

CHAPTER 4

POST-STORAGE HEARINGS

1. PURPOSE. This chapter provides direction for post-storage hearings. (Reference Vehicle Code [VC] Section 22852.)

2. POST-STORAGE PROCEDURES.

a. Whenever an officer directs the storage or impoundment of any vehicle, the Department is required to provide to the registered owner (R/O) and legal owner (L/O) of record, or agent, with the opportunity for a post-storage hearing in person or over the telephone to determine the validity of the storage. The "Notice of Stored Vehicle" (CHP 180 carbon half sheets) provides the R/O and L/O information regarding the post-storage hearing process. In order to be granted a post-storage hearing, the owner or their agent is required to request a hearing within 10 days of the date on the notice. (Refer to Chapter 2 and Annex C.)

b. When the person is not contesting the validity of the storage or impoundment of the vehicle and is requesting the early release of the vehicle, use the early release letter (Annex J). *Do not use the CHP 422B (Vehicle Storage Hearing Report).*

(1) Area commanders shall honor a request for a post-storage hearing if it is received at the office or postmarked within the 10-day limit.

(2) The Area commander shall designate a lieutenant or sergeant as the hearing officer. A hearing officer may not be the same officer who stored or 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.

c. The post-storage hearing is an informal process to determine whether a vehicle has been stored or impounded lawfully. Therefore, the hearing need not follow technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted. The hearing officer shall use the CHP 422C, Post-Storage Hearing Checklist (Annex II). The hearing shall be documented on a CHP 422B

(Vehicle Storage Hearing Report). The CHP 422B is located in the FormFlow program on the Department's computer network (Annex T). *(Revised 10-01.)*

- (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 U.
- (4) The hearing officer is required to determine if the information supports the storing officer's authority to store/impound the vehicle. The hearing officer is limited to finding the storage/impoundment as lawful or unlawful.

d. The individual requesting the post-storage hearing shall be advised of the hearing officer's decision and informed that the Area is not the final level of review (meaning that the finding could change when the hearing is reviewed by Division or Headquarters) and provided a copy of the CHP 422B within a reasonable amount of time. *(Revised 10-01.)*

(1) When the storage or impoundment is found **lawful**, the owner has the following options:

- (a) Pay the towing and storage fees and retrieve the vehicle.
- (b) Allow the vehicle to be sold to satisfy the lien per Section 22851 VC.
- (c) Appeal the decision through the departmental process on a CHP 287, Claims of a \$1,000 or Less or through the State Board of Control process for claims greater than \$1,000 (Government Claim, SBOC-GC-0002). See (3) below for appeal procedures.

(2) When the storage or impoundment is found to be **unlawful**, (i.e. incorrect DMV record), the Department is responsible for 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 R/O, L/O, or agent. The towing and storage fees will then be paid directly to the tow company by the Department.
- (b) If the R/O, L/O, or agent has paid the towing and storage fees and the vehicle has already been released, the Department will reimburse the appropriate party.

(c) It is necessary for the hearing officer to indicate the amount of reimbursement and identify to whom payment should be made in the "Summary of Finding" section on the CHP 422B.

(3) Appeal Procedures. In those instances when the storage/impoundment is found to be lawful and a request is made to appeal the decision, Area personnel shall assist the R/O, L/O, or agent by providing the appropriate form.

(a) For claims of **\$1,000 or less** use CHP 287. This form can be located in the FormFlow program on the Department's computer network (Annex V). (Refer to HPM 11.1, Administrative Procedures Manuals, Chapter 9 for processing information.)

(b) For claims of **more than \$1,000**, provide a Board of Control form SBOC-GC-0002 (Government Claim). (Refer to Annex W.) This form may be requisitioned from Supply Services Unit.

(c) Claims (CHP 287 or SBOC-GC-0002) must be filed within six months of the hearing to comply with Government Code Section 911.2.

1 Board of Control (SBOC-GC-0002) claims shall be sent by the claimant directly to the State Board of Control, Government Claims Division, P. O. Box 3035, Sacramento, CA 95812-3035.

NOTE: If a vehicle is still in storage, the claimant should be cautioned that storage charges that accrue after receipt of the Notice of Storage are the responsibility of the claimant.

3. PROCESSING.

a. When the storage or impound is found to be **lawful**, the original signed CHP 422B plus two copies including the CHP 180, CHP 422C, and all other supporting documents (three complete packages) shall be routed to the appropriate field Division for approval. Division shall forward the original plus one copy to FSS for final review. *(Revised 10-01.)*

b. When the storage or impound is found to be **unlawful**, the original CHP 422B and four copies including the CHP 180, CHP 422C, the invoice, and all other supporting documents (five complete packages) shall be routed to the appropriate field Division for approval. Division shall forward the original plus three copies to FSS for final review. *(Revised 10-01.)*

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4. REVIEW.

- a. The Area commander or designee shall review the hearing officer's decision and forward the package to Division within five working days of the hearing. Division shall place an "approval stamp" on the front of the CHP 422B. Division shall forward the approved package to FSS.
- b. After Division approval of an unlawful storage, FSS will review the report for any procedural discrepancies and forward the original and one copy to Accounting Section for payment and one copy to Legal Files.
- c. After Division approval of a lawful storage, FSS will review the report for any procedural discrepancies and forward a copy to Legal Files.
- d. Questions regarding payment shall be directed to Accounts Payable.
- e. FSS will forward a copy to the Legal Coordination Unit (LCU) for filing in all cases. LCU will clarify any legal discrepancies.

5. BOARD OF CONTROL HEARINGS. FSS and Legal Coordination Unit shall coordinate any response and/or departmental representation for Board of Control hearings.