

FIELD INSPECTIONS DIVISION

Staff Report for the Towing and Storage Advisory Board

November 18, 2020

Personnel Updates

Our Division Director, Tanya Gauthreaux, retired Effective October 30. Tanya began her career with TDLR 36 years ago as a part-time employee while attending the University of Texas here in Austin. Since then, Tanya has moved up the ranks within the agency. She leaves behind a legacy of great leadership, quiet strength, compassion and a wealth of knowledge within the entire agency. Congratulations!

Inspector Ramon Rodriguez accepted the Inspector V position for the East Region, effective November 1. Congratulations, Ramon!

Statistics

Vehicle Storage Facilities

	FY 2021	FY 2020
Sept	30	55
Oct	0	132
Nov	0	68
Q1	30	255
Dec	0	96
Jan	0	147
Feb	0	94
Q2	0	337
Mar	0	62
Apr	0	2
May	0	5
Q3	0	69
Jun	0	0
Jul	0	28
Aug	0	56
Q4	0	84
YTD/Year End	30	745

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

† TDLR suspended inspections on March 17, 2020 in response to the COVID-19 pandemic and returned to limited inspections May 19, 2020.

Current Projects

TDLR suspended all inspections on March 17, 2020 in response to the COVID-19 pandemic. After distributing personal protective equipment and providing safety training to field staff, inspectors began to perform limited on-site inspections in June 2020. Not only are we operating under restrictions due to health and safety concerns, but we have a limited travel budget. In response to these concerns, we have successfully implemented a “virtual inspection” process for some Barber and Cosmetology inspections and are finalizing procedures to perform virtual Vehicle Storage Facility inspections. We expect to finalize and implement virtual inspections for some Vehicle Storage Facilities soon.

Regulatory Program Management Division

Staff Report for the Towing and Storage Advisory Board

November 18, 2020

Current Projects

RPM is continuing its analytic process to better monitor, review, and answer questions that come to the department, either directly or through internal channels. The program assists 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 5th, 2019 to August 31st, 2019 RPM has received 575 original contacts. From September 1st, 2019 to November 1st, 2020 RPM has received 1,783 contacts. Contacts include industry contact seeking guidance on towing and VSF laws and rules, citizens with questions on towing and VSF laws and rules, and other industries seeking guidance from TDLR.

RPM, along with the web development team is monitoring traffic to the TDLR website to attempt to determine the areas most visited. This information, along with the new web-site compliance section, will allow RPM to further determine the areas most visited so we determine the greatest need for trainings.

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 has initiated an internet-based training due to limitations on in person contact and travel during the pandemic. The trainings take place over zoom and cover updates to the laws and rules and provide a platform for the industry to ask questions. A larger training is conducted once a month and generally has around 20 members of the industry from across the state. RPM is also offering the training to small groups or individual companies upon request and has conducted several of these covering specific questions they have and covering the laws and rules.

Enforcement Division

Staff Report for the Towing and Storage Advisory Board

November 18, 2020

Personnel Updates:

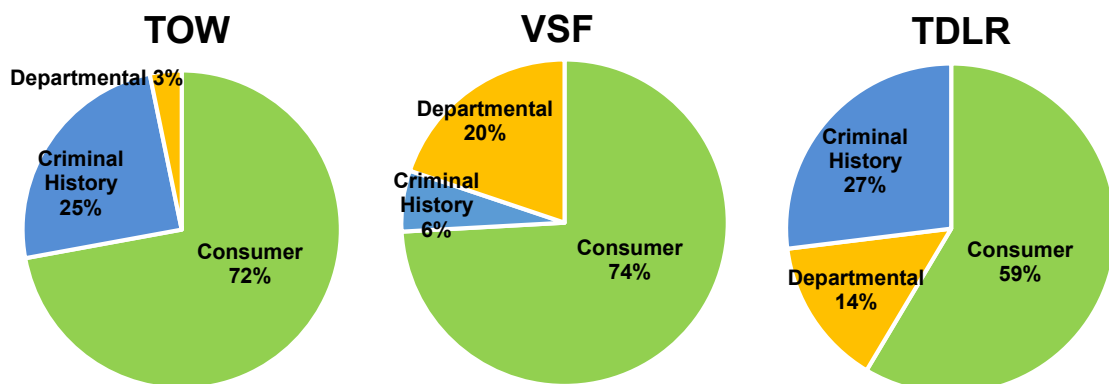
On October 1, 2020, Jackie Revilla was promoted to Prosecution Legal Assistant Manager. Jackie has worked for TDLR for 18 years, previously serving as a Legal Assistant, Senior Legal Assistant and Legal Assistant supervisor in the Enforcement Division.

Statistics:

Shown below are the Enforcement Performance Measures and key statistics for the Towing (TOW) and the Vehicle Storage Facility (VSF) programs and for all TDLR programs combined for **Fiscal Year 2020**:

Performance Measure	TOW	VSF	TDLR
Cases opened	1,159	630	10,465
Cases closed	1,035	565	9,763
Average time to close (days)	199.92	170.84	157.58
% of cases resolved within 6 months	54.49%	64.25%	68.64%
% of cases resulting in disciplinary action	6.57%	8.14%	13.48%
Cases Pending	826	419	5,850

Source of cases opened for Fiscal Year 2020



Case Outcomes	TOW	VSF	TDLR
Commission Orders	13	0	28
Default Orders	29	9	339
Agreed Orders	35	46	853
Penalties Assessed	\$144,200.00	\$123,975.00	\$2,360,451.00
Penalties Collected	\$44,950.00	\$51,550.00	\$1,296,792.16
Licenses Revoked (Disciplinary)	10	3	62
Licenses Suspended	0	0	3
Licenses Denied/Revoked (Criminal History)	25	4	240
Cease & Desist Orders	3	0	46
Informally Resolved	951	509	8,365

**Top 10 TOW Alleged Violations at Opening
for Fiscal Year 2020**

Alleged Violation:	Count
Without authority-Illegal tow	380
Criminal History	285
Charged more than allowed for tow	90
Lacks honesty/trustworthiness/integrity	69
Tow without proper signage	69
Didn't tow in safe/competent manner	49
Failed to take to licensed VSF	36
No tow company license	31
Charges not related to tow	23
Failed to issue ticket	19

**TOW Violations Resulting in Disciplinary Action
for Fiscal Year 2020**

Violation:	Count
Criminal History	25
Charged more than allowed for tow	12
Lacks honesty/trustworthiness/integrity	10
Did not tow in safe/competent manner	5
No tow company license	5
Without authority-Illegal tow	5
Failed to pay dishonored check	3
No or improper signage on truck	3
No tow operator license	3
Refused/interfered with inspector/investigator	2
Failed to have proper information on ticket	2
Expired tow company license	2
Failed to make documents available upon request	2
Charges not related to tow	2
Failed to take to licensed VSF	2
Failed to cooperate with Department	2
Failed to maintain Insurance	2

**Top 10 VSF Alleged Violations at Opening
for Fiscal Year 2020**

Alleged Violation:	Count
Failed to timely send/publish notice	86
Failed to release with proper docs & money	67
Charged unauthorized fee	57
Criminal History	38
Vehicle not available for release	33
Didn't accept cash, debit & credit	32
Did not maintain required records for 2 years	30
Notification not correctly mailed	29
Failed to include required info on notice	27
Unlicensed Company	27

Top 10 VSF Violations Resulting in Disciplinary Action for Fiscal Year 2020

Violation:	Count
Notification not correctly mailed	9
Failed to timely send/publish notice	9
Did not establish/follow drug policy	8
Did not maintain required records for 2 years	7
Charged unauthorized fee	5
Criminal History	4
Did not cooperate with Department's Inspection	3
Vehicle not available for release	3
Not completely enclosed by 6 ft fence	3
Failed to include required information on notice	3

Case Highlights:

- **Alionso R. Garcia (TDLR Case No. TOW20200007624)**

On August 27, 2020 the Executive Director issued his Default Order against Respondent, Alionso Garcia assessing an administrative penalty of \$7,000 and ordering a \$25 refund to the vehicle owner.

On October 8, 2020 Respondent performed an incident management tow and, through the use of dishonest conduct **(i)** refused to take the vehicle to the location requested by the vehicle owner, failed to take it to a licensed vehicle storage facility, and instead took the vehicle to an unregulated body shop, a Class D violation; **(ii)** charged more than permitted by the tow ordinances of Fort Bend County for the tow, a Class B violation; and **(iii)** failed to give the vehicle owner a copy of the tow ticket despite the vehicle owner being present at the time of the tow, a Class B violation.

No penalty has been collected; the Respondent's incident management tow operator's license expires on November 9, 2020 and is presently under an enforcement hold preventing it from being renewed unless the administrative penalty and refund are paid.

- **Chad Joshua Beard (TDLR Case No. TOW20190003340)**

On August 4, 2020 the Texas Commission of Licensing and Regulation adopted a Proposal for Decision issued by Administrative Law Judge Bailey with the State Office of Administrative Hearings on March 17, 2020 recommending the denial of Mr. Beard's application to renew his incident management tow operator's license.

In November 2018 Mr. Beard applied to renew his IM Operator's license. During the evaluation of his renewal it was determined that in August 2017 he pleaded guilty, and was convicted, of the misdemeanor offense of Theft of Property (\$750-\$2,500). He stole orange strobe lights from two vehicles while he was operating a tow truck.

Also, during the evaluation of his renewal application numerous requests were made to him seeking information about his criminal history and seeking to learn why he had answered "No" in his November 9, 2018 renewal application to the question asking about prior convictions. He never provided the information which was requested.

The Department has adopted Guidelines for License Applicants with Criminal Convictions that lists certain crimes as being directly related to the occupations which the Commission regulates. For tow operators, the Guidelines state that crimes against property, such as theft are directly related to the occupation because (1) tow operators have access to vehicles and their contents and (2) a person with a predisposition and experience in committing crimes against property would have the opportunity to engage in further similar conduct.

In addition, the Department is authorized to deny or revoke a license if the licensee or applicant made a false statement or refused to provide information during the application or renewal process.

The ALJ recommended denying Respondent's license renewal based upon his criminal conviction, which she found was directly related to the duties and responsibilities of a tow truck operator, as well as his failure and refusal to provide the Department with requested information about his criminal history. This conduct made him unfit to renew his IM tow operator's license.

The Commission denied Respondent's renewal application and revoked his license. He may apply for a new license in August 2021, one year from the date of the denial of renewal.

- **Amanda M. Montemayor d/b/a Self Made Towing (TDLR Case No. VSF20200005736)**

On August 25, 2020 the Executive Director issued his Agreed Order assessing Respondent an administrative penalty of \$750 for illegally charging a \$13.60 "administrative fee" for its storage of a vehicle at Respondent's vehicle storage facility. An "administrative fee" is not an authorized VSF fee. This was a Class B violation under the Department's Enforcement Plan. The penalty has been paid in full.

- **Jonathon Michael Davis d/b/a Jonathon David d/b/a Blue Heron Auto Storage (TDLR Case No. VSF20190002417)**

On August 27, 2020 the Executive Director issued his Default Order assessing Respondent an administrative penalty of \$1,800. The violations were discovered as the result of periodic Department inspection conducted at the storage facility on September 5, 2018 which found that Respondent (i) failed to send first notification letters to the vehicle owner and lien holder within the time limits set by law, a Class B violation under the Department's Enforcement Plan; (ii) charged a \$50 notice fee despite the fact that the notice letter was sent after the release of the vehicle, a Class B violation; (iii) failed to have the legally required sign posted advising citizens of the methods of payment which could be used to recover their vehicles, a Class A violation; (iv) failed

Enforcement Division

to provide the correct Department contact information to consumers, a Class A violation; and **(v)** failed to have a required sign posted which listed all of the approved instruments of release which a vehicle owner could use to recover possession of his or her automobile, a Class A violation. This penalty has not been collected, however Respondent's VSF license expired in May 2019 and cannot be renewed until and unless the penalty is satisfied.

- **Jay's Towing & Recovery LLC (TDLR Case No.: VSF20200008087)**

On August 25, 2020 the Executive Director issued his Agreed Order assessing Respondent an administrative penalty of \$2,700 for violations which were found during a periodic inspection of Respondent's vehicle storage facility on November 11, 2019. The violations consisted of **(i)** four instances in which Respondent failed to have vehicles available for release 24 hours a day by stating in first notification letters that the vehicles must be claimed during specific hours of the day. These are each Class A violations under the Enforcement Plan; **(ii)** two instances in which Respondent failed to send second notification letters to vehicle owners and lien holders. These are each Class A violations; **(iii)** failure to maintain records showing compliance with VSF employee drug testing requirements. This is a Class B violation; and **(iv)** failure to provide accurate information to vehicle owners about how to contact TDLR in order to file consumer complaints. This is a Class A violation.

EDUCATION AND EXAMINATION DIVISION

Staff Report for the Towing and Storage Advisory Board

November 18th, 2020

Statistics

Tow Operators Continuing Education
(As of September 30th, 2020)

FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL NEW COURSE APPROVALS	2	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	2
TOTAL COURSE COUNT	48	-	-	48	-	-	-	-	-	-	-	-	-	-	-	-	48
FY 2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
COURSE APPROVALS ISSUED	3	2	1	6	3	7	4	14	9	9	1	19	2	4		6	45
TOTAL COURSE POPULATION	58	57	55	55	57	59	58	58	58	62	52	52	47	50		0	50

Tow IM/PP Training Program Curriculum FY 2021
(As of September 30th, 2020)

FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL NEW CURRICULUM APPROVAL	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	0
TOTAL CURRICULUM COUNT	7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	7	7
FY 2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL NEW CURRICULUM APPROVAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL CURRICULUM COUNT	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7

CE Monthly Invoice Count
(As of September 30th, 2020)

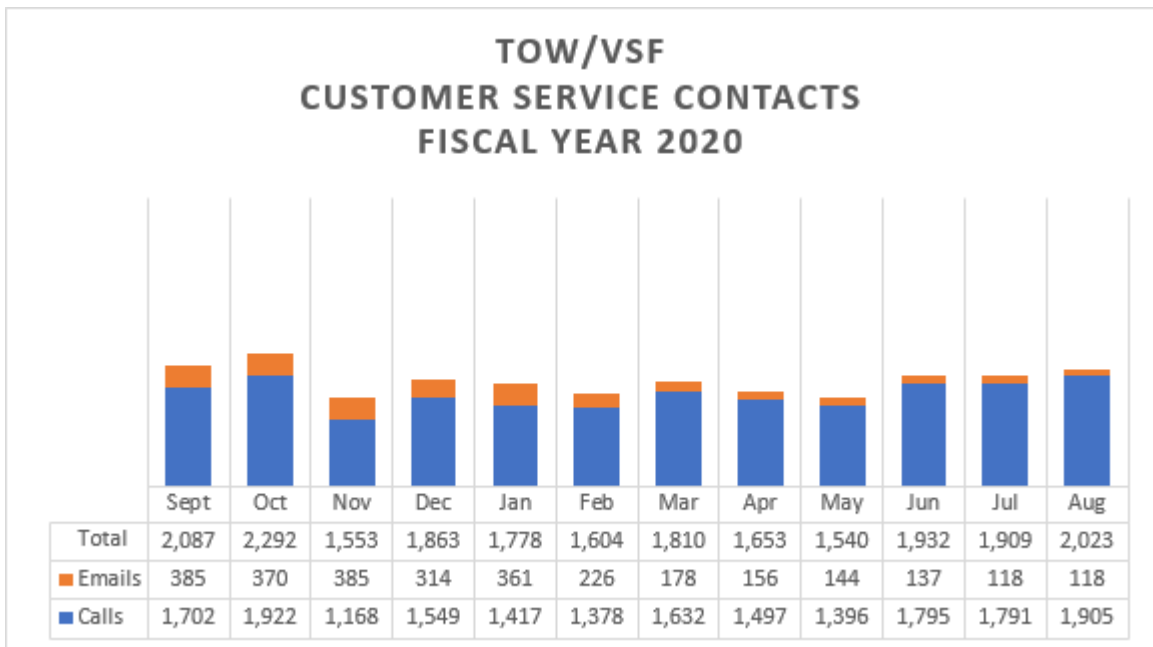
FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOW	25	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	25

CE Monthly Invoice Fees collected
(As of September 30th, 2020)

FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOW	3,555			3,555	-	-	-	-	-	-	-		-	-	-	-	3,555

Customer Service Division Staff Report for the Towing and Storage Advisory November 18, 2020

Statistics



Licensing Division

Staff Report for the Towing and Storage Advisory Board
November 18, 2020

Personnel Updates

Staff is continuing to work from home with one team member going into office daily.

Statistics

Tow Trucks	New	New % Online	Renewed	Online Renewal	Population
FY 2019	3299	96%	8157	90%	11292
FY 2020	3156	99%	7922	91%	11277

Tow Companies	New	New % Online	Renewed	Online Renewal	Population
FY 2019	975	85%	6953	89%	4031
FY 2020	982	91%	6885	91%	4301

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

Type of Towing	Company	Tow Truck
Consent	1815	3456
Private Property	171	387
Incident Management	1972	7488
Total**	3885	11331

**As of November 2, 2020

Vehicle Storage Facilities	New	New % Online	Renewed	Renewed % Online	Population
FY 2019	246	63%	3159	89%	1788
FY 2020	186	83%	3146	91%	1951

Tow Operators	New	New % Online	Renewed	Renewed % Online	Population
FY 2019 TOTAL	3559	97%	9037	99%	14065
FY 2019 Consent	1590	98%	2365	99%	4618
FY 2019 Private Property	105	95%	184	100%	322
FY 2019 Incident Management	1864	95%	6488	99%	9125
FY 2020 TOTAL	3192	97%	9390	95%	14082
FY 2020 Consent	1538	99%	2492	99%	4699
FY 2020 Private Property	79	97%	188	100%	309
FY 2020 Incident Management	1575	96%	6710	93%	9074

Vehicle Storage Facility Employees	New	New % Online	Renewed	Renewed % Online	Population
FY 2019	764	98%	1796	99%	2730
FY 2020	582	99%	1744	99%	2457