



# Sheriff's Department

## COUNTY OF TULARE

### AGENDA ITEM

#### BOARD OF SUPERVISORS

ALLEN ISHIDA  
District One

PETE VANDER POEL  
District Two

PHILLIP A. COX  
District Three

J. STEVEN WORTHLEY  
District Four

MIKE ENNIS  
District Five

**AGENDA DATE:** June 23, 2009

Public Hearing Required	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Published Notice Required	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Advertised Published Notice	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Resolution, Ordinance or Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>						
CONTACT PERSON: Michael Bowen PHONE: 733-6229, Ext. 6531						

**SUBJECT:** Authorize and approve charging administrative fees to owners of vehicles towed by Sheriff's Department

**REQUEST(S):**

That the Board of Supervisors:

1. Conduct public hearing on Sheriff's Department charging administrative fees for towed vehicles.
2. Authorize Sheriff's Department to charge administrative fees to owners of vehicles towed by the Department.

**SUMMARY:**

The Sheriff's Department is authorized by California law to tow vehicles in a variety of circumstances, such as due to parking or vehicle registration violations; abandoned vehicles; and vehicles driven by someone who is arrested. The Department contracts for towing and storage of these vehicles. However, the average vehicle tow costs the Department \$136.72 in staff time – from the time on scene by a patrol deputy to later processing of required paperwork by Sheriff's clerical and accounting staff.

The Sheriff's Department is authorized by California law to recover administrative costs related to towing and storage of vehicles. Department staff conducted a survey of local and regional law enforcement jurisdictions and found that many do charge such fees. Locally, these jurisdictions include Visalia, Tulare and Porterville police departments.

**SUBJECT:** Authorize and approve charging administrative fees to owners of vehicles towed by Sheriff's Department

**DATE:** June 23, 2009

The Sheriff's Department has revised its policies for towing vehicles. These include Policy 510: Vehicle Towing and Release Policy and Policy 512: Vehicle Impound Hearings. Policy 512 details procedures for vehicle storage/impoundment and rights of registered owners of such vehicles. Those policy guidelines have been reviewed by County Counsel and approved as to form.

The Sheriff's Department requests your Board authorize the Department to charge registered vehicle owners for administrative costs related to towing their vehicles. The charges will be made to the registered owner of the vehicle. In addition to the new administrative fee, registered owners of towed vehicles will still be responsible for paying outstanding parking, storage or other applicable charges against the vehicle.

**FISCAL IMPACT/FINANCING:**

The Department proposes to charge an administrative fee \$130 for each towed vehicle. This fee will offset 95% of the Department's expenses to administer each tow.

Based on 419 vehicles a year (total towed vehicles handled by the Department in 2008), this administrative fee will add an estimated \$57,000 in revenue to the Sheriff's general operating fund.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

The Tulare County Strategic Business Plan includes a Security and Safety Initiative. The Sheriff's vehicle towing program contributes to that objective by removing vehicles from the streets that have been abandoned or involved in a crime.

**ALTERNATIVES:**

N/A.

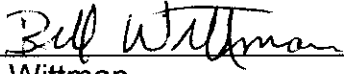
**INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:**

County Counsel has reviewed and approved as to form the Sheriff's revised towing policies.

**SUBJECT:** Authorize and approve charging administrative fees to owners of vehicles towed by Sheriff's Department

**DATE:** June 23, 2009

**ADMINISTRATIVE SIGN-OFF:**

  
\_\_\_\_\_  
Bill Wittman  
Sheriff-Coroner

Cc: Auditor/Controller  
County Counsel  
County Administrative Office (2)

Attachment A: Policy 510: Vehicle Towing and Release Policy  
Attachment B: Policy 512: Vehicle Impound Hearings

**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF Authorize and )  
approve charging administrative )  
fees to owners of vehicles towed by ) **RESOLUTION NO.** \_\_\_\_\_  
Sheriff's Department ) **AGREEMENT NO.** \_\_\_\_\_

UPON MOTION OF SUPERVISOR \_\_\_\_\_, SECONDED BY  
SUPERVISOR \_\_\_\_\_, THE FOLLOWING WAS ADOPTED BY THE  
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD \_\_\_\_\_  
\_\_\_\_\_, BY THE FOLLOWING VOTE:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST: JEAN M. ROUSSEAU  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: \_\_\_\_\_  
Deputy Clerk

\* \* \* \* \*

1. Conducted public hearing on Sheriff's Department charging administrative fees for towed vehicles.
2. Authorized Sheriff's Department to charge administrative fees to owners of vehicles towed by the Department.

## AGENDA ITEM #: \_\_\_\_\_

SUBMITTED BY: Sheriff Bill Wittman

## Vehicle Towing and Release Policy

### 510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Tulare County Sheriff's Department. Nothing in this policy shall require the Department to tow a vehicle.

### 510.2 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

#### 510.2.1 VEHICLE STORAGE REPORT

Department members requesting towing, storage or impound of a vehicle shall complete CHP Form 180 and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should be given to the tow truck operator and the original shall be submitted to the Records Division as soon as practicable after the vehicle is stored.

#### 510.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the deputy shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the Authorized Rotational Tow list of towing companies in Dispatch.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the deputy shall request the dispatcher to contact the next tow firm from the Authorized Rotational Tow list. The deputy will then store the vehicle using a CHP Form 180.

#### 510.2.3 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by storing the arrestee's vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the circumstances would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

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## Policy Manual

### *Vehicle Towing and Release Policy*

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- Traffic related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases the owner shall be informed that the Department will not be responsible for theft or damages.

#### **510.2.4 DRIVING A NON-COUNTY VEHICLE**

Vehicles which have been towed by or at the direction of the Department should not be driven by sheriff's personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

#### **510.2.5 DISPATCHER'S RESPONSIBILITIES**

Upon receiving a request for towing, the dispatcher shall promptly telephone the next firm in rotation from the list of approved towing companies and shall make appropriate entries on that form to ensure the following firm is called on the next request. The deputy shall be advised when the request has been made and the towing service has been dispatched.

#### **510.2.6 RECORDS DIVISION RESPONSIBILITY**

Records personnel shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the Patrol Lieutenant for approval (Vehicle Code §§ 22651.5(b), 22851.3(b) and 22854.5).

Approved storage forms shall be promptly placed into the auto-file so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Records Division to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all such individuals by first-class mail (Vehicle Code §§ 22851.3(d), 22852(a), and 14602.6(a)(2)). The notice shall include the following information (Vehicle Code § 22852(b)):

- (a) The name, address, and telephone number of this Department.
- (b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.
- (c) The authority and purpose for the removal of the vehicle.
- (d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, writing, or by telephone within 10 days of the date appearing on the notice.

#### **510.3 TOWING SERVICES**

The County of Tulare utilizes an Authorized Rotational Tow list. Upon receiving a request for towing, the dispatcher shall promptly telephone the next firm in rotation from the list of approved towing companies and shall make appropriate entries on that form to ensure the following firm is called on the next request. The deputy shall be advised when the request has been made and the towing service has been dispatched.

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- (a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.
- (b) When a vehicle is being held as evidence in connection with an investigation.
- (c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal from the streets of vehicles obstructing traffic in violation of state or local regulations.

#### **510.4 VEHICLE INVENTORY**

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in sheriff's custody, to provide for the safety of deputies, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

#### **510.5 VEHICLE SEARCHES**

Vehicles may be searched when one or more of the following conditions are met:

- (a) When probable cause to search the vehicle exists.
- (b) With consent of the operator.
- (c) Incident to an arrest of the occupants of the vehicle.
- (d) To search for weapons.
- (e) When necessary to examine the vehicle identification number or to determine the ownership of the vehicle.
- (f) Under emergency circumstances not otherwise enumerated above.
- (g) Pursuant to a valid search warrant.

#### **510.6 SECURITY OF VEHICLES AND PROPERTY**

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, deputies should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) which are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

#### **510.7 RELEASE OF VEHICLE**

- (a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or person in control of the vehicle and after all applicable fees are paid (Vehicle Code §§ 22850.3 and 22850.5).
- (b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit and payment of applicable fees related to the removal (Vehicle Code §§ 22651 (et seq.), 22652 (et seq.), 22850.3 and .5).



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## Policy Manual

### *Vehicle Towing and Release Policy*

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- (c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) and impounded for 30 days shall be released at the end of the impoundment period only when the registered owner or agent presents his/her valid driver's license and proof of current vehicle registration, or upon order of a court (Vehicle Code § 14602.6(d)(2)).
- (d) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his or her agent with proof of current registration, proof of a valid driver's license and applicable fees paid prior to the end of the 30 day impoundment period under any of the following circumstances (Vehicle Code § 14602.6(d)(1)):
  - 1. In response to a valid order of a court.
  - 2. When the vehicle is a stolen vehicle.
  - 3. When the vehicle is subject to bailment and is driven by an unlicensed employee of a business establishment, including a parking service or repair garage.
  - 4. When the license of the driver was suspended or revoked for an offense other than those included in Article 2 (commencing with Vehicle Code § 13200) of Chapter 2 of Division 6 or Article 3 (commencing with Vehicle Code § 13350) of Chapter 2 of Division 6.
  - 5. When the vehicle was seized under this section for an offense that does not authorize the seizure of the vehicle.
  - 6. When the driver reinstates his or her driver's license or acquires a driver's license and proper insurance.
  - 7. To the legal owner when all of the following are met:
    - (a) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state or is another person, not the registered owner, holding a security interest in the vehicle.
    - (b) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle.
    - (c) The legal owner or the legal owner's agent presents a copy of the documents specified in Vehicle Code § 14602.6(f)(3).

## Vehicle Impound Hearings

### **512.1 PURPOSE AND SCOPE**

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

### **512.2 STORED OR IMPOUND HEARING**

When a vehicle is stored or impounded by any member of the Tulare County Sheriff's Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code §§ 22650(a) and 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

#### **512.2.1 HEARING PROCEDURES**

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)(4)). The Patrol Lieutenant will generally serve as the hearing officer. If the Patrol Lieutenant is the responsible person for authorizing the stored vehicle, another Patrol Lieutenant shall server as hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code §§ 22851.3(e)(2) and 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code §§ 14602.6(b) and 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code §§ 14602.6(b) or 14608(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

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### *Vehicle Impound Hearings*

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The legislative intent and this department's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

- (a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.
  - 1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.
- (b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department's expense (Vehicle Code § 22852(e)).
- (c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Division Commander. The hearing officer will recommend to the appropriate Division Commander that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.