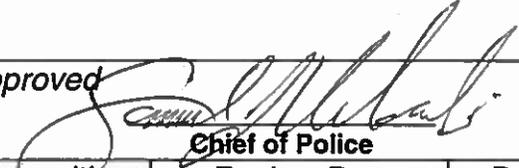


**LANCASTER POLICE DEPARTMENT
GENERAL ORDERS MANUAL**

Effective Date August 19, 2015		Amended Date December 12, 2017		Directive 7.03.1	
Subject Vehicle Impounds					
Reference			Approved  Chief of Police		
Distribution All Personnel City Manager City Attorney		TPCA Best Practices Recognition Program Reference None		Review Date December 12, 2017	
				Pages 9	

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 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

- A. **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.
- B. **Abandoned Motor Vehicle:** A motor vehicle that is inoperable and more than five (5) years old, and has been left unattended on public property for more than forty-eight (48) hours, or a motor vehicle that has remained illegally on public property for more than forty-eight (48) hours, or a motor vehicle that's remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours, or a motor vehicle left unattended on the right-of-way of a designated county, state or federal highway within this state for more than forty-eight (48) hours or for more than twelve (12) hours on a turnpike project constructed and maintained by the state turnpike authority. Section 683.002 "Abandoned Motor Vehicle", Texas Transportation Code
- C. **Junked Vehicle:** A vehicle that is self-propelled, does not have lawfully attached to it an unexpired license plate and a valid motor vehicle inspection certificate. Is wrecked, dismantled or partially dismantled, discarded or is inoperable and has remained inoperable for more than seventy-two (72) consecutive hours if the vehicle is on public property or thirty (30) consecutive days if the vehicle is on private property. Section 683.071 "Definition and Applicability", Texas Transportation Code

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- D. **Vehicle Storage Facility:** Means a garage, parking lot, or other facility that is owned by a person other than a governmental entity and used to store or park at least ten (10) vehicles a year. Section 2303.002(8) "Definitions", Texas Occupation Code
- E. **Motor Vehicle:** Means any motor vehicle subject to registration pursuant to the Texas Transportation Code, Chapter 501 "Texas Certificate of Title Act."
- F. **Antique Vehicle:** A passenger car or truck that is at least twenty-five (25) years old. Section 683.077(b)(1), "Inapplicability of Subchapter", Texas Transportation Code
- G. **Collector:** The owner of one (1) or more antique or special interest vehicles, who collects, purchases, acquires, trades or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.
- H. **Garagekeeper:** An owner or operator of a parking place or establishment, motor vehicle storage facility or establishment for the servicing, repair or maintenance of a motor vehicle.
- I. **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 Lancaster and such vehicles are therefore, declared to be a public nuisance.
- J. **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.
- K. **Impoundment Lot:** Any vehicle storage facility located within the city limits of Lancaster used by a Contract Wrecker Service.
- L. **Contract Wrecker Service:** Any Contract Wrecker Service company having a current contract with the City of Lancaster for conducting "non-consent" tows.
- M. **Consent Tow:** has the definition as set forth in Section 2308.201, Texas Occupations Code; consent tow means any tow of a motor vehicle in which the tow truck is summoned 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 an incident management tow or a private property tow.
- N. **Non-consent Tow:** has the definition as set forth in Section 2308.201, Texas Occupations Code. Non-consent tow means any tow of a motor vehicle that is not a consent tow. The term non-consent tow shall include tows of abandoned vehicles and vehicles seized by the department. Non-consent towed vehicles are impounded.

SECTION 4 PROCEDURES

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A. EXEMPTIONS

1. This Directive does not apply to:
 - a. 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
 - b. 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, mechanic, body shop or a junkyard, if a trailer, occupied in a trailer park or other lawful place; or
 - c. 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

1. 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.

C. JUNKED OR INOPERABLE VEHICLES ON PRIVATE PROPERTY

1. Unless requested to assist Code Enforcement 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 Code Enforcement.

D. IMPOUNDING VEHICLES: ARREST

1. Officers will cause vehicles to be impounded when the driver of the vehicle is arrested. The officer may release the vehicle at the scene in the following instances:
 - a. When the person arrested chooses to release his or 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 impound sheet.
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.

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E. IMPOUNDING VEHICLES: TRAFFIC HAZARDS

1. Vehicles that are traffic hazards such as 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 parked where parking is prohibited by sign or by ordinance such as parking of a tractor trailer in residential areas shall be impounded.
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 can not 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 impound sheet.
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. There is no towing fee charged to the owner if the vehicle is released to him at the scene.
5. The Contract Wrecker is responsible for following all further procedures as outlined in Texas Transportation Code, Chapter 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:
 - a. A red sticker is placed on the windshield of the vehicle and an event number is generated and noted on the sticker. The officer shall add a description of the vehicle (color, make, model, and year), the location of the vehicle (on street, shoulder of roadway, etc.), the vehicle registration return (NCIC/TCIC) and any other information that would be helpful on identification in the notes section of the event report. The officer will also place a mark on the ground behind at least two (2) tires, one on the drive axle tire and one on a different axle tire.
 - b. 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 the vehicle has been tagged for removal and will be removed after the lapse of forty-eight (48) hours.
 - c. Forty-eight (48) hours after the officer places the red sticker on the vehicle; the officer will return back to the location of the vehicle, if possible. If the vehicle remains at the location, the officer will have the vehicle impounded from the location by a Contract Wrecker.
 - d. If the officer has the vehicle impounded, an incident report number will be generated and the officer will complete the appropriate paperwork. An officer who has an abandoned vehicle impounded shall notify the tele-communicator and have the vehicle entered into NCIC/TCIC as a stored abandoned vehicle, if the owner of the vehicle cannot be reached and notified of the location of the vehicle.

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2. This is a "non-consent" tow and requires the completion of an impound sheet.
3. If the owner returns to his vehicle before the Contract Wrecker removes it, and is going to move the vehicle, the officer should release the vehicle to the owner. This applies even if the Contract Wrecker has already hooked onto the vehicle. There is no towing fee charged to the owner if the vehicle is released to the owner at the scene.
4. The Contract Wrecker is responsible for following all further procedures as outlined in the Texas Transportation Code, Chapter 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 to tow the vehicle from the crash scene. If the driver or owner asks that the investigating officer recommend or call a wrecker, the officer will ask the telecommunicator to contact the Contract Wrecker. In either of the above scenarios, the tow is a "consent tow" and no impound sheet 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 impound sheet.
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 reasonable time the vehicle is still not drivable, the officer will order the removal of the vehicle by the Contract 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 the vehicle will be taken. The Contract 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

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1. The officer investigating a recovered vehicle that was reported stolen to the department 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. 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 the Criminal Investigation Division the next workday if the vehicle was reported stolen to this department.
3. The owner may use any reasonable and legal means of transporting the vehicle from the recovery scene.
4. If the officer releases the vehicle to the owner, the officer will prepare an incident report if the vehicle was reported stolen to a different police department. If the vehicle was reported stolen to this department, the officer will complete a supplement report under the original offense report service number and update the status of the vehicle in the Records Management System (RMS) to "Recovered." (11-17-2017)
5. If the owner is not available, the officer will notify the Contract Wrecker to respond to the scene and impound the vehicle. A "HOLD" will be placed on the vehicle and the Criminal Investigation Division Supervisor will be notified.
6. This is a "non-consent" tow and requires the completion of an impound sheet.

I. IMPOUNDING VEHICLES: EVIDENCE

1. If an officer impounds a vehicle for the reason of evidence or possible evidence, the officer will notify the Criminal Investigation Division Commander and/or Supervisor. Notification can be made in person, by telephone and/or by email.
2. When an officer has probable cause to believe that a vehicle has been used in the commission of a crime, excluding minor traffic offense the officer may impound the vehicle and may retain the vehicle as physical evidence.
3. Under most circumstances, no search warrant is required to impound a vehicle from public property.
4. 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.
5. If an officer impounds a vehicle that he or she believes could be used as physical evidence in a criminal proceeding, the officer will outline the reasons in the incident/offense report. The vehicle will also have a "HOLD" placed on it. Vehicles impounded as evidence are stored at the Contract Wrecker facility unless they need to be processed at the department and then they can be taken to the police station and placed in the vehicle processing bay.
6. Within seventy-two (72) hours of notification, the Criminal Investigation Division Commander will decide if the vehicle is needed as evidence. It is the Division Commander's responsibility to

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ensure that the Contract Wrecker Service personnel are notified to either release the vehicle or maintain custody of the vehicle.

7. This is a "non-consent" tow and requires the completion of an impound sheet.

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. The supervisor of an officer impounding a vehicle under authority of Texas Code of Criminal Procedure, Chapter 59 "Forfeiture of Contraband" will notify the Criminal Investigation Division Commander and/or Supervisor the next business day if they are not on duty at the time. Notification can be made in person, by telephone or by email.
3. This is a "non-consent" tow and requires the completion of an impound sheet.
4. The Criminal Investigation Commander has the authority to make the decision as to whether to proceed with filing a forfeiture case on the seized vehicle.
5. The Criminal Investigation Division is responsible for filing the forfeiture case on the seized vehicle with the proper District Attorney's Office.

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 officers 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 the on-duty supervisor of the circumstances.
 - d. If the on-duty supervisor authorizes the impoundment of the vehicle, the officer will complete an incident report. The incident report will include in the narrative all details including the attempts to locate and contact the vehicle's owner. Note all damage, missing parts and the name of the on-duty supervisor authorizing the impoundment.
2. This is a "non-consent" tow and requires the completion of an impound sheet.
3. It is the responsibility of the on-duty supervisor to either authorize or not authorize the impoundment of vehicles for safekeeping purposes based on the totality of circumstances involved.

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L. 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 the vehicle 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 impounded.
2. If the vehicle is relocated, it should be relocated in the immediate area. The officer shall notify the telecommunicator as to the new location of the vehicle.

M. 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 shall not be used as a substitute for a search.
2. It is the responsibility of officer impounding a vehicle 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 or 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 the officer 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 sheet and in the officer's incident report.
5. The ignition keys to impounded vehicles will remain with the vehicle at 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 into Property and Evidence any property in a vehicle, which is of great value and all firearms.
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.

N. CONTRACT WRECKERS

1. Wrecker Companies who contract with the city must comply with the provisions of the contract.

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2. The Contract Wrecker shall arrive on scene within thirty (30) minutes of being notified. Officers should make the on-duty supervisor aware of violations.
3. Before leaving the site of the crash, the Contract Wrecker shall completely remove from the street all wreckage or debris, including broken glass. Removal of wreckage will not be considered completed by merely sweeping debris to the curb line.
4. The department reserves the right to cancel any tow truck call prior to hook-up without charge.
5. At the direction of the 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.

O. FORM REQUIRED UPON IMPOUNDING VEHICLES

1. It is the responsibility of the officer impounding a vehicle to:
 - a. Check both the license plate and vehicle identification number (VIN) for stolen.
 - b. Complete the digital impound form using the impound module in the MCT program on the officer's in car computer. If a computer is not available at the time, the officer will gather all the pertinent information and complete the digital impound form using the impound module in the MOBLAND or RMS program as soon as possible.
 - c. Complete an inventory and inspection of the vehicle, the officer will put a list of all property located and any damage (inside or outside of vehicle) located during inspection in the notes section of the digital impound form. Officers should also list any aftermarket items observed in the notes section (custom wheels, aftermarket radio or video system, etc.).
 - d. 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.
 - e. After completing a digital impound form through the MCT program, the officer shall contact the tele-communicator and request they print a copy of the digital impound form from RMS and fax or email it to the Contract Wrecker company. If an officer has a vehicle equipped with a printer the officer can print the digital impound form and give it to the Contract Wrecker driver at the scene instead.

P. SCOPE OF 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.