

**SAN JOSE POLICE DEPARTMENT
AUTO THEFT REPORTING GUIDELINES**

Many hours are expended investigating unfounded auto theft cases in which a report should not have been taken. The following are some established guidelines, which will assist in your decision to make a stolen report, or not.

OWNER CONSENT

There are three categories of consensual use:

1) DOMESTIC LOAN: The victim loans his vehicle to a friend or acquaintance. The victim may or may not be specific as to when the vehicle is to be returned. In this and similar cases, every effort to recover their own vehicle must be made. The victim must also send a demand letter via certified mail. Ten (10) days from the date of the certified mail receipt, a stolen report may be taken.

2) TEST DRIVE: Private Party Seller In the “private sale” situation, a report should be taken after the person taking the vehicle fails to return it within a reasonable time frame. Three to four hours, would be a reasonable length of time for the test driver to make mechanical checks and detect potential car trouble.

TEST DRIVE: Dealership Sale The same principle applies to auto dealerships. However, the dealership representative authorizing the test drive will be required to make the auto theft report after the three to four hour time frame has elapsed.

In either of these cases or other situations, if the vehicle was taken by force, fraud or deception, no waiting period is required and an officer will be dispatched to take a report as soon as possible.

3) RENTAL or LEASED VEHICLES: These cases fall under section 10855 of the California Vehicle Code, which states in part... “any person who has leased or rented a vehicle willfully and intentionally fails to return the vehicle to its owner **within 10 days** after the lease or rental agreement has expired, that person shall be presumed to have embezzled the vehicle.” If the person renting or leasing the vehicle uses a false name or any form of fraud, the 10 day waiting period is unnecessary and a report should be taken as soon as possible.

In all cases that involve rental or leased vehicles, the following information should be obtained and submitted to the officer taking the report:

- a. A copy of the rental agreement, certified mail receipt and demand letter.
- b. The name of the employee who rented the vehicle and a statement describing the circumstances of the transaction.
- c. A detailed description of the suspect and whether the employee renting the vehicle can identify the suspect.

CIVIL VS. CRIMINAL SITUATIONS

1) **DIVORCE SITUATIONS:** Often during divorce situations, a husband or wife, after an argument and one of the parties leaves the house, will report their vehicle stolen. If the reporting parties indicate it was a spouse, the officer should explain under California community property laws no violation of the law has been committed. **No report will be taken.**

However, if there is a final divorce decree and the reporting party was granted the vehicle in question, **a report should be taken.**

In instances where the reporting party claims that the divorce is not final but the property has already been divided by the court and they were given title to the vehicle, the reporting party should be directed to contact their attorney for enforcement of the court order. **No report will be taken.**

Other Cases

1) **Joy Riding (499b P.C.)** no longer exists. The report will have to be taken as an auto theft if the elements of the crime are present.