

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 13

July 13, 2021

SUBJECT: VEHICLE INVESTIGATION – NOTIFICATION REQUIRED – DELETED; VEHICLE AND/OR VESSEL STOLEN BY MEANS OF IDENTITY THEFT, FORGERY, AND NON-SUFFICIENT FUNDS (NSF); AND, VEHICLE AND/OR VESSEL STOLEN BY MEANS OF EMBEZZLEMENT – REVISED

PURPOSE: The purpose of this Order is to revise the preliminary investigating officer's responsibilities as they relate to vehicle(s) and/or vessel(s) stolen by means of identity theft, forgery, and non-sufficient funds. In addition, the waiting period before a vehicle is presumed embezzled has been changed from **five days** to **72 hours** [California Vehicle Code Section 10855(a)(1)].

PROCEDURE:

- I. VEHICLE INVESTIGATION – NOTIFICATION REQUIRED – DELETED.** Department Manual Section 4/220.43, *Vehicle Investigation – Notification Required*, has been deleted.
- II. VEHICLE AND/OR VESSEL STOLEN BY MEANS OF IDENTITY THEFT, FORGERY, AND NON-SUFFICIENT FUNDS (NSF) – REVISED.** Department Manual Section 4/220.51, *Vehicle and/or Vessel Stolen by Means of Identity Theft, Forgery, and Non-Sufficient Funds (NSF)*, has been revised. Attached is the revised manual section with the revisions indicated in italics.
- III. VEHICLE AND/OR VESSEL STOLEN BY MEANS OF EMBEZZLEMENT – REVISED.** Department Manual Section 4/220.53, *Vehicle and/or Vessel Stolen by Means of Embezzlement*, has been revised. Attached is the revised manual section with the revisions indicated in italics.

AMENDMENTS: This Order amends Sections 4/220.51, 4/220.53 and, deletes Section 4/220.43 from the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.



MICHEL R. MOORE
Chief of Police

Attachment

DISTRIBUTION "D"

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220.51 VEHICLE AND/OR VESSEL STOLEN BY MEANS OF IDENTITY THEFT, FORGERY, AND NON-SUFFICIENT FUNDS (NSF). When a vehicle has been purchased, rented, or leased from a dealership, rental car company, online peer-to-peer rental, business, or private party via any of the following, it **shall** be documented and investigated:

- Fraudulent credit application;
- Forged documents;
- Fraudulent credit cards;
- By way of the identity of another true person [e.g., checks, documents, credit cards or any personal information (as listed in 530.55 (a) PC) not belonging to the suspect]; or,
- Non-Sufficient Funds (NSF) (i.e., check or credit card of the suspect himself or herself).

Preliminary Investigating Officer's Responsibilities. The preliminary investigating officer shall conduct the following:

- Review the contract to verify that the agreement or bill of sale has been completed and the suspect has taken custody of the vehicle;
- Ask the victim of the forgery (i.e., company or person who sold or rented the vehicle) if he or she has contacted the true person (i.e., Identity Theft victim, whose information was used by the suspect);
- Attempt to contact the true person and verify that he or she did not give the suspect permission to have or use his or her personal information;
- Ask for the bank receipt showing that there were no funds available at time of sale, for Non-Sufficient Funds (NSF) cases;
- Ask for a copy of the original rental customer's driver's license and any Closed-Circuit Television (CCTV) footage from the rental transaction, where applicable;
- Complete an Investigative Report (IR), Form 03.01.00, for the person reporting and title it as follows:
 - "Forgery" (Crime Class code 649) for the company or person who received the forged documents; or,
 - "Identity Theft" (Crime Class code 354) for the victim whose information was used by the suspect to buy, lease, or rent the vehicle; or,
 - "Theft via Non-Sufficient Funds" (Crime Class code 649) for the victim who received the check or credit card with non-sufficient funds.
- Complete a Forgery/Identity Theft Supplemental, Form 03.07.40, as appropriate;
- Enter the suspect description without a name on the front of the IR. The name will be included in the narrative. The date, time, and location of the crime shall be entered when the suspect took custody of vehicle;
- *Once there is a verified Forgery Report (for the company or person who sold or rented the car) and an Identity Theft Report (for the true person that did not give permission to the suspect to have or use his or her personal information) a Stolen Vehicle Report, Form CHP 180 shall be completed. Additionally, the Vehicle Warrant Section (VWS) shall be*

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notified and advised to add "Stolen by ID Theft," "Stolen by Forgery" or "Stolen by Non-Sufficient Funds," in the miscellaneous section;

- *Commercial Crimes Division (CCD) detectives are available for advice on completing/verifying these reports;*

Note: For after-hours contact the Department Operation Center (DOC) at (213) 484-6700 for on-call CCD detectives;

- Provide the victim with a Victim's Supplemental Financial Loss Report, Form 03.05.00, and a copy of the IR face sheet;
- Obtain a Division of Records (DR) number for the IR from the Area records unit; and,
- Submit the report(s) to the Area records unit for distribution.

Note: The reporting officer shall complete the shaded area at the top of the Victim's Supplemental Financial Loss Report, briefly explain the purpose and leave the report with the victim *to* document any additional loss associated with the vehicle incident.

Area auto detectives shall contact *CCD* (the investigating entity for such incidents) and forward them a copy of the Identity Theft or Forgery IR with *the* supporting documents.

Note: Vehicles stolen via NSF are the responsibility of the Area auto detectives.

Recovery of the Vehicle. Officers shall make every effort to determine the following when investigating special circumstances (i.e., Identity Theft, Forgery, and NSF) in relation to stolen vehicles:

- If a vehicle is stolen by means of identity theft or forgery, and is recovered without a suspect, the officer shall complete a Vehicle Report, Form CHP 180, title it "RECOVERED," and submit the report to the Area records unit so that it may be forwarded to CCD detectives;
- If a vehicle is recovered with the named suspect in custody, the arresting officer shall make an attempt to contact CCD detectives for booking advice. *During off-hours, the arresting officer shall contact the DOC for the on-call CCD detectives.* If CCD detectives are not available, Area detectives may provide booking advice;
- Commercial Crimes Division detectives are to be advised of the arrest, as soon as practicable, and the arrest reports shall be forwarded to CCD by the Area records unit, for filing responsibility; and,
- If the vehicle is recovered with a suspect involved other than the named suspect, the officer shall attempt to notify CCD detectives of the detention. If a suspect other than the named suspect is arrested for driving the vehicle without the owner's consent [i.e., California Vehicle Code Section 10851(a)] or California Penal Code Section 487 (a)(d)(1) (GTA), booking advice should also be sought from CCD. However, if the suspect is booked for either charge above without the approval of CCD detectives, then Area auto detectives shall be the investigating entity for prosecution.

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Commercial Crimes Division's Responsibilities. Upon receiving a Forgery Identity Theft Supplemental, IR, Stolen Vessel Report and/or Stolen Vehicle Report, the detectives assigned to CCD, shall assume follow-up investigative responsibility. Commercial Crimes Division detectives shall verify all of the information within the report. If any documents are missing or not provided by the victim at the time of the report, CCD detectives shall contact the victim and obtain the missing information. Commercial Crimes Division detectives shall then complete a Stolen Vehicle Report and enter the vehicle into the Stolen Vehicle System (SVS) via VWS. The DR number used on the IR will stand on its own and a new DR number for the stolen vehicle will be issued on the Vehicle Report.

The detective receiving the Victim's Supplemental Financial Loss Report from a reporting victim shall ensure that the information is legible, complete and accurate before signing the report.

Note: When the Victim's Supplemental Financial Loss Report is used to report additional financial loss, a separate Follow-up Investigation, Form 03.14.00, is not required. However, a Follow-up Investigation report shall be used for any subsequent changes or updates to the Victim's Supplemental Financial Loss Report, or other involved reports.

220.53 VEHICLE AND/OR VESSEL STOLEN BY MEANS OF EMBEZZLEMENT.

Vehicles that are not returned in accordance with a lease or rental agreement from a rental car company, online peer-to-peer rentals, dealership, business, or private party within *seventy-two (72) hours* of the agreement expiration may be reported as embezzled. Per California Vehicle Code Section 10855, "...any person who has leased or rented a vehicle willfully and intentionally fails to return the vehicle to its owner *within seventy-two hours* after the lease or rental agreement has expired, that person shall be presumed to have embezzled the vehicle."

Note: The seventy-two hour requirement was revised effective January 1, 2020, with an expiration date of January 1, 2024, unless it is changed by the California Legislature.

California Penal Code Section 504 (a) also states: "...any person in possession of such goods, chattels, or effects knowing them to be subject to such lease or contract of purchase who shall so remove, conceal or dispose of the same with intent to injure or defraud the lessor or owner," shall also be "guilty of embezzlement."

To report an embezzled vehicle, the victim (generally a rental car company) must provide a copy of the rental or lease agreement.

Preliminary Investigating Officer's Responsibilities. Preliminary investigating officers shall conduct the following:

- Query the license plate and vehicle identification number (VIN) of the vehicle in the Stolen Vehicle System (SVS) to verify that the vehicle has not been impounded, reported stolen, repossessed, or otherwise indicated in the warrant system;

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- Review the contract to verify that the agreement period has concluded, and the minimum *seventy-two hours* has passed. The officer shall ask the victim if the contract has been extended by either a new contract or collection of additional funds from the renter/leasee after the termination of the contract agreement;
- Request from the victim a due diligence letter or note, such as a Demand Letter or certified account, indicating that an attempt to locate the vehicle and request for its return has been conducted by the victim (*this can be included with the report, but is not necessary to complete the report*);
- Verify the renter/leasee information provided on the rental contract;
- Determine if the documentary/contracted suspect is indeed a true person and the same person who took possession of the vehicle from the rental agency (i.e., not a victim of identity theft himself or herself);
- Complete an Investigative Report (IR), Form 03.01.00, and title it “Embezzlement,”
- Denote the following on the IR:
 - The rental car company, online peer-to-peer rental, dealership, business, or private party is the victim;
 - The property taken is the vehicle;
 - The amount taken is the current market value of the vehicle;
 - The renter or leasee of the vehicle is the suspect;
 - The date and time of the crime shall be entered as the day of non-return of the vehicle, following the *seventy-two hours of the agreement expiration*;
 - The crime location shall be the same as the location the suspect took custody of the vehicle; and,
 - The agent reporting the embezzled vehicle shall be listed as the reporting person.
- Obtain a Division of Records (DR) number for the crime of embezzlement from the Area records unit; and,
- Submit the approved IR to the Area records unit for distribution. The Area auto detectives shall be the investigating entity.

Note: The preliminary investigating officer shall not complete a Vehicle Report, Form CHP 180, for the vehicle, nor shall the officer notify the VWS of the vehicle theft.

Investigating Officer’s Responsibilities. Area auto detectives shall ensure the following has been completed:

- Verify all the information within the report. If any documents are missing or not provided by the victim at time of the report, detectives shall contact the victim and obtain the missing information;
- Complete an “Embezzled” Vehicle Report, CHP 180. The Embezzled Vehicle box shall be checked and the same information from the IR shall be used. The DR number used on the CHP 180 shall match the DR used on the IR. Area auto detectives shall contact the VWS, and request that the Crime Class Code (668) be entered;

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- The VWS has entered the vehicle into the Stolen Vehicle System (SVS). When all information has been successfully entered, detectives shall indicate the File Control Number (FCN) on the vehicle report and note the VWS operator's serial number, date and time in the "Notification" field; and,
- The IR and Vehicle Report have been returned to the Area records unit for distribution.

Recovery of the Vehicle. The recovery of an embezzled stolen vehicle shall be processed in the following manner:

- If a vehicle stolen by means of embezzlement is recovered without the named suspect, the officer shall complete a Vehicle Report, title it "RECOVERED," notify VWS, and submit the report to the Area records unit for distribution to the Area auto detectives;
- If a vehicle is recovered with the named suspect in custody, the suspect may be arrested under California Penal Code Section 504 (a) - Embezzlement. The arresting officer shall attempt to contact Area detectives for booking advice. If Area detectives are not available, then *Commercial Crimes Division* detectives may provide booking advice;
- Area auto detectives are to be advised of the arrest and shall have the arrest reports forwarded to them for filing responsibility by the Area records unit; and,
- If a vehicle is recovered with a suspect other than the named suspect, officers shall attempt to notify the Area detectives where the crime occurred to inquire into the suspect's documented involvement in the case. If a suspect other than the one named on the rental agreement is arrested and booked for driving the vehicle without owner's consent [California Vehicle Code Section 10851 (a)], or GTA [California Penal Code Section 487 (a)(d)(1)], without the approval of Area detectives from where the crime occurred, then the arrest shall be investigated by the Auto detectives from the Area of arrest.

Note: When reviewing and approving these reports, the Area watch commander shall ensure the Uniform Crime Reporting (UCR) hierarchy rule is applied to correctly reflect reporting priority.