

MEMORANDUM

To: Members of the City Commission

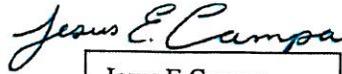
From: Lisa Agnor, City Manager

Date: January 8, 2016

Subject: Discussion of and consideration of revising the take-home vehicle policy for the Marshall Police Department

This item has been placed on the agenda at the request of Commissioner Carter, and will be discussed at the meeting. The Commission may also take action regarding item, if you are ready to do so.

A copy of the current Vehicle Operation Policy for the Police Department is attached. Information related to take-home vehicles is found on page 17, under Section F. Please note that Chief Eddie Campa has further clarified the take-home vehicle information with the following statement: *"All sworn personnel living within the city limits are allowed to take their units home. Any officer living within a five-mile radius is allowed to take a unit home if they are subject to recall. This includes SWAT, K-9, or Detectives. At this current time, no detective lives within the five-mile radius."*

	MARSHALL POLICE DEPARTMENT	
	Policy 7.14 Vehicle Operation	
	Effective Date: 10/05/15	Replaces:
	 Approved: Jesus E Campa Chief of Police	
	Reference: TBP: 7.15, 7.20, and 7.24	

I. POLICY

All personnel operating Department vehicles shall exercise due regard for the safety of all persons. Protection of life is the paramount goal of the Department. No task, call, or incident justifies disregard of public safety. Further, the public expects its law enforcement officers to demonstrate exemplary driving skills. All Department personnel who operate Department vehicles will comply with safe driving procedures outlined herein with particular attention to responding to calls for service or engaging in pursuits. Emergency warning devices shall be used consistent with both legal requirements and the safety of the public and Department personnel.

II. PURPOSE

To establish procedures governing the operation of police vehicles.

III. DEFINITIONS

- A. Emergency driving. Driving in response to a life-threatening or other serious incident (based on available information) which requires emergency equipment in operation. Emergency driving with emergency lights and siren activated allows officer to disregard certain traffic regulations, but officers must still drive with due regard for the safety of the officer and others.
- B. Emergency equipment. Emergency lights and a siren, whistle, or air horn designed to give intermittent signals automatically. All marked vehicles have distinctive, reflective decals for additional visibility. In this order, an authorized emergency vehicle is one that is equipped with emergency equipment.
- C. Normal or routine driving. That driving which dictates vehicle speed consistent with the normal flow of traffic, obedience to vehicle laws and posted signs, and adherence to commonly understood "rules of the road."

IV. GENERAL PROCEDURES FOR ALL RESPONSES (TBP: 7.15)

A. General

1. All departmental vehicles shall be driven safely and properly in full compliance with all traffic laws and regulations. Department vehicles are conspicuous symbols of authority on the streets, and many people observe an officer's actions. Each officer must set an example of good driving behavior and habits.
2. Under certain emergencies, as defined below, the Transportation Code authorizes officers to disregard traffic regulations. Neither the operator nor the Department; however, are released from civil liability for failure to use reasonable care in such operation.

B. Routine operation

1. In case of accident or damage to any Department vehicle, the driver shall immediately request the on-duty supervisor to conduct an investigation.
2. Accidents involving members of this Department will be investigated by the Department of Public Safety (DPS). In the event DPS cannot respond, the on-duty supervisor shall contact Patrol Commander for further direction. Drivers shall also write a memorandum detailing the circumstances. Major accidents shall also be investigated by a Marshall Police Department Accident Investigator.
3. Drivers shall report any found damage or other non-accident damage to their supervisor immediately and document the damage in an incident report.
4. Vehicles used in routine or general patrol service shall be conspicuously marked unless being used for covert patrol operations.
5. Standard lighting equipment on marked vehicles includes hazardous warning lights, spotlights and alley (side) lights on the rooftop light bar. Hazardous warning lights may be used at any time the Department vehicle is parked where other moving vehicles may be endangered. Alley lights and spotlights may be used when the vehicle is stationary or moving at speeds not to exceed 15 miles per hour and shall not be used in a manner which will blind or interfere with the vision of operators of other approaching vehicles.
6. Seat belts and shoulder straps shall be worn by all passengers during vehicle operation. Prisoners shall be strapped in with seat belts whenever possible.
(TBP: 7.20)

- a. Exception: When in the immediate area of the scene or a call where the officer believes that a rapid exit from the vehicle may be required, the officer may release the seat belt.
7. Any young children transported in a police vehicle will be transported in the manner prescribed by the Transportation Code using Infant/Child car seats when necessary.
- C. Inspection (TBP: 7.24)
1. Before each duty assignment, officers shall check their vehicles for cleanliness, operability, and all required equipment (to include audio and video equipment). Officers shall also ensure that vehicles have adequate levels of oil, brake fluid, power steering fluid, and fuel. Any deficiencies should be reported to the supervisor.
 2. Officers shall check the safety features of the vehicle before assuming duty. The check shall include (but not be limited to) all lights, brakes, siren, horn, and steering. Officers shall also check tires for tread wear and proper inflation.
 3. Officers shall examine their vehicles at the beginning and end of their shifts for undocumented damage. Officers shall report any damage immediately to the on-duty supervisor, photographs shall be taken.
 4. Officers shall examine their vehicles at the beginning and end of their shifts to search for evidence, contraband, or property discarded by prisoners or others. Rear seats shall be thoroughly checked.
 5. Officers who discover a Department vehicle in need of repairs shall immediately document the necessary repairs and take the vehicle to the city service center.
 6. If it is determined through an investigation that vehicle damage resulted from abuse or neglect caused by an officer, disciplinary action may result.
 7. No driver shall modify, remove, de-activate, or otherwise tamper with the vehicle safety belts, emission control device, or any part of the vehicle which affects its operation.
 8. Officers are responsible for maintaining the cleanliness of the interior and exterior of their assigned vehicle. During periods of inclement weather when Department vehicles cannot be washed regularly, the driver must ensure that headlight and tail-light lenses are kept clean, insofar as circumstances permit.
 9. No officer or employee shall operate any Department vehicle which he or she believes to be unsafe.

D. Driving rules

1. The driver shall carefully observe the surrounding conditions before turning or backing any vehicle.
2. A Department vehicle shall not be left unattended with the engine running nor shall the vehicle be left unlocked when the officer has left it to handle other business. It is an exception to this rule if the officer is operating as a K-9 Officer and the K-9 is in the car.
3. The driver must recognize the variable factors of weather, road surface conditions, road contour, and traffic congestion, all of which directly affect the safe operation of any motor vehicle, and shall govern the operation of the vehicle accordingly.
4. Officers responding to certain crimes-in-progress may discontinue the use of the siren upon approaching the location of the occurrence. While this is allowed by Texas law and this policy, officers shall understand that to do so means that they are no longer operating in a manner that would warn other traffic and should remember that they still have a duty to drive with due regard to other motorists and pedestrians.
5. Emergency driving to the scene of a motor vehicle accident is permissible only when an emergency exists, when specific information indicates that conditions at the scene require an emergency response, or when directed to do so by a supervisor.
6. Upon approaching a controlled intersection or other location where there is possibility of collision because of traffic congestion, the emergency driver shall reduce the speed of the vehicle, stopping completely if necessary, before entering and traversing the intersection. When faced with a red traffic signal or stop sign, the officer shall stop his or her vehicle and ensure by careful observation that the way is clear before proceeding through the intersection.
7. Regardless of the seriousness of the situation to which the officer is responding and accepting circumstances that are clearly beyond the officer's control, he or she shall be held accountable for the manner in which he or she operates the vehicle.
8. At the scene of a crime, a motor vehicle crash, or other incident, a Department vehicle shall be parked in such a manner so as not to create an obstacle or hazard to other traffic, unless necessary for the protection of an incident scene or injured persons. If a traffic hazard exists, the emergency lights shall be used to warn other drivers approaching the location.
9. Operators of Department vehicles must bear in mind that traffic regulations requiring other vehicles to yield the right of way to any emergency vehicle do not relieve the emergency vehicle operator from the duty to drive with

due regard for the safety of all persons using the highways, nor shall they protect the driver from the consequences of an arbitrary exercise of such right of way.

V. PROCEDURES FOR EMERGENCY DRIVING

A. General

1. No fixed rule can apply to every circumstance that may arise governing emergency driving. Although an officer may receive information that leads him/her to respond to a call with emergency lights and siren activated, in the majority of such cases an officer discovers, upon arrival, that an emergency response was not justified.
2. 546.005 of the Transportation Code states that the exemptions to driving laws granted to emergency vehicle operators "does not relieve the operator from the duty to drive with appropriate regard for the safety of all persons or the consequences of reckless disregard for the safety of others." Recognizing that protection of human life is paramount. The responding officer must remember that his or her objective is to get to the location of the occurrence as soon as possible safely without danger to himself or to others.

B. Response codes

1. Calls for service are classified as Code 1 or 3 depending on circumstances. Code 3 calls are authorized a field supervisor, or the patrol officer, subject to the considerations discussed below. The codes are defined as follows:
 - a. Code 1 responses are utilized for any situation regardless of apparent urgency where the preservation of life is not a consideration. Units responding to Code 1 calls shall respond to the location without delay, complying with all traffic regulations and shall not use emergency warning devices.
 - b. Code 3 responses are authorized for any emergency where the preservation of life is a consideration. Primary and support units responding to Code 3 calls shall proceed rapidly to the location of the emergency by the most direct means, using all emergency warning devices with a paramount consideration for the safety of the public and the assigned officers.
2. Field supervisors shall monitor the response codes for calls for assistance and shall have the authority to upgrade or downgrade assigned response codes. Field supervisors shall closely monitor all Code 3 calls and shall respond if necessary.

C. Code 3 Calls

1. Code 3 calls are calls for service which meet the description under B above, which indicate a crime involving violence is in progress or where the suspect is armed, and all other requests alleging an implied or immediate threat to the safety of a person. Some felonies-in-progress that do not apparently involve violence are considered as Code 3. Examples of Code 3 calls (not all inclusive) include:
 - a. Aggravated violation involving a weapon which is in progress;
 - b. Assault Family Violence in progress;
 - c. Fight in progress with possible weapon(s);
 - d. Bomb threat (must be credible with device information/location/time frame);
 - e. Motor vehicle crash with serious injuries; and
 - f. Motor vehicle crash with trapped occupants/injuries.
 - g. Burglary of Habitation in progress.

D. Officer's response to call

1. Upon arrival at the scene of a call, the responding officer shall rapidly evaluate the situation and determine whether additional units are still needed or whether other units responding Code 3 can be slowed or cancelled.
2. All units responding to robbery-in-progress and burglary-in-progress calls shall discontinue the use of the siren before coming within hearing distance, and at that time fully comply with all traffic laws. Before coming within sight of the location, officers shall discontinue the use of the emergency warning lights. Officers are reminded that upon deactivation of a siren and flashing lights, their response ceases to be an emergency, and they must comply with all posted speeds and traffic control devices.
3. In situations requiring a silent response, e.g., alarms and prowler calls, officers shall respond as rapidly as possible, obeying all traffic laws and signs.
4. Officer-initiated response.
 - a. When, in the opinion of the officer, an emergency is imminent or exists, or that activation of emergency warning devices is necessary to protect life or render the necessary enforcement, the Department authorizes an emergency response.
 - b. Examples include:

- i. Any incident where the use of emergency lights constitutes a necessary warning for the safety of life (such as scenes of fires, accidents, or disasters).
- ii. As a visual signal to attract the attention of motorists being stopped for traffic violations or warn motorists of imminent dangers.
- iii. Responding to Code 1 calls, where the officer has previous or additional information which, had the dispatcher known it, would have resulted in the call being dispatched as Code 3.
- iv. Where because of location, distance to be traveled, or traffic conditions, the officer determines that emergency operating conditions are essential in order to provide an appropriate response.
- v. In response to an officer's emergency request for assistance.
- vi. For pursuit, see Policy 7.15

E. Use of emergency warning devices in non-emergencies

1. Officers shall activate emergency equipment to notify drivers that they must stop and to provide a safe environment for the driver, officer, and the public.
2. Officers may activate emergency equipment in non-emergencies when expediency is required to eliminate a potential hazard to the public or other officers, such as using emergency lights to protect disabled motorists or when Department vehicles are used as protective barriers.

F. Take Home Vehicles

The Marshall Police Department recognizes that a high visibility law enforcement presence throughout the community is a significant deterrent to criminal activity. Sworn officers may be authorized by the Chief of Police to take Department owned vehicles home and use such vehicles in accordance with established guidelines and limitations. This policy provides guidelines for Department personnel who are assigned take-home Department vehicles.

I. Assignment and Use of Department Vehicles by Sworn Personnel

- A. The Chief of Police may authorize sworn personnel who live inside the city limits of Marshall with full arrest authority to take a Department-owned vehicles home based on availability of vehicles and/or mission requirements.
- B. SWAT officers, CIB Detectives, K-9 officers are authorized to take a unit home if they live no more than 5 miles outside the city limits in ensure a rapid response.
- C. Operation of vehicles shall be restricted to Department personnel who are insured to operate them and possess a valid driver license.

- a. Sworn personnel with full arrest authority shall be in possession of authorized sidearm, ammunition, handcuffs and credentials whenever operating a department vehicle.
- b. Sworn personnel are required to have the radio turned on while operating a law enforcement vehicle, and to take action in all instances where there is a legal duty to act. The level of action shall be dictated by an assessment of the totality of the circumstances to include but not limited to:
 1. Type of offense
 2. Risk to the public if immediate action is not taken
 3. Risk to any innocent third person including passengers in the Department vehicle
 4. If off duty, availability and proximity of on duty law enforcement personnel

II. Limitations for Use of Department Vehicles by Sworn Personnel

- A. Department personnel and their passengers shall be attired and conduct themselves in a manner which reflects positively on the Department.
- B. Vehicles shall not be operated when alcoholic beverages will be consumed or possessed by any operator or passenger except for official purposes.
- C. Vehicles shall not be driven to or from liquor establishments to purchase or consume alcoholic beverages.
- D. Vehicles shall not be taken to any adult oriented business or other location that could reflect unfavorably on the Department except by on duty personnel on official business.
- E. Vehicles shall not be operated in any manner that could reflect unfavorably on the Department.
- F. Unmarked vehicles shall not be used for routine traffic enforcement.
- G. Vehicles shall not be operated outside of Department jurisdiction except by personnel on official business or as authorized.
- H. Officers assigned take home vehicles will not use them to conduct personal business of any kind, unless authorized by a supervisor and the Chief of Police.

III. Limitations for Use of Department Vehicles by Non-Sworn Personnel

- A. Non-Sworn personnel and their passengers shall be attired and conduct themselves in a manner which reflects positively on the Department.

- B. Vehicles shall not be operated when alcoholic beverages will be consumed or possessed by any operator or passenger except for official purposes.
- C. Vehicles shall not be driven to or from liquor establishments to purchase or consume alcoholic beverages.
- D. Vehicles shall not be taken to any adult oriented business or other location that could reflect unfavorably on the Department except by on duty personnel on official business.
- E. Vehicles shall not be operated in any manner that could reflect unfavorably on the Department.
- F. Vehicles shall not be operated outside of Department jurisdiction except by personnel on official business or as authorized.
- G. Non-Sworn personnel assigned take home vehicles will not use them to conduct personal business of any kind, unless authorized by a supervisor and the Chief of Police.

IV. Parking

- A. The vehicle shall be locked and secured when parked.
- B. Visible weapons or equipment shall not be left inside the vehicle when the employee is off-duty and the vehicle is at the residence.

IV. Vehicle Maintenance

- A. Each employee assigned a take-home vehicle is responsible for general maintenance, proper care, and proper appearance of the vehicle.
 - 1. Patrol units are expected to have a full tank of gasoline at the beginning of a shift.
 - 2. Employees will wash the vehicle at their own expense and wax it at least once every six months.
 - 3. Employees will change their own flat tires when on-duty or off-duty.
 - 4. Employees will schedule and have performed preventative maintenance. Required Maintenance will be performed as scheduled by the City Service Center regardless of the shift that the officer is currently working.

B. Employees shall not

1. Perform mechanical work or have unauthorized mechanical work performed on the vehicle
2. Alter the body, general design, appearance, markings, or mechanical or electrical systems
3. Add accessories or equipment without the Chief's approval

C. General Responsibilities

1. On-Duty — If a repair cannot be fixed immediately, employee will leave the vehicle and return to their duty assignment.
2. Off-Duty — If employee spends time waiting for the vehicle, employee will not be compensated.

V. Vehicle Security

- A. Employee will remove all weapons and handheld radios from the assigned vehicle when the vehicle is left at the Motor Vehicles Service Section.
- B. If employee is incapacitated and unable to secure the Department-issued or personal property, the on-scene supervisor is responsible to have the property secured.
- C. Employee shall secure the Department-issued vehicle when left unattended or when the vehicle is out of sight or immediate control, whether employee is on-duty or off-duty.