
	<b>SAN MARCOS POLICE DEPARTMENT</b>	
	<b>Policy</b> 7.16 Vehicle Impound and Inventory	
	<b>Effective Date:</b> May 9, 2019	<b>Replaces:</b> GO 211
	<b>Approved:</b>	
	 _____ <b>Chief of Police</b>	
<b>Reference:</b>		

**I. POLICY**

A motor vehicle is an important piece of personal property that must be properly managed and supervised if the police take it into custody. Because abandoned vehicles constitute a public nuisance and a hazard to traffic, members of our community view their removal as an essential police service. Vehicles involved in accidents or crimes may require towing and inventorying for evidentiary purposes. When towing is performed at an owner’s request, the owner will be given the option of specifying a towing company. The department will select a tow company in other cases. Officers will also specify a tow company if there is a traffic hazard and the tow company selected by an individual cannot arrive in a timely manner.

**II. PURPOSE**

The purpose of this policy is to establish procedures for towing and for keeping an inventory of vehicles.

**III. AUTHORITY TO TOW**

A. Accident

1. Any vehicle involved in an accident shall be removed to the shoulder of the road or some other place out of the way of traffic as soon as possible after officers have obtained necessary investigative information.
2. Vehicles shall be removed from the shoulder without unnecessary delay.
3. The only departmental vehicles that can be used to push cars are ones that are equipped with push bars.
4. If the procedure above is not possible and a traffic hazard results, the officer may order towing of the vehicle at the owner's expense.
5. Vehicles may be impounded if the vehicle is needed for purposes of the investigation following a vehicle crash. Such cases may but do not necessarily involve custody of the operator.
6. Following vehicle crashes, an officer may request impoundment under one or more of the following circumstances:
  - a. The operator is unwilling or unable to take charge of the vehicle.
  - b. The vehicle cannot be legally parked and sufficiently secured at the scene.
  - c. The vehicle cannot be safely driven from the scene.

- d. There is property in or attached to the vehicle that cannot be sufficiently secured at the scene or placed in the custody of a responsible third party.
- B. Emergency
- Any vehicle found illegally parked in the vicinity of a fire, a traffic accident or an area of emergency that creates a traffic hazard or interferes with the necessary work of police, fire, or other rescue workers may be towed on an officer's orders at the owner's expense. Vehicles being used by radio, T.V., and press are exempt unless they obstruct police, fire, or rescue operations, or create an unreasonable traffic hazard.
- C. Impeding/Danger to Traffic
- No vehicle shall be stopped in such a manner as to impede or render dangerous the use of the highway by others except in cases of mechanical breakdown or accident. If a disabled vehicle is not promptly removed and creates a traffic hazard, the officer may order the vehicle towed at the owner's expense.
- D. State/County/Municipal Vehicles
- Paragraphs A, B, and C above shall not apply to any vehicle owned or controlled by the state or a local unit of government while actually engaged in construction or highway maintenance.
- E. Blocking Driveway or Parking Area
- Any officer discovering or having report of any motor vehicle, or a trailer, or other vehicle blocking a driveway or parking area, or obstructing or interfering with the movement on any driveway or parking area without the landowner's permission may order the vehicle towed at the owner's expense.
- F. Unattended Traffic Hazard/Violation of Law
- Officers may call for the tow of any unattended motor vehicle found on a public street or grounds that constitutes a traffic hazard or is parked in such a manner as to be in violation of the law.
- G. Abandoned Vehicle
1. Any motor vehicle abandoned on public property is subject to towing at the owner's expense. Refer to ordinance section 34.195.
  2. A vehicle may be presumed to be abandoned if it lacks either a current license plate, a current county, city, or town tag or sticker, and has been left unattended on public property (other than an interstate or primary highway) for more than 48 hours and has been issued a red tag.
- H. Removal from Private Property
1. No removal shall be ordered from private property.
  2. Property or business owners may act immediately to have vehicles towed that are occupying a lot, area, space, building, or part thereof without permission of the owner. Non-consent private property tows are covered by ordinance.
- I. Evidence/Crime Involvement
1. Vehicles that are of evidentiary value or have been used in the commission of a crime may be towed at the request of the investigating officer. Impoundment of

stolen vehicles or those suspected of being stolen is appropriate under the following circumstances:

- a. The owner cannot be contacted.
- b. The owner is contacted and cannot or will not respond in a reasonable amount of time.
- c. Immediate removal is necessary for safety reasons or purposes of safekeeping.
- d. The vehicle or contents need to be processed for evidence.

Note: Towing of a vehicle that has been reported stolen is at the owner's expense.

Note: Officers should document reasonable efforts to contact owners by means readily available.

#### J. Prisoner's Vehicles

1. Vehicles belonging to arrested persons that are left at the scene of the arrest may be at substantial risk of theft or of damage to the vehicle or to personal property contained in the vehicle. It is, therefore, the policy of this department to tow all prisoner's vehicles to an impound lot at the owner's expense for protection of the vehicle except in the following situations:
  - a. A friend or relative of the prisoner is at the scene, and the arrestee wishes to release the vehicle to that person provided the person possesses a current driver's license, and the arrestee consents to the release either in writing or on the audio/video in-car or body worn recording system.
  - b. The arrestee agrees to lock and leave the vehicle in a legal parking space where a parking violation will not occur before arrangements can be made to recover the car.
2. The officer may have the vehicle towed if he or she believes the above methods of vehicle release would not properly protect the vehicle or its contents.
3. Officers should not unnecessarily impound motor vehicles for purposes of gathering evidence when such processing can be reasonably, effectively, and safely conducted at or near the scene.
4. A "hold" may be placed on any vehicle impounded for evidence for the period of time necessary to complete evidence collection.
5. Holds on vehicles must be approved by a supervisor.
6. Investigating officers shall complete their investigation of the vehicle in a timely manner and the hold released so that it can be released to the owner.

#### K. Impoundment for Forfeiture

1. As specified by state law, officers may impound a motor vehicle with the intent of initiating forfeiture proceedings when the vehicle is used in the commission of a felony or is the proceeds of a felony.

2. Officers should contact a supervisor before initiating forfeiture proceedings and shall follow forfeiture procedures as provided by this agency.

#### **IV. INVENTORY**

##### **A. Authority and Purpose**

1. A motor vehicle inventory is an administrative procedure designed to protect vehicles and their contents while in departmental custody.
2. The purpose of the inventory is to protect the owner's property and to protect the department against false claims and possible dangers.
3. Inventories may be conducted without a warrant or probable cause in the following situations:
  - a. The vehicle has been lawfully seized or impounded.
  - b. Before towing the vehicle for violations, safety reasons, or other purposes as defined by law.

##### **B. Inventory vs. Search**

1. An examination of the contents of a motor vehicle pursuant to a criminal investigation or with the intent to search for evidence is not an inventory but a vehicle search and as such is governed by general orders 7.4 Searches Without Warrants and 7.5 Search Warrants.
2. Vehicles that are towed at the request of the owner/operator or vehicles that are left legally parked shall not be inventoried.
3. Officers are reminded of the "plain view doctrine" and the limitations upon the authority to search incidental to a lawful arrest. See Policy 7.4 Searches Without Warrants for further details.
4. A Vehicle Impoundment and Inventory Record (VIIR) shall be completed whenever an officer assumes responsibility for towing a vehicle, and shall complete an inventory at the location where the vehicle was seized unless reasons of safety or practicality require the inventory to take place later or at a different location.
5. The inventory of property can be documented with the body worn camera which will be notated in the personal property section of the VIIR.
6. Before the vehicle is removed, officers shall obtain the signature of the tow-truck driver on the VIIR and provide the tow driver a duplicate copy of the report.

##### **C. Inventory Procedures**

1. The owner or operator of the vehicle shall be asked to remove, if possible, all valuables from the vehicle prior to impoundment. If such items cannot be removed, they shall be inventoried before the vehicle is removed.
2. The scope of the inventory includes all open and closed containers and compartments and any locked containers or compartments as long as the officer has a key. Locked or sealed areas shall not be forcibly entered if doing so will damage them. Locked areas that are not searched will be noted on the impound report. In

general, the inventory extends to all areas of the vehicle in which personal property or hazardous materials may reasonably be found.

3. Officers shall not force open a vehicle's trunk or glove compartment to inventory the contents if a key is not available.
4. Any evidence, contraband, fruits of a crime, or instrumentalities of a crime discovered during an inventory shall be handled in accordance with evidence procedures.