

**SAN DIEGO POLICE DEPARTMENT
PROCEDURE**

DATE: MARCH 11, 2020

NUMBER: 3.03 - INVESTIGATIONS

SUBJECT: IMPOUNDING/RELEASING VEHICLES WITH
EVIDENTIARY HOLD

RELATED POLICY: N/A

ORIGINATING DIVISION: TRAFFIC

NEW PROCEDURE:

PROCEDURAL CHANGE: **MINOR CHANGES**

SUPERSEDES: DP 7.12 – 07/07/2017

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.

The Tow Administration Unit is responsible for updating the Impound Management System (IMS) used to track vehicles impounded with evidence holds, including all vehicle transfers and releases.

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:

1. There is probable cause to believe the vehicle was used as the means of committing a public offense;

2. The vehicle is, itself, evidence which tends to show a crime has been committed; or,
3. 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 belongs to the victim of a crime, was used in a crime, and the case investigator has determined the registered owner/victim was not involved or negligent in causing the impounding of the vehicle. The case investigator will contact the Tow Administration Unit at Traffic Division and inform personnel of these findings. The Tow Administration Unit will determine if any or all of the associated administrative and tow fees will be covered by the City on behalf of the victim.
 2. Suspect vehicle - the registered owner of the vehicle is the person responsible for the crime or due to his/her negligence, caused the original impounding of the vehicle used in the commission of the crime. The registered owner, will be held responsible for all administrative and tow fees associated with the tow, including 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 contracted **Tow Company Facility** with a “Hold.”
1. Impounding officers and/or investigators shall forward a copy of the San Diego Regional Vehicle Report (ARJIS-11) to the appropriate investigative unit and immediately fax a copy to the Tow Administration Unit at (858) 495-7989 for the purposes of tracking inventory.
 2. Vehicles impounded at a contracted tow company facility become the responsibility of the case investigator who is responsible for processing the vehicle in a timely manner.
 3. The vehicles impounded with a “Hold” per section 22655.5 must be released within three working days, unless extenuating circumstances exist. The lieutenant of the investigating unit must approve any 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.
 4. Vehicles impounded for hit and run investigations should generally use California Vehicle Code impound section 22655 unless the vehicle in a hit and run contains evidence which cannot readily be removed (e.g., DNA, mechanical inspection). In such cases, officers should impound the vehicle per CVC 22655.5, which will prevent the premature releasing of a vehicle after 48 hours (see subsection “b”) when there has not been a reasonable amount of time to properly process the vehicle for evidence.
 - a. This section allows the removal for inspection as long as the vehicle is on a highway or on private property open to the general public where the public is explicitly or implicitly invited.
 - b. The vehicle may be held for 48 hours (weekends and holidays not included), and then must be released upon demand of the owner.
 - c. When a field arrest is made, the vehicle should normally be left parked legally at the scene.

5. The investigator shall contact the Tow Administration Unit to release any vehicle impounded with a “Hold.” It is the investigator’s responsibility to contact the registered owner upon releasing the “Hold” placed on the vehicle.

NEW

B. Vehicles Impounded at the **Police Vehicle Evidence Impound Lots** located at Traffic Division, 9265 Aero Drive and **Police Plaza**, 4020 Murphy Canyon Road.

1. Vehicles involved in a crime requiring the processing of evidence by SDPD Laboratory personnel, such as homicides and sex crimes/investigations, shall be towed to the vehicle evidence processing facility at Northwestern Division located at 12592 El Camino Real, San Diego, CA. 92130 as described in section “C” of this procedure.
2. All vehicles impounded at the Police Vehicle Evidence Impound Lots at Traffic Division must have prior approval from the Watch Commander. Traffic Investigations controls their own impound lot and secure impound facilities and are not required to have Watch Commander approval. Any vehicle stored in any of the Traffic Investigations storage lots must have approval from a Traffic Investigations supervisor or Tow Administration supervisor, or their designee, who will facilitate entry to the secured lot or building.
3. Impounding officers and/or investigators shall follow all towed vehicles to the Police Vehicle Evidence Impound Lots and remain with the tow provider until the tow is completed.
4. All other vehicles impounded at Traffic Division during non-business hours with “Evidence Holds” shall be placed in the open exterior Lot #4, unless otherwise instructed.
5. Officers and/or investigators requiring storage of an impounded evidence vehicle in any of the secured gated lots shall first receive approval from Tow Administration personnel during the hours of 6:00 A.M. to 4:30 P.M., Monday through Friday.
6. Officers and/or investigators impounding vehicles with an “**Auto Theft Hold**” shall be placed in the open exterior Lot #4, unless otherwise instructed. A “Hold for Auto Theft” impound only applies to vehicles when investigative-follow up is required. See Department Procedure 7.08.
7. 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.

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8. The impounding officer will place a Vehicle Impound Hold Card (PD-831-LA) or note in clear view on the dashboard of the impounded vehicle. The "Hold" form or note 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, detective, and phone number;
 - f. Name and identification number of the impounding officer; and,
 - g. Reason for the impound
9. The impounding officer will provide a copy of the ARJIS-11 to the tow operator and obtain a tow receipt, which will be placed in the tow slip box mounted outside of the Tow Administration Unit door located in Traffic Division.
10. Impounding officers and/or investigators shall forward a copy of the San Diego Regional Vehicle Report (ARJIS-11) to the appropriate investigative unit for follow up and fax a copy to the Tow Administration Unit at (858) 495-7989 for the purposes of tracking inventory.

C. **Vehicles Impounded at the Northwestern Division Evidence Processing Facility** located at 12592 El Camino Real, San Diego, CA. 92130.

1. Vehicles involved in a crime requiring the processing of evidence by SDPD Laboratory personnel, such as homicides, sex crimes, and OIS investigations will be towed to the vehicle evidence processing facility at Northwestern Division and placed in one of the available storage sheds and/or examination bays.
2. All vehicles impounded at the Northwestern Division Evidence Processing Facility must have prior approval from the Watch Commander.
3. Impounding officers and/or investigators shall follow all towed vehicles to the Police Vehicle Evidence Processing Facility and remain with the tow provider until the tow is completed.
4. The impounding officer will not conduct an inventory of the vehicle being held as evidence. It shall be the responsibility of the assigned investigator

and/or Crime Laboratory personnel to conduct the inventory and document the findings in the investigative follow-up report.

5. The impounding officer and/or investigator shall gain access to the facility by contacting the Watch Commander at (619) 531-2205. Upon verbal verification, the Watch Commander will remotely unlock the Key Box located on the exterior wall of the building. The officer will leave the Key Box open until the key is returned.
 6. The officer will unlock the storage shed to allow the impounded vehicle to be stored in an available stall. The doors to the shed will be relocked and the key will be returned to the lock box.
 7. Once placing the vehicle into the storage shed, the officer will use their Department issued key card to access to door leading into the break room where the officer will fill out a vehicle impound report (provided on-site) and fax the report to the Tow Administration Unit at (858) 495-7989 and to the Watch Commander at (619) 233-5204. The Watch Commander will forward the reports to the Laboratory at the end of shift. Number and specific directions will be provided on-site.
 8. The impounding officer shall place an oil pan under the engine block of the impounded vehicle. The oil pans will be available inside the evidence bays.
 9. Prior to leaving the facility, the impounding officer shall ensure the key has been returned to the lock box and that all doors to the facility have been securely closed.
 10. **Vehicles will not be released directly from the Northwestern Division Garage Facility.** Upon completion of the examination, the Detective will call the Tow Administration Unit at (858) 495-7830 to authorize the release of the vehicle during regular business hours. Tow Administration Unit will arrange for an authorized tow company to tow the vehicle to a contracted impound facility for its release after all applicable tow fees have been paid by the registered owner.
 11. All suspect vehicles that will continue to be held in “impound” for evidentiary purposes will be towed to Traffic Division for storage in one of the designated exterior lots. Any deviation from this procedure must be authorized by the Tow Administration Unit.
- D. Vehicles will not be impounded and/or stored at the substation parking lots. Failure to 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 Administration Unit who maintains oversight and accountability for the impound lots.
- B. After evidence processing is complete, the responsible investigator will coordinate the transfer of all evidentiary held vehicles with the Tow Administration Unit and make a determination regarding the disposition of the vehicle. Vehicles held pending court proceedings will be transferred to one of the designated exterior lots located at Traffic Division. For other dispositions, see Section VII of this procedure for details.

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 Administration Unit at Traffic Division at (858) 495-7830, Monday – Friday, 0600-1630 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 Administration Unit 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 Administration Unit 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 registered owner(s) (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 Lot(s)**

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 Administration Unit 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 Lot after notifying the Tow Administration Unit of the pending 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 contact the Tow Administration Unit to facilitate the transfer of the vehicle from the Police Vehicle Impound Lot to a contracted tow facility to ensure accurate billing is made. A separate ARJIS-11 is not required for this transfer as it will be processed as a continuation of the original tow. Request for a tow should not be initiated 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.
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 lot.
5. Once the registered owner or representative contacts the investigator, arrangements should be made to meet at the authorized 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.