

# Germantown Police Department

## Policies and Procedures

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**Number:** 8-7  
**Effective Date:** July 13, 2004  
**Subject:** Towing Policy  
**Previous Revisions:** January 1, 2003

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### **I. PURPOSE**

The purpose of this policy is to establish procedures and guidelines for the towing of vehicles.

### **II. POLICY**

It shall be the policy of the Germantown Police Department to tow vehicles that meet the following criteria:

- A. Vehicles disabled as a result of an accident.
- B. Vehicles that are disabled or abandoned and are obstructing traffic, or are on public property.
- C. Recovered stolen vehicles.
- D. Vehicles that are determined, based on probable cause, to be needed for evidentiary purposes (i.e., for identification, crime scene/additional processing).
- E. Arrestee vehicles that cannot be left legally parked, released to a third party, or be parked on private property with consent from the property owner.
- F. Vehicles that are determined to be within departmental guidelines relating to seizures.

### **III. PROCEDURES**

- A. Vehicles Disabled in Accidents:

Vehicles damaged in accidents to the extent that they cannot be safely driven are to be removed from the scene of the accident by a licensed private wrecker. These vehicles are to be towed to the private wrecker lot or to a location designated by the owner, provided that the owner is on the scene. If the damaged vehicle is a city owned vehicle, then that vehicle

should be towed to the Germantown Vehicle Maintenance Shop, located at 7700 Southern Avenue, Germantown, Tennessee.

When the driver or owner of a disabled vehicle needs a tow from the scene of an accident, a licensed wrecker service will be called by the Police Dispatcher from the wrecker list.

If the wrecker that has been dispatched does not arrive on the scene within 30 minutes after being given the call by the Police Dispatcher, the officer should ask the dispatcher to ascertain an estimated arrival time. At this time, a decision should be made as to whether or not to call the next wrecker service on the list.

B. Arrest and Search Situations:

1. Felony Arrests:

When a suspect is arrested and there is probable cause to believe that the vehicle he/she is operating is needed for evidentiary purposes, the vehicle should be towed to the department seizure lot by a private wrecker service.

Anytime an officer tows a vehicle for these purposes, a notation is to be made on the tow-in ticket that the vehicle is being held for the Investigative Division. The information concerning the towing of the vehicle is to be contained in the arrest/offense report.

2. Arrests/Suspect's Vehicle Not Needed as Evidence:

When an officer arrests a defendant and the defendant's vehicle is not needed as evidence, the officer is required by the Tennessee Supreme Court case, Drinkard v. State (1979), to allow the defendant to leave the vehicle at the scene of arrest if the defendant so desires and it is legally parked. The defendant cannot, however, park a vehicle on private property without the consent of the property owner/manager. The defendant may authorize a third party at the scene who is not under arrest to legally park the vehicle. The defendant will not be allowed to move his vehicle once he has been arrested. Under no circumstances will an officer on the scene drive the vehicle, either with or without the owner's consent.

If a vehicle cannot be legally parked, left on private property, or released to a third party, then the vehicle should be towed by a private wrecker after a complete inventory.

If the vehicle is left at the scene or is released to a third party, a hold harmless/tow-in option form must be signed by the defendant. The signed form should be completed and turned in with the officer's other paperwork at the conclusion of the shift.

3. D.U.I. Arrests:

If the defendant is under arrest for D.U.I., his/her vehicle is to be treated the same as (2) above. The Supreme Court has said that the Police Department must allow the defendant the option to turn his vehicle over to a third party or allow it to remain properly parked. The Court further stated that the simple fact that a subject is intoxicated enough to be arrested does not automatically mean that he/she lacks the capacity to make the decision to park his/her vehicle. However, there are cases when the defendant is so intoxicated that he/she has no idea what he/she is doing or even where he/she is. The decision to tow the vehicle or to allow the driver to leave it parked is left to the sound discretion of the arresting officer. However, if the officer does not give the defendant the option to leave the vehicle parked, then the officer must put the reasons for that decision in the arrest report. If the officer determines that the vehicle should be towed, then it should be sent to a private wrecker lot after a complete inventory.

4. Recovered Stolen Vehicles:

When an officer locates a stolen vehicle, it is to be towed to a private wrecker lot after a complete inventory. A completed tow-in ticket will be included in the paperwork with the Auto Recovery Offense Report. In cases where an owner locates their own stolen vehicle, the vehicle may be released to the owner at the scene as long as the owner has the proper ownership papers and the vehicle does not need to be processed for evidence. A property cover sheet documenting the release of the vehicle will be included with the offense report. When a stolen vehicle is recovered, it is the responsibility of the reporting officer to verify that the dispatcher has removed the vehicle from the NCIC computer.

A non-verified stolen vehicle should be towed by a private wrecker upon approval of a field supervisor.

5. Seized Vehicles:

Vehicles that are seized by the Germantown Police Department for any reason should be towed to the Shelby County Sheriff's Department impound lot or the wrecker service storage lot. The seizing officer should obtain a copy of the wrecker bill, and place that copy into the mailbox of the Administrative Captain. The keys to the vehicle should be placed into evidence, and documented in accordance with the established policy. This includes the entire key ring, not just the keys for the seized vehicle.

C. Tow-In Slips:

1. When an officer causes a vehicle to be towed, that officer will completely fill out a Vehicle Tow Slip.

- a. Appropriate information should be placed in each block.
  - b. If any information is called for but not available, the letters "N/A" should be entered in that block.
  - c. If an incident number is available, that number should be placed in the bottom right hand corner of the form.
  - d. A complete vehicle inventory should be conducted and properly documented on the form in all cases where a Tow-In Slip is required.
2. It will not be necessary to complete a Tow-In Slip when a vehicle is being towed due to an accident or mechanical problem, and the owner/operator is on the scene and not under arrest.
  3. When a vehicle is towed and a Tow-In Slip is completed, the officer will give the wrecker driver the pink copy (last copy) and turn in the white copy with any related paperwork (i.e., offense report, arrest report, accident report, etc.). The yellow copy is for the driver or owner. If possible, officers should give the yellow copy to the owner/driver.
  4. Officers should not put a "hold" on any vehicle which they have had towed unless the vehicle is involved in a felony incident or there is probable cause to believe it is so involved.
    - a. If an officer puts a "hold" on a vehicle, he/she should be in the process of obtaining warrants or actually in an active and specific investigation for that person or those persons associated with the incident which caused the need for a "hold" to be placed on a vehicle.
    - b. In incidents where seizure procedures are to be initiated for a vehicle, that vehicle should be towed to the fenced seizure lot at Shelby County Sheriff's Department impound lot. The investigating officer will be responsible for completing the required forms.

D. Obstructing Traffic and Parking Violators:

1. When a vehicle is obstructing traffic and the owner/operator is not available, then the vehicle should be towed to a private wrecker lot. A traffic citation should be issued when towing vehicles under this section (Ord. 20-213 – Obstructing Traffic Prohibited).
2. Officers shall have complete authority as to when wrecker operators may or may not tow abandoned or disabled vehicles.

3. It shall be the prerogative of the officer on the scene to release a car to an owner/operator at any time with no charge to the owner/operator, up to the point the wrecker hooks up to the vehicle.
4. When a vehicle is violating a parking restriction, but is not obstructing traffic, the officer should issue a traffic citation (short ticket) for the violation rather than towing the vehicle. If an officer discovers an unregistered vehicle, he/she may issue a long ticket to the owner/driver. If there is no owner/driver available, an officer should use his/her discretion to issue a citation.

Towing vehicles for a parking violation should be done only with the approval of a field supervisor.

E. Inventory of Vehicles:

1. If the driver/owner of a vehicle is not on the scene or if the driver/owner is under arrest, the vehicle should be inventoried when it is towed. The inventory is done for the purpose of protecting the owner's property, protection of the police from subsequent claims of loss or stolen property, and the protection of the police from instrumentalities. The aforementioned objectives are police precautionary procedures designed to secure and protect vehicles and their contents within police custody. If a vehicle has been left on the street or driven away by a third party (tow-in option form completed), no inventory should be undertaken.
2. An inventory should include the area of the vehicle to which the officer has access. If the keys to the trunk and/or glove compartment are in the officer's possession, he/she should inventory these areas, even if locked. If the officer does not have the keys and the compartments are locked, he/she should not inventory these areas. If the compartments are unlocked, they should be inventoried. All closed containers found within an inventoried vehicle should be examined and contents listed unless locked and no key is available.

F. Abandoned Vehicles:

1. Definitions: An abandoned vehicle is defined by Tenn. Code Ann. 55-16-103 as a motor vehicle that is over four (4) years old and is left unattended on public property for more than 30 days or a motor vehicle that has remained illegally on public property for more than 48 hours, or a motor vehicle that has remained on private property without the consent of the owner, or person in control of the property for more than 48 hours.

2. Officers are to ensure that all reasonable efforts are made to notify owners/operators prior to removal/towing.
3. When removing abandoned vehicles, officers shall comply with the guidelines established by Tenn. Code Ann. 55-16-104 and/or City Ordinances 20-246 to 20-259.

G. Non-Motorized Equipment:

1. City Ordinance 20-230 prohibits the parking of non-motorized equipment such as campers, trailers, boats, etc., on public streets for longer than eight (8) hours consecutively.
2. An officer should attempt to have the owner of such property remove it from the street prior to having it towed.
3. If the equipment is determined to be a hazard, an officer should have it towed by a private wrecker. A memorandum documenting the incident should be completed by the officer on the scene and turned in with a completed tow-in slip.

H. Private Tow:

1. On occasion, the highway user may encounter mechanical or other difficulties necessitating assistance or towing and must rely on the officer to summon or obtain the needed services. The following guidelines should be followed in obtaining those services:
  - a. Road Service - In the case of simple repairs and the vehicle is not a traffic hazard, officers may request the Dispatcher to contact the nearest garage/service station to send a repairman, unless the motorist has a special request for a specific garage and no wreckers are required for such requests.
  - b. When a vehicle is not a traffic hazard (i.e., on private property, sufficiently off the roadway, etc.), an officer may be requested to obtain a wrecker service. If the owner/operator requests a particular wrecker service, that service should be contacted.

When a specific wrecker service is not requested, then the wrecker rotational system should be utilized in accordance with Department policy.

The officer should use his/her discretion as to whether he/she should remain on the scene until the requested assistance arrives.

#### **IV. REVIEW PROCESS**

An annual review of this policy shall be conducted to determine if it should be revised, cancelled or continued in its present form.

This order shall remain in effect until revoked or superseded by competent authority.