

TOMPKINS COUNTY SHERIFF'S OFFICE GENERAL ORDERS



G.O. 806

VEHICLE TOWING AND IMPOUND PROCEDURES

new: ✓ rescinds: 47.4 ✓ amends: All previous	cross-reference:
	accreditation standards: NYSLEAP Standard(s): 47.8
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I. PURPOSE

The purpose of this Order is to establish and describe policies and procedures for towing and impounding vehicles for legitimate police purposes and to safeguard both the vehicle and its contents.

II. POLICY

It is the policy of the Tompkins County Sheriff's Office to tow and impound vehicles in accordance with all applicable laws, and when necessary in order to expedite traffic, enforce laws, conduct investigations and to protect the lives and property of the public. Whenever a vehicle is impounded due to a parking violation or arrest of the operator, or due to the vehicle being involved in unlawful activity, the subject of an investigation, or part of a civil forfeiture a *Vehicle Removal Form* shall be completed. If items are confiscated as evidence or for safe-keeping they must be logged on a *Property/Evidence Custody Report*.

III. DEFINITIONS

Impound: To take and hold a vehicle in legal custody. The vehicle may be towed and held at the office's designated impound yard or the tow company's impound yard depending on the criteria.

Towing: The moving of a vehicle from public or private property by another vehicle for hire.

Vehicle: A motor vehicle, as defined in § 125 of the Vehicle and Traffic Law of the State of New York; a bus, as defined in § 104 of such law; a tractor, as defined in § 151-a of such law; a trailer, as defined in § 156 of such law; or a truck, as defined in § 158 of such law.

IV. CRITERIA FOR TOWING/IMPOUNDING VEHICLES

A. The following criteria are established for the towing and/or impoundment of motor vehicles:

1. Abandoned Vehicles

The New York State Vehicle & Traffic Law authorizes police officers to seize a vehicle or trailer when it is deemed an "abandoned vehicle." See Attachment C - Article 33, § 1224 –

Abandoned Vehicles.

2. Aggravated Unlicensed Operation Second Degree and First Degree

The New York State Vehicle & Traffic Law requires police officers to seize a vehicle when the operator is charged with either Aggravated Unlicensed Operation Second Degree or Aggravated Unlicensed Operation First Degree. *See Attachment C- Article 20, §511-b – Seizure and Redemption of Unlawfully Operated Vehicles.*

3. Arrest of Operator/Unlicensed Operator

- When the operator of vehicle is arrested, or the operator is unlicensed, the vehicle will not be towed if it is parked in a safe and lawful location unless:
 - One or more the circumstances requiring towing or impounding by law or this order are present; or
 - The owner/operator requests the vehicle be towed.
- The owner/operator may request a third person assume control of the vehicle. Such requests will be granted provided the following conditions are met:
 - There are no conditions that require the towing or impounding of the vehicle
 - The vehicle may be legally and safely driven;
 - The vehicle is properly insured; and
 - The proposed operator of the vehicle is properly licensed to drive the vehicle, exhibits no signs of intoxication or impairment, and is readily available to assume control of the vehicle without undue delay.

4. Disabled Vehicles

When a vehicle is disabled and the owner/operator is present, the operator may request a specific towing service. Officers will attempt to accommodate the request provided if it is reasonable and will not impede traffic or police operations. If the owner/operator is not present, or his request for a specific tow service is not feasible and the vehicle poses a hazard or obstructs traffic, the officer will have the vehicle towed using the established list of tow service vendors.

5. Emergency/Exigent Circumstances

Officers may direct that vehicles be towed if necessary to resolve emergency or exigent circumstances. Examples include vehicles blocking fire-fighting operations or blocking emergency vehicles or equipment.

6. Evidence

Vehicles may be impounded as evidence or for a valid investigative purpose, i.e., involved in a hit and run case or asset seizure. Vehicles impounded for evidence will be transported to the Office's secured impound yard by an approved tow company. An officer will escort the vehicle until secured to maintain the chain-of-custody. A *Property/Evidence Custody*

Report will be completed as with other property/evidence. The vehicle and keys will be entered into evidence and the keys will be secured in a temporary evidence locker with the custody report. *See G.O. 205 Property/Evidence Management.*

7. **Fatal Motor Vehicle Accident**

When a motor vehicle is involved in a fatal accident the Road Patrol Lieutenant will be consulted to determine if the vehicle should be impounded. Any search or testing of such vehicles will be determined by the Investigator supervising the investigation in consultation with the District Attorney's Office. *See G.O. 205 Property/Evidence Management.*

8. **Motor Vehicle Accidents**

Vehicles involved in motor vehicle accidents will be towed if rendered inoperable or unsafe to drive. The owner/operator may request a specific towing service provided the request is reasonable and will not impede traffic or police operations. If the request is not feasible, and the vehicle must be towed because it is inoperable or unsafe the officer will have the vehicle towed using the Dispatch Center's established list of tow service vendors.

9. **Parking Violations**

Vehicles will not be towed for parking violations unless one or more of the following circumstances exist:

- The vehicle is located in a no parking zone that is also specifically designated and marked as a "tow-away zone;"
- The vehicle is creating a hazard or impeding traffic; or
- The vehicle is blocking a designated fire lane or handicapped access:

Note: In such cases the officer will issue any appropriate parking citations.

10. **Private Property**

Vehicles on private property may be removed/towed by a towing service upon request of the property owner or their representative. If necessary, the names and phone numbers of several towing agencies shall be supplied to the property owner or representative for resolution of the problem. The responsibility for calling a wrecker service will remain with the property owner. The officer, however, may issue a ticket if there is an existing ordinance in that jurisdiction.

This section does not apply to a vehicle on private property which is:

- Involved in a criminal act, is or contains evidence, or is subject to seizure;
- Is in violation of any law, rule, regulation or ordinance pertaining to motor vehicles; or
- Its operator has been taken into custody.

11. Snow Removal

If necessary to permit snow removal efforts vehicles may be towed. Before towing such vehicles officers will make an attempt to locate an owner or operator and have the vehicle moved if doing so will not unduly impede snow removal operations.

12. Stolen Vehicles

Recovered stolen vehicles are a potential source of physical evidence (i.e., latent fingerprints) and will be processed accordingly. Recovered stolen vehicles will be handled as evidence. *See G.O. 205 Property/Evidence Management.*

- A recovered motor vehicle alleged to have been stolen, but not alleged to have been used in connection with another crime, may be expeditiously released to the owner or their representative after taking photographs of the vehicle identification number, registration on windshield, license plates, each side of the vehicle, vent windows, door locks and handles, the front and back of the vehicle, the interior of the vehicle including the ignition lock, seat to floor clearance, center console, radio receptacle and dashboard area, the motor, and any other interior or exterior surfaces showing any and all damage to the vehicle. A *Stolen Vehicle Recovery Report* shall be completed.

13. Uninsured and/or Unregistered Motor Vehicles

- When an individual is charged with operating a motor vehicle without a registration, the vehicle may be seized until proper proof of registration can be produced. In cases where the operator merely cannot produce the registration certificate, seizure will not normally be exercised.
- When an individual is charged with operating a motor vehicle without insurance, the motor vehicle may be seized until proper proof of insurance is produced.

14. Other Circumstances

Officers will consult an on-duty supervisor on the appropriateness of towing and/or impounding vehicles under circumstances not enumerated in this order. The decision to tow or impound vehicles under circumstances not listed in this order must be supported by a lawful, reasonable, legitimate, and articulable justification.

IV. VEHICLE INVENTORY SEARCHES

- A. A motor vehicle inventory is an administrative measure designed to protect motor vehicles and their contents while in police custody; to protect the agency against claims of lost, stolen or damaged property; and to protect office personnel and the public against injury or damaged property due to hazardous materials or substances that may be in the vehicle. **An inventory is not undertaken to gather evidence.** It is the policy of this law enforcement agency to safeguard the above property and interests and to conduct motor vehicle inventories only in accordance with the following procedures.

Inventory searches shall be conducted on all vehicles lawfully impounded by the office, with the exception of a vehicle that is secured and the reason is a simple parking violation or for

snow removal. In the case of a simple parking violation or for snow removal any valuables seen through the window in plain-view shall be noted on the Vehicle Removal Form. Officers will adhere to the procedures set forth in this order in conducting vehicle inventory searches. **Failure to follow these procedures may render the inventory search unlawful and result in suppression of any evidence or contraband located.**

- B. Police officers are authorized to conduct an inventory of items found in lawfully impounded vehicles without a search warrant. Any contraband or evidence found in a lawful inventory search of an impounded car is admissible in a subsequent criminal prosecution.

Note: The arrest of a driver, standing alone, will not trigger the right to impound his or her vehicle. Officers will be guided by the criteria listed above in determining whether impounding a vehicle is authorized. See Section III (A) above.

C. Legal Authority to Inventory

1. An authorized member of this agency may conduct a motor vehicle inventory without a warrant or probable cause when:
 - a. the vehicle has been lawfully seized or impounded pursuant to the arrest of the driver; after towing the vehicle for violations, or for related enforcement or safety reasons as defined by state law, and
 - b. when officers conduct the inventory within the scope of this Order as an administrative procedure.
2. Examination of the contents of a motor vehicle pursuant to a criminal investigation or with the intent of discovering evidence of a crime is a search, not an administrative inventory. Officers shall be guided by this office's procedures on motor vehicle searches when engaged in these actions.

D. Scope of Inventory

1. The contents of all motor vehicles that are lawfully seized and/or impounded by this agency shall be subject to inventory in accordance with the provisions of section III-A of this Order.
2. An inventory should be conducted in the location at which the vehicle is seized unless limited by reasons of safety or practicality. If so, it may be inventoried at a later time following impoundment.
3. The owner or operator of the vehicle shall be asked to remove, if possible, all valuables from the vehicle prior to impoundment. If such items cannot be removed, they shall be inventoried before the vehicle is removed, and the owner/operator shall be requested to verify the completeness of the inventory by signature.
4. A motor vehicle inventory may extend to all areas of the vehicle in which personal property or hazardous materials may reasonably be found, including but not limited to the passenger compartment, trunk and glove compartment.

5. All closed containers found within the vehicle shall be opened for purposes of the inventory. Closed and locked containers shall not be forced open but shall be logged on the impound report as such. If a key or lock combination is available, locked containers may be opened and inventoried.
6. Only a visual inspection shall be conducted from outside the vehicle if it is locked and access cannot be gained without causing damage. All items of value and their location shall be documented on the *Vehicle Removal Form*.
7. The vehicle shall be inspected for damage to the exterior of the vehicle and any damage noted on the form.
8. Officers shall note on the Vehicle Removal Form any area of a vehicle not accessible to an inventory search or areas not searched due to evidentiary considerations.

D. Property Control

1. All items of value, not removed by the owner or operator of the vehicle, shall be itemized on the *Property/Evidence Custody Form* and such materials turned over to the control of the property room for safekeeping in accordance with *G.O. 205 Property/Evidence Management*. Items of value include but are not limited to items such as cellphones, tablets, currency, credit cards, wallets, etc.
2. Property of value or other property that may not be left in the vehicle (e.g., firearms or other weapons) will be removed from the vehicle and submitted to the evidence/property room for safekeeping pursuant to the procedures set forth in *G.O. 205 Property/Evidence Management*.
3. Control and safekeeping of hazardous materials shall be in accordance with *G.O. 205 Property/Evidence Management*.
4. Contraband and evidence discovered during the course of a motor vehicle inventory shall be seized, itemized on the *Property/Evidence Custody Form* and entered as evidence in accordance with the procedures outlined in *G.O. 205 Property/Evidence Management*.
5. Large items of value (e.g., tools) may also be secured in the vehicle if not feasible to remove and secure in the office's evidence/property room.

V. NOTIFICATIONS

- A. If feasible under the circumstances, prior to towing or impounding any vehicle, personnel will attempt to contact the registered owner of the vehicle to notify them that the vehicle is being impounded or towed, and the reason for the vehicle's removal.
 1. This notification may be made to the operator of the vehicle, or other person with control of the vehicle, if they are present at the time the vehicle is being removed.

VI. TOWING SERVICES AND VENDOR LIST

- A. The Dispatch Center maintains a list of available tow services for use by Office personnel.

See TCTDOER Tow Service Requirements & Policy.

1. The Non-Preference List contains towing service vendors located within the County and shall be used whenever the involved party(ies) has no preference as to which tow service is to be called.
 - The Dispatch Center will call the next vendor on the list and make the appropriate entries concerning the date time and location of the tow.
 2. When the owner/operator requests a specific towing service, officers will attempt to accommodate the request provided it is reasonable and will not impede traffic or police operations. If the owner/operator is not present, or his request for a specific towing service is not feasible, and the vehicle poses a hazard or obstructs traffic, the officer will have the vehicle towed using the Non-Preference List.
- B. When a towing service is summoned to the scene of an accident for the removal of a damaged vehicle or vehicles, the officer at the scene shall make certain that all glass and debris is removed from the scene and roadway by the towing service operator as is required in Section 1219, subdivision (c) of the New York State Vehicle & Traffic Law. Officers will document the refusal or failure of the towing service to do so in an Incident Report. The report will be forwarded to the Department of Emergency Response for follow up.

VII. E-JUSTICE PROCEDURES

- A. The following E-Justice inquiries/entries are used whenever the Office impounds and notification is not made to the vehicle owner or the person in control of, or releases from impound, any motor vehicle. The reporting officer shall have the primary responsibilities for all E-Justice entries. If they are unable to complete said entries/inquiries they shall contact the on-duty supervisor.
1. **RVIN NOGN** - This entry is used for vehicles that have no license plates and personnel cannot locate persons with the appropriate registration information. The RVIN NOGN lists the last known registered owner, or any lien holders, of the vehicle being impounded.
 2. **Impound Entry** - This entry is used to enter the impounded vehicle into the E-Justice Portal system showing the date, time, and other information concerning the vehicle impound.
 3. **Impound Cancellation** - This entry is used to cancel the impounded vehicle from the E-Justice Portal system showing the date, time, and other information concerning the release of the vehicle from impound.

VIII. ABANDONED VEHICLES

- A. Personnel assigned to investigate reports of abandoned vehicles on any highway or other public place will adhere to the following procedures:
1. An incident number will be assigned to the incident.

2. If the abandoned vehicle is not located the event may be cleared. If the officer finds the motor vehicle is abandoned, an orange *TCSO Disabled Vehicle Tag* should be secured to the driver's side door handle.
3. If the officer finds the motor vehicle is abandoned and in violation of Article 33, § 1224 – *Abandoned vehicles*, they will make an attempt to contact the last known owner of the vehicle for its removal. Removal of the vehicle by the owner is to be made in a reasonable time under the conditions of which the vehicle is found. Removal of the vehicle by TCSO is a judgement call based on the circumstances of the individual case.
4. Should the attempt to locate the owner or person in control of the vehicle fail, the investigating personnel will run or have the Dispatch Center run registration inquiries. The investigating personnel will attach the return copies of the inquiry response(s) to the Case Report.
5. If the investigation reveals that the vehicle in question is abandoned, the investigating officer will complete an Incident Report containing the following information:
 - Name of person reporting incident, if known;
 - Location of alleged abandoned motor vehicle;
 - Name and address of last registered owner;
 - State of registration and license number;
 - Vehicle identification number (VIN);
 - Vehicle year and make, i.e. Ford, Honda, etc.;
 - Vehicle model, i.e. Thunderbird, Caprice, etc.;
 - Vehicle type such as two-door, four-door, station wagon, van, etc.;
 - Vehicle color, i.e. red, blue, black, two-tone red/white, blue/white, etc.; and
 - Information regarding whether or not the owner of the vehicle was contacted to remove the vehicle to include:
 - Name and contact information of the person contacted;
 - Time contacted;
 - Date and time owner states the vehicle will be moved.
6. The above mentioned information will be provided to the on-duty supervisor. The supervisor will ensure that the registration inquiries were run through the E-Justice Portal to determine the last registered owner and titled owner, as well as all lien holders having claim to the motor vehicle.

B. Towing Procedures

1. When after an appropriate time has elapsed to afford the owner or person in control of the abandoned vehicle to comply with the associated regulations and all actions required as directed by this Order have been complied with, the vehicle will be impounded. The personnel assigned to impound the vehicle will:
 - Complete a Vehicle Removal Form.
 - Conduct an inventory search of the vehicle contents, recording all items found on the Vehicle Removal Form. The vehicle and its contents will then be secured.
 - Have the vehicle towed by the next available tow company to their tow yard.
 - Enter the vehicle in the E-Justice Portal as an impounded vehicle.

2. The teletype will be attached to the Case Report. A supplemental narrative shall be completed, containing but not limited to, the name of the towing service used, damage noted on the vehicle when towed, persons present when vehicle was towed, time, date, and reference to the completion of the Vehicle Removal Form.

Attachments:

- A. Vehicle Removal Form
- B. Property/Evidence Custody Report
- C. NYS Vehicle & Traffic Laws Governing Abandoned and Impounded Vehicles
- D. TCTDOER Tow Service Requirements & Policy
- E. TCSO Disabled Vehicle Tag

By Order Of



Derek Osborne
Sheriff