

GENERAL ORDER (INSTRUCTIONAL ORDER)

August 2017

Immediately

III-09

Distribution: All Employees

Subject: **TOWING AND IMPOUNDING VEHICLES**

Index as:	Hold Harmless Agreement	Towing Vehicles
	Impounding Vehicles	TraCS
	Inventorying Vehicles	Traffic and Criminal Software (TraCS)
	Tow Form	Vehicle Impound/Inventory Report

Accreditation Standards: 1.2.3, 61.1.11, 61.4.1, 61.4.3, **CFA 18.13**

Cross Reference: G.O. III-14, Evidence
 I.O. V.5:12, Civil Forfeiture Cases-Seizure/Forfeiture Procedures
 City Code Section 25-41, 26-47 and 26-131
 §316.1951, §322.34 and §713.585, F.S.S.

Replaces: G.O. III-9, Towing and Impounding Vehicles (August 28, 2017)

This Order details the authority, responsibility and procedures for towing and impounding vehicles. It consists of:

- A. Responsibility
- B. Authority to Impound Vehicles
- C. Towing a Vehicle
- D. Arrest of Operator
- E. Special Impound Situations
- F. Inventory/Search Procedures
- G. Report Requirements
- H. Release of Vehicles
- I. Notification Requirements

I. RESPONSIBILITY

A. It is the responsibility of the investigating Officer to impound all vehicles as required by law and to complete the Vehicle Tow and Storage Receipt form in the Traffic and Criminal Software (TraCS) system (Tow Form) (Attachment D).

1. The following information must be included on the tow form in TraCS:

- a. Time;
- b. Date;
- c. Location the vehicle was towed from;
- d. Requesting Officer;
- e. Reason for removal or tow;
- f. Towing service name;
- g. Location to which the vehicle was towed.

2. When the impoundment is pursuant to an ordinance or statute, the appropriate ordinance or statute number shall be included as part of the "Reason"; i.e., "Unsafe-Not in Proper Condition, Ord. 26-46(3)" or "Abandoned Vehicle, Ord. 26-47."

3. The owner's name and full address, if different from any driver, shall be included in the report and on the Tow Form.

B. Records and Evidentiary Services, Information Desk personnel shall release impounded vehicles when the Officer has indicated when the vehicle is released in TraCS and the requirements, as detailed in this Order, are met.

II. AUTHORITY TO IMPOUND VEHICLES

A. Designated police personnel are authorized by City Code Section 26-47 to immediately remove a vehicle from a street to the nearest garage or other place of safety or to a garage designated or maintained by the City when:

1. Any vehicle is left unattended upon a street and the vehicle constitutes an obstruction to traffic.
2. A vehicle on the street is so disabled as to constitute an obstruction to traffic, or the person in charge of the vehicle is, by reason of physical injury, incapacitated to such an extent as to be unable to provide for its custody and removal.
3. A vehicle is found being operated on a street, and it is not in a safe operating condition.
4. Any vehicle is left unattended on a street, is parked illegally, and constitutes a definite hazard to the normal movement of traffic.
5. Any vehicle is left unattended on a street continuously for seventy-two (72) hours and may be presumed to be abandoned. Factors which shall be considered when determining abandonment are:
 - a. The vehicle is not registered to a nearby residence;
 - b. Deflated or missing tire(s);
 - c. Unlocked doors;
 - d. Visible items in vehicle;
 - e. Ownership cannot be determined;
 - f. Expired or missing license tag;
 - g. Overall appearance of vehicle (condition, including cleanliness of paint); and
 - h. The length of time vehicle has been unattended.
6. The driver of a vehicle is taken into custody by the Police Department, and the vehicle would thereby be left unattended on the street.
7. A vehicle is upon a street and the removal is necessary in the interest of public safety because of flood, fire, storm, other emergency reasons, or along posted parade routes (C.O. 25-42).
8. A vehicle is parked in a tree line or right-of-way that has not been designated for parking and has been ticketed for at least twenty-four (24) hours.
9. When a vehicle is unlawfully displayed for sale, hire, or rental in violation of §316.1951, F.S.S.
 - a. A violation of this subsection will subject the owner of such vehicle to a citation and a fine as required by §318.18, F.S.S.
 - b. A Police Officer should affix a *Warning Notice* to the vehicle providing the vehicle's owner with twenty-four (24) hours to correct the violation, unless the same vehicle owner has:
 - 1) Received another *Warning Notice* within a twelve (12)-month period,
 - 2) The parked vehicle endangers public safety or constitutes a hazard, the vehicle reasonably appears to be a stolen vehicle, or other extraordinary conditions exist, in which case the vehicle may be immediately towed without warning.
 - c. For the purposes of determining violations of §316.1951, F.S.S., the public street immediately adjacent to private real property shall be both sides, where permitted, of the public street abutting the real property for the length of the block on which the real property is located.

B. Vehicles impounded pursuant to §322.34(8), F.S.S. Under this section an Officer shall immediately impound a vehicle when a person is arrested while operating a motor vehicle and the officer determines all of the following criteria are met:

1. The person's driver's license is suspended or revoked; and
2. The person's driver's license has remained suspended or revoked since a conviction for the offense of driving with a suspended or revoked license; and
3. The suspension or revocation was made under §316.646, F.S.S. or §627.733, F.S.S. failure to maintain required security (insurance), or under §322.264, F.S.S. relating to habitual traffic offenders; and
4. The driver is the registered owner or co-owner of the vehicle.

C. Vehicles Parked/Displayed for Sale, Hire or Rental

1. Motor vehicles, as defined in §320.01, F.S.S. may be towed when, pursuant to §316.1951, F.S.S., they have been unlawfully parked for a continuous period in excess of twenty-four (24) hours, after written notice, upon a public street or highway, upon a public parking lot, or other public property; or upon private property where the public has the right to travel by motor vehicle for the principal purpose and intent of displaying the motor vehicle thereon for sale, hire, or rental; unless the sale, hire, or rental of the motor vehicle is specifically authorized on such property by municipal or county regulation, and the person is duly licensed as a motor vehicle dealer in accordance with §320.27, F.S.S., and the person is in compliance with all municipal or county licensing regulations.

2. The law does not prohibit a person from parking their own motor vehicle, or their other personal property, on any private real property which the person owns or leases; or on private real property which the person does not own or lease, but for which they obtain the permission of the owner, or on the public street immediately adjacent thereto, for the principal purpose and intent of sale, hire, or rental.

3. A law enforcement Officer may cause to be removed, at the owner's expense, any motor vehicle found (parked/displayed for sale, hire or rental) upon a public street, public parking lot, other public property, or private property, where the public has the right to travel by motor vehicle.

4. Any vehicle found in violation of §316.1951, F.S.S., within ten (10) days after a previous violation and written notice, shall be subject to immediate removal without an additional waiting period.

III. TOWING A VEHICLE

A. A reasonable effort will be made to contact the owner before towing any unattended or disabled vehicle or any vehicle for a violation of §316.1951, F.S.S. A registration and warrant check will also be made.

B. Abandoned Vehicle

1. After a reasonable effort has been made to contact the owner, a NOTICE (B001) will be affixed to the vehicle and the vehicle marked (chalk tires, etc.) for movement verification. The CAD incident number shall be placed on the NOTICE sticker. (See Attachment D)

2. A follow-up will be made after seventy-two (72) hours and, if the vehicle has not been moved, it may be impounded.

3. A vehicle impounded as "abandoned" may be issued a parking citation. "Abandoned" will be placed in the space for "Other Violations" on the citation and shown as the "Reason" on the Tow Form in TraCS.

a. The violator's copy of the citation will be turned in to the Information Desk.

b. The impounding Officer shall include information in the report about all attempts to contact the owner and/or gain voluntary compliance.

C. Vehicles Parked/Displayed for Sale, Hire or Rental

1. The on-scene Officer will attempt to contact the owner of the vehicle to voluntarily remove it. If unable to contact the owner or voluntary compliance does not occur, a written *Tow Notice*, form SPPD 02-030, (available from the Equipment Room), shall be affixed in a conspicuous place upon the vehicle, under the wiper blade for example, by the investigating Officer to initiate the twenty-four (24)-hour waiting period.

2. A CAD incident number shall be obtained and placed on the *Tow Notice*. The issuing Officer shall direct the dispatcher to record, in the CAD notes, actions taken to contact the owner.

3. A follow-up will be made after twenty-four (24) hours, and if the vehicle has not been moved, it is subject to impoundment. However, prior to impoundment:

a. The Officer shall make a second attempt to contact the owner. If contact is made, the impoundment may be delayed for an additional twenty-four (24) hours in order to gain voluntary compliance.

b. If the owner cannot be contacted, or the vehicle has not been removed during the second twenty-four (24)-hour period after contact with the owner, the vehicle shall be impounded.

c. The impounding Officer shall include information in the report about all attempts to contact the owner and/or gain voluntary compliance.

4. A vehicle towed for violation of §316.1951, F.S.S., will be issued a parking citation. "Vehicles Parked/Displayed for Sale, Hire or Rental" will be written in the space for "Other Violations" on the citation and shown as the "Reason" on the Tow Form in TraCS. The violator's copy of the citation will be turned in to the Information Desk.

5. A violation of §316.1951, F.S.S. is a noncriminal traffic infraction, punishable as a nonmoving violation.

D. In all cases, the Vehicle Tow and Storage Receipt form in TraCS will be entered immediately after impoundment or as soon as practicable. The TraCS Vehicle Tow and Storage Receipt shall be provided to the Tri-J driver or tow operator at the time of the pick-up.

IV. ARREST OF OPERATOR

A. The vehicle may be left at the arrest location if it is legally parked.

1. To avoid impound, at the discretion of the Officer and with the permission of the person in possession of the vehicle and proof of insurance, the officer may move the vehicle the shortest distance possible so it may be legally parked. Motorcycles and mopeds shall be pushed instead of driven.

2. If a vehicle is moved pursuant to an arrest, the interior portion of the vehicle shall be searched prior to moving.

B. If the person in possession of a vehicle is arrested and the vehicle cannot remain at the arrest location, nor a reasonable alternative be provided, the vehicle may be impounded.

1. The Officer must establish a necessity for impounding the vehicle.

2. The person in possession of the vehicle shall be advised of the intent to impound and inventory the vehicle.

3. The arrested person shall be given a reasonable amount of time to provide an alternative to impounding of the vehicle. This should be limited to fifteen (15) minutes.

4. The arrested person may request a wrecker of their choice.

5. The arrested person may designate another responsible person, with a valid driver's license, to take custody of the vehicle. The Officer shall ensure that:

a. The arrested person is mentally alert so as to make a rational decision as to whom the vehicle will be released;

b. The designee is physically and mentally capable of assuming responsibility for the vehicle.

c. The designee is properly identified and their name, address and phone number shall be included in the police report.

6. The Officer must document in the police report **the reason** the vehicle was, or was not, impounded.

V. SPECIAL IMPOUND SITUATIONS

A. Vehicles impounded pursuant to §322.34(8), F.S.S. require the arrest affidavit and police report include the presence of the four necessary elements listed in this Order and state the vehicle was impounded pursuant to §322.34(8), F.S.S.

B. Vehicles may be impounded for evidentiary purposes.

C. A reasonable effort shall be made to release recovered stolen vehicles or those used in the commission of a crime, even though no one was arrested in the vicinity of the vehicle after processing.

D. Owners/drivers of vehicles involved in accidents have the right to either call or have the police call the wrecker or garage of their choice, unless the vehicle is needed for evidentiary purposes (i.e., fatal accident). If no preference is stated or the requested wrecker is not available, the contract wrecker will be called, but no Tow Form in TraCS is necessary.

E. Police Officers do not have the authority to remove vehicles from private property unless they have been stolen, used in the commission of a crime, have evidentiary value, or meet the following criteria:

1. Vehicles parked on private business property (strip malls, small commercial malls, etc.) as a result of police intervention:

a. If the business is open, the parking lot is presumed to be open by invitation and the vehicle may be parked there during normal business hours.

b. If the business is closed or will close before the arrested person can remove the vehicle, the lot is presumed to be closed and the business owner/designee must grant permission for the vehicle to remain.

c. If the vehicle is parked so as to disturb normal traffic flow, it should be removed or permission received from the owner of the lot to leave it so parked.

2. If the vehicle is parked on a large open parking lot and it will not disturb normal traffic flow, it should be left parked as is.

3. If the vehicle is parked in violation of §316.1951, F.S.S. (Vehicles Parked/Displayed for Sale, Hire or Rental).

VI. INVENTORY/SEARCH PROCEDURES

A. An inventory shall be made of the contents of all impounded vehicles and/or for evidentiary purposes, except those impounded only due to being involved in an accident.

B. The entire vehicle shall be inventoried, including all containers. Locked portions of the vehicle and containers which cannot be opened without causing damage shall not be forced open but, instead, described on the inventory as a locked portion of the vehicle or container. If the vehicle is locked, note the fact on the Tow Form in TraCS and inventory visible items within the passenger compartment.

C. Incidental to a lawful arrest, the entire passenger compartment may be searched as well as any locked, unlocked, or closed portion of the vehicle or container. However, no locked portion of the vehicle or container shall be forced open.

D. If any contraband or illegal firearms are found during either a routine inventory or search pursuant to arrest, the vehicle may be subject to seizure/forfeiture pursuant to <J:\Research\GeneralOrders\Instructional Orders\V5-12 Seizure and Forfeiture Procedures.pdf>.

E. If in the process of conducting an inventory, an article is found, which is evidence of a crime known to be stolen or is contraband, it may be seized immediately. If it is discovered after the impound has been completed, that an item included in a vehicle inventory is evidence of a crime or stolen, a search warrant must be obtained before the vehicle may be reentered.

F. In potentially dangerous situations, a vehicle may be moved from the area prior to an inventory and the completion of the Tow Form in TraCS. However, the inventory and the Tow Form shall be completed as soon as practical thereafter. The vehicle should be constantly observed by an Officer until it is inventoried.

VII. REPORT REQUIREMENTS

A. The impounding Officer shall complete a Tow Form in TraCS.

1. A four (4)-inch copy of the Tow Form from TraCS will be given to the wrecker driver at the time of the tow.

2. Send the J:\Forms\Notice of Vehicle Impoundment_08282017.docx (Attachment C) to the registered owner of the impounded vehicles.

B. If a "Hold" is placed on the vehicle, the reason for the hold and for whom the vehicle is held must be on the inventory. The "Hold" will expire in seventy-two (72) hours unless approval to exceed that time limit is obtained from a supervisor.

C. Vehicles impounded pursuant to §322.34(8), F.S.S. (Driving while driving privilege is suspended or revoked) shall have a "Hold" placed on them and the words "Statutory Impound," followed by either "Insurance" or "Habitual Offender," depending on the reason for the original suspension/revocation, entered into the "Reason" on the Tow Form in TraCS. This alerts the contract wrecker to make notifications required by law to the owner(s)/lien holder and to provide Information Desk personnel with information needed to determine proper release documentation.

VIII. RELEASE OF VEHICLES

A. When all release requirements are met, the completed copy of Tow Form in TraCS shall be given to the person securing the release, and a copy will be attached to the original report in RMS. The investigating Officer must release the vehicle from being on hold on the TraCS Tow Form under "other comments, other agency case #" box. For example: "Released by Officer [name] on date and time."

B. If there is no "Hold" placed on the vehicle, Information Desk Personnel may release a vehicle to:

1. A person named on the Title or Registration, upon the presentation of either the Title or Registration, and identification that they are that person.

2. A person in possession of a copy of the Title or Registration and a notarized *Limited Power of Attorney*, executed by a person named on the Title or Registration, and identification showing the presenter is the person named in the *Limited Power of Attorney*. The *Limited Power of Attorney* must substantially comply with the example shown as Attachment A, <J:\Forms\Limited Power of Attorney.pdf>.

3. A lien holder or authorized agent of a lien holder upon presentation of the Title or legible copy of the Title and a notarized *Hold Harmless Agreement*, executed by the lien holder, which contains the information in the example shown as Attachment B, <J:\Forms\Hold Harmless Agreement.pdf>.

C. Information Desk personnel shall retain a legible copy of any *Limited Power of Attorney* and/or *Hold Harmless Agreement* and note the police report number on the face of the copy, which shall be attached to the original police report.

D. Any question as to the sufficiency of any *Limited Power of Attorney* or *Hold Harmless Agreement* must be resolved by the Legal Advisor, or designee.

E. If the person or persons named on any of the aforementioned documents is different from the person requesting the release, or the VIN number on the Tow Form in TraCS does not match that on the Title or Registration, the release must be authorized by the Legal Advisor, or designee.

F. Authorization for release of any vehicle with a "Hold" must be obtained from the Officer placing the hold, or a Supervisor, prior to release.

G. Information Desk personnel may release vehicles impounded for violation of §322.34(8), F.S.S., under the following conditions:

1. To an owner or co-owner upon proof of current insurance on the impounded vehicle.
2. To a new owner upon presentation of a vehicle registration or vehicle title and proof of current insurance on the impounded vehicle.
3. To the lessee, if the vehicle is leased, upon due proof that the vehicle was leased.
4. To a perfected lien holder upon due proof of the lien.

IX. NOTIFICATION REQUIREMENTS

A. Police Notification Requirements:

1. Upon an Officer arranging for the immediate removal of a vehicle with Tri-J, they shall complete the following:
 - a. Vehicle Tow and Storage Receipt form in the Traffic and Criminal Software (TraCS) system (Tow Form). (Attachment D)
 - b. Notice of Vehicle Impoundment (Attachment C)
 - 1) The Officer shall provide the Tow Form to the tow operator on scene.
 - 2) The Officer shall complete the **Notice of Vehicle Impoundment** in its entirety, making sure to:
 - a) Find and record the last known address of the registered vehicle owner;
 - b) Specify the reason for the tow and impound;
 - c) Both print and sign their name on the form.
 - 3) The **Notice of Vehicle Impoundment** includes information which informs the vehicle owner that they have the right to challenge the vehicle impoundment in county court. **The Officer shall provide the Notice of Vehicle Impoundment to the registered owner of the vehicle via certified mail, return receipt requested.**
2. Contracted Towing Agency Notification Requirements:
 - a. As required by §713.585, F.S.S. the City's contracted wrecker company will mail *Certified Letters of Impoundment* to the titled owners and lien holders (if any) of all towed motor vehicles, pursuant to law.
 - b. As required by §322.34(8)(c) and (d), F.S.S., the City's contracted wrecker company will also notify any co-owner, lien holder, or lessee as specifically provided for therein, pursuant to law.

Anthony Holloway
Chief of Police