



Approved:
Chief Marcia Harnden

Subject:

320. Vehicle Towing

Effective:
January 9, 2018

Revised:
July 28, 2021

CALEA Standards: 61.4.3

Page:
1

320.1: PURPOSE AND SCOPE

This policy provides procedures for towing a vehicle by or at the direction of the Albany Police Department.

320.2: POLICY

It is the policy of the Albany Police Department to use tow services to abate roadway hazards, impound vehicles related to criminal investigations, and impound vehicles of chronic offenders pursuant to Oregon law. Nothing in this policy shall require the Department to tow a vehicle.

320.3: RESPONSIBILITIES

Below are the responsibilities for various department members related to the towing, storage, and impounding of vehicles:

320.3.1: OFFICER RESPONSIBILITIES

- a. **Vehicles Constituting a Hazard or Obstruction** – Officers are authorized to take custody of and order towing of a vehicle which is disabled, abandoned, parked, or left standing unattended when the vehicle creates a hazard or obstruction ([ORS 819.120](#), [AMC 13.70](#)). Hazards and obstructions include vehicles which are:
 - Parked so that any part of the vehicle extends into the paved portion of the travel lane.
 - Parked so that any part of the vehicle extends into the highway shoulder or bicycle lane of any freeway (ORS 819.120(2)(b)).
 - Vehicles leaking petroleum or other hazardous fluids or broken glass/windows (AMC 13.70)
- 1) Officers should use sound judgment in balancing the need to correct a hazardous situation with the potential hardship to a vehicle owner/operator before towing such a vehicle.

- 2) Officers towing a vehicle pursuant to this section shall complete the **Vehicle Tow/Impound Module** in the LW/LS or a [Vehicle Impound Notice: Form A53](#) and shall give copies to the tow truck driver and the owner/operator of the vehicle. The Communications Center shall be notified as soon as practicable after the vehicle is towed.
- b. **Hazard Vehicles Involved in Traffic Collisions** – When a vehicle which has been in a traffic collision must be removed from the scene, officers shall request that the driver of the vehicle select a towing company if possible and shall relay the request for the specific tow company to the Communications Center. When no specific company is requested, the Communications Center will dispatch the contract tow company.
- 1) In cases where the owner is incapacitated, or for any other reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, officers shall request the Communications Center to dispatch the contract tow company. The requesting officer will inventory the vehicle and complete a Vehicle Impound Notice, and then have the vehicle towed to the tow company's storage lot for safekeeping.
- 2) Copies of the completed Vehicle Impound Notice will be provided to the tow driver and the vehicle operator and attached to the police report. When the vehicle operator is unable to receive a copy of the Vehicle Impound Notice, a copy shall be left inside the towed vehicle.
- 3) **Driving a non-city vehicle** – Vehicles which have been towed by or at the direction of the Department should not be driven by Department members except for a short distance to eliminate a hazard to prevent the obstruction of a fire hydrant, or to comply with posted signs.

320.3.2: COMMUNICATIONS CENTER RESPONSIBILITIES

- a. Upon receiving a request for towing, the Communications Specialist shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.
- If the request is not for a specific tow company, the Communications Specialist shall call the contract tow company.
- b. When provided information about a towed vehicle, Communications Specialists shall enter the pertinent data into the state's Law Enforcement Data Systems (LEDS), and forward a copy of the LEDS Form, DMV Registration Printout, and LEDS Entry to the Records section to be placed into the auto-file at the front desk to be immediately available for release or for information should inquiries be made.

320.3.3: RECORDS SECTION RESPONSIBILITIES

Once a vehicle is towed, Records Section personnel shall mail a notice along with information describing the location of the vehicle and the procedures for its release to the legal and registered owners of the stored vehicle within 48 hours after it has been stored, not including Saturdays, Sundays, or holidays, unless the vehicle has been previously released ([ORS 819.180](#)). The notice shall include:

- a. That the vehicle has been taken into custody and towed; the identity of the appropriate towing authority and statute, ordinance or rule under which the vehicle has been taken into custody and towed;
- b. The location of the vehicle, or the telephone number and address of the authority which will provide that information;
- c. That the vehicle is subject to towing and storage charges, the amount of charges which have accrued to the date of the notice, and the daily storage charges;
- d. That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover these charges if the charges are not paid by a date specified by the appropriate authority;
- e. That the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and towing it, and to contest the reasonableness of the charges for towing and storage if a hearing is requested in a timely manner;
- f. The time within which a hearing must be requested and the method for requesting a hearing;
- g. That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession, and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority.

320.4: TOWING SERVICES

The City of Albany periodically selects a firm to act as the official tow service for the City and awards a contract to that firm. This firm will be used in the following situations:

- a. When a vehicle is being held as evidence in connection with an investigation;
- b. When it is otherwise necessary to tow a motor vehicle, including situations involving the recovery of stolen or abandoned vehicles and the removal of hazard vehicles obstructing traffic in accordance with state and local regulations.
- c. Non-preference towing requests.

320.4.1: CONTRACT TOW SERVICES

- a. Any complaint alleging a violation of the agreement or other misconduct by a contract tow company shall be referred to the police department for investigation. The department may periodically review the performance of the authorized contract tow company.
- b. The department will assist citizens by calling any towing company desired which can respond within a reasonable time frame. If the citizen has no preference and requests towing service, the contract towing company shall be called.

- c. All officers are specifically prohibited from directly or indirectly soliciting for or recommending any garage or tow service.

320.5: IMPOUNDS RELATED TO CRIMINAL INVESTIGATIONS

- a. Officers should impound vehicles that are needed for the furtherance of an investigation or prosecution of a case or are otherwise appropriate for seizure under [ORS 133.535](#).
- b. Officers shall take reasonable steps to protect impounded vehicles and any contents that may have been taken as evidence from loss or damage ([ORS 133.537](#)).
- c. Officers should make reasonable efforts to return a recovered stolen vehicle to its owner rather than store it, as long as the vehicle is not needed for evidence.
 - 1) If a recovered stolen vehicle is towed, the officer shall share the owner's contact information, including the person's home address and telephone number, with the towing service that assumes control of the vehicle ([2017 Oregon Law, Chapter 523, Section 3](#)).
- d. Officers impounding a vehicle as evidence shall complete the Vehicle Tow/Impound Module in the LW/LS or a [Vehicle Impound Notice: Form A53](#).

320.6: IMPOUNDS AT ARREST SCENES

- a. Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by leaving the vehicle secured and lawfully parked at the scene or storing the arrestee's vehicle subject to the exceptions described below.
- b. The vehicle shall be stored, subject to applicable laws and warrant requirements, whenever it is needed for the furtherance of an investigation or prosecution of the case, when the operator has been arrested for DUII (Refer to the [Impaired Driving: Policy 330](#)), or when the Community Caretaker Doctrine reasonably suggests that the vehicle should be stored (e.g., the vehicle would present a traffic hazard if not removed or, due to a high crime area, the vehicle would be in jeopardy of theft or damage if left at the scene). Officers impounding a vehicle shall complete a Vehicle Impound Notice.

320.6.1: IMPOUNDS AT CITATION SCENES

- a. ORS [809.720](#) authorizes the impoundment of a vehicle when a police officer has probable cause to believe that a person was driving while suspended or revoked under [ORS 811.175 or 811.182](#), or operating without driving privileges or in violation of license restriction [ORS 807.010](#), or driving uninsured [ORS 806.010](#).
- b. Impounds in these cases are authorized as long as the Community Caretaker Doctrine is fulfilled (e.g., the vehicle would present a traffic hazard if not removed or, due to a high crime area, the vehicle would be in jeopardy of theft or damage if left at the scene), and they do not fall in the category of a Prohibited Impound under Section 320.6. Officers impounding a vehicle shall complete a Vehicle Impound Notice.

- c. Vehicles are not to be impounded under authority of ORS 809.720 under any of the following circumstances (except for Chronic Offenders as described in Section 320.7 or first-time offenders as described in Section 320.7.1):
- 1) The vehicle is parked on private property on which the registered owner or operator is legally residing, or the property owner does not object to the vehicle being left parked at that location;
 - 2) When the arrestee or a passenger is the registered or legal owner of the vehicle and requests that the vehicle be released to a person who is present, willing and able to legally take control of the vehicle;
 - 3) Whenever the vehicle is legally parked and otherwise does not need to be stored and the owner requests that it be left at the scene.
- d. In such cases, the handling employee shall inform the arrestee and note in the report that the Department will not be responsible for theft or damages.

320.7: IMPOUNDS OF CHRONIC OFFENDERS

- a. Chronic offenders under ORS 809.720 who have been cited two or more separate previous times for one of the listed offenses will have their vehicles subject to impound due to their continued violations jeopardizing public safety and the efficient movement of vehicular traffic except for the following circumstances:
- 1) The vehicle is parked on private property on which the registered owner or operator is legally residing, or the property owner does not object to the vehicle being left parked at that location;
 - 2) When the arrestee or a passenger is the registered or legal owner of the vehicle and requests that the vehicle be released to a person who is present, willing and able to legally take control of the vehicle;
- b. Officers impounding a chronic offender's vehicle shall first obtain supervisor approval and then complete the Vehicle Tow/Impound Module in the LW/LS or a [Vehicle Impound Notice: Form A53](#).

320.7.1: IMPOUNDS OF FIRST-TIME OFFENDERS

- a. First time offenders under [ORS 811.182](#) will have their vehicle subject to impound due to any of the following circumstances:
- 1) A suspension under [ORS 809.411\(2\)](#) resulting from commission by the driver of any degree of recklessly endangering another person, menacing, or criminal mischief, resulting from the operation of a motor vehicle.
 - 2) A suspension resulting from any crime punishable as a felony with proof of a material element involving the operation of a motor vehicle.

- 3) A suspension for fleeing or attempting to elude a police officer under [ORS 811.540](#).
 - 4) A suspension or revocation resulting from misdemeanor driving while under the influence of intoxicants under [ORS 813.010](#).
 - 5) A suspension for use of a motor vehicle in the commission of a crime punishable as a felony.
 - 6) Or any other provision outlined in ORS 811.182.
- b. Officers impounding a first-time offender's vehicle shall first obtain supervisor approval and then complete the Vehicle Tow/Impound Module in the LW/LS or a [Vehicle Impound Notice: Form A53](#).

320.8: VEHICLE INVENTORIES

- a. The contents of all towed vehicles shall be inventoried according to the following procedure, except for evidence tows where a search warrant is being sought:
- 1) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to: the glove box, other accessible areas under or within the dashboard area, any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats.
 - 2) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:
 - A. Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked glove compartments, unlocked vehicle trunks and unlocked car top containers; and
 - B. Any locked compartments including, but not limited to, locked glove compartments, locked vehicle trunks, locked hatchbacks and locked car-top containers, provided the keys are available and are to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
 - 3) Closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes except for the following, which shall be opened for inventory: wallets, purses, coin purses, fanny packs, personal organizers, briefcases, or other closed containers designed for carrying money or small valuables, or closed containers which are designed for hazardous materials.
 - 4) Other closed containers shall be opened and inventoried if the owner acknowledges they contain cash in excess of \$10, valuables or a hazardous material.
 - 5) Any valuables, to include cash in excess of \$10 or items valued at \$50 or more, located during the inventory process will be listed on a property receipt and stored in this agency's property/evidence room. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present.

- 6) The inventory is not a search for evidence of a crime; however, officers shall seize evidence or contraband located during the inventory. Items should be scrutinized to the extent necessary to complete the inventory.
 - 7) Tow truck operators are to receive a copy of the Vehicle Impound Notice.
- b. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

320.9: VEHICLE SEARCHES

Case law regarding search and seizure is ever changing and frequently subject to interpretation under the varying facts of each situation. Vehicle searches should be handled according to current training and an officer's familiarity with relevant case law.

320.10: SECURITY OF VEHICLES AND PROPERTY

- a. After a thorough inventory of the vehicle has been completed and all contraband, evidence and weapons have been removed the officer should make reasonable accommodations to permit a driver or owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions).
- b. If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, search personnel shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

320.11: RELEASE CRITERIA

A vehicle impounded under this policy shall be released to a person entitled to lawful possession of the vehicle upon compliance with the following:

- a. Proof that a person with valid driving privileges will be operating the vehicle;
- b. Proof of compliance with financial responsibility requirements for the vehicle;
- c. Payment of the Albany Police Department administrative fee and any towing and storage charges;
- d. A security interest holder in the vehicle is not required to present a person with valid driving privileges or evidence of financial responsibility and may obtain a release by paying the administrative fee and towing and storage fees.