I. STATEMENT OF ISSUE

Vehicle tows and releases are regulated by statute.

For the purposes of this policy, “vehicle” is defined under Vehicle Code (VC) §670, and includes an automobile, truck, van, trailer, motorcycle, but does not include a moped or bicycle.

II. PROCEDURE

A. General Tow Reporting and Routing Procedures for Dispatch

1. Unless a vehicle owner specifies they want a particular tow company called, a tow rotation is used to determine which tow company will be called to handle tows requested by the Department. The RIMS Tow Rotation Log should be used to determine which tow company is next on the rotation list. AAA tow requests or owner requests will not be logged on the tow log. Dispatch will handle the request as a simple phone call, relay the tow information to the officer and log the tow company information in the RIMS incident.

2. If an officer cancels a tow for any reason, cancel the tow on the RIMS Tow Rotation Log. This ensures that the Tow Company will remain on top of the rotation list. If the officer cancels due to “time delay”, click “Cancel Last” and “Rotate” to the next available tow company, noting the time delay in the RIMS incident.

3. Once the tow is complete, dispatch will receive the CHP 180 form from the officer who made the tow, and enter the vehicle into the CLETS SVS. The reference field of the CLETS entry will include the name and phone number of the towing company.

4. Mail the half sheet of the CHP 180 form to the registered owner and legal owner. If the registered owner is unknown, the form is mailed to the Department of Justice (VC § 22853).

B. Impound Tows- non VC § 14602.6

1. Impounding towed vehicles will only be done for evidentiary purposes and only when it is essential for the retention of evidence.

   a. Prior to impounding a vehicle, approval must be obtained from the Watch Commander.
   b. A vehicle merely being associated with a crime does not make it eligible for impounding.
c. Evidence contained in or on a vehicle can usually be removed or photographed without necessitating a tow.

2. The Department must bear the cost of towing and storage of impounded vehicles (VC § 22655.5). For evidence impound tow requests, Dispatch will select the “Evidence / PD Tow” district tow log instead of the Base Rotation log.

   a. The impounding officer shall obtain a receipt from the tow company, note the case number on the form, and deliver it to the Financial Analyst within one working day.
   b. Justification for impound the vehicle must be detailed in the offense report.
   c. The Financial Analyst will process the billing for payment.

3. Impounded vehicles are to be stored at the Police Department’s evidence storage area, or similar protected area, as necessary.

4. Dispatch will enter the vehicle into the CLETs SVS. Dispatch shall enter the following in the miscellaneous field for all impound entries:

   a. DAVIS P.D.
   b. C.V.C. section
   c. Storage location (Davis PD)

C. Impound Tows- VC § 14602.6

Members may not impound vehicles pursuant to VC § 14602.6.

D. Storage Tows

1. Vehicles towed by the Police Department that are not impounded are classified as Storage Tows.

2. The Tow Rotation Log should be used to respond to requests for Storage Tows.

3. Vehicle owners must pay the vehicle storage fees before obtaining a vehicle release form.

4. The company accepting the tow is responsible for any towing fee collection against the registered owner.

E. Construction Tows

Construction tows are vehicle removals authorized under VC § 22654(d), and required for the prompt performance of any work on or service to the highway, highway facility, or public works facility.

1. Construction tow requests are caused by illegally parked vehicles in a posted construction zone. The member’s decision to tow will be guided by the following considerations:

   a. Contacting the registered owner by phone to obtain a prompt voluntary removal of the vehicle.
   b. The cost consequences of having construction work crews being delayed by improperly parked vehicles.
   c. Visibility of the Construction Tow signage and the 24-hour advanced posting requirement (VC § 22654(d)).

2. Dispatch Procedures
a. Obtain the vehicle license plate number, run the plate and attempt to contact the registered owner of the vehicle via phone.
b. Dispatch an officer, if unable to locate the owner (the officer will also try to locate the owner, or facilitate a tow).
c. Utilize the tow rotation log in order to determine which tow company to call. NOTE: If the vehicle is towed and stored, a CHP 180 form shall be filled out and turned in to dispatch for the CLETS entry.

F. Special Event Tows

Special Event Tows are vehicle removals authorized under VC § 22651(n) and City Code § 22.08.200. Special event tows are caused by illegally parked vehicles in a posted special event no parking zones. Special event no parking signs shall be posted at least 24 hours prior to removal of vehicles. The officer’s decision to tow will be guided by the following considerations:

1. Attempted contact with the registered owner by telephone to obtain a prompt voluntary removal of the vehicle.
2. If the registered owner arrives after the tow truck operator has begun the process of towing the vehicle, and both agree to a civil compromise (payment of ½ of the regular fees), the officer will release the vehicle at the scene.

G. Abandoned Vehicle Tows

Pursuant to § 22.08.050 DCC, the use of streets for the storage of vehicles is prohibited. In the event a vehicle is parked or left standing upon a street, alley or city parking lot in excess of one hundred twenty hours without being driven, any member of the police department authorized by the Police Chief may remove such vehicle from the street, alley or city parking lot in the manner and subject to the requirements of the VC § 22669(a). It shall be the general policy of the police department to not tow vehicles unless they are obviously abandoned and 12 days have elapsed since the time the vehicle was last driven.

Vehicles having registration expired in excess of 6 months, or which are parked, resting, or otherwise immobilized on any highway or public 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 hereby declared a hazard to public health, safety, and welfare and may be removed immediately upon discovery.

The following procedure will generally be used to abate abandoned vehicles:

1. Employees receiving complaints of abandoned vehicles should have a call for service entered in CAD, including description of the vehicle, location of the vehicle and how long it has been there. The call history will be printed and placed in the abandoned vehicle box in the break room with a copy of the registration printout, if one is available.

2. The designated member will log the complaint and respond in an attempt to locate the vehicle. If the vehicle is located, and does not otherwise meet the criteria for immediate towing, the vehicle will be marked, using chalk or by other means, at its location. A notice will be placed on the windshield indicating the vehicle has been marked and is subject to tow if it is not moved. A second copy of the notice shall be mailed to the last known owner of the vehicle.
3. A log shall be kept indicating where the vehicle was parked, how it was marked, when notice was mailed, and when it is subject to tow.

4. On approximately the 12th day following the vehicle being marked, the member should return and tow the vehicle if it has not moved or been brought in compliance.

5. Vehicles receiving multiple complaints, vehicles which are moved on a sporadic basis to remain in compliance, and those vehicles which are obviously abandoned or discarded may be towed after 120 hrs have elapsed and there is reasonable cause to believe the vehicle will not be moved or remain in compliance.

6. The Patrol Commander may authorize non-response to any complaint, which is for the purpose of harassing any person, or if after multiple responses it is determined the vehicle does not meet the criteria for being abandoned.

H. Expired Registration- VC § 22651(o)(1)

Vehicles found or being operated on a highway with registration expired in excess of 6 months may be towed at the discretion of the officer (see III I. below for exception), although the officer should take reasonable steps to ensure the registration is in fact expired. In cases where fees are paid and there is valid electronic smog listed on the CLETS printout the registered owner should be told to report to DMV to complete the registration process. Vehicles falling under this category should not be towed.

I. Expired Registration- Planned Non-Operation (PNO)

1. Vehicles with expired registration and having a PNO on file with DMV are not permitted on any street, highway, or public property.

2. Prior to towing a vehicle with a valid PNO and which does not pose an immediate safety hazard, the officer must make reasonable efforts to provide notice to the vehicle owner prior to towing the vehicle. The officer may issue a citation and return 120 hours later to tow the vehicle if it has not been moved or registered, or the officer should use the abandoned vehicle procedure as contained in this policy, or the officer should make personal contact with the registered owner and notify them their vehicle is not lawfully parked and if not moved in 120 hrs is subject to tow.

3. Vehicles being operated on a highway with a PNO may be immediately removed and the driver may be cited.

J. Driver Arrested VC § 22651(h)

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by storing the arrestee’s vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

1. Traffic related warrant arrest.
2. Situations where the vehicle was not used to further the offense for which the driver was arrested.

3. Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.

4. Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases the owner shall be informed that the Department will not be responsible for theft or damages.

K. Impoundment at Sobriety Checkpoints

1. Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver’s license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

2. If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver’s license number of the person to whom the vehicle is released.

3. When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent upon presentation of a valid driver’s license and current vehicle registration.

L. Department Vehicle Tows

1. Department vehicles that require towing need to use the “Evidence/PD Tow” district tow Log.

2. The City Fleet Manager is responsible for payment associated with towing of police vehicles.

3. A bill shall be obtained from the tow-company and forwarded without delay to the Financial Analyst. A memorandum identifying the vehicle by number and the reason for the tow shall be attached.

4. The Financial Analyst is responsible for forwarding the bill to the City Fleet Manager for payment.

M. Private Property Tows

The police department does not respond to tow vehicles from private property. When a private property owner, manager or designee tows a vehicle off their property they are required by law to report it to the police, prior to towing the vehicle. The Tow Company may also report this, in lieu of the property owner.

1. Records and Communications personnel shall enter a CAD call when the tow is called in.
2. The call is then handled by dispatch for entry into the CLETS SVS system. Dispatch shall enter the name and phone number of the tow company in the “reference field” for ease in locating the information when owners call in.

3. Should a citizen call reporting a vehicle stolen, inquiry into the stolen vehicle system will provide any towing/storing entry made on that vehicle. This avoids unnecessary filing of stolen vehicle reports.

N. Repossessed Vehicles

Private companies are allowed to repossess vehicles when they have completed the appropriate procedures for retrieving their property. Additionally, a citizen unable to pay for a vehicle may return it directly to the owner. In both cases, the local law enforcement agency must be notified.

1. Records and Communications personnel shall enter a CAD call using “REPO” as the call type.

2. The entry is then handled by dispatch for entry into the CLETS SVS.

3. The incident in CAD is closed, printed, and placed on the tow log.

4. Should a citizen call reporting a vehicle stolen, an inquiry into the SVS will provide the repossession entry made on that vehicle. This avoids unnecessary filing of stolen vehicle reports.

5. Prior to obtaining their vehicle from the repossession company, the citizen/debtor must respond to the police department and pay the state required Repossession Fee.

O. Vehicle Inventories

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Officers conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to ensure against claims of lost, stolen or damaged property, and to provide for the safety of officers.

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) which are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

P. Vehicle Releases

1. Records & Communications personnel are responsible for collecting vehicle release fees, as necessary, for towed and impounded vehicles. If the tow was authorized by the department and a CHP 180 form is filled out, a fee is usually collected. Payment may be made with cash, credit card (Visa/Mastercard only), cashiers checks or money orders. Personal checks are not accepted. There is a $35.00 fee for the following releases:
a. Expired Registration.
b. Suspended Driver License.
c. Unlicensed Driver.
d. Criminal or Warrant Arrests.
e. Collisions as a result of criminal activity (i.e. 23152 VC, 20002 VC)

2. No Charge Vehicle Releases

There is no charge for the release of the following:

a. Stolen Vehicle Recoveries.
b. Collisions (unless criminal activity)
c. Private Property Tows (no vehicle release form filled out).

3. Vehicle release forms shall be signed by the person picking up the vehicle. A copy of the vehicle release shall be provided and the original vehicle release form shall be scanned and attached to the case.

4. When an impounded vehicle is released, route the vehicle release information to Dispatch for removal from the CLETS SVS system.

Q. Post Storage Validity Hearings

The Post Storage Validity Hearing is an informal process used to determine whether the vehicle was lawfully towed and lawfully stored. Any relevant evidence may be submitted and reviewed by the hearing officer to determine if the vehicle in question was lawfully stored or impounded in accordance with Davis Police Department Policies and Procedures. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

1. When a vehicle is stored or impounded by any member of the Davis Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

2. The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

3. All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)). The duty Watch Commander will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

4. The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2); Vehicle Code § 22852(d)).

5. Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.
6. After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded.

7. If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.

8. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.

9. If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department’s expense (Vehicle Code § 22852(e)).

10. If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Division Commander. The hearing officer will recommend to the appropriate Division Commander that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

Darren Pytel
Police Chief
12/95

Revised:

10/99
12/00 section E, past practice added
8/01 Abandoned Vehicle Tows added
1/02 Registration tows added (22651 and PNO)
8/02 additional tows added
2/03 R&C procedures updated
8/04 Boot policy added
9/05
1/06: Change in policy regarding towing vehicle of unlicensed driver.
6/06: Process for Special Events tows added.
3/07: RIMS procedures updated
05/08: updates to procedures. Post storage validity hearing added in this policy
08/08 update to PNO tows
09/09 changes made to O
03/10 driver arrested added
06/10 no rotation for DPD tows
07/17 14602.6 eliminated and booting eliminated and other edits
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