

## 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 preventative patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on collision 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 collision 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 Metro Transit Police Department. Information provided by the Minnesota Office of Traffic Safety (OTS) is a valuable resource for traffic collision occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of collision-causing violations during periods of high-collision incidence 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-collision incidence locations.

Other factors to be considered for deployment are citizen requests, 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 citations issued by any officer shall not be used when evaluating officer performance (Minn. Stat. § 169.985; Minn. Stat. § 299D.08). The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

#### 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.

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### 500.3.2 TRAFFIC CITATIONS

Traffic 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.
- (d) The court contact information.

### 500.3.3 TRAFFIC CITATION COURT JURISDICTION

An officer who issues a traffic citation shall ensure that the citation is properly directed to the court having jurisdiction (Minn. Stat. § 169.91 Subd. 3).

### 500.3.4 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses. These physical arrest cases usually deal with, but are not limited to (Minn. Stat. § 169.91):

- (a) Negligent homicide.
- (b) Driving under the influence of alcohol/drugs.
- (c) Hit-and-run resulting in serious injury or death.
- (d) Hit-and-run resulting in damage to any vehicle or property.

### 500.3.5 LIMITATION AND DISCLOSURE OF REASON FOR TRAFFIC STOP

Officers conducting a traffic stop for violations of Minnesota Statute Chapters 168 or 169 shall not ask the motorist if they can identify the reason for the traffic stop. Officers shall state a reason for the stop unless it would be unreasonable to do so under the totality of the circumstances (Minn. Stat. § 169.905).

## **500.4 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; Minn. R. 5205.0030).

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.

### 500.4.1 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

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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, collision investigations, lane closures and while at disaster scenes, or any time 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.

Vests maintained in the investigation units may be used any time a plain clothes officer might benefit from being readily identified as an officer.

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

High-visibility vests shall be maintained in the trunk of each patrol and investigation unit, in the side box of each police motorcycle and in the saddlebag or gear bag of each police bicycle. Each vest should be stored inside the resealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Training Manager should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

## Traffic Collisions

### 502.1 PURPOSE AND SCOPE

This policy provides guidelines for responding to and investigating traffic collisions.

### 502.2 POLICY

It is the policy of the Metro Transit Police Department to respond to traffic collisions and render or summon aid to injured victims as needed. The Department will investigate and prepare reports according to the established minimum reporting requirements with the goal of reducing the occurrence of collisions by attempting to identify the cause of the collision and through enforcing applicable laws. Unless restricted by law, traffic collision reports will be made available to the public upon request.

### 502.3 RESPONSE

Upon arriving at the scene, the responding member should assess the need for additional resources and summon assistance as appropriate. Generally, the member initially dispatched to the scene will be responsible for the investigation and report, if required, unless responsibility is reassigned by a supervisor.

A supervisor should be called to the scene when the incident:

(1) Is within the jurisdiction of this department and there is:

- (a) A life-threatening injury.
- (b) A fatality.
- (c) A Metro Transit Police Department vehicle involved.
- (d) A Metro Transit Police Department employee involved.

(2) Is within another jurisdiction and there is:

- (a) A Metro Transit Police Department vehicle involved.
- (b) A Metro Transit police Department employee involved.

#### 502.3.1 MEMBER RESPONSIBILITIES

Upon arriving at the scene, the responding member should consider and appropriately address:

- (a) Traffic direction and control
- (b) Proper placement of emergency vehicles, cones, roadway flares or other devices if available to provide protection for members, the public and the scene.
- (c) First aid for any injured parties if it can be done safely.
- (d) The potential for involvement of hazardous materials.
- (e) The need for additional support as necessary (e.g., traffic control, emergency medical services, fire department, HAZMAT, tow vehicles).

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- (f) Clearance and cleanup of the roadway.

### 502.4 NOTIFICATION

If a traffic collision involves a life-threatening injury or fatality, the responding officer shall notify the Shift Supervisor. The Shift Supervisor or any supervisor may assign a traffic investigator or other appropriate personnel to investigate the incident. The Shift Supervisor will ensure notification is made to the Patrol Supervisor and department command staff in accordance with the Major Incident Notification Policy.

#### 502.4.1 NOTIFICATION OF FAMILY

In the event of a life-threatening injury or fatality, the supervisor responsible for the incident should ensure notification of the victim's immediate family or coordinate such notification with the Medical Examiner, department chaplain or another suitable person. Notification should be made as soon as practicable following positive identification of the victim.

The identity of any person seriously injured or deceased in a traffic collision should not be released until notification is made to the victim's immediate family.

### 502.5 MINIMUM REPORTING REQUIREMENTS

A collision report shall be taken when:

- (a) A fatality, any injury (including complaint of pain), impaired driving or hit and run is involved.
- (b) An on-duty member of the Metropolitan Council is involved.
- (c) The collision results in any damage to any Metropolitan Council owned or leased vehicle.
- (d) The collision involves any other public agency driver or vehicle.
- (e) There is damage to public property.
- (f) There is damage to any vehicle to the extent that towing is required.
- (g) Prosecution or follow-up investigation is contemplated.
- (h) Directed by a supervisor.

#### 502.5.1 METROPOLITAN COUNCIL / METRO TRANSIT VEHICLE INVOLVED

A state crash report shall be taken when a Metropolitan Council / Metro Transit vehicle is involved in a traffic collision that results in property damage or injury. In cases where minor damage has occurred to Metropolitan Council / Metro Transit property only, a Supervisor may complete the state crash report in lieu of an outside agency completing the report.

Whenever there is damage to a Metropolitan Council / Metro Transit vehicle, a police report shall be completed and forwarded to the appropriate Division Commander. The traffic investigator or supervisor at the scene should determine what photographs should be taken of the scene and the vehicle damage.

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### 502.5.2 INJURED ANIMALS

Department members should refer to the Animal Control Policy when a traffic collision involves the disposition of an injured animal.

### 502.6 INVESTIGATION

When a traffic collision meets minimum reporting requirements the investigation should include, at a minimum:

- (a) Identification and interview of all involved parties.
- (b) Identification and interview of any witnesses.
- (c) A determination of whether a violation of law has occurred and the appropriate enforcement action.
- (d) Identification and protection of items of apparent evidentiary value.
- (e) Documentation of the incident as necessary (e.g., statements, measurements, photographs, collection of evidence and reporting) on the appropriate forms.

#### 502.6.1 INVESTIGATION BY OUTSIDE LAW ENFORCEMENT AGENCY

The Patrol Supervisor or on-duty Shift Supervisor should request that the Minnesota Department of Public Safety or other outside law enforcement agency investigate and complete a traffic collision investigation when a life-threatening injury or fatal traffic collision occurs within the jurisdiction of the Metro Transit Police Department and involves an on- or off- duty member of the Department.

- (a) .The involved member shall complete the department traffic collision form.
- (b) If the member is unable to complete the form, the supervisor shall complete it.

Department members shall promptly notify a supervisor when any department vehicle is involved in a traffic collision. The collision investigation and report shall be completed by the agency having jurisdiction.

#### 502.6.2 COMMERCIAL VEHICLE COLLISIONS

Commercial vehicle collisions additionally require notification to the Minnesota State Patrol if the collision results in (Minn. Stat. § 169.783):

- (a) A fatality.
- (b) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the collision.
- (c) One or more vehicles incurring disabling damage as a result of the collision, requiring the vehicle to be transported away from the scene by tow truck or other motor vehicle.

A waiver or inspection by a state trooper or other authorized person is required before a person may drive a commercial motor vehicle that was involved in such a collision (Minn. Stat. § 169.783).

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#### **502.7 ENFORCEMENT ACTION**

After a thorough investigation in which physical evidence or independent witness statements indicate that a violation of a traffic law contributed to the collision, authorized members should issue a citation or arrest the offending driver, as appropriate.

More serious violations, such as driving under the influence of drugs or alcohol, vehicular manslaughter, or other felonies, shall be enforced. If a driver who is subject to enforcement action is admitted to a hospital, a supervisor shall be contacted to determine the best enforcement option.

#### **502.8 REPORTS**

Department members shall utilize forms approved by the Minnesota Department of Public Safety as required for the reporting of traffic collisions (Minn. Stat. § 169.09, Subd. 9). All such reports shall be forwarded to the Patrol Supervisor for approval and filing.

##### **502.8.1 REPORT MODIFICATION**

A change or modification of a written report that alters a material fact in the report may be made only by the member who prepared the report, and only prior to its approval and distribution. Once a report has been approved and distributed, corrections shall only be made by way of a written supplemental report. A written supplemental report may be made by any authorized member.

##### **502.8.2 PATROL SUPERVISOR RESPONSIBILITIES**

The responsibilities of the Patrol Supervisor include but are not limited to:

- (a) Ensuring the monthly and quarterly reports on traffic collision information and statistics are forwarded to the Patrol Division Commander or other persons as required.
- (b) Forwarding the traffic collision report to the Department of Public Safety within 10 days of the collision investigation (Minn. Stat. § 169.09, Subd. 8).
- (c) Ensuring the Department of Public Safety is notified within two business days of a collision that results in a fatality (Minn. Stat. § 169.09, Subd. 8).

## Crash Review Boards

### 503.1 PURPOSE AND SCOPE

This policy establishes a process for the Metro Transit Police Department to review vehicle crashes by its employees.

The review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the vehicle crash.

### 503.2 POLICY

The Metro Transit Police Department will objectively evaluate vehicle crashes by its members to ensure that their vehicle use/operation is lawful, appropriate and consistent with training and policy.

### 503.3 REMOVAL FROM LINE DUTY ASSIGNMENTS

Generally, whenever an employee's actions while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

### 503.4 REVIEW BOARD

The Crash Review Board will be convened anytime a Metro Transit Police Department vehicle (owned, rented, leased etc) is involved in a crash. This includes vehicles that were being operated or parked when the crash occurred.

The Chief of Police may request the Crash Review Board to investigate the circumstances surrounding any vehicle crash.

The supervisor of the Crash Reconstruction Unit will convene the Crash Review Board as necessary. The involved employee's supervisor will ensure that all relevant reports, documents and materials are available for consideration and review by the board (e.g. Metro Transit Police report, DPS Motor Vehicle Crash report, crash insurance information etc).

#### 503.4.1 COMPOSITION OF THE BOARD

The Crash Reconstruction Unit supervisor should select two Crash Review Board members from the following, as appropriate:

- Metro Transit Police Department supervisor (Sergeant or Lieutenant).
- One full-time officer assigned to the Crash Reconstruction Unit.

The Crash Reconstruction Unit supervisor will serve as chairperson on the three (3) person board.

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### 503.4.2 RESPONSIBILITIES OF THE BOARD

The Crash Review Board is empowered to conduct an administrative review and inquiry into the circumstances of a vehicle crash.

The Board members may request further investigation, request reports be submitted for the Board's review and call persons to present information. The Board will not request the involved employee to appear.

The Board does not have the authority to recommend discipline.

The Chief of Police will determine whether the Board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges, the decision not to file criminal charges or any other action. The Board should be provided all relevant material from these proceedings for its consideration.

The review shall be based upon those facts which were reasonably believed, known or should have been known by the officer at the time of the incident, applying any legal requirements, department policies, procedures and approved training to those facts. Facts later discovered but unknown to the officer at the time shall neither justify nor call into question an officer's decision.

The Board shall make one of the following recommended findings:

- The vehicle crash was preventable
- The vehicle crash was non-preventable

A recommended finding requires a majority vote of the Board. The Board may also recommend additional investigations or reviews, such as training reviews to consider whether training should be developed or revised and policy reviews, as may be appropriate. The Board chairperson shall forward the necessary paperwork to the Internal Affairs Unit for processing. If the crash was determined to be preventable, the Internal Affairs Unit will then consult with the Chief of Police to determine if discipline should be considered and if so, the disciplinary process will be initiated.

## Vehicle Towing

### 510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Metro Transit Police Department and under the authority of Minn. Stat. § 168B.035.

### 510.2 STORAGE AND IMPOUNDS

Vehicles may be towed for violations of Minn. Stat. § 168B.035, including parking, registration and snow emergency violations.

Vehicles may be moved or removed from a highway when in violation of Minn. Stat. § 169.32(a) or when left unattended upon any street or highway or upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic (Minn. Stat. § 169.33).

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

#### 510.2.1 COMPLETION OF VEHICLE IMPOUND AND INVENTORY REPORT

Department members requesting towing of a vehicle shall complete a Vehicle Impound and Inventory Report, including a description of property within the vehicle. A copy is to be given to the tow truck operator and the original is to be submitted to the Records Section as soon as practicable after the vehicle is stored.

The Records Section shall promptly enter pertinent data from the completed Vehicle Impound and Inventory Report into the Minnesota Justice Information Services (MNJIS). In most, if not all cases, the local agency will enter the data into MNJIS.

Approved Vehicle Impound and Inventory Report forms shall be promptly placed into the Records Section so that they are immediately available for release or for information, should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the towing of any such vehicle, it shall be the responsibility of the Records Section to determine through MNJIS the names and addresses of any individuals having an interest in the vehicle. Notice to all such individuals shall be sent by certified mail within five business days of impound (Minn. Stat. § 168B.06 Subd. 1). In most, if not all cases, the local agency should handle this step.

#### 510.2.2 REMOVAL OF VEHICLE DISABLED IN A TRAFFIC COLLISION

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 reasonably 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 maintained by the local agency.

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 a

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company selected from the rotational list of towing companies. The officer will then conduct an inventory and store the vehicle using a Vehicle Impound and Inventory Report.

### 510.2.3 DRIVING A NON-CITY VEHICLE

Vehicles that 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.

### 510.2.4 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 and shall make appropriate entries on that form to ensure the next firm is called.

### 510.2.5 RECORDS SECTION RESPONSIBILITIES

Records Section personnel shall promptly enter pertinent data from the completed Vehicle Impound and Inventory Report form into the stolen vehicle system. Approved forms shall be promptly filed so that they are immediately available for release or review should inquiries be made.

Within 48 hours of recovering a stolen vehicle or receiving notification that a vehicle reported stolen through this department has been recovered, the Records Section shall make a reasonable and good faith effort to notify the victim of the recovery. The notice must specify when the recovering law enforcement agency expects to release the vehicle to the owner and where the owner may pick up the vehicle. Upon recovery of a vehicle reported stolen to another agency, the Records Section is to promptly inform the agency that the vehicle is recovered, where it is located and when it can be released to the owner (Minn. Stat. § 169.042 Subd. 1).

In most, if not all cases, the local agency shall make the necessary notifications.

## **510.3 TOWING SERVICES**

Local law enforcement agencies periodically select one or more firms to act as official tow services and awards contracts to those firms. Those firms 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 of vehicles obstructing traffic in violation of state or local regulations.

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If more than one firm has been awarded contracts, they shall be placed on a rotation list. Nothing in this policy shall require the Department to tow a vehicle.

### **510.4 TOWING 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 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, the vehicle would present a traffic hazard if it were not removed, or the vehicle is located in a high-crime area and is susceptible to theft or damage if left at the scene.

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:

- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the occupant was arrested nor may be subject to forfeiture proceedings.
- 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 Department will not be responsible for theft or damages.

### **510.5 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 they are closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practicable in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while the owner is in police custody, to provide for the safety of officers and the public, and to protect the Department against fraudulent claims of lost, stolen or damaged property.

### **510.6 PRESERVATION OF EVIDENCE**

An officer who removes a vehicle pursuant to Minn. Stat. § 168B.035 is required to take reasonable and necessary steps to preserve evidence. If there is probable cause to believe that a vehicle or its contents constitute any evidence which tends to show that a criminal offense has been committed, or that a particular person has committed a criminal offense, officers shall ensure that all legally required and reasonably necessary efforts are taken to preserve the evidence. Such evidence is to be provided safe storage and preserved until released to the owner or otherwise disposed of according to law.

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### **510.7 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, officer should make reasonable accommodations to permit a 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.

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.

## Vehicle Impound Hearings

### 512.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings.

### 512.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Metro Transit Police Department, a hearing will be conducted upon the request of the owner or operator of the vehicle to determine if probable cause existed for the removal and placement of the vehicle.

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.

#### 512.2.1 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. The Patrol Captain 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.

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 mediation or reduction of the period the vehicle is impounded.

- (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 that the inquiring party may pursue further civil remedies if desired.
  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.

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- (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 at the Department's expense.
- (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 to the appropriate Captain. The hearing officer will recommend to the Captain that the fees paid by the registered or legal owner of the vehicle in question or the owner's agent be reimbursed by the Department.

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## Impaired Driving

### 514.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving while impaired (DWI).

### 514.2 POLICY

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

### 514.3 INVESTIGATIONS

Officers should not enforce DWI laws to the exclusion of their other duties unless specifically assigned to DWI enforcement. All officers are expected to enforce these laws with due diligence.

The Patrol Supervisor 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 DWI 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 Minnesota or another jurisdiction.

### 514.4 FIELD TESTS

The Training Coordinator should identify the primary field sobriety tests (FSTs) and any approved alternate tests for officers to use when investigating violations of DWI laws.

### 514.5 CHEMICAL TESTS

A person implies consent under Minnesota law to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Minn. Stat. § 169A.51, Subd. 1):

- (a) The arresting officer has probable cause to believe the person was driving, operating or in physical control of a vehicle while impaired as defined by Minn. Stat. § 169A.20.

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- (b) The officer has probable cause to believe that the person is DWI and has been involved in a vehicle accident resulting in property damage, personal injury or death.
- (c) The officer has probable cause to believe that the person is DWI and the person has refused to take the preliminary screening test provided for by Minn. Stat. § 169A.41.
- (d) The person was administered a preliminary screening test and the results indicated an alcohol concentration of 0.08 or more.
- (e) The officer has probable cause to believe the person was driving, operating or in physical control of a commercial motor vehicle with the presence of any alcohol in the person's body.

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.

#### 514.5.1 BREATH SAMPLES

The Patrol Supervisor 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 Patrol Supervisor.

#### 514.5.2 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Minn. Stat. § 169A.51, Subd. 7). 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.

If an arrestee cannot submit to a blood test 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.

#### 514.5.3 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.

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

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

### 514.5.4 STATUTORY NOTIFICATIONS

At the time that the officer requests the person to submit to a breath test the officer must inform the person that (Minn. Stat. § 169A.51, Subd. 2):

- (a) Minnesota law requires that he/she take the test.
- (b) Refusal to take the test is a crime.
- (c) He/she has the right to consult with an attorney unless it would unreasonably delay administration of the test.

At the time that the officer directs a person to submit to a blood or urine test pursuant to a warrant, the person must be informed that a refusal to submit to a blood or urine test is a crime (Minn. Stat. § 171.177, Subd. 1 and Subd. 2).

### 514.6 REFUSALS

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

- (a) Advise the arrestee of the requirement to provide a sample (Minn. Stat. § 169A.51; Minn. Stat. § 171.177, Subd. 1).
- (b) Audio- and/or video-record the admonishment and the response when it is legal and practicable.
- (c) Document the refusal in the appropriate report.

#### 514.6.1 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of intention to revoke upon the person and invalidate the person's license in such a way that no identifying information is destroyed and immediately return the license to the person (Minn. Stat. § 169A.52, Subd. 7; Minn. Stat. § 171.177, Subd. 8).

#### 514.6.2 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who does not consent to a chemical test when any of the following conditions exist (Minn. Stat. § 169A.51, Subd. 3):

- (a) A search warrant has been obtained.
- (b) The officer can articulate that exigent circumstances exist and the officer has probable cause to believe that the person has committed DWI, including vehicular homicide or injury (Minn. Stat. § 169A.52, Subd. 1; Minn. Stat. § 171.177, Subd. 13). Exigency does not exist solely because of the short time period associated with the natural dissipation

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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 delay in obtaining a blood sample due to a collision investigation or medical treatment of the person.

### 514.6.3 FORCED BLOOD SAMPLE

A forced sample may not be taken except in DWI cases involving vehicular homicide or injury (Minn. Stat. § 171.177, Subd. 13). In those cases, if a person 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 person to submit to such a sample without physical resistance.
  1. This dialogue should be recorded on audio and/or video when reasonably practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure that the forced blood draw is recorded on audio and/or video when reasonably 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.
  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 the duties of a supervisor, as set forth above.

### 514.6.4 WARRANTS FOR CONTROLLED SUBSTANCES OR INCAPACITATION

A blood or urine test may be required pursuant to a warrant if the officer has probable cause to believe that (Minn. Stat. § 169A.51, Subd. 4):

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- (a) The person's impairment is due to a controlled substance or an intoxicating substance that is not subject to testing by a breath test.
- (b) A controlled substance listed in Schedule I or II or its metabolite (other than marijuana or tetrahydrocannabinols), is present in the person's body.
- (c) The person is unconscious or incapacitated to the point that the officer providing the breath test advisory, administering the breath test, or serving the search warrant has a good faith belief that the person is mentally or physically unable to comprehend the advisory or otherwise voluntarily submit to the chemical tests.

If a person objects to the blood or urine test as directed by the warrant or officer, the officer should offer the other type of test if the person is conscious. Action may be taken against a person refusing to submit to a blood or urine test only if an alternate test of blood or urine, as applicable, was offered (Minn. Stat. § 169A.51, Subd. 4; Minn. Stat. § 171.177, Subd. 2).

#### **514.7 ARREST AND INVESTIGATION**

##### **514.7.1 RIGHT TO ATTORNEY CONTACTS**

A person has a limited right to consult with an attorney prior to submitting to a chemical test. This right is limited to the extent that it cannot unreasonably delay administration of the test (Minn. Stat. § 169A.51, Subd. 2).

##### **514.7.2 ARREST AUTHORITY**

An officer may arrest a person without a warrant and without regard to whether the offense was committed in the officer's presence if there is probable cause to believe the person committed (Minn. Stat. § 169A.40):

- (a) A DWI offense (Minn. Stat. § 169A.20).
- (b) An alcohol-related driving offense involving a school bus or a Head Start bus (Minn. Stat. § 169A.31).
- (c) An underage drinking and driving offense (Minn. Stat. § 169A.33).

##### **514.7.3 OFFICER RESPONSIBILITIES**

If an officer requests that a person submit to a chemical test and the person refuses such request, the officer shall report such refusal to the Commissioner of the Department of Public Safety (DPS) and the appropriate prosecuting attorney (Minn. Stat. § 169A.52, Subd. 1; Minn. Stat. § 171.177, Subd. 3).

If a person refuses to submit to a test or in the alternative submits to a test and the results indicate a prohibited alcohol concentration, the officer shall immediately give notice to the person that his/her driving privilege will be revoked and shall (Minn. Stat. § 169A.52, Subd. 7; Minn. Stat. § 171.177, Subd. 8):

- (a) Issue the person a temporary license effective for only seven days.
  - 1. Officers are not required to issue a person a temporary license if the person's driving privilege is under withdrawal by DPS or if the person is unlicensed.

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- (b) Send the notification of this action to the Commissioner of the DPS along with the certification that there was probable cause to believe the person had been driving, operating or in physical control of a motor vehicle while impaired, and that the person either refused to submit to a test or submitted to a test and the results indicated a prohibited alcohol concentration or drug presence.

Test results of a person that indicate a prohibited alcohol concentration or drug presence shall be forwarded to the Commissioner of the DPS and the appropriate prosecuting attorney (Minn. Stat. § 169A.52, Subd. 2).

#### **514.7.4 PRELIMINARY SCREENING TEST**

An officer who has reason to believe the person was driving, operating or in physical control of a motor vehicle while impaired, may require the person to provide a sample of the person's breath for a preliminary screening test using a device approved by the DPS Commissioner (Minn. Stat. § 169A.41, Subd. 1).

The officer must use the results of the preliminary screening test for the purpose of deciding whether to arrest the person and require further chemical testing pursuant to Minn. Stat. § 169A.51 (Minn. Stat. § 169A.41, Subd. 2).

#### **514.7.5 ADDITIONAL TESTING**

An officer shall permit a person required to submit to a chemical test to have a qualified person of his/her own choosing administer a separate chemical test (Minn. Stat. § 169A.51, Subd. 7(b)). The separate chemical test shall:

- (a) Be conducted at the place where the person is in custody.
- (b) Be conducted after the officer has administered the statutorily mandated test.
- (c) Impose no expense to the state.

#### **514.7.6 ADDITIONAL REQUIREMENTS FOR BREATH SAMPLES**

All breath samples requested in accordance with this policy shall be obtained in accordance with Minn. Stat. § 169A.51, Subd. 5.

#### **514.8 RECORDS SECTION 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.

#### **514.9 ADMINISTRATIVE HEARINGS**

The Records Supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to the Driver and Vehicle Services Division (DVS) of the DPS.

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 the DVS 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.

### **514.10 TRAINING**

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

## Traffic Citations

### 516.1 PURPOSE AND SCOPE

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

### 516.2 RESPONSIBILITIES

The Patrol Supervisor shall be responsible for the development and design of all Interim Directive traffic citations in compliance with state law (Minn. Stat. § 169.99 and Minn. Stat. § 169.999 Subd. 3).

The Records Section shall be responsible for the supply and accounting of all traffic citations issued to employees of this department. Citations will be kept in a secure location and issued to officers by Records Section staff. Officers will sign for the citation books when issued.

#### 516.2.1 DATA COLLECTION

The Records Section should maintain information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

- (a) The race or ethnicity of the individual detained.
- (b) Whether a search was conducted and, if so, whether the person detained consented to the search.

The Records Section should submit an annual report to the Chief of Police of the information collected to assist in the implementation and administration of the Department's Bias-Based Policing Policy required by state law (Minn. Stat. § 626.8471 Subd. 4).

### 516.3 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. Any request from a recipient to dismiss a citation shall be referred to the Patrol Supervisor. Upon a review of the circumstances involving the issuance of the traffic citation, the Patrol Supervisor may request the Patrol Division Commander to recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate prosecutor with a request for dismissal. All recipients of traffic citations whose request for 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 prosecutor to 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. The citation dismissal shall then be forwarded to the Patrol Division Commander for review.

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Members of the Department should provide a report or other verification to the owner of a stolen vehicle that may have received a citation during the time of the theft for the purpose of dismissing the citation (Minn. Stat. § 169.042 Subd. 2).

### **516.4 VOIDING TRAFFIC CITATIONS**

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed but not issued. All 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 Patrol Captain.

### **516.5 CORRECTION OF TRAFFIC CITATIONS**

When a traffic citation is issued and in need of correction, the officer issuing the citation shall submit the citation and a letter requesting a specific correction to his/her immediate supervisor. The citation and letter shall then be forwarded to the Patrol Captain. The Patrol Captain shall prepare a letter of correction to the court having jurisdiction and to the recipient of the citation.

### **516.6 DISPOSITION OF TRAFFIC CITATIONS**

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the employee's immediate supervisor for review. The citation copies shall then be filed with the Records Section.

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

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

Disposition of notice of parking violation appeals is conducted pursuant to Minnesota state law and local regulations (Minn. Stat. § 169.04 (a) (1)).

#### **516.7.1 APPEAL STAGES**

Appeals may be pursued sequentially at three different levels:

- (a) Administrative reviews are conducted by the Patrol Captain, which will review written/documentary data. Requests for administrative reviews may be made at the Metro Transit 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.
- (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.

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- (c) If the appellant wishes to pursue the matter beyond an administrative hearing, an appellant may petition a municipal court for a hearing by filing with the clerk of the municipal court and posting fees as required.

### **516.7.2 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 days of issuance of the notice of parking violation, or within 10 days of mailing the Notice of Delinquent Parking Violation.
- (b) Requests for administrative hearings must be postmarked within 15 days of the notification mailing of the results of the administrative review.
- (c) Requests for appeal to the District Court must be made within 20 days of the mailing of the administrative hearing results.
- (d) Registered owners of leased or rented vehicles may transfer responsibility for the violation to the lessee or renter of the vehicle at the time of the violation if the name, address and driver's license number of the lessee/renter is provided to the processing agency within 30 days of the mail date of the delinquent notice.

### **516.7.3 COSTS**

- (a) There is no cost for an administrative review.
- (b) Appellants must pay the full amount due for the citation or provide satisfactory proof of their inability to pay, before receiving an administrative hearing.
- (c) An appeal through District 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 District Court.

### **516.8 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.

- (a) When any juvenile is issued a citation for a drug or alcohol violation, or a juvenile 16 years of age or older is issued a citation for an adult court traffic offense, the officer shall follow the arrest procedures prescribed in Minn. Stat. § 169.91 and shall make reasonable effort to notify the child's parent or guardian of the violation and the nature of the charge. Notifications should be documented (Minn. Stat. § 260B.225 Subd. 3).
- (b) When any juvenile is issued a citation for a major traffic offense, the officer is required to file a signed copy of the citation, as provided in Minn. Stat. § 169.91, with the juvenile

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court of the county in which the violation occurred. The citation serves as a petition providing the juvenile court jurisdiction (Minn. Stat. § 260B.225 Subd. 5).

## Disabled Vehicles

### 520.1 PURPOSE AND SCOPE

Law enforcement and other public agencies may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

### 520.2 OFFICER RESPONSIBILITIES

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 practicable.

### 520.3 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.

#### 520.3.1 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.

#### 520.3.2 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.

## Abandoned Vehicle Violations

### 524.1 PURPOSE AND SCOPE

This policy provides procedures for the removal, recording and storage of vehicles abandoned in violation of abandoned vehicle laws, under the authority of Minn. Stat. § 168B.04.

#### 524.1.1 DEFINITION

Pursuant to Minnesota statutes, a vehicle is abandoned if:

- (a) The motor vehicle has remained illegally for more than 48 hours on any government-owned or controlled property, or for more than four hours on that property when properly posted (Minn. Stat. § 168B.011 Subd. 2 (1)).
- (b) The motor vehicle has been properly tagged by an officer and abandoned for four hours on any highway (Minn. Stat. § 168B.04, Subd. 2 (b) (1)).
- (c) The motor vehicle has been abandoned and located so as to constitute a collision or traffic hazard (Minn. Stat. § 168B.04 Subd. 2 (b) (1)).
- (d) The motor vehicle is unattended on private residential property, that is a single-family or duplex, without permission of the property caretaker (Minn. Stat. § 168B.04 Subd. 2 (b) (2)).
- (e) The motor vehicle can be immediately removed if on private non-residential property if properly posted or after 24 hours if not posted (Minn. Stat. § 168B.04 Subd. 2 (b) (2)).
- (f) The motor vehicle remains at a service, repair or maintenance establishment of motor vehicles five days after notifying the vehicle owner by certified mail, return receipt requested, of the property owner's intention to have the vehicle removed from the property (Minn. Stat. § 168B.04 Subd. 2 (b) (2)).

### 524.2 MARKING VEHICLES

Vehicles on public roadways suspected of being abandoned in violation of Minnesota abandoned vehicle laws shall be marked and noted on the officers log. Officers shall also make notification to TCC. No case number is required at this time.

A visible chalk, crayon or paint mark should be placed on the rear window or left rear tire tread at the fender level unless the vehicle is missing tires or other vehicle conditions or weather prevent marking.

If a marked vehicle has been moved or the markings have been removed during a four or 24-hour investigation period, the vehicle shall be marked again for either the four or 24-hour abandonment violation and the above process repeated.

#### 524.2.1 MARKED VEHICLE FILE

TCC shall be responsible for maintaining a file for or notifying the local jurisdiction on all marked vehicles.

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### 524.2.2 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 Section immediately following the storage of the vehicle. It shall be the responsibility of the Records Section to immediately notify the Minnesota Criminal Justice Information Services (MNJIS). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS).

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Records Section to immediately notify MNJIS. Notification may also be made to the NLETS. In most, if not all cases, the local agency shall make the notification.