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| | ANDOVER POLICE DEPARTMENT<br>GENERAL ORDER | Number: O2409<br>Page: 1 of 6<br>Distribution: All |
| Title: VEHICLE TOWING AND IMPOUNDMENT | | Section: Field Situations |
| Issued: 08/30/2011 | Effective: 09/07/2011 | Revised: 12/24/2015 |
| Rescinds: All Previous | Amends: | |
| CALEA References: 61.4.3 | | |
| Review: Annual | Authority: Chief Michael A. Keller | |

## I. Purpose

It is the purpose of this policy to provide guidelines for towing and impounding motor vehicles.

## II. Policy

Rev. 12242015

Vehicles may be towed from public property, or private property when impounding for evidentiary purposes, and in accordance with Kansas laws and/or city ordinances for purposes of safekeeping property, securing evidence, protecting the public or securing property under asset forfeiture statutes, among other reasons. When a vehicle is removed or towed at the direction of an officer, the officer will make a report and attempt to notify the owner of the location of the vehicle. Inventories of impounded vehicles will be conducted as an administrative measure to protect motor vehicles and their contents, to protect the department against claims of missing property, and to protect department personnel and the public against injury or damaged property due to hazardous materials or substances that may be in the vehicle.

## III. Definitions

A. **Abandoned, Junked or Inoperable Vehicle:** Any motor vehicle whether it be an automobile, truck, tractor or motorcycle which is not currently registered or tagged pursuant to KSA 8-126 to 8-149 inclusive, or which is incapable of moving under its own power, or which is junked, wrecked, wholly or partially dismantled, discarded or in abandoned condition.

B. **Impoundment:** The seizing and temporary custody of a motor vehicle for a legitimate police purpose.

C. **Public Assistance Towing:** Impoundment should be contrasted with towing of disabled and other motor vehicles for public assistance or for purposes of public safety. While these may involve a legitimate police purpose, they normally do not involve custody of the vehicle by the police agency or authorization of the police for its release.

D. **Impound Lots:** Location where vehicles are stored by a towing company.

## IV. Regulations

A. When the towing company is not selected by the owner/operator of the vehicle to be towed, the next available towing company will be selected from the rotating list [A].

**B.** Vehicles shall not be impounded for purposes other than those defined by statute or ordinance (e.g. not as a form of punishment, or as a means of conducting vehicle searches when probable cause does not exist or consent to search cannot be obtained) [B].

**C.** Vehicles impounded by this agency, or otherwise taken into custody by this agency, shall be inventoried. 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. All valuable items that can be removed but cannot be transported by the owner/operator shall be itemized on APD Form 37 and submitted into evidence for safekeeping [B].

## V. Procedures (61.4.3b)

### A. General

1. Impoundment of motor vehicles shall use commercial towing services, towing vehicles and impoundment lots as authorized by the Chief of Police.
2. Officers shall obtain a case number and complete an APD FORM 37 – Vehicle Impound and Record of Inventory Form whenever a vehicle is removed, stored or towed at the direction of an officer. The form should include the time, date, location, requesting officer, reason for removal or tow, towing service, location of the vehicle and whether or not the owner of the vehicle was notified. The original form will be maintained in the case file, and a copy will be given to the towing company and owner of the vehicle (61.4.3c).
3. Vehicles shall not be impounded for purposes other than those defined by statute or ordinance (e.g. not as a form of punishment, or as a means of conducting vehicle searches when probable cause does not exist or consent to search cannot be obtained.)
4. When a vehicle is impounded, the operator and any passengers should not be left stranded. Officers shall take those measures necessary in obtaining transportation for the occupants or transport them locally to await transportation.
5. Vehicle operators may be permitted to remove unsecured valuables of a non-evidentiary nature from the vehicle prior to its removal for impoundment. The nature of these valuables shall be noted on APD FORM 37 - Vehicle Impound and Record of Inventory.
6. Impounded vehicles may be released to owners with proof of ownership and personal identification, and following proof of payment of any impoundment, towing, storage or related fees provided the vehicle is not impounded for evidentiary or forfeiture purposes.

7. When an owner or operator of a vehicle is arrested and the vehicle is not needed for evidentiary purposes, the owner or operator, if able, will determine if the vehicle should be towed, removed by a third party or, if safe to do so, left at the scene.

## B. Impoundment for Evidence

1. A vehicle shall be towed if a subject is arrested and one of the following circumstances exist:
   a. The vehicle was used as a major instrument in a crime.
   b. The vehicle contains evidence of a crime that cannot be processed at the scene and must be secured to ensure its evidentiary integrity.
2. Officers should not unnecessarily impound motor vehicles or have them transported to the police department for purposes of gathering evidence when such processing can be reasonably, effectively and safely conducted at or near the scene.
3. A "hold" may be placed on any vehicle impounded for evidence for such period of time necessary to complete evidence collection.
   a. Holds on vehicles must be approved by a supervisor.
   b. Investigating officers shall complete their investigation of the vehicle in a timely manner so that it can be released to the owner.
4. When a vehicle cannot be processed at the scene or impound lot and is taken to the police department for processing, the vehicle will not be released to the owner without proof that the owner has paid all fees required by the towing company. If the owner is unable to pay the towing company fees, the vehicle will be removed from the police department to the towing company for storage until impoundment, towing, storage and related fees are paid.

## C. Recovered Stolen Vehicles

1. Impoundment of stolen vehicles or suspected stolen vehicles is appropriate when the following circumstances exist:
   a. The owner cannot be contacted.
   b. The owner is contacted and cannot or will not respond in a reasonable amount of time, or
   c. Immediate removal is necessary for safety reasons or purposes of safe keeping.
2. Officers should document reasonable efforts to contact owners with means readily available.

## D. Motor Vehicle Accidents

1. Vehicles may be impounded if the vehicle is needed for purposes of the investigation following a vehicle accident. Such cases may but do not necessarily involve custody of the operator.
2. Following vehicle accidents, an officer may request impoundment when the operator is unwilling or unable to take charge of the vehicle, and
   a. The vehicle cannot be legally parked and sufficiently secured at the scene or placed in the custody of a responsible third party.
   b. There is property in or attached to the vehicle that cannot be sufficiently secured at the scene or placed in the custody of a responsible third party.

## E. Impoundment for Forfeiture

Officers may impound a motor vehicle with the intent of initiating civil forfeiture proceedings when the vehicle is used in the commission of a crime as specified by state law. Officers should contact a supervisor before initiating forfeiture proceedings.

## F. Public Assistance Towing

Public assistance towing of motor vehicles should be distinguished from impoundment as it does not typically involve police custody of the motor vehicle. Officers may have vehicles towed under the following circumstances:

1. Aid to Motorists
   Officers may request towing services for motorists:
   a. Following vehicle accidents or in other instances when involved vehicles are not operable; or
   b. At the request of the owner/operator following an arrest.
   c. When requesting towing services for motorists, the owner/operator should be allowed to select the towing company providing their request is reasonable. If they are unwilling or unable, the officer should request Communications contact the next available approved towing company from the rotation list.
2. Aid to Owners of Private Property (61.4.3b)
   Officers may assist owners of private property with contacting owners of vehicles or towing companies for removal of vehicles parked on their property without authorization. A documentation report should be completed.

## G. Danger to Public

1. Danger to the public – Vehicles that present a danger to the public may be towed. Typically these involve the following circumstances:

a. Abandoned or inoperable vehicles that have been left on or that cannot otherwise be moved from the roadway and that are in a position where they may impede traffic or create a hazard (61.4.3a).
b. Vehicles parked in a fire lane and the owner cannot be immediately contacted to move the vehicle.

2. Officer will complete APD Form 37 – Vehicle Impound and Record of Inventory report and a documentation report when towing a vehicle that is a danger to the public.
3. When impounding a vehicle that is a danger to the public, officers shall forward a copy of the APD Form 37 – Vehicle Impound and Record of Inventory to the Office of the Chief of Police so that notification of the owner and lien holder can be made pursuant to KSA 8-1102.

## H. Abandoned Vehicles (Non-Traffic Hazard) (61.4.3a)

1. Officers may tow and impound vehicles abandoned for more than 48 hours on a public roadway or other property open for use by the public.
2. When impounding an abandoned vehicle, officers shall forward a copy of the APD Form 37 – Vehicle Impound and Record of Inventory to the Office of the Chief of Police so that notification of the owner and lien holder can be made pursuant to KSA 8-1102.

## I. Motor Vehicle Inventory

1. Vehicles impounded or otherwise taken into the custody of this agency shall be inventoried.
2. An officer may conduct a vehicle inventory without a warrant or probable cause when the vehicle has been lawfully seized or impounded pursuant to this General Order.
3. 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. Proper legal authority to search vehicle with this intent should be obtained.
4. 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.
5. 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. All items of value shall be itemized on APD FORM 37 and submitted into evidence for safekeeping.

6. 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.
7. 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.
8. Contraband and evidence discovered during the course of an inventory shall be submitted into evidence and itemized on APD FORM 37.