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# Vehicle Removal (Towing, Storage, Impounding) and Release Policy

## 502.1 PURPOSE AND SCOPE

This policy provides the procedures and criteria for vehicle removal, storage, release and impound hearings by or at the direction of the Sahuarita Police Department (SPD). Common authority and applicable Town Code and Arizona Revised Statutes include, but are not limited to ARS 28-872, ARS 28-3511, TOS 10.15.020B, TOS 10.15.080B and/or TOS 10.25.

## 502.2 DEFINITIONS

Abandoned vehicle - As defined in ARS 28-4801

Impound - As defined in ARS 28-3511

Impound Hearing and Release Processes - As defined by ARS 28-3512 and ARS 28-3514

## 502.3 RESPONSIBILITIES FOR THE REMOVAL, TOWING, STORING, OR IMPOUNDING OF A VEHICLE

The responsibilities of those employees storing or impounding a vehicle are as follows:

- A. Officers and members shall accurately complete a SPD approved Vehicle Removal (tow/storage/impound) form.
  1. It is paramount that the name, address and telephone number of any known registered owner and/or primary lien holder of the vehicle are documented on the Vehicle Removal form to allow required follow up to be conducted by other SPD staff.
  2. Officers or members shall cause all Vehicle Removal forms to be forwarded to the Records Bureau within 24 hours of the completion of such tow, storage or impound.

Personnel causing the removal of a vehicle shall notify PCSD Terminal Operations as soon as reasonably possible, but at the latest prior to the end of their tour of duty. Terminal Operations personnel will promptly record communicated information from the completed Vehicle Removal form as prescribed by law where it will then be entered into the appropriate law enforcement database(s).

Records Bureau personnel shall promptly place approved vehicle removal forms into the SPD RMS system so that they are available for release or for information should inquiries be made.

Records Bureau personnel will conduct a weekly query for open and pending vehicle removal cases to determine if follow up is required. If follow up is required Records personnel will complete such follow up or assign the case to an appropriate member.

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#### **502.4 VEHICLE IMPOUNDS**

Officers shall impound vehicles they encounter, when they meet the guidelines set forth in ARS 28-3511. All other guidelines set forth in this policy reference towing or impounding a vehicle shall also be followed.

#### **502.5 REMOVAL OF VEHICLE DISABLED IN A TRAFFIC COLLISION**

When a vehicle has been involved in a traffic collision and needs to be removed from the scene, the officer or member shall request the driver to select a tow company and shall relay the request to Communications. When there is no preferred company requested, a company will be selected from the rotational list of towing companies through Communications.

If the owner, or the person responsible for the vehicle, requests a tow company, the member will advise the involved party that they may call a tow company of their choice and at their expense, so long as the wait does not exceed 30 minutes. If the vehicle constitutes a hazard or is blocking traffic, an officer may expedite a towing process that may not include the person's request for a particular tow company. If the citizen requests that the officer or member select a tow company, then a rotational tow company will be used through Communications; however, the officer will advise the citizen that they will be responsible for the charges.

If the owner is incapacitated, unavailable, or won't or can't make decisions regarding the disposition of a disabled vehicle, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer or member shall request a rotational tow through Communications. The officer or member, while at the scene, will then conduct a full inventory and document the inventory and tow of the vehicle using a Vehicle Removal form. Refer to section 502.11 of this policy regarding use of a BWC in documenting vehicle inventory.

#### **502.6 REMOVAL OF ABANDONED VEHICLE**

Vehicles on public roadways and right of ways suspected of being abandoned in violation of ARS or Town Code, shall be promptly marked and documented via the SPD RMS. A SPD "Unattended Vehicle Check" sticker shall be placed on the vehicle in a clearly visible location. The officer/member shall also obtain a case number through Communications, which will be documented on the bottom left of the sticker. A Bravo report will be completed at the time the sticker is applied and the vehicle information will be added to the case. Any further contact with the vehicle should be documented under a supplement to the original Bravo report, including removal of the vehicle. After marking the vehicle as abandoned, officers should make a good faith effort to contact an owner, or responsible person, and advise them that the vehicle may be towed if not removed in a timely manner as described by ARS.

Any vehicle in violation shall be stored by the authorized towing service and a Vehicle Removal form shall be completed by the officer or member authorizing the storage of the vehicle as specified in this policy. Personnel causing the removal of a vehicle shall notify PCSD Terminal Operations as soon as reasonably possible. Terminal Operations personnel will then submit the vehicle information into the appropriate law enforcement database(s).

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If an abandoned vehicle is found to be locked and secured, officers/members shall not force entry into the vehicle to conduct an inventory. Officers shall document the vehicle was secure and any obvious items of value in plain view.

If an abandoned vehicle is not locked and secured, officers/members shall conduct a full inventory of the vehicle, as outlined in section 502.11 of this policy and in accordance with the law. Officers/members shall not force entry into locked compartments/containers within an abandoned vehicle being towed or stored.

If a tow company unlocks the vehicle or causes the vehicle not to be secure, an officer/member shall conduct a full inventory of the contents of the vehicle. Officers shall not request a tow company to unlock a vehicle if the tow company does not need to unlock it for the purpose of removal.

#### **502.7 DRIVING A NON-TOWN/CITY VEHICLE**

Officers or members may drive a vehicle of another person a short distance to eliminate an actual or potential hazard or:

- A. To prevent obstruction of a fire hydrant
- B. The blocking of a driveway
- C. The blocking of a roadway or public access area
- D. To comply with posted signs
- E. To have the vehicle parked in a location requested by the owner or person in control of the vehicle

If not already associated with a call for service, a call needs to be generated indicating the final location of the vehicle. Anything outside the parameters of this section of the policy shall be discussed and approved by a supervisor.

#### **502.8 RECORDS BUREAU RESPONSIBILITIES**

Records Bureau personnel shall ensure approved forms are promptly filed so that they are immediately available for release or review should inquiries be made.

The Records Bureau shall make a reasonable and good faith effort to promptly notify the owner, or any known entity with a legal interest of any towed, stored, or removed vehicle regarding the location of the vehicle.

Records Bureau responsibilities in regards to the release of impounded vehicles are outlined in sections 502.13 through 502.16 of this policy.

#### **502.9 TOWING SERVICES**

The Town of Sahuarita periodically selects one or more companies to act as tow services. Those companies will fall into a rotation selection under the following circumstances:

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- A. When it is necessary to safeguard a vehicle due to the inability of the owner or operator to provide for the safety of the vehicle.
- 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 of vehicles obstructing traffic in violation of state or local regulations. Removal of a vehicle may be required because the vehicle presents a physical hazard or a visual hazard placing motorists or others in jeopardy (i.e., burned vehicles, vehicles with significant damage, vehicles not on all wheels, etc.)

Rotational tow companies will be required to have a thirty minute (30) or less response time. Tow trucks arriving past the thirty minute (30) time limit will be given a five-minute (5) grace period. Tow companies whose arrival time is past the thirty-five (35) minutes may be canceled and a new tow company assigned. Under normal circumstances, once a tow company has been contacted for a tow, that company should be allowed to complete the tow. If a tow company is to be canceled, it should be done as early as possible.

Per ARS 28-898C, "A person removing a wrecked or damaged vehicle from the highway shall remove any glass, or other injurious substance dropped or left upon the highway from the vehicle." This means officers/members may have to remind the tow truck driver to sweep the roadway and clear all debris. If the driver fails to remove the debris, they should be called back to the scene to do so. If the individual refuses to remove the debris such information shall be forwarded to Command staff for possible follow up with the tow company.

When the SPD receives a complaint associated with a SPD tow or one of the department's rotational tow companies, the complaint will be forwarded to the OPS Sergeant for review. Sustained complaints will be evaluated and may impact future use of the tow company.

#### **502.10 TOWING AT ARREST SCENES**

Whenever a person in charge of or in control of a vehicle is arrested, it is the policy of the SPD to provide reasonable safekeeping by towing the arrestee's vehicle subject to the exceptions described below. However, a vehicle shall be towed whenever it is needed for the furtherance of an investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be towed. For example, a vehicle shall be towed if it would present a traffic hazard or if it would be in jeopardy of theft or damage if left at the scene in a high-crime area. Removal of a vehicle may be required because the vehicle presents a visual hazard placing motorists or others in jeopardy (i.e., burned vehicles, vehicles with significant damage, vehicles not on all wheels, etc.)

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of towing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- A. An arrest warrant associated with a traffic stop or contact

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- B. Situations where the vehicle was not used during or to further the offense for which the occupant was arrested or is not subject to forfeiture proceedings
- C. Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene

In such cases, the handling employee shall note in the report that the owner was informed that the SPD will not be responsible for theft or damages. Officers are reminded that a vehicle or portions of a vehicle may be searched in accordance with the law (immediate area or the span of control the arrestee may have had during the contact/investigation).

#### **502.11 VEHICLE INVENTORY**

This section is specific to vehicles being stored or impounded that are not simply abandoned vehicles. Section 502.6 (Removal of Abandoned Vehicle) of this policy deals with criteria on inventory of abandoned vehicles.

All property in a vehicle that is stored or impounded by the SPD shall be inventoried and listed on the Vehicle Removal form. The "listing" of items may be done via BWC as described in this section. If officers and members conduct inventory using a BWC they shall accurately narrate the description of the contents observed during their inventory. Where reasonably applicable, the BWC recording should capture the contents of the vehicle. When utilizing the BWC to document the inventory of a stored or impounded vehicle, officers or members shall select the evidence.com category of "Vehicle Tow/Impound." These inventory procedures are for the purpose of protecting an owner's property, to provide for the safety of officers/members, the public, and to protect the SPD against fraudulent claims of lost, stolen or damaged property.

It is the expectation that fully inventoried towed, stored or impounded vehicles may include the driver and passenger areas, glove boxes, storage areas, areas under vehicle seats and dashboards, engine compartment, wheel well areas, bumpers, trunks, compartments, containers, backpacks, purses, bags, etc. If a vehicle is locked or secured and associated with a process that typically requires a vehicle inventory, officers and members shall confer with a supervisor to determine if circumstances support making forced entry into a vehicle, an area of vehicle or into containers or items within a vehicle in order to accurately conduct an inventory.

#### **502.12 SECURITY OF VEHICLES AND PROPERTY**

After an officer or member has completed a full inventory of a vehicle awaiting tow or impound, that officer or member may allow the driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cellular telephone, prescriptions) that are not considered evidence or contraband. The officer or member shall utilize their BWC to help document what items the driver/owner retrieves.

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.

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#### **502.13 VEHICLE IMPOUND/POST STORAGE HEARING NOTICE**

Within three business days after impoundment or storage, excluding weekends and holidays, the Records Bureau shall mail notice of impoundment or storage to the owner(s) or other person(s), or entity who held a legal interest in the vehicle prior to the impoundment or storage .

The notice of impoundment or storage shall include all of the following information:

- A. A statement that the vehicle was impounded or stored.
- B. The address and telephone number to contact at this department regarding the impoundment or storage.
- C. The name, address and telephone number of the entity that will provide an immobilization or post storage hearing.
- D. The location of the place of storage and a description of the vehicle including the manufacturer, model, license plate number and mileage of the vehicle, if available.
- E. A statement that in order to receive a post storage hearing the owner, or any person who had a legal interest in the vehicle prior to the impoundment or storage must follow the below:
  1. Contact the SPD within ten days of the date in which the Impound Notification was sent.
  2. Request a post storage hearing by contacting the SPD in person, in writing, or by telephone.
  3. Paying the prescribed fee pursuant to ARS 22-281.

#### **502.14 VEHICLE IMPOUND/POST STORAGE HEARING**

When a vehicle is stored or impounded by any member of the SPD, a hearing will be conducted upon the request of the owner or any person who had a legal interest in the vehicle prior to the impoundment or storage of the vehicle to determine if probable cause existed for the removal and storage of the vehicle.

The vehicle owner, or any person who had a legal interest in the vehicle prior to the impoundment or storage of the vehicle shall have an opportunity for a single post storage hearing for the release of the vehicle conducted by this department. (ARS 28-3514).

The hearing shall be conducted within five business days, excluding weekends and holidays, after the Department receives the request (ARS 28-3514F). The Hearing Officer must be a person other than the person who directed the storage or impoundment of the vehicle.

The post storage hearing will be (ARS 28-3514A):

- A. Conducted in person at the SPD, or another location within the SPD's jurisdiction (at the discretion of the SPD).
- B. May be conducted telephonically.

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#### **502.15 VEHICLE IMPOUND/POST STORAGE HEARING PROCEDURES**

The vehicle impound/post 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 Impound Notification notice (ARS 28-3514G). The Hearing Officer will be assigned by the Records Bureau supervisor, the Chief of Police, or their designee. The person requesting the hearing may record the hearing at his/her own expense.

The failure of the vehicle owner, or any person who had a legal interest in the vehicle prior to the impoundment or storage of the vehicle to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of the vehicle impound/post-storage hearing.

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 available 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 mediation or reduction of the period the vehicle is impounded or stored.

- 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.
  1. If mitigating circumstances are found to be relevant, the Hearing Officer may make reasonable adjustments to the impound period, storage or assessment fees as warranted, with approval of a division commander or the Chief Police.
- B. If a decision is made that reasonable grounds for storage or impound have not been established the vehicle in storage shall be released immediately. Towing and storage fees will be at the Department's expense.
- C. If a decision is made that reasonable grounds for storage or impound have not been established, and the vehicle has been released with fees having already been paid, such fees may need to be reimbursed to the person or entity who paid the fees. Such reimbursement must be approved by a division commander or the Chief of Police.

#### **502.16 RELEASE OF IMPOUNDED/STORED VEHICLES**

Vehicles impounded or stored pursuant to ARS 28-3511 must be processed through the SPD Records Bureau prior to release. Some impounded or stored vehicles can be released without a vehicle impound/post storage hearing pursuant to ARS 28-3512. The Records Bureau, or a designee of the Chief of Police, have final review and discretion in regards to the release of impounded/stored vehicles. The Records Bureau has up to five days, excluding weekends and

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holidays, to process and complete a case file related to any vehicle impounds. Impounded/stored vehicles will not be considered for release, either through ARS 28-3512 or a vehicle impound/post-storage hearing, until the case file has been completed.