

# **TOWING, STORAGE AND BOOTING ADVISORY BOARD**

## *Licensing Division Staff Report*

July 30, 2019

Tow Trucks	New	New % Online	Renewed	Online Renewal	Population
FY 2018	3685	97%	8249	89%	11421
FY 2019 QTR 1	789	96%	2298	90%	11194
FY 2019 QTR 2	825	95%	2453	91%	11191
FY 2019 QTR 3	905	97%	2047	90%	11323

Tow Companies	New	New % Online	Renewed	Online Renewal	Population
FY 2018	1117	84%	6998	87%	4139
FY 2019 QTR 1	234	87%	1723	87%	4041
FY 2019 QTR 2	248	85%	1944	90%	4054
FY 2019 QTR 3	268	86%	1853	89%	4071

### **Active Tow Company and Tow Truck Population Numbers by Type of Towing**

Type of Towing	Company	Tow Truck
Consent	1821	3461
Private Property	175	373
Incident Management	1998	7498
Total**	3919	11332

\*\*As of 7/14/2019

Vehicle Storage Facilities	New	New % Online	Renewed	Renewed % Online	Population
FY 2018	177	63%	2981	86%	1804
FY 2019 QTR 1	64	58%	774	90%	1787
FY 2019 QTR 2	71	63%	902	89%	1778
FY 2019 QTR 3	63	64%	775	90%	1802

Tow Operators	New	New % Online	Renewed	Renewed % Online	Population
FY2018	3627	99%	8991	99%	14010
FY2019 QTR 1 Consent	381	99%	616	99%	4629
FY2019 QTR 2 Consent	349	98%	545	99%	4636
FY2019 QTR 3 Consent	446	98%	558	99%	4632
FY2019 QTR 1 Private Property	31	94%	50	100%	306
FY2019 QTR2 Private Property	23	91%	43	100%	320
FY2019 QTR3 Private Property	21	95%	33	100%	309
FY2019 QTR 1 Incident Mgmt	466	96%	1585	99%	8926
FY2019 QTR 2 Incident Mgmt	432	95%	1427	99%	9023
FY2019 QTR 3 Incident Mgmt	472	95%	1261	99%	9075

Vehicle Storage Facility Employees	New	New % Online	Renewed	Renewed % Online	Population
FY2018	782	98%	2013	99%	2970
FY2019 QTR 1	179	97%	405	99%	2864
FY2019 QTR 2	188	100%	385	99%	2857
FY2019 QTR 3	184	96%	387	99%	2804

#### Current Status Tow Companies

Status	Total
Active	4058
Pending Review	99
Pending	19
Insurance Not Applied	265
Transitional	601

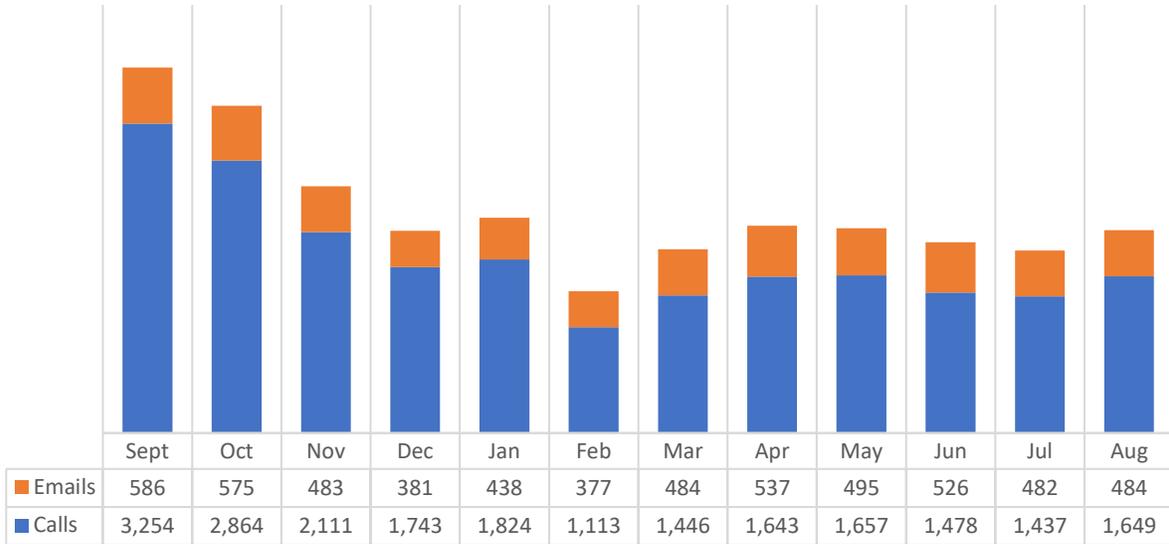
\*\*As of 7/12/2019

#### Current Status Vehicle Storage Facilities

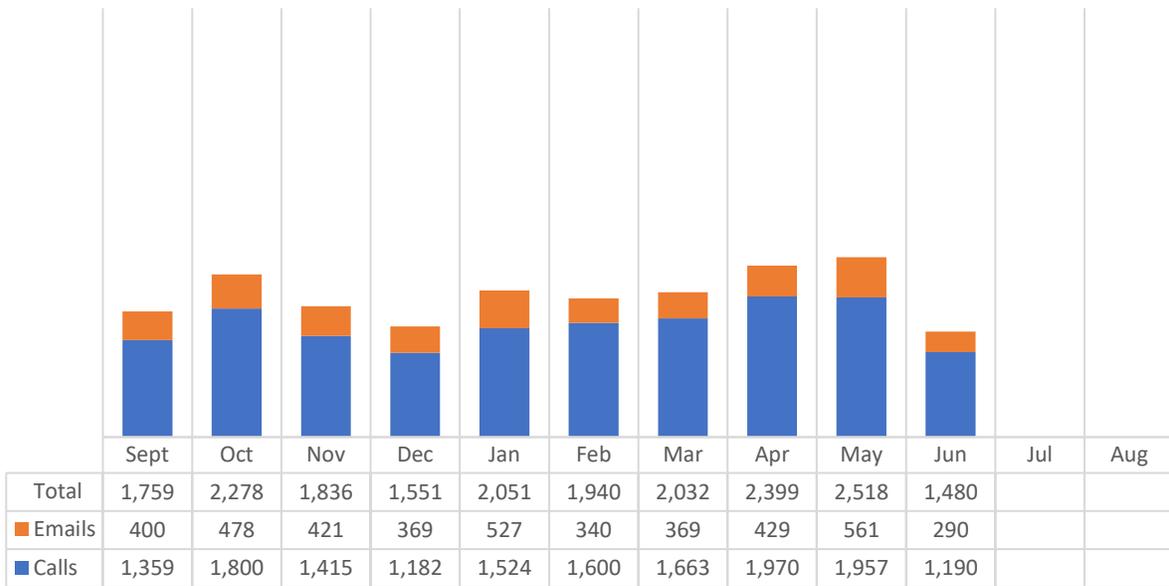
Status	Total
Active	1802
Pending Review	68
Pending	51
Insurance Not Applied	59
Transitional	187

\*\*As of 7/12/2019

**TOW/VSF  
CUSTOMER SERVICE CONTACTS  
FISCAL YEAR 2018**



**TOW/VSF  
CUSTOMER SERVICE CONTACTS  
FISCAL YEAR 2019**



# **Towing and Storage Advisory Board**

## **Enforcement Division Staff Report**

**July 30, 2019**

### **Case Highlights**

#### **Ariel Martinez d/b/a Fusion Collision Center**

(TDLR No. VSF20170001645) | Commission Order issued March 22, 2019

On March 22, 2019, the Commission issued an Order assessing a \$4,800 penalty against Ariel Martinez d/b/a Fusion Collision Center located in Socorro, Texas. The Administrative Law Judge found that after taking possession of a vehicle Respondent failed to provide legally-required information to the vehicle owner, a Class B violation (\$600), failed to issue a second notification letter or place a Notice in a local newspaper advising the vehicle owner that it was surrendering title to the vehicle if it took no action, a Class D violation (\$1,200), and failed to comply with legal requirements for notification and disposal of the abandoned vehicle, a Class G penalty (\$3,000). The penalty has not been paid and a demand letter has been issued by the Department's Office of General Counsel.

#### **BAS, Inc. d/b/a Baytown Storage Facility**

(VSF20190003455) | Agreed Order issued February 14, 2019

Respondent admitted to using dishonesty in obtaining a vehicle owner's consent to transfer a vehicle from a licensed vehicle storage facility to an unregulated body shop, a Class G violation under the Department's Enforcement Plan. Respondent accepted an administrative penalty of \$4,000, the revocation of its storage facility license - to be probated for three years - and has made restitution to the insurance company of the \$1,035 it paid to recover the total loss vehicle. The penalty and restitution have been paid.

#### **Adrian A. Reynolds**

(TOW20190009065) | Revocation by operation of law

On March 20, 2019 Respondent, a consent tow operator, was imprisoned in a penitentiary due to a felony conviction. The Department's Enabling Act states that an occupational license must be revoked upon imprisonment following a felony conviction, felony community revocation, or revocation of parole.

A license holder who has had a license revoked by operation of law may, if no longer incarcerated, apply for a new tow truck operator's license on the first anniversary of the revocation.

#### **Claude Woodward and Jenny Lynn Carter-Woodward d/b/a Day and Night Wrecker Service**

(TOW20180011997) | Default Order issued March 4, 2019

On December 13, 2017, Respondent's towing company license was suspended for failure to pay administrative penalties. Respondent continued to engage in towing operations and thereby engaged in unlicensed activities. The Executive Director issued a Cease and Desist Order on January 10, 2019 and a Default Order on March 4, assessing a \$4,000 administrative penalty and revoking Respondent's towing company license; this was a second Class G violation.

**Christian R. Leon, Jr.**

(TOW20190003824) | Agreed Order issued February 14, 2019

This is a ‘flipping’ case in which the tow truck driver, through dishonest conduct, obtained the signature of a vehicle owner at the accident scene purportedly authorizing his car to be taken to an unregulated body shop rather than a licensed vehicle storage facility. This was charged as two violations: (1) failure to take the vehicle to a licensed vehicle storage facility and (2) obtaining a signature authorizing repairs. Respondent accepted an administrative penalty of \$7,000 and the probated revocation of his tow operator’s license for three years. Enforcement action was also taken against the towing company for which Mr. Leon worked.

**Current Projects**

- On November 14, 2018, we met with the Enforcement Workgroup of the Towing and Vehicle Storage Advisory Board to update the penalty matrices for this program. We again met by conference call on July 19 to finalize changes to the matrices. A draft of these matrices is on the agenda today for your consideration. The advisory board members appointed to this workgroup are Joann Messina, Jeanette Rash, Tasha Mora, and Jimmy Zuehlke.

**Speaking Engagements and Trainings**

- On January 11, Michael Shirk and Investigator David Kotschenreuter conducted a six-hour training at Houston Police Department for 35 officers of the Auto Theft Division/Auto Dealers Detail. Also in attendance were officers from Harris and Montgomery County Sheriff’s Office and Special Agents from the National Insurance Crime Bureau.
- On April 9 and 10 Michael Shirk led workshops, each with about 60 persons in attendance, at the 2019 Convention of the Texas Association of Special Investigative Units in Pasadena, Texas on the problem of flipping within the towing and storage industries.
- On April 26, very favorable coverage was given to the Department’s efforts to eradicate flipping by Amy Davis, a Reporter with Houston television station KPRC Click2Houston. It is available at <https://www.click2houston.com/consumer/houston-tow-company-accused-of-deceiving-drivers-into-costly-auto-repairs>
- Michael Shirk will be on the Towing Panel presenting materials to the International Association of Special Investigative Units at their annual convention in Phoenix, Arizona this September. The topic will cover ‘flipping,’ and panel members will discuss the identification, investigation, and prosecution of flipping cases.

## **Key Statistics**

Shown below are key statistics for the Towing and Vehicle Storage programs, and for all TDLR programs combined through May of Fiscal Year 2019, and average penalties for the Towing and Vehicle Storage programs and for all TDLR programs combined through May of Fiscal Year 2019.

<b><u>Statistic</u></b>	<b><u>TOW</u></b>	<b><u>VSF</u></b>	<b><u>TDLR</u></b>
• Number of cases opened:	1,384	421	8,229
• Number of cases resolved:	1,647	537	7,558
• Number of final orders:	120	53	1,135
• Total amount of penalties assessed:	\$243,675	\$137,450	\$2,272,135
• Total amount of penalties collected:	\$117,624	\$110,090	\$1,176,434

<b><u>Average Penalty</u></b>	<b><u>TOW</u></b>	<b><u>VSF</u></b>	<b><u>TDLR</u></b>
• Fiscal Year 2018	\$1,918	\$2,499	\$1,496
Licensed	\$1,741	\$2,563	\$1,266
Unlicensed	\$4,236	\$1,575	\$2,143

## **Top 10 Violations in Disciplinary Actions**

Shown below are the ten most common violations found in disciplinary actions for the Towing and Vehicle Storage programs through May of Fiscal Year 2019.

### **TOW**

Without authority-Illegal tow	19
Criminal History	18
Tow without proper signage	12
Lacks honesty/trustworthiness/integrity	12
Failed to take vehicle to licensed VSF	10
Charged more than allowed for tow	10
Didn't tow in safe/competent manner	8
Fail to maintain insurance	6
No tow company license	6
No tow operator license	5
Employed unlicensed person	5

**VSF**

Failed to timely send/publish notice	15
Charged unauthorized fee	7
Failed to maintain required records for 2 years	7
Fail to include required information on notice	5
Unlicensed company	4
Charged impound without services or date	4
Criminal History	4
Lacks honesty/trustworthiness/integrity	3
Failed to give notice of rights	3
Failed to notify law enforcement	3
Failed to release with proper documentation	4



Education & Examination

A Core Foundation Is Key to  
Tomorrow's Excellence **CE**

RAY PIZARRO, DIRECTOR

**TOWING AND STORAGE ADVISORY BOARD  
JULY 30<sup>TH</sup>, 2019**

**KEY STATISTICS AND TRENDS**

**TOW OPERATORS CONTINUING EDUCATION**

<b>FY 2019</b>	<b>SEP</b>	<b>OCT</b>	<b>NOV</b>	<b>Q1</b>	<b>DEC</b>	<b>JAN</b>	<b>FEB</b>	<b>Q2</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>	<b>Q3</b>	<b>JUN</b>	<b>JUL</b>	<b>AUG</b>	<b>Q4</b>	<b>TOT</b>
Course Approvals Issued	4	1	2	7	0	10	5	15	9	1	14	24	-	-	-	0	46
Total Course Population	55	52	52	52	52	59	57	57	61	57	68	68	-	-	-	0	68
Total Provider Population	969*	976*	922*	922*	894*	917*	909*	909*	918*	953*	937*	937*	-	-	-	0	937*
<b>FY 2018</b>	<b>SEP</b>	<b>OCT</b>	<b>NOV</b>	<b>Q1</b>	<b>DEC</b>	<b>JAN</b>	<b>FEB</b>	<b>Q2</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>	<b>Q3</b>	<b>JUN</b>	<b>JUL</b>	<b>AUG</b>	<b>Q4</b>	<b>TOT</b>
Course Approvals Issued	3	4	2	9	0	3	7	10	6	4	4	14	19	1	1	21	54
Total Course Population	36	38	39	39	37	35	38	38	39	42	44	44	55	55	54	54	54
Total Provider Population	425	424	425	425	423	428	427	427	433	422	419	419	428	428	428	432	432

**\*FY 2019 – Massage CE Provider population has been added to the provider population.**

**TOWING, STORAGE AND BOOTING ADVISORY BOARD**  
**Regulatory Program Management Staff Report**  
**July 30, 2019**

## **Projects**

- Regulatory Program Management (RPM) has been working in conjunction with the web development team to create a web-based training platform that will cover the topics presented at the live trainings put on by the division. The goal is to create short videos as a reference guide concerning various issues when people of the industry have questions.
- RPM has implemented a new analytic process to better monitor, review, and answer questions that come to the department, either directly or through internal channels. The program will assist RPM in determining common issues as they arise to create better, more specific training for the industry and internally to TDLR staff. RPM hopes the process will help us better understand the needs of the industry, and the ability to provide consistent answers to questions.
  - From May 5<sup>th</sup>, 2019 to July 11<sup>th</sup>, 2019 RPM has received 138 original contacts from the industry. We record: how the contact was made (email or phone), how it came to RPM (through customer service or directly), contact name, a brief description of the issue, the answer given to the contact, time and date we received contact, and the date and time we replied with the answer. We generally categorize the contact in hopes of further examination later. This process gives us the ability to capture the information the industry needs as well as creating an internal source of answers for future trainings and program development.
- RPM, along with the web development team, is monitoring traffic to the TDLR website to determine the areas most visited. This information, along with the new website compliance section, will allow RPM to further determine the areas most visited so we determine the greatest training need.
  - From May 5<sup>th</sup>, 2019 to July 11<sup>th</sup>, 2019, the main Towing page on the TDLR website received 15,944-page views. The consumer information page received 11,057 views, the Towing and VSF statute page had 5,177 views, the VSF rules page had 3,527 views, and the Towing rules had 2,507 views.
- RPM is continuing to investigate webinar-based training for compliance issues that occur frequently. With the assistance of the analytic process RPM hopes to create webinars and other forms of media that are specific to industry needs.

## **Outreach**

- RPM will be in attendance and provide a training at the Tow show in Dallas in August. The training will cover updates to the laws and rules and provide a platform for the industry to ask questions.

# **Towing and VSF Advisory Board**

## **Field Inspections Division Report**



**July 30, 2019**

### **MOST COMMON VIOLATIONS FOUND DURING INSPECTIONS**

#### **Vehicle Storage Facilities Most Common Violations Found During Inspections** Fiscal Year 2019 Quarter 3

**1. Storage Lot Signs.** – 16 Tex. Admin. Code Ch. 85.1003(d). Failure to have a sign describing the documents that may be presented by the vehicle owner or his/her authorized representative to obtain possession of the vehicle.

**2. Storage Lot Signs.** – 16 Tex. Admin. Code Ch. 85.1003(a). Failure to have a clearly visible and readable sign at its main entrance, containing the registered name, address, phone number for release of the vehicle, facility hours and the storage lot's state license number. Such sign shall have letters at least 2 inches in height, with contrasting background, shall be visible at 10 feet.

**3. Notice of Complaint Procedure.** – 16 Tex. Admin. Code Ch. 86.707(a)&(b). Failure to notify the vehicle owner of the department's website and email address, mailing address, and telephone number, for purposes of directing complaints regarding the vehicle storage to the department. The notice shall be included on a sign prominently displayed to the public at the place of payment, with letters at least one inch in height, and a contrasting background; and the front page of any bill for service.

**4. Impoundment Fee.** – 16 Tex. Admin. Code Ch. 85.722(e). A VSF operator may charge a vehicle owner an Impoundment fee if Impoundment is performed in accordance with these rules. The Impoundment fee may not exceed \$20. If the VSF operator charges a fee for Impoundment, the written bill for services must specify the exact services performed for that fee and the dates those services were performed.

**5. Storage Lot Signs.** – 16 Tex. Admin. Code Ch. 85.1003(e). Failure to conspicuously post a sign that states: "This vehicle storage facility must accept payment by an electronic check, credit card, or debit card for any fee or charge associated with delivery or storage of a vehicle."

**6. Drug Testing Policy—Consent Form.** – 16 Tex. Admin. Code Ch. 85.725(a)(3). Before a drug test is administered, VSF employees and applicants are required to sign a consent form authorizing the test and permitting release of test results to the medical review officer (MRO), the company, and the department. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the drug testing policy.

**7. Storage Lot Signs.** – 16 Tex. Admin. Code Ch. 85.1003(c). Failure to conspicuously place a sign, at the place of payment, stating "Non-Consent Tow Fees Schedules Available on Request".

**8. Storage lot signage.** – 16 Tex. Admin. Code Ch. 85.1003(b). The sign shall include all forms of payments the VSF accepts for any charge associated with delivery or storage of a vehicle. The sign must be located so it is clearly visible to a vehicle owner at the place of payment and shall have letters at least 1 inch in height with a contrasting background.

**9. Storage Lot Surface.** – 16 Tex. Admin. Code Ch. 85.1001. All VSFs shall have an all-weather surface such as concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel, shell, or caliche, that enables the safe and effective movement of stored vehicles upon all portions of the lot, both under their own power and under tow, at all times, regardless of prevailing weather conditions. The surface shall also be free of overgrown vegetation.

**10. Reasonable Storage Efforts** – 16 Tex. Admin. Code Ch. 85.719(a). A VSF operator shall make reasonable efforts necessary for the storage of a vehicle, such as locking doors, rolling up windows, and closing doors, hatchbacks, sunroofs, trunks, hoods, or convertible tops.

## **RECENT ACCOMPLISHMENTS**

### **Tow Company and Tow Truck Inspections**

As of February 07, 2019, Tow company and Tow truck periodic inspections are discontinued. The Towing law allows but does not require TDLR to perform these inspections. Local jurisdictions have ordinances that oversee tow company and tow trucks. The Texas Department Transportation and the Texas Department of Motor Vehicles, depending on their size, also inspect tow trucks. Field inspections will continue inspecting Vehicle Storage Facilities.

## **PERSONNEL UPDATES**

Field Inspectors Jack Phillips and Robyn Finney accepted Investigator IV positions in the Enforcement Division. Their respective begin dates were February 19 and May 1. Congratulations to Jack and Robyn!

North Region manager, Joe Carrasco, resigned effective May 26. We wish Joe the best in his future endeavors.

Ronald Gericke accepted the North Region manager position. His promotion from inspector began on June 17.

We are happy to announce the addition of six inspectors since the last advisory board meeting. Don Morefield began on January 3 in the Dallas/Fort Worth area. Jorge Vega returned to TDLR March 15 in the San Antonio area. Tom Singleton and Donna Johnson are in the Houston area and began on June 17. Thuy Kepner began in the Dallas/Fort Worth area on July 15. And, Sandy Luker begins in the Dallas/Fort Worth area on August 1<sup>st</sup>. Congratulations and welcome!

**FIELD INSPECTIONS STATISTICS**  
**Towing and Vehicle Storage Facility Inspection Totals**

	Tow Truck Companies		Tow Trucks		Vehicle Storage Facilities		Tow & VSF Program Totals	
	FY 2019	FY 2018	FY 2019	FY 2018	FY 2019	FY 2018	FY 2019	FY 2018
SEPT	44	114	33	155	65	17	142	286
OCT	36	82	64	118	79	28	179	228
NOV	6	48	9	69	92	40	107	157
<b>QTR 1</b>	<b>86</b>	<b>244</b>	<b>106</b>	<b>342</b>	<b>236</b>	<b>85</b>	<b>428</b>	<b>671</b>
DEC	15	131	21	192	43	20	79	343
JAN	20	137	40	160	71	24	131	321
FEB	2	122	0	141	78	50	80	313
<b>QTR 2</b>	<b>37</b>	<b>390</b>	<b>61</b>	<b>493</b>	<b>192</b>	<b>94</b>	<b>290</b>	<b>977</b>
MAR	1	231	0	300	110	39	111	570
APR	0	211	0	253	143	69	143	533
MAY	1	216	1	272	128	72	130	560
<b>QTR 3</b>	<b>2</b>	<b>658</b>	<b>1</b>	<b>825</b>	<b>381</b>	<b>180</b>	<b>384</b>	<b>1663</b>
JUNE		302		374	85	41	85	717
JUL		91		106		39		236
AUG		77		80		42		199
<b>QTR 4</b>		<b>470</b>		<b>560</b>	<b>85</b>	<b>122</b>	<b>85</b>	<b>1152</b>
<b>Year to Date/ Year End</b>	<b>125</b>	<b>1762</b>	<b>168</b>	<b>2220</b>	<b>894</b>	<b>481</b>	<b>1187</b>	<b>4463</b>
† TDLR suspended Tow Company and Tow Truck Inspections as of February 7, 2019								