

**§ 636.38**

**FIGURE 636.37. DRIVER BOOTING DEVICE NOTICE**

1. Your vehicle is illegally parked and has been secured in place by the Military Police with a vehicle restraining device. Do not move this vehicle until the restraining device is properly removed by the Military Police.
2. Any movement, or attempted movement, of this vehicle could result in damage to the device and the vehicle. You will be responsible for any such damage to the vehicle and/or the restraining device.
3. Any removal, or attempted removal, of the device could result in you being charged with a criminal offense.
4. To have this device properly removed by the Military Police, contact the following:

Mon-Fri, 7: a.m.-5: p.m., Bldg 292,  
Phone 767-2848/8659

Non-Duty Hours, Bldg 285, Phone 767-2822

**Notice**

**§ 636.38 Impounding privately owned vehicles (POVs).**

This section provides the standards and procedures for towing, inventorying, searching, impounding, and disposing of private owned vehicles.

(a) *Implied consent to vehicle impoundment.* Any person granted the privilege of operating a motor vehicle on the Fort Stewart/Hunter Army Airfield installations shall be deemed to have given his or her consent for the removal and temporary impoundment of the privately owned vehicle when it is parked illegally for unreasonable periods, interfering with operations, creating a safety hazard, disabled by accident, left unattended in a restricted or controlled area, or abandoned. Such vehicles will be towed by a contracted civilian wrecker service and placed in that service's storage lot. Such persons further agree to reimburse the civilian wrecker service for the cost of towing and storage should their vehicle be removed or impounded.

(b) *Standards of impoundment.* (1) Privately owned vehicles will not be impounded unless they clearly interfere with ongoing operations or movement of traffic, threaten public safety or convenience, are involved in criminal activity, contain evidence of criminal activity, or are stolen or abandoned.

(2) The impoundment of a privately owned vehicle is inappropriate when reasonable alternatives to impoundment exist.

(i) An attempt will be made to locate the owner of the privately owned vehicle and have the vehicle removed.

(ii) The vehicle may be moved a short distance to a legal parking area and temporarily secured until the owner is located.

(iii) Another responsible person may be allowed to drive or tow the privately owned vehicle with permission from the owner, operator, or person empowered to control the vehicle. In this case, the owner, operator, or person empowered to control the vehicle will be informed that the Military Police are not responsible for safeguarding the privately owned vehicle.

(3) Impounding of privately owned vehicle is justified when any of the following conditions exist:

(i) The privately owned vehicle is illegally parked—

(A) On a street or bridge, or is double parking and interferes with the orderly flow of traffic.

(B) On a sidewalk, within an intersection, or a cross-walk, on a railroad track, in a fire lane, or is blocking a driveway, so that the vehicle interferes with the operations or creates a safety hazard to other roadway users or the general public. An example would be a vehicle parked within 15 feet of a fire hydrant or blocking a properly marked driveway of a fire station or aircraft-alert crew facility.

(C) When blocking an emergency exit door of any public place (installation theater, club, dining facility, hospital, or other facility).

(D) In a "tow-away" zone that is so marked with proper signs.

(ii) The privately owned vehicle interferes with—

(A) Street cleaning operations and attempts to contact the owner have been unsuccessful.

(B) Emergency operations during a natural disaster or fire or must be removed from the disaster area during cleanup operations.

(iii) The privately owned vehicle has been used in a crime or contains evidence of criminal activity.

(iv) The owner or person in charge has been apprehended and is unable or unwilling to arrange for custody or removal.

(v) The privately owned vehicle is mechanically defective and is a menace to others using the public roadways.

(vi) The privately owned vehicle is disabled by a traffic incident and the operator is either unavailable or physically incapable of having the vehicle towed to a place of safety for storage or safekeeping.

(vii) Military Police reasonably believe the vehicle is abandoned.

(c) *Towing and storage.* (1) Impounded privately owned vehicles will be towed and stored by a contracted wrecker service.

(2) An approved impoundment area belonging to the contracted worker service will be used for the storage of impounded vehicles. This area will assure adequate accountability and security of towed vehicles. One set of keys to the enclosed area will be maintained by the Military Police.

(3) Temporary impoundment and towing of privately owned vehicles for violations of this supplement or involvement in criminal activities will be accomplished under the direct supervision of the Military Police.

(d) *Procedure for impoundment.* (1) Unattended privately owned vehicles.

(i) DD Form 2504 (Abandoned Vehicle Notice) will be conspicuously placed on privately owned vehicles considered unattended. This action will be documented by an entry in the Military Police desk journal.

(ii) The owner will be allowed three days from the date the privately owned vehicle is tagged to remove the vehicle before impoundment action is initiated. If the vehicle has not been removed after three days, it will be removed by a contracted civilian wrecker service. A DD Form 2505 (Abandoned Vehicle Removal Authorization) will be completed and issued to the contractor by the Military Police.

(iii) After the vehicle has been removed, the Military Police will complete DD Form 2506 (Vehicle Impoundment Report) as a record of the actions taken.

(A) An inventory listing personal property will be done to protect the

owner, Military Police, the Contractor, and the Commander.

(B) The contents of a closed container such as a suitcase inside the vehicle need not be inventoried. Such articles should be opened only if necessary to identify the owner of the vehicle or if the container might contain explosives or otherwise present a danger to the public. Merely listing the container and sealing it with security tape will suffice.

(C) Personal property will be placed in the Military Police found property room for safe keeping.

(iv) DD Form 2507 (Notice of Vehicle Impoundment) will be forwarded by certified mail to the address of the last known owner of the vehicle to advise the owner of the impoundment action, and request information concerning the owner's intentions pertaining to the disposition of the vehicle.

(2) *Stolen privately owned vehicles or vehicles involved in criminal activity.* (i) When the privately owned vehicle is to be held for evidentiary purposes, the vehicle will remain in the custody of the Military Police or CID until law enforcement purposes are served.

(ii) Recovered stolen privately owned vehicles will be released to the registered owner, unless held for evidentiary purposes, or to the law enforcement agency reporting the vehicle stolen.

(iii) A privately owned vehicle held on request of other authorities will be retained in the custody of the Military Police or CID until the vehicle can be released to such authorities.

(e) *Search incident to impoundment based on criminal activity.* Search of a privately owned vehicle in conjunction with impoundment based on criminal activity will likely occur in one of the following general situations:

(1) The owner or operator is not present. This situation could arise during traffic and crime-related impoundments and abandoned vehicle seizures. A property search related to an investigation of criminal activity should not be conducted without search authority unless the item to be seized is in plain view or is readily discernible on the outside as evidence of criminal activity. When in doubt, proper search authority should be sought, during duty

hours, through the Chief, Criminal Law Branch of the Office of Staff Judge Advocate and after duty hours from the Duty Judge Advocate, before searching.

(2) The owner or operator is present. This situation can occur during either a traffic or criminal incident, or if the operator is apprehended for a crime or serious traffic violation and sufficient probable cause exists to seize the vehicle. This situation could also arise during cases of intoxicated driving or traffic accidents in which the operator is present but incapacitated or otherwise unable to make adequate arrangements to safeguard the vehicle. If danger exists to the Military Police or public or if there is risk of loss or destruction of evidence, an investigative type search of the vehicle may be conducted without search authority.

(f) *Disposition of vehicles after impoundment.* (1) If a privately owned vehicle is impounded for evidentiary purposes, the vehicle can be held for as long as the evidentiary or law enforcement purpose exists. The vehicle must then be returned to the owner without delay unless directed otherwise by competent authority.

(2) If the vehicle is unclaimed after 45 days from the date notification was mailed to the last known owner or the owner released the vehicle by properly completing DD Form 2505, the vehicle will be disposed of by one of the following procedures:

(i) Release to the lienholder, if known.

(ii) Processed as abandoned property in accordance with DOD 4160.21-M.

#### APPENDIX A TO PART 636—REFERENCES

Publications and forms referenced in this part may be viewed at the Office of the Provost Marshal on any major Army installation or may be obtained from the National Technical Information Service, U.S. Depart-

ment of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

In addition to the related publications listed in appendix A to part 634 of this subchapter, the following publications provide a source of additional information:

FS Reg 190-7, Emergency Vehicle Operation  
 FS Reg 350-1, Active Component Training  
 FS Reg 385-14, Post Range Regulation  
 FS Reg 755-2, Lost, Abandoned, or Unclaimed Privately Owned Personal Property

In addition to the prescribed forms used in appendix A to part 634 of this subchapter, the following forms should be used:

AFZP Form Letter 316, Suspension of Driving Privileges  
 DA Form 3946, Military Police Traffic Accident Report  
 DA Form 3975, Military Police Report  
 DD Form 1920, Alcohol Influence Report  
 DD Form 2220, DOD Registered Vehicle  
 DD Form 2504, Abandoned Vehicle Notice  
 DD Form 2505, Abandoned Vehicle Removal Authorization  
 DD Form 2506, Vehicle Impoundment Report  
 DD Form 2507, Notice of Vehicle Impoundment

#### Other References

8 U.S.C. 13.

40 U.S.C. 318a.

Memorandum of Understanding, Subject: Seizure of Assets for Administrative Forfeiture in Drug Related Cases.

#### APPENDIXES B—C TO PART 636 [RESERVED]

#### APPENDIX D TO PART 636—GLOSSARY

In addition to the terms listed in appendix D to part 634 of this subchapter, the following terms apply:

ATV—All Terrain Vehicles  
 CID—Criminal Investigation Division  
 CUCV—Commercial Utility Cargo Vehicle  
 DDC—Defensive Driving Course  
 DOD—Department of Defense  
 DPCA—Directorate of Personnel and Community Activities  
 DUI—Driving Under the Influence  
 DDC—Motorcycle Defensive Driving Course  
 MP—Military Police  
 NLT—Not later than  
 USAREUR—United States Army—Europe