



# *The Briefing Board*

Number 19-38  
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## **IMMEDIATE POLICY CHANGE** **EB-11, VEHICLE IMPOUND 3511**

Sworn employees, reserve deputies, deputy services aides, and posse members are **required** to read the below Office Policy to ensure they are familiar with the changes that have been made. All sworn employees, reserve deputies, and posse members are **required** to log into [TheHUB](#), to review and acknowledge an understanding of this Office Policy within **30 days**.

Employees are reminded that *The Briefing Board* has the same force and effect of Office Policy. Division commanders shall ensure that employees have access to a copy of this *Briefing Board* announcement. Policy changes should be discussed during shift briefings, as specified in [Office Policy GB-2, Command Responsibility](#).

## **EB-11, VEHICLE IMPOUND 3511**

**Effective immediately**, Office Policy EB-11, *Vehicle Impound 3511* is revised as follows (Changes indicated in ~~strike through~~ and **UPPER-CASE BOLD UNDERLINED** text):

1. **Arizona Revised Statute §28-3511 Mandated Tows:** ARS §28-3511 mandates that law enforcement agencies cause the removal and either the immobilization or impoundment of motor vehicles UNDER CERTAIN CRITERIA.
  - C. A deputy shall cause the removal and either the immobilization or impoundment of a vehicle if the deputy determines that a person is driving the vehicle while any of the following applies:
    1. The person's driving privilege is revoked for any reason;
    2. The person, ~~according to Arizona Motor Vehicle Division (MVD) records,~~ has never been issued a valid driver's license or permit by this state and the person does not produce evidence of a valid driver's license or a permit issued by another jurisdiction; or
    3. The person is subject to an ignition interlock device requirement, as specified in ARS §28-1402 and the person is operating a vehicle without a functioning certified ignition interlock device. This does not apply to a person operating an employer's vehicle or the operation of a vehicle due to a substantial emergency, as defined in ARS §28-1464.

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|                         | <b>MARICOPA COUNTY SHERIFF'S OFFICE</b><br><b>POLICY AND PROCEDURES</b> |                                              |
|                                                                                                          | <b>Subject</b><br><br><b>VEHICLE IMPOUND 3511</b>                       | <b>Policy Number</b><br><br><b>EB-11</b>     |
|                                                                                                          |                                                                         | <b>Effective Date</b><br><br><b>03-20-19</b> |
| <b>Related Information</b><br>ARS Title 4<br>ARS Title 28<br>EB-5, <i>Towing and Impounding Vehicles</i> | <b>Supersedes</b><br><br>EB-11 (11-08-13)                               |                                              |

## PURPOSE

The purpose of this Office Policy is to establish procedures for the impoundment of vehicles in compliance with Arizona Revised Statute (ARS) §28-3511.

## POLICY

It is the policy of the Office to remove and impound a vehicle when a deputy determines the provisions enumerated in ARS §28-3511 have been met.

## DEFINITIONS

**3511 Impound:** A vehicle impounded by the Office, as specified in ARS §28-3511.

**3511 Impound Unit:** The unit of the Office responsible for processing all vehicles impounded under ARS §28-3511.

**Admin Per Se/Implied Consent Affidavit:** A form that gives notice to a driver that their license will be suspended in 15 days and serves as a temporary driving permit during the time between an arrest for a violation of ARS §28-1382 or §28-1383 and the start of the suspension. This document also admonishes the driver of a 90-day suspension for failing to submit to chemical testing.

**Durable Power of Attorney:** A legal document conveying authority to an individual to conduct the legal affairs of another person.

**List Tow Truck:** An authorized tow truck operated by a towing service which has met Office standards, as listed in the Rotation Towing List Rules and Regulations, and has been approved by the Property Management Division Commander, or designee, for placement on the Rotation Towing List.

**Writ of Replevin:** A court order to repossess property.

## PROCEDURES

1. **Arizona Revised Statute §28-3511 Mandated Tows:** ARS §28-3511 mandates that law enforcement agencies cause the removal and either the immobilization or impoundment of motor vehicles UNDER CERTAIN CRITERIA.
  - A. A deputy shall cause the removal and impoundment of a vehicle if the deputy determines that a person is driving the vehicle and if all the following apply:
    1. The person's driving privilege is canceled or revoked for any reason, or the person has not ever been issued a driver's license or permit by the state and the person does not

produce evidence of ever having a driver's license or permit issued by another jurisdiction;

2. The person does not have or provide proof of insurance; and
  3. The person is driving a vehicle that is involved in an accident that results in either property damage or, injury to or death of another person.
- B. A deputy shall cause the removal and either immobilization or impoundment of a vehicle if the deputy has probable cause to arrest the driver of the vehicle for aggravated or extreme driving under the influence (DUI) or for operating a vehicle while under the age of 21 with any spirituous liquor in the person's body unless all of the following apply:
1. The vehicle is currently registered and insured;
  2. The spouse of the driver is present at the time of the arrest, has a valid driver's license, is not impaired by intoxicating liquor, any drug, or vapor releasing substance containing a toxic substance, or any combination thereof, and if under the age of 21 with a valid driver's license, and has no spirituous liquor in their body; and
  3. The driver is under the age of 21 and is being arrested for having spirituous liquor in the body in violation of ARS §4-244.34 only and the vehicle is owned by the driver's parent or guardian. This does not apply if the driver is under the age of 21 and arrested for extreme or aggravated DUI.
- C. A deputy shall cause the removal and either the immobilization or impoundment of a vehicle if the deputy determines that a person is driving the vehicle while any of the following applies:
1. The person's driving privilege is revoked for any reason;
  2. The person, according to Arizona Motor Vehicle Division (MVD) records, has never been issued a valid driver's license or permit by this state and the person does not produce evidence of a valid driver's license or a permit issued by another jurisdiction; or
  3. The person is subject to an ignition interlock device requirement, as specified in ARS §28-1402 and the person is operating a vehicle without a functioning certified ignition interlock device. This does not apply to a person operating an employer's vehicle or the operation of a vehicle due to a substantial emergency, as defined in ARS §28-1464.
- D. Deputies will not tow a vehicle based solely on the following:
1. The driver has an expired or suspended license.
  2. The driver has a driver's license from another jurisdiction or country that appears to be valid even if the validity of the license cannot be confirmed with the other jurisdiction or country.

**2. Investigative Towing and Impounding Procedures:**

- A. If the vehicle impound falls within the guidelines of this Office Policy, the deputy will request a list tow truck from the Communications Division and complete the *Vehicle Impound/Towing*

*Request* (Tow Sheet) form using the TraCS system. The deputy shall attach a copy of the MVD record used to determine the status of the driver's license to the citation.

- B. An inventory shall be made of all vehicle contents, as specified in Office Policy EB-5, *Towing and Impounding Vehicles*.
  - C. The deputy shall advise the Communications Division to enter the vehicle into the Arizona Crime Information Center (ACIC) as a towed or impounded vehicle.
  - D. The TraCS system shall be used to input data regarding all Tow Sheets.
  - E. Deputies shall complete and submit all Tow Sheets before the end of the shift.
  - F. If the TraCS system is not available at the time of the tow, deputies shall manually complete the Tow Sheet and enter the data electronically into the TraCS system prior to the end of the shift.
    - 1. The manually completed Tow Sheet shall be scanned into the TraCS system and attached to the *Incident Report* (IR).
    - 2. If TraCS is not available and a Tow Sheet is manually completed, prior to the end of shift, the canary copy of the Tow Sheet will be forward by inter-office mail and a copy of the Tow Sheet will be faxed to the 3511 Impound Unit.
  - G. The vehicle operator shall be provided a copy of the Tow Sheet which notifies the operator of the impound.
  - H. Once the deputy is prompted to print a copy of the "Driver 3511 Instructions," the deputy shall indicate "Yes" to print the post storage hearing instructions. The instructions shall be provided to the vehicle operator.
  - I. A copy of the Tow Sheet will be provided to the tow truck driver which documents the tow is a mandated 30-day impound, as specified in ARS §28-3511.
  - J. If the status of the tow is changed to, or from, an MCSO 3511 Impound after the documents are processed and issued, the deputy shall create a new Tow Sheet in TraCS with the new tow status indicated. The deputy shall notify the Communications Division of the change in tow status and a copy of the new Tow Sheet shall be provided to the vehicle operator and the tow company.
  - K. If the vehicles true Vehicle Identification Number (VIN) is in question, the district detectives and 3511 Impound Unit shall also be notified by e-mail prior to the end of the deputy's shift. The e-mail shall be sent to MCSO 3511 Vehicles Program using [mcsso.3511@mcsso.maricopa.gov](mailto:mcsso.3511@mcsso.maricopa.gov) and shall contain the deputy's name and serial number, the date of the tow, the IR number, the time of the tow, the name of the tow company used, the vehicle storage location, the type of vehicle, and the condition of the vehicle.
3. **Notice of Storage Hearings:** Within three business days of the impoundment, the Office will send a notice to all known owners and lien holders that the vehicle has been impounded.
- A. The 3511 Impound Unit is responsible for compliance with the Office requirements, as outlined in ARS §28-3511. The responsibilities include, but are not limited to, the following:

1. Assigning a hearing officer from within the 3511 Impound Unit to conduct the Post Storage Hearing;
    2. Ensuring the hearing officer has all the information necessary to conduct the hearing; and
    3. Conducting the Post Storage Hearing, as specified in ARS §28-3514.
  - B. A Post Storage Hearing will be offered to the registered owner or any party with a security interest at the time of the impoundment and should take place within 10 business days after the date on the notice.
    1. The purpose of the hearing is to allow the registered owner or party with a security interest at the time of the impoundment to contest the legitimacy of the tow. If any party contests the legitimacy of the impoundment, a hearing will be granted.
    2. The Post Storage Hearing shall be conducted by the Office within five business days, after receipt of the hearing request.
  - C. The hearing officer will determine if an early release is possible or if the tow was an invalid 3511 Impound.
  - D. Any parties not notified of the tow within the required three business days, by mail or personal delivery, will not be responsible for the administrative or storage fees. If this is a result of a failure by the deputy during the investigation, a supervisor from the 3511 Impound Unit will notify the involved deputy's supervisor.
4. **Releasing of Vehicles Impounded under ARS §28-3511:** Impounded vehicles shall only be released when the provisions of ARS §28-3512 have been satisfied. The registered owner, spouse, or other party with a secured interest in the vehicle impounded, as specified in ARS §28-3511, may be eligible for release of the vehicle prior to the expiration of the 30-day impoundment period provided they were not the driver when the vehicle was impounded or after their driving privileges have been reinstated. No vehicle will be authorized for release without the appropriate release documentation from the 3511 Impound Unit.
- A. Release Prior to Expiration of the 30-day Impoundment Period:
    1. Vehicles shall be released to a person or entity listed as the registered owner according to the MVD at the time of impound, the spouse, or other party with a secured interest. The 3511 Impound Unit will only release the vehicle to the appropriate party if the following information is produced:
      - a. The owner's valid driver license issued by this state or the owner's state of domicile, or the valid license of the owner's spouse.
      - b. Valid registration, temporary permits are permissible, or title.
      - c. Valid proof of insurance for the impounded vehicle that states the name and address of the named insured, the coverage afforded by the policy, the premium charged for the policy, the complete VIN of all vehicles covered by the policy, the policy period and the limits of liability. The only exception for this would be a wrecked vehicle and the registered owner must provide a letter from the insurance company claiming the vehicle as a total loss.

- d. Payment of the MCSO administrative fee shall be made in the exact amount by cashier's check or money order, made payable to the Maricopa County Sheriff's Office or MCSO.
    - e. The registered owner shall be required to sign an agreement promising not to allow the vehicle to be driven by a person with a suspended, revoked, or canceled license, or someone who may drive under the influence, for the next year. This agreement is only applicable for early releases.
    - f. Payment of the towing and storage fees to the tow company.
  - 2. Cases in which the spouse is present to claim the vehicle will only be processed if the spouse is named on the registration or title to the vehicle. If the spouse is not named, then the spouse must have either a power of attorney or be present with a party named in the records for the vehicle. The only exception for a power of attorney on early releases for a non-licensed registered owner would be a durable power of attorney clearly stating that the owner is unable to fend for themselves; therefore, the appointed agent in their durable power of attorney has control over all of their estate.
  - 3. If a business is a sole proprietorship and the owner is the driver, the vehicle is not eligible for early release and shall remain impounded for the full 30 days, unless driving privileges are reinstated. The vehicle may be released to the owner if the owner was not the driver. An early release agreement will be signed if the release is done in the owner's name. If a business is the registered owner, the business may appoint an agent for the release of the vehicle. All criteria listed in this Office Policy must be satisfied along with a letter on company letterhead stating such agent is authorized for the vehicle release. If the release is executed in the company's name, an early release agreement will not be signed.
  - 4. Violations of early release agreement impounds shall be cited under ARS §28-3512.J or ARS §28-3512.K, unless it is determined the tow was not valid or extenuating circumstances exist in the opinion of the hearing officer. The issue of such citation will be determined by the hearing officer when an early release agreement was signed with an outside agency.
- B. Driving Under the Influence (DUI): Release of vehicles impounded under ARS §28-3511 for driving under the influence or due to an arrest for extreme DUI, aggravated DUI, or early releases will be decided by the 3511 Impound Unit supervisor. If it was an underage drinking and driving tow, the vehicle must remain impounded for the entire 30 days, if the driver was the sole registered owner of the vehicle at the time of impound. Implied consent paperwork on refusals is a mandatory 30-day wait period, if the driver was the sole owner of the vehicle at the time of impound.
- 1. Early release of the vehicle is available to registered owners, if they were not the driver at the time of impound, as long as all criteria, as specified in this Office Policy are satisfied.
  - 2. The spouse of the driver may claim the vehicle even if they are not on registration. The spouse must have either a power of attorney if not present for release or be present with the owner of the vehicle. In either case, the spouse must provide a certified copy of the marriage certificate. This applies for early releases. The spouse or owner must still provide all criteria, as specified in this Office Policy. If the vehicle is released to the

spouse, the spouse must sign the early release agreement if the vehicle is released before the 30-day impoundment period passes.

- C. Lien Holder: To release a vehicle impounded under ARS §28-3511 to a lien holder, the lien holder must provide the following:
    - 1. A letter from the lien holder authorizing an agent for the vehicle release. This agent must bring a valid driver's license.
    - 2. A notarized affidavit of repossession from MVD. In lieu of a notarized Affidavit of Repossession, a Writ of Replevin from any court can be presented, listing the vehicle's description, including the VIN.
    - 3. If the vehicle is being repossessed, the lien holder or repossession agent must present a valid driver's license and a notarized letter on the company letterhead that shows the debtor's name, the loan or account number, and the complete vehicle description, including the VIN. A copy of the borrower's signed contract is accepted in lieu of an account number.
    - 4. A hold harmless letter on the company letterhead stating that pursuant to ARS §28-3511 and ARS §28-3512, the lien holder or repossession agent will not release the vehicle prior to the 30-day period to the current registered owner if that person was the driver at the time of the impoundment. The lien holder or repossession agent agrees to hold the Maricopa County Sheriff's Office harmless from any civil actions resulting from the release of the vehicle.
    - 5. Payment of the administrative fee.
  - D. Release After the 30-day Impoundment Period: After the 30-day impoundment period has expired, the vehicle may be released to a licensed registered owner or a person acting as the registered owner's agent.
5. **Stolen Vehicles:** If the impounded vehicle is a reported stolen vehicle and listed in the National Crime Information Center (NCIC) or the ACIC as such by the Office or any other law enforcement agency, the vehicle may be released to the registered owner.
- A. The registered owner shall provide:
    - 1. A valid government issued photo identification;
    - 2. The valid registration or title;
    - 3. A valid insurance card; and
    - 4. A valid Stolen Vehicle Affidavit and Report dated before impound.
  - B. The operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage, and administrative charges. The vehicle shall be released to the owner or person other than the owner, as identified in this Office Policy, even if the operator at the time of immobilization or impoundment has not paid all immobilization, towing, storage, and administrative charges. The circumstances of a delayed affidavit/report of the theft will be

considered by the hearing officer to determine if in fact the vehicle was truly stolen or was reported as such to avoid payment of administrative fees.

6. **Unclaimed Vehicles:** If a claim has not been made for the return or possession of the vehicle by a person legally entitled to the vehicle within 40 days after a vehicle is impounded, pursuant to this article, the person who has possession of the vehicle shall submit an abandoned vehicle report, as specified in ARS §28-4838.
  - A. The release shall be granted to the tow company that answered the call for the said vehicle tow. This tow company will not pay the administrative fee unless it is agreed upon with the Office in contract that such fee will be collected.
  - B. The tow company will submit a list of granted vehicle titles to the 3511 Impound Unit within 30 days of receiving title to advise that ownership of vehicles have been obtained.