

**TEXARKANA, TEXAS POLICE DEPARTMENT
GENERAL ORDERS MANUAL**

<i>Effective Date</i> February 1, 2008		<i>Amended Date</i> July 12, 2017		<i>Directive</i> 7.03.2	
<i>Subject</i> Vehicle Impounds					
<i>Reference</i>					
<i>Distribution</i> All Personnel City Manager City Attorney		<i>TPCA Best Practices Recognition Program Reference</i> 7.03.1 Arrests without a Warrant		<i>Review Date</i> January 1, 2018	
				<i>Pages</i> 10	

This Operations Directive is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.

SECTION 1 PURPOSE

The purpose of this policy is to establish guidelines for Police Department responsibilities involving the removal, seizure, impoundment and storage of impounded, abandoned, junked, seized or inoperative motor vehicles.

SECTION 2 POLICY

It is the policy of the department to protect the property of persons arrested while operating a vehicle or involved in a motor vehicle crash. It is also the policy of the department to reduce public nuisance created by abandoned, junked and inoperative vehicles by providing the means of their removal from public view in accordance with state law and city ordinance.

SECTION 3 DEFINITIONS

Impounded - A motor vehicle is impounded when a police officer takes custody of it and has it removed to a vehicle storage facility by the use of a Contract Wrecker Service.

Abandoned Motor Vehicle (TRC 683.002) - A motor vehicle that is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours; has remained illegally on public property for more than 48 hours; has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours; has been left unattended on the right-of-way of a designated county, state or federal highway for more than 48 hours.

Junked Vehicle (TRC 683.071) - A vehicle that is self-propelled and inoperative and does not have lawfully attached to it an unexpired license plate; or a valid motor vehicle inspection certificate; and is wrecked, dismantled or partially dismantled, or discarded; or has remained inoperative for more than 72 hours on public property or 30 days on private property.

Vehicle Storage Facility - A garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing or parking of motor vehicles.

Motor Vehicle - Any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act.

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Public Nuisance - Junked vehicles, which are located in any place where they are visible from a public place or public right-of-way, are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the State by producing urban blight, which is adverse to the maintenance and continuing development of the City of Texarkana and such vehicles are therefore, declared to be a public nuisance.

Parking Notice - The adhesive backed decal used by the Department to give notice to vehicle owners that they are in violation of State Law and giving them a fixed time to correct the problem noted on the decal that is affixed to the abandoned, inoperative or junked vehicle, and to remove the vehicle from public view.

Impoundment Lot - Any vehicle storage facility located within the city limits of Texarkana, Texas used by a Contract Wrecker Service.

Contract Wrecker - Any Contract Wrecker Service company having a current contract with the City of Texarkana, Texas for conducting "non-consent" tows.

Consent Tow – Under Texas Transportation Code Section 643.201(e)(2), means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic crash or a traffic incident that involves the vehicle.

Non-consent Tow - As set forth in Texas Transportation Code Section 643.201(e) (4), means any tow of a motor vehicle that is not a consent tow. It includes tows of abandoned vehicles and vehicles seized by the department. Non-consent towed vehicles are impounded.

SECTION 4 PROCEDURES

A. EXEMPTIONS

This Policy does not apply to:

1. A vehicle, or part thereof, which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
2. A vehicle, or part thereof, which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard, if a trailer, occupied in a trailer park or other lawful place; or
3. A bona fide racing vehicle or antique vehicle which is stored on a duly licensed trailer or otherwise kept in such manner as not to allow undergrowth of weeds and brush, infestation by animals, or to create an attractive nuisance to minors.

B. IMPARTIALITY TOWARDS WRECKER SERVICES

No employee of the city at the scene of a traffic crash shall recommend to any person, directly or indirectly, either by word, gesture, sign or otherwise, the name of any particular wrecker service or vehicle repair company; nor shall any employee influence or attempt to influence in any manner the decision of any person in choosing or selecting a wrecker or vehicle repair service.

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C. JUNKED OR INOPERABLE VEHICLES ON PRIVATE PROPERTY

Unless requested to assist the Code Enforcement Unit of the City's Inspections Department, or instructed by a superior officer, police officers will not enforce junked or inoperable vehicle statutes that apply to vehicles that are on private property. Police employees who become aware of these violations will refer the complaint to the Code Enforcement Unit.

D. IMPOUNDING VEHICLES: ARREST

1. Officers will cause vehicles to be impounded when the driver of the vehicle is arrested. Except in the following instances:
 - a. When the person arrested chooses to release his/her vehicle to a licensed passenger.
 - b. When the vehicle is parked at the arrested person's residence or the residence of a family member prior to arrest.
 - c. The owner of the vehicle is not the person arrested but is present to take the vehicle.
 - d. This is a "non-consent" tow and requires the completion of an Impounded Vehicle Report.
2. Prior to releasing a vehicle to a person in lieu of impoundment, the arresting officer will verify the person taking possession of the vehicle is a licensed driver and that there is proof of financial responsibility for the vehicle. The arresting officer will narrate in the arrest report that the arrested person voluntarily released the vehicle and will include the person's identity, correct address, telephone number and driver's license number with the state of issuance.
3. If the owner returns to his vehicle before the wrecker removes it, and he is going to move his vehicle, the officer should release the vehicle to him. This applies even if the wrecker has already hooked onto the vehicle. If the wrecker has hooked onto the vehicle prior to the owner returning to the vehicle, there will be a fee charged equal to one-half the regular charge.

E. IMPOUNDING VEHICLES: TRAFFIC HAZARDS

1. Vehicles that are traffic hazards shall be impounded. Examples include a vehicle that is inoperable and is left in a lane of traffic, a vehicle that is illegally parked in a roadway so that the roadway is obstructed, or a vehicle parked where prohibited by sign or by ordinance such as parking of a tractor trailer in residential areas.
2. Prior to calling for a Contract Wrecker, the officer shall attempt to locate the registered owner of the vehicle and advise them to remove the vehicle within a reasonable period depending on the facts of situation. If the owner or driver of the vehicle cannot be located or the person is unable to move the vehicle, the officer will request a Contract Wrecker to remove the vehicle.
3. This is a "non-consent" tow and requires the completion of an Impounded Vehicle Report.
4. If the owner returns to his vehicle before the wrecker removes it, and he is going to move his vehicle, the officer should release the vehicle to him. This applies even if the wrecker has already hooked onto the vehicle. If the wrecker has hooked onto the vehicle prior to the owner returning to the vehicle, there will be a fee charged equal to one-half the regular charge.

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5. The Contract Wrecker is responsible for following all further procedures as outlined in the Texas Transportation Code Section 683 regarding abandoned vehicles.

F. IMPOUNDING VEHICLES: ABANDONED VEHICLES

1. Vehicles that are determined to be abandoned as defined by this Directive shall be impounded following the listed procedure.
2. An orange sticker is placed on the windshield of the vehicle and an Incident Number is generated and noted on the orange sticker.
3. An officer that tags an abandoned, junked or inoperable vehicle is responsible for making a reasonable effort to notify the registered owner or lien holder at the time that the vehicle has been tagged for removal and will be removed after the lapse of 48 hours.
4. Forty-eight hours after the officer places the orange sticker on the vehicle, he/she will be dispatched back to the location of the vehicle. If the vehicle remains at the location, the officer will cause vehicle to be towed from the location by a Contract Wrecker.
5. If the officer causes the vehicle to be towed, a CCN will be generated. This is a "non-consent" tow and requires the completion of an Impounded Vehicle Report.
6. If the owner returns to move his vehicle before the wrecker removes it, the officer should release the vehicle to him. This applies even if the wrecker has already hooked onto the vehicle. If the wrecker has hooked onto the vehicle prior to the owner returning to the vehicle, there will be a fee charged equal to one-half the regular charge.
7. The Contract Wrecker is responsible for following all further procedures as outlined in the Texas Transportation Code Section 683 regarding abandoned vehicles.

G. IMPOUNDING VEHICLES: MOTOR VEHICLE CRASH

1. Vehicles involved in crashes shall be removed from the scene before the departure of the investigating officer. An exception would be a vehicle that can be safely and legally parked at the crash scene.
2. The owner or driver of vehicle involved in a crash may request a specific wrecker service of their choice to tow his/her from the crash scene. If the driver or owner asks that the investigating officer recommend or call a wrecker, the officer will ask Communications to contact the On-Call Wrecker. In either of the above scenarios, the tow is a "consent tow" and no Impounded Vehicle Report would be required.
3. If the owner or driver of the vehicle is not present or unable to request a wrecker, the officer will have the Contract Wrecker notified to respond to the scene and impound the vehicle for safekeeping.
4. This is a "non-consent" tow and requires the completion of an Impounded Vehicle Report.
5. Officers should accommodate the driver whose vehicle requires slight repair before it can be driven from the crash scene. The investigating officer will stand-by for a reasonable time (approximately fifteen (15) minutes) after completing the investigation. If after waiting the

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reasonable time the vehicle is still not drivable, the officer will order the removal of the vehicle by the On-Call Wrecker or a wrecker of the driver's choice. An exception to this procedure would be a vehicle that is creating a traffic hazard, such as blocking a freeway or major roadway, in which case the vehicle is removed as soon as possible.

6. The operator of a vehicle involved in a crash may designate where his vehicle will be taken. The wrecker should deliver the wrecked vehicle to any destination provided those premises are open and the towing fee is paid.
7. Any vehicle involved in a crash originating on a public street that comes to rest on private property should be removed from that property.

H. IMPOUNDING VEHICLES: RECOVERED STOLEN

1. The officer investigating a recovered stolen vehicle will make every effort to contact the owner of the recovered stolen vehicle so the owner can take possession of the vehicle to avoid impoundment.
2. The recovering officer shall process recovered stolen motor vehicles for latent prints before the vehicle is impounded or released to the owner, unless the owner requests the vehicle not be processed. A copy of the vehicle report will be forwarded to the Support Services Division - Investigations by placing a copy of the report in the Division's report box.
3. If arrests are made from a stolen vehicle and the officer releases the vehicle to the owner at the scene, the officer will inform the owner to contact Support Services Division - Investigations the next workday.
4. The owner may use any reasonable and legal means of transporting his vehicle from the recovery scene.
5. If the officer releases the vehicle to the owner, he will prepare a vehicle report. The investigating officer will forward a copy of all reports and all copies of teletypes in reference to the recovered stolen vehicle to the Support Services Division - Investigations.
6. If the owner is not available, the officer will notify the Contract Wrecker to respond to the scene and impound the vehicle.
7. This is a "non-consent" tow and requires the completion of an Impounded Vehicle Report.

I. IMPOUNDING VEHICLES: EVIDENCE

1. An officer may impound and retain a vehicle as physical evidence when they have probable cause to believe that the vehicle has been used in the commission of a crime, excluding a minor traffic offense.
2. Under most circumstances, no search warrant is required to impound a vehicle from public property.
3. If the vehicle to be impounded is on the suspect's property, an officer shall remain with the vehicle while a search warrant is obtained for the impoundment of the vehicle as evidence.

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4. If an officer impounds a vehicle that he/she believes could be used as physical evidence in a criminal proceeding, he/she will outline the reasons in the Vehicle Report. The officer shall put a copy of the report in the proper division's report box (Operations Division for traffic; Support Services Division - Investigations for criminal; Narcotics Unit for drugs). Vehicles impounded as evidence are stored at the Contract Wrecker facility.
5. Within forty-eight (48) hours of notification, the commander of the follow-up unit will decide if the vehicle is needed as evidence. It is the commander's responsibility to ensure that the Contract Wrecker Service personnel are notified to either release the vehicle or maintain custody of the vehicle.
6. This is a "non-consent" tow and requires the completion of an Impounded Vehicle Report.

J. IMPOUNDING VEHICLES: FORFEITURE

1. An officer may seize or impound a vehicle that is contraband as defined by Article 59.01(2), of the Texas Code of Criminal Procedure, Chapter 59 Forfeiture of Contraband.
2. An officer impounding a vehicle under such authority will notify the Narcotics Unit by placing a copy of a complete report detailing the seizure and impoundment in the Narcotics Unit's box.
3. This is a "non-consent" tow and requires the completion of an Impounded Vehicle Report.
4. The Narcotics Unit Commander has the authority to make the decision as to whether to proceed with filing a forfeiture case on the seized vehicle.
5. The Narcotics Unit Commander is responsible for filing the forfeiture case on the seized vehicle with Criminal District Attorney.

K. IMPOUNDING VEHICLES: FOR SAFEKEEPING

1. When vehicles are located that do not meet the criteria established in the above sections Impounding Vehicles", "Impounding Vehicles: Motor Vehicle Crashes", "Impounding Vehicles: Recovered Stolen", "Impounding Vehicles: Evidence", and "Impounding Vehicles: Forfeiture", and there is a need to impound the vehicle for safe keeping, it is the responsibility of the officer to:
 - a. Check the vehicle for stolen. If stolen, follow the above-mentioned procedures.
 - b. If not reported stolen, cause the owner to be contacted.
 - c. If unable to locate or contact the owner, notify and advise a Shift Sergeant of the circumstances.
 - d. If Shift Supervisor authorizes the impoundment of the vehicle, include in the narrative of the incident report all details including the attempts to locate and contact the vehicle's owner. Note all damage, missing parts, and the name of the Shift Sergeant authorizing the impoundment.
2. This is a "non-consent" tow and requires the completion of an Impounded Vehicle Report.

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3. It is the responsibility of a Shift Supervisor to either authorize or not authorize the impoundment of vehicles for safekeeping purposes based on the totality of circumstances involved.

L. IMPOUNDING VEHICLES: OPERATION WITHOUT FINANCIAL RESPONSIBILITY

Chapter 601, Texas Transportation Code requires that a person must have financial responsibility established for a motor vehicle in order to operate it in this state. Section 44.23(d) of the City of Texarkana, Texas Code of Ordinances authorizes the impounding of vehicles operated without the required financial responsibility, thereby providing maximum protection to all individuals who drive within the city.

1. In the course of conducting a vehicle stop for a traffic violation or investigating a traffic crash, an officer shall ask the driver of the vehicle to provide evidence of financial responsibility for the vehicle or driver.
2. When a driver operating a vehicle with a Texas registration claims to have financial responsibility but fails to provide evidence of such, the officer shall request a TLETS extended registration return (insurance verification) through Communications. This query consults the TexasSure database to verify the current existence of insurance coverage for vehicles licensed in Texas (and some other states, including Arkansas).
3. For those vehicles registered in another state – or those Texas registered vehicles for which coverage could not be confirmed through TexasSure – the officer can make other reasonable effort to verify financial responsibility for the vehicle or driver. Steps to verify financial responsibility may include, but are not limited to:
 - a. Contacting the driver’s insurance agent or insurance company.
 - b. Contacting a parent or guardian, if dealing with a minor.
 - c. Contacting the lien holder.
 - d. Waiting a reasonable amount of time for the arrival of a person who can exhibit evidence of financial responsibility on the vehicle or driver.
 - e. Checking the vehicle registration return on the mobile data computer for insurance coverage information.
4. If financial responsibility for the vehicle or driver is not in effect at the time of the traffic stop or crash investigation, the officer shall issue a citation for no evidence of financial responsibility and, unless mitigating circumstances exist, impound the vehicle.
5. In order to impound a vehicle for not having evidence of financial responsibility, one or more of the following criteria must be met:
 - a. A vehicle crash, regardless of whether or not a crash report is completed.
 - b. A vehicle stop for any hazardous moving violation.
 - c. A vehicle stop for an unregistered or expired vehicle registration

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- d. A vehicle stop for a non-hazardous violation in which the driver does not have a valid drivers license.
 - e. Waiting a reasonable amount of time for the arrival of a person who can exhibit evidence of financial responsibility on the vehicle or driver.
 - f. Checking the vehicle registration return on the mobile data computer for insurance coverage information.
6. Impounding of a vehicle under City Ordinance 33-5(d) does not prohibit an officer from issuing additional citations to, or taking other reasonable enforcement action against, a person who operates a motor vehicle in violation of the financial responsibility requirements of Chapter 601, Texas Transportation Code.
7. If the officer determines that mitigating circumstances exist to not impound a vehicle operated without the required financial responsibility, the officer will seek supervisory approval to not impound the vehicle. Mitigating circumstances may include, but are not limited to:
- a. Availability of other units to assist with the safe removal of occupants.
 - b. Calls for service.
 - c. Weather conditions.
 - d. Traffic volume, conditions, and speed.
8. An officer impounding a vehicle under City Ordinance 33-5(d) will make reasonable efforts to provide for the safety of the driver and any occupants. If there are no reasonable way to avoid placing the driver and any occupants in an unsafe situation, the officer will seek supervisory approval to not impound the vehicle. Examples of reasonable efforts include, but are not limited to:
- a. Assisting the driver and any occupants in obtaining transportation to a safe place.
 - b. Providing the driver and any occupants a ride to a safe place nearest the location of the stop.
9. A vehicle impounded under City Ordinance 33-5(d) will be towed by the contract impound wrecker and taken to that impound wrecker company's vehicle storage facility.

M. RELOCATING A VEHICLE IN LIEU OF IMPOUNDING

- 1. A vehicle that is parked on a parade route or parked in such a manner as to hinder repair work of a public works crew may be relocated, via a Contract Wrecker, if practical and if the owner cannot be located. If it is impractical to relocate the vehicle the vehicle will be treated as a traffic hazard and impounded following Section 4(E) of this Directive.
- 2. If the vehicle is relocated, it should be relocated in the immediate area. The officer shall notify Communications as to the new location of the vehicle.

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N. INVENTORY OF PROPERTY WHEN IMPOUNDING VEHICLES

1. An inventory is an administrative process by which items of property in an impounded vehicle are listed and secured. An inventory is not a search and is not used as a substitute for a search.
2. It is the responsibility of officers impounding vehicles to:
 - a. Thoroughly inspect and inventory the affected vehicle's exterior and interior that includes the passenger and trunk areas of automobiles and the passenger and bed areas of trucks (whether the bed is enclosed or open) for all property, personal and otherwise, in an effort to properly provide for the safekeeping of all impounded property and to assure the liability of damaged and/or lost property to the responsible party.
 - b. Inventory the contents of articles such as briefcases, boxes and other containers that are not secured by locks or by other devices that would cause damage if opened.
3. Once an inventory is made of the contents of any container, it is the responsibility of the officer to properly secure the container so that no damage or loss occurs resulting from the inventory.
4. If a vehicle to be impounded is locked, the officer should make a reasonable effort to gain entry to the vehicle without damaging the vehicle. If he cannot enter the vehicle without damaging it, the officer will leave the vehicle locked and will not inventory the property. The officer notes such on the Impounded Vehicle Report and in his/her incident report.
5. The ignition keys to impounded vehicles will remain with the vehicle at the vehicle storage facility, and the remainder of the keys will be placed in the prisoner's property or placed into Property and Evidence.
6. An officer shall place any property of great value located in a vehicle into Property and Evidence.
7. If during the inventory of a vehicle's contents, it happens that an officer locates articles considered contraband or evidence connected with the commission of an offense, the officer shall place the articles into Property and Evidence.

O. CONTRACT WRECKERS

1. By ordinance, the City may enter into contracts with a number of wrecker companies for "non-consent" tows. The Traffic Sergeant is designated as the Towing Contract Enforcement Officer.
2. Wrecker companies who contract with the city must comply with the provisions of the contract.
3. The Contract Wrecker shall arrive on scene within 30 minutes of being notified. Officers should make the Traffic Sergeant aware of violations in memorandum form via the chain of command.
4. Before leaving the site of the crash, the Contract Wrecker shall completely remove all wreckage or debris (including broken glass) from the street. Removal of wreckage will not be considered completed by merely sweeping debris to the curb line.
5. The department reserves the right to cancel any tow truck call prior to hook-up without charge.

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6. At the direction of the police officer at the scene of the crash, the Contract Wrecker shall remove all wrecked vehicles from any blocked or partially blocked traffic lane to a nearby site of safety for the purpose of restoring traffic flow and maintaining safe driving conditions on the public street.

P. REPORT REQUIRED UPON IMPOUNDING VEHICLES

1. It is the responsibility of the officers impounding vehicles to:
 - a. Check both the registration and vehicle identification numbers for stolen. If the vehicle is "clear", the officer will note that by writing "clear" next to "Vehicle Condition" on the Impounded Vehicle Report.
 - b. Complete the three-part Impounded Vehicle Report and a Vehicle Report as outlined in the Report Writing Guide.
 - c. Complete a property inventory and document all personal property of value onto the Impounded Vehicle Report.
 - d. Retain the white copy of the Impounded Vehicle Report and deliver the pink copy of the completed Impounded Vehicle Report to the wrecker driver.
 - e. Turn in the white copy of the Impounded Vehicle Report with original reports to the supervisor for routing to the Central Records and Communication Division.
 - f. Turn in the yellow copy of the Impounded Vehicle Report to the Operations Division Secretary by placing the report in the designated box.
2. It is the responsibility of the Records Manager to cause the file maintenance of all original Impounded Vehicle Report for future use in the event of property disputes, criminal court evidence, and/or litigation.
3. The Operations Division Secretary will maintain a copy of all Impounded Vehicle Reports.

Q. NOTIFICATION OF OWNER IN "NON-CONSENT" TOWS

1. In all cases of non-consent towing, the officer shall make every effort to inform the owner or operator of the vehicle as to the location of the vehicle storage facility to which the vehicle will be towed.
2. The Central Records and Communications Division will maintain an impound vehicle log detailing to which vehicle storage facility each vehicle is taken. The impound vehicle log will be available on the network so that any employee may access the log to determine to where any given vehicle is impounded.

R. RESPONSIBILITY

1. All members of the Department shall know and comply with all aspects of this directive.
2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.