

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: DUTY MANUAL REVISIONS:
VEHICLE SEIZURES**

DATE: August 10, 2022

APPROVED

Memo #2022-039

BACKGROUND

A review of the Duty Manual discovered revisions were necessary to bring it into alignment with best practices.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike through~~ form.

L 5210 SEIZURES OF VEHICLES:

Revised 08-10-22

Officers, and CSOs when noted in the sections below, may seize a vehicle when one of the following circumstances occurs:

WHEN SEIZED AS EVIDENCE: An officer may seize a vehicle when the officer has reasonable cause to believe that a vehicle is itself evidence of a crime (e.g., stolen), or contains evidence that cannot readily be removed at the scene (e.g., has irregularities in the engine/VIN number), or was the means to commit a crime.

Minor Traffic Offenses: A vehicle involved in a non-felony violation of the Vehicle Code, other than a "hit and run" violation under Vehicle Code Section 20002, shall not be seized as evidence merely because it was used to commit the violation.

WHEN DRIVER ARRESTED: When a person is arrested and taken into custody while driving in control of the vehicle and the vehicle is not stolen or otherwise evidence of a crime, does not contain evidence of a crime which can readily be removed at the scene, and is not the means used to commit a crime, officers have the following options available for the disposition of the vehicle, in order of preference:

1. Surrender the vehicle to the registered owner if the arrestee is not the registered owner.

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2. Surrender the vehicle to a licensed driver with the consent of the registered owner or, if the registered owner is not available, with the consent of the arrestee.
3. Lawfully and safely (securing the doors and windows) park the vehicle with the consent of the registered owner or, if the registered owner is not available, with the consent of the arrestee.
4. ~~Tow the vehicle shall advise the arrested person that the vehicle shall be towed to a secure facility for safe storage pursuant to Vehicle Code section 22651(h)(1) unless the officer receives direction from the arrestee to dispose of the vehicle in some other lawful manner (leaving it lawfully parked or surrendering the vehicle to another qualified person who can lawfully drive the vehicle).~~

If the arrestee is not the registered owner, officers should, if time and circumstances permit, make a reasonable attempt to contact the registered owner to determine the disposition of the vehicle.

If the arrestee is the registered owner or if the registered owner is unable to be reached, officers should determine the disposition based on the arrestee's preference. In any case, officers should, if time and circumstances permit, provide the above disposition options and abide by the selection of the registered owner or arrestee.

If the registered owner or arrestee refuses to leave the vehicle at the scene or refuses to cooperate in lawfully disposing of the vehicle to ensure its safety, the arresting officer ~~will~~ shall impound the vehicle.

WHEN IN VIOLATION OF CERTAIN PARKING OR TRAFFIC REGULATIONS: When a vehicle is in a violation of a traffic or parking regulation ordinance or law and, as a result, is causing a hazard or substantial interference with the safe flow of traffic, pedestrians or emergency vehicles, officers may then impound such a vehicle. However, officers may move the vehicle to a safe location in lieu of towing as long as such action does not endanger the officer, cause additional danger to others or require additional assistance than that which is immediately available.

WHEN ABANDONED: When an officer or CSO has reasonable cause to believe that a vehicle has been "obviously" abandoned on a public street or highway or on public or private property, or one that has been properly marked or determined to have been abandoned or stored on a city street in excess of 72 hours, such vehicle may be towed and stored at a police tow contractor's facility (Vehicle Code Sections 22523, 22524 and 22669). Vehicle Code Section 22524 creates a prima facie presumption that the last registered owner of the vehicle is responsible for the abandonment of the vehicle on a highway or on public or private property in a manner as provided in Section 22523 and is liable for the cost of removal and disposition of the vehicle. When a vehicle is abandoned on public or private property, the public or private property owner or person having legal control of the property is not responsible for removal. Please note that stolen vehicles very often shall also fit into the category of abandoned vehicles since stolen vehicles are frequently found abandoned on the street or on public or private property.

HAZARDOUS VEHICLES: Pursuant to Vehicle Code Section 22669(d), motor vehicles which are parked, resting or otherwise immobilized on a highway or public

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right-of-way and which lack an engine, transmission, wheels, tires, doors, windshield, or any other part or equipment necessary to operate safely on the highways are declared a hazard to public health, safety, and welfare and may be removed immediately upon discovery by a peace officer or other designated employee of the City.

AGREEMENT TO VOLUNTARILY REMOVE ABANDONED and/or STOLEN VEHICLES: When an officer or CSO determines that a vehicle has been “obviously” abandoned on a public street, highway, or public or private property, has been properly marked or determined to have been abandoned or stored on a city street in excess of 72 hours, or the vehicle has been stolen, the officer or CSO shall either a) personally attempt to contact the last registered owner of the vehicle and secure the owner’s agreement to voluntarily remove the vehicle or (b) the officer or CSO shall request that the Auto Desk or Communications attempt to contact the last registered owner and secure the owner’s agreement to voluntarily remove the vehicle. If unable to obtain voluntary removal of the vehicle by the last registered owner, an officer or CSO shall have the vehicle towed and stored by a police tow contractor. If contact is made with the registered owner, whenever circumstances allow, the officer shall wait at the scene for a reasonable period of time in order to allow the registered owner or a tow company contacted by the registered owner to arrive at the scene and remove the vehicle. If the registered owner is able to retrieve the vehicle in the field, no tow or storage fees shall be charged to the registered owner. If the officer, CSO, Auto Desk, or Communications is unsuccessful in contacting the registered owner, or the registered owner is unable to retrieve the vehicle in the field within a reasonable time after being contacted and the vehicle cannot be adequately secured and legally parked, the officer or CSO shall have the vehicle towed and stored at the tow contractor’s facility. The officer or CSO shall document the attempt to contact the registered owner (e.g., Form CHP 180 or CAD event).

If the stolen vehicle has to be towed by the police tow contractor, the Vehicle Records Unit shall be notified and shall attempt to contact the registered owner of the vehicle by telephone within 24 hours of the tow to provide the registered owner with the location and condition of the vehicle and other information the registered owner needs in order to recover the vehicle from the contractor. The Vehicle Records Unit shall also notify the registered owner by First Class Mail, within 48 hours of the tow (excluding weekends and holidays). If the vehicle was stolen, and the Vehicle Records Unit or the police tow contractor fails to attempt to make contact with the registered owner within 48 hours of the tow (excluding weekends and holidays), the Department, at the discretion of the tow hearing officer, shall pay the tow and storage fees up to the day that written notice is mailed to the registered owner or the registered owner receives telephonic or verbal notice.

UNLICENSED DRIVER OR SUSPENDED DRIVER’S LICENSE: *When an unlicensed driver or an individual with a suspended driver’s license is contacted while operating a vehicle, officers have the following options available for the disposition of the vehicle:*

1. *Surrender the vehicle to the registered owner if the driver is not the registered owner.*
2. *Surrender the vehicle to a licensed driver with the consent of the registered owner or, if the registered owner is not available, with the consent of the driver.*

3. Lawfully and safely (securing the doors and windows) park the vehicle with the consent of the registered owner or, if the registered owner is not available, with the consent of the driver.
4. Tow the vehicle to a secure facility for safe storage pursuant to Vehicle Code section 22651(p).

If the driver is not the registered owner, officers should, if time and circumstances permit, make a reasonable attempt to contact the registered owner to determine the disposition of the vehicle.

If the driver is the registered owner or if the registered owner is unable to be reached, officers should determine the disposition based on the driver's preference. In any case, officers should, if time and circumstances permit, provide the above disposition options and abide by the selection of the registered owner or driver.

If the registered owner or driver refuse to leave the vehicle at the scene or refuse to cooperate in lawfully disposing of the vehicle to ensure its safety, the citing or arresting officer shall impound the vehicle.

Once a vehicle is impounded, an inventory is conducted and the vehicle towed to an authorized storage facility in accordance with the Duty Manual Chapter L 5400 titled "Vehicles."

L 5403 PROCEDURES TO FOLLOW IN ORDER TO STORE/IMPOUND A VEHICLE:
Revised 08-10-22

- Determine that L 5402 applies to the vehicle in question.
- ~~Whenever possible, a reasonable attempt should be made to contact the vehicle owner and avoid taking the vehicle into custody, unless the situation by its nature requires an immediate removal of the vehicle~~ Determine whether the vehicle will be towed pursuant to Duty Manual section L 5210.
- If the vehicle is unattended and subject to tow or impound, officers should, if time and circumstances permit, make a reasonable attempt to contact the registered owner to determine the disposition of the vehicle.
- Notify Communications of the number and type of vehicles to be towed. Advise them of unusual circumstances such as flat or missing tires, exceptionally large vehicles or vehicles that might be damaged unless special equipment is dispatched.
- When removing the vehicle because of a law violation, cite the vehicle at the time of tow.
- Notify Vehicle Records Unit of tow.

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- Complete the Form CHP 180 prior to consigning the vehicle to the contract tow company. Submit the completed form as soon as practical but in no case later than the end of shift.
- Prepare an inventory of vehicle accessories and its accessible contents. Request the tow driver to verify the written inventory before acceptance.
- Verify the Vehicle Identification Number by comparing the actual numbers on the vehicle to the supporting documents to make sure the vehicle matches with the license plates on the vehicle.
- On recovered stolen vehicles, list the specific items taken from the vehicle in the narrative. Check the box on the inventory section showing the engine and transmission have been stripped only if one or both has been taken. Do not check this box if only engine parts have been stripped. Complete a narrative explaining the circumstances surrounding the recovery. Complete the inventory section even though the vehicle has been released to the vehicle owner in the field.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata
Chief of Police

AM:SD