

Geneva Police Department GENERAL ORDERS		VEHICLE TOWING AND IMPOUND PROCEDURES	
<input type="checkbox"/> new: <input checked="" type="checkbox"/> rescinds: Policy & Procedure 47.8 <input type="checkbox"/> amends:		cross-reference: G.O. 712 Accreditation/Recognition standards: C.A.L.E.A.: NYS L.E.A.P.: 47.8	
effective date: 5.26.04	issue/amend date: 5.26.04 / 4.29.15 / 6.6.17 / 7.2.20 / 1.20.23		

I. PURPOSE	The purpose of this General Order is to establish and describe policies and procedures for towing and impounding vehicles for legitimate police purposes, and to safeguard both the vehicle and property contained therein.
II. POLICY	It is the policy of the Geneva Police Department to tow and impound vehicles in accordance with all applicable laws, and when necessary in order to expedite traffic, enforce laws, conduct investigations and to protect the lives of property and the public.
III. PROCEDURE	<p>A. <u>Circumstances for which Vehicles may be Towed/Impounded</u></p> <ol style="list-style-type: none"> 1. <u>Abandoned Vehicles</u> - Abandoned Vehicles are those as defined by § 332-2 of the Municipal Code of the City of Geneva (GMC) and by the New York State Vehicle and Traffic Law (NYV&T), § 1224. Vehicles may be impounded pursuant to GMC § 335-27 (A) and NYV&T § 1224. 2. <u>Aggravated Unlicensed Operation of a Motor Vehicle First and Second Degree</u> - (AUO 1st / AUO 2nd) Section 511-b of the NYV&T, <u>requires</u> police officers to seize a vehicle when the operator is charged with either Aggravated Unlicensed Operation of a Motor Vehicle in the First or Second Degree if the operator is the registered owner or the vehicle is not properly registered, or if the registered owner or other properly licensed person authorized to possess the vehicle is not present. 3. <u>Aggravated Unlicensed Operation of a Motor Vehicle Third Degree or other Traffic Misdemeanor / Arrest of Operator / Unlicensed Operator</u> <ol style="list-style-type: none"> a. When the operator of a motor vehicle is charged with Aggravated Unlicensed Operation in the Third Degree or any other misdemeanor traffic charge, is arrested, or is an unlicensed operator, it will be at a Supervisor’s discretion whether the vehicle is towed/impounded. b. In deciding whether to tow/impound a vehicle under the aforementioned circumstances, the Supervisor will consider whether: <ol style="list-style-type: none"> 1. The vehicle may be legally and safely driven; 2. The vehicle is properly inspected, registered and insured; 3. There are any conditions that require the towing/impounding of the vehicle; 4. The vehicle is legally parked, or if left parked on a roadway, could be a hazard; 5. The vehicle is parked on public or private property; 6. There is a risk of theft or vandalism to the vehicle; and 7. The vehicle contains any valuables. c. The owner/operator of the vehicle may request that the vehicle is towed, and such request may be granted. d. The owner/operator may request that a third person assume control of the vehicle. Such requests may be granted if those conditions as listed in § III (A)(3)(b)(1-3) above are met and the proposed operator of the vehicle is properly licensed to operate such vehicle, exhibits no signs of intoxication or impairment, and is readily available to assume control of the vehicle.

**III. PROCEDURE
(CONT.)**

4. **Disabled Vehicles** - When a vehicle is disabled and the owner operator is present, the operator may request a specific tow agency for the vehicle. Officers shall attempt to accommodate such a request, provided that it is practicable and the vehicle does not present a traffic hazard. If the owner/operator is not present, and the vehicle poses a traffic hazard, the vehicle will be towed using the on-call tow list procedure.
 5. **Emergency/Exigent Circumstances** - Officers may direct that vehicles be towed if necessary to resolve emergency or exigent circumstances, such as vehicles blocking fire-fighting operations or blocking emergency vehicles or equipment.
 6. **Evidence** - Vehicles may be impounded as evidence or as having evidentiary value for a valid investigative purpose, (e.g., involved in a hit and run case, asset seizure, stolen vehicle recovery, etc.). Vehicles impounded for evidence will be towed to a secure location as designated by a Supervisor. An Officer will escort the vehicle until secured so as to maintain the chain-of-custody.
 7. **Motor Vehicle Accidents** - Officers will arrange for the towing of vehicles involved in motor vehicle accidents when the operator is unable to drive due to injuries, or if damage renders the vehicle inoperable or unsafe to drive. The operator may request a specific tow agency and such requests will be honored provided that the request is practicable and time and circumstances permit.
 8. **Parking Violations** - Vehicles will not be towed for parking violations unless the vehicle is creating a traffic hazard or is one listed on a designated tow list for numerous outstanding parking violations as issued by the Chief of Police.
Note: In such cases, the Officer will issue any appropriate parking tickets and notify the duty Supervisor.
 9. **Snow Removal Operations or other Public Emergency Situation** - If necessary to effect snow removal efforts; or to deal with floods, fires, or other public emergencies; vehicles may be towed from city streets and parking lots. ***See GMC §335-27 (A).*** Officers will issue any appropriate parking tickets when applicable.
 10. **Stolen Vehicles** - Recovered stolen vehicles are a potential source of physical evidence (e.g., latent fingerprints) and will be processed accordingly. Recovered stolen vehicles will be handled as evidence. ***See §III (A)(6) above.***
Note: When practicable, if towing other than from an accident scene or at the owner's request, a Supervisor **MUST** be notified and authorize such tow.
- B.** Any vehicle that is towed and/or impounded by the Department must be assigned a Criminal Report Number in addition to any other required Department reports.

**IV. VEHICLE
INVENTORY
SEARCHES**

- A.** Police officers are authorized to conduct an inventory of items found in lawfully impounded vehicles without a search warrant. Any contraband or evidence that is found in a lawful inventory search of an impounded vehicle is admissible in subsequent criminal prosecution.
1. The arrest of a driver in and of itself does not always allow an officer the right to impound his/her vehicle. Officers will be guided by the aforementioned criteria in determining whether impounding a vehicle is authorized. ***See § III (A) above.***
- B.** Inventory searches shall be conducted only for the purpose of:
1. Protecting an owner's personal property left in an impounded vehicle;
 2. Protecting the Department against claims of loss, theft or damage to property; and
 3. Protecting the Department and others from dangerous items or potentially hazardous materials left in vehicles.

**IV. VEHICLE
INVENTORY
SEARCHES (CONT.)**

- C.** Vehicles may not be impounded or inventory searches conducted as a pretext to conduct a search for evidence. However, if during a lawful inventory search, Officers find contraband or evidence, and such discovery establishes probable cause to believe that there is contraband or evidence located elsewhere in the vehicle, Officers may then conduct a warrantless search of the vehicle. *See G.O. 712- Warrantless Searches and Seizures § IV (C)(9)*. In cases where such probable cause is established, Officers should consider obtaining a search warrant before continuing the search of the vehicle, depending on the seriousness of the crime being investigated and the circumstances of the particular case. The duty Supervisor will be contacted and advised in such cases and take the most appropriate course of action.
- D.** Inventory searches will be conducted on **ALL** vehicles lawfully impounded by the Department, and a Vehicle Impound and Inventory Record on TRACS completed along with any other required Department reports.
- E.** The inventory search may be conducted at the scene of the arrest or impounding, or at the location where the vehicle is secured. However, the inventory should be conducted and Inventory Record completed as soon as practicable.
- F.** When conducting an inventory search, Officers shall:
1. **Open** all vehicle compartments and all closed containers that can be opened without causing physical damage to the compartment or container and **inventory** the contents. If the vehicle keys are available, any locked areas of the vehicle (trunk, glove compartment) will be inventoried as well.
 2. If a compartment or closed container cannot be opened without causing physical damage to the compartment or container and it appears the compartment or container may contain valuable property, perishable property, dangerous items, (e.g., firearms, etc.), or hazardous materials, a Supervisor **must** be contacted. The Supervisor will determine whether the compartment or container should be forced open despite the likelihood of damage so as to protect the Department from claims of loss, theft, or damage to property contained in the closed container, to protect the police or public from danger, or to preserve perishable goods.
Note: If, in the Officer's judgment, immediate action is necessary to secure a dangerous item or hazardous material, the Officer may take such action as is necessary and inform a Supervisor as soon as practicable thereafter.
 - a. Personnel shall complete an incident report documenting the name of the Supervisor contacted, the time of contact, and the Supervisor's instructions on the inventory search. Any damage caused to a container or the vehicle during the course of such search **must** be documented in the report.
 2. Any property of exceptional value or other property that may not be left in the vehicle, (e.g., firearms or other weapons) will be removed from the vehicle and secured for safekeeping per current Departmental Procedures.
- G.** A Vehicle Inventory and Impound Record must be given to the registered owner of the vehicle being impounded/inventoried. A second copy will be placed in the case file for court proceedings.
1. If the registered owner is not present, a copy of the Vehicle Inventory and Impound Record will be given to the vehicle's operator and advise such operator to forward the Impound Record to the registered owner for redemption of the vehicle.

V. NOTIFICATIONS

A. When a vehicle has been impounded and the owner is not aware of such impound and cannot be notified, a **File 25 – Impound Entry (IENT) MUST** be sent by the on-duty Supervisor or the investigation Officer. The Records Bureau, upon receiving notification of a vehicle impound, will send a letter to the registered owner of the vehicle notifying them of such impound.

Note: An impounded vehicle as defined by the E-Justice Operating Manual includes abandoned motor vehicles and vehicles impounded for parking violations and vehicles seized as a result of criminal activity.

1. If feasible, prior to towing or impounding a vehicle that is abandoned, disabled, or illegally parked, the officer will attempt to identify and contact the vehicle’s owner/operator and have the vehicle moved prior to towing.

VI. TOW TRUCK CALL-OUT LIST

A. The e911 Center maintains a list of authorized tow services for use by Department personnel.

1. Once a tow is authorized, personnel shall notify e911 and request the on-call tow service. If the on-call tow service is unavailable or refuses to respond, the next available tow service will be notified.
2. There may be exceptions to the call out list for tow service operators:
 - a. When a tow service is available near the scene and speed is of the essence, personnel shall advise the e911 Center to contact such service.
 - b. When specialized tow equipment is necessary and only a certain tow service can accommodate such a request.
 - c. When an owner/operator requests a specific towing service and circumstances permit such request.

B. When a towing service is summoned to the scene of an accident for the removal of a damaged vehicle(s), the Officer on scene shall ensure that all glass and debris is removed from the scene and roadway by such tow service as required by NY V&T §1219 (c). If such tow service refuses or fails to do so, it will be documented in a report and forwarded to the Uniform Lieutenant for follow-up.

1. If a tow service is not needed, the operator(s) of the involved vehicle(s) shall be responsible for the removal of glass or other debris left by their respective vehicle(s) as required by the aforementioned section of the Vehicle and Traffic Law.

VII. IMPOUND RELEASE PROCEDURES

A. Whenever a vehicle is impounded by the Department, the Officer impounding the vehicle, will see that a Vehicle Inventory and Impound Record is completed and copies distributed as set forth in this Order. **See §IV (G).**

B. With the exception of vehicles involved in motor vehicle accidents, the owner or his/her designee must obtain a release from the Department before retrieving the vehicle from the tow service. This is accomplished when the vehicle’s owner or owner’s designee, brings the owner’s copy of the Inventory and Impound Record to the Public Safety Building, and a Supervisor authorizes, signs, and stamps the form approving release of the vehicle. Once the impound form is signed, the owner or designee may retrieve the vehicle from the tow service after satisfaction of the bill.

1. If an IENT had been entered previously, the Supervisor will remove the IENT from E-Justice by an Impound Cancel (ICAN).
 - a. Upon the completion of the ICAN, the Supervisor will place the E-Justice confirmation message in the Records tray for filing (if applicable).

C. Whenever it becomes necessary to impound a motorcycle, it will be at the Supervisor’s discretion whether the motorcycle is impounded with the tow service or at the Public Safety Building (PSB).

D. Approval for the release of a vehicle that is impounded and held as evidence **MUST** be cleared through the Detective Bureau and the District Attorney’s Office **PRIOR** to release of such vehicle.

**VII. IMPOUND
RELEASE
PROCEDURES**

- E. Any vehicle that is impounded due to a drug related arrest where the Department may consider a seizure of the vehicle, should, if practicable, be towed to the PSB and placed in the rear garage for storage. The on-call tow service will be summoned to impound the vehicle at the PSB. It will be at the duty Supervisor's discretion after evaluating the circumstances surrounding the arrest whether the vehicle will be impounded at the PSB.
- F. When a vehicle has been impounded after the arrest of the operator for AUO 1st or 2nd degree, and the registered owner was the operator, the vehicle shall not be released unless:
 - 1. The registered owner or owner's designee has a valid license or privilege to operate the vehicle in New York State and the charge of AUO has been terminated and any fine imposed paid; or
 - 2. The Court authorizes release of the vehicle; or
 - 3. A certificate is issued by the District Attorney to release the vehicle.

Approved By

MICHAEL J. PASSALACQUA
CHIEF OF POLICE