomatic officers, their families, official staff and servants, and consular officers are **protected by unlimited immunity from arrest** (except for the commission of a felonious crime where public safety is endangered), detention, or prosecution with respect to any civil or criminal offense.
- vii. Traffic citations may be issued; however, the subject may not be compelled to sign the citation. (Whether it is paid is another matter.)
- viii. Any citations issued **shall** be reported to the U.S. Department of State. The State Department maintains driver histories and assesses points for moving violations. Drivers who demonstrate a pattern of driving infractions are subject to having their license suspended or revoked.
- ix. OUI: When such person with full immunity from arrest is, in the officer's opinion, too impaired to drive safely, the officer may:

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1. With the individual's permission, take him/her to the police station or other location until [s]he recovers sufficiently to drive;
  2. Summon, or allow the individual to summon a friend or relative to drive; or
  3. Call a taxi.
- x. **MILITARY PERSONNEL:** When dealing with military personnel and a physical arrest is made, the investigating officer's supervisor shall cause the liaison officer of the nearest armed forces investigative headquarters division to be notified. **61.1.3 e**

### C. Enforcement Policies

- a. **NON-MOVING VIOLATIONS:** With other non-hazardous violations of law, ordinances, by-laws, or regulations affecting the use or protection of streets or highways, but not enacted primarily to regulate safe movement of vehicles and pedestrians, consider warnings unless repetitive or flagrant. **61.1.5 a**
- b. **EQUIPMENT/SAFETY VIOLATIONS:** Equipment required on motor vehicles is covered under G.L. c. 90, s. 7. When a vehicle is found to be in violation, officers should consider issuance of a citation for any essential equipment defects. Whenever a fixture is missing and it is obvious that the owner is aware of the defective equipment, a citation should generally be issued. Examples of this would be headlight removal, parking brake disconnected, rear light fixture removed, etc. However, if the equipment violation is not obvious, the officer should stop and inform the violator of the defect and give a verbal warning or a written warning. **61.1.5 b**
- c. **MOVING VIOLATIONS:** A moving violation means the violation of any law, ordinance, or regulation affecting the use or protection of streets and highways enacted primarily to regulate safe movement of vehicles and pedestrians. There are two general types: **61.1.5 k; c**
  - i. **UNSAFE BEHAVIOR:** An action or omission in traffic which is hazardous even when vehicles, streets, highways, or people involved are in legal condition.
  - ii. **UNSAFE CONDITION:** Causing or permitting an illegal and possibly hazardous condition of a driver or pedestrian in traffic, streets or highways used by traffic, or vehicle used in traffic.

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When considering enforcement action upon concluding a moving violation has occurred, Officers should primarily consider the degree to which public safety was compromised, potentially or otherwise, by the offender's actions.

- d. **MULTIPLE VIOLATIONS:** In the event an Officer concludes that an operator is responsible for multiple distinct violations, each individual violation should be documented on the citation(s). The enforcement action chosen should be commensurate with the level of dangerousness brought about by the combined infractions. **61.1.5 d**
- e. **PUBLIC CARRIER/COMMERCIAL VEHICLE VIOLATION:** Particularly in the downtown area, consider congestion, lack of parking, and carrier needs for delivery access. Repetitive violators should be cited. **61.1.5 e**
- f. **PEDESTRIANS:** Officers shall take appropriate enforcement action against pedestrians committing violations that are observed. Officers are to be mindful that this enforcement is intended to favorably alter egregiously unsafe behaviors despite the possibility that such behavior may have become common. Officers should be tactful and empathic during these interactions. **61.1.5g**
- g. **BICYCLES:** In those areas where traffic flow is minimal, visibility is unobstructed, and traffic accident experience is low, officers should exercise discretion in the application of those laws regarding the safe operation of bicycles. **Conversely, where congestion and the frequency of accident experience involving bicycles have been predominant, laws pertaining to safe operation of bicycles shall be strictly enforced.** **61.1.5 h**
- h. **SUSPENSION/REVOCATION:** If the officer is certain of the suspension/revocation and observes operation, [s]he should affect a physical arrest. The vehicle shall be handled in accordance with the departmental policies on Motor Vehicle Inventory and towing. **61.1.5.i**
- i. **UNVERIFIED SUSPENSION/REVOCATION:** If the officer is unsure of the actual status, a written citation for operation without license in possession should be issued to the violator, with consideration of future complaint amendment.
- j. **OPERATING UNDER THE INFLUENCE:** Incidents involving suspected impaired operation of a motor vehicle will be addressed as detailed in **5.15 OUI – Drugs and Alcohol.** **61.1.5.j**
- k. **NEWLY ENACTED LAWS AND/OR REGULATIONS:** These cases should be treated on a case-by-case basis depending on the severity and nature of the offense. **61.1.5 l**

**E. Problem Drivers: 61.1.12**

**1. Suspected Driver Incompetence:**

- a. Routine enforcement, accident reporting, and investigation activities frequently leads to the discovery of drivers who have displayed a suspected incompetence in driving a motor vehicle. This incompetence might prevent the person from exercising reasonable and ordinary care over a motor vehicle.
- b. In addition to reports concerning the original incident, the officer shall notify the Registry of Motor Vehicles regarding the removal of that person from the roadway. A copy of this report will be approved by the Traffic Supervisor, or his/her designee, prior to notifying the Registry.

**2. Drivers that Pose an Immediate Threat to the Public:**

- a. The Registry of Motor Vehicles will suspend and revoke the license of bad drivers for bad driving behavior that constitutes an immediate threat to the driving public.
- b. Aggressive driving constitutes bad driving behavior. It is defined as operating a motor vehicle in an offensive manner, which is likely to endanger, threaten or otherwise intimidate other operators by engaging in any series of violations. These violations include:
  - i. Chapter 85-2 State Department of Public Works Rules:
    - [a] Chapter 85-2 Weaving (from lane to lane)
    - [b] Chapter 85-2 Following too close (tailgating)
    - [c] Chapter 85-2 Failing to use caution in stopping turning, starting (e.g.; cutting someone off)
    - [d] Chapter 85-2 Failing to obey traffic markings & signs (lane markings & regulatory signs)
    - [e] Chapter 85-2 Failure to yield at intersections
  - ii. Chapter 89 Rules of the Road:
    - [a] Chapter 89-2 Improper Passing (passing on right)
    - [b] Chapter 89-4A Lane violation (failing to be in marked land)
    - [c] Chapter 89-4B Operating in breakdown lane
    - [d] Chapter 89-8 Right of Way at intersection and turns at red lights
    - [e] Chapter 89-9 Failure to stop and yield at intersection and designated throughways

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- iii. Chapter 90 Motor Vehicle Laws:
  - [a] Chapter 90-14B Failure to give signal
  - [b] Chapter 90-16 Offensive or illegal operation (unnecessary use of a warning device, e.g.; horn)
  - [c] Chapter 90-18 Speed (above posted speed limits)
- c. Documenting Aggressive Driving
  - i. Officers should note the violations and any other pertinent characteristics associated with aggressive driving behavior to fully substantiate the charge.
  - ii. An incident report and a "Request for Immediate Threat License Suspension Form" (Commonwealth of Massachusetts RMV Form LE100\_0318) will be completed and submitted to the Traffic Supervisor, or the Officer in Charge (OIC) if the Traffic Supervisor is unavailable, outlining the incident. **61.1.12**
  - iii. After review, the Traffic Supervisor, or the OIC, will determine if the incident as outlined constitutes an immediate threat. If (s)he will sign the immediate threat form, as an Authorized Person, and arrange for its submission to the Registry of Motor Vehicles for action.
  - iv. All officers are encouraged to fully assess each situation when deciding to file an Immediate Threat Form so as not to indiscriminately penalize the motoring public. This procedure is simply an additional tool designed to correct poor driving behavior before it leads to more serious incidents.
  - iv. In all cases, a copy of the officer's report shall be attached to the Request Form.

### **F. Educational Material: 61.4.4**

The department should disseminate traffic safety educational materials to the public at police Headquarters (lobby) and on the MPD Web Site. Such materials support enforcement efforts and enhance public understanding of traffic safety programs.

### **G. Roadside Safety Checks: 61.1.6**

The Melrose Police Department does not conduct roadside safety checks.