



## 2800 TRAFFIC

### 2810 General

The traffic enforcement objective of the department is to reduce traffic collisions and injuries, and to facilitate the safe, expeditious flow of vehicular and pedestrian traffic through compliance with traffic laws.

Officers shall render assistance to motorists as necessary. This may include answering questions, assisting stranded motorists in obtaining mechanical or towing assistance, ensuring the safety of stranded persons and other appropriate emergency assistance. This is designed to protect their safety and that of other motorists.

The department seeks to educate the public and publicize specific problems by publishing traffic collision and injury statistics, and by giving notice and warning of changes in regulations prior to taking enforcement action. The compilation and review of traffic collision data will occur regularly and enforcement efforts may be directed to correct driver behavior. Administrative action may occur to assist city personnel in the re-design of traffic ways. A compilation and review of enforcement activity will be conducted to evaluate its effectiveness. Data compilation and reviews shall be utilized as a basis for a comparison of directed traffic enforcement efforts and collision statistics. The Traffic Division is responsible for the deployment of units as appropriate to ensure traffic safety.

Department members will take enforcement action upon the detection of an illegal or potentially hazardous act by persons operating vehicles, bicycles, other conveyances, and pedestrians. Enforcement action may consist of a warning, faulty equipment repair order, civil citation, or criminal citation, (which may result in a physical arrest depending upon the charges/circumstances). Enforcement of commercial vehicle ordinances will be consistent with Federal Motor Carrier Safety Regulations.

### 2811 Traffic Stops (Revised July 2, 2019)

It is each officer's responsibility to recognize a violation when it is committed and to take enforcement action when violations are observed. Officers shall utilize visible patrol, stationary observation (both overt and covert), and other techniques, including the use of approved unmarked vehicles, to promote compliance with traffic laws.

All traffic stops are considered unknown risk contacts. Officers conducting a traffic stop shall evaluate and develop a tactical plan for every traffic stop. There are 3 types of traffic stops:

- **Traffic Violation Stop:** A stop made because an officer has probable cause to believe that the driver committed a traffic infraction.
- **Investigative Stop:** A stop made because a peace officer has reasonable suspicion to believe that one or more of the vehicle's occupants has engaged in, or is about to engage in, criminal activity.



- **High Risk Stop:** A stop in which the officer has reasonable suspicion, probable cause, or a warrant and reason to believe that one or more of the occupants of the vehicle may be a threat to the officer.

#### 2811.1 Traffic and Investigative Stops

Before officers make traffic stops, they should complete a vehicle license plate check via NCIC/ACIC. Officers should advise dispatch of the vehicle's license plate and the location of the stop. Officers will position themselves behind the violator's vehicle and then activate their emergency lights. If the violator does not pull over to the right, a short blast of the siren may be utilized to alert the driver.

- **Positioning/Approach**

- When possible, officers will have the driver pull off of the roadway. The officer will offset the patrol vehicle in such a manner that half of their vehicle is behind the violator's vehicle at a distance of 15 to 22 feet. Officers will approach the vehicle from either side, maintaining officer safety. While remaining outside of the vehicle, officers should check the interior for criminal activity and officer safety issues.
- If the violator should leave their vehicle, officers should direct the violator to remain within the vehicle. If the person refuses to get back into the vehicle, officers should ensure they are out of the roadway and do not pose a traffic hazard.

- **Return to Patrol Vehicle**

- Officers will return to their vehicle to conduct any record checks and/or the preparation of a citation. Officers will maintain visual contact of the violator vehicle and its occupants. Depending on tactical considerations, officers may complete the citation inside their vehicle or while standing outside of the vehicle away from traffic movement.
- Upon completion of the stop, officers will ensure that the vehicle can resume travel in the normal traffic flow safely and complete the needed documentation reference the stop.

#### 2811.2 High Risk Stops

High Risk Stops constitute a use of force upon a lawfully stopped vehicle based on information officers have about the occupant(s) of the vehicle. Officers will deploy a tactical plan for High Risk Stops based on the information known and the resources available. Officers will utilize the following foundation for conducting High Risk Stops.

Conducting a High Risk Stop relies on communication and control. Officers will develop a tactical plan consistent with training before starting a High Risk Stop. Factors to consider include the coordination of units responding, site selection, and equipment availability. The first officer coordinating the stop will assume Incident Command. Incident Command



will park their vehicle within 1 to 5 feet to the rear of the violator vehicle, stopping on the driver side of the vehicle. Incident Command will exit their vehicle and take a position behind their patrol vehicle near the driver side taillights. Incident Command will have verbal control of the vehicle.

The secondary unit on scene will stop 1 to 5 feet to the rear of the passenger side of the vehicle. The officer will exit the vehicle and take a position behind their vehicle, taking into consideration the tactical advantages of a position on either the driver or passenger side. The third officer on scene will park their vehicle in the "V" between the primary and secondary units. The third officer will assure that all forward facing lights are off. The third officer will then assume a position behind the primary vehicle. The fourth officer and all other officers arriving on scene will park behind the third unit assuring their forward facing lights are off. The fourth officer will take a position behind the secondary unit. The first four officers will provide lethal cover threat. Any additional units arriving on scene will form an arrest team. The arrest team will be deployed at the discretion of Incident Command.

- **Removal of Subjects**

Incident Command will give verbal commands for the driver to remove the keys from the vehicle and place the keys on the roof of the vehicle. The driver will then be told to exit the vehicle and face away from the officers with their hands above their head. The subject will be instructed to turn 360 degrees to obtain visual observation of any weapons that may be present. If necessary, have the subject lift their shirt by grabbing their shirt collar at the back of the neckline to lift the shirt up. The driver will be told to walk slowly from the vehicle toward the officers, while keeping their back toward the officers. If an arrest team is present, they will be deployed to walk the subject back behind the primary or secondary vehicle. The arrest team will have lethal cover on the subject and will secure the subject in a manner consistent with academy training. If no arrest team is present, the secondary officer can be utilized to take the subject into custody. The same procedure will be deployed in the removal of other occupants.

- **Clearing the Vehicle**

Once the known occupants have been removed and secured from the vehicle, officers will need to secure the vehicle. Incident Command will verbally challenge the vehicle to ensure everyone is out of the vehicle. Officers will approach the vehicle in a cell movement as trained at the academy. Officers will check the interior and trunk of the vehicle, if applicable, consistent with training and applicable laws.

Questions about training or tactics used may be referred to the Academy.

## **2812 Traffic Enforcement**

Traffic enforcement should affect those cited in such a manner that they will not commit the violation again. Enforcement shall be equitable. For effectiveness, traffic enforcement will be



continuous and consistent. As this may be the only contact a citizen has with the department, members will strive to make each contact educational.

Officers will maintain a professional demeanor during their contact with subjects for traffic violations, to include pedestrians, bicyclists, and drivers/passengers. Officers will inform the driver of the reason for the stop and obtain the required information (driver license, registration, and insurance). When requesting a driver license or other documentation relevant to the stop, officers shall not accept a violator's wallet/purse, but shall ask the violator to remove the necessary item. Officers will observe proper safety techniques while conversing with a violator and any occupants of the vehicle.

#### **2812.1 Issuing Citations**

A citation shall be issued for any violation that in any way contributed to the cause of a collision. All citations shall be carefully reviewed for accuracy prior to issuance. When presenting the citation to a violator, the officer shall explain the action being taken. Multiple violations may appear on the same citation.

Officers shall only use the court dates and times published by the department. A current listing is available through the MTC.

When issuing citations, officers shall provide a current Tucson City Court traffic card, explain the procedure the violator needs to follow in order to handle the citation, and educate the driver about the violation.

Officers shall void a citation when the offense is resolved prior to its issuance. For example, if a violator produces proof of insurance after a citation is written but before it is served, the officer shall not cite the person for that offense.

#### **2812.2 Issuing Written Warnings**

A citation, not a written warning, shall be issued for any violation that in any way contributed to the cause of a collision. All written warnings shall be carefully reviewed for accuracy prior to issuance. Proper enforcement does not always involve a citation. The decision to issue a written warning versus a hazardous or non-hazardous citation shall rest with the officer after consideration of the circumstances surrounding the violation.

#### **2812.3 Issuing Faulty Equipment Repair Orders**

A citation, not an equipment repair order, shall be issued for any violation that in any way contributed to the cause of a collision. All faulty equipment repair orders shall be carefully reviewed for accuracy prior to issuance. Officers may issue Faulty Equipment Repair Orders to drivers whose vehicles have defective equipment. If a citation is issued for defective equipment, officers shall explain what corrective action the violator must take at the time the citation is issued. In the case of equipment repair orders, the officer shall explain to the violator the procedure they must follow to show verification of the repair.



#### **2812.4 Obtaining Violator Signatures**

If a traffic violator refuses to sign a criminal traffic citation, the officer shall make it clear that in signing the citation the driver is not admitting guilt or responsibility, but is only promising to appear in court. A supervisor will be requested to respond in an attempt to persuade the violator to sign the citation. Absent the required signature for criminal citations, the violator will be booked for the violation.

Civil citations shall be presented to violators for their signature whenever possible. If the violator refuses to sign the citation, or if they are unavailable for signature, the officer shall write the word "Served" on the violator's signature line and hand it to the violator. Subjects who refuse to sign a civil citation shall not be booked.

#### **2812.5 Completing and Amending Citations, Written Warnings, and Field Interviews**

Proper completion of the traffic citation is described in the *Report Writing Manual*. Members of the police department can void or correct citations when necessary, however, they cannot "make motions" to amend or dismiss citations. The act of amending or dismissing citations is reserved for city prosecutors and city magistrates.

When the electronic citation writing systems are utilized, all electronic citation numbers must be accounted for even when the citation is inadvertently generated with no information. Electronic citations can be accessed immediately after downloading. Because of this immediate access, when an error on an electronic citation is discovered, it is necessary to take corrective action through an electronic system to allow the same immediate access to the correct information. The electronic *Void, Dismissal, Amendment and/or Correction Form* is required when any corrective action is needed for an electronic citation. These forms may also be used for corrective action on standard paper citations.

Written warnings and field interviews do not download to the court, but it is still necessary that the information be correct in the police department's databases. When errors are discovered in a written warning or a field interview, the electronic *Written Warning/Field Interview Correction Form* is required.

The forms and their directions are accessed through the TPD Intranet/Personnel/eCitations/Impounds System.

#### **2812.6 Use of Electronic Citation Writing Systems**

The electronic citation writing systems shall be used instead of the standard paper citation when available. Unless specifically addressed in this section, all procedures for the issuance of standard paper citations shall be followed.

Only officers trained and authorized to use these systems may issue citations using an electronic citation writing system. Completion of the citations on the systems shall be



handled in accordance with the instructions provided by the Traffic Division. Officers are responsible for ensuring that the electronic citation writing equipment is handled with appropriate care. Officers issuing citations using the electronic citation systems are responsible for immediately downloading citations issued during in-custody arrests. All other citations are to be downloaded by the end of each tour of duty. New citation numbers for the systems shall be downloaded in accordance with the procedure approved by Tucson City Court. If citations cannot be downloaded or there are other problems that require immediate attention, contact should be made through the call out list in CAD under INFO<space>ECITE.

#### **2812.7 Traffic Safety Camera Program**

The Traffic Enforcement Division is responsible for coordination of traffic safety camera enforcement. The section will establish and maintain procedures for management of the traffic safety camera program.

Violations recorded on vehicles operated by the city, other than police vehicles, will be forwarded to the appropriate city department for identification of the driver. If the driver is identified, the Traffic Enforcement Division will take appropriate enforcement action. Other administrative action will be the responsibility of the director of the involved city department.

Violations involving department vehicles will be reviewed by the Traffic Enforcement Division to determine if the vehicle was operating with emergency lights activated. If the vehicle was not operating with emergency lights activated, if it appears the vehicle was operating out of policy with the emergency lights activated, or if there are other exceptional conditions present, the matter will be forwarded to the Office of Internal Affairs (OIA) for processing.

#### **2813 Traffic Enforcement - Special Circumstances** (Revised: December 13, 2018)

##### **2813.1 Traffic Enforcement Involving Non-Residents**

Citations shall be issued to non-residents in the same manner as they are to residents of the City of Tucson. Non-residents who cannot appear on the assigned court date shall be directed to contact the appropriate court in person.

If the violation is criminal rather than civil, and the officer has reason to believe that a non-resident violator will not honor a written promise to appear, the officer shall request that a supervisor respond to the scene. The alternatives for the supervisor are to have the violator:

- Escorted to Tucson City Court for arraignment during business hours.
- Transported to jail where the subject will either be booked or post bond.



### **2813.2 Traffic Enforcement Involving Juveniles**

Juvenile civil traffic infractions shall be handled in the same manner as for adult violations, including citing them into City Court. Felony traffic, DUI, and minors driving with alcohol offenses are the only juvenile criminal traffic offenses that will be cited into Juvenile Court. All other juvenile criminal traffic offenses (e.g., reckless, drag racing) will be processed in the same manner as for adult criminal traffic offenses.

### **2813.3 Traffic Enforcement Involving Legislators**

While the legislature is in session, both the U.S. and Arizona Constitutions provide federal and state legislators with immunity from arrest for any offense except those involving treason, felonies or breaches of the peace. (A breach of the peace includes disorderly conduct, assault, domestic violence, etc., but not DUI.). This immunity from arrest exists during the term of the legislative session and extends for 15 days before and after the session. This immunity also applies to civil traffic offenses during this same time period.

### **2813.4 Traffic Enforcement Involving Foreign Diplomats**

Foreign diplomats, their families and staff enjoy complete immunity from arrest, and their property or residences may not be searched, even with a warrant. These persons may also not be compelled to testify or provide evidence in court proceedings. This immunity does not apply to civil traffic offenses.

Persons protected by diplomatic immunity will have an identification card provided by the U.S. Department of State that contains a photograph of the person, the person's name, title, mission, city and state, date of birth, identification number, expiration date and State Department Seal. Officers shall seek verification of the identification if there is reason to doubt the validity of the card. Officers may contact the FBI to confirm status; the FBI will work directly with the U.S. Department of State.

### **2813.5 Traffic Enforcement Involving Consular Officials**

Civil traffic offenses shall be handled the same as with any other person. While consular officials may have some immunity based on their countries' treaty with the United States, the consular official will address that matter at court.

### **2813.6 Traffic Enforcement Involving Military**

Civil traffic offenses shall be handled the same as with any other person. Officers are reminded of Title 28 provisions regarding driver license requirements for military personnel. This allows them to forgo the renewal of their driver license from their home state if they are on active duty and have current military ID. National Guard members



have immunity from arrest for any offense except those involving treason or felonies while on drill and when travelling to and from drill service.

#### **2813.7 Arrest and Release of Traffic Offenders**

Officers will observe the guidelines set forth in *General Orders* relating to misdemeanor arrests.

In extenuating circumstances that can be justified by the officer and approved by a supervisor, an identification release may be performed in conjunction with a criminal traffic citation.

Court appearance dates shall be set in accordance with the schedule published by the department. A violator who cannot appear on the assigned court date shall be directed to contact the appropriate court in person.

#### **2813.8 Traffic Stops on Armored Vehicles**

Should a stop of an armored security vehicle be necessary, the officer involved shall immediately notify the dispatcher of the following information:

- That an armored vehicle is being stopped and the name of the company involved
- The location and reason for the stop

If the traffic stop necessitates the physical arrest of an armored vehicle driver, the officer shall notify the dispatcher, who will notify the armored car company and request that a representative come to the scene to secure the vehicle. If a traffic stop results in written enforcement action, exchange of the driver license, vehicle documentation, and the citation/written warning/faulty equipment repair order will be conducted through the gun port. If an armored vehicle is not equipped with gun ports, the officer shall obtain sufficient information from the driver to permit a summons or other action to be issued at a later date.

Officers taking enforcement action shall observe standard officer safety procedures when stopping and approaching armored vehicles. In addition, officers shall make every attempt to clearly establish their identity as police officers.

#### **2813.9 Re-Examination of Operators by Motor Vehicle Division (MVD)**

When there is reasonable suspicion to believe that a person's driving is in violation of statute, and upon contact with the operator it becomes apparent that the operator may need re-examination to continue their driving privilege, a request may be made on the appropriate Motor Vehicle Division (MVD) form. MVD will notify the driver of the re-examination.

#### **2814 Citation Accountability**





Each officer shall have an adequate number of citations available for their use. Officers shall be accountable for citations issued to them and shall turn in completed citations prior to completing the end of their shift. Supplies of the Arizona Traffic Ticket and Complaint citations shall be maintained by Supply in a secure area and their issuance shall be tracked as outlined below.

- **Supply**
  - Supply will utilize an electronic form to document the distribution of citations to the divisions each calendar year. The form will include the citation numbers issued, date issued, the division they were issued to, and the person to whom they were they issued.
  - A year-to-date quarterly report shall be sent to CALEA/Audit by the 15<sup>th</sup> of the month following the end of each quarter (the quarters are designated as Jan-Mar, Apr-Jun, Jul-Sept, and Oct-Dec)
  - A year-end report shall be sent to CALEA/Audit by the 15<sup>th</sup> of the month following the end of each calendar year and shall be in lieu of a 4<sup>th</sup> quarter report.
  
- **Divisions**
  - Each Division will designate a person who will be responsible for the citation tracking program.
  - They will utilize an electronic form to document the disbursement of individual citation packets to squad/section supervisors each calendar year. The form will include the citation numbers issued, date issued, and the squad/section supervisor to whom they were issued.
  - Squad/section supervisors will be responsible for issuing the individual packages to officers/detectives. The squad/section supervisors will be responsible for ensuring that citation receipt is completed immediately and returned to the division representative.
  - The completed receipts and the tracking forms in each division will be reconciled within the division on a quarterly basis.
  - A year-to-date quarterly report shall be sent to CALEA/Audit by the 15<sup>th</sup> of the month following the end of each quarter.
  - The quarters are designated as Jan-Mar, Apr-Jun, Jul-Sept, and Oct-Dec.
  - A year-end report, to include the signed citation packet receipts, shall be sent to CALEA/Audit by the 15<sup>th</sup> of the month following the end of each calendar year and shall be in lieu of a 4<sup>th</sup> quarter report.
  
- **Traffic Enforcement Division**
  - In addition to the standard paper citation tracking duties listed above for each division, the Traffic Division will also be responsible for tracking citations generated on Electronic Citation Writing Devices.
  - A year-to-date quarterly report shall be sent to CALEA/Audit by the 15<sup>th</sup> of the month following the end of each quarter.
  - The quarters are designated as Jan-Mar, Apr-Jun, Jul-Sept, and Oct-Dec.
  
  - A year-end report, to include the signed citation packet receipts, shall be sent to CALEA/Audit by the 15<sup>th</sup> of the month following the end of each calendar year and shall be in lieu of a 4<sup>th</sup> quarter report.



- **CALEA/Audit Section**

- CALEA/Audit is responsible of reviewing and maintaining quarterly reports. The quarterly reports shall be maintained until the year-end reports have been reconciled.
- The year-end reports, to include the signed citation packet receipts, shall be sent to Records for storage.

- **Records**

- The Records Section is responsible for storage of the yearly reports, to include the signed citation packet receipts.
- Retention shall be for a three (3) year period.

**2815 Traffic Collision Investigation** (Revised: January 27, 2020)

**2815.1 General**

Certain traffic collision investigations are necessary to determine traffic law violations, to obtain engineering data, to protect the rights of the individuals involved, and to assist in traffic education. Non-injury collisions generally will not require a patrol response (see 2815.7 for exceptions) and the involved parties shall be directed to the ASSI Collision Center.

Injury is defined as necessitating transportation from the scene to a medical facility, visible wounds, or indication from involved parties that they will seek or require medical care.

Members assigned a collision call shall determine the appropriate response to address scene safety, fire hazards, the presence of any hazardous materials, first-aid, the identification of witnesses, all involved parties, and the control of property or evidence that may be present. If appropriate, members shall gather all the necessary information to complete a thorough investigation. Members shall exercise care to protect the scene to prevent the destruction of evidence and/or prevent further property damage or injury. Referral to the ASSI Collision Response Center for non-injury traffic collisions will eliminate the need for investigation. Investigation is defined as any action taken by the officer to determine the identity of involved parties, validity of driver's licenses, cause of collision, or other actions beyond the facilitation of information exchange and directions to the ASSI Collision Center. If an investigation is initiated, an *Arizona Traffic Accident Report* shall be completed



Members on scene will be aware of safety issues involving possible conflict between principals and traffic congestion associated with the collision. To avoid prolonged congestion, a request to expedite tow vehicles and a public service announcement through Communications may be requested.

### **2815.2 Documentation Required**

Officers investigating traffic collisions shall conduct a thorough investigation and complete the standard *Arizona Traffic Accident Report* form as required. In some instances, such as a fatality or a hit-and-run, an *Arizona Traffic Accident Report* and a *Multi-Purpose Report* are required. Officers are also generally required to complete an *Arizona Traffic Accident Report* in those situations where the collision did not occur on a public roadway, but one or more of the vehicles involved left the roadway out of control and collided with an object off the roadway (e.g., a house, tree, fence, guardrail, etc.) and injury was sustained. When a bicyclist or pedestrian who is on/in a sidewalk area is struck by a motor vehicle exiting a private drive or alley, a traffic collision report is also required.

Citizens involved in a traffic collision, for which an *Arizona Traffic Accident Report* is prepared, will be provided the case number and instructions on how to obtain a copy of the report. In some instances, citizens may not desire to make a full report of a collision to which officers have responded. If the following criteria are met, an officer may select the manner of documentation, e.g., *Arizona Traffic Accident Report*, *Multi-Purpose Report*, or *Miscellaneous Incident Report* as appropriate:

- All parties involved indicate that they do not desire a collision report completed or any enforcement action
- The property damage is less than the minimum statutory dollar amount required to be reported by state law or City Code, and there is no personal injury
- The elements of DUI or reckless driving are not present.
- There is no apparent violation of licensing or financial responsibility laws.

Verbal clearance of a collision which has been investigated, without any other documentation is not permitted. In instances, in which an officer responded but did not complete an investigation (i.e. non-injury) a miscellaneous entry (J-John) will be completed.

### **2815.3 Issuing Citations at Traffic Collision Scenes**

If an *Arizona Traffic Accident Report* is utilized, a citation shall be issued when an officer or member authorized to issue a citation has cause to believe that the person to be cited



has committed a violation that either directly or indirectly caused the accident. If no citation is issued due to lack of reasonable cause, the officer shall advise the drivers that no police action is possible. This information shall be noted on the report.

If the person to be cited is admitted to a hospital, civil citations will be issued by writing "Served" in the violator's signature space and leaving the violator's copy of the citation with their personal effects. If the violation is criminal, the officer or member shall prepare a case report reference the investigation. A traffic detective shall conduct follow-up after the subject is released from the hospital.

#### **2815.4 Obtaining Proof of Insurance at Collision Scenes**

If a collision investigation is to take place officers shall request proof of financial responsibility from each driver involved in a collision. Officers shall then query the MVD system to determine whether there is any notice of insurance cancellation or non-renewal. If a driver is unable to provide current proof of insurance as required by statute, or if the MVD query shows a cancellation or non-renewal, they shall be cited.

In addition, in cases where an uninsured driver involved in a collision also has a suspended, revoked or cancelled driver license, the vehicle may be subject to mandatory impoundment under General Order 2020.

#### **2815.5 Physical Arrest for Non-Traffic Offenses**

When a person involved in a traffic collision is arrested for a non-traffic offense, and a collision investigation takes place, a case report and a collision report shall be prepared. The name, the extent of any injury and damage estimate shall be included in the narrative portion of the case report.

#### **2815.6 Minors Injured in Traffic Collisions**

If a minor has been injured in a traffic collision, the investigating officer must make every reasonable effort to notify the juvenile's parents or guardian of the collision within a reasonable time.

#### **2815.7 Property Damage Only Collisions**

Officers will not generally be dispatched to non-injury collisions. Exceptions will include the following situations involving:

- All government vehicles or property
- A potential criminal violation, i.e. DUI driver or leaving the scene
- Failure to identify by one of the involved parties
- Fight brewing, and



- Other public hazards

On the occasion that an officer is dispatched and a response was not required based on the above criteria, the responding officer will:

- Facilitate the exchange of information and provide information to all involved parties regarding the location of the ASSI Collision Center, hours of the center, and that they must report within 72 hours. An informational flyer will fulfill these requirements.
- Document response and outcome on a miscellaneous information entry (J-john) in MPS.

The service provided in these situations will not constitute an investigation and will not require further documentation.

#### **2815.8 Private Property Collisions**

The police department does not generally respond to vehicle collisions on private property. In some instances, however, such as a death or serious injury, officers may be required to respond to a private property collision. When appropriate, officers shall cite for violations of the following: driving under the influence, leaving the scene, and reckless driving.

#### **2815.9 Civil Compromise**

Parties requesting information about civil compromise shall be referred to the City Prosecutor's Office or to their own attorney.

#### **2815.10 Civil Compromises Involving City Vehicles**

When an incident in question involves the City of Tucson, members shall not enter into any civil compromises which involve a plaintiff or victim signing an agreement not to prosecute or assist in prosecution in exchange for some compensation (i.e., a monetary settlement for damages) or who declares that they are satisfied with the settlement (even though no compensation was bestowed). For example, a civil compromise between an on-duty police officer who collides with a civilian or who does so off duty while in a city vehicle is not permissible except by the direction of the City Manager or the Risk Management Office. Officers will refer any person who is attempting to reach such a civil compromise with the City to the City Risk Management Office.

#### **2815.11 Traffic Investigator Call-Out**

The Traffic Investigations Supervisor shall be notified of all collisions that result in a fatality or serious injury that may result in a fatality. Traffic Investigations shall then conduct on-scene and follow-up investigations and ensure all reports/diagrams are



completed. A field supervisor shall evaluate all serious injury collisions to determine the need for traffic investigator response. The Traffic Investigations Supervisor shall also be notified in order to respond to all Serious Accident Review Committee (SARC) cases.

In addition to the above listed cases, the on-scene supervisor at any collision involving department personnel shall evaluate the circumstances of the collision in regards to the degree of damage or injury and potential liability to the City of Tucson. If the utilization of a traffic investigator is desired, the Traffic Investigations Supervisor shall be notified in order to coordinate the proper response. It would be impossible to itemize all cases that would qualify for the response of traffic investigators. Field supervisors will keep in mind that complete documentation and investigation must be insured. In instances of this nature, individual circumstances will dictate the need for a call out of the traffic investigators.

#### **2815.12 Collisions Reported After the Fact**

Citizens who exchange information at a collision scene and attempt to make a police report later shall be directed to the ASSI Collision Center. TPD does not follow-up on these cases. The complainant is to be advised of this and that they have 72 hours to report to the ASSI Collision Center.

#### **2815.13 Leaving the Scene**

All leaving the scene cases shall be documented on a case report. Leaving the scene cases where a license number is obtained, but the suspect driver cannot be identified, are field closures. This does not preclude the patrol officer from following up on any reasonable leads.

If the license number of the suspect vehicle is available, the available registration information will be listed on the *Arizona Traffic Accident Report*. Other than during these circumstances, members shall not release vehicle registration information.

In leaving the scene cases where identification is possible, the member shall determine if the victim wishes to prosecute or to recover damages only. If the victim only wishes to recover damages, they shall be notified that the investigation will be field closed. The victim may be referred to TPD Records for a copy of the report.

#### **2816 Enforcement of Parking Regulations**

Street parking is restricted in various areas of the city to ensure fair access to parking and to expedite the flow of vehicular traffic. All existing parking regulations shall be enforced with reasonableness and impartially in all areas of the city.



The City of Tucson parking regulations are civil in nature. Both the owner and the driver of an illegally parked vehicle are jointly and individually liable for the violation and the civil fine assessed for that violation. Officers may use the E-Ticket for Tucson City Code and ARS Title 28 Parking Violations. The City Code Parking Violation E-Ticket may be left with the vehicle. Any ARS Title 28 Parking Violation shall be served on either the vehicle owner or driver and shall not be placed on the vehicle.

Procedures for voiding parking citations may be found on the TPD Intranet Site under Personnel, E-Citation/Impounds System. To void the ticket go to the Civil Void Form.

#### **2817 Enforcement of Motor Vehicle Carrier Regulations**

The Commercial Vehicle Enforcement (CVE) Squad is responsible for the enforcement of commercial vehicles motor carrier safety regulations. These regulations pertain primarily to commercial vehicles having a registered gross vehicle weight of over 20,000 pounds. This squad will also enforce the Tucson City Code section that regulates the transportation of hazardous materials on city streets. By law, only persons certified by the Department of Public Safety may enforce those Federal Motor Vehicle Carrier regulations adopted by the Arizona Department of Transportation. Officers, who have not been certified to do so, do not have the lawful authority to enforce motor carrier safety regulations.

The primary duty of the CVE officers is to stop commercial vehicles, based on Federal Motor Carrier Safety Regulations, and conduct a thorough safety inspection to determine if the driver and vehicle are in compliance with applicable regulations. CVE officers will also assist in the investigation of traffic collisions involving commercial vehicles.

When a CVE officer is on duty, patrol personnel are encouraged to contact one of these officers through the dispatcher when a commercial vehicle is involved in a collision or there is reason to believe that there is a violation of commercial vehicle safety regulations. Officers may also contact any solo-motor officer who is on duty and has been trained and certified to enforce motor carrier safety regulations.

After normal working hours, when a serious event occurs involving a commercial vehicle, the on duty supervisor will contact the Traffic Investigations Supervisor to determine if a call out will be initiated. The supervisor will contact the appropriate member of the unit if the call out is approved.

#### **2818 Oversize Vehicle Permits** (Revised: July 2, 2019)

The Mandatory Impound Unit is responsible for issuing oversize vehicle permits to companies who are using a city route. The first step to issuing a permit is to determine what kind of permit is needed.

- Annual permits: Issued for non-truck routes or oversize or overweight vehicles only.
- Monthly permits: Issued for non-truck route/overweight vehicles only and are issued on the permit titled "non-truck/oversized/overweight permit."
- Single-trip non-truck/oversize/overweight permits.



- Single-trip mobile home oversize permits. Note: We do not issue annual permits for mobile homes. They are only good for a single move.
- Envelope permits: Valid for one year, these permits can only be issued to the last working day of the year (December xx, xxxx).
- Letters of authorization: Issued when they have a state envelope permit. The expiration date will be the same as the state's permit expiration date located in the upper portion of the permit.
- Courtesy permits (also referred to as a T-number): Issued when a major highway is included as part of the transporting company's route and they have a state or county permit.

**2819 Suspended Driver License or Registrations** (Revised: July 2, 2019)

**2819.1 General**

In the course of a traffic stop, if an officer determines that the driver has a suspended, revoked, or canceled license or registration, the officer will in most cases cite and release for the offense. The driver may be booked into jail on the criminal offense if circumstances warrant that action. In addition, the vehicle may be subject to mandatory impoundment under *General Order 2880*.

Determination that a vehicle's registration or a driver license is suspended, revoked or canceled should be made based on the information contained in the Motor Vehicle Division's computerized records and any information or documentation provided by the vehicle's owner or driver.

**2819.2 Seizure of Arizona Driver License**

When an officer determines that an Arizona driver license has been suspended, revoked, or canceled, the driver shall be cited for the appropriate ARS Title 28 violation and the license shall be seized. In no case will an officer cite for the suspended, canceled, or revoked license without the seizure of the license.

The confiscated Arizona license shall be placed in the appropriate evidence bin at the substation. The officer shall note on the citation that the license was seized. In the event a driver is found to be driving with a suspended out-of-state driver license, the driver may be cited for the appropriate violations, but the license shall not be seized.

**2819.3 Seizure of Arizona Registration and License Plates**

When an officer determines that an Arizona vehicle registration has been suspended, revoked, or canceled, the driver shall be cited for the appropriate ARS Title 28 violation and the license plate and registration shall be seized. In no case will an officer cite for the suspended registration violation without the seizure of the registration and/or the license plates.





The confiscated Arizona license plate and registration shall be placed in the appropriate evidence bin at the substation. The officer shall note on the citation that the license plate and registration were seized.

In the event a driver is found to be driving with a suspended out-of-state license plate and registration, the driver may be cited for the appropriate violations, but the plate and registration shall not be seized.

If the Arizona suspended license plate is seized from a vehicle that is unoccupied and the owner cannot be located, a *Courtesy Notice (TPD 3234)* shall be placed on the vehicle in a conspicuous place. The officer shall indicate on the notice the violation of ARS 28-4139(A) and that the plate was seized for destruction.

#### **2819.4 Reports Required**

Unless there are unique circumstances or facts relating to the stop that the officer feels must be documented on a case report, a notation on the citation that the driver license or license plate and registration were seized is sufficient documentation.

#### **2819.5 Impounding Vehicles for No License or Revoked Driver License Violations**

Arizona law requires that under certain circumstances the driver of a vehicle with no license or a revoked driver license shall have their vehicle impounded (*General Order 2880*).

## **2820 PROOF OF FINANCIAL RESPONSIBILITY**

### **2821 General**

Arizona law requires that anyone registering a vehicle in the state must maintain a minimum amount of liability insurance. Anyone found to be driving a vehicle upon a highway within the state without insurance shall be cited.

### **2822 Checking and Enforcing Compliance**

During the investigation of a motor vehicle collision or an alleged violation of any provision of the motor vehicle laws of this state or any traffic ordinance of the City of Tucson, an officer shall query the MVD computer system to determine whether there is a notice of insurance cancellation or non-renewal.

The MVD computer system is sufficient cause to charge the owner or operator of the vehicle with a violation of Proof of Financial Responsibility. An officer shall issue a citation for the violation of the financial responsibility law, unless the operator of the vehicle produces other or more recent evidence of financial responsibility.

Officers may accept as proof of financial responsibility documentation as defined in ARS Title 28. Exceptions to the Financial Responsibility law are listed in ARS Title 28.



Officers shall not stop vehicles for the sole purpose of checking for financial responsibility unless a query with the MVD computer systems shows a mandatory insurance (M/I) suspension.

**2823 Follow-up Complaints**

If the department receives information from a citizen who has been involved in a collision that the other party's insurance was not valid at the time of the collision, the reporting officer shall complete a case report documenting the information on the alleged violation. This documentation shall include the connect-up number, the fact that the incident was investigated by an officer, the name of the alleged insurance company, and the circumstances surrounding the discovery of the invalid insurance.

**2830 OFF-ROAD VEHICLES**

**2831 Enforcement**

Violations of the Off-Road Vehicle Ordinance are civil infractions. When a driver is to be cited, the *Arizona Traffic Ticket and Complaint* in either electronic or paper form, which includes a box for citing civil violations, shall be used. The violation shall be described using the following verbiage: "Operating a Motor Vehicle Off the Roadway." The entire vehicle identification number (VIN) of the vehicle involved shall be written on the citation. The VIN will assist in the identification of the vehicle, since most will not be licensed.

When a citation is issued for a violation of the Off-Road Ordinance, the vehicle involved shall be impounded, except as provided below in *General Order 2833*, Off-Road Offenses Involving Juveniles. The contract tow company will be called to tow the vehicle to their private storage lot for impoundment. Vehicles towed as a result of this ordinance will not be stored in the TPD impound lot. A case report is not required if the investigation is eligible for an S-Sam clearance.

**2832 Investigative Procedures**

Officers investigating incidents that may necessitate vehicle impoundment under the Tucson City Code Off-Road Vehicle Ordinance shall conduct a thorough investigation. Any other associated circumstances shall be investigated (e.g., DUI investigation, accident investigation, citations for Title 28 violations, etc.). Officers shall run a computer check on all impounded vehicles to determine if they are listed as stolen.

**2833 Off-Road Offenses Involving Juveniles**

The Off-Road Vehicle Ordinance applies equally to both juveniles (8–17 years of age) and adult violators.



A dependent child, under the age of 8 years, who is in violation of this ordinance, shall be released to a parent or guardian and the incident documented in a case report. The child shall not be cited and the off-road vehicle shall NOT be impounded.

**2834 Impound Procedures**

The officer shall use the contract tow company and complete the *Notice of Vehicle Impoundment Form (TPD 920)*. One copy of the form shall be provided to the driver of the vehicle and one copy to the tow truck driver. The original of the form shall be sent to Records.

The only exceptions to the use of the *Vehicle Inventory Form (TPD 913)* for a vehicle inventory search are pursuant to ARS 28-3511 (mandatory vehicle impoundment) and for a Tucson City Code violation of the Off-Road Vehicle Ordinance. If the resulting investigations are eligible for an S-Sam clearance and no items of evidentiary value or safekeeping are removed, officers shall document the investigation and inventory on the *Notice of Vehicle Impoundment Form (TPD 920)*. The original of this form shall be sent to Records and a copy retained by the officer for court.

The officer shall notify TWX within 2 hours of the vehicle being towed and inform the TWX operator that the vehicle was impounded. Records will then deliver the impound notice via first class mail to any registered owner or lien holder of the vehicle. This is in addition to the notice delivered by the officer in the field.

**2835 Safety Concerns**

Officers shall consider the welfare of persons whose off-road vehicle has been impounded. Officers shall ensure that violators have transportation from the location of the offense to an area of safety if appropriate. The temperature, distance from a telephone or transportation, the age of the violator, and other significant factors known to the officer shall be considered when determining if the violator requires transportation. A supervisor's authorization is required prior to the transportation of a citizen.

**2836 Paperwork**

After giving the violator their copy of the citation, the officer shall retain the remaining copies and deliver them to the court on the date and time of the hearing. The officer shall ensure that *Notice of Vehicle Impoundment Form (TPD 920)* was completed and the copies distributed as noted.

In those instances when a *Notice of Vehicle Impoundment Form (TPD 920)* was utilized and a case report was not generated, the officer shall retain a copy of the original *Notice of Vehicle Impoundment Form* for court, due to the short time span between the violation and the scheduled court date.

**2837 Hearings for Off-Road Offenses**

The violator shall be given a hearing within forty-eight (48) hours. The hearing time shall be 1400 hours excluding weekends and holidays, in accordance with the schedule published by the department. Officers shall deliver the original citation, (less the defendant's copy), to the court at



the date and time of the hearing. This will be taken to the 1<sup>st</sup> floor reception desk at City Court, Suite 104. Officers may bypass any line formed at this desk and hand the citation directly to the clerk so as not to adversely affect the assigned court time. The officer shall bring a copy of the original *Notice of Vehicle Impoundment Form (TPD 920)* for testimony purposes.

The appearance of the citing officer at the hearing is mandatory. If more than one officer witnessed the offense, and the court date falls on an officer's normal day off or a scheduled leave day, the citing officer will be an officer who will be on duty on the court date/time when possible. Under no circumstances will more than one officer be listed on the citation to testify at court.

In order for the citation to be upheld, officers will be required to testify as to the location where the offense took place. Officers will be required to show that the violation occurred within ¼ mile of a structure within the City of Tucson.

**2838 Release of Vehicles Impounded Under This Section**

The tow company will not release a vehicle from its storage lot to its owner without the appropriate release paperwork from City Court.

**2839 Exceptions**

Tucson City Code provides an exception for a motor vehicle owned by a business or enterprise licensed by the city and used in the legitimate off-road operations of the business or enterprise. This would include uses such as sand and gravel operations, land surveying operations, construction companies, utility companies, and other similar enterprises.

An example of this is hot air balloon recovery vehicles. In a situation where the vehicle was commercially licensed, had a visible logo or equally plain identifying marks of the business, and was in the process of following or recovering a hot air balloon, the off-road vehicle ordinance would not apply.

**2840 DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS**

**2841 General**

Individuals under the influence of intoxicating liquor or drugs observed prior to the act of driving a motor vehicle shall, if possible, be prevented from driving. No member of this department shall allow any person to drive a motor vehicle for the sake of making an arrest for Driving Under the Influence (DUI). Supervisors shall be consulted whenever doubt exists.

The ultimate goal of DUI enforcement is to reduce the number of impaired drivers on our streets. DUI investigations will be conducted in a systematic way in order to comply with the statutes and case law applicable to impaired driving investigations.

The Impaired Driver Enforcement (IDE) Squad is available to assist in DUI Investigations. IDE Squad members receive special training in the detection and processing of impaired drivers. IDE Squad vehicles are equipped with approved evidentiary breath-testing instruments to assist with



investigations. Periodically, the IDE Squad will be part of increased deployments around holidays and other times of the year when DUI offenses are the most prevalent.

## **2842 Pre-Arrest Investigation**

The DUI pre-arrest investigation of a DUI offense is usually conducted in three phases. Officers shall base their decision to arrest an impaired driver on all of the evidence collected during the investigation.

### **2842.1 Phase 1: Vehicle in Motion**

This phase consists of the officer's observations of the vehicle before contacting the driver. In all cases, an officer needs reasonable suspicion to stop a motor vehicle for a traffic violation or other offense. Officers who come into contact with an occupant of a parked vehicle during a voluntary field interview must have reasonable suspicion to detain the person for investigation.

When encountered, officers shall stop a driver operating a vehicle in a manner that indicates they may be impaired. During the stop, officers will look for additional signs of impaired driving (e.g., tries to flee, no response to emergency equipment, abrupt weave, sudden stop, strikes curb, etc.). Officers may refer to *The Visual Detection of DWI Motorists* booklet published by the National Highway Traffic Safety Administration (NHTSA) for some common driving cues of an impaired driver.

Officers stopping a vehicle for other traffic violations (e.g., registration violation) will make close observations of the stop for any indications of impaired driving.

Officers responding to a collision scene will look for indications of impairment. Before individuals involved in a crash can be charged with DUI there must be evidence that they were driving or in physical control of the vehicle. Officers will consider the following:

- Physical evidence (such as clumps of hair, blood or injuries to the suspect) may be sufficient grounds if corresponding damage to the vehicle can be located.
- Witnesses may be able to testify that the suspect was driving. This includes passengers in the suspect vehicle, the victim and passengers in the victim vehicle, even if the suspect admits to driving. When documenting witness information, officers shall obtain as much personal information as possible (e.g., the current information that a driver license would contain along with day and evening phone numbers).

Physical control cases require officers to collect evidence that demonstrates a driver was in physical control of a vehicle while under the influence. It is imperative that officers document the details under which they discovered the driver. Items officers will look for include, but are not limited to, vehicle key in the ignition, whether the vehicle's engine was running or in gear, placement of the driver, and the location of the vehicle.



### 2842.2 Phase 2: Personal Contact

This phase consists of the officer's observations during the initial contact of the driver, usually commencing before the driver exits the vehicle and continuing until just prior to Field Sobriety Testing.

Officers will take notes of what they see (e.g., bloodshot watery eyes, soiled clothing, fumbling fingers, alcohol containers, etc.), hear (e.g., slurred speech, inconsistent responses, abusive language) and what they smell (e.g., alcoholic beverages, odor of marijuana, cover up odors, etc.) and document their observations on a *DUI report*. Officers will ask the driver, "Have you been drinking?"

If officers observe indications of possible impairment they shall ask the suspect to exit the vehicle. Officers shall observe the way the defendant exits the vehicle and moves to the Field Sobriety Test location for additional signs of impairment (e.g., leaves car in gear, keeps hands on the car for balance, balance while standing or walking, etc.).

### 2842.3 Phase 3: Pre-Arrest Screening

This phase consists of the Field Sobriety Testing (FST), which includes the three Standardized Field Sobriety Tests (SFST) and several optional tests. All of the tests given shall be documented on a *DUI Report*. Instructions for the three SFSTs are included in the *DUI Report*.

Unless the suspected impaired driver is injured or refuses to be tested, officers will have the suspect perform field sobriety tests at the scene whenever possible. It is not necessary to advise the suspect of *Miranda* warnings when requesting field sobriety tests, as long as no interrogation is done.

Prior to the testing, officers shall ask the suspect if the suspect is injured, sick, has any physical disabilities, and if the suspect's shoes are comfortable. Documentation of the suspect's answers shall be noted in a *DUI Report* along with the surface and lighting conditions for the tests.

The tests will normally be performed in the order presented on the *DUI Report*. Officers will strive to conduct all three SFSTs during their DUI investigation. Officers may use the optional FSTs when they are deemed necessary to their investigation.

## 2843 Field Sobriety Tests

### 2843.1 Standardized Field Sobriety Tests

- **Horizontal Gaze Nystagmus** – This test may only be done by a certified HGN Technician. The Horizontal Gaze Nystagmus is evaluated based on the standardized criteria. The six cues to document the suspect's performance are included in the *DUI Report*.



- If a non-certified officer wishes to include HGN as one of the field sobriety tests, a certified technician must respond and give the test. It is not necessary for HGN to be done to establish probable cause for a DUI arrest.
- **A certified HGN Technician is an officer who meets all of the following criteria:**
  - Completed NHTSA DWI Detection and Standardized Field Sobriety Test School.
  - Attended and passed a certification workshop with 80% or more accuracy.
  - Has currently maintained HGN logs with a percentage at 80% or more.
  - Has attended HGN update training within the last two years.
- **Walk and Turn Test** - The instructions for the Walk and Turn Test are in the *DUI Report*. The Walk and Turn Test is evaluated based on the standardized criteria. The eight cues and a diagram to document the suspect's performance are included in the DUI Report.
- **One Leg Stand Test** - The instructions for the One Leg Stand Test are in the *DUI Report*. The One Leg Stand Test is evaluated based on the standardized criteria. The four cues and a diagram to document the suspect's performance are included in the *DUI Report*.

#### 2843.2 Optional Field Sobriety Tests

The following tests are optional. Officers may consider using these tests in situations where the Standardized Field Sobriety Tests cannot be completed. The optional tests may provide additional cues of impairment consistent with the suspect's lack of ability to divide attention.

- **Alphabet/Number Test**
  - The instructions for the Alphabet/Number Test are on the *DUI Report*. The Alphabet/Number Test is evaluated based on cues listed on the report. Officer will have the suspect complete the test on a standard lined *Continuation Report*.

- **Rhomberg Modified**

Instructions: The following instructions shall be repeated to the driver: "When I tell you, I want you to stand with your heels together and your arms down to your sides, close your eyes and tilt your head back and estimate thirty (30) seconds. (Demonstrate, but do not close your eyes). When you think thirty seconds has



gone by tilt your head down, open your eyes and say the word 'stop.' Do you understand?" Clarify any questions and note clarifications in the report.

Evaluation: Officers shall time the suspect and stop the test at ninety (90) seconds. Observe the suspect during the test and note observations such as: "Required additional instructions during testing, opened eyes during testing, failed to keep heels together throughout, failed to keep head tilted back, etc." Document how much the subject swayed, how much the upper body rotated, and how long the suspect estimated thirty seconds.

- **Finger to Nose Test**

Instructions: The following instructions shall be repeated to the driver: "When I tell you, I want you to stand with your heels together and your arms down at your sides, pointing your index fingers with your palms facing forward. Your index fingers are the fingers closest to your thumbs. (Demonstrate the position and place the suspect in this position). When I tell you to I want you to close your eyes and tilt your head back. Then using the finger I tell you, touch the tip of your nose with the very tip of your finger. (Demonstrate, but do not close your eyes). Do you understand? Close your eyes and tilt your head back.

Evaluation: The sequence for the finger to nose shall be left – right – left – right – right – left. The officer shall observe the suspect for required additional instructions during testing, open eyes during testing, failing to keep heels together throughout, failing to keep head tilted back, using a hand other than the one designated, missing nose with finger-tip, touching nose with other than finger-tip.

Documentation of the optional tests shall be included in the officer's narrative report.

#### 2844 **Interview of the Suspect**

If the officer's suspicions are further corroborated upon completion of the field sobriety testing, the officer shall advise the suspect of *Miranda* rights and obtain a waiver before commencing interrogation. The questions on the *DUI Report* are the minimum questions that will be asked at this time. Nothing precludes the officer from asking additional questions the officer believes will assist in the investigation. Any additional relevant questions shall be documented in the narrative.

#### 2845 **Evaluation**

A determination shall be made to arrest or release the suspect based upon all the evidence gathered including the driving behavior/violations (Phase 1 - Vehicle in Motion), physical observations (Phase 2 - Personal Contact) and performance on FSTs and information from the interrogation (Phase 3 - Pre-Arrest Screening). Officers having probable cause to believe that a suspect is under the influence of intoxicating liquor and/or drugs shall arrest the suspect.

#### 2846 **DUI Post - Arrest Investigation and Chemical Testing**





Persons arrested for DUI must be allowed access (by phone or in person) to an attorney, if requested, before taking a chemical test if granting the request will not unreasonably interfere with the investigation.

It is not necessary to seize alcoholic beverage containers. However the number, size and type of containers found along with their condition (e.g., half full, cold to the touch, recently spilled, etc.) shall be documented in the officer's narrative report.

Chemical testing primarily consists of the collection of a chemical test or tests (breath, blood, and/or urine). There are four lawful methods to obtain a chemical sample for testing of alcohol concentration or drug content of a suspect's breath, blood, urine or other bodily substance. These four methods are described in the order they will normally be invoked.

#### 2846.1 Implied Consent/Admin Per Se

Under ARS 28-1321 and ARS 28-1385, officers may invoke Implied Consent/Admin Per Se statutes after a person has been placed under arrest for an impaired driving violation as outlined in these statutes. In the rare instance that a full custody arrest cannot be effected (i.e. suspect is admitted to the hospital) and a field release is not an option (i.e. felony case, subject unable to sign citation, etc.), Implied Consent shall not be utilized as a method for obtaining a chemical sample. Officers shall then utilize the options of a medical draw, search warrant or voluntary consent as outlined in *G.O. 2846.2*, *G.O. 2846.3*, and *G.O. 2846.4*.

- **Suspect Refuses**

If the suspect refuses to take a test or does not successfully complete the test, properly complete an *MVD DUI Affidavit*. Serve the driver with a *Twelve (12) Month Implied Consent Order of Suspension*. Take possession of the driver's Arizona license or permit. (Only Arizona licenses or permits may be seized).

If a valid Arizona license or permit has been surrendered, complete a *Fifteen (15) Calendar Day Temporary Driver Permit*. For a driver license that is expired, suspended, or cancelled, or if the license is not in possession, a temporary permit shall not be issued. The arrestee shall be given their copies of the *MVD DUI Affidavit* and directed to contact an MVD office to surrender their driver license in order to obtain a temporary driver permit. The bottom of the *MVD DUI Affidavit* shall indicate the reason the temporary permit was not issued.

- **Alcohol Concentration (AC) of 0.08 or More**

Administrative Per Se suspension provides for a ninety (90) day suspension in cases where a suspect submits to blood or breath alcohol test under implied consent with the result of 0.08 or more alcohol concentration in their blood or



breath or 0.04 or more alcohol concentration in a driver's blood or breath if the person was driving or in physical control of a commercial vehicle.

In situations where the driver has completed a test to determine their alcohol content and the results indicate an AC of 0.08 or more, or an AC of 0.04 or more if the person was driving or in physical control of a commercial vehicle, the officer's responsibilities are to complete the *DUI Affidavit*, serve the driver with a *Ninety (90) Day Order of Suspension*, and take possession of the driver's Arizona license or permit.

- **Blood Test Results Are Not Available**

When results from a blood test are not readily available, the officer's responsibilities are to complete the *DUI Affidavit*, serve the driver with a *Ninety (90) Day Order of Suspension*, and take possession of the driver's Arizona license or permit.

#### 2846.2 **Medical Draw**

If probable cause exists to arrest a subject for DUI, and the suspect is taken to a hospital for treatment, a blood or urine sample may be obtained. If a sample of blood, urine or other bodily substance is drawn by the hospital for any reason, the officer has a right to a portion. ARS 28-1388E gives police the right to the sample. If the hospital's sample is tested to determine blood alcohol concentration, ARS 28-1390 gives police the right to a copy of any report generated concerning the person's blood alcohol concentration upon request.

If hospital personnel refuse to give an officer a portion of blood drawn for medical purposes or a copy of any report generated concerning blood alcohol concentration, the officer will contact a police supervisor. It will be the police supervisor's discretion as to whether the hospital personnel will be cited for the refusal or whether the incident will be documented and forwarded to the Traffic Investigators and the Legal Advisor.

If no blood, urine or other bodily substance is to be drawn by medical personnel, the officer shall follow the procedure outlined above in *General Orders 2846.1*.

#### 2846.3 **Search Warrant**

When an officer is unable to obtain a chemical sample through Implied Consent and no sample is taken under a medical draw the officer will obtain a search warrant based on probable cause for a blood and/or urine sample.

Officers will follow the same procedures as for obtaining any other telephonic search warrant.

#### 2846.4 **Voluntary Consent**



An officer may also request a voluntary blood sample if unable to obtain a chemical sample under Implied Consent, a medical draw, or a search warrant.

## 2847 **Chemical Tests**

Chemical testing shall not be administered without the permission of the suspect to be tested unless the person is unconscious and implied consent applies or a search warrant is obtained for the required test. If an alcohol concentration of 0.35 or more is obtained, the arrestee shall be transported to a hospital for medical treatment.

### 2847.1 **Breath Test**

This test may be requested in most DUI arrests except when the arrestee is unconscious or injured and is transported to the hospital, or the arrestee has diminished lung capacity, respiratory disease, or a mouth injury that precludes a breath test. Officers may request that the violator submit to a blood test instead of, or in addition to, a breath test under Implied Consent.

Even when DUI is not suspected at a fatality or serious collision scene, any officer who is trained to use an approved breath-testing instrument may offer the driver a voluntary test to help establish that the driver was not under the influence of alcohol.

### 2847.2 **Blood or Urine Test**

An arrestee has the same rights to refuse a blood or urine test as to refuse a breath test. The penalties for refusal are the same. If the arrestee refused to take the blood test or urine test, the *MVD DUI Affidavit* shall be completed.

Blood collection kits contain a povidone-iodine swab and two gray-topped tubes (vacutainers) for the blood sample. These kits will be used under the following circumstances:

- The officer requests a blood test
- An arrestee in custody requests an independent test at their own expense

The kits shall not be used when a suspect is field released and requests a blood test at their own expense.

When a person submits to a blood test under the provisions of ARS 28-1388, only a physician, registered nurse or other qualified person may withdraw blood for the purpose of determining the alcohol concentration. An officer will witness the blood draw and take immediate custody of the sample. The officer shall document the sterilizing agent used, any unusual circumstances, and the entire chain of custody.

The officer shall obtain a portion of any blood drawn by using a Blood Alcohol Kit. If no Blood Kits are available the officer may request the hospital draw the blood using "gray top" tubes. Blood shall be submitted as evidence and placed in an evidence refrigerator.



A department member who has completed the AZ P.O.S.T. approved training course as a phlebotomist is considered an "other qualified person" under ARS 28-1388. Department phlebotomists are authorized to draw blood for DUI and other criminal investigations only. Phlebotomists will draw blood in accordance with the Tucson Police Department Phlebotomy Guidelines.

If the officer suspects drug use, a blood or urine sample should be obtained in addition to the breath test under the Implied Consent Law and submitted to the Department of Public Safety (DPS) for analysis.

In cases where the impairment is not consistent with the AC test results, officers may use the Implied Consent law to obtain a urine test. Officers should utilize a DRE officer if available to continue the investigation. If a DRE is not available, officers shall utilize a urine test kit, or the urine cup supplied by the hospital if hospital personnel collect the sample. If hospital personnel collect urine, the officer will observe the collection and take custody of the sample from that person. The officer shall document any sterilizing agent used, any unusual circumstances, and the entire chain of custody.

Any information regarding the suspected drug type, the condition of the arrestee, types of drugs found in the area of the arrestee or any other information that may be useful in determining the drug will be documented on a DPS property sheet, known as an *Agency Request for Scientific Examination Form*, which will be placed with the urine kit in an evidence refrigerator.

### **2847.3 Right to an Independent Test**

The suspect shall be advised of the right to an independent test or tests in all DUI arrests, regardless of whether the suspect completed a test for the officer. Failure to do this will result in the charges being dismissed. The officer advising the suspect shall document this on the bottom of the *Intoxilyzer Checklist* or the bottom of the *Blood/Urine Report*.

If the suspect is to be field released in accordance with the provisions of ARS 13-3903, it is the suspect's responsibility to obtain such tests.

If the suspect is to be booked and desires an independent test, the officer shall transport the suspect to a hospital of the suspect's choice (within Tucson) for the test prior to booking. This will occur as soon as practical after the arrest. If the blood is drawn, the officer is entitled to a portion of the sample in accordance with the Blood Test procedure and provisions of ARS 28-1388.

### **2848 Disposition of Arrestee**

Subjects who are eligible for field release shall not be allowed to walk from the scene unless released to a responsible sober third party. Officers will secure the arrestee's vehicle in accordance with department procedures dealing with a full custody arrest. Arrestees shall be advised not to return to the vehicle or drive until sober. If an officer has reason to believe, based



on the arrestee's statements or actions, the arrestee will attempt to immediately return to the vehicle and drive, the vehicle may be towed from the scene.

In certain cases, the law will require the impoundment of the arrestee's vehicle. See *General Order 2880* for additional details.

## 2849 Charging in DUI Cases

### 2849.1 Misdemeanor DUI

The officer will issue citations for each DUI related offense for which the officer has probable cause (in some cases as many as four charges would be appropriate depending on the arrestee's AC). See ARS Title 28 for current DUI statutes.

### 2849.2 Aggravated DUI

When charging with a felony DUI, do not cite the underlying civil or misdemeanor DUI charges. These "lesser included" violations must be documented in the associated report(s) and need to be time/location specific. See ARS Title 28 for current DUI statutes.

## 2850 STOLEN AND EMBEZZLED VEHICLES

### 2851 Stolen Vehicles

Vehicle titles and registrations are not always updated by vehicle owners, and too frequently the actual owner of the vehicle is not the registered owner. Therefore, when a vehicle is reported as stolen, the member taking the report shall determine both the actual owner of the vehicle and the registered owner. The actual owner shall be listed as the victim in the case report and the registered owner (including name, address, and telephone number) shall be listed in the narrative. In the event the actual owner and registered owner are the same, a statement of such shall appear in the narrative. The member shall notify TWX within 30 minutes after receiving or initiating stolen vehicle call.

#### 2851.1 Stolen Vehicle Agreement

In order for a vehicle to be reported stolen, the TPD *Stolen Vehicle Agreement* will be completed. It requires photo identification verification and the signature of the complainant, and admonishes the signer against false reporting and defrauding secured creditors. Completed forms shall be forwarded to Records.

In the event that the complainant reporting the stolen motor vehicle is not the registered owner, the officer must establish the complainant's interest in the vehicle. The officer will ask questions to verify the legitimacy of the complainant's control over the vehicle. If the officer determines that the complainant was in legal possession and control of the vehicle when it was stolen, the officer shall complete a stolen motor vehicle report. Under these circumstances, the complainant shall sign the TPD *Stolen Vehicle Agreement*, and the officer shall make a good faith effort to contact the registered owner.



If the officer is unable to contact the registered owner, the attempt will be documented in the narrative section of the case report it will be the responsibility of the Auto Theft Unit to make telephone contact or mail notification of the reported theft to the registered owner's last known address.

#### **2851.2 Refusal to Prosecute**

In some instances, the registered owner of a vehicle will call to report that their vehicle has been stolen but will indicate that they do not wish to press charges. In this instance, the responding officer shall advise the complainant that the police department will take a report for documentation purposes, but that we will not enter the vehicle in the computer system as a stolen or conduct any follow-up investigation. If the complainant still wishes to make the report without prosecution, the officer will prepare a case report documenting the circumstances. The case report shall be classified as "61.02 - Miscellaneous/Public" and field closed. No notification shall be made to TWX regarding the vehicle.

### **2852 Recovered Stolen Vehicles**

#### **2852.1 Recovered TPD Stolen Vehicles**

When a stolen vehicle is recovered that was reported to TPD, the officer making the recovery shall prepare a *Supplementary Report* documenting the action. The officer shall request that the TWX operator notify the owner to respond and take custody of the vehicle after the necessary processing has taken place. If the owner cannot be reached, the vehicle will be stored by the contract tow company. If the recovery occurred at a privately owned tow company storage facility, the vehicle shall remain at that location. The name of the tow company shall be noted on the report.

#### **2852.2 Recovered Stolen Vehicles for Other Jurisdictions**

When a stolen vehicle is recovered that was reported to another law enforcement agency, the officer making the recovery report shall prepare a case report documenting the action. The officer shall request that the TWX operator notify the owner to respond and take custody of the vehicle after the necessary processing has taken place. If the owner cannot be reached, the vehicle will be stored by the contract tow company. If the recovery occurred at a privately owned tow company storage facility, the vehicle shall remain at that location. The name of the tow company shall be noted on the report.

#### **2852.3 Follow-up and Owner Notification**

The Records Section will route the recovery report to the Auto Theft Detail. The supervisor of the Auto Theft Detail shall be responsible for ensuring that all such reports are assigned for follow-up as appropriate.

If the actual owner has not yet been notified of the recovery, it shall be the responsibility of the Records Section to do so. A letter will be sent to the last registered owner and/or



the victim listed on the case report indicating the recovery of the vehicle and where it has been stored.

#### **2852.4 Recovery of TPD Stolen Vehicles by Another Jurisdiction**

If another jurisdiction reports the recovery of a vehicle reported stolen to TPD, the TWX operator shall create a stolen vehicle recovery report. The TWX operator shall indicate on the check for proof whether or not the owner was contacted about the recovery. If the TWX operator was unable to notify the owner, a letter will be sent indicating the vehicle was recovered and where it has been stored.

#### **2852.5 Stolen-Recovered Vehicles Needed as Evidence**

When, in addition to being a "stolen-recovered," a vehicle is to be seized as evidence, the procedures in this chapter on impounding vehicles shall take precedence, and the vehicle impounded.

### **2853 Embzzled Vehicles**

#### **2853.1 Rental Vehicles**

Officers are directed to ARS 13-1806, "Unlawful Failure to Return Rented or Leased Property" for specifics related to this crime. The statute has a required 72-hour waiting period, so vehicles are not considered stolen unless they have been missing for at least 72 hours from the time they were due back and other statutory requirements have been met. Such cases shall be classified as "Embezzlement/Rental Property" (12.01).

#### **2853.2 Embezzlement of a Vehicle, Borrowed or Loaned**

It is the policy of the Tucson Police Department to consider a vehicle to be embezzled when it has been missing for seven days from the time it was due back to the complainant. When conducting the preliminary investigation involving a borrowed or loaned embezzled vehicle that has not been missing for the requisite time, the officer will:

- Advise the complainant that an "Attempt to Locate" will be broadcast regarding the vehicle.
- Avoid telling the complainant that the vehicle information will be entered into the computer.
- In most cases, document the contact as a "Miscellaneous Incident" with the proper clearance being "Miscellaneous/Public."
- Advise the complainant to re-contact the department after the required seven days has elapsed, if the vehicle is still missing.

Officers will complete a case report classified as "Motor Vehicle Theft/Embezzlement/Other (12.04)" if the complainant re-contacts the department after the seven-day waiting period. TWX shall be notified.



If, at the initial contact, the complainant insists that a report be taken when the elements required of an "Embezzlement/Other (12.04)" case do not exist or the seven-day waiting period has not elapsed, the officer will complete a case report classified as "Miscellaneous/Public (61.02)". The officer will then advise the complainant that a local "Attempt to Locate" will be issued and to re-contact the department after the seven-day waiting period has elapsed.

If there are aggravating circumstances and the officer believes the report must be made immediately, then a case report shall be completed, classified as "Embezzlement/Other (12.04)" and TWX shall be notified.

#### **2853.3 Vehicles Taken With a "Bad" Check**

Cases involving vehicles purchased with a "bad" check will be routed to the Auto Theft Unit. Often, these cases will be civil in nature and will ultimately be classified as such. In cases where there is clear intent to deprive the vehicle owner of their property through the issuance of a bad check, the report will document the appropriate facts and be classified as "Motor Vehicle Theft/ Stolen."

#### **2854 Missing Vehicle - No Crime has Occurred**

When the necessary elements of theft cannot be established immediately, officers will advise the complainant that the situation is a civil matter and that neither a report nor an "attempt to locate" will be made. When unsure if a stolen report should be taken, officers will consult a supervisor. Procedures for handling more frequent circumstances follow:

##### **2854.1 Loaned to an Acquaintance with the Owner's Consent**

Advise the complainant that no report will be taken unless one of the following can be shown:

- Individual with the vehicle is attempting to or has left the jurisdiction of this state.
- Vehicle is to be disassembled or sold without the owner's consent.

##### **2854.2 Roommates of Business Partners**

A report will not be completed unless it can be clearly shown that one or more of the following criteria has been met:

- Vehicle has been stripped or destroyed.
- Vehicle's identity has been altered or changed.
- Vehicle is being concealed from the owner to prevent the owner from retaking it.

##### **2854.3 Missing from Inventory at Dealership**

In the absence of any evidence of theft, use the same procedure as for embezzled vehicles, employing the seven-day waiting period.

##### **2854.4 Taken by Family Member**





A report will be completed only if the victim is willing to prosecute and the following criteria are met regarding the suspect:

- Never had permission to drive the vehicle.
- Does not possess keys to the vehicle.
- Clearly does not intend to return the vehicle.

#### **2855 Watch Your Car Program**

The Tucson Police Department participates in the "Watch Your Car" program that is sponsored by the Arizona Automobile Theft Authority.

"Watch Your Car" is a national auto theft prevention program. Registrants are provided with crime prevention decals for their vehicles. They sign a waiver that allows police to stop their vehicle between the hours of 1:00 a.m. and 5:00 a.m. to verify that the person driving is either the owner or has the owner's permission to have the vehicle. The other element of this program is that all vehicles with "Watch Your Car" decals can be stopped within one mile of the international border.

Officers are encouraged to make stops of vehicles displaying the "Watch Your Car" decal during appropriate time frames. The Tucson Police Department, as a participating agency in the "Watch Your Car" program and as a beneficiary of grant funding, is required to track police contact with these vehicles. Any time an officer stops a vehicle with a "Watch Your Car" decal between 0100 and 0500 hours, the officer will complete a computer mask utilizing the "WYC" entry in CAD. This will generate an automated message for tracking purposes.

There is not a requirement for officers to have other reasonable suspicion to stop a vehicle displaying a "Watch Your Car" decal between 0100 hours and 0500 hours.

### **2860 TOWING, IMPOUNDING AND INVENTORY OF VEHICLES**

#### **2861 General**

Vehicles associated with any police investigation or contact must be treated as any other property or evidence that comes into the control of the department. Any time an officer tows or otherwise stores a vehicle, it is the officer's responsibility to properly notify TWX within 2 hours of the vehicle being towed and complete the necessary paperwork.

#### **2862 Tow Companies**

When a driver or owner of a vehicle requests a tow, officers will determine if the driver or owner has a specific preference for a tow company and will relay that information to Communications. If a citizen has no preference, the officer will advise Communications of the "no preference" request and will include the name of the responding tow company and the storage location in the appropriate reports. A tow truck will not be requested until such time as the investigation will allow the vehicle to be removed.



If the person requesting the tow decides to cancel the tow, the cancellation shall be documented in the case report. The person will be advised that most tow companies will seek to recover some payment for the cancelled tow.

Tow truck drivers are responsible for cleaning up the scene of a collision before leaving the scene, per state law. Officers shall ensure that all collision related debris is removed from the roadway.

Any concerns or conflicts with wrecker companies shall be referred to the Administrative Support Division.

#### **2863 Illegally Parked or Hazardous Vehicles**

If a vehicle is to be towed for a parking violation or because it constitutes a hazard (e.g., blocking the roadway), the officer shall call the contract tow company. If the vehicle is unlocked and the owner or driver is not present, the officer shall inventory the vehicle and complete a *Vehicle Inventory Form (TPD 913)*, pursuant to *General Order 2865*. If the vehicle is locked, it shall be towed locked. The officer shall complete a case report including the name of the storage facility to which the vehicle was towed. A parking citation shall be issued for the specific violation for which the vehicle is being towed. A copy of the parking citation will be left with the vehicle. The officer shall also notify TWX.

#### **2864 Securing Vehicles Incident to Arrest**

Whether a vehicle is to be towed, released to a third party, or secured by the officer at the scene of an incident, the guidelines in this section are to be followed.

##### **2864.1 Tow Companies**

See *General Order 2862* regarding tow services.

##### **2864.2 Release to a Third Person**

Upon request, and when it is legal to do so, the officer shall release the vehicle to a person identified by the driver or owner, if that person can be contacted and can respond to the scene in a reasonable amount of time. The driver's or owner's decision to have the vehicle released and the name and address of the person to whom the vehicle is released shall be included in the appropriate report

##### **2864.3 Secured at the Scene**

If the driver or owner wishes to have the vehicle secured at the scene, the officer shall:

- Ask the owner if the vehicle contains items of value. If it does, ask whether the owner wishes to have those items locked in the trunk of the vehicle or if the owner prefers to have the vehicle towed. Documentation of this question and answer shall be included in the case report.



- If the vehicle is not already locked and legally parked in a public parking area, and there is a public parking area within sight of the arrest scene, the officer will drive the vehicle to that parking area.
- After parking the vehicle the officer will place his/her department business card in the driver's side front window area of the vehicle.
- The officer shall document the disposition and location of the vehicle and its keys in the case report and notify TWX of its location.

Officers shall enter a vehicle secured at the scene only when it is necessary to do so.

In unusual situations (owner indicates, for example, that the vehicle contains items of significant value, there is no convenient place to legally park the vehicle, or the vehicle cannot be properly secured) an officer may choose to advise the person that a tow will have to be arranged in order to properly secure the vehicle. In such a case, the tow shall be arranged through the company preferred by the owner or the driver or through the contract tow company if the owner has no preference.

## **2865 Impounding Vehicles**

Normally vehicles are only impounded as evidence, as an instrumentality of a crime, as fruit of a crime, for the purpose of forfeiture, or as required by statute. Other than vehicle impoundments required by statute, a vehicle shall be impounded only with the approval of a supervisor.

Impounded vehicles, with the exception of those mandated by statute), are to be stored at the police impound lot. Unless unit procedures direct otherwise, the contract tow company will be used to tow the vehicle. In order to establish the chain of custody, the impounding officer shall accompany the wrecker to the impound lot and remain with the vehicle at all times until it is secured.

At the impound lot, the vehicle shall be parked in an appropriate space and a Vehicle Control Sheet prepared. Unless the vehicle is subject to forensic analysis, the officer shall properly inventory the vehicle, complete the *Vehicle Inventory Form (TPD 913)*, ensure the windows are rolled up (or adequately covered if that is not possible), and lock the doors if the keys are available.

Officers will not impound a burned vehicle unless it is specifically requested by the detective responsible for the arson investigation. If the detective does not want the vehicle impounded, it shall be commercially stored or towed to the owner's property at their expense.

### **2865.1 Release of an Impounded Vehicle**

When releasing a vehicle from the police impound lot the officer shall complete a *Property Release Form* and file it with Records, notify the Vehicle Control Officer, and notify TWX.



## 2866 **Vehicle Inventories**

The vehicle inventory is designed to protect the owner's property while it is in police custody, to protect members against claims of lost, damaged, or stolen property and to protect members and the community from loss and potential danger. The vehicle inventory is an administrative search and not a search for evidence. All vehicles meeting the criteria for inventory shall be inventoried.

When a vehicle is inventoried, the officer shall complete the *Vehicle Inventory Form (TPD 913)*. The completed form shall be submitted to Records.

The only exceptions to the use of the *Vehicle Inventory Form* for a vehicle inventory search are pursuant to ARS 28-3511 (mandatory vehicle impoundment) and for a Tucson City Code violation of the Off-Road Vehicle Ordinance. If the resulting investigation is eligible for an S-Sam clearance and no items of evidentiary value or safekeeping are removed, officers shall document the inventory on the *Notice of Vehicle Impoundment Form (TPD 920)*.

### 2866.1 **Scope**

The scope of the inventory of items shall include the passenger compartment, trunk, glove box and all containers in the vehicle, whether locked or unlocked. Officers will look in all areas where valuables or dangerous items could reasonably be located. Under normal circumstances, disassembling vehicle parts or accessories is not within the scope of an inventory search. The inventory shall be conducted at the scene unless it is unsafe or impractical to do so. If circumstances require the removal of the vehicle prior to inventory, it may be conducted at a later time.

### 2866.2 **Procedure**

Inventories shall be conducted as follows:

Officers will inform the owner/driver the vehicle will be inventoried for the protection of the owner/driver as well as the department.

- A complete inventory shall be made of all vehicle contents, including all containers in the vehicle, whether locked or unlocked. The inventory shall also include any vehicle, trailer or other item being towed by the vehicle.
- When inventorying vehicles, officers shall use keys to open locked trunks, glove compartments, or any container if its contents cannot be determined by examining the outside. If keys are unavailable, the city's contract locksmith shall be called out to unlock it. Entry may be forced only if the locksmith fails to respond or responds but is unable to unlock it.
- In the course of attempting to gain access to locked containers or compartments, officers shall take special care to minimize the damage to any property.



- Officers shall complete the *Vehicle Inventory Form (TPD 913)*, completely describing the vehicle and providing a complete list of all items found within the vehicle. The completed *Vehicle Inventory Form* shall be submitted to Records.
- Contraband or evidence discovered during the course of an inventory will be handled pursuant to established procedures.
- Officers shall complete a case report detailing the incident, including the fact that the vehicle was inventoried. Any damage that may occur shall be reported to the Legal Advisor's Office and documented in the case report.
- The contents of the vehicle shall be secured in the most appropriate manner. This may include locking items in the trunk or glove box. Exceptionally valuable items will be taken into police custody and placed in Evidence for safekeeping.

**2867 TWX Notification for all Towed Vehicles**

When a vehicle is towed, stored, or impounded at the direction of an officer, appropriate reports shall be completed, and TWX notification shall be made within 2 hours of the vehicle being towed to document the location of the vehicle.

**2870 ABANDONED (JUNK) MOTOR VEHICLES**

**2871 Illegally Parked or Abandoned Vehicles**

**2871.1 Illegally Parked Vehicles**

Complainants desiring illegally parked vehicles to be removed from private property shall be advised that the department is not responsible for any associated costs for towing or storage, except for a specific violation of City Code or the Junk Motor Vehicle Ordinance.

**2871.2 Found or Abandoned Vehicles**

Vehicles, mopeds, mini-bikes or the like that are found or abandoned on private property may be towed by the contract towing company and shall not be impounded. A case report is sufficient to document the chain of custody.

**2872 Junked or Inoperable Motor Vehicles**

**2872.1 Definitions**



- **Junked or Inoperable Vehicles:** These are defined as any vehicle, including any motor vehicle or other device by which persons or property may be transported (excluding those moved solely by human power) which exhibit one or more of the following conditions: wrecked, partially or fully dismantled, abandoned, stripped, inoperative, inoperable, scrapped, or unable to be safely operated. Current vehicle registration is not a factor. Trailers and camper shells can be considered junked vehicles if they meet one or more of the criteria; bicycles (being human powered) cannot.
- **Prohibited Storage:** No person owning, occupying, or in control of any private property may store a junked or inoperable vehicle on private property or on any sidewalk, street, or alley, except as otherwise permitted (see *Permitted Storage* below).
- **Permitted Storage:** Businesses lawfully licensed under Tucson Code Vehicles may store such vehicles if the vehicle is necessary to the operation of the business. All other vehicles that would otherwise be in violation may be stored on private property, if lawfully enclosed within:
  - A garage or other permanent building without openings, holes, **or gaps other than** doors or windows;
  - A carport with an opaque car cover completely covering the body of the vehicle. Only items designed for covering vehicles permitted, no tarps, sheets, plastic sheeting or similar items.
  - Any fence, wall or barrier, not less than five (5) feet high, constructed of opaque material without openings, holes, or gaps, other than gates or doors. Must completely enclose the vehicle and screen it from view by adjacent properties, and be equipped with self-latching gates or doors.
- **Persons Responsible:** For purposes of this section, this includes the recorded owner, occupant, or person in control of the private property, as well as the registered owner or custodian of the vehicle.

#### 2872.2 Initial Investigation and Notification Procedures

Officers observing a potentially junked or inoperable vehicle should attempt to contact the person(s) responsible for the vehicle and/or property during their initial investigation, and attempt to determine if the vehicle(s) meet the definition. Officers are reminded their investigation must comply with Constitutional Fourth Amendment rights against unreasonable searches; entry into areas where there is a reasonable expectation of privacy (such as an enclosed yard) is not allowed. As long as the observations are made with the naked eye and from a public vantage point where the officers have a right to be, this will be constitutional.

Junked or inoperable vehicles shall be documented in a case report as a Public Hazard – Other (47.05). Officers may use the AFRS template provided for JMV's. The person(s)



responsible for the vehicle and/or the property will each be provided a copy of the *Junk Motor Vehicle Violation Notice (TPD Form 532)*. The notice shall include the officer's name, PR, and a contact phone number, along with a compliance date which is on or after the civil court date for the day the notice is issued (giving a minimum of 30 days, but not more than 60 days). This notice should be served in person when possible, but may also be mailed first class mail (no return receipt required). The original notice will be forwarded to Records for the case file.

### **2872.3 Re-Inspection for Compliance/Citation for Non-Compliance**

On or after the compliance date, the officer issuing the notice shall conduct a re-inspection to determine if the violation has been corrected. Officers may re-inspect earlier based upon a request of the notified parties. If the violation has been abated, the officer shall close the case with a supplement.

If the violation still exists on/after the compliance date, the officer shall attempt to personally serve a civil infraction citation, citing one count of TCC 16-15(a) for each vehicle in violation. If the officer is unable to make personal service, they shall document the attempt in a supplement. After three documented unsuccessful attempts at personal service on different days, preferably at varying times, the officer shall issue the citation by registered mail, (restricted delivery, return receipt requested).

When the officer receives the signed return receipt, the case number should be written onto the receipt prior to it being forwarded to Records for the case file. Note that Arizona Rules of Civil Procedure require either a signed citation or a signed registered mail receipt to show that the violator was aware of the citation or the case will be dismissed. Should the officer be notified by the post office that the registered mail was undeliverable, they shall contact their division Neighborhood Crimes Section so follow-up action can be taken. The officer's citation will be voided as undeliverable.

When issuing an *Administrative Hearing Civil Citation* for a violation of the City Code Junked or Inoperable Motor Vehicle Ordinance, photographs of the violation shall be taken.

### **2872.4 Court Procedures**

When notified that a civil infraction hearing is scheduled, the officer shall request copies of the case file and field photographs for use when testifying. The officer shall, on the day of the hearing, conduct another inspection to see if the violation still exists. The officer will provide the field photographs to the civil hearing magistrate along with the citation proof of service (copy of the signed citation or the signed registered return mail receipt). Officers will document their attendance at the hearing and the outcome on a case supplement, closing the case if the violation was abated prior to the hearing date.

If the violation still exists on the hearing date, the officer shall ask the magistrate for permission to abate the violation by towing any vehicle(s) still present and in violation within thirty (30) days of the hearing.



### 2872.5 Abatement by Towing

If the hearing magistrate authorizes abatement of the violation by towing, then on/after the defendant's court ordered compliance date, the officer shall respond to the location. Vehicle(s) in violation at that time shall be removed using the contract tow service. The officer shall document the abatement on a supplement and close the case. City Code authorizes officers to enter and remain on the property for the purpose of abatements ordered by the court. Any attempt to prevent or interfere with this is a violation of TCC 16-67, Failure to Obey Abatement Order. Sworn officers may arrest for these violations when it is necessary to enforce the court abatement order.

## 2880 VEHICLE IMPOUNDS REQUIRED BY STATUTE

### 2881 General

ARS 28-3511 mandates that law enforcement agencies impound vehicles under certain conditions. See the statute for exact circumstances. Vehicles impounded under this statute will be stored at the contract tow company's lot, not the police impound lot. ARS 28-3511 allows for no discretion on the part of the handling officer. If the conditions of the statute are present, the vehicle shall be impounded as outlined in this section. Vehicles that are impounded due to the requirements of this section shall be subject to an inventory search prior to impoundment.

If the resulting investigation is eligible for an S-Sam clearance and no items of evidentiary value or safekeeping are removed, officers shall document the inventory on the *Notice of Vehicle Inventory Impoundment Form (TPD 920)*. The electronic *Notice of Vehicle Impoundment Form* shall be used instead of the standard paper form when available. Documentation shall include the reason for the stop, any relevant statements made by the occupants and the result of any record checks. If the investigation is not eligible for an S-Sam type clearance, officers shall comply with the appropriate section of *General Orders*. The only exceptions to the use of the *Vehicle Inventory Form (TPD 913)* for a vehicle inventory search are pursuant to ARS 28-3511 (mandatory vehicle impoundment) and for a Tucson City Code violation of the Off-Road Vehicle Ordinance.

If a CSO is investigating a traffic collision and encounters a scenario that requires impoundment of the vehicle under the statute, a sworn officer shall be summoned to the scene. The sworn officer shall serve the *Notice of Vehicle Impoundment (TPD 920)* on the driver of the vehicle. Once notice is signed and served, the sworn member may be released from the scene.

### 2882 Investigative Procedures

Officers investigating incidents that may necessitate vehicle impoundment under ARS 28-3511 shall conduct a thorough investigation. This will require verifying through an appropriate MVD records check that any of the conditions mandating vehicle impoundment are present and/or applicable.





All other elements of the investigation precipitating vehicle impoundment under this section remain the same, e.g., DUI investigation, accident investigation, citations for violations, etc.

### **2883 Impound Procedures**

When an officer determines that the conditions mandating vehicle impoundment are present, the officer shall impound the vehicle. If a Community Service Officer (CSO) encounters a situation in which he/she believes the requirements for impoundment may be present, the CSO shall summon a sworn officer to the scene who will sign and serve the required notice on the driver.

When impounding a vehicle under ARS 28-3511, the officer shall use the contract tow company. The officer shall complete the *Notice of Vehicle Impoundment Form (TPD 920)*. The electronic *Notice of Vehicle Impoundment Form* shall be used instead of the standard paper form when available. One copy of the form shall be provided to the driver of the vehicle and one copy to the tow truck driver. The original of the form shall be sent to Records.

The officer shall notify TWX within 2 hours of the vehicle being towed and inform the TWX operator that the vehicle was impounded under this section, including noting and providing the vehicle odometer reading. Records will then deliver the impound notice via first class mail to any registered owner or lien holder of the vehicle. This is in addition to the notice delivered by the officer in the field.

### **2884 Post Impound Hearings** (Revised: July 2, 2019)

Arizona Revised Statutes provides that hearings may be held to contest the impoundment of a vehicle under this procedure. The Mandatory Impound Unit shall be responsible for handling the post-impound hearing in accordance with ARS 28-3512. The Mandatory Impound Unit Sergeant is responsible to conduct these hearings.

### **2885 Release of Vehicles Impounded Under This Section** (Revised: July 2, 2019)

Officers impounding vehicles in accordance with this *General Order* shall make no statements regarding the release of the vehicle. Citizens should be advised to read the notice provided on the *Notice of Vehicle Impoundment Form (TPD 920)*. They may also be referred to the department's website or to the Mandatory Impound telephone number for additional information.

The tow company will not release a vehicle to its owner without the appropriate release paperwork from our department. Officers shall not advise the person to go to the tow company to request release of the vehicle.

Release of a vehicle impounded under ARS 28-3511 shall only occur when the provisions of the statute regarding release of the vehicle have been satisfied.

#### **2885.1 Release of Impounded Vehicles**

The authorization for release of impounded vehicles will be handled through the Mandatory Impound Unit. Only those personnel designated by the Mandatory Impound



Unit Sergeants are authorized to issue vehicle release paperwork and collect impound fees. Procedures for vehicle release are maintained within the Traffic Division and will be strictly followed when processing vehicle releases.

Impounded vehicle releases will be processed at the Westside Police Service Center at 1310 W. Miracle Mile between the hours of 0800-1700 on regular business days.

## **2890 ROADBLOCKS AND CHECKPOINTS**

### **2891 General**

The Tucson Police Department does not ordinarily operate roadblocks or train members in their use. (See also *General Orders* reference Roadblocks).

### **2892 Emergency Stationary Checkpoint**

A stationary checkpoint to check vehicles (e.g., for an escaped prisoner) shall be conducted only with the permission of a commander. Whenever possible, such checkpoints shall be conducted following the same guidelines as a DUI checkpoint (see *Traffic Division Operating Procedures*).

### **2893 Pre-Planned DUI Checkpoints**

By statutory authority, the Tucson Police Department will operate checkpoints for the prevention of operators driving under the influence of intoxicants following the Tucson Police Department Sobriety Checkpoint Guidelines.