

ELIZABETH POLICE DEPARTMENT GENERAL ORDERS



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SUBJECT: MOTOR VEHICLE IMPOUND AND INVENTORY

EFFECTIVE DATE:

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ACCREDITATION STANDARDS:

3.1.1f

BY THE ORDER OF:

Chief Giacomo Sacca

BY AUTHORITY OF:

Police Director Earl J. Graves

SUPERSEDES ORDER #: G.O. #150 (10/28/2003), G.O. #174 (05/08/2013)

PURPOSE The purpose of this general order is to maintain standardized, predetermined and nondiscriminatory procedures to follow whenever a motor vehicle is to be impounded or its contents inventoried.

POLICY It is the policy of the Elizabeth Police Department that no vehicle shall be impounded as a matter of routine, convenience, or without a substantial law enforcement need. Similarly, no inventory of the contents of a vehicle, or other receptacle contained within, may be conducted as a matter of routine, convenience, or as an exploratory investigative tool unless in compliance with *General Order V3C5 Search Procedures*.

PROCEDURES

I. DEFINITIONS

- A. For purposes of this general order, the following terms are defined:
1. Impoundment – refers to the seizure and temporary custody of a motor vehicle for a legitimate law enforcement purpose.
 2. Inventory – shall mean a complete listing of all items inside an impounded vehicle as well as a checklist of the overall condition of the vehicle. An inventory shall be completed whenever it is lawful to do so in accordance with this general order.
 3. Tow (towing, towed) – has the same meaning as impoundment and the terms are interchangeable. Any time a vehicle is towed it is also impounded, meaning this department is taking responsibility for custody and control of a motor vehicle and its contents.

II. GENERAL

- A. Motor vehicles shall not be impounded for purposes other than those defined by statute, ordinance, or substantial police need (e.g., not as a form of punishment, or as a pretext to conducting vehicle searches when probable cause does not exist or consent to search cannot be obtained).
- B. When an officer impounds/tows a motor vehicle for any reason, he/she shall assist the motorist in making arrangements for the safe transport of the driver and any passengers. Arrangements shall be liberally construed and include, but are not limited to:
1. Transporting them to a phone;
 2. Making sure transportation is going to arrive;
 3. Bringing them to headquarters or other public place to make their own arrangements
- C. If the driver (or passenger) cannot arrange for transportation on his/her own, the officer should attempt to arrange transportation for him/her including, as a last resort and with supervisor approval, transportation to their home or nearest reasonably safe location.
- D. ***At no time shall operators or passengers of towed/impounded vehicles be left on their own without assistance.*** If a driver/owner or passenger(s) declines assistance with transportation and the vehicle is towed/impounded at the direction of an officer for any reason, the officer shall note their refusal on the CAD record of the incident.

III. VICTIMS' VEHICLES TOWED FOR INVESTIGATION PURPOSES

- A. Crime victims' vehicles that require processing shall be impounded and taken to the secure garage at police headquarters. If the garage at headquarters is occupied, then the vehicle may go to Highway Garage for storage in a secured bay.
1. Victims' vehicles towed to Highway Garage and held pending processing shall be towed to headquarters as soon as possible, processed, and returned to the victim, after the victim has settled any towing and storage fees due to Highway Garage.
 2. Vehicles removed from the identification unit secure bay may be towed to Highway Garage for storage, or the investigating detective may make arrangements with the victim to have it released from headquarters. The releasing officer must ensure that all pending towing fees are satisfied, prior to releasing the vehicle.
 3. Victims' vehicles, which pose a threat to health or public safety, should be towed to highway garage with the towing staff advised accordingly.
 4. In all cases involving impounded vehicles, a *Vehicle Report* will always be completed.
- B. In extraordinary circumstances (e.g., road collapse, gas leakage, utility emergencies, etc.), officers may have to tow a vehicle for emergency purposes. Ordinarily, the tow expenses in such emergency cases shall be covered by the City of Elizabeth.
1. Officers should first attempt to relocate the vehicle at the scene with the use of Highway Towing. If relocation is not feasible, then the vehicle may be towed to Highway Garage for storage.
 2. In all cases involving relocated or impounded vehicles, a *Vehicle Report* will always be completed.

IV. VEHICLE IMPOUND NOT DEPENDENT UPON THE PRESENCE OF THE OWNER OR AUTHORIZED USER

- A. A motor vehicle may be seized and impounded when it is determined that:
1. There is probable cause to believe the vehicle is unregistered on a public highway or public property, or quasi-public area authorized under N.J.S.A. 39: 5A-1 et seq.;
 2. The vehicle's registration is suspended in accordance with N.J.S.A. 39: 3-40 and the vehicle is parked on a public highway, public property, or quasi-public area authorized under N.J.S.A. 39: 5A-1 et seq.
 3. The vehicle is unlawfully obstructing traffic or in a specially designated or restricted area or zone.

4. Reasonable grounds exist to believe that the vehicle is in violation of N.J.S.A. 39:4-136, which reads in pertinent part:

“Any vehicle, upon a roadway, which is disabled to the extent that the operator cannot move it, or any unoccupied vehicle parked or standing in violation of this chapter shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any peace officer may provide for the removal of such vehicle.”
5. The vehicle is mechanically defective and is creating a threat to the public safety or is a nuisance and menace to the safe and proper regulation of traffic.
6. Removal is necessary in the interest of public safety because of fire, flood, storm, snow, or other civil emergency reasons.
7. Probable cause exists to believe that the vehicle constitutes an instrumentality or fruit of a crime and that absent immediate impoundment, the vehicle will be removed by a third party. NOTE: If the vehicle is subject to forfeiture, the assigned detective must consult with the Union County Prosecutor’s Office within 90 business days to determine whether a complaint will be signed seeking forfeiture.
8. Probable cause exists to believe that the vehicle contains evidence of a crime and that absent immediate impoundment the evidence will be lost or destroyed.
9. Vehicle is a recovered carjacked vehicle:
 - a. Recovered within the City of Elizabeth:
 - 1) All recovered carjacked vehicles shall be impounded and taken to the secure garage at police headquarters. If the garage at headquarters is occupied, then the vehicle may go to highway garage for storage in a secured garage.
 - 2) A vehicle report must be filled out for every recovered carjacked vehicle and an incident report must be submitted under the original case number.
 - b. Recovered in another jurisdiction:
 - 1) Every effort should be made to have the vehicle processed at the location that the vehicle was recovered to expedite the release process. If this is not possible a patrol unit should be dispatched to the location where the vehicle was recovered and it shall be towed to a secure garage.
 - 2) An incident report and a vehicle report must be submitted under our original case number. If the other municipality impounded the carjacked vehicle, it should be processed at its impoundment lot and then released to the owner from that location.

10. Probable cause exists to believe the vehicle is currently stolen or wanted as a result of an unlawful taking of means of conveyance and:
 - a. The owner cannot be contacted; or
 - b. The owner is contacted and will not or cannot respond in a reasonable amount of time; or
 - c. Immediate removal is necessary for safety or safekeeping reasons.
11. The vehicle is abandoned.
12. Under the provisions of N.J.S.A. 2C: 43-2.4, a vehicle:
 - a. In which a violation of subsection N.J.S.A. 2C: 39-5a (unlawful possession of a machine gun), N.J.S.A. 2C: 39-5d (unlawful possession of other weapons), or N.J.S.A. 2C: 39-5f (unlawful possession of assault firearms) was committed;
 - b. In which possession of a handgun, rifle, or shotgun for an unlawful purpose in violation of N.J.S.A. 2C: 39-4 was committed;
 - c. In which a violation of subsection N.J.S.A. 2C: 39-5b (unlawful possession of handguns) or N.J.S.A. 2C: 39-5c (unlawful possession of rifles/shotguns) was committed in addition to the motor vehicle being used to commit a separate crime of the 1st, 2nd, 3rd or 4th degree under Title 2C of the New Jersey Statutes;
 - d. Which was used in the commission of any offense under N.J.S.A. 2C: 34-1b (Prostitution);
 - a. Which was used in the commission of an offense under N.J.S.A. 2C: 35-10a (unlawful possession of CDS) or N.J.S.A. 2C: 35-5a (unlawful manufacturing, distributing or dispensing of CDS).

B. A motor vehicle may be seized and impounded when there is probable cause to believe that the vehicle contains contraband or evidence of criminal activity and the seizure and removal of the vehicle is authorized pending the issuance of a search warrant or by a recognized exception to the written warrant requirement. A subsequent search of the vehicle or contents must comply with *General Order V3C5 Search Procedures*. A supervisor must approve all holds on such impounded vehicles.

V. VEHICLE IMPOUND WHEN THE OWNER OR AUTHORIZED USER IS PRESENT

A. A vehicle may be impounded when the owner or authorized user consents to the impoundment or, after being given a reasonable opportunity to do so, cannot or will not make reasonable prompt arrangements for the vehicle's removal from the public or quasi-public roadway or area on which it is situated. Owner's consent is not needed if it is determined that:

1. There is probable cause to believe the vehicle is unregistered on a public highway or public property, or quasi-public area authorized under N.J.S.A. 39: 5A-1 et seq.;
2. The operator is suspended/revoked in accordance with N.J.S.A. 39: 3-40 and the vehicle is not legally parked, or a valid civilian operator is not present at the scene or in the immediate area to move it.
3. The vehicle is unlawfully obstructing traffic or in a specially designated or restricted area or zone.
4. Removal is necessary in the interest of public safety because of fire, flood, storm, snow, or other civil emergency reasons.
5. Reasonable grounds exist to believe that the vehicle is in violation of N.J.S.A. 39:4-136, which reads in pertinent part:
“Any vehicle, upon a roadway, which is disabled to the extent that the operator cannot move it, or any unoccupied vehicle parked or standing in violation of this chapter shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any peace officer may provide for the removal of such vehicle.”
6. The vehicle is mechanically defective and is creating a threat to the public safety or is a nuisance and menace to the safe and proper regulation of traffic.
7. Probable cause exists to believe that the vehicle constitutes an instrumentality or fruit of a crime and that absent immediate impoundment, the vehicle will be removed by a third party. *NOTE: If the vehicle is subject to forfeiture, the assigned detective must consult with the Union County Prosecutor’s Office within 90 business days to determine whether a complaint will be signed seeking forfeiture.*
8. Probable cause exists to believe that the vehicle contains evidence of a crime and that absent immediate impoundment the evidence will be lost or destroyed.
9. Vehicle is a recovered carjacked vehicle:
 - a. Recovered within the City of Elizabeth:
 - 1) All recovered carjacked vehicles shall be impounded and taken to the secure garage at police headquarters. If the garage at headquarters is occupied, then the vehicle may go to highway garage for storage in a secured garage.
 - 2) A vehicle report must be filled out for every recovered carjacked vehicle and an incident report must be submitted under the original case number.
 - b. Recovered in another jurisdiction:

- 1) Every effort should be made to have the vehicle processed at the location that the vehicle was recovered to expedite the release process. If this is not possible a patrol unit should be dispatched to the location where the vehicle was recovered and it shall be towed to a secure garage.
 - 2) An incident report and a vehicle report must be submitted under our original case number. If the other municipality impounded the carjacked vehicle, it should be processed at its impoundment lot and then released to the owner from that location.
10. Probable cause exists to believe the vehicle is currently stolen or wanted as a result of an unlawful taking of means of conveyance and:
- a. The owner cannot be contacted; or
 - b. The owner is contacted and will not or cannot respond in a reasonable amount of time; or
 - c. Immediate removal is necessary for safety or safekeeping reasons.
11. Under the provisions of N.J.S.A. 2C: 43-2.4, a vehicle:
- a. In which a violation of subsection N.J.S.A. 2C: 39-5a (unlawful possession of a machine gun), N.J.S.A. 2C: 39-5d (unlawful possession of other weapons), or N.J.S.A. 2C: 39-5f (unlawful possession of assault firearms) was committed;
 - b. In which possession of a handgun, rifle, or shotgun for an unlawful purpose in violation of N.J.S.A. 2C: 39-4 was committed;
 - c. In which a violation of subsection N.J.S.A. 2C: 39-5b (unlawful possession of handguns) or N.J.S.A. 2C: 39-5c (unlawful possession of rifles/shotguns) was committed in addition to the motor vehicle being used to commit a separate crime of the 1st, 2nd, 3rd or 4th degree under Title 2C of the New Jersey Statutes;
 - d. Which was used in the commission of any offense under N.J.S.A. 2C: 34-1b (Prostitution);
 - e. Which was used in the commission of an offense under N.J.S.A. 2C: 35-10a (unlawful possession of CDS) or N.J.S.A. 2C: 35-5a (unlawful manufacturing, distributing or dispensing of CDS).
- B. A vehicle subjected to the registration restrictions of N.J.S.A. 39:3-40.1 and N.J.S.A. 39:3-40.2 may be impounded in accordance with the provisions of N.J.S.A. 39:3-40.3.
- C. If the owner or authorized user **does not** consent to the impoundment and cannot or will not make other arrangements for the removal or custody of his/her vehicle, and none of the circumstances set forth in this section exists, the vehicle shall not be impounded.

1. Under these circumstances, the motorist will be presumed to have assumed risk for any claims of property loss, theft or damage, and the motorist shall be so advised.
 2. Whenever the owner or authorized user cannot or will not make other arrangements for the removal or custody of his/her vehicle, the officer shall so note the fact in his/her *Vehicle Report*.
- D. If the owner or authorized user **does** consent to the impoundment of the vehicle, the owner or authorized user must nonetheless be given the option of either consenting to an inventory or making his or her own arrangements for the removal and safekeeping of the property contained in the vehicle.

VI. IMPOUNDING A MOTOR VEHICLE OPERATED BY INTOXICATED PERSON

- A. In accordance with N.J.S.A. 39:4-50.23, a motor vehicle shall be impounded for 12 hours when the vehicle's operator has been arrested for violation of N.J.S.A. 39:4-50 (DWI) or N.J.S.A. 39:4-50.4a (Refusal to Submit to Chemical Breath Testing). However, Appendix B of the [*Attorney General's Directive 2004-1*](#) affords the arrested person the right to make other arrangements for the removal of the vehicle.
1. If there is a passenger in the vehicle at the time the operator is arrested, or if there is another person readily available and willing to assist the arrestee, the arrestee may permit that passenger or other person to operate and remove that vehicle and make arrangements for its removal without the vehicle being impounded. The person taking control of the vehicle on behalf of the arrestee:
 - a. Must present a valid operator's license, proof of ownership, or lawful authority to operate motor vehicle; and
 - b. Must present proof of valid motor vehicle insurance for that vehicle; and
 - c. Must be able to operate the vehicle in a safe manner and not otherwise be in violation of N.J.S.A. 39: 1-1 et seq.;
 - d. The person has met any other conditions for the release of the vehicle as established by this agency; and
 - e. Must execute the required *Potential Liability Warning* form.
 2. A vehicle impounded pursuant to this section may be released to a person other than the arrestee prior to the end of the 12-hour impoundment period only if the vehicle is:
 - a. Not owned or leased by the person under arrest and the person who owns or leases the vehicles claims the vehicle and meets the conditions for release in subsection VII.C of this general order; or

- b. Owned or leased by the arrestee, the arrestee gives permission to another person, who has acknowledged in writing receipt of the *Potential Liability Warning* statement required by N.J.S.A. 39:4-50.22 to operate the vehicle, and the conditions for release in subsection V.C of this general order are met. The *Potential Liability Warning* statement required by N.J.S.A. 39:4-50.22 is set forth in Appendix A of the [Attorney General's Directive 2004-1](#), along with the applicable guidelines.
3. If the arrestee cannot or will not make reasonably prompt arrangements for removal of the vehicle, the vehicle shall be impounded for a period of 12 hours after the time of arrest or until such later time as the arrestee claiming the vehicle meets the conditions for release in subsection VII.C of this general order

VII. RETURN/RELEASE OF VEHICLES

- A. Vehicles will be released at the front desk 24/7.—When a vehicle is released, forward a printed copy of the release form to services.
- B. Vehicles impounded for criminally related purposes should not be returned to the owner without authorization from a detective bureau supervisor.
- C. Vehicles seized for forfeiture shall not be returned to the owner without written authorization from a detective bureau supervisor and/or the Union County Prosecutor's Office.
- D. No vehicle impounded pursuant to this general order shall be released unless the person claiming the vehicle:
 1. Vehicles are to be released only to the vehicle's owner or a member of his/her immediate family with the same address appearing on the driver's license (or to the vehicle's lessor, lienholder, rental agent, or their designated agents);
 2. Presents a valid operator's license and proof of valid insurance for that vehicle;
 3. Must be able to operate the vehicle in a safe manner and not otherwise be in violation of N.J.S.A. 39: 1-1 et seq.; and
 4. Meets the conditions of *NJSA 39:4-50.22*;
 5. Meets any other conditions for release established by this department.
- E. The owner or agent will then be allowed to respond to highway garage and retrieve registration and insurance papers to facilitate a release form. No other property will be removed from the towed vehicle without the issuance of a police release.
- F. Officers, who release unregistered, disabled or unsafe vehicles, must contact the highway garage to notify them a tow truck must remove the vehicle. The release form will be marked '**Tow Away Only**'.

- G. Officers should be aware that the police department has an '*Authorization to Release Form*' for non-owners that must be signed by the owner and notarized. This form is obtained from and returned to the releasing officer and attached to the tow release. Because of this, officers should, when practical, advise any non-owner drivers to have the owner come for the release.

VIII. DOCUMENTATION AND NOTIFICATION

- A. Investigating officers/detectives shall complete their investigation in a timely manner so it can be released to the owner/agent.
1. The owner's contact information (i.e., name and address) **MUST** be on the report; or
 2. If the motor vehicle is listed as '*Not on File*', officers must clearly indicate so on the report. **DO NOT LEAVE THE LINE BLANK.**
 3. In the case of a recovered STOLEN or CARJACKED vehicle, the victim's/owner's telephone number(s) **MUST** be on the *Vehicle Report*.
- B. A *Vehicle Report* shall be completed for all impounded motor vehicles and made a part of the case file. Distribution of *Vehicle Reports* shall be through the departmental reporting system, currently LawSoft®.
- C. If uniform traffic tickets are issued and the driver/owner is not present, print a copy of the tow form, attach the summonses, and submit it separately to the desk lieutenant.
- D. The detective in charge of the investigation is responsible to arrange the release of any vehicle for which a hold had been placed on the vehicle. In all cases the detective shall release the vehicle to the owner within 2 business days unless unusual circumstances do not permit such release. In this case a supervisor must approve holding onto the vehicle longer than 2 working days. The justification for the delay will be documented in the follow up investigation.
- E. When there is reason to believe that a motor vehicle or other property is subject to forfeiture, the narcotics bureau supervisor or the narcotics bureau evidence/property custodian shall be promptly notified. The detective bureau supervisor or his/her designee shall notify the Union County Prosecutor's Office.
- F. Services division responsibilities:
1. Pick up the tow release copy from the front desk on a daily basis.
 2. Strictly adhere to the procedures outlined in N.J.S.A. 39: 10A-1 et seq.
 3. Ensure that the initial letter is sent to the registered owner and any other parties that may claim ownership to the impounded vehicle. This letter will be sent by mail as '*Certified/Return Receipt Requested*'.
 4. Notify the New Jersey Motor Vehicle Commission on the form prescribed by the Commission.

5. Notify the National Insurance Crime Bureau.
 6. Ensure the report is scanned and placed in RMS.
 7. Maintain a file of each tow consisting of the *Vehicle Report*, along with all mail correspondence and any other pertinent information
- G. Traffic division responsibilities:
1. Designate one officer/detective responsible for the processing of vehicles that are not claimed within 15 working days. This will consist of completing and submitting the corresponding forms regarding the titling of unclaimed vehicles and their subsequent auctioning and/or proper disposal. The procedure will be as follows:
 - a. The designated traffic officer will respond to the services division every business day and obtain copies of all vehicle reports of vehicles that have not been claimed within 15 working days.
 - b. The designated traffic officer will then initiate proceedings to have the vehicle certified for either a junk title or standard title certificate as circumstances dictate.
 - c. These procedures are specifically outlined in the Motor Vehicle Commission's Security and Investigations Unit report, which the designated officer will adhere to in addition to NJSA 39: 10A-1 et seq.
 - d. The designated traffic officer will mail a second certified letter with return receipt to the owner/lien holder and place a copy in the file.
 - e. The designated traffic officer will then respond to the impound lot and compare the vehicle's VIN with the one on the *Vehicle Report*, obtain the current mileage from the vehicle, determine if the vehicle is operable and photograph the vehicle when necessary.
 - f. The designated traffic officer will then complete and submit the proper Motor Vehicle Commission forms.
 - g. The designated traffic officer will submit a list of vehicles to be sold to the City of Elizabeth Purchasing Office along with the titles.
 - h. The designated traffic officer will create a file on each individual vehicle. The file will include a copy of the *Vehicle Report*, a copy of the NCIC printout, copies of the mail notifications and outcomes, and photographs of the vehicle when circumstances dictate.
 2. The City of Elizabeth Purchasing Office is responsible for placing the necessary advertisements in a local newspaper describing the vehicles being auctioned.

IX. INVENTORY PROCEDURES

- A. Inventory of contents of motor vehicles impounded for non-criminal matters when the owner or authorized user is present:
1. In the absence of a search warrant or a recognized exception to the warrant requirement, no inventory may be conducted unless the owner or authorized user consents to the inventory.
 2. In the absence of consent, the owner or authorized user shall be given a reasonable opportunity to make other arrangements for the removal and safekeeping of the property contained in the vehicle.
 3. If the owner or authorized user cannot or will not consent to the inventory, and cannot or will not make other arrangements for the safekeeping of the property contained in the vehicle, an inventory may not be undertaken. In such circumstances, the vehicle owner or authorized user will be presumed, as a matter of law, to have assumed risk for any property loss or theft arising from the impoundment, and the owner or authorized user will be so advised and this advisement will be noted in the officer's *Incident Report* or *Vehicle Report*.
 4. If consent is not granted, officers should note their observation of any valuables that are in plain view on the *Vehicle Report*
- B. If the owner or authorized user is not present at the time the vehicle is impounded and cannot be located within a reasonable period of time, a thorough inventory of the vehicle's contents shall be conducted. This section shall not apply to vehicles impounded for routine parking violations. All valuables located within the vehicle shall be documented and secured as property for safekeeping.
- C. Impounded vehicles scheduled for auction under N.J.S.A. 39: 10A-1 et seq. shall be thoroughly inventoried. The designated traffic officer shall maintain proof of such an inventory in the vehicle's file. Under no circumstances shall any contraband be left in any vehicle pending auction.
- D. Inventory of contents of motor vehicles impounded for criminally related or forfeiture purposes:
1. A thorough inventory shall be conducted of an impounded motor vehicle when there is probable cause to believe the vehicle:
 - a. Is stolen;
 - b. Contains evidence of criminal activity and the circumstances surrounding the vehicle's seizure create such an exigency that it makes it impractical to secure a search warrant. (See *General Order V3C5 Search Procedures* for possible exigency factors)
 - c. Is being held pending forfeiture.
 - 1) Before searching a vehicle being held for forfeiture, detectives must discuss the disposition of the owner's

personal property with them. Where it is feasible to do so, the owner must be given the option of either consenting to the inventory or making arrangements for the safekeeping of his/her personal property. If the owner is unable to make arrangements for the property, an inventory will still be conducted.

- 2) Any non-contraband personal property collected during the inventory of a vehicle being held for forfeiture must be returned to the owner.

E. All inventories shall be performed:

1. With reasonable care and due circumspection
2. By the officer or investigator who initially seized, impounded or otherwise exercised control over the vehicle or receptacle.

F. All inventories shall be thorough and complete, and shall encompass all parts normally accessible of an impounded motor vehicle including:

1. The passenger compartment;
2. Glove compartment;
3. Receptacles;
4. Trunk (if accessible by reasonable means);
5. Engine compartment; and
6. Vehicle's undercarriage.

G. Inventories shall include the contents of all containers, whether open or closed, when the contents are not readily ascertainable from an examination of the containers' exteriors. All inventories shall be meticulously documented on an appropriate property/evidence report form, as is applicable.