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|  |            | <b>Policy &amp; Procedures</b>                                |  |                                      | <b>No. 5.09</b>                   |  |
|                                                                                   |            | Subject:<br><b>Traffic Enforcement Special Considerations</b> |  |                                      |                                   |  |
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| <b>Review</b>                                                                     |            |                                                               |  |                                      |                                   |  |
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## CALEA STANDARDS

### 61.1.3

#### 1. Uniform Enforcement of Traffic Laws

Massachusetts traffic laws shall be applied uniformly for all categories of drivers unless otherwise noted in this directive.

#### 2. Juveniles 61.1.3 B

There are no special procedures that deal exclusively with juvenile offenders of traffic laws and in the issuance of citations. Officers should be aware, however, of the various violations that apply exclusively to **junior operators**.

Generally, juveniles who have committed a traffic violation shall not be placed in custody but shall be issued a traffic citation with the following exceptions:

- Driving while impaired by alcohol or drugs;
- Vehicular homicide; or
- Unauthorized use of a motor vehicle.

If a juvenile is legally arrested for a motor vehicle offense, he/she will be processed in a manner that is consistent with any other juvenile arrest and will be brought before the Juvenile Court.

For instructions on how to deal with juvenile arrests, refer to Department Policy 1.05 Handling Juveniles.

**3. Local Residents and Non-Residents 61.1.3 A**

Enforcement activities shall be consistent and in such a manner that does not give preference to local residents or non-residents.

Non-resident operators, who are not duly licensed, are subject to arrest and/or criminal complaint application. Discretion shall be afforded to police offices encountering such circumstances.

Police officers may consider the use of warnings for local and non-residents who commit minor, non-hazardous traffic violations.

**4. Military Personnel 61.1.3 E**

When dealing with active military personnel, police officers should be aware that MGL C90.S5B, S9B, and S10 allow several exceptions to license and registration requirements for members of the Armed Forces and their spouses.

Military personnel who are passing through the Commonwealth may be treated as non-residents or if from this state, as residents.

When responding to a military alert or other emergency, the violator should not be detained for an unreasonable period.

If an arrest is made, the arresting officers shall cause the liaison officer of the nearest armed forces investigative headquarters division to be notified.

**5. Legislators 61.1.3 C**

The Massachusetts Constitution (Part 2, Chap. 1, Sec. 3, Art. 10) stipulates that state legislators while attending, going to, or returning from a session of the legislature shall be exempted from physical arrest.

U.S. Senators and Representatives have the same immunity while they are in transit to or from the Congress of the United States.

This immunity is limited and does not include traffic violations that are considered to be a breach of the peace.

**6. Foreign Diplomats/Consular Officials 61.1.3 D**

Diplomatic officers, their families, official staff and servants are protected by unlimited immunity from arrest (except for the commission of a felony where the public safety is endangered), detention, or prosecution with respect to any civil or criminal offense.

Diplomatic immunity from arrest is granted by the United States Government under the provisions of the Vienna Convention of 1963 on Diplomatic Relations.

## **7. OUI of Diplomats and Consular Officials 61.1.3 D**

If the consular or embassy official is found to be operating under the influence, the primary consideration of the investigating officer is to see that the official is not a danger to himself/herself or to the general public. Based on a determination of the circumstances, the following options are available:

- Take the official to the police station or to another suitable location where he/she can recover sufficiently to operate a motor vehicle;
- Arrange for transportation;
- Take the official home if he/she resides locally; or,
- Call a taxi for the official.

Unless he/she is considered a danger to others or himself/herself they should not be physically restrained NOR should he/she be subjected to any sobriety testing.

Under the best circumstances, this is an extremely sensitive situation. The official should be treated at all times with the utmost respect and courtesy and the officer must constantly impress upon the official that the primary responsibility is the care and safety of the official as well as others.

Force must not be used except to prevent injury to the official or others, and then only the absolute minimum force must be used.

## **8. Motor Vehicle Citations and Parking Tickets Issued to Diplomats and Consular Officials 61.1.3 D**

Motor vehicle citations and parking tickets may be issued to foreign diplomats and consular officials who have committed a moving violation.

- Police officers may issue an appropriate motor vehicle citation or warning to an operator stopped for a moving violation who has proper and valid identification indicating diplomatic immunity.
- Issuance of a motor vehicle citation does not constitute an arrest or detention situation and does not fall under the immunity agreement.

## **9. Towing of Vehicles Bearing Diplomatic License Plates 61.1.3 D**

Vehicles bearing diplomatic plates may be towed, if necessary to prevent serious obstruction of traffic circulation. As a courtesy, prior to taking such action, the police officer should attempt to seek voluntary removal of the vehicle when such action is practical.