



Winters Police Department

John P. Miller, Chief of Police

702 Main Street, Winters, CA. 95694

GENERAL ORDER #17-04 DUI EMERGENCY RESPONSE COST RECOVERY

Date: April 17, 2017, 2017

515.1. PURPOSE AND SCOPE

This Policy provides guidance and direction regarding "Driving Under the Influence" (DUI) incident response cost recovery processes. Government Code (GC) Sections 53150 through 53158 establish a driver's maximum liability of \$12,000 for the reimbursement of an appropriate emergency response by a public agency related to incidents proximately caused by the negligent operation of a motor vehicle by a driver who is under the influence of an alcoholic beverage and/or drug.

Although permitted to do so by Penal Code (PC) provisions, the Department will not attempt to recover DUI incident response costs through the probation process. Additionally, the Department will not attempt to recover DUI response costs when assisting an allied agency during an incident covered by the law.

515.2. COST RECOVERY CRITERIA

The Department will seek to recover DUI incident-related costs for alcohol or a combination of alcohol and drugs provided all the following apply:

- (1) An arrest was made for a violation of California Vehicle Code (CVC) Sections 23152, 23153, or a greater offense involving alcohol and/or drugs; and
- (2) The arrested party was determined by the investigating officer to have caused a response to an incident; and
- (3) A supporting evidential (Preliminary Alcohol Screening is insufficient) test with a Blood Alcohol Concentration (BAC) result of at least .08% or greater (breath tests must have two readings of at least .08%), or:
 - (3) A commercial driver while operating a commercial vehicle has a supporting evidential test with a BAC result of at least .04% or greater.

A conviction for CVC Sections 23152, 23153, or greater offense is required when one of the following applies:

- (1) A BAC test returns under .08% or under .04% where a commercial driver was operating a commercial vehicle.



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- (2) A chemical test is positive for drugs only.
- (3) There is no supporting BAC test or drug test (i.e., a refusal).

For the purposes of this program, it is considered a conviction when a case results in a plea of nolo contendere (no contest) to the original arrest charges of CVC Sections 23152, 23153, or greater offense involving alcohol and/or drugs but shall not be considered a conviction when a case is plea bargained to a lesser offense.

515.3. RESPONSIBILITIES

Shift supervisors shall complete the Supervisor's DUI Incident Response Reimbursement Form for all incidents meeting the above criteria. The cost recovery criterion is separated into two separate sections on the Supervisor's DUI Incident Response Reimbursement Form: Section A or Section B. Section A shall be completed when the billing is based on arrest. Section B shall be completed when the billing is based on conviction. Only one section shall be completed per case.

Completed Supervisor's DUI Incident Response Reimbursement Forms based on Section A shall be submitted to the Records Section and then forwarded to the Finance Department for billing and collection within ten business days of the incident.

Completed Supervisor's DUI Incident Response Reimbursement Forms based on Section B shall be forwarded to the Records Section Supervisor. The Records Section Supervisor shall retain the form and forward to the Finance Department within ten business days of receiving notice from the District Attorney or Superior Court of a plea of nolo contendere (no contest) or conviction to the original arrest charges of CVC Sections 23152, 23153, or greater offense involving alcohol and/or drugs.

515.4. RECORDING TOTAL STAFF HOURS

The following activities will be included in total staff time billing for which offenders are liable:

- (1) Response Time of Police, Fire, and Public Works.
- (2) On-Scene:
Investigation, Arrests, Detentions;
Rescue, Extrication and/or Medical Treatment;
HazMat Mitigation;
and Hazardous Condition Mitigation.
- (3) Traffic Control.
- (4) Call Back.
- (5) Removal and Storage of Vehicle(s).
- (6) Field Sobriety Testing.
- (7) Chemical Testing.
- (8) Transportation.
- (9) Booking.



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(10) Follow-up Investigation.

(11) Report Writing.

When more than one officer is involved, Supervisors will list each one by name and record the hours for each. Supervisors will also include time expended for incident investigation, vehicle storage, or in-custody activities by Corporals and Sergeants. Do not include their supervision time for these activities.

Supervisors will document the Fire Department apparatus number and total Fire Department personnel assigned to the apparatus as well as Public Works personnel and Public Works equipment used to respond to the incident.

Supervisors will add all officer hours in each category. If the number of personnel exceeds the number of lines available in each category, an additional form will be completed.

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