

 <div>Policy and Procedure</div>		<div>Policy Number</div> <div>12.09</div>
Chapter	Traffic Operations	<div>Approved By:</div> <div>Robert L. Ticer, Chief of Police</div>
Article	Vehicle Towing	
Effective Date: May 3, 2018		

PURPOSE

To outline the Department's guidelines for towing vehicles.

POLICY

The Department will tow vehicles in compliance with federal, state, and municipal law.

DEFINITIONS

The term **officer** in this policy refers to both police officers and community service officers.

Community caretaking function means a rationale for a tow and subsequent inventory that is totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute or ordinance.

GENERAL GUIDELINES

Towing Vehicles <CALEA 61.4.3 (b)> <LMC 10.28> <CRS § 42-4-1801 et seq.>

Officers may tow a vehicle for a variety of reasons including but not limited to following:

- generally when the driver is arrested
- when the vehicle is obstructing traffic
- when probable cause exists to believe the vehicle contains evidence or is evidence of a crime
- if the vehicle is abandoned
- pursuant to a well-articulated community caretaking function.

An officer must complete a vehicle tow report prior to the vehicle's tow. When towing a vehicle driven by a minor driver, officers shall notify a parent, guardian, or registered owner.

Vehicle Inventory <CALEA 1.2.4>

To mitigate claims against the Department and its employees regarding lost, stolen, or vandalized property, officers will conduct an inspection and thorough vehicle inventory prior to any vehicle being towed. The officer or designee will document on the vehicle tow report personal property located inside the vehicle and any noticeable damage to the vehicle or property. The vehicle inventory includes the inspection of closed containers (e.g. glove boxes, consoles, boxes, suitcases, backpacks, duffel bags, etc.) if access to the containers' contents can be gained without physical damage to the containers or contents.

Towing Authority—Public and Private Property <United States v. Sanders, 796 F.3d 1241, 1244 (10th Cir. 2015)><LMC Chapter 10.28> <People v. Brown, 2018 CO 27 (Colo. 2018)>

- **Public Property:** Members are authorized to tow a vehicle from a street or any public way or place for a variety of reasons:
 - generally when the driver is arrested under certain circumstances discussed elsewhere in this policy
 - when the vehicle is obstructing traffic





- when probable cause exists to believe the vehicle contains or the vehicle is evidence of a crime
- when the vehicle is abandoned
- or when impoundment is well-articulated as a community caretaking function, to protect the vehicle and its contents from damage, vandalism, or theft if the car will be left in a high crime or remote area after the driver is arrested or incapacitated.
- **Private Property:** Members are authorized to tow a vehicle from private property when:
 - the vehicle is needed as evidence
 - there is probable cause to search or seize the vehicle
 - the vehicle poses an imminent threat to public safety (e.g. leaking gas)
 - the vehicle blocks traffic flow on that private property so to threaten public safety and the vehicle cannot be easily moved
 - the owner consents to the tow and subsequent inventory under the Department's community caretaking function
 - or after considering the options above, when impoundment is well-articulated, as a community caretaking function, to protect the vehicle and its contents from damage, vandalism, or theft, if the car will be left in a high crime or remote area after the driver is arrested or incapacitated.

In arrest situations (if the arrestee is the registered owner of the vehicle) where the vehicle is not needed as evidence, is not posing an imminent threat to public safety, or there is no probable cause to seize the vehicle, the arrestee will be provided a reasonable opportunity, under the circumstances, to lock and leave the vehicle at the scene (moved to a place of safety if needed and appropriate) or provided a reasonable opportunity, under the circumstances, to make arrangements to have another responsible person take possession of the vehicle. The phrase "reasonable opportunity under the circumstances" (utilized here, and elsewhere within this policy) may require an officer to significantly curtail the opportunity to the arrestee/subject when the opportunity will significantly jeopardize evidence collection or public safety.

A vehicle that, as a result of a traffic stop or other police contact, is driven onto private property is considered a vehicle on private property for the purpose of this policy, even if the offense occurred on public property.

Towing a Vehicle Resulting From a Traffic Contact <C.R.S §§ 42-3-103, 42-4-1409, and 42-2-101> <People v. Brown, 2018 CO 27 (Colo. 2018)> <United States v. Sanders, 796 F.3d 1241, 1244 (10th Cir. 2015)>

An officer may tow a vehicle when an officer determines there is probable cause to search or seize the vehicle for a criminal investigation or the vehicle is needed as evidence of a crime.

An officer may also tow a vehicle, under the Department's community caretaking function, when the driver is arrested from a vehicle (if the driver is the registered owner of the vehicle) and is provided a reasonable opportunity under the circumstances to make arrangements to have another responsible person take possession of the vehicle or when the driver is provided a reasonable opportunity under the circumstances to "lock and leave" the vehicle at the scene.





In order to initiate a vehicle tow under the Department's community caretaking function, when the driver is arrested (which will initiate a vehicle inventory), an officer must be able to articulate a reasonable community caretaking rationale to believe the driver (if the driver is the registered owner of the vehicle):

- is unable to have a licensed driver take the vehicle
- is unable to prevent the vehicle from impeding traffic or threatening public safety and convenience
- is unable to reasonably protect the vehicle or its contents.

Officers will not tow a vehicle solely because the owner/operator cannot provide proof of insurance, cannot provide a valid driver's license, or is otherwise prohibited from operating the subject vehicle.

If the vehicle may be legally driven from the scene when the subject of a traffic stop is provided with a summons and complaint or otherwise not subject to an arrest, but operation of the vehicle by the subject of the traffic stop would still be unlawful, an officer shall not tow the vehicle unless one of the following circumstances exist:

- the vehicle interferes with the public right-of-way or otherwise obstructs traffic, the vehicle cannot be safely and lawfully parked and locked, and the subject was provided a reasonable opportunity, under the circumstances, to make arrangements to have another responsible person take possession of the vehicle
- the vehicle blocks traffic flow on private property so as to threaten public safety, the vehicle cannot be easily moved, the vehicle cannot be safely and lawfully parked and locked, and the subject was provided a reasonable opportunity, under the circumstances, to make arrangements to have another responsible person take possession of the vehicle
- the vehicle is needed as evidence
- there is probable cause to search or seize the vehicle
- the vehicle poses an imminent threat to public safety or is otherwise dangerous to drive
- the owner consents to the tow and subsequent inventory under the Department's community caretaking function.

In circumstances where the driver is either ticketed or arrested and the driver is not the registered owner of the vehicle, officers will make a reasonable attempt, under the circumstances, to contact the registered owner to determine the registered owner's preference, prior to the exercise of discretion to tow and subsequently inventory.

Officers shall document the reasons for towing a vehicle on the vehicle tow report.

Abandoned Vehicles on Public Property <CALEA 61.4.2> <CALEA 61.4.3 (a)> <LMC § 10.28> <C.R.S. § 42-4-1802>

When an abandoned vehicle is located on public property, but not obstructing traffic flow or the roadway, the officer or Loveland Senior Police Volunteer member will mark the abandoned vehicle by attaching an abandoned vehicle notice in a conspicuous place on the vehicle. The officer will issue a written warning that the vehicle will be towed, noting the exact street location and place the notice on the vehicle. The officer, or a designee, will attempt to contact the owner of the vehicle and notify them of the violation and the pending tow.





If after 72 hours, the vehicle is found to be in continued violation and in the same location, an officer will obtain a case report number, will check the VIN through Communications to confirm the vehicle registration information, and conduct CCIC/NCIC clearance. The officer will request the next available tow service company on the rotational tow list through Communications, complete a vehicle tow report, and have the tow service operator sign the form prior to towing the vehicle.

If a vehicle is an obstruction or hazard to the public, the officer will have the vehicle towed without undue delay.

Motor Vehicle Crashes

If there are no injuries and vehicles are drivable, officers will have the drivers move out of lanes of traffic. If a vehicle is disabled, officers will notify Communications to send the next on-call tow company. Or, if time and circumstances allow, a driver may request a specific tow company to respond.

If an immobilized vehicle does not interfere with a public right-of-way and may be safely and lawfully parked and locked, the owner may arrange for another means of transportation for the vehicle.

Evidence Tows

A primary case or commanding officer may decide that a vehicle must be towed and held as evidence or for processing as a result of a criminal or traffic investigation. The officer will insure that the vehicle is secured prior to towing, if possible, and insure that the vehicle is towed to an approved facility. The officer will insure that a vehicle tow report is completed for each vehicle towed for evidence collection.

The officer will put a police-hold on the vehicle. At such time as the vehicle is processed or it is no longer needed as part of the investigation, the primary case officer will release the police hold. The investigative technician, or designee, will review all vehicle tow reports of vehicles with a police hold every ten (10) days.

The primary case officer will place a vehicle in a long-term storage facility when the police hold exceeds thirty (30) days. The primary case officer will review the case every thirty (30) days and confirm the necessity for continued police hold and release it if no longer needed.

When the police hold is released the officer will advise the vehicle owner of the release and that impound fees will begin to accrue the day the hold is released. The officer will complete a supplemental report documenting the actions the officer took, including the notification date, time, and person notified. The officer will document any attempts made to contact the owner or responsible party if no contact was achieved.

When a case officer releases a towed vehicle, s/he will complete a supplemental report identifying who the vehicle was released to, and the date and time of the release. The case officer will inform the investigative technician of the release.

Disposition of Department Towed Vehicles <CALEA 61.4.3 (c)>

The investigative technician or designee will check the Department impounds file weekly for recent tows. The employee will initial the line and date the most recent tow sheets and place the LPD tow sheet copy in the company's file.





The employee will review inventory lists provided by the tow service companies weekly to determine if the towed vehicles are still in impound. If the vehicle's owner picked up the vehicle, the LPD tow sheet copy will be purged from the file.

If the owner has not picked up the vehicle, the employee will comply with the reporting requirements established in C.R.S. 42-4-1804 and LMC 10.28.021. If the vehicle remains unclaimed and is sold, the corresponding paperwork will be filed in police records under the original case report number.

Form 2008A <CALEA 61.4.3 (c)>

When the Department designee receives a Form 2008A (private property tow) from a tow service company in accordance with CRS 42-4-1804 the form will be filed and kept for a minimum of 60 days. After 60 days, the Form 2008A may be destroyed.

Rotational Tow Service List

A rotation list for tow service companies will be maintained in Communications to handle normal tow service calls for the Department. Towing service companies will be called out for requested services sequentially in rotation. Officers at the scene of a tow request will advise the dispatcher of the tow service operator's arrival on scene to allow the Department to verify compliance with the response time portion of the tow service list contracts. All tow service companies placed on the rotation list shall comply with all requirements and procedures set forth in the written agreement and as required by state law.

Authorized towing service companies must re-apply each calendar year to be considered for placement on the following year's towing service rotation list. Applications from the tow service companies must be submitted prior to the deadline established by the Department. The designated Operations division lieutenant will review each tow service company's application to be on the rotation list. If the application is approved, the company will be placed in the rotation.

