

**CHAPTER 4**  
**POST-STORAGE HEARINGS**  
**REVISED OCTOBER 2014**  
**TABLE OF CONTENTS**

<u>PURPOSE</u> .....	4-3
<u>POST-STORAGE PROCEDURES (SECTION 22852 OF THE CALIFORNIA</u> <u>VEHICLE CODE)</u> .....	4-3
<u>APPEAL PROCEDURES</u> .....	4-6
Appeal Procedure - Valid Vehicle Storage/Impound .....	4-6
Appeal Procedure - Invalid Vehicle Storage/Impound .....	4-7
<u>REVIEW AND PROCESSING</u> .....	4-7
Valid - Vehicle Storage/Impound .....	4-7
Invalid - Vehicle Storage/Impound.....	4-7
<u>VICTIM COMPENSATION AND GOVERNMENT CLAIMS</u> <u>BOARD HEARINGS</u> .....	4-7
 <u>ANNEXES</u>	
<u>A</u> - EARLY RELEASE LETTER.....	4-9
<u>B</u> - SAMPLE VEHICLE STORAGE HEARING GUIDE.....	4-11

THIS PAGE INTENTIONALLY LEFT BLANK

## CHAPTER 4

### POST-STORAGE HEARINGS

1. PURPOSE. This chapter provides direction for post-storage hearings in accordance with Section 22852 of the California Vehicle Code (CVC).
  
2. POST-STORAGE PROCEDURES (SECTION 22852 OF THE CALIFORNIA VEHICLE CODE).
  - a. Whenever an officer directs the storage/impoundment of a vehicle, the Department shall provide the registered owner (RO) and legal owner (LO) of record, or their agent, the opportunity for a post-storage hearing in person, writing, or telephonically to determine the validity of the storage/impoundment pursuant to Section 22852 CVC.
  
  - b. When a person is not contesting the validity of the storage/impoundment of the vehicle and is requesting the early release of the vehicle, use the early release letter and attach a copy of the completed early release letter to the original CHP 180, Notice of Stored Vehicle (refer to Annex A).
    - (1) If the vehicle was impounded for Section 14602.6 CVC or another impound section, and was not released early, a CHP 422B, Vehicle Storage Hearing Report, shall be completed and the reason(s) for the non-release of the vehicle shall be included in the "Summary of Finding" on the CHP 422B.
  
  - c. The CHP 180 (pages 2, 3, and 4), provides the RO and LO information regarding the post-storage hearing process. In order to be granted a post-storage hearing, the RO, LO, or their agent is required to request a hearing within 10 days of the date on the notice (refer to Chapter 1, CHP 180, Vehicle Report).
  
  - d. When a person is contesting the validity of the storage/impoundment of the vehicle, the following procedures shall be followed:
    - (1) Area commanders shall honor a request for a post-storage hearing if it is received at the office in person, by telephone, or by mail within 10 days of the date appearing on the notice. It is at the Area commander's discretion to honor a request for a post-storage hearing request that is outside of the 10 days of the postmarked mailed notice.
  
    - (2) The Area commander shall designate a lieutenant or sergeant as the hearing officer. A hearing officer shall not be the same officer who stored/impounded the vehicle.

(3) The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays.

(4) Failure to request a hearing or attend the scheduled hearing shall satisfy the requirements for a post-storage hearing.

e. The post-storage hearing is an informal process to determine the validity of the vehicle storage/impoundment. The hearing need not follow technical rules relating to witnesses and any relevant evidence shall be admitted. The hearing officer shall use the CHP 422C, Post-Storage Hearing Checklist. The hearing shall be documented on a CHP 422B which is located in the Department's forms library.

(1) Hearings should be held in a comfortable setting, free from interruption.

(2) The officer initiating the storage/impoundment need not be present.

(3) A suggested guide for conducting a hearing is contained in Annex B.

(4) The hearing officer is required to determine if the information validly supports the involved officer's authority to store/impound the vehicle.

f. The individual requesting the post-storage hearing shall be advised of the hearing officer's decision and informed the Area is not the final level of review (the finding could change when the hearing is reviewed by Division or headquarters), and shall be provided a copy of the CHP 422B **within 10 business days**.

(1) When the storage/impoundment is found to be **valid**, the owner has the following options:

(a) Pay the towing and storage fees and retrieve the vehicle (if the vehicle has not been retrieved prior to the hearing).

(b) Allow the vehicle to be sold to satisfy the lien pursuant to Section 22851 CVC (if the vehicle has not been retrieved prior to the hearing).

(c) Appeal the decision through the departmental claims process on a CHP 287, Claims of \$1,000 or Less, or through the Victim Compensation and Government Claims Board (VCGCB) if the claim is over \$1,000 (refer to paragraph 3. below for Appeal Procedures).

NOTE: When a vehicle is lawfully stored/impounded by an officer based on Department of Motor Vehicles' (DMV) records (i.e., expired registration, suspended driver license) at the time of the enforcement contact and the RO, or their agent provides documentation indicating DMV's records were

incorrect or not updated, the RO or their agent will be directed to contact DMV at (800) 777-0133, or by mail at Department of Motor Vehicles, Legal Affairs Division, Legal Office, Third Floor, 2415 First Avenue, Sacramento, CA 95818, and file a claim through DMV for the reimbursement of towing and storage fees.

(2) When the storage/impoundment is found to be **invalid** (e.g., vehicle was not a traffic hazard, vehicle was parked on private property with expired registration), the Department is responsible for the towing and storage fees.

(a) If the vehicle is in storage, the hearing officer shall arrange for the immediate release of the vehicle to the RO, LO, or their agent. The tow company shall forward the invoice for the towing and storage fees to the responsible Area office and it will be paid through the CHP 422B process which includes the following:

1 A CHP 422B shall be completed describing in the “Summary of Statements” the reason(s) the towing and storage was invalid.

2 The amount of reimbursement (towing and storage fees) and to whom the payment should be made to shall be included in the “Summary of Finding” on the CHP 422B.

3 The involved tow company will be paid directly by the Department through the CHP 422B process.

4 Area commands shall not have the tow company file a CHP 287 or VCGCB claim for a vehicle that was invalidly stored/impounded by the Department.

(b) If the RO, LO, or their agent has paid the towing and storage fees and has retrieved their vehicle, the RO, LO, or their agent should provide a copy of the paid tow/storage invoice to the Area office (the invoice may also be obtained from the involved tow company) and they will be reimbursed through the CHP 422B process which includes the following:

1 A CHP 422B shall be completed describing in the Summary of Statements the reason(s) the towing and storage was invalid.

2 The amount of reimbursement (towing and storage fees) and to whom the payment should be made out to shall be included in the Summary of Finding on the CHP 422B.

3 The RO, LO, or their agent will be paid directly by the Department through the CHP 422B process.

4 Area commands shall not have the RO, LO, or their agent file a CHP 287 or VCGCB claim for a vehicle that was invalidly stored/impounded by the Department.

3. APPEAL PROCEDURES.

a. Appeal Procedure - Valid Vehicle Storage/Impound. In those instances when the storage/impoundment is determined to be valid and a request is made by the RO, LO, or their agent to appeal the decision, Area personnel shall assist the RO, LO, or their agent by providing the following:

(1) For claims of less than \$1,000, the RO, LO, or their agent shall be provided a CHP 287. This form is located in the Department's forms library. The completed CHP 287 shall be transmitted by Area personnel within 48 hours to Risk Management Section, Risk Management Unit (RMU), and a "PCL Attorney Client Priv" entry into Blue Team (BT) shall also be made by a supervisor (the CHP 287 shall be scanned and attached to the BT entry and will qualify as the 48 hour RMU notification with the original CHP 287 routed to RMU). Copies of all reports, documents, photographs, video/audio tapes, etc., shall be scanned/attached to the BT entry (if there is a mobile video/audio recording system [MVARs] disk, it shall be mailed to RMU). The Area command shall include a recommendation in the BT "Summary of Incident" as to whether the claim should be allowed or denied and an explanation for the recommendation. The involved command shall not delay transmitting the claim pending completion of the BT entry (refer to Highway Patrol Manual 11.1, Administrative Procedures Manual, Chapter 8, Reports of Incidents - Potential Claims).

(2) Claims in excess of \$1,000 shall be filed with the VCGCB. The claimant will complete a VCGCB claim online at [www.vcgcb.ca.gov](http://www.vcgcb.ca.gov). If the claimant is unable to print the online form or does not have a computer, they may contact VCGCB at (800) 777-9229, and an application will be mailed to them. There will also be a \$25 fee charged by the VCGCB for filing a claim. Risk Management Unit will notify the involved Area command when the claim is received at RMU and request a PCL Attorney Client Priv entry to be made into BT **within 48 hours**, by a supervisor. Copies of all reports, documents, photographs, video/audio tapes, etc., shall be scanned/attached to the BT entry (if there is an MVARs disk, it shall be mailed to RMU). The Area command shall include a recommendation in the BT Summary of Incident as to whether the claim should be allowed or denied and an explanation for the recommendation.

NOTE: A CHP 287 or VCGCB claim must be filed no later than six months after the accrual of the cause of action (storage/impound) pursuant to Section 911.2 of the Government Code.

b. Appeal Procedure - Invalid Vehicle Storage/Impound. In those instances when the storage or impound is found to be invalid, the Department will pay the towing and storage fees through the CHP 422B process.

#### 4. REVIEW AND PROCESSING.

a. Valid - Vehicle Storage/Impound. The Area commander or designee shall review the completed CHP 422B and supporting documents (i.e., CHP 180, completed CHP 422C, registration, statements, photographs). The original signed CHP 422B package and **two** additional copies of the package shall be made. One copy of the CHP 422B package shall be retained at the Area office for two years. The original and the remaining copy of the CHP 422B package shall be routed to the appropriate field Division within **five** working days. Division shall review the CHP 422B packages and place an "approval stamp" or mark "approved by" on the front of the CHP 422Bs. Division shall forward the reviewed CHP 422B packages to Research and Planning Section (RPS). Upon RPS' review, the remaining copy of the CHP 422B package shall be retained at RPS for five years and the original CHP 422B package shall be forwarded to Legal Affairs Section (LAS), Legal Files.

b. Invalid - Vehicle Storage/Impound. The Area commander or designee shall review the completed CHP 422B and supporting documents (i.e., CHP 180, towing and storage invoice, completed CHP 422C, registration, statements, photographs). The original signed CHP 422B package and **three** additional copies of the package shall be made. One copy of the CHP 422B package shall be retained at the Area office for two years. The original and two remaining copies of the CHP 422B package shall be routed to the appropriate field Division within **five** working days. Division shall review the CHP 422B packages and place an "approval stamp" or mark "approved by" on the front of the CHP 422Bs. Division shall forward the reviewed CHP 422B packages to RPS for final review. Upon RPS' review, a copy of the CHP 422B package shall be retained at RPS for five years; the original CHP 422B package and one copy of the CHP 422B package shall be routed to Fiscal Management Section, Accounts Payable Unit, for payment; and the remaining copy of the CHP 422B package shall be forwarded to LAS, Legal Files

#### 5. VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD HEARINGS.

Risk Management Unit will coordinate any response and departmental representation for VCGCB hearings.

THIS PAGE INTENTIONALLY LEFT BLANK

# ANNEX A

## EARLY RELEASE LETTER

State of California—Transportation Agency

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

P.O. Box 942898  
Sacramento, CA 94298-0001  
(916) 843-3340  
(800) 735-2929 (TT/TDD)  
(800) 735-2922 (Voice)



File No.:

"I, the undersigned, a registered owner (R/O), legal owner (L/O), or agent indicated below, am requesting the early release of the vehicle described below. As a condition of the release, I agree to ensure that the driver indicated below will not have access to said vehicle during the remainder of the 30-day impoundment period ending on \_\_\_\_\_, pursuant to Section 14602.6 of the California Vehicle Code (CVC).

Vehicles released to a rental company may immediately return the vehicle to the rental fleet. Furthermore, I agree to ensure that the driver indicated below will not be given, rented, or provided this vehicle or any other vehicle to drive, until they are properly licensed and our company has complied with the provisions of Section 14604 CVC and applicable laws.

I accept full liability for the vehicle, its contents as described on the CHP 180 (Vehicle Report). All property will be returned to the rightful owner as required by law. I declare under penalty of perjury that all the information provided for the release of this vehicle is true and correct and will ensure that the above provisions are followed."

R/O, L/O, or Agent: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Impound: \_\_\_\_\_

Vehicle: License # \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_

Driver at the time of impoundment: \_\_\_\_\_

Driver's date of birth: \_\_\_\_\_

R/O, L/O, or Agent Signature: \_\_\_\_\_

Early Release Denied

Remarks/Comments \_\_\_\_\_

\_\_\_\_\_

*Safety, Service, and Security*



*An Internationally Accredited Agency*

THIS PAGE INTENTIONALLY LEFT BLANK

**ANNEX B**

**SAMPLE VEHICLE STORAGE HEARING GUIDE**

Date: \_\_\_\_\_

Time: \_\_\_\_\_

The purpose of this hearing is to determine the validity of the storage or impoundment of a motor vehicle on \_\_\_\_\_ (date) at \_\_\_\_\_ (location) \_\_\_\_\_. This is an informal hearing before the California Highway Patrol concerning the disposition of a vehicle owned by \_\_\_\_\_ (registered owner [RO], legal owner [LO], or their agent) \_\_\_\_\_

and stored/impounded under the provisions of Division 11, Chapter 10 of the California Vehicle Code.

In accordance with the provisions of the California Vehicle Code, the Commissioner of the Highway Patrol has appointed me, \_\_\_\_\_, as referee to hear this matter.

The following persons are present at the hearing:

- 1. Counsel (if present): \_\_\_\_\_
- 2. Subject or agent (RO, LO, or their agent): \_\_\_\_\_
- 3. Witnesses (include names and addresses: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Hearing Officer's Statement: "You have a right to review the evidence used. During the hearing, you may call witnesses to testify and present evidence, either oral or written, which is relevant to the issues to be determined. You may testify in your behalf. Since this is an informal hearing, you may be asked questions relevant to these proceedings. Any action taken by the Department is subject to both the Victim Compensation and Government Claims Board and court review."

The scope of the hearing is limited to the following issues, including the determination of:

1. Whether \_\_\_\_\_ (RO, LO, or their agent) \_\_\_\_\_ is the owner of a motor vehicle \_\_\_\_\_ (license number) \_\_\_\_\_, \_\_\_\_\_ (make/model) \_\_\_\_\_, \_\_\_\_\_ (year) \_\_\_\_\_, \_\_\_\_\_ (vehicle identification number) \_\_\_\_\_.
2. Whether the vehicle was left/parked at \_\_\_\_\_.
3. Whether the officer had reasonable cause and authority under the law to store/impound the vehicle.

“At this time, the following documents contained in the Department File NO. (SV-Number-Area-Year; e.g., SV-001-650-14) are being marked and received into evidence as records for the Department.” (Number exhibits in numerical order.)

1. CHP 422 (if applicable), Exhibit # \_\_\_\_\_.
2. CHP 180, Exhibit # \_\_\_\_\_.
3. Copy of Notice of Stored Vehicle, (if present in file), Exhibit # \_\_\_\_\_.
4. Letter requesting hearing, Exhibit # \_\_\_\_\_.
5. Notices of time, date, and location of hearing, Exhibit # \_\_\_\_\_.
6. Registration print-out showing vehicle owner information, Exhibit # \_\_\_\_\_.
7. Supplemental reports (if appropriate), Exhibit # \_\_\_\_\_.

Answer any questions concerning the documents marked and received into evidence.

Mark and receive all evidence presented by the owner in alphabetic order; e.g., Exhibit A, Exhibit B.