

## **Chapter 5 - Traffic Operations**

## Traffic Function and Responsibility

### 500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in accident situations, but also in terms of traffic-related needs.

### 500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Irvine Police Department. Information provided by the California Statewide Integrated Traffic Reporting System (SWITRS) is a valuable resource for traffic accident occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

Officers assigned to patrol or traffic enforcement functions will emphasize enforcement of accident causing violations during high accident hours and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high accident locations.

Other factors to be considered for deployment are requests from the public, construction zones or special events.

### 500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code § 41603). The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy.

#### 500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

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#### 500.3.2 CITATIONS

Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

- (a) Explanation of the violation or charge
- (b) Court appearance procedure including the optional or mandatory appearance by the motorist
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

#### 500.3.3 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

- (a) Vehicular manslaughter
- (b) Felony and misdemeanor driving under the influence of alcohol/drugs
- (c) Felony or misdemeanor hit-and-run
- (d) Refusal to sign notice to appear
- (e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances

#### **500.4 SUSPENDED OR REVOKED DRIVERS LICENSES**

If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Vehicle Code § 14601.

If a computer check of a traffic violator's license status reveals a suspended or revoked driver license and the traffic violator still has his or her license in possession, the license shall be seized by the officer. The officer shall verbally advise the traffic violator of the suspension or revocation and issue the citation. The officer will be responsible for filling out the Verbal Notice form (DMV form DL-310) and causing that form and license to be forwarded to the Department of Motor Vehicles.

#### **500.5 HIGH-VISIBILITY VESTS**

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 8 CCR 1598).

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

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#### 500.5.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

#### 500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained by each member of the agency ensuring a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained in the Property Division for replacement of damaged or unserviceable vests.

## Traffic Collision Reporting

### 501.1 PURPOSE AND SCOPE

The Irvine Police Department prepares traffic collision reports in compliance with the California Highway Patrol Collision Investigation Manual (CIM) and as a public service makes traffic collision reports available to the community with some exceptions.

### 501.2 RESPONSIBILITY

The Office of Professional Development will be responsible for distribution of the Collision Investigation Manual. Traffic detectives will receive all changes in the state manual and ensure conformity with this policy. The Irvine Police Department will use the CIM as a guide, and reserves the right to make modifications to fit the needs of the Department. Any modifications must be approved by the Chief of Police or their designee before being implemented.

### 501.3 TRAFFIC COLLISION REPORTING

All traffic collision reports taken by members of this department should be forwarded to a supervisor for approval.

Traffic collision reports taken by Traffic Bureau personnel will be forwarded to Traffic Bureau sergeants.

Certain traffic collision reports can be forwarded to traffic detectives, such as fatal traffic collision reports.

### 501.4 REPORTING SITUATIONS

#### 501.4.1 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES

Traffic collision investigation reports shall be taken when a City-owned vehicle is involved in a traffic collision wherein damage or injury results. A general information report may be taken in lieu of a traffic collision report (CHP 555 form) at the discretion of a supervisor when certain criteria are met (see 501.4.3 Supervisor Responsibilities below). Whenever there is damage to a City vehicle, a Vehicle Damage Report shall be completed and forwarded to the appropriate Division Commander.

Photographs of the collision scene and vehicle damage shall be taken at the discretion of the traffic investigator or any supervisor.

If an Irvine Police or City vehicle is involved in a collision in another city, either that city or the California Highway Patrol will conduct the collision investigation and prepare the report. This decision will be made by the police agency which has jurisdiction of the area.

It shall be the officer's responsibility to notify the agency for that jurisdiction.

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**Department Traffic Detective Responsibility:** In all cases where another police agency prepared the collision report, a traffic detective will attempt to obtain a copy of that report within 24 hours after the collision.

#### 501.4.2 TRAFFIC COLLISIONS WITH POLICE DEPARTMENT EMPLOYEES

In all Irvine Police Department vehicle collisions where the damage is minor to moderate, the Irvine Police Department will conduct the traffic collision investigation.

When an employee of this department, either on-duty or off-duty, is involved in a traffic collision in a department vehicle within the jurisdiction of the Irvine Police Department resulting in a serious injury or fatality, the Traffic Lieutenant or the watch commander, should notify the California Highway Patrol for assistance. If the CHP is not able to respond, the incident supervisor will contact a neighboring police agency and request they conduct the traffic collision investigation.

#### 501.4.3 SUPERVISOR RESPONSIBILITIES

The field supervisor will, as soon as practical, prepare the appropriate Department Vehicle Damage Report form relating the circumstances of the incident and any damage.

Within one business day of the accident, the employee's immediate supervisor shall make distribution of the report as follows:

- Assistant Chief of Police
- Employee's Division Commander
- Employee's Lieutenant
- Office of Professional Standards
- Technical Services

Generally a traffic collision report is required, however, In the event of minor traffic collision involving a City vehicle a police report is not necessary if all of the following criteria are met:

- (a) Solo-vehicle collision
- (b) Minor damage to City property only
- (c) No injuries
- (d) Discretion of a supervisor
- (e) City Vehicle Damage Report is completed.

#### 501.4.4 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS

The Traffic Lieutenant or on-duty watch commander may request assistance from the California Highway Patrol for the investigation of any traffic collision involving any City official or employee where a serious injury or fatality has occurred.

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#### 501.4.5 TRAFFIC COLLISIONS ON PRIVATE PROPERTY

In compliance with the Collision Investigation Manual, traffic collision reports should not be taken for traffic collisions occurring on private property, unless there is a death or injury to any person involved, a hit and run violation, suspected DUI driver involved, unlicensed or suspended driver involved, or City property involved. If a CTI or officer responds to a complaint of pain or minor property damage situation, they shall assist the involved parties with exchanging of information. No report case number or additional documentation will be made.

#### 501.4.6 TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS

The closest officer, as determined by the vehicle tracking system or by Communications, will be dispatched to the collision location and will be authorized to respond Code-3. Civilian employees will not be assigned Code-3 responses. Civilian Employees include:

- (a) Civilian Traffic Investigator (CTI)
- (b) Community Services Officer (CSO)
- (c) Parking Enforcement Officer (PEO)

Once personnel arrive on scene, a CTI will respond for the purposes of reporting. If a CTI is not available, a traffic officer or closest patrol officer will be responsible for the investigation and report.

#### 501.4.7 NON-INJURY / NO DETAIL COLLISIONS

A CTI will be the primary responding unit to non-injury traffic collisions. Normal driving practices shall be followed. If a CTI is not available, a traffic officer or the closest patrol officer will be assigned.

A “No-detail” collision shall be dispatched to the closest officer as determined by the vehicle tracking system or by Communications. Normal driving practices shall be followed. Once personnel arrive on scene, a CTI will respond, if available, for the purposes of reporting.

#### 501.4.8 TRAFFIC COLLISION "COUNTER REPORT"

A counter report is a property damage only collision reported by an involved party at the police facility. The involved party will complete the counter report; however, an officer or Front Desk employee may assist. Counter reports will be made at the Front Desk of the Irvine Police Department and may be made by one or more of the involved drivers. Counter reports shall not include a primary collision factor and are not submitted to the State of California. Counter reports will not be taken for private property collisions. The words “Counter Report” must be entered in the special conditions box listed on the face sheet of the report.

#### 501.4.9 TRAFFIC COLLISION "LATE REPORT"

A late traffic collision report is a fatal or injury collision where the involved vehicles and parties are no longer at the scene of the collision and documentation is requested at a location away from the collision scene. Investigating officers shall determine if the collision was reported after the first opportunity to make such a report before indicating a late-reported status. The words “Late Report” must be entered in the special conditions box listed on the CHP Form 555, page 1.

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#### **501.5 REPORT FORMATS**

##### **501.5.1 COLLISION INVESTIGATION DOCUMENTATION**

A collision shall be documented as an investigation when one or more of the following conditions apply:

- (a) A motor vehicle traffic collision results in the death of a person on or off a highway.
- (b) A motor vehicle traffic collision results in personal injury on or off the highway where the injuries are greater than *complaint of pain/possible injury*.
  - 1. *Complaint of pain/possible injury* will be considered any injury not severe enough to qualify as *other visible injuries/suspected minor injury* or greater.
  - 2. The investigating officer will be responsible for a further investigation of the injuries of every party who is transported to a medical facility for treatment to properly document the severity of the injuries and determine whether the injuries justify an investigation or report.
- (c) Supporting data is required for prosecution of either a felony or misdemeanor. The requirement for an investigation should be based upon the needs of the Traffic Detective and/or prosecuting attorney.
- (d) City, county, state, or federal vehicle involved in a collision with a loss in excess of \$750.00 or when a second vehicle is involved (reporting exceptions allowed by a supervisor and/or the Traffic Detective).
- (e) Hit-and-run collisions with workable information (includes front desk reports).
- (f) Circumstances of collision and evidence suggest potential City liability.
- (g) Any involved party requests that a report be taken.

##### **501.5.2 COLLISION INVESTIGATION FORMAT**

A collision investigation will consist of both the front and back page of the CHP Form 555. Injured persons, witnesses, and passengers shall be listed on the CHP Form 555. Extra face sheets shall be used when more than three vehicles are involved. A complete factual diagram shall be attached, including two perpendicular or triangulated measurements from all tires/axles of each involved vehicle. A separate sketch shall also be included.

The following are the headings to be used for the collision investigation format:

- (a) **FACTS**
  - 1. Notification
  - 2. Scene
  - 3. Parties
  - 4. Physical Evidence
  - 5. Hit and Run
  - 6. Hazardous Material



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- 7. Other Factual Information
  - (b) STATEMENTS
  - (c) OPINIONS AND CONCLUSION
    - 1. Summary
    - 2. Area of Impact
    - 3. Intoxication
    - 4. Cause
  - (d) RECOMMENDATIONS

#### 501.5.3 COLLISION REPORT DOCUMENTATION

A collision should be documented as a report any time the conditions for a complete investigation are not met. A report should be completed under the following circumstances:

- (a) A non-injury or confirmed *complaint of pain/possible injury collision* on a highway.
- (b) A late-reported injury collision unless otherwise directed by the on-duty supervisor. A late-reported fatal collision shall be documented as an investigation.
- (c) Hit-and-run collisions where there is no workable information.
- (d) Any involved party requests that a report be taken.

#### 501.5.4 COLLISION REPORT FORMAT

A collision report will consist of both the front and back page of the CHP Form 555. Injured, witnesses, and passengers shall be listed on the CHP Form 555. Extra face sheets shall be used when more than three vehicles are involved. A sketch shall be drawn and shall reflect the reporting officer's opinion of how the collision occurred.

The following are the headings to be used for the collision report format:

- (a) NOTIFICATION
- (b) STATEMENTS
- (c) SUMMARY
- (d) AREA OF IMPACT
- (e) CAUSE

If the collision is DUI related, information relevant to the DUI should be added to the report before the "Cause" section.

#### 501.5.5 COLLISION REPORT NOTIFICATION

During the course of the report or investigation, the reporting officer shall provide the collision report information to those involved parties who are not incapacitated, including the officer's name, report case number and, if applicable, the location where the involved party's vehicle was towed.

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### **501.6 NOTIFICATION OF TRAFFIC BUREAU SUPERVISION**

In the event of a serious injury or death related traffic collision, the watch commander shall notify the Traffic Lieutenant to relate the circumstances of the traffic collision and seek assistance from the Traffic Bureau. In the absence of a Traffic Lieutenant, the watch commander or any supervisor may assign a CTI or patrol officer to investigate the traffic collision if Traffic personnel are unable to respond.

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## Vehicle Towing and Release

### 502.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Irvine Police Department. Nothing in this policy shall require the Department to tow a vehicle.

### 502.2 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

#### 502.2.1 VEHICLE STORAGE REPORT

Department members requesting towing, storage or impound of a vehicle shall complete CHP Form 180 and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should to be given to the tow truck operator and the original shall be submitted to the Records Bureau as soon as practicable after the vehicle is stored.

#### 502.2.2 VEHICLE STORAGE PROCESS

Department members shall submit the completed vehicle storage report prior to the end of their shift. This will assist in satisfying the 48 hour requirement to notify the legal owner.

#### 502.2.3 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in the Communications Bureau.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the on-call tow. The officer will then store the vehicle using a CHP Form 180.

#### 502.2.4 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by storing the arrestee's vehicle. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high-crime area).

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#### 502.2.5 IMPOUNDMENT AT SOBRIETY CHECKPOINTS

Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver's license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver's license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent upon presentation of a valid driver's license and current vehicle registration.

#### 502.2.6 IMPOUNDING A VEHICLE FOR EVIDENCE

When a vehicle has been impounded pursuant to Vehicle Code (VC) §22655.5(a) or §22655.5(b), the vehicle shall be processed for evidence as soon as practical. Once the vehicle has been processed for evidence, and that vehicle no longer has evidentiary value, it shall be released from the evidence hold. This release shall be documented on a CHP Form 180. It is the responsibility of the investigating officer or detective to ensure the release of the impounded vehicle from the evidence hold is properly documented on the form and notifies the tow company of the release.

#### 502.2.7 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

#### 502.2.8 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

When there is no preferred company requested, the dispatcher shall call the next firm in rotation from the list of approved towing companies.

#### 502.2.9 RECORDS BUREAU RESPONSIBILITY

Records personnel shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the watch commander for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle, it shall be the responsibility of the Records Bureau to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all

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such individuals by first-class mail (Vehicle Code § 22851.3(d); Vehicle Code § 22852(a); Vehicle Code § 14602.6(a)(2)). The notice shall include the following (Vehicle Code § 22852(b)):

- (a) The name, address, and telephone number of this Department.
- (b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.
- (c) The authority and purpose for the removal of the vehicle.
- (d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, in writing, or by telephone within 10 days of the date appearing on the notice.

#### **502.3 TOWING SERVICES**

The City of Irvine periodically selects a firm to act as the official tow service and awards a contract to that firm. This firm will be used in the following situations:

- (a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.
- (b) When a vehicle is being held as evidence in connection with an investigation.
- (c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal from the streets of vehicles obstructing traffic in violation of state or local regulations.

#### **502.4 VEHICLE INVENTORY**

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody to include contracted tow company custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

#### **502.5 SECURITY OF VEHICLES AND PROPERTY**

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

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#### **502.6 RELEASE OF VEHICLE**

The Department will maintain a listed, 24-hour telephone number to provide information regarding storage of vehicles and the right of the registered owner to request a hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

- (a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit, and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his/her agent with proof of current registration, proof of a valid driver's license, and applicable fees paid prior to the end of the 30-day impoundment period under any of the following circumstances:
  - 1. The vehicle was stolen.
  - 2. If the driver reinstates his/her driver's license or acquires a license and provides proof of proper insurance.
  - 3. Any other circumstance as set forth in Vehicle Code § 14602.6.
  - 4. When there is no remaining community caretaking need to continue impound of the vehicle or the continued impound would not otherwise comply with the Fourth Amendment.
- (d) An autonomous vehicle removed under authority of Vehicle Code § 22651(o)(1)(D) shall be released to the registered owner or person in control of the autonomous vehicle if the requirements of Vehicle Code § 22651(o)(3)(B) are met.

Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

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## Vehicle Impound Hearings

### 503.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

### 503.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Irvine Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

#### 503.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)). A Traffic Investigator will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2); Vehicle Code § 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code § 14602.6(b); Vehicle Code § 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code § 14602.6(b) or 14602.8(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations

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where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this department's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

- (a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.
  - 1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.
- (b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department's expense (Vehicle Code § 22852(e)).
- (c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Division Commander. The hearing officer will recommend to the appropriate Division Commander that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.



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## Impaired Driving

### 504.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

### 504.2 POLICY

The Irvine Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California's impaired driving laws.

### 504.3 INVESTIGATIONS

The Traffic Lieutenant will develop and maintain, in consultation with the prosecuting attorney, report forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any DUI investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in California or another jurisdiction.

### 504.4 FIELD TESTS

The Traffic Lieutenant should identify standardized FSTs and any approved alternate tests for officers to use when investigating violations of DUI laws.

### 504.5 CHEMICAL TESTS

A person implies consent to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Vehicle Code § 23612):

- (a) The person is arrested for driving a vehicle while under the influence, pursuant to Vehicle Code § 23152.

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- (b) The person is under 21 years of age and is arrested by an officer having reasonable cause to believe that the person's blood alcohol content is 0.05 or more (Vehicle Code § 23140).
- (c) The person is under 21 years of age and detained by an officer having reasonable cause to believe that the person was driving a vehicle while having a blood alcohol content of 0.01 or more (Vehicle Code § 23136).
- (d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (Vehicle Code § 23153).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

#### 504.5.1 STATUTORY NOTIFICATIONS

Officers requesting that a person submit to chemical testing shall provide the person with the mandatory warning pursuant to Vehicle Code § 23612(a)(1)(D) and Vehicle Code § 23612(a)(4).

#### 504.5.2 PRELIMINARY ALCOHOL SCREENING

Officers may use a preliminary alcohol screening (PAS) test to assist in establishing reasonable cause to believe a person is DUI. The officer shall advise the person that the PAS test is being requested to assist in determining whether the person is under the influence of alcohol or drugs, or a combination of the two. Unless the person is under the age of 21, he/she shall be advised that the PAS test is voluntary. The officer shall also advise the person that submitting to a PAS test does not satisfy his/her obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

#### 504.5.3 PRELIMINARY ALCOHOL SCREENING FOR A PERSON UNDER AGE 21

If an officer lawfully detains a person under 21 years of age who is driving a motor vehicle and the officer has reasonable cause to believe that the person has a blood alcohol content of 0.01 or more, the officer shall request that the person take a PAS test to determine the presence of alcohol in the person, if a PAS test device is immediately available. If a PAS test device is not immediately available, the officer may request the person to submit to chemical testing of his/her blood, breath or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

#### 504.5.4 CHOICE OF TESTS

Officers shall respect a viable choice of chemical test made by an arrestee, as provided for by law (e.g., breath will not be acceptable for suspected narcotics influence).

A person arrested for DUI has the choice of whether the test is of his/her blood or breath, and the officer shall advise the person that he/she has that choice. If the person arrested either is

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incapable, or states that he/she is incapable, of completing the chosen test, the person shall submit to the remaining test.

If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(a)(2)(C)).

To reduce the waiting time for a certified phlebotomy technician to respond, the arresting/transporting officer shall notify Communications as soon as practicable that he/she is responding to the station or hospital with an intoxicated arrestee. The officer shall advise the type of chemical test chosen by the arrestee and, if a blood test has been selected, request the on-call phlebotomy technician respond to the temporary holding facility or to the hospital. Communications will notify the phlebotomist designated by the Department.

#### 504.5.5 BREATH SAMPLES

The Traffic Lieutenant should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Traffic Lieutenant.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an alcoholic beverage and any drug. Evidence of the officer's belief shall be included in the officer's report (Vehicle Code § 23612(a)(2)(C)).

#### 504.5.6 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Vehicle Code § 23158). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility. The technician withdrawing the blood sample will be responsible for booking

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the blood sample at the Orange County Crime Lab. In major traffic accidents involving felonies, or when directed by a supervisor, a second sample will be booked into the refrigeration unit located in the evidence packaging area of the police facility.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

### **504.5.7 URINE SAMPLES**

If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the individual giving the sample. The arrestee should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample (Vehicle Code § 23158(i)).

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

### **504.6 TESTING AT A HOSPITAL**

Most blood, breath and urine tests will be administered at the jail. However, if a timely breath or urine test cannot be administered because the person is transported to a medical facility where such tests cannot be facilitated, the person shall be advised that a blood test will be the only choice available and a blood sample may be taken at the medical facility (Vehicle Code § 23612(a)(3)).

Based on probable cause, the officer should place the conscious person under arrest and advise the attending physician of the intention to collect a sample of the person's blood. Unless the attending physician objects for medical reasons, a blood sample will be collected in the prescribed manner.

When a person is suspected of driving under the influence of alcohol and/or drugs and the person is unconscious or in a condition rendering him or her incapable of refusal, the officer shall advise the attending physician of the intention to collect a sample of the person's blood as evidence. If the physician does not object based on medical reasons, the blood will be collected in the prescribed manner, as outlined below.

If a person is deceased, the officer should coordinate with the Coroner's Office to ensure that a viable test will be obtained (Vehicle Code § 23612(a)(5)).

### **504.7 REFUSALS**

When an arrestee refuses to provide a viable chemical sample, officers should:

- (a) Advise the arrestee of the requirement to provide a sample (Vehicle Code § 23612).

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- (b) Audio- and/or video-record the admonishment when it is practicable.
- (c) Document the refusal in the appropriate report.

#### 504.7.1 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the arrestee and take possession of any state-issued license to operate a motor vehicle that is held by that individual (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

#### 504.7.2 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A McNeely Search Warrant is approved by the on-call magistrate.
- (b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts such as a lengthy time delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

#### 504.7.3 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.
  - 1. This dialogue should be recorded on audio and/or video if practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure the forced blood draw is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
  - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.

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2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
  3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.
- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

#### **504.8 ARREST AND INVESTIGATION**

##### 504.8.1 WARRANTLESS ARREST

In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

- (a) The person is involved in a traffic accident.
- (b) The person is observed in or about a vehicle that is obstructing the roadway.
- (c) The person will not be apprehended unless immediately arrested.
- (d) The person may cause injury to him/herself or damage property unless immediately arrested.
- (e) The person may destroy or conceal evidence of a crime unless immediately arrested.

##### 504.8.2 OFFICER RESPONSIBILITIES

The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

- (a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver's license to the Department of Motor Vehicles (DMV).
- (b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.
- (c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

#### **504.9 HOSPITAL PROTOCOL - MISDEMEANOR AND FELONY**

Misdemeanor Driving Under the Influence – Driver Injured - If the driver of a vehicle is injured and subsequently placed under arrest for misdemeanor DUI, the following procedure should be followed by the officers in addition to the 13353 CVC requirements:

- (a) Request a California Forensic Phlebotomy technician to respond to the hospital.

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- (b) Witness the sample being drawn and complete appropriate documentation (CFP will retain possession of sample for Orange County Crime Lab).
- (c) Request Communications to conduct a want/warrant check.
- (d) Complete the Certification of Release From Custody Form.
- (e) Issue a court date of at least 30 days following the date of offense.
- (f) Have arrestee sign the form.
  - 1. If the subject's medical condition prevents a signature on the form, the officer shall note that in the arrest report.
  - 2. If hospitalization or other major medical treatment causes a conflict with a court date, indicate that no date was set by the officer.
- (g) Release subject from custody and issue the pink copy of the form to the subject.
- (h) Retain the remaining two copies of the form and turn in with the arrest report.

Felony Driving Under the Influence/Vehicular Manslaughter – Driver Injured - If the driver of a vehicle is injured and subsequently placed under arrest for DUI causing injury or death to another, the following procedure should be followed by the officer, in addition to the §13353 CVC requirements:

- (a) Request a California Forensic Phlebotomy technician to respond to the hospital.
- (b) Instruct CFP to draw two samples. One is retained by CFP for the Orange County Crime Lab analysis, and the other is retained by the officer and booked into evidence cold storage at the station.
- (c) Witness the samples being drawn and complete appropriate documentation.
- (d) Request Communications to conduct want/warrant, driving and criminal history.
- (e) Contact the watch commander and traffic detectives to coordinate investigative follow-up prior to release.
- (f) Contact will be made with the detention-release officer at the Orange County Jail by either the officer or the watch commander.
- (g) The detention-release officer will, based upon information provided to him by the agency, make a determination if the circumstances surrounding the case warrant further detention or release, and contact the on-call judge.
- (h) If the judge concurs with the release recommendation, the detention-release officer will notify IPD and generate a teletype to IPD authorizing the release and naming the judge granting same.
- (i) Upon receipt of this notification, the officer may then release the arrestee and issue him/her a Certificate of Release From Custody - Written Promise to Appear (do not issue a "detention only" 849(b)(1) PC).
- (j) The OR release teletype shall be attached to the arrest report. Whenever possible a copy of the teletype should also be attached to the arrestee's copy of the Certificate of Release.

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- (k) In the event the arrestee does not qualify for an OR release, (unidentified, warrants) the officer will maintain custody.
- (l) Custody will be maintained at the treating facility until arrangements can be made to transfer the subject to Western Medical Center, Anaheim, and be lodged into the "jail ward."
- (m) If the arrestee is immovable and not releasable, custody will be maintained at the treating facility until the watch commander can contact the on-call district attorney or judge for direction.
- (n) Do not indicate to the arrestee that he/she is not responsible for medical bills while in police custody. They will be billed for medical care.

#### Precautions in Felony Driving Under the Influence/Vehicular Manslaughter Arrests

- (a) All subjects must be arrested prior to administering of any chemical test.
- (b) Because intoxication may be caused by a combination of alcoholic beverages and drugs, the blood will be screened for both forms of intoxicants.
- (c) Be sure to document all drugs administered to the arrestee by either the paramedics or by the treating facility, the time administered, and into what location of the body. Have the blood sample drawn from a location not previously used by medical personnel.
- (d) The assigned traffic detective will handle any follow-up work.

#### **504.10 IMMEDIATE BOOKING AND RELEASE PROGRAM**

- (a) To qualify for the Immediate Booking and Release Program (IBAR), the arrestee should meet the following specific criteria:
  - 1. Be non-combative.
  - 2. The arrestee shall have no injuries or known medical problems, which could result in the necessity for medical treatment while in custody.
  - 3. The arrestee may choose either the breath test or blood draw as the method of chemical testing. The blood test can only be used whenever a lab technician is able to respond to IPD.
  - 4. The arrestee shall demonstrate the capability of having a relative or friend respond to Irvine PD and pick them up within 60 minutes of the arrest.
  - 5. The arrestee shall agree to sign the written promise to appear form, including an agreement not to operate a motor vehicle for six hours after being released from custody.
- (b) The IBAR program may be used upon approval of the watch commander when there are no personnel staffing the custody facility. Officers who are processing DUI arrestees through the IBAR program shall utilize the following process:
  - 1. Immediately after taking a subject into custody for DUI, determine if the IBAR program criteria are met. Coordinate phone calls to a friend or relative to confirm



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- that they will respond and pick up the arrestee. No more than three calls should be made on behalf of an arrestee.
2. If the criteria are met (e.g. community caretaker doctrine), the arrestee's vehicle shall be towed unless it is released to a non-intoxicated passenger or parked per the Vehicle Towing and Release Policy. If the vehicle is stored the officer shall complete a vehicle storage form pursuant to §22651(h) CVC (Driver Arrested). On the last line of the narrative section of the form shall be written, "Vehicle Not To Be Released Before" (specify a time at least six hours after time of arrest).
  3. Upon arrival at Irvine PD, the arrestee shall be processed as they normally would be.
- (c) The arrestee shall be placed in the sobering cell and be monitored by the custody officer, if available, or the arresting officer until their ride arrives. Female arrestees awaiting a ride shall not be housed in the sobering cell with male arrestees.
- (d) Upon arrival of the party picking up the arrestee, the custody officer or the arresting officer shall:
1. Complete the written promise to appear form listing the name, address, and the phone number of the person that the arrestee is being released to.
  2. Have the arrestee initial the box, "I agree not to operate a motor vehicle for six hours."
  3. Explain the conditions of release to the arrestee:
    - (a) Written promise to appear.
    - (b) Date and location of appearance.
    - (c) Agreement not to operate a motor vehicle for six hours after release.
    - (d) If the arrestee's vehicle was stored, the name and phone number of the tow agency, and that the vehicle will not be released for at least six hours from the time of arrest.
  4. Have the arrestee sign the written promise to appear and return their property.
  5. Obtain arrestee's fingerprint impressions on the bottom of the written promise to appear and then release the arrestee from custody.

#### **504.11 RECORDS BUREAU RESPONSIBILITIES**

The Records Supervisor will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

#### **504.12 ADMINISTRATIVE HEARINGS**

The Records Supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

Any officer who receives notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

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An officer called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

#### **504.13 TRAINING**

The Training Manager should ensure that officers participating in the enforcement of DUI laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to DUI investigations. The Training Manager should confer with the prosecuting attorney's office and update training topics as needed.

## Traffic Citations

### 505.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

### 505.2 RESPONSIBILITIES

The Traffic Lieutenant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Records Bureau shall be responsible for the supply and accounting of all traffic citations issued to employees of this department.

### 505.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)). Any request from a recipient to dismiss a citation shall be referred to the Traffic Lieutenant. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Lieutenant may authorize the dismissal of the traffic citation. If approved by the Traffic Lieutenant, the citation will be forwarded to the appropriate court with a request for dismissal. All recipients of traffic citations whose request for the dismissal of a traffic citation has been denied shall be referred to the appropriate court.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate the officer may request the court dismiss the citation. Upon dismissal of the traffic citation by the court, the officer shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required.

### 505.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed, where it is completed, but not issued, or issued in error. All available copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Traffic Lieutenant who will review, and if appropriate, approve the request to void the citation.

### 505.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall submit the citation with a Notice of Correction and Proof of Service form with a specific correction to a sergeant or Watch Commander for approval. The citation and request form shall then be forwarded to the Records Division for processing.

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#### **505.6 DISPOSITION OF TRAFFIC CITATIONS**

The court and file copies of all traffic citations, excluding electronic citations, issued by members of this department shall be placed in the Watch Commander's box in the Report Writing room for review by a supervisor. The citation copies shall then be filed with the Records Bureau.

Upon separation from employment with this department, all employees issued traffic citation books shall return any unused citations to the Records Bureau.

#### **505.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE**

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

##### **505.7.1 APPEAL STAGES**

Appeals may be pursued sequentially at three different levels (Vehicle Code § 40215; Vehicle Code § 40230):

- (a) Administrative reviews are conducted by the Traffic Programs Supervisor who will review written/documentary data. Requests for administrative reviews are available at the front desk or Traffic Bureau of the Irvine Police Department. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency or completed online at [paymycite.com/irvine](http://paymycite.com/irvine).
- (b) If the appellant wishes to pursue the matter beyond administrative review, an administrative hearing may be conducted in person or by written application, at the election of the appellant. Independent referees review the existent administrative file, amendments, and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.
- (c) If the appellant wishes to pursue the matter beyond an administrative hearing, a Superior Court review may be presented in person by the appellant after an application for review and designated filing fees have been paid to the Superior Court of California.

##### **505.7.2 TIME REQUIREMENTS**

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

- (a) Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking Violation (Vehicle Code § 40215(a)).
- (b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).
- (c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 40200 - 40225. The person requesting the hearing may request one continuance, not to exceed 21 calendar days (Vehicle Code § 40215).

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- (d) Registered owners of vehicles may transfer responsibility for the violation via timely affidavit of non-liability when the vehicle has been transferred, rented or under certain other circumstances (Vehicle Code § 40209; Vehicle Code § 40210).

#### 505.7.3 COSTS

- (a) There is no cost for an administrative review.
- (b) Appellants must deposit the full amount due for the citation before receiving an administrative hearing, unless the person is indigent, as defined in Vehicle Code § 40220, and provides satisfactory proof of inability to pay (Vehicle Code § 40215).
- (c) An appeal through Superior Court requires prior payment of filing costs, including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if appellant's liability is overruled by the Superior Court.

#### 505.8 JUVENILE CITATIONS

Completion of traffic citation forms for juveniles may vary slightly from the procedure for adults. The juvenile's age, place of residency, and the type of offense should be considered before issuing the juvenile a citation.

## Disabled Vehicles

### **506.1 PURPOSE AND SCOPE**

Vehicle Code § 20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

### **506.2 OFFICER RESPONSIBILITY**

When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practical.

### **506.3 EXTENT OF ASSISTANCE**

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of department resources, and the vulnerability of the disabled motorist.

#### **506.3.1 MECHANICAL REPAIRS**

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

#### **506.3.2 RELOCATION OF DISABLED VEHICLES**

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

#### **506.3.3 RELOCATION OF DISABLED MOTORIST**

The relocation of a disabled motorist should only occur with the person's consent and should be suggested when conditions reasonably indicate that immediate movement is necessary to mitigate a potential hazard. The department member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

### **506.4 PUBLIC ACCESS TO THIS POLICY**

This written policy is available upon request.

## 72-Hour Parking Violations

### 507.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Irvine City Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code § 22669.

### 507.2 MARKING VEHICLES

Vehicles suspected of being in violation of the City of Irvine 72-Hour Parking Ordinance shall be marked and noted on the Irvine Police Department Abandoned Vehicle Report Form. No case number is required at this time.

A visible chalk mark should be placed on a tire, most commonly the street side tire. Any deviation in markings shall be noted on the Marked Vehicle Card.

**Attempt to Locate the Owner:** The investigating employee should make a good faith effort to notify the owner of any vehicle subject to towing prior to having the vehicle removed. This may be accomplished by personal contact, telephone or by leaving notice attached to the vehicle at least 24 hours prior to removal.

All Abandoned Vehicle Reports shall be submitted to the Operations Support Division for computer data entry.

If a marked vehicle has been moved or the markings have been removed during a 72-hour investigation period, the vehicle may be marked again if necessary for the 72-hour parking violation and Abandoned Vehicle Report should be completed and forwarded to the Traffic Bureau.

Parking citations for the 72-hour parking ordinance should not be issued at the same time when the vehicle is stored for the 72-hour parking violation, however, prior marking and citing of a vehicle prior to towing is allowable.

#### 507.2.1 MARKED VEHICLE FILE

The Traffic Bureau shall be responsible for maintaining a file for all Abandoned Vehicle Reports.

Parking Enforcement Officers assigned to the Traffic Bureau shall be responsible for the follow up investigation of all 72-hour parking violations noted on Abandoned Vehicle Reports.

#### 507.2.2 VEHICLE STORAGE

Any vehicle in violation shall be stored by the authorized towing service and a vehicle storage report shall be completed by the officer authorizing the storage of the vehicle.

The storage report form shall be submitted to the Records Bureau immediately following the storage of the vehicle. It shall be the responsibility of the Records Bureau to immediately notify the Stolen Vehicle System (SVS) of the Department of Justice in Sacramento (Vehicle Code § 22851.3(b)). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS)(Vehicle Code § 22854.5).

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Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Records Bureau to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice to all such individuals shall be sent first-class or certified mail pursuant to Vehicle Code § 22851.3(d).



## Area Traffic Officer

### **508.1 PURPOSE AND SCOPE**

Personnel assigned to the Area Traffic Officer Program work closely with community members in their area to develop problem-solving strategies that yield lasting solutions.

### **508.2 MANAGEMENT AND AUTHORITY**

Management of the Area Traffic Officers is handled by the Operations Traffic Lieutenant. Scheduling of the Area Traffic Officers is the responsibility of their respective Area Traffic Sergeant.

### **508.3 PROGRAM DESCRIPTION**

Each Area Traffic Officer is tasked with the design and implementation of appropriate strategies to address traffic related problems in his/her area. Officers in this assignment engage the support of area motorcycle officers, patrol officers, traffic engineers and other municipal resources as needed. It is the philosophy of this Department that the effectiveness of the Area Traffic Officer Program is dependent upon the quality of the relationship between the community and the officer. Program success is also dependent upon the accurate and timely exchange of information between the ATO and other field personnel.

### **508.4 PATROL RESPONSIBILITY**

Area Traffic Officers are not regarded as part of the patrol contingent and are not factored into the minimum shift deployment. Area Traffic Officers are not routinely assigned to patrol service calls, although each may be deployed in an emergency or as determined by the field supervisor. Generally, Area Traffic Officers are not assigned traffic collision investigations.

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## Police Motorcycle Operations

### 509.1 MOTORCYCLE PATROL

The following shall be the policy of this department concerning the operation of motorcycles by officers assigned to the Traffic Bureau:

- (a) The officer shall remain in their assigned area during their tour of duty except as follows:
  - 1. While attempting to stop a traffic violator entering another area.
  - 2. During an arrest and booking process.
  - 3. In response to a dispatched call.
  - 4. In response to an emergency call.
  - 5. Completing reports at the station after having been cleared to do so.
  - 6. When handling miscellaneous details, such as court appearances, equipment maintenance, etc.
  - 7. When participating in targeted enforcement efforts.
  - 8. When authorized by a supervisor.
- (b) No more than two motorcycles should conduct enforcement at the same location unless directed to do so by the on-duty supervisor. While at an intersection, the officers shall take care in parking their motorcycles so as not to interfere with vehicular or pedestrian traffic, nor give the appearance of "hiding" from motorists.
- (c) When away from the police facility and on duty, officers shall park legally except when police business demands otherwise.
- (d) No officer shall be permitted to ride a police motorcycle off duty except as follows:
  - 1. While enroute to or from the police facility for duty.
  - 2. While enroute to or from court where the subpoena arises out of a police activity.
  - 3. While enroute to or from a place of repair or service.
  - 4. When assigned by an on-duty supervisor.
  - 5. While enroute to an authorized special event that necessitates the use of a motorcycle.

Only the assigned officer shall be permitted to operate a department motorcycle, unless express authorization has been obtained from the on-duty supervisor.

### 509.2 MOTORCYCLE OPERATION - SAFETY EQUIPMENT

At all times during the operation of a motorcycle, the officer shall wear a complete class B motorcycle officer uniform which shall include:

- 1. Department approved motorcycle helmet

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2. Leather gloves
3. Eye protection
4. Department approved motorcycle pants
5. Department approved motorcycle boots
6. Class B uniform shirt
7. Department approved soft body armor
8. Full duty belt

A traffic supervisor can modify this attire based on department needs, such as training events,

#### **509.3 STORAGE OF MOTORCYCLES**

Officers assigned to motorcycle duty shall be permitted to take their assigned vehicles home as long as they have an enclosed garage or storage room that has a door capable of being locked. This storage facility shall be on the premises of the officer's residence.

#### **509.4 GENERAL PATROL OFFICER DUTIES**

Generally, motorcycle enforcement officers are not to be used in the performance of routine patrol calls and should be used for other than traffic related duties as indicated below:

- (a) In case of a criminal offense committed in the officer's presence.
- (b) In the case of a request or response to an officer in need of assistance or backup.
- (c) In the case of an "in progress" call in the area where a backup officer is needed.
- (d) In the case of a riot or major disturbance where all available personnel must be committed.
- (e) In the case of major crowd or traffic control problems such as may be created by a plane crash or similar major field incident.
- (f) In the case of a reported traffic accident and no civilian traffic investigator is available to handle the call.
- (g) When the volume of service calls exceed patrol resources and the on duty field supervisor requests motorcycle officer's assistance in handling the overflow of calls.

#### **509.5 PRISONER TRANSPORT**

If the arrest is made by a traffic officer operating a police motorcycle, an officer in a marked vehicle will be detailed to transport the arrestee. The officer making the arrest will write the arrest report.

#### **509.6 PATROL OVERTIME**

A motorcycle officer who volunteers, or is drafted to work an overtime patrol shift, will be required to don a patrol uniform and operate in a patrol car, unless a field supervisor directs otherwise.

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#### **509.7 SPECIAL EVENTS OVERTIME - MOTORCYCLES**

If an officer signs up to work special event overtime, he/she shall be assigned to a patrol unit in standard uniform. The only exception will be with the approval of an on duty supervisor and where the operation of a motorcycle would be beneficial to the event (traffic control).

## **Civilian Traffic Investigators (CTI)**

### **510.1 PURPOSE AND SCOPE**

The Civilian Traffic Investigator (CTI) position was developed for the primary purpose of augmenting the department's traffic safety program. In this regard, their primary duty is to investigate and document traffic collisions.

### **510.2 PRIMARY FUNCTIONS**

Civilian Traffic Investigators are responsible for the following service calls and activities:

- (a) Traffic collision investigation
- (b) Vehicle storage and impound
- (c) Direct traffic
- (d) Crossing guard relief
- (e) Enforcement of parking regulations
- (f) Investigation of late crime/incident reports within the scope of their duties.

### **510.3 RESPONSE TO SERVICE CALLS**

Civilian Traffic Investigators will not respond with lights and siren (Code 3) to any service call.

### **510.4 SUPERVISION**

The Traffic Lieutenant shall manage this program. Responsibility for coordination with patrol supervisors, scheduling of personnel, and daily supervision of the CTI's is the duty of the assigned traffic sergeants.

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# Emergency Response Cost Recovery Program

## 511.1 PURPOSE AND SCOPE

The Emergency Response Cost Recovery Program is authorized pursuant to California Government Code Sections §53150-53159. The City's program shall allow for the collection of emergency response costs against any person who negligently operates a motor vehicle while under the influence of an alcoholic beverage or drug, and whose intentionally wrongful misconduct proximately causes any incident resulting in an emergency response by the City of Irvine Police Department.

## 511.2 UNDER THE INFLUENCE

Under the Influence will be determined by the test results from the driver's blood or breath.

## 511.3 EMERGENCY RESPONSE

An "emergency response" is defined as a response to a traffic collision, or incident (other than a simple Driving Under the Influence (DUI) stop/arrest), which causes department personnel to respond with or without the use of emergency lights and/or siren. Types of responses covered would include, but not be limited to: DUI collisions, evading arrest, police pursuits, or any activity initiated by the intoxicated driver requiring an immediate response by the department or other emergency service providers.

## 511.4 BILLING

The City's Finance Department will handle the billing.

## 511.5 REQUESTS FOR BILLING

It is the responsibility of the arresting officer to complete a billing request, attach it to the arrest report and submit it to police records. The Records Bureau will make the necessary copies, sending the original to Finance.

The following are ways an arresting officer can assist in the billing:

- (a) Generally, do not clear the call until all processing is complete.
- (b) List the time of the call and completion time on the DUI forms.
- (c) List in the report whether the police vehicle's emergency lights and or the siren were used.
- (d) If responding for traffic control or other assistance, make sure Communications records all the police vehicle numbers and personnel at the scene in the call history.
- (e) Include the time spent by other City Departments at the scene of a collision involving a DUI driver.
- (f) Count the number of road flares, city oil absorbent or other consumable products used at the scene or incident to the call.

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#### **511.6 APPEAL PROCESS**

The Traffic Lieutenant or his/her designee will act as the arbitrator should a bill be disputed. Each case will be reviewed for accuracy and fairness, based upon the law. Should the bill be found to be in error, the bill will be corrected or, if appropriate, dismissed.

#### **511.7 CRIMINAL PROBATION**

The City may seek payment as a condition of probation as permitted by law. The court liaison shall inform the court and adult probation of cases where cost recovery is being sought. By doing so, payment of the recovery bill may then be included as a court-ordered condition of probation.

## Seat Belts

### 512.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in department vehicles (Vehicle Code § 27315.5).

#### 512.1.1 DEFINITIONS

Definitions related to this policy include:

**Child restraint system** - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

### 512.2 POLICY

It is the policy of the Irvine Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

### 512.3 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

It is the intent of this policy that all employees wear their seat belts whenever possible. However, sworn officers may dispense with wearing safety restraints in specific tactical situations or when if reasonably appears that, due to unusual circumstances, wearing a seat belt would hinder rather than increase safety.

### 512.4 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

### 512.5 INOPERABLE SEAT BELTS

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.



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Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall place the vehicle out of service and report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

#### **512.6 TRANSPORTING CHILDREN**

Children under the age of 8 shall be transported in compliance with California's child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

#### **512.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS**

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

#### **512.8 VEHICLE AIRBAGS**

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.