

Techniques of Traffic Law Enforcement

BLET: 23X

TITLE: TECHNIQUES OF TRAFFIC LAW ENFORCEMENT

Lesson Purpose: To provide students with techniques and methods used in connection with traffic law enforcement, procedures used in directing and controlling traffic, and aspects of both “unknown risk” and “known risk” vehicle stops.

Training Objectives: At the end of this block of instruction, the student will be able to achieve the following objectives by the information presented during the instructional period:

1. State the five (5) major phases of enforcement action and four (4) types of traffic apprehension.
2. Name and describe seven (7) methods of observing traffic.
3. Identify at least one (1) method of conducting selective traffic enforcement.
4. State the proper procedures used in visually estimating the speed of a vehicle and clocking vehicles by use of a speedometer.
5. Demonstrate a tactically safe “unknown risk” traffic stop that includes:
 - a) Correct radio procedures
 - b) Vehicle positioning
 - c) Initiating verbal contact
 - d) Observing suspicious behavior
 - e) Responding to legally armed individuals
6. In a practical exercise, demonstrate the ability to inspect a driver and their operator license to determine if it is valid and has not been altered, issue the uniform citation, write a charge not printed on the citation and

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- explain the charge to the violator and the proper procedure for disposition of the citation.
7. State the proper procedures for having an unfit vehicle operator reexamined by the Division of Motor Vehicles.
 8. Demonstrate a tactically, safe, known risk vehicle stop that includes:
 - a) Correct radio procedures
 - b) Vehicle positioning
 - c) Verbal commands
 - d) Subject control techniques
 - e) Stopping vans and other unusual vehicles
 9. Demonstrate the proper method of searching a vehicle, both under independent probable cause and incident to arrest after *Arizona v. Gant*.
 10. State the proper procedures and documentation for a suspected driving while impaired (D.W.I.) offense from observation to arrest.
 11. Demonstrate effective traffic control procedures in the following situations:
 - a) Multiple traffic lanes utilizing multiple officers
 - b) Night/low light conditions
 - c) Accident scenes
 - d) Fire scenes
 12. Identify the proper usage of flares, traffic cones, and other warning signs at a disaster, fire, or accident scene.
 13. Identify, analyze, and investigate road conditions to assess the officer's safety when conducting a traffic stop.

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14. State the proper method of conducting preliminary and follow-up investigations of traffic-related crimes.

Hours:	Twenty-four (24) (Lecture 12 hours; Practical Exercises 12 hours)
Instructional Method:	Lecture, Demonstration, Practical Exercises
Testing Requirement(s):	End of block test, Practical Exercises
Training Environment(s):	Classroom, Practical Exercise Area
Materials Required:	Audio-visual classroom equipment Handouts Flashlights Police whistles Highway flares Traffic vests White or highly visible gloves Vehicles equipped with blue lights, siren, radio, PA system, and a police suspension package Duty gear Training weapons Various props (e.g., beer bottles, driver's licenses, rubber knives, etc.) Copies of blank North Carolina uniform citations Audio clip for radio transmission Videos: <i>Techniques for Traffic Law Enforcement</i> , NCJA (Revised July 2018)
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Date Revised: August 2018
January 2019
July 2019
January 2020

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TITLE: TECHNIQUES OF TRAFFIC LAW ENFORCEMENT – **Instructor Notes**

1. This lesson plan must be presented by an instructor currently certified by the North Carolina Criminal Justice Education and Training Standards Commission as a General Instructor.
2. Instructors should possess extensive knowledge and practical experience in traffic enforcement issues, including control and direction, speed detection, motor vehicle laws, DWI enforcement, and vehicle stops. An article authored by Jeff Welty of the UNC School of Government titled “Traffic Stops” is provided in the instructor handouts folder, and it is intended to assist you in familiarization of the topic. A copy is provided in the student handout folder for use as supplemental reading.
3. It is recommended that a certified Standardized Field Sobriety Testing (SFST) instructor instruct the DWI portion of the lesson.
4. Instructors should possess exceptional communication skills and emphasize the importance of these abilities during contact with traffic violators. Specific emphasis should be placed on how to facilitate positive interaction between drivers and law enforcement personnel during traffic stops.
5. Instructors may want students to review the “Communication Skills for Law Enforcement Officers” lesson plan before this delivery. Many of the strategies and concepts outlined in that block can be applied to this lesson and practical exercises.
6. North Carolina Uniform Citation Practical Exercise

In conjunction with the classroom instruction on citations, students are to complete the North Carolina Uniform Citation Practical Exercise. Students should be given several practice attempts to complete the citation. Students should, after sufficient practice, be able to complete a citation between 15-30 minutes. A time limit of 30 minutes has been established because the average time to complete a citation is about 15 minutes. Incorporate into the exercise the ability of the student to determine if the driver license is valid and has not been altered.

After the exercise, the instructor will retain the citation(s) in the student’s permanent file.

The instructor is responsible for putting together the Practical Exercise packet of materials and having copies for all students. These materials are not completely assembled because some items such as driver’s license and registration cards expire too often.

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The following items are to be included in the Practical Exercise packet in the order listed below. An * denotes an item that the instructor must provide. All other items are included in these materials.

- * Practical Exercise Fact Situation.
- * A photocopy of the sample driver license and vehicle registration card.
A copy of G.S. 15A-302. Citation.
A copy of G.S. 20-141. Speed Restrictions.
A copy of G.S. 20-129. Required Lights.
- * A current copy of the form entitled UNIFORM POLICIES RELATING TO TRAFFIC OFFENSES, which lists mandatory court appearances and offenses for which the court appearance can be waived upon payment of a fine and costs of court.

Instructors should also photocopy a **current** North Carolina Uniform Citation and provide copies for the students to complete. Be sure to also copy the back of the defendant's copy (pink copy), so the student can properly complete it as well.

The instructor should review each citation completed by the students, mark any errors, and return them for the student's review. After the students review the citations, the citation shall be placed in the student's permanent file.

The instructor will need to obtain a copy of the handout "Uniform Policies Relating to Traffic Offenses," which lists mandatory court appearances, payment of fines, etc. This form is revised yearly and may be obtained from the Administrative Office of the Courts webpage under forms and the category of "waiver."
<http://www.nccourts.org/Forms/Documents/1428.pdf>. The form that lists traffic offenses for which court appearances may be waived can be found at
<http://www.nccourts.org/Forms/Documents/1219.pdf>.

7. Vehicle Stops Practical Exercise

Before the practical exercise(s), the instructor will review the Techniques of Traffic Law Enforcement Safety Instructions with all participants, to include role players and students. The lead instructor and each participant must sign and date the safety briefing form. The instructor shall retain signed copies of the forms in the student's permanent file signifying that the participants have reviewed and understood the safety instructions given.

During this phase of the block of instruction, each student will be engaged in performing both an Unknown Risk and a Known Risk vehicle stop.

Instructor(s) must complete a "Performance Evaluation" on each student.

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- a) The following guidelines are to be followed for the Unknown and Known risk practical exercises for vehicle stops.
- (1) Exercises should be conducted after the lecture has been completed.
 - (2) **All exercises must be conducted in light and darkness to ensure students are exposed to the variety of environmental conditions associated with each.**
 - (3) A variety of suspect vehicles should be used (compact cars, sedans, sport utility vehicles, and vans).
 - (4) Students engaged in practical exercises must wear a duty belt with holster, weapon (unloaded or training weapon), handcuffs, flashlight, and radio.

Training weapons are props or training aids that are used in scenario-type training events. Training weapons such as polymer molded firearms, and weapons that have been rendered safe to the point that they cannot be loaded and fired. Weapons rendered safe have had modifications such as barrel plugs or inserts that will not allow the loading of lethal ammunition, firing pin removal, etc. Training weapons should be marked and physically inspected for each session of training as to ensure the integrity of a safe training environment.

- (5) Instructors may incorporate a variety of props into the exercise (empty beer bottles/cans, contraband, weapons, incorrect registration cards, etc.) to evaluate student awareness.
- (6) During unknown risk stops, students should be required to complete a Uniform Citation when applicable.
- (7) Students must call in known and unknown risk stops using a radio and proper radio procedures.
- (8) Role play scenarios should be scripted to ensure all students are exposed to the identical set of circumstances and to prevent ad-libbing by role players. Scenarios should include a variety of circumstances, to include, but not limited to, DWI, speeding, stop sign violations, etc.
- (9) Instructors may want to consider videotaping vehicle stops practical exercises, to further amplify and illustrate the importance of tactics to students.

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(10) SPECIAL NOTE: In addition to using marked law enforcement vehicles in the above scenarios, instructors may want to consider demonstrating how to conduct vehicle stops using unmarked law enforcement vehicles, especially for students with future assignments in agencies that do not have or use traditional marked cars. Training applications, especially during night time stops, are much different for unmarked vehicles because of limited equipment aids (take down lights, etc.).

b) Conducting the unknown risk stop exercise.

The instructor should have at least one (1) marked vehicle and one (1) unmarked vehicle available to perform these tasks. A site should be selected that has no congestion, either pedestrians or vehicles. While students are involved in the vehicle stops, the remainder of the class should be positioned near the stop site so they can observe classmates performing the stops. The instructor should caution all students to remain quiet during the exercise so that the commands are audible and to ensure the concentration of the students engaged in the exercise. This instruction to observing students should also apply to the known stop exercise.

c) Conducting the known risk stop exercise.

Known risk stops should incorporate a variety of scenarios for the class to benefit from each different situation. A minimum of two (2) marked cars must be used. Stops can be altered by changing the number of occupants in the suspect vehicle, attempting to flee the stopped vehicle, armed occupants, unarmed occupants, uses of various vehicles such as vans, trucks, station wagons, compact cars, etc. The more scenarios that are used, the more the student will learn.

Each exercise is not over until all suspects have been removed from the suspect vehicle, cuffed, searched and secured, and the suspect vehicle has been searched and secured. Instructors should remember that the object of this block of instruction is to teach proper procedures in conducting vehicle stops, not conduct a shoot, don't shoot situation. Individuals serving as suspects should only attempt to fire a training weapon when there is a clear lapse in attention to safety by the officers engaged in the stop.

A critique should be done after each stop so that officers will be aware of any mistakes made or hear recommendations on how a task might have been performed better or safer. Stress the importance of safety precautions.

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- d) It will expedite the exercises if the class is divided into half. One half conducts the unknown risk stops while the other half conducts the known risk exercises. After each group completes the first set of exercises, the students should switch groups, until every student has completed both the known and unknown risk exercises. If the groups are split, a minimum of two (2) instructors, one (1) at each scene, is needed to facilitate the scenarios and conduct the feedback sessions.

8. Vehicle Searches

Incorporate Training Objective #9 (demonstrate the proper method of searching a vehicle, both under independent probable cause and incident to arrest after) in the “Vehicle Stops Practical Exercise” in all applicable traffic stop scenarios.

9. Traffic Direction and Control

The section on Traffic Direction and Control is largely one of demonstration of signaling techniques by the instructor and video. Take time to ensure that each student understands the proper signaling methods.

If additional time is available, you can enhance the lesson by actually placing students in an intersection and supervising their direction under real situations.

Although this is not a long section and not complicated, it does impart skills that are widely used and should be emphasized. Students should know that directing traffic can be very dangerous.

10. Speed Detection and Measurement

It is recommended for the instructor to take groups of the class into the field and demonstrate the correct procedure for pacing another vehicle based on the information provided in the lesson plan.

11. The instructor should demonstrate how to light and place a flare on a roadway based on the information provided in the lesson plan.

12. To promote and facilitate law enforcement professionalism, three (3) ethical dilemmas are listed below for classroom discussion. At their discretion, instructors must provide students with each ethical dilemma listed below. Sometime during the lecture, instructors should set the stage for the dilemma before taking a break. Instructors are encouraged to develop additional dilemmas as needed.

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- a) After stopping a car for speeding, you and your partner are advised the violator is wanted for a felony. Your partner draws his weapon, runs up to the car, and threatens to shoot the suspect. What will you do?
- b) During a high speed chase, you are ordered by your sergeant to place a vehicle across the suspect's lane of travel. You know the suspect will not be able to see the vehicle in time to stop. What will you do?
- c) During an unknown risk traffic stop, your partner approaches the violator who is a female, and states, "I need to see your driver's license you worthless piece of trash!" What will you do?

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I. Introduction

A. Opening Statement

NOTE: Show slide, “Techniques of Traffic Law Enforcement.”

Traffic law enforcement is the total effort directed to obtain compliance with traffic regulations after programs of traffic safety education, driver training, traffic engineering, and the like fail to reach this objective. The immediate objective of traffic law enforcement is to deter the traffic violator or the potential violator. The long-range goal is to increase the level of voluntary compliance with traffic regulations.

Officers will be called upon to maintain traffic flow and prevent congestion by periodically directing traffic. Traffic law enforcement for the officer also involves vehicle stops. Those stops can create multiple problem situations for officers and offer a high probability of assault and injury unless the officer takes the necessary precautions to reduce the opportunity.

B. Training Objectives

NOTE: Show slides, “Training Objectives.”

1. State the five (5) major phases of enforcement action and four (4) types of traffic apprehension.
2. Name and describe seven (7) methods of observing traffic.
3. Identify at least one (1) method of conducting selective traffic enforcement.
4. State the proper procedures used in visually estimating the speed of a vehicle and clocking vehicles by use of a speedometer.
5. Demonstrate a tactically safe “unknown risk” traffic stop that includes:
 - a) Correct radio procedures
 - b) Vehicle positioning
 - c) Initiating verbal contact

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- d) Observing suspicious behavior
 - e) Responding to legally armed individuals
6. In a practical exercise, demonstrate the ability to inspect a driver and their operator license to determine if it is valid and has not been altered, issue the uniform citation, write a charge not printed on the citation and explain the charge to the violator and the proper procedure for disposition of the citation.
 7. State the proper procedures for having an unfit vehicle operator reexamined by the Division of Motor Vehicles.
 8. Demonstrate a tactically, safe, known risk vehicle stop that includes:
 - a) Correct radio procedures
 - b) Vehicle positioning
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 - d) Subject control techniques
 - e) Stopping vans and other unusual vehicles
 9. Demonstrate the proper method of searching a vehicle, both under independent probable cause and incident to arrest after *Arizona v. Gant*.
 10. State the proper procedures and documentation for a suspected driving while impaired (D.W.I.) offense from observation to arrest.
 11. Demonstrate effective traffic control procedures in the following situations:
 - a) Multiple traffic lanes utilizing multiple officers
 - b) Night/low light conditions
 - c) Accident scenes
 - d) Fire scenes

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12. Identify the proper usage of flares, traffic cones, and other warning signs at a disaster, fire, or accident scene.
13. Identify, analyze, and investigate road conditions to assess the officer's safety when conducting a traffic stop.
14. State the proper method of conducting preliminary and follow-up investigations of traffic-related crimes.

C. Reasons

Traffic law enforcement consists of highly complex activities far more extensive than the mere application of traffic laws or regulations to given situations. The purpose of this unit of instruction is to increase knowledge and refine skills of law enforcement personnel who are entrusted with responsibilities of traffic law enforcement and to provide students with a uniform method of directing and controlling traffic. Also, due to the frequency of traffic stops and the potential danger involved in each stop, it is imperative that every law enforcement officer be familiar with all aspects of both unknown risk and known risk vehicle stops.

II. Body

A. The Five (5) Major Phases of Law Enforcement and Court Action Involved in Traffic Enforcement

NOTE: Show slide, "Five Phases."

"The enforcement process involves five essential steps in which the police have varying responsibilities and/or influence: detection, apprehension, prosecution, adjudication, and penalization."¹

1. Detection – This is a law enforcement responsibility. In this phase, officers are constantly alert to identifying or detecting conditions, actions, or behaviors which are improper or illegal by statute or ordinance.
 - a) Reasonable suspicion
A vehicle may be stopped based on reasonable suspicion – a legal standard less than probable cause.² Reasonable suspicion must be based on articulable facts that the suspect is or was engaged in criminal activity.³ Measurement of reasonable suspicion is based on the totality of the circumstances and must

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be based on more than a hunch.⁴ The officer is also responsible for continuing to identify and gather evidence necessary to establish probable cause, the legal standard required to charge a person with a criminal offense.⁵

- b) Probable cause is also measured by the totality of the circumstances.⁶ In establishing probable cause, the officer is saying that a crime was probably committed and the suspect is probably the person who committed the crime.⁷ That is that there is a fair probability the suspect committed the crime.⁸

NOTE: Instructors should review reasonable suspicion with students. Give hypotheticals in class and ask students to consider whether the factors are enough to justify reasonable suspicion to stop a car.

Note: Initiating or making a vehicle stop based solely on the race/gender or ethnic background of a driver is never justified. This is called profiling, and it is illegal.

- 2. Apprehension – Apprehension is a law enforcement responsibility also. In this phase, the officer follows the offender, establishes authority for stopping the offender, and initiates the stop. Following this, the officer is charged with the responsibility of taking the appropriate enforcement action. This action will vary, depending upon the circumstances, the severity of the violation, the discretion of the officer, and agency policy, but may include:

- a) Physical arrest

An arrest is usually reserved for serious misdemeanor offenses such as driving while impaired, certain classifications of driving while license revoked, etc. However, it may also be used by an officer when a violator has no viable form of identification on them,⁹ when a violator has committed any criminal offense in the officer's presence,¹⁰ or if the violator did not commit the offense in the presence of the officer, but the officer believes absent immediate arrest, the violator will not be apprehended or may cause physical injury to himself or others.¹¹ The legislature may change the classification of traffic offenses during any session. Officers cannot arrest for anything classified as an infraction. Officers should frequently review the classification of offenses to be sure they know the most current classifications as set out by the legislature.

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b) Traffic citation and citation for an infraction

A citation requires a “person to appear in court and answer a misdemeanor or infraction charge or charges.”¹² This type of enforcement action is the most frequent used by law enforcement officers when summoning individuals to court. A traffic citation is issued by the officer by the North Carolina General Statutes.¹³

c) Issuance of citation for an infraction

An officer could issue a citation for a noncriminal violation of law not punishable by imprisonment.¹⁴ A citation requires and directs the person to appear in court and answer to the charge, as outlined.¹⁵ **Individuals cannot be arrested for an infraction.**¹⁶

d) Written warning

This action is written documentation of a traffic violation in which an officer directs a violator’s attention to a specific area without summoning him to court. Written warnings are often used for equipment violations and minor moving violations. Law enforcement should adhere to agency policy when issuing written warnings.

e) Verbal warning

A verbal warning is a statement made by the officer to a violator explaining that the action taken is against the law. **A verbal warning should not be given condescendingly by the officer and should be given by agency policy.**

3. Prosecution – This phase involves the law enforcement officer and the court. The officer is responsible for identifying and gathering evidence, making the appropriate charge, preparing a complete and accurate report of the incident, and presenting all of the evidence and the complete report to the prosecutor. The officer then must prepare and deliver the testimony of the incident to the court during the hearing or trial. The prosecutor has the responsibility of reviewing the evidence and reports and presenting the case to the court.
4. Adjudication – This is the responsibility of the court. This phase involves the determination of responsibility of the accused by the

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magistrate, judge, or jury. That is whether the defendant is guilty or not for misdemeanors or felonies, or responsible or not for infractions. This occurs after the prosecution phase.

5. Penalization – This is also the responsibility of the court. This phase involves the sentencing or judgment rendered by the court if the defendant is found guilty of the charge.

NOTE: It should be emphasized that the responsibilities of the officer and the court are very important in every case. However, the officer’s responsibility and role in the case ends with his presentation of the evidence and testimony during the trial. In other words, although the officer may have an opinion about what punishment the defendant should or should not receive, it is ultimately the decision of the court, not the officer.

B. Methods of Traffic Patrol and Observation of Offenses

One skill required of all officers is a keen sense of observation. Different types of patrol and different types of observation will be utilized during a shift to maximize the officer’s ability to deter traffic violations and to stop violations they might see occurring.

NOTE: Show slide, “Methods of Observing Traffic.”

1. “Line patrol – This form of traffic observation is made using a moving patrol car or in a stationary observation on a specific route between two points, usually on a major street or section of highway.”¹⁷ This method is often used with time-distance computers and radio detection and ranging (RADAR).
2. “Area patrol – This form of patrol is in an area or beat which includes a number of streets, roads, or intersection of highways. This is usually the type of patrol officers will use on a day-to-day basis. It is also used to patrol an area of high traffic violations involving several city blocks or sections of roadways.
3. Directed patrol – A traffic patrol directed toward a certain traffic offense or to a stationary post.
4. Stationary observation – Observation of traffic conditions at a selected place, usually one with a high crash rate or traffic flow problem, used especially to detect violations and deter possible violators.
5. Conspicuous observation – Stationary observation in which the observer remains in full view of traffic (attempts to attract as much

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attention as possible to deter violations). This type of observation is especially useful when officers are completing routine paperwork in a marked patrol car and choose a site clearly visible to a high traffic volume.

6. Visible observation – Stationary observation in which the observer is in full view but is so located, for example, on a side street, that it requires effort on the part of drivers to discover the observer.”¹⁸ This type of traffic patrol is used when running stationary radio detection and ranging (RADAR), light detection and ranging (LIDAR), or time-distance computers.
7. “Concealed observation – Stationary observation to which the observer is not visible to persons using ordinary powers of observation from the roadway being used.”¹⁹

C. Conducting Selective Traffic Enforcement

“Selective traffic enforcement is a problem solving strategy to aid in the protection of life and property through the reduction of traffic collisions.”²⁰

“An effective selective traffic enforcement program [STEP] manages vehicular and pedestrian traffic. For the program to be effective, it must be uniform and must include sustained enforcement operations in specific locations, and at the periods of time which are statistically shown to be the most hazardous to highway users.”²¹ There are many STEPs to choose from, but this course will examine two (2) of the most common during this block of instruction.

NOTE: Show slide, “Selective Traffic Enforcement Programs.”

1. “Saturation patrol – One of the commonly used selective enforcement techniques is the saturation patrol.
 - a) Saturation patrol is often the term given to a high number of officers converging into a limited area. The officers, or patrol, infuse into the designated location and make as many contacts as possible.
 - b) The increased activity and mere presence of the officers has the psychological effect on the population that they have been inundated with officers. This effect is increased by the constant movement of the officers and the increased number of stops than would normally be made during routine patrol.

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- c) Saturation patrols require little development and little management. The main idea is to have officers in an area, which is small enough to present the appearance of being flooded with officers. The smaller the area, the more exaggerated the actual number of officers becomes.
- d) Working the saturation patrol assignment requires the officer to make as many stops as possible, and to be seen as often as possible, preferably with their squad's emergency lights activated.
- e) Effective saturation patrols are difficult in small departments. Where available officers are limited, to get the full effect, it may be necessary for departments to make saturation patrols a cooperative effort."²²

NOTE: Ask students for situations where saturation patrols would be used. Some examples include school zones, areas that have shown statistically to have a lot of collisions, and areas such neighborhoods the agency has received a high number of speeding complaints.

- 2. Checking station – Checking stations are a form of selective enforcement that provides an opportunity for public and community relations, but still must conform to the proper legal standards. The United States Constitution requires that, before seizing a citizen, officers must have, at the very least, reasonable suspicion. Checkpoints are an exception to that rule. The courts have recognized that there are dangers on the roadway that are difficult or even impossible to detect during normal police operations checkpoints have proven an effective method of deterring and detecting these violations. Because of this, the court has said that in very limited circumstances and when done in a very specific way, officers may briefly detain drivers at a checkpoint. But because this is an exception to the rule, the court expects officers to conduct checkpoints carefully and “by the book.”
 - a) Constitutional requirements
 - (1) The primary programmatic purpose of the checking station must be constitutional. The primary programmatic purpose is the MAIN reason for the checkpoint. Officers should be prepared to testify to this MAIN reason for the checkpoint. In other words, what was your goal in setting up the checkpoint?

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- (a) Constitutional purposes
 - i) License²³
 - ii) Registration²⁴
 - iii) DWI²⁵
 - iv) Motor vehicle offenses/Chapter 20 offenses²⁶
- (b) Unconstitutional purposes
 - i) Drugs²⁷

NOTE: Instructors should remind students that while any law enforcement officer may assist in conducting checkpoints, having narcotic officers/detectives present at the scene may make it seem as if officers are looking for drugs. Also, while it is permissible to have K9s at a checkpoint, walking them around every vehicle is not advisable, as again, it appears that the primary purpose of the checkpoint is to search for drugs.

- ii) General crime control²⁸

NOTE: Instructors should remind students that while checkpoints are not conducted with the purpose of enforcement of general crimes, officers do not have to turn a blind eye to violations of the law observed while the vehicle is stopped at the checkpoint. For example, if an officer stops a car and the driver presents a valid license and registration, but the officer observes drugs in plain view, the officer does not have to let the driver go, but can and should continue to investigate the crimes or potential crimes observed.

NOTE: Discuss with the students that during cross-examination regarding checkpoints, officers are often faced with answering questions about why no citation was written for a traffic violation, but instead for some general crime. Officers should be prepared to respond logically that while the purpose of the checkpoint was, for example, to check license and registration, that as an officer of the law, they are bound to investigate and have the authority to investigate all violations of the law they observe.

- (c) Factors considered by the courts to determine the primary programmatic purpose:²⁹
 - i) What the plan/policy/authorization says
 - ii) What the officers on the scene were doing

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iii) Who were the officers on the scene

iv) Officer testimony

(2) Was the checkpoint reasonable?

(a) Did the checkpoint address a public concern?

Courts have said that eliminating impaired drivers and checking licenses and registrations are issues of great public concern.

(b) Was the checkpoint properly tailored?

In other words, the courts will consider whether the checkpoint is doing what it says it is doing.

Factors the court will consider:³⁰

i) Was the checkpoint set up on a whim?

ii) Was there a reason it was set up on this road?

iii) Was there a particular start and end time?

(c) What was the interference with individual liberty?

The courts will consider whether the checkpoint delayed drivers and whether officers operated in a manner consistent with the plan and policy.

Factors the court will consider:³¹

i) Was there a supervisor present?

ii) How much did the checkpoint affect traffic?

iii) Who picked the location?

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- iv) Were officers following a pattern?
- v) Were officers following written guidelines?
- vi) Did a supervisor authorize the checkpoint and location?

b) Statutory requirements

North Carolina General Statute 20-16.3A governs checkpoints. It is based on prior court rulings and includes very specific requirements for all checkpoints in North Carolina.

(1) Types of checkpoints

North Carolina no longer differentiates between DWI checkpoints and any other kind of checkpoint. There need be no more or less planning for a DWI checkpoint than any other. All requirements must be met at ANY checkpoint.

(2) Requirements³²

- (a) Written policy
- (b) At least one (1) patrol car with blue lights on
- (c) A location chosen either at random or based on statistics and selected with consideration for the safety of the drivers and officers conducting the checkpoint.

It is best practice to allow a supervisor to choose the location. It is alright to choose a location at random, but better if there is a statistical reason for the location.

NOTE: Emphasize the importance of having a supervisor involved in the operation of the checkpoint and in choosing the location of the checkpoint. More and more, the involvement of a supervisor seems to be an issue at trial.

It is important to ensure drivers approaching the checkpoint have sufficient stopping distance.

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NOTE: Although they are no longer a requirement, using a sign can help prevent defendants who turn away from checkpoints from later claiming they thought they were avoiding a wreck because they only observed blue lights.

- (d) A lawful pattern of stopping cars, such as every fifth or sixth vehicle.

Officers should follow this plan to the letter. The only deviation should be according to the plan outlined in your policy.

- (e) A deviation plan – what to do if traffic backs up

- (3) Use of portable breath test (PBT) at a checkpoint

Officers may request the driver of any vehicle stopped at a checking station to submit to an alcohol screening test if there is reasonable suspicion the driver has consumed alcohol, or there is an open container of an alcoholic beverage in the vehicle.³³

D. Methods of Detection

NOTE: Show slide, “Methods of Detection.”

1. Speed measuring instruments³⁴ – Some acceptable methods of measuring speed and ensuring compliance with the motor vehicle speed laws in North Carolina include the use of RADAR instruments, time-distance computers, and LIDAR instruments.
 - a) Before you may utilize a speed measuring instrument for any type of enforcement activity, you must first satisfactorily complete a certification course mandated by the North Carolina Criminal Justice Education and Training Standards Commission (Commission), in which you will also be required to complete supervised field practice hours beyond the training course with an experienced operator of the instrument for which you seek certification. Once you have completed these steps, you will be issued an operator certification that will be valid for three (3) years, and which will also require recertification.
 - b) An officer cannot utilize speed measuring instruments for any enforcement purposes when they do not already possess a valid

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operator certification for such an instrument. For speed measurement and enforcement, the Speed Measuring Instrument Advisory Committee to the Commission has defined an enforcement action as any act of stopping a violator vehicle based upon the readings obtained from a speed measuring instrument and includes the issuance of verbal and written warning or uniform citation. Before certification, an officer may only use a speed measuring instrument for practice in preparation of attending an upcoming speed measuring instrument training course. It is strongly recommended that a certified operator assist the officer during his/her practice period before the training course to ensure the correct procedures are being practiced.

2. Approximation – Speed approximation is referring to the process and technique of visually estimating the speed of a moving vehicle, sometimes without the use of corroborating information such as a speed measuring instrument. Approximation, or estimating speed, requires experience and practice to establish a technique and does not involve guessing speed through the use of superficial conditions or distortion of distances.³⁵

State case law allows that a lay person and officers can provide estimates as to the speed of a vehicle, provided the estimator had a “reasonable opportunity” to observe the vehicle in motion.³⁶

Case law within our state also establishes that visual speed estimates without corroborating information from speed measuring instruments are estimates and are not exact. This is important because it means that an estimate of speed alone may not be enough to establish reasonable suspicion to stop a vehicle.

When an officer is called upon to testify in court to an uncorroborated visual estimation of speed, the officer should always be prepared to provide testimony regarding their training and experience and proven ability to accurately estimate the speed of a vehicle in motion. Remember that in North Carolina, an officer must first form an independent opinion as to the speed of a vehicle even when the officer plans to utilize a speed measuring instrument later to measure the speed. The speed measuring instrument is only used to corroborate the independent opinion of the officer.

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In court, officers should always be prepared to first testify to their independent opinion and then to the corroboration by their speed measuring instrument.

Without the officer's opinion, the information recorded by the speed measuring instrument will not be admitted by the court.

NOTE: Instructors should emphasize this point, as it is an easy one for new officers to understand. This is probably the most frequent patrol interaction an officer has with drivers, and the officers should be as prepared to testify at a speeding trial as any other kind of trial.

3. Pacing – This method of speed enforcement requires an officer to get his patrol vehicle close enough to the speeding vehicle while maintaining a following proper distance.

The officer will need to ensure that his/her patrol vehicle has an accurate speedometer to use this method of speed detection. The officer should be able to testify in court to the known accuracy of the patrol vehicle speedometer at the time of pacing to establish reliability. The test/check of the speedometer should be completed as soon as feasible following the initial purchase of the patrol car; anytime maintenance to the patrol vehicle's transmission, differential, or tires occurs, and then, again once any enforcement action resulting from the use of the speedometer during pacing occurs.

- a) An acceptable method to demonstrate an officer has an accurate patrol vehicle speedometer includes:
 - (1) Have a certified RADAR or LIDAR operator perform a series of speed measurement tests/checks of the patrol vehicle speedometer using a properly operated and certified RADAR or LIDAR device (time-distance is not suggested for this test because it is an average speed computer, which may result in a lower than actual speed measurement at the time unless the patrol car being tested remains perfectly at the same speed during the test).
 - (a) The speeds of the patrol vehicle tested should vary and include several of the various speed limits inside the officer's jurisdiction.

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- (b) An internal department form may be created and then completed by the certified RADAR or LIDAR operator, indicating the registered speed on the speedometer and the measurement made by the speed measuring instrument validating the accuracy of the speedometer. Completion of a departmental form is at the discretion of the agency and officer. If the pacing speedometer and the RADAR and LIDAR have appreciable differences, there should not be any enforcement action taken utilizing the pacing speedometer.
- (2) The speedometer may be checked by a local automotive repair shop that is capable of reliable speedometer accuracy testing. Steps should be taken by the officer/agency to ensure the speedometer test/check is reliable and trustworthy.
- b) The officer must first form an opinion independent of any superficial conditions, or mechanical assistance, as to the speed of the vehicle he/she is observing.
- c) It is of paramount importance that an officer remains alert and drives carefully while pacing a violator vehicle.
- d) The officer should also obtain the pacing position without being observed by the violator, if possible.
- e) An officer may have to catch up to the violator and then slow down to the same speed as the violator. It is important that the officer not confuse the speed used to catch up to the vehicle with that which he will need to clock or pace the vehicle.
- f) The officer should pace the violator, at a constant speed, for a sufficient distance to ensure the officer is certain that his/her patrol vehicle is mirroring the same speed as the violator vehicle. This can be visually confirmed by the officer in the fact that his/her patrol vehicle will not be gaining or losing ground on the moving target vehicle over a sufficient distance to ensure correct measurement of speed. There is no maximum distance established for this process, only that the distance traveled by the officer and patrol car while gauging the speed

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of the violator vehicle should be sufficient to exactly pace (at the same speed) the vehicle in which is speeding.

- g) The officer should be in constant visual contact with the violator's vehicle at all times once the measurement is being made. Therefore, curves and hills may prevent an accurate pace.
- h) If the violator's speed is abnormally excessive, the officer may want to stop the violator as soon as possible to prevent an accident.
 - (1) Once the officer has determined the speed of the violator, the correct procedures for stopping the violator should then be followed. Establishing the reliability for the prosecution of pacing, the officer should consider being able to establish that the speedometer is accurate before and after the enforcement measurement was made.
 - (2) This can be accomplished by repeating the speedometer test/check after an enforcement action occurs through one (1) of the processes above, and by documenting the checks on a departmental form if used by the agency.
- i) Take note that the verification of the speedometer accuracy is only required when the officer only has the speedometer as a method to detect and measure speeds of other vehicles.

NOTE: It is recommended that the instructor physically demonstrates to class groups the process of correctly pacing another vehicle following the above procedure.

E. Unknown Risk Vehicle Stops

These are vehicle stops in which the officer(s) are unaware of any existing dangers or circumstances involving any of the occupants of the vehicle.

NOTE: Show slide, "Unknown Risk Vehicle Stops."

1. Location of stop – considerations

The location of any stop is critical and should be carefully selected. Officers, when possible, should be patient when choosing a location

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and only initiate the stop in a safe location. “The locations to be avoided include:

- a) Active driveways
- b) Areas on hills or curves
- c) Busy intersections
- d) Bridges (narrow shoulders, very easy for suspect to dispose of evidence)
- e) Areas with narrow shoulders
- f) ‘Radio dead spot’ areas
- g) Any other area where a known danger or distraction is present
- h) Areas where hazardous road conditions (ice, snow, etc.) are present.”³⁷
- i) Pedestrian traffic
- j) Low illuminated areas at night
- k) Areas that don’t provide escape routes/cover for the officer

NOTE: Tell students many law enforcement vehicles are equipped with electronic and other aids (mobile data terminals [MDTs], laptops, cameras, etc.), making it almost impossible to exit through the passenger side if needed. Officers should consider that when selecting a location.

2. Calling in the stop

Officers should always completely call in the stop before activating any emergency equipment. Officers have been known to conduct vehicle stops without calling it in to communications. By doing so, they put themselves and other responding officers in danger, and this practice should be avoided at all costs. Officers should relay to communications the following:

- a) The direction of travel and location of the stop
- b) License number

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- c) Description of the vehicle to include make, model, year (if known), and color
- d) Number of occupants
- e) Reason for the stop (optional)

“The officer may want to advise dispatch the nature of the violation. This is generally not necessary for minor motor vehicle offenses, but it is essential if the officer senses a heightened level of threat.”³⁸

- f) Activate your blue light and siren to alert the offender

NOTE: Instructors should record an actual radio transmission of a license check/vehicle stop that meets the above criteria and play for students.

- 3. The position of the patrol vehicle and observation from the patrol vehicle
 - a) Stop patrol vehicle approximately 10-15 feet from the violator vehicle.³⁹ “For practical purposes, the patrol car should be far enough back so that the officer can see the offending vehicle’s rear tires on the road.”⁴⁰
 - b) Patrol vehicles may be offset 3 feet to the left or right, depending on environmental conditions (e.g., shoulder width, traffic flow, weather, etc.). Any offset position should offer a buffer or safety zone for the officer from traffic and the suspect vehicle. Front wheels should be turned sharply to the left.
 - c) From an officer safety standpoint, officers should be observant of the following cues:
 - (1) Reverse light indicator – the officer should observe the rear tail light area of the vehicle to ensure that the vehicle has been placed in the parked position.

The officer should not make an approach of the vehicle with the reverse lights being lit. The driver of the vehicle should be instructed to place the vehicle in park. The officer should only approach the vehicle when the driver has complied with the officer’s instructions to avoid being run over by the violator vehicle.

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- (2) Vehicle occupants become target locked on the officer – upon making the vehicle stop; the officer should observe if vehicle occupants are intently focused on the officer's movements by either turning around to watch the officer's movements through the rear window or by staring at the rear view or side view mirrors. If this behavior is observed by the officer, a heightened level of officer safety could be warranted.

4. Approaching the suspect vehicle

NOTE: Instructors may also discuss and demonstrate other patrol vehicle positions as they deem necessary.

- a) Care should be taken in exiting the patrol vehicle due to traffic. Exit the patrol vehicle, but do not slam the door shut. This may give away the officer's position. Officers should then face the patrol vehicle to reduce the body target area.
- b) During night time stops, officers should use all available equipment to illuminate the suspect vehicle. Officers should not stare directly into any lights during night stops because it can impair their vision. For a better view of the vehicle occupants, have the violator turn on the dome light of the vehicle.
- c) Proceed to the violator's vehicle carefully observing the driver and passengers. Check both the trunk and rear passenger area on approach. Never move beyond the most rear passenger. "If the back seat is clear, the officer should come around the side of the vehicle and stop when he is equal to the doorjamb. The officer should be slightly behind the vehicle operator. The officer's body should be in a bladed position with his weapon furthest from the vehicle."⁴¹
- d) Advise the driver to turn off the ignition and place both hands on the steering wheel. **Never reach into a violator's vehicle to turn the ignition off with the violator in the driver's seat.** "If a driver at a traffic stop does not respond to verbal direction, he or she may be panicking, may be under the influence of alcohol or drugs, or in some cases unknown to the officer, may have committed a crime or crimes and is willing to do anything to escape. If an officer reaches for the key and

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leans his or her body into the car, that officer may be trapped by the suspect or entangled inside the car and dragged.”⁴²

- e) Should the driver of the vehicle exit before the officer has made their approach, have the driver stop and stand still. If the driver has his hands in his pockets, have them turn slowly and face the front of their vehicle and on command, remove hands slowly from pockets one (1) at a time. At this point, the officer could have the driver remain outside the vehicle or order them to get back into the vehicle.
- f) Officers should always carry their flashlight, citation clipboard, or other essential items in their non-weapon hand during any approach. These items can also be used as a distraction projectile (intentionally thrown at a violator) should it become necessary to retreat or gain cover quickly.
- g) There are typically two (2) tactical approaches to a violator’s vehicle: driver side and passenger side. Both have distinct advantages and disadvantages.
 - (1) Driver side approach⁴³

NOTE: Show slides, “Driver’s Side Approach.”

This approach is usually conducted when patrol vehicle is offset to the left of the suspect vehicle. Officers simply approach the violator at their door, but should not go beyond the most rear passenger.

- (a) Disadvantages
 - i) No element of surprise; occupants expect officers to approach on the driver side
 - ii) The escape route for an officer is limited, mostly into oncoming traffic and cover is minimal
 - iii) The officer is directly exposed to oncoming traffic should violator exit and become resistive in any way

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- iv) Violator is in a point reflex shooting position which means that all the violator has to do is point a weapon across their chest and pull the trigger without attempting to achieve above average accuracy

NOTE: Show slide, “Threat Zones.”

- v) View of driver side area is limited, especially near door and center console
- (b) Advantages
 - i) Close/intimate contact with violator to observe specific conditions (e.g., the odor of alcoholic beverage, hand movements, etc.)
 - ii) Immediate access to violator should arrest become necessary
 - iii) Can maintain visual contact with the violator if they need to step out of the vehicle

(2) Passenger side approach⁴⁴

NOTE: Show slides, “Passenger Side.”

This approach is usually conducted when the patrol vehicle is offset to the right. Officer should exit and proceed around the rear of the patrol car while keeping visual contact on all occupants. The approach is made along the passenger side of the violator’s vehicle to establish verbal contact.

- (a) Disadvantages
 - i) While circling the rear of the patrol vehicle, visual contact with occupants may be compromised.

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ii) Officer will absorb a direct hit if the patrol vehicle is rear-ended at that moment.

(b) Advantages

i) The officer has an element of surprise; the occupants do not expect approach on the passenger side and may offer additional time for officers to observe occupant behavior without being noticed.

ii) The officer is not exposed to oncoming traffic.

iii) Officer escape routes are away from traffic and has better opportunity to find cover and concealment if needed.

iv) The violator does not have a “point reflex” shooting position.

v) Allows for greater distance from the violator.

vi) Exchanging of driver’s license and other papers requires the violator to stretch and become off balance.

h) Approaching other vehicle types

“Some vehicles, because of their design, require [officers] to alter the stop tactics they would normally use in dealing with ordinary passenger cars. Even in situations with no evident threat, approaching these vehicles for conversation or extraction involves special risks that most officers do not want to incur.”⁴⁵

“With unknown-risk stops of problem vehicles, the officers should want the driver to separate voluntarily from his vehicle. If he refuses, one (1) option is to call backup and shift into known-risk stop procedures.”⁴⁶

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(1) Motorcycles⁴⁷

NOTE: Show slide, “Motorcycles.”

Motorcycles, riders, and passengers can pose additional threats to officers. Additional steps should be taken to ensure officer safety.

- (a) Instruct the violator(s) to remain seated on the motorcycle with the kickstand up.
- (b) Have violator remove helmet and place it on the handlebar or the ground so that it cannot be used as a weapon against the officer.
- (c) Violator should keep their hands on the handlebars, and if there is a passenger, have the rider place their hands on the violator’s shoulders.
- (d) If the violator has to reach into the storage compartment under the seat or a saddle bag for registration or driver’s license, they will need to dismount the bike. For safety reasons, direct the violator to step off the right side of motorcycle away from traffic.
- (e) If the violator is part of a group of riders, the officer may decide to interact with the violator toward the rear of the patrol vehicle. Have the other riders remain on their motorcycle looking forward.
- (f) Be aware of other hidden weapons
 - i) Handlebars
 - ii) In saddlebags
 - iii) Under seat(s)
 - iv) Gas cap mounted knives or other sharpened motorcycle parts

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(2) Tractor-trailers⁴⁸

NOTE: Show slide, “Stopping Tractor-Trailers.”

The stopping of tractor-trailers and other similar vehicles is primarily conducted by the North Carolina State Highway Patrol. However, every officer should employ specific tactics to ensure safety.

- (a) Watch the violator’s side mirrors while you approach for suspicious movement/activity.
- (b) During contact, **do not** stand in front of the door or on the steps leading to the cab.
- (c) The most appropriate option may be to call violator back to officer’s patrol car by motioning them back or by using public address system. Officers should carefully watch violator walk back to patrol vehicle.
- (d) Stand where you can see the violator step down from the cab and walk back toward you.
- (e) Watch underneath the trailer for any passengers that may have gotten out of the cab and are walking back toward the officer.
- (f) Retreat to the back of the patrol vehicle if anything occurs that concerns the officer for their safety.

NOTE: Show multiple slides of approach options for tractor-trailers.

(3) Vans/sport utility vehicles (SUVs)⁴⁹

Vans and SUVs represent a significant problem to law enforcement officers due to the number of exits from the vehicles as well as the various types of window and window coverings. The officer has the option to approach the vehicle or handle the stop in the following manner:

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- (a) Unlock passenger door and move around the rear of the patrol car to the passenger side.
- (b) Using the vehicle P.A., instruct the violator to exit the van and walk towards the patrol car.
- (c) When the violator gets to the rear of the van, have him open the van doors so that the officer can see inside.
- (d) If there are passengers in the van, tell them to remain in the van, then command the violator to close the doors. At this point, depending on the totality of the circumstances, the officer may consider calling for back-up.
- (e) If the van appears empty, have the violator close the doors and come to the front right corner of the patrol vehicle. The officer can then conduct the appropriate enforcement action using the patrol vehicle as cover.

i) Multiple occupants

Stopping vehicles with multiple occupants poses additional risks to officers. As stated earlier, officers should refrain from going forward of the most rear passenger to avoid placing themselves at a tactical disadvantage. Officers should try to keep all occupants seated inside the vehicle unless the situation dictates otherwise.

Officers are authorized to order occupants out of a vehicle. The Supreme Court held that police officers may, as a matter of course, order the driver⁵⁰ (and passengers)⁵¹ out of a lawfully stopped vehicle. The court reasoned that an officer is at greater risk during traffic stops with multiple passengers and therefore justified in ordering the occupants to exit the vehicle.⁵²

Merely being able to order persons out of a vehicle does not by itself authorize officers to search and frisk the occupants without further legal justification, whether it is based on reasonable suspicion or probable cause. Furthermore, officers should always have a back-up unit on the scene before attempting to direct multiple occupants out of a vehicle.

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j) Re-approaching the suspect vehicle

Officers tend to carry multiple items in their hands (i.e., clipboard, papers, etc.) during re-approach, which limits mobility. Therefore, officers should only carry the essential items needed to complete the stop, and should only carry these in their non-weapon hand.

Officers have been known to let their guard down while re-approaching the suspect vehicle. While everything may have come back clean (driver, vehicle, warrant, and criminal history checks), a violator has had time to ponder and formulate a plan while the officer was away writing the citation. Furthermore, a clean check of all records on the driver, occupants, and vehicle does not eliminate the possibility of ongoing criminal activity. When re-approaching, officers should treat it as a new stop and employ all relevant tactics.

k) Arrest

- (1) Ask violator to exit vehicle slowly, keeping their hands in view and to walk to a point ordered by the officer. If necessary, remove the violator from the vehicle using techniques discussed in the block of instruction titled *Subject Control Arrest Techniques*.
- (2) Place the violator in handcuffs, ensuring that cuffs are double locked. After thoroughly searching them, properly secure the violator in the patrol vehicle with seat belts secured.
- (3) If the violator refuses to exit the vehicle when informed that they are under arrest, the officer is faced with removing the violator from the vehicle. The officer should consider the techniques discussed in the block of instruction titled, *Subject Control Arrest Techniques*, in making their decision on what force to apply.
 - (a) A police officer may no longer use injurious force, like a TASER®, OC spray, or baton, unless an objectively reasonable officer would conclude that there was an immediate danger to the officer or others.⁵³ Physical resistance alone

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is not the same as an immediate danger to an officer.⁵⁴

NOTE: As discussed in the *Arrest, Search and Seizure/Constitutional Law* block of instruction, while this ruling does not specifically say courts would apply the same rule to OC spray, batons, or other intermediate weapons, there is some indication from the language of the case, a court may equate them because of the type of injuries they may cause to an individual, with at least the potential to inflict the same type of injurious force as conducted by electrical weapons. Encourage officers to know and study their agency policy on the use of force involving each weapon they are issued.

- (b) The officer can apply an appropriate quick take or pressure point technique learned in the block of instruction titled *Subject Control Arrest Techniques*.
- (c) Officers should use extreme caution when removing resistive persons from vehicles. A struggle could place all involved parties into oncoming traffic. Any type of vehicle extraction from the driver's side should be used as a last resort. It is recommended that a back-up officer is requested to assist in the arrest.
- (d) The officer should properly handcuff and thoroughly search the violator before transporting.
 - 1) Contact with concealed carry permittee
 - (1) When in the presence of a law enforcement officer, permittees are legally bound to disclose to the officer that they have a concealed carry permit and that they are armed.⁵⁵ Failure to disclose this information is an infraction.⁵⁶
 - (2) If the driver informs the officer they are legally armed, the officer has several options:
 - (a) The officer should initially tell the driver to keep his or her hands on the steering wheel. The officer should acquire the driver's license, vehicle registration, and the concealed carry handgun permit. After conducting any radio

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checks and completing any enforcement actions, the officer should re-approach the vehicle and return all documents.

- (b) After identifying a legally armed concealed carry permittee, the officer should ask the driver where the gun is located. However, if the legally armed permittee chooses not to answer, they are not required to do so.
- (c) The officer may, under the auspices of *Terry v. Ohio*, temporarily seize the handgun if the officer has a reasonable suspicion that the permittee is armed and presently dangerous to the officer.⁵⁷

However, seizure of the weapon is not justified unless the officer reasonably fears for his or her safety, and they can articulate particularized and objective facts that led them to believe they were in immediate danger. Stating that an officer feared for their safety is not enough.

Without reasonable suspicion, the permittee is armed and presently dangerous to the officer. The officer can always ask for consent to seize the weapon until the encounter is complete.⁵⁸ The legal permittee can always deny consent.

If the officer does feel it necessary to secure the weapon, the problem now exists of how to obtain custody of that weapon. If the officer reaches for the weapon, they need to know what type of weapon it is, how the safety mechanisms function, and the exact location of the handgun on the permittee. If not careful, the officer could accidentally discharge the weapon in attempting to secure it. If the officer asks the permittee to hand over the weapon, the officer would be in a situation of having to react to an armed individual.

NOTE: Officer safety is the top concern in every traffic stop, but that is not a particularized objective fact. Officers need to be able to testify to the facts... What did

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they observe that gave them reasonable suspicion to stop the car? When they stopped the car, upon approach, once they started interacting with the driver/passenger, what made them believe they were in danger? Emphasize that even innocent actions can lead officers to reasonable suspicion. For example, clothing indicators, nervousness, being in high crime area, time of day or night, gang indicators, etc. may all contribute to why an officer believed a person to be armed and presently dangerous.

- (3) Some individuals are authorized by law to carry a concealed handgun without a permit.
 - (a) Officers and enlisted personnel of the Armed Forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons⁵⁹
 - (b) Civil and law enforcement officers of the United States⁶⁰
 - (c) Officers and soldiers of the militia and the National Guard when called into actual service⁶¹
 - (d) Members of the North Carolina National Guard who have been designated in writing by the Adjutant General, State of North Carolina, and who has a concealed handgun permit, and is acting in the discharge of his or her official duties⁶²
 - (e) Officers of the State, or any county, city, town, or company police agency charged with the execution of the laws of the State, when acting in the discharge of their official duties⁶³
 - (f) District attorney, an assistant district attorney, or an investigator employed by the office of a district attorney and has a concealed handgun permit. All individuals listed shall not carry a concealed weapon at any time while in a courtroom except a district attorney. A district attorney may carry a concealed weapon while in a courtroom. The district attorney, assistant district attorney, or investigator shall secure the

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weapon in a locked compartment when the weapon is not physically on his or her body.⁶⁴

- (g) Meets the statutory qualifications as a retired law enforcement officer and meets any one (1) of the following conditions:⁶⁵
 - i) Is the holder of a concealed handgun permit by Article 54B of this Chapter.
 - ii) Is exempt from obtaining a permit under G.S. 415.25
 - iii) Is certified by the North Carolina Criminal Justice Education and Training Standards Commission under G.S. 14-415.26.
- (h) North Carolina district court judge, North Carolina superior court judge, or a North Carolina magistrate and has a concealed handgun permit issued. The judge or magistrate shall secure the weapon in a locked compartment when the weapon is not physically on them.⁶⁶
- (i) Clerk of court or as a register of deeds and has a concealed handgun permit. Clerk of court or register of deeds shall secure the weapon in a locked compartment when the weapon is not physically on them. This section does not apply to assistants, deputies, or other employees of the clerk of courts or register of deeds.⁶⁷
- (j) A person employed by the Department of Public Safety who has been designated in writing by the Secretary of the Department has a concealed handgun permit and has in the person's possession written proof of the designation by the Secretary of the Department.⁶⁸
- (k) Administrative law judge and has a concealed handgun permit.⁶⁹

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- (m) When off duty, sworn law enforcement officers, state probation and parole officers, and state correctional officers.⁷⁰

Note: If the concealed weapon is a handgun, the correctional officer must meet the firearms training standards of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.⁷¹

The authorizations to carry a concealed weapon without a permit are provided that the person shall not carry the concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body.⁷²

5. Violator contact

NOTE: Show slide, "Violator Contact."

- a) The officer should immediately identify themselves, their department, and inform the violator of the reason for the stop.
- b) Politely ask the violator to produce a driver's license and registration card. Advise the violator how you wish the license to be handed to you (i.e., removed from the wallet, using left hand, etc.). You only need the license of the violator, not his wallet, which contains money, credit cards, etc. Observe how the documentation is being removed (i.e., smoothly, clumsily, fumbling) and the location it is removed from, such as the glove compartment or a console.
- c) The officer should explain what enforcement action is being taken. However, it is within the officer's discretion whether to inform the driver if he or she will be issued a citation or warning. A critical officer safety issue to be addressed at this point in the traffic stop is for the officer to communicate to all occupants of the vehicle to remain seated in the vehicle unless otherwise directed by the officer.
- d) Should it become necessary to have violator and occupants exit the vehicle, the officers should not stand between both vehicles during contact. Doing so exposes the officer to being pinned in

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this area should a crash occur, or intentional maneuver cause both vehicles to collide together. An officer is also exposed to the risk of being pushed into oncoming traffic by the violator in the event of a struggle. All contact with violators outside the vehicle should take place near the shoulder, near the right front or right rear of the patrol vehicle.

F. Issuing Citations or Warning Tickets

1. Officer safety issues

NOTE: Show slide, "Issuing Citations."

Officers must be careful not to lose focus of the driver and occupants while completing a citation or warning ticket. Officers should periodically glance at the suspect vehicle and its occupants throughout the stop.

Locations to complete citation include:

- a) The passenger side of the patrol vehicle; violator remains in the vehicle
 - (1) Advantages
 - (a) Distance and protection from the violator
 - (b) Can exit patrol vehicle without fear of traffic
 - (c) Access to radio communication
 - (d) Unencumbered by steering wheel column, MDTs, computers, etc.
 - (e) The door may be kept open
 - (2) Disadvantages
 - (a) Must re-approach suspect vehicle
 - (b) No ongoing contact with the violator
 - (c) Not in immediate control of patrol vehicle if pursuit becomes necessary or if the officer is required to respond to another emergency

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b) Driver's side of patrol vehicle; violator remains in the vehicle

(1) Advantages

- (a) Distance and protection from the violator
- (b) Access to radio communication
- (c) Control of patrol vehicle should rapid departure be necessary

(2) Disadvantages

- (a) Encumbered by the steering wheel, MDTs, computers, etc. should rapid exit be necessary
- (b) The problem of oncoming traffic should a rapid exit be necessary
- (c) Must re-approach violator's vehicle
- (d) No ongoing contact with the violator
- (e) Air bag deployment

Suspects have been known to back into patrol vehicles to deploy the air bag and injure officers. This can be especially dangerous if a clipboard is braced against the steering wheel while writing a citation. Air bags deploy at speeds up to 200 mph⁷³ and could easily force any object into the officer, causing serious injury.

Air bag deployment can also occur should a careless driver rear end the patrol vehicle, whereby pushing same into the violator's vehicle.

c) Driver's side of patrol vehicle; violator in the passenger seat of the patrol vehicle

(1) Advantages

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- (a) Ability to question violator if additional information is needed
 - (b) Not required to re-approach violator's vehicle
 - (c) Access to radio communication
 - (d) The officer may elect to have the violator keep the passenger door of the patrol vehicle open and sit with their feet on the ground.
- (2) Disadvantages
- (a) Encumbered by steering wheel and column
 - (b) A firearm near violator on right-handed officers
 - (c) If a ticket book is propped in the steering wheel, an officer may be prohibited from making a quick turn to the right should the violator react adversely. The officer may elect to have the violator keep the passenger door of the patrol vehicle open and sit with their feet on the ground.
 - (d) Inability to focus on completing your paperwork because you must continually view the individual sitting beside you.
 - (e) Air bag deployment [as described in b)(2)(e) above]

NOTE: Show video, *Unknown Risk Stops*.

- 2. Inspect the documentation
 - a) The driver's license should be inspected to determine if it is valid by confirming the picture on the license is that of the operator, it is not expired, and there is no evidence of alteration.

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- b) “When an officer encounters a document or driver’s license during a [traffic stop], it is recommended that he/she perform the following [tasks]:
- (1) If it is not safe to do so, do not examine the document in front of suspect.
 - (2) Officers should remember the following phrase and use it as a method to examine the questioned document – Remove, Look/Touch or Feel/Examine
 - (a) Remove – Make certain that the document is removed from any wallet or protective covering.
 - (b) Look – Look for any basic security features. Usually, there are in plain view on the document itself. Also, look at the document [and] examine [it] for any visible alterations, tears, or rips in the laminate itself.
 - (c) Touch/feel – Does the [document] feel thick? Does it feel like your license?
 - (d) Examine – Examine [the document] using back lighting with flashlight, headlamp, or other means of indirect lighting to check for counterfeit documents or alterations.

[For] example, [the] new style of North Carolina driver’s license and identification cards will have an outline of North Carolina observed with back lighting. Additionally, the new style North Carolina [driver’s license and identification] cards will have a raised date of birth.

Security features on state issued identification cards and driver’s license will vary by manufacturer and state. Officers need to be aware when dealing with any type of plastic or teslin cards; state issued credentials will have a high-quality printing.

States have professionally designed and printed cards that have colors and color blends unique to the issuing state. Though the appearance of

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those colors may seem standard, [the] colors are unique to those issuing states. State issued credentials will have clear, complete, and accurate information located on the card. Officers will be able to use this as a part of the field interview process, and cross-reference displayed information with available law enforcement systems.

New styles of cards may also have perforated holes in the card, which is similar to cards issued by North Carolina. Newer cards may also have raised lettering or numbers on the card itself. Cards printed and issued by governmental agencies will also have many confidential overlapping security features, which trained personnel can identify as altered, synthetic, or counterfeit.

- (e) Use all available resources to confirm questioned document. Mobile Data Terminal (MDT), National Crime Information Center (NCIC), CJ Leads, booking/jail information, Records Management System are just a few examples available to officers investigating questioned documents.
- (f) Contact the sworn members of the NC DMV [North Carolina Division of Motor Vehicles] License and Theft Bureau. Agents of the License and Theft Bureau are document experts and can assist in verifying the document. During business hours, officers can call (919-861-3143) or email idl@ncdot.gov for assistance.”⁷⁴

3. Completing the citation

Citations must be issued by North Carolina General Statute 15A-302.

- a) “Definition – A citation is a directive, issued by a law enforcement officer to another person authorized by statute, that a person appear in court and answer a misdemeanor or infraction charge or charge(s).

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- b) When Issued – An officer may issue a citation to any person to who he has probable cause to believe has committed a misdemeanor or infraction.
- c) Contents – The citation must:
 - (1) Identify the crime charged, including the date, and where applicable, identify property and other persons involved.
 - (2) Contains the name and address of the person cited or other identification if that cannot be ascertained.
 - (3) Identify the officer issuing the citation, and
 - (4) Cite the person to whom issued to appear in a designated court at a designated time and date.
- d) Service – A copy of the citation shall be delivered to the person cited who may sign a receipt on the original, which shall, after that be filed with the clerk by the officer.

Note: Refusal of a North Carolina licensed driver to sign the citation is not a violation of law.
- e) Dismissal by Prosecutor – If the prosecutor finds that no crime or infraction is charged in the citation or that there is insufficient evidence to warrant prosecution, he may dismiss the charge and so notify the person cited. An appropriate entry must be made into the records of the clerk.”⁷⁵
- f) “Citation No Bar to Criminal Summons or Warrant – If the offense is a misdemeanor, a criminal summons or a warrant may issue notwithstanding the prior issuance of a citation for the same offense.”⁷⁶
- g) “Preparation of form – The form and content of the citation is as prescribed by the Administrative Officer of the Courts. The form of the citation used for violations of the motor vehicle laws must contain a notice that the driving privilege of a person cited may be revoked for failure to appear as cited.”⁷⁷

4. Issuance of a citation for traffic violations

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- a) Citations may be issued instead of physical arrest for any traffic misdemeanor when probable cause exists that the statute cited has been violated.
 - b) Citations or criminal summons must be issued when charging traffic infractions as a physical arrest is not an option available to a law enforcement officer for these offenses.
5. Out-of-state drivers, traffic violations and the use of a citation

Frequently an officer stops a driver for a traffic offense only to discover that he is not a resident of North Carolina. The officer must then choose among the various enforcement actions stated previously, including full custodial arrest and transportation to the Magistrate's Office or the issuance of a North Carolina Uniform Citation. North Carolina General Statutes govern the reciprocity agreements between North Carolina and other states.⁷⁸ The statutes also regulate the circumstances under which an officer may arrest a nonresident for a violation of the motor vehicle laws of North Carolina.⁷⁹

North Carolina is a member of the Nonresident Violator's Compact Act. This Act dictates how the citizens of states who are members of the compact are treated in other states that are part of the compact. A list of states who are NOT members of the Nonresident Violator's Compact Act (NVCA) is included on the front inside page of the uniform citation book.

If a driver is stopped and they are a citizen of a state that is a party to the compact, then generally, they may be issued a citation and are not required to go before a magistrate or post a bond.⁸⁰ They may be required to post a bond if they are cited with an offense that could cause suspension or revocation of their license.⁸¹

If a driver is stopped and they are a citizen of one (1) of the few states who are not a party to the non-resident violator compact, then officers may not arrest them for an infraction but are permitted if probable cause to accompany the violator to the magistrate's office to post an unsecured bond.⁸²

Despite whether a person is a citizen of a compact state or not, if they commit an arrestable offense under North Carolina law, you may arrest them.

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NOTE: Instructors should provide examples of different scenarios to students as to how this applies during traffic stop scenarios.

6. Note taking of traffic offenses
 - a) Officers should make notes on all citations issued as they will need these notes to testify in court. Notes may be placed in numerous locations on the officer copy of this citation or in a separate notebook, but they must be filed in a manner for easy retrieval by the officer when needed.
 - b) Citations and notes relating to the event should be retained until after all appeals to the case have been exhausted by the defendant. Officers should remember that civil action may be filed many years after the initial offense and that notes taken for criminal trial may be subpoenaed to civil court.

NOTE: Give examples of civil cases involving traffic offenses (i.e., traffic accidents).

- c) Citations may also be issued to summon a defendant to court on non-traffic related misdemeanor criminal offenses⁸³ (i.e., assaults, misdemeanor larceny, city ordinances, etc.). An officer cannot charge a person with a felony by a citation; a warrant or summons should be used.⁸⁴

NOTE: Show slide and refer to the handout, “North Carolina Uniform Citation Exercise.” Conduct practical exercise, “N.C. Uniform Citation.” See Instructor Notes at the beginning of the lesson for directions.

7. Discovery

As a law enforcement officer, your entire investigative file will be subject to discovery in all superior court cases and some jurisdiction in district court driving while impaired cases.⁸⁵ That means all evidence you collect will be turned over to the defense.

- a) Evidence can come in the form of victim or witness statements, photographs, reports, notes you took in your pocket notepad, notes you took on your computer, notes you took on a post-it note, or on a gum wrapper, even a note you scribbled on your hand. All evidence is part of discovery. It is your job to document it, even photocopy your hand if necessary.

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- b) All evidence should be documented and turned over to the State.
- c) The State will be responsible for providing the discovery you give them to the defense. It is not your responsibility to turn evidence directly over to the defense. Discovery should flow from you to the State, from the State to the defense.
- d) Throughout your case, you must continue to disclose evidence.⁸⁶
- e) If you willfully fail to disclose evidence or misrepresent evidence, you can be charged with a Class 1 misdemeanor and in some cases, a Class H felony.⁸⁷

G. Driver Reexamination Request

NOTE: Show slide, “Driver Reexamination Request.”

1. North Carolina general statute states in part that “The Commissioner of Motor Vehicles, having good and sufficient cause to believe that a licensed operator is incompetent or otherwise not qualified to be licensed, may, upon written notice of at least five days to such licensee, require him to submit to a reexamination to determine his competency to operate a motor vehicle.”⁸⁸
2. Notification to the North Carolina Division of Motor Vehicles (NCDMV) can be made in two (2) ways.
 - a) By completing the Request for Driver Reexamination form and forwarding it to the NCDMV Medical Review Program. This form can be located at <https://www.ncdot.gov/download/dmv/MedicalRequest.pdf>
 - b) By written letter to the Director, Driver License Section, Division of Motor Vehicles, 3112 Mail Service Center, Raleigh, NC 27699. All correspondence must include the officer’s signature, address, and phone number. The reason for making a reexamination request must be specific. Example: Poor vision would be a valid request, but age would not.

H. Known Risk Vehicle Stops

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There are vehicle stops, “where you know there is increased danger to you and the public because the suspect is either armed or may have committed a serious offense.”⁸⁹ There should be a minimum of two (2) officers present when conducting known risk vehicle stops.

NOTE: Show slide, “Known Risk Vehicle Stops.”

1. Location of stop considerations

The same stop considerations for unknown risk stops applies to known risk stops. If possible, the location to make the stop should have minimal vehicle and pedestrian traffic, good lighting and provide the best tactical advantage to the officers.

2. Calling in the stop

The same information provided to telecommunicators in unknown risk stops should be provided during known risk stops. Where providing the nature of the stop may be optional for unknown risk stops, the reason for a known risk stop should always be provided, as well as requesting that all other radio traffic be cleared from that radio channel during the stop.

3. The position of law enforcement vehicle⁹⁰

a) Distance back – approximately 30-40 feet.

b) Angle – position the patrol vehicle at a 45-degree angle to the left on most known risk stops. The front wheels should be turned sharply to the left. This affords the most protection to the responding officers. This will be the primary vehicle.

c) The secondary officer vehicle should be stopped at the rear of the initial patrol vehicle at no angle. Essentially the second vehicle will be in an unknown risk vehicle stop position offset slightly to the right of the suspect vehicle.

4. The position of the law enforcement officers⁹¹

a) The officer that initiates the stop and drives the police vehicle positioned at an angle will be the primary officer. The primary officer is responsible for giving the commands to the violators. The secondary officer or second officer in the vehicle will be the cuffing officer.

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- b) The primary officer should take a crouched position in the open door on the driver's side of the patrol vehicle. Both the wheels and engine block protect the officer. These two (2) items provide the most protection from gunfire. This position allows the primary officer good visibility of the driver's side of the suspect vehicle, plus immediate access to both the radio and the public address system.
- c) The cuffing officer should take a position at the rear of the primary vehicle. Care should be taken to ensure that the cuffing officer's legs are protected by the right rear wheel of the patrol vehicle.

NOTE: Tell the students that the secondary officer is responsible for watching the person being commanded out of the violator vehicle, passengers remaining in the vehicle, as well as the total environment of the traffic stop up to the point that he/she makes contact with the violator(s) to place them in handcuffs.

- 5. Commands – The commands are the most important aspect of the stop. They should be kept simple and clear.
 - a) Identify

Officers should identify themselves and advise the occupants of the suspect vehicle that they are considered armed and dangerous. Occupants should be advised that they are under arrest if this is the case and that all commands should be obeyed. Furthermore, occupants are advised to move only on command.
 - b) Hands up

Occupants of the front seat should place their hands, palms up on the windshield. People in the backseat should either:

 - (1) Place their hands on the rear window.
 - (2) Place hands on their heads, interlocking fingers.
 - c) Window

If the driver's window is rolled up, have the driver lower it to ensure that all commands can be heard.

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d) Engine off

Have the driver reach with the left hand and turn the ignition off. Once this has been done, the officer should listen momentarily for engine noise, watch the exhaust pipe for vibration, and if the suspect vehicle has a radio or CB antenna, watch for vibration. This is done to ensure that the suspect vehicle is indeed off.

e) Remove keys

Have the driver remove the keys from the ignition with the left hand, if possible. The majority of the population is right-handed. Therefore, officers should keep the right hand visible and stationary as much as possible to avoid the violator having the opportunity to reach for a weapon. Due to the lock mechanisms on many new vehicles, some individuals may be forced to use the right hand to remove the keys. Do not have the driver throw the keys out of the window, since they may be hard to locate by the officer when needed to open the trunk. The officer has several options as far as the placement of the violator vehicle keys. The driver could be directed to place the keys on the roof, trunk, or bring the keys back with him/her.

NOTE: Discuss with the class the advantages and disadvantages of each placement of the vehicle keys.

f) Exiting vehicle

(1) Normally the driver will be removed from the vehicle first. Have the driver open the door using the right hand, opening the door from the outside. Using the left foot, the driver of the suspect vehicle should push the door open.

(2) After the door is opened, order the driver to step slowly out of the vehicle with both arms fully extended upward above the head and face the front of the (suspect) vehicle.
Have the driver step approximately two (2) steps to his or her left and using the right foot close the door of the suspect vehicle.

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- (3) Now have the driver turn completely around slowly with arms fully extended upward above the head. This is done for the officer to visually inspect the driver's clothing. If the arms are fully extended, the clothing is pulled tight against the body, and sweaters/jackets are lifted slightly. The officer could have the violator lift on the clothing to expose the waist band.
- (4) In giving the command, the officer should tell the offender to "turn slowly until I say stop." Avoid phrases such as "turn around" or "turn 360 degrees." Some people may not be clear on the meaning of the command.
- (5) If a weapon is spotted by either officer, that officer should advise the other officer(s) of the weapon and the location of the weapon. The violator should be told that the weapon has been seen and warned not to reach for it.
- (6) "Once spotted, the suspect's weapon is allowed to remain in place (assuming it's not in his hand!) under extra close surveillance until seized by the backup officer who eventually approaches and controls the suspect."⁹² The officer should handcuff the violator before removing the weapon from the person.
- (7) The officers have the option of having the driver stop while backing toward the patrol vehicles to open rear doors, hatches, and tailgates to provide more visibility to obscured spaces.

6. Contact with offender⁹³

NOTE: Show slide, "Offender Contact."

- a) The driver of the vehicle should now be told to walk backward toward the patrol vehicle, very slowly keeping his/her hands up.
- b) The driver should be walked down the right or passenger side of the patrol vehicle. Once the driver is at a point that they can be easily heard by the cuffing officer, this officer should direct them back.

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- c) As the driver nears the cuffing officer, this officer should move back and to the left in a crouched position. The driver is walked backward to the rear of the primary vehicle and then sidestep to the left rear of the trunk area.
- d) The driver is then ordered to the prone or kneeling position. The driver should be parallel to the rear of the patrol vehicle facing toward the passenger (right) side of the vehicle. If placed in the kneeling position, the driver should be kneeling parallel to the patrol vehicle.
- e) Using the cuffing techniques previously discussed in the *Subject Control Arrest Techniques* block, cuff the individual, search him/her incident to arrest, and place in the back seat of the primary vehicle from the left side. At this time, the cuffing officer obtains an additional set of handcuffs from the primary officer and assumes the same cover position as taken when the stop was initiated.
- f) If the driver still has the keys, they could be placed on the trunk of the violator's vehicle as the driver backs to the rear. An option is to have the driver bring the keys back with them, but drop them on the ground before the secondary officer's approach. Do not allow the driver to retain the keys in their hand as you approach since keys can be used as a weapon.
- g) Once the driver has been secured, ask any questions that might assist in securing additional personnel. For instance: "How many people are in the vehicle?" "Does anyone have a weapon?"

NOTE: However, instructors should remind students that a person as *Miranda* rights when in custody and being interrogated.⁹⁴ Dependent upon the circumstances, you may need to Mirandize a person before asking him/her questions for his/her answers to be used against him/her in court.

- h) The passenger in the front seat is now told to slide to the driver's side of the vehicle keeping their hands in sight at all times. Since most modern vehicles do not have bench seats and are equipped with center consoles, it is hard for the front seat passenger to slide across the seat and exit out of the driver's side without using their hands to assist them. In that case, a better option would be to bring the passenger out from the right

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side of the vehicle. The passenger is given the same orders as in any other known risk stop, except reverse the directions given. Example: side step, two (2) steps right, close door with your left foot. Also, have the passenger open the door with his/her left hand. Now this individual is handled the same way as the driver.

- i) Once secured, the next passenger is ordered out. In using this method, the officers are only required to deal with one (1) individual at a time.
- j) Once all visible occupants have been secured, give an additional order for any hidden individuals in the vehicle to get up. Give this order so that anyone hiding will think that the removed occupants have told the officers of his existence. If, after several such commands, no one sits up, secure the vehicle.

7. Securing the suspect vehicle

- a) While the primary officer continues to order hidden passengers to sit up, the secondary officer approaches the suspect vehicle in a crouched position.
- b) It is important that the primary officer continues to talk so that his conversation may cover any noise made by the secondary officer.
- c) When the secondary officer reaches the rear of the suspect vehicle, the officer may attempt to make some distracting noise on the left side of the suspect vehicle.

In making this noise on the left side of the vehicle, the secondary officer is trying to make the offender look towards the left side of the vehicle as the secondary officer looks in the vehicle from the right side. The officer also has the option of using the element of surprise by not making any noise at all, rather than letting any possible suspect know you are at the rear of the vehicle.

- d) The officer should pop up, quickly look, and move forward, keeping low, and pop up again.

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- e) Once the vehicle has been checked, notify the primary officer that the vehicle is clear. Caution should be taken when checking the trunk area. Officers should stand to the side of the vehicle to afford as much cover as possible.

8. Special situations

NOTE: Show slide, “Special Situations.”

a) Violator flees

If a violator exits the suspect vehicle and runs, DO NOT CHASE THE VIOLATOR. You should never leave your cover position until all occupants of the vehicle have been secured and the vehicle checked. DO NOT USE DEADLY FORCE AGAINST THE VIOLATOR WITHOUT LEGAL JUSTIFICATION BY NORTH CAROLINA GENERAL STATUTES AND CASE LAW.⁹⁵ Radio in a description of the fleeing violator and the direction of his travel.

- (1) When a violator who is not in custody flees a traffic stop, by statute, officer’s ability to use deadly force is limited to:
 - (a) Defending himself or another person “from what he reasonably believes to be the use of or imminent use of deadly physical force;”⁹⁶ or
 - (b) If a person “who by his conduct or any other means indicates that he presents an imminent threat of death or serious physical injury to others unless apprehended without delay [...]”⁹⁷
- (2) Also remember, an officer’s use of force, whether deadly or not, will always be measured by the factors set out by the United States Supreme Court in *Graham v. Connor*.
 - (a) The severity of the crime at issue⁹⁸
 - (b) The extent to which the suspect poses an immediate threat to the safety of the officer or others⁹⁹

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- (c) Whether the suspect is actively resisting or attempting to evade arrest by flight¹⁰⁰
- b) Violators refuse to obey commands

Remember, TIME is on the side of the officer. The officer should not be concerned with how long it takes to complete the task. If it becomes necessary for the officer to back the patrol vehicle up to avoid injury, do so without hesitation. Never attempt to remove violators from the vehicle alone. Always have at least two (2) officers on the scene, if possible.

- c) Van/truck/sport utility vehicle (SUV) stops

Vans and sport utility vehicles can present a significant problem to law enforcement officers due to the number of exits from the vehicle as well as the various sizes and window coverings. The same procedures used in sedan type vehicles can be used when dealing with vans, trucks, and SUVs. The officers have the option of having the driver stop while backing toward the patrol vehicles to open rear doors, hatches, and tailgates to provide more visibility to obscured spaces.

- d) Motorcycles

Have the occupants step off the bike to the right one at a time, leaving their helmet on the bike and walk backwards toward the patrol car, as previously mentioned.

- e) Tractor trailers

Have the occupants step down from the cab from the driver's side one (1) at a time, while facing the front of the cab. Then have them walk backwards toward the patrol car as previously mentioned.

- f) Night stops

If patrol vehicles do not have spotlights, position the vehicles in the unknown risk position with one (1) vehicle offset left, the other offset right. This allows maximum light in the vehicle. The officer may order the driver to turn on the dome light to further illuminate the interior of the suspect vehicle.

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I. Vehicle Searches

NOTE: Show slide, “Vehicle Searches.”

1. Search automobile with independent probable cause

Officers, in their everyday duties, sometimes must undertake investigative actions that often involve a vehicle.¹⁰¹ Officers need to know their authority to search and seize such vehicles.¹⁰² This knowledge would include whether they must have a search warrant to conduct a vehicle search.¹⁰³

The United States Supreme Court and the North Carolina Supreme Court have allowed searches under the following circumstances:

- a) When an officer has probable cause to search a vehicle for evidence of a crime and the vehicle is in a public place (a place where the defendant does not have a reasonable expectation of privacy), the officer may seize the vehicle, whether parked or moving, without a search warrant.¹⁰⁴

This legal principle, permitting the warrantless search of a vehicle, is an exception to the general rule that an officer may make a warrantless search with probable cause only when exigent circumstances exist to justify a failure to obtain a search warrant.¹⁰⁵

- b) The officer may then search the vehicle without a search warrant at the place where the seizure took place or may take it to a law enforcement facility or other place and search it there without a warrant.¹⁰⁶
- c) An officer needs probable cause and exigent circumstances to justify his warrantless seizure and search of a vehicle if he enters, without consent, a place where a defendant has a reasonable expectation of privacy, such as the curtilage of the defendant’s home.¹⁰⁷ The curtilage generally includes driveways.
- d) “Once a vehicle has been lawfully seized and probable cause exists to search the vehicle, an officer does not need exigent circumstances to justify a search of it without a search warrant.”¹⁰⁸

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e) Scope of search

The United States Supreme Court has ruled that the permissible scope of a warrantless search of a vehicle is the same as what a judicial official could authorize with a search warrant.¹⁰⁹ In other words, a warrantless search of a vehicle could include any area of the vehicle, including the trunk, and any containers locked or unlocked, that might contain the object the search.¹¹⁰

For example, a search for drugs would give officers a wide array of locations to search, such as any small containers in the passenger compartment or trunk, the glove box, console compartment, or even door compartments. However, a search for a shotgun would limit where officers could look, most likely excluding small compartments such as a glove box or console, and any small containers in the car.

2. Search automobile incident to arrest

In *Arizona v. Gant*, the United States Supreme Court set a new standard for searching a motor vehicle incident to arrest of any occupant. There are only two (2) circumstances in which officers may search the motor vehicle and contents under this justification.¹¹¹

- a) “The first is when the arrestee is unsecured and within reaching distance of the passenger compartment when the search (not the arrest) is conducted. The Court stated that it will be a rare case in which an officer is unable to fully effectuate an arrest so that an arrestee has a realistic possibility of access to the vehicle.

Thus, the typical case in which an officer secures the arrestee with handcuffs and places the arrestee in a patrol vehicle will not satisfy this circumstance. Even if a handcuffed arrestee is not placed in a patrol car, it is not likely that the arrestee has realistic access to the vehicle absent unusual circumstances.”¹¹²

- b) “The second circumstance is if it is reasonable to believe that evidence relevant to the crime of arrest might be found in the vehicle.

For motor vehicle criminal offenses, such as driving while license revoked, driving without a valid driver’s license,

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misdemeanor speeding, etc., it would be highly unlikely that this circumstance would exist to permit a search of the vehicle.

For motor vehicle offenses, such as impaired driving, there may be valid grounds for believing that evidence relevant to the offense may exist in the vehicle (for example, impairing substances or containers used to drink or otherwise ingest them).

For arrests based on outstanding arrest warrants, it is highly unlikely that this circumstance would exist to permit a search of the vehicle, unless incriminating facts concerning the offense charged in the warrant exist at the arrest scene or the offense is one for which evidence of the offense likely would still be found in the vehicle. How recent the offense was committed may be an important factor in determining the ‘reasonable to believe’ standards of this context.”¹¹³

If the violation is an infraction, then the officer obviously can’t conduct a search incident to arrest, because he is not authorized to make an arrest. Under *Terry*, the officer may be able to frisk the person if the officer reasonably believes the person is presently armed and dangerous.

Furthermore, for a search incident to arrest to be valid, the arrest itself must be lawful. If the arrest is not supported by probable cause, then the search incident to the arrest is illegal.

c) Scope of search

A search of a motor vehicle, incident to arrest, extends only to the passenger compartment area of the vehicle and does not include the trunk.¹¹⁴ However, a search of the passenger compartment may give an officer additional information, which may lead to the development of probable cause and, therefore, would allow officers access to the trunk.

NOTE: Refer to the *Arrest, Search and Seizure/Constitutional Law* block of instruction for information about searching cell phones incident to arrest and actual searching of data on cell phones found in vehicles and other locations.

3. Car frisk

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An officer often interacts with people in or near a vehicle but does not make an arrest; for example, the officer may stop a vehicle to issue a citation. The United States Supreme Court has recognized that officers may conduct a limited search or frisk for weapons of the passenger compartment (not the trunk and no containers within the passenger compartment) of a vehicle for weapons without a warrant, even when they are not making an arrest, if they have reasonable suspicion that a person is dangerous and a weapon may be in the vehicle that could be used to harm the officer.¹¹⁵

4. Inventory search

Inventory searches are administrative searches which do not require any level of reasonable suspicion or probable cause.¹¹⁶

- a) The purpose of an inventory search is not to discover evidence, but to catalog those items in the vehicle for safekeeping and to protect your agency from liability for loss or theft of any materials in the car when it was seized for inventory.¹¹⁷
- b) Agencies should have a written inventory policy and procedure, though it is not required.¹¹⁸ At least one (1) United States Supreme Court case has suggested that agencies should not allow the opening of unlocked containers unless it is specifically spelled out in policy.¹¹⁹ The policy and procedure should also outline whether the trunk should be included in the inventory.¹²⁰

5. Consent searches of vehicles

Consent can be an effective tool for officers. When you do not have a legal justification for a search, you may still always ask for consent to search. In the context of a vehicle stopped for an observed traffic violation, you may ask for consent as long as it does not delay the traffic stop.¹²¹ However, it is recommended that any search conducted with consent take place after the tasks tied to the ordinary mission of a traffic stop have been completed, any requested documents have been returned to the driver, and it has been communicated to the detained motorists that the traffic stop is over.¹²²

Consent must be voluntary and can be verbal, nonverbal, or written.¹²³ Consent to search a vehicle must be obtained from:

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- a) “The registered owner of the vehicle to be searched or by the person in apparent control of its operation and contents at the time consent is given;”¹²⁴
- b) If the registered owner of the vehicle is not present, then consent may be obtained only from the person in apparent control of the vehicle.
- c) If the registered owner is in the vehicle, then their consent may override the denial of consent by the person in apparent control.

NOTE: Instructors should discuss with students various scenarios regarding consent to search at a traffic stop. For example, who may give consent when:

- 1. Is the driver non-owner/passenger the owner? Driver or passenger may give consent, but passenger’s denial of consent overrides.**
- 2. Is the driver non-owner/owner not present? The driver may give or deny consent. An absent owner cannot affect that consent or denial.**
- 3. The car is a rental – the driver is not on the contract? Best practice – call the rental company and confirm if the driver has been added to the contract. If they do not have any legal authority to possess the car, then follow your departmental policy regarding seizure and inventory.**
- 4. The car is a rental – driver kept the vehicle past contract date? Keeping a car past a contract date does not invalidate a person’s Fourth Amendment privacy interest in the vehicle, just like staying in a hotel room past checkout time or date does not lessen a person’s interest of privacy in the hotel room. You must still have the driver’s consent in this scenario unless the rental company has reported the car stolen.**
- 5. The driver is non-owner, and the car is reported stolen? A person does not have a privacy interest in stolen property. Therefore, you would not need consent of the driver in this case. Follow your agency policy about seizure and inventory.**
6. Vehicle searches and survival¹²⁵
The proper tactical foundation that will set you up to conduct a safe vehicle search should be one of your top priorities. Always let safety be your number one (1) concern. The following six (6) key principles for survival should help you achieve this goal:

NOTE: Show slide, “Survival Tips for Vehicle Searches.”

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- a) Always have backup present before you start to search.
 - (1) Never go any further than getting consent to search before your backup arrives.
 - (2) You want(1) officer watching the occupant(s) while the other officer searches the vehicle.
 - (3) If you cannot get back-up when you need it and you cannot reasonably and safely detain the occupant(s) until it is available, your best option is to terminate the search.

- b) Choose a safe location (location out of heavy traffic or congestion) to search.
 - (1) Safe from occupant(s).
 - (2) Safe from other citizens who may be in the area.
 - (3) Safe from other vehicular traffic.

- c) With backup on the scene, remove all occupants from the vehicle before you put any part of your body into the car.
 - (1) To conduct a proper search, you will have to put yourself in awkward positions.
 - (2) Your sidearm may be exposed, and your attention will be focused on the search of the vehicle.
 - (3) Your defensive movements may be limited.

- d) Frisk occupants first, if justifiable, then search the vehicle. Make sure you see the occupant's fingers spread apart before you attempt a pat-down.

- e) Before reaching into any area, look!
 - (1) Always be aware of possible booby traps.
 - (2) Get some tools (mirrors, gloves, etc.) to aid you in viewing areas safely.

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- f) Beware of possible set-ups by cooperative occupants.
 - (1) Occupant(s) may try to guide your attention away from an area after readily consenting to search.
 - (2) May verbally attempt to direct you away from the location of the contraband.

7. Search patterns

Each vehicle is different, hiding spots vary, just as the people involved vary. Always use a consistent, systematic pattern for searching. This will help assure that you do not overlook any area to search, especially if distractions occur. “Resist the temptation to ‘explode’ into the car and start tearing everything apart or to jump immediately to some favorite spot where you may have found contraband before.”¹²⁶

You should cover **nine (9) search zones or potential zones of concealment**.¹²⁷ (*Remember, the permissible scope of your search will determine how many zones you can cover.*)

- a) Exterior
- b) Driver zone
- c) Left-rear passenger zone
- d) Trunk zone
- e) Right-rear passenger zone
- f) Front passenger zone
- g) Engine zone
- h) Roof zone
- i) Underside zone

“The sequence you select will depend on the environment around your stop, your time constraints, and your personal preferences, based on what tends to work best, safest, and most comfortably for you.

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Some officers like to give the whole car a fast once-over, looking for anything that catches their eye as a place to start, regardless of what zone it happens to be in; of if they've seen something suspicious during their initial approach and dialogue with the driver, they begin there."¹²⁸

NOTE: Show slide, "Vehicle Search Patterns."

"More important than any particular order is making certain that before you are finished, you search all zones of possible concealment."¹²⁹

J. Driving While Impaired (DWI) Detection and Field Sobriety Testing

NOTE: Show slide, "Establishing Proof."

1. Investigative stop and arrest standards review

a) Reasonable suspicion

An officer needs reasonable suspicion for an investigative stop of a vehicle suspected of DWI or any criminal offense.¹³⁰ An officer's responsibility of developing reasonable suspicion may or may not end when the vehicle is stopped. For example, if an officer stops a vehicle for speeding, the officer will need further reasonable suspicion of impairment to request the violator perform field sobriety tests. However, if the officer stops the car for suspicion of driving while impaired, depending on the observations he or she already made, he or she may not need any further reasonable suspicion to request the violator step out and perform field sobriety tests.

Officers are reminded that reasonable suspicion will be determined by: "[S]pecific and articulable facts, as well as the rational inferences from those facts, as reviewed through the eyes of a reasonable, cautious officer, guided by his experience and training. Moreover, [a] court must consider the totality of the circumstances."¹³¹

b) Probable cause

Probable cause is then necessary to arrest a violator for DWI or any other criminal offense.¹³² Therefore, the officer must

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continuously gather evidence after the officer's initial observation of a vehicle until the case is adjudicated in court. Although our concentration will be on the detection and apprehension of impaired drivers, it is important to remember that the collection of evidence does not stop with a custodial arrest.

2. Elements of DWI

NOTE: Show slide, "D.W.I."

It is unlawful for any person:

- a) To drive in North Carolina means:
 - (1) Having physical control of the vehicle, which is running and in motion¹³³
 - (2) Sitting behind the wheel of a car with the keys in the ignition, motor running¹³⁴
 - (3) Asleep behind the wheel with the engine running¹³⁵
- b) Any vehicle

A vehicle in North Carolina has been deemed to be a motor vehicle, motorcycle, as well as the following:

- (1) A tractor¹³⁶
- (2) A standup electric scooter¹³⁷
- (3) A moped¹³⁸
- (4) A bicycle¹³⁹

NOTE: The DWI statute specifically excludes horses.¹⁴⁰

- c) On a highway, street, or public vehicular area

Public vehicular area (PVA) is any area "used by the public for vehicular traffic at any time [...] any drive, driveway, road, roadway, street, alley, or parking lot at schools, private

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hospitals, churches, state-owned parks or facilities, service stations, supermarkets, stores, restaurants, office buildings, or businesses.”¹⁴¹ PVA also includes beaches used for traffic, a road used by traffic leading to a gated or non-gated community, an area of private property that has been designated by the owner for public use.¹⁴²

NOTE: Private property is also excluded from this offense.¹⁴³

- (1) While under the influence of an impairing substance

An impairing substance is a substance which is capable of appreciably impairing a person’s mental and physical capacities.¹⁴⁴ Appreciable means noticeable, perceivable, or recognizable;¹⁴⁵

Therefore, it is not necessary to administer blood or breath tests to establish impairment, nor is it imperative that results of a blood or breath test be 0.08 or more. It is possible to convict a defendant solely through the testimony of a charging officer based on this portion of the statute. The officer can testify to the impairment of the suspect by providing an opinion based on their training and experience, their general observations of the suspect’s motor skills, speech, driving, behavior, and observations made during other testing such as Standardized and non-standardized Field Sobriety Tests, that the defendant was appreciably impaired.

- (2) Or after having consumed sufficient alcohol that he has, at any relevant time after the driving, an alcohol concentration (AC) of 0.08 or more.

This statute establishes 0.08 as the per se AC limit. This means that if the person has an AC of 0.08 or more, they are considered in violation of this statute. However, because blood and breath tests are considered presumptive and not conclusive, it is always best practice not to rely solely on the chemical analysis to prove your case.

NOTE: Give examples of those who refuse to submit to a chemical analysis, those who are impaired by substances other than alcohol, or those who are impaired at much lower AC levels.

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NOTE: It is possible for a person to be found guilty even through their AC was less than 0.08. Give examples.

- (3) Or with any amount of a Schedule I controlled substance in his blood or urine.

Note: It is not a defense to DWI that a person was legally prescribed a drug that impaired their driving or that they were legal age to use alcohol.¹⁴⁶

3. Establishing proof

NOTE: Show slide, “Establishing Proof.”

- a) To establish the element of being under the influence of an impairing substance requires showing the defendant’s mental and physical condition at the time of the offense and proving that this condition was caused by some impairing substance.
- b) “Impairing substance” includes alcohol, controlled substances, as defined in Chapter 90 of N.C. General Statutes, any other drug or psychoactive substance capable of impairing a person’s physical or mental faculties, or any combination of these substances. (G.S. 20-4.01[14a])
- c) The statute prohibits the operation of a motor vehicle when the driver is impaired by any substance, whether it be alcohol, legal drugs, or illegal drugs. The fact that the drugs were prescribed by a doctor is not a valid defense.
- d) It is not necessary to administer blood or breath tests to establish impairment, nor is it imperative that results of a blood or breath test be above 0.08 or more. It is possible to convict a defendant solely through the testimony of a charging officer who can demonstrate through testing the extent of the defendant’s impairment and can provide an opinion that the defendant was appreciably impaired.

NOTE: It is possible, therefore, for a person to be found guilty even though their AC was less than 0.08.

- e) Blood or breath test evidence is presumptive, not conclusive. A charging officer must still articulate his observation of the

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violator's driving, appearance, speech, and performance of field sobriety tests in a clear and convincing manner.

- f) The statute establishes 0.08 as the per se AC limit. This means that if the person has an AC of 0.08 or more, they are to be considered in violation of this statute. However, it is best not to rely solely on the chemical analysis to prove your case.

NOTE: Give examples of those who refuse to submit to a chemical analysis, those who are impaired by substances other than alcohol, or those who are impaired at much lower AC levels.

- g) Remember, the North Carolina DWI statute is a two-part statute. An operator violates this statute if he:
 - (1) Is appreciably impaired **OR**
 - (2) Has the statutorily prohibited blood alcohol concentration. Both portions of the statute are of equal importance.
- h) Related offenses include:
 - (1) Impaired instruction (G.S. 20-12.1)
 - (2) Driving after consuming alcohol or drugs for persons under age 21 (G.S. 20-138.3)
 - (3) Habitual impaired driving (G.S. 20-138.5)
 - (4) Felony death by vehicle (G.S. 20-141.4)
Misdemeanor death by vehicle
Felony serious injury by vehicle
Aggravated felony serious injury by vehicle
Aggravated felony death by vehicle
 - (5) Involuntary manslaughter, when the underlying charge is DWI (G.S. 14-18)
 - (6) Second-degree murder, when the death was caused by grossly reckless impaired driving (G.S. 14-17)
 - (7) Commercial motor vehicle DWI (G.S. 20-138.2)

- 4. Suspect requested breath test

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- a) An individual under investigation for an implied consent offense has the right to request a chemical analysis before being arrested or charged with that offense.¹⁴⁷
- b) The chemical analysis must be administered in the same fashion as it would be if the person were already under arrest.¹⁴⁸
- c) Although the violator is **not under arrest**, a request of this nature implies consent to be transported, by the law enforcement officer, to the testing facility.¹⁴⁹ That transportation should be made by agency policy to include proper search and restraint.
- d) The subject has certain rights if submitting to a pre-arrest chemical analysis, and the rights should be administered using Form DMV-784A. This form should be completed before the subject being transported to the test site and before the test.
- e) The results of this test may be used for or against the subject in any subsequent judicial or administrative proceedings about the implied consent charge(s).¹⁵⁰
- f) If the person refuses to be transported by the officer or if the person refuses the test once transported to the testing facility, the request for a pre-arrest chemical analysis is considered withdrawn. If this occurs, the officer should proceed with any charges for which there is probable cause to arrest.

NOTE: Distribute and review handout, “Checklist for Pre-Arrest Test and Request for Pre-Arrest Test (DMV-S784) Rights of Person Requesting to Take Chemical Analysis to Determine Alcohol Concentration Under G.S. 20-16.2(i) (DMV-S784A).”

5. Three phases of DWI detection

NOTE: Instructors may supplement this segment of the lecture with a certified SFST Instructor. Instructors should provide students with a copy of the Driving While Impaired Report (DWIR-DHHS 4064). This form tracks this course outline and will most likely be used by students at their agencies.

- a) Phase I – Vehicle in motion

NOTE: Show slide, “Phase I.”

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- (1) This phase begins when something first draws your attention to a particular vehicle or driver.¹⁵¹

NOTE: Ask what are some of the things that might initially draw your attention to a suspect vehicle?

- (2) Close observation may show vehicle maneuvers or driver actions which may indicate alcohol influence¹⁵²
 - (a) Driver actions¹⁵³
 - i) Drinking beverage in vehicle
 - ii) Traffic violation
 - (b) The officer must decide, during this phase, whether or not there is reasonable suspicion to stop the vehicle, based on the officer's initial observations.¹⁵⁴
 - i) The officer may postpone the stop and continue to observe.¹⁵⁵
 - ii) The officer may disregard the vehicle altogether.¹⁵⁶
 - (c) Once the decision to stop has been made, and the stopping process has begun, closely observe the driver's actions and vehicle maneuvers during the stopping sequence.¹⁵⁷
 - i) The driver may exhibit other signs of impairment, such as no response, abrupt weave, sudden stop, strikes curb, etc.¹⁵⁸
 - ii) Be aware of officer safety concerns, as an impaired driver may respond erratically.¹⁵⁹
 - (d) Possible visual signs of impairment during vehicle operation are:¹⁶⁰
 - i) Slow reaction to surroundings

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- ii) Willingness to take risks (speeding, intersections, traffic signals, etc.)
- iii) Lack of coordination
- (e) These common signs often lead to predictable driving behaviors such as moving violation, other violation, or unusual operation.¹⁶¹

NOTE: Refer students to the handout, “The Visual Detection of DWI Motorists.” Pamphlet to be obtained at the NHTSA webpage at: www.nhtsa.gov/staticfiles/nti/pdf/808677.pdf.

- (f) The National Highway Traffic Safety Administration sponsored research to identify the most common and reliable indicators of DWI.¹⁶²
 - i) Research identified “a set of behaviors that can be used by officers to detect motorists likely to be driving while impaired, which are presented in four categories:
 - Problems maintaining proper lane position
 - Weaving”¹⁶³

NOTE: Weaving cases have received special attention in North Carolina. Generally, no longer is weaving within your lane alone enough to establish reasonable suspicion to stop a car. It may be only if it can be described as “constant and continuous”¹⁶⁴ or “like a ball bouncing in a small room.”¹⁶⁵ If you observe weaving within the lane, you should also look for what the courts call a plus factor. Common plus factors include the time of day or night, driving significantly below the speed limit, proximity to bars, etc.¹⁶⁶

“Weaving across lanes

Straddling a lane line

Swerving

Turning with a wide radius

Drifting

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Almost striking a vehicle or other object

- Speed and braking problems

Stopping problems (too far, too short, or too jerky)

Accelerating or decelerating for no apparent reason

Varying speed

Slow speed (10+ mph under limit)

- Vigilance problems

Driving in opposing lanes or the wrong way on a one-way street

Slow response to traffic signals

Slow or failure to respond to officer's signals

Stopping in the lane for no apparent reason

Driving without headlights at night

Failure to signal, or signal inconsistent with actions

- Judgment problems

Following too closely

Improper or unsafe lane change

Illegal or improper turn (too fast, jerky, sharp, etc.)

Backing improperly

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Driving on other than the designated roadway

Stopping inappropriately in response to officer

Inappropriate or unusual behavior (throwing, arguing, etc.)

Appearing to be impaired”¹⁶⁷

- ii) It should be noted that one (1) cue does not always establish grounds for a stop — the more cues present during observation, the greater the likelihood that the driver may be intoxicated.¹⁶⁸

- (g) It is important for you to understand the relationship between these cues and the impairment of the driver’s ability to perform tasks which require divided attention, which is concentrating on more than one (1) thing at a time.¹⁶⁹

- (h) The task of driving is made up of many smaller tasks, such as:¹⁷⁰
 - i) Steering
 - ii) Acceleration
 - iii) Signaling
 - iv) Braking
 - v) Operating clutch/changing gears
 - vi) Observing other traffic
 - vii) Observation of traffic control devices
 - viii) Making other decisions (whether to and where to stop, turn, speed up, slow down, etc.)

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- (i) Each of these tasks is important, yet while under the influence of alcohol or drugs, the driver's ability to make decisions regarding these tasks becomes impaired. Impaired drivers tend to concentrate on only one (1) of these tasks at a time and, therefore, are unable to drive safely.¹⁷¹

NOTE: Mention the situation of a driver who stops at a green light. That driver is concentrating on braking and accelerating and not able to focus on the color of the light. Another example is when a driver who is driving exactly 55 mph but is unable to maintain proper lane control or vice versa.

- (j) The officer's initial observation is the first task of DWI detection. This requires you to have and exercise the ability to:¹⁷²
 - i) Recognize evidence of drug or alcohol impairment.
 - ii) Articulate truthfully what you observe in a manner that justifies your actions.
- (k) Further signs of impairment during the stopping sequence.¹⁷³
 - i) The stopping sequence introduces new tasks to the driver and requires their attention to be divided even further. Therefore the operator's driving task immediately becomes more complex.¹⁷⁴
 - ii) This requires you to watch for, record, and describe any additional evidence you observe. For example: Did the driver fail to heed the siren? Did the driver stop in the travel lane or bump the curb?¹⁷⁵
 - iii) These additional signs of impairment are then combined with the initial observations to answer the question, "Do I have reasonable suspicion to stop the vehicle?"¹⁷⁶

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b) Phase II – Personal contact

NOTE: Show slide, “Phase II.”

Personal contact consists of face to face observation and interview of the violator while still in the vehicle. This contact begins as you approach the suspect vehicle, converse with the violator, and ends just before the violator exiting the vehicle if requested to do so. Before contact with the violator, you may have already developed a strong suspicion of DWI based solely on your observations during phase I “vehicle in motion.” There may often be cases when there are no initial indications of impairment, and the violator is stopped solely for some other traffic violation. Even if you have already developed reasonable suspicion, the information gathered during face to face contact is usually the first corroborating indication of impairment.¹⁷⁷

(1) Visual clues¹⁷⁸

NOTE: Ask the class for examples of what an officer might see that could indicate impairment.

- (a) Bloodshot eyes
- (b) Soiled clothing
- (c) Fumbling fingers
- (d) Alcohol containers
- (e) Unusual actions
- (f) Bruises, bumps, scratches

NOTE: Refer the students to the post stop cues listed in the NHTSA handout, “The Visual Detection of DWI Motorists.”

(2) Audible clues¹⁷⁹

NOTE: Ask the class for examples of what an officer might hear that could indicate impairment.

- (a) Slurred speech

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- (b) Admission of drinking
 - (c) Inconsistent responses
 - (d) Unusual statements
 - (e) Abusive language
- (3) Odor clues¹⁸⁰

NOTE: Ask the class for examples of what an officer might smell that could indicate impairment.

- (a) Alcoholic beverages
- (b) Cover-up odors
- (c) Other unusual odors

The gathering of this evidence is a two-fold process. You must have the ability to recognize the sensory evidence, as well as the ability to record and later describe the evidence clearly and accurately.¹⁸¹

- (4) Interviewing/questioning the violator
- (a) The questions and the way they are presented to the violator can present a simple, divided attention task to the violator.¹⁸²
 - (b) This is accomplished by asking the violator to do simple tasks at the same time, i.e., asking for driver's license and registration and observe their response to your request.¹⁸³
 - (c) Clues which may present themselves:¹⁸⁴
 - i) The violator may only produce one (1) of the documents asked for.
 - ii) The violator produces documents other than what is asked for, i.e., credit cards instead of driver license, inspection receipt rather than registration.

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- iii) Fumbles or drops papers, wallet, etc.
- iv) The license presented is not valid or is fictitious.
- (d) Other divided attention tasks involve asking a distracting question, e.g., “Without looking at your watch, can you tell me what time it is?” Does the violator ignore the question, get sidetracked, and forget what they were looking for? Does the violator give an incoherent or inappropriate answer to the question?¹⁸⁵
- (e) Some field sobriety tests can be administered before asking a violator to exit the vehicle. A seated standardized field sobriety testing battery was validated by the Southern California Research Institute in 2010.¹⁸⁶ These tests should never be used in place of the standing SFST battery, but may be very useful when dealing with subjects with mobility issues or where environment conditional prohibit administering the standing battery.¹⁸⁷
 - i) Alphabet – recite the alphabet, beginning with the letter E as in Edward, and stopping at the letter P as in Paul.¹⁸⁸
 - ii) Count-down test – count out loud backwards, starting with the number 67 and ending at the number 54.¹⁸⁹
 - iii) Finger count test – touch the tip of the right thumb, in turn, to the tips of the fingers of the right hand, simultaneously counting “one, two, three, four;” then reverse direction on the fingers simultaneously counting down “four, three, two, one.”¹⁹⁰

NOTE: Advise officers to routinely ask what the highest level of education the motorist has achieved, before the administration of these types of tests.

- (f) Clues exhibited during the exit sequence¹⁹¹

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The violator is asked to exit the vehicle after there is additional reasonable suspicion that the violator may be under the influence of some impairing substance.

- i) Even though the suspicion may be very strong, the violator generally should not be placed under arrest at this point.
- ii) How the violator exits the vehicle, actions, and behaviors during the exit sequence may provide additional evidence of impairment.

c) Phase III – Pre-arrest screening

NOTE: Show slide, “Phase III.”

During this phase, the officer will administer the structured, formal psychophysical tests and preliminary breath testing. The officer must decide at this point to either arrest the violator or release him.¹⁹²

(1) Psychophysical testing¹⁹³

Psychophysical testing measures a person’s ability to perform both mental and physical tasks. It is used to directly assess a violator’s mental or physical impairment. These tests focus on the skills needed for safe driving, e.g., balance, reaction, coordination, information processing, etc. Through extensive research, it has been discovered that the tests used in field sobriety testing are the most effective means of evaluating a violator’s impairment.

(2) Divided attention tests

Many of the most reliable and useful psychophysical tests are those who employ the concept of divided attention. Driving, as mentioned previously, is a complex task and requires a driver to have the ability to focus on more than one (1) task at a time. Alcohol and many other drugs impair the violator’s ability to divide

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his or her attention between tasks. As a result, the violator becomes involved with performing one (1) task and ignores others. This is why an impaired driver may be driving at an appropriate speed but be swerving or may make overly wide turns, etc.¹⁹⁴

- (a) The violator needs to be able to perform the tasks of information processing, decision making, control over small muscles, focused vision, and short-term memory recall.¹⁹⁵
 - (b) Another requirement is that the test is reasonably simple to perform while a person is sober. If a person cannot perform the task sober, it is not reasonable to expect him to perform it while possibly impaired.¹⁹⁶
- (3) Standardized field sobriety tests

The National Highway Traffic Safety Administration (NHTSA) has validated three standardized field sobriety tests (SFST).

The term validated means that NHTSA has studied these tests and the studies show that when these three tests were properly administered, and the officers followed the training, officers make the correct arrest decision over 90% of the time.¹⁹⁷ The finger to nose and the Romberg balance test are included in the standard Driving While Impaired Report Form (DHHS 4064). Other tests, such as the finger count, coin pick up, and ABCs are used by officers to determine impairment. These tests have not been validated but are not prohibited. Sometimes the driver has been injured and is unable to perform all of the SFSTs, and these other tests may be helpful to officers in determining impairment.

NOTE: Show slide, “Horizontal Gaze Nystagmus.”

- (a) Horizontal gaze nystagmus (HGN) – “Nystagmus” means an involuntary jerking of the eyes. Horizontal gaze nystagmus (HGN) refers to an involuntary jerking occurring as the

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eyes gaze toward the side. In addition to being involuntary, the person experiencing the nystagmus is unaware that the jerking is happening. Involuntary jerking of the eyes becomes readily noticeable when a person is impaired. As a person's alcohol concentration increases, the eyes will begin to jerk sooner as they move to the side. HGN is the most reliable SFST.¹⁹⁸

However, to be able to testify to the test in court, the officer must be qualified as an expert witness based upon specific training in HGN.¹⁹⁹

Before testifying in court, an officer must obtain more training on HGN than is provided in this course. Officers testifying to the administration and results of an HGN test will be expected to testify that they have received training in the administration of the HGN test and that, in the case at issue, the test was administered properly according to that training. Officers do not need to testify as to the underlying science proving the reliability of the test. It is still the responsibility of officers to know this information, and prosecutors will expect testifying officers to explain the test and its effectiveness to a judge or jury when using it as evidence in a DWI case.

Additionally, testifying officers will be subject to cross-examination of the HGN test. For these reasons, officers should be knowledgeable as to the validation tests done on the HGN test on which they are trained. If officers have questions regarding what testimony will be required on HGN or other SFSTs, they should discuss them with the local district attorney's office staff.

- (b) Walk and turn²⁰⁰ – The walk and turn test is a two-stage divided attention test. Both stages are important as evidence will be gathered in each.

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- i) The two (2) stages are:
- Instruction stage – During the instruction stage, the motorist is asked to assume a heel-to-toe stance with his/her arms at sides, and listen to the instructions. This requires the violator to keep his or her balance while listening and processing the information provided by the officer giving the instructions.
 - Walking stage – The walking stage requires the violator to take nine (9) heel-to-toe steps down the line, turn as instructed, and take nine (9) heel-to-toe steps back down the line. They must count their steps out loud during this process.

The turn requires the violator to keep one (1) foot on the line, using that foot as a pivot and taking small steps with the other foot until the turn is complete.
 - The violator is required to concentrate on listening to verbal instructions, processing information, and memory recall.
 - The physical tasks required are balance and coordination while standing, walking, and turning.
 - A reasonably hard, dry, level, non-slippery surface is required, and a visible straight line is desirable although not necessary.
- ii) Walk and turn administrative procedures

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NOTE: Demonstrate each step as you describe it to the students. Be sure all students can see the instructor's feet during the demonstration. It will be helpful to utilize another instructor for demonstration at this point.

- Instruction stage

Instruct the violator to place their left foot on the line.

Have the violator then place their right foot on the line in front of their left foot with the right heel against the left toe.

The violator must keep arms at sides and remain in this position until the instruction phase is completed.

Make sure you tell the violator not to begin or move from this position until told to do so. Although this is not a normal position, it is not too difficult for a sober person in fairly good condition to maintain for a few minutes.

Make sure the violator understands the instructions up to this point. You must receive some affirmative response to the question. Ask the violator, "Do you understand?"

Many people who are under the influence of alcohol can maintain this position for a while. However, this requires their full attention, and while they can concentrate on this task, they cannot understand the instructions. Certain behaviors are common to impaired subjects

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at this point. They are failing to maintain heel-to-toe stance and starts walking before being told to do so.

- The walking phase – Explain the following instructions to the motorist:

NOTE: Show slide, “Walking Phase.”

Tell the violator to take nine (9) heel-to-toe steps along the straight line, turn around keeping one (1) foot on the line, then take nine (9) heel-to-toe steps back down the line. Demonstrate three (3) heel-to-toe steps. Officers should always walk at a right angle to the line and begin with the violator on their left.

Tell the violator that, on the ninth step, keep their front foot on the line and turn on the line by taking several small steps with the other foot. Demonstrate the turn procedure. Allow a large reactionary gap between yourself and the violator to allow for proper weapon retention once the turn is completed. **Remember: Never Turn Your Back On The Motorist!**

Tell the violator to then take nine (9) heel-to-toe steps back down the line.

Give the final verbal instructions. Tell the violator to keep their arms at sides, watch their feet at all times, and count their steps out loud. Once they begin

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walking, do not stop walking until the test is completed.

Ask the violator if the instructions are understood. If the individual has a question about some part of the instructions, explain only that portion of the test.

NOTE: Remind students of officer safety precautions: Stay aware of the surroundings (traffic, bystanders, etc.) and maintain adequate reactionary distance from the violator.

(c) Clues for the walk and turn test

There is a maximum of eight (8) clues for this test. The first two (2) are counted only if exhibited in the instruction stage.²⁰¹

NOTE: Demonstrate each clue as you explain.

- i) Cannot balance during the instructions – This clue is counted only if the subject’s feet are moved from the heel-to-toe position. Wobbling or raising the arms is not counted at this stage as a clue.²⁰²
- ii) Starts too soon²⁰³ – This clue can only be recorded after the subject has been told not to start until told to do so.

The next six (6) clues are counted while the subject is walking either up or down the line.

- iii) Stops walking²⁰⁴ – It is important that the subject was told not to stop walking. This clue is counted if the motorist pauses to regain balance.
- iv) Misses heel-to-toe²⁰⁵ – A gap of at least one-half inch is required to count this as a clue.
- v) Steps off the line.²⁰⁶

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- vi) Uses arms to balance²⁰⁷ – This requires the arms be lifted more than six (6) inches from the sides.
- vii) Improper turn²⁰⁸
 - This occurs if the subject loses his/her balance while turning, or
 - If the subject turns in a way other than instructed.

NOTE: Demonstrate various improper turns.

- viii) An incorrect number of steps²⁰⁹ – If the subject takes more or less than nine (9) steps, it is counted as a clue. This does not apply to miscounting, although that can be noted on the note taking guide.

Note: It is possible that two (2) different clues could occur at the same time, in which case you would count each clue. Same category clues are only counted once. For instance, if a subject loses their balance twice, it is one (1) clue. On the note taking guide, you would indicate the number of times it occurred.

- ix) The test may be terminated if the subject is unable to complete it.²¹⁰
 - If the violator steps off the line three or more times, the test should be terminated.²¹¹
 - If the violator falls or nearly falls, it may not be safe for them to continue.²¹²
 - If the violator gets into a “leg lock” position, i.e., gets their legs

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crossed and cannot move them, terminate the test.²¹³

- If the violator cannot do the test or the test is terminated, record only the clues that were observed.²¹⁴

- x) The criterion for this test is two (2). If a person exhibits two (2) out of the possible eight (8) clues, the implication is that the subject has a BAC of over 0.08. Using two (2) as the criterion, this test is 79% reliable in the classification of impaired persons.²¹⁵

- (d) One-leg stand²¹⁶

The one-leg stand test is also a two-stage divided attention test.

NOTE: Show slide, “One-Leg Stand.”

- i) During the instruction stage, the violator must stand with their feet together, arms at sides, and listen to the instructions.

NOTE: Demonstrate the instruction stage.

- ii) During the balance and counting stage, the violator must stand on one (1) leg, with the other leg held out straight, approximately six (6) inches off the ground for 30 seconds. This requires the violator to divide attention between balance and counting.

- iii) Research has demonstrated that many violators who are impaired can maintain balance for as long as 25 seconds, but that relatively few can hold that position for 30 seconds.

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- iv) It is important for the violator to count but explain to the violator that you will tell them when to put their foot down. You should be timing the violator and have them hold their foot up for thirty seconds. This prevents the violator from rushing the count and putting their foot down too soon and also prevents a violator from being improperly evaluated if they count too slowly but holds their foot up for the required period.
- v) A reasonably hard, dry, level, non-slippery, surface is required.

NOTE: Demonstrate the balancing and counting stage.

- (e) One-leg stand administrative procedures – instruction stage²¹⁷
 - i) Tell the violator to stand with their feet together.
 - ii) Tell the violator to keep their arms at sides.
 - iii) Tell violator to maintain this position until told otherwise.
 - iv) Ask violator if they understand.

NOTE: Inform students that they are to demonstrate the test as they give the instructions to the subject.

- (f) Balance and count stage
 - i) Violator is told to raise one (1) leg (either one the motorist chooses) approximately six (6) inches off the ground, keeping the foot pointed out.²¹⁸
 - ii) Violator is told to keep both legs straight.²¹⁹

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- iii) Violator is told to look at the elevated foot. Note: Although the officer tells the violator to look at the elevated foot, the officer should not look at that foot while demonstrating. **Remember: Never Take Your Eyes Off of the Violator.**²²⁰
- iv) Violator is told to hold that position while counting out loud for thirty seconds in the following manner “1000-1, 1000-2, 1000-3,”²²¹ and so on until told to stop.
- v) The officer must always time the 30 seconds. It is important for the violator to count out loud, but they must be told that you will time the test and tell them when to put their foot down. If the subject counts slowly, have them stop at the end of thirty seconds.²²²
- (vi) Clues for the one-leg stand test²²³

NOTE: Demonstrate each clue as you explain.

- Swaying – This is a very distinct side to side or front to back motion of the elevated foot or the subject’s body. Slight tremors of the foot or body are not to be counted as swaying.
 - Using the arms to balance – This requires the arms to be raised more than six (6) inches from the sides.
 - Hopping
 - Putting the foot down before the 30 seconds is up.
- (vii) This test may be terminated if the subject cannot safely complete it.²²⁴

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- If the violator puts their foot down more than three times, the test should be terminated.
 - If the violator falls or nearly falls, it may not be safe for them to continue.
- (viii) The criterion for this test is two (2) out of the possible four (4) clues. If two (2) or more clues are exhibited, it is an indication that the subject's BAC is 0.08 or higher. Using this criterion, this test is 83% reliable.²²⁵
- (ix) The research indicated that individuals over 65 years of age or 50 pounds or more overweight had difficulty performing this test.²²⁶

NOTE: Students should practice each test individually.

- (4) Field sobriety test limitations²²⁷ – divided attention tests

NOTE: Show slide, "Field Sobriety Test Limitations."

- (a) Both walk and turn, and one-leg stand requires a reasonably hard, dry, level, non-slippery surface.
- (b) These tests have not been validated for those over 65 years of age or more than 50 pounds overweight.
- (c) Persons with inner ear disorders or with leg or back injuries may have difficulty with these or any other balance test.
- e) Refusal to perform field sobriety tests is admissible in a D.W.I. trial as evidence for impairment.²²⁸
- f) Preliminary breath testing (PBT) and case preparation

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- (1) Preliminary breath testing – A law enforcement officer may require the driver of a motor vehicle to submit to a roadside alcohol screening test within a relevant time after driving when he has a reasonable belief that:²²⁹

NOTE: Show slide, “Preliminary Breath Testing.”

- (a) The violator has committed a moving traffic violation or been involved in a crash;²³⁰ or
- (b) While in the performance of his or her duties, the officer develops an articulable and reasonable suspicion that the violator has committed an implied-consent offense.²³¹
- (c) PBT devices must be approved by the Department of Health and Human Services and used by established procedures.²³²
- (d) Admissibility as evidence – PBT results are not admissible as evidence in court or at administrative hearings except in limited circumstances.²³³
 - i) PBT results or the defendant’s refusal to submit to a PBT can be used by a court or administrative agency to establish one (1) element of the officer’s probable cause.²³⁴
 - ii) Negative or low results can be used by a court or administrative agency to determine whether the defendant’s impairment was the result of some impairing substance other than alcohol.²³⁵
 - iii) It is within the individual officer’s discretion to determine whether the violator will be asked to submit a breath or blood test. Whenever an officer has probable cause to believe, based on the exhibited impairment and the PBT results, that the violator may be under

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the influence of drugs or a combination of drugs and alcohol, the officer is authorized to request a blood test, or if necessary, seek a search warrant for blood.²³⁶

- (e) The basic purpose of preliminary breath testing is to demonstrate the association of alcohol influence to the sensory evidence of the violator's impairment. Therefore, a PBT should only be given AFTER the administration of the field sobriety test battery or standardized field sobriety test battery.²³⁷
 - (f) The PBT, like the psychophysical testing, is just one (1) portion of the entire evidence gathering process. The impairment is determined by what you see, hear, and smell. The PBT just helps confirm the cause of that impairment.²³⁸
 - (g) The violator should not be under arrest at the time the PBT is administered.²³⁹
 - (h) Remember, a PBT should be the last field test you administer.²⁴⁰
- (2) After you have arrested a person for DWI, your collection of evidence will continue with:²⁴¹
- (a) A proper search of the violator.
 - (b) A proper search of the vehicle, by *Arizona v. Gant*.
 - (c) Statements that the person may spontaneously make while being transported to a custodial facility, etc. Remember to make note of those statements, as they could be important evidence at a later trial.
 - (d) A proper request for the violator to submit to a chemical analysis.

NOTE: Show NCJA video, *Techniques of Traffic Law Enforcement* – “DWI Detection.”

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(3) Documentation and preparation for trial²⁴²

NOTE: Show slide, “Documentation and Preparation for Trial.”

- (a) Thorough documentation must be kept of the entire process. Make this documentation on a notepad or your DWI report forms.
 - i) What initially drew your attention to the vehicle in “detection phase one.”
 - ii) The evidence you gathered during contact with the driver in “detection phase two.”
 - iii) The administration of the field sobriety test battery in “detection phase three.”
 - iv) Your arrest of the violator.
 - v) Transportation of the violator.
 - vi) Statements made by the violator.
 - vii) Evidence obtained during a lawful search.
 - viii) Proper request for chemical analysis.
- (b) It may be months or years before this case goes to trial or after trial, makes it through the appeal process. Therefore, documentation will be crucial for an accurate presentation in court.
- (c) In court, it will be your responsibility to accurately articulate the following:
 - i) Reasonable suspicion for the vehicle stop.
 - ii) Additional reasonable suspicion to ask the operator to perform field sobriety tests.

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iii) Probable cause for each element of this offense. (The facts and circumstances necessary to lead a reasonable person to believe the offense of DWI had been committed at the time the defendant committed it.)

iv) The opinion of the violator's impairment

You will be asked by the prosecutor a question similar to the following: "Did you form an opinion satisfactory to yourself that the defendant consumed a sufficient amount of some impairing substance to appreciably impair his mental and/or physical capacities? If so, what was that opinion?"

Your answer will most likely be similar to the following: "I formed the opinion that the defendant had consumed a sufficient quantity of an impairing substance such that his (mental/physical or both) faculties were appreciably impaired and that impairing substance was _____."

v) You will need to verbally repaint an accurate picture of everything you saw, heard, and smelled regarding this incident. The easiest method will be to chronologically recall the detection phases, and the evidence gathered during each. Another method of recall is to think of things in terms of your senses: What did you see, smell, hear, and feel?

vi) When testifying to the administration of the field sobriety test battery, remember to be as accurate as possible in your terminology. You should state that a violator either "did" or "did not" perform the test as it was explained and demonstrated. Do not say the violator t

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passed or failed the test. Be aware that defense attorneys will often ask whether a defendant passed or failed. Do not be tempted to answer that they passed or failed, only that they performed or did not perform the test as explained and demonstrated. Describe specifically what the violator did, which did not satisfy the standards of the test.

NOTE: Show slide and conduct “Vehicle Stops Practical Exercises.”

K. Traffic Control Procedures

NOTE: Show slide, “Traffic Control Procedures.”

Officers are called upon frequently to direct traffic under a wide variety of conditions/scenes. Directing traffic can be very dangerous because drivers are typically exposed to several distractions while driving. If not conducted properly, traffic control responsibilities can be fatal to an officer or driver.

1. Situations requiring traffic control
 - a) “Public safety emergencies such as accidents and crashes, fires, police emergencies, or any event requiring the rerouting of the normal traffic flow;
 - b) Intersections having predictably high-volume flow at certain times;
 - c) Road construction and maintenance activities that interrupt normal traffic flow;
 - d) In any situation where conditions or events congest traffic, and public safety concerns require officer control;
 - e) Security for dignitaries or other designated persons, or special events that require special control.”²⁴³

2. Considerations for traffic control

Ensure that intervention at a particular location does not worsen traffic conditions at other locations. Consider where traffic should be rerouted and what else affects traffic flow, such as special events in the area.

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3. Equipment

NOTE: Show slide, "Equipment."

- a) Proper safety equipment for daylight traffic control includes a highly reflective traffic vest, whistle, and white or highly visible gloves. Traffic control at night should also include a flashlight with traffic wand attached.
- b) Officers should be prepared for all weather conditions appropriate for the season.

4. Position in roadway²⁴⁴

- a) The position selected to direct traffic depends upon the type of roadway and volume of traffic. The officer should consider the position that offers the greatest visibility to both vehicular and pedestrian traffic. The officer must assess if total control of the intersection is possible and take a position in the area that offers the greatest control and visibility. In most instances, the center of the intersection is the best location. It should be noted that this is also the most dangerous position, and officers should be extremely alert and cautious while performing his duties.
- b) Center of the intersection position
 - (1) Greatest visibility
 - (2) Most hazardous
 - (3) Provides the greatest control
- c) The corner position
 - (1) Used primarily where there is heavy pedestrian traffic.
 - (2) Affords greater officer safety and better pedestrian control.
- d) Six-lane or divided roadway intersections should be controlled with two (2) or more officers working in unison.

5. Directing traffic

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NOTE: Show slide, “Directing Traffic.”

“Computerized directional signals have proven their effectiveness in maintaining smooth traffic flow, and as a result drivers are no longer accustomed to officers directing traffic.”²⁴⁵ This may increase stress for drivers as officers attempt to control intersections using motions and gestures. The use of uniform, clearly defined, and understandable signals will maximize the officer’s ability to control traffic.

a) “Where to stand

When directing traffic from the center of an intersection, position yourself so that you are facing stopped traffic, with the opposite lane of stopped traffic at your back. The moving lanes of traffic will be on either side. This position allows you to watch both moving lanes of traffic and to signal the moving lanes with both arms.

b) How to direct traffic

Give only the necessary signals and give only one (1) signal at a time. Look at the vehicle you intend to signal, but remain aware of traffic approaching from all directions. Point (with your hand) to pedestrians or vehicles you intend to direct. Move your hands and arms distinctly and deliberately, moving in slow, wide, sweeping motions. If you give the signals too rapidly, your arms will tire, and you may confuse drivers who miss the signal. Repeat the signal several times to encourage sluggish traffic to move.

c) How to stop traffic

To stop traffic, you need two (2) motions. First, extend your arm straight out and point your hand at the driver who is to stop. Make eye contact with the driver, and when you have his attention, raise your hand so that your palm is toward the driver. Hold this position until the driver stops. After the driver has stopped, repeat the same movement with the other lane of traffic, using your other arm. Keep both arms in the stop position until all movement has stopped in both directions. With traffic stopped, turn your body so that you have the newly stopped traffic front and rear, and the traffic you will be starting is on either side.

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d) How to start traffic

To start traffic, you will again need two (2) motions. First, point with the arm and hand directly at the driver you want to start. When eye contact is made, turn palm up and raise the hand to a position slightly past the center of your face. Bend your arm only at the elbow. If the driver does not move immediately, repeat the signal. Once the lane of traffic has begun to move, signal the other lane, in the same manner, using your other arm. Continue to use this signal to instruct drivers to proceed.

e) How to direct a right turn

The signals for a right-hand turn depend on the direction the vehicle is approaching. If the vehicle is approaching from the right, point your right hand at the driver with arm extended. As the driver makes eye contact, swing your arm in the direction of the turn. If the driver approaches from the left, follow the same procedure, but use the left arm. Again, swing your arm in the direction the driver wants to go.

f) How to direct a left turn

When directing a driver wishing to make a left turn, you may need to direct the vehicle to stop. Next, hold the opposing flow of traffic. If the turning vehicle is approaching from the left, the opposing traffic should be stopped with the right hand. With traffic stopped, signal the turning driver by extending the left arm and pointing with your hand. Be sure to signal the driver by indicating a path in front of you and not around you. If the driver attempts to swing around you, step backward and repeat the signal directing the vehicle in front of you.

If the vehicle approaches from the right, follow the same procedure but turn 180 degrees so that you can halt opposing traffic with your right hand, and use your left arm to indicate a turning path in front of you.

g) How to stop prohibited turns

If a driver attempts to make a turn in a direction that is not permitted, make eye contact with the driver and shake your

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head 'no.' Use a whistle if necessary to get the driver's attention. Signal the driver to make the appropriate legal turn."²⁴⁶

h) Use of the whistle

The whistle is an extremely useful tool when directing traffic and should be available and used to get the attention of drivers and pedestrians any time the officer is directing traffic. The whistle is used as follows:

- (1) "One long blast with a STOP signal.
- (2) Two short blasts with the GO signal.
- (3) Several short blasts to get the attention of a driver or pedestrian who does not respond to a given signal."²⁴⁷

i) The voice

The voice is rarely used in directing traffic. "Drivers usually will not be able to hear oral commands well, and as a result may become confused."²⁴⁸

"Occasionally a driver or pedestrian will not understand arm signals. When this happens, move reasonably close to the person and politely and briefly explain the command. In all instances, address such people properly as 'Sir, Madam, or Miss/Ms.' Do not shout or exhibit a loss of temper. When a driver fails to follow your commands, it is usually because they are confused about what to do rather than because they are deliberately flouting your authority.

j) The illuminated baton

- (1) The baton is useful in directing traffic at night or during bad weather when visibility is low."²⁴⁹
- (2) "To **STOP** a vehicle using a baton, face the moving line of traffic, standing slightly aside from its direct path. Hold the baton in your right hand in front of you with your elbow bent. The baton should be swung or waved from the left to the right side of your body in an arc about 45 degrees.

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- (3) The **GO** signal is given in the normal manner. Turn the body parallel to the line of traffic to be moved and give the normal GO arm movement.
- (4) To permit a left turn movement, after stopping opposing traffic, point the lighted end of the baton to the car which is to make the turn. Next, swing the baton in an arc toward the direction of the left turn movement. Repeat the signal as required to move the vehicle in front of the officer.
- (5) Exaggerate your movements when using the baton. When you are not using it to signal, turn off the light in the baton if you can do so without jeopardizing your visibility.

k) Flashlight

A **flashlight** can be used to direct traffic in an emergency, but it is a poor substitute for a baton. To stop traffic, slowly swing the flashlight at arm's length across the path of the approaching car. The beam of the flashlight strikes the pavement as an elongated spot of moving light, which should be visible to the [driver]. Never stand directly in front of the approaching car. After the [driver] has stopped, give arm signals in the usual manner. The vehicle's headlights will illuminate your signals."²⁵⁰

l) Two-officer signaling

- (1) "Sometimes two or more officers are needed to effectively control traffic at large or busy intersections. Continuous communication is imperative.
- (2) One of the officers should be designated as the leader. The lead officer makes the control decisions, while the other officer assists by coordinating with and extending signals. Good communication is essential. If you are not in voice contact with the other officers, be sure you have radio contact."²⁵¹

m) Traffic control at accident scenes

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- (1) “The primary purpose for traffic control at accident scenes is to provide access and protection to traffic investigators and emergency services carrying out their respective tasks. The secondary purpose is to facilitate traffic flow even if restricted. Officers should be particularly alert to hazards such as leakage of gas and oil. Notify fire department personnel if these conditions exist.
 - (2) Detour traffic away from the crash scene in residential or business areas, detour traffic one (1) or more blocks in each direction; as needed. Be careful not to allow any traffic to enter intersections without also providing a way out.
 - (3) If the crash occurs on a main highway or freeway, either detour traffic onto access roads or funnel traffic into single lanes past the crash scene.
 - (4) If the crash involves hazardous materials, refer to the *Emergency Response Guidebook* to manage the situation appropriately.”²⁵²
 - (5) North Carolina law provides that uniformed regular and volunteer firefighters and rescue squad personnel may direct traffic and enforce traffic laws and ordinances at the scene of or in connection with their duties as firefighters or rescue members.²⁵³
- n) Traffic control at fire scenes
- (1) “When directing traffic at fire scenes, your goal is to keep traffic from entering the fire area and permit vehicles already in the fire area to get out. Keep all vehicular and pedestrian traffic beyond the established fire line. Ensure [drivers] are directed away from emergency equipment to prevent damage to that equipment or interference with the fire department’s use [of] the equipment, such as when a [driver] drives over a fire hose.
 - (2) Coordinate enforcement and traffic direction and activities with the fire department officials.”²⁵⁴

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L. Use of Traffic Flares, Cones, and Other Warning Signs

1. Traffic control devices

“Traffic control devices shall be defined as all signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over or adjacent to a street, highway, pedestrian facility, bikeway, official having jurisdiction, or in the case of a private road, by the authority of the private owner or private official having jurisdiction.”²⁵⁵

2. Flares

a) “When flares are used to initiate temporary traffic control at traffic incidents, more permanent traffic devices should replace them as soon as practical. Both the flare and its supporting device should then be removed from the roadway.”²⁵⁶

b) Handle flares carefully. “These flares burn at high temperature for 15 to 30 minutes, creating smoke and fumes that can overwhelm the user.”²⁵⁷ They can damage uniforms and burn flesh severely. Plastic lane dividers will melt if flares are placed on or near them. Flares should not be used when officers suspect the presence of spilled flammable or hazardous materials.

c) The proper procedure for lighting flares is as follows:

(1) “First, remove plastic lid to expose scratch surface on cap.

(2) Next, twist and remove cap, exposing the black flare igniter button.

(3) Last, gently strike the scratch surface of cap against the black button of the flare (similar to striking a match), while pointing away from face and body.

(4) Once flare is ignited, carefully place on the ground (do not drop). Do not hold flare in upright position as molten residue from the combustion process will burn if dripped on hand.”²⁵⁸

3. Warning sign placement

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“On urban streets, the effective placement of the first warning sign in feet should range from 4 to 8 times the speed limit in mph, with the high end of the range being used when speeds are relatively high. When a signal advance warning sign is used (in cases such as low-speed residential streets), the advance warning area can be as short as 100 feet. When two or more advance warning signs are used on higher-speed streets, such as major arterials, the advance warning area should extend a greater distance.

Since rural highways are normally characterized by higher speeds, the effective placement of the first warning sign in feet should be substantially longer – from 8 to 12 times the speed limit in mph. Since two or more advance warning signs are normally used for these conditions, the advance warning area should extend 1,500 feet or more for open highway conditions.

Typical distances for placement of advance warning signs on freeways and expressways should be longer because drivers are conditioned to uninterrupted flow. Therefore, the advance warning sign placement should extend on these facilities as far as ½ mile or more.”²⁵⁹

The distances are approximate, are intended for guidance purposes only, and should be applied with engineering judgment.²⁶⁰ These distances should be adjusted for field conditions, if necessary, by increasing or decreasing the recommended distances.²⁶¹

“The spacing between cones, tubular markers, vertical panels, drums, and barricades should not exceed a distance in feet equal to 1.0 times the speed limit in mph when used for taper channelization...”²⁶²

NOTE: Show NCJA video, *Techniques of Traffic Law Enforcement* – “Traffic Direction.”

NOTE: Instructors should demonstrate how to ignite and set up flares outside the classroom.

M. Assessing Roadway Safety

NOTE: Show slide, “Assessing Roadway Safety.”

To reduce traffic collisions and as a part of law enforcement’s traffic enforcement responsibilities, it is necessary to assess roadway safety

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continually. The following summarizes a general process for assessing roadway safety:

1. Identify, describe, and classify the roadway.

“Roadway factors generally are grouped by the type of facility, including (but not limited to) interstates, freeways, intersections, rural highways, local roads, pedestrian facilities, and bicycle facilities. Safety on different facilities varies because they are built to different standards and different types of activities occur on them. Often simply knowing the type of facility provides an important safety indicator. For example, intersections may involve a large number of conflicting vehicle movements, which increases the opportunity for incidents to occur.”²⁶³

2. Observe the condition of the roadway and determine if a hazard exists.

- a) Roadway factors

- (1) “Access control – Facility types are commonly classified based on the number of access points. Improving the access control reduces the number of potential conflict points.
- (2) Speed – While, interstates, and freeways have fewer conflict points because of controlled access; these facilities are associated with higher travel speeds, which may result in more severe injuries.
- (3) Roadway cross-section – Roadways are designed to a minimum standard based on the facility type. The lane width, shoulder width, roadside clearance, cross-slopes, etc., may all impact the safety of a facility. For example, rural roads may be characterized by a lack of shoulders and unforgiving roadside environments.
- (4) Traffic volumes – One (1) factor contributing to crashes on any road is the amount of exposure to risk for a given period. Exposure relative to traffic volumes generally results in more crashes, but they may be less severe due to slower speeds associated with congestion.
- (5) Pavement condition – Pavement resurfacing can improve skid resistance in locations where a high percentage of crashes occur on wet pavements or curves

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in the roadway. This action also may improve safety by eliminating ruts, potholes, and bumps which contribute to crashes.”²⁶⁴

b) Environmental factors

- (1) “Rain – Wet pavement has lower friction than dry pavement, so traction is reduced. Also, pooling of water can lead to hydroplaning and loss of vehicle control. Finally, rain reduces visibility. In most wet conditions, drivers can accommodate the reduced visibility; however, often a crash occurs in wet conditions due to drivers not accommodating sufficiently for the reduced friction between tires and pavement.
- (2) Snow, sleet, and ice – Snow, and ice can be hazardous due to extreme loss of traction. Ice is often more hazardous because it cannot be seen and anticipated. Also, ice often forms sporadically and catches drivers by surprise.
- (3) Fog – Fog can reduce visibility to several feet, rendering a driver virtually blind.
- (4) Wind – Windy conditions contribute to crashes, especially for large trucks, motorcycles, and other small vehicles.
- (5) Sun – The sun contributes to crashes because of glare and reduced visibility during periods of high glare.”²⁶⁵

3. Interpret the observations and determine a course of action that will eliminate the hazard.

“Crashes rarely involve a single crash factor; hence, careful analysis of all possible crash factors is imperative. The analysis is necessary for not only identifying all factors that contribute to a crash, but also to identify the most cost-effective countermeasures.”²⁶⁶ Some potential courses of action are to install better signage, slower speed limits, road repairs, salting roadways, or placing a patrol car with emergency lights activated at the location to warn and slow down drivers approaching the hazard.

N. Conducting Preliminary and Follow-up Investigations²⁶⁷

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NOTE: Show slide, “Investigations.”

Law enforcement officers often investigate misdemeanor and felony traffic law violations. Examples include death by vehicle, hit and run offenses, and registration violations.

1. Preliminary investigations

There are several investigative steps an officer has to perform in the preliminary investigation of traffic law violations, depending on the nature and severity of the offense. The officer has the responsibility to arrive at the crime scene rapidly and safely.

NOTE: Point out to the students that there are statutes that govern when they must use lights and siren (G.S. 20-157) and when they may travel above the posted speed limit (G.S. 20-145).

- a) Violator at the scene
 - (1) Secure (place in a safe location) violator or make an arrest (place in handcuffs) if appropriate.
 - (2) Request back-up or assistance if needed.
- b) Emergency care for the injured
 - (1) Render or summon aid for the injured.
 - (2) Provide aid to the injured before any action to apprehend a fleeing violator.
 - (3) If the death of a victim appears imminent, attempt to elicit a dying declaration. A requirement for admissibility of a dying declaration is that the person making the statement must believe their death is imminent as required in N.C. General Statute 8C-1, Rule 804(b)(2). You should make note of circumstances that would support this conclusion.
- c) Secure and protect the crime scene to the extent possible. Do not allow it to be contaminated! Do not do anything to alter the crime scene! Do not touch anything! Keep everyone out of the crime scene!

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- (1) Secure the crime scene by establishing a perimeter around the crime scene.
 - (2) Request additional assistance to provide security.
 - (3) Assign officers around the scene to keep people out. The officer assigned to this duty should keep a log of all persons allowed into the scene, the time they entered, and the time they left.
- d) Locate and identify witnesses and victims.
- (1) Briefly interview them and obtain enough information to determine if a crime has occurred.
 - (2) Ask witnesses to remain at the crime scene. Obtain the name and phone number(s) or other identification, such as where the person works, if possible.
 - (3) Separate the witnesses so they will not discuss the crime/incident.
- e) Make necessary preliminary radio broadcasts of be on the lookout (BOLO) information, as needed.
- f) Examination of the crime scene and interviews with witnesses and victim. Other officers may be needed to process the crime scene or assist with interviews.
- (1) Obtain a detailed account of the crime. Include weather, date, time, location, description of the driver, and summary of statements from victim and witnesses.
 - (2) Have victim or witnesses describe and trace violator's route or actions.
 - (3) Identify and protect evidence.
- g) Record crime scene in notes (written description and sketch).
- h) Make notifications and requests.
- (1) Crime scene technicians
 - (2) Criminal investigators

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- (3) Reconstruction units, drug recognition experts (DREs)
 - i) Process crime scene (if it remains your responsibility).
 - (1) Record the crime scene.
 - (a) Photograph overall crime scene and individual pieces of evidence.
 - (b) Measure and diagram the crime scene.
 - (c) Record the crime scene in your notes.
 - (2) Process, search, and properly collect, package, and label the evidence following the procedures outlined in criminal investigation.
 - (3) Document thoroughly all actions taken by you at the crime scene for your report.
 - j) Conduct a complete detailed interview of the victim and witnesses. Obtain a written statement, if applicable. Take photographs of the injuries of all parties involved.
 - k) Ask questions of the suspect if he or she is not in custody and interrogate the suspect if he is in custody, if you have obtained sufficient information to prepare for such interrogation, and they have waived *Miranda* and agreed to speak with you.
 - l) Review all of your notes, interviews, statements, and information. Ensure that you completed all of your responsibilities at the crime scene (use a checklist if possible).
2. Follow-up investigations

Follow-up investigations may take place hours, days, or even months after the initial investigation. You may initiate your follow-up investigation, or you may be requested by the District Attorney's office to initial some follow-up investigation.

There are numerous investigative activities that an officer may perform during the follow-up investigation.

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- a) Re-interview the victim and witnesses. The officer will be attempting to obtain more information that the party may remember after the incident. The officer will also be ensuring that the party has not changed or altered their initial statements.
- b) Canvass the area where the crime occurred to locate additional witnesses. The officer may go to the location of the incident at the same time an incident occurred to locate a witness or someone with some information.
- c) Follow-up on any information that has been obtained from the witnesses or victim to identify the violator.
- d) Package and transmit evidence to the lab for examination as soon as is practical.
- e) Solicit cooperation of the media and informants for information to identify a violator.

NOTE: Tell students that cooperation with the district attorney's office is advised when talking to the media or releasing information to the media. Although, unless office policy mandates, you are not required to do so, it helps to keep an open line of communication with the agency who will be prosecuting your cases.

- f) Develop a suspect and attempt to locate the suspect. Suspects can be developed through information from victims, witnesses, physical evidence processed, informants, etc.
 - (1) Obtain as much information about the suspect as possible.
 - (2) Execute surveillance or any searches needed.
 - (3) Plan and prepare for the interrogation.
 - (a) Review notes, reports, and statements.
 - (b) Criminal records check of the suspect and any pertinent information that may be in the agency files or information from other agencies.
 - (4) Conduct interview of suspect, making sure none of his *Miranda* rights are violated.

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- (5) Obtain physical evidence from the suspect if needed through legal means (e.g., search warrant, non-testimonial identification order, court order, consent).
- (6) Arrest and process suspect if you have probable cause and the suspect is being charged.
- (7) Follow-up with any examinations of evidence that need to be completed.
- (8) Conduct additional interviews of witnesses or victims, as needed.
- (9) Prepare and submit complete, accurate reports.
- (10) Prepare an investigative summary package for the district attorney or the assigned assistant district attorney, if the charge is a felony, and schedule a meeting with him or her to discuss the case.

If the crime involves a death, the officer must work with the local Medical Examiner's office in the county of the jurisdiction. The officer should provide any information the medical examiner would need and obtain a copy of the medical examiner's autopsy report or investigative report. The officer would benefit to have the assistance of an investigator or supervisor.

If the crime would be Habitual Impaired Driving, a Class G Felony, then the officer will have to continue the investigation. A person commits the offense of habitual impaired driving if he drives while impaired as defined in G.S. 20-138.1, and has been convicted of three (3) or more offenses involving impaired driving as defined in G.S. 20-4.01 (24a) within ten (10) years of the date of this offense. The officer will have to obtain certified copies of the person's convictions from the clerk's office in the county of the conviction and prepare a prosecution package and submit it to the prosecutor to prosecute the offense in Superior Court.

III. Conclusion

A. Summary

Techniques of Traffic Law Enforcement

During this block of instruction, we have discussed numerous duties that are associated with traffic law enforcement. The tasks associated with these enforcement contacts have been detailed to allow the officer to safely and effectively do his or her job. The procedures for dealing with unknown and known risk stops were discussed to allow the officer a level of safety to deal with potentially dangerous situations. An important responsibility of traffic law enforcement is to keep the motoring public safe from speeders and those that are impaired; therefore, strategies were discussed to allow officers the tools to enforce those laws. Finally, traffic control procedures were discussed to assist the officer in a variety of traffic-related incidents.

NOTE: Show slides, “Training Objectives.”

1. State the five (5) major phases of enforcement action and four (4) types of traffic apprehension.
2. Name and describe seven (7) methods of observing traffic.
3. Identify at least one (1) method of conducting selective traffic enforcement.
4. State the proper procedures used in visually estimating the speed of a vehicle and clocking vehicles by use of a speedometer.
5. Demonstrate a tactically safe “unknown risk” traffic stop that includes:
 - a) Correct radio procedures
 - b) Vehicle positioning
 - c) Initiating verbal contact
 - d) Observing suspicious behavior
 - e) Responding to legally armed individuals
6. In a practical exercise, demonstrate the ability to inspect a driver and their operator license to determine if it is valid and has not been altered, issue the uniform citation, write a charge not printed on the citation and explain the charge to the violator and the proper procedure for disposition of the citation.
7. State the proper procedures for having an unfit vehicle operator reexamined by the Division of Motor Vehicles.

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8. Demonstrate a tactically, safe, known risk vehicle stop that includes:
 - a) Correct radio procedures
 - b) Vehicle positioning
 - c) Verbal commands
 - d) Subject control techniques
 - e) Stopping vans and other unusual vehicles
9. Demonstrate the proper method of searching a vehicle, both under independent probable cause and incident to arrest after *Arizona v. Gant*.
10. State the proper procedures and documentation for a suspected driving while impaired (D.W.I.) offense from observation to arrest.
11. Demonstrate effective traffic control procedures in the following situations:
 - a) Multiple traffic lanes utilizing multiple officers
 - b) Night/low light conditions
 - c) Accident scenes
 - d) Fire scenes
12. Identify the proper usage of flares, traffic cones, and other warning signs at a disaster, fire, or accident scene.
13. Identify, analyze, and investigate road conditions to assess their officer's safety when conducting a traffic stop.
14. State the proper method of conducting preliminary and follow-up investigations of traffic-related crimes.

B. Questions from Class

NOTE: Show slide, "Questions."

C. Closing Statement

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Traffic law enforcement is a major part of a law enforcement officers' duties. Officers are constantly exposed to and in contact with the motoring public. It is essential for officers to have the skills to deal with a multitude of traffic-related incidents. Officer safety is a critical thought while performing these duties due to the hazards the officer is exposed to during his or her enforcement duties. The goal is to make the roads safer for everyone that uses them as well as staying safe while doing so.

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NOTES

¹ Chapman, 572.

² *State v. Styles*, N.C. 412, (2008).

³ *United States v. Cortez*, 449 U.S. 411, 417-418, (1981).

⁴ *Cortez*.

⁵ *Beck v. Ohio*, 379 U.S. 89, 91, (1964).

⁶ *Beck*.

⁷ *Beck*.

⁸ *Beck*.

⁹ N.C.G.S. § 15A-401(d)(1) (2018).

¹⁰ N.C.G.S. § 15A-401(d)(2)(b)(1) (2018).

¹¹ N.C.G.S. § 15A-401(d)(2)(b)(2) (2018).

¹² N.C.G.S. § 15A-302 (2018).

¹³ N.C.G.S. § 15A-302 (2018).

¹⁴ Farb, *Arrest, Search, and Investigation in North Carolina*, 3.

¹⁵ N.C.G.S. § 15A-302 (2018).

¹⁶ N.C.G.S. § 15A-1113 (2018).

¹⁷ Wisconsin Department of Justice, 37.

¹⁸ Wisconsin Department of Justice, 37-38.

¹⁹ Wisconsin Department of Justice, 38.

²⁰ Wisconsin Department of Justice, 31.

²¹ Wisconsin Department of Justice, 31.

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- ²² Wisconsin Department of Justice, 32.
- ²³ *Delaware v. Prouse*, 440 U.S. 648, 653, (1979).
- ²⁴ *Prouse*.
- ²⁵ *Michigan State Police v. Sitz*, 496 U.S. 444, 455, (1990).
- ²⁶ *State v. Nolan*, 211 N.C. App., 109, 119, (2011).
- ²⁷ *State v. Rose*, 170 N.C. App., 284, 292-293, (2005).
- ²⁸ *City of Indianapolis v. Edmond*, 531 U.S. 32, (2000).
- ²⁹ *Rose*.
- ³⁰ *State v. Jarrett*, 203 N.C. App., 675, 680, (2010).
- ³¹ *Jarrett*, 681.
- ³² N.C.G.S. § 20-16.3A (2018).
- ³³ N.C.G.S. § 20-16.3A (b) (2018).
- ³⁴ North Carolina SMI Advisory Committee, “Legal and Operational Considerations,” 6-21.
- ³⁵ North Carolina SMI Advisory Committee, “Basic Principles of Time-Distance Speed Measurement,” 8.
- ³⁶ *State v. Barnhill*, 166 N.C. App. 228, 601 S.E. 2d 215, (2004).
- ³⁷ Joseph Petrocelli and Matthew Petrocelli, *Anatomy of a Motor Vehicle Stop* (Flushing, NY: Looseleaf Law Publishing, Inc., 2005), 19.
- ³⁸ Petrocelli and Petrocelli, 22-23.
- ³⁹ Petrocelli and Petrocelli, 25.
- ⁴⁰ Petrocelli and Petrocelli.
- ⁴¹ Petrocelli and Petrocelli, 42.
- ⁴² POLICE Magazine.

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⁴³ Harris, 86-89.

⁴⁴ Winston Salem Police Department.

⁴⁵ Remsberg, *The Tactical Edge: Surviving High Risk Patrol*, 305.

⁴⁶ Remsberg, *The Tactical Edge: Surviving High Risk Patrol*, 305.

⁴⁷ Petrocelli and Petrocelli, 87-90.

⁴⁸ Petrocelli, 92.

⁴⁹ Remsberg, *The Tactical Edge: Surviving High Risk Patrol*, 305-306.

⁵⁰ *Pennsylvania v. Mimms*, 434 U.S. 106, (1977).

⁵¹ *Maryland v. Wilson*, 519 U.S. 408, (1997).

⁵² *Wilson*.

⁵³ *Armstrong v. Village of Pinehurst*, 810 F.3d 892, 905, (2016).

⁵⁴ *Armstrong*.

⁵⁵ N.C.G.S. § 14-415.21 (2018).

⁵⁶ N.C.G.S. § 14-415.21 (2018).

⁵⁷ *Terry v. Ohio*, 392 U.S. 1 (1968).

⁵⁸ N.C.G.S. § 15A-221(b) (2018).

⁵⁹ N.C.G.S. § 15A-221(b)(1) (2018).

⁶⁰ N.C.G.S. § 14-269(b)(2) (2018).

⁶¹ N.C.G.S. § 14-269(b)(3) (2018).

⁶² N.C.G.S. § 14-269(b)(3a) (2018).

⁶³ N.C.G.S. § 14-269(b)(4) (2018).

⁶⁴ N.C.G.S. § 14-269(b)(4a) (2018).

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⁶⁵ N.C.G.S. § 14-269(4b) (2018).

⁶⁶ N.C.G.S. § 14-269(b)(4d) (2018).

⁶⁷ N.C.G.S. § 14-269(b)(4e) (2018).

⁶⁸ N.C.G.S. § 14-269(b)(7) (2018).

⁶⁹ N.C.G.S. § 14-269(b)(8) (2018).

⁷⁰ N.C.G.S. § 14-269(b)(5) and (6) (2018).

⁷¹ N.C.G.S. § 14-269(9) (2018).

⁷² N.C.G.S. § 14-269(b)(3a-9) (2018).

⁷³ Insurance Institute for Highway Safety.

⁷⁴ Doerr, February 9, 2016.

⁷⁵ N.C.G.S. § 15A-302 (2018).

⁷⁶ N.C.G.S. § 15A-302(f) (2018).

⁷⁷ N.C.G.S. § 15A-302(g) (2018).

⁷⁸ N.C.G.S. § 20-4.1 (2018) and 20-4.19 (2018).

⁷⁹ N.C.G.S. § 20-4.19 (2018) and N.C.G.S. § 20-4.20 (2018).

⁸⁰ N.C.G.S. § 20-4.19(a) (2018).

⁸¹ N.C.G.S. § 20-4.19(a) (2018).

⁸² N.C.G.S. § 15A-1113(c) (2018).

⁸³ N.C.G.S. § 15A-302(a) (2018).

⁸⁴ N.C.G.S. § 15A-303(a) (2018) and N.C.G.S. § 15A-304(a) (2018).

⁸⁵ N.C.G.S. § 15A-903(a)(1) (2018).

⁸⁶ N.C.G.S. § 15A-907 (2018).

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- ⁸⁷ N.C.G.S. § 15A-903(d) (2018).
- ⁸⁸ N.C.G.S. § 20-29.1 (2018).
- ⁸⁹ Miller, 178.
- ⁹⁰ Remsberg, *The Tactical Edge: Surviving High Risk Patrol*, 325.
- ⁹¹ Remsberg, *The Tactical Edge: Surviving High Risk Patrol*, 325.
- ⁹² Garner, 45.
- ⁹³ Rayburn, 90-91.
- ⁹⁴ *Miranda v. Arizona*, 384 U.S. 436, (1966).
- ⁹⁵ N.C.G.S. § 15A-401(d)(2) (2018).
- ⁹⁶ N.C.G.S. § 15A-401(d)(2)(a) (2018).
- ⁹⁷ N.C.G.S. § 15A-401(d)(2)(b) (2018).
- ⁹⁸ *Graham v. Connor*, 490 U.S. 386, 396, (1989).
- ⁹⁹ *Graham*.
- ¹⁰⁰ *Graham*.
- ¹⁰¹ Farb, *Arrest, Search, and Investigation in North Carolina*, 210.
- ¹⁰² Farb, *Arrest, Search, and Investigation in North Carolina*.
- ¹⁰³ Farb, *Arrest, Search, and Investigation in North Carolina*.
- ¹⁰⁴ Farb, *Arrest, Search, and Investigation in North Carolina*.
- ¹⁰⁵ Farb, *Arrest, Search, and Investigation in North Carolina*, 211.
- ¹⁰⁶ *State v. Isleib*, 319 N.C. 634, 356 S.E.2d 573, (1987) (this case was decided under both federal and state constitutions); *Chambers v. Maroney*, 399 U.S. 42, 90 S. Ct. 1975, 26 L.Ed.2d 419, (1970); *See generally* 3 W. LaFave, *Search and Seizure* - 7.2(b)(2d ed. 1987 and Supp. 1993).

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¹⁰⁷ *State v. Russell*, 92 N.C. App. 639, 376 S.E.2d 458, (1989); *United States v. Shepherd*, 714 F.2d 316, (4th Cir. 1983), cert. denied, 466 U.S. 938, 104 S. Ct. 1914, 80 L.Ed.2d 462, (1984); *State v. Mitchell*, 300 N.C. 305, 266 S.E. 2d 606, (1980), cert. denied, 449 U.S. 1085, 101 S. Ct. 873, 66 L.Ed.2d 810, (1981).

¹⁰⁸ Harris.

¹⁰⁹ *United States v. Ross*, 456 U.S. 798, 102 S. Ct. 2157, 72 L.Ed.2d 572, (1981).

¹¹⁰ *Ross*.

¹¹¹ *Arizona v. Gant*, 556 U.S. 332, (2009).

¹¹² Farb, “The United States Supreme Court’s Ruling of *Arizona v. Gant*.”

¹¹³ Farb, “The United States Supreme Court’s Ruling of *Arizona v. Gant*.”

¹¹⁴ Farb, *Arrest, Search, and Investigation in North Carolina*, 226.

¹¹⁵ *Michigan v. Long*, 463 U.S. 1032, 103 S. Ct. 3469, 77 L.Ed.2d 1201, (1983); *State v. Braxton*, 90 N.C. App. 204, 368 S.E.2d 56, (1988). Compare the *Braxton* ruling with *United States v. Nash*, 876 F.2d 1359, (7th Cir. 1989), cert denied, 493 U.S. 1084, 110 S. Ct. 1145, 107 L.Ed.2d 1049, (1990).

¹¹⁶ Farb, *Arrest, Search, and Investigation in North Carolina*, 233.

¹¹⁷ Farb, *Arrest, Search, and Investigation in North Carolina*.

¹¹⁸ Farb, *Arrest, Search, and Investigation in North Carolina*.

¹¹⁹ *Florida v. Wells*, 495 U.S. 1 (1990).

¹²⁰ Farb, *Arrest, Search, and Investigation in North Carolina*, 233.

¹²¹ *United States v. Rodriguez*, 135 S. Ct. 1609, (2015).

¹²² *Rodriguez*.

¹²³ Farb, *Arrest, Search, and Investigation in North Carolina*, 203.

¹²⁴ N.C.G.S. § 15A-222 (2018).

¹²⁵ Remsberg, *Tactics for Criminal Patrol*, 298 – 300.

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- ¹²⁶ Remsberg, *Tactics for Criminal Patrol*, 328.
- ¹²⁷ Remsberg, *Tactics for Criminal Patrol*, 328.
- ¹²⁸ Remsberg, *Tactics for Criminal Patrol*, 328.
- ¹²⁹ Remsberg, *Tactics for Criminal Patrol*, 330.
- ¹³⁰ Remsberg, *Tactics for Criminal Patrol*, 329.
- ¹³¹ *State v. Barnard*, 362 N.C. 244, 247, (2008).
- ¹³² *State v. Crawford*, 125 N.C. App. 279, (1997).
- ¹³³ Remsberg, *Tactics for Criminal Patrol*, 330.
- ¹³⁴ *State v. Styles*, 362 N.C. 412, (2008).
- ¹³⁵ *Barnard*.
- ¹³⁶ *Crawford*.
- ¹³⁷ *State v. Fields*, 77 N.C. App. 404, (1985).
- ¹³⁸ *State v. Fields*, 77 N.C. App. 404, (1985).
- ¹³⁹ *State v. Carter*, 15 N.C. App. 391, (1972).
- ¹⁴⁰ *State v. Green*, 251 N.C. 141, (1959).
- ¹⁴¹ *State v. Crow*, 175 N.C. App 119, (2005).
- ¹⁴² *State v. Hensley*, 2010 N.C. App. LEXIS 1966, (2010).
- ¹⁴³ N.C.G.S. § 20-138.1(a) (2018).
- ¹⁴⁴ N.C.G.S. § 20-138.1 (2018) and N.C.G.S. § 20-4.01(14a) (2018).
- ¹⁴⁵ *State v. Combs*, 13 N.C. App. 195, (1971).
- ¹⁴⁶ N.C.G.S. § 20-138.1(b) (2018).
- ¹⁴⁷ N.C.G.S. § 20-16.2(i) (2018).

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¹⁴⁸ N.C.G.S. § 20-16.2(i) (2018).

¹⁴⁹ N.C.G.S. § 20-16.2(i) (2018).

¹⁵⁰ N.C.G.S. § 20-16.2(i)(1) (2018).

¹⁵¹ National Highway Traffic Safety Administration.

¹⁵² National Highway Traffic Safety Administration.

¹⁵³ National Highway Traffic Safety Administration.

¹⁵⁴ National Highway Traffic Safety Administration.

¹⁵⁵ National Highway Traffic Safety Administration.

¹⁵⁶ National Highway Traffic Safety Administration.

¹⁵⁷ National Highway Traffic Safety Administration.

¹⁵⁸ National Highway Traffic Safety Administration.

¹⁵⁹ National Highway Traffic Safety Administration.

¹⁶⁰ National Highway Traffic Safety Administration.

¹⁶¹ National Highway Traffic Safety Administration.

¹⁶² National Highway Traffic Safety Administration.

¹⁶³ Welty, “Weaving and Reasonable Suspicion.”

¹⁶⁴ *State v. Otto*, 366 N.C. 134, (2013).

¹⁶⁵ *State v. Fields*, 219 N.C. App. 385, (2012).

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