

Field Inspections Division

Staff Report – Sept. 22, 2020

Personnel Updates

Juan Muñoz was promoted to Manager of the Field Inspections Central Region and Angela Sanders was promoted to the position of South Region Liaison, effective September 16, 2019.

Heather Allen, Lance Caroland, Abraham Delgado, Michael Hanna and Jorge Vega were promoted to Field Inspector V positions effective October 15, 2019.

James Turner was promoted to the North Region Liaison effective November 15, 2019.

Congratulations to Juliane Crocker, who accepted a position as a Management Analyst with the Office of Innovation and Project Management effective November 15, 2019. And welcome to Colleen Cloudy as the new Lead Facilitator on February 3, 2020.

Statistics

Vehicle Storage Facilities

	FY 2020	FY 2019
SEPT	55	65
OCT	132	79
NOV	68	92
QTR 1	255	236
DEC	96	43
JAN	147	71
FEB	94	78
QTR 2	337	192
MAR	62	110
APR	2	143
MAY	5	128
QTR 3	69	381
JUNE	0	85
JUL	28	41
AUG	56	59
QTR 4	84	185
Year to Date/ Year End	745	994

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

TOP VIOLATIONS FOUND DURING VSF INSPECTIONS: Fiscal Year 2020 Quarter 2

1. Storage Lot Signs 16 Tex. Admin. Code Ch. 85.1003(d): Failure to have a clearly visible sign in the proper lettering size and color contrast which lists all documents that may be presented to obtain possession of the vehicle, or did not state "Affidavit of Right of Possession Furnished Upon Request."

2. Notice of Complaint Procedure 16 Tex. Admin. Code Ch. 85.707(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.

3. 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."

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. 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.

6. 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.

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 Signs 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. Reasonable Storage Efforts 16 Tex. Admin. Code Ch. 85.719(b): Failure to use plastic or canvas tarpaulins to ensure the impoundment of the vehicle.

10. 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.

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 drafting procedures to perform virtual Vehicle Storage Facility inspections for some facilities.

REGULATORY PROGRAM MANAGEMENT DIVISION

Staff Report – Sept. 22, 2020

Personnel Updates

Stuart Strnad is the new manager of business and consumer section which oversees the Towing and Vehicle Storage Facility programs. Stuart started with TDLR in February of this year and came from the Texas Department of Agriculture as the administrator of Field Operations with 22 years regulatory experience.

Statistics

From May 5th, 2019 to August 31st, 2019 RPM has received 575 original contacts. From September 1st, 2019 to September 1st, 2020 RPM has received 1,322 contacts. Contacts include industry contacts 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 is also continuing to monitor the web traffic to the Industry Compliance Section of the Towing and VSF website. When the pages went active in August 2019, the Industry Compliance Section totaled around 1% of web traffic to the Towing and VSF web pages. In the months since, we have seen the Industry Compliance Section climb to around 4% of traffic on the towing and VSF web pages.

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.

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 – Sept. 22, 2020

Personnel Updates:

On March 1, John Medlock was promoted to Chief Prosecutor. John has worked for TDLR for 7 years, previously serving as a Prosecutor and Senior Prosecutor in the Enforcement Division.

On May 1, Trevor Theilen was promoted to Senior Prosecutor. Trevor has worked for TDLR for 9 years as a Prosecutor in the Enforcement Division.

On February 15, Jackie Revilla was promoted to Legal Assistant Supervisor. Jackie has worked for TDLR for 18 years, previously serving as a Legal Assistant and Senior Legal Assistant in the Enforcement Division.

On February 15, Debbie Hawkins was promoted to Legal Assistant Supervisor. Debbie has worked for TDLR for 8 years as a Legal Assistant in the Enforcement Division.

On August 31, Investigations Manager Gregg Dodson retired after 22 years of service with TDLR. Gregg oversaw the Investigations Section within the Enforcement Division, which includes 42 investigators. This position is currently posted on the Department's website, and we hope to conduct interviews soon.

On August 31, Prosecution Legal Assistant Manager Daryl Kunze retired after 18 years of service with TDLR. Daryl oversaw the Prosecution Legal Assistant Section within the Enforcement Division, which includes 33 legal assistants and administrative assistants. This position is currently posted on the Department's website, and we hope to conduct interviews soon.

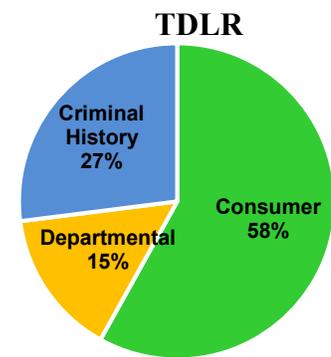
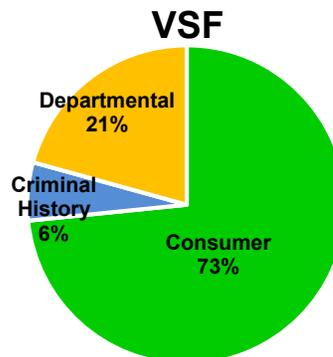
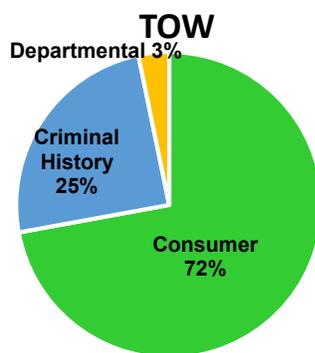
On August 31, Senior Investigator Esmer Arguijo retired after 21 years of service with TDLR. Esmer conducted investigations of cases in the building and mechanical, water well, and property tax programs.

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 through July of Fiscal Year 2020:

Performance Measure	TOW	VSF	TDLR
Cases opened	1,051	594	9,549
Cases closed	941	530	9,053
Average time to close (days)	197.12	165.72	156.98
% of cases resolved within 6 months	54.62%	65.09%	68.72%
% of cases resulting in disciplinary action	6.48%	7.36%	13.90%
Cases Pending	812	418	5,644

Source of cases opened through July of Fiscal Year 2020



Case Outcomes	TOW	VSF	TDLR
Commission Orders	6	0	21
Default Orders	28	7	323
Agreed Orders	31	37	820
Penalties Assessed	\$104,850.00	\$107,300.00	\$2,262,851.00
Penalties Collected	\$40,600.00	\$41,600.00	\$1,206,688.82
Licenses Revoked (Disciplinary)	10	3	62
Licenses Suspended	1	0	4
Licenses Denied/Revoked (Criminal History)	22	4	221
Cease & Desist Orders	3	0	43
Informally Resolved	865	481	7,717

**TOW Alleged Violations at Opening
Through July of Fiscal Year 2020**

Alleged Violation:	Count
Without authority-Illegal tow	349
Criminal Activity	258
Charged more than allowed for tow	85
Lacks honesty/trustworthiness/integrity	61
Tow without proper signage	60
Didn't tow in safe/competent manner	43
Fail to take to licensed VSF	35
No tow company license	30
Charges not related to tow	19
Fail to issue ticket	18

**TOW Violations Resulting in Disciplinary Action
Through July of Fiscal Year 2020**

Violation:	Count
Criminal Activity	19
Charged more than allowed for tow	10
Lacks honesty/trustworthiness/integrity	10
Didn't tow in safe/competent manner	4
No/improper signage on truck	3
No tow company license	3
Fail to pay dishonored check	3
Without authority-Illegal tow	3
Fail to take to licensed VSF	2
Fail to cooperate with Department	2
Fail to maintain Insurance	2
Fail to have proper information on ticket	2
Expired tow company license	2
No tow operator license	2
Refused or interfered with inspection or investigation	2

**VSF Alleged Violations at Opening
Through July of Fiscal Year 2020**

Alleged Violation:	Count
Failed to timely send/publish notice	83
Fail to release with proper documents & money	59
Charged unauthorized fee	51
Criminal Activity	35
Didn't accept cash, debit & credit	30
Vehicle not available for release	29
No maintain required records for 2 years	28
Notification not correctly mailed	27
Fail to include required information on notice	26
Unlicensed-Company	26

**VSF Violations Resulting in Disciplinary Action
Through July of Fiscal Year 2020**

Violation:	Count
Notification not correctly mailed	7
Failed to timely send/publish notice	7
Did not maintain required records for 2 years	6
Didn't establish/follow drug policy	5
Criminal Activity	4
Charged unauthorized fee	3
Fail to include required information on notice	3
Vehicle not available for release	2
Insurance violations	2
Didn't cooperate with Department's inspector	2
Charged impound without services or date	2
Not completely enclosed by 6' fence	2

Case Highlights:

Armando Hernandez (Respondent) d/b/a Ash Towing & Recovery. TDLR Case No. VSF20180006086

On February 18, 2020 the Department's Executive Director issued a default judgment which revoked Respondent's Vehicle Storage Facility license and assessed an administrative penalty of \$43,000. Respondent has engaged in over 41 separate violations of the Vehicle Storage Facility Act and Department regulations including (i) allowing nonpermitted trucks to enter the storage area of, and store vehicles in, the VSF; (ii) failing to cooperate with an Investigation, and (iii) operating without insurance.

None of the penalties have been collected.

Euro Star Wreckers, LLC TDLR Case No. TOW20180010406

On November 5, 2019 the Texas Commission of Licensing and Regulation adopted the Proposal for Decision issued by an Administrative Law Judge (ALJ) of the State Office of Administrative Hearings (SOAH) revoking Respondent's towing company license and assessing an administrative penalty of \$4,000.

At the Contested Case Hearing held at SOAH the ALJ found that Respondent towed a vehicle without legal authority. The car was towed because it was parked in a manner which caused it to cross the line separating one parking space from another, i.e., it was "double parked." Texas Occupations Code § 2308.253(b) authorizes towing from a residential apartment complex for six specific reasons, and "double parking" is not within this express statutory authorization, regardless of whatever may be in the lease agreement.

The ALJ found that this was Respondent's third Class F violation and the conduct in this case was "egregious" because it occurred only five days after entering into an Agreed Order for violations substantially to its conduct in this case and during a period when Respondent was operating under a probated revocation.

\$2,000 has been paid on this penalty.

Rodolfo Meraz d/b/a FM 1960 Wrecker TDLR Case No.: TOW20180006219

On November 5, 2019 the Commission also adopted a PFD revoking Respondent's towing company license and imposing an administrative penalty of \$4,000.

The ALJ found that Respondent, through the use "deception, trickery, and misrepresentation to tow [the] vehicle from the accident scene to Respondent's unregulated body shop" and that Respondent "deceptively obtained authorization without true consent from [the vehicle owner] to tow the vehicle to Respondent's body shop." This caused Respondent's conduct to be "especially egregious" resulting in a recommendation of license revocation and an administrative penalty of \$4,000.

No amounts have been paid on this penalty.

Toby's Towing & Recovery, LLC
TDLR Case No.: VSF20190014919

On December 16, 2019 the Executive Director issued his Agreed Order imposing an administrative penalty of \$2,350 for violations found as the result of an Inspection. The failures to comply with the Vehicle Storage Facility Act and Department regulation consisted of (i) Respondent's failure to implement its drug testing policy, (ii) charging an impound fee without specifically listing the services which had been performed, (iii) failure to maintain legally-required information - the combined statement of tow charges and VSF fees as well as the First and Second Notification Letters failed to state the persons who performed towing operations, the tow operators' license numbers, and tow truck license plate number.

The penalty has been paid in full.

Megan E. Devoy d/b/a All About the Tow d/b/a Tomball Texas Towing & Storage
TDLR Case No.: TOW2020002746 and VSF20190009801

Respondent Devoy was licensed as a VSF d/b/a Tomball Texas Towing & Storage (license expired January 4, 2020), a VSF employee (license expired June 19, 2020, and is licensed as a towing company d/b/a All about the Tow. On February 10, 2019 Respondent Devoy notarized a document purportedly authorizing the transfer of a vehicle from a VSF to an unregulated body shop without the vehicle owner's knowledge. The Department's Executive Director issued an Agreed Order assessing a \$5,000 administrative penalty and suspending for two years the towing company license, but probated upon the following terms:

- (i) Respondent shall comply with all Texas laws and Department regulations governing the operation of towing companies and the performance of towing operations;
- (ii) Respondent, when performing the duties of, or working as, a vehicle storage facility employee shall comply with all Texas laws and Department regulations governing the conduct of persons licensed, or performing work as, a vehicle storage facility employee;
- (iii) Respondent shall not perform duties as, or exercise the powers of, a Notary Public;
- (iv) Neither Respondent, nor any person who tows for or on behalf of Respondent, or uses a truck licensed to Respondent, shall ever suggest, or recommend to a vehicle owner or operator that a vehicle be taken to a location other than a vehicle storage facility licensed by the Texas Department of Licensing and Regulation. If the vehicle owner or operator requests that a vehicle be taken to a location, and the tow truck driver cannot or will not take the vehicle to the location identified by the vehicle owner or operator, the tow truck driver will always take the vehicle to a licensed vehicle storage facility.
- (v) Neither Respondent, nor any person who tows for or on behalf of Respondent, or uses a truck licensed to Respondent, shall tow any vehicle to any body shop or vehicle storage facility owned, operated, or affiliated with Faisal Rahman. This includes - but is not limited to - Stance Auto Works (11815 Misty Valley Drive Houston), Presidential (5525 FM 1488 Magnolia), 936 Wrecker Lot 1 (6321 Big Oaks Drive Conroe) and 936 Wrecker Lot 2 (1104 Fraizer Street Conroe), 936 Wrecker Lot 3 (38927 FM 1774 Road Magnolia).

All penalties have been paid.



EDUCATION AND EXAMINATION DIVISION

Staff Report – Sept. 22, 2020

Statistics

TOW OPERATORS CONTINUING EDUCATION (AS OF JULY 31ST, 2020)

FY 2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL NEW COURSE APPROVALS	3	2	1	6	3	7	4	14	9	9	1	19	2	4		6	45
TOTAL COURSE COUNT	58	57	55	55	57	59	58	58	58	62	52	52	47	50		0	50
FY 2019	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
COURSE APPROVALS ISSUED	4	1	2	7	0	10	5	15	9	1	14	24	6	0	4	10	56
TOTAL COURSE POPULATION	55	52	52	52	52	59	57	57	61	57	68	68	59	58	60	60	60

TOW IM/PP TRAINING PROGRAM CURRICULUM FY 2020 (AS OF JULY 31ST, 2020)

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
TOTAL CURRICULUM COUNT	7	7	7	7	7	7	7	7	7	7	7	7	7	7		7	7

CE MONTHLY INVOICE COUNT

(AS OF JULY 31ST, 2020)

2019-2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOW	25	24	25	74	23	27	24	74	23	18	19	60	35	27		62	270

Record fees were waived for the month of June, July, and August

Total amount of fees waived as of July 31st, 2020

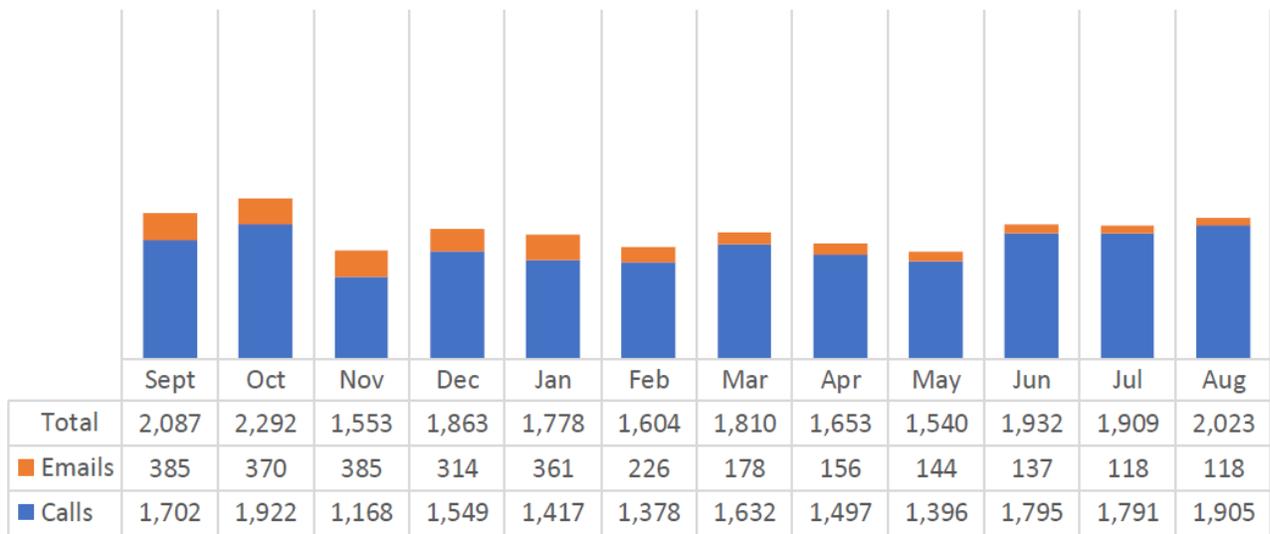
- June's total fees waived \$2,925.00
- July's total fees waived \$5,150.00

CUSTOMER SERVICE

Staff Report – Sept. 22, 2020

Statistics

TOW/VSF
CUSTOMER SERVICE CONTACTS
FISCAL YEAR 2020



LICENSING DIVISION

Staff Report – Sept. 22, 2020

Statistics

Tow Trucks	New	New % Online	Renewed	Online Renewal	Population
FY2019	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	1791	3398
Private Property	171	390
Incident Management	1986	7411
Total**	3877	11299

**As of 09/04/20

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