

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: D.U.I.**

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**D.U.I.**

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**MEMPHIS POLICE DEPARTMENT DUI UNIT**

The Memphis Police Department DUI Unit will provide mobile alcohol breath testing and/or collection of blood samples for alcohol and/or drugs in the City of Memphis, seven days a week, twenty-four hours a day.

**I. M.P.D. DUI TRAFFIC STOPS**

During interactions with individuals that have been driving or in physical control of motor vehicles where officers become suspicious that the individuals may be under the influence of alcohol or drugs, officers should always conduct investigations of possible impairment. Officer safety is the number one priority on any traffic stop, and officers should request additional assistance to conduct these “Unknown Risk” stops.

Detection is both the most difficult task in DUI enforcement, and the most important. The detection process begins when officers first suspect that a DUI violation may be occurring and ends when the officers decide that there is or is not sufficient probable cause to arrest the driver for DUI. If the suspected impaired driver is in custody for DUI, the DUI Unit must be called to the location of the arrestee. Furthermore, the subjects must be under arrest for DUI before the DUI Unit is requested.

**II. THREE PHASES OF DUI DETECTION**

DUI detection usually involves three separate and distinct phases: Phase One: Vehicle in Motion; Phase Two: Personal Contact, and Phase Three: Pre-Arrest Screening. The DUI detection process may not always include all three phases. Officers may not have the opportunity to observe the vehicle in motion, such as crash investigations, roadblocks or calls for assistance.

There are also situations that may prevent officers from interviewing the suspect or conducting Field Sobriety Tests. They may include: risk of flight or security risk, injury or medical condition, age of suspect (65 or older), over-weight by fifty pounds, and weather or traffic conditions.

**Note:** Officers should attempt to use other Field Sobriety Tests (such as counting, alphabet, finger dexterity, finger to nose, etc.) to aid in their investigations.

- A. Phase One:** Officer will observe the vehicle in operation, and using visual cues, decide whether there is sufficient cause to stop the driver. If yes, you will then observe the stopping sequence, noting any additional evidence of a possible DUI violation.
- B. Phase Two:** Officer will observe and interview the driver face-to-face. Based on your observations, you must decide whether there is sufficient cause to instruct the driver to step from the vehicle for further investigation.

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**C. Phase Three:** Officer will, if possible, administer structured, formal physiological tests. These include the Horizontal Gaze Nystagmus Test, the Walk and Turn Test and the One Leg Stand Test. When officers have individuals perform Standardized Field Sobriety Tests, they will document their observations on a M.P.D. DUI Field Sobriety Report.

Based upon their observations of: (1) impaired driving, (2) physical impairment (i.e. odor of alcohol/marijuana, slurred speech, bloodshot eyes, swaying, ect.) and (3) Standardized Field Sobriety Tests; officers should then decide whether to arrest the driver/suspect. If an arrest is made for DUI, the officer MUST call for a M.P.D. DUI Unit officer to continue the investigation.

If the individual is not free to leave, it is considered a custodial situation. When a custodial situation occurs, the individual is technically under “arrest.” Therefore, situations will exist where Miranda may apply. Thus, officers should be wary of asking too many questions prior to the recitation of Miranda rights.

In order to request a M.P.D. DUI Unit officer, the arresting officer must be able to articulate, at a minimum, “reasonable suspicion”, which in these situations equates to “probable cause”, that the driver is under the influence of alcohol or drugs.

### **III. M.P.D. DUI TECHNICIANS**

Once a M.P.D. DUI Unit officer arrives on the scene, the M.P.D. DUI Unit officer must consult the arresting officer to gather information about all of the arresting officer’s observations of potential impairment of the individual. With that information, the M.P.D. DUI Unit officer should then interact with the individual to make his own observations of the individual. The M.P.D. DUI Unit officer should have the individual perform Standardized Field Sobriety Tests, and document the results.

Based upon the information from the arresting officer, the M.P.D. DUI Unit officers’ observations of the individual and their performance on the Standardized Field Sobriety Tests, the M.P.D. DUI Unit officer should then determine whether a test should be requested. If the officers cannot articulate the reasons for asking for a chemical test, then the test may be suppressed at prosecution.

### **IV. M.P.D. DUI Field Sobriety Reports**

To assist in arrest information, Patrol Officers and the M.P.D. DUI Unit will use a DUI Field Sobriety Report, which is located on the back of the Implied Consent Form. If the Uniform Patrol officer does not have a report, the M.P.D. DUI technician will furnish the form to the officer, who will complete the Field Sobriety Report on each defendant and return the form to the DUI technician. The arresting officer will circle and initial their observations of the defendant and the defendant’s performance when the arresting officer administered the Standardized Field Sobriety Test.

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If the arresting officer did not administer a Standardized Field Sobriety Test, then the arresting officer will complete only the indicators related to physical observations of the defendant and the effects of an intoxicant. The DUI Technician will complete their observations of the defendant and his/her performance on the Standardized Field Sobriety Test by circling and initialing the indicator or by initialing the indicator already circled by the arresting officer if both observations are in agreement.

If either the arresting officer or the DUI Technician did not administer a SFST the reason for not administering the tests is to be listed in the comments section at the bottom of the Field Sobriety Report form. The DUI technician will then complete the Implied Consent portion and process the defendant in the usual manner. The M.P.D. DUI Unit will provide the Field Sobriety Report at the court hearing when necessary. The Implied Consent Form is self-explanatory and should be filled out completely.

**V. TCA 55-10-406**

Pursuant to T.C.A. § 55-10-406(a) (1), a M.P.D. DUI Unit officer may request a test to determine the blood-alcohol level or presence of drugs in a driver's breath/blood/urine when he has "reasonable grounds" to believe that the driver is driving under the influence. The statute does not provide a definition of "reasonable grounds;" however, "the term has been used interchangeably with 'probable cause' by the courts of this state." "Probable cause" exists to request a test when the officer believes:

- (1) The suspect motorist has consumed an intoxicant or taken an impairing drug; and
- (2) Evidence of the motorist's intoxication will be found if the breath/blood/urine is tested.

Therefore, if the M.P.D. DUI Unit officer has reason to believe that the individual has consumed an intoxicant and that evidence of this intoxication will be found if the individual is tested, he will remind that individual that they are under arrest. The MPD DUI Unit Officer will then read the Implied Consent Law.

**VI. IMPLIED CONSENT LAW**

After reciting the Implied Consent Law to the individual, the M.P.D. DUI Unit officer should ask the individual if they understand the Implied Consent Law and its consequences. After answering any questions, the M.P.D. DUI Unit officer should request the individual to take the breath/blood test. Multiple tests may be offered, and even though the suspect may take the first test, but refuses to take another test, the suspect can still be charged with refusal.

It is important to note, there is a two (2) hour window from the time of arrest to the time of test. In the case of a Hit&Run crash, the investigating officers have four (4) hours to locate the suspect, within a reasonable distance of the crash scene. They then have the same two (2) hour window from the time of arrest to the time of test.

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If the individual agrees to submit to the requested test, the M.P.D. DUI Unit officer should follow the standard procedures. Using the results of these test(s), the M.P.D. DUI Unit officer should review his observations to determine if the results confirm his earlier observations and suspicions. Based upon both the results and the observations of both the arresting officer and the M.P.D. DUI officer, the officers should determine whether to charge the individual with DUI (along with any other charges).

If the individual refuses, the M.P.D. DUI Unit officer should note that refusal and the time of the refusal on the consent form, and should return the individual to the arresting officer. After a refusal, the arresting officer should charge the suspect with both DUI and refusal of the Implied Consent Law (along with any other charges). Officers shall no longer write the charges for Refusing to Submit to BAC and DUI on the same arrest tickets. The charge of **Refusal to Submit** will always require a second arrest ticket and also a second affidavit. Officers cannot mention any of the other charges contained in the first affidavit on the affidavit required for the Refusal to Submit charge. This is in Pursuant to Tennessee Code Annotated T.C.A. §55-10-406, subpart 6; **Tests; Implied Consent; License Suspension**: Any person violates the provision of the section by refusing to submit to either test or both such tests, pursuant to subdivision (a)(4), shall be charged by a separate warrant or citation that does not include any charge of violating §55-10-401, Driving under the Influence of Intoxicant that may arise from the same occurrence.

However, at any point in time, the officers may change their opinions of the individual's impairment, end their investigation of impairment, and release the individual from arrest for the charge of DUI. Both the arresting officer and the M.P.D. DUI officer should note all of his observations of indications of impairment (both driving and physical).

## **VII. MULTIPLE TESTS**

T.C.A. 55-10-408 imposes presumptions that the defendant is not under the influence of an intoxicant if he registered .07% or less by weight of alcohol or BAC. This statute further states that .08% BAC does create a presumption that the defendant is under the influence of such intoxicant and that his or her ability to drive is impaired thereby.

This statute was changed and took effect July 1, 2003 and states: for the purpose of proving a violation of 55-10-401 (a) (1) evidence that there was, at the time alleged, eight-hundredths of one percent (.08%) or more by weight of alcohol in the defendant's blood shall create a presumption that the defendant's ability to drive was sufficiently impaired thereby to constitute a violation of § 55-10-401 (a) (1).

If a suspect is visibly impaired, but registers below .08 on the breath test, the officer can administer additional tests to detect the presence of impairing drugs in the suspect's blood. Testing below .08 is not an automatic release, and testing above .08 should not require additional testing. Multiple testing is a reality due to the fact that the combination of alcohol and drugs may be found in impaired drivers.

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**VIII. Arrest Tickets and Affidavits of Complaints**

Fill in the appropriate blocks, making sure to show if a vehicle was towed, the towing company name, and the location to which the vehicle was towed. In the Charges and TCA section of the arrest ticket the proper SCATS wording and T.C.A. codes are used. The narrative on the arrest ticket should describe all the details and circumstances related to the arrest. In this narrative section you should describe your first observations of the suspect's actions, the suspect's location when first observed, describe any unusual actions taken by the suspect.

Also describe in detail your initial observations of the suspect's appearance and actions, and if the suspect was detained for actions connected with his/her operation of a motor vehicle you must describe the actions which establish that the suspect was actually driving or otherwise in physical control of the vehicle. If the suspect is arrested for DUI you must describe the suspect's actions during the administration of the field sobriety tests or explain why a field sobriety test was not administered.

Successful prosecution depends on your ability to describe in writing the events you observed and all actions undertaken by you. The Affidavit of Complaint(s) must contain all the elements related to the probable cause required to justify the arrest and charges placed.

Upon reaching the Sally port, the defendant's right thumbprint must be placed on the arrest ticket. A booking number must be obtained from the intake officer. The signed affidavits must be read and approved by the on-duty Judicial Commissioner. The ADE's Office will make copies of the arrest ticket/s and give the officers back their copies. A copy must be turned in to the DUI supervisor and the Report Center.

If an incident number has been reserved the incident number must be inserted by the officer into the Offense Report Number block on the arrest ticket. If property or evidence was placed in the MPD Property Room, the property receipt number must be entered on the arrest ticket. After booking juvenile arrestees at Juvenile Court, it will be necessary for the arresting officer to go to the Memphis Police Department's ADE office at 201 Poplar and have a Juvenile Booking Number placed on the arrest ticket.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Crash Reports**

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**Crash Reports**

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# MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES

## SECTION: Crash Reports

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### I. State Traffic Reports

The Tennessee Department of Safety has requested that the Memphis Police Department advise all motorists who are involved in a traffic crash which results in personal injury or property damage in excess of \$400.00, that the motorist must file a **State Report** within **twenty (20) days** of the crash. This is **not** the crash report, which is filled out by members of the Memphis Police Department. This is a separate state report that the motorist himself must fill out and send in. Motorists **should be informed** that these **State Reports** are available at Central Records, at all Precincts, and from the Tennessee Highway Patrol.

### II. Tennessee Uniform Traffic Crash Report

Officers of this department have a responsibility to investigate motor vehicle crashes. This investigation normally occurs when the officer is called to the scene after the accident and has not witnessed a violation. The State of Tennessee requirements concerning the reporting of traffic crashes include:

- The driver of any vehicle involved in a crash resulting in death or injury or total property damage to an amount of four hundred dollars (\$400) or more shall immediately notify police.
  - The driver of any vehicle involved in a crash resulting in injury or death or total property damage to an amount of four hundred dollars (\$400) or more shall, within 20 days, make a written report of it to the Department of Safety.
  - Police officers who investigate a crash, for which a report must be made, either at the time of and at the scene of the crash, or thereafter and elsewhere, by interviewing participants or witnesses, shall by the end of their tour of duty forward a written report of the crash to their immediate supervisor for approval.
- A. A police officer will be assigned, respond to, and prepare a crash report of crashes involving any of the following: (61.2.1.a,b,c,d,e,f) (61.2.2.a,b,c,d,e)
1. Death or injury (61.2.1.a) (61.2.2.a)
  2. Property damage in excess of \$400 (61.2.1.b)
  3. Hit and run (61.2.1.c) (61.2.2.b)
  4. Impairment due to alcohol and drugs (61.2.1.d) (61.2.2.c)
  5. Hazardous materials (61.2.1.e) (61.2.2.e)
  6. Any crash involving city property, vehicles, equipment, or facilities. (61.2.2.d)
  7. Any crash on private property only if there is injury, death, hit & run or DUI occurs. (61.2.1.f)

Officers will submit paperless crash reports through Watsons, except for occasions when the Watson Applications are down.



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For officers who successfully complete basic police recruit training and enter the Field Training Officer (FTO) Program, the following guidelines will be followed:

1. During Part 1, Phase 1 thru 4, of the Field Training Officer Program, PIIPs will use their FTO's PDA in order to submit reports.
2. The PIIP's name will be in the 'Reporting Officer' block and the FTO name will be listed as "Additional Officer."
3. FTO's will review the reports prior to submission and make notations on the Daily Observation Report (DOR) regarding the PIIP's performance in both using the equipment and their written communication skill.

After successfully completing Part 1 of the Field training Program, PDAs will be issued to PIIPs. P2P's will be notified when their PDA's are available so they can schedule a time for pick-up.

**B.** Police officers should also be assigned to respond to any crash involving disturbances between principals, or which create major traffic congestion as a result of the crash or where vehicles are damaged to the extent that towing is required. Police officers may be assigned to report any other crashes, not listed above, to assist persons involved with information exchange, etc. Time permitting, officers may investigate and report such crashes for departmental use. (61.2.2.g,h)

**C.** Crash Investigation Follow-Up (61.2.4)

1. Follow-up activities which may be necessary include:
  - a. Collecting off-scene data about driver, pedestrian, vehicle, etc.
  - b. Obtaining/recording formal statements from witnesses
  - c. Reconstructing crash
  - d. Submitting evidentiary materials for laboratory examination
  - e. Preparing crash and/or offense reports to support criminal charges arising from the crash.
2. In all serious crash involving severe injuries, fatalities, multiple vehicles, etc., it will be necessary to summon the STIS Unit. Such expert assistance should be requested through the Shift Supervisor.

**D.** Procedures for Reporting Road Hazards and Debris for Prevention of Vehicle Crashes:  
(61.4.2)

1. An officer who locates debris in the roadway that is hazardous shall remove it or request the dispatcher to notify the Public Works Division to remove it from the roadway to a safe location.
2. All roadway defects will be reported to the dispatcher and referred to Public Works as soon as possible.

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3. Requests or suggestions for additional or new roadway safety features will be forwarded through chain of command to the shift supervisor who will forward request to appropriate department or agency, if the situation warrants.
4. Abandoned or inoperable vehicles, which are obstructing traffic, must be towed.
5. Hazardous material control and removal shall be the responsibility of the Fire Department.

NOTE: The block on the report, "**Reporting Agency/Name of Investigating Agency**", must have two identifiers checked: "**CPD**" and "**Memphis PD**".

### **III. Filing False Crash reports: TCA 55-10-110**

"Any person who gives information reports as required in §§ 55-10-107 - 55-10-109 knowing or having reason to believe that such information is false, commits a Class C misdemeanor."

Under Section 55-10-107 and Section 55-10-108, drivers of vehicles involved in a crash involving bodily injury, death, or property damage in excess of \$400.00 are required to notify the Department of Safety. Under City ordinances, notice to the Memphis Police Department is required where property damage exceeds \$50.00 under Section 11-48-1 of the Memphis City Code.

There have been cases arising where owners or operators of vehicles involved in crashes, in order to avoid liability for the crash, have reported that their vehicle was stolen. It has then been determined that the vehicle was not stolen but, in fact, was operated by the "alleged" victim. In cases of this type, the offending party shall be charged with a violation of TCA 55-10-110, which is a state misdemeanor or TCA 39-16-502, which is a felony.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Traffic Arrest & Search**

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Tennessee law requires citations to be issued for traffic violations. Arrest of a traffic violator is permitted only in exceptional situations, such as when the violator refuses to sign the citation.

**I. ARRESTS**

**A.** To be a legal arrest, the officer must:

1. Restrict the arrestee's freedom of movement, **AND**
2. Tell the arrestee they are under arrest.

**B.** Officers may arrest a driver, based on probable cause, for state misdemeanor charges in the following circumstances:

1. Whenever, from personal investigation of the scene, driver's statements, or witness statements, there is probable cause to believe the defendant violated Tennessee Code Title 55, Chapter 8 or 10, and the vehicle crash resulted in personal injury or property damage over \$1,000.00 (TCA 40-7-103).
2. Whenever, from personal investigation at the scene, there is probable cause to believe a driver has committed D.U.I. regardless of personal injury or property damage **and** such person is arrested within four (4) hours of being transported to a medical facility or within four (4) hours of leaving the scene of the accident.

**C.** Officers **SHALL** arrest a driver without a warrant, if the driver is involved in an accident resulting in serious bodily injury or death and the driver:

1. Does not have a valid driver license, **AND**
2. Does not have evidence of financial responsibility. (TCA 55-10-119)

**D.** There is sufficient justification and case law to support using force to remove non-compliant individuals from a vehicle given the following conditions:

1. A lawful stop or detention has been made;
2. The officer has articulable reasonable suspicion/probable cause that the person may have committed a crime or safety concerns exist to order the driver from their vehicle;
3. The driver has been ordered to exit their vehicle;
4. The driver refuses to exit their vehicle;
5. The officer has called for Back-Up and a Supervisor to make the scene;
6. The driver has been advised of probable cause arrest;
7. The driver has been advised or warned that force will be used to remove driver;
8. Minimum amount of force necessary is used to remove driver from the vehicle; and
9. A physical arrest of the driver has been made.

**It is critical to note that officers must articulate reason for removing said driver from vehicle.** Absent any other articulable justification, officers are warned against using force to remove individuals from vehicles.

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E. When an officer investigating a vehicle crash cannot establish reasonable and probable grounds to substantiate a charge, only a report will be made.

**II. Searches**

Searches can only be conducted after an arrest, but not when a traffic citation is issued. A search is not allowed incident to a traffic citation. If an officer has articulable facts to support a reasonable belief that the traffic offender poses a present danger to the officer's safety then the officer may frisk the traffic offender.

The arrest of an occupant of a motor vehicle does not automatically authorize a search of the motor vehicle incident to that arrest. Only two situations authorize a search of the interior of a motor vehicle incident to the arrest of an occupant.

One, the motor vehicle can be searched if the arrested occupant or other non-arrested occupants are unrestrained and within reach of the motor vehicle.

Two, the motor vehicle can be searched if it could contain evidence related to the crime the occupant was arrested for, such as robbery, theft or DUI. However, if the arrest crime could not have evidence related to it, such as driving while license revoked, the search of the motor vehicle incident to that arrest would not be lawful.

There are lawful ways to search a motor vehicle other than search incident to arrest. Consent, inventory and probable cause to believe the motor vehicle contains seizable items are all lawful search methods if the appropriate facts are present.

If an officer makes an arrest of a traffic offender in bad faith or as a scheme to conduct an otherwise unlawful search, the search may be ruled illegal and the case would be lost.

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**Traffic Tickets**

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**I. Motor Vehicle Crashes**

Officers of this department have a responsibility to investigate motor vehicle crashes. This investigation normally occurs when the officer is called to the scene after the crash and has not witnessed a violation.

**A. TRAFFIC TICKETS**

Officers may issue traffic tickets at the crash scene based upon personal investigation without regard to personal injury or property damage. Common examples of vehicle crash cause factors that can be deduced from physical evidence at a scene include:

1. Following Too Close
2. Failure to Yield, Pulling from Stop Sign
3. Turning from Wrong Lane
4. Failure to Yield, Pulling from a Private Drive

\* The charge of disregarding a red light should be substantiated by disinterested witnesses on the scene.

- B.** When an officer investigating a vehicle crash cannot establish reasonable and probable grounds to substantiate a charge, only a report will be made.

**II. Stopping the Traffic Violator for Issuance of Ticket (61.1.7)**

Officers may use unmarked vehicle to stop traffic violators only when that vehicle is equipped with blue light and siren. Officers should request a marked vehicle when possible. (61.1.6c)

The following steps must be followed when stopping and approaching traffic violators and are intended to provide maximum safety for the officer, the violator, and others. Varying conditions regarding the engineering of the particular traffic artery, the urgency to stop the violator (drinking driver/ known or suspected felon), and the existing volume of traffic may require adjusting or altering the recommended procedure.

These procedures are to be followed when possible, and are presented from the perspective that ideal conditions exist:

- A.** Once the determination has been made to stop the violator the officer should notify the dispatcher of the intended location of the traffic stop, license number, make of vehicle, model of vehicle, color of vehicle and number of occupants.
- B.** The officer should note the license number of the vehicle on a note pad, to be left inside the patrol vehicle if the dispatcher cannot be notified.
- C.** The officer should be thoroughly familiar with the area, and anticipate the appropriate location with ample space, appropriate lighting, and should avoid stops on hills, curves, intersections, private drives, and business locations which have limited parking spaces.

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- D.** The officer should signal the violator to stop. This task should be accomplished by activating the blue light emergency system, hand signals, sounding horn, and if necessary sounding siren. These signals also alert other drivers of the intent of an officer and will usually facilitate securing the right of way for the stopping maneuver.
- E.** The violator should be signaled and directed to the right side of the roadway close to the curb, or onto the shoulder when feasible.
- F.** On multi-lane roadways, the officer should insure the safety of the violator during changes by gradually changing from lane to lane with violator until the right side of the roadway is reached.
- G.** Should the violator stop abruptly in the wrong lane or in another undesirable location, they should be promptly directed to move to a safer location. Officers should use the public address system to instruct violators to move to a safer location. If the officer's verbal directions and gestures are insufficient to bring understanding, the officer should exit from the patrol vehicle and give verbal instructions to the violator.
- H.** If the operator is suspected of drinking to the extent their driving abilities are impaired the violator should not be permitted to move their vehicle once it has stopped.
- I.** Once the violator has stopped in an appropriate location, the officer should position the patrol unit approximately 12 feet behind the violator's vehicle. The patrol unit should be positioned so that it will offer the officer some protection from oncoming traffic as well as cover from the violator. This position should be 2 feet outside and to the left of the violator's vehicle. This position provides maximum safety to the violator, the officer, and all other traffic. The patrol car should not be left blocking the lane of traffic once the violator has pulled from the roadway at the completion of the stop.
- J.** The officer should exit from the patrol vehicle and be continuously alert for any suspicious movement or actions on part of the violator or other occupants in the violator's vehicle.
- K.** The officer should approach from the rear of the violator's car, looking into the rear seat area, and stop at a point to the rear of the tailing edge of the driver's side door. This position should be maintained if there are only occupants in the front seat of the vehicle. From this position, the officer can communicate with the violator, keeping them in a slightly awkward position, and at the same time keep all occupants of the vehicle in view.
- L.** In those cases where the violator's vehicle has occupants in both, the front and rear seats, the officer should approach to a point near the tailing edge of the rear driver's side door. From this position, the officer can communicate with the violator, keeping him in a slightly awkward position, and at the same time keeping all occupants of the vehicle in view.
- M.** In those traffic stops made by two or three more officers, one officer should be responsible for all radio communications. During the traffic stop, all officers should dismount from the vehicle. At no time should the two officers approach the violator's vehicle side-by-side.

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- \* At night, the procedure is basically the same with the additional necessity of exercising caution in selecting an appropriate place for the traffic stop, signaling the violator and positioning the police vehicle. After the stop, the headlights should be on low beam for the safety of oncoming traffic, and emergency bar lights in use on patrol vehicle. Officers may want to utilize a shining spotlight in rearview mirror of vehicle being stopped. This technique will make visibility in stopped vehicle clearer and offer better concealment for the officers.

### **III. Approaching the Traffic Violator/Officer Violator Relations (61.1.7) ( 61.1.8)**

Once the officer has stopped the violator and approaches to a point where communications can begin, the following guidelines should be followed in terms of officer-violator relationships:

- A. Be alert at all times for the unexpected, but do not be obviously apprehensive.
- B. Be absolutely certain the observations of the traffic violation were accurate, without reservation.
- C. Present a professional image in dress, grooming, language, bearing, and emotional stability.
- D. Be prepared for the contact by having necessary equipment and forms immediately available if they are to be used.
- E. Decide on the appropriate enforcement action based upon the observed violation not the violator's attitude. In most cases, it is advisable to have the form of enforcement action decided prior to initial contact with violator. An exception to this would be, when the officer, through conversation, finds an out-of-state driver performing a violation that would not constitute a violation in their jurisdiction and the officer then decides to issue a warning rather than a citation as intentionally intended.
- F. GREET THE VIOLATOR WITH AN APPROPRIATE TITLE AND IN A COURTEOUS MANNER. ALWAYS BE MINDFUL OF HOW YOU ARE PERCEIVED AND HOW YOU WOULD WANT AN OFFICER TO TREAT A MEMBER OF YOUR FAMILY.
- G. Inform the violator of the traffic law they have violated and the intended enforcement action. The violator should not be kept in suspense.
- H. Ask for the violator's operator's license, vehicle registration and insurance verification, and accept only these forms.
- I. If the operator has no driver's license, obtain another document of identification.
- J. Take the time to fully explain your actions and allow the operator to discuss the violation. Do not argue, berate, belittle, or otherwise verbally abuse the violator.
- K. Complete the forms required for the enforcement action taken or exercise a verbal warning.
- L. Explain to the violator exactly what they are supposed to do in response to the action taken.



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Upon issuance, officers will advise the motorists of the following:

1. Court appearance (61.1.4 a)
  2. Optional or mandatory nature of court appearance (61.1.4b)
  3. If allowed to enter a plea and/or pay a fine by mail or at a traffic violations location (61.1.4c)
  4. And any other relevant information that may be of importance to the motorist. (61.1.4d)
- \* Other circumstances may arise where contact with motorists may occur with no citation issued. In these situations motorists are in need of assistance. Officers will provide assistance to motorists under the existing situation. This may include requesting dispatcher to call wreckers, providing directions, or obtaining other services as needed. Time and duty permitting, officers may assist stranded and disabled motorists to obtain fuel and repairs. If officers must leave the scene prior to arrival of requested assistance, he/she should request another unit take the call or check by area and provide assistance and/or protection. (61.4.1 a,b,c,d)
- M.** If the enforcement action requires a court appearance, make sure the violator knows where and when to appear. Explain any alternatives to the violator, but do not predict the actions of the court. (61.1.4 a,b,c,d)
- N.** Be alert to any emotional stress exhibited by the operator. If stress is present, the instructions may have to be repeated or the violator may need to calm down before resuming driving.
- O.** Return the violator's operator's license, registration, and a copy of citation.
- P.** Assist the violator in safely re-entering traffic flow.
- Q.** Do not follow the violator. At this point, all contact with violator ceases unless another infraction occurs.

**IV. Issuance of Traffic Tickets: (61.1.2b)**

- A.** Traffic citations should be issued to a violator who jeopardizes the safe and efficient flow of vehicular and pedestrian traffic, violations including, but are not limited to, hazardous or non-hazardous violations, operating unsafe and improperly equipped vehicles and violating City traffic laws i.e., speeding. (61.1.5c,d,f,h) If multiple infractions occur, check appropriate boxes or write in box provided on citation. (61.1.5 i) WARNINGS, however, may be issued under following circumstances: (61.1.2c)
1. There is a minor traffic infraction committed in those areas where traffic crash occurrences are minimal.
  2. When the act may be due to ignorance of local ordinances, which may be a unique violation or a newly enacted law and/or regulation. A 30- day grace period will be established during which time only warnings are issued, unless a specific period is defined by statute.

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3. Non-hazardous violations.
4. Or a violation of which the driver may not be aware.

**B.** Traffic citations and traffic summons are to be issued only on public streets and roadways. Citations and summons are not to be issued on private property or upon public property, which is not a public street or roadway, except in the following circumstances:

1. When the area in question has been designated as a restricted or prohibited parking zone. (Ex: Fire Lanes) In such cases, only a traffic citation covering the specific parking violation should be issued.
2. If an officer has observed an offender to be operating a vehicle on a public street or roadway and then pull onto private property, or onto public property, which is not a street or roadway, then the officer may follow that person onto said property and issue the citation.
3. Leaving the scene of a private property vehicle crash witnessed by the officer.

**V. Handling: Special Circumstances and/or Categories of Violators:**

- A. Juveniles:** Officers will issue a special juvenile traffic summons for juvenile violators only from the book distributed through the City Court Clerk's Office. A warning, if given, may include notification of legal guardian. (61.1.3b)
- B. Non-residents:** Citations shall be issued to non-resident violators in the same manner as residents of the City of Memphis. Non-residents who cannot appear on the required court date shall be directed to contact the City Court Clerk. If an officer has a reason to believe that non-resident violator will not appear in court or not pay the fine the officer may make an arrest. (61.1.3a)
- C. Members of Legislature:** During the session of the General Assembly shall be privileged from being taken into custody except treason, a felony or a breach of the peace. The issuance of a traffic citation for a moving traffic violation offense is allowed, as is an arrest in case of an offense involving DUI. (61.1.3c)
- D. Foreign/Diplomats/Families/Servants, and other consular officials:** While they may be granted diplomatic immunity, a report will be taken in traffic offenses resulting in injury, death, etc. (61.1.3d)
- E. Military Personnel:** Shall not be afforded special consideration. (61.1.3e)
- F. Public Carrier/Commercial Vehicle Drivers:** Treated as residents of the City of Memphis. (61.1.5g)
- G. Persons Driving With Revoked/Suspended License:** an arrest should take place and a misdemeanor citation rather than transport to jail may be issued providing the offense will not continue. An officer who sees an individual driving, who is known to be under

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suspension or revocation, if not able to stop the individual in a timely manner, may swear out a warrant for violator. (61.1.5b)

- H. Bicycle/Pedestrians Violations: Consider warning unless repetitive or flagrant. (61.1.5l)
- I. Violation Resulting in Traffic Crashes: Based on an officer's investigation, citation may be issued. However, the officer, in order to convict, will need to issue a courtesy subpoena to witnesses or other parties involved in corroborating his investigating. (61.1.5k)
- J. Off-Road Vehicles, including dirt bikes and mopeds: Any officer observing an unlicensed off road vehicle that cannot be legally operated on a public highway or violating traffic laws shall order the vehicle to be removed and take appropriate enforcement action. (61.1.5e)
- K. Newly Enacted Laws and/or Regulations: A 30-day grace period will be established during which time only warnings will be given, unless a specific period is defined by statute. (61.1.5j)
- L. Suspected Incompetent, Physically or Mentally Disabled Drivers: If a driver is suspected of being incapable of exercising reasonable and ordinary care of a motorized vehicle, the officer may submit a Request for Special Examination (SF-0365) to the Department of Safety for re-examination. (61.1.12)

#### VI. Charging Non-Drivers with Traffic Offenses:

When vehicles have been driven in an unlawful manner and the surrounding facts indicate that a passenger was responsible for encouraging the driver to operate the vehicle improperly or was responsible for permitting a drunken person to operate the vehicle or permitted a driver to proceed in an improper manner, officers have been unsure what, if any, charges can be brought against the passenger and/or owner. These problems have arisen in connection with a passenger allowing an intoxicated individual to drive a car and a passenger encouraging a driver to engage in drag racing.

There are several sections of the Tennessee Code, which are available to us when the above type situations arise. TCA 55-10-201, "Parties to a crime" establishes that every person who aids or abets in the commission of any act declared illegal by Chapters 8 or 10 of the Motor Vehicle Section of the Code shall be guilty of the offense the driver committed. It further states that any accessory shall be guilty of such offense and that anyone who willfully causes or permits another to violate any provision of Chapters 8 and 10 shall be guilty of the same offense as the driver.

To charge one other than the operator of the vehicle with a violation of the law because he was a party to that crime (TCA 55-10-201), the individual must have either:

- Encouraged or forced the driver to violate the law; or
- Have had knowledge that the driver was violating the law, did not attempt to halt the illegal actions, and had control over who was driving the car, e.g., owner, renter, or custodian of the car.

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D.U.I. charges could be placed against the owner of a car who was neither drunk nor driving when he knew the driver to be drunk and permitted him to drive in such drunken state. The proper charge would be aiding and abetting driving under the influence, TCA 55-10-401.

Aiding and abetting reckless driving charges could be placed against all individuals in a car who encouraged the driver to operate his vehicle recklessly. This charge would be appropriate where a group went out joy-riding. Even though only one person was behind the wheel, all participated in the crime by willfully inducing the driver to proceed in such a reckless manner. We must know that the passenger actively encouraged the unlawful action to bring these charges.

TCA 55-10-201 is not a criminal offense in itself but simply a codification of the common law theory of aiding and abetting offenses. It gives us the authority to charge persons with a particular offense by aiding and abetting its commission.

TCA 55-10-202 is directed specifically at owners of automobiles and people who have control over the driving of an automobile, e.g., employer-chauffeur relationship. This makes it unlawful for them to require or knowingly to permit the operation of the vehicle in an unlawful manner. This charge should be placed whenever the non-driver has the right to determine who shall drive the car. TCA 55-10-202 is a separate criminal offense and should be used in addition to a charge of aiding and abetting when appropriate.

TCA 55-10-501 deals with drag racing. It states that:

"... any person or persons who arrange for, supervise, or in any way and manner set in motion any such `drag racing' as herein defined, regardless of whether or not such person or persons may be the operator of, or be a passenger in, any motor vehicle participating in such `drag racing'."

Proof to sustain a conviction based on any of these three statutes will need to be great. Discretion must be exercised in bringing charges against one other than the driver.

The Attorney General's Office is available to help whenever doubts exist as to whether the charge should be placed against the non-driver.

**VII. State Charges on Traffic Tickets:**

Long form traffic tickets issued by members of this department should include only City traffic charges. State charges cannot be placed on a traffic ticket. Any person charged with a state offense is entitled under the Tennessee Rules of Criminal Procedure to receive a formal Affidavit of Complaint and is entitled to a preliminary hearing. A traffic ticket does not provide the necessary requirements; and therefore, no state charges can be placed on a long traffic ticket.

Any time an officer is going to place state traffic charges (i.e., Reckless Driving or Leaving the Scene); the officer must arrest and transport or issue a misdemeanor citation in lieu of transport.

**A. Reckless Driving (Private Property)**

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1. The Reckless Driving Statute (TCA 55-10-205) applies to private property as well as public roadways.
2. Officers may charge a defendant with Reckless Driving occurring on private property if the officer observes the person drive a vehicle in willful or wanton disregard for the safety of persons or property. Whenever such conduct is witnessed by an officer, he should make an arrest for the charge of Reckless Driving.

**B. Leaving the Scene of an Accident:**

1. An officer is not justified in making an arrest for leaving the scene where the officer does not see the offense. Under TCA 40-7-103, for the charge of Leaving the Scene of an Accident, an arrest may be executed only after an arrest warrant has been secured. A misdemeanor citation for this offense is NOT to be used.
2. TCA 55-10-102, requires that a motorist stop and remain at the scene of any accident involving death, personal injury, or property damage.

**VIII. Traffic Ticket Accountability Procedure:**

**A. Accountability**

Officers will sign for their own ticket books with the Court Clerk assigned to issue said books in order to keep an accurate record of tickets. Officers will issue tickets from their own book only.

Officers will use all of the tickets in one book before starting another book, and each book issued will be signed out by number.

Each officer will be held accountable for those ticket numbers for which he has signed, regardless of whether any other officer's name appears on the ticket (e.g., partner). When a long ticket is written, the officer will retain the blue copy as he/she uses the ticket book; then when the officer has finished with his ticket book, he/she will staple all twenty-five (25) blue copies together and turn them in to the shift supervisor with their daily paperwork. The shift supervisor will then return the blue copies to the Colonel who will assure they are secure in a permanent file.

The Traffic Violations Bureau will make periodic audits of all tickets written; and any missing tickets will have to be accounted for. Discrepancies in long tickets will be checked by examining the officer's blue copies.

Each time a ticket is written, the officer will write the ticket number on his daily log sheet.

In the event that a traffic ticket book or a ticket is lost, stolen, or destroyed, the officer will submit a letter to his precinct/bureau commander outlining the circumstances surrounding the loss and the ticket numbers involved. A copy of the letter will be forwarded to the Traffic Violations Bureau and the Legal Advisor's Office with a copy remaining in the precinct/bureau.

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When an officer issues a ticket that the driver refuses to sign, resulting in an arrest, the officer will forward all copies of the ticket, except the blue copy, to the Legal Advisor's Office with a memo. These tickets will be maintained in this office and will be available if the officer needs the ticket as evidence of the defendant's refusal to sign. The blue copy will stay at the precinct/bureau. At the time an individual refuses to sign a ticket, a supervisor will be requested to make the scene. City Ordinance violations will be changed to State Charges.

#### B. Dismissal of City Ordinance Charges

Legally, once a citation/summons has been issued, officers cannot make changes to the copy that they turn in. The original citation/summons and any copies **must** "mirror" each other. If there is a need to make changes to a citation/summons, an officer **must** reissue the citation/summons or appear in court and request the judge to allow them to amend a citation/summons in open court. The citizen must have actual notice of any changes made after the citation/summons has been issued.

If a citation/summons is written in error, an officer may need to submit a dismissal request. Some common reasons for dismissal requests for citations/summons include:

- 1) Written in the County
- 2) Issued on private property
- 3) Individual arrested
- 4) Individual issued a misdemeanor citation
- 5) Wrong violation marked
- 6) Issued to a juvenile

**Any citation/summons with incomplete or incorrect information will not be submitted for dismissal without the officer making a good faith attempt to contact the citizen and reissue the citation/summons.** The officer should have an address and telephone number to contact the citizen. The officer will:

- Make a minimum of three attempts to contact the citizen by phone (at different times on at least two different days) to arrange a meeting in order to make any necessary changes; and, if unsuccessful
- Make at least two attempts to go to the citizen's address (if local) in a timely manner to meet with them to make the changes.

Before requesting a dismissal, attempts should be made to correct the error and submit a valid citation/summons. **If unsuccessful, the officer's detailed memo requesting a dismissal must include the dates and times of the officer's failed attempts to contact the citizen by phone and by home visits.**

Any citation/summons submitted to the clerk's office that is incomplete or otherwise invalid will be returned to the workstation commander with a request to have the officer reissue the citation/summons and return it to the clerk within fourteen (14) working days.

For citation/summons dismissal requests:

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- 1) The officer must write a detailed memo explaining the reason for the request for dismissal (e.g., traffic sign down, radar gun malfunction, written in the County, failed contact attempts, etc.) and have it approved and signed by their supervisor. **This detailed information must be included in all memos requesting the dismissal of citations/summons.** Supervisors should investigate that the reason for the citation/summons dismissal is valid before signing and approving the memo.
  - \* Each request for ticket dismissal must be investigated to ensure that the officer has followed policy and made a sufficient effort to contact the citizen to correct the citation/summons, if applicable. **The investigation must also ensure that no ethical violations or special treatment is given to certain employees, relatives, friends, co-workers, acquaintances, etc.** Suspected ethical violations may be forwarded to Inspectional Services for further investigation.
- 2) The workstation commanding officer must submit a memo detailing the reason for the request. The memo should indicate that an investigation has been conducted and the request is valid and in compliance with MPD policy and procedures.
- 3) The officer must come to the City Court Clerk's Office during their regular work hours or on their next court date, bringing both memos and the original citation/summons to be placed on the docket for the next available court date.

**NOTE: Citations/summons sent through inter-departmental mail for dismissal or submitted without the proper documentation will not be accepted.**
- 4) The officer must appear before the judge and/or prosecutor of the division of court that they are assigned to and fully explain the basis for the dismissal request.
- 5) No request should be submitted without the **FULL AGREEMENT** of the officer, his supervisor, and the workstation commander.
- 6) If the citation/summons is disposed, all memos and other documents are to remain attached to the citation/summons as a permanent record.

This process will be completed during the officer's tour of duty, prior to Signal "C" or on the officer's next court date. For long tickets and ordinance summons, a copy of the ticket or summons and copies of the memos will be maintained in the officer's personnel file. For short tickets, a copy of the memo only will be maintained in the officer's file. Do not use "white out" (correction fluid) on either type of ticket.

**IX. Juvenile Traffic Summons:**

Officers will issue a special traffic summons for juvenile violators only from the book distributed through Juvenile Court.

The juvenile traffic tickets are printed in blue ink rather than black. Each copy is color coded, and the distribution is as follows:

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White copy-	Juvenile Court copy
Yellow copy-	Juvenile Court copy
Green copy-	Officer's copy
Dark manila copy-	Juvenile Offender's copy

The officer will not be required to appear at Juvenile Court unless he or she receives a summons from Juvenile Court. There will be no assignment of court dates on these juvenile traffic tickets by the officer; however, in the event an officer is summoned to appear at Juvenile Court, the date and time will be the officer's designated summons day at 10:30 a.m.

Officers should note that the charge boxes on the juvenile traffic ticket are not in the same sequence as the standard traffic summons (long ticket). Therefore, these boxes should be read carefully to avoid the incorrect charge box being checked.

For purposes of issuing a juvenile traffic ticket, a "juvenile" is defined as anyone under the age of eighteen (18).

In the event an officer issues a juvenile traffic summons in error, the officer will forward the ticket to the Legal Advisor's Office, along with a memo approved by his supervisor explaining why the ticket was written in error.

## **X. Speed Enforcement**

Excessive speed is the second greatest cause of death and injuries on American highways. Uniform methods of enforcement of speed laws within the City of Memphis should be applied by all officers. Procedures for enforcement of laws applying to speed will vary in accordance with type equipment utilized.

### **A. Pacing**

The officer should follow vehicle being paced at a constant interval for a distance adequate, normally two or more city blocks, to obtain a reading on speedometer indicating a speed exceeding that posted.

### **B. Radar or Laser Operation**

Radar – Laser enforcement should be utilized where vehicle speed is excessive or a hazard to other motorists or pedestrians. The following guidelines are established for use of the radar and laser, which will always be operated in compliance with manufacturer's instructions.

1. The radar or Laser must be properly installed in the vehicle and connected to appropriate power supply.
2. The effective range of a particular radar or laser unit must be thoroughly understood by operator, so visual observations can support speed meter readings.
3. The operator must choose an appropriate location in accordance with directions of his/her Supervisor relative to traffic accident experience in which speed has been identified as a



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factor. The location must also be conducive to the effective and safe operation of radar or laser.

4. The radar or laser gun will be properly tested for calibration to insure accuracy in checking speed. The operator must follow manufacturer's recommended specific method of checking calibration without exception. Any problems with operation of radar or Laser gun or apparent malfunction should be promptly reported to the Shift Supervisor/ Equipment officer.
5. The following elements must be established in court by the officer, when radar speed violation charges are placed:
  - a. The time, place, and location of the vehicle stopped, identity of operator, speed of vehicle, and visual and radar or laser speed check.
  - b. Officer qualifications and training in use of radar or Laser.
  - c. Radar or Laser gun was properly operated.
  - d. Radar or Laser used was properly tested for accuracy at the beginning of the officer's shift prior to use and at the end of the officer's shift by approved method.
  - e. Identify target vehicle and should have made a visual observation of its apparent speed.
  - f. Speed limit in zone where violation occurred and be familiar with where posted speed limit signs are located.
6. Radar and Laser training is given to all Recruits (officers) during Academy training. Officers will receive up-to-date training in the operation and maintenance of speed detection equipment as needed.

#### **C. Radar/ Laser Tickets**

All traffic citations that are issued as a result of the use of a radar or laser gun shall be identified in the following manner:

1. The word "Radar" or "Laser" will be printed in block letters shall be placed on the ticket in the violation code area.
2. The equipment operator shall be clearly identified by inscribing a circle around his name and by placing the words "gun operator" immediately to the left of his name. This officer is the one who must appear in court. The court date issued should be the gun operator's court date.

#### **D. Equipment Maintenance**

Speed Measurement Devices: Radar (Genesis models) and Laser (Prolaser III) - Equipment specifications are located in the workstation equipment room. (61.1.9)

1. Officers must inspect, fully test calibrate the device at the beginning and end of each shift.

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2. When an officer notes a malfunction of the device, the device will not be used.
3. The officer must notify the Equipment Clerk who will then in turn send the device to Radio Maintenance for repair.

The equipment officer is responsible for ensuring that radar/laser guns receive proper care and upkeep, that all required programmed maintenance and calibration of units is performed in accordance with the manufacturer's standards. Records should be kept on all radar guns at the Stations, and appropriate certificates are on file with the Radio Shop. All Laser gun certificates and maintenance records will maintained at the Traffic Division office by the equipment officer.

**XI. Driver's License:**

<u>Class of License</u>	<u>Special Endorsement</u>
<p><b>A</b> Combination Vehicles GCWR over 26,000 lbs. Towed Vehicle(s) over 10,000 lbs.</p>	<p style="text-align: center;"><b>Endorsements</b></p>
<p><b>B</b> Trucks or buses over 26,000 lbs GVWR Any such vehicle towing a vehicle not in excess of 10,000 lbs. GVWR</p>	<p><b>N</b> - Tanks 1,000 gallons or greater <b>H</b> - Hazardous Materials <b>X</b> - Tanks and Haz Mat <b>T</b> - Double/Triple Trailers <b>P</b> - Greater than 15 passengers including driver <b>S</b> - School Bus</p>
<p><b>C</b> Vehicles weighing 26,000 lbs GVWR or less: -Placarded for Hazardous Materials -Designed to seat more than 15 people including driver OR -Used as a school bus</p>	
<p><b>D</b> Generally, all passenger vehicles, except vehicle in Classes A,B,C, or M</p>	<p><b>F</b> For Hire When a class D vehicle is operated by a person employed for the principal purpose of driving, and used as a public or common carrier of persons or property</p>
<p><b>H</b> Hardship license for drivers between the ages of 14 &amp; 16 in special hardship cases</p>	<p style="text-align: center;"><b>SPECIAL RESTRICTIONS MAY APPLY</b></p>
<p><b>M</b> Motorcycles and motor-driven cycles</p>	<p style="text-align: center;"><b>SPECIAL RESTRICTIONS MAY APPLY</b></p>
<p><b>P</b> Issued as an instructional permit for Class A, B, C, D, and M license PD="Learners Permit"</p>	<p style="text-align: center;"><b>SPECIAL RESTRICTION APPLY DEPENDING UPON THE PARTICULAR CLASS</b></p>

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**A. Learner's Driving Permit:**

TCA 55-50-311 provides for the issuance of learner's driving permits. This law allows a minor at least fifteen (15) years of age to obtain a permit to drive an automobile when accompanied by a licensed parent, guardian, or certified driving instructor. The minor must have the learner's permit in his possession to drive under this section. The accompanying party must be at least eighteen (21) years of age. If the individual with the learners permit is less than 18, they cannot drive between 10P.M. and 6:00A.M.

The following persons are exempt from license hereunder:

A student who is pursuing an approved driver training course in a public school or a private secondary school approved by the state commissioner of education or by a recognized regional or national accrediting agency, or in a duly licensed commercial driver training school. This exemption applies only to the operation of a motor vehicle bearing school driver training identification and only while an instructor, certified and registered by the Department of Education, accompanies the student.

If a juvenile driving on a learner's permit is arrested for D.U.I., he is to be taken to Juvenile Court.

If the juvenile is driving without a learner's permit and has previously obtained one, he should be charged with driving without a learner's permit, TCA 55-50-311, in addition to any other laws violated. If the minor has never received a learner's permit, but is driving the car, he is to be charged with a violation of T.C.A. 55-50-301, Driving Without an Operator's License.

**B. Temporary Driver's License: (Only valid for 90 days from date of issue.)**

The temporary driver's license issued by the Tennessee Department of Safety is white with black writing, 8 1/2" wide by 5 1/2", with numbers beginning with the letter "P".

Officers should recognize and honor this temporary driver's license whenever it is presented to them by an individual.

**C. Tickets Issued for No Driver's License: Many parties are being given tickets for no driver's license after incorrectly identifying themselves to the officers. On the date of the court appearance, those parties do not come to court and warrants are being issued for the arrest of the innocent person, whose identity is given at the time the ticket was issued. This has caused complaints to this department from both the innocent parties involved and the City Judges.**

To help alleviate this situation, officers should, when issuing tickets for no driver's license, attempt to verify the party's true identity, either through a driver's license check, social security card, or through other means of identification. If, in the officer's opinion, the party is not the person he claims to be, then an arrest should be made.

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**D. Driver's License Check on Juveniles:**

The Tennessee Department of Safety has advised that two new driving history codes for juveniles are now available for officers making a driver's license check on juvenile drivers. If a juvenile is stopped and the driver's license check indicates Code 457 on the juveniles driving history record, then the juvenile should be charged with driving on a suspended license and transported to Juvenile Court.

If the check reveals Code 458 on the juvenile's record, this indicates that Juvenile Court has issued a restricted license to the juvenile pursuant to Code 458, the juvenile driver should have an order from Juvenile Court for restricted driving privileges. If the driver is within these restrictions, then no charge should be placed. However, if the driver is violating the restrictions set out in the order, then the juvenile should be charged with "Violation Driving With Restricted License" and transported to Juvenile Court.

To determine whether a juvenile driver has a Code 457 or Code 458 on his driving record, officers should request a "driving history" check through Communications (Station B).

- E. Temporary Driving Permit T.C.A. 55-50-311** When a Tennessee Highway Patrolman or any other agency issues a temporary driving permit to a motorist pursuant to the issuance of a traffic citation, the temporary driving permit shall state on its face the period of the validity.
- F. Taxi Drivers:** Pursuant to Chapter 39, Article III, Section 39-90, a taxi driver permit shall expire on the driver's birthday each year. Expired permits shall be considered. Taxi drivers should be spot-checked to ensure their compliance with this ordinance. All drivers not possessing a permit with a valid expiration date are in violation and should be issued an Ordinance Summons.
- G. Violation of Restricted License:** When an individual is driving with a restricted license that limits him to driving to and from work and he is, in fact, not driving to and from work. The officer should charge the individual with driving under a revoked or suspended license in violation of TCA 55-50-504.
- H. Locomotive Engineer's Operators Permit:** There have been local instances of railroad locomotive engineers being arrested for operation of locomotives where the engineer did not produce a Tennessee vehicle chauffeur or operator's license.

TCA 55-10-116 provides that whenever an engineer of a railroad locomotive is required to show proof of his identity in connection with the operation of a locomotive, "such engineer shall not be required to display his operator's or chauffeur's license, but shall display his engineer's operator permit instead". A vehicle crash involving a train, the vehicle crash report should list the engineer's operator permit number, not driver's license number. Any engineer failing to produce his engineer's operator permit when properly requested to do so is subject to arrest for violation of TCA 65-12-115.

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- I. Wrecker Operators' Licensing Requirements: The following procedure should be followed in charging a person with operating a wrecker without a chauffeur's license.

The policy of this department with respect to the aforementioned charge is as follows:

Any person, employed by a wrecker service, whose principal duty is to operate the wrecker for the purpose of towing vehicles, is required to obtain a chauffeur's license. Any person, employed by a wrecker service, whose duties might include operating a wrecker but also include, to a significant extent, other responsibilities is not required to obtain a chauffeur's license.

This is consistent with state law, Tennessee Code Annotated, and the policy of the Tennessee Highway Patrol, and the City's wrecker services have been so informed.

Unless an officer is reasonably certain that a wrecker operator's principal duty is driving the wrecker, no action at all is to be taken.

However, if an officer is aware of facts that would lead him to believe that certain wrecker operators were in violation of state law and departmental policy, this information should be turned over to the department's Wrecker Coordinator for investigation. If, after investigation, the Wrecker Coordinator concurs in the opinion that violations have occurred, then appropriate charges may be placed at that time.

## XII. Registration Requirements:

State law authorizes the issuance of only one registration plate per vehicle, which is to be attached to the rear of the vehicle. The State currently utilizes yearly stickers to show the month and year that the state registration expires.

### A. Lost or Stolen Plates:

1. Stolen Registration License Plate/Tags: If a citizen reports their license plates stolen, the responding officer will complete a Theft of Motor Vehicle Parts/Accessories offense report. Officers of this Department, who stop a vehicle and after a QV and determines that the license plate is stolen, he/she should remove the license plate, submit a memo to the Vehicle Theft Squad, and tag it in the property room. The person driving the vehicle should be issued a ticket for Violation of State Registration if, in fact, the vehicle itself is not stolen.
2. Found Registration License Plates/Tags: Found license plates/tags reported to an officer are to be turned in to the precinct equipment person who will take the plates/tags to the Shelby County Court Clerk's Office.
3. Lost Registration License Plates/Tags: Any citizen who has lost their license plates/tags will report the lost plates/tags directly to the Shelby County Court Clerk's Office where the proper information will be obtained, and a replacement license plate/tag will be issued.

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4. Partial Tag or Decal: If only the decal has been removed or part of the metal tag holding the decal has been torn/clipped off, the citizen should take the remaining partial tag to the County Court Clerk's Office.

#### B. Arrests/Tickets Based on Information that License Plates are Stolen:

Several states reissue the same numbers as the numbers reported on a stolen license plate, with a different expiration date on the tag. The State of Tennessee reissues PG and NG plates with the same numbers but with a different expiration date.

Officers of this Department, who stop a vehicle and after a QV, determines that the license plate is stolen, should remove the license plate and tag it in the property room. The person driving the vehicle should be issued a ticket for Violation of State Registration if, in fact, the vehicle itself is not stolen.

Arrests should only be made in those situations where the license plate, which is reported stolen, is on a vehicle, which is also reported, stolen.

Auto theft investigators do not attempt to locate the owner of a stolen, lost or raised auto license plate. Memos in this regard should not be sent to Vehicle Theft Squad.

- #### C. Dealer/Special License Plates: TCA 55-4-221(a) states: A manufacturer or dealer owning any vehicle...may, either in person or through his duly authorized agent or employee, operate...such vehicle, upon condition that any such vehicle display thereon...a special plate (dealer plates).

**The dealer may also authorize the operation of a vehicle bearing dealer plates by a customer for temporary purposes not exceeding twenty-four (24) hours.**

Therefore, the following people may operate vehicles bearing dealer plates: dealers, their families, their employees, and customers. Customers are limited to twenty-four (24) hours use while the others may operate on dealer plates as long as the dealer plates are current.

Improper registration charges should not be placed against any of the individuals permitted to drive on dealer plates unless the plates have expired.

Dealer plates are not to be confused with drive-out tags (temporary paper tags) which are valid only for the time stated thereon: All Tennessee special license plates (Emergency, Judiciary, Dealer, Sheriff, Rescue Squad, National Guard, etc.) are stamped with the year of issue and expire March 31 of the following year.

- #### D. Identification/License of Commercial Trucking Vehicles: City Ordinance 21-347 required that all local commercial trucking vehicles shall have identification by displaying on two parallel horizontal lines, on the right and left front-most doors of the truck, at least three (3) inches high, the name of the owner, firm, or lessee on the first line and the street address immediately below on the second line. Elsewhere on the doors must be an individual vehicle identification number no less than six (6) inches in height, displayed conspicuously.

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Any local commercial truck not in compliance with this ordinance shall be cited for violation of City Code Section 21-347, Ownership Identification, and should be handled in a manner consistent with the handling of any other non-moving traffic violation.

All Tennessee commercial license plates (i.e. P00-0000, Apportioned) are stamped with the year of issue and expire February 28, with a grace period ending April 15, of the following year. These plates are black lettered on straw-colored background.

**E. Government Vehicles:**

Federal Government vehicles are exempt under existing law from having to have Tennessee license plates. Furthermore, governmental vehicles are exempt under City law from having to comply with the inspection ordinance and the city sticker ordinance.

Therefore, an officer shall not issue a citation for violation of registration and/or inspection to any vehicle where it appears the vehicle belongs to a governmental agency and, specifically, an agency of the federal government.

**F. Electric Turn Signal Lights - Exceptions:**

Every passenger vehicle and truck shall be equipped with electric turn signal lights except that passenger cars and trucks less than eighty (80) inches in width, manufactured or assembled prior to 1955, and motorcycles and motor-driven cycles, need not be equipped with electric turn signal lights. The lights showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit white or amber. The light showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and when signaling, shall emit a red or amber light, or any shade of color between red and amber. Turn signal lights on vehicles eighty (80) inches wide shall be visible at a distance of not less than three hundred (300) feet in normal sunlight. Turn signal lights may, but not need be, incorporated in other lights on the vehicle.

**G. The following courses of action are to be taken if an officer finds a superimposed Month/Year tag on a state registration:**

1. Vehicle is on street:

- a. Owner/driver same: Arrest and issue misdemeanor citation for TCA 55-4-129 “Unlawful removal of registration decal or plate”. Tag the license plate as evidence in the property room. Direct the driver to remove the vehicle from city streets within a reasonable amount of time. Advise the owner/driver to properly register the vehicle. T.C.A 55-4-101 “Violation of vehicle registration law.”
- b. Non-owner is driver: Issue traffic citation for Violation of Registration, Sec. 11-60-5. Tag the license plate as evidence in the property room. Direct the driver to remove the vehicle from city streets within a reasonable amount of time. Note: A notation should be made in the margin of the traffic citation that said sticker was stolen.

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- c. Unoccupied: If vehicle is parked, unoccupied, on a city street, the officer should remove the license and tag same as evidence in the property room. Place a seizure notice on the vehicle advising the owners of the disposition of the tag. (Notice obtained in central supply.)

NOTE: In the event that the owner appears at the Property Room to reclaim the above mentioned license plate, a traffic citation will be issued for Violation of Registration.

#### 2. Vehicle is at Vehicle Storage:

Initially, the plate should be tagged as evidence at vehicle storage. Issue a traffic citation for Violation of Registration, Sec. 11-60-5 to the owner when the owner arrives to pick up the vehicle. Upon the issuance of said traffic citation, the plate should be tagged at the MPD Property Room, within that tour of duty, for evidentiary purposes.

NOTE: A notation should be made in the margin of the traffic citation that said sticker was stolen.

3. If any person is caught in the commission of stealing the Month/Year tag on a state license plate, then the responsible person would be charged with Theft of Property valued under \$500.00.
4. Whenever a license plate with a stolen sticker affixed is tagged at the Property Room, it is imperative that the officer provide the Property Room personnel with the exact location of the vehicle at the time the plate was seized (i.e. on the street at a certain address).

### XIII. Miscellaneous Traffic Laws:

- A. Fire Lanes: To be in violation of City Code Section 9-44-1 Obstructing Fire Access Areas and Fire Hydrants, the area marked as a fire lane must be a public street or alley or an off-street driveway or alleyway officially designated as a fire lane and adjacent to either:

1. A public or private hospital; or
2. Any public building; or
3. A private building whose owner has consented to the designation of fire access areas.

Any person violating Section 9-44-1 may have their car impounded by the Fire Marshal. (See Chapter VIII, page 29). Section 9-44-1 should only be enforced (citations written and/or cars towed) for private property violations at any of the locations on the list, which are marked with official signs. Enforcement of Section 9-44-1 on any public property marked as a fire lane is not affected.

- B. Motorized Bicycle (Moped) Law: A vehicle with (2) or (3) wheels, an automatic transmission, and a motor with a cylinder capacity of (50) cubic centimeters which produces no more than (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than 30 miles per hour on level ground. The operator of a motorized bicycle must be in possession of a valid operator's or chauffeur's license and shall be subject



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to all applicable and practical rules of the road. A motorized bicycle may not be operated on a highway of the interstate and defense highway system, any similar limited access multi-lane divided highway, or upon sidewalks. The motorized bicycle (moped) is not required to be registered or to display a license tag.

Crash bars are not required; however, helmets are required for both the operator and passengers as with motorcycles. The titling and registering of motorized bicycles (mopeds) is permissive at the option of the owner. Therefore, license tags are not required on these vehicles and no citations should be issued. Any person desiring to title and register a motorized bicycle (moped) may do so by following the normal procedures that apply to any other motor vehicle.

- C. Motorcycles: Section 12-84-13 of the City Code prohibits the operation of vehicles in City parks except on the designated roadways. The only exception to this is the operation of a golf cart or other vehicle authorized by the Park Commission on the park property.

Officers observing the illegal operation of a motorcycle or any other vehicle in the park area shall cite the operator of the vehicle for a violation of Section 12-84-13 of the Memphis City Code.

**D. Red Traffic Signals and Right Turns on Red:**

TCA 55-8-110(3)(A) permits right turns on red after stopping and yielding the right-of-way. This law authorizes local governments to erect signs prohibiting right turns on red where appropriate.

The City Ordinances have been amended to conform to the state law and city charges may be placed when violations occur.

1. Section 11-12-6 (A) (3) regulates the actions of drivers and pedestrians facing a red alone (steady circular red) signal as follows:
  - a. 11-12-6 (A)(3)(a) Vehicular traffic shall stop at a clearly marked stop line, but if none, then before entering the crosswalk on the near side of the intersection.
  - b. 11-12-6 (A)(3)(a) Vehicular traffic, after stopping, may make a right turn, but shall yield the right-of-way to pedestrians and other traffic proceedings as directed by the signal at the intersection. Vehicular traffic shall not make a right turn where a sign is erected prohibiting such turns.
  - c. 11-12-6 (A)(3)(b) Unless otherwise directed by a pedestrian control signal (Walk/Don't Walk), pedestrians facing the red alone (steady circular red) signal shall not enter the roadway.
2. The City charge of "Disregarded Red Light" should be placed against drivers who:
  - a. Run a red light;
  - b. Turn right without first stopping; or
  - c. Turn right at a red light where it is prohibited by an official sign.

The appropriate section number will be used.

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3. Drivers who make an otherwise legal right turn on red, but fail to yield the right-of-way should be charged with "Failed to Yield Right-of-Way", Section 11-12-6 (A)(3)(a).
4. Pedestrians who illegally enter the roadway against a red signal should be charged with "Disregarded Red Light", Section 11-12-6 (A)(3)(b).

#### E. Passing School Bus:

Under TCA 55-10-308, enforcement for Section 55-8-151 is the primary responsibility of the Memphis Police Department inasmuch as this act applies to territory within the limits of the City. Therefore, the Memphis Police Department has the authority to enforce Section 55-8-151 and the comparable City Code Section 11-16-13.

The operator of a motor vehicle upon meeting or overtaking from either direction a school bus which is stopped on the highway for the purpose of receiving or discharging school children is required to stop his vehicle before reaching the bus and not proceed until the bus resumes motion, or is signaled by the driver to proceed, or the visual signals are no longer activated.

Drivers are not required to stop on streets with separate roadways when meeting or passing a school bus which is on a different roadway or when upon a controlled access street and the school bus is stopped in a loading zone which is part of the street and where pedestrians are not permitted to cross the street. Separate roadways mean roadways divided by an intervening space, which is not suitable to vehicular traffic. (For example: Parkway or Central, west of Cooper).

A violation of Section 55-8-151 is a misdemeanor punishable by a fine not to exceed Fifty Dollars (\$50.00) or by imprisonment for not greater than ninety (90) days or by both.

Violators of this statute may be given a ticket citing them with violation of City Code 11-16-13 When an operator refuses to sign the summons and it is necessary to arrest the operator, then the operator should be placed on the state misdemeanor docket, TCA 55-8-151, and shall be processed, as are other State arrests.

Example 1: A school bus stops at a school zone and is in the process of discharging students and does not have its warning signals turned on at the time. Under Section 11-16-13, the operator of a motor vehicle may proceed without being required to stop.

Example 2: If stop sign is exhibited, then operator is required to stop.

Generally, the operator of the bus will have the visual signals activated when it is necessary to safeguard the children either in boarding or in discharging from the school bus. For the purposes of enforcement, you may presume that where the signals are not activated that the operator of the bus does not intend for other vehicles to stop just because the bus is parked at a location.

There is also a state misdemeanor charge, TCA 55-8-151, which can be used when arrest is necessary and there are other state charges that the officer is going to place against the driver.

- F. Striking Unattended Vehicle Charge: TCA 55-10-104 has mistakenly been used by some officers as a basic state traffic charge for striking a parked vehicle. There is no state charge

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for striking an unattended vehicle or fixed object. This section, TCA 55-10-104, pertains to leaving the scene, after striking an unattended vehicle.

The alternative is to use the city charge, 11-16-45, striking a parked vehicle or fixed object, or the appropriate state charge for the violation committed that caused the driver to strike the unattended or parked vehicle (i.e., TCA 55-8-142, changing direction of travel in safety; TCA 55-10-205, reckless driving, etc.).

**G. Vehicle Passenger Seat Belt:** TCA 55-9-602 states that all persons operating a motor vehicle are required to have a transported child under the age of four in an approved restraint system. The driver and all passengers over sixteen shall be cited for failure to wear safety belts. The driver shall be cited for those passengers failing to wear seat belts who are between the ages of four through sixteen. Those who are not required to wear seat belts are:

1. Those who are physically disabled and whose condition is certified in writing by a physician as being inappropriate for the use of safety belts.
2. Rural letter carriers performing their duties.
3. Mechanics and salespersons performing their duties for an automobile dealer provided the dealership customarily test drives 50 or more vehicles per day and the test drivers are within one mile of the location of the dealership.
4. Utility workers, water, gas, and electric meter readers during the performance of their duties.
5. Newspaper delivery service from the time of the first delivery to the time of the last delivery.
6. The City Ordinance 11-36-2 "Use of safety belts in passenger vehicles" is a primary ordinance and does not require another violation present in order to enforce the ordinance.

#### **XIV. Conflict of Charges: (State Charge of Reckless Driving with Moving City Traffic Violations):**

Because the theory of double jeopardy precludes a double prosecution for lesser included offenses or lesser charges arising out of the arrest situation, officers should cease issuing traffic citations when they place a state charge of Reckless Driving, as this charge encompasses the lesser traffic charges. The consequence has been that defense attorneys will plead their clients out on the city charges, which will bar subsequent prosecution on the state charge of Reckless Driving.

If there are no comparable state charges for the city charges, the city charge should be disregarded and incorporated in the narrative as a part of the officer's probable cause. If there are additional state traffic charges, they can be included in the arrest ticket along with DUI and Reckless Driving.

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**XV. Traffic Violations:**

The following information is a guide for officers for issuance of a ticket or making an arrest in traffic cases, assignment of court dates, and appearance for traffic violations.

- A. Vehicle crashes involving authorized emergency vehicles will normally be investigated by S.T.I.S., and in some cases court appearances may be necessary for the parties involved and the investigating officer.
- B. The twenty-four (24) hour time system “military time” will be used by this department in all reports, letters, and correspondence with the **exception of traffic tickets.**
- C. All long tickets issued by officers will include a court date at the bottom of the ticket, with the date being set on the officers assigned summons day, as set forth in Chapter IV, of the Policy and Procedure Manual. Court dates will be issued at the beginning of each year and will not be changed even if the officer changes work stations. However, if an officer changes duty hours their court appearance time may change. Officers will never set more than one court date a month. (EXCEPTIONS: DUI, Motors and PST’s.)
- D. “Residents” will include all persons living or employed in Shelby County Tennessee.
- E. Aggravated includes situations wherein excessive speeding and/or drinking is involved.
- F. **Officer Actions in Traffic Situations:**

1. **Vehicle crash involving serious bodily injury or fatality and person has a valid D.L. AND proof of insurance:**

**Officers Action**

**Resident**

Assign a court date - MANDATORY  
Court appearance required on regular summons day

**Non-Resident**

Assign a court date - MANDATORY  
Officers may issue a citation if, in his judgement, the person will appear in court.  
If so, the violator will be treated as a resident. However, if a physical arrest is necessary, officers must obtain a Lieutenant’s approval.

2. **Vehicle crash involving serious bodily injury or fatality and person does NOT have a valid D.L. and proof of insurance**

**Officers Action**

**Resident**

Make an Arrest

**Non-Resident**

Make an Arrest

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3. **Vehicle crash with personal injury, which requires the injured party to be transported from the scene for immediate medical attention:**

**Officers Action**

**Resident**

- Assign a court date
- Mandatory court appearance required of violator
- Court appearance required on regular summons day

**Non-Resident**

- Assign a court date
- Officers may issue a citation if, in his judgement, the person will appear in court, if so, the violator will be treated as a resident. However, if a physical arrest is necessary, officers must obtain a Lieutenant's approval.

4. **Leaving the scene, TCA 55-10-102, or failure to report the accident, State charge TCA 55-10-106:**

**Officers Action**

**Resident**

- Issue a citation for Failure to Report 21-246
- Court appearance required after receiving a court notice

**Non-Resident**

- Make an Arrest

5. **DUI (Alcohol/Drugs), TCA 55-10-401:**

**Officers Action**

**Resident**

- Make an Arrest

**Non-Resident**

- Make an Arrest

6. **Traffic Charge without serious personal injury or property damage & No Driver's License, or State Registration violation:**

**Officers Action**

**Resident**

- Assign a court date
- Mandatory court appearance required of violator
- Court appearance required on regular summons day

**Non-Resident**

- Assign a court date
- Officers may issue a citation if, in his judgement, the person will appear in court, if so, the violator will be treated as a resident. However, if a physical arrest is necessary, officers must obtain a Lieutenant's approval.

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7. **Driving on a revoked license, TCA 55-50-504:**

**Officers Action**

**Resident**

Make an Arrest

In some cases, a misdemeanor citation may be issued in lieu of transport under the guidelines set forth in the Policy and Procedure Manual.

**Non-Resident**

Make an Arrest

8. **Driving on a revoked license, plus a moving violation, witnessed by the officer, or as a result of an accident:**

**Officers Action**

**Resident**

Make an Arrest

In some cases, a misdemeanor citation may be issued in lieu of transport under the guidelines set forth in the Policy and Procedure Manual.

**Non-Resident**

Make an Arrest

9. **Reckless Driving, State Charge only, TCA 55-10-205:**

**Officers Action**

**Resident**

Make an Arrest

In some cases, a misdemeanor citation may be issued in lieu of transport under the guidelines set forth in the Policy and Procedure Manual.

**Non-Resident**

Make an Arrest

10. **Speeding in School Zone:**

**Officers Action**

**Resident**

Assign a court date

Mandatory court appearance required of violator

**Non-Resident**

Assign a court date

Officers may issue a citation if, in his judgement, the person will appear in court, if so, the violator will be treated as a resident. However, if an arrest is necessary, officers must obtain a Lieutenant's approval.

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12. **Speeding 26 MPH over the speed limit:**

**Officers Action**

**Resident**

Assign a court date  
Mandatory court appearance required of violator

**Non-Resident**

Assign a court date  
Officers may issue a citation if, in his judgement, the person will appear in court, if so, the violator will be treated as a resident. However, if an arrest is necessary, officers must obtain a Lieutenant's approval.

13. **State Registration violation (city charge only, 21-269) or No Driver's License (City only 21-86):**

**Officers Action**

**Resident**

Assign a court date  
Mandatory court appearance required of violator

**Non-Resident**

Assign a court date

Non-Residents: Officers may issue a citation if, in his judgement, the person will appear in court, if so, the violator will be treated as a resident. However, if an arrest is necessary, officers must obtain a Lieutenant's approval.

14. **State Registration violation or No Driver's License with a moving violation witnessed by the officer.**

**Officers Action**

**Resident**

Assign a court date  
Mandatory court appearance required of violator

**Non-Resident**

Assign a court date  
Non-Residents: Officers may issue a citation if, in his judgement, the person will appear in court, if so, the violator will be treated as a resident. However, if an arrest is necessary, officers must obtain a Lieutenant's approval.

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**15. Passing a stopped school bus:**

**Officers Action**

**Resident**

Assign a court date  
Mandatory court appearance required of violator

**Non-Resident**

Assign a court date  
Non-Residents: Officers may issue a citation if, in his judgement, the person will appear in court, if so, the violator will be treated as a resident. However, if an arrest is necessary, officers must obtain a Lieutenant's approval.

**16. Drag Racing (State charge only, TCA 55-10-501)**

**Officers Action**

**Resident**

Make an Arrest  
In some cases, a misdemeanor citation may be issued in lieu of transport under the guidelines set forth in the Policy and Procedure Manual.

**Non-Resident**

Make an Arrest

**17. Other moving traffic violations:**

**Officers Action**

**Resident**

Assign a court date

**Non-Resident**

Assign a court date  
Non-Residents: The officer maintains discretion to make an arrest when the identity of the violator is in question, or the violator refuses to sign the ticket, or the violator poses a threat to the safety of the community. However, officers must obtain a Lieutenant's approval before making an arrest.

**18. Other non-moving traffic violations:**

**Officers Action**

**Resident**

Assign a court date

**Non-Resident**

Assign a court date  
Non-Residents: The officer maintains discretion to make an arrest when the identity of the violator is in question, or the violator refuses to sign the ticket, or the violator poses a threat to the safety of the community. However, officers must obtain a Lieutenant's approval before making an arrest.



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**Parking**

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### **I. PARKING METER ENFORCEMENT**

City Ordinance 11-44-4 provides for enforcement of parking meters from 8 am to 6 pm, Monday through Friday. Saturday and Sunday and certain holidays - Christmas Day, New Years Day, July Fourth, and Thanksgiving Day - are excluded from enforcement unless the meter specifies "24 hours per day each day of the week, holidays included".

Vehicles displaying a distinguishing handicapped placard or license plate, or disabled veterans license plate, issued by Tennessee or any other state, are exempt from paying a fee to park at parking meters or public-owned parking facilities.

### **II. PARKING AROUND POLICE HEADQUARTERS AND JUSTICE CENTER**

No police vehicle, marked or unmarked, will be allowed to park in a fire lane or block a fire plug.

Police vehicles are not to park on the sidewalk or block alleys.

Police vehicles parked and unattended in the Criminal Justice Complex garage shall be locked to reduce the possibility of vandalism or theft of police property from the vehicles.

### **III. PARKING ON THE MALL**

Parking on the Mall is only permissible after a permit is issued by the Mid-America Mall Office. Exceptions to this policy for parking on the Mall are those for loading and unloading as posted. THIS WILL BE STRICTLY ENFORCED WITH NO TOLERANCE OR ANY EXCEPTIONS.

### **IV. HANDICAPPED PARKING**

City Code Section 11-40-15 prohibits persons from parking a vehicle in a parking space clearly designated as being reserved for the physically handicapped, unless the person driving the vehicle is physically handicapped or parking such vehicle for the benefit of a physically handicapped passenger. This ordinance is enforceable on public and private property where a business, firm, or other person transacting business with the public from a permanent location has provided specially marked parking spaces for the exclusive use of handicapped drivers or passengers.

A vehicle parked in such place shall display a distinguishing placard, license plate, disabled veterans' license plate or distress flag or card. The placard, issued by the State Department of Revenue, may be used in lieu of the distinguishing license plate when displayed on the dashboard of a vehicle on the driver's side.

When officers observe a violation of this ordinance, either on public or private property, they should issue a traffic citation (short ticket).

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**SECTION: Crashes Involving Police Vehicles**

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**Crashes Involving Police Vehicles**

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**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Crashes Involving Police Vehicles**

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**I. CRASH SCENE PROCEDURES:**

All crashes involving police vehicles will be investigated by a Traffic Investigation Bureau unit. A Commanding Officer of the unit involved in the vehicle crash, along with a supervisor from the precinct in which the vehicle crash occurs will also make the scene if possible.

An S.T.I.S. Sergeant will make the scene of these crashes, and in consultation with his or her Traffic Supervisor, will determine the necessity of a citation. This decision will be based on fundamental standards routinely used in daily traffic investigation procedures, and citations will be issued as they would be if private vehicles were involved.

If a Commanding Officer is involved in a vehicle crash, a Commanding Officer at the next higher rank will be dispatched to make the decision of placing charges. In the event there is no Commanding Officer of higher rank available, the Duty Chief will make the scene.

All traffic crashes involving Police Department vehicles where there is damage or injuries will be photographed. The "Special Traffic Investigation Squad" investigator taking the photographs of the crash scene will forward the negatives to the Memphis Police Department's "Photo Lab". The scene photographs will be developed when requested to do so by a Traffic supervisor or a Traffic investigator.

Whenever an officer or vehicle of another law enforcement agency is involved in a reportable motor vehicle crash within the City of Memphis, the Memphis Police Department will have primary responsibility for investigating this crash. This primary responsibility is based on Tennessee Motor Vehicle Laws, Section 55-10-308 T.C.A. and on City of Memphis Code of Ordinances, Sections 21-2, 21-3, and 21-5.

**II. POLICY**

- A.** It is the policy of the Department to **curtail the causes** of crashes involving officers (employees).
- B.** The responsibilities of the Vehicle Crash Review Board are:
  - 1. To review the investigation of each traffic crash involving a Department vehicle, each motor vehicle pursuit, and each on-duty crash related injury of a Department member;
  - 2. To evaluate safety suggestions presented by Department members;
  - 3. To recommend changes in policy, procedure, or equipment in order to provide a safer working environment.

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**SECTION: Crashes Involving Police Vehicles**

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**III. VEHICLE CRASH REVIEW BOARD**

- A.** The Vehicle Crash Review Board will be appointed by the Director of Police Services and will consist of the following:
1. Colonel
  2. Traffic Division Executive Commander
  3. Commander of the Training Academy or their Executive Officer
  4. District 1 Patrol Officer
  5. District 2 Patrol Officer
  6. Two non-commissioned members selected from the community.
- B.** The Colonel will act, as chairperson of the Board; the Traffic Division Executive Commander will be the vice-chairperson, and will act as the keeper of the records. The Traffic Division Secretary will act as the recorder and all notes and other documents will be kept in the Traffic Division office.
- C.** All members will serve for a term of one year with the exception of the Traffic Division Executive Commander, the Training Academy Commander and the Training Academy Executive officer who will serve as long as they hold their respective positions.
- D.** Board meetings will be conducted once a month with a quorum of the membership present. A quorum will consist of the chairperson or vice-chairperson and three other members.

**IV. PROCEDURE**

- A.** The Vehicle Crash Review Board will review the investigation of all traffic crashes involving Department vehicles, and will determine if the Department member exercised reasonable care in the operation of the Department vehicle, or if the member deviated in any, from safe driving practices.
- B.** A member will be determined not to be at fault if:
1. The member was aware of impending hazard, alert to its consequences and skillful in minimizing the effect of the occurrence;
  2. The member exercised required skill and good judgement;
  3. The member was legally stopped, standing, or parked;
  4. The member was operating during conditions when the occurrence could be excused; or,
  5. There is insufficient evidence to make a determination.
- C.** A member will be determined to be at fault if:
1. The member failed to exercise due care;
  2. The member was careless or used poor judgement;
  3. The member deviated from general safety practices; or
  4. The member violated traffic laws.

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- D.** The Vehicle Crash Review Board will review all on-duty injuries of Department members to determine:
1. If the injury could have been prevented by action on the part of the Department member; or,
  2. If the injury was caused by faulty policy, procedure, equipment, or method of operations of the Department.
- E.** The Vehicle Crash Review Board will review all motor vehicle pursuits to determine if the member(s) involved complied with applicable Department policy, procedure, and rules. The review will consider the actions of the police officer initiating the pursuit, the pursuit supervisor, and Communications Center personnel.
- F.** The Vehicle Crash Review Board will review and evaluate safety suggestions made by Department members.
- G.** If the matter under review involves a member of the Board, that member will not participate in the Board's determination and/or recommendation.
- H.** Disposition and Reports
1. The Vehicle Crash Review Board will review all reports and, in those cases they deem necessary, summon those Department members before the Board.
  2. The Board may return a vehicle crash or on-duty injury report to the proper supervisor for further investigation.
  3. When the Board has reason to believe that changes in policy, procedure, training, or other operations is necessary, they will make such recommendations to the Director of Police Services.
  4. If a motor vehicle crash is judged the fault of the Department member, the Board will make a recommendation for corrective action towards the at-fault member. The range of recommendations may include, but is not limited to, discipline and remedial training.
  5. A vehicle crash review form will be completed for each at-fault accident.
  6. When a majority of the Board reaches agreement on a recommendation, the Board Secretary will prepare a written report of the findings to the Deputy Director of Police Services.
- I.** If the Board determines that a violation of Department policy, rules, or regulations was committed by a member, they will recommend appropriate corrective action.

**V. DISCIPLINE**

- A.** The traffic crash disciplinary point system will ensure that the review of recommended corrective and/or disciplinary action is consistent and fundamentally fair. The recommended corrective and/or disciplinary action will be based on the evaluation of points from the Vehicle Crash Review Form assessed to the following indicators:

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
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- Personal injury (citizen/employee)
- Property Damage
- Damage to at-fault and/or not-at-fault vehicle(s) involved
- Prior departmental driving record
- Automatic point accumulation for designated at-fault categories

**B.** The total cumulative points will determine the disciplinary range assignment for the category violations. Each category considers first-time occurrences, same or similar infractions and combinations of past occurrences. The range of discipline may increase with the seriousness of the infractions. Remedial training will be mandatory for each category violation.

**C. Definitions**

1. Property Damage

- a. **Minor**-Nicks, scratched, or surface damage.
- b. **Moderate**- Dents, cracks, gouges, etc. of less than four hundred dollars of damages.
- c. **Major**- More severe dents, cracks, gouges exceeding four hundred dollars of damages, to include total property loss.

2. Vehicle Damage

- a. **Minor**: Surface damage to the vehicle which may decline the vehicle's value.
- b. **Functional**: Vehicle damage which affects the operation of the vehicle or its parts. The vehicle may not require towing assistance.
- c. **Disabling**: Vehicle damage which prevents the vehicle to be driven away from the scene of the accident or results of driving would cause more damage. The vehicle will require towing assistance.
- d. **Total Loss**: Not reasonably salvageable.

3. Remedial Driving Training: Minimum of eight (8) hours of training to include driving and classroom lecture.

4. Enhanced Remedial Driving Training: Minimum of sixteen (16) hours of training to include driving and classroom lecture. Training may exceed the minimum hours to complete the proper training compatible to a specific violation.

**D. Disciplinary Range Category**

**1. Category "A" Violation**

- First occurrence of minor rules violations (0- 3 cumulative point total)
- Possible or no injuries, minor/superficial or no property or vehicle damage.
- A 3<sup>rd</sup> Category "A" violation within a one (1) year period will be reviewed under Category "B".
- Discipline Options:
  - Written Reprimand
  - Remedial Driving Training

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**2. Category “B” Violation**

- 4-8 cumulative point total
- Non-Incapacitating Injuries, Minor/Superficial Property Damage or Functional Vehicle Damage or
- Enhanced violation from Category “A”.
- A 2<sup>nd</sup> Category “B” violation within a one (1) year period will be reviewed under Category “C”.
- Discipline Options:
  - Mandatory Remedial Driving Training
  - One (1) to Five (5) days suspension; with no pay

**3. Category “C” Violation**

- 9- 12 cumulative point total
- Disabling/Incapacitating Injuries, Moderate Property Damage or Disabling Vehicle Damage or
- Enhanced violation from Category “B”.
- Same or similar Category “C” violation within a one (1) year period from the last Category “C” will be reviewed under Category “D”.
- Discipline Options:
  - Mandatory Remedial Driving Training
  - Three (3) to five (5) days suspension; with no pay

**4. Category “D” Violation**

- 13 or greater cumulative point total
- Life Threatening Injuries, Major Vehicle and Property Damage or
- Enhanced violation from Category “C”.
- Same or similar Category “D” violation within a one (1) year period from the last Category “D” will be reviewed under Category “E”.
- Discipline Options:
  - Enhanced Remedial Driving Training
  - Five (5) to Fifteen (15) days suspension; with no pay

**5. Category “E” Violation**

- Permanent Life Altering Injury or
- Fatal Injury or
- Catastrophic Property Damage or
- Total Vehicle Loss
- Enhanced violation from Category “D”.
- Discipline Options:
  - Enhanced Remedial Driving Training
  - Thirty (30) or greater days suspension; with no pay
  - Demotion
  - Termination



**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
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**Vehicle crashes involving off-duty Law Enforcement Officers:**

A Supervisor or Commanding Officer from the Precinct where a vehicle crash occurs will make the scene if it involves an off-duty law enforcement officer. This includes: Police and Reserve Officers, or any other Officers from outside agencies. The Supervisor/ Commanding Officer will submit a memo to the involved employee's supervisor, advising information and action taken.

It will be the responsibility of the Supervisor/ Commanding Officer to make the scene, determine the facts, and advise if any charges are to be made.

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**Tow-In Policy**

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**I. General:**

A. Disabled vehicles are either damaged or in such mechanical condition that they cannot safely be driven from the scene of a crash.

B. In general, there are two (2) types of wrecker services available to the police department.

1. Licensed Private Wreckers - Wreckers which are licensed for towing, transporting, conveying or removal of vehicles from one point to another within the city limits. These wreckers will be used for various general tows for the department, and will be called through the police dispatcher using the wrecker rotation list. The licensing and operation of these wreckers is governed by Chapter 6-88 of the Memphis Code of Ordinances.
2. City Wrecker - Wreckers used by the MPD for a “city tow or pull” - towing police vehicles and for towing other vehicles needed for evidentiary purposes (this includes vehicles involved in major crimes such as, but not limited to, homicides and carjacking; or vehicles that contain evidence).

**Note:** Officers should advise the dispatcher if wreckers are required for a “private pull” or a “city pull” along with any pertinent information concerning the tow. The current contracts lists are maintained by MPD Communications.

**II. Vehicles Disabled in Crashes:**

Vehicles damaged in a crash to the extent that they cannot be safely driven, are to be removed from the scene of the crash by a **licensed** private wrecker. These vehicles are to be towed to the private wrecker storage facility **if the vehicle is not needed as evidence as defined later in this section.**

Wrecker/Towing company drivers must possess a valid Tennessee driver’s license noting the proper class for the class of wrecker/tow truck driven. **Officers will perform a driver’s license check on all wrecker drivers called to perform tows within the City of Memphis.** City of Memphis permitted wrecker drivers should also have a City of Memphis photo wrecker ID indicating the company that they work for (It is a violation of city ordinance 41-26F to operate a wrecker licensed in the City of Memphis without the proper wrecker driver ID). Officers will also check for the proper permit papers for the wrecker/tow truck to operate. A wrecker/tow company will not be permitted to make a tow from any call where the Memphis Police Department is on the scene unless they have satisfied the requirements for licensed operations.

When the driver or owner of a disabled vehicle needs a tow from the scene of a crash, a licensed wrecker will be called by the Police Dispatcher from the wrecker list **unless the owner/operator has a preference.** Upon the owner/operator’s request for a preferred wrecker, the officer shall notify the dispatcher of such request, and a notation will be made on the tow ticket – “Owner/Operator Preferred Tow”. All requests for towing services shall be directed through Communications. This may include wrecker companies not on the Memphis Police Department Emergency Wrecker Rotation list, and not in the city limits; however, timely response thirty (30) minute by the wrecker is still required. If the preferred wrecker cannot make the scene within thirty

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(30) minutes, the wrecker may be disregarded and dispatch will call for a wrecker from the City of Memphis approved wrecker list. No member of the Memphis Police Department shall promote or solicit any wrecker service to the affected parties.

Note: In case of a conflict, officers will not take third party tow instructions from company representatives not involved in the accident scene. Printed tow information provided by the driver is acceptable. The final decision for a tow lies with the department. Officers should be able to articulate their reasoning for a tow decision, when there is a conflict on the scene.

Exceptions to the “owner/operator preferred tow” would include a location too great for the service to respond to in a timely manner, weather factors, and any emergency situation in which the officer deems necessary to dispatch the closest available wrecker, if a specialized service is needed.

In the event that the owner or operator of a wrecked vehicle is not available to designate the place to which the wrecked vehicle is to be taken (Example: The occupants of the wrecked vehicle have been transported to a hospital or the occupant is unconscious), the officer will request a wrecker through dispatch, and the vehicle will be towed to the private wrecker lot if it is not needed for further investigation.

Officers should advise the owner/operator of a vehicle which is disabled on the expressway, and which cannot otherwise be removed, that they will contact the police dispatcher and have a wrecker dispatched from the rotation list, if the owner/operator does not have a preferred licensed private wrecker.

If the dispatched wrecker does not arrive on the scene within thirty (30) minutes after being given the call by the police dispatcher, the call will be canceled and the next wrecker on the rotation list will be called. However, if a wrecker cannot get to the scene because of traffic, etc., the Police Dispatcher should encourage the wrecker operator to contact the officer on the scene and ask for an escort to the scene.

### **III. Arrest and Search Situations:**

#### **A. Vehicle towed for Evidentiary Purposes:**

When there is probable cause to believe that a vehicle is needed for evidentiary purposes (vehicle is evidence or contains evidence of a crime), the vehicle should be towed to the City Impound Lot. This includes situations where the car is needed for identification purposes (i.e., getaway car) or is needed for processing. As long as an officer has probable cause to believe that the vehicle was used in the commission of a crime or contains evidence or contraband, the vehicle may be legally searched. There are certain restrictions applicable to searching items in the trunk, such as suitcases, etc. These searches will be completed by Crime Scene or the case investigator. Officers and tow truck operators should touch these vehicles as little as possible to avoid compromising or cross-contaminating evidence. Tow truck drivers should not be allowed to enter a vehicle towed for evidentiary purposes. In these circumstances, the vehicle inventory by the towing officer should not be completed.

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If an officer tows a vehicle for evidentiary purposes or by request of an investigator, the officer will follow the wrecker to the City Impound Lot where the vehicle will be checked in at the office. The vehicle will be escorted to the Crime Scene Investigation building at the rear of the City Impound lot in order to ensure the integrity of the evidence contained in the vehicle.

Anytime an officer tows a vehicle for evidentiary purposes, a notation is to be made on the tow-in ticket that the vehicle is to be held and should specify the investigative bureau involved. “Holds” should not be placed by uniform patrol unless advised by a case officer or bureau. If an offense report is submitted, the information concerning the towing of the vehicle is to be contained in it. If no offense report is submitted, then a memo should be submitted to the investigative bureau.

Whenever any vehicle is towed for investigative purposes, (i.e., homicide investigations, auto theft investigations), the requesting officer should request the Dispatcher to provide a City wrecker, and state the reason for the tow (i.e. “Hold for homicide”). After a vehicle has been towed, it will only be held for five (5) days, unless the investigative bureau extends the hold. The investigator is to notify the City Impound Lot Manager via phone and send a written memo extending the hold.

#### **B. Hit and Run Cases:**

If an officer has probable cause to believe that a vehicle may have been involved in a hit and run vehicle crash, then the officer may tow the vehicle to the City Impound Lot. If the officer towing the vehicle also created the vehicle crash report, then this information should be on the report. If the officer towing the vehicle is not submitting the vehicle crash report, then a memo to the Hit and Run Squad must be submitted. In that instance, the vehicle will only be held at the City Impound Lot for five (5) days unless the Hit and Run Squad extends the hold.

#### **C. Arrests/Suspect's Vehicle is not needed as Evidence:**

When an officer arrests a defendant and the defendant's vehicle is not needed as evidence, the officer is required to allow the defendant to leave the vehicle at the scene of arrest if the defendant so desires and it is legally parked. The defendant cannot, however, park a vehicle on private property without the consent of the property owner/management. The defendant may authorize a third party at the scene who is not under arrest to legally park the vehicle. The defendant will not be allowed to move his vehicle once he has been arrested. Under no circumstances will an officer on the scene drive the vehicle with or without the owner's consent. These options must be explained to the defendant before the decision to tow is made.

If a vehicle cannot be legally parked, left on private property with permission, or released to a third party, then the vehicle should be towed to the City Impound Lot. A supervisor must be contacted prior to requesting a wrecker. If the vehicle is left at the scene or is released to a third party, a hold harmless agreement must be signed by the defendant. The signed hold harmless agreement should be filed at the precinct with the officer's other paperwork at the conclusion of the shift.

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### D. D.U.I. Arrests:

If the defendant is under arrest for Public Intoxication or DUI, his vehicle is to be treated the same as (C) above. The United States Supreme Court ruled that the Police Department must allow the defendant the option to turn his vehicle over to a third party or allow it to remain properly parked. The Court further stated that the simple fact that a subject is intoxicated enough to be arrested does not automatically mean that he lacks the capacity to make the decision to park his vehicle. However, there are cases when the defendant is so intoxicated that he has no idea what he is doing or even where he is. The decision to tow the vehicle or to allow the driver to leave it parked is left to the sound discretion of the arresting officer. If the officer determines that the vehicle should be towed, then it should be sent to the City Impound Lot.

### E. Recovered Stolen Vehicle:

When an officer locates a vehicle that they believe is a stolen vehicle, it is to be towed to the City Impound Lot after a complete inventory. In cases where an owner locates their own stolen vehicle, the vehicle may be released to them at the scene as long as they have proper ownership papers, and the vehicle does not need to be processed for evidence.

## IV. Tow-in Tickets:

When a motor vehicle is sent to the City Impound Lot for any purpose, the officer should record the Offense Report number and any pertinent information regarding the involvement of this vehicle in any crime on the tow-in ticket. If the vehicle has been stolen or involved in a crime in another law enforcement jurisdiction, it will not have a local Offense Report number. In this event, the officer should enter the recovery/ foreign report number or memo and NCIC number.

It is recognized that in many cases, neither an Offense Report number nor an NCIC number is available. In these cases, an officer should enter the best information that he has. If the City Impound Lot receives a vehicle without the information as outlined above, the officer's supervisor will be notified and the officer will be required to come to the City Impound Lot to complete the tow-in ticket.

When a vehicle is to be towed to the City Impound Lot or the Private Wrecker Lot, the below distribution of tow-in tickets will be followed:

#### A. Distribution of Tow-In Tickets on vehicles sent to the City Impound Lot:

The officer gives all three (3) copies (white, yellow, and pink) to the wrecker driver. The wrecker driver will turn in the white and yellow copies to the City Impound Lot staff and retain pink for his records.

#### B. Distribution of Tow-In Tickets on vehicles sent to Private Lot:

1. The white copy is given to driver or owner of vehicle being towed.
2. The pink copy is given to the wrecker driver for his records.
3. The officer will turn the yellow copy in to his supervisor with the report. The officer's supervisor will forward the yellow copy to the Wrecker Coordinator's Office for filing.

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Regardless of the tow destination, **the tow-in ticket must be filled out correctly without mistakes.** The state will not accept a “corrected” or “amended” tow-in ticket. If there are mistakes or corrections on a submitted tow-in ticket, the officer will be contacted to complete a new ticket.

C. Vehicles towed to City Impound Lot and held for further investigation:

1. If a "HOLD" is placed on a vehicle, indicate on the tow-in ticket the BUREAU FOR WHICH THE VEHICLE IS BEING HELD such as Vehicle Theft.
2. Include on the tow-in ticket the offense report number that pertains to the vehicle that is being held. If the check with Station B and/or the Report Center indicates no offense report has been submitted, then a memo must be submitted to the investigative bureau for which the vehicle is being held.
3. If the vehicle needs to be processed, this should be indicated in the “Comments” section of the tow-in ticket, so the City Lot personnel will know where the vehicle should go. The City Impound Lot personnel will maintain a file on all vehicles sent to the impound lot that are to be held for further investigation or processing.
4. City Impound Lot personnel will notify the Bureau Commander each day and advise them of any vehicle that has been placed on the lot and held for the bureau. The name, date, and time of the notification will be placed on the tow-in ticket along with instruction from the bureau to either continue the hold or release the vehicle.

It is the responsibility of the Investigative Bureau to release the "HOLD" on the vehicle or to determine what other investigation is necessary such as processing for fingerprints, blood, evidence, etc. In the event a vehicle is held for further investigation, it can be held for five (5) days. To EXTEND the "HOLD", the investigator is to notify City Impound Lot Management via phone and send a written memo extending the hold.

V. **Abandoned Vehicles:**

A. Abandoned Motor Vehicle (TCA 55-16-103) includes:

1. Motor vehicles over four (4) years old left unattended on public property for more than ten (10) days;
2. Motor vehicles in obvious state of disrepair (See B below) and left unattended on public property for more than two (2) days;
3. Any motor vehicle that has remained illegally parked on public property for a period of more than forty-eight (48) hours.

B. Obvious state of disrepair means:

- Inoperable under its own power;
- Missing one or more wheels;
- Burned throughout, or
- With more than one broken window.

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C. The following guidelines are to be followed whenever an officer receives a call on a suspected stolen motor vehicle.

The following variables are typical of conditions associated with the majority of stolen vehicles; however, this list is not intended to be all inclusive nor is any one variable necessarily sufficient to justify the towing of a vehicle suspected of being stolen.

Variables:

1. Broken steering column casing that is indicative of the technique used to steal vehicles;
2. Broken side window is a typical method of entry into a secured vehicle;
3. Residence of a registered owner versus its location in a known "drop site" area;
4. Stripped is the condition of the vehicle;
5. Miscellaneous indicators such as a "ransacked" vehicle with identification, photos, "punched truck lock", etc.
6. Unfamiliar Vehicles - people in the area not recognizing the vehicle as having been in the area previously.
7. Any motor vehicle found on public streets or thoroughfares, which is dismantled, or appears to have been left unattended on the street without it being possible for the officer to reasonably discover the owner.

**\*\* The decision to tow as a “possible stolen vehicle” will be made by the field supervisor and will be based upon the aforementioned variables.** If the vehicle is not towed as a suspected stolen, an “**Intent to Tow Notice**” should be placed on the vehicle to be executed ten (10) days later. During the ten (10) day interval, the supervisor will be held responsible for ensuring that an officer or the officer checks daily the VIN through NCIC so as to facilitate a speedy recovery in the event the vehicle is reported stolen.

D. Towing of Abandoned Vehicles:

A Federal Court order prohibits the towing of abandoned vehicles without a notice unless the vehicle is blocking traffic. The below procedure should be followed when towing an abandoned vehicle on a public street:

1. Abandoned Vehicle Call

Whenever Uniform Patrol or Traffic officers receive an abandoned vehicle call on a public street where the vehicle is not blocking traffic, officers should fill out a "**Notice of Intention to Impound Abandoned Vehicle**". One copy of the notice will be left on the vehicle and a green “Intent to Tow” sticker will be placed on the driver’s window, and the second copy will be returned to the work station.

All shifts will handle abandoned vehicle calls, leaving the required notice on the vehicle. Officers should record on their daily log sheets whenever they receive an abandoned vehicle call and the type of action taken (e.g., left notice on vehicle).



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Officers should only tow abandoned vehicles from public property. In the event an officer is called on an abandoned vehicle on private property, they should refer the complainant to the City of Memphis Code Enforcement within the Division of Housing and Community Development.

#### 2. Public Housing Projects

When officers receive an abandoned vehicle call to a Public Housing Project, a notice should be left on the vehicle. Officers should mark the block "Public Housing" on the notice, and forward it to the City of Memphis Code Enforcement within the Division of Housing and Community Development to tow the vehicle after the 10-day period.

#### 3. Intent to Tow Notices

It is important that the officer leaving the notice fill out the form as completely as possible, making every effort to ascertain the VIN and the license number. The VIN may be located on the dash of the vehicle or inside the driver's door. The officer should conduct an NCIC check to determine if the vehicle is stolen and mark the block "NCIC CHECK" on the notice. If there is no NCIC check made, the officer should mark the block "no" on the form and the reason (e.g., computer was "down"). (Note: If an officer gets a "hit", then he should have the vehicle towed immediately.)

Notices should be submitted at the end of the officer's shift to their Lieutenant.

#### 4. Procedure after 2-day or 10-day Notice

The officer will verify and check all "Intent to Tows" on the public streets. If the vehicle has been moved from the location, the officer should mark the block "Vehicle Moved" on the bottom portion of the notice. If the vehicle has not been moved from the public street at this time, the officer should contact the dispatcher to tow the vehicle to the City Impound Lot, and mark the block "Vehicle Towed" on the notice. A second notice should not be placed on the vehicle, and the vehicle should be towed after the 10-day waiting period. After doing the follow-up on the "Intent to Tow" and completing the paperwork, the officer should return the completed "Intent to Tow" notice to his supervisor, who will maintain the original at the work station and forward a copy of it to the Traffic Division. Traffic will keep a file of the copies.

\*Vehicles being towed from the streets of the City of Memphis because of "Intent to Tow Notice" will be pulled by the wrecker service holding the current contract with the Police Department to tow "Intent to Tow" vehicles. "Intent to Tow" vehicles are defined as cars and trucks up to one (1) ton, abandoned on the streets of the City of Memphis and impounded by the police, requiring the use of a class "A" wrecker.

When officers call for a wrecker to pull a vehicle because of "Intent to Tow", they will advise the dispatcher that they have a vehicle to be towed by "Intent" and the location of the vehicle. **The dispatcher will call** the current contract holder to make the pull.

All "Intent to Tow" vehicles will only be towed Monday through Friday between the hours of 0800 and 1500. The current wrecker contract holder has forty-five (45) minutes to respond to an "Intent to Tow" pull. The "Intent to Tow" form will be sent with the tow-in ticket with the wrecker driver.

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**Any questions should be referred to the Wrecker Coordinator's Office, 1<sup>st</sup> Floor, 2714 Union Extd, Suite 100, 901-636-6711.**

#### **E. Removal:**

Section 14-4-92 of the Memphis City Code states that no person shall park or store a wrecked, junked, partially dismantled vehicle upon any property in the City for a period in excess of ten (10) days unless the vehicle is enclosed within a building or stored in connection with a duly licensed business or enterprise.

Section 14-4-93 of the Memphis City Code requires the Director of Division of Housing and Community Development to give notice to the registered owner of the vehicle and the person in control of the property upon which the vehicle is located that the vehicle is in violation of the ordinance. This notice, which can be accomplished by a posting on the premises or the vehicle, shall require the vehicle to be removed to a lawful storage place within ten (10) days. If the party fails to remove the vehicle within that time period, the inspector of abandoned or junked vehicles (City of Memphis Code Enforcement within the Division of Housing and Community Development) shall have the vehicle removed from the property to the City Impound Lot by a wrecker.

If these requirements are met and the property owner refuses to allow the vehicle to be removed, the Police Department should inform the owner that the interference is illegal and that the owner will be subject to arrest for violating Section 14-4-94 of the City Code. This Section declares it to be a violation of the city code to refuse to move or fail to remove the vehicle in accordance with the notice left with the party.

#### **F. Unregistered Vehicles:**

The same procedure as that used for abandoned vehicles will be used concerning the towing of unregistered vehicles, except that the owner will have forty-eight (48) hours from the time the notice is posted on his vehicle to take the proper action. During that forty-eight hour period, the vehicle may be immobilized by use of the device commonly known as a "boot." In addition, where it is possible to ascertain the owner's identity or the official has reason to know the address of the owner, the owner should be given notice by regular mail, sent as soon as practicable but not to exceed eight (8) hours from the time the notice is posted on the vehicle. Each notice should contain the same information as those notices sent to owners of abandoned vehicles, except that the fact that the car has been determined to be unregistered should be designated in each notice. If the owner is with his vehicle, he should be issued a traffic summons for improper state registration.

### **VI. Obstructing Traffic and Parking Violations:**

When a vehicle is obstructing traffic and the owner/operator is not available, then the vehicle should be towed to the City Impound Lot.

When a vehicle is abandoned on the expressway and is obstructing traffic, then the vehicle should be towed to the City Impound Lot.

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A vehicle may be left on the portion of the interstate not intended for travel **for a period of four (4) hours** if there are indications that an emergency situation necessitated the vehicle being left (i.e., raised hood, emergency lights flashing, note left on vehicle).

When a vehicle is violating a parking restriction, but is not obstructing traffic, the vehicle should be given a traffic citation (short ticket) for the violation rather than being towed. If an officer discovers an unregistered vehicle, he may issue a long ticket to the owner/driver if one can be found. If there is no owner/driver available, a notice of intent to tow may also be placed on the vehicle as above. **A short citation may not be issued for violation of state registration.**

#### **VII. Fire Lanes:**

To be in violation of City Code Section 14-1, Obstructing Fire Access and Fire Hydrants, the area marked as a fire lane must be a public street or alley or an off-street driveway or alleyway officially designated as a fire lane and adjacent to either:

- A. A public or private hospital; or
- B. Any public building; or
- C. A private building whose owner has consented to the designation of fire access areas.

If a fire lane only is blocked, then the officer should issue a ticket. Towing cars from fire lanes should be done only with the approval of the Fire Marshal's Office. If a vehicle on the street is blocking a fireplug, the officer is to tow the vehicle.

#### **VIII. Inventory of Vehicles:**

Unless a vehicle is needed for evidentiary purposes, vehicles should be inventoried whenever they are towed, regardless whether a private wrecker or the police wrecker does the towing. The inventory is done for the purpose of protecting the owner's property, protection of the police from subsequent claims of loss or stolen property, and the protection of the police from dangerous instrumentalities. The aforementioned objectives are police caretaking procedures designed to secure and protect vehicles and their contents within police custody. If a vehicle is left on the street (i.e., the release has been executed) or driven away by a friend or relative of the arrestee, no inventory should be undertaken.

An inventory should include the area of the vehicle to which an officer has access. If the keys to the trunk and/or glove compartment are in the officer's possession, the officer should inventory these areas even if locked. If the officer does not have these keys and the compartments are locked, the officer should not inventory them and should note that the compartments were locked in the officer's report. If the compartments are unlocked, they should be inventoried. All closed containers found within an inventoried vehicle should be examined and contents listed unless locked and no key is available. This is permissible as long as such an examination can be conducted without a forcible entry that would result in property damage.

## **MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**

### **SECTION: Tow-In Policy**

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Unless being left undisturbed in the vehicle for evidentiary reasons, **any unattached items of monetary value will be removed and tagged in the property room. This includes, but not limited to, paper money, cell phones, laptops, eyewear, etc. Any items left in the vehicle and found by the City Impound Lot personnel will require the officer to go to the City Impound Lot, sign for the items and tag according to policy.**

If a truck is towed in or left on the street and we have knowledge or should have knowledge that it is transporting animals or perishable foods, we must make a diligent effort to inform a party, with responsibility for the care of the freight, or the cargo. Officers should cooperate fully with such individual to preserve the lives of such animals and/or condition of such perishables. This information, if not available from the driver, can usually be found inside the truck on the Bill of Lading.

#### **IX. Approval to Tow Vehicle to the City Impound Lot:**

The approval of a supervisor is not necessary prior to sending any vehicle to the City Impound Lot, provided the tow is in compliance with existing Tow-In Policy.

#### **X. Information Regarding Licensed Private Wreckers:**

If a wrecker is called to the scene but before it was hooked up to the vehicle in question, the owner/operator volunteers to remove it himself; he should be allowed to do so free of any tow-in charge if this can be done safely and lawfully. The Police Dispatcher should be made aware of the incident and the wrecker called should be placed back on top of the wrecker list.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Police Service Technicians**

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1. Police Service Technicians work under commissioned supervision to perform a limited range of tasks related to traffic control and direction, motor vehicle code and statute enforcement, and non-critical accident investigation. This is a non-commissioned entry level trainee position in which future police officer candidates receive basic training, education and experience.

Police Service Technicians will **not** handle the following calls:

- A. **Any recovered stolen vehicle** - Communications will dispatch a Motorcycle Officer to handle this call. If no Motorcycle Units are available, a Uniformed Patrol Officer will be dispatched.
- B. **Transport Car** - Police Service Technicians will not be called for transporting duties. This includes witnesses or victims of crimes.
- C. **Evidence** - Police Service Technicians will not transport or tag property or evidence involving any crime or fatal/critical vehicle crashes.
- D. **Memphis Housing Authority Developments** - Police Service Technicians will not be dispatched to calls in any Housing Developments.
- E. **Vehicle Crashes on the Interstate System and Sam Cooper Blvd.**

2. Police Service Technicians **will** handle Abandoned Vehicle Calls **unless**:

- A. The abandoned vehicle's license plate or vehicle identification number shows stolen.
- B. The vehicle is located in a Memphis Housing Authority Development.
- C. The vehicle is located in a hazardous, out-of-the way, or otherwise dangerous location.

**NOTE:** Motorcycle Units may still be used to handle abandoned vehicles; however, Police Service Technicians will be the first dispatched if the above three categories do not apply.

## **MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**

### **SECTION: Movie Details**

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1. Movie details will be coordinated through the Special Events Office and handled by the Motorcycle Squad. Should extra personnel be needed due to movie requirements to cover a large area, these officers will be selected from the overtime list.
2. A liaison officer will determine manpower requirements, coordinate the detail, act as relief, etc. These officers will work directly for the Commander of Special Events and coordinate directly with the appropriate movie representative. The liaison officer, or his/her designee, will be physically present on the set each day when filming is underway.
3. To the extent possible, the movie detail will be worked with a 50-50 split among on-duty and off-duty motor officers. This split will however not deplete an entire shift of available motors for normal police functions.
4. There will be no charge for the liaison officer or on-duty motors. Overtime motors will be billed at a rate 25% less than the current municipal rate.
5. Taking into consideration the necessity for safety of citizens, movie participants and officers, details will be worked with a minimum number of officers to satisfactorily fulfill the requirements of traffic and crowd control and security of the site. However, at all times, safety will be the over-riding concern in determining the number of officers required for all movie details.
6. Should questions arise between the liaison officer and movie representatives, the Commander of Special Events will be contacted to conduct negotiations with the movie representative regarding the number of officers required for the detail. Based on safety concerns and the requirements on the set, the decision of the Commander of Special Events in conjunction with the Deputy Chief of Special Operations will be final.
7. All producers of any movie, commercial, film shoot, or film project will be directed to the Memphis & Shelby County Film Commission for proper approval, insurance, and permits.

## **MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**

### **SECTION: Handling Crash Scenes**

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The first officer/PST on the scene of a crash is responsible for the scene. Their duties include: (61.2.3.a) (61.3.2.a)

1. Administering emergency medical care (basic life support measures) pending arrival of emergency medical services. (61.2.3.b)
2. Summoning additional help as required (officers, MFD, tow truck, etc.).
3. Protecting crash scene. (61.2.3.e)
4. Preserving short-lived evidence (broken parts, skid marks, etc.).
5. Establishing a safe traffic pattern around scene. (61.3.2.a)
6. Locating witnesses and recording crash information on crash report. (61.2.3.d)
7. Expediting removal from the roadway of vehicles, persons, and debris (In property damage only crash, where possible, get vehicles off the roadway immediately to get traffic moving). (61.2.2.h)
8. Contacting the Memphis Fire Department on any crash involving hazardous materials or fire. At that time, MFD will assume control of the crash site. Further investigation by MPD will resume once cleared by Fire Department. (61.2.2.e)
9. Refer any traffic engineering deficiencies to MPD Traffic Commander. (61.3.1.a)

Any property belonging to crash victims will be protected from theft or pilferage if victims are not present and should be brought to the Memphis Police Department Property and Evidence room, properly tagged, and held for victim. (61.2.3.f)

All departmental patrol personnel are issued high visibility Reflective Traffic Vests that shall be utilized to increase officer safety when assigned or conducting traffic control duty as a result of a crash. (61.3.2.g)

The General Assembly of the State of Tennessee passed amendments to two TCA title subsections relative to the investigation of traffic crashes. Title 54, Chapter 16, was amended to allow the Department of Safety, Department of Transportation, or local law enforcement agencies to immediately remove any wrecked, abandoned, burned, or unattended vehicle, or spilled cargo or other personal property from the roadway of a controlled access highway, if the object(s) is creating an obstruction or hazard to traffic as determined by authorized officers of the department or agency.

TCA Section 55-10-117 states that when a motor vehicle crash occurs with no apparent serious injury or death, the driver of each motor vehicle involved in the crash, or any other licensed occupant should remove the vehicle from the roadway into a safe location (shoulder, median, parking lot, etc.) whenever, in the judgement of the driver, the moving of the vehicle can be done safely and the vehicle does not require towing.

With these changes, we are authorized to remove or to have removed any object that remains on the roadway that causes a hazard to other vehicles. P.S.T.s and police officers investigating a vehicle crash should be cognizant of the safety needs of the public and remove hazards from the roadway as quickly and safely as possible. This includes patrol and P.S.T vehicles that should be removed from the roadway as

## **MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**

### **SECTION: Handling Crash Scenes**

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expeditiously as possible to further relieve the flow of traffic. Furthermore, the use of blue lights and yellow lights at crash scenes inhibits the flow of traffic and should be limited to warn drivers during the hazard. Use of emergency lights should be discontinued once the hazard or vehicles are removed.

Police personnel who investigate a crash, for which a report must be made, either at the time of and at the scene of the crash, or thereafter and elsewhere, by interviewing participants or witnesses, shall by the end of their tour of duty forward a written report of the crash to their immediate supervisor for approval.

#### Inclement Weather Policy (61.3.2d)

In Case of inclement weather, it shall be the responsibility of the Senior Dispatcher to notify the Traffic Commander during normal duty hours when the total number of crash calls holding exceeds fifteen (15) calls. The Traffic Commander will assess the situation and advise a Deputy Chief that the Inclement Weather Policy should be considered based on the number of calls holding. After normal working hours, the Senior Dispatcher will notify the acting Duty Colonel.

The Duty Colonel will notify the Deputy Chief on duty who will make the decision to implement the Inclement Weather Policy.

Upon making the decision to implement and terminate the IWP, the Duty Chief will advise the Public Information Officer who will see that the notifications are distributed through "CityWatch" to the radio and television stations.

The Public Information Officer will be responsible for the timely cancellation of the inclement weather announcement.

After normal working hours, or if the Public Information Officer cannot be reached then the Senior Dispatcher will send the "CityWatch" announcement and will be responsible for its cancellation.

The "CityWatch" announcement will state:

The Memphis Police Department has announced the implementation of the Inclement Weather Policy.

If you have been involved in a crash and there are no injuries, drinking or drugs involved and no wreckers are needed on the scene, the drivers should exchange names, addresses, phone numbers, insurance information and tag numbers of the vehicles involved and both drivers should arrange a time to meet at the nearest Memphis Police Department Precinct or report to the Memphis Police Department Traffic Office located at 1925 Union Avenue. Drivers should bring with them their vehicles, proof of insurance and vehicle registration to file the crash report within ten (10) working days.



**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Handling Crash Scenes**

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It shall be the responsibility of the Duty Chief to monitor the weather conditions and the calls for Police Services and make the decision as to when to lift the IWP.

If there is a question as to whether or not **crash** meets the above criteria, the dispatcher will dispatch a car and the dispatched officer shall take a crash report.

# MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES

## SECTION: Discriminatory/ Biased Based Profiling

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### I. Definitions:

*Discriminatory/ Bias Based Profiling* is the interdiction, detention, arrest, or other non-consensual treatment of an individual based solely upon one's race, national origin, citizenship, religion, ethnicity, age, gender, sexual orientation, or socioeconomic status.

*Reasonable Suspicion* is a conclusion based on a set of specific articulated facts and circumstances that would be sufficient to induce an ordinarily prudent person, under existing circumstances, to believe a criminal act has, or is about to occur.

### II. Purpose

The Memphis Police Department does not train, endorse, support, or condone any type of discriminatory profiling in its interaction with the public. Members of this department shall not consider race, national origin, citizenship, religion, ethnicity, age, gender, sexual orientation, or socioeconomic status as a basis for taking enforcement action. Biased based profiling alienates citizens, fosters distrust of law enforcement by the community, and invites legislative action and judicial intervention.

This policy applies to all:

- Subject Contacts and Field Interviews
- Asset Seizure and Forfeiture
- Traffic Stops

Officers should focus on a person's conduct or other specific suspect information. Officers must have reasonable suspicion supported by the specific articulated facts that the person contacted regarding their identification, activity or location has, is, or is about to commit a crime or is currently presenting a threat to the safety of themselves or others.

Traffic stops and routine patrols are vital law enforcement responsibilities. Not only do they deter motor vehicle violations and reduce accidents; they provide law enforcement with increased visibility and discourage more serious criminal activity. Our officers will not engage in any enforcement activity based on race, national origin, citizenship, religion, ethnicity, age, gender, or sexual orientation. Officers shall base all such enforcement action on reasonable suspicion that the occupant or occupants of a vehicle committed a motor vehicle violation or some other offense.

This policy is not intended to inhibit enforcement activity. Traffic stops have always been a valuable tool in uncovering evidence of criminal activity, however, it is important that officers use sound police skills and reasonable suspicion as primary reasons for stopping individuals.

This policy does not constrain officers from:

1. Considering a person's apparent age when investigating a possible curfew violation.
2. Making voluntary citizen contacts in order to solicit information or cooperation.
3. Conducting traffic saturations/ checkpoints.

Officers shall treat every person with courtesy and respect. Upon making a traffic stop, officers should state the reason for the stop, interdiction, detention, arrest, or other non-consensual contact. All traffic and citizen stops should be limited to the reasonable amount of time necessary to conduct the officer's official actions.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: Discriminatory/ Biased Based Profiling**

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**III. Violations**

Employees who violate this policy will be subject to corrective action pursuant to DR 101  
*Compliance with Regulations.*

All levels of supervisors should encourage proper enforcement tactics and take prudent steps to ensure that the sworn members under their command understand that discriminatory profiling will not be tolerated and should not condone or ignore evidence of such practices.

**IV. Training**

Officers will receive initial and ongoing training in enforcement tactics, discrimination, and cultural diversity, as well as training of the laws governing search and seizure. This training will emphasize the rights of citizens to be free from unreasonable police action or intrusion based on common traits such as age, race, ethnic origin, sexual orientation, gender, or socioeconomic status.

**V. Annual Review**

The Inspectional Services Bureau will conduct an annual review of departmental practices with regard to discriminatory profiling. This review will be based on citizen complaints, but will also factor in the disposition of the complaints that are being reviewed. The review will be used to address citizen concerns and evaluate the necessity for additional departmental training in the area of discriminatory profiling. The Commander of ISB shall submit a report summarizing the annual review to the Director of Police Services. This report shall be included in the Bureau's Annual Report.

## MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES

### SECTION: Financial Responsibility

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Tennessee Code Annotated 55-12-139, indicates that all vehicles must be in compliance with the Financial Responsibility Law.

**When any driver is charged with a moving violation, or involved in a vehicle crash, the officer will request evidence of financial responsibility. All drivers involved in a vehicle crash, without regard to apparent or actual fault, must show proof of financial responsibility.**

Financial responsibility under this statute means:

1. Documentation, such as declaration page of an insurance policy, an insurance binder or an insurance card from an insurance company authorized to do business in this state, stating that a policy of insurance has been issued;
2. A certificate from the Commissioner of Safety stating that a cash deposit or bond has been paid or filed with the Commissioner, or is qualified as a self-insurer; or
3. A motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the Department of Safety, or the Interstate Commerce Commission, or was owned by the United States, the State of Tennessee, or political subdivision thereof.

Officers will enforce the Financial Responsibility Law using a **mandatory** traffic citation. Officers will check the block marked "OTHER" and write in "FAILURE TO PROVIDE PROOF OF FINANCIAL RESPONSIBILITY". This is a violation of Section 11-8-10.

**Officers will not ticket the driver of a MLG&W owned vehicle for no proof of financial responsibility. MLG&W Claims Office is the insurer.**

**When an officer investigates a crash scene involving a City of Memphis owned motor vehicle the investigating officer will write "City Claims" as the insurance company, tel. # 901-636-6616. If the crash involves a MLG&W owned vehicle the investigating officer will write "MLG&W Claims" as the insurance company, tel. #901-528-4261.**

If an arrest is made for some other state offense and the defendant is transported or a misdemeanor citation is issued, officers will use the appropriate state charges and TCA 55-12-139.

Failure to provide proof of financial responsibility is a violation of **T.C.A. 55-12-139** *Compliance With Financial Responsibility Law Required –Evidence of Compliance.*

A violation of this offense is a *Class C* misdemeanor, punishable **only** by a fine of not more than one hundred dollars (\$100.00).

## MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES

### SECTION: Falsified Drive-Out Tags

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When officers encounter a person in possession of a forged or counterfeit drive out tag and a felony arrest is determined to be appropriate, **the arresting officer will straight charge the defendant.** The CDO will place a copy of the arrest ticket in the Auto Theft Bureau and Auto/Cargo Theft Task Force mailboxes. If multiple drive-out tags are recovered, the Auto Theft Bureau or Felony Response Squad will be contacted for follow-up investigation.

**TCA 55-5-116 requires fraudulent intent for the person to be criminally liable. The person holding or using the forged document must have knowledge that the document is altered, forged, or falsified.** This requires some scene investigation by the officer. The person should be advised of his Miranda rights before questioning after the officer discovers the forged drive out tag. A Rights Waiver Form and the drive out tag should be tagged as evidence in the property room. If a defendant is charged with TCA 55-5-116, a Counterfeiting/Forgery report must be taken.

**The information below will be needed for prosecution and should be in the arrest ticket:**

1. The probable cause for making the stop or checking the tag;
2. Why the officer believes the tag is counterfeit or falsified;
3. Vehicle make, model, and vehicle identification number (VIN);
4. Reference to any statements the defendant voluntarily makes or any statements he makes after being Mirandized (that shows knowledge of the alteration);
5. Information printed or written on the drive out tag regarding the dealer who issued it, the type of vehicle it was issued to, who it was issued to, and date of expiration;
6. Disposition of the evidence. (i.e., both the drive out tag and the Rights Waiver Form should be tagged in the property room)

“Altering, Falsifying, or Forging Evidences of Title, Assignments, or Plates”. TCA 55-5-116 is a *Class E* Felony.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**

**SECTION: Traffic Checkpoints**

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**Traffic Checkpoints**

**Authority to Establish Checkpoints .....2**  
**Checkpoint Enforcement.....3**  
**Definition .....2**  
**Manpower .....3**  
**Supervisory Responsibility.....2**

# **MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**

## **SECTION: Traffic Checkpoints**

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It is the policy of the Memphis Police Department to conduct traffic enforcement checkpoints in a safe, effective and lawful manner.

### **I. DEFINITION**

- A. Checkpoints, as referred to in this policy, are the temporary stopping of motorists for the specific purpose of identifying violators of the Driving Under the Influence and Seatbelt/Child Restraint laws.
- B. The Memphis Police Department does not have the authority to conduct a checkpoint for the purpose of checking for driver's licenses. Officers conducting a checkpoint may only ask for a driver's license after another violation has been observed.
- C. It is prohibited to use a checkpoint as a subterfuge for drug interdiction or other unspecified purposes.

### **II. AUTHORITY TO ESTABLISH CHECKPOINTS**

- A. The Director, Deputy Director, Deputy Chiefs, Colonels and Lieutenant Colonels shall have the authority to establish checkpoints at their discretion.
- B. Field supervisors, i.e. Watch Commanders, Captains and Lieutenants, must have administrative approval before a checkpoint is conducted.

### **III. SUPERVISORY RESPONSIBILITY**

- A. Lieutenants or a higher-ranking supervisor must:
  - 1. Pre-check the site for changes in road conditions and traffic flow.
  - 2. Provide the dispatcher the detail officer's names, IBM, and car number prior to the detail.
  - 3. Brief officers prior to the start of the checkpoint as to their purpose and responsibilities.
  - 4. The stopping order of vehicles at the checkpoint (i.e.: every car, every other car, every 3<sup>rd</sup> car) must be determined prior to the checkpoint by a supervisor not actively involved in the checkpoint itself. Traffic may be allowed to flow freely to clear any backups. This determination may be made by the supervisor on the scene.

## **MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**

### **SECTION: Traffic Checkpoints**

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5. A supervisor must contact the Public Information Office at 545-5771 and provide the date, location, and time of the checkpoint. This information must be provided to the media at least seven (7) days in advance of the checkpoint.

#### **B. Supervisors must:**

1. Remain on site to supervise the detail, which will last one to two hours maximum.
2. Complete a checkpoint activity sheet.
3. Notify the dispatcher at the completion of the detail.
4. Submit the activity sheet to the precinct Commanding officer.

## **IV. MANPOWER**

- A. Minimum staffing shall consist of a Lieutenant and two uniformed officers.
- B. The detail may be supplemented with PSTs and/or other Tennessee law enforcement personnel.
- C. Uniformed personnel, wearing a reflective vest, are to announce their identity and purpose of the checkpoint.
- D. Motorist stops shall be brief and conversations shall be confined to the enforcement activity.
- E. This does not preclude an officer from taking appropriate enforcement actions for any observed or detected violations of the law.

## **V. CHECKPOINT ENFORCEMENT**

- A. The site must be well lit, safe, and highly visible to oncoming traffic.
- B. Advance notification shall consist of a minimum of one checkpoint sign. The sign must be clearly posted, providing adequate warning that a checkpoint is ahead.
- C. Approaching motorists must be provided with a way to avoid the checkpoint. This does not allow for approaching motorists to make illegal turns to avoid the checkpoint.
- D. Marked police vehicles, with activated blue lights, shall safely channel oncoming traffic through the control zone.



## **MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**

### **SECTION: Traffic Checkpoints**

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- E. Additional channeling aids such as cones and signs may be used.
- F. Establish an area, out of the main flow of traffic, to direct possible violators for further investigation.
- G. Congested traffic will be allowed to run until the normal flow resumes.
- H. Checkpoints will be cancelled/terminated during inclement weather or an emergency.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**  
**SECTION: S.T.I.S. Responsibilities**

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**S.T.I.S. Responsibilities**

**Special Traffic Investigation Squad (S.T.I.S.) .....2**  
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# MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES

## SECTION: S.T.I.S. Responsibilities

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### I. Special Traffic Investigation Squad (S.T.I.S.)

The Special Traffic Investigation Squad (S.T.I.S.) possesses unique expertise in dealing with vehicle crashes and the reports created by them are invaluable during criminal prosecutions. S.T.I.S. investigators may be called upon to complete Crash Reports or Investigative Supplemental Reports. S.T.I.S. will investigate motor vehicle (as defined TCA 55-8-101-31) crashes that occur upon public roadways and private property generally frequented by the public at large (TCA 55-10-101 through 55-10-107).

#### A. Crash Reports

The dispatcher will notify the S.T.I.S. supervisor of calls which require S.T.I.S. to conduct an investigation. The S.T.I.S. supervisor will determine if S.T.I.S. is needed on the scene. The following is a list of crash circumstances that S.T.I.S. will respond to:

1. Fatalities: motor vehicle crashes on the public streets, roadways or private property generally frequented by the public at large where the proximate cause of the fatality is the crash.
2. Criticals: crashes where a victim's condition is listed as "critical". The dispatcher will notify the S.T.I.S. supervisor and after confirmation by an S.T.I.S. investigator through the attending medical personnel that the victim will likely expire from his injuries, the S.T.I.S. will respond and investigate the crash.
3. Placing the charge of Vehicular Assault: S.T.I.S. will conduct the scene investigation. This charge is only placed by S.T.I.S. and results from an intoxicated drivers actions being the proximate cause of a victim receiving "Critical" injuries, disfiguring injuries, amputation of limbs or injuries so severe that a protracted hospital stay will be required (most if not all injuries of this nature will be classified as "Critical"). In the last three circumstances the first responder's supervisor will need to advise the S.T.I.S. supervisor of the potential for placing the charge. S.T.I.S. will be notified prior to the scene being altered.
4. Elderly: Crashes involving persons who are 85 years and above **and** who were transported to the hospital by an ambulance from the crash scene will require notification of S.T.I.S; S.T.I.S. will then respond to the crash scene and take photographs and measurements, regardless of the victim's listed condition.
5. Memphis Police Department vehicles: marked and unmarked.
6. Memphis Fire Department vehicles: all emergency vehicles.
7. Any outside LAW ENFORCEMENT agency vehicle, except Shelby County Sheriff's Department and Tennessee Highway Patrol, who investigate their own officer involved crashes (unless they request S.T.I.S.).
8. Any emergency vehicle involved in a crash (public or private) **while operating in emergency mode.**
9. Any motor vehicle crash involving an active police pursuit.
10. When requested by an Investigative Bureau Commander.

## MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES

### SECTION: S.T.I.S. Responsibilities

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TCA CODE 55-8-101 (31) *“Motor Vehicle” means every vehicle, including a low speed vehicle as defined in this section, that is self-propelled excluding motorized bicycles and every vehicle, including a low speed vehicle as defined in this section, that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.*

TCA 55-10-101 through 107 *...the requirements herein shall apply to accidents occurring upon highways and the premises of any shopping center, trailer park or any apartment house complex, or any other premises which are generally frequented by the public at large.*

#### **B. Investigative Supplemental Report (Intentional Acts)**

S.T.I.S. may be called when motor vehicles are used as instruments in the intentional commission of homicides or aggravated assaults (when **critical** or **fatal** injuries occur). The on scene Investigative Bureau Supervisor will contact the S.T.I.S. Supervisor to request assistance; S.T.I.S. will assist in the investigation through supplemental information, diagrams, measurements and photos. All assistance will be predicated on the existence of an intact scene [i.e. physical evidence that can be photographed, measured or diagramed such as skid marks, broken glass etc]. The supplement will be labeled as an “Investigative Supplemental Report” with the incident number listed at the top and will be forwarded to the appropriate bureau by the investigator upon completion.

These Supplements include:

1. Intentional acts involving homicides or aggravated assaults where fatal or critical injuries are involved. S.T.I.S. will investigate the scene and provide supplemental information, diagrams, measurements and photos only.
2. Industrial accidents involving motor vehicles where critical injuries or fatalities occur or accidental critical injuries or deaths involving a motor vehicle but not falling under TCA 55-10-101 through 107 as regards to location.

#### **C. REPORTS NOT HANDLED BY S.T.I.S.** (involving Critical or Fatal Injuries).

These should be investigated as accidental injuries and not as motor vehicle crashes.

1. Train / pedestrian
2. Mata Trolley / pedestrian
3. Bicycle crashes
4. Skateboard crashes
5. Horse drawn carriage / pedestrian
6. Horse drawn carriage / MATA Trolley
7. Motor vehicle crashes not complying with location constraints (TCA 55-10-101 through 107) Example: ATV crash in the Covington Pike Bottoms.
8. Industrial Accidents, victims are injured or killed in the course of performing duties required by their employment other than using the public roadways for transportation. Example: construction zone worker struck by a piece of construction equipment in the normal course of use.

**MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES**

**SECTION: S.T.I.S. Responsibilities**

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**D. CRASH REPORTS NOT HANDLED BY S.T.I.S.** (not involving Critical or Fatal Injuries).

1. MATA vehicles.
2. Memphis Light Gas and Water vehicles.
3. Off Duty Police officers in Private vehicles.
4. Any government vehicle not used for emergency purposes (i.e. Public works, Sanitation, etc.)