

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

## *Licensing Division Staff Report*

September 23, 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	1804	3433
Private Property	174	375
Incident Management	2000	7505
Total**	3911	11313

\*\*As of 09/06/19

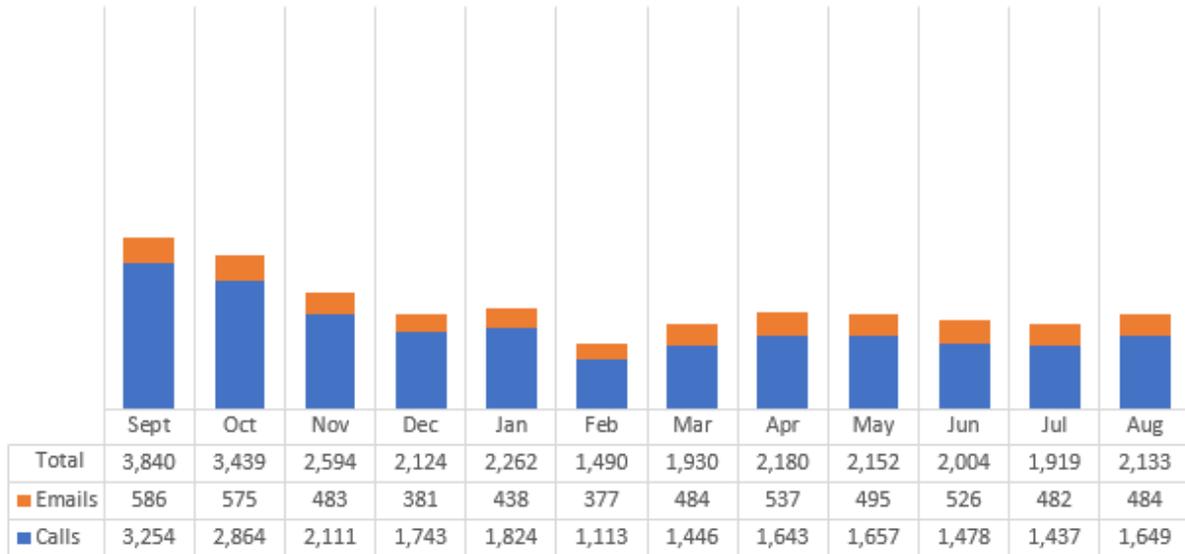
Vehicle Storage Facilities	New	New % Online	Renewed	Renewed % Online	Population
FY 2018	177	63%	2981	86%	1804
FY 2019 QTR 1	64	58%	774	90%	1787
FY 2019 QTR 2	71	63%	902	89%	1778
FY 2019 QTR 3	63	64%	775	90%	1802

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

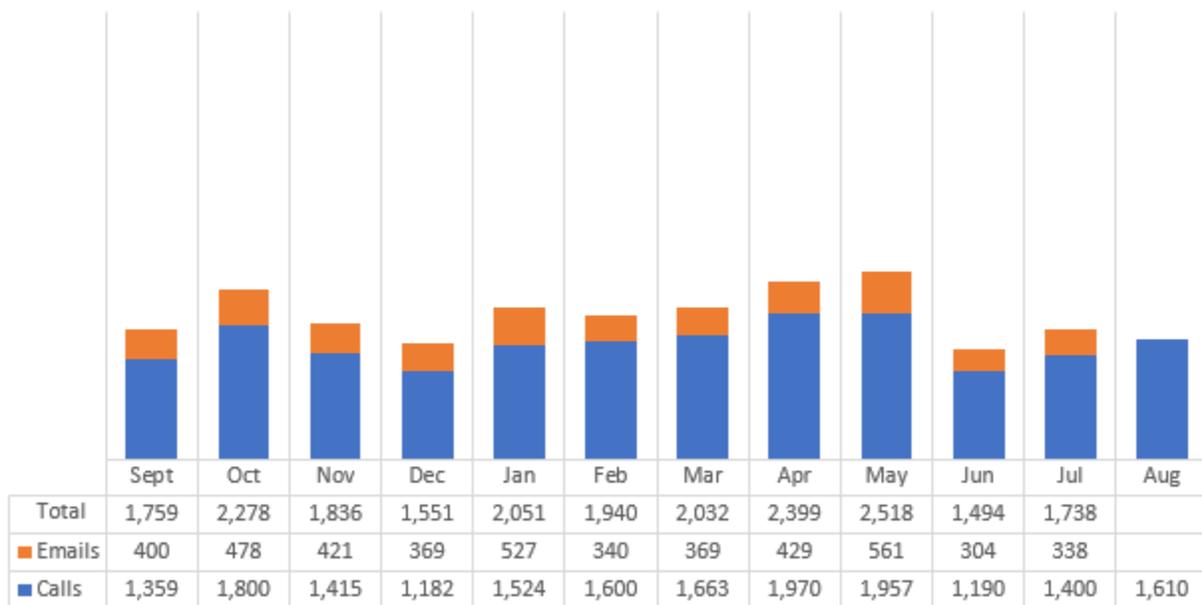
Vehicle Storage Facility Employees	New	New % Online	Renewed	Renewed % Online	Population
FY2018	782	98%	2013	99%	2970
FY2019 QTR 1	179	97%	405	99%	2864
FY2019 QTR 2	188	100%	385	99%	2857
FY2019 QTR 3	184	96%	387	99%	2804

\*FY2019 Quarter 4 information not available at time of report

**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**

**September 23, 2019**

### **Speaking Engagements and Trainings**

- Michael Shirk was invited to give a presentation to the International Association of Special Investigative Units (IASIU) at its annual convention in Phoenix, Arizona during the week of September 9, 2019. IASIU is a consortium of law enforcement and private fraud investigators working for major national insurance carriers. The topics involved the identification, investigation, and prosecution of “flipping” in the towing and storage industries. “Flipping” is fraudulent conduct by tow truck companies, drivers, and vehicle storage facilities, which induces vehicle owners to have their cars taken to, or transferred to, unregulated body shops, after an accident. By the use of “flipping” body shops (which are allied with the towing or storage companies) charge inordinate fees which, of course, would be illegal if the vehicles were taken to, or remained at, a vehicle storage facility.

### **Case Highlights**

- **Dakotah W. Chrzan-Sutton: TOW20190009784**  
A default order was issued by the Executive Director on August 14, 2019 assessing an administrative penalty of \$2,000 for performing towing operations without a towing operator’s license.
- **Keith McVay d/b/a Jr’s Towing & Recovery: TOW20190000076**  
An Agreed Order was issued by the Executive Director on August 14, 2019 assessing an administrative penalty of \$4,100, imposing a one-year probated suspension, and ordering a refund to the vehicle owner’s insurance company of \$79.50. As a condition of probation Respondent towing company was ordered to ensure that each of its tow truck operators would complete four hours of approved continuing education in Texas law and rules regulating the conduct of towing operators, in addition to any continuing education the drivers were required to take in order to renew their licenses. Respondent had engaged in conduct which lacked honesty, integrity, and trustworthiness and taking a vehicle from an accident scene to a body shop rather than a vehicle storage facility as required by law.
- **Keith Schultz: VSF20190007638**  
An Agreed Order was issued by the Executive Director on August 14, 2019 assessing an administrative penalty of \$1,500 and ordering a refund to the vehicle owner of \$320. Respondent had, by making false statements to the vehicle owner regarding the release of her vehicle from storage, engaged in conduct which lacked honesty, integrity, and trustworthiness.

- **Randall M. Sharp: TOW20190013037**

On August 8, 2019 Respondent was notified that his tow operator’s license was being revoked immediately by operation of law due to incarceration in a penitentiary due to a felony conviction.

- **United Tows, LLC: TOW20190000439 and TOW20190003428**

On August 14, 2019 the Executive Director issued an Agreed Order assessing an administrative penalty upon Respondent in the amount of \$2,700 for failing to accept payment by credit card and failing to provide legally required information on a tow ticket.

### Key Statistics

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

<u>Statistic</u>	<u>TOW</u>	<u>VSF</u>	<u>TDLR</u>
• Number of cases opened:	1,287	499	10,037
• Number of cases resolved:	1,024	301	9,325
• Number of Final orders:	135	64	1,698
• Total amount of penalties assessed:	\$274,925.00	\$166,300.00	\$2,953,750.00
• Total amount of penalties collected:	\$140,890.00	\$133,280.00	\$1,555,995.00

<u>Average Penalty</u>	<u>TOW</u>	<u>VSF</u>	<u>TDLR</u>
• Fiscal Year 2018	\$1,918	\$2,499	\$1,496
Licensed	\$2,851	\$2,977	\$1,935
Unlicensed	\$4,112	\$2,825	\$2,241

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

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

### **TOW**

Without authority-Illegal tow	21
Criminal History	19
Tow without proper signage	13
Lacks honesty/trustworthiness/integrity	13
Failed to take vehicle to licensed VSF	11
Charged more than allowed for tow	11
Didn't tow in safe/competent manner	8
Fail to maintain insurance	7
No tow company license	7
Expired tow company license	6
No tow operator license	5
Employed unlicensed person	5
Failed to comply with an order	5

### **VSF**

Failed to timely send/publish notice	18
Charged unauthorized fee	9
Failed to maintain required records for 2 years	7
Fail to include required information on notice	7
Unlicensed company	6
Lacks honesty/trustworthiness/integrity	5
Charged impound without services or date	4
Criminal History	4
Failed to notify law enforcement	3
Failed to give notice of rights	3
Didn't accept cash, debit & credit	3



Education & Examination

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RAY PIZARRO, DIRECTOR

**TOWING AND STORAGE ADVISORY BOARD  
SEPTEMBER 23<sup>RD</sup>, 2019**

**KEY STATISTICS AND TRENDS**

**TOW OPERATORS CONTINUING EDUCATION  
(AS OF JULY 31<sup>ST</sup>, 2019)**

<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	6	0	-	6	52
TOTAL COURSE POPULATION	55	52	52	52	52	59	57	57	61	57	68	68	59	58	-	58	58
TOTAL PROVIDER POPULATION	969*	976*	922*	922*	894*	917*	909*	909*	918*	953*	937*	937*	930*	933*	-	933*	933*
<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**  
**September 23, 2019**

**Projects**

- Regulatory Program Management and the web development team have completed updating the towing website which includes an industry compliance section. This section covers the topics presented at the live trainings put on by RPM. The goal is to create short videos that answer questions about an issue for reference by the industry.
- From July 30<sup>th</sup>, 2019 to September 9<sup>th</sup>, 2019 RPM has received 243 original contacts from the industry. 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 returned with the answer are recorded. We then categorize the contact information to further utilize the data for education purposes.
- RPM is continuing to monitor traffic to the TDLR website to attempt 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 can determine where the greatest need is for trainings.
  - From July 30<sup>th</sup>, 2019 to September 9<sup>th</sup>, 2019, the main towing page on the TDLR website received 10,651 page views. The consumer information page received 7,094 views.

**Outreach**

- RPM was in attendance and provided a training at the tow show in Dallas in August. The training covered updates to the laws and rules and provided a platform for the industry to ask questions.
- RPM also attended and spoke at the Southwest Tow Operators legislative update on the Sunday after the tow show. This provided the industry another chance to ask questions and receive information on updated rules and laws.

# **Towing and VSF Advisory Board Field Inspections Division Report**

 **The Face of TDLR**  
**September 23, 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.

## **PERSONNEL UPDATES**

As part of the new organizational chart, Field Inspections expanded from three to four regions, adding a Central Region Manager and Liaison. We also added a new designation of Inspector VI. Field Inspections interviewed for the Central Region Manager and the Central Region Liaison positions and will announce the selections soon. We will interview for eight Field Inspector VI positions located across the four regions in mid-September.

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

	Vehicle Storage Facilities	
	FY 2019	FY 2018
SEPT	65	17
OCT	79	28
NOV	92	40
QTR 1	236	85
DEC	43	20
JAN	71	24
FEB	78	50
QTR 2	192	94
MAR	110	39
APR	143	69
MAY	128	72
QTR 3	381	180
JUNE	85	41
JUL	41	39
AUG		42
QTR 4	126	122
<b>Year to Date/ Year End</b>	<b>935</b>	<b>481</b>

† TDLR suspended Tow Company and Tow Truck Inspections as of February 7, 2019