

# 350 Vehicle Towing and Impound

## 350.1 PURPOSE AND SCOPE

This order provides the procedures for towing a vehicle by or at the direction of the Austin Police Department.

### 350.1.1 DEFINITIONS

- (a) Impound Wrecker: For purposes of this order, impound of a motor vehicle means the taking of a vehicle from a street, alley, highway, sidewalk or public thoroughfare, and in some instances a public place, into actual constructive police custody. It is the removal of a vehicle from where it is initially located, and may also include continued retention of the vehicle in a garage, vehicle storage facility, or other place of safekeeping. Only the authorized impound wrecker service will be used to tow and store impounded vehicles.
  - 1. The following are situations/circumstances which do not constitute an impound.
    - (a) The towing/removal of a vehicle from the scene of a crash due to damage.
    - (b) The removal of an unauthorized vehicle from a private parking lot by the person who has care, custody and control of the lot.
    - (c) Persons engaged in construction, street repair, etc. relocating vehicles to a nearby place of safety.
    - (d) The towing of a vehicle seized by police under applicable forfeiture proceedings.
- (b) Preference Wrecker: An APD approved wrecker that is requested by the driver or owner of a vehicle.
- (c) Non-Preference Wrecker: An APD approved wrecker that is dispatched by the contracted tow management company once a request for a wrecker is made by the officer to dispatch through the Auto-Return System used by Communications.
- (d) Hold: an obligatory request made by an investigative unit for a tow storage facility to retain and secure an impounded vehicle for criminal investigatory or evidentiary purposes until the investigative unit authorizes release.
- (e) Inventory: a limited, care taking responsibility by the police to ensure that vehicles and items of value left in a vehicle are properly handled to protect the property owner from loss, protect the police from potential false claim of lost property, and protect persons from injury due to the potential that a vehicle could contain dangerous instrumentalities.

## 350.2 GENERAL TOWING GUIDELINES

### 350.2.1 TOWING SITUATIONS

Vehicles shall be towed using an authorized Preference or Non-Preference wrecker in the following situations:

- (a) Vehicles disabled due to a traffic crash that must be removed from the scene regardless of whether the driver is arrested, as outlined in General Order 346 (Crash Investigation and Reporting).
- (b) All other disabled vehicles where the driver is on-scene, officers are providing assistance and the driver is requesting the vehicle be towed.

### 350.2.2 DRIVING A NON-CITY VEHICLE

Non-City vehicles should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of traffic or to comply with posted signs.

### 350.3 IMPOUND GUIDELINES

The decision to impound may be made by any officer as long as the vehicle is in violation of any City ordinance related to traffic or parking, or constitutes a traffic hazard.

- (a) Officers may impound vehicles that are authorized to be impounded. Circumstances permitting an impound are listed in 350.3.1 (Authorized Impounds).
- (b) A vehicle is considered impounded once the wrecker has been called by Communications.
  - 1. In the event that the owner/operator of the operable vehicle arrives before the arrival of the authorized impound wrecker, officers should attempt to cancel the wrecker.
  - 2. If the authorized impound wrecker cannot be canceled, the owner/operator of the vehicle must settle with the authorized impound wrecker service by payment of a standard fee at the scene or the vehicle will be impounded by the wrecker.
- (c) Anytime a vehicle is actually impounded or moved, officers will:
  - 1. Complete an APD Impound/Wrecker Report and provide the contacted wrecker service driver with the appropriate copy.
  - 2. Contact dispatch and have the towed/impounded vehicle entered into the Impound/BOLO file prior to the removal of the vehicle.
- (d) When a vehicle is impounded, the impounding officer will deliver the ignition key, if available, to the wrecker driver.
- (e) Unless authorized by an investigative unit, a vehicle should not be placed on hold when the vehicle contains only evidence, contraband, or products of crimes that can be easily removed with no reduction in the evidentiary value of such material. If a hold is authorized, the investigative unit and authorizing detective will be documented in the officer's report and follow guidelines in policy 350.3.2 Hold Procedures.

#### 350.3.1 AUTHORIZED IMPOUNDS

- (a) Officers impounding a vehicle under the following authorized situations/circumstances must complete an incident report entitled Impounded/Moved Vehicle. The report must identify the vehicle, location, time, registered owner, wrecker service and must justify or show probable cause for the impound based on one or more of ~~T~~the following **are** situations/circumstances: ~~for which a vehicle may be impounded.~~
  - ~~(a)~~1. The operator of the vehicle has been arrested ~~and the vehicle is not needed for evidentiary purposes, and the vehicle is otherwise safely operable.~~
  - ~~(b)~~2. It is an abandoned vehicle or junked/nuisance vehicle as defined in the Texas Transportation Code.
  - ~~(c)~~3. The vehicle is listed in the BOLO file as a "Stop, ID and Impound" (e.g., UUMV).
  - 4. Municipal Court has issued an order that a specific vehicle be impounded due to outstanding parking citations.
  - 5. When there is articulable probable cause to believe that the vehicle:
    - (a) Is the instrument, fruit, or evidence of a crime; or
    - (b) Contains an instrument, fruit or evidence of a crime; or
    - (c) Other means of effecting the gathering or security of evidence at the immediate location of the vehicle is not readily available, or appears futile.
      - 1. The vehicle will be accompanied by APD personnel, until secured in the lot, to maintain proper chain of custody.
      - 2. The Crime Scene Section will be notified if the vehicle is to be secured inside the Vehicle Processing Facility.

(b) Officers impounding a vehicle under the following authorized situations/circumstances shall make detailed CAD notes identifying reasons for the officer's presence (officer initiated, call for service, etc.), reason for impound (special event, hazardous violation, etc.), and authority for impound (citation, city ordinance, emergency, etc.) If a citation is issued, a photograph of the vehicle violation(s) shall be taken and attached to the e-citation as evidence:

~~(d)1.~~ Due to any catastrophe, emergency or unusual circumstances the safety of the vehicle is imperiled and it cannot be moved to a safe place by other means.

~~(e)2.~~ The vehicle (including non-motorized) is an immediate and substantial hazard to persons or property because of the vehicle's location and/or condition.

~~(f)3.~~ The vehicle (including non-motorized) is unattended and parked, stopped or left standing upon any alley, highway, street, sidewalk, or other thoroughfare within the City in apparent violation of state law or City ordinance and the vehicle:

~~1.(a)~~ Has been ticketed for illegal parking at least ten (10) minutes before beginning the impound process and the vehicle is in:

~~(a)1.~~ A commercial delivery zone; or

~~(b)2.~~ Any area on a public roadway or alley marked "No Parking/Tow-Away Zone."

~~2.(b)~~ Is obviously obstructing the safe and orderly flow of vehicular and/or pedestrian traffic and it is impractical to move the vehicle to a nearby location.

~~(g) Municipal Court has issued an order that a specific vehicle be impounded due to outstanding parking citations.~~

~~(h) When there is articulable probable cause to believe that the vehicle:~~

~~1. Is the instrument, fruit, or evidence of a crime; or~~

~~2. Contains an instrument, fruit or evidence of a crime; or~~

~~3. Other means of effecting the gathering or security of evidence at the immediate location of the vehicle is not readily available, or appears futile.~~

~~(a) The vehicle will be accompanied by APD personnel, until secured in the lot, to maintain proper chain of custody.~~

~~(b) The Crime Scene Section will be notified if the vehicle is to be secured inside the Vehicle Processing Facility.~~

### 350.3.2 ~~IMPOUND~~ HOLD PROCEDURES

~~(a) A vehicle is considered impounded once the wrecker has been called by Communications.~~

~~1. In the event that the owner/operator of the operable vehicle arrives before the arrival of the authorized impound wrecker, officers should attempt to cancel the wrecker.~~

~~2. If the authorized impound wrecker cannot be canceled, the owner/operator of the vehicle must settle with the authorized impound wrecker service by payment of a standard fee at the scene or the vehicle will be impounded by the wrecker.~~

~~(b) When a vehicle is impounded, the impounding officer will deliver the ignition key, if available, to the wrecker driver.~~

~~(c) A parking citation will be issued in all cases in which the vehicle was impounded for a parking violation.~~

~~(d) Anytime a vehicle is actually impounded or moved, officers will:~~

~~1. Complete an APD Impound/Wrecker Report and provide the contacted wrecker service driver with the appropriate copy.~~

~~2. Contact dispatch and have the towed/impounded vehicle entered into the Impound/BULO file prior to the removal of the vehicle.~~

- ~~3. Complete an incident report entitled Impounded/Moved Vehicle identifying the vehicle, location, time, registered owner, wrecker service, and show justification for the impound when:
    - ~~(a) The operator of the vehicle has been arrested, or~~
    - ~~(b) It is an abandoned vehicle or junked/nuisance vehicle as defined in the Texas Transportation Code, or~~
    - ~~(c) The vehicle is listed in the BOLO file as a "Stop, ID and Impound" (e.g., UUMV), or~~
    - ~~(d) Municipal Court has issued an order that a specific vehicle be impounded due to outstanding parking citations, or~~
    - ~~(e) When there is articulable probable cause to believe that the vehicle:
      - ~~1. Is the instrument, fruit, or evidence of a crime, or~~
      - ~~2. Contains an instrument, fruit or evidence of a crime; or~~
      - ~~3. Other means of effecting the gathering or security of evidence at the immediate location of the vehicle is not readily available, or appears futile.
        - ~~(a) The vehicle will be accompanied by APD personnel, until secured in the lot, to maintain proper chain of custody.~~
        - ~~(b) The Crime Scene Section will be notified if the vehicle is to be secured inside the Vehicle Processing Facility~~~~~~~~
  - ~~4. An incident report is not required, however detailed notes identifying reasons for the officer's presence (officer initiated, call for service, etc.), reason for impound (special event, hazardous violation, etc.), and authority for impound (citation, city ordinance, emergency, etc.) when:
    - ~~(a) Due to any catastrophe, emergency or unusual circumstances the safety of the vehicle is imperiled and it cannot be moved to a safe place by other means.~~
    - ~~(b) The vehicle (including non-motorized) is an immediate and substantial hazard to persons or property because of the vehicle's location and/or condition.~~
    - ~~(c) The vehicle (including non-motorized) is unattended and parked, stopped or left standing upon any alley, highway, street, sidewalk, or other thoroughfare within the City in apparent violation of state law or City ordinance and the vehicle:
      - ~~1. Has been ticketed for illegal parking at least ten (10) minutes before beginning the impound process and the vehicle is in:
        - ~~(a) A commercial delivery zone; or~~
        - ~~(b) Any area on a public roadway or alley marked "No Parking/ Tow-Away Zone."~~~~
      - ~~2. Is obviously obstructing the safe and orderly flow of vehicular and/or pedestrian traffic and it is impractical to move the vehicle to a nearby location.~~~~~~
- (a) An investigative unit detective or any investigative supervisor at the rank of sergeant or above may place a hold on an impounded vehicle. This will often occur after patrol has communicated with an investigative unit and been given instructions to secure the vehicle for evidentiary or forensic reasons.
  - (b) The investigative unit has five (5) days to place an extended hold on the vehicle. After five (5) days, if no extended hold has been initiated by the investigative unit the vehicle will be released by the tow company.
  - (c) The appropriate investigative unit should lift a hold as soon as practicable once it is determined that the vehicle is no longer needed for investigative or evidentiary purposes.
  - (d) Vehicle holds shall be documented as follows:

1. The impounding officer must complete the impound sheet indicating the investigative unit that is requesting the hold and provide it to the tow truck driver.
2. The impounding officer shall document the hold in their incident report, including the name and badge number of the employee authorizing the hold, and the investigative unit.
3. The investigative unit/detective or supervisor requesting the hold shall make the initial vehicle hold entry by completing the APD Vehicle Holds SmartSheet form located on the Investigations SharePoint page within 8 hours of the vehicle being impounded. A confirmation email will be sent to the investigative unit's resource account which will allow the unit/detective to make updates to the entry.
  - (a) If the vehicle is being placed on hold for forensic processing, the investigative unit/detective shall contact the Crime Scene Unit, in advance, and ensure they are able to meet the vehicle at the designated Crime Scene Unit processing facility.
  - (b) The vehicle will be accompanied by APD personnel until secured in the forensic processing facility to maintain proper chain of custody.
- (e) If the vehicle needs to be held past the initial five (5) day hold or is ready to be released, the appropriate investigative unit shall notify the vehicle storage facility via the SmartSheet update form found in the resource account.
- (f) Sergeants of investigative units will periodically review vehicles on hold for release or continuation of hold status.
- (g) Supervisors should be aware that storage fees will begin to accumulate for the owner once the investigative unit releases the hold.

### 350.3.3 WAIVER OF STORAGE FEES

- (a) Only supervisors at the rank of sergeant or above may approve the waiver of tow and/or storage fees for the vehicle owner.
- (b) If the vehicle would have otherwise been impounded or towed from a scene due to any other authorized purpose, supervisors will not waive tow or storage fees for vehicles that have been impounded for investigative or evidentiary purposes. (i.e. a vehicle not operable due to damage from a crash that would have required a tow even if it was not impounded.)
- (c) Supervisors will document the approval and reasons for fee waivers in a supplemental report.

### 350.3.34 ~~HOLDS ON IMPOUNDED VEHICLES~~ RELEASE PROCEDURES

- ~~(a) A hold may be placed on an impounded vehicle when:
  1. ~~The vehicle was involved in a criminal incident and it is necessary to establish the identity of the person who will attempt to claim the vehicle.~~
  2. ~~There is a need to secure the vehicle for evidentiary reasons (e.g., homicide, stolen property, a vehicular fatality, vehicle to be forfeited).~~~~
- ~~(b) A hold shall only be authorized by a supervisor or the appropriate Investigative Unit.
  1. ~~The employee number of the authorizing supervisor or investigator shall be placed on the "approved by" line on the APD Wrecker/Impound Report.~~
  2. ~~The impounding officer shall document the hold in their incident report.~~~~
- ~~(c) The initial hold placed on an impounded vehicle shall be in effect for 72 hours. A hold may be lifted by the appropriate Investigative Unit before the 72 hours expires, or extended if continued retention is necessary.~~

- (a) Following an arrest, if the vehicle is not needed for evidentiary purposes, the vehicle may be released at the officer's discretion to a responsible person present at the scene if the owner/operator requests it.
  - 1. The person taking custody of the vehicle must be in possession of a valid driver's license and be capable of providing care, custody, and control of the vehicle.
  - 2. The identity of the person (name, DOB, driver's license, address) who takes custody of the vehicle shall be noted in the officer's incident report.
- (b) If it is determined that an impounded vehicle needs to be released immediately and there was no hold placed, the following steps should be taken:
  - 1. A supervisor the rank of sergeant or above will contact the authorized impound company via email and advise to release the vehicle without charge. The Wrecker Enforcement Unit should be copied on the email.
  - 2. The supervisor will add a supplement to the incident report to indicate the fact that the fee was waived.
- (c) If a vehicle has been impounded and a subsequent hold placed, the hold can be released by the investigative unit by updating the database entry via the SmartSheet update form found in the unit's resource account. If the update form is not available, please email wrecker.enforcement@austintexas.gov to have the vehicle released.
- (d) The storage facility operator will be responsible for the release of all vehicles according to state law.

### **350.4-5 VEHICLE INVENTORY**

- (a) In all incidents where a vehicle is impounded ~~or moved~~, officers will ~~make~~ conduct an inventory of the vehicle for damage and any items of personal property. In rare circumstances, an investigative unit may direct an on-scene officer not to conduct an inventory because the investigative unit determines that the inventory would unreasonably jeopardize the evidentiary/forensic integrity of the vehicle. The direction to not inventory should be documented using BWC and in the incident report.
- ~~(a)~~(b) Officers conducting a vehicle inventory must have their BWCs activated. Officers should also use the APD Wrecker/Impound report PD0068 in either electronic or paper format. When practicable the owner/operator should sign the Wrecker/Impound form and be provided a copy. Such an inventory is a care taking function intended to protect:
  - 1. The owner's property while it remains in police custody or at the police impound facility.
  - 2. The police against claims or disputes over lost or stolen property.
  - 3. Persons where the nature of the property can cause harm.
- ~~(b)~~(c) The scope of the inventory will include:
  - 1. The exterior for body damage.
  - 2. Those places in a vehicle where a person ordinarily would store or leave items of personal property. Those areas can be but are not limited to:
    - (a) Passenger compartment.
    - (b) Trunk, console, glove box, and attached locked containers (e.g., toolbox) if the key is readily available.
    - (c) Open and closed containers.
  - 3. The inventory will include contents of locked containers (e.g., briefcase, footlockers) if the key or combination is readily available. If the key is unavailable, containers/compartments may be opened with supervisor's approval.
- ~~(e)~~(d) All vehicle damage and personal property located during an inventory of a vehicle will be listed on the APD Wrecker/Impound Report, or documented using BWC by verbally



narrating the observed damage to the vehicle, and inventory of contents, including its property description and location.

~~(d) — Unless placed with the prisoner's property at Central Booking, any personal items removed from the vehicle by the impounding officer will be:~~

~~1. — Listed and described on the APD Wrecker/Impound Report and the property section of the incident report; and~~

~~2. — Turned into the Evidence Room in accordance with Department General Orders.~~

(e) Property that is removed from a vehicle by the police during the inventory will be handled as follows:

1. Turned over to the owner if practicable while utilizing the BWC, and documented in the incident report if one is generated. If ownership of property is disputed, the item will not be released and instead turned into evidence for safe keeping.

2. Property of value that cannot be turned over to the owner/driver will be turned into APD Evidence. The items taken from the vehicle will be identified on BWC as seized for safe keeping or evidence. The incident report will document items taken into police custody in the property section and the narrative of the report.

3. If the owner of the property is the arrested subject, and the owner is in a state to make rational decisions, the owner may designate that items of value be turned over to a third party on scene. The officer will identify the subject taking custody of the items and enter the subject into the entities section of the report, and document all items turned over in the narrative of the report. The consent to release property to a third party, and the third party taking custody of property should be documented on BWC. If the third party refuses to be identified, the officer will turn the property into evidence for safe keeping.

~~(e)~~(f) If an item of contraband, or fruit or instrument of a crime is found during a vehicle inventory, it may be seized and the person in possession of the vehicle arrested for the appropriate offense(s).