

San Diego Police Department

TRAINING BULLETIN

A PUBLICATION OF THE SAN DIEGO POLICE DEPARTMENT

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19-09

6/20/2019

Enforcement of Vehicle Habitation Ordinance

I. PURPOSE

This bulletin is meant to educate officers and outline enforcement considerations and procedures when enforcing the new Vehicle Habitation Ordinance.

II. BACKGROUND

The City of San Diego recently enacted a new Vehicle Habitation Ordinance.

III. VEHICLE HABITATION ORDINANCE

Municipal Code section 86.0137 – Prohibition of Use of Streets for Storage, Service or Sale of Vehicles or for Habitation – states the following:

- A. It is unlawful for any *person* to use a vehicle for human habitation on any street or public property, unless the street or public property is specifically authorized for such use by the City Manager, as follows:
1. Between the hours of 9:00 p.m. and 6:00 a.m.; and
 2. At any time, within 500 feet of a residence, meaning a building used for living, including a house, condominium, apartment unit, or similar dwelling unit affixed to real property; and

3. At any time, within 500 feet of a school that offers instruction on those courses of study required by the California Education Code or that is maintained pursuant to standards set by the State Board of Education. School for purposes of this section, 86.0137(f), does not include a vocational or professional institution of high education, including a community or junior college, college, or university.
4. For purposes of this section 86.0137(f), evidence of human habitation may include observations, considering all the circumstances, that a *person* is using a vehicle for: sleeping; bathing; preparing or cooking meals; possessing or storing items that are not associated with ordinary vehicle use, such as a sleeping bag, bedroll, blanket, sheet, pillow, used bedding, kitchen utensils, cookware, cooking equipment, camping gear, food, water, personal grooming items, or containers of feces or urine. Evidence of human habitation also may include observations, considering all the circumstances, that: a *person* has obscured some or all of the vehicle's windows; there is litter, rubbish, or waste in or around the vehicle; there is furniture set up in or around the vehicle, such as chairs, tables, umbrellas, or portable cooking equipment; or there is evidence of human urination or defecation around the vehicle.

IV. ENFORCEMENT GUIDELINES

Officers should keep in mind the totality of the circumstances and use discretion when enforcing the Vehicle Habitation Ordinance. Officers should consider why a person has certain items associated with habitation inside their vehicle and the purpose for parking on a street or in a public park. For example, a person inside a motorhome containing food, bedding, and camping equipment parked within 500 feet of school might not be in violation of the Vehicle Habitation Ordinance if the person's intent was to temporarily park the vehicle to drop-off or pick-up a child from school.

Additionally, a person merely sleeping or sitting for a long period of time inside a vehicle parked on a street or in a public park might not be in violation of the Vehicle Habitation Ordinance based on those factors alone. Officers should consider other factors, such as the examples listed in section 86.0137(f)(4) of the Vehicle Habitation Ordinance (section III of this training bulletin) before taking enforcement action.

Factors considered when enforcing the Vehicle Habitation Ordinance shall be documented in the officer's report.

The 72-hour parking regulation does not apply to vehicle habitation. A person does not have to be parked at the same location for 72-hours or more before the Vehicle Habitation Ordinance can be enforced.

After taking enforcement action, Officers should evaluate whether the vehicle can be legally parked, and if so, generally refrain from towing the vehicle. As per Department Procedure 7.08 (Vehicle Towing/Impound and Release Procedures), officers should keep in mind that not every vehicle should be impounded. For example, whenever a person is arrested for any criminal offense and taken into custody, the vehicle may be legally parked or may be impounded per California Vehicle Code section 22651(h)(1). Refer to DP 7.08 for impound procedures.

V. PROGRESSIVE ENFORCEMENT PROTOCOL

Generally, officers should offer services and follow the progressive enforcement model when enforcing the Vehicle Habitation Ordinance. When officers make contact with a person experiencing homelessness, officers should offer services by referring the person to the City's safe parking program and/or to the Homeless Outreach Team (HOT), with the goal of steering people in need into services and places where they may legally park their vehicles. Officers should also encourage tourists and campers contacted for vehicle habitation to park their vehicles in legally permitted campgrounds.

When contacting a person for a vehicle habitation violation, officers shall conduct a computer check to determine the person's contact history. Progressive enforcement generally proceeds through the following steps:

- A. **The first time** a person is contacted for a potential vehicle habitation violation, the officer should educate and warn them of the new law, and document this warning on an ARJIS-1/Field Interview.
 1. The officer shall list the person's name along with the associated vehicle license plate or vehicle identification number (VIN) on the Field Interview.
 2. **The officer shall list "86.0137(f) SDMC" in the crime potential box on the form.**
 3. The officer should direct the person to call (858) 637- 3373 for information on one of the City's overnight parking lots.

- B. **The second time** the same person is contacted for a potential vehicle habitation violation, the officer should re-explain the law and may issue an infraction citation for the violation if the violation is established by the evidence. The officer should direct the person to call (858) 637- 3373 for information on one of the City's overnight parking lots.
- C. **The third time** the same person is contacted for a potential vehicle habitation violation, the officer should re-explain the law and may issue a misdemeanor citation for the violation if the violation is established by the evidence. The officer should direct the person to call (858) 637- 3373 for information on one of the City's overnight parking lots.
- D. **The fourth time**, and each subsequent time thereafter, the same person is contacted for a potential vehicle habitation violation, the officer should re-explain the law and may make a custodial arrest, if the violation is established by the evidence, and a custodial arrest is authorized by California Penal Code section 853.6(i).
- E. If, during any step of the progressive enforcement model, the person in violation of the Vehicle Habitation Ordinance refuses to comply with the officer and/or the officer believes there is a likelihood the violation will continue, the officer may make a custodial arrest in compliance with California Penal Code section 853.6(i).

For questions, please contact Neighborhood Policing Division Sergeant Rich Hinzo at 619 446-1044 or email rhinzo@pd.sandiego.gov.