

CITY OF BARRE
Police Advisory Committee Agenda
Monday, June 12, 2023
6:00 pm
Barre Public Safety Building
Conference Room
15 Fourth Street
Barre, VT 05641

Join Zoom Meeting
<https://us02web.zoom.us/j/83053276707>

Meeting ID: 830 5327 6707
Telephone 1 929 205 6099
Open to the Public

1. Call to order.
2. Consider approval or adjustments of the agenda
3. Consider approval of previous meeting minutes
4. Receive guests
5. Councilor Waszazak's report
6. Chief's report
7. Discuss and consider approving Sex Offender Registry policy
8. Discuss and consider approving Traffic Control & Enforcement policy
9. Discuss and consider approving Exculpatory & Incriminating Statements
or Evidence policy
10. Discuss and consider approving Driving Under Influence Evidentiary
Testing policy
11. Discuss and consider approving Juvenile Operations policy
12. Discuss and consider approving Authority Department Organization &
Command policy

13. Miscellaneous

14. Adjourn



Barre City Police Department

Barre, Vermont

Braedon S. Vail
Chief

TRAFFIC PROCEDURES

<u>Subject:</u> Traffic Control & Enforcement	<u>Number:</u> 503	<u>Effective Date:</u> XX/XX/23
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Note: These Rules & Regulations, Operational Policies and/or Procedures are for internal use only and does not enlarge a member’s civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Policy: To promote the safe and efficient movement of traffic within the city, and utilize selective enforcement techniques for reducing traffic collisions, traffic violations, and community complaints. Generally, sworn officers are responsible for traffic law enforcement, unless a specific situation dictates otherwise.

Purpose: To establish guidelines for conducting constitutionally valid investigative and enforcement traffic stops when traffic laws are violated and, taking enforcement action in an impartial and courteous manner using written warnings, citations, and/or physical arrests. To establish a record system to track investigative and enforcement traffic stops.

Contents:

- I. Guidelines for Traffic Enforcement
- II. Officer/Violator Contacts
- III. Uniform Enforcement
- IV. Re-Examination of Drivers
- V. Data Collection Guidelines
- VI. Race Data Collection
- VII. Responsibility
- VIII. Speed Measuring Devices
- IX. Traffic Direction & Control
- X. Cancellation

I. Guidelines for Traffic Enforcement

- A.** A traffic stop is defined as any instance when a law enforcement officer detains the driver of a motor vehicle for any period of time for a suspected violation of Title 23 (Motor Vehicles) of the Vermont Statutes Annotated or other applicable reasons (i.e., recognizing an occupant has having an outstanding warrant, liquor or drug violations, etc.).

- B.** Officers have discretion in the enforcement of traffic laws. In some instances, a warning may be appropriate, and in other instances the issuance of a Vermont Civil Violation Complaint (VCVC) may be justified. More serious violations may require a physical arrest.
- C. Multiple Violations** - Officers are not limited as to the number of VCVC's that may be issued to a single violator. Officers should use sound judgment in deciding how many charges to place.
- D.** Traffic law enforcement is a continuing program of driver/passenger/pedestrian safety education. There are occasions when an officer may determine that the goal of traffic safety may be achieved through the issuance of a warning rather than a VCVC. Written and verbal warnings contribute to public safety in the traffic enforcement program; however, their issuance must be carefully monitored.
- E.** In every instance where a driver of a vehicle is stopped for a violation of Title 23, a written warning, Valcour documented verbal warning or Vermont Civil Violation Complaint (VCVC Form 420) should be issued unless the initial cause for the stop evaporates (i.e. a stop for expired inspection sticker where it is found the operator is within the 15 day grace period, DUI investigatory stop with reasonable suspicion but not necessarily a violation of Title 23 and the operator is not found to be intoxicated, etc.). Regardless, Traffic Stop incidents will be created in Valcour for every traffic stop.
- F.** A VCVC is an important enforcement tool in removing unsafe drivers from our roadways. The issuance of a VCVC is applicable in the majority of cases where the violator has jeopardized the safe and efficient flow of vehicular and pedestrian traffic.
 - VCVC's should be issued utilizing the e-ticketing system unless the equipment is not available or malfunctioning.
- G.** Officers may affect a physical arrest for violations of Title 23 of the Vermont Statutes Annotated, other than *traffic violations* as defined in 23 VSA § 2302. The decision to make a physical arrest should be based upon sound legal justification.

II. Officer/Violator Contacts

Traffic law enforcement is an everyday task performed by officers, but for the violator it is frequently an uncommon and emotional experience. Officers should be aware of these conditions, striving to make each contact educational, leaving the violator with the knowledge that the officer has performed a necessary task in a professional and friendly manner. These procedures are a guide as to how to conduct traffic stops and relations with traffic law violators. Officers will act in a professional manner during officer/violator contacts.

A. Procedures for initiating the Traffic Stop

- Officers should use their emergency equipment when stopping a violator. After the stop has been made, officers should continue to use their emergency lights. The proper use of emergency equipment can increase safety for the officer, the public, and the violator. Whenever possible, officers should direct the violator to move their vehicle off the traveled portion of the roadway. This ensures the

continued safe and orderly flow of traffic.

- When making a traffic stop, officers will notify ECC of their location and the registration number and any other pertinent information depending upon the circumstances (i.e., number of occupants, etc.) of the vehicle being stopped.
- During hours of darkness, officers should use both their takedown lights and spotlights. Officers should focus their spotlight on the violator's rear-view mirror. After talking with the violator and determining that the violator presents no threat, the officer may elect to turn off the spotlight.
- These procedures should also be followed when stopping to render assistance to a motorist.

B. Position of the Patrol Vehicle

- The patrol vehicle may be positioned in several different ways during a traffic stop. The individual officer will determine which method is used. This decision should be based on the officer's preference, location of the stop, type of vehicle stopped, the officers' training and any other pertinent factors relating to that specific traffic stop.
 - The first suggested method requires the patrol vehicle to be positioned approximately fifteen (15) feet behind the stopped vehicle and offset to the left approximately three feet to provide a safety lane for the officer's approach. The front wheels should be turned sharply to the left with the engine running and the driver's door unlocked.
 - The second suggested method requires the patrol vehicle to be positioned approximately fifteen (15) feet behind the stopped vehicle and at a 45-degree angle with the passenger side of the patrol vehicle facing the stopped vehicle. The front portion of the patrol vehicle should provide a safety lane for the officers' approach. The front wheels should be turned sharply to the left, with the engine running and the driver's door unlocked.
 - There are several other methods of positioning the patrol vehicle during a traffic stop. These alternative methods may be initiated at the officer's discretion based on the circumstance and officer's training.
- Before exiting the patrol vehicle, observe the occupants of the stopped vehicle for any unusual movements or actions.
- To conceal officers' movement from the violator at night, and for visibility inside the stopped vehicle, high headlight beams, spotlight and takedown lights should be used, if available.
- A violator should be ordered to re-enter their vehicle if they exit prior to a officer's approach.
- Consider firearm readiness on every stop.

- The vehicle public address system should be considered for use to communicate with a driver when the danger presented by the violator threatens approaching the vehicle safely. The P.A. may also be used when unusual conditions exist, such as the roadway being temporarily closed, to alert pedestrians to hazardous conditions and communicating with other persons on the traffic scene.

C. Approaching the Violator

Officer safety is the prime consideration when approaching a violator and officers are encouraged to take all reasonable precautions. Any traffic stop is potentially an unknown risk stop. When approaching a traffic violator, officers will:

- Approach in a cautious and alert manner, which enhances officer safety
- Be certain of the alleged violation
- Present a professional demeanor
- Have the necessary equipment available, e.g., flashlight, pen, etc.
- While approaching, watch occupant(s), check for altered registration plates, check the trunk lid ascertaining that it is locked, and observe the interior for possible weapons or hidden passengers. At night, officers should avoid passing between the cruiser lights and the violator's vehicle.
- Stand as close beside the vehicle as possible and to the rear of the driver. Be watchful of any passengers.
- Keep a constant view of the violator's hands. Have the violator reach outside (preferably with the left hand). The officer should take the driver's license or other identification with their non-gun hand.
- Greet the violator appropriately, inform the individual of the violation for which the violator was stopped, and request the violator's license, registration, and proof of insurance.
- Avoid arguing with the violator about the validity of the violation.
- Observe the violator for signs of physical impairment, emotional distress, and alcohol and/or drug use.

D. During the Stop

- Check the vehicle operator through the DMV/NCIC database for license validity, driving record and wants or warrants.
- Write the citation in a strategic location where eye movement permits observation of the vehicle and its occupants.

E. Re-Contacting the Violator

When returning to the stopped vehicle to issue the appropriate violation documents, observe again for changes within the vehicle; and:

- Explain the procedures for either paying the VCVC and/or requesting a court date.
 - Ensure that the violator knows where to appear if the enforcement action requires a court appearance.
- Officers should constantly monitor actions within the stopped vehicle when approaching and returning to their vehicle.
- If necessary, assist the violator in safely reentering the traffic flow.
- Turn off emergency and auxiliary lights before re-entering traffic. Notify the ECC of the stop's completion and the appropriate disposition code.

F. Procedures for High Risk Stops

While safety is the primary concern with every traffic stop, certain factors may indicate a heightened risk which warrants a more cautious response. A high-risk vehicle stop is indicated when the circumstances surrounding the vehicle indicate unusually high dangers to either the officer or the public. Examples of when a high-risk vehicle stop would be warranted include but are not limited to an operator having violent felony warrants for their arrest, stolen vehicle, etc.). While specific actions will be based on available personnel, location of the stop, and the specific dangers indicated by the circumstances, officers should consider:

- Multiple Units – The primary unit should consider delaying the initiation of the stop until back-up units are present;
- Care will be taken to protect the rights of all persons involved. Officers are cautioned to use only that force necessary and reasonable to effect their lawful action;
- Due to the potential hazards to the public, consideration should be given to blocking traffic in both directions until the potential danger is mitigated. This is especially true if the vehicle occupants are believed to be armed;
- If possible, align two (or more) Patrol Vehicles next to each other, utilizing overhead emergency lights, spotlights, etc;
- If possible, utilize verbal commands to have the driver exit the vehicle. Commands should then direct the driver back to a location where they can safely be detained;
- All other occupants should be brought out of the vehicle in the same manner, one at a time until the vehicle is unoccupied;

- Once all occupants are secured, the vehicle should be visually checked to verify safety;
- If possible, reopen the roadway once the scene is secure and the danger mitigated.

III. Uniform Enforcement

A. Driving while Privilege Suspended/Revoked

Operator licenses may be suspended or revoked for serious prior offenses. Suspension or revocation can also result from other reasons such as failure to pay a fine. When deciding what enforcement action to take, officers should check the driving record of the violator. In those cases where a violator is suspended or revoked for reasons as defined in 23 VSA § 674, they should be arrested in accordance with Rule 3 of Vermont Rules of Criminal Procedure (V.R.Cr.P. 3). In those cases where a violator is suspended or revoked for reasons as defined in 23 VSA § 676, they commit a civil traffic violation and should be issued a VCVC accordingly. If a violator is not physically arrested, but released on a citation or a VCVC, the operator shall not be permitted to drive the vehicle.

B. Operating Under the Influence of Alcohol and/or Drugs

Drivers who operate under the influence of alcohol and/or drugs pose a great threat and endanger the lives of themselves and others. As a result, the Barre City Police Department is committed to enforcing these violations and will have zero tolerance, taking enforcement action when appropriate.

C. Moving Violations

Many moving violations of the traffic statute are hazardous and are responsible for a large number of traffic crashes in the City of Barre. Some hazardous violations are: disregarding a traffic control device (signal and/or sign); failure to yield to a vehicle and/or a pedestrian; careless driving; reckless driving; and aggressive driving. The Barre City Police Department will take enforcement action when hazardous violations occur at the discretion of the officer.

D. Commercial Vehicle Violations

All public carrier and commercial vehicle regulations will be enforced in accordance with the Vermont Statutes Annotated. The Officer's discretion, training, experience, and knowledge will determine the action to be taken for violations of public and/or commercial violations.

E. Non-Moving Violations

The type of enforcement necessary in non-moving, non-hazardous violations will be at the discretion of the Officer. It is impossible to foresee every situation regarding traffic violations; therefore, the Officer's discretion, training, experience, and knowledge will determine the action to be taken. Any willful or wanton violation should be handled with appropriate action.

F. Pedestrian & Bicycle Violations

Officers will monitor pedestrian and bicycle movements to ensure compliance with Vermont Vehicle Laws, especially regarding improper highway crossings by pedestrians. Enforcement action may be taken to curtail pedestrian/bicyclist movements that impede traffic and lead to collisions.

G. Violations Resulting in Collision

Quite often a moving violation may result in a traffic collision. Some of the common violations resulting in collision are: following too closely, operating too fast for conditions, or failing to yield. The Barre City Police Department will take enforcement action when violations occur resulting in collision at the discretion of the officer.

H. Newly Enacted Laws & Regulations

Unless otherwise directed, Officers may use discretion in issuing warning notices for newly enacted vehicle laws.

I. Legislators

While U.S. Senators and Representatives enjoy some immunity while Congress is in session, they are not exempt from compliance with ordinary criminal laws, including the Vermont Motor Vehicle Laws. Legislators, including those at the State level, may be warned, cited or arrested for motor vehicle law violations.

J. Non-Residents & Military Personnel

Violations of Vermont Laws by non-Vermont residents and military personnel will be handled in the same manner as those by Vermont residents. That is, they may be warned, cited or arrested, at the officer(s) discretion.

K. Seatbelt and Child Safety Seat Enforcement

The use of properly worn safety belts and child restraint devices, such as child safety seats or booster seats, as required by law prevent the serious injury or death to operators and passengers involved in a motor vehicle collision. As a result, the Barer City Police Department is committed to enforcing seatbelt and child safety laws and will take enforcement action at the discretion of the officer when such violations are observed.

IV. Re-Examination of Drivers

- A.** A request for the re-examination of a driver who appears to be mentally or physically incapable of safely operating a motor vehicle will be made on a State of Vermont Department of Motor Vehicles Driver Reexam Request Form (VS-149).
- B.** It is essential that the form be completed carefully and in its entirety.
- C.** The form is self-explanatory; however, the brief description regarding operation difficulties must be documented accordingly so that reasonable grounds for the re-examination can be conclusively established.

- The issuing officer must sign the form.
- The issuing officer will forward re-examination requests to DMV and retain the file copy in accordance with any applicable record retention requirements.

V. Data Collection Guidelines

- A. Traffic stops, field contacts, asset seizures, and forfeitures based on a person's race, ethnic background, gender, sexual orientation, religion, age, cultural group or any other identifiable is strictly prohibited by the Barre City Police Department. All law enforcement actions will focus on the person's conduct or specific information. Personnel found to be in violation of this policy will be subject to department disciplinary procedures.
- B. The Race Data Collection section of all Vermont Civil Violation Complaints, Warnings, and Valcour Traffic Stop incidents will be completed in its entirety and per instruction contained therein.

VI. Race Data Collection

- A. The Race Data Collection section of a Vermont Civil Violation Complaint is found on the rear of the department copy (yellow) of the Complaint.
- B. The Race Data Collection section in Valcour is found in the Tickets & Warnings section of the traffic stop incident.
- C. The Race Data Collection section consists of five sections: Race of Operator, Reason for Contact, Search Data, Evidence Data, and Outcome Data.
- D. The following is an explanation for completion of captions on the Race Data Collection section of the VCVC/Valcour Race Data Collection:
 - **RACE/PERCEIVED RACE** - indicate the perceived race of driver: **A** - Asian, **B** - Black, **H**- Hispanic, **I** - Native American or Alaskan Native, or **W** - White. The officer will use their best judgment and presented documentation to complete this caption. The officer will not ask the driver their race.
 - **REASON FOR CONTACT/STOP BASED ON** - indicate the appropriate reason for the stop: **M** -Moving violation, **E** - Externally generated stop, **I** - Investigatory stop, **D** - Suspicion of DUI, **V** - Vehicle equipment, **O** - Other violation.
 - **TYPE OF SEARCH/SEARCH BASED ON** - indicate the type of search (if any): **NS** - No search, **SW** - Search conducted with warrant, **SPC** – **Consent** search conducted with PC – no warrant, **SRS** – **Consent** search conducted – reasonable suspicion, **PSW** – Passenger consent search conducted with **PC** – no warrant, **PSRS** – Passenger consent search conducted – reasonable suspicion.
 - **EVIDENCE LOCATED/CONTRABAND/EVIDENCE** - indicate whether contraband was located (if any): **X** - Not applicable – no search, **C** - Contraband

or evidence found, *NC* - No contraband found, *PX* – Passenger no search, *PC* – Passenger contraband or evidence found, Passenger no contraband.

- **OUTCOME/OUTCOME OF STOP** – indicate the most serious violation type: *W* -Warning, *T* - Ticket, *A*- Arrest, *AW* - Arrest on Warrant, *N* - no action taken, *PW* – Passenger warning, *PT* – Passenger ticket, *PA* – Passenger arrest for violation.

VII. Responsibility

A. It is the **officer's** responsibility to:

- Obtain all required information for all traffic stops, regardless of enforcement action.
- Accurately enter all required data in the Race Data Collection section of any Complaint (VCVC) or Written Warning
- When Complaints or Warnings are completed, submit all forms, originals, and copies for filing on a daily basis at the conclusion of their tour of duty.

B. It is the **supervisor's** responsibility to:

- Ensure officers are collecting and submitting the required data for all traffic stops.
- Review the submitted paperwork completeness and accuracy to ensure that officers are properly recording the data.
- Issue positive corrective action to subordinates as needed.

C. **Voiding, Dismissing or Amending a Vermont Civil Violation Complaint (Form 420)**

- Vermont Civil Complaint Violations (Form 420) may be voided due to error, damage or loss, dismissed with prejudice, or amended to reflect a different statute than what was originally written for. In these circumstances, officers shall submit through their immediate supervisor, a Vermont Judicial Bureau Police Amendment/Void/Dismissal Form (Form 702) filled out in its entirety per instruction contained therein. Violations should not be voided for non-justifiable law enforcement related reasons.
- Both the supervisor and officer will sign the form and forward it to the Administrative Assistant for the appropriate distribution.

VIII. Speed Measuring Devices

All Radar and LIDAR (LIght Detection And Ranging) devices used by the Barre City Police Department for speed measurement and enforcement will comply with the standards set forth by the International Association of Chiefs of Police and National Highway Transportation

Safety Administration. For the purposes of this directive, LIDAR and LASER have the same meaning.

A. Operations – Officers will conduct operational tests as detailed in training for that specific device prior to enforcement activity. Any device which fails these operational tests will not be used until corrective action has been taken and the device is operating properly. Acceptable use of Speed Measuring Devices includes but is not limited to:

- Public Safety Education and Enforcement of traffic complaints
- Speed reduction efforts in high traffic collision areas, as identified in the Traffic Collision and Enforcement Analysis
- Traffic enforcement in areas where speed violations are known to be prevalent
- Development of probable cause to investigate other potential criminal activity.

B. Maintenance / Calibration

- All speed measurement devices will be calibrated annually.
- Officers with RADAR units installed in their assigned departmental vehicles are responsible for complying with all instructions from the supervisor regarding delivery of the unit for calibration.
- Calibration records will be maintained. Copies of the Calibration Records will be available for court testimony upon request.
- When officers discover problems with the speed measuring equipment or its operation, the use of that equipment will be discontinued, and the problem brought to the attention of a supervisor as soon as practical. Maintenance records will be maintained.

C. Training – Officers will receive training and certification in speed measuring devices prior to being authorized to utilize the equipment for traffic law enforcement purposes. Proficiency with the device is demonstrated through both written examination and observed performance evaluations. Officers will not write Vermont Civil Violation Complaints (Form 420) for violations whose probable cause was derived from the use of the device unless they have been certified to do so through training.

- Copies of officers' certificates and/or certification cards will be maintained for court testimony purposes.
- Handheld LIDAR units will only be used by officers who have successfully completed training in LIDAR devices and are certified in their operation.
- Officers will use speed measuring devices in conformance with their training.

IX. Traffic Direction & Control

The purpose of manual traffic control is to ensure an orderly flow of traffic, prevent congestion, and ensure the safety of all motorists, pedestrians, and other highway users. To ensure public safety it may be necessary for a member to manually regulate the flow of traffic. Any member manually directing traffic will wear the issued reflective vest.

A. Situations in which a member may be required to manually regulate traffic flow include:

- Traffic collision scenes;
- Fire scenes;
- Special law enforcement operations;
- Hazardous situations on or near the roadway;
- Special events (parades, special assignments, sporting events, etc.)

B. Traffic Direction & Control Procedures

The circumstances warranting traffic control are diverse and differ widely from incident to incident. In order to provide the most effective traffic control services, members engaged in manual traffic control will consider the following procedures:

- Evaluate the scene, establish appropriate traffic control; and, if necessary, use:
 - Flares;
 - Traffic cones;
 - Warning signs and/or barricades;
 - Patrol vehicle with emergency equipment activated.

- Members will use clear and easily understood hand signals when directing traffic.

- **Traffic Control Devices**

When a traffic signal malfunctions or a stop sign is found to be missing or damaged the member should take appropriate action to ensure adequate warning to motorists; providing manual traffic control if necessary, until the signal or sign has been repaired or other arrangements have been made for traffic control.

- In the event a temporary traffic control device is required, members will advise the ECC of the type and quantity of traffic control devices requested and the location needed. The ECC Communications Dispatcher will notify the appropriate agency and request that the sign(s) be provided at the specified location.

- **Fire & Collision Scenes**

Traffic control at the scene of a fire or a collision involving a response from Fire/Rescue personnel will be coordinated with Emergency Services command.

- **Adverse Weather & Roadway Conditions**

When adverse weather conditions occur causing hazardous driving and/or roadway conditions, the member will evaluate the situation and arrange for appropriate traffic control or maintenance. A member may temporarily close a roadway when it is hazardous due to snow, ice, debris, or water over the roadway, or other hazard, after notifying DPW or State Highway Agency of Transportation through the ECC.

- During all traffic control functions, care should be taken to ensure that private vehicles, including volunteer fire personnel, are not parked in a manner that could interfere with emergency operations or access of emergency vehicles.

X. Cancellation

This directive cancels, replaces and supersedes any directives in conflict therewith.

AUTHORITY:

Braedon S. Vail, Chief of Police

, 2023

Index As:

Vermont Civil Violation Complaint (Form 420)
Request for Re-Examination of Driver (VS-149)
Race Data Collection
Traffic Direction
Traffic Enforcement
Warning



Barre City Police Department

Barre, Vermont

Braedon S. Vail
Chief

ADMINISTRATIVE PROCEDURES

<u>Subject:</u>	<u>Number:</u>	<u>Effective Date:</u>
Authority, Department Organization & Command	201	X/XX/23

Note: These Rules & Regulations, Operational Policies and/or Procedures are for internal use only and does not enlarge a member’s civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Policy: The Barre City Police Department maintains an organizational structure that is based on function, unity of command, and the delineation of responsibility, accountability, and the delegation of authority.

Purpose: This directive formally defines the authority of, and establishes the Police Department organizational structure, order of rank, and chain of command.

- Contents:**
- I. Authority
 - II. Jurisdiction
 - III. Organizational Structure
 - IV. Command Structure
 - V. Span of Control
 - VI. Discretion
 - VII. Cancellation

I. Authority

Common law, statutory enactment and judicial rules establish the authority and responsibilities of Law Enforcement Officers in the State of Vermont.

A. Title 24 of the Vermont Statutes Annotated Chapter 55, Section 1931, establishes individual police authority; and Title 20 of the Vermont Statutes Annotated Chapter 151, Section 2358 specifies the minimum training standards and responsibilities for law enforcement officer in the State of Vermont. The duties of Law Enforcement are those prescribed by the common law, the enactments of the Vermont General Assembly, and the rules of the Supreme Court of Vermont. (12.1.1)

B. Duties and responsibilities of the Barre City Police Department include, but are not limited to the following:

- Provide call-taking and emergency medical, fire-rescue and police dispatch services to the City of Barre, and other communities under contractual agreement;
 - Respond to requests for service from the public, and where necessary utilize police authority regarding alleged crimes in progress, suspicious or other circumstances that threaten the public peace, health or safety;
 - Protect an individual in the presence of the officer from the imminent infliction of serious bodily injury;
 - Provide immediate assistance to an individual who has suffered or is threatened with serious bodily injury;
 - Detain or arrest an individual who the officer reasonably believes committed a crime in the presence of the officer; and,
 - Detain or arrest an individual who the officer reasonably believes committed a felony under Vermont law.
- C.** In conformance with Title 24 of the Vermont Statutes Annotated Chapter 55, Section 1931, and upon meeting the training requirements promulgated by the Vermont Criminal Justice Council, (VCJC), sworn personnel of the Barre City Police Department are authorized to carry and use a firearm in the performance of their duties in accordance with **Barre City Police Department's Operational Procedure's #401 "Use of Force" and #402 "Authorized Weapons."**
- D.** The policies of the Police Department regarding the use of weapons or any use of force are predicated on the authority granted by numerous legal mandates, including but not limited to:
- The United States Constitution, Fourth Amendment, Search and Seizure;
 - The Vermont Constitution;
 - Vermont Criminal Justice Council, General Police Powers, Force in Making Arrest;
 - Court decisions, including, but not limited to Graham v. Connor 490 U.S. 386 (1989), and Tennessee v. Garner, 471 U.S. 1 (1985).
- E** Before assuming sworn status, each officer must take and subsequently abide by the Oath of Office as administered by the City of Barre, City Manager and witnessed by the City Clerk.
- F. Delegation of Authority**
- Members who have been assigned responsibility also have the requisite authority, delegated by the Chief of Police, to make decisions necessary for the effective execution of those responsibilities.
 - Each member is fully accountable for the use of delegated authority, as well as for failure to use it.

II. Jurisdiction

Vermont Statutes, Title 24, Annotated Section 1935, "Municipal and County Government" gives each law enforcement officer in the State of Vermont the ability to exercise police authority statewide.

III. Organizational Structure

- A. The Chief is responsible for administering the department in accordance with applicable laws and regulations and ensuring that organizational objectives are met.
- B. The Deputy Chief reports directly to the Chief, and is responsible for the day-to-day operations, including direct oversight of adjunct responsibilities not assigned to a supervisor.
- C. The Police Department is divided into three divisions, Patrol Division, Criminal Investigations Division and Emergency Communications.
- D. Each Section is organized according to functions and responsibilities. The following list identifies the major functions within each Division:
- **Patrol Division**
Patrol Squad(s)
K-9 Patrol
Bike Patrol
 - **Criminal Investigations Division**
Major Crimes
Crime Analysis/Intelligence
Special Investigation Unit, (SIU)
Sex Offender Registry
Evidence & Seized Property
School Resource Officer Partnership
 - **Emergency Communications Division**
Police Dispatch
Fire/EMS Dispatch
VIBRS/UCR Reporting
APCO Training
- E. The Emergency Communications Supervisor (*future*) is responsible for the day-to-day operations of the Emergency Communications Center, including but not limited to supervision of the Emergency Communications Dispatchers, contractual agreements for dispatch service, policy development, and training programs.
- F. The Lieutenant/Patrol Commander (*future*) is responsible for the day-to-day operations of the Patrol Division, including but not limited to supervision of the Patrol Sergeants, fleet management, extra duty details, training supervisor, and critical incident and response management.

IV. Command Structure

- A. The Chief is the highest-ranking member of the Police Department. In the event the Chief is absent, unless otherwise designated, the command progression is:
- Deputy Chief
 - Lieutenant (*future*)

- B.** In the absence of the Chief and other senior administrators, the on-duty Supervisor assigned to the Patrol Section has the authority and responsibility to provide operational supervision throughout the Police Department, directing department personnel in the various sections and divisions to ensure that policies, procedures, orders, and regulations are followed.
- C.** The order of rank, (chain of command) for sworn members is:
- Chief
 - Deputy Chief
 - Lieutenant (*future*)
 - Sergeant
 - Corporal
 - Senior Police Officer
 - Police Officer First Class (*future*)
 - Police Officer Probationer (*future*)
 - Police Officer Candidate (*future*)
- D.** Each organizational component, whether a division or section, is under the direct command of only one supervisor.
- Members assigned to a section, including members assigned temporarily or in an adjunct capacity, are accountable to the supervisor of that section.
 - In situations involving personnel from different sections, unless otherwise designated, the senior ranking officer is in command.
- E.** During the temporary absence of an administrator or supervisor, and when competent authority makes no other provision, the command automatically devolves to the senior ranking officer. Seniority is established for command purposes first by rank and, secondly, by length of service in such rank. In cases of equal rank and length of service in rank the officer with the greatest length of service in the Police Department is in command.
- F.** All supervisors are accountable for the conduct and performance of members under their immediate supervision and control.
- G.** All members must adhere to the provisions of the chain of command in their official duties. Communications and correspondence will be made through official channels, i.e., supervisors in the chain of command.

V. Span of Control

To achieve effective direction, coordination, and control, supervisors should not normally directly supervise more than six (6) members at any one time, i.e., Deputy Chief supervise Lieutenants, Lieutenants supervise Sergeants, Sergeants supervise Corporal's, etc.

VI. Discretion

Many factors impact the everyday decisions made by police officers, with the complexity, varied and rapidly changing nature of police work evolving beyond the guidance provided by standardized operating procedures. When faced with situations or circumstances that do not fall within specific written guidelines, policies, training and supervision, members must use sound discretion consistent with the Police Department Mission & Core Values, Rules, and Code of Ethics.

A. **Arrest**

Many instances of public contact will occur where an arrest may be made but should not be affected due to mitigating circumstances. Generally, it is not the role of law enforcement to decide whether an offender should be prosecuted. That decision lies with the State's Attorney's Office. Any decision by sworn members not to arrest will be made only after careful consideration of the following:

- An arrest would cause a greater risk of harm to the public than not arresting the offender.
- An arrest would cause harm to an offender who possesses no threat of danger to the public.
- The seriousness of the crime committed.
- Should any questions arise concerning a particular situation, the officer involved should confer with a supervisor.

B. **Alternatives to Arrest**

Under the authority of the Chief, sworn members may exercise discretion in certain situations to the extent that an alternative to an arrest may be employed to resolve a situation. Warnings, referrals, informal resolutions, summonses, and citations shall be considered approved alternatives to arrest. Alternatives to arrest must respect the rights of the parties involved and must accomplish a law enforcement purpose. Some of these alternatives may include:

- **Informal Resolutions** - Often, the interests of involved parties are best satisfied by a mediated settlement on the scene rather than formal court prosecution. Resolutions of this nature are by agreement of the affected parties and will **not** be employed as an excuse for not affecting an arrest.
- **Referrals** - Referrals are encouraged if they can aid in addressing the root cause of a crime or disorder and may be made to other law enforcement, governmental, social, or human service agencies that are better suited to address and resolve the problem(s).
- **Warnings** - Sworn members are reminded voluntary compliance is the goal of all enforcement actions and may exercise discretion in minor violations by delivering warnings.
- **Citations and Summonses** - These formal enforcement procedures are alternatives to arrest solely by the fact they may be used to preclude physical custody or as a less severe enforcement option.

VII. Cancellation

This written directive cancels and replaces **Barre City Police Department Operational Policy titled “Chain of Command” dated March 29, 2012**, and cancels, replaces and supersedes any directives in conflict therewith.

AUTHORITY:

Braedon S. Vail, Chief of Police

, 2023

Index As:

Authority
Command Structure
Chain of Command
Discretion
Organizational Structure
Supervisory Span of Control



Barre City Police Department

Barre, Vermont

Braedon S. Vail
Chief

TRAFFIC PROCEDURES

<u>Subject:</u>	<u>Number:</u>	<u>Effective Date:</u>
Driving Under the Influence & Evidentiary Testing	506	XX/XX/23

Note: These Rules & Regulations, Operational Policies and/or Procedures are for internal use only and does not enlarge a member's civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Policy: Patrol officers will be alert for signs of alcohol and/or drug impairment during all contacts with motorists, and vigorously enforce all offenses of driving or attempting to drive a motor vehicle while under the influence of alcohol and/or drugs in accordance with Title 23, subchapter 13 of the Vermont Statutes Annotated.

To aid in the detection, apprehension and conviction of drivers who are under the influence of, or impaired by alcohol and/or drugs, the Barre City Police Department maintains a DataMaster breath testing instrument and utilizes the services of Vermont Drug Recognition Experts as certified by the International Association of Chiefs of Police and the National Highway Traffic Safety Administration.

Purpose: To establish uniform procedures for detecting, arresting and deterring the operation of motor vehicles by drivers under the influence of alcohol and/or drugs, and to establish procedures for the administration of breath testing instruments and access to Vermont certified Drug Recognition Expert (DRE) services.

Contents:

- I. General
- II. Breath Testing Equipment Program
- III. Arrest
- IV. Processing
- V. Persons Under 21 Years of Age
- VI. Drivers Involved in Fatal/Life Threatening Injury Collisions
- VII. Drug Recognition Expert (DRE)
- VIII. Access to Drug Recognition Experts
- IX. Cancellation

I. General

Drivers impaired by alcohol and/or drugs present a serious threat to persons using City of Barre roadways. Thus, a comprehensive, coordinated and ongoing countermeasures program involving education, enforcement, adjudication, treatment and public support is essential if a program is to have long-term success in combating the problem of driving impaired or under the influence.

II. Breath Testing Equipment Program

The Barre City Police Department, under memorandum of understanding with the Vermont Forensic Laboratory Breath Alcohol Program maintains a DataMaster DMT breath testing instrument.

- A.** The DMT breath testing instrument must be certified, calibrated and installed by the Vermont Forensic Laboratory. The DMT instrument may only be relocated by the Vermont Forensic Laboratory, and after they have checked and approved the proposed location for suitability.
- B.** The Vermont Forensic Laboratory Breath Alcohol Program is responsible for maintaining the administrative records, along with repair, maintenance and upkeep of the instruments.
 - A DMT supervisor who has completed additional training by the Vermont Forensic Laboratory to perform simple maintenance and repairs on DMT instruments in the field, and to act as liaison between the agency and the Vermont Forensic Laboratory regarding the instrument, will be responsible for maintaining the instrument.
 - Under no circumstances will anyone other than a DMT supervisor attempt any repairs or modifications to the DMT instrument or its peripherals.
 - A DMT supervisor shall be responsible for:
 - Maintaining a supply of DataMaster mouthpieces and simulator solution
 - Performing simulator solution changes when necessary
 - Replacing printer ink cartridges, print heads and paper
 - Correcting date and/or time discrepancies
 - Repairing or correcting errors and problems as needed
 - Obtaining any documents pertaining to the instrument for discovery purposes and assist and support DMT instrument operators as necessary
 - Performing routine performance checks (RPC) on the instrument which are to be conducted during the months of February, June and October per program standards

- Maintaining any necessary logs pertinent to the operation and maintenance of the instrument
- C. Only those personnel certified by the Vermont Criminal Justice Council to operate the breath testing equipment will test an accused person or utilize the DMT breath testing equipment.
- D. Officers utilizing the DMT breath testing equipment to process an individual suspected of operating under the influence of alcohol will do so in accordance with their training and standards as set forth by the Vermont Forensic Laboratory and applicable state law.
- E. A PBT supervisor shall be responsible for maintaining the preliminary breath testing (PBT) devices.
- PBT devices must appear on the current list of approved devices by the Vermont Governor’s Highway Safety Program
 - The PBT supervisor shall be responsible for:
 - Maintaining a supply of PBT mouthpieces and calibration supplies
 - Performing monthly routine accuracy checks according to standards and calibrating the instruments when necessary
 - Obtaining any documents pertaining to the instruments for discovery purposes and assist and support PBT instrument operators as necessary
 - Maintaining any necessary logs pertinent to the operation and maintenance of the instruments

III. Arrest

Enforcement is a key element in the countermeasures program.

- A. The officer will stop the operator at the earliest possible time after reasonable suspicion of DUI has been developed. The safety of the officer, violator and the public must be taken into consideration when choosing a location for the traffic stop.
- B. Officers must be alert for signs of alcohol and/or other drug impairment during **all** contacts with motorists.
- If possible, the officer will interview the operator at the scene of the stop, asking how much the operator has had to drink, when the operator started and stopped drinking, if the operator has taken any drugs/medication, etc. The officer should not read Miranda rights to the operator at this point.
- C. All officers will be trained in the use of Standardized Field Sobriety Tests (SFSTs) as recommended by the National Highway Traffic Safety Administration (NHTSA). The officer will ask the operator to perform SFSTs to establish additional probable cause for arrest.

- Officers will utilize SFSTs in accordance with their training, in addition to their observations of the vehicle movements and operator’s demeanor to establish probable cause before arresting the operator.
- When encountering a parked or stopped vehicle operated by a motorist suspected of being under the influence, officers should also check the temperature of the vehicle’s hood to determine if it had been operated recently.

D. Preliminary Breath Tests

The Preliminary Breath Test (PBT) **is not generally** used to establish sole probable cause. Rather, it is used to corroborate other evidence and confirm officer judgment as to impairment. It is a tool in instances of suspected low blood alcohol content where an operator may be released if the PBT reading is sufficiently low, unless performance on the SFSTs or other factors otherwise establish probable cause for arrest. The PBT may also assist in cases where the operator may be under the influence of other drugs. The PBT may show a very low or "00" reading for alcohol, thus raising suspicion for other drug influence. Officers are reminded that a PBT test is not admissible in court.

- A Preliminary breath test (PBT) should not be administered until the completion of the SFSTs unless certain circumstances dictate otherwise, and will be administered in accordance with the officer’s training.
- PBT's, though primarily acquired to aid in identifying suspected drinking drivers, may also be utilized effectively in other instances. For example, a passenger in a vehicle in which the driver has been arrested for DUI/DWI may be requested to voluntarily submit to a PBT prior to obtaining a passenger statement and/or if the passenger intends to drive the vehicle from the scene, and there are reasonable grounds to believe the passenger is under the influence of alcohol.

E. Upon determining that sufficient cause is present to detain the operator for further processing, officers will take the impaired operator into custody and an evidentiary test for alcohol will be offered in accordance with Vermont’s Implied Consent Law. Officers shall not arrange for, nor give a ride home in lieu of an arrest for a DUI offense.

F. Suspect Vehicle

When an arrest is made, the arresting officer will make note of any evidence relating to the DUI/DWI which is in plain view within the vehicle. Any resulting vehicle search will be in accordance with current Vermont Supreme Court decisions and **Barre City Police Department Operational Procedure #406, “Vehicle Searches.”**

- With the operator’s permission, the keys may be turned over to a sober passenger, or other sober adult who has an ownership interest in the vehicle and possesses a valid driver’s license.
 - The final decision regarding whether or not to tow the vehicle rests with the arresting officer.
 - All vehicles left at the scene will be left secured and locked to the best

ability of the officer. Items that are unable to be secured may be removed by the officer and brought to the Barre City Police Department, to be released to the owner or someone of the owner's choosing.

- Passengers should be identified and reasonable attempts should be made to obtain a written statement from any passenger using the standard Voluntary Statement form.
- Sworn audio statements on body camera are acceptable. If obtained, officers will summarize the statement in their affidavit.
- Incapacitated passengers who are a danger to themselves or others should be taken into protective custody and handled in accordance with the Title 18 VSA § 4810. Incapacitated juvenile passengers shall be turned over to a parent or guardian, or custody maintained pursuant to Title 33 VSA Chapter 51.
- The officer should take reasonable steps to arrange alternative transportation for the passenger(s). If available, a back-up unit may be used since the arresting officer's primary responsibility is processing the operator within the specified time limit.
 - Factors such as time of day, adverse weather conditions, location of arrest, age, and the physical condition of the passenger(s) should be used as guidelines when weighing the alternatives.

IV. Processing

Operators being processed for alcohol or drug related violations involving the operation of a motor vehicle will be completed using the most current revision of the State of Vermont DUI Affidavit forms. The DUI Affidavit – Infrared form will be utilized when requesting a breath test from the operator (alcohol only). The DUI Affidavit – Blood form will be utilized when requesting a blood test from the operator (alcohol or drug). If a commercial vehicle or school bus was being operated, the DUI Affidavit – Commercial Vehicle .04% or School Bus .02% form (either Infrared or Blood) will be utilized. The forms will be used in the order and manner currently prescribed by the Washington County State's Attorney.

- The officer will complete the form in its entirety.
- The officer will read the entire advisement of Miranda warnings verbatim to the operator, checking each respective box and documenting the date and time where requested. The officer will then afford the operator the opportunity to sign where indicated.
- If the operator declines the waiver of rights or requests an attorney, the officer will read the applicable section to the operator and move to reading the Implied Consent warnings.
- The officer will read the entire advisement of Implied Consent warnings verbatim to the operator, checking each respective box. The officer will afford the operator the opportunity to speak with an attorney prior to deciding whether or not to submit to the evidentiary test, and afford the operator the opportunity to sign. If the operator refuses to

sign, an attorney must be contacted unless a recorded waiver is obtained.

- Officers should not attempt to paraphrase or otherwise explain the implied consent rights in response to questions posed by the operator. Rather, the officer may repeat key sentences, verbatim.

A. The processing area at the Barre City Police Department is audio and video recorded.

- When an attorney is contacted for the operator, the officer will turn off the switch controlling the audio portion of the recording and leave the room, allowing the operator private consult. Upon return to the room, the officer will turn back on the audio switch.
- If processing takes place elsewhere, the officer shall record the processing on their body worn camera in accordance with **Barre City Police Department Operational Procedure #430, "Body Worn Cameras"** unless such place is recorded, and the recording is able to be obtained or taking place within a hospital or other medical facility. *(future)*

B. Evidentiary Breath Tests

The preferred method of evidentiary testing for alcohol is a breath test utilizing the DataMaster DMT infrared breath testing machine.

- The breath test will be administered in accordance with the officer's training, and pursuant to the instructions contained within the DUI Affidavit – Infrared form
- If the operator submits to a breath test, they have the right to have a second breath test immediately after receiving the results of the first test. The first test is the evidentiary test regardless of whether it is higher or lower than the second test.

C. Evidentiary Blood Tests

The DUI Affidavit - Blood form shall be used for instances that a blood sample will be requested. If processing commenced under the presumption that a breath test was applicable, however circumstances changed which warranted a blood sample be requested, the officer will switch to the DUI Affidavit – Blood form and follow all pertinent sections, while maintaining the original DUI Affidavit – Infrared form that was initially started. A sample of blood will be requested:

- When breath testing equipment is not reasonably available
- If the officer has reason to believe the person is unable to give a sufficient sample of breath for testing
- If the officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol (See DRE Procedures below)
- If, in the officer's opinion the person is incapable of making a decision, is unconscious, or dead

- When the person is the surviving operator of a motor vehicle involved in a fatal crash and is unable to provide a sample of breath
- When the person is the operator of a motor vehicle involved in a crash resulting in serious bodily injury and the officer has reasonable grounds to believe that the person has any amount of alcohol in his or her system, and the person is unable to provide a sample of breath.

D. Notice of Intent to Suspend and/or Disqualify

If the operator refuses the evidentiary breath or blood test (for alcohol or drug), or takes the evidentiary breath or blood test and the results are .08% or higher, .04% or higher for operation of a commercial motor vehicle, or .02% or higher for operation of a school bus, the officer will complete and provide to the operator a Notice of Intent to Suspend and/or Disqualify (Form 240) according to the instruction contained therein. There will be no issuance for drug impairment only violations unless the operator refuses the blood test.

- Unless otherwise changed by the State of Vermont and/or the Washington County State Attorney, the guidelines for suspension date, request date and court date shall be as follows:
 - Date suspension and/or qualification begins will be 11 days after date of test, or refusal thereof (14 days if notice is mailed).
 - Date request for hearing due will be 7 days after date of test, or refusal thereof (10 days if notice is mailed).
 - The hearing must take place within 21 days of date of offense.

E. Citations

When placing charges, officers must remember that as a matter of law, it is the officer's opinion that is important and not necessarily the results of the breath test. Before administering the breath test, the officer should have already formed an opinion as to the level of intoxication. Officers have full discretion to charge the operator with driving under the influence regardless of the results of the breath test.

- Operators being charged with driving under the influence will be issued a State of Vermont Superior Court Criminal Division Citation (Form 332). The officer shall document the appropriate offense on the form per instruction.
- Operators 15 years of age and under being charged with driving under the influence will be issued a State of Vermont Juvenile Citation (Form 87). The officer shall document the appropriate offense on the form per instruction.

F. Disposition of Operator

Upon release or lodging, the arresting officer will ensure the operator has copies of the issued citation(s), the Notice of Intent to Suspend and/or Disqualify (Form 240) when applicable, a copy of the DataMaster BrAC result printout when applicable, a copy of the list of Independent Sample Blood Drawing Facilities when applicable, and an

Independent Blood Test Kit when applicable.

- Officers are entrusted with discretion, based upon the totality of the circumstances and pursuant to Rule 3 of Vermont Rules of Criminal Procedure (V.R.Cr.P. 3), whether or not to contact a judge seeking conditions with cash bail, or court clerk seeking only conditions or a hold until sober, in accordance with Vermont Superior Court protocols.
 - Operators that are being lodged, and have submitted to an evidentiary breath test and wish to obtain an independent blood test, must be transported to the hospital to obtain the blood test prior to lodging.
 - Operators being detained for a short period of time prior to being released, and have submitted to an evidentiary breath test and wish to obtain an independent blood test, must be transported to the hospital to obtain the blood test.
 - Operators that are being released, and have submitted to an evidentiary breath test and wish to obtain an independent blood test, and after reasonable efforts to arrange transportation necessary to obtain an independent blood test are unsuccessful, must be transported to the hospital to obtain the blood test.
 - Operators who refuse the evidentiary breath test will not be provided an independent blood test kit, nor be afforded the appropriate arrangements for independent testing.
- If the operator is released by the officer, the Disposition section of the respective DUI affidavit form will be completed per instruction and the operator will be released by one of the following methods:
 - Released to spouse, relative, or friend
 - Operators that have been released and are not incapacitated shall not be mandated to remain within the public safety building if they choose to leave prior to arrival of a third party.
 - Taken home or to an alternative by an officer
- Juvenile operators must be released to a parent or guardian in accordance with **Barre City Police Department Operational Procedure #410, “Juvenile Operations.”**
- Operators that are deemed to be incapacitated as defined in 18 VSA § 4802 for which a responsible party cannot be located to release them to, shall be released in accordance with **Barre City Police Department Operational Procedure #412, “Emergency Medical Assistance & Examination.”**

G. Paperwork

Due to time sensitive mandates regarding the charging process of DUI violators, officers must complete their entire casefile within a specified period of time.

- All DUI Affidavits and Notices of Intent to Suspend will be completed and filed

within three business days so the appropriate mailings to the operator and the Department of Motor Vehicles can be made.

- The remainder of the case should be completed as soon as possible but must be completed in time to be assembled and provided to the Washington County State Attorney's Office in accordance with their DUI arraignment process procedures.
- All other evidential media will be properly labeled and forwarded for filing within the same time constraints as case completion.

V. Persons Under 21 Years of Age

Operators under 21 years of age shall be afforded the same opportunities roadside, and in the same manner of administration in regards to the SFSTs and PBT, as operators 21 years of age and older.

- A. A person under 21 years of age operating with an alcohol concentration of .02% or more commits a civil traffic violation subject to the jurisdiction of the Judicial Bureau.
- If, after administration of the SFSTs and PBT it is determined that the operator is subject to further detention under Title 23 VSA § 1201, the officer will take the impaired operator into custody and an evidentiary test for alcohol will be offered in accordance with Vermont's Implied Consent Law.
 - Arrest, transport, and processing of persons under the age of 18 will be in accordance with **Barre City Police Department Operational Procedure #410, "Juvenile Operations."**
 - Operators between the ages of 15 and 20 who are charged with a violation of Title 23 VSA § 1201 should also be issued a Vermont Civil Violation Complaint (VCVC) for a violation of Title 23 VSA § 1216 for operating with an alcohol concentration of .02% or more; and issued a VCVC for a violation of Title 7 VSA § 656(a)(1)(C) for being a person under 21 years of age being in possession of alcohol by consumption.
 - Operators 15 years of age and under being charged with a violation of Title 23 VSA § 1201, as well as the respective violations of Title 23 VSA § 1216 and Title 7 VSA § 656(a)(1)(C), will be done so through juvenile petition.
 - If, after administration of the SFSTs and PBT it is determined that the operator is not subject to arrest under Title 23 VSA § 1201 but is still in violation of Title 23 VSA § 1216 and Title 7 VSA § 656(a)(1)(C), the officer should issue VCVC's for each respective violation.
 - A refusal by the operator to submit to a PBT shall be considered a violation of Title 23 VSA § 1216.

VI. Drivers Involved in Fatal/Life Threatening Injury Collisions

In accordance with Title 23 VSA § 1202, an evidentiary test shall be required if the person is the

surviving operator of a motor vehicle involved in a fatal incident or collision, or an incident or collision resulting in serious bodily injury and the officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system. If a person who has been involved in an accident or collision resulting in serious bodily injury or death to another refuses an evidentiary test, the officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure (V.R.Cr.P 41) to obtain a sample of blood for an evidentiary test. Once the officer begins the application process for a search warrant, the officer is not obligated to discontinue the process even if the person later agrees to provide an evidentiary breath sample.

- Upon confirmation of a fatal/life threatening collision where alcohol and/or drugs are suspected:
 - The Washington County State Attorney and/or their on call designee will be notified immediately of the incident
 - A Collision Reconstructionist will be consulted in accordance with **Barre City Police Department Traffic Procedure #504, "Collision Investigation."**
 - Impairment symptomology may not be immediately evident to non-DRE trained officers. Therefore, a DRE should be requested for all crashes involving suspected operation under the influence of drugs.

VII. Drug Recognition Expert (DRE)

The Barre City Police Department utilizes the services of certified Drug Recognition Experts who are certified by the International Association of Chiefs of Police and the National Highway Traffic Safety Administration and are specially trained in basic drug pharmacology and recognizing, through evaluation, the signs, and symptoms of drug impairment. To request the services of a DRE, the operator to be evaluated must have displayed erratic operation of a motor vehicle, or have been involved in a motor vehicle collision as an operator, and:

- A. The suspect showed signs of impairment during Standardized Field Sobriety Tests (SFSTs)
- B. The PBT result is less than .08% and does not coincide with the level of impairment suspected through evaluation of the operator's performance on the SFSTs
- C. If the PBT or Evidential Breath Test is refused AND the officer suspects that impairment is due to substances other than alcohol
- D. If the suspect is taken to a hospital and the officer believes the suspect is impaired due to a substance other than alcohol

VIII. Access to Drug Recognition Expert(s)

Officers may request the activation of a certified Vermont DRE through the Emergency Communications Center.

- A. The Vermont State Police (VSP) Williston PSAP maintains a roster of all Vermont DREs. Consequently, VSP has established callout procedures for on and off-duty DREs.

- B. The request for a DRE can be referred directly to any on-duty DRE if available. If a DRE is not available, or if it's unknown if a DRE is close, DRE requests should be directed to the VSP Williston PSAP at 802-878-7111.
- C. The ECC will contact the VSP Williston Barracks and request a DRE to respond to the Barre City Police Department or other location, as requested by the arresting officer. The arresting officer will remain the point of contact for return calls.
- D. While DREs have been regionalized to improve program efficiency, an allowance will have to be made for response and travel time.
- E. The request for a response by a DRE should be made as quickly as possible, preferably in conjunction with the traffic incident or arrival at the crash scene as some drug impairment effects diminish rapidly.
- F. The arresting officer will remain responsible for the operator and be requested to assist the DRE, including obtaining warrants and arranging for blood samples.

IX. Cancellation

This directive cancels, replaces and supersedes any directive in conflict therewith.

AUTHORITY:

Braedon S. Vail, Chief of Police

, 2023

Index As:

- Datamaster
- Driving Under the Influence
- Driving While Impaired
- Drug Recognition Expert (DRE)
- Preliminary Breath Testing Device (PBT)



Barre City Police Department

Barre, Vermont

Braedon S. Vail
Chief

INVESTIGATIVE PROCEDURES

<u>Subject:</u>	<u>Number:</u>	<u>Effective Date:</u>
Sex Offender Registry	610	X/XX/23

Note: These Rules & Regulations, Operational Policies and/or Procedures are for internal use only and does not enlarge a member’s civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Policy: The registration of sex offenders is coordinated by the Vermont State Police in collaboration with the Vermont Criminal Information Center (VCIC). The Barre City Police Department assists with quality control by conducting residency compliance checks and investigating complaints regarding the registration of sex offenders within the City of Barre in conformance with Vermont Statutes Annotated.

Purpose: To establish procedures for the supervision of sex offenders within the City of Barre in accordance with state and federal law.

Contents:

- I. Definitions
- II. Requirements
- III. Procedures
- IV. Public Notification
- V. Cancellation

I. Definitions

- A. Sex Offender** – Any person who is convicted in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court of any of the offenses listed in 13 VSA § 5401(10)(A) through (E).
- B. Sexually Violent Predator** – A sex offender who has been convicted of sexual assault, aggravated sexual assault, or any attempt to commit either, or comparable offenses in another jurisdiction of the United States, and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.
- C. Vermont Resident Sex Offender** – The Vermont Sex Offender Registry law applies to sex offenders as defined above if the person was:

- Convicted in Vermont on or after July 1, 1996.
- Convicted in Vermont or another state prior to July 1, 1996, confined under the custody of the Commissioner of Corrections, and released from confinement in Vermont on or after July 1, 1996.
- Convicted in Vermont or another state prior to July 1, 1996, and was being supervised in the community in Vermont by the Commissioner of Corrections on July 1, 1996.
- Convicted or released from confinement in another state on or after July 1, 1986, and who established a residence in Vermont on or after July 1, 1996. An individual is considered to have established a residence in Vermont if they remain in the state for more than 10 consecutive days.

D. Non-resident Sex Offender – The Vermont Sex Offender Registry law applies to a non-resident sex offender who moves to Vermont for full or part-time employment or to attend school or college on a full or part-time basis.

E. Lifetime Registration – During 2001, the State of Vermont adopted a lifetime registration requirement for individuals who meet the following criteria:

- Individuals who have at least one prior conviction for an offense that would require them to register in Vermont or another jurisdiction of the United States and are convicted in Vermont or a second or subsequent offense after September 1, 2001.
- Individuals who have been convicted of sexual assault or aggravated sexual assault after September 1, 2001.
- Individuals who have been determined by the court to be a sexually violent predator.

II. Requirements

Those individuals who are required to register with the Vermont Sexual Offender Registry must comply with the following requirements:

- A.** Registrants must notify their probation officer of any change of address, employment, enrollment in any post-secondary educational institution, or whether the offender will be living with a child under the age of 18 within 24 hours of the change for as long as they are being supervised in the community by the Vermont Department of Corrections.
- B.** After they are discharged from supervision by the Department of Corrections, registrants must notify VCIC of any change of address, employment, or enrollment in any post-secondary educational institution, or whether a child under the age of 18 is living in the residence of the registrant within three days.
- C.** If a registrant intends to move to another state, they must notify VCIC about their change of address. The registrant must register with the Sex Offender Registry in the new state within three days of moving there.
- D.** Within 10 days of their birthday registrants receive an annual letter from VCIC verifying their

current address. They must complete the form and return it to VCIC within 10 days.

- E. Registrants must notify VCIC or their Probation Officer if they are living with a child under the age of 18.
- F. Registrants must continue to comply with the above requirements for 10 years from the date they are discharged from the supervision of the Vermont Department of Corrections. If they have been designated a Sexually Violent Predator by the court, they must continue to comply with the above requirements for life or such time as a court orders termination of the designation. If the registrant has been designated as a lifetime registrant, they must continue to comply with the requirements for life. Community notification, however, shall continue until such time as a court orders the notification to terminate. VCIC will notify the registrant when they are no longer required to report.

III. Procedures

Quarterly, the Vermont Sex Offender Registry emails a report of registered sex offenders within the City of Barre.

- A. The Quarterly Report contains a page for each individual registered sex offender that contains the following information:
 - Photo of the offender
 - If the offender is currently under DOC supervision and their probation officer
 - The date their next photo is due (always within 10 days of birthday)
 - Current physical address
 - Current mailing address
 - Current work address
 - Temporary address (if homeless)
 - Phone numbers
- B. The Sergeant, Criminal Investigations Section is the liaison with the Vermont Sex Offender Registry and oversees the compliancy program.
- C. The Sergeant, Criminal Investigations Section, or their designee will, upon receipt of the Quarterly Report, print each individual offender report and coordinate the completion of the compliancy checks for the quarter.
 - Officers will confirm the information contained on the report with each individual offender, making notes on the form, and circling either “yes” or “no” to the following questions on the form:
 - Is the offender’s physical/temporary home address and phone correct?
 - Is the offender’s work address correct?
 - Are persons 18 years or younger living at the same residence?
 - Upon completion of the quarter’s compliance checks, the Sergeant, Criminal Investigations Division, or their designated investigator will forward the completed compliance checks back to the Sex Offender Registry.

- D. After coordinating with, and receiving an affidavit from, the Sex Offender Registry, any offender found to be non-compliant will be arrested and charged with the violation.

IV. Public Notification

Notification to the community of registered sex offenders shall be done in accordance with 13 V.S.A. § 5411.

- A. Registry information concerning persons required to register under State law may be released if the requestor can articulate a concern about the behavior of a specific person regarding the requestor’s personal safety or the safety of another, or the requestor has reason to believe that a specific person may be a registered sex offender and can articulate a concern regarding the requestor’s personal safety or the safety of another.

- The identity of a victim of an offense shall not be released.

V. Cancellation

This written directive cancels and replaces **Barre City Police Department Operational Policy titled “Public Notification of Sex Offenders” dated April 9, 2015**, and cancels, replaces and supersedes any directives in conflict therewith.

AUTHORITY:

Braedon S Vail, Chief of Police

, 2023

Index As:

Compliance Checks
Sex Offender
Sex Offender Registry



Barre City Police Department

Barre, Vermont

Braedon S. Vail
Chief

OPERATIONAL PROCEDURES

<u>Subject:</u>	<u>Number:</u>	<u>Effective Date:</u>
Juvenile Operations	410	X/XX/23

Note: These Rules & Regulations, Operational Policies and/or Procedures are for internal use only and does not enlarge a member’s civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Policy: The Barre City Police Department is committed to the development, implementation and maintenance of programs designed to prevent and control juvenile delinquency. Police Department personnel are responsible for ensuring the success of this policy through the diligent application of all Barre City Police Department procedures regarding juvenile matters, and by maintaining a working knowledge of all laws pertaining to juveniles.

Purpose: To establish procedures for the diversion, arrest and processing of juvenile offenders.

- Contents:**
- I. Definitions
 - II. Juvenile Diversion
 - III. Juvenile Citations
 - IV. Motor Vehicle Citations
 - V. Custody
 - VI. Runaway Juveniles
 - VII. Processing
 - VIII. Interrogation
 - IX. Detention
 - X. Records
 - XI. Cancellation

I. Definitions

A. **Child** – an individual subject to the jurisdiction of the Family Division of Vermont Superior Court; and/or as otherwise defined in 33 VSA § 5102.

B. **(CHINS), Child in Need of Supervision** – means a child who:

- Has been abandoned or abused by the child's parent, guardian, or custodian;

- Is without proper parental care or subsistence, education, medical, or other care necessary for his or her well-being;
- Is without or beyond the control of his or her parent, guardian, or custodian; or
- Is habitually and without justification truant from compulsory school attendance.

C. **Delinquent Act** – an act designated a crime under the laws of this State, or of another state if the act occurred in another state, or under federal law.

- A delinquent act shall include misrepresenting age to procure, possess or consume alcohol in violation of 7 V.S.A. § 656(a)(1) and 657(a); however, it shall not include:
 - Snowmobile offenses in 23 V.S.A. chapter 29, subchapter 1 and motorboat offenses in 23 V.S.A. chapter 29, subchapter 2, except for violations of sections 3207a, 3207b, 3207c, 3207d, and 3323;
 - Motor vehicle offenses committed by an individual who is at least 16 years of age, except for violations of 23 V.S.A. chapter 13, subchapter 13 and of 23 V.S.A. § 1091.

D. **Delinquent Child** – A child who has been adjudicated to have committed a delinquent act.

E. **Emergency Care Order (ECO)** - In conformance with 33 VSA § 5253, the Court may issue an emergency care order transferring temporary custody of the child to the Department of Children and Families pending a temporary care hearing if the Court determines that:

- There is probable cause that the child has committed a delinquent act; and
- Continued residence in the home is contrary to the child's welfare because:
 - The child cannot be controlled at home and is at risk of harm to self or others;
 - Continued residence in the home will not safeguard the well-being of the child and the safety of the community because of the serious and dangerous nature of the act the juvenile is alleged to have committed.

OR

- **(CHINS) Child in Need of Supervision** - The Court may also issue an emergency care order in accordance with 33 VSA § 5305, transferring temporary custody of the child to the Department of Children and Families pending a temporary care hearing, if the Court determines that continued residence in the home is contrary to the child's welfare.

F. **Juvenile** – Juvenile shall have the same meaning as child for the purposes of this policy.

II. **Juvenile Diversion**

Police officers may refer diversion from the Family Court system any juvenile for whom in their opinion legal proceedings would be inappropriate, or the use of other resources would be more effective. The officer having contact with the juvenile offender should take into consideration the nature

Commented [OK1]: Let's double-check to make sure this is still current law.

Commented [BV2R1]: This is still the current definition under T33 5102(9)

Commented [OK3]: Law requires us to offer them a YASI screening before a preliminary hearing.

Commented [BV4R3]: This is simply the definition of delinquent child under T33 5102(10)

of the offense, the age and circumstances of the alleged offender, their past record and the availability of community-based programs that could assist the child. When dealing with juveniles, officers should consider all reasonable alternatives consistent with preserving the public safety, order and individual liberties. Therefore, an officer's contact with a juvenile offender does not automatically necessitate a juvenile citation to Family Court, but depending upon the circumstances could lead to one of the following actions:

- A. Releasing the juvenile without further action,
- B. Releasing the juvenile with a verbal warning, or
- C. Suggesting a program of voluntary treatment offered by one or more of the local human or social service agencies.
- D. **Washington County Diversion Program**

Washington County Diversion Program offers a restorative alternative for offenders charged with a crime. Police officers may request or recommend referral to the Washington County Diversion Program, although the referral is decided by the State's Attorney. Offenders referred to diversion must accept responsibility for their actions, agree to meet with a community panel to develop a contract for repairing any harm done, and be willing to pay associated fees.

- Juvenile offenders are **NOT** eligible for referral to the Washington County Diversion Program in the following circumstances:
 - Arson causing death 13VSA501
 - Assault and robbery with a dangerous weapon 13VSA608(b)
 - Assault and robbery causing bodily injury 13VSA608(c)
 - Aggravated assault 13VSA1024
 - Murder 13VSA2301
 - Manslaughter 13VSA2301
 - Kidnapping 13VSA2405
 - Unlawful restraint 13VSA2406 or 13VSA2407
 - Maiming as defined in 13VSA2701
 - Sexual assault as defined in 13VSA3252(a)(1) or (a)(2)
 - Aggravated sexual assault as defined in 13VSA3253
 - Burglary into an occupied dwelling as defined in 13VSA1201(c)
- For incidents meeting the criteria of referral to diversion, officers will still complete and submit the case along with the appropriate incident reporting requirements as normal. The State's Attorney will then decide referral to Washington County Diversion Program.
- The following criteria pertains to participation in Washington County Diversion:
 - Juvenile offender volunteers to participate and admits to the offense;
 - Juvenile offender's parents/guardian/custodian must consent to the juvenile's participation;

Commented [OK5]: Do you mean the YASI form?

Commented [BV6R5]: This should read "...officers will complete and submit the case along with the appropriate incident reporting requirements. The State's Attorney decides referral to Valley Court Diversion."

- The victim or persons affected by the juvenile’s behavior consent to participation.

E. Youth Substance Abuse Safety Program (YSASP)

The Youth Substance Abuse Safety Program (YSASP) provides an alternative to the civil court process for youth (anyone under the age of 21) who violate Vermont’s underage alcohol and/or marijuana laws. YSASP helps young people understand the impact of using substances on themselves and others. The program helps lower the risk of future use, while connecting those identified as high-risk levels to professional substance use clinicians.

- Officers will issue offenders under 21 years of age a Notice of Violation (500-00421).
 - The officer will check the appropriate violation; Minors Misrepresenting Age, Procuring, Possessing or Consuming Alcoholic Beverages (7 VSA § 656) and/or Marijuana Possession by a Person under 21 Years of Age, one ounce or less (18 VSA § 4230(b) and write the corresponding VCVC complaint number for the respective violation.
 - The officer will circle the Washington County Diversion Program option on the left of the form and complete the bottom portion requiring officer name, phone number, department name and date of violation.
 - The officer will explain to the offender that they must contact the Diversion Program that was circled within 15 days and advise them to fully read the form.
- Officers will complete the corresponding VCVC complaints for each violation which will be submitted to the Diversion Program.

F. Barre Community Justice Center

Referral to the Barre Community Justice Center brings the offender together with the people that have been affected by their harmful behavior in a neutral environment designed to encourage juvenile responsibility and accountability while empowering everyone to reach an acceptable healthy agreement.

- The following criteria pertains to participation in the Barre Community Justice Center:
 - Parents/guardian/custodian should be informed of referral and agree to allow the child to participate and may be asked to participate themselves.
 - Youth should be willing to take responsibility for their actions or be willing to talk about their part in the harmful behavior.
 - Youth 13 years of age and up may be referred.
 - Misdemeanor offenses with no restitution or restitution of \$250 or less are accepted
 - Noise Disturbances

- Unlawful Mischief
- Simple Assault by Mutual Affray
- Petit Larceny
- Credit Card Fraud/Bad Check
- Disorderly Conduct
- Unlawful Trespass (non-residence)
- Civil Ordinance Violations
- School Policy Violations
- Other as deemed appropriate and agreed upon in consultation with the State's Attorney's Office

- Juveniles connected by the same incident may participate as a group depending on victim participation.
- The process is tailored to the needs of the victims and those affected.
- Community service may be performed in lieu of participation fee.

G. Officers are vested with a broad range of discretion when deciding whether or not to charge a juvenile with a crime. This directive is not intended to deprive any officer of that discretion when deciding whether to charge a juvenile provided it is exercised in accordance with departmental rules and regulations.

H. School Resource Officer Program

The Barre City Police Department, in support of local youth and the Barre Unified Union School District, participates in the School Resource Officer Program. A collaborative effort between law enforcement, local schools and the community, the School Resource Officer Program increases public safety and the opportunities for prevention and intervention of delinquent acts.

- The Police Department's School Resource Officer will be responsible for activities throughout the school year at the Barre City Elementary and Middle School.
- Continuous assignment allows students, faculty and parents to become acquainted with the School Resource Officer, facilitating trust and mutual respect. Specific duties include, but are not limited to:
- Establish and maintain liaison and partnership with school principals, faculty, parents and students. Provide mentoring and instruction to students on individual rights and responsibilities as lawful citizens and the consequences of delinquency.
- Provide a visible deterrent to crime and delinquency on campus, touring hallways, cafeterias, and playgrounds. While on campus, respond to and investigate in progress crimes.

III. Juvenile Citations

Juveniles between the ages of ten (10) and fifteen (15) may be charged for violations of 7 VSA § 656 *Minors Misrepresenting Age, Procuring, Possessing or Consuming Alcoholic Beverages* and 18 VSA §

4230(b) *Marijuana Possession by a Person under 21 Years of Age, one ounce or less* utilizing the State of Vermont Juvenile Citation (400-00087) as VCVC's cannot be issued to persons under the age of fifteen (15).

- A. Officers will thoroughly complete citations by utilizing the instructions contained therein.
 - Officers must obtain signature of parent/guardian/custodian on the citation form.
- B. **Under no circumstances will juveniles suspected of being under the influence of an alcoholic beverage or other intoxicating substance be released to anyone other than a parent, legal guardian or their designee.**
- C. The arresting officer will complete the required Valcour incident report detailing the crime or offense with which the juvenile is being charged.
- D. Officers will complete a Law Enforcement Juvenile Data Sheet (400-00101).

IV. **Motor Vehicle Citations**

A. **Ages Fourteen and below, (14)**

Juveniles fourteen years of age or younger who are charged with **any** violation of Vermont Motor Vehicle Law will be taken into custody and charged by juvenile petition utilizing the procedures in this directive for Arrest.

B. **Ages fifteen to seventeen, (15-17)**

Juveniles fifteen years of age or older may be issued a Vermont Civil Violation Complaint for all civil violations of Vermont Motor Vehicle law not requiring a court appearance.

- Officers must obtain parent/guardian information and complete the parent guardian section of the Vermont Civil Violation Complaint. Officers shall make parent/guardian notification of the issuance.
- Juveniles ages fifteen to seventeen who are stopped for any violations of Vermont Motor Vehicle law that require a court appearance may be taken into custody and charged by referral arrest form utilizing the procedures in this directive for Custody.

C. **Ages eighteen and older**

Motorists eighteen years of age or older may be issued a Vermont Civil Violation Complaint for all civil violations of the Vermont Motor Vehicle Law regardless of the requirement of a court appearance.

V. **Custody**

- A. Officers may take juveniles into custody under the authority set forth in 33 VSA § 5251 and 5301, "Taking into Custody." Moreover, if the situation warrants, officers may use that force necessary to affect the arrest. These guidelines state that officers may take a juvenile into custody as follows:

Commented [OK7]: Is this the civil ticket form?

Commented [BV8R7]: No, this is the juvenile court citation. Civil tickets (VCVC's) cannot be issued to anyone under 15 years of age through the Judicial Bureau so it must go the juvenile petition/juvenile citation route

Commented [PK9R7]:

- Pursuant to the laws of arrest of this State;
 - Pursuant to an order of the Court under the provisions of Title 33 chapters 51, 52, and 53; or
 - When the officer has reasonable grounds to believe that the child has committed a delinquent act; and that the child's immediate welfare or the protection of the community, or both, require the child's removal from the child's current home.
 - When the officer has reasonable grounds to believe that the child has run away from a custodial parent, a foster parent, a guardian, a custodian, a noncustodial parent lawfully exercising parent-child contact, or a care provider.
- B.** When an officer makes a physical juvenile arrest, the juvenile will be transported to the Barre City Police Department without delay in accordance with **Operational Procedure #407, "Arrest, Custody & Transport."**
- The juvenile's parent, guardian or custodian will be contacted immediately and advised of the situation.
- C.** At the completion of processing, the juvenile will be released to a parent, legal guardian, custodian, or the Department of Children and Families per court order.
- If the parents, legal guardian or custodian is unavailable, the juvenile may be released to another responsible adult provided consent to do so is secured from the parent or legal guardian.
 - In the absence of the above, the Department of Children and Families will be contacted to make disposition.
- D.** If the officer determines that the child's immediate welfare, the protection of the community, or both, requires the child's continued removal from the home, the officer shall:
- Take the child into custody pending either issuance of an emergency care order or direction from the State's Attorney to release the child.
 - Prepare an affidavit in support of a request for an emergency care order. The affidavit shall include the reasons for taking the child into custody and, if known, placement with which the child is familiar, the names, addresses and telephone numbers of the child's parents, guardians, or custodians, and the name, address and telephone numbers of any relative who has indicated an interest in taking temporary custody of the child. The officer shall contact the Department of Children and Families, and, if the Department of Children and Families has knowledge of the reasons for the removal of the child, they may prepare an affidavit as a supplement to the affidavit of the officer.
- E.** In accordance with the Juvenile Justice Delinquency Prevention Act, the following criteria shall apply to juveniles in custody:
- Status offenders shall not be confined securely.
 - Alleged delinquents may not be held for longer than 6 hours before and after a court appearance or for processing and release.

- Juveniles in custody shall not have sight or sound contact with an adult in custody.

VI. Runaway Juveniles

- A. In accordance with 33 VSA § 5303, if an officer takes a child into custody pursuant to subdivision 5301(3) of Title 33, the officer shall deliver the child to:
 - The child's custodial parent, foster parent, guardian, custodian, or noncustodial parent lawfully exercising parent-child contact; or
 - A shelter designated by the Department of Human Services pursuant to section 5304 of title 33 as qualified to assist children who have run away for the purpose of reuniting them with their parents, guardian, or legal custodian.
- B. Absent the above options, an officer shall seek an emergency care order pursuant to 33 VSA § 5302 and in accordance with section V above.
- C. Juveniles being reported as runaways will be handled in accordance with **Barre City Police Department Investigative Procedure #603 "Missing Persons Investigation."**

VII. Processing

Juveniles will be processed in the following manner:

- A. The arresting officer shall complete entry in the Barre City Police Department Holding Log of Youth in Police Custody.
 - The entry must contain all requested information per instruction as enumerated in F. below.
- B. The arresting officer will complete a Valcour Report, detailing the crime with which the juvenile is being charged.
 - **Officers should include in the narrative portion of the Valcour Report, when the arrest is part of a continuing or emerging trend, or when the arrest is in response to a reoccurring community complaint.**
- C. The arresting officer will complete a Certification of Service and Law Enforcement Juvenile Data Sheet.
- D. **Fingerprints**

Juveniles who are arrested on any criminal charge shall be fingerprinted. All juvenile fingerprinting will be done in accordance with 33 VSA § 5205.

- The AFIS/LiveScan workflow for "Juvenile – Anyone Under 18" MUST be used.
- Status Offenders (truant, runaway, CHINS, etc.) will not be fingerprinted.

E. Photographs

No photograph shall be taken of any child when taken into custody without the consent of a judge unless the case is transferred for criminal proceeding (13 VSA § 5205).

F. Holding Log of Youth in Police Custody

The arresting officer will complete the Juvenile Holding Log as follows:

- Document the juveniles name or initials, gender, DOB and perceived race.
- Document the charge (if more than one, record the most serious offense).
- Document the case number.
- Document the time in and the time out.
- Document the arresting officer's name.
- Document whether the juvenile was held securely (S) or held in a non-secure (NS) setting.
- Document whether there was sight and sound separation.
- Document who the juvenile was released to.

VIII. Interrogation

If a juvenile is in custody and is to be interviewed, they shall be informed of their constitutional rights. It is required that a parent, guardian or interested third party be present during the interview. Once Miranda has been read to the juvenile, and parent or guardian the officer will allow the juvenile and parent or guardian reasonable time to converse in private to decide as to whether or not they want to answer questions.

A. When an officer questions a juvenile offender or suspect, the officer should make certain that the juvenile understands the agency's procedures in dealing with juvenile offenders and the implications that may be forthcoming in the Juvenile Services system.

- The interview/interrogation should not be constructed in such a manner as to cause undue stress for the juvenile, with the number of officers involved in a custodial interrogation limited to two (2).
- The duration of the interview/interrogation should be limited to a reasonable amount of time, generally not to exceed two hours without a break being offered.

IX. Detention

Juveniles in police custody will remain restrained as described in **Operational Procedures #407, "Arrest, Custody & Transport"**, and under the constant supervision of the arresting officer(s).

(NOTE: The fact that a person who is under the age of 18 has been charged as an adult does not change the individual's status as a juvenile for other purposes. A juvenile who is prosecuted as an adult is NOT "legally considered to be an adult," except for the purposes of the prosecution and punishment after conviction).

A. The placement of juveniles who are in custody for status offenses (runaways, truants, incorrigible) in a cell, or attached to a fixed object such as a restraining bar, is prohibited.

B. Separation of Juveniles from Adult Offenders

The placement of juveniles and adults in the same cell is prohibited. There must be sight and sound separation between juveniles and adults whenever possible.

- In the event that juvenile criminal offenders are temporarily detained at an installation during the same time an adult offender is being held/detained, the juvenile must be segregated by sight and sound and have no contact with the adult.

C. Maximum Detention Time for Juveniles

Juvenile criminal offenders may be detained for a period of up to six (6) hours for the purposes of identification, processing, or transfer to another facility.

X. Records

The following will apply for the collection and retention of all Juvenile arrest records:

- A.** Juvenile records are held in blue file folders to be immediately identifiable as juvenile cases. The files are stored separately from adult arrest records in the Criminal History Records Area. The segregation of the two types of records provides a safeguard to individual privacy.
- B.** When a juvenile reaches adult age, no change occurs in the procedures for handling their juvenile arrest records. All Juvenile arrest records are maintained until expungement is ordered by the court.
- C.** The release of information pertaining to juveniles is prohibited without the approval of the Chief or Deputy Chief of Police.

XI. Cancellation

This written directive cancels, replaces, and supersedes any directives in conflict therewith.

AUTHORITY:

Index as:

Holding Log of Youth	_____
Juvenile Arrest	Braedon S. Vail, Chief of Police
Juvenile Citations	
Juvenile Detention	_____
Juvenile Services	, 2023



Barre City Police Department

Barre, Vermont

Braedon S. Vail

Chief

INVESTIGATIVE PROCEDURES

<u>Subject:</u>	<u>Number:</u>	<u>Effective Date:</u>
Exculpatory & Incriminating Statements or Evidence	602	XX/XX/23

Note: These Rules & Regulations, Operational Policies and/or Procedures are for internal use only and does not enlarge a member’s civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Policy: Barre City Police Department members discovering any exculpatory or incriminating statements and physical evidence shall immediately seize and/or document the discovery; provide for its safekeeping, chain of custody and forwarding to the appropriate investigatory agency.

Purpose: To ensure the documentation and processing of exculpatory or incriminating statements and physical evidence discovered by **any** Barre City Police Department member.

Contents:

- I. General
- II. Oral Statements
- III. Physical Evidence
- IV. Confidentiality
- V. Cancellation

I. General

During the course of daily activities such as investigating criminal incidents, booking arrestees, or prisoner transports, Barre City Police Department members are in contact with individual criminal defendants or witnesses that may make an excited utterance or provide the member with an exculpatory or incriminating statement or evidence relating to an ongoing investigation or court proceeding.

- A. Excited Utterance** – A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
- B. Exculpatory Evidence** – A statement or other evidence that tends to justify, excuse or clear a defendant from alleged fault or guilt.
- C. Incriminating Evidence** – A statement or evidence that tends to establish guilt of the accused or coupled with other evidence, his or her guilt may be inferred.

II. Oral Statements

Any oral or written exculpatory/incriminating statements discovered by members of the Barre City Police Department shall be documented and submitted before the end of the member's tour of duty in accordance with **Barre City Police Department Field Reporting Procedure #801, "Field Reporting."**

- A. An Incident Report will be completed by the investigating officer to capture the circumstances surrounding the statement, or discovery of evidence.
 - Oral statements will be documented in the body of the Incident Report, and immediately forwarded to the Deputy Chief as described in **Barre City Police Department Field Reporting Procedure #801, "Field Reporting."**
- B. The Deputy Chief will ensure that a copy of the report is immediately forwarded to the appropriate investigatory authority, and the Washington County States Attorney's Office for further investigation.

III. Physical Evidence

Any physical evidence discovered by members of the Barre City Police Department shall be documented and submitted before the end of the member's tour of duty in accordance with **Barre City Police Department Field Reporting Procedure #800, "Field Reporting."**

- A. When evidence is tangible in nature, such as a document or other physical form, members are responsible for contacting the on-duty patrol supervisor to arrange for the collection of evidence.
- B. An Incident Report will be completed by the investigating officer to capture the circumstances surrounding the recovery of evidence.
- C. Evidence shall be processed and stored by the investigating officer in accordance with **Barre City Police Department Investigative Procedures #609, "Property and Evidence Management"**; and,
 - Described in the incident report;
 - Properly marked for later identification.
- D. The Incident Report will be completed prior to the end of the investigating officer's tour of duty and, immediately forwarded to the Deputy Chief as described in **Barre City Police Department Field Reporting Procedure #801, "Field Reporting."**
 - The Deputy Chief will ensure that a copy of the report is immediately forwarded to the appropriate investigatory authority, and the Washington County States Attorney's Office for further investigation.

IV. Confidentiality

The contents of any investigation, statements or physical evidence discovered by Barre City Police Department members is considered confidential in nature and shall be treated accordingly.

V. **Cancellation**

This written directive cancels and replaces **Barre City Police Department Operational Policy titled “Duty to Disclose” dated March 29, 2012**, and cancels, replaces and supersedes any directives in conflict therewith.

AUTHORITY:

Braedon S. Vail, Chief of Police

, 2023

Index As:

Excited Utterance
Exculpatory Evidence
Incriminating Statements and Evidence