

CHAPTER 14
VEHICLES STORED FOR EVIDENCE
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TABLE OF CONTENTS

<u>PURPOSE</u>	14-3
<u>POLICY</u>	14-3
<u>COLLECTION AND PRESERVATION OF EVIDENCE</u>	14-4
<u>NOTIFICATION</u>	14-5
<u>RESPONSIBILITIES</u>	14-5
<u>VEHICLE RELEASE</u>	14-6

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CHAPTER 14

VEHICLES STORED AS EVIDENCE

1. **PURPOSE.** This chapter establishes departmental policy and procedures for the towing and storage of vehicles seized as evidence under Section 22655.5 of the California Vehicle Code (CVC) or by search warrant. The intent is to ensure proper seizure, storage, and release of vehicular evidence.

NOTE: Policy regarding evidence tow contracts, financial responsibility, invoices, tracking procedure, reimbursement, and complaint investigations is located in Highway Patrol Manual 81.2, Vehicle Procedures Manual, Chapter 6, Evidence Impound Contracts Program.

2. **POLICY.** Pursuant to Section 22655.5 CVC, a vehicle may be seized from a highway, or from public or private property, when there is probable cause to believe the vehicle was used to commit a public offense; or an officer has probable cause to believe the vehicle itself is evidence indicating that a crime has been committed; or the vehicle contains evidence which cannot readily be removed which indicates that a crime has been committed.

a. If a more specific storage authority applies, such as Section 22655(a) CVC—vehicle involved in a hit-and-run accident from a highway, public, or private property; or Section 22655.3 CVC—vehicle involved in evading and subsequently abandoned by the driver, etc., and the vehicle is not needed for evidence, the more specific section should be used.

b. Permission from a supervisor or officer-in-charge (OIC) shall be obtained prior to impounding a vehicle pursuant to Section 22655.5 CVC.

c. The supervisor or OIC shall ensure the Area's contract evidence tow is used.

d. A vehicle should not be seized as evidence for possible civil litigation at a later time.

NOTE: Officers have no affirmative duty to secure information or preserve evidence for civil litigation when officers have come to the aid of injured or stranded motorists (*Williams v. State of California* [1983] 192 Cal.Rptr. 233).

e. Admissible evidence must be relevant, reliable, nonprejudicial, properly collected, documented, and preserved, and not collected in violation of the Defendant's constitutional rights.

f. A CHP 180, Vehicle Report, and a CHP 36, Property Receipt, shall be completed for all vehicles seized as evidence. The evidence tow operator shall sign the CHP 180 and CHP 36. A receipt from each form shall be provided to the evidence tow operator. The chain of custody page shall be detached from the original CHP 36 and shall remain with the vehicle. The chain of custody page shall be placed in a plastic California Highway Patrol evidence bag and placed within the glove box (or other conspicuous location) of the impounded vehicle. The original CHP 36, a copy of the CHP 180, and all search warrant documents shall be submitted to the evidence officer.

g. If available, a flatbed tow truck should be utilized to transport any vehicle impounded for evidence from the scene.

h. An officer shall accompany the evidence tow operator to the storage facility to ensure the continuity of evidence.

3. COLLECTION AND PRESERVATION OF EVIDENCE.

a. A vehicle seized, pursuant to Section 22655.5 CVC, should not be moved or altered until its original condition and position have been recorded and photographed.

(1) Merely securing a traffic crash or other crime scene, the officer is not deemed to have come into possession of all potential material evidence at the scene (*People v. Bradley* [1984] 205 Cal.Rptr. 485).

(2) Officers have no “due process” duty at the scene of a traffic crash or other crime scenes to collect and preserve vehicles or other articles which might prove useful to the defense (*People v. McNeil* [1980] 169 Cal.Rptr. 313 and *People v. Bradley* [1984] 205 Cal.Rptr. 485).

(3) Once an officer takes possession of a vehicle or article from a traffic crash or other crime scene, to be held as evidence, the officer must ensure that adequate measures are taken to preserve it for use by the defense (Referred to as a Hitch Motion, see *People v. Hitch* [1974] 117 Cal.Rptr. 9).

(4) A Hitch motion does not “affirmatively require police to employ specific investigative techniques,” nor impose a “duty to affirmatively exert effort to discover potential evidence for the purpose of preserving such evidence for defense.” (*People v. Cooper* [1979] 157 Cal.Rptr. 348 and *People v. Maese* [1980] 164 Cal.Rptr. 485).

b. If a vehicle is associated with a serious crime, entry into the interior of the

vehicle should be avoided. If entry into the vehicle is required, gloves and a mask should be worn. Every attempt should be made to not sit on the seats.

4. NOTIFICATION.

a. In order to avoid jeopardizing cases and to ensure the county is advised of vehicular evidence seizures, the evidence officer shall provide notification to the local district or city attorney within 72 hours of vehicle impoundment for Section 22655.5 CVC, not including Saturdays, Sundays, or holidays.

b. Notification to the district or city attorney shall include if there was an in-custody arrest or no arrest made.

c. In cases where a vehicle is seized as evidence of a crime when no arrest is made, commanders shall ensure that the vehicle is inspected and/or processed in a timely manner.

5. RESPONSIBILITIES.

a. Area commanders shall ensure that the costs not associated with the towing, recovery, and storage (e.g., scene clean-up, fuel costs) are not included in the charges against the Department.

b. The evidence officer shall track vehicular evidence to verify that one or more of the following have been completed:

(1) Criminal charges have been filed by the district or city attorney's office.

(2) A vehicle inspection has been completed.

(3) The vehicle is no longer considered to have evidentiary value (e.g., further investigation revealed the vehicle was not involved in the crime).

NOTE: A timely tracking process will reduce the financial responsibility incurred by the Department for vehicles seized as evidence.

c. Area commanders shall ensure that invoices are submitted for payment in accordance with Highway Patrol Manual 11.1, Administrative Procedures Manual, Chapter 24, Payment of Invoices, within three (3) business days of the initial receipt.

6. VEHICLE RELEASE.

a. The evidence officer shall ensure the registered owner(s) or legal owner(s) are notified in writing by certified mail, return receipt requested, when a vehicle is no longer needed as evidence or has been released by the district or city attorney's office. Telephone contact with the registered owner(s) or legal owner(s) should also be attempted in order to expedite the process.

b. The evidence officer shall attempt to contact the registered owner(s) of a vehicle released from evidence by telephone. The registered owner(s) shall be informed that future storage fees will become their responsibility the day after the release date.

c. The evidence officer shall contact the tow contractor by telephone and advise which vehicle has been released from evidence; that the registered owner(s) has been contacted by the Department by telephone and/or in writing; and storage fees shall be assessed to the registered owner(s) effective the day after the Department's release notification.

NOTE: A vehicle impounded for the purpose of searching for evidentiary items as the result of a traffic crash may generally be released without violating the defendant's right to due process.