

SAN DIEGO POLICE DEPARTMENT PROCEDURE

DATE: AUGUST 16, 2013

NUMBER: 3.03 - INVESTIGATIONS

SUBJECT: IMPOUNDING/RELEASING VEHICLES WITH EVIDENTIARY HOLD

RELATED POLICY: N/A

ORIGINATING DIVISION: TRAFFIC

NEW PROCEDURE:

PROCEDURAL CHANGE:

SUPERSEDES: DP 7.12 – 08/31/2010

I. PURPOSE

This Department procedure establishes guidelines and procedures for impounding and releasing vehicles with an evidentiary hold.

II. SCOPE

This procedure applies to all members of the Department.

III. BACKGROUND

The purpose of this procedure is to standardize procedures for impounding vehicles with an evidentiary hold, as well as to outline procedures for investigators to follow when removing evidence holds and releasing vehicles.

California Vehicle Code section 22655.5 states that a peace officer may remove a vehicle from a highway or public/private property under the following circumstances:

- A. There is probable cause to believe the vehicle was used as the means of committing a public offense;
- B. The vehicle is, itself, evidence which tends to show a crime has been committed; or,

C. The vehicle contains evidence that cannot be readily removed.

This section also maintains that, in any prosecution of the crime for which a vehicle was impounded pursuant to this section, the prosecutor may request, and the court may order, the perpetrator of the crime, if convicted, to pay the costs of towing and storage of the vehicle, and any administration charges imposed pursuant to section 22850.5 CVC.

IV. COST RECOVERY GUIDELINES

- A. California Vehicle Code section 22850.5 (a) allows a city, county, or a state agency to adopt a regulation, ordinance, or resolution establishing procedures for the release of properly impounded vehicles and for the imposition of charges equal to its administrative costs relating to the removal, impound, storage, or release of the vehicles. The local or state authorities may waive the administrative costs upon verification that the vehicle was reported stolen at the time the vehicle was removed.
- B. The impounding officer/detective responsible for the investigative follow-up will be required to make the following determination on all vehicles impounded with an "Evidence Hold":
 1. Victim vehicle - the vehicle was used in a crime and the case investigator has determined the registered owner was not involved or negligent in causing the impounding of the vehicle. The investigator will forward these findings to the Tow Administrator at Traffic Division for consideration in waiving the administrative costs.
 2. Suspect vehicle – the owner of the vehicle is the person responsible for the crime or, due to his/her negligence, caused the original impounding of the vehicle. The owner will be held responsible for administrative costs associated with the tow, storage for one day, and storage after the hold is removed. However, he/she will not be charged storage fees for the time the vehicle was the subject of an evidentiary hold.

V. IMPOUNDING PROCEDURES

California Vehicle Code section 22655.5 allows Department members to impound and store vehicles in order to retrieve evidence. The officer impounding a vehicle pursuant to CVC 22655.5 shall follow procedures that apply to the specific disposition for the vehicle:

- A. Vehicles Impounded at a Tow Company Facility

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1. Impounding officers shall forward a copy of the San Diego Regional Vehicle Report (ARJIS-11) to the appropriate investigative unit. Vehicles impounded at a contracted tow company facility become the responsibility of the case investigator. The investigator is responsible for processing and contacting the registered owner upon releasing the hold on the vehicle. The Tow Administrator must be notified by the investigator upon releasing the hold.
2. Impounding officers will enter the vehicle information into the Property Management System (FileOnQ).
3. The vehicle must be released within three working days, unless extenuating circumstances exist. The lieutenant of the investigating unit must approve exceptions to the three-day rule. Tow companies have been instructed to require the name and identification number of the case investigator and lieutenant who authorize a hold in excess of three days. A memorandum outlining the reason for the exception shall be sent to the Tow Administrator at Mail Station 732.

B. Vehicles Impounded at the Police Vehicle Impound Facility (located at Traffic Division, 9265 Aero Drive)

1. Impounding officers shall forward a copy of the San Diego Regional Vehicle Report (ARJIS-11) to the appropriate investigative unit and fax a copy to the Tow Administrator at (858) 495-7830 for the purposes of tracking inventory.
2. Impounding officers will enter the vehicle information into the Property Management System (FileOnQ).
3. All vehicles impounded at the Police Vehicle Impound Facility must have prior approval from the Watch Commander.
4. Vehicles involved in a crime requiring the processing of evidence by SDPD Laboratory personnel, such as homicides and other serious crimes/investigations, shall be placed in the enclosed garage at the Police Vehicle Impound Facility. All other vehicles impounded at this facility with "Evidence Holds" shall be parked in exterior Lot #2, unless otherwise instructed.
5. The impounding officer will not conduct an inventory of the vehicle being held as evidence. It shall be the responsibility of the assigned investigator to conduct the inventory and document the findings in the investigative follow-up report.

6. To gain access inside the enclosed garage to deliver an evidentiary tow or access the key to exterior Lots #1 and #2, the alarm must be deactivated via the Watch Commander.
7. Following entry and deactivation of alarms, the officer(s) will sign into the secure evidentiary building in the “Sign In/Out Log” on the desk in the northwest corner of the building. The officer(s) will fill out the date, time of entry and exit, and vehicle plate information pertaining to entry into the building. Additionally, if the officer(s) are impounding a vehicle into either the building or lots, the vehicle impound log will be completed identifying the information and evidence processing needed.
8. The impounding officer will place a Vehicle Impound Hold Card (PD-831-LA) in clear view on the dashboard of the impounded vehicle. The “Hold” forms shall list the following information:
 - a. Vehicle description;
 - b. Date of impound;
 - c. Impound location;
 - d. Name of victim or suspect;
 - e. Responsible investigative unit and/or detective;
 - f. Name and identification number of the impounding officer; and,
 - g. Reason for the impound
9. The impounding officer shall place an oil pan under the engine block of the impounded vehicle. The oil pans will be available inside the enclosed garage. Vehicles moved to Lot #1 or #2 also require oil pans.
10. Prior to leaving the facility, the impounding officer will return the impound lot key(s) to the enclosed impound facility/garage, and notify the Watch Commander. The Watch Commander, after confirming that the above steps have been followed, shall reset the alarm.
11. The impounding officer will provide a copy of the ARJIS-11 to the tow operator and ensure the tow operator places a receipt into the tow slip box mounted on the door.

C. Vehicles will not be impounded and stored at the substation parking lots without express permission from the Tow Administrator (during normal business hours) or the Watch Commander during after-hours, weekends, and holidays. Failure to

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adhere to this section may subject the Department and City to liability within established tow contracts.

VI. PROCESSING VEHICLES

- A. The assigned investigator and/or Laboratory personnel will process the impounded vehicle and release it within three working days, unless extenuating circumstances require an extension of the hold. If more time is required, the investigator shall obtain authorization from his/her lieutenant. Once the appropriate lieutenant, or designee, approves the extension, he/she shall prepare a memo to be sent to the Tow Administrator who maintains oversight and accountability for the impound lots. The Tow Administrator and his/her designee are responsible for tracking all vehicles stored at the Police Vehicle Impound Facility. These include the enclosed facility, as well as impound Lots #1, 2, and 3.

- B. After evidence processing is complete, the responsible investigator will coordinate the transfer of all vehicles from the enclosed impound facility with the Tow Administrator and make a determination regarding the disposition of the vehicle. Vehicles held pending court proceedings will be transferred to either Lot #1, 2, or 3. For other dispositions, see Section VII., Department Release/Removal of Evidence Holds on Vehicles for details.

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The Tow Administration Unit is responsible for updating the Impound Management system.

VII. DEPARTMENT RELEASE/REMOVAL OF EVIDENCE HOLDS ON VEHICLES

- A. Release/Removal of Vehicle Evidence Holds at Tow Company Facilities
 - 1. Once the investigator has determined that the evidence hold should be released, he/she will:
 - a. Initiate the administrative removal of the evidence hold by contacting the Tow Administrator at Traffic Division at (858) 573-5067 or (858) 495-7830, Monday – Friday, 0700-1700 hours or the Watch Commander’s Office on weekends and after regular business hours; and,
 - b. Contact the registered owner of the vehicle by telephone or in person to advise them that the vehicle will be released from evidentiary hold as of the date and time specified by the investigator, following direction from the Tow Administrator or Watch Commander. In the event that the investigator is unable to

locate the registered owner due to an incorrect phone number or address, the investigator will send a certified letter to the registered owner's last known address, notifying the owner of the release date and that the vehicle will begin to incur storage fees after the stated date.

The investigator will document the notification, or attempted notification, of the registered owner within the investigator's report.

2. Investigators shall NOT contact the tow yard to initiate the release of a vehicle on hold. Only the Tow Administrator and the Watch Commander have authorization to remove the hold in the tow system or authorize the payment of costs associated with the tow.
3. Case Investigators are responsible for notifying the vehicle owner, by phone or in person, of the removal of the evidence hold and informing the owner of his/her responsibility to pay fees accrued after the vehicle's release and possible administrative fees. All towing or storage fees associated with legally towed vehicles are the responsibility of the owner (See Cost Recovery Guidelines in Section IV. of this procedure for details). Owners who contest the charges should be referred to the Risk Management/City Claims Office at (619) 236-6670.
4. A tow company will not release a vehicle with expired registration unless the registered owner can show proof of current registration or, at the discretion of the impounding agency, upon the issuance of a notice to appear for the registration violation by the local agency which caused the vehicle to be stored, specifying the name and telephone number of that local agency.
5. If a vehicle has been impounded for investigative purposes and has unpaid parking citations, owners should be referred to the City Treasurer Department's Vehicle Release Section for payment of the citations and clearance of the registration.

B. Release/Removal of Vehicle Evidence Holds at the Police Vehicle Impound Facility

1. Investigators are responsible for monitoring the status of each vehicle and its related case. This also means contacting the registered owner, by phone or in person, and the Tow Administrator or Watch Commander (if after hours or on weekends) to have the evidence hold removed from the vehicle.

2. Upon completion of any forensic examination, the case investigator will determine any further need to retain the vehicle (i.e., request of District Attorney., etc.) If the vehicle is suitable for release, the investigator shall assess the required disposition for the vehicle using the Cost Recovery Guidelines described in Section IV. of this procedure.
3. The guidelines for determining dispositions for vehicle releases from the Police Vehicle Impound Facility are as follows:
 - a. Victim vehicle - if the vehicle was used in a crime and it has been determined the registered owner was not involved in the crime or negligent in causing the original tow, the investigator should release the vehicle to the registered owner at the Police Vehicle Impound Facility. The Tow Administration office must be notified of the release.
 - b. Suspect vehicle – when the owner of the vehicle is the person responsible for the crime under investigation or was negligent in causing the original tow, the investigator shall facilitate the transfer of the vehicle from the Police Vehicle Impound Facility to a contracted tow yard. A separate ARJIS-11 is required for this transfer. Request for a tow may be made via the CAD or Communications personnel. The owner will be responsible for the tow fees and any storage fees incurred after the evidentiary hold has been released. The Tow Administration office must be notified of this process.
4. The assigned investigator will contact the registered owner via a certified “Vehicle Release Notice” letter (located at F:\Templates\Investigative Reports) in order to make arrangements to remove the vehicle from the Police Vehicle Impound Facility.
5. Once the registered owner, or representative, contacts the investigator, arrangements should be made to meet at the impound lot.
6. The case investigator will notify the Tow Administrator to update the status of the vehicle in the Impound Management System.
7. If, after ten days of receipt of the certified letter, the registered owner or representative has not made any attempt to contact the investigator, the investigator should call the Tow Administrator who will make arrangements to have the vehicle towed to a contracted tow yard for lien sale processing. The investigator will complete a San Diego Regional Vehicle Report (ARJIS-11) and provide it to the Tow Administrator. The tow truck driver will be given a copy of the ARJIS-11 and the original will be forwarded to Records Division.