

INSTRUCTIONAL ORDER

August 2017

Immediately

V.5:03

Distribution: All Employees

Subject: **IMPOUNDING VEHICLES USED TO FACILITATE PROSTITUTION, SEX AND DRUG RELATED CRIMES OR IF DRIVEN/OPERATED UNDER THE INFLUENCE**

Index as: Assignment
Drug Arrest; Impounding Vehicle
Impounding Vehicles for Drug, Sex, Prostitution Crimes, or if Driven/Operated Under the Influence
Prostitution Arrest; Impounding Vehicle
Vehicle, Impounding for Drug, Sex, Prostitution Crimes, or if Driven/Operated Under the Influence

Accreditation Standards: 1.2.4, 61.1.11, 61.4.3 and CFA 18.13

Cross Reference: Instructional Order V.5:12, Seizure and Forfeiture Procedures
§796.07, §800.02, §800.03, §893.02, §893.03, §316.193 F.S.S.
Arizona v. Gant 556 U.S.332 (2009)
C.O. 20-122 and 20-124

Replaces: I.O. V.5:3, Impounding Vehicles Used to Facilitate Prostitution, Sex and Drug Related Crimes, (July 6, 2010)

This Order consists of the following sections:

- I. Purpose
- II. Definitions
- III. Authority to Impound Vehicle
- IV. Impounding and Report Procedure
- V. Search and Inventory Procedures

I. PURPOSE

This Order establishes uniform guidelines for implementation of City Ordinance 20-122, *Impoundment of Motor Vehicles Used to Facilitate Prostitution, Sex, and Drug Related Crimes or If Driven/Operated Under the Influence*. The Ordinance provides for up to a \$500.00 civil administrative penalty and the right to a preliminary hearing and a final hearing before an impartial Hearing Master. The maximum \$500.00 fine does not include towing and storage fees.

II. DEFINITIONS

A. Assignment – The making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

B. Co-owner – Any natural person owning a motor vehicle in common with another, regardless of marital relationship or the conjunctive term used on registration or title documents.

C. Owner – The natural person or persons who is or are a registered or titled owner of a motor vehicle, or a natural person or persons having other proof of ownership of a motor vehicle including, but not limited to, a bill of sale or open title signed by the previous owner.

III. AUTHORITY TO IMPOUND VEHICLE

A. A motor vehicle is subject to impoundment whenever a Police Officer has ARRESTED or has issued a *NOTICE TO APPEAR* to the owner or co-owner, and their vehicle was used to facilitate:

1. The commission or attempted commission of an act of prostitution, assignation or lewdness as defined in §796.07; F.S.S., or
2. The commission of an act of solicitation for prostitution, lewdness, or assignation in violation of §796.07; F.S.S., or
3. The commission of an unnatural or lascivious act in violation of §800.02; F.S.S., or
4. The commission of the exposure of sexual organs in violation of §800.03; F.S.S., or
5. The commission of a violation of City Ordinance 20-121, relating to precursor acts facilitating prostitution; or
6. The commission of any violation of Chapter 893, Florida Statutes; or
7. The vehicle is found to unlawfully contain any controlled substance as defined in §893.02 or §893.03, F.S.S., or
8. The vehicle was driven or operated under the influence in violation of §316.193, F.S.S.

B. No vehicle shall be impounded under the provisions of C.O. 20-122 if:

1. At the time the vehicle is subject to seizure and impoundment, it is under the control of a person other than an owner or co-owner and the owner or co-owner was not present at the time the vehicle became subject to seizure or impoundment; or
2. The vehicle is determined to be stolen at the time that it became subject to impoundment; or
3. It is determined the vehicle is subject to seizure pursuant to the Florida Contraband Forfeiture Act. If subject to seizure under this Act, the Officer may follow the procedures set forth in [J:\Research\GeneralOrders\V_InstructionalOrders\V5-12 Seizure & Forfeiture Procedures.pdf](J:\Research\GeneralOrders\V_InstructionalOrders\V5-12_Seizure_&_Forfeiture_Procedures.pdf), or proceed with Impoundment per C.O. 20-122.

IV. IMPOUNDING AND REPORT PROCEDURE

A. Officers may seize and impound a motor vehicle pursuant to C.O. 20-122 when the requirements set forth in Section III have been met.

B. Upon deciding to seize a vehicle, the Officer shall notify a Supervisor who will assist in making a determination whether to proceed with impoundment or forfeiture.

C. When impounding a motor vehicle pursuant to C.O. 20-122, the Officers shall:

1. Determine the identity of the registered owner(s) of the vehicle.

2. Complete a *Notice of Vehicle Impoundment* form <J:\Research\GeneralOrders\V Instructional Orders\V5-03 Impounding Vehicles Used to Facilitate Prostitution Sex Drug Related Crimes or if Driven Operated Under the Influence Attachment A.pdf>; and

a. At the scene of arrest, give the triplicate (pink copy) of the *Notice of Vehicle Impoundment* form to the arrested owner or co-owner, advising them of the vehicle impoundment and right to request a preliminary hearing; and

b. Provide the owner or co-owner a copy of the *Request for a Preliminary Hearing* form <J:\Research\GeneralOrders\V Instructional Orders\V5-03 Impounding Vehicles Used to Facilitate Prostitution Sex Drug Related Crimes or if Driven Operated Under the Influence Attachment B.pdf>, which is located behind the pink triplicate copy of the *Notice of Vehicle Impoundment* and attached to it.

3. Search and secure each impounded vehicle as described in this Order and complete the *Vehicle Tow Impound Report* in TraCS.

a. To ensure the vehicle is held as required by the ordinance, the impounding Officer shall select "City Ordinance 20-122" in the IBR status field and type "City Ordinance 20-122" as the reason code in the Towing/Impound screen in RMS.

b. For legal and tracking purposes, it is imperative that the *Notice of Vehicle Impoundment*, <J:\Research\GeneralOrders\V Instructional Orders\V5-03 Impounding Vehicles Used to Facilitate Prostitution Sex Drug Related Crimes or if Driven Operated Under the Influence Attachment A.pdf>, is sent to the Legal Division by the end of the Officer's shift.

c. If the *Vehicle Tow Report* in TraCS is unavailable when the Officer is on scene and at the time of arrest, the *Tow/Impound Module* found within the *Vehicle Module* of RMS shall be completed.

d. Once TraCS returns to normal operation, the Officer shall manually import the information previously recorded in the *Vehicle Module* of RMS into TraCS.

e. The Supervisor shall ensure that the impounding Officer has entered the information in a timely manner.

f. If any assistance is needed to ensure vehicle impound procedures are complete and data is entered in a timely manner, the impounding Officer should contact the Information Desk.

4. Have the vehicle towed by the City contract wrecker service to the appropriate facility.

5. The impounding Officer shall ensure, by the end of their shift, the following documents are sent to the Legal Division:

a. The original (white copy) of the *Notice of Vehicle Impoundment* form (Attachment A) and,

b. A copy of the *Offense Report(s)*, with original, executed Law Enforcement Officer Oath form, <J:\Research\GeneralOrders\V Instructional Orders\V5-03 Impounding Vehicles Used to Facilitate Prostitution Sex Drug Related Crimes or if Driven Operated Under the Influence Attachment C.pdf>.

6. The yellow copy of the *Notice of Vehicle Impoundment* shall be sent to the Records and Evidentiary Services.

VI. SEARCH AND INVENTORY PROCEDURES

A. The vehicle may be searched for evidence related to the offense for which the person has been taken into custody. The entire passenger compartment may be searched, as well as any locked, unlocked or closed portion of the vehicle or container. However, no locked portion of the vehicle or container shall be forced open.

B. If any contraband or illegal firearms are found during either a routine inventory or search seeking evidence of the crime for which the person has been taken into custody, the vehicle may be subject to seizure/forfeiture as described in <J:\Research\GeneralOrders\V Instructional Orders\V5-12 Seizure and Forfeiture Procedures.pdf>.

C. An inventory shall be made of the contents of all impounded vehicles. List all damage, including minor body damage, on the *Impound form*. Dispose of all perishable items. All property of value shall be processed into the Property Room.

D. The entire vehicle shall be inventoried, including all containers. Locked portions of the vehicle, and containers which cannot be opened without causing damage, shall not be forced open but, instead, described on the inventory as a locked portion of the vehicle or container. If the vehicle is locked, note the fact on the *Impound form* and inventory visible items within the passenger compartment.

E. If in the process of conducting an inventory, an article is found which is known to be evidence of a crime, stolen or contraband, it may be seized immediately. If after the impound has been completed, it is discovered that an item included in a vehicle inventory is evidence of a crime or stolen, a Search Warrant must be obtained before the vehicle may be reentered.

F. In unusual situations, including inclement weather or potential danger, a vehicle may be moved from the area prior to an inventory and the completion of the *Vehicle Tow Impound Report* form in TraCS. However, the inventory and the report shall be completed as soon as practical thereafter. The vehicle should be constantly observed by an Officer until it is inventoried. If necessary, an Officer will follow the vehicle being towed to the impound facility.

Anthony Holloway
Chief of Police