



# COUNCIL MINUTES

June 15, 2017

The City Council of the City of Mesa met in a Special Council Meeting in the lower level meeting room of the Council Chambers, 57 East 1st Street, on June 15, 2017 at 7:30 a.m.

## COUNCIL PRESENT

John Giles  
David Luna  
Mark Freeman  
Christopher Glover  
Kevin Thompson  
Jeremy Whittaker\*

## COUNCIL ABSENT

Ryan Winkle

## OFFICERS PRESENT

Christopher Brady  
Dee Ann Mickelsen  
Jim Smith

Mayor Giles excused Councilmember Winkle from the entire meeting.

(\*Councilmember Whittaker participated in the meeting through the use of telephonic equipment.)

1a. Approving an amortization period under the Public Safety Personnel Retirement System (PSPRS) and authorizing the City Manager to submit a request to the Public Safety Retirement System Board's Administrator for the increased amortization of 30 years. – Resolution No. 10982.

Chief Financial Officer Michael Kennington introduced Deputy Budget Director Ryan Wimmer, who displayed a PowerPoint presentation (**See Attachment 1**) related to the amortization period under the Public Safety Personnel Retirement System (PSPRS).

Mr. Kennington explained that earlier this year the Governor signed legislation providing the option to increase the amortization period of the unfunded liabilities for PSPRS.

Mr. Wimmer stated that the unfunded liability is the cost of pension benefits already earned by employees, however, not currently funded. He added that this is calculated each year by PSPRS based on demographic and financial assumptions.

Mr. Wimmer displayed a chart and stated that the unfunded liability has substantially increased over the last 10 years. (See Page 3 of Attachment 1)

In response to a question from Councilmember Thompson, Mr. Wimmer responded that the increase in unfunded liability is due to the benefit changes approved by the State Legislature and voters.

Mr. Kennington commented that the increase in unfunded liability is also due to two Supreme Court cases regarding pension changes.

In response to a question from Councilmember Whittaker, Mr. Kennington replied that the PSPRS return for Fiscal Year (FY) ending June 2016 was 0.6%. He noted that he does not have the management fee amount but that staff will provide those numbers to Council.

Mr. Wimmer listed reasons for the unfunded liability increase. (See Page 4 of Attachment 1) He stated that PSPRS has an active management strategy related to their investments and a fairly costly fee structure. He added that an active management strategy is riskier with larger increases and larger losses on investments.

Mr. Wimmer indicated that the PSPRS Board of Trustees have decided to reduce the assumption for the return on investment (ROI) from 7.5% to 7.4%.

In response to a question from Councilmember Thompson, Mr. Kennington reported that of the 7.4% of the ROI, 5% is per statute for the interest rate contributions that were overpaid.

Discussion continued relative to the impact of PSPRS investment performance.

Mr. Wimmer explained an amortization period and pointed out that staff is proposing to extend the amortization period from 20 years to 30 years. (See page 6 of Attachment 1)

In response to a question from Vice Mayor Luna, Mr. Wimmer stated that the impact of the Hall Case has not been included in FY 2017-18 funds, however, he anticipates an increase in next year's unfunded liability and rates.

Mr. Brady stated that staff is requesting Council approval to use the 30-year amortization schedule to provide the flexibility to either use the amortization schedule or use the savings to help absorb the increase of the unknown impacts, in order for the City to target a 25-year amortization schedule.

In response to a question from Councilmember Whittaker, Mr. Brady responded that PSPRS has not provided the City with interest estimates, however, based on staff's calculations over the life of the bond from 20 to 30 years the increase would be an additional half billion dollars. He emphasized that the 30-year plan will cost the City more in interest and that the City's goal is to pay half of the increase.

In response to a question from Councilmember Freeman, Mr. Brady reported that using the reserve fund provides the City with the flexibility to pay down the principal and accelerate a 25-year payment.

Responding to a question from Councilmember Whittaker, Mr. Brady stated that the Financial Policy explains the City's reserve funds and other financial elements. He added that Council can request this policy be adopted into the Financial Policy, which he would recommend.

Mr. Kennington pointed out that the rating agencies have stated that one of the biggest risks for all cities and towns this year are the increase in pension costs. He added that staff's recommendation provides flexibility to manage increases over time and establishes a reserve fund which avoids budget cuts. He stated that staff recommends approval of the resolution requesting PSPRS extension of unfunded liability amortization period to 30 years, and that the City's policy would target a 25-year payment schedule.

Mayor Giles remarked that the PSPRS unfunded liability issue is not specific to the City of Mesa and that cities and towns across the country are required to participate in state pension plans and they have no authority to govern, regulate, and set policies, which at times, can be frustrating for local governments.

It was moved by Vice Mayor Luna, seconded by Councilmember Glover, that staff's recommendations be approved, and that Resolution No. 10982 be adopted.

Upon tabulation of votes, it showed:

AYES – Giles-Freeman-Glover-Luna-Thompson

ABSENT – Winkle

NAY– Whittaker

Mayor Giles declared the motion carried by majority vote of those present.

2a. Discuss, consider, and vote on adoption of Procedures for Hearings on Forfeiture of Office or Other Discipline of a Councilmember.

City Attorney Jim Smith addressed the Council respective to adopting Procedures for Hearings on Forfeiture of Office, and Other Discipline of a Councilmember. **(See Attachment 2)**

Mr. Smith stated that the procedures set forth will provide greater details for discipline found in Section 206 and 207 of the City Charter. He noted that the procedures are similar to those used by the City for the Employee's Personnel Appeals Board.

Mr. Smith reported that the disciplinary hearing is not a trial and the rules of evidence do not apply, however, it has many of the same aspects of a trial. He added that it is an informal hearing that includes an opening presentation of evidence and closing arguments. He noted that if a hearing takes place, public comment will not be heard since the decision is based solely on the evidence that is presented by each side.

Mr. Smith indicated that the City has retained special Counsel Charles (Chas) Wirken and Susan Goodwin of Gust Rosenfeld Law Firm, who will present on the next agenda item if the procedures are adopted. He explained that once the charge is adopted the disciplinary hearing would take place in a month or more.

Mayor Giles asked for patience as there is due process on this matter. He stated that the Council will work with Councilmember Winkle and his attorney as well as the witnesses involved to schedule the disciplinary hearing, which will be no less than 30 days after adoption of the charges.

Mayor Giles, in addition, stated that there have been some concerns raised through emails and in social media over the last few days suggesting that the Council delay action on this matter until the Tempe City Court completes its case.

In response to a question posed by Mayor Giles, Mr. Smith explained that Council has the flexibility on scheduling the hearing since the City's process is not a criminal proceeding, and could wait for the Tempe Court resolution if Council chooses.

Councilmember Whittaker commented that he received an advertisement on social media from a group called "A Better Mesa" and that it appears there is a group being put together to recall

Councilmember Winkle. He added that he reached out to City Clerk Dee Ann Mickelsen and City Attorney Jim Smith to confirm the validity of the political action committee and asked how a recall election could affect the hearing process.

Ms. Mickelsen reported that the committee has not officially filed a Statement of Organization with the Clerk's office or with the Secretary of State's Office.

Mr. Smith stated that a recall election would be a separate process and has no affect on the ability of the Council to move forward.

In response to a question from Vice Mayor Luna, Mr. Smith confirmed that Item 2a is to consider and vote on adopting procedures.

Mayor Giles commented that he received several speaker cards and indicated that they will be called during agenda item 2b.

It was moved by Councilmember Thompson, seconded by Councilmember Glover, to adopt the Procedures for Hearings and Forfeiture of Office or Other Discipline of a Councilmember.

Mayor Giles declared the motion carried unanimously by those present.

2b. Discuss, consider, and vote on charging Councilmember Ryan Winkle with conduct constituting grounds for forfeiture of office or other discipline pursuant to Sections 206 and 207 of the City Charter.

City Attorney Jim Smith introduced Special Counsel Charles (Chas) Wirken and Susan Goodwin of Gust Rosenfeld Law Firm.

Mr. Wirken stated that his firm has been retained to represent and assist the Council regarding a potential charge of conduct constituting grounds for forfeiture of office or other discipline against Councilmember Winkle. **(See Attachment 3)**

Mr. Wirken reported that according to the City Charter, the Council is the Judge of the fitness of its members to hold office and is therefore, the Judge of the grounds for either forfeiture of office or other discipline. He added that under the City Charter Section 206, there are four general grounds for forfeiture of office or other discipline and two are potentially applicable to Councilmember Winkle: violation of the Code of Ethics for Council Members and engaging in other conduct demonstrating a lack of fitness to hold office.

Mr. Wirken read the first ground of violation under the Ethics Code and highlighted each ethics standard violated. (See Page 14 of Attachment 3)

Mr. Wirken stated that the second ground for forfeiture of office or other discipline which is conduct demonstrating a lack of fitness to hold office, is not defined and not limited by the Charter. He stated that Council determines whether any conduct demonstrates a lack of fitness to hold office regarding Councilmember Winkle.

Mr. Wirken reported that he has gathered and reviewed evidence of Councilmember Winkle's conduct and confirmed that there is evidence of violation of the Ethics Code and of conduct demonstrating a lack of fitness to hold office.

Mr. Wirken outlined a summary of the evidence and stated that Councilmember Winkle was stopped by a Tempe police officer after midnight on the evening of May 7, 2017. He added that the officer reported that Councilmember Winkle exhibited multiple signs of intoxication; that based on the officers observations, he was arrested for Driving Under the Influence (DUI); that after transportation from the scene, a blood test was conducted, and later tested by the Department of Public Safety (DPS); that his blood alcohol content was determined to be 0.22 and that the DUI charge was amended to super extreme DUI. He concluded by saying that a DPS forensic scientist calculated Councilmember Winkle's body weight and his blood alcohol content, which equates to him having almost 11 drinks in his system at the time his blood was drawn.

Mr. Wirken stated that the summarized evidence could support that Councilmember Winkle violated the City's Ethics Code by failing to obey all laws; driving while intoxicated; making false statements to police officers; failing to maintain the high standards expected of councilmembers; and failing to honor the codes of honesty and integrity.

Mr. Wirken stated that it is fair for Council to consider that his conduct has attracted negative publicity and his conduct may well affect how others view him as a Councilmember and how the public views the Council and the City. He noted that lying to police is an ethics violation.

Mr. Wirken reminded the Council that the purpose of today's meeting is to determine whether and how to charge Councilmember Winkle and not to determine or discuss the ultimate discipline.

In response to a question from Councilmember Whittaker, Mr. Wirken stated Council's procedures recently adopted provides for the issuance of subpoenas.

Mr. Wirken stated that any requests or suggestions from Council should be submitted to him per the procedures adopted, which delegates those tasks to Special Counsel.

In response to a question from Vice Mayor Luna, Mr. Wirken stated that due to scheduling issues a hearing will take place mid-August.

Mayor Giles thanked Mr. Wirken for the presentation.

Kiana Maria Sears, a Mesa resident, stated that she was angered and disappointed and is still hurt by the actions of Councilmember Winkle. She noted that she believes in restorative justice and accountability to right a wrong. She added that Council should think beyond disciplinary action and hold Councilmember Winkle responsible by making it right. She concluded by saying that she believes the City is strong and innovative enough to do something different and to make the best out of this unfortunate situation.

Drek Davis, a Mesa resident, stated that in 2002 he and his pregnant wife were victims of a drunk driver and stated that the experience has haunted him. He expressed empathy for the three pedestrians that Councilmember Winkle nearly struck. He added that Councilmember Winkle has been apprehended for drunk driving in the past and cited statistics that the average drunk driver drives more than eighty times before they are caught. He stated that it is likely Councilmember Winkle drove drunk many times after his first arrest and before the recent incident, which makes him question his honesty and credibility. He requested that Council do the right thing and remove him from office for failing to honor, protect, and represent our City. He stated that he hopes Council sends a message that holding public office is a privilege and that repeatedly endangering the lives of citizens will not be rewarded. He wished Councilmember Winkle the best and hopes he will pay his debt to society and start his life over.

Derek Brosemann, a Mesa resident, expressed disappointment in what has transpired, his concerns with legal fees, reputational risk, and economic fallout. He stated that this situation should never have happened and it should be moved quickly. He spoke about the Code of Ethics violations that are beyond unacceptable and requested for Council to remove Councilmember Winkle from office as expeditiously as possible.

Jackson Wright, a Mesa resident, stated that Special Counsel and speakers before him tonight echoed his sentiments. He stated his disappointment that Councilmember Winkle did not take responsibility by removing himself from office. He noted that Elected Officials and Advisory Board Members have an obligation to put the interests of the City of Mesa over all personal consideration. He added that by not removing himself from office and being an absent voter, he is putting his own interests above the City's. He added that Councilmember Winkle has missed many meetings and will miss many more by either mandatory jail sentencing or a work program, which does not provide residents full Council representation.

Nancy Cottle, a Mesa resident, spoke on behalf of Nancy Clay, a Mesa mother who lost her son to a drunk driver and couldn't attend the meeting but wanted her voice to be heard. She stated that Mesa has been placed in a difficult position by the recent actions of Councilmember Winkle and his arrest on May 7<sup>th</sup>. She noted that this is the second-time Councilmember Winkle has received an extreme DUI and requested that Council address this behavior. She reported that Nancy Clay is passionate about this topic because her son died at the hands of a drunk driver in 2010, the year after Councilmember Winkle did jail time for his first extreme DUI. She stated that Specialist Kale Clay was a soldier who served in Iraq and that she never expected to lose him to a drunk driver.

Sandra Fischer, a Mesa resident, spoke in favor of finding another alternative to removing Councilmember Winkle from office. She stated that she understands the severity of what he did, and the severity of drunk driving, but that he is working towards making amends and that District 3 residents will hold him accountable and that he represents their interests on the Council and it should be the residents of District 3 that decide whether he should stay and not the Council.

Becky Pettit, a Mesa resident, stated that she has known Councilmember Winkle for over 30 years and used to watch him play and always knew he would have a great future. She stated that he needs to be accountable but not removed from office. She added that she enjoys his regular Mesa news postings on Facebook and appreciates that he keeps constituents involved regarding Mesa activities.

Jennifer Duff, a Mesa resident, spoke in favor of retaining Councilmember Winkle on the Council. She stated that it is not a judgment of whether he was guilty or not that is decided by Council but whether he has the capacity to serve as a Councilmember. She stated that he proved both in his campaign and through his service that he has gone above and beyond what a Councilmember can do and has set the bar high.

David Crummey, a Mesa resident, stated that he felt embarrassed by the tactics and demeanor of the Special Counsel. He said that he has seen an unprecedented amount of money from outside groups push a political agenda and is worried about the precedent it sets that Council can remove another Councilmember above the will of the voters. He spoke about a group that is forming against Councilmember Winkle and that he has been bombarded by advertisements over the last three to four weeks.

Councilmember Whittaker reminded everyone that the Charter does unilaterally give Council the ability to remove Councilmembers.

Mayor Giles commented that Special Counsel and Mr. Smith cited the provisions of the Charter and it is settled as to the role of Council in the situation.

Lydia Kearney, a Mesa resident, stated that as a resident of District 3, she does not have representation on Council. She stated that Councilmember Winkle is a repeat offender, and that if she has any problems with the City of Mesa, the Mayor will be hearing from her directly. She reported that some of his supporters have sent threatening messages to her and that she has forwarded them to the Mayor's Office.

AmiLyn Castro, a Mesa resident, spoke in support of Councilmember Winkle and noted that she was inspired by his community participation in Mesa, which influenced her involvement in civic engagement. She added that instead of ostracizing an individual, we should find ways to rehabilitate citizens willing to serve and do something for the collective good rather than just trying to create a brand by attending ribbon cuttings. She stated that Councilmember Winkle focused on grassroots building and understands the community and asked for Council to consider a way that he can be rehabilitated and continue to serve the community.

Rosa Sankari, a Mesa resident, stated that she is committed to Councilmember Winkle. She stated that he has inspired her to be part of the community since purchasing her home five years ago. She added Councilmember Winkle has shown her what community passion and being a leader means. She stated that she supports Councilmember Winkle and is proud to have a Councilmember that represent its citizens.

The following speakers submitted a comment card in opposition to removing Councilmember Winkle from office but did not wish to speak:

- Glenna Valpey
- Jonathan R. Valpey
- Jill Snyder
- Cheryl Walsh
- David Pettit
- Augie Gastelum

Mayor Giles commented that the direction today is to move forward with scheduling a disciplinary hearing. He said he hopes everyone understands the process, that it is not personal, and that there is no hidden agenda.

Councilmember Whittaker stated that there have been allegations from A Better Mesa in paying for advertisements that he believes requires forming a political action committee.

Mayor Giles stated that if there is a recall election and there is a group that's advertising and seeking to influence the outcome of an election that's one thing, and believes at this point there has been no organization formed.

City Clerk Dee Ann Mickelsen concurred with Mayor Giles and clarified that there is a \$1,100 threshold for contributions and expenditures before a committee is required to be formed.

It was moved by Councilmember Thompson, seconded by Councilmember Freeman, to charge Councilmember Ryan Winkle based on and as set forth in the charging document titled "Charge of Conduct Constituting Grounds for Forfeiture of Office or Other Discipline Against Councilmember Winkle" and to approve the charging document.

Mayor Giles declared the motion carried unanimously by those present.

3. Adjournment.

Without objection, the Study Session adjourned at 9:07 a.m.

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JOHN GILES, MAYOR

ATTEST:

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DEE ANN MICKELSEN, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the City Council of Mesa, Arizona, held on the 5<sup>th</sup> day of June, 2017. I further certify that the meeting was duly called and held and that a quorum was present.

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DEE ANN MICKELSEN, CITY CLERK

abg  
(Attachments – 3)

# OPTION TO EXTEND UNFUNDED LIABILITY AMORTIZATION PERIOD

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CITY OF MESA

PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM (PSPRS) PLANS

# PSPRS UNFUNDED LIABILITY

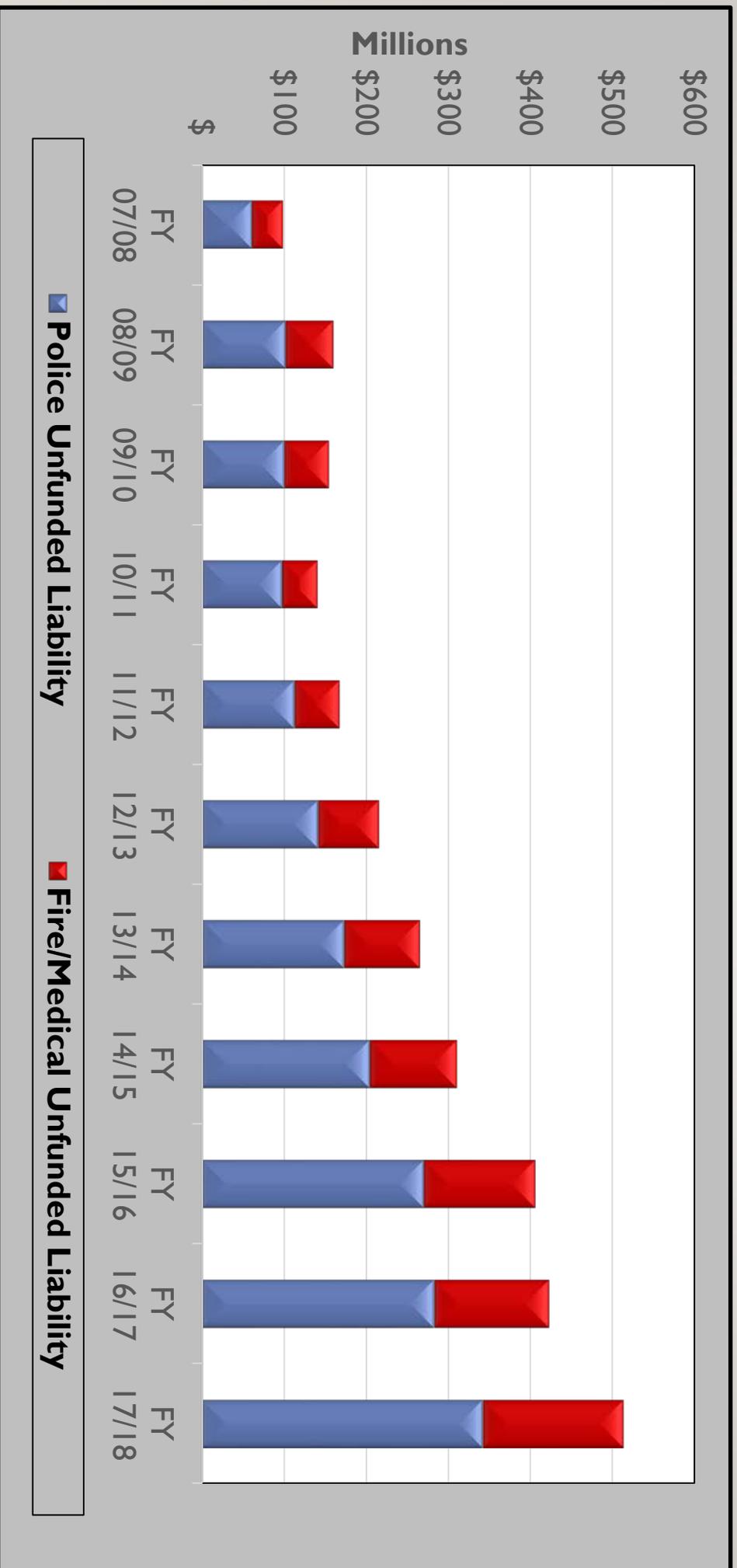
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## What is unfunded liability?

The cost of pension benefits already earned by employees but not currently funded.

- Calculated by PSPRS annually
- Based on demographic and financial assumptions such as investment return, retirement age, life expectancy, etc.

# MESA PSPRS PLANS - UNFUNDED LIABILITY



# PSPRS UNFUNDED LIABILITY

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Unfunded liability has increased due to:

- Benefit changes approved by State and/or voters
- Legal rulings regarding benefit changes
- Demographic assumptions (e.g., salary adjustments, number of employees, life expectancy) varied from actual experience
- Return on investment of assets less than assumed

# PSPRS UNFUNDED LIABILITY

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Unfunded liability will increase due to:

Legal ruling (Hall case)

- Part of employee contributions to be reimbursed (\$15 million)
- Permanent benefit increases to be adjusted for recent retirees (\$0.1 million)
- Interest to be paid on reimbursements (TBD)

Lower assumption of return on investment of plan assets

Unfunded liability may increase due to:

Market corrections, return on investment of assets, demographic changes, etc.

# AMORTIZATION PERIOD

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What is an amortization period?

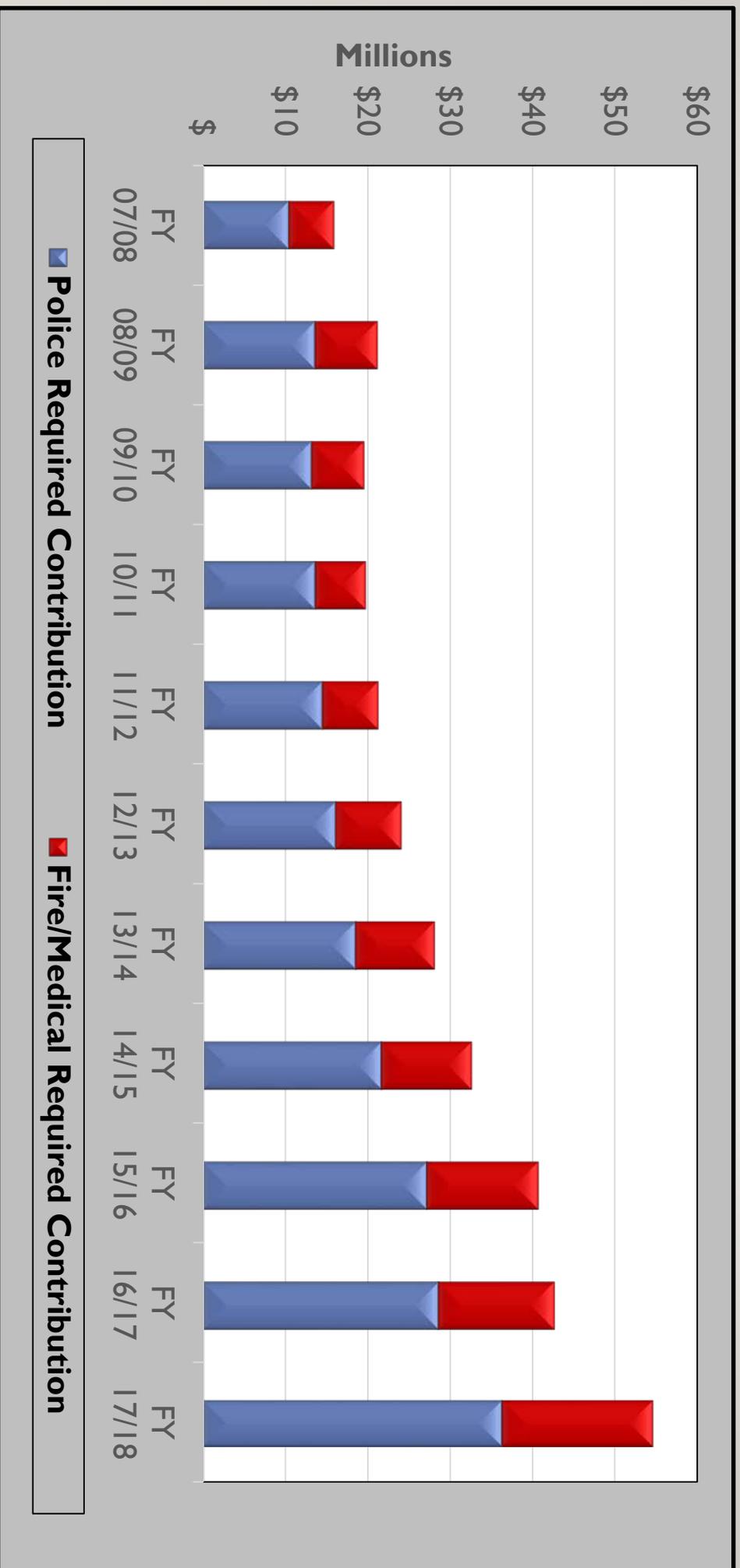
Time period over which the unfunded liability is paid for and the plans become fully funded

FY 2007-08:                      Closed (fixed end date) 30-year period

FY 2017-18 (current):        Closed (fixed end date) 20-year period

FY 2017-18 (proposed):      Closed (fixed end date) 30-year period

# PSPRS PLANS - ANNUAL REQUIRED CONTRIBUTION



## STATE REFORM – HB 2485 (2017)

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PSPRS “Admin Bill” Signed by Governor May 3, 2017

- Provides PSPRS participants with option to lengthen amortization period (currently 20 years) to a maximum of 30 years
- Effective as early as FY 2017-18
- To allow for flexibility in managing costs
- Arizona State Retirement System (ASRS) uses 30-year closed period
- Reduction in FY17-18 contribution: \$8.3 million (estimate)

# RECOMMENDATIONS

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1. Approve resolution requesting PSPRS extension of unfunded liability amortization period to 30 years; however, City policy would target 25-year payment schedule
2. Contribute \$4.3 million towards 25-year target
3. Establish pension stabilization reserve of \$4 million

## PENSION STABILIZATION RESERVE

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To mitigate budget shocks from future unexpected pension cost increases:

- Set aside \$4 million to absorb future year-to-year cost spikes
- Increase/replenish reserve funding in stable years
- Buffer risks of a market correction, lower return on investment of assets, demographic changes, etc.

# CALENDAR

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June 15 – Council presentation and consideration of resolution

June 21 – Deadline to notify PSPRS to take effect in FY 17-18

June 28 – PSPRS Board meets to consider/approve City's request



## **MESA CITY COUNCIL**

### **PROCEDURES FOR HEARINGS ON**

#### **FORFEITURE OF OFFICE OR OTHER DISCIPLINE OF A COUNCILMEMBER**

The Mesa City Charter authorizes the Mesa City Council to impose forfeiture of office or other discipline on a councilmember for the reasons set forth in Section 206. The Council establishes the following procedural rules for proceedings for forfeiture of office or other discipline of the Mayor or a Councilmember pursuant to Sections 206 and 207 of the Mesa City Charter.

#### **I. General Rules**

- A. The City Council's determination of whether there are grounds for charging a Councilmember or the Mayor under Sections 206 and 207 of the City Charter will be made at a public meeting. A vote of at least four (4) Councilmembers is required to bring a Charge. The Charged Member shall be provided with a written copy of the Charge, with or without supporting documentation, at the public meeting or within 48 hours after the public meeting at which the Charge is brought. Nothing in this paragraph shall preclude additional documentation from being presented at the public hearing as provided in Section IV.
- B. The City may retain legal counsel ("Special Counsel") to represent and assist the Council in all legal aspects of the discipline process and matters related thereto, including, but not limited to, presenting evidence to the Council in support of discipline at a public hearing on the Charge. If Special Counsel is not retained, references to "Special Counsel" in these procedures shall mean the Council.
- C. The Council shall have the authority to issue subpoenas for witnesses and documents, and it may delegate this authority to the Special Counsel.
- D. If the Charged Member has retained legal counsel to represent him/her at the hearing, he/she shall notify the Mayor as soon as practicable.
- E. The Charged Member may submit a written notice of resignation to the Mayor at any time before the Council issues its written decision on the Charge. If the hearing has not yet occurred, the hearing may be vacated upon receipt of the notice of resignation. Upon submittal of the notice of resignation, the Charged Member shall have no further avenue of review of any action by the Council.

#### **II. Scheduling**

- A. The City shall set a public hearing within a reasonable time period after the public meeting at which the Charge is brought to hear evidence on whether the Charged Member's conduct constitutes grounds for forfeiture of office or other discipline. Notice of the hearing shall be provided to the Charged Member and his/her legal counsel, if applicable, at least thirty (30) days before the public hearing.
- B. The Charged Member may request one continuance of the public hearing. Any request for a continuance shall be submitted in writing to the Mayor, with a copy

to the Special Counsel. The Mayor, at his discretion, may grant the request for a continuance for good cause.

- C. The Mayor, at his discretion, may continue the public hearing for good cause with or without a request from the Charged Member. If the hearing is continued, the Mayor shall coordinate with the Council, Special Counsel, and the Charged Member and, if applicable, his/her legal counsel, to reschedule the hearing as soon as possible.
- D. Notice of the public hearing shall be provided to the public at least one week in advance of the hearing.

### **III. Discovery**

- A. Within fourteen (14) calendar days after a copy of the Charge is provided to the Charged Member, the Special Counsel and the Charged Member shall provide to each other the following initial disclosures:
  - 1. All materials, documents, and exhibits each expects to present to the Council at the public hearing, and
  - 2. A complete list of witnesses and a brief summary of the substance of each witness's anticipated testimony.
- B. Within ten (10) calendar days after making initial disclosures, the Special Counsel and the Charged Member may supplement their initial disclosures.
- C. Absent good cause, failure to timely disclose any materials, documents, exhibits, or witnesses may result in such materials, documents, exhibits or witnesses being excluded from the hearing. Such exclusion shall be determined in the sole discretion of the Mayor.
- D. Other than the discovery specifically set forth in this Section III, no other pre-hearing discovery is permitted.

### **IV. The Public Hearing**

- A. A public hearing on the Charge shall be held at the location, time, and date set forth in the public notice of the original or any continued hearing date.
- B. The hearing will proceed before the Council. A quorum of the Council is required for the hearing to proceed. A vote of five (5) or more Councilmembers is required to impose discipline (*i.e.* forfeiture of office, suspension, censure, reprimand, monetary penalty, letter of warning, or another form of discipline).
- C. If the Charged Member or the Charged Member's legal counsel fails to appear for the hearing in person without just cause, the hearing will continue in their absence.
- D. The hearing will be informal, except that testimony shall be given under oath. The City Clerk shall administer oaths.
- E. The Rules of Evidence will not apply. The Mayor will determine all questions of procedure and will endeavor to conduct the hearing in a fair, impartial and efficient manner. Accordingly, the Mayor may exclude evidence or testimony that is irrelevant, incompetent, or cumulative. The Mayor will apply statutory provisions relating to privileged communications.

- F. The City may provide the Mayor and Council with independent legal counsel to provide legal advice on matters as to which the Special Counsel has a conflict of interest or the appearance of a conflict of interest, such as procedural matters and rulings on objections made during the public hearing.
- G. Individual councilmembers may question a witness.
- H. The standard of proof is whether the evidence supports forfeiture of office or other discipline by a preponderance of the evidence.
- I. All non-party witnesses shall be excluded from the hearing room until the time that they testify and are released from exclusion by the Mayor. The Mayor shall admonish each witness not to discuss their testimony with anyone other than the Special Counsel or the Charged Member or his/her legal counsel before being released from the exclusion by the Mayor.
- J. Special Counsel and the Charged Member shall have three (3) hours to present its oral statements and evidence. The Council may allow more time for good cause.
- K. The Mayor shall preserve order during the hearing and may remove any person(s) from the hearing at any time for disruptive behavior, as determined by the Mayor.
- L. Special Counsel and the Charged Member will be allowed to present no more than three (3) character witnesses, whose individual testimony shall not be permitted to exceed 10 minutes.
- M. Order of Proceedings:
  - 1. Opening Statement of the Special Counsel (no more than 10 minutes).
  - 2. Opening Statement of the Charged Member (no more than 10 minutes).
  - 3. Direct examination, cross-examination and redirect examination of witnesses called by the Special Counsel, and introduction of all evidence.
  - 4. Direct examination, cross-examination, and redirect examination of Charged Member's witnesses, and introduction of all evidence.
  - 5. Testimony of Special Counsel's rebuttal witnesses, and introduction of any rebuttal evidence.
  - 6. Closing statement of Special Counsel.
  - 7. Closing statement of Charged Member.
  - 8. Adjournment of hearing by the Council.
- N. Because this is a judicial or quasi-judicial proceeding, members of the public will not be allowed to present statements or otherwise participate in the proceedings.

## **V. Post-Hearing**

- A. At the conclusion of the hearing or at a subsequent public meeting, the Council, upon motion from any councilmember or the Mayor, shall vote in an open meeting on whether the Charge has been established by a preponderance of the evidence, and the discipline to impose. The Council may impose any discipline authorized under Section 206 of the City Charter. The Council shall deliver the decision on discipline in a written document and file it with the Clerk.
- B. The Council shall base its decision solely on the evidence received at the hearing.
- C. The decision of the Council shall be final upon filing of the written decision with the Clerk.

**CHARGE OF CONDUCT CONSTITUTING GROUNDS FOR FORFEITURE OF  
OFFICE OR OTHER DISCIPLINE  
AGAINST COUNCILMEMBER RYAN WINKLE**

Section 1: Recitals

- A. Under Section 207 of the Mesa City Charter (“Charter”), included in the attached Exhibit 1, the City Council is the judge of the election, qualification, and fitness of its members and of the grounds for forfeiture of their office and other discipline; and
- B. Under Section 206(B)(2)(a) of the Charter, included in the attached Exhibit 1, it shall constitute grounds for forfeiture of office, suspension, censure, reprimand, monetary penalty, letter of warning, other form of discipline, or some combination of the foregoing penalties, at the sole discretion of the City Council, if five (5) or more Councilmembers agree that a Councilmember has violated the mandatory code of ethics for Councilmembers adopted by resolution and in effect when the alleged conduct occurred; and
- C. Under Section 206(B)(2)(d) of the Charter, it shall constitute grounds for forfeiture of office, suspension, censure, reprimand, monetary penalty, letter of warning, other form of discipline, or some combination of the foregoing penalties, at the sole discretion of the City Council, if five (5) or more Councilmembers agree that a Councilmember has engaged in conduct demonstrating a lack of fitness for office; and
- D. Section 207 of the Charter generally sets forth the due process procedures for imposing discipline on a Councilmember, including providing notice and an opportunity to be heard, and empowering the City Council or its designees to subpoena witnesses, administer oaths, and require the production of evidence; and
- E. Mesa City Councilmember Ryan Winkle was elected to the Mesa City Council in August 2016, and began his first term representing District 3 in January 2017; and
- F. Prior to assuming the office of Mesa City Councilmember, Councilmember Ryan Winkle took and subscribed to the oath of office required by Arizona Revised Statutes Section (“A.R.S.”) 38-231, and thereby swore to support the Constitution of the United States and laws of the State of Arizona, and to faithfully and impartially discharge the duties of his office; and
- G. The City of Mesa did by Resolution No. 7313, dated January 19, 1999, adopt the Ethics Handbook for Elected Officials, attached hereto as Exhibit 2, which remained in effect at all times material to this Charge; and
- H. Section I of the Ethics Handbook states that the policy of the City is to uphold, promote, and demand the highest standards of ethics from all of its officials, including elected officials and, specifically, Councilmembers shall maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in

their roles as public servants, comply with all applicable laws, and never use their City position or powers improperly or for personal gain.

## Section 2: Findings and Charge

NOW THEREFORE, the City Council of the City of Mesa finds and charges as follows:

1. There are sufficient grounds to charge, and the City Council therefore does charge, Councilmember Winkle with conduct constituting grounds for forfeiture of office or other discipline. His conduct violating the code of ethics and/or demonstrating a lack of fitness for office includes, but is not limited to, the following:

a. On May 7, 2017, Councilmember Winkle was arrested by the Tempe Police Department for DUI - Driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor and impaired to the slightest degree, in violation of A.R.S. § 28-1381(A)(1); and DUI - Driving or being in actual physical control of a vehicle with an alcohol concentration of 0.08 or more within two hours of driving;

b. When questioned by police officers of the Tempe Police Department before and after his arrest, Councilmember Winkle denied multiple times having had any alcohol to drink that day or that evening before driving, which was untrue; as set forth in the Department Report attached hereto as Exhibit 3, and the Tempe Police Department Axon body camera video from the May 7, 2017 stop attached hereto as Exhibit 4.

c. On May 25, 2017, the Tempe Police Department released the results of the blood alcohol sample provided by Councilmember Winkle after his arrest on May 7, 2017, which results indicate a blood alcohol level of 0.220% and supports charges against Councilmember Winkle of Extreme DUI – Driving or being in actual physical control of a vehicle with an alcohol concentration of .15% or more, in violation of A.R.S. § 28-1382(A)(1), and Super Extreme DUI – Driving or being in actual physical control of a vehicle with an alcohol concentration of 0.20 or more, in violation of A.R.S. § 28-1382(A)(2). The DPS blood alcohol report is included in the Department Report attached hereto as Exhibit 3.

d. Councilmember Winkle was convicted of Extreme DUI in 2009. Despite stating in response to a 2016 *Arizona Republic* candidate survey that “[I] learned my lesson and grew from the experience,” Councilmember Winkle repeated the offense in 2017. *See* Exhibit 5.

2. That the duties of subpoenaing of witnesses and issuing requests for production of evidence related to the charge described herein are hereby delegated to the law firm of Gust Rosenfeld, PLC (“Special Counsel”).

3. That a public hearing on the charge shall be held in accordance with Section 207 of the Charter, at which Councilmember Winkle will have the opportunity to present testimony and evidence on his behalf.

4. That the Recitals are hereby fully incorporated by reference into this Charge.

5. That all exhibits to this Charge are listed below and hereby fully incorporated by reference in the Charge.

Section 3: Exhibits

The following exhibits are fully incorporated by reference and a part of this Charge:

1. Section 206 and 207 of Mesa City Charter;
2. City of Mesa Ethics Handbook for Elected Officials and Resolution 7313;
3. Tempe Departmental Report No. 2017-53526;
4. Tempe Police Axon body camera video from May 7, 2017 stop;
5. Arizona Republic Article re: 2009 DUI conviction.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**CERTIFICATION**

I, DeeAnn Mickelsen, the duly appointed and acting City Clerk of the City of Mesa, Arizona, do hereby certify that the above and foregoing Charge was duly passed by the City Council of the City of Mesa, Arizona, at a special meeting held on June \_\_\_\_, 2017, and the vote was \_\_\_\_ ayes and \_\_\_\_ nays, and that the Mayor and \_\_\_\_ Councilmembers were present at the meeting.

Dated: June \_\_\_\_, 2017

\_\_\_\_\_  
City Clerk

# EXHIBIT 1

# **CITY CHARTER CITY OF MESA**

**GRANTED AUGUST 18, 1967**  
DOCKET NO. 6595, Pages 680 - 715

**AMENDMENTS APPROVED MAY 3, 1976**  
DOCKET NO. 11667, Pages 597 - 600

**AMENDMENTS APPROVED AUGUST 1, 1978**  
DOCKET NO. 13142, Pages 792 - 795

**AMENDMENT APPROVED APRIL 26, 1982**  
DOCKET NO. 16000, Pages 1027 - 1029

**AMENDMENTS APPROVED APRIL 22, 1986**  
DOCUMENT NO. 86-220518

**AMENDMENTS APPROVED MAY 1, 1992**  
DOCUMENT NO. 92-360980

**AMENDMENTS APPROVED JUNE 21, 1994**  
DOCUMENT NO. 94-540876

**AMENDMENTS APPROVED FEBRUARY 27, 1995**  
DOCUMENT NO. 95-0196266

**AMENDMENTS APPROVED JUNE 29, 1998**  
DOCUMENT NO. 98-0584855

**AMENDMENTS APPROVED JUNE 2, 2000**  
DOCUMENT NO. 00-0459480

**AMENDMENTS APPROVED APRIL 5, 2004**  
DOCUMENT NO. 2004-0523658

**AMENDMENTS APPROVED JUNE 30, 2006**  
DOCUMENT NO. 2006-0984145

**AMENDMENTS APPROVED FEBRUARY 17, 2009**  
DOCUMENT NO. 2009-0162235

**AMENDMENTS APPROVED MARCH 7, 2013**  
DOCUMENT NO. 2013-0226014

**Section 205: PROHIBITIONS**

(A) **HOLDING OTHER OFFICE.** During the term for which elected, neither the Mayor nor any Councilmember shall hold any City employment or elected public office except Precinct Committeeman. For the purposes of this Section, "elected public office" shall include both offices in which the incumbent receives a salary or compensation and in which the incumbent receives no salary or compensation and shall include, but not be limited to, any position which involves the exercise of some portion of the sovereign power. (Amd. Charter Elections 3-25-86 & 3-29-94)

1. To be eligible to run for the office of Mayor at any time other than the last year of the term for which elected, a Councilmember shall submit a written, irrevocable resignation to the City Clerk at least ninety (90) days prior to the primary election or other election to choose a Mayor, to be effective immediately. (Amd. Charter Election 3-29-94)
2. Neither the Mayor nor any Councilmember shall hold any compensated appointive City office or employment until one (1) year after the expiration of the term for which elected. (Amd. Charter Election 3-29-94)

(B) **APPOINTMENTS AND REMOVALS.** Neither the Mayor nor any Councilmember shall in any manner, except as provided in Section 303(B), dictate appointment or removal of any administrative officer or employee subject to appointment by the Manager or his subordinates, but the Council may express its views and discuss freely with the Manager such appointments and removals. (Amd. Charter Election 3-30-76)

(C) **INTERFERENCE WITH ADMINISTRATION.** Except for the purpose of inquiries, or investigations authorized under Section 208, the Council shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give any order to any such officer or employee, either publicly or privately.

(D) **BARGAINING PROHIBITED.** The City shall not bargain collectively with any employee, group of employees, employee organizations, or any representative of any employee organization with respect to wages, hours, or working conditions.

**Section 206: VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES**

(A) **VACANCIES.** The office of Mayor or Councilmember shall become vacant upon the member's death, resignation, forfeiture of office, or removal from office in any manner authorized by law. (Amd. Charter Election 3-14-00/3739)

(B) **FORFEITURE OF OFFICE; OTHER FORMS OF DISCIPLINE. (AMD. CHARTER ELECTION 3-14-00/3739)**

1. The Mayor or a Councilmember shall forfeit their office if they (1) lack at any time during their term of office any qualification for the office prescribed by this Charter or by law, or (2) violate any express prohibition of this Charter. (Amd. Charter Election 3-14-00/3739)

2. In addition, it shall constitute grounds for forfeiture of office, suspension, censure, reprimand, monetary penalty, letter of warning, other form of discipline, or some combination of the foregoing penalties, at the sole discretion of the City Council, if five (5) or more City Councilmembers agree that a Councilmember, including the Mayor, or a citizen advisory board member appointed under Section 501 of this Charter, has: (Amd. Charter Election 3-14-00/3739)

(a) Violated the mandatory code of ethics for Councilmembers and citizen advisory board members adopted by the Mesa City Council by resolution and in effect when the alleged conduct occurred; (Amd. Charter Election 3-14-00/3739)

(b) Within two years before their first election or appointment, or during their term of office, been convicted, indicted, arrested, or the subject of a direct criminal complaint regarding a crime involving violence, dishonesty, or sexual misconduct; (Amd. Charter Election 3-14-00/3739)

(c) Been absent from three (3) consecutive and duly noticed meetings without being excused for good cause; or (Amd. Charter Election 3-14-00/3739)

(d) Engaged in any other conduct demonstrating a lack of fitness for office. (Amd. Charter Election 3-14-00/3739)

(C) **FILLING OF VACANCIES.** In the event of a vacancy in the Council which occurs ten (10) days or less prior to the final date for filing nomination petitions for the next succeeding election, the Council may appoint a qualified person to serve for the unexpired term. If the vacancy occurs more than ten (10) days prior to the final date for filing nomination petitions for the next election, the Council may appoint a qualified person to serve until the office is filled at the election.

1. **ACTION IF COUNCIL FAILS TO APPOINT.** If the Council fails to make such an appointment within thirty (30) days following the occurrence of the vacancy, the Council shall call a special election to fill the vacancy. Such election shall be held not later than one hundred twenty (120) days following the occurrence of the vacancy and shall otherwise be governed by the provisions of Article VII hereof. The person elected to such office at the special election shall hold office for the entire unexpired term.

2. **REDUCTION BELOW A QUORUM.** Notwithstanding the requirements in Section 209(D) that a quorum of the Council consists of an absolute majority, if at any time the membership is reduced to less than an absolute majority, the remaining members may by majority action appoint additional members to raise the membership to an absolute majority. As used in this Charter, the term "absolute majority" shall mean a majority of the whole number of the Council, including the Mayor.

**Section 207: JUDGE OF QUALIFICATIONS AND FITNESS (AMD. CHARTER ELECTION 3-14-00/3739)**

The Council shall be the judge of the election, qualification, and fitness of its members and of citizen advisory board members appointed under Section 501 of this Charter, and of the grounds for forfeiture of their office or other discipline. For that purpose the City Council, or its designees, if it so chooses, shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing upon request made within ten (10) calendar days of receipt of the charge or charges. Notice of such hearing shall be published at least one (1) week in advance of the hearing. Decisions made by the City Council under this Section shall be subject to review by the courts. (Amd. Charter Election 3-14-00/3739)

**Section 208: INVESTIGATIONS**

The Council may make investigations into the affairs of the City and the conduct of any City department, office, or agency. For this purpose, it may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor and punishable as directed by Council ordinance.

**Section 209: PROCEDURE**

(A) **MEETINGS.** The Council shall hold a regular meeting at least twice in every month at such times and place as the Council may prescribe by ordinance. Special meetings may be held on the call of the Mayor or of an absolute majority of the Council and, whenever practicable, upon no less than twenty-four (24) hours' notice to each member and the public. News media located in the City shall be given prior notice of the time and place of such meetings. All such regular or special meetings shall be open to the public, provided, however, that the Council may recess and discuss in executive session any matter which might defame or prejudice the character or reputation of any person, matters relating to negotiations for the acquisition of real estate or public utilities or to the settlement of claims or litigation, or personnel matters, and provided that the final action thereon shall not be taken by the Council except at a public meeting. The Council may hold informal meetings in advance of any regular or special meetings for the purpose of discussing matters on the agenda or other matters pertaining to the welfare of the City. (Amd. Charter Election 3-29-94)

# **EXHIBIT 2**

RESOLUTION No. 7313

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, ADOPTING AN ETHICS CODE AND HANDBOOK FOR ELECTED OFFICIALS AND ADVISORY BOARD MEMBERS.

WHEREAS, the Mayor appointed, and the City Council approved, an Ad Hoc Committee on Ethics to recommend ethics standards for elected officials and advisory board members of the City of Mesa; and

WHEREAS, the Ad Hoc Committee has recommended that the City Council adopt the Ethics Code and Handbook attached to this Resolution; and

WHEREAS, the City Council finds that public service is a public trust where the public's business should be conducted openly and honestly and fairly;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, ARIZONA, AS FOLLOWS:

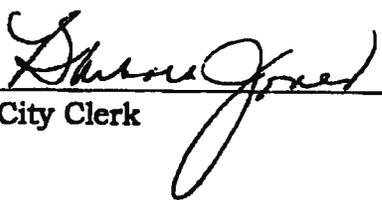
Section 1: The City Council hereby adopts the "Ethics Code and Handbook for City of Mesa Elected Officials and Advisory Board Members," dated January 1, 1999, and which is attached to this Resolution.

Section 2: Except where the Code and Handbook refer to binding laws, the Ethics Code and Handbook are adopted as recommended guidelines for conduct by elected officials and advisory board members, not as mandatory rules. By December 31, 1999, the City Council intends to revisit these ethics issues to consider the City's experience under the Code and Handbook and to decide whether to make adjustments.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 19<sup>th</sup> day of January, 1999.

ATTESTED:

APPROVED:

  
City Clerk



  
Mayor

# City of Mesa Ethics Handbook for Elected Officials

ETHICS HANDBOOK FOR ELECTED OFFICIALS &



Office of the City Manager  
20 East Main Street, Suite 750  
P.O. Box 1466  
Mesa, Arizona 85211-1466

[www.mesaaz.gov](http://www.mesaaz.gov)  
480.644.3333

*Members of the  
Ad Hoc Committee on Ethics*

**Dennis Kavanaugh**  
Chairman of the Ethics Committee  
Former Mesa City Councilmember, District 3

**Dan Brock**  
Member, Mesa Planning and Zoning Board

**Bernard Butts**  
Member, Crime Prevention Advisory Board

**Mike Hughes**  
Member, Governing Board, Mesa Unified School District

**Marianne Jennings**  
Director, Lincoln Center for Applied Ethics

**Wanda L. Kay**  
Member, Parks and Recreation Board

**Rabbi Bonnie Koppell**  
Temple Beth Shalom

**Joanie Newth**  
Former Mesa City Councilmember

**Marty Whalen**  
Member, City Municipal Development Corporation  
and Planning and Zoning Board

Approved by Mesa City Council: Resolution No. 7313, dated January 19, 1999.  
Approved by Mesa voters: Primary Election, March 14, 2000

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## *I. City of Mesa Ethics Policy*

IT IS THE POLICY of the City of Mesa to uphold, promote, and demand the highest standards of ethics from all of its officials, whether elected to City Council or appointed to advisory boards. Accordingly, all members of City boards, commissions, committees and the City Council ("elected officials and advisory board members") shall maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, and never use their City position or powers improperly or for personal gain.

The City of Mesa and its elected officials and advisory board members all share a commitment to ethical conduct in service to their community. This Code of Ethics has been created to ensure that all elected and appointed officials and advisory

<sup>1</sup> *Note: Examples are used in certain portions of this Code and Handbook to illustrate the meaning of the text. Examples are intended to describe some situations of ethical or unethical conduct under this Code. The examples are not intended to be, and shall not be interpreted to be, the sole situation to which the text applies.*

board members have clear guidance for carrying out their responsibilities.’

## II. Applicable Laws and Policies

### A. General Character

Elected officials and advisory board members are often called upon to make decisions that affect various groups and individuals adversely. Balancing diverse constituent interests is a difficult task. While someone will always be disappointed in decisions, officials shall adhere to ethical standards that eliminate disappointment borne of dishonesty, conflicts of interest, unfairness or illegality. Preservation of public trust is critical for the preservation of democracy.

A certain amount of detail is required in any code of ethics so that it serves as a clear guide. However, at the core of ethical behavior are some basic standards that officials shall use to reach a level of conduct that strives to be beyond reproach. Treating others as you would have them treat you is always a good ethical test. Another standard is to reflect on how your actions or decisions might be viewed by persons you or the public holds in high regard because of their ethical integrity.

- 1. Honesty and Integrity.**  
Honesty and integrity shall be the primary values in all issues. The public trust in the City Council and citizen boards can be a reality only when public officials are truthful.
- 2. Fairness and Respect.**  
All issues and citizens shall be handled with fairness, impartiality and respect. Elected officials and advisory board members have an obligation to treat all citizens fairly, such as by dividing time reasonably among potential speakers on an issue at a public hearing or meeting. In

reviewing, discussing and deciding issues, City Councilmembers and citizen advisory board members have an obligation to be accessible, open and direct, not only with the other members of the Council or board, but also to the citizens and business representatives who appear before them. The public is entitled to communicate with their public servants and understand the position of the Council and boards on public issues.

**3. Effort.**

Elected officials and advisory board members have an obligation to attend meetings and to be prepared. It is expected that these officials will review the materials, participate in discussions and make an informed decision on the merits of the issue.

**B. Conflict of Interest**

Elected officials and advisory board members must be constantly on guard against conflicts of interest. In short, elected officials and advisory board members shall not be involved in any activity which conflicts with their responsibilities to the City and its residents. The people of Mesa have a right to expect independence and fairness toward all groups without favoring individuals or personal interests.

**1. Self-Dealing and Financial Disclosure**

Arizona conflict-of-interest laws apply to all elected officials and advisory board members, who must be consistently aware of any potential issues which may appear to be self-dealing. Officials must not be involved in discussing or deciding any issue over which they have jurisdiction as a Council or board member which may impact the member, or the member's family, financially.

It should also be noted that Councilmembers must comply

annually with the Financial Disclosure Act, as outlined in A.R.S. §§ 38-541-545.

**2. Disclosure of and Policy on Acceptance of Gifts and Favors**

Arizona law prohibits elected officials and advisory board members from receiving anything of value or any compensation other than their normal salary for any service rendered in connection with that person's duties with the City. A.R.S. § 38-505(A).

Elected officials and advisory board members must consider ethical principles before accepting personal gifts of entertainment and sports/athletic activities.

Within two business days of receipt of the following gifts or favors in Mesa, or within two business days of returning to Mesa after receipt of a gift of favor while traveling outside of Mesa, elected officials and advisory board members shall disclose in writing to the City Clerk all gifts, benefits, or favors received from people with a financial interest in business before the City, or which may come before the City, that:

- relate to professional or collegiate sports, athletic, or entertainment activities or tickets, or
- have a face value of \$50 or more, amount subject to periodic review.

Under no circumstances shall a council or board member accept a gift or favor that is a bribe, or reflects, to a reasonable person, an effort to improperly influence the member contrary to that member's responsibility to the public to act impartially and on the merits of a matter.

When in doubt about these requirements, elected officials and advisory board members shall disclose the gift, benefit or favor. All disclosures will be kept for public record in the

**City Clerk's Office.**

In summary, you can follow this checklist:

- Does the gift or favor come from someone with business before the city or which may come before the city?
- And does the gift or favor exceed \$50 dollars in value, or consist of the type of sports or entertainment tickets described above?
- And did you accept the gift or favor for yourself or another?

If you answer "yes" to all these questions, then the gift or favor has to be reported to the City Clerk.

If you answer "no" to any of these questions, then the gift or favor does not have to be reported to the City Clerk unless it represents a bribe or other improper influence as described above.

Gifts having a value greater than \$50 that are donated to the city or a bona fide charity also do not need to be reported.

This section does not apply to gifts exceeding \$50 in value and intended for the City rather than as a personal gift to a Councilmember or board member. These items are City of Mesa property. Elected officials and advisory board members who receive a gift on behalf of the City exceeding \$50 in value shall promptly turn the gift over to the City Manager for public display or other appropriate handling.

**3. Loyalty**

Elected officials and advisory board members have an obligation to put the interests of the City of Mesa over all personal considerations. Their goal should be "what is in the best interest for the broadest public good of the City of Mesa, consistent with constitutional and other legal protec-

tions for minority, property, and other interests.”

**4. Nepotism**

As provided in the City Charter and Personnel Rules, no relative of a sitting Councilmember may be hired by the City, and no relative of a sitting advisory board member may be hired in the City department for which that advisory board member provides guidance.

**C. Legal Compliance**

**1. Meetings**

**Public Access: Open Meetings and Public Records**

Discussion of issues which may appear before the Council or citizen board shall be prohibited when a situation arises where a quorum of the Council or board exists. Numerous Arizona and City laws require that meetings of public bodies be open to the public and that public records be available for inspection. Open Meeting Laws are found in A.R.S. §§ 38-431 through 431.09 and in the City Charter Section 209A, and Public Records Laws are found in A.R.S. §§ 39-121 through 121.03.

**2. Attendance**

Attendance is outlined by the City Charter and City ordinances.

**a. Mayor and City Council**

The City Charter provides that five councilmembers may discipline another councilmember if he or she misses three (3) consecutive and duly noticed meetings of the City Council without good cause. Duly noticed meetings of the City Council include regular council meetings, special council meetings, study sessions, policy ses-

sions, executive sessions, budget review meetings, and council committee meetings to which a councilmember is assigned.

Through this Ethics Code, the City Council finds that personal illness, family emergencies, military absences, family weddings, family graduation exercises, and bona fide business and vacation trips constitute good cause for nonattendance at council meetings. Whether good cause exists for any other absence shall be determined by vote of the entire City Council upon request of any councilmember made within ten (10) business days following the absence. The vote shall be taken after sufficient information is received explaining the reason for the councilmember's absence.

**b. Boards, Commissions and Committees**

The City's attendance policy for members of boards, commissions and committees provides that, if a member fails to attend three (3) consecutive and duly noticed meetings of such groups without being excused for good cause, the City Council may declare the seat vacant and appoint a replacement.

Members of City boards, commissions and committees are expected to attend all regularly scheduled meetings and should make every effort to do so. The City Council appoints members for their experience, background and perspective in a particular policy area, and desires the benefit of knowledgeable consideration and judgment. Moreover, boards, commissions and committees cannot conduct any business unless a quorum is present. Members should notify the chairperson of the board or the staff liaison regarding any meeting missed or to be missed.

The advisory board, commission, or committee shall

decide by vote of the entire body, upon request made by any member of the body with ten (10) business days following the absence, whether the absence was for good cause or not. Advisory boards, commissions, and committees shall use the same standard for good cause as set forth above for councilmembers.

### **3. Disclosure of Confidential Information**

Arizona law provides that, during a person's employment or service with the City and for two years thereafter, no member of a City board, commission, committee or the City Council may disclose or use confidential information without appropriate authorization. The information is outlined A.R.S. § 38-504(B). For example, confidential information includes discussions during executive sessions and certain economic development information such as prospect leads.

### **4. Discrimination and Harassment**

Public decision-making must be fair and impartial and shall not be discriminatory on the basis of those protected classes, such as racial and religious groups, outlined in federal, state, and city laws and ordinances.

It is the policy of the City of Mesa that its elected officials and advisory board members conduct business and operate in a manner that is free from illegal discrimination on the basis of age, sex, color, race, disability, national origin, or religious persuasion, both internally and in the relationships of the elected officials and advisory board members with their constituencies.

In addition, it is the policy of the City of Mesa that the elected officials and advisory board members strive to cre-

ate an operating environment internally and in the relationships of the elected officials and advisory board members with their constituencies, that is productive and free from intimidation, hostility or other adversity. Harassment of any sort – verbal, physical, visual – including intentional and unwarranted actions that would constitute sexual harassment were they to occur in an employment relationship, by any elected official or advisory board member, is prohibited and is considered a violation of this Code of Ethics.

#### D. Political Activities

Elected officials and advisory board members shall not use their political or appointed office to advance private interests. The prohibited activities are outlined in City Charter sections 902(a)4 through 6. Section 205a prohibits the Mayor and Councilmember from holding other offices. Board members are also governed by the resign-to-run regulation (Ordinance 3353), which requires the board member to resign from the City board when they seek any elective public office.

Elected officials, advisory board members and candidates shall not engage in political campaigning at City meetings or within city buildings. However, nothing in this section shall prohibit an elected official, advisory board member, or candidate from participating in public forums/debates or utilizing city buildings in the same manner and to the same extent as that provided to the general public. For example, participation in candidate forums or debates sponsored by private or non-profit organizations, and attendance at non-city sponsored meetings held in city community rooms. The use of these city buildings will only be provided in the same manner and under the same terms and conditions as these facilities are made available to the general public.

They shall also not use public resources for political campaigning. For example, candidates or supporters of candidates shall refrain from circulating petitions during a City meeting and refrain from soliciting City employees to support their specific cause. Council and board members are free to express their opinions about the public issues on the agenda before them, but they must not make campaign speeches at council or board meetings touting their, or another's, candidacy, nor may they urge residents to vote for them or another, through words, signs, buttons or other means during duly noticed meetings of the City Council or its citizens advisory boards.

**E. Facilities, Resources, and Expenses**

**1. Expense Reports and Travel**

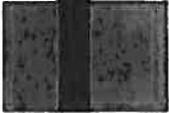
When traveling on City business, elected officials and advisory board members shall conduct themselves professionally as representatives of the City of Mesa. Travel guidelines for officials are outlined in the City's Management Policy 201. Officials are entitled to be reimbursed for actual and necessary expenses during travel. Expenses must be documented completely and accurately. Officials are asked to contact the appropriate City staff for assistance in travel plans and expense reports.

**2. Use of Equipment and Facilities**

Elected officials and advisory board members shall not use City equipment or City facilities for private purposes, except to the extent that they are available to the public. A.R.S. §13-1802.

**a. Software Management.**

Elected officials and advisory board members shall not make, use, accept or install illegal copies of computer software, documentation, or templates. The City con-



ducts periodic audits to ensure compliance with City policies on software installed on City-owned computers.

The legality of software is ideally established by possession or accountability of the following five items: the original software diskettes, the license, the original manuals, documented evidence of purchase, or copy of the completed product registration.

**b. Electronic Mail.**

City-assigned electronic mail accounts shall be used only for City business or for minor personal use such as setting up medical appointments or communicating occasionally with one's family in a way that does not interfere with City business. City-assigned electronic mail accounts may not be used for personal business or for any campaign purpose.

All City-assigned electronic mail is considered official City business and must be retained in accordance with the City's records management program. In general, electronic mail communications are public records and subject to disclosure under the public records law in A.R.S. § 39-101 et. seq.

**3. Use of Staff**

Under the council-manager form of government, the City Council appoints a City Manager, who directs the day-to-day operations of all employees. Councilmembers need to be sensitive to the role of the City Manager and City staff. Councilmembers shall work through the City Manager or the City Manager's staff.

Councilmembers may ask other staff members about the status of a matter and may ask for information, but Councilmembers shall not expressly or implicitly give orders or direction to staff, except through their

participation on the City Council. They shall not try privately to influence the decisions or recommendations of staff members, but they may share information with staff.

Council and board members shall not intervene directly with staff on behalf of a particular constituent or organization on a pending matter, but shall participate with council or board colleagues in discussing and deciding policy matters for staff to carry out.

Appointed board members shall work through the staff liaisons of their board.

### III: Procedures

#### A. Where to Seek Advice

Questions about this Code, a conflict of interest, or other ethical problems should be presented to the City Attorney's Office (480-644-2343). If time permits, requests should be in writing to the City Attorney directly. Requests related to conflicts of interest, A.R.S. §38-507 must be kept confidential. However, official opinions of the City Attorney are required by this law to become a public record.

#### B. What to Do if You Are Uncertain

The existence of an ethical issue often does not arise until a meeting is underway. Rather than risk an inadvertent violation of law, the safest course of action is simply to declare that a conflict may exist that prevents an elected official or advisory

2. After the City Council adopted this Ethics Code and Handbook on Jan. 19, 1999, Mesa voters approved Proposition 102 during the March 14, 2000 Primary Election. Among other things, Proposition 102 amended the Mesa City Charter to make violations of this Ethics Code and Handbook grounds for five Councilmembers to issue a letter of warning, monetary penalty, reprimand, censure, suspend, or order the forfeiture of office for any Councilmember or Citizen Advisory Board Member who violates this Code and Handbook.

board member from participating. Indeed, if there is a consistent theme to this handbook, it would be: "If in doubt, don't."

**C. How to Declare a Possible Conflict**

If an official believes that a conflict of interest (or even a possible conflict) exists, then he or she should disclose the fact as soon as possible. For example, as soon as an elected official or advisory board member realizes that a conflict exists on a given matter, they must disclose the conflicting interest on the record for the minutes. From that point on, the official shall not participate in any manner (by discussing, questioning or voting) in that matter.

Declaring a conflict and not participating should be recognized as a necessary part of preserving public trust and should not be avoided simply because of delays or inconvenience. Indeed, officials should declare possible conflicts to avoid any appearance of impropriety.

**D. Where to Report Improper Behavior**

Elected officials and advisory board members have a duty to create the image and reality of a responsive, accessible, and fair city government. Accordingly, council and advisory board members have a duty to report if another elected official or advisory board member is violating laws or ethics relating to city government, as set forth in this code and handbook. Moreover, officials shall never attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any person with the intent of interfering with that person's duty to disclose such improper activity.

If an official believes that someone else may have violated this Handbook, they may consult with the City Attorney's Office, the City Clerk, or their colleagues.

#### *IV: Penalties and Sanctions*

It is the intent of the City Council to educate, and where necessary, discipline board or councilmembers who violate this Code and Handbook. Discipline shall be progressive, from the least punitive to the most punitive measures, unless the Council believes progressive discipline does not provide the appropriate sanction because of the gravity of the offense, or because the Council does not believe the sanction would deter future misconduct. In all instances, the totality of the circumstances shall be taken into consideration in resolving a matter, including the intent of the one accused of wrongdoing. This Code does not prevent informal resolution of minor infractions, such as by immediate corrective action of the possible misconduct.<sup>2</sup>

*V: Adoption and Amendment*

Adoption of and amendments to this Ethics Code and Handbook shall require the affirmative vote of at least a two-third's majority of the full City Council — that is, five (5) votes. Adoption and amendment shall occur through passage of a resolution by the City Council.

# EXHIBIT 3



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526		Operational Status: EARLY CASE CLOSURE	
Report Date: May-07-2017 (Sun.)	Officer: 22269 - JENSEN, ERIC	Approved by: 17712 - CULLINS, WILLIAM	
Date Occurred: May-07-2017 (Sun.)	Time: 44	Latest Possible Date:	Time:
Location of Occurrence: 101 E BASELINE RD , TEMPE District: S Beat: 5 Grid: 2202			
Domestic Violence: No	Loss:	Damage:	Recovered:
Offense: #1 DUI-LIQUOR - COMPLETED			
<b>Related Person(s)</b>			
<b>SUMMONS # 1 - WINKLE, RYAN DAVID</b>			
Sex: Male	Race: WHITE	DOB: [REDACTED]	
Height: 6'00	Weight: 185	Hair: BROWN	Eyes: GREEN
Address: [REDACTED]			
Home #: [REDACTED]	Work #:	Cell #:	
Employer: CITY OF MESA		Employer Address:	
Driver's License #: [REDACTED] Arizona	Social Security #: [REDACTED]		
<b>PASSENGER # 1 - VARELA, ERICKA G</b>			
Sex:	Race:	DOB:	
Height:	Weight:	Hair:	Eyes:
Address:			
Home #:	Work #:	Cell #:	
Employer:		Employer Address:	
Driver's License #:	Social Security #:		

<b>Related Vehicle(s)</b>			
<b>Impounded #1 - 2006 BMW 325 SERIES</b>			
License Plate: [REDACTED]	License State: Arizona	VIN#: [REDACTED]	Style: 4DR AUTOMOBILE
Miscellaneous Information:			Color: Gray



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE

### Related Text

**Document:** ORIGINAL OFFICER NARRATIVE

**Author:** 22269 - JENSEN, ERIC

**Related Date/Time:** May-07-2017 (Sun.) 235

**Subject:** DUI

On 05/07/2017 at approximately 0104 hours, Ryan Winkle was arrested for DUI at 101 E. Baseline Rd. Tempe. Winkle was stopped after he was seen weaving in the roadway. He exhibited signs and symptoms consistent with impairment. He refused a preliminary breath test and samples of his blood were submitted for analysis. The results of a blood test are not yet available. Winkle was issued a citation in lieu of detention for the following charges out of Tempe Municipal Court: ARS 28-1381.A1 (DUI) and ARS 28-1381.A2 (DUI / BAC .08+)

\*\*\*CLEARED BY ARREST\*\*\*

On 05/07/2017 at approximately 0052 hours, I arrived as back-up assistance at the scene of a traffic stop initiated by Officer A. Espinoza at 101 E. Baseline Rd. Tempe at 0044 hours. Officer Espinoza requested the assistance of a traffic enforcement officer for a possible impaired driver.

When I arrived I observed a gray 2006 BMW 3 series [AZ: ██████] parked on the north side of the parking lot. It was facing north and Officer Espinoza's marked patrol vehicle was stopped behind it with red and blue emergency lights engaged. The driver, Ryan Winkle, was seated on the curb edge on the driver side of the BMW. His passenger, Ericka Varela was seated in the driver seat. Officer Espinoza was standing near his patrol vehicle.

First, I approached Officer Espinoza. He explained that he observed the BMW traveling eastbound on W. Baseline Rd. at S. Kyrene Road. He said that the BMW made an abrupt stop at that intersection. Officer Espinoza followed the BMW eastbound and observed it weave side to side. Stopping problems and weaving are cues of impaired driving according to the National Highway Traffic Safety Administration field study.

Officer Espinoza stopped the BMW and contacted Winkle in the driver seat. Officer Espinoza said that Winkle's eyes appeared watery and bloodshot, his face appeared flushed, and his speech sounded slurred. Officer Espinoza also detected the odor of intoxicating beverage coming from Winkle's person. Refer to Officer Espinoza's supplemental report for further information.

Next, I make contact with Winkle. I identified myself and explained that I was there to assist Officer Espinoza and investigate possible impairment. I asked Winkle the standard pre-FST questions and documented his response on the DUI worksheet. He denied drinking alcohol and agreed to submit to field sobriety tests.



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

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I disengaged the emergency lights on Officer Espinoza's vehicle and there were no flashing lights at the scene.

Winkle followed me to a clear, flat, and well lit area near the store front at 101 E. Baseline Road. I observed signs and symptoms consistent with impairment while speaking to Winkle. There was a strong and distinct odor of intoxicating beverage coming from Winkle's person. His face appeared flushed. His eyes appeared watery and bloodshot. His speech sounded slurred. He swayed when he stood, and he had difficulty following basic instructions. When I gave instructions for field sobriety tests, Winkle acknowledged that he understood but failed to follow the instruction. I repeated the instructions several times. Winkle seemed to have difficulty keeping his attention on me. He would begin asking me questions while I was giving instruction or answering another question for him.

First, I attempted to administer the horizontal gaze nystagmus test. Winkle's eyes did not track equally and he was unable or unwilling to maintain focus on the stimulus. I did notice a lack of smooth pursuit when his eyes moved side to side. However, I was unable to complete the test. Next, I administered the walk and turn test and observed five of eight clues. Finally, I administered the one leg stand test and observed three of four clues. I documented the clues and my additional observations during the tests on the DUI worksheet.

I made the decision to arrest Winkle for DUI after hearing the account of his driving behavior, after observing the signs and symptoms consistent with impairment, and after observing the poor performance on field sobriety tests. At 0104 hours I applied handcuffs to Winkle's wrists with his hands behind his back and advised him that he was under arrest for driving under the influence. Then I secured Winkle into the rear of my patrol vehicle. I asked him if he would submit to a preliminary breath test and he declined.

The BMW was impounded. Varela, the registered owner, was given a copy of the tow information. Officer Espinoza ensured that she left the scene safely.

Varela said that she contacted Winkle's attorney before I left the scene. Before leaving the scene, I asked Winkle if he needed the opportunity to use his cell phone and contact anyone. He said that he would like such an opportunity. I advised him that he could use the telephone upon arrival to the processing van.

Then I transported Winkle to the East Valley DUI Task Force Command Post located at 7601 E. McKellips Rd. Scottsdale at approximately 0132 hours. Winkle was secured into the rear portion of the Tempe Police DUI processing van with privacy, access to his cell phone, and access to a telephone



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

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directory with attorney listing. He was secured there between 0134 hours and 0158 hours.

I removed Winkle from the private area and read him the Admin Per Se admonitions verbatim. He gave his consent to a blood test only. Refer to the Implied Consent Affidavit for further information.

I witnessed contracted phlebotomist, Kheri Aarron Farris obtain two vials of blood from Winkle's right arm at 0203 hours. I maintained custody of the samples until they were impounded as evidence in the refrigerated evidence locker. I submitted a request for scientific analysis of the blood to the Arizona Department of Public Safety Crime Laboratory. The results are not yet available.

I served Winkle the order of suspension pursuant to ARS 28-1385 and seized his Arizona driver license. I provided him a copy of Admin Per Se and issued him a temporary driving permit. I also read him the duplicate test advisory form verbatim. He signed the form in acknowledgement.

I read Winkle Miranda rights at 0213 hours. He acknowledged that he understood and he voluntarily answered questions. I asked Winkle standard questions from the DUI worksheet and documented his response on the worksheet. He continued to deny consuming any alcohol today.

I issued Winkle a citation in lieu of detention for the following charges out of Tempe Municipal Court:

COMPLAINT # 1672124

A: ARS 28-1381.A1 DUI

B: ARS 28-1381.A2 DUI / BAC .08+

I released Winkle at approximately 0220 hours. My contact with him was captured by body worn camera and the recording was uploaded to Evidence.com. Refer to the DUI worksheet for further information.

I received my basic police officer training at the Southern Arizona Law Enforcement Training Center between July and November of 2012. During that time I attended 12 hours of instruction for DUI investigations and became certified to operate the Intoxilyzer 8000.

I was commissioned by the Arizona Department of Transportation as a police officer focused on commercial vehicle enforcement and registration compliance until my lateral transfer to Tempe Police in June of 2013. I completed four months of field training after my transfer and conducted several DUI investigations under the supervision of an experienced officer.

In June, 2015 I attended 27 hours of instruction for the standardized



# TEMPE POLICE DEPARTMENT

## General Offense Report

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field sobriety tests and became trained in the horizontal gaze nystagmus test. I completed over 30 gazes in the field, demonstrated my proficiency in the HGN test, and became certified in September, 2015.

In November, 2015 I attended 16 hours of instruction for advanced roadside impaired driving enforcement. I was given instruction regarding the detection and enforcement of impaired driving. During training, I was educated on the various signs and symptoms consistent with drug induced impairment.

\*\*\*CLEARED BY ARREST\*\*\*



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE

### Related Text

Document: SUPPLEMENTAL OFFICER NARRATIVE

Author: 19239 - ESPINOZA, ANIBAL

Related Date/Time: May-07-2017 (Sun.) 251

**Subject:**

On 05/07/17 at approximately 0043 hours, I observed a vehicle heading eastbound on Baseline Rd. approaching Kyrene Rd. at a high rate of speed. I was stopped at the red light facing westbound waiting for the light to turn green at that time. The vehicle was later identified as a grey colored BMW 325i bearing AZ plate of [REDACTED].

As the BMW approached the light, it caught my attention because the vehicle did not appear to be slowing down as it approached the red light. At that same time, there were three male subjects that had started to cross the street from south to north across Baseline Rd. Just as they were walking across the lane closest to the curb, which was the same the BMW was traveling on, they jumped out of the way as it seemed the vehicle was not going to stop. Two of the pedestrians jumped back onto the sidewalk and one of those two dropped his phone on the roadway while the third pedestrian jumped forward into the other lane. The BMW did come to a stop just before the crosswalk as it appeared to have applied hard braking. At that time the pedestrians started crossing once more.

Once the traffic light turned green, I made a left turn onto Kyrene Rd. and immediately turned around and headed east on Baseline Rd. behind the BMW which had now continued eastbound on Baseline Rd. At that time, I could see that the vehicle was swerving back and forth while still travelling in the lane closest to the curb. As I followed the vehicle, it continually swerved left to right within its lane, however nearly struck the curb several times.

As we drove through the Mill Ave intersection, I initiated a stop using the police lights on my patrol vehicle. The vehicle then pulled into the parking lot of 101 E. Baseline Rd. At that time, I contacted the driver who identified himself as Ryan Winkle. I told Ryan that the reason for stopping him was because he had nearly run the red light and then kept on swerving in his lane. Ryan stated that they were just heading home and I asked at that time how much he had to drink to what he replied that he had not been drinking anything at all. I asked Ryan to step out of the vehicle at that time. As I spoke with Ryan, I could detect a distinct odor of intoxicating beverage emanating from his breath and body. I could also see that he had red and bloodshot watery eyes, he had slurred speech, and he had trouble keeping his balance. I asked Ryan at that time to sit on the curb and requested assistance from a traffic officer.

While I waited for Ofc Jensen to arrive, I spoke to the passenger who identified herself as Ericka Varela and stated she was Ryan's wife. I asked



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## General Offense Report

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where they were coming from and she stated they had just left an event at The Pointe at Baseline Rd. and Pointe Parkway. Ericka stated that she knew neither should be driving because they had been drinking. I told her something to the effect of calling for a cab ride or an "Uber" would have been a better idea and Ericka agreed.

Ofc Jensen arrived shortly after and took over the investigation. For further details please refer to his original report. The pedestrians were never contacted due to the short span of time and need to initiate a stop based on the driving behavior. This concluded my involvement with this investigation.

\*\*\*\* Digital Evidence Uploaded \*\*\*\*





# TEMPE POLICE DEPARTMENT

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### TEMPE POLICE DEPARTMENT

<b>VEHICLE INFORMATION:</b>  <input type="checkbox"/> Stolen <input type="checkbox"/> Recovered <input type="checkbox"/> Recovered FOI  <input checked="" type="checkbox"/> Police Impound <input type="checkbox"/> Abandoned (red tagged) <input type="checkbox"/> Immobilization Device <input type="checkbox"/> Illegally Parked <input type="checkbox"/> Traffic Hazard <input type="checkbox"/> Hit & Run <input type="checkbox"/> Other DUJ	Location: MILL/BASELINE	GO#: 17-53526	
	Reporting Officer: LINES 11806		
	Date (earliest): 05/07/17	Time (earliest): 0130	Date (latest): _____
	License #: [REDACTED]		License State: AZ
	VIN [REDACTED]		
	Year 2006	Make: BMW	
	Model: 325i	Color: GRY	
	Doors: 4D	Misc:	
	Releasable: <input type="checkbox"/> Yes <input type="checkbox"/> No	Release Contact Person:	Release Contact Phone:
	Victim Name: RYAN WINKLE		Address: [REDACTED]
City: MESA	State: AZ	Zip:	
Phone (Home):	Phone (Work):	(Cell/Message):	
Vehicle Condition:		Who reported the?	
Door locked: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		Ignition Locked: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Keys in Vehicle: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		Registration in Vehicle: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Recovery Condition:		Value of Vehicle (Stolen/Recovered only):	
Owner Different than Victim (Specify): [REDACTED]			
Towing Company: APACHE SANDS		Telephone Number: 480 986 5556	
Vehicle Stored at: 1321 N PIONEER			
Owner Notified on (Date):		By:	
At What Time:	Method of Notification: <input type="checkbox"/> Telephone <input type="checkbox"/> Message <input type="checkbox"/> Note <input type="checkbox"/> Fax <input type="checkbox"/> Other If Other:		
Recover Notice Mailed on (Date): (Recovered Tempe stolen ONLY)		By:	
Certified: <input type="checkbox"/> Letter <input type="checkbox"/> Card			
Note: If owner was not contacted, specify reason:			
Processed for Prints: <input type="checkbox"/> Yes <input type="checkbox"/> No		Suspects Arrested: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Suspect Information:			
<input checked="" type="checkbox"/> Computer Entries Completed / Copies Attached			
Entered by: STEPHANIE 18338		Date: 05/07/17	
Time:			



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE

Related Report Image(s)

Type: DUI Worksheet

Description:

**ADOT**  
Motor Vehicle Division  
40-2027 NIS 10 adot.gov

Mail Drop 633M  
Motor Vehicle Division  
PO Box 2100  
Phoenix AZ 85001-2100

**ADMIN PER SE/IMPLIED CONSENT AFFIDAVIT**

LE or DR Case Number 17-53526  
 Complaint Numbers Issued 1672124

Charges:  ARS 28-1381  28-1382  28-1383  4-244-34  13-1201  Yes  No While transporting hazardous material? (ARS 28 101)  
 13-1204  Other Title 13, Chapter 11 charge: \_\_\_\_\_  Yes  No While operating a commercial motor vehicle?

Driver Name (first, middle, last, suffix) <b>RYAN, DAVID, WINKLE</b>	Date of Birth [REDACTED]	Driver License Number [REDACTED]	Class D	State AZ
Address [REDACTED]	City [REDACTED]	State AZ	Zip [REDACTED]	

On (date) 5/7/17 at (time) 0104 at (location) 101 E BASECONE RD. TEMPE

I had probable cause to believe that the person named caused or was cited for an accident resulting in death or serious physical injury while driving a motor vehicle. (State the probable cause on the lines below.)

I had reasonable grounds to believe the person named was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor and/or drugs, and I placed the named person under arrest therefor.

Among the facts leading to that belief were: Per Ofc. Espinoza: weaving, abrupt stop observed: odor of alcohol, watery/ R.S. eyes, flushed face, slurred speech, sway, attempted HGN but

The admonitions on the back of the original copy were read to the person. Officer Initials: ES no equal tracking, Wat-5,

The admonitions were not read because the person was either unconscious or incapable of refusal. OLS 3, PBT refused

The person submitted to  breath  blood tests

Test results:  Indicated alcohol concentration of: \_\_\_\_\_  Indicated positive for \_\_\_\_\_ (drug)  Results not available

The person refused to take or did not complete the tests in the following manner: \_\_\_\_\_

Yes  No Did the person cause serious physical injury or death as defined in ARS 13 105 during this incident?

**OFFICER CERTIFICATION** I certify that the above is true and correct. I request that any hearing be held in MARICOPA County

Law Enforcement Officer Name <u>SENSEN</u>	Badge Number <u>02209</u>	Law Enforcement Officer Signature <u>E. SENSEN #2209</u>
Law Enforcement Officer Agency <u>TEMPE POLICE</u>	ORI Number <u>0729</u>	Law Enforcement Officer Station <u>APACHE-TRAFFIC</u>
Agency Address <u>120 E 5TH ST</u>	City <u>TEMPE</u>	State   Zip <u>AZ   85081</u>
Test Operator Name <u>SENSEN</u>	Badge Number <u>02209</u>	Test Operator Signature <u>E. SENSEN #2209</u>

**SURRENDER OF ARIZONA DRIVER LICENSE**

Pursuant to ARS 28-1321 and 28-1385, the law enforcement officer must require the suspension of possession. If no license or permit is attached, state reason:  Lost  Destroyed  Nonresident

**ORDER OF SUSPENSION** One box must be checked.

Date Served <u>5/7/17</u>	Time Served <u>0208</u>	Please
------------------------------	----------------------------	--------

Pursuant to ARS 28-1321, your Arizona driving privilege is suspended effective 15 days from the date of suspension or 2 years if there is a prior implied consent refusal, within the last 84 months, on your record or in writing and received within 15 days from Date Served. This action is a result of tests to determine alcohol concentration or drug content. This suspension will not end until completion of alcohol or drug screening.

Pursuant to ARS 28-1385, your Arizona driving privilege is suspended for not less than 90 days from the date of suspension if a review of your driver record indicates that you have completed alcohol or drug screening. A summary review will automatically be mailed to your address of record within 45 days from Date Served. This suspension will not end until all reinstatement requirements are met including completion of alcohol or drug screening.

**TEMPORARY DRIVER PERMIT** - This entire form will serve as a temporary driver permit that will expire 15 days from the Date Served. However, if you request a summary review or hearing, then this permit will remain valid until the summary review or hearing decision has been made. If your Arizona driver license/permit is currently suspended or revoked, this permit does not authorize you to operate a motor vehicle.

Sex <u>M</u>	Weight <u>160</u>	Height <u>185</u>	Eyes <u>GRN</u>	Hair <u>BRO</u>	Class <u>D</u>	Restrictions <u>A-CORR LENS</u>
Permit Not Issued Because						Licensee Signature <u>[Signature]</u>

Original - Motor Vehicle Division    Pink and Yellow - License    Blue - Law Enforcement Agency



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE



Mail Drop 533M  
Motor Vehicle Division  
PO Box 2100  
Phoenix AZ 85001-2100

### ADMONITIONS

LE or DR Case Number  
**17-53526**

Prior to reading the below admonitions, I ensured the suspect had been placed under arrest for at least one of the following charges: ARS 28-1381, ARS 28-1382, ARS 28-1383, ARS 4-244.34, ARS 13-1201, ARS 13-1204, other Title 13, Chapter 11 charge.

### ADMONITIONS

Will you consent to a test or tests of your blood, breath, urine or other bodily substance for the purpose of determining your alcohol concentration or drug content?  Yes  No **"No, sir" 0000**

#### READ ONLY IF THE ARRESTEE CONSENTS TO TESTING

If the test results are not available or indicate an alcohol concentration of 0.08 or above (0.04 or above in a commercial vehicle) or indicate any drug defined in ARS 13-3401 or its metabolite without a valid prescription, then your Arizona driving privilege will be suspended for not less than 90 consecutive days. Alcohol or drug screening must be completed before your privilege may be reinstated.

Will you consent to the tests?  Yes  No

Arrestee's Comments

#### READ ONLY IF THE ARRESTEE ANSWERS NO TO EITHER QUESTION ABOVE OR FAILS TO SUCCESSFULLY COMPLETE THE TESTS

If you do not expressly agree to testing or do not successfully complete the tests, your Arizona driving privilege will be suspended for 12 months, or for two years if you've had a prior implied-consent refusal within the last 84 months.

If the test results are not available or indicate an alcohol concentration of 0.08 or above (0.04 or above in a commercial vehicle) or indicate any drug defined in ARS 13-3401 or its metabolite without a valid prescription, then your Arizona driving privilege will be suspended for not less than 90 consecutive days.

Alcohol or drug screening must be completed before your privilege may be reinstated

Will you consent to the tests?  Yes  No **"Yes, sir" 0001**

Arrestee's Comments **Said he will submit to blood test only, not breath.**

If the arrestee unreasonably delays the completion of test, read the following to the arrestee:

You are not entitled to further delay before taking the tests. Any additional delay will be considered a refusal to submit to the tests.

Will you consent to the tests?  Yes  No

Arrestee's Comments

Additional Comments

Officer Signature  
**E. JAWA 130019**



# TEMPE POLICE DEPARTMENT

## General Offense Report

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17-53526

EXHIBIT G-1  
OPERATIONAL CHECKLIST  
ARIZONA DEPARTMENT OF PUBLIC SAFETY  
STANDARD OPERATIONAL PROCEDURE  
INTOXILYZER MODEL 3000  
DUPLICATE BREATH TEST

SUBJECT NAME RYAN DAVID WINKLE DATE 05/07/2017  
AGENCY TEMPE POLICE OPERATOR JENSEN 33349  
INSTRUMENT SERIAL # \_\_\_\_\_ LOCATION 7001 E MOHAVE RD  
TEMPE PD, DUE VAN  
TEST RESULTS      0 \_\_\_\_\_ AC TIME \_\_\_\_\_  
                          0 \_\_\_\_\_ AC TIME \_\_\_\_\_  
                          0 \_\_\_\_\_ AC TIME \_\_\_\_\_  
NO BLOOD DRAW ONLY

Immediately preceding administration of the test, subject underwent at least a 15-minute deprivation period  
From \_\_\_\_\_ (Time) to \_\_\_\_\_ (Time) by \_\_\_\_\_ (Name)

- ( ) 1. Display reads "PUSH BUTTON TO START".
- ( ) 2. Push Start Test button.
- ( ) 3. Follow automated instructions on instrument display.
- ( ) 4. If test record reads "Successfully Completed Test Sequence" go to step 5  
OR  
If test record reads "Not a Successfully Completed Test Sequence", and subject will be tested again, retrieve test record and go to step 1  
OR  
If test record reads "Not a Successfully Completed Test Sequence", and subject will not be tested again, go to step 5
- ( ) 5. Retrieve test record.

Note: Duplicate breath tests shall be administered at intervals of not less than 5 minutes nor more than 10 minutes apart and the two consecutive tests shall agree within 0.020 alcohol concentration.



# TEMPE POLICE DEPARTMENT

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### DUPLICATE BREATH TEST ADVISORY

AFTER COMPLETING THE TEST OF YOUR BREATH, YOU WILL BE GIVEN A REASONABLE OPPORTUNITY TO ARRANGE FOR ANY PHYSICIAN, REGISTERED NURSE OR OTHER QUALIFIED PERSON OF YOUR OWN CHOOSING TO OBTAIN AN INDEPENDENT TEST OR TESTS, IN ADDITION TO ANY ADMINISTERED BY A LAW ENFORCEMENT OFFICER.

### ACKNOWLEDGMENT

I UNDERSTAND THAT I HAVE THE RIGHT TO A REASONABLE OPPORTUNITY TO ARRANGE FOR AN INDEPENDENT TEST OF MY BLOOD, BREATH OR OTHER BODILY SUBSTANCE.

SUBJECT

P

DATE/TIME

5/7/17

OFFICER

JENSEN

BADGE #

22219

DATE/TIME

05/07/2017 0805

### IN CUSTODY ARRESTEE

YES. I WANT A BLOOD TEST AT MY OWN EXPENSE. IF YOU WANT A BLOOD TEST BUT REFUSE TO SIGN, IT WILL BE ASSUMED THAT YOU DO NOT WANT THE TEST.

ARRESTEE SIGNATURE

NO. I DO NOT WANT A BLOOD TEST.

ARRESTEE SIGNATURE

OFFICER'S SIGNATURE/TIME



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE

17-53526

Desert Testing Services, LLC  
deserttesting@cox.net

Kheri Farris, Phlebotomist, CNA, PCT  
mshkerifarris@gmail.com

DR NUMBER 17-53526

SUSPECT NAME Ryan Winkle

### PHLEBOTOMIST CERTIFICATE OF QUALIFICATION

I, Kheri Aaron Farris, have been previously trained and am qualified to perform venipuncture by various techniques to obtain blood specimens for law enforcement or specified purposes. This is based on the following education and experience:

- ◆ Phlebotomy Certification, Phoenix College, May 2010
- ◆ Certified Nursing Assistant, East Valley Medical College, September 2018
- ◆ Patient Care Technician, East Valley Medical College, December 2016
- ◆ Performed over 34,985 venipunctures to date
- ◆ Trained In Techniques, Safety, Evidence Packaging, and Chain of Custody

All blood draws are accomplished on suspects using an unexpired standard DUI Blood Kit provided by police agencies (Povidone-Iodine Prep Pad or ~~Genzalkonium Chloride Wipe~~, two gray top tubes with standard labeled preservative and anticoagulant, or SST/Tiger Top tube in case of DNA sampling or Exposure, sterile contents of kit sealed at the factory) and completed specimens labeled with the date and time of draw, my initials, the suspect's name, and Department Report Number. The labeled tubes are placed within the kit, and the entire kit is sealed by a certified police officer or under the officer's direct supervision (if there is a danger of a bloodborne pathogen contamination).

I have completed no additional reports of the circumstances of this particular case or suspect. The time of the blood draw is as listed on the witnessing officer's Department Report or Supplemental Statement. I do not have in my possession a copy of the police report and will neither see or view any video or transcripts of the events surrounding the case, venipuncture, or warrants (if any) that may have been obtained, unless I am/was called as a witness in the case and they are provided for me.

Drawn From: (Right Arm) Left Arm Right Hand Left Hand Other: \_\_\_\_\_

Number of Tubes Obtained: 1 ②

Location Where Drawn: Mesa PD DRE Room / Superstition / DUI Van / Hospital / Scene ASU PD / Hospital

(Tempe PD) Jail (Task Force) Hospital Salt River PD Main Station / Indian Bend / DUI Van / Hospital

Apache Junction PD/Hospital Fort McDowell PD/Hospital Pinal County SO/Hospital Casa Grande PD/Hospital

Other Location: \_\_\_\_\_

Comments: \_\_\_\_\_

Kheri Aaron Farris  
Kheri Aaron Farris, Phlebotomist

5/7/17  
Date of Draw

0203  
Time of Draw



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE

Tempe Police Department DUI Worksheet				G.O. #: 17-53526	
Suspect Name: <b>RYAN DAVID WINKLE</b>		DOB: [REDACTED]		Place of Birth: <b>UT</b>	
Citation #: <b>1622124</b>	Stop Date: <b>05/07/17</b>	Stop Time: <b>0044</b>	Arrest Date: <b>05/07/17</b>	Arrest Time: <b>0104</b>	
Location of Arrest: <b>101 E BASELINE RD TOLPE</b>		Vehicle Make: <input type="checkbox"/> 3511 Impound / <input checked="" type="checkbox"/> DUI Impound		Tow Company: <b>APACHE SANDS</b>	
<small>Questions to be asked prior to Field Sobriety Test:</small>					
Have you been drinking alcohol? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Describe:			
Are you ill? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Describe:			
Are you under a physician's care? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Describe:			
Are you suffering from any head injuries? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Describe:			
Are you a diabetic? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Describe:			
Do you have any physical disabilities? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Describe:			
<small>(57) Encumbrance / Observations of Subject</small>					
Emergency lights in view of suspect? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Suspect wearing shoes? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, Type: <b>closed flat</b>		Removed for test? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Type of Surface: <input checked="" type="checkbox"/> Street <input type="checkbox"/> Sidewalk <input type="checkbox"/> Parking Lot <input type="checkbox"/> Gravel <input type="checkbox"/> Other:	Traction: <input checked="" type="checkbox"/> Light <input type="checkbox"/> Heavy		Conditions: <input type="checkbox"/> Intermittent <input type="checkbox"/> Other:		
Lighting: <input checked="" type="checkbox"/> Street Lights <input checked="" type="checkbox"/> Vehicle Lights <input checked="" type="checkbox"/> Flashlight <input type="checkbox"/> Veh Spot <input checked="" type="checkbox"/> Building Lights <input type="checkbox"/> Natural <input type="checkbox"/> Other:					
Speech: <input type="checkbox"/> Clear <input checked="" type="checkbox"/> Slurred <input type="checkbox"/> Thick <input type="checkbox"/> Rapid <input type="checkbox"/> Other:					
Breath: <input type="checkbox"/> Faint <input type="checkbox"/> Moderate <input checked="" type="checkbox"/> Strong <input checked="" type="checkbox"/> Distinct <input type="checkbox"/> Other:					
Face: <input type="checkbox"/> Normal <input checked="" type="checkbox"/> Flushed <input type="checkbox"/> Pale <input type="checkbox"/> Other:					
Eyes: <input type="checkbox"/> Normal <input checked="" type="checkbox"/> Watery <input checked="" type="checkbox"/> Bloodshot <input type="checkbox"/> Dilated <input type="checkbox"/> Constricted <input type="checkbox"/> Other:					
Attitude: <input checked="" type="checkbox"/> Polite <input type="checkbox"/> Antagonistic <input type="checkbox"/> Suspicious <input checked="" type="checkbox"/> Cooperative <input type="checkbox"/> Indifferent <input type="checkbox"/> Laughing <input type="checkbox"/> Insulting <input type="checkbox"/> Argumentative <input type="checkbox"/> Mood Swings					
Clothing: <input checked="" type="checkbox"/> Clean <input type="checkbox"/> Orderly <input type="checkbox"/> Disarranged <input type="checkbox"/> Torn <input type="checkbox"/> Bloody <input type="checkbox"/> Vomit <input type="checkbox"/> Urine <input type="checkbox"/> Other:					
Other: <input type="checkbox"/> Hiccups <input type="checkbox"/> Belching <input type="checkbox"/> Vomiting <input type="checkbox"/> Combative <input type="checkbox"/> Urinating on Self <input checked="" type="checkbox"/> Other: <b>sway</b>					
<small>Miranda</small>					
You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to presence of an attorney to assist you prior to questioning, and to be with you during questioning if you so desire. If you cannot afford an attorney, you have the right to have an attorney appointed for you prior to questioning. Do you understand your rights? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Will you voluntarily answer questions? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
Given By: <input checked="" type="checkbox"/> Arresting Officer <input type="checkbox"/> Other:		Time Given: <b>0213</b>		Rights read in: <input checked="" type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> Other:	
Have you taken any medication or drugs in the last 24 hours? <b>No</b> If yes, what type? <b>When?</b>					
Do you have any physical disabilities? If so, how do they affect you? <b>No</b>					
Are you a Diabetic? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, are you taking insulin? <input type="checkbox"/> Yes <input type="checkbox"/> No, When? <b>When did you last eat?</b>		<b>Saturday Morning</b>			
What did you eat? <b>Water Shake</b> How much sleep last night? <b>3 hours</b> Sleep Today? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Are you tired? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
Does the vehicle you were driving have any mechanical defects? If yes, Explain: <b>Steering is fine, but there may be other @ pressure.</b>					
What time did you start driving/how long have you been driving? <b>"5 minutes"</b>					
Where were you going (going from)? <b>From AZ Grandparents Home in Scottsdale.</b> Where were you drinking alcohol? <b>Not drinking alcohol</b>					
When did you start drinking alcohol? <b>-</b> What time did you finish your last alcoholic drink? <b>-</b>					
What type/quantity alcohol have you been drinking? <b>-</b> Could you feel the effects of alcohol/drugs? <b>-</b>					
Total # of alcoholic drinks you had in last hour before you were stopped? <b>-</b> Did you have any alcohol to drink after you stopped driving/were in an accident? <b>-</b>					
On a scale of 1 to 10, 1 being sober and 10 being completely intoxicated, how would you rate yourself when you were stopped? <b>1</b> How about now? <b>1</b>					
Do you think the alcohol/drugs impaired your ability to operate your vehicle safely? <b>No</b>		Do you think you should have been driving your vehicle? <b>Yes</b>			
Notes/Passengers: <b>Erica Varela</b>					
Blood Draw Date: <b>05/07/17</b> Time: <b>0203</b> Blood sample taken from (Body Part): <b>Right Arm</b> Witness Name (Printed): <b>Kheri Aaron Farris</b>					
<small>Prisoner Property/Release Info</small>					
\$ <b>0</b> Bank card, ID card/Key card, eye drops, pen, lip balm, DUI papers		Prisoner Signature: I have received money/property <b>[Signature]</b>			
Prisoner Released to: <b>Called for own ride</b>		Release Date: <b>05/07/17</b>		Release Time: <b>0230</b>	
Arresting Officer: <b>SENSEN 22349</b>		Supervisor: <b>B. CULLIEN 17712</b>			



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE

**Tempe Police Department DUI Worksheet**

G.O.#: 17-53526

<p><b>Horizontal Gaze Nystagmus (HGN)</b>                  I am going to check your eyes. Keep your head still and follow this with your eyes without moving your head.</p> <p>Do you understand? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Are you wearing contacts? <input type="checkbox"/> Hard <input type="checkbox"/> Soft <input checked="" type="checkbox"/> No</p> <p>Do you have any eye problems? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Do you have any head injuries? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Lack of Smooth Pursuit - TEST 'STOP' ED  <input type="checkbox"/> Left Eye / <input type="checkbox"/> Right Eye</p> <p>Distinct and Sustained Nystagmus at Max Deviation  <input type="checkbox"/> Left Eye / <input type="checkbox"/> Right Eye</p> <p>Onset of Nystagmus Prior to 45 Degrees.  <input type="checkbox"/> Left Eye / <input type="checkbox"/> Right Eye</p> <p>Vertical Nystagmus Present.  <input type="checkbox"/> Left Eye / <input type="checkbox"/> Right Eye</p> <p>Time: 0054 - NO SWAY TRACKING                  Administered by: - NOT FOCUSING ON STRM  <input checked="" type="checkbox"/> Arresting Officer  <input type="checkbox"/> Other Officer Badge Number _____</p> <p><input type="checkbox"/> Refused / <input checked="" type="checkbox"/> Not Conducted - SWAY</p>	<p style="text-align: center;"><b>Walk and Turn</b></p> <p>When I tell you, I want you to place your left foot on the line and then place your right foot in front of it. Keep your arms at your sides and remain in that position.</p> <p>Do you understand? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>When I tell you to begin, take 9 heel-to-toe steps down the line, turn, and take 9 heel-to-toe steps back. When you turn, keep your front foot on the line and turn by taking a series of small steps with the other foot. While you are walking, keep your arms at your sides, watch your feet at all times, and count your steps out loud. Once you start walking, don't stop until you have completed the test.</p> <p>Do you understand? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Demonstrated? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Cannot keep balance while listening to instructions.</p> <p><input checked="" type="checkbox"/> Starts before instructions are finished.</p> <p><input checked="" type="checkbox"/> Stops while walking to steady self</p> <p><input type="checkbox"/> Does not touch heel to-toe.</p> <p><input checked="" type="checkbox"/> Loses balance while walking (steps off line)</p> <p><input type="checkbox"/> Uses arms for balance (more than 6 inches)</p> <p><input type="checkbox"/> Incorrect number of steps (____ 1" Leg   ____ 2" Leg)</p> <p><input type="checkbox"/> Improper turn.</p> <p>- Took large steps and ran out of space to make proper turn and</p> <p style="text-align: center;">                   ↪ correct # of steps (7 forward, 8 back)             </p> <p><input type="checkbox"/> Refused / <input checked="" type="checkbox"/> Not Conducted</p>	<p style="text-align: center;"><b>One Leg Stand</b></p> <p>I want you to stand with your feet together and arms down at your sides. Do not do anything else until I tell you to begin.</p> <p>Do you understand? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>When I tell you to begin, I want you to raise the leg of your choice, 6 inches off the ground and point your toe. Keep your eyes focused on your toe. At the same time, I want you to count out loud from 1001 until I tell you to stop. Time for 30 Seconds.</p> <p>Do you understand? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Demonstrated? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Sways while balancing. S/S</p> <p><input checked="" type="checkbox"/> Uses arms to balance - HAND ON NECK HEIGHT</p> <p><input type="checkbox"/> Hopping</p> <p><input checked="" type="checkbox"/> Puts foot down. x</p> <p><input type="checkbox"/> Cannot do test (explain)</p> <p style="text-align: center;">- Foot @ 3" up</p> <p style="text-align: center;">Foot raised: Right/Left</p> <p style="text-align: center;"> </p> <p><input type="checkbox"/> Refused / <input checked="" type="checkbox"/> Not Conducted</p>
<p><b>Preliminary Breath Test (PBT)</b></p> <p>Results _____</p> <p>Time _____</p> <p>PBT Serial# _____</p> <p>Administered by  <input type="checkbox"/> Arresting Officer  <input type="checkbox"/> Other Operator Name/ID# _____</p> <p><input type="checkbox"/> Refused / <input checked="" type="checkbox"/> Not Conducted</p>	<p style="text-align: center;"><b>Rhomberg-Modified</b></p> <p>Stand with your feet together and your arms down at your sides. Close your hands and point your index fingers down. When I tell you, I would like you to close your eyes and tilt your head back. Using the finger I tell you, bring your finger up and touch the very tip of your nose with the very tip of your finger. Then return your arm back to your side.</p> <p>Do you understand? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Demonstrated? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Requires additional instruction during test.</p> <p><input type="checkbox"/> Failed to keep feet together</p> <p><input type="checkbox"/> Used hand other than designated</p> <p><input type="checkbox"/> Missed nose with fingertip</p> <p><input type="checkbox"/> Opened Eyes</p> <p><input type="checkbox"/> Failed to keep head tilted back</p> <p><input type="checkbox"/> Sways while balancing.</p> <p style="text-align: center;">                 Left                  Right                  Left                    Right                  Right                  Left  </p> <p><input type="checkbox"/> Refused / <input checked="" type="checkbox"/> Not Conducted</p>	<p style="text-align: center;"><b>Finger Count</b></p> <p>When I tell you, I want you to stand with your feet together and your arms down at your sides. When instructed, on the hand I tell you to use, count out loud while touching the proper finger with your thumb starting with the little finger.</p> <p>You must count exactly this way 1-2-3-4-4-3-2-1</p> <p>Do you understand? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Demonstrated? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Required additional instructions.</p> <p><input type="checkbox"/> Used improper hand</p> <p><input type="checkbox"/> Missed touching all the proper fingers.</p> <p><input type="checkbox"/> Counted incorrectly</p> <p style="text-align: center;">                 Left Hand                  Right Hand  </p> <p><input type="checkbox"/> Refused / <input checked="" type="checkbox"/> Not Conducted</p>

Telephone 0171-0158



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE

Related Report Image(s)

Type: Tow Sheet/28-3511

Description:



Tempe Police Department  
 Tempe, Arizona

Vehicle Impound Report

Incident Number **17-53526**

Original Report	Offense Code	Attachment	Stolen Vehicle / Unlawful Use
<input type="checkbox"/> Abandoned Vehicle Impound 30010000	<input type="checkbox"/> 28483100	<input type="checkbox"/> Collision	<input type="checkbox"/> Vehicle Inventory Only
<input type="checkbox"/> Impound Vehicle	<input type="checkbox"/> 28351100	<input checked="" type="checkbox"/> Operator Arrested - DUI	<input type="checkbox"/> Other:
<input type="checkbox"/> ARS 28-3511 Impound		<input type="checkbox"/> Operator Arrested - Other Offense	

Officer Name / Serial Number: **C. LINES 11806** Location Vehicle Removed From (Street Address, City): **MILL / GARDEN**

Report Date: **5/7/17** Date of Day: **5/7/17** Time of Day: **0130** Beat: **5** No: **2202**

Vehicle Operator

Name (Last, First, Middle): **LINDALE, RYAN DAVID**

Gender: **(M) F** Race: **A B H I U (W)** Height: **600** Weight: **185** Hair: **GRY** Eyes: **GRN**

Vehicle Impounded

Make: **Bmw** Model: **325I** Body Style: **4DRSD** Color: **GRY**

Year: **2006** Mileage: **72**

Plate: **APACHE SANDS 7321**

Address: **PIONEER CULBERT 480522078**

Storage Information

Storage Location (Address and City): **PIONEER CULBERT**

Telephone Number (if known): **480 522078**

Reason for Impound

**A. Tow/Impound - Vehicle Releasable**  Changed to 3511 Hold

The above listed vehicle was impounded for the following reason(s) (check all that apply):

- The listed vehicle was illegally parked pursuant  ARS  TCC
- The vehicle was red tagged on \_\_\_\_\_ at \_\_\_\_\_ hours and has been abandoned in excess of  48  72  120 hours
- The vehicle was unattended and was illegally left standing on a highway in a position or under circumstances that obstructed the normal movement of traffic.
- The vehicle was immobilized with a parking boot in excess of 24 hours.
- The person(s) in charge of the vehicle is/are unable to provide custody or removal.
- Subject was arrested for  Outstanding Arrest Warrant  ARS  TCC **28-1381** and was transported from the scene.
- Subject was transported from the scene for medical treatment.  Other (See notes)
- The person driving the vehicle or in control of the vehicle was arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.
- The vehicle had been reported stolen or taken without the consent of the owner.

RECEIVED MAY 08 2017

**B. ARS 28-3511 Impound - 30-Day Hold**

The above listed vehicle was seized and impounded pursuant ARS 28-3511 for the following reason(s) (check all that apply):

- The operator's driving privilege is suspended or revoked for ANY reason. **Verdesoto # 23754**
- The person is subject to an ignition interlock device and is operating a vehicle without a functioning certified ignition interlock device. (Does not apply if operating an employer's vehicle or operating a vehicle due to substantial emergency as defined in ARS 28-1484.)
- The operator has not ever been issued a driver license or permit and the person did not produce evidence of a driver license issued by another jurisdiction.
- The operator was involved in a collision with all the following conditions:
  - The operator's driving privilege is canceled, suspended or revoked or the operator has not ever been issued a driver license or permit and the operator did not produce evidence of a driver license issued by another jurisdiction.
  - The operator was not in compliance with financial responsibility requirements.
  - The operator was involved in an accident that resulted in either property damage or injury to or death of another person.
- Probable cause existed to arrest the operator of the vehicle for a violation of:
  - section 4-244, paragraph 34 (BAC Result = \_\_\_\_\_ / \_\_\_\_\_) or  section 28-1382 (BAC Result = \_\_\_\_\_ / \_\_\_\_\_) or  28-1383.

Related Incident Reports or Citation Numbers

Tow Company Notification of Change to 3511 Hold

Related Incident Report Numbers or Citation Number: \_\_\_\_\_ Tow Company Employee: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

TPD-405

POLICE RECORDS





# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE

Related Report Image(s)

Type: Request for Records

Description: MARIANA DALE



### Request for Police Records

Tempe Police Department  
 120 E 5<sup>th</sup> Street - Tempe, AZ 85281  
 Phone 480-350-8304

**Instructions:**

1. Complete this form. Include as much information as possible. An incomplete form may delay your request.
2. Requests for police records can be made by mail or can be requested at any Tempe Police Department Lobby.
3. Fee: \$5.00 for each record of 20 pages or less; over 20 pages, an additional \$0.25 per page.  
 Cash, money order or verifiable check accepted.
4. The "pink" copy of this form will serve as your temporary receipt.

<input type="checkbox"/> Mail my request	<input type="checkbox"/> Certified
<input checked="" type="checkbox"/> Email. Note: call 480-350-8304 to verify copy is ready Email: <u>mdale@kjzz.org</u>	
<input type="checkbox"/> Un-redacted Copy (for accident reports ONLY)	

Under provisions of ARS 39-121, the Public Records Law, I request the Tempe Police Department provide a copy of the listed record to me. This record copy will be used solely for non-commercial purposes.

Signature: Mariana Dale

Please Print Clearly. The following information is required before a search for records can be conducted.

Person Requesting Record	Last Name: [REDACTED]	First: [REDACTED]	MI: [REDACTED]
	Street Address: [REDACTED]		Apt. #: [REDACTED]
	City: [REDACTED]	State: [REDACTED]	Zip: [REDACTED]
	Home Phone: <u>N/A</u>		Work Phone: [REDACTED]
Today's Date: <u>5/9/17</u>	Report Number: <u>2017-53526</u>	Date of Incident: <u>5/7/17</u>	Time of Incident: <u>about 12.m</u>
Report Type: <input type="checkbox"/> Auto Theft <input type="checkbox"/> Auto Accident <input checked="" type="checkbox"/> DUI <input type="checkbox"/> Other (Please list):			
Incident Location: <u>Baseline Rd and Kyrene Rd.</u>			
List persons involved in requested incident.	Last Name: <u>Winkle</u>	First: <u>Ryan</u>	MI: [REDACTED]
	Last Name: [REDACTED]	First: [REDACTED]	MI: [REDACTED]

**Section below for TPD Records use ONLY**

Received in Lobby by: <u>[Signature]</u>	Date: <u>5-9-17</u>	Processed by (Records): <u>[Signature]</u> <u>23402</u>	Victim <input type="checkbox"/> Yes <input type="checkbox"/> No	Date: <u>5-11-17</u>
	Time: [REDACTED]		Time: [REDACTED]	
<input checked="" type="checkbox"/> Cash \$ <u>5.00</u> <input type="checkbox"/> Check # _____ <input type="checkbox"/> Money Order				



# TEMPE POLICE DEPARTMENT

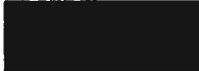
## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE

City of Tempe  
Tempe Police Department  
120 E. 5th Street  
Tempe, AZ 85281  
480-350-8598

Paid By:



0671383

5/9/2017 10:54 AM

Today's Charges:

PD RECORDS REQUEST 1@ \$5.00 \$5.00

Amount Owed: \$5.00

Cash Tendered: \$20.00

Other Payment Tendered: \$0.00

Amount Tendered: \$20.00

Change: \$15.00

Remaining Balance: \$0.00

SIV5/9/2017 10:54 AM

THANK YOU  
PLEASE RETAIN FOR YOUR RECORDS

SIV(17156732) 5/9/2017

PAYER

MISC RECEIPT



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE

**Wood, Mary**

---

**From:** Records File Transfer  
**Sent:** Thursday, May 11, 2017 1:57 PM  
**To:** mdale@kjzz.org  
**Subject:** Tempe Police Report 17-53526

You have requested your police report be sent to you electronically. It is now available for your review by following the instructions provided. You have 14 days from the date sent to review, download or save your report. Once the timeframe has expired you will have to request it again and pay additional fees. Thank you for using our electronic file transfer application.

**Files attached to this message**

Filename	Size	Checksum (SHA1)
SKM_654e17051114030.pdf	8.19 MB	700f9340de1f8789b94f1d5f9567daa2ad6ee332

Please click on the following link to download the attachments:  
<https://filetransfer.tempe.gov/message/CKOCQ0ymiaPCG5I5FfRGP>

This email or download link can not be forwarded to anyone else.

The attachments are available until: **Thursday, 25 May.**

Message ID: CKOCQ0ym

LiquidFiles Appilance: <https://filetransfer.tempe.gov>



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526 Operational Status: EARLY CASE CLOSURE

Related Report Image(s)

Type: AZ Ticket/Complaint (Citation)

Description: RYAN WINKLE

<b>Arizona Traffic Ticket and Complaint</b>		City of Tempe Maricopa County State of Arizona	
Complaint Number <b>1672124</b>	Case Number	Endorsements <b>AZ D M H N P T X D</b>	Accident Report Number <b>17-53526</b>
Defendant Name (First, Middle, Last) <b>RYAN DAVID WINKLE</b>		Juvenile	
Business Address, City, State, Zip Code <b>1400 185 GRU BRO WI A-CORRE LENS</b>		Business Phone No.	
Vehicle Color <b>GRY</b>	Year <b>04</b>	Make <b>BMW</b>	Model <b>325I</b>
State <b>AZ</b>		Expiration Date <b>7/17</b>	Function Number <b>4PTA3222</b>
On Month <b>5</b>	Day <b>7</b>	Year <b>17</b>	Time <b>12:44 PM</b>
Location <b>101 E BASELINE RD</b>		Speed <b>45</b>	Posted <b>45</b>
State of Arizona <b>5</b>		Area <b>2002</b>	Dist.
The Defendant Committed the Following:			
<b>A</b>	Section <b>28-1381 A1</b>	Violation <b>DUI</b>	Sanction
<b>B</b>	Section <b>28-1381 A2</b>	Violation <b>DUI, BAC .08+</b>	Sanction
<b>C</b>	Section	Violation	Sanction
<b>D</b>	Section	Violation	Sanction
<b>E</b>	Section	Violation	Sanction
You must appear on the date and time indicated at: Tempe Municipal Court 140 E. 6th Street Tempe, AZ 85281 Court No. 0753 <input type="checkbox"/> Traffic Court Suite 150, 1st Floor Date: _____ Time: Between 9AM & 4PM <input checked="" type="checkbox"/> Criminal Court Suite 200, 2nd Floor Date: <b>May 17, 2017</b> Time: <b>8:30</b> AM <input type="checkbox"/> PM <input type="checkbox"/> Court: _____ Date: _____ Time: _____ AM <input type="checkbox"/> PM Court No. _____ Court Address, City, State Zip Code			
Criminal: <input checked="" type="checkbox"/> Without admitting guilt, I promise to appear as directed hereon. Civil: <input type="checkbox"/> Without admitting responsibility, I acknowledge receipt of this complaint.		Victim? <input type="checkbox"/> Victim Notified? <input type="checkbox"/> I certify that upon reasonable grounds I believe the defendant committed the act described contrary to law and I have served a copy of this complaint upon the defendant. <b>JENSEN</b> <b>20069</b> Constable PGT	
Comments: Juvenile Notification: Failure to appear or comply as ordered will result in a suspension of your driver's license/driving privileges until you comply or reach your 18th birthday Initials _____ Date issued if not violation date _____			

BLOOD

COMPLAINT





# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE

Related Report Image(s)

Type: Lab/Forensic Results

Description: DPS SCIENTIFIC EXAMINATION REPORT - BLOOD



### ARIZONA DEPARTMENT OF PUBLIC SAFETY

#### SCIENTIFIC EXAMINATION REPORT

DR NO. 2017708843

Page 1 of 1

AGENCY            Tempe Police Department  
                      Tempe, AZ 85281  
AGENCY NO.      2017053526  
OFFICER          JENSEN, #22269  
DATE              May 18, 2017  
NAME(S)         WINKLE, RYAN D.



**EXAMINATION REQUESTED**

Alcohol Analysis

**ITEMS**

TE296506-1.A.    Blood Specimen

**RESULTS / INTERPRETATIONS**

TE296506-1.A.    Analysis of the specimen showed it to contain 0.220 ± 0.011 grams of ethanol per 100 mL of blood.

If further testing for drug toxicology is required, please contact the laboratory. Resubmission of the blood evidence may be necessary.

*Herlinda M Graham*

HERLINDA GRAHAM, #6822, Forensic Scientist  
Central Regional Crime Laboratory  
2102 W. Encanto Blvd., Phoenix, AZ 85009  
602-223-2309

For quantitative values, the uncertainty of the concentration is given at a level of confidence greater than 99.73%.

*Laboratory System Accredited by the ASCLD/LAB - International (ISO)*  
*Any notes, photographs, charts, or graphs generated during the examination are retained in the laboratory.*



# TEMPE POLICE DEPARTMENT

## General Offense Report

GO# TE 2017-53526

Operational Status: EARLY CASE CLOSURE

Related Property Report(s)

Property Report #296506

Property Case Status: EVIDENCE/SEIZED

Related items: 1

Submitted on: May-07-2017 (Sun.)

Submitted by: 22269 - JENSEN, ERIC

**Related Item(s):**

**Articles**

ITEM: BLOOD KIT  
SERIAL #: UNKNOWN  
VALUE #: \$0.00  
RECOVERED VALUE: \$0.00

# EXHIBIT 4





## **EXHIBIT 4** **BWC 2017 53526**

**37:59**

Officer – how are you guys doing?

Mr. Winkle – yes sir, how are you?

Officer – where are you heading today bud?

Mr. Winkle – to our house

Officer – okay, where are you coming from?

Mr. Winkle – from right down the street, here

Officer – okay, do you have a license with you sir?

Mr. Winkle – yes, I do

Officer – any weapons in the car?

Mr. Winkle – no I do not

Officer – okay (whisper and says: purple 31, is there an available 'motive for tonight). Do you guys know where you were coming from, or why?

Mr. Winkle – yes, we actually started arguing on the way here so, we actually went to her house, we're arguing, sorry were, we got into a big fight and we're going to make up also.

Officer – okay, how much have you had to drink to drink tonight bud?

Mr. Winkle – nothing, nothing at all

Officer – nothing at all?

Mr. Winkle – no

Officer – okay. Were you guys at a party or at a club, where were you at, before here?

Mr. Winkle – no we actually went to a hotel, were coming back to our house, so we are going to our house right now.

Officer – okay and is this your car?

Mr. Winkle – yes

Officer – alright and what is your name ma'am?

Wife – (don't hear anything)

Officer – how are you doing, do you have an ID also? Do you have a license or just a passport?

Wife – umm, let me get my purse, I have my license

Officer – okay, what about you bud, what's your name, Ryan?

Mr. Winkle – Ryan, yay,

Officer – you have a license, let me get that guy right there, yay. Hold onto your passport, I'll hold onto your license, okay?

Officer – ahh do me a favor Ryan step out for a minute

Mr. Winkle – yes sir

Officer – you said there is no weapons in the car or anything crazy like that

Mr. Winkle – no there's nothing like that

Officer – so a couple of reasons I stopped you alright, back there at the light on Kyrene you almost missed that red light and there was somebody crossing, okay

Mr. Winkle – yes sir, we were yelling at, it's crazy so like you know how yell, couples yell at each other  
officer, sorry  
Officer – okay  
Wife – here it is  
Officer – alright, thank you  
Mr. Winkle – it's true, I'm so sorry  
Officer – and then as you continued coming this way you were kinda like swerving in your lane a little bit  
Mr. Winkle – okay, sorry we got into a fight so, sorry  
Officer – okay, alright do me a favor Ryan and ahh sit over here on the curb okay  
Mr. Winkle – yes sir, I will  
Officer – just have a seat over here  
Mr. Winkle – can I stand, I just feel like I  
Officer – what's your name ma'am  
Ericka – Ericka, yay and  
Officer – Ericka  
Officer – you have to do me a favor and sit down for me okay  
Mr. Winkle – can I stand?  
Officer – I rather you sit down, alright cuz  
Ericka – okay, I, we are so sorry were like coming from like the City Council kinda shit, like sorry, like he's (laughs??) City Council of Mesa and  
Officer – okay, where are you guys coming from right now?  
Ericka – We Hispanic Chamber of Commerce  
Officer – oh  
Ericka – and  
Officer – okay, where's that at?  
Ericka – at the (inaudible) right here  
Officer – okay, over on the Baseline and right across from Fry's Electronics here  
Ericka – yay, so he's the City Council of Mesa and, ahhhhh, and I'm sorry like he, we, neither one of us should be driving  
Officer – yay, are your guys married?  
Ericka – yay, so  
Officer – so, may probably not a good idea, or to be driving  
Ericka – no, so we can leave the car if we can just  
Officer – let me check the license and all that good stuff and I gotta over documents, okay  
Ericka – yay  
Officer – can you do me a favor and just sit over here, or actually you can sit in the car that is fine if you'd like  
Ericka – and so you know, Ryan is like, (laugh) this may sound drunk, but he's been fighting for like the, ummm for the, for the fighter, Fire and, and, and, and  
Officer – oh okay, okay, over in Mesa and stuff  
Ericka – yay, no, no, not just for Mesa but for in general for you guys to get your pension and anyway like we are both like, we were like both like hey why don't we like go sit like somewhere so we can just like get a car somewhere and we were actually somewhere, looking for somewhere to sit down and honestly thank you for pulling us over but umm, please  
Officer – lets ahh, no problem, ahhh like I, but I don't know if you heard what I was telling him, but the reason I stopped you guys is because he almost missed a red light back there  
Ericka – yay  
Officer – there was like 3 people crossing, that they jumped back into the sidewalk  
Ericka – hablas español?  
Officer – Si

Ericka – ay por favor, no por favor, venimos del Hispanic Chamber of Commerce y podemos dejar el carro aqui y nos podemos ir.

Officer – Dejame ver este como tengo que verlo para chequiar las licenses okay

Ericka – pero gracias, oh sea podemos dejar aqui el carro y nos vemos

Officer – no mas hazme el favor y sientete por ahorita and I will see you in a few minutes okay

Officer – 4231 (inaudible) who's the motorist coming over, 522(inaudible), hey ya

Silence from 6:23 through 8:12

Officer – 2078 (inaudible)

Silence from 8:39 through 11:20

Officer 2 – I'm Officer Jensen, I just got here to help out this other officer, has he explained to you why he stopped you and all that good stuff.

Officer – hey Ericka, come over here with me

Officer – alright are you still living out there, mic went out, let me get your information here. How far is that from here?

Ericka – mmmm

Officer – or what, mic went out, okay, what is, mic went out

Ericka – listen, I know it's not but it won't be cool for like the only democrat guy in Mesa to get like screwed and to be

Officer – stop, we just got to the motions

Ericka – I know, like, like I mean Coby and everyone supports Ryan

Officer – Okay

Ericka – so, I mean you guys know how hard it is to like get any kind of like democrats in Mesa, you know what I mean. And, I am so sorry it was totally my fault because he was like screaming at me and I'm like hey why don't you drive

Officer – okay, were you having an argument while you were driving or something

Ericka – we were driving because he was behind, yes I, we did have argument, but I should have been driving because he was obviously intoxicated but

Officer – okay, well I wish you guys would had like had a cab or something or ahh, what do you call it an Uber or something, you know what I mean

Ericka – I know, I know, know, I'm so sorry I know and and we (laugh) ya but the thing is like (laughs) if Tempe screws Ryan he is like the only literally the only democrat in Mesa there, there gonna be able like screw him and not only that like, like right now he is fighting for like pension for like

Officer – I understand

Ericka - firefighters and the police in Mesa. Like he will never say anything because he doesn't think he should

Officer – okay, and yay no he didn't say anything to me at all

Ericka – Yay

Officer – so, I can give your license back

Ericka – I mean I don't think either one should be driving anyway so

Officer – no, I'll tell you right now that you probably would not have been good driving

Ericka - yay, so don't even give him, can we just like get in a car a go like

Officer – Once we get to a certain point, then you know we can't go back, you know what I mean, that's ahh once we start investigating something we can't retract from it because everything that we do, this umm, what's the word for it, every part of our investigation is accounted for, do you understand what I mean

Ericka – yay, (inaudible)

Officer – and that is why we have to keep, you know go through all of the parts because what would happen back then if, if he, I don't know if he saw those people crossing last minute or, or if he all of

sudden realized that the light was red or what but if it didn't you know and now you have 2 kids that got ran over

Ericka – I know, I know what you mean, I know what you mean (laugh)

Officer – so if you know getting a ticket or something would be the least of the worries

Ericka – I know can we just get a ticket

Officer – well that is likely what is going to happen, okay

Ericka – can we just get a ticket, like literally I'm telling Ryan, like baby can you just pull over so we can just like get an Uber and (laugh) then all of sudden you guys are following us, god, but anyway like the thing is like el unico Democrata in Mesa, just pull over give us a ticket now he has dirt for people to like, forever like follow him. But he is the only person that the Police and Fire, the Police actually the Police and Fire support because he is the only person that supports the unions that's all I have

Officer – okay, ya I do see that

Ericka – ya, because if it wasn't for Ryan supporting the unions like they were supposed to like get all, mmm I don't know there, I don't know I guess like people the unions get to like meet with the City

Officer – uhuh, ya it's like ahh they negotiate with the City

Ericka – right, so in Mesa ummm most of the councilmen except Ryan decided that it wasn't legal anymore

Officer – oh okay

Ericka – and they voted to take it off and Ryan wouldn't not take it off because he doesn't believe that the City should do that, you know

Officer – oh okay

Ericka – again

Officer – that's what they do they negotiate with the City on all that stuff, how are you doing boss. Do you have a way to get a ride for you?

Ericka – no, we can just get an Uber to us and go home

Officer – okay, was there any alcohol in the car at all

Ericka – no

Officer – I did not get to see in there, (looks in the car) alright, hang on here Ericka I need to talk to my boss real quick, okay (put on mute, from 19:02 through 19:33)

Ericka – councilmember of Mesa

Officer – hang on

Ericka – you take my husband he is councilman, it seems like he is arresting him

Officer – okay, I'll talk with..

Ericka - is that what you guys are doing? Literally arresting councilman, umm I mean I'm just asking

Officer – 431, can you show a 42 out here please and is Tom 400 available

Officer 2 – you don't have anything sharp right

Winkle – no, I have a pen in my pocket, but

Officer 2 – just a pen

Winkle – it's not sharp, well as sharp as it could be

Officer 2 – okay

Officer – 10-4, do you have a bag or do you need one

Officer 2 – I have a bag here

Officer – okay

Officer 2 – do you have phone wallet things like that we should bring for you

Winkle – phone in my pocket, wallet in the back left pocket

Officer 2 – is there anything important that we need to grab out of the car and keep with you

Winkle – not necessarily, I'm sure I won't miss it (inaudible)

Officer 2 – okay, thank you Ken

Winkle – Hey, it's quiet... mumbles something

Officer – 10-4 thank you

Officer 2 – did she say Tom 400 is available or no

Officer – no she said he was going to advise us as soon as he goes to (inaudible)

Officer 2 – okay, it's no big deal he just helps with a 926 that's all  
Officer – ya, alright I will get it started  
Officer 2 – okay  
Officer 2 – can you move your feet apart please  
Winkle – sure  
Officer 2 – thank you perfect  
Officer – purple 31  
Something falls to the ground, making a noise  
Officer – what is that  
Winkle – that is my pen, that pen is one of my  
Officer 2 – part of your pen, oh nope we got your pen, that was something else, a piece of trash, just checking. If I can have you go to the other side of the car we will have you sit in the back over there and I will try to get both of us out of here quickly because I know these cars are not very comfortable  
Winkle – no they are very comfortable actually  
Officer 2 – oh no mine has plastic seats  
Winkle – oh it does  
Officer 2 – it's not the best, no it's easier sometimes if you keep your back is facing the center  
Winkle – yes sir, thank you  
Officer 2 – alright I gotta buckle you in quick  
Winkle – yup  
Officer 2 – and it might help if you are sitting a little sideways the way you are  
Winkle – this way  
Officer 2 – ya  
Winkle – I'm a tall guy, tall guy right  
Officer 2 – I just wish I had a bigger car for ya, okay, alright I will be right back, thank you  
Officer 2 – alright, ahh I'm not (muted 22:52 through 23:07)  
Officer – okay Ericka do you have a phone in there or in your purse or what  
Ericka – yes in my car  
Officer – okay, so your husband is getting arrested for DUI, okay, he will be processed and then likely released maybe like a couple hours so you should have those, the car we have to tow it so if there is anything you need from there now is the time...  
Ericka – and don't say that you guys are going to leave me here because...  
Officer – oh no that's why I'm asking if we can get you a ride, cab, or an Uber or something  
Ericka – okay so I am, I just want to know that you're here, that you guys are literally towing and arresting the only councilperson that's supporting you guys and, and the union like seriously he's the only guy  
Officer – well, it is our job  
Ericka – that's fine, whatever, but he is the only guy that is like putting his ass on the fire for all of you guys  
Officer – you should understand then, that we are doing our job and if that's what he is fighting for then we are doing our jobs  
Ericka – that's fine, do your job, do your job, so when he does your job and returns his favor to support the tea partiers so that you guys do not get paid, gracious, because that bullshit and I understand like he shouldn't be doing drinking or, but when you guys come and ask him for shit you guys also have to understand that he will not vote for your (inaudible)  
Officer – I think she's got personal stuff in there  
Man – ya, ya hold on (inaudible)  
Ericka – umm (inaudible)  
Man – okay  
Man – you stick with her  
Officer – you need your purse and stuff from there  
Ericka – so why does he, why do you guys have to tow his, this car

Officer – as part of our process anytime

Ericka – no, no why

Officer – anytime you get arrested for DUI the car gets towed

Ericka – but he doesn't own this car

Officer – any car that you are driving when you're driving

Ericka – it's my car

Officer – we still have to tow it

Ericka – so why does he

Officer – if he is driving it, so if you are driving a car and your intoxicated than we have to tow it, okay.

Officer – I got the 920 who coming, so I will get the paperwork done in a minute for you

Ericka – but why do you guys have to tow it

Officer 3 – is this your cell phone

Ericka – I don't understand why guys have to tow the car when it's not his car

Officer – it doesn't matter if it is his car or not if he is driving it while intoxicated the we have to tow it, okay

Ericka – so how do I get a hold of Ryan, how do I get a hold of him

Officer – once he is processed, then he will get place in a cab or someone can come pick him up that's sober, I will give those options. But he will get released after he's processed, alright

Ericka – I just don't understand this is my car, why would he like have anything to do with it

Officer – like I said if he's driving it, it gets towed, alright

Ericka – I am going to call my attorney now

Officer – alright, you can but we still have to go through the process, alright

Ericka – ya, so I am going to call my attorney now

Officer – I'm sorry I had someone talking, go ahead, 10-4 thank you

Ericka – (on phone) Ryan got arrested, ya (inaudible) and what's this street

Officer – Baseline

Ericka – (on phone) and baseline, okay, okay (inaudible) bye

Officer – you have a ride coming for you

Ericka – ya

Officer – okay

Ericka – but we are going to wait for Ryan (inaudible), can I talk to Ryan

Officer – umm not right now because, I think ah he's about to be done and go to take him to get processed

Ericka – but let me just

Officer 3 – do you have his cell phone by chance, did you put it in his property bag for him

Officer 4 – is this thing, is this thing on constable Hender (??) is coming, does she, is she able to to get a ride, call someone

Officer – she called her attorney, I think

Officer 4 – okay

Officer – who's supposed to be coming to meet them or something so

Ericka – (inaudible) so what I'm doing is that I'm going to ask him a question right now

Officer 3 – okay, I'm trying to process, I explained to her that uh

Ericka – so I can't ask him a question

Officer – no, ma'am

Officer 3 – I'm in the middle of processing

Officer – I can tell you that you have to get going okay

Ericka – so, no I mean he has a right to an attorney

Officer 3 – ya, he can call someone if he wants

Ericka – so okay

Officer 3 – and it would be easier if he had his cell phone with him

Ericka – right, so I actually just called our attorney he's on our way here so either you guys

Officer – we cannot delay the process

Officer 3 – he won't be here

Officer – we cannot delay this process

Ericka – so what kind of process can you rel...

Officer – take him alright

Officer 3– alright

Officer – we cannot delay that part okay so he's gonna go process him, alright umm now if you, if you delay it then you could be arrested

Ericka – well then can I just ask him a question

Officer 4 – do you have a ride where someone can pick you up

Ericka – ya, they are coming right now

Officer 4 – okay

Ericka – so you guys I am, I just called my attorney and they are coming here so I just want to ask Ryan a question because I also want to know, um the name of the guy the, so I need to know some questions from him, so can I talk to him?

Officer 4 – after when he is done processing you can talk with him, he will be released uh if he meets the criteria probably within the next hour and a half, okay. So, the best thing to do is when your ride gets here

Ericka – that's fine, that's fine (inaudible)

Officer 4 – I will be in my car if you need me

Officer – okay

Officer 4 – I think tom 400 is coming

Officer – ya

Officer 4 – to ah (inaudible)

Ericka – here you can take his phone

Officer – is that his phone

Ericka – ya

Officer – here is ah his phone

Officer 3 – okay, here, thanks

Officer – yup

Officer – do you know where your ride is coming from

Ericka – no they are coming right now, so let me look for my phone

Officer – let's see I didn't see any other phones sitting in there, is it in your purse maybe

Ericka – mmmm, maybe, I cannot find my phone

Officer – you can't find it anywhere in there

Ericka – no

Officer – let's see, want to call it to see if it rings

Ericka – sure

Muted 34:36 through 34:45

Officer – it's ringing, I hear it in here somewhere, I heard it ringing somewhere in there, it's somewhere in the car, maybe in that other bag that's in the front

Ericka – where is it

Officer – there is another bag up front here, maybe it's in there, that other bag down there. I could hear it ringing so

Ericka – now can you call it again

Officer – ya, I hear it, in the glove compartment maybe. What kind of phone is it Ericka

Ericka – ahh, here it is

Officer – you find it, okay

Officer 3 – did she find it

Officer – ya she found it

Officer – I had it started

Officer 5 – what is that

Officer – I started some of it

Officer 5 – where's Jensen

Officer – ah, he took off

Officer 5 – does he ah, does the owner have their car, does the owner or the person have their copy, is that the owner

Officer – the other half is here

Officer 5 – okay, okay you keep that, I don't need that

Officer – alright, cool

Gentleman – (inaudible) you can come and pick up the rest of the stuff in the morning

Officer – are you the ride for her

Gentleman – ya, I'll give that to her

Officer – If you want to wait a couple of minutes, you have to fill out a document

Gentleman – ya, ya no problem you guys do whatever, you tell me when then were ready

Officer 5 – are you the father or

Gentleman – just a friend, just a good friend ya. Hey your healthy, you okay, no wreck no nothing, you alright

Officer – just hang a minute we will get you a copy of the car, okay we are just going to get talked to

Gentleman – yay, yay, they are going to get you a copy of the report

Officer – so okay, so I will bring it over to your if you want head over there

Officer 5 – so if you want to walk over there

Gentleman – gotcha, okay

### **36:26**

Silence until :33

Officer Jensen: Hi, I'm Officer Jensen

Winkle: Yes

Officer Jensen: I just got here to help out this other officer, he already explained to you why he stopped you and all that good stuff

(Inaudible)

Officer Jensen: I am here to help out to make sure you are not driving under the influence or anything like that

Winkle: thank you

Officer Jensen: have you had any alcohol to drink tonight

Winkle: no sir

Officer Jensen: did you have any alcohol earlier today

Winkle: no sir

Officer Jensen: what about prescription medication or illegal drugs, anything like that

Winkle: no sir

Officer Jensen: are you sick with the flu or anything

Winkle: well, no

Officer Jensen: no

Winkle: no

Officer Jensen: okay, are you suffering from head injuries

Winkle: no sir

Officer Jensen: are you suffering from any physical disabilities

Winkle: no sir

Officer Jensen: do you have to see a doctor on regular basis for anything

Winkle: no sir

Officer Jensen: do you have diabetes

Winkle: no sir

Officer Jensen: do you have eye problems

Winkle: no sir

Officer Jensen: do you wear contacts

Winkle: no sir

Officer Jensen: alright, Mr. Winkle the first thing I would like to do is an eye test, okay

Winkle: sure

Officer Jensen: umm, I wanna to make all as easy as I can for ya, so how about we go up where it is flat, the ground is lit, cuz I'm gonna judge things like balance and stuff like that. So, lets make it easy and go up there

Winkle: okay

Officer Jensen: thanks. We will go up here where it is flat so watch your step and we will go right up in front of this door, thanks Mr. Winkle. You go ahead and face me with your feet together just like this, arms down at your sides like that and then don't move alright

Winkle: okay

Officer Jensen: I am going to turn on a light in front of your face

Winkle: okay

Officer Jensen: and when the light moves just follow the light with your eyes only, don't move your head but blinking is fine

Winkle: yes sir, yes sir, okay

Officer Jensen: understand

Winkle: yes

Officer Jensen: okay, so keep your eyes on the green light please. Can you still see the light

Winkle: yes sir

Officer Jensen: okay, umm, I can see that your eyes are not tracking with the light right now, are you looking at the light

Winkle: yes I am

Officer Jensen: okay. Okay lets try something else

Winkle: yes

Officer Jensen: where you walk just walk in a straight line

Winkle: okay

Officer Jensen: and um I'll demonstrate it for you and tell you exactly what you need to do

Winkle: okay

Officer Jensen: it's pretty simple

Winkle: yes sir

Officer Jensen: um, hmm I'm looking around for where we have the most amount of space, lets use this space right here

Winkle: okay

Officer Jensen: so, can you stand right over there and face me this way, perfect. Now please imagine that there is a straight line in front of you, all I need you do is put your left foot on that line, so go ahead and do that

Winkle: so, you saying imagine right

Officer Jensen: yup, so obviously I won't be very strict on the line

Winkle: so imagine, right

Officer Jensen: yup, and if you want to use the line between the bricks, you can do that

Winkle: so these are the bricks, right

Officer Jensen: so, if that makes it easier go ahead and call that your line. So, don't take any more steps lets have you actually step back there

Winkle: yes sir

Officer Jensen: because you will need a little more space, perfect. Just put your left foot on the line

Winkle: so imaginary

Officer Jensen: or if you want to use the line between the bricks

Winkle: so imaginary, use my bricks right

Officer Jensen: perfect, perfect

Officer Jensen: so left foot there then right foot in front of it, no more steps. You are going to stay just like this

Winkle: okay

Officer Jensen: so take a few steps back

Winkle: okay

Officer Jensen: you are going to need all this room right here, right foot in front of left

Winkle: you tried me twice

Officer Jensen: huh

Winkle: you tried me twice

Officer Jensen: I don't understand what you said, what

Winkle: you tried me twice

Officer Jensen: you tried me twice, what do you mean

Winkle: for moving forward right, so you said (inaudible)

Officer Jensen: no, I'm just trying to get you into the starting position, Mr. Winkle hold on

Winkle: okay, yes sir, okay, okay, okay, (inaudible)

Officer Jensen: I just want you to get into the starting position, you are not going to take any steps yet, okay. So just left foot on the line

Winkle: yes

Officer Jensen: and then right foot in front of it, heel to toe

Winkle: okay

Officer Jensen: with your arms at your sides

Winkle: okay

Officer Jensen: this is the starting position, so I need you to get into the starting position. So left foot on the line, right in front of it

Winkle: is this a line right here

Officer Jensen: yes

Winkle: so this brick, is the line right here

Officer Jensen: yes, see this line between the bricks

Winkle: yes sir

Officer Jensen: put your left foot there please. Put your right foot in front of it touching heel to toe

Winkle: okay

Officer Jensen: go ahead and do that, and don't do any more steps, keep your arms at your side, stay just like, no don't start yet

Winkle: okay

Officer Jensen: so put your foot back

Winkle: yes sir

Officer Jensen: there you go, stay just like that with your arms at your sides and don't move until I tell you to, do you understand

Winkle: yes sir

Officer Jensen: okay, well when I tell you to, you are going to take 9 heel to toe steps, down the line

Winkle: yes sir

Officer Jensen: turn around and take 9 heel to toe steps back

Winkle: okay

Officer Jensen: watch me because you are going to do it just like this

Winkle: okay

Officer Jensen: you are going to go (saying) 1, 2, 3 all the way to 9, pivot your 9<sup>th</sup> step just like that. Take small steps around with your other foot, turn around and take 9 steps back (saying) 1, 2, 3 all the way to 9. Now when you do this keep your eyes on your feet, keep your arms at your side, count your steps out loud and don't stop until you finish the whole test.

Winkle: can you count

Officer Jensen: you need to count your steps out loud

Winkle: okay

Officer Jensen: any other questions about the test

Winkle: nope

Officer Jensen: do you understand

Winkle: yes sir

Officer Jensen: okay you start whenever you're ready to

Winkle: (saying) 1,2,3,4,5,6,7,8; 9 does not exist

Officer Jensen: then lets not do 9 steps then

Winkle: okay, (says) 9

Officer Jensen: okay turn the way I showed you

Winkle: okay, (saying) 1,2,3,4,5,6,7,8; 9 exists here

Officer Jensen: okay just relax. Okay face me this way please. Umm put both your feet together, arms at your sides, stay just like that and don't move yet okay

Winkle: okay

Officer Jensen: when I tell you to, you're going to raise one of your feet up off the ground, left foot or right foot it doesn't matter.

Winkle: okay

Officer Jensen: you are going to raise your foot 6 inches above the ground, like this, with your legs straight and your arms down at your side. While you are doing this, watch the tip of your toes and count out loud like this, (saying) 1 thousand 1, 1 thousand 2, 1 thousand 3 and you just keep counting like that

Winkle: can you do it

Officer Jensen: until I tell you to stop. I don't understand, can I do the entire test

Winkle: ya

Officer Jensen: well I'm demonstrating the test for you

Winkle: ya, ya, okay I'll do it

Officer Jensen: do you want me to demonstrate one more time

Winkle: no I'll do it, I'll do it, sorry

Officer Jensen: okay, so when you're doing this your legs are straight, arms are at your sides, while your foot is 6 inches above the ground, watch your toes, count out loud 1 thousand 1, 1 thousand 2, 1 thousand 3 and you keep going until I tell you to stop, understand

Winkle: yes

Officer Jensen: you can start whenever you're ready to

Winkle: ready, 1 thousand 1, 1 thousand 2,

Officer Jensen: eyes on your toes

Winkle: 1 thousand 3, 1 thousand 4, 1 thousand 5, 1 thousand 6

Officer Jensen: keep going until I tell you to stop

Winkle: 1 thousand 7, 1 thousand 8, 1 thousand 9, 1 thousand 10, 1 thousand 11, 1 thousand 12...

Officer Jensen: eyes on your toes

Winkle: okay, (stopped)

Officer Jensen: nope almost done

Winkle: I did 6 just like you said

Officer Jensen: no I told you to keep counting until I tell you to stop

Winkle: you said 6, right

Officer Jensen: no, that's not correct

Winkle: okay, so try again

Officer Jensen: you want to try it one more time

Winkle: yes, please

Officer Jensen: okay, just let me get my clock over

Winkle: okay, ready

Officer Jensen: no, I got to reset my clock

Winkle: okay go ahead

Officer Jensen: okay begin whenever you're ready to

Winkle: ready  
Officer Jensen: yup  
Winkle: 1 thousand 1, 1thousand 2,  
Officer Jensen: eyes on your toes  
Winkle: 1 thousand 3, 1 thousand 4, 1 thousand 5, 1 thousand 6, 1 thousand 7, 1 thousand 7, 1  
thousand 8, 1 thousand 9, 10, 1 thousand 11, 1 thousand 12, 1 thousand 13, 1 thousand 14. (stopped)  
I mean how many do you want me to do  
Officer Jensen: just until I tell you to stop  
Winkle: that's a lot of time you said 6 right  
Officer Jensen: nope, put your hands behind behind your back your under arrest for driving under the  
influence. My intention is to process you quickly and if you meet our criteria we will release you after  
we process you  
Winkle: thank you sir  
Officer Jensen: so I will answer your questions as you go, you may have a few, I will do my best to  
answer them. Watch your step, perfect. We are going to go towards my car, it's that silver one to your  
right  
Winkle: alright  
Officer Jensen: can you call a 42 and see if tom 400 is available. Alright I need you to face this tire for  
me please, while I search your pockets for you  
Winkle: yes sir, will do  
Officer Jensen: thank you. You don't have anything sharp right  
Winkle: no, I have a pen in my pocket, but  
Officer Jensen: just a pen  
Winkle: it's not sharp, well as sharp as it could be  
Officer Jensen: okay  
Officer: 10-4, do you have a bag or do you need one  
Officer Jensen: I have a bag here  
Officer: okay  
Officer Jensen: do you have phone wallet things like that we should bring for you  
Winkle: phone in my pocket, wallet in the back left pocket  
Officer Jensen: is there anything important that we need to grab out of the car and keep with you  
Winkle: not necessarily, I'm sure I won't miss it (inaudible)  
Officer Jensen: okay, thank you Ken  
Winkle: Hey, it's quiet... mumbles something  
Officer: 10-4 thank you  
Officer Jensen: did she say Tom 400 is available or no  
Officer: no, she said he was going to advise us as soon as he goes to (inaudible)  
Officer Jensen: okay, it's no big deal he just helps with a 926 that's all  
Officer: ya, alright I will get it started  
Officer Jensen: okay  
Officer Jensen: can you move your feet apart please  
Winkle: sure  
Officer Jensen: thank you perfect  
Officer Jensen: (something fell) I don't think that was from you but lets make sure  
Officer: what is that  
Winkle: that is my pen, that pen is one of my  
Officer Jensen: of your pen, oh nope we got your pen, that was something else, a piece of trash, just  
checking. If I can have you go to the other side of the car we will have you sit in the back over there  
and I will try to get both of us out of here quickly because I know these cars are not very comfortable  
Winkle: no they are very comfortable actually  
Officer Jensen: oh no mine has plastic seats  
Winkle: oh it does

Officer Jensen: it's not the best, no it's easier sometimes if you go butt first, keep your back is facing the center

Winkle: yes sir, thank you

Officer Jensen: alright I gotta buckle you in quick

Winkle: okay

Officer Jensen: and it might help if you are sitting a little sideways the way you are

Winkle: this way

Officer Jensen: ya, just cuz you kinda have long legs

Winkle: I'm a tall guy, tall guy right

Officer Jensen: I just wish I had a bigger car for ya, okay, alright I will be right back

Winkle: thank you

Officer Jensen: thank you

Officer Jensen: I'll do that, have you explained the car situation to her at all

Officer: not yet

Officer Jensen: okay, do you want to explain that while I start on inventory

Officer: ya

Officer Jensen: cook, thank you

(12:17-13:55 quiet)

Officer 2: Officer Jensen, is this going to be towed

Officer Jensen: yes

Officer 2: okay

Officer Jensen: yes, ya, ya

Officer: she has her purse or something in there

Officer Jensen: ya, hold on your valuables are on the other side of the car

Ericka: Umm, I'm going to get my stuff right here

Officer Jensen: okay, you stick with her, thanks

(14:14-14:54)

Officer Jensen: here is another cell phone

Ericka: I don't understand why guys have to tow the car when it's not his car

Officer: it doesn't matter if it is his car or not if he is driving it while intoxicated the we have to tow it, okay

(15:04-15:41)

Officer Jensen: hey I'm going to put this on your dash, going muting

(16:02-17:52 quiet)

Ericka: umm, his cell phone and my cell phone, it's together

Officer Jensen: okay, would you like him to have a cell phone so he call you when he is done processing

Ericka: no what I'm going to do is ask him a question right now

Officer Jensen: okay, I'm trying to process

Ericka: so I can't ask him a question

Officer Jensen: no, I'm in the middle of processing

Officer: we have to get going okay

Ericka: so no, I mean he has a right to an attorney

Officer Jensen: ya, he can call someone if he wants

Ericka: okay

Officer Jensen: and it would be easier if he has his cell phone with him

Ericka: right, so I actually just called our attorney, he's on our way here, so either you guys

Officer Jensen: we won't be here

Officer: we cannot delay this process

Ericka: what kind of process can you...

Officer Jensen: okay, (inaudible), alright

(18:33-18:45 quiet)

Officer Jensen: sir do you need your cell phone, do you want her to give you your cell phone, so you can have it with you  
Winkle: my phone is in my pocket  
Officer Jensen: it's still in your pocket cuz I couldn't find it, is it a black phone, she says she has it,  
Winkle: its right ...  
Officer Jensen: no I think she's holding it  
Winkle: if she actually has it, then it's fine  
Officer Jensen: do you want her to keep it  
Winkle: ya, please  
Officer Jensen: okay, alright  
Officer Jensen: Mr. Winkle  
Winkle: yes, sir  
Officer Jensen: will you do a preliminary breath test, gives me an idea how much alcohol is in your body  
Winkle: I do not want to do that sir  
Officer Jensen: you don't want to do it  
Winkle: no  
Officer Jensen: okay, no problem. We will skip that for now. We are just going up to our processing van, which is on McKellips  
Winkle: yes sir  
Officer Jensen: between Scottsdale Road  
Officer Jensen: I just thought you were trying to talk to me  
Officer 2: no, I am going to go  
Officer Jensen: okay, cool  
Officer 2: (in audible)  
Officer Jensen: oh okay, here thanks  
Officer Jensen: it's on McKellips between Scottsdale and the 101  
Winkle: alright  
Officer Jensen: so we should be able to get up there before too long  
Winkle: how's your night so far  
Officer Jensen: what's that  
Winkle: how's your night so far before this  
Officer Jensen: actually, you know it's not so bad, you think for a Saturday it would be pretty busy  
Winkle: right  
Officer Jensen: it really hasn't been that bad though  
Winkle: ya it's really terrible this is life right  
Officer Jensen: ya I wish the night was going better for you I guess  
Winkle: ya, me too, I do to, but that's how life works I guess  
Officer Jensen: hey as soon as we get up there, did you need some time to make any phone calls  
Winkle: I would like to if I can  
Officer Jensen: you got it, we'll, that's the first thing we will do when we get there  
Winkle: thank you  
Officer Jensen: yup  
(21:03-35:06 quiet)  
Officer Jensen: all right sir, let me unbuckle you  
Winkle: thank you  
Officer Jensen: hold on, there you go. Step on out let me know if you need a hand  
Winkle: yes sir  
Officer Jensen: alright, you are going to follow my partner that way. And uh before we come up here I am going to take your handcuffs off of ya. Let go of your wrist please. Hold still until I get your other one off. You just have to step up there

Officer Jensen: these land lines still not working. Okay, there's a phone book behind you if you need it, you can use your cell phone, this land line isn't working right now, if you have problems with your cell phone let us know, okay

Winkle: use it

Officer Jensen: yup, go for it we will back in a little bit.

Officer Jensen: sorry about that

### 9:51

(0:00-:30 muted)

(:31-1:16 silent)

Officer 2: oh good

(1:18-2:24 quiet)

Officer 2: going on mute

(2:24-2:55 muted)

Officer 2: what do you mean

Ericka: my husband is a councilman and it seems like he's arresting him

Officer 2: okay, I'll talk, I'll...

Ericka: is that what you guys are doing

Officer 2: I will go and talk with the officer

Ericka: literally arresting councilman, okay. I, I mean I'm just asking

Officer 2: after, it appears I'm going to talk to the officer in a minute, okay

Ericka: okay

Officer 2: and then we will let you know what's going on, okay

(3:19-3:50 quiet) phone rings

Ericka: I mean is it like

Officer 2: hey can I call you back, alright

Ericka: I mean is that the best thing you guys can do, like arrest a council that likes supporting the police and fire

Officer 2: what do you mean

Ericka: what I mean is like Ryan is the only Mesa person that supports the union, and I believe I also know that he shouldn't have been driving if we were drinking but are you guys going to arrest him

Officer 2: I am going to talk with the officer, that's talking with him

Ericka: ya

Officer 2: it appears that he's arrested for DUI

Ericka: right, well

Officer 2: okay but I will find out

Ericka: maybe we need to talk about that because he is the only person that supports you guys

Officer 2: okay

Ericka: on council

(4:39-7:00 quiet)

Ericka: I just want to know that you're here

Officer 2: umhm

Ericka: you guys are literally towing and arresting the only councilperson that's supporting you guys and and the union like seriously he's the only guy

Officer: it is our job

Ericka – that's fine, whatever, but he is the only guy that is like putting his ass on the fire for all of you guys

Officer – you should understand then, that we are doing our job and if that's what he is fighting for then we are doing our jobs

Ericka – that’s fine, do your job, do your job, so when he does your job and returns his favor to support the tea partiers so that you guys do not get paid, gracious, because that bullshit and I understand like he shouldn’t be doing drinking or, but when you guys come and ask him for shit...

Officer 2: hey Jensen is ahh, is it, is it going to be towed, or no

Officer Jensen: yes, ya, ya

Officer 2: it is, okay

(8:05- end) observed, comments between Officer & Ericka were already noted under 37:59)

Officer 2: okay, I’m going off camera

### **3:01**

(0:00-:30 muted)

Officer 3: is thing on, Tom 400 is coming, does she, does she, is she able to get a ride, call someone

Officer: she called her attorney I think

Officer 3: okay

Officer: there supposed to be coming to meet them or something

Officer 3: okay

Officer: so

(:55-1:50) observed, comments between Officer Jensen, Officer & Ericka were already noted under 36:26

Officer 3: hey ma’am, do you have a ride where someone can pick you up

Ericka: ya, there coming right now

Officer 3: okay

Ericka: so you guys, I just called my attorney and they are coming here so I just want to ask Ryan a question because I also want to know, um the name of the guy the, so I need to know some questions from him, so can I talk to him?

Officer 3: after when he is done processing you can talk with him, he will be released uh if he meets the criteria probably within the next hour and a half, okay. So, the best thing to do is when your ride gets here

Ericka: that’s fine, that’s fine (inaudible)

Officer 3: I will be in my car if you need me

Officer: okay

Officer 3: I think tom 400 is coming

Officer: ya

Officer 3: to ah relieve you, so

Officer Jensen: I just thought you were trying to talk to me

Officer 3: no, I’m gonna go ahh

Officer Jensen: okay

Officer 3: thanks man

Officer Jensen: yup

Officer 3: going off

### **3:48**

(0:00-:30 muted)

Guy: my friend, he had a few to many drinks

Officer 4: he did, he did

Guy: ya, I could tell, he’s ah

Officer 4: is this his wife

Guy: yes, this is his wife

Officer 4: okay, so pretty much ahh

Guy: I think I can take her home

Officer 4: that's what, we need her to get a ride home  
Guy: that's it, no problem  
Officer 4: I appreciate you coming out  
Guy: ya, no, no I appreciate you guys letting her call us and everything  
Officer 4: ya  
Guy: (inaudible)  
Guy: you guys okay, everything is good  
Ericka: well Ryan  
Guy: other than, well other than Ryan  
Officer: I hear it ringing somewhere in there  
Guy: as long as you guys are healthy and okay, that's okay you know what I mean, the rest is  
Guy: we had a Chamber black and white ball  
Officer 4: oohh  
Guy: and I was kinda the designated (1:17 muted? -1:19) so we are here to pick up my son, so it looks like I will be driving a lot of people home, laughs  
Officer 4: ya  
Guy: well ya, those things happen, I didn't know, I thought he was going to stay over there at the (inaudible) Arizona Grand  
Officer 4: ya, so here is what is going to happen  
Guy: he will spend the night  
Officer 4: no, he won't, so keep your phone on  
Guy: okay  
Officer 4: he's going to be processed it takes about an hour and a half  
Guy: okay, we will go down there  
Officer 4: well actually he should be at the DUI van which is at Scottsdale  
Guy: oh, okay  
Officer 4: so just find out, talk to the officer, but he will you a call or give  
Guy: Ericka  
Officer 4: Ericka a ride, or a call  
Guy: okay, then we will pick up over there  
Officer 4: 1256  
Guy: okay  
Officer 4: 10-4, I'm at another call but give me a couple minutes  
Guy: did she find it  
Officer: yes  
Guy: good, good  
Officer: I had it started  
Guy: is this where we can (inaudible)  
Officer 4: you know what, um, hey ma'am, ma'am  
Ericka: ya, I don't have a key  
Officer 4: okay, okay cuz  
Ericka: you guys have the key  
Officer 4: alright  
(2:40-3:01 quiet)  
Guy: do you need the baby  
Ericka: I need  
Guy: we will come and pick up the other stuff in the morning  
Officer: are you the ride for her  
Guy: ya  
Officer: if you want to wait a couple of minutes (inaudible)  
Guy: ya, ya no problem you guys do whatever, you tell me when then were ready  
Officer 4: are you the father or

Guy: just a friend, just a good friend ya. Hey your healthy, you okay, no wreck no nothing, you alright  
Officer: just hang a minute we will get you a copy of the car, okay we are just going to get talked to  
Guy: yay, yay, they are going to get you a copy of the report  
Officer: so okay, so I will bring it over to your if you want head over there  
Officer 4: so if you want to walk over there  
Guy: gotcha, okay  
Officer 4: thank you  
Officer 4: we will lock it up  
Officer: we have a key  
Officer 4: I am going off too

### **3:00**

(0:00-:30 muted)  
Officer: alright,  
Guy: alright, here we go, she is in the back  
Officer: I will show this to you Ericka, this is ah tow sheet okay  
Ericka: mmhm  
Officer: has all the vehicle information here on top, and then this is the place that it is going to. It's called Apache Sands, this is the report number up here  
Ericka: okay  
Officer: so since it's in your name that you are able to go ah, claim the vehicle basically ahh  
Guy: she couldn't, ooh, you have to tow it  
Officer: yes, I have to tow it. Any time someone is arrested for DUI we have to tow the vehicle  
Ericka: it's okay (inaudible)  
Officer: so on the back of this guy here, there's a phone number for you to call. That's what you call and they will tell what you need to, to get the vehicle, okay.  
Guy: how long will it be, before it will be there, like can she go claim it, tonight, tomorrow morning  
Officer: tomorrow is Sunday so probably not until Monday.  
Guy: wow  
Officer: okay  
Ericka: lets go, why don't we just call  
Officer: because they have like ahh, banking hours basically that place, alright. So you need to call that number first, it goes to the City and then the City will tell the yard it is okay to release it, okay. Do you have any questions  
Guy: do you need to get anything out of the car, like baby stuff or the chair  
Ericka: no, no I'll call the City (inaudible)  
Guy: okay, we good I guess  
Officer: alright  
Guy: thank you  
Officer: have a better night, okay  
Guy: they'll, she'll like more than likely umm, Ryan or the Officers in Scottsdale with call her  
Officer: yes, the way it works we will give him an option to have a cab take him home or have somebody sober come pick him up  
Guy: gotcha  
Officer: so if he wants someone to pick him up, then he will be able to use his phone and call someone  
Guy: should we go over there just in case ahh,  
Officer: I would say just wait  
Ericka: when you say city do you me Tempe city  
Officer: yes, Tempe  
Guy: Tempe city, ya, that way if we are there, he doesn't necessarily have to call anybody, we could just take him home from there. He probably processed about an hour already

Officer: ya about an hour and a half, usually it depends on a couple of things but it is not a very long process

Guy: gotcha, ahh, the address where Ryan is

Officer: ahh, hang on a second real quick let me find out

Guy: okay, thanks

Officer: let me ask this guy real quick

Guy: I appreciate it,

Officer: if he knows, and I will tell you, okay

Guy: thanks

## **22:46**

(0:00-:30 muted)

Officer 5: Mr. Winkle why don't you grab your cell phone and follow me this way

Winkle: okay

Officer 5: alright, we will go over here, just step up go to your right

Winkle: alright

Officer 5: have a seat on that gray bench to your left there please, thank you. Do you write with your right hand

Winkle: yes sir

Officer 5: okay, perfect, the rules are I gotta put one of these on, but you're not going anywhere though. I want to make sure it doesn't go any tighter

Winkle: it's alright, it's alright

Officer 5: oh no, no I just gotta double lock it so it doesn't cinch tighter on ya

Winkle: okay, okay

Officer 5: perfect

Winkle: thank you

Officer 5: alright, I gotta read this to you, it is from the MVD

Winkle: okay

Officer 5: I'm reading it to you because you are under arrest for driving under the influence. The first part of this is a question for you, it says will you consent to a test

Winkle: no, no sir

Officer 5: or tests of your blood, breath, urine, or other body substance for determining your alcohol concentration or drug content

Winkle: no sir

Officer 5: is it no sir

Winkle: no sir, ya

Officer 5: your saying, I can't it's hard to hear you are yes or no

Winkle: no sir, ya

Officer 5: your saying no

Winkle: yes sir

Officer 5: okay, alright the next part of this says, if you do not expressly agree to testing, or do not successfully complete the tests your Arizona driving privileges will be suspended for 12 months or for two years if you had a prior implied consent refusal within the last 84 months, any questions about that

Winkle: no sir

Officer 5: alright, the next part says if the test results are not available or indicate an alcoholic concentration of .08 or above, .04 or above in commercial vehicle or indicate any drug defined in Arizona revised statute 13-3401 or its metabolite without a valid prescription then your Arizona driving privilege will be suspended for not less than 90 consecutive days. Do you have any questions about that part

Winkle: no sir

Officer 5: Alright, if your license would be suspended an alcohol or drug screening must be completed before your privilege may be re-instated. Will you, do you want to give your consent to test, will you consent

Winkle: actually, yes, I will consent

Officer 5: okay, we intend to do a blood test, will you consent to a blood test

Winkle: yes sir, can I go back and consent

Officer 5: ya, yup

Officer 5: did you already grab a kit or do you want me to grab one, nope, cool. Thank you ma'am

Winkle: I did consent, yes

Officer 5: you did

Winkle: alright, thank you

Officer 5: yep

Winkle: much better blood than breath

Officer 5: you prefer the blood is that what you're saying, better than breath

Lady: really, why

Officer 5: so he can put to work

Winkle: we are testing to see how good you are

Lady: oh me, (inaudible)

Officer 5: she proved herself a long ago she's pretty good

Lady: I say I would approved myself like 5,000 draws ago

Winkle: I am consenting right

Officer 5: ya, that's what I put on there for you, yup

Winkle: thank you, thank you very much

Lady: I take it back on my resume it said 34,000

Winkle: your good

Lady: thanks, time

Officer 5: 2:03

Winkle: (inaudible)

Lady: it takes some time, little bit of a touch

Winkle: (inaudible)

Lady: Ann Marie sent out an email telling everybody they are not supposed to clench their fist

Winkle: can I answer my phone

Lady: give me one second

Winkle: can I answer

Officer 5: you got a question, what

Winkle: can I answer

Officer 5: oh, is your phone ringing

Winkle: ya

Officer 5: oh, no you can't answer it right now, no

Winkle: my wife

Lady: awww

Officer 5: we need to put back into your property bag here

Winkle: thank you

Lady: no problem, I need one of those medical marijuana things

Officer 5: 2:03, do you mind securing your cell phone in your property bag, thank you sir. Perfect, we will keep this right here next to you. Alright, while you were using the phone I was able to finish just about all of your paperwork, so we will be out of here shortly.

Winkle: thank you

Officer 5: you got it. Umm you can follow along if you want, I have to read this to you. It says after completing the test of your blood you will be given a reasonable opportunity to arrange for any physician, registered nurse, or other qualified person of your own choosing to obtain an independent test or tests in addition to any administered by law enforcement officer. I want you sign down here,

saying that I understand I have the right to a reasonable opportunity to arrange for an independent test of my breath, blood, or other bodily substance. Any questions about that

Winkle: (inaudible) if I don't sign then what happens

Officer 5: what

Winkle: if I don't sign then what happens

Officer 5: if you don't sign it that's fine. What we, the reason we ask you sign it, is because it helps enforce the fact that I advised you of that right. You don't have to sign it though

Winkle: so if I do sign, I can still check another place, right

Officer 5: another test, ya

Winkle: ya, great I'll sign that then

Officer 5: okay, sign the line that says subject

Winkle: thank you

Officer 5: that's all I need you do, in addition to the date please, May 7. The bottom part is for in custody arrestees, I'm not reading that to you because you are not being booked into our custody, you're going to be released. Because, you are being released, I need you to promise to come to the Tempe Police Department to get fingerprints and photographs

Winkle: unfortunately I hate Tempe, I'm never coming here

Officer 5: laughs

Winkle: nah, I will ya your right, laughs, sorry

Officer 5: it's all right, these are instructions for doing that, I'm going to read it and give you a copy

Winkle: of course, thank you

Officer 5: yup. It says prior to your first court appearance you must report to the Tempe Police Department at 120 East Fifth Street in Tempe, in order to be fingerprinted and ah photographed. Fingerprinting days and hours are Mondays, Wednesdays, and Fridays

Winkle: okay

Officer 5: between 9:00am and 1:00pm after you are fingerprinted you must provide this form with the information completed by Law Enforcement below to the court at your next court appearance. So they'll, when you come in to do your fingerprints and photographs, they will fill out this bottom section and then you bring your copy into your first court appearance

Winkle: okay

Officer 5: failure to bring the completed form into the court may result in you being taken into custody until you are fingerprinted

Winkle: I'm already in custody, right, laughs

Officer 5: well what they mean is that if you show up and you don't have this

Winkle: oh, okay

Officer 5: they will have to bring you downstairs to the jail and do your fingerprints and photographs

Winkle: okay

Officer 5: and you probably don't want to go down there

Winkle: no, all right I'll do it

Officer 5: it would just be better to do it on your time

Winkle: your right

Officer 5: so, when you come in, you must bring a government issued photo id, any citation, and this form. So, I'll give you a citation and this form and that's what you will bring in with you, okay

Winkle: okay

Officer 5: that's my name, date, I need your name and date. This is not admitting to anything, you are just promising to get your fingerprints and photographs, okay. This line that says defendant

Winkle: can you move it over

Officer 5: oh, here you go

Winkle: it's a little bit easier, it's five...

Officer 5: it's five-seven, ya, date, date over here

Winkle: so you put your officer badge there

Officer 5: yup, my name and badge will be on all your paperwork

Winkle: okay, thank you

Officer 5: alright, thank you sir. When you come in there, they will compare one fingerprint from tonight when you come just to make sure you are the same person and you didn't send your twin brother to go in your place, okay

Winkle: I don't have a twin (inaudible)

Officer 5: alright, right index finger straight down on the black on circle, and then straight down and straight up in that box, perfect

Winkle: sorry

Officer 5: no that's good if you rub your fingers together, that stuff will disintegrate away. Mr. Winkle I also have to attach a photograph of you to this, this photograph does not get uploaded to the internet or anything like that, this is what I need to be able to release you tonight, okay

Winkle: okay

Officer 5: I just need you to look towards me

Winkle: I can take it smiling

Officer 5: you can do a smile, you can do whatever you need to do. Very good, that will be attached to this. What is next, your copy.

Gentleman voice: is he going to need a cab

Officer 5: say what

Gentleman voice: is he going to need a cab

Officer 5: There are some cabs lined up should we hold one for you, do you want to jump in one of them or do you just want to call someone when you're done.

Winkle: call an Uber probably, yay

Officer 5: okay, I think he's going to use an Uber

Winkle: (inaudible) I'm gonna get my phone back right now, right

Officer 5: yay, you will ya, yup

Winkle: thank you

Officer 5: so you can call someone if you need to, or use the Uber app

Winkle: (inaudible) I'm sorry it turned out like this, I made a bad decision, thank you for being here

Officer 5: absolutely

Winkle: I appreciate you

Officer 5: well I appreciate you being cooperative and saying that, this is from the MVD, I will read it to you and give you a copy. Arizona statute 28-1385, your Arizona driving privilege is suspended for not less than 90 consecutive days, effective 15 days from today

Winkle: so no driving until 90 days, until or what

Officer 5: so you can drive as much as you need for the next 15 days, but after 15 days than a 90 day suspension will begin

Winkle: okay

Officer 5: unless, you request a hearing and this copy I am going to give you will tell you how to do that.

Winkle: okay

Officer 5: should you request a hearing, that suspension will not begin after those 15 days, because the hearing, the purpose of the hearing is to find whether or not they should do the suspension, umm you can argue when the suspension should begin and things like that. If the judge, or the executive hearing judge does decide to do the suspension

Winkle: okay

Officer 5: you have options available to you for a restrictive driving permit too, that helps you get to and from work and things like that. Umm, there's a phone number on the back of this if you

Winkle: ya, ya

Officer 5: ya, if you can't figure it out based on the instructions on the back, give them a call they will guide you through it. Umm, now I will pick up where we left off, if a review of your driver record indicates you've completed alcohol or drug screening and are eligible for a 60 day restrictive driving permit, one will automatically be mailed to your address of record within 45 days from today, this order is final, unless a summary review or hearing is requested online or in writing and received within 15

days from today. The suspension is a result of tests which you submitted or because the test results were not available to me now, the suspension will not end until a reinstatement requirements are met including the completion of alcohol or drug screening

Winkle: okay

Officer 5: so, let me confirm that this is your address

Winkle: yes sir

Officer 5: alright, this has your information at the top, your physical description basically everything that goes on your license

Winkle: okay

Officer 5: okay, because this will be your license for the next 15 days

Winkle: right, right

Officer 5: you'll get two copies, the yellow one is your temporary driving permit

Winkle: alright

Officer 5: okay, it needs your signature to be valid, that's just saying you are Ryan okay

Winkle: right, so one second here, here

Officer 5: the licensee signature, bottom right

Winkle: here

Officer 5: perfect, yes, thanks. Mr. Winkle there are some standard questions right off a list that we ask, but I can't ask you questions like this until I read you the Miranda rights first

Winkle: okay

Officer 5: You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to a presence of an attorney to assist you prior to questioning and to be with you during questioning if you so desire.

Winkle: okay

Officer 5: If you cannot afford an attorney, you have the right to have an attorney appointed for you prior to questioning. Do you understand your rights?

Winkle: yes sir

Officer 5: will you voluntarily answer questions now

Winkle: yes sir

Officer 5: the first question on this form is, have you taken any medication or drugs in the last 24 hours.

Winkle: no sir

Officer 5: do you have any physical disabilities

Winkle: no sir

Officer 5: are you a diabetic

Winkle: (inaudible) sir (15:40)

Officer 5: when did you last eat, what time of day was that

Winkle: mmm, probably the morning of yesterday

Officer 5: so it's early Sunday morning now, your saying Saturday morning was about the last time you ate

Winkle: yes sir, yes sir

Officer 5: and what kind of food did you eat

Winkle: umm, protein shake

Officer 5: I'm sorry what was that

Winkle: protein shake

Officer 5: okay and then how many hours of sleep did you get last night

Winkle: probably three

Officer 5: did you take any naps after that

Winkle: no, I don't sleep very much

Officer 5: do you feel tired now

Winkle: yes sir

Officer 5: does the vehicle that you were driving have any mechanical defects

Winkle: well, we can argue that for a long time, but I think probably yes, but

Officer 5: not sure what they would be

Winkle: steering no, ya

Officer 5: so you said the steering is okay, but something else might be wrong

Winkle: (inaudible)

Officer 5: whispering (Tom, inaudible, I'm at the CP, I don't know if my entities is working right). Umm, how long were you driving before you were stopped

Winkle: I would say, five minutes

Officer 5: where were you coming from

Winkle: the ahh, Arizona (inaudible)

Officer 5: and where were you on your way to

Winkle: to our, ahh grandparents house, which is on (muted 17:37-17:42)

Officer 5: the next question is, where were you drinking alcohol

Winkle: not drinking alcohol

Officer 5: umm, there's a series of questions about drinking alcohol, are you saying you weren't drinking alcohol

Winkle: yes sir

Officer 5: on a scale of one to ten, one being sober and ten being completely intoxicated, how would you rate yourself at the time you were stopped

Winkle: so your saying one being sober

Officer 5: one is completely sober

Winkle: one

Officer 5: and how would you rate yourself now

Winkle: one

Officer 5: do you think alcohol or drugs impaired your ability to operate your vehicle safely

Winkle: umm one, is that no

Officer 5: ahh, ya, umm, ya, it's a yes or no question, do you think drugs or alcohol impaired your ability

Winkle: no

Officer 5: so no, you don't think so

Winkle: (inaudible)

Officer 5: and the last question is do you think you should have been driving your vehicle

Winkle: yes

Officer 5: alright, I don't have any more questions, all that is left is your citation. Mr. Winkle what is the telephone number (muted: 19:20-19:28) your info at the top, vehicle information, date, time, location.

This is a charge for driving while impaired at the slightest (inaudible), this is driving with the blood alcohol content above .08, now this charge could change or go away based on your blood test results

Winkle: is it tested or no

Officer 5: we will test it umm, and then in the next few weeks I will get the results

Winkle: so how can I admit to it, that (inaudible)

Officer 5: well we are not asking you to admit to it but, the reason you are being charged for this, is based on our observations tonight

Winkle: so, I do not agree to that

Officer 5: yup, you can absolutely disagree with this

Winkle: okay

Officer 5: but it is what we're charging you with tonight based on what we've seen

Winkle: okay

Officer 5: like I was saying it could change based on your test results, lets say your test results say your above one-five that's an additional charge, lets say is above two-O that's an additional charge

Winkle: okay

Officer 5: lets say it's below zero-eight, if it's below zero-eight then this charge would be eliminated

Winkle: okay

Officer 5: and you would be left with driving while impaired in the slightest degree

Winkle: okay

Officer 5: lets say there is ahh, prescription drugs, illicit drugs or something there could be a different charge for impairment caused by drugs

Winkle: okay

Officer 5: okay, so this, this your being charged with based on our observations of what we can see tonight, okay. You can disagree with it absolutely, umm and that is what court is for, but we can't change this tonight

Winkle: okay

Officer 5: make sense

Winkle: alright

Officer 5: okay, so umm, Tempe City Court is at 140 E 5<sup>th</sup> Street (muted 20:48-20:53), without admitting guilt, I promise to appear as directed herein, understand

Winkle: okay, I promise to appear

Officer 5: okay, excellent

Winkle: but I do not agree this

Officer 5: duly noted

Winkle: alright, so sign

Officer 5: yup by the X, is your promise to appear, thank you sir. So your copy of this I will put in your bag. The other copies of everything we went over is also in your bag here

Winkle: thank you

Officer 5: uhhuh, ahhh, the inventory of property here is bank card, id cards, key card, eye drops, pen, lip balm, and your DUI paperwork. You do not have any cash with you, just need you to sign for the release of your property just saying you received your property bag, by the X. Excellent, thank you. And if recall you don't need help calling for a ride, you're going to use your cell phone

Winkle: yes sir, thank you

Officer 5: alright, yup you got it. Let me get that off

Winkle: thanks for being very nice and also very cordial

Officer 5: oh, you got it, I try to be as nice as people will let me be, (laughs), usually people let me be pretty nice, which is good. Here is your bag

Winkle: thank you

Officer 5: is everything in there

Winkle: everything

Officer 5: umm, you can follow my partner out that way and I'll kinda show you where you are at, so you can get your bearings.

Winkle: alright, well actually I will go to that road and probably

Officer 5: yup, that's McKellips Road, so if you want to go to that road and call for a ride

Winkle: yes sir, thank you

Officer 5: have a safe night

# **EXHIBIT 5**

# Arrested Mesa councilman has previous extreme DUI conviction

Jessica Boehm, The Republic | [azcentral.com](http://azcentral.com) Published 4:19 p.m. MT May 8, 2017 | Updated 6:12 p.m. MT May 9, 2017

*The first-time City Council member spent a month in jail in 2009 after pleading guilty to an extreme DUI charge.*



*(Photo: Special for The Republic)*

Mesa Councilman Ryan Winkle, who was arrested on suspicion of driving under the influence early Sunday after a Tempe officer spotted a car swerving and abruptly braking on Baseline Road, had a previous extreme DUI conviction in 2008, court records show.

Just before 1 a.m., a police officer saw a car approaching a red light at Kyrene Road at a fast rate of speed, according to a police report.

Three pedestrians in the crosswalk jumped out of the way as he approached, "as it seemed the vehicle was not going to stop," the report said.

The driver brought the 2006 BMW to a stop just before entering the crosswalk, according to the report. When the light turned green, the car continued heading east on Baseline Road toward Mill Avenue, the report said.

The officer followed the car for about a quarter-mile and observed the driver swerving within his lane and nearly striking the curb several times, according to the report.

When the officer pulled over the car, Winkle denied he had been drinking.

In his report, the officer noted the smell of alcohol and described Winkle's speech as slurred and his eyes as red, watery and bloodshot.

Winkle's wife, Ericka Varela, was the only passenger in the car.

Varela said that they had just left an event near Baseline Road and Pointe Parkway and knew that neither one of them should have been driving because they were drinking, according to the report.

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"I told her something to the effect of calling for a cab ride or an Uber would have been a better idea and Ericka agreed," the officer wrote in the report.

A second officer administered three field sobriety tests to Winkle, during which he exhibited "poor performance," according to the report.

The officer handcuffed Winkle and arrested him. When asked to take a breath test, Winkle declined.

Officers impounded his vehicle and transported Winkle to the East Valley DUI Task Force Command Post in south Scottsdale, where he was cooperative and submitted to a blood test, according to Detective Lily Duran, Tempe police spokeswoman.

Results from the test were not yet available, she said.

Duran said Winkle was issued a criminal citation for driving under the influence and released pending his court date, "as is normal procedure when investigating DUIs."

## Extreme DUI conviction in 2008

Winkle spent a month in jail in 2009 after pleading guilty to an extreme DUI charge, according to Scottsdale court records.

According to a December 2008 police report, an officer observed Winkle drive recklessly and nearly cause a collision near Scottsdale and Indian School

## Mesa councilman arrested on suspicion of DUI roads.

Page

Winkle declined a breath test and a blood test until served with a search warrant, according to the report. The blood test revealed his blood alcohol level was 0.23 percent — nearly three times the legal limit.



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In an *Arizona Republic* candidate survey completed by Winkle last year, he acknowledged the previous DUI, stating, "learned my lesson and grew from the experience."

If convicted of the most recent DUI charge, Winkle could spend anywhere from three to four months in jail depending on the severity of the DUI. ([/story/news/local/arizona/2015/05/22/arizona-dui-laws/27781089/](http://story/news/local/arizona/2015/05/22/arizona-dui-laws/27781089/))

### 'I am cooperating fully'

Winkle, 38, is a first-time City Council member in Mesa's District 3. ([/story/news/local/mesa/2016/09/02/election-brings-new-leaders-mesa-chandler-and-gilbert-councils/89606562/](http://story/news/local/mesa/2016/09/02/election-brings-new-leaders-mesa-chandler-and-gilbert-councils/89606562/)) In addition to his council responsibilities, Winkle is a community economic development consultant, "dealing with underserved communities around the East Valley in the areas of housing options, workforce development, neighborhood revitalization, public outreach and transit-oriented development," according to the Mesa website.

In a statement to *The Republic* Monday Winkle said, "During a traffic stop early Sunday morning in Tempe, I was processed and cited for Driving Under the Influence. I understand that this is a very serious matter and I am cooperating fully with the Tempe Police Department in every way possible.

"Since this is an ongoing legal matter, I will not be making any further statements at this time."

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